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 28th, 2007
Pages 1374 to 1684

APPEARANCES

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

TABLE OF CONTENTS

TABLE OF CONTENTS (cont'd)

LIST OF EXHIBIT

LIST OF UNDERTAKINGS

--- Upon commencing at 9:05 a.m.

THE CHAIRPERSON: Okay, good morning everyone. It sounds like we are going to have a long day, so we might as well get at it. Hope you all enjoy our weather. We have not had a lot of snow so far, but we are here for another week or so. It should get deeper so you can look forward to that.

Mr. Hacault, are you ready to begin? I believe you are not finished with the panel yet.

CANADIAN PAYDAY LOAN ASSOCIATION PANEL

NORMAN BISHOP, Resumed

HONOURABLE STAN KEYES, Resumed

DEAN SCHINKEL, Resumed

MR. ANTOINE HACAULT: Yes, Mr. Chairman, but I understand, also, that Mr. Foran and Ms. Southall have spoken and that Mr. Schinkel does have some answers to provide to the Board to start with.

THE CHAIRPERSON: Very good. Mr. Schinkel.

MR. ALLAN FORAN: So, Mr. Chairman, Members of the Panel. There is -- that's okay. We've identified fifty-three (53) undertakings, and I just want to preface my comments with -- with the comment that I've spoken to my client, and we do find this to be very onerous.

And we've been asked to respond to -- to -- after two (2) full rounds of Information Requests, we have yet another fifty-three (53) requests for further information.

We've gone through the transcripts. We've clarified some of the questions as best as we could, and for the purposes of this morning, we have some preliminary answers.

I think we have actually complete answers from Deloitte Touche. Mr. Keyes, I believe, is able to answer one (1) question that My Learned Friend Mr. Hacault asked with respect to internal CPLA emails relating to rate proposal.

The balance of the undertaking requests were taken under advisement. We have made contact with Money Mart, who is not a participant in this proceeding, and have passed along a list to them.

I have no information that I can pass along to you as to whether they are prepared or not prepared to answer those, but I do understand they're looking at it.

So, what I'd like to do is have -- first of all, I'm going to provide to Board counsel and the Board secretary sort of preliminary -- one (1) document that contains the Deloitte Touche information, and then have Mr. Schinkel explain it, and then turn it back to Mr. Hacault, if that's satisfactory.

THE CHAIRPERSON: Yes.

MS. ANITA SOUTHALL: Thank you.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: Mr. Foran, it would be your intention to mark this as the next CPLA exhibit?

MR. ALLAN FORAN: Well, I'm not sure. It's not really my document. These are just further answers. I -- I suspect this is really more responses to Mr. Hacault's and Mr. Williams' cross-examination. It really has nothing to do with -- with us.

THE CHAIRPERSON: Well, they are the originators, but just for the record, then, we will give it an exhibit number, if it is all right, Mr. Foran.

Do you have a number, Ms. Southall?

MS. ANITA SOUTHALL: I believe it may be CPLA-8. Just subject to check. Thank you.

THE CHAIRPERSON: Okay. Subject to

check. That is it.

Okay, Mr. Foran, you can begin.

--- EXHIBIT CPLA-8: One (1) document containing the Deloitte Touche information.

MR. ALLAN FORAN: So, Mr. Schinkel, perhaps I'll just turn it over to you. Copies have been passed out. Perhaps you could read the question and explain your answers that relate to Deloitte.

MR. DEAN SCHINKEL: Thank you.

"Undertaking Number 15: Mr. Dean Schinkel to review the list of Manitoba payday lenders to determine which took part in the survey and so advise."

I believe the -- the question was to look at Tab 30, which was a list of Manitoba payday lenders that was filed by the CPLA, and to determine whether that was the same list utilized by Deloitte.

The question I don't think was to identify which specific lenders took part in our surveys. That would breach confidentiality.

So, I reviewed the list in Tab 33 -- is what it was, not Tab 30, I may have said.

And it was the same list provided to Deloitte with two (2) exceptions. The list utilized by Deloitte did not include a company by the name of Mainstream Payday Loans. I -- after seeing this, I did an Internet and phonebook search of the company and also tried calling them, and it appears that they are no longer in business.

And the list include -- provided to Deloitte included a company called City Cash Company, which is not on the list in Tab 33. So that was one (1) company that we included in our survey.

"Question Number 16: Request to provide a comprehensive list of companies that Deloitte attempted to contact."

And I believe the response to Number 15 provides that answer.

"Undertaking Number 17: Mr. Dean Schinkel to provide the actual numbers used to plot the graph which indicates the cost per hundred dollars ($100) -- one hundred dollar ($100) loan based on dollar volume per store."

And, per the Deloitte report, this would be the graph that is on the bottom of page 11. So we have added the specific data points, so we disclosed what the -- for each data point, what the cost per one hundred (100) loan is and what the dollar volume per store is.

And the dotted line at the X axis and Y axis provides the median calculation, which were also asked.

So the medium point -- median point on this graph is represented by the intersection of the dotted lines at eight hundred and fifty thousand four hundred and six dollars ($850,406) per store, with a total cost of twenty-eight dollars and thirty-nine cents ($29.39) per hundred dollar ($100) loan.

Number -- Undertaking Number 18 requested the median point, which was dealt with in the earlier response.

"Undertaking Number 19: Mr. Dean Schinkel to provide specific numbers that lead to plot points on the graph at the top of page 12 of the report."

Once again, we have inserted the specific data points for the cost and the dollar volume of loans and provide the median point, which is seven hundred and ninety-four thousand one hundred and ninety-four dollars ($794,194) per store with an operating cost of twenty-three dollars and seventy cents ($23.70) per one hundred dollar ($100) loan.

"Undertaking number 39: Mr. Dean Schinkel to enquire as to whether Ernst & Young would have got their information from financial information existing past 2003."

I reviewed the Ernst & Young report again and, based on the information and disclosure there, it does not appear possible to specifically identify the date of the information utilized.

So I cannot say -- or can't say whether information past 2003 was not used, as this -- as this is not disclosed.

"Undertaking Number 41: Mr. Schinkel to provide the cost per hundred (100) would be -- if the allocation was based on that method, that if costs were not allocated to payday lending based on revenue splits."

So this undertaking requested that, instead of allocating operating costs between payday lending and the other service lines as we did in our report, to allocate all costs to payday lending.

If this is done, the table that was provided shows that the operating cost per one hundred dollar ($100) loan increases to twenty-four dollars and seventy-five cents ($24.75).

The other number that changes is the bad debt cost per one hundred dollar ($100) loan goes to four dollars and sixty-five cents ($4.65).

The cost of loan capital and supplementary capital do not change from before, and the total cost per one hundred dollar ($100) loan increases to thirty dollars and eighty-three cents ($30.83) compared to twenty-six dollars and eighty cents ($26.80) utilizing the method that was done in our report.

"Undertaking Number 42: Determine whether or not to supply information as to which respondents do rollovers."

Based on a review, we can't disclose this for confidentiality reasons as it may identify who responded to our survey.

"Undertaking Number 46: Mr. Dean Schinkel to check his records to verify that one twenty-sixth (1/26) of the total loans issued in the year, as far as the amount of cash on hand, needed to be available for lending."

Deloitte can confirm that one twenty-sixth (1/26) of total loans issued in the year was utilized.

"Undertaking Number 47..."

Deloitte cannot disclose for confidentiality reasons whether any operators have revenues generated from insurance on loans.

And that concludes the undertakings that were responded to.

MR. ALLAN FORAN: And unless I've missed it, just for -- for further reference, could you turn to Undertaking request Number 14? That relates to a request as to whether Deloitte's had ever provided audited services to CPLA members.

For the purposes of the panel --not -- this would literally take Deloitte's a week. They'd have to check every office, they'd have to go through every file, and I'm not sure they could disclose this for confidentiality reasons.

But -- but, Mr. Schinkel, can you just perhaps confirm that that's accurate?

MR. DEAN SCHINKEL: Maybe two (2) points of clarification. When I reviewed the undertaking again, I was -- I was a little unclear on whether it was referring to just Manitoba CPLA members or all CPLA members across Canada and, also, current members or members over the past number of years. If it was members over the past number of years all across Canada, that would be a significant amount or work.

If it is required by the Board, it is something that could be done, though. We would not be able to specifically disclose, though, the company name for confidentiality reasons unless we had permission from that company.

THE CHAIRPERSON: We understand from Mr. Schinkel's testimony of last week that he is not aware of being involved in any audits of CPLA members in his own practice, in Winnipeg. We are satisfied with that.

MR. DEAN SCHINKEL: Thank you.

MR. ALLAN FORAN: Okay. Thank you, Mr. Schinkel.

Then, Mr. Keyes, if I could turn to you, and I think the -- the one (1) undertaking response that you're in a position to discuss this morning is question Number 53, which is where we ended off, I believe, at the last Hearing. And perhaps that's a nice segue into the start of Mr. Hacault's conclusion of his cross.

HONOURABLE STAN KEYES: Thank you. Good morning, Board Members, Mr. Chairman.

CPLA was asked to review the records to see if a member sent information that rates need to be between twenty-three (23) and twenty-six dollars ($26).

I have reviewed my email records over the weekend, and I can advise counsel for Rentcash that a

CPLA member did in fact email me something to that effect.

His name is Mr. Kevin Isfelt. He's owner of Speedy Cash, which is located in British Columbia. He is a member of the CPLA in good standing, and he is also, for greater clarification, President of the BCPLA, British Columbia Payday Loan Association.

And, in conversations with Mr. Isfelt in the past, he has informed me that he does -- he is President of the BCPLA, and that any kind of correspondence or news releases are written for him by the vice president at Rentcash, a gentleman by the name of Michael Thompson (phonetic).

After we filed our evidence -- and for greater clarification, again, for you Mr. Chairman and members of the panel -- after we filed our evidence, which included the evidence of -- of Dr. Larry Gould, the president of Rentcash, Mr. Gordon Reykdal, emailed a majority of -- of CPLA members, urging them to withdraw their support of the evidence of the CPLA.

And, for the record, we are, of course, concerned about another Intervenor's attempt to affect our evidence. That is the -- the most complete answer I can give you.

MR. ALLAN FORAN: Okay, and I think that

that takes us then back to where we ended off at the -- the last day.

THE CHAIRPERSON: Thank you, Mr. Foran. Ms. Southall, then we are back to Mr. Hacault, correct?

MS. ANITA SOUTHALL: That is correct, Mr. Chairman.

THE CHAIRPERSON: Mr. Hacault...?

CONTINUED CROSS-EXAMINATION BY MR. ANTOINE HACAULT:

MR. ANTOINE HACAULT: I'm not sure that I got your words right, but you have made an allegation that there was some urging to withdraw.

Do you have a -- an email that actually uses those words, or was it just that they look at the information that was provided to the Board and consider their position?

(BRIEF PAUSE)

MR. ALLAN FORAN: If you have a copy of the email, Mr. Keyes, I -- I'm sure it speaks for itself.

HONOURABLE STAN KEYES: Yes, I do have a copy of that email. Would you like me to have it --

MR. ANTOINE HACAULT: If I could look at it, and then you could also respond. I don't -- I'm not to sure what --

MR. ALLAN FORAN: I think we should probably just have that delivered to the Board secretary. If there's a question with respect to this, it speaks for itself and maybe we'll just file it.

HONOURABLE STAN KEYES: Gladly.

MR. ANTOINE HACAULT: Is he filing the email from Isfelt? Is that what we're talking about?

MR. ALLAN FORAN: No, it's the email from Mr. Gordon Reykdal on behalf of Rentcash to CPLA membership with respect to this proceeding.

MR. ANTOINE HACAULT: Okay, if he's going to file that, I think it has to be filed with the email that was also he referred to Mr. Isfelt. I don't think they should be filed in isolation.

THE CHAIRPERSON: I am struggling to understand the relevance of this, but we will wait until we get the copy that Mr. Gaudreau's doing now, because we have not reached closing statements yet. The CPLA have not put on any closing remarks they might have as to any recommendations they might make. Mr. Foran...?

MR. ALLAN FORAN: Here's the difficulty we're having. My Learned Friend took an excerpt from an email. And again I -- I can't speak for My Learned Friend. It appears to be in a line of questioning to suggest that the CPLA opening comments shouldn't be considered by the Board -- perhaps I'm in error on that -- in response to an undertaking request to confirm whether, in fact, a CPLA member had suggested they were not supportive of the evidence that was submitted to -- to the Board.

There is a history of events as to how that email took place, according to Mr. Keyes. And the history of events, as I understand it, includes reference to an email to CPLA members from Rentcash.

I don't -- I'm struggling with this too, but it's part of -- of -- of the history. I don't know where this is going to take us.

(BRIEF PAUSE)

THE CHAIRPERSON: So what we are waiting for right now, Mr. Gaudreau is copying this material, and we can all look at it. And perhaps, Mr. Hacault, you could help us a bit more understand where you're headed with this.

But what I am struggling with up here is that we do not have an applicant in this case, and we have witnesses that have brought forward positions so far, but we do not have closing statements.

Mr. Gaudreau, do you have the...

(BRIEF PAUSE)

THE CHAIRPERSON: Mr. Hacault, is this sufficient for you, or are you still looking for the email that came from the other member of the Association? Is that what you are seeking?

MR. ANTOINE HACAULT: Well, if Mr. Keyes has referred to that other email, and if he says it's linked to this one, yes, I am requesting that he not be able to refer to it without being -- without filing it.

HONOURABLE STAN KEYES: If I can be of assistance, Mr. Chairman.

The email to which counsel for Rentcash refers is the one he asked me the question of prior to our dismissal last week.

THE CHAIRPERSON: I gathered that.

HONOURABLE STAN KEYES: He had it in his hand. I suppose he could supply it immediately.

THE CHAIRPERSON: Do you have any problem with that, Mr. Hacault?

If you have a copy of the email, do you have any problem just submitting it, and we can move on a little quicker?

MR. ANTOINE HACAULT: Sure. If that's the request of the CPLA, I -- that --

THE CHAIRPERSON: Mr. Keyes has suggested that, so he sounds like he's okay with it.

MR. ANTOINE HACAULT: Okay. Thank you.

THE CHAIRPERSON: Mr. Gaudreau, do you want to get it and make a photocopy? Mr. Hacault has a document.

(BRIEF PAUSE)

THE CHAIRPERSON: Okay. We have this. We will have to give it an exhibit number. Ms. Southall...?

I guess it would be Mr. Hacault's exhibit number for Rentcash.

MS. ANITA SOUTHALL: That's fine. Is that fine, Mr. Hacault? And we'll fig -- we'll determine what the actual number is --

THE CHAIRPERSON: We'll find the number in due course.

MS. ANITA SOUTHALL: -- when I am able to check with the Board secretary.

THE CHAIRPERSON: Just to put it on the record.

MR. ANTOINE HACAULT: Thank you.

--- EXHIBIT NO. CPLA-9: Email to CPLA members from Rentcash.

THE CHAIRPERSON: Okay, Mr. Hacault, we have Mr. Keyes's response, and we have the copy of this email from Mr. Isfelt to Mr. Keyes.

MR. ANTOINE HACAULT: Thank you. Mr. Gaudreau, I haven't kept a copy for me.

(BRIEF PAUSE)

MR. ANTOINE HACAULT: Thank you. I had taken time earlier this morning to identify certain pages which I was going to ask questions of for the CPLA. The first related to PUB/CPLA-A-1E, and the line of questioning is just to determine, generally, whether the answer still stands and who would have reviewed the answer and approved the answer.

That's generally where I'm headed with these questions. I don't know whether Mr. Gould agrees with the answer or not, or if it's just a CPLA answer.

So, if I could, I would read the question and the answer and then proceed along that general line of questioning.

THE CHAIRPERSON: Sure, that is fine.

CONTINUED BY MR. ANTOINE HACAULT:

MR. ANTOINE HACAULT: So the first question was:

"If the allowed rate were based on the cost of operations, should there be limits set related to what operating expenses should be considered, and limits on any specific operating item?"

The answer:

"No. In a competitive marketplace, all lenders will be encouraged to lower their operating costs by becoming more efficient. And setting a maximum to govern competitors in this industry, it is not necessary for the Board to consider whether specific costs or cost items should or should not be incurred."

Can you let me know, firstly, who would have reviewed or whose answer this is? Is it the CPLA's? Dr. Gould? Is there -- was there any kind of system for questions like this?

MR. NORMAN BISHOP: I think this is a CPLA answer as opposed to something Dr. Gould came up with.

MR. ANTOINE HACAULT: So, is it the view of the CPLA that there is a competitive marketplace in Manitoba?

HONOURABLE STAN KEYES: Yes, it is.

MR. ANTOINE HACAULT: And am I right in extrapolating from this answer that the position of the CPLA is that firms should have the flexibility of setting things like their hours of operation and their risk profile for clients?

(BRIEF PAUSE)

MR. NORMAN BISHOP: I think that's correct.

MR. ANTOINE HACAULT: I turn now to PUB/CPLA-A4, entitled "Fee Structure," and the question is:

> "Please provide the various components which you believe should form part of the fee structure determination."

And there's an answer, and I read the answer:

"CPLA believes that in determining the fee structure, the Board should aim to set a fee or rate that:
1) is simple and clear for the customer to understand and for the lender to calculate, 2) is a maximum below which a competitive market can operate,
3) allows for a viable marketplace which provides for a fair return to the lender, and,
4) ensures that credit is available in all the areas of Manitoba, and to all Manitobans, regardless of their credit history."

Is this only a CPLA answer, or would it also be something that Mr. Gould agrees with?

HONOURABLE STAN KEYES: This is an answer from the CPLA.

MR. ANTOINE HACAULT: Can you advise me if there was any process for approval of such an answer? In other words, is it a direction from the board of directors, is it just a committee? Who on the board decided that this was an appropriate answer for the Association?

OBJ MR. ALLAN FORAN: I object to that

question. I'm not going -- I'm going to instruct the witness not to answer that.

This goes to how CPLA operates internally. I don't think that's an appropriate question. There's witnesses from CPLA here.

THE CHAIRPERSON: I tend to agree with you, Mr. Foran.

CONTINUED BY MR. ANTOINE HACAULT:

MR. ANTOINE HACAULT: Thank you, Mr. Chairman. Next, I had identified PUB/CPLA-B38(b). The question was:

> "Please comment on your view of the state of the competitive market for payday loans in Manitoba."

The answer:

> "The market for payday loans in Manitoba consists of at least fifteen (15) different companies, including the stores of three (3) large chains and a number of small companies.
>
> Subject to regulatory uncertainty, there are no barriers to entry and entry costs are low.
>
> Companies differentiate their product

through geographic location, hours and
quality of service, and credit risk,
with small companies able to compete
with the large chains.
The market can be described as
monopolistically competitive, a common
market forum."

Again, is this a CPLA answer or is it also, in part, Gould ans -- Gould's answer?

MR. ALLAN FORAN: I'll just interject. My understanding is that's completely Dr. Gould's answer.

MR. NORMAN BISHOP: That would be correct.

CONTINUED BY MR. ANTOINE HACAULT:

MR. ANTOINE HACAULT: Is there anything in this answer with which the CPLA disagrees?

HONOURABLE STAN KEYES: No, there's not.

(BRIEF PAUSE)

MR. ANTOINE HACAULT: Mr. Keyes, I believe in your initial presentation you had identified a gentleman by the name of Doug Forbes. Are you aware of whether this gentleman had a Money Mart franchise?

HONOURABLE STAN KEYES: No, I'm not aware.

MR. ANTOINE HACAULT: Is Mr. Bishop aware?

MR. NORMAN BISHOP: Not to my knowledge, no.

(BRIEF PAUSE)

MR. ANTOINE HACAULT: I'm nearly at the end of questions. The next line of questioning is just to determine what type of information was provided by the CPLA to Dr. Gould.

Are either of you gentlemen aware of what information was provided to Dr. Gould in order to allow him to prepare his report?

(BRIEF PAUSE)

HONOURABLE STAN KEYES: The secretary of the board of CPLA will assist me if I've left anything out.

But whether it was Dr. Lawrence Gould, the renowned professor of finance at Manitoba University, or Mr. Michael Thompson -- Mr. Michael Marzolini, who is the

President of Canada's renowned polling firm, or Mr. Dean Schinkel, an award-winning accountant in his own right, we would sit down with -- with these gentlemen upon being retained, inform them of who the CPLA is, what the -- who the members of the CPLA are.

Inform them of the -- the -- the Code of Best Business Practices, inform them of the Ethics and Integrity Commissioner, inform them of what dues are paid by the members, inform -- inform each one of these gentlemen, in -- including Dr. Gould, all of those aspects that -- that speak to the Canadian Payday Loan Association.

MR. ANTOINE HACAULT: Thank you. I was looking for any documents which might have been provided in addition to the Ernst & Young report and the Deloitte Touche report.

It's pretty obvious from Dr. Gould's report that he had those two (2) documents with him, but I'm not too sure whether he had any other CPLA documents setting out CPLA's position on any number of things, including its position set out earlier in the press release of twenty dollars ($20) per hundred (100).

MR. NORMAN BISHOP: I -- I think all he was provided with was the financial statements, or the -- the sites to get the financial statements for Rentcash and for Dollar Financial. I'm not sure if there was anything else that was provided to him.

There wasn't, that I recall. I'm not -- it's not to say there wasn't anything else. That was just -- I'm not aware of anything further.

HONOURABLE STAN KEYES: And -- and bearing in mind, as well, that the information that was provided to Dr. Gould and -- and our -- and our other gentlemen who provided the evidence they have, is all located right on the CPLA website, including the -- including the news release that counsel for Rentcash mentioned.

MR. ALLAN FORAN: And I should just interject, Mr. Hacault, and -- and again I'm trying to be delicate because now we're -- we're -- we're getting into sort of -- the conversations that I may have had with him. But he certainly had Dr. Robinson's various reports, and what I'm going to suggest is perhaps you ask Dr. Gould when he attends this evening at 5:00.

CONTINUED BY MR. ANTOINE HACAULT:

MR. ANTOINE HACAULT: Thank you. Mr. Schinkel, did you have conversations with Dr. Gould about your report and its contents?

MR. DEAN SCHINKEL: No. Dr. Gould would

have received our final report.

MR. ANTOINE HACAULT: Thank you. Those are all the specific questions. I may have -- as I said before, like Mr. Williams -- some questions as a result of Dr. Gould being here. But I've tried to segregate as many as I can so that doesn't occur, and I've completed as much as I can for now.

THE CHAIRPERSON: Thank you, sir. And again we will have Dr. Gould back, I think, at -- is it 5:00 tonight?

MS. ANITA SOUTHALL: It is, yes, Mr. Chairman.

THE CHAIRPERSON: So, Ms. Southall, with your help, I imagine now that we will move on to the direct evidence of Rentcash?

MS. ANITA SOUTHALL: Yes, that's the intention.

I just wanted to check with Mr. Williams. Mr. Williams, were you intending to pick up your cross-examination at 5:00 p.m. then? Is that the plan?

MR. BYRON WILLIAMS: I'll consult with Mr. Hacault.

I know I do have a few questions for Mr. Schinkel. Kind of inter -- I'm ready to go whenever. I'm just -- logistically, my understanding is that Mr.

Schinkel is not here until -- until 6:00, and I don't know if Mr. Hacault has questions of Mr. Schinkel or not.

We -- he and I may want to talk at the break on the order. I'm ready to go at any time, but I -- I guess my point is that if Mr. Schinkel's not here until 6:00, it might be more efficient for me to start at 6:00 rather than 5:00. But I'll -- I'll chat with Mr. Hacault and I'll be ready at the Board's -- when the Board wants me.

MS. ANITA SOUTHALL: That's fine. Actually, what I was just trying to sort out for the -- for the moment is whether you had any other specific questions for the panel members at this moment, and I take it you're -- subject to that sorting out, you'll proceed later this evening?

MR. BYRON WILLIAMS: Yeah, that was my understanding, that I would just do Mr. Schinkel and Mr. Gould at the same time. I -- I hope I didn't inconvenience Mr. Schinkel by bringing him here this morning.

THE CHAIRPERSON: Okay.

MS. ANITA SOUTHALL: That's fine. Yes, then, Mr. Chairman, we are ready to proceed with the Rentcash portion of the evidence which, I understand, will commence with Dr. Clinton who is -- I believe

Rentcash is presenting as an expert.

THE CHAIRPERSON: Ms. Southall, just help us here for a minute then. So is the panel returning in full tonight, or is the panel...?

MS. ANITA SOUTHALL: Maybe Mr. Foran could clarify that for us.

MR. ALLAN FORAN: Yes, we'll have our entire panel here, if necessary, except for Mr. Schinkel cannot attend until approximately 6:00.

I spoke to Board counsel just in advance of the Hearing and there's been communication amongst counsel throughout the weekend. And what we thought, with -- with the indulgence of Mr. Hacault, if he could start with Dr. Gould, however far he can take him, until Mr. Schinkel arrives. But the rest of the panel will be here as well.

(CPLA PANEL RETIRES)

THE CHAIRPERSON: Very good. Okay. Well, we will begin then, before the break at least, with the direct evidence or get a start on it.

Mr. Hacault, do you want to introduce your witness panel or witness and then we will swear him in and get underway?

MR. ANTOINE HACAULT: Yes, Mr. Chairman. Dr. Gould, if you could present yourself? Or, Dr. Gould -- boy, am I really out to lunch, eh?

THE CHAIRPERSON: If it is easier for you, you know, you could all relocate over to that section.

MR. ANTOINE HACAULT: I'm probably more nervous than Dr. Clinton.

THE CHAIRPERSON: You could not be any worse than the Bomber quarterback on the weekend, though, I thought he did quite well, actually.

(BRIEF PAUSE)

MR. ANTOINE HACAULT: Well, Dr. Clinton, hopefully you've seen that I'm about as nervous as you are. You've indicated that you're pretty nervous about this.

But could you, perhaps, go through for the Board some of your post-secondary education? I'll be taking through -- you through some of that and your work experience and -- and how you believe it can assist the Board in making its decision.

So we'll get you sworn in first, and after you've been sworn in, we'll get into that.

THE CHAIRPERSON: Mr. Gaudreau...? Dr. Clinton, would you like some water or something or...?

(BRIEF PAUSE)

THE CHAIRPERSON: Anytime you are ready, sir.

RENTCASH PANEL:

KEVIN CLINTON, SWORN

MR. ANTOINE HACAULT: Thank you.

(VOIR DIRE COMMENCED)

EXAMINATION IN CHIEF BY MR. ANTOINE HACAULT:

MR. ANTOINE HACAULT: Dr. Clinton, as I explained before you got sworn in, could you please provide some information to this Board on your post-secondary education and how it might relate to the proceedings at hand?

DR. KEVIN CLINTON: Yes, and, Mr. Chairman and the Board, reference has been made to my nervousness, but I'm beginning to feel that this ordeal might eventually have to be undergone by all Canadians, because I saw on CBC TV this morning an award for the most Canadian cartoon. And this cartoon had three (3) chubby little characters all decked out in toques and scarves.

And Number 1 character was inquiry, Number 2 was committee, and Number 3 was hearings. So -- sorry about that. Can you repeat your question?

MR. ANTOINE HACAULT: If you could go through some of your post-secondary education?

DR. KEVIN CLINTON: Yes. Well, I have a PhD from University of Western Ontario in 1974. My thesis was named "Econometric Model of Portfolio Behaviour of the Mortgage, Trust, and Loan Companies."

And it won the T. Merrick Brown (phonetic) prize for best thesis in economics for that year. Before that, I'd been five (5) years at the London School of Economics. Oh, you want this -- and I did a Bachelor of Science in Economics and a Master of Science in Economics.

MR. ANTOINE HACAULT: Thank you. Now, could you explain a little bit of your experience in the financial markets, starting from the late 1980s, and what your involvement would be in representing Canada before various organizations?

DR. KEVIN CLINTON: Oh, yes. Starting in

19 -- 1988 and going on all the way through to about the year 2000, on an occasional basis, I would represent Canada as Bank of Canada representative.

Normally, the Canadian representation at these meetings, as of every other country, would have a representative from the central bank and one from the government, and sometimes that representative from the government would be from of the regulatory bodies such as CDIC or OSFI.

MR. ANTOINE HACAULT: Could you spell those acronyms for the reporter and perhaps educate me on that?

DR. KEVIN CLINTON: Oh. Oh, yes. Well I think you will know CDIC if you have bank accounts because that's the Canadian Deposit Insurance Corporation.

And OSFI is the Office of the Superintendent of Financial Institutions which supervises all federally licensed financial institutions, including Schedule 1, 2 and 3 banks, insurance companies, pension funds, friendly societies, and all the rest of it.

MR. ANTOINE HACAULT: Now could you please identify which organizations you would have appeared before in those capacities?

DR. KEVIN CLINTON: Yes. Most often it

would have been before the Capital Markets Committee of the OECD. Do you want me to spell out that acronym?

That's the Organization for Economic Corporation Development in Paris, which is essentially the -- the economic forum for the rich, industrialized countries -- twenty-six (26), twenty-seven (27) industrialized countries.

MR. ANTOINE HACAULT: Were you --

DR. KEVIN CLINTON: And the next one would be the IMF, which is the International Monetary Fund.

And the third one, again, is a acronym. It's the BIS. That's the Bank for International Settlements which is situated in Basel, Switzerland.

And that's a group of central banks. Unfortunately, they will not let any finance minister in their doors. So, on those occasions, that would be either just me or with somebody from one of the supervisory organizations, nobody from the Department of Finance or I should have said at the OECD, I would often be with somebody from the Department of Finance.

MR. ANTOINE HACAULT: Thank you. Now, could you explain to the Board some of the aspects of the policy analysis that would be done in that context which might help you provide recommendations to this Board?

DR. KEVIN CLINTON: Yes. These were very big issues as you -- as you may think. And, by the way, I don't want to exaggerate my role in this. I -- I was an occasional delegate to these things. These are meetings that go on a twice annual basis, usually. So, I would be the Bank of Canada representative once in a while. And the -- the other thing you should bear in mind is that these were not meetings where agreements and were -- were being negotiated and signed.

These were information sharing meetings where we would try to understand each other -- other's positions and -- and learn from each other's experience.

So, the kinds of the issues that were involved over that period, if -- if you can think back to 1988 and see where we are now in the Canadian financial system, the transformation has been dramatic.

And a lot of these changes involved regulatory and legal changes. So we will be discussing issues relating to, for example, the separation of securities business and banking.

In 1988 Canada still had operated what we call the four (4) -- four (4) pillars, where we had separation between banks, insurance companies, trust companies and something else there that slips me -- oh, banks, insurance, trust, and securities -- four (4) pillars.

Well now, of course, we have financial conglomerates which -- which do everything.

So the -- the issue in the late 1980s was securities and banking, should those two (2) be merged. The Canadian banking system and the Canadian securities industry, at that time, was coming under severe competitive pressure, especially in international markets, because of the existence of much bigger competitors in -- in the US and elsewhere.

And one of the ways around that was to allow our banking and securities industries to merge, and that happened.

Legislation was passed and -- and back in the mid 1990s, in fact, all of the large securities firms in Canada like Wood -- Wood Gundy, and Mcleod, and so on, they were taken over by Canadians. Too much detail? I'll stop --

MR. ANTOINE HACAULT: Yeah.

DR. KEVIN CLINTON: -- because this could go on and on.

MR. ANTOINE HACAULT: I was trying to focus in on -- on things that were related to what you have to do today, and that's useful information. You have a lot of background.

Now, were you involved at all in policy advice on regulatory frameworks?

DR. KEVIN CLINTON: Well, yeah, this was to do with regulatory framework. For example, one of the big issues in -- in the thing I was just talking about, in fact the big issue, was conflict of interest between banking and -- and securities business. So how do you set up a regulatory framework to deal with that?

MR. ANTOINE HACAULT: Thank you. Now, in the 1990s I understand you were involved in the household sector finances.

Could you tell me whether that helps you at all in -- in what -- whether, in that context, you also considered payday loans.

DR. KEVIN CLINTON: Yeah, this -- this is jumping completely to another area that I was working in at the same time, just to make that clear.

On the one side, I was dealing with regulatory issues and -- and legal issues because, very often, the -- the regulatory changes came in the form of -- of new laws.

Now, the household financing research that I did was -- was somewhat different. This was ongoing research that -- that the Bank of Canada does on a regular basis. And, in fact, now it publishes it. The bank has a twice annual financial system report, so if you want to see the kind of work I was doing back then, you can see it now.

Back in those days, Bank of Canada, like other central banks, was not nearly as transparent it is today. So we didn't publish that kind of thing.

But I would look at the states -- the financial state of the household sector. And the question that people were asking then was exactly the same as they're asking now. This debt ratio -- household debt to household income is going up strongly. In those days it was in the 90 percent range. Now we're at a 120 percent. Question was, Are they spending their brains out? Are we living beyond our means? Is the household sector being rational? And so on.

And so that was the issue, and I would pour over the data -- debt data, asset data, income data and so on and so forth -- and produce a note and that would go to the senior management.

And -- and, without given any secrets away, what I can tell you is the general conclusion was always -- and it still is, if -- if you look at recent reports in the financial system review of the Bank of Canada -- that the household sector is in sound shape in Canada, that it manages its finances very well, and that the debt levels that we've seen -- up and to including now, let alone back what they were in the 1990s -- are sustainable and reasonable.

MR. ANTOINE HACAULT: Dr. Clinton, as a result of your -- or in your career, did you have occasion to provide advice on policy issues to various banks across the world?

DR. KEVIN CLINTON: Well, well, yeah, that's my stock and trade. I'm not going to -- not an academic, so most of the research I do comes out of the book that I do as a policy advisor. And to the extent I've published, it's been a byproduct of research that people have asked me to do into a particular area.

Now, if -- if you're dealing with financial regulation, if you're dealing with advice to a Minister or a governor of a central bank, that never gets published.

So I -- I'm afraid my CV can't be very informative on that stuff. It's not a very good CV in case -- I'm afraid. I could do a much better job on that if I had the time.

But, yeah, I've given advice on all kinds of things, including banking legislation, central bank legislation, banking supervision. I've even sat in on banking supervision committees inside central banks, because in -- in half of the countries in the world, banking supervision is done by the central bank.

That is not the case in Canada. Canada, OSFI is an agency under the Department of Finance, so it's separate from the -- the central bank. Works with the central bank, but it's separate from it.

In these other countries where I've worked, I've been directly involved in banking supervision.

MR. ANTOINE HACAULT: So then, you would have some insight on getting databanks together, the type of issues and problems that might generate.

Could you also, perhaps -- and I'm not expecting you to list them all -- but could you give us a sampling of the different countries in which you would have been involved in giving some policy advice on financial issues?

DR. KEVIN CLINTON: Okay. There -- there are two (2) sets of questions there, and they're -- and they're both huge. I'll deal with the first one first. You may have to remind me of the second one.

The first one is about data management. Actually there -- there are two (2) or three (3) aspects to that.

MR. ANTOINE HACAULT: Actually, Dr.

Clinton, we'll get into more detail of that --

DR. KEVIN CLINTON: Wait. Yeah, but --

MR. ANTOINE HACAULT: -- you have in your testimony. Right now I just want to have you qualified, but I wanted to --

DR. KEVIN CLINTON: Yeah.

MR. ANTOINE HACAULT: -- bring out that point before we get into the general question area.

DR. KEVIN CLINTON: Okay. Data reporting and management is a huge topic. And I actually think, having been reading the transcripts an seeing all the evidence and so on that people in the industry, the consumer advocacy groups and so on, have no idea what they're getting into when they talk about financial reporting.

MR. ANTOINE HACAULT: And we'll deal with that further. Now, the second part was, could you just give us a sampling of the different countries that you might have had occasion to give policy advice to?

DR. KEVIN CLINTON: Well -- well, basically, it's been all over the world, so I might miss a few. But I -- I got into the business of giving -- of technical assistance in other countries quite accidentally. I was never a specialist in development economics or anything like that would -- that would qualify me to go around the world giving -- giving economic advice.

But what happened was, we got the collapse of the socialist system in Eastern Europe and the Soviet Union, and one of the countries that had a revolution and kicked out the socialist regime was -- was the -- was Czechoslovakia, as it then was.

And, so, I -- I was nominated by the Bank of Canada to help out the IMF, who sent a team in, essentially, to set up Central Bank from scratch in Prague. And that was an absolutely fascinating experience.

I travelled backwards and forwards to Prague maybe a half dozen (6) times in three (3) years, and I stayed with that project for ten (10) years, almost until I left the bank, actually. And I would be involved in various aspects of their -- of their -- of the Central Bank.

At first, it was a question of -- I was involved in monetary policy operations, but before you could do monetary policy operations, you had to set up a money market.

So I was involved in how could the Central Bank help -- how could it go about doing its -- its over-market operations, and how could it foster the development of the money market.

MR. ANTOINE HACAULT: Thank you.

DR. KEVIN CLINTON: So I could --

MR. ANTOINE HACAULT: So would you have provided --

DR. KEVIN CLINTON: -- this is a big story.

MR. ANTOINE HACAULT: -- would you have provided advice, for example, to the State Bank of Austria, Pakistan, Africa, and South America, and Europe occasionally, and China?

DR. KEVIN CLINTON: You -- you said Austria?

MR. ANTOINE HACAULT: No. Which -- which -- I'm just looking for a sampling of countries.

DR. KEVIN CLINTON: It was the State Bank of Czechoslovakia at the beginning, but after the division of the country, I stayed with the Czech Republic rather than Slovakia, so I was then working for the -- the Czech National Bank, so.

MR. ANTOINE HACAULT: What other countries, sir?

DR. KEVIN CLINTON: The next one (1) was the Central Bank of Peru in South America.

Next --

MR. ANTOINE HACAULT: I'm not looking for a big description of what you did.

DR. KEVIN CLINTON: Yeah.

MR. ANTOINE HACAULT: I'm just -- I want to have some kind of sampling of -- of -- of the --

DR. KEVIN CLINTON: Okay.

MR. ANTOINE HACAULT: -- importance of which countries you actually dealt with.

DR. KEVIN CLINTON: Okay. Well, there was Peru -- I was on and off with them for three (3) years.

There was the Central Bank of Trinidad and Tobago, where I was resident advisor for two (2) years.

Since I retired from the Bank of Canada in 2003, that was the termination of my term in Trinidad and Tobago. I've worked in Ukraine, Lesotho, Botswana, Georgia -- that's Tbilisi, not Atlanta.

Did I say Pakistan?

MR. ANTOINE HACAULT: That's okay. It's not a memory test.

DR. KEVIN CLINTON: Oh, I -- there -- and three (3) short-term missions in Latin America. That was Uruguay, Paraguay, and Bolivia.

And back in the 1990s, I was also involved in two (2) -- in one (1) technical mission to China.

That was at the People's Bank of China, in the People's Republic of China.

And they invited me back, actually, in 2003 to give a series of lectures on modern banking.

I think that's about it.

MR. ANTOINE HACAULT: Thank you. I'd like to present Dr. Clinton as an expert in economics policy advice with respect to the financial sector, advice on regulation on -- of financial markets.

We also present him as an expert in providing advice on regulatory frameworks, to implement policy in financial markets, and the financial sector.

Finally, we also present him as an expert in the household sector finances.

THE CHAIRPERSON: Mr. Foran, do you have any comments?

MR. ALLAN FORAN: His degree of expertise, I don't -- we -- we don't challenge it. It's impressive, and we -- I have no questions of this witness.

THE CHAIRPERSON: Mr. Williams...?

MR. BYRON WILLIAMS: Other than to say that Dr. Clinton is falsely modest about his CV, we have no challenge to his qualifications.

THE CHAIRPERSON: Ms. Southall, do you

have any comments?

MS. ANITA SOUTHALL: No, I don't have anything further to add, Mr. Chairman.

THE CHAIRPERSON: The Board has no problems with Dr. Clinton's credentials.

(VOIR DIRE CONCLUDED)

EXAMINATION-IN-CHIEF BY MR. ANTOINE HACAULT:

MR. ANTOINE HACAULT: Now, Dr. Clinton, if I might, I'd like you to highlight certain aspects of your evidence for the Board. And could you perhaps start by...

(BRIEF PAUSE)

MR. ANTOINE HACAULT: ...explaining how you first came into contact with payday lending in the 1990s.

DR. KEVIN CLINTON: I first came into contact with payday lending in the 1990s in the context of the two (2) things we've talked about.

First of all, the work I was doing in the area of financial legislation and regulation, and then second in connection with that work I was doing on household balance sheets.

So if I go to the first one, in 1998, you may remember that a huge issue came up: should the Canadian banks -- and there are only six (6) big banks in Canada -- should they be allowed to merge?

My -- my counsel is making signs of me and -- what am I doing wrong?

MR. ANTOINE HACAULT: You don't need to -- to explain these things to me. If you could explain them to the Board please.

DR. KEVIN CLINTON: Oh I'm -- I'm sorry. I beg your pardon, Mr. Chairman.

Yeah, the -- well you know the story anyway. The Bank of Montreal -- Bank of Montreal and Royal Bank wanted to merge. And -- and then all the others joined in and there was a huge fuss. And eventually we got the 2001 revision to the Bank Act.

But anyway, people who were giving advice on regulation and legislation at that time were sort of asked, Well, what about it? Is there sufficient competition in the Canadian banking system right now? Would there be sufficient competition if we allowed these mergers? And so on.

So that -- that was the kind of issue that came up and that -- I -- I was involved inside the Bank of Canada in discussing these issues and doing pieces of analysis with very other -- various other economists.

And specific items that I was asked to look at in that context included, should we allow the bank holding company structure in Canada?

Now the relevance of that to the issue is if you can allow a bank holding company structure, then it's possible that you could get additional entrance into Canadian banking, because under the bank holding company structure, you would then have several firms, including nonfinancial operations, under one (1) umbrella.

At least the potential would be there for doing that, which would allow sources of capital to come into the industry and maybe to set up banks under that structure. So there was that issue.

The other issue was, should -- could -- could we allow nonfinancial ownership of -- of a banking corporation? And again, the idea is if you could allow that, this was again -- would again be a source of potential entrance into Canadian banking.

The other issue I was asked to look at was -- and this came, actually, from a statement that Finance Minister Martin made, where he said, Okay, you know, I may allow this, I may not allow it to take place. But I'd want to see if there's sufficient competition out there.

And once of the things he specified is there may be a role for credit unions and other financial services providers.

So the specific piece of research that I was suppose to do there was, can the credit unions -- can the credit union movement feasibly bring a material, competitive element into the Canadian banking system?

So there's a sample of what was going on.

MR. ANTOINE HACAULT: So would you have had occasion to consider the sub-prime lending in the United States?

DR. KEVIN CLINTON: Oh, sorry, yeah. I beg your pardon, Mr. Chairman, I completely lost the thread.

The -- the reason I looked at -- I got to look at -- at payday lending was when -- when we were rethinking the Canadian regulatory structure for the banking system, at the bank we took a big step back and said, Well let's rethink the whole thing. Why are we regulating these institutions?

And then a question came up, Well what about institutions that are not being regulated in Canada? There -- there are quite a few financial institutions, and they're not being regulated. Why is it that we regulate banks, and we don't regulate these?

And I heard somebody say, Yeah, there are cheque cashers and payday lenders out there, and they're not regulated. Look, they're -- they're on there on Bank Street in Ottawa.

So that's when they first came onto my radar screen. So I -- I out of sheer nosiness and curiosity I just walked down the road and poked my nose in there. It was probably a cash checker at that time, actually, rather than payday lender.

I -- I don't know, but I was just surprised that people could make money doing that business. It was new to me and -- but there they were. There were clients in there, they seemed to be making money. And there are a lot more of them in Ottawa now than they were then. So that's one area that came up. That was on the financial legislation and regulation side.

But it also came up at about the same time in the work I was doing on household bank issues. Because at time one of the big questions in the US then -- and it's got a heck of a lot bigger right now -- was sub-prime lending, because in the mid-1990s sub-prime lending was already a big topic in the US.

And the question then was: Are poor

people being exploited with this stuff? It -- it has another name, by the way, not just sub-prime lending. Is -- is it sustainable? You know, it's growing at 60 percent a year. What is going on?

So -- I was aware of that development in the US, and so I started to ask around, Is there anything similar happening in Canada? And again, somebody said, Well there are the payday lenders. This would have been 1998. So I said, Well, okay.

But the thing was in both cases it was such a minuscule activity that I just sort of filed it away in the back of my mind and didn't think about it. And I certainly didn't say anything to -- may -- report on it to senior management.

It was -- it was just something I noticed but didn't think about it anymore for -- for year -- until it came up again almost ten (10) years later, yeah.

MR. ANTOINE HACAULT: So moving ahead, at one point in time you were asked to do work for the CPLA.

Could you just describe what type of work you were asked to do by the Canadian Payday Loans Association? I'm not asking for detail, just a general--

DR. KEVIN CLINTON: Yeah.

MR. ANTOINE HACAULT: -- list.

DR. KEVIN CLINTON: Yeah, I still have

cordial relations with the CPLA. And -- who knows, I might even work for them again. I don't -- wouldn't rule that out. Maybe they would, but it -- it's a fine organization.

And I did the same kind of work for them that I'm since doing for Rentcash. And I won't give any secrets away. I did two (2) reports for them.

And if you don't like the arguments you've seen in the submissions I've made to the Board, you won't like what I submitted to CPLA either, so...

MR. ANTOINE HACAULT: Did you --

DR. KEVIN CLINTON: Oh, did you want me to go on -- or just CPLA?

MR. ANTOINE HACAULT: I'll bring you to what other type of work would you have been doing in this area? And have you read any other literature to inform yourself over the years?

DR. KEVIN CLINTON: Well, yeah, I -- as I was saying, I got into this business two (2) years ago. And there wasn't then, and actually until today, there's not a huge amount to -- to read in the area. So, I -- I basically read everything I could get my hands on.

Actually, with these Hearings we've just about quadrupled the amount of stuff I've had to read, actually. The -- the evidence submitted here it's --

it's a wad of papers as big as everything else I've got. So, yeah, I just -- actually, I think I can speak for everybody else that's going to come up here next, but we've all chewed over the same fat pretty well.

(BRIEF PAUSE)

MR. ANTOINE HACAULT: Now, in addition to reading the material in -- in this Hearing and other articles, do you have any comments on the type of literature that's available out there? If you would may -- perhaps comment on whether you view it's advocacy as opposed to learned, journal-type publications.

DR. KEVIN CLINTON: Yeah. There's a -- there's a problem with the -- the literature out there. Most of it is coming from an advocacy viewpoint.

So very little of it would be of a quality -- and I'm talking about the stuff I've written myself, by the way. I don't exclude my submission.

It wouldn't be publishable in a -- in a refereed journal. And in fact, of the experts up here, I think -- the only one I've seen whose work in this area is published in a refereed journal is -- is one of the pieces by Buckland & Associates.

And that's in a journal on urban planning or something like that. I -- I have no idea of the quality of the journal, but I assume it's a good one.

And I -- I have to say as -- as far as the Buckland work is concerned, I take it very seriously. It's -- they've obviously done basic research in -- into consumers and potential consumers of payday loans in Canada. It -- it's done well. They obviously have an adept econometrician working for them. They've done sophisticated econometric work.

I suspect there's an economist in there. I -- I hope so, because I'm feeling rather lonely in these proceedings. I was explaining to Board counsel earlier I -- I feel very nervous about this.

The reason I feel nervous about these proceedings is that I'm addressing a bunch of, if you don't mind my say so, accountants and lawyers.

And I have no idea really of -- of how to address this audience. It's -- it's a new one to me. And in one of my pieces that you'll be seeing later, there is a piece of economic analysis that uses concepts that unless -- unless you've done, say, at least intermediate microeconomic theory or public finance or something like that, I'm -- I'm just afraid the Board is -- is -- unless I can get some reaction, you know, that will stimulate a debate, and I don't care if it comes from one of the consumer advocacy groups or anything, but anything to get these issues up there so that we can talk -- talk about them.

But anyway, to get back to the literature I -- I understand the Board, you -- you find it difficult to see, perhaps, what I mean when I talk about the difference between an article and a refereed journal and an advocacy piece.

Well I could tell you I've edited several books at the Bank of Canada, and I've refereed dozens of articles for journals. So I hope you can take my word for it in that respect.

But if -- if you can't, I just don't have it with me, I was reading on the plane the latest issue of the Canadian Journal of Economics, which is internationally -- it's -- it's not considered a top-ranked journal, but it's considered to be a very respectable one.

And you can open this at random, pick any article, look at it. You will see that the level of analysis in it is not one -- one (1) step, it's two (2) or three (3) steps higher than the level of analysis that we're reconsidering here.

And I'm talking about in terms of research intensity, and I'm talking about the -- the level of technique.

MR. ANTOINE HACAULT: So I guess it might be the difference between an audited statement, a review statement, and a compilation. You have different standards in your industry too.

DR. KEVIN CLINTON: Those things don't mean anything to me. I have no idea.

MR. ANTOINE HACAULT: Could you, perhaps, just explain whether you made some visits to stores to further inform yourself with respect to this industry?

DR. KEVIN CLINTON: Oh, yeah, I've visited stores.

MR. ANTOINE HACAULT: Have you visited some in Manitoba?

DR. KEVIN CLINTON: I've visited sixteen (16) or seventeen (17) stores in Manitoba, in Winnipeg, in Brandon, and in Portage la Prairie.

MR. ANTOINE HACAULT: And could you describe in a very general way what your objective was and what you observed during these visits?

DR. KEVIN CLINTON: Yeah, I wanted to get a -- I wanted to sniff around these places and get a feel for what was going on on the ground, because it struck me that the people who -- that work in the branches might know something about the industry. And sure enough, that turned out to be the case.

In some of the stores -- you -- you may remember there's been a debate going on about, what are the services you're -- you're offering, you know, what is this differentiated product?

Well, one of the differentiated products, one of the services that are offered that you won't see in your loan volume numbers, is simply the amount of time that sales reps have to spend with clients.

And, you know, some clients come in and they like to talk. Very often, they -- they're feeling stressed. The -- the -- if you're going to a payday loan company, you're usually in some kind of emergency situation.

So you -- a lot of people are feeling some stress. And some clients, particularly new ones, are -- are feeling rather ashamed that they should be having to come to a payday loan company. And they -- they're anxious, like I am here, and they want to talk, and they do talk.

And so I was able to find out all sorts of anecdotal information that reflects absolutely the findings that you will see in the excellent surveys that have been commissioned by the CPLA -- and -- and Environics and I'm talking about Pollera -- and also backs up some of the intuitions that I've already scribbled down on -- on paper.

So actually, I recommend it to anybody that's interested in this. Just walk into a payday loan firm, introduce yourself, ask to see the manager, they talk. You can find out useful things.

MR. ANTOINE HACAULT: Now, for -- other -- for example, did you get straight answers from various people on how much it might cost for a fourteen (14) day loan if you go in?

DR. KEVIN CLINTON: Yes. I -- I think I did, I mean. What I would do -- now, when I was dealing with Rentcash companies, obviously, I had access, because I could say, Hello, Kerry Lawrence (phonetic) has probably phoned you. Well, here I am. I'd like to talk about your business, and so on. So we -- we would have a chat.

In the other companies I didn't have that access. So what I would do, would go in and apply for a three hundred ($300) dollar loan. And I would have taken one, actually, but somehow I was always missing a document that I needed, so I -- I never did get a -- a loan.

But I always would ask for the price. And, again, if you go into these places, you will find the staff unfailingly courteous, welcoming, ready to answer your questions. And I never once on a visit failed to come out of the store without having written down on a piece of paper what they thought the loan of three hundred ($300) dollars would approximately cost me.

And I would ask them this, I would say, Look, I need the three hundred ($300) dollars. That's what I need. So if there are charges to it, don't deduct it from the three hundred ($300) dollars. I want to know how much of a cheque I'll have to write in fourteen (14) days to get that three hundred (300). And I always got an answer.

Now, I don't know if the answer was accurate. And I would say to them, you know, Just give me an estimate. I -- I realize you can't tell me exactly until -- until I've got the loan. But I always got an answer.

MR. ANTOINE HACAULT: Thank you. I'd like to take you to your paper, and we'll go through some items to highlight them for the Board.

Perhaps firstly going to your --

THE CHAIRPERSON: Mr. Hacault, we might as well take our break now before you get into the paper, and then we can concentrate through to the lunch break. Thank you.

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

DR. KEVIN CLINTON: How long is the break, Mr. Chairman?

THE CHAIRPERSON: Fifteen (15) minutes.

DR. KEVIN CLINTON: Okay.

--- Upon recessing at 10:25 a.m.

--- Upon resuming at 10:45 a.m.

THE CHAIRPERSON: Okay, Mr. Hacault. We are ready and eager to get into Dr. Clinton's report.

MR. ANTOINE HACAULT: Yes. Before we actually do that, Board counsel had asked Rentcash to provide copies of its annual returns, which we had here the other day, but which hadn't been marked as an exhibit.

Now unfortunately, I don't think we have a sufficient number of hard copies to distribute everywhere, but it is available on the website, and we can get some more copies brought in.

MS. ANITA SOUTHALL: If I could just interject on that one point.

The materials that I have available for circulation for use over the next couple of days for

Rentcash include a black and white copy of the full Rentcash annual report, so that'll be made available momentarily.

THE CHAIRPERSON: So we have it?

MS. ANITA SOUTHALL: Yes.

THE CHAIRPERSON: That is very good. Thank you.

MS. ANITA SOUTH ALL: One other thing, please, just for the record, is to introduce a few exhibits.

And just going back to those emails, the -- the email provided by CPLA for -- for the record is going to marked as CPLA-9.

The -- what I will call the Isfelt email is a Rentcash exhibit. I'm just going to ask the secretary to remind me, just because I can't find my copy, what exhibit number that was. That was -- oh, yes, here -- sorry. It is in front of me.

So the Isfelt email would be RC-11 for Rentcash.

--- EXHIBIT NO. RC-11: Isfelt email.

MS. ANITA SOUTHALL: And then finally, two (2) documents have been provided, and circulated by counsel for Rentcash this morning for use in Dr. Clinton's testimony.

The first document called Recommendation for Payday Loan Fee Limit for Manitoba would be Rentcash-12.

--- EXHIBIT NO. RC-12: Recommendation for Payday Loan Fee Limit for Manitoba.

MS. ANITA SOUTHALL: The next would be a document entitled Partial Equilibrium Estimate of Welfare Effect for Payday Loan Fee Regulation Prepared for PUB Hearings. That will be Rentcash-13.

--- EXHIBIT NO. RC-13: Partial Equilibrium Estimate of Welfare Effect for Payday Loan Fee Regulation Prepared for PUB Hearings.

MS. ANITA SOUTHALL: And finally, the Rentcash Annual Report for 2007, for the record Rentcash-14. Thank you.

--- EXHIBIT NO. RC-14: Rentcash Annual Report for 2007.

THE CHAIRPERSON: Thank you. Okay, Mr. Hacault.

CONTINUED BY MR. ANTOINE HACAULT:

MR. ANTOINE HACAULT: Thank you, Mr. Chairman, members of the Board. First, Dr. Clinton, could you turn to your paper and advise the Board what the purpose of your retainer was in the context of these Hearings?

DR. KEVIN CLINTON: Well, I don't have a written retainer, but I've outlined the items that I intend to review on the first page of my submission.

Mr. Chairman, would you like me to read A, B, C, D?

MR. ANTOINE HACAULT: No, that not necessary, but could you just highlight those items, please?

DR. KEVIN CLINTON: Yes, I will. Or -- or perhaps I can better do it by sort of drawing a theme. Because you will see that here and elsewhere I've thrown around the word "appropriate" a lot.

Now what I have in mind by that is that I think that what we're looking for is a regulatory system that is appropriate in the sense that it serves the long run interests of consumers or is in line with that objective. That's what I mean when I say appropriate.

Now I've heard CPLA say they're in favour of regulation, and I've even heard Gordon Rightdale (phonetic) say he's -- he wants to be regulated in the industry.

The mantra of everybody on the industry side, if you like is, We favour regulation. And I shake my head when I hear that, because you're not in favour -- nor is the Board -- you're not in favour of any old regulation.

Regulation could be anything. What you want is a regulatory framework that is aimed at objectives that you think are desirable. So that pretty well summarizes everything -- A, B, C, D.

MR. ANTOINE HACAULT: And could you then address -- your opinion and recommendations with respect to the policy objectives that might be appropriate in this Hearing?

DR. KEVIN CLINTON: Yes, because what this Hearing is about, if -- if I can summarize it from the point of view of an economist, it's about, what is the role of price limits in a competitive industry?

How should we -- and why should we -- set a price limit in a competitive industry? How can we do that in such a way that consumers ultimately benefit?

I -- I'm sorry, Mr. Hacault, can -- can you repeat the question, because I think I lost the thread.

MR. ANTOINE HACAULT: No, perhaps I can bring you to page 2 of your paper, where you actually further talk about those objectives and contrast them between regulated industries, in particular public utilities, from what I think you've said being a competitive environment.

DR. KEVIN CLINTON: Yes, the relevant operating objectives would differ in significant ways for those for existing regulated industries, in particular public utilities.

But I would add as well, and just as - as relevantly, they will differ in significant ways for the regulations that we have for the banking system or for insurance companies.

And -- and the -- the reason there I -- I -- again, in the case of banking, insurance, trust, and loan companies, and so on, I -- I don't think the issue there the regulators have to deal with is -- is an issue of competition. And they don't pretend to address that issue.

In -- in that particular sector what they're worried about is systemic risk; that is, in -- in the financial sector there is a risk of chain reaction, which could have economy-wide repercussions. Now with the payday loan sector, that's obviously not going to have it.

So again, the objectives you would define for the payday loan sector would be completely different from the objectives that OSFI would pursue.

So you really need to think about, in this specific case, what objectives are we trying to achieve with this instrument that we have been given?

Because your payd -- your pay loan fee limit in and of itself is not an objective. It's an instrument. So the question is then, to what end are we -- are we using this thing?

So if -- if you like reading the transcripts and so on, I can see that the -- the Hearings, at least from my perspective, are running into a huge forest and trees problem.

You're getting into all sorts of arcane details, and it -- it seems to me you could easily lose sight of that sort of big picture issue.

MR. ANTOINE HACAULT: And in your experience, with respect to initial settings of policy instruments, what type of approach would you recommend?

DR. KEVIN CLINTON: Well, you're talking

to an ex-central banker here. And if there's one thing central bank is, it's prudent, so -- or at least they have a reputation that way, and it's deserved.

So I would say, Look, you're the first -- or just about the first jurisdiction in Canada to get into this business. Nobody knows what the impacts of what you're going to do are going to be. Nobody can predict with any degree of confidence.

Your data on the industry side, I'll get into that later, but they're pretty hopeless, frankly, as a basis for -- for regulating fees. So I would say you have to get into this business in a cautious, graduated way.

Now having said that, it seems to me that the single most important thing that you will be doing in 2007 is making decisions that will provide you with a much better database in 2010, when you revisit this issue.

So I think it's appropriate that you don't try in 2007 to provide the final solution to your payday lending problem. What you want to do is set yourself up so that over time you can approach your objectives, however you may define those objectives.

I have an objective in my mind that I get from the Minister's statement. I -- I'd arrived at it independently beforehand, actually, but it just happens to coincide with what the Minister says.

You may decide that your objectives are somewhat different from that. But I would say, Okay, still go about it in a prudent way. A lot of the proposals that have plunked on your desk say, Here is the solution. You do this, problem done.

You walk away from it, you have nothing extra to do. What I'm suggesting provides you with a program that will be ongoing every three (3) years, and you can adjust incrementally.

(BRIEF PAUSE)

MR. ANTOINE HACAULT: Now I'm directing your attention, and it's continuing to be along those lines, at page 2, where you talk about the overview. And I'm looking at a phrase, "Prevention of charges above the normal industry range."

Could you comment generally, with respect to the objectives and -- and why you're coming to that operative objective for the Public Utilities Board?

DR. KEVIN CLINTON: Yeah, I know what you're talking about, but just as I'm sitting here, I can't see the line that you're addressing.

Could you give me the line that I'm on?

MR. ANTOINE HACAULT: On page 2, it was line 28.

DR. KEVIN CLINTON: Yeah, I'm on page 2. Oh, we're right -- right down there.

Yes. And could you repeat the question?

MR. ANTOINE HACAULT: You're talking in that paragraph of the operating objective for the Public Utilities Board.

Can you perhaps explain, in the context of your discussion of protecting borrowers, et cetera, how that fits into your recommendation on the operating objective?

(BRIEF PAUSE)

DR. KEVIN CLINTON: The answer is yes, I can, but I'm just looking for the statement that the Minister made, because it is very similar.

The -- the Minister, in February 2007, in a letter to the, I believe it was to the Finance Committee of the Senate, expressed the objective this way:

"To balance the desire of payday loan -- payday lenders to provide their

services and compete for a market share
and the right of consumers to be
protected from excessive charges."

He goes on, Mr. Chairman:

"Setting maximum rates will allow
lenders to fairly and freely compete
and will have a levelling effect in the
industry by prohibiting extreme rates."

So I'm right there with the Minister. I -- I don't know how he arrived at his conclusion. I -- I know how I arrived at mine.

But this is what this is about when I say "prevention of charges above the normal industry range." In other words, I'm saying, Well, how can we identify what those charges may be?

Now, I have a procedure for doing that, and I believe you just received my proposal, and we'll be getting into the details.

But it involves looking at the frequency distributions of actual charges in the current unregulated market as a starting point.

Now those data, I would say, are at best okay, because as -- as you've heard, there's been a discussion about what should be included in those charges, and are they really -- are the charges really what you hear over the phone, and this, that, and the other.

So I wouldn't say that the numbers are any better than okay, which, by the way, is another reason for beginning with a prudent approach.

Even with the data that I give, that I think are better than the cost data, even there I would say, Look, I really can't give you a qual -- quality guarantee with those numbers.

It's buyer beware. But having said that, if you're going to make a decision on -- base a decision on this, I think, Okay, I'll go with that, but do it prudently.

Don't leap in with what you think is your best guess right away. Leap in with the guess that you think will not cause significant destruction at first.

I don't know if the Board is -- is satisfied with my answer to Mr. Hacault's question, because I -- I could go on. But we're then getting into the details of the specific proposal that I actually make.

I -- I don't mind doing that right now. It's -- it's up to the Board.

MR. ANTOINE HACAULT: Could you perhaps -- and we'll continue dealing with the various matters --

turn to page 3?

You were talking about what you've just talked about, but you're having further discussion with respect to the types of services and consumer choices, et cetera.

How do you see that fit into your recommendations?

DR. KEVIN CLINTON: Well, the -- this -- this is extremely important. Frankly, reading the transcripts and listening to the -- the Hearing so far, what I hear pretty much is all stakeholders, and the Board as well, sifting through what is an absolute wreckage of -- of data on industry costs. So we've had a lot of that.

We've had some talk, but less, about price data. And the price data is actually considerably better than your cost data -- considerably.

We've heard virtually nothing that -- unless I've missed something, about the consumer. Now I'd like to think that I've treated the consumer on a more or less equal basis with the producer, because what we have here in a market, I mean, you've got the producers, you've got the consumers, and then the interface is the price. So we've got those -- those three (3) elements.

And actually, the data on the consumer side is a heck of a lot better than the data on the producers side. We've got very good information on -- on the consumer side.

The -- as an economist looking at this and -- and as an economist coming from the viewpoint that, you know, in the end economic activity is all about the consumer -- that's what we're really con -- concerned about -- why haven't we spent twice or three (3) times as much time looking at the consumer data that we have on this dreadful cost data?

I -- I mean, I'm an economist. I'm interested in efficient allocation of resources. So I can't answer that question. It looks to me like a huge misallocation of resources.

Let me just run down the information that we've got on -- on the -- on the consumer and that's been presented to the Board, by the way.

I -- I would call it the quality of the data in each case excellent. We have the work of Buckland & Associates. Now I don't agree with their conclusions -- don't get me wrong -- but they've done solid work.

We've got very good data from Statistics Canada. We've got their survey of financial security, which is -- is something, by the way, that I used to study on a regular basis when I was in the household finance business at the Bank of Canada.

We've got census data, which is a huge and, therefore, very reliable data set.

And PYPER of Statistics Canada has done an excellent piece published in one of their bulletins on -- on the payday loan industry.

We have the Bank of Canada, who are now publishing those analyses of household balance sheets that I used to do, and they present their own -- they use their own data. It -- and it's very good data.

Let me back up there. When I say "very good data," what do I mean? In fact, I could call it excellent data. They can use their own data. If you want to see what that is, they've got monthly data on many different variables. If you want to find individual institution data on the financial system, you just go to the OSFI website.

I'll repeat, this is individual institution data. You can get it for public corporations. You can get it for private corporations. OSFI doesn't care if you're public or private. It publishes for Schedule 1 banks, which are the big Canadian banks plus the smaller, mostly closely held or -

- or private banks.

I'm I -- I think the name of Direct Banks has a come out -- or it will come out. That -- that'll be a Schedule 1 bank. I think it's probably a private corporation.

Well, you'll be able to go to the OSFI website, click on that bank. You will get monthly balance sheet data, and you will get quarterly earning statements, same for all -- all the banks. All the Schedule 1 banks, including the private ones; all the Schedule 2 banks, which are mostly private, because they're foreign bank subsidiaries; and all the Schedule 3 banks, which are not even Canadian corporate entities. These are just branches.

So it's as if you could publish -- it would be like you're publishing individual branch data, almost, for the payday loan industry.

So for -- to my way of thinking, if you're ranking data sources, that would be sort of your gold standard. That -- that would -- that would be really good quality data -- monthly, quarterly data on individual institutions, private or public.

Now, okay, let me get back to the consumer. I just got into that as I -- I got sidetracked because I talking about the Bank of Canada data.

MR. ANTOINE HACAULT: Actually that leads very well to another subject which you deal with on page 4, is your comments on the annual effective interest rate and -- and whether or not this is a transaction service versus a credit service and what APR can be used as.

DR. KEVIN CLINTON: Well if you don't mind, Mr. Hacault, I hadn't nearly finished on data, and I think it's an important issue. I think it's a very important issue.

MR. ANTOINE HACAULT: Well I'll let you continue on what you believe is important for the Board.

DR. KEVIN CLINTON: I was saying that we've actually got good data on consumers, and I -- I hadn't even got to the -- some of the specific data that has been presented to the Board, because you've also got good data on consumers from the surveys that have been done.

You've got the Environics and Pollera surveys from the CPLA. I've made use of Bannister survey that was done by -- by Rentcash. There's the Ipso Reid survey, which the FCAC -- that's the Financial Consumer something Committee. It's -- it's an agency of the Department of Finance.

So you've got those four (4) surveys. Now I would agree any one of them, you've got to take with a pinch of salt, and I would say especially the ones that have been commissioned by CPLA and Rentcash, because obviously they're -- they're working for a client.

But the thing is in those surveys you keep seeing the same results. So I would say you've got to start taking them seriously. Now from -- within the industry, by the way, there is more data on consumers that hasn't been discussed that you could get.

For example, you could ask any of the lenders for data on their dormant accounts. This would give you very interesting information on whether or not borrowing was frequent, because if you see that, say, 50 percent of the accounts have not even been used over the past year -- and I've seen this kind of data -- you can realize that the assertion that most borrowers are borrowing frequently is -- is not actually correct and that the surveys that say most borrowers use this stuff once or twice a year, that -- that sounds more reasonable.

Now why am I making a specific point of this? Well, because from the consumer viewpoint, the problem with payday lending is actually not the fee. The problem is that some consumers get in this business on a frequent basis or a continuous basis. That is where the problem would lie.

So this kind of data is very important. And unless you read these surveys carefully, you're going to get a wrong impression about how frequent that borrowing is.

For example, the Bannister survey commissioned by Rentcash, you cannot use it for the purpose of how many frequent borrowers there are. Why not?

Well this survey was distributed or -- or let's say that -- that the -- the sample was selected by means of a poster in Rentcash offices.

So what is your sample going to consist of? Your sample is going to consist of people that into Rentcash offices. And who comes into most -- who comes into Rentcash offices frequently?

Well obviously it's the frequent borrowers. The ones that only borrow once a year or once every two (2) years you're going to miss completely. So that kind of survey is just not going to count the borrowers that are not borrowing.

To know that, you've got to do what PYPER did or what Environics did and take a sample of the population -- of the whole population. And then you can assess how many people are borrowing frequently. So that's one thing.

Now there's -- there's another thing that -- oh by the way, I -- I've got to mention Robinson in this case, because here we have this massive, very interesting data on the consumer side. It's extraordinarily interesting.

And, you know, you've seen exchanges in the pre-Hearing testimony between me and the Coalition. Actually, I expect it's mainly between me and -- and Buckland Group. And, you know, we've really been going at it. There's a debate going on.

And this debate is exactly the kind of debate that should be going on in a hearing of this kind, because it's keeping us -- both of us -- both of us on our toes.

I've been having to run backwards and forwards checking to see that I've looked at the right data sets, looking at additional data sets to see if they can confirm what I see, and I suspect they've been doing the same thing.

Now we're not going to end up at the same place at the end. We don't have to. But I hope, as you read that stuff, you can see there are two (2) sides to these issues. And there usually are. And good public policy in the end comes out of this kind of debate.

Now, having said that, let's get to

Robinson. He actually -- although he's supposed to have consumer interests at heart, that's where he's coming from, it would appear that he hasn't actually done any research into the consumer side at all.

So the -- the data source, if you like, on Robinson's consumer is -- is creative writing. And what we have is a sort of a Dickensian victim as a stereotype. It's sort of Bob Marley before Scrooge got the Christmas spirit, you know. So why he's down there, I don't know because, you know, presumably the Buckland Group could have given him some data on this stuff.

But there's one extraordinary study that has just come out from Dartmouth University into the US on the consumer. And unfortunately I -- I haven't been able to get access to -- to the complete study, but it -- its conclusions look extremely interesting from the viewpoint of the welfare arguments that I'll be making later on, because I'll be referring to a technical concept called a Harberger triangle.

It's a measure of consumer surplus or consumer welfare. And you're going to be thinking, What the heck is he talking about? And I can give you anecdotes to illustrate the concept.

But in this study from Dartmouth University we have a very rigorous study. And I'm going to read you the abstract. It's very short. And you can see exactly there the kinds of concepts, the -- the kinds of things that I have in mind when I'm talking about consumer surplus.

Okay, what they did is -- don't ask me how they did it, by the way. It sounds unethical to me. It sounds like one of those medical experiments where you give placebos to half of the group and you give stronger stuff to the other half, and then you see which one comes out better or worse.

And, you -- you know, sometimes they do these things, and it's -- it's immediately obvious that after a few trials who is better or worse off. And they -- they stop the thing because it would be medically unethical to continue.

Well, this is -- this is what they did. They took a group, a large group, of potential borrowers and then randomly decided to select one group and reject another group. And it was a kind of payday loan product that these consumers were trying to access. So they were high interest, short-term loans.

Now, what did they find? Well, actually, of course, quite a number of the people that took these short-term, high interest loans ran into difficulties and defaulted.

So looking at that you might think -- if that's the only data you had, you might think, well, you know, there's a high default rate there, something obviously went seriously wrong.

And the kind of data that we've talked about so far on the consumer I -- I've heard Mr. Proven specifically asked, you know, Why -- why can't you improve your default rates? This would solve a lot of problems, both for you and the consumer.

Well, this is what turns out. Although the default rates in the group that was given the loans was higher, the group that was given the loans was nevertheless better off.

The study concludes that consumer lending benefits borrowers. Individuals taking high-interest loans were less likely to be in poverty, less likely to be hungry or malnourished, and less likely to have lost their jobs.

Six (6) to twelve (12) months after taking the loans, borrowers experienced a wide range of outcomes. For example, one fifth (1/5) spent their money on transportation, which, among other things, allowed them to get to work and keep their jobs.

Benefits such as these were long term, indicating they were not the result of a cycle of debt so...

MR. ANTOINE HACAULT: Thank you, Dr. Buckland -- Buckland again? Am I going to get you -- I want to get you just going here.

DR. KEVIN CLINTON: Well that's okay. I noticed somebody is referring to me as Professor Clinton as well, and I'm not a professor. But it's -- I'll get used to it.

MR. ANTOINE HACAULT: You did raise one issued, Dr. Clinton, being serious, about the level of data on the costs side.

Can you provide some comments to this Board on the impact there would be on single operations if we went through the type of detail that we would normally go through in analyzing rates of return and rate models for utilities?

DR. KEVIN CLINTON: Let me write down "single operations," because I've to get -- I've got to get back to that, because before I can address that question, I -- I've got to talk about this lender data.

If we start from what I regard as sort of the gold standard, the OSFI data I was talking about earlier, if we use that as a standard, how would we rank the kind of data you've presented on payday lending?

Well I -- I would rank it this way. I'm

talking about the data on lending costs. You've got Ernst & Young and Gould. Now I know Ernst & Young data has been used as if it's very good data. It may be the best you -- you have had in all this.

But I could tell you, it's not very good data. I would classify that as weak data. There's quite a lot of guess -- guesswork and assumptions in there. If you read that report, quite often you see, you know, We've assumed and we've estimated, and done this, that, and the other.

So, that's weak and -- and the sample is pretty damn small. Let's face it, it's nineteen (19) firms. I've got a list of lenders in Canada. There are sixty (60) of them. And there are probably more out there, maybe quite a lot more that -- that I haven't -- that I'm not aware of. So that's weak data.

Then we've got Deloitte's, which has already been questioned. Four (4) firms and, you know, it excludes Rentcash, it excludes the other one -- Money Mart. You know, as an economist, wanting to know something about this ind -- what is this about? So that's definitely weaker.

And then again we head to Robinson. I would describe his data as synthetic, because if you read his stuff there's as much -- there's just as much opinion as observation in -- in his stuff. So his spreadsheet is sort of two (2) steps removed from reality.

So with that background, how -- what would I think about collecting a whole bunch of -- of data from small payday lenders, and with the background I have in Ottawa of seening -- seeing what it takes to have a profit financial reporting system?

Well I can tell you, it's a big-scale business at least if you've got monthly and quarterly reports. It's big enough, actually, that Statistics Canada, the Bank of Canada, and the Office of the Financial -- Superintendent of Financial Institutions have a data sharing agreement.

It's a tripod agreement to try to get the costs down. In other words, they're trying to minimize the -- trying to get more uniform reporting requirements, and so on and so forth.

It -- it and by the way, it's the place I worked. It's the Bank of Canada that collects the data on most deposit-taking institutions. It's not Statistics Canada.

And I -- in one of the Coalition documents they say something like, All the financial institutions have to report to Statistics Canada. Well, actually, quite a lot of them are not reporting to Statistics Canada at all. They're reporting to the Bank of Canada.

So if -- if you're going require of the lenders that they report, say, on an individual basis -- and -- and you've got to do it on an individual basis. I don't see how you can say, We're just going take a random sample.

You -- you're the regulator. If you make a rule for one firm, you've got to do it for all of them. So they're all going have to report, presumably annually, because again, I don't see any basis where you would be able to say you only need report once every three (3) years, when we do our review.

That -- that wouldn't make any sense. So you're going to -- you're going to make them report annually on a whole bunch of stuff that you're going to need if you follow the public utilities model to do your calculations.

And I can tell you, from my experience, that that is going to mean that each one of those companies has to have an officer in charge of preparing required reports.

Now I'm not saying that that has to be a full-time job for an officer. It could be a half-time job. I don't know. But it will -- I -- I do know it's a significant job, even to do it once annually.

Now, as -- as well as -- as the person looking after the reporting, the institution is going to have to need a compliance officer. And the compliance officer and the data reporter cannot be the same person, because there is -- right there you would have a conflict of interest.

So again, it needn't be a full-time job, but you'd need somebody to do it.

Now I took a look to see what the salaries were for the kinds of people that do this work in the Toronto area. And it was easy to find, because head hunters are looking for these people all the time.

The salary range is sixty-five thousand (65,000) to ninety thousand -- five thousand dollars a year ($95,000) a year. Well, okay, even if it's a half-time job, that's sixty-five thousand (65,000), twenty-five thousand dollar ($25,000) cost for a firm.

A single unit payday lender would be out of business just on that. Forget about the fee limit. No need, you've put them out.

So is that enough information on -- on the question from Mr. Hacault? I think that's what...

MR. ANTOINE HACAULT: Yes, thank you very much. Now I believe that can lead into the segue if you're talking about costs of loans. On page 4 of your paper, you had made some comments with respect to expressing the cost of borrowing.

Could -- do you have any comments on whether the APR can be used as tool for anything in -- in payday loans? Could it be used, for example, as a warning flag to people?

DR. KEVIN CLINTON: Yes, yeah, I -- I can see a role for using the APR and posting it up on a big sign in the stores, because this is a reminder to consumers of what this product is supposed to be for.

It's not for transforming the time profile of your consumption. This product is there if you like to facilitate your current transactions. It's -- it's providing you liquidity for an asset that you have.

The asset, in effect, is -- is the money that you're out for the work you're currently doing that you're not going to receive until the end of the month or the -- the -- or your next payday. In my case I'm a pensioner, so my -- my payment comes at the end of the month.

So, yeah, the APR should be there in big letters as a -- buyer beware thing. Okay, but having said that, APR for your payday lender, for your borrower, it's a -- for the regulator, for PUB. It's a totally irrelevant concept at that level, because nobody's interested in it, nobody could give a fig.

And -- and that -- that is quite rational, by the way, because they are not using this stuff on an annual basis. They're paying a fee for a transaction service.

And you've already been told on N occasions the cost of capital is not a significant factor in firms' costs, that when they do these sensitivity tests they vary the costs of capital over a wide range, has very little impact on firms' costs.

Well exactly the same logic applies on the consumer side. The interest element in the cost is not worth arguing about.

MR. ANTOINE HACAULT: Thank you. Could I bring you then -- and this is discussed on page 5. But you actually then discuss some data with respect to the household sector and some trends leading to a demand for payday loan credit.

Could you firstly comment on what portion of the financial service -- or sector this payday loan occupies as a proportion to the industry as a whole?

DR. KEVIN CLINTON: Yes. This -- this is an absolutely minuscule industry. The financial services sector in Canada is huge. If you look just at jobs, for example, it -- it's probably about the same size as the whole manufacturing sector.

And so when you're talking about financial services here, you're talking about a huge sector of the economy. It's bigger than the auto industry. It's bigger than the forest product industry. It's bigger than the forest products industry and the auto industry added up. So you're talking about a huge industry.

When you're talking about payday lending, you're -- you're talking about a very small industry. It's tiny. Where am I going...

MR. ANTOINE HACAULT: Could you explain, perhaps, in that context -- because I brought you to the household sector and its finances -- how this product fits --

DR. KEVIN CLINTON: Oh yeah.

MR. ANTOINE HACAULT: -- in the whole --

DR. KEVIN CLINTON: Yeah.

MR. ANTOINE HACAULT: -- trend of household finances?

DR. KEVIN CLINTON: Yeah. Okay. I'm with you now. Yeah, how -- how do we get this product and this rapid growth over the past few years?

Well it -- it -- I think everybody that -- that's looked at household finances or even the behaviour of wages or the distribution of income over the past thirty (30) years is aware that there has been a marked widening in the -- in the quality of income. It's been going on for thirty (30) years. It's always -- shows absolutely no signs of slowing down.

Same with wealth, distribution of wealth is becoming more and more unequal.

So -- and we also know that if we look at the median family -- and it would also apply, by the way, if you looked at the median worker -- since about 1980, in real terms, those incomes have not gone up a lot.

Okay, so we have the income side on the -- on -- we've got the income side of the equation. Now when -- when we're thinking about borrowing behaviour and saving behaviour, we -- we have also to think about the spending side.

Now on the spending side, just as real wages and so on are sort of stagnating for the working class and -- and middle class, on the -- on the spending side we have the continuing introduction -- and again this is not something that's slowing down. It's probably speeding up. We have the continuous introduction of very enticing consumer goods and surp -- and services.

And guess what? People want to buy them. So what's happening? The savings issue has dropped almost to nothing. In fact, in -- in the US it's gone negative at certain points.

So, you've got a lot of consumers out there, right up to the -- the typical household and even maybe above. So we're not talking about poor people. We're talking about working-class and middle-class people.

They're pretty well spending close to everything they earn, and on top they have already accumulated a large stock of debt. The debt ratio, as we were talking earlier, for the average household is 120 percent. For -- well --

THE CHAIRPERSON: Dr. Clinton, when you say 120 percent --

DR. KEVIN CLINTON: Yeah.

THE CHAIRPERSON: -- does that include mortgages?

DR. KEVIN CLINTON: Oh, yes, mortgages is the singlest large -- single -- single largest element. And so this, if you're lucky, is the dog, conventional credit. This is the huge thing that people are using to finance their spending above their incomes. So in -- in -- that context this is the dog. This is the big part of it.

Now payday lending is just sort of the little tail that just helps people that are in a really short -- short-term squeeze. And there are a lot of them, and their number is growing.

So that's where I see the growth in this industry is coming from. And -- and therefore, that's why I conclude that it's likely to grow, because those basic, underlying economic tendencies that I was just talking about are -- are not slowing down.

CONTINUED BY MR. ANTOINE HACAULT:

MR. ANTOINE HACAULT: Now if you had a policy objective of alleviating poverty -- and you've just alluded to the dog -- how does changing rates by two (2) or three dollars ($3) or maybe four dollars ($4) per hundred (100) deal with that policy objective, if at all?

DR. KEVIN CLINTON: Well, it's obviously completely in effective. Most of the beneficiaries, if there were any -- and I don't think there would be, as I will show in my work calculations later -- would be middle income. They wouldn't be poor.

And I would say if you wanted to help poor people, I'm -- I would be in favour of that actually -- there are much more direct instruments that you could use in terms of the social benefits, medical benefits, dental benefits, changes to the tax -- tax code. If you're interested in relieving poverty look at these things.

You can get somewhere.

God knows why you're picking on the payday loan industry. It's not going help your -- it's too small and not enough of the clients are poor.

MR. ANTOINE HACAULT: Thank you. Could I bring you to another discussion now? It -- it's at page 7 of your first report, and it discusses payday lenders and competition.

Now my question to you is, in your opinion is their sufficient competition in this industry to protect the public interest?

DR. KEVIN CLINTON: No question, yes, there is sufficient competition to protect the public interest.

MR. ANTOINE HACAULT: And can you expand on why you conclude or make that conclusion and present that opinion to the Board?

DR. KEVIN CLINTON: Yes, to my mind having looked at other industries, particularly the banking sector, this -- this one is a -- to use the expression, a slam dunk, because first of all you've just got a large number of firms out there.

But the main reason that I make that statement is that there are absolutely no barriers to entry. So that if there were for any brief period -- and it's yet to be shown that this has ever happened, by the way -- if there were evidence of excess profits, entrepreneurs all over Canada would be leaping into this business. And they would compete those profits away, not in years, but in months.

So that is where I'm coming from. My -- my basic position is that there are no barriers to entry. Now regulation could easily pose barriers to entry.

For example, if you were to impose heavy reporting requirements, as I was saying, you would just put the small lenders right out of business straight away and you would remove the possibility that independent entrepreneurs would come in.

By the way, you would also create artificial economies of scale because there you would have introduced by regulation a fixed cost. Rent Cash, they wouldn't like it. Money Mart, they wouldn't like it but they could live with it. They delegate somebody at their head office to be the compliance officer part-time. They hire a research assistant for forty thousand dollars ($40,000) a year and delegate another officer to be the compliance -- the -- responsible for compliance. Again, they wouldn't like it, but they could live with it but the small operator couldn't. You would have artificially introduced a barrier to entry.

That's the danger you should be aware of. And in that case I would say you may have created the monopoly problem that you now have to solve that didn't exist when you got into this business.

Now, Robinson explicitly does not care about that because he says, well, there are huge economies of scale anyway so let's just have one (1) lender. And then Public Utilities Board is in a great position because you're used to dealing with that situation. You can use your public utilities model. You've created one but it's not one that the market is throwing at you; this is one that you've done yourself.

MR. ANTOINE HACAULT: Now, you're talking about Robinson and -- and some of his comments on competitiveness.

Does it necessarily mean because you have two (2) major players that there is no competition in the market? Are there are retail examples that might help us understand why that isn't necessarily so?

DR. KEVIN CLINTON: Mr. Hacault, there are competitiveness. That's a different economic concept. I -- I think we want to talk about competition; am I right, Mr. Chairman? Competitiveness --

MR. ANTOINE HACAULT: You've corrected me.

DR. KEVIN CLINTON: Yeah, okay. Okay. Yeah. This numbers game is kind of silly. It really doesn't matter from a theoretical point of view or a pragmatic point of view or any kind of view that there are two prominent firms in the industry and a bunch of smaller ones. I mean who cares?

This is the kind of market structure that -- that we have in prosperous countries. As far as we know, this kind of market structure is the only kind of market structure that's capable of delivering the goods and services that we enjoy in such abundance because it's actually difficult to find retail sectors that have any other kind of structure.

So I mean, you know, look at consumer electronics. You've got the source. You've got Best Buy/ Future Shop which is the same, same firm and who else? Well, a lot of smaller suppliers, so, that's like the payday loan industry.

I live in a one hundred (100) year house so -- a hundred (100) year old house so I'm -- I'm always in the market for building materials. While in Ottawa I can to RONA or I can go to Home Depot and then, hmm, who do I go to? Well, there are a bunch of little guys and some of them I do go to but it's the same sort of market such as payday lending.

Give -- give me a consumer good you bought recently and -- well, think about it yourself. You'll probably find it's the same.

So, now, how do you describe this structure where -- where you have a few prominent firms and maybe a whole bunch of little firms as well? How do you describe that structure? I call it competition.

Now, other people might want to use other words and qualify it. They might want to say monopolistic competition which Gould -- which is an expression Gould uses. And I was very surprised to hear the CPLA this morning, Stan Keyes, saying yes, he agrees with that characterization of the industry.

I wouldn't use that expression at all. I would say this is competition. This is what we had, this is what delivers the goods in -- in the Canadian economy and in all the other prosperous economies.

So -- again, I've lost the thread. Where were we -- can you --

MR. ANTOINE HACAULT: Yeah. And does that competition in this particular market mean that everybody provides the service in the same way and at the same price?

DR. KEVIN CLINTON: No. It -- it does not. Oh, I know where I was going with my thread now.

I was talking about these qualifies the competition like, well, it's in perfect competition, it's an optimistic competition, it's oligopoly.

These are just -- these are just names. Slapping that label on the industry doesn't help you design a -- an efficient way of regulating it.

Now, again, can you remind me of the question?

MR. ANTOINE HACAULT: I'd just like you to address whether or not the project -- the product is uniform --

DR. KEVIN CLINTON: Yeah, yeah.

MR. ANTOINE HACAULT: -- and whether or not we should expect to see the same price or is there a product difference?

DR. KEVIN CLINTON: Yeah, yeah. Sorry for losing the thread again.

Yeah, exactly. I hadn't really lost the thread I -- I just had a gap in my -- my memory. Yeah, the product is obviously not homogenise. It differs from one firm to another.

And by the way, the same is true in -- in those other retail sectors, you -- you know. Future Shop and Best Buy are actually the same firm but they have different product lines in one or the other. And -- and the prices are likewise different.

So it's -- it's very often the case that apparently similar products have different prices and sometimes the prices are very different.

I just bought four hundred (400) square feet of ceramic tile from a small supplier that cost me one thousand six hundred dollars ($1,600). I could have bought a tile that looked very similar from RONA for six hundred dollars ($600).

Now that's a much bigger difference than any consumer would ever face in the payday loan sector. And you might say, well, I was a real sucker. And I would say to you, well look, even in retrospect I do not regret my decision because my smaller outlet where I bought the tiles from was able to deliver it by the end of next week. Whereas in -- in RONA they said to me, 'Mm well, we're expecting a delivery in the middle of next month and we're only going to get two hundred (200) square feet.

So you probably have to go to our other outlet over the river in Gatineau and so, you know, even though the price was much lower and if I could have got the product on time and -- or even on another reliable date, I'd have gone for it but said the heck with it.

And for all I know as far as quality is

concerned, for all I know those Italian tiles that I bought, I mean they could be made of toxic waste. I -- I can't tell. But I don't regret buying them.

So -- we get this product differentiation which makes for, you know, imperfect substitutes within the province. We get price differences. It doesn't really matter. The consumer is quite capable of figuring this stuff out and even if they can't, it doesn't matter -- they -- they could be still be making decisions that they never regret.

And we don't try to regulate this stuff. We say, let them get on with it, it works perfectly. Oh, I've got another very good example and it's more appealing to you than the tile one I'm sure.

Datsun and Toyota, and we can all agree, make very good reliable cars. And, you know, at competitive prices.

MR. ANTOINE HACAULT: For people who remember Datsun.

DR. KEVIN CLINTON: Nissan. Yeah, I'm showing my age, okay. Nissan, yeah which by the way is owned Renault. It's -- it's a French firm this is.

But anyway, those firms, Nissan, makes hardly any money per car, not doing very well at all. Toyota is doing very well, lots of money per car.

Now, does that mean Toyota is charging an unjust and unreasonable price and making excess profits? Of course not. Most people looking at that would say: Well, you know, Toyota is just making a -- a better product than Nissan.

And actually this -- this has implications because when our national income statisticians come to measuring our gross national products and so on, what do they do? They say: Well, if Toyota is making that much more money, this is value added. So they count it as value added and DPP, no question.

Nobody raises the question: Well aren't these somehow excessive profits because your costs are -- are lower than your price? I mean, that is -- that sort of question is just economic nonsense.

MR. ANTOINE HACAULT: Now, in your paper you talk about different aspects in the suppliers in the payday loan industry and you talk about differences in location, open hours; one that kinda surprised me was friendliness of office environment and staff.

Did you experience that or why do you list that as a difference?

This is on page 7 --

DR. KEVIN CLINTON: Thank you, sir.

MR. ANTOINE HACAULT: -- at line 22.

DR. KEVIN CLINTON: Yeah. Actually, I hope the Board will forgive me, but in this sentence here I forgot the main differentiating characteristic which is risk profile. Some lenders will have a -- a higher risk tolerance than other lenders.

Now, quite obviously if that risk tolerance -- they just don't pull it out of thin air, in economic activity you go for higher risk to get higher return and then that -- that's perfect. Nobody has any problem with that. We -- we want that.

And -- and, you -- you know, the consumer is -- is benefiting by the willingness of -- of entrepreneurs to make these higher risk loans. So that -- that is the main differentiating characteristic.

And then we get onto differences in location. Well, I wrote this prior to visiting a whole bunch of outlets in Manitoba and I've -- I can see if you're an individual living in a certain area, location is going to be important.

But looked at from a market perspective, I've come to the conclusion that what the firms are all looking for in terms of location is -- is not anything very fancy, in fact, they're just looking for good coverage of the cities they're in. Of course, they're looking at price as they want cheap locations; they're looking for visibility; they're looking for stuff like that so. And that's what they all aim at.

So I -- I no longer think that location differences, as far as a firm is concerned, are important ways of differentiating their product. At the micro level for an individual living in a given neighbourhood, it's a consideration. But as a sort of corporate strategy thing, forget about it, it's...so if you don't mind, I've modified my views a bit there.

Open hours, same thing. Most of the firms are open sort of during norm business hours -- well, a bit longer of course because they want to give the clients time to come in before work or after work, and some of them are open twenty-four (24) hours. But it -- it's not a huge thing.

Now friendliness of office environment staff, yes, this is important. I would rank that second to risk tolerance and it's actually related to it.

What -- what I found in my visits was that some lenders will spend more time with clients than with others, and I -- I also found, and actually I seem to detect a difference between different store managers in the same firm, flexibility in -- into the -- in the level of riskiness among clients that they would accept.

Now that is to with this friendliness

thing, because if you get to know your client then quite likely -- and -- and you've got flexibility, very often you may decide even though, you know, on paper this person has already defaulted and all -- and still has a loan in default, you might of said, well, I can still make money. My judgment so we'll go ahead. So this friendliness thing and the risk thing, they're related. And they're related in another way, and that's with respect to collections.

Some firms -- some lenders will make much more effort to collect than others, I think. And what they will do in -- in order to improve their chances of -- of collection is phone the borrower the day before payment, remind them. There's a payment coming up. If there's a problem and they're told about it, they'll say okay, we'll hold your cheque. Let's work out something that you can pay us back. Cause having the money out there, the firm is now interested mainly not in getting an NSF charge or a default fee, it wants its money back.

So some firms will -- will spend time to do this kind of thing. Even when the loan is overdue they'll be phoning up and saying, well, look how can we solve this problem, what can we do to -- can -- can we work out a schedule where you can pay back. Can we drive to your house to pick it up. Some managers will drive to a client's house.

Now when you look at the cost side of the equation, you see all the costs of doing this stuff. Because it's work time. It's operating costs. But you don't see any of the benefits, because the way we go about measuring output is some crazy thing like loan value, or loan turnover, or -- a -- a better measure would be operating revenue plus interest. But you miss huge chunks of value added when -- when you do that.

MR. ANTOINE HACAULT: Now there were also some comments in the evidence that payday lenders might set their fees at the PUB limit so that there was suggestions not by you --

DR. KEVIN CLINTON: Oh.

MR. ANTOINE HACAULT: -- but by others that say in the states or other elsewhere, if the Public Utilities Board sets a fee of whatever it is, people will automatically always go to that upper limit.

Do you have any comments on that?

DR. KEVIN CLINTON: Yeah, that's not going to happen. We used to have we -- we used to have an interest ceiling on the banking system. It was 6 percent. Now this -- this was in the low interest environ -- low inflation and low interest environment of the 1950s and '60s and market interest rates typically were below that. Well, guess what banks prime rate and mortgage rates, they used to go up and down under that -- well -- well not mortgage rates, sorry, problem -- what the banks did - and this is relevant to -- to what you're doing as well - confronted with that 6 percent they couldn't make money on mortgages. They couldn't make money on ordinary consumer loans. They couldn't make money on credit cards, so guess what, they just didn't offer the service.

The service they did offer was corporate loans, and they just went up and down with market interest rates. The 6 percent was completely irrelevant until we got into the 1960s when inflation picked up, interest rates picked up, and guess what, everybody -- everybody not just the banks found that this 6 percent was getting in the way of doing business efficiently, so what did government do, phew, got rid of it.

Now another -- have you ever seen a client make an objection to his lawyer speaking. That's what I just did. Here's another example, what I'm saying is if -- if the fee limit is way above your normal range of rates, it's not going to effect those rates.

Here's another example. In Manitoba -- I think it was in April, minimum wage went up about 5 percent, about eight dollars ($8), something like that, an hour. What happened to the industrial average, industrial wage in Manitoba? Nothing.

The average industrial rate in Manitoba is thirty-five thousand (35,000) a year, that works out to about eighteen dollars ($18) an hours. It didn't have any effect, why should it.

So if you look at the history of price controls, rent controls, interest rate ceilings, whatever, if you set a ceiling that it's just there to avoid extremes, you're not going to affect the regular behaviour of the market.

And my feeling is, if you found that the market was following closely your fee limit it, you just made a mistake and set the fee limit too low. So the poor old lenders had no other option but for your -- your fee limit.

Now the consumer advocacy groups, not the consumers by the way, they're -- these advocacy groups -- advocacy groups sometimes are well intentioned but, you know, the route to hell is paved with good intentions, consumers don't necessarily benefit from their -- well, they might say, well that's okay, the lenders are all going to -- but what they will be doing, those lenders, to me that price, they will be giving up those services that consumers obviously value.

Why do I say they obviously value them? Well they are voluntarily choosing them right now. If you deprive them, they're worse off. So they're going -- they're going to be -- there'll be fewer outlets, they'll be travelling further to get to outlets.

People without cars will be having to take long bus rides when they could now just walk to their branch. They're not going to get the calls to remind them about prepayment. They're not going to have the manager drive to their house to pick up a cheque.

They're going to go without a whole lot of things that they currently have. So I would say in that case, if you -- if you've observed this behaviour, you've just set your price limit too low.

If you set your price limit at a level where I would recommend, that's not going to happen. Or let me put it the other way around, if it does happen, I'll come to Winnipeg and I'll eat my hat.

MR. ANTOINE HACAULT: Given that the witness has told me that I can't ask any more questions and it's about lunch time, would it be appropriate to take a lunch break, Mr. Chairman.

THE CHAIRPERSON: That's fine, Mr. Hacault. We'll be back at 1:15. Thank you.

--- Upon recessing at 12:00 p.m.
--- Upon resuming at 1:25 p.m.

THE CHAIRPERSON: Okay. Sorry for the delay. I see Dr. Clinton has some coffee, so we are all settling in here.

So if I am not incorrect, I think we are going to you, Ms. Southall, are we not? Or Mr. Hacault, are you -- are you done for now until --

MR. ANTOINE HACAULT: No, I think Dr. Clinton -- I still have to go through his actual proposal and --

THE CHAIRPERSON: Oh, okay. Well, carry on then. Thank you.

MR. ANTOINE HACAULT: Maybe I was done, Mr. Chairman, at the direction of my client.

(BRIEF PAUSE)

THE CHAIRPERSON: Consider it yours. Okay, Mr. Hacault.

CONTINUED BY MR. ANTOINE HACAULT:

MR. ANTOINE HACAULT: Dr. -- oh, sorry, Dr. Clinton, I believe you had one (1) or two (2) additional comments with respect to barriers to entry that you wanted to share.

DR. KEVIN CLINTON: Yes, that is correct, and I'd like to get back to it because this is an absolutely key issue from the point of view of -- of whether there is competition in this industry or not.

I think before we left off, I was saying there -- there are no barriers to entry in this industry. And I wouldn't like to leave that assertion just hanging in the air because I -- I think it can be supported by an array of data, much of which you -- you've already seen. Some of it you've seen and I think the data's been misinterpreted, so I -- I'd like to address that issue.

Now why do I say there are no barriers to entry into this market? Well, obviously there are no legal barriers or anything like that so I don't have to get into that area. The only question would be: Are there large fixed costs of entry? And I would say in this industry, no, clearly not.

Actually I -- I think you could set up if you knew what you were doing -- and this is the key -- if you knew what you were doing, I think you could set up a one (1) branch office in this industry for less than, say, a hundred and seventy thousand dollars ($170,000), which is nothing. I mean, most of us could get that much on a second mortgage on our house.

And that -- my costing would be, well your setup costs, you know, the -- the monthly rent you'd pay in advance and the salaries you would pay a month in advance and so on.

Let's say that's fifty thousand (50,000) whatever. You -- you would have leftover at least a hundred thousand dollars ($100,000) as -- as loan capital to lend out to your clients.

Well, if you were really good at your business, you could turn that over at least twenty-five (25) times, because twenty-five (25) times two (2) is fifty (50), fifty (50) -- and there are fifty-two (52) weeks in a year.

So if you're making two (2) week loans, you could turn that over twenty-five (25) times. Well, that gives you a loan value a -- a loan volume value in here of two and a half million (2,500,000). So you're off and away.

You could make a profit in that industry with a hundred and fifty thousand dollar ($150,000) investment in the first year if you knew what you were doing. And, actually, there are people out there that know what they're doing.

So the -- there's -- there's no economic barrier to entry of that kind whatsoever.

(BRIEF PAUSE)

DR. KEVIN CLINTON: Now what all -- what about all this talk then about economies of scale? If I say the entry costs are low, it logically follows that there aren't large economies of scale in this industry. But we've heard a lot of people getting up and saying there are economies of scale and that the Ernst & Young report shows there are economies of scale.

So how can I sit here seriously in front of you and say, Really, I don't think there are large economies of scale in -- in this industry.

Now I can give you other -- other industries where there are obvious economies of scale, and it would be very difficult for somebody to break in. Microsoft has one. Why is that? Well, when they develop a new operating system, they put billions of dollars into it. That's the problem for competitors of Microsoft. That's why other firms can't break in.

It's not easy for an entrepreneur to raise billions of dollars. It's easy for -- for an entrepreneur to raise a few hundred thousand. In -- in fact, the usual definition or a common definition of small business is up to -- up to five million (5,000,000). So we're -- we're not even anywhere near that level.

So what -- what about Ernst & Young? Let's have a look at it. Let's look at this data a bit more closely.

What have they done here? If I can turn to the Ernst & Young report page 29, they have a table. And this is -- this is the data that people are using as if it shows that there is strong evidence of economies of scale in this industry.

Now, notice first of all they've got three (3) categories: large, medium, small businesses. And then they've got numbers associated with each.

Well, actually, if I put on my econometricians hat, I would say, What on earth have they done with this data? They've thrown away an enormous amount of useful information. They started off with nineteen (19) observations as an econometrician I can actually work with, and they've left me with three (3). I can't estimate anything with three (3) observations. It's just not possible econometrically.

Now why do they throw away the -- the nineteen (19) and we're just down three (3)? I don't know for sure, but you know the old saying, "There are lies, damned lies, and statistics." You can show different things, different ways by making different kinds of averages and so on.

I'm not saying they did it deliberately, but I think that what is coming out is not necessarily a reflection of something that's in the underlying data.

Now I'm not saying the averages are wrong, those numbers, probably fine. The information, though, that we're -- we would dearly like to have but we're not shown is the variants across firms within the categories. That is useful information for the purposes at hand that has just been thrown away. We've got firms in a -- in a range all -- all classes the same.

What we need to estimate economies of scale in this industry is the nineteen (19) firms. Now that's -- that's one problem that's wrong.

The other problem that's wrong is that, as I understand it, the firms are classified on the basis of the volume of the payday lending. Sorry, but that's not a volume index that you need to estimate economies of scale. You need something like a value added index. You want to measure the value of services that is being delivered. Loan volume isn't it.

I -- I mean, just by looking at what's -- what is expressed -- and you can see it's not units of output. These are millions of dollars. To get a dollar value from a quantity value you have to multiply it by price.

For instance, if -- if I say to you, Look a car firm is producing a million cars, there you have some kind of output number. And if I say to you, And the average price of these cars is -- is ten thousand dollars ($10,000), what do we do to get the value of service? We multiply the price by a volume, and we get $10 billion in that case.

But in this case, if -- if I said, Well, what's -- what's the value being delivered for this volume, you're going to be multiplying dollars by dollar value. You're getting dollar squared. You -- you see, there's a -- a serious problem there.

Now, actually, they do show later on in a table the nineteen (19) firms individually. So if I can draw your attention to -- to that table -- chart rather, it -- it's Chart G.

And by the way, for the purposes at hand, that table -- that chart rather, it follows from some very silly figures, such as Figure 5, where we have all the individual firms but they're ordered arbitrarily.

So you look at that chart, you see a scatter of points. It doesn't mean anything at all.

It's an arbitrary ordering. You look at what's on the horizontal axis, there's nothing. So what the heck does that chart show? I'm not sure.

So, anyway, let's -- let's look at the one -- the first one that does make sense. It's Figure 6. Okay, I've already said we've got a problem because they say "Volume of payday loans," but actually they don't have a volume there. They have dollar value figures.

Okay. What else is wrong with that chart? Well, technically, for the purpose at hand, if you want to estimate economies of scale on the horizontal access you should be using a logarithmic scale, not a linear scale.

Now that sounds very arcane and abstruse, but it's not because look what's happening. With your small firms, you're getting all the values bunched up in the lefthand side. If you're using a logarithmic scale, what it's going to do, it measures things proportionately.

So it would spread out all that small firm stuff and you -- you would get a much bigger picture -- a better picture of what is really going on. It would also draw in those things that look like outliers the way the chart is presented. Those are not outliers. That's an artificial construct because they're using an inappropriate scale.

Now, you -- you can see what I mean, actually. There's been a lot of mud thrown at the Deloitte & Touche report, but at least they do show their data.

They have the same problems as far as units and measurement are concerned but they do show -- I'm sorry to jump around from one thing to another -- but they do show their four (4) firms, which are all -- actually, it's five (5) firms. They show five (5) firms' operating cost.

Because they're all small firms we don't have this scale problem that I was referring to earlier, where you're throwing in all the small firms, medium size, large firms. You've thrown them all together and shown it on a linear scale. They don't have that problem.

So look what -- what do you see in the Deloitte data? You don't --

MR. ANTOINE HACAULT: Sorry, which page are you at?

DR. KEVIN CLINTON: Oh, yeah, I'm sorry. It's page 5.2 of the Deloitte & Touche. Unfortunately, they do not number their charts or their figures. It -- it's the top figure. Yeah, it's the top figure in the

Deloitte and Touche report page --

MR. ANTOINE HACAULT: Page 12, I believe.

DR. KEVIN CLINTON: Page 12.

Now when you look at that data, what do you see? If they're economies of scale you -- you should see a clear downward slope in that scatter of points. And after all, we're going -- let's look at it.

We're going from a sales volume at three hundred (300) to sales volume of twelve hundred (1,200). That is a big spread. That's the -- the largest one there is four (4) times as large as the smallest one. So if they are economies of scale, they should jump right out at you here. They actually don't. You've got a flat line.

If you -- if you go back to the Ernst & Young stuff, despite all the biases and -- and so on and the poor choice of display of data, you draw a line at twenty dollars ($20) across there, you know, it's going to have about -- that's where the median is actually in that -- in that data.

You've pretty well represented the -- the general picture. If you did a regression on that, I'm not sure you'd -- you'd get a significant -- statistically significant coefficient.

In other words, when we look at this data from the viewpoint that I'm looking at it, we -- I don't think we can reject the hypothesis that they are constant returns to scale. And that is your working hypothesis; that is, when econometricians are looking for economies of scale, the null hypothesis is constant returns to scale. And I don't think you can reject it on the basis of the data we've seen.

Now the data -- the data are terrible, but if you're going to use it, you cannot conclude from this data that they are economies of scale. And I've heard lots of people say with reference to the Ernst & Young report that they have shown their economies of scale. Well, I can tell you they have not and the data are lousy. So you're left with the hypothesis of constant returns to scale.

Now I've said before that I think you've got a much better data set looking at prices. What do we find there? When we look at prices, actually we find quite a few small firms matching the Money Mart, twenty dollars ($20) per loan cost. Okay, that says to me if there are small firms managing to match Money Mart prices, there cannot be large economies of scale in this industry.

In fact, I don't even have to look at the fee data to make that conclusion. All I have to do is look at this industry and say, Hey, there are large firms, there are small firms, they're all surviving; therefore, there cannot be economies of scale. Small firms would be driven out of business.

Now you might say, Well, doesn't this conclude then there are a load of ripoff artists out there who are charging more than they should because they should all be then able to match Money Mart prices?

The answer to that is no, because again you're ignoring the value-added aspect. There are firms out there that are deciding to offer a product that is different. It's differentiated from the -- the Money Mart model. What these small operators are doing that are matching the Money Mart price is offering a similar bare-bones service, so -- and it can be done from a single outlet, as far as I can see.

So the economies of scale argument, it just doesn't stand up to a close examination of the data. So that's -- that's one point I wanted to make about there being no barriers to entry.

Second point where we left off, and I didn't finish my point, was there can be -- remember I was saying, look, I'm not very impressed by 2 percent -- by two (2) firms having 62 percent, apparently, of the market share. It doesn't impress me at all.

I can give you examples in Manitoba where one firm in a market is forced to behave like a competitor. The -- the one I -- if you want to hear, I've got another one, but the one I'll focus on is this.

In Portage La Prairie, I'm reliably informed that the only place where you can shop for essentials like children's clothing and back-to-school supplies in September is Wal-Mart. Well, guess what? Wal-Mart prices in Portage La Prairie are about the same -- in fact, they probably are exactly the same -- as those in -- in Winnipeg.

And in Winnipeg Wal-Mart is directly up against Sears, Dragon (phonetic) Tiger, Zellers and so on. The price is the same. But why is Wal-Mart, which apparently has a monopoly in Portage La Prairie, behaving like that? And Portage La Prairie is not the only example. It -- it would be the same all -- all across Canada.

The -- the reason is, Wal-Mart is aware of potential competitors, the potential for entry. So it -- it's priced preemptively as if it is in a completely competitive situation, which it is, because there's a possibility of entry. And there are lots of examples like this.

So counting the number of firms in -- in the industry and saying, oh this X percent is significant, it's -- it's just an economic nonstarter. The -- the key thing you need to be looking at is the possibility for entry.

MR. ANTOINE HACAULT: Thank you. Could you provide some comments with respect to your views on building a database where lenders would be able to go to that database and perhaps deal with, I think, Ms. Proven and -- and there was a Mr. Sardo who had brought that idea up, with respect to cross-checking, who might be taking loans, things like this?

DR. KEVIN CLINTON: Yes, I can. I -- I heard the same question, I happened to be here last week, and the question came up. And I think I -- I heard, I think it was Norm Bishop, said that -- I -- I completely agree, actually, with his -- with what he said. And he said that this is a more complicated issue than -- than you might think. And I completely agree with that.

As to whether there should be some such credit bureau which centralizes the data or not, whether that should exist, I don't have strong feelings. But I do have feelings about whether or not the Board should make a recommendation in that respect, because I would say to the Board, What responsibilities are -- are you assuming yourself when you make that order?

And I'm thinking primarily here, not so much of economics, but of concerns about privacy of information and so on. Presumably you want to kind of wrap that thing in -- in some kind of control, because otherwise that data that is there in a centralized bureau. It belongs to the providers, and they would have certain legal -- legal obligations. For example, if somebody wanted to know their credit history, then under the law I believe they -- they could get it.

But I don't think there is anything to stop them selling data which belongs to them for any purpose that they wish, including marketing. And they could certainly decide to share that data with other credit bureaus, and unless you -- somehow the Board arranges for -- for that not to happen.

But what this means is that you have to set in place a regulatory process to -- to look after the -- the credit bureau.

Okay, so that's one aspect of it. The -- the other aspect is that if you did make such an order you would be changing the -- the nature of the product that is being offered in significant ways.

One reason that people go to payday lenders is precisely that they don't want credit checks, partly because they want the loan fast and speed is of the essence with this product, and partly because I suspect they don't want the information out that they have even been in a payday loan office.

For example, if you were a -- a recruiter in a bank and you had access to a database, and you found that a potential recruit, you did a check, had taken a payday loan -- or even if one of your existing employees had taken a payday loan, it could have implications for that individual's career.

This kind of thing could happen and when you're setting up these businesses -- when you're recommending that such things should take place you -- you have to start thinking about, well what are the bad things that can happen? If everything was all -- always the way just you want it was, then of course there are no problems. But you have to start thinking of what could go wrong.

And I can tell you in -- with a credit bureau lots of things could go wrong. The whole bloody database could even be lost. We just saw in the UK records on 25 million families were just lost. These things happen.

So what sort of controls are you going to put that -- you -- you can't eliminate the risk completely. I'm not saying that. How you going to manage the risk? I'm not sure you can. I --

MR. ANTOINE HACAULT: Thank you.

DR. KEVIN CLINTON: -- I could go on, but I -- I just want to say I -- I think Norm Bishop had it perfectly right. This is a huge issue you're getting into. You want to think about it very carefully.

Oh, and by the way, now I got to add this -- it -- what you will be doing if -- if you went that route, you are becoming perilously close to regulating not the industry but the consumer. Because what you're saying is, Look what we would like to have is -- is a database on consumers to make sure they're not misbehaving in ways -- well, behaving in ways that we don't like.

So, what I would say is, Look there's an appropriate market incentive out there that could lead to the creation of these things. The -- the market incentive is -- is the potential cost-saving measure for -- on the part of the firms.

You don't have to make any recommendation in this area and actually I don't think you should, because you would not have had time to think about it properly.

MR. ANTOINE HACAULT: Thank you. Could you now turn your mind to and address Dr. Gould's recommendations and address firstly his analysis and then secondly his conclusion?

(BRIEF PAUSE)

DR. KEVIN CLINTON: I'm looking for Gould's -- Gould's paper.

MR. ANTOINE HACAULT: If you want, you, maybe, wish refer to paragraph 8 of your rebuttal submission.

DR. KEVIN CLINTON: I'll do that.

MR. ANTOINE HACAULT: It's -- or not paragraph 8, but heading 8, Gould's Recommendations Versus a Consistent Approach. This is in your paper dated --

DR. KEVIN CLINTON: Yeah.

MR. ANTOINE HACAULT: -- October 31, 2007.

DR. KEVIN CLINTON: Yeah, I've got it. What was the page?

MS. ANITA SOUTHALL: This is Tab 47, by the way, the rebuttal submission for anyone's who's got a tabbed book in front of them.

DR. KEVIN CLINTON: What was the page number, Mr. Hacault?

MR. ANTOINE HACAULT: I don't think your pages are numbered, but you've got a --

DR. KEVIN CLINTON: Well.

MR. ANTOINE HACAULT: -- heading number 8.

DR. KEVIN CLINTON: Number 8.

MR. ANTOINE HACAULT: Gould's Recommendations Versus --

DR. KEVIN CLINTON: Okay, I'm with you.

MR. ANTOINE HACAULT: -- a Consistent Approach.

And I ask you please to firstly deal with whether you agree with his analysis or methodology, and then secondly what your thoughts are -- on with respect -- with respect to his recommendation.

DR. KEVIN CLINTON: Well, I think the numerical approach that he adopts is not coherent with the theoretical basis that he starts out with because he starts off with a methodical critique of Robinson, with which I entirely agree.

And he recognizes that applying the public utilities model of payday lending involves the arbitrary selection of representative efficient -- of efficient costs.

And he goes through, you know, whether you should use a particular type of lender or calculated industry average of some kind. And he also points out that those firms with costs above that selective level will not be able to operate in -- in Manitoba.

And I -- I would add, and he doesn't recognize this point, but I would add that to do this properly you've got to talk about price per value added. You -- you've got to do it on a value-added basis, not just a hundred dollar ($100) loan. A hundred dollar ($100) loan at one firm can be a very different thing from a hundred dollar ($100) loan at another firm.

So once we adopt this methodology, if -- if you were to apply it rigorously, I mean, you ignore -- a value added goes straight out the window, so you end up with a sort of -- with firms that supply sort of bare-bones, least cost kind of operation.

And he also points out on page 21 that the fee structure proposed in the Robinson report -- I'm not sure which of the Robinson reports. Robinson has made over the past couple of years various proposals about fee structure. They're very complicated and it's difficult to figure out exactly what average fee levels Robinson would -- all these different reports have come out with, but let's just say it's a wide range of numbers. But I've sure seen plenty of proposals from Robinson that would eliminate the payday lending industry completely.

So that's fine, I agree with Gould on all that. But then he goes -- he actually uses the same methodology, exactly the same methodology as Robinson. He's a bit more careful about the numbers and he comes out with this -- what is it, about twenty-one (21) to twenty-three dollar ($23) range and so there we go.

But I -- I would say, Well, look, your range is going -- is going to wipe out any number of payday lenders. How many it would wipe out, we -- we don't know because the cost numbers is so lousy, we haven't the foggiest idea. But you wouldn't like that if that were you, you can count on that.

And on what basis are you wiping those funds out? Because, I mean, you've just chosen this -- this number, it's an average number.

Well, where did the Minister -- I'll tell you that he wanted -- he wanted a fee that represented some kind of median or average level in -- on the interest. The Minister never said that, he said -- the Minister said he wants to rule out extreme rates and he wants a competitive industry.

The Minister didn't say we want a fee level that corresponds to the actual median -- or the actual mean of the industry because it -- the -- logical implication if you follow that route, if -- if you believe the numbers and you go for the median, what does that mean?

That means you've decided that 50 percent of the firms can exit the industry and you're quite happy; that's what the median means.

And how does that relate to any objectives that anybody has ever suggested for the payday loan regulation in -- in Manitoba?

So I entirely agree with Gould when he's on theory, but as soon as he moves to making a fee recommendation, I can't see any difference between him and -- and the Coalition, actually.

All they're arguing about is a few dollars on the fee. But I think both of them, methodologically, are completely wrong. And I -- I think they're pursuing objectives or an agenda that nobody has asked them to -- to pursue. It's an agenda they've taken off on themselves. It's not anything I've ever seen any government official in Manitoba or any adminstration in Manitoba. It's not an objective that's in any way visible in -- in official statements or legislation or anything.

So I'm finished on Gould.

MR. ANTOINE HACAULT: Next could you

address Dr. Robinson's methodology and conclusions?

(BRIEF PAUSE)

DR. KEVIN CLINTON: Yeah. Now, you're talking specifically about the fee limit --

MR. ANTOINE HACAULT: I --

DR. KEVIN CLINTON: -- proposal that Robinson has come out with?

MR. ANTOINE HACAULT: I believe you have a critique of the coalition payday loan fee limit?

DR. KEVIN CLINTON: Yeah, I'm with you. Yeah.

MR. ANTOINE HACAULT: And could you address issues where you've described Robinson's model? I forget exactly in what way, but how do you critique his tables?

I mean, what's your view of the appropriateness of various items like distribution of loan size, average term and default, compliance to costs, and other issues that he raises?

DR. KEVIN CLINTON: Well, I can start out by saying that I don't think the PUB could feasibly or credibly use these recommendations to formulate policy on payday loan fee limits and I have a whole range of reasons why not.

The first concerns the data. He uses various data sources which are not necessarily consistent with each other. Some of them are badly dated, such as the Ernst & Young report, by the way.

And it -- it goes to that discussion of economies of scale that I was talking about. Rentcash happens to be much larger than it was in 2003 as a result of takeovers. So this is going to radically change that economies of scale picture because you're going to have a big firm out there, with apparently high costs, and it's going to be in the big firm category.

You're not going to see -- you're definitely not going to see economies of scale in the kind of scattered diagram we were looking at with -- with 2007 data, because you're going to have Rentcash in there as a big firm with an apparently high cost.

So I just -- I just mention it in this context to tell you that the problem is a lot of the data being dated is not a trivial one, it's a big one. So he's using inconsistent data, it's dated and it's partial.

I say partial in true sense of the word. It's partial in that, like the other cost studies, it -- it focuses on a very small number of firms.

And, in fact, he goes even further and uses a lot of data that is concerned only with one (1) firm. So it's partial in that sense.

It's also partial in another sense. It's biassed because of his arbitrary selection of firms and his complete -- he completely ignores the Rentcash data, which is kind of bizarre because Rentcash is the only operator in Canada which is a public firm, and we have -- we have the data we would like to have for Rentcash.

Now, you may say, Well, this kind of data from Rentcash is difficult to analyze because it's -- it's using a different business model from the other operators, you know, it's a broker.

As an economist I would say, Well, I don't care. This is useful information. I'm going to squeeze everything I can out of it.

And there are interesting things. Even if I wanted to use the Robinson approach I could squeeze stuff out of that Rentcash data that would be useful. But he hasn't done it, he just throws it away.

So his data are inconsistent, dated, partial in the two (2) sentences. And what's more -- this is the crazy thing -- the variables we are talking about are not the kinds of variables in theoretical physics that are in principle difficult to measure.

These are variables that if the PUB wants it, it could go and ask every individual firm for them.

So if I were in favour of the public utilities model of regulation, a consistent line of argument would -- would be for me to advise the Board, Start now, ask all the individual firms. You don't care if they're public or private. Why should you? You're licensing everybody.

If you want information from them, you have every right, in fact you -- you have the obligation if you follow this -- this method, to ask every single one of them for this data.

In fact, if you wanted to you could even follow OSFI and publish the whole lot. Why not? Transparency. You would be doing a service to the public. Researchers out there could use this data, they could look -- they could do proper research on if there are economies of scale or not. That issue is up in the air.

You know, I'm admitting it's up in the air. I'm saying constant returns of scale is the working -- the only working hypothesis we have so far, but, you know, the data can reject that. You can produce the data for them.

Now the -- the -- there's a Buckland

presubmission evidence, where they actually do say you should ask for all this information from all the lenders and a whole bunch of stuff otherwise. That is a perfectly consistent position.

But it seems to me kind of nutty that you would say, Look, I have this method that I think you should use and I'm going to make a whole bunch of assumptions and approximations and -- and guesses and my expert knowledge to fill in all the blanks that are there, and you should use this right now.

No. If -- if you want to be serious about following the public utilities model of regulation, what you should be setting up right now is a process to collect the information that you need to do it.

Now, I don't want you to do it, I -- I think that would be a -- a hugely costly exercise and to no end, because the Minister hasn't asked you to do that kind of thing. It doesn't fit with the -- the objectives that are there. But if you wanted to do it, now is the time to start. You -- you can't use this -- these -- these numbers that are Robinson's spreadsheet, which are kind of two (2) steps removed from anything that's going on in the real world.

Now the other thing is, in his spreadsheet he's actually got a model of a -- of a payday lender that he's -- he's made up. And -- and, you know, since he's relying so heavily on the -- the Money Mart data, it's actually a -- a model of -- of a business firm with a particular business plan.

And what's more, it's untested. We don't even know if that model that he's proposing actually fits -- the -- the Money Mart data. I suspect it doesn't. I strongly suspect that it doesn't, but he's -- he's set it up that way. So in other words, if you -- if you follow the model to get a pricing recommendation out of it, you -- he's tailored it to fit just one (1) firm.

So how are you representing the public interest in that case? You're obviously not.

MR. ANTOINE HACAULT: Now --

DR. KEVIN CLINTON: So --

MR. ANTOINE HACAULT: -- could you comment on your view as to whether he's dealt with the demand side and associated welfare costs? I guess that leads into your next paper --

DR. KEVIN CLINTON: Yes, it does.

MR. ANTOINE HACAULT: -- which has been distributed.

DR. KEVIN CLINTON: Yes. In -- in his paper there's a complete lack of consideration as a consumer in the whole demand side of the market.

And he does a calculation of welfare benefits to consumers in an earlier report, I think it was done for ACORN, and he comes out with a figure that this would benefit consumers to the extent of $194 million.

Well, this is sheer economic buffoonery, because I don't think that the net revenues of the industry even today are a $194 million. So where is this $194 million coming from? This is a huge amount of money for this small industry.

I -- no, I'll tell you where he gets the number. It's really easy to -- to see. What he does is compare the actual prices of firms with a low number that he says should be the fee limit. Now I calculated the -- the way he formulates his proposal is -- it's a -- it's one of these sliding scale things.

So -- to tell the -- the actual feeling, that you have to make an assumption about the loan size. So I like to use a loan size of three hundred (300) because that's a nice round number and it's not too far from the actual average industry loan.

Turns out if you do that calculation with the recommendation that he uses to derive that $194 million benefit, the fee limit in that recommendation is around eleven dollars ($11).

Now from all of the evidence we've seen, weak as it is, you have to think that at eleven dollars ($11) there wouldn't be any payday loan lenders left in Canada if that were the fee limit. In other words, you -- you would then be trying to extract $194 million out of an industry that doesn't even exist.

So, that's why I use the strong word "buffoonery," but I -- I didn't use it without thinking about it.

I can use a few technical terms from economics, what he's assuming is that supply is completely inelastic at its current level regardless of the fees that they're allowed to charge. If you -- you know, in Economics 101, this is a perfectly vertical supply curve.

We don't know what its demand curve is because it hasn't talked about consumers. Presumably it has some slope, I don't know.

In other words, he's saying, Demand is elastic, supply is inelastic. Well, if we know anything at all about this industry it's the other way around. Demand is inelastic in this industry.

That's one reason we're worrying about fees. We're worrying, Gee, you know, demand doesn't seem to be elastic so when fees go up. The poor consumers, they may have to be paying more, and they're going to pay more because the demand is inelastic.

If -- if demand were highly elastic, we wouldn't be worrying about fee limits because we'd be saying, Well, you know, in this industry demand is -- is elastic, so if fees go up, they're just going to walk away and consume something else.

So if demand is inelastic in this industry, what about supply? Supply is highly elastic in this industry. Why do I say that? It goes back to everything I was saying before about ease of entry and no economies of scale and so on. It's easy to get in this industry. It's easy to get out.

And again, if we can do a nice controlled experiment here if you like. Set a fee limit of eleven dollars ($11), see what happens. My prediction is you would have -- if -- if you could enforce it and there were no avoidance, which is not -- which is not a slam-dunk, by the way, because if we know anything about anything in the financial sector it's that entrepreneurs, through financial innovation, find ways to avoid regulations. Every time there's a regulation, within a few years the institutions are driving a truck through it.

So, but assume all those entrepreneurs

away. If you could set that limit and enforce it, I would say you wouldn't have any payday loan lenders here. You're dealing with highly elastic supply.

And when I present my welfare calculations to you later, I'm modelling the market in such a way that I have inelastic demand and elastic supply.

MR. ANTOINE HACAULT: Could you just briefly explain -- because I think you may lose me, I don't know if you lose somebody else -- that model and -- and its significance in your recommendations.

This is the paper that you've provided, it has been marked as Rent -- or RC-13 and it's entitled "Partial Equilibrium Estimate of Welfare Effective Payday Loan Fee Regulation Prepared for PUB Hearings".

Does it make sense to go immediately to Figure 3 in -- in that to be able to explain what you're trying to convey? Figure 3 is on page 5.

DR. KEVIN CLINTON: Yeah, I -- I haven't even got the paper yet. I should be better organized.

(BRIEF PAUSE)

DR. KEVIN CLINTON: I should have it here. Yeah.

(BRIEF PAUSE)

DR. KEVIN CLINTON: My apologies, Mr. Chairman. I'm -- I'm not an organized person.

MR. ANTOINE HACAULT: Okay.

(BRIEF PAUSE)

DR. KEVIN CLINTON: Yep, this is the paper. I have it somewhere in my binder but I just --

(BRIEF PAUSE)

MR. ANTOINE HACAULT: Now I'll leave you to decide which table we should look at in this paper to -- so that you can explain why you've provided this and how it fits in to your recommendation.

DR. KEVIN CLINTON: Yes, Mr. Chairman, I -- I would like to look at Table 1. What I've done is a standard cost-benefit analysis or welfare analysis that takes into account three (3) parties.

And it's based just on normal demand and supply curves. There's nothing really fancy here, although the calculations do get a bit complicated as you get into the details.

But I basically have three (3) stakeholders here. One is consumers, the other is lenders, and the other is taxpayers, which have been completely ignored so far. But in a welfare calculation you -- you can't ignore the -- the taxpayer, because there are tax revenue implications for your fee limits.

For example if you lower the -- a lower fee limit is obviously going to produce less corporate income in Manitoba and there'll be reduced federal and provincial corporate income -- income tax revenue.

Now that has to be made up somewhere. Either other taxes have to be raised or certain public services has to be cut but -- but you can't ignore it.

So I've just called this the taxpayer welfare gain. So there are three (3) parties. Now what I did is compare two (2) situations.

One, a situation with my recommendation, which is specifically designed not to disturb the initial equilibrium, because nobody's actually to do that. The Minister has not asked you to reduce the average level of cost in the industry or anything like that.

He said he just wants you to eliminate extreme rates. So I've designed my recommendation along those lines and then I've compared it with the most generous of the fee recommendations of -- of Robinson.

Now again, he has four (4) recommendations, so I -- I had to choose one (1) of these. His -- his first two (2) recommendations, as far as I can see, are -- are not feasible at all because again, I think they would probably -- or they could, depending on other things, they could wipe out the industry.

So I'm going with the one that I think is -- is possibly feasible. And the way I work it out, on the basis of -- of the three hundred dollar ($300) loan, that I'd like to use as being a typical thing.

I work out his limit to be twenty-two dollars and thirty-one cents ($22.31) and I provide my calculation in Footnote 3. If I've got it wrong, I -- I can repeat the entire exercise with different numbers.

But I can tell you, if the numbers are lower than that, for example, he -- he calls his interest rate an effective annual interest rate. And I'm not sure what he means by "effective interest rate," because in other writings he has described eff -- effective interest rate as a continuously compounded rate.

And if he's used -- if he's using the same definition here, that would give you a lower fee limit. And I can tell you though, in comparison to the recommendation that I have made, all the welfare costs would be higher the lower you go with this fee limit like.

So you're going with a lower fee limit, and the -- the costs just -- just get bigger. So what I'm doing is comparing my recommendation that doesn't disturb the initial market equilibrium with a fee limit that would bring the average price of a loan below the assumed initial equilibrium.

Now my initial equilibrium has the following properties, if you can bear with me. I -- I'm comparing a situation which is just like the situation we have today except that we have a regulator.

And the regulator is charging the industry for exclusive operation, and the -- the firms are having to report to the regulators. So their costs are going to -- going to be higher, even under my recommendation.

So what I've done, I've just eyeballed my own charts and -- of -- of fees that -- that the average in there or the median -- it doesn't matter which. Well it does, actually. The median is -- is about twenty five (25) bucks.

So, okay, let's say in the current market for sake of argument let's -- let's just say that the price is twenty-five (25). I can, again, I can use another number, I don't -- I don't care.

I'm -- but I'm going to add a dollar ($1) on that because, you know, with -- with the -- the extra costs that regulation brings it's going to be a -- a number kind of like that. This -- and this by the way is a -- a very light regulation package is the kind I'm recommending.

So I start off. My initial position is a price of twenty-six dollars ($26), including the regulatory surcharge and a -- a national payday loan sales volume of 600 million.

Now actually, nobody knows what the national sales volume is. So, I just looked at some data and thought that might be a reasonable number. If you don't like the number -- and I suspect it might be higher because there are lenders out there we don't know about -- I can plug in a -- a higher number or you can do it yourself just by -- it just raises all the numbers proportionately, actually.

So -- but if it's bigger, again, you're going to get bigger welfare losses than I calculate. And, I -- and my calculations show that every single party that I've identified loses through the imposition of this fee limit below the existing equilibrium price.

Now why is that loss there? This is kind of strange from everything we've heard from the

Coalition. Well, I would hark back to that study that I quoted right at -- much earlier this morning, where they showed the consumers that got the loans, even though quite a few them defaulted, when you looked at the whole body of those consumers, on average they were actually better off, the ones that got access to the credit.

In other words, what is happening here is that even though there may be some borrowers at the margin that -- going to default at the present time that would not go into default with the twenty-one (21) whatever limit proposed by Robinson.

The -- the reason for that -- the reason for a lower default rate, of course, is that for the firms that remain in existence at the lower price level, they're going to change their product. They're going to say, Oh, you know at that lower than we're charging now, we -- we can't -- if we're going to stay in business, we're -- we're not going to lend to those higher risk clients. So we'll throw them out. Well, they'll -- those individuals will suffer.

And another way of looking at it just to think of what we were saying about the -- we were saying this is an industry in which demand is inelastic, and I think we all agree with that.

Well, if you agree with that then you must also agree that if you -- if -- if the supply in the market is reduced -- and I think we all agree that supply is elastic so it's going to go down in -- in a value added sense because, you know, even if the same dollar value of loans is being made, which I doubt that it would, we're -- we're going to -- we're going to get firms that provide value in other ways withdrawing those services.

So you -- what -- what happens is if -- if demand is inelastic and quantity supply goes down, you get huge, calculated welfare losses, because demand being inelastic means that as supply goes down, it means consumers for each successive reduction in -- in quantity that they're enjoying, they would be willing to pay you much higher sums to keep the original supply.

That's what inelastic demand means. So these losses, they don't depend on any fancy assumptions I've made about industry cost and -- and this kind of thing. They really follow just from recognizing that demand is inelastic.

And I -- I know the diagrams might be a bit mystifying if -- if you haven't done welfare economics. But if you look at my Figure 3, which is on page 5, the welfare lost to consumers is that big polka-dot triangle. It's the area under the demand curve.

This is known in the trade as a -- as a Harberger triangle, and it represents the lost welfare.

Now you will also see in that diagram a crossed-hatched section. Now that is a transfer to borrowers from producers and taxpayers.

In other words, this is the component that Robinson focuses exclusively on. He ignores my triangles. He ignores the triangles that an economist would say are important.

Now in my analysis that transfer is in there, but you can tell by the size of the rectangle it's -- it's just outweighed by the -- by the loss.

Okay, so it -- it turns out the big losers from reducing the fee limit are actually lenders, because not only do they lose a producer surplus -- and that is analogous to the consumer surplus, by the way -- they -- they lose a little triangle too.

But they also transfer revenue to borrowers because of the fee limit coming down. Now, some of the revenue that they transfer to consumers comes from the FISC, because they're going to pay lower corporate income taxes.

So the numbers on Table 1, they factor all these things in, and so I get consumers losing, lenders losing it, taxpayers losing and I get a net welfare loss to the whole economy.

MR. ANTOINE HACAULT: So is this a type of analysis that you were doing as a policy advisor to the government?

When we were setting regulatory frameworks, you would look at the -- whether or not the framework that was being proposed would actually have a net positive gain or whether what was being proto -- proposed would have the opposite and -- and negative effect?

DR. KEVIN CLINTON: No, it wouldn't. And the reason is kind of strange. The analysis that I'm proposing here is sort of mother's milk in Ottawa, so there will be no need to go through this calculation.

So instead, in the kind of work that I was doing in Ottawa, I would be given a fairly specific objective. I mean here I am, and here are you. You're trying to guess what the operation objective should be from a sort of general objective that the Minister has given you.

But no, in the kind of work I was doing in Ottawa, that kind of calculation would already by subsumed in the operating target that I was told to -- I was just told, Here's the operation objective. You design a framework that -- that will do that for us efficiently.

So, no, I -- I haven't done this kind of exercise since -- since I was teaching microeconomics which was actually three (3) years ago at Carlton (phonetic).

MR. ANTOINE HACAULT: That explanation as to why you reject the Robinson model and -- and numbers leads me to ask you to deal with the final point, which has been marked as RC-12, is your recommendation.

Could you retrieve that document and explain to us how you chose the thirty-five ($35) dollar normal limit?

DR. KEVIN CLINTON: Yeah.

(BRIEF PAUSE)

DR. KEVIN CLINTON: Okay, thank you. Yes, Mr. Chairman, I came up with a recommendation for a fee limit of thirty-five ($35) dollars. And I haven't been asked to look at ancillary services, so I'm -- I'm excluding all that sort of stuff.

I -- and what else? I -- I mostly excluded a possible charge, well -- well, it's inevitable, they're -- they're going to have higher costs because of the costs of -- of regulation, so, I'm excluding that.

So, if the Board decides that these other costs should be included within the fee limit, then you would have to add these things on, okay.

Now, also, my recommendation, just like Gould's, is -- is flat. I -- I don't care about loan size, I -- I actually don't care about loan duration either. My thirty-five (35) is -- is that.

Now if -- if lenders want within that thirty-five ($35) dollar limit, they can -- they can include an interest rate of -- of up to 60 percent. They can't go over the thirty-five (35) limit but they, for the purposes of calculating for their clients, they can include interest rate because as I understand it, the -- it -- it may be necessary to have such a -- a clause in there. If the loan goes into default this would kick in.

So, if -- if they want to structure their -- their loan pricing with an interest rate in it, I -- would say, Okay, go ahead, but you can't go over thirty-five ($35) dollars.

Now one of the reasons that I'm saying a flat fee of thirty-five ($35) dollars is -- is first because I regard the service that's being provided as a -- as a transaction service rather than a -- a credit service. So the time value component in there, I -- I couldn't care less about.

And the other reason is that from -- from the point of view of regulation in the financial area, you've got to think about enforcement and avoidance. And the more complicated you make things, the more likely you -- the more you're going to make your own life difficult for enforcement. So with a flat thirty-five ($35) dollars you don't have any problems there.

Now why do I say thirty-five ($35) dollars? Well, I derived this from the distribution. And if you look at my combined chart, I've used all the data I could get my hands on on fees.

Actually, we all find fairly similar results, there are five (5) surveys in there: two (2) of them I did myself, one is by Robinson, one is by Buckland. There aren't -- you know, when we're looking at it the said part -- oh, one (1) is by 310-CASH, and they're all identified separately and colour-coded.

So what we can see in the thick part of the distribution we were all pretty much in agreement, as there's this sort of a twenty ($20) dollar to thirty-one ($31) dollar range where we got a lot of lenders.

So I say, Okay, up until that point this is clearly the normal range. So you don't want to interfere with that pricing. So then the question is how high -- how much higher do you want to go, or how much above thirty-one dollars ($31)?

Well, I -- I've just taken the -- the midpoint in there thirty-five dollars ($35), between -- there seems to be a gap there, and I'm saying exploit that gap.

And stick your limit in the middle and, you -- you know, come 2010 -- which is going to come around quicker than anybody thinks; three (3) years is nothing in this business -- you're going to have much better data because you will have obliged.

I mean, the minimal recording requirement you're going to put on the firms is -- is by their fee data in a standardized way. So you're going to have much better data.

You can have another whack at it in 2010 and do what I've done here but much better. You're going to have the -- the whole population instead of just this -- a sample. These samples, by the way, I did mine over the phone and on the Internet. So did 310-CASH. I'm not sure about Robinson, Buckland, but, you know, I think they probably used the -- the same methods.

I understand the -- the Buckland people, they did a whole lot of industry visits. So their -- their numbers may be somewhat better. It doesn't really matter because I -- I would be with the same recommendation anyway.

And, you know, this thirty-five dollar ($35) limit it may sound higher, but putting it there wouldn't do much harm for -- for three (3) years, if it did any harm at all. I don't think it would.

You can adjust it then, being there as it is in a middle of a sort of gap, you can go either way with it up or down in -- in 2010.

You wouldn't be -- I don't think you'd be jeopardizing any resistence of any firms because those -- those numbers that are out there above my limit actually apply in all cases to thirty (30) day or one (1) month loans.

So the most that would happen is that a lot of lenders would drop the one (1) month loans, which -- and they would -- they probably -- nobody with -- with my fee limit probably nobody would even want to make a sixty-two (62) day loan which is in there.

And my reaction to that is, Well that's probably a good idea, because I look at the product, you know, is a transactions service. It -- you don't want sixty-two (62) day loans because there you're getting in -- in, you know, you're getting up there in -- in term, and you're getting something that's closer to conventional credit.

So that's why -- that's one reason I don't want term -- I don't want to put a -- I don't want a sliding scale with a term adjustment in there. So there is my recommendation and my rationale.

MR. ANTOINE HACAULT: Your recommendation doesn't deal with inflationary issues in the next three (3) years?

DR. KEVIN CLINTON: No, it does not. In Canada we -- we have a 2 percent inflation rate. I have every confidence that the Bank of Canada will keep that 2 percent inflation rate. It's been doing it for fifteen (15) years now.

So if I thought there was a risk to going into some sort of hyper-inflation situation, then I would have to factor in a time element component. But the Bank of Canada has an extremely strong record in delivering 2 percent inflation.

So we're not going to see large changes in interest rates over the next three (3) years of the kind that would cause to reverse that recommendation. And we all know, because we've heard it repeatedly, that this number is not going to be sensitive to changes in the cost of capital.

So inflation is a factor -- the 2 percent creep in price level doesn't make any difference at all, because don't forget this is thirty-five dollars ($35) per hundred dollars ($100).

If there's 2 percent inflation and everything is just going up at 2 percent, well the loan volumes are going up at 2 percent as well. So inflation is automatically looked after.

MR. ANTOINE HACAULT: So you believe with it being in the middle you've got enough flexibility to take care of that issue? It's between the -- you said between the two (2) -- two (2) -- three (3) --

DR. KEVIN CLINTON: What -- what I'm saying is that you don't need any flexibility to deal with the inflation issue because it's not going to happen.

If it does happen, and again it look -- I don't see why you should be too worried about it. But if it does happen, the time to deal with it would be in 2010. You just readjust this thing.

There's no need again to have a sliding scale that would -- and a formula that would -- no I am -- I'm sticking with thirty-five dollars ($35) for three (3) years. No -- no further adjustments.

MR. ANTOINE HACAULT: Thank you. If I could just have one brief moment and -- or is it an appropriate time to take a -- just -- I believe that's everything, but I just want to consult.

THE CHAIRPERSON: Okay. When we come back from the break you can let us know and then we will move in the cross-examination.

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

--- Upon recessing at 2:40 p.m.
--- Upon resuming at 3:00 p.m.

THE CHAIRPERSON: Okay, welcome back everyone. Mr. Hacault...?

MR. ANTOINE HACAULT: I have no further questions, and we've talked a little bit about scheduling in order to accommodate Mr. Williams. He's requested that at 5:00 I start with the cross-examination. I have no issue going out of order if that accommodates the Board and the parties.

And as far as Dr. Clinton goes, I asked him whether he would be available to come in on Monday, because we may not have to use all the time for the 310-Loan direct and cross-examination. He's also available for that, so I think we have a fair amount of flexibility to deal with what we'd need to deal with.

THE CHAIRPERSON: Very good, thank you, sir. Okay, Ms. Southall...?

(BRIEF PAUSE)

CROSS-EXAMINATION BY MS. ANITA SOUTHALL:

MS. ANITA SOUTHALL: Dr. Clinton, if you could turn to Tab 46, which is your first report. And specifically page 2, line 13.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: I suppose, sir, it's actually line 12 and 13.

DR. KEVIN CLINTON: Yes.

MS. ANITA SOUTHALL: You have reference in your report to the fact that there's only a fragmentary empirical basis for inferring the likely impact of different settings on fee ceilings, et cetera. Do you see that?

DR. KEVIN CLINTON: Yes.

MS. ANITA SOUTHALL: Is that -- sorry, and the answer was yes to that? Yes, you acknowledge that's the -- the quotation?

DR. KEVIN CLINTON: Yes.

MS. ANITA SOUTHALL: There are you getting at the kind of information you shared with us in your oral evidence today, in terms of the limited data, the concern about the source of the data, the quality of the data?

Or does this refer to something else?

DR. KEVIN CLINTON: You just asked me two (2) questions. The answer to your first question is yes, that is correct.

MS. ANITA SOUTHALL: Yes, the --

DR. KEVIN CLINTON: So I don't have to --

MS. ANITA SOUTHALL: -- evidence earlier today that you gave us is the same point you're making here?

DR. KEVIN CLINTON: Yes.

MS. ANITA SOUTHALL: Thank you. And just below that, sir, line 18 and 19, where you indicate -- I guess it starts line 17, pardon me:

> "However it would be wise to begin the new regime with modest steps."

Do you see that?

DR. KEVIN CLINTON: Yeah.

MS. ANITA SOUTHALL: And again, is that harkening back to your evidence that this recommendation to set the lender rate at thirty-five dollars ($35) a hundred (100) is the modest step which will allow things to be done in a cautious way, in a prudent way?

Is that all the same concept?

DR. KEVIN CLINTON: That is correct.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: Could you turn to page 3? It's the next page in your report, please. And in your original report you had 4 bullets whi -- which were four (4) recommendations as I understand them, sir.

The first that the operating objective for the fee ceiling, be to prevent charges above the normal industry range, do you see that?

DR. KEVIN CLINTON: Yes.

MS. ANITA SOUTHALL: And today when you presented us the information in -- in the two (2) newest documents, we're calling them RC-12 and RC-13 for the record. You're attempting to show us based on whatever data you've managed to -- to pull together, what that industry range is.

Is that the intention?

DR. KEVIN CLINTON: Yes, that is correct.

MS. ANITA SOUTHALL: So, Dr. Clinton, if you look at the recommendation document, which is RC-12, and the -- the Table 1 that's attached to it at page 3 of the document --

DR. KEVIN CLINTON: Yes.

MS. ANITA SOUTHALL: -- you have, as you've pointed out to us earlier, identified those lenders whose the upper end of the fee range exceeds thirty-five ($35) dollars, correct?

DR. KEVIN CLINTON: Yes, that is correct.

MS. ANITA SOUTHALL: And do those figures, based on the information you've managed to gather, indicate that those are what in the current market would be considered extreme charges? The kind of charges at the -- at the tail-end of the distribution that ought to be cut off or eliminated?

DR. KEVIN CLINTON: Yes, that is correct.

MS. ANITA SOUTHALL: And just turning back to the first page of the same document, Dr. Clinton, under the first heading, which is Frequency Distributions, Item 1, this would still be in RC-12, sir?

DR. KEVIN CLINTON: Yes.

MS. ANITA SOUTHALL: For the fourth bullet down in the information you share there, it indicates:

"Fees do not include ancillary services and charges, example, for debit credit cards, loan insurance, NSF charges, nor initial start-up fees".

Do you see that?

DR. KEVIN CLINTON: Yes.

MS. ANITA SOUTHALL: So, when you sought information from the payday lenders that you contacted in order to develop Table 1, what phraseology would you have used to get the maximum amount that someone would actually pay to walk away with three hundred ($300) dollars?

DR. KEVIN CLINTON: I asked them exactly that question. I said, I want -- I need three hundred ($300) dollars and so don't deduct anything there. I want three hundred ($300) dollars. If -- if there are any extra charges I want you to add them on.

MS. ANITA SOUTHALL: And so for -- for Money Mart, for instance, which is Item Number 13 on Table 1, you have a fee range of seventeen dollars and twenty-four cents ($17.24) to twenty-four dollars and thirty-three cents ($24.33). Do you see that?

Sir, I'll just give you a minute to locate that. It would be Item four (4) -- pardon me, 13.

DR. KEVIN CLINTON: Yes.

MS. ANITA SOUTHALL: And, pardon me, do you know whether or not that would include all of the fees based in the Money Mart payday loan structure that may be charged to someone if they're unable to pay the money back before payday?

In other words, if they are -- if they are going to be paying on payday and -- sorry, I guess it would be you, if you were going to be paying back on payday, and you wanted to borrow three hundred ($300) dollars, how would you have determined if what they were telling you was inclusive of everything that you as a consumer would be required to pay?

DR. KEVIN CLINTON: I'm pretty sure it did include it because, for example, of the past month, every time I've been into a Money Mart store and asked for that loan, I -- I've said, Look, just -- just give me a rough idea how much it costs and give me a quick answer. And always I got back, You -- you're going to have to pay -- pay us back three hundred and sixty ($360) dollars.

Now, I have no idea if -- if -- how they structure that, and I didn't ask. And I have no idea whether that corresponds to Money Mart official policy, but I can tell you that I consistently got that answer when I -- when I most recently gone into Money Mart stores. So the answer kept come -- coming back sixty (60) bucks.

Now these other numbers, you see I've got a range, it's around twenty dollars ($20). They come some -- some of those come from a survey that I did last year when I was much more naive about these things. And in any case I believe Money Mart had a different fee model in those times -- in those days. And so for -- for that low end number there, for example, I -- I'm not sure.

But you -- you see in one way to my mind it doesn't matter too much because this is a statistical dissolution that I'm giving here. The -- the -- we -- when we're dealing with this kind of distribution we know always there are errors in it. So I'm just hoping that by including five (5) surveys that this kind of thing will average out.

So they -- they -- I, you know, I can see there is -- there's a certain amount of amb -- ambiguity in this data and there are certainly errors and omissions. All I'm saying is we're -- we're in a heck of a lot safer ground here than that we -- we are with any other cost data. And to do this exercise properly we're really going to have to wait until 2010.

MS. ANITA SOUTHALL: And what I -- the reason I posed the question to you, sir, and I'm going to ask you to -- I'll come back to that comment in a moment, but I -- I wanted to ask also about the Cash Store and Instaloans on Table 1, which is entry Number 5.

And -- and then this is the still the same price range chart that we were looking at?

DR. KEVIN CLINTON: Yes.

MS. ANITA SOUTHALL: Can you identify that?

DR. KEVIN CLINTON: Yep.

MS. ANITA SOUTHALL: So -- so the fee range is twenty dollars and seventy-five cents ($20.75) to twenty- seven dollars and sixty-seven cents ($27.67)?

DR. KEVIN CLINTON: Yep.

MS. ANITA SOUTHALL: And again, because it leaves out ancillary products, this wouldn't include -- if you were to receive your funds by debit card, it wouldn't include those charges, I take it?

DR. KEVIN CLINTON: That is correct for my 2007 survey, but again I was much more naive in 2006. I hadn't even thought about such things. So I'm not sure for -- for that date set.

So again there's a likelihood of -- of error at -- at least in my numbers and -- for -- for the others I -- I couldn't say. But I can say there's -- there's an element of error in everybody's numbers. I...

MS. ANITA SOUTHALL: And -- and if you --

if certain of the people who responded to your request for information included those ancillary costs to the cost of the loan and told you that total amount and provided that range and others left that out, that adds another element of -- of error or inconsistency to the table regardless of -- of actual absolute dollar amounts, correct?

DR. KEVIN CLINTON: For my 2006 survey, yes. For my 2007 survey, no, because I was more careful. But your -- your question would -- would apply to all the other data.

I have no idea exactly what question they asked. So, you know, this is why I -- you may remember this morning I -- I started out by saying, Look, I would only call these data okay. I'm -- I'm not claiming -- I'm not making a big claim for them.

MS. ANITA SOUTHALL: And just so I'm clear, Dr. Clinton, is it 27 -- 2007 data in Table 1?

DR. KEVIN CLINTON: It's everything. It's everything. When I give a fee range, it's the lowest fee range I found in any of the surveys and the highest. So everything here is -- is lumped together.

MS. ANITA SOUTHALL: Do you have your data segregated somehow? Are you able to provide us the -- the data support for the tables?

DR. KEVIN CLINTON: Absolutely. Yeah.

MS. ANITA SOUTHALL: Mr. Hacault, is that acceptable if that information is provided to -- to the Board?

MR. ANTOINE HACAULT: Sure. Some of the data is already, and he's referenced as in other reports. So we have Buckland, for example in RC-12, Robinson, and 310-Loan already identified. And the sources are there, so I'm assuming you don't want that repeated.

It's just his private series that you want, is that it?

MS. ANITA SOUTHALL: Well, if Dr. Clinton has actually got working papers that show the extracted data, I think that would be very valuable as opposed to us going back to those other reports.

MR. ANTOINE HACAULT: Sure. No problem.

DR. KEVIN CLINTON: Yeah. Yeah.

--- UNDERTAKING NO. 54: Dr. Clinton to provide working papers that show extracted data in Table 1.

CONTINUED BY MS. ANITA SOUTHALL:

MS. ANITA SOUTHALL: Sorry about that. Just trying to make the microphone work. And, Dr.

Clinton, could you also segregate the 2007 data for us in that exercise? Would that be problematic?

DR. KEVIN CLINTON: Not at all. It's right, they're separate in -- in the worksheets that I have. It's a -- it's a completely different worksheet and I have -- for each worksheet I have a separate chart as well.

So I'm very, very happy to provide it to the Board, because I've brought together all these pieces of information and I -- I found it quite helpful to have them all side by side.

MS. ANITA SOUTHALL: So that -- for 2007 that would include the ranges as well I take it from what you're describing?

DR. KEVIN CLINTON: Everything, yes.

MS. ANITA SOUTHALL: Thank you very much, Dr. Clinton.

Sorry, just turning back to -- to where I started on that point on the recommendation package that we received today and on that bullet referring to the fees not including ancillary services and charges, there is a -- there is a note at the end of that line that it also doesn't include initial startup fees.

Do you see that?

DR. KEVIN CLINTON: Yes.

MS. ANITA SOUTHALL: Could you just tell us what you understand to be startup fees in this payday loan process?

DR. KEVIN CLINTON: Yes, this is about my recommendation. And I -- I just make that comment to reinforce that this has no kind of sliding scale at all, so there's no difference. I don't care if it's your first visit, your second visit, and I don't care if your loan is for fourteen (14) days or thirty (30) days. My limit is flat.

MS. ANITA SOUTHALL: Just -- just to clarify on that so that the record is clear, is -- is startup fee something that you would understand to be a first-time charge for administration services, something akin to that for -- for a borrower at a lender or -- I guess what I was trying to understand is whether startup fee is something that you'd heard in the language or used or jargon used in your inquiries?

DR. KEVIN CLINTON: Well, again, I heard two (2) questions there.

The answer to -- to -- well -- well, the answer is I was trying to find language to -- for that initial fee because we have seen in -- in the prehearing submissions and we have heard in -- in oral testimony discussions about whether initial costs are higher than customer repeat loans and so on.

Well, in my recommendation I don't care, so I'm saying your thirty-five (35) limit applies to first loans, second loans, third loans, and you're not allowed to charge a fee above and beyond that.

There's another way to look at my recommendation, which is this. If indeed there are initial costs to the lender for an -- for a first loan that do not exist for subsequent loans, they have to swallow those costs under my recommendation.

And that actually would be normal business practice in a lot of areas. For example, if you go to Blockbuster Video or -- or Rogers, an opener situation, they -- they don't charge you a fee for that.

But the first time you take out a video or CD, it's obviously more expensive for them to do that because they spend fifteen (15) or twenty (20) minutes processing your application. But they swallow that.

They get the money back over time. So I'm saying the same thing would apply to payday lending for a flat fee.

MS. ANITA SOUTHALL: Dr. Clinton, did you come across any lenders in your inquiries that did charge some sort of startup fee or first loan fee or initial fee, anything that was described in that way?

DR. KEVIN CLINTON: Yes. In 2006 I did, and actually, when they told me they did I said, Well, I want to know for a repeat loan. So in my 2006 survey, the numbers are for repeat loans.

So I'll go back to what I just said, in which case they will -- under my proposal, they will have to swallow the initial cost that they -- that they have been charging an initial fee for.

I didn't find any such situations in my 2007 survey, by the way.

MS. ANITA SOUTHALL: Thank you very much.

DR. KEVIN CLINTON: And that -- and that may be just because of my sample, but I -- I didn't find any. In 2006 I did.

MS. ANITA SOUTHALL: Dr. Clinton, still on the -- the bullets that are your recommendations in your initial report. In the second bullet you indicate and we -- we've talked a moment -- we've been talking about your table and the normal limit.

I take it to be that the normal limit excludes those lenders in the table that are over the thirty-five dollars ($35), if I've got that right. Yes?

DR. KEVIN CLINTON: Yes, that is correct.

MS. ANITA SOUTHALL: And then at the end of the sentence there you've got:

"While not necessarily impinging directly on the typical lender."

Do you see that?

DR. KEVIN CLINTON: Can you direct me to the page?

MS. ANITA SOUTHALL: Sure, it's page 2 of -- pardon me, page 3 of your report, line 20.

DR. KEVIN CLINTON: Oh, of my --

MS. ANITA SOUTHALL: Of you report, sir, yeah.

DR. KEVIN CLINTON: I -- I beg your pardon.

MS. ANITA SOUTHALL: It would be Tab 46.

DR. KEVIN CLINTON: I've got the tab but if you can tell me the page number.

MS. ANITA SOUTHALL: Page 3.

DR. KEVIN CLINTON: Yeah, I'm there.

MS. ANITA SOUTHALL: Line 20.

DR. KEVIN CLINTON: Yeah.

MS. ANITA SOUTHALL: So there's a phrase that "effectively abnormal fees would be eliminated," and then the last part of the sentence:

"While not necessarily impinging directly on the typical lender."

Do you see that phrase?

DR. KEVIN CLINTON: Yes, I do.

MS. ANITA SOUTHALL: And would typical lender then in your description be anybody who falls under the thirty-five dollar ($35) mark? Is that what you would --

DR. KEVIN CLINTON: That is -- yes.

MS. ANITA SOUTHALL: -- consider a typical lender?

DR. KEVIN CLINTON: That is correct.

MS. ANITA SOUTHALL: Dr. Clinton, you've been talking today about this regulatory role for the Board over a series of years and starting cautiously and then proceeding to obtain more information, et cetera.

And through counsel for Rentcash, there's been a response to a Information Request that preceded the oral Hearing. Could I just ask you to turn to Tab 57, because I think that that response at Tab 57 actually sets out what -- what I understand you propose to be the -- the regulatory process.

And I have some questions associated with that.

DR. KEVIN CLINTON: Yes. On the --

MS. ANITA SOUTHALL: And, Dr. Clinton, this is Question PUB/RC-2-1, and the question actually related to the concept of extreme outlier rate that the

Board should prohibit.

And the answer actually gets into that regulatory system that I believe you spoke about earlier today. Did -- did you have involvement in this response? I assume you did.

DR. KEVIN CLINTON: Yes, I did.

MS. ANITA SOUTHALL: So, the exercise you've done for -- for Rentcash but shared with the Board in RC-12 and RC-13, those documents we looked at today, I'm not going to ask you to look at them right at this moment, but were those your attempt to determine this outlier rate using the frequency distribution of actual fees observed in the market?

DR. KEVIN CLINTON: Yes, that is correct.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: And Dr. Clinton, if you could just leave that tab open but -- but if you wouldn't mind turning back to your "Partial Equilibrium Estimate" document, RC-13 for a moment.

DR. KEVIN CLINTON: Yes.

MS. ANITA SOUTHALL: And it's Figure 1 on page 3.

DR. KEVIN CLINTON: Yes.

MS. ANITA SOUTHALL: As the in -- initial equilibrium you've identified twenty-six ($26) dollars as the equilibrium price, correct?

DR. KEVIN CLINTON: Yes, I have.

MS. ANITA SOUTHALL: And Figure 1 shows that value at twenty-six ($26) dollars, is -- is that being depicted on that figure?

DR. KEVIN CLINTON: Yes, that is correct.

MS. ANITA SOUTHALL: And what is the source of that equilibrium information? Is it something derived from the ranges that have been provided in Table 1 of RC-12, the recommendation document?

DR. KEVIN CLINTON: Well, rather than answering that question, I can answer a more dir -- I can give you a more direct answer.

MS. ANITA SOUTHALL: Sure, thank you.

DR. KEVIN CLINTON: If -- if you look at the combined chart in that same document, you'll see that twenty-five ($25) dollars is about the median of -- of my normal range. So that -- that's how I got the number. I just eyeballed it. I didn't do any calculation.

MR. ANTOINE HACAULT: I think, Dr. Clinton, you're referring to the bar graph when you're speaking but counsel was looking at a different document.

When he was talking about the median of twenty-five ($25) dollars he was looking at the bar graph on the other exhibit.

CONTINUED BY MS. ANITA SOUTHALL:

MS. ANITA SOUTHALL: Pardon me, Table 1. Sorry, Dr. Clinton, could you just refer to the document you said you eyeballed to get your twenty-five ($25) dollars?

DR. KEVIN CLINTON: The document I eyeballed, I -- I call "Recommendation for Payder -- Payday Loan Fee Limit For Manitoba." I -- I'm afraid I get completely lost in -- in the -- in the numbering systems.

MS. ANITA SOUTHALL: No problem, Dr. Clinton. We'll call it "The Recommendation Document." And were -- were you attempting to direct me to the graph depicted on page 4 of the document?

DR. KEVIN CLINTON: Yes. That is correct. It -- it's labelled "Combined Chart."

MS. ANITA SOUTHALL: And so I apologize. Can you -- can you just repeat if you haven't -- or -- or if you have already, what the source of the data on this graph is? Is that all of the data that's --

DR. KEVIN CLINTON: It's five (5) --

MS. ANITA SOUTHALL: -- depicted in Table 1?

DR. KEVIN CLINTON: The source -- the source is the -- the five (5) surveys.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: So this includes both 2006 data and 2007 data?

DR. KEVIN CLINTON: From Clinton. The -- the dates, I believe the date on the Buckland survey would be 2006, the Robinson survey is likely before that. But he doesn't date. I couldn't find a date on -- on his document.

And do you -- you see on page 1 of that document, where I say "Survey Data Sources," I have a query against Robinson. So -- and so -- I'm sorry, Buckland is 2007 also. So all the dates you're looking for under Heading 2, "Survey Data Sources."

MS. ANITA SOUTHALL: Is there a way to do a more -- is there another type of analysis you can do rather than the -- the sort of rough estimate -- those are my -- that's my term not yours -- but the rough estimate you've done to pick the twenty-five dollar ($25) number?

DR. KEVIN CLINTON: The game is not worth the candle. My estimates are not sensitive. I could put that number anywhere within wide range, because the -- the key to the calculations is the difference between the starting equilibrium and the fee limit.

So, and it -- the calculation does not depend on the level. It's -- the calculation essentially is -- is based on the difference between the fee limit and -- and the price.

And -- and so I would -- I can choose the starting, but more or less arbitrarily. But of course I wanted to choose it in -- in an area which is -- is realistic. And it is -- it is a realistic number. It's realistic from a -- another perspective as well because in -- in one of the surveys, I'm not sure which one, they asked customers how much a hundred dollar ($100) loan cost them.

And I can't remember the exact figure, but it was pretty close to twenty-five dollars ($25). It may have been twenty-six (26), but it -- it was within that zone. So it -- it's a roughly realistic number, but I don't have to be too fussy about it.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: Dr. Clinton, I'm just wondering in -- in the -- sorry if -- I think this is the "Equilibrium" document now I'm referring to, "Partial Equilibrium Estimate" document.

How difficult an undertaking would be to insert data in Table 1 to apply a -- a thirty dollar ($30) fee limit and run those numbers and a thirty-five dollar ($35) fee limit and run those numbers.

Is that a -- a difficult or costly exercise for you?

DR. KEVIN CLINTON: Not at all. It would take me a -- a couple of hours, maximum.

MS. ANITA SOUTHALL: So if we could -- I'm going to ask actually for three (3) numbers, and again, because you're appearing at the behest of Rentcash, they obviously will have to agree to allow you to provide the information.

But if you could do this analysis for three (3) numbers. I'm moving back down to -- to a lower number at fifteen dollars ($15) as a fee limit, at thirty dollars ($30) as a fee limit, and at thirty-five dollars ($35) as a fee limit.

MR. ANTOINE HACAULT: Just so I'm clear, this -- it relates to RC-13, page 2, Table 1 on that page 2? You want the numbers redone with respect to each of fifteen dollars ($15), secondly thirty dollars ($30) and thirty-five dollars ($35).

We'll make inquiries, and if possible we'll get that information to you if those instructions are forthcoming as soon as we can, presumably, hopefully before cross-examination's finished.

--- UNDERTAKING NO. 55: Dr. Kevin Clinton to do analysis for three (3) numbers: a lower number at fifteen dollars ($15) as a fee limit, at thirty dollars ($30) as a fee limit, and at thirty-five dollars ($35) as a fee limit as well as to generate a new Figure 3, which is on page 5 of that document.

MS. ANITA SOUTHALL: And -- and just one more thing, Mr. Hacault and Dr. Clinton. Is it possible to generate a new Figure 3, which is on page 5 of that document, which is the -- the graphic depiction of the -- Dr. Clinton, I've not noted down the name of the triangle.

DR. KEVIN CLINTON: Harberger triangle.

MS. ANITA SOUTHALL: Harberger triangle.

DR. KEVIN CLINTON: Yeah.

MS. ANITA SOUTHALL: Again, is that a difficult exercise to do, making these other fee assumptions?

DR. KEVIN CLINTON: No, it's not difficult at all.

MS. ANITA SOUTHALL: So, Mr. Hacault, could you please just add that as a -- a supplement to our last request for information?

MR. ANTOINE HACAULT: Yes, we'll make that inquiry and advise you as to Number 1, whether we can do it or I have instructions on that, and secondly how quickly we can provide you with that information.

CONTINUED BY MS. ANITA SOUTHALL:

MS. ANITA SOUTHALL: Thank you. Dr. Clinton, I take it from your comments earlier today and also what I've asked you to look at in this -- this answer to an undertaking or -- sorry, answer to an Information Request at Tab 57, that the Board at present doesn't have a complete and reliable record available to it in order to do a proper outlier analysis.

I -- I take it that even though you've come up with this recommendation today, that that remains your position in terms of the current state of information?

DR. KEVIN CLINTON: Yes, it is. All I'm saying is that of all the options for setting a limit, this data on prices that I've presented, is the most robust and reliable data that we have.

But that is not saying very much because the other data are so bad.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: And if I could ask you to turn to page 3 of 3 in this Information Request response, and this again -- again is at Tab 57, sir.

DR. KEVIN CLINTON: Yes.

MS. ANITA SOUTHALL: At line 6 on page 3 of three (3), there's a reference to the second proceeding under this approach. So the so-called revisit at 2010, I -- I take it that's what you were talking about earlier today as well?

DR. KEVIN CLINTON: Yes, indeed.

MS. ANITA SOUTHALL: And what would be the specific data that the Board would need to retrieve or somehow obtain access to in order to have sufficient data at that stage to -- to allow it to adjust as required the rate at that point in time?

Could you -- if -- if possible, could you identify the data that you think would be relevant?

DR. KEVIN CLINTON: The single most important piece of data would be accurate fees for a standardized service. And the Board would be open to define what is a standardized service in the way that it thinks is appropriate.

So then you would have comparable data across all participants and I'm assuming that the Board would monitor this data on at least an annual basis.

I believe there are fifteen (15) operators in -- in Manitoba so it would -- it would have precise Manitoba data on the required inputs.

The data that I've presented so far, with I think the exception of -- of Buckland and -- and collaborators, they -- they are national data, they come from anybody that would answer the phone.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: Dr. Clinton, I take it from your comments that you -- you're in favour of a process by which all payday lending participants would be compelled to provide that fee data on an annual basis?

DR. KEVIN CLINTON: Yes, I would.

MS. ANITA SOUTHALL: And sir, just to clarify for the record, that would not be for the purpose of attempting to adjust individual payday lenders' fees in-between hearings but rather to receive information in order to have more information available to do that subsequent analysis at, for example, 2010?

DR. KEVIN CLINTON: Yes, that is correct. And for example, to give you an -- an illustration, you would want to track that data. I mean, I've asserted I would eat my hat if -- if the company started to follow the -- the fee limit if -- if you set it at an appropriate level.

But even so, even though I don't think it's going to happen. I -- I mean, due diligence on the part of the Board would require that it nevertheless track the data to make sure that that was not happening.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: And just, Dr. Clinton, on the concept of avoidance of the regulatory scheme, if it turns out that there are so-called loopholes or ways around it, what would the role of the Board be, in your view, in that circumstance?

In other words, between 2007 or 2008, whenever the first order issues and the -- and the three (3) year review, what if in fact the standardized -- assuming it's a standardized form of order for the maximum rate -- what if somebody is attempting to avoid that -- that maximum rate?

DR. KEVIN CLINTON: My inclination in all the scenarios that I can imagine would be to address the issue in 2010 in a comprehensive way. Having said that, my experience in the financial regulation area says that it's better to get on top of a problem as soon as you see it happening.

So, the Board shouldn't hold itself incommunicado from the industry. If the Board notices things that it thinks are difficult to understand, and certainly if it thinks that certain developments are not desirable in some way, it should directly initiate contact with those firms to find out what is going on.

I have seen this happen on -- on numerous occasions with -- within the Bank of Canada, which has a quasi-regulatory role vis a vis certain financial institutions.

At first the -- the contact could be done at middle management level. If you don't get satisfaction there then -- then you go to the CEO. And if you really think that something is happening that shouldn't happen, then you initiate a graduated program of -- of measures, but you start off just by asking for information on what is going on.

And if it gets to the CEO level, then you remind the CEO that as a member of a regulated industry his firm now has certain obligations that come with the privileges of being a regulated industry, because if you are a regulated industry -- whether you like it or not as a Board -- that is -- that is going to be presented by the firms as an official stamp of approval and in return for that respectability that the industry gets for being licensed and so on and so forth.

And they'll probably put little stickers on -- on their windows saying, you know, We're licenced by Manitoba Public Utilities Board.

In return for that privilege, they -- they have certain obligations and it would be quite normal regulatory practice to tell the CEO, Look, this is not what we expected to happen. You as a regulated firm have these privileges, and you do have certain obligations to the public. And you can spell out in specific terms what you think those obligations are.

So my advice would be not to change the -- the fee limit before 2010, but if you -- if you see a problem that is material, get on top of it right away and step up the pressure if -- if you're not getting satisfaction. You cut off the pressures.

In my experience, as soon as you draw attention to a problem like this, even at a middle management level the problem disappears, but get on it right away. It's called -- the principle, by the way, is known as, "prompt corrective action."

MS. ANITA SOUTHALL: Thank you for that, Dr. Clinton. Could I ask you to look again at Page 3 of that Information Request response? And this is still part of that Stage 2 regulatory process.

At -- beginning at Line 10 of the response there's an indication:

> "In the event the Manitoba market is generally representative of other provinces (similar number and range of outlets or companies, similar fee ranges, active entry and exit of firms) the Board can be satisfied that it has not stifled competition and can hold the line on rate caps or perhaps adjust them modestly to either incorporate overall inflation (a modest increase) or seek to eliminate a small further

number of outlier rates (a modest decrease)."

I take it that's -- you're in agreement with that sort of small adjusting as part of the -- the second round of regulation?

DR. KEVIN CLINTON: Yes, that is correct.

MS. ANITA SOUTHALL: And this assumes that competition is working, I take it, as you've described it today as -- as you're satisfied it is right now both in Manitoba and in all of these other provinces that would be looked at, correct?

DR. KEVIN CLINTON: Correct. But again over the next three (3) years you're going to have a much richer database. You're going to have better information on pricing, not just in Manitoba but in other provinces as well. You're also going to have different regulatory regimes in different provinces so you can compare your experience with experience there as well.

So you'll be -- whatever you decide to do -- I don't know where you're going to come out on this. You -- you may be more strict than others; you may be less strict. I -- I don't know.

But however it comes out, you'll have a good basis for comparing your experience with experience elsewhere and -- and this -- this will be extremely useful in providing guidance as -- as to where you should go with the fee setting in -- in 2010.

MS. ANITA SOUTHALL: And while I have it on my mind and as a segue from that last comment, do you have any research or knowledge that you've been involved in -- associated with what's happened in the United States in the various states that have applied rate caps for payday loan products?

DR. KEVIN CLINTON: No, I have no idea, no research. I don't even know what the limits are in different states.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: And, sir, I'm going to finish off on this document we've been looking at. So the bottom of page three (3) of three (3) of this Information Request response, there is a comment about third and subsequent regulatory proceedings.

So this is, I suppose, well down the road into regulation, correct?

DR. KEVIN CLINTON: Yes, that is correct.

MS. ANITA SOUTHALL: And here, there's an indication or an assumption that the Board will have an established process to repeat the analysis of the

Manitoba market compared to other provinces, where rates are governed by competitive forces, and to consider the overall health of the market as noted above, the -- the same sort of considerations you -- you'd noted previously.

Have I summarized that accurately?

DR. KEVIN CLINTON: Yes, that is correct.

MS. ANITA SOUTHALL: And so again, the assumption here is that other provinces -- and I -- and I'm really commenting on your last oral remark about the fact that different things may be happening in different jurisdictions. This is an assumption based on a Dr. Clinton type of recommendation being adopted across the country.

In other words, eliminating outliers, allowing competitive forces to -- to govern? Sorry -- sorry --

DR. KEVIN CLINTON: No, that isn't --

MS. ANITA SOUTHALL: -- you're nod -- you're nodding head no, so if you could --

DR. KEVIN CLINTON: No, that is not correct.

MS. ANITA SOUTHALL: -- explain -- if you could explain what's meant then.

DR. KEVIN CLINTON: Yes, I took a look at all ten (10), I think -- I think there were ten (10) -- provincial responses to the requests from the Senate Finance Committee. I think it was in February of -- of this year.

They -- they sent a let -- letter out -- or -- or pardon -- they requested the views of -- of the Finance Ministers across -- across the country. And the responses were very different from one province to another.

Now it -- it so happens that Finance Minister Selinger's response fell right in line with the -- the direction in which my thinking was going anyway. And -- and in fact it was the mention of extreme rates that he made that sort of encouraged me to think I was on the right path.

So, for the time being, Manitoba is the only province where I'm making this recommendation. Now some other provinces had -- had a very different response, and it led me to think that they may not impose fee limits at all.

So what I -- what I'm saying in this paragraph that you cited is that different provinces will be adopting very different approaches. And you can do comparisons across provinces to see whether you think your approach is -- is providing better or -- or worse outcomes than -- than their approach.

For -- I -- there was one provincial response, actually, that I found it very striking and -- and informative. I -- I can't remember the exact words, but Newfoundland indicated very clearly that they had absolutely no intention of imposing any fee limit whatsoever and that the federal government should stick its nose out of their business. Now I -- they are not the exact words, but that -- the -- the way I read the -- the reply, that was the gist of it.

MS. ANITA SOUTHALL: The principle that I was trying to understand or -- or the presumption that I was trying to address was that as -- and as you've noted -- Manitoba's likely the first, as we know it, the first jurisdiction to regulate. And depending on what the regulation or regulatory scheme is from province to province, that may impact on the level of -- or the -- the activities of the competitive market.

In other words, depending on whether a fee cap at all is set, what level the fee cap is will affect the comparability of outcomes from province to province as we go forward in the implementation phase?

DR. KEVIN CLINTON: I think in all provinces, or in most provinces, you're going to have fee data that you'll be able to compare quite easily.

Now, there may be other data that you look at to decide what to do in 2010. You know, I would be looking at entry and exit of firms, for sure, and comparing Manitoba experience with experience in -- in other provinces which had set the fee limit at -- at a different level.

And so you could look at that and -- and you could decide whether you liked what was happening better in that province or in Manitoba. And that -- that would guide you, the fee setting in 2010.

MS. ANITA SOUTHALL: Dr. Clinton, do you operate from a -- a recognized definition of public interest? You've used the phrase "public interest," I think, a few times earlier today.

And I don't know if the Bank of Canada has done any philosophical considerations of how the public interest is defined in -- in terms of regulation financial institutions generally.

Just wonder if -- if you've ever attempted to identify what the components of public interest would actually be in terms of -- in terms of credit issues.

DR. KEVIN CLINTON: Well, I -- I'd like to provide a helpful answer to your question, but I -- I can't actually remember using the phrase "public interest" as such, because I put the -- the emphasis rather on asking of the policy makers what your objectives are.

So if you want to call that the public interest, that's fine, but it's not the language I normally use.

If I did use it, I would like it to be understood that I'm meaning objectives as implied by or expressed by the government. Or if there no such objectives, then my definition of public interest ultimately would go back to in the interest of the consumer, because to an economist the whole objective of -- of economic activity is -- is maximizing the welfare of consumers. Everything else, like firms, it's just pipeline for delivering -- delivering that ultimate objective.

Now obviously, you want firms behaving efficiently and productively, and that's the wonderful thing about markets. That's what they -- that's what they tend to deliver. That's why we're such a prosperous country.

But -- but to my mind markets, firms, all that, it's just a means to an end. It's not -- it's not the objective in itself.

MS. ANITA SOUTHALL: And I suppose part of what would constitute the welfare of consumers is contained in the table in the equilibrium document, Table 1, the -- the national net welfare gains, where you analyzed the Coalition fee limit versus the equilibrium proposal that you were advancing in that table?

DR. KEVIN CLINTON: Well, it -- it goes beyond that because I've -- I've defined three (3) parties: consumers, lenders, and taxpayers.

Now, actually I would put most weight in interpreting that table on the consumers. So even though I might see a net welfare loss for the economy as a whole but I saw that consumers were better off, I'd say, Well maybe that's worth going for.

So I have the three (3) parties there, but my primary focus would be on the consumer.

MS. ANITA SOUTHALL: And is there a waiting methodology that we could apply based on that comment?

DR. KEVIN CLINTON: Well, mechanically there is, but it's not something that I've ever seen and I think that the Board would not want to go marching off in that direction which is -- doesn't really have any precedent. And I can't understand why you would want to do that.

MS. ANITA SOUTHALL: Well, I'm just trying to get a sense of when you say the consumer net welfare gain would outweigh, for example, the net economy welfare gain. Other than just conceptually is there -- did you have something in mind? Like it's --

DR. KEVIN CLINTON: No.

MS. ANITA SOUTHALL: -- you know, what it -- no, so it is just conceptual?

DR. KEVIN CLINTON: I would look at the first line. If I saw a gain there for the consumer, even if it came at the expense of the industry, I would say go for it.

(BRIEF PAUSE)

MS. ANITA SOUTHALL: And one last thing on Table 1, Dr. Clinton. Without necessarily describing in detail the categories or -- or factors which would be consume -- con -- pardon me, contained within consumers net welfare gain, could you identify what factors are considered?

DR. KEVIN CLINTON: Yes, there are two main factors.

One is the impact on consumer welfare that comes from the loss of services that their revealed behaviour currently indicates that they regard as valuable. That is a big mouthful, but I can't find a shorter way to say it. And that is the -- the welfare triangle. That's one thing.

The other is that for quite obvious reasons, if -- if you impose a fee limit that is lower than the current price there is a loss of revenue to -- to firms, and to that extent some gain in -- in revenue by the public, because they're paying a -- they may be getting less services.

But, you know, on the services that they do consume they're paying a lower price. So that is a transfer from the industry to the consumer.

So I take account of that offset and the offset to -- to the -- to the loss of consumer welfare is just not big enough. So consumers end up losing even though they're receiving a transfer from -- from the firms.

And so is the taxpayer losing as -- as well because with less corporate income, there's less corporate income tax. So I haven't even factored in that consumers will -- will have to be paying more tax or deprived of government services.

So, if anything, my calculations would understate the loss that consumers would -- would suffer under a low fee limit.

MS. ANITA SOUTHALL: Thank you, Dr.

Clinton.

Mr. Chairman, I'm not finished my cross-examination of Dr. Clinton. We have arrived just after 4:00 p.m. and I'm mindful that we were going to take a break before our 5:00 p.m. start with Dr. Gould.

I understand that Dr. Clinton is capable of attending next Monday to complete cross-examination. So perhaps we can invite him back for nine o'clock and he can resume under cross-examination at that time if that's satisfactory.

THE CHAIRPERSON: Yes, that is quite satisfactory. You are fine with that, Dr. Clinton?

DR. KEVIN CLINTON: Yes, I am. I'm retired and the project that I -- I had been involved in on a long-term basis was at the State Bank of Pakistan. And for obvious reasons, because of the troubles there, I'm no longer to go back. So for the time being, my time is free.

THE CHAIRPERSON: Well that is excellent, you make a very forthright witness. Thank you very much. We will see you back on Monday then.

(WITNESS RETIRES)

THE CHAIRPERSON: And we will adjourn and return at 5:00 for the return of Dr. Gould.

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

--- Upon recessing at 4:05 p.m.
--- Upon resuming at 5:05 p.m.

THE CHAIRPERSON: Okay, folks, we're ready to go on our evening session.

Mr. Hacault, are you ready to commence your -- pick up where you left off with Dr. Gould?

MR. ANTOINE HACAULT: Yes, Mr. Chairman, Members of the Board. Thank you very much again for accommodating all of counsels' schedules so that the -- the hearing continues tonight. That's much appreciated.

LAWRENCE GOULD, Resumed

CONTINUED CROSS-EXAMINATION BY MR. ANTOINE HACAULT:

MR. ANTOINE HACAULT: Dr. Gould, could you put in front of you your report, and I'll direct you to page 7 of that report. And that section deals with Public Utility Regulation.

DR. LAWRENCE GOULD: I have it.

MR. ANTOINE HACAULT: And under that

heading you make the statement that public utility usually provides some services where it acts as a monopoly without competition in a particular market area, that competitive market system of setting prices does not function, and regulation is used as a substitute for competition.

Now what I had done -- and I think you've explained to me this is not a textbook with which you're familiar with, but I've produced and distributed -- and perhaps we can have it eventually marked as the next exhibit -- extracts from a text entitled "The Regulation of Public Utilities" -- first, because you didn't have a chance to say it on the record, you're not familiar with this book?

DR. LAWRENCE GOULD: No.

MR. ANTOINE HACAULT: Okay. Now could I direct you, there should be some highlighting on the first page that's photocopied, page 60 at the bottom, and I quote:

"Where a single firm serves a market, there is a presumption in favour of regulation to control prices, earnings and service standards. Where a large number of firms serve the market, there is a presumption in favour of

unregulated competition to protect the
public interest."

Do you have any issues with that statement or do you agree with them?

DR. LAWRENCE GOULD: No, I -- I agree with that statement.

MR. ANTOINE HACAULT: Okay. And your CV has a quite impressive background of being involved in utility rate hearings. You have done quite a bit of that over the years, is that correct?

DR. LAWRENCE GOULD: A large number, yes.

MR. ANTOINE HACAULT: Now I'm asking you then to -- to turn to the next page. In the Utility regulation there are various goals which a public utility board might seek. On page 173 there's a fourth goal, it's number 4 and it's indicated:

"Commissions have often promoted the
development of an industry. Rate
structures have been designed to
promote growth (declining block rates,
or subsidies) have been given to
achieve this objective..."

And then the...

"...to have some further discussion."

In your experience have you ever had that goal in public utility regulation where the rate structures are set to promote growth?

DR. LAWRENCE GOULD: No, not to my recollection.

MR. ANTOINE HACAULT: Okay. The authors, and this is set out at the bottom, make another comment. Now you've indicated that you haven't seen commissions in designing rates to promote growth.

Have you ever seen commissions with respect to utility regulation put regulations in place which stifle the industry?

DR. LAWRENCE GOULD: Well, I don't think that regulatory commissions attempt to stifle the -- the utilities that they regulate. And I just noticed when -- when you -- the copy that you gave me has a highlighted section here.

MR. ANTOINE HACAULT: Yes.

DR. LAWRENCE GOULD: When -- is that related to your growth question or is that something different?

MR. ANTOINE HACAULT: I can deal with that as a separate --

DR. LAWRENCE GOULD: That's separate? Okay.

MR. ANTOINE HACAULT: -- a separate

question.

DR. LAWRENCE GOULD: Yeah.

MR. ANTOINE HACAULT: But --

DR. LAWRENCE GOULD: I -- I think you -- I think regu -- then I'll try and answer your question.

Regulatory commissions generally are regulating monopolies and trying to achieve a fair rate of return to the owners of the Utility, and still service the consumers who use the products of that. They're not in the business of -- of throttling the company or necessarily trying to improve its growth beyond that which is necessary to serve the public.

MR. ANTOINE HACAULT: So you -- you wouldn't have seen, for example, in a hydro Utility where the Board would change the rates so that a certain sector of the consumers would no longer benefit from a Utility service or that that service might be too expensive for them to afford?

DR. LAWRENCE GOULD: Oh, they can certainly have different rates for different classes but I -- I thought you were referring to the growth of -- the specific growth of the Utility itself.

MR. ANTOINE HACAULT: Well, that was a separate question, yes.

DR. LAWRENCE GOULD: There are -- there's definitely rate design that can be constructed to benefit different classes of consumers.

MR. ANTOINE HACAULT: Okay. Now I'll read the highlighted portion and then perhaps you can comment as to whether you agree or disagree with it. And I quote:

> "Regulation, then, should provide incentives to adopt new methods, improve quality, increase efficiency, cut costs, develop new markets and expand output in line with consumer demand."

Would you agree with that statement?

DR. LAWRENCE GOULD: I would agree that there are times when Utility boards or commissions want to use methods like that; not always but there are incentive-based regulation schemes.

MR. ANTOINE HACAULT: Okay. And next I'll continue in the quote:

> "In short, regulation is a substitute for competition and should attempt to put the Utility sector under the same restraints competition places on the industrial sector."

And that actually paraphrases quite nicely what you put in your report.

DR. LAWRENCE GOULD: Yes.

MR. ANTOINE HACAULT: So you would agree with that --

DR. LAWRENCE GOULD: Yes.

MR. ANTOINE HACAULT: -- statement?

Could I ask you to flip the page to 176? Again, I've highlighted a -- a section of that particular page, and I quote it:

> "In the non-regulated sector, rates are largely determined by the action of competitive forces - market supply and demand. In the regulated sector, because of the absence or control of these competitive forces, rates are generally determined by regulatory commission acting under broad powers conferred on it by the legislature, subject, of course, to the judicial review."

Do you see that?

DR. LAWRENCE GOULD: Yes, I do.

MR. ANTOINE HACAULT: Do you agree with the statement that the rates in a non-regulated sector are determined by the action of competitive forces?

DR. LAWRENCE GOULD: Generally, yes.

MR. ANTOINE HACAULT: Okay. Now the next pages, I'm not going to go through it, but you had described in a very general way, for a Utility --

DR. LAWRENCE GOULD: The next -- excuse me, the next page of the handout or my report?

MR. ANTOINE HACAULT: Of -- of that particular handout of the book talks about the revenue requirement standard and then on page 177 there's a rate level. And that author suggests that there's various aspects that the commissions might to look at to determine a rate level.

And then flipping onto the next page, at page 179, there's a heading with respect to rate structure being a second aspect of rate regulation.

Would that be consistent with your experience in regulation of Utilities, that you would look at rates and rate structures?

DR. LAWRENCE GOULD: I haven't read these pages here, but generally what you're -- if you're asking me do you -- do boards or commissions set an overall level of rates and then design a structure of rates to achieve that level, yes.

MR. ANTOINE HACAULT: Okay. Thank you.

THE CHAIRPERSON: Ms. Southall, we will

give this one (1) an exhibit number.

MR. ANTOINE HACAULT: I believe we're at RC-14. Is that it?

THE CHAIRPERSON: 14. Yes, subject to check, I think it is 14.

MS. ANITA SOUTHALL: It's actually RC-15.

THE CHAIRPERSON: 15, is it?

MS. ANITA SOUTHALL: Yeah, thank you.

--- EXHIBIT NO. RC-15: Extracts from a text entitled "The Regulation of Public Utilities"

CONTINUED BY MR. ANTOINE HACAULT:

MR. ANTOINE HACAULT: Now, in your experience when you do rate hearings for Utilities, is there a lot of information that is kept from boards for confidentiality reasons?

DR. LAWRENCE GOULD: There is in -- in some of the hearings that I've been involved in there have been confidential filings. I don't know whether there -- I would say that there's been a lot of confidential filings, but there have been some, yes.

MR. ANTOINE HACAULT: So that the documents, notwithstanding that they're confidential, have been filed so that they can be reviewed, is that correct?

DR. LAWRENCE GOULD: Yes.

MR. ANTOINE HACAULT: Okay.

And in general, in order to be able to test the financial information, do you have the information from each Utility that you're seeking to regulate?

I'm contrasting that perhaps to give you the context of the question. Here, we have a number of payday loan companies --

DR. LAWRENCE GOULD: I understand.

MR. ANTOINE HACAULT: -- on which we don't have any information on, and I'm trying to see whether there's a different --

DR. LAWRENCE GOULD: It's -- it's quite different. It's quite different, yes. Usually, there would be much more information available on the regulated entity.

MR. ANTOINE HACAULT: And why is that? You say, "more information available." Why is that, in your experience, necessary for a proper determination?

DR. LAWRENCE GOULD: It's important to measure the costs, all the costs of operations, and review under the regul -- regulators' investigation, things like the capital spending, various expenses would be scrutinized and so on. And the determination of a fair rate of return for the particular entity.

That's the basic way that we regulate single company monopolies.

MR. ANTOINE HACAULT: Now if you had been given the task to test some of the information in the Ernst & Young report and Deloitte report, what additional information would you be looking for in this industry to test its validity?

DR. LAWRENCE GOULD: Well, I'm not sure if that question is related to the previous question.

The situations are quite different, and I tried to -- I spent considerable time in my report trying to explain what I -- I thought was a problem with trying to regulate an -- an industry. And that it isn't so much a question of what information should be required for a particular company, it's -- the -- the problem is really that there are many companies being regulated at once as opposed to one (1) single company.

And that makes a big difference because even if you have information, the costs may -- the cost structure may be different for each of the companies.

MR. ANTOINE HACAULT: So that in the payday loan -- I believe it's in your report -- payday loan industry, you may have different levels of risk assumed by different companies. Might that be an important factor?

DR. LAWRENCE GOULD: It would be, yes.

MR. ANTOINE HACAULT: And we don't have that for each of the payday lenders in this Province?

DR. LAWRENCE GOULD: No. You don't have any individual company cost data.

MR. ANTOINE HACAULT: Okay. And can you identify another important factor in -- or component of the costs that we're looking at?

Would -- could I describe it as service costs? I don't know what it is. The staff. Things like -- is -- is that an important cost segment in -- in this industry?

DR. LAWRENCE GOULD: Salaries, yes.

MR. ANTOINE HACAULT: So that if -- and we don't have that information, but if different firms were offering different levels of service?

Say, for example, if one (1) was offering twenty-four (24) hours of service whereas the -- the other one (1) was only offering sixty (60) hours of service per week, would that be something that we really should know to be able to make a proper determination?

DR. LAWRENCE GOULD: Well, it would be

something that I would agree would certainly affect the cost structure of each of the companies with different salary levels.

And if you were trying to determine a separate regulated rate for each company, it would be important. But that may not be feasible.

MR. ANTOINE HACAULT: With respect to the Ernst & Young report, do you know or are we able to determine from that report which companies surveyed came from which province?

DR. LAWRENCE GOULD: There's a distribution of what percentage came from each province but not which particular companies came from which province.

MR. ANTOINE HACAULT: Okay.

Do I understand that -- pushing it further, that we don't know whether the companies surveyed in Manitoba fell into the large, medium, or small category, as defined in that report?

DR. LAWRENCE GOULD: I believe that we do not know that.

In fact, my recollection is that Manitoba was combined with -- I could check, if you want. I think it was combined with two (2) other Western Provinces in the percentage.

MR. ANTOINE HACAULT: Okay. Well, if you need to change your answer, you can do that at a subsequent time, or if you want to check right now, that's okay too.

(BRIEF PAUSE)

DR. LAWRENCE GOULD: It was combined with Saskatchewan and -- and Manitoba. Those two (2) provinces combined in the percentage.

MR. ANTOINE HACAULT: Okay. Thank you.

Oh, upon your reading of that report, are you able to identify how old the cost data is? In other words, is it 2002? 2003?

DR. LAWRENCE GOULD: Well, it certainly includes 2003. The report was published in October of 2004. I would imagine that Ernst & Young had available to them statements from the public companies which would have been published in June of 2004, and any data that -- from their sample with financial information ending within that period, but certainly not all of 2004.

MR. ANTOINE HACAULT: And -- and do you -- we know at all whether the information they received apart from these public companies was -- met certain accounting thresholds such as auditing, or review, or final compilation?

Do we know from that report what the quality of information was that they received?

DR. LAWRENCE GOULD: I don't recall the answer to that, whether they had some audited statements and some not, or some financial data or with -- and part survey. I -- I don't -- I don't know and I don't know if that's detailed in the report or not. I'd have to reread it.

MR. ANTOINE HACAULT: I wasn't able to find it. So if you do find it, that would be useful.

I had some discussions with Mr. Schinkel about the operating costs and the allocation of -- of those costs. Firstly, I'll back up a little bit. Your recommendation as I understand it is based mainly on the Ernst & Young report, is that correct?

DR. LAWRENCE GOULD: That's correct. In conjunction with my review of the public data available for Money Mart and Rentcash, and the -- the Deloitte report insofar as costs go, but not specific to the recommendation.

MR. ANTOINE HACAULT: I'm not too sure how the Deloitte report figures in there.

Did you -- when you say "not specific to the recommendation," did you give it any weight or how much weight did you give to the Deloitte report when you --

DR. LAWRENCE GOULD: Well, the only way the Deloitte report entered into my analysis was to use it as a measure of any information I could get on how costs had changed since the E&Y report. But I did not use the specific numbers there for my recommendation.

MR. ANTOINE HACAULT: Thank you.

With respect to the cost allocation between different revenue streams, my reading of the Ernst & Young report is that it was not necessarily consistent; it depended on what was provided by the various payday loan companies.

Is that consistent with your understanding?

DR. LAWRENCE GOULD: That it -- my -- my understanding is that they -- I think they -- they had a default of revenue allocation based on percentage line of business, but that if a company had -- could explain what they did that they accepted that. So they were not consistent by that definition.

MR. ANTOINE HACAULT: You didn't have the opportunity to look at any of the background information which led to the Ernst & Young report, I believe you indicated.

DR. LAWRENCE GOULD: No, I just had -- I just had the report.

MR. ANTOINE HACAULT: Okay. Now did you direct your attention to how many payday loan companies existed in Canada at the time of the Ernst & Young report?

Do you any sense of how many companies existed?

DR. LAWRENCE GOULD: I don't know what that number would have been.

MR. ANTOINE HACAULT: Okay, the one (1) thing I did go through with Mr. Schinkel was that they sent out two hundred and eighty (280) questionnaires -- that at least gives us some kind of a starting point -- and that the report is based on nineteen (19) responses?

DR. LAWRENCE GOULD: That's correct.

MR. ANTOINE HACAULT: And we had done some calculation as to what percentage of the industry, as far as companies was then represented. If you like -- I see you taking your calculator out?

DR. LAWRENCE GOULD: I was -- I thought maybe you were going to ask me to do it, but if you're not...

MR. ANTOINE HACAULT: Oh, well, go ahead.

DR. LAWRENCE GOULD: Nineteen (19) out of two eighty (280)?

(BRIEF PAUSE)

DR. LAWRENCE GOULD: Seven (7) percent, rounded, six point seven nine (6.79).

MR. ANTOINE HACAULT: So although we did have a fairly substantial part of the stores, because we had a couple of the bigger players in this report, there's roughly 93 percent of the companies that did not provide any data to Ernst & Young -- for Ernst & Young to base conclusions on.

Is -- is that a fair statement?

DR. LAWRENCE GOULD: Well, that's true, but the first part of your statement is also true. They did have a fairly substantial number of stores in volume.

MR. ANTOINE HACAULT: So it tells us maybe more about some of the bigger players, but not about the ninety-three (93) other percent of the other store owners?

DR. LAWRENCE GOULD: The large companies did have a large percentage of the volume of the sample.

MR. ANTOINE HACAULT: Okay. And do you have any sense of what the impact of changing from a rollover environment -- at least for the CPL -- CPLA members, which included some of the bigger companies -- and going down to a non-rollover environment, did that have any impact?

I think you commented somewhat on Rentcash. Can you comment further on that?

DR. LAWRENCE GOULD: It certainly did on Rentcash, and that's one of the public companies that I actually had specific financial information on. It's difficult to disentangle, certainly in the Ernst & Young report and in general, the effect of elimination of rollovers as distinct from, say, repeat loans.

So I don't know how I could really focus on the particular change for companies without any information, without specific information, I should say. As I said, for Rentcash it was a little easier because we knew publicly what had happened there.

MR. ANTOINE HACAULT: So we've got one (1) example, and it actually -- for Rentcash, from your perspective, did it increase the cost per hundred (100) of the loan?

DR. LAWRENCE GOULD: Well, it certainly lead to increases in -- decreases in volume and increases in some costs. So it would have increased the cost, yes.

MR. ANTOINE HACAULT: Okay. But you're

unable to advise us because you don't have all the data? Just -- you just have data for one (1) company as to what the exact impact would be on the Ernst & Young numbers that changed --

DR. LAWRENCE GOULD: And very -- and very limited data even on that one (1) company. That's right.

MR. ANTOINE HACAULT: Okay. Now, I think you explained in your initial testimony that you had a chance to speak to three (3) different payday loan companies, is that correct?

DR. LAWRENCE GOULD: Yes.

MR. ANTOINE HACAULT: Okay. Did you have the opportunity to spend time in stores of each of those companies and observe client conduct and the manner of providing service?

DR. LAWRENCE GOULD: I had a -- a chance to observe, to a limited degree, how service was carried out. I tried to be fairly unobtrusive, so I -- I can't say I -- I got a full understanding of everything that went on, but certainly I got -- had some observation of it.

MR. ANTOINE HACAULT: Would you have had, or earned, some appreciation on how long it takes to do -- to cash a cheque, for example -- there's cheque cashing fees -- as compared to how long it takes to process a first -- first- time payday loan?

DR. LAWRENCE GOULD: No.

MR. ANTOINE HACAULT: Okay. Would you have had occasion to observe either collection procedures or default procedures and how much time staff would be devoting to that?

DR. LAWRENCE GOULD: No. I was really just trying to get an overall impression of how the companies offer -- operate, and how they might differ.

I'd never had the opportunity to -- to visit payday loan companies before, and I wanted to see how they carried out their business.

(BRIEF PAUSE)

MR. ANTOINE HACAULT: At page 23 of your report, in the second paragraph, there's the statement:

> "Smaller payday loan companies will require a fee in the range of twenty-three dollars ($23) to twenty-seven dollars ($27)."

Do you remember where you got the twenty-seven dollar ($27) amount?

(BRIEF PAUSE)

DR. LAWRENCE GOULD: I think the twenty-seven dollar ($27) figure was from the Deloitte report.

MR. ANTOINE HACAULT: Because I -- I'm trying to think. It's at Tab -- I don't know if you have the big binder, but it's at -- that Board counsel has been helpful in providing, but the Deloitte report is at Tab 32.

When I looked at page 11 -- and actually, now we have specific data points that were provided -- there's a table, and there isn't a twenty-seven dollar ($27) number.

There's a cost per hundred (100). There's one (1) that is in the thirty dollar ($30) range, so I wasn't too sure where you -- do you --

DR. LAWRENCE GOULD: Oh, I think I was referring to the total cost of a hundred dollar ($100) loan, which was twenty-six eighty-seven (26.87).

I -- I just rounded it up.

MR. ANTOINE HACAULT: Okay. So that -- that wasn't the higher limit. It -- so when you put a fee in the range of, you started at the lower amount, and brought it up to, I think we've used the term, median.

DR. LAWRENCE GOULD: Well, I was taking the average from the -- I don't think it was a median. I think it was an average, overall average from the

Deloitte report in that sentence that you referred me to.

And I -- perhaps I should have explained that more fully. But that was the twenty-six eighty-seven (26.87), roughly twenty-seven dollars ($27).

MR. ANTOINE HACAULT: Okay. You also make the statement -- you continue:

"... because they have a higher cost structure."

Could you turn to page 12 of the Deloitte report?

Or actually, we can start at page 11 of -- there are some of the smaller companies that are between the twenty (20) -- I'm going to say about -- we have the exact numbers now.

But I think it's about twenty-three dollar ($23) range to a little bit over twenty-five dollar ($25) range on the total cost, which includes the bad debts and operating costs.

Is that correct?

DR. LAWRENCE GOULD: Yes.

MR. ANTOINE HACAULT: And actually, before bad debt, on the next page, which is page 12, we have a table that shows operating cost at fifteen dollars ($15) for the two (2) smallest companies.

Do you see that?

DR. LAWRENCE GOULD: I do.

MR. ANTOINE HACAULT: When you were referring to, because they have a higher cost structure, were you referring to the operating cost without bad debt or?

(BRIEF PAUSE)

DR. LAWRENCE GOULD: I was referring to the total cost.

MR. ANTOINE HACAULT: Okay. And do you have any current data with respect to medium size companies in Manitoba that helps us understand that statement?

Can you point out two (2) medium size firms in -- in Manitoba for comparing firstly medium sized to smaller payday loan, can you -- do we have any data or information as of 2007 which helps us understand that statement -- when, if you would compare small to medium size.

DR. LAWRENCE GOULD: I -- I think I got lost in your question. Which statement are you referring to?

MR. ANTOINE HACAULT: Well, you have a statement that because they have higher cost structure and you're referring to smaller payday loan companies. This is on Page 23 of your report. I assume that it's comparison to other types of companies. So firstly I'm referring you to a -- a medium size which was in the Ernst -- Ernst & Young report.

Do we have any information current as of 2007 that helps us compare the cost structure of a medium size firm compared to smaller payday loan firm?

DR. LAWRENCE GOULD: I'm -- I see I understand your question. No, the -- the only current information for 2007 is the Deloitte report, and that covers what I would consider the smaller companies. I understand from listening to Mr. Schinkel that one (1) of those may be a medium firm, but generally they're the small firms. That's the only 2007 data available.

MR. ANTOINE HACAULT: So then we don't know very much about how the smaller payday loan companies in Manitoba compare as of 2007 to other size of firms.

DR. LAWRENCE GOULD: Well what we know -- what we know with regard to the Ernst & Young report, is that the costs generally increase as we go from large, to medium, to small. That's based on data 2003-2004.

Then we have data available in 2007 on small companies that can be referenced against the smaller companies from the Ernst & Young report. There's no other data available to my knowledge.

One can make the assumption that the relative costs of the small companies would be similar for the medium companies, but it would just be an assumption.

MR. ANTOINE HACAULT: Okay, but to make that assumption don't you have to assume, sir, that we're following the same cost model? If you have one firm that provides loans to higher risk clients, and as a result we see in the Deloitte report is providing services to a different sector of the consumers, how can we say that their cost structure for the basic services such as your consumer staff, etcetera are not as good as a bigger company?

Do you understand where I'm coming from?

DR. LAWRENCE GOULD: I think that the only -- the relative costs between small, medium, and large exist and are documented in the E & Y report? I'm not sure what you want to compare to that other than the Deloitte report comparing to the small companies in the E & Y. Is the question --

MR. ANTOINE HACAULT: For example, between the large firms, do we know in the E and Y report whether or not as between the large firms there's uniformity of costs of operation.

DR. LAWRENCE GOULD: Oh, I see.

MR. ANTOINE HACAULT: For example, if -- if there's one (1) large firm that accepts a 6 percent default rate and all other things are equal, you -- you might have a different cost of operation between larger operators?

DR. LAWRENCE GOULD: I -- I didn't understand your question.

MR. ANTOINE HACAULT: Is that correct?

DR. LAWRENCE GOULD: No, we -- we don't have that information. The large firms, again, are not identified and we just have the group data for the larger firms.

MR. ANTOINE HACAULT: And another factor, I think you explained, that could affect that conclusion is also the level of service or hours of service because the staffing costs are pretty significant costs in determining the costs of the model, is that correct?

DR. LAWRENCE GOULD: Those things could definitely affect the costs of each of the companies.

MR. ANTOINE HACAULT: And might I be right then to suggest to you, sir, that's why it's difficult to look at all this data in the way that we usually would for utilities because in a utility you have one (1) company and you dissect that company into services.

And everything in here, you can have different business models within the industry providing the same -- I'm going to say the same product, the payday loan, per se, but it can be provided in a number of different ways into different classes of people, is that correct?

DR. LAWRENCE GOULD: It is correct. It's a difficult problem that we have to struggle with.

MR. ANTOINE HACAULT: Now, can you tell me a little bit more about what you consider when you talk about competition in the market? My understanding from your report is that you believe there is competition in the Manitoba market? What do you look at to come to that conclusion?

DR. LAWRENCE GOULD: Well, certainly, the observation that there a number of companies operating, a number of stores in often close proximity to each other, providing certainly in -- in many areas. It seems to me there's a -- a very large number of payday loan companies.

So it's much different than the situation where you have a single provider of a service.

MR. ANTOINE HACAULT: And I believe your

counsel was kind enough to tab some references in the evidence that's been provided by CPLA. Essentially, Members of the Board, it's the same references that I had touched on with some of the CPLA Members or some additional ones.

And I'll just ask the witness to go through them, and if he's got comments of disagreements with anything that's said.

--- UNDERTAKING NO. 56: For Dr. Gould to go through the evidence provided by CPLA and if he has any comments of disagreements with anything that's said, to so advise.

CONTINUED BY MR. ANTOINE HACAULT:

MR. ANTOINE HACAULT: The first reference was to Subclause E of -- you -- you don't have the preceding page -- or it's PUB/CPLA-A1.

Have you had -- I had provided this to your early, had you had -- have you had the chance to read the question and the answer, sir?

DR. LAWRENCE GOULD: I've had a chance to read some of them. E, I have read, yes.

MR. ANTOINE HACAULT: Okay. And is it

your view then that in a competitive marketplace all lenders will be encouraged to lower their operating costs by becoming more efficient? Or do you have a different view?

DR. LAWRENCE GOULD: Well, as I understand this question, the question's relating to -- is related to specific operating expenses.

"If the Board sets an allowed rate of return based on the cost of operation, should limits be spent -- be related to specific expenses."

I think from a -- a practical point of view, an overall limit works, and lets -- does not necessarily require having limits on specific operating costs.

It would be possible for the Board to do that, but I don't -- I haven't made any recommendations along that line.

MR. ANTOINE HACAULT: I'm trying to understand your answer.

So then would it be appropriate for the Board to set a rate so that a competition in the market determines what services should be provided, and what consumers want?

Should it have that flexibility?

DR. LAWRENCE GOULD: Yes. Within whatever bounds the Board feels is necessary under their jurisdiction.

MR. ANTOINE HACAULT: Okay. Thank you.

Next, could I refer you to PUB/CPLA-A4 sub (a), which talks about various compon -- components and a fee structure determination.

Could you please read that, and then once having done so, let me know, so I'll ask you a question.

(BRIEF PAUSE)

DR. LAWRENCE GOULD: I've finished.

MR. ANTOINE HACAULT: Okay. With respect to the first item, which is simplicity and clarity for the Consumer, do you agree with the statement that that's a desirable aim for the Board to achieve?

DR. LAWRENCE GOULD: Yes.

MR. ANTOINE HACAULT: Secondly, there's a statement that another aim should be to have a maximum below which a competitive market can operate.

Is this desirable to leave the competitive market continue to operate?

DR. LAWRENCE GOULD: Yes.

MR. ANTOINE HACAULT: Next, makes a

statement with respect to a viable marketplace -- I'm not too sure what that all implies -- but which provides for a fair rate of return to the Lender.

DR. LAWRENCE GOULD: Well, I'm not sure what a viable -- exactly what a viable marketplace means, but certainly I agree with the provision of a fair rate of return to the Lender.

MR. ANTOINE HACAULT: I don't know if you were here for some of the evidence.

There was Cash-X that explained that they had tried to enter the market, and successfully did so, and withdrew after about a year, or a year and a half.

What might that tell us about what's happening in the market, and the competition in this market?

DR. LAWRENCE GOULD: I'm sorry, I wasn't here for the Cash-X, and I'm not sure what you're referring to.

MR. ANTOINE HACAULT: Okay. Well he had -- it's a payday loan provider that did offer a storefront service here for a little bit over a year, and he explained that, for various reasons -- he admitted also that maybe his business wasn't as cost effective as it should have been, but that he tried to enter the market at rates at thirty dollars ($30), and wasn't successful in doing that.

Would that tell us anything about how the market is operating in Manitoba, entry and exit of firms? Does that tell us anything?

DR. LAWRENCE GOULD: Well, I mean it sounds like -- just on very general terms, that there's some competition.

MR. ANTOINE HACAULT: And that would be expected if -- if you didn't have this entry and exit, as we've heard, that might cause us to ask further questions, but it gives us some assurance if we see some entry and exit?

Would that be fair?

DR. LAWRENCE GOULD: It's -- it's really hard -- hard to generalize without knowing a little more about what Cash-X is.

MR. ANTOINE HACAULT: Yeah. Now, the next objective was to ensure that credit is available in all areas of Manitoba, and all -- to all Manitobans regardless of their credit history. Would you agree with that? Would that be a desirable objective?

DR. LAWRENCE GOULD: I think in general the more -- or the fuller the capital market is, and the more that can be provided for consumers, the better off they are.

MR. ANTOINE HACAULT: So if you have some payday lenders that have the desire to provide services to riskier customers within this sector, making it such that they might have a 6 to 8 percent default rate, that's something that's desirable?

DR. LAWRENCE GOULD: I would think it would be desirable, yes. As I said, the fuller the capital market the better.

(BRIEF PAUSE)

MR. ANTOINE HACAULT: Next we jump to PUB/CPLA-B38, it's further in the book. Sub (b), and it's a statement with respect to the state of the competitive market for payday loans in Manitoba. Have you had a chance to read that question and answer?

DR. LAWRENCE GOULD: Yes.

MR. ANTOINE HACAULT: Now you make a comment in that ans -- firstly, was that your response?

DR. LAWRENCE GOULD: Yes.

MR. ANTOINE HACAULT: Okay. There's a comment there that there are no barriers to entry, and entry costs are low. Could you expand on that?

DR. LAWRENCE GOULD: It seems to me that the payday loan business provides easy access in terms of start-up, and relatively low costs. We're not talking about creating say the production of facilities to produce steel, which requires, you know, massive capital investments or to run a telephone company.

I think that by those standards, this is fairly easy access and until these Hearings began, no real barriers to entry.

MR. ANTOINE HACAULT: So that if there was a perception that there was a lot of money to make in this market, which Mr. Sardo says, People would be crazy to enter it, is it your view that there really isn't very much barriers to prevent people from going into it, and competing in this market?

DR. LAWRENCE GOULD: Very few.

MR. ANTOINE HACAULT: Okay. Next you make a statement that companies depren -- differentiate their products through a geographic location, hours and quality of service, and credit risk.

Can you expand further on what you might mean by "quality of service"?

DR. LAWRENCE GOULD: I think that the -- for example, the amount of time spent with customers, the hours open, all would affect the quality of service.

MR. ANTOINE HACAULT: And it may be that consumers want different levels of service and are willing to put a value on that different level of service, is that a fair statement?

DR. LAWRENCE GOULD: Yes.

MR. ANTOINE HACAULT: And with respect to credit risk, is it your understanding that some people might be refused loans at some payday lenders, but accepted in other payday lenders, is that correct?

DR. LAWRENCE GOULD: That's my understanding, that people can target different risk characteristics.

(BRIEF PAUSE)

MR. ANTOINE HACAULT: Could you flip the page to the next question, which was PUB/CPLA-B39(b). First, could you answer is -- was this a response that you provided?

(BRIEF PAUSE)

DR. LAWRENCE GOULD: Having a little trouble with the question here. Let me just...

(BRIEF PAUSE)

MR. ANTOINE HACAULT: I'm not so the question and the answer relate a lot but at least with respect to the answer if you review --

DR. LAWRENCE GOULD: Well with respect...

(BRIEF PAUSE)

DR. LAWRENCE GOULD: I definitely agree with the answer, not sure what the question was.

MR. ANTOINE HACAULT: Okay, for the record we'll repeat the answer at least then. And I'm quoting:

> "The Board's decision on the maximum fee for a payday loan will be applied to a group of companies with different cost structures. Any company with a cost structure greater than that assumed in the Board's decision will not be able to operate in Manitoba."

Next, could I ask you to move to PUB/CPLA-B43. And in particular to the answers to Subparagraphs (b) and (c). Were those your responses, Dr. Gould?

DR. LAWRENCE GOULD: I believe so.

MR. ANTOINE HACAULT: Okay. In any event having read them now, do you agree with them and --

DR. LAWRENCE GOULD: Yes.

MR. ANTOINE HACAULT: -- is it your opinion?

DR. LAWRENCE GOULD: Yes.

MR. ANTOINE HACAULT: Okay. I'll quote them for the record, it'll be easier to follow. Answer to Sub(b) was:

"Companies can compete by longer hours of service, higher levels of staff, and providing service in more locations. Companies can also differentiate their service by the level of credit risk that they are willing to tolerate. For example, Company 'A' can set more stringent credit requirements while Company 'B' might accept the higher risk clientele not able to borrow from Company 'A'."

And the answer to Sub (c), I quote:

"In the example above Company 'A' would have lower bad debt expense and could offer loans at a lower fee. Company 'B' would charge a higher fee to cover its higher bad debt expense." End of quote.

(BRIEF PAUSE)

MR. ANTOINE HACAULT: Sir, with respect to the Ernst & Young report, I wasn't able to find a definition as to what they considered to be the principal loan amount. I don't know whether you recall being able to find a definition of what was included in that term.

(BRIEF PAUSE)

DR. LAWRENCE GOULD: The -- what would be included in the principal loan amount?

MR. ANTOINE HACAULT: Yes.

DR. LAWRENCE GOULD: I -- I'm --

MR. ANTOINE HACAULT: I'll explain to you why I'm asking that question. My understanding is that Rentcash had participated in that exercise.

And you -- I don't know if you've had the opportunity to look at the rebuttal evidence of Rentcash, but it explains that in its principal loan amount, there are a number of different items included.

What I'll call the cash-in-the-pocket, just lent out, it's model also includes in the principal of the loan, the brokerage fee and other fees that are advanced to the consumer at the point of making the loan so that, at least from Rentcash reporting and its loan documents, the principal amount of the loan doesn't only include the money in the pocket a customer has lent so it can pay the brokerage fee.

Do you know or were you provided with any information as to what was considered in that context a principal loan amount when Ernst & Young did its report?

DR. LAWRENCE GOULD: The -- as I recall from the Ernst & Young report, in dealing with the Rentcash type of loan arrangement, that they included fees, which might be outside the actual Rentcash Corp. purview, to take into account the fact that there were brokered loans to equalize those with the other type of loans that weren't brokered.

MR. ANTOINE HACAULT: But --

DR. LAWRENCE GOULD: In other words, there would be costs -- different type -- it's a different cost -- it's a different business model and that they standardize that in some way.

MR. ANTOINE HACAULT: Do we know how, if at all, they standardized that and -- and what definition they used to define principal amount of the loan?

DR. LAWRENCE GOULD: My recollection is that they somehow standardized it, but I'm not sure how they did that.

MR. ANTOINE HACAULT: And I don't think there is any explanation that's provided as to how they did it. They do make the statement that --

DR. LAWRENCE GOULD: -- that they did it, yeah.

MR. ANTOINE HACAULT: So from a mathematical perspective, there is a significant difference between calculations that would be done using -- if I refer back to the Rentcash example -- money in the pocket, would there not?

Because if you do a cost calculation and you have a cost of twenty dollars ($20) per hundred (100) with a base money in the pocket, your figures would be substantially different if you included as your denominator not only the money in the pocket, but the brokerage fee. Is --

DR. LAWRENCE GOULD: I understand what you're saying. It's clear that -- what is clear is that Ernst & Young were aware that there were differences among the way companies did this and that they were standardizing or claim to standardize for it.

I did not have the individual company data, so I had to accept that they had done that.

MR. ANTOINE HACAULT: But we have no way of knowing what they did and how they did it. If I look at -- if -- depending on how they did it, if they lowered your denominator -- if they used a denominator of a hundred (100) in my example, which is money in the pocket, and they had twenty dollars ($20) of expenses, they would report it as twenty dollars ($20) of operating costs.

Is that correct?

DR. LAWRENCE GOULD: Yes.

MR. ANTOINE HACAULT: Or it would be twenty (20) per hundred (100). Now, if you had a total denominator that brought you up to a hundred and forty (140) as the principal loan amount because it included brokerage fee, you'd have the bottom number at a hundred and forty (140) -- and perhaps you can do the math -- and if your top number's still twenty dollars ($20) --

DR. LAWRENCE GOULD: Be smaller.

MR. ANTOINE HACAULT: And -- and what is the difference?

DR. LAWRENCE GOULD: Twenty (20) over a hundred and forty (140), fourteen point two nine (14.29).

MR. ANTOINE HACAULT: So instead of reporting a costs of twenty (20) per hundred (100), depending on the denominator you used, if you had included the brokerage fee, it could artificially give you a cost of fourteen dollars ($14) per hundred (100)?

DR. LAWRENCE GOULD: Well, I -- as I said, I'm assuming that they standardized this in a fair way. I'm not sure exactly what they did among the different companies.

MR. ANTOINE HACAULT: That's not something we know. We have no assurance of how they did or what they did?

DR. LAWRENCE GOULD: I -- I don't have the individual company data.

MR. ANTOINE HACAULT: Okay. Thank you.

(BRIEF PAUSE)

MR. ANTOINE HACAULT: Oh, there was one (1) table in the Ernst & Young report which ordered the stores by volumes of loans per store. This is on -- in page 40 of the report.

Can you locate that? It's figure number 6, we had discussed this with Mr. Schinkel also.

DR. LAWRENCE GOULD: I have it.

MR. ANTOINE HACAULT: Now Dr. Robinson's modelling, as I understand it, suggests that automatically if you do a higher loan volume per store, you should see your operating costs per hundred (100) go down.

Do you have any idea why the store average, which appears to be over 5 million, doesn't reflect that? Does this graph tell us anything about that assumption that Dr. Robinson is doing?

DR. LAWRENCE GOULD: Well, I would say that generally it is -- the graph does support the proposition that costs go down with volume, that if you look at the diagram that's what I would see.

I guess I'm -- I'm used to looking at data that has anomalies in it. Things never, except in the rarified world of the classroom, do they -- they ever fall on a -- a perfect line.

I'd say there's rough correspondence between decreasing costs to volume in this graph. And there is an outlier that -- that -- the 5 million is unexplained.

MR. ANTOINE HACAULT: Now that might be explained because you've already alluded to it. If that company takes a higher risk loans or spends more money and more time on service, it might be explained that way. But we don't have that data. Would --

DR. LAWRENCE GOULD: That --

MR. ANTOINE HACAULT: -- that be fair?

DR. LAWRENCE GOULD: -- that's correct. There could be explanations if you knew everything that was going on with that company. But as a general proposition, I think that you can see decreasing costs with increasing volume here.

MR. ANTOINE HACAULT: And to come to that conclusion you have to assume that everybody's got the same service patterns and the same risk patterns.

DR. LAWRENCE GOULD: Well, you can --

MR. ANTOINE HACAULT: Is that right?

DR. LAWRENCE GOULD: -- you can see the relationship, but it can be certainly affected -- a contrary case can be made for specific companies if you had specific data.

MR. ANTOINE HACAULT: And, unfortunately, we don't have that data.

DR. LAWRENCE GOULD: Because we -- we have -- obviously do have one (1) outlier there that -- well more than -- more than one (1), but that one (1) in particular which is not explained.

(BRIEF PAUSE)

MR. ANTOINE HACAULT: Thank you very much, Dr. Gould. Those are all my questions.

THE CHAIRPERSON: Thank you, sir. Perhaps Mr. Schinkel should join Dr. Gould. Mr.

Schinkel, welcome.

CPLA PANEL:

DEAN SCHINKEL, Resumed

THE CHAIRPERSON: As you are getting settled maybe we will just take five (5) minutes to stand up and stretch. It has been a long day.

--- Upon recessing at 6:10 p.m.
--- Upon resuming at 6:17 p.m.

THE CHAIRPERSON: Okay. Welcome back everyone. So it is over to Mr. Williams. You can begin any time you want.

MR. BYRON WILLIAMS: Thank you, Mr. Chairman. Just for the reference, both of the CPLA Panel and the Board, the documents I'm going to be referring to, I think, are almost exclusively three (3) documents.

One (1) is the Ernst & Young Report in its entirety, so I believe that's found in the prefiled evidence of the CPLA.

And the other two (2) are the Deloitte Report, which is Tab 32, and Dr. Gould's Report, which is Tab 36.

And before starting I'm -- before starting I'm -- during the -- I note, during the 1990s I spent a lot of time in Hull and Ottawa at the CRTC proceedings. And it always seemed invariably I would be doing my cross-examination at kind of 4:00 on a Friday, at the end of a six (6) week hearing.

And so I can empathize with the Board and with Dr. Gould and Mr. Schif -- and with -- and with -- and Mr. Schinkel.

CONTINUED CROSS-EXAMINATION BY MR. BYRON WILLIAMS:

MR. BYRON WILLIAMS: I do want to start by thanking you, Dr. Gould, I know you've had to disrupt your schedule. Mr. Schinkel, you've been here far too often. So I'll express my --

MR. DEAN SCHINKEL: Agreed.

MR. BYRON WILLIAMS: -- appreciation. And -- and I've -- I've promised Board counsel we will be out of here by 8:00. I think we will be out of here quite a bit before that, and -- and we'll commence.

Now, Dr. Gould, I just want to start by reminding you of a conversation. And it seems so long ago, I can't even tell you when we spoke, but probably last -- last Wednesday or so. But it was November 21st or so.

You and I were discussing the concept of a just and reasonable rate. And I think that, you know -- and I don't think you need to turn there -- but we agreed that in considering a just and reasonable rate it was -- part of the consideration was a balance between consumers and industry.

Is that right, sir? You recall that conversation at a high level?

(BRIEF PAUSE)

DR. LAWRENCE GOULD: Well, just and reasonable rate has to be fair, by definition, to both consumers and a company.

MR. BYRON WILLIAMS: And we also agreed as we -- we went on with that discussion that when we're looking at just and reasonable rate we also want to ensure that there's fairness between different, as I use the term, classes of consumers so that groups are not bearing the costs of other -- other consumers.

Do you -- do you recall that conversation, at least a high level, sir?

DR. LAWRENCE GOULD: I recall discussion about that. That -- that aspect is something that's considered in regulation. And sometimes it's equalized and sometimes other groups -- some groups will bear more of a burden than others.

MR. BYRON WILLIAMS: And I'm going to -- the reason I just reminded you of that, from time to time, is I'm going to direct your attention primarily now to the Ernst & Young report for some time.

And when I go through it I may be asking your advice on issues related to that kind of issue of -- of equality or fairness between consumers, just to get your advice if you -- if you feel like sharing it.

Dr. Gould, so you have the Ernst & Young report there? I see it to your right?

DR. LAWRENCE GOULD: I do.

MR. BYRON WILLIAMS: Okay. And it's fair to say that you rely extensively on Ernst & Young in your work? Would that be fair, sir?

DR. LAWRENCE GOULD: Yes.

MR. BYRON WILLIAMS: And you don't need to turn there, I'm pretty sure, but you can if you wish, at -- in fact, at page 11 of your evidence you say:

> "It is the only study that I am aware of that collected and analysed actual costs of a representative sample of the entire Canadian Payday Loan Industry."

Does that reflect your sentiment, sir?

DR. LAWRENCE GOULD: Yes.

MR. BYRON WILLIAMS: In -- in terms of Ernst & Young, I'm just curious, when you use the words "representative sample," in what context were you using representative sam -- sample?

For example, were you speaking of the number of firms, the number of stores, or total annual volumes? In what sense were you using representative, sir?

DR. LAWRENCE GOULD: I think I was just using it in the sense that it represents the payday loan stores from across the country with a certain level of volumes to represent a cross-section of the Canadian Payday Loan Association -- small, medium and large.

MR. BYRON WILLIAMS: So in terms of representative, I think you had three (3) concepts there. One (1) was across the country; small, medium and large; and also volumes as well. Is that right, sir?

DR. LAWRENCE GOULD: Well that it -- that it -- it had -- I think that it's probably easiest to just look at what...

MR. BYRON WILLIAMS: And it might be at page 45, where I'm going to be directing you, Dr. Gould. But I -- but you can turn wherever you wish.

(BRIEF PAUSE)

DR. LAWRENCE GOULD: Just give me one (1) minute.

(BRIEF PAUSE)

DR. LAWRENCE GOULD: I -- I think what Ernst & Young said -- that's why I wanted to make sure I was quoting them correctly -- is that they wanted to get responses from at least fifteen (15) companies, representing at least one-third (1/3) of the industry's total annual revenues or loan volumes.

That's the definition that I was looking for.

MR. BYRON WILLIAMS: Okay. And so that -- their objective in -- in a sense, in terms of representative, they would look at it -- a relatively small number of companies but at quite a significant amount of total annual revenues or loan volumes.

Is that right, sir?

DR. LAWRENCE GOULD: Well, I think they would have liked to have as many companies as possible and that they set a minimum, and they got more than the minimum.

MR. BYRON WILLIAMS: And the -- the -- they were also aiming for a target in terms of total annual revenues or loan volumes. Is that right, sir?

DR. LAWRENCE GOULD: Yes.

MR. BYRON WILLIAMS: And just -- and again, at the risk of being tedious, I'd ask you to turn to page 45 of the Ernst & Young evidence.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: And in the -- the third paragraph on that page -- this is under "Conclusions" -- they indicate that survey respondents represented nearly half (1/2) of the estimated number of stores across Canada, making this a statistically significant sample.

Do you agree with that conclusion, sir?

(BRIEF PAUSE)

DR. LAWRENCE GOULD: Yes.

MR. BYRON WILLIAMS: Now -- and again I realize it's late in the day, Dr. Gould, but I -- I'm going to walk with you through a fair bit of the Ernst & Young study with my apologies to the Board if -- if their eyes feel a little heavy.

And I'm going to put some propositions from Ernst & Young to you and just get your views on whether those are a proposition that you are in general agreement with or disagreement with.

Is that fair, sir?

DR. LAWRENCE GOULD: Yes.

MR. BYRON WILLIAMS: And I'll -- I'll -- we'll start with page 7.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: And I'll direct your attention to the -- the bottom of that page, the second-last bullet on the bottom. And the first line there states that:

"The cost of originating a payday loan for a first-time customer involves more time and resources that originating a loan for an existing or repeat customer."

Do -- in your view, Dr. Gould, is that a fair statement based upon the Ernst & Young report?

DR. LAWRENCE GOULD: Yes.

MR. BYRON WILLIAMS: And I'll ask you to

turn to page 14 now, please.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: And under the -- two-thirds (2/3s) of the way down the page, under the heading "Repeat Customer Rollover/Extensions and Rewrites" -- and my eyes are failing me, so I'll pull it a little bit closer -- the -- the first two (2) sentences there are -- first of all, the first sentence is:

> "Once the payday loan operator has an active file for the customer, then the time and effort required to serve that existing customer with a subsequent loan is less than that for a new loan."

Is that a fair statement based upon this report, sir? Is that one you accept?

DR. LAWRENCE GOULD: Yes.

MR. BYRON WILLIAMS: Okay. Secondly:

> "Similarly, rollovers, extensions and rewrites of loans will not be as time intensive as for a first time customer."

Is that a statement you would accept as well, Dr. Gould?

DR. LAWRENCE GOULD: Yes.

MR. BYRON WILLIAMS: Well, I'm on a roll. I've got to meet Mr. Cathcart's time -- time line of I believe it was 7:17, so. I'm doing my best, Dr. Gould, so. Turning to page 25 of this report, Dr. Gould, and I'm directing your attention -- it's under number 2, "Ratio of First Time to Repeat Customers," and it's the -- the third paragraph under there, the last sentence.

> "On average, respondents reported that first time transactions take two point six eight (2.68) longer than repeat rollover rewrite transactions."

And going on to the next paragraph:

> "The number of first time customers that a business has as a proportion of the total will have an impact on the business's cost structure, especially for start-up firms who have only first time customers initially."

Is -- is that a fair statement, sir?

(BRIEF PAUSE)

DR. LAWRENCE GOULD: I -- I think the

statement, the second statement is -- is a fair statement. I -- the exact calculation of two point six eight (2.68), I can't affirm.

MR. BYRON WILLIAMS: And that's a -- that's fair, sir. And it was probably unfair to -- to merge them into the -- the same question. I was more interested in the -- in the second statement. And I wonder, for example, let's take the -- the -- if memory serves me right, those firms in the Deloitte sample, you'll recall that some of them started as late as September of 2005.

Would you expect their costs to be higher than stores that might have been in the market for -- per --excuse me -- would you expect their costs per hundred dollar ($100) loan to be higher than stores that had been in the market for a longer period of time, sir?

DR. LAWRENCE GOULD: Well, it's an interesting question. I -- I don't think so. I think that two (2) years would be sufficient to hit the -- the effect of losing the first-time customers.

MR. BYRON WILLIAMS: And -- and -- I'll -- I'll take that further. Would it be your -- your evidence or assumption that stores, in terms of their cost structure, are -- are mature after two (2) years, sir?

DR. LAWRENCE GOULD: That's my feeling, yes.

MR. BYRON WILLIAMS: Is there evidence in the record that you rely on, or is that just a -- a general sense?

DR. LAWRENCE GOULD: I think it's a general sense that I got from speaking with payday loan companies.

MR. BYRON WILLIAMS: Now, turning to page 27, and I'm very confident you'll agree with this -- this statement 'cause I -- I think you've said much the same. At the top:

> "Ernst & Young are equal. The choice of rate of return on equity and the interest rate on debt does not make a significant difference in this analysis and the reason for this is that operating costs are by far the largest costs faced by payday loan providers while the cost of capital is relatively small."

That's a statement you can agree with, sir?

DR. LAWRENCE GOULD: Yes, and -- and, of course, that's within the -- the -- it is a statement I agree with, but it's -- it's within the context of looking at the -- the divergence of overall cost estimates.

It may, at some point, be something that the Board might want to pay attention to fine tuning, but, at this stage, there's such a wide difference in the cost estimates that it's virtually insignificant.

MR. BYRON WILLIAMS: And just to -- to underline that point, and you can turn to page 29, if you wish, but -- but if we really -- or page 30, as well. But really, what Ernst & Young show is that operating costs are by far the largest cost component, representing nearly three quarters (3/4) of the total cost.

Would that be a fair statement, sir?

DR. LAWRENCE GOULD: Yes.

MR. BYRON WILLIAMS: And, I guess, in -- in the Ernst & Young calculations, the -- the next biggest one would be the -- the bad debt costs, which just roughly is a on -- on a -- looking at the unweighted averages of all firms, that would be -- I should turn on my calculator before I do that.

DR. LAWRENCE GOULD: 21 percent.

MR. BYRON WILLIAMS: 21 percent. Thank you, sir. Now, at page 28 of the Ernst & Young evidence, and there's a -- this is under sub A, "Costs of Providing a Payday Loan." I'm not going to argue -- ask whether you agree with this statement, but Ernst & Young says:

> "The industry is dominated by certain large operators, which influences the data sample."

And, Dr. Gould, do you understand in -- in what sense Ernst & Young was using the word, "dominated"? For example, were they talking about the volume of loans; is that what they meant by that, sir? Or do you -- do you know?

DR. LAWRENCE GOULD: I think what they were referring to there was that the larger operators have a substantial number of the stores and volume in the sample. And the -- I think in -- in there, the "dominant" refers to its statistical impact of a -- a very large store, on the averages.

MR. BYRON WILLIAMS: And -- and just to make sure I understand in terms of dominance. Essentially, you've got large stores with, on average, lower operating costs and also representing a very large share of the total payday -- payday loan volume.

Is that a fair statement, sir?

DR. LAWRENCE GOULD: I think they were concerned that simply averaging in -- for example, if you have one (1) store that has a very large volume and low cost, that that would have a -- a major significant impact on the averages, but not necessarily reflect on what was indicative of the entire payday industry.

MR. BYRON WILLIAMS: And -- and what they -- they attempted to do in Ernst & Young is that -- if I understand this correctly, sir, is they presented cost data in two (2) ways. First of all, using unweighted averages, and then they also performed a -- an exercise involving, at least to a certain degree, a weighted average.

Is that right, sir?

DR. LAWRENCE GOULD: A constrained weighted average.

MR. BYRON WILLIAMS: And the con -- by "constrained weighted average" you mean they -- they -- and again, we don't need to get into precise details, but essentially they took the -- the la -- the largest player, which had about 20 percent of the stores, but they assigned to it about 33 percent of the volume.

Is that right, sir?

DR. LAWRENCE GOULD: I don't remember exactly the first percentage, but they def -- they assigned a 33 percent weight to that one (1) company. Oh, it says: "Appro -- it's approximately 20 percent of the total number of stores in the industry."

MR. BYRON WILLIAMS: And they assig -- assigned 33 percent?

DR. LAWRENCE GOULD: 33 percent weight.

MR. BYRON WILLIAMS: Yeah. And just at a high level, leaving aside the question of whether one would be using unweighted or a constrained weighted average, in terms of the methodology that Ernst & Young employed in terms of the doing the constrained weighted, do you have any concerns with what they did, sir?

DR. LAWRENCE GOULD: I think that the constrained weighted average is an arbitrary way of doing it. I -- I think they made an informed judgment, but in my opinion, the unweighted averages better reflect what's going on in the industry.

MR. BYRON WILLIAMS: I -- I know you -- because you've expressed this in your opinion, I -- I was more concerned with the -- with the methodology. You -- you've indicated it was done on an informed judgment.

Do you have any concern with the actual methodology that they employed in terms of the -- the weighted average?

DR. LAWRENCE GOULD: Well, when I said it's arbitrary, it doesn't necessarily mean it's wrong. I don't know how they determined 33 percent. They said that they had discussions with the industry and the operators on intelligence but, to me, that's not any explanation of how they arrived at 33 percent.

MR. BYRON WILLIAMS: So by using the word "arbitrary" you're -- you're just -- you're indicating you have no knowledge of how they calculated that?

DR. LAWRENCE GOULD: That's correct.

MR. BYRON WILLIAMS: And --

DR. LAWRENCE GOULD: Well, I have a knowledge of how they said they calculated it, but it's vague enough that I don't have much of a real feel for what was underlying the judgment.

MR. BYRON WILLIAMS: Now, turning to page 31 of Ernst & Young, there's -- do you have that, Dr. Gould?

DR. LAWRENCE GOULD: Yes, I do.

MR. BYRON WILLIAMS: At the bottom of page 31, there's some discussion of a multi-line versus mono-line payday lenders. Do you see that, Dr. Gould?

DR. LAWRENCE GOULD: Yes.

MR. BYRON WILLIAMS: And my understanding is that Ernst & Young, for the purposes of this study, defined "multi-line businesses" as those that earn less than 90 percent of their revenues from payday lenders.

Is that right, sir?

DR. LAWRENCE GOULD: Yes.

MR. BYRON WILLIAMS: And by -- I guess by def -- the opposite of that is mono-line payday lenders would be those earning 90 percent or more of their revenues from payday lending.

Would that be correct, sir?

DR. LAWRENCE GOULD: Yes.

MR. BYRON WILLIAMS: And turning to the -- to the top of page 32 and, Mr. Schinkel, you -- you can pay attention to -- I'm sure you are anyways, but I -- I'm coming -- I'm coming to you quite soon. So, if I was making your -- your eyes droop a little bit, you'll -- you'll follow me now.

It would be fair to say that in terms of the small businesses reported in Ernst & Young, Ernst & Young here at the top of page 32 indicates mono-line businesses earn 90 percent more of their revenues from payday lending and include all of the small businesses.

Do -- do you see that, Dr. Gould and Mr. Schinkel?

DR. LAWRENCE GOULD: I do.

MR. BYRON WILLIAMS: Do you see that, Mr. Schinkel?

MR. DEAN SCHINKEL: Yes.

MR. BYRON WILLIAMS: So when -- and this is to Mr. Schinkel. When we -- when we look at the cost structure -- excuse me, when we look at the design for the small businesses -- small payday lenders captured in the Ernst & Young sample, those are all mono-line businesses. You'll agree with that, sir?

MR. DEAN SCHINKEL: Can you just repeat that question. I want to --

MR. BYRON WILLIAMS: All these -- in Ernst & Young mono-line businesses earn 90 percent or more of their revenues from payday lending and include all of the small businesses.

Is that right, sir?

(BRIEF PAUSE)

MR. BYRON WILLIAMS: To put it another way, the -- the small businesses in the Ernst & Young sample were all mono-line businesses.

DR. LAWRENCE GOULD: I -- I'm not sure that that's a correct interpretation. I -- I think what -- they're saying that the mono-line businesses include all the small businesses.

But -- but there could be small businesses that weren't mono-line.

MR. BYRON WILLIAMS: Well let's try this another way, Dr. Gould. Let's back up a -- a page, page

31, and you'll see that there are seven (7) respondents in the survey who are classified as multi-line operators on the basis of this definition.

Do you see that, sir?

(BRIEF PAUSE)

DR. LAWRENCE GOULD: Yes.

MR. BYRON WILLIAMS: And these seven (7) businesses represent 94 percent of the volume of payday loans of the nineteen (19) businesses that participated in the study, and four hundred and nineteen (419) of the four hundred and seventy-four (474) stores represented in the entire sample.

Do you see that?

DR. LAWRENCE GOULD: So it would appear, yes.

MR. BYRON WILLIAMS: And then we go to mono line business that include -- it says include all of the small business. So I wonder if you'd be prepared to agree that the small businesses captured in the Ernst & Young sample are mono-line businesses.

Would that be -- would you agree with that?

DR. LAWRENCE GOULD: It would -- give me

one minute. I just wanted to check one thing.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: And, Dr. Gould, if it will help you, at the top of page 32 they talk about while most of the twelve (12) business in this group are single or two (2) store businesses, there are two (2) businesses that are multi-store chains.

So, on the page 31, we've got seven (7) businesses being multi-line businesses. On page -- page 32, we've got twelve (12) being mono-line, including all of the small businesses.

(BRIEF PAUSE)

MR. DEAN SCHINKEL: I'm referring to page 23, where they say there's eight (8) firms included in small businesses.

DR. LAWRENCE GOULD: That's what I'm having trouble with as well.

MR. BYRON WILLIAMS: And -- well, I'm -- I'm going to suggest to you that at the top of page 32 when it -- it says that the mono-line businesses include all of the small businesses, that means that all of the small businesses in the sample are mono-lines. Is there anything you can suggest that indicates otherwise?

(BRIEF PAUSE)

MR. DEAN SCHINKEL: I would agree with that.

MR. BYRON WILLIAMS: I wonder if you can turn just for minute to page 9 of the Deloitte report which, I believe, is tab 32 of the -- of the -- of the book kindly provided by Board counsel.

And -- and I think this goes to Mr. Schinkel, Dr. Gould, so -- would I be correct in suggest -- sorry, Mr. Schinkel, it's page 9 of Deloitte.

Would I be correct in suggesting to you that of the respondents to -- to your -- the -- the five (5) respondents to your survey; they indicated that payday loan revenues constituted somewhere between 68.9 percent to 94.9 percent of total company revenues.

Would that be right, sir?

MR. DEAN SCHINKEL: Correct.

MR. BYRON WILLIAMS: So again, just in terms of the definition of -- employed by Ernst & Young -- of "multi-line" versus "mono-line," a store with 68.9 percent of its revenues from payday loan revenues would be a multi-line store?

Would that be correct, sir, using that definition?

MR. DEAN SCHINKEL: Correct, based on the Ernst & Young definition.

MR. BYRON WILLIAMS: And a store with 94.9 percent, using, again, the Ernst & Young definition, would be a mono-line, would that be right, sir?

MR. DEAN SCHINKEL: Correct.

MR. BYRON WILLIAMS: So your sample had some multi-line businesses and some mono-line businesses, again employing the Ernst & Young's data, sir -- definition, sir?

MR. DEAN SCHINKEL: So based on the Ernst & Young definition, that's correct. And I think for greater clarity, as when I was preparing the Deloitte report, I had reviewed the Ernst & Young report, but did not have that definition in mind. And I may have stated in an earlier day that all of ours were multi-line. That would have been based on a definition that there are other revenue lines.

So when I stated that it would not have been based on the Ernst & Young definition.

MR. BYRON WILLIAMS: And I'm not criticizing --

MR. DEAN SCHINKEL: No, I just want to correct --

MR. BYRON WILLIAMS: Yeah.

MR. DEAN SCHINKEL: -- there may have been a --

MR. BYRON WILLIAMS: Yeah.

MR. DEAN SCHINKEL: -- some confusion there with those --

MR. BYRON WILLIAMS: Fine.

MR. DEAN SCHINKEL: -- with the different definition.

MR. BYRON WILLIAMS: But if we employ, just for the purposes of a standard definition, the Ernst & Young definition, the small, or excuse me, your sample has some multi-line businesses and some mono-line businesses.

Is that right, sir?

MR. DEAN SCHINKEL: Based on the sample, we would have two -- two (2) mono-line and three (3) multi-line if 90 percent is used as the cutoff.

MR. BYRON WILLIAMS: Just going -- I don't know if you recall, you -- you slam-dunked me on the last time I talked to you about bananas and -- and apples, so I want to go back at that again just one more time, Mr. Schinkel, so feel free to do so again.

But let's -- let's pretend that mono-lines are apples and multi-lines are bananas; would I be correct in say -- suggesting to you that within your sample we have two (2) apples and three (3) bananas?

Would that be right using those definitions?

MR. DEAN SCHINKEL: Correct.

MR. BYRON WILLIAMS: And if we go to the Ernst & Young sample of -- of small businesses, those would be all apples, because they're all mono-lines, is that right, sir?

MR. DEAN SCHINKEL: Correct.

MR. BYRON WILLIAMS: I have to tell you, I asked that question with some fear because you slapped me around last time, but...

And, again, this is not meant as a -- a slam but as a question of clarification. And -- and I believe you covered this, Mr. Schinkel, with my friend, Ms. Southall. But just to be certain, your report does not segregate costs between types of payday loans and whether they're first or repeats.

Is that right, sir?

MR. DEAN SCHINKEL: That's correct.

MR. BYRON WILLIAMS: And Ernst & Young does segregate between first-time loans and repeats and rollovers. Is that right, sir?

MR. DEAN SCHINKEL: Correct. I believe they do both where they segregate and they also show data combined.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: Dr. Gould, it's -- it's back to you, and I'm going to Ernst & Young, pages -- about page 32.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: And I'm actually, Dr. Gould, I'm going to go to pages, actually over one (1) page to page 33 and page 34. I apologize for that.

And I'm going to ask you just to confirm for me that if I look at Table 6A, what this table is trying to explain is the -- the -- what -- what the results of the Ernst & Young survey in terms of costs of providing first-time payday loans, and in -- this is an unweighted average of survey respondents.

Would that be -- be fair, sir?

DR. LAWRENCE GOULD: Yes.

MR. BYRON WILLIAMS: And just what this

table -- if I look at very quickly, and again, it's unweighted -- the average for all firms was thirty-nine point four five (39.45) with large businesses being around thirty-one point seven three (31.73) and -- and going up to small businesses, on average, being forty-four point four eight (44.48).

Is that right, sir?

DR. LAWRENCE GOULD: That's correct.

MR. BYRON WILLIAMS: And I'll -- I'll just do the same, if -- if you would, for Table 6B. And I -- I recognize your -- your comments regarded weighted averages, but this does the same thing of costs of providing first-time payday loans, but by weight averages.

Would that be fair, sir?

DR. LAWRENCE GOULD: Yes.

MR. BYRON WILLIAMS: And the average of all firms is about twenty-nine point three five (29.35) with a range, on average, for large businesses of twenty-eight fift -- twenty-eight dollars and fifty cents ($28.50), and for small businesses forty-three dollars and thirty-three cents ($43.33).

Would that be right, sir?

DR. LAWRENCE GOULD: That's correct.

MR. BYRON WILLIAMS: And that's cost per

hundred dollars ($100).

DR. LAWRENCE GOULD: Yes.

MR. BYRON WILLIAMS: And just for comparison purposes, I'd like you to turn over one (1) more page to -- to Table 7A. And -- and just to -- to make sure I stay with the program, the -- the Table 6A and 6B, we're looking at the cost of first time loans, correct?

DR. LAWRENCE GOULD: That's right.

MR. BYRON WILLIAMS: And Table 7A and Table 7B, which appears on the next page, are looking at the costs of providing repeat or rollover payday loans.

Is that right, sir -- on a weighted and -- or unweighted average. Is that right?

DR. LAWRENCE GOULD: In -in the opposite order that you said it, but that's right.

MR. BYRON WILLIAMS: And -- and I apologize for that. And again, I'll only do the -- the unweighted average so as not to belabour the -- the point too much. But if -- if I look at this, I see that the average of all firms is eighteen dollars and twenty cents ($18.20).

Is that right, sir -- unweighted average of -- per hundred (100)?

DR. LAWRENCE GOULD: Yes.

MR. BYRON WILLIAMS: And that ranges from large businesses of fourteen dollars and eighty cents ($14.80) per hundred dollars ($100) of repeat or rollover loans up to twenty dollars and fourteen cents ($20.14) per hundred (100) for small businesses, as defined by Ernst & Young.

Is that right, sir?

DR. LAWRENCE GOULD: That's correct.

MR. BYRON WILLIAMS: So is a general -- and we'll use unweighted averages for now because that's -- you're more comfortable with that. I'm looking at -- for the first-time payday loan, an unweighted average of thirty-nine forty-five (3945), according to Ernst & Young for all firms; that's Table 6A.

And for repeat or rollover loans, a little less than half of that, an average of all firms of eighteen dollars and twenty cents ($18.20).

Is that right, sir?

DR. LAWRENCE GOULD: Could you just repeat the numbers, because I was trying to find the tables where they're set out.

MR. BYRON WILLIAMS: And I apologize. I should have had them both at hand. But I -- what I would just -- to make sure I understand, we're looking with reference to Table 6A at the cost of providing first-time payday loans, the average of all firms of thirty-nine dollars and forty-five cents ($39.45), correct, sir?

DR. LAWRENCE GOULD: Yes.

MR. BYRON WILLIAMS: And when we compare to the costs of providing repeat or rollover payday loans, the average of all firms, on an unweighted cost per hundred (100), is -- is eighteen dollars and twenty cents ($18.20), correct?

DR. LAWRENCE GOULD: That's based on Ernst & Young's calculation of the differences in the costs --

MR. BYRON WILLIAMS: Yes.

DR. LAWRENCE GOULD: -- for those two (2) loans.

MR. BYRON WILLIAMS: Yes. Thank you. And I -- I was just trying to translate that just to the recommendations that -- that you've made, and let's acc -- accept for a minute that the -- that the Ernst -- that -- that these are the right numbers.

Am I right in suggesting to you at, -- at a range of, let's say, somewhere between twenty (20) and twenty-six dollars ($26), that a -- a payday lan -- loan pro -- provider will be losing money on the first loan. Wou -- would that be fair if you're looking at average costs of thirty-eight forty-five (3845)?

DR. LAWRENCE GOULD: Based on these numbers, that would be right.

MR. BYRON WILLIAMS: And, so, in order to earn a fair rate of return, basically the assumption has to be that it will -- those customers will -- will come back and that it will -- will make money on the repeat business.

Is that fair, sir?

DR. LAWRENCE GOULD: Well, the overall -- it's true that Ernst & Young provide the separate calculations. But the overall costs don't really take that speci -- these two (2) specific numbers directly into account.

They're just based on the total business without regard to whether it's first-time or repeat loans, it's a blended payment. A blended number.

So that to the extent that that reflects their general business, whatever that is, that would have to be what generates the revenue.

MR. BYRON WILLIAMS: And -- and I may have -- when you -- when you said it's a "blended number," are you referring to the -- the recommenda -- the recommended number, sir?

DR. LAWRENCE GOULD: Well the -- the overall -- Ernst & Young provide the costs of providing loans for small, medium and large.

Then they provide these additional tables that segregate this out based on two (2) different types of loans. But the overall number is really the real number.

MR. BYRON WILLIAMS: And -- and maybe I'm being thick on this, Dr. Gould, so you'll correct me if I -- if I'm wrong.

We've agreed before, and I think it's at page 14 of the evidence, but we've agreed that it's less expensive to pro -- and less time intensive to enter into a transaction for a repeat or -- or rollover loan than it is for a first-time loan.

Did -- are we agreed on that?

DR. LAWRENCE GOULD: Yes.

MR. BYRON WILLIAMS: And what -- what I'm trying to get at then, is in order for a -- a fees in the range of -- to recover one's costs based on the Ernst & Young data, a company could not make money if it was only dealing with first-time, one-time-only customers.

Is that -- would that be a fair statement, sir?

DR. LAWRENCE GOULD: If -- it would be if tables -- the tables that differentiate or do those separate calculations are accurate.

But you see, those are based on a different set of calculations. In other words, there has to be -- there was a -- there's a -- a separate determination on allocating the cost between first and repeat loans.

MR. BYRON WILLIAMS: Well, let me put it bluntly to you. Could a payday loan provider survive without repeat business based on what you've seen from Ernst & Young and -- and assuming a twenty (20) to twenty-six dollar ($26) fee range?

DR. LAWRENCE GOULD: They would have to have some repeat business.

MR. BYRON WILLIAMS: And Ernst & Young states at page 36 -- excuse me, did I interrupt you?

DR. LAWRENCE GOULD: No.

MR. BYRON WILLIAMS: Okay. Ernst & Young states on page 36, and I'm returning -- page 36 of -- I'm referring to between Table 7(b) and Table 8 -- that on average payday lenders provide fifteen (15) repeat or rollover loans for each first-time loan they provide.

Is that correct, sir?

DR. LAWRENCE GOULD: On average, that's correct.

MR. BYRON WILLIAMS: And I want to direct your attention to the bottom of page 36, and we're going to move onto the next page as well.

But, I'm going to suggest to you that one (1) of the conclusions Ernst & Young draws is that companies that have a higher proportion of new customers will have higher costs.

That's a conclusion Ernst & Young draws; is that right, sir?

DR. LAWRENCE GOULD: That is one of their conclusions.

MR. BYRON WILLIAMS: Yeah. And they go on to say that:

"This is an important factor for companies that have just entered the market and for companies that are in a rapid expansion phase."

Do you see that, sir?

DR. LAWRENCE GOULD: Yes.

MR. BYRON WILLIAMS: And they go on to say that:

"Until a steady customer base is developed, these operators will be facing higher costs associated with signing up and processing first-time customers."

I've read that correctly, sir?

DR. LAWRENCE GOULD: Yes.

MR. BYRON WILLIAMS: And do you agree with that statement, sir?

DR. LAWRENCE GOULD: Yes.

MR. BYRON WILLIAMS: Okay. And they go on to state that:

"Clearly, the long run survival of payday loan operator will depend on achieving a steady repeat customer business."

I've read that correctly?

DR. LAWRENCE GOULD: Yes.

MR. BYRON WILLIAMS: And do you agree with that conclusion, sir?

(BRIEF PAUSE)

DR. LAWRENCE GOULD: I think it would depend on the rate that was set. You could certainly establish a rate that would keep a payday loan operator in business on the basis of first-time loans, but it would be higher.

MR. BYRON WILLIAMS: Okay, and let me -- let me go back, and I should of been more careful in my question. Assuming that a rate is set, let's say, in the range that you're recommending, the long-run survival of a payday loan operator will depend on achieving a steady repeat customer business.

DR. LAWRENCE GOULD: Since the rate was based on a blend of first-time and repeat business, it would have to reflect similar balance.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: It's a -- it's a scary thing, Dr. Gould, for a lawyer to put -- his -- himself in the -- the arms of a witness with an open-ended question, but I'm -- I'm going to do that. And I'm going to be -- try and be frank with you in terms of one (1) of the things my clients are -- are struggling with. So I told you I would seek your -- your advice so -- so here it is.

In -- in looking at a just and reasonable rate, my clients certainly are cognizant of cost causality. They're also cognizant of issues around the risk of individuals becoming addicted or using payday loans too frequently. There -- they may be some concerns with that. Do you have any -- and I know you've recommended a -- a blended cost structure -- but do you have any thoughts on if -- on whether, for example, rollovers, for example, should be set at the same level, same cost, as a first-time loan.

Do you have any -- I -- I know you weren't retained to do that, but I'm -- I'm asking you with -- your counsel may or may not give you permission to do so, but to -- to offer some advice to my Board -- or to my clients in -- in terms of that.

I wonder if you any thoughts on -- on that.

DR. LAWRENCE GOULD: I haven't investigated it, but I will -- I will give you my thoughts, for what they're worth.

There are many aspects of setting these fees that could be very specific trying to allocate the exact costs for -- to the person that's paying it. The problem with all those things is they involve a certain level of complexity. And one of the goals, I think, for consumers is to prese -- be -- be able to set a schedule that everybody can understand. And I think that -- that's where the trade- off comes.

You can certainly design more complex fee structures than the one that I've recommended which is just a cost per hundred, and one could argue in theory that there could be much more exact ways to allocate those costs, and I wouldn't disagree with that.

But I would say that it adds a degree of complexity and confusion to something that may not be worth the benefit, and particularly in any of these situations when you start trying to allocate costs specific to the -- say some theoretical model, you may run into a situation where the cost of the first-time loan purchaser becomes so high that it's very difficult to use.

So that's about all my thoughts on that.

MR. BYRON WILLIAMS: Well, those were helpful thoughts. And -- and as I -- just three (3) themes that I took from those -- and you'll correct me if I -- if I've misstated your -- your information -- you talked of themes, first of all of -- well, last of all -- of accessibility in terms of making sure that the loan is accessible, you spoke of issues of complexity, and you also adverted to issues of cost causality. So those are the -- at least three (3) of the issues that you see being in the mix.

DR. LAWRENCE GOULD: They're all --

MR. BYRON WILLIAMS: Is that fair, sir?

DR. LAWRENCE GOULD: They're all in the mix.

MR. BYRON WILLIAMS: Would -- and I'm going to push it just one more -- one more step and --

and again, I don't think there's a right or wrong answer -- I'm just interested and my clients certainly are, in -- in your opinion -- added to that mix do you see any validity in the objective of deterring frequency of use?

DR. LAWRENCE GOULD: On that I think that consumers have to make a decision for themselves. I think trying to design -- to design a -- a deterrent schedule would not be productive.

MR. BYRON WILLIAMS: So we'll throw into the mix accessibility, complexity and cost causality, and we'll exclude deterrents of frequency --

DR. LAWRENCE GOULD: Well, --

MR. BYRON WILLIAMS: -- from your --

DR. LAWRENCE GOULD: -- from my --

MR. BYRON WILLIAMS: That -- that's from your perspective.

DR. LAWRENCE GOULD: -- perspective, yeah.

MR. BYRON WILLIAMS: Fair enough.

Dr. Gould, and -- and this isn't part of your evidence so again this is one of those questions if you don't want to -- to answer, certainly you don't have to, there's a -- and I'm not going to...in the Rentcash submission -- they talk about at page 4 -- they talk about the potential for cross-subsidy of up-front charges with amounts charged to rollovers.

Your blended fee structure, do you see that as a -- a cross-subsidy as you understand those words, i.e. cross-subsidy from ...

DR. LAWRENCE GOULD: Well, certainly if you have a level charge to two (2) customers where one (1) cost is higher, there is some over charge or under charge, as the case might be.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: Just a couple seconds, Mr. Chairman. I'm going back, and I'm just checking my reference.

Dr. Gould, turning to page 35, ...

DR. LAWRENCE GOULD: Of which document?

MR. BYRON WILLIAMS: I apologize.

DR. LAWRENCE GOULD: Or can I take my pick?

MR. BYRON WILLIAMS: Yeah, pick a -- pick a document, let's see what we come up with. I -- I'd recommend Ernst & Young though, then we could at least talk about the same subject.

DR. LAWRENCE GOULD: Yes, I have it.

MR. BYRON WILLIAMS: You'll see at the

bottom of page 35 of Ernst & Young there's a statement that they're referring to a Table 7B, which I guess appears on page 36, but there's a statement that:

> "Table 7B below presents the costs of providing repeat loans on a weighted average basis. The operating costs of large businesses are less than 60 percent..."

And I think there's a typo there:

> "...of those of small -- those of small businesses."

I guess there's no typo.

> "Again, this likely reflects experience in the industry and significant returns to scale of the larger firms."

First of all, did I -- I know I didn't read it perfectly, but did I accurately state that -- that -- reflect that statement, sir?

DR. LAWRENCE GOULD: The -- that's what Ernst & Young said --

MR. BYRON WILLIAMS: Yeah.

DR. LAWRENCE GOULD: -- yes.

MR. BYRON WILLIAMS: And based on your review of -- of the Ernst & Young report do you accept the suggestion that there are significant returns to scales of the larger firms and in -- in the payday lending industry?

(BRIEF PAUSE)

DR. LAWRENCE GOULD: Well, there's certainly -- there's certainly returns to scale for the higher volume stores. There are -- can be smaller firms with high volume stores as well.

MR. BYRON WILLIAMS: So in your view a -- a fair analysis of Ernst & Young are there are -- are that there are returns to scale based upon higher volumes?

DR. LAWRENCE GOULD: Higher volume stores, yes.

MR. BYRON WILLIAMS: Dr. Gould, and -- and we're almost done Ernst & Young, we're getting near the end of the -- I -- I may run against -- Mr. Cathcart's schedule though. I want to talk about bad debt, and I want to turn your attention to pages 42 and 40 -- 42 to start with. And it's specifically, I'm directing your attention to figure 8, Bad Debt as a Percentage of Total Loan Volume.

Do you see that, Dr. Gould?

DR. LAWRENCE GOULD: Sorry, could you

repeat the reference again?

MR. BYRON WILLIAMS: Figure 8 at --

DR. LAWRENCE GOULD: Yes.

MR. BYRON WILLIAMS: -- page 42.

DR. LAWRENCE GOULD: Mm-hm.

MR. BYRON WILLIAMS: And, as I understand this table, roughly it's -- it's showing -- it's reflecting bad debt; principal amount as a percentage of total loan volume, and it's got data points from the -- the nineteen firms (19) surveyed.

Would that be fair, sir?

DR. LAWRENCE GOULD: Yes.

MR. BYRON WILLIAMS: And if I look at the -- the firms here -- and you can certainly check this -- would I would be correct in -- in suggesting to you that in terms of the bad debt as a percentage of total loan volume in about thirteen (13) of the nineteen (19) cases they were at 4.2 percent or below?

(BRIEF PAUSE)

MR. BYRON WILLIAMS: It might even be fourteen (14), but ...

DR. LAWRENCE GOULD: Fourteen (14), yeah. Yes, fourteen (14).

MR. BYRON WILLIAMS: And would I -- would I be correct in suggesting to you again -- and I apologize for making you -- you squint -- I'm having to do the same thing -- that, there's about seven (7) of the nineteen (19) firms at 2 percent or below?

DR. LAWRENCE GOULD: That's correct.

MR. BYRON WILLIAMS: And then you've got a -- a five (5) that are above 4.2 percent. Is that fair?

DR. LAWRENCE GOULD: Yes.

MR. BYRON WILLIAMS: And one (1) way out there at -- of that -- those five (5) there's one (1) that's way out there at 14.1 percent.

DR. LAWRENCE GOULD: Well, I -- I think there's four (4) above 4.2 percent.

MR. BYRON WILLIAMS: Oh, okay.

DR. LAWRENCE GOULD: And one (1) way up there at 14.1.

MR. BYRON WILLIAMS: Fair enough, that's a better way to phrase it. I'd ask you to turn to page 44 of Ernst & Young, and specifically the fourth full paragraph starting with the words, "This industry".

Do you have -- see that, Dr. Gould?

DR. LAWRENCE GOULD: Yes.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: And I'll -- I'll read this whole proposition in, and you can -- you can tell me whether you agree or disagree with it.

> "Ernst & Young suggests that this industry, like any other industry, suffers from inefficiencies that could relate to operating and the avil -- ability to verify credit worthiness of customers. The wide variants in bad debt experience among payday loan providers may indicate that some providers are simply not as successful at screening customers for risk of bad debt"

Do you accept the premise that the wide variance in bad debt may indicate that some providers are simply not as successful at screening customers for risk of bad debt?

DR. LAWRENCE GOULD: Well, it's an interesting question. Again, it's possible that the differences in bad debt reflect different lending clientele. On that other hand, common sense would suggest that there probably are some operators that are less efficient than other operators. So it could be one or the other.

MR. BYRON WILLIAMS: And just -- I -- I think there's a more full discussion of this on page 42, but I appreciate -- which basically reflects your answer, so I appreciate your candour.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: Dr. Gould, you'll be glad to know that we're -- well, I don't know if you're glad to know or not, but I'm glad to know that we're leaving Ernst &Young. And I have a few more questions, but I -- they're of a more general nature.

And, Mr. Schinkel, I think they're mostly directed to Dr. Gould, so I'll -- I'll apologize. No more bananas or apples for you -- for you and I.

Mr. Chairman, it's -- it's 7:20. I'm thinking twenty-five (25) minutes or so. I wonder if I could stand down for, like, two (2) minutes or five (5) minutes, if -- with your permission?

THE CHAIRPERSON: Okay, Mr. Williams, that is fine.

--- Upon recessing at 7:20 p.m.

--- Upon resuming at 7:30 p.m.

THE CHAIRPERSON: Okay, Mr. Williams, this horse sees the barn, so...

MR. BYRON WILLIAMS: Was there an "n" at the -- the end of that word or -- or not, sir?

(DEAN SCHINKEL STANDS DOWN)

MR. BYRON WILLIAMS: I've excused Mr. Schinkel, Mr. -- Mr. Chairman. It might have been a bit presumptuous of me, but from my perspective, he's excused, anyways.

THE CHAIRPERSON: Let the record show that the Board thanks Mr. Schinkel for his participation.

CONTINUED BY MR. BYRON WILLIAMS:

MR. BYRON WILLIAMS: Dr. Gould, then -- and I -- I may wrong on this, but in terms of your evidence before the Public Utilities Board, would I -- I be right in suggesting to you that it's been primarily with regard to the company that I call Centra Gas, in terms of evidence?

DR. LAWRENCE GOULD: Or its predeces -- Centra Gas or its predecessors, Greater Winnipeg Gas, ICG

Utilities.

MR. BYRON WILLIAMS: And you -- you testified -- and it might have been on behalf of my clients -- before the Public Utilities Board in 1984 on Greater Winnipeg Gas, and in 1985 on -- on matters relating to ICG.

Would that be right, sir?

DR. LAWRENCE GOULD: That's correct. And a couple of other cases as well.

MR. BYRON WILLIAMS: To your recollection, have you ever provided expert evidence to the Public Utilities Board on matters relating to Manitoba Public Insurance, Manitoba Hydro Electricity, or Stitco, Manitoba?

DR. LAWRENCE GOULD: I haven't provided -- the only involvement other than gas regulation I've had here has been with hydro and I was involved in some consultations but did not provide evidence at a hearing.

MR. BYRON WILLIAMS: Thank you for that. But of course, you are -- I -- I'm-- you certainly have been or are a MPI ratepayer and hydro ratepayer, or you have been in -- in the past?

DR. LAWRENCE GOULD: Yes, both.

MR. BYRON WILLIAMS: In preparing for your evidence in -- in this proceeding, did you review

Public Utilities Board order 79/07 regarding the proposal by Stitco Utilities Manitoba Limited for a reduction and regulatory oversight? Would that have been one of the -- the matters you reviewed, sir?

DR. LAWRENCE GOULD: No.

MR. BYRON WILLIAMS: In preparing for this hearing, did you rev -- review Board order 72/07 dealing with maximum fees for cashing government cheques?

(BRIEF PAUSE)

DR. LAWRENCE GOULD: I don't think I ever saw the -- the actual order.

MR. BYRON WILLIAMS: Now, Dr. Gould, the -- the Chairman asked you a similar question to this I -- I believe last week. But leaving aside your -- the fact that -- that we're in this regulatory proceeding, if the Board -- if the Manitoba Government were to come to you and say, do you really think we should be setting a price ceiling for payday lenders, would you advise them "yes" or "no"?

DR. LAWRENCE GOULD: I think I would advise them that a ceiling that permits enough competition to ensure that services are provided would be reasonable. So the answer would be yes.

MR. BYRON WILLIAMS: Let's say they asked you the same question of setting a ceiling for mortgage rates offered by credit unions and banks, what would your advice be?

(BRIEF PAUSE)

DR. LAWRENCE GOULD: For a mortgage did -- did you say mortgage interest?

MR. BYRON WILLIAMS: I didn't but that's probably the word I should have been using.

DR. LAWRENCE GOULD: Well I just didn't hear your question.

MR. BYRON WILLIAMS: Mortgage interest. Yeah, for banks and credit -- or let's say credit unions.

DR. LAWRENCE GOULD: Well we do have limits on mortgage interest.

MR. BYRON WILLIAMS: Turn to page 7 of your evidence if you will. And I'm not going to -- to read it in but -- but I'll draw your attention to the last paragraph on page 7 of your evidence, Dr. Gould, which I believe is at Tab 36 of the PUB book of documents.

And I'll ask you to read it and then let me know when you're -- when you're done with it, sir.

DR. LAWRENCE GOULD: The last paragraph on page 7?

MR. BYRON WILLIAMS: That's right.

(BRIEF PAUSE)

DR. LAWRENCE GOULD: Yes.

MR. BYRON WILLIAMS: Now in this paragraph you're describing a -- some of the elements going into the rate setting process for Public Utility, is that right, sir?

DR. LAWRENCE GOULD: That's correct.

MR. BYRON WILLIAMS: And you're discussing a variety of issues including how one calculates the return on invested capital by multiplying the rate base by an allowed return, determined by the regulator, is that right, sir?

DR. LAWRENCE GOULD: That's correct.

MR. BYRON WILLIAMS: In your view or in -- in your experience, is -- is this statement an accurate reflection of the rate setting process for Crown owned monopolies such as Manitoba Public Insurance or Manitoba Hydro Electric?

DR. LAWRENCE GOULD: Well, Crown corp -- corporations operate on a different -- on a different basis. Often there is -- first of all the concept of equity is -- is considerably different so that you can have an equalization reserve instead of equity. So the principle really is quite different for a Crown corporation.

MR. BYRON WILLIAMS: So this would reflect the rate setting process for a -- a privately owned company such as -- which -- which operated on rate base -- rate of return but it would not necessarily reflect the approach one would use for setting rates for Manitoba Hydro and Manitoba Public Insurance. Would that be right, sir?

DR. LAWRENCE GOULD: It would be different because of the concept of equity.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: Without asking you to elaborate because it's getting late in the day, in your observations of the industry in Manitoba you've noted a -- or the industry across county -- you've noted a -- a wide cost variance in the industry in terms of cost per hundred dollars ($100) for loans.

Would that be fair? Your -- your mic was on for that.

DR. LAWRENCE GOULD: Yes, that would be fair.

MR. BYRON WILLIAMS: I'm not sure my mic was on. For a variety of reasons, there are high cost service providers and low cost service providers within the industry is -- is that --

DR. LAWRENCE GOULD: That's correct.

MR. BYRON WILLIAMS: -- relatively speaking.

DR. LAWRENCE GOULD: That's correct.

MR. BYRON WILLIAMS: Okay. I wonder if you'd agree with me that most would place a -- a firm like Money Mart in the low cost per hundred (100) service category. Would you agree with that, sir?

DR. LAWRENCE GOULD: None of the firms are identified in the study, but based on my observations, I would think that is correct.

MR. BYRON WILLIAMS: And again none of -- these firms aren't identified, but there are other firms in the -- in the industry that have a -- higher cost struct -- structures than Money Mart, considerably higher.

Would that be your general sense of -- of the industry?

DR. LAWRENCE GOULD: Yes.

MR. BYRON WILLIAMS: Now, in terms of the three (3) stores that you visited in your -- I believe you indicated in your research for your paper -- was one (1) of them a -- a Money Mart store?

DR. LAWRENCE GOULD: One (1) of them was a Money Mart store, yes.

MR. BYRON WILLIAMS: And I -- I take it, in a general sense, you were reasonably impressed with their quality of service and -- and accessibility. Would that be fair in a general sense?

DR. LAWRENCE GOULD: Yes.

MR. BYRON WILLIAMS: Do you have any evidence that would suggest -- that -- that you've seen in this proceeding that would suggest that higher cost service providers than Money Mart offer better quality of service than Money Mart?

DR. LAWRENCE GOULD: Well, I -- I think that part of this question is the wide range of different variables. There are companies that offer service in different areas. I'm sure there are companies that offer service to customers with different credit ratings. And there may well be other differences as well, in terms of hours of service that they're open. So all those things could affect quality of service.

MR. BYRON WILLIAMS: Okay. Do you -- I -

- I don't know if you have with you a copy of the -- the evidence of Dr. Buckland at all. Do -- do you have that, Dr. Gould?

DR. LAWRENCE GOULD: No.

MR. BYRON WILLIAMS: Well, I'm -- I'm gonna, with the permission of your counsel, share a copy with you and then I'll have to go by memory.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: Dr. Gould, I'm going off of memory now, and I'm -- so you'll have to -- you may -- may choose to take advantage of me in this unequal playing field or not -- but I'm directing your attention to page 33 of the evidence of Dr. Buckland et al. And if my -- my rapidly failing memory serves me right, at the top of that page, there's a table source from the FCAC which speaks to the frequency of payday loan use.

Do -- do you see that table, sir?

DR. LAWRENCE GOULD: I do. Your mic.

MR. BYRON WILLIAMS: And -- thank you for that, and if you look at that table, would I be correct in suggesting to you that among the -- the sample surveyed by the FCAC about -- it indicates that about 15.9 percent were using payday loans about once a month and that an additional 10 percent were using that more than -- more than once a month.

Would that be the conclusion you would draw from that table, sir?

DR. LAWRENCE GOULD: I haven't had a chance to really read this document but looking at the table, what -- the first number that you said was what, fifteen (15)...?

MR. BYRON WILLIAMS: For those using it, it would be the second column --

DR. LAWRENCE GOULD: Mm-hm.

MR. BYRON WILLIAMS: -- using about once a month would be in the range of 15.9 percent, can you see that, Dr. Gould?

DR. LAWRENCE GOULD: It's hard to tell from the graph but it -- it appears to be a little over 15 percent -- maybe it is -- with the scale I can't tell. And more than once a month, 10 percent.

MR. BYRON WILLIAMS: So that's -- according to this sample it would be fair to say -- no, according to this sample the results suggest that about 25 percent of those surveyed were using payday lenders about once a month or more than once a month. Would that be fair, sir?

DR. LAWRENCE GOULD: According to this

graph and their sample, which I haven't actually read or studied, yes.

MR. BYRON WILLIAMS: Now, and you had this discussion with My Friend, Ms. Southall -- it seems so long ago -- but in your evidence you indicate at page 4 -- if you're looking for a reference -- that a payday loan is not designed to be a -- a form of revolving credit, do you recall that statement, sir?

DR. LAWRENCE GOULD: I do.

MR. BYRON WILLIAMS: And -- and again, I could be misphrasing this but I remember the discussion you had with Ms. Southall. She -- she talked to you about individuals who might be using payday loan services more frequently and the -- the words that I -- I wrote down that you stated were:

"They ought not to be used that way."

Do you -- do you remember that conversation in general terms, sir?

DR. LAWRENCE GOULD: I -- I don't remember the exact conversation but it is my feeling that these loans are high-cost loans which should be used to cover emergency situations that aris -- arise.

MR. BYRON WILLIAMS: In your view, if a consumer is using a payday loan provider once a month or more than once a month, would that suggest to you that --

that for that particular consumer, it's become a source of revolving credit?

DR. LAWRENCE GOULD: It -- it's difficult to answer that question without knowing a lot more specifics but I'll -- I'll try and elaborate a little.

It's -- my impression in many cases is that a person can get into a stressed financial condition and have to arrange financing for that.

It may lead to more than one (1) occurrence. It doesn't necessarily mean that it continues on as a permanent source of financing. It's also possible that it could become a permanent source of financing.

But it doesn't follow that because somebody uses payday loan service more than once in a particular period that that continues on.

MR. BYRON WILLIAMS: And -- and my question may have been imprecise so I'll -- I'll try and rephrase it. If a consumer over the course of one (1) year was using a payday loan once or more a month, would that suggest to you that they were using payday loans as a source of revolving credit?

DR. LAWRENCE GOULD: Well my concept of -- of rev -- revolving credit is that you effectively maintain those permanent balances throughout the period.

So I think to -- the -- the answer would be no but I still think that that would be a high -- a high -- higher usage that I'd want to see.

MR. BYRON WILLIAMS: Let me just follow up that question with one (1) more. Let's a -- assume that the FCAC results are right and let's zone in on what it suggests are 10 percent using payday loans more than once a month which by my calculations would probably be if it's more than once a month, it would be at least twice a month?

Would you agree with that?

(BRIEF PAUSE)

DR. LAWRENCE GOULD: I'm not sure. It's some fraction -- some fraction in any event, more than once. It's made --

MR. BYRON WILLIAMS: Okay. What --

DR. LAWRENCE GOULD: -- what it says, more than once a month.

MR. BYRON WILLIAMS: Okay. Okay. Work with me on this, Dr. Gould. Let -- let's assume -- let's just assume for a second that consumers are using payday loans twice a month, ev -- every two (2) weeks.

When you get into that range, do you see those consumers using payday loans as a source of revolving credit?

DR. LAWRENCE GOULD: Well I -- I think I just explained as best I can. I think of revolving credit as being a permanent balance that's continually renewed.

I think that if somebody comes in, pays off their loan and takes another loan, that's not what I had in mind with revolving credit.

On the other hand I -- I want to be fair. There's no question that at some point there's a continuum, you get close to using that as a permanent source of financing.

If you're doing it everyday or every two (2) weeks throughout the year then it would be revolving credit. If you're doing it once or twice, no.

MR. BYRON WILLIAMS: So to the extent the consumers are using it if any indeed are as a permanent source of financing, we ought to be concerned?

DR. LAWRENCE GOULD: I don't think that they are using it as a permanent source of financing. I think they're using it for emergency situations.

MR. BYRON WILLIAMS: Okay. Mr. Chairman, I'll just review my -- my notes and I'll see if I have any further questions.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: Dr. Gould, just my -- my last question. This flows from your conversation you had with Ms. Southall last week. Am I correct that in your research, you never addressed operational efficiency and -- and -- and don't have data related to that?

Would that -- would that be a fair reflection of your conversation with Ms. Southall?

DR. LAWRENCE GOULD: The only data that I have on the individual stores, comes from Ernst & Young which did not provide any operational efficiency data.

MR. BYRON WILLIAMS: Mr. Chairman, thank you for your patience. You can head to the barn, with an 'n' if -- if you so choose now.

THE CHAIRPERSON: Thank you, Mr. Williams, and thank you, Dr. Gould. Very appreciative of the fact that you took this evening out to spend it with us.

DR. LAWRENCE GOULD: Likewise, I'm appreciative to you, Mr. Chairman and the Board for -- and counsels for arranging to have this evening's session. Thank you.

(WITNESS STANDS DOWN)

THE CHAIRPERSON: Thank you. Ms. Southall, could you remind us where we are or where we are coming back to tomorrow? I think we all know the location.

MS. ANITA SOUTHALL: We continue tomorrow morning at 9:00 a.m. Panel members with the direct evidence of the general panellists for RentCash, and we'll proceed through the day with that. That will take us, I suspect easily, through the day tomorrow. Thank you.

THE CHAIRPERSON: Thank you. We stand adjourned.

--- Upon adjourning at 7:55 p.m.

Certified Correct,

____

Wendy Warnock, Ms.