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MANITOBA PUBLIC UTILITIES BOARD

Re: TO DETERMINE MAXIMUM FEES  
FOR PAYDAY LOANS

Before Board Panel:

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

HELD AT:

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

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

2

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

6

7 (BRIEF PAUSE)

8

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

11

12 (BRIEF PAUSE)

13

14 CANADIAN PAYDAY LOANS ASSOCIATION PANEL

15

16 NORMAN BISHOP, Resumed

17 HONOURABLE STAN KEYES, Resumed

18 LAWRENCE GOULD, Resumed

19 DEAN SCHINKEL, Resumed

20

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

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

1

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

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

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

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

16 And then we can move ahead.

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

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

25 One of the things is it's important to

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

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

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

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

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

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

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

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

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

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

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

1 Nova Scotia.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25                   And just one further thought, when you

1 asked me also about the court decisions that would -- do  
2 not allow lenders to go through the small claims court.

3                   Once again, once legislation comes through  
4 if, in fact, that's a problem in the Province of Manitoba  
5 once legislation is in place, that will be removed, as  
6 well. Though at the end of the day, I -- I don't think,  
7 because of the small size of loans, that has much of  
8 affect on -- it's not much of a -- an option for  
9 collecting arrears, in any event, but just a comment  
10 worth noting.

11                   And those are my comments. Thank you.

12

13                   (BRIEF PAUSE)

14

15                   MR. ALLAN FORAN: So that concludes the  
16 introductory evidence of CPLA, which is an overview of  
17 the prefilled evidence. My understanding is the prefilled  
18 evidence is, in fact, an exhibit before the panel, as are  
19 the Information Requests and answers.

20                   There is one area of clarification that  
21 I'd just like to raise now, as I mentioned, and that's  
22 the Deloitte Touche report.

23                   What I'd like to do is just, for Board  
24 counsel's perspective -- and specifically, I'm looking at  
25 PUB/CPLA-2-10. There is one (1) amendment that needs to

1 be made in that answer.

2

3

(BRIEF PAUSE)

4

5

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

9

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

13

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

17

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

23

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

25

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

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

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

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

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

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

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

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

6                   MR. DEAN SCHINKEL: Yes.

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

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

15                   MR. DEAN SCHINKEL: Correct.

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

20                   MR. DEAN SCHINKEL: Correct.

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

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

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

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

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

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

13

14   (BRIEF PAUSE)

15

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

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

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

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

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

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

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

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

21

22 CONTINUED BY MR. ALLAN FORAN:

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

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

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

7

8 (BRIEF PAUSE)

9

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

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

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

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

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

25 I -- the legislation will not be

1 retroactive or is not retroactive.

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

4

5 CONTINUED CROSS-EXAMINATION BY MS. ANITA SOUTHALL:

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

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

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

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

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

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

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

1 HONOURABLE STAN KEYES: No, it has not.

2

3 (BRIEF PAUSE)

4

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

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

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

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

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

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

21

22 (BRIEF PAUSE)

23

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

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

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

7 MR. DEAN SCHINKEL: Yes.

8

9 (BRIEF PAUSE)

10

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

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

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

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

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

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

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

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

8

9 (BRIEF PAUSE)

10

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

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

19 MR. DEAN SCHINKEL: No.

20

21 (BRIEF PAUSE)

22

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

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

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

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

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

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

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

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

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

1 there wasn't any assignments.

2

3

(BRIEF PAUSE)

4

5

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

8

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

13

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

17

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

21

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

25

My office had suggested Deloitte and

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

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

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

10 MS. ANITA SOUTHALL: Yes.

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

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

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

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

22 MR. DEAN SCHINKEL: I will --

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

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

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

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

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

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

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

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

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

1 Manitoba?

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

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

12

13 CONTINUED BY MS. ANITA SOUTHALL:

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

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

19 MR. DEAN SCHINKEL: Yes.

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

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

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

4 MR. DEAN SCHINKEL: Yes.

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

11 Do you see that?

12 MR. DEAN SCHINKEL: Correct.

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

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

20

21 (BRIEF PAUSE)

22

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

1 MR. DEAN SCHINKEL: Yes.

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

8 MR. DEAN SCHINKEL: Yes.

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

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

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

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

24

25 (BRIEF PAUSE)

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

4

5 (BRIEF PAUSE)

6

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

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

14 Do you see that?

15 MR. DEAN SCHINKEL: Yes.

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

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

20

21 (BRIEF PAUSE)

22

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

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

2 MS. ANITA SOUTHALL: Is that --

3 MR. DEAN SCHINKEL: -- that --

4 MS. ANITA SOUTHALL: -- accurate?

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

6 understanding, yes.

7

8 (BRIEF PAUSE)

9

10 THE CHAIRPERSON: Excuse me, Ms.

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

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

13 is it not?

14

15 (BRIEF PAUSE)

16

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

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

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

20 wholly owned subsidiary.

21

22 CONTINUED BY MS. ANITA SOUTHALL:

23 MS. ANITA SOUTHALL: Sir, turning to

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

25 heading "Phase IV: Preparation of Draft and Final

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

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

10 Do you see that?

11 MR. DEAN SCHINKEL: Yes.

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

14 MR. DEAN SCHINKEL: Yes, standard --

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

17 MR. DEAN SCHINKEL: Yes.

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

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

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

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

6

7

(BRIEF PAUSE)

8

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

12 MR. DEAN SCHINKEL: Right.

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

17 MR. DEAN SCHINKEL: So --

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

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

22 MS. ANITA SOUTHALL: -- condition --

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

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

1 MR. DEAN SCHINKEL: Sorry, go ahead.

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

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

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

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

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

23 MR. DEAN SCHINKEL: Correct.

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

1 Is that the survey instrument that Deloitte prepared?

2 MR. DEAN SCHINKEL: Yes.

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

6 MR. DEAN SCHINKEL: Yes.

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

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

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

13 MR. DEAN SCHINKEL: Sure.

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

16 MR. DEAN SCHINKEL: Yes, August 27<sup>th</sup>.

17

18 (BRIEF PAUSE)

19

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

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

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

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

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

11 MS. ANITA SOUTHALL: Thank you.

12

13 (BRIEF PAUSE)

14

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

19 MR. DEAN SCHINKEL: Yes.

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

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

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

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

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

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

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

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

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

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

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

23 MR. DEAN SCHINKEL: Right.

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

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

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

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

15 MR. DEAN SCHINKEL: Yes.

16 MS. ANITA SOUTHALL:

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

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

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

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

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

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

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

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

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

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

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

1 could say it was representative, no.

2

3 (BRIEF PAUSE)

4

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

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

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

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

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

21

22 (BRIEF PAUSE)

23

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

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

3 I think I've got that correct?

4 MR. DEAN SCHINKEL: Correct.

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

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

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

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

15 MR. DEAN SCHINKEL: No.

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

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

25 And also just that, you know, we were

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

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

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

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

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

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

25 MS. ANITA SOUTHALL: Would it have been

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

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

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

10

11 (BRIEF PAUSE)

12

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

18 Is that right?

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

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

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

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

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

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

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

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

1 (BRIEF PAUSE)

2

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

7 Is that fair?

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

13

14 (BRIEF PAUSE)

15

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

21 Do you see that?

22 MR. DEAN SCHINKEL: Yes.

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

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

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

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

8 MR. DEAN SCHINKEL: Sure.

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

14 Is that right?

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

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

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

1 forward for this Hearing.

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

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

10

11 (BRIEF PAUSE)

12

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

18 Do you see that?

19 MR. DEAN SCHINKEL: Yes.

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

24 Do you see that?

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

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

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

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

9 MR. DEAN SCHINKEL: No.

10

11 (BRIEF PAUSE)

12

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

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

18 Do you see that intro?

19 MR. DEAN SCHINKEL: Yes.

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

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

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

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

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

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

15

16                   (BRIEF PAUSE)

17

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

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

1 believe it's the same confidentiality reasons you  
2 highlighted earlier. So I'm just going to -- I'm just  
3 going to take you through those.

4 So first, on the first page of Tab 31,  
5 PUB/CPLA-B-25, we asked you to provide a complete list of  
6 all companies which were considered in the survey, and  
7 that was declined, right?

8 MR. DEAN SCHINKEL: Correct.

9 MS. ANITA SOUTHALL: On the next page of  
10 that tab, PUB/CPLA-B-28, we asked:

11 "Without identifying the participants,  
12 please provide the amounts and relative  
13 weightings of each line for the  
14 multiline business."

15 And that information wasn't provided,  
16 correct? Due to confidentiality reasons?

17 MR. DEAN SCHINKEL: Correct. The amounts  
18 were not provided for those reasons.

19 MS. ANITA SOUTHALL: On the next page,  
20 which would be PUB -- sorry, the -- the question I just  
21 referenced was sub (a). The next one would PUB/CPLA-B-  
22 28©, which was on the next page of the tab. At the top  
23 of the page, the question was:

24 "Without identifying the participants,  
25 please provide a schedule which

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

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

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

15 And the answer provided was that:

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

19 Do you see that?

20 MR. DEAN SCHINKEL: Yes.

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

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

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

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

8 MR. DEAN SCHINKEL: Correct.

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

13 Again, that was declined due to  
14 confidentiality?

15 MR. DEAN SCHINKEL: Correct.

16

17 (BRIEF PAUSE)

18

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

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

1 collected?"

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

5 MR. DEAN SCHINKEL: Correct.

6

7 (BRIEF PAUSE)

8

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

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

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

25 MS. ANITA SOUTHALL: Well sir, will

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

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

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

13

14   (BRIEF PAUSE)

15

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

18

19   (BRIEF PAUSE)

20

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

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

1 (BRIEF PAUSE)

2

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

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

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

15 Correct?

16 MR. DEAN SCHINKEL: Correct.

17

18 (BRIEF PAUSE)

19

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

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

25 MS. ANITA SOUTHALL: -- the change that

1 you would have been referring to?

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

4 MS. ANITA SOUTHALL: Thank you.

5

6 (BRIEF PAUSE)

7

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

13 Do you see that reference?

14 MR. DEAN SCHINKEL: Yes.

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

18 MR. DEAN SCHINKEL: Yes.

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

21

22 (BRIEF PAUSE)

23

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

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

3 MR. DEAN SCHINKEL: Yes.

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

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

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

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

15

16 (BRIEF PAUSE)

17

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

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

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

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

3

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

9

10                                   (BRIEF PAUSE)

11

12 CONTINUED BY MS. ANITA SOUTHALL:

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

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

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

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

1 to get a complete list of all.

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

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

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

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

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

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

16 MR. DEAN SCHINKEL: Right.

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

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

23 MS. ANITA SOUTHALL: Yes. Thank you.

24

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

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

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

7  
8 (BRIEF PAUSE)

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

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

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

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

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

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

24  
25 CONTINUED BY MS. ANITA SOUTHALL:

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

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

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

12 Do you see that reference?

13 MR. DEAN SCHINKEL: Yes.

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

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

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

24 MR. DEAN SCHINKEL: No.

25 MS. ANITA SOUTHALL: In the Executive

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

2 "In all instances..."

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

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

9 Do you see that?

10 MR. DEAN SCHINKEL: Yes.

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

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

18 Is that -- is that the same concept?

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

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

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

3 MR. DEAN SCHINKEL: Correct.

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

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

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

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

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

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

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

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

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

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

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

10

11 (BRIEF PAUSE)

12

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

17 Is that correct?

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

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

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

25 MS. ANITA SOUTHALL: And so you adopted

1 that methodology --

2 MR. DEAN SCHINKEL: Right.

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

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

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

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

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

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

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

25 MS. ANITA SOUTHALL: And are there any

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

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

7

8 (BRIEF PAUSE)

9

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

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

19

20 (BRIEF PAUSE)

21

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

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

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

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

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

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

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

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

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

1 states:

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

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

12 MR. DEAN SCHINKEL: Correct.

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

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

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

23 MR. DEAN SCHINKEL: No.

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

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

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

4

5 (BRIEF PAUSE)

6

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

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

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

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

22 MS. ANITA SOUTHALL: Thank you.

23

24 (BRIEF PAUSE)

25

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

3

4 (BRIEF PAUSE)

5

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

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

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

15

16 (BRIEF PAUSE)

17

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

1 MR. DEAN SCHINKEL: Correct.

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

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

12 MR. DEAN SCHINKEL: Yes.

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

16 MR. DEAN SCHINKEL: Yes.

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

21 MR. DEAN SCHINKEL: Correct.

22 MS. ANITA SOUTHALL: Is that true?

23 MR. DEAN SCHINKEL: Correct.

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

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

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

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

11

12 (BRIEF PAUSE)

13

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

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

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

25 MR. DEAN SCHINKEL: Just again refer me

1 to the Deloitte report where it discusses that?

2

3

(BRIEF PAUSE)

4

5

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

9

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

11

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

15

16

(BRIEF PAUSE)

17

18

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

21

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

25

So the end -- the description in here does

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

3 MS. ANITA SOUTHALL: Okay, thank you.

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

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

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

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

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

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

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

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

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

3 MR. DEAN SCHINKEL: No.

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

6 MR. DEAN SCHINKEL: Yeah.

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

11

12 (BRIEF PAUSE)

13

14 CONTINUED BY MS. ANITA SOUTHALL:

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

20 MR. DEAN SCHINKEL: It would be --

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

23 MR. DEAN SCHINKEL: It was considered.

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

1 an adjustment.

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

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

6

7 (BRIEF PAUSE)

8

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

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

17 MR. DEAN SCHINKEL: Correct.

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

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

1 decline to answer that for confidentiality.

2

3 (BRIEF PAUSE)

4

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

7

8 (BRIEF PAUSE)

9

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

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

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

20 Do you see those references?

21 MR. DEAN SCHINKEL: Yes.

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

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

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

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

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

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

15

16 (BRIEF PAUSE)

17

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

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

23

24 (BRIEF PAUSE)

25

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

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

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

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

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

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

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

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

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

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

5

6                                   (BRIEF PAUSE)

7

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

12

13                                   (BRIEF PAUSE)

14

15 CONTINUED BY MS. ANITA SOUTHALL:

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

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

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

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

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

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

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

11

12 (BRIEF PAUSE)

13

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

19

20 (BRIEF PAUSE)

21

22 MR. DEAN SCHINKEL: Yes.

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

1 page 1.

2

3

(BRIEF PAUSE)

4

5

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

7

MR. DEAN SCHINKEL: Yes.

8

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

13

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

17

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

19

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

23

Can you -- can you make that comparison?

24

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

1 business, the far right column.

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

6 MR. DEAN SCHINKEL: Correct.

7

8 (BRIEF PAUSE)

9

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

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

16

17 (BRIEF PAUSE)

18

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

21

22 (BRIEF PAUSE)

23

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



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

4 MR. DEAN SCHINKEL: Okay.

5

6 (BRIEF PAUSE)

7

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

11 MR. DEAN SCHINKEL: Yes.

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

16 MR. DEAN SCHINKEL: Yes.

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

19

20 (BRIEF PAUSE)

21

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

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

1 ways to interpret things.

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

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

9

10   (BRIEF PAUSE)

11

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

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

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

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

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

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

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

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

14

15                   (BRIEF PAUSE)

16

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

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

1 did not look at public company data.

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

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

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

11

12 (BRIEF PAUSE)

13

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

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

19

20 (BRIEF PAUSE)

21

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

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

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

3 That is small, is it not?

4

5 (BRIEF PAUSE)

6

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

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

12

13 (BRIEF PAUSE)

14

15 CONTINUED BY MS. ANITA SOUTHALL:

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

19 MR. DEAN SCHINKEL: Yes.

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

25 MR. DEAN SCHINKEL: Correct.

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

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

6

7 (BRIEF PAUSE)

8

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

11

12 (BRIEF PAUSE)

13

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

18 MR. DEAN SCHINKEL: Right.

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

21 MR. DEAN SCHINKEL: Yes.

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

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

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

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

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

19

20 (BRIEF PAUSE)

21

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

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

1 cheaper financing alternative.

2

3

(BRIEF PAUSE)

4

5

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

10

Is that -- am I recalling that right?

11

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

13

14

(BRIEF PAUSE)

15

16

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

19

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

21

22

(BRIEF PAUSE)

23

24

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

1 significance of that?

2 In other words, by proportion?

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

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

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

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

15

16 (BRIEF PAUSE)

17

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

22 MR. DEAN SCHINKEL: Exactly, yes.

23

24 (BRIEF PAUSE)

25

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

4 MR. DEAN SCHINKEL: I think --

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

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

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

15 MS. ANITA SOUTHALL: And, sir --

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

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

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

24 MR. DEAN SCHINKEL: I haven't.

25 MS. ANITA SOUTHALL: -- have you a

1 comment on that, sir?

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

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

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

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

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

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

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

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

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

15                   MR. DEAN SCHINKEL: Yes.

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

21                   MR. DEAN SCHINKEL: Correct.

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

25                   MR. DEAN SCHINKEL: No, I never

1 investigated that.

2

3

(BRIEF PAUSE)

4

5

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

8

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

11

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

14

MS. ANITA SOUTHALL: Well I'm asking.

15

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

20

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

25

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



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

4 Do you recall that, sir?

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

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

12

13 (BRIEF PAUSE)

14

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

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

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

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

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

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

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

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

18

19 (BRIEF PAUSE)

20

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

23

24 (BRIEF PAUSE)

25

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

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

9 MR. DEAN SCHINKEL: Correct.

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

13 MR. DEAN SCHINKEL: Correct.

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

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

22 MS. ANITA SOUTHALL: -- information?

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

1 (BRIEF PAUSE)

2

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

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

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

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

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

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

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

25 MR. DEAN SCHINKEL: Okay. Okay, I

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

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

5 MR. DEAN SCHINKEL: Yes.

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

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

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

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

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

25 MS. ANITA SOUTHALL: So in your analysis,

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

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

6 (BRIEF PAUSE)

7  
8 MS. ANITA SOUTHALL: Thank you for that,  
9 sir, I was attempting to locate a reference to another  
10 excerpt of the Ernst & Young study. If -- if I could  
11 direct you back to -- I'm not sure even if you have  
12 access to it in front of you. I need you to locate Tab 9  
13 in our reference materials, so I'm going to locate that  
14 for you.

15  
16 (BRIEF PAUSE)

17  
18 MR. DEAN SCHINKEL: Tab 9, I believe I  
19 have it.

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

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

25

1 (BRIEF PAUSE)

2

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

6

7 (BRIEF PAUSE)

8

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

12

13 (BRIEF PAUSE)

14

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

17 MR. DEAN SCHINKEL: Okay.

18 MS. ANITA SOUTHALL: Do you see that?

19 MR. DEAN SCHINKEL: Yep.

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

25 Do you see that entry of four dollars

1 forty-seven cents (\$4.47)?

2 MR. DEAN SCHINKEL: Yes.

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

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

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

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

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

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

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

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

3

4 (BRIEF PAUSE)

5

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

9 MR. DEAN SCHINKEL: Correct.

10

11 (BRIEF PAUSE)

12

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

15 Do you have that handy?

16 MR. DEAN SCHINKEL: Yes. Yep.

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

22 Correct?

23 MR. DEAN SCHINKEL: Correct.

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

1 lending for the operators in the survey sample?

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

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

7 MR. DEAN SCHINKEL: Correct.

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

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

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

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

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

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

1 weightings from different --

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

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

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

7

8 (BRIEF PAUSE)

9

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

14 MR. DEAN SCHINKEL: Yes.

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

19 MR. DEAN SCHINKEL: Yes.

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

23 MR. DEAN SCHINKEL: Yes.

24

25 (BRIEF PAUSE)

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

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

8

9 (BRIEF PAUSE)

10

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

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

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

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

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

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

13

14   (BRIEF PAUSE)

15

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

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

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

3                   MR. DEAN SCHINKEL:    Correct.

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

9                   MR. DEAN SCHINKEL:    Correct.

10

11                                   (BRIEF PAUSE)

12

13

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

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

19                   MR. DEAN SCHINKEL:    Correct.

20

21                                   (BRIEF PAUSE)

22

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

25                   MR. DEAN SCHINKEL:    So, as explained in

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

3 MS. ANITA SOUTHALL: Absolutely. Tab 32.

4

5 (BRIEF PAUSE)

6

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

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

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

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

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

25

1 (BRIEF PAUSE)

2

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

8 MR. DEAN SCHINKEL: Yes.

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

13 MR. DEAN SCHINKEL: Correct.

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

17 MR. DEAN SCHINKEL: Correct.

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

22 MR. DEAN SCHINKEL: Correct.

23

24 (BRIEF PAUSE)

25

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

3

4 (BRIEF PAUSE)

5

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

9 MR. DEAN SCHINKEL: Yes.

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

13 Do you see that graph, sir?

14 MR. DEAN SCHINKEL: Yes.

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

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

21

22 (BRIEF PAUSE)

23

24 MR. ALLAN FORAN: Agreed.

25 MS. ANITA SOUTHALL: Okay, we would

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

3 MR. DEAN SCHINKEL: Agreed.

4

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

12

13 (BRIEF PAUSE)

14

15 CONTINUED BY MS. ANITA SOUTHALL:

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

20 Do you see that?

21 MR. DEAN SCHINKEL: Yes.

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

1 MR. DEAN SCHINKEL: Correct.

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

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

10 MS. ANITA SOUTHALL: Right.

11 MR. DEAN SCHINKEL: Yes.

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

14 MR. DEAN SCHINKEL: Okay.

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

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

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

1 average?

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

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

6 MR. DEAN SCHINKEL: A middle number?

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

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

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

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

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

18 MR. DEAN SCHINKEL: Correct.

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

21 MR. DEAN SCHINKEL: Correct.

22 MS. ANITA SOUTHALL: Thank you.

23

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

1 plot points on the graph

2

3 (BRIEF PAUSE)

4

5 CONTINUED BY MS. ANITA SOUTHALL:

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

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

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

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

20

21 (BRIEF PAUSE)

22

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

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

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

9

10 (BRIEF PAUSE)

11

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

15 MR. DEAN SCHINKEL: Okay.

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

19 MR. DEAN SCHINKEL: Okay.

20

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

1 (BRIEF PAUSE)

2

3 CONTINUED BY MS. ANITA SOUTHALL:

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

9 MR. DEAN SCHINKEL: Okay.

10

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

14

15 (BRIEF PAUSE)

16

17 CONTINUED BY MS. ANITA SOUTHALL:

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

22 MR. DEAN SCHINKEL: Yes.

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

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

3 Is that correct?

4 MR. DEAN SCHINKEL: Correct.

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

11 MR. DEAN SCHINKEL: Correct.

12

13 (BRIEF PAUSE)

14

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

18 MR. DEAN SCHINKEL: Yes.

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

22 MR. DEAN SCHINKEL: Correct.

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

1 (100), correct?

2 MR. DEAN SCHINKEL: Correct.

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

6 MR. DEAN SCHINKEL: Approximately, yes.

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

10 MR. DEAN SCHINKEL: Correct.

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

14 MR. DEAN SCHINKEL: Correct.

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

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

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

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

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

4

5 (BRIEF PAUSE)

6

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

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

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

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

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

17 MR. DEAN SCHINKEL: Okay.

18 MS. ANITA SOUTHALL: Thank you.

19

20 (BRIEF PAUSE)

21

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

25 When you are looking on page 12 of your

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

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

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

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

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

15 THE CHAIRPERSON: Thank you.

16

17 CONTINUED BY MS. ANITA SOUTHALL:

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

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

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

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

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

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

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

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

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

25                   MR. DEAN SCHINKEL: Again, if you took

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

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

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

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

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

14

15 (BRIEF PAUSE)

16

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

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

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

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

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

8

9 (BRIEF PAUSE)

10

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

14 MR. DEAN SCHINKEL: And actually --

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

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

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

21 MR. DEAN SCHINKEL: Thank you.

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

25 Or do you have more?

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

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

5 MS. ANITA SOUTHALL: That's fine.

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

8 MS. ANITA SOUTHALL: Thank you.

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

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

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

15  
16 (BRIEF PAUSE)

17  
18 CONTINUED BY MS. ANITA SOUTHALL:

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

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

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

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

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

11 Do you see that?

12 DR. LAWRENCE GOULD: Yes, I do.

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

17 DR. LAWRENCE GOULD: Yes.

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

20 DR. LAWRENCE GOULD: Correct.

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

23 Do you see that?

24 DR. LAWRENCE GOULD: Yes.

25 MS. ANITA SOUTHALL: And what do you mean

1 by that, sir?

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

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

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

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

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

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

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

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

1 your report, please?

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

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

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

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

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

21 DR. LAWRENCE GOULD: It is.

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

1 Do you agree?

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

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

13 Isn't that right?

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

20 I don't like annualizing it, and the  
21 example I gave yesterday was the hotel room cost. It  
22 just doesn't make any sense to me. There's no context  
23 for it.

24 MS. ANITA SOUTHALL: And if a consumer  
25 wanted to compare that loan cost to a line of credit

1 advance, let's say, how would they easily obtain the cost  
2 of a line of credit advance from their bank or credit  
3 union in terms of a specific dollar amount over a two (2)  
4 week period?

5 DR. LAWRENCE GOULD: Well, they -- they  
6 would be able to calculate exactly what the dollar costs  
7 of that advance would be, and that could be compared to  
8 the cost of the payday loan.

9 MS. ANITA SOUTHALL: So that would  
10 require a calculation taking their line of credit, for  
11 example, on a percentage basis and working their own  
12 numbers out to get back to an absolute dollar figure over  
13 a two (2) week period?

14 DR. LAWRENCE GOULD: Yes, or -- which is  
15 no worse than taking the dollar figure of the payday loan  
16 and trying to convert it into some sort of percentage.  
17 You could do it either way, I guess.

18 MS. ANITA SOUTHALL: From a consumer  
19 point of view, sir, I take it you would agree that more  
20 disclosure and more information is better when the person  
21 is attempting to weigh their options in terms of  
22 borrowing and analyze the cost?

23 DR. LAWRENCE GOULD: I would definitely  
24 agree. The more information the better.

25 MS. ANITA SOUTHALL: Could I just use

1 another example, a credit card borrowing from on -- on a  
2 major credit card?

3                   Again that's, I take it, normally the --  
4 the loan agreement would be on an annual percentage rate  
5 basis. And you then be required to do a calculation to  
6 come to an absolute dollar amount for a certain value of  
7 advance over a two (2) week period?

8                   DR. LAWRENCE GOULD: Yes, but,  
9 interestingly enough, for -- for the credit cards they --  
10 they quote the rate -- they don't quote the rate on an  
11 annual basis for the calculation, although they do  
12 provide -- they provide a -- an annual cost. But they  
13 quote it in terms of cost per month, percentage cost per  
14 month.

15                   MS. ANITA SOUTHALL: At page 5 of your  
16 report, sir, you make reference to the mortgage example  
17 in terms of the administration fee cost at the bottom of  
18 the page.

19                   Do you see that, sir?

20                   DR. LAWRENCE GOULD: Yes, I do.

21                   MS. ANITA SOUTHALL: And you agree that a  
22 mortgage is not a comparable product to a payday loan  
23 product, correct?

24                   DR. LAWRENCE GOULD: Correct. All I was  
25 doing in this paragraph was trying to illustrate the

1 effect of size.

2 MS. ANITA SOUTHALL: Right, well one  
3 other thing I think you were attempting to illustrate was  
4 the value of the administration fee over the cost of the  
5 product for the loan, correct?

6 DR. LAWRENCE GOULD: Yes, but that's what  
7 I mean by size. That because of the small payday loan  
8 size, an administrative cost has a much bigger effect  
9 than it would on a large mortgage in terms of percentage  
10 costs.

11 MS. ANITA SOUTHALL: Right, and if  
12 someone was taking out a number of payday loans in a one  
13 (1) year period, they would be paying the administration  
14 fee every time they went in to take out another loan.

15 Do you understand that to be the case?

16 DR. LAWRENCE GOULD: It would be -- yes.  
17 It would be -- as a -- as a cost, it would be higher.

18

19 (BRIEF PAUSE)

20

21 MS. ANITA SOUTHALL: And, sir, whatever a  
22 payday lender identifies as the charge for a particular  
23 loan, the total cost of borrowing is what the consumer  
24 needs to know in order to compare the loan product to any  
25 other loan product.

1 Do you agree?

2 DR. LAWRENCE GOULD: The total cost, yes.

3 MS. ANITA SOUTHALL: So if the borrower  
4 is required to pay an administration fee or a cheque  
5 cashing fee or any other type of fee to obtain the payday  
6 loan, that should be factored into the analysis for their  
7 total cost of borrowing.

8 Do you agree?

9 DR. LAWRENCE GOULD: I would agree.

10

11 (BRIEF PAUSE)

12

13 MS. ANITA SOUTHALL: Sir, historically,  
14 annual percentage rates have been a measure of loan  
15 products long before the payday lending industry started  
16 in Canada.

17 Do you agree?

18 DR. LAWRENCE GOULD: Yes. Usually for  
19 loans of a year or more.

20

21 (BRIEF PAUSE)

22

23 MS. ANITA SOUTHALL: Consumers understand  
24 an -- annual percentage rate, generally speaking. Would  
25 you agree?

1 DR. LAWRENCE GOULD: Yes.

2

3 (BRIEF PAUSE)

4

5 MS. ANITA SOUTHALL: Dr. Gould, could you  
6 turn to page 6 of your report please, sir.

7 And in your conclusions, you turn to --  
8 what I understood from your oral evidence and from your  
9 written report -- the focus on the problem of determining  
10 the fee necessary to cover the cost of the payday loan  
11 and provide a fair rate of return on capital to the  
12 payday loan companies.

13 That -- that becomes the focus. After  
14 examining the difficulty of the interest rate issue that  
15 we've just covered, you then indicate that the focus will  
16 be on determining the fee necessary to cover the cost of  
17 the payday loan and provide a fair rate of return on  
18 capital to the payday loan companies.

19 Correct?

20 DR. LAWRENCE GOULD: Correct. For --  
21 from the per -- from my point of view in this report,  
22 that's what I was trying to do.

23

24 (BRIEF PAUSE)

25

1 MS. ANITA SOUTHALL: It may be as a  
2 result of the nature of your engagement, sir, and -- and  
3 if it is, you know, please indicate that.

4 But I don't see anything in your report  
5 that indicates the interests or the concerns of borrowers  
6 or what their place in the loan transaction is in terms  
7 of the rate recommendation that you've made.

8 DR. LAWRENCE GOULD: Well, I -- I think  
9 it's implicit in the statement of fair rate of return on  
10 capital.

11 MS. ANITA SOUTHALL: Well, maybe you  
12 could elaborate on that then, sir?

13 DR. LAWRENCE GOULD: Well, in other  
14 words, it's trying to establish a rate that pro --  
15 provides fair -- fair means, fair both to the borrower  
16 and lender.

17 That -- that would be my definition of  
18 fair.

19

20 (BRIEF PAUSE)

21

22 MS. ANITA SOUTHALL: Now, sir, if you  
23 could turn to page 7 of your report under the heading,  
24 "III: Problems in Regulating Payday Loan Fees."

25 DR. LAWRENCE GOULD: Yes.

1 MS. ANITA SOUTHALL: You close off that  
2 paragraph by saying that there are differences, and --  
3 and maybe you're only referring to the sentences above  
4 that, but -- but you indicate:

5 "These differences indicate that  
6 regulating payday lending will involve  
7 difficult choices."

8 And I -- and you touched on this, I  
9 believe, when you were -- in your oral evidence, and  
10 certainly you've covered it in your report, I believe.  
11 But I just want to be clear I understand what you mean by  
12 difficult choices.

13 Is it the issue of that there are a group  
14 of companies with different structures and different  
15 costs of operations and that it will be difficult to set  
16 a rate that considers all of those various structures?

17 DR. LAWRENCE GOULD: That's correct.  
18 They have -- as a -- I was using the example of a public  
19 utility, a single monopoly provider of service. Here you  
20 have a group of companies, possibly different cost  
21 structures, different risks, different capital  
22 structures.

23 It is a difficult decision for the Board.

24 MS. ANITA SOUTHALL: And, sir, could you  
25 turn to page 9 of the report, please? This would be the

1 second full paragraph on the page.

2 And the paragraph starts out,

3 "The differences with the Public  
4 Utility case are apparent," --

5 DR. LAWRENCE GOULD: Yes.

6 MS. ANITA SOUTHALL: -- and then we --

7 and then you talk about -- and then you go into the fact  
8 that each company may have a different cost structure.

9 The -- the next sentences and the sentence  
10 after that are the ones that I want to key in on for the  
11 moment:

12 "A company may choose to provide  
13 service in a higher-cost location with  
14 longer hours of service with short wait  
15 times to high-risk borrowers. As a  
16 result it will have higher costs but it  
17 is not operating inefficiently."

18 Do you see that?

19 DR. LAWRENCE GOULD: Yes, I do.

20 MS. ANITA SOUTHALL: Could you explain  
21 what you mean by that statement?

22 DR. LAWRENCE GOULD: I think that  
23 companies can choose along different types of borrowers,  
24 that they can have more stringent requirements for  
25 granting a loan.

1                   Some may choose to lend to only the lower-  
2 risk borrowers. Others may be willing to take some cus -  
3 - some people for loans that other companies would  
4 reject. That may lead to higher costs.

5                   I don't consider that being inefficient.  
6 It means that they're providing a service to a different  
7 class or borrower.

8                   Similarly, providing longer hours of  
9 service is a choice that can be made at a higher cost.

10                   MS. ANITA SOUTHALL: And in the last line  
11 of that paragraph, sir, there's the statement:

12                                 "Second, each company may have a  
13                                 different fair rate of return depending  
14                                 on its own particular risk and capital  
15                                 structure."

16                   And, sir, if you wouldn't mind elaborating  
17 on what you mean in that statement?

18                   DR. LAWRENCE GOULD: Again, if a company  
19 chooses to make loans which are riskier than another  
20 company, they would increase their risk of bad debt loss  
21 and so on.

22                   If they choose to borrow, as opposed to  
23 use all equity, they will increase the risk as well  
24 through leverage. And both of those things affect both  
25 the cost of equity and the cost of debt.

1 (BRIEF PAUSE)

2

3 MS. ANITA SOUTHALL: And I take it from  
4 your earlier comment that in every one of those case,  
5 albeit that they are different, the fair rate of return  
6 on equity factors in the borrower's decision to source  
7 their loan at a particular entity regardless of the -- of  
8 the cost of the loan?

9 DR. LAWRENCE GOULD: I'm -- I got a  
10 little lost in your question. Could you repeat that  
11 again?

12 MS. ANITA SOUTHALL: Just drawing on your  
13 -- your early def -- earlier definition when asked about,  
14 Where does the borrower fit in the transaction?

15 And you indicated a fair rate of return  
16 takes into account fairness to the --

17 DR. LAWRENCE GOULD: Oh.

18 MS. ANITA SOUTHALL: -- borrower.

19 DR. LAWRENCE GOULD: So --

20 MS. ANITA SOUTHALL: So just -- just  
21 focusing back on that concept for a moment, the fact that  
22 there are a variety of different cost structures and a  
23 variety of different fair rates of return on capital for  
24 different operators of payday lenders, regardless of --  
25 of the fact that there is variability there, the -- the

1 fair rate of return in every instance will have  
2 incorporated in it fairness to the borrower as well?

3 DR. LAWRENCE GOULD: Correct.

4

5 (BRIEF PAUSE)

6

7 MS. ANITA SOUTHALL: Is it possible for  
8 you to give us a definition of "operational efficiency"  
9 in this industry?

10 The things that you would look for which  
11 would be hallmarks of efficiency versus some of this  
12 variability we've just been discussing?

13

14 (BRIEF PAUSE)

15

16 DR. LAWRENCE GOULD: Well I -- I didn't  
17 have any data on the individual company stores, so I  
18 really never addressed that issue in my report.

19 I imagine -- well, I'd just be speculating  
20 without any data that you could develop measures for the  
21 company in terms of their lending procedures and so on.  
22 But I didn't have that data.

23 MS. ANITA SOUTHALL: Are you able to  
24 identify -- I'm -- I'm talking now just in principle as  
25 opposed to any of the particular payday lenders operating

1 in Manitoba for instance at a higher level than that just  
2 in terms of the principles of operational efficiency.

3 It may not be so easy to define them  
4 without understanding the -- the industry that you're  
5 talking about. I'm not sure, so that's why I'm asking  
6 the question.

7 Are there hallmarks or factors that are  
8 normally considered for operational efficiency of a  
9 business?

10 And if so are you able to identify what  
11 one would look at?

12 DR. LAWRENCE GOULD: Well, as I said, you  
13 could certainly examine the lending and bad debts policy  
14 for the company.

15 You could -- if you had data to -- of what  
16 is efficient with respect to staff for volume of business  
17 and other indicators like that.

18 MS. ANITA SOUTHALL: Thank you for that,  
19 sir.

20 (BRIEF PAUSE)

21  
22 MS. ANITA SOUTHALL: Sir, at page 10 of  
23 your report, please? Towards the end of the paragraph  
24 you make an -- and again you did comment on this in your  
25 oral evidence.



1 MS. ANITA SOUTHALL: Thank you, Dr.  
2 Gould. I just wanted to take a moment to -- to consider  
3 the question I want to pose to you on consideration of  
4 the Ernst & Young report.

5 You did prepare certain tables in your  
6 PowerPoint presentation. And do you have a copy of that  
7 available to you?

8 DR. LAWRENCE GOULD: Yes, I do.

9 MS. ANITA SOUTHALL: If you could look at  
10 Slide Number 11? It's about page 6 considering, it's a  
11 two (2) sided document.

12

13 (BRIEF PAUSE)

14

15 DR. LAWRENCE GOULD: I have it.

16 MS. ANITA SOUTHALL: And, sir, I just  
17 want to direct your attention to the table you've  
18 included at Slide 11, the Ernst & Young Cost per hundred  
19 dollars of providing a payday loan by business size and  
20 type of average.

21 Do you see that?

22 DR. LAWRENCE GOULD: Yes.

23 MS. ANITA SOUTHALL: And I understand it  
24 to be your position that the unweighted average is the  
25 proper information to extract from the Ernst & Young

1 report when comparing it to the findings in the Deloitte  
2 report?

3 Is that fair?

4 DR. LAWRENCE GOULD: Yes. I -- I think  
5 that the -- there are uses for different types of  
6 averages. But from my point of view, the weighted  
7 average really, as I said, pushes toward the very large  
8 firms and is not indicative of the whole group of  
9 companies.

10

11 (BRIEF PAUSE)

12

13 MS. ANITA SOUTHALL: And the concept of  
14 large firms having lower operating cost than small firms,  
15 is that -- is that a function of their efficiency, Dr.  
16 Gould?

17 Or is that a -- are there other factors  
18 that contribute to that?

19 DR. LAWRENCE GOULD: It's certainly a --  
20 it is a function of the volume of their loans. By  
21 definition, they're defined as larger companies by their  
22 volumes, which does affect the cost.

23 I don't know whether that could be  
24 specific to efficiency or not. It is a -- a lower cost  
25 because of the higher volumes.

1 MS. ANITA SOUTHALL: Does that translate,  
2 Dr. Gould, into the large firms being able to offer  
3 payday loans at a lower rate than smaller businesses?

4 DR. LAWRENCE GOULD: To the extent that -  
5 - and -- and let me just clarify again.

6 Efficiency isn't the same as the lower  
7 cost in this case, if we're doing it on a volume basis.

8 To the extent that a large firm has higher  
9 volumes and can spread their fixed costs per store over a  
10 -- a larger base, it will reduce the cost.

11

12 (BRIEF PAUSE)

13

14 DR. LAWRENCE GOULD: And -- and just to  
15 add, I think if you -- the Ernst & Young data certainly  
16 provides that by different categories. You can see the  
17 costs decreasing.

18 MS. ANITA SOUTHALL: Meaning different  
19 categories of business size?

20 DR. LAWRENCE GOULD: Business size by  
21 volume, yes.

22

23 (BRIEF PAUSE)

24

25 MS. ANITA SOUTHALL: Dr. Gould, your rate

1 recommendation was a -- if I can use this phrase, a one  
2 (1) size fits all rate, I take it.

3 Like in your commentary yesterday, you  
4 weren't suggesting that there be a different rate for  
5 different sizes of business operating payday lending  
6 operations in Manitoba.

7 Correct?

8 DR. LAWRENCE GOULD: That's correct. My  
9 understanding was the Board was going to set a rate for  
10 the payday loan -- payday loans for the Province of  
11 Manitoba.

12 MS. ANITA SOUTHALL: Dr. Gould, could I  
13 ask you to turn to page 31 of your report, and it is  
14 Table 7.

15 Do you have that in front of you, sir?

16 DR. LAWRENCE GOULD: I do.

17 MS. ANITA SOUTHALL: Dr. Gould, if we  
18 draw a line across the graph, which shows various plot  
19 points, if we draw a line across at the twenty dollar  
20 (\$20) mark, is -- is it fair to say, based on your  
21 analysis, that every operator with costs above the line  
22 would not be able to have their costs and fair return  
23 covered and would likely exit the market?

24 If -- if -- sorry, and my -- my  
25 supposition is that twenty dollars (\$20) per hundred

1 (100) would -- would for - for example be the regulated  
2 cost.

3 DR. LAWRENCE GOULD: Whether they would  
4 exit the market or not is hard to say. They certainly  
5 would have to reduce their costs somehow, if possible.

6 And this gets back to your earlier  
7 question about efficiency, which I don't have the data  
8 for. But to the extent that they could -- that they do  
9 have room to tighten their belts, then they wouldn't have  
10 to exit the market.

11 But as a -- a basic answer to your  
12 question is if you don't allow -- if these were  
13 absolutely rock-bottom costs and accurate for each  
14 company and on a long-term basis, not just a -- as this  
15 point, and you set a rate below that, companies would not  
16 be able to survive.

17 MS. ANITA SOUTHALL: Thank you for that,  
18 sir. Now I'm going to ask you to reference page 16 of  
19 your report, and also then Table Number 8 of your report,  
20 which is at page 32.

21 And first of all, at page 16 of your  
22 report, in the last paragraph of that page -- and here  
23 you were in the section of your report talking about Dr.  
24 Robinson's analysis.

25 Do you recall that?

1 DR. LAWRENCE GOULD: Yes, I do.

2 MS. ANITA SOUTHALL: There is a reference  
3 to the -- in the last line, the statement:

4 "Therefore he analyzes rates with loan  
5 volumes of \$3 million and higher per  
6 store, stating the Money Mart and the  
7 Cash Store are almost at that level".

8 And I've -- I've not in -- read in the  
9 wording in brackets. Is -- is that a fair representation  
10 of what's in that line?

11 DR. LAWRENCE GOULD: Yes.

12 MS. ANITA SOUTHALL: Could we just turn  
13 to Table 8 then for a moment.

14

15 (BRIEF PAUSE)

16

17 DR. LAWRENCE GOULD: I -- I have it.

18 MS. ANITA SOUTHALL: Thank you, Dr.

19 Gould. Did you assemble the data in Table 8?

20 DR. LAWRENCE GOULD: Yes, I did.

21 MS. ANITA SOUTHALL: And -- and I take it  
22 that the table is intended to provide for consideration  
23 selected financial data for 2004 to 2007 for the Canadian  
24 operations of Dollar Financial Corp., which I understand  
25 to be Money Mart, correct?

1 DR. LAWRENCE GOULD: Well, Money Mart is  
2 a -- is a subsidiary of Dollar. So I did use Dollar  
3 Financial Corp. data for the Canadian operations, Money  
4 Mart.

5 I -- I only have financial data available  
6 from Dollar, consolidated data. And I performed, as I  
7 described, various operations to pull out the Canadian  
8 operations, which we would -- you would refer to as Money  
9 Mart.

10 MS. ANITA SOUTHALL: Which you understand  
11 to be Money Mart. But -- but you haven't been able to  
12 access Money Mart's direct reporting information --

13 DR. LAWRENCE GOULD: I just --

14 MS. ANITA SOUTHALL: -- I think that's  
15 your point.

16 DR. LAWRENCE GOULD: -- I just have  
17 what's in the -- in the 10K report.

18 MS. ANITA SOUTHALL: Thank you. And,  
19 sir, consumer loan originations, do you see that in the  
20 chart on Table 8 at the far left?

21 DR. LAWRENCE GOULD: Yes, I do.

22 MS. ANITA SOUTHALL: Do you understand  
23 that to be total dollar volume of payday lending products  
24 by the, what I'll -- what I will call the Money Mart  
25 operations in Canada?

1 DR. LAWRENCE GOULD: Yes.

2 MS. ANITA SOUTHALL: And three (3)  
3 columns to the right of that, on a per store basis  
4 consumer payday loans for Money Mart on a per store basis  
5 are -- \$2,919,000 in the reporting period for 2007,  
6 correct?

7 DR. LAWRENCE GOULD: That's correct.

8

9 (BRIEF PAUSE)

10

11 MS. ANITA SOUTHALL: Sir, are you able to  
12 use the information in Table 8 to identify the operating  
13 costs? I guess it would be -- sorry, pardon me for a  
14 moment.

15

16 (BRIEF PAUSE)

17

18 MS. ANITA SOUTHALL: Sorry about that,  
19 sir. What I was wondering is based on the information  
20 collected for the table, are you able to identify the  
21 total cost per hundred dollars (\$100) of loan or the  
22 operating costs for hundred dollars (\$100) of loan for  
23 the Money Mart operations?

24 DR. LAWRENCE GOULD: No, I don't have  
25 that information.

1 (BRIEF PAUSE)

2

3 MS. ANITA SOUTHALL: Are we able to  
4 obtain an -- an estimate of the costs by taking total  
5 expenses divided by loan volumes per store? Are we able  
6 to -- to do an estimate on that basis for cost purposes?

7 DR. LAWRENCE GOULD: I -- I wouldn't  
8 know. I think you would have to do, essentially, what  
9 Deloitte did or what Ernst & Young did in terms of  
10 looking at the specific breakdowns of the costs of  
11 providing those loans.

12 There's an awful -- you have to understand  
13 that there's a lot of difficulty in using data like this,  
14 because you're dealing with the consolidated operations  
15 of several different divisions.

16 You have to make a number of assumptions  
17 and conversions on a gross basis, and you don't have the  
18 specific numbers that they do when they go into the  
19 stores and look at these exact figures.

20

21 (BRIEF PAUSE)

22

23 MS. ANITA SOUTHALL: Dr. Gould, if you  
24 could just flip to Table 10 for a moment. I'm -- I'm  
25 wanting you to verify whether or not the cost analysis

1 that I was just talking about for the -- the Dollar  
2 Financial Canadian operations, whether that same cost  
3 calculation may be viable from the Rent Cash selected  
4 financial data represented in Table 10?

5 DR. LAWRENCE GOULD: I wouldn't attempt  
6 to use this data to try and derive the same statistic  
7 that the two (2) accounting firms did with their analysis  
8 of the specific stores. To me it wouldn't be accurate.

9 MS. ANITA SOUTHALL: So you weren't asked  
10 to provide in your report, then, the cost of loans per  
11 hundred dollars (\$100) for these publicly traded  
12 companies?

13 That -- that wasn't intended to be part of  
14 your analysis?

15 DR. LAWRENCE GOULD: My analysis, as I  
16 said, was to assist the Board in the determination of  
17 what the overall fees could do.

18 But I didn't have access to any of the  
19 companies' specific cost data. I really used the public  
20 data to assess how loan volumes and profitability had  
21 changed since the E&Y report had relied on those costs.

22 MS. ANITA SOUTHALL: So I think your  
23 answer to my question is, is yes, you were not asked to  
24 do the calculation I'm describing?

25 DR. LAWRENCE GOULD: I was not asked --

1 no, I was not asked to do that calculation.

2

3 (BRIEF PAUSE)

4

5 MS. ANITA SOUTHALL: So, Dr. Gould, I --  
6 I think -- and this -- and this harkens back to your  
7 comment of, I believe, a few moments ago that you're not  
8 able to provide an accurate cost figure along the lines  
9 of Ernst & Young or the Deloitte analysis by simply  
10 accessing public data?

11 You would need access to the -- the  
12 detailed data for the publicly traded companies in order  
13 to -- to provide something that was accurate?

14 DR. LAWRENCE GOULD: For me to be  
15 comfortable with it, that is correct.

16

17 (BRIEF PAUSE)

18

19 MS. ANITA SOUTHALL: And, Dr. Gould, I --  
20 if you could look at Table 8 for a moment, just as a  
21 point of reference, although I believe you've covered --  
22 covered it narratively in your report.

23 The profitability for the Money Mart  
24 operations for Dollar Financial in Canada, I -- I think  
25 your average estimate over the last three (3) years was a

1 return of investment of 14.1 percent?

2 DR. LAWRENCE GOULD: Yes.

3 MS. ANITA SOUTHALL: And a return on  
4 assets of 11.5 percent, averaged over the three (3)  
5 years?

6 May -- I may be able to direct you right  
7 to your report for that, just a moment.

8

9 (BRIEF PAUSE)

10

11 DR. LAWRENCE GOULD: Eleven point five  
12 (11.5) percent.

13

14 (BRIEF PAUSE)

15

16 MS. ANITA SOUTHALL: And then, sir, just  
17 turning to Table 10 on that same point. And I neglected,  
18 when we stopped at Table 10 previously, to ask you the  
19 same question about the term "consumer loan  
20 originations."

21 It means the same thing in the Rentcash  
22 data that it did in the Money Mart data, I take it?

23 DR. LAWRENCE GOULD: Yes.

24 MS. ANITA SOUTHALL: So on a per store  
25 basis for 2007, the indication is 1,431,000 loan volume

1 per store?

2 DR. LAWRENCE GOULD: Yes.

3 MS. ANITA SOUTHALL: And the average  
4 return on assets on the Rentcash data in Table 10 over  
5 the past three (3) years is 13 percent, sir? I  
6 apologize, no, that's probably wrong. I'm -- I'm looking  
7 at a 13 percent return on assets in 2007, 13.08 percent?

8 DR. LAWRENCE GOULD: Yes, that's right.

9 MS. ANITA SOUTHALL: The net profit  
10 margin for Rentcash for 2007 is seven point (7.) --

11 DR. LAWRENCE GOULD: Seven three (73),  
12 7.73 percent.

13 MS. ANITA SOUTHALL: -- 7.73 percent.  
14 Thank you. And that's down from 13.7 percent in 2006,  
15 correct?

16 DR. LAWRENCE GOULD: Yes.

17 MS. ANITA SOUTHALL: Do you know if that  
18 change in the Rentcash statistics is as a result of their  
19 elimination of rollovers in their business plan?

20 DR. LAWRENCE GOULD: It's certainly a  
21 major factor.

22

23 (BRIEF PAUSE)

24

25 MS. ANITA SOUTHALL: Sir, just give me a

1 moment, please, I am going to locate the pla -- pace --  
2 pardon me, place in your report I want to refer you to.

3

4

(BRIEF PAUSE)

5

6

7

8

MS. ANITA SOUTHALL: Yes, sir, if you  
could look at page 20 of your report, under the heading  
"The Deloitte Report 2007."

9

10

11

12

DR. LAWRENCE GOULD: Yes.

MS. ANITA SOUTHALL: You indicate at the  
last line of the second paragraph on that page, and  
referring to the Deloitte report here:

13

14

15

16

"It provides a current cost estimate of  
twenty-six dollars eighty-seven cents  
(\$26.87) for small payday loan  
companies in Manitoba."

17

18

19

20

And indicates that:

"The cost of these companies have  
increased since Ernst & Young report  
was published."

21

22

23

24

25

Do you see that?

DR. LAWRENCE GOULD: Yes, I do.

MS. ANITA SOUTHALL: You've -- you've  
heard the testimony and read the report, no doubt,  
associated with the limitations that are inherent in that

1 report as to size sample.

2           And as a result of the limited number of  
3 responses that came back, do you maintain that you're  
4 able to rely on the Deloitte report as the basis of -- of  
5 the current cost estimate of twenty-six dollars eighty-  
6 seven cents (\$26.87) for small payday loan companies in  
7 Manitoba as of 2007?

8           DR. LAWRENCE GOULD: I don't think I said  
9 that in the paragraph that you referred to. I think what  
10 I said was that that current cost estimate of twenty-six  
11 eighty-seven (26.87) indicates that the costs have  
12 increased. That's not the same as saying I would rely on  
13 that specific figure as the cost.

14           In other words -- if I could explain. I  
15 do have a concern with the -- a small sample. There's no  
16 question that it would be better to have those costs for  
17 the -- the entire group of companies in Manitoba. With a  
18 small sample a single company can influence the result,  
19 but -- and in that sense, and I think I said this later,  
20 I did not use it as the basis for a recommendation.

21           However, I think that you -- some data is  
22 always useful. You can look at this data and say: This  
23 seems to indicate the costs have increased, decreased, or  
24 remained the same.

25           And my interpretation from this is that

1 it's an indication that costs have increased, but I would  
2 not rely on the specific data as an estimate of what  
3 those costs are.

4 MS. ANITA SOUTHALL: Sir, is it possible  
5 to use the original Ernst & Young report and do some sort  
6 of inflationary calculation and productivity analysis  
7 over time to bring forward the value of the cost from the  
8 Ernst & Young study?

9 DR. LAWRENCE GOULD: It's -- it's  
10 difficult, because as -- we -- we really don't have very  
11 much information on -- on how costs have changed over  
12 that period for the payday loan companies, and just  
13 applying an inflation factor may not be indicative of  
14 what actually happened over that period.

15 MS. ANITA SOUTHALL: Thank you.

16 Thank you, Dr. Gould. Those are my  
17 questions directed to your attention.

18 DR. LAWRENCE GOULD: Thank you.

19 MS. ANITA SOUTHALL: I do have some  
20 questions for the general CPLA panel, so I'll just take a  
21 moment and organize myself for that, Mr. Chairman.

22 THE CHAIRPERSON: Sure. While you're  
23 doing it, I've got a couple for Dr. Gould as well.

24 Dr. Gould, Mr. Bishop earlier indicated  
25 that Canada's payday loan industry began, I think he said

1 in BC about 1995, and that it expanded rapidly since  
2 2000. I think that is what I gathered.

3 Do you know, or can you surmise, the  
4 causal factors that lead to the growth on both the supply  
5 and the demand side?

6 DR. LAWRENCE GOULD: It's not something  
7 that I've actually studied, but if you just want a quick  
8 impression, it would be that the banks and credit unions  
9 have not provided -- that they've moved away from  
10 providing small amount loans into other instruments,  
11 leaving that area of the market open.

12 And at the same time, certainly there have  
13 been branch closures, so that there are many conveniences  
14 of these payday loan companies.

15 But I have not actually undertaken a study  
16 to determine what caused that.

17 THE CHAIRPERSON: Thank you. Given that  
18 there are numerous firms in the market - Winnipeg in  
19 particular - with different costs, rates, hours, things  
20 that you were mentioning, delivery models, do you in  
21 principle see a need for government regulation?

22 DR. LAWRENCE GOULD: I think that the --  
23 I've taken it as a given that we're here because there is  
24 concern, and that the government feels that some form of  
25 regulation is beneficial, and I subscribe to that.

1 THE CHAIRPERSON: So then you think that  
2 regulation can have a legitimate role in a competitive  
3 market?

4 DR. LAWRENCE GOULD: Yes.

5 THE CHAIRPERSON: Dr. Gould, since there  
6 is no industry database for payday loan credit  
7 experience, and no trading of data -- this is our  
8 understanding, anyway, to date. So if we are wrong,  
9 please correct us.

10 So given there is no industry database for  
11 payday loan credit experience, no trading of data between  
12 the firms or between the industry and the general credit  
13 market, is it not to be expected that some borrowers will  
14 borrow from more than one (1) firm and amass debts to  
15 payday lenders that are beyond their capacity to pay?

16 DR. LAWRENCE GOULD: I don't know whether  
17 it's expected. It certainly could be possible for them  
18 to do that.

19 THE CHAIRPERSON: Wouldn't the present  
20 situation contribute to higher debt costs in the  
21 industry, and higher costs than necessary to be recovered  
22 from the borrowers themselves?

23 DR. LAWRENCE GOULD: Could you repeat  
24 that again?

25 THE CHAIRPERSON: Given that some

1 borrowers do borrow from more than one (1) payday  
2 lender, which we have heard of, okay, and given that  
3 there is no way that one (1) payday lender could know  
4 whether specifically -- other than asking the perspective  
5 borrower or from past experience -- whether they have  
6 other loans -- there is usually restrictions on the  
7 loans, like thirty (30) or 50 percent of the next  
8 paycheque to prevent excessive borrowing.

9 DR. LAWRENCE GOULD: Yes.

10 THE CHAIRPERSON: But given the lack of  
11 the trading of data, okay, even to normal credit bureaus,  
12 for example, would this not likely, in high probability,  
13 lead to higher excess debt costs for the industry as a  
14 whole?

15 And given your study, and that of Mr.  
16 Schinkel's, one of the arguments is that the average cost  
17 per loan needs to be recovered in a sense, okay. Does it  
18 not make that cost higher?

19

20 (BRIEF PAUSE)

21

22 DR. LAWRENCE GOULD: I -- I think the  
23 answer is it would make the high -- the cost higher, but  
24 I don't know how pervasive a problem this is in terms of  
25 how many people are really going to more than one payday

1 loan company and how much that would actually increase  
2 the default risk.

3                   And I guess it would have to balance out  
4 what the cost of building some sort of system to provide  
5 a database and whether the companies with their  
6 respective competitive positions would -- would or could  
7 be able to participate in that.

8                   THE CHAIRPERSON:    Thank you, Dr. Gould.  
9 And we do not know either.

10                   I take it you would acknowledge that a  
11 person with a line of credit from a bank can borrow a  
12 small amount for a limited period of time at a fraction  
13 of the cost of a payday loan.

14                   For example, for paydays perhaps one-one-  
15 hundredth (1/100) the cost?

16                   DR. LAWRENCE GOULD:    It would be cheaper.

17                   THE CHAIRPERSON:    But more than cheaper,  
18 like dramatically cheaper. Is that not true?

19                   DR. LAWRENCE GOULD:    Dramatically  
20 cheaper.

21                   THE CHAIRPERSON:    Given that apparently  
22 virtually all payday borrowers have bank accounts and  
23 most are employed based on the Pollara information, why  
24 would it be that a person needing short term credit for a  
25 limited period of time and having a given relationship

1 with a bank not acquire a line of credit?

2 DR. LAWRENCE GOULD: Again, I haven't  
3 done that type of study, but I'd -- my -- my opinion  
4 would be that they have some constraint that prohibits  
5 them from getting the line of credit. Because I've  
6 already said I do think that it is a higher cost loan,  
7 and I think people are rational and would choose a lower  
8 cost if it was available.

9 THE CHAIRPERSON: And that is what we  
10 have heard too, the evidence.

11 Dr. Gould, I believe it was Mr. Sorenson  
12 who owns one of the payday loan firms -- and if I am  
13 wrong, I stand corrected -- indicated that his firm's  
14 loan volume, apparently 93 percent was from repeat  
15 customers.

16 And would you consider repeat customers to  
17 be truly representative of short-term credit?

18 DR. LAWRENCE GOULD: I -- I'm not sure  
19 how "repeat" is defined. If they're occasional borrowers  
20 who come in, repay the loan and take out another loan,  
21 that's still short term. If they're continually renewing  
22 their loans, continually, that turns into permanent  
23 financing.

24 THE CHAIRPERSON: Thank you, sir.

25 Ms. Southall, I hope I gave you enough

1 time to prepare your next round.

2

3 CONTINUED BY MS. ANITA SOUTHALL:

4 MS. ANITA SOUTHALL: Yes, it was nice to  
5 hear someone else talk for a change. I do have some  
6 questions for the CPLA representatives on the panel.

7 And first if I could ask them, Mr. Keyes  
8 and Mr. Bishop, and also those following to turn to what  
9 I call makeshift -- shift Tab 45.

10 And these are a series of answers to  
11 questions that the Board posed to CPLA and so I -- I have  
12 some questions associated with that.

13 And perhaps what I'll do is -- is leave it  
14 to either Mr. Keyes or Mr. Bishop to answer the questions  
15 depending on who they consider to be appropriate between  
16 them.

17 Is that suitable, gentlemen?

18 HONOURABLE STAN KEYES: Yes.

19 MS. ANITA SOUTHALL: Thank you.

20 HONOURABLE STAN KEYES: Thank you.

21 MS. ANITA SOUTHALL: Have you located  
22 what I referred to as Tab 45 --

23 HONOURABLE STAN KEYES: I have.

24 MS. ANITA SOUTHALL: -- Mr. Keyes, Mr.  
25 Bishop?

1 (BRIEF PAUSE)

2

3 MS. ANITA SOUTHALL: Sorry, Mr. Bishop,  
4 Mr. Keyes, do you have that available to you? Thank you.

5 HONOURABLE STAN KEYES: Yes, thank you.

6 MS. ANITA SOUTHALL: Under the very first  
7 question on the first page -- it's Section A PUB/CPLA-A-  
8 1, Rate of Return -- CPLA has provided a response to  
9 Sections A through D at the bottom of the page. Do you  
10 see that?

11 HONOURABLE STAN KEYES: Yes, we do.

12 MS. ANITA SOUTHALL: Could you just  
13 explain the response that you've provided to that  
14 question, please? And it -- it goes over, obviously,  
15 onto page 2, but if -- if you wouldn't mind starting with  
16 the paragraph at the bottom of page 1, which is a  
17 reference to the Ernst & Young report, starting, "The  
18 base case."

19 HONOURABLE STAN KEYES: Well, as  
20 indicated in the first sentence of the response, CPLA  
21 does not maintain individual members' financial  
22 information. I defer to Mr. Bishop, who may want to  
23 explain further.

24

25 (BRIEF PAUSE)

1 MR. NORMAN BISHOP: Well, I think what we  
2 did here is we relied upon our experts. I'm a slow  
3 reader and there's a lot here, but you were asking how  
4 the Board might come to a rate of return and the things  
5 they might consider, which we outlined the various risks  
6 and made reference to the -- the Deloitte report.

7 And I would have to say that we relied on  
8 Dr. Gould to a large extent to provide information in  
9 that regard.

10 MS. ANITA SOUTHALL: Okay. Thank you for  
11 that.

12

13 (BRIEF PAUSE)

14

15 MS. ANITA SOUTHALL: On the second page  
16 of that same answer, there is a reference to -- and the -  
17 - and the Board specifically did ask you to discuss the  
18 risks faced by the lender in entering into payday loans  
19 and provide what would be considered a fair risk premium  
20 for return on equity.

21 And at page 2 you've -- you've identified  
22 categories of risk: competitive risk, economic risk,  
23 regulatory risk and -- and inflation risk. Do you see  
24 that? Either of you?

25 HONOURABLE STAN KEYES: Yes.

1 MS. ANITA SOUTHALL: Thank you. And that  
2 -- that's in addition, I -- I believe, you're indicating  
3 to the creditor portfolio risk associated with customers  
4 not repaying their loans on time or at all, correct?

5 MR. NORMAN BISHOP: Correct.

6 MS. ANITA SOUTHALL: And are these risks  
7 that CPLA is representing apply to all of its member  
8 organizations? And you have identified the nature of  
9 these risks?

10 MR. NORMAN BISHOP: Well, as Mr. Keyes  
11 said, the Association doesn't repre -- represent any  
12 individual lenders. So I believe with respect to the  
13 answer to that question, the members were polled for --  
14 for information.

15

16 (BRIEF PAUSE)

17

18 MS. ANITA SOUTHALL: Now I hate to put  
19 you on the spot with your expert sitting to your left,  
20 but Question E at the bottom of that page, the question  
21 the Board posed to CPLA was:

22 "If the allowed rate were based on the  
23 cost of operations, should there be  
24 limits set related to what operating  
25 expenses should be considered and

1 limits on any specific operating cost  
2 item?"

3 The answer provided is:

4 "No. In a competitive marketplace, all  
5 lenders will be encouraged to lower  
6 their operating costs by becoming more  
7 efficient."

8 Do you see that?

9 HONOURABLE STAN KEYES: Yes, I do.

10 MS. ANITA SOUTHALL: Now Dr. Gould, as  
11 you're aware, has testified that the difference in  
12 operating costs is not necessarily related to efficiency,  
13 correct?

14 MR. NORMAN BISHOP: Correct.

15 MS. ANITA SOUTHALL: So does it  
16 necessarily follow that by simply becoming more  
17 efficient, costs to borrowers for payday lenders in a  
18 competitive marketplace will be driven down?

19 HONOURABLE STAN KEYES: In conversation  
20 with the members of the CPLA, they had made it -- made it  
21 clear that in order to compete at a rate, whatever that  
22 rate should be, the lower the rate then the more belt --  
23 as they explained it to me, the more rationalization and  
24 the more belt tightening would have to occur by them in  
25 order to remain competitive and, of course, respond to

1 all the different risks listed above.

2 MS. ANITA SOUTHALL: And Mr. Keyes, you  
3 actually referred us to someone that you had permission  
4 to refer to from the organization, a Mr. Forbes  
5 (phonetic), I believe, who operates a payday loan company  
6 in Manitoba.

7 Correct?

8 HONOURABLE STAN KEYES: That's correct.

9 MS. ANITA SOUTHALL: And he indicated to  
10 you that your -- he -- he was prepared to allow you to  
11 state on the record that if the recommended range by Dr.  
12 Gould was twenty (20) to twenty-three dollars (\$23) per  
13 hundred (100), that he would be able to continue to  
14 operate within that.

15 Correct?

16 HONOURABLE STAN KEYES: Yes, that's  
17 correct.

18 MR. NORMAN BISHOP: And if I could just  
19 add to the comments. Dr. Gould talked about efficiencies  
20 and the fact that one of the reasons two (2) lenders  
21 might have different costs of operation is that those  
22 lenders -- one lender accepts a different amount of risk  
23 in -- in lending than another, or it might have different  
24 hours of operation, or different costs to provide the  
25 service.

1                   And therefore, the fact that one had  
2 higher costs did not necessarily mean they were  
3 inefficient.

4                   Now I think what we're saying in this is,  
5 taking that as a given, it's important to recognize that  
6 this isn't like gas, or water, or electricity. It --  
7 it's not one (1) product, it -- every operator offers a  
8 different product.

9                   However, with respect to that product that  
10 each operator chooses to offer, if there's a competitive  
11 market, market forces will force that operator to be as  
12 efficient as possible. So that's what we were trying to  
13 state.

14                   Whereas if you set the rate at one level  
15 under which -- say a low level, what you would do is you  
16 would cause all of the operators above it -- one of the  
17 things they could do is withdraw that type of service or  
18 that type of product or that group of people to whom they  
19 would offer it to get to a point where they -- they would  
20 be offering the product.

21                   So you -- what you would be doing is you'd  
22 be removing a product from the market, you wouldn't  
23 necessarily be improving their efficiency.

24                   HONOURABLE STAN KEYES: Including -- and  
25 -- and importantly, the availability of that product to

1 anyone who required it.

2 MS. ANITA SOUTHALL: I apologize, Mr.  
3 Keyes. I wasn't able to hear your last answer.

4 HONOURABLE STAN KEYES: I just mentioned  
5 that also importantly it would also possibly remove the  
6 opportunity for an individual who wanted that particular  
7 -- want -- wants the payday loan product.

8 That individual may not be able to acquire  
9 it because in the aim of being efficient, the said  
10 company could decide to raise their criteria on lending  
11 in order to lower the -- their default rate, for example,  
12 and thereby exclude part of the market -- the customers  
13 that may need the product.

14 MS. ANITA SOUTHALL: This is all -- we're  
15 all talking about the same thing, which is short-term  
16 payday loans. We're -- we're talking about loaning --

17 HONOURABLE STAN KEYES: Yes.

18 MS. ANITA SOUTHALL: -- money in this  
19 case.

20 In terms of the payday loan product, I  
21 appreciate that your member organizations offer all kinds  
22 of other products.

23 But for the purposes of this hearing,  
24 we're talking about short term loans associated with  
25 payday payback. Correct?

1                   HONOURABLE STAN KEYES:    That's correct,  
2   and all my answers are geared toward the payday loan  
3   product.

4

5   (BRIEF PAUSE)

6

7                   MS. ANITA SOUTHALL:    It just -- it arises  
8   from a comment.  I'm not sure, I think it may have been  
9   Mr. Bishop, but I'm not sure which of the two (2) of you  
10  made it a moment ago.

11                                        But the reason I asked that question -- I  
12  think it was Mr. Bishop, and I think he was referring to  
13  a -- a Public Utility rate setting concept with  
14  electricity or gas.

15                                        And -- and why I asked the question about  
16  this being a payday loan product is, can you explain what  
17  the diversity in the product is?

18                                        What's so different in a fourteen (14) day  
19  loan for three hundred dollars (\$300) between one company  
20  and the next?

21                   MR. NORMAN BISHOP:    I -- I think what is  
22  different is hours of operation.  Granted, that's not a  
23  different product, it's just different availability and  
24  lending criteria.

25

1 (BRIEF PAUSE)

2

3 MS. ANITA SOUTHALL: So there would be  
4 room in the individual operator's decision-making for  
5 their business planning to adjust the lending criteria --  
6 which is, I think, what Mr. Keyes was getting at -- or  
7 adjust hours of operation?

8 Adjust other things that go to the  
9 overhead costs of the operation in order to bring  
10 themselves in line with a given, allowed regulatory rate  
11 per order?

12 HONOURABLE STAN KEYES: Absolutely.

13 DR. LAWRENCE GOULD: Can I just add one  
14 other factor in --

15 MS. ANITA SOUTHALL: Yes, Dr. Gould.

16 DR. LAWRENCE GOULD: In terms --

17 MS. ANITA SOUTHALL: Please proceed.

18 DR. LAWRENCE GOULD: -- in terms of  
19 consideration. The particular location may also be a  
20 different way of affecting costs for service.

21 In other words, some locations may be more  
22 expensive to serve than others and that can enter into  
23 it.

24

25 (BRIEF PAUSE)

1 MS. ANITA SOUTHALL: By location costs,  
2 Dr. Gould, are you -- are you referring to the overhead  
3 costs associated with the space being occupied by the  
4 lender? Is that what --

5 DR. LAWRENCE GOULD: Well, geographic  
6 areas.

7 MS. ANITA SOUTHALL: -- you're getting  
8 at?

9 DR. LAWRENCE GOULD: Rental costs and  
10 geographic areas.

11 MS. ANITA SOUTHALL: So, again, from a  
12 business plan point of view, that's something that the  
13 operator would have to take into account and determine  
14 whether or not there were more cost effective ways of  
15 offering the service?

16 DR. LAWRENCE GOULD: Or withdrawing the  
17 service as well.

18 MS. ANITA SOUTHALL: Back to Mr. Keyes  
19 and Mr. Bishop.

20 If you could, it -- it's that same set of  
21 documents I was referring you to, but if you could find  
22 the document, it's a few pages in, that's headed  
23 "PUB/CPLA-A-4 Fee Structure."

24 HONOURABLE STAN KEYES: Yes, we have it.

25 MS. ANITA SOUTHALL: And I believe there

1 that on behalf of CPLA you've set out an answer to the  
2 question which was:

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

6 Do you see that?

7 HONOURABLE STAN KEYES: Yes, we do.

8 MS. ANITA SOUTHALL: I -- I don't need to  
9 read into the record, I don't think, the answer because  
10 it's on the record already.

11 But what I wanted to ask either one of you  
12 to address is item number -- Roman numeral IV, which is a  
13 reference to one of the considerations being:

14 "Insures that credit is available in  
15 all areas of Manitoba and to all  
16 Manitobans regardless of their credit  
17 history."

18 Is it possible for one of you just to  
19 elaborate on what's meant by that comment?

20 MR. NORMAN BISHOP: I think -- I think  
21 that's what we were just referring to, is that a -- a fee  
22 structure that is sufficiently high enough that will  
23 allow some companies to make credit available to higher  
24 risk individuals, recognizing that as a result they'll  
25 have higher costs to provide that service.

1                   And secondly, one of the factors in the  
2 cost of operation is volumes of loans granted and -- from  
3 an outlet. And there will be areas in downtown Montreal  
4 where presumably there are large volumes of loans.

5                   In rural Manitoba there may be locations  
6 where there are lower volumes of loans and, therefore,  
7 the costs per loan would be higher.

8                   MS. ANITA SOUTHALL: Do any of CPLA  
9 members operate in -- outside of Winnipeg but within  
10 Manitoba? And, if so, could you identify what  
11 communities they operate in.

12                   HONOURABLE STAN KEYES: Yes, that's part  
13 of the prefiled evidence to the Board. I believe Mr.  
14 Foran can point you to the exact location, because I just  
15 have the loose pages in front of me.

16                   But where -- where member companies are  
17 involved, of which there are five (5) companies. They  
18 operate in Brandon, Portage La Prairie, Selkirk. There's  
19 another member with three (3) stores: Brandon,  
20 Steinbach, Winkler, and Flin Flon.

21

22                   (BRIEF PAUSE)

23

24                   MR. ANTOINE HACAULT: I believe one of  
25 the answers can be found at RC/CPLA-14.

1 HONOURABLE STAN KEYES: But I think the  
2 question was the members of the association.

3 MR. ANTOINE HACAULT: Well, it says:  
4 "Five (5) CPLA -- CPLA members  
5 currently have outlets in Manitoba.  
6 They are as follows..."  
7 It lists them and then it lists the  
8 locations.

9 HONOURABLE STAN KEYES: Thank you.

10

11 (BRIEF PAUSE)

12

13 CONTINUED BY MS. ANITA SOUTHALL:

14 MS. ANITA SOUTHALL: Specifically  
15 considering Money Mart -- and I have a chart at -- that  
16 I've included at Tab 33 of the materials. That was part  
17 of the prefiled evidence of CPLA.

18

19

20 (BRIEF PAUSE)

21

22 MS. ANITA SOUTHALL: I note -- sorry, I'm  
23 referring to that document and note that Money Mart  
24 appears to have locations in Portage La Prairie, Selkirk,  
25 and Brandon as well as in Winnipeg?

1 HONOURABLE STAN KEYES: That's correct.

2

3 (BRIEF PAUSE)

4

5 HONOURABLE STAN KEYES: To be specific,  
6 one (1) in Brandon, one (1) in Portage La Prairie, one  
7 (1) in Selkirk, and fifteen (15) in Winnipeg.

8

9 (BRIEF PAUSE)

10

11 MS. ANITA SOUTHALL: The reason I posed  
12 the original question and asked you to elaborate was I  
13 was trying to understand -- and -- and maybe what Mr.  
14 Bishop had said about loan volumes -- but I wondered  
15 whether or not you've got any information from your CPLA  
16 membership outside of Winnipeg as to whether or not their  
17 costs are higher of providing payday loans in their rural  
18 or small community locations than the costs that are  
19 experienced for the -- the urban operations in Winnipeg,  
20 you know, on average.

21 HONOURABLE STAN KEYES: I do not have the  
22 exact figures you're looking for. It would entail a -- a  
23 telephone call to each member, a request to ask them to  
24 provide costs of their operations.

25 And of course while I endeavour to provide

1 as much information to the Board as possible, at the same  
2 time I'm restricted to whatever it is this particular  
3 private enterprise is prepared to supply.

4 But we would try our best to attain that  
5 information for the Board.

6 MR. ALLAN FORAN: If you just give us a  
7 moment, please?

8

9 (BRIEF PAUSE)

10

11 THE CHAIRPERSON: We have some  
12 recollection of somewhere in this mountainous amount of  
13 material that has been gathered there is a reference to  
14 this, an indication where the cost differences are not  
15 that great.

16 MR. ALLAN FORAN: I believe the answer is  
17 we don't have any information that suggests that there is  
18 additional costs in operating outside of Winnipeg. And  
19 I'll -- I'll find the specific reference in a moment.

20 MS. LUCIA STUHLREIER: If I may, I  
21 believe it's at PUB/CPLA-1-A2.

22

23 (BRIEF PAUSE)

24

25 HONOURABLE STAN KEYES: As I had stated

1 earlier the answer is no, we do not have that  
2 information.

3 MR. ALLAN FORAN: If I could just suggest  
4 I think the answer is we don't have information that  
5 suggests that costs are higher outside the City of  
6 Winnipeg.

7

8 (BRIEF PAUSE)

9

10 THE CHAIRPERSON: I would think that if  
11 it comes to your attention that they are, it would be a  
12 good thing to let us know. It would probably be useful.

13 MR. NORMAN BISHOP: Absolutely.

14 THE CHAIRPERSON: Because otherwise our  
15 assumption will be that the costs are similar whether  
16 they are in Winnipeg or outside Winnipeg.

17 MR. NORMAN BISHOP: I think what we meant  
18 by the response is we have no evidence that they cost  
19 more. We don't necessarily have any evidence that loan  
20 volumes are lower in rural areas.

21 But we would expect where you have a large  
22 city and lots of people, you will -- you will have higher  
23 loan volumes than, say, some small community.

24 THE CHAIRPERSON: But on the other hand,  
25 there is only one location in some of the centres,

1 whereas there is a significant number here in Winnipeg.

2 MR. NORMAN BISHOP: That's correct.

3

4 --- UNDERTAKING NO. 21: CPLA will inform the Board if  
5 he is able to find evidence  
6 of costs being higher outside  
7 Winnipeg.

8

9 (BRIEF PAUSE)

10

11 CONTINUED BY MS. ANITA SOUTHALL:

12 MS. ANITA SOUTHALL: Thank you. If I  
13 could direct your attention, please, it's -- it's that  
14 same question we were looking at, PUB/CPLA-A-4, under  
15 "Fee Structure," but specifically at subsection (d),  
16 which happens to be at the top of the next page of that  
17 tab.

18 The question was:

19 "Should limits be placed on what type  
20 of fees can be charged for payday  
21 loans? If so, please elaborate."

22 And the answer that's been provided is:

23 "The payday loan regulation defines the  
24 cost of credit for the purposes of the  
25 Board's mandate and specifically

1 includes certain types of fees. If a  
2 maximum cost of credit is set, it is  
3 not necessary to itemize fees within  
4 that maximum."

5 I'm just trying to understand what you  
6 mean by the answer, and -- and if I'm wrong in -- in  
7 putting it this way, let me know.

8 Dr. Gould is recommending a range of a  
9 certain value, I -- I believe, if I'm recounting it  
10 right, twenty (20) to twenty-three (\$23) dollars per  
11 hundred? I see Dr. Gould shake -- nodding his head in  
12 affirmation.

13 HONOURABLE STAN KEYES: Excluding regula  
14 -- including regulatory costs, yes. Plus regulatory  
15 costs.

16 MS. ANITA SOUTHALL: And so going back to  
17 -- to the answer, is -- is the answer indicating if a  
18 maximum cost of credit is set in terms of a flat dollar  
19 value per hundred dollars (\$100), it's not necessary to  
20 itemize fees within that maximum?

21 Is -- is that the proper understanding for  
22 that response?

23 MR. NORMAN BISHOP: That's correct.

24

25

(BRIEF PAUSE)

1 MS. ANITA SOUTHALL: And -- and just to  
2 take you to the very next question on that document,  
3 which is sub (e), the Board asked:

4 "Do you support that charges for debit  
5 and credit card loading and usage  
6 should be considered part of the APR?  
7 Is your view different when it is an  
8 option as opposed to a standard method  
9 of issue?"

10 And the answer back was that:

11 "The CPLA has no mandate with respect  
12 to taking a position concerning debit  
13 and credit card loading and usage."

14 Do you see that?

15 MR. NORMAN BISHOP: Yes.

16 MS. ANITA SOUTHALL: And can you tell us  
17 why you don't take a position on that? Were you not able  
18 to get consensus in your membership?

19 MR. NORMAN BISHOP: Well, Mr. Keyes  
20 polled the membership. And in Manitoba, with the five  
21 (5) members, only two (2) offer a debit card. And I  
22 think you'll find in -- under Tab 40, some of the  
23 responses on that.

24 I believe Money Mart indicated that less  
25 than 1 percent of their customers -- they offer a card,

1 but less than 1 percent of their customers choose to put  
2 a payday loan on the card.

3                   They also have a MasterCard, and  
4 1.9 percent of their customers choose to put a loan on  
5 their card. And of that, 30 percent, on average,  
6 30 percent of the loan proceeds go on the card. So it's  
7 -- it would be a -- an optional product. The other  
8 member, I believe, indicated that --

9                   HONOURABLE STAN KEYES:    -- that there  
10 were of five hundred (500) transactions in any given  
11 month. Less than twenty-five (25) of those transactions  
12 would be placed on their particular card.

13

14   (BRIEF PAUSE)

15

16                   MS. ANITA SOUTHALL:    And with respect to  
17 the same question, if we included cheque cashing fee as  
18 part of the payday loan transaction, does the CPLA have a  
19 position as to whether or not that should be considered  
20 part of the APR?

21                   MR. NORMAN BISHOP:    Well, I think the --  
22 the legislation is clear that if -- if these are costs  
23 that are effectively costs of obtaining the loan, then  
24 they would naturally be part of the -- the fee that's set  
25 by the Board.

1 MS. ANITA SOUTHALL: I want to just pause  
2 for a moment on that and talk about the example of Money  
3 Mart, which is a CPLA member, and the fact -- that based  
4 on my reading and review of the Money Mart material --  
5 the cheque cashing fee would not come into operation  
6 unless the borrower did not pay the loan amount by the  
7 due date.

8 Am I right on my interpretation of that?

9 MR. NORMAN BISHOP: That's correct. The  
10 way their program works is the loan is due on the day  
11 before payday. The customer provides a postdated cheque  
12 dated for payday. There is a fee connected with cashing  
13 of the cheque. If the customer comes in on the due date,  
14 the day before payday, they would pay only the interest  
15 that accrues on the loan and would incur no cheque  
16 cashing fee.

17 If they do not return, they just let the  
18 cheque be deposited on the payday, and then there would  
19 be a cheque cashing fee incurred by the -- the customer.

20

21 (BRIEF PAUSE)

22

23 MS. ANITA SOUTHALL: Mr. Bishop or Mr.  
24 Keyes, what experience does Money Mart have related to  
25 borrowers coming in the day before payday and paying off

1 their loans?

2 Do you -- do you have access to any data -  
3 - data that would help us on that point, like what  
4 percentage of people actually payoff before payday?

5 MR. NORMAN BISHOP: I think we'd have to  
6 ask Money Mart for that -- that information.

7 MS. ANITA SOUTHALL: I appreciate you're  
8 not here representing Money Mart, but CPLA. Nonetheless,  
9 with Money Mart not participating as an Intervenor, if  
10 it's possible to inquire of them as to whether or not  
11 that information can be provided, I'd appreciate it.

12 MR. NORMAN BISHOP: Of course.

13

14 --- UNDERTAKING NO. 22: CPLA to inquire of Money Mart  
15 as to the percentage of  
16 people who actually pay off  
17 loans before payday and so  
18 advise.

19

20 CONTINUED BY MS. ANITA SOUTHALL:

21 MS. ANITA SOUTHALL: And -- and while I'm  
22 at it on that subject matter, is it possible to inquire  
23 of Money Mart as to whether or not they can provide us  
24 with a -- a completed hypothetical example of a three  
25 hundred dollar (\$300) loan which shows all of the costs

1 associated with a three hundred dollar (\$300) payday  
2 loan?

3 MR. NORMAN BISHOP: I -- I believe that's  
4 in the material already. I'm not sure, but otherwise it  
5 can be provided.

6 MS. ANITA SOUTHALL: Thank you. What --  
7 what I've managed to access and -- and referring back to  
8 the Chair's reference to the mountainous volumes of  
9 material, I've noted that the Disclosure Statement is in  
10 there.

11 The one I've been able to locate is in  
12 blank, and so the other piece of information that's been  
13 provided is a chart of information in respect of the  
14 Board's request for a table to be filled out of the costs  
15 associated with payday loans.

16 But converting all of that into an  
17 accurate depiction of a Money Mart three hundred dollar  
18 (\$300) loan -- like a standard Money Mart loan -- on a  
19 Disclosure Statement I think would be very useful. So if  
20 you could undertake to inquire on that.

21 HONOURABLE STAN KEYES: We'll certainly  
22 do that undertaking and also remind the Board that of the  
23 invitation we stated in my opening presentation, in  
24 regard to actually visiting a payday loan location to get  
25 firsthand knowledge on the customer experience and the --

1 the business process within that store.

2

3 --- UNDERTAKING NO. 23: CPLA to enquire of Money Mart  
4 to provide an accurate  
5 depiction of a three hundred  
6 dollar (\$300) Money Mart  
7 loan.

8

9 CONTINUED BY MS. ANITA SOUTHALL:

10 MS. ANITA SOUTHALL: I'm going to do this  
11 now in case I forget later. I -- I would like the same  
12 inquiry made as to whether or not an undertaking is  
13 available to provide that same three hundred (\$300)  
14 dollar advance loan information for disclosure purposes  
15 from the next two (2) largest CPLA members.

16 And I believe that was - give me a moment,  
17 I -- I know one is Xtra Cash. I'm trying to remember the  
18 name of the third. Pardon me for a moment.

19 HONOURABLE STAN KEYES: Fast Cash is the  
20 next largest, and then we have a choice of three (3),  
21 with one (1) location each. We -- we can attempt -- we  
22 will ask them.

23 MS. ANITA SOUTHALL: Okay. Thank you  
24 very much, Mr. Keyes.

25

1 --- UNDERTAKING NO. 24: CPLA will inquire as to  
2 whether or not an undertaking  
3 is available to provide a  
4 three hundred dollar (\$300)  
5 advance loan information for  
6 disclosure purposes from Xtra  
7 Cash and Fash Cash.

8

9 (BRIEF PAUSE)

10

11 CONTINUED BY MS. ANITA SOUTHALL:

12 MS. ANITA SOUTHALL: Just stepping back  
13 for moment to the -- to the Money Mart structure of loan  
14 lending. Again, I know you're not here for Money Mart,  
15 but does CPLA or -- or would you inquire of Money Mart as  
16 to whether they can advise us as to their position on  
17 whether those transactions are properly bound into the  
18 payday loan cost of borrowing?

19 In other words, the amount is due the day  
20 before payday. There's a cheque cashing fee if the  
21 cheque is going to need to be used on the next day -- in  
22 other words, they don't come and pay off on the day  
23 before payday.

24 Is the cheque cashing fee properly bound  
25 under the Manitoba legislation and regulation in the

1 maximum charge for the cost of a payday loan?

2 MR. ALLAN FORAN: Just before the -- the  
3 witness's answer, is this a legal question, an  
4 interpretation issue? Are you asking for a position?

5 I -- I'll tell you what my concern is, is  
6 that this panel is not here on behalf of individual  
7 members, but on behalf of a group of payday lenders who  
8 operate in Manitoba.

9 I can certainly -- there is some leeway  
10 here, I think, to make inquiries of members. In fact,  
11 the Board's asked for that. We've answered some of those  
12 questions. We -- we have some of those answers actually  
13 on the record.

14 My concern here is questions of legality  
15 and interpretation. And -- and maybe that's just the  
16 only caution that I'm going to give. If there's an  
17 Undertaking provided, it may have to be cloaked in some -  
18 - we may have to be careful about this.

19 THE CHAIRPERSON: Okay, we are just going  
20 to take our midafternoon break right now and give a  
21 chance for Ms. Southall to think about this.

22

23 --- Upon recessing at 2:45 p.m.

24 --- Upon resuming at 3:00 p.m.

25

1 (BRIEF PAUSE)

2

3 MS. ANITA SOUTHALL: Thank you, Mr.  
4 Chairman. I do have some more questions, and I'll do my  
5 best to be prompt in getting those completed.

6 One just procedural item I wanted to note  
7 was that Rentcash submitted a rate proposal document  
8 yesterday that was circulated.

9 We just hadn't noted it for the record as  
10 an exhibit, so it will be recorded in the exhibit list of  
11 proceedings for this hearing as RC-10.

12 THE CHAIRPERSON: Very good.

13

14 --- EXHIBIT RC-10: Rentcash rate proposal  
15 document

16

17 CONTINUED BY MS. ANITA SOUTHALL:

18 MS. ANITA SOUTHALL: Thank you. If I  
19 could ask the CPLA members on the panel to turn to Tab  
20 39, and again I -- I know that you're not here  
21 representing these specific member companies.

22 But in round two (2) Information Request  
23 posed to CPLA seeking member specific information for the  
24 three (3) largest operators of CPLA members in Manitoba,  
25 we asked a number of questions.

1                   And so I -- I am going to follow up on  
2 those. And if you're in a position to assist with that  
3 or undertake to assist with that, you could let me know.  
4 If you're not a position to provide that information, you  
5 could also let me know that, please.

6                   So, first of all and -- and this not  
7 something I'm asking you to look at in the tab, but for  
8 Fast Cash and Xtra Cash, some information has been  
9 provided in the IRs with respect to affiliated companies.

10                   Is it possible to request of those  
11 companies an actual organizational chart or affiliated  
12 companies diagram, also to obtain from them who the  
13 shareholders of their operating company are and the  
14 source of their loan funds?

15                   I know that's all a series of questions  
16 rolled into one, but nonetheless is -- is it possible to  
17 inquire as to whether or not that information can be  
18 provided?

19                   MR. ALLAN FORAN:    Yes, we'll make that  
20 inquiry.

21  
22 --- UNDERTAKING NO. 25:    CPLA will request from Xtra  
23 Cash and Fast cash an actual  
24 organizational chart or  
25 affiliated companies diagram,

1                   who the shareholders of their  
2                   operating company are, and  
3                   the source of their loan  
4                   funds.

5

6 CONTINUED BY MS. ANITA SOUTHALL:

7                   MS. ANITA SOUTHALL:   Thank you.  Now  
8                   specifically on the document I referenced at Tab 39 under  
9                   PUB/CPLA-2-2 -- round 2-2 -- at Section C -- Question C,  
10                  pardon me.

11                  THE CHAIRPERSON:   What page number is  
12                  that on, may I ask?

13                  MS. ANITA SOUTHALL:   I apologize, it's  
14                  the first page of Tab 39.

15                  HONOURABLE STAN KEYES:   Thank you.

16

17 CONTINUED BY MS. ANITA SOUTHALL:

18                  MS. ANITA SOUTHALL:   Under subsection (c)  
19                  a description was asked for that outlines the loan  
20                  approval process followed and describe how interest rates  
21                  are fixed for any loans.

22                  In respect of Money Mart criteria the  
23                  information provided was that income is not derived from  
24                  social assistance or child tax benefits payments.

25                  Do you see that?

1 HONOURABLE STAN KEYES: Yes, I do.

2 MS. ANITA SOUTHALL: Do either of the  
3 CPLA panel members know in respect of Money Mart if other  
4 types of government payments are capable of supporting  
5 borrowing, such as pension payments or disability  
6 payments?

7 MR. NORMAN BISHOP: No. We don't know.

8 MS. ANITA SOUTHALL: Could you inquire  
9 and advise, please? If -- if you're able to obtain the  
10 information.

11 MR. NORMAN BISHOP: Yes.

12

13 --- UNDERTAKING NO. 26: CPLA will find out, in  
14 respect to Money Mart, if  
15 other types of government  
16 payments are capable of  
17 supporting borrowing, such as  
18 pension payments or  
19 disability payments.

20

21 (BRIEF PAUSE)

22

23 CONTINUED BY MS. ANITA SOUTHALL:

24 MS. ANITA SOUTHALL: And could you  
25 inquire and advise in respect of those kinds of payments,

1 if they're available as a -- as a income support source  
2 for borrowing, that a pay stub would not be required, but  
3 rather some sort of bank statement showing income level?

4 That -- that would be a further  
5 undertaking I'm asking for.

6 HONOURABLE STAN KEYES: We can endeavour  
7 to inquire.

8

9 --- UNDERTAKING NO. 27: With respect to undertaking  
10 No. 26, for CPLA to inquire  
11 as to whether or not a bank  
12 statement is sufficient in  
13 respect of those kinds of  
14 payments

15

16 (BRIEF PAUSE)

17

18 CONTINUED BY MS. ANITA SOUTHALL:

19 MS. ANITA SOUTHALL: Mr. Foran, have you  
20 put Mr. Bishop's CV on the record? You did provide me  
21 with a copy I know, but I just didn't know whether or not  
22 it made it onto the actual record of proceedings.

23 MR. ALLAN FORAN: It may not actually be  
24 on the record but we can mark that as an exhibit.

25 MS. ANITA SOUTHALL: Okay. We will

1 locate the exhibit number and get back to you on that.

2 MR. ALLAN FORAN: Thank you.

3

4 CONTINUED BY MS. ANITA SOUTHALL:

5 MS. ANITA SOUTHALL: Could I ask you to  
6 turn to Tab 40, please, the next tab of documents in our  
7 reference binder?

8 And this is a reference to PUB/CPLA-II-2-  
9 4. Specifically if I could direct you -- again, this was  
10 member-specific information that -- that the Board was  
11 looking for information from the three (3) largest CPLA  
12 members who operate in Manitoba.

13 And on the second page, under Item C,  
14 there is a request to indicate the annual percentage rate  
15 currently charged for a typical payday loan. Do you see  
16 that?

17 HONOURABLE STAN KEYES: Yes, we do.

18 MS. ANITA SOUTHALL: And Money Mart has  
19 answered for that member-specific inquiry that the charge  
20 is 46.44 percent for all payday loans. Do you see that?

21 HONOURABLE STAN KEYES: Yes, we do.

22 MS. ANITA SOUTHALL: And fast -- the Fast  
23 Cash Company has answered that service fees plus interest  
24 on a fifteen (15) day loan convert to an overall APR of  
25 485.10 percent. Do you see that?

1 HONOURABLE STAN KEYES: Yes.

2 MS. ANITA SOUTHALL: Did Money Mart  
3 misunderstand the question? Does anybody know that --  
4 what they were attempting to answer in terms of the APR  
5 percentage for borrowing?

6 I -- I guess that would be an undertaking,  
7 because no one's here from Money Mart but...

8 MR. ALLAN FORAN: Perhaps putting the  
9 cart before the horse. Could we start with the  
10 difficulty with the answer and then perhaps we can make  
11 an inquiry of Money Mart as to whether there is a  
12 misunderstanding or perhaps it's Fast Cash?

13 MS. ANITA SOUTHALL: Fair enough, Mr.  
14 Foran. Is -- do you have an understanding of what the  
15 members were attempting to depict in response to that  
16 answer?

17 HONOURABLE STAN KEYES: I'm sorry. Could  
18 I have that question again?

19 MS. ANITA SOUTHALL: Do you have an  
20 understanding as to what these member organizations were  
21 attempting to depict in answering the question that was  
22 posed?

23 HONOURABLE STAN KEYES: No, I don't.

24 MS. ANITA SOUTHALL: Could -- could you  
25 make that inquiry, please?

1 HONOURABLE STAN KEYES: Yes, we will.

2

3 --- UNDERTAKING NO. 28: CPLA to determine as to what  
4 these member organizations  
5 were attempting to depict in  
6 answering the question that  
7 was posed in reference to  
8 PUB/CPLA-II-2-4, item (c).

9

10 (BRIEF PAUSE)

11

12 CONTINUED BY MS. ANITA SOUTHALL:

13 MS. ANITA SOUTHALL: Could I ask you to  
14 turn to Tab 43, please?

15 And Tab 43 has as its heading -- it's  
16 second round Information Request response, and it was  
17 posed by PUB to CPLA, round 2-6. And under Item B, the  
18 Board asked the question of CPLA:

19 "Please explain what structure of  
20 layered loan rate would be sufficient  
21 to take into account payday lenders'  
22 operating expenses."

23 And in the second paragraph, in the middle  
24 of the second paragraph there is a statement:

25 "The CPLA has filed evidence on lenders'

1 operating costs to assist the Board in  
2 determining the rate."

3 Do you see that?

4 HONOURABLE STAN KEYES: Yes, I do.

5 MS. ANITA SOUTHALL: Would that be the  
6 Deloitte Report that's being referred to in that  
7 paragraph?

8 MR. NORMAN BISHOP: I believe so.

9 MS. ANITA SOUTHALL: And would it be Dr.  
10 Gould's report to the extent that there is some data  
11 contained in Dr. Gould's tables for the Dollar Financial  
12 Canadian operations, what we've been calling "Money Mart"  
13 operations?

14 MR. NORMAN BISHOP: I believe so. I -- I  
15 don't believe there's any other evidence that would be  
16 out there that we would be referring to by that sentence.

17 MS. ANITA SOUTHALL: And we heard Dr.  
18 Gould indicate that with respect to the Money Mart  
19 operations there isn't sufficient public information on  
20 file for him to give an accurate -- accurate operating  
21 cost assessment for those operations, correct?

22 HONOURABLE STAN KEYES: We take Dr. Gould  
23 at his word.

24

25

(BRIEF PAUSE)

1 MS. ANITA SOUTHALL: Could you turn to  
2 Tab 44, please? I want to again review -- and I  
3 appreciate your assistance in doing this -- the member-  
4 specific information that was obtained on the second  
5 round of questioning of CPLA, for the -- the three (3)  
6 largest member lenders.

7 And just before I -- I ask the particular  
8 question with respect to the information shared by Money  
9 Mart and the Fast Cash company, does Xtra Cash intend to  
10 provide any specific information in respect to the  
11 questions that were posed?

12 Maybe Mr. Foran has some idea, or I mean -  
13 - I mean I'm not -- I'm not trying to preempt the CPLA  
14 members on the panel, but I -- we don't have any  
15 information, although presumably, questions were posed to  
16 Xtra Cash.

17 MR. ALLAN FORAN: To -- to quote a line  
18 from The Incredibles, "You -- you caught me monologuing."  
19 What was the question?

20 MS. ANITA SOUTHALL: Mr. Foran, I was  
21 inquiring as to, when we originally posed round 2  
22 questions on member-specific information for CPLA, we had  
23 asked them to be directed to the three (3) largest  
24 operators.

25 Xtra Cash, I believe, was identified as

1 one of the operators, but Xtra Cash's evidence is -- is  
2 known by its absence.

3 HONOURABLE STAN KEYES: Yes, I --

4 MS. ANITA SOUTHALL: So I -- I'm  
5 wondering, presumably, it was asked for. But I -- I just  
6 wondered if it -- if it's delayed, if we would be seeing  
7 any -- any further information from Xtra Cash?

8 MR. ALLAN FORAN: Xtra Cash was asked for  
9 the information. My understanding is that the principal  
10 of Xtra Cash was away on holidays. No information is  
11 received by my office or CPLA.

12 I confess that we have spent some time  
13 preparing for this Hearing and have not got back to that  
14 point. So we can make an inquiry to find out if they've  
15 completed this.

16 MS. ANITA SOUTHALL: Thank you very much,  
17 I appreciate that.

18

19 --- UNDERTAKING NO. 29: CPLA to make an inquiry to  
20 find out if any further  
21 member-specific information  
22 will be forthcoming from Xtra  
23 Cash.

24

25 CONTINUED BY MS. ANITA SOUTHALL:

1 MS. ANITA SOUTHALL: If I could then turn  
2 to the specific information associated with this last  
3 reference point on extensions.

4 The Money Mart specific information  
5 provided is that Money Mart never extends loans beyond  
6 their due date, is that correct?

7 Is that -- is that accurate as far as the  
8 panel members --

9 HONOURABLE STAN KEYES: Yes, it --

10 MS. ANITA SOUTHALL: -- are aware?

11 HONOURABLE STAN KEYES: Yes, it is.

12 MS. ANITA SOUTHALL: And again, and I  
13 apologize, but curiosity gets the better of me in this  
14 case.

15 Given that the due date of the loan for a  
16 Money Mart operation is the day before payday, do they  
17 look at the processing of the cheque cashing fee on the  
18 next day as an extension or a default?

19 We -- we're just trying to understand the  
20 nature of that operation.

21 MR. NORMAN BISHOP: No. They -- they  
22 characterize it as a convenience option so the customer  
23 does not have to return and repay in cash.

24 So with a loan that's due to the due date  
25 of the loan, which is the day before payday, they

1 calculate the interest at 44.64 percent.

2                   If they deposit the cheque, then it -- it  
3 is deposited a day later, on the payday. So the loan, in  
4 fact, is outstanding for an extra day. So the cheque  
5 includes the cheque cashing fee and the interest for one  
6 (1) day. So there's one (1) day's additional interest.

7                   So they do not characterize that as a  
8 default.

9                   MS. ANITA SOUTHALL: And it's not  
10 characterized -- well, it wouldn't be an extension, I  
11 take it, because extension would require some additional  
12 fee in order to carry it beyond its due date?

13                   Is -- is that a fair statement?

14                   MR. NORMAN BISHOP: That's correct. And  
15 I -- I would add, just in case there's any  
16 misunderstanding, the cheque is a cheque cashing fee.

17                   In the event that the cheque was deposited  
18 on the due date, which is the normal situation for most  
19 payday loans, with payday loan companies, and it was  
20 returned for nonsufficient funds, then there would be a -  
21 - an NSF fee, is my understanding.

22                   However, that's -- that would be a rare  
23 occurrence.

24                   MS. ANITA SOUTHALL: Could you undertake  
25 to inquire of Money Mart whether or not they're able to

1 provide the actual percentage of cheques that are found  
2 to be in default as a result of deposit on payday?

3 HONOURABLE STAN KEYES: We will certainly  
4 ask the question.

5 MS. ANITA SOUTHALL: Thank you.

6  
7 --- UNDERTAKING NO. 30: CPLA will inquire of Money  
8 Mart whether or not they're  
9 able to provide the actual  
10 percentage of cheques that  
11 are found to be in default as  
12 a result of deposit on  
13 payday.

14  
15 MS. SUSAN PROVEN: While they're taking a  
16 few minutes, I just really can't understand if it's a  
17 payday loan why you don't have a cheque dated for payday.  
18 I still haven't got that clear.

19 MR. NORMAN BISHOP: I believe the cheque  
20 is dated for payday, and it's deposited on payday. It's  
21 just that the customer has the option of coming in the  
22 day before payday and repaying it in cash and getting  
23 their cheque back, in which case they don't pay any fees  
24 whatsoever. They simply pay interest.

25 MS. SUSAN PROVEN: And we're still left

1 wondering how often that happens.

2 MR. NORMAN BISHOP: Yes, I believe that's  
3 an undertaking.

4 MS. SUSAN PROVEN: Okay, thanks.

5

6 (BRIEF PAUSE)

7

8 CONTINUED BY MS. ANITA SOUTHALL:

9 MS. ANITA SOUTHALL: This may be a  
10 question that would be applicable to all of the -- the  
11 member-specific entities we were asking about, but or --  
12 or if -- if you can answer it that would be helpful.

13 Is a loan -- a payday loan typically due  
14 at a certain time on the day it is due? In other words,  
15 if the -- is -- is it date stamped? Or is there a  
16 requirement that it be paid back by 5 p.m. on the day  
17 it's due?

18 And here I'm asking the question in terms  
19 of the -- the typical -- the average operator, like the  
20 majority of operators in Manitoba.

21 Would -- would it become due at a specific  
22 time on a specific day?

23 HONOURABLE STAN KEYES: There are twenty-  
24 three (23) companies in the CPLA. I can't say for  
25 certain what each one of those companies how -- how I

1 could answer that question for you for each one of the  
2 twenty-three (23) companies.

3 MS. ANITA SOUTHALL: I'll go back then  
4 and ask my undertaking with respect to the three (3)  
5 largest operators, if -- if we could have an -- an answer  
6 to that member-specific question from them on inquiry.

7 HONOURABLE STAN KEYES: We'll undertake  
8 that. Thank you.

9

10 --- UNDERTAKING NO. 31: CPLA will inquire of three  
11 (3) largest operators whether  
12 a loan becomes due at a  
13 specific time on a specific  
14 day.

15

16 (BRIEF PAUSE)

17

18 CONTINUED BY MS. ANITA SOUTHALL:

19 MS. ANITA SOUTHALL: Sorry we -- we are  
20 struggling with the material that's been filed in terms  
21 of understanding how this works.

22 I -- I am going to go back to the Money  
23 Mart example and ask if -- if you can explain -- if a  
24 customer comes in on the due date, are they -- must they  
25 pay in cash?

1                   Or are they able to provide another cheque  
2 to pay off that amount?

3                   MR. NORMAN BISHOP:    I -- I believe they  
4 have to pay in cash.  The -- they have already left a  
5 cheque with the -- with the company.

6

7   (BRIEF PAUSE)

8

9                   MS. ANITA SOUTHALL:   I -- I just want to  
10 ask in terms of the -- the specific information provided  
11 by the Fast Cash company.  And again, this is the top of  
12 the page we were looking at for the response to PUB/CPLA  
13 2-7, and it was in respect of loan extensions  
14 specifically.

15                                        The answer that's been provided or  
16 supplied by the Fast Cash company on inquiry appears to  
17 make reference to late fees.  I just wasn't sure whether  
18 or not -- and the reason I'm ask -- or the question I'm  
19 asking is, did the Fast Cash Company intend to be  
20 answering a question associated with extensions or with  
21 default in respect of this answer?

22                                        Is there -- is there any way to discern  
23 that?

24                   MR. ALLAN FORAN:    No, you'd have to ask  
25 them actually.  They -- I can -- my recollection is that

1 this was verbatim as received by my office.

2 And when I say, "verbatim," perhaps a  
3 better description is this is what they sent in writing  
4 to us to answer the PUB's question, and I don't think  
5 it's been edited.

6 MS. ANITA SOUTHALL: Thank you. If -- if  
7 there is a way to make clear if the Fast Cash Company is  
8 talking about their default charges when somebody doesn't  
9 pay or if -- if the clarification is that it's an  
10 extension or rollover option for them, to be honest the  
11 answer leaves that, I think, unclear.

12 So if it's possible to find that out,  
13 please, Mr. Foran?

14 MR. ALLAN FORAN: We'll attempt.

15 MS. ANITA SOUTHALL: Thank you.

16

17 --- UNDERTAKING NO. 32: CPLA will find out if the  
18 Fast Cash Company is talking  
19 about their default charges  
20 when somebody doesn't pay or  
21 if the clarification is that  
22 it's an extension or rollover  
23 option for them.

24

25

(BRIEF PAUSE)

1 CONTINUED BY MS. ANITA SOUTHALL:

2 MS. ANITA SOUTHALL: If I could -- if I  
3 could ask the CPLA panel members then to turn to Item B  
4 on that page the Board inquired:

5 "Please provide a suggested interest  
6 rate, administrative fee, or other fee  
7 which should be utilized if a loan is  
8 extended beyond the due date."

9 Is it the -- going back to the CPLA  
10 Voluntary Code of Best Practices, is it the position of  
11 CPLA that no fees are charged for extensions, that no  
12 rollovers are allowed?

13 And if I'm equating rollovers to  
14 extensions improperly, feel free to correct me.

15 HONOURABLE STAN KEYES: To the best of my  
16 understanding first and foremost as part of the Code of  
17 Best Business Practices, Number 1 on the eighteen (18)  
18 point code is no rollovers.

19 So there is no rollover. There -- there  
20 can be no charge for a rollover if a rollover isn't  
21 permitted in the first place. An extension, to my way of  
22 thinking, is -- can be defined as a rollover. An  
23 extension and a rollover are -- are the same thing.

24 And so when someone comes and takes out a  
25 payday loan and they are unable to pay it on their

1    payday, by their payday, then that loan goes into default  
2    and then the default -- default charges kick in. I hope  
3    that explains it.

4                    MS. ANITA SOUTHALL:     Yes, thank you, Mr.  
5    Keyes.

6                    And the reason I've asked the question --  
7    and we do go on to ask about remedies in the next  
8    question for loans not paid on the due date.

9                    But I wondered if CPLA could elaborate  
10   then on the response to the question associated with the  
11   fees that should be utilized if a loan is extended beyond  
12   the due date.

13                   In other words, does CPLA take a position  
14   on what should be charged for extensions in Manitoba?

15                   MR. NORMAN BISHOP:     Well, I guess the --  
16   what we're trying to say in this is that the legislation  
17   says that there will be extensions and -- but an  
18   extension is obviously contingent upon both the lender  
19   and the borrower agreeing to extend the loan.

20                   If that's going to happen, obviously the -  
21   - the lender has to agree as opposed to saying, Your  
22   loan's in default, and we're going to collect on it and  
23   deem it in default.

24                   If they're going to say, We agree to  
25   extend, then I think it's probably in both parties'

1 interest if there's an incentive to extend, if -- if  
2 there was, for example, a prohibition on ever getting any  
3 return on your -- your money.

4 If you extend the loan, then a few  
5 borrowers or a few lenders would choose to extend. So  
6 what is the right return or appropriate return where a  
7 lender will agree to extend the loan and yet it's not an  
8 excessive fee?

9 So I guess the Association kind of bounced  
10 it back to the -- the panel and said interest should  
11 apply, because if the loan is going to be outstanding a  
12 week, a month, two (2) months, obviously there should be  
13 interest accruing on it. And there should be some sort  
14 of a fee that would be enough to provide incentive to the  
15 lender to do it, but -- but not an excessive amount.

16 And we didn't venture on what that amount  
17 should be.

18 MS. ANITA SOUTHWALL: Sir, you made  
19 reference to how you came to the determination. You  
20 bounced it back to the panel, I think you indicated. I'm  
21 not sure what you meant.

22 Maybe you have an advisory group in the  
23 CPLA, or...

24 MR. NORMAN BISHOP: No -- no what we were  
25 saying is if you were looking for us to recommend a

1 specific fee that could be charged for an extension, we  
2 didn't volunteer one. We just provided some principles  
3 for consideration.

4 In other words, we may not have been very  
5 helpful with the answer to that question.

6 MS. ANITA SOUTHALL: You've not gotten  
7 any further in your considerations on that point? The --  
8 your position is -- is no further defined today?

9 HONOURABLE STAN KEYES: No, we have not.

10 MR. NORMAN BISHOP: But I do think --  
11 just -- just to add. I -- I do think that it is  
12 important that there be some incentive there. Otherwise,  
13 lenders will say, We won't extend the loan. And that  
14 would, you know, create negative consequences.

15 MS. ANITA SOUTHALL: Could you -- could  
16 you then explain to us if CPLA is advancing a position  
17 for the Board's consideration on the amounts that should  
18 be chargeable or the maximum amounts that should be  
19 chargeable on default?

20 MR. NORMAN BISHOP: Yes, I believe we  
21 indicate that interest should accrue at the rates that  
22 are currently permitted and that the maximum of all  
23 default charges -- inclusive of NSF fees, administration  
24 fees, and -- and related fees -- not exceed forty dollars  
25 (\$40).

1 HONOURABLE STAN KEYES: And, this was  
2 part of my presentation.

3 MS. ANITA SOUTHALL: I understand from  
4 the -- the prefiling of evidence by CPLA that forty  
5 dollars (\$40) is the NSF charge that everyone in -- in  
6 the Association adheres to?

7 HONOURABLE STAN KEYES: A maximum of  
8 forty dollars (\$40).

9 MR. NORMAN BISHOP: Just by way of  
10 information, what the Association does is they look at  
11 what the top five (5) banks charge for an NSF fee and  
12 have agreed that it would not be greater than anything  
13 the top five (5) banks charge.

14 And I believe it's the CIBC charges forty  
15 dollars (\$40), and that is the highest one. And so  
16 that's the highest one -- the maximum set by the CPLA.

17 MS. ANITA SOUTHALL: Thank you, and my --  
18 my followup question to that is specifically -- it's not  
19 -- if that's the rationale, then it's got nothing to do  
20 with the actual costs associated with the -- the cheque  
21 being treated as NSF, I take it?

22 MR. NORMAN BISHOP: No.

23 THE CHAIRPERSON: Wouldn't the lender  
24 incur the costs when the bank returns the cheque?

25 MR. NORMAN BISHOP: Yes, they'll incur a

1 cost to them for the cheque being returned. And there --  
2 there's also significant administration and accounting  
3 fees for following up on collection.

4 And I believe Rentcash, in their evidence  
5 -- rebuttal evidence, filed -- filed some information on  
6 what costs would be when -- when a default occurs. So I  
7 think it's fair to say forty dollars (\$40) is -- barely  
8 covers the cost or doesn't cover the cost.

9 MS. ANITA SOUTHALL: Thank you, and my  
10 last question, you'll be happy to hear, involves evidence  
11 we heard from -- from Mr. Steve Sardo of Cash-X.

12 You may recall that, if you were present  
13 or -- or if you've read the transcripts, he was once a  
14 CPLA member. And he advised the panel in his testimony  
15 that he had raised with the CPLA during his membership  
16 period the creation of a creditor database.

17 He wasn't suggesting that it ought to be a  
18 state database as -- as in Florida, although he did cite  
19 Florida as an example of -- of a location that had a  
20 creditor database.

21 Has CPLA -- is he accurate? Has CPLA  
22 considered or had brought forward the concept of a -- of  
23 a creditor database for the organization?

24 HONOURABLE STAN KEYES: Yes, there was a  
25 discussion amongst members at a membership meeting about

1 the idea of a database. It was solely put forward by Mr.  
2 Sardo at that particular meeting, and the membership  
3 decided that, for a number of reasons, a data -- a  
4 database would not be appropriate.

5 MS. ANITA SOUTHALL: And are you able to  
6 share what the reasons are?

7 HONOURABLE STAN KEYES: Certainly. There  
8 -- yeah, one that strikes me right off the bat -- and I'm  
9 going to ask my colleague, Mr. Bishop, to comment, as  
10 well, but that -- I think the one that struck me the most  
11 was that a database is -- is really a -- a lender's tool,  
12 not a borrower's tool.

13 So, given that the mandate of the CPLA is  
14 to -- is to most certainly create the -- the legislation  
15 and regulation that protect a consumer and, at the same  
16 time, in balance to allow for a viable and competitive  
17 industry, the database just -- just didn't fit.

18 Mr. Bishop...?

19 MR. NORMAN BISHOP: Yeah, I -- I think  
20 Mr. Sardo was interested in owning and operating a  
21 database. But that's a complex of issue with a number of  
22 difficulties with it, whether it's a public or private  
23 situation.

24 And I don't know that it -- in -- in  
25 members that I've spoken to, it -- it has the same effect

1 that he would indicate that it would.

2 I think, when he was talking last week, he  
3 talked about, well, the two (2) large members, in fact,  
4 have databases of their own and that it gives them  
5 advantage, because a borrower can default on a loan at  
6 one store and then goes to another store. And they know  
7 that -- that he's -- he's defaulted on his loan.

8 I think when you think about it, most  
9 borrowers are smart enough that if they've defaulted at a  
10 loan at the Cash Store or Money Mart, they're not going  
11 to go to another Cash Store or Money Mart and -- and take  
12 out another loan.

13 It -- it really doesn't make that much  
14 difference. The -- and Mr. Sardo talked about how, I  
15 think, he said 90 percent of his customers are repeat  
16 customers.

17 He, in fact, knows his customers, and --  
18 and so if he's having a default with one of his  
19 customers, he will certainly know that.

20 And he did talk for some time about his  
21 criteria -- which he's building a model of -- and all of  
22 the information you get off a bank statement. So, for  
23 example, you would see on a bank statement NSF's, pre-  
24 authorized debits for other loans.

25 So that's largely the same information you

1 would get from a database. At the end of the day, as he  
2 said -- I think he said, whether to -- who to lend to is  
3 a matter of an art and science.

4                   And I think different lenders take  
5 different risks knowing full well that they are risky  
6 without information that a database would particularly  
7 give them. On the other hand, there are -- there are  
8 risks for databases or a downside.

9                   One of them has been expressed in -- in a  
10 number of studies done by PIAC, the Public Interest  
11 Advocacy Centre, and that has to do with credit building.

12                   When you are a -- a borrower that doesn't  
13 have great credit and then you use a registry that would  
14 require -- this would be like Equi -- Equifax, where  
15 you're -- you're filing evidence of a borrower's habits  
16 with respect to payday loans, once you default on payday  
17 loans, it -- it creates a real difficulty with credit  
18 repair.

19                   And in addition, there's a number of costs  
20 with the system.

21                   And the other thing is that the industry  
22 is -- is -- found from consumers and from the polling  
23 that's done, that people like the privacy of the -- of  
24 the product as opposed to having their information filed  
25 in a registry system.

1                   So there -- there is a lot of issues on  
2 both sides. I know the Consumer Measures Committee has -  
3 - has looked at this and discussed this. And to my  
4 knowledge, none of the provinces have -- have chosen to  
5 implement a database at this -- this time.

6                   But there all sorts of issues surrounding,  
7 not -- not the least of which is dealing with  
8 confidential information and the filing of it.

9                   So it's -- it is something that is -- if  
10 this is a very new industry this would be a very big  
11 issue to deal with at this point in time.

12                   So I think it's fair to say that Mr. Sardo  
13 raised the issue, but it -- it wasn't a matter of a great  
14 deal of discussion with the CPLA, and it's not really  
15 something the CPLA would deal with in any event.

16                   MS. SUSAN PROVEN:    Could I -- could I  
17 interject by asking, you said it -- your mandate within  
18 the CPLA was to protect borrowers? Did I hear you right  
19 -- that was the most important thing?

20                   HONOURABLE STAN KEYES:    The -- as the  
21 CPLA has -- has said time and time again our mandate --  
22 part of our mandate -- there are many aspects to the  
23 mandate, but what I consider to be, as President, the  
24 most important part of our mandate is to -- is to ensure  
25 that the consumer is protected.

1                   And that is in balance with a viable and  
2 competitive industry. And that's why the CPLA has always  
3 encouraged and -- and asked for legislation and  
4 regulations, and -- and that's why the CPLA has not  
5 fought it, but embraced it and -- and pushed for it.

6                   MS. SUSAN PROVEN: I just think that such  
7 a registry or such a database would also protect your  
8 lenders, would it not? Because it would hopefully alert  
9 them to the level of risk that they're taking on in that.

10                   If they could go into the database and see  
11 that someone was actually incurring loans at four (4)  
12 different locations, you know, that would -- it would  
13 certainly alert me, if I was a lender, that maybe there  
14 was a higher risk.

15                   Also, would it not lower your default  
16 costs if you could protect yourselves from people that  
17 were, as Mr. Sardo said, about to blow up? I think he  
18 used that expression.

19                   In terms of consumers, I -- you know, I  
20 think consumers -- I know with the drug situation in the  
21 pharmaceutical business -- although, of course, that's a  
22 little different -- you still have an alert if someone is  
23 getting extra drugs at several different drugstores.

24                   Like, it just seems to me it's part of  
25 protecting consumers. I see it as consumer protection.

1                   HONOURABLE STAN KEYES:    Mr. Bishop, do  
2    you want to expand on your answer?  I think you did  
3    address a couple of those points that Ms. Proven has  
4    asked about.

5                   MR. NORMAN BISHOP:    Well, I -- I guess a  
6    database may or may not help in those aspects, or how  
7    much it would assist in lowering default rates is hard to  
8    say.  It's something that would have to be looked at very  
9    carefully.

10                  In terms of consumer protection, the CPLA  
11    has dealt with the -- all the credit counsellors across  
12    the country, put in brochures.  It has taken a number of  
13    initiatives like that.

14                  But at the end of the day, one of the  
15    things the Pollara study found was that the amount of  
16    debt that consumers take and -- and consumer education is  
17    I think the CPLA feels is -- is an important way to  
18    proceed, because it's one thing to say if -- if an  
19    association took the position, Well, we're going to  
20    prohibit our members from lending to anybody who's had so  
21    many loans in -- in a period of time.

22                  Well, that's all well and good, but if  
23    that debt is the tip of the iceberg -- as Mr. Silver said  
24    last week when he was before you -- it's doing nothing to  
25    address the overall debt situation.

1                   And I think consumer education is -- is an  
2 important way to go, because if -- I'm not saying one  
3 should keep lending to a customer over and over. But if  
4 you deny them credit, they're going to find credit  
5 elsewhere.

6                   But you're not going to be dealing with  
7 the overall credit problem that a consumer might have.  
8 So I would say that -- that would be the position of the  
9 CPLA.

10                   HONOURABLE STAN KEYES:   And you can  
11 imagine, just this one, we've only spent the last twenty  
12 (20) minutes talking about a database.

13                   But you can imagine if -- if one were to  
14 delve into all the issues about a database, I daresay we  
15 might be here longer discussing database than what we  
16 would be in discussing what the rates should be all in  
17 for a loan of one hundred dollars (\$100).

18                   But it's an important issue, and I agree  
19 with Ms. Proven. Some of it seems very logical, but once  
20 all the facts come forward, once there's a better  
21 understanding of the issue, then that balance goes from,  
22 you know, what we think is -- is a positive initiative by  
23 the industry to somewhere in the balance, and then once  
24 all the information is put forward, then the balance tips  
25 against the idea of a database.

1                   But we are quite prepared to answer any  
2 and all questions when it comes to the database and how  
3 our members feel about the database and, as Norm has  
4 touched on, whether it's the criteria of an individual  
5 company, the fact that they are lending money. And  
6 because they are lending money, they certainly want to  
7 have that money back.

8                   So they're going to be very judicious in  
9 ensuring that, you know, when they set their criteria  
10 against an individual who borrows the money, they're  
11 looking at the criteria in order to assume that they are  
12 going to get repayment of that loan, of that capital.

13                   So, given all the issues that Mr. Bishop  
14 has brought forward and -- and just this brief  
15 discussion, you can see how -- how complicated -- and we  
16 haven't even touched on the -- the confidentials -- the  
17 confidentiality, the Privacy Act, and how all that  
18 applies under Canadian law toward -- toward a database.

19                   MS. SUSAN PROVEN:   And what about in  
20 Florida, where they did do the database? Did they have  
21 those issues?

22                   HONOURABLE STAN KEYES:   I have no  
23 knowledge of -- of the discussion that was taking place  
24 in Florida. I have no knowledge of what the -- the laws  
25 are on privacy in the United States and, in particular,

1 the state of Florida.

2 MR. NORMAN BISHOP: Maybe if I could just  
3 put some context into it is, I guess we're responding to  
4 a question that the Association really hasn't thought  
5 much about or spent a lot of time thinking about it.

6 It hasn't been an issue. So it's not like  
7 we have a lot of developed for formed views on the issue.

8

9 CONTINUED BY MS. ANITA SOUTHALL:

10 MS. ANITA SOUTHALL: So just following up  
11 on -- on that, if I could for a moment, CPLA doesn't have  
12 a view on whether this type of database would benefit  
13 Manitobans in -- in this payday loans area?

14 MR. NORMAN BISHOP: I think it would be  
15 fair to say, no. I believe there'd be a lot more  
16 research required on the area.

17 MS. ANITA SOUTHALL: But this isn't a  
18 priority for CPLA. It's not in your agenda, it's not in  
19 the five (5) year plan for consideration in terms of  
20 funding or development?

21 MR. NORMAN BISHOP: I think our priority  
22 is dealing with the hearings right now. It's kept us  
23 very busy for some time.

24 MS. ANITA SOUTHALL: Can you tell me if  
25 part of the reason why Money Mart's costs are lower,

1   apparently, and they're able to charge lower rates has  
2   anything to do with their database?

3                   MR. ALLAN FORAN:   Is this a question of  
4   CPLA as to whether CPLA has that information, or is this  
5   a request or inquiry --

6                   MS. ANITA SOUTHALL:   Yeah, I -- I know  
7   Mr. Bishop is aware of Money Mart's structure, so I -- if  
8   he can answer it, fine.  If you want to consider it as an  
9   Undertaking that's fine too.

10                  MR. ALLAN FORAN:   My preference would be  
11   as an Undertaking, only because I'm here representing  
12   CPLA, and as with some other questions, there will have  
13   to be inquiries made of Money Mart.

14                  MS. ANITA SOUTHALL:   That's fine, if you  
15   are prepared to undertake to make that inquiry.  Thank  
16   you.

17                  MR. ALLAN FORAN:   We will.

18

19   --- UNDERTAKING NO. 33:           CPLA to inquire to Money Mart  
20                                       as to whether part of the  
21                                       reason why their costs are  
22                                       lower and they are able to  
23                                       charge lower rates has  
24                                       anything to do with their  
25                                       database.

1 MS. ANITA SOUTHALL: Thank you, Mr.  
2 Chairman, those are my questions of the CPLA panel.

3 THE CHAIRPERSON: Thank you.

4 Now, I believe when we start up again, we  
5 will be going to Mr. Williams for the Coalition. But  
6 before that, in following up the suggestion that was made  
7 to us at one point in time that we make evident issues of  
8 interest as we proceed along here, we have a question  
9 that we would like to pose of the panel.

10 We heard from Mr. Taylor, of Assistive  
11 Financial, which is apparently an insurance broker and  
12 facilitator. I think he portrayed himself as the creator  
13 of a product of an insurance nature.

14 Assistive purportedly links an insurance  
15 company with a lender and then the lender offers as a  
16 voluntary product -- life, disability, and if I recall  
17 properly, critical injuries insurance -- to accepted  
18 borrowers of an accepting lender. Obviously, a lender  
19 would have to agree to offer this product.

20 Well, on first blush in preliminary, not  
21 giving any judgment out on this matter, while the premium  
22 appears to be relatively modest on an individual basis in  
23 total - given a high percentage of borrowers apparently  
24 take the insurance - the proceeds appear to be  
25 significant.

1 I will come to a question.

2 And, of course, that is for a lender that  
3 agrees to offer the product to the borrowers.

4 As we understood Mr. Taylor, he indicated  
5 that the proceeds of the insurance premium, less  
6 45 percent as a commission to the lender, is forwarded to  
7 the insurance company. And then the insurance company  
8 apparently provides 5 percent to Assistive Financial.

9 I do not know whether it is forty-five  
10 (45) plus five (5) or five (5) of the fifty-five (55). I  
11 did not quite follow that part of it.

12 So that would leave 50 percent, let us  
13 say, with the insurance company to meet claims, costs,  
14 operating costs, premiums, other taxes, and the reserves  
15 that are required of insurance companies, particularly of  
16 life companies.

17 And you may know this Board regulates a  
18 large insurer, so we have some appreciation of the  
19 practices of insurance companies and the involvement of  
20 actuaries, and the development of reserves, and things of  
21 that nature.

22 So the question that comes is that it  
23 raised the question in our mind as to what was basically  
24 left for claims in a sense.

25 And Mr. Taylor left the impression that

1 the arrangement was described was commonplace to the  
2 industry with respect to the 45 percent retention, if you  
3 like, and the 5 percent.

4           And to be direct and honest, we're having  
5 some difficulty ascertaining a view as to the overall  
6 economic benefit to borrowers given the situation that  
7 I've described. You may recall that Mr. Taylor, in his  
8 testimony, was unaware of the loss ratios experienced by  
9 the insurance company. He indicated some adjustment  
10 process, but when asked directly what were the loss  
11 ratios, he did not know.

12           Just a general question, and there is no  
13 conclusion in our minds on this matter, but if you can  
14 assist us in some way in coming to an appreciation of the  
15 overall benefit distribution of the insurance product  
16 that Mr. Taylor was outlining for loans of a duration of  
17 say three (3) to fourteen (14) days, it would be greatly  
18 appreciated.

19           Do you have any initial comment?

20           HONOURABLE STAN KEYES: I do have a  
21 comment. I'm not sure if I can be very assistive to you  
22 in -- in my answer, because the five (5) members of the  
23 Canadian Payday Loan Association operating in Manitoba,  
24 none of them provide insurance -- none.

25           And in conversations I've had with members

1 on many different and a variety of subjects the members  
2 of the Payday Loan Association in Manitoba when as an  
3 aside asked why don't you provide insurance their answer  
4 is that it does not provide value to the customer in our  
5 opinion. And that is why they do -- they do not provide  
6 the product for the customer.

7                   Beyond that, any questions specific to the  
8 insurance would probably be best asked of Mr. Taylor or,  
9 may I respectfully suggest, any company that does offer  
10 that particular product.

11                   THE CHAIRPERSON:   Okay, well, we will  
12 leave the matter as it stands right now, but thank you  
13 for your response.

14                   I think, Ms. Southall, given the hour and  
15 the time it would probably be better if Mr. Williams had  
16 a fresh start in the morning.

17                   How are you with that, Mr. Williams?

18                   MR. BYRON WILLIAMS:   Speaking personally,  
19 I'm -- I'm fine with that. The -- the only challenge I  
20 foresee, and we've had some discussions about that, is  
21 Dr. Gould's availability.

22                   I can -- I -- I will be a while, and I  
23 think Mr. Hacault will be a -- a while as well. If we  
24 are -- certainly I -- I think I, you know, we could work  
25 more efficiently tomorrow, but I don't know if the Board

1 would consider starting a bit earlier to -- to make sure  
2 that we can get Dr. Gould out of here at a reasonable  
3 time or not.

4 THE CHAIRPERSON: Well, I imagine we  
5 could shorten the lunchbreak and cut back on this and  
6 that. I don't know, we might as well be...

7

8 (BRIEF PAUSE)

9

10 THE CHAIRPERSON: Yes, I suppose. I  
11 suppose we could come in at 8:30, if it met with  
12 everyone's approval.

13 MR. ALLAN FORAN: The -- the real  
14 difficulty and the challenge -- and I shouldn't be  
15 presumptive. I -- I think I did a -- a negative  
16 headshake. Dr. Gould is actually -- is physically not  
17 available after 11 a.m. tomorrow.

18 He's -- he's really it's a 11 a.m., and  
19 Dr. Gould, I think, is gone. And the difficulty is  
20 several fold. Dr. Gould is a full-time university  
21 professor. He actually is involved in another matter as  
22 well, and I -- I'm gonna speak for Dr. Gould for a  
23 moment. He's just physically not available after 11:00  
24 a.m. tomorrow in Winnipeg.

25 THE CHAIRPERSON: Well, I think along

1 with his, you know, more than adequate background for the  
2 questions being put to him, he has probably gained a bit  
3 from the last period of time listening to this discussion  
4 going on too.

5                   So it would be a great loss to the hearing  
6 process if the Intervenors yet to follow did not have a  
7 full opportunity to examine Dr. Gould.

8                   So if we cannot complete him by tomorrow,  
9 we will have to find another time, plain and simple. We  
10 are not going to shorten Mr. Williams' or Mr. Hacault's  
11 opportunity. Do you have any other time, say Christmas  
12 Day, or...?

13

14                   (BRIEF PAUSE)

15

16                   DR. LAWRENCE GOULD: I'd be available on  
17 Christmas Day, yes.

18                   THE CHAIRPERSON: You might be the only  
19 one, Mr. Gould. Can you give us some idea how long you  
20 would think you are going to have with your  
21 cross-examination?

22                   MR. BYRON WILLIAMS: I'm going to follow  
23 the Bob Peters' rule, because I -- I think I estimate --

24                   THE CHAIRPERSON: Well, you are both  
25 famous for it.

1                   MR. BYRON WILLIAMS:    -- so I -- I have  
2 caution, Mr. Chairman.  The -- I have -- in terms of Dr.  
3 Gould, I have shifted my cross so that cross-examination  
4 for Deloitte and some of the CPLA can appear afterwards.

5                   But there is some that necessarily  
6 involves a bit of posing questions to all three (3)  
7 witnesses, so I'm going to guess at least an hour and a  
8 half.

9                   And I think that that is an optimistic  
10 estimate.  So I -- I would say somewhere between an hour  
11 and half and two (2) hours.  I may be able to shorten it  
12 up tonight, but I'm in that --

13                  THE CHAIRPERSON:    Well, there is no way  
14 that Mr. Hacault is going to be able to finish his before  
15 Mr. Gould has to leave tomorrow at 11:00, so we are going  
16 to have to figure out some other arrangement.  But we  
17 might as well get a start tomorrow.

18                  As for continuing, I do not know about the  
19 rest of you, but there is an awful lot to digest in one  
20 day.  And probably the same with the rest of you, we have  
21 other projects on the go, too.

22                  So I think we will wind it up at 4:00, and  
23 we will come back at 9:00 and see where we get.  And we  
24 will make arrangements with Mr. Gould so that you have a  
25 good opportunity -- yes, sir.

1 MR. ANTOINE HACAULT: Mr. Chairman, the  
2 only matter we've discussed in addition to Dr. Gould --  
3 and we had tried as counsel to see if we could arrange  
4 that -- it had been hoped I would be able to start first-  
5 thing tomorrow morning with Dr. Gould -- that hasn't  
6 worked that way -- is that Rentcash has had its CEO, Gord  
7 Reykdal, and Nancy Bland come in, of course, on the basis  
8 of the scheduling, which has been set, which would have  
9 them do their direct presentation tomorrow afternoon.

10 And we would be very appreciative if that  
11 could be kept in mind in any discussions we have because  
12 them having travelled here to do that.

13 THE CHAIRPERSON: No, we understand that.  
14 We intend to keep to that schedule. How much time do you  
15 think you will be spending with this panel?

16 MR. ANTOINE HACAULT: I believe the panel  
17 would be, I'm guessing, about three (3) hours. I'm  
18 looking how much Anita progressed in -- in practically a  
19 full day with the panel. And there's issues that she has  
20 dealt with, but most of the issues that she has raised  
21 aren't issues which I had raised or was going to  
22 question, so...

23 THE CHAIRPERSON: No, it is significant  
24 evidence. We will have to make arrangements. So we will  
25 adjourn -- Mr. Williams...?

1 MR. BYRON WILLIAMS: And just after  
2 hearing My Friend's estimate, I just want to be, lest I'm  
3 accused of the Bob Peters' rule breaking, with the hour  
4 and a half to two (2), I was talking about Dr. -- the --  
5 the first part in -- in terms of Dr. Gould and as part of  
6 the CPLA.

7 THE CHAIRPERSON: Well, like the rest of  
8 you, this is our first proceeding of this kind, too, so  
9 we will have to make allowances and we will find a way in  
10 time. So we will adjourn tonight and we will see you  
11 tomorrow morning at 9:00. Thank you.

12 MS. ANITA SOUTHALL: Sorry, I -- I needed  
13 to indicate one thing for the record, and I wanted to  
14 wait until those exchanges were completed. The -- the  
15 Board made reference to Assistive Financial, the  
16 insurance company as Progressive Insurance Solutions.

17 So if we could just note for the record  
18 that that insurance product was being spoken to by Mr.  
19 Kent Taylor of Progressive. Thank you.

20 THE CHAIRPERSON: I apologize.

21 MS. ANITA SOUTHALL: Oh, no problem.

22 MR. ANTOINE HACAULT: The only other  
23 matter, Mr. Chairman, that I raise at this time, is so  
24 far everybody that's proceeded, we seem to have got  
25 through on the projected time and perhaps a bit quicker.

1                   Now, it seems that the estimates for the -  
2 - I'm going say the bigger pieces of evidence in this  
3 Hearing, there appears to be an underestimate of time.

4                   And I'm really concerned, at this point,  
5 that the time we've got set aside to complete all of the  
6 other examinations is going to be a challenge to meet  
7 unless we can deal with things in a different way than  
8 they've been dealt with so far.

9                   That's -- we'll discuss it as counsel to  
10 see if we can try and deal with it, but...

11                   THE CHAIRPERSON:   Perhaps after we  
12 adjourn you could meet with the other counsels and have a  
13 general discussion.

14                   MS. ANITA SOUTHALL:   I'll do that.  Thank  
15 you, Mr. Chairman.

16                   THE CHAIRPERSON:   Okay.  We will adjourn.  
17 We will see you tomorrow morning.

18                   MS. ANITA SOUTHALL:   Thank you.

19  
20 --- Upon adjourning at 3:55 p.m.

21 Certified Correct,

22

23

24 \_\_\_\_\_  
Wendy Warnock, Ms.

25