

In the Matter Of:
Seelster Farms Inc., et al. vs
Her Majesty the Queen In Right of Ontario, et al.

DON DRUMMOND
December 14, 2017

neesons

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Toronto, ON M5K 1A2
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Court File No. 272/14

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N :

SEELSTER FARMS INC., WINBAK FARM OF CANADA INC.,
STONEBRIDGE FARM, 774440 ONTARIO INC., NORTHFIELDS
FARM INC., JOHN MCKNIGHT, TARA HILLS STUD LTD.,
TWINBROOK LTD., EMERALD RIDGE FARM, CENTURY SPRING
FARMS, HARRY RUTHERFORD, DIANE INGHAM, BURGESS
FARMS INC., ROBERT BURGESS, 453997 ONTARIO LTD.,
TERRY DEVOS, SONIA DEVOS, GLENN BECHTEL, GARTH
BECHTEL, 496268 NEW YORK INC., HAMSTAN FARM INC.,
ESTATE OF JAMES CARR, deceased, by its executor
Darlene Carr, ESTATE OF GUY POLILLO, deceased, by
its executor Carolyn Polillo, DAVID GOODROW,
TIMPANO GAMING INC., CRAIG TURNER, GLENGATE
HOLDINGS INC., KENDAL HILLS STUD FARM LTD., ANDY
KLEMENCIC, TIM KLEMENCIC, STAN KLEMENCIC, JEFF
RUCH, BRETT ANDERSON, DR. BRETT C. ANDERSON
PROFESSIONAL VETERINARY CORPORATION, KILLEAN ACRES
INC., DECISION THEORY INC., 296268 ONTARIO LTD.,
DOUGLAS MURRAY MCCONNELL, QUINTET FARMS INC., KARIN
BURGESS, BLAIR BURGESS, ST. LAD'S LTD., WINDSUN
FARM INC., SKYHAVEN FARMS, HIGH STAKES INC.,
1806112 ONTARIO INC., GLASSFORD EQUI-CARE, JOHN
GLASSFORD, GLORIA ROBINSON and KEITH ROBINSON
Plaintiffs

- and -

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO and
ONTARIO LOTTERY AND GAMING CORPORATION
Defendants

--- This is the Rule 39.03 Examination of DON
DRUMMOND, a non-party witness herein, taken at the
Fairmont Château Laurier, Palladian Room, 1 Rideau
Street, Ottawa, Ontario, Canada, K1N 8S7, on
Thursday, the 14th of December, 2017.

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A P P E A R A N C E S :

Jonathan C. Lisus, Esq. - for the Plaintiffs.
& Ian C. Matthews, Esq.

Eunice Machado, Esq. - for Defendant Crown.

Dharshini Sinnadurai, Esq. - for Defendant, Ontario
& Adam Goldenberg, Esq. Lottery and Gaming
Corporation.

ALSO IN ATTENDANCE:

Ms. Michele Valentini - Articling Student, MAG.

REPORTED BY: Bonnie Lynn van der Meer, CSR

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I N D E X O F P R O C E E D I N G S

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---[Reporter's note: The following indices of undertakings, under advisements, objections and refusals are provided for the assistance of counsel and do not purport to be complete or binding on the parties herein.]

I N D E X O F U N D E R T A K I N G S

The questions/requests undertaken are noted by U/T and appear on the following pages/lines: (None).

I N D E X O F U N D E R A D V I S E M E N T S

The questions/requests taken under advisement are noted by U/A and appear on the following pages/lines: 37:13, 155:15.

1 I N D E X O F O B J E C T I O N S

2 The questions/requests refused are noted by O/B and
3 appear on the following pages/lines: (None).

4

5 I N D E X O F R E F U S A L S

6 The questions/requests refused are noted by R/F and
7 appear on the following pages/lines: 64:25, 72:15,
8 84:5, 84:21, 92:6, 92:16.

9

10 I N D E X O F E X H I B I T S

11 EXHIBIT NO.	DESCRIPTION	PAGE/LINE
12 1:	Drummond Report.....	26:24
13 2:	Summons to Witness issued to Don Drummond..	27:4
14 3:	CRE 35030.....	27:16
15 4:	E-mail exchange, two pages.....	67:5
16 5:	E-mail sequence, Doc ID Number CRE	
17 0091986.....		101:21
18 6:	E-mail dated December 9, 2011, Doc ID	
19 Number CRE 79877.....		103:15
20 7:	E-mail, Doc ID Number CRE 79876.....	109:25
21 8:	E-mail, Doc ID Number CRE 80428.....	113:20
22 9:	Doc ID Number OLGSB 995 and attachment,	
23 Doc ID Number OLGSB 996.....		119:1
24 10:	Doc ID Number CRE 18318.....	128:10

25

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

2 DON DRUMMOND; AFFIRMED.

3 EXAMINATION BY MR. LISUS:

4 1 Q. Morning, Mr. Drummond.

5 A. Hello. Good morning.

6 2 Q. Have you ever been examined
7 before?

8 A. I -- my one experience in court
9 was Small Claims Court --

10 3 Q. Okay.

11 A. -- and that has been it. Was I
12 examined? I guess I was.

13 4 Q. Okay. So this woman has to
14 capture everything that you and I and the lawyers
15 say.

16 A. Mm-hmm.

17 5 Q. And so the first tip I want to
18 give you is, you have to give audible responses.

19 A. Mm-hmm. Right.

20 6 Q. Not mm-hmms.

21 A. Hm-hmm, like that.

22 7 Q. So don't do that, because she
23 can't tell whether that's an affirmative or
24 negative response, okay?

25 A. I understand.

1 8 Q. So please give audible responses
2 to the questions.

3 The second thing that will keep us on
4 the right side of the reporter is if you wait 'til
5 the end of my question before you answer because
6 the transcript has got to reflect a complete
7 question and then a complete answer. So even
8 though you may be dying to answer my question, just
9 wait until I finish it before you answer, okay?

10 A. Understood.

11 9 Q. All right. And lastly, you are
12 somewhat soft spoken, so I'm going to ask you to
13 keep your voice up, okay?

14 A. Yes.

15 10 Q. Mr. Drummond, you understand that
16 you are here today pursuant to a Summons to
17 Witness?

18 A. Yes, I do.

19 11 Q. And were you served personally
20 with the summons?

21 A. Yes, I was.

22 12 Q. Do you recall approximately when
23 that was?

24 A. It was summer. I don't remember
25 exactly when.

1 13 Q. Okay. And when you received the
2 summons, did you know what it was about?

3 A. Vaguely.

4 14 Q. Okay. Did you know it was about a
5 lawsuit?

6 A. Yes.

7 15 Q. Were you given advance notice by
8 anyone on behalf of Ontario that you might be
9 receiving --

10 A. Yes, I did.

11 16 Q. See, you didn't wait for the end
12 of my question there. So I know that you probably
13 think faster than I do, and so you know what I'm
14 going to ask you sometimes, but please just wait
15 for the question. Otherwise, our reporter is going
16 to get --

17 A. Mm-hmm.

18 17 Q. -- cross with us, okay? So the
19 question I asked you is, were you aware in advance
20 of receiving the summons that you were going to
21 receive a summons?

22 A. Yes, I was aware in advance.

23 18 Q. Okay. And I take it you were
24 aware in advance because at some point in February
25 or March you were given a heads-up by the Crown

1 that you were likely to be summonsed; correct?

2 A. I can't vouch exactly if that was
3 in February or March. I can't say that that's
4 wrong, but yes, it was earlier in 2017. That might
5 be right.

6 19 Q. Okay. And was it explained to you
7 why you were going to be summonsed?

8 A. Only that it was dealing obviously
9 with my Commission Report, which is my only
10 tangential -- my only dealing with this issue as
11 tangential as it might be. So yes, I clearly
12 understood it had something to do with the
13 Commission Report.

14 20 Q. Okay. And when you say "this
15 issue", I take it that you are referring to the
16 lawsuit on behalf of the breeders against Ontario
17 and OLG?

18 A. Yes, that is what I'm referring
19 to.

20 21 Q. And do you consider your report to
21 be tangential to the lawsuit between the breeders
22 and Ontario and OLG?

23 A. Yes. Very much tangential.

24 22 Q. All right. Why do you consider it
25 tangential?

1 A. The recommendations dealing with
2 this issue are very atypical of the 366
3 recommendations. In almost every case, they're
4 very precise, and they're very action oriented, and
5 this one is not, and it stands out in that regard.
6 It says to do an evaluation of the arrangement. It
7 does not say to end the arrangement or to change it
8 in some particular fashion. So it didn't
9 automatically, by itself, lead to an action,
10 whereas the others were intended to lead to a
11 specific action.

12 23 Q. Fair enough.

13 And you reference the recommendation
14 that an evaluation be done, right?

15 A. Right.

16 24 Q. And I presume you chose that word
17 carefully?

18 A. Yes, very carefully, because I
19 thought there were some issues here that we -- I
20 can go into the rationale why we didn't deal with
21 them more extensively, but there was issues here
22 that we did not deal with in their entirety in the
23 Commission Report that I thought should be looked
24 into.

25 25 Q. Okay. And before we talk about

1 those issues, sir, you agree that you used the word
2 "evaluation" carefully.

3 What kind of evaluation did you expect
4 would be undertaken in response to your
5 recommendation that an evaluation be done?

6 A. Well, first of all, I have to
7 emphasize that I had never viewed this in the
8 context of the specific recommendation that you're
9 talking about. It was a broader context of OLG,
10 and in my perspective, OLG was not maximizing their
11 net revenue, were far from maximizing their net
12 revenue on a host of issues.

13 26 Q. Okay. I'm going to just pause you
14 there.

15 When you say "this specific
16 recommendation", do you mean the re-evaluation of
17 the revenue share between OLG and the horse racing
18 industry?

19 A. Yes, I mean that specific
20 recommendation, but that was, in my mind -- at
21 least what I was trying to do was put that in a
22 broader context.

23 27 Q. Okay.

24 A. I don't know if you want to -- I
25 said why this was atypical and why we didn't deal

1 with it.

2 28 Q. Yes, but just -- go ahead.

3 A. If you want me to --

4 29 Q. Yes, I do.

5 A. Just because it's context. So,
6 the mandate for the Commission, which is public
7 record from the government, was not to look at
8 revenues, it was solely to look at spending, and I
9 twisted that to some degree, and I decided -- and
10 the government didn't say no -- that that meant
11 don't look at tax revenues, but I decided it was
12 legitimate in my case to look at non-tax revenues,
13 which OLG and other government business
14 enterprises.

15 So, first of all, so we were already in
16 a context that it wasn't quite clear we were
17 supposed to even deal with the government business
18 enterprise as opposed to the straight spending, but
19 we were there, but it may have been one of the
20 reasons why we didn't spend as much time on this
21 area as we did otherwise.

22 So I was thinking -- well, again, my
23 mandate was to eliminate the deficit. We were
24 looking for lower expenditures or higher non-tax
25 revenues, and I looked at the OLG from that

1 perspective.

2 It seemed that they were doing things
3 on the revenue side and the spending side that were
4 far from maximizing their net revenues. They had
5 two headquarters for no apparent reason, two
6 casinos in Niagara, paying for on-the-spot lottery
7 terminals. I thought that they probably didn't
8 need to do that.

9 And then looking at this arrangement
10 with the revenues they're getting from the slots,
11 and of course, paying back a substantial portion of
12 that, and I just wondered, 'Can you not get more
13 money out of this,' keeping in mind I was never
14 trying to suggest that their sole goal should be
15 raising the maximum amount of revenue.

16 Keep in mind, too, one of my three
17 Commissioners was the Senior Vice-President of
18 CAMH, the Centre For Addition and Mental Health, so
19 we were hardly in a mindset that we just wanted to
20 turn everybody in Ontario into a gambler.

21 So there was limits on what we wanted
22 to do, but a view that they needed to look at all
23 of their operations to see if they could not raise
24 their contribution, their dividend payment, in a
25 sense, to the Ontario Government.

1 30 Q. Okay. And so, when you were
2 careful to recommend that there be an evaluation of
3 the revenue share from Slots at Racetrack Program,
4 what was your expectation about the manner in which
5 that evaluation would be conducted?

6 A. I would have hoped that one of the
7 things they would have looked at is, is this, at
8 the physical location of racetracks, where you want
9 to have the bulk of their gambling activities?
10 They tend to be obviously in rural locations. They
11 draw different people.

12 One of the things that struck me in the
13 consultation with the OLG officials, I asked them a
14 question of what was the correlation between people
15 who came to watch the horses and the people who did
16 gambling, and they said -- although they didn't
17 give me very precise information on this and one of
18 the reasons why I wasn't more pointed in the
19 recommendations, that there was not that great a
20 correlation and that sort of made me think about,
21 Well, are you really locating your gambling
22 facilities in the right place, should they not be
23 more downtown, should they not be more connected
24 with hotels, but again, I didn't have all the
25 background information I needed, but I had a sense

1 that the model wasn't really an optimal model for
2 their perspective, and then on top of that, they're
3 giving back a fair amount of the revenue they're
4 getting, which itself is not optimal.

5 31 Q. It's not optimal in terms of
6 maximizing the revenue to OLG and, therefore, the
7 dividend to the government; correct?

8 A. That was -- again, and my mandate
9 was very singular, was to help the government get
10 rid of its deficit. I was obviously looking at the
11 perspective how can the OLG increase its net
12 revenue.

13 --- (Court reporter appeals.)

14 THE WITNESS: Yeah, sure.

15 How can the...

16 MS. MACHADO: ...government increase
17 its net revenue.

18 THE WITNESS: Yeah. How can the OLG
19 increase its net revenue and that contribute to the
20 government's objectives of eliminating its deficit.

21 BY MR. LISUS:

22 32 Q. Okay. And I take it that you
23 understood, when you authored your report, that the
24 Slots at Racetrack revenue share had been in place
25 since 1998, or did you not understand that?

1 A. Umm. I may answer this on
2 different occasions as, keep in mind, this was
3 2012. That's six years ago.

4 Do I know that, sitting here today, it
5 was 1998? No.

6 Did I know that in 2012 and have
7 forgotten? I don't know.

8 33 Q. Okay.

9 A. I knew it had been in place for
10 awhile. Whether it was 1998, I don't know.

11 I didn't have any particular reason to
12 know that, so I don't know whether I knew that at
13 that time or not.

14 34 Q. Okay. But you -- leaving aside a
15 particular year for the inception of the revenue
16 share, you were aware in 2012 that the revenue
17 share had been in place for a number of years, is
18 that fair?

19 A. Yes. I was aware it had been in
20 place for a number of years.

21 35 Q. And I take it you would have
22 understood that the horse racing industry had been
23 receiving a portion of the revenue generated by the
24 slot machines at racetracks for a number of years,
25 right?

1 A. Yes, I was aware of that.

2 36 Q. And I presume you were also aware
3 that the Slots at Racetrack Program and the sharing
4 of revenue had been referred to in each provincial
5 budget since the inception of the program?

6 A. Sounds logical, but do I know
7 that? I don't know.

8 37 Q. Okay.

9 A. I didn't look at that in the
10 budgets. I certainly didn't look at budgets back
11 to 1998 for that. I had no need to.

12 38 Q. My only point being, sir, that --
13 and it's not a criticism or a challenge, is that
14 you were aware in 2012 that the revenue share had
15 been in place for a number of years, yes?

16 A. Yes.

17 39 Q. And that the revenue that was
18 shared with the horse racing industry had been
19 shared with it for a number of years?

20 A. I was aware of that.

21 40 Q. And that if it there was a
22 termination of that revenue stream, there would be
23 impacts on the horse racing industry. You were
24 generally aware of that?

25 A. Yes, of course, I was aware of

1 that. Yes.

2 41 Q. But you -- it was not any part of
3 your mandate to evaluate the impacts of the
4 termination of the revenue share on the horse
5 racing industry; correct?

6 A. Not directly. My mandate was
7 singular, to eliminate the deficit, but certainly,
8 I was advised to do that in a fashion that's -- if
9 it was going to have damage on the economy in
10 general, not specific industry, in general, to,
11 minimize that.

12 I wasn't supposed to just come and
13 slash and burn everything so...

14 42 Q. Well, I don't see anywhere in your
15 report any kind of recommendation as to whether the
16 revenue share should be maintained, reduced,
17 advanced, continued; correct?

18 A. No, because I was interested in
19 the bigger picture. My bigger picture was the
20 overall net revenue of the OLG.

21 43 Q. Right.

22 A. And that may or may not have
23 involved something to do with the racetracks and
24 the slots.

25 44 Q. All right. My only point, sir,

1 and I think we are in agreement on this, is that it
2 didn't form any part of your focus to make a
3 recommendation about whether that revenue share
4 should be discontinued or maintained?

5 A. I wanted to evaluate it, but I --
6 I mean, I was looking at -- again, I was not very
7 leading, and that's why I say, this is atypical of
8 the other recommendations. The others were highly
9 leading, this one was not.

10 45 Q. Right, and the reason you wanted
11 an evaluation and the recommendation was not highly
12 leading is because you had not, yourself, evaluated
13 what the impact on the horse racing industry would
14 be of a termination of the revenue share?

15 You hadn't done that, right?

16 A. I'll have to quibble a little bit
17 the way you worded that, because you said I hadn't
18 evaluated the impact on the horse racing industry.
19 Again, that was not my mandate. I would think of
20 that, but again, my mandate was to get rid of the
21 deficit. I had not evaluated what the total impact
22 might have been on reducing the deficit because
23 anything --

24 46 Q. On reducing the deficit?

25 A. On eliminating the deficit. That

1 was my mandate. My mandate was not the impact on
2 the horse racing industry, but I wanted this to be
3 one part of quite a bigger approach and change on
4 the OLG, but I had not evaluated all the pieces of
5 that.

6 47 Q. Right, and specifically, you had
7 not evaluated what the impact would be on
8 racetracks if the revenue share was terminated,
9 right?

10 A. No, I did not evaluate that.

11 48 Q. You did not evaluate what the
12 impact would be on Standardbred horse breeders if
13 the revenue share was terminated?

14 A. I did not evaluate that.

15 49 Q. You did not evaluate what the
16 impact would be on employment in rural Ontario if
17 the revenue share was terminated?

18 A. I did not.

19 50 Q. You did not evaluate what the
20 impact would be on horses in the province if the
21 revenue share was terminated?

22 A. I did not.

23 51 Q. And that wasn't any part of your
24 mandate, right?

25 A. That wasn't my mandate, but again,

1 I was not recommending to terminate the program, so
2 why would I have evaluated that?

3 52 Q. All right. When you use the word
4 "evaluation", you expected that those impacts that
5 I just referred to would be evaluated before any
6 decision was made about termination; fair?

7 A. But in a broader context. It
8 would be evaluated in a broader context, that,
9 perhaps, you would move the location of the
10 gambling. You wouldn't have the slots necessarily
11 even connected with a racetrack. As a possibility,
12 that would have been something I would have wanted
13 to think through.

14 53 Q. I understand. My question though
15 was: When you recommended that the government
16 evaluate the revenue share with the horse racing
17 industry, it was your expectation that an
18 evaluation would occur before there was any action,
19 right?

20 A. Yes.

21 54 Q. And it was also your expectation
22 that that evaluation would examine the impact of a
23 cancellation of the revenue share on breeders, for
24 example?

25 A. Well, I think I have to be very

1 careful here because I have to stick with what I
2 said in 2012, and I did not say that in 2012.

3 55 Q. Did not say what?

4 A. I said a value-for-money
5 evaluation. I did not say it was an evaluation for
6 all these other side impacts.

7 56 Q. I understand, because that wasn't
8 any part --

9 A. It wasn't part of my mandate.

10 57 Q. Right.

11 A. So you're asking me would I have
12 expected them do this and that, but that wasn't
13 part of my mandate. That's not what I said in my
14 recommendation.

15 58 Q. Okay. You did --

16 A. I was kind of straight dollars and
17 cents, but that was my mandate.

18 59 Q. Okay. So your mandate did not
19 include, I think we have agreed, an evaluation of
20 any of the impacts of a termination of the revenue
21 share, right?

22 A. No, it did not.

23 60 Q. I am correct, right?

24 A. You are correct.

25 61 Q. All right. You're from Victoria?

1 A. Mm-hmm. Yes, I'm from Victoria.

2 62 Q. Yes. Have you had any exposure to
3 the horse racing industry?

4 A. Funny you should mention that. I
5 came down here with a taxi today because I can't
6 drive, and the guy drove by the racetrack, and I
7 asked him if he had ever been to one, and he said
8 he hadn't been to one, and I said, Oh, me neither.
9 So, yes, I'm aware there's a racetrack in Victoria.
10 I've never been to one. I've never been to one
11 here either.

12 63 Q. All right, and I presume you have
13 never been to a breeding farm?

14 A. That's not quite true. My
15 daughter is a veterinarian technician, and she did
16 an internship with a veterinarian who was connected
17 with Woodbine, and I have been there.

18 64 Q. Where did she train?

19 A. She did this at Kemptville
20 College.

21 65 Q. She did...

22 A. Kemptville College.

23 66 Q. Kemptville College?

24 A. Yes.

25 67 Q. Okay. Have you ever been to the

1 veterinary college in Guelph?

2 A. No, I have not.

3 68 Q. Have you ever spoken with anyone
4 from Equine Guelph?

5 A. No, I don't even know what that
6 is.

7 69 Q. Okay. Did you consult with the
8 veterinary college in Guelph when you were
9 composing your report?

10 A. I did not.

11 70 Q. Did you speak with Equine Guelph?

12 A. I did not.

13 71 Q. Did you consult with OMAFRA when
14 you were composing?

15 A. I did not.

16 72 Q. Again, I'm just going to ask you
17 to wait for my question.

18 A. Okay.

19 73 Q. I know you're probably one step
20 ahead of me, but if we're going to have a coherent
21 transcript, just bear with me.

22 You did not consult with OMAFRA?

23 A. I did not.

24 74 Q. All right. Do you know -- did you
25 know in 2012 what OHRIA is?

1 A. I did not.

2 75 Q. Okay. Do you know today what
3 OHRIA is?

4 A. Not beyond an extremely vague
5 level.

6 76 Q. Okay. What is your -- today, you
7 have a vague understanding of it, is that right?

8 A. It would be extremely vague.

9 77 Q. Okay. What is your understanding?

10 A. It's the association that
11 represents the interests in this racing business.

12 78 Q. Okay.

13 A. Beyond that, I don't know.

14 79 Q. Did you -- so I can presume from
15 your answer, sir, that you didn't consult with
16 anyone from OHRIA when you composed your report?

17 A. I did not.

18 80 Q. Did you consult with any racetrack
19 owners when you composed your report?

20 A. I did not.

21 81 Q. Did you consult with any breeding
22 associations when you composed your report?

23 A. I did not.

24 82 Q. Did you consult with the Ministry
25 of Colleges, Trade and University when you composed

1 your report?

2 A. On other issues, not on this
3 issue.

4 83 Q. This issue being the revenue share
5 between OLG and the horse racing industries?

6 A. Yes, my dealings with them were
7 strictly on post-secondary education matters.

8 84 Q. Okay. Were you aware in 2012 who
9 the regulator of the horse racing industry was?

10 A. I was not.

11 85 Q. Okay. Do you now understand it to
12 be the Ontario Racing Commission?

13 A. Again, I know that as a fact, but
14 beyond that, I don't know, have any knowledge of
15 it.

16 86 Q. I presume you did not consult with
17 the Ontario Racing Commission about the Slots at
18 Racetrack Program?

19 A. I did not.

20 87 Q. Do you know a chap, who I think is
21 a faculty colleague of yours or, perhaps, was,
22 Mr. Sadinsky?

23 A. I do not.

24 88 Q. Okay. You don't know that name?

25 A. No.

1 89 Q. Okay. and I presume you haven't
2 read the 2008 Sadinsky Report?

3 A. I'm not sure what that is.

4 90 Q. Okay.

5 A. Maybe if I'm aware of it. I don't
6 know it by that name.

7 91 Q. Okay. It didn't form any part of
8 your work in composing the report that you wrote?

9 A. I don't believe so.

10 92 Q. Okay. And did you consult with
11 any breeding associations in the course of -- in
12 the course of and for the purpose of preparing your
13 report?

14 A. I did not.

15 93 Q. Okay.

16 MR. LISUS: And before we forget, I'm
17 going to mark a clean copy of the Commission on the
18 Reform of Ontario Public Services report, referred
19 to in the vernacular as the Drummond Report, as
20 Exhibit 1 on the examination.

21 MR. MATTHEWS: Mark the whole thing?

22 MR. LISUS: Why not.

23 MR. MATTHEWS: All right.

24 ---EXHIBIT NO. 1: Drummond Report.

25 MR. LISUS: And I should also, while

1 I'm marking exhibits, I'm reminded by the reporter
2 because I referred to it, thank you, to mark your
3 Summons to Witness as Exhibit 2.

4 ---EXHIBIT NO. 2: Summons to Witness
5 issued to Don Drummond.

6 BY MR. LISUS:

7 94 Q. CRE 35030. Mr. Drummond, this is
8 a document that I got from Ontario. I couldn't
9 read it, so I had it blown up.

10 A. Oh, okay. That does look
11 familiar.

12 95 Q. Okay. What is it?

13 A. So --

14 MR. LISUS: And just before you go on,
15 so I don't forget, this is Exhibit 3.

16 ---EXHIBIT NO. 3: CRE 35030.

17 BY MR. LISUS:

18 96 Q. Yes. Go ahead, sir.

19 A. So the top lines are projections
20 of where government spending would go, because that
21 was our preoccupation.

22 97 Q. Just before you explain the
23 contents of it, are you able to tell me
24 directionally what this is?

25 A. Well, it's two things. It has a

1 portion of the government spending, but it also has
2 a portion -- and I don't know if it's all here in
3 the other pages, but it has a portion of the
4 recommendations, and the word "evergreen" was quite
5 deliberate. The way we worked -- I mean, this
6 report ended up -- it's almost 600 pages, but the
7 way we worked was starting on the recommendations,
8 and we changed them -- I won't say constantly, but
9 we changed them frequently as we thought about
10 things more, and we talked to other people, we did
11 more research, and hence, these are called
12 evergreen because they were changing.

13 98 Q. I see.

14 A. So they were green at some point.

15 So if you have a copy that's called
16 evergreen, I'm assuming that this is a snapshot of
17 how the recommendations stood at some particular
18 date, and the date is not here, but they're quite
19 likely not the final recommendations.

20 99 Q. Got it. And so if I describe
21 Exhibit 3 as a live, working document which
22 recorded the recommendations of your Commission as
23 they evolved over the term of its mandate, would
24 that be a fair description?

25 A. Yes, it would be.

1 100 Q. So that the contents of Exhibit 3
2 eventually found their way into the final
3 recommendations in Exhibit 1, is that fair?

4 A. That's right. And the only reason
5 I was flipping through this is because I don't know
6 at what vintage the date this is.

7 101 Q. Right.

8 A. But there were two forms of these
9 that we changed modus operandi at some point.

10 102 Q. So that this particular version
11 came to us attached to an e-mail sequence that
12 ranges from November 7 to November 10, 2011.

13 A. Okay.

14 MS. MACHADO: Perhaps, can Mr. Drummond
15 just look--

16 MR. LISUS: Sure.

17 MS. MACHADO: --at the e-mail chain?

18 --- (Witness reviewing document.)

19 MS. MACHADO: And the e-mail, for
20 record's purposes, is CRE 35029.

21 MR. LISUS: Thank you.

22 BY MR. LISUS:

23 103 Q. Now, if I look at Exhibit 3,
24 Mr. Drummond, can I learn from it what the focus or
25 scope of the government ministries that you looked

1 at?

2 Is that a correct way of describing it?

3 A. Yes, yes.

4 104 Q. Okay. It's a... The scope of
5 your task was huge.

6 A. It was every single cent that the
7 government spends, so it's immense; over a hundred
8 billion dollars. And then I added all of the
9 non-tax revenues on top of that, plus we had to do
10 all the projections because we didn't necessarily
11 accept the government's projections. We had to do
12 all the economic and the fiscal projections as
13 well.

14 105 Q. And when you say "we", who do you
15 mean?

16 A. Well, I always use the collective
17 of the four Commissioners. You said it's got known
18 as the "Drummond Report", but that's obviously
19 unfair to the other three people, the three others
20 that did this work with me.

21 106 Q. Right. but you must have had a
22 staff?

23 A. There was a secretariat that was
24 given to me, and I was -- I did not pick them.

25 The only person I picked was somebody

1 to help with the writing, and that was Bruce
2 Little, the former journalist from the Globe and
3 Mail. So I, in a sense, handpicked him.

4 The others were -- well, the lead of it
5 was appointed by the Ontario Government and then
6 they had a competition, so people who were
7 interested, and they tended to be younger policy
8 analysts in the various different ministries, could
9 compete for these positions, and that formed what
10 was initially a four-person secretariat. And near
11 the end, it ended up as seven people on the
12 secretariat, plus Bruce Little, plus the four
13 Commissioners.

14 107 Q. Okay. And the members of the
15 secretariat were from which Ministry; Finance?

16 A. No. There were -- the competition
17 was open for the entire government and, in fact,
18 none of them were from the Department of Finance.
19 In fact, none were even from the Treasury Board.

20 The lead of it had just won a
21 competition to be the Assistant Deputy Minister of
22 Transportation, but he had come from the Cabinet
23 Office.

24 The others; they came from scattered
25 Ministries throughout the Ontario Government.

1 108 Q. And so can you just describe to me
2 in general terms how you went about composing and
3 finalizing the report within the 12-month period
4 that you were given?

5 It was 12 months, right?

6 A. And on a piece of paper, it looks
7 like 12 months, but no sooner did we start, the
8 government called an election and we ran into an
9 immediate problem that virtually nobody, including
10 everybody on the political side did not want to
11 talk to us during an election period.

12 So we got to a slow -- well, it wasn't
13 even really a slow start. It almost got delayed.

14 So, yes, we were there for 12 months.
15 Yes, it appears the Commission was there, but the
16 bulk of the work was done in the final six months.

17 109 Q. That's --

18 A. The underground work, like these
19 projections of the economy and the fiscal was all
20 done during that election period because we really
21 didn't need -- certainly didn't need to speak to
22 anybody in the political side, but the bulk of the
23 work really didn't get going until after the
24 election was out of the way.

25 110 Q. And so we are talking here about

1 the October --

2 A. That's --

3 111 Q. -- 2011 election?

4 A. That's right. So can you see why
5 it was quite a concentrated period once that got
6 out of the way?

7 112 Q. Right. And so the report was
8 signed and delivered to government, correct me if
9 I'm wrong, January 25, 2012? Is that --

10 A. For some reason, February sticks
11 in my mind, but if it was January 25th, it's
12 January 25th.

13 113 Q. Okay. My information -- and this
14 is empirical, but I will see if it refreshes your
15 memory, is it was released -- or given to the
16 government January 25 and publicly released
17 February--

18 A. Oh, okay.

19 114 Q. --15. Does that --

20 A. To clarify, when you were
21 describing, I was thinking the public release as
22 opposed to -- I mean, yes, once it was given to the
23 government, then it went to a typesetting and it
24 went to a translation operation, so there were a
25 few weeks of delay before it was publicly released.

1 115 Q. Okay. And when you say that you
2 couldn't really meet or speak with people in
3 government until after the election, I presume that
4 means you were able to start speaking to
5 representatives of various ministries at some point
6 in late October or November --

7 A. Oh -- so I'm sorry, I didn't --
8 I'll wait until you finish.

9 I don't want to -- maybe I exaggerated
10 it too much. It's not like we sat around and did
11 nothing until October.

12 116 Q. No, you were doing a lot of
13 background analysis.

14 A. And we did speak to officials in
15 ministries, but even then, there seemed to be some
16 kind of hesitation to be that forthcoming, and
17 there was a reasonable expectation that the
18 government that appointed us was not going to get
19 elected. That wasn't our business to speculate on
20 that, but I think that was in the mind of some of
21 the people.

22 So -- but we did and, you know, I had
23 consultation with the Ontario Hospital Association
24 and all those other groups before the election so
25 it wasn't -- I don't want to portray it that we did

1 all of the work post-October, but it certainly
2 ramped up seriously after that.

3 117 Q. Okay. I think that I have
4 understood your evidence to be that you did meet
5 with OLG?

6 A. I did meet with OLG, yes.

7 118 Q. Okay. And do you recall how many
8 times you met with OLG?

9 A. My recollection is just once, but
10 if I was told it was twice, I wouldn't be totally
11 shocked, but --

12 119 Q. No, I --

13 A. -- I remember it as once.

14 120 Q. Do you know Mr. Phillips?

15 A. Yes.

16 121 Q. Mr. Phillips has testified, I
17 think, that he met once with you.

18 A. Well, and that would square up
19 with my recollection.

20 122 Q. Do you recall how long you met
21 with him for?

22 A. I do not.

23 123 Q. Okay. I think he testified about
24 an hour or --

25 A. If I had to pick a number from my

1 vague recollection, that would have been about
2 right.

3 124 Q. Okay. And just -- and do you
4 recall generally when that was? Was it in the fall
5 of 2011, after the election?

6 A. Whether it was before or after, I
7 don't recall. I think it was in the fall.

8 125 Q. Okay.

9 A. Whether it was just before or just
10 after, I don't remember.

11 126 Q. Did you meet with Mr. Godfrey?

12 A. I think he was there.

13 127 Q. At the meeting?

14 A. I think he was there, yeah.

15 128 Q. Okay. Did you make any notes of
16 that meeting?

17 A. Did I personally? No.

18 129 Q. Okay.

19 A. I don't tend to be a note person,
20 so I didn't.

21 130 Q. I'm hearing that a lot in these
22 examinations.

23 Was there someone from the secretariat
24 with you?

25 A. Yes. Always, there was.

1 131 Q. And did they always take notes?

2 A. Yes. Yes, they did.

3 132 Q. Do you recall who that was?

4 A. Who came with me? I do not
5 recall. It was -- most of them, it would have been
6 Scott Thompson, who was the head of the Commission,
7 and probably Craig Fowler, but I'm guessing because
8 that was the lineup on most of the cases.

9 133 Q. Ms. Machado, if those two
10 gentlemen are still employed by the OPS, would you
11 please ask them if they have notes of the meeting
12 between Mr. Drummond and Mr. Phillips and Godfrey?

13 U/A MS. MACHADO: I'll take that under
14 advisement.

15 BY MR. LISUS:

16 134 Q. Do you recall what you discussed?

17 A. Yes. This whole environment that
18 the net contribution that the OLG sent to the
19 government and whether that could be increased, and
20 yeah, we got right into why do you have two
21 headquarters, and why do you have one in Sault
22 Ste. Marie and why do you have two casinos in
23 Niagara, and one of them is kind of empty, and yes,
24 we did discuss the slot machines, and we did
25 discuss -- well, as I said, I posed the question

1 about are we really talking about the people that
2 are watching the horses, are they gamblers,
3 themselves, are they going in and gambling
4 afterwards -- and this is -- as I say, I got a kind
5 of a vague answer that that wasn't a high
6 correlation, that intrigued me, but we didn't
7 pursue it at the time further than that.

8 135 Q. Okay.

9 A. But we also talked about, you
10 know, does it make sense to locate your main
11 gambling venues in downtown in conference centres
12 and hotels and the like.

13 136 Q. And did Mr. Phillips tell you that
14 OLG thought it did make sense to locate their slot
15 machines in hotels and conference centres in
16 downtown areas?

17 A. I don't recall him being specific
18 as saying the slot machines, but yes, it was --
19 seemed to me that they were contemplating a
20 different model in different locations, but I don't
21 think he said anything so specifically that it was
22 changing the slot machines.

23 137 Q. Okay. The reason I ask you that
24 is because I think there's reference in the
25 report -- and if you want, we can turn it up, but I

1 will give you the reference that:

2 "OLG would make much more money
3 if slots were permitted elsewhere,
4 as they should be."

5 A. I remember thinking that myself
6 when I wrote that.

7 138 Q. Okay.

8 A. I do not recall that they
9 indicated that that was something that they were
10 contemplating.

11 139 Q. Okay. And I presume what you were
12 thinking when you wrote that was that OLG would
13 make more money if it put slot machines, as you've
14 said, in downtown area hotels, conference centres,
15 et cetera?

16 A. That was my line of thinking, and
17 that was what I was probing them with, but I don't
18 recall them being very forthcoming with me of what
19 they were contemplating.

20 140 Q. Were you aware that OLG was in the
21 course of a strategic review of its land-based
22 gaming activities?

23 A. In general because they did tell
24 me that they were doing that.

25 141 Q. Did you get a copy of the working

1 report?

2 A. I do not recall that. I don't
3 remember receiving that.

4 142 Q. Did you get any information about
5 what recommendations OLG was going to make to
6 Finance about its land-based gaming review?

7 A. I don't recall them -- I don't
8 remember them being that forthcoming on that.

9 143 Q. Okay. And you don't remember
10 asking them?

11 A. Specifically about what the
12 recommendations they were going to be making? I
13 don't think I asked them that specifically.

14 144 Q. Okay. And with respect to slot --
15 relocating slot machines, did you understand in
16 2011 and 2012 that, for slot machines to be located
17 in cities, the affected municipalities would have
18 to agree to host them?

19 A. Yes.

20 145 Q. Did you know that?

21 A. I did understand that, yes.

22 146 Q. And did you understand that none
23 of the municipalities had yet voted on the issue?

24 A. I did understand that.

25 147 Q. And did you understand that OLG

1 had not yet prepared a business case for the
2 relocation of slot machines from racetracks into
3 cities?

4 A. I would not have been aware
5 whether they had done that or not.

6 148 Q. Okay. Did you know whether or not
7 OLG had engaged municipalities in a consultation
8 process with respect to relocating slot machines
9 from racetracks into cities?

10 A. I don't know. I don't know
11 whether they had or not.

12 149 Q. Okay. So although you understood
13 or believed, I should say, that OLG would make much
14 more money if slots were moved from racetracks into
15 cities, you understood that none of the steps
16 necessary to accomplish that had been undertaken,
17 in particular municipal approval or a business
18 case?

19 A. I just want to clarify --

20 MS. MACHADO: No, hold on.

21 THE WITNESS: -- because you used
22 believe. I had no basis to believe one way or
23 another. I was intrigued by the possibility. It
24 was something that if I had more time or if I were
25 them, I would explore.

1 BY MR. LISUS:

2 150 Q. Okay.

3 A. I thought it was a -- it was a
4 hypothesis. I don't think it was a belief
5 necessarily on my part. I did not have the
6 information at my disposal to form a belief around
7 that.

8 151 Q. Okay. So you had a hypothesis
9 based on a presumption that, if you put slot
10 machines closer to larger population centres, they
11 would generate more revenue for the Province, is
12 that fair?

13 A. Not just even population centres,
14 because a good portion of the people that go to the
15 facilities are tourists and visitors, so that's not
16 necessarily a population base, but they tend to be
17 staying and doing other activities in more of a
18 downtown area.

19 152 Q. Right. Conferences aren't held
20 out at the Hiawatha Racetrack in Sarnia, right?

21 A. I take your word for that. I
22 don't know that.

23 153 Q. Well, big conferences occur in big
24 conference centres in Toronto and Ottawa, right?

25 A. Right.

1 154 Q. Right, and so -- and I'm not
2 putting it any higher than a hypothesis of yours,
3 it was that if slot machines were located in urban
4 centres with higher populations which attracted
5 high-end conferences and more tourism, they would
6 generate more revenue for OLG and, therefore, a
7 greater dividend to the government, right? That
8 was the --

9 A. Yes. I have to register another
10 point of discomfort, because you're constantly
11 referring to slot machines. I was not obsessed
12 with slot machines. That was not my mandate. I
13 was thinking of a broader -- I'm just looking at
14 total gambling revenue. It may or may not have
15 from been slot machines. It may have slot machines
16 complemented with other gaming choices.

17 155 Q. Okay.

18 A. I was not delving into slot
19 machines per se.

20 156 Q. Right.

21 A. That really didn't fit my mandate.

22 157 Q. Okay. You did understand in 2012
23 that slot machines generated a lot of revenue for
24 the Province?

25 A. Yes, I did understand that.

1 158 Q. And did you know in 2012 how much
2 slot machines had generated for the Province since
3 their introduction into racetracks in 1998?

4 A. I would have had no idea. Again,
5 I -- you were the one that provided me the
6 information on 1998. I don't think I ever knew
7 that. I would have no reason to have gone back and
8 calculated that sum of money.

9 159 Q. Okay. You also, I presume, just
10 judging from your answer, Mr. Drummond, don't know
11 the reason why slots were first introduced into
12 racetracks in 1998?

13 A. I do not.

14 160 Q. And you, therefore, were not, in
15 2012, familiar with whether or not there was an
16 agreement between the Ontario Lottery Corporation
17 and OHRIA pursuant to which slots were introduced
18 into racetracks?

19 A. I have to kind of piecemeal that.
20 The agreement that led to the
21 introduction, I have no idea about, but there was
22 an agreement, yes, obviously, because there was a
23 transfer to the race operators and that obviously
24 was from an agreement so...

25 161 Q. Did you --

1 A. The origin, I don't know.

2 162 Q. Right. Now, you told me you
3 didn't speak with any racetrack operators in the
4 course of composing your report, right?

5 A. That's correct.

6 163 Q. I take it, therefore, that you
7 didn't review any of the agreements pursuant to
8 which -- let me rephrase that.

9 You didn't review any of the agreements
10 between racetrack operators and the Ontario Lottery
11 Corporation pursuant to which slots were introduced
12 into racetracks?

13 A. I did not.

14 164 Q. And you still have not?

15 A. I have not since.

16 165 Q. Are you aware how the slot
17 facilities at the racetracks were capitalized?

18 A. I am not.

19 166 Q. Are you aware who paid for that?

20 A. I am not.

21 167 Q. Are you aware how the investment
22 in their construction was recovered?

23 A. I do not know that.

24 168 Q. Are you aware how the revenue
25 generated from those slot machines was shared?

1 A. I am aware of the two elements
2 that -- and I think I had the amount of money at
3 that time, 347-million, if my memory serves me
4 right, that went back to the horse operators, and I
5 do not have the dollar amount, but I think 10 per
6 cent went to the municipalities. That's the extent
7 of my recollection of that issue.

8 169 Q. And I, therefore, presume,
9 Mr. Drummond, that you didn't have any knowledge
10 and still don't about how the funds generated from
11 the slot machines were actually managed in terms of
12 bank accounts or custody of those funds?

13 A. I would have had no idea of that.

14 170 Q. Okay. And you also weren't aware
15 of what the actual purpose, the stated purpose, of
16 the introduction of slot machines into racetracks
17 in 1998 was, correct?

18 A. I did not know that.

19 171 Q. And I take it you also were not
20 aware of what the respective responsibilities under
21 the siteholder agreements were of the Ontario
22 Lottery Corporation on the one hand and the
23 racetrack and the horsepeople on the other?

24 MS. MACHADO: Well, he has already
25 identified that he hasn't seen the agreements. He

1 knows generally that there was an agreement, so...

2 MR. LISUS: Well, that's why I'm
3 asking, because he says he knows generally there
4 was an agreement.

5 BY MR. LISUS:

6 172 Q. You weren't aware of what the
7 responsibilities of the various parties to this
8 general agreement were, right?

9 A. No.

10 173 Q. Okay. Were you aware, for
11 instance, that it was a contractual responsibility
12 of the horsepeople to enhance the success of the
13 lottery machine business described as the
14 prescribed lottery scheme at the racetracks?

15 MS. MACHADO: That's not fair question.
16 You're asking him that the breeders had a
17 contractual responsibility?

18 BY MR. LISUS:

19 174 Q. The horsepeople had a
20 responsibility to conduct horse racing activities
21 in a way designed to enhance the success of the
22 prescribed lottery scheme under the siteholder
23 agreements.

24 Are you aware of that?

25 A. I'm not aware of the agreement, so

1 therefore, I'm not aware of that.

2 175 Q. Okay. Fair enough.

3 And so I just want to understand how
4 you came to gain the understanding that you did
5 about the Slots at Racetrack Program, Mr. Drummond,
6 because you didn't speak to any racetrack
7 operators, right?

8 A. I did not.

9 176 Q. You didn't speak to any horse
10 racing industry associations?

11 A. I did not.

12 177 Q. You did not speak to any breeders?

13 A. I did not.

14 178 Q. You spoke about half an hour
15 about -- you spoke to an hour or half an hour, but
16 once only with Mr. Phillips and Mr. Godfrey, right?

17 A. Just for clarification, I think we
18 agreed the best guess from their side and my side
19 was an hour, not a half, and I don't -- half an
20 hour, I'm sure we talked longer than that.

21 179 Q. And in that meeting with
22 Mr. Phillips and Mr. Godfrey, you discussed a
23 number of aspects about OLG business, like its
24 headquarters and the other casinos and the
25 potential relocation of slot machines, right?

1 A. That's correct.

2 180 Q. But you did not discuss the
3 land-based gaming review?

4 A. We did not.

5 181 Q. You did not discuss --

6 A. To clarify that, I do not recall
7 that we discussed that, again, keeping in mind it
8 was one of 100 interviews six years ago. I do not
9 recall discussing that.

10 182 Q. Right. You do not recall the
11 land-based gaming review forming any part of your
12 thinking behind the composition of your comments in
13 your report about --

14 A. I do not. I believe it did not
15 form a basis of that.

16 183 Q. Right. And so -- and you didn't
17 speak to any breeder associations or breeders,
18 right?

19 A. No, I did not.

20 184 Q. And you didn't speak to OMAFRA?

21 A. I did not.

22 185 Q. You didn't speak to the Ministry
23 of Colleges, Trades and Universities?

24 A. These are the same questions you
25 just asked me five minutes ago.

1 186 Q. So where did you get your
2 information about the Slots at Racetrack Program
3 from?

4 A. The OLG.

5 187 Q. Just that one meeting?

6 A. That's right.

7 188 Q. Okay. Did you get information
8 about the Slots at Racetrack Program from the
9 Ministry of Finance?

10 A. Yes. So, for example, the
11 specific number is in there. Again, I think -- I
12 can check it, but I think it's 347-million. I was
13 given that by --

14 189 Q. Finance.

15 A. Well, it's a group within the
16 Department of Finance that serves the Minister and
17 has Treasury Board responsibilities, but it's
18 formally within the Ministry of Finance.

19 190 Q. Is that the gaming policy branch?

20 A. No, it wasn't the gaming policy
21 branch, no.

22 191 Q. Do you know what it was or who it
23 was?

24 A. I don't know what their official
25 title was, but there's a group of about 10 of them

1 within the Department of Finance, and they're
2 dedicated to serve the Minister of Finance in the
3 Minister of Finance's Treasury Board
4 responsibilities, and they have most of the program
5 detail information.

6 192 Q. If I mention some names, will you
7 remember them?

8 A. Of that group? No, I will draw a
9 blank on all of them.

10 193 Q. Okay. Was that group the Revenue
11 Agency Oversight Division?

12 A. No.

13 194 Q. No? All right. You don't recall
14 who they -- what the group's name was?

15 A. What their title is? I don't --

16 195 Q. All right.

17 A. I probably never knew, and I don't
18 think I ever had any direct interaction with them.
19 So, for example, that number 347 would have come
20 from them to somebody on my secretariat. That's
21 why I don't know their names.

22 196 Q. All right. And you or your --
23 neither you, nor anyone at your request, went back,
24 for instance, and looked at the annual reports of
25 OLG to see the data about the Slots at Revenue

1 Program from inception? Right?

2 A. If somebody on the secretariat did
3 it, that would have been a surprise to me.

4 197 Q. Okay.

5 A. I would presume they didn't.

6 198 Q. Okay. And you didn't?

7 A. I definitely didn't.

8 199 Q. And you didn't, nor anyone on your
9 behalf, go back to provincial budgets to see what
10 they said the purpose of the Slots At Revenue
11 Program (sic) was and how the revenue it generated
12 was put to use, right?

13 A. I didn't, and I doubt anyone else
14 did.

15 200 Q. Okay. And so I want to make sure
16 I'm capturing the extent of your knowledge about
17 the Slots at Racetrack Program.

18 It was based upon your meeting that you
19 had with Mr. Phillips and Mr. Godfrey and the
20 \$347-million number that was given to you by this
21 group in Finance?

22 A. That's correct.

23 201 Q. All right. Thank you. Would I be
24 correct to presume that you spoke with Minister
25 Duncan about your report while it was being

1 composed?

2 A. On several occasions.

3 202 Q. And did any of those discussions
4 involve the Slots at Racetrack Program?

5 A. I do not believe so, and I think
6 if it did, I would have recalled that, so I'm
7 pretty sure I can say no, but I certainly don't
8 remember discussing the racetracks or anything...
9 most likely, the two casinos and most likely the
10 two headquarters, but I don't recall anything
11 further with him on the OLG business.

12 203 Q. So just to make sure that I'm
13 capturing your evidence correctly, you think that
14 you most likely discussed the two casinos and the
15 two headquarters with Mr. Duncan?

16 A. Yes.

17 204 Q. And the content of that discussion
18 was: What's the economic justification for having
19 two underperforming casinos close to the border,
20 right?

21 A. One of them doing okay, the other
22 mostly empty.

23 205 Q. Okay. And what's the economic
24 justification for OLG having two headquarters,
25 right?

1 A. That's right.

2 206 Q. Are both those casinos still open
3 or was one -- or were they closed?

4 A. I think they're still open, but
5 again, I haven't been in casinos any more often
6 than the racetracks, so I don't know.

7 207 Q. And does OLG still have two
8 headquarters?

9 A. I do not know.

10 208 Q. You recommended that it did not,
11 or did you --

12 A. I recommended they should close
13 the second -- well, one of the two.

14 209 Q. Right. And did you recommend that
15 the two casinos be closed?

16 A. I recommended more specifically
17 the older one, which was in need of renovation, be
18 closed.

19 210 Q. Which one is that?

20 A. Well, there's two in Downtown
21 Niagara, and I only know them as the new one and
22 the old one, so I recommended the old one be
23 closed.

24 211 Q. And you don't know if it was or it
25 wasn't?

1 A. I don't know whether it is or not.

2 212 Q. Okay. Did you speak with
3 Mr. Duncan about the decision that was made to
4 cancel the revenue share in March 2012?

5 A. I did not.

6 213 Q. Did he ever speak to you?

7 A. No. He did not.

8 214 Q. Are you aware that your report was
9 one of the justifications cited for the
10 cancellation of the Slots at Racetrack Program?

11 A. I am aware of that.

12 215 Q. But that was not one of your
13 recommendations, right?

14 A. My recommendation, again, was to
15 evaluate it, but it was not leading to a particular
16 conclusion.

17 216 Q. Okay. Did you speak with
18 Mr. McGuinty about your report prior to its
19 completion and release?

20 A. Only in very general terms, though
21 a member of his staff was nominated to be the point
22 contact from the political side, if I could put it
23 that way.

24 217 Q. Do you know who that was?

25 A. Jamison Steeve, who is no longer

1 with the government. Well, he's with the Institute
2 for Competitiveness and Prosperity.

3 218 Q. You don't, perchance, know a chap
4 called Dave Gene, do you?

5 A. No.

6 219 Q. Barry Goodwin?

7 A. No.

8 220 Q. Tim Shorthill?

9 A. That name is familiar, but I'm not
10 sure why.

11 221 Q. Blair Stransky?

12 A. No.

13 222 Q. Tanya Watkins?

14 A. No.

15 223 Q. Elizabeth Yeigh?

16 A. No.

17 224 Q. Okay. Did you ever tell
18 Mr. Duncan that you thought that the revenue share
19 from Slots at Racetrack Program should be
20 cancelled?

21 A. I did not.

22 225 Q. Did you ever tell Mr. McGuinty
23 that you thought the revenue share at Slots at
24 Racetrack Program should be cancelled?

25 A. I did not.

1 226 Q. Did you ever tell anyone that you
2 thought the revenue share at Slots at Racetrack
3 Program should be cancelled?

4 A. I don't recall ever saying that,
5 no.

6 227 Q. And if you did say that, you would
7 recall it, right?

8 A. I would have thought I would have
9 recalled that, yes.

10 228 Q. Okay. Do you know John Wilkinson?

11 A. John Wilkinson. The name sounds
12 familiar but not coming to me.

13 229 Q. Okay. Do you know John Snobelen?

14 A. No.

15 230 Q. Do you know Elmer Buchanan?

16 A. No.

17 231 Q. Did you, in the course of
18 composing your report, sir, ever speak with
19 Mr. Stephen Orsini?

20 A. Oh, yes. Definitely.

21 232 Q. Did you ever speak with
22 Mr. Orsini about the Slots at Racetrack Program?

23 A. I don't recall speaking to him
24 about that.

25 233 Q. Okay. Did you ever recommend to

1 Mr. Orsini that the Slots at Racetrack Program
2 be -- the revenue share from the Slots at Racetrack
3 Program be cancelled?

4 A. I did not.

5 234 Q. Did you ever speak with Karim
6 Bardeesy?

7 A. I don't --

8 235 Q. Know the name?

9 A. I'm not sure who that is.

10 236 Q. Okay. Are you aware that after
11 the cancellation of the Slots at Racetrack Program,
12 the government struck a panel to evaluate the
13 consequences and make recommendations?

14 A. In, again, vague terms, I am aware
15 of that.

16 237 Q. Okay. Have you read the Interim
17 Report of that panel?

18 A. I have not.

19 238 Q. Have you read the Final Report?

20 A. I have not.

21 239 Q. Did you ever speak with Ted
22 McMeekin?

23 A. I'm not sure who that is.

24 240 Q. Ted McMeekin was the Minister of
25 Agriculture in 2012.

1 Did you ever speak with Ted McMeekin?

2 A. I did not.

3 241 Q. Okay. Did you speak at all with
4 Kathleen Wynne about you report in the course of
5 its composition and prior to its release?

6 A. No, I did not.

7 242 Q. Did you speak with Kathleen Wynne
8 about your report after its release?

9 A. I think on a couple of occasions
10 she has subsequently thanked me for doing it but
11 that was as far as any conversation went.

12 243 Q. Did you discuss anything with
13 respect to the Slots at Revenue Program with
14 Kathleen Wynne?

15 A. I did not.

16 244 Q. Do you know a fellow called Larry
17 Flynn?

18 A. No, I do not.

19 245 Q. You never spoke with anyone at OLG
20 by the name of Larry Flynn that you can recall?

21 A. That I can recall, but again, I
22 don't recall who exactly was there.

23 246 Q. Okay. In 2012, sir, were you
24 aware how many racehorses were active in Ontario?

25 A. I was not aware of that.

1 247 Q. Were you aware of what the
2 breakdown between the respective breeds was in
3 Ontario?

4 A. No, I was not aware of that.

5 248 Q. Were you aware of what the
6 gestation period for a horse is?

7 A. I should know that because my
8 daughter worked at an embryo transplant farm.

9 249 Q. Okay.

10 A. But I probably had known that and
11 forgotten it.

12 250 Q. Okay. Are you aware what the
13 production cycle is for a Standardbred horse from
14 the time a mare is bred to the time its offspring
15 is raced?

16 A. I am not.

17 251 Q. And you were not in 2012?

18 A. No.

19 252 Q. So you were not, therefore, aware
20 of how many years of time and effort and the
21 resources were expended before a horse reaches a
22 track?

23 A. Only vaguely through my daughter's
24 experiences.

25 253 Q. You had no idea in 2012 what the

1 size of breeders' investments in pregnant mares on
2 breeding farms was in 2012?

3 A. In total? No. As an individual,
4 again, from -- my daughter works at an embryo
5 transplant operation, I have a general idea.

6 254 Q. Well, you wouldn't have been aware
7 of what a breeder's investment in a mare or their
8 farm was from your daughter's work as a
9 veterinarian assistant, right?

10 A. No, I wouldn't.

11 255 Q. Okay. Were you aware in 2012 how
12 Standardbred horses were brought to market?

13 A. Only again generally through my
14 daughter's work.

15 256 Q. Okay. Your daughter didn't work
16 in Standardbred breeding, right?

17 A. No. Although there were --
18 Standardbred breeders were brought for the embryo
19 transplant.

20 257 Q. Were you aware that the manner in
21 which Slots at Racetrack Program was cancelled was
22 going to result in the euthanization of 13,000
23 horses?

24 MS. MACHADO: That's not a fact that is
25 in evidence, so it's not a fair question to put to

1 this witness.

2 MR. LISUS: Mr. Wilkinson testified
3 about this in detail just a couple of days ago.

4 MS. MACHADO: It's not a fair question
5 to ask this witness by putting a fact to him that's
6 not necessarily a fact in evidence.

7 BY MR. LISUS:

8 258 Q. Well, it is a fact in evidence.
9 Are you aware that the interim panel reported that
10 the manner in which Slots at Racetrack Program was
11 terminated would cause the euthanization of 13,000
12 horses? Did you know that?

13 MS. MACHADO: He has already said that
14 he did not read the Interim Report, Mr. Lisus.

15 MR. LISUS: Well, I will read it to
16 you.

17 MS. MACHADO: Well, he hasn't read it.
18 So asking him if he knows what's in the report, he
19 obviously doesn't know what's in the report. I
20 don't know why you're seeking this particular bit
21 of evidence or discussion from this individual.

22 BY MR. LISUS:

23 259 Q. I'm asking if you know that fact.
24 Do you know that fact, sir?

25 A. No.

1 260 Q. In 2012, after the government
2 cancelled the revenue share, you became aware of a
3 great deal of controversy about the impact of that
4 decision; correct?

5 A. As anybody else who reads the
6 newspapers, not because of any involvement in this.

7 261 Q. Okay. So the extent of your
8 knowledge of the -- the extent of your knowledge of
9 the consequences on the horse racing industry of
10 the decision to cancel the revenue share was
11 derived from reading newspapers, fair?

12 A. That's correct.

13 262 Q. All right. You, in fact, received
14 an e-mail from a breeder, didn't you, in 2012? Do
15 you remember that?

16 A. I do not remember that.

17 263 Q. Do you remember reading in
18 newspapers that horses were going to be euthanized?

19 A. I do remember that.

20 264 Q. Do you remember reading that
21 thousands of horses were going to be euthanized?

22 A. I do not remember the number.

23 265 Q. Do you remember reading that
24 thousands of jobs were going to be lost?

25 A. I do remember that.

1 266 Q. And I take it that you certainly
2 didn't expect or intend there to be horse
3 euthanizations or thousands of job losses based
4 upon your recommendation in your report.

5 Am I correct?

6 A. I have difficulty answering that
7 because expect or anticipated, I didn't recommend
8 it be cancelled, so I didn't think about that.

9 267 Q. Did it surprise you that the
10 decision to cancel was going to result in thousands
11 of job losses?

12 MS. MACHADO: Did it surprise you?

13 MR. LISUS: Yeah.

14 MS. MACHADO: How is that his
15 information, knowledge or belief, Mr. Lisus?

16 BY MR. LISUS:

17 268 Q. Were you surprised to hear it?

18 MS. MACHADO: That's not a fair
19 question, Mr. Lisus.

20 THE WITNESS: I don't have any basis to
21 answer that, was I surprised to hear it.

22 BY MR. LISUS:

23 269 Q. Well, what did your daughter tell
24 you about --

25 R/F MS. MACHADO: That's irrelevant, Mr.

1 Lisus.

2 THE WITNESS: That has nothing to do
3 with this.

4 BY MR. LISUS:

5 270 Q. I want to show you an e-mail
6 exchange.

7 MS. MACHADO: Thank you.

8 BY MR. LISUS:

9 271 Q. Read from the bottom up,
10 Mr. Drummond.

11 MS. MACHADO: Is there a number on
12 this?

13 MR. MATTHEWS: No.

14 MS. MACHADO: Where is this document
15 obtained from?

16 MR. MATTHEWS: From the source.

17 MS. MACHADO: So it's a new document in
18 the litigation?

19 MR. MATTHEWS: Yes.

20 MS. MACHADO: Do you have a copy for
21 Ms. Sinnadurai?

22 MR. MATTHEWS: She can make a photocopy
23 on the break, if you like.

24 MS. MACHADO: Well, she has not seen it
25 either, so...

1 MR. MATTHEWS: Okay.

2 BY MR. LISUS:

3 272 Q. Do you still have your
4 drummond@queensu.ca?

5 A. Well, this is interesting, because
6 it is addressed to drummond@queensu, which is not
7 my e-mail. So it is don.drummond@queensu.ca.

8 273 Q. It got to you because you
9 responded.

10 A. Well, it's indicating at that
11 particular time. I guess there wasn't any other
12 Drummonds in the university, but I have a Queen's
13 e-mail. It's don.drummond@queensu.ca.

14 274 Q. Did you get this e-mail and
15 respond to it?

16 MS. MACHADO: Just take a minute and
17 read it.

18 --- (Witness reviewing document.)

19 BY MR. LISUS:

20 275 Q. Just tell me when you have read
21 it. It seems to be consistent with what you're
22 telling me.

23 A. I don't have a recollection, but
24 it sounds like, given the context, a logical
25 response on my part.

1 276 Q. Okay. And that's accurate, your
2 response was accurate?

3 A. Yeah. It seems to be so.

4 MR. LISUS: Okay. So next exhibit.

5 ---EXHIBIT NO. 4: E-mail exchange, two
6 pages.

7 BY MR. LISUS:

8 277 Q. In 2012, did you know what the
9 Horse Improvement Program was?

10 A. I did not.

11 278 Q. Did you know what the Sire Stakes
12 Program was?

13 A. I did not.

14 279 Q. Did you know what the Ontario Sire
15 Stakes Program involved?

16 A. I did not.

17 280 Q. In 2012, did you know how many
18 U.S. mares were bred to stallions standing in
19 Ontario?

20 A. I do not.

21 281 Q. Those are Standardbred U.S. mares
22 I'm talking about. You have no idea?

23 A. I do not.

24 282 Q. In 2011 or 2012, did you know how
25 much was paid in stud fees to breed U.S.

1 Standardbred horses in -- to Ontario stallions,
2 with Ontario stallions?

3 A. I did not.

4 283 Q. Did you know there was a market
5 for breeding U.S. mares with Ontario stallions?

6 A. Again, only indirectly through my
7 daughter's business because they did have U.S.
8 horses there.

9 284 Q. It formed no part of your Drummond
10 Report review?

11 A. No.

12 285 Q. Did you know how much U.S.
13 residents paid for Ontario horses at public auction
14 in 2011?

15 A. I did not.

16 286 Q. Did you know, sir, in 2011, that
17 the majority of those invested in the horse racing
18 breeding industry are small business enterprises,
19 owner/operators with less than 10 employees?

20 A. I did not know that.

21 287 Q. Were you aware in 2011 what role
22 purses played in the horse racing industry?

23 A. I did not know that.

24 288 Q. Were you aware what the dollar
25 value of purses was in the horse racing industry in

1 2011?

2 A. I did not know that.

3 289 Q. Were you aware of the percentage
4 of purse money that came from SARP was?

5 A. I did not know that.

6 290 Q. And so I presume you weren't aware
7 of how much the purses at each of the 17 respective
8 tracks was composed of SARP revenue and how much
9 was composed of wagering revenue?

10 A. I did not know that.

11 291 Q. Did you speak with the Canadian
12 Pari-Mutuel Agency at all in your consultation?

13 A. I did not.

14 292 Q. And because you don't know what
15 the Horse Improvement Program is, you obviously
16 were not aware of what, if any, revenue for
17 Standardbred horses Horse Improvement Program came
18 from slots?

19 A. I did not know that.

20 293 Q. Did you know how many jobs,
21 full-time equivalents, the horse racing industry
22 supported in 2011?

23 A. I did not know that.

24 294 Q. It formed no part of your review?

25 A. No, it did not.

1 295 Q. In the fall of 2011, were you
2 aware that OLG had made recommendations to the
3 Ministry of Finance with respect to the maintenance
4 of funding to the horse racing industry if slots
5 were to be moved out of racetracks?

6 A. I was not aware of that.

7 296 Q. Did anyone at Finance tell you
8 that, in the fall of 2011 and early 2012, it was
9 actively engaged with OLG with respect to OLG's
10 land-based gaming review?

11 A. I do not recall any conversations
12 along that line.

13 297 Q. Did anyone at Finance or OLG tell
14 you that there was active discussions between them
15 about the -- about maintaining funds for the horse
16 racing industry if slots were taken out of
17 racetracks in order to implement OLG's
18 modernization strategy?

19 A. I don't recall any conversation
20 like that.

21 298 Q. And obviously, sir, you never took
22 any steps to measure the impact on employment
23 for -- that would follow from cancelling revenue
24 share of Slots at Racetrack Program?

25 A. I did not.

1 299 Q. You did not measure any of the
2 impacts on racetracks that would follow from
3 cancelling the revenue share from Slots at
4 Racetrack?

5 A. I did not.

6 300 Q. Did you have any understanding one
7 way or another in 2011-2012 whether the government
8 would cancel the revenue share Slots at
9 Racetrack -- the revenue share from Slots at
10 Racetrack Program?

11 A. Certainly as of when I deposited
12 the report or it was released, I did not have any
13 indication of what they were going to do on that --

14 301 Q. Okay.

15 A. -- or virtually any other
16 recommendation.

17 302 Q. Okay. And because you didn't have
18 any indication one way or another, you hadn't
19 thought about the impact of a cancellation of the
20 revenue share on employment or racetracks or
21 breeders or horses, right?

22 A. I had not.

23 MS. MACHADO: He answered the same
24 question four times, Mr. Lisus.

25 MR. LISUS: I just want to make sure I

1 got it right, Ms. Machado.

2 MS. MACHADO: Well...

3 BY MR. LISUS:

4 303 Q. Were you aware of the dollar
5 volume generated by Slots at Racetrack Program?

6 A. Only in general terms. Obviously
7 grossing up some multiple of the 347 so it gives a
8 ballpark, but do I recall? Maybe I knew. I don't
9 recall a dollar amount.

10 304 Q. So if you were told that the
11 revenue share with the horse racing industry was
12 going to be cancelled, would it have been
13 understood by you that all 17 racetracks would
14 cancel racetrack -- would cancel racing?

15 R/F MS. MACHADO: That's a hypothetical
16 question, Mr. Lisus. This witness isn't answering
17 it.

18 THE WITNESS: I can't answer that
19 because no one told me that.

20 BY MR. LISUS:

21 305 Q. Did you understand racetracks to
22 depend on the revenue share for their viability?
23 Did you understand that?

24 A. I'm not sure how to answer that.
25 They're giving back a portion of their revenue. I

1 don't really know how to answer that.

2 306 Q. Well, was the portion -- they're
3 giving back a portion --

4 A. Well, they're giving back to the
5 horse racers and the municipalities some portion of
6 their revenue. Whether that's integral to their
7 survival or not, I don't know.

8 307 Q. Okay. But you understood
9 generally that the way Slots at Racetrack Program
10 worked was that the government got 75 per cent of
11 the revenue --

12 A. Mm-hmm.

13 308 Q. -- from the machines?

14 A. Yes.

15 309 Q. And that the rest of the revenue
16 was shared in some proportion between the
17 racetrack, the horsepeople and the municipalities,
18 right?

19 A. Yes, I understood that.

20 310 Q. But are you telling me, sir, that
21 you didn't know whether the portion of the revenue
22 which the racetrack kept was critical to its
23 viability?

24 A. I wouldn't have known that.

25 311 Q. Okay. Did you know that, without

1 racing at racetracks, the breeding industry would
2 collapse?

3 A. I wouldn't have known that.

4 312 Q. Okay. You did know, however, that
5 the revenue that was generated at the racetracks
6 from the slot machines was shared with the horse
7 racing and the breeding industry, right?

8 A. I did know that, yes. (Nodding
9 head.)

10 313 Q. And had been for many years?

11 A. With a question mark how many
12 years. I did not know how many years.

13 314 Q. Okay. And I'm referring to page
14 57 of your report.

15 A. Oh, okay.

16 315 Q. The fourth paragraph.

17 A. Mm-hmm.

18 316 Q. You say:

19 "OLG would make much more money
20 if slots were permitted elsewhere as
21 they should be."

22 Right?

23 A. Yes, yes.

24 317 Q. Was that language that you chose
25 or language that was provided to you?

1 A. I would, at this point, have to
2 explain a bit of a background. Obviously, I did
3 not write every single word of a 566-page report.

4 318 Q. All right.

5 A. If you're asking me if I wrote
6 some particular word or not, I do not recall. I
7 take responsibility for the whole report. There
8 will be nothing in here that I would not have seen
9 and would not have approved, but did I originally
10 draft that? I don't remember.

11 319 Q. Okay. And that's fair, and I am
12 not -- I'm not criticizing you, Mr. Drummond. I
13 have seen many, many e-mails with language being
14 given to you by Finance, so this is not a trick
15 question.

16 I take it that, in the course of your
17 report, composing your report, language would be
18 composed for you and inserted in your report?

19 A. Clarification on "inserted".

20 Nothing went into -- automatically in
21 the report without me reviewing and approving it.
22 No one slipped something in this page that I wasn't
23 aware of.

24 320 Q. I'm not suggesting that happened.
25 My only suggestion, sir, is that

1 portions or sections or pieces - I'm not
2 attributing any significance to the
3 characterization - of your report were composed by
4 people, and you reviewed them, and if you were
5 okay, signed off on them.

6 A. That even doesn't quite sound
7 quite accurate to the process.

8 I don't think there's anything that
9 even was drafted somewhere else that I didn't
10 substantially alter.

11 Umm. I don't think there's any page or
12 certainly not any chapter, like I say, that was
13 written by this party, and I just looked at it and
14 stuck it into the report.

15 321 Q. All right.

16 A. Umm. It's varying degrees.
17 The health and the two education
18 chapters, I wrote almost exclusively.

19 Government business enterprises, less
20 so, but I did write substantial portions of it.

21 I don't think anything was just handed
22 to me and it got put in.

23 322 Q. Right. So the statement:

24 "OLG would make much more money
25 if slots were permitted elsewhere as

1 they should be."

2 Do you think that that's a statement
3 you made or it was given to you?

4 A. I don't know. As I read it here
5 today five years after the fact, it looks like
6 something I could well have written.

7 323 Q. All right.

8 A. It doesn't seem foreign to me.

9 324 Q. And you say that:

10 "OLG would make much more money
11 if slots were permitted elsewhere".

12 I want to pause there. I think that
13 you and I have agreed that, in order to move the
14 slots, they had to be -- you had to have municipal
15 approval.

16 A. Well, likely why the word
17 "permitted" appears there as opposed to saying if
18 they had slots elsewhere.

19 325 Q. Right. And there had to be a
20 business case for them to be moved?

21 A. I don't have the background on
22 that. I presume that would be the case. I don't
23 know.

24 326 Q. And there had to be a location for
25 them to be moved to?

1 A. Correct.

2 327 Q. And as of 2012, when you made that
3 comment, none of those factors were in place,
4 right?

5 A. They were being discussed. In
6 other words, Toronto, I recall quite vividly, was
7 contemplating having a casino in a more downtown
8 location, but I wasn't privy to any inside
9 information on that, but it was in the papers at
10 that time.

11 328 Q. All right. In commenting on the
12 Slots at Racetrack Program, you wanted to be fair
13 to all stakeholders, I take it?

14 A. That sounds like a logical
15 statement. I don't -- again, that's not really
16 what I was thinking about.

17 My mandate was to get rid of the
18 deficit. I obviously would want to do that in a
19 fair fashion, but it was about increasing the net
20 revenue. That was my overriding concern.

21 329 Q. So on page 316, you say:

22 "Over the past 12 years,
23 approximately 4-billion has flowed
24 through 17 racetracks to support
25 purses, racetrack capital

1 improvement and operating costs."

2 Right?

3 A. Yes.

4 330 Q. But it's fair to say, isn't it,
5 sir, that 75 per cent of that 4-billion went to the
6 Ontario Government?

7 A. I can't stand here today and tell
8 you whether that 4-billion is a net figure or a
9 gross figure. I don't know.

10 331 Q. Do we know if that's the... I
11 think you're correct, 4-billion has flowed through
12 to the industry.

13 How much had flowed through to the
14 Ontario Government of that?

15 A. Unless that's in a paragraph after
16 it, I will not know that.

17 332 Q. Well, my calculation is that, as
18 of 2012, 4.71-billion had gone to the industry,
19 which seems to be consistent with your statement,
20 but 15-billion had gone to the Ontario Government?

21 A. Yes.

22 333 Q. Right?

23 MS. MACHADO: He said that he doesn't
24 know, Mr. Lisus. If there's a document you want to
25 point him to that he might have seen at the time,

1 then, perhaps, that might be of assistance, but
2 otherwise, Mr. Drummond has said he doesn't know
3 what the figure was sitting here.

4 BY MR. LISUS:

5 334 Q. Well, let's just do it this way,
6 because I did a little arithmetic exercise from OLG
7 annual reports.

8 You and I have agreed that 75 per cent
9 of the slot revenue went to the government, right?

10 A. Yes.

11 335 Q. So 25 per cent went to industry
12 racetracks and municipalities?

13 A. Yes.

14 336 Q. Right?

15 A. Yes.

16 337 Q. So you're an economist. Are you
17 able to reverse engineer that at 4-billion?

18 A. Obviously, if the number is around
19 16-billion, 4 divided by 0.25, but --

20 338 Q. Right.

21 A. -- I'm doing that calculation here
22 today, not from my recollection of anything in
23 2012.

24 339 Q. So around 16-billion went to the
25 government, right?

1 A. Yes.

2 340 Q. Why don't you mention that in your
3 report?

4 A. I don't have any idea why I didn't
5 mention that in my report.

6 341 Q. Well, it's a pretty incomplete
7 picture of the revenue share, isn't it? You say
8 about 4-billion has gone to support purses,
9 racetracks, capital improvements and operating
10 costs, but you don't say around 16-billion has gone
11 to the government?

12 A. That's true.

13 342 Q. And can we agree, sir, that a
14 complete picture of the Slots at Racetrack Program
15 would have included the 16-billion that went to
16 government?

17 A. It may well. My mandate was not
18 to have a complete picture of the racetracks.

19 343 Q. Fair enough. And did you
20 understand, sir, that racetracks were private
21 property?

22 A. In a vague way, I would have known
23 that.

24 344 Q. And you understood that the
25 government couldn't, at its discretion, put slot

1 machines in racetracks?

2 A. Well, as I discussed, I wasn't
3 aware of the details of the agreement.

4 345 Q. All right. You didn't examine the
5 racetrack industry in any other province, right?

6 A. I did not.

7 346 Q. The data given to you about the
8 number of racetracks in other provinces and the
9 amount of revenue generated from gaming was
10 information provided to you by the Ministry of
11 Finance?

12 A. To be more precise, this would
13 have been given to me by my secretariat.

14 347 Q. Okay.

15 A. Where they got it from, I may not
16 have known.

17 348 Q. All right. But we know no one
18 spoke to OLG about this kind of data, or did they?

19 A. Not to my knowledge, but whether
20 somebody in the secretariat did that, I --

21 349 Q. Okay.

22 A. -- wouldn't have necessarily have
23 known that.

24 350 Q. As an experienced economist, sir,
25 you would, in 2012, have understood that the

1 4-billion that flowed through the racetracks to the
2 horse racing industry was 25 per cent of a larger
3 number --

4 A. Yes.

5 351 Q. -- because you knew the revenue
6 share, right?

7 A. Yes.

8 352 Q. Okay. and you would have
9 understood, as an experienced economist, that that
10 4-billion would have, you help me with the words, a
11 lot of economic consequences or impacts in terms of
12 jobs, investments?

13 A. Yes. Mm-hmm.

14 353 Q. And you would have expected, sir,
15 that before a decision was made to terminate that
16 kind of a revenue stream, that 25 per cent, there
17 would have been a careful evaluation of the
18 consequences of doing so, right?

19 MS. MACHADO: This witness's
20 expectation of what may or may not have been done
21 by government is of no consequence or relevance.

22 BY MR. LISUS:

23 354 Q. Well, you were making
24 recommendations to government, right?

25 A. How they conducted their review is

1 really beyond my purview.

2 355 Q. But you would have expected there
3 to be a careful review. That's why you used the
4 word "evaluation", right?

5 R/F MS. MACHADO: I'm refusing the
6 question.

7 BY MR. LISUS:

8 356 Q. Well, you were making a
9 recommendation to government about a very
10 substantial revenue stream, right?

11 MS. MACHADO: And the recommendation is
12 to evaluate, sir. So how they evaluate is not
13 defined here, and this witness has already said he
14 didn't know what would happen with any of his
15 recommendations after the fact.

16 BY MR. LISUS:

17 357 Q. If you were asked to evaluate,
18 Mr. Drummond, you would have done an evaluation of
19 the cessation of that revenue stream on employment,
20 for instance, right?

21 R/F MS. MACHADO: That's a hypothetical
22 question. That wasn't in his purview, Mr. Lisus.

23 He's not here as an expert witness for
24 you. He's here to discuss his report and his
25 findings.

1 BY MR. LISUS:

2 358 Q. You knew enough to know -- to
3 carefully say there should be an evaluation,
4 though, right?

5 MS. MACHADO: Those are his words,
6 Mr. Lisus. We've gone over those words 20 times
7 now.

8 MR. LISUS: Do you need a break? We've
9 gone 15 minutes past.

10 MS. MACHADO: The answer is never 'no'.

11 MR. LISUS: Fifteen minutes?

12 MS. MACHADO: Sure. That's fine.

13 ---Recess at 11:44 a.m.

14 ---On resuming at 11:57 a.m.

15 BY MR. LISUS:

16 359 Q. We have discussed a little bit,
17 Mr. Drummond, about what your mandate was, and it
18 was to increase revenue to the government, right?

19 A. No.

20 360 Q. No?

21 A. It was to eliminate the deficit.

22 361 Q. Right.

23 A. And, in fact, I was forbidden from
24 looking at revenue.

25 362 Q. Okay.

1 A. And I reinterpreted that, that I
2 was not to look at tax revenue, but I could look at
3 non-tax revenue.

4 363 Q. Correct. And --

5 A. But my mandate was definitely not
6 revenue.

7 364 Q. And that's why -- that was why OLG
8 was one of the things you looked at. It was
9 non-tax revenue?

10 A. Yes. Right.

11 365 Q. Okay. And with respect to OLG, as
12 I read your report, you focused on a number of its
13 business practices that you thought should be
14 reviewed to increase efficiencies, right?

15 A. Efficiency -- net revenue, yes.
16 Probably through efficiencies. Some -- it could
17 have been through higher gross revenue, as well,--

18 366 Q. Okay.

19 A. --not just efficiencies.

20 367 Q. But what you were focusing on was
21 their business practices?

22 A. Yes.

23 368 Q. So, for instance, I'm looking at
24 page 408 of your report.

25 Do you want to take a minute and

1 refresh your--

2 A. Yeah.

3 369 Q. --memory?

4 MS. MACHADO: Just read that whole
5 section.

6 THE WITNESS: Yep. I read it.

7 BY MR. LISUS:

8 370 Q. So I understand, from your report,
9 that what you were looking at with respect to OLG
10 was identifying operational efficiencies that could
11 be achieved, right?

12 A. Well, I will repeat what I just
13 said.

14 It wasn't necessarily just operational
15 efficiency. It could have been increasing their
16 gross revenue, which would not necessarily have
17 been an operational efficiency.

18 371 Q. But you did look at operat- --

19 A. I did look at operational
20 efficiency, yes.

21 372 Q. And you did look at business
22 practices?

23 A. Yes.

24 373 Q. Okay. And when you focused on
25 operational efficiencies and business practices,

1 you recommend -- you recommended that four of them
2 be reviewed, right?

3 A. That's right.

4 374 Q. One of the business practice or I
5 suppose it was an efficiency was the maintenance of
6 two head offices in Toronto and Sault Sainte Marie.

7 That was an efficiency; correct?

8 A. Correct.

9 375 Q. And the next thing that you
10 focused on was the operation of the Casino Niagara,
11 despite the opening of the permanent and larger
12 Niagara Fallsview Casino Resort, right?

13 A. Correct.

14 376 Q. So that was a question of both an
15 operational efficiency and a business practice in
16 terms of running two casinos next to each other,
17 one old, one new, right?

18 A. Correct. Mm-hmm.

19 377 Q. And with respect to the Slots at
20 Racetrack, you looked at a review to relocate slot
21 machines from racetracks to other locations;
22 correct?

23 A. Correct.

24 378 Q. And that was to increase the
25 efficiency of the slot machine returns?

1 A. Yes. I suppose you would call
2 that as efficiency, but in that case, it would be
3 increasing their gross revenue.

4 379 Q. Right. Through increasing
5 efficiency and changing your business practice to
6 put your slot machines in different locations where
7 there would be a higher return on the government
8 asset, the machine, right?

9 A. Correct.

10 380 Q. So you felt that the government
11 should do a review of the manner in which it, the
12 OLG, was operating its slot machines in terms of
13 their locations; correct?

14 A. Correct.

15 381 Q. And then, you also wanted or
16 recommended, as we have discussed, that the
17 government re-evaluate the revenue share with horse
18 racing and breeding?

19 A. Correct.

20 382 Q. And by -- I'm going to try this
21 again.

22 By "re-evaluate", you meant study?

23 A. Correct.

24 383 Q. And would the study include the
25 consequences of terminating the revenue share?

1 MS. MACHADO: That wasn't within his
2 purview. That's not within his mandate.

3 BY MR. LISUS:

4 384 Q. You submitted your report, sir, in
5 to government at the end of January 2012?

6 A. Correct.

7 385 Q. And I take it you became aware, in
8 mid-February of 2012, that Mr. Duncan gave a speech
9 to the Empire Club in Toronto.

10 Do you remember that?

11 A. I do not recall that.

12 386 Q. Okay.

13 Do you recall Mr. Duncan making public
14 comments about the horse racing industry after you
15 gave your report to government?

16 A. I -- I do, but I don't remember
17 the outcome of his particular speech.

18 387 Q. Okay. Do you recall him making
19 public statements?

20 A. Well, I recall when they ended the
21 program, I think he announced that, but I could be
22 wrong on that.

23 388 Q. Okay. Do you recall becoming
24 aware of radio attack ads about the horse racing
25 industry on February 26 or February 27?

1 MS. MACHADO: I'm just wondering where
2 all of this is going, Mr. Lisus, because he creates
3 a report and he provides it to government.

4 He says that the government gets it to
5 then determine what it's going to do with it.

6 What does it matter what this witness
7 knew or saw or heard after he has submitted the
8 report? I'm just asking what the relevance is
9 there.

10 MR. LISUS: Well, you know, this is a
11 Cross-Examination. I don't believe I'm obliged to
12 tell you the relevance of my questions,
13 Ms. Machado. It's not an Examination for
14 Discovery.

15 If this was in court, I don't think you
16 would be standing up and objecting to the relevance
17 of my questions, and I don't think a judge would
18 uphold that objection if you did.

19 MS. MACHADO: He's not an expert
20 witness. He's not here, testifying as to what
21 occurred after.

22 MR. LISUS: I'm not asking him an
23 expert opinion.

24 I'm asking if he became aware of radio
25 attack ads targeted at the horse racing industry,

1 in particular, the revenue-sharing?

2 MS. MACHADO: And I'm asking what the
3 relevance is. If you don't want to tell me, that's
4 fine.

5 MR. LISUS: I don't want to tell you.

6 R/F MS. MACHADO: But I will refuse the
7 question then.

8 MR. LISUS: I don't want to bring
9 Mr. Drummond back, so I'm going to invite you to
10 reconsider your refusal.

11 MS. MACHADO: You have the answer.

12 BY MR. LISUS:

13 389 Q. Were you surprised to hear the
14 government run radio attack ads relying, in part,
15 on the report from you?

16 R/F MS. MACHADO: That's the same -- you
17 are asking the same question with an addendum.

18 BY MR. LISUS:

19 390 Q. Were you surprised, when you heard
20 about the cancellation of the revenue share, that
21 the government was relying on your report to cancel
22 it?

23 A. Not in the sense that I -- I did
24 suggest they evaluate it, so...

25 391 Q. So you presumed that they had

1 evaluated it and they had decided to cancel it?

2 A. Yes.

3 392 Q. And who did you presume had done
4 the evaluation?

5 A. I didn't have a presumption of
6 that.

7 393 Q. Okay. And then, did you become
8 aware that a few months later, they revisited it by
9 -- revisited their decision by striking a panel?

10 MS. MACHADO: You have asked that
11 question, Mr. Lisus.

12 MR. LISUS: I don't think I asked that
13 one.

14 MS. MACHADO: Yeah.

15 THE WITNESS: Yes, you did.

16 MS. MACHADO: He doesn't know anything
17 about the Transition Panel. He didn't read the
18 reports.

19 MR. LISUS: I might have asked him if
20 he read the reports. I am asking him --

21 THE WITNESS: No. You did ask about
22 the Panel. I was not aware of that.

23 BY MR. LISUS:

24 394 Q. Okay. CRE0091986. I want to show
25 you an e-mail sequence about your report.

1 MS. MACHADO: You should start with the
2 end, perhaps, and--

3 THE WITNESS: Okay.

4 MS. MACHADO: --read your way through.

5 --- (Witness reviewing document.)

6 BY MR. LISUS:

7 395 Q. And I'll just give you some
8 context. It might be easier for you,
9 Mr. Drummond,--

10 A. Mm-hmm.

11 396 Q. --if you take a pause, reading it.
12 It's an e-mail sequence between Global
13 News and the Ministry of Finance about the Drummond
14 Report and horse racing, okay?

15 A. Okay. Okay. I see Global News.

16 397 Q. It's in December 2012, so--

17 A. Oh.

18 398 Q. --some 12 months after--

19 A. Right. Okay.

20 399 Q. --the release of your report,--

21 A. Right.

22 400 Q. --or 11 months.

23 A. Right, yeah.

24 401 Q. That's the context.

25 A. Yeah.

1 402 Q. Why don't you just take a look at
2 it.

3 --- (Witness reviewing document.)

4 THE WITNESS: Okay.

5 BY MR. LISUS:

6 403 Q. Okay?

7 A. Yeah.

8 404 Q. So, do you know a fellow called
9 Darcy McNeill?

10 A. I do not.

11 405 Q. Okay. Then let me just ask you
12 this as a preliminary question, sir.

13 After the release of your report, it
14 obviously garnered a lot of attention in the media?

15 A. Yes.

16 406 Q. And did the government ever refer
17 any questions it received to you, for your input?

18 A. I do not believe that they did.

19 407 Q. Okay. And so we see here that the
20 Ministry of Finance is being asked questions about
21 your report and particularly as it pertains to
22 horse racing?

23 A. Mm-hmm.

24 408 Q. Yes?

25 A. Yes.

1 409 Q. And we see that the Ontario
2 Government is answering questions about your
3 report, right?

4 A. Yes.

5 410 Q. We see, on - see if you've got
6 page numbers, yeah - page 187 in the upper
7 right-hand corner, top of the page, Question 7; do
8 you see that?

9 A. Yes.

10 411 Q. "How much money was the Slots at
11 Racetrack Program generating for the
12 Province? If this was significant, why
13 would the Province wish to close such a
14 program altogether?"

15 Do you see that?

16 A. Yes, I do.

17 412 Q. And do you see the answer:
18 "SARP did not generate funding
19 for the Province."

20 A. Yes.

21 413 Q. That's inaccurate; correct?

22 A. I hesitate to say that when I
23 don't know all the background, and I presume the
24 person that wrote this knows what they're talking
25 about.

1 414 Q. Well, why would you hesitate, sir?
2 You know that SARP generated \$16-billion for the
3 Ontario Government as of January 2012.

4 You up know that, right?

5 A. As worded the way you say it, I
6 agree.

7 That, I'm just hesitant, without the
8 background, why this person say that, why they
9 would say that.

10 Are they saying the horse racing didn't
11 -- wasn't the agreement, per se?

12 415 Q. Because it doesn't really make
13 sense to say that it did not generate funding for
14 the Province, right?

15 A. I can't really comment one way or
16 another.

17 416 Q. Well, I don't understand why you
18 can't comment, sir. You're an economist, right?

19 A. Yes.

20 417 Q. Okay. You reported that the Slots
21 at Racetrack Program generated \$4-billion for the
22 horse racing industry, including breeders, right?

23 A. Yes.

24 418 Q. You understood that that
25 \$4-billion was 20 per cent of the total net win

1 from slot machines at racetracks, right?

2 A. Yes.

3 419 Q. And you, therefore, understood
4 that there were \$16-billion that went to the
5 Ontario Government, right?

6 A. Yes.

7 420 Q. So it's accurate to say that the
8 Slots at Racetrack Program did generate money for
9 the province, right? That follows, doesn't it?

10 A. Well, you're saying so.

11 421 Q. Well, Mr. Drummond, please.

12 Do you want me to go through the
13 exercise again?

14 MS. MACHADO: Mr. Drummond has said
15 that it's --

16 BY MR. LISUS:

17 422 Q. The Slots at Racetrack as of
18 January 2012 generated \$16-billion for the
19 government of Ontario; correct?

20 A. Yes.

21 423 Q. All right. So it is not
22 accurate --

23 A. Sorry, you said 15- before.

24 424 Q. It's 16-.

25 A. Okay. You originally said 15- and

1 we rounded it to 16-.

2 425 Q. Okay.

3 A. I don't care. You've got two
4 different numbers running here.

5 426 Q. \$15- or \$16-billion for the
6 Province of Ontario; correct?

7 A. Yes.

8 427 Q. So it's not accurate to say it
9 didn't generate any funding for the Province? It
10 did, right?

11 A. I would like to know more
12 background why they put it that way.

13 428 Q. Because without that background,
14 the statement doesn't make sense, right?

15 A. You're saying so.

16 429 Q. And you agree with me, don't you?

17 A. Not necessarily. I don't have the
18 information.

19 430 Q. Okay. What information would you
20 need?

21 A. Why this person has said that. Is
22 it a legality, that it's not the agreement, itself,
23 is creating the -- is it the activity and not the
24 agreement?

25 I don't know what was in this person's

1 mind. I'm not going to just stand here and read
2 one sentence and say it's wrong.

3 431 Q. Well, let's leave aside the
4 sentence.

5 I think we have agreed that 4-billion
6 went to the industry, between 15- and 16- went to
7 the Province, right?

8 A. Yes.

9 432 Q. Okay. Real dollars, right?

10 A. Well, if you're going to say to an
11 economist, 'Real dollars means constant dollars,'
12 no, it's nominal dollars.

13 433 Q. All right.

14 A. So there's no confusion on that.

15 434 Q. Real nominal dollars?

16 A. Forget the "real". It's nominal
17 dollars. It's not discounted. It's not in real
18 terms.

19 435 Q. Dollars the government spent?

20 A. Umm. I don't know why you're
21 putting it in these fine words; spent, went to debt
22 reduction. I don't know whether they spent it.

23 436 Q. Well, I'm not putting fine words,
24 actually, Mr. Drummond.

25 A. Well, they -- I can't tell you

1 that they spent any particular dollar they took in.
2 That might have gone to debt reduction. I don't
3 know where it went.

4 437 Q. Let me put it this way.

5 A. It's all fungible.

6 438 Q. A gamer walks into the racetrack.
7 They put a coin in the slot machine, right?

8 A. Exactly.

9 439 Q. They pull the lever?

10 A. Yes.

11 440 Q. They did that millions of times
12 over some 14 years, right?

13 A. Yes.

14 441 Q. Slot machines spit out \$16-billion
15 to the government?

16 A. Yes.

17 MR. LISUS: Okay. That e-mail sequence
18 is the next exhibit.

19 MR. MATTHEWS: Thanks. So Exhibit 5,
20 CRE 0091986.

21 ---EXHIBIT NO. 5: E-mail sequence, Doc
22 ID Number CRE 0091986.

23 BY MR. LISUS:

24 442 Q. I'm going to show you an e-mail.
25 This is an e-mail from December 9, 2011.

1 Do you recall Elizabeth Yeigh?

2 A. I do not.

3 443 Q. Okay. Do you recall Tanya
4 Watkins?

5 A. I do not.

6 444 Q. Do you think that these people in
7 Finance would have been working with your
8 secretariat?

9 A. That... Well, I should look at
10 this first.

11 445 Q. Sure.

12 A. Otherwise, it could be just out of
13 the blue.

14 --- (Witness reviewing document.)

15 THE WITNESS: Well, given at the bottom
16 they're talking about racetracks, that would be my
17 guess, but that's only a guess on my part.

18 BY MR. LISUS:

19 446 Q. Okay. So what I see here is what
20 appears to be draft language for your report. Do
21 you see that?

22 A. Yes.

23 447 Q. Okay. You recognize that from
24 your report?

25 A. Umm... I don't recognize the

1 particular words, but elements of it are in the
2 report.

3 448 Q. Pardon?

4 A. I don't recognize this paragraph
5 as being directly from the report but --

6 449 Q. Elements?

7 A. There's a references to the 17
8 racetracks, et cetera, are in the report.

9 MR. LISUS: All right. Can we make
10 that as the next exhibit?

11 MS. MACHADO: Are there any other
12 questions on this one or...?

13 MR. LISUS: No.

14 MR. MATTHEWS: Exhibit 6, CRE 79877.

15 ---EXHIBIT NO. 6: E-mail dated
16 December 9, 2011, Doc ID Number CRE 79877.

17 BY MR. LISUS:

18 450 Q. I want to show you another e-mail,
19 CRE 79873. I think I asked you already whether you
20 recall a fellow called Barry Goodwin.

21 A. You did and I don't.

22 451 Q. Okay. And if you just take a look
23 at the bottom of page 56, you see there's an e-mail
24 there from someone called Mellozzi,
25 M-e-l-l-o-z-z-i.

1 A. Mm-hmm.

2 452 Q. Yes?

3 A. Yes.

4 453 Q. And I take it none of the people
5 copied or to on that e-mail, none of the addressees
6 who are cc'd are members of your secretariat?

7 A. No, they're not.

8 454 Q. Okay. So as I understand this
9 e-mail sequence, sir, "Drummond papers were
10 distributed again last night", it says, and I'm
11 inferring from this, it being December 2011, that a
12 draft report of yours or sections of it is being
13 given to Finance for review and comment?

14 A. That would be my guess from the
15 dating.

16 I don't remember that exactly taking
17 place, but around that time, yes, we were doing
18 that.

19 455 Q. Okay. And when you say you were
20 doing that, just tell me in general terms what the
21 process was, what was being done?

22 A. That we were sending drafts of
23 various sections back to the responsible ministry.

24 456 Q. Okay.

25 A. Well, to add their views, but it

1 was primarily a factual check, but we took whatever
2 comments.

3 457 Q. And at this point in time, being
4 December 2011, were you, yourself, reviewing all of
5 these drafts or was it still in the hands of your
6 secretariat and the Ministries?

7 A. That very much depended by chapter
8 by chapter.

9 Probably in this one, it was probably
10 being dealt with at that point with the
11 secretariat.

12 Health and education and business
13 subsidies, I would have been much more actively
14 engaged at that point.

15 458 Q. Right.

16 Slots at Racetrack Program was very,
17 very low on the totem pole of things you personally
18 were looking at; correct?

19 A. I -- just in terms, I followed the
20 money, the big money. 75 per cent of the
21 government spending is in health and education.
22 That's where I spent the vast majority of my time.

23 459 Q. Okay. And so someone or some
24 persons in your secretariat, along with their
25 counterparts in Finance, were working on the

1 content of your report with respect to the Slots at
2 Racetrack Program revenue share; fair?

3 A. Well, I have to add an additional
4 dimension to it, because again, there was two parts
5 of it. As I was saying before, the central focus
6 was on the recommendations as you saw in that
7 evergreen document. So all of us, and very much
8 myself, were very much focused on that.

9 These exchanges are largely around the
10 words that are providing the background on the
11 recommendations.

12 460 Q. And how those recommendations were
13 to be implemented, is that fair?

14 A. No.

15 461 Q. Okay. Well, let's take a look at
16 this.

17 A. We were not involved in
18 implementation at all.

19 462 Q. Let's take a look at this.
20 December 6, 2011, 1:29 p.m.:

21 "As you know, the Drummond
22 papers were distributed again last
23 night. Edits are due to Kasia by
24 noon tomorrow."

25 Is Kasia is a member of your

1 secretariat? K-a-s-i-a.

2 A. No, I don't know.

3 463 Q. Okay.

4 A. There's the name above, and I
5 don't know that person.

6 464 Q. All right. And we see that
7 Ms. Yeigh, at the top of the page, identifies
8 proposed language, right? Do you see that?

9 A. Yes, I do.

10 465 Q. And I presume it was not unusual
11 for you or your secretariat to receive proposed
12 language from the Ministry?

13 A. Ministries plural.

14 466 Q. Correct. The Ministry affected by
15 the recommendation, right?

16 A. Correct.

17 467 Q. Okay. In fact, in order to
18 compose a report of this scale, you had to rely
19 very heavily on Ministry input, right?

20 A. No. I wish that were the case.
21 That was not the case.

22 468 Q. Okay.

23 A. We relied quite heavily on Finance
24 work, particularly from this group, the Treasury
25 Board. The original notion of why I only had four

1 people on the secretariat is the bulk of the work
2 will be done by the Ministries and that did not
3 work well at all.

4 469 Q. So you relied heavily on support
5 from Ministry of Finance?

6 A. Correct. In almost all of these
7 chapters, in almost all of these areas.

8 470 Q. Thank you. That's helpful, and I
9 see Ms. Yeigh here proposing language which says:

10 "Review its current forms of
11 financial support provided to the
12 horse racing industry through the
13 Province's pari-mutuel tax reduction
14 and the Slots at Racetracks Program
15 and rationalize the level of support
16 from the government to the industry
17 so that the industry reverts to
18 being primarily and appropriately
19 sustained by the wagering revenue it
20 generates. This rationalization or
21 financial support should be done in
22 a phased manner that is informed by
23 and consistent with the government's
24 approach with respect to its
25 business, agricultural, rural

1 subsidization programs."

2 Do you see that?

3 A. Yes, I do.

4 471 Q. And does that make sense to you?

5 MS. MACHADO: Sorry. What do you mean,
6 "does that make sense"?

7 BY MR. LISUS:

8 472 Q. Does the rationalization of a
9 financial report being done in a phased manner make
10 sense to you?

11 A. It's not consistent with what I
12 was recommending because it almost prejudices the
13 nature of the review.

14 473 Q. And by "the review", you mean the
15 evaluation?

16 A. The evaluation. Sorry.

17 474 Q. Okay. And so you wanted an
18 evaluation that didn't have any prejudgment and was
19 just a full, complete evaluation from the ground
20 up? Is that what you're saying?

21 A. Correct.

22 MR. LISUS: All right. That's the next
23 exhibit.

24 MR. MATTHEWS: CRE 79873, Exhibit 7.

25 ---EXHIBIT NO. 7: E-mail, Doc ID

1 Number CRE 79876.

2 BY MR. LISUS:

3 475 Q. And I presume why this wasn't
4 consistent with what you were thinking about when
5 you said evaluation, was it presumed that there
6 would be a staged phasing out?

7 A. The phasing out seemed quite
8 precise as an outcome.

9 MS. MACHADO: "Seemed quite
10 precise...?"

11 THE WITNESS: As an outcome of a
12 review--

13 MS. MACHADO: "...as an outcome."

14 THE WITNESS: --and, you know, as
15 opposed to doing it right away or delaying it for
16 five years. Phasing out seems kind of detailed for
17 an evaluation that hasn't been done.

18 BY MR. LISUS:

19 476 Q. Right. And just listening to what
20 you said about Finance's involvement, and it made
21 me recollect what you said a little while ago about
22 sending drafts of your report to affected
23 ministries.

24 A. Yes.

25 477 Q. Did you send a draft of your

1 report as it pertained to the Slots at Racetrack
2 Program to OMAFRA?

3 A. I do not know that, and if it was,
4 it would have been done by the secretariat. Either
5 I don't know or I don't recall.

6 478 Q. Okay. Are you aware that
7 Mr. McMeekin made comments publicly that he heard
8 about the cancellation of the Slots at Racetrack
9 Program when the public did?

10 A. No, I'm not aware of that.

11 479 Q. Okay. I take it, sir, that you,
12 as you sit here today, do not have a recollection
13 of being involved personally with the Ministry of
14 Finance about the language to be put in your report
15 concerning the Slots at Racetrack Program revenue
16 share, right?

17 A. I'm not sure what you mean by
18 that.

19 480 Q. As you sit here today, you don't
20 recall speaking with anyone from the Ministry of
21 Finance about what your report would or should say
22 about the Slots at Racetracks Program revenue
23 share?

24 A. Well, as I said, I did not deal
25 with anybody other than my secretariat directly.

1 As an example, I either don't recall or I never saw
2 that suggested language that you've just showed me.

3 481 Q. No. Fair enough. So I think that
4 answers my question, and I want to make sure I got
5 it.

6 You, yourself, didn't have any direct
7 contact --

8 A. No.

9 482 Q. -- with Ministry of Finance?

10 A. No.

11 483 Q. And you don't recall, as you sit
12 here today, having any direct dialogue with a
13 member of your secretariat about the language to be
14 inserted in your report about the Slots at
15 Racetrack Program revenue share, right?

16 A. No, I don't.

17 484 Q. Okay. but it was consistent with
18 the process that was being followed for language to
19 be proposed or suggested by the Ministry for your
20 report, and you would ultimately sign off on it or
21 not, but it was --

22 A. Yes.

23 485 Q. So, for instance, if I take a look
24 at the e-mail CRE 80428...

25 --- (Witness reviewing document.)

1 BY MR. LISUS:

2 486 Q. ...we're still in early December.
3 Are you with me?

4 A. Yes.

5 487 Q. The language and data points in
6 this proposed text for your report was all provided
7 by the Ministry of Finance; correct?

8 A. Correct.

9 488 Q. You didn't know anything about
10 racing jurisdictions across North America, right?

11 A. That came from them, yes.

12 489 Q. Right. And I take it you didn't
13 know the background of the pari-mutuel tax
14 reduction in 1996 or thereabouts?

15 A. Only what I learned from them.

16 490 Q. Okay.

17 MR. LISUS: That's the next exhibit,
18 please.

19 MR. MATTHEWS: CRE 80428, Exhibit 8.

20 ---EXHIBIT NO. 8: E-mail, Doc ID
21 Number CRE 80428.

22 BY MR. LISUS:

23 491 Q. And you didn't have a view, one
24 way or another, about how Ontario's horse racing
25 industry compared to other horse racing industries

1 across North America; correct?

2 A. I formed a view on the basis of
3 that information as we saw that background of how
4 many races there were, how much was bet per race
5 and what the degree of government involvement was,
6 but again, my body of information came from these
7 reports.

8 492 Q. Do I see in your report how many
9 races there are and how much was bet on a race?

10 A. Well...

11 493 Q. Tell me where you're looking.

12 A. I'm -- I'm sorry. I'm just
13 referring back to page 316, British Columbia has
14 six race tracks,--

15 494 Q. Okay.

16 A. --seventeen times; Alberta, five
17 racetracks.

18 495 Q. Got it. That was all just given
19 to you by Finance?

20 A. That's correct.

21 496 Q. You didn't investigate it
22 yourself?

23 A. I did not.

24 497 Q. And so whatever you say on page
25 316 about the horse racing industry as compared to

1 other jurisdictions is information given to you by
2 Finance which you didn't check or --

3 A. Just to clarify, given to me from
4 my secretariat, in turn from Finance.

5 498 Q. Right, but you didn't do an
6 independent check of it or audit of it; correct?
7 You accepted it as accurate from the Ministry of
8 Finance?

9 A. I did accept it as accurate.

10 499 Q. Okay. And because you weren't
11 doing an evaluation, yourself, you didn't go back
12 to Finance through your secretariat to say: Well
13 how many people are employed, What will the impact
14 of a change on the share be, What will happen to
15 the breeding sector, et cetera, right? It just
16 wasn't your mandate?

17 A. Well, I would just add not -- just
18 because I didn't -- I recommended an evaluation,
19 but again, yes, because that was not in my mandate.

20 500 Q. Yeah.

21 A. My mandate was to eliminate the
22 deficit.

23 501 Q. And similarly, when you say in
24 your report:

25 "Ontario's approach is

1 unsustainable --"

2 MS. MACHADO: Sorry. What page are you
3 on?

4 MR. LISUS: 316.

5 MS. MACHADO: Oh. Still? Okay.

6 BY MR. LISUS:

7 502 Q. Bottom of the first paragraph:

8 "Ontario's approach is
9 unsustainable, and it is time for
10 the industry to rationalize its
11 presence in the gaming marketplace."

12 Whether or not Ontario's approach was
13 sustainable from the perspective of horse racing
14 industry comparatives or economics, wasn't
15 something you had evaluated or investigated? You
16 were just accepting as given to you by Ministry of
17 Finance?

18 A. That is correct.

19 503 Q. Okay. And we talked about the
20 manner in which information found its way in your
21 report. I want to show you another e-mail, CR --
22 oh, no, OLG 995.

23 MS. MACHADO: Is there a document
24 attached that you want to...?

25 MR. LISUS: One.

1 MR. MATTHEWS: Do you want the
2 attachment?

3 MR. LISUS: Sure.

4 BY MR. LISUS:

5 504 Q. I take it you don't know Tom
6 Marinelli?

7 A. I do not.

8 505 Q. Preet Dhindsa?

9 A. No.

10 506 Q. P-r-e-e-t D-h-i-n-d-s-a or--

11 A. No.

12 507 Q. --Sam Heath?

13 A. No.

14 508 Q. Okay. And this is an e-mail that
15 is from a Mr. Aguzzi, A-g-u-z-z-i. I take it you
16 don't know him? I think it's a "Mister".

17 A. Again, I --

18 509 Q. It's not a "Mister".

19 A. Possibility these people might
20 have been at that one meeting I had, but I don't
21 recall.

22 510 Q. "Please find attached a
23 fleshed-out narrative design to be
24 parachuted into the Drummond
25 Report."

1 A. Very helpful.

2 511 Q. And what do you mean by that?

3 A. Well, sort of presumption that I
4 will take whatever they're giving me.

5 512 Q. And it's reflecting discussions
6 with senior folks at MOF, Ministry of Finance,
7 right?

8 A. Yes.

9 513 Q. And it says:
10 "The purpose is to precondition
11 for change."

12 Do you see that?

13 A. Yes.

14 514 Q. Were you aware of what changes the
15 Ministry of Finance was contemplating to the
16 revenue sharing at Slots at Racetrack Program as of
17 December 15, 2011?

18 A. I was not.

19 515 Q. They had never told you that they
20 were contemplating cutting the revenue share
21 entirely?

22 A. No.

23 MR. LISUS: That's the next exhibit.

24 MR. MATTHEWS: OLGSB 995, its
25 attachment, OLGSB 996, together as Exhibit 9.

1 ---EXHIBIT NO. 9: Doc ID Number OLGSB
2 995 and attachment, Doc ID Number OLGSB 996.

3 BY MR. LISUS:

4 516 Q. I just want to understand
5 something, Mr. Drummond. I think you used the word
6 "subsidy".

7 A. The report does have one reference
8 to subsidy, right.

9 517 Q. I take it that subsidies can come
10 in a number of forms?

11 A. Yes.

12 518 Q. Businesses can be subsidized in a
13 number of ways, right?

14 A. Yes.

15 519 Q. They can be subsidized by a
16 provision of a loan that is to be repaid?

17 A. Yes. Well, it would -- in that
18 case, it would be only classified as a subsidy if
19 it was below a market rate.

20 520 Q. Right, in terms of the interest
21 rate and in terms of repayment, correct?

22 A. Yes.

23 521 Q. A subsidy can come in the form of
24 a guarantee of liability?

25 A. Yes.

1 522 Q. A subsidy can come in the form of
2 an investment, right?

3 A. Yes.

4 523 Q. And there are many industries that
5 receive various kinds of subsidies, investments,
6 guarantees, loans, from public authorities;
7 correct?

8 A. Yes.

9 524 Q. Automotive is one?

10 A. Yes.

11 525 Q. Aerospace is another?

12 A. Yes.

13 526 Q. What else?

14 A. Forestry. The mining sector has
15 preferential tax treatments. Virtually every
16 sector has some form of accelerated depreciation,
17 for many machine or equipment --

18 527 Q. In the manufacturing sector?

19 A. For almost all sectors.

20 528 Q. Almost all sectors of the economy
21 have some --

22 A. Some form of subsidy.

23 529 Q. Or another?

24 A. Yes.

25 530 Q. Finance? Do banks have some form

1 of a subsidy?

2 A. That would be in the looser
3 generation. They have a preferential treatment in
4 terms of the widely-held rule, which is hugely
5 preferential.

6 531 Q. Right.

7 A. Strictly speaking, it's not a
8 subsidy, but...

9 532 Q. It's an advantage?

10 A. It's an advantage, definitely.

11 533 Q. Right.

12 I take it you aren't aware of the
13 process by which the final language in your report
14 about Slots at Racetrack Program came to be in
15 there, the precise e-mail on the precise day, and
16 the point at which the language was incorporated
17 into the Final Report? You don't recall that,
18 right?

19 A. I have to parse that statement
20 somewhat.

21 534 Q. A clumsy statement. I will give
22 it to you again, okay?

23 We've reviewed a number of e-mails
24 pursuant to which language for your report is
25 discussed, right?

1 A. Yes.

2 535 Q. And there are many others I'm not
3 putting to you because you aren't on the e-mails,
4 right?

5 A. Yes.

6 536 Q. But I have understood your
7 evidence to be that it was consistent with the
8 practice that the secretariat and you or some
9 combination thereof would consult with the Ministry
10 about proposed language in the report?

11 A. I'll have to parse that a little
12 bit, particularly in the consult. Again, just
13 repeating what I said.

14 First of all, you keep referring to me.
15 It is the Commission's report. There's four
16 Commissioners, so it's not me. There's three other
17 people involved in this process. It is our report.
18 It is not the government's report. It is not the
19 Ministry of Finance's report.

20 Whatever is in here, whether it was
21 drafted by us personally in the first place or
22 drafted by some junior official in some ministry,
23 it is our responsibility. We own it. It is ours,
24 and that's why, when you consult, well, we
25 consulted to our purposes.

1 We didn't have a mandate. We didn't
2 have a need to consult. Nothing is in here
3 that's -- the Commissioners are not aware of and
4 did not approve of.

5 537 Q. I think you're thinking about my
6 question in a way that you needn't be, okay?

7 I'm not suggesting this isn't your
8 report. I'm simply observing that the content of
9 the report, certainly as it relates to horse
10 racing, appears to have been at least a
11 collaborative exercise between your side, being the
12 Commissioner's and the secretariat and the Ministry
13 of Finance.

14 Can we agree on that?

15 A. Well, I even have trouble with the
16 "collaborative" word.

17 I mean, they served us. They are at
18 our direction.

19 538 Q. But, Mr. Drummond, I am seeing
20 paragraphs drafted by Finance for inclusion in the
21 report. And I can --

22 A. So I can tell you, of this report
23 of 553 pages, you will find probably 1,000 times
24 the amount of material you have here of the same
25 thing from other Ministries and almost none of it

1 made it into the report.

2 539 Q. Okay.

3 A. That was the nature of it. The
4 departments wanted virtually everything to be
5 changed and literally none of it was.

6 540 Q. Well, that's helpful because I see
7 that the language in your Final Report pretty
8 closely tracks what was provided to you by -- what
9 was provided by the Ministry of Finance in these
10 e-mails.

11 A. So what you have shown me, we can
12 see on the factual basis that is drawn from there,
13 we can see some of the language is in here, and we
14 can also see that some of it, such as phasing out
15 things over time, was not into the report.

16 541 Q. Right.

17 Let's take a look at another e-mail
18 together, then, on this point; 90... Sorry.
19 CRE 18318.

20 And I want to... I'm not impugning
21 you, Mr. Drummond. I want you to understand that.

22 A. Oh. I don't take that, at all,
23 but--

24 542 Q. All right.

25 A. --I don't--

1 543 Q. Let's take a look at this
2 together.

3 A. --think you're accurately
4 describing the process.

5 544 Q. Well, let's take a look at this
6 together.

7 Here's an e-mail from Ben Valido,
8 V-a-l-i-d-o, at Finance to Morris Ilyniak,
9 I-l-y-n-i-a-k, December 15, 2011:

10 "We had a briefing with our
11 DM..."

12 You understand that to be Deputy
13 Minister?

14 A. Yes.

15 545 Q. Who was that? Who was Deputy
16 Minister of Finance in December 2011?

17 A. That would have been Steve Orsini.

18 546 Q. "...this week, and we are
19 proposing the following text replace
20 current text in Chapter 10 and 10-8
21 (ph) recommendation, page 13 re
22 Horse Racing Industry." [As read.]
23 Are you with me there?

24 A. Yes.

25 547 Q. Let's take a look at page 316 now.

1 The e-mail says:

2 "Ontario's horse racing
3 industry is another area where
4 Provincial Government subsidies to
5 racetracks and horsepeople to
6 require a review and adjustment to
7 realign with the present-day
8 economic and accountability
9 realities."

10 Right?

11 A. Yes.

12 548 Q. The report says:

13 "The horse racing industry is
14 another area where subsidies to
15 racetracks and horsepeople require a
16 review and adjustment to realign
17 with present-day economic and fiscal
18 realities."

19 Pretty close, right?

20 A. Well, I think you have to be
21 cautious here. Read above that:

22 "We are proposing the following
23 text replace the current text."

24 That is -- what you're reading here is
25 not necessarily new proposed words. This might --

1 I'm not saying one way or another. I don't know.

2 89 per cent of what you're reading here
3 might just be a repeat of what was in the draft
4 already.

5 549 Q. Okay. Well, look, I can track
6 e-mail to e-mail to e-mail to your report. I'm not
7 going to do this right now with you, but -- because
8 I'm going to invite you to consider my question.

9 With respect to the horse racing
10 section of your report, the content of the report
11 substantially tracks information provided to your
12 team by Ministry of Finance, right?

13 A. Correct.

14 550 Q. Thank you. And it also
15 substantially tracks the presentation of that
16 information provided to your team by Ministry of
17 Finance; correct?

18 A. Sorry, what do you mean by
19 presentation?

20 551 Q. The manner in which the data is
21 presented in your report substantially tracks the
22 manner in which it was provided by Finance to your
23 team, fair?

24 A. I might just quibble with the word
25 "substantially". I mean, I can see from tracking

1 these to the final version that quite a few things
2 are changed, and the order of things are changed
3 and a lot of the information in these is not in the
4 report, so I don't know about the "substantially"
5 part, but in general, yes.

6 MR. LISUS: Okay. Did we mark that
7 e-mail as an exhibit?

8 MR. MATTHEWS: No. Exhibit 10, CRE
9 18318.

10 ---EXHIBIT NO. 10: Doc ID Number CRE
11 18318.

12 BY MR. LISUS:

13 552 Q. If I continue with the second
14 sentence, we see in the e-mail:

15 "In addition to revenues from
16 wagering since the late 1990s, the
17 industry has benefited from a
18 provincial tax expenditure."

19 Look at the second sentence on 361:

20 "In addition to revenues from
21 wagering since the late 1990s, the
22 industry has benefitted from a
23 provincial tax expenditure, a
24 reduction to the provincial
25 pari-mutuel tax."

1 Right? It's identical.

2 A. But again, we don't know the
3 origin of this. Again, this is replacing the text
4 that's already there. It may just be repeating
5 what was always -- what was there previously.

6 553 Q. But, sir, we've already agreed
7 that neither you, nor anyone on your secretariat,
8 was an expert or knowledgeable about the horse
9 racing industry, right?

10 A. I agree with you, and I said the
11 bulk of that information came from the Ministry,
12 but you're trying to get me to acknowledge that
13 these e-mails are the source of the information,
14 and I cannot say that because they are recommending
15 this replace something that was already there. It
16 could be 90 per cent of a repeat.

17 554 Q. Okay. But fair enough. What you
18 can agree with me, and I think you have it, that no
19 one on your team was a member -- was an expert in
20 the horse racing industry?

21 A. That is true.

22 555 Q. No one on your team would have
23 known the data, right?

24 A. I won't venture too far in that,
25 and the precise details and all of this, no. Some

1 of it, perhaps.

2 556 Q. Okay.

3 MR. MATTHEWS: Are you done with that
4 e-mail?

5 MR. LISUS: Sure.

6 I'm not going to be much longer with
7 you, Mr. Drummond.

8 --- (Discussion off the record.)

9 MR. LISUS: Okay.

10 MR. MATTHEWS: Break for five minutes.

11 --- Recess at 12:57 p.m.

12 --- On resuming at 12:59 p.m.

13 MR. LISUS: Okay. Those are my
14 questions for you, Mr. Drummond.

15 THE WITNESS: Okay.

16 MS. MACHADO: Shall we switch seats,
17 then?

18 --- (Discussion off the record.)

19 EXAMINATION BY MS. MACHADO:

20 557 Q. Good afternoon, Mr. Drummond. I
21 just have a few questions, mostly just to get some
22 clarification on the information that you already
23 provided today, so I will try not to repeat that
24 has already been asked.

25 Can you tell me a little bit how you

1 came to be assigned or asked to commission what
2 came to be known as the Drummond Report?

3 A. It probably started back in 2003
4 when the Liberal government first came into power,
5 and I received a call from the CEO of the TD Bank
6 Ed Clark, who had, in turn, been contacted by the
7 premier, that he didn't like the transition
8 briefing books that they got on economic and fiscal
9 matters.

10 And there was a request that I, I
11 guess, rewrite the transition briefing books and
12 that sort of was my introduction to some
13 involvement in Ontario fiscal policy.

14 And I had done a couple of assignments
15 for them in between, and when Dwight Duncan called
16 me to ask me this, he said he had asked me because
17 most people he would give it would just go and
18 slash and burn everything, and that's not what they
19 wanted.

20 They wanted it to be done in a fair
21 manner, and he thought, from what I had done for
22 them previously, I would do that.

23 And I also -- as I said, the bulk of my
24 time was spent on health and education, and I had
25 done a major report for the Ontario Minister of

1 Health, Deb Matthews, at the time in 2010, so I
2 think that was probably a reason why they picked
3 me, as well.

4 558 Q. Okay. And what are your
5 qualifications?

6 A. So I'm an economist by education.
7 I've worked for 23 years for the Federal Department
8 of Finance, always in the budget-making capacity,
9 so an awful lot of experience with budgets.

10 When I went to TD Bank, I thought I
11 probably would no longer be involved in public
12 policy, but I encountered two successive CEOs that
13 had quite an interest in public policy, and then I
14 did a variety of projects for the Federal
15 Government and for various provincial governments
16 when I was at the TD Bank.

17 559 Q. Okay. So when you first get
18 started and sit down to start considering what
19 becomes a behemoth of the report, do you start with
20 thinking about recommendations? Do you start
21 meeting with people? Do you start with documents?
22 How do you start?

23 A. Well, the starting point was,
24 because it was a singular mandate, about how to get
25 rid of their deficit, so a balanced budget for

1 2017, I had to figure out how big their problem
2 was, and they did not have a view on that.

3 In my language, I've used what was the
4 status quo look. So if you didn't change any
5 public policies vis-a-vis April 2011 and just let
6 everything run that way, how big would the deficit
7 be.

8 And I think we shocked everybody when
9 we calculated it would be almost 30-billion,
10 because they had budget projections that showed it
11 was going to fairly substantially on its own, and
12 basically, we said, 'Well, those aren't valid views
13 of it. This is actually going to get bigger.'

14 So that was their starting point, just
15 defining what the problem was and then just
16 thinking, how can we draw billions and billions of
17 dollars out of their spending and do it in a manner
18 that's supportive of the economy and supportive of
19 people.

20 560 Q. Okay. So, as a next step, when
21 you're looking at any Ministry, like Education or
22 Health, do you start meeting with a whole bunch of
23 people in order to consider what recommendations
24 you are going to be providing or how do you come to
25 a recommendation?

1 A. So, yes, our... We would look at
2 things from how much the spending was, what the
3 pattern of the spending was, think about it a bit
4 ourselves, and then the next step was always
5 meeting with the Ministry responsible, quite often
6 with the Minister, but particularly with the Deputy
7 Ministers and Assistant Deputy Ministers.

8 I should also add, because it made me
9 think about it, I -- now I know there are 4-inch
10 D-ring binders, and I saw some here today. I
11 didn't realize there were 4-inch D-ring binders.

12 I got lots of those when we started
13 because the government had tried to do this
14 exercise twice themselves and had failed both
15 times, and it all came down to the Ministries,
16 quite understandably, never wanted to offer up any
17 savings.

18 They had a \$200-million budget, and if
19 you asked them how you could cut their budget, they
20 always said, 'It's impossible. You can't do it.
21 You can't take a cent out of my budget.'

22 And these exercises generated paper
23 after paper with no result.

24 So I couldn't start that way because
25 they weren't going to offer it, so I had to

1 understand what they do and then try to think of
2 ways of doing it better, more efficiently, or if it
3 was a government business enterprise, how to raise
4 more money.

5 561 Q. Okay. So you considered the issue
6 surrounding that ministry or that department before
7 you would go in and start meeting with people to
8 discuss it with them?

9 A. That's right, and then we met with
10 them, and then again, depending on the sector -- so
11 health will be a good example.

12 We met with approximately, at least, a
13 dozen outside groups. For example, I met with the
14 Ontario Hospital Association four times, because
15 they actually had some really good ideas where
16 money could be taken out and actually improve the
17 quality of health.

18 We met with the larger universities and
19 colleges, for example, when we did the
20 post-secondary education sector.

21 562 Q. Okay. So once you got in mind a
22 particular recommendation, whether it's before
23 that, the first meeting that you have with whatever
24 group or association or whether it's after, how do
25 go about then putting pen to paper on the

1 recommendation and the text that's around the
2 recommendation?

3 A. So this was the third type of
4 commission like this I had done, and all of them, I
5 had started that the focal point is the
6 recommendation. It keeps the mind focused.

7 You don't start writing 600 pages and
8 then try to extract the recommendations. You focus
9 on them and then you build a narrative around that.

10 So we had this vehicle called the
11 evergreen recommendation list, and as soon as we
12 had an idea, we put it into there. It was draft,
13 and it could change. It didn't have to be perfect.

14 And we all had two sections of it, one
15 where everybody had agreed on things, even though
16 we subsequently changed it, and then if somebody
17 else, an individual, who might have been on the
18 secretariat, thought that they had a better idea,
19 they could put it into the draft section, but they
20 couldn't put it right into the one we had all
21 agreed on.

22 So we sort of had two tiers of these
23 evergreen recommendations.

24 563 Q. Okay. And can you recall when you
25 came up with the recommendation surrounding the

1 Slots at the Racetrack Program? Was it before the
2 meeting with OLG or after?

3 A. No, it was after the meeting. It
4 was very closely after the meeting.

5 564 Q. Okay. Did you have any thoughts
6 prior to entering into that meeting? Had you done
7 the research that we were talking about before?

8 A. No, I had not.

9 565 Q. Okay. You've mentioned that your
10 experience with the Ministries wasn't as
11 satisfactory as you'd liked for it to have been
12 because they understandably don't want to cut their
13 budgets, I guess?

14 A. Right.

15 566 Q. You've also spoken about the
16 individuals at Treasury, who are a department of
17 the Ministry of Finance.

18 How was your experience with them
19 different, if at all?

20 A. So there was two difficulties with
21 the Ministries.

22 The first one, they never wanted to
23 volunteer any savings and, secondly, when they
24 wrote something, and they -- I just glanced at the
25 material I was shown recently that was given to me,

1 I guess, for possible inclusion from OLG, was
2 symptomatic of virtually everything we got.

3 It basically describes how great they
4 are. It says, 'We do everything really well,' and
5 my context was, 'Well, wait a minute. The
6 government is saying there's a problem here. You
7 can't just say that you're doing everything really
8 well.'

9 I don't blame them. That's what they
10 do. That's instinctively how they write things,
11 but it wasn't -- it wasn't the voice that was
12 appropriate for the Commission.

13 And the people who were in the Ministry
14 of Finance and this group of the Treasury Board
15 didn't feel that they had -- or they didn't have to
16 defend a particular Ministry or a particular
17 program.

18 They could write about it much more
19 objectively, probably because, in their minutes to
20 Finance, they probably had a greater buy-in to the
21 need to eliminate the deficit, as well, so they
22 didn't -- weren't kind of throwing up these
23 obstacles.

24 And they wrote in a voice that was much
25 more consistent with what I was trying to

1 establish, so I could actually use their draft
2 material.

3 I ended up really not using anything
4 that came from the draft material from the other
5 Ministries.

6 567 Q. So going back to how you rendered
7 your conclusions about -- or your recommendations
8 rather about OLG and your suggested changes about
9 its enterprise, how did you come up with those
10 recommendations so quickly after sort of an hour of
11 meeting with them?

12 A. It really just struck me in the
13 meeting of an hour that things could be done
14 better.

15 I mean, I don't think anybody could
16 agree. Obviously, there was some inefficiency in
17 the expenditure side. Nobody would stand up and
18 say it was a great policy to have two headquarters
19 and have two casinos in the same cities.

20 Those are a bit of accidents of
21 history, but no one was really -- I just didn't
22 have a sense that they were driving those mandates
23 of increasing the dividend that they could pay to
24 the government and -- you know, perhaps, I have
25 learned today there was some kind of broader review

1 going on at the time. They weren't really sharing
2 that with me, but it just struck me that they can
3 do better here.

4 There are probably some expenditures
5 they've got that they don't need to make, and they
6 could probably increase the gross revenue line, and
7 you can talk about what to do about that
8 afterwards, but the pie could be grown if they
9 approached it differently.

10 568 Q. Okay. In your recommendations,
11 did you come to them entirely on your own or were
12 they suggested to you in that meeting?

13 A. They didn't really suggest too
14 much in that meeting, no.

15 They really came out of the
16 conversation of listening to them and, as I said, I
17 was quite intrigued about what they were saying,
18 that they didn't find a big correlation between
19 people who went to the sites for the horse racing
20 and the people who would normally gamble.

21 And I was a little bit disappointed
22 that at no point, was there really any
23 substantiation of that.

24 So it was in my mind and it was
25 something I thought that needed be part of an

1 evaluation, but I didn't really have a lot of facts
2 around it.

3 569 Q. Was it at that meeting that you
4 found out how much money was coming out of the
5 Slots at the Racetrack Program or did you know
6 about that already?

7 A. I probably knew that already. So
8 while there was really nothing of use in terms of
9 helping to get a balanced budget from all these
10 4-inch D-rings, there were descriptions of programs
11 in there.

12 570 Q. Okay.

13 A. I don't recall whether I first
14 read it in there, but something like that may well
15 have already been in there. Like certainly the
16 fact that they had two casinos and two headquarters
17 would have been in that background material.

18 I'm sure I didn't hear that for the
19 first time in the meeting with OLG, and I read all
20 of these --

21 571 Q. Unfortunately.

22 A. -- 4-inch D-rings, so in every
23 area, I had a fair bit of background before I met
24 the respective parties.

25 572 Q. Okay. So when I asked you earlier

1 if you had done any research, perhaps you weren't
2 considering reviewing all of this background
3 material?

4 A. Yes. I should have considered
5 that.

6 So two rounds of internal reviews, the
7 governments, and all the documents that were
8 produced from that, and all the reports of the
9 Treasury Board that came out of that; I did review
10 that very early in the process, probably in the
11 spring of 2011.

12 573 Q. Okay. Your secretariat members;
13 would they check or sort of audit any of the
14 information that they were being fed by the various
15 Ministries to ensure it was correct?

16 A. Certainly, everything that came
17 from the Ministries. And again, they would have
18 been assisted from the people in the Ministry of
19 Finance in that group.

20 Whether they did that from the Ministry
21 of Finance,--

22 574 Q. You don't --

23 A. --I suspect probably not because,
24 again, they would probably feel these are people
25 that are not there to protect some particular

1 program. They probably have an objective view.

2 575 Q. Okay. But you don't recall
3 specifically one way or another when it comes to
4 the recommendations that were at issue today?

5 A. Certainly, in the ones we're
6 talking about here, I don't remember any of the
7 information being given to the secretariat or me
8 being questioned by the secretariat or by me in
9 terms of the factual information.

10 This 4-billion and 17 racetracks and
11 that; I don't recall anybody questioning that.

12 576 Q. It's pretty remarkable, to me,
13 that you and your team sort of goes in and then
14 tells the government sort of this macroeconomic
15 policy on areas that are as diverse as, you know,
16 health and education and horse racing and sort of
17 everything else.

18 Did you have individuals who were
19 specialists in each of these areas on your
20 secretariat?

21 A. No. The head of the secretariat
22 had a deep background in transportation which,
23 interestingly enough, has almost no -- nothing in
24 the report on that.

25 No. The others were quite specialized

1 in their background, and they were all quite young
2 and not that experienced, so, no, there wasn't a
3 deep experience.

4 And there was -- on my Commission, we
5 had -- well, one of the gentlemen was a former
6 Assistant Deputy Minister of Education in the
7 Ontario Government, and he's a president of a
8 university, and I had the dean of the Ivey Business
9 School. So a lot of deep expertise on the
10 Commission, itself, in education. And a senior
11 vice-president from CAMH, so we had expertise in
12 health on the Commission, as well.

13 So it wasn't that we didn't have some
14 bodies of expertise, but didn't have a lot.

15 577 Q. Right.

16 I guess what I'm getting at is, how do
17 you come up with recommendations in these areas if
18 you don't necessary have an expertise in that
19 particular area?

20 A. Well, this is where -- you know,
21 as I felt it at the time, but looking back in
22 retrospect right here today, you know, you can see
23 that the Racetrack Program is kind of an anomaly of
24 the entire report.

25 Virtually everything else, we would

1 have probed further than that. We would have come
2 to a much more pointed recommendation.

3 578 Q. Okay.

4 A. Why didn't we do that in this
5 area? Probably because we were a little bit on
6 thin ice because we weren't even supposed to look
7 at the revenue, and here, we're looking at the
8 revenue.

9 It also came late in the process and,
10 frankly, when you're trying to close a \$30-billion
11 gap, you put most of the emphasis on the big dollar
12 spending, which was health and education.

13 So in those cases where we didn't have
14 the information we needed, we went out and got it.
15 And, you know, it was one of the things -- you
16 know, the CEO of the University Health Networks,
17 call them up. You could see him in an hour. Like,
18 that was the way it worked.

19 People were phenomenally cooperative
20 when we asked for information or to meet them.

21 MS. MACHADO: Thank you. Those are my
22 questions.

23 THE WITNESS: Okay.

24 EXAMINATION BY MS. SINNADURAI:

25 579 Q. Mr. Drummond, I have a few

1 questions.

2 A. Yes. Okay.

3 580 Q. If you could turn to page 408 of
4 your Commission Report.

5 A. Mm-hmm.

6 581 Q. You spoke to this during your
7 Examination earlier today, as well, but your
8 recommendation on the Slots at Racetrack Program
9 was to evaluate or review on a value-for-money
10 basis?

11 A. Right.

12 582 Q. What does that mean? What is a
13 "value-for-money evaluation"?

14 A. Well, I guess, putting aside just
15 exactly the word for word of the value for money,
16 what I had in mind was on both side of it; Can you
17 change things to increase your gross revenue flow
18 and then do you need to give up that much of your
19 gross revenue flow? Those were the two ends I was
20 looking at.

21 So I didn't -- you know, I
22 wouldn't have anticipated it was solely look at
23 what percentage they were giving to the horses and
24 the facilities and the municipalities but, first of
25 all, just looking at are there ways you could draw

1 in more gross revenue, and then whatever that gross
2 revenue is going to be, you know, make sure do you
3 really need to give up 25 per cent of it? Could it
4 be a smaller percentage of that?

5 583 Q. You spoke earlier today about your
6 mandate being to review spending and to make
7 recommendations to reduce the deficit.

8 A. Well, to eliminate the deficit to
9 be precise by 2017, '18.

10 584 Q. Did you have an understanding of
11 the consequences facing the Province if that goal
12 was not achieved of reducing the deficit or
13 eliminating the deficit?

14 A. I mean, as an economist and
15 somebody who specializes in public finance, I did.
16 We do talk about it a little bit in the report, but
17 not that much. I mean, the mandate was given to
18 us. It was a perfectly reasonable mandate. I
19 wasn't questioning it. I didn't think that the
20 government needed us to give a sales pitch, but it
21 made sense to ask us what we do. We took that as a
22 given, and we went and dealt with how you might do
23 it.

24 585 Q. All right. If you could indulge
25 me, what would the consequences have been if the

1 deficit could not be reduced or eliminated?

2 A. Well, one of the ones that has
3 happened because of the time it's taken to balance
4 the budget and, of course, the percentage of all
5 the tax dollars that people pay to the Ontario
6 Government in a sense gets wasted because an
7 increasing portion of it goes to cover interest in
8 the public debt.

9 So if any of us gives a dollar of our
10 taxes to the government, we hope that we get
11 something back in return, but you're not. You're
12 just paying for something that somebody else
13 consumes in the past.

14 And that number, interestingly enough
15 in Ontario today, is a higher portion than it was
16 in the early 1990s where interest rates were triple
17 what they are today. So it's siphoning off the
18 resources it could have used productively.

19 The Province was having a greater
20 difficulty borrowing money. They got some credit
21 downgrades in the process. If they had not dealt
22 with this program, they would have got others that
23 would have created some difficulty in borrowing
24 money. It would have raised the cost of borrowing
25 money, and again, that's wasted resources for the

1 economy, that's wasted resources for the residents
2 of the Province.

3 586 Q. You just spoke about certain
4 Ministries not being as forthcoming about offering
5 potential savings as one of the reasons why you
6 conducted the review the way you did.

7 Did you understand that some of your
8 recommendations would involve making difficult
9 choices?

10 A. Oh, I was under the understanding
11 virtually everything we were recommending would be
12 difficult choices. If that hadn't of been the
13 case, I'm sure they would have already have done
14 them.

15 I mean, I -- it's not that all these
16 recommendations were new ideas and no one had
17 thought about them before. They had probably --
18 somebody probably had thought about these -- some
19 of these things before and decided -- but no one
20 was really forcing them do it, and they were going
21 to be difficult to do, so they just frankly would
22 rather not bother.

23 587 Q. Of the recommendations you made in
24 the report, how many have been adopted by
25 government?

1 A. I only have two points of
2 reference on that. Twice in budgets they have
3 referred to the number, and it was around 75 per
4 cent when it was last reported.

5 I have, on two occasions, been shown a
6 spreadsheet from the government, and it has down
7 the left-hand side the 366 recommendations and
8 their status, and that is where they drew the 75
9 per cent number from.

10 And I was given about an hour to review
11 it, and I was kind of surprised, because I think
12 most people think that a smaller portion of them
13 that have been done by 75.

14 So I was sort of expecting to see maybe
15 they had biased or padded it some way and I
16 actually found it in the other direction; that
17 there was a few things, like in -- in health, for
18 example, we had recommended increasing scope of
19 practice.

20 And just as an example, now pharmacists
21 can give vaccines. And I said, 'Well, you know,
22 that's increasing the scope of practice. So you've
23 actually done something in an area and you didn't
24 give yourself credit for that one.'

25 So there was a couple of areas where I

1 actually found that the 75 per cent number was
2 probably a little bit lower.

3 But anyhow, those two brief references
4 in the budget and then that one glimpse I had of
5 that spreadsheet sort of indicate about
6 three-quarters of the recommendations have been
7 implemented.

8 Another way of looking at it, the last
9 time I saw it, only nine of the recommendations had
10 been categorically rejected. So, one of the ones
11 and the highest profile of that would be full-day
12 kindergarten. So, the Premier, in fact, almost
13 immediately upon receipt of this, said, 'No. I'm
14 not stopping that. I'm not slowing that down.
15 We're proceeding with that one.'

16 588 Q. Okay. Turning to page 316 of your
17 report, recommendation 11.11, you spoke earlier
18 today about the \$4-billion to the horse racing
19 industry--

20 A. Right.

21 589 Q. --over the course of SARP.

22 Given what you spoke to earlier today
23 about being an economist and your background in
24 economics, does that reflect an industry subsidy?

25 A. Well, as we were discussing

1 previously, a "subsidy" has various different
2 definitions.

3 It would reflect a subsidy if the money
4 that was going back wasn't related to the increase
5 in the government revenues from the slot
6 operations, itself.

7 And that struck me as a possibility,
8 given this reference from OLG. There didn't seem
9 to be a lot of correlation between people who went
10 to the facilities to watch the horse races and the
11 people who were interested in gambling.

12 MS. SINNADURAI: Okay. Those are my
13 questions.

14 MR. LISUS: I have got a couple of
15 questions. I get the last word, Mr. Drummond.

16 FURTHER EXAMINATION BY MR. LISUS:

17 590 Q. You say that it struck you as a
18 possibility that that was a subsidy, and is that
19 something which you wanted to be included in a
20 further review and evaluation?

21 A. Whether it was a subsidy or not?
22 I guess I have a hard time dealing with it because
23 I -- I'm not really hung up on the semantics of it.

24 So what I would have thought that they
25 would look at, is there a way of increasing the

1 gross revenue above and beyond what is, we'll say,
2 1.9- or 2-billion, if you count the two sides, and
3 whatever that gross revenue is, do you need to give
4 25 per cent of it back to the parties?

5 So that would have been my expectation
6 from a fiscal perspective of what they would look
7 at.

8 591 Q. But you wanted -- you expect that
9 that would be looked at?

10 A. Yes.

11 592 Q. Okay. Do you know if it was?

12 A. I don't know.

13 593 Q. Now, you mentioned, as I
14 understood it, that you got four D-ring binders in
15 the spring of 2011, I think you said, from the
16 Treasury Board or Finance?

17 A. Oh. They were background to
18 various different submissions that had been made to
19 the Treasury Board in these two previous exercises
20 that the Ontario Government had conducted.

21 594 Q. They weren't background for the
22 mandate you were given or were they?

23 A. They were not created for my
24 purpose. They were created for other purposes and
25 given to me.

1 595 Q. Okay. Do you recall whether there
2 was anything in those D-ring binders about the
3 Slots at Racetrack Program?

4 A. I do not recall that.

5 596 Q. Okay.

6 A. I know it had some material on
7 OLG. I'm pretty sure that it had the reference to
8 the two casinos in that. I do not recall whether
9 it had the Slots at Racetrack.

10 597 Q. Do you have those binders
11 somewhere?

12 A. I have absolutely not one scrap of
13 paper from anything of the Commission.

14 598 Q. And what happened to the
15 Commission's work product? Where is it?

16 A. Well, this is it. (Indicating)
17 What would have happened to the
18 previous drafts in that, I have absolutely no idea.

19 599 Q. No. What would have happened to
20 those binders; do you know?

21 A. The ones that came into our
22 possession, I have no idea. The people that were
23 on the secretariat went back to their previous jobs
24 almost immediately. If there's a depository
25 somewhere with them in, I have no idea.

1 600 Q. Okay. But they came, as I
2 understood you, from Treasury Board?

3 A. They're from Treasury Board, yes.

4 601 Q. Ms. Machado, I would like you to
5 make inquiry of Treasury Board and produce just the
6 sections about OLG or Slots at Racetrack, if there
7 were any in those binders, and if there weren't
8 any -- let me rephrase, if there wasn't any content
9 in those binders about OLG and/or Slots at
10 Racetrack Program, can you let me know that?

11 I don't want the binders. I just want
12 to know if there was content about OLG and the
13 Slots at Racetrack Program or the horse racing
14 industry, and if there was, let me have it, please.

15 U/A MS. MACHADO: I will take that under
16 advisement. I don't even know if they're even in
17 existence, so...

18 BY MR. LISUS:

19 602 Q. Right. Now, my friend asked you
20 about how many of your recommendations were
21 implemented.

22 A. Yes.

23 603 Q. If just go to page 409, please,
24 under recommendation 17.3?

25 A. Yes.

1 604 Q. There's still two head offices for
2 OLG, correct?

3 A. You asked me that previously, and
4 I answered I did not know.

5 605 Q. Okay.

6 A. You asked me whether there was two
7 casinos, and I also answered I did not know.

8 606 Q. Okay. The slot machines are still
9 at the racetracks; correct?

10 A. As I've told you before, I've
11 never been to a racetrack.

12 607 Q. So you don't know that either?

13 A. I'm taking your word on that.

14 608 Q. Do you know if the purchase and
15 provision of lottery terminals to point-of-sale
16 locations is still being subsidized?

17 A. I do not know that.

18 MR. LISUS: Okay. Thank you.

19 ---[Ending time: 1:26 p.m.]

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REPORTER'S CERTIFICATE

I, BONNIE LYNN VAN DER MEER, C.S.R.,
Chartered Shorthand Reporter, hereby certify;

That the foregoing proceedings were
taken before me at the time and place therein set
forth, at which time the witness was put under
solemn affirmation by me;

That the testimony of the witness and
all objections made at the time of examination were
recorded stenographically by me and were thereafter
transcribed;

That the foregoing is a true and
correct transcript of my shorthand notes so taken.

Dated this 15th day of January, 2018.



BONNIE LYNN VAN DER MEER, CSR
NEESON COURT REPORTING INC.

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