

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MANITOBA PUBLIC UTILITIES BOARD

Re: 2005 MANITOBA PUBLIC INSURANCE
RATE APPLICATION

Before Board Panel:

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

HELD AT:

Public Utilities Board
400, 330 Portage Avenue
Winnipeg, Manitoba
November 1st, 2004

Pages 1320 to 1529

APPEARANCES

1
2
3 Walter Saranchuk) Board Counsel
4
5 Kevin McCulloch) Manitoba Public Insurance
6 Marilyn McLaren)
7
8 Raymond Oakes) CMMG
9
10 Byron Williams) CAC/MSOS
11
12 Nick Roberts) Manitoba Used Car Dealers
13 Association
14
15 Michael Mager (np)) CAA
16 Jeanie Dalman
17
18 Margaret Scurfield) IBAM
19 George Miller (np))
20
21 Robert Dawson) CBA/MBA
22
23 Claudio Sousa) Scootering Manitoba
24
25

	TABLE OF CONTENTS	
		Page No.
1		
2		
3	List of Exhibits	
4		
5	Closing Statement by Mr. Walter Saranchuk	1325
6	Closing Statement by Mr. Byron Williams	1339
7	Closing Statement by Mr. Raymond Oakes	1382
8	Closing Statement by Mr. Nick Roberts	1413
9	Closing Statement by Ms. Jeanie Dalman	1421
10	Closing Statement by Mr. Robert Dawson	1432
11	Closing Statement by Ms. Margaret Scurfield	1467
12	Closing Statement by Mr. Claudio Sousa	1469
13	Closing Statement by Mr. Kevin McCulloch	1475
14		
15	Certificate of Transcript	1529
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

	LIST OF EXHIBITS		
	No.	Description	Page No.
1			
2			
3	MPI-29	Response to Undertaking 20	1325
4	MPI-30	Response to Undertaking 25	1325
5	MPI-31	Response to Undertaking 27	1325
6	MPI-32	Response to Undertakings 21 to 24	1325
7	MPI-33	Interim Agreement	1487
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

1 --- Upon commencing at 9:11 a.m.

2

3

THE CHAIRPERSON: Good morning, everyone.
4 Welcome back. As you will have noticed we have all sorts of
5 technical problems again. I don't know if it's related to
6 Hallowe'en or the American election, but apparently at least
7 we won't have any problem determining who is speaking, since
8 there's so few mikes in actual operation.

9

Mr. McCulloch, you have some filings to start?

10

MR. KEVIN MCCULLOCH: Yes, Mr. Chairman, on
11 Friday afternoon, we circulated electronically responses to
12 the last of the undertakings and I have some hardcopies here
13 -- I've got about ten (10) hard copies -- for those prefer
14 them in that format, but if we can deal with them starting
15 with Undertaking Number 20, which by my recollection would be
16 Exhibit -- MPI Exhibit Number 29.

17

We then have Undertaking --

18

THE CHAIRPERSON: That's correct.

19

MR. KEVIN MCCULLOCH: -- Undertaking Number
20 25, which would be Exhibit 30, Undertaking 27, which would be
21 Exhibit 31 and Undertakings 21 to 24, inclusive have been
22 responded to in -- with one (1) chart, so we'd file those as
23 -- as one (1) exhibit -- MPI Exhibit Number 32.

24

THE CHAIRPERSON: Very good. If you wouldn't
25 mind, Ms. Williamson, distributing them around the room.

- 1
2 --- EXHIBIT NO. MPI-29: Response to Undertaking 20
3
4 --- EXHIBIT NO. MPI-30: Response to Undertaking 25
5
6 --- EXHIBIT NO. MPI-31: Response to Undertaking 27
7
8 --- EXHIBIT NO. MPI-32: Response to Undertakings 21 to 24
9

10 THE CHAIRPERSON: Okay. Now we'll begin
11 closing statements. First up will be Mr. Saranchuk. Mr.
12 Saranchuk?
13

14 CLOSING STATEMENT BY MR. WALTER SARANCHUK:

15 MR. WALTER SARANCHUK: Thank you, sir. Mr.
16 Chairman, Members of the Board, Ladies and Gentlemen, we have
17 now completed the evidentiary component of the Public Hearing
18 in respect of MPI's Application to the Public Utilities Board
19 for approval of the Corporation's base rates and premium
20 charged for compulsory vehicle and driver insurance, that is,
21 its rates for service for the 2005/2006 insurance year, which
22 would take effect March 1st, 2005.

23 As Board Counsel, I take no position on the
24 merits of any of the Application by MPI or relative to
25 positions taken by any of the other Parties. Today my role

1 is to summarize matters that this Board may wish to consider
2 in this rate application.

3 The Autopac rates for which MPI seeks approval
4 are based on no overall change in revenue and include the
5 following:

6 Firstly, experience-based rate increases and
7 decreases to individual classes ranging from plus 15 percent
8 to minus 15 percent with the following exceptions:

9 Firstly, increases for dealer plates ranging
10 from 20 percent to 25 percent, increase for mopeds averaging
11 110 percent or an average of fifty three dollars (\$53.00) per
12 moped, and decreases for motor scooters ranging from 40
13 percent to 50 percent.

14 Also included in the Application is a factor
15 for passenger vehicles and trucks including classification
16 offsets ranging from minus 15.2 percent to plus 17.5 percent
17 to achieve revenue neutrality from rate group adjustments.

18 For commercial vehicles, there's included an
19 expansion of the Corporation's merit discount program to
20 include vehicles insured as artisan trucks less than 16,330
21 kilograms and common carrier trucks delivering within the
22 city or municipality or common carrier trucks delivering
23 within 161 kilometres in Manitoba.

24 For motorcycles, there are to be no
25 classification offsets from rate group adjustments resulting

1 in rate changes from 0 percent and 15 percent in addition to
2 experience adjustments and there are to be lower rates for
3 off-road vehicles and most trailers through a reduction in
4 the allocation of operating costs to these classes, which was
5 begun three (3) years ago.

6 The Corporation is proposing to reduce the
7 administration fee for monthly premium payments from eight
8 dollars (\$8) to four dollars (\$4). No changes are proposed
9 to fleet rebates and surcharges, existing drivers' licence
10 premiums or accident surcharges, other existing time payment
11 fees or other existing service and transaction fees.

12 In the Application at hand, the average
13 adjustment to each major class is as follows: for private
14 passenger vehicles plus 0.1 percent. For commercial
15 vehicles, a 0.2 percent decrease. For public service
16 vehicles a 1.1 percent increase. For motorcycles, a 15
17 percent increase. For trailers, a 22.2 percent decrease.
18 For off-road vehicles, a 40.9 percent decrease with an
19 overall zero (0) rate change in the final analysis.

20 This will result in 1.6 percent of vehicles
21 receiving no change in rates and 51.5 percent receiving a
22 rate decrease; the majority of the decreases being for less
23 than fifty dollars (\$50).

24 The remaining 47 percent of vehicles will
25 experience a rate increase with the great majority of those

1 increases being fifty dollars (\$50) or less.

2 In terms of the fiscal 2000 projected
3 operating results, the Corporation's financial statements for
4 2005/06, for that insurance year, are shown in Sections TI-15
5 and TI-17 in Volume II, Part 2 of the Application. Those are
6 Tab 4 and Tab 6 respectively, of the Public Utilities Board
7 Book of Documents.

8 A net loss of half a million dollars
9 (\$500,000) dollars is projected for fiscal 2006. Total net
10 earned premiums are currently projected to be \$620.8 million
11 compared to \$584 million in fiscal 2004/05.

12 As was the case last year, this years'
13 Application assumes a thirteen (13) -- sorry, a 3.5 percent
14 vehicle upgrade factor and a 1.5 percent volume factor which
15 is, incidentally, the growth in the number of vehicles
16 insured.

17 Service fees and other revenues are expected
18 to the \$14.5 million for 2005/06 which is consistent with the
19 forecast for 2004/05.

20 Claims costs, claims and road safety, loss
21 prevention expenses are expected to increase to \$612.5
22 million, compared to \$587 million in 2004/05. Compared to
23 the 2004/05 forecast, claims incurred is projected to
24 increase by \$23.9 million.

25 Other expenses at \$94.9 million are projected

1 to increase by \$9.4 million in 2005/06, compared to 2004/05,
2 the majority of that being due to an increase in commissions
3 of \$6.1 million which is the result of the DDVL merger, which
4 will be referred to later, and an increase of \$2.1 million of
5 operating expenses.

6 It is the higher premiums written that
7 increase commissions and premium taxes plus allocated
8 operating expenses.

9 The projected underwriting loss for 2005/06 is
10 \$72.1 million, while investment income is forecast to be
11 \$71.6 million. The result is, that overall, for 2005/06 the
12 basic insurance program is expected to have a net loss of a
13 half a million dollars (\$500,000), as I indicated.

14 This compares to a net loss of \$9.3 million
15 forecast for 2004/05.

16 We heard evidence regarding the Rate
17 Stabilization Reserve which, incidentally, is set or has been
18 set for the stated purpose, quote:

19 "To protect motorists from rate increases
20 made necessary by unexpected events and
21 losses arising from non-recurring events or
22 factors."

23 \ End of quote. The Application as filed
24 projects the balance of the RSR as follows. At the end of
25 February in each of the following years, 2005, \$67.4 million;

1 2006, \$78.9 million; 2007, 93.3 million; 2008, \$111.8
2 million; and 2009, \$132.1 million.

3 The Public Utilities Board RSR target is \$50
4 million to \$80 million for rate setting purposes. The
5 Corporation's RSR range is \$80 million to \$100 million.

6 At the end of fiscal 2004/05, that is the
7 current year in which we're in, the RSR is forecast to be
8 \$67.4 million after a net loss of \$9.3 million. But a
9 transfer of \$29.6 million from SRE which is the Special Risk
10 Extension Division, and \$4.3 million from the Extension
11 Division of MPI's operations.

12 For fiscal 2005/06 a half million dollar
13 (\$500,000) loss is forecast but a \$7.5 million transfer from
14 SRE and a \$6.7 million transfer from Extension, will result
15 in the RSR being \$78.9 million near the top end of the
16 Board's RSR range for rate setting purposes.

17 However, as it has been maintained throughout
18 the years by the Board, the Board will also consider the
19 overall financial well being of the Corporation for rate
20 setting purposes. It is therefore noteworthy that the
21 forecast for retained earnings for Extension is \$43.6 million
22 in 2004/05 and is projected to be \$45.7 million in 2005/06.

23 Retained earnings for SRE in 2004/05 is
24 forecast to be \$40.5 million and is projected to be \$40.2
25 million in 2005/06. After a projected \$7.2 million net

1 income and 7.5 transfer-- \$7.5 million transfer to the RSR.

2 On an overall basis retained earnings of the
3 Corporation are forecasted to exceed \$151 million in 2004/05
4 and are projected to be greater than \$164 million in 2005/06.

5 As indicated in Section SM 8.2 in Volume 1 of
6 the Application, in answer to last year's Board Order the
7 Corporation remains committed to its policy of using retained
8 earnings from the Corporation's competitive lines of business
9 but are in excess of a target to rebuild the RSR on the basic
10 insurance side.

11 That is, MPI intends on transferring to the
12 basic RSR, retained earnings from the competitive lines that
13 are in excess of their approved target levels. The current
14 approved targets are \$33 million for SRE and \$39 million for
15 Extension.

16 However, since the business plans and
17 forecasts for the competitive lines are not available for the
18 Board review, the Board must consider the extent it can rely
19 on such transfers in the absence of some assurance or
20 guarantee by the government through legislation or otherwise.

21 Moving onto investment income, the Board heard
22 evidence that MPI's investment portfolio is projected to be
23 \$1.7 billion in 2005/06 with its projected corporate
24 investment income to be \$83.1 million of which \$71.6 million
25 or 86.2 percent is to be allocated to the Basic division.

1 MPI relies on income from its investment
2 portfolio to offset the requirement for rate increases but
3 insisted that it does not use investment or capital gains to
4 manage its so-called bottom line.

5 MPI's diversification of its investment
6 portfolio involves the United States and Canada but does not
7 include international markets which apparently do not meet
8 any of its policy standards. We also heard that MPI chose
9 not to implement the asset mix recommendations for its
10 portfolio by Mercer's Investment Consulting which was engaged
11 by the Corporation at a cost of sixty-eight thousand dollars
12 (\$68,000).

13 MPI's liability for employees' pension funds
14 is not segregated from the overall investment pool, so MPI
15 sets the interest rate for the pension fund and it is then
16 credited to the fund out of the entire investment pool before
17 the latter is allocated to MPI's other lines of business. In
18 other words, the pension rate is independent of the actual
19 return on investments.

20 Moving on to the topic of the Department of
21 Driver and Vehicle Licensing, known by the acronym DDVL, the
22 Board heard evidence on the transfer of the DDVL and they
23 must consider MPI's decision to consign it to the Extension
24 division as opposed to its Basic insurance division.

25 MPI, of course, now is responsible for

1 receiving and processing all applications for drivers
2 licences and motor vehicle registrations and insurance in the
3 province and the Board must consider the matter of the loss
4 of the annual commission recovery to Basic of approximately
5 \$6 million previously paid by the Government of Manitoba
6 under a share cost agreement with MPI.

7 About three hundred (300) employees of DDVL
8 became MPI employees effective October 1st, 2004, but no
9 final agreement with the government has been finalized to
10 date. What is known is that the cost of the Basic insurance
11 side is approximately \$6 million in lost revenue. As well,
12 the link between DDVL's function and MPI's Basic insurance
13 operations might well justify some consideration that the
14 former ought to be subject to PUB scrutiny.

15 Moving on to the topic of motorcycles, MPI's
16 application for motorcycle premiums for 2005/06 is
17 underpinned by the claims forecasting and rate setting
18 methodology, which MPI submits remain unchanged from last
19 year. In this regard, the treatment for motorcycles is the
20 same for other major uses.

21 MPI has indicated that the motorcycle class as
22 a whole needs significantly more premium revenue to approach
23 meeting its costs. The rates charged for different risk
24 groupings within the motorcycle class are stated to require
25 adjustments due to the fact that the motorcycle experience

1 continues to deteriorate in many instances.

2 This year MPI has proposed a continuation of
3 the transition to a new rate line with caps set at 15 percent
4 in order that rate shock be minimized. The premiums
5 necessary to cover the projected increase in claims costs are
6 being recovered by rate group relativity adjustments. The
7 actuarially indicated rate adjustment for motorcycles is
8 32.89 percent. Vehicles at the higher end of the rate group
9 scale for moderate motorcycles are, for the most part,
10 sufficient.

11 MPI has indicated that the motorcycles at the
12 low end of the rate group scale, however, are insufficient
13 and need larger increases. The Board will undoubtedly
14 consider the results of a motorcycle study submitted this --
15 with this Application as AI-16 in Volume III, Part 2, in
16 response to last year's Board Order and in that regard I
17 would refer you to SM-8.4 in Volume I.

18 The results were used to support to the change
19 in -- to support the change in the rate differential for
20 sports bikes, which were indicated as comprising 16 percent
21 of the motorcycle pool, but accounted for 40 percent -- 47
22 percent of the claims. MPI contended that over 80 percent of
23 all claims costs for motorcycles are for injury claims and
24 that these types of claims are not dependent on the type of
25 the bike or the rate group.

1 In the report it is indicated that the five
2 (5) year average for injury claim frequency is 53.4 percent
3 for motorcycles compared, for example, to 12.3 percent for
4 private passenger vehicles.

5 We know that MPI's policy of assigning claims
6 costs is not based on fault or loss transfer. In this
7 Application, the Board further explored issues related to
8 loss transfer and MPI prepared a report, as I indicated,
9 found at AI-16, however, this time they also referred to the
10 report filed as AI-16 in last year's application that
11 included a review of the treatment of loss transfer in other
12 Canadian jurisdictions and indicated that the application of
13 loss transfer would result in credibility-weighted rate
14 increase of 23.6 percent for motorcycles as compared to a
15 required increase of 29.7 percent before loss transfer.

16 MPI concluded that the 6.1 percent
17 differential did not reflect the inherent risk posed by
18 motorcycles. This year again, MPI recommends therefore that
19 no change be made to the current methodology as it is fair,
20 equitable, reasonable, non-preferential and not unfairly
21 discriminatory.

22 However, the Board will undoubtedly also
23 consider the evidence presented by CMMG, the Intervenor,
24 relative to loss transfer including the issue of
25 appropriateness of how MPI utilizes credibility in motorcycle

1 rate setting purposes.

2 We also heard evidence regarding treatment
3 this year of dealer plates by the Corporation. The
4 commercial vehicle rates are being increased largely due to
5 additional claims being assigned to the dealer plate risk
6 group since the Corporation is correcting a past error, where
7 claims were not properly allocated to the dealer plate group.

8 The actuarially indicated rate increase is 23
9 percent to 36 percent, but MPI is proposing to phase the
10 increase in by seeking rate increases of 20 percent to 25
11 percent for dealer plates.

12 As a result there will be a shortfall for the
13 dealer plate risk group which MPI has proposed be subsidized
14 from the overall insurance pool, rather than just the
15 commercial rate group. The Board may well look at the
16 fairness of that approach insofar as the other classes are
17 concerned.

18 As we do every year, we heard evidence with
19 regard to the actual experience and the forecasts relative to
20 claims incurred. Claims incurred in 2003/04 revealed the
21 following results.

22 Coming at \$513.5 million dollars, they were
23 \$19.4 million greater than the moderate loss count forecast
24 last year, and due mainly to increased cost of PIPP, Personal
25 Injury Protection Plan, and collision claims, offset by a

1 reduction in comprehensive and third party bodily injury
2 claims.

3 However, the actual costs of \$513.5 million
4 were more in line with the high loss count scenario forecast
5 claims cost of \$514.4 million last years. For 2004/05
6 forecast a year ago, claims incurred were to be \$505.2
7 million with the revised forecast being \$513.3 million. That
8 increase of \$8.1 million in the forecast is driven by a
9 forecast increase in PIPP severity and collision frequency.

10 Personal Injury Protection Plan Claims or PIPP
11 claims, since 1994, have shown a considerable volatility and
12 have increased significantly. In part this is due to
13 indexation and introduction, we heard, of the Retirement
14 Income Benefit, known as the acronym RIB, that was in the
15 year 2000. Since 1995, PIPP costs have risen from over \$90.5
16 million to over \$209.2 million in 2004.

17 There have been no changes in claims
18 forecasting methodology from that used last year. MPI
19 continues to employ the financial forecast method to run the
20 linear and exponential methods to verify the financial
21 forecast.

22 The forecast for claims incurred, as compared
23 to the actual experience over the last five (5) years, is
24 dealt with at Section SM-5.2 at page 9 in Volume I of the
25 evidence, where it will also be noted that MPI's forecast for

1 claims incurred for 2005/06 is \$537.2 million, an increase of
2 \$23.9 million over that forecast for 2004/05.

3 Touching briefly on a couple of final matters,
4 upon which the evidence was directed, the first being the
5 Bonus/Malus System, that is the system of merit and demerit
6 points, accident surcharges and additional premiums, which
7 together with a fleet program, is utilized by the Corporation
8 to reward good drivers and penalize those who cause
9 accidents.

10 The system that is in place has been
11 essentially the same with some modifications, minor ones,
12 over the years, and with some question as to its
13 effectiveness and sufficiency having been raised during the
14 Hearing, MPI stated it would be prepared to review those
15 areas again.

16 And finally, dealing with the topic of anti-
17 theft and safety initiatives. Vehicle theft is an issue
18 which continues to plague the Corporation. Over the last
19 five (5) years, vehicle thefts have numbered in the eight
20 thousand (8,000) to ten thousand (10,000) range, at an
21 estimated cost of three thousand dollars (\$3,000) per claim
22 on average.

23 Doing the math, that's costing MPI in the
24 order of \$25 million annually. MPI continues to implement
25 initiatives to stem the tide, but it maintains that

1 realistically speaking, it can't go at it alone, contending
2 that auto theft is essentially, or has become, a social
3 problem in our society.

4 We heard evidence about the Corporation's
5 safety initiatives continuing to be implemented, primarily in
6 the areas of impaired driving prevention, vehicle speed
7 reduction and seat belt usage.

8 With the introduction of a graduated licensing
9 program in our province, plus red light cameras at city
10 intersections, MPI will apparently monitor the impact of
11 those factors, but requires more time to assess the
12 experience.

13 That's a summary of some of the main issues
14 arising from the hearing, Mr. Chairman. I'd like to thank
15 the Board for its indulgence and thank the Intervenors for
16 their participation. And finally I would express my
17 gratitude to MPI's Counsel and witnesses for their
18 co-operation. Thank you.

19 THE CHAIRPERSON: Thank you, Mr. Saranchuk.
20 The first Intervenor that will speak will be Mr. Williams,
21 CAC/MSOS. Mr. Williams ...?

22

23 CLOSING STATEMENT BY MR. BYRON WILLIAMS:

24 MR. BYRON WILLIAMS: I press the mike with
25 some trepidation, Mr. Chair, but so far, so good. My aura

1 seems not to be affecting the hearing yet.

2 Joining us a bit later this morning will be
3 Ms. Desorcy. These nine o'clock hearing starts are very
4 difficult for a consumer advocate to make because, of course,
5 she's out at all hours of the evening working with -- with
6 her membership.

7 Also joining us today, I think last year as
8 well, we had a student from the University of Manitoba, and
9 this year as well, we have Ms. Beth Tate who's in third year
10 Law at the University of Manitoba.

11 Unlike the student of -- from last year, Ms.
12 Tate's fate is pre-ordained, because she will already be
13 articling with the Public Interest Law Centre next year, so
14 you -- you may expect to see her not only this year but next
15 year as well.

16 Mr. Chair, just before I start, I -- I spoke
17 with Ms. Williamson and I've put -- asked her to have a few
18 exhibits from the Hearing nearby. Those are CAC Exhibit
19 Number 8, MPI Exhibit Number 18, CAC Exhibit Number 4 and CAC
20 Exhibit Number 6. I'll be making reference to them during
21 the course of my submissions.

22 Just by way of introduction, last Monday, Mr.
23 Chair, as you closed out the Hearing, you took the
24 opportunity to outline what you described as a few issues to
25 which the -- the panel was seeking the perspective of the

1 parties to this Hearing.

2 And as I listen to that list that the panel
3 was seeking advice on, I have to confess to some mixed
4 emotions on behalf of my clients. On the one hand, I was
5 most appreciative of the courtesy extended by the panel,
6 letting us know some of the issues that they considered to be
7 of concern and for which they required the advice.

8 On the other hand, as I sat and as I listened
9 to these issues, I felt on behalf of my clients, a curious
10 sense of disquiet and dislocation because I was wondering to
11 myself whether the panel and I had been sitting in the same
12 Hearing, hearing the -- hearing the same submissions.

13 For while my clients would agree that the
14 issues outlined last Monday are certainly important and
15 worthy of consideration, they don't rank at the top of the
16 issues that my clients have highlighted as being of
17 importance, both for the short term and the long term health
18 of the Corporation and for ratepayers, particularly the
19 private passenger class.

20 And it was a strange feeling, Mr. Chairman and
21 members of the panel, because generally I pride myself on
22 having my finger on the pulse of the Hearing and having a
23 sense of where the panel is going.

24 But the questions posed seemed somewhat at
25 odds with where my clients were going. But as I reflected

1 upon it, I thought perhaps I shouldn't be too surprised
2 because during the course of this Hearing my clients have
3 often felt a bit at odds with the perspectives advanced both
4 by MPI and by some of the Intervenors in this hearing.

5 To a certain degree this hearing has really
6 been the story of two (2) different kind of MPIs. If one
7 were to accept fully the submissions of My Friend speaking on
8 behalf of CMMG, or Mr. Ramsey speaking on behalf of the
9 National Lobbyist Group for -- for motorcyclists, you'd hear
10 the story of an MPI that was acting in a discriminatory
11 manner.

12 There's an implicit -- implicit suggest in --
13 in much of those submissions that the Corporation is acting
14 with an inherent bias against motorcyclists because, after
15 all, when you look at the rate making and cost allocation
16 perspective from the -- from the perspective of that class of
17 customers, how else could you explain a perspective and an
18 approach that from their perspective is arbitrary,
19 discriminatory and unfair? So that's one (1) perspective.

20 That's the story of one MPI. In just a few
21 short steps to my left there's a story of another MPI. The
22 story portrayed by the MPI Panel. We have an MPI that is
23 ever-vigilant in controlling costs. A Corporation that's on
24 the cutting edge in terms of measuring the best practices,
25 not only in Manitoba but in other no-fault jurisdictions.

1 We hear of a Corporation engaged in a dynamic
2 dialogue with the public. That dialogue helping it to set
3 its direction in important issues like Bonus/Malus, road
4 safety and claimant service. So which one is it?

5 MPI the ever-vigilant or MPI the wholly
6 arbitrary? That is one of the questions my clients will try
7 to answer in the course of their closing argument. And
8 likewise, they'll seek to be responsible -- responsive to, by
9 my count, the ten (10) or eleven (11) issues. Mr. Dawson I
10 think got up to thirteen (13) that the Panel outlined for us
11 on -- last Monday.

12 So I'll get to that. But before my clients
13 answer these questions, they would respectfully ask you to
14 turn your mind back to day two (2) of the Hearing. You don't
15 have to turn there, but to page 308 of the transcript. When
16 Mr. Saranchuk asked what my client's submission was, the key
17 question of this Hearing, the million dollar question or in
18 the case of this Hearing the \$600 million question.

19 Because Mr. Saranchuk at that point in time
20 was drawing the MPI's Panel attention to TI-17 from the
21 initial filing of the Corporation. And he was looking to the
22 outlook for claims incurred for the Corporation skyrocketing
23 to in excess of \$600 million by the end of the outlook
24 period.

25 And that's the same claims incurred that it

1 hovered between \$300 million and \$350 million for the better
2 part of a decade which sneaked over \$400 million in the year
3 2002, and then blazed past \$500 million a scant two (2) years
4 later.

5 So it -- and with appreciation in Mr.
6 Saranchuk, in my clients' view that was the critical issue
7 and critical question of the Hearing for two (2) reasons.

8 First of all because Mr. Saranchuk red-flagged
9 the very real pressures on the cost side of this Corporation
10 that it's -- it's facing. And the potential vulnerability of
11 the Corporation and its ratepayers in the event of an adverse
12 development, either on the revenue side or an adverse
13 development on the expense side.

14 And the second reason we think that that
15 discussion Mr. Saranchuk had between pages 308 and 311 is so
16 important is because it highlights what my clients consider
17 to be a critical issue for this Hearing but also for future
18 hearings.

19 Because Mr. Saranchuk asked the Corporation
20 should we be content with this, should we be comfortable with
21 this, does it cause any discomfort? And Mr. Galenzoski
22 argued that generally no we shouldn't be uncomfortable
23 because the outlook shows that the plan is affordable because
24 we're not looking for rate increases within the outlook
25 period.

1 And Ms. McLaren echoed these comments at page
2 312. And she went on to argue that MPI knew how to reduce
3 costs, it knew how to reduce it by reducing service or by
4 reducing benefits; and that was not an acceptable proposition
5 for Manitoba Public Insurance.

6 And my clients interpreted that response by
7 Ms. McLaren to suggest that MPI was satisfied that it had
8 done all it could on the costs incurred side short of
9 reducing coverage or reducing service.

10 And from my client's perspective that's not an
11 acceptable answer. And from their perspective the key issue
12 in this Hearing is whether this Panel, the Public Utilities
13 Board Panel, should be -- accept the MPI response.

14 Should it be content with an approach that
15 says, let's hope that revenue growth and investment growth --
16 and investment income will balance off the considerable
17 growth in claims incurred.

18 From my client's perspective the real issue in
19 this Hearing is should we be concerned with the dramatic way
20 to growth and claims incurred? And if we are concerned, are
21 there other responses rather than rate increases or changes
22 in the service levels of coverage that we can look to as an
23 explanation?

24 And I'll get off this rather lengthy intro in
25 a second, but to put the question in another way, are we just

1 passengers as claims incurred go from 400 million to 500
2 million to 600 million or are there choices that can be made
3 over the next couple years, short of program cuts, short of
4 rate increases that can steer the Corporation to a more
5 stable path? Are there things that can be done?

6 And as my clients look to the record of this
7 proceeding and it's a -- a debate they hope to engage in over
8 the course of the next two Hearings, they would suggest to
9 you that on the cost side of the equation there are at least
10 three (3) areas where the Public Utilities Board might
11 meaningfully explore the potential for cost control by the
12 Corporation.

13 The first of these areas refers to PIPP and my
14 Friend, Mr. Saranchuk, highlighted the dramatic growth in
15 PIPP since its implementation in 1994, and if you have the
16 opportunity to make a quick reference to CAC Exhibit 8, which
17 is the table with -- which tracks the -- the growth of PIPP
18 over just the last few years, you'll see that there's been a
19 dramatic increase both in the actual monetary amount that has
20 been incurred on the PIPP side from 144 million in the year
21 2000 to about 229 million in 2004 and you'll also see that
22 PIPP, as a percentage of the total claims of Manitoba Public
23 Insurance, has grown from 41 percent in 2000, to 45 percent
24 in 2004.

25 And as Mr. Saranchuk also highlighted in his

1 comments this morning, we can also see that trend or the
2 particular realization of that trend when we look to the
3 income replacement indemnity.

4 And MPI's Undertaking Number 13 in -- which I
5 believe is MPI Exhibit 18, highlights that growth and if you
6 have the second page of that, you can see that the income
7 replacement costs incurred in 1999 were about 31 million and
8 over the last five (5) years, fuelled primarily by the
9 Retirement Income Benefit, but also the other cover,
10 severity, that has grown to a 112 million for the 2004 year,
11 so there's tremendous pressure on that side of the -- on --
12 on that side of the PIPP equation.

13 And I think we've got to settle additional
14 indicia of that pressure just in the discussion that Mr.
15 Bedard had Page 705 of the transcript and he was talking
16 about even how handling the -- the paper load associated with
17 PIPP is getting very difficult.

18 They're having a -- a hundred thousand dollar
19 (\$100,000) study because their filing capacity is at its
20 maximum and it's becoming more unruly year over year and
21 there's a need for outside expertise to assist the
22 Corporation in managing that paper load. So that's something
23 that my Clients see as a red flag in terms of a concern with
24 the direction the Corporation's going.

25 What they also believe, though, is that the

1 discussion in the course of this Hearing on the PIPP side of
2 the equation, the claims incurred side of the equation,
3 undermines to a certain degree, the image of MPI as the
4 ever-vigilant, the ever-alert MPI.

5 It undermines the image of MPI as a
6 Corporation on the cutting edge of best practices when it
7 comes to understanding what's going on in terms of PIPP,
8 measuring it's performance and understanding the claims
9 handling processes of others.

10 And I think these shortcomings of MPI in terms
11 of its statistical grip on what's going on in terms of PIPP
12 cost development was subtly highlighted by the Chairman in
13 his discussion with MPI at Pages 673 and 674 of the
14 transcript because he sought insight from MPI into the
15 relationship between weekly indemnity claims and whiplash and
16 between weekly indemnity claims and duration by occupation
17 and expected duration for various types of injuries. But
18 what was he told at page 674?

19 We don't have that degree of detail in our
20 system. We don't have data in our system which allows us to
21 do that type of analysis. We've only begun to do a little
22 bit more analysis over the last year. Here we are, ten (10)
23 years into PIPP, with the experience of other no-fault
24 providers to draw upon, and MPI is just starting to come to
25 grips with a statistical picture and the information it needs

1 to understand what's driving that experience.

2 So from my client's perspective, there's a
3 clear opportunity there, to get a better handle on what's
4 going on in this important and growing part of the claims
5 incurred experience and to look elsewhere for best practises.

6 And I just want to talk about best practises
7 in the context of what the Corporation says it's doing, in --
8 in this area as well. Because in my client's submission, the
9 Corporation's image as ever-vigilant in terms of best
10 practises, takes a bit of a beating.

11 When we look at how it monitors the experience
12 of other no-fault providers in terms of measuring their
13 performance or in terms of how they -- how MPI monitors how
14 other no-fault providers actually -- their actual procedure
15 in handling long term claims.

16 I'd ask you to recall that throughout this --
17 this Hearing, MPI has talked the talk when it comes to best
18 practises. It said it has a strong relationship with other
19 Crowns and it has a firm handle on what they're doing in
20 terms of their procedures.

21 But if you turn to page 706 to page 711 of the
22 Transcript, at your leisure, not right now, I think you'll
23 see that the practical reality, in terms of MPI's performance
24 in terms of best practises, is very different. There we
25 learned that MPI has never conducted an independent study of

1 the Worker's Compensation claims-handling process.

2 And we see that when MPI was asked the most
3 basic of questions about how the WCB or the Regie in Quebec
4 handles -- monitors their performance in terms of long-term
5 claims, information that could be garnered by a simple phone
6 call, MPI did not have that information.

7 MPI could not advise us whether or not the
8 Worker's Compensation System had conducted a long-term claims
9 project in the early 1990s. At page 711 of the transcript,
10 they couldn't tell us about the degree of quality assurance
11 and customer service activities in Quebec. They just didn't
12 know.

13 So while the record demonstrates that the cost
14 pressures being imposed on the system by PIPP, and in
15 particular, IRI, constitute a clear and pressing danger to
16 the ratepayers of MPI, my clients have material concerns
17 relating to MPI's ability to analyse those trends or to
18 understand best practises in other jurisdictions.

19 In my client's submission, in this area at
20 least, when it comes to best practises, MPI is long in
21 platitudes but short on performance.

22 For this reason, and this would be the first
23 recommendation from my clients, they would ask that the
24 Public Utilities Board give serious consideration to
25 directing MPI to retain an independent Disability Management

1 Specialist, as was discussed at page 708 and 709 of the
2 transcript, to consider the MPI performance in terms of
3 statistical analysis, monitoring, and handling long-term
4 personal injury claims, and with a view to evaluating its
5 performance against the best practises of other no-fault
6 insurers.

7 Now my clients understand that that may be an
8 expensive proposition, but they think, given the pattern of
9 development in PIPP, and given the fact that we have ten (10)
10 years experience in the program now, the time has come.

11 As you might have guessed from some of my
12 cross-examination during the Hearing, the second major area
13 where my clients feel the Corporation has the opportunity for
14 a meaningful chance to mitigate or reduce claims incurred,
15 relates to the area of road safety and loss prevention.

16 And I think Mr. Galenzoski, to his credit, at
17 page 309 of the Transcript, when -- when he was asked, should
18 we be comfortable, should we take comfort, should be
19 concerned with the growth in claims incurred, he acknowledged
20 the reality that more needs to be done when we're looking at
21 issues like auto theft and that there is a legitimate concern
22 with the number of injuries on the road, at that's at Page
23 309.

24 As we move into the area of road safety, and
25 I'm going to spend a few minutes here, I want to start by

1 putting this argument into context. I want to start with
2 what MPI says it does in terms of road safety programming
3 versus what it actually does.

4 I want to look at what MPI says it's trying to
5 accomplish in terms of road safety versus what objective
6 independently verified measurements of what it's
7 accomplishing say it does.

8 And I want to look at what MPI says the public
9 says is important versus the polling data that tells us what
10 the public sees is important.

11 And I want to start with what MPI actually
12 does versus what it says it does. Because for years MPI has
13 taken the position that it's solely in the road safety
14 business in the areas of education and awareness, or it's
15 primarily.

16 But as our discussion at Pages 662 of the
17 transcript highlighted, just about a third, 31 percent of
18 MPI's road safety and loss prevention programming lies
19 outside the education/awareness business.

20 And if you go along in that transcript a few
21 pages further, Page 664, Page 665, you can see that the trend
22 in terms of its expenditures is that there is some growth in
23 the non-education area of expenditure.

24 So while MPI, in this hearing, and perhaps in
25 next -- next years' hearing will try to limit the debate to

1 talking about education and awareness, let's be aware of the
2 reality that MPI is already heavily engaged in something more
3 than education and awareness.

4 And I think it's also important to realize,
5 again for the purposes of context, that when we look at the
6 MPI experience as a whole, in terms of indicators that road
7 safety professionals rely upon, that they consider to be
8 important, MPI's not faring that well.

9 And you don't have to turn there but, again at
10 your leisure, I'm sure you'll enjoy this reading a great
11 deal. CAC/MSOS first round Interrogatory number 38 at Page
12 12 takes a look at the number of injuries per billion
13 kilometres travelled. MPI's -- or the Manitoba experience
14 versus the Canadian experience. MPI is well above the
15 national average.

16 And I did ask you to take a look at two (2)
17 exhibits that CAC/MSOS presented in this Hearing, being CAC
18 number 4 and CAC number 6, because they don't tell you a very
19 nice tale either.

20 CAC number 4 is MPI injury claims data and
21 what it tells you is that in 1995 MPI was slightly over two
22 thousand (2,000) injury claims for one hundred thousand
23 (100,000) licenced drivers, and that number declined. That's
24 the good news.

25 But since 1997, it's been steadily rising and

1 when you compare that it CAC/MSOS Exhibit number 6 with the
2 ICBC experience, you see a very different pattern. ICBC and
3 MPI have the same experience up to 1997 and then there's a
4 marked divergence in their past.

5 The MPI injury claims per hundred thousand
6 (100,000) keep rising relative to the absolute total. ICBC
7 continues to decline albeit at a slower pace.

8 Now, Ms. McLaren took issue with this measure
9 of injury claims per one hundred thousand (100,000) licensed
10 drivers but, to her credit, she did acknowledge at Page 659
11 of the transcript that this is a measure that many road
12 safety professionals consider to be critical.

13 And so when you look at this exhibit, CAC/MSOS
14 Exhibit number 6, the ICBC and MPI experience, I think it
15 really begs the question, is there something that we can
16 learn from what's going on in British Columbia?

17 And that question is particularly begged when
18 MPI, this Corporation that presents itself as being on the
19 cutting edge of best practices, advises us at Page 694 of the
20 transcript that it's aware of the Ference Weicker report,
21 F-E-R-E-N-C-E W-E-I-C-K-E-R, out of ICBC; a report directed
22 by the BCUC into the methodology that ICBC works under in
23 terms of evaluating its performance.

24 MPI's aware of this study but it's not yet
25 prepared a written analysis of it. A critical study of a

1 province that at least by injury claims per one hundred
2 thousand (100,000) licensed drivers is performing quite well.

3 MPI may say, and Mr. Saranchuk adverted to
4 this earlier, they may say it's not all our problem. Don't
5 judge us by the Manitoba road safety environment.

6 So perhaps we should look at how they're
7 actually doing when we apply specific measures to their
8 programming. But when you do that, when you look at their
9 two (2) Cadillac programs, the auto theft program and the
10 drivers education program, what do you see?

11 In terms of auto theft by the Corporation's
12 own admission, the numbers are not very strong. And again
13 CAC First Round-38 page 11 is a good reference point for that
14 because it tracks the explosion of auto theft claims since
15 1998, against the rapid rise in the Corporation's expenditure
16 in this area.

17 And the Corporation in this area, to its
18 credit, at page 683 has readily admitted that it requires
19 third party assistance in evaluating the performance of its
20 auto theft program and its commissioned a report.

21 And one can only hope that this is an
22 independent expert report that finds its way to the light of
23 day, to the light of -- white light of regulatory scrutiny.
24 So the count is still out in terms of auto theft
25 expenditures.

1 But how about drivers ed? We know that there
2 was an independent study by one of the foremost firms in
3 Canada on that subject. North Port completed that study in
4 2001.

5 We also know that despite the expressed
6 interest of the Public Utility Board in seeing that study, it
7 was never presented to it until this year.

8 What does the North Port study tell us? Well
9 it's set out in the transcript at about page 1292, but
10 there's four (4) major conclusions from North Port.

11 And it was a study -- a longitudinal study, a
12 state of the mark -- or state of the -- of the science study,
13 four thousand (4000) driver ed graduates, four thousand
14 (4000) non-driver ed graduates. A very large sample by a
15 very credible firm. Self-reported crashes, no significant
16 difference between driver education program graduates and
17 non-driver education graduates.

18 Accident incidents, no statistical difference
19 between driver education program graduates and non-driver
20 education program graduates.

21 At page 1293 of this transcript, when there
22 were statistical signif -- statistically significance
23 differences in insurance claims and also in claims value, but
24 the driver ed graduates were higher, statistically
25 significant.

1 North Port's conclusion, no difference in
2 accident risk between driver education drivers and non-driver
3 education drivers. The Cadillac program of Manitoba Public
4 Insurance, an important study. An important study that sadly
5 wasn't shared with the Manitoba public; the public that we
6 put so much emphasis on in terms of setting direction for MPI
7 programming. Surely that's an important part of the public
8 debate that should have been shared with Manitoba ratepayers.

9 Something else that should have been shared
10 with Manitoba ratepayers and MPI confirmed this during cross-
11 examination is that when you look at many of the other major
12 empirical studies of driver education right now, the John
13 Hopkins study, the Australian studies, they're unable to
14 identify a reduction in accident risk associated with driver
15 education programs. And they do express the concern that
16 driver education graduates may become more risk tolerant.

17 So, I'm going to come to my recommendations --
18 or my Client's recommendations -- on this area in a couple of
19 minutes.

20 I want to point out that my Client's are
21 somewhat torn on this issue as well and they want an
22 opportunity to reflect upon it and explore this issue more in
23 future years because my Clients have always been big
24 supporters of drivers' education, but they were always big
25 supporters on the assumption that it could produce a

1 demonstrable reduction in the risk that graduates would have
2 in terms of suffering accidents.

3 Just the last point, though, on drivers ed, we
4 also know that North Port's been asked to conduct another
5 study, another hundred thousand dollar (\$100,000) review of
6 the driver ed curriculum.

7 So what do we know about the two (2) big
8 ticket items for road safety, the two (2) Cadillac programs?
9 We know that we have to put big question marks behind both of
10 them. Do they work? Can they be made to work?

11 Now, MPI may argue in terms of graduated
12 licencing that this may change the -- the road safety
13 dynamic, but I think they'd also agree, and they did, in
14 terms of the Michigan study, that it's too early to see
15 what's going to happen with graduated licencing in terms of
16 its impact and I don't think that there's any empirical
17 research on that subject that's reliable at this point in
18 time.

19 Just a few more comments about road safety in
20 -- in its totality. Mr. Saranchuk referred to some of the
21 other major expenditures: Impaired driving, unsafe speed,
22 auto theft. What do we know about that?

23 Well, we know by the Corporation's own
24 admission, and that's at Page 677 of the transcript, that
25 expenditures in these programs and their relationship to

1 accident reduction is random or that's their expectation if
2 you want to look at the correlation.

3 And again, one (1) thing I'd also urge you, on
4 behalf of my clients, to take a look at is when you're
5 exploring the road safety programming of Manitoba Public
6 Insurance, take a look at MPI Exhibit 14, which is
7 Undertaking Number 9 because that was in the response by
8 CAC/MSOS asking MPI, set out your business case for these new
9 programs that you're embarking upon.

10 And I think when you explore those alleged
11 business cases, you'll find that they're nothing of the sort.
12 They're nothing more than a mishmash of program descriptions
13 with a few budget line items included. And so that raises
14 some concerns about how MPI embarks upon road safety
15 expenditures and the rigour with which it approaches these
16 decision.

17 The last thing, and this is in -- in terms of
18 road safety before we come to our recommendations -- the last
19 thing that we've learned, and that's based upon our analysis
20 of the polling data which is at Page 13 of the -- or 1310 of
21 the transcript -- and also in Undertaking 27, which was filed
22 today, is that the Manitoba public is not closed-minded on
23 this issue.

24 They're open to a debate on road safety
25 expenditures and there is very strong support from the

1 Manitoba public whether in Undertaking 27 or from Page 1310
2 of the transcript for the idea of moving closer to the ICBC
3 model for investing in other -- in -- in focussed engineering
4 projects with a good cost benefit analysis.

5 My clients aren't that far down the path in
6 terms of their deliberations, but I think we're seeing from
7 the Manitoba public that if -- if MPI can demonstrate a
8 strong cost benefit to those types of investments, the
9 Manitoba public would be favourable.

10 So we have question marks behind two (2) of
11 the big ticket items of the MPI road safety programming, loss
12 reduction programming and we have an expressed openness from
13 the Manitoba public for new ideas.

14 So, where does that leave us? Well, first of
15 all I'm hoping -- these are -- there's some new information
16 from my clients as well, so we're hoping that the PUB will
17 consider this an open issue for next year.

18 In terms of auto theft, given MPI's expressed
19 interest in an independent report, we're hoping that the PUB
20 will direct MPI to file that independent report with the
21 Public Utility Board and we're hopeful that the -- the Public
22 Utilities Board, in terms of that report, will make it clear
23 that they want that report to be North Port kind of report,
24 statistically sound by a reputable firm rather than the --
25 the more touchy-feely approach that one might have found in

1 the Manifest report.

2 We -- we are aware that Manitoba Public
3 Insurance has commissioned North Port to do a new report in
4 terms of the proposed driver education curriculum. That
5 should be shared with the Public Utilities Board or that
6 would be our recommendation to the Public Utilities Board.

7 We also think -- or my clients would also
8 request that MPI should be directed to provide a written
9 response to the 2001 North Port report and to the literature
10 from organizations such as John Hopkins Medical School or the
11 Australian studies which are raising questions about whether
12 driver education programming can reduce the accident risk for
13 driver education graduates.

14 My clients are also of the view that MPI
15 should be directed to respond to the Ference Weicker report
16 out of ICBC and what it has learned in terms of the process
17 by which road safety programs are planned, developed, and
18 analysis of their cost benefit is done is other
19 jurisdictions.

20 And finally, and I've said this before, above
21 all on the subject of road safety, we're asking the Public
22 Utilities Board to, like the Manitoba Public, and the
23 Consumers' Association, Manitoba Society of Seniors, to
24 realize that many of the issues that have arisen in terms of
25 road safety this year have been rather late emerging.

1 We didn't know what North Port said until
2 during the course of this Hearing and to leave open the issue
3 so that my clients can back -- can come back next year after
4 they've had an opportunity to reflect upon these issues and -
5 - and provide their advice at that point in time.

6 My clients have always been supportive of road
7 safety expenditures. In fact, many times in the past they've
8 argued that there should be more. But they're open to the
9 debate, just as the Manitoba Public appears to be open to the
10 debate, in terms of what's the right mix. How do we get the
11 proper bang for the buck?

12 And I think based upon the evidence from this
13 years' Hearing, these are very open questions.

14 Mr. Chairman, I'm about half way through. I
15 wonder if I could take a -- a very brief break, eight (8) or
16 nine (9) minutes to refresh myself coffee-wise and water-wise
17 if that would be appropriate?

18 THE CHAIRPERSON: Sure. Take to 10:25.

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

21 --- Upon resuming at 10:25 a.m.

22
23 THE CHAIRPERSON: Mr. Williams, anytime.

24 MR. BYRON WILLIAMS: Thank you, Mr. Chairman,
25 and first I have to start with an apology. Ms. Desorcy's

1 here and it wasn't her late night antics that kept her from
2 being here. It was the misinformation from her counsel who
3 told her that he would be starting at ten o'clock this --
4 this morning. So I apologize for that.

5 THE CHAIRPERSON: Do you want to start over
6 again, Mr. Williams?

7 MR. BYRON WILLIAMS: The polling that we've
8 done in the back row suggests that's probably not that good
9 of an idea. Also here in front of Ms. Desorcy, direct --
10 almost -- just to her left and one row in front is Jennifer
11 Hnatiuk who is the MSOS membership co-ordinator. And to
12 Jennifer's left is Heidi Struck who is the MSOS active living
13 co-ordinator. So, Ms. Hunter could not be here today so
14 she's sent her -- her proxies to keep an eye on me.

15 I had left off -- in the earlier discussion
16 we'd identified the concern with claims incurred and
17 identified two (2) of the kind of -- what my clients consider
18 key actions in terms of -- or opportunities which the Board
19 can encourage MPI to take a look at in terms of mitigating or
20 reducing the pace of growth of claims incurred.

21 The third major area that my clients wish to
22 bring to your attention relates to the issue of staff salary
23 and staff growth. Now that's been a major issue in past
24 proceedings. Perhaps to my discredit, it's not been an
25 significant enough issue in this Hearing but there's only so

1 many issues that we can cover as well as we would like.

2 But it's important to recall that the major
3 collective bargaining agreements with Manitoba Public
4 Insurance and its employees are coming up in September '05.
5 And certainly my clients are supportive of the -- all
6 employees of MPI being fairly compensated.

7 But that's a critical area that we've seen in
8 the past in terms of staff growth and increases in salaries
9 that -- which to a certain degree is under the Corporation's
10 control. And in the last two (2) or three (3) hearings we've
11 been -- the debate has been limited because the collective
12 agreements are -- are signed and in affect to September '05.

13 We think it's an important subject for next
14 year's hearing making sure the -- we -- my clients do --
15 making sure the MPI employees are treated fairly, but also
16 making sure that the ratepayers of Manitoba Public Insurance
17 are also treated fairly in that discussion.

18 So we think that's an important opportunity
19 for cost control and a message should be sent to the
20 Corporation that their efforts in that regard will be closely
21 scrutinized at the next General Rate Application.

22 And if -- if the Board is looking for some
23 ammunition in that area, we direct you, on behalf of my
24 clients, to, and you don't need to turn there again, but to
25 the Corporation's responses to PUB/MPI First Round-33 as well

1 to CAC/MSOS-2-36 because we'll see that the actual
2 compensation for '03/04 was well in excess of that approved
3 in the forecast for that particular year.

4 So that's something to keep a close eye on
5 from -- from my clients' perspective and there's a real
6 opportunity there that hasn't existed in the past few years
7 with that regard.

8 And the -- the final piece of -- of argument
9 or ammunition on that area that my clients would offer to you
10 relates at Page 717 and 718 of the transcript. Because in --
11 on those pages we were discussing the Corporation's operating
12 budget for '04/05 which we learned was developed in the
13 summer of 2003 and not revised, notwithstanding the Public
14 Utility Board's Order suggesting that MPI CPI forecasts were
15 -- were too high.

16 And it -- I think that from my clients'
17 perspective, if we think of the -- the regulatory process as
18 a dialogue between the Utility and the Regulator, then one
19 would expect that the operating budget would reflect changes
20 in the -- in the Board's judgment in terms of the pace of
21 cost growth experienced by the Corporation.

22 So that would be something that we would look
23 forward in future hearings.

24 Mr. Chairman and members of the panel, I'm
25 almost getting to your issues, now. I have one (1) last one

1 on behalf of my clients that they wish to -- to recommend to
2 you. And throughout this Hearing, right from our opening
3 statement, to much of the discussion of Manitoba Public
4 Insurance, there's been a lot of discussion on the subject of
5 best practices.

6 And it's a bit of an ephemeral discussion.
7 You can be told that Manitoba Public Insurance is right on
8 top of best practices. We all recognize that it's valuable
9 for MPI to understand what's going on in other jurisdictions.
10 And what my clients would like to recommend is a bit of a
11 making the MPI reporting on best practices a bit more formal.

12 And what they would recommend is that in
13 future Board Orders, there should be a best practice report
14 which refers -- which reports on MPI's actual contact with
15 other industry players. And a review with particular
16 emphasis on the preventative measures in terms of claims
17 incurred and operating costs incurred, and with the focus on
18 measures that are occurring in other jurisdictions associated
19 with the containment of escalating costs.

20 And my clients recommend this highly to the
21 Board because our consultants work both in the Manitoba
22 Public Insurance environment, but they're also starting to
23 work in the BCUC environment and we're starting to learn a
24 great deal about how ICBC approaches their cost control
25 issues, probably some good examples and some bad examples for

1 Manitoba Public Insurance.

2 And that's something that we realize that MPI
3 does this informally, but it's an opportunity to do it in a
4 more formal measure, so we have a -- a better idea and
5 perhaps encourage MPI in areas where perhaps they have shown
6 a weakness, such as in the claims incurred area to get a
7 better handle on the issues.

8 So that would be a -- a final issue or second
9 final issue from my clients.

10 I misspoke, of course, because I had one (1)
11 last thing that I did want to talk about, Mr. Chair and
12 members of the Panel. And my clients have talked a lot about
13 cost pressures in the course of this Hearing.

14 And they're -- they're always a little
15 reluctant to do that. They want to red flag for the
16 Commission or for the Public Utilities Board, the important
17 concern. But they don't want to encourage the Public
18 Utilities Board to raise rates when a -- a rate increase
19 isn't necessary.

20 And so we're hopeful that the Board will
21 understand from my clients' perspective, my clients believe
22 that there are many choices within MPI's control short of a
23 rate increase which can meet the escalating pressure in terms
24 of cost.

25 But if the -- the Corporation or if the Public

1 Utilities Board is -- has even an inkling in its mind that
2 I'm -- given my experience in the Hydro hearing I'm always
3 speaking to these issues now. If the Corporation has any
4 thought or if the Public Utilities Board has any thought that
5 perhaps a rate increase might be justified given theses
6 claims increases, my clients would strongly recommend against
7 that.

8 They would point you to the fact that MPI is
9 forecast to break even for '05/06 and also for the -- outlook
10 years and the fact, and that was well summarized with Mr.
11 Saranchuk this -- this morning, that the Corporation's
12 reserves are in relatively good shape. And they would also
13 harken back to the evidence of Mr. John Todd that was shared
14 with this Panel in -- in years past.

15 Mr. Todd always warned the Public Utilities
16 Board about building too big of a cushion into the rates of
17 Manitoba Public Insurance because the bigger the cushion, the
18 bigger the temptation to have expenditures on golf balls or
19 on bonuses or on corporate kitchens (phonetic) and the like.

20 And that's a concern from -- from my Client's
21 perspective. They think -- from their perspective they want
22 the Corporation lean and relatively aggressive in terms of
23 its cost controls. They don't want to build too much cushion
24 in terms of -- of the rates received by Manitoba Public
25 Insurance. So that's their advice on that particular point.

1 Now, Mr. Chairman, in terms of you're -- the
2 issues that you outlined last Monday, one (1) that you raised
3 was the reliance of Basic on the past and future earnings of
4 SRE and Extension and additionally, the level of the
5 assurance -- a level that can be placed on its continuing to
6 be -- to be realized in the future.

7 And I guess as a starting point for that
8 discussion, it's important to recall that the PUB in -- in
9 years past has had extensive discussions around a rate
10 stabilization reserve target and that target has been set,
11 based upon those discussions, at between fifty (50) and \$80
12 million. And while MPI has hinted in this Hearing that it
13 may be coming back in future years with a different target,
14 they have not advanced a target -- a different target for
15 this proceeding.

16 So there's no evidence upon which the Public
17 Utilities Board could set another target. So for rate
18 setting purposes, from my Client's perspective, the -- the
19 Public Utility Board is bound by the existing target for rate
20 setting purposes.

21 When you look at whether or not it's
22 appropriate for transfers from Extension or from SRE to be
23 directed to the Basic program, my clients would ask you to
24 keep in mind the very close relationship between Basic and
25 the Extension program. And that was highlighted in our

1 cross-examination at Pages 642 and 643 of the transcript.

2 We talked about how a change in the Extension
3 deductible a few years ago trickled into the Basic program
4 and how a cost control measure such as raising the Basic
5 deductible would have a negative impact, perhaps, on the
6 Extension program.

7 So these are very closely related programs and
8 in terms of the appropriateness of transfers from Extension,
9 we have to understand that the strength of Extension is very
10 closely related to the Basic monopoly. The evidence by
11 Manitoba Public Insurance in the course of this Hearing was
12 that Extension enjoys an 89 percent market share. A lot of
13 that is driven by the convenience and the association with
14 the Basic program.

15 So we think that there's a logical connection
16 to the programs and given -- given their close
17 interconnection, there's -- there's good sense in -- in
18 recognizing the transfer of -- of reserves from Extension to
19 the Basic program.

20 I would also ask this Board to keep in mind
21 that the reserves for Extension and SRE are very
22 conservatively set using the DCAT approach and also to keep
23 in mind that there's no other place for this money to go.

24 It's -- it's -- it's going to be in the
25 Corporation somewhere and given the close relationship

1 between the programs and the excessive reserves --
2 conservative -- required reserves from the Extension/SRE
3 program it makes perfect sense from my Client's perspective
4 to -- to have them there.

5 This isn't a situation where MPI and the Basic
6 program is running -- is setting rates to not recover
7 expected costs. If that was the -- was the situation facing
8 the Corporation, then -- then that would be a concern from --
9 from the perspective of my clients, but that's not the case
10 here.

11 In terms of investment issues, the -- the
12 Board asked for advice last Monday on three (3) of them. I'm
13 -- I'm not sure I can give advice on all three (3) from my
14 Clients, but I can give advice from two (2) and I -- I'm
15 making a --a mental note to myself that I may have to hire an
16 accountant when I approach next year's Hearing.

17 The Corporation has -- one (1) of the issues
18 raised by the Chairman in his comments last Monday was the
19 allocation by MPI from its net investment monies to pension
20 related liabilities. And my clients' understanding of the
21 issue is that technically what should be done is that the
22 pension expense cost should be first allocated to each line
23 of business based upon cost causality and then net investment
24 income should be allocated to the lines of business.

25 Now our understanding from the evidence of Mr.

1 Galenzoski is -- and also from the issue -- the discussion
2 and of course this Hearing, is that this will be very
3 difficult to do in terms of Manitoba Public Insurance in
4 terms of the -- it would require an examination of historical
5 employees and current employee future pension needs, and that
6 would be very difficult to track.

7 So is -- from my clients' perspective the
8 Corporation's current approach is not unacceptable. What
9 they would suggest that if the Board is looking for a proxy
10 in terms of a different way of doing this rather than the
11 current approach, what it might look at is dividing pension
12 expense based on the compensation split as a proxy for each
13 business segment.

14 And we've done a very quick analysis based on
15 the information from TI-21 comparing the corporate
16 compensation to the basic compensation. And the results
17 would be -- would be very similar but they would be a little
18 more analytically related to the allocation of pension
19 expenses.

20 In terms of the Public Utilities Board seeking
21 comments in terms of the -- the -- the choice by Manitoba
22 Public Insurance not to accept the advice of Mercer's in
23 terms of the diversification of its portfolio. The clients
24 don't necessarily have a position. It's -- it's an issue
25 that they approach with -- with caution.

1 They think that the -- if the Corporation is
2 going to go down that path, given its lack of experience with
3 the international market and also with the -- the risk of the
4 real estate market, that it should be approached on a very
5 gradual basis.

6 They do recognize the benefits that may accrue
7 to the Corporation through risk diversification and they're
8 always anxious to see an increased return on the investment
9 income of the Corporation. But it's an issue my clients are
10 not unsupportive of MPI approaching this with caution. If
11 they do walk down that path, the clients would want --
12 recommend to them that they walk very slowly and carefully.

13 Loss transfer is another issue raised by the
14 Chairman in his comments. And when the Board looks at this
15 issue, my clients have tended to stay silent on it. But on
16 this -- in this Hearing they -- they've decided to set out a
17 position. In terms of the Board's analysis of how it should
18 approach this issue, they would see a starting point is to
19 look at the precedent.

20 The loss transfer methodology has been
21 considered twice before this Board. There's been a thorough
22 debate in past years, most recently last year. And absent
23 something new, absent something different in this Hearing
24 that would materially alter your views, we think, or my
25 clients recommend that some considerable weight should be

1 given to past decisions.

2 From my client's perspective this issue should
3 be distilled to what it is. This isn't a principle of
4 actuarial science that we can cloak in mathematical
5 objectivity. This is a policy issue. It's a policy issue
6 with valid points of view on both sides of the equation.

7 The existing system imposes individual
8 responsibilities upon bad drivers and then collective
9 responsibility upon those who choose a vehicle type that is
10 likely to result in more serious injury.

11 The other perspective, loss transfer, imposes
12 collective responsibility on those who are from the same
13 class as the person at fault. And frankly from my clients
14 perspective, they're supportive of the existing methodology
15 and the first party approach. And they tried to -- to
16 discuss this issue in the course of the cross-examination in
17 the course of this Hearing on a couple of occasions.

18 One was the example of the hockey player,
19 venturing out into -- into the arena and choosing not to wear
20 proper equipment for safety purposes.

21 And in that discussion with MPI it was
22 recognized that there's -- that the choices one makes can
23 result in costs or injury in two (2) different ways.

24 Mr. Galenzoski, through his reckless or
25 careless use of his hockey stick was at fault. He injured me

1 in the hockey incident. But the choice I made, the choice I
2 made not to protect myself fully, is also something that
3 enhanced the seriousness of the accident and from my clients'
4 perspective that's a valid perspective.

5 We also noted in our cross-examination of Mr.
6 Rifai when we talked about the situation of someone who's in
7 the wrong place and the wrong time and who's hit through no
8 fault of their own, but who chose not to wear a seat belt.

9 And Mr. Rifai's answer on that point was -- my
10 clients think was somewhat persuasive. Because from his
11 perspective, there should be fault allocated in both ways,
12 one to the person who struck the driver and fault should also
13 be allocated to the person who chose not to protect
14 themselves.

15 So from my clients' perspective, it's -- the
16 issue of loss transfer is a -- a matter of principle, a
17 matter of policy, there's good arguments on both sides of the
18 debate but from their perspective, the existing methodology
19 is the one they prefer.

20 And they prefer it because they like a system
21 where individual drivers are penalized for their at-fault
22 driving but that a clear, strong message is sent about the
23 vehicle choices that we make in terms of vehicles that are --
24 are more at risk of serious injury if one is struck.

25 Another issue raised by the Chair in his

1 closing -- or closing remarks to the Hearing and it's related
2 to the loss transfer issue is he asked for the Board's or for
3 the -- from parties' advice with respect to the Corporation's
4 long standing claim that motorcycles are inherently risky and
5 underpriced with respect to premiums.

6 And as background on this, the Chair and
7 members of the panel will probably recall that CAC/MSOS have,
8 since the early 1990's been strongly in support for the drive
9 for actuarially driven and statistically sound rates.

10 And even in years where, whether through the
11 dislocation caused by CLEAR or rate line adjustment there was
12 substantial pain being inflict upon -- inflicted upon the
13 private passenger class, CAC/MSOS have struck true to that
14 principle.

15 And from their perspective, provided you can
16 have confidence in the cost allocation methodology, they
17 believe that the drive for statistically sound actuarially
18 driven rates is a -- is a proper one (1) that to the degree
19 possible cross-subsidy between classes of vehicles should be
20 eliminated.

21 And they're mindful of the fact that
22 historically, based upon the existing methodology, material
23 transfers are -- the private passenger class has picked up a
24 material amount of the costs of motor -- incurred by
25 motorcyclists.

1 That being said, my clients would not endorse
2 moving beyond the 50 percent capping that currently exists
3 for the Corporation in -- in terms of, for example, if
4 motorcyclists are at 32 percent or 22 percent below their
5 required rate, my clients believe that this should be steady
6 -- steady progress towards the elimination of subsidies but
7 there also should be some respect given to the objectives of
8 rate stability over time and they believe that the 15 percent
9 cap is -- is an appropriate cap when -- with regard to
10 motorcyclists.

11 In terms of the dealer plate issue, I'm not
12 going to be able to offer you advice on this point, I'm going
13 to indicate to you my clients are quite torn. On the one
14 hand, there's a substantial subsidy in the current year being
15 borne by the private passenger class, on the other hand,
16 going back to the 15 percent capping principle, my clients
17 are struggling whether that should -- that applies equally to
18 commercial vehicles as well.

19 So, I'm sharing my clients' angst with you, I
20 don't have a recommendation to you and it's a recommendation
21 that they quite consciously refrain from making.

22 The last two (2) issues my clients wish to
23 speak to are DDVL and Bonus/Malus. In the Chairman's remarks
24 on -- last Monday, he indicated that the transfer of DDVL to
25 MPI has been welcomed, but its consignment to Extension and

1 SRE, rather than Basic, has been questioned. And he also
2 raised the issue of the -- the loss of the annual cost
3 transfer to Basic, of approximately \$6 million, and -- in
4 contract details affecting future costs.

5 The starting premise for my clients is to
6 question the premise raised by the Chairman. They think,
7 from the perspective, the Basic private passenger class, or
8 from the Basic program, they're not sure that there's any
9 benefits or any material benefits from the -- the transfer of
10 DDVL to Manitoba Public Insurance.

11 From the current situation my clients firmly
12 believe that they have the worst of both worlds. They're not
13 confident in the potential realization of synergies, and from
14 their perspective, the Province of Manitoba has offloaded
15 almost \$6 million in terms of costs that should properly be
16 borne by the Province onto the Basic passenger class.

17 At the same time, the proposal by Manitoba
18 Public Insurance puts control and supervision over DDVL
19 outside the jurisdiction of the Public Utilities Board. And
20 my clients are very mindful of the fact of the outdated
21 computer system within DDVL and the likely reality that there
22 will be major costs incurred by the Extension program, in
23 terms of upgrading the computer system at DDVL.

24 And from their perspective, they're trapped in
25 a sense, with the PUB having no jurisdiction over that

1 transaction, but that a trickle-down effect of that
2 transaction will be felt in the transfers from extension to
3 basic. So that's my client's concern.

4 Analytically, from their perspective, the
5 costs and expenses associated with DDVL, should be either
6 entirely in Basic or entirely in Extension.

7 The advantages to having it in Basic are
8 greater Public Utilities Board scrutiny. The disadvantages
9 are that my clients are very concerned that this is going to
10 be a money-losing proposition for the Corporation and a bad
11 deal for the Corporation, and they want that bad deal as far
12 from the Basic program as possible.

13 My clients see no basis for including, in
14 terms of the basic rate requirement, the increased expense
15 associated with DDVL. It's not an expenditure that has any
16 additional benefit to the Corporation and they question
17 whether that should be included in the rate base.

18 Where this takes us -- my clients, is a
19 difficult question. Some of their discussions on this point
20 will obviously be outside this room. I think their advice to
21 you would be that the DDVL should be in one place or the
22 other in its entirety, and I think their preference would be
23 that it be, as I said, as far away from Basic as possible.
24 But they're mindful of the advantages of additional scrutiny
25 from the Public Utilities Board.

1 Finally, in terms of the Bonus/Malus Program,
2 Mr. Chairman, and Members of the Panel, my clients welcome
3 the anticipated debate on that subject, as MPI explores that
4 the one (1) issue that my clients would ask them to consider
5 is the vehicle merit discount and whether there can be
6 benefits in terms of gradualism, in terms of implementing
7 that.

8 Their understanding of the program is that if
9 you're at five (5) merits, you get the 25 percent off, but
10 that there's no reward for drivers who -- vehicle owners who
11 have one (1), two (2), three (3) or four (4) merits and they
12 think that that message might be sent more consistently if
13 there is some sort of graduated build-up to that 25 percent
14 figure.

15 At -- at the start of my arguments, Mr.
16 Chairman and Members of the Panel, I talked about whether we
17 would try and answer the question of whether MPI was the
18 discriminatory Corporation or the ever-vigilant Corporation.
19 The answer, of course, is neither.

20 The loss transfer program and the -- or the
21 approach in terms of the Corporation in terms of that is a
22 reasoned approach, it's an approach that's based upon
23 principle. There are competing points of view, but that's
24 not a discriminatory practice, that's a debate over
25 principles.

1 Of course, MPI's not ever-vigilant either and
2 my clients have raised material concerns in terms of their
3 management and control in terms of claims incurred, in terms
4 of the road safety program, and they've invited the
5 Corporation to take a hard look at expenditures in terms of
6 salary and compensation as it heads into the -- the next
7 bargaining sessions.

8 A lot of my client's proposals are looking at
9 next year country. We think that that's a prudent
10 recommendation given the very real pressures facing the
11 Corporation on the claims incurred side and so subject to any
12 questions by the -- the Panel, those are our submissions.

13 I can just indicate that CAC/MSOS will be
14 seeking an Award of Costs. They believe they have
15 participated responsibly in this proceeding, that they
16 represent a significant class of consumers who would
17 otherwise be denied representation and that through their
18 cross-examination, written questions and -- and submissions,
19 they have made a meaningful contribution to the process.

20 So, thank you very much for your patience.

21 THE CHAIRPERSON: Thank you, Mr. Williams.
22 So we'll move on now to Mr. Oakes. I think you're going to
23 have to switch places, Mr. Oakes.

24
25

(BRIEF PAUSE)

1 CLOSING STATEMENT BY MR. RAYMOND OAKES:

2 MR. RAYMOND OAKES: Good morning, Mr.
3 Chairman, Members of the Panel.

4 As I indicated at the outset of the Hearings,
5 I've been CMMG's Counsel on their behalf as an Intervenor in
6 these proceedings since 1992. Over the course of that time
7 we have seen almost incessant 15 percent increases.

8 It would be human nature if, after a while, we
9 would become complacent, inured to these massive rate shocks
10 each year. Certainly the public that attended on the opening
11 day of the Hearing, Mr. Chairman, was not complacent; quite
12 angry, quite concerned over the level of increases.

13 The concern is exacerbated because of the fact
14 that the evidence shows the rates charged to motorcyclists
15 are much higher in Manitoba than elsewhere as well as the
16 fact that only in Manitoba are private passenger premiums
17 stable or decreasing and motorcycle rates increasing
18 dramatically each year.

19 We've had the benefit in the last two (2) GRAs
20 of having the actuarial firm of IAO present or provide
21 actuarial support and in this year's Hearing, present
22 evidence. We're looking to uncover the reasons for that
23 disparity and I believe this year and last we've pointed the
24 Board to some serious smoking guns, if you will.

25 During the course of the Review and through

1 the Information Requests, cross-examination, and direct
2 witness evidence, we have uncovered a variety of factors that
3 combine to result in an incorrect premium requirement and
4 higher motorcycle rates.

5 Fairness to the motorcycling community means
6 that motorcyclists should be treated no better and certainly
7 no worse than other groups dealing with MPI. Through our
8 intervention, the conclusion we put forward to this Board is
9 that motorcyclists have been treated inequitably relative to
10 other vehicle groups. The following is evidence of this
11 difference.

12 Motorhomes can choose either pleasure or all-
13 purpose use, yet a larger class, motorcycles has only one
14 possible use that being all purpose.

15 Given that nearly 40 percent of motorcyclists,
16 as shown in the Corporation's filing AI-16, never drive their
17 motorcycles to school or their work, we question why there
18 are not two (2) such uses for motorcycles.

19 Vehicle classes such as pleasure and all
20 purpose cars can access a two (2) vehicle discount program
21 where one vehicles is charged the lower pleasure use rate,
22 yet they can be used to go to work and school. For
23 motorcyclists who also own another vehicle, some 80 percent
24 of motorcyclists the evidence shows, this option is not
25 available. And the reference there is the transcript at

1 pages 784 and following.

2 In the case of the rate line adjustments for
3 passenger vehicles and trucks, the adjustment to the rate
4 line was done on a revenue neutral basis with an offset
5 adjustment applied. For motorcyclists, this approach was not
6 adopted.

7 Further, when adjusting the rate line for
8 motorcycles only one (1) characteristic of the vehicle
9 specific risk is being considered and that's the
10 characteristic of value.

11 Not value in engine displacement which
12 describes the risk characteristics according to the other
13 tests of MPI for motorcycles. Comparatively when passenger
14 vehicles and light trucks were revised the entire risk
15 characteristic of the vehicle which is fully included in that
16 rate group was considered.

17 Finally as shown in the cross-examination, the
18 Corporation, for the motorcycle rate line adjustment, the
19 Corporation assumed the data was 100 percent credible. For
20 passenger vehicles and light trucks credibility weights were
21 assigned. Based on similar treatment of passenger vehicles
22 and light trucks, the highest credibility that would be
23 assigned to motorcycles would be 20 percent.

24 We heard that -- during cross-examination the
25 capping had been substituted for credibility weighting.

1 However, as shown on page 1085 of the transcript, capping was
2 also applied to passenger vehicles and light trucks in
3 addition to the credibility weighting.

4 During the course of the application process
5 and cross-examination process, we provided evidence as to the
6 large unfairness that motorcycles are subject to. That being
7 charged in their rates for losses that were not the fault of
8 motorcyclists. That is lost costs are not transferred to the
9 responsible class based on percentage at fault.

10 This arises from the Corporation's instance on
11 assigning costs on a first party basis. The preferred method
12 is provided in evidence by our expert witness, Mr. Hany Rifai
13 of IAO, is to assign costs on the basis of the person
14 responsible for the accident.

15 Let me deal for a moment if I might, with the
16 evidence of Mr. Rifai, especially with respect to the cross-
17 examination. Mr. Rifai received extremely rigorous cross-
18 examination. In fact the cross-examination lasted for
19 approximately three (3) hours.

20 I would submit that despite the skilled cross-
21 examination of Mr. McCulloch, Mr. Rifai's opinions on the
22 issue of credibility and on the issue of loss transfer were
23 maintained throughout and un-controverted.

24 These conclusions were basically that the
25 Buhlmann method of credibility was not appropriate for a rate

1 -- overall rate level change for an entire province; that MPI
2 had determined the K value arbitrarily; that the credibility
3 resulting from the Corporation's calculations was
4 unrealistically high for the motorcycle class; and that loss
5 transfer is a necessary component of a no-fault insurance
6 scheme due to issues of predictability, incentives for
7 driving behaviour and on the basis of fairness and equity.

8 The cross-examination by Board counsel was
9 disturbing in a number of respects. We heard arduous cross-
10 examination that amounted to little more than a matter of
11 semantics. Numerous questions about loss transfer being a
12 matter of risk management as opposed to risk classification
13 and so on.

14 Asking Mr. Rifai to explain the Ontario
15 adoption of loss transfer and then attacking the same
16 explanation by complaining that Mr. Rifai couldn't have known
17 what was in the mind of Joe Cheng or other members of the
18 Osborne Commission.

19 By pages 1015 and 1016 of Mr. Saranchuk's
20 cross-examination it is apparent that he has lost his usual
21 professional perspective and was badgering this professional
22 witness demanding a yes or a no answer instead of
23 respectfully recognizing the qualifications of this gentleman
24 who has testified before other legislative boards.

25 Mr. Saranchuk at the end was referring to him

1 as only the name, witness. It would be more appropriate in -
2 - in my respectful view, of Mr. Saranchuk to use his
3 considerable cross -- skills of cross-examination when
4 carrying out his mandate as Board counsel, to critically
5 examine the MPI Application instead of serving up the MPI
6 Application on a silver platter with the first two (2) days
7 of Hearing resembling more direct examination than any cross-
8 examination I've ever heard.

9 The testimony of Mr. Rifai, including the
10 report filed as the CMMG Expert Opinion Report, should be
11 viewed in its context in these Hearings. It should be noted
12 the Application filed by MPI contains very limited data
13 applicable to the motorcycle experience.

14 It is only in mid-August, once the Intervenors
15 have received the answers to the First Round of
16 Interrogatories, that the CMMG has the information upon which
17 it needs to instruct its expert witness.

18 In the world of actuarial services, Mr.
19 Chairman, as I'm sure you're aware, the engagement by an
20 Intervenor for some twenty-five (25) or thirty (30) hours, is
21 a low priority assignment and the limited resource budget of
22 Intervenors dictated by the Chair's concern over costs and
23 certainly the responsibility that we have in bringing forward
24 a limited intervention, does not increase that priority to an
25 expert witness.

1 The report of Mr. Rifai was never intended to
2 be an exhaustive review of ICBC or SGI or any other
3 jurisdiction, but the report identified inconsistencies in
4 the Manitoba experience by comparison with two (2) other
5 jurisdictions where insurance data is regularly filed with
6 the Insurance Bureau of Canada, and the report contained more
7 actuarial evidence, including a review of data, than any MPI
8 report on loss transfer has ever contained.

9 With respect to the evidence on loss transfer,
10 the preferred method, as testified by Mr. Rifai, of IAO is to
11 assign costs on the basis of the person responsible for the
12 accident. Even under rigorous cross-examination by both MPI
13 and Board Counsels, Mr. Rifai maintained his position that
14 transferring losses on the basis of responsibility was an
15 actuarially superior approach to the method currently used by
16 MPI. This is not something new.

17 As submitted in the CMMG's evidence, Tab 6, in
18 1998, distinguished Mr. Cheng, you drew the same conclusion.
19 In evidence, we heard this is normal industry practice and
20 would happen in the normal course during claims processing in
21 tort jurisdictions.

22 We also heard from Mr. Rifai that the effect
23 on rates by virtue of the adoption of loss transfer, would be
24 a reduction in the range of 30 to 60 percent.

25 Mr. Rifai made comparisons of Ontario,

1 Alberta, and Manitoba, as described on pages 886 to 889 of
2 the transcript. With coverage standardized, private
3 passenger loss costs are similar in Manitoba and Ontario, and
4 similar in Manitoba and Alberta, yet motorcycle loss costs
5 are significantly higher in Manitoba than the other two (2)
6 cases, resulting in a much higher rate for motorcycles.

7 The only possible explanation for this is the
8 mis-assignment of loss costs in Manitoba, since losses are
9 not transferred.

10 The Corporation did not respond this year in
11 this GRA, with any independently-prepared evidence, although
12 the report of Mr. Christie was circulated. The report of
13 Christie contains no data, it's anecdotal in nature,
14 containing his understanding of the systems in several
15 jurisdictions, based on informal chats with persons that MPI
16 would not identify when asked last year pursuant to the
17 Interrogatory process.

18 The Corporation, in cross-examination by Board
19 Counsel, testified that Mr. Christie was a consulting actuary
20 who provided the analysis and was directly involved in that
21 process, which was simply a political process, where that was
22 the outcome, and the reference is page 526 of the transcript.

23 In the CMMG cross-examination, it was pointed
24 out to the Corporation that Mr. Christie's report describes
25 his involvement as peripheral, certainly not direct. Mr.

1 Cheng was directly involved in the Ontario change and his
2 report indicates that the change was a policy initiative
3 aimed at keeping motorcycles on an equal footing before and
4 after the transition from a pure tort environment.

5 The Corporation admitted to the difference in
6 views between Mr. Christie and his actuarial peers, at
7 page 767 of the transcript. The Corporation also chose not
8 to emphasize the number of jurisdictions where tort applies
9 and loss transfer automatically results from that system, the
10 same as in Manitoba, prior to the introduction of no-fault.

11 By way of examples, the CMMG showed how the
12 current practice of not transferring losses not only affects
13 rates for motorcycles as an individual risk classification,
14 but also results in rates that are not truly reflective of
15 the risk for all territories and classifications.

16 Without losses being transferred, rates of the
17 territory level are incorrect as was shown in the discussion
18 with the Corporation regarding the farm truck from Brandon
19 and the sedan from Winnipeg.

20 If the farm truck causes the accident with the
21 cost of a \$1 million to the sedan and occupants from
22 Winnipeg, all vehicle owners in Winnipeg pay extra premiums,
23 even though the Winnipeg based vehicle was not at -- was not
24 responsible.

25 The same bias occurs at a insurance use level

1 as shown in our cross-examination related to sedans in
2 Winnipeg, where two (2) identical sedans were insured, one
3 (1) is an all-purpose, one (1) is an all-pleasure.

4 If these were involved in an accident with --
5 in Winnipeg with the all-purpose sedan responsible on a 100
6 percent basis for \$2 million in losses, all the costs would
7 go to the -- costs would go to the pleasure use sedan with
8 respect to the losses sustained by them and the pleasure use
9 sedan rates would go up, not the all-purpose rates.

10 This occurs since losses are not transferred.
11 Certainly in both cases, MPI's ongoing argument of inherent
12 risk being the reason not to apply loss transfer is not
13 correct. It is equally not correct in its application to
14 motorcyclists.

15 Mr. Christie appears to see the need for loss
16 transfer as a policy. As well as shown in his report with
17 respect to commercial vehicles, Mr. Christie's comment was:

18 "I was not directly involved in the
19 commercial vehicle decision, but at the
20 time there had been a rash of incidents
21 involving wheels coming loose from tractor
22 trailer rigs and killing or injuring other
23 drivers. It is my understanding that this
24 rule was imposed so that large trucks would
25 be forced to pay for injuries they were

1 likely to cause innocent occupants of
2 private passenger cars."

3 And that's at Page 4 of his report.

4 Contrast that understanding of the situation
5 with the indefensible position propounded by Ms. McLaren at
6 Page 767. In answer to my question:

7 "So you're telling me and telling this
8 Board that you don't believe that large
9 trucks should be forced to pay for injuries
10 they cause innocent occupants of private
11 passenger vehicles?"

12 Her answer:

13 "Right."

14 The Corporation chose not to respond to the
15 CMMG's Information Request to provide tables of the effective
16 cost assignment on a responsibility basis, which is loss
17 transfer, either for motorcycles solely or for all classes.

18 This leaves the Board only with prior evidence
19 of these effects from those -- from that prior evidence, the
20 effect of applying this fairer approach to losses will result
21 in a small increase to the rates for private passengers, yet
22 major improvements for the rates for motorcycles.

23 The change in cost assigned to passenger
24 vehicles with loss transfer is small. At most, several
25 dollars, certainly not material in terms of the rates set.

1 As described in CMMG cross-examination, the
2 materiality used by the Corporation is about ten dollars
3 (\$10) and that's Page 779 of the transcript. Based on
4 evidence from this and past Hearings, there's no
5 administrative or legislative restriction in the Corporation
6 doing so.

7 We heard a somewhat interesting
8 cross-examination from Mr. Williams related to a hockey
9 player who loses his teeth, since he was not wearing a face
10 mask and therefore had accepted the risk of that action.

11 The presumption Mr. Williams made in that
12 discussion with Ms. McLaren is that somehow the motorcyclists
13 are equally irresponsible in not taking measures to protect
14 themselves from the actions of others.

15 No evidence was provided by MPI or any witness
16 that motorcyclists were indeed somehow negligent in this
17 regard. They are equally law abiding, responsible citizens
18 as in any other class of vehicle.

19 The Corporation suggested that loss transfer
20 would increase rate volatility. However, under
21 cross-examination admitted that they had not performed an
22 analysis in support of that conclusion.

23 When asked if rate volatility is higher in
24 Alberta, a tort jurisdiction with consequent loss transfer,
25 the Corporation's response was that it was not more volatile,

1 and that's Page 771 of the transcript.

2 The CMMG has concern with the data used in the
3 determination of rates and we uncovered a variety of
4 inconsistencies in the data used. This includes mysteriously
5 changing claim counts in the Application between different
6 parts of the Application.

7 For instance, in CAC/MSOS-1-3, there were nine
8 hundred and thirty-four (934) claims for motorcycles, yet in
9 CMMG-1-63, there were eight hundred and eighty-four (884)
10 claims for the same period.

11 In the motorcycle risk study by some further
12 error, the count was five-twelve (512). Given the importance
13 of accurate claim information for determining rates and the
14 data error with respect to dealer plates, the CMMG is
15 concerned about the correctness of rates based on this ever
16 fluctuating data.

17 The CMMG's biggest concern is the apparent
18 anomalous data for motorcycles relative to data from other
19 jurisdictions, which was highlighted in cross-examination.

20 It is hard to fathom that circumstances are so
21 unique in Manitoba that the rates of single vehicle
22 motorcycle accidents is twice that of other jurisdictions.
23 What is clear is that MPI has not standard set of rules to
24 apply definitions of single and multi-vehicle collisions.

25 As well, evidence from the Corporation

1 indicated there's no consistence -- consistent method of
2 determining percentage responsibility in the event of multi-
3 vehicle accidents. It is left to the adjustors to determine
4 the percentage, no tool such as a fault charge are used.

5 The importance of the correctness of the
6 number of single vehicle accidents and the percent at fault
7 is its direct bearing on the issue of using loss transfer for
8 assigning costs to rate classes.

9 If motorcycle single vehicle accidents are
10 overstated, then the effect of the loss transfer approach on
11 motorcycle rates will be reduced. If the percentage at-fault
12 motorcycles in multi-vehicle accidents is too high, again,
13 the reduction in motorcycle rates from the proper assignment
14 of the costs is also reduced.

15 The CMMG's review of the motorcycle risk study
16 showed a number of methodological and data -- data errors in
17 the statistical analysis section of the study which was
18 Sections A through D. Request the finding of those sections
19 be ignored for the purposes of this ruling on this year's
20 GRA.

21 As shown in cross-examination, this included
22 data selection bias, which result in inaccurate comparative
23 statistics choosing only a short period of data when
24 comparing motorcycles to other vehicle classes, yet in other
25 sections using longer data streams.

1 For example, when comparing motorcycle claims
2 frequency to private passenger vehicles, a five (5) year data
3 window was used resulting in motorcycle claims frequency
4 showing an average increase of 5.3 percent per year compared
5 to 2.5 percent for passenger vehicles.

6 When the window is extended for motorcycles to
7 eight (8) years, the two (2) are nearly identical with
8 motorcycle frequency increasing 2.9 percent per year, almost
9 half of what the previous statistics showed. The references
10 there, Mr. Chairman, are Pages 737, 738, and an -- an
11 admission to that effect at Page 742.

12 Another example is a very short time frame
13 used for the sport bike experience, drawing conclusions based
14 on a very small group of claims. The Corporation, itself,
15 concludes the research wasn't intended to find out if
16 motorcycles were inherent, really risk -- or inherently risky
17 or sport bikes presented unique characteristics and yet these
18 are the headings in the report.

19 Basing conclusions upon a hundred and fifty
20 (150) sport bike injury claims per year for three (3) years
21 is neither credible nor reliable.

22 The Corporation could not -- could not provide
23 all parts of the study through the Information Request
24 process. An example was the inability to provide materials
25 from the survey conducted by Western Opinion Research as

1 described in CMMG 2-21.

2 Summary of the Corporation itself concluded
3 the study was not useful for decision-making purposes. Ms.
4 McLaren testified:

5 "I would like to point out that in terms of
6 conclusions or determination of any action
7 arising out of this -- this study, the
8 Corporation has not done that. This is
9 just the information. Whenever -- whenever
10 we've provided the information within --
11 for a -- a particular period of time, we
12 stated the period of time. At this point,
13 this is data -- it's just data and
14 information. It's -- it's not conclusions
15 and no actions have been determined based
16 on it."

17 The references being Pages 752 and 753.

18 This statement is contradictory to the
19 Corporation's response to CAC/MSOS-1-37A where the question
20 put to the Corporation was:

21 "Is it MPI's position that no changes
22 should be made to the way motorcycles are
23 insured for 2005/06 fiscal year based on
24 the information compiled in the motorcycle
25 risk study? If the answer is "yes", how

1 much time does MPI require to review the
2 data and to determine if there should be
3 changes to the motorcycle insurance
4 method?"

5 MPI's response was as follows:

6 "The Corporation has proposed that the
7 differential for sport bikes be increased
8 to one point three eight (1.38), currently
9 one point two eight (1.28), or one twenty
10 (1.20) before the rate group effect,
11 currently one point ten (1.10)."

12 This change reflects that sport bikes have had
13 poor loss experience in the last three (3) years relative to
14 the other motorcycle body styles.

15 Based on this question's response, MPI did use
16 the studies specifically with respect to increasing the sport
17 bike differential. With a subsequent recantation of the
18 study by Ms. McLaren in cross-examination, the sport bike
19 differential change is without any basis.

20 The lack of any actuarial soundness of any
21 conclusion is apparent when you review even this limited
22 data, the data demonstrates touring bikes have had more
23 injuries than sport on pages 1139 and 1140 of the transcript.
24 During the last morning of the Hearing, the writer's cross-
25 examination disproved each of the six (6) conclusions set out

1 in that report.

2 During cross-examination we heard from the
3 Corporation that after all the calculations, machinations and
4 many, many assumptions that are applied, the indicator that
5 really matters is the rate required after adjusting for
6 credibility.

7 This makes credibility an important
8 consideration for this Board. During the rate review
9 process, the Corporation filed material that showed that
10 there was more than one approach to credibility. The
11 Corporation has simply chosen one method and applied a rule
12 of thumb approach in this Application; that being assigning
13 99 percent credibility to the private passenger class.

14 The Corporation defended this practice as
15 simply being consistent with the past having been adopted in
16 1994 and '95. CMMG agrees at the early stage of the actual
17 rate making process, this sufficed as it was early on in the
18 development and there are larger higher priority issues; such
19 as getting rates for the private passenger class right.

20 As the process has become more sophisticated
21 and refined, the CMMG suggested last year and again this
22 year, that there's something wrong in the assignment of
23 credibilities. Mr. Rifai in the exhibit filed prior to his
24 testimony provided the Board with an example of the
25 methodology used to calculate credibility.

1 As noted by Mr. Rifai, the appropriate
2 approach to use of the major use level is the full
3 credibility constant approach also known as classical
4 credibility at the major class level and then possibly
5 Buhlmann credibility at the lower levels as described on page
6 892 of the transcript.

7 You also know that if Buhlmann were used, a
8 different credibility constant would apply for each major
9 class. The expert witness testified at page 895 that the
10 credibility assigned to motorcycles is too high indicating an
11 alternate value of about 17 percent compared to the
12 Corporation's assigned 60 percent.

13 During cross-examination the CMMG showed the
14 importance of a lower credibility assignment on motorcycle
15 rates with a credibility of 10 percent resulting in an
16 indicated rate adjustment of 6 percent. Far less than what
17 the Corporation is looking for in this year.

18 None of the other approaches to credibility
19 have been tested by the Corporation or investigated as
20 alternative approaches as shown at page 827 of the
21 transcript.

22 Further, it is shown on page 837, 838, the
23 Corporation has not filed documentation as part of its
24 Application showing the statistical analysis needed to
25 determine the all important K value in the approach it does

1 use, or test the underlying assumptions of its approach.

2 During cross-examination by the CMMG we heard
3 of a calculation of the K value, however that calculation was
4 not submitted as part of the Application and not available
5 for appropriate review. The K value is a critical value
6 since it determines the credibility assigned to each class
7 including motorcycles.

8 The Corporation has chosen to stick with a
9 judgmentally determined K value of six thousand (6000) to
10 yield a 99 percent credibility to the private passenger
11 class. In cross-examination at page 831 of the transcript,
12 the CMMG solicited the information from the Corporation that
13 a K equal to ten thousand (10,000) also yields a 99 percent
14 credibility for private passenger class, however, with a
15 substantial reduction in the credibility of the motorcycle
16 class.

17 If the Corporation chose 95 percent
18 credibility for the private passenger class, the K value
19 would increase yielding 20 percent credibility for the
20 motorcycle class and a required increase of about 12 percent.
21 Mr. Rifai proposed a credibility of 17 percent yielding an
22 increase of about 8 percent.

23 The Corporation's defence of the choice of K
24 value appears to be based on the description by Dean in an
25 introduction to credibility that it is more of an art than a

1 science. Given the number of assumptions and the selection
2 of key components by the MPI actuary on an arbitrary basis,
3 this is a huge understatement in this present case.

4 When questioned by the CMMG related to rates
5 in private insurance jurisdictions, at pages 828 and 829 of
6 the transcript, the Corporation recognizes the difference in
7 rate-setting between private and public sector insurance
8 jurisdictions.

9 The question and response were as follows:

10 "Question: Ms. McLaren: Just by way of a
11 brief aside, in private sector environments
12 where there's multiple effective
13 competitors, is it the actuarially
14 determined rate, the rate that the customer
15 actually pays?

16 Ms. McLaren: I have no idea. I would
17 expect not."

18 The context of which Dean's comments apply
19 would be a private sector jurisdiction. At the end of the
20 day it is the competitive market that determines what the
21 consumers pay, thus, whether the credibility is 75 percent or
22 25 percent, in the end, there it doesn't matter. That is not
23 the case in Manitoba where competition is absent, and getting
24 the credibility correct is of significant importance.

25 During cross-examination, the CMMG also showed

1 that there are many different values of credibility assigned
2 to motorcycle by MPI. It is important to remember that it's
3 the same pool of approximately nine thousand (9,000)
4 motorcycles that are we -- we are talking about in the
5 various portions of the Application.

6 The credibilities assigned by the Corporation
7 range from 38.64 percent to 100 percent. The CMMG's witness,
8 Mr. Rifai, also noted these differences in his report.

9 The Corporation's general response is that as
10 rates move to a lower level of detail from overall major use
11 rate to insurance use and territory, then it would make sense
12 that the credibility would decline. The reference, pages 878
13 and 879.

14 There is only one problem with that theory.
15 By some miracle of statistics at the lowest level of detail,
16 the rate-line adjustment, the credibility for motorcycles
17 becomes 100 percent, much higher than even at the aggregate
18 overall rate level.

19 In summary, related to credibility, the CMMG
20 believes the Board should rule that the assigned credibility
21 for motorcycles is too high and should be lowered to the 10
22 to 20 percent range, either through the application of
23 alternate techniques or through an increase in the K value
24 assigned by MPI to something in the forty thousand (40,000)
25 range.

1 Credibility is also an important issue when
2 considering the request for an additional increase in rates
3 for sport bikes. The data used to determine sport-bike
4 rates, by the Corporation's own admission, is quite small,
5 with the credibility being somewhat less than 5 percent,
6 meaning it has very little grounds to be believed.

7 We learned that regardless of the calculated
8 credibility, that in the end the relativity selected is based
9 on actuarial judgment, page 865. When an alternate
10 complement to the pass rate is chosen for sport bikes, with a
11 relativity of one point one three (1.13) generated, the
12 Corporation would still maintain, through the use of
13 judgment, an artificially high relativity of one point four
14 (1.4) for sport bikes.

15 No matter that the data set is small, with
16 only one (1) large loss, or even the Corporation's approach
17 generates a relativity of less than that sum, the chosen
18 result is one point four (1.4). Statistics and solid
19 analysis do not appear to matter. What matters is one (1)
20 man's judgment.

21 During the course of the Application of the --
22 during the course of its review of the Application, CMMG
23 uncovered a variety of incorrect assignment of vehicles to
24 the sport bike classification that were confirmed in cross-
25 examination, and that was the pictures we referred to in the

1 references at page 871 of the Transcript.

2 In addition to having little statistical
3 justification for the higher rates on sport bikes, it appears
4 that many of the vehicles it assigned to sport bikes are
5 incorrect. In defence of its errors, somehow MPI seems to be
6 under the false belief it's up to the motorcycle community to
7 make sure that the MPI's list of sport bikes and other
8 vehicles is correct.

9 Does MPI expect that same from car and truck
10 owners? It's the onus of the Corporation to prove its rate
11 case, not the CMMG.

12 The end result for sport bikes is an
13 unjustified rate assigned to the wrong vehicles. For this
14 reason, the CMMG requests the Board decline any further
15 increase to sport bike rates and roll back the surcharges
16 that are in effect.

17 In cross-examination, CMMG questioned MPI
18 related to capping large losses, as is recommended in the
19 actuarial readings related to credibility that were
20 referenced by MPI. MPI does not cap losses as suggested in
21 that literature, instead it averages serious losses.

22 It appears now that the onerous effect of the
23 high large losses on motorcycle rates from the 1994/1995
24 year, is about to leave the -- the calculation, yet MPI is
25 non-committal about next years' approach.

1 The tendency of the Corporation to utilize
2 data which emphasises the worst possible case for motorcycle
3 experience likely will result in the continued use of that
4 years' data when we come next year.

5 As shown in cross-examination, the
6 Corporation's approach to serious losses results in higher
7 costs being assigned to the motorcycle class overall, and in
8 particular to Territory 1. The effect of this approach is
9 losses assigned for rate making being nearly 40 percent
10 higher in Territory 1 than the actual five (5) year history.

11 Given the large number of motorcycles in
12 Territory 1, it's not surprising MPI's reproach -- approach
13 results in the need for a large rate increase. Simply, if
14 the costs assigned are over stated, so must be the rate.

15 Prior to PIPP, large tort losses which were
16 the bulk of the injury claim costs, were effectively capped
17 at the two hundred thousand dollar (\$200,000) policy limit.
18 They would, of course, also have been transferred to the
19 responsible insurance risk class.

20 It is no wonder that without loss transfer and
21 uncapped losses, that motorcycle rates will never reach their
22 appropriate level according to MPI's approach.

23 CMMG submits to the Board that the current
24 treatment of serious losses be rejected, capping of losses at
25 the two hundred thousand dollar (\$200,000) level be

1 introduced.

2 The Corporation is -- has described the
3 motorcycle class as being subsidized by other classes at
4 these hearings and in the media for many years, filing
5 evidence in response to PUB-2/23 showing this purported
6 subsidization.

7 In cross-examination at Page 811 of the
8 transcript, the CMMG showed that the method used to
9 substantiate this claim was incorrect, resulting in even the
10 largest class, that being private passenger vehicles, being
11 subsidized if the methodology was accepted.

12 Simply, the claim of subsidization of
13 motorcycles based on that evidence is nonsensical. The CMMG
14 submits that the information in PUB-2-23 and related
15 testimony be ignored for the purposes of ruling.

16 Alternately, using the rate indicator as
17 perhaps another approach to claiming subsidization. Given
18 the problems with the rate indicator for the motorcycle class
19 including mysterious claims data, lack of loss transfer and
20 unproven credibility assignments, we have -- as we have just
21 outlined, there's no justification to make this claim based
22 on the rate indicator, either.

23 Even if there is some subsidization in -- is
24 its elimination the goal of MPI and this Board? CMMG argues
25 it is not. Simply, because the Corporation has a proposed

1 subsidization and received approval for cross-subsidization
2 in other areas.

3 These include subsidization of common, private
4 and contract extra-provincial trucking which the Corporation
5 applied for and was approved by this Board; subsidization of
6 the take over of operations of DDVL with a direct rate effect
7 on all rate classes; applying this year for subsidization of
8 the commercial rate used by other classes due the change in
9 dealer plates.

10 During cross-examination by Board Counsel at
11 Page 194 of the transcript, we heard that the treasure chest
12 is some \$42 million in unrealized capital gains in its bond
13 portfolio.

14 MPI's mistaken belief that there's no way to
15 capture these gains without an offsetting detrimental
16 effective future yields on the portfolio. There's only one
17 (1) problem in that argument, Mr. Chairman. If interest
18 rates rise, the available gains will be lost with no net
19 benefit to Manitobans either now or in the future.

20 As we understand it, there are investment
21 vehicles that can be customized, using some forms of swaps
22 and derivatives to crystallize and spread these gains across
23 all years.

24 The effect would be a reduction in rates for
25 motorcyclists and other types of vehicles. We submit

1 minimally the Corporation should be considering more
2 sophisticated approaches in order that gains can be included
3 in the revenue base with the benefit accruing to all
4 motorists.

5 In terms of the actual revenue requirement for
6 motorcycles, none in this room can tell us what the losses
7 are going to be in 2005. The Corporation is seeking about \$9
8 million in premium revenue from motorcyclists.

9 Contrast the injury loss costs in '96/97 of
10 \$1.8 million, in 1998/99 of \$3.4 million in insurance loss
11 costs, 2000/2001 of 2.6 million and the references, for those
12 numbers are at Pages 1088 and 1089 of the transcript.

13 If we have another year like one of those
14 years, Mr. Chairman, and the evidence was that insofar in
15 2004, there had been no serious motorcycle losses, then the
16 Corporation would collect three (3) times the premium
17 required.

18 We heard in presentation from Mr. Ramsey of
19 the harm being done to the motorcycle industry due to high
20 insurance rates, which admittedly is not part of the evidence
21 of this Hearing. This includes declining new motorcycle
22 sales in Manitoba, while sales are increasing rapidly in
23 other jurisdiction, and the potential closure of dealerships
24 in Manitoba and consequent unemployment.

25 In summary, Mr. Chairman, the CMMG submits to

1 this Board that the Corporation has not made the case for a
2 rate increase to motorcycles for 2005, or for an increase in
3 the surcharge applied to sport bikes for the following
4 reasons.

5 Losses have not been properly assigned at the
6 territory and insurance-use level for all classes, including
7 motorcycles. The correct method would be to assign costs on
8 the basis of responsibility, using the system of loss
9 transfer.

10 The underlying data used to assign costs has
11 errors. These include: general inconsistencies as well as
12 an unusually high level of single vehicle accidents in
13 Manitoba relative to other jurisdictions.

14 The Motorcycle Risk Study, largely used by the
15 Corporation, suggests motorcycles are inherently risky and
16 sport bikes are particularly inherently risky, has been shown
17 to have significant methodological errors. Even the
18 Corporation has abandoned it for the purpose of decision
19 making and so should the Public Utility Board.

20 This leaves no foundation to support the
21 existing rate differential or the proposed increase in sport
22 bikes in particular. The list of sport bikes is flawed,
23 resulting in non-sport bikes being charged sport bike rates,
24 the credibility assigned to motorcyclists is incorrect and
25 untested, consequently, the overall rate change for

1 motorcycles has not been proven.

2 There is no proven subsidization of the
3 motorcycle class by other classes. The Corporation has
4 investment resources available to mitigate the increase for
5 motorcycles and decrease rates for other classes. The
6 classification system results in an inequitable treatment of
7 motorcycles for the reasons discussed.

8 CMMG proposes the Board order that motorcycles
9 be eligible for the two-vehicle, and that's the pleasure and
10 all-purpose use, discount and also for pleasure use.

11 The proposed implementation of the rate line
12 adjustment is flawed, since it does not fully encompass the
13 characteristics of vehicle risks. For motorcycles, the
14 vehicle risk characteristics depend on both value and engine
15 displacement, not simply value.

16 Including both would put motorcycles on a more
17 equal footing with passenger vehicles and light trucks, when
18 this adjustment is made.

19 The rate-line adjustment as well does not
20 consider the credibility of the rate group data in the same
21 manner as passenger vehicles and light trucks.

22 For all of these reasons, Mr. Chairman, the
23 rates proposed are not reflective of the risk and the
24 increase should be denied.

25 If I might take a further moment and just deal

1 with the issue of road safety, there were undertakings that
2 related to the position of the CMMG. Currently the -- the --
3 MPI has a budget of some \$7 million and spends about
4 1 percent, some seventy thousand dollars (\$70,000) on
5 motorcycle-specific safety programs.

6 We see from Undertaking 25, that's not a lot
7 more than what they spend on golf. The answer to
8 Undertaking 25 indicates the Corporation, on these golf
9 items, spends some sixty thousand dollars (\$60,000), not a
10 lot different than dealing with a major use that's
11 experiencing significant problems in its cost development,
12 where they spend a measly ten thousand dollars (\$10,000)
13 more.

14 The Corporation was wrong in its evidence on
15 cross-examination about whether there's a motorcycle
16 component to the Driver Training Program. That's evident in
17 its Response filed pursuant to Undertaking 20. There is no
18 motorcycle component to the Driver Training Program done in
19 high schools. According to Mr. Williams, that's their
20 Cadillac program.

21 It was left to CMMG to make presentations and
22 approximately five hundred (500) students received those.

23 Having abdicated the area, we get slammed in
24 the response to that Undertaking where they say it was due to
25 a lack of interest by CMMG members, instead of recognizing

1 the fact that a number of volunteers are taking their own
2 time when the Corporation with \$7 million can't include that
3 component.

4 So I think it's clear I think from all of
5 that, the Corporation has to do a great deal more with
6 respect to motorcycle safety initiatives. And those would be
7 my comments this morning, Mr. Chair. Thank you.

8 THE CHAIRPERSON: Thank you, Mr. Oakes.

9 Mr. Roberts, do you want to take your spot
10 right now before lunch? Please, you probably have to come up
11 to the front too.

12

13 CLOSING STATEMENT BY MR. NICK ROBERTS:

14 MR. NICK ROBERTS: Thank you, Mr. Chairman.
15 First let me thank the Board for their consideration of the
16 Manitoba Used Car Dealers Association intervention in this
17 proceeding as well as MPIC for their prompt and courteous
18 responses to our questions.

19 It was with some hesitation that MUCDA decided
20 to intervene in these proceedings as in the past it has
21 always been our inclination to accept the rates proposed by
22 MPIC.

23 In our past acceptance, the association relied
24 on four (4) broad principles. One, rates were based on sound
25 underlying data, common sense was applied, the approach was

1 fair and it did not result in long term harm to dealers.

2 And we believed these principles had been
3 fulfilled by the Corporation. Through our participation this
4 year however, we have come to the conclusion that these
5 principles have been violated in the case of large rate
6 increase being applied to dealer plates for 2005 and 2006.

7 As well, in hindsight, we now understand that
8 we are not likely as completely fulfilled as we thought in
9 the past. First, the information used to calculate the rates
10 causes us great -- a great deal of concern. For many years
11 MPI claimed the data was correct and accurate, yet
12 unexpectedly a major and significant revision has occurred.

13 While found in time for last year's hearings,
14 the Corporation chose not to provide the Board with that
15 information at those hearings. Disclosure at that time would
16 have provided two (2) positive results from the perspective
17 of the used car dealers.

18 One, it would have allowed for orderly review
19 of the underlying data and processes leading to its
20 collection and in an open and fair manner at the direction of
21 the PUB. It would have created a higher comfort level for
22 all parties at these hearings including the dealers with the
23 data and the expected rate change.

24 In order for our membership to believe that we
25 as dealers pay our way in an appropriate manner, we need to

1 trust the data in the Application and provide it to our
2 association. For this Application we cannot say we trust the
3 data. Since we do not trust the data, we are in the
4 unfortunate position of having a high level of discomfort
5 with the proposed rates.

6 MUCDA, through its cross-examination, has
7 shown that there are still problems with the data. At pages
8 1127 through 1129 of the transcript MUCDA asked for a
9 comparison of claims incurred numbers that were inconsistent
10 between the total incurred for commercial major use in PUB-1-
11 38 at \$16 million for 2003 and 2004 and in TI-20 Exhibit 13-6
12 where the total is \$12 million.

13 The Corporation states the reason for this
14 inconsistency is development as described on page 1129, lines
15 21 through 23, development being somewhere in the magnitude
16 of 25 percent for five (5) months. This is not consistent
17 with development in other classes.

18 Using evidence filed as PUB-1-38 and TI-20
19 Exhibit 13, the percent development for other classes is as
20 follows: Private passenger 7 percent, Public 2 percent,
21 Motorcycles 11 percent.

22 The only conclusion that can be drawn is there
23 are still errors in the data. We believe that in order to
24 restore trust in the data, the Board needs to order a
25 rigorous independent audit of the sources and compilation

1 processes for the data used in the rates.

2 In our view, the Board would govern such an
3 audit and include representatives of the Intervenors and --
4 and be done by an organization agreeable to the Corporation
5 and Intervenors.

6 We saw that a significant portion of the cost
7 of dealer plates was due to an increase in reserve
8 adjustments as described on Pages 1118 and 1119 of the
9 transcript. We also learned from Mr. Bedard at Page 1124
10 that these large adjustments are based on opinion. The
11 question this leaves us with at MUCDA is, what makes the
12 opinion correct and why should dealer rates be based, even
13 partially, on opinion?

14 Common sense tells me that when I cause harm
15 or damage to someone else or his or her property, that I
16 should pay for it as I am responsible. We at MUCDA only
17 recently learned that the costs being charged to dealer
18 plates in their rates were not necessarily the costs caused
19 by dealers.

20 Common sense says to us that if we did not
21 cause an accident and, consequently, the cost, it should not
22 be part of the dealer plate rate. This point is abundantly
23 clear when you look at Undertakings 21 through 24 where the
24 dealer rate group has been charged in -- in excess of \$8
25 million for claims that they were 0 percent at fault for.

1 For this reason, we believe the Board should
2 order the Corporation to set rates based on costs being
3 allocated to the responsible groups, that is, using loss
4 transfer. Certainly this would be fair.

5 Speaking of fairness, we are somewhat baffled
6 by the unfair treatment for dealers with respect to the
7 Corporation's proposed large increase for 2005.

8 Historically, as we understand it, rate
9 adjustments for more than 15 percent to any group were
10 considered rate shock. Rate adjustments for insurance groups
11 were capped at this level, even when there valid indications
12 that rates should be higher. Our question is, what makes
13 dealer plates different?

14 If rates were held to 15 percent as has been -
15 - has been in past practice, MUCDA's initial thinking was
16 that revenue not collected from dealers should be collected
17 from the commercial class, not all vehicle classes.

18 While this would, in itself, result in a
19 higher dealer rate provided one believes the underlying data
20 and dismisses loss transfer, it seemed unfair to us that
21 owners of pleasure use cars or motorhomes should subsidize
22 the commercial class, however, prior precedents have resulted
23 in such subsidization of vehicles in the commercial class
24 from other classes.

25 This is shown on Page 145, lines 8 through 11

1 of the transcript where Ms. McLaren states:

2 "Common private contact carriers or extra-
3 provincial trucking do not pay any
4 premiums, but have the benefit of personal
5 injury protection in Manitoba. The subsidy
6 is paid by other Manitoba vehicle owners."

7 On the basis of this precedent, we see no need
8 to treat the case of dealer plate rate change for 2005 and
9 2006 any differently.

10 Relating to our fourth principle, does it harm
11 the dealer plate group? As noted in cross-examination, in
12 the last few years we've experienced a significant decline in
13 the number of dealer plates due to dealers leaving the
14 industry.

15 While testimony was not present in regard to
16 the effect of the large increase proposed for 2005, common
17 sense tells me that this will only increase the decline in
18 the number of dealers in Manitoba.

19 Casual conversation with dealers has confirmed
20 my belief and this will have three (3) potential effects:
21 Forecast costs will be spread over a smaller pool since rates
22 are built up from historical costs which were based on a
23 larger pool.

24 These will be distributed across a shrinking
25 group of dealer plates with the result being further large

1 increases in the future, starting a downward cycle.

2 As dealers leave the industry, ultimately
3 consumers who purchase used vehicles will suffer as
4 competition decreases. The consumer will have far less
5 protection when purchasing a car. It will only make what we
6 call the curbsider problem in Manitoba worse than it already
7 is.

8 Curbsiders are people who pose as private
9 individuals and illegally sell cars to unsuspecting
10 consumers. With fewer dealers, it will only make the problem
11 worse. In the end, it is not in the public interest.

12 Finally, the used car dealers are concerned
13 about the topics of meetings held during the rate application
14 process with potential Intervenors. I'm referring to the
15 meeting between MMDA and MPIC that was discussed during our
16 cross-examination. The primary focus of this -- of that
17 meeting was the proposed large rate increase.

18 We're not suggesting that there was something
19 untoward that went on or that MPI should not meet whenever
20 possible with interested parties and its clients. We do not
21 believe, though, that when issues where rates are the topic
22 of focus, that these should only be brought forward and
23 discussed in this venue.

24 This, we believe, would provide our membership
25 with a higher level of comfort with the ultimate ruling of

1 the Board.

2 In summary, we ask the Board to deny the
3 Corporation's request for an increase in dealer plate rates
4 or, at minimum, restrict the increase to a maximum of 15
5 percent.

6 We also ask that the Board take whatever steps
7 are necessary to ensure that the data underlying all rates is
8 correct and verified as correct.

9 Finally, we ask the Board to order the
10 Corporation to file rates for 2006 with losses transferred to
11 the responsible class, as we believe this will be fair to
12 dealers. Thank you, Mr. Chairman.

13 THE CHAIRPERSON: Thank you, Mr. Roberts.

14

15 (BRIEF PAUSE)

16

17 THE CHAIRPERSON: I think that next we'd
18 probably be going to CAA or the Manitoba Motor League and Mr.
19 Major but I don't -- I see he's not here right now, so to
20 provide an opportunity -- I'm sorry.

21 MS. JEANIE DALMAN: Sorry, I'll be presenting
22 Mr. Mager's final arguments -- closing arguments.

23 THE CHAIRPERSON: Do you prefer to go now, or
24 would you like to wait till after lunch?

25 MS. JEANIE DALMAN: After lunch is fine,

1 thank you.

2 THE CHAIRPERSON: Okay, then we'll shut down
3 and we'll reconvene at 1:15. Thank you.

4

5 --- Upon recessing at 11:55 a.m.

6 --- Upon resuming at 1:17 p.m.

7

8 THE CHAIRPERSON: Welcome back.

9 Ms. Dalman..?

10

11 CLOSING STATEMENT BY MS. JEANIE DALMAN:

12 MS. JEANIE DALMAN: Good afternoon Ladies and
13 Gentlemen. I am pleased to be here this morning to represent
14 CAA Manitoba and our final argument on behalf of Mr. Michael
15 Mager, our president, who is currently out of town on
16 business.

17 CAA Manitoba is a not-for-profit organization
18 that represents and supports the automotive travel and
19 insurance interests of a hundred and sixty-four thousand
20 (164,000) members province wide.

21 CAA Manitoba is keenly interested in ensuring
22 its members are provided fair and properly priced automotive
23 insurance through our provincial insurance provider, MPI.
24 Hence our participation as an Intervenor in these
25 proceedings.

1 Through our attendance and review of the Rate
2 Application and subsequent testimony put forward at the
3 hearings, we have identified two (2) specific areas of
4 concern.

5 First we have concern with the impact of the
6 DDVL merger with MPI and its potential negative impact on
7 Manitoba ratepayers and the discontinuation of the vehicle
8 registration cost sharing arrangement between the Manitoba
9 government and MPI.

10 Secondly, we have concern with the efficiency
11 and effectiveness of the MPI vehicle anti-theft initiatives.
12 And very serious concern about the escalating incidences of
13 auto theft that carries a very significant cost not only in
14 actual theft claims but also in the threat of risk and injury
15 posed to all of us.

16 On the matter of the DDVL merger, it has been
17 stated that the merger is not -- is to not negatively impact
18 MPI ratepayers. In this regard there was discussion that
19 identified a cost recovery program between the Manitoba
20 government and MPI to basically provide for current DDVL
21 operating costs.

22 What was unclear in testimony was how the
23 recovery of costs moved into the future of DDVL operations.
24 As an example, there was reference to the cost required to
25 replace the very old archaic DDVL computer system.

1 MPI's comments in this regard indicated that
2 if MPI would benefit from system improvement, it would cover
3 the associated costs and where the improvements were solely
4 on behalf of DDVL, the costs will be recovered by the
5 Manitoba government. It was also stated that cost savings
6 from synergies created with the merger would be utilized to
7 the benefit of both parties.

8 The issue of concern we have in this example
9 and all other possible cost recovery items is that there does
10 not appear to be a clear specified agreement between MPI and
11 the government that covers who pays for what costs and there
12 is concern the ratepayer may end up paying for those costs as
13 part of -- as part of their vehicle insurance premiums when
14 these costs should be covered by the government.

15 While we recognize there may be cost savings
16 associated with synergies from the merger, there is also the
17 real possibility that cost savings are not achieved and we at
18 CAA are concerned that these costs will be put back on the
19 ratepayers.

20 In the testimony, it was also identified that
21 an agreement between MPI and the government for the operation
22 of the DDL -- DDVL has not -- has not been completed to date.

23 As MPI is currently responsible for the
24 operation of the DDVL it is concerning that a final agreement
25 for these services has not been formally put into place and

1 we as ratepayers are not able to see any potential negative
2 impact this arrangement may have on vehicle insurance rates.

3 In addition, there was reference the operation
4 of the DDVL would fall under an area of MPI operation that is
5 not subject to the PUB review process.

6 It is concerning that such a sizable operation
7 such as DDVL which by the intent expressed for the merger
8 could become significantly integrated into MPI operations and
9 that the PUB would not have jurisdiction over its operations.

10 Also in the same regard, it was clearly
11 identified in testimony that the government has discontinued
12 a cost sharing agreement with MPI for vehicle registrations
13 for DDVL whereby MPI is now short \$5.4 million from its
14 operating profits.

15 This translates into an approximately 1
16 percent increase in rates that ratepayers are now on the hook
17 for to enable MPI to return to its operating profit position
18 before the discontinuation of the fees.

19 MPI is still required to provide this service
20 of vehicle registrations without any cost recovery, that is
21 the responsibility of the government. This situation is not
22 appropriate and the government should not be offloading its
23 financial responsibility indirectly onto the shoulders of
24 Manitoba vehicle insurance ratepayers.

25 In addition -- addition, this discontinuation

1 of the cost sharing of \$.5.4 million appeared to be done as
2 part of the DDVL merger and while testimony advised that the
3 two (2) incidences are completely separate, there is concern
4 about the coincidence of the timing of these two (2) events.

5 There's also significant concern that the
6 government would slide in the discontinuation of this cost
7 sharing agreement -- arrangement without transparency and
8 without any specific reason to substantiate why they are
9 discontinuing the funding arrangement that has clearly been
10 their responsibility over the years.

11 The lack of transparency in this regard does
12 lead us to question the merger arrangement and whether any
13 further cost offloads have or will occur from the government.

14 In concluding this part of our argument, we
15 have a number of recommendations for the Board to consider in
16 their review:

17 1. The operation of DDVL by MPI and any
18 potential impact on Manitoba ratepayers be required to fall
19 under the jurisdiction of the -- of the PUB.

20 2. That the formal merger agreement between
21 the Manitoba government and MPI be submitted for review as
22 part of this rate process, so the PUB can properly assess any
23 possible rate impact associated with the agreement.

24 3. That a clear, specific definition be put
25 forward in this agreement as to responsibility for future

1 DDVL costs and a clear, specific definition as to who would
2 benefit on any cost savings associated with the merger and
3 who will be responsible for any added costs associated with
4 the merger, and the clear requirement that any added costs do
5 not become a ratepayer burden.

6 Fourthly, that MPI not increase rates in any
7 way or offer rate savings otherwise enabled as a result of
8 the discontinuation of the cost sharing of \$5.4 million for
9 DDVL vehicle registration by the government.

10 And, lastly, that MPI not have any future rate
11 increases as a result of future costs associated with the
12 operation or integration of DV -- DDVL.

13 Our next area of argument is the efficiency
14 and effectiveness of MPI vehicle and anti-theft initiatives.
15 In their testimony, MPI advised that vehicle theft consumes
16 around \$24 million in claim -- claim costs, were the
17 equivalent of 5 percent of our average vehicle insurance
18 rates.

19 This is a sizable amount and in addition to
20 claim costs, there is also the high social cost associated
21 with vehicle theft.

22 Social issues, such as disruption to people's
23 lives due to the theft of their vehicle to the serious risk
24 to the public at large with high speed chases associated with
25 vehicle theft to many more issues of concern to the public.

1 The issue of vehicle theft is a serious one
2 for Manitobans and it is not improving. Vehicle thefts
3 continue to rise at a dramatic rate over the years and it is
4 vital that we do more to curb this disturbing trend.

5 In this regard, MPI has a number of programs
6 that expend upwards of \$1 million and we feel could be done
7 more effectively.

8 Several years ago when MPI introduced the
9 vehicle anti-theft device discount program at forty dollars
10 (\$40) per year for the installation of approved vehicle anti-
11 theft devices, CAA Manitoba expressed that this discount was
12 not sufficient incentive to entice the public to purchase the
13 device and have a significant on reducing auto theft.

14 With the average anti-theft device and
15 installation costing in the range of three (3) to four
16 hundred dollars (\$400), the average payback period to a
17 ratepayer is up to ten (10) years, a period that is far too
18 long. As such, MPI advised in their testimony that the
19 number of ratepayers that have used the anti-theft device
20 discount was disappointing.

21 MPI has indicated that the discount amount of
22 forty dollars (\$40) represents the average theft claim cost
23 per ratepayer with the inference that any discount beyond
24 this amount would end up costing more than the claim
25 experience. We believe that this view is flawed. It does

1 not take into account the ongoing longer term claim cost, nor
2 does it reflect the social costs and risks as previously
3 noted.

4 For example, if MPI were to enhance the
5 discount to, say, three (3) times the current amount, the
6 discount of a hundred and twenty dollars (\$120) there would
7 be much more of an incentive for someone to acquire an anti-
8 theft device. MPI would end up paying out less over time
9 because the added discount incentive would likely increase
10 the take-up of anti-theft device installations and in the
11 long term reduce the incidents of vehicle thefts. It is the
12 old expression of pay now or pay later.

13 We also believe that MPI could consider a cap
14 on the discount that is set to the cost of device. Currently
15 the forty dollar (\$40) discount goes on indefinitely as long
16 as the vehicle owner insures the car. Any amount paid over
17 the value of the device is not necessary and considered
18 excessive. We believe the consumer has a greater interest in
19 being able to afford the initial cost of the device as
20 compared to a long-term discount over the life of a vehicle.

21 We feel strongly that the M -- that MPI should
22 consider increasing the vehicle anti-theft device discount
23 beyond the forty-dollar (\$40) amount and should consider
24 capping the discount once the value of the device has been
25 realized.

1 Further in the testimony, there was discussion
2 on a number of select high-risk vehicles that account for a
3 significant number of the vehicles stolen. Currently, MPI
4 indicated it does a direct mailing to those high risk vehicle
5 owners to encourage them to take risks (sic) to reduce the
6 risk of vehicle theft. CAA questions the effectiveness of
7 this initiative and has a few other points.

8 We feel there's opportunity for MPI to
9 consider a number of additional initiatives to promote anti-
10 theft initiatives to these high-risk vehicles.

11 At the time of booking insurance on a high-
12 risk vehicle, the MPI computer system could prompt the agent
13 or broker to mention the risk associated with their vehicle
14 and offer the vehicle anti-theft discount option to the
15 vehicle owner. MPI could also consider providing an
16 agent/broker incentive or service fee premium if they
17 successfully promote a ratepayer to install an authorized
18 anti-theft device.

19 Returning back to the idea of increasing the
20 vehicle anti-theft device beyond forty dollars (\$40), if MPI
21 does not see the sense of doing this for all vehicles, we
22 would suggest that it at least consider doing it for the
23 high- risk vehicles. The high number of these specific high-
24 risk vehicles would justify the need for higher discounts for
25 the installation of vehicle anti-theft devices.

1 Another approach CAA considers is, MPI could
2 consider to charge a high-risk vehicle premium surcharge and
3 then agree to waive the surcharge if the ratepayer installs
4 an authorized anti-theft device.

5 While this approach may appear punitive to the
6 ratepayer, MPI could continue to offer the existing anti-
7 theft device discount of the forty dollars (\$40) or higher
8 should it consider -- be considered -- and in this regard,
9 the ratepayer would recoup the cost of the device over time.
10 This approach definitely puts the onus of responsibility on
11 the ratepayer to do all they can to curb vehicle theft.

12 It is important to point out that while this
13 approach may appear unfair to the high-risk vehicles, in the
14 long run, all ratepayers could benefit -- benefit with rate
15 decreases if we significantly reduce or decrease or eliminate
16 vehicle theft.

17 Another item in the testimony that concerned
18 us was the amount of money that MPI spends to support the
19 various vehicle anti-theft initiatives of the nature of
20 apprehending the vehicle thieves, such as funding the
21 Winnipeg Police Service.

22 While the objective of these programs to catch
23 the culprit and stop them from doing it again is -- is fairly
24 straightforward and sensible, one is led to wonder the
25 efficiency and success of this.

1 With all of the money spent, some three
2 quarter of a million dollars each year, we see -- we see
3 thefts continue to rise. With the justice system we have in
4 place, we see youths stealing a vehicle in the afternoon and
5 are back out on the streets by early evening.

6 We're are wondering at CAA is these programs
7 make sense or if these monies should be put back to
8 initiatives like the anti-theft device program that prevent
9 the theft from occurring in the first place.

10 In closing, on the matter of efficiency and
11 effectiveness of the anti-theft initiatives, we acknowledge
12 that the vehicle theft situation is difficult and a
13 complicated problem to solve and we recognize the efforts and
14 concern that MPI has for the matter.

15 We offer these suggestions as further
16 initiatives that MPI can implement and hopefully
17 significantly reduce vehicle theft.

18 In closing, our final argument, we thank the
19 PUB and MPI for the opportunity to be involved and offer our
20 opinions and support of our CAA Manitoba members, on behalf
21 of Mr. Mike Mager, thank you.

22 THE CHAIRPERSON: Thank you, Ms. Dalman. Mr.
23 Dawson, I believe it is your turn.

24
25

(BRIEF PAUSE)

1 CLOSING STATEMENT BY MR. ROBERT DAWSON:

2 MR. ROBERT DAWSON: Good afternoon, Mr.
3 Chairman, Members of the Board. Before I begin I should
4 indicate that Ms. Scurfield of the Insurance Bureau asked me
5 to advise the Board it is the intention of the Insurance
6 Bureau to make a submission and she had to excuse herself
7 because of a meeting that was on around the lunch hour and it
8 is her intention to come back and she suggested that we do as
9 we are, namely that I take her place and that she would then
10 return.

11 I should also indicate by way of housekeeping
12 that at some point I don't quite have the same number of
13 groupies as Mr. Byron Williams, but I do expect the executive
14 director of the Manitoba Bar Association, Ms. Stacey Nagle
15 (phonetic) to join us in the gallery.

16 By way of outline of the comments that I'm
17 proposing I'll begin by making two (2) recommendations on
18 behalf of the Manitoba Bar Association. The first
19 recommendation will touch upon the handling and payment out
20 of personally -- personal injury claims. And the second
21 recommendation will deal with what, for lack of a better
22 phrase, I'll call the focussed legislative reform initiative
23 that the Bar Association has been pursuing.

24 After I've covered those two (2) Bar
25 Association recommendations, my client has instructed me to

1 indulge the Board by offering comments that may be of
2 assistance to the Board on issues that the Chairman himself
3 indicated at the close of evidence are topics on which the
4 Board would like comments.

5 The two (2) Board issues, for lack of a better
6 word, that I'll select are the DDVL classification under SRE
7 and Extension and the second Board issue that we'll deal with
8 is the public policy questions that underlie loss transfer.

9 So after I've dealt with the two (2)
10 recommendations from the Bar Association and the two (2)
11 issues of the Board has put out on which the Bar Association
12 feels some competence in providing assistance, I'll then turn
13 very briefly to the question of costs.

14 Let me begin then with the first Bar
15 Association issue, the one that I've entitled the handling
16 and payment out of personal injury claims. Mr. Williams has
17 already touched upon, to some extent, some of what I'm going
18 to say which will save us all the time of hearing me say it
19 again.

20 I'll begin by indicating what the
21 recommendation is and then I'll go through the steps that
22 lead up to the recommendation being offered.

23 The Bar Association is urging the Board to
24 make an order that the applicant undertake a formal study of
25 the handling of personal injury claims of the Workers

1 Compensation Board; noting especially that organization's use
2 of claims advisors and exploring the applicability of WCB
3 operations to MPI's handling of personal injury claims.

4 It's gratifying, surely, to note that
5 according to reading the transcript of past hearings, we
6 normally at this point have to pause and deal with whether or
7 not the Board has jurisdiction to handle this particular
8 issue.

9 Given that Mr. Byron -- Mr. Williams, rather,
10 went through his submission and, I think, correctly, passed
11 over that point, especially noting the comments from the
12 Chair at the close of evidence on last Monday, namely that
13 the Board is concerned and looks out for the public interest.

14 I think it's sufficient merely to note that my
15 client certainly agrees with the approach of the bar -- that
16 the Board has taken and that the Board's adoption of the
17 protection of the public interest certainly accords with the
18 law in Manitoba.

19 The key case there, of course, I'll just
20 mention it without going into details unless the Board would
21 like those details, is the 1997 Manitoba Court of Appeal
22 Chambers Decision of Centra Gas Manitoba Inc. and the Public
23 Utilities Board which was decided by Chief Justice Scott.

24 Let's review the evidence that the Bar
25 Association and other Intervenors and Board Counsel led in

1 connection with the handling of personal injury claims.

2 Our first plank or submission is that the way
3 in which MPI handles these claims is unnecessarily
4 adversarial. In the course of my cross-examination of Mr.
5 Bedard, it was agreed that MPI does, in fact, record the
6 answers of claimants at first contact and initial interviews
7 and that these, what I would call, and I'm sure MPI would
8 not, incriminating questions can become the basis upon which
9 red flags are later raised and can become, thus, the basis on
10 which claims are denied or the extent of injuries are
11 reduced.

12 To be fair, Mr. Bedard also said that the
13 answers that one gives in an initial interview are often
14 revisited. His phrase was "they are not carved in stone",
15 but I suggest that the answers are still nonetheless recorded
16 and these answers can, in turn, impact the treatment that a
17 claimant receives from MPI.

18 The second piece of evidence that supports the
19 contention that MPI is unnecessarily adversarial is that its
20 employees are specifically trained to watch for red flags.

21 Now, of course, one would not want an
22 insurance company that was naively trusting of every
23 applicant. Word would surely get out that they were an easy
24 mark. But there is a fine balance between raising suspicions
25 and taking the next step and assuming that everyone may

1 potentially be a fraudulent claimant.

2 I asked, what I candidly admit, is the
3 flippant question of Mr. Bedard about the eye contact.
4 You'll remember that one of the slides in the initial
5 interview pack indicated that a claimant who averts his eyes
6 while talking with the MPI representative was somehow
7 supposedly in conveying some element of suspicion; this was a
8 red flag and then I noted that Mr. Bedard, as he answered my
9 question was, himself, averting his eyes.

10 And I don't draw any suggestion there that Mr.
11 Bedard was at any point lying to me or trying to mislead me.
12 It was simply a point that I'm trying to make that many of
13 the red flags that are listed on that sheet in and of
14 themselves and even cumulatively, may lead to false
15 accusations.

16 The third ground on which I say or we submit
17 that MPI is unnecessarily adversarial is that claimants, of
18 course, are never told that from the moment they begin their
19 conversations with MPI in advancing their claims, that MPI
20 is, in effect, beginning to assess their claim. They are
21 already on notice that these claimants are already supposed
22 to be on notice.

23 But the burden of proof is shifted, as it
24 should, to them and they have a certain obligation that, from
25 the beginning, they are expected to fulfill.

1 Those are the three (3) points that we suggest
2 lead to the conclusion that MPI is unnecessarily adversarial.

3 The second problem that we have in the
4 handling of claims is that, the way in which claims go in is
5 often, as evidence suggested, beyond the ability of claimants
6 to advance.

7 Mr. Bedard in his conversation with me during
8 cross-examination agreed that most claimants will not be
9 familiar with the general principles of proof. They will not
10 understand the burden of proof.

11 Indeed, it went further to say that many of
12 them might not even be able, at least that was my suggestion,
13 might not even be able to understand those concepts, although
14 Mr. Bedard was very diplomatic and wouldn't give me quite
15 that point.

16 It certainly -- I think, regardless of how we
17 rank the claimants -- it certainly is beyond the ability of
18 most of those to test and examine the medical evidence on
19 which their personal injury claims are based.

20 We know that, at least based on the evidence,
21 MPI to some extent is trying to, for lack of a better word,
22 load to the deck. It makes presentations to health care
23 providers. The purpose of these presentations, said Mr.
24 Bedard in his cross-examination by me was, in part, to lay
25 the foundation on the part of expectations of health care

1 providers that MPI might at some time point, phone or
2 otherwise have contact with a health care provider, to
3 effectively challenge the treatment that's being offered or
4 to question the way in which a health care report has been
5 prepared.

6 Mr. Bedard did, in fairness, indicate that MPI
7 does not go, at least to his knowledge, to the point where
8 they will try and urge a healthcare provider to change a
9 form, but nonetheless, he certainly agrees with me that one
10 (1) of the purposes of these presentations was to lay that
11 expectation on the part of health care providers.

12 This is something that claimants, of course,
13 are quite unaware of. It's something that claimants would
14 have great difficulty in trying to counter, especially if we
15 take the fact that many of those claimants may not, in and of
16 themselves, be able to either understand or even be able to
17 apply principles of proof.

18 It's interesting, and I draw to the Board's
19 attention with respect to those presentations that are made
20 to health care providers, that the Manitoba Bar Association
21 in its Information Requests, saw the production.

22 I point to the Manitoba Bar Association's
23 second round Information Request question 13 where we asked
24 for production of selected topics including how to
25 communicate with your insurance company and how to prepare

1 forms.

2 We were denied those documents and as a
3 strategic point, it was thought, well, on the one (1) hand we
4 could, of course, compel production or seek to compel
5 production through the bringing of the motion, but on the
6 other hand, it's important to remember that the burden --
7 whenever such an ambiguity arises of proof -- the burden lies
8 with MPI.

9 Their failure to have produced this document
10 entitles this Board and certainly entitles the Bar
11 Association to argue that one ought to infer there is
12 something in that document that they do not wish us to see.

13 It goes further than that. The Bar
14 Association notes that the grounds for MPI's refusal to
15 disclose those documents was that it wasn't germane and I
16 point out to the Board that not only was I allowed, both by
17 the Board as well as MPI Counsel, to proceed in my cross-
18 examination on that topic without objection, I'm continuing
19 to speak, although I suspect that if I go on too far and
20 press my luck here that Mr. McCulloch will hit his
21 microphone.

22 In any event, the point that I'm making is, is
23 that MPI declined to produce documents; documents that
24 clearly were relevant. As a result of that I think it is
25 open to the Board and I submit that the Board has the

1 authority to draw the inference that there's something in
2 documents that weren't produced.

3 As a public policy point, it would be wrong, I
4 think, for a Board to come to any other conclusion. If a
5 document has either no bearing, the objection should be filed
6 and it should be clear on the way in which the case unfolds
7 that it's no longer relevant.

8 On the other hand, where there is a
9 possibility that a document might be relevant, it certainly
10 is incumbent upon the applicant which has the burden of proof
11 here to take such steps to dispel the possibility of drawing
12 the inferences that I'm proposing here.

13 So, I'm dealing now, of course, still with the
14 question of how MPI handles their claims and the first
15 evidentiary ground that I advanced was, of course, that
16 they're unnecessarily adversarial.

17 The second point that I made was that
18 claimants may not have the necessary knowledge or ability to
19 challenge those -- challenge the way in which MPI handles
20 their claims, and I now move to the third point and that is,
21 as it was readily conceded, and correctly, by Mr. Bedard in
22 my cross-examination, claimants are never afforded the
23 opportunity of contacting advisors.

24 We went through -- there are three (3) stages
25 at which such advice could be given: At the time that a

1 claimant makes initial with MPI, that claimant is never told
2 that he or she could avail him or herself of a lawyer or
3 another community resource.

4 That claimant is also certainly never told
5 that within the MPI system there are independent fair
6 arbitrators willing to assist in the advancement of that
7 person's claim.

8 The same can be said when that claimant may
9 move on to the review stage, that is, the initial claim
10 having been denied, or dis-entitled in part, that claimant is
11 again never told that lawyers are available to be contacted,
12 community resources may exist that would assist that person
13 free of charge, or something within the MPI system itself,
14 would offer claims advice.

15 Finally, where a review has been conducted and
16 a claimant again objects to the outcome, that claimant is
17 again never told that when bringing an appeal to the Appeal
18 Commission, that there are lawyers, community resources, or
19 claims advisors available.

20 It's important to note that at the level of
21 the Appeal Commission, recent legislation has introduced
22 claims advisors, and I'll return to that topic, because, of
23 course, to cut my future comments somewhat short, it may very
24 well have been enacted, but it hasn't, in fact, been put into
25 practice.

1 So we're still left with a situation in which
2 claimants are without assistance or being told that they may
3 wish to consult assistance.

4 Now, of course, when I suggested these
5 comments in the course of my cross-examination to Mr. Bedard,
6 his quick reply was that I'm clearly wrong because the MPI
7 can rely on customer satisfaction surveys.

8 It's the position of my client that the
9 customer satisfaction surveys are in fact no defence and they
10 do not alleviate the charge that MPI is unnecessarily
11 adversarial in the way in which it handles the claims.

12 The first plank in the argument is that we
13 submit that the surveys themselves, despite being tagged as
14 independent, are not. In the course of my cross-examination,
15 it became clear that there were at least four (4) ways in
16 which these surveys were not independent.

17 First, MPI creates the questions, it says so,
18 not only of course in the cross-examination that I had with
19 Mr. Bedard, but also in the contract which appears at the
20 Manitoba Bar Association's First Round Interrogatory
21 Number 36.

22 And the way in which MPI has created the
23 questions, I suggested in the course of my cross-examination,
24 was stacked to some extent, so that the last words in any
25 survey participant's ears where the questions began: Are you

1 very satisfied? And then it dropped -- or the other way
2 around, sorry -- very dissatisfied, sorry -- let's try this
3 one more time: Very dissatisfied, dissatisfied, satisfied,
4 or very satisfied.

5 It seems, and I think judicial notice might be
6 taken at this point, that usually it's a common rhetorical
7 trick to leave the last suggestion to be the one in -- that
8 one wants to hear. It's interesting, I think, that MPI who
9 just created these questions, has chosen to structure its
10 survey in that way.

11 The second way in which the surveys we say are
12 not independent, is that MPI defines the potential
13 participant pool. The third way in which these surveys are
14 not independent we say is that, MPI then defines the way in
15 which participants will be selected from those pools, that
16 will actually be contacted for the survey.

17 And then fourthly, there was the question of
18 whether or not MPI has the ability to adjust questions mid-
19 stream. It certainly was the point that I made, that MPI,
20 pursuant to its contract with the survey company, was allowed
21 to adjust those questions, and that appeared, for the sake of
22 the record, at the Manitoba Bar Association's First Round
23 Interrogatory Question 36, Page 5 of that document at
24 paragraph 2.02(o).

25 And you'll remember that read, and I quote:

1 "Manitoba Public Insurance reserves the
2 right to modify the survey over the course
3 of the project, with questions being added
4 or deleted as required."

5 And when we began this discussion, we very
6 quickly had an interruption from Ms. McLaren, who, in her
7 non-lawyer capacity, purported to lecture us on what this
8 clause means.

9 She, lacking, perhaps, interpretive skills,
10 told us that this clause says that MPI does not have the
11 power or contractual authority to interrupt a survey and
12 change the questions.

13 Let's read that again:

14 "MPI reserves the right to modify the
15 survey over the course of the project, with
16 questions being added or deleted as
17 required."

18 With respect, we submit that Ms. McLaren is
19 wrong.

20 Certainly she said what we should be reading
21 this clause as, is that MPI has the right over a many year
22 contract to come back and change questions from survey wave
23 to survey wave. That might be.

24 But if one is pointing to this contract as
25 evidence that this survey is in fact independent, that clause

1 alone suggests that MPI, whether it does or not, has the
2 power under this contract to change questions where it
3 doesn't like the way in which those questions are going in
4 terms of customer satisfaction.

5 So I've covered why I think the surveys are
6 not independent pointing to those four (4) points, the first
7 was MPI creates the question, second, they define the
8 potential participant pool, thirdly, they select the criteria
9 that they define the selection criteria from that pool,
10 fourthly, I submit notwithstanding the comments of the
11 witness McLaren that MPI is able to adjust the questions mid
12 stream.

13 And again we run into this problem that MPI
14 has declined to produce relevant documents. The Manitoba Bar
15 Association's Second Round Information Request Number 11, a
16 request was made for older surveys as well as older survey
17 contracts. This was done for two (2) reasons.

18 First, MPI often likes to compare the survey
19 results that it presently sees with past results. If it's
20 going to do that then it helps us to know what those surveys
21 were and it helps us to investigate whether or not those
22 survey results are in fact somehow being properly compared.

23 The reply that we received was again, the
24 request that the Bar Association made was not germane, it was
25 not relevant. And we again rely upon the burden of proof

1 that falls upon the applicant in this context.

2 And we submit that having failed to produce
3 the document, despite it's now apparently having been shown
4 to be relevant or germane to these proceedings, it's open to
5 this Board to draw that particular inference that there's
6 some problem in the earlier documents and we urge the Board
7 to do so.

8 If I can move from the question of whether or
9 not the surveys are independent to look at the question of
10 the targets. It will be remembered that the evidence
11 suggested that quite apart from the surveys, the survey
12 results were tested against what were called satisfaction
13 targets. It's the submission of the Bar Association that
14 those targets are not only artificial, they're inappropriate.

15 The basis for those targets is the American
16 customer satisfaction index we were told. And instead of
17 using the index that's relevant for the insurance industry,
18 for some reason the -- despite having re-read the transcript
19 I still don't understand. The Manitoba Public Insurance
20 Corporation uses an amalgam of a target based upon public
21 administration and healthcare.

22 As I suggest in the course of my cross-
23 examination I think that the average Manitoban off the street
24 would not see Manitoba Public Insurance in the same way that
25 it does for example the people who issue fishing licenses.

1 And I would also suggest that they don't see Manitoba Public
2 Insurance in the same that they might somebody who's going to
3 replace their aunt's defective hip.

4 I think that if we ask the person on the
5 street what the MPI people are actually doing is that they're
6 an insurance company. Now instead of relying upon this
7 amalgam of survey targets from the American customer
8 satisfaction index, I closed my cross-examination with Mr.
9 Bedard asking him about any leads that he might draw from his
10 counterpart a couple of blocks south of his building, namely,
11 the Workers Compensation Board.

12 And I suggest disappointingly, Mr. Bedard
13 replied that he had no idea really what happens at the
14 Workers Compensation Board in terms of its survey practices
15 or its satisfaction targets.

16 It is indeed worth remembering that the
17 Corporation is under an obligation that is statutorily
18 imposed by the Manitoba Public Insurance Act, Section 150,
19 which we read into the record and I'll quickly re-read.

20 "The Corporation shall advise and assist
21 claimants and shall endeavour to ensure
22 that claimants are informed of and receive
23 the compensation to which they are entitled
24 under this part, that is the personal
25 injury part."

1 It would be, I submit, unfair to say that the
2 Corporation is in breach of that obligation. But I do
3 suggest that that section and statutory obligation should
4 inform the discussion that's presently before us.

5 We can also take note of the 1997 USKIW
6 Commission report on PIPP which I believe has all well been
7 discussed before this Body at its time of release and I can
8 simply indicate there at Page 6 that the Commissioner wrote
9 two (2) particular points. His first comment was:

10 "The insured Public does not generally
11 understand its rights or entitlements under
12 PIPP and they see the Corporation and its
13 employees as adversaries in the process."

14 One (1) paragraph later, the Commissioner
15 wrote that:

16 "The Corporation must convey the message
17 that notwithstanding its monopoly in
18 providing basic automobile insurance in
19 Manitoba, it is to be user friendly,
20 customer based, and market oriented."

21 It's the submission of the Bar Association,
22 give the problems with respect to the handling of claims that
23 I've outlined as well as the fact that the customer surveys
24 that are being pointed to to show purportedly that we're
25 wrong, well, we've said those surveys are themselves flawed.

1 We suggest that answer is Claims Advisors.
2 Now, let me make it quite clear. Despite the initial
3 prejudice that my Learned Friend, Mr. McCulloch, made clear
4 when we appeared here at the pre-hearing conference, I'm not
5 advising, nor is the Bar Association advancing, the view that
6 claimants should be hiring lawyers; should be contacting
7 lawyers.

8 It is, in fact, a document that the Bar
9 Association itself, the Canadian Bar Association itself, has
10 produced that realistically realizes that lawyers are often
11 too expensive for most people in this context and, indeed,
12 those among us who are either rich or otherwise
13 sophisticated, will already have probably contacted a lawyer
14 long before they talk to MPI.

15 We're essentially dealing with helping those
16 who neither can afford legal access, nor know that they ought
17 to be taking that kind of advice. The answer, we submit, is
18 Claims Advisors. As was proposed at the Appeal Commission,
19 and I made reference to this, the notion of -- of recent
20 legislative changes to introduce persons who will assist
21 claimants in an independent way, that is independent from
22 MPI, to advance their case.

23 These may or not be lawyers in the employ of
24 that particular body, but this particular approach is
25 inherently helpful. As someone -- and I at the risk of -- of

1 personalizing this -- who participates in a free inner city
2 law clinic, I know that the majority of people who require
3 this kind of assistance are persons who would never think of
4 coming downtown and talking to people like me with a suit on.
5 These are people who are seeking ready assistance and for
6 whom the problems, frankly, are significant and severe.

7 It might not be a big deal to people in this
8 room, that someone is going to lose, let's say twenty dollars
9 (\$20) from their entitlement every two (2) weeks, but for
10 some people in Manitoba society, that is a huge problem. The
11 introduction of Claimant Advisors would, we submit, be the
12 proper way to do this.

13 And, of course, we now look back to the way in
14 which the Workers' Compensation Board makes use of persons in
15 that position and again I find myself troubled to note that
16 MPI seems to have very few formal contacts between it and the
17 Workers' Compensation Board even though, and I'm sure they
18 would probably object to this generalization, they sure
19 strike the average individual out there in Manitoba as both
20 being insurance companies that hand over money to people who
21 have been injured.

22 Indeed, Ms. McLaren -- and this comes at Page
23 433 of the transcript -- made reference to informal -- she
24 called them synergies -- between the WCB and MPI, but as Mr.
25 Bedard confirmed in cross-examination, there are no formal or

1 close studies underway or planned between these two (2)
2 bodies.

3 The Bar Association submits that the Worker's
4 Compensation Board is a ready and obvious subject of
5 potential help, especially in its use of Claim Advisors and
6 we wish to remind the Board again why it's so important that
7 Claims Advisors should be made available to those who are
8 suffering injuries.

9 It's, again, simple. If someone fails to
10 advance a claim appropriately, his or her benefits are
11 terminated or his or her benefits are reduced. Sometimes
12 that will be done properly, but it's the submission of the
13 Bar Association, and I think of all compassionate people,
14 that if one (1) person finds him or herself in a position of
15 having benefits reduced or terminated simply because that
16 person did not know how to advance a claim, then we have
17 perpetrated an injustice.

18 Now for those who would sit here and spout the
19 notions that I have been making fun of, the Buhlmann constant
20 and the credibility issues, and I see Mr. Bedard beginning to
21 glaze over already, I point out that this whole topic, of
22 course, is directly related to the way in which the bottom
23 line functions.

24 You will remember that I was asking some
25 questions, of course, at my cross-examination of Mr. Bedard,

1 and Mr. Bedard, I have to give him credit, was being a very
2 tenacious witness and wasn't giving me what I wanted.

3 And the question that I asked him, this is at
4 page 1172, line 22 of the Transcript:

5 "So it would be fair to say that if I
6 wanted to run an evil insurance company,
7 one way that I certainly could control
8 costs would be, for example, to deny
9 coverage. That would be one way I could do
10 it, couldn't I?

11 And Mr. Bedard said, correctly:

12 "Yes, that would be one way."

13 And I thought at that point, I looked at my
14 notes, I had another five (5) to six (6) pages to get to
15 where I wanted to go, and then the angel of cross-examination
16 smiled upon me when Ms. McLaren interrupted us and said:

17 "Excuse me, maybe I'll just jump in here".

18 And at that point my heart fluttered. She
19 said:

20 "I'm not sure that that would reduce your
21 costs really much at all, because in any
22 environment, whether it's here or
23 elsewhere, people have some means to appeal
24 decisions made to their insurer and they
25 can -- and that, rather -- and that can

1 regularly be a very expensive process. And
2 if they are legitimate claims, eventually
3 you will have to pay it anyway, and you'll
4 have the extra costs of having tried to
5 defend an argument not to".

6 Well, exactly. In one little interruption,
7 Ms. McLaren made the point that I think Mr. Bedard would have
8 made me go through five (5) pages. We might very well, that
9 is the Bar Association, might very well be taking concern of
10 injustice, unfairness, and compassion for those who are
11 suffering. But the fact is that this also certainly touches
12 upon the actual revenues and expenses of the Corporation.

13 A Corporation, and insurance company, that
14 conducts itself in a fair and consistent manner, will not
15 only win public relations votes, it will also be financially
16 a better managed Corporation.

17 So those are the reasons why we make that
18 first recommendation again, that the Manitoba Public
19 Insurance Corporation should make reference to the Worker's
20 Compensation and its handling of claims, specifically its
21 use, including rather, its use of claims advisors.

22 The second Manitoba Bar Association issue, and
23 this one will be much briefer, deals with what I've called
24 under the heading of, Focussed Legislative Reform. As I did
25 before, I will start by telling you what I think the

1 recommendation should be, and then I'll briefly explain and
2 support that.

3 The Bar Association urges the Board to make an
4 order that the Applicant undertake a study, to identify any
5 increases in revenue, or expenses, that would result from
6 legislative changes lifting the present bar against private
7 and non-subrogated litigation against uninsured drivers,
8 extra-territorially insured drivers, and the negligent
9 manufacturers of motor vehicles or their parts.

10 We define the course of the evidence what each
11 of those groups consists of, and especially in the context of
12 negligent manufacturers of motor vehicles and their parts, we
13 know that this is an issue that has recently attracted
14 considerable public attention.

15 Indeed I remind the Board that when we first
16 met here on the 7th of July for the Pre-Hearing Conference,
17 splashed across the front page of the Winnipeg Free Press,
18 was a complaining article from a victim of what she purported
19 to be, a negligently manufactured vehicle, who essentially
20 expressed the desire to be freed of the constraints that the
21 no-fault-no-sue system in Manitoba imposes, so that she
22 could, herself, pursue the litigation against that
23 manufacturer.

24 Now some might say that this particular
25 approach would create a -- would -- well, it certainly would

1 arguably create higher damage recovery than PIPP costs, but I
2 think that, at least in the context of that particular lady,
3 she thought that the notion of simply filing an insurance
4 claim, was not enough.

5 She wanted to control the recovery, she wanted
6 to control the process, she essentially wanted to have a say
7 in the way in which she is a victim, was somehow to be
8 righted for that wrong.

9 Our current system deprives victims of that in
10 all of these contexts, and given that this issue, as well as
11 the issue relating to uninsured drivers and extra-
12 territorially insured drivers, is a subject of general
13 popular interest, the Bar Association sought to either dispel
14 that popular interest one way or the other or to promote it.

15 And so we asked questions of Ms. McLaren in my
16 abbreviated cross-examination, I asked questions of whether
17 or not the MPI had any data that suggested the present bar
18 against private non-subrogated litigation increases the
19 Corporation's costs. Ms. McLaren said the Corporation does
20 not have that information.

21 I asked the reverse question. Any information
22 that suggests it -- if the bar were lifted that it would
23 decrease or decrease -- sorry, would increase expenses. So
24 would it either decrease revenues or would it increase
25 expenses, we don't know. She replied that.

1 And for the record I'll simply indicate that
2 this exchange on all three (3) of those issues began on the
3 transcript beginning at page 1237 to 1242 and it echoes the
4 Manitoba Bar Association's First Round Interrogatory
5 Questions 82 to 106 where we asked a series of detailed
6 questions to which the reply essentially was, we have no
7 idea.

8 So that's all I have to say on the issue of
9 focussed legislative reform. I'd like to note that we're not
10 calling upon the Board to somehow try and begin legislative
11 change, of course the Board can't do that in any event. We
12 simply suggest that MPI ought to respond to this issue one
13 way or the other and put it to rest.

14 Having dealt with those two (2) particular
15 issues that were of interest to the Manitoba Bar Association,
16 I'll now turn, if you'll let me, to deal with two (2) of the
17 Board issues. The first one (1) that I'm going to deal with
18 are public policy considerations relating to loss transfer.

19 I begin by prefacing this remark as well as
20 the one that will follow by saying that the Bar Association
21 has no position. The mandate of the Bar Association does not
22 enable it to take a position with respect to these particular
23 issues.

24 At most we can offer you for lack of a better
25 word, a philosophical underpinning that may be of some

1 assistance to the Board and to some extent I may be treading
2 upon the neutral ground that Board counsel proceeds on but
3 I'll do so quickly.

4 It has been argued at points throughout these
5 proceedings that loss transfer is to some extent a deterrence
6 issue. It's likely, we submit, that that's wrong. Loss
7 transfer has nothing to do with deterrence. Certainly it
8 does not operate in the way that the Bonus/Malus system does
9 where conduct is either rewarded or disapproved of in a
10 particularized, that is individualized way where arguably
11 there will be an actual deterrent upon individual conduct.

12 But the same cannot be said in terms of a
13 deterrent effective loss transfer. There has been an
14 argument made that by shifting the costs from one group to
15 another the group that suddenly becomes burdened with that
16 cost will in some way change its conduct.

17 Frankly, to borrow the phrase of my old law
18 tutor, that's sheer crazed nonsense. The size of most
19 insured classes is such that even if there were a loss
20 transfer, the impact would be so nominal as to hardly
21 influence conduct one way or the other.

22 The fact that I might for example as a private
23 passenger vehicle premium holder, might have to pay an extra
24 twenty-five (25) cents on my license, certainly isn't going
25 to curb me as I decide to run the next light because I have

1 an appointment.

2 If loss transfer is not a deterrent issue, we
3 also suggest that it's not a risk distribution tactic either.
4 It's wrong to use loss transfer as some way, we submit, to
5 reflect a likely liability for claims.

6 We've heard the argument that the CMMG has put
7 forward on that point and with respect again, it's very
8 difficult to see how loss transfer in any way functions
9 actually as a risk distribution mechanism.

10 In fact we submit that loss transfer is really
11 about a simple issue and that's money. People don't like to
12 pay expensive premiums and the best way to get around that is
13 to share the cost with others so that no one really pays too
14 much.

15 The question becomes then, is loss transfer
16 fair and this was certainly the argument that the Used Car
17 Dealers Association advanced earlier today, but in advancing
18 the question of fairness, most groups are focussing on only
19 part of the question. They all ask the question, Is it fair
20 for one (1) group to be so burdened by expensive premiums?
21 Well, there's the flip side to that also, and that is, is it
22 fair to shift the burden?

23 Now, fairness is often, despite moral
24 absolutes, a relative term and in this context, I've gone
25 through the legislation that creates the MPI, I've gone

1 through the Board's legislation as well as the corporate
2 accountability legislation and I find nothing tremendously
3 helpful that will move us one (1) way or another to define
4 what fairness is.

5 So I look then, to the legislative intent
6 behind the Manitoba Public Insurance Act. If we think back
7 decades ago, there was a problem at one (1) point when
8 private insurance costs were too high, so the government
9 created MPI, but fifteen (15) years ago -- well, ten (10)
10 years ago, more likely -- tort costs were too high; PIPP was
11 introduced.

12 Moving at a fairly quick pace and painting
13 with a broad brush, I submit that we can infer from these two
14 (2) acts that the purpose of MPI is essentially to control
15 costs, so if we define fairness in the context of cost
16 controls, I submit that there's no reason that loss transfer
17 should be excluded from consideration because it is the ideal
18 mechanism by which to control the costs of any group.

19 So, in summary, loss transfer -- not a
20 deterrent issue, not a risk distribution mechanism, but
21 rather it's an appropriate, arguably, mechanism by which to
22 share premium costs among different groups.

23 And again, I emphasize the Bar Association
24 takes no position. These comments are offered merely as a
25 philosophical background, for lack of a better word, and the

1 Board may treat that for what it's worth.

2 The second Board issue that was raised on
3 which the Manitoba Bar Association may be able to offer
4 assistance is one also on which we take no position and seek
5 no specific recommendation, and that relates to the
6 classification or categorization of DDVL under Extension and
7 SRE and specifically the implication that that Act as been --
8 as has been argued today, somehow shields DDVL activities
9 from scrutiny by this Board.

10 First, it's clear from the legislative
11 framework relating to freedom of information in Manitoba that
12 government activity and government-related activity should
13 not unnecessarily be shielded from public scrutiny. So we
14 begin, I think, with the premise that if, in fact, it's
15 correct that DDVL's reclassification or classification under
16 SRE and Extension has the effect of shielding it from public
17 scrutiny in part or in whole, then that to begin with, sounds
18 wrong.

19 The Public Utilities Board, of course, is
20 probably the most effective watch guard in Manitoba when it
21 comes to the oversight of utilities such as the MPI. There
22 are other options out there if we decided to put this Board
23 out of work.

24 One (1) would be, of course, to be filing
25 Freedom of Information applications, but that would require

1 the initiative of individual citizens to come forward and
2 file what are frankly bureaucratic, often expensive, and
3 complicated forms, whereas this Board has the power annually
4 to summon a variety of utilities before it and to scrutinize
5 that with hired experts to assist the Board in coming to an
6 outcome.

7 The other possibility, of course, is to make
8 reference to the Ombudsman process. The government of
9 Manitoba Ombudsman is there and we note that again, happily
10 in today's newspaper there's an article about the way in
11 which the Ombudsman has, after seven (7) years, finally
12 secured changes to the way in which MPI treats its releases
13 of private information.

14 So, seven (7) years and the government
15 bureaucracy finally gets what it wants. It certainly is a
16 drawn out process, unlike of course, the Public Utilities
17 Board.

18 These are options, of course, but I'm
19 submitting that these are largely ineffective options and
20 certainly I'll go further than that and say that the Public
21 Utilities Board indeed has the jurisdiction to exercise
22 control of DDVL and if we're looking for a hook, remember of
23 course the hook of why PUB can control or oversight over
24 MPI's basic operations is because these are compulsory.

25 No Manitoban who seeks to drive can avoid that

1 consequence.

2 Well, I submit and remind the Board that no
3 Manitoba who holds a driver's license evades that small
4 component of the driver license charge that includes
5 automatically, insurance as a driver, regardless of which
6 vehicle that person might ultimately be driving.

7 That, then, could be the hook on which PUB
8 finds any interference, as I'm sure MPI would like to -- may
9 word it, in terms of the dealings with DDVL. And again I
10 emphasize that the Bar Association takes no position one way
11 or the other on that particular outcome.

12 And now, finally, is the question of costs.
13 I'm going to read a prepared statement, if only to abstract
14 the fact that essentially I'm saying: I would like some
15 money.

16 The Board's rules of procedures require me to
17 make a submission relating to costs, and I can indicate that
18 the Manitoba Bar Association will make such an Application,
19 following upon the close of these Hearings.

20 Before I briefly argue that the Manitoba Bar
21 Association has met the criteria that the Board's rules
22 require of a party seeking costs, I draw to the Board's
23 attention, a problem that those rules create for some
24 Intervenors who are entirely dependent upon an award of costs
25 to pay a lawyer or expert witness.

1 The rules are clear that costs are not
2 guaranteed. Moreover, even when awarded, such costs may be
3 less than sought and may be inadequate to cover a lawyer or
4 expert bills. As a result, some Intervenors may be reluctant
5 to authorize work that it would incur such bills, the result
6 is, the quality of the case before this Board invariably
7 suffers.

8 I do interpret the Board's rules about costs
9 as reasonable, after all, the Board would not guarantee the
10 fees of a witness or purported expert whose efforts were
11 incompetent or wasteful. Yet, a review of the Board's past
12 orders relating to cost sought, especially by the Manitoba
13 Bar Association, has left my client entirely uneasy that it
14 might be left on the hook, were it to have engaged an expert,
15 for example.

16 Now some Tribunals address this problem over
17 costs at the stage when Intervenor status is granted, they
18 are sometimes quite ruthless in denying standing, especially
19 where a proposed Intervenor's contribution to the Hearing may
20 only be tangential, and where that party has submitted a
21 significant estimate of costs as part of its Intervenorship
22 Application.

23 In the alternative, some Boards grant standing
24 to such parties, as a gesture of inclusiveness. But, they
25 make it clear from the beginning that the parties perceived

1 role is less central, and may therefore be disentitled to all
2 or part of the costs. In that way, an Intervenor knows from
3 the beginning where it stands.

4 But that does not seem to be the way this
5 Board operates, and I simply wish to draw your attention to
6 the consequences of that apparent policy.

7 Turning now, very briefly, to the criteria for
8 an award of costs, I confirm that the Manitoba Bar
9 Association has indeed advanced issues upon which this Board
10 granted Intervenor status to it, and that it has been
11 diligent in its examination of the evidence on those points.

12 I trust that Board will agree that our
13 participation throughout the application process, including
14 these Hearings, amounts to a significant and relevant
15 contribution in our exploration of the handling of personal
16 injury claims, and areas of focussed legislative reform.

17 I further trust that the Board and all of the
18 parties here, will appreciate our comments upon the issues,
19 especially those made earlier today upon some of those
20 subjects that you, Mr. Chairman, had identified at the close
21 of evidence as being of particular interest.

22 Throughout these proceedings we have worked to
23 advance our case in cooperation with other Intervenors,
24 notably the clients of the patient, of now absent, Mr.
25 Williams, the result, I think it is obvious, has been

1 proceedings entirely free of duplicative effort.

2 On the question of financial resources, the
3 Manitoba Bar Association has never appeared before this body
4 and been able to pay a lawyer to advance its cause, it has
5 always said to its representative before this or other
6 comparable bodies, that any award of costs would be the sole
7 financial reward.

8 This year is no different, the Bar Association
9 is a non-profit organization, indeed the recommendations that
10 I have made in this closing argument, show that my client is
11 not here to promote some crass financial interests of its
12 members.

13 Instead, the Manitoba Bar Association has
14 chosen to become involved in these proceedings because this
15 Board has the power to affect positively the well being of
16 Manitobans and to ensure the fair and consistent operation of
17 the law.

18 As the Manitoba Bar Association president
19 stated during her presentation to this Board, the issues that
20 arise before this Board falls squarely within the Manitoba
21 Bar Association's mandate. Like all Manitobans, the MBA has
22 an interest in the outcome here.

23 And indeed it's largely because of the Board's
24 overall significance that I agreed to take on this matter for
25 the Manitoba Bar Association but it does leave me in the

1 ungentlemanly position of having to remind the Board that I
2 am the only one in this room who is not guaranteed to be paid
3 at the end of the day.

4 And that the Bar Association's application for
5 costs is not a request for a public subsidy of lawyers, it is
6 more accurately my request to recover the revenues I need to
7 operate a law practice where those revenues have otherwise
8 been lost to the reviewing of boxes of documents that precede
9 these hearings to the drafting of Information Requests and to
10 my seven (7) days of attendance before the Hearing.

11 I'll leave off my prepared comments and turn
12 to my very final closing and that is I would especially like
13 to thank the MPI witness panel for your cooperation,
14 especially Mr. Bedard. I'd to thank the absent Mr. Williams
15 again because his comments both on practice and procedure as
16 well as substance have been exceedingly useful.

17 I should also draw to the Board's attention
18 that I benefited personally from the patient assistance of
19 both Mr. Barron and Mr. Singh. They have been very helpful
20 not only in advising me how to do things but also suggesting
21 ways that they might be done to accommodate the Board's
22 preferences.

23 And of course, the Manitoba Bar Association is
24 indebted to you, Mr. Chairman, and to the other Board Members
25 both for granting Intervenor status but also for your obvious

1 preparation and attention throughout this matter. So failing
2 any questions, that concludes our submissions.

3 MR. CHAIRPERSON: Thank you, Mr. Dawson. I
4 see Ms. Scurfield is now with us. Would you like to switch
5 places with Mr. Dawson because there's only that one mike up
6 there that works?

7

8

(BRIEF PAUSE)

9

10

11 CLOSING STATEMENT BY MS. MARGARET SCURFIELD:

12

MS. MARGARET SCURFIELD: Thank you very much
13 for accommodating me. As you know the insurance industry is
14 having a little question on commissions of brokers and
15 contingent profits and I needed to be at a meeting about
16 that.

17

In our opening comment we outlined the nature
18 of our business partnership with MPI. Brokers are the face
19 of MPI with the consumer. Brokers provide a cost effective
20 delivery system for the MPI Basic and the MPI Extension
21 products.

22

In reviewing the commission items in the
23 financial statements it looks as though brokers will be
24 receiving a \$5.7 million increase in commission compensation
25 going forward.

1 Although we wish this were true, we must point
2 out for the record that the discontinuance of the cost share
3 arrangement between DDVL and MPI to cover the cost to MPI for
4 brokers acting as registration and driver license handlers,
5 will now reside as an expense to MPI not an income item.
6 This is shown in the financial statement as an increase to
7 commission expense.

8 We are wondering if it should reside still
9 with DDVL and be an expense wherever they operate instead
10 being an added expense to broker commission which they don't
11 actually receive.

12 Now brokers continue to provide the same
13 professional service for the same rate of commission. IBAM
14 looks forward to discussing the role brokers can provide in
15 handling some of the DDVL services and expanding these
16 services to more centres in Manitoba.

17 This expansion of DDVL services will leverage
18 synergies that are mutually beneficial, improve customer
19 service and improve in efficiency. IBAM looks forward to
20 working with MPI in the near future to determine the extent
21 of our involvement.

22 I would like to thank you for your attention
23 and that's my final comments.

24 THE CHAIRPERSON: Thank you, Ms. Scurfield.
25 Thank you for coming down after your meeting. Mr. Sousa, I'm

1 not trying to rush you, but I'm just wondering, you're going
2 to -- how long do you think you'll take?

3 MR. CLAUDIO SOUSA: Okay, approximately
4 twenty (20) or twenty-five (25) minutes.

5 THE CHAIRPERSON: Okay, well, we'll just take
6 about a five (5) to eight (8) minute break and then we'll
7 return. Thanks.

8

9 --- Upon recessing at 2:27 p.m.

10 --- Upon resuming at 2:43 p.m.

11

12 THE CHAIRPERSON: Mr. Sousa, you've been
13 quite patient and now it's your turn.

14

15 CLOSING STATEMENT BY MR. CLAUDIO SOUSA:

16 MR. CLAUDIO SOUSA: Thank you, Mr. Chairman,
17 Ladies and Gentleman.

18 Mr. Chairman, Members of the Board, I began
19 this Hearing by providing some background information on
20 moped use in Manitoba. You will recall my emphasis on
21 environmental benefits and affordable transportation for all
22 Manitobans. My good friend, Mr. Palmer from MPI remarked the
23 other day as we were in a break that, You see these scooters
24 and mopeds everywhere.

25 In my mind I'm thinking, how can that be?

1 Motorcycles outnumber us by a factor of about ten to one
2 (10:1) and if you're interested, I calculated the number; we
3 represent .08 percent of the vehicles on the road, yet, Board
4 Members might agree you see us everywhere. We're sort of an
5 invisible minority of sorts.

6 The reason you see us everywhere is because
7 we're not riding mopeds on the weekends or evenings. We're
8 riding in traffic. We're riding them to school. We're
9 riding them to work and we're riding them to make errands
10 during the day. We're on the road the same time as most of
11 the city drivers are.

12 We believe it's important for the Board to
13 keep in mind that our intervention at this Hearing in
14 opposition to the more than doubling of our insurance premium
15 is based on the need for affordable transportation, not
16 affordable recreation.

17 As you evaluate MPI's proposed rate increase
18 to more than double the premiums of the moped class, we ask
19 that you take into consideration more than just the financial
20 aspects of the issue.

21 With the average Manitoban contributes seven
22 (7) cents to keep an environmentally friendly transportation
23 option, affordable and accessible for Manitobans. That's
24 roughly what the per vehicle cost implication would be of the
25 Rate Stabilization versus 110 percent increase.

1 I recognize the value that MPI's golf events
2 brings to some Manitobans and I -- by making this comparison,
3 I don't wish to marginalize the good that comes of such
4 events.

5 But to put this in perspective, the premium
6 shortfall for mopeds is comparable in magnitude to the sixty
7 thousand dollars (\$60,000) MPI spent on golf last year.
8 While not all Manitobans share golf as an interest, I would
9 suggest that we do share the environment.

10 MPI has presented the rationale for the
11 increase as an emerging trend in claims experienced. In
12 reviewing the evidence with you, two (2) of the five (5)
13 years show premium surplus against direct claims cost.

14 If I remove one (1) incident from one (1) of
15 the years, that makes it three (3) out of five (5) years in
16 which there was a premium surplus.

17 We do not have an emerging trend. What I
18 believe we have is a blip. We have a number of new riders
19 who are getting on mopeds for the first time without training
20 and through our efforts in road safety we hope to level off
21 and flatten that blip.

22 Mr. Chairman, you asked the Intervenors to
23 comment on the concept of loss transfer. Notably, our
24 cross-examination was silent on this topic. In the past MPI
25 has argued with our friends in the CMMG that a system of loss

1 transfer would not make a tangible difference in the rates
2 that motorcycle pay, due in part, perhaps, to the number of
3 single vehicle motorcycle accidents.

4 By focussing only on one (1) vehicle class, we
5 might conclude that loss transfer is not a worthwhile
6 pursuit. However, we feel that the question of loss transfer
7 should be examined in the other context as well.

8 Our members believe that due to our small
9 numbers, MPI's current approach to rate making paints a
10 skewed picture. If MPI were to tell you that moped claims
11 experience total for the last five (5) years was two hundred
12 thousand dollars (\$200,000) and that the claims experiences
13 outpricing premiums, you might be inclined to believe that
14 mopeds are inherently unsafe.

15 However, if I were to look at the same
16 statistics and tell you that over the last five (5) years
17 there was roughly fifty (50) accidents and only fifteen (15)
18 of them were single vehicle, you might be inclined to agree
19 with me that mopeds are actually a very safe form of
20 transportation and -- considering the fact that we're also
21 driving within cities and on the roads during rush hour
22 traffic.

23 The point is that the bottom line averages
24 skew a perception of safety when the rate groups are small.
25 A loss transfer system could have a profound impact on moped

1 class where 71 percent of the accidents are multi-vehicle
2 accidents.

3 While fault has not been examined in these
4 statistics, I will suggest that the potential for loss
5 transfer system to stabilize the rate of a small rate group
6 like ours and perhaps smaller rate groups yet, that impact
7 could be huge.

8 MPI has not demonstrated fairness in the
9 treatment of the moped class by allowing a policy which
10 permits rental use, a very high risk activity, to be mixed in
11 the same rate group as personal or private use.

12 Given the impact that just one (1) accident
13 can have on a small rate group like ours, even if rental use
14 is insignificant in numbers, which we do not know, this high-
15 risk use can have a detrimental impact on the rates that
16 private individuals are asked to pay.

17 MPI has acknowledged they have no data to show
18 what impact rental use has had on the very statistics they
19 have used to rationalize doubling the moped insurance and
20 until this policy changes, we ask the Board to deny the
21 increase.

22 Our intervention statement made note that we
23 believe MPI's rate application to double our premium to be
24 unfair and flawed. It is flawed because understandably,
25 MPI's mandate fails, or does not include, the consideration

1 of environmental benefits of vehicle choice.

2 MPI has the ability to spend money in support
3 of charitable events, but does not have a mandate to
4 encourage environment -- environmentally friendly vehicles.
5 Our provincial government, however, does have that mandate.

6 It is unfair because MPI, which has adhered to
7 a 15 percent rate cap in the past has shown that no formal or
8 consistent guidelines for -- exist for how and when rate
9 shock principles are applied.

10 It is unfair because MPI is, and again not
11 their mandate, not required to consider costs outside of the
12 Basic premium such as the 50 percent increase to vehicle
13 registration fees which is occurring this year. To register
14 and insure a moped next year, some of our members will be
15 paying over a hundred dollars (\$100) more.

16 Finally, it is unfair because high-risk rental
17 use and private use of mopeds are mixed together. MPI is
18 unable to distinguish the effect this has had on the very
19 increase which is proposed. On this point, Ms. McLaren and I
20 agree, that is an unfair situation.

21 We appreciate the very difficult job MPI has
22 in setting rates and our organization is fully prepared to
23 assist them in understanding and managing the moped class
24 with more fairness and more attention to detail in the
25 future.

1 By denying the increase to the moped class,
2 the Board can demonstrate that external factors such as the
3 environment play a role in public utilities and that all
4 Manitobans must be treated fairly in whatever form of
5 transportation they choose.

6 Mr. Chairman, that concludes my presentation.

7 THE CHAIRPERSON: Thank you, Mr. Sousa. Mr.
8 McCulloch, I believe we've reached you at this point.

9

10 CLOSING STATEMENT BY MR. KEVIN MCCULLOCH:

11 MR. KEVIN MCCULLOCH: Yes, Mr. Chairman, it
12 finally does come down to me. I'm going to indicate to the -
13 - the Board that I'll go through my presentation and then I
14 may be looking for a very brief adjournment just to make sure
15 I can check with the Panel to make sure that I haven't missed
16 something that they wanted me to address, but I would still
17 anticipate being through in the four o'clock time frame,
18 although lawyers' estimates of times are not that reliable.

19 I'm going to start, Mr. Chairman, Members of
20 the Board, by indicating that when preparing for final
21 argument and it always seems that it happens around
22 Hallowe'en and the bogey men are still coming up in -- in
23 presentations that we've heard today.

24 But in any event, I've always struggled with
25 the concern of trying to keep the presentation somewhat

1 fresh, avoiding if I could, the trite and the stale from
2 previous presentations and that's not always an easy task
3 when you're dealing with what is really a status quo
4 application once again and that's a phrase that I've used
5 before.

6 No real surprises, I would suggest in -- in
7 this rate application. Some particular issues for
8 particularly small groups, but overall, no real surprises and
9 certainly no significant departure from the rate making
10 principles and methodologies applied by the Applicant in
11 previous years.

12 This year, however, I have the benefit of a
13 set of fresh ears, Mr. Chairman. This will be the first time
14 that you're hearing final argument from Counsel on behalf of
15 MPI, so I want to apologize in advance to Ms. Cote and Mr.
16 Jorgensen if I'm putting through them -- or putting them
17 through, rather, an argument that they had may -- they may
18 have heard before.

19 In my defence I can only rely on the belief
20 that if you're being consistent in your Application, if
21 you're being truthful and transparent in your Application and
22 in the evidence that you present, and if you're holding firm
23 to establish principles, well those sort of factors never
24 really get stale and trite. That's what we have to rely on
25 that when we're bringing this Application forward.

1 The other point that I want to make at the
2 outset is that this is a Rate Application, let's not lose
3 sight of that, and let's not lose sight of the fact that it's
4 an Application based on evidence, pure and simple. Evidence
5 is the key to the Rate Application.

6 And we have evidence in spades, as the saying
7 goes, before this Board, we start off with the five (5)
8 volumes in the Application itself that were filed back in
9 June, then we have the many more volumes of Responses to
10 Information Requests, Undertakings, Exhibits, and finally,
11 over thirteen hundred (1,300) pages of transcripts.

12 And throughout my Final Closing Statement, I'm
13 going to be bringing the Board back to that point, that has
14 to be made and has to be realized, time and time again, that
15 what we are dealing here, that we're dealing with evidence,
16 we're not dealing with inferences, or we're not dealing with
17 unsubstantiated opinions, we have to rely on the evidence.

18 And Counsel for the Board, as well as some of
19 the Intervenors, have referred to the fact that the burden of
20 proof rests with the Applicant. The onus is on MPI to
21 establish that the sought-for rates are just and reasonable.

22 Again, no issue from this Applicant. That's
23 exactly the -- the test that we've acknowledged, and it's the
24 test that we have met, I would suggest, not only in this
25 Application, but in previous Applications.

1 In meeting this two-fold burden, the Applicant
2 relies on the evidence, relies on the sworn testimony of its
3 witnesses that substantiates the Application, and that
4 evidence proves that the rates are more than just and
5 reasonable.

6 Over the fifteen (15) years or so that MPI has
7 been applying to this Board for approval of its rates, there
8 has been an evolution in the nature of the Application.
9 Rating principles and methodologies have been brought
10 forward, examined, modified, and approved by this Board, when
11 approving Applications.

12 For example, MPI has made a commitment to
13 bringing forward Rate Applications that are actuarially sound
14 and statistically driven. It's a catch phrase that has come
15 up time and time again, it even came up in -- in some of the
16 presentations today.

17 This year's Application is no exception, as
18 both the physical evidence and the testimony of the Panel has
19 confirmed, with the possible exception of an issue raising,
20 or relating, rather, to actuarially credibility, which I will
21 deal with later, I would suggest that there has been not one
22 bit of evidence that has been brought forward before this
23 Board to challenge the stated position.

24 The rates are actuarially sound, they are
25 statistically driven. The rates have been proven, I would

1 suggest, to be reasonable and in compliant with past
2 practises. That's an important point that Mr. Williams made
3 when dealing with the issue of loss transfer and -- and I'm
4 going to get there eventually as well.

5 But I think that while we are obviously
6 dealing with a new element in the Board, and we're dealing
7 with perhaps some -- some new information that MPI has
8 brought forward in relation to specific Rate Applications,
9 that generally we are following the approved methodology and
10 the approved principles that have formed the basis of
11 previous Applications.

12 I would also like to remind the Board again,
13 although I'm sure not much reminder is needed, that we are
14 really dealing only with a one-year Application. We're
15 dealing with rates for the 2005/06 insurance year.

16 We're not seeking any overall increase in
17 revenue, and the applied-for rates will achieve the
18 Corporation's goal for its Basic program, that is, a break-
19 even financial position in the 2005/06 fiscal year.

20 Obviously, the projected experience, both in
21 revenue and claims, if it holds out, will produce a five
22 hundred thousand dollar (\$500,000) loss, but in the terms of
23 the revenue generated by this rate application and the
24 expenses -- claims expenses and operating expenses incurred,
25 that is clearly a break-even position, a loss of

1 approximately five hundred thousand dollars (\$500,000).

2 So, taken as a whole, I would suggest that
3 this truly is a status quo application. Nothing has arisen
4 in the course of the proceedings that should justify any
5 hesitation on the part of this Board in approving the rate
6 application and again, I make that statement based on the
7 evidence that has been presented, and the lack of challenge
8 that has come forward on the overall application.

9 Certainly there have been challenges to items
10 of information. There have been challenges to ratings for
11 motorcycles and -- and for mopeds and scooters, but the
12 overall application, I would suggest, has not been under any
13 attack, much less a successful attack.

14 But there are points that have to be addressed
15 in relation to the application. I'm going to start by
16 addressing the items that the Board itself identified at the
17 close of last Monday's Hearings, elements that the Board
18 wished to be addressed and I'm more than happy to do so on
19 behalf of the Applicant.

20 Some of the positions taken by the -- by the
21 Applicant on behalf of MPI in -- in responding to these
22 issues may require further examination, nonetheless, I'm
23 confident that the Board will agree that none of the points
24 of issue would be of significant -- or rather sufficient
25 significance to deny the application as presented.

1 Manitoba."

2 I would suggest that it would not be
3 appropriate for MPI to determine that the DDVL operations
4 should be placed as part of the Basic program and therefore
5 subject to review by this Board.

6 And I think it's helpful to look at and to
7 provide some information as to how the devolution of
8 functions from DDVL into MPI -- how it developed and I know
9 that there's evidence before you that the master agreement,
10 which will deal with the issues relating to operations of
11 DDVL within MPI is still under negotiation.

12 A proposal has been put to the Government
13 some weeks ago; there has not been any finalization of that
14 agreement to-date, but I also note that in its -- one of its
15 quarterly reports, Crown Corporation Counsel did mention that
16 there was an interim agreement arrived at between MPI and the
17 Government back in April when the announcement was made.

18 And I want to talk about that to some extent,
19 because I don't want the Board to believe that negotiations
20 have gone beyond what was stated in evidence by the MPI
21 Panel.

22 What happened back in April, when the
23 announcement was made, was a realization that significant
24 changes to the Highway Traffic Act, would be required before
25 DDVL Operations could be transferred out of Government and

1 into a Crown Corporation.

2 Right now, the existing Highway Traffic Act,
3 for example, contains provisions that the Registrar of Motor
4 Vehicles, and the Assistant Registrars and the other officers
5 of the -- the Motor Vehicles Branch, must be public servants,
6 must be civil servants. Employees of MPI are not civil
7 servants. So there was an issue that had to be dealt with.

8 There is authority in the Highway Traffic Act,
9 for the Registrar to delegate certain functions to other
10 individuals, and it was in -- that was one of the issues that
11 had to be addressed in the Interim Agreement: Deal with the
12 issue of delegation.

13 Also, the Master Contract with the MGEU, which
14 covers the Government employees who are part of DDVL,
15 contains a provision that if there is to be a transfer of
16 functions, and therefore a transfer of employees, from
17 Government to a Crown, and it's specific in their -- in their
18 Collective Agreement, that there's a process of negotiation
19 that has to be gone through.

20 Four (4) month notice, continued
21 negotiations, and at the end of the four (4) months, if an
22 agreement can't be reached of melding the two Collective
23 Bargaining Agreements, then there's provision for carrying on
24 the operation under two (2) separate Agreements.

25 So that was an issue that had to be dealt

1 within the Interim Agreement, just mentioning the fact that
2 there would be negotiations, in accordance with the MGEU
3 Master Agreement, to meld the two Unions.

4 The Agreement, I can tell you, the Interim
5 Agreement, has no financial provisions contained therein. It
6 talks about collateral matters, that the parties agree that
7 they will use their best efforts to negotiate an Agreement
8 that addresses issues relating to the transfer of unionized
9 employees, the sharing of employee benefit costs, including
10 accrued vacation benefits, severance entitlement, and pension
11 liabilities.

12 Remuneration to be paid to Manitoba Public
13 Insurance for carrying on the operations of DDVL, the
14 transfer of land and assets from DDVL to Manitoba Public
15 Insurance, and other such parties -- matters, rather, as the
16 parties may deem necessary or advisable.

17 So that's as specific as this Interim
18 Agreement gets when it deals with the big ticket items that
19 have to be determined and form part of the draft Master
20 Agreement that is currently under negotiation.

21 So even though there is this Interim Agreement
22 in place, it's mainly designed to address operational issues
23 and it really doesn't address the issues that are key to the
24 Corporation and to the public, particularly how the
25 operational costs of DDVL will be funded in MPI.

1 will, in our view, continue over time and the benefit to MPI
2 will be identification of cost efficiencies that will reduce
3 the actual costs of operating DDVL will be allowed, if the
4 agreement is -- is concluded in the way that we intend, will
5 be allowed to retain any savings and any efficiencies that we
6 can create, but the actual payment will not go beyond the
7 agreed upon annual amount.

8 As I indicated, we have transferred managerial
9 staff, became -- became MPI employees in May of 2000 shortly
10 after the -- the announcement by the government and there has
11 been a successful negotiation with the two (2) MGEU
12 bargaining units to the point that as of -- actually October
13 4th was the official date, all of the MPI -- all of the DVL
14 employees who were given offers of employment are now MPI
15 employees.

16 And I believe out of the approximate three
17 hundred (300) there were less than one point five (1.5)
18 positions that chose not to come to MPI.

19 Now, I would be willing to file the interim
20 agreement as information with the Board. I know that by the
21 time the final agreement, the master agreement is negotiated
22 this interim agreement will be attached as an appendix to the
23 master agreement.

24 And it's my expectation that that master
25 agreement, once finalized, will also be a public document.

1 So I will leave copies with Board Counsel if the Board wishes
2 to receive this agreement as information.

3 THE CHAIRPERSON: Thank you. That will be
4 Exhibit 33, I believe.

5

6 --- EXHIBIT NO. MPI-33: Interim Agreement

7

8 MR. KEVIN MCCULLOCH: The other point that I
9 wanted to make with respect to DVL is to also reconfirm with
10 the Board, as evidence was given in the course of the
11 Hearing, that the cost implications of assuming DVL are all
12 included in the financial data that has been filed with this
13 Application.

14 So that the -- the -- it includes -- the go
15 forward includes all of the cost implications for taking over
16 DVL.

17 I want to address as well the issue of loss of
18 the share cost transfer. Now, the evidence before the Board
19 was that the loss of this share cost was not interdependent
20 on the transfer of DVL functions to MPI. It wasn't a trade
21 off that, we'll transfer DVL functions to you, we'll give you
22 X number of dollars to cover the cost but we're not going to
23 continue the share cost agreement.

24 For years, and I believe there was reference
25 to this, at least from Mr. Galenzoski, for years the

1 government has indicated to MPI that the share cost agreement
2 was under review.

3 In fact, payments -- the last payment that MPI
4 received in connection with the share cost agreement covered
5 up to the end of January 2004. So there was no payment
6 received for February '04 and we've been advised that there
7 will be no share cost payment made on an ongoing basis.

8 We've taken those financial projections -- or
9 the financial projections rather have taken this loss into
10 account and the projected results show this as a -- as a
11 reality.

12 It's the Corporation's position that this was
13 an issue that the Corporation was going to have to deal with
14 regardless of whether MPI and DVL merger came to pass. And
15 that's clearly been the indication in the evidence.

16 The next item addressed or indicated by the
17 Board dealt with the reliance of Basic on Extension and SRE
18 earnings. This is the reliance to rebuild the RSR through
19 excess earnings from Extension and SRE.

20 For the past number of years the Corporation
21 has had in place a policy that dedicated the excess retained
22 earnings from Extension and SRE as a means of building the
23 basic RSR. That Board policy is in place and has been
24 followed since its inception.

25 In fact, the results to date have preceded --

1 or exceeded, rather, projections. SRE transfer has been
2 significantly greater than forecast and the extension from
3 contribution -- extension contribution arrived one (1) year
4 ahead of schedule.

5 The -- some \$4 million that was transferred in
6 the current fiscal year from SRE, if you'll check the
7 projections from last years' Application, there wasn't -- it
8 wasn't anticipated that there would be any transfer from
9 extension until the '05/06 year. So that's been achieved at
10 least a year ahead of schedule.

11 The Corporation is committed to managing to
12 these projected results and when the Board is looking for
13 assurances, obviously there can be no absolute guarantee that
14 the projections will continue as they appear in the financial
15 statements.

16 But what this Board can be guaranteed of is
17 that like any other financial goal or projection set by MPI
18 management, the Corporation will continue to be committed and
19 continue to work to achieving those goals.

20 So I think that the best assurance that this
21 Board can have with respect to these transfers is to look at
22 the track record of the Corporation in achieving its
23 projected goals overall.

24 There are obviously ups and downs in -- in
25 forecasts for claims and expenses and revenue, but overall

1 the Corporation has been successful in managing to its
2 projections and there's no reason to suspect that the
3 projections of retained earnings being transferred from
4 extension to SRE -- and SRE to Basic should be any different.

5 Issues were raised with respect to the
6 investment asset liability mix in the investment portfolio.
7 And here, I think again, there's a basic truth that the
8 Corporation wants to bring home once again to this Board.

9 The first and main reality is that the
10 Minister of Finance is responsible for managing the MPI
11 investment portfolio. By virtue of Section 12 of the MPIC
12 Act, authority over the investment portfolio rests solely
13 with the Minister of Finance.

14 Now you've heard over the years and
15 particularly with movement into equities, you've heard that
16 there's a significant degree of cooperation and consultation
17 between the Department of Finance and the Corporation.

18 You've heard that the Corporation has an
19 investment committee of the Board, you know that there's an
20 investment working group that constitutes members from the
21 Department of Finance and members from the MPI finance
22 department.

23 You've also been advised that in the last
24 couple of years the Corporation has established an investment
25 department within the Corporation as part of Finance, where

1 CFAs are employed to monitor and to keep an eye on the
2 investment portfolio. But at the end of the day, we can't
3 change the fact that the Department of Finance is in charge.

4 For example, evidence that has been given in
5 previous hearings. The contracts with the four (4) Canadian
6 and the two (2) US equity managers, those contracts are
7 between the equity managers and the government of Manitoba.

8 The Corporation gets an opportunity to review
9 the contracts, to have some input, to have concerns
10 addressed, but at the end of the day, when the contracts are
11 drafted and when they're signed, MPI is not a party to those
12 contracts.

13 Retaining Mercer, as was done, to do and to
14 conduct the asset -- asset liability mix assessment -- was
15 part of the due diligence required in the management of MPI's
16 investment portfolio.

17 You've seen how, over the years, particularly
18 with the introduction of PIPP, the size of that portfolio has
19 grown to the point where it's in excess of \$1.5 billion, so
20 it only made sense that issues of asset liability mix should
21 be addressed and that outside consultants should be brought
22 in to look at those things.

23 But there's also been considerable evidence
24 before the Board on how the Department of Finance and the
25 Corporation addressed the issues raised in the Mercer Report

1 and the Board was told that when the Mercer suggested asset
2 mix was compared to the Corporation's actual asset mix on a
3 historical basis, that in the short term, the Corporation's
4 actual asset mix outperformed Mercer substantially and that
5 in the long term, the results were almost identical.

6 So, when the Corporation was looking at the
7 recommendations made by Mercer, and particularly
8 recommendations of becoming involved in the European and
9 Asian equity markets and getting involved in real estate and,
10 interestingly enough, getting out of MUSH, which was one (1)
11 of the basic principles for which MPI was founded, to keep
12 investment in Manitoba and to provide an investment tool.

13 In looking at those recommendations, the
14 decision was made, in consultation between all the Parties,
15 the Board, the Investment Committee, the Department of
16 Finance, that it wasn't the appropriate time to go into the
17 European and -- and Asian markets, largely based on a concern
18 with the currency fluctuations and also that at this point it
19 was not the appropriate time to get involved with real estate
20 investments.

21 It's got to be pointed out, however, that
22 clearly the -- the current position is not written in stone,
23 it's always subject to continued review and consideration.
24 And if at some point in time, either a new asset liability
25 mix study is done or circumstances lead the powers in charge

1 of the investment portfolio to the -- the decision that it's
2 time to move into these markets, there's always the
3 possibility that that will take place.

4 The -- the review of the investment portfolio
5 is something that -- that attracts a lot of attention on the
6 Department of Finance's part and on the Corporation's part.
7 It's not something that's static and just left to sit.

8 I want to address the issue of the allocation
9 of net investment income to pension related liabilities and I
10 must confess at the outside -- or outset -- that this is one
11 (1) of those issues where Counsel relies heavily on
12 information provided by the experts; rely so heavily to the
13 point that I hope I can read the -- the position correctly.

14 Really, what we've got here is, we're dealing
15 with an internal allocation of the total annual pension
16 liability increases, some of which comes from investment
17 income and some of which is charged to operational expenses.

18 So, you have a pension liability, it increases
19 over time, two (2) sources for funding. You've got a share
20 of the investment income and the balance of the expenditure
21 has to come from operational expenses.

22 Changing the investment transfer approach to a
23 yield directly related to the annual yield of the investment
24 portfolio, in other words, using the same yield figure for
25 the pension portion as for the overall portfolio will simply

1 see more of the costs charged -- more or less, rather -- of
2 the costs charged to operating expense.

3 There would be no impact on the bottom line.
4 The money has to come from one (1) of those two (2) sources
5 either way, so if you increase the portion that comes from
6 the investment income, you could decrease the amount that
7 came from operating expenses, but of course you'd have less
8 money to spread between the other lines of business,
9 including Basic.

10 When the calculation was done for the fiscal
11 year 2003/2004, and the allocated interest from investment,
12 would have been about five hundred thousand dollars
13 (\$500,000) less, if the portfolio yield had been used, and
14 this would have necessitated a corresponding increase in
15 operational costs for a net zero (0) change to the net income
16 bottom line.

17 So, that's the explanation of how the -- the
18 Corporation treats the allocation of investment income to
19 pension related liabilities.

20 I want to turn now to the suggestion that the
21 Corporation determines -- determines its annual investment
22 income, taking into account realized gains and losses, an
23 applying 105 percent policy before actually taking gains.
24 And there's a suggestion that a methodology for smoothing
25 gains and losses may be more appropriate.

1 And in this regard, MPI remains of the view,
2 that it is basically a property and casualty company, and
3 GAAP accounting principles for property and casualty
4 companies, require that only realized gains and losses can be
5 booked. Therefore smoothing would not be appropriate, as it
6 would be contrary to GAAP, for the type of company we are.

7 And it's interesting to note that both ICBC
8 and SGI follow the same approach as is taken at MPI, so that
9 they only take into account realized gains and losses,
10 without any allowance for smoothing.

11 Next issue I want to talk about, and this has
12 come up in -- in many different areas, is the issue of loss
13 transfer. As the Board is well aware, this issue has been
14 the subject of discussion and study for a number of years,
15 with considerable evidence and opinion heard on both sides of
16 the issue.

17 It's interesting to note that the expert
18 witness brought forward by CMMG, relied -- relied heavily, is
19 putting it nicely, on the report that was filed back in 1998.

20 So this issue is not new, it's been talked
21 about, it's been discussed back and forth. The Corporation's
22 position is clear, and has been reflected in the rate making
23 policy and methodology that has been applied for years.

24 In last year's Application, the Corporation
25 provided, as directed in the previous year's order, a Loss

1 Transfer Study.

2 And in last year's order, I believe it's at
3 page 54 through to page 56, the Board clearly adopted the
4 Corporation's argument, and the wording of last year's order
5 is strong, clear, when it deals with the issue of loss
6 transfer.

7 The Board went through a number of reasons
8 where it adopted the position that loss transfer was not
9 appropriate as a means of assessing rates in Manitoba.

10 Now, I realize that no position or statement
11 from previous years is necessarily written in stone. But
12 when it is so current as to have been issued last year, less
13 than twelve (12) months ago, December of -- of '03, and when
14 there has been no cogent evidence brought before this Board
15 that would warrant abandoning the findings in last year's
16 order, I think it is fair for the Applicant to say we should
17 stick with the proved and approved position.

18 If there are issues that come up that need to
19 be addressed in -- in future Hearings, the Applicant will
20 have to do that. But you don't address issues, or you don't
21 attempt to bring in new information through presenters. It
22 has to be evidence that can be tested, and evidence that can
23 -- can be judged on the basis that it's presented.

24 The principle behind the Corporation's
25 position remain firm, loss experience is assessed on a first

1 party basis. This approach is applied consistently across
2 all major classes. It fits with the principle of eliminating
3 cross subsidization and some of the Intervenor will argue
4 that there is some cross subsidization going on and that is
5 certainly true.

6 But it doesn't change the fact that it's been
7 a basic principle of MPI rate making methodology that cross
8 subsidization is not to be allowed. It's to be shut down
9 wherever possible. I would suggest that the proposal put
10 forward by CMMG is by definition, inequitable and unfair.

11 They're proposing a one way transfer. Losses
12 would flow from incidents for which another vehicle is at
13 fault to that vehicle class. But there's no proposal that
14 losses should flow the other way where the motorcycle class
15 is responsible for injuring someone who's riding in a private
16 passenger vehicle.

17 It appears from what was said by Mr. Roberts
18 that the Dealer's Association would like to take on the same
19 approach as would Scootering Manitoba. There was also
20 evidence in previous years' hearings and even this year, that
21 the so called Ontario solution, that's what I'll refer to it
22 as, was little more than a political compromise.

23 A sop if you will to insurance industry. We
24 had evidence in previous hearings that there are over two
25 hundred (200) insurers offering automobile insurance in

1 Ontario. And if my memory serves me, only three (3) or four
2 (4) of those two hundred (200) insurers provide motorcycle
3 coverage.

4 The political compromise was required in order
5 to maintain this precarious market. In affect, the Ontario
6 solution creates a motorcycle facility in affect. A pool for
7 motorcycle losses whereby all insurers and major classes
8 subsidize the motorcycle loss experience.

9 Mr. Ramsey, the presenter who came on the last
10 day of hearings in affect confirmed this in his presentation
11 when he indicated that the Ontario loss transfer provisions
12 were put forward by the insurance industry with the support
13 of politicians from all three (3) political parties.

14 The Board then heard from Mr. Rifai who was
15 called as the expert witness on behalf of CMMG to deal with
16 two (2) issues, loss transfer and credibility. I think it's
17 quite obvious from Mr. Rifai's presentation, from the report
18 that was filed and from his responses in cross-examination,
19 that what he was providing to the Board was really his
20 opinion.

21 His opinion at to what was fair, what was
22 equitable and there wasn't anything that he provided in his
23 report or in his evidence that would point to an actuarial
24 principle that would drive this Board to move to a loss
25 transfer process. When you get right down to it, it was just

1 personal opinion based on his view of fairness and equity.

2 And it's interesting that that was the same
3 sort of report that had been provided by Mr. Cheng, six (6)
4 years earlier and was not adopted by the Board. So the
5 rationale doesn't get any stronger or the reasoning doesn't
6 get any stronger just because you repeat it six (6) years
7 later.

8 I think that it's incumbent on the Board to
9 treat Mr. Rifai's evidence in regard to loss transfer, as
10 nothing more than an evidence -- as the evidence of a
11 presenter. And a Freudian slip perhaps, but Mr. Ramsey in --
12 in his presentation as a presenter referred on a number of
13 occasions to the previous presenter, being Mr. Rifai.

14 And I would suggest that that is in a fact
15 that what Mr. Rifai was giving us in -- in his evidence.

16 In a Manitoba setting, the Corporation is
17 determined that loss transfer is the appropriate way that
18 first loss -- approaching it as a first loss basis, is the
19 appropriate way.

20 And until something significant or substantive
21 comes forward to challenge that, I think we should continue
22 in that regard.

23 Now, one (1) of the other issues raised, dealt
24 with the capping of motorcycle rates. And in describing that
25 issue, the transcript indicates that, Mr. Chairman, you

1 stated that assuming that costs are properly allocated, does
2 the capping of motorcycle rates send the proper price signal
3 to the motorcycle group?

4 And the Corporation would agree that perhaps
5 there are some competing principles in play, when it comes to
6 the capping of motorcycle rates.

7 Clearly, there are issues of cross
8 subsidization. And as long as rates are capped, other major
9 classes are going to be subsidizing the motorcycle group.

10 There are also issues of rate stability and
11 afford-ability, significant actuarially indicated increases
12 of 38, 40 percent to the motorcycle group, certainly would
13 challenge rate stability and might challenge afford-ability
14 in some of those motorcyclists.

15 But there's also the competing rate making
16 principle that each major class must carry its own weight.

17 The Corporation has struggled with the so
18 called 15 percent rate shock or rate cap, in previous years.
19 It's been acknowledged that the continued application of a 15
20 percent cap, almost makes it impossible to achieve the goal
21 of rate sufficiency for the motorcycle class, unless you do
22 something else.

23 And one of the things that the Corporation has
24 done, is to apply rate line adjustments to the motorcycle
25 class. And over the period of time that those rate line

1 adjustments have been applied, the result has been that the
2 high end rate groups, are at the appropriate levels.

3 And the lower end rate groups are being
4 brought more closely into line. It's a way of speeding the
5 process of bringing them to rate sufficiency. It should also
6 be noted that in previous applications the Corporation has
7 sought increases of more than 30 percent, that was part of
8 the application last year. But, that was turned down and the
9 Board capped it at 20 percent.

10 In this very application if it's approved as
11 submitted, some of the rate groups will see increases in
12 excess of 20 percent. So, while the Corporation has applied
13 for, in many instances, a 15 percent rate cap, there are
14 examples of efforts to move beyond that and it's acknowledged
15 that that sort of a cap does present potential problems.

16 Dealing with the dealer plate issue, I think
17 that what we've got here, is we're really dealing with an
18 anomaly in the requested rate proposal for dealer plates.
19 We're seeking to correct, as you know, a past error and we're
20 seeking to correct that, not by recapturing the cross
21 subsidization that was received by holders of dealer plates
22 in previous years, but, on a go forward basis.

23 And to bring this group to rate adequacy the
24 proposal is, as you know, that it be done in a two (2) year,
25 two (2) stage basis. And while it goes beyond certainly the

1 idea of a 15 percent rate cap, I'd suggest that it's not out
2 of line with rate making principles.

3 It's consistent with past practices, moving
4 things in a reasonable period of time. It's the same sort of
5 approach that was taken with the introduction of CLEAR
6 vehicle groups. We didn't introduce them all at once and we
7 didn't move everybody directly into their appropriate CLEAR
8 group, we staged it, we moved how many up, how many down,
9 those were all carefully looked at.

10 So, that this is the sort of staging proposal
11 that the Corporation has put forward in the past and I would
12 suggest is consistent with previous approaches.

13 Bonus/Malus and the PIPP data are mentioned as
14 issues that could be addressed and I think all I can offer
15 from the Corporation on these two (2) issues, is that we have
16 said in the past, that the amalgamation of DDVL and MPI will
17 offer opportunities in the field of Bonus/Malus and that now
18 that that has occurred, the Corporation will be addressing
19 this issue in the future.

20 At this point, no specific commitment as to
21 time but it's certainly an issue that has been of interest to
22 the Corporation and it's one of the elements that they want
23 to take -- the Corporation wants to take advantage of now
24 that the amalgamation has occurred.

25 The PIPP data, again, is an issue that the

1 Corporation has recognized over time has been an issue for
2 the Corporation, that the PIPP data wasn't as -- as strong
3 and as plentiful as -- as it might have been.

4 The explanation, and I believe it was -- it
5 certainly would have been given on the record back in the
6 1999, 1988 timeframe was when the Corporation was moving to
7 address the Y2K problem and it was revamping its computer
8 systems, the intention was to have a stand alone bodily
9 injury system that would have collected significant amounts
10 of data.

11 That portion of the project that the -- the
12 particular product that was -- was chosen didn't pan out.
13 And in the move to ensuring that the Corporation's system
14 would be Y2K compliant a bodily injury component was built
15 into CARS, Claims Administration and Reporting System, that
16 may not have been the Cadillac and certainly didn't provide
17 the information -- all the information that the claims people
18 would have liked to have had and the Corporation would have
19 liked to have had in connection with PIPP.

20 But, again, the commitment is on the record by
21 the Corporation that they intend to address that issue and to
22 move forward to collect the appropriate data that's needed to
23 continue successfully monitoring the PIPP program.

24 I want to move to some observations that
25 relate to comments and issues raised by a number of the

1 Intervenor and I'm -- I'm going to be fairly brief here. I
2 don't want to -- to spend too much time but there are some
3 issues that do need to be addressed.

4 Mr. Williams started off talking about the
5 concern that his client and he himself had with respect to
6 the increase in claims incurred showing a significant
7 increase over a number of years.

8 I think the real problem here with the
9 approach taken and -- and the concern expressed by Mr.
10 Williams is that it shows a lack of understanding of the PIPP
11 plan that we're dealing with.

12 Yes, the volume is up. Yes, benefits are up
13 because we know there have been improvements to benefits.
14 The introduction of RIB was one of the -- the elements that
15 was talked about.

16 There is a statutory provision that these
17 benefits are increased subject to inflation so they're
18 indexed each year. But what you can't lose sight of is that
19 despite the dollar increase in the claims incurred figures,
20 the Corporation is still able to operate the program without
21 any significant rate increases.

22 Last year, I believe the three point seven
23 (3.7) being the first overall revenue increase that the
24 Corporation sought, although it sought less than that, in six
25 (6) or seven (7) years, the Corporation is still able to

1 manage to its goal of 50 percent operating costs compared
2 with industry average.

3 They're still able to manage to that goal and
4 they're still able to return in excess of eighty-five (85)
5 cents of the premium dollar to Manitobans. We agree
6 Manitobans claim. Manitobans file claims and we've seen how
7 the rise in whiplash claims has -- has occurred after an
8 initial drop.

9 But, let's face it, these are statutory
10 benefits that they're entitled to. On the one hand, we have
11 Mr. Dawson suggesting that we're not paying claimants
12 appropriately and you could read Mr. Williams' comments as
13 saying we're paying them too much.

14 I don't think that's the situation. I think
15 you have to approach it from the overall management of the
16 Corporation, look at the application, see how we're meeting
17 the claims needs of Manitobans, see how we're delivering the
18 product the way it was intended to be delivered.

19 Mr. Williams seemed to suggest that the
20 Corporation had no contact with WCB or other no-fault
21 providers. There was evidence, not at this hearing, but in
22 previous hearings that there was considerable contact between
23 MPI and the Workers' Comp.

24 As a matter of fact, at one point evidence was
25 given about the potential for a centre of excellence that the

1 two (2) organizations would become involved with. That
2 hasn't happened at this point, but it's certainly not to
3 suggest that there's no ongoing contact, not only with
4 Workers Comp. but with the SAC in Quebec, with ICBC and with
5 SGI.

6 Evidence was clearly given that there are
7 annual meetings, face-to-face annual meetings with those
8 organizations.

9 On the issue of the SAC there's been evidence
10 before this Board in the past they create barriers to claims.
11 They have an extremely lengthy application form. They don't
12 deal on a face-to-face basis with -- with people. You fill
13 out the form, you send it in by mail.

14 A lot of these so-called issues that -- that
15 Mr. Williams would suggest the Corporation is facing relate
16 to the Corporation's commitment to good customer service.

17 We're not here to make things difficult for
18 Manitobans. We're here to make sure that they get the
19 benefits to which they're provided -- or to which they're
20 entitled.

21 And Section 150 of the MPIC Act which has been
22 touted many times in -- in these hearings, even in this
23 years' Application, clearly creates an obligation on the
24 Corporation to see that claimants get the benefits to which
25 they're entitled and the Corporation has long shown its

1 commitment to that Section.

2 Mr. Williams talks about the fact that injury
3 claims in -- in MPI are going up and that ICBC's seem to be
4 falling. But there's no discussion and no evidence before
5 this Board as to why that might be happening.

6 There's been talk in the past that ICBC
7 instituted a no crash, no cash policy, so they were very firm
8 on if there was no collision or if there was minor physical
9 damage in a collision between two (2) vehicles, they would
10 not accept an injury claim.

11 There's also a situation where MPI calculates
12 injury claims even -- or includes them in the injury claim
13 account even if there was no payout.

14 So if -- if someone calls into the Call Centre
15 and -- to report physical damage and says, and by the way, I
16 have -- you know, a sore neck and -- and -- and other
17 injuries, if there's no payout on that claim, as is often the
18 case in minor injuries, that is still shown in our claim
19 counts but obviously there's no dollars going out in
20 connection with that.

21 THE CHAIRPERSON: Mr. McCulloch, is that a
22 significant percentage of the injury claims?

23 MR. KEVIN McCULLOCH: It could be as high as
24 two (2,000) or three thousand (3,000) out of fifteen thousand
25 (15,000).

1 THE CHAIRPERSON: Thank you.

2 MR. KEVIN McCULLOCH: The other issue that I
3 wanted to address that was raised by Mr. Williams has to do
4 with his comments on road safety and the -- in particular the
5 operation of the anti-theft and the drivers' ed. program.

6 And the point that I think has to be taken
7 here is that particularly with the anti-theft program,
8 there's two (2) elements to anti-theft -- or to the theft
9 problem.

10 There's a business problem faced by MPI, the
11 twenty (20) some odd million dollars that we pay out on theft
12 claims and there's a societal problem. Evidence has been
13 given before this Board that 90 some odd percent of the theft
14 claims are the result of joyriding.

15 They're not professional car thieves who are
16 stealing vehicles, slamming them into containers and shipping
17 them off to Yugoslavia or to -- to Eastern Europe, they're
18 kids who are out joyriding. There's a significant gang
19 related element to car theft in Winnipeg in particular.

20 I know that Counsel is not permitted to give
21 evidence, but that rule kind of gets stretched a bit. At a
22 recent Board planning session there was talk about the fact
23 that over the last couple of weeks two (2) rival gangs were
24 having a -- a car theft derby, if you will. The more cars
25 you could steal, the more points you get.

1 Those sort of issues are societal issues and a
2 concern that the Corporation has is, should MPI be focussing
3 solely on the solution to the business problem, or is the
4 Corporation going to be drawn into assisting in solving the
5 societal problem?

6 There are clearly business solutions that the
7 Corporation could take that would have a direct impact on
8 auto theft starting with legislation of required
9 immobilizers. We have VICC (phonetic) approved immobilizers
10 that would clearly put a significant end to auto theft if
11 every vehicle in Manitoba had one.

12 So, you could legislate that or you could
13 create incentives for people to put immobilizers in their
14 car, but when you realize that the average age of the fleet
15 in Manitoba is somewhere around 1992/1994. The incentive for
16 people to install immobilizers is somewhat lacking,
17 especially when your public surveys indicate that most
18 Manitobans take the position, It's not going to happen to me.
19 That's -- that's going to happen to someone else. My car's
20 not going to get stolen.

21 There are other business solutions that could
22 be put in. You could surcharge owners of vehicles that are
23 at higher risk of being stolen. You could surcharge owners
24 of those vehicles who live in the high theft areas, but what
25 reaction would you get from the Public to that sort of a

1 program?

2 We could waive or do away with the waiver of
3 deductibles. Right now in total theft situations, no
4 deductible payable. We could do away with that. But the
5 problem is that you're then accused of re-victimizing the
6 victims of auto theft. These people are -- are seen as
7 victims and here you are hitting them with extra premiums or
8 extra penalties.

9 So it's not an easy solution. Does the
10 Corporation have concerns about the fact that the anti-theft
11 program, even though there's significant monies put into it
12 is not working? Absolutely, but there are other people who
13 should be at the table.

14 Interesting to note in -- in the presentation
15 by CAA that, you know, this is a problem. Yeah, but it's a
16 problem for all Manitobans, it's not just a problem for MPI.
17 Business solutions for MPI -- that would be simple.

18 But if you want to solve the problem, and if
19 you want to avoid shutting down all the car thieves, which we
20 might be able to do, and then seeing a rise in vandalism or
21 -- or an increase in -- in break and enters, because they've
22 got to get a new way of -- of -- of testing their -- their
23 strength or -- or asserting themselves, I -- don't think
24 that's -- that's necessarily the appropriate way.

25 The same applies to drivers' ed and I think

1 both Mr. Williams and -- and his client must be somewhat
2 schizophrenic when they approach the issue of drivers' ed.
3 Mr. Williams made quite a bit out of the fact that the
4 Northport study would indicate that drivers' ed has little or
5 no benefit from the point of view of reducing crashes or
6 prompting better driving behaviour.

7 Well, in the mid-nineties, the Corporation
8 attempted to dump the driver ed program and it was actually
9 announced the Corporation was getting out of drivers' ed.
10 The public outcry was amazing and before you knew it, MPI was
11 back in the drivers' ed business.

12 So, again, it's a test of pure business
13 solution, save how many millions of dollars by getting out of
14 drivers' ed versus the expectation of Manitobans that MPI
15 will be there to assist their children when they're learning
16 how to drive. So, it's not quite as simple and -- and
17 straightforward a solution as might have been suggested by
18 Mr. Williams.

19 One (1) more issue that I wanted to address
20 and I -- I may have misunderstood what he said, but Mr.
21 Williams seemed to suggest that the merit rate discount on
22 your vehicle insurance wasn't staged and as the Board knows,
23 to enter the merit rate program you need to have one (1)
24 merit point on your driver's licence and your participation
25 depends on the number of claims-free years and conviction-

1 free for a period of time, but if you have two (2) years of
2 claims-free experience and you have one (1) merit point, you
3 get a 10 percent discount. The following year, if your
4 claims free, it goes up to 15 percent.

5 So, it is -- it is staged and I just wanted to
6 -- to get that record in case -- or get that on the record in
7 case there was some misconception left by Mr. Williams'
8 comments.

9 Mr. Oakes, again, brought forward strong
10 argument on -- on behalf of his clientele, the motorcyclists,
11 that the ongoing increases that they faced over the years is
12 creating a hardship and that the way around it is to
13 introduce loss transfer.

14 I don't want to go into any further discussion
15 on the loss transfer issue, I've already addressed it, but
16 suffice it to say, there was nothing new in -- in what Mr.
17 Oakes had to say on that issue.

18 The other interesting approach -- approach
19 that he seemed to take was, go into the Application, go into
20 the evidence, let's try to pick it -- at some alleged
21 inconsistency and then jump to the conclusion that on the
22 basis of that inconsistency, the Board should deny the
23 Corporation's Application in its entirety.

24 And I believe that there was some playing with
25 numbers, if you will, in that regard. One (1) of the -- one

1 (1) of the points that he made was, he said, You know,
2 there's data inconsistencies, you can't rely on the claims
3 counts as they are reported by MPI. And he said, At one
4 point they say there's nine hundred and thirty-four (934)
5 motorcycle claims -- injury claims, in another they say it
6 was eight hundred and eighty-four (884) and in another they
7 say five hundred and twelve (512).

8 But if you go back and look at those counts,
9 you'll see that they're actually dealing with different
10 issues. The nine hundred and thirty-four (934) count can be
11 found in CAC/MSOS-1-3 and what that is, is the major class
12 total claims for motorcycles, including mopeds, and it's a
13 combination of two hundred and twenty-four (224) plus seven
14 hundred and ten (710) to get you to nine (9) thirty four
15 (34). So, they were dealing with the major -- total major
16 class.

17 The eight hundred and eighty-four (884) claims
18 count is to be found in the Response to CMMG-1-63, and what
19 we were asked to provide there was, the claims count for all-
20 purpose motorcycles. So, it was specific to all-purpose
21 motorcycles.

22 And the final figure of five hundred and
23 twelve (512), that's to be found in the Risk Study at AI-16,
24 and what that figure was, the number of motorcycle injury
25 claimants over a two (2) year period. So, you would have

1 multiple claimants included in that figure.

2 They're not counting the same things. It's
3 not data inconsistency where you're dealing with the same
4 issue. So, I think that there's -- he was being a little
5 disingenuous when -- when he raised that sort of an issue.

6 The sport bike issue. Again, he argues that
7 there's been a very short length of experience, we're talking
8 three (3) years, and that that's not enough to base a
9 conclusion on. The Corporation acknowledged that, the
10 Corporation agrees that it is a short timeframe in which to
11 draw conclusions and that's why the Corporation is only
12 seeking a differential of one point four (1.4).

13 If we were to give full credibility to those
14 sport bike figures, the actual amount requested should be one
15 point eight nine (1.89), but recognizing that there's only a
16 short term there, limited data, we're going for a one point
17 four (1.4).

18 He also talks about data selection bias, and
19 he says, in one point the Corporation looked at five (5)
20 years of experience, going backwards, and in another point,
21 looks at eight (8) years, and that the differences between
22 the two (2) are significant.

23 Well, the change in that period was that some
24 four (4) years ago, the Corporation introduced the Seasonal
25 Rating Principle, which basically produces a longer riding

1 season. So, it's the Corporation's view that looking at it
2 over a five (5) year period, which incorporates the seasonal
3 rating provisions, is a more accurate prediction than
4 including years in which the riding season was limited
5 because people had to make the decision as to when they would
6 insure the bike and when they would cancel the insurance.

7 They didn't have the latitude, as they do now,
8 if, all of a sudden, we get two (2) good days in March they
9 can ride. They couldn't do that under the old system. So,
10 that is the reason that you see those sorts of differences.

11 He also makes the complaint that the rate --
12 rate line adjustments are inherently unfair because they're
13 not revenue neutral; he made that issue.

14 Well, the response to that is, and it's to be
15 found in CMMG-2-66 that if the rate line adjustments were
16 calculated on a revenue neutral basis then the experienced
17 rate adjustment would have to increase to cover the revenue
18 loss.

19 So, the rate line adjustments were reported as
20 they were to bring home the separation the -- the difference
21 that needs to be addressed. If you did it on a revenue
22 neutral basis it would mask the -- the differences that exist
23 and, at the end of the day, you'd still have to get that
24 money through the -- through the experience rate adjustment.

25 So, with those sorts of issues being raised,

1 even though they may, on the surface, show some alleged
2 inconsistency, I would suggest that it's just not there and
3 it's certainly not sufficient to support a denial of the Rate
4 Application as it relates to the motorcycle class.

5 Mr. Roberts talked about the significant
6 increase that the dealer plate people are -- are looking at
7 this year and he suggested that, as we know, it was based in
8 an error in allocating losses that was a -- built into the
9 system.

10 It was a systemic error that was noticed,
11 first caught, last year. And he seemed to suggest that the
12 Corporation had the information prior to last year's hearing
13 and -- and just didn't go ahead and file it.

14 I think the -- the evidence shows that the
15 error did come to light in the midst of last year's hearings.
16 The anomaly was identified but that it took some time to do
17 the analysis.

18 And that this rate hearing is actually the
19 first opportunity that the Corporation had to bring forward
20 the solution that it has.

21 He complained about or -- or pointed out that
22 comparison of the percentage development for the dealer class
23 showed a greater percentage than for some of the other
24 classes.

25 Well, we acknowledge that you're dealing with

1 a smaller class so there's going to be greater variability.
2 But you can't compare loss development between classes
3 between they have -- each class has different
4 characteristics, different loss profiles and different loss
5 timing.

6 So, the fact that there is a difference
7 between the two (2) really doesn't lead to any conclusion
8 that would permit you to say the applied for rate for dealers
9 is unfair.

10 Loss transfer. The only thing I'd say there
11 is, again, Mr. Roberts seems to be promoting a -- a one way
12 street with losses only flowing out, nothing flowing in. And
13 it's also interesting to note that in the loss transfer
14 analysis that was filed last year the major class that would
15 have come off worse under loss transfer was the commercial
16 class of which dealers are a part.

17 So, one can assume that loss transfer may, in
18 fact, not be beneficial to the dealer class as Mr. Roberts
19 would -- would have us believe.

20 The issue of dealers leaving the industry.
21 Again, no evidence on that point. He -- he quite openly said
22 it was as a result of a casual conversation. Concern about
23 if dealer plates are on the downswing that curbers, people
24 who sell vehicles privately will be on the increase.

25 The only comment that I would make there is

1 that no matter who sells a vehicle, they're still required to
2 meet provincial safety standards. The dealers association
3 might have issues with curbers, but it's not a safety issue.
4 It's a business issue.

5 The presentation made by CAA. Interesting to
6 note that they're proposing an increased discount for
7 immobilizers and the suggestion that you cap it, once the
8 insured has recouped the cost of the immobilizer. So, if --
9 if you paid four hundred dollars (\$400), and you allowed a
10 one hundred dollar (\$100) discount, at the end of four (4)
11 years, that individual would no longer receive any discount.

12 In fact, the immobilizer will continue to
13 protect the car over the time span in which it's installed in
14 the vehicle. So, I think from a fairness and equity point of
15 view, it's -- it's much more reasonable to continue the
16 discount, it's set at forty dollars (\$40), which is as you've
17 been told, is about the average premium for theft coverage,
18 but it continues over the -- the length of time that it's
19 involved in that vehicle.

20 I think we also have an issue, and -- and it
21 was referenced by Ms. McLaren in her evidence, that the
22 minute the Corporation announced a financing program for
23 immobilizers, those organizations offering them for sale and
24 installation, immediately raised their prices to match the
25 maximum financing that the Corporation would allow. And I

1 think CAA might want to examine its own practice in that
2 regard.

3 Mr. Dawson spent, approximately, an hour
4 addressing the Board on -- on issues that he thought were
5 relevant to the -- the Manitoba Bar Association. The problem
6 that I have, quite frankly, with the entire presentation, is
7 that I saw no clear connection to a Rate Application.

8 He started off by suggesting that the handling
9 and the payment of PIP claims could be improved. He talked
10 about the fact that there are claims advisors that are now --
11 the legislation at least is -- is being implemented, claims
12 advisors that will assist people at the Appeal Commission
13 level.

14 He complained loudly about the -- the red
15 flags that were shown in the adjuster -- or case manager
16 training. What he failed to mention was that those pages, I
17 think if you even read the -- the attached asset -- or pages
18 that he put into his exhibit, that's just one (1) or two (2)
19 of thousands of pages of training the case managers go into.
20 It's not as if this is the sole issue that case managers are
21 trained on.

22 He made an issue about the call takers and the
23 information that they request. They're not even trained
24 bodily injury experts, they're only there to receive
25 information and to pass it on from one (1) call to the next.

1 The call takers are not the least bit concerned about trying
2 to tie claimants down to what they say in an initial
3 discussion on the telephone.

4 He then suggests that we're somehow loading
5 the deck against claimants, and that because the Corporation
6 refused to provide copies of training information that the
7 medical services team uses when it goes out to speak to -- to
8 various medical caregivers, that somehow the inference should
9 be drawn that there was something to hide, and that as a
10 result of -- of the Corporation trying to hide something, the
11 Rate Application should be denied.

12 In fact, if you look closely at the majority
13 of the information requests filed by Mr. Dawson, they largely
14 appear to be an exercise in education, educating Mr. Dawson
15 as to what MPI is all about. Time and time again, he asked
16 for explanation of -- of terms and -- and phrases. What do
17 you mean when you say your goal is to reduce the costs of
18 automobile injuries, or -- or the treatment costs of
19 injuries?

20 Really, I can see nothing, even in his -- his
21 attack on the -- on the customer surveys. And the whole
22 premise that he wanted to -- to start, and to put forward,
23 was that MPI was adversarial in its treatment of its
24 claimants, and that this was bad. And one (1) of the ways to
25 solve it would be for MPI to tell claimants that they could

1 always go see a lawyer if they wanted to. Well, surely, the
2 test of whether the Corporation is adversarial and treating
3 its claimants unfairly, the real test of that is the appeal
4 process.

5 And there was evidence that was given to Mr.
6 Dawson, as a result of information request that he put
7 forward, and he asked for the experience in the fiscal year
8 February 2003 to March -- sorry, March 2003 to February 2004.
9 How many claimants filed for internal reviews?

10 And the answer was seven hundred and sixty-
11 nine (769). He then asked how many of those claimants filed
12 applications with the appeal commission. And the response
13 was two hundred and twenty (220). And what are we dealing
14 with here?

15 We're dealing with, as you know, injury claims
16 of in excess of twelve thousand (12,000) injury claims in a
17 year. Any decision made on an injury claim is subject to
18 review and appeal.

19 So if you even take an average of four (4)
20 decisions on an injury claim, you're dealing with over forty-
21 eight thousand (48,000) decisions, of which less than eight
22 hundred (800) made their way to the internal review office.
23 And less than two hundred and thirty (230) or two hundred and
24 twenty (220) of those made their way to the appeal
25 commission. I would suggest that that is the true test of

1 whether MPI delivers the PIPP program in an adversarial
2 manner.

3

4

(BRIEF PAUSE)

5

6

7 I want to make a few comments with respect to
8 the proposed legislative reform and, again, Mr. Dawson's
9 suggestion is, well, the Board should order MPI to undertake
10 a study. And he talked how fortuitously just after the day
11 after the pre-hearing conference when he applied for

12 Intervenor status, there was an article in the paper about a
13 lady who was significantly injured, seriously injured, and
14 the fact that she was unable to bring an action against the
15 manufacturer of the vehicle for an alleged vehicle defect.

16 Now, I don't know if the rest of you happened
17 to notice the ongoing discussion, because it was a discussion
18 in the paper that went on for more than just a day. But, I
19 can tell you that the response from the vehicle manufacturer
20 gave a very clear indication that they were not rolling over
21 and accepting this as a vehicle defect.

22 The newspaper reported a situation that the
23 vehicle had been left with the key in the ignition. If the
24 key had been taken out, it would have been impossible for the
25 vehicle to roll back. And furthermore, children were left in
the vehicle, and it was probably a combination of the two

1 (2), the fact that the children were in the vehicle bumped
2 the -- the steering mechanism, or near the steering mechanism
3 and the key was in the ignition and that allowed the vehicle
4 to roll back.

5 So, I think that this Board should be well
6 aware of the fact that the potential success of allowing
7 Manitobans to bring actions against manufacturers for
8 purported manufacturer defects in vehicles is a very slippery
9 slope and a very tough, difficult job.

10 We know that extra-territorial drivers who
11 cause accidents in Manitoba, people who are ensured extra-
12 territorially, are held to account. The evidence was clear
13 that the Corporation has the right of subrogation and
14 continues to enforce its subrogation rights.

15 I fail to see how allowing a member of the
16 public to sue would in any way assist the Corporation in the
17 recoveries from these out-of-province drivers.

18 The other point he would have us accept is the
19 fact that injured Manitobans should be allowed to bring an
20 action in their own name against uninsured motorists.

21 Now, there's a real wealth of potential
22 recoveries, uninsured motorists. In the tort system the
23 clear means of recovering was from where there was another
24 insurer involved. Actions against uninsured motorists and
25 recoveries from uninsured motorists, I would suggest would be

1 extremely low on any ranking of recovery of benefits.

2 And suffice it to say, uninsured motorists in
3 Manitoba are given the same protection of the no-fault plan
4 as are insured motorists. And that's condition of the plan
5 and not to be challenged.

6 And certainly I don't believe that any right
7 of recovery against non-insured motorists would have any
8 impact on the Corporation's bottom line and in any way
9 relieve the rate requirement that is before this Board. The
10 other issue that I would raise there, is that allowing those
11 sort of actions might have a negative impact on the service
12 to Manitobans.

13 There's always the risk that if they were able
14 to -- to proceed against a manufacturer on a manufacturer's
15 defect claim the position might be taken, well, no, you've
16 got a right of suit against GM or whoever, go try to track
17 that down, chase that down. Don't -- don't take MPI
18 benefits, because if they take the benefits and have a right
19 of action, they'd have to reimburse MPI in any event.

20 I think that those proposals are just not well
21 thought out and I would certainly urge this Board not to take
22 the steps suggested by Mr. Dawson that somehow this Board
23 should bring forward proposals to government that action was
24 warranted on any of those three (3) areas that the Board --
25 that the Manitoba Bar Association addressed.

1 Scootering Manitoba, again I'm not going to go
2 into any great detail here because I think we are facing the
3 same issues that we were facing with the dealer plates and
4 the same issues that we're facing with the motorcyclist and
5 quite frankly the Corporation's response is the same.

6 We have seen a significant increase in the
7 number of claims involving mopeds. We've seen significant
8 increase in the number of units that are on the street.
9 Applying the Corporation's rating methodologies and
10 principles there is no other solution than to have that group
11 properly reflect the risk that they bring to the insurance
12 system.

13 Issues of rental versus personal and private
14 use, there's no evidence before the Board to suggest that
15 rental users are more prone to becoming involved in accidents
16 and more prone to costing the system large injury claims.
17 And until there's that evidence before the Board, I don't
18 think the Board can act on it.

19 We certainly can't assume that this is the
20 case. Suggestion that there should be a break given because
21 these vehicles are environmentally friendly; that doesn't fit
22 the rate methodology.

23 And in addition, Mr. Sousa had a -- had a
24 complaint about the increase in registration fees. He said,
25 you know, taken with the increase in registration fees, now

1 the increase in the -- in the insurance fee it would prevent
2 -- or present a difficulty for scooter owners.

3 Again, the Corporation is not responsible for
4 the increase in the registration fees and those increases
5 apply across the board. So all vehicle owners that are going
6 to be impacted by this rate application have as a separate
7 issue, an increase in the registration fee.

8 So again, I don't think that that's an issue
9 that -- that can impact the Board's decision on the rates
10 applied for scooters and mopeds.

11 With that, I'm going to ask the Board if I
12 could take a few minutes. I realize that I've gone over my
13 suggested time frame, but I'd say no more than five (5)
14 minutes I'll be able to come back and indicate whether I'm
15 finished or have a few more points to make.

16 THE CHAIRPERSON: That's fine, Mr. McCulloch,
17 thank you.

18

19 --- Upon recessing at 4:18 p.m.

20 --- Upon resuming at 4:26 p.m.

21

22 THE CHAIRPERSON: So, Mr. McCulloch...?

23 MR. KEVIN McCULLOCH: Well, Mr. Chairman, it
24 must have been a Freudian slip, because immediately that I
25 left the room, Mr. Palmer advised me that I had forgotten to

1 mention or address the issue of credibility, and I will do
2 that very briefly.

3 You have, clearly, the evidence of the
4 Corporation set out in MPI Exhibit Number 5, with the
5 discussion of credibility. We had the evidence from Mr.
6 Rifai, dealing with that issue, and I think it's fair to say
7 that even within groups relying on the same text, there are
8 competing views, as to what is the appropriate way of
9 calculating, actuarially, credibility in a Rate Application,
10 such as MPI has brought before you.

11 I think I -- addressing a few issues, Mr.
12 Rifai criticized the arbitrary assignment of six thousand
13 (6,000) to K in the Corporation's calculation.

14 There was evidence before the Board that the
15 actual calculation was done. It came out at around three
16 thousand nine hundred (3,900), rounded off to four thousand
17 (4,000), and that produced a credibility of 69 percent for
18 the motorcycle rates, which is somewhat higher than the 60
19 percent which is used in the calculation that was done for
20 the Rate Application.

21 I think that it's an issue that the
22 Corporation has been consistent on and -- and there is some
23 value in consistency, especially if there -- there's no
24 evidence to show that there is a significant harm or wrong
25 being done in the approach that the Corporation used.

1 And, I'm going to leave it at that, I'll leave
2 the Board with Exhibit Number 5, and that clearly sets out
3 what the Corporation's position is.

4 And that, Mr. Chairman, does conclude my
5 closing remarks. Thank you.

6 THE CHAIRPERSON: Thank you very much, Mr.
7 McCulloch.

8 Before I make a few brief remarks, Mr.
9 Saranchuk, is there anything we're missing?

10 MR. WALTER SARANCHUK: Not that I'm aware of,
11 sir.

12 THE CHAIRPERSON: Our audience has certainly
13 dwindled, so...

14 MR. KEVIN McCULLOCH: That's always been a
15 bone of contention with me, Mr. Chairman, I think they should
16 be made to stay and listen too.

17 THE CHAIRPERSON: They still get the
18 transcripts, so.

19 MR. KEVIN McCULLOCH: The one issue that I
20 also failed to mention, in case the Board doesn't ask, is the
21 timing for a decision remains December 1, and as far as MPI
22 is concerned, that's the lead time we need to get the changes
23 in the system and out to all the brokers in time for the
24 March renewals.

25 THE CHAIRPERSON: Very good. This brings to

1 a close the Public Hearing component of this year's MPI-GRA.
2 As Mr. McCulloch indicated, five (5) volumes filed by MPI,
3 and numerable other volumes of Exhibits and information and
4 six (6) days of Hearing with witnesses, presenters, cross-
5 examination and closing statements. The efforts of all those
6 involved are sincerely appreciated.

7 The Board's panel will now confer and reflect
8 and review the evidence presented and filed.

9 Finally, on behalf of the Board, I want to
10 thank MPI and its witnesses, the Intervenors, their witness
11 and Presenters, the Presenters, the Board Advisors and staff,
12 and Ms. Carol Wilkinson of Digi-Tran.

13 You may anticipate an Order by the end of the
14 month, and I can assure the Corporation and the Intervenors
15 that we will approach the Order in a careful way considering
16 the implications.

17 Thank you for everyone.

18
19 --- Upon adjourning at 4:25 p.m.

20 Certified Correct

21

22

23

24

25

Carol Wilkinson, Ms.