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MANITOBA PUBLIC UTILITIES BOARD

Re: 2005 MANITOBA PUBLIC INSURANCE
RATE APPLICATION

Before Board Panel:

- Graham Lane - Board Chairman
- Denyse Cote - Board Member
- Eric Jorgensen - Board Member

HELD AT:

Public Utilities Board
400, 330 Portage Avenue
Winnipeg, Manitoba
October 21st, 2004

Pages 819 to 1077

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1 --- Upon commencing at 10:07 a.m.

2

3 THE CHAIRPERSON: Good morning everyone. We
4 should have an interesting day today. We have three (3)
5 presenters and an expert witness. The idea is to return to
6 Mr. Oakes and his cross-examination and then following our --
7 our break we'll listen to the CMMG expert witness and perhaps
8 have the MPI cross-examination and then we will have a series
9 of three (3) presenters.

10 And then we will go to the PUB cross and then
11 we'll go back to Mr. Williams and move on from there. So,
12 Mr. Oakes...?

13 MR. RAYMOND OAKES: Good morning, Mr.
14 Chairman and Members of the Board, Ladies and Gentlemen. At
15 this time I will take the opportunity of introducing the CMMG
16 expert witness, Mr. Hany Rifai from the actuarial firm of
17 IAO Actuarial Consultants.

18 THE CHAIRPERSON: Welcome, sir.

19

20 CONTINUED CROSS-EXAMINATION BY MR. RAYMOND OAKES:

21 MR. RAYMOND OAKES: Mr. Chairman, when we
22 broke on Monday afternoon I was just reaching the topic
23 credibility and so this morning I'll ask the Panel to explain
24 in simple terms what credibility is and why it is important
25 in rate setting.

1 MS. MARILYN MCLAREN: In simple terms
2 credibility, weighting, allows us to enhance the credibility
3 of the rates calculated particularly for smaller groups which
4 may not be statistically reliable on their own. Perhaps your
5 witness could turn his microphone off.

6 MR. RAYMOND OAKES: And so, Ms. McLaren, the
7 higher the credibility used by the Corporation, that would
8 mean that the data that they are using is judged to be
9 better. Is that correct?

10 MS. MARILYN MCLAREN: It would -- the higher
11 the credibility, the more statistically reliable we would
12 expect that data to be.

13 MR. RAYMOND OAKES: And can the Corporation
14 confirm that it is the rate after con -- after considering
15 credibility that is the indicator used for rate setting?

16 MS. MARILYN MCLAREN: Yes.

17 MR. RAYMOND OAKES: And generally speaking
18 the larger the amount of data the more credible it is. Is
19 that correct?

20 MS. MARILYN MCLAREN: Yes.

21 MR. RAYMOND OAKES: And when credibility is
22 used it's not only the credibility of the actual data that is
23 important, but also the information that it is weighted by
24 which I understand is the complement. Is that correct?

25 MS. MARILYN MCLAREN: Yes, that's right.

1 MR. RAYMOND OAKES: And as a matter of
2 understanding by way of example, the effect of credibility --
3 if it was less than 60 percent credibility assigned to
4 motorcycles, would that result in lower or higher rates than
5 what the Corporation is requesting?

6 MS. MARILYN MCLAREN: That would depend on
7 the complement. For example, if the actuarially calculated
8 rate increase for motorcycles on its own before credibility
9 weighting was 20 percent and the complement indicated that
10 the pool overall needed an increase of 30 percent, then you
11 get a different result than if the complement was lower.

12 MR. RAYMOND OAKES: I understand that and I
13 accept that. If the same complement was used as is used in
14 overall in the Application, would a lower than 60 percent
15 credibility assigned to motorcycles result in lower rates?

16 MS. MARILYN MCLAREN: Yes. Yes. And that's,
17 you know, driven by the fact that the complement for the
18 overall pool this year is no -- no increase.

19 MR. RAYMOND OAKES: And so if the cred -- for
20 a 10 percent decrease in credibility say from 60 percent to
21 50 percent, would the decrease in required rates for
22 motorcycles be approximately 5.5 percent?

23 MS. MARILYN MCLAREN: Do you mean decreasing
24 from the 37 percent?

25 MR. RAYMOND OAKES: Yes. From the weighted

1 balanced required rate.

2 MS. MARILYN MCLAREN: Subject to check, we'll
3 accept that.

4 MR. RAYMOND OAKES: And similarly would you
5 accept on that basis, if the credibility assigned was 30
6 percent, the required rate adjustment would be about 18
7 percent for motorcycles?

8 MS. MARILYN MCLAREN: Again, subject to
9 check.

10 MR. RAYMOND OAKES: And finally on that same
11 basis, if the credibility assigned is 10 percent, the
12 required rate adjustment would be about a 6 percent increase
13 in motorcycle premiums?

14 MS. MARILYN MCLAREN: We'll accept that
15 subject to check.

16 MR. RAYMOND OAKES: Last year you may recall,
17 Ms. McLaren, the CMMG brought forward information on other
18 approaches to setting the credibility standard for each
19 classification. Has the Corporation tested any of those
20 alternate methods?

21 MS. MARILYN MCLAREN: No we haven't.

22 MR. RAYMOND OAKES: And since last year, has
23 the Corporation performed any tests to ensure the credibility
24 formula that the Corporation uses is statistically valid?

25 MS. MARILYN MCLAREN: No we have not

1 performed tests.

2 MR. RAYMOND OAKES: Ms. McLaren, on Monday
3 afternoon we handed out a -- something prepared by the CMMG
4 called Table 1, do you have that document?

5 MS. MARILYN MCLAREN: I'll find it.

6

7 (BRIEF PAUSE)

8

9 MR. WALTER SARANCHUK: Was it marked as an
10 exhibit?

11 MR. RAYMOND OAKES: I believe that it was.
12 It was handed out in connection with another handout at the
13 same time.

14

15 (BRIEF PAUSE)

16

17 MS. MARILYN MCLAREN: Was it on your -- in
18 your Book of Documents? No?

19 MR. RAYMOND OAKES: It was handed out at the
20 same time we handed out excerpts from the Application from
21 2003 GRA. If it's not available immediately, Mr. Chairman,
22 we can move on and I can get further copies distributed again
23 after the break.

24 Ms. McLaren, just by way of a brief aside, in
25 private sector environments where there's multiple effective

1 competitors, is the actuarially determined rate, the rate
2 that the actual customer pays?

3 MS. MARILYN MCLAREN: I have no idea. I
4 would expect not.

5 MR. RAYMOND OAKES: Would you expect that
6 competitors decisions would also enter into the pricing
7 calculation?

8 MS. MARILYN MCLAREN: Yes, absolutely.

9 MR. RAYMOND OAKES: Now I understand that the
10 method used by MPI would be described as the Buhlmann or the
11 least squares credibility, is that correct?

12 MS. MARILYN MCLAREN: Yes.

13 MR. RAYMOND OAKES: Ms. McLaren, I've been
14 acting on behalf of the Intervenor CMMG since 1992. I don't
15 recall at any time before this Board, a rigorous review of
16 the credibility formula before this Board. Can you tell me
17 otherwise?

18 MS. MARILYN MCLAREN: It was first used in
19 1994 at which time a -- a number of components of the rate
20 making methodology as it exists today started to come
21 together around that time frame. And there was discussion
22 around it at that point. 1994 was the first time it was used
23 and brought forward as part of our rate Application.

24 MR. RAYMOND OAKES: And to your knowledge,
25 this Board has never through its own actuary reviewed or

1 prepared a report dealing with the credibility formula?

2 MS. MARILYN MCLAREN: We don't know that.

3 MR. RAYMOND OAKES: Well, based on the
4 Corporation's attendance in these Hearings in the last
5 decade, has the Corporation's credibility formula ever been
6 tested in any report at these Hearings?

7 MS. MARILYN MCLAREN: I -- I can't comment on
8 reports or communication that may happen between the Board
9 and its advisors. That's -- that's what your asking in terms
10 of whether the -- that actuary provided reports. I -- I
11 can't tell you that.

12 MR. RAYMOND OAKES: And did the Corporation
13 have an independent report prepared by an outside actuary
14 with respect to the actual credibility formula?

15 MS. MARILYN MCLAREN: No. In terms of formal
16 reports requested and received, the Corporation has not.
17 There have been many through the years, consultations and
18 discussions primarily with our appointed actuary with respect
19 to the reasonableness of various components of our rate
20 making methodology including credibility.

21 MR. RAYMOND OAKES: So there has been no
22 formal testing by way of a report?

23 MS. MARILYN MCLAREN: That's right, yes.

24 MR. RAYMOND OAKES: Can you confirm, Ms.
25 McLaren, that MPI selected the complement K so that private

1 passenger class was 99 percent credible? I'm sorry, I stand
2 corrected. Not the complement just selected K?

3 MS. MARILYN MCLAREN: Credibility constant,
4 yes, that's right.

5 MR. RAYMOND OAKES: And so does that result
6 in a K of six thousand (6000)?

7 MS. MARILYN MCLAREN: Yes.

8 MR. RAYMOND OAKES: And if K were ten
9 thousand (10,000) would the credibility for private passenger
10 class be 98.5 percent or rounded to 99 percent as well?

11 MS. MARILYN MCLAREN: I can't confirm that
12 here and now.

13 MR. RAYMOND OAKES: Would you accept it
14 subject to check?

15 MS. MARILYN MCLAREN: Yes.

16 MR. RAYMOND OAKES: And on that same basis,
17 if I indicated the credibility of motorcycle data in that
18 case would be roughly 47 percent, would you Panel of experts
19 accept that, subject to check?

20 MS. MARILYN MCLAREN: Yes.

21 MR. RAYMOND OAKES: If K were thirty-five
22 thousand (35,000) on the same basis, would you accept that
23 the credibility of private passenger vehicles would be
24 approximately 95 percent?

25 MS. MARILYN MCLAREN: Subject to check.

1 MR. RAYMOND OAKES: And on that same basis in
2 that case, if K were thirty-five thousand (35,000), the
3 credibility of motorcycles would be reduced to some 20
4 percent? Can you comment on that please?

5 MS. MARILYN MCLAREN: We'll accept it subject
6 to check.

7 MR. RAYMOND OAKES: I wonder if you could
8 describe the process MPI goes through to balance
9 responsiveness and stability in the selection of K?

10

11

(BRIEF PAUSE)

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CONTINUED BY MR. RAYMOND OAKES:

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MR. RAYMOND OAKES: Ms. McLaren, would you
like me to read the last question back? Would that assist?

MS. MARILYN MCLAREN: Sure.

MR. RAYMOND OAKES: The question was, please

1 describe the process MPI goes through to balance
2 responsiveness and stability in the selection of K?

3 MS. MARILYN MCLAREN: The -- the selection
4 was made in 1994, and there's not a formal documented process
5 with which we balance stability and responsiveness with
6 respect to the selection of K that I can put on the table
7 that was used and created in 1994.

8 That's always the question in rate making.
9 How do you balance responsiveness and how do you balance
10 stability? I think the fact that we chose a model for very
11 specific reasons that we believed was the right approach at
12 that time and have used it consistently since 1994 suggests
13 that stability is certainly a very important factor to the
14 Corporation in all aspects of rate making.

15 But, you know, the responsiveness clearly has
16 the opportunity -- responsiveness is important as well. And
17 I think given the methodology itself, the calculation of
18 credibility in a manner that's been selected in '94 and used
19 consistently ever since, provides the balance that we're
20 seeking.

21 MR. RAYMOND OAKES: At this time, Mr.
22 Chairman, we'd like to introduce as the next exhibit,
23 excerpts from chapter 8 of the text of Maylor and Dean
24 (phonetic). This is referred to in the opening lines of the
25 applicant's response discussion of credibility that MPI's

1 counsel filed with the Board last week.

2 And so we have a number of pages from that
3 text book we'd like to file as an exhibit.

4 THE CHAIRPERSON: Mr. McCulloch, do you have
5 any problem with that?

6 MR. KEVIN MCCULLOCH: No, Mr. Chairman.

7 THE CHAIRPERSON: Okay, then that would be
8 CCMG 7, I believe.

9

10 --- EXHIBIT NO. CMMG 7: Excerpts from chapter 8 of the
11 text of Maylor and Dean.

12

13 THE CHAIRPERSON: Anytime, Mr. Oakes.

14 MR. RAYMOND OAKES: Thank you, Mr. Chairman.

15

16 CONTINUED BY Mr. RAYMOND OAKES:

17 MR. RAYMOND OAKES: Ms. McLaren, we've handed
18 out excerpts then from the text of Maylor and Dean, which is
19 referenced in the Applicant's response discussion of
20 credibility. I'd like to refer you at this point to Page
21 542, which should be the third page in the exhibit that was
22 provided and it indicates that a number of assumptions are
23 provided related to Buhlmann credibility and I wonder if we
24 can have you read in the assumptions at the bottom of the
25 page where it starts:

1 "Number 1, the complement of credibility is
2 given to the overall mean."

3 MS. MARILYN MCLAREN: Bottom of Page 542?

4 "These assumptions are --?"

5 MR. RAYMOND OAKES: That's correct.

6 MS. MARILYN MCLAREN: "Number 1. The
7 complement of credibility is given to the
8 overall mean.

9 Number 2. The credibility is determined as
10 a slope of the weighted least squares line
11 at Bayesian estimates.

12 Number 3. The risk parameters and risk
13 process do not shift over time.

14 Number 4. The expected value of the
15 process variance of the sum of N
16 observations increases as N. Therefore,
17 the expected value of the process variance
18 of the average of N observations decreases
19 as one (1) over N. The variance of the
20 hypothetical means of the sum of N
21 observations increases as N squared,
22 therefore the variance of the hypothetical
23 means of the average of N observations is
24 independent of N."

25 MR. RAYMOND OAKES: I thank you for that.

1 Does the Corporation agree with that? Does it take the
2 position that those assumptions are the assumptions?

3 MS. MARILYN MCLAREN: Yes.

4 MR. RAYMOND OAKES: And can you tell me
5 whether the Corporation has tested these assumptions to
6 ensure that Buhlmann credibility is appropriate?

7 MS. MARILYN MCLAREN: Yes, for example, the
8 part that you've marked on 519 and with reference to the last
9 assumption that I read a few moments ago in terms of the
10 variance of the hypothetical means in terms of specifically -
11 - we -- we have calculated the expected value of the process
12 variance and the variance of the hypothetical means. We've
13 calculated K, so to speak.

14 MR. RAYMOND OAKES: And, Ms. McLaren, could
15 you tell us where, in the rate Application, that particular
16 testing is found?

17 MS. MARILYN MCLAREN: No, it's not in the
18 Application. I can tell you that calculation is four
19 thousand (4,000), to be specific, three thousand nine hundred
20 eighty-seven (3,987).

21 MR. RAYMOND OAKES: And when was that
22 calculation performed?

23 MS. MARILYN MCLAREN: Very recently, when we
24 received your expert Witness' testimony -- since that point.

25 MR. RAYMOND OAKES: So, after calculating the

1 rates for approval by this Board?

2 MS. MARILYN MCLAREN: That's right. The
3 impact of using a different K, the K of four thousand (4,000)
4 as opposed to six thousand (6,000), would actually increase
5 the credibility of the motorcycle pool and therefore, based
6 on motorcycle experience, increase the standalone revenue
7 requirement of the motorcycle pool.

8 MR. RAYMOND OAKES: Ms. McLaren, you had read
9 into the record five (5) different assumptions. Can you file
10 something with this Board to show the testing with respect to
11 the five (5) assumptions?

12 MS. MARILYN MCLAREN: No, we can't do that.

13 MR. RAYMOND OAKES: And why not?

14 MS. MARILYN MCLAREN: The same kind of work
15 hasn't been done on every single assumption that would enable
16 us to file that. With respect to the calculation of K, in
17 terms of the variance that we talked about a few moments ago,
18 we can put that on the record, but with respect to filing
19 something on each of those five (5) assumptions, no.

20 MR. RAYMOND OAKES: The evidence a few
21 minutes ago was that the Corporation had tested each of these
22 assumptions. Is that still your evidence?

23 MS. MARILYN MCLAREN: No, we haven't tested
24 each of these assumptions individually and prepared
25 documentation of such; that's what I'm telling you right now.

1 MR. RAYMOND OAKES: You referred to the area
2 that we had highlighted on page 519, which is the second page
3 in the exhibit. Is the method described in this actual --
4 actuarial textbook to apply analysis of variance to determine
5 K?

6 MS. MARILYN MCLAREN: Yes.

7 MR. RAYMOND OAKES: Moving along in that same
8 exhibit to page 599, would you please read in the first
9 paragraph of 6.4?

10 MS. MARILYN MCLAREN: At page 599:
11 "Credibility is a linear process. And,
12 thus, extreme cases can present
13 difficulties requiring special attention.
14 A properly chosen cap may not only add
15 stability, but may even make the
16 methodology more accurate by eliminating
17 extremes. A class rating plan may have
18 hundreds, if not thousands, of
19 classifications. Credibility weighting can
20 smooth out the fluctuations as rates or
21 relativities are determined for each class.
22 But with so many different classes, there
23 will be extreme situations."

24 MR. RAYMOND OAKES: Does the Corporation
25 agree with that statement?

1 MS. MARILYN MCLAREN: Yes, absolutely.

2 MR. RAYMOND OAKES: And does the Corporation
3 cap its large losses?

4 MS. MARILYN MCLAREN: I'm not sure what you
5 mean. For what purpose? With respect to using large loss
6 experience for rate making, we average our large losses over
7 a protracted period of time. I'm not sure what you mean with
8 respect to capping.

9 MR. RAYMOND OAKES: Referring to the next
10 page, perhaps this will assist, at page 600, the third
11 paragraph, the authors say:

12 "Capping results is a good supplement to
13 the credibility weighting process and makes
14 the estimates more reliable. Users of the
15 estimates may be more willing to accept
16 them knowing that one (1) or two (2) events
17 did not unduly affect the results."

18 Does the Corporation cap its large losses,
19 let's say four hundred thousand (400,000), five hundred
20 (500,000) of claims' losses?

21 MS. MARILYN MCLAREN: No. And -- and I don't
22 believe that's what this paragraph is talking about. It's
23 talking about capping results. Specifically, capping results
24 is a good supplement to the credibility weighting process.

25 The Corporation credibility weights the

1 individual major use groups and then caps the overall applied
2 increase to 15 percent. It's talking about capping the
3 results as an additional step after credibility weighting
4 rating indicators.

5 And, no, we don't cap large losses of four
6 hundred thousand dollars (\$400,000).

7 MR. RAYMOND OAKES: Just along that same line
8 of questioning, if I could then ask you to move to page 601,
9 the last page of the exhibit, and it talks about capping data
10 use in estimation, indicates that:

11 "A technique commonly used in conjunction
12 with credibility is to cap large losses.
13 Capping large losses can reduce the
14 variance of observed incurred losses,
15 allowing more credibility to be assigned to
16 the observations."

17 Given that these authors have indicated that a
18 technique such as that can reduce the variance of observed
19 incurred losses, can you tell me whether the Corporation
20 agrees with that statement?

21 MS. MARILYN MCLAREN: Yes, certainly. And
22 the question comes and we've had this discussion before this
23 Board, in -- a number of years ago. If you simply cap large
24 losses at five hundred thousand dollars (\$500,000), which is
25 the limit for which we put -- we consider losses, as we find

1 them, up to five hundred thousand dollars (\$500,000) for each
2 of the rating classifications. Losses bigger than five
3 hundred thousand dollars (\$500,000), we average over as many
4 years as we've been operating the PIPP program.

5 So, right now we're averaging losses bigger
6 than five hundred thousand dollars (\$500,000) over a ten (10)
7 year period. But we don't simply cap the large losses,
8 because if you do that, then you have to ask yourself: Well,
9 okay, so what do you do, just assume you're never going to
10 have another large loss and just throw out that data? No,
11 that doesn't make sense.

12 What do you do then? Do you take all the
13 large losses and average them against all the rating groups,
14 without regard to experience? We don't believe that makes
15 sense either.

16 So we simply don't cap them and throw out
17 anything bigger than five hundred thousand dollars
18 (\$500,000), we average them over a much longer period of
19 time, for exactly the reasons stated here, because we do
20 believe that it enhances the credibility by doing that.

21 MR. RAYMOND OAKES: Does it indicate anywhere
22 in this text book that your approach is a -- an acceptable
23 alternate approach to capping losses?

24 MS. MARILYN MCLAREN: It -- our approach
25 isn't an alternate approach to capping losses, it's a --

1 it -- it's a particular mechanism, it's not alternate to it,
2 it's a way that we cap losses. It's a method that we use,
3 it's not alternate to anything else. And I'm not sure what
4 you mean.

5 MR. RAYMOND OAKES: Well, Ms. McLaren, I
6 disagree with you. Isn't it true that you don't cap losses
7 at all, you just consider them over a ten (10) year period,
8 as opposed to a five (5) year period. Isn't that what the
9 Corporation's really doing?

10 MS. MARILYN MCLAREN: If you're suggesting
11 that this -- the language that we've talked about here on
12 page 601, necessarily means that you cap your losses at a --
13 at a chosen amount and simply throw out all the rest of the
14 data, I'm not prepared to agree that that's what this says.

15 You cap the losses at your selected amount and
16 then you have to decide, okay, so now what? I've capped
17 that, in order to provide greater stability to the results.
18 But are we ever going to expect losses bigger than five
19 hundred thousand dollars (\$500,000)? Then you have to find a
20 way to incorporate that belief into your rate making.

21 There's nothing in here, in this text book,
22 that would say: Cap them at the selected amount and throw out
23 all the other data, assuming you will never have anything
24 bigger than that selected amount.

25 MR. RAYMOND OAKES: Well, I think if you look

1 to the next paragraph, it tells you exactly what the process
2 is. So I will read that into the records:

3 "Suppose an Actuary is calculating
4 automobile insurance rates in the state,
5 the rates will vary by geographic territory
6 within the state. To limit the impact of
7 individual large losses on territorial
8 rates, each individual loss is capped to
9 the selected amount, say one hundred
10 thousand. If a loss is larger than one
11 hundred thousand, then one hundred thousand
12 is substituted for the actual amount. So
13 only the first one hundred thousand of any
14 loss is included in the territories loss
15 data. The amounts above one hundred
16 thousand can be pooled and pro-rated across
17 all territories in the state."

18 Now, that is quite different than what MPI is
19 doing; isn't that correct?

20 MS. MARILYN MCLAREN: Well, no. I think it's
21 exactly the same as what MPI does. We don't pool losses
22 larger than our selected amount across all territories, we
23 pool them across time. The point I was making is exactly
24 confirmed by the paragraph that you just read. You don't
25 assume that you're never going to have another loss bigger

1 than a hundred thousand dollars.

2 Some of the work that we did a number of years
3 ago, when the topic of capping large losses came up, I think
4 largely at -- at the impetus of the CMMG, we had a discussion
5 around, okay, so then what do you do with the losses above
6 that amount?

7 And one of the things that we looked at is,
8 sharing those large losses across all of the major use
9 categories. And we don't believe that that's appropriate,
10 because different use categories have different -- what we've
11 learned in ten (10) years, some of those major uses have a
12 different frequency of large losses.

13 And the other thing that we learned as well is
14 that the very most expensive claims Manitoba Public Insurance
15 has are for infants. And we don't expect, have not seen,
16 serious losses for infants arising from the motorcycle pool.

17 So when we actually did some work in that
18 regard to see what would be the effect of averaging large
19 losses across all major uses, it had hurt the motorcycle
20 class, didn't help them at all.

21 So I think the context of what we do is
22 exactly as stated here. And simply suggesting averaging the
23 losses over the territories is one approach. Averaging them
24 over insurance uses is another approach. We average them
25 over time within the specific major use where those costs are

1 -- are generated.

2 MR. RAYMOND OAKES: Mr. Chairman, given the
3 amount of testimony we're going to hear today by way of
4 direct and cross on the issues of credibility and the
5 actuarial issues that we've just canvassed, I propose to move
6 on.

7

8 CONTINUED BY MR. RAYMOND OAKES:

9 MR. RAYMOND OAKES: I have some questions
10 which are at an aggregate high level, if you wish, relative
11 to claims costs. Their reference is at our binder Tab 11 and
12 Interrogatory CMG/2-50 and CMG/2-51.

13 MS. MARILYN MCLAREN: I'm sorry, is it in
14 your Book of Documents? At which tabs?

15 MR. RAYMOND OAKES: At Tab 11.

16 MR. KEVIN MCCULLOCH: Also, Mr. Chairman,
17 before Mr. Oakes gets too far away in point of time, he was
18 talking about an exhibit that he wanted to ask some questions
19 on that was filed at the end of the last Hearing.

20 I have Exhibit CMMG-6 which is a page from the
21 2003 rate Application. But I don't have any other attachment
22 to that.

23 MR. RAYMOND OAKES: We'll file that after the
24 break likely.

25 THE CHAIRPERSON: I believe we have the same

1 thing. We have CMMG-6 but there's nothing attached to it.

2

3 CONTINUED BY MR. RAYMOND OAKES:

4 MR. RAYMOND OAKES: Ms. McLaren, do you have
5 the reference to the two interrogatories?

6 MS. MARILYN MCLAREN: MPI/2-50 and 2-51?

7 MR. RAYMOND OAKES: And these may be
8 questions that Mr. Galenzoski wishes to make his debut this
9 morning on. But referring to those two (2) interrogatories,
10 we understand that the increase in claims costs for the last
11 two (2) months of the 2003/04 fiscal year, that is January
12 and February of 2004, were about \$100 million and we're doing
13 -- we're reaching that conclusion by taking \$149.8 million
14 away from the \$51.3 million indicated there. Would -- would
15 that be correct?

16 MR. BARRY GALENZOSKI: Sorry, could you
17 repeat the question?

18 MR. RAYMOND OAKES: Certainly. Referring to
19 the information contained in those two (2) interrogatories,
20 was the increase in claims costs for the last two (2) months
21 of the 2003/04 fiscal year, that is January and February of
22 2004, about \$100 million?

23 MR. BARRY GALENZOSKI: Yes, that's correct.

24 MR. RAYMOND OAKES: And relative to this \$100
25 million increase, how much of it was largely due to

1 strengthening of reserves on current years claims, or was it
2 an unexpected surge in newly reported claims?

3

4

(BRIEF PAUSE)

5

6

MR. BARRY GALENZOSKI: Most of that was
7 just a -- an increase in the case provisions as you can see
8 when you look at the current year claims \$41.2 million and
9 the first 2.5 -- in your question 2-50 and that was increased
10 \$125.6 million at 2-51.

11

MR. RAYMOND OAKES: So there was a file
12 strengthening is I think how the term is used; is that not
13 correct?

14

MR. BARRY GALENZOSKI: Not necessarily.
15 These were current year claims and so there were newly
16 reported claims going on there. If you're looking at file
17 strengthening, you'd probably look a little bit more at prior
18 year claims. And there you'll see at 2-50 and the response
19 was that there were \$7.2 million, prior year claims for 2-51
20 were \$24.1 million.

21

Now some of that you would normally expect to
22 see occur. So some of that also could be expected as
23 strengthening of reserves.

24

MR. RAYMOND OAKES: So the strengthening of
25 old claims reserves was around \$17 million over that time

1 period?

2 MR. BARRY GALENZOSKI: Well, not all
3 necessarily just strengthening. Some of that would have been
4 expected. It could have been late reported claims coming in
5 that were newly reported, but for prior years.

6 MR. RAYMOND OAKES: With respect to RSR
7 levels, I just have a couple of questions recognizing that
8 this area was canvassed extensively by Board Counsel and CAC
9 Counsel. Overall for 2005/06 in terms of the RSR based on
10 the Public Utility Board Interrogatory 1-6, are the levels
11 retained by the entire Book of Business within target?

12 MR. BARRY GALENZOSKI: Well, they're within
13 the PUB target if you're talking about the basic RSR. As it
14 shows on the revised AI-13 that's attached to PUB/MPI-1-6,
15 the -- as of 2003/04, this is actual, we were at \$42.8
16 million, so that's just under the PUB target of \$50 million
17 and somewhat under -- obviously -- the Corporation's minimum
18 target of \$80 million.

19 The forecast for 2004/05 shows that that
20 number is going to increase to approximately 67.4 million,
21 which would be within the PUB target of eighty (80) -- or
22 fifty (50) to \$80 million, but under the Corporation's target
23 of eighty (80) to \$100 million.

24 MR. RAYMOND OAKES: Okay, on a high level,
25 are we in a position that we can conclude that overall

1 reserves, whether they're claim reserves that we just looked
2 at, or the RSR are relatively sufficient at this time?

3 MR. BARRY GALENZOSKI: Yes, well the claim
4 reserves would be sufficient. As we know at this time, the
5 RSR is building towards the sufficiency that the Corporation
6 is looking for over time.

7 MR. RAYMOND OAKES: And based on a small use
8 class like motorcycles -- and you knew that I had to find
9 some way of ensuring that the motorcyclists' concerns are
10 looked after -- would a significant strengthening or increase
11 in old claims reserves impact the rate of such a small major
12 use class significantly?

13 MS. MARILYN MCLAREN: It could affect the
14 calculated credibility weighted rate requirement. It
15 wouldn't change the rate Application.

16 MR. RAYMOND OAKES: Could it affect the
17 serious losses, for example, in a significant way?

18 MS. MARILYN MCLAREN: I guess -- it -- you
19 know -- it's -- the answer really is similar to my previous
20 answer. When we're capping the applied-for increase so much
21 below the credibility weighted indicated increase, it's
22 likely not to have too much practical effect. Any change in
23 experience that would lead us to a change in the predicted
24 future costs, would affect the revenue requirement for the
25 pool, sure.

1 MR. BARRY GALENZOSKI: Mr. Oakes, just one
2 (1) -- just point on your prior year claims numbers that
3 you're talking about is that you will also notice that
4 there's adjustments to the financial provisions and some of
5 that would affect the case reserves that are being put up and
6 identified as prior year numbers.

7 And so you can't just look at the one (1)
8 number say, well, there's been reserve strengthening without
9 understanding that it could have a -- a following impact on
10 the financial provision and you have a couple of advisors
11 there that, I'm sure, can tell you that.

12 MR. RAYMOND OAKES: I appreciate that answer.
13 Ms. McLaren, we talked a few minutes ago about the
14 Corporation's method of allocating serious losses to each
15 major use classification. I wonder if, again, you could just
16 briefly state the use of ten (10) averages of data or
17 averaging spreading losses over that period?

18 MS. MARILYN MCLAREN: All losses up to a
19 maximum of five hundred thousand dollars (\$500,000) are used
20 and averaged over a five (5) year period. Serious losses are
21 averaged over a ten (10) period this year, simply because we
22 have ten (10) years of experience with our no-fault program.

23 I would expect this time next year, we'll be
24 talking about averaging them over eleven (11) years and in
25 all cases, those claims costs are reflected in the experience

1 of the particular major use categories.

2 MR. RAYMOND OAKES: And the costs of the
3 serious losses averaged over that -- or taken over that ten
4 (10) year time period, those are reflected in the exhibit at
5 Tab 12, TI-20, Exhibit Number 15, and you'll find that at
6 page 74 of the tabbed materials.

7 MS. MARILYN MCLAREN: I will accept that
8 subject to check. The heading isn't on the page that you've
9 included here.

10 MR. RAYMOND OAKES: I'm sorry, is there a
11 question as to identification of TI-20, Exhibit 15-10?

12 MS. MARILYN MCLAREN: I just don't have the
13 various exhibits memorized as -- as to what specific -- which
14 one refers to which topic, but I will accept what you've
15 said, subject to having a look at the headings.

16 MR. RAYMOND OAKES: And if I can get you to
17 page the page before, it indicates the losses, and this is
18 TI-20, it's still the same reference, TI-20, Exhibit -- oh,
19 I'm sorry, Exhibit 13-10, and it indicates the losses
20 totalling for those years, eleven thousand (11,000) (sic),
21 seven hundred and thirty-four thousand three hundred and
22 thirty-five (734,335); do you have that?

23 MS. MARILYN MCLAREN: Yes. And Exhibit 13 is
24 the actual losses each year, without the serious losses being
25 averaged over the ten (10) year period.

1 MR. RAYMOND OAKES: And so that --

2 MS. MARILYN MCLAREN: So that's the
3 difference between Exhibit 13 and 15, is the same losses, but
4 with the averaging.

5 MR. RAYMOND OAKES: So the effect of the
6 averaging then, is to pump up the losses almost \$5 million
7 over that time period?

8 MS. MARILYN MCLAREN: That's simply a
9 reflection that the serious loss motorcycle claims would have
10 been higher in the previous five (5) years than they were.
11 The actual losses would have been in the current five (5)
12 years reflected here at Exhibit 13, yes.

13 MR. RAYMOND OAKES: And so, what you're
14 telling the Board then, is that the trend is to lower losses
15 in the last five (5) years?

16 MS. MARILYN MCLAREN: No, there's no trend.
17 Large losses are random, that's why we average them over as
18 many years as we can.

19 MR. RAYMOND OAKES: And the effect of these
20 random losses are to increase the requirement by virtue of
21 pumping up these losses almost 40 percent, as shown by the
22 variance in those two (2) exhibits?

23 MS. MARILYN MCLAREN: I think it would be
24 closer to 10 percent. The difference between the 34 million
25 shown in the bottom right corner of Exhibit 15 versus 32

1 million shown in the bottom right corner of Exhibit 13.

2 MR. RAYMOND OAKES: I accept that
3 calculation, however, if you look solely at Territory 1, the
4 costs are \$4.5 million more, which would be 40 percent, and
5 would make Territory 1 motorcycle rates, I assume, nearly 40
6 percent higher than if the actual costs were used?

7 MS. MARILYN MCLAREN: Okay. But if you look
8 at Territory 2, the actual losses are higher than the average
9 losses. Serious losses are random.

10 MR. RAYMOND OAKES: So you're telling me that
11 the -- the rates aren't reflective of risk whatsoever?

12 MS. MARILYN MCLAREN: No, I don't think you
13 heard me say that.

14 MR. RAYMOND OAKES: Ms. McLaren, I'd ask that
15 you move to Tab 13 of the CMMG filed materials. I'd like to
16 talk about unit counts. At page 77 of our materials, we have
17 -- can you tell me, it has eight thousand eight hundred and
18 forty-two (8,842) units identified in PUB-228, can you tell
19 me what insurance year that would be related to, please? The
20 heading is Reconciliation of '04/05 Rates. I wonder does
21 that relate to that insurance year?

22 MS. MARILYN MCLAREN: It stands to reason but
23 I can't confirm that right this minute.

24
25

(BRIEF PAUSE)

1 MS. MARILYN MCLAREN: I believe that this --
2 the motorcycle count shown on this page comes from the rate
3 model and would have been taken in the summer of '03.

4 MR. RAYMOND OAKES: Okay. Then if you go to
5 the next page which is TI-2, it's dated June 18th, 2003 and
6 TI-2 has a count of units of seventy-three hundred (7,300)
7 motorcycles. Do you see that?

8 MS. MARILYN MCLAREN: Yeah. The previous
9 page that we just looked at, the eighty-eight forty-two
10 (8,842) is a snapshot and the seventy three hundred (7,300)
11 shown on the next page which was TI-2 from the '04
12 Application shows seventy-three hundred (7,300) which are
13 earned units.

14 The other difference is that the seventy-three
15 hundred (7,300) would have been selected in the summer of
16 '02. Sorry, -- it would have been calculated based on a
17 snapshot that was a year earlier than the eighty-eight forty-
18 two (8,842) that we talked about a minute ago.

19 MR. RAYMOND OAKES: And if in its Application
20 in the summer of 2003 for this year's rates, if the
21 Corporation had have used the eighty-eight hundred forty-two
22 (8,842) which was a snapshot if you will, then that would
23 have affected the required rate. Isn't that correct?

24 MS. MARILYN MCLAREN: It's a snapshot of the
25 count of registered motorcycles at a point in time in the

1 summer of '03. So we would never have been able to use that
2 for rate making purposes the way you suggested because it's
3 not the same as earned units.

4 Many of those motorcycles come on the road in
5 August, some in July, they're -- they're not insured for a
6 full year. So the seventy-three hundred (7,300) effectively
7 means one (1) motorcycle insured for a full year, two (2)
8 motorcycles both together insured for half a year each as a
9 calculation of earned units. Very different from the
10 snapshot of registered motorcycles referenced on the first
11 page.

12 MR. RAYMOND OAKES: Ms. McLaren, I'm going to
13 have to refer you at this juncture to AI-16 at page 6 and it
14 talks about unit counts there. I wonder if you could put
15 those materials in front of you at this time?

16

17 (BRIEF PAUSE)

18

19 MR. RAYMOND OAKES: And if you have that it
20 indicates in the top table at page 6, it indicates for 2003
21 that the unit count was some eight thousand and thirty-three
22 (8,033). Do you see that?

23 MS. MARILYN MCLAREN: Yes, I see that.

24 MR. RAYMOND OAKES: And so if it was over
25 eight thousand (8,000) units, why was the Corporation in TI-2

1 only using seventy-three hundred (7,300)?

2 MS. MARILYN MCLAREN: When we were preparing
3 the '04 Rate Application, we didn't know how many earned
4 units would actually result from the operations of the '03
5 insurance year. We prepared the '04 Application very early
6 in '03.

7 MR. RAYMOND OAKES: Well, if that's your
8 evidence, presumably you could have looked at the number for
9 '02, shown in that same table, which is already over seventy-
10 seven hundred (7,700) units. Why again would you pick
11 seventy-three hundred (7,300)?

12 MS. MARILYN MCLAREN: That was our projection
13 based on the evidence in front of us at that time. The --
14 the important factor here that we haven't yet touched on, is
15 that everything we do in the rate making methodology
16 calculates a rate -- calculates a revenue requirement per
17 unit.

18 Changes in the unit count don't have a
19 significant impact on the calculated rates. We're trying to
20 figure out what the claims cost is per unit. And so if the
21 units change, there's not a significant impact on that.

22 And maybe I need to elaborate a little bit
23 more on that. We predict, for example, a thousand (1,000)
24 motorcycles and four thousand dollars (\$4,000) in claims cost
25 per unit, for the sake of argument.

1 We're not predicting 4 million dollars in
2 claims costs, and if you add five hundred (500) more units,
3 the same 4 million dollars gets shared amongst a larger pool.
4 That's not what the rate making methodology does.

5 If you expect more units, you expect more
6 claims costs overall and, therefore, the unit cost of
7 insurance does not change much.

8 MR. RAYMOND OAKES: Ms. McLaren, just looking
9 at TI-2, when you calculate the second line, which is the
10 claims cost, is that not the overall claims cost divided by
11 the number of units?

12 MS. MARILYN MCLAREN: No, it's not. It's
13 not. It's calculated as the claims costs per unit. And we
14 do that through all the various exhibits included in TI-20,
15 with respect to unit calculations, relativity calculations,
16 so, no.

17 I mean, if you -- if it was, as you suggest,
18 then unit count would be significant. But you don't take a
19 dollar value of claims and divide it into units to get your
20 claims cost per unit, no.

21 MR. RAYMOND OAKES: If we look at the overall
22 and take the eight hundred and twenty-seven thousand
23 (827,000) units times the claims expense of six hundred and
24 thirty-seven dollars and ten cents (\$637.10), I believe that
25 that would result in the overall claims expense of the

1 Corporation, showing that is merely the claims -- overall
2 claims expense divided by number of units, certainly what the
3 math would reflect in terms of that calculation performed at
4 this time with those numbers; isn't that right?

5 MS. MARILYN MCLAREN: Yes, absolutely. On an
6 overall basis, that's what we do. We have a claims
7 forecasting process that calculates the expected cost of
8 claims for the basic compulsory program.

9 Then we have a rate making methodology that
10 says, okay, if that's how much money we're going to need to
11 pay claims province wide, insurance use wide and every other
12 factor, how does each group, each major use need to
13 contribute to cover those costs off?

14 And it's through TI-20, through all the
15 various exhibits, as shown in the rate making methodology,
16 that we get from that overall claims cost requirement to
17 individual required rate changes for all the individual risk
18 classifications.

19 We've had this conversation before in these
20 proceedings, where we don't say, what is the total cost of
21 claims going to be for the motorcycle pool, what will total
22 cost of claims be for dealer plates, what will the total cost
23 be for trailers, add them all up and come up with a claims
24 forecast.

25 We go the other way, what is the total cost of

1 claims, and then we figure out for the rate making
2 methodology how each different category must contribute to
3 cover off that total.

4 MR. RAYMOND OAKES: Are you saying, Ms.
5 McLaren, with reference again to TI-2, if that number for
6 claims, that six thirty-seven decimal ten (637.10) changed,
7 would the clients' cost for motorcycles change then as well?

8 MS. MARILYN MCLAREN: Yeah, that's right it
9 would expect it to change if the 637 million overall changed.

10 MR. RAYMOND OAKES: And so if the unit count
11 changes, then that \$697.10 million (sic) would change as
12 well?

13 MS. MARILYN MCLAREN: No the -- if the unit
14 count changed, the -- on an overall basis I'm talking about,
15 the -- the claims -- the claims costs -- expected claims
16 costs would change at an overall basis. That's where the
17 change would be.

18 MR. RAYMOND OAKES: Right. That 637.10 would
19 change based on the changes in number of units?

20 MS. MARILYN MCLAREN: Yeah, that's right.
21 And that change would occur well within that comprehensive
22 claims forecasting process. That's where we figure out how
23 many units are we likely to see on the road and we calculate
24 the effect of that on the overall claims forecast.

25 So it's not a calculation used in a rate

1 making methodology, it's a calculation used well within the
2 claims forecast that comes up with the total dollar value.

3 MR. RAYMOND OAKES: Ms. McLaren, I want to
4 look at some other variances in the data. At page 87 you'll
5 find the CAC/MSOS Interrogatory 1-3-A and the attachment has
6 a number of pages. I'm asking you to look at page 87 for the
7 major class 4, which is motorcycles.

8 Is the total claims count nine hundred and
9 thirty-four (934) claims for the three (3) insurance years?
10 I -- I'm sorry page 92, I'm told, is a better reference.

11 MS. MARILYN MCLAREN: Claims Ratio by Major
12 Class?

13 MR. RAYMOND OAKES: That -- that's correct.
14 And you'll see the reference, there's Major Class 4 Total and
15 there's two (2) numbers there. Two twenty-four (224) and
16 seven ten (710) for a total of nine hundred and thirty-four
17 (934) claims.

18 MS. MARILYN MCLAREN: Okay.

19 MR. RAYMOND OAKES: And then referring to the
20 attachment at page 95 CMMG 1-63, we have the same time period
21 but when you add up the three (3) columns there and I'm
22 adding the two eighty-seven (287), the three oh six (306) and
23 the two ninety-one (291), the number of claims instead of
24 nine thirty-four (934) on the previous table, now is eight
25 hundred and eighty-four (884).

1 Can you tell me why there would be a variance
2 in the total claims count for that same time period depending
3 on the two (2) attachments?

4 MS. MARILYN MCLAREN: We can take that as an
5 undertaking. Claim counts are always snapshots at a point in
6 time. Claims come in late. Some claims would be closed with
7 zero (0) incurred, different things like that could affect
8 the count, and we can take that and explain the differences.

9
10 --- UNDERTAKING NO. 18: Clarification of variances in the
11 total claims count for Major Class 4.

12
13 MR. RAYMOND OAKES: If you could do that by
14 way of undertaking, if you would in answering that have
15 reference to the date that's at the bottom of the exhibits.
16 And at the same time if you could also look at AI-16 at page
17 3 where the census taken with respect to counts for the last
18 two (2) years is five hundred and twelve (512) claimants.

19 And perhaps you could just indicate the reason
20 for variance in the various numbers referred to.

21 MS. MARILYN MCLAREN: I'm sorry. AI-16 page
22 3?

23 MR. RAYMOND OAKES: Yes.

24 MS. MARILYN MCLAREN: I'm looking at Claims
25 Per Thousand Units, Severity by Type of Claim and Percentage

1 of Total Incurred. I don't see actual counts on that page.

2 MR. RAYMOND OAKES: We'll get back to you
3 with that reference, then. Looking at Page 125 in the CMMG
4 Book of Documents, you'll find CMMG Interrogatory 2-23 and if
5 I can ask you to hold that page and then look at the
6 following page, which is CMMG 1-75, it shows that there's
7 thirteen (13) serious injury claims in CMMG 1-75, however,
8 the information in 2-23 at the preceding page shows only
9 eight (8). Which of those would be correct?

10 MS. MARILYN MCLAREN: Sorry, what was -- I've
11 got your Page 125 in front of me and what was the other
12 reference?

13 MR. RAYMOND OAKES: The following page where
14 you find CMMG 1-75. I'm sorry, the preceding page.

15 MR. KEVIN MCCULLOCH: Just for some
16 clarification, the preceding page --

17 MR. RAYMOND OAKES: If I can jump in at this
18 time, somehow we seem to have a difference between my
19 materials and Dr. Hickson's, but we're referring at this
20 point to Page 116 of the CMMG materials and the other
21 reference being Page -- Page 125.

22 MS. MARILYN MCLAREN: We will take that as an
23 undertaking.

24 MR. RAYMOND OAKES: And when you're
25 considering the previous undertaking we discussed, the

1 reference was Page 3 of the study that was attached as
2 Appendix 4.1.

3 I'm going to move forward to an examination of
4 the sport bike and the differential proposed and this is
5 found, hopefully, at Page 128 of the CMMG materials.

6 MS. MARILYN MCLAREN: I'm sorry, the
7 reference again?

8 MR. RAYMOND OAKES: The reference is Page 128
9 of the CMMG materials; it's CMMG Interrogatory 1-75.

10 MS. MARILYN MCLAREN: Thank you.

11 MR. RAYMOND OAKES: And with reference to
12 that attachment, when you examine the tables, can you tell me
13 how many serious losses sport bikes have had in the last five
14 (5) years?

15 MS. MARILYN MCLAREN: I see one (1).

16 MR. RAYMOND OAKES: And when you examine the
17 touring class, I see that it has six (6) serious losses. Is
18 that correct?

19 MS. MARILYN MCLAREN: Yes, six (6).

20 MR. RAYMOND OAKES: And custom have had four
21 (4).

22 MS. MARILYN MCLAREN: Yes.

23 MR. RAYMOND OAKES: So, certainly from an
24 examination of those serious losses, you couldn't possibly
25 conclude that sport bikes are somehow more inherently risky,

1 more dangerous, or should be higher rated than other classes
2 of those motorcycles?

3 MS. MARILYN MCLAREN: Let me repeat, serious
4 losses are random.

5 MR. RAYMOND OAKES: And so you can't make any
6 conclusions. Is that correct?

7 MS. MARILYN MCLAREN: No, not based on this
8 five (5) years of data we have here.

9 MR. RAYMOND OAKES: And yet the Corporation's
10 proposing to have an increase in the relative rate based on
11 three (3) years of data; isn't that correct?

12 MS. MARILYN MCLAREN: Based on a body of
13 evidence collected over three (3) years that is not limited
14 to an analysis of serious losses, yes. Which is 60 percent
15 with respect to non-serious losses, that's 60 percent of the
16 five (5) years of data normally used for rate making
17 purposes.

18 MR. RAYMOND OAKES: And when we look at page
19 136 of the CMMG materials, where you'll find TI-20, Exhibit
20 15, page 5 of Exhibit 15, the credibility assigned to sport
21 bikes is some decimal zero three nine six (.0396); is that
22 correct?

23 MS. MARILYN MCLAREN: Yes.

24 MR. RAYMOND OAKES: And that's an extremely
25 small credibility; would you agree with me?

1 MS. MARILYN MCLAREN: Yes.

2 MR. RAYMOND OAKES: And that reflects that
3 we're really only dealing with some fourteen hundred (1,400)
4 motorcycles each year.

5 MS. MARILYN MCLAREN: Yes.

6 MR. RAYMOND OAKES: To better understand how
7 the sport bike differential was determined, is it basically
8 the current claims cost differential to average, and that's
9 determined, and then that is the credibility weighted by the
10 existing rate differential?

11 I can put it another way if you wish. Is the
12 current relativity is weighted by the past rate relativity?

13 MS. MARILYN MCLAREN: Yes.

14 MR. RAYMOND OAKES: And that results in a new
15 relativity of one point one three two six (1.1326), shown in
16 the exhibit. I'm sorry. I understand that the new
17 relativity is one point three one eight five (1.3185).

18 MS. MARILYN MCLAREN: Yes. I see that. Yes,
19 that's the new relativity for a sport bike.

20 MR. RAYMOND OAKES: And what exactly is the
21 selected relativity? Who is it selected by? How is it
22 selected?

23 MS. MARILYN MCLAREN: The selected -- the
24 balance selected is actuarial judgement.

25 MR. RAYMOND OAKES: And so, in short, Mr.

1 Palmer selected it.

2 MS. MARILYN MCLAREN: One point three eight
3 one four (1.3814) is the selected -- yes, as opposed to the
4 new calculated one point three one eight five (1.3185), Mr.
5 Palmer selected.

6 MR. RAYMOND OAKES: And, really, this
7 approach, it makes an assumption. And that assumption is
8 that the data for sport bikes has some statistical validity,
9 even though it's for a very short period, for a very small
10 number of claims; isn't that correct?

11 MS. MARILYN MCLAREN: Yes, there's some
12 judgement there. And, as we indicated, there is, within the
13 three (3) years of data that we've got, there is overwhelming
14 consistent year to year significant difference in sport bike
15 claims experience.

16 The judgement would have been different if
17 there had been any kind of variability or volatility within
18 that three (3) year body of data that we've got to work with.
19 We didn't take highly variable results over three (3) years
20 and just average them over three (3) years, but consistent
21 differences between sport bike and others led to the
22 judgement that's been made.

23 MR. RAYMOND OAKES: Well, we'll examine those
24 in a few minutes. Would you agree with me that assuming that
25 the current relativity should be credibility weighted by the

1 past rate relativity, that approach assumes that the past
2 rates were an accurate reflection of the risk; would you
3 agree with me?

4 MS. MARILYN MCLAREN: That's the assumption,
5 yes.

6 MR. RAYMOND OAKES: And so the past rate is
7 the complement for your credibility calculation.

8 MS. MARILYN MCLAREN: That's right.

9 MR. RAYMOND OAKES: And yet it too is based
10 on a very, very small population, not the kind of preferred
11 large population that actuaries would like to use.

12 MS. MARILYN MCLAREN: Absolutely. And, you
13 know, I mean, the fact that the calculated differential for a
14 sport bike should be more like 189 percent, is something that
15 we wouldn't move forward on given the fact that we've only
16 got three (3) years of data.

17 MR. RAYMOND OAKES: And I suggest to you that
18 if you used instead the overall rate for motorcycles, which
19 would have greater statistical reliability as the complement,
20 that that would result in a new differential.

21 And I'd suggest to you that it would be in the
22 order of one point one three two six (1.1326), instead of one
23 point three one eight five (1.3185); could you agree with
24 that?

25 MS. MARILYN MCLAREN: Now, the whole -- the

1 whole purpose of this particular exhibit is to examine the
2 differences within the motorcycle pool. So simply
3 calculating, you know, the differences against the whole,
4 wouldn't -- wouldn't serve much purpose.

5 MR. RAYMOND OAKES: Well, the Corporation, at
6 page 138 of the CMMG materials, in the Information Request
7 Round 2-80, it indicates under New Relativities, that the
8 Corporation has determined new relativities for each of these
9 class of motorcycles; isn't that correct?

10 MS. MARILYN MCLAREN: Yes.

11 MR. RAYMOND OAKES: And are these relatively
12 based upon weighting to the overall motorcycle rates, as
13 opposed to the approach you just talked about?

14 MS. MARILYN MCLAREN: It's the relativity
15 within the motorcycle class, differences within.

16 THE CHAIRPERSON: Mr. Oakes, if I could, just
17 looking at the time and understanding that one of the
18 Presenters will be coming at 11:30 and another one at 11:45,
19 and we selected a specific time to fit them in, along with a
20 third one, what's your views on when we should take the
21 break, when we should switch over to examining the witness?

22 MR. RAYMOND OAKES: Mr. Chairman, I probably
23 can finish in about ten (10) minutes in terms of sport bike
24 differentials. I would then propose to move to the
25 Motorcycle Risk Study, which would probably be another twenty

1 (20) minutes or so. At that time I could -- really at any
2 time of the Chairman's choosing, I could stand down and allow
3 the Presenter to take the stage, if you wish.

4 This particular topic I could probably finish
5 in time that we could have a break at 10:30, if you wish.

6 THE CHAIRPERSON: Okay. That's fine.

7

8 CONTINUED BY MR. RAYMOND OAKES:

9 MR. RAYMOND OAKES: Ms. McLaren, just to get
10 back, and I think you may have answered it the first time
11 round, but after your last answer, I wish to clarify it.

12 When we look at the complement in that table
13 at page 138, that's telling us that you used the overall
14 motorcycle rate to assess those various new relativities that
15 are shown on the third column from the right; isn't that
16 correct?

17 MS. MARILYN MCLAREN: Yes, because that's
18 what you asked to do -- asked us to do in your Interrogatory.

19 MR. RAYMOND OAKES: Right. And when it's
20 done that way, instead of a differential of one point three
21 one eight five (1.3185), you get a new differential for sport
22 bikes at one point one three two six (1.1326); is that
23 correct?

24 MS. MARILYN MCLAREN: Yes, that's right.

25 MR. RAYMOND OAKES: And so the selected

1 relativity, instead of being approximately one point four
2 (1.4), would go down to one point one five (1.15); would you
3 agree with that?

4 MS. MARILYN MCLAREN: The selected would
5 still be the same though. And -- I would like to draw your
6 attention to the, you know, the calculated raw relativity,
7 which showed, that's where you see the one point eight four
8 (1.84) for sport bikes.

9 So, I mean, as I indicated earlier, you know,
10 the relativity indicated by the three (3) years of data that
11 we've got, is like 185 percent differential for these bikes.
12 The selected -- the balance selected of one point three five
13 (1.35) is what we've put into this particular Application.

14 MR. RAYMOND OAKES: Really what you're doing
15 then is you're substituting judgment for the relativities
16 that would be produced by the actuarial standards contained
17 in this information request response?

18 MS. MARILYN MCLAREN: No. You asked us to
19 perform a particular calculation. We did that calculation.
20 It create -- it did create -- your -- your request created
21 new relativities and all we've done here is -- is show what
22 those are.

23 MR. RAYMOND OAKES: If I could ask you to
24 turn to page 139 of the materials and there you will find
25 AI.4 Part 2, I wonder if you could read for us the definition

1 of sport bike?

2 MS. MARILYN MCLAREN: "These motorcycles
3 often have streamlined styling with factory
4 installed streamlined windshield and
5 faring. The rider position is more prone
6 than the conventional motorcycle."

7 MR. RAYMOND OAKES: And we've reviewed that
8 definition and the list of motorcycles by type attached to
9 CMMG Interrogatory 2-8. And we understand that from that
10 list the following motorcycles are sport bikes listed there
11 includes a Honda CB-750, Dukati models prior to 1983, a
12 Yamaha RD-400, and a Triumph Trident.

13 And we've enclosed in the materials for your
14 review, pictures of each of those models showing the
15 particular characteristics. Do you have those pictures, Ms.
16 McLaren? It's pages 145 and following.

17 MS. MARILYN MCLAREN: Yes, I see those
18 pictures.

19 MR. RAYMOND OAKES: And you'll agree with me
20 based on those pictures that none of those bikes match the
21 description of sport used to assign them to the sport body
22 style. Isn't that correct?

23 MS. MARILYN MCLAREN: I wouldn't disagree
24 with that. And again, you know, at these proceedings in
25 previous years we've had some discussions about where that

1 listing came from. It came from Vehicle Information Centre
2 of Canada, it came a number of years ago. We have not yet
3 been able to identify a credible source to update, modify,
4 change or confirm that table.

5 We've used the best information we have. And
6 I -- I suggest that we say that we haven't found a good
7 credible source of updating, modifying, confirming that data.
8 Even having asked the CMMG for help in that regard, that
9 hasn't been forthcoming.

10 So if there's some potential challenges to the
11 validity of that data, I wouldn't argue with that. But at
12 this point in time I don't know where to get a better
13 categorization.

14 MR. RAYMOND OAKES: I wanted to ask you about
15 a particular motorcycle and the reference is in CMMG 1-82
16 Attachment 2, it's not in our binders and perhaps you don't
17 need the reference. But in the -- in the Attachment 2 which
18 is the highest premium increases sought, I happened to see an
19 old bike of mine, a 1987 Yamaha FJ-1200.

20 And the Corporation, for that particular 1987
21 motorcycle, is seeking a rate of two thousand two hundred and
22 twenty-seven dollars (\$2227). Would the Corporation have any
23 evidence to dispute my personal recollection that that's
24 probably about the fair market value of that particular
25 motorcycle at this time?

1 MS. MARILYN MCLAREN: I don't know that the
2 hike would be that much. That might be the applied for a new
3 rate. And I wouldn't -- I wouldn't speculate as to the cost.
4 I know there's certainly lots of motorcycles of an older
5 vintage that would be worth than that or less than that. I -
6 - I don't know.

7 The point here though is that, you know, there
8 will be as -- as the rate line implementation continues,
9 there will be motorcycles insured for a thousand dollars
10 (\$1000) of market value for the motorcycle itself, will
11 probably have an annual rate more than a thousand dollars
12 (\$1000).

13 And again, that ties back to the fact that
14 over 80 percent of the costs in the motorcycle pool are
15 injury costs and that's really not relevant to the actual
16 value of the bike.

17 MR. RAYMOND OAKES: Would the Corporation
18 have any concern that somebody whose motorcycle was worth
19 twenty-five hundred dollars (\$2500) that had to pay twenty-
20 five hundred dollars (\$2500) to insure it would be tempted to
21 ride that bike without insurance?

22 MS. MARILYN MCLAREN: We have concerns about
23 anybody operating a motor vehicle with registration, without
24 insurance and we rely on the continued vigilance of the
25 enforcement organizations in this province to -- to deal with

1 that, to monitor it and that people will be held accountable
2 through provisions of the HTA, primarily, for behaviour in
3 that regard.

4 MR. RAYMOND OAKES: Thank you for that, Ms.
5 McLaren. Mr. Chairman, it's now 10:30. I've reached the
6 next chapter in my questioning, so it may be an appropriate
7 point to stand down.

8 THE CHAIRPERSON: Very good, Mr. Oakes, and
9 just to remind everyone after we come back and Mr. Oakes
10 continues, we'll break exactly at 11:30 to receive the first
11 of the two (2) presenters before lunch. Thank you.

12

13 --- Upon recessing at 10:30 a.m.

14 --- Upon resuming at 10:51 a.m.

15

16 THE CHAIRPERSON: Okay, welcome back. Mr.
17 Oakes, I understand you're going to stand down for a minute
18 and call on your expert, Mr. Rifai to provide evidence.
19 Before that you want to introduce an exhibit?

20 MR. RAYMOND OAKES: That's correct, Mr.
21 Chairman, in fact I'd like to ask a few questions relative to
22 the exhibit, but if this time we could have marked, the table
23 prepared by the CMMG and we're going to ask some questions
24 relative to the credibility and the rate line adjustment.

25 THE CHAIRPERSON: These have been distributed

1 to everyone?

2 MR. RAYMOND OAKES: I understand that subject
3 to the available copies, that everybody who needs it, has it
4 in this room.

5 THE CHAIRPERSON: These used in the rate
6 Application?

7 MR. RAYMOND OAKES: Is specifically the rate
8 line, yes.

9 THE CHAIRPERSON: Mr. McCulloch, any problems
10 with this data?

11 MR. KEVIN MCCULLOCH: No, Mr. Chairman.

12 THE CHAIRPERSON: Okay. CMMG-8 and back to
13 you, Mr. Oakes.

14

15 --- EXHIBIT NO. CMMG-8: Table prepared by the CMMG

16

17

18 MR. RAYMOND OAKES: Mr. Barron, do you want
19 to swear or affirm Mr. Rifai?

20

21

HANY RIFAI, Sworn

22

23

THE CHAIRPERSON: Mr. Oakes?

24

MR. RAYMOND OAKES: Thank you, Mr. Chairman.

25

1 CONTINUED BY MR. RAYMOND OAKES:

2 MR. RAYMOND OAKES: As you will see, the CMMG
3 has prepared a table showing the calculation of credibility
4 for the rate line adjustment.

5 As can be seen in Table 2 at the second page
6 of the exhibit, based on the population count which comes
7 from CMMG Interrogatory 1-33, the population count ranges
8 from three thousand seventy-four decimal nine two (3074.92)
9 to fourteen thousand three hundred and seventy-three decimal
10 eight five (14,373.85). The credibility for the purpose of
11 the rate line adjustment assigned by MPI is 100 percent.

12 Comparatively, for passenger vehicles and
13 light trucks, the credibility used for the larger population
14 size is -- I'm sorry -- the credibility of the population
15 size is much larger, yet the credibility assigned is much
16 smaller.

17 Why are the motorcyclists treated differently
18 than the private passenger and light trucks?

19 MR. ROBERT DAWSON: Mr. Chairman, if I may
20 take a moment of your time -- it's Robert Dawson over here.
21 None of the people in the back row count or haven't received
22 copies of this table. I wonder if it's at all possible for
23 the Intervenors to have copies of this, please?

24 THE CHAIRPERSON: Absolutely. Mr. Barron?

25 MR. RAYMOND OAKES: I think, Mr. Chairman,

1 there was some difficulty in that there weren't a number of
2 copies produced.

3 THE CHAIRPERSON: We can make some copies.
4 Mr. Barron, do you want to make some copies for the other
5 intervenors? Thank you, Mr. Dawson.

6 MR. RAYMOND OAKES: I always forget what a
7 bestseller is in terms of some of this material and -- and
8 how popular it can be.

9 THE CHAIRPERSON: It's quite exciting stuff,
10 Mr. Oakes.

11 MS. MARILYN MCLAREN: And can you repeat the
12 question now, please.

13
14 CONTINUED BY MR. RAYMOND OAKES:

15 MR. RAYMOND OAKES: Certainly. As seen in
16 the table, for every rate group for motorcycles, which range
17 in population count from fourteen thousand three hundred and
18 seventy-three (14,373) and change to three thousand eight
19 hundred and seventy-four (3,874) and change, the credibility
20 assigned was 100 percent.

21 Comparatively, for passenger vehicles and
22 light trucks, the credibility -- the population size is much
23 larger, yet the credibility assigned is much smaller. Why
24 are motorcyclists treated differently than passenger vehicles
25 and light trucks?

1 MS. MARILYN MCLAREN: Well, really, for that
2 expressed reason. The unit count in many of these rating
3 cells are exceedingly low. We used capping instead of
4 credibility weighting.

5 MR. RAYMOND OAKES: And what type of capping
6 would that be?

7 MS. MARILYN MCLAREN: The capping rate group
8 increase is to a maximum of 15 percent.

9 MR. RAYMOND OAKES: Looking at Table 3 in
10 that same exhibit, it shows:

11 "The credibility of similar population
12 sizes in the Application as well as
13 populations needed to reach a similar
14 credibility."

15 Why would a population size for -- such as
16 farm passenger use and other truck for all territories, which
17 has a greater population for motorcycles, have a lower
18 credibility than motorcycles?

19 MS. MARILYN MCLAREN: This -- this is the
20 credibility of the relativity calculations, which is not the
21 same as calculating the credibility of the historic
22 experience of an overall class.

23 MR. RAYMOND OAKES: But could you explain why
24 they have a lower credibility in this context?

25 MS. MARILYN MCLAREN: The relativities are

1 less stable through time at that lower level of detail.
2 Therefore, you select a different factor.

3 MR. RAYMOND OAKES: Well, what you're telling
4 us is taking some fifteen thousand eight hundred and fifty-
5 one (15,851) vehicles in the farming all purpose truck class
6 and thirty thousand six hundred and six (30,606) vehicles in
7 the pleasure truck, to have credibilities that are roughly
8 the same as the 60 percent assigned to some eight thousand
9 (8,000) motorcycles.

10 MS. MARILYN MCLAREN: You're comparing
11 credibility of the relativity against the credibility of the
12 overall major use rate indication. It's not the same thing.
13 The volatility of the relativities through time at that
14 detailed level are greater than the calculated rate
15 requirement for the motorcycle major use as a whole through
16 time.

17 MR. RAYMOND OAKES: But, surely, the
18 principle should be the same. It should be -- the
19 credibility should be different and it should decrease where
20 you have larger classes of vehicles. Or, I'm sorry, should
21 increase when you have larger vehicle populations.

22 MS. MARILYN MCLAREN: But we're looking at
23 something through time. And what you've got here, for
24 example, the farming all purpose truck, all territories,
25 fifteen thousand eight hundred fifty-one (15,851) units,

1 those are units accumulated over five (5) -- five (5)? --
2 five (5) year period.

3 So the first point I'm making continues to be
4 valid. You're looking at the experience of a major use
5 overall through time which is much more predictable than the
6 volatility, than the variability that we see through time at
7 this lower level of detail on the relativities between
8 different insurance uses within a particular major class.

9 MR. RAYMOND OAKES: Mr. Chairman, I have no
10 further questions relative to this exhibit. At this time I
11 would like to turn the proceedings over to Mr. Rifai, who I
12 understand is first going to give the Board some outline of
13 his experience and qualifications prior to highlighting the
14 material in his report.

15

16 (MPI PANEL RETIRES)

17

18 THE CHAIRPERSON: Please proceed.

19 MR. HANY RIFAI: Hi. My name is Hany Rifai.
20 I work IAO Actual Consulting Services. I've been working
21 with them for the past seven (7) years. IAO provides
22 currently advisory rates for insurance in all the private
23 sector provinces, Alberta, Ontario, New Brunswick, Nova
24 Scotia, New Brunswick -- Newfoundland, sorry.

25 We file rates with all these Boards, so we

1 have a lot of experience with rate making, in particular,
2 using industry-wide data to provide advisory rates for our
3 clients.

4 We've -- also do rate making for several large
5 insurance companies, private sector insurance companies. In
6 the past seven (7) years, I must have filed at least thirty
7 (30) or forty (40) applications, rate applications in all
8 provinces. They have been reviewed by all the various
9 Boards, Insurance Review Boards, or PUBs, in all the
10 provinces.

11 I'd like to go now to my report that I
12 provided, just maybe to explain some aspects of the report.

13 THE CHAIRPERSON: Show us -- refer us to
14 where we find this, Mr. Saranchuk?

15 MR. WALTER SARANCHUK: This is in response to
16 an Interrogatory, as I recall. No?

17 MR. RAYMOND OAKES: No, this was filed, I
18 understood, as an exhibit right at the commencement of the
19 proceedings, and referred to as an exhibit at that time.

20 MR. WALTER SARANCHUK: Well, I appreciate
21 that. I'm just wondering, oh yes, I'm sorry, I was thinking
22 of MPI's response. This is a document that was filed by the
23 Intervenors CMMG at the outset. I'm not sure of the exact
24 number, I think it was Exhibit Number 3, but you should check
25 that.

1 MR. KEVIN MCCULLOCH: That's consistent with
2 my record, Mr. Chairman, Exhibit Number 3.

3 THE CHAIRPERSON: Okay.

4 MR. HANY RIFAI: So, I will proceed in
5 explaining, first of all, I'll talk about the credibility
6 issue, because there's been -- people have been talking about
7 this before, then I'll go to the loss transfer. I can
8 explain some of my conclusions and some of my exhibits that I
9 put in there.

10 First of all, the -- MPI commented that their
11 method, Buhlmann's method, is an appropriate credibilities
12 method. It -- correct, it is, it's -- it has been, it is
13 used, and I'll explain the -- when it's -- when I think it is
14 appropriate.

15 The first comment, the Buhlmann's -- the K
16 value that's used by the MPI, is an arbitrary number, they
17 don't calculate it, unless I am mistaken, this is just
18 judgmentally selected. The -- there's no supporting --
19 supporting exhibits showing how this value was calculated.

20 Second of all, Buhlmann's method is also -- is
21 supposed to be used mainly in situations when you're -- when
22 you have a subset of a population and you're comparing --
23 you're trying to get the credibility of that subset versus
24 the overall population. That's why it's often used for
25 experience rating plans, where you have a -- a subset of a

1 population, let's say it's private passenger, you have a
2 fleet or something like that, and you're trying to determine
3 the relative credibility of that fleet versus the entire
4 plan.

5 Buhlmann's is, for rate level indications
6 where you're using the entire population of motorcycles, I
7 don't feel is an appropriate method to use for credibility
8 standards. That's why I used the classical credibility
9 approaches, which is what IAO uses in all the Provinces.

10 I have provided -- I've brought exhibits
11 showing our calculation of the classical credibility
12 standards that we have mentioned in our report. It's a
13 fairly long process to calculate the standard. I have it
14 here. I -- maybe this can be passed around or copies made.

15 THE CHAIRPERSON: Mr. Barron, do you want to
16 collect that information there, make some copies?

17 MR. HANY RIFAI: The standard here is by
18 claim counts, so it gives you an idea by coverage, by claim
19 counts.

20 The point is, is when the -- using Buhlmann's
21 when you're calculating for class relativities is
22 appropriate. Again, though, it supposes you calculate K, you
23 actually calculate the process of -- the K value. It's not
24 arbitrarily set. Right now it's currently arbitrarily set by
25 MPI, depending on where they're using it.

1 The reason -- in the K -- the reason it should
2 be used is when it's being calculated for a subset of
3 variables because you have to calculate the -- the variance
4 of the hypothetical -- the hypothetical mean and the expected
5 process of variance compared to the whole group. And it's
6 fairly complicated -- it is a fairly complicated calculation.
7 But right now it's not being used by MPI. It's not being
8 calculated.

9 In our -- in the report that we provided, we
10 went through some of the issues of loss transfer and why we
11 think loss transfer is an appropriate method to be used.
12 Loss transfers is the idea of assigning the losses to the
13 responsible party.

14 Currently from my understanding, MPI simply
15 assigns all the losses. When an accident occurs, whoever
16 received the benefit, the losses are assigned to that group.
17 And I'm correct in this, is that correct? I'm sorry this is
18 a question.

19 In most -- for a class like private passenger
20 the impact of loss transfer is fairly minor. But an issue --
21 for a class like motorcycles, the loss transfer impact is
22 fairly large if it's not being used in a no-fault
23 environment.

24 And I've shown some examples at the end where
25 I compared the rates of Alberta and Ontario for private

1 passenger and motorcycles with Manitoba to give you an idea
2 of what levels we're talking about in impacts.

3 Now the impacts of not using loss transfer
4 were somewhere between thirty (30) -- well the decrease in
5 loss costs if you did apply loss transfer, the MPI would
6 probably be in the range of 30 percent to 60 percent which is
7 what one of the exhibits I show at the end.

8 Currently Ontario has very rich no-fault
9 benefits. They do have tort, they also have no-fault. They
10 have -- they have decided to implement the loss transfer
11 mechanism because they felt there was a -- it was unwise or
12 unfair to penalize motorcycle drivers for the bad or the poor
13 -- at-fault accidents caused by other -- other drivers.

14 The impact of not using loss transfer
15 essentially says that if a class of vehicles is driving and
16 let's say another class of vehicle hits them, maybe even --
17 for example, I think I put this in example. Somebody that's
18 drunk hits the motorcycle. The motorcycle class is
19 responsible for the entire loss even though they had no -- no
20 -- no responsibility for the accident that occurred.

21 I explain in here the loss transfer
22 methodology that's currently being used in Ontario. Quebec
23 also has a no-fault environment currently. There is the --
24 the issue of loss transfer is not relevant there since all
25 the premiums are paid by the government. There's no --

1 there's no differentiation between the risk classes
2 currently. You just pay one premium for everybody for a
3 license, so there's no -- attempt in Quebec to try and
4 establish fault at all.

5 Saskatchewan as far as I know does not
6 currently do a loss transfer and they do have a no-fault
7 environment.

8 BC has a tort environment. They also have
9 fairly rich no-fault benefits and they -- they implemented
10 loss transfer a few years ago.

11 At the end -- I explained the exhibit I showed
12 at the end where I'm calculating the Ontario and Alberta loss
13 costs compared to the Manitoba loss costs.

14 First comment -- as I -- I made a slight
15 update to the tables at the end which I have over here. I
16 adjusted for the difference between full coverage for
17 motorcycles and PPA here, because obviously Manitoba has full
18 coverage. I hadn't done that when I did this exhibit. I did
19 it fairly rapidly at the time because I was given a tight
20 timeline to do this.

21 In this exhibit here I've adjusted the
22 difference between the -- because in Alberta and in Ontario
23 the numbers here, I just took the total loss costs, not
24 adjusting for the fact that -- that some people don't have
25 full coverage.

1 So here I have made those adjustments. I've
2 also adjusted for the difference in deductibles because
3 Manitoba has five hundred dollar (\$500) deductible. Other
4 provinces, the average deductible can be different.

5 THE CHAIRPERSON: Mr. Barron, I think you
6 should get that table as well.

7 MR. HANY RIFAI: Somebody -- somebody should
8 show this because I'm going to actually reference -- the
9 numbers I'm going to talk about are the numbers in this
10 exhibit, not the ones in the report I prepared.

11 The reason why I did this, I did -- it's very
12 hard to -- to compare two (2) provinces because the benefits
13 are different. Especially if there's tort, you don't know
14 how rich tort benefits are. So what I wanted to do is look
15 at the difference between private passenger in two (2)
16 different provinces. One where it's mainly tort, which is
17 Alberta, and one where, Ontario, we have both tort and no-
18 fault. Okay? And -- and it also has a loss transfer
19 mechanism.

20 So what I did is -- if you -- the new exhibit
21 that's been given. I'll give you an example is -- if I take
22 the private passenger 2003 ultimate loss costs for the entire
23 province adjusted for -- for full coverage issues and for the
24 difference in deductibles between Manitoba and Ontario, the
25 loss cost that I'm calculating for Ontario is about a

1 thousand fifty-four (1,054). Okay? This is coming from DU-
2 10 (phonetic) with the adjustments that I just mentioned for
3 -- this is for Ontario loss private passenger 2003.

4 The Manitoba loss costs for private passenger
5 estimated from the report from MPI is eight hundred and
6 fifty-three (853). Okay? It gives you -- this is not an
7 exact -- what I'm trying to do is just give an idea of the
8 impact of the loss transfer. This is not exact, but it shows
9 you that on average right now in Ontario, the private
10 passenger benefits are slightly higher for -- for PPA
11 compared to Manitoba. Okay? I am not adjusting either for
12 loss trends or so on, I -- I -- I -- the conclusions are
13 fairly evident from the numbers, so that I didn't feel it was
14 necessary to make adjustments to try and look at the loss at
15 exactly the same point in time.

16 If you look at motorcycles in -- for the
17 exhibit that I have -- the one here that I think I just gave
18 -- is the adjusting for full coverage -- the average
19 motorcycle loss cost in Ontario is seven hundred and twenty-
20 five (725). Okay? Whereas in the Manitoba rate Application,
21 it's a thousand four hundred and forty (1,440). Okay?

22 It gives you an idea is -- the -- the loss
23 cost difference is -- the loss cost -- the expected loss cost
24 in Ontario is slightly higher for private passenger. It's
25 twice -- it's over 100 percent higher for Manitoba in the

1 motorcycle compared to Ontario.

2 The relationships between PP -- you would
3 assume if loss transfer was a minor issue, the relationships
4 would be fairly similar between private passenger in --
5 between Ontario and Alberta -- sorry, Manitoba and Ontario or
6 -- and Manitoba for motorcycles and PPA, but they're not,
7 they're totally reversed because of the impact of the -- not
8 using loss transfer in Manitoba.

9 When I did the Alberta -- the Alberta example
10 is also interesting because it's -- there's no loss transfer,
11 but it's a tort environment. So what you do is, when I look
12 at -- adjust for the full coverage issue between -- for the
13 2003 all coverage years, for ultimate loss cost, the -- the
14 private passenger loss cost for Alberta is eight thirty-two
15 (832), versus the eight fifty-three (853) in Manitoba from
16 the MPI report.

17 So, they're fairly close, but when I calculate
18 the loss cost difference between Alberta and Manitoba, again
19 adjusting for the full coverage issue, the original report
20 didn't adjust for the full coverage issue. I'm getting four
21 hundred and twenty -- twenty-two (422) for -- for Alberta.
22 This is the Alberta estimated loss cost assuming full
23 coverage and adjusting for deductible -- deductible
24 differences and I'm getting a thousand four hundred and forty
25 (1,440) again for Manitoba. This is over 300 percent

1 difference. Okay?

2 And both -- and both examples show that
3 there's extreme reversals in the loss cost between the -- the
4 Ontario and Manitoba and Alberta and Manitoba.

5 I'm not trying to suggest that the -- the
6 benefits are necessarily the same, it's not a -- it's very
7 hard to -- to be sure of making -- making adjustments to the
8 data to try and have exactly the same benefits. I'm just
9 trying to show the impact that the loss transfer mechanism is
10 having. Other than loss transfer, I'm not sure what else
11 could be explaining this phenomenon. I'm seeing this huge
12 difference between the two (2).

13 Essentially the loss transfer issue, as far as
14 I'm concerned is -- to me is the main reason why right now
15 the motorcycles -- the motorcycle population in -- in
16 Manitoba has such high rates and such indications.

17 The -- you know -- I think when -- when the MP
18 -- the PIPP came in I assume the indication that happened one
19 (1) year -- between one (1) and the other for the Manitoba
20 motorcycle class must have went up over 100 percent. The
21 impact of this is fairly large.

22 It should be also not too difficult to
23 calculate today. I -- I know from the report by MPI that in
24 the database used by MPI, they actually have for each record
25 -- each claim, they know who was at fault, so actually doing

1 the calculation to make this change is not very onerous for
2 the MPI as far as I can tell from what -- what was stated in
3 the report.

4 So, I'm not sure why, currently, in Manitoba
5 the -- the -- the MPI insists on -- on assigning all losses
6 regardless of fault right now to -- to the class in question.

7
8 Again, this issue is fairly irrelevant to
9 private passenger, they're a very large class. The effect on
10 them is minor. The people that -- that get hit the worst for
11 the -- not having a loss transfer mechanism is the
12 motorcycles in this province.

13 Any -- any questions? Any comments?

14 THE CHAIRPERSON: Mr. Oakes?

15 MR. RAYMOND OAKES: Mr. Chairman, I will have
16 some questions on direct examination. Mr. --

17 THE CHAIRPERSON: Mr. Oakes, I was thinking
18 that that's probably a good way to proceed until we reach the
19 presenters because I think the MPI Intervenors and the Board
20 would like to get copies of that material before we proceed
21 to cross-examination by MPI.

22 MR. RAYMOND OAKES: Certainly, Mr. Chairman,
23 that makes good sense.

24

25 EXAMINATION-IN-CHIEF BY MR. RAYMOND OAKES:

1 MR. RAYMOND OAKES: Mr. Rifai, I understand
2 that you would use an alternate credibility formula if you
3 were rate making for Manitoba; is that correct?

4 MR. HANY RIFAI: Yes. What I explained is,
5 for the overall I would use the classical credibility
6 approach. For doing the class relativities I'm not -- I'm
7 not -- I don't disagree with using the Buhlmann's approach,
8 it is appropriate. But, again, I would actually have to
9 calculate K, I wouldn't just assign it arbitrarily.

10 So I would actually go through the exercise of
11 calculating the K value.

12 MR. RAYMOND OAKES: And, Mr. Rifai, on that
13 point, at page 14 of your report you indicate that -- as
14 follows:

15 "In the case of MPI, their derivation of a
16 credibility value is an attempt to produce
17 a particular result."

18 MR. HANY RIFAI: What I'm saying is wherever
19 they decide they want -- they seem to use any standard, any K
20 value in different places, depending on what they want as an
21 impact. I don't find -- feel that's appropriate.

22 The application of credibility should be using
23 statistical methods. It shouldn't be done on an arbitrary
24 method, which is what they're doing in the report -- in their
25 analysis.

1 MR. RAYMOND OAKES: And, on that point, I
2 understand that MPI uses K value sixty thousand (60,000) for
3 class analysis and six thousand (6,000) for over analysis.
4 What's the effect of them using that approach?

5 MR. HANY RIFAI: For the same data volume,
6 they'll have two (2) different credibility standards. I
7 don't necessarily think that's appropriate. For one (1)
8 larger group or one (1) smaller group, they'll have different
9 -- for the same group or the same size group, they'll have
10 different standards depending on where they -- they use it.

11 MR. RAYMOND OAKES: And can you explain the
12 credibility formula used by IAO, which I understand is a full
13 credibility constant?

14 MR. HANY RIFAI: Essentially, what we're
15 using is something that comes to us straight up from the
16 central limit there. It's -- would be called the classical
17 credibility approach. It's -- we -- as -- if you could take
18 any random variable, if you take the mean of that, or a large
19 sample set, as the sample set gets large, this gets closer
20 and closer to what we call normal distribution.

21 We basically determine what we feel is --
22 would be considered a -- an appropriate standard, which would
23 be like, say, being plus or minus 5 percent of the true mean,
24 90 percent of the time, which is, I think, worse.

25 In any statistics or any -- any poll, this is

1 -- these are the methods that are used by almost all
2 statisticians. They would calculate the N value or the
3 claims count that's required to have that certainty. That's
4 the minimum claim count we require to have that certainty.

5 In my report, I estimated that claim count for
6 the MPI by -- by taking what we have from the -- I sent you
7 guys -- one (1) of the exhibits I gave was -- shows our --
8 our claim count standard for -- by different coverages. I --
9 I did a weighted average based upon the loss costs of AB and
10 -- the percentage of the losses that are PIPP.

11 The second thing common is when -- when we do
12 the -- the -- our full claim count standard, we use the
13 private passenger loss distribution to calculate this. The
14 likelihood is that motorcycles have probably a much more
15 volatile or higher variance distribution. And to some degree
16 the standard might even be higher for motorcycles versus
17 private passenger.

18 MR. RAYMOND OAKES: At page 12 and 13 of your
19 report, sir, you -- the approach that you use in terms of
20 credibility comes up with a credibility weighting of some
21 12.8 percent for motorcycles; is that correct?

22 MR. HANY RIFAI: No, it's actually -- I think
23 seventeen (17) is what I have in my report here; 17 percent.

24 MR. RAYMOND OAKES: And yet MPI uses some 60
25 percent credibility. What would the effect on the rate be

1 using the two (2) different credibilities?

2 MR. HANY RIFAI: Using the approach of the
3 MPI, using the overall -- the overall rate change of the
4 entire class of -- all classes of business together, you
5 would get point six one (.61) times point one seven (.17),
6 which comes to 10.3 percent.

7 MR. RAYMOND OAKES: And that would be the
8 required increase for motorcycles then?

9 MR. HANY RIFAI: That would be the indicator
10 of rate change, the credibility weighted rate change.

11 MR. RAYMOND OAKES: That would be as opposed
12 to the thirty-six point six (36.6) rate requirement that MPI
13 says is necessary for motorcycles.

14 MR. HANY RIFAI: Yeah, that's correct.

15 MR. RAYMOND OAKES: With respect to your use
16 of the classical method in the approach to credibility, is
17 that one that would be approved by the Financial Services
18 Commission of Ontario, known as FSCO?

19 MR. HANY RIFAI: As I explained previously,
20 IAO files this -- rates applications in all, so this standard
21 or this methodology that we use has been reviewed by all the
22 Boards and all the Boards' actuaries. So it has been
23 approved, yes.

24 MR. RAYMOND OAKES: And, Mr. Rifai, I
25 understand that you were directly involved in the Ontario

1 move to no-fault as they introduced it for heavy trucks and
2 motorcycles. Is that correct?

3 MR. HANY RIFAI: No, I didn't say that. No -
4 - no I wasn't.

5 MR. RAYMOND OAKES: IAO was involved directly
6 with respect to the Osborne Commission?

7 MR. HANY RIFAI: My predecessors, yes.

8 MR. RAYMOND OAKES: And I understand that Joe
9 Cheng, an actuary who was previously with IAO and now with
10 Eckler (phonetic) Partners was directly involved in the
11 Osborne Commission and in the subsequent move to the no --
12 loss transfer legislation?

13 MR. HANY RIFAI: Yes, he was involved, but
14 he's actually not with Eckler Partners. He worked out of --
15 he has his own firm called Joe Cheng and Partners.

16 MR. RAYMOND OAKES: I stand corrected on
17 that. Have -- are you aware that Mr. Cheng filed a report
18 with this Board on September 14th, 1998, being an actuarial
19 review on the application of loss transfer methodology in
20 Manitoba and have you read that report, sir?

21 MR. HANY RIFAI: Yes, I have.

22 MR. RAYMOND OAKES: And, Mr. Chairman, you'll
23 find that, I believe, at Page 22 of the CMMG materials, the
24 reported is reproduced. Can you tell me, Mr. Rifai, do you
25 agree with the conclusions that Mr. Cheng made in 1998, on

1 the application of loss transfer methodology in Manitoba?

2 MR. HANY RIFAI: Yes, I do and that's -- a
3 lot of my report is bringing the same issues that Joe Cheng
4 brought in his report and I do agree with that method -- that
5 approach. I don't feel it's right to charge some group of --
6 of insureds high rates simply because somebody else hits them
7 when they have no -- they're not -- when they're not at all
8 at fault; to me it seemed unfair and -- and contrary to what
9 I would think, it's sound insurance principles.

10 MR. RAYMOND OAKES: So, you would agree with
11 Mr. Cheng, when at Page 12 of his report he says:

12 "To the extent that there are relatively
13 more irresponsible car or heavy truck --
14 truck drivers than there are motorcyclists,
15 they should contribute their fair share in
16 proportion to their negligence, otherwise
17 innocent victims will be asked to shoulder
18 an unfair burden simply due to a change in
19 the delivery mechanism."

20 MR. HANY RIFAI: Exactly. That's -- that is
21 one (1) of the issues why, when you introduce a no-fault
22 mechanism like they did in MPI or in Manitoba, it's necessary
23 to create some kind of loss transfer mechanism not to
24 penalize the not at fault parties.

25 MR. RAYMOND OAKES: Mr. Chairman, that's

1 really the only parts of the testimony I wish to highlight.
2 It's twenty (20) after 11:00. Other than a soft shoe or a
3 tap dance, I'm not sure what I could offer the Board at this
4 time.

5 THE CHAIRPERSON: Thank you, Mr. Oakes.
6 We've received some material now from Mr. Rifai and I think,
7 before we give them exhibit numbers, we'll allow MPI and the
8 rest of us to peruse it and we'll return to that topic when
9 we come back to you after the presenters.

10 Mr. Barron and Mr. Saranchuk, perhaps you
11 could arrange to ensure that the Presenters are here and
12 we'll just take a couple of minutes break and start at 11:30
13 with -- is Mr. Watson here?

14 MR. BYRON WILLIAMS: Mr. Chairman, it's Byron
15 Williams here --

16 THE CHAIRPERSON: Yes.

17 MR. BYRON WILLIAMS: -- for CAC/MSOS.
18 Generally, I think in accepting expert evidence before this
19 Panel, it's usually common to set out the exact purposes for
20 which the witness is being qualified as an expert.

21 I understand that Mr. Rifai is a FCAS, but it
22 would be helpful for my clients to at least understand the
23 purpose of the qualification, also just to have it confirmed
24 that the evidence was produced under his -- either directly
25 by him or under his care and control.

1 THE CHAIRPERSON: Mr. Oakes...?

2 MR. RAYMOND OAKES: Certainly respond to
3 that.

4 The report itself does indicate that it was
5 prepared -- submitted by Mr. Rifai. He can certainly confirm
6 and I will do that at this point for him that it was produced
7 by him and that he was responsible for the calculations and
8 the text of the report and submitted for the purpose of
9 critical examination of an actuarial review on the rate
10 application and the methodologies produced there.

11 I don't think there could be any challenge
12 with respect to the expert nature of it.

13 THE CHAIRPERSON: Mr. Rifai, you've already
14 indicated that your practice is extended to submitting
15 reports in all jurisdictions other than the no-fault ones?

16 MR. HANY RIFAI: Yeah. Well it -- we -- we
17 -- first of all I'm a fellow of both the CAGE (phonetic)
18 Institute and the Casualty Actuarial Society. Our practice
19 currently as I said files rates in all the provinces of
20 Alberta, Ontario, New Brunswick, Nova Scotia, PEI and Quebec.

21 We provide advisory rates for our clients and
22 these -- these filings are reviewed by Board Actuaries or
23 different -- the different commissions in different
24 provinces.

25 We also file rates for some of our individual

1 clients. So we do rate making for our individual clients.
2 The main focus of our firm is rate making. We -- we do on an
3 annual basis, at least thirty (30) or forty (40) rate filings
4 for various clients and/or advisory rates for our -- for our
5 subscribers.

6 I -- I've also testified in front of several
7 Boards in the past. New Brunswick Board and Nova Scotia.

8 THE CHAIRPERSON: Mr. McCulloch, do you have
9 any problems with accepting Mr. Rifai as an expert witness?

10 MR. KEVIN MCCULLOCH: No, Mr. Chairman, but I
11 appreciate Mr. Williams having raised the issue. I had
12 expected myself that there would be some evidence on this
13 point at the commencement of his -- of his evidence, but no,
14 I certainly don't challenge his field of expertise.

15 THE CHAIRPERSON: Put down the deferral of
16 this approach to my inexperience, Mr. McCulloch. Mr.
17 Williams, do you have any problems?

18 MR. BYRON WILLIAMS: No, sir.

19 THE CHAIRPERSON: Any of the other
20 intervenors? Then the Board accepts Mr. Rifai as an expert
21 witness for CMMG.

22 We'll take a couple of minutes and Mr.
23 Saranchuk, I'm not quite sure, do we have, is Mr. Watts here?

24 MR. WALTER SARANCHUK: He does not appear to
25 be, sir, in which case either we can stand down for a minute

1 or two (2) or we can proceed with the cross-examination by
2 MPI.

3 THE CHAIRPERSON: Is Mr. Lejins here? I
4 think Mr. Saranchuk, we'll give them the five (5) minutes.
5 We'll just break for a few minutes and start at 11:30 and
6 we'll turn it over to Mr. McCulloch and MPI for cross-
7 examination if neither of these gentlemen are here at that
8 time.

9
10 --- Upon recessing at 11:25 a.m.

11 --- Upon resuming at 11:34 a.m.

12

13

14 THE CHAIRPERSON: Mr. Oakes, if you wouldn't
15 mind, sir, introducing the two (2) exhibits. I could say the
16 two (2) new exhibits.

17 MR. RAYMOND OAKES: Yes, Mr. Chairman. And I
18 understand them to be revisions or supplemental calculations
19 to Mr. Rifai's report. I understand Exhibit 9 will be a
20 credibility analysis calculation of credibility standard and
21 a number of exhibits.

22 And I understand that Exhibit 10 would be an
23 update of text of the actual report with two (2) tables.
24 It's three (3) pages I believe in total.

25

1 --- EXHIBIT NO. CMMG-9: A credibility analysis
2 calculation of credibility standard and a
3 number of exhibits.
4

5 --- EXHIBIT NO. CMMG-10: An update of text of the actual
6 report with two (2) tables.
7

8 THE CHAIRPERSON: Very good.

9 MS. DENYSE COTE: Is it possible to get Mr.
10 Rifai's CV or resume of qualifications?

11 MR. HANY RIFAI: I didn't bring one. I can
12 have one sent afterwards.

13 MS. DENYSE COTE: Thank you.

14 THE CHAIRPERSON: That would be fine. Mr.
15 McCulloch...?

16 MR. WALTER SARANCHUK: Just for the record it
17 appears that the presenter, Mr. Watts and the presenter, Mr.
18 Lejins, the former having been slated for a 11:30
19 presentation and the latter at 11:45 presentation, neither
20 appears to be seen anywhere in this room or near this room.

21 THE CHAIRPERSON: Mr. McCulloch.

22 MR. KEVIN MCCULLOCH: Thank you, Mr.
23 Chairman.

24

25 CROSS-EXAMINATION BY MR. KEVIN MCCULLOCH:

1 MR. KEVIN MCCULLOCH: Mr. Rifai, when
2 preparing these questions for cross-examination for you, my
3 first question to you was going to deal with the text "The
4 Foundations of Casualty Actuarial Science", fourth edition,
5 published by the Casualty Actuarial Society.

6 I understand, sir, that you are familiar with
7 this text, with this document?

8 MR. HANY RIFAI: Yes, I am.

9 MR. KEVIN MCCULLOCH: And, as a matter of
10 fact, some of the information that your Counsel filed earlier
11 this morning comes from papers that are contained in this
12 particular document or text.

13 MR. HANY RIFAI: Correct.

14 MR. KEVIN MCCULLOCH: And, again, in
15 particular, it's referenced to the Maylor and Dean paper that
16 appears in this volume.

17 MR. HANY RIFAI: Correct.

18 MR. KEVIN MCCULLOCH: So, as I understand it,
19 casualty actuaries sometimes refer to this text as the bible
20 for guiding them in their professional work; is that also
21 true?

22 MR. HANY RIFAI: Perhaps some do, yes.

23 MR. KEVIN MCCULLOCH: Now, I'm going to try
24 to keep these questions at a fairly high level. And I note
25 that in cross -- or cross-examining the MPI Panel, Mr. Oakes

1 asked a question with respect to the -- the general use or
2 meaning of credibility as applied by actuaries.

3 And what I'm going to ask you, sir, is, would
4 you agree with me that credibility theory provides tools to
5 deal with randomness of data that is used for predicting
6 future events or costs; would that be a correct statement?

7 MR. HANY RIFAI: Yes, it would be.

8 MR. KEVIN MCCULLOCH: And would -- have you
9 had an opportunity, by the way, to review MPI Exhibit number
10 5, which was the response to the credibility evidence that
11 had been filed through your own report?

12 MR. HANY RIFAI: Yes, I have.

13 MR. KEVIN MCCULLOCH: And in that material
14 and also in the text, as we'll refer to it, it's my
15 understanding that there are basically two (2) main
16 approaches to credibility calculation; the first being
17 classical, the second being Bayesian.

18 And that there is a third, sort of a special
19 case or subset of Bayesian called Buhlmann; is that correct?

20 MR. HANY RIFAI: More or less, yes.

21 MR. KEVIN MCCULLOCH: And is it not also
22 correct that casualty actuaries who are doing credibility
23 calculations, may select any one (1) of these three (3)
24 approaches depending on certain conditions or situations that
25 they are facing with a particular calculation; is that

1 correct?

2 MR. HANY RIFAI: Yes. But the point I was
3 making before is Buhlmann's should be used when you're trying
4 to determine if a subset of a larger group, how credible that
5 subset is in relation to a larger group.

6 I don't feel it's appropriate for an overall
7 rate level change for an entire province or for an entire
8 indus -- population of risks in this situation. I don't
9 think that's -- that is appropriate.

10 Second of all, it's correct to use Buhlmann's
11 but in the MPI report, they're not really using Buhlmann's,
12 they just determined K arbitrarily. That was my other issue
13 that I had. There didn't seem to be any calculations for K,
14 or any supporting background as to how K was determined.

15 MR. KEVIN MCCULLOCH: We'll come to that
16 later. I certainly understand it to be your professional
17 view that Buhlmann's may not be the appropriate or is not the
18 appropriate approach to use, but I'd put to you, Sir, that
19 another casualty actuary looking at the same situation may
20 arrive at a different professional opinion; is that not
21 correct?

22 MR. HANY RIFAI: Perhaps. But it's still --
23 one (1) of the issues is K is not calculated, it's an
24 arbitrary K.

25 MR. KEVIN MCCULLOCH: We'll get to the

1 issues. The simple question was: Is it not within the
2 professional option or judgment, if you will, of the casualty
3 actuary to decide which credibility approach he or she will
4 apply in doing the credibility calculation?

5 MR. HANY RIFAI: Again, as I said, Buhlmann
6 is appropriate in certain states or certain -- for certain
7 uses. Buhlmann's is -- I don't want to get into too much
8 details but Buhlmann's, essentially, the assumption is you
9 have a subset of a larger group.

10 In this case here, we're taking the entire
11 motorcycle class. I don't think it's -- there -- there is no
12 sub-set of the motorcycle class, we're looking at a rate
13 level change for the entire motorcycle class.

14 In the foundation series, they do mention that
15 often, for the overall rate level, it's more appropriate or
16 it's often used, the classical approach. It is mentioned in
17 the foundation book.

18 MR. KEVIN MCCULLOCH: Would you agree with me
19 that if the goal is to generate the most accurate insurance
20 rates with least squares, as the measure of FIT, then
21 Buhlmann credibility may be the best choice?

22 MR. HANY RIFAI: I'm not sure exactly what
23 you're saying. You're saying if you -- if you've determined
24 to use the least square method it's -- yeah, I'm not sure I
25 understand your question.

1 MR. KEVIN MCCULLOCH: Well, then maybe I can
2 refer you to MPI Exhibit Number 5, Applicant's response
3 discussion of credibility, and on page 2 quoting from Maylor
4 and Dean's paper, a paper that you and your counsel quoted
5 from previously, near the bottom of the page it states:

6 "If the goal is to generate the most
7 accurate insurance rates with least squares
8 as the measure of FIT that Buhlmann
9 credibility may be the best choice."

10 So that statement, would you agree with it or
11 disagree with it?

12 MR. HANY RIFAI: Yes, but as you continue
13 reading it, that's the point I'm making is, Buhlmann kind of
14 really forms the basis mostly -- for an experience rating
15 plan it is very appropriate, because you're taking a subset
16 of a population and you're comparing it with the mean of the
17 overall population. And that's where -- that's why they
18 mentioned it there.

19 And in this case I do find it very
20 appropriate. In the case where we're using for the overall
21 rate level for an entire population, that's where I -- why I
22 feel it's not appropriate there.

23 MR. KEVIN MCCULLOCH: Taking that statement
24 then, as you've started it:

25 "Buhlmann forms the basis of most

1 experience rating plans, it is often used
2 to calculate class rates in a
3 classification plan."

4 Would you not agree with me, sir, that that is
5 exactly the sort of plan that we are dealing with here, when
6 setting rates for the MPI program?

7 MR. HANY RIFAI: Okay, class rates and
8 classifications, they're talking about rate class, rate
9 relativities, and I do -- I do find Buhlmann's can be very
10 appropriate there, okay. That's -- that's what I'm saying is
11 for an overall rate level, it's not trying to calculate the
12 class rate -- when I say a class -- it's like saying supports
13 bikes versus touring bikes. In that situation using Buhlmann
14 would be appropriate. Again, assuming you actually calculate
15 K, not assign K.

16 But calculating the rate level overall for an
17 entire population is where I don't feel -- an experienced
18 rating plan is -- is let's say you have a fleet of a thousand
19 (1,000) vehicles, and you use Buhlmann, and the complement
20 you use, in that case would be the -- the manual premium for
21 the entire pop -- that's calculated using the entire
22 population data. There it would also be appropriate. In
23 this case it's not quite the same thing, and I don't think it
24 is appropriate in this case here.

25 MR. KEVIN MCCULLOCH: Do I understand you to

1 say then that in calculating credibility, it's your view that
2 the actuaries at MPI should use the Buhlmann calculation for
3 part of the rate calculation, and the classical approach for
4 another part?

5 MR. HANY RIFAI: If I was to do the -- let's
6 say I was the one (1) doing the MPI, what I probably would
7 have done is for the overall plan, one (1) overall rate level
8 for each -- you know, for each type of use, motorcycle PPA, I
9 would have used the classical.

10 For the actual class factors, I would have no
11 issue using the Buhlmann's, it would be appropriate in that
12 case.

13 MR. KEVIN MCCULLOCH: Would you agree with
14 me, sir, that one (1) of the strengths of the classical
15 approach is that it limits the random fluctuations due to
16 large losses, is that a fair statement?

17 MR. HANY RIFAI: Well, limiting large losses
18 to fluctuations, I don't -- that's done by using smoothing
19 procedures, which -- which currently I think MPI does, which
20 I don't dispute. It's appropriate to use a larger data.

21 There's two (2) ways of actually limiting
22 large losses in the calculation of an indication. One (1)
23 would be to smooth over a larger period, which is what's
24 being done by the MPI.

25 The other is to calculate a -- distribution

1 curves, or loss distribution curves, and calculate a load
2 using that method. Either method would be used.

3 Credibility is not necessarily used to calcula
4 -- to -- the purpose of credibility I wouldn't say is to
5 smooth large losses, it's a measure of the -- the -- of the
6 accuracy of the -- or the faith you put in the data that
7 you're using. It's not -- in my opinion it's not used for
8 specifically large losses. There's other procedures to limit
9 the impact of large losses.

10 MR. KEVIN MCCULLOCH: So it's your view then
11 that it is not an inherent feature of the classical approach
12 that it limits the random fluctuations of large losses?

13 MR. HANY RIFAI: No, that's not exactly what
14 I'm saying, you see it would actually do it, but any
15 credibility method would do that to some degree, limit some
16 effect of large losses, but the purpose -- how you limit the
17 effect of large losses is either by, as I said, smoothing
18 over a larger period or by doing another load using a loss
19 distribution curve model, which is another -- another
20 appropriate approach, especially if you don't have too many
21 years of data, that would be the -- if you had very few data
22 years, you would probably use a loss distribution model to
23 calculate a risk load or a -- or a large loss load.

24 You know, you can argue how many years of data
25 you need to smooth -- ten (10) years probably is appropriate.

1 It's -- it's -- you know, if I only had five (5) years of
2 data then I'd have to do a loss distribution model to get
3 this -- to limit the fluctuation of large losses, but
4 credibility is not the -- the purpose of credibility is it
5 relates to the -- the data volume you have, how credibility
6 that data volume is.

7 MR. KEVIN MCCULLOCH: But on the issue, then,
8 of smoothing, you've heard evidence and I believe it appears
9 on the record if you weren't present for it, that in dealing
10 with motorcycle loss experience, the Corporation first does a
11 five (5) year average capped with large losses capped at five
12 hundred thousand (500,000) and then an actual ten (10) year
13 average using the actual loss experience and that's what you
14 mean by smoothing, is it not?

15 MR. HANY RIFAI: Yes, that's what I mean.

16 MR. KEVIN MCCULLOCH: And, in fact, at I
17 believe it's Page 15, line 2 of your report, you indicate
18 that the smoothing of large losses over ten (10) years is
19 appropriate?

20 MR. HANY RIFAI: Yes, I -- I did and I do --
21 I do stand by that statement. I think it is an appropriate
22 method.

23 MR. KEVIN MCCULLOCH: Now you make an issue
24 in your evidence over the calculation or the selection of K
25 in the Buhlmann formula that has been employed by MPI. Is

1 that correct?

2 MR. HANY RIFAI: Yes, the fact is K's not
3 calculated, it's just -- it's just assumed or -- or derived
4 by one (1) assumption.

5 MR. KEVIN MCCULLOCH: But you also have
6 evidence before you that the calculation of K has been
7 constant over ten (10) years since 1994 when the no-fault
8 plan was put into plate -- place. Is that correct?

9 MR. HANY RIFAI: Yes.

10 MR. KEVIN MCCULLOCH: And does the fact that
11 the -- a constant value of K has been used over a period of
12 time, does that not in any way assuage any doubts that you
13 may have over the appropriate value of K?

14 MR. HANY RIFAI: Are you suggesting that ten
15 (10) years ago the -- the K value was actually calculated?
16 Is that what you're saying?

17 MR. KEVIN MCCULLOCH: I'm asking you -- no,
18 I'm not suggesting that it was calculated, I'm asking you
19 whether the -- the constant use and the repeated use of the
20 same value assuages some of the concerns that you may have
21 when you say that it wasn't -- that it wasn't calculated.

22 MR. HANY RIFAI: Not really because -- well,
23 two (2) reasons. First of all, the fact is, you only have
24 nine thousand (9,000) motorcycles. It's a very -- 60 percent
25 credibility, I find substantial -- is very, very high and the

1 fact that K has been constant doesn't change that fact.

2 MR. KEVIN MCCULLOCH: You also had a comment
3 in your report that you found one (1) example where a K value
4 of fifteen thousand two hundred and fifty (15,250) was used.

5 Have you had an opportunity in MPI Exhibit No.
6 5, the response on issues of credibility, to consider the
7 fact that in arriving at that criticism of the MPI
8 application, you had mistakenly used the one (1) year
9 exposure value to obtain this K result and that in fact, the
10 value of K equals sixty thousand (60,000) is constant using
11 the five (5) year exposure numbers. Have you had a chance to
12 read that?

13 MR. HANY RIFAI: Yes, correct. When I did it
14 I assumed they were doing similar to the overall using one
15 (1) year of exposures and that's what I did there and that's
16 why I couldn't understand where the number was coming from,
17 but it is using the three (3) years, so the K is sixty
18 thousand (60,000) there, yes.

19 MR. KEVIN MCCULLOCH: Thank you. I want to
20 refer you to Page 14 of your report and I just need some
21 clarification. The first paragraph, the heading is
22 Discussion:

23 "Discussions of methods used by actuaries
24 to test the selected credibility factors
25 (if any)."

1 And your response is:

2 "There is no -- there is none, there are no
3 methods of testing the selected credibility
4 factors. In practice, the method of
5 choosing credibility constant is a
6 mathematical exercise. Once a number is
7 derived, assuming all your calculations are
8 correct, is valid, based upon the central
9 limit theorem. No further tests are used."

10 Is that your evidence?

11 MR. HANY RIFAI: It's just -- okay, I'm not
12 sure how to answer this, just -- the test is like the
13 credibility, you calculate Z -- or your Z, your credibility
14 factor using -- well, assuming -- if you're going to do
15 Buhlmann's method, you calculate your K, assuming you do
16 everything correctly, it has a valid -- a valid --

17 I don't know -- what you can do is if you --
18 you can verify by looking at credibility weighted indications
19 from year to year, compared to see if there is a big
20 variation from year to year. Your Z should be relatively
21 stable assuming you do every -- if you do the same method and
22 you're appropriate and you do the same calculations without
23 any errors, it should be fairly stable.

24 I don't know of any particular tests people do
25 to calculate if Z is correct, assuming you actually calculate

1 Z mathematically. Again, my issue is MPI does not, it just
2 assigns K.

3 MR. KEVIN MCCULLOCH: So without knowing
4 whether or not there'd been any mathematical calculation used
5 to arrive at K equals sixty thousand (60,000) or K equals six
6 thousand (6,000) your criticism might not be valid?

7 MR. HANY RIFAI: They mention in the report
8 how they calculate K, and that's not a -- they do mention it,
9 so I know -- I do understand how K was calculated. It's not
10 a -- that's not how -- that is not how K is supposed to be
11 calculated, that's my issue. They do mention in the report
12 the methodology, so I realized how K was -- was derived.

13 MR. KEVIN MCCULLOCH: I'm going to move to the
14 loss transfer section of your report, and before we get
15 there, I have made -- or maybe I'll put some preliminary
16 questions.

17 You indicated to Mr. Oakes, that you were
18 familiar with the report that had been filed with the Public
19 Utilities Board back in September of 1998, it's a report
20 that's under the heading of IAO, and in that report, it
21 identifies Mr. Joe Cheng, as the author of the report, and at
22 the time it indicates that Mr. Cheng was hired as a
23 consultant by IAO, to prepare the report, and he was actually
24 working for his own actuarial firm.

25 Does that correspond with your understanding

1 of how that report was produced?

2 MR. HANY RIFAI: Correct.

3 MR. KEVIN MCCULLOCH: And in the report that
4 you have now prepared and filed, dated September 27th, 2004,
5 I want to ask, this is your evidence, this is your report, is
6 it not?

7 MR. HANY RIFAI: Correct, essentially most of
8 the findings in the loss transfer are very similar between
9 both reports.

10 MR. KEVIN MCCULLOCH: And I want to go in
11 that a little deeper, and in that regard I've done a
12 comparison of the two (2) reports, and what I'm going to
13 circulate, with the Board's permission, and I hope I have
14 enough copies for Mr. Dawson, is a copy of the September
15 27th, 2004 report. The report that's before this Board,
16 highlighting the similarities between this report and the
17 report that was filed in September 1998.

18 So if I could distribute those.

19

20 (BRIEF PAUSE)

21

22 THE CHAIRPERSON: Mr. Barron will assist.

23

24 CONTINUED BY MR. KEVIN MCCULLOCH:

25 MR. KEVIN MCCULLOCH: And in order to do the

1 comparison, you'll also have to have in front of you the CMMG
2 book of exhibits, particular Tab 6, part way in through the
3 tab, actually at page 22, where we have Mr. Cheng's report.

4

5

(BRIEF PAUSE)

6

7

8 MR. KEVIN MCCULLOCH: Now, Mr. Cheng, your
9 discussion of loss transfer runs from Page -- sorry -- Mr.
10 Rifai -- your discussion of loss transfer runs from Page 5 to
11 Page 10 in your report and the yellow highlights, I would
12 suggest, through all those pages if you compare them with the
13 sections -- the relative sections in Mr. Cheng's report of
14 September of 1998 are exactly the same -- word for word.
15 Would you agree with that?

16

17

18 MR. HANY RIFAI: It's very possible. A lot
19 -- some -- a lot of the report came from also this report.
20 It's similar issues.

21

22

23 MR. KEVIN MCCULLOCH: But the discussion was
24 all cut, paste, for the large part including grammatical
25 errors and, perhaps, some other errors. Isn't that right?

26

27

28 MR. HANY RIFAI: As I said is, when I -- when
29 I received the commission to do this we used the old report
30 as a basis for the loss transfer. I mean, the issues and the
31 arguments are still the same, they haven't changed.

32

33 MR. KEVIN MCCULLOCH: Can you tell us, when

1 did you receive the commission to do this report?

2 MR. HANY RIFAI: Mid August, I guess.

3 MR. KEVIN MCCULLOCH: All right. Well, let's
4 go through this, and I'm referring to the yellow highlighted
5 copy of M -- CMMG Exhibit No. 3, the one that I've circulate,
6 and your Counsel had sort of skirted around it, but when we
7 get to Page 6, under the heading of "Loss Transfer
8 Methodology in Ontario", first paragraph second line, the
9 author was the actuary to the Commission -- Commissioner,
10 rather -- Justice C. A. Osborne (phonetic) and after
11 analyzing the relevant data, suggested the right of
12 subrogation for the insurer of the motorcycle, not totally at
13 fault for -- in the accident.

14 My original suggestion was strictly from an
15 equity/fairness perspective. In fact, sir, you were not the
16 actuary to the Osborne Commission, were you?

17 MR. HANY RIFAI: No, I wasn't. I said that
18 before.

19 MR. KEVIN MCCULLOCH: That was Mr. Cheng?

20 MR. HANY RIFAI: Correct.

21 MR. KEVIN MCCULLOCH: Moving through to the
22 next page, I see you've added at the top of Page 7 -- you've
23 added a -- a sentence to Mr. Cheng's report:

24 "It should be noted that the Province of
25 British Columbia has an insurance system

1 similar to the one in Manitoba where there
2 is both a fault and a no-fault based
3 system."

4 What exactly are you referring to there?

5 MR. HANY RIFAI: I -- I meant with that is
6 how you try to determine who pays. In other words, in
7 Quebec, the -- the point is with Quebec, for example is, they
8 don't have -- they don't try and determine the difference --

9 MR. KEVIN MCCULLOCH: Excuse me, sir, if we
10 could limit ourselves to British Columbia at this point?

11 MR. HANY RIFAI: Yeah.

12 MR. KEVIN MCCULLOCH: We'll get to Quebec in
13 a minute.

14 MR. HANY RIFAI: Okay.

15 MR. KEVIN MCCULLOCH: I'm trying to
16 understand your statement that the Province of British
17 Columbia has an insurance system similar to the one in
18 Manitoba where there is both a fault and a no-fault based
19 system.

20 MR. HANY RIFAI: What I meant -- what I meant
21 by that is that they try and assign costs to the people that
22 cause the fault or no-fault. That's what I'm trying to make
23 -- mean by that, unlike Quebec, which I think I mention
24 afterwards here.

25 MR. KEVIN MCCULLOCH: You -- you certainly --

1 MR. HANY RIFAI: For the non-physical damage.

2 MR. KEVIN MCCULLOCH: You're certainly not
3 suggesting that the current system in Manitoba, which is a
4 pure no-fault system for personal injury claims can in any
5 way be compared to the tort system in British Columbia for
6 personal injury claims?

7 MR. HANY RIFAI: No, I'm not. Maybe it's
8 misleading when you read it like that. That's not what I
9 meant. I was trying to compare with the Quebec system
10 afterwards. That's the reason why I said that.

11 MR. KEVIN MCCULLOCH: All right. Well, let's
12 move on to the Quebec system. Now, you'll agree with me,
13 sir, that in the Quebec system the only portion of the
14 government scheme deals with bodily injuries, that for
15 physical damage or third party liability, the people in
16 Quebec purchase private insurance. Is that right?

17 MR. HANY RIFAI: For physical damage, yes,
18 they -- the purchase private insurance or for -- we call it
19 the -- the third party physical damage -- the direct
20 compensation, yes.

21 MR. KEVIN MCCULLOCH: As I read your
22 discussion of the situation in -- in Quebec, you seem to
23 suggest that the SAC, the bodily injury fund in Quebec is
24 funded through a driver's premium and a general tax fund?

25 MR. HANY RIFAI: In Quebec, essentially

1 the -- when you buy or purchase you licence -- when you get
2 your licence you pay a fee for that and it's flat across the
3 board for everybody. That's the point I'm trying to make.
4 They don't try and differentiate.

5 I think in Manitoba, depending on your
6 accident history, your -- your actual driver premium changes.
7 The other thing to general tax financing is some aspects of
8 the non physical portion is simply assumed by the Quebec
9 health system. That's what I meant by that.

10 MR. KEVIN MCCULLOCH: You're not suggesting
11 that the -- the rates charged to private passenger vehicles
12 and motorcycles in Quebec are a flat -- there is a flat rate
13 equal to whatever vehicle you're operating?

14 MR. HANY RIFAI: If the rate is, depending of
15 the class of vehicle, but it's flat between depending on the
16 different class vehicle. I'm talking about the license fee.

17 MR. KEVIN MCCULLOCH: Let's deal with the --
18 the fee for the bodily injury portion. There was evidence
19 given before this Board earlier in the week or last week,
20 that private passenger vehicles in Quebec pay one hundred and
21 seven dollars (\$107) I believe and that motorcyclists pay two
22 hundred and eighty dollars (\$280).

23 Subject to checking the figures you wouldn't
24 take issue with the fact that motorcycles in Quebec pay more
25 than private passenger vehicle owners?

1 MR. HANY RIFAI: I don't know the fees for
2 different classes. I'm not sure. The point I'm making here
3 is that they don't differentiate based upon your accident
4 history, the fees. That's the point I'm trying to make in
5 Quebec.

6 In other words, they don't try and say if
7 you're a worse driver or a better driver your fees will be
8 different. It's just flat based on the class of vehicles,
9 the license fees. I'm not sure what the license fee is. I
10 think a hundred (100) sounds right for PPA because I used to
11 drive in Quebec. But I'm not sure what it is for
12 motorcycles.

13 MR. KEVIN MCCULLOCH: You also make the
14 statement here that Saskatchewan has not dealt with the issue
15 of loss transfer.

16 Would you agree, Mr. Rifai, that if we were
17 to compare the public insurance scheme in Manitoba to the
18 public insurance scheme in Saskatchewan, that's probably the
19 closest fit when we look at the type of benefits
20 Saskatchewan has a no-fault bodily injury program with a --
21 an option, torte option recently built into it.

22 But if you looked at two (2) schemes they
23 would be the closest comparison, isn't that correct?

24 MR. HANY RIFAI: In terms of the delivery
25 mechanism, if no-peer, no-fault, yes it would be.

1 MR. KEVIN MCCULLOCH: And in the type of
2 benefits?

3 MR. HANY RIFAI: I'd have to do comparison
4 with benefits. I -- I can't answer that, I don't know it
5 that well.

6 MR. KEVIN MCCULLOCH: All right. Moving on
7 through pages 8 and 9 and to 10 of your report, again it
8 appears that you rely very heavily for these observations on
9 the observations made by Mr. Chang some six (6) years ago?

10 MR. HANY RIFAI: Correct.

11 MR. KEVIN MCCULLOCH: Now, Mr. Rifai, you
12 know at least that this Board considered the issue of loss
13 transfer back in 1998 by virtue of Mr. Chang's report, isn't
14 that correct?

15 MR. HANY RIFAI: That's correct. That's why
16 in this report -- the report I tried showing what I think
17 could be the -- the relative impact of bringing in loss
18 transfer. My exhibits at the end show the comparison of the
19 two (2) pro -- the province of Ontario and Alberta.

20 MR. KEVIN MCCULLOCH: We'll get to those
21 exhibits in a minute. But I'm just leading the -- the
22 background here that, you'll agree with me that the issue of
23 loss transfer is something that has been canvassed by this
24 Board on more than one occasion and that this certainly isn't
25 the first time that its heard presentations with respect to

1 loss transfer?

2 MR. HANY RIFAI: I know that at least one
3 occasion when the Board has heard about loss transfer issues,
4 yes.

5 MR. KEVIN MCCULLOCH: Now I want to refer you
6 and again I have limited copies, to the Board Order issued
7 December 4th last year, less than a year ago, Board Order
8 173-03. Have you had a chance to look at that Board Order?

9 MR. HANY RIFAI: Is this the one related --
10 yeah, I have read it, yes.

11 MR. KEVIN MCCULLOCH: And in particular and
12 I'll circulate copies of pages 53 and 54.

13

14 (BRIEF PAUSE)

15

16 MR. KEVIN MCCULLOCH: Now -- sorry, I should
17 have said 54 and 55 which is the two (2) pages that were
18 circulated.

19 This deals with the Board's finding in
20 December of 2003 on the issue of loss transfer. And it
21 indicates that the Board had asked MPI to produce a report on
22 loss transfer in their 2002 order, especially the
23 calculations required to produce the indicated required rates
24 by major class if loss transfer were adopted.

25 Have you had a change to look at that study as

1 well, which I also believe was entered as an exhibit in this
2 year's hearings?

3 MR. HANY RIFAI: No, I haven't. I haven't
4 received this. But my comment is my example before and what
5 I believe. I find it hard to believe the impact is only 6.1
6 percent, if that is what it is saying here.

7 MR. KEVIN MCCULLOCH: Well, I'm not asking
8 you to take issue with the study. What we're talking about
9 is, at this point, I'm directing you to findings of this
10 Board made less than a year ago on issues of loss transfer.
11 Do you understand that?

12 MR. HANY RIFAI: I see the findings here, and
13 I haven't seen this before, but the point I'm making is the
14 impact has to be substantially higher than this. It must be.

15 MR. KEVIN MCCULLOCH: Again, you're
16 questioning perhaps what was in the report. But let's look
17 to some of the -- the statements and principles indicated and
18 enunciated by the Board. And looking at the number 1 in the
19 margin:

20 "The Board found that in -- in examining
21 the indicated rate changes, the Board
22 reviewed the differences and the indicated
23 rate change for some major classes before
24 and after the implementation of loss
25 transfer. This information shows

1 significant rate dislocation for motor
2 vehicles at the major class level. Not
3 just for motorcycles but for motor vehicles
4 at the major class level."

5 Would you agree that significant rate
6 dislocation for most motor vehicles at the major class level
7 represents poor rate-making methodology?

8 MR. HANY RIFAI: My comment is I think it's
9 poor rate-making methodology to penalize a class for actions
10 it's not at fault with. It is, there's no question, applying
11 loss transfer will cause some dislocation. It should be
12 fairly minor for private passengers. For some other classes
13 of vehicle, it may be relatively significant.

14 I -- we'd have to do the study to be 100
15 percent sure of what the impact would be. But I don't find
16 rate-making methodology where you penalize a class for not-
17 at-fault accidents to be appropriate.

18 MR. KEVIN MCCULLOCH: At number 2:

19 "The Board found that" --

20 And you're aware, are you not, that MPI
21 employs the CLEAR system for assessing vehicle risk?

22 MR. HANY RIFAI: Yes, I am.

23 MR. KEVIN MCCULLOCH: And the finding there
24 was that:

25 "Determining credible rate groups on an at-

1 fault basis for loss transfer would not be
2 possible. And that the Board agreed with
3 MPI that this is the single greatest
4 impediment to introducing loss transfer."

5 Now, would you agree with me that being unable
6 to determine credible rate groups on an at-fault basis would
7 not be good rate-making?

8 MR. HANY RIFAI: Give me a second to read
9 this.

10

11

(BRIEF PAUSE)

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MR. HANY RIFAI: I don't -- I guess loss
transfer, I would use it on the -- the insurance use level.
I don't see anything inappropriate to do that, to put it on
insurance use level.

MR. KEVIN MCCULLOCH: I'll ask you this --
and as an expert you're certainly allowed to entertain
hypothetical questions.

Assuming where the Board expresses the view
that loss transfer would not provide any additional incentive
to drive more carefully, assuming that that is -- that that
finding by the Board was correct, would you also not agree
that this would be an incongruous situation in rate-making if
you couldn't, by introduction of a loss transfer, provide

1 additional incentive to drive more carefully?

2 If I can clarify that. It would be
3 incongruous to move to a system that would not have the
4 benefit of incenting people to drive more carefully.

5 MR. HANY RIFAI: I -- I guess in my report --
6 and Cheng's it was mentioned that not having loss transfer,
7 you have several things can happen. Right? The motorcycle
8 risks are penalized for other peoples' bad accidents -- bad
9 driving and I find that's incongruous or -- or bad rate
10 making to do it that way.

11 Would bringing loss transfer in place cause a
12 change to the way people -- people drive? If it's derived
13 appropriately, I think it would.

14 MR. KEVIN MCCULLOCH: That's why I asked you
15 hypothetically if the Board had made this finding, would you
16 not agree that it would be another reason -- if they made the
17 finding that it wouldn't incent people to drive any more
18 carefully, that that would be another rationale for not
19 introducing loss transfer?

20 MR. HANY RIFAI: So, you're saying
21 hypothetically, if I agree that not putting loss transfer --
22 loss transfer has no impact on driving, then it's one (1)
23 reason not to. Yes, then in that case, I'd have to answer
24 yes.

25 MR. KEVIN MCCULLOCH: Thank you. I want to

1 move to your final paragraph, I believe it's on Page 16 and
2 certainly here, this is new opinion expressed by yourself and
3 I'm looking in particular at the very last paragraph on Page
4 16 where you make the statement that:

5 "Should the Manitoba Public Utility Board,
6 which to continue -- [wish, I presume was
7 meant]-- to continue ignoring the
8 injustice faced by the motorcyclist in
9 Manitoba, then it should be clearly stated
10 to the insured public that the reason for
11 the high premium faced by motorcyclists is
12 not due to any poor driving on the part of
13 the motorcyclist, but an arbitrary policy
14 decision by the Board to discriminate
15 against motorcyclists."

16 Is that your opinion?

17 MR. HANY RIFAI: Essentially yes, that is my
18 opinion. One (1) of the issues -- the reason why I say this
19 -- and I'll explain what I mean by this.

20 Is the -- the level -- eventually the
21 premiums will start going closer to fourteen (14) -- fifteen
22 hundred dollar (\$1,500) levels that are indicated in the
23 study every year, because obviously the indication will --
24 will always be fairly high.

25 The level of premiums paid currently by the

1 motorcyclists, from what I can tell, is mainly due to the
2 issue of loss transfer. It would be similar to probably
3 Ontario's levels of premiums if they -- some method of loss
4 transfer was implemented in Manitoba and I do find it unfair
5 that a group of insureds should be paying for accidents that
6 they're not causing, to be fundamentally, I think, is an
7 issue of fairness.

8 I think if somebody contributes -- causes
9 accidents, or causes -- causes costs to a system, that class
10 of vehicles should be the one penalized or should be -- pay
11 for those costs, not those suffering the accidents at the
12 hands of somebody else and I feel that -- and that's the
13 statement I made, yes.

14 MR. KEVIN MCCULLOCH: I suggest, sir, that
15 your statement in this report has taken it a step further and
16 it's a pretty simple question.

17 In light of the rationale and the reasons that
18 the Board presented in its order 173-03 for rejecting loss
19 transfer proposals, it's your position that in fact, the
20 Board was really just being discriminatory against
21 motorcyclists?

22 MR. HANY RIFAI: This decision essentially
23 affects the motorcyclist the most of all the classes and this
24 is one (1) of the issues why I said it is arbitrary for them
25 because they're paying for the accidents caused by other

1 groups.

2 The issue of the rate groups -- the rate
3 groups can be addressed several ways. One (1) is -- the
4 issue -- there's two (2) issues: One (1) of rate groups;
5 that can be addressed. The loss transfer can be done at an
6 insurance use level and keep the rate groups calculations in
7 a similar method.

8 The other issue is the additional incentive to
9 drive more carefully. Whether or not that -- that is one (1)
10 of the issues why I believe loss transfers should be in place
11 and, you know, we can argue whether or not it would have
12 additional incentives. We can -- we certainly cannot have --
13 make that argument or -- or that study. I think it would,
14 but maybe the Board feels otherwise.

15 But the other issue is simple fairness. I
16 don't believe a class of vehicles or users should pay for the
17 accidents caused by somebody else and I do find that
18 arbitrary to determine that if somebody else causes an
19 accident for me -- if I'm driving or walking down the street,
20 I should -- or I get hit by a car, why should I be -- why
21 should the person who is not at fault pay for the accident?
22 I don't feel that's fair. So that, sir, is -- affects
23 motorcyclists substantially. There --

24 MR. KEVIN MCCULLOCH: But an opinion as to
25 fairness, equity or even the word discrimination, which you

1 use, is more of a personal opinion than an actuarial finding.
2 Isn't that correct?

3 MR. HANY RIFAI: It's not -- I -- my -- my
4 point that I'm making, is it is not an equitable -- it's not
5 an equitable portioning of losses, which it -- which -- for
6 rate making purposes with the way it is done currently.

7 MR. KEVIN MCCULLOCH: Mr. Chairman, ten (10)
8 after 12:00. There may be a few more questions that I have
9 for Mr. Rifai when we reconvene following the Presenter
10 assuming that that presenter shows up. But I can indicate to
11 the Board and the Board counsel that I am very near the end
12 of my cross-examination.

13 THE CHAIRPERSON: Thank you, Mr. McCulloch.
14 Mr. Saranchuk, I believe the other presenter was due to
15 present at 1:30.

16 MR. WALTER SARANCHUK: That's my
17 understanding, sir.

18 THE CHAIRPERSON: Okay. We'll return then --

19 MR. WALTER SARANCHUK: It was my
20 understanding but it's wrong. I'm looking at a note that I
21 received and the gentleman's to be here at 1:15.

22 THE CHAIRPERSON: Do we have an indication as
23 to whether or not he's going to actually attend?

24 MR. WALTER SARANCHUK: Not that I'm aware of,
25 sir.

1 MR. RAYMOND OAKES: If that's Mr. Ramsay, he
2 flew in last night and has been waiting patiently since 9:00
3 this morning in the back of the room.

4 MR. WALTER SARANCHUK: It's not Mr. Ramsay.

5 THE CHAIRPERSON: Okay, then we'll return at
6 1:15.

7

8 (WITNESS RETIRES)

9

10 --- Upon recessing at 12:15 p.m.

11 --- Upon resuming at 1:19 p.m.

12

13 THE CHAIRPERSON: Welcome back, everyone. To
14 begin with, we have a Presentation Member of the public, Mr.
15 Pankhurst. Mr. Pankhurst, could you identify yourself,
16 please?

17 MR. MAURICE PANKHURST: My name is Maurice
18 Pankhurst.

19 THE CHAIRPERSON: Very good. Mr. Pankhurst.

20

21 (BRIEF PAUSE)

22

23 THE CHAIRPERSON: Yes. Each time you speak,
24 sir, if you just have the light come on and then we will hear
25 you, and when you are finished, if you don't mind, just hit

1 the button again, because otherwise it affects the sound
2 system.

3 Do you have any written material that you want
4 to submit because we are happy to copy it?

5 MR. MAURICE PANKHURST: I've got one (1) copy
6 here that I'd like to submit. In fact I've got three (3)
7 copies, and one (1) I keep myself and --

8 THE CHAIRPERSON: We'll make sufficient
9 copies -- sufficient copies Mr. Pankhurst. Mr. Barron, could
10 you attend to that. Thank you.

11 Mr. Pankhurst, as you know, the Board's
12 jurisdiction is primarily connected with the revenue
13 requirement of the Corporation and the rates, but we're
14 pleased to have you present to our Body, and if you would
15 like to begin, please do so.

16

17 PRESENTATION BY MR. MAURICE PANKHURST:

18 MR. MAURICE PANKHURST: Yes, I'm here
19 basically to make sure that the MPIC don't get a raise. I
20 could show you various ways of where they have wasted money
21 by the hundreds of thousands of dollars.

22 I will give you an example. About three (3)
23 years ago, I was approached and asked if I knew anybody that
24 would steal a Jeep car for a person. They agreed to disable
25 the alarm system, and another person was present and they

1 phoned MPIC security. I phoned. We were basically told us,
2 it was none of your business.

3 That person received another car and he did
4 disable the alarm system, and that car was stolen, right off
5 the street. And MPIC or whatever they call themselves, they
6 actually paid out on it.

7 I've been fighting with them over years, I was
8 injured in a car crash in ninety (90) -- '96, a person went
9 right through an intersection and nailed me. I have
10 seizures, which are under control, and other problems, got
11 the left leg is completely useless, no feeling. And at the
12 beginning they gave me a cane and this, that and the other,
13 and paid for the medication, then all of a sudden they
14 stopped.

15 We went through quite a long appeal system
16 which wasted more money. It -- the actual appeal only lasted
17 for -- for two (2) days. And they brought in witnesses and
18 witness and witnesses, and it was disallowed.

19 But the fact they could have sorted this out
20 before, because I was injured, I didn't have seizures before
21 this accident. So, basically, they wasted funds on appealing
22 something that they knew very well was genuine.

23 Another episode here that -- you have got the
24 papers here?

25 THE CHAIRPERSON: Yes, it is being

1 distributed.

2 MR. MAURICE PANKHURST: Yes, there's a little
3 gimmick pulled off by an ex-Blue Bomber and it was reported
4 to Motor Vehicle Branch and also to MPIC. MPIC, if I make a
5 mistake here you have to bear with me, said it's none of
6 their business.

7 Well allowing cars to be taken back on the
8 street, unsafe, that are write-offs, puts the public in
9 danger. That car is more than likely to have an accident
10 again. They are going to pay out on top of that first
11 accident, if you are following me.

12 I purchased this vehicle, drove down to the
13 States, the tie-rod had come right off. I contacted Autopac
14 and the best they could do for me was give me a copy of the
15 write-off. I went up to the Motor Vehicle Branch after
16 getting stopped by the Police Department, who said I was
17 weaving quite a bit. I didn't inspect it and we found the
18 safety inspection hadn't been done, and the body integrity
19 inspection, which actually the frame had been twisted right
20 out of shape. And was up to, I believe it was forty (40)
21 millimetres out on one side and about three hundred (300) on
22 the other side.

23 Motor Vehicle Branch took it up and had it
24 checked.

25 But basically what I'm trying to get at, is

1 MPIC are allowing these vehicles back on the street. If that
2 tie-rod had let loose in a busy street, I could have killed
3 somebody and they would be paying out more money. And this
4 has been going on for quite some time.

5 And then, what was it, about a year ago I had
6 another accident, a Hutterite woman in a van was talking to
7 her kids, went right through a red light, took the ass-end,
8 pardon the expression, of my truck off. There was a Police
9 Sergeant in a car right behind, so there was no running.

10 And, I did get paid for that, but they told me
11 that as I was over sixty-five (65) I couldn't make any
12 claims. Now, if people over sixty-five (65) can't make any
13 claims, why should they pay as much for their policy as the
14 ones under sixty-five (65)? We can't claim wages, we can't
15 claim medication. I need medication. I'm on morphine now;
16 Autopac won't pay for it.

17 And, as another example here, I was driving my
18 wife's car after a snowfall, at Choppers (phonetic) Shop or
19 something like that, on Harrow (phonetic), and somebody had
20 knocked a sign down and the concrete block was there and it
21 stuck up a little bit of metal. I ran over that and damaged
22 my wife's car.

23 It came out to be five hundred and fifty-six
24 dollars (\$556). I was told to put a claim in, which was a
25 complete waste of time, because the company that owned the

1 shopping centre paid the five hundred (500) deductible.

2 Then Autopac has the audacity to say, will I
3 cooperate with them and give them the information so they
4 could go after the company for fifty-six dollars (\$56).
5 They've already spent that looking at the wife's car.

6 And then we have a mechanic, I was a mechanic
7 for a donkey's years, comes out and slides a mirror
8 underneath the car and he says, Oh, there's no damage under
9 there. And that's like looking up the rear end of a donkey,
10 and see if he's got some sick.

11 But all the way along, you get a wasting
12 money, you get four (4), five (5) people doing the same job.
13 One of the good stories that I like to bring out, was in my
14 first accident. I had seizures, and I went into them one
15 after the other, even went in the office and had them, and
16 granted, they gave medication and everything throughout that
17 period of time.

18 Now, I've lost my train of thinking here for a
19 second...

20 But then they brought in the medical files.
21 They paid a specialist to investigate the files. This
22 specialist had never seen me, heard of me, and yet he was
23 given two (2) files; one (1) mine and one (1) somebody
24 else's. They were the files that he made his judgment on.

25 Now, Autopac had paid that specialist. Then

1 they sent me another specialist and my specialist disagreed
2 with both of them. And they said that the seizures I were
3 having was a previous accident in the ring. Well I did never
4 boxed, but somebody started that rumour and I just played
5 along with it. And, as though it was, I lost the case with
6 my lawyer and I got nothing out of it.

7 I walk with a cane. I'm permanently disabled.
8 I'm in pain all the time. And then when you have another
9 accident, they say, there's nothing we can do for you because
10 you're over sixty-five (65).

11 Well, when you start saying that, you're
12 pretty soon going to say, well, if you see a kid crossing the
13 road, run him down. That's the sort of thinking they were
14 going along here now. Because if I'm sixty-five (65), that's
15 none of their business.

16 I will put my driving record to anyone they
17 would like to bring, and I bet I could wipe their butts with
18 it. I've taken a test and I showed that my skills are well
19 above. And I've not actually caused an accident in my life.
20 I've never got a speeding ticket. And yet when they come and
21 say, you're sixty-five (65), we're not going to give you any
22 medication, we're not going to supply you with another cane
23 when your cane breaks. I have to pay for these canes now.

24 So, where's all the money going to? To stuff
25 like this here, when you get four (4) or five (5) guys come

1 before you people, to present it, when they could send one
2 (1), or getting four (4) or five (5) mechanics to look at one
3 (1) car. And the money is actually getting squandered.

4 And what I'd like to see is them reduce the
5 rate, on motorcycles, another favourite of mine. I used to
6 ride to motorcycles, I used to race. It's not the
7 motorcyclists that causing the accidents, it's the drivers.
8 They cut them too close and it doesn't take too much to lose
9 control of a motorcycle. And why should they have their
10 rates raised? That's another part of the discrimination
11 against the seniors, and now they're discriminating against
12 motorcyclists. Who are they going to discriminate against
13 next?

14 But I'm protesting them getting any raise
15 whatsoever until they provide the service that they are
16 supposed to be providing. We've got Fletcher here, he's a
17 friend of mine, Steven Fletcher (phonetic) . He's appealing
18 the conviction, or the ruling. And if that isn't appealed,
19 you are going to have a flood of claims, because I will be
20 the first one (1) in line.

21 And, by them not paying out when they should
22 do, and getting you the medical treatment to get you back on
23 your feet, they are wasting more money. And this is what it
24 seems to be about, is a contract to waste money. I'm a
25 senior, I've got no rights. I take morphine for the pain.

1 Do Autopac pay for it? No darn way. You're
2 at sixty-five (65), we pay nothing. Well, I could have
3 probably been working until I was seventy (70) or eighty
4 (80). And my life is finished now, I can't play golf, can't
5 go swimming in case I have a seizure when I'm swimming, down
6 I go.

7 And, when they ask for more money, that's
8 going a little too far, when they can't even honour the
9 contracts they enter into now. That's basically my story.

10 THE CHAIRPERSON: Well, thank you Mr.
11 Pankhurst, we appreciate your coming down and making your
12 presentation. We have the material that you presented, and
13 those present have heard you. Thank you very much.

14 MR. MAURICE PANKHURST: Thank you.

15 THE CHAIRPERSON: Mr. McCulloch.

16 MR. KEVIN MCCULLOCH: Thank you, Mr.

17 Chairman.

18

19 HANY RIFAI; Resumed

20

21 CONTINUED CROSS-EXAMINATION BY MR. KEVIN MCCULLOCH:

22 MR. KEVIN MCCULLOCH: Mr. Rifai, I just got a
23 few areas that I want to cover with you. And the first one
24 (1) is going to take us a little bit away from -- from
25 Manitoba. You indicated that your firm was involved in

1 preparing a number of rate presentations before various
2 provincial Boards; is that correct?

3 MR. HANY RIFAI: Yes, yes we have.

4 MR. KEVIN MCCULLOCH: And I understand that
5 your firm was involved in a recent application before the New
6 Brunswick Board of Commissioners of Public Utilities, dealing
7 with advisory auto rates in New Brunswick; is that correct?

8 MR. HANY RIFAI: I -- I think you're
9 referring to one (1) about a year ago, yes.

10 MR. KEVIN MCCULLOCH: I'm referring to one --
11 that's right, it was approved in January of '04, the rate
12 application?

13 MR. HANY RIFAI: I think so.

14 MR. KEVIN MCCULLOCH: And do you have some
15 knowledge of that application itself?

16 MR. HANY RIFAI: What knowledge? I was
17 involved with the application, yes.

18 MR. KEVIN MCCULLOCH: Sorry, that's what I
19 meant. Did you have some personal involvement?

20 MR. HANY RIFAI: Yes, I was involved with the
21 application.

22 MR. KEVIN MCCULLOCH: Now, I understand that
23 advisory auto insurance rates are sort of a standard rate
24 that the Board of Commissioners can approve for insurance
25 companies in New Brunswick that don't want to bring their own

1 individual rate applications. Am I close to the mark on that
2 one?

3 MR. HANY RIFAI: Correct, yes.

4 MR. KEVIN MCCULLOCH: And in the rate that
5 was prepared by IAO and presented to the New Brunswick Board
6 in late '03, I imagine, approved in '04, it's my
7 understanding that the proposal prepared by your Company was
8 for a reduction in private passenger vehicles of 24 percent
9 and an increase for private passenger motorcycles of 13.6
10 percent. Am I correct in that one?

11 MR. HANY RIFAI: I'd have to review to
12 comment. Assuming, but I'd have to review, but I assume it's
13 correct. I don't know. I can't recall.

14 MR. KEVIN MCCULLOCH: All right. Rather than
15 circulating this to the entire gathered assembly, if I were
16 to show you a copy of the decision, would that perhaps help
17 you refresh your memory, on an issue that you obviously
18 weren't prepared for?

19 MR. HANY RIFAI: That's correct.

20

21 (BRIEF PAUSE)

22

23 MR. KEVIN MCCULLOCH: So, having looked at
24 it, can you confirm that the proposal prepared by your firm
25 advocated a spread of some 37 percent between the rate for

1 private passenger vehicles and private passenger motorcycles?

2 MR. HANY RIFAI: This is a change, a rate
3 change. I have not -- I don't know what the spread is. I'd
4 have to actually look at the actual rates, the current and
5 the proposed rates, to say what the rate spread -- but the
6 rate change difference is that, correct.

7 MR. KEVIN MCCULLOCH: So if I refer to it as
8 the rate change spread, that would be the appropriate term?

9 MR. HANY RIFAI: Yes.

10 MR. KEVIN MCCULLOCH: Thank you. I'm going
11 to move to another issue, and this has to do with your
12 comments with respect to MPI not calculating the value of K
13 where K is the indication for major class rates. You recall
14 that discussion this morning?

15 MR. HANY RIFAI: Yes, I do.

16 MR. KEVIN MCCULLOCH: Do you also recall that
17 while you were in the room this morning, before you started
18 to give evidence, Ms. McLaren, on behalf of MPI, gave
19 evidence in response to questions put by Mr. Oakes, that the
20 Corporation had prepared a value for K where K is the
21 indicator for major class rates, and that that calculation
22 was three thousand nine hundred eighty-seven (3,987) rounded
23 off to four thousand (4,000); do you recall that evidence
24 this morning?

25 MR. HANY RIFAI: No, I don't recall her

1 mentioning this number, or the calculation.

2 MR. KEVIN MCCULLOCH: All right. Subject to
3 confirming that number through the transcript, can you tell
4 me, if MPI were to operate on a K calculation of four
5 thousand (4,000) for motorcycles -- sorry, for all vehicles,
6 would that not create an even higher motorcycle credibility,
7 using four thousand (4,000)?

8 MR. HANY RIFAI: Yes. If you put a lower
9 number for K, it would create a higher credibility. But,
10 first of all, the K value for the motorcycles, I would -- I
11 would hazard to say should be different than the one for
12 private passenger.

13 It should be based upon the correlation
14 between the motorcycle group and the entire group. And it
15 would be different for the different subclasses.

16 MR. KEVIN MCCULLOCH: Well, dealing with the
17 evidence as we had it, you would agree with me that use of --
18 of K at four thousand (4,000) would create a higher
19 credibility and that that, in turn, would drive higher
20 required rates; would it not?

21 MR. HANY RIFAI: Yes, it would.

22 MR. KEVIN MCCULLOCH: Thank you. Last item.
23 Exhibit number 10, CMMG Exhibit number 10, which was filed
24 this morning -- this is an update of the information in your
25 pre-filed testimony. I'm having a little difficulty with the

1 calculations where you come up with the estimate that the
2 loss cost difference between Alberta versus Manitoba is plus
3 340 percent, and that the loss cost difference between
4 Ontario and Manitoba is 200 percent.

5 Do you happen to have a calculator handy?

6 MR. HANY RIFAI: Yes, I do. And I'll explain
7 to you what I did. Okay. First of all, let me -- let me
8 explain -- let me explain the difference between this
9 exhibit here and the one I filed originally.

10 When we did it the first time, we didn't
11 adjust with the fact that Alberta and -- and Ontario don't
12 necessarily have full coverage. So here we did -- so what I
13 did is I -- I'm not making -- there's certain changes or
14 adjustments to these numbers that I should make but I didn't
15 because I'm just trying to make a point in the comparison
16 here. All right?

17 So what I did is, let's say Ontario, okay?
18 The 2003 loss cost for Ontario, for private passenger, again,
19 adjusted for full coverage, was a thousand fifty-four
20 (1,054). And -- for -- for private passenger. And for
21 Manitoba

22

23

24 So what I said is, let's say Ontario, okay? The 2003 loss
25 costs for Ontario for private passenger, again adjusted for

1 full coverage, was a thousand fifty-four (1,054) and for --
2 for private passenger, and for Manitoba it's around -- it's
3 eight fifty-three (853), okay? Which is a -- a difference
4 here of around 23 percent or so.

5 I said, I think twenty-three (23) or 25
6 percent in my -- in my -- I think I say about 25 percent --
7 less generous. It's a ballpark number. I'd have to adjust
8 for loss trends and so on, which I'm not doing here.

9 The point I'm making is that when I compare
10 the difference between the motorcycles loss costs at 2003 and
11 the motorcycle loss cost in Manitoba at 2005, I'm getting a
12 difference here of -- the -- the motorcycle loss cost in
13 Manitoba's over 200 percent -- the motorcycle loss cost
14 difference in Manitoba, where -- sorry -- in Ontario. Sorry,
15 the -- the loss cost for motorcycles in Manitoba is
16 approximately 200 percent of the adjusted loss cost for 2003
17 in Ontario.

18 MR. KEVIN MCCULLOCH: Can you tell me which
19 figures you were using for Ontario and --

20 MR. HANY RIFAI: Yeah.

21 MR. KEVIN MCCULLOCH: -- for Manitoba
22 motorcycles?

23 MR. HANY RIFAI: For Ontario I'm doing one
24 (1) -- one thousand four hundred and forty-seven (1,447).
25 Okay? The ultimate loss cost and -- that you have in -- in

1 your -- this comes from your MPI application, divided by the
2 seven hundred and twenty-five (725) for the -- this is the
3 Ontario adjusted for full coverage and it has about a 200
4 percent spread there.

5 MR. KEVIN MCCULLOCH: So, really what you're
6 telling us is it's 200 percent of the Manitoba rate, but it's
7 not 200 percent higher than the Manitoba rate; it's only 100
8 percent higher?

9 MR. HANY RIFAI: Yeah. Yes, correct. 100
10 percent. I -- meaning it -- meaning it -- when I say 200
11 percent, I mean 200 percent -- like, you know, the factor
12 that I would have to multiply the Manitoba rate to get that.
13 So, it's 100 percent higher, yes.

14 MR. KEVIN MCCULLOCH: And then adjusting your
15 evidence for Alberta, the --

16 MR. HANY RIFAI: The -- the point -- the
17 point is when you look at this is, if you look at the spread
18 of rates between Manitoba private passenger and Ontario
19 private passenger, you're getting the -- the loss cost for
20 Manitoba is -- for private passenger -- is 20 percent lower.
21 Do you follow what I'm saying?

22 And the fact is, the relationships indicate
23 again, because -- because the coverages are different between
24 the provinces, I can't be no-fault or 100 percent sure what
25 is causing the differences. I'm trying to compare like

1 things and when I compare like things I see a huge difference
2 in the motorcycle rate that, as far as I can see, can only be
3 explained by two (2) things, either the loss transfer issue
4 or for some reason, the motorcyclists in Manitoba are
5 substantially worse relative to how good the private
6 passenger drivers in Ontario are in Manitoba, if you follow
7 what I mean.

8 MR. KEVIN MCCULLOCH: Well, sir, I think
9 you've taken us far beyond what my initial question was. My
10 question was, I was confused by the fact that you had used
11 figures of 340 percent higher for Manitoba --

12 MR. HANY RIFAI: Yeah.

13 MR. KEVIN MCCULLOCH: -- when, in fact, it
14 was 240 percent higher.

15 MR. HANY RIFAI: Yeah, what I mean, it's two
16 hundred (200) -- it's 340 percent of that figure. That's
17 what I mean.

18 MR. KEVIN MCCULLOCH: So another change there
19 would -- would correct what you meant?

20 MR. HANY RIFAI: It's just a different way of
21 looking at it. I meant two (2) -- 200 percent of that figure
22 and 340 percent of the -- the Manitoba figure is what I
23 meant. Again, if you take the Alberta, for example, if you
24 take the private passenger loss cost for Alberta, divided by
25 the private passenger loss -- sorry for Manitoba divided by

1 the one for Alberta, you see that there's -- they're very
2 close.

3 There's a probably 2.5 percent difference
4 between the private passenger loss cost in Alberta for
5 private passenger and motorcycles, again, I've adjusted the
6 Alberta numbers for the different deductibles and the full
7 coverage.

8 If I do the same -- the same comparison with
9 Manitoba for motorcycles, I'm getting a difference of, as I
10 said, three forty (340). I mean a three (3) -- it's a three
11 point four (3.4) factor. It's three (3) -- 340 percent
12 higher than the number in -- in motorcycles from Manitoba.
13 Well, 240 percent higher. It's a factor of three point four
14 (3.4).

15 MR. KEVIN MCCULLOCH: All right. But I'm
16 still asking you that if we accept the fact that based on
17 these figures, loss costs for motorcycles in Manitoba are 240
18 percent higher than they are in Alberta --

19 MR. HANY RIFAI: Right.

20 MR. KEVIN MCCULLOCH: -- and those figures
21 are -- are now correct.

22 MR. HANY RIFAI: Right.

23 MR. KEVIN MCCULLOCH: Is that right?

24 MR. HANY RIFAI: Yes, and that's the point
25 I'm making is, there's a huge difference between the two (2)

1 classes when you compare the two (2) provinces and the only
2 pa -- yeah, go ahead.

3 MR. KEVIN MCCULLOCH: My question is, would
4 you not expect that if the loss costs in Manitoba were 240
5 percent high than the loss costs in Alberta for motorcycles,
6 that there should be a reflected difference in rates between
7 the two (2) provinces assuming that sufficient rates are
8 being charged?

9 MR. HANY RIFAI: Yes, but the point of this
10 comparison is the reason why these loss costs are so
11 different can only be explained by the issue of loss
12 transfer.

13 MR. KEVIN MCCULLOCH: But we're on my
14 comparison now, Mr. Rifai, not yours. So I'm asking you to
15 -- to limit yourself to the questions that I'm putting to
16 you.

17 I asked you whether you thought with a 240
18 percent higher loss cost in Manitoba over Alberta that you
19 would anticipate there would be a similar difference in rates
20 between the two (2) provinces and I believe your answer to
21 that was yes. Wasn't it?

22 MR. HANY RIFAI: Yes. It would -- it would
23 obviously mean the rates would be much higher.

24 MR. KEVIN MCCULLOCH: Then let me refer you
25 to CAC/MSOS/Information Request 1-37. I don't know if your

1 counsel has -- I'm referring in -- specifically to the chart
2 on page 3 and it compares the Manitoba premiums with those
3 charged in Ontario and in Alberta on the basis of the five
4 (5) scenarios that are set out in the Information Request.

5 And what I'd suggest to you, Mr. Rifai, is
6 that despite by your evidence Ontario being -- their loss
7 cost being 100 percent higher than Manitoba, their rates are
8 actually greater than Manitoba rates and further, that the
9 Alberta rates don't reflect any 240 percent difference that
10 exists in the loss costs.

11 Is that not correct?

12 MR. HANY RIFAI: First of all, when taking
13 specific risk or individual risks, you can't -- it's very
14 hard to compare as to why the difference that were happening.
15 A rate comparison -- I'm looking at the gross level here.

16 Second of all the Manitoba rates have been
17 capped in the past. Obviously the actual premium being
18 charged is not reflective of loss cost. Eventually it will
19 get there and that will become an issue. It doesn't reflect
20 the loss cost including when you ignore the loss transfer
21 issue.

22 I can't really make too much comments on this
23 because I would have to review it more in detail other than
24 that. But the point is Manitoba rates here I assume are the
25 ones that are being capped currently, not reflecting the --

1 again, it doesn't have any loss transfer.

2 But I would have to look at this more to -- to
3 respond more fully for this.

4 MR. KEVIN MCCULLOCH: No, I think that's the
5 response I was looking for, thank you. That concludes my
6 cross-examination, Mr. Chairman.

7 THE CHAIRPERSON: Thank you, Mr. McCulloch.

8 MR. RAYMOND OAKES: Mr. Chairman, I just have
9 one question by way of re-direct.

10 THE CHAIRPERSON: Please, Mr. Oakes...?
11

12 RE-DIRECT EXAMINATION BY MR. RAYMOND OAKES:

13 MR. RAYMOND OAKES: Mr. Rifai, Mr. McCulloch
14 had reviewed Board Order 173/03 and had asked you about a
15 statement in the Order about an incongruous situation in rate
16 making where loss transfer couldn't co-exist with the CLEAR
17 rate group assignment. Do you remember being questioned
18 about that, sir?

19 MR. HANY RIFAI: Yes, I do.

20 MR. RAYMOND OAKES: And what is the situation
21 in Ontario with respect to the use of CLEAR and the use of
22 loss transfer?

23 MR. HANY RIFAI: Most companies do use CLEAR
24 in Ontario and there is loss transfer in Ontario currently.

25 MR. RAYMOND OAKES: That's my only question

1 on re-examination.

2 THE CHAIRPERSON: Thank you, Mr. Oakes.
3 Before moving on to Mr. Saranchuk, I just want to indicate
4 there's an error in the transcript. For the record, on page
5 742 and brought to my attention, it's incorrectly shown that
6 an exhibit was being entered MPI-9. This document was not
7 entered. However, there is an MPI-9 exhibit which was
8 entered as an exhibit on page 537 of the transcript. We'll
9 just correct the record. Mr. Saranchuk...?

10 MR. WALTER SARANCHUK: Thank you, sir.

11

12 CROSS-EXAMINATION BY MR. WALTER SARANCHUK:

13 MR. WALTER SARANCHUK: Mr. Rifai, you have
14 already confirmed that portions of your report are identical
15 or substantially similar to the 1998 report authored by Mr.
16 Cheng, is that correct?

17 MR. HANY RIFAI: Yes, it is.

18 MR. WALTER SARANCHUK: And recognizing the
19 similarities, does this report, namely, the one that has been
20 dated September 27th, 2004, constitute your evidence at this
21 Hearing, and does it reflect your expert opinion?

22 MR. HANY RIFAI: Yes, I -- you know, I
23 reviewed the report, and most of the statements and the
24 conclusions I do agree with. It's -- Joe Cheng was -- was
25 retained by our firm at the time to do it, and we -- you

1 know, we worked on it and I do agree with most of the
2 statements made in this report. Well, all of the statements
3 made by Joe Cheng.

4 MR. WALTER SARANCHUK: I was just going to
5 ask you, you use the word most, and I'm wondering whether
6 that means all?

7 MR. HANY RIFAI: No, all -- all, I did agree
8 with everything.

9 MR. WALTER SARANCHUK: I note that you didn't
10 incorporate all of his report though; is there a particular
11 reason?

12 MR. HANY RIFAI: No particular reason, I just
13 -- I was trying to find different examples to try and put --
14 make the point that loss transfer is a big affect, and that's
15 the reason why I decided to use the example that I did use.

16 I thought this gives a good -- a clear idea of
17 the relationship or the magnitude of the impact a loss
18 transfer can possibly occur, somewhere in these ranges. So
19 that's why I decided to do it the way I did it, or the
20 examples I put in.

21 MR. WALTER SARANCHUK: I see. And can you
22 confirm, sir, that you indeed, in preparing your report,
23 reviewed the volumes filed by the Applicant MPI, in this
24 Application, that's Volumes I, II, and III of their parts
25 thereof?

1 MR. HANY RIFAI: I reviewed a good
2 substantial part of the volumes, not all of it, I didn't have
3 time to review all of it.

4 MR. WALTER SARANCHUK: Do you recall which
5 ones you did review?

6 MR. HANY RIFAI: Sorry. I reviewed the
7 introduction in the first binder, and I reviewed the
8 actuarial portion where the rate making methodology was
9 explained.

10 I reviewed substantially most of the rest,
11 including the benefits and some of the -- the things, but I
12 -- there were certain sections, let's say the -- I think the
13 -- the development of the -- of the loss development, and so
14 on, I may not have reviewed in detail. It's fairly long to
15 go through it. I didn't have time to go through everything
16 in detail.

17 MR. WALTER SARANCHUK: Yes. So, essentially,
18 according to my recollection, TI-18 and TI-20 are the
19 actuarial portions of the evidence, if you will, in fact,
20 probably the ones that, other than actuaries, really no one
21 (1) is interested in, if I may say so. But -- or can -- can
22 understand.

23 But in any event, having said that, is that
24 the ones that you focussed in on?

25 MR. HANY RIFAI: Substantially, yes.

1 MR. WALTER SARANCHUK: And did your review
2 also encompass the motorcycle risk study that was
3 subsequently filed by the Corporation as AI-16?

4 MR. HANY RIFAI: I went through it not -- I
5 didn't read every single line, I went -- did go through the
6 Motorcycle Risk Study also, yes.

7 MR. WALTER SARANCHUK: When did you do that?

8 MR. HANY RIFAI: While I was reviewing --
9 when -- while I was reviewing the MPI Application. As I
10 said, I tried going through almost everything if I could.
11 The time constraint made it that I might have cut some
12 certain sections, but I did review it at the time also, the
13 Motorcycle Risk Study.

14 MR. WALTER SARANCHUK: At page 6 of your
15 report, sir, in the second paragraph, you have agreed
16 firstly, that essentially all of the information in your
17 report on page 6, was extracted from Mr. Cheng's report in
18 1998; that's correct?

19 MR. HANY RIFAI: Yes, it was.

20 MR. WALTER SARANCHUK: And in that second
21 paragraph, there's reference to the fact that Mr. Cheng made
22 a recommendation to the Osborne Commission. Do you see that,
23 sir?

24 MR. HANY RIFAI: Yes, I do.

25 MR. WALTER SARANCHUK: And was that a

1 recommendation to the affect that loss transfer be introduced
2 in Ontario with a change to a partial, no-fault environment
3 there? Page 6, second paragraph?

4 MR. HANY RIFAI: Yeah.

5

6

(BRIEF PAUSE)

7

8

MR. HANY RIFAI: Correct.

9

10 MR. WALTER SARANCHUK: And can you confirm
11 that the recommendation was made strictly from an equity
12 fairness perspective, as it states in the last line?

12

MR. HANY RIFAI: Yes.

13

14 MR. WALTER SARANCHUK: And can you tell us
15 what the basis for that is?

15

MR. HANY RIFAI: Equity fairness?

16

MR. WALTER SARANCHUK: For your opinion.

17

MR. HANY RIFAI: It's -- for the opinion.

18

19 The reason why the equity fairness, why they decided to do
20 it, I assume is the point that I made before is that somebody
21 who does not cause an accident, shouldn't be penalized for
22 the actions of somebody else, that he has no control over.

22

23 MR. WALTER SARANCHUK: But, sir, that's an
24 assumption, not a specific opinion. I'm wanting to know on
25 what facts do you rely in agreeing to the fact that the
26 recommendation was made strictly from an equity-fairness

1 perspective?

2

3

(BRIEF PAUSE)

4

5 MR. HANY RIFAI: I guess I'm not really sure
6 I understand what your point is. You're saying is what
7 factual basis that it's equity, only equity?

8 MR. WALTER SARANCHUK: No. My point is that
9 you adopted this part of Mr. Cheng's report, --

10 MR. HANY RIFAI: Hmm hmm.

11 MR. WALTER SARANCHUK: -- and effectively
12 have stated that the suggestion, and you've adopted the
13 words, my original suggestion, --

14 MR. HANY RIFAI: Yeah, I -- I --

15 MR. WALTER SARANCHUK: -- you're saying that
16 that was strictly from an equity-fairness perspective, and
17 while we know it wasn't your original suggestion, I take it
18 you are adopting, however, the indication that it was
19 strictly from an equity-fairness perspective.

20 And since you're doing that, I'm asking you on
21 what personal basis of information are you adopting that?

22 MR. HANY RIFAI: Okay. First of all, when I
23 prepared this one, I should have just made it clear that this
24 -- this portion did from Joe S. Cheng's thing and I agree
25 with the statement. I'm trying to -- I was rephrasing what

1 he said in his original report.

2 When we did this, I -- I included this too,
3 because I think it made the point the loss transfer was a
4 more equitable way of proportioning it. I'm stating --
5 making the statements that he made, which I -- I agree with,
6 that it -- it is a correct way to do for an equity-fairness
7 perspective.

8 I'm not sure I understand -- I -- I should
9 have quoted, said quote: "This is Joe Cheng," but I realize
10 the Board had the -- had the report, I assumed they knew this
11 was coming right from the -- from the report from Joe Cheng.
12 I'm just restating this portion of what he said in his report
13 originally.

14 MR. WALTER SARANCHUK: Okay. Let me perhaps
15 put it another way. You agree with his statement that his
16 suggestion was strictly made from an equity-fairness
17 perspective, correct?

18 MR. HANY RIFAI: No, I think -- I think what
19 was meant is that he was bringing it on that point, there may
20 be other reasons why you would do loss transfer, but the
21 suggestions on that -- on that basis alone would -- would
22 suffice to validate the use of loss transfer mechanism.

23 MR. WALTER SARANCHUK: In fairness, sir, you
24 don't know what he was thinking. I'm looking at this from
25 your personal knowledge. This is given as your opinion, as I

1 understand it.

2 You've adopted this statement and I'm assuming
3 that you agree that the suggestion that was made regarding
4 the fact that the loss-transfer concept be introduced in
5 Ontario, was made strictly from an equity-fairness
6 perspective. Are you saying now that you don't agree with
7 that?

8 MR. HANY RIFAI: If you also read his
9 original report, he talks about why he believes loss transfer
10 makes sense, and brings up a few other issues to --

11 MR. WALTER SARANCHUK: If you'd just answer
12 my question, sir, please. Do you or do you not agree with
13 the statement that it was strictly from an equity-fairness
14 perspective?

15 MR. HANY RIFAI: That the original suggestion
16 of Joe Cheng was strictly from an -- yes, because he -- he --
17 that's what he's stating, so --

18 MR. WALTER SARANCHUK: So, you agree with
19 that?

20 MR. HANY RIFAI: That's not a question of me
21 agreeing, it's what he said.

22 MR. WALTER SARANCHUK: Well, it's in your
23 report.

24 MR. HANY RIFAI: All I'm stating -- all I'm
25 saying is the -- what I put here is the suggestion that he

1 made at the time and he said it was only for -- so I -- I
2 can't contradict what he said, it's what he said.

3 MR. WALTER SARANCHUK: Well, let me put it to
4 you this way: Since it is in your report, let me ask you, on
5 what actuarial principles do you rely in indicating that it
6 was strictly from an equity-fairness perspective; this is
7 your report?

8

9 (BRIEF PAUSE)

10

11 MR. HANY RIFAI: Why, okay, I -- because I'm
12 not a hundred percent sure to how to answer your question.
13 I'm not sure I understanding where you're trying to go with
14 this.

15 MR. WALTER SARANCHUK: All I'm asking you to
16 do is explain your report.

17 MR. HANY RIFAI: That the fact that on an
18 equity basis, is some -- the point, I think, this is, you
19 know, ultimately this is a philosophical argue -- discussion
20 we're having, is that, somebody who causes the accident
21 should pay for the accident. Linking claims into premiums,
22 to me, or premiums to the people that cause the claims, is an
23 equitable way of apportioning the losses. It's...

24 MR. WALTER SARANCHUK: So, this isn't an
25 actuarial argument, it's a philosophical one?

1 (BRIEF PAUSE)

2
3 MR. HANY RIFAI: No. Ultimately, the people
4 who cause the accident should pay the -- should pay the
5 claims because, ultimately, that should lead to better loss
6 control on a long-term basis. It's one of the actuary
7 principles that somebody that -- that -- predict with two
8 reasons -- it's predictive stability and also for loss
9 control mechanism.

10 People that actually cause the claim, should
11 pay for the claim.

12 MR. WALTER SARANCHUK: In the next paragraph
13 on page 6, this little third paragraph, sir, it's indicated
14 that:

15 "The Ontario Insurance Commission"

16 At least:

17 "According to the Ontario Insurance
18 Commission, loss transfer was introduced in
19 order to balance the cost of providing
20 accident benefits between specified classes
21 of vehicles."

22 Do you see that there, sir?

23 Third paragraph, last sentence. In your
24 opinion, what is meant by balancing the cost?

25 MR. HANY RIFAI: Balancing the fact that

1 accident benefits is a no-fault benefit but also recognizing
2 the people that cause the accidents, the people that are
3 receiving the benefits are not necessarily those that cause
4 the claim. And it would be unjust to necessarily charge that
5 class of business the entire value of the claim.

6 MR. WALTER SARANCHUK: How do you know that
7 that was what the rationale was for -- by the Ontario
8 Insurance Commission?

9 MR. HANY RIFAI: The only -- the logic of
10 introducing the loss transfer was simply to balance the cost
11 of the accident benefits that are being provided to the
12 insured between the various classes of business, recognizing
13 certain classes may be more -- may be subjected to higher
14 impact of having a no-fault system, specifically the motorcyc
15 -- the motorcycle class.

16 MR. WALTER SARANCHUK: Is that the Ontario
17 Insurance Commission speaking or is that Mr. Rifai speaking?

18 MR. HANY RIFAI: That's my interpretation of
19 what they're saying.

20 MR. WALTER SARANCHUK: You don't know for a
21 fact though whether that was the rationale of the Commission?

22 MR. HANY RIFAI: No. I wasn't on the
23 Commission myself, but I assume that's the logical conclusion
24 as to why they did this.

25 MR. WALTER SARANCHUK: So, there you are with

1 an assumption again; is that right?

2 MR. HANY RIFAI: Can you explain some other
3 reason why they would have done this?

4 MR. WALTER SARANCHUK: No. I'm asking you to
5 explain your report.

6 MR. HANY RIFAI: The point I'm making is,
7 it's -- there is -- the only logical reason why they would
8 have done this, I assume, is to balance that -- is to balance
9 those costs between the various classes of business,
10 motorcycle versus commercial trucks, or so on. And that's
11 why they did this.

12 I'm -- again, I'm assuming that's what they
13 did. I wasn't on the Commission, but it's --

14 MR. WALTER SARANCHUK: I guess that's the
15 whole point, sir. In any event, does balancing the cost, in
16 your opinion, necessarily equates to an enhancement of equity
17 and fairness?

18 MR. HANY RIFAI: Yes, it does. I don't see
19 how it's -- it could be fair that a class of vehicles -- that
20 a person or a class of vehicles that do not -- are not at
21 fault should pay for the claim.

22 MR. WALTER SARANCHUK: Last year there was a
23 report that was filed in the evidence by MPI, it was a letter
24 from Mr. James K. Christie (phonetic), FCIA of Ernst and
25 Young, appearing at AI-16 in last year's Application, and in

1 discussing the use of loss transfer, Mr. Christie stated --
2 this was pertaining to discussing the use of loss transfer in
3 Ontario. Mr. Christie stated, quote:

4 "I was personally involved in the drafting
5 of various parts of the Ontario
6 Legislation, including the motorcycle loss
7 transfer section. The motorcycle loss
8 transfer was intentionally introduced to
9 limit the anticipated premium cost
10 increases for motorcycles. And, thus,
11 curtail any opposition from this group to
12 the introduction of broad no-fault
13 concept."

14 End of quote. Do you see that?

15 MR. HANY RIFAI: Yes, I do see it.

16 MR. KEVIN MCCULLOCH: Let me ask you, do you
17 have any personal or specific knowledge that would lead you
18 to conclude that the issues of equity and fairness were in
19 fact underlying the Ontario Government's decision?

20 MR. HANY RIFAI: This was a recognition that
21 introduction of the no-fault would have a very strong adverse
22 effect to the motorcycle group, and that's why they decided
23 to pay the loss transfer.

24 I can't -- I was not on the Commission, as I
25 said, so I'm not sure a 100 percent what went through

1 everybody's mind, but to me it's a way of addressing the
2 equity or the fairness of the -- having a no-fault system
3 that would unfairly penalize the motorcycle group, if this
4 was not introduced.

5 MR. WALTER SARANCHUK: So that's your
6 assumption? I mean what else can it be, sir?

7 MR. HANY RIFAI: Give me a second.

8

9 (BRIEF PAUSE)

10

11 MR. HANY RIFAI: Ultimately I can't say what
12 went through everybody's mind at the Commission, but --

13 MR. WALTER SARANCHUK: So --

14 MR. HANY RIFAI: -- it was -- they recognized
15 the effect of having a no-fault system would have a very
16 adverse effect to the motorcycles, so they took measures to
17 mitigate it, that's why they put loss transfer.

18 MR. WALTER SARANCHUK: In terms of equity and
19 fairness as issues and factors in the decision of that
20 Government, it is your assumption and only an assumption that
21 those were factors, correct?

22 MR. HANY RIFAI: Yes, but I -- the point is,
23 having a loss transfer mechanism, as I said, I do, I think if
24 you stop and think about it for a second, and realize that if
25 somebody doesn't cause a claim, I don't see why they should

1 pay for it, it is -- that is an equity issue. It is a major
2 issue of why loss transfer is -- should be put in place.

3 I'm not sure what went through every
4 Commissioner's mind when they put it in, no.

5 MR. WALTER SARANCHUK: Thank you, sir. Can
6 you give us an idea of your expertise in loss transfer
7 mechanisms in each of the jurisdictions that you've cited in
8 your report; that is jurisdictions outside of Manitoba?

9 MR. HANY RIFAI: The only -- the only
10 Province that has loss transfer other than -- because the
11 other Provinces they have mostly tort issues, so the issue of
12 loss transfer is not relevant for those jurisdictions, is
13 Ontario.

14 I wasn't involved in the introduction of loss
15 transfer came in. I do rates in Ontario, so I'm used to --
16 I'm -- I -- I know the effect of loss transfer, but I wasn't
17 involved when the Commission started. And all the other
18 Provinces are full tort Provinces, so it's a non-issue for
19 them. Or mainly -- mainly tort, essentially, most of the
20 benefits are through the tort system.

21 MR. WALTER SARANCHUK: Yes, and could you
22 please explain how the loss transfer mechanism works
23 currently in Ontario?

24
25

(BRIEF PAUSE)

1 MR. WALTER SARANCHUK: Perhaps by way of an
2 example?

3 MR. HANY RIFAI: Let's say there is an
4 accident between a motorcyclist and a commercial truck, I
5 think there's some...

6
7 (BRIEF PAUSE)

8
9 MR. HANY RIFAI: Well, in some of the reports
10 we have some examples here. Let's look here.

11 So when motorcycle A collides with a vehicle
12 B, other than a motorcycle or a snow vehicle, and B is
13 partially or totally at fault, the insurer of A is
14 responsible for all no-fault benefits for the motorcyclist
15 policy holder.

16 MR. WALTER SARANCHUK: Are you reading from
17 something, or are you doing this off the cuff?

18 MR. HANY RIFAI: No, I have it -- in the
19 report we have an example of this. We have -- we have an
20 example of what -- how it occurs.

21 The insurer A, the motorcyclist insurer can
22 recover payments above in excess of two thousand (2,000) --
23 they have a deductible of two thousand dollars (\$2,000) just
24 to try and avoid, I assume, the costs -- the administrative
25 costs of small claims of being transferred over.

1 The -- currently the way it's actually coded
2 into the data that I -- from insurance, in the bodily injury
3 there's a portion that's loss transfer, and the bodily injury
4 coverage, we have a field for loss transfer -- it's removed
5 from the accident benefit claims of the motorcyclist, the
6 motorcycle insurer, and it's added to the third party
7 liability claims of the others. That's why we have a bodily
8 injury loss transfer mech -- section of the data we received
9 from the IACC.

10 MR. WALTER SARANCHUK: Would that deductible
11 system work equally well, in a single insurer environment,
12 for example? Or would changes be required?

13 MR. HANY RIFAI: You wouldn't even need to
14 have deductibles. It's much -- it's much easier for Manitoba
15 to do this because it's single insurers.

16 It would be the simplest situation of all
17 because, simply, you have one (1) big data base, you know
18 who's at fault. You know -- you can simply just assign the
19 claim amount to the other guy, who's at fault. It should be
20 very simple. It's actually -- for Manitoba to do it I would
21 assume would be much simpler than Ontario.

22 MR. WALTER SARANCHUK: And how does the
23 Ontario loss transfer system work where there's partial fault
24 for both parties?

25 MR. HANY RIFAI: Then the determination of

1 percentage fault has to take place and then after the -- once
2 the percentage fault takes place, anything in -- in -- so,
3 let's say -- let's say the motorcyclist is 10 percent at
4 fault, for example, Okay?

5 And the claim, let's say is fifty thousand
6 (50,000) or something -- trying to -- so there's forty-five
7 thousand (45,000) and five thousand (5,000). The -- five
8 thousand (5,000) of the claim would be -- belong to the
9 motorcyclist. That forty-five thousand (45,000), after the
10 deductible, I think -- the deductible, I assume, would be
11 applied to that forty-five thousand (45,000) and whatever's
12 left over would be transferred into the person who's 90
13 percent at fault.

14 Some similar mechanism could easily be done
15 and I -- I don't know if the database that MPI has, has a
16 percentage at fault, but something similar to that could be
17 done.

18 MR. WALTER SARANCHUK: Would you describe the
19 Ontario initiative -- that is to introduce loss transfer, as
20 an industry initiative, a regulatory initiative or a
21 legislative initiative?

22 MR. HANY RIFAI: Sorry, when you said, you
23 mean that who -- who brought in -- up the issue?

24 MR. WALTER SARANCHUK: No, what I want to
25 know is how it was introduced. Was it through -- by way of

1 an industry initiative or regulatory or is it in the
2 legislation?

3 MR. HANY RIFAI: I -- I think it was done
4 through the regulation -- the regulatory.

5

6

(BRIEF PAUSE)

7

8 MR. WALTER SARANCHUK: On Page 6 of your
9 report, sir, in third paragraph on the second line, I wonder
10 if you would read me the first sentence beginning with the
11 words, "when the Ontario Motorist Protection Plan become
12 effective?"

13 MR. HANY RIFAI: "The concept of loss
14 transfer was first discussed in Canada --"

15 MR. WALTER SARANCHUK: No -- the next --
16 sorry, the next paragraph.

17 MR. HANY RIFAI: Sorry. The author, again, I
18 should have specified Joe Cheng and -- was the actuary to the
19 Commissioner Justice Osborne.

20 MR. WALTER SARANCHUK: Right, the -- Mr.
21 Rifai -- the paragraph beginning with the words, "When the
22 Ontario Motorist Protection Plan became effective". Could
23 you please read that sentence in?

24 MR. HANY RIFAI: Yeah.

25 "When it became effective, the loss

1 transfer program was formally written into
2 the legislation and the regulations."

3 MR. WALTER SARANCHUK: No, I want you to read
4 in that sentence.

5 MR. HANY RIFAI: "When the Ontario Motorist
6 Protection Plan became effective on June
7 22nd, 1990, the loss transfer concept was
8 formally written into the legislation and
9 the regulations."

10 MR. WALTER SARANCHUK: Still didn't read it
11 all in.

12 MR. HANY RIFAI: "When the Ontario Motorist
13 Protection Plan became effective on June
14 22nd, 1990 the loss transfer concept was
15 formally written into the legislation S27
16 Insurance Act and Regulations. The concept
17 covers motorcycles, motor --"

18 THE CHAIRPERSON: That's good enough. That's
19 fine.

20

21 CONTINUED BY MR. WALTER SARANCHUK:

22 MR. WALTER SARANCHUK: That's fine, sir. I
23 think you meant Section 275 of the Insurance Act.

24 MR. HANY RIFAI: So it was both -- both
25 legislative and regulatory issues -- regulation.

1 MR. WALTER SARANCHUK: Thank you, sir. And
2 in terms of the actual initiative that ended up in that
3 legislation, did that initiative come from the government or
4 from the regulator?

5 MR. HANY RIFAI: Sorry, when you say that, do
6 you mean who started the initiative to look into it? Is that
7 you mean?

8 MR. WALTER SARANCHUK: Yes.

9 MR. HANY RIFAI: Again, I would assume it's a
10 regulator, but I -- I don't know. I would assume the
11 regulator is the one that started the initiative. Maybe --
12 maybe because of consumer -- consumer -- consumer complaints
13 or consumer awareness.

14 MR. WALTER SARANCHUK: Can we just say that
15 you don't know?

16 MR. HANY RIFAI: Yeah, I -- I'm not sure.
17 That's - that's what I meant before. I assumed it was a
18 regulator that started the initiative; that's what I assumed.

19 MR. WALTER SARANCHUK: On Page 7 in the first
20 paragraph, there's reference to the ICBC experience, can you
21 confirm that they found, quote:

22 "The majority of motorcyclists were injured
23 by negligent passenger cars or trucks."

24 End of quote. Bearing in mind that this is
25 the evidence that you adopted from Mr. Cheng's report?

1 (BRIEF PAUSE)

2
3 MR. HANY RIFAI: The statements here are, you
4 know, again I'm using the -- I'm taking the evidence that Joe
5 Cheng and I assumed Joe Cheng was -- was cognizant of this
6 fact.

7 I should have again stated when I resubmitted
8 this portion that I did take it from Joe Cheng. And I knew
9 the Board had this, so I assumed the Board had an awareness
10 of this.

11 I myself have never talked to the Insurance
12 Corporation of British Columbia related to the loss transfer.
13 But if they did this, it was obviously because they realized
14 the impact of the no-fault benefits were fairly high for the
15 -- for the motorcyclist.

16 MR. WALTER SARANCHUK: But, from your own
17 personal knowledge, you cannot make the statement, quote:
18 "The majority of motorcyclists are injured
19 by negligent passenger cars or trucks."

20 End of quote. Can you? From your own
21 personal knowledge?

22 MR. HANY RIFAI: No, this is not my own
23 personal knowledge. This is from Joe Cheng's personal
24 knowledge.

25 MR. WALTER SARANCHUK: Thank you.

1 (BRIEF PAUSE)

2

3 MR. WALTER SARANCHUK: In the fourth line of
4 the first paragraph on page 7, there's reference to the
5 management of ICBC being directed to lift the no-fault
6 benefits paid to motorcyclists. And in effect, they
7 introduced loss transfer.

8 Can you advise as to who -- made that
9 direction?

10 MR. HANY RIFAI: Again, it would be the
11 regulators that would have directed them to -- to make this
12 change.

13 MR. WALTER SARANCHUK: And who is the
14 regulator?

15 MR. HANY RIFAI: I assume, again I don't do
16 rates regularly with British Columbia, I assume the
17 regulators is a Public Utilities Board or Insurance
18 Commissioner of -- of British Columbia. I don't currently
19 file rates in British Columbia because it is a public
20 Province. So I don't deal with them on a regular basis.

21 MR. WALTER SARANCHUK: Is loss transfer being
22 utilized in -- by ICBC today?

23 MR. HANY RIFAI: I think they may have changed
24 their system I think because of the -- they may have changed
25 their system. I'm not sure if they're still doing this at

1 this point. I think they changed their system a couple of
2 years ago.

3 MR. WALTER SARANCHUK: Is that --

4 MR. HANY RIFAI: To going to more towards
5 tort -- to less into the issue of loss transfers. They may
6 have discontinued using the -- doing the loss transfer. And
7 that's my understanding of things.

8 MR. WALTER SARANCHUK: Okay. On page 7, in
9 the third paragraph, there's reference to the experience in -
10 - in Quebec. Can you confirm that it is your understanding
11 that the Government provided accident benefits coverage as
12 provided with no loss transfer between motorcycles and
13 private passenger vehicles?

14 MR. HANY RIFAI: Yes, but, Quebec it's a --
15 that's the point I'm making. Quebec is a very different
16 environment. They don't even really consider fault for --
17 for the not visible portion of accidents. Fault is not
18 something that they even look at. They don't -- the fee you
19 pay when you get your license is fixed regardless of your
20 accident history, unlike here.

21 That's one (1) of the points I was trying to
22 make before. It's a very -- it's similar, but it's quite
23 different also in the application.

24 MR. WALTER SARANCHUK: And on page 8, second
25 paragraph just consists of one (1) line. And can you confirm

1 that you have personal knowledge that the government monopoly
2 provider of basic coverage, namely SGI, does not use loss
3 transfer?

4 MR. HANY RIFAI: I talked to them -- I tried
5 getting information from them, and they said they -- they
6 didn't do loss transfer, but I think the way they charge
7 rates, they charge rates as -- they do very little
8 differentiation from my understanding, other than accident
9 history.

10 So, I'm not even sure if they differentiate
11 between classes of use in Saskatchewan. I tried getting
12 information from them, it was very hard to -- to get some
13 information from them. The people I talked to told me, no,
14 there was no loss transfer.

15 MR. WALTER SARANCHUK: Do rates vary between
16 motorcycles and other classes of vehicles?

17 MR. HANY RIFAI: That's the point. I think
18 they actually lump it all together, and they just
19 differentiate based on accident history, but again I'm not
20 even sure, because it's -- it's hard to get the information
21 from SGI.

22 MR. WALTER SARANCHUK: Is it fair to say,
23 sir, that you just don't know?

24 MR. HANY RIFAI: In Saskatchewan I'm sure
25 they don't do loss transfer, I'm not sure -- I don't know

1 their rating plan. I do know they don't do loss transfer,
2 but I don't know their rating plan very well.

3 MR. WALTER SARANCHUK: I thought that's what
4 I just asked you?

5 MR. HANY RIFAI: I don't know their rating
6 plan, I haven't -- reviewed their rating plan.

7 MR. WALTER SARANCHUK: Is it fair to state
8 that the practice in Saskatchewan under the no-fault option
9 there, exactly parallels that of Manitoba, with respect to
10 the loss transfer issue?

11

12 (BRIEF PAUSE)

13

14 MR. HANY RIFAI: As I stated, that since I
15 don't really know the rating plan of Saskatchewan, I tried
16 getting that information, I can't be certain about how they
17 do it. I don't -- as far as I know, they don't deal with the
18 loss transfer issue, so it's -- so probably it is similar to
19 Manitoba.

20 But again, if the ready plan lumps all vehicle
21 classes together, somebody -- that would diminish the issue
22 of loss transfer, but I'm not even sure they don't do that,
23 since I don't know the rating plan.

24 MR. WALTER SARANCHUK: Is it fair to
25 conclude, sir, that in Canada at the present time only

1 Ontario is using loss transfer for motorcycles?

2 MR. HANY RIFAI: That's correct, but because
3 most of the other Provinces use tort, loss transfer is
4 irrelevant for them. Alberta, New Brunswick, Nova Scotia,
5 PEI, Newfoundland have tort Provinces, so the issue of loss
6 transfer is not really relevant.

7 BC started going more towards tort, so it
8 became less of an issue. The only places that have no-fault
9 benefits so generous and that loss transfer should be
10 considered are Saskatchewan, Manitoba. In Ontario, Quebec
11 again is a very -- I don't think Quebec is -- is easy to
12 compare, so I don't -- that's why I say it's a very different
13 system in terms of at least how they collect their revenues,
14 or how they initially --

15 So Saskatchewan, Manitoba, and Ontario have
16 relatively similar situations, and Ontario has decided to
17 introduce loss transfer. It's not relevant for Alberta, it's
18 not relevant for New Brunswick.

19 They're -- it's fairly small, the accident
20 benefit portion, so I'm not saying that, you know, you can't
21 argue that there's some of it that might be transferred, but
22 it's so small, the numbers, that the impact on the motorcycle
23 class is very minimal.

24 MR. WALTER SARANCHUK: And it is a fact isn't
25 it that it was -- loss transfer was introduced in Ontario,

1 specifically to limit premium increases to motorcyclists?

2 MR. HANY RIFAI: Yes, because they're the --
3 they are the number one (1) class that would be affected,
4 having a no-fault system with a loss transfer. Other classes
5 of vehicles, the effects would be minor, maybe the commercial
6 classes would have a little higher increase, but I doubt the
7 affect on private passenger is -- is even significant.

8 In other words, if Manitoba were to introduce
9 the loss transfer mechanism, the premium increase on the
10 private passenger class, would be very, very much
11 insignificant, maybe a few dollars at most. It may affect
12 some other classes a bit more, but even then it wouldn't be
13 -- I'd -- I'd have to look at the data, I can't -- I can't
14 say for sure, I don't think it would be that significant.

15 So, yes, it is -- it is really to -- to
16 mitigate the effect that it has on the motorcycle class,
17 certainly.

18 MR. WALTER SARANCHUK: And on page 8 of your
19 report, under Section 6(c), could you read in to the record,
20 the first paragraph, beginning with the words:

21 "A guiding principle of insurance
22 classification is..."

23 Please read that in, word by word.

24 MR. HANY RIFAI: "A guiding principle of
25 insurance classification is premiums paid

1 by the insurer should reasonably reflect
2 the degree of risk the insured imposed on
3 the system. MPIC's current classification
4 has assumed the risk is proportional
5 to the benefits received. We strongly
6 disagree with this -- that approach,
7 because the approach has no predictive
8 value, and is unfair to a large number of
9 insurers in the rating cell."

10 MR. WALTER SARANCHUK: Do you consider the
11 loss transfer issue to be a matter of insurance
12 classification?

13 MR. HANY RIFAI: It's a matter of rate making
14 methodology, if you want.

15 MR. WALTER SARANCHUK: I'll ask you the
16 question again. Do you consider it to be a matter of
17 insurance classification, given what you've just read in?

18 MR. HANY RIFAI: As I said, it's a -- it's
19 part of the rate-making methodology, it's how you determine
20 rates, how you assign the losses. It's part of the entire
21 process of rate making.

22 MR. WALTER SARANCHUK: How does collecting
23 claims experience constitute a matter of insurance
24 classification?

25 MR. HANY RIFAI: Where you assign the claim

1 dollars effects how you develop the rates. It's part of the
2 rate-making -- as I said, the rate-making methodology.

3 MR. WALTER SARANCHUK: So are you saying it
4 is a classification issue or it isn't?

5 MR. HANY RIFAI: I'm simply saying
6 classification is how you classify the claims. You are
7 classifying a certain way, that to me I don't agree with.
8 It's -- you -- you decide you -- you put the, you know, they
9 had different major-use classes, you're putting the claims in
10 this class here, or this class, and I don't agree with that.

11 It's not the rate factor of classification
12 directly, it's relating to how you classify the claims in the
13 different various use type of use classes.

14 MR. WALTER SARANCHUK: Previously, sir, you
15 said it was a matter of actuary or principles. I wonder if
16 you could advise us as to which actuarial principles are
17 involved, or apply here?

18 MR. HANY RIFAI: Ultimately, if you -- if you
19 link the claim amounts to the people that caused the claim,
20 it should have the effect to some degree, of having some loss
21 control. It should have some impact on loss controls. If
22 people who don't -- who don't -- one (1) of the principles of
23 -- of rate making methodology it should try and, how to put
24 it, it should -- it should lead to some loss control.

25 And by linking the claim dollars that, or the

1 people that cause the claim, it could, long term, if --
2 effect the behaviour of certain -- classes. And that -- in
3 that sense, it is also part of actuary principles, you should
4 link dollars to the people that cause claims.

5 MR. WALTER SARANCHUK: If I were to suggest
6 to you, sir, that loss transfer is more a matter of risk --
7 measurement, as opposed to risk classification, would you
8 agree or disagree?

9 MR. HANY RIFAI: We're arguing over words
10 here, semantics, risk measurement, risk classification. It
11 relates to how you classify the claims, who causes the
12 claims, and to try and change behaviours to some degree.

13 Let's say, for example, if we had a, I'm going
14 to try and invent a scenario, let's say we had small group,
15 another class, type of use class, I'm inventing one (1).
16 Class "X", whatever it is, and they cause tons of accidents,
17 but they -- they themselves were never hurt in the accidents.

18 For whatever reason this class had vehicles
19 that -- let's say they're a very small group, but they cannot
20 cause -- they don't get damage to themselves, but they --
21 they're very -- this group -- this -- the people in this
22 group were very poor drivers, or even average drivers, they
23 would be imposing extra costs on all the other ones, whereas
24 their premiums would be negligible or next to zero.

25 That is not, in my opinion, an actuarial sound

1 approach to rate making for classification, because you want
2 to try and discourage bad driving. By never -- them never
3 being charged the -- the effect of what they're doing, they'd
4 have no incentive to change their driving behaviours.

5 I'm -- I'm -- let's say, in the case of here,
6 in motorcycles, the effect on PPA is minor, so the effect
7 would -- would have very little impact on PPA. It would
8 probably have a much more bigger impact on commercial
9 classes, I'm not sure how much. It would make a difference
10 in the commercial classes, but again, I'm not sure how much.
11 I would have to verify that number. We'd -- we'd have to
12 have the data base.

13 But the point is, it would not be actuarial --
14 it would not be, in my opinion, a prudent actuarial plan or
15 classification system or rate-making methodology, if this
16 Class "X", let's say, let's say it's a class of only a
17 thousand (1,000) vehicles, let's say tanks, for that matter
18 here, that started causing accidents left and right, but they
19 would never had -- their -- basically their premiums would be
20 zero. I don't think that makes sense.

21 Essentially, what's happening here, is the
22 inverse to the motorcycle class, and I don't think that
23 makes, for the same logical -- same -- same reasons, I don't
24 think it makes sense. And I think it's not equitable, it's
25 not just.

1 MR. WALTER SARANCHUK: Moving to page 9 of
2 your report, I wonder if you would read in the three (3)
3 reasons that you cite as justification in your opinion, for
4 introducing loss transfer? The first three (3) paragraphs of
5 page 9, please read them in.

6 MR. HANY RIFAI:

7 "First linking claims to premiums based on
8 fault determination has good predictive
9 value, especially in a single insurer
10 environment."

11 One of the reasons is.

12 "Second it is fair that those who cost the
13 system money should contribute more in
14 premium funds. Third and most important is
15 assessing a problem on a fault basis has
16 the effect of creating a sense of for high
17 risk to control loss potential."

18 MR. WALTER SARANCHUK: I think in the third
19 reason you meant to say, third and most important is that
20 assessing premium on a fault basis. Is that what you meant?

21 MR. HANY RIFAI: Sorry, yes.

22 MR. WALTER SARANCHUK: Now dealing with the
23 first reason. What do you mean by predictive value?

24 MR. HANY RIFAI: If somebody has no control
25 over the -- a claim. In other words they're not at fault.

1 Okay? I'll give an example for example. Let's say you have
2 two (2) drivers, A and B, okay? The type of use is not
3 relevant. Let's just say driver A and B.

4 If I try and charge, you know, the same
5 premium to both of them all the time regardless of -- let's
6 say I don't consider fault and I just take the claim dollars
7 of A and B. So bear with me because I'm trying to make the
8 example in my head here.

9 If -- if driver A causes more accidents and
10 driver B doesn't and -- but I just put a flat premium between
11 the two (2) of them, first of all there would be no incentive
12 for driver A to drive better which is one (1) of the issues I
13 think in -- Section 3.

14 To determine who, you know, how do I -- when I
15 create a rating plan, the rating cells or the rating class,
16 you know, you put driving records because you know somebody
17 who has had accidents in the past was likely to have them
18 again.

19 The same reason -- the same reason why by
20 putting the dollars into cells with the loss transfer amounts
21 into the type of use that actually causes the accidents, it -
22 - it's like you're going to predict that these people will
23 cause a certain volume of accidents and -- I -- I --

24 MR. WALTER SARANCHUK: Let me ask you, sir.
25 Are you of the opinion that MPI's practice of not using loss

1 transfer results in the experience having no predictive
2 value?

3 MR. HANY RIFAI: No. I wouldn't go that far,
4 no.

5 MR. WALTER SARANCHUK: I would refer you to
6 the second last paragraph on page 9. The last sentence
7 beginning with the words "It is simply unfair --".

8 MR. HANY RIFAI: Yes.

9 MR. WALTER SARANCHUK: Would you please --

10 MR. HANY RIFAI: It's simply --

11 MR. WALTER SARANCHUK: -- please read that in
12 slowly, word for word.

13 MR. HANY RIFAI: "It is simply unfair to
14 charge innocent victims additional premiums
15 especially when such a class has no
16 predictive value. And the victims have no
17 control over the responsible action of
18 others."

19 We're specifically referring here to the issue
20 of loss transfer here. When we say -- I'm not saying that
21 the class -- the entire classification plan has no predictive
22 value. That's not what I'm saying.

23 What I'm saying is it's unfair to -- if you
24 hit the pedestrian and you charge him the premium for the --
25 for the benefits he receives, it's unfair because the

1 pedestrian has nothing to do with the -- with the claim. He
2 didn't cause anything.

3 Same way the motorcyclist, if he didn't cause
4 the accident, I don't see why he should be forced to cover
5 the -- bear the costs of the accidents. I -- we are
6 specifically referring here to the loss transfer issue or
7 this example. We're not saying that the ENTEX (phonetic)
8 plan has no predictive value at all. That's not what I'm
9 saying.

10 There's a lot of the plan that does make
11 sense. I even make a comment in my report that overall the
12 actual methodologies are fair in the ENTEX. It's -- the only
13 issues I had was with the credibility standards on the
14 overall and the fact that it is a loss transfer. And I think
15 for the motorcyclist the main issue right now is in the loss
16 transfer.

17 MR. WALTER SARANCHUK: Then let me ask you
18 again, sir, are you of the opinion that MPI's practice of not
19 using loss transfer results in the experience having no
20 predictive value?

21 MR. HANY RIFAI: When -- when you say with
22 the experience, what do you mean by the experience? What
23 experience? The entire experience of the group? No, I'm not
24 saying it has no -- the entire experience of the group has no
25 predictive value. That's not what I'm saying. I'm just

1 saying that that aspect of things does not predicate that
2 this class will cause these accidents.

3 MR. WALTER SARANCHUK: The Board has observed
4 through the years that there have been persistently high rate
5 indicators for the motorcycle major use since the inception
6 of PIPP in 1994. Why shouldn't that be viewed as being
7 predictive of future loss levels?

8 MR. HANY RIFAI: Okay. The issue is of
9 course the moment PIPP was introduced, the -- the indicated
10 rate for the motorcycle class shot up probably -- I'm not
11 sure what number, I didn't see the report in '94, but I
12 assume it shot up at least a 100 or 200 percent, because of
13 the affect that you did not put in loss transfer.

14 Even though the motorcycle class was probably
15 getting similar benefits, I don't know, because I don't know
16 the benefits that were there beforehand.

17 MR. WALTER SARANCHUK: So, it does have
18 predictive value?

19 MR. HANY RIFAI: What it -- what has
20 predictive value, sorry?

21 MR. WALTER SARANCHUK: The claims experience?

22 MR. HANY RIFAI: Yes, I didn't say it has no
23 predictive value. No, it does have some predictive value.

24 MR. WALTER SARANCHUK: Fine. Moving on to
25 your second reason, to suggest that an issue of fairness to

1 ensure that those who cost the system more should contribute
2 more by way of a premium. Is -- isn't that what MPI is
3 doing?

4 MR. HANY RIFAI: No, because the people that
5 are causing -- causing the accidents is not the motorcyclists
6 necessarily. It's the ones that are causing that additional
7 burden, they're just receiving the benefits. The ones that
8 are causing the accidents are the at-fault drivers in this
9 case.

10 MR. WALTER SARANCHUK: But don't
11 misunderstand me, I didn't say costs. I said cost?

12 MR. HANY RIFAI: They're causing --
13 they're --

14 MR. WALTER SARANCHUK: Your report says cost.

15 MR. HANY RIFAI: When I say cost, I -- it's
16 -- to me the person that caused this isn't the money -- it's
17 not the person who receives it, it's the money -- person who
18 causes the accident.

19 MR. WALTER SARANCHUK: Isn't it true that the
20 rates for motorcycles are being driven by the claims
21 experience for motorcycles, and that the per unit claims
22 costs for motorcycles are persistently higher than average?

23 MR. HANY RIFAI: Because you don't have loss
24 transfer, yes, they're persistently higher than average,
25 because the motorcyclists have -- are -- have to assume all

1 the costs on the system that the -- that are -- that are
2 being caused by other drivers. Yes, the loss costs will
3 always be high because of that.

4 MR. WALTER SARANCHUK: And your third reason
5 described as most important, is the question of the
6 importance of the incentive value to control loss potential,
7 is that correct?

8 MR. HANY RIFAI: That's correct.

9 MR. WALTER SARANCHUK: Why is that the most
10 important reason?

11 MR. HANY RIFAI: Because ultimately that will
12 cont -- if -- if you have a system that gives more incentive
13 for loss control, that would mean the effect of some -- may
14 possibly be saving somebody's life.

15 Let's say -- let's say the -- let's say for
16 example, okay, that we find that almost all the accidents
17 that motorcyclists are in are truck drivers. But they don't
18 care, because currently they don't -- they don't pay any of
19 the premiums of the accidents.

20 So that means some motorcyclist, because maybe
21 the truck drivers are driving worse, because they have very
22 little incentive to drive better, because they -- their
23 premiums are so low since they cost nothing because they're
24 big trucks. So the damage that they have is very minimal.

25 Well then because they have no incentive to

1 control their behaviour or their driving abilities, well they
2 may be killing some motorcyclist driver -- some motor -- some
3 innocent guy who's driving -- driving perfectly properly did
4 nothing, and he may die because of this.

5 If you -- if you link the premiums to the
6 person who causes the accidents, it's likely to cause a long
7 term incentive to control that type of behaviour. And that's
8 why it's so important, because we're not talking about
9 dollars anymore, we're talking possibly saving somebody's
10 life or saving somebody from injury.

11 MR. WALTER SARANCHUK: Is that an incentive
12 for commercial vehicles or motorcyclists?

13 MR. HANY RIFAI: The point is take an example
14 of the -- of the motor -- the commercial vehicle. I'm
15 saying, is if they cause all the accidents and they have no
16 effect on their premium, of the accidents that they're
17 causing, the fact is they won't behave in a -- they won't
18 drive more responsibly, they'll have very little incentive.

19 By putting the -- the costs where they need to
20 be, or the claims dollars where they need to be, the person
21 that actually causes the accidents, it should drive some
22 incentive long-term.

23 It's not something that's easy to measure,
24 it's not something you'll see in six (6) months or so on, but
25 it would have some long-term impact. And I do think doing

1 the proper loss transfer would have some long-term impact.

2 Certainly the dollar effect would be massive,
3 by -- by far much larger for the motorcycles, more than
4 anybody else, but it would also have some impact on other
5 classes, which might change behaviour also.

6 MR. WALTER SARANCHUK: Don't you think that
7 the current MPI system of discounts and surcharges, as
8 applied to driver and vehicle premiums, based on accident
9 conviction records, provides such an incentive?

10 MR. HANY RIFAI: It is one (1) -- it is one
11 (1) incentive that's in there. But we're also talking about
12 the overall level of losses or -- or premiums. This is the
13 -- the driving -- the discounts and so on are within a type
14 of use class. But the point is, my point is, by not putting
15 the loss transfer, the overall level in certain classes are
16 misallocated to claims, if you want.

17 And by allocating correctly to the people that
18 cause the claims, it would drive long term incentives to
19 certain classes to drive better, which is, as I said, long
20 term could conceivably mean the difference for somebody, an
21 injury or not, severe or not.

22 MR. WALTER SARANCHUK: And do you know that
23 that system of discounts and surcharges applies to
24 motorcyclists as well?

25 MR. HANY RIFAI: Yes, and it's -- it is an

1 appropriate method to do this.

2 MR. WALTER SARANCHUK: Yes and just on that
3 point, going back to page 8 of your report at the top in the
4 third sentence -- well, let me put it to you this way, in
5 light of your last answer the two (2) sentences in the middle
6 of the first paragraph on Page 8 states:

7 "The Manitoba system also a pure no-fault
8 system does attempt to reduce overall costs
9 by providing a financial incentive for
10 drivers to reduce risky behaviour. This is
11 true with the notable exception of
12 motorcycle drivers who are penalized for
13 the negligent behaviour of private
14 passenger vehicle and commercial classes of
15 vehicles."

16 What do you mean by that?

17 MR. HANY RIFAI: Meaning as the Manitoba
18 system -- unlike -- and I -- this is probably where I was
19 talking about Quebec where Quebec has a -- a fairly flat
20 system. Manitoba does try and recognize fault throughout the
21 rate making methodologies by having discount surcharges, by
22 having a graduated licencing fee when you charge your fee.

23 The one (1) place that there -- to me that
24 there's something fairly large that they're not -- they're
25 not including is this issue of loss transfer, that is

1 charging claims to somebody that's not cause of the claim,
2 but throughout the -- the point is, the Manitoba rating plan
3 or MPI -- their over philosophy seems to be to try and reduce
4 risky behaviour by their rating plan.

5 But for some reason they object to doing this
6 one (1) thing that is fairly large, but that would also go
7 along the same philosophy that the Manitoba plan is using
8 everywhere else. It is something that they are applying in
9 other portions of their plan, but they're not here. That's
10 the point I' making.

11 MR. WALTER SARANCHUK: Yes, and of course,
12 your third reason for suggesting or at least giving the --
13 providing the opinion that loss transfer should be introduced
14 is noted by you as being the most important?

15 MR. HANY RIFAI: Because to me, that's
16 something related to not dollars anymore, but it could
17 ultimately have the effect, as I said, of -- you know --
18 possibly saving somebody's life or so on, if people drive
19 better, if people that are irresponsible drivers pay the full
20 cost of the -- of their irresponsible driving.

21 MR. WALTER SARANCHUK: So, the incentive
22 aspect of it is most important?

23 MR. HANY RIFAI: You know, that's my opinion.

24 MR. WALTER SARANCHUK: So, that's why, I take
25 it -- that's how you reconcile the fact that that third

1 reason is conspicuous by its absence from Mr. Cheng's report.

2 MR. HANY RIFAI: Yes, he -- I had a slight
3 disagreement. I -- I read his report. I put this in. I
4 thought this was the most important issue and I thought --
5 that's why I brought this up here.

6 MR. WALTER SARANCHUK: So, can it be said,
7 sir, essentially that the question of loss transfer is -- or
8 comes down to a public policy issue?

9 MR. HANY RIFAI: Yes, and to some degree --
10 yes, and that's the point I'm making, I think, somewhere
11 else, is ultimately the large -- the very high premiums being
12 paid by the motorcyclists has nothing to do with
13 motorcyclists or their driving abilities or not.

14 It's a public policy decision when you
15 implemented no-fault, not to -- to adjust for the impact that
16 no-fault would have with the motorcyclists, it would cause a
17 huge upward swing in their required premiums to one (1) or
18 two hundred (200). I'm not sure what percentage it was and I
19 didn't see the '94 report, but it is a decision by FIAT
20 (phonetic), by the Government, to charge these people for
21 accidents they didn't commit or that they're not at fault
22 for.

23 MR. WALTER SARANCHUK: On the question of
24 credibilities, is it your opinion that the credibilities
25 assigned by MPI to the motorcycle experience are generally

1 too high given the volume of the vehicles comprising that
2 group?

3 MR. HANY RIFAI: For the overall rate
4 indication, yes. For the class -- on the classes, I have
5 less of an issue with it. It's the overall. Yes, I do find
6 it's too high.

7 MR. WALTER SARANCHUK: And in view of your
8 opinion, can you comment on the motorcycle claims experience
9 and its persistency since the inception of PIPP and what that
10 means in credibility terms?

11 MR. HANY RIFAI: When I did this report I
12 used as -- the complement column being use currently by -- by
13 the MPI. There's no question that ultimately the -- the loss
14 costs of the -- the motorcycle class was extremely affected
15 by the introduction of no-fault without any loss transfer and
16 the impact of that would be to have a much higher loss cost.

17 MR. WALTER SARANCHUK: On pages 12 and 13 of
18 your report, sir, with reference to Section 7B, you seem to
19 indicate that there are three (3) essential faults to MPI's
20 approach.

21 For example, you indicate that it's not
22 statistically founded, that appears in the first sentence of
23 the first paragraph of Ssection 7(b) and in the third
24 sentence that it's completely arbitrary.

25 And on page 13 in the last paragraph, you

1 state that it's not chosen for credibility, but to produce
2 the desired outcomes. Is that a fair assessment of your
3 reasoning, sir?

4 MR. HANY RIFAI: That's what I said and I'll
5 explain some of what I said. The MPI approach is not
6 statistically founded, the K just comes out of thin air.
7 That's the point I'm making.

8 Second of all, I don't think the -- the
9 Buhlmann's method for the overall rate change for the entire
10 -- if you're using the Buhlmann's method for the rate change
11 of let's say a sub-set for a company and you use a complement
12 the entire industry, then Buhlmann's might be appropriate.
13 Again, you'd have to calculate the K.

14 But, when you're taking the whole industry for
15 the -- for the overall rate level for -- then I don't think
16 it's the best, it's an appropriate method for credibility.
17 Second of all, K just seems to be arbitrarily chosen and
18 second of all, the fact is, K is used the same across all
19 classes of vehicles, which again, I also have a problem with.

20 The point of why I say the case chosen seems
21 to be arbitrary, is they seem to be using different cases in
22 different areas. There was -- I did make a mistake because I
23 assumed they were using the exposure count of one (1) year
24 similar to what they did for the overall, when I looked at
25 the class thing, so I didn't understand why I was getting

1 different -- I realize now they used exposure count for three
2 (3) years.

3 So, they did use sixty thousand (60,000)
4 throughout, which I stated before.

5 MR. WALTER SARANCHUK: Does your opinion
6 change at all, by reason of the rebuttal evidence that was
7 filed by MPI as Exhibit 5?

8 MR. HANY RIFAI: Are you referring to any
9 specific portion of their evidence?

10 MR. WALTER SARANCHUK: Well, I'm assuming
11 that you read it, sir?

12 MR. HANY RIFAI: Yes, I did, but, I'm
13 wondering if you --

14 MR. WALTER SARANCHUK: Well, I'm asking you
15 whether there was any specific portion of it, as you refer to
16 it, that impresses you.

17 MR. HANY RIFAI: Again, as I said because
18 they don't have K -- K is not calculated anywhere, it's
19 arbitrarily chosen, I do have an issue with it.

20 Second of all is, I don't think it's
21 appropriate the methodology itself within the context of how
22 it's being used for the overall. Again I don't -- I don't
23 think on a class level there's a problem with that, on the
24 rate class level.

25 MR. WALTER SARANCHUK: You told us what you

1 didn't agree with --

2 MR. HANY RIFAI: So -- so, ultimately, no,
3 other than the fact that I realized that there was a mistake
4 that I made because I used the three (3) -- the one (1) year
5 exposure count, other than that, no most of my viewpoints
6 still haven't changed.

7 MR. WALTER SARANCHUK: Given the method by
8 which MPI described that it calculated K, in what sense is
9 that arbitrary?

10 MR. HANY RIFAI: K is -- you know, Buhlmann's
11 method assumes you're calculating Buhlmann's method. You're
12 building the -- the Buhlmann concept, you're not, it's just
13 chosen. It's not -- that's not the methodology of
14 Buhlmann's. That's why we keep on saying we're using
15 Buhlmann's method, they're not. K should -- has to be
16 calculated to be appropriately called Buhlmann's method.

17 MR. WALTER SARANCHUK: It appears quite clear
18 that you prefer the classical credibility model and comparing
19 that to the N, over N plus K approach used by MPI, is it not
20 true that both of those approaches provide an objective
21 measure of reliability to be assigned to a particular
22 experience statistic?

23 MR. HANY RIFAI: First of all I didn't say I
24 necessarily preferred the classical method. It depends on
25 the uses. For the overall rate level for an entire

1 population, I do think the classical is the only method you
2 should use.

3 But that -- that can be debatable. Somebody
4 may have a different opinion. On the class plan, I don't
5 necessarily, I think divisions could be correct but again, my
6 point is, MPI is not really using Buhlmanns; they don't
7 calculate K, it's arbitrary. And that's what I have a
8 problem with. They should actually calculate K.

9 And the fact is, is if you look at it, when
10 you actually apply the classical approach, which is
11 statistically valid and I think is easily very supportable,
12 it gives you some idea of the magnitude of the credibility of
13 nine thousand (9000) exposure; it's not very high.

14 And the final conclusions of using 60 percent
15 -- 60 percent credibility for such a small set, it's -- it's
16 questionable.

17 MR. WALTER SARANCHUK: Isn't it true though
18 that both of the approaches provide an objective measure of
19 reliability?

20

21

(BRIEF PAUSE)

22

23 MR. HANY RIFAI: The problem with using the
24 method that they do and because they don't calculate, K, and
25 again as I said for overall is, let's say -- let's say MPI --

1 MR. WALTER SARANCHUK: Sorry -- sorry to
2 interrupt. All I'm asking you is whether or not --

3 MR. HANY RIFAI: The point -- the point --
4 I'm trying to answer it. Give me -- give me the time to
5 explain. Is if the -- if MPI were to apply and use the
6 indicator rates in practice all the time, because their
7 methodology is, one (1), as I said, I don't think it's
8 appropriate Buhlmann for the overall, but since the K is not
9 calculated, the rate levels which -- would swing very
10 substantially for such a small set.

11 I don't think it's appropriate because the
12 credibility they're giving on the data set is too small -- is
13 too large. So, what would happen is, in practice, you'd see
14 large swings from year to year.

15 And now, of course, because the MPI has no
16 loss transfer and the actual loss cost had been consistently
17 high, it's less of an issue because, obviously, the --
18 they're not actually using the indicator rate in this case --
19 or not the indicated, the before credibility rate -- rated
20 weight.

21 MR. WALTER SARANCHUK: Is it true or is it not
22 true that both approaches provide an objective measure of
23 reliability?

24 MR. HANY RIFAI: Yeah. But MPI's approach is
25 not a stable method. For stability, also necessary, it's not

1 a stable method.

2 MR. WALTER SARANCHUK: Is it true or not true
3 that both of the approaches provide an objective measure of
4 reliability?

5 MR. HANY RIFAI: It's objective but not
6 stable.

7 MR. WALTER SARANCHUK: Page 16 of your report,
8 sir, deals with your conclusions. And in the second
9 paragraph there, starting with the second sentence, could you
10 please read in what is on that page, that is beginning with
11 the words, "The only reason", to the end?

12 MR. HANY RIFAI: This is the one -- update
13 one I gave you today?

14 MR. WALTER SARANCHUK: This is on page 16 of
15 your report. You could read the updated version.

16 MR. HANY RIFAI: No, no, that's okay. I'll go
17 ahead.

18 "The only reason for such high rates" --

19 MR. WALTER SARANCHUK: Please, you have to go
20 a little slower, sir, because this is being transcribed
21 eventually, so please go slowly.

22 MR. HANY RIFAI:

23 "The only reason for such high rates for
24 Manitoba motorcyclists is a rating method
25 that ignores fault. The motorcyclist in

1 Manitoba is penalized for the negligent
2 driving of others. This goes contrary to
3 all attempts that Manitoba has placed in
4 trying to reward good drivers and punish
5 bad drivers through using the driving
6 record as a rating variable and a sliding
7 scale licence renewal fee that depends on
8 driving history."

9 MR. WALTER SARANCHUK: Keep reading.

10 MR. HANY RIFAI:

11 "Should the Manitoba Public Utilities
12 Board, which continuing, knowing the
13 injustice faced by the motorcyclists in
14 Manitoba, then it should be clearly stated
15 and issued publicly that the reason for the
16 high premium faced by motorcyclists is not
17 due to any poor driving on the part of
18 motorcyclists but an arbitrary policy
19 decision by the Board to discriminate
20 against motorcyclists."

21 The point I'm making -- making here, let me
22 explain, is, it is a public policy decision. The rates are
23 high not because of any actions that they're causing.
24 They're high, simply because of a decision not to implement
25 by loss transfer and having a no-fault system.

1 It's not their fault that the rates are high.
2 That's the point I'm making. That -- that, to me, is an
3 arbitrary decision based on the Board's.

4 MR. WALTER SARANCHUK: And given that the
5 Bonus/Malus scheme to motorcyclists applies, as is applied to
6 other individually rated personal use vehicles, why do you
7 contend that MPI's rating method ignores fault?

8 MR. HANY RIFAI: It does there but the rate
9 level for motorcyclists is extreme -- arbitrarily high
10 because, on that portion, because of the fact that the fault
11 is not -- is totally ignored in the loss transfer mechanism,
12 it causes the entire rate level of all the cell or the entire
13 -- the entire rate -- units to be unusually high.

14 Of course, there is some -- within the cells,
15 there's going to be some differentiation and the rating plan
16 does do it throughout, in most places. And I do mention that
17 they do seem to want to do this.

18 In other words, Manitoba is not doing one (1)
19 flat rate right across, everybody, they are trying to take
20 into account fault everywhere but, for some reason, they seem
21 to ignore the fault issue when it comes to the motorcyclists
22 and the loss transfer.

23 It's the one (1) glaring, I -- one (1) glaring
24 area to me that seems to be totally ignored in the entire
25 rating methodology. And I'm not sure why.

1 MR. WALTER SARANCHUK: Yes. In that first
2 sentence that you read in, you stated that the rates -- the
3 only reason for such high rates for Manitoba motorcyclists is
4 a rating method that ignores fault. That's not a fact, is
5 it?

6 MR. HANY RIFAI: I'm talking about the -- the
7 rating method relating to loss transfer. Other aspects of
8 the rating methodology does not absorb faults and the --
9 yeah, it is appropriate. And I say -- I clearly state that
10 in here.

11 Other portions are correct. It's just this
12 one (1) issue, which is fairly large, which is a -- an issue
13 of fault or no-fault, is large, and it's ignored by the
14 Manitoba MPI -- Public Insurance.

15 I'm referring specifically to this issue.

16 MR. WALTER SARANCHUK: So, it doesn't ignore
17 fault?

18 MR. HANY RIFAI: Other aspects don't ignore
19 fault, no. This one aspect does, and it's a large issue.
20 And I'm trying -- in this example that I put here, with the
21 updates, I'm trying to explain the levels of the impact this
22 is having on motorcyclists. I think, I saw a report saying
23 six point seven (6.7), I find that very hard to believe and
24 I'd have to see the methodology used to calculate it.

25 It's unlikely the impact of the loss transfer

1 is not at least thirty (30) to 50 percent, a higher loss cost
2 for motorcyclists, it's very unlikely it's not, at least that
3 much. I don't know how much it is, I would have to have a
4 copy of the data base and do the calculations, it shouldn't
5 be that difficult since, from my understanding, the database
6 does contain the actual fault records.

7 But it has to be a very large and that's what
8 this example is showing; the impact is quite large.

9 MR. WALTER SARANCHUK: And so the only
10 reason, according to you, for the high motorcycle rates in
11 Manitoba, is the absence of loss transfer?

12 MR. HANY RIFAI: The only reason, yes,
13 basically. The big reason why the motorcyclists in -- in
14 Manitoba are paying much higher rates than everywhere else,
15 or the loss costs are substantially higher, is the loss
16 transfer, yes.

17 MR. WALTER SARANCHUK: Is it the only reason
18 or the big reason?

19 MR. HANY RIFAI: I could not say that for
20 absolute certainty, unless I actually had the database
21 myself, of the -- of experience. Unless I actually had that,
22 I can't say for certainty, but it's unlikely that it's
23 anything else.

24 That's what I state in my update is, I don't
25 see what else could be causing it. There's only two (2)

1 possible explanations, as far as I can figure out, is either
2 it's a loss transfer or the motorcyclists in Manitoba are
3 substantially worse drivers than everywhere else.

4 It's not the issue of benefits, because I do
5 comparison of the loss cost of full coverage between three
6 (3) different provinces, and it gives you some idea. Of
7 course, I can't be sure, because the benefits are different
8 from province to province, depending on Court cases, but it
9 gives you ideas of the relative benefit levels. Because
10 obviously the -- the loss transfer issue is very minor for
11 the private passenger rates, so it's a fairly good comparison
12 point of view in terms of how much benefit there is.

13 Why would suddenly the difference between the
14 motorcycle loss costs in Manitoba be 300 percent of the one
15 in Alberta, when the -- the actual private passenger loss
16 costs are very similar? What -- what else can be -- explain
17 this? I don't see anything else other than a loss transfer
18 that can explain this.

19 And my opinion, it should not be very hard to
20 -- to actually test this. The number of six point seven
21 (6.7) that I saw, or something like -- something to that
22 effect, I saw this -- this morning, I find very difficult to
23 believe. I'd have to see the methodology how this was
24 calculated. It's very unlikely the effect is less than
25 thirty (30) to 60 percent. It's unlikely.

1 (BRIEF PAUSE)

2
3 MR. WALTER SARANCHUK: So, in the final
4 analysis, is it your opinion that the Manitoba Public
5 Utilities Board is ignoring the loss transfer issue?

6 MR. HANY RIFAI: As far as I can tell, yes.
7 They're -- they haven't addressed it. And I'm not sure why.
8 I -- maybe there's a belief that it's minor. But I hope the
9 examples I put at the end show that it's probably not minor.
10 I don't know the exact magnitude, but it's likely to be very,
11 very large.

12 MR. WALTER SARANCHUK: If I were to suggest
13 to you, sir, that this is an issue that's raised -- been
14 raised virtually every year for the last ten (10) years in
15 these rate applications, what would you say to that?

16 MR. HANY RIFAI: Then I'll say that I don't
17 know why it hasn't been addressed so far, that it hasn't been
18 decided to do some changes to the system. Because, as the
19 examples that the end show is, it's not a minor issue. It
20 isn't a minor issue. And, to me, it seems very hard to
21 understand why a group that doesn't cause an -- again, it's
22 equity issue, or justice. I don't see why somebody should
23 pay for a claim they don't cause.

24 If somebody -- if I put it this way, I just
25 don't see why -- why a group should pay for a claim they

1 don't cause, especially when the effects are so minor. I
2 mean, if the difference were really, really minor, it might
3 not be an issue, but I'm -- I sincerely doubt the difference
4 is minor. It must be a very, very large difference; the
5 impact of loss transfer.

6 MR. WALTER SARANCHUK: So, given the fact
7 that, as I mentioned, this has been an issue raised by your
8 client virtually every year for the last ten (10) years, do
9 you still, as you state in the last sentence of your
10 conclusion on page 16, believe that this is an arbitrary
11 policy decision of the Manitoba Public Utilities Board?

12 MR. HANY RIFAI: I think it's you who said
13 before that, essentially this is a public policy decision,
14 not to do loss transfer, and that's essentially what I'm
15 saying, that it's a public policy decision and it causes
16 extreme high rates for motorcyclists. You're the one that
17 said it was public, and it is a public policy decision.

18 I don't agree with it, and it unfairly
19 penalizes motorcyclists to have much higher rates. And every
20 year for the next ten (10) years it'll have fifteen (15), 20
21 percent, 30 percent rate increases, simply by this decision
22 not to consider the loss transfer issue.

23 MR. WALTER SARANCHUK: Is the introduction of
24 loss transfer a policy decision?

25 MR. HANY RIFAI: Well I think that's -- it's

1 -- it's recognizing equity.

2 MR. WALTER SARANCHUK: But it's a policy
3 decision?

4 MR. HANY RIFAI: The ability to do it or not
5 do it is obviously the ability of the regulators or the
6 Government to do this. I mean it's their choice to make this
7 happen or not.

8 MR. WALTER SARANCHUK: Is it an arbitrary
9 decision to implement it?

10 MR. HANY RIFAI: No. Because again, to me
11 that's -- it's -- it's -- okay, is it arbitrary to have a
12 driving record?

13 MR. WALTER SARANCHUK: No. Please answer my
14 question.

15 MR. HANY RIFAI: I am trying to answer your
16 question. Is it arbitrary to put driving record to try and
17 recognize fault by having a merit discount or so on or a
18 Bonus/Malus system.

19 I don't think that's arbitrary. That's just
20 recognizing something that somebody who causes more accidents
21 is more likely to cause more accidents than we want to give
22 them incentives to change their behaviour or their driving.

23 Introducing loss transfer to me is recognizing
24 that and it's similar to having a Bonus/Malus system or a
25 driving record. It's to try and recognize fault and to

1 change behaviour -- driving behaviour. And to me it's not an
2 arbitrary decision. Removing it or not considering I think
3 is fairly arbitrary.

4

5

(BRIEF PAUSE)

6

7

8 MR. WALTER SARANCHUK: In your updated
9 report, sir, this is MPI Exhibit Number 10 I believe, CMMG --
10 CMMG Exhibit Number 10, you state that Ontario has a less --
11 oh sorry, has a more generous benefit scheme than MPI, likely
12 with MPI's being 25 percent less generous. Do you have any
13 evidence to support that statement?

14 MR. HANY RIFAI: No. I -- I think I say
15 here, maybe I'll make it clear, is there is no way for me to
16 100 percent sure because of the fact that both Ontario and
17 Alberta have some tort. So, it's hard to really make any
18 statement.

19 I'm just saying is that when I compare the
20 difference in loss cost, again, adjusted for full coverage
21 and same deductibles.

22 You see -- you see that the loss cost in
23 Ontario are mu -- are higher, or simply higher, around 25
24 percent. So, you know, I'm not saying necessarily it's more
25 generous but there seems to be that pattern. That's all I'm
saying, is I'm trying to do a comparison between that and

1 motorcyclists.

2 When I flip it over and look at the
3 motorcyclist I see the entire reverse. But in -- in -- it's
4 not a small amount, I see a huge difference. And I don't --
5 there is no other possible explanation for what I'm seeing
6 between comparing the motorcyclist and the private passenger
7 other than loss transfer. Nothing else can explain this.

8 And torte Obviously there's the tort aspect
9 too. There's a fact that there is tort in Ontario, it's --
10 it's a threshold torte and there's the loss transfer. And
11 again, if you take Alberta as an extreme case where it's
12 almost all tort, you see even a bigger discrepancy between
13 the loss costs. Between private passenger and the loss cost
14 for motorcyclists.

15 Again, this is really just for comparative
16 purpose. I can't -- I can't categorically state that Ontario
17 is more generous or not. I can't do that. It's not possible
18 because you can't really compare. You'd actually literally
19 look at every single case, type of accidents and do it.

20 But obviously when you look at this, it gives
21 you an idea of the relative mag -- it gives you some idea of
22 the relative magnitude of benefits. But it's -- it's just --
23 it's just a guide to look at the possible impact of loss
24 transfer.

25 MR. WALTER SARANCHUK: And so it is your

1 opinion then that the current and proposed rates for
2 motorcyclists in Manitoba discriminate unfairly against that
3 group?

4 MR. HANY RIFAI: Yes.

5 MR. WALTER SARANCHUK: And the basis and
6 rationale for your opinion is because loss transfer hasn't
7 been implemented.

8 MR. HANY RIFAI: Because they are being
9 charged for accidents that they don't commit.

10 MR. WALTER SARANCHUK: And so the basis for
11 your opinion is that loss transfer is not being implemented?

12 MR. HANY RIFAI: Because they're being
13 charged claims -- claim dollars or premium dollars for
14 accidents they don't commit.

15 MR. WALTER SARANCHUK: Let me ask you a
16 question again and I'd ask you to give me a yes or a no
17 answer and that --

18 OBJ MR. RAYMOND OAKES: I object to that.
19 There's certainly no question that can be answered yes or no,
20 necessarily. I object to that entirely.

21 MR. WALTER SARANCHUK: Well, then let me ask
22 you, Witness, the explanation that you're giving is in answer
23 to what, that question affirmatively or in the negative?

24 MR. RAYMOND OAKES: It's a nice try but the
25 Witness will answer the question in the basis of his expert

1 opinion.

2 MR. WALTER SARANCHUK: Yes. And let me ask
3 you then, Witness, you were saying that the proposed rates
4 for motorcyclists in Manitoba discriminate unfairly?

5 MR. HANY RIFAI: Yes.

6 MR. WALTER SARANCHUK: And the reason for
7 that is?

8 MR. HANY RIFAI: Because they're being
9 charged for claims or for accidents they don't commit.

10 MR. WALTER SARANCHUK: And they are doing
11 that by reason of what?

12 MR. HANY RIFAI: I'm not sure, you tell me,
13 I'm not sure why they're doing this. Why they insist on
14 doing it this way.

15 MR. WALTER SARANCHUK: How do you draw your
16 conclusion why they're doing it?

17 MR. HANY RIFAI: Why, I think probably when
18 they started doing it they did it that way, they didn't
19 consider the issue and you know, people are resistant to
20 change. People don't like change.

21 I'm not sure why -- why they're still
22 continuing. Maybe it's just an issue of not wanting to
23 change procedures.

24 MR. WALTER SARANCHUK: Continuing to do what?

25 MR. HANY RIFAI: Charge the cells the way

1 they are being charged currently. In other words people get
2 charged claims regardless of fault. At least between the
3 types of use, I'm talking about.

4 MR. WALTER SARANCHUK: By not implementing
5 loss transfer?

6 MR. HANY RIFAI: Well, to the effect that the
7 implementation of loss transfer will partially address the
8 issue of the unfair discrimination, yes.

9 MR. WALTER SARANCHUK: Thank you. I have no
10 further questions of this witness.

11 THE CHAIRPERSON: Thank you Mr. Saranchuk.
12 We're going to be going to re-direct in a minute with Mr.
13 Oakes, but, I just have one (1) question.

14 In your CMMG/10, the two (2) tables, just
15 looking for a reference. You site ultimate lost costs
16 including loss adjustment expenses in Alberta for motorcycles
17 in 2003 of 42,278, which appears to be roughly a third that
18 of the comparable or the 2005 data from Manitoba.

19 What would the source for that chart be?

20 MR. HANY RIFAI: The data there comes from
21 the Insurance Bureau of Canada or the Insurance Institute of
22 Canada. What I did is -- the original report -- we did it
23 fast and I didn't adjust for the fact that Alberta, a lot of
24 motorcyclists don't have full coverage.

25 So this is actually assuming full coverage. I

1 assumed the loss costs of different coverages in lieu of some
2 adjustments. It's from the Insurance Institute of Canada.

3 THE CHAIRPERSON: So you took the data then
4 and adjusted it then to bring it up to comparable coverages
5 from your perspective?

6 MR. HANY RIFAI: Not comparable coverages,
7 just the fact that there's full coverage. Because I can't --
8 it's next to impossible to adjust for the difference in
9 coverages. That's the reason why -- if I was able to adjust
10 to the actual motorcycle data in Alberta for the differences
11 in coverages then I wouldn't need to look at the private
12 passenger as a comparison point of view.

13 It's impossible -- I don't know how to do it.
14 I don't think it's possible to make that adjustment. So to
15 try and get an idea is -- I compare -- well, why don't we
16 look at private passenger.

17 So you look at private passenger, you see 832
18 there, right? And then you see in the Manitoba, you see 853,
19 they're very similar. Okay. So it gives you some idea.
20 It's to compare with this, because if I look in the
21 motorcycles alone, it doesn't tell me anything because
22 possibly the benefits are totally, radically different or
23 less.

24 But, if you have an idea of the loss cost of
25 private passenger with the motorcycles, sorry, with the two

1 (2) Provinces, it gives you an idea that benefits are
2 probably not that dissimilar. Okay. It's hard to say
3 because there's -- again it's hard to say because there could
4 be difference in kinds of frequency and so on.

5 But, it's -- you can hazard a guess they're
6 not that dissimilar.

7 THE CHAIRPERSON: If you compare that --

8 MR. HANY RIFAI: But when you take
9 motorcyclists you suddenly see a huge difference. And that,
10 in my opinion, is due to the issue of the fact that they have
11 tort and -- which of course makes the issue of loss transfer
12 moot. Whereas Manitoba doesn't -- implementing loss transfer
13 mechanism.

14 THE CHAIRPERSON: Did you take the same
15 approach in each one (1) of the years that you cite?

16 MR. HANY RIFAI: Sorry, I'm not sure I'm
17 following.

18 THE CHAIRPERSON: Well, you've got 1999,
19 2000, 2001, 2002, 2003 and you took the same approach to
20 arrive at the numbers for Alberta?

21 MR. HANY RIFAI: Yes, what I did again, in
22 all those five (5) years I'm looking at full coverage.

23 THE CHAIRPERSON: When you look at table two
24 (2), which is Ontario and there for 2003, you have the
25 ultimate loss cost and loss adjustment expenses that are

1 roughly one-half that level of Manitoba.

2 The source for that information?

3 MR. HANY RIFAI: It's the same source. It's
4 the Insurance Institute of Canada, the IBC the Insurance
5 Bureau of Canada.

6 THE CHAIRPERSON: And you took the same
7 approach again as you did with Alberta in each one of the
8 years?

9 MR. HANY RIFAI: Yes, I did exactly the same
10 approach in both cases.

11 THE CHAIRPERSON: Mr. Oakes?

12 MR. RAYMOND OAKES: I have no re-direct, Mr.
13 Chairman.

14 THE CHAIRPERSON: Thank you Mr. Oakes. We
15 will have a break right now. When we come back we'll move on
16 to Mr. Williams.

17

18 --- Upon recessing at 3:10 p.m.

19 --- Upon resuming at 3:23 p.m.

20

21 THE CHAIRPERSON: Okay. Welcome back. I
22 don't want to rush anyone in this process, but there -- some
23 people have some flight plans so hopefully we can be
24 economical. Just, by the way, as sort of a point of order
25 issue, Mr. Rifai has kindly agreed to file his CV with the

1 Board, so that will be done and we'll distribute it to the
2 Intervenors and MPI to complete that process.

3 Mr. Williams?

4

5 CROSS-EXAMINATION BY MR. BYRON WILLIAMS:

6 MR. BYRON WILLIAMS: Yes, Mr. Chairman, and I
7 -- I will try to be economical, especially given the ground
8 that's already been covered by my Friends, Mr. McCulloch and
9 Mr. Saranchuk.

10 Mr. -- I'm going to say, "Rifai", hopefully
11 that's the proper way to pronounce it?

12 I was trying to, you know, looking for
13 different career options after -- after facing my twelfth MPI
14 hearing in as many years, and I was looking up a definition
15 of what an actuary does and just going from the U of -- U of
16 Regina website:

17 " An actuary is a professionally trained
18 expert in the application of mathematics,
19 statistics and risk theories in the design
20 of insurance and pension programs."

21 Is that a definition you can agree with?

22 MR. HANY RIFAI: Yes.

23 MR. BYRON WILLIAMS: Now, just in terms of
24 your experience, I understand that you've been active for the
25 last few years in a number of jurisdictions including New

1 Brunswick, Nova Scotia, Alberta and Ontario, primarily in the
2 -- working with private insurance companies?

3 Is that right?

4 MR. HANY RIFAI: Yes, mainly my Clients have
5 been private insurance companies; in some -- in some cases,
6 governments, too.

7 MR. BYRON WILLIAMS: And in the course of
8 your work in those jurisdictions you've had an opportunity to
9 get a sense for the delivery models for insurance in those
10 jurisdictions as well as some of the debates around issues
11 like private versus public ownership as well as in terms of
12 no-fault versus fault jurisdictions.

13 Would that be fair?

14 MR. HANY RIFAI: In no-fault versus tort
15 systems? Yes.

16 MR. BYRON WILLIAMS: Yes. Was that a fair
17 characterization? You've had an opportunity to observe some
18 of those debates?

19 MR. HANY RIFAI: Well, I've been -- I've read
20 up on it. I've worked in this field so I know -- I know --
21 I've heard of the debates at Paramount (phonetic), yes.

22 MR. BYRON WILLIAMS: And also, you've
23 testified before other jurisdictions so you're -- you have
24 some experience in how regulators work in terms of
25 determining the reasonableness, whether rates are just and

1 MR. HANY RIFAI: Yes, it may be broader.

2 MR. BYRON WILLIAMS: Now, just if I were --
3 were actually to be admitted into the prestigious halls of
4 the University of Regina, Actuarial Science Program, I just
5 am wondering from you whether a word like "justice" would be
6 -- whether you would -- that would be something that came
7 across in the curriculum.

8 In other words, is that a term of actuarial
9 science, the word "justice"?

10 MR. HANY RIFAI: Not in our -- in school,
11 it's not something we talk about or deal with. We deal with
12 mathematic statistics. But it's part of our actuarial exams.
13 We go through -- we do review plans and historical decisions
14 that were made throughout North America.

15 And, in those, the issue of equity is
16 something that's fairly commonly brought up in the -- the
17 creation or the application of writing plans.

18 MR. BYRON WILLIAMS: So it's your view that
19 issues such as justice and innocence are within your area of
20 professional expertise?

21 MR. HANY RIFAI: No, I'm not saying justice
22 or innocence is a separate issue. I'm talking about equity
23 in the risk management. That is something that I am familiar
24 with.

25 MR. BYRON WILLIAMS: Well, when I see words

1 like "justice" or "injustice" in your evidence, are you
2 talking as a person or a professional?

3 MR. HANY RIFAI: This would be, I guess,
4 my -- my interpretation of a plan that is inequitable. It's
5 -- it's personal interpretation of the impact or the
6 application of a certain plan.

7 MR. BYRON WILLIAMS: And when I see you use
8 words such as "innocent" in your evidence, is that the
9 expression of a professional opinion?

10 MR. HANY RIFAI: When I say "innocent", I
11 mean the termination of the police officer who makes out a
12 cite as to who -- who's innocent, who's not; that's what I'm
13 referring to.

14 I'm not saying that I know who the innocent
15 person is. I'm relating to an accident where the police
16 officer is on site and says, Who was the guilty party, or
17 not.

18 MR. BYRON WILLIAMS: And is it your --
19 your view that actuaries are experts in determinations of
20 issues such as justice or innocence?

21 MR. HANY RIFAI: Again, what I -- as I said,
22 "determine innocence", I'm referring to the innocent party in
23 the accident as determined by the police officer on site or,
24 in some cases, maybe Court case, I don't know. But I'm
25 referring to that term.

1 "Justice", as I said, is how I find in -- its
2 inequity to me, and it's something that we deal with our --
3 in our -- inequities are unjust, as far as I can tell, in
4 terms of my definition of "justice".

5 MR. BYRON WILLIAMS: Now, you mentioned both
6 to Mr. McCulloch and Mr. Saranchuk that in terms of preparing
7 your expert report you did it on a tight time frame, and is
8 that your recollection of your evidence?

9 MR. HANY RIFAI: The -- I mean -- the MPI
10 Application is fairly broad. I didn't have enough time to go
11 through every single aspect of the entire report; it's very
12 large.

13 I focussed on the issues that were brought up
14 to my attention or asked to be reviewed by the -- the
15 Counsel.

16 MR. BYRON WILLIAMS: Now, in terms of
17 actually preparing your report, reviewing the material and
18 actually preparing your report as well as incorporating Mr.
19 Chang's evidence from 1998, how many hours did you expend?

20 MR. HANY RIFAI: I'm not sure. I'd have to
21 review the hours logged. Probably somewhere along the lines
22 of sixteen (16), maybe eighteen (18) hours, but I'm guessing.
23 I haven't done a -- I haven't done a calculation yet.

24 MR. BYRON WILLIAMS: So we can say
25 conservatively that it was less than twenty (20) hours in the

1 preparation of your report and reviewing the materials?

2 MR. HANY RIFAI: It may have been up to
3 twenty (20) hours or slightly above. But, certainly, it
4 wasn't more than thirty (30) or forty (40) hours.

5 MR. BYRON WILLIAMS: Perhaps you can
6 undertake to get back to me if, prior to the filing of your
7 report on September 27th, you expended more than twenty (20)
8 hours.

9 MR. HANY RIFAI: I -- I can send it back when
10 I do the calculations as to how many hours were spent.

11

12 --- UNDERTAKING NO. 19: Hany Rifai to provide calculations
13 regard how many hours he spent preparing
14 his report.

15

16 MR. BYRON WILLIAMS: Now, in your evidence,
17 at page 4, you indicate that you rely on the data and the
18 information from Booth, Dennehy, Ernst and Callis (phonetic),
19 barristers and solicitors.

20 And you did touch upon a bit of this with Mr.
21 McCulloch and Saranchuk, so I want to be careful not to
22 trench on their area.

23 But what I'm curious about is did you read the
24 Public Utilities Board's decision 154/98, from 1998 in which
25 the evidence of Mr. Joe Cheng was discussed?

1 MR. HANY RIFAI: No, I didn't read the actual
2 decision of the Board, I read his report, and I read the
3 Application of the 2005.

4 MR. BYRON WILLIAMS: And just to be clear,
5 did you read the Public Utilities Board decision 177 from
6 1999, in which the Public Utilities Board discussed and then
7 decided not to accept the loss transfer methodology?

8 MR. HANY RIFAI: No, I didn't read it.

9 MR. BYRON WILLIAMS: And I believe you
10 confirmed with Mr. McCulloch today, that prior to today, you
11 had not reviewed the evidence form last year's General Rate
12 Application, being AI-16, the report prepared by Manitoba
13 Public Insurance on loss transfer, is that right?

14 MR. HANY RIFAI: No, I hadn't received that,
15 no.

16 MR. BYRON WILLIAMS: Now, as I flip through
17 the evidence that you -- from -- between page 5 and 8, some
18 of which was incorporated from the 1998 evidence of Mr.
19 Cheng.

20 One (1) thing that struck me from your
21 evidence, Mr. Rifai, was the spectrum of service delivery
22 models for auto insurance across Canada, and by that I
23 believe -- or by that I mean that some jurisdictions offer
24 auto insurance in the competitive market, whereas others rely
25 upon single -- single providers or public insurers.

1 Is that a fair summary of that -- that issue?

2 MR. HANY RIFAI: Yes, there's a variety of
3 methods and delivery mechanisms.

4 MR. BYRON WILLIAMS: Would it also be fair to
5 say that there's a variety, in -- in terms of how we
6 determine eligibility for benefits or -- there's a variety of
7 methods as well, some jurisdictions operate primarily on a
8 tort system, while others rely primarily on a no-fault
9 system, would that be fair?

10 MR. HANY RIFAI: Yes, and there's some
11 combinations of both, yes, you see all combinations.

12 MR. BYRON WILLIAMS: And you -- you
13 referenced at the start of our conversation, that you have
14 some experience and you've studied up, at least to a certain
15 degree as part of your experience in the industry, in terms
16 of the debates that may exist in various jurisdictions, over
17 issues such as whether there should be public insurance or a
18 competitive market to provide those services.

19 You're aware of those debates?

20 MR. HANY RIFAI: I'm aware of them, yes.

21 MR. BYRON WILLIAMS: And are you also aware
22 that sometimes these debates can be quite contentious between
23 advocates of the free market, versus advocates of public
24 insurance?

25 MR. HANY RIFAI: I am aware of this, yes.

1 MR. BYRON WILLIAMS: I wonder if you would
2 agree with me, that to a certain degree, these debates are
3 ideological debates, they're debate about ideas?

4 MR. HANY RIFAI: Yes, I would agree with
5 that.

6 MR. BYRON WILLIAMS: As well, you'd agree
7 with me that when you have ideological debates or debates
8 about ideas, to a certain extent there's no magic answer or a
9 right answer, there's a -- a variety of answers, depending
10 upon one's particular ideological persuasion?

11 MR. HANY RIFAI: Yes.

12 MR. BYRON WILLIAMS: And I wonder if you'd
13 agree with me that when we look at the debate over tort or
14 no-fault, that that also can be in various jurisdictions, a
15 contentious debate?

16 MR. HANY RIFAI: Certainly it is, yes.

17 MR. BYRON WILLIAMS: And again, it's a debate
18 over ideas, is it not?

19 MR. HANY RIFAI: Yes.

20 MR. BYRON WILLIAMS: In tort or advocates of
21 tort argue that those who are the authors of their own
22 misfortunes should not be eligible for insurance benefits,
23 isn't -- isn't that one (1) of the arguments?

24 MR. HANY RIFAI: Sorry, some said that would
25 be one (1) argument though, there is some benefits even if

1 you're at fault in the tort environment, there are some
2 benefits that they do receive.

3 MR. BYRON WILLIAMS: But they would argue
4 that it would be unjust for someone who was not at fault, to
5 be receiving the same level of benefits as someone who was at
6 fault, is not right?

7 MR. HANY RIFAI: Yes. I guess the -- the
8 benefits are not necessarily the same thing as who's at fault
9 or not, yes.

10 MR. BYRON WILLIAMS: I note in your evidence
11 that you use the word 'innocent'. I think it's at page 9 of
12 your evidence, or excuse me, at page 8 in the third last
13 paragraph.

14 Do you have that in front of you, sir?

15 MR. HANY RIFAI: That would be the -- yes, I
16 have it.

17 MR. BYRON WILLIAMS: And when you refer to
18 innocent parties, I take it that you define that to be those
19 who happen to be at the wrong place at the wrong time. Is
20 that right?

21 MR. HANY RIFAI: I mean those who the officer
22 determined were not responsible for the accident, they were
23 innocent.

24 MR. BYRON WILLIAMS: Well you characterize
25 them or you define them as those who happened to be at the

1 wrong place at the wrong time.

2 Is that how you define innocent?

3 MR. HANY RIFAI: It's just a figure of
4 speech. I mean -- I mean by the innocent party.

5 But certainly by being innocent if you didn't
6 do -- cause the accident, if you're zero at fault you had no
7 -- no contribution to the accident you were by definition at
8 the wrong place the wrong time. You're unlucky.

9 MR. BYRON WILLIAMS: And I want to explore
10 that definition of 'innocent' and the 'by definition the
11 wrong place at the wrong time with you'.

12 Just by -- I want you to assume that I live
13 in a jurisdiction where seat belt use is not mandatory
14 because it's considered a restriction on personal liberty.

15 Are you prepared to make that assumption, sir?

16 MR. HANY RIFAI: Sorry what is -- I'm not
17 sure I understand.

18 MR. BYRON WILLIAMS: I'm going to ask you to
19 start. I'm going to ask you to make a couple of assumptions.

20 The first one is that we're in a jurisdiction
21 where seat belt use is not mandatory. Is that fair, you'll
22 accept that?

23 MR. HANY RIFAI: Yes.

24 MR. BYRON WILLIAMS: And I'm -- I'm going
25 to ask you also to assume that I'm one of those advocates of

1 personal liberty who chooses not to use the seat belt.

2 Can you make that assumption?

3 MR. HANY RIFAI: Yes.

4 MR. BYRON WILLIAMS: And I'll ask you also to
5 assume that I'm in the wrong place at the wrong time. And
6 I'm struck from behind and not wearing a seat belt, I fly
7 through the -- the windshield.

8 Can you make that assumption?

9 MR. HANY RIFAI: Yes.

10 MR. BYRON WILLIAMS: Now within how you
11 define innocent, am I innocent in that situation?

12

13 (BRIEF PAUSE)

14

15 MR. HANY RIFAI: If the jurisdiction does not
16 force somebody to wear a seat belt, I guess it would be. I
17 would -- I would -- though agree or believe this again
18 because it is a question of ideas that it would be to the
19 advantage of the entire public to enforce seat belt so that
20 it would lower this. So that if somebody that doesn't wear a
21 seat belt should have some factor of fault contributed to the
22 accident.

23 I -- even though if the jurisdiction says it's
24 totally illegal they -- so the determination of fault would
25 have the zero (0) percent on that person. I don't

1 necessarily think it's appropriate. I do think they should
2 have some measure of fault attributed to them in that
3 situation. It's my opinion though.

4 MR. BYRON WILLIAMS: That's -- that's fair
5 enough and I appreciate your frankness. So even though I'm
6 -- I was in the wrong place at the wrong time because I chose
7 not to take a fairly reasonable measure to protect myself,
8 there might be a determination of fault in that situation.

9 Is that fair?

10 MR. HANY RIFAI: Yes.

11 MR. BYRON WILLIAMS: And I guess why I've
12 been having -- I talked with you about ideas and ideologies
13 and choices is I want to suggest to you that your concept of
14 guilt or innocence, fault or responsibility -- it's -- it's
15 not as simplistic as -- as -- it's not a black and white
16 issue. I wonder if you'd agree with that?

17 MR. HANY RIFAI: Well that's why you have an
18 officer on site to try and determine the percent of
19 responsibility. You need some arbitrary in a situation like
20 that to -- to assign these faults. You know, it's sometimes
21 there already some contributing factors to an injury and that
22 has to be taken into account.

23 MR. BYRON WILLIAMS: Well and I guess the
24 point I'm -- I'm trying to make is that even though I'm in
25 the wrong place at the wrong time, sometimes a definite, you

1 know, fault is not always necessarily a black and white
2 question. You'll agree with that?

3 MR. HANY RIFAI: Fault is not always 100
4 percent or zero. No, there's a lot of situations where
5 there's partial responsibility on both ends. That still
6 could also be interest -- if you implement a loss transfer
7 methodology.

8 MR. BYRON WILLIAMS: Now you talked earlier
9 today in your discussion with Mr. Saranchuk about the fact
10 that you support a bonus/malus type of system in which an
11 individual penalty is assessed upon an individual; is that
12 correct?

13 MR. HANY RIFAI: But I -- I support the idea
14 that if somebody has been shown to cause accidents, that
15 there should be some kind of discount -- or a surcharge in
16 this case, to that person. People that have been shown to
17 have good acc -- history should have some kind of discount.

18 This is for multiple reasons. One is the
19 predictive value, the loss control -- the loss control
20 incentive this would also have. So, yes, I do support this.

21 MR. BYRON WILLIAMS: And one of the reasons
22 is it's a way to allocate individual responsibility to
23 someone who's at fault; as a matter of fairness or justice;
24 you'll agree that that's an appropriate matter?

25 MR. HANY RIFAI: It is. But it's really also

1 for its predictive ability. If there was no predictive
2 ability, I'm not sure it would be used quite as widely as
3 it's used. Its predictive ability and for its loss control
4 incentive, both of them are very important aspects of it.

5 MR. BYRON WILLIAMS: And it's a very targeted
6 measure as well, in that it sends an individualized message
7 to an at-fault driver; correct?

8 MR. HANY RIFAI: Yes.

9 MR. BYRON WILLIAMS: Now, I don't want to get
10 into -- especially given your flight plans -- an extensive --

11 MR. HANY RIFAI: I've actually changed them,
12 so it's okay.

13 MR. BYRON WILLIAMS: Okay.

14 MR. HANY RIFAI: I've delayed the flight.

15 MR. BYRON WILLIAMS: I still won't get into
16 an extensive debate.

17 But just to -- as I understand your evidence
18 in terms of the loss transfer program or proposal, apart from
19 the -- one of the justifications, I'm not asking you to
20 elaborate on it, but one of the justifications which you used
21 to support loss transfer is your belief that it's more fair;
22 is that right?

23 MR. HANY RIFAI: Certainly. I don't see why
24 somebody should be penalized for something they didn't do.
25 If they have no-fault at all, I do find it unjust that they

1 get penalized for it.

2 MR. BYRON WILLIAMS: And what loss transfer
3 does, is transfers the collective responsibility for that at-
4 fault accident from the -- the driving cell of the victim to
5 the driving cell of the person at fault; is that right?

6 MR. HANY RIFAI: Correct.

7 MR. BYRON WILLIAMS: I want you to stay
8 purely on the subject of fairness. I don't want to venture
9 into issues like what -- what its -- in terms of
10 predictiveness. I just want to ask you to make another
11 couple of assumptions with me.

12 The first is that I am driving a 2002 Sentra
13 GXE in Winnipeg for an all-purpose classification. You'll
14 make that assumption, sir?

15 MR. HANY RIFAI: Yes.

16 MR. BYRON WILLIAMS: And perhaps you can also
17 assume with me that there's hundreds of other Sentra 2002 GXE
18 all-purpose drivers like me in Winnipeg. Will you make that
19 assumption?

20 MR. HANY RIFAI: Yes.

21 MR. BYRON WILLIAMS: And one of them is Mr.
22 McCulloch. Are you prepared to go that far?

23 MR. HANY RIFAI: As you wish.

24 MR. BYRON WILLIAMS: Now, Mr. McCulloch,
25 let's say that he's angry because he didn't, you know, get in

1 that crippling blow against the CAC/MSOS witness in cross-
2 examination, so he gets into an accident through his own
3 fault. Can you make that assumption?

4 MR. HANY RIFAI: Yes.

5 MR. BYRON WILLIAMS: And so all the costs
6 associated with that accident under the loss transfer program
7 or proposal, would be transferred to Mr. McCulloch's driving
8 cell; is that right?

9 MR. HANY RIFAI: Yes. The -- well, the non-
10 physical portion that --

11 MR. BYRON WILLIAMS: And the rationale, of
12 course, when you say that -- I'm not asking you to elaborate
13 -- would -- that it would be unfair to the class of victims
14 in this -- or the class of individuals in the same driving
15 cell as the victim to bear that collective responsibility.

16 That's the rationale behind it?

17 MR. HANY RIFAI: That's one of the
18 rationales.

19 MR. BYRON WILLIAMS: Yeah. And staying on
20 the subject of fairness and, again, I want you to focus on
21 that, and I'm not asking you to agree with me but I wonder if
22 you can take a moment to walk in the shoes of those other
23 Sentra drivers being asked to share responsibility for Mr.
24 McCulloch's bad driving.

25 And I -- are you with me, sir?

1 MR. HANY RIFAI: Yes.

2 MR. BYRON WILLIAMS: I was asking you to walk
3 in the shoes of those other Sentra drivers in Mr. McCulloch's
4 driving cell. And, again, I'm not asking you to agree
5 with -- with that perspective, but I wonder if you could
6 understand the perspective from their point of view, that
7 they might also be reluctant to take collective
8 responsibility for Mr. McCulloch's accident, because they had
9 nothing to do with it?

10 MR. HANY RIFAI: Let's say you were to --
11 okay, now then we're also talking about the application of
12 rate groups or so on. I'm talking about the rate level here
13 in this case.

14 The rate level of the private passenger, in
15 this case they hit a motorcycle that overall -- the whole
16 group would go up. The rate group is -- is a separate issue.
17 It would be related to the physical damage portion of the
18 loss which would not necessarily be -- well, some of it might
19 be affected by the loss -- I don't -- depending on how you
20 apply the loss transfer it doesn't have to be affected.

21 So this is a bit of a separate issue. It's
22 the whole PPA, all the -- the risk category of private
23 passenger that are getting affected in this case not just
24 Sentra drivers.

25 MR. BYRON WILLIAMS: Well, let's say it's all

1 those drivers, you'll agree with me that they might be
2 reluctant to take collective responsibility as well for an
3 accident that was not of their fault, that's not an
4 unreasonable perspective?

5 MR. HANY RIFAI: Yeah. But claims have to be
6 assigned somewhere. You -- that's how you have a
7 classification plan. It's -- it would go to all the private
8 passenger vehicles in this case. This is true for any
9 accident that occurs or whether or not they're the
10 beneficiaries or not.

11 Just the claims have to go somewhere and,
12 again, usually the point is the claims should go to the
13 person at fault, in that case.

14 MR. BYRON WILLIAMS: Well, you made it an
15 issue of fairness and I'm just asking you to agree with me
16 that from the perspective of those in the same class as Mr.
17 McCulloch, they might find it unfair to be assigned his fault
18 as well.

19 I'm just asking you whether that's an
20 unreasonable perspective?

21 MR. HANY RIFAI: Yeah, but it's not unfair if
22 you look at it from a statistical point of view. That class,
23 by having that accident, it's a -- it's a marginal increase
24 but that whole class of vehicles has a higher risk factor
25 because of this.

1 It's very marginal we're talking about of
2 course, we are talking about one vehicle in this case. But
3 that entire -- it shows the loss potential of that class of
4 vehicles.

5 MR. BYRON WILLIAMS: Well, I guess I'm just
6 asking you, Mr. Rifai, whether you'll agree with me that
7 something like loss transfer in and of itself is not a black
8 and white issue that can be simply characterized into a
9 mathematical formula?

10 There's different perspectives of fairness,
11 can you agree with that?

12 MR. HANY RIFAI: I'm sure a lot of insureds
13 for any -- any amount of premium that they pay find it
14 unfair. But, in other words, you know, somebody has -- the
15 fact is, you have to classify it somehow. And the most
16 appropriate and the most equitable way is to base it on --
17 assign the losses to those responsible for the losses.

18 Any system you have some -- any system --
19 there's certainly people who don't like paying anything so
20 they find it unfair paying any amount of money. I mean,
21 that's -- that's a -- this is a separate issue in terms of
22 this.

23 MR. BYRON WILLIAMS: It's a philosophical
24 issue?

25 MR. HANY RIFAI: No, I don't even think this

1 is it. This is -- this is related to perceptions of insurers
2 -- individual insurers about the premiums they pay. They
3 always find it unfair to some degree in terms of the fact
4 that if they didn't have an accident that year -- you know,
5 the argument you're making you can go as far as saying is,
6 well I drove the past twelve (12) year, I didn't have an
7 accident.

8 Why shouldn't my insurance premium be
9 refunded. That's essentially -- what -- you know if you push
10 the argument you're making you can go to that extent. I'm
11 not saying that.

12 I'm saying the class that the person belongs
13 to should bear the cost not another class that wasn't at
14 fault for.

15 MR. BYRON WILLIAMS: Thank you, Mr. Chairman.
16 I have no further questions.

17 THE CHAIRPERSON: Thank you, Mr. Williams.
18 Mr. Oakes...? Do you have any redirect?

19 MR. RAYMOND OAKES: No, Mr. Chairman.

20 THE CHAIRPERSON: Thank you, Mr. Oakes. For
21 the Manitoba Used Car Dealers Association, Mr. Roberts, do
22 you have any questions for the witness?

23 MR. NICK ROBERTS: No, sir.

24 THE CHAIRPERSON: Thank you, sir. We'll hear
25 from CAA and Manitoba Motor League, Mr. Kruk or ...?

1 From the Insurance Brokers Association of
2 Manitoba...?

3 MS. MARGARET SCURFIELD: No questions.

4 THE CHAIRPERSON: Thank you. Mr. Dawson...?

5 MR. ROBERT DAWSON: I have no questions, Mr.
6 Chairman, but I do have two (2) quick procedural points
7 knowing the time and I'm concerned about the freedom with
8 which we're taking undertakings. And I will just draw this
9 to the Board's attention and the Board can do what it wished
10 with it.

11 Mr. Williams just recently asked for an
12 undertaking that certainly interests me asking about the
13 hours and the reply he received from the witness was, and I
14 quote "I can send it back when I get around to calculate it".

15 I'm going to suggest, Mr. Chairman, that
16 that's not an acceptable answer. The answer should be in the
17 form of, I undertake to provide the answer within a certain
18 period of time.

19 Since it's simply a point of pushing a button,
20 presumably, in his office and giving us a print out of his
21 hours, I'm going to suggest that that could be faxed to us
22 tomorrow or, at least, by Monday morning when we come back.

23 That's the first point. The second one
24 relates to the witness' resume. I know that Ms. Cote wisely
25 asked for that and that's an excellent thing.

1 At the risk of giving part of my seminar that
2 I give to Board members on practice and procedure before
3 administrative tribunals, there is a problem where a
4 purported witness has come -- purported expert has come
5 before a Board and not been properly qualified.

6 Especially where, as I think it's fair to say
7 today, the purported expertise of that witness has been
8 severely challenged by just about everyone who has put
9 questions to that witness.

10 And there's a danger that I think Mr.
11 Saranchuk wisely perceived that it could be said that on the
12 record there's any shred of evidence from this purported
13 witness that the Board might rely upon, that might itself be
14 grounds for an ultimate appeal before the Court of Appeal or
15 higher.

16 So I think we're trying to remedy this. I
17 think that may be one of the reasons why Mr. Saranchuk was so
18 thorough in asking those questions and I suspect that Ms.
19 Cote was also very thorough in trying to remedy this.

20 Unfortunately, just asking for the resume,
21 again, open-endedly, may not be sufficient. My suggestion
22 would be again, because presumably, according to the
23 testimony we've heard, this witness does this regularly, how
24 he forgot, so to speak, to bring a resume with him strikes me
25 as, shall we say, unusual.

1 But, in any event, my suggestion would be that
2 this is something that could have been faxed to the Board
3 during a break and should, again, be filed. There is a
4 danger that by not having done this while we're all gathered
5 there may now be questions from any party when we reconvene
6 on Monday, having got this information, the Witness may or
7 may not choose to be present at that time. And it may be
8 wise that the Witness may consider being present in case
9 there are such questions that arise out of it.

10 These are the points that I have. They're
11 minor procedural issues. I offer them less as a point of
12 objection but more as a point of trying to appeal-proof these
13 proceedings so that we don't have to come back and poor -- My
14 New Friend Mr. Bedard there, I think every time the words
15 Buhlmann credibility is mentioned he slumps further into a
16 coma and there's a danger of a fetal -- fetal position coming
17 up.

18 So I'm trying to save us from that. Thank
19 you, Mr. Chairman.

20 THE CHAIRPERSON: Appreciate your help Mr.
21 Dawson. I'm sure that Mr. Rifai will send off his CV and
22 we'll receive it at the Board in reasonable time. And with
23 respect to the number of hours, I think we can accept their
24 undertaking that he will provide that in due course as well.
25 Mr. Oakes...?

1 MR. RAYMOND OAKES: Mr. Chairman, we'll
2 certainly comply with that and there were informal
3 discussions today that unfortunately our representative from
4 the Bar Association wasn't privy to and none of us thought
5 that it was a problem in complying with that by Monday.

6 There won't be a problem with complying with
7 those by Monday. I would ask that there be some recording in
8 the transcript of our objection to Mr. Dawson's comments
9 concerning the other Intervenors' questions on the issue of
10 whether Mr. Rifai was an expert witness.

11 My recollection is that every single Counsel
12 that cross-examined took no objection to the expert witness
13 qualifications of Mr. Rifai. In fact, I think that they're
14 beyond reproach.

15 So with those comments, in response to Mr.
16 Dawson, I guess the operative lesson here is that we'd better
17 not fail to make copies of our exhibits in the future to
18 again arise his ire and have the vitriolic outpouring that
19 just accompanied those statements.

20 But on the point of order that was raised,
21 certainly we can comply with that.

22 THE CHAIRPERSON: Thank you, Mr. Oakes. Do
23 we have Mr. -- is Mr. Souza here from Manitoba Scootering?
24 Okay, I think we're all through the Intervenor cross-
25 examination.

1 Mr. Oakes, do you have any other re-direct for
2 your witness?

3 MR. RAYMOND OAKES: None, Mr. Chairman.

4 THE CHAIRPERSON: Thank you very much, Mr.
5 Rifai.

6 MR. HANY RIFAI: Thank you for having me
7 here. Just a comment, the resume, I've never actually been
8 asked this before. It's the first time I've been asked to
9 bring one so I'll have it sent ASAP.

10 And the hours, I usually wait until the end,
11 after I've finished the project, before I send that out.
12 Thanks.

13 THE CHAIRPERSON: We appreciate your
14 attention to these matters. We're moving on now. We have a
15 presenter, Mr. Ramsey. Mr. Ramsey is the executive director
16 of Motorcycle and Moped Industry Council.

17 Mr. Ramsey, if you want to come up here to the
18 front you'd have a better chance of being heard.

19 While we're doing this, Mr. McCulloch, do you
20 have anything else for us?

21 MR. KEVIN MCCULLOCH: I do have a number of
22 undertakings to file, Mr. Chairman. Starting with -- with
23 the way that we have them numbered, we have Undertakings
24 Number 8, 9, 10, 11, 12, 13, and 15.

25 I've left them with the Board Secretary for

1 distribution. And if we could start with Undertaking Number
2 8 and assign an exhibit number to that.

3 THE CHAIRPERSON: We'll be with you in a
4 moment. They're being distributed to the Intervenors. So
5 you proceed with the numbering.

6 MR. KEVIN MCCULLOCH: Thank you, Mr.
7 Chairman. By my records, Undertaking Number 8 will be MPI
8 Exhibit number 13.

9 THE CHAIRPERSON: That's correct.

10

11 --- EXHIBIT NO. MPI-13: Response to Undertaking Number 8.

12

13 MR. KEVIN MCCULLOCH: Undertaking Number 9,
14 Exhibit Number 14. Undertaking Number 10, Exhibit Number 15,
15 MPI. Undertaking Number 11, Exhibit Number 16. Undertaking
16 Number 12, Exhibit 17. Undertaking Number 13, Exhibit 18.
17 And Undertaking 15, Exhibit 19.

18

19 --- EXHIBIT NO. MPI-14: Response to Undertaking Number 9.

20 --- EXHIBIT NO. MPI-15: Response to Undertaking Number
21 10.

22 --- EXHIBIT NO. MPI-16: Response to Undertaking Number
23 11.

24 --- EXHIBIT NO. MPI-17: Response to Undertaking Number
25 12.

1 --- EXHIBIT NO. MPI-18: Response to Undertaking Number
2 13.

3 --- EXHIBIT NO. MPI-19: Response to Undertaking Number
4 15.

5
6 THE CHAIRPERSON: Thank you, sir. We
7 appreciate getting them at this time, ahead of the weekend.
8 Mr. Ramsey, are you ready to begin.

9 MR. ROBERT RAMSEY: Almost.

10 THE CHAIRPERSON: Welcome to Winnipeg. And
11 we hope you're able to make your flight.

12
13 PRESENTATION BY MR. ROBERT RAMSEY:

14 MR. ROBERT RAMSEY: Mr. Chairman and honoured
15 guests, I'm happy to be back in Winnipeg. I had the
16 privilege of addressing this assembly last year and learned a
17 lot from it. And hopefully I'm a bit more prepared this year
18 and can answer a lot more questions.

19 And, in fact, I enjoyed today's discussions
20 because a lot of those issues I've had the good luck and
21 fortune and education of being involved with. And so, there
22 was a lot of questions that came up that I will address
23 because I happened to be there. And so it will make it a
24 little bit easier, hopefully inform the -- the members
25 present.

1 Mr. Chairman, I understand this is your first
2 year, and I want to congratulate you. And I look forward to
3 working with you and am happy to provide whatever information
4 you would desire in your capacity.

5 And, Madam President, I'd like to thank you
6 and look forward to working with you. And I want to
7 congratulate you on your new position.

8 And, unfortunately, the Board Counsel has --
9 has left, but I was going to thank him for being so thorough
10 and -- and that. And I look forward to him addressing each
11 of the professional, I guess, and expert witnesses in a
12 similar very thorough way to ensure that the decisions of the
13 Board are -- are appropriate and well -- well founded, I
14 guess, because I think that's very important.

15 I do have the -- the privilege of being the
16 president, actually, of the Motorcycle and Moped Industry
17 Council. A couple of years ago they changed my title; they
18 didn't give me any more money but they did change my title.

19 And it's my pleasure to be here. And I just
20 want to give you a little bit of background about the
21 Motorcycle and Moped Industry Council, the MMIC.

22 We're a national non-profit industry
23 association. We represent the major manufacturers and
24 distributors of motorcycles across the country. We have been
25 very active in insurance issues in most jurisdictions across

1 the country, particularly this year.

2 But going back to 1985, it was the first time
3 I had the opportunity to make a presentation, and that was to
4 the Slater (phonetic) Commission in Ontario, which preceded
5 the Osborne Commission in Ontario. And I did have the
6 privilege of working very closely with Justice Coulter
7 Osborne in Ontario, and can address a number of those issues.

8 We represent the -- the manufacturers and
9 distributors. And who that is, is the companies like Honda
10 and Yamaha and BMW and Harley Davidson, and so on and so
11 forth. These companies have worldwide reputations. These
12 companies make some of the best product in the world, whether
13 they be automobiles or motorcycles or other vehicles that
14 benefit Canadian and benefit people around the world.

15 The size of the motorcycle industry in Canada,
16 just to give you a ballpark, is about 4.6 billion dollars.
17 And when I say that, I'm including a little bit more than
18 just motorcycles and motorcycle sales. We include the entire
19 dealership.

20 And that's an important concept to understand,
21 because dealers often sell more than one (1) type of product.
22 So anything that happens to one (1) type of product has an
23 effect on businesses and dealerships across the country, and
24 particularly here in Manitoba.

25 The number of new units sold in Canada last

1 year, and by "last year" I mean 2004 because we work on a
2 model year and our model year begins September 1st, was
3 approximately eighty thousand (80,000).

4 The precise number was seventy-nine thousand
5 eight hundred and eighty-five (79,885). In Manitoba there
6 were two thousand one hundred and thirty-eight (2,138) new
7 motorcycles sold.

8 We represent on behalf of the industry, one
9 (1) of the things we undertake is we do all the collection of
10 statistics. Both from the standpoint of sales as well as
11 industry impact, economic impact across the country.

12 I talked last year about motorcyclist
13 demographics and the changing demographics and I don't think
14 I was probably clear enough about motorcyclists. Because the
15 demographic has changed significantly over the last five (5)
16 to ten (10) years.

17 And I'm going to get into more detail on that
18 but I just want to really point out that who we're talking
19 about is quite different than who we were talking about in
20 1994. Interest and motorcycle insurance. Well, as I said
21 I've had the opportunity to make probably about twenty (20)
22 presentations to most Provincial Governments, many Public
23 Utility Boards across the country, was actively involved in
24 -- I -- I like to consider that I was one (1) of the people
25 that helped developed the loss cost transfer mechanism that

1 is so widely credited in most provinces across the -- across
2 the country.

3 And also 'd like to think that I'm an advocate
4 of public insurance. Because I don't believe there's one (1)
5 system that's better than another. I believe that what we do
6 as policy makers, is determine what is in the best interest
7 of the entire public.

8 And so the name Manitoba Public Insurance is
9 very important and it should be representing all people. All
10 people should be equally valued and that's what this is all
11 about. So what is the industry's vision of insurance. Well,
12 as many presenters will say, we believe in fair and equitable
13 insurance premiums.

14 How do we get there? Fair and equitable as
15 we've heard a little bit earlier today and I'm sure during
16 the course of these Hearings, can be terms that are somewhat
17 bandied about without deciding exactly what is meant by them.

18 As an industry person, I think the most
19 important thing to me is to make it's done by an independent
20 group of people. Not people that have vested interests.
21 That it be a transparent review. One that's open so that all
22 the public can understand what is going on. And one (1) that
23 deals with not assumptions but actual facts.

24 You know, I have a, you might find this hard
25 to believe, I have a six (6) year old granddaughter. I'd

1 like to think I look a lot younger than that, but probably
2 time is catching with me.

3 And my granddaughter tells me about elephant
4 jokes and they're all built on one (1) absurd assumption.
5 And that's what we have to be careful about here. Is that
6 all of these statistics that roll out are based on one (1)
7 absurd assumption. We have to make sure that the original
8 assumption was correct.

9 And that is one (1) thing that we should
10 address at this Public Hearing. So what is that original
11 assumption? To me it's about appropriate proportioning of
12 costs based on accident fault determination rules. Most
13 jurisdictions have accident fault determination rules. It's
14 not something new.

15 And they do it between classes of vehicles.
16 Whether it's motorcycles and trucks, automobiles and buses,
17 motorcycles and motorcycles. There are pretty standard
18 approaches to this. So whether we're talking about a tort
19 choice jurisdiction, a lost cost transfer jurisdiction or a
20 complete no-fault jurisdiction, they are public policy
21 choices.

22 This is a choice that is made by politicians,
23 by regulators, by people who have to understand what is in
24 the best interest of all people. Are all people treated
25 fairly? Are all people equally valued?

1 Now last year I -- I was reading the
2 motorcycle risk study that was released I believe October 6th
3 or 8th, I can't remember the precise date. And at the front
4 of it it said the reason for this was to gather data and
5 study the causes of motorcycle risk. To assist in the
6 categorization of motorcycle accidents.

7 To me that's a very worthy cause. That is
8 something that should be looked at. Unfortunately that study
9 did not look at that. Instead, what they did, rather than
10 looking at the causes of accidents, as the study clearly
11 discussed, they looked at how the accident costs were being
12 proportioned.

13 Not whether the accident costs were being
14 proportioned appropriately in the first place, based on
15 cause, not whether the causes were determined, but just
16 basically, These were the vehicles, this is how the costs
17 are, if we just take that and extrapolate, this will be the
18 premium.

19 To me that was, unfortunately, not the best
20 way of proceeding, because it wasn't a realistic study of the
21 causes of motorcycle risk. Most safety experts, and I have
22 the fortune of dealing with many safety experts across
23 Canada, Canada Safety Council, Law Enforcement, will tell
24 what causes of accidents are.

25 Causes of accidents are things like drinking.

1 Causes of accidents are things like the environment. Causes
2 of accidents are speeding. These -- these are causes of
3 accidents.

4 And so when I read that and I looked at it,
5 and one of the first statements they said was that,
6 Motorcycles are inherently risky, I thought to myself, Well,
7 how could they come to that determination without even
8 determining what were the causes of the accidents?. Because
9 more accidents happen or less accidents happen, doesn't
10 necessarily mean that a vehicle is inherently risky.

11 If they were trying to say that a motorcycle
12 affords less protection if you get hit, absolutely right.
13 But that's not what they were saying. They were saying,
14 They're inherently risky, and that is incorrect.

15 In fact, using that philosophy, if you were to
16 take that to it's ridiculous end, you would have to do away
17 with pedestrians, because there's no protection, you'd have
18 to do away with bicycles and you'd have to do away with
19 smaller cars. And, in fact, you'd have to do away with
20 bigger cars, because unless you get the biggest vehicle out
21 there, the other vehicles are more risky.

22 So to me, unfortunately, the study offered
23 very little insight into what is actually occurring. Not
24 only that, the thing that I found most concerning about this,
25 is when you say that a vehicle is inherently risky, you're

1 basically giving carte blanche to everyone else. This
2 vehicle is inherently risky, it's okay if I run them down
3 because they're inherently risky.

4 You know, I get into an accident -- and I've
5 brought a couple of clippings with me today, perfect
6 examples. A motorcycle is driving down a road, it gets rear-
7 ended from behind. Absolutely, the police looked at it,
8 nothing wrong, the motorcycle was doing everything right. He
9 was driving the speed limit, he was fully protected,
10 everything of that nature, got run down by a car that was
11 speeding.

12 In Manitoba, not only would the motorcyclist
13 be injured, most likely, the motorcyclist would pay for that
14 injury. And, in fact, all the other motorcyclists would pay
15 for that injury.

16 To me, I grew up on a farm, worked with
17 farming equipment, knew that if I was doing something wrong
18 there would probably be a price to pay. But if I didn't do
19 anything wrong, if I wasn't walking across the street and I
20 got hit by a car, then from my standpoint, if I'm doing
21 everything right, why would I pay for my own accident
22 benefits when I didn't cause them?

23 And yet there is no answer to that. In fact,
24 the answer seems to be, motorcyclists, pedestrians,
25 bicyclists are inherently risky. Because using that -- logic

1 that's what they have to be.

2 So having looked at the -- the motorcycle
3 risk study I decided, Well, unfortunately, this information
4 is not good enough; we have a duty of diligence. And so we
5 did some research and we went back to the National Highway
6 Traffic Safety Administration.

7 And I'm not sure if everyone knows who the
8 National Highway Traffic Safety Administration is. But they
9 have done studies on accident causative factors. And their
10 studies show, year after year, the same sort of results.

11 The are motorcycle accident statistics that
12 are compiled by the National Highway Traffic Safety
13 Administration based on the research. Single vehicle
14 motorcycle accidents represent 26 percent of all accidents
15 involving motorcycles, 74 percent of accidents involving
16 motorcycles are multiple vehicle accidents. Of the multiple
17 vehicle accidents, of that 74 percent, the driver of the
18 other vehicle whether it be a bus or a car or a truck or a
19 tractor or whatever, 65 percent of the time they're at fault.

20
21 Now 65 percent of 74 percent is a pretty high
22 number and if you're assigning all those costs to the
23 motorcyclists, it adds up in a hurry. You're talking and
24 I'll just roughly, 50 percent of all costs if all those
25 accidents are equal. But more likely because they're a

1 multiple vehicle accident they could actually be more costs
2 involved with them so you're assigning probably more than
3 that.

4 The study that was done by MPI didn't address
5 that issue at all. They didn't look at that. I'm sorry to
6 say I wished you had of looked. You have lots of experts
7 along the back here, but that wasn't even addressed. MPI's
8 job, one of their jobs should be to serve the public. This
9 forum is to serve the public.

10 I'm glad we have an aggressive Board Counsel.
11 He is here to serve the public and your job is to serve the
12 public. Now the National Highway Traffic Safety
13 Administration is a US document. And people might say, well
14 about Canadian information? Well we have a fabulous
15 organization in Canada. It's used by most Ministries of
16 Transportation and used by many insurance companies.

17 I believe probably MPI has used them. They're
18 called The Traffic Injury Research Foundation. They have
19 done studies over and over again with regard to motorcycles.
20 They've done studies based on research into studies around
21 the world. Whether it be Australia, whether it be Europe,
22 whether it be US, whether it be Canada.

23 And time and time again they have found and
24 this is a quote:

25 "Despite the considerable amount of

1 research, no study has yet clearly
2 established whether there is a
3 relationship..."

4 And I add this part because this is what they
5 were talking about,

6 "...between motorcycle engine size and
7 collision involvement and if so, what --
8 what is the nature, magnitude, and
9 characteristics of that relationship?"

10 We're talking -- about, according to the
11 motorcycle risk study, eight thousand and thirty-three (8033)
12 units. And I can understand earned premiums and I understand
13 written premiums and I understand that there may be a lot
14 more registrations than this.

15 But we're about eight thousand and thirty-
16 three (8033) units. Trying to make decisions about premiums
17 based on such a small sample size and we've heard it this
18 morning, you can disagree with lots of ways of doing it and
19 I'm not going to get into all the actuarial aspects of it.
20 But eight thousand and thirty-three (8033) units is not a lot
21 to be trying to base judgment on.

22 Particularly when you consider that the number
23 of claims is a fraction of that. If you look at collision
24 claims, collision claims based on that -- the information was
25 -- doing this off the top of my head, zero point two nine

1 (0.29) of the population, total population base. Zero point
2 two nine (0.29).

3 Bodily injury claims, PIPP claims I guess we
4 call them there. Again, correct me if I'm wrong, but I
5 believe it was 1.2 percent of total vehicle population. So
6 what we're talking is not big numbers and yet people are so
7 committed to their certainty you would swear that they knew
8 this and that this was the only way of doing it. Eight
9 thousand and thirty-three (8033) and yet absolute certainty.

10 There was an interesting debate on TV a couple
11 of weeks ago where one (1) presidential candidate said to the
12 other presidential candidate, you can be absolutely certain
13 and you can still be wrong. And that I think is what's
14 happening here. There needs to be review, an open review,
15 not a defensive review, an open review, an open sharing of
16 information.

17 You know, I -- I attend a lot of these board
18 hearings. This is the most confrontational board hearing
19 I've been to, which is sad. It's very sad. You know, most
20 other provinces deal with this in a very open manner.

21 When we were bringing in loss cost transfer
22 into Ontario, all three (3) provincial parties agreed with
23 it, the NDP, the Liberals and the Conservatives. We met with
24 all three (3) caucuses.

25 Since that time there has been three (3)

1 different governments, a Liberal Government, an NDP
2 Government, the Conservative Government, and they all
3 accepted the notion. None of them questioned it.

4 And yet if you sit around this table, you
5 think that everyone is diametrically opposed to everything,
6 that it's torte this or no-fault that. Well, it's not.
7 Canadians know that. The people of Manitoba know that. They
8 just want what is best for everybody. They want everyone to
9 be equally valued.

10 So, where have we come from and where are we
11 going? Well, I asked -- sorry -- I asked our actuaries to
12 review the information for the last five (5) years, just on a
13 comparative basis.

14 Manitoba average increase for automobiles from
15 1999 to 2003. Automobile have actually gone down 8 percent
16 and that's good. That's very, very good. You know, that's
17 good for the people of Manitoba. That's good for automobile
18 drivers. Applaud yourself, MPI, you've done a good job.

19 Motorcycles, over that same time period, 1999
20 to 2003, 112 percent increase. Now, let's take motorcycles
21 out of this equation. If it wasn't a motorcycle, if it was a
22 car that had gone up 112 percent, if it was a commercial
23 vehicle that had gone up 112 percent, if it was a tank that
24 had gone up 112 percent, there'd probably be people picketing
25 outside your offices here. There'd probably be six (6)

1 security guards here keeping people from coming in. That's
2 not fairness. It's not fairness.

3 But let's compare it to Ontario. Ontario, for
4 the same time period, 1999 to 2003 inclusive, automobile
5 insurance has gone up 44 percent. Motorcycle insurance,
6 during that same time period, 26 percent.

7 You know, MPI deserves credit; they've kept
8 automobile rates down. But they deserve a slap on the hand
9 because they have been so obstinate in not looking at
10 anything else to do with how you can fairly treat all people,
11 and that means motorcyclists too.

12 Now, we got all the information from --
13 actually, Ray's office sent it over to us and I actually
14 asked my actuaries to do a full analysis of it. And they
15 said, It will take about two (2) to three (3) months to do a
16 full analysis of it. So, I won't have it for you but I will
17 have it next year, let's put it that way.

18 And we use an independent actuarial firm. But
19 I asked them to do one thing for me and this will sort of
20 support what the previous presenter was saying. I asked them
21 to compare loss cost for earned vehicle in Manitoba and
22 Ontario, because they could do that within the timeframe
23 allowed, and to compare it against private passenger and for
24 motorcycle; just a quick comparison that way. So, they were
25 able to pull that information out.

1 And like the previous presenter -- and I
2 should point out, our actuarial firm is not the same one.
3 It's Dion, Durrell (phonetic) & Associates. They're located
4 in -- in Toronto. They do work for many, many different
5 organizations, including insurance companies as well as non-
6 insurance companies, and government.

7 And they basically came to a very similar
8 conclusion to the previous presenter. That loss -- that loss
9 cost for motorcycle in Manitoba is approximately twice
10 as high as it is for Ontario on a full coverage basis, while
11 passenger -- private passenger auto is slightly higher in
12 Ontario than in Manitoba.

13 And I talked to the senior actuary, his --his
14 name is Liam McFarlan (phonetic), and that -- and I asked
15 him, How could this be the case? Why -- why is that
16 happening?

17 And like the previous presenter -- and I will
18 make that an undertaking next year, to -- to bring Liam here
19 to explain himself, he said the only factor, Bob, is -- is
20 that the costs are being disproportionately assigned to
21 motorcyclists, you know.

22 The systems are not that different. Yes,
23 one's a no-fault system, one has loss costs, but when you
24 look at the benefits being paid out on a full coverage basis,
25 they're not that different.

1 So, Mr. Chair, I would ask for forgiveness in
2 the sense that I do not have the complete study. But as soon
3 as it is available, I won't be telling any secrets out of --
4 out of school, we plan to -- to contact the Government and --
5 and the opposition and -- and yourselves, and whomever else
6 will listen to us and -- and make all this information
7 available, because, to me, it is a question of serving the
8 public of Manitoba.

9 So, what has been the impact of rapidly
10 spiralling motorcycle insurance costs? Well, in Manitoba,
11 sales of new motorcycles were down 3.95 percent, whereas in
12 the rest of Canada, sales were up over 10 percent, in 2004.

13 What does this mean in human terms? In human
14 terms it means business' close, it means people become
15 unemployed, it means that people may choose to ride without
16 insurance because of high costs. There are a lot of negative
17 aspects to this.

18 Now is it going to happen overnight? No.
19 You're not going to see dealerships closing tomorrow morning
20 if there's another increase. Is it going to happen over a
21 period of three (3) or four (4) or five (5) years? Yes.
22 Yes, it is going to happen. It's started to happen. There
23 have been a few dealerships close already in Manitoba over
24 the last few years.

25 Are people going to be unemployed? Sure, you

1 Research Foundation has many -- made many different
2 presentations on this very factor.

3 So, if we got rid of all the other vehicles,
4 would we be absolutely safe? No, it might be a lot more fun,
5 but we wouldn't be absolutely safe. What are the other
6 factors involved?

7 Well, as I mentioned earlier, and I, you know,
8 I understand that there are public policy, age tends to be a
9 factor. We do not use that here in Manitoba. Gender tends to
10 be a factor. We do not use that here in Manitoba.
11 Territory, where you ride. I always found territory
12 interesting because I lived out on a farm and I rode into
13 Toronto and I was talking to Doug at the back and he lives
14 outside the city and drives in here, and we have to pay a lot
15 less than -- than if I lived in Winnipeg and drove out there.
16 I could spend all my time driving around out there but I'd
17 still have to pay more because I lived in Winnipeg.

18 You know, those are public policy decisions.
19 We make that determination, that Winnipeg is -- is more
20 dangerous because there's more accidents here and that, and
21 if we live out in -- in the rural areas, and where you have
22 less accidents, and so obviously in my small world, people
23 that live in rural areas must be much safer drivers, because
24 that -- that tends to be the correlation there.

25 As I mentioned earlier, motorcyclists have

1 changed quite a bit. There are more females now today than
2 there has ever been before. There are more young families
3 now today than there's ever been before riding motorcycles.
4 And I would hate to see that opportunity lost in the future
5 because you're pricing them out of the market.

6 You know, I -- as I said I have a
7 granddaughter and I hope she rides a motorcycle. That's her
8 choice but I hope she does. But I'd hate it to be a decision
9 that's not hers. A decision made by other people because it
10 cost three thousand dollars (\$3000) to ride a motorcycle.
11 Even though the accident was not our fault now that I think
12 of it.

13 So, what can we do? I -- I think, you know,
14 as responsible industry person, what can we do? Well, I
15 think we should concentrate on making motorcyclists as well
16 as other vehicle operators more aware of safety. You know,
17 one of the things we undertook a number of years ago was a
18 ride aware drive with care campaign.

19 And that was a really good campaign because it
20 focussed on educating new people to the road about
21 motorcyclists and why motorcyclists drive or ride a little
22 bit differently than other users.

23 You know, if there's a pot hole in the middle
24 of the road the motorcyclist is going to go around it,
25 they're not going to go through it. It's more dangerous to

1 go through it. So, they'll move from one side of the lane to
2 the other depending on the most appropriate line of -- to
3 take.

4 Most car drivers never know this. Car driver,
5 you just drive right over and keep on going. You don't have
6 to move. You can't move. Your lanes are only so wide. We
7 need to do more education, more education of new
8 motorcyclists about risk factors, more education of the
9 general public.

10 You know what, MPI made some fabulous media
11 reports. I saw one in August. It struck me as a bit funny,
12 in the sense not funny ha, ha, but funny in an ironic way
13 that up until that time there had been no serious motorcycle
14 accidents and injuries and then two (2) of them happened on
15 the same weekend.

16 And the press release sent out by MPI was
17 motorcycles are more risky and that -- and I thought Wow what
18 a shame. You know, they could have said lots of things to
19 improve safety, make people more aware, you know, encourage
20 proper driving habits instead the goal was to sort of play on
21 people's natural tendency of minorities, to point out a
22 minority and say, Oh, this person's bad.

23 You know, to me that's -- that's a sad
24 situation where a public insurer is not doing those sorts of
25 things and in such a way that benefits all people. Not all

1 people are equally valued and that's too bad.

2 So, I -- I'm going to briefly talk about -- we
3 talked about I didn't realize we were going to have so much
4 about other insurance jurisdictions and -- and fairness in
5 the allocation of not-at-fault claims expenses.

6 There are torte jurisdictions, what we call
7 torte choice jurisdictions, there is a loss cost transfer
8 jurisdictions, there are no-fault jurisdictions. I'm not
9 suggesting that private insurance is better than public
10 insurance. I'm not suggesting public insurance is better
11 than private insurance.

12 I'm suggesting each province has to determine
13 what's in their best interests. All I'm suggesting is that
14 all people should be treated fairly. Our approach as an
15 industry is not to recommend torte, not to recommend public
16 insurance, not to recommend no-fault, not to recommend loss
17 cost transfer.

18 Our approach is to find out what is most fair.
19 I believe based on information that we found here from
20 studying the results in Manitoba, that there is a problem
21 with the current system. It treats most, the vast majority
22 of insurance users, motor vehicle users, very very well and
23 you should be proud of that. It treats one particular
24 minority very, very poorly and you should not be proud of
25 that.

1 One of the things I saw was that there are
2 approximately eight thousand and thirty-three (8,033)
3 motorcycle units in Manitoba in 2003 and that about 16
4 percent of those were sport motorcycles. So, that would work
5 out to if my mathematics is -- is good and it should be,
6 about twelve hundred and eighty-five (1,285) units,
7 motorcycle units, I guess.

8 Twelve hundred and eighty-five (1,285) is very
9 small. That's the total world we live in, twelve hundred and
10 eighty-five (1,285) sport motorcycles. The actual number of
11 claims is a tiny fraction of that. And yet again, there is
12 so much certainty and the rightness of ones cause based on
13 such small data.

14 I -- I find it frustrating to -- to believe
15 that there can be that amount of certainty based on such
16 small data. Yes, you can average it over three (3) years,
17 yes, you can average it over five (5) years. Yes, you can
18 average it over ten (10) years.

19 So, much certainty over such small numbers.
20 You know you have about six hundred and fifty thousand
21 (650,000) automobiles. That's a good data size. You have
22 twelve hundred and eighty-five (1,285) sport motorcycles.

23 If I was to go back to my actuaries and say,
24 okay, give me some results based on twelve hundred and
25 eighty-five (1,285) motorcycles, and make it a very good

1 predictive, what's going to happen in the future, and the
2 claims costs, they'd laugh at me.

3 They'd say, Bob, you're crazy. You can't do
4 it on such small data sizes, no matter which system you use.
5 You know, the -- the debate among actuaries about this system
6 or that system, you can debate until your face is blue. The
7 data sample size is just too small. You can't make reliable
8 decisions, no matter how you cut the pie, on such small data
9 sample sizes.

10 So, what are my recommendations? Well, these
11 probably won't surprise you.

12 Independent investigation of apparent bias in
13 treatment of motorcycles versus automobiles. And I select
14 those words advisably, independent investigation of apparent
15 bias in the treatment of motorcycles versus automobiles.
16 Automobiles insurance premiums have gone down 8 percent,
17 motorcycles has gone up a 112 percent over the same five (5)
18 year time period. There is a philosophical choice being made
19 here.

20 Second recommendation would be to implement
21 some sort of loss cost adjustment provision. Not necessarily
22 a loss cost transfer, you know, Ontario has loss cost
23 transfer, but there's many different ways of achieving the
24 same sort of appropriateness and fairness and assignment of
25 costs; costs caused by the fault of the other vehicle.

1 And I think that's what we're looking for. I
2 think it's trying to determine what is the most fair and
3 equitable way of assigning these costs. Because if I took
4 the equation of motorcycle out of this, and put in something
5 else, probably there'd be a lot less hesitancy around this
6 table.

7 If we stopped calling them motorcycles and
8 called them personal transportation devices. Take out the
9 connotation that's associated with motorcycles, and you would
10 have a very different approach.

11 But there are certain people who look at
12 motorcycles and think, inherently risky. That's obvious from
13 the press releases that MPI puts out. Inherently risky
14 motorcycles, bicycles, pedestrians.

15 Are we going to do away with all of those
16 classes? Well, the only one that has to pay insurance is
17 motorcycles, but are they the only ones that are at fault for
18 accidents? Are they the only ones that have to get paid for
19 accidents?

20 If I was to hit a bicyclist, no, sorry, I
21 don't live in Mani -- if somebody here was to hit a bicyclist
22 on their way home today, that would go back against the
23 vehicle that hit that bicyclist.

24 If somebody here was to hit a pedestrian, that
25 would go back against that vehicle operator.

1 And so, it is choices, it is philosophical
2 choices. And it is a question of fairness, because there is
3 no fairness in the current way that it's being assigned.

4 Now, if we want to do the right thing, and we
5 do want to do the right thing, then we need to promote
6 safety. Safety amongst new automobile riders, awareness
7 about motorcycles and what that means and safety amongst
8 motorcyclists, because that will help make people more aware.

9 So, rather than trying to stigmatise
10 motorcycling, we should be promoting awareness of them. Not
11 so that you necessarily ride, because that's a choice, but so
12 that you don't stigmatize them.

13 I'm on my last page and it's getting late so
14 I'm going to wrap up very quickly.

15 As I said, we -- we're undertaking -- I've
16 asked our actuaries to undertake a study and I will undertake
17 to make that available to all parties involved, and I'm sure
18 it will be brought forward at some point in -- in the
19 future.

20 But more importantly, as the President of the
21 MMIC and of the industry council, I want to say that you
22 know, we want to work together on this, we want to work with
23 MPI. By and large, MPI's done a great job, you know. I'm
24 very happy of how they're treating automobile riders.

25 We have this one (1) issue that needs to be

1 dealt with, you know, it can't be fluffed under the table.
2 Obviously the reason some -- some people keep saying it keeps
3 getting brought up year after year, how come it keeps getting
4 brought up year after -- because there's injustice until this
5 gets addressed. You know, it wouldn't be brought up if
6 people thought it was fair.

7 Mr. Chairman, that wraps up my comments, thank
8 you.

9 THE CHAIRPERSON: Thank you, Mr. Ramsey. Do
10 you have your written remarks and any schedules that you
11 would care to have copied and distributed to the Corporation
12 and to the Intervenors and the Board?

13 MR. ROBERT RAMSEY: Yes, I -- I have this --
14 I -- I do much better when I talk off the top, so all I do
15 is put it in point form, and that -- I'm more than happy to
16 provide this to be photocopied and in that, but unfortunately
17 I don't have a -- a verbatim approach.

18 THE CHAIRPERSON: You referred to some other
19 documents, if you want to throw them in too as well.

20 Ms. Williamson, do you mind picking those up.
21 Thank you, Mr. Ramsey.

22 MR. ROBERT RAMSEY: You're very welcome,
23 thank you.

24 THE CHAIRPERSON: Ms. Everard, do we have
25 anything else that should concern ourselves today?

1 MS. CANDACE EVERARD: Not to my knowledge,
2 sir.

3 THE CHAIRPERSON: Okay.

4 MR. KEVIN MCCULLOCH: If I could, Mr. Chair.

5 THE CHAIRPERSON: Mr. McCulloch...?

6 MR. KEVIN MCCULLOCH: Mr. Chairman, I had one
7 (1) more. It's not a formal undertaking that -- that's
8 listed in -- in the transcript, but there was some discussion
9 a couple of days ago about the exemption of the extra-
10 provincial long haul truckers from the PIPP program, and I
11 have that information that I would file as Exhibit Number 20,
12 MPI Exhibit Number 20.

13 THE CHAIRPERSON: Very good, thank you very
14 much.

15

16 --- EXHIBIT NO. MPI-20: Information regarding exemption
17 of extra-provincial long haul
18 trucks from the PIPP Program.

19

20 THE CHAIRPERSON: So we stand adjourned then
21 until Monday morning at nine o'clock and at that time we'll
22 continue the cross-examination of MPI. I think we were
23 beginning with Mr. Roberts. Thank you.

24 Thank you, Mr. Oakes...?

25 MR. RAYMOND OAKES: Thank you, Mr. Chairman,

1 I think that I'm still doing my cross-examination, I just
2 have probably half hour --

3 THE CHAIRPERSON: Keep track of the time.

4 MR. RAYMOND OAKES: -- to wrap up.

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6 --- Upon adjourning at 4:38 p.m.

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9 Certified Correct

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Carol Wilkinson

18 Court Reporter

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