

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

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JOHN WILKINSON  
December 12, 2017

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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., AND  
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

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--- This is the Rule 39.03 Examination of JOHN  
WILKINSON, a non-party witness herein, taken at the  
offices of Neeson Court Reporting Inc., 77 King  
Street West, Suite 2020, Toronto, Ontario, Canada,  
M5K 1A2, on Tuesday, the 12th of December, 2017.

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V O L U M E 1

1     A P P E A R A N C E S :

2

3     Jonathan C. Lisus, Esq.     - for the Plaintiffs.

4     & Ian C. Matthews, Esq.

5

6     Robert H. Ratcliffe, Esq.   - for Defendant Crown.

7     & Eunice Machado, Esq.

8

9     H. Michael Rosenberg, Esq. - for Defendant, Ontario

10                                    Lottery and Gaming

11                                    Corporation.

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25                    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. ]

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2 4: An e-mail chain, Doc ID Number CR 73073...91:17  
3 5: An e-mail string, Doc ID Number  
4 CRE 31028.....100:19  
5 6: An e-mail from Mr. Hagerty to Mr. Wilkinson,  
6 dated June 5, 2012, Doc ID Number CRE 257695, and  
7 attachment, Doc ID Number CRE 257696.....103:24  
8 7: A June 2012 e-mail string, Doc ID Number  
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20 13: An e-mail from Susan Pharand to  
21 Mr. Wilkinson, Mr. Snobelen and Mr. Buchanan,  
22 Doc ID Number CRE 257410, with attachments,  
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25 14: An e-mail, Doc ID Number CR 8079 and

1 attachment, Doc ID Number CR 8080.....128:4  
2 15: An e-mail dated June 12, 2012 from Thom  
3 Hagerty to John Wilkinson, Doc ID Number  
4 CRE 25777, as well as a media event document,  
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6 16: An e-mail from Susan Pharand to John  
7 Wilkinson and others, dated June 13, 2012,  
8 Doc ID Number CRE 257800, plus two  
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10 CRE 257802.....145:2  
11 17: An e-mail from Nadine Domingos, Doc ID  
12 Number CRE 258099, attaching a draft report,  
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14 18: Great Canadian Gaming Corporation news  
15 release, March 30th, 2012, together with a  
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23 and the attached comments, Doc ID Number  
24 CRE 28984.....223:8  
25 22: An e-mail string, Doc ID Number

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2 23: Standing Committee on Government Agencies,  
3 Report on Agencies, Boards and Commissions,  
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10 HRIT Panel Final Report and Synopsis; Doc ID  
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12 26: United States Trotting Association report  
13 on the November 2012 Harrisburg sales.....338:10  
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16 28: A summary of Mr. Wilkinson's comments to  
17 Steve Paikin; Doc ID Number CRE0235431.....346:18  
18 29: Letter dated March 11th, 2014, Doc ID  
19 Number SB 4508.....366:15  
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10:59:12 1 ---Upon commencing at 10:59 a.m.

10:59:16 2 JOHN WILKINSON; SWORN.

10:59:18 3 EXAMINATION BY MR. LISUS:

10:59:18 4 1 Q. Good morning, Mr. Wilkinson.

10:59:20 5 A. Good morning.

10:59:21 6 2 Q. You understand that you are here

10:59:23 7 pursuant to a Summons to Witness?

10:59:25 8 A. Yes.

10:59:28 9 3 Q. And there was a little

10:59:29 10 miscommunication this morning, but the Summons to

10:59:35 11 Witness says "11:00 a.m.". You were here at 10:00

10:59:38 12 a.m., so I'm sorry that you had to wait an hour.

10:59:40 13 A. I appreciate that.

10:59:41 14 4 Q. You have received that Summons to

10:59:44 15 Witness?

10:59:44 16 A. Yes.

10:59:44 17 5 Q. Okay. And have you reviewed it?

10:59:46 18 A. Yes. I -- I received -- a guy

10:59:51 19 gave this to me months ago with a cheque--

10:59:51 20 6 Q. Okay.

10:59:54 21 A. --which I didn't cash.

10:59:55 22 7 Q. For attendance money?

10:59:56 23 A. Yes.

10:59:57 24 MS. MACHADO: I would just note,

10:59:59 25 Counsel, that this is actually for December 19th,

11:00:00 1 so that is for next week.

11:00:02 2 MR. LISUS: Right.

11:00:02 3 BY MR. LISUS:

11:00:05 4 8 Q. But that is the --

11:00:05 5 MS. MACHADO: Yeah.

11:00:08 6 BY MR. LISUS:

11:00:08 7 9 Q. That is the summons that was

11:00:10 8 served on you for December 19, and then, as a

11:00:11 9 result of communications with the Crown, the date

11:00:13 10 was moved to today for your Examination.

11:00:15 11 You understand that, right?

11:00:19 12 A. I understand what I was given many

11:00:21 13 months ago was to, umm, see you not today, but--

11:00:23 14 10 Q. On a date to be set?

11:00:25 15 A. --uh, yes.

11:00:27 16 11 Q. Okay.

11:00:29 17 A. Yeah.

11:00:30 18 12 Q. So --

11:00:31 19 A. But I know I'm being -- I've been

11:00:32 20 summonsed and asked.

11:00:34 21 13 Q. Right. And you also know that

11:00:35 22 documents have been summonsed, as well; correct?

11:00:36 23 A. Mm-hmm.

11:00:37 24 14 Q. You have -- and just by way of

11:00:38 25 explanation, Mr. Wilkinson, I won't presume that

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you have been Examined before, but--

A. No.

Q. --the court reporter who is sitting to my left has to record my questions and your answers--

A. Mm-hmm.

Q. --for a transcript that will then be made available to the Court in the case, okay?

A. Okay.

Q. So it's important that you wait until I finish the question before you answer, so she can capture the question and the answer.

A. Right.

Q. And it's also important that you give audible responses as opposed to sounds like 'mmm' or 'mm-hmm' because the court reporter doesn't quite know how to record those, if it's a 'yes' or 'no' or something else, okay?

A. Right.

Q. So I think I asked you if you understood that the summons also compels documents, not just your attendance?

A. Yes.

Q. Okay. And did I understand you to say that you were served with the summons at your

11:01:46 1 home or business?

11:01:47 2 A. The University of Waterloo,

11:01:50 3 Stratford Campus.

11:01:56 4 MR. LISUS: Okay. And I'm going to

11:01:57 5 mark this as the first exhibit on Mr. Wilkinson's

11:02:00 6 Examination.

11:02:00 7 ---EXHIBIT NO. 1: Summons to Witness

11:02:00 8 issued to John Wilkinson with respect to the

11:02:00 9 Seelster matter, Court File No. 272/14.

11:02:00 10 BY MR. LISUS:

11:02:27 11 21 Q. Now, what did you do when you

11:02:29 12 received the summons?

11:02:29 13 A. I read it--

11:02:30 14 22 Q. Right.

11:02:31 15 A. --and I called the government--

11:02:35 16 23 Q. Okay.

11:02:35 17 A. --because it had to do with work

11:02:37 18 that I did for the government.

11:02:39 19 24 Q. Okay. And the work that you did

11:02:41 20 for the government is the work that you did on the

11:02:45 21 Horse Racing Industry Transition Panel, right?

11:02:48 22 A. Yes.

11:02:48 23 25 Q. We'll call that "the Panel" in the

11:02:50 24 course of the Examination, okay?

11:02:51 25 A. Agreed.

11:02:52 1 26 Q. And you did that work pursuant to  
11:02:54 2 a contract that you signed?  
11:02:55 3 A. Yes.  
11:02:57 4 27 Q. And I have an unsigned copy of the  
11:03:00 5 contract, but I presume there is a signed copy  
11:03:02 6 somewhere?  
11:03:02 7 A. Yes.  
11:03:06 8 28 Q. Okay. And after you received the  
11:03:07 9 summons, did you go back and review the contract?  
11:03:12 10 A. The... I reviewed the contract  
11:03:14 11 before I signed it.  
11:03:15 12 29 Q. Before you signed the contract?  
11:03:17 13 A. Yes.  
11:03:17 14 30 Q. Right. And we'll talk about the  
11:03:18 15 contract in a little bit perhaps, but one of the  
11:03:20 16 provisions of the contract requires you to keep  
11:03:22 17 records of your work, right?  
11:03:23 18 A. Yes.  
11:03:24 19 31 Q. Did you do that?  
11:03:24 20 A. Yes.  
11:03:25 21 32 Q. And where are those records?  
11:03:27 22 A. They're on my  
11:03:33 23 john.wilkinson@rogers.com account--  
11:03:33 24 33 Q. Okay.  
11:03:35 25 A. --which I have maintained.

11:03:37 1 34 Q. Right. Did you send all of the  
11:03:45 2 records on that account to the Ontario government  
11:03:47 3 when you received the summons?

11:03:51 4 A. I, uh, was asked by the government  
11:03:53 5 in relation to this lawsuit, which I don't know  
11:03:57 6 much about,--

11:03:58 7 35 Q. Right.

11:03:59 8 A. --to provide all of my records,  
11:04:03 9 which I did.

11:04:05 10 36 Q. And how did you do that, sir?

11:04:07 11 A. At the time, I was, uh... That  
11:04:17 12 contract had been transported over to the Ontario  
11:04:21 13 Racing Commission and I kept all of the e-mails of  
11:04:26 14 the work that I did in a folder in my inbox. And I  
11:04:33 15 tried to copy them onto a drive, which is what I  
11:04:38 16 was asked to do.

11:04:40 17 I was unable to do that, so I sought  
11:04:43 18 assistance and a tech person from the Ontario  
11:04:54 19 Racing Commission helped me with that, though I had  
11:04:56 20 to give him access to that entire account. And  
11:04:59 21 that account, which was my business account,  
11:05:01 22 contained confidential information for other  
11:05:03 23 clients and publicly traded companies, and so I  
11:05:08 24 ensured that the information that had to do with  
11:05:11 25 horse racing was -- was copied.

11:05:13 1 But I didn't actually do that. I  
11:05:16 2 actually gave access. I'm not a technical person.

11:05:17 3 37 Q. Right. And so the electronic  
11:05:19 4 records of your work on the Panel were secured by  
11:05:23 5 the Ontario Racing Commission.

11:05:27 6 Is that correct?

11:05:27 7 A. Yes. I just know that I -- I -- I  
11:05:30 8 had to bring my laptop and I went to the Ontario  
11:05:34 9 Racing Commission and they had a chap there - I  
11:05:36 10 can't remember his name - who worked, and made him  
11:05:40 11 available to help me through this..., how to do  
11:05:41 12 that.

11:05:42 13 I mean, there was thousands and  
11:05:44 14 thousands of e-mails and so -- of course, I  
11:05:45 15 couldn't, like, print them all off, umm, so that's  
11:05:48 16 what I did.

11:05:49 17 But I had always kept those e-mails  
11:05:51 18 separate since I had a contract and..., being paid  
11:05:55 19 for that and I had to keep the -- the records - I  
11:05:58 20 knew that - like, seven years.

11:06:00 21 And, as well, uh, I was billing my  
11:06:04 22 client, the government, and so I wanted to make  
11:06:06 23 sure that I had all of that available.

11:06:08 24 38 Q. Right.

11:06:09 25 And you say you had a laptop.

11:06:12 1 We'll talk in a little bit about the  
11:06:14 2 work that you did on the Panel in the summer and  
11:06:20 3 fall of 2012.

11:06:24 4 Did you do all of the work on that  
11:06:26 5 laptop?

11:06:27 6 A. Umm. Well, it's a Rogers account  
11:06:31 7 and so, umm, those e-mails are held by Rogers.  
11:06:37 8 They're not held on my devices.

11:06:39 9 And I had, uh, at the time I think it  
11:06:42 10 was BlackBerry.

11:06:43 11 39 Q. Right.

11:06:43 12 A. So I was able to access that  
11:06:45 13 account --

11:06:46 14 40 Q. Right.

11:06:47 15 A. -- whether it was through  
11:06:49 16 BlackBerry or through an old computer.

11:06:51 17 41 Q. My -- thank you for that.

11:06:52 18 My question was actually in relation to  
11:07:00 19 notes that you would have generated in the course  
11:07:02 20 of your consultations.

11:07:04 21 We've seen, from the documents, that  
11:07:08 22 the Panel met with many stakeholders, right?

11:07:10 23 A. Yes.

11:07:17 24 42 Q. And I presume you spoke with those  
11:07:20 25 people in the meetings?



11:07:20 1 A. Yes.

11:07:21 2 43 Q. Received information from them?

11:07:22 3 A. Yes.

11:07:23 4 44 Q. And I presume you made notes of

11:07:25 5 the information you received in those meetings?

11:07:26 6 A. No.

11:07:26 7 45 Q. You did not make any notes?

11:07:28 8 A. I did not make notes. I don't

11:07:30 9 make notes.

11:07:31 10 46 Q. Okay. You just sat and listened?

11:07:35 11 A. I paid attention.

11:07:36 12 47 Q. All right.

11:07:37 13 A. And I -- I -- my experience in

11:07:39 14 business has been, when people are telling me

11:07:42 15 something, most important thing I can do is

11:07:44 16 actually listen to them because they all gave us

11:07:47 17 written submissions.

11:07:48 18 48 Q. Right.

11:07:49 19 Was there someone at these stakeholder

11:07:52 20 meetings who did take notes of the discussion?

11:07:54 21 A. Yes. We were supported

11:07:56 22 administratively by the Ministry.

11:07:58 23 49 Q. All right. And the administrative

11:08:01 24 support you were provided includes someone --

11:08:02 25 included someone who took notes of these

11:08:04 1 stakeholder consultations.

11:08:10 2 Is that correct?

11:08:10 3 A. Umm. Well, I -- I know they --

11:08:11 4 they took the presentations, so that we would be

11:08:14 5 able to access them, umm, and we did not have the

11:08:18 6 benefit of a -- of a Bonnie. Didn't have the

11:08:21 7 benefit of somebody recording, but, uh, Ministry

11:08:24 8 people tend to take notes--

11:08:26 9 50 Q. Okay.

11:08:26 10 A. --just in the course of business,

11:08:28 11 for them.

11:08:28 12 51 Q. In terms of your recollection of

11:08:30 13 the way these meetings were conducted, do you

11:08:32 14 recall a Ministry support person being there,

11:08:34 15 taking notes of the discussions?

11:08:36 16 A. Uh. Yes. Well, we, of course,

11:08:37 17 were joined by a deputy minister, former Deputy

11:08:42 18 Minister Frank Ingratta. So we had -- the Panel

11:08:45 19 was the three of us plus, really, the support

11:08:48 20 centered around Frank.

11:08:57 21 52 Q. Do you recall Frank taking notes?

11:08:59 22 A. N... No, I don't recall him

11:09:01 23 taking notes.

11:09:02 24 53 Q. Okay.

11:09:05 25 Did you receive the summons on or about

11:09:07 1 March 2nd, 2017? Is early March -- does early  
11:09:11 2 March sound accurate?

11:09:13 3 A. Uh. Yes, 'cause it was -- it was  
11:09:15 4 earlier this year and it wasn't recent, so...

11:09:19 5 54 Q. Right.

11:09:19 6 And you contacted the Ontario  
11:09:22 7 government because it was about work that you did?

11:09:23 8 A. Yes.

11:09:24 9 55 Q. And did you enter into a  
11:09:25 10 representation agreement with the Ontario  
11:09:27 11 government with respect to you giving evidence here  
11:09:29 12 today?

11:09:29 13 A. Yes.

11:09:30 14 56 Q. All right. And when did you do  
11:09:32 15 that?

11:09:32 16 A. Hmm. I would say a few months  
11:09:39 17 ago. I wouldn't know the date. Umm...

11:09:41 18 57 Q. In the summer?

11:09:42 19 A. Yes. Yes. I think...

11:09:48 20 58 Q. And did you --

11:09:49 21 A. When I was -- when -- when I knew  
11:09:52 22 or it was apparent that I would be called.

11:09:55 23 I think there was an open question  
11:09:56 24 about whether or not - you guys know the court  
11:09:59 25 stuff here - but whether or not I would actually be

11:10:01 1 called.

11:10:02 2 59 Q. Right.

11:10:02 3 A. But I think when it was determined  
11:10:04 4 that I would be called, I was offered that and I  
11:10:06 5 accepted.

11:10:07 6 60 Q. Okay. So, does it assist your  
11:10:08 7 memory if I tell you that in -- on August 2 or 4 or  
11:10:16 8 thereabouts, the Court released a decision saying  
11:10:18 9 the summons that was issued upon you was valid and  
11:10:21 10 you would be called to give evidence?

11:10:23 11 Do you remember that?

11:10:24 12 A. Yes.

11:10:24 13 61 Q. Right.

11:10:25 14 A. Yeah.

11:10:25 15 62 Q. And I presume it was after that,  
11:10:26 16 you entered into a representation agreement?

11:10:28 17 A. Yeah. I asked the question of  
11:10:32 18 whether or not, uh, I needed to get a lawyer.

11:10:36 19 63 Q. Right.

11:10:36 20 A. Was that important?

11:10:37 21 I had never been -- participated in any  
11:10:40 22 process like this before, so I asked that question.

11:10:42 23 64 Q. Okay. And you were told that the  
11:10:43 24 Crown could represent you if you signed a  
11:10:45 25 representation agreement?

11:10:46 1 A. That I had a choice, but if I  
11:10:48 2 decided to have the Crown represent me as my  
11:10:52 3 lawyer, that that was available to me.

11:10:53 4 65 Q. And I take it, sir, that you  
11:10:56 5 were... You didn't have an objection to giving  
11:11:00 6 your evidence as to -- about the work you did on  
11:11:03 7 the Panel?

11:11:03 8 A. Oh, no.

11:11:04 9 66 Q. And I take it you didn't have any  
11:11:07 10 objection to speaking with the Crown in advance of  
11:11:11 11 giving your evidence?

11:11:13 12 A. No, no.

11:11:13 13 67 Q. And--

11:11:14 14 A. My lawyer, yes.

11:11:16 15 68 Q. --you have met with the Crown to  
11:11:18 16 prepare for giving your evidence here today?

11:11:20 17 A. Yes.

11:11:21 18 69 Q. And did you also meet with  
11:11:22 19 representatives of OLG for the purposes of giving  
11:11:24 20 your evidence here today?

11:11:26 21 A. There was, uh, an OLG lawyer, uh,  
11:11:30 22 in the room.

11:11:31 23 70 Q. Okay. And was it just one meeting  
11:11:38 24 that you had or did you --

11:11:38 25 A. Yes.

11:11:38 1 71 Q. Just one.

11:11:38 2 A. Last Thursday.

11:11:39 3 72 Q. So no meetings with the Crown or

11:11:42 4 OLG before last Thursday?

11:11:42 5 A. Uh. Just -- no meetings. No

11:11:46 6 business discussion. I mean, calls.

11:11:46 7 73 Q. Okay. Telephone calls to prepare

11:11:48 8 you to give your evidence?

11:11:49 9 A. Yeah. And to ensure that I, uh...

11:11:58 10 You know, that -- that -- what was in that summons

11:12:00 11 and what I needed to do, and not to talk to other

11:12:02 12 people and all of that stuff.

11:12:03 13 74 Q. And was there a representative of

11:12:05 14 OLG on those telephone calls, as well?

11:12:07 15 A. No.

11:12:07 16 75 Q. Okay. And on those telephone

11:12:09 17 calls, did you discuss the substance of the

11:12:11 18 evidence that you thought you might be giving on

11:12:14 19 this Examination?

11:12:15 20 MS. MACHADO: Are we talking before or

11:12:17 21 after the representation agreement was...?

11:12:20 22 MR. LISUS: At any time.

11:12:21 23 MS. MACHADO: Well, once he's

11:12:23 24 represented, I don't think the conversations that

11:12:25 25 we have are...

11:12:25 1 MR. LISUS: I'm not asking for the  
11:12:27 2 conversation. I'm asking what was done to prepare  
11:12:31 3 to give evidence here today.

11:12:32 4 BY MR. LISUS:

11:12:33 5 76 Q. I presume you reviewed documents  
11:12:34 6 for the purposes of giving evidence here today?

11:12:37 7 A. Umm. Yes. I reviewed... I -- I  
11:12:41 8 thought -- I mean, it's been many years and so I  
11:12:44 9 thought it was important that I review the reports,  
11:12:48 10 uh, that the Panel wrote, so I reviewed the reports  
11:12:51 11 that the Panel wrote, just to be -- remember.

11:12:53 12 I -- I suppose -- going to get in some  
11:12:55 13 detail and...

11:12:55 14 77 Q. Okay. And when you say "the  
11:12:57 15 reports", you mean the draft reports, the interim  
11:13:00 16 reports, the draft final reports, and the Final  
11:13:02 17 Report?

11:13:02 18 A. (Shaking head.)

11:13:03 19 78 Q. No?

11:13:04 20 A. No.

11:13:04 21 79 Q. No.

11:13:06 22 A. The, uh, first report, uh, that we  
11:13:07 23 provided to Minister McMeekin. And we were  
11:13:11 24 subsequently asked, in short order, to create a --  
11:13:16 25 a second report, which we did.

11:13:22 1 And then there was a, umm, a report  
11:13:24 2 subsequent to that, that was a, umm, kind of an  
11:13:32 3 update about how the implementation was proceeding,  
11:13:34 4 so there was three.

11:13:35 5 80 Q. Okay. And when you say "the  
11:13:35 6 implementation was proceeding", the implementation  
11:13:39 7 of what?

11:13:39 8 A. Of the recommendations that we  
11:13:43 9 made that the government agreed to do.

11:13:45 10 81 Q. Okay. Now, when did the  
11:13:50 11 government agree to implement the recommendations  
11:13:51 12 of the Panel?

11:13:52 13 A. Well, they received, uh, the  
11:14:00 14 report to Minister McMeekin, I think it was around  
11:14:04 15 August of 2012. We had started in June. It was,  
11:14:06 16 like, a three-month contract.

11:14:08 17 And then --

11:14:08 18 82 Q. And that report, as I read it, is  
11:14:10 19 called the "Interim Report".

11:14:11 20 A. Okay. Good. Yeah.

11:14:12 21 83 Q. Okay?

11:14:12 22 A. Yeah. So the Interim Report; I've  
11:14:14 23 read the Interim Report--

11:14:15 24 84 Q. Right.

11:14:16 25 A. --that I co-authored.



11:14:18 1 Then it was... When they accepted  
11:14:28 2 that, they asked the Panel to write, umm, an  
11:14:31 3 additional report. I think that may be called the  
11:14:33 4 "Final Report", uh, which was to lay out, umm, a  
11:14:35 5 whole bunch of difficult indus-, umm, issues that  
11:14:37 6 had to be resolved on the restructuring of -- of --  
11:14:40 7 and the transition of the industry.

11:14:41 8 85 Q. And you say "they asked".

11:14:43 9 Who asked?

11:14:45 10 A. Well, it was a continuation of the  
11:14:48 11 contract with OMAFRA, so -- and it had provision to  
11:14:52 12 be extended, and it was extended, so I was still  
11:14:56 13 bound by that contract.

11:15:03 14 86 Q. And the person who was the lead  
11:15:04 15 contact at OMAFRA, was that Mr. Hagerty or  
11:15:10 16 Mr. Keegan or both?

11:15:11 17 A. Well, it was Minister McMeekin.

11:15:11 18 87 Q. Okay.

11:15:12 19 A. That's who we owed the report to.

11:15:13 20 88 Q. Right.

11:15:13 21 A. Mr. Hagerty was involved initially  
11:15:18 22 and less so, uh, and Mr. Keegan was Chief of Staff  
11:15:21 23 to the Minister and our contract said that we were  
11:15:25 24 to work with him.

11:15:26 25 89 Q. All right. So because we referred

11:15:31 1 to it and before I forget, I'm going to identify  
11:15:33 2 the draft -- excuse me -- it is a draft contract  
11:15:35 3 which is CRE 257175.

11:15:45 4 MR. LISUS: And I would ask you to give  
11:15:47 5 me an extra copy, please, Ms. Machado. We don't  
11:15:52 6 have one.

11:15:52 7 BY MR. LISUS:

11:15:52 8 90 Q. So just take a quick look at that  
11:15:52 9 and tell me if that is the document that you  
11:15:54 10 believe you signed.

11:15:54 11 MS. MACHADO: I don't know that one  
11:15:55 12 exists, Mr. Lisus; otherwise, it would have been in  
11:15:58 13 the productions.

11:15:59 14 MR. LISUS: Okay.

11:15:59 15 BY MR. LISUS:

11:16:00 16 91 Q. But leaving aside for the moment  
11:16:01 17 whether one exists, that's the contract that you  
11:16:03 18 did your work under and which describes your  
11:16:06 19 mandate and your obligations and responsibilities;  
11:16:10 20 correct?

11:16:10 21 A. Uh. Just one moment here while I  
11:16:12 22 just take a look at it.

11:16:15 23 92 Q. Sure. Why don't I give you a  
11:16:17 24 clean one and you can give me that one back.

11:16:19 25 A. Yeah. Okay. Sure.

11:16:23 1 MR. LISUS: Thanks.

11:16:25 2 MS. MACHADO: Read it. Take your time.

11:16:29 3 THE WITNESS: Yeah.

11:16:30 4 --- (Witness reviewing document.)

11:17:34 5 THE WITNESS: Yes. I believe, uh, that

11:17:35 6 that is the contract and the addendum that I...

11:17:35 7 (Inaudible)

11:17:35 8 BY MR. LISUS:

11:17:40 9 93 Q. Thank you, Mr. Wilkinson.

11:17:40 10 --- (Court reporter appeals.)

11:17:41 11 THE WITNESS: ...that I signed.

11:17:46 12 So that's the contract that...

11:17:46 13 BY MR. LISUS:

11:17:48 14 94 Q. And you did your work through your

11:17:51 15 company, Wilkinson Insight Incorporated, right?

11:17:56 16 A. Yes.

11:17:59 17 --- EXHIBIT NO. 2: Agreement between

11:17:59 18 HMQ in Right of Ontario as represented by the

11:17:59 19 Ministry of Agriculture, Food and Rural Affairs;

11:17:59 20 Elmer Buchanan; Beyond Consensus Inc.; and

11:17:59 21 Wilkinson Insight Incorporated, for a report on the

11:17:59 22 horse-racing industry, Doc ID Number CRE 257175.

11:18:03 23 BY MR. LISUS:

11:18:03 24 95 Q. When did your mandate pursuant to

11:18:05 25 the contract terminate? You don't have to give me

11:18:11 1 the exact date, but 'When was your work done?' is  
11:18:13 2 my question.

11:18:14 3 A. Well, I know that I... The OMAFRA  
11:18:25 4 contract, which was extended, was then ported over  
11:18:28 5 to the Ontario Racing Commission which had been --  
11:18:31 6 if I recall, had been given authority to deal with  
11:18:32 7 this issue, and the Ontario Racing Commission at  
11:18:35 8 that time reported to OMAFRA.

11:18:38 9 It had reported to many, many different  
11:18:41 10 Ministries over the years, but at that time it was  
11:18:43 11 reporting back to, uh, the -- to OMAFRA.

11:18:44 12 And I believe the last work I did was  
11:18:48 13 the, uh, end of March 2015,--

11:18:56 14 96 Q. Okay.

11:18:56 15 A. --and so it was an extension of  
11:18:58 16 that initial contract.

11:18:59 17 97 Q. So were you working on the  
11:19:05 18 transition and the mandate as described in the  
11:19:08 19 contract in 2014?

11:19:11 20 A. Umm. Well, it was amended by,  
11:19:23 21 umm... Uh. The work that was contemplated on the  
11:19:24 22 initial contract was done.

11:19:26 23 The contract--

11:19:27 24 98 Q. And let me --

11:19:29 25 A. --enabled us--

11:19:29 1 99 Q. Let me just --

11:19:29 2 A. --to do other work,--

11:19:29 3 100 Q. Let me just pause you there.

11:19:31 4 A. --which we -- we did.

11:19:31 5 101 Q. When you say "the work that was

11:19:33 6 contemplated [by] the initial contract was

11:19:35 7 done", and --

11:19:35 8 A. The deliverables.

11:19:36 9 102 Q. -- and by that, I mean the release

11:19:39 10 of the recommendations with respect to transition.

11:19:41 11 Is that fair?

11:19:42 12 A. Uh. Yes.

11:19:44 13 103 Q. And that's the fall of 2012, as I

11:19:47 14 understand the sequence from the documents.

11:19:49 15 A. Interim, then final.

11:19:51 16 104 Q. Correct.

11:19:51 17 A. Mm-hmm.

11:19:52 18 105 Q. Final is October 2012?

11:19:54 19 A. That's how I recall it.

11:19:56 20 106 Q. Right.

11:19:57 21 And so then, your contract was

11:19:58 22 extended?

11:19:59 23 A. Uh. Yes.

11:20:00 24 107 Q. Okay.

11:20:01 25 A. Yes.

11:20:01 1 108 Q. And was there another contract or  
11:20:03 2 was it just by agreement that you would continue to  
11:20:06 3 work under the contract which we marked as Exhibit  
11:20:09 4 2?

11:20:09 5 A. I -- I do not recall signing any  
11:20:26 6 other contract with the Ontario Racing Commission.  
11:20:35 7 Umm. So... Hang on.

11:20:43 8 So I was under contract to the  
11:20:44 9 government until the end of March 2015.

11:20:46 10 109 Q. Okay.

11:20:47 11 A. And my recollection is that the  
11:20:49 12 only contract was the initial one that I signed,  
11:20:52 13 though I believe that there were forms I had to  
11:20:56 14 sign to agree to the renewal or the extension of  
11:20:58 15 the contract. I recall that.

11:21:00 16 I don't -- I don't have those  
11:21:01 17 documents, but I believe that that was required of  
11:21:03 18 me.

11:21:03 19 110 Q. Fair enough.

11:21:04 20 So, in 2014 and 2015, you considered  
11:21:09 21 yourself to still be a member of the Transition  
11:21:12 22 Panel.

11:21:12 23 Is that fair?

11:21:13 24 A. Umm. Umm. I'm just trying to  
11:21:40 25 think. No.

11:21:40 1 111 Q. What work were you doing, then,  
11:21:44 2 subsequent to the release of the Final Report?  
11:21:46 3 A. Providing input to the Ontario  
11:21:51 4 Racing Commission for the implementation that they  
11:21:55 5 were doing.

11:21:56 6 112 Q. Okay.  
11:21:58 7 A. Yeah.

11:21:59 8 113 Q. So I will try and -- to assist  
11:22:02 9 your recollection, try and give you some specifics.  
11:22:08 10 You do recall that your mandate ended  
11:22:16 11 in March 2015, right?  
11:22:17 12 A. I recall that I stopped being  
11:22:22 13 paid. I -- I stopped billing. The contract--

11:22:22 14 114 Q. Okay.  
11:22:25 15 A. --came to an end the end of March  
11:22:29 16 2015.

11:22:29 17 115 Q. So March of 2014, what was your  
11:22:31 18 relationship with the Ontario government with  
11:22:33 19 respect to horse racing?  
11:22:35 20 A. I was providing advice to the  
11:22:39 21 Ontario Racing Commission.

11:22:40 22 116 Q. Pursuant to a contract?  
11:22:41 23 A. Pursuant to a contract.

11:22:42 24 117 Q. Right.  
11:22:43 25 And I presume, then, because this

11:22:45 1 action was commenced in March 2014 and there was  
11:22:53 2 some reference to its commencement in the media,  
11:22:56 3 particularly in rural areas, you -- where you --  
11:22:59 4 you live in a rural area, right?

11:23:00 5 A. In Stratford.

11:23:03 6 118 Q. Okay.

11:23:03 7 A. Perth County.

11:23:04 8 119 Q. And you lived there in March 2014?

11:23:06 9 A. Yes.

11:23:07 10 120 Q. So in March 2014, you were aware  
11:23:08 11 that this lawsuit was started by breeders; correct?

11:23:14 12 A. Uh. I was -- I was aware that,  
11:23:20 13 uh, there was a lawsuit, yes.

11:23:22 14 121 Q. Okay.

11:23:23 15 A. Oh. I see -- oh. 2014. Yes.

11:23:26 16 122 Q. Right.

11:23:27 17 A. Right.

11:23:27 18 123 Q. And were you working with  
11:23:33 19 Mr. Snobelen in 2014?

11:23:35 20 A. Yes.

11:23:36 21 124 Q. What was Mr. Snobelen's position?

11:23:44 22 A. Mr. -- Mr. -- Mr. Buchanan had  
11:23:47 23 become, uh, the Chair of the Ontario Racing  
11:23:51 24 Commission, if I remember correctly, and  
11:23:53 25 Mr. Snobelen's was, umm, the head of an



11:23:57 1 organization. I'm just trying to remember what --  
11:23:59 2 what -- Ontario -- Ontario Horse Racing, OHR.  
11:24:03 3 125 Q. Okay.  
11:24:04 4 A. Yeah.  
11:24:04 5 126 Q. And so, Mr. Buchanan had - we are  
11:24:07 6 talking about the spring of 2014 - had become the  
11:24:10 7 Chair of the Ontario Racing Commission.  
11:24:13 8 Is that right?  
11:24:14 9 A. That's my...  
11:24:15 10 127 Q. Recollection?  
11:24:16 11 A. ...recollection, yeah.  
11:24:17 12 128 Q. And Mr. Snobelen was the head of  
11:24:20 13 some other government body with respect to racing,  
11:24:24 14 right?  
11:24:24 15 A. Uh. Yes.  
11:24:28 16 129 Q. And what was your position?  
11:24:30 17 A. Provide advice.  
11:24:32 18 130 Q. Pardon?  
11:24:33 19 A. Provide advice.  
11:24:34 20 131 Q. Okay. You didn't have an official  
11:24:37 21 appointment?  
11:24:38 22 A. No. It was to provide advice.  
11:24:40 23 132 Q. To who?  
11:24:41 24 A. Ontario Racing Commission.  
11:24:42 25 133 Q. And that's Mr. Buchanan and

11:24:45 1

Mr. Snobelen?

11:24:46 2

A. Whatever advice I was -- I was

11:24:49 3

asked for, I -- the -- the intent was to provide

11:24:53 4

the, uh, knowledge that I had gained being on the

11:24:58 5

Panel was considered to be of value to the Ontario

11:25:01 6

Racing Commission, so I made myself available to

11:25:03 7

advise them on an as-needed basis.

11:25:06 8

134

Q. And did you advise them?

11:25:08 9

A. Uh. Yes.

11:25:08 10

135

Q. Okay. And did that -- did you

11:25:10 11

advise Mr. Snobelen?

11:25:12 12

A. Uh. Yes.

11:25:15 13

136

Q. Did you advise Mr. Buchanan?

11:25:17 14

A. Yes.

11:25:17 15

137

Q. So I'm going to again give you a

11:25:20 16

reference point to see if it assists in refreshing

11:25:22 17

your recollection.

11:25:25 18

In March of 2014, the Ontario Racing

11:25:32 19

Commission was in the process of finalizing

11:25:35 20

five-year breeder support programs.

11:25:39 21

Do you remember that?

11:25:39 22

A. Umm. Yes. It was part of the

11:25:49 23

industry restructuring, yes.

11:25:50 24

138

Q. Okay.

11:25:52 25

A. Yeah.

11:25:52 1 139 Q. And the breeder support programs  
11:26:01 2 that were part of the industry restructuring  
11:26:04 3 included an enhanced breeders' award program,  
11:26:09 4 right?

11:26:10 5 Do you remember that?

11:26:10 6 A. What I remember was that the loss  
11:26:17 7 of SARP funding for that program created the  
11:26:22 8 challenge for breeders and the -- and there was a  
11:26:26 9 need for a transition to maintain those programs  
11:26:35 10 which, in my opinion and the Panel's opinion, were  
11:26:40 11 world-class.

11:26:40 12 --- (Court reporter appeals.)

11:26:40 13 THE WITNESS: World-class.

11:26:40 14 BY MR. LISUS:

11:26:41 15 140 Q. The breeding programs were  
11:26:43 16 world-class?

11:26:44 17 A. That was the conclusion that I  
11:26:46 18 came to, uh, looking around the world, about other  
11:26:49 19 jurisdictions.

11:26:50 20 141 Q. And that was the conclusion that  
11:26:51 21 you came to in the course of your duties as a Panel  
11:26:54 22 Member in 2012 and onward, right?

11:26:57 23 A. Yes.

11:27:06 24 142 Q. And when you say "world-class",  
11:27:08 25 what you're telling me, so that I understand it,

11:27:10 1 sir, is that the breeders of horses were breeding  
11:27:13 2 world-class horses?

11:27:14 3 A. No.

11:27:15 4 143 Q. Okay. What do you mean?

11:27:15 5 A. That comparing that program to  
11:27:17 6 other problems (sic) -- other programs around the  
11:27:21 7 world,--

11:27:21 8 144 Q. Yes.

11:27:23 9 A. --it was in the top tier of the  
11:27:26 10 money that was being expended to improve -- to  
11:27:32 11 achieve the stated goal, which was to improve the  
11:27:36 12 -- the breeding of horses in Ontario for racing.

11:27:38 13 145 Q. Okay. And when you say "to  
11:27:40 14 improve the stated goal of improving breeding in  
11:27:45 15 horses", you're referring to one of the stated  
11:27:48 16 goals of the Slots at Racetrack Program initiative,  
11:27:51 17 right?

11:27:52 18 A. No. I'm referring to the Horse  
11:27:56 19 Improvement Program.

11:27:56 20 146 Q. Okay. The Horse Improvement  
11:27:58 21 Program was, in part, funded by revenue from the  
11:28:00 22 Slots at Racetrack Program; correct?

11:28:02 23 A. Yes. That's my recollection.

11:28:03 24 147 Q. All right.

11:28:05 25 A. And the loss of SARP's money

11:28:10 1 created a fiscal challenge for that program that  
11:28:12 2 needed to be resolved.

11:28:13 3 148 Q. And it created a significant  
11:28:15 4 fiscal challenge for Standardbred breeders, right?

11:28:19 5 A. I don't know how significant. I  
11:28:27 6 know it was one of three sources of money for that  
11:28:29 7 program.

11:28:29 8 149 Q. But you don't know how significant  
11:28:31 9 the problem was that it created?

11:28:33 10 A. Uh. Well, I knew that any loss of  
11:28:35 11 money was a problem, uh, and, uh -- and therefore,  
11:28:43 12 it needed to be addressed to ensure that there  
11:28:45 13 would be an adequate supply of horses for the  
11:28:48 14 industry; that that was one of the underpinnings of  
11:28:52 15 the horse racing industry was to have -- in the  
11:28:56 16 Standardbred world, was to have local horses.

11:28:57 17 150 Q. Bred by local horse breeders?

11:28:59 18 A. The HIP program preferred that  
11:29:03 19 those horses were bred, raised, and run in Ontario.

11:29:08 20 151 Q. And you and I can agree, sir, that  
11:29:12 21 from - without going through every document, but I  
11:29:17 22 will if we have to - between 1998 and 2012, in  
11:29:25 23 Ontario budgets and in Ontario Racing Commission  
11:29:26 24 bulletins, breeders were encouraged to breed  
11:29:29 25 Ontario-bred horses, right? You've seen those

11:29:32 1 documents?

11:29:33 2 MS. MACHADO: Well, he only started in

11:29:35 3 2012, so you're asking him about documents --

11:29:36 4 MR. LISUS: No. He was a Cabinet

11:29:37 5 Minister from two thousand and...

11:29:37 6 BY MR. LISUS:

11:29:39 7 152 Q. When, sir?

11:29:40 8 A. From 2007 to 2011.

11:29:42 9 153 Q. And you were in government from

11:29:43 10 when?

11:29:43 11 A. 2003 to 2011.

11:29:45 12 154 Q. Right.

11:29:45 13 So from 2003 to 2011, when you were in

11:29:48 14 government, you are aware that there were multiple

11:29:53 15 statements regarding Slots at Racetrack Program,

11:29:56 16 including encouraging breeders to breed Ontario

11:30:00 17 horses; fair?

11:30:02 18 A. No.

11:30:02 19 155 Q. You don't recall seeing anything

11:30:05 20 like that?

11:30:05 21 A. No.

11:30:08 22 156 Q. Okay.

11:30:10 23 A. I recall information about the

11:30:12 24 horse racing industry because it was..., part of it

11:30:16 25 was centered in my riding, particularly in my first

11:30:20 1 riding of Perth-Middlesex.

11:30:23 2 What I do recall is the material that  
11:30:24 3 was provided to me at the beginning of my work as a  
11:30:27 4 panel that looked at the HIP program, which I knew  
11:30:30 5 very little about, uh, that I -- that I had to read  
11:30:33 6 to get up to speed.

11:30:34 7 157 Q. Okay. So what you're telling me  
11:30:38 8 is, prior to your appointment as a Panel Member in  
11:30:41 9 2012, you hadn't paid particular attention to what  
11:30:45 10 was being said by the Ontario Racing Commission  
11:30:48 11 about breeding horses in Ontario; fair?

11:30:51 12 A. Fair.

11:30:53 13 158 Q. All right. And prior to your  
11:30:55 14 appointment as a Panel Member in 2012, you weren't  
11:30:58 15 paying particular attention to what was said in  
11:31:00 16 Ontario budgets about Slots at Racetrack Program  
11:31:04 17 and horse breeding, right?

11:31:06 18 A. Right.

11:31:09 19 159 Q. It's -- it's not a trick question.  
11:31:13 20 I'm just trying to understand what knowledge and  
11:31:17 21 information you came with to the Panel.

11:31:19 22 And the reason I'm asking that, sir, is  
11:31:21 23 Mr. Snobelen, who testified last week, told me that  
11:31:23 24 he was the member of the Panel that was appointed  
11:31:26 25 for his knowledge and experience with the horse

11:31:29 1 racing industry, okay?

11:31:31 2 A. Well, first of all, you're asking  
11:31:33 3 me to comment on something I haven't read, but --

11:31:36 4 160 Q. No. I'm just telling you that's  
11:31:37 5 what he said. You can take that as a given.

11:31:39 6 A. Yeah.

11:31:39 7 161 Q. My question is, you didn't have  
11:31:41 8 any particular expertise or experience in the horse  
11:31:44 9 racing industry when you were appointed the Panel  
11:31:46 10 in 2012.

11:31:47 11 Is that fair?

11:31:48 12 A. Yes. I was appointed for my  
11:31:50 13 financial acumen.

11:31:51 14 162 Q. Okay. That's the reason I'm  
11:31:53 15 asking you.

11:31:53 16 And --

11:31:55 17 A. But...

11:31:58 18 163 Q. "But...?"

11:31:59 19 A. I did have -- I did go, uh, in my  
11:32:03 20 first term as a guest of - I think it was OHRIA at  
11:32:08 21 the time, Jane Holmes - myself and other fellow  
11:32:12 22 MPPs visited Seelster Farms which was in my riding  
11:32:17 23 in Lucan, Ontario. So I distinctly recall that  
11:32:21 24 day. We went to a -- to understand, uh, breeding.

11:32:24 25 So just for full disclosure, I had --



11:32:27 1 my interaction with the industry, uh, was that I  
11:32:32 2 had gone to that.

11:32:33 3 That did not make me an expert, but I  
11:32:35 4 just want to be fulsome, that I... It's not I  
11:32:40 5 didn't know there was a breeding industry in -- in  
11:32:44 6 -- in the Middlesex part of my riding and that I  
11:32:46 7 had visited, uh, Seelster Farms.

11:32:48 8 164 Q. Right. But you weren't -- prior  
11:32:49 9 to your point on the Panel, you weren't  
11:32:53 10 knowledgeable about the manner in which the horse  
11:32:55 11 racing industry was structured in Ontario; correct?

11:32:58 12 A. Correct.

11:32:59 13 165 Q. All right. You weren't  
11:33:00 14 knowledgeable about the -- prior to your  
11:33:01 15 appointment on the Panel, you weren't knowledgeable  
11:33:03 16 about the introduction of slot machines into  
11:33:05 17 racetracks in 1998; correct?

11:33:09 18 A. Incorrect because, I believe,  
11:33:16 19 during my first term, the Minister of Finance who  
11:33:19 20 at the time was Greg Sorbara,--

11:33:23 21 166 Q. Yes?

11:33:23 22 A. --uh - I believe it was Greg -  
11:33:26 23 umm, had a review of gaming--

11:33:36 24 167 Q. Okay.

11:33:36 25 A. --and that would have included,

11:33:40 1 umm, SARP, and the decision was made, uh, if I  
11:33:43 2 recall correctly, to maintain the status quo in  
11:33:48 3 regard to gaming and, as a result, SARP.

11:33:51 4 168 Q. And when was that?

11:33:55 5 A. I recall it was in my first term,  
11:33:57 6 uh, when -- when Greg was Minister of Finance, so  
11:33:59 7 --

11:34:00 8 169 Q. And that -- that's 2003?

11:34:01 9 A. Well, 2003 to 2007.

11:34:14 10 170 Q. Okay.

11:34:14 11 A. I could be wrong. And which I  
11:34:16 12 believe, if I recall, was the reason for what was  
11:34:16 13 referred to as the "Sadinsky Report",--

11:34:16 14 171 Q. All right.

11:34:18 15 A. --which I read.

11:34:18 16 172 Q. And you read the -- you read the  
11:34:21 17 Sandinsky (sic) Report--

11:34:21 18 A. Sadinsky, yes.

11:34:23 19 173 Q. --in 2012 or when it was released  
11:34:25 20 in 2008?

11:34:26 21 A. In 2012 when it was part of the  
11:34:28 22 briefing package that was prepared for me and the  
11:34:31 23 other panels.

11:34:31 24 174 Q. Okay. When you were reading --  
11:34:55 25 when you were doing your work on the Panel in

11:34:56 1 August 2012 -- excuse me -- in 2012...

11:34:59 2 You started June 2012, right?

11:35:00 3 A. Yes.

11:35:02 4 175 Q. ...did you read the 1998 letter of  
11:35:04 5 intent; you, yourself?

11:35:06 6 A. Letter of intent.

11:35:13 7 176 Q. Between OHRIA and the OLC? Do you  
11:35:20 8 recall if you read it?

11:35:21 9 A. I remember there was something  
11:35:24 10 that was signed by Chris Hodgsons (sic) as a  
11:35:29 11 Minister and other people in the industry. I  
11:35:30 12 remember -- if that's what that is. I -- I can't  
11:35:33 13 recall, but I remember reading that.

11:35:35 14 177 Q. Okay. Did you review the  
11:35:37 15 siteholder -- I'm talking about in 2012, prior to  
11:35:40 16 the release of your Interim Report,--

11:35:44 17 A. Mm-hmm.

11:35:45 18 178 Q. --did you -- did you recall  
11:35:46 19 reading the June 1998 letter of intent signed by  
11:35:50 20 Chris Hodgson?

11:35:50 21 A. Uh. Yes. It was part of the  
11:35:57 22 briefing package that was prepared for the three of  
11:36:01 23 us to get up to speed--

11:36:02 24 179 Q. Okay.

11:36:02 25 A. --on the industry.

11:36:03 1 180 Q. And did you read the -- any of the  
11:36:15 2 siteholder agreements between individual racetracks  
11:36:17 3 and the Ontario Lottery Corporation in 2012?

11:36:18 4 A. I don't recall that being part of  
11:36:19 5 the package. There was, you know, well over a  
11:36:23 6 dozen tracks, so I don't remember reviewing 17  
11:36:31 7 siteholder agreements. That --

11:36:31 8 181 Q. Okay.

11:36:31 9 A. That doesn't...

11:36:32 10 182 Q. You don't -- you don't--

11:36:32 11 A. Right.

11:36:34 12 183 Q. --recall reviewing a one or a  
11:36:36 13 sample of them?

11:36:37 14 A. Well, the -- my contract started  
11:36:40 15 with a recital that said the SARP program was to be  
11:36:44 16 cancelled March 31st, 2013, so...

11:36:48 17 184 Q. Fair enough. So you didn't, is  
11:36:50 18 what you're telling me? You didn't feel it was  
11:36:52 19 required to fulfill the terms of your contract?

11:36:55 20 A. No.

11:36:59 21 185 Q. I'm correct?

11:37:00 22 A. You're correct.

11:37:01 23 186 Q. All right.

11:37:02 24 A. I did not... I did not ask for --  
11:37:06 25 reading the material, I didn't say, 'Ah. There's

11:37:09 1 something that we're missing.'

11:37:11 2 Other things, we were missing. Not

11:37:12 3 that.

11:37:13 4 187 Q. Okay. And what other things were

11:37:14 5 missing?

11:37:15 6 A. The, umm... The... We had the

11:37:21 7 briefing books and they were, umm, they were

11:37:34 8 prepared for us. So I think, if I remember, the

11:37:37 9 HIP reports that we read, which were -- I remember

11:37:40 10 they were somewhat out of date. I think it was

11:37:43 11 2010 or something, umm, that that was something

11:37:48 12 that we needed to see.

11:37:49 13 And I -- if I recall, that was John's

11:37:52 14 suggestion that that was something that needed to

11:37:54 15 be added to the package.

11:37:56 16 188 Q. The HIP reports?

11:37:57 17 A. Yeah. The public -- the public

11:37:59 18 documents.

11:37:59 19 189 Q. And when you say "John", you mean

11:38:00 20 John Snobelen?

11:38:01 21 A. Yes.

11:38:01 22 190 Q. And you say "the public

11:38:02 23 documents"; the documents put out by HIP,

11:38:05 24 describing the revenue from Slots at Racetrack

11:38:08 25 Program that would be made available to HIP, right?

11:38:12 1 A. Yeah, because it was a part of the  
11:38:13 2 financial notes. So what I would have been reading  
11:38:16 3 is the financial parts of it.

11:38:16 4 191 Q. All right.

11:38:17 5 A. I would be attracted to that.

11:38:19 6 192 Q. Your expert- -- and I understand,  
11:38:22 7 from reviewing the documents, that these were the  
11:38:26 8 HIP annual reports that you reviewed?

11:38:28 9 A. Yes. I remember that being part  
11:38:29 10 of the package.

11:38:30 11 193 Q. Okay. And so your expertise on  
11:38:32 12 the Panel was financial; correct?

11:38:34 13 A. Uh. Yes.

11:38:36 14 194 Q. Okay. When you started the Panel  
11:38:53 15 -- when you started on the Panel in June of 2012,  
11:38:56 16 did you have an understanding of what the purpose  
11:39:02 17 of the Slots at Racetrack Program was when it was  
11:39:08 18 created in 1998?

11:39:09 19 A. When I started, no.

11:39:12 20 195 Q. Okay.

11:39:14 21 A. And my contract said it was--

11:39:14 22 196 Q. I'm not --

11:39:17 23 A. --to be cancelled, so --

11:39:18 24 197 Q. I'm not being critical,

11:39:21 25 Mr. Wilkinson.

11:39:21 1 A. No, no. But I'm just saying.

11:39:23 2 198 Q. I'm just trying to understand--

11:39:23 3 A. Right.

11:39:24 4 199 Q. --the understanding that you came  
11:39:26 5 to your Panel work with, and that's--

11:39:26 6 A. On the first day.

11:39:26 7 200 Q. --helpful to me.

11:39:26 8 A. Yeah.

11:39:31 9 201 Q. Okay. And so, apart from the  
11:39:35 10 visit that you've told me about to Seelster Farms'  
11:39:40 11 breeding operation and apart from living in an area  
11:39:43 12 that was involved in the horse racing industry, is  
11:39:47 13 it fair to say that what you -- that everything you  
11:39:50 14 learned about the Slots at Racetrack Program, you  
11:39:54 15 learned in your capacity as a Panel Member  
11:39:57 16 subsequent to your appointment in June 2012?

11:40:00 17 A. Yes.

11:40:01 18 202 Q. Okay. Now, let me just ask you  
11:40:13 19 about that appointment.

11:40:14 20 You were in politics, sir, from 2003,  
11:40:17 21 and you lost your seat in the October 2011  
11:40:23 22 election, right?

11:40:23 23 A. Yes.

11:40:25 24 203 Q. And --

11:40:25 25 A. Though, uh, I ran in 1999, just

11:40:27 1 for full disclosure, so I was--

11:40:27 2 204 Q. Okay.

11:40:30 3 A. --political--

11:40:30 4 205 Q. Understood.

11:40:34 5 A. --starting when I became a -- a  
11:40:35 6 candidate, yes.

11:40:37 7 206 Q. Right. And you maintained your  
11:40:38 8 interest in politics after you lost your seat,  
11:40:42 9 right?

11:40:43 10 A. Yes.

11:40:44 11 207 Q. I presume, then, that being a  
11:40:49 12 former MPP and Cabinet Minister and someone who  
11:40:55 13 remained interested in politics, when it was  
11:40:58 14 announced that the revenue share at the Slots at  
11:41:03 15 Racetrack Program was cancelled in March 2012, you  
11:41:06 16 took note of it?

11:41:09 17 A. Yes. I was at an event... I -- I  
11:41:15 18 recall being at an event where the Premier  
11:41:18 19 mentioned that in his speech.

11:41:19 20 208 Q. Okay. And was it -- are you  
11:41:23 21 recalling an event in which the Premier mentioned  
11:41:27 22 it or an event in which Mr. Duncan made reference  
11:41:31 23 to the Slots at Racetrack Program in February 2012?

11:41:36 24 A. No. What I recall is the -- I  
11:41:38 25 believe it was the Ontario Liberal Party Heritage



11:41:43 1 Dinner, which was their annual big fundraiser--

11:41:47 2 209 Q. Okay.

11:41:47 3 A. --and that his comment -- that he

11:41:48 4 commented on the horse racing file after... I

11:41:52 5 don't know whether it was before or after Minister

11:41:55 6 Duncan made whatever announcement he made, uh, but

11:41:59 7 I remember -- I remember that.

11:41:59 8 I remember taking note of that and I

11:42:03 9 remember seeing Jane Holmes, who I knew from the

11:42:07 10 industry, umm, and the look of distress on her

11:42:17 11 face.

11:42:18 12 210 Q. Of distress?

11:42:18 13 A. Of distress on her face.

11:42:19 14 211 Q. Okay. And was that the first that

11:42:20 15 you had heard about it?

11:42:22 16 A. Yes.

11:42:22 17 212 Q. And did you speak to Jane Holmes

11:42:23 18 about it?

11:42:24 19 A. Umm. Yes. When I -- I -- umm...

11:42:36 20 She was distressed,--

11:42:36 21 213 Q. Okay.

11:42:37 22 A. --yeah.

11:42:37 23 214 Q. Why was she distressed? What did

11:42:39 24 she tell you?

11:42:40 25 A. I recall her saying that this came

11:42:42 1 out of left field.

11:42:43 2 215 Q. And when was this dinner?

11:42:47 3 A. It was usually in the -- towards

11:42:50 4 the end of the first quarter of the year, so

11:42:52 5 usually --

11:42:52 6 216 Q. Okay.

11:42:52 7 A. Usually, like, it was

11:42:56 8 February-March, so that time that you mentioned.

11:42:57 9 217 Q. Okay. And how long had you known

11:43:02 10 Jane Holmes?

11:43:02 11 A. Well, I -- I met Jane when she

11:43:06 12 reached out to me and invited me and other MPPs to

11:43:10 13 visit Seelster Farms in my riding of -- in Lucan.

11:43:14 14 Uh. And I subsequently, uh... So that's how I got

11:43:17 15 to know her.

11:43:18 16 I think she was with OHRIA then.

11:43:21 17 218 Q. Okay.

11:43:22 18 A. And then, uh... It's kind of --

11:43:24 19 but, I mean, she was with the horse racing

11:43:26 20 industry. Maybe -- she ended up being with

11:43:28 21 Woodbine, I think, ultimately.

11:43:30 22 And, uh... And I know that I had been

11:43:39 23 a guest of Woodbine for the Queen's Plate--

11:43:45 24 219 Q. Okay.

11:43:46 25 A. --which is the Thoroughbred

11:43:48 1 industry event, right. Yeah.

11:43:52 2 220 Q. And Jane Holmes was visibly  
11:43:54 3 distressed about this announcement?

11:43:56 4 A. Yes.

11:43:56 5 221 Q. And I presume that she explained  
11:43:59 6 to you that part of the reason she was distressed  
11:44:03 7 is because she thought this would have a very  
11:44:05 8 negative impact on the horse racing industry in  
11:44:09 9 Ontario?

11:44:09 10 A. No. What she shared with me was  
11:44:13 11 the shock that she said she didn't see this coming,  
11:44:17 12 is what --

11:44:17 13 222 Q. Okay.

11:44:18 14 A. -- was her comment to me.

11:44:19 15 223 Q. And what was your reaction to the  
11:44:22 16 news?

11:44:22 17 A. Well, I was sorry that her  
11:44:27 18 feelings were hurt, but I didn't really understand  
11:44:30 19 that. I just knew that -- one person had said,  
11:44:33 20 'We're cancelling,' and another -- one person I  
11:44:35 21 knew said they were cancelling and another person  
11:44:39 22 said that it had come out of left field and she was  
11:44:43 23 distressed.

11:44:43 24 224 Q. Right. And--

11:44:43 25 A. So that's...

11:44:44 1 225 Q. --that's all you knew about it?

11:44:45 2 A. There were -- yeah. There was

11:44:46 3 1,200 people--

11:44:46 4 226 Q. I understand.

11:44:47 5 A. --at that -- at the dinner, so...

11:44:48 6 227 Q. But you didn't have any basis to

11:44:51 7 understand what the consequences of the decision

11:44:53 8 would be for the horse racing industry at that

11:44:55 9 point; correct?

11:44:55 10 A. No. No.

11:44:57 11 228 Q. You did subsequently come to

11:45:02 12 learn?

11:45:02 13 A. Of course, yes.

11:45:02 14 229 Q. Right.

11:45:02 15 A. During -- during the work.

11:45:04 16 230 Q. I didn't hear what you said.

11:45:05 17 A. I said during my Panel work,--

11:45:05 18 231 Q. Yes.

11:45:07 19 A. --I then came and formed, uh,

11:45:11 20 along with my colleagues, opinions as to what would

11:45:12 21 be the -- the financial -- the financial, uh,--

11:45:13 22 232 Q. Consequences?

11:45:14 23 A. --consequences of the decision,

11:45:16 24 yeah.

11:45:16 25 233 Q. Okay. Did you speak -- after that

11:45:20 1 dinner, did you speak with either Mr. McGuinty or  
11:45:23 2 Mr. Duncan about the decision?  
11:45:25 3 A. No.  
11:45:25 4 234 Q. Not at all?  
11:45:26 5 A. No.  
11:45:27 6 235 Q. All right. Did you have a close  
11:45:32 7 relationship with Mr. McGuinty?  
11:45:33 8 A. Umm. I consider Dalton McGuinty  
11:45:36 9 to be a friend and, uh, our families are friends  
11:45:44 10 and, umm, but I did not, uh, speak, uh, with the --  
11:45:53 11 the Premier.  
11:45:54 12 I also believed that the Premier was a  
11:45:58 13 busy person and that --  
11:46:00 14 236 Q. Did you ever speak with  
11:46:02 15 Mr. McGuinty about the cancellation of the revenue  
11:46:06 16 sharing at --  
11:46:06 17 A. No.  
11:46:07 18 237 Q. Never?  
11:46:07 19 A. No.  
11:46:08 20 238 Q. Okay.  
11:46:08 21 A. No. I never, umm --  
11:46:10 22 239 Q. And I don't mean in 2012. I mean  
11:46:12 23 ever.  
11:46:13 24 A. Uh. No, never. But I just --  
11:46:18 25 just so you know, after I was appointed to the

11:46:22 1 Panel, it was quite unique to have three former  
11:46:25 2 Cabinet Ministers from three different governments  
11:46:28 3 serving on it, and I distinctly remember having a  
11:46:32 4 brief conversation with the Premier who asked, 'How  
11:46:37 5 is that going?'

11:46:38 6 240 Q. Okay.

11:46:38 7 A. To which I replied that... I  
11:46:45 8 distinctly remember what I told him, umm, because  
11:46:49 9 it was the opinion that I had formed by starting to  
11:46:51 10 work with Elmer and John, that we were getting  
11:46:54 11 along very well because we had a shared common  
11:46:58 12 experience in government in regard to the role that  
11:47:01 13 we each played.

11:47:04 14 By happenstance, this was our  
11:47:06 15 commonality, that Mr. Buchanan was as loyal to  
11:47:10 16 Premier Rae as Mr. Snobelen was to Premier Harris  
11:47:14 17 as I was to Minister -- or to Premier McGuinty;  
11:47:17 18 that we were all what I would call "loyalists" as  
11:47:22 19 opposed to opportunists and so, uh -- politically.

11:47:27 20 And we had been attracted by the leader  
11:47:30 21 to enter into politics, enter into the fray, to put  
11:47:33 22 our name on a ballot and, uh, had served, uh, the  
11:47:36 23 individual that had inspired us to -- to do so.

11:47:39 24 In each of us -- in each of our cases,  
11:47:41 25 it was the person who ended up being a Premier, and

11:47:45 1 that was something we had in common.

11:47:47 2 So I shared with the -- with the

11:47:49 3 Premier that I thought that the rapport that we had

11:47:51 4 built up was very, very good.

11:47:53 5 241 Q. But you never spoke to him about

11:47:55 6 the basis upon which the decision was made?

11:47:57 7 A. No.

11:47:57 8 242 Q. Did you ever learn who made the

11:47:59 9 decision?

11:47:59 10 A. Umm. I know that it was the,

11:48:05 11 uh -- it was the decision of the government and the

11:48:08 12 decision, uh, was the recommendation of the

11:48:13 13 Ministry of Finance.

11:48:14 14 243 Q. Okay. So, the --

11:48:17 15 A. And that was in the briefing book.

11:48:22 16 244 Q. Okay.

11:48:23 17 A. Yeah.

11:48:23 18 --- (Court reporter appeals.)

11:48:23 19 THE WITNESS: Oh. Sorry.

11:48:23 20 And that was in the briefing material

11:48:25 21 that we--

11:48:25 22 BY MR. LISUS:

11:48:25 23 245 Q. Right.

11:48:25 24 A. --were given to start.

11:48:26 25 246 Q. But you never spoke, as I've

11:48:28 1 understood you to say, with Mr. McGuinty how the  
11:48:35 2 Ministry of Finance came to make that decision?

11:48:35 3 A. No.

11:48:35 4 247 Q. Now, did you ever speak to  
11:48:37 5 Mr. Duncan about how the decision to cancel the  
11:48:43 6 revenue sharing from the Slots At Racetrack Program  
11:48:45 7 was made?

11:48:45 8 A. No.

11:48:45 9 248 Q. And you're saying -- we've just  
11:48:46 10 got a transcript, so it's hard to capture your body  
11:48:52 11 language, but you're laughing and shaking your  
11:48:54 12 head.

11:48:54 13 Why do you say it that so emphatically?

11:48:58 14 A. I say, because the, umm, decision  
11:49:00 15 of the Minister of Agriculture, umm, to, umm,  
11:49:06 16 empanel the three of us was, umm, hard thought,  
11:49:16 17 that there would be a deal with a panel to deal  
11:49:19 18 with the consequences of the decision to cancel  
11:49:25 19 SARP.

11:49:27 20 And it was my understanding that that,  
11:49:27 21 uh, was not, umm, umm...

11:49:30 22 249 Q. Supported?

11:49:30 23 A. Uh. It was supported, but it  
11:49:31 24 wasn't -- it wasn't the first choice of the  
11:49:33 25 Ministry of Finance that this issue would be



11:49:34 1 revisited.

11:49:35 2 250 Q. I see.

11:49:35 3 A. But, you know, I -- I -- when  
11:49:37 4 governments make a decision, they make a decision.  
11:49:39 5 The decision was made to empanel the Panel, so I  
11:49:44 6 was asked to serve and --

11:49:44 7 251 Q. Okay.

11:49:45 8 A. -- and I did.

11:49:45 9 252 Q. So I'm taking from your -- from  
11:49:48 10 your answer, sir, that you never spoke with  
11:49:50 11 Minister Duncan about the decision because you knew  
11:49:55 12 that his Ministry didn't support the creation of a  
11:49:58 13 panel to examine the consequences of the decision.

11:50:03 14 Is that fair?

11:50:03 15 A. No. Once the decision was made by  
11:50:06 16 the government to empanel the -- the Panel, then  
11:50:09 17 that was the decision. It didn't -- doesn't really  
11:50:09 18 matter who is for or against before the decision.

11:50:09 19 253 Q. Right.

11:50:09 20 A. After the decision is made in our  
11:50:19 21 form of government, that's the government. That's  
11:50:19 22 the position of the government.

11:50:20 23 254 Q. Understood.

11:50:27 24 And did you speak with...? Let me back  
11:50:29 25 up a minute.

11:50:30 1 I understood your answer to be that the  
11:50:33 2 appointment of the Panel was a decision that was  
11:50:35 3 pressed for by the Ministry of Agriculture under  
11:50:38 4 Mr. McMeekin?

11:50:39 5 A. Yes.

11:50:42 6 255 Q. And when did Ms. Wynne become  
11:50:48 7 Minister of Agriculture?

11:50:50 8 A. After she became Premier.

11:50:51 9 256 Q. And you were Chair -- you were the  
11:50:53 10 Chair or a Co-Chair of her leadership campaign;  
11:50:56 11 correct?

11:50:56 12 A. I was Co-Chair of her campaign  
11:51:00 13 with, uh, with Deb Matthews, the member for  
11:51:00 14 London--

11:51:00 15 257 Q. Okay.

11:51:04 16 A. --North Centre for about the last  
11:51:07 17 probably six weeks of -- of that leadership  
11:51:11 18 campaign.

11:51:11 19 258 Q. And --

11:51:13 20 A. It was the same day that Minister  
11:51:15 21 Murray withdrew from the race and threw his support  
11:51:20 22 to Kathleen.

11:51:21 23 259 Q. At the time the decision was made,  
11:51:23 24 Ms. Wynne was a Cabinet Minister?

11:51:26 25 A. Yes.

11:51:26 1 260 Q. And by "the decision", I mean  
11:51:29 2 cancellation, termination of revenue share.  
11:51:30 3 I don't mean the decision to empanel; I  
11:51:34 4 mean the termination.  
11:51:34 5 She was a Cabinet Minister, March 2012?  
11:51:37 6 A. Yes.  
11:51:37 7 261 Q. All right. And what -- do you  
11:51:39 8 recall portfolio?  
11:51:50 9 A. No.  
11:51:51 10 262 Q. Okay.  
11:51:51 11 A. I know she had -- I can tell you  
11:51:54 12 which portfolios I think she had,--  
11:51:54 13 263 Q. Doesn't matter.  
11:51:54 14 A. --but I don't know which ones she  
11:51:55 15 had at the time.  
11:51:55 16 264 Q. Doesn't matter.  
11:51:55 17 A. But she was a Cabinet Minister.  
11:51:56 18 265 Q. Right.  
11:51:57 19 And Mr. McMeekin obviously was a  
11:51:58 20 Cabinet Minister?  
11:51:58 21 A. The Minister of Agriculture,--  
11:51:58 22 266 Q. Right.  
11:52:01 23 A. --Food and Rural Affairs.  
11:52:01 24 267 Q. And Mr. McMeekin was the one who  
11:52:05 25 pressed for the creation of the Panel?

11:52:05 1 A. That is my understanding.

11:52:06 2 268 Q. Okay. Now, did you speak with  
11:52:07 3 Mr. McMeekin about the basis upon which the  
11:52:10 4 decision to cancel revenue sharing from SARP was  
11:52:14 5 made?

11:52:14 6 A. No.

11:52:15 7 269 Q. Never?

11:52:16 8 A. No. I -- I was brought in. The  
11:52:20 9 decision had been made.

11:52:21 10 270 Q. Okay.

11:52:22 11 A. My contract stated that the  
11:52:26 12 decision had been made. It was government policy.  
11:52:30 13 And the contract asked the Panel and I to write a  
11:52:32 14 report for the Minister as to what was the best way  
11:52:36 15 to help the industry become self-sustaining, using  
11:52:40 16 an allocation of some -- like, \$50-million over  
11:52:45 17 three kind of fiscal years.

11:52:46 18 271 Q. Well, as I understand the  
11:52:49 19 evidence, the idea that \$50-million spread out over  
11:52:58 20 three years would be -- would be made available  
11:53:02 21 only emerged after the decision to cancel revenue  
11:53:09 22 share was made, right?

11:53:10 23 A. It -- it's my understanding that  
11:53:18 24 the cancellation notice that was given in the first  
11:53:20 25 quarter of 2012 did not include any, uh, provision

11:53:24 1 for transitional funding beyond the fact that they  
11:53:26 2 had a year's notice--

11:53:28 3 272 Q. Right.

11:53:29 4 A. --and that the decision to  
11:53:32 5 empanel -- the decision by the government  
11:53:35 6 subsequently to have the Ministry of Agriculture  
11:53:38 7 have a Transition Panel to give them advice, uh,  
11:53:43 8 included an allocation of some \$50-million over  
11:53:48 9 three fiscal years.

11:53:49 10 It might have been... I think it was  
11:53:55 11 going to be paid out over 24 months, just the way  
11:53:57 12 the fiscal year fell.

11:53:58 13 273 Q. So your understanding--

11:53:58 14 A. So that was --

11:54:01 15 274 Q. --is that that 50-million over  
11:54:03 16 three years was part of the decision to appoint a  
11:54:06 17 panel, right?

11:54:07 18 A. Yeah. That was the -- that was  
11:54:07 19 the fiscal...

11:54:08 20 So there was a fiscal envelope as  
11:54:10 21 opposed to nothing, and we knew what the amount  
11:54:12 22 was, and when it was -- when it could be paid over.

11:54:15 23 275 Q. Okay.

11:54:19 24 A. And -- and if I remember, I think  
11:54:21 25 that's -- that was part of the contract. It was

11:54:23 1 clear that that was -- we were to give advice on  
11:54:27 2 how that \$50-million should be allocated.

11:54:30 3 276 Q. And we'll come to it in more  
11:54:32 4 detail, but fair to say that you very quickly  
11:54:35 5 understood that the \$50-million over three years  
11:54:39 6 was completely inadequate if the horse racing  
11:54:41 7 industry was to be preserved, right?

11:54:43 8 A. We came to the conclusion that the  
11:54:46 9 assumption made, in the documents that we reviewed,  
11:54:52 10 that assumed that the horse industry would -- the  
11:54:56 11 horse racing industry would downsize and  
11:54:58 12 restructure was..., that that conclusion was  
11:55:02 13 incorrect and that was -- what was much more likely  
11:55:06 14 was that the industry would collapse.

11:55:08 15 277 Q. And you made -- you came to that  
11:55:10 16 conclusion very quickly after your appointment to  
11:55:13 17 the Panel; correct?

11:55:19 18 A. Well, I -- I wouldn't say  
11:55:21 19 "quickly", but I can tell you what was the  
11:55:23 20 information that prompted us to reach that  
11:55:25 21 conclusion, and that was the fact that one of the  
11:55:27 22 racetrack owners, Great Canadian, was a publicly  
11:55:30 23 traded company.

11:55:31 24 And it came to our attention that the  
11:55:35 25 company, in compliance with Securities regulations,

11:55:38 1 had publicly disclosed to their shareholders what  
11:55:42 2 they believe to be the detrimental effect on their  
11:55:47 3 company, and that window into the money of -- of a  
11:55:55 4 -- of a racetrack allowed us to see that a very  
11:55:59 5 substantial profit for that company, for those  
11:56:02 6 operations - I think it was Flamboro and Georgian -  
11:56:06 7 would go from being very healthily in the black to  
11:56:10 8 very unhealthily in the red.

11:56:13 9 And my business experience would tell  
11:56:15 10 me that the company, in that situation, would close  
11:56:18 11 the track and stop bleeding money.

11:56:23 12 278 Q. And then --

11:56:24 13 A. And so that was -- and that came,  
11:56:25 14 uh, that came to us, I believe it was when we met  
11:56:30 15 with, uh, Great Canadian, umm, and they were able  
11:56:33 16 to share with us what they had actually shared with  
11:56:36 17 their shareholders publicly. So it was a public  
11:56:38 18 document.

11:56:38 19 279 Q. So pretty --

11:56:40 20 A. I didn't --

11:56:40 21 280 Q. So pretty readily accessible  
11:56:43 22 information?

11:56:43 23 A. Well, of course, that's after the  
11:56:44 24 fact, after the decision.

11:56:46 25 281 Q. Well, as a publicly -- as a

11:56:48 1 publicly traded company, it would be producing  
11:56:51 2 financial information quarterly, right?

11:56:54 3 A. Oh, yes. Yeah.

11:56:55 4 282 Q. And the financial information  
11:56:57 5 would include revenue from its business lines;  
11:57:01 6 correct?

11:57:01 7 A. No. Beyond that, Mr. Lisus. They  
11:57:06 8 actually had to put out a press release. They  
11:57:08 9 didn't -- they couldn't wait for the quarter.

11:57:09 10 I -- I am a director of a publicly  
11:57:09 11 traded company.

11:57:09 12 283 Q. Sure.

11:57:11 13 A. They couldn't wait for the  
11:57:12 14 quarter. They had to -- to issue that.

11:57:13 15 284 Q. No, no. Fair enough.

11:57:16 16 All I'm saying, Mr. Wilkinson - I think  
11:57:19 17 we're agreeing - is that for a publicly traded  
11:57:22 18 company like Great Canadian, the financial  
11:57:24 19 information about the revenue and profit it derived  
11:57:26 20 from slot machines in its facilities would have  
11:57:29 21 been reported on an ongoing basis for--

11:57:32 22 A. Yes.

11:57:32 23 285 Q. --the duration of the time that it  
11:57:34 24 had slot machines in its premises, right?

11:57:38 25 A. If I--



11:57:39 1 286 Q. Yes?

11:57:40 2 A. --recall -- yes.

11:57:41 3 287 Q. Right.

11:57:42 4 A. If I recall, it was the only

11:57:43 5 publicly traded company of the 17 or so tracks. It

11:57:46 6 was the only --

11:57:47 7 288 Q. Right.

11:57:47 8 A. It was the only company that would

11:57:49 9 have a window into those finances that one could

11:57:56 10 reasonably assume was -- was credible because it

11:57:59 11 was required under Securities legislation.

11:58:03 12 289 Q. Wasn't there also financial

11:58:08 13 information in the possession of OLG about the

11:58:11 14 revenues generated by slot machines at racetracks

11:58:15 15 because OLG had reporting requirements, as well;

11:58:19 16 correct?

11:58:19 17 A. Uh. Yes. The amounts of money

11:58:23 18 that were -- that were generated by slot

11:58:27 19 machines... And I don't recall anybody ever

11:58:31 20 questioning the amount of money that was being paid

11:58:36 21 by SARP and, therefore, the -- the amount of money

11:58:39 22 that was to be stopped by cancelling it.

11:58:41 23 290 Q. Right. But my only point, sir -

11:58:45 24 and again, I think we're agreeing with each other -

11:58:47 25 the data regarding the amount of money generated

11:58:52 1 from slot machines in racetracks was available in  
11:58:58 2 February 2012, whether it was from publicly  
11:59:02 3 released information of public companies like Great  
11:59:06 4 Canadian, right?

11:59:06 5 A. Mm-hmm.

11:59:07 6 291 Q. Yes?

11:59:07 7 A. Uh. Yes. That would have -- if  
11:59:10 8 somebody looked,--

11:59:10 9 292 Q. Right.

11:59:11 10 A. --they could have found that,  
11:59:12 11 yeah.

11:59:12 12 293 Q. But with respect to the private  
11:59:14 13 racetracks, the amount of money generated by slot  
11:59:16 14 machines was also known and available to OLG;  
11:59:20 15 correct?

11:59:20 16 A. Uh. Yeah. Publicly reported.

11:59:23 17 I -- I don't know, sir, if -- if they  
11:59:25 18 actually reported per race track. I don't know  
11:59:28 19 that for sure. I know the aggregate amount and I  
11:59:30 20 know there was the -- you know, the 10 and 10 and 5  
11:59:32 21 agreement.

11:59:33 22 294 Q. Right.

11:59:33 23 A. Yes.

11:59:34 24 295 Q. So the information was --

11:59:35 25 A. -- can do the math.

11:59:35 1 296 Q. The information was there for the  
11:59:37 2 government to see; correct?

11:59:39 3 A. Mm-hmm. Uh. Yes. And that was  
11:59:40 4 contained in the briefing note that I received when  
11:59:43 5 I first became--

11:59:45 6 297 Q. Right.

11:59:45 7 A. --a panelist, that dealt with the,  
11:59:49 8 uh -- the analysis that had been done by the  
11:59:51 9 Ministry of Finance about that decision, that that  
11:59:54 10 work had been done.

11:59:56 11 298 Q. Fair enough.

11:59:56 12 And it was that initial understanding  
12:00:08 13 of the amount of revenue that would be stopped that  
12:00:15 14 caused you to understand that this would have a  
12:00:17 15 very significant impact on the horse racing  
12:00:20 16 industry, right?

12:00:21 17 A. What I had read in the briefing  
12:00:24 18 note provided to me by the Ministry of Finance  
12:00:27 19 through the Ministry of Agriculture, Food and Rural  
12:00:31 20 Affairs was that, umm, the, uh -- the economic  
12:00:34 21 analysis showed that, uh, umm -- like, that tracks  
12:00:43 22 would close;--

12:00:45 23 299 Q. Right.

12:00:46 24 A. --that it assumed that smaller  
12:00:48 25 tracks would close, that there would be job losses

12:00:51 1 in the horse racing industry, and that the industry  
12:00:54 2 would restructure.

12:00:58 3 Uh. And at that time, there was no --  
12:00:59 4 there was nothing in the document about that there  
12:01:01 5 would be transition money, so it would restructure  
12:01:04 6 on its own.

12:01:06 7 Umm. And that the -- if I recall, that  
12:01:09 8 the redirection of that money into, umm, I think it  
12:01:15 9 was healthcare and education would result in a,  
12:01:22 10 umm, great -- a net gain in both tax revenue and  
12:01:28 11 employment, so I remember -- I remember reading  
12:01:31 12 that.

12:01:32 13 It's obviously kind of a starting point  
12:01:35 14 because we had asked for... You know, we knew if  
12:01:38 15 they made the decision, there would have been an  
12:01:40 16 economic analysis done, and -- and that was shared  
12:01:40 17 with us, so we read that.

12:01:46 18 So I started with that--

12:01:46 19 300 Q. Yes.

12:01:47 20 A. --as, uh, as what was the -- what  
12:01:49 21 was the -- the underpinning of that decision.

12:01:51 22 When -- when we came to a different  
12:01:53 23 conclusion, we thought that - these are all  
12:01:59 24 assumptions, right - that some of the assumptions  
12:02:00 25 were -- were -- were faulty, umm, then we started

12:02:03 1 to raise that issue.

12:02:04 2 301 Q. Right.

12:02:05 3 --- (Court reporter appeals.)

12:02:06 4 THE WITNESS: So we --

12:02:08 5 MS. MACHADO: ...started to raise that

12:02:08 6 issue.

12:02:09 7 THE WITNESS: So we started to discuss

12:02:10 8 the fact amongst ourselves, and it was incorporated

12:02:13 9 in our -- in our -- in our Interim Report that --

12:02:17 10 that that -- that the consequences of the -- of the

12:02:22 11 withdrawal, even if there were \$50-million over

12:02:28 12 three years would be the collapse of -- not the

12:02:31 13 restructuring of the industry, but, rather, the

12:02:33 14 collapse of the industry, which is what we wrote in

12:02:36 15 our report.

12:02:36 16 BY MR. LISUS:

12:02:36 17 302 Q. Right. And you formed that view

12:02:46 18 fairly rapidly after your appointment to the Panel,

12:02:51 19 was the question I asked you, right?

12:02:52 20 You were appointed in the first week of

12:02:54 21 June; --

12:02:54 22 A. Mm-hmm.

12:02:56 23 303 Q. --correct?

12:02:57 24 A. Yes.

12:02:57 25 304 Q. By the first week of August, you

12:03:00 1 are telling people that the decision would cause  
12:03:07 2 thousands of job losses and thousands of euthanized  
12:03:11 3 horses; correct?

12:03:13 4 A. It was the -- the Ministry report  
12:03:14 5 that I read said that there would be thousands of  
12:03:16 6 job losses.

12:03:17 7 We drew the conclusion because, for us,  
12:03:21 8 that wasn't the issue. What we drew to the  
12:03:24 9 government's attention is that the assumption that  
12:03:26 10 the industry would -- would survive and restructure  
12:03:29 11 was incorrect if the financial situation that Great  
12:03:33 12 Canadian was in was identical to all the other  
12:03:36 13 tracks, and that that would lead to a collapse  
12:03:38 14 and--

12:03:38 15 305 Q. Fair enough.

12:03:40 16 A. --uh...

12:03:42 17 306 Q. But the -- it's fair to --

12:03:43 18 A. Which was different than what the  
12:03:45 19 original briefing note said.

12:03:46 20 So obviously, our opinion was, is that,  
12:03:49 21 uh -- that that note was not correct.

12:03:53 22 307 Q. Right. So... And I just want to  
12:03:57 23 make sure that we are on the same page here because  
12:04:01 24 I -- I think we are.

12:04:04 25 You understood that the reason the

12:04:09 1 decision was made was to implement a recommendation  
12:04:18 2 by the OLG to locate its slot machines in other  
12:04:26 3 locations, principally urban, that were closer to  
12:04:31 4 the gaming customer base; correct?

12:04:33 5 A. Just to be fair, what I knew when  
12:04:37 6 I first heard about this, was that the government  
12:04:39 7 had made what they described as a difficult  
12:04:43 8 decision to redirect the money from slots into what  
12:04:45 9 they described as "greater government priorities";  
12:04:47 10 namely, education and healthcare.

12:04:50 11 I was empaneled and, uh, there was a  
12:04:55 12 distinct relationship between the decision of the  
12:04:59 13 Ministry of Finance and the fact that they were  
12:05:01 14 moving ahead with what they referred to as, I think  
12:05:04 15 it was "gaming modernization", or the  
12:05:07 16 "modernization of gaming". I'm not exactly sure,  
12:05:10 17 but it was that whole plan.

12:05:11 18 And that plan included having slot  
12:05:16 19 machines that were not at racetracks. And there  
12:05:22 20 were issues around where those slots should be, uh,  
12:05:26 21 and should they continue to be at racetracks.

12:05:30 22 308 Q. Right.

12:05:31 23 A. So I remember that.

12:05:33 24 309 Q. But can you --

12:05:35 25 A. And I -- and I knew nothing about

12:05:36 1 that until I became a panelist and I started  
12:05:39 2 reading--

12:05:39 3 310 Q. Right.

12:05:40 4 A. --the reports.

12:05:40 5 311 Q. And when you became a panelist,  
12:05:42 6 you understand that OLG -- there was an OLG  
12:05:45 7 Modernization Plan, right?

12:05:47 8 A. Yes. And we met with OLG and they  
12:05:49 9 briefed us, the Panel, on that.

12:05:51 10 312 Q. And you understood that the --  
12:05:54 11 based on the briefing, that the OLG Modernization  
12:06:00 12 Plan was to reconfigure the number of gaming sites,  
12:06:03 13 right?

12:06:03 14 A. Privatize, I think, was part it.

12:06:03 15 313 Q. Yes.

12:06:03 16 A. Right. Privatize --

12:06:07 17 314 Q. And reconfigure the gaming sites?

12:06:10 18 A. ...to be... I think they used "to  
12:06:12 19 be the most economically advantaged", uh, the most  
12:06:18 20 economically advantaged; in other words, to  
12:06:19 21 generate, uh, the most amount of money for the  
12:06:21 22 government.

12:06:21 23 315 Q. And what that means is that it was  
12:06:23 24 OLG's plan to relocate gaming sites closer to  
12:06:26 25 customer demand; in other words, urban centres.



12:06:29 1 That's what you understood the plan to  
12:06:31 2 be, right?

12:06:32 3 A. After it was shared with me, that  
12:06:34 4 would -- that was a underpinning of -- my  
12:06:37 5 understanding, an underpinning of the rationale  
12:06:41 6 that was used.

12:06:41 7 316 Q. Right. And--

12:06:41 8 A. Yeah.

12:06:41 9 317 Q. --in order to relocate the slots  
12:06:43 10 to urban centres, they had to take them out of the  
12:06:46 11 rural centres which is where they were in the 17  
12:06:50 12 racetracks, right?

12:06:51 13 A. Umm. Not all of them are -- are  
12:06:56 14 -- are rural. There was -- for example, Woodbine  
12:06:58 15 was rural when it opened, but it isn't anymore.

12:07:01 16 But, yes, my understanding was -- was  
12:07:05 17 that -- that the cancellation of SARP was one  
12:07:12 18 component of the modernization strategy that had  
12:07:17 19 been presented by OLG to the government.

12:07:23 20 318 Q. Right.

12:07:24 21 A. And they had announced the  
12:07:25 22 modernization of gaming or - sorry - the government  
12:07:29 23 had announced the modernization of gaming.

12:07:32 24 319 Q. And the modernization of gaming  
12:07:35 25 included relocating slot machines to more strategic

12:07:38 1 locations, which was greater -- which was closer to  
12:07:41 2 customer demand; fair?  
12:07:42 3 A. Yes. There would be urban  
12:07:44 4 standalone casinos.  
12:07:46 5 320 Q. Right. And that is because that  
12:07:56 6 is where OLG thought more customers would be,  
12:07:58 7 right?  
12:08:00 8 O/B MS. MACHADO: He can't speak to what  
12:08:03 9 OLG thought.  
12:08:03 10 BY MR. LISUS:  
12:08:03 11 321 Q. Well, you were briefed by OLG in  
12:08:07 12 the course of your panel work, right?  
12:08:07 13 A. Yes. In the first week or so.  
12:08:09 14 322 Q. Okay. And a deck was prepared for  
12:08:12 15 you by Finance, CRE 257411, right?  
12:08:16 16 A. Well, if you say so. I -- I  
12:08:17 17 haven't -- I don't have that in front of me.  
12:08:18 18 323 Q. Yeah. That's not -- for your  
12:08:21 19 benefit, but I will give you a copy of the  
12:08:26 20 document.  
12:08:26 21 A. Thank you.  
12:08:42 22 324 Q. That's a -- you remember seeing a  
12:08:44 23 deck like that? Does that ring a bell?  
12:08:56 24 --- (Witness reviewing document.)  
12:09:05 25 MS. MACHADO: Take your time to review

12:09:06 1  
12:09:33 2  
12:09:33 3  
12:09:34 4  
12:09:36 5  
12:09:38 6  
12:09:43 7  
12:09:46 8  
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12:10:03 25

it.

BY MR. LISUS:

325 Q. You don't have to right now see if  
you remember every slide.

I'm just asking you, sir, you remember  
being -- as part of the briefing, you were given a  
deck by the Ministry of Finance with background  
information, right?

A. Yes. They supplied information to  
OMAFRA - other Ministries did, as well - about  
training programs.

That was from the Ministry of Training,  
Colleges --

326 Q. Does that --

---(Court reporter appeals.)

THE WITNESS: I'm sorry. Yeah. So  
that was--

MS. MACHADO: That was from the  
Ministry of Training, Colleges and --

THE WITNESS: ...Colleges and  
Universities.

So there was a -- a series of decks  
provided by OMAFRA and other Ministries that were  
given to OMAFRA to give to us,--

BY MR. LISUS:

12:10:03 1 327 Q. Right. And --

12:10:05 2 A. --which we reviewed.

12:10:06 3 328 Q. And that is one of those decks

12:10:09 4 that has been produced to us as having been given

12:10:12 5 to you as a Panel Member.

12:10:14 6 Do you remember that?

12:10:16 7 A. Umm...

12:10:27 8 329 Q. If you don't, tell me you don't.

12:10:29 9 If you do, tell me you do.

12:10:31 10 MS. MACHADO: He's just reviewing the

12:10:32 11 document, Mr. Lisus. It's a lengthy document.

12:10:35 12 It's 25 pages.

12:10:35 13 THE WITNESS: Right. The...

12:10:37 14 MS. MACHADO: Longer.

12:10:51 15 THE WITNESS: Uh. What I do remember

12:10:53 16 is the internal Ministry of Finance, umm, document,

12:10:56 17 which I don't see here,--

12:10:59 18 BY MR. LISUS:

12:10:59 19 330 Q. Right.

12:11:00 20 A. --which contained a lot of this

12:11:02 21 information. And, umm, all of this information was

12:11:13 22 disclosed to me, but I don't know whether it was

12:11:17 23 done through this deck or--

12:11:17 24 331 Q. Okay.

12:11:17 25 A. --a number of decks.

12:11:18 1 332 Q. Fair enough.

12:11:20 2 A. That --

12:11:20 3 333 Q. I'm going to go through with you  
12:11:23 4 what you got. I just thought I could truncate that  
12:11:27 5 exercise, but let's just look at--

12:11:27 6 A. Yeah.

12:11:28 7 334 Q. --that--

12:11:28 8 A. Sure.

12:11:28 9 335 Q. --deck together, okay?  
12:11:31 10 If you look at page 21,--

12:11:33 11 A. Mm-hmm.

12:11:34 12 336 Q. --do you recall there being a  
12:11:42 13 reference to the OLG Modernization Plan?

12:11:46 14 A. Uh. Yes.

12:11:46 15 337 Q. Okay. And you understood that the  
12:11:48 16 OLG Modernization Plan had a number of components  
12:11:51 17 to it?

12:11:59 18 A. Uh. Yes. It was a comprehensive  
12:12:01 19 plan.

12:12:01 20 338 Q. Okay. And one of the steps  
12:12:02 21 contemplated for the implementation of the  
12:12:05 22 Modernization Plan was to reconfigure the number of  
12:12:17 23 gaming sites and tailor the type of gaming  
12:12:20 24 activities made available at each site, right?  
12:12:24 25 Do you remember being told something

12:12:25 1 like that? It's on the deck at page 21.

12:12:27 2 A. Yes.

12:12:28 3 339 Q. Okay.

12:12:28 4 A. Yes. What was the intent of

12:12:32 5 modernization,--

12:12:32 6 340 Q. Right. And--

12:12:33 7 A. Yeah.

12:12:33 8 341 Q. --another step in implementing the

12:12:36 9 Modernization Plan, if we look at the deck, was to

12:12:39 10 stop annual payments to the horse racing industry

12:12:42 11 by ending the Slots at Racetracks Program and allow

12:12:45 12 slot facilities to be located more strategically;

12:12:50 13 correct?

12:12:51 14 A. Yes. And I remember that

12:12:55 15 particularly from the briefing that I received from

12:12:59 16 OLG and the questions that we had of them.

12:13:02 17 342 Q. Fair enough.

12:13:04 18 A. I remember that, yes.

12:13:05 19 343 Q. Okay. And so what you understood

12:13:07 20 from that briefing was that OLG wanted to implement

12:13:12 21 its modernization by moving slot machine gaming

12:13:18 22 activity out of rural centres and move those slot

12:13:21 23 machines to urban centres, right?

12:13:24 24 A. Umm. Yeah. I -- I knew that

12:13:30 25 modernization was not part of what I was to write

12:13:35 1 -- uh, we were supposed to write a report, but I  
12:13:37 2 distinctly remember being told that the rationale  
12:13:41 3 for, uh, increasing revenue was to locate slot  
12:13:45 4 machines closer to where people live.

12:13:49 5 Uh. And I distinctly remember  
12:13:54 6 Mr. Snobelen telling us how, when he was in  
12:13:57 7 government, a similar proposal had come forward - I  
12:14:01 8 think it was called charity casino -- they were  
12:14:05 9 going to be charity casinos - and what that had  
12:14:09 10 entailed for them, as a government, which then led  
12:14:11 11 to having slot machines in a place that was already  
12:14:15 12 socially acceptable for having gaming, which was  
12:14:19 13 where -- where horses were--

12:14:19 14 344 Q. Right.

12:14:26 15 A. --being bet on.

12:14:27 16 345 Q. What you're telling me, sir, is --  
12:14:28 17 --- (Court reporter appeals.)

12:14:29 18 THE WITNESS: ...where -- where horse  
12:14:30 19 racing was bet upon. It's what you do on a horse  
12:14:30 20 -- yeah. Sorry.

12:14:32 21 BY MR. LISUS:

12:14:32 22 346 Q. What you're telling me, sir, is  
12:14:32 23 what Mr. Snobelen has, and Mr. Phillips has already  
12:14:35 24 told me.

12:14:39 25 Prior to 1998, the government wanted to

12:14:41 1 have slot machines in urban centres and  
12:14:44 2 municipalities resisted that; correct?  
12:14:46 3 That's what you understood?  
12:14:47 4 A. That's -- the history of that, I  
12:14:50 5 was -- I was told, but I wasn't in politics at the  
12:14:52 6 time, but yeah.  
12:14:52 7 347 Q. Right.  
12:14:53 8 A. Mm-hmm.  
12:14:54 9 348 Q. And racetracks were a convenient  
12:14:56 10 location to introduce slot machines because they  
12:15:00 11 were already gaming sites, right? You understood  
12:15:06 12 that?  
12:15:06 13 A. That's why they were convenient.  
12:15:08 14 349 Q. Correct.  
12:15:08 15 A. Right.  
12:15:09 16 350 Q. And what, as you came to  
12:15:13 17 understand in 2012 when OLG undertook a  
12:15:17 18 modernization, it wanted to implement its  
12:15:20 19 Modernization Plan, in part, by taking slot  
12:15:23 20 machines out of racetracks and getting them into  
12:15:26 21 urban centres; fair?  
12:15:28 22 A. I knew the government had -- had  
12:15:32 23 announced that they were cancelling the SARP  
12:15:35 24 arrangements--  
12:15:35 25 351 Q. I just want you to listen--



12:15:35 1 A. --and they knew that--

12:15:37 2 352 Q. --to my question, sir.

12:15:39 3 A. --OLG was modernizing; had a plan.

12:15:41 4 353 Q. And you knew that one of the ways  
12:15:44 5 OLG wanted to modernize was by moving slot machines  
12:15:48 6 out of racetracks and into urban centres; correct?

12:15:52 7 A. That --

12:15:52 8 354 Q. That's what the report says.  
12:15:54 9 That's what the deck says,--

12:15:54 10 A. But that --

12:15:55 11 355 Q. --Mr. Wilkinson.

12:15:56 12 A. But that was their proposal.

12:15:57 13 356 Q. Okay.

12:15:58 14 A. I don't know -- I don't recall,  
12:16:01 15 sir, whether or not the government had acted on the  
12:16:04 16 modernization.  
12:16:04 17 I know that that was what they wanted.

12:16:04 18 357 Q. Okay. And when you--

12:16:04 19 A. Yeah.

12:16:11 20 358 Q. --say "they", that's what the  
12:16:11 21 OLG --

12:16:11 22 A. OLG wanted, yeah.

12:16:12 23 359 Q. And the government wanted to move  
12:16:13 24 those slot machines into urban centres; in  
12:16:16 25 particular, a casino in Downtown Toronto, right?

12:16:18 1 A. What I knew was, the government  
12:16:20 2 had asked OLG to say, 'How can you increase  
12:16:23 3 revenues?' And they prepared a plan for the  
12:16:26 4 government. Uh. I -- and, uh... And then -- but  
12:16:32 5 whether or not the OLG modernization was going -- I  
12:16:35 6 don't -- I'm not exactly sure where it was.

12:16:37 7 I knew the SARP part had been  
12:16:43 8 cancelled, which is why I was asked to provide --  
12:16:44 9 be on this Panel.

12:16:46 10 But I knew that OLG was -- was, uh --  
12:16:49 11 that there was a process going on between OLG and  
12:16:52 12 Finance.

12:16:53 13 360 Q. And that process included a plan  
12:17:00 14 to move slot machines from racetracks to urban  
12:17:06 15 centres as part of the implementation of OLG's  
12:17:09 16 Modernization Plan; fair?

12:17:11 17 A. That that would -- that was their  
12:17:13 18 recommendation.

12:17:14 19 Whether or not the government had  
12:17:15 20 agreed to that, I don't know, sir, but I know that  
12:17:18 21 was their recommendation.

12:17:19 22 361 Q. Okay. You knew--

12:17:19 23 A. Yeah.

12:17:19 24 362 Q. --that that was OLG's --

12:17:19 25 A. That -- that's what I was

12:17:22 1 struggling with, right.

12:17:22 2 363 Q. You knew that was OLG's

12:17:24 3 recommended plan to implement modernization?

12:17:24 4 A. Yeah, because that had been shared

12:17:24 5 with us, yeah.

12:17:26 6 364 Q. Correct?

12:17:26 7 A. Mm-hmm.

12:17:27 8 365 Q. Yes?

12:17:27 9 A. Yes.

12:17:28 10 366 Q. All right.

12:17:29 11 You didn't know exactly what government

12:17:31 12 did or didn't do about it.

12:17:33 13 All you--

12:17:33 14 A. Right.

12:17:33 15 367 Q. --knew was that SARP was --

12:17:36 16 revenue share was cancelled; correct?

12:17:38 17 A. Yes. It was public --

12:17:38 18 368 Q. All right.

12:17:38 19 A. Public knowledge.

12:17:44 20 MR. LISUS: This is the next exhibit.

12:17:44 21 THE WITNESS: Do you need that -- do

12:17:44 22 you need that back?

12:17:52 23 THE COURT REPORTER: Exhibit 3?

12:17:52 24 MR. MATTHEWS: Yes.

12:17:52 25 MS. MACHADO: Are we still on this one

12:17:58 1

or...?

12:17:58 2

MR. MATTHEWS: That's Exhibit 3. I'm

12:17:59 3

going to mark it.

12:18:01 4

---EXHIBIT NO. 3: Deck prepared by

12:18:03 5

Ministry of Finance re: Horse Racing in Ontario;

12:18:05 6

Doc ID Number CRE0257411.

12:18:05 7

BY MR. LISUS:

12:18:05 8

369

Q. Now, and that decision, being the

12:18:05 9

cancellation of the revenue share, you understand,

12:18:08 10

is what led to your appointment as a Panel Member,

12:18:11 11

right?

12:18:11 12

A. Yes. And it's... It's the first

12:18:12 13

recital in my contract--

12:18:12 14

370

Q. Right.

12:18:13 15

A. --and so I remember that, yes.

12:18:14 16

371

Q. Now, how did you come to be

12:18:22 17

appointed? Who approached you?

12:18:24 18

A. Umm. The Minister's chief of

12:18:29 19

staff, Michael Keegan, asked whether or not, umm, I

12:18:39 20

would be interested in serving on a panel, quite

12:18:43 21

uniquely, with other two former Cabinet Ministers,

12:18:47 22

uh, from, umm, previous governments of different --

12:18:47 23

different--

12:18:47 24

372

Q. Sir, I just --

12:18:47 25

A. --political stripes.

12:18:47 1 373 Q. I just asked you how you came to  
12:18:50 2 be appointed.  
12:18:50 3 Was it a phone call? Was it a meeting?  
12:18:53 4 That's all.  
12:18:53 5 A. I was called by Minister McMeekin,  
12:18:53 6 but to be--  
12:18:53 7 374 Q. Okay.  
12:18:56 8 A. --fair, I was called in advance by  
12:18:58 9 his Chief of Staff to see--  
12:18:58 10 375 Q. All right.  
12:19:00 11 A. --whether or not I would say --  
12:19:00 12 376 Q. So --  
12:19:01 13 A. -- be otherwise interested in  
12:19:01 14 saying yes.  
12:19:02 15 377 Q. I'm going to try and get you out  
12:19:04 16 of here today at a reasonable hour,--  
12:19:06 17 A. Mm-hmm.  
12:19:06 18 378 Q. --so it would be helpful if you'd  
12:19:07 19 just listen care- --  
12:19:07 20 A. I was asked by Mr. McMeekin.  
12:19:08 21 379 Q. Okay.  
12:19:11 22 So, the answer to my question how you  
12:19:12 23 came to be appointed is, you were asked by  
12:19:15 24 Mr. McMeekin.  
12:19:15 25 A. Minister McMeekin, yes.

12:19:17 1 380 Q. Okay. Prior to Minister McMeekin  
12:19:20 2 asking you, you got a phone call from Mr. Keegan.

12:19:23 3 Is that correct?

12:19:23 4 A. Yes.

12:19:24 5 381 Q. Mr. Keegan was Minister McMeekin's  
12:19:27 6 Chief of Staff, right?

12:19:28 7 A. If I recall, yes.

12:19:29 8 382 Q. Did you know Mr. Keegan?

12:19:30 9 A. Yes.

12:19:31 10 383 Q. Okay. How did you know him?

12:19:32 11 A. Well, he was from Stratford.

12:19:34 12 384 Q. Okay.

12:19:34 13 A. Yeah.

12:19:34 14 385 Q. Did you -- is that the only basis  
12:19:38 15 upon which you knew him?

12:19:39 16 A. Oh. I knew him, uh... He had  
12:19:42 17 just -- when I ran in 1999, uh, Michael had just  
12:19:46 18 graduated from York University in Political Science  
12:19:49 19 and he served as my, uh, candidate manager.

12:19:54 20 He went with me as I was -- he wasn't  
12:19:56 21 the campaign manager; he was what was referred to  
12:19:58 22 as the "candidate manager", which was -- he was  
12:20:00 23 with me. That's how I got to know Michael.

12:20:03 24 386 Q. Okay.

12:20:03 25 A. And he subsequently then worked

12:20:05 1 for, uh, the leader of the opposition, Dalton  
12:20:07 2 McGuinty, in his office.

12:20:08 3 387 Q. Okay. That's helpful. Thank you.

12:20:11 4 A. Yeah.

12:20:11 5 388 Q. Did you know Rod Phillips in 2012?

12:20:29 6 A. No.

12:20:30 7 389 Q. Did you meet him in the course of  
12:20:31 8 your panel work?

12:20:32 9 A. Yes.

12:20:32 10 390 Q. How many times?

12:20:33 11 A. I... Umm. Many times, I spent --  
12:20:45 12 well... I don't... I think -- it's so many  
12:20:45 13 years...

12:20:54 14 I met with him and I met with him more  
12:20:56 15 than once,--

12:20:58 16 391 Q. Yeah.

12:20:59 17 A. --umm, but I can't give you a  
12:21:01 18 number of how many times I met with him.

12:21:02 19 392 Q. Okay. Do you recall when it was  
12:21:21 20 you were asked to sit on the Panel?

12:21:23 21 A. Umm. I can't -- I started  
12:21:29 22 beginning of June of 2014, but I -- I was  
12:21:33 23 approached, I think --

12:21:33 24 393 Q. 2012.

12:21:34 25 A. Or - sorry - 2012. Thank you.

12:21:35 1 But I think I was approached in May, I think.

12:21:41 2 394 Q. All right.

12:21:43 3 A. See if I would be interested in

12:21:44 4 taking on a role.

12:21:46 5 395 Q. And had you had any communications

12:21:48 6 with anyone in the government prior to your

12:21:51 7 approach about the decision to cancel the revenue

12:21:54 8 share?

12:21:54 9 A. Not that I recall.

12:21:57 10 396 Q. So you got a phone call one day?

12:22:02 11 A. Uh. Yes.

12:22:03 12 397 Q. Where were you?

12:22:04 13 A. Well, it could have been an

12:22:07 14 e-mail.

12:22:07 15 398 Q. Okay.

12:22:08 16 A. Umm... But, umm, but -- well, I

12:22:15 17 remember when Minister McMeekin called. I walking

12:22:19 18 around Lake Victoria in Stratford and I had to

12:22:22 19 stop--

12:22:22 20 399 Q. All right.

12:22:22 21 A. --and talk to him.

12:22:23 22 400 Q. And what did he say?

12:22:24 23 A. Umm. He said he had a problem.

12:22:26 24 Wanted to know if I would be willing to help him

12:22:28 25 with it.



12:22:29 1 401 Q. All right.

12:22:31 2 A. And, uh, I said that I had, umm --  
12:22:37 3 I had -- that he had, umm..., that -- that the  
12:22:42 4 cancellation of SARP was a big issue, that, umm, he  
12:22:46 5 had listened to his stakeholders. He thought they  
12:22:49 6 had valid concerns, that he decided that the best  
12:22:56 7 way to resolve the issue was to get fresh eyes that  
12:22:59 8 were not, umm, that were not part of government,  
12:23:05 9 uh, to take a look at it.

12:23:06 10 Wanted to know if I would serve with  
12:23:09 11 Elmer and John who I did not know; I only knew by  
12:23:14 12 reputation, and that if we wrote a report, uh, that  
12:23:20 13 he had every intention of -- of acting on it; that  
12:23:24 14 he was not asking us to write a report to pump the  
12:23:27 15 issue or to paper the file, but, actually, he  
12:23:32 16 needed our best advice and, uh, you know, but you  
12:23:39 17 couldn't guarantee that he would take our advice,  
12:23:41 18 but he said that he would -- he would definitely,  
12:23:42 19 umm -- his intention was to act on our advice.

12:23:45 20 And I agreed. And then it fell to  
12:23:49 21 bureaucrats to arrange for my company to be hired  
12:23:52 22 to do the work.

12:23:55 23 402 Q. So I want to give you -- show you  
12:24:25 24 an e-mail dated June 5, 2012; 7073.

12:24:25 25 MS. MACHADO: Please start at the end.

12:24:25 1 BY MR. LISUS:

12:24:37 2 403 Q. This is an e-mail from Thom

12:24:39 3 Hagerty to you and Mr. Snobelen and others.

12:24:39 4 --- (Witness reviewing document.)

12:24:49 5 THE WITNESS: Oh. This one's from me.

12:24:50 6 Okay. Hang on a second. Okay. Read this one

12:24:51 7 first. Okay.

12:24:51 8 MS. MACHADO: That's the first e-mail

12:24:53 9 and then... (Indicating)

12:24:54 10 THE WITNESS: Yeah, okay. All right.

12:24:54 11 Yes, I haven't seen this in years.

12:24:58 12 --- (Witness reviewing document.)

12:25:00 13 BY MR. LISUS:

12:25:01 14 404 Q. Do you see where it says:

12:25:02 15 "It was a pleasure sure to meet

12:25:03 16 with all of you. Attached, please

12:25:06 17 find the start of your requested

12:25:08 18 reading list." [As read.]

12:25:08 19 Do you see that?

12:25:08 20 A. Just -- yeah. Just give me a

12:25:10 21 second.

12:25:10 22 MS. MACHADO: He's just reading --

12:25:12 23 THE WITNESS: I'm reading the first one

12:25:14 24 which I wrote.

12:25:15 25 --- (Witness reviewing document.)

12:26:03 1 THE WITNESS: Yeah. I had been asked  
12:26:05 2 to send that, yeah. From Tom...

12:26:07 3 --- (Witness reviewing document.)

12:26:43 4 THE WITNESS: Okay. Yeah. Okay. So  
12:26:45 5 I've read that.

12:26:46 6 BY MR. LISUS:

12:26:46 7 405 Q. Okay. So, does that refresh your  
12:26:47 8 memory?

12:26:47 9 A. Yes.

12:26:48 10 406 Q. What was going on there?

12:26:49 11 A. Umm. Well, we had... The three  
12:26:51 12 of us had agreed to be a panel. We had met for the  
12:26:57 13 first time, uh, and we agreed that what was the  
12:27:04 14 information that we were going to need to see and  
12:27:06 15 review before we talked to anybody because we were  
12:27:09 16 to talk to stakeholders and we thought it was best  
12:27:12 17 that we get up to speed.

12:27:13 18 And so we made the agreement that we  
12:27:17 19 were best to hear, umm, from the government first,  
12:27:19 20 right, because we knew, being in government, that  
12:27:22 21 there -- there would have been documents created to  
12:27:24 22 -- around whatever decision was ever made by  
12:27:26 23 government and we should review those and, uh, and  
12:27:30 24 they started to provide that information.

12:27:32 25 And, uh, so we read the material. Then

12:27:35 1 we had a week or so of meeting with Ministries and  
12:27:38 2 then we started meeting with stakeholders.

12:27:40 3 And there was issues around, umm, if  
12:27:44 4 people had questions, was the -- was the Ministry  
12:27:47 5 of Agriculture ready to receive inquiries from  
12:27:49 6 stakeholders.

12:27:49 7 MR. LISUS: Okay. I'm going to--

12:27:51 8 THE WITNESS: Yeah.

12:27:52 9 MR. LISUS: --mark these two e-mails as  
12:27:54 10 the next exhibits in sequence.

12:28:02 11 THE WITNESS: Yeah.

12:28:02 12 MR. ROSENBERG: Sorry. The document  
12:28:04 13 number of the second e-mail, please?

12:28:06 14 MR. MATTHEWS: It's just an e-mail  
12:28:08 15 chain. It's all part of CR 7073.

12:28:26 16 MR. ROSENBERG: Thank you.

12:28:26 17 ---EXHIBIT NO. 4: An e-mail chain, Doc  
12:28:27 18 ID Number CR 73073.

12:28:27 19 BY MR. LISUS:

12:28:28 20 407 Q. You subsequently had briefings  
12:28:29 21 with various Ministries?

12:28:30 22 A. Yes.

12:28:31 23 408 Q. Which ones? OMAFRA was one;  
12:28:35 24 correct?

12:28:35 25 A. OMAFRA.

12:28:37 1 409 Q. Finance was another?

12:28:38 2 A. Finance.

12:28:38 3 410 Q. The...

12:28:38 4 A. Uh...

12:28:39 5 411 Q. What is the --

12:28:40 6 A. Ministry of Training, Colleges and

12:28:43 7 Universities.

12:28:43 8 412 Q. Yes.

12:28:44 9 A. Whether there was work programs;

12:28:44 10 that type of thing.

12:28:44 11 --- (Court reporter appeals.)

12:28:44 12 THE WITNESS: Whether there were work

12:28:48 13 programs and transition..., government programs to

12:28:50 14 transition people who might lose their job.

12:28:53 15 Uh. That was part of our mandate, to

12:28:55 16 look at that, whether or not those existing

12:28:57 17 programs were adequate.

12:29:04 18 Umm. And we received a briefing from,

12:29:06 19 uh, OLG.

12:29:06 20 Uh. We received a briefing from, I

12:29:07 21 recall, the Ontario Racing Commission.

12:29:09 22 So I think that's... Top of my head, I

12:29:12 23 think that's...

12:29:12 24 And prior to that, we received reading

12:29:14 25 material; for example, the Sadinsky Report, uh, the

12:29:21 1 economic analysis that had been done by Ministry of  
12:29:25 2 Finance about the cancellation of SARP.  
12:29:25 3 BY MR. LISUS:  
12:29:25 4 413 Q. And--  
12:29:26 5 A. I remember that.  
12:29:27 6 414 Q. --you understood that the economic  
12:29:29 7 analysis done by Ministry of Finance about the  
12:29:32 8 cancellation of SARP was after the decision had  
12:29:34 9 been made?  
12:29:34 10 A. No.  
12:29:38 11 415 Q. You didn't understand one way or  
12:29:40 12 the other?  
12:29:40 13 A. I just had the document.  
12:29:42 14 416 Q. Okay.  
12:29:42 15 A. Yeah. Reviewed the document and,  
12:29:45 16 uh, and absorbed what were the underlying  
12:29:48 17 assumptions because all of those things are always  
12:29:50 18 based on assumptions.  
12:29:50 19 417 Q. Right.  
12:29:51 20 A. So what were the underlying  
12:29:53 21 assumptions.  
12:29:54 22 I always do that when it comes to  
12:29:56 23 financial analysis. You start with the  
12:29:58 24 assumptions.  
12:30:01 25 418 Q. Right.

12:30:02 1 A. Usually, the math is correct.

12:30:02 2 It's the assumptions that are--

12:30:02 3 419 Q. Right. And as you--

12:30:03 4 A. --a challenge.

12:30:03 5 420 Q. --explained to me --

12:30:04 6 --- (Court reporter appeals.)

12:30:04 7 MS. MACHADO: "...a challenge."

12:30:05 8 THE WITNESS: Usually, it's the

12:30:05 9 assumptions that are what you have to focus on.

12:30:07 10 BY MR. LISUS:

12:30:07 11 421 Q. And as you explained to me a

12:30:09 12 minute ago, you came to understand that the

12:30:10 13 assumptions were incorrect?

12:30:13 14 A. Yes.

12:30:14 15 422 Q. Okay.

12:30:14 16 A. Yes.

12:30:15 17 423 Q. Now, I am showing you an e-mail

12:30:25 18 sequence, 31028.

12:30:27 19 MR. LISUS: Do you need the prefix,

12:30:28 20 Mr. Rosenberg,--

12:30:28 21 MR. ROSENBERG: Umm.

12:30:29 22 MR. LISUS: --or just the number?

12:30:31 23 MR. ROSENBERG: It would help --

12:30:33 24 MR. LISUS: CRE.

12:30:33 25 MR. ROSENBERG: Sorry. And the number

12:30:33 1 again?

12:30:34 2 MR. LISUS: CRE 31028.

12:30:34 3 BY MR. LISUS:

12:30:40 4 424 Q. I don't need you, because of time

12:30:41 5 constraints, to read every word of this, okay?

12:30:41 6 A. Oh. Okay.

12:30:43 7 425 Q. I want to just look at it together

12:30:48 8 with you, all right?

12:30:48 9 A. Okay.

12:30:48 10 426 Q. This is an e-mail sequence

12:30:50 11 involving representatives of the Ministry of

12:30:55 12 Finance and OMAFRA.

12:30:56 13 Do you see that from the -- the --

12:30:56 14 A. Yes. Yeah.

12:30:56 15 427 Q. Okay.

12:30:57 16 A. They're...

12:30:58 17 428 Q. And what we see here is a

12:31:04 18 discussion of the various kinds of information that

12:31:13 19 was being pulled together to give to your panel.

12:31:16 20 Is that fair?

12:31:16 21 A. Uh. Yes. And they were very

12:31:18 22 responsive to our request, yeah.

12:31:20 23 429 Q. And so, for instance, in the

12:31:22 24 e-mail from Ms. Yeigh, Y-e-i-g-h, June 5, 2012 -

12:31:31 25 are you with me - 2:00 p.m.?



12:31:31 1 A. Umm... Oh. This one up here.

12:31:36 2 Yeah.

12:31:36 3 MS. MACHADO: 2:55 p.m.?

12:31:38 4 MR. LISUS: No.

12:31:40 5 THE WITNESS: No.

12:31:40 6 MS. MACHADO: No. 2:00 p.m., the

12:31:40 7 second e-mail. Okay.

12:31:40 8 THE WITNESS: Oh. 2:00 p.m.?

12:31:40 9 BY MR. LISUS:

12:31:41 10 430 Q. Yeah. Bottom--

12:31:41 11 A. Yeah.

12:31:43 12 431 Q. --of the page.

12:31:43 13 A. From Elizabeth, yeah.

12:31:46 14 432 Q. "We are pulling together into a

12:31:47 15 number of background materials for the

12:31:47 16 panel."

12:31:49 17 And then, there's a list of 1 to 13.

12:31:51 18 A. Mm-hmm.

12:31:52 19 433 Q. Yes?

12:31:53 20 A. Yes.

12:31:54 21 434 Q. You got those other materials?

12:31:56 22 A. Yes. And that's why I struggled

12:31:58 23 with that -- that other deck because I actually --

12:31:59 24 I remember looking at all the source material;--

12:31:59 25 435 Q. Okay.

12:32:01 1 A. --not so much the deck, but the  
12:32:03 2 source material--  
12:32:03 3 436 Q. Good.  
12:32:03 4 A. --because --  
12:32:03 5 437 Q. And --  
12:32:04 6 A. So that's why I said this  
12:32:04 7 information looks right because I remember reading  
12:32:06 8 the other reports.  
12:32:07 9 438 Q. Okay. And this information was  
12:32:10 10 important and helpful to you in evaluating and  
12:32:15 11 understanding the impact of the cancellation of  
12:32:21 12 revenue share on the horse racing industry;  
12:32:23 13 correct?  
12:32:23 14 A. Umm. Eventually.  
12:32:25 15 My first concern was to understand -- I  
12:32:30 16 know it's very difficult to get this information.  
12:32:32 17 If you just took, like, \$1 of bet,  
12:32:35 18 where did all the pennies go and who got the  
12:32:38 19 pennies?  
12:32:38 20 That was -- so, to me, I felt that that  
12:32:40 21 was kind of my responsibility on the Panel as the  
12:32:44 22 one with -- bringing some financial acumen, that I  
12:32:46 23 really start understanding where this money -- how  
12:32:48 24 it was distributed and --  
12:32:50 25 439 Q. And when you say "\$1 of bet",

12:32:57 1 you're talking about a wagering dollar as well as a  
12:32:59 2 dollar put into a slot machine, right?

12:33:01 3 A. Umm. Well, first of all, the  
12:33:02 4 wagering because that is the underpinning of horse  
12:33:06 5 racing as a sport is people would come and wager.

12:33:09 6 440 Q. Yeah.

12:33:09 7 A. So where was that money going?

12:33:12 8 Uh. And then, the -- the money from  
12:33:14 9 the slot machine just seemed to be -- it was pretty  
12:33:18 10 straightforward. It was, like, 10, 10, and 5.

12:33:20 11 441 Q. Right.

12:33:21 12 A. And there were agreements about  
12:33:22 13 how the 10 would be split amongst tracks and  
12:33:26 14 amongst -- and amongst the horsemen--

12:33:26 15 442 Q. Right.

12:33:27 16 A. --and with the municipality.

12:33:28 17 So I wasn't -- that was -- that was  
12:33:28 18 simpler.

12:33:29 19 It was where the wager went and the  
12:33:29 20 pari-mutuel; that --

12:33:29 21 443 Q. Okay.

12:33:32 22 A. Those were all new concepts to me.

12:33:34 23 444 Q. The slot machine money was easier  
12:33:37 24 to understand?

12:33:37 25 A. Uh. Yeah, 'cause there was --

12:33:38 1 there was--

12:33:38 2 445 Q. Okay.

12:33:41 3 A. --agreements, yeah.

12:33:41 4 --- (Court reporter appeals.)

12:33:41 5 THE WITNESS: Because there were

12:33:42 6 agreements. Some went to the horsemen, some to the

12:33:47 7 Benevolent society, some went to breeding, some

12:33:49 8 went to, umm, umm, the organizations to run the

12:33:52 9 organizations.

12:33:52 10 BY MR. LISUS:

12:33:53 11 446 Q. Right.

12:33:53 12 A. Yeah.

12:33:54 13 447 Q. And the information that's listed

12:34:03 14 1 through 13; was that information that you asked

12:34:07 15 for?

12:34:12 16 A. Umm. I think we were clear that

12:34:14 17 we wanted, umm -- I think we said we wanted

12:34:17 18 everything.

12:34:18 19 448 Q. Okay.

12:34:19 20 A. Some of these reports, I didn't

12:34:21 21 even know existed--

12:34:22 22 449 Q. Okay.

12:34:23 23 A. --when I got onto this file.

12:34:25 24 450 Q. All right.

12:34:26 25 A. But we told people that we

12:34:28 1 expected them and they were very helpful in getting  
12:34:32 2 all that information.

12:34:33 3 I never felt that information was  
12:34:36 4 withheld from the Panel.

12:34:36 5 451 Q. Right?

12:34:37 6 A. We had signed confidentiality  
12:34:39 7 agreements and knew that we were -- we were seeing  
12:34:41 8 information that was -- that was government  
12:34:44 9 confidential, so that we could do our job.

12:34:48 10 452 Q. Okay.

12:34:56 11 MR. LISUS: Now, this e-mail string is  
12:34:57 12 the next exhibit in the sequence, please.

12:35:00 13 MR. MATTHEWS: Exhibit 5.

12:35:00 14 THE COURT REPORTER: Did the previous  
12:35:00 15 e-mails not get marked as two separate exhibits?

12:35:00 16 MR. MATTHEWS: It was a single document  
12:35:00 17 that had two pages.

12:35:16 18 THE COURT REPORTER: Okay.

12:35:16 19 ---EXHIBIT NO. 5: An e-mail string,  
12:35:18 20 Doc ID Number CRE 31028.

12:35:21 21 BY MR. LISUS:

12:35:22 22 453 Q. And I want to just show you  
12:35:23 23 another document, Mr. Wilkinson, which is dated  
12:35:32 24 June 5, 2012 from -- it's an e-mail from  
12:35:33 25 Mr. Hagerty to you, CRE 257695, and it's got an

12:35:47 1 attachment with -- it's got an attachment with it,  
12:35:51 2 CRE 257696.  
12:35:55 3 MR. MATTHEWS: That's the attachment.  
12:36:01 4 MR. LISUS: Do you need a brief break?  
12:36:03 5 THE COURT REPORTER: Sure. That would  
12:36:03 6 be great.  
12:36:05 7 MR. LISUS: Hmm?  
12:36:06 8 THE COURT REPORTER: Sure.  
12:36:07 9 MR. LISUS: Okay.  
12:36:08 10 ----(Discussion off the record.)  
12:36:40 11 ---Recess at 12:36 p.m.  
12:44:39 12 ---On resuming at 12:44 p.m.  
12:44:46 13 BY MR. LISUS:  
12:44:46 14 454 Q. So you've reviewed that e-mail  
12:44:47 15 from Mr. Hagerty to you and the attachment;  
12:44:50 16 correct?  
12:44:50 17 A. No. I just -- I haven't finished  
12:44:54 18 reading it, but I -- I mean, I do recall this,  
12:44:54 19 yeah.  
12:44:54 20 455 Q. Okay.  
12:44:55 21 A. Yeah. So --  
12:44:55 22 456 Q. So what was going on here was a  
12:44:58 23 process of setting up information sessions to allow  
12:45:06 24 the Panel to understand who the various  
12:45:09 25 stakeholders in the industry were and what the

12:45:11 1 relevant information -- what information relevant  
12:45:15 2 to the Panel's work would be, right?

12:45:17 3 A. Yes. As well as the more pedantic  
12:45:21 4 questions about secretarial support and the  
12:45:24 5 contracts that we hasn't signed yet and all that  
12:45:26 6 kind of stuff, yeah.

12:45:27 7 457 Q. All right. And the documents  
12:45:30 8 contemplate three days of briefing starting on June  
12:45:35 9 12, 2012, right?

12:45:36 10 A. Uh. Yeah. What I -- yes. I  
12:45:40 11 recall, the first thing we did is, we met with --  
12:45:43 12 read the government material and met with the  
12:45:45 13 government.

12:45:46 14 458 Q. I just asked you to confirm that  
12:45:48 15 the document contemplates three days of briefings.  
12:45:49 16 And I know you want to get out of here,  
12:45:51 17 Mr. Wilkinson.

12:45:51 18 A. Okay.

12:45:52 19 459 Q. It will be helpful if you just  
12:45:54 20 listen to the question I ask you and give me an  
12:45:56 21 answer to that question, and we'll move through  
12:45:59 22 this a lot quicker.

12:46:00 23 So the document contemplates three days  
12:46:02 24 of briefings, June 12, right; commencing June 12?

12:46:12 25 MS. MACHADO: If you could point him--

12:46:12 1 THE WITNESS: I --

12:46:14 2 MS. MACHADO: --to the place in the

12:46:14 3 document, it might be helpful.

12:46:17 4 THE WITNESS: I don't see that here,

12:46:17 5 sir.

12:46:17 6 BY MR. LISUS:

12:46:22 7 460 Q. Okay. Horse racing industry

12:46:23 8 transition proposed briefing plan, order of

12:46:23 9 presentation.

12:46:23 10 Do you see that?

12:46:23 11 MS. MACHADO: This is the attachment --

12:46:28 12 THE WITNESS: Oh, okay. Great.

12:46:28 13 --- (Witness reviewing document.)

12:46:32 14 THE WITNESS: Oh, yes. Yes, I see

12:46:33 15 that.

12:46:33 16 BY MR. LISUS:

12:46:34 17 461 Q. Okay. Do you recall having three

12:46:35 18 days of briefings?

12:46:36 19 A. I recall having briefings. I

12:46:41 20 don't know how many days.

12:46:41 21 462 Q. All right. Do you recall...?

12:46:49 22 MR. LISUS: That is the next exhibit,

12:46:51 23 the e-mail and the attachment.

12:46:53 24 --- EXHIBIT NO. 6: An e-mail from

12:46:53 25 Mr. Hagerty to Mr. Wilkinson, dated June 5, 2012,



12:46:53 1 Doc ID Number CRE 257695, and attachment, Doc ID  
12:46:53 2 Number CRE 257696.

12:47:03 3 BY MR. LISUS:

12:47:03 4 463 Q. Do you recall, through June and  
12:47:06 5 July, reviewing a lot of documents and speaking  
12:47:08 6 with a lot of people?

12:47:09 7 A. Yes.

12:47:09 8 464 Q. All right. Were you working every  
12:47:11 9 day on the Panel work?

12:47:12 10 A. Yes.

12:47:13 11 465 Q. All right. Seven days a week?

12:47:14 12 A. More than five.

12:47:15 13 466 Q. Okay. And more than eight hours a  
12:47:19 14 day?

12:47:19 15 A. Yes.

12:47:20 16 467 Q. And what you were doing during  
12:47:22 17 that period was trying to absorb -- absorb all of  
12:47:26 18 the information that you and the other Panel  
12:47:31 19 Members felt was necessary to understand the impact  
12:47:38 20 of the decision on the horse racing industry and  
12:47:41 21 what could be done to ameliorate the consequences.

12:47:46 22 Is that fair?

12:47:47 23 A. Yes.

12:47:47 24 468 Q. All right. And you did that more  
12:47:49 25 than five days a week, more than eight hours a day

12:47:54 1 from the time of your appointment up until the  
12:47:56 2 release of your Interim Report in mid August.

12:47:59 3 Is that fair?

12:47:59 4 A. Yes.

12:48:00 5 469 Q. Okay. Thank you.

12:48:11 6 And I want to show you another e-mail  
12:48:18 7 along this line, CRE 26658, June '12. I'm giving  
12:48:28 8 you two pages and, again, this is just going to the  
12:48:31 9 amount of work you were doing, Mr. Wilkinson.

12:48:36 10 If you look at the second page of the  
12:48:38 11 e-mail, first paragraph, it says:

12:48:43 12 "Deborah, next week my  
12:48:44 13 colleagues, John Snobelen, Elmer  
12:48:47 14 Buchanan and I will be at OMAFRA,  
12:48:51 15 Toronto, for a week of extensive  
12:48:52 16 background briefings within  
12:48:54 17 government before we start our  
12:48:56 18 stakeholder consultation meetings  
12:48:57 19 out of Guelph." [As read.]

12:48:58 20 A. Mm-hmm.

12:48:58 21 470 Q. Right? Yes?

12:49:00 22 A. Yes.

12:49:00 23 471 Q. And so you met and did a week of  
12:49:02 24 extensive briefings in Toronto with Finance and  
12:49:08 25 Colleges, Trades and University (sic).

12:49:10 1 Is that correct?

12:49:10 2 A. Yes. And OMAFRA, to start.

12:49:14 3 472 Q. And OMAFRA?

12:49:15 4 A. Yeah.

12:49:15 5 473 Q. And then you went on to Guelph for

12:49:17 6 more briefings, right?

12:49:18 7 A. Yes. And to start laying out our

12:49:20 8 ability to meet with stakeholders.

12:49:22 9 474 Q. Okay.

12:49:26 10 MR. LISUS: And that's the next

12:49:27 11 exhibit.

12:49:27 12 THE WITNESS: Mm-hmm.

12:49:28 13 ---EXHIBIT NO. 7: A June 2012 e-mail

12:49:31 14 string, Doc ID Number CRE 26658.

12:49:31 15 BY MR. LISUS:

12:49:32 16 475 Q. And again, sir, are you telling me

12:49:33 17 that in all of this work that you did, you didn't

12:49:35 18 make any notes?

12:49:37 19 A. No. No. I -- I read things and I

12:49:40 20 pay attention to people.

12:49:40 21 THE COURT REPORTER: Sorry.

12:49:40 22 Mr. Matthews, could you just say the exhibit number

12:49:47 23 when you stamp it, so --

12:49:47 24 MR. MATTHEWS: Exhibit 7.

12:49:49 25 THE COURT REPORTER: Thank you.

12:49:49 1 BY MR. LISUS:

12:49:49 2 476 Q. Did you speak with Mr. Seiling,

12:49:52 3 Chair of the Ontario Racing Commission, in 2012?

12:49:54 4 A. Yes.

12:49:54 5 477 Q. And do you recall speaking with

12:49:59 6 Mr. Seiling?

12:50:02 7 A. Yes. Rod.

12:50:04 8 478 Q. Rod.

12:50:04 9 A. I know his brother Ken, too, so--

12:50:04 10 479 Q. Okay.

12:50:06 11 A. --yeah. But, yes, Rod.

12:50:07 12 480 Q. Is he from your part of the

12:50:09 13 province, as well?

12:50:10 14 A. He lives in, uh, Kitchener near

12:50:13 15 Chicopee.

12:50:14 16 481 Q. Okay. And did you become aware

12:50:15 17 that he was very upset about the manner in which

12:50:17 18 the decision to cancel revenue sharing was made?

12:50:21 19 A. He shared with the Panel that he

12:50:23 20 was upset.

12:50:23 21 482 Q. Okay. What did he tell the Panel?

12:50:25 22 A. That... What I recall is he

12:50:31 23 thought it was a mistake; that it should be

12:50:32 24 reversed.

12:50:34 25 483 Q. And did he tell you that he

12:50:37 1 wasn't -- that he and ORC were not consulted, at  
12:50:42 2 all?

12:50:42 3 A. Yes. I believe he... That was  
12:50:52 4 one of the -- yeah, that he mentioned that.  
12:50:55 5 (Nodding head.)

12:50:56 6 484 Q. All right. And you were aware  
12:50:58 7 that the ORC was the agency responsible for the  
12:51:01 8 regulation of the horse racing industry?

12:51:06 9 A. Yes.

12:51:07 10 485 Q. And you were also aware that the  
12:51:09 11 ORC had a lot of expertise and knowledge about the  
12:51:12 12 horse racing industry?

12:51:14 13 A. Yes.

12:51:19 14 486 Q. And that is, of course, why you  
12:51:21 15 wanted to meet with the ORC in your consultations?

12:51:25 16 A. Yes.

12:51:25 17 487 Q. And the information about the  
12:51:27 18 consequences of the decision on want industry that  
12:51:29 19 you received from the ORC was helpful to your  
12:51:31 20 deliberations; correct?

12:51:32 21 A. Yes.

12:51:52 22 488 Q. And are you aware that the ORC's  
12:51:55 23 offer -- that the ORC had offered to provide  
12:51:59 24 information to the government so that an informed  
12:52:02 25 decision about the consequences of the cancellation

12:52:05 1 could be made before the government made the  
12:52:10 2 decision?

12:52:12 3 MS. MACHADO: He wasn't involved at  
12:52:14 4 that time.

12:52:16 5 MR. LISUS: I'm asking if he was aware.

12:52:19 6 MS. MACHADO: If the ORC offered--

12:52:19 7 MR. LISUS: Yes.

12:52:20 8 MS. MACHADO: --to provide the  
12:52:21 9 information?

12:52:21 10 Do you know?

12:52:22 11 BY MR. LISUS:

12:52:22 12 489 Q. You weren't aware of that?

12:52:23 13 A. No. I don't...

12:52:24 14 You can't say that you didn't know  
12:52:26 15 anything about it and then say, 'You offered.'

12:52:28 16 That doesn't make any sense.

12:52:29 17 490 Q. Okay. Are you aware that the ORC  
12:52:34 18 offered to provide information after the decision  
12:52:37 19 was announced and before -- before they met with  
12:52:43 20 you?

12:52:46 21 A. Oh. I -- I -- my understanding is  
12:52:49 22 that Mr. Seiling had shared his -- his displeasure  
12:52:58 23 with the government and that would have happened  
12:53:00 24 immediately, I assume,--

12:53:00 25 491 Q. Okay.

12:53:02 1 A. --not after the fact. And so that  
12:53:03 2 would be before a couple of months later when they  
12:53:06 3 got around to appointing us.

12:53:08 4 492 Q. Right.

12:53:08 5 A. But I wasn't part of any  
12:53:10 6 discussions and...

12:53:40 7 493 Q. Okay. I want to show you another  
12:53:41 8 e-mail, please, CRE 257302, 257308, 257318, 257322.  
12:54:08 9 I'm going to give you these e-mails, Mr. Wilkinson,  
12:54:12 10 and I just want you to look at them and confirm  
12:54:21 11 that the documents and data sets which they refer  
12:54:24 12 to were provided to the Panel Members for their  
12:54:30 13 review, to assist them in understanding the impact  
12:54:36 14 of the cancellation decision.

12:54:44 15 A. Yes. Yeah. It was very --

12:54:45 16 MS. MACHADO: You have just looked at  
12:54:47 17 the one, so --

12:54:47 18 THE WITNESS: Oh. I had just looked at  
12:54:47 19 this one, but --

12:54:47 20 MS. MACHADO: There are four e-mails.

12:54:48 21 THE WITNESS: Well, I'm -- just 'cause  
12:54:49 22 I remember, I had mentioned, I remember the HIP  
12:54:51 23 reports being what I thought were out of date and I  
12:54:54 24 thought there was a 2010, yeah, so those -- those  
12:54:56 25 are -- I remember those.

12:54:56 1 BY MR. LISUS:

12:54:58 2 494 Q. Okay.

12:54:58 3 A. And then that is that one and this  
12:55:00 4 is the next one.

12:55:00 5 MR. MATTHEWS: So we'll make CRE 257302  
12:55:05 6 Exhibit 8.

12:55:05 7 ---EXHIBIT NO. 8: An e-mail string,  
12:55:12 8 Doc ID Number CRE 257302.

12:55:12 9 THE WITNESS: I think that's the same  
12:55:14 10 one, the note.

12:55:15 11 MS. MACHADO: It's different.

12:55:17 12 THE WITNESS: Oh, okay. Oh. She's  
12:55:20 13 splitting it up, yeah, because it was a lot of data  
12:55:21 14 and there was a question about whether or not it  
12:55:26 15 would, uh, blow through people's servers.

12:55:28 16 Yeah. I remember that.

12:55:28 17 MR. LISUS: Okay.

12:55:30 18 MS. MACHADO: He has agreed to '318.

12:55:34 19 MR. MATTHEWS: CRE 257318 is Exhibit 9.

12:55:39 20 ---EXHIBIT NO. 9: An e-mail string,  
12:55:41 21 Doc ID Number CRE 257318.

12:55:41 22 THE WITNESS: And this one.

12:55:42 23 MR. MATTHEWS: CRE 257... Excuse me.  
12:55:45 24 I think I said before, CRE 257318 is Exhibit 9.  
12:55:49 25 257308 is Exhibit 10 and CRE 257322 is



12:55:49 1 Exhibit 11.

12:55:49 2 ---EXHIBIT NO. 10: An e-mail string,

12:56:04 3 Doc ID Number CRE 257308.

12:56:04 4 ---EXHIBIT NO. 11: An e-mail string,

12:56:04 5 Doc ID Number CRE 258322.

12:56:15 6 BY MR. LISUS:

12:56:16 7 495 Q. Okay?

12:56:16 8 A. Mm-hmm.

12:56:16 9 496 Q. And you received all of that

12:56:17 10 information and found it very helpful to you;

12:56:20 11 correct?

12:56:20 12 A. Yes.

12:56:20 13 497 Q. And it was information that was

12:56:22 14 necessary to understand the consequences of the

12:56:26 15 decision that was made in February 2012 and

12:56:29 16 announced in March 2012; correct?

12:56:31 17 A. Yes. It was... Yes.

12:56:34 18 498 Q. Okay.

12:56:34 19 A. Yeah.

12:56:34 20 499 Q. Thank you.

12:56:35 21 Now I want to show you another e-mail,

12:56:40 22 CRE 106808, and this is an e-mail from you,

12:57:00 23 Mr. Wilkinson, to Fareed, F-a-r-e-e-d, Amin, and

12:57:06 24 Steve Orsini.

12:57:12 25 A. The Deputies.

12:57:13 1 500 Q. Pardon?

12:57:13 2 A. Yeah. The Deputies.

12:57:15 3 501 Q. The Deputies, with a copy to

12:57:15 4 others.

12:57:15 5 And you're asking Fareed and Steve if

12:57:18 6 they will meet with you.

12:57:20 7 Do you see that?

12:57:22 8 --- (Witness reviewing document.)

12:57:31 9 THE WITNESS: Uh. Yes. Yes, I see

12:57:32 10 that.

12:57:34 11 BY MR. LISUS:

12:57:34 12 502 Q. Did you have a meeting with

12:57:38 13 Mr. Orsini?

12:57:38 14 A. Uh. Yes. If -- if I recall it

12:57:40 15 correctly, we had a meeting with three Deputies.

12:57:43 16 503 Q. Okay.

12:57:44 17 A. I believe Amin from Agriculture,

12:57:51 18 Orsini from Finance, and Newman from MTCU.

12:57:52 19 504 Q. And why did you want to meet

12:57:53 20 with -- let me rephrase.

12:57:55 21 I presume you named to meet with those

12:57:57 22 three Deputies because you were of the view that

12:58:02 23 the consequences of the decision would have an

12:58:06 24 impact on those three Ministries, being Finance,

12:58:10 25 Agriculture, and Colleges, Trades and Universities;

12:58:14 1 correct?

12:58:14 2 A. No. All three -- we had been  
12:58:18 3 hired by one of the Ministries, and in our letter  
12:58:22 4 of direction, it asked us, obviously, to deal with  
12:58:24 5 issues with finance because there had been a  
12:58:27 6 \$50-million allocation.

12:58:28 7 And they were specific, if I remember  
12:58:30 8 correctly, about how to help people with the  
12:58:33 9 transition, so that was MTCU, Ministry of Training.

12:58:36 10 So it was important for us to, (1), uh,  
12:58:39 11 just make sure that the -- the information that we  
12:58:41 12 were getting would allow us to write this report in  
12:58:43 13 a very short period of time. Maybe it's a -- you  
12:58:46 14 know, we were in a hurry.

12:58:47 15 505 Q. Why were you in a hurry?

12:58:49 16 A. Well, because we had to -- you  
12:58:50 17 know, we were asked to figure this out in three  
12:58:53 18 months and it was pretty complicated. I mean, we  
12:58:54 19 probably received that much reading -(indicating)-  
12:58:56 20 the first week, so it just -- there's just --  
12:58:59 21 physically to meet with all those stakeholders was  
12:59:02 22 going to take some time, and then to write a  
12:59:03 23 report.

12:59:03 24 506 Q. And you're saying you probably  
12:59:05 25 received "that much" information in the first week,

12:59:08 1 and you were indicating a two-foot pile with your  
12:59:09 2 hands, right?  
12:59:09 3 A. Well, that's a lot of reports.  
12:59:10 4 507 Q. Okay.  
12:59:10 5 A. Perhaps it was only a foot.  
12:59:11 6 508 Q. I'm not doubting you.  
12:59:12 7 A. Yeah.  
12:59:13 8 509 Q. There was a --  
12:59:14 9 A. Yeah.  
12:59:14 10 510 Q. Why were you given a three-month  
12:59:17 11 timeframe?  
12:59:23 12 A. The Minister felt that he needed  
12:59:25 13 a report back in three months.  
12:59:27 14 511 Q. That was Minister McMeekin?  
12:59:29 15 A. Yes.  
12:59:30 16 512 Q. Okay?  
12:59:30 17 A. Yea.  
12:59:31 18 513 Q. And so, in terms of the people  
12:59:32 19 that it took to deliver this report in three  
12:59:37 20 months, it was obviously the three panelists, and  
12:59:39 21 the other two were working like you; correct?  
12:59:41 22 A. Yes.  
12:59:42 23 514 Q. Right. And you had a staff, as  
12:59:44 24 well?  
12:59:45 25 A. Uh. We had a support, and those

12:59:48 1 people changed over time.

12:59:48 2 515 Q. Okay.

12:59:50 3 A. It wasn't always the same people.

12:59:51 4 516 Q. And then you also had people from

12:59:53 5 Finance and OMAFRA retrieving information and

12:59:56 6 feeding it to you; correct?

12:59:57 7 A. Through OMAFRA. We make our

12:59:59 8 requests through OMAFRA --

13:00:00 9 517 Q. Okay.

13:00:01 10 A. -- and -- but, yeah. We also were

13:00:03 11 joined by, uh, former Deputy Minister Ingratta.

13:00:11 12 518 Q. Ingratta.

13:00:11 13 A. Very key.

13:00:11 14 519 Q. And--

13:00:11 15 A. Very key for us to be able to --

13:00:11 16 520 Q. --he did a lot of work?

13:00:12 17 A. Yes. He -- he was -- he was

13:00:13 18 really kind of like the -- the fourth Beatle. He

13:00:15 19 was the fourth panelist.

13:00:17 20 521 Q. Okay. Was he working as hard as

13:00:19 21 you and Mr. Buchanan and Mr. Snobelen?

13:00:21 22 A. Yes. During this -- he only

13:00:22 23 worked with us during this initial phase.

13:00:24 24 522 Q. "Initial phase" being June-July?

13:00:25 25 A. To the -- if I remember --

13:00:26 1 523 Q. To the Interim?

13:00:27 2 A. To the Interim Report, yeah.

13:00:27 3 524 Q. The Interim Report being

13:00:29 4 mid-August; correct?

13:00:30 5 A. Yeah. Middle of -- middle of

13:00:32 6 August--

13:00:32 7 525 Q. Okay.

13:00:32 8 A. --and then asked to do some more

13:00:34 9 work.

13:00:35 10 526 Q. And you also engaged outside

13:00:37 11 consultants being McKinsey; correct?

13:00:40 12 A. No, we did not engage McKinsey.

13:00:42 13 527 Q. Who engaged McKinsey?

13:00:44 14 A. My understanding is the Ministry

13:00:46 15 of Finance engaged McKinsey.

13:00:47 16 528 Q. Okay. So McKinsey was also

13:00:49 17 working on this project, right?

13:00:50 18 A. Uh... we did not know that until

13:00:53 19 they had a report.

13:00:53 20 529 Q. And when did you learn that

13:00:55 21 McKinsey had a report?

13:00:56 22 A. I don't recall. I just remember

13:01:02 23 it was a surprise.

13:01:03 24 530 Q. Okay.

13:01:04 25 A. And, uh -- and, uh -- but it was

13:01:06 1 agreed that the Panel and the McKinsey people would  
13:01:08 2 meet.

13:01:08 3 531 Q. And the Panel and the McKinsey  
13:01:10 4 people did meet?

13:01:10 5 A. Yes.

13:01:12 6 532 Q. And that was in -- prior to the  
13:01:15 7 release of the Interim Report?

13:01:16 8 A. Yeah. If I recall, yes.

13:01:18 9 533 Q. And did you meet with the McKinsey  
13:01:19 10 people just once?

13:01:21 11 A. Yes. At McKin- -- I remember the  
13:01:24 12 meeting being at McKinsey.

13:01:25 13 534 Q. Okay. And how -- you say it was a  
13:01:27 14 surprise.

13:01:27 15 How did you learn that McKinsey had  
13:01:29 16 been engaged and prepared a report?

13:01:31 17 A. Umm. Uh. I -- I think I heard...  
13:01:39 18 I -- I believe we would have been told by, umm, by  
13:01:46 19 the -- by the Minister's office that --

13:01:48 20 535 Q. Minister of...?

13:01:50 21 A. Minister -- the OMAFRA -- like,  
13:01:52 22 Minister McMeekin's office, that they had become  
13:01:54 23 aware that there was a report, uh, and that, uh, it  
13:01:57 24 would be a good idea if we met.

13:01:59 25 But we were not told that the Ministry

13:02:02 1 of Finance was having a separate report done.

13:02:05 2 536 Q. And did OMAFRA know that the  
13:02:09 3 Ministry of Finance was having a separate report  
13:02:11 4 done?

13:02:11 5 A. I don't believe so--

13:02:11 6 537 Q. Okay.

13:02:12 7 A. --because I believe it was a  
13:02:13 8 surprise to them and a surprise to us.

13:02:15 9 538 Q. Right.

13:02:20 10 And when you were engaged as a panelist  
13:02:23 11 in 2012, was it your understanding that OMAFRA had  
13:02:34 12 been involved in the decision to cancel revenue  
13:02:37 13 share prior to it being taken?

13:02:42 14 A. I -- I don't know that. I -- I  
13:02:46 15 wasn't there, though I know --

13:02:47 16 539 Q. You don't know one way or the  
13:02:50 17 other?

13:02:50 18 A. Yeah, about who -- who knew.

13:02:53 19 540 Q. Okay.

13:02:53 20 A. But I know it was -- it was  
13:02:55 21 announced and it was government policy, so I would  
13:02:57 22 assume that, you know, things are just not  
13:03:01 23 announced. And there's an agreement before things  
13:03:03 24 are announced, from my time in government, yeah.

13:03:07 25 541 Q. You're saying you are assuming



13:03:09 1 from the fact that the decision was announced that  
13:03:12 2 OMAFRA had been involved in the analysis and  
13:03:17 3 evaluation of the decision and its consequences.

13:03:21 4 That's what you're telling me?

13:03:22 5 A. No. I want to correct that in the  
13:03:25 6 sense that I am making an assumption which I should  
13:03:27 7 not make.

13:03:28 8 I do not know the particulars of how  
13:03:32 9 that decision was made,--

13:03:34 10 542 Q. Okay.

13:03:35 11 A. --so I don't know who talked to  
13:03:37 12 who.

13:03:37 13 I know, from my time in government,  
13:03:39 14 when I was there, that when decisions involve more  
13:03:44 15 than one Ministry, it was usually a consultative  
13:03:50 16 process before a decision was made and announced.

13:03:52 17 543 Q. Okay. And you therefore assumed  
13:03:54 18 that there had been a consultative process leading  
13:03:58 19 up to this decision, including Finance and OMAFRA  
13:04:00 20 and Ministry of Colleges, Trades and University  
13:04:00 21 (sic).

13:04:04 22 That was your assumption; fair?

13:04:06 23 A. No. Given the controversy and the  
13:04:18 24 fact that there was such a divergence of opinion  
13:04:21 25 between what the industry thought would happen and

13:04:23 1 what the government thought would happen, it did  
13:04:26 2 not -- I would not have assumed that, umm, that --  
13:04:32 3 that that process had happened because it might not  
13:04:36 4 have.

13:04:36 5 I didn't know, but that was -- that was  
13:04:41 6 possible,--

13:04:41 7 544 Q. And that was --

13:04:41 8 A. --so I didn't make that  
13:04:44 9 assumption.

13:04:44 10 545 Q. That was consistent with what you  
13:04:46 11 understood at the outset of the Panel's work; that  
13:04:50 12 Finance didn't -- wasn't too keen on the  
13:04:53 13 appointment of the Panel, right?

13:04:54 14 A. Well, Finance, uh... I know the  
13:05:00 15 decision was a -- it was not an OMAFRA decision.  
13:05:04 16 My understanding, it was a Finance decision. It  
13:05:06 17 had do with OLG modernization.

13:05:09 18 Umm. I don't -- I know Minister  
13:05:11 19 McMeekin said that he had to fight to have a panel.  
13:05:15 20 That was his advice to his colleagues, that there  
13:05:19 21 should be a panel and, umm -- and he had to  
13:05:22 22 advocate for that.

13:05:23 23 546 Q. Okay.

13:05:24 24 A. This is before I became a  
13:05:26 25 panelist. That was... Mm-hmm.

13:05:37 1 MR. LISUS: So the next exhibit,  
13:05:38 2 please.  
13:05:38 3 MR. MATTHEWS: CRE 106808 is Exhibit  
13:05:43 4 12.  
13:05:44 5 ---EXHIBIT NO. 12: An e-mail string,  
13:05:44 6 Doc ID Number CRE 106808.  
13:06:00 7 BY MR. LISUS:  
13:06:00 8 547 Q. So what information was McKinsey  
13:06:02 9 receiving and who were they receiving it from? Do  
13:06:05 10 you know?  
13:06:05 11 A. All I know is they -- my  
13:06:07 12 understanding is, they were hired by the Ministry  
13:06:11 13 of Finance.  
13:06:11 14 548 Q. Okay. And so you don't know what  
13:06:12 15 information they received?  
13:06:14 16 A. Uh. No. I remember reading the  
13:06:16 17 report. It was a typical McKinsey report. Very  
13:06:20 18 detailed.  
13:06:52 19 549 Q. I want to show you CRE 257410,  
13:06:56 20 which is an e-mail and attachment from Susan  
13:07:01 21 Pharand, P-h-a-r-a-n-d, to you and Mr. Snobelen and  
13:07:06 22 Mr. Buchanan.  
13:07:28 23 A. Mm-hmm.  
13:07:28 24 MR. MATTHEWS: There's a number of  
13:07:28 25 attachments.

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MR. LISUS: I want all of the  
attachments to that e-mail.  
MR. MATTHEWS: Okay. So I have CRE  
257410, and then attachments to it are CRE 257411,  
and CRE 257416.  
MR. LISUS: ...'418, '419 and '420,  
with the last document being a meeting agenda.  
BY MR. LISUS:  
Q. So I just want you to -- you don't  
need to scrutinize this document, Mr. -- these  
documents, Mr. Wilkinson.  
A. Mm-hmm.  
Q. If you want to, you can.  
But all I want to do is confirm that  
you and the other Panel Members received this  
e-mail and the information attached to it, and that  
you reviewed it in the process of evaluating the  
consequences of the decision and making your  
findings and recommendations, okay? Yes?  
A. Uh. Yes. And I see it contains  
the deck that you sent -- I think the same deck  
that you showed me before--  
Q. Yeah.  
A. --which was a compilation of all  
of that other...

13:08:59 1 553 Q. You say --

13:09:01 2 A. Well, the bureaucrats had gotten

13:09:02 3 to the point where they had condensed it.

13:09:02 4 554 Q. Okay.

13:09:04 5 A. We asked for the original

13:09:05 6 material.

13:09:05 7 555 Q. Right.

13:09:05 8 A. Yeah. But I remember, yeah.

13:09:07 9 Yeah.

13:09:07 10 556 Q. Right. So if you recall my --

13:09:07 11 A. In that context, that makes sense.

13:09:10 12 Sorry.

13:09:10 13 557 Q. If you recall my question, it is

13:09:12 14 to confirm that you received this information and

13:09:16 15 reviewed and relied upon it in evaluating the

13:09:20 16 consequences of the decision and formulating your

13:09:26 17 recommendations and findings, okay?

13:09:29 18 A. Uh. In part, we relied on it--

13:09:29 19 558 Q. Okay.

13:09:33 20 A. --and other data that we

13:09:35 21 subsequently learned.

13:09:36 22 559 Q. Fair enough.

13:09:39 23 MR. LISUS: Next exhibit, please.

13:09:42 24 MS. MACHADO: Should we mark that as

13:09:42 25 one entire exhibit?

13:09:46 1 MR. LISUS: Yes, please.

13:09:46 2 MR. MATTHEWS: That will be Exhibit 13,  
13:09:48 3 which is CRE 257410, 257411, 257416, 257418,  
13:10:00 4 257419, and 257420; Exhibit 13.

13:10:04 5 ---EXHIBIT NO. 13: An e-mail from  
13:10:04 6 Susan Pharand to Mr. Wilkinson, Mr. Snobelen and  
13:09:48 7 Mr. Buchanan, Doc ID Number CRE 257410, with  
13:09:49 8 attachments, Doc ID Numbers 257411, 257416, 257418,  
13:09:58 9 257419, and 257420.

13:09:58 10 BY MR. LISUS:

13:10:18 11 560 Q. And June 11, CRE 8079, you are  
13:10:26 12 provided with ten documents related to OLG's  
13:10:27 13 modernization activities.

13:10:33 14 And I'm going to ask you to identify  
13:10:37 15 the e-mail and one attachment, dated March 12,  
13:10:51 16 2012.

13:10:51 17 MR. ROSENBERG: What's the document  
13:10:52 18 number for the attachment, please?

13:10:54 19 MR. LISUS: 8088.

13:10:55 20 MR. ROSENBERG: Thank you.

13:10:56 21 BY MR. LISUS:

13:10:56 22 561 Q. Okay? So--

13:10:57 23 A. I've read it, yes.

13:10:58 24 562 Q. --let's deal first with the  
13:10:58 25 e-mail.

13:10:59 1 A. Okay.

13:11:00 2 563 Q. You...

13:11:02 3 --- (Court reporter appeals.)

13:11:04 4 BY MR. LISUS:

13:11:04 5 564 Q. 8079 is the e-mail. 8088 is the

13:11:10 6 attachment?

13:11:10 7 A. Mm-hmm.

13:11:12 8 565 Q. Yes?

13:11:12 9 A. Yes.

13:11:13 10 566 Q. And you got the e-mail from Susan

13:11:16 11 Pharand, right?

13:11:17 12 A. Yes.

13:11:18 13 567 Q. And this -- the backgrounder at

13:11:20 14 8088 is giving you some background information

13:11:29 15 about modernizing lottery and gaming in Ontario.

13:11:32 16 Do you see that?

13:11:33 17 A. Uh. Yes. Sure.

13:11:49 18 568 Q. Okay. And you recall where we

13:11:50 19 discussed a little -- do you recall discussing with

13:11:51 20 me a little while ago, part of the Modernization

13:11:54 21 Plan, including a decision to relocate slot

13:11:56 22 facilities from racetracks to urban areas?

13:12:02 23 You recall that discussion?

13:12:02 24 A. Yes.

13:12:04 25 569 Q. Okay. And we see here, reference

13:12:05 1 in this backgrounder, within the three  
13:12:07 2 recommendations of the report, changes include  
13:12:09 3 allowing for slot facilities beyond horse racing  
13:12:13 4 tracks, so that sites can be located where there is  
13:12:16 5 a customer interest, right?

13:12:17 6 A. Yes. Yeah.

13:12:22 7 570 Q. Okay. And when you were given  
13:12:29 8 this backgrounder, you understood, therefore, that  
13:12:32 9 one of the features of the Modernization Plan to be  
13:12:38 10 implemented through cancellation of Slots at  
13:12:43 11 Racetrack Program was relocating slot facilities to  
13:12:48 12 where there was more customer interest, right?

13:12:50 13 A. Yeah. That was their -- that was  
13:12:52 14 their position, yes.

13:12:53 15 571 Q. Okay. And were you aware, sir --  
13:12:55 16 MR. LISUS: And that e-mail and that  
13:13:05 17 exhibit (sic) is the next exhibit in sequence.

13:13:05 18 THE WITNESS: Sure. Okay.

13:13:05 19 BY MR. LISUS:

13:13:10 20 572 Q. Were you --

13:13:10 21 MS. MACHADO: Sorry. Just for the  
13:13:12 22 record, there are other attachments to this e-mail,  
13:13:14 23 but they are not included here--

13:13:14 24 MR. LISUS: Right.

13:13:15 25 MS. MACHADO: --in this exhibit.



13:13:15 1 MR. MATTHEWS: In fact, I don't think  
13:13:16 2 they were produced, which would explain why they  
13:13:19 3 are not included.

13:13:19 4 ---EXHIBIT NO. 14: An e-mail, Doc ID  
13:13:19 5 Number CR 8079 and attachment, Doc ID Number CR  
13:13:20 6 8080.

13:13:20 7 BY MR. LISUS:

13:13:20 8 573 Q. The -- were you aware, in June of  
13:13:20 9 2012, that OLG had not yet prepared a business case  
13:13:20 10 for the location of casinos in urban centres?

13:13:20 11 Did you know that?

13:13:30 12 A. Umm. No. I had read the briefing  
13:13:37 13 memos to say that's what they were planning on  
13:13:40 14 doing.

13:13:40 15 574 Q. Okay. So you didn't know that  
13:13:41 16 they hadn't yet prepared a business case?

13:13:43 17 A. Umm. What I learned was that,  
13:13:43 18 umm...

13:13:55 19 Actually, just give me one second. I'm  
13:13:59 20 just trying to remember this.

13:14:06 21 575 Q. Let me see if I can assist you.  
13:14:08 22 Mr. Phillips testified--

13:14:09 23 A. Right.

13:14:10 24 576 Q. --that as of the spring of 2012,  
13:14:12 25 OLG had not prepared a business case for the

13:14:14 1 location of slot machines in urban centres.

13:14:18 2 MR. ROSENBERG: I don't think that's an  
13:14:19 3 accurate summary of Mr. Phillips' evidence.

13:14:21 4 MR. LISUS: Well, fortunately, we have  
13:14:22 5 a transcript.

13:14:24 6 THE WITNESS: What --

13:14:24 7 MR. ROSENBERG: Yes, indeed.

13:14:25 8 THE WITNESS: Okay. What -- what I  
13:14:27 9 recall is that, umm, from those briefings is that  
13:14:31 10 -- that they did not have..., that their backup  
13:14:37 11 plan to cancel SARP and not, umm..., and not enter  
13:14:45 12 into an agreement would mean that they would not  
13:14:47 13 have to have -- they would have to find a location  
13:14:49 14 for those slot machines.

13:14:49 15 BY MR. LISUS:

13:14:49 16 577 Q. Right.

13:14:51 17 A. That's what I remember.

13:14:53 18 That -- that was the kind of big  
13:14:54 19 takeaway; said, 'Okay. Here, you're moving ahead  
13:14:56 20 with this.' But then, 'If the tracks don't agree,  
13:15:00 21 where will the, uh, slots go?'

13:15:02 22 And they were going to move them, but  
13:15:06 23 they didn't have a place at that time to move them  
13:15:09 24 to.

13:15:09 25 578 Q. Right. So --

13:15:12 1 A. That's what I remember from that  
13:15:14 2 meeting.

13:15:14 3 579 Q. So you recall from that meeting  
13:15:16 4 that if they couldn't come to terms with the  
13:15:18 5 racetracks so that the slot machines didn't remain  
13:15:21 6 there, they didn't have that plan as to where those  
13:15:24 7 slot machines would go; correct?

13:15:26 8 A. The plan was that they would be in  
13:15:29 9 temporary facilities. I remember them telling us  
13:15:32 10 that.

13:15:33 11 580 Q. Okay. But they had to get  
13:15:34 12 permission from municipalities to put slot machines  
13:15:36 13 into their town and cities; correct, if they're not  
13:15:40 14 at a pre-approved gaming site, right?

13:15:42 15 A. Umm. Yes. It struck me as a  
13:15:46 16 challenge, for sure.

13:15:47 17 581 Q. Right. And they didn't have those  
13:15:49 18 approvals yet, right?

13:15:50 19 A. No. No.

13:15:52 20 582 Q. And we know that, for example, the  
13:15:55 21 City of Toronto voted down a casino with slot  
13:15:59 22 machines in it; correct,--

13:15:59 23 A. I don't know if --

13:16:00 24 583 Q. --in 2013. Do you remember that?

13:16:04 25 A. Yeah. That was in 2013. Yeah.

13:16:06 1 That's right. I remember that.

13:16:07 2 584 Q. Okay. So you learned that OLG had  
13:16:17 3 a plan to take slot machines out of racetracks, but  
13:16:21 4 didn't have plan as to where they would go, right?

13:16:26 5 A. Umm. Well, they did tell us where  
13:16:27 6 they would go. They would go into temporary  
13:16:30 7 facilities under tents, if I remember correctly.

13:16:30 8 585 Q. Right. But --

13:16:33 9 A. That was the comment that was  
13:16:34 10 made.

13:16:34 11 586 Q. Okay.

13:16:35 12 A. Of course, that wasn't -- again,  
13:16:36 13 Mr. Lisus, I know what my job was for the Minister  
13:16:41 14 of Agriculture, which was not --

13:16:42 15 587 Q. ...to review --

13:16:43 16 A. That -- that whole issue was not  
13:16:45 17 on our table.

13:16:46 18 We were briefed and we appreciated the  
13:16:48 19 fact that we were briefed, but that--

13:16:48 20 588 Q. Okay.

13:16:49 21 A. --was not what we were focused on.  
13:16:51 22 Our -- we were focused on the horse  
13:16:54 23 racing industry.

13:16:54 24 589 Q. Where did they tell you they were  
13:16:58 25 going to put these tents?

13:16:58 1 A. They didn't tell me. They just  
13:16:59 2 said it would be under tents.

13:17:01 3 I thought it was rather chilly in  
13:17:03 4 January in Ontario.

13:17:04 5 590 Q. Right. December, February and  
13:17:05 6 March, as well, as a South African, it's rather  
13:17:08 7 chilly in Ontario?

13:17:09 8 A. It is. We are a hardy lot, sir,  
13:17:12 9 as I'm sure you've learned.

13:17:12 10 591 Q. Slot machines in tents didn't  
13:17:14 11 sound like a very smart business case, as a finance  
13:17:18 12 guy, right?

13:17:22 13 R/F MS. MACHADO: We're not here to listen  
13:17:25 14 to or deal with hypotheticals, Mr. Lisus.

13:17:25 15 BY MR. LISUS:

13:17:39 16 592 Q. I want to ask you about an e-mail  
13:17:44 17 in -- on June 12, 2012; 257777.

13:17:54 18 You're not on this e-mail, sir, but it  
13:17:56 19 appears to be a -- excuse me. You are on this  
13:18:05 20 e-mail ultimately. Do see that? It's forwarded to  
13:18:08 21 you.

13:18:09 22 --- (Witness reviewing document.)

13:18:11 23 THE WITNESS: I think, is he telling me  
13:18:12 24 that he forwarded this e-mail incorrectly?

13:18:12 25 BY MR. LISUS:

13:18:14 1 593 Q. I'm not sure what --

13:18:16 2 A. From Susan --

13:18:18 3 MS. MACHADO: Just read it to yourself.

13:18:20 4 THE WITNESS: Okay.

13:18:20 5 --- (Witness reviewing document.)

13:18:38 6 THE WITNESS: I know...

13:18:40 7 MS. MACHADO: Wait for the question.

13:18:40 8 THE WITNESS: Okay. Yeah.

13:18:41 9 MS. MACHADO: I don't think there was

13:18:42 10 one.

13:18:42 11 BY MR. LISUS:

13:18:42 12 594 Q. Do you know what this e-mail is in

13:18:44 13 reference to?

13:18:44 14 A. No.

13:18:45 15 595 Q. Okay. There was, on that day,

13:18:50 16 June 12, 2012, which is now you are engaged as a

13:18:54 17 panelist, there was a media event on transitional

13:19:01 18 aid to horse racing in the Media Studio at Queen's

13:19:04 19 Park.

13:19:04 20 A. Okay.

13:19:04 21 596 Q. Do you see that?

13:19:05 22 A. Yeah. I see, yeah.

13:19:05 23 597 Q. Do you know Taras, T-a-r-a-s

13:19:11 24 N-a-t-y-s-h-a-k, an MPP?

13:19:11 25 A. Not at the time, but we

13:19:12 1 subsequently met him during our stakeholder, umm...

13:19:21 2 598 Q. Okay.

13:19:21 3 A. ...because he had a racetrack out

13:19:21 4 in Dresden.

13:19:21 5 599 Q. In his riding?

13:19:21 6 A. In his riding, yeah.

13:19:21 7 600 Q. All right.

13:19:21 8 A. Yeah. I didn't serve with him,

13:19:22 9 so...

13:19:22 10 601 Q. Got it.

13:19:23 11 And there appears to have been a -- a

13:19:26 12 media event, and the e-mail that was forwarded to

13:19:30 13 you is with Susan Murray.

13:19:32 14 Do you know Susan Murray?

13:19:34 15 A. Uh. No. I knew Thom Hagerty.

13:19:37 16 602 Q. Right.

13:19:38 17 A. Susan was, I think, one of the

13:19:40 18 support people -- or Susan Pharand.

13:19:42 19 There's a bunch of...

13:19:43 20 603 Q. ...Susans?

13:19:43 21 A. ...Susans, and just support

13:19:45 22 people, OMAFRA. It's a Ministry and things moving

13:19:47 23 around.

13:19:47 24 604 Q. All right. And do you know Laura

13:19:50 25 Muir?

13:19:50 1 A. No.

13:19:50 2 605 Q. Okay. And do you see that there's

13:19:55 3 a reference here in the e-mail to:

13:19:57 4 "50-million not nearly enough.

13:20:00 5 Breeders alone have already lost

13:20:01 6 more than \$50-million." [As read.]

13:20:04 7 Did you see that?

13:20:04 8 A. No. I -- I -- I can tell you...

13:20:14 9 Okay. Here is what -- and I always do this, okay.

13:20:16 10 The e-mail -- this e-mail, which I

13:20:19 11 think was sent to me in error, was at 9:47.

13:20:24 12 A minute later -- a minute later, I

13:20:26 13 received an e-mail from Thom saying, 'Whoops. I

13:20:28 14 forwarded the wrong e-mail.'

13:20:30 15 What I do is I delete them, okay. Like

13:20:32 16 just e-mail etiquette. When somebody pops one,

13:20:37 17 says, 'I sent this to you,' so I don't read it.

13:20:39 18 Just, that's--

13:20:39 19 606 Q. Okay.

13:20:40 20 A. -- what I -- what I do.

13:20:41 21 I just -- I just don't think it's

13:20:43 22 right, if someone sends you something by mistake,

13:20:45 23 and says, 'Hey, I sent it by mistake,' you just

13:20:48 24 don't deal with it.

13:20:49 25 So I don't recall that e-mail, but I'm



13:20:50 1 not... But I--

13:20:50 2 607 Q. Do you recall the meeting?

13:20:51 3 A. --do kind of recall the -- the,

13:20:53 4 'Whoops.'

13:20:53 5 Now, I don't -- I don't remember this,

13:20:55 6 but it could have been subsequently in the -- the

13:20:58 7 clips. They were just starting to tell us what

13:21:00 8 people were saying in the media.

13:21:01 9 There was -- OMAFRA was to support us,

13:21:04 10 just to kind of let us know what was going on, if

13:21:07 11 there were media questions and all that kind of

13:21:09 12 stuff.

13:21:09 13 Umm. I -- I mean, I know it was a --

13:21:12 14 it was a hot file and there was people saying

13:21:14 15 things and press releases going back and forth, and

13:21:16 16 I tried to focus at the time on what I was supposed

13:21:19 17 to do which was to start getting my head around the

13:21:21 18 money part of this.

13:21:22 19 608 Q. Right. And that's why you were

13:21:26 20 under -- or the Panel was under some pressure to

13:21:29 21 produce a report in three months because it was

13:21:31 22 such a hot file, right?

13:21:32 23 A. Umm. Well, yeah. I mean, the

13:21:37 24 government was intent on -- on trying to, uh,

13:21:43 25 resolve the issue as opposed to, 'Well, you know,

13:21:45 1 we're going to take three years and study this.'

13:21:48 2 They weren't saying that. They asked  
13:21:50 3 us to -- to kind of know when you get the -- hurry  
13:21:53 4 up; that they actually need the advise.

13:21:55 5 609 Q. And they needed the -- they needed  
13:21:56 6 your help to understand the issue; correct?

13:21:58 7 A. No. Minister McMeekin thought  
13:22:00 8 that by having three former Cabinet Ministers from  
13:22:04 9 three previous governments who collectively served  
13:22:06 10 for 22 years, not together, but over that whole  
13:22:10 11 period of time where slots were brought into  
13:22:12 12 Ontario, where the Slots at Racetrack Program was --  
13:22:15 13 was brought in and had continued when I was in  
13:22:18 14 government, they had that and --

13:22:20 15 610 Q. Mr. Wilkinson, I'm asking you a  
13:22:21 16 simple question.

13:22:23 17 A. Sure.

13:22:23 18 611 Q. You and your colleagues were  
13:22:27 19 working as hard as you were because you wanted to  
13:22:31 20 help the government understand, within three  
13:22:35 21 months, the consequences to the horse racing  
13:22:39 22 industry of the decision that had been made in  
13:22:42 23 March, right?

13:22:42 24 A. No. No. My panelists and I were  
13:22:50 25 doing what we were contracted to do, which was to

13:22:54 1 come up with a plan to help the industry transition  
13:22:59 2 because the cancellation of SARP was a fact.

13:23:02 3 612 Q. And your plan, in order --  
13:23:04 4 A. We subsequently came to our own  
13:23:08 5 advice that we gave to the government. We didn't  
13:23:08 6 start with that.

13:23:08 7 613 Q. Fair enough.  
13:23:11 8 A. This was my point.

13:23:12 9 614 Q. In order for you to come up with a  
13:23:14 10 plan, you had to understand the impact of the  
13:23:16 11 decision on the industry; correct?  
13:23:18 12 A. And the competing advice that we  
13:23:20 13 were given. There was a wide gap between what some  
13:23:23 14 people -- what the government said was going to  
13:23:25 15 happen and what the industry said.  
13:23:27 16 There was -- it was diametrically  
13:23:30 17 opposed, Mr. Lisus. I mean, that -- so that's what  
13:23:32 18 we had to sort out.

13:23:33 19 615 Q. The industry said that as a  
13:23:35 20 consequence of the decision, the industry would  
13:23:38 21 collapse; correct?  
13:23:40 22 A. Mm-hmm.

13:23:42 23 616 Q. And you --  
13:23:42 24 --- (Court reporter appeals.)  
13:23:43 25 THE WITNESS: Sorry. The industry's

13:23:44 1 position; I don't know if they said the word  
13:23:46 2 "collapse", but they sure said that it was going to  
13:23:49 3 be, uh, dramatically, dramatically, uh, impacted.

13:23:53 4 BY MR. LISUS:

13:23:53 5 617 Q. And you agreed that if steps  
13:23:55 6 weren't taken quickly by the government, the  
13:23:58 7 industry would collapse; correct?

13:24:00 8 A. After we saw the, uh, Great  
13:24:06 9 Canadian material, I --

13:24:06 10 618 Q. It wasn't just the Great Canadian  
13:24:08 11 material, Mr. Wilkinson. It was all of the  
13:24:10 12 information that we have been talking about that  
13:24:12 13 was gathered together and given to you, right?

13:24:14 14 A. Mr. Lisus, I became convinced that  
13:24:19 15 the assumptions that underpinned the -- that -- uh,  
13:24:22 16 the decision were wrong after reviewing what I  
13:24:26 17 thought was completely independent set of facts,  
13:24:31 18 which were the financial disclosures of Great  
13:24:33 19 Canadian.

13:24:33 20 619 Q. And from which --

13:24:34 21 A. Prior to that, it was a question,  
13:24:35 22 for me, as to who was telling the truth, who was  
13:24:38 23 most accurate.

13:24:39 24 620 Q. And the financial --

13:24:40 25 A. That is what changed my opinion.

13:24:42 1 621 Q. The financial disclosures of Great  
13:24:44 2 Canadian were from what time period?

13:24:45 3 A. From after the government  
13:24:48 4 announced that they were going to cancel SARP.

13:24:51 5 After the decision was made, they told  
13:24:53 6 -- and when that came to light, then the briefing  
13:24:56 7 that I had received that showed that the industry  
13:24:58 8 would restructure, that there would be fewer  
13:25:03 9 tracks, uh, and fewer jobs offset, I remember, by  
13:25:07 10 having more jobs and more GDP by redirecting the  
13:25:11 11 money to other Ministries, that I then felt that  
13:25:15 12 that underlying assumption was incorrect.

13:25:18 13 622 Q. Okay.

13:25:18 14 A. And I shared that with my fellow  
13:25:20 15 Panel Members as the kind of finance guy, that,  
13:25:23 16 'Okay. There is -- there is a piece of information  
13:25:26 17 that we can rely upon.'

13:25:27 18 623 Q. And just tell me, please, what the  
13:25:31 19 information it was of Great Canadian that allowed  
13:25:35 20 you to understand the assumptions were incorrect?

13:25:37 21 A. Because they told their  
13:25:39 22 shareholders they would go from a -- a very -- they  
13:25:42 23 -- they showed, 'Okay. Here is our revenue plus  
13:25:44 24 SARP and here is our profit. You take SARP off,  
13:25:47 25 here is our revenue minus SARP. Here's our loss.'

13:25:51 1 624 Q. All right.

13:25:51 2 A. That simple.

13:25:51 3 625 Q. That simple.

13:25:53 4 A. That simple.

13:25:53 5 626 Q. About 10 minutes of review?

13:25:55 6 A. Yeah. Of course, that was -- that

13:26:00 7 was there.

13:26:01 8 And that was not given to us. So of

13:26:04 9 all different things we got from all the different

13:26:06 10 people, the Ministries, stakeholders, everybody

13:26:08 11 that was on -- I thought that was a very clear

13:26:11 12 thing and -- and became the basis of our

13:26:14 13 recommendation to the government, that -- that --

13:26:17 14 that, uh, you know, that their assumption was

13:26:20 15 wrong.

13:26:21 16 627 Q. That's helpful.

13:26:21 17 A. Yeah.

13:26:22 18 628 Q. Thank you.

13:26:28 19 MR. LISUS: It's 1:30.

13:26:31 20 THE COURT REPORTER: Did you want to

13:26:32 21 mark that one?

13:26:34 22 MR. LISUS: Yes. I want to mark that

13:26:38 23 e-mail and presentation as the next exhibit.

13:26:40 24 MS. MACHADO: Is it appropriate to mark

13:26:42 25 it when this gentleman has said he deleted it

13:26:44 1 immediately?

13:26:44 2 MR. LISUS: He got it, but he...

13:26:44 3 MS. MACHADO: Well, he doesn't recall  
13:26:44 4 getting it, but he said he would have deleted it.

13:26:44 5 MR. LISUS: I think he said he did, but  
13:26:45 6 we can mark --

13:26:45 7 THE WITNESS: No. What I said is, I  
13:26:46 8 would have deleted it because that is what I always  
13:26:47 9 do.

13:26:48 10 MR. LISUS: I understand.

13:26:49 11 THE WITNESS: Yeah.

13:26:50 12 MR. LISUS: I accept that you didn't  
13:26:52 13 read it, Mr. Wilkinson.

13:26:52 14 I'm not attributing it to him, but it  
13:26:55 15 should be referred to -- marked because it was  
13:26:57 16 referred to.

13:26:59 17 Want to take half a half-an-hour break?

13:27:00 18 MR. MATTHEWS: So just before we go  
13:27:02 19 off, we're going to mark CRE 257777 as well as a  
13:27:07 20 media event document, CRE 14961, collectively as  
13:27:12 21 Exhibit 15.

13:27:13 22 ---EXHIBIT NO. 15: An e-mail dated  
13:27:13 23 June 12, 2012 from Thom Hagerty to John Wilkinson,  
13:27:13 24 Doc ID Number CRE 25777, as well as a media event  
13:27:13 25 document, CRE 14961.

13:27:15 1 MR. LISUS: I know you've in a rush.  
13:27:17 2 Do you want to take just 20 minutes?  
13:27:19 3 Are you okay with that?  
13:27:21 4 THE COURT REPORTER: Sure.  
13:27:25 5 THE WITNESS: Sure. That timing is  
13:27:27 6 fine by me, yeah.  
13:27:30 7 ---Luncheon recess at 1:27 p.m.  
13:50:08 8 ---On resuming at 1:50 p.m.  
13:50:37 9 BY MR. LISUS:  
13:50:37 10 629 Q. Okay. Mr. Wilkinson, I'm showing  
13:50:39 11 you another e-mail from Susan Pharand,  
13:50:45 12 P-h-a-r-a-n-d, giving you more reading material.  
13:50:47 13 A. Yeah.  
13:50:54 14 MR. LISUS: And, Ms. Machado, the  
13:50:56 15 documents that this refers to, the University of  
13:51:00 16 Guelph -- well, they're both University of Guelph  
13:51:03 17 reports.  
13:51:03 18 But the two documents; I can dig them  
13:51:08 19 out and mark them now or I can -- we can just  
13:51:10 20 include them as part of this exhibit.  
13:51:13 21 You're content with the latter?  
13:51:20 22 MS. MACHADO: If you're saying that  
13:51:20 23 those were included --  
13:51:21 24 THE WITNESS: I remember those, yeah.  
13:51:22 25 MS. MACHADO: Yeah.



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1 MR. LISUS: Okay.

2 THE WITNESS: Mm-hmm.

3 MS. MACHADO: We can do that.

4 THE WITNESS: I know --

5 MR. LISUS: All right.

6 THE WITNESS: I know Jerry Weersink and  
7 I know Bronwynne Wilton.

8 MR. ROSENBERG: Can you give all the  
9 document numbers that we're marking the next  
10 exhibit, please?

11 MR. LISUS: Yes. So the next exhibit  
12 is 257800 and the two attachments it refers to,  
13 which I know we have, but I didn't bring with me in  
14 paper.

15 Okay. So you've got that?

16 MR. MATTHEWS: Yeah. So I expect that  
17 they're going to be documents that are numbered  
18 sequentially, so we've got 257..., CRE 257800 and  
19 two attachments, which I suspect they're going to  
20 be '801 and '802, which are all going to be marked  
21 as Exhibit 16.

22 MR. LISUS: Thank you.

23 U/T MR. MATTHEWS: And if those turn out  
24 not to be the Doc ID numbers, I will let everyone  
25 know.

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13:54:02 21  
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MR. LISUS: Thank you.

---EXHIBIT NO. 16: An e-mail from Susan Pharand to John Wilkinson and others, dated June 13, 2012, Doc ID Number CRE 257800, plus two attachments, Doc ID Numbers CRE 257801 and CRE 257802.

MR. LISUS: So the Weersink document is CRE 257801 and the hidden sector document is 257802.

BY MR. LISUS:

Q. So your recollection, Mr. Wilkinson, of this release of Great Canadian in the wake of the announcement is that it would have been a release in Q2, 2012; a first release to shareholders of the impact of the announcement of Great Canadian's business, right?

A. What I recall is, because I -- I -- when they released it, I didn't know about it at the time I was engaged.

What I recall, though, is that they had put a warning out to their shareholders, but had said that the industry was working hard to try to get the information -- or make the -- get the decision reversed.

So they -- it was only when they

13:54:14 1 subsequently felt that they had to disclose, so I  
13:54:22 2 don't think it impacted their -- their Q1 filing,  
13:54:24 3 but it probably impacted the Q2 filing which would  
13:54:27 4 have been the end of June.

13:54:29 5 I don't recall... It's not like they  
13:54:30 6 sent it to me, but I -- I -- we kind of uncovered  
13:54:33 7 that fact, talking to Great Canadian, uh, so it may  
13:54:36 8 have not -- it's not like we saw it the day it came  
13:54:39 9 out.

13:54:39 10 It was, they were able to refer to it  
13:54:41 11 when we met with Great Canadian. And what would  
13:54:43 12 make sense, it would be their, uh, whatever  
13:54:46 13 announcement they had about their Q..., their --  
13:54:48 14 probably their Q2 results, I think.

13:54:51 15 631 Q. And Great Canadian was the  
13:54:53 16 owner-operator of Georgian Downs?

13:54:54 17 A. And Flamboro Downs.

13:54:56 18 632 Q. And Flamboro.

13:54:58 19 And you were aware that a compensation  
13:55:01 20 agreement was negotiated with Great Canadian with  
13:55:04 21 respect to Flamboro Downs and Georgian Downs.

13:55:09 22 Did you know that?

13:55:10 23 A. Umm. You would have to give me  
13:55:23 24 some more context. I don't...

13:55:23 25 633 Q. Well, my understanding is that --

13:55:25 1 that approximately \$80-million was paid to  
13:55:27 2 racetracks in compensation for losses sustained as  
13:55:28 3 a result of the --  
13:55:28 4 A. Oh. This is -- this is  
13:55:29 5 subsequent.  
13:55:29 6 634 Q. Yes.  
13:55:30 7 A. Yeah. Not -- not -- not on the  
13:55:31 8 initial and Final Report.  
13:55:32 9 635 Q. Correct.  
13:55:32 10 A. This is on implementation.  
13:55:34 11 636 Q. Correct.  
13:55:35 12 A. Yeah. I do know that there were,  
13:55:36 13 uh, there were payments that were transitional in  
13:55:39 14 nature to go from the status quo to the new -- the  
13:55:42 15 new system, yeah.  
13:55:43 16 637 Q. And were you involved in the  
13:55:47 17 process pursuant to which those payments were made?  
13:55:52 18 A. No, I was not actively involved in  
13:55:55 19 the -- the negotiations.  
13:55:57 20 I -- I do recall, some of those were  
13:56:00 21 actually more directly with the Ministry of Finance  
13:56:03 22 on the racetracks and then we were kind of  
13:56:05 23 subsequently brought in afterwards. Uh...  
13:56:08 24 638 Q. "We" being...?  
13:56:09 25 A. The Panel; John and Elmer and I.

13:56:12 1 By that time, I think Elmer was the --  
13:56:14 2 the ORC Commissioner, so then I think it was  
13:56:18 3 more -- definitely John and then, uh, me, kind of  
13:56:21 4 as required.

13:56:24 5 639 Q. But this was an agreement  
13:56:26 6 negotiated between Great Canadian and Ministry of  
13:56:30 7 Finance, to your understanding?

13:56:33 8 A. Yeah. That -- that sounds right,  
13:56:35 9 to me.

13:56:35 10 640 Q. And who do you -- do you know who  
13:56:39 11 at the Ministry of Finance negotiated the  
13:56:44 12 compensation?

13:56:45 13 A. Umm. ADM. First name, Barry.

13:56:48 14 641 Q. Goodwin?

13:56:49 15 A. Goodwin, yeah. I -- I know he was  
13:56:52 16 at -- he was at the table.

13:57:01 17 642 Q. Okay.

13:57:02 18 Do you know if Mr. Stransky or  
13:57:05 19 Mr. Shortill were involved in the negotiation of  
13:57:07 20 that compensation?

13:57:11 21 A. No. I wouldn't be able to -- to  
13:57:13 22 say that. Umm. Umm. Yeah, I do know that  
13:57:19 23 Mr. Goodwin -- I do remember that.

13:57:20 24 I don't remember -- and there -- I  
13:57:22 25 don't remember people from the Minister's office

13:57:25 1 attending meetings. Umm...

13:57:29 2 643 Q. Do you know if Mr. Orsini was  
13:57:34 3 involved?

13:57:39 4 A. Uh. No, other than the fact he's  
13:57:41 5 deputy, so nothing happens without his...

13:57:43 6 644 Q. ...his approval?

13:57:45 7 A. ...his approval. But, you know,  
13:57:45 8 you give leeway to your ADMs to negotiate things,  
13:57:49 9 but they then have to be signed off.

13:57:50 10 645 Q. Okay.

13:58:32 11 Prior to your engagement as a Panel  
13:58:35 12 Member, did you watch any of the sessions in the  
13:58:42 13 Legislature in which Mr. Duncan was questioned and  
13:58:55 14 answered about the decision to cancel revenue  
13:58:57 15 share?

13:58:57 16 A. I did not attend or watch anything  
13:58:59 17 in the Legislature from the day I was defeated  
13:59:02 18 until I was invited by the new Premier to her  
13:59:06 19 swearing in. And in that period of time, I did not  
13:59:10 20 watch.

13:59:11 21 646 Q. You had had enough, had you?

13:59:12 22 A. Umm. Well, when you need to get  
13:59:16 23 on with your life, you don't spend your time with  
13:59:19 24 your old life.

13:59:20 25 647 Q. Right.

13:59:29 1 Were you speaking with anyone in the  
13:59:32 2 Premier's Office about the progress of the Panel's  
13:59:40 3 deliberations and its preliminary conclusions prior  
13:59:44 4 to the release of the Interim Report?

13:59:48 5 A. Yes. Umm. Our report, I think,  
13:59:55 6 we had made the assessment that it was going to be  
13:59:59 7 controversial. It would require both the industry  
14:00:03 8 and the government to, as Mr. Snobelen said, back  
14:00:03 9 up, which is something that was hard for both of  
14:00:03 10 them to do, much like a racehorse.

14:00:03 11 --- (Court reporter appeals.)

14:00:03 12 MS. MACHADO: Back up.

14:00:09 13 THE WITNESS: Back up. In other words,  
14:00:12 14 people were going to have to change their  
14:00:14 15 positions. Uh. And I do recall that -- and  
14:00:18 16 when -- and when there is a disagreement between  
14:00:21 17 Ministries, that is resolved by the Premier's  
14:00:24 18 Office, so I do remember reaching out to the  
14:00:26 19 Premier's Office to give them my best advice  
14:00:35 20 because -- on behalf of my colleagues 'cause they  
14:00:37 21 were going to have to struggle with resolving the  
14:00:39 22 issue between what OMAFRA wanted and what Finance  
14:00:39 23 wanted.

14:00:39 24 BY MR. LISUS:

14:00:44 25 648 Q. And who did you reach out to in

14:00:46 1 the Premier's Office?

14:00:46 2 A. Umm. I think Dave..., Dave Gene.

14:00:48 3 649 Q. Who is Dave Gene?

14:00:55 4 MS. MACHADO: Try to lean forward, just  
14:00:58 5 for the sake of the reporter.

14:00:58 6 THE WITNESS: Oh. Sorry. I keep on  
14:00:59 7 doing that. Sorry, Bonnie.

14:01:01 8 Umm. Ultimately, I think he was Deputy  
14:01:03 9 Chief of Staff. I don't know if he was Deputy  
14:01:04 10 Chief of Staff then. He might have been, umm, in  
14:01:05 11 charge of operations in the Premier's Office.  
14:01:05 12 Yeah.

14:01:05 13 BY MR. LISUS:

14:01:09 14 650 Q. Why did you reach out to him?

14:01:10 15 A. Well, because they -- as I said,  
14:01:19 16 it was pretty clear from OMAFRA's Minister's office  
14:01:22 17 that this was going to be in a difficult decision  
14:01:27 18 because people were going to have to back up, as  
14:01:30 19 would the industry if they wanted to work with the  
14:01:32 20 government because at the time, the relationship  
14:01:34 21 between the industry and -- and the government was  
14:01:37 22 very, very bad.

14:01:38 23 Umm. And, as I said, those issues  
14:01:40 24 ultimately are resolved by the Premier's Office  
14:01:44 25 when there's a disagreement amongst, uh,



14:01:46 1 ministries. And usually Finance wins. They're the  
14:01:49 2 biggest Ministry.

14:01:56 3 So if OMAFRA was going to prevail, that  
14:01:59 4 was going to require the Premier's Office to get  
14:01:59 5 involved.

14:02:00 6 So I remember, umm, Mr. Keegan, uh,  
14:02:01 7 sharing with us that that was going to be a  
14:02:03 8 challenge for our minister who we were reporting  
14:02:03 9 to.

14:02:08 10 I talked to my colleagues. It was  
14:02:10 11 decided that the right person on the Panel to reach  
14:02:12 12 out would be me, since I knew the people in the  
14:02:15 13 Premier's Office because I have worked with them.

14:02:18 14 And so I did, and I remember sharing  
14:02:20 15 with them that, uh..., what we had found, what we  
14:02:26 16 thought was a good solution; that it was --

14:02:28 17 651 Q. Sharing with who?

14:02:30 18 A. With Mr. Gene.

14:02:30 19 652 Q. Now, why did you choose Mr. Gene?  
14:02:34 20 Did you know him?

14:02:34 21 A. Yes.

14:02:34 22 653 Q. Okay.

14:02:42 23 A. I was -- I was there for 11 years.

14:02:43 24 654 Q. And do you know whether he had  
14:02:44 25 been involved in the decision to cancel the revenue

14:02:46

1

share?

14:02:47

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A. No.

14:02:47

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Q. You didn't -- you didn't know or

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4

you know he was not?

14:02:49

5

A. I didn't know that he would be

14:02:52

6

involved. I -- I would just assume that was a

14:02:54

7

Finance decision.

14:02:54

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656

Q. Okay. So do you recall contacting

14:02:58

9

him?

14:02:59

10

A. Yes. I recall e-mailing him.

14:03:01

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657

Q. Okay.

14:03:02

12

A. E-mailing him, yeah.

14:03:03

13

658

Q. And what do you recall e-mailing

14:03:06

14

him?

14:03:06

15

A. Umm. That I thought that, uh,

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that the three of us had come to, umm, a conclusion

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that decisions had been made in -- in good faith,

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but they were based on faulty assumptions; that we

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were convinced that those assumptions were false,

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that we thought that there was a way to resolve the

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21

impasse.

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22

It would require the government to,

14:03:38

23

umm..., umm, require the government to provide more

14:03:41

24

money, uh, to the horse racing industry than what

14:03:45

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was on the table.

14:03:46 1 It would, uh -- we were -- had come to  
14:03:49 2 the conclusion, no matter how the SARP decision had  
14:03:52 3 been made, that it did not meet the test of good  
14:03:55 4 public policy in 2012 because of the nature of the  
14:03:58 5 agreement that had been entered into in, I think,  
14:04:00 6 '98 or something, right; the amounts of money  
14:04:03 7 and -- and lack of transparency, accountability,  
14:04:07 8 which we found rampant.

14:04:07 9 --- (Court reporter appeals.)

14:04:07 10 THE WITNESS: We found rampant, right.  
14:04:10 11 Everybody's opinion was that they were entitled to  
14:04:13 12 this money.

14:04:15 13 Umm. That -- that there was no horse  
14:04:18 14 racing industry in the world that was not supported  
14:04:20 15 by government. We could find no example of that,  
14:04:24 16 which we thought was the flaw in the McKinsey  
14:04:27 17 report when we talked to them because we had said  
14:04:29 18 to them, 'Find us an example where there isn't  
14:04:34 19 government support.'

14:04:35 20 So either there is an industry or there  
14:04:37 21 isn't, but if there is one, the characteristic of  
14:04:38 22 all of those industries is government support. So  
14:04:39 23 there would be no model upon which they could base,  
14:04:42 24 'Ah. Here in this country it works without  
14:04:44 25 government support.'

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BY MR. LISUS:

659 Q. There's other industries like that, right?

A. The... Well, there are other industries that receive government support.

Since my time in government, the pharmaceutical industry, for example, as Minister of Research.

Anyways, so --

660 Q. Aerospace?

A. Pardon me?

661 Q. Aerospace?

A. Aerospace. Quebec, yes. And -- but what I found was --

662 Q. Automotive?

A. Uh... Yes. But always, the question is, what is in the good -- what is good public policy, right, and what should be the principles of that?

So that's what we laid out, so shared that with Mr., umm -- with, uh -- with Mr. Gene, since the decision was going to end up -- ending up at the Premier's Office to resolve. And whether or not the Premier was involved, I don't know. But it was -- it was going to end up being resolved, uh,

14:05:32 1 in what is typically called a "four corners  
14:05:35 2 meeting" where you get all the different Ministries  
14:05:40 3 around and they kind of hash it out.

14:05:42 4 663 Q. And who would the four corners --  
14:05:42 5 who were the four corners who ultimately got  
14:05:45 6 together and hashed this out?

14:05:46 7 A. I don't know, but who it would  
14:05:47 8 have been, in my opinion, would be OMAFRA and  
14:05:51 9 Finance and Premier's Office.

14:05:54 10 So that may be only three corners, but  
14:05:55 11 they're called generically "four corner meetings".

14:05:58 12 664 Q. Okay. Now, it sounds like you  
14:06:00 13 had, in addition to an e-mail, a conversation with  
14:06:01 14 Mr. Gene, based on what you're telling me.

14:06:04 15 A. A convers... I don't remember a  
14:06:08 16 conversation.

14:06:08 17 I remember an e-mail where I might have  
14:06:11 18 -- no, I don't -- I don't remember talking to Dave.

14:06:15 19 665 Q. Did Dave have --

14:06:20 20 A. Mr. Keegan talked to Dave, and  
14:06:22 21 that's -- that's typical. He's the Chief of Staff  
14:06:25 22 to a Minister.

14:06:26 23 666 Q. Did Dave Gene have the ear of the  
14:06:29 24 Premier?

14:06:30 25 A. Dave Gene was one of many senior

14:06:33 1 advisors to the Premier. I'm not exactly sure what  
14:06:36 2 his role was then, but he was not some underling.  
14:06:39 3 He was a -- a key member of -- of the Premier's  
14:06:42 4 staff and had been for many years.

14:06:44 5 667 Q. And because Finance wasn't behind  
14:06:52 6 the idea of the Panel, you didn't reach out to  
14:06:55 7 Finance.

14:06:55 8 You went straight to the Premier  
14:06:57 9 because you knew the Premier's Office would have to  
14:07:04 10 referee the divergent opinions of Finance and  
14:07:06 11 OMAFRA, right?

14:07:07 12 A. That's typically how those issues  
14:07:10 13 are settled.

14:07:10 14 668 Q. Okay.

14:07:11 15 A. Yeah.

14:07:11 16 669 Q. Now, in early July, we see a --  
14:07:22 17 the first version of a draft of the report.

14:07:27 18 A. Mm-hmm.

14:07:51 19 670 Q. And I've got an e-mail from  
14:07:51 20 Nadine...

14:07:51 21 A. ...Domingos?

14:07:56 22 671 Q. Correct. D-o-m-i-n-g-o-s, 258099,  
14:07:58 23 attaching a draft report, 258100.

14:07:58 24 A. Yeah. From James.

14:07:58 25 672 Q. Right.

14:07:58 1 A. Yeah.

14:08:15 2 673 Q. Now, this the first version of the  
14:08:16 3 report that I have seen in the documents.

14:08:17 4 A. Mm-hmm.

14:08:18 5 674 Q. Is this your recollection of the  
14:08:19 6 first formulation of the -- of the Panel's  
14:08:24 7 conclusions and opinions?

14:08:25 8 A. Umm. The timing would be -- yeah.  
14:08:30 9 This would be right. It would have been, and James  
14:08:33 10 would have done it for us.

14:08:35 11 675 Q. And what role did you have in the  
14:08:36 12 composition of this draft?

14:08:38 13 A. Umm. I did not... Let me just  
14:08:45 14 take a look.

14:08:53 15 Oh. What we did... I mean, James was  
14:08:53 16 -- was hired to -- the three of us, three panelists  
14:08:56 17 and former Deputy Ingratta were not wordsmiths.

14:08:57 18 676 Q. Former Deputy In...?

14:08:57 19 A. ...Deputy Minister Ingratta.

14:08:58 20 677 Q. I-n-g-r- --

14:08:59 21 A. I-n-g-r-a-t-t-a. Uh. We're not  
14:09:00 22 wordsmith, and part of the secretariat support we  
14:09:01 23 were given is they hired a chap to write for us,  
14:09:15 24 James.

14:09:15 25 678 Q. Okay.

14:09:16 1 A. Lovely man. He was from Prince  
14:09:18 2 Edward Island, so he knew something about  
14:09:19 3 Standardbred; not much about Thoroughbred or  
14:09:22 4 Quarter Horse, but he loved horses.

14:09:24 5 679 Q. Right.

14:09:34 6 A. Yeah. And so, umm, you know, we  
14:09:35 7 indicated in discussions with James, you know, we  
14:09:37 8 figured out how the report had to be laid out. We  
14:09:41 9 had to meet the requirements of the Ministry, umm,  
14:09:43 10 direction about the logical way it would be laid  
14:09:44 11 out.

14:09:44 12 680 Q. Okay.

14:09:45 13 A. We needed something in writing, so  
14:09:47 14 we could start -- the three of us could start  
14:09:49 15 working on.

14:09:51 16 681 Q. And does this draft reflect the  
14:09:54 17 opinions of the Panel as of July 14?

14:10:04 18 A. No. It would reflect James's,  
14:10:08 19 umm, James's take on the work that we had done,  
14:10:10 20 what we had heard, the questions we had asked, the  
14:10:12 21 questions we had given, the decisions, uh, or  
14:10:12 22 the --

14:10:12 23 --- (Court reporter appeals.)

14:10:12 24 THE WITNESS: The questions that we had  
14:10:19 25 asked of stakeholders, their responses.



14:10:19 1 His job was to turn this into a  
14:10:22 2 narrative. This was the first version of the  
14:10:24 3 narrative, so we had not reached consensus.

14:10:27 4 We only reached consensus when we had  
14:10:29 5 the final draft that the three of us signed and  
14:10:32 6 gave to the Minister.

14:10:32 7 BY MR. LISUS:

14:10:33 8 682 Q. Okay. Well, let me ask you a few  
14:10:34 9 questions about this draft because he didn't make  
14:10:36 10 this up.

14:10:36 11 He is trying to capture --

14:10:39 12 A. Mm-hmm.

14:10:39 13 683 Q. --the direction of the Panel  
14:10:42 14 Members; correct?

14:10:42 15 A. Yes, yeah.

14:10:43 16 684 Q. So if we look at it...

14:10:46 17 A. Okay.

14:10:47 18 685 Q. Did you look at the first  
14:10:56 19 paragraph under "Background on Cancellation of  
14:10:59 20 Slots Program" --

14:11:00 21 A. Mm-hmm.

14:11:01 22 686 Q. Yes?

14:11:01 23 A. Yes.

14:11:02 24 687 Q. The first paragraph; just read it  
14:11:06 25 please, not out loud.

14:11:08 1 MS. MACHADO: Read it to yourself.

14:11:11 2 THE WITNESS: Yeah.

14:11:11 3 --- (Witness reviewing document.)

14:11:27 4 THE WITNESS: Yes.

14:11:27 5 BY MR. LISUS:

14:11:28 6 688 Q. Okay. Did that reflect the views

14:11:29 7 of the Panel; that paragraph?

14:11:30 8 A. That reflects what we had been

14:11:32 9 told and briefed about.

14:11:34 10 689 Q. Okay.

14:11:34 11 A. Yeah.

14:11:52 12 690 Q. And...

14:11:55 13 --- (Sotto voce discussion between

14:11:58 14 Mr. Lisus and Mr. Matthews.)

14:12:04 15 BY MR. LISUS:

14:12:06 16 691 Q. If you go over the page,--

14:12:08 17 A. Mm-hmm.

14:12:09 18 692 Q. --under Number 4,--

14:12:10 19 A. Right.

14:12:10 20 693 Q. --this isn't controversial.

14:12:13 21 The Panel understood that the industry

14:12:15 22 consists of racetracks, horse owners and breeders

14:12:20 23 and other horsepeople, right?

14:12:21 24 A. Uh. Yes.

14:12:23 25 694 Q. Okay.

14:12:25 1 A. And 17 racetracks, yes.

14:12:32 2 --- (Court reporter appeals.)

14:12:34 3 THE WITNESS: Sorry.

14:12:38 4 BY MR. LISUS:

14:12:38 5 695 Q. And if you go to page 4...

14:12:40 6 A. Yes.

14:12:41 7 696 Q. The small paragraph under

14:12:49 8 "Jobs", --

14:12:50 9 A. Yes. The small one.

14:12:52 10 697 Q. --it says:

14:12:52 11 "The study for Equine Canada

14:12:54 12 calculates that on a nationwide

14:12:56 13 basis, one active horse equals one

14:13:00 14 full-time job in Ontario. In

14:13:01 15 Ontario, the ratio is 1.32 jobs per

14:13:05 16 active horse." [As read.]

14:13:06 17 That was the opinion of the Panel at

14:13:08 18 the time?

14:13:08 19 A. What we did was we quoted, and we

14:13:12 20 wrote a footnote that that information came from

14:13:15 21 Equine Canada.

14:13:15 22 698 Q. Okay.

14:13:16 23 A. And it was significant enough that

14:13:18 24 we would include it in the report.

14:13:19 25 699 Q. And obviously, sir, under the

14:13:20 1 heading "Horses", it's not controversial that the  
14:13:24 2 Panel understood that the heart of the industry is  
14:13:26 3 the horse?

14:13:26 4 A. Yes.

14:13:27 5 700 Q. And that in 2010, Ontario had  
14:13:32 6 26,338 horses active in racing, including breeding  
14:13:35 7 stock?

14:13:36 8 A. With a notation of where we got  
14:13:38 9 that from.

14:13:39 10 701 Q. Right.

14:13:39 11 A. Yeah.

14:13:40 12 702 Q. And the Standardbred horses  
14:13:42 13 accounted for 18,184, right?

14:13:44 14 A. According to that, yes.

14:13:45 15 703 Q. And you also understood in July,  
14:13:48 16 and I presume you understood this before July,  
14:13:51 17 coming from...

14:13:52 18 Remind me where you came from.

14:13:54 19 A. Perth-Middlesex. It's the  
14:13:56 20 Middlesex part, though, that was at -- which is --

14:13:57 21 704 Q. Middlesex, which is horse country,  
14:13:59 22 right?

14:13:59 23 A. Yeah. The north -- north of  
14:14:00 24 London is horse country,--

14:14:00 25 705 Q. Right.

14:14:02 1 A. --where Seelster's is from.

14:14:04 2 706 Q. Yeah.

14:14:05 3 You understood that the production  
14:14:06 4 cycle for a horse was four to five years; correct?

14:14:09 5 A. Not biologically. Umm.

14:14:12 6 There's -- there's a decision to breed. Then you  
14:14:16 7 -- you breed the mare. I mean, you actually have  
14:14:19 8 another horse within a year, but then that horse  
14:14:22 9 has to, uh, grow one year and be trained, umm, so  
14:14:28 10 some people bred, some people owned, and some  
14:14:31 11 people bred and owned.

14:14:33 12 But from the decision to breed and  
14:14:36 13 ultimately an owner who could be the breeder being  
14:14:40 14 able to race the horse and recouping their  
14:14:43 15 investment and hopefully making money; that was a  
14:14:45 16 -- that was a five-year cycle.

14:14:46 17 707 Q. Right.

14:14:46 18 A. The breeder-owner cycle.

14:14:48 19 708 Q. And you knew that before a  
14:14:52 20 panelist, right?

14:14:52 21 A. Not -- not -- not the time before  
14:14:54 22 I was a panelist, no.

14:14:55 23 If someone had asked me -- if someone  
14:14:59 24 said, you know, 'What's the gestation of a mare?  
14:14:59 25 What's...?'

14:15:00 1 If I thought about, like, a  
14:15:02 2 one-year-old, two-year-old. But so I -- so I knew  
14:15:03 3 they started racing two-, three-year-olds.  
14:15:06 4 Umm. What I learned is after they had  
14:15:07 5 raced, like, Seelster had Camluck. After making --  
14:15:07 6 --- (Court reporter appeals.)  
14:15:07 7 THE WITNESS: Whoops. Sorry.  
14:15:13 8 So what I learned is, they had a  
14:15:13 9 nice -- they had a long life after their racing  
14:15:16 10 career, which they did in the early part of their  
14:15:19 11 life.  
14:15:19 12 BY MR. LISUS:  
14:15:20 13 709 Q. Okay. But the -- thank you for  
14:15:21 14 that.  
14:15:23 15 A. Yeah.  
14:15:24 16 710 Q. So the statement:  
14:15:25 17 "This results in a four- to  
14:15:27 18 five-year production cycle for the  
14:15:28 19 industry. From the time a mare is  
14:15:31 20 bred, four to five years' of time,  
14:15:33 21 effort and resources are expended  
14:15:38 22 before the horse reaches the track."  
14:15:38 23 [As read.]  
14:15:40 24 That was understood by you and the  
14:15:42 25 other Panel Members in July of 2012, right?

14:15:47 1 A. Uh. Yes. Breeder and owner.

14:15:51 2 711 Q. Okay. Do you understand that --

14:15:53 3 did you understand that Finance, Ministry of

14:15:58 4 Finance people understood that?

14:16:00 5 R/F MS. MACHADO: Hold on.

14:16:01 6 He can't provide his understanding of

14:16:03 7 what somebody else understood.

14:16:04 8 BY MR. LISUS:

14:16:04 9 712 Q. When you met -- you met with

14:16:06 10 people from the Ministry of Finance; correct?

14:16:10 11 A. Mm-hmm.

14:16:10 12 713 Q. In the course of --

14:16:10 13 --- (Court reporter appeals.)

14:16:10 14 BY MR. LISUS:

14:16:10 15 714 Q. Yes?

14:16:12 16 A. Yes, we met with people from

14:16:13 17 Finance. They provided briefing documents.

14:16:15 18 715 Q. Right. Did you understand that

14:16:17 19 they were aware that the production cycle for a

14:16:21 20 horse, a Standardbred horse, was five years?

14:16:24 21 A. Umm. Well, I recall that that was

14:16:32 22 part of the briefing documents that we initially

14:16:36 23 received about, kind of the -- assuming only a few

14:16:41 24 horses actually become broodmares and studs, that

14:16:45 25 the productive life of a racehorse in regard to

14:16:48 1 their racing career, that there was a five-year  
14:16:51 2 kind of breeder, trainer, owner, and then the horse  
14:16:55 3 was running.  
14:16:55 4 716 Q. Okay.  
14:16:57 5 A. It would not run for too lo- -- on  
14:16:59 6 the Standardbred side.  
14:17:04 7 717 Q. Page 6, please.  
14:17:04 8 A. Sure.  
14:17:07 9 718 Q. Read the second paragraph to  
14:17:09 10 yourself.  
14:17:11 11 --- (Witness reviewing document.)  
14:17:24 12 BY MR. LISUS:  
14:17:25 13 719 Q. Beginning with, "In 1998..."  
14:17:28 14 A. Mm-hmm. Yeah.  
14:17:28 15 --- (Witness reviewing document.)  
14:17:29 16 THE WITNESS: Yes.  
14:17:29 17 BY MR. LISUS:  
14:17:29 18 720 Q. And does that paragraph accurately  
14:17:31 19 reflect the views of the Panel in July of 2012?  
14:17:37 20 A. Yes.  
14:17:38 21 721 Q. Pardon?  
14:17:39 22 A. It reflected what we had been  
14:17:41 23 briefed, and we believed that to be true and  
14:17:43 24 included it in the report.  
14:17:44 25 722 Q. Thank you.



14:17:45 1 And at the bottom of page 6, there's a  
14:18:14 2 sentence which says:  
14:18:16 3 "Those responding to the survey  
14:18:19 4 reported an average 50 per cent  
14:18:21 5 increase in horse numbers -  
14:18:23 6 racehorses, mares, stallions  
14:18:26 7 yearlings, and racehorses - an  
14:18:27 8 average 250 per cent increase  
14:18:30 9 aggregate horse values and a  
14:18:32 10 doubling of investment value for  
14:18:35 11 land, facilities and equipment."  
14:18:35 12 [As read.]  
14:18:38 13 Do those statements accurately reflect  
14:18:41 14 the views of the Panel?  
14:18:42 15 A. Uh. They accurately reflect the  
14:18:45 16 footnote, so I don't remember what "BW16" is.  
14:18:48 17 Is that the Weersink maybe or --  
14:18:51 18 723 Q. Well, it's in the Panel Report,  
14:18:53 19 sir, so I'm simply asking if that reflects  
14:18:56 20 accurately the view of the Panel?  
14:19:00 21 A. Uh... Oh. Brinkman Weersink,  
14:19:00 22 yes. Uh...  
14:19:00 23 --- (Court reporter appeals.)  
14:19:19 24 MS. MACHADO: Brinkman and Weersink.  
14:19:19 25 THE WITNESS: Right. And then

14:19:19 1 Weersink. So it's a report, but it's referred to  
14:19:19 2 as "BW".

14:19:19 3 Yes. It -- it reflected the overview  
14:19:20 4 of what we had learned by becoming briefed on the  
14:19:23 5 industry.

14:19:23 6 BY MR. LISUS:

14:19:24 7 724 Q. Thank you.

14:19:48 8 And if you go to the page 14, under the  
14:19:51 9 heading, "Panel Findings".

14:20:00 10 A. Okay. 14.

14:20:01 11 725 Q. It says:

14:20:02 12 "While horse racing requires  
14:20:04 13 more public and private funding than  
14:20:06 14 do lotteries and slots, it is a  
14:20:09 15 better creator of jobs, exports and  
14:20:11 16 foreign investment." [As read.]

14:20:13 17 Does that reflect -- accurately reflect  
14:20:16 18 the opinion of the Panel?

14:20:17 19 A. Yes.

14:20:39 20 726 Q. And go to page 18, please.

14:20:42 21 A. Okay.

14:20:42 22 727 Q. Under the heading, "panel  
14:20:45 23 findings", the statement:

14:20:46 24 "The essential ingredients for  
14:20:48 25 a viable horse racing industry - --"

14:20:51 1 A. Mm-hmm.

14:20:51 2 728 Q. "-- - tracks, race dates and  
14:20:54 3 purses and product - will dissolve once  
14:20:58 4 SARP ends." [As read.]  
14:20:59 5 Does that accurately reflect the  
14:21:01 6 opinion of the Panel?

14:21:01 7 A. Uh. Yes. By that time, we -- we  
14:21:04 8 had come to the conclusion that the industry would  
14:21:07 9 -- would collapse.

14:21:07 10 729 Q. Right.

14:21:08 11 A. Yeah.

14:21:08 12 730 Q. And the second sentence:  
14:21:11 13 "The industry will enter a  
14:21:13 14 downward cycle as decreasing purses  
14:21:16 15 and race dates lead to reduced  
14:21:22 16 wagering, which leads to even lower  
14:21:22 17 purses and fewer races, which leads  
14:21:23 18 to less wagering and so forth."  
14:21:23 19 [As read.]  
14:21:26 20 Right?

14:21:26 21 A. Mm-hmm.

14:21:27 22 731 Q. Yes?

14:21:28 23 A. Yes.

14:21:38 24 732 Q. And now, at this point in time,  
14:21:40 25 July 14, the government had not yet committed

14:21:45 1 transition funding of any amount to the industry;  
14:21:49 2 correct?  
14:21:50 3 A. No. I believe they had committed,  
14:21:52 4 when they hired us to -- to comment on \$50-million  
14:21:56 5 over three years.  
14:21:56 6 733 Q. But it can't committed; correct?  
14:21:59 7 A. I -- I tend to recall that it was  
14:22:02 8 in my contract, so I thought it was.  
14:22:04 9 734 Q. Okay. So you believe that  
14:22:06 10 50-million had been committed?  
14:22:07 11 A. Yeah.  
14:22:07 12 735 Q. All right. And to try and shorten  
14:22:14 13 this, as of July 14, it was the Panel's view that  
14:22:18 14 50-million over three years was completely  
14:22:21 15 inadequate to prevent the industry from collapsing,  
14:22:25 16 right?  
14:22:25 17 A. Uh. Yes.  
14:22:27 18 736 Q. Okay.  
14:22:28 19 A. Yeah.  
14:22:28 20 737 Q. Now... And that much more than  
14:22:33 21 50-million over three years would be needed--  
14:22:36 22 A. Yes.  
14:22:36 23 738 Q. --to prevent a collapse?  
14:22:39 24 A. Yeah.  
14:22:39 25 739 Q. And one of the things that you

14:22:41 1 were looking at was what could be done in the event  
14:22:49 2 that the government would not commit more than  
14:22:53 3 50-million over three years; correct?  
14:22:55 4 A. Our -- our mandate was to look at  
14:22:57 5 the issues of transition, but also to look at the  
14:23:01 6 -- in our mandate was the question of -- of horse  
14:23:04 7 welfare.  
14:23:06 8 740 Q. All right?  
14:23:07 9 A. So we were asked, as a  
14:23:09 10 deliverable, to comment on that.  
14:23:10 11 741 Q. Not just horse welfare; people  
14:23:12 12 welfare?  
14:23:12 13 A. Oh, sure. But I'm just saying, it  
14:23:14 14 also included horse welfare, so it wasn't just,--  
14:23:14 15 742 Q. And --  
14:23:18 16 A. --'What do we do?'  
14:23:18 17 743 Q. And in the report --  
14:23:18 18 --- (Court reporter appeals.)  
14:23:32 19 THE WITNESS: So -- so, it was --  
14:23:32 20 MS. MACHADO: Just repeat what you  
14:23:32 21 said.  
14:23:32 22 "...it wasn't just..."  
14:23:32 23 THE WITNESS: Umm. Yeah. It wasn't  
14:23:32 24 just, 'What do we do?' Sorry.  
14:23:33 25 BY MR. LISUS:

14:23:34 1 744 Q. Right. So in the draft report,  
14:23:36 2 you state:  
14:23:37 3 "In the absence of a new  
14:23:38 4 revenue stream, the Panel --"  
14:23:39 5 A. Where are you, sir?  
14:23:42 6 MS. MACHADO: (Indicating.)  
14:23:43 7 THE WITNESS: Okay.  
14:23:44 8 BY MR. LISUS:  
14:23:44 9 745 Q. "...the Panel recommends utilizing  
14:23:48 10 the transition funds to provide  
14:23:48 11 assistance in closing down the horse  
14:23:50 12 racing industry in as orderly a fashion  
14:23:52 13 as possible." [As read.]  
14:23:53 14 Right?  
14:23:53 15 A. Uh...  
14:23:54 16 746 Q. Do you see that first sentence,  
14:23:55 17 second paragraph?  
14:23:55 18 A. Yes. Yeah.  
14:23:56 19 747 Q. And it was the view of the Panel  
14:24:00 20 that all that 50-million could do would be to  
14:24:03 21 provide some measure of assistance to shutting down  
14:24:08 22 the entire industry; correct?  
14:24:09 23 A. No. What we had concluded is that  
14:24:17 24 the industry would collapse, despite the fact that  
14:24:19 25 the government's position at the time was the

14:24:21 1 industry would not collapse. And, therefore, if  
14:24:24 2 there was not a change, the 50-million should deal  
14:24:27 3 with the collapse.

14:24:28 4 748 Q. Understood.

14:24:29 5 A. Right.

14:24:29 6 749 Q. That's a more precise way of  
14:24:32 7 putting it than I did. Thank you.

14:24:34 8 A. Mm-hmm.

14:24:35 9 750 Q. And the costs of the collapse  
14:24:43 10 would include retraining as many as 55,000 people;  
14:24:47 11 correct?

14:24:47 12 A. That's what we had been told at  
14:24:52 13 the time. That's what we had been told at the  
14:24:55 14 time, but again, this was a draft.

14:24:57 15 We still had to make sure that  
14:24:58 16 everything that we were saying, we reached  
14:25:00 17 agreement and that we were able to document all of  
14:25:02 18 these things.

14:25:03 19 751 Q. And at the time, did you think  
14:25:04 20 that the -- with a complete collapse, you believed  
14:25:10 21 that 55,000 people would have to be retrained,  
14:25:13 22 right?

14:25:16 23 A. Umm. We did not have consensus on  
14:25:18 24 that number at the time.

14:25:19 25 752 Q. Okay. But was it in that

14:25:20 1 neighbourhood?

14:25:21 2 A. Uh. I felt, looking over the

14:25:25 3 economics, that the number was large, but it wasn't

14:25:27 4 that large.

14:25:28 5 753 Q. What did you think it was; 50,000?

14:25:30 6 A. Uh, no. It was -- it was, uh...

14:25:32 7 it -- as to how you count full-time equivalents,

14:25:37 8 but I'm just trying to remember.

14:25:39 9 I -- I can tell you whatever it was

14:25:42 10 when we got to our final..., our -- our Interim

14:25:46 11 Report, that number is what we, the three of us

14:25:49 12 agreed on.

14:25:49 13 754 Q. Okay.

14:25:50 14 A. I don't recall what that is,

14:25:52 15 but...

14:25:52 16 755 Q. Did -- did Mr. Snobelen and

14:25:56 17 Mr. Buchanan think that it was, at the time of the

14:25:58 18 Interim Report, around 55,000 and you thought it

14:26:02 19 was probably less than that?

14:26:03 20 A. No. The only -- the only data we

14:26:07 21 had received was the difference between the initial

14:26:10 22 Ministry of Finance estimate--

14:26:12 23 756 Q. Which was --

14:26:13 24 A. --which was around between, I

14:26:15 25 think, 3- and 5,000 versus the industry -- sorry --



14:26:19 1 which was 60,000.

14:26:20 2 Uh... We -- but we had been grappling  
14:26:28 3 with the issue, 'Oh, my God. This thing is not  
14:26:30 4 going to restructure as the government believes.'

14:26:32 5 I think, in good faith, they believed  
14:26:34 6 that.

14:26:35 7 We had discovered that that was not  
14:26:37 8 correct, so we still had to deal with that issue  
14:26:40 9 of -- of how big that number was--

14:26:40 10 757 Q. Right.

14:26:40 11 A. --being.

14:26:40 12 758 Q. And you --

14:26:45 13 A. Yeah.

14:26:45 14 759 Q. You, as we've seen from the  
14:26:48 15 sequence, got going as a panel around June 12th  
14:26:51 16 with your consultations, right, and the absorption  
14:26:54 17 of what reading material had been given to you?

14:26:57 18 You started that in June 12th in  
14:27:01 19 earnest, right?

14:27:01 20 A. I -- well, if I recall, I think  
14:27:02 21 our contract was dated June 4th, the day that we  
14:27:06 22 met with Minister McMeekin.

14:27:07 23 760 Q. Right. But we've seen the flow of  
14:27:08 24 information to you, sir,--

14:27:09 25 A. Mm-hmm.

14:27:09 1 761 Q. --and the consulta- -- when they  
14:27:09 2 started.  
14:27:12 3 The consultation started June 12th.  
14:27:13 4 You were receiving information from June 5 to 12th,  
14:27:16 5 and then after, right?  
14:27:17 6 A. I think maybe four dozen, umm,  
14:27:21 7 deputations came in front of us, I think.  
14:27:23 8 762 Q. I understand.  
14:27:24 9 A. Yeah.  
14:27:25 10 763 Q. My only point, Mr. Wilkinson, is--  
14:27:27 11 A. Mm-hmm.  
14:27:28 12 764 Q. --it took you about a month to  
14:27:31 13 figure out what the consequences of the decision  
14:27:36 14 would be, right?  
14:27:40 15 MS. MACHADO: Well, he said that he  
14:27:41 16 started receiving information June 5th.  
14:27:44 17 MR. LISUS: Please don't interrupt.  
14:27:47 18 This is a Cross-Examination.  
14:27:50 19 MS. MACHADO: I'm not. I'm just trying  
14:27:53 20 to be fair to the witness.  
14:27:53 21 BY MR. LISUS:  
14:27:53 22 765 Q. This is July 14.  
14:27:54 23 By July 14, you had come to the  
14:27:56 24 opinions that we are discussing; correct?  
14:27:58 25 A. Yes. They were drafted, but we

14:27:59 1 had definitely come to that conclusion.

14:28:01 2 766 Q. Right. And it took you about a  
14:28:02 3 month?

14:28:03 4 A. Umm. Yes. Yeah. From a cold  
14:28:06 5 start, yeah.

14:28:06 6 767 Q. Okay. And you also were of the  
14:28:17 7 opinion that the reduction of the horse herd by  
14:28:23 8 about 13,000 horses would have to occur; correct?

14:28:25 9 A. About half, yeah. 13,000, we  
14:28:32 10 thought, was about half.

14:28:35 11 768 Q. Of the herd?

14:28:35 12 A. Of -- yeah. Of the total.

14:28:35 13 769 Q. All right.

14:28:35 14 A. Yeah.

14:28:37 15 People love their horses and many  
14:28:40 16 people would sacrifice to keep their horses alive.

14:28:40 17 But the economics were such, in the  
14:28:44 18 collapse of the industry, which the government did  
14:28:44 19 not think was going to happen, but we had come to  
14:28:44 20 that conclusion, the result of that would be that  
14:28:49 21 some horses regardless would have to be put down  
14:28:51 22 and that would have to be... Yeah, yeah. Just --  
14:28:53 23 just economics.

14:28:54 24 770 Q. Right.

14:28:55 25 A. Right.

14:28:56 1 771 Q. And you also believed that there  
14:29:02 2 would be litigation arising from the cancellation.  
14:29:05 3 That's referred to in the report,  
14:29:07 4 right?

14:29:07 5 A. Just because I can tell you that,  
14:29:11 6 uh, every time we met, there -- there was only one  
14:29:14 7 group that told us that no matter what, they were  
14:29:17 8 suing the government, and that were -- that was  
14:29:19 9 some Standardbred breeders, and so we knew that --  
14:29:26 10 that litigation was definitely a possibility.

14:29:30 11 772 Q. And you also knew, because you  
14:29:32 12 were hearing from breeders at the time, that  
14:29:35 13 immediately upon the announcement in March 2012,  
14:29:40 14 half of breeding activity stopped immediately.

14:29:43 15 That's in your Interim Report, right?

14:29:45 16 A. That's what we had been told.

14:29:49 17 773 Q. But you believed that?

14:29:50 18 A. Well, this is just a draft.

14:29:52 19 I -- I know when I -- when I finally  
14:29:55 20 came to conclusion after making sure that we could  
14:29:58 21 footnote everything --

14:29:58 22 774 Q. Right.

14:29:59 23 A. It was very important that,  
14:30:00 24 actually, anything that we put in here, that we  
14:30:03 25 wouldn't compound a mistaken assumption by the

14:30:06 1 Ministry of Finance by mistaken assumptions by a  
14:30:09 2 panel.

14:30:09 3 And so it was very important that we --  
14:30:11 4 we thought it was very central that we were able to  
14:30:14 5 document all of these assumptions that we were  
14:30:16 6 making, where we had received the information.

14:30:17 7 775 Q. Right. You didn't want mistakes  
14:30:19 8 on mistakes or errors on errors, right?

14:30:21 9 A. Yeah.

14:30:21 10 776 Q. Okay.

14:30:22 11 A. Mm-hmm.

14:30:22 12 777 Q. So you did confirm that about half  
14:30:26 13 of breeding activity stopped immediately with the  
14:30:29 14 announcement.

14:30:30 15 A. Where is that?

14:30:31 16 778 Q. Well, it's in the Interim Report,  
14:30:34 17 middle of page 19, but--

14:30:37 18 A. Okay.

14:30:37 19 779 Q. --my --

14:30:37 20 A. I just -- just wasn't on page 19.  
14:30:40 21 Sorry.

14:30:40 22 780 Q. Yeah.

14:30:40 23 But my question to you, sir, is, you  
14:30:42 24 were told that and you did subsequently learn that  
14:30:45 25 that was the case?

14:30:47 1 A. Umm. We were, umm... Yes. I  
14:30:52 2 mean, people told us that. We went out to listen  
14:30:55 3 to be the industry. That's what they -- they told  
14:30:57 4 us, yeah.

14:30:57 5 781 Q. And you accepted that and that  
14:30:59 6 became a finding of the Panel, right?

14:31:01 7 A. Yeah. Based on we thought people  
14:31:05 8 were --

14:31:05 9 782 Q. Well, that's what happened?

14:31:06 10 A. -- were sharing that with us.

14:31:06 11 Yeah. And that -- by that time, of  
14:31:08 12 course, that data becomes known because there are  
14:31:10 13 metrics that are held by the industry that would  
14:31:12 14 confirm whether someone was actually telling us the  
14:31:14 15 truth or not.

14:31:16 16 783 Q. Well, there wasn't a need for the  
14:31:18 17 same amount of horses post cancellation, so they  
14:31:20 18 aren't going to breed them, right?

14:31:22 19 A. If -- if -- yeah. If there's  
14:31:22 20 going to be -- and if there's going to be no  
14:31:23 21 tracks, they have no, in a sense, economic value,  
14:31:26 22 some would be sold, some would be fed, and others,  
14:31:28 23 it was just a...

14:31:29 24 784 Q. It's just a straight line  
14:31:31 25 analysis?

14:31:31 1 A. Yeah. Yeah. That's what we did.

14:31:33 2 785 Q. Yeah. Okay.

14:31:37 3 And your report, on page 19,--

14:31:43 4 A. In the draft, yes.

14:31:45 5 786 Q. --the draft, says:

14:31:47 6 "Some 4,000 young horses are in

14:31:49 7 development for Ontario racing

14:31:52 8 programs that will not exist after

14:31:54 9 April 1, 2013." [As read.]

14:31:56 10 Right? That was understood by the

14:31:58 11 Panel in July?

14:31:58 12 A. That's what we had been told,

14:32:00 13 yeah.

14:32:00 14 787 Q. Okay. But you're putting things

14:32:09 15 in your report that you have been told because you

14:32:11 16 consider them to be reliable and important, right?

14:32:14 17 You're not going to put in fanciful

14:32:18 18 things or things that people tell that you that you

14:32:21 19 don't believe; correct?

14:32:21 20 A. Yeah. We -- it was draft in the

14:32:26 21 sense, all of this still had to be verified, so it

14:32:26 22 would be a credible report.

14:32:27 23 Our job was to give the Minister a

14:32:27 24 credible report--

14:32:27 25 788 Q. Right.

14:32:28 1 A. --so we had to make sure that we  
14:32:37 2 were not speculating and we were being as -- as --  
14:32:38 3 as, umm, as accurate as possible, as evenhanded as  
14:32:40 4 possible. That was very important.

14:32:41 5 789 Q. But you, yourself, sir, were  
14:32:43 6 confident that there was going to be very  
14:32:45 7 significant job losses and that thousands of horses  
14:32:48 8 would have to be killed; correct?

14:32:50 9 You were confident of that in July and  
14:32:53 10 early August 2012; correct?

14:32:56 11 A. Uh. That -- yes. That if the  
14:32:57 12 industry collapsed, which is -- which -- what we  
14:33:00 13 thought was going to happen if the course - thank  
14:33:05 14 God, course was changed - umm, that that would be  
14:33:07 15 the consequence.

14:33:10 16 And, umm... And -- but it was really  
14:33:13 17 John, who was a horseman, who was able to help  
14:33:16 18 Elmer and I understand what is the only humane  
14:33:20 19 thing for an animal that you can't feed.

14:33:22 20 790 Q. What is it?

14:33:23 21 A. You have to put them down. That's  
14:33:25 22 the only humane thing to do; as difficult as that  
14:33:28 23 is, that that actually is -- is the humane thing.

14:33:31 24 And I'm not a horseman and...

14:33:31 25 791 Q. And --



14:33:32 1 A. But that's where John's expertise  
14:33:35 2 was helpful, understanding that.

14:33:36 3 792 Q. And as you report, conservative --  
14:33:39 4 conservative estimates place the total number of  
14:33:42 5 horses that would be put down at 13,000, right?

14:33:46 6 A. Uh. Yes. That's what, uh -- that  
14:33:49 7 -- that's in the draft. But, you know, the final  
14:33:51 8 wording and adjectives and all of that.

14:33:55 9 But that's what we believed then, yeah.

14:33:57 10 793 Q. And if we go over the page to 20,  
14:33:59 11 you have in bold that:

14:34:00 12 "The Panel has received expert  
14:34:03 13 advice that provisions should be  
14:34:04 14 made for the humane dispatch and  
14:34:06 15 disposal of 7,500 to 13,000 horses  
14:34:10 16 in early 2013." [As read.]

14:34:12 17 A. Yeah, from the veterinarians. It  
14:34:17 18 was -- it was a meeting that most sears my memory  
14:34:20 19 of doing this work for the -- and I would say, for  
14:34:22 20 the three of us.

14:34:22 21 We were -- we were actually worried  
14:34:25 22 about the horses. And they shared that we actually  
14:34:29 23 had to worry about the veterinarians who would be  
14:34:32 24 asked to do that, and that ultimately, they would  
14:34:34 25 not because of experience, umm, that had happened

14:34:36 1 in Ireland when a similar -- when the zoonotic  
14:34:38 2 outbreak had forced the putting down of --  
14:34:39 3 veterinarians having to put down horses and those  
14:34:42 4 veterinarians had committed suicide.

14:34:44 5 So it was very, very disturbing. Yeah.

14:34:47 6 794 Q. And not only did it result in  
14:34:52 7 suicides for veterinarians; it resulted in suicides  
14:34:57 8 and life-threatening events for owners, right?

14:35:01 9 A. Umm. All I remember is what the  
14:35:03 10 veterinarians told us. They were speaking on  
14:35:05 11 behalf of veterinarians.

14:35:07 12 795 Q. Well, the reason I asked the  
14:35:09 13 question, sir, is because the Interim Report says:

14:35:13 14 "The Panel has also spoken with  
14:35:15 15 expert who advise that similar mass  
14:35:19 16 herd reductions in other  
14:35:20 17 jurisdictions have resulted in  
14:35:23 18 extreme emotional distress for  
14:35:25 19 owners that can be  
14:35:26 20 life-threatening." [As read.]

14:35:27 21 A. Yes. So we need -- those people  
14:35:29 22 would have to be supported in that -- in that kind  
14:35:32 23 of nightmarish scenario, that we --

14:35:32 24 --- (Court reporter appeals.)

14:35:32 25 MS. MACHADO: Nightmarish scenario.

14:35:32 1 THE WITNESS: In regard to that  
14:35:37 2 nightmarish scenario, we had drawn the conclusion  
14:35:40 3 that it was -- it was very important that people,  
14:35:41 4 uh, would be provided with emotional counselling.  
14:35:46 5 It was going to be very traumatic.

14:35:46 6 BY MR. LISUS:

14:35:50 7 796 Q. And the Panel was therefore  
14:35:52 8 recommending supports to encourage euthanizing  
14:35:55 9 horses and a support mechanism for horse owners in  
14:35:59 10 emotional distress; correct?

14:36:01 11 A. Yes. Yes.

14:36:03 12 797 Q. And the reason you were making  
14:36:04 13 that recommendation is because the Panel was  
14:36:06 14 concerned that some horse owners would be so  
14:36:09 15 traumatized by the prospect of having to kill their  
14:36:12 16 horses that they wouldn't, but they wouldn't be  
14:36:15 17 able to care for them properly and you would have a  
14:36:20 18 mass of horses in distress from inadequate care and  
14:36:25 19 feeding?

14:36:26 20 A. That or released into -- into the  
14:36:28 21 wild - I remember, umm, that, also - where they  
14:36:32 22 would be subject to predation by wolves and things.

14:36:38 23 Yeah. It was terrible, terrible.

14:36:39 24 798 Q. And Mr. Snobelen understood this  
14:36:41 25 quite well?

14:36:42 1 A. Better than the alpaca -- alpaca  
14:36:46 2 owner and the financial, umm -- the financial guy;  
14:36:48 3 yes, he did.

14:36:48 4 799 Q. When did you receive this expert  
14:36:59 5 advice in relation to July 14?

14:37:04 6 A. Well, it -- it came from a -- a  
14:37:10 7 young... It was from -- I think from Ontario  
14:37:13 8 Veterinary College, which is based in Guelph. I  
14:37:16 9 remember two people came to see us. They were both  
14:37:19 10 veterinarians. They were both young. Uh. And I  
14:37:21 11 remember, umm, the person who actually told us was  
14:37:24 12 a -- was a woman, a veterinarian, right -- maybe in  
14:37:30 13 the early part of her career.

14:37:32 14 And when she shared that with us, it  
14:37:33 15 was -- it was shocking. She was extremely  
14:37:37 16 credible, gave great -- great, to her -- no one  
14:37:40 17 would -- no one would suggest that out of any other  
14:37:43 18 -- any other motive than just to say, 'Hey. You  
14:37:45 19 guys need to know this is what's going to happen.'

14:37:47 20 800 Q. So this information, in other  
14:37:49 21 words, was there to be had in the veterinarian  
14:37:51 22 college in Guelph, right?

14:37:53 23 A. Yeah. My -- my recollection --  
14:37:55 24 and there would be records of who we met with,  
14:37:57 25 Mr. Lisus, so I -- if I had the list, I could tell

14:38:01 1 you what -- I could find which meeting I thought it  
14:38:03 2 was.

14:38:03 3 801 Q. Okay.

14:38:03 4 A. Yeah.

14:38:04 5 802 Q. So a faculty member of the  
14:38:09 6 veterinarian college is what you're telling me?

14:38:11 7 A. Uh. Yeah.

14:38:11 8 803 Q. Okay.

14:38:12 9 A. I guess so. It was a woman --

14:38:13 10 804 Q. Is OMAFRA in Guelph?

14:38:16 11 A. Yes. Well, the head office or the  
14:38:17 12 Ministry Office; 1 Stone Road West.

14:38:18 13 805 Q. Do you know how long that  
14:38:20 14 Veterinary College had been in Guelph as of July  
14:38:24 15 2012?

14:38:24 16 A. Well, it's on the outskirts of  
14:38:28 17 town. You drive by it on Highway 6. I don't know  
14:38:30 18 exactly how --

14:38:30 19 806 Q. Certainly there in February 2012,  
14:38:32 20 right?

14:38:33 21 A. Oh, yes. Oh, yeah. It's been  
14:38:35 22 there for many years. Yeah.

14:38:38 23 807 Q. And the Panel also observed that -  
14:38:51 24 and I'm just going to ask you to explain this to me  
14:38:54 25 with the benefit of your financial experience -

14:38:58 1 under -- in the middle of the page, it says:  
14:38:58 2 "Some of..."  
14:39:01 3 Page 20.  
14:39:03 4 A. 20. Yeah.  
14:39:04 5 808 Q. "Some of the herd loss can be  
14:39:06 6 compensated by agricultural supports."  
14:39:06 7 [As read.]  
14:39:10 8 What does that mean? Do you see that  
14:39:16 9 there?  
14:39:16 10 A. Yeah.  
14:39:16 11 809 Q. Yeah.  
14:39:17 12 A. So we had learned from OMAFRA that  
14:39:20 13 there was risk management programs that, umm,  
14:39:22 14 supported farmers when they received, umm,  
14:39:26 15 extraordinary losses, usually due to swings in  
14:39:31 16 commodity.  
14:39:32 17 Uh. It was based on the farm's income  
14:39:34 18 and profit, so if there was a great dramatic  
14:39:38 19 decrease, there was a risk management program that  
14:39:40 20 came in to help the farmers.  
14:39:44 21 Uh. And so, there was -- there was, we  
14:39:47 22 thought, some support that could be provided  
14:39:50 23 through existing OMAFRA programs, but there was --  
14:39:54 24 there was nothing that was going to compensate --  
14:39:56 25 that -- that -- those programs were not designed to

14:39:59 1 compensate for the loss of the, umm..., the  
14:40:03 2 business value of the horse, which was to  
14:40:05 3 ultimately hopefully one day race and, even better,  
14:40:10 4 win.

14:40:10 5 810 Q. Okay. And --

14:40:11 6 A. So that was not contemplated.

14:40:12 7 But there was some programs that --  
14:40:14 8 that could kick in to help certain farmers.

14:40:16 9 But it was also a whole farm program,  
14:40:19 10 so, you know, if you lost money your soybean, but  
14:40:22 11 you made a lot of money or your corn, you didn't  
14:40:25 12 get a big cheque for the soybeans and noth- -- and  
14:40:28 13 then -- no. They -- it was a whole farm type  
14:40:30 14 thing.

14:40:31 15 And the question is, each farm would be  
14:40:35 16 different. Maybe they were just dabbling in -- in  
14:40:38 17 breeding or raising or training horses, but, as  
14:40:41 18 well, they were -- you know, had a beef lot and  
14:40:43 19 cornfields and pigs, you know.

14:40:46 20 811 Q. So you go on to say:

14:40:48 21 "However, collapse in the value  
14:40:49 22 of race-specific investments  
14:40:51 23 cannot..." [As read.]

14:40:53 24 And that's what I wanted to understand.

14:40:54 25 A. Well, it wasn't cont- -- this was

14:40:57 1 -- the plan was not designed to contemplate that  
14:40:57 2 type of situation.

14:40:59 3 812 Q. And that's the total loss of the  
14:41:01 4 value the horse, as you explained?

14:41:04 5 A. Yeah. And we would have asked  
14:41:05 6 OMAFRA when they went over those programs --

14:41:07 7 813 Q. You say, "Yes. And we would have  
14:41:09 8 asked..."

14:41:09 9 A. Yes.

14:41:10 10 814 Q. And -- okay. And you would have  
14:41:14 11 asked OMAFRA whether they had any programs that  
14:41:17 12 could contemplate -- excuse me -- compensate for  
14:41:21 13 the loss of the race-specific investment, and  
14:41:26 14 OMAFRA said, 'No, we don't.'

14:41:28 15 Is that what you're saying.

14:41:29 16 A. Yes. They may qualify under these  
14:41:33 17 existing programs, uh, but the program had never  
14:41:35 18 been designed for that situation.

14:41:38 19 815 Q. Right. Because that situation had  
14:41:41 20 never happened before, right?

14:41:43 21 A. Right. Even when you have a bad  
14:41:45 22 year in corn, the next year you grow corn.

14:41:47 23 816 Q. Right.

14:41:47 24 A. Right.

14:42:11 25 817 Q. I had my colleague see if he could



14:42:14 1 find some data that you referred to in your  
14:42:22 2 evidence about the Great Canadian--

14:42:24 3 A. Mm-hmm.

14:42:25 4 818 Q. --and I've got two productions  
14:42:27 5 here; CR 5831 and 5833.

14:42:33 6 Just let me know, sir, if this  
14:42:35 7 refreshes your memory about that moment you had  
14:42:42 8 when you reviewed Great Canadian's gaming data  
14:42:47 9 about the impact of this decision on the industry.

14:42:51 10 A. Okay.

14:42:52 11 MS. MACHADO: Are we done with this  
14:42:53 12 report yet?

14:42:55 13 MR. LISUS: Uh. Good question. I  
14:42:56 14 think we're done with the Interim Report for now.

14:43:00 15 MS. MACHADO: You marked this as an  
14:43:02 16 exhibit, right?

14:43:08 17 MR. MATTHEWS: So this is CRE 258099  
14:43:10 18 and 258100 being marked together as Exhibit 17.

14:43:33 19 ---EXHIBIT NO. 17: An e-mail from  
14:43:34 20 Nadine Domingos, Doc ID Number CRE 258099,  
14:43:36 21 attaching a draft report, Doc ID Number 258100.

14:43:39 22 BY MR. LISUS:

14:43:39 23 819 Q. And we just -- as well, you  
14:43:40 24 mentioned a news relief -- news release.

14:43:44 25 We just went back on the Internet--

14:43:44 1 A. Mm-hmm.

14:43:46 2 820 Q. --and found a couple of news  
14:43:48 3 releases end of Q1 '12 from Great Canadian.  
14:43:48 4 Does that refresh your memory? As well  
14:44:01 5 as a material change record.

14:44:02 6 A. The material change report--

14:44:02 7 821 Q. Yes.

14:44:02 8 A. --would be the thing that--

14:44:02 9 822 Q. There it is.

14:44:06 10 A. --I would have noticed--

14:44:06 11 823 Q. Okay.

14:44:08 12 A. --as someone with the financial  
14:44:09 13 acumen.

14:44:09 14 824 Q. Well, take a look, then -- after  
14:44:10 15 you look at the documents that I gave you with  
14:44:12 16 document numbers on them, look at the material  
14:44:14 17 change report again.

14:44:14 18 A. Yeah. I -- I wouldn't have seen  
14:44:17 19 this, but they would have press released this.

14:44:19 20 825 Q. You wouldn't have -- you --

14:44:20 21 A. Well, this is filed. A Form 51 is  
14:44:21 22 filed with the Securities Commission.

14:44:23 23 826 Q. But they would have press released  
14:44:23 24 it?

14:44:23 25 A. But they would have had to press

14:44:26 1  
14:44:26 2  
14:44:28 3  
14:44:29 4  
14:44:32 5  
14:44:33 6  
14:44:34 7  
14:44:37 8  
14:44:38 9  
14:44:41 10  
14:44:43 11  
14:44:44 12  
14:44:46 13  
14:44:46 14  
14:44:46 15  
14:44:46 16  
14:44:46 17  
14:44:48 18  
14:44:50 19  
14:44:52 20  
14:44:53 21  
14:44:53 22  
14:44:54 23  
14:44:54 24  
14:44:55 25

release it.

MR. MATTHEWS: If I can interject, you see the Material Change Report refers - and it's highlighted - to a news release of March 30th, 2012.

We have given you the news release in the pile of documents. I think it's the second news release we gave you.

THE WITNESS: Oh. And then this March 30th. Yeah. Umm...

MS. MACHADO: So just take a -- take a look at that and see if that's what --

THE WITNESS: Yeah. And I would not have seen this on March the 30th.

BY MR. LISUS:

827 Q. You would not have seen the release on March --

A. I wasn't even on the Panel. I didn't even know.

828 Q. I understand.

A. I'm just saying. Yes.

829 Q. Yeah.

A. I found this to be --

830 Q. "This" being the March 30th release?

14:44:56 1 A. Right. ...to be a credible source  
14:44:59 2 of data I could rely upon because these people had  
14:45:02 3 -- were required by the law to disclose it.

14:45:04 4 So that -- that took out any of the  
14:45:06 5 question that people had spin or -- or agendas or  
14:45:11 6 they were trying to make their best case.

14:45:12 7 This is what they had to tell their  
14:45:14 8 shareholders. That's pretty simple in the Province  
14:45:17 9 of Ontario, right? People don't mess with that.  
14:45:19 10 You go to jail if you mess with that, says a  
14:45:23 11 director of a publicly traded company.

14:45:26 12 So I -- I'm just saying, at the time, I  
14:45:27 13 -- I relied on that.

14:45:28 14 I -- I don't remember when I got it,  
14:45:29 15 but it was definitely during this, when I got  
14:45:31 16 engaged on this file.

14:45:32 17 So let me just take a look. So this  
14:45:34 18 would have been Great Canadian. Okay.

14:45:37 19 MS. MACHADO: The other two documents  
14:45:39 20 then are a submission, it seems, to OMAFRA--

14:45:39 21 THE WITNESS: Okay. And --

14:45:42 22 MS. MACHADO: --and some numbers that  
14:45:43 23 you might have received at the same time.

14:46:04 24 --- (Witness reviewing documents.)

14:46:04 25 THE WITNESS: Yes. I remembered doing

14:46:06 1 the -- the math. I think I mentioned to you how I  
14:46:09 2 did the math, right.

14:46:10 3 So if they're saying that their  
14:46:11 4 revenues were 34.4-million and their EBITDA, which  
14:46:16 5 is their earnings, was 17-million, the missing  
14:46:19 6 piece of information was what was their expenses,  
14:46:22 7 okay.

14:46:22 8 And then, when you take -- when you  
14:46:24 9 take... The missing piece in this is how much they  
14:46:27 10 were getting from SARP. When you take that out,  
14:46:30 11 that EBITDA plus became a red ink negative, right.  
14:46:34 12 Like, how much of that revenue was actually SARP,  
14:46:38 13 and that's what turned it from positive.

14:46:42 14 And so, if Flamboro and Georgian were  
14:46:45 15 going down, the idea that there would only be --  
14:46:47 16 there would be, you know, some tracks surviving,  
14:46:50 17 that led me to believe that that assumption which  
14:46:53 18 was -- which I had -- the government had shared  
14:46:56 19 with me was flawed.

14:46:56 20 BY MR. LISUS:

14:46:58 21 831 Q. Right.

14:46:58 22 A. Yeah.

14:46:58 23 832 Q. No tracks, no racing?

14:47:00 24 A. Well, yeah. The assumption was,  
14:47:02 25 there would be -- it would downsize and there would

14:47:06 1 be tracks.

14:47:06 2 833 Q. Right.

14:47:06 3 A. Right.

14:47:06 4 834 Q. But the assumption was flawed?

14:47:07 5 A. But this -- and I thought that  
14:47:07 6 that assumption -- I came to the conclusion that  
14:47:11 7 assumption was flawed.

14:47:13 8 And -- and I -- I would say that, as  
14:47:13 9 the person of the three of us who understood that  
14:47:17 10 world, uh, I felt -- I mean, I shared that with the  
14:47:20 11 Panel, explained it to them and explained it to  
14:47:23 12 Frank.

14:47:23 13 And, you know, this was a major thing  
14:47:25 14 that we had -- had discovered, just being diligent  
14:47:30 15 on the work that we were doing, that we had been  
14:47:32 16 asked to do.

14:47:33 17 835 Q. Well, Mr. Snobelen has testified,  
14:47:35 18 and he also made a number of public statements in  
14:47:37 19 February and March 2012, to the effect that the  
14:47:41 20 decision would kill the industry.

14:47:43 21 Do you recall that?

14:47:43 22 A. No. I didn't know John then.

14:47:46 23 836 Q. Okay.

14:47:46 24 A. Uh. But there were a lot of  
14:47:48 25 people who had said it was going to kill the

14:47:49 1 industry. I mean, that was -- there was -- and, as  
14:47:53 2 I said, Mr. Lisus, the position, you know, when I  
14:47:56 3 was -- when I was brought in with my other two  
14:48:01 4 colleagues and my fourth colleague, as well, was,  
14:48:03 5 there was such a huge gap between the same set of  
14:48:06 6 facts, right.

14:48:07 7 One side was saying, 'Collapse. 60,000  
14:48:10 8 job losses.' I don't think it even mentioned about  
14:48:12 9 horses, about what will happen to horses.

14:48:15 10 And the other side was what the  
14:48:17 11 government was saying.

14:48:17 12 And they were just diametrically  
14:48:17 13 opposed. So --

14:48:22 14 837 Q. And what was the government  
14:48:23 15 saying, the diametric opposite of --

14:48:25 16 A. That the industry would  
14:48:27 17 restructure. Yes, that it would be painful, but  
14:48:29 18 the industry would restructure. And it was -- and  
14:48:32 19 it was necessary for them to spend money in other  
14:48:34 20 places.

14:48:35 21 Governments get to decide that type of  
14:48:36 22 stuff. But between the two, there was no light  
14:48:40 23 and--

14:48:41 24 838 Q. Right.

14:48:42 25 A. --uh... Well, no. There was a

14:48:43 1 great deal of light. They were totally opposite.

14:48:46 2 They weren't anywhere close.

14:48:47 3 And so usually, I found, from my  
14:48:50 4 experience, you know, when it's that far, you've  
14:48:52 5 got to go back to the assumptions because people  
14:48:55 6 don't go out of their way to say things publicly  
14:48:58 7 unless they believe them.

14:49:00 8 So I believe the government, that  
14:49:02 9 that's what they thought was going to happen, and I  
14:49:04 10 believe the stakeholders, that they thought...

14:49:08 11 The question was to determine what we  
14:49:11 12 thought was actually going to happen.

14:49:12 13 839 Q. And by July 14, you knew or were  
14:49:16 14 confident that you knew what would happen unless  
14:49:18 15 there was a change?

14:49:18 16 A. Yes. Yeah. And it's good that  
14:49:24 17 Ted asked for advice.

14:49:25 18 840 Q. Okay.

14:49:26 19 A. Yeah.

14:49:27 20 841 Q. And all of the information that  
14:49:34 21 you looked at, perhaps with the exception of the  
14:49:36 22 news release from OLG, was information that  
14:49:39 23 existed --

14:49:41 24 MS. MACHADO: Sorry. Not from OLG.  
14:49:42 25 From the Great Canadian.



14:49:44 1 MR. LISUS: Excuse me. You're correct.

14:49:45 2 THE WITNESS: Mm-hmm.

14:49:45 3 BY MR. LISUS:

14:49:45 4 842 Q. ...from Great Canadian was

14:49:47 5 information that existed in February and March

14:49:49 6 2012; correct?

14:49:57 7 A. Umm. Well, yeah. I wasn't part

14:49:58 8 of it. I mean, these -- the dates say what they

14:50:00 9 are, so...

14:50:00 10 843 Q. Yeah.

14:50:01 11 A. Yeah.

14:50:01 12 MR. LISUS: Okay. So let's just make

14:50:02 13 sure we identify these pieces of paper we have been

14:50:06 14 talking about.

14:50:07 15 THE WITNESS: Mm-hmm.

14:50:07 16 MS. MACHADO: So perhaps the Material

14:50:09 17 Change Report and the news release expressing the

14:50:11 18 same information can be one exhibit.

14:50:14 19 MR. MATTHEWS: Sure. So this is, just

14:50:16 20 for the record,--

14:50:16 21 THE WITNESS: Mm-hmm.

14:50:17 22 MR. MATTHEWS: --Great Canadian Gaming

14:50:19 23 Corporation news release, March 30th, 2012,

14:50:22 24 together with a Material Change Report referring to

14:50:25 25 the March 30th, 2012 news release, Material Change

14:50:30 1 Report being dated April 5th, 2012, will be marked  
14:50:34 2 together as Exhibit 18.

14:50:34 3 ---EXHIBIT NO. 18: Great Canadian  
14:50:34 4 Gaming Corporation news release, March 30th, 2012,  
14:50:34 5 together with a Material Change Report dated April  
14:50:41 6 5th, 2012.

14:50:41 7 MS. MACHADO: I'm not sure if  
14:50:44 8 Mr. Wilkinson has said that he had read this March  
14:50:46 9 13th release.

14:50:47 10 THE WITNESS: Uh. No. It was the 30th  
14:50:47 11 when -- the 13th announcement is telling  
14:50:47 12 shareholders that it might be impaired.

14:50:49 13 The 30th says:

14:50:49 14 "We got notice from OLG that  
14:50:51 15 we're cancelling your -- your site  
14:50:53 16 agreement; therefore, we have to  
14:50:55 17 share with you that we are  
14:50:56 18 impaired."

14:50:57 19 MS. MACHADO: Okay.

14:50:58 20 THE WITNESS: It may change.

14:50:58 21 BY MR. LISUS:

14:50:58 22 844 Q. Right.

14:50:59 23 A. Actually, it did. But the  
14:51:03 24 shareholders needed to know that.

14:51:05 25 I just wasn't privy to any of that. It

14:51:07 1 was not part of my life, at all --

14:51:08 2 845 Q. At the time.

14:51:09 3 A. At the time, yes.

14:51:10 4 846 Q. But during the course of the Panel

14:51:12 5 work, you went and looked at these, right?

14:51:15 6 A. That -- that's right. And it --

14:51:16 7 it probably came from meeting with Great Canadian,

14:51:19 8 them making assertions.

14:51:22 9 I said, 'Well, how do we know that?'

14:51:24 10 And they said, 'Well, actually, in

14:51:24 11 our...'

14:51:24 12 'Oh.'

14:51:24 13 And that's, you know,--

14:51:24 14 847 Q. Right.

14:51:30 15 A. --uh... That helped--

14:51:31 16 848 Q. Right. Got it. It was a bit of--

14:51:31 17 A. --determine --

14:51:34 18 849 Q. --an aha moment for you?

14:51:36 19 A. As I have mentioned, yeah. Yeah.

14:51:38 20 That was, for me.

14:51:40 21 MS. MACHADO: And these two documents,

14:51:40 22 CR 5831 and 5833; those are documents that you

14:51:45 23 would have received at that time?

14:51:47 24 THE WITNESS: Yeah. This -- this is

14:51:47 25 what they, uh, prepared--

14:51:49 1 MS. MACHADO: Okay.

14:51:49 2 THE WITNESS: --prior to our meeting

14:51:51 3 with them.

14:51:52 4 MS. MACHADO: Just wanted to make that

14:51:53 5 clear--

14:51:53 6 THE WITNESS: Uh...

14:51:54 7 MS. MACHADO: --because we were

14:51:56 8 looking at a lot of documents at the same time.

14:51:58 9 THE WITNESS: Yeah. Let me just...

14:51:58 10 They also provided information -- you

14:52:00 11 know, of course, we were fixated on the fact that

14:52:02 12 we had a whole bunch of horses racing around for

14:52:05 13 slot money and nobody was wagering, or very few

14:52:10 14 people were wagering, so we found that to be, umm,

14:52:13 15 unacceptable. It was understandable, but not the

14:52:17 16 way you grow an industry.

14:52:19 17 Needed to be focussed on the --

14:52:19 18 MS. MACHADO: You can mark that as one

14:52:19 19 exhibit.

14:52:21 20 THE WITNESS: --on their consumers,

14:52:22 21 which were the bettors.

14:52:25 22 MR. MATTHEWS: So, Ms. Machado, if

14:52:26 23 you're amenable to marking the March 13, 2012

14:52:28 24 release as Exhibit 9 -- 19 for identification.

14:52:32 25 MS. MACHADO: Sure.

14:52:32 1 MR. MATTHEWS: And we'll mark CR 5831  
14:52:36 2 and 5833 together as Exhibit 20.

14:52:39 3 MS. MACHADO: Yes.

14:52:47 4 ---EXHIBIT NO. 19: Great Canadian  
14:52:47 5 Gaming Corporation news release dated March 13,  
14:52:49 6 2012.

14:52:49 7 ---EXHIBIT NO. 20: Doc ID Number CR  
14:52:49 8 5831 and Doc ID Number CR 5833.

14:52:50 9 BY MR. LISUS:

14:52:50 10 850 Q. Well, we haven't -- the March 13  
14:52:51 11 release, I understand, you became aware of after  
14:52:52 12 its release when you were a panelist.

14:52:53 13 A. Yes.

14:52:54 14 MR. LISUS: Right. So it doesn't need  
14:52:54 15 to be identification; just an exhibit.

14:52:55 16 MR. MATTHEWS: All right.

14:52:55 17 MS. MACHADO: I think he just said he  
14:52:56 18 didn't rely on that. That wasn't the one that was  
14:52:59 19 of particular import to him.

14:53:01 20 THE WITNESS: The -- the 30th is the  
14:53:02 21 one that actually makes it a fact in the -- makes  
14:53:05 22 it -- make it a fact that they had to -- they felt  
14:53:09 23 that -- they felt that they had to disclose that to  
14:53:12 24 their shareholders.

14:53:14 25 BY MR. LISUS:

14:53:14 1 851 Q. Okay. Do you know Greg Sorbara?

14:53:21 2 A. Yes.

14:53:21 3 852 Q. Do you know him well?

14:53:23 4 A. Umm... Yes. Personal friend.

14:53:26 5 853 Q. Okay. And he had a view on the

14:53:33 6 wisdom of the cancellation of the Slots at

14:53:40 7 Racetrack Program, right?

14:53:40 8 A. I don't recall talking to Greg

14:53:41 9 about this. He... He also wasn't in government at

14:53:44 10 the time.

14:53:44 11 854 Q. Okay. The reason I ask you that,

14:53:50 12 sir, is that there's some reference in the

14:53:55 13 documentary record that you had spoken with Greg

14:53:58 14 about his concerns about the cancellation of the

14:54:02 15 Slots at Racetrack revenue share.

14:54:05 16 A. No. What I recall -- I mean, what

14:54:07 17 I recall is the fact that Greg, when he was

14:54:09 18 Minister of Finance, had looked at this whole issue

14:54:13 19 of OLG modernization and the horse racing industry

14:54:16 20 and came -- came to the conclusion it should be

14:54:18 21 left alone.

14:54:19 22 855 Q. Greg did?

14:54:20 23 A. Greg did, yeah,--

14:54:20 24 856 Q. Yeah.

14:54:21 25 A. --when he was Minister of Finance.

14:54:22 1 And then a subsequent decision was  
14:54:24 2 made, which happens all the time.

14:54:25 3 857 Q. Right. And --

14:54:26 4 A. But he wasn't part of the  
14:54:28 5 government, would not have received any of this,  
14:54:30 6 right.

14:54:30 7 858 Q. I understand.

14:54:31 8 But when he made the decision that it  
14:54:33 9 should -- when was he Minister of Finance?

14:54:35 10 A. Well, it was two periods of time.

14:54:40 11 He was -- he was Minister of Finance  
14:54:42 12 starting when we were elected in 2003.

14:54:45 13 He stepped down when he was subject to  
14:54:48 14 -- uh, had been referenced in a police  
14:54:50 15 investigation.

14:54:51 16 And then, was one of the few people I  
14:54:53 17 know who had the resources to actually call the  
14:54:57 18 issue to court where the judge said, 'This has  
14:54:59 19 nothing to do with the Minister of Finance,' and he  
14:55:02 20 was reinstated by the Premier.

14:55:09 21 Umm... so it -- there was Greg, and  
14:55:11 22 then interim, it was Dwight Duncan. And then it  
14:55:14 23 went back to Greg when Greg came back.

14:55:17 24 Ultimately -- and then it became  
14:55:18 25 Minister Duncan when Minister Sorbara decided not

14:55:21 1 to run again.

14:55:22 2 859 Q. Okay. But you -- in any event, in  
14:55:25 3 the summer of 2012, you knew that Mr. Sorbara, as a  
14:55:29 4 former Minister of Finance and one which had looked  
14:55:32 5 at the issue of Slots at Racetrack Program, was  
14:55:35 6 familiar with the issue.

14:55:38 7 Is that fair?

14:55:38 8 A. Yes. Yeah. He had been Minister  
14:55:41 9 and I recall, and I think it was public knowledge  
14:55:43 10 that there had been that review done.

14:55:45 11 860 Q. Okay. And so I'm asking you this  
14:55:50 12 because there is a report of a radio interview  
14:56:05 13 given by Greg Sorbara on August 2nd, 2012.

14:56:16 14 A. Okay.

14:56:20 15 861 Q. CRE 28984. And this is a  
14:56:30 16 publication on August 2, reporting on a radio  
14:56:39 17 interview with Paul and Carol Mott on The Motts  
14:56:39 18 Show.

14:56:44 19 Do you know The Motts Show?

14:56:45 20 A. I learned about The Motts Show  
14:56:48 21 being a -- a show that had to do with, umm, horse  
14:56:48 22 racing.

14:56:50 23 I think it was a podcast. I don't know  
14:56:52 24 if it was on -- on the radio, but there was --  
14:56:53 25 people listened to it.



14:56:55 1 862 Q. Okay.

14:56:55 2 A. Yeah.

14:56:56 3 863 Q. And Mr. Sorbara was interviewed on

14:56:59 4 that show in August 2012.

14:57:01 5 Do you recall that?

14:57:01 6 A. No. But I -- I'm quite enjoying

14:57:04 7 reading it.

14:57:05 8 864 Q. Okay.

14:57:05 9 A. Sounds, to me, like my friend Greg.

14:57:08 10 865 Q. Right.

14:57:09 11 A. Yes.

14:57:09 12 866 Q. And Mr. Sorbara, in the middle of

14:57:19 13 the page, says:

14:57:20 14 "Carol, I understand that,'

14:57:21 15 Sorbara said, 'and I've been working

14:57:24 16 on this issue since Day One.'

14:57:25 17 "Sorbara then carefully stated,

14:57:27 18 'Let me put it this way: I am

14:57:29 19 hopeful, as we revisit this issue,

14:57:31 20 we will take some amending steps

14:57:33 21 that will ensure a strong horse

14:57:36 22 racing industry in this Province.'"

14:57:36 23 [As read.]

14:57:37 24 Do you see that?

14:57:38 25 A. Yes.

14:57:39 1 867 Q. Does that refresh your  
14:57:41 2 recollection about Mr. Sorbara commenting on the,  
14:57:48 3 umm, situation in the summer of 2012?  
14:57:56 4 A. Uh. Yes. So I guess I must have  
14:57:58 5 asked... So Greg must have called me before he  
14:58:01 6 went on.  
14:58:02 7 MS. MACHADO: Well, don't -- don't  
14:58:02 8 guess.  
14:58:03 9 THE WITNESS: Yeah. I mean --  
14:58:04 10 MS. MACHADO: Either you recall it or  
14:58:05 11 you don't.  
14:58:06 12 THE WITNESS: I don't recall. I --  
14:58:07 13 I've had many conversations with Greg.  
14:58:10 14 I don't recall, umm... I don't -- I  
14:58:18 15 don't recall that. Umm...  
14:58:27 16 MS. MACHADO: In fairness to the  
14:58:28 17 witness, Mr. Lisus, there's an e-mail chain then  
14:58:28 18 that follows to a multitude of people, but it  
14:58:28 19 doesn't appear that Mr. Wilkinson is one of the  
14:58:31 20 recipients of it.  
14:58:33 21 MR. LISUS: I'm not suggesting he is.  
14:58:35 22 MS. MACHADO: Okay.  
14:58:35 23 BY MR. LISUS:  
14:58:35 24 868 Q. You see that Mr. Sorbara says on  
14:58:36 25 the radio:

14:58:37 1 "I understand what was in mind  
14:58:39 2 when the initiatives were taking  
14:58:41 3 place under very severe financial  
14:58:43 4 constraints." [As read.]  
14:58:43 5 A. Mm-hmm.  
14:58:44 6 869 Q. "We're having another look-see. I  
14:58:46 7 just got off the phone a while ago with  
14:58:48 8 John Wilkinson and I am hopeful, given  
14:58:52 9 the information that he is putting  
14:58:54 10 together and the consultations that  
14:58:56 11 he's having, don't give up hope.'"  
14:58:56 12 [As read.]  
14:58:58 13 Do you see where he says that?  
14:59:00 14 A. Mm-hmm. Okay. I was just trying  
14:59:02 15 to see if I can remember having a call from Greg.  
14:59:16 16 Umm... It might have been in the car. Uh...  
14:59:25 17 Like, honestly, I don't remember  
14:59:26 18 talking, but that doesn't say he didn't call me,  
14:59:29 19 umm, so I'm not saying that he didn't call me. I  
14:59:33 20 don't recall that.  
14:59:34 21 I know that if he had asked me, I would  
14:59:36 22 have said, you know, 'We're working on it.' I  
14:59:39 23 wouldn't have disclosed anything to him. I was  
14:59:42 24 working confidentially for the Ministry.  
14:59:47 25 Umm. Though it sounds like Greg, that

14:59:49 1 if he knew he was going to be on the radio program,  
14:59:52 2 he would call his friend who's on the Panel and  
14:59:53 3 say, 'Look. What's going on?'

14:59:54 4 But he -- he also knew John and Elmer,  
14:59:57 5 but he would have known me best. Yeah.

14:59:59 6 870 Q. And do you think it's likely that  
15:00:02 7 you would have said to him, 'Greg, we're working on  
15:00:05 8 it,' and --

15:00:06 9 A. Yeah. I would have said, you  
15:00:07 10 know, there would be hope if -- in -- in the sense  
15:00:14 11 that... If we had come to the conclusion that all  
15:00:16 12 of the stuff we had been given by the government  
15:00:18 13 was absolutely correct, right; if -- if we had come  
15:00:21 14 to that conclusion, I would have said, 'Listen.  
15:00:23 15 You know, the government made a decision. It's a  
15:00:25 16 tough decision. We have looked at this  
15:00:28 17 independently and we're convinced that they're  
15:00:30 18 making the right decision.'

15:00:32 19 Uh. I wouldn't have disclosed things  
15:00:33 20 to him, but I would have said that, 'The work is --  
15:00:35 21 is ongoing.' I would have said that, 'Minister  
15:00:38 22 McMeekin is very supportive of our work,' which he  
15:00:42 23 was, uh, 'but it was going to be a battle to get --  
15:00:44 24 internally, to get the decision reversed,' which  
15:00:47 25 ultimately it was. It was changed from what was

15:00:50 1 initially announced in February of 2012.

15:00:54 2 Umm. But -- but Greg is the kind of

15:00:58 3 guy, you know, if he -- if he called me, it would

15:01:02 4 be out of the blue and he would -- it would be a

15:01:04 5 quick call 'cause he's a busy guy. And it would

15:01:05 6 have been, 'Hey. I'm going on the radio. What can

15:01:05 7 you tell me?' or something like that.

15:01:07 8 And I would have said, you know, 'Stay

15:01:09 9 tuned.'

15:01:09 10 871 Q. Right.

15:01:09 11 A. Right? As of -- I wouldn't have

15:01:10 12 said at that time to anybody, 'All hope is lost,'

15:01:17 13 'cause I was -- we were hopeful that our report

15:01:19 14 would find a receptive audience in -- within

15:01:23 15 government.

15:01:23 16 872 Q. And we --

15:01:24 17 A. But I -- I never saw the -- the

15:01:25 18 report. I had never seen that report.

15:01:29 19 873 Q. Okay.

15:01:30 20 A. The... The transcript.

15:01:30 21 874 Q. Now you have it--

15:01:32 22 A. Thanks.

15:01:32 23 875 Q. --and it seems to have been of

15:01:34 24 some assistance to you.

15:01:35 25 The report attracted the attention of

15:01:38 1 people in the Ministry of Finance, as you can see  
15:01:43 2 from the e-mail.  
15:01:44 3 A. Umm...  
15:01:45 4 --- (Witness reviewing document.)  
15:01:50 5 THE WITNESS: Oh. Oh, yeah. No. That  
15:01:50 6 would -- would have been popped up on the clipping,  
15:01:50 7 the government's clipping.  
15:01:50 8 BY MR. LISUS:  
15:01:50 9 876 Q. All right.  
15:01:54 10 A. And, yeah, a whole bunch of people  
15:01:56 11 would know that in pretty quick short order.  
15:01:59 12 It is... Yeah.  
15:02:01 13 877 Q. And the Finance folks weren't very  
15:02:05 14 happy about his comments, right?  
15:02:07 15 MS. MACHADO: Well...  
15:02:08 16 THE WITNESS: Well, you have to ask  
15:02:09 17 them.  
15:02:10 18 MS. MACHADO: He's not going to guess.  
15:02:13 19 BY MR. LISUS:  
15:02:13 20 878 Q. Well, let's take a look at what  
15:02:15 21 they said.  
15:02:15 22 Poland Lai says:  
15:02:18 23 "According to Sorbara, the  
15:02:21 24 government is having another  
15:02:22 25 look-see." [As read.]

15:02:22 1 Do you know Poland?

15:02:23 2 A. No.

15:02:24 3 879 Q. Okay.

15:02:25 4 A. But the government was having

15:02:26 5 another look-see.

15:02:27 6 880 Q. Right.

15:02:28 7 A. That's why they empaneled a panel.

15:02:28 8 881 Q. Tanya Watkins and Barry Goodwin;

15:02:32 9 do you know them?

15:02:32 10 A. Barry Goodwin is the Assistant

15:02:35 11 Deputy Minister.

15:02:35 12 882 Q. Yeah. And you were working with

15:02:36 13 him on the Panel?

15:02:37 14 A. Not then.

15:02:38 15 883 Q. Okay.

15:02:38 16 A. Later on, during the negotiation

15:02:41 17 with Transition, I supported Mr. Snobelen who

15:02:44 18 worked with Mr. Goodwin.

15:02:45 19 884 Q. And did you know Tim Shortill?

15:02:47 20 A. Yes. Tim Shortill was, I believe

15:02:50 21 was at the time, Dwight Duncan's Chief of Staff.

15:02:54 22 885 Q. And Dwight Duncan's Chief of Staff

15:02:57 23 forwards Mr. Sorbara's comments to Dave Gene,

15:03:01 24 right?

15:03:01 25 A. Yeah, because you have to make

15:03:04 1 sure that the Premier's Office knows what's out in  
15:03:07 2 the ether and... Yeah.

15:03:08 3 886 Q. And Dwight Duncan's Chief of  
15:03:10 4 Staff, Mr. Shortill, says that -- to James Dean  
15:03:14 5 (sic), that Mr. --

15:03:14 6 A. Or Dave Gene.

15:03:16 7 887 Q. Dave Gene says that Mr. Sorbara's  
15:03:21 8 comments aren't helpful, right?

15:03:23 9 A. It's never helpful for a former  
15:03:28 10 Minister of Finance to discuss what a current  
15:03:31 11 Minister of Finance is doing. Never, ever helpful.

15:03:34 12 888 Q. To who?

15:03:36 13 A. To the current Minister of  
15:03:38 14 Finance.

15:03:38 15 889 Q. Could be helpful to the industry?

15:03:39 16 A. It -- it could be.

15:03:40 17 There's a general rule that you try not  
15:03:42 18 to talk about your -- the work that your  
15:03:44 19 predecessors -- even if your own party or another  
15:03:49 20 party.

15:03:49 21 890 Q. Unless you feel very strongly  
15:03:50 22 about it, right?

15:03:51 23 A. Yeah. If you're asked a question  
15:03:52 24 and you're not an MPP anymore and you have an  
15:03:54 25 opinion.



15:03:55 1 I -- I have opinions now, Mr. Lisus,  
15:03:58 2 which I didn't have before, so...  
15:04:00 3 891 Q. All right.  
15:04:01 4 A. Post political life.  
15:04:03 5 892 Q. Mr. Sorbara clearly had a strong  
15:04:11 6 opinion, right?  
15:04:12 7 A. Uh...  
15:04:12 8 MS. MACHADO: Well, it says what it  
15:04:13 9 says, Mr. Lisus. I'm not sure that we can call a  
15:04:16 10 "strong opinion".  
15:04:19 11 THE WITNESS: Right.  
15:04:19 12 BY MR. LISUS:  
15:04:19 13 893 Q. Mr. --  
15:04:19 14 A. But it -- it wasn't a surprise  
15:04:20 15 that the Panel was -- had been empowered publicly  
15:04:24 16 to look at that situation.  
15:04:24 17 894 Q. Right.  
15:04:27 18 And Mr. Gene says that he will put a  
15:04:29 19 call in to Mr. Sorbara, right?  
15:04:29 20 A. Uh...  
15:04:31 21 895 Q. And that's on August 2. Do you  
15:04:34 22 see that at the top of the sequence?  
15:04:35 23 A. He said he did put a call in, not  
15:04:38 24 that he was going to.  
15:04:38 25 896 Q. You're right.

15:04:39 1 A. "I put a call in to him."  
15:04:41 2 897 Q. And did you know about that at the  
15:04:44 3 time?  
15:04:44 4 A. No.  
15:04:45 5 898 Q. Okay.  
15:04:45 6 A. No. I'm not part of that.  
15:04:45 7 899 Q. But Mr. Gene put a call --  
15:04:45 8 --- (Court reporter appeals.)  
15:04:45 9 THE WITNESS: No. I'm not part of  
15:04:50 10 that. I -- I don't work--  
15:04:50 11 BY MR. LISUS:  
15:04:50 12 900 Q. I --  
15:04:51 13 A. --for the Premier.  
15:04:53 14 Go ahead.  
15:04:53 15 MR. LISUS: Do you want a break?  
15:04:53 16 THE COURT REPORTER: Uh. Soon.  
15:05:04 17 THE WITNESS: Okay.  
15:05:04 18 MS. MACHADO: She needs liquor is what  
15:05:06 19 she needs.  
15:05:07 20 BY MR. LISUS:  
15:05:07 21 901 Q. I would think, Mr. Wilkinson, just  
15:05:09 22 from looking at this sequence on August 2...  
15:05:16 23 And let's look at it together, okay?  
15:05:18 24 A. August...  
15:05:22 25 902 Q. ...2.

15:05:22 1 A. Oh, yeah.

15:05:23 2 903 Q. Go to the article about the radio  
15:05:25 3 interview.

15:05:25 4 A. Yeah.

15:05:29 5 904 Q. Article appears at 4:11 on August  
15:05:37 6 2, right?

15:05:38 7 A. Mm-hmm.

15:05:40 8 MS. MACHADO: Yes?

15:05:41 9 THE WITNESS: (Nodding head.)

15:05:43 10 MS. MACHADO: You have to say 'yes' or  
15:05:44 11 'no'.

15:05:44 12 THE WITNESS: Oh. Yes. That's what I  
15:05:46 13 read.

15:05:51 14 BY MR. LISUS:

15:05:51 15 905 Q. At 4:40, about half an hour later,  
15:05:59 16 Ms. Lai sends the article to - among others in  
15:06:15 17 Finance, seven people - Tanya Watkins at 4:40,  
15:06:26 18 right?

15:06:26 19 A. Mm-hmm.

15:06:28 20 906 Q. And --  
15:06:28 21 --- (Court reporter appeals.)

15:06:29 22 THE WITNESS: Yes.

15:06:32 23 BY MR. LISUS:

15:06:32 24 907 Q. And by 5:30, it's in Mr. Gene's  
15:06:47 25 inbox from Dwight Duncan's Deputy, right?

15:06:51 1 A. His, his Chief, not his Deputy.

15:06:53 2 908 Q. His Chief.

15:06:54 3 A. Yeah.

15:06:54 4 909 Q. And what's Mr. Gene's response at

15:06:58 5 5:43?

15:06:59 6 A. Umm. It is "WTF!"

15:07:05 7 910 Q. Do you know what that's an acronym

15:07:09 8 for?

15:07:09 9 A. Yes, I do, but I'm -- I'm

15:07:12 10 cognizant of--

15:07:12 11 911 Q. Well, we --

15:07:12 12 A. --Bonnie's sensibilities and --

15:07:13 13 912 Q. We both understand that to mean

15:07:15 14 "What the fuck!", right?

15:07:17 15 A. Sure. I would agree with you--

15:07:17 16 913 Q. Right.

15:07:19 17 A. --that that's what that meant.

15:07:20 18 914 Q. An expression of anger by

15:07:23 19 Mr. Gene, right?

15:07:24 20 R/F MS. MACHADO: Mr. Lisus, I don't know

15:07:25 21 where (sic) you're getting at. Mr. Wilkinson

15:07:28 22 didn't see any of this.

15:07:28 23 You're asking him to opine on what

15:07:31 24 these individuals meant when they were sending each

15:07:33 25 other these e-mails.

15:07:33 1 It says what it says in the e-mail.

15:07:36 2 You're going to see Mr. Shortill eventually. You

15:07:39 3 can--

15:07:39 4 MR. LISUS: And Mr. Gene.

15:07:40 5 MS. MACHADO: --ask him.

15:07:41 6 And Mr. Gene; fair. So you can ask

15:07:42 7 them these questions.

15:07:42 8 MR. LISUS: Okay.

15:07:42 9 BY MR. LISUS:

15:07:44 10 915 Q. And Mr. Shortill says, "Yeah.

15:07:46 11 It's not helpful."

15:07:47 12 And Mr. Gene says, "I put a call in to

15:07:51 13 him," right?

15:07:51 14 A. Mm-hmm.

15:07:52 15 MS. MACHADO: The witness has already

15:07:54 16 said that's what the e-mails say.

15:07:58 17 BY MR. LISUS:

15:07:59 18 916 Q. But he didn't speak to you?

15:08:00 19 A. I don't recall him speaking to me,

15:08:02 20 no.

15:08:02 21 917 Q. Do you think he may have?

15:08:06 22 A. But I said that he may have.

15:08:06 23 918 Q. Right. And I'm going to suggest

15:08:07 24 that he did speak to you, Mr. Wilkinson, because

15:08:10 25 Mr. Sorbara refers to having spoken to you in his

15:08:14 1 radio report, right?

15:08:15 2 A. Yeah. No. So that's why I would

15:08:17 3 say that I would not... I just don't -- I don't

15:08:22 4 recall that--

15:08:22 5 919 Q. You wouldn't--

15:08:22 6 A. --conversation.

15:08:23 7 920 Q. --be surprised if Mr. Gene called

15:08:26 8 you, right?

15:08:26 9 A. Mr. Gene?

15:08:27 10 MS. MACHADO: Mr. Gene? We're not

15:08:29 11 talking about Mr. Gene, I don't think.

15:08:31 12 BY MR. LISUS:

15:08:31 13 921 Q. I'm asking, did Mr. Gene also put

15:08:34 14 a call in to you on or about--

15:08:34 15 A. Mr. Gene?

15:08:36 16 922 Q. --August the 2nd?

15:08:36 17 A. No, not that I recall.

15:08:37 18 923 Q. Okay. And the reason I'm asking

15:08:39 19 you that is because Mr. Sorbara, in his radio

15:08:42 20 interview which gets Mr. Gene exercised, says he

15:08:45 21 spoke to you shortly before his interview, right?

15:08:48 22 A. Mm-hmm.

15:08:49 23 924 Q. Yes?

15:08:49 24 A. Yes. That's what --

15:08:52 25 925 Q. Okay.

15:08:52 1 A. That's what the transcript says,  
15:08:55 2 yeah.  
15:08:55 3 926 Q. And then, Mr. Gene says, "I put a  
15:08:57 4 call in to him," which I presume is Sorbara, right?  
15:09:00 5 A. 'Cause I don't see anything  
15:09:04 6 attached to this about what was said, other than  
15:09:04 7 was -- is that the government is having another  
15:09:06 8 look-see.  
15:09:06 9 927 Q. Right.  
15:09:07 10 A. So they could be just upset about  
15:09:09 11 that.  
15:09:09 12 928 Q. Okay. But you don't --  
15:09:09 13 A. I don't know if they have a  
15:09:10 14 transcript of what Mr. Sorbara said--  
15:09:10 15 929 Q. Right.  
15:09:11 16 A. --within the hour.  
15:09:12 17 930 Q. You don't recall speaking with  
15:09:14 18 Mr. Gene--  
15:09:17 19 A. No, I don't.  
15:09:17 20 931 Q. --on August about -- on or about  
15:09:19 21 August 2nd or August 3rd, right?  
15:09:22 22 A. No.  
15:09:24 23 932 Q. But you e-mail him on August 3rd,  
15:09:26 24 right?  
15:09:27 25 A. I -- I don't know. That was five

15:09:29 1 years ago. But if there was an e-mail to Dave  
15:09:32 2 Gene...

15:09:33 3 933 Q. Well, I will show it to you.  
15:09:35 4 A. Okay.

15:09:43 5 MR. MATTHEWS: We'll mark the e-mail  
15:09:44 6 regarding Mr. Sorbara's comments and the attached  
15:09:47 7 comments CRE 28984 as the next exhibit, Exhibit 21.  
15:09:53 8 ---EXHIBIT NO. 21: E-mail regarding  
15:09:53 9 Mr. Sorbara's comments and the attached comments,  
15:10:01 10 Doc ID Number CRE 28984.

15:10:01 11 BY MR. LISUS:

15:10:02 12 934 Q. Do you remember this e-mail?  
15:10:02 13 A. Yeah, I... I do, yeah.

15:10:04 14 935 Q. When was the last time you looked  
15:10:06 15 at it?  
15:10:07 16 A. The, umm... I saw this e-mail  
15:10:09 17 last week.

15:10:09 18 936 Q. How did you come to see it last  
15:10:11 19 week?  
15:10:11 20 A. My attorney showed it to me.

15:10:14 21 MR. ROSENBERG: Can I get the document  
15:10:15 22 number, please?  
15:10:19 23 MR. LISUS: 1983.  
15:10:20 24 MS. MACHADO: No. It's CRE 29291.  
15:10:25 25 MR. ROSENBERG: Okay. Thank you.



15:10:26 1 BY MR. LISUS:

15:10:27 2 937 Q. So you reviewed this last week for

15:10:29 3 the purpose of giving your evidence here today?

15:10:30 4 A. Yes.

15:10:30 5 938 Q. And did you do that after

15:10:32 6 Mr. Snobelen testified?

15:10:33 7 MS. MACHADO: He said he saw us last

15:10:37 8 week on Thursday, so...

15:10:37 9 THE WITNESS: I don't know when -- you

15:10:38 10 asked me not -- everybody asked me not to talk to

15:10:40 11 anybody, so I haven't.

15:10:41 12 BY MR. LISUS:

15:10:41 13 939 Q. Okay. So you sent this e-mail to

15:10:43 14 Mr. Wilkinson -- excuse me.

15:10:44 15 A. No.

15:10:46 16 940 Q. You sent it to Mr. Gene, right?

15:10:48 17 A. Right.

15:10:48 18 941 Q. On August 2 -- August 3?

15:10:51 19 A. August 3, the next day. Yeah.

15:10:52 20 That's right.

15:10:52 21 942 Q. And Mr. Snobelen said that he

15:11:04 22 didn't know that you had composed and sent this

15:11:06 23 e-mail.

15:11:06 24 A. Well, I'm sure Snobelen said what

15:11:08 25 Mr. Snobelen said. I don't --

15:11:08 1 943 Q. Right.

15:11:08 2 A. I don't know that.

15:11:09 3 944 Q. Do you disagree with that?

15:11:11 4 A. Umm. Well, I know that we kept

15:11:14 5 each other informed.

15:11:15 6 945 Q. Mr. Snobelen said he thinks that

15:11:19 7 it was inappropriate to send this e-mail to

15:11:23 8 Mr. Gene.

15:11:23 9 Are you aware of that?

15:11:24 10 A. No, I'm not aware of that.

15:11:25 11 946 Q. Okay.

15:11:30 12 Now, why did you send Mr. Gene this

15:11:31 13 e-mail?

15:11:34 14 A. Uh. Because, umm, Mr. Keegan,

15:11:39 15 because obviously, if this was, uh..., told me it

15:11:43 16 was important for Mr. Gene, who didn't know what

15:11:46 17 was in the Premier's Office, where we were going

15:11:48 18 with the report because he had been hearing about

15:11:51 19 it --

15:11:51 20 947 Q. How had he been hearing about it?

15:11:51 21 A. Well --

15:11:51 22 --- (Court reporter appeals.)

15:12:00 23 THE WITNESS: Umm. They hadn't been

15:12:01 24 hearing about it from us. We had not talked to

15:12:03 25 Mr. Gene.

15:12:04 1 And that, uh, Mr. Keegan, the Chief of  
15:12:06 2 Staff to the Minister, said that it's important  
15:12:09 3 that Dave understand where we were.

15:12:12 4 And so I gave him a summary of where we  
15:12:15 5 were, both policy, financially, politically. So I  
15:12:19 6 wrote him that note.

15:12:21 7 BY MR. LISUS:

15:12:21 8 948 Q. But it wasn't any part of your  
15:12:23 9 mandate to be anywhere politically, right?

15:12:26 10 A. No. It was -- it was not part of  
15:12:28 11 our mandate to be partisan.

15:12:30 12 It was part of our mandate to be  
15:12:32 13 political 'cause we were giving government advice.

15:12:35 14 And all government advice, if it is of  
15:12:38 15 any value, is public policy, finance, and  
15:12:41 16 political. And all three are required to give good  
15:12:43 17 advice.

15:12:43 18 949 Q. And when you say it was not part  
15:12:45 19 of your mandate to be partisan, it was not to be  
15:12:48 20 any part of your deliberations or recommendations  
15:12:52 21 to give any one political party an advantage or  
15:12:56 22 opportunity over any other; correct?

15:12:58 23 A. Not to -- that's right. Not to  
15:13:01 24 engage with the political parties.

15:13:04 25 950 Q. That would be inappropriate as a

15:13:06 1 panelist, right?

15:13:07 2 A. That's right. The, umm... So I  
15:13:08 3 did not ever engage with the Ontario Liberal Party  
15:13:11 4 on this issue.

15:13:12 5 The government is the government and  
15:13:14 6 comes from a party.

15:13:15 7 951 Q. And you didn't have -- it would  
15:13:19 8 have been inappropriate for you to have, as part of  
15:13:24 9 your deliberation or thinking, any kind of strategy  
15:13:32 10 to favour the Liberal Party over, say, the  
15:13:32 11 Conservatives or the NDP, right?

15:13:35 12 A. My job was to -- to provide the  
15:13:38 13 best advice possible to the government of the day.

15:13:38 14 952 Q. Not to -- so it was --

15:13:40 15 A. That's who hired me; the  
15:13:42 16 government.

15:13:42 17 953 Q. Sir, I'm going to give you the  
15:13:43 18 question again.

15:13:44 19 A. Okay.

15:13:44 20 954 Q. It would have been inappropriate  
15:13:46 21 for you to have let an intention or desire to  
15:14:03 22 confer an advantage politically on one of the  
15:14:07 23 parties over any other influence your work on the  
15:14:13 24 Panel, right?

15:14:22 25 You're hesitating. You --

15:14:23 1 A. My job was --

15:14:24 2 955 Q. You signed a contract to be

15:14:26 3 non-partisan?

15:14:26 4 A. Non-partisan. That's right.

15:14:28 5 956 Q. You signed a contract to be

15:14:30 6 independent; correct?

15:14:30 7 A. Yes.

15:14:30 8 957 Q. It --

15:14:31 9 A. To do what? To provide advice to

15:14:33 10 government, which is what I did.

15:14:35 11 958 Q. And not to provide advice to

15:14:38 12 government about how to get an advantage over the

15:14:41 13 Conservatives.

15:14:42 14 That would be inappropriate; correct?

15:14:44 15 A. But I did provide advice as to

15:14:47 16 where the political dynamic was; who was saying

15:14:50 17 what.

15:14:50 18 959 Q. Sir, listen to my question.

15:14:51 19 A. Right.

15:14:51 20 960 Q. It was no part of your mandate to

15:14:54 21 provide advice to government as how to get an

15:14:58 22 advantage over the Conservative Party?

15:14:59 23 A. No.

15:15:00 24 961 Q. Right.

15:15:00 25 A. No. It -- that was not in my

15:15:02 1 mandate for what to do.

15:15:03 2 962 Q. And it would have been contrary to  
15:15:05 3 the terms of your contract to do that; fair?

15:15:08 4 A. Yes. To have been actively  
15:15:10 5 engaged in politics on that issue, absolutely.

15:15:13 6 963 Q. Right. And the same applies with  
15:15:18 7 respect to conferring an advantage on the NDP?

15:15:22 8 A. Yes.

15:15:22 9 964 Q. Or on the Liberals --

15:15:24 10 A. Or to the Liberals; that's right.

15:15:25 11 965 Q. What is a "wedge issue"?

15:15:27 12 A. A "wedge issue" is a -- is a term  
15:15:29 13 that shows that on any given issue, there is --  
15:15:31 14 there is a divide, uh, that has people being on  
15:15:33 15 either one side or the other; either, you know, for  
15:15:39 16 public education or against public education, for  
15:15:42 17 example.

15:15:43 18 966 Q. And when you were sitting on...

15:15:44 19 To create a divide on one side or the  
15:15:47 20 other of an issue is to create a wedge, right?

15:15:50 21 A. That's to create a wedge.

15:15:51 22 A wedge issue is there whether someone  
15:15:54 23 creates it or not.

15:15:54 24 967 Q. Was this a wedge issue?

15:15:55 25 A. There was a difference...

15:16:04 1 I don't see who would be wedged.

15:16:06 2 There was a group of stakeholders who  
15:16:08 3 were unhappy with what the government decided to  
15:16:10 4 do. I don't know whether it's a wedge.

15:16:12 5 968 Q. So you were trying to get -- your  
15:16:14 6 mandate was to get the right answer for the benefit  
15:16:16 7 of the industry who was going to be impacted by  
15:16:20 8 this decision, right?

15:16:21 9 A. No. My job was to advise the  
15:16:24 10 Minister.

15:16:25 11 My job was not to work for the  
15:16:27 12 industry; my job was to advise the Minister.

15:16:30 13 969 Q. Right. On what the best decision  
15:16:32 14 was in light of the consequences of the termination  
15:16:38 15 decision for the industry, right?

15:16:40 16 A. No. It was to give him advice as  
15:16:44 17 to how to transition the industry because the  
15:16:46 18 decision had been made by the government.

15:16:48 19 970 Q. It wasn't to give advice on how to  
15:16:50 20 wedge the Conservatives on this issue, right?

15:16:52 21 A. That was not the... That --  
15:16:54 22 that's right.

15:16:55 23 971 Q. And it wasn't --

15:16:56 24 A. But it was to give advice as to  
15:16:58 25 public policy, money, and the politics of it.

15:17:01 1 972 Q. All right. And it wasn't to give  
15:17:02 2 advice to the Liberal Party as to how to get an  
15:17:07 3 advantage in upcoming by-elections; correct?

15:17:09 4 A. It was not my job to give them  
15:17:12 5 advice, but it was my job to give them a political  
15:17:15 6 opinion if asked.

15:17:16 7 973 Q. Where do I see that in the  
15:17:18 8 contract; that you were to give political opinions  
15:17:21 9 to the Liberal government, if asked?

15:17:23 10 A. Because I agreed to be  
15:17:25 11 non-partisan.

15:17:25 12 I didn't agree not to provide the --  
15:17:27 13 the advantage that John, Elmer and I had of 22  
15:17:31 14 years of collective elected service. That is  
15:17:37 15 political.

15:17:37 16 974 Q. You told Dave Gene that you:  
15:17:40 17 "...will lay out the Plan 'B'  
15:17:43 18 and timelines we need to avoid the  
15:17:45 19 consequences of Plan 'A' and give us  
15:17:47 20 an advantage in the by-elections by  
15:17:50 21 wedging both Tim and Andrea."

15:17:50 22 [As read.]

15:17:54 23 Right?

15:17:54 24 A. Yes, because they were wedged.  
15:17:54 25 They were in totally different positions.



15:17:55 1 One was that SARP should come back.

15:17:59 2 I thought that was bad public policy.

15:18:01 3 Another one said the whole thing should

15:18:03 4 be privatized.

15:18:04 5 Our suggestion would be, there would be

15:18:06 6 a middle ground between the wedge between those two

15:18:09 7 parties.

15:18:09 8 Those two parties were opposite,--

15:18:11 9 975 Q. So create---

15:18:11 10 A. --right?

15:18:13 11 976 Q. --a wedge and get an advantage in

15:18:13 12 the by-elections that way?

15:18:13 13 A. Well, it wouldn't do any...

15:18:15 14 There was a by-election going on. I

15:18:18 15 can't remember where, umm, but I said there's a

15:18:21 16 by-election going on.

15:18:23 17 Umm. Yeah. But it was my political

15:18:26 18 advice, because this thing was...

15:18:29 19 They needed to get advice as to, 'Okay.

15:18:32 20 Well, what's the public policy? Where is the

15:18:34 21 mistake? What's the public policy? How much is

15:18:36 22 this going to cost and how would we ever go from

15:18:39 23 where we are to where we're going to be, '--

15:18:39 24 977 Q. Why didn't you --

15:18:41 25 A. --okay, and that's the advice.

15:18:43 1 978 Q. Why didn't you copy Mr. Snobelen  
15:18:46 2 and Mr. Buchanan on this--  
15:18:48 3 A. Umm...  
15:18:49 4 979 Q. --message?  
15:18:50 5 A. Well, I don't know whether I did  
15:18:53 6 or not. I -- I don't -- I might have blind copied  
15:18:57 7 them.  
15:18:57 8 980 Q. Well, Mr. Snobelen said he didn't  
15:18:59 9 know anything about it.  
15:19:01 10 A. Well, then I would say that I  
15:19:02 11 didn't copy it -- him.  
15:19:04 12 981 Q. Why do you send it to Mr. Gene's  
15:19:07 13 Liberal Party address, not his government address?  
15:19:12 14 A. Because my, uh... Because I  
15:19:16 15 needed to talk to Dave privately.  
15:19:18 16 982 Q. Well, why did you need talk to him  
15:19:20 17 privately if you were doing Panel business?  
15:19:22 18 A. Because the, uh -- I thought that  
15:19:25 19 was pretty sensitive.  
15:19:26 20 983 Q. What's sensitive about it?  
15:19:29 21 A. What's sensitive about it is, is  
15:19:31 22 that a panel of three former Cabinet Ministers have  
15:19:36 23 concluded that the government made a mistake.  
15:19:38 24 984 Q. Well, you said that was in the  
15:19:40 25 draft report.

15:19:40 1 A. Mr. Gene hadn't seen the draft  
15:19:42 2 report. He hadn't seen any of this.  
15:19:42 3 985 Q. Lots of other people have. But  
15:19:43 4 lots of other people have.  
15:19:43 5 A. But not Mr. Gene.  
15:19:43 6 The Premier's Office hadn't been  
15:19:45 7 engaged on this file.  
15:19:46 8 986 Q. So you're giving the Premier  
15:19:49 9 Office confidential information that it wasn't  
15:19:51 10 supposed to have?  
15:19:52 11 A. First of all, my government (sic)  
15:19:52 12 was with the government. That--  
15:19:52 13 987 Q. Pardon?  
15:19:52 14 A. --includes the Premier.  
15:19:54 15 My contract was with the government.  
15:20:00 16 And my point is, is that the Minister who I  
15:20:00 17 reported to and the Chief of Staff who I reported  
15:20:03 18 to believed that I should provide an update to  
15:20:06 19 Mr. Gene who didn't seem to know much about the  
15:20:09 20 file, which is exactly what I did.  
15:20:11 21 988 Q. And I'm asking why you're doing  
15:20:14 22 that at a Liberal Party e-mail and not including  
15:20:16 23 your co-panelists?  
15:20:19 24 A. First of all, it's not a Liberal  
15:20:22 25 Party e-mail --

15:20:22 1 989 Q. Uh, --

15:20:23 2 A. Oh.

15:20:23 3 990 Q. -- "dgene@liberal.ola.org" is not a  
15:20:29 4 Liberal Party e-mail?

15:20:29 5 A. Oh. Sorry. Yeah. Okay.

15:20:29 6 The... yeah. Probably because the  
15:20:31 7 only e-mail I had for Dave would not be an  
15:20:33 8 ontario.ca account.

15:20:34 9 I would have just, in my BlackBerry,  
15:20:37 10 had his -- the e-mail address I had for him, and  
15:20:39 11 that's what I would have had as a -- as a Member.

15:20:42 12 MS. MACHADO: I would note, Mr. Lisus,  
15:20:43 13 that the e-mails we just looked at had that same  
15:20:45 14 address for Mr. Gene where Mr. Wilkinson was not  
15:20:47 15 involved.

15:20:49 16 MR. LISUS: And the --

15:20:49 17 THE WITNESS: Yeah. So that's how you  
15:20:52 18 got ahold of Dave.

15:20:55 19 MR. LISUS: The "WTF!" e-mail --

15:20:57 20 MS. MACHADO: It looks that way.

15:20:57 21 BY MR. LISUS:

15:20:57 22 991 Q. Well, that --

15:20:57 23 A. Yeah.

15:20:58 24 992 Q. That's kind of my point.

15:20:59 25 Why are you sending it to Mr. Keegan's

15:21:02 1 personal e-mail address?

15:21:04 2 A. The, umm... Yeah. Because that's  
15:21:06 3 -- that's the e-mail address I had for Mike.

15:21:08 4 993 Q. There's lots of e-mails here - I  
15:21:12 5 can show them to you - where you're e-mailing  
15:21:14 6 Mr. Keegan on his government address.

15:21:16 7 Why are you e-mailing him on his  
15:21:21 8 personal for this one?

15:21:21 9 A. Because he asked me to give him a  
15:21:23 10 copy, so I did.

15:21:24 11 994 Q. You remember that now?

15:21:25 12 A. Well, what I recall is that -- and  
15:21:26 13 the reason I got ahold of Dave is, I was -- I was  
15:21:29 14 asked to provide Dave in the Premier's Office, so  
15:21:33 15 that he could get up to speed about what we had  
15:21:37 16 concluded and that this was coming down the path.

15:21:40 17 I'm sure, now, in retrospect, it was  
15:21:43 18 prompted by the comments that Mr. Sorbara made,  
15:21:46 19 umm, which got it -- everybody paying attention to  
15:21:49 20 what was going to happen.

15:21:52 21 It was... We hadn't issued the report.  
15:21:54 22 It was still an open question.

15:21:55 23 995 Q. And as you explained to me a  
15:21:57 24 minute ago, this was sensitive because you were  
15:22:00 25 going to tell the government it had made a mistake,

15:22:04 1 right?

15:22:04 2 A. Uh. Well, we had come to that

15:22:06 3 conclusion, yeah.

15:22:06 4 996 Q. Right. And that mistake was that

15:22:10 5 the decision it made a couple of months before is

15:22:16 6 going to result in 23,000 job losses, right?

15:22:20 7 A. Versus \$5,000 (sic) -- 5,000 job

15:22:24 8 losses as estimated.

15:22:26 9 997 Q. Okay. About five times as many?

15:22:28 10 A. Yeah, yeah.

15:22:30 11 998 Q. And 27,000 dead horses, right?

15:22:32 12 A. Which the report from the

15:22:34 13 Ministry, from the civil servants didn't say was

15:22:37 14 going to happen.

15:22:38 15 999 Q. Fair enough. And so --

15:22:39 16 A. That would be new information.

15:22:40 17 1000 Q. Fair enough. I get it.

15:22:43 18 You are giving Mr. Gene a heads up that

15:22:48 19 the message from the Panel is that there was a very

15:22:52 20 serious miscalculation that's going to have very

15:22:56 21 serious consequences; fair?

15:22:58 22 A. Right. And I think what prompted

15:23:01 23 it, because the Premier's Office hadn't been

15:23:03 24 involved, I don't think, until this point -- maybe

15:23:06 25 it was prompted by Greg's uh, conversation to The

15:23:12 1 Motts, whatever, which he could do if he wanted --

15:23:15 2 --- (Court reporter appeals.)

15:23:15 3 THE WITNESS: To The Motts radio show.

15:23:21 4 Umm. But when these things go in a

15:23:22 5 hurry, all of a sudden, the people who need to know

15:23:25 6 want to get advice.

15:23:25 7 BY MR. LISUS:

15:23:25 8 1001 Q. Right.

15:23:26 9 A. And so, I provided advice which I

15:23:29 10 thought I was required under my -- I thought I was

15:23:29 11 living up to my contract, when asked by -- to

15:23:32 12 provide advice, I did.

15:23:33 13 1002 Q. Okay. And you told me earlier -

15:23:35 14 and I don't say this critically, at all - that you

15:23:39 15 were loyal to the Premier and to the Party?

15:23:41 16 A. He's a personal friend, yes.

15:23:43 17 1003 Q. Okay. And when you came to

15:23:46 18 understand the consequences of 23,000 job losses

15:23:50 19 and 27,000 dead horses --

15:23:53 20 A. Well, I think 13- is what I said.

15:23:55 21 1004 Q. Pardon?

15:23:57 22 A. I thought it was half that, and

15:23:59 23 not all --

15:23:59 24 1005 Q. I'm reading the e-mail, sir;

15:24:01 25 "27,000 dead horses".

15:24:10 1 A. Uh. Oh, I see. I... Oh, yeah.

15:24:12 2 This e-mail...

15:24:13 3 --- (Witness reviewing document.)

15:24:14 4 THE WITNESS: Yeah.

15:24:14 5 BY MR. LISUS:

15:24:15 6 1006 Q. Okay. So can I -- can I take it,

15:24:16 7 sir, that you were --

15:24:16 8 A. Oh, no. Wait a minute. Umm.

15:24:18 9 No. Above:

15:24:18 10 "...we are looking at 13,000

15:24:21 11 job losses and 16,000 euthanized

15:24:23 12 horses..."

15:24:24 13 Yeah.

15:24:24 14 "...between September 4th and

15:24:25 15 December 31st." [As read.]

15:24:26 16 That was the advice that we were

15:24:28 17 getting, that that's what people would have to

15:24:31 18 start doing.

15:24:31 19 And then, if the industry collapsed --

15:24:33 20 1007 Q. Which did you think it would?

15:24:35 21 A. Uh. Well, I was--

15:24:35 22 1008 Q. Let's read it together.

15:24:36 23 A. --worried.

15:24:36 24 1009 Q. "Collapse (which we think is what

15:24:38 25 will actually happen)--"



15:24:39 1 A. If they do nothing, yeah. That's  
15:24:41 2 right.  
15:24:41 3 1010 Q. "--is 23,000 job losses and 27,000  
15:24:45 4 dead horses."  
15:24:46 5 Right?  
15:24:46 6 A. Because they have no economic  
15:24:48 7 value, yeah.  
15:24:48 8 1011 Q. Right.  
15:24:49 9 A. Yeah.  
15:24:49 10 1012 Q. And so, my question to you, sir,  
15:24:50 11 is: I take it that, as someone who is loyal to the  
15:24:54 12 Premier and the Party, you're -- you were giving  
15:24:56 13 Mr. Gene a heads up because you wanted to tell them  
15:25:01 14 that they had made a serious mistake with this  
15:25:04 15 decision?  
15:25:04 16 A. Yes. When the Minister's Chief of  
15:25:07 17 Staff asked me to tell the Premier's Office, I did,  
15:25:11 18 yeah.  
15:25:11 19 1013 Q. I understand that.  
15:25:11 20 And I take it that you had also come to  
15:25:14 21 the view that they couldn't have intended this to  
15:25:20 22 happen. They just didn't do it properly, right?  
15:25:23 23 A. Yeah. The -- the Ministry  
15:25:25 24 document that I had seen that had been prepared by  
15:25:28 25 the civil servants, uh, had assumptions that were

15:25:32 1 flawed.

15:25:33 2 1014 Q. Okay.

15:25:33 3 MS. MACHADO: I'm sorry, Mr. Lisus. I

15:25:35 4 actually have to go.

15:25:37 5 Mr. Ratcliffe is going to sit in my

15:25:37 6 place.

15:25:40 7 Is it okay if we take a five-minute

15:25:42 8 break right now? I know you're in the middle of a

15:25:42 9 document, but I do have to run out.

15:25:44 10 MR. RATCLIFFE: If you want to finish

15:25:44 11 the document, that's fine, and then we can maybe

15:25:45 12 take a break for the reporter.

15:25:46 13 THE WITNESS: I could use one -- a

15:25:46 14 break, actually.

15:25:47 15 MR. LISUS: Okay. We'll take a short

15:25:47 16 break.

15:25:48 17 THE WITNESS: Oh, good. Thanks.

15:25:48 18 MR. MATTHEWS: Can we, before we go

15:25:50 19 off, mark this document, please?

15:25:51 20 MR. LISUS: Certainly.

15:25:51 21 THE WITNESS: Yeah. Sure.

15:25:52 22 MR. MATTHEWS: Exhibit 22 is going to

15:26:06 23 be CRE0029291. Thank you.

15:26:12 24 ---EXHIBIT NO. 22: An e-mail string,

15:26:12 25 Doc ID Number CRE0029291.

15:26:24 1 ---Recess at 3:26 p.m.

15:26:24 2 ---(Ms. Machado withdraws at 3:26 p.m.)

15:38:52 3 ---On resuming at 3:38 p.m.

15:39:00 4 BY MR. LISUS:

15:39:01 5 1015 Q. Approximately how old is Mr. Gene?

15:39:03 6 A. Middle age. I'm not -- I'm not

15:39:03 7 sure. Dave's got dark hair, so he -- he could

15:39:03 8 be... He could be younger or older than... You

15:39:24 9 know, married, family, but not -- not a child. Not

15:39:25 10 a -- not a youngster.

15:39:26 11 1016 Q. In August 2012, he's a Chief of

15:39:29 12 Staff?

15:39:29 13 A. No.

15:39:29 14 1017 Q. No?

15:39:30 15 A. I'm not -- I'm not exactly, what

15:39:31 16 role he was, but I know he was in the Premier's

15:39:33 17 Office and he was a senior advisor to the Premier,

15:39:36 18 definitely.

15:39:36 19 1018 Q. Okay. Do you know what he's doing

15:39:38 20 now?

15:39:38 21 A. No.

15:39:38 22 1019 Q. Okay.

15:39:39 23 A. No. I haven't talked to him, seen

15:39:40 24 him.

15:39:40 25 1020 Q. Continuing on, it obviously took

15:39:43 1 you some time to compose this e-mail,  
15:39:47 2 Mr. Wilkinson?  
15:39:47 3 A. Mm-hmm.  
15:39:48 4 1021 Q. Yes?  
15:39:48 5 A. Yes.  
15:39:49 6 1022 Q. Do you remember composing it?  
15:39:51 7 A. Yeah. Now, it -- it's actually --  
15:39:53 8 'cause I'd seen -- I said I saw that e-mail on  
15:39:55 9 Thursday and now... And then you showed me the  
15:39:59 10 Sorbara thing, which I don't recall.  
15:40:00 11 But now, I -- I can tell you what  
15:40:01 12 happened, now, right. Umm. Umm. I'm assuming  
15:40:13 13 Greg kind of called me on the fly and I said, you  
15:40:16 14 know, like, 'Stay tuned.'  
15:40:17 15 There's not a lot I could tell him. I  
15:40:18 16 was working for the Panel. He was a private  
15:40:20 17 citizen. I just...  
15:40:22 18 He said, you know, 'What should I say?'  
15:40:23 19 I just said, 'Stay tuned,' right.  
15:40:25 20 'It's in a state of flux. That's why there is a  
15:40:28 21 Panel.'  
15:40:28 22 Obviously, he said what he said. I  
15:40:28 23 wasn't part of whatever, the whole reaction, but,  
15:40:32 24 uh, the Minister's Chief of Staff, Michael, would  
15:40:34 25 have got ahold of me, probably by a phone call,

15:40:38 1 saying, 'There's all holy hell going on. There's  
15:40:40 2 questions about what's going on. And the best  
15:40:44 3 thing, now that the Premier's Office is involved,  
15:40:48 4 is that they need to get a briefing. And can you  
15:40:50 5 prepare something for Dave,' which I did, uh, and,  
15:40:53 6 uh, 'What I needed to do is just lay out as quickly  
15:40:56 7 as possible all of the different issues; what was  
15:40:59 8 the policy issue, what was the financial issue,  
15:41:03 9 what was the political issue,' because Mr. Gene's  
15:41:06 10 job was to understand, as the -- because he was in  
15:41:08 11 the Premier's Office, those three things.

15:41:11 12 There was never going to be -- there's  
15:41:12 13 never good advice that only looks at one, two --  
15:41:15 14 one or two out of the three. There always has to  
15:41:18 15 be all three involved, and to give him my take on  
15:41:21 16 it, which I did.

15:41:30 17 1023 Q. And you obviously --

15:41:31 18 A. And in terms that he would  
15:41:32 19 understand.

15:41:33 20 1024 Q. Right. So thank you for that.

15:41:34 21 That's helpful. It makes sense. And that would  
15:41:35 22 explain why this went at 10:22 p.m. because you  
15:41:39 23 obviously took some time in composing it and --

15:41:41 24 A. I sent it to him the next day, is  
15:41:42 25 it?

15:41:42 1 1025 Q. It's the next day.

15:41:43 2 A. Yeah. The next day, yeah. So...

15:41:45 3 1026 Q. All hell breaks loose, as you put

15:41:48 4 it, around 5:30 on the previous day--

15:41:50 5 A. Well --

15:41:51 6 1027 Q. --and you get this out at 10:22

15:41:54 7 p.m. on the next day?

15:41:55 8 A. Mm-hmm. And I would have done

15:41:58 9 that because Michael asked me to do that and --

15:42:00 10 1028 Q. Michael Keegan?

15:42:01 11 A. Michael Keegan, who I -- in my --

15:42:04 12 you know, my contract was with the Minister and my

15:42:06 13 contract said I was to deal with -- his designate

15:42:09 14 in this case would be his Chief of Staff.

15:42:11 15 So if I was asked do that, I would have

15:42:12 16 done that. And I remember writing this, umm, and

15:42:17 17 with respect, I wish -- I wish I had spent more

15:42:24 18 time wordsmithing it, making it a little bit more

15:42:27 19 concise, but...

15:42:29 20 But it was -- you know, it's a big

15:42:29 21 topic and for someone who basically wouldn't know

15:42:33 22 much about this, I had to cover a lot of ground.

15:42:35 23 1029 Q. What --

15:42:36 24 A. (Sotto voce.)

15:42:39 25 1030 Q. Sorry. Go ahead.

15:42:40 1 A. No. Sorry. I was just reading  
15:42:43 2 out loud here. I thought I would look at it.

15:42:44 3 1031 Q. And you conclude by also offering  
15:42:51 4 a political angle.

15:42:54 5 Do you see that?

15:43:00 6 A. Umm. Oh, yes. Yes, because it  
15:43:01 7 had to do with kind of the triangulation of where  
15:43:04 8 everybody was, what we had been hearing from...

15:43:15 9 It would have been where this advice  
15:43:17 10 fit into where people's positions were at the  
15:43:20 11 moment, which was, up until that point, the  
15:43:21 12 government's position was, 'Well, we're looking at  
15:43:23 13 transition,' but nothing about changing the -- the  
15:43:26 14 decision.

15:43:28 15 Umm. I think Mr. Hudak's position,  
15:43:35 16 because we had been reading the clippings --

15:43:35 17 --- (Court reporter appeals.)

15:43:35 18 MR. LISUS: Mr. Hudak.

15:43:35 19 THE WITNESS: Mr. Hudak, because we had  
15:43:38 20 been receiving clippings from the Ministry, his  
15:43:41 21 position was more that this -- the whole industry  
15:43:43 22 should be privatized, and Ms. Horwath's position  
15:43:46 23 from the clippings was that SARP should be  
15:43:48 24 restored.

15:43:48 25 So that's where that all fit; kind of

15:43:49 1 in the political world, where -- where was  
15:43:51 2 everybody at that moment.

15:43:51 3 BY MR. LISUS:

15:43:52 4 1032 Q. You were getting the clippings?

15:43:53 5 A. Uh. Yeah. There was a service  
15:43:54 6 that was provided to us by OMAFRA. They had a...  
15:43:58 7 The secretariat did that.

15:44:01 8 1033 Q. And "us" being the Panel?

15:44:03 9 A. The Panel and -- yeah.

15:44:04 10 1034 Q. And you say here:

15:44:05 11 "The McGuinty government stood  
15:44:07 12 up to the bad actors in your  
15:44:09 13 business and said, 'Enough is  
15:44:10 14 enough.'"

15:44:10 15 A. Oh, yeah. There were many bad  
15:44:12 16 actors in the industry.

15:44:13 17 1035 Q. And your reference there is to  
15:44:15 18 racetrack operators, right?

15:44:17 19 A. Umm...

15:44:19 20 --- (Witness reviewing document.)

15:44:36 21 THE WITNESS: No. We... The majority  
15:44:37 22 of those bad actors would have been more on the --  
15:44:40 23 on the, uh, on the track side.

15:44:40 24 BY MR. LISUS:

15:44:41 25 1036 Q. Right. I mean, I asked



15:44:42

1

Mr. Snobelen whether the Panel or he was of the

15:44:46

2

view that the Standardbred breeders did anything

15:44:50

3

they weren't supposed to do and he said, 'No.'

15:44:52

4

Is that your opinion?

15:44:52

5

A. Yes. I would agree with that, as

15:44:54

6

well. Yeah.

15:44:54

7

1037

Q. And --

15:44:56

8

A. Some of the tracks we saw were,

15:44:57

9

for the amount of money that had gone, quite

15:45:00

10

shocking.

15:45:00

11

1038

Q. Okay. And I also asked

15:45:02

12

Mr. Snobelen, 'Did the Standardbred breeders not do

15:45:05

13

anything that they were -- that was asked of them?'

15:45:08

14

And he said, 'No, they did not do

15:45:10

15

anything that was asked of them.'

15:45:12

16

Do you agree with that?

15:45:13

17

A. Uh. Yes. Yeah. We felt that

15:45:16

18

they acted in good faith--

15:45:16

19

1039

Q. Right.

15:45:18

20

A. --other than they kept on saying

15:45:20

21

they were going to sue the government, which put us

15:45:22

22

in a very difficult position to deal with them

15:45:26

23

'cause three former Cabinet Ministers know you're

15:45:29

24

not supposed to talk to people.

15:45:29

25

When you're in government, you're not

15:45:29 1 to talk to people who start with, 'I'm going to sue  
15:45:31 2 the government.' You don't talk to them, and that  
15:45:36 3 always seemed to be the first thing that certain  
15:45:36 4 members of the breeders said at every meeting.

15:45:39 5 1040 Q. But you understand, sir, as you  
15:45:42 6 went through the process and looking at the  
15:45:44 7 comments in your draft report about having to kill  
15:45:47 8 horses and the impact, you can understand how hurt  
15:45:51 9 and traumatized--

15:45:51 10 A. Oh, yeah.

15:45:52 11 1041 Q. --these people were, right?

15:45:53 12 A. Yes. And I had great sympathy for  
15:45:57 13 them. I -- we did share with them that it's  
15:45:58 14 difficult for us, in our role. You know, we --  
15:46:01 15 with everybody that we met, we had really two  
15:46:04 16 things; (1), umm, there was no chair of the  
15:46:07 17 committee. There was the three panelists. You  
15:46:10 18 need talk to all three of us.

15:46:11 19 We thought that was very good to -- to  
15:46:13 20 depoliticize it or not allow people to think that  
15:46:16 21 there was a panelist for that was for them or their  
15:46:19 22 part of the industry, uh, so that was -- that was  
15:46:21 23 key.

15:46:23 24 Umm. And I just forgot my second  
15:46:25 25 point, but I'm sure it will come back to me.

15:46:26 1 1042 Q. The bad actors weren't the  
15:46:28 2 Standardbred breeders who were breeding horses on  
15:46:31 3 farms; correct?  
15:46:32 4 A. Yeah. What we said in our report  
15:46:34 5 was that, for the amount of money that had gone to  
15:46:36 6 the industry, it was shocking how much money had  
15:46:39 7 not been reinvested - excuse me - in the industry.  
15:46:43 8 1043 Q. Because it was staying up at the  
15:46:45 9 racetrack level?  
15:46:46 10 A. Well, I know that they got the 10.  
15:46:47 11 The question is how the -- how the 10 was invested.  
15:46:50 12 1044 Q. Okay. Now, I want to ask you  
15:46:52 13 about a comment that you made in this e-mail.  
15:46:52 14 A. Mm-hmm.  
15:46:54 15 1045 Q. You say that, second-last  
15:46:57 16 paragraph on the first page:  
15:46:59 17 "Politically, our report --"  
15:47:03 18 MR. RATCLIFFE: First page.  
15:47:05 19 THE WITNESS: Oh. Sorry.  
15:47:07 20 BY MR. LISUS:  
15:47:07 21 1046 Q. "Politically, our report will say  
15:47:07 22 the government was right to cancel the  
15:47:10 23 status quo."  
15:47:13 24 See that? Do you see that?  
15:47:13 25 A. Uh. Yes. That starts with

15:47:15 1 "politically"--

15:47:15 2 1047 Q. Right.

15:47:15 3 A. --because I've done the three

15:47:15 4 things I always do--

15:47:15 5 1048 Q. Correct.

15:47:17 6 A. --which is policy, funding,

15:47:18 7 politics.

15:47:19 8 1049 Q. And that is what your report

15:47:20 9 ultimately said, right?

15:47:22 10 A. Uh. Yes. It was... Yes.

15:47:24 11 1050 Q. Even though it was acknowledged to

15:47:26 12 be outside the mandate of the Panel; correct?

15:47:29 13 A. The... Umm. We were responding

15:47:34 14 to the many, many, many stakeholders said, 'The

15:47:38 15 simple way to solve this problem is just to restore

15:47:42 16 SARP.'

15:47:42 17 1051 Q. You said:

15:47:44 18 "SARP had become, over time,

15:47:45 19 bad public policy..."

15:47:45 20 A. Yes.

15:47:46 21 1052 Q. Correct?

15:47:46 22 A. Yeah.

15:47:47 23 1053 Q. So I understand that to be saying

15:47:49 24 that when it was initially set up in 1998, it

15:47:54 25 wasn't bad public policy; correct?

15:47:56 1 A. The policy objective was to try to  
15:48:01 2 have more slot machines and they couldn't do it in  
15:48:05 3 cities and, therefore -- as charity casinos, and so  
15:48:08 4 they had to end up making a deal with the horse  
15:48:12 5 racing industry which was suffering at the time.  
15:48:14 6 It -- it wasn't booming, to say the least.

15:48:16 7 They made that deal. And, uh, I don't  
15:48:18 8 know whether, at the time, people contemplated, a  
15:48:20 9 decade-and-a-half later, the amounts of money.

15:48:23 10 1054 Q. Well, the evidence is that they  
15:48:25 11 didn't contemplate how successful it would be in  
15:48:27 12 terms of generating revenue, right?

15:48:29 13 A. Yeah.

15:48:30 14 1055 Q. It exceeded forecasts; correct?

15:48:33 15 A. Yes. Mm-hmm.

15:48:34 16 1056 Q. Right. But your -- my question,  
15:48:36 17 sir - and that's helpful, thank you - is that you  
15:48:38 18 do say:

15:48:39 19 "SARP had become, over time,  
15:48:40 20 bad public policy..."

15:48:42 21 A. Yeah.

15:48:42 22 1057 Q. So I think we agreed that when it  
15:48:44 23 was initially implemented or set up in 1998, it was  
15:48:48 24 not bad public policy, right?

15:48:49 25 A. Umm. Yeah. That having SARP was

15:48:55 1 -- was not, uh, bad public policy.

15:48:57 2 Having a lack of transparency and

15:49:00 3 accountability; that was not --

15:49:00 4 1058 Q. So--

15:49:02 5 A. -- that was not good governance.

15:49:04 6 1059 Q. --when did it become bad public

15:49:06 7 policy?

15:49:07 8 A. Well, I -- I think when you ended

15:49:11 9 up having, you know, greater than half of the purse

15:49:15 10 that horses were running for coming from slots

15:49:18 11 instead of people who were actually betting on the

15:49:21 12 races.

15:49:21 13 1060 Q. But --

15:49:22 14 A. And so, over time, that's what

15:49:25 15 happened. And so, it deadened the market impulse

15:49:28 16 for the industry to care about their consumers as

15:49:31 17 opposed to the constituents.

15:49:32 18 1061 Q. The reason I ask you that,

15:49:34 19 Mr. Wilkinson, is this: There was nothing secret

15:49:36 20 about SARP. It was a public, reported on, referred

15:49:39 21 to--

15:49:40 22 A. Mm-hmm.

15:49:41 23 1062 Q. --program; correct?

15:49:42 24 A. Yeah.

15:49:42 25 1063 Q. Right. And it is referred to in

15:49:46 1 every Ontario budget, every year; correct?

15:49:49 2 A. I'm assuming so, yeah.

15:49:52 3 1064 Q. So it wasn't bad policy in 1998,  
15:49:59 4 as we have discussed, right?

15:50:00 5 A. Mm-hmm.

15:50:02 6 1065 Q. Yes?

15:50:02 7 A. Yes. Yeah.

15:50:04 8 1066 Q. It wasn't in 1999, right? Right?

15:50:09 9 A. But it was flawed because the  
15:50:11 10 accountability, transparency, focus on the  
15:50:16 11 consumer; all of the things that we said had never  
15:50:17 12 been there since '98 all the way through to 2012.

15:50:21 13 1067 Q. But every year, it's promoted and  
15:50:23 14 expanded?

15:50:23 15 A. Yeah. Well, as -- if slot  
15:50:26 16 revenues went up, then there would be more money  
15:50:29 17 going to the industry.

15:50:30 18 1068 Q. So my -- my question is, when did  
15:50:38 19 it become bad policy; what year?

15:50:48 20 A. Umm. It would have been -- my  
15:50:48 21 assumption would have been, as we looked at the  
15:50:50 22 material that was presented to us and we looked at,  
15:50:52 23 uh, metrics; for example, things about purses and  
15:50:56 24 that type of thing, uh, and the ratio between the  
15:51:00 25 -- the market signal, which would be people betting

15:51:03 1 on a race versus the amount of money that was  
15:51:06 2 coming from purses.

15:51:07 3 So somewhere during that period of  
15:51:08 4 time, the economic driver of the industry became,  
15:51:15 5 uh, the -- the, umm -- the..., the incentive for  
15:51:18 6 the industry to care about their ultimate consumer,  
15:51:21 7 which was the bettor, was deadened.

15:51:28 8 1069 Q. And you can't tell me when that  
15:51:28 9 happened?

15:51:28 10 A. Well, over what period of time?

15:51:29 11 1070 Q. What period of time?

15:51:29 12 A. From 1998 to 2012, what I -- what  
15:51:32 13 I recall is seeing that the percentage of -- of,  
15:51:37 14 uh, purses and the number of race days, uh, on  
15:51:42 15 races that no one would bet on because the races,  
15:51:45 16 themselves, were not competitive is -- was an  
15:51:47 17 indication that the -- the betting consumer did not  
15:51:53 18 find the product something that was worth betting  
15:51:56 19 on.

15:51:56 20 1071 Q. Before there were slots in  
15:51:57 21 racetracks, the government did not get any revenue  
15:52:00 22 from slot machines, right?

15:52:01 23 A. Would you say that again?

15:52:04 24 1072 Q. Before slots were introduced into  
15:52:06 25 racetracks, --



15:52:07 1 A. Yes.

15:52:07 2 1073 Q. --there wasn't any material

15:52:09 3 revenue stream to government from slot machines,

15:52:13 4 right?

15:52:13 5 A. Umm. I assume so, yeah.

15:52:16 6 1074 Q. It was a new revenue stream?

15:52:17 7 A. Oh, okay. Yeah. I wasn't around,

15:52:19 8 but yeah. It was -- it was new. Well, it was

15:52:21 9 expanded.

15:52:21 10 1075 Q. It was substantially expanded?

15:52:23 11 A. Minister Buchanan, who was my

15:52:29 12 colleague, had been around when they actually

15:52:31 13 brought in slot machines into Ontario.

15:52:32 14 1076 Q. Right.

15:52:33 15 A. It was subsequently, then, there

15:52:34 16 was this arrangement that was made with the horse

15:52:36 17 racing industry; that's right, so prior to that --

15:52:38 18 but there had been slots. That's why I --

15:52:41 19 1077 Q. There had been a few slots at

15:52:43 20 charity casinos and this kind of thing?

15:52:45 21 A. And I -- I don't know the numbers,

15:52:47 22 about "few" or anything,--

15:52:47 23 1078 Q. Okay.

15:52:48 24 A. --Mr. Lisus. I just know there

15:52:49 25 were slots.

15:52:49 1 1079 Q. And so the government got a lot of  
15:52:52 2 revenue from the slot machines that it didn't get  
15:52:58 3 before Slots at Racetrack Program, right?  
15:52:58 4 A. And if they had been able to get  
15:53:00 5 them down -- Downtown, they probably would have got  
15:53:00 6 even more money,--  
15:53:00 7 1080 Q. Right.  
15:53:02 8 A. --but, yes, they -- they started  
15:53:02 9 getting money.  
15:53:02 10 1081 Q. And lots of jobs were created and  
15:53:04 11 supported in rural Ontario, right?  
15:53:06 12 A. Yeah. Over time.  
15:53:06 13 1082 Q. Yeah.  
15:53:07 14 A. Yeah.  
15:53:08 15 1083 Q. And as you say in the report, it a  
15:53:12 16 win-win situation, right?  
15:53:15 17 A. At -- at the time --  
15:53:15 18 MR. RATCLIFFE: Which part of the  
15:53:16 19 report are you referring to; the interim?  
15:53:16 20 BY MR. LISUS:  
15:53:16 21 1084 Q. Well, don't you --  
15:53:18 22 MR. RATCLIFFE: The draft?  
15:53:19 23 BY MR. LISUS:  
15:53:20 24 1085 Q. Do you recall your report  
15:53:21 25 referring to a win-win in the slot machine or am I

15:53:25 1 mistaken?

15:53:25 2 A. Umm. I don't remember if we put

15:53:26 3 that in there. Umm.

15:53:27 4 --- (Court reporter appeals.)

15:53:28 5 THE WITNESS: Sorry. I'm -- I'm just

15:53:29 6 mumbling.

15:53:31 7 THE COURT REPORTER: Just repeat what

15:53:31 8 you said.

15:53:34 9 MR. RATCLIFFE: If you could just take

15:53:34 10 him to the statement that you referred to.

15:53:34 11 THE WITNESS: I don't remember -- so

15:53:36 12 I've -- yes. I just --

15:53:36 13 BY MR. LISUS:

15:53:36 14 1086 Q. Okay.

15:53:37 15 A. -- just need to see what you need

15:53:38 16 me to take a look at.

15:53:40 17 1087 Q. I might do that later. It

15:53:41 18 doesn't--

15:53:41 19 A. Okay.

15:53:41 20 1088 Q. --really matter.

15:53:43 21 A. Okay.

15:53:43 22 1089 Q. I was just trying to understand

15:53:45 23 when it became bad public policy.

15:53:47 24 And the best you can tell me is at some

15:53:50 25 point between '98 and 2012; fair.

15:53:53 1 A. That's right.

15:53:54 2 The market incentive in the industry

15:53:57 3 was deadened by the preponderance of money from the

15:54:01 4 slot machines.

15:54:02 5 That was our conclusion.

15:54:02 6 1090 Q. Okay. Now, what did Mr. Gene say

15:54:11 7 to you in response to this e-mail?

15:54:12 8 A. Umm. I don't recall. I -- I sent

15:54:17 9 off the -- I don't know if I was even expecting a

15:54:19 10 response. I just sent it to him. He had to deal

15:54:22 11 with it. But Michael asked me to send it and I

15:54:24 12 did.

15:54:24 13 1091 Q. And we see that Mr. Gene says to

15:54:27 14 Tim Shortill:

15:54:28 15 "We need to slow them down.

15:54:30 16 Talk Tuesday."

15:54:31 17 Do you see that?

15:54:31 18 A. Yeah. I -- I saw that on Thursday

15:54:33 19 when they showed me this.

15:54:34 20 I hadn't seen that before because that

15:54:36 21 wasn't my e-mail. Umm. I wasn't copied in between

15:54:38 22 Dave and -- and Tim, but, uh, yeah. Well, he says:

15:54:43 23 "I disagree with half of this

15:54:44 24 and agree with the other half."

15:54:45 25 So I don't know which half he agreed

15:54:47 1 with and which half he didn't, so we were -- but it  
15:54:49 2 did show that there was not agreement with Finance  
15:54:49 3 with our conclusions.

15:54:49 4 1092 Q. That there was...?

15:54:49 5 A. Not in -- there was -- there --  
15:54:56 6 Finance had not come to fully agree with the --  
15:54:59 7 our -- our -- our report that was coming.

15:55:02 8 1093 Q. Okay. And did he write back to  
15:55:06 9 you?

15:55:06 10 A. No. No. I don't remember  
15:55:12 11 correspondence with Tim, no.

15:55:18 12 MR. LISUS: The e-mail is the next  
15:55:20 13 exhibit.

15:55:20 14 MR. MATTHEWS: It's already been  
15:55:21 15 marked.

15:55:24 16 MR. RATCLIFFE: It's been marked.

15:55:24 17 MR. LISUS: All right.

15:55:24 18 MR. MATTHEWS: It's Exhibit 22.

15:55:24 19 BY MR. LISUS:

15:55:45 20 1094 Q. You were in Cabinet in 2009,  
15:55:47 21 right?

15:55:50 22 A. Yes.

15:56:10 23 1095 Q. When did you come into government?

15:56:12 24 A. I was elected in, uh, 2003, as I  
15:56:13 25 had mentioned. I was re-elected in 2007.

15:56:17 1 1096 Q. When did you go to Cabinet?

15:56:19 2 A. When I was re-elected in 2007, I

15:56:21 3 was called to Cabinet.

15:56:59 4 1097 Q. Tell me again when you went into

15:57:01 5 Cabinet first; '07?

15:57:03 6 A. '07, yes.

15:57:05 7 1098 Q. Were you in Cabinet in July 2007?

15:57:07 8 A. Umm... Depends on when the

15:57:11 9 election was.

15:57:12 10 If you could look up the date of the

15:57:13 11 2007 Provincial Election, I will tell you.

15:57:16 12 I can't -- I can't remember if it was

15:57:17 13 June or October. I think it was June. I can't...

15:57:22 14 I couldn't swear on that Bible for you,

15:57:24 15 Bonnie.

15:57:24 16 MR. MATTHEWS: Hmm. October.

15:57:35 17 THE WITNESS: It was October? Yeah.

15:57:36 18 So I wasn't in Cabinet --

15:57:38 19 MR. MATTHEWS: October 10th, 2007.

15:57:38 20 THE WITNESS: Yeah. So I wasn't in

15:57:38 21 Cabinet then.

15:57:38 22 BY MR. LISUS:

15:57:41 23 1099 Q. What is a Standing Committee on

15:57:41 24 Government Agencies?

15:57:45 25 A. Well, the Legislature has, uh, a

15:57:47 1 committee structure. The Committee, umm, the  
15:57:52 2 Standing Committee is a -- is a kind of permanent  
15:57:59 3 committee of the Legislature. And the Legislature  
15:58:04 4 could always change it as opposed to a Select  
15:58:06 5 Committee.

15:58:06 6 So the Standing Committee is -- is,  
15:58:11 7 umm, yeah.

15:58:12 8 And it would review... Sometimes --  
15:58:14 9 that may be the committee that's referred to as  
15:58:17 10 "ABC", Appointment Boards and Commissions, but,  
15:58:19 11 uh... Yeah.

15:58:20 12 1100 Q. So I want to ask you about a  
15:58:22 13 Standing Committee on Government Agencies Report on  
15:58:27 14 the Ontario Racing Commission, dated November 2009.

15:58:34 15 You were in Cabinet then?

15:58:36 16 A. Okay. So we're in '07 or...?

15:58:38 17 1101 Q. No. 2009, November 2009.

15:58:41 18 A. In 2009...

15:58:41 19 1102 Q. You were in Cabinet?

15:58:43 20 A. Oh, yes. I was in Cabinet then.

15:58:44 21 1103 Q. You were Minister of what?

15:58:46 22 A. Well, it was most likely Minister  
15:58:49 23 of Revenue.

15:58:50 24 1104 Q. Okay. What was --

15:58:50 25 A. I had three, so...

15:58:51 1 1105 Q. Ministry of Revenue was rolled  
15:58:54 2 into Finance?

15:58:54 3 A. Well, actually, every so often,  
15:58:56 4 Revenue is taken out of Finance as a separate  
15:58:58 5 Ministry, and then rolled back and forth.

15:59:00 6 1106 Q. So what were the responsibilities  
15:59:02 7 of the Minister of Revenue?

15:59:03 8 A. Uh. At the time?

15:59:03 9 1107 Q. 2009.

15:59:04 10 A. I -- I was the lead on -- on the  
15:59:07 11 successful implementation of the HST and  
15:59:10 12 accompanying tax reform.

15:59:10 13 1108 Q. Okay.

15:59:13 14 A. That was my job.

15:59:13 15 1109 Q. Did it have anything --

15:59:13 16 A. It was kind of a full-time job.

15:59:14 17 1110 Q. Did the Ministry of Revenue have  
15:59:18 18 anything to do with revenue from Slots at  
15:59:23 19 Racetrack?

15:59:23 20 A. Uh. No. I don't ever remember,  
15:59:27 21 umm, Slots at Racetrack...

15:59:28 22 My focus beyond having this large  
15:59:31 23 responsibility was things around, umm, we had  
15:59:36 24 already harmonized our corporate tax, uh, so it was  
15:59:39 25 tobacco; that type of stuff.



15:59:41 1 1111 Q. Any gaming revenue under the  
15:59:44 2 auspices of the Ministry of Revenue?  
15:59:45 3 A. I had the, umm... I'm not sure  
15:59:52 4 how that was -- I -- split between me and Minister  
15:59:58 5 Duncan.  
15:59:59 6 I know my job was to focus on the HST  
16:00:02 7 issue.  
16:00:02 8 1112 Q. Okay. So I want to just show you  
16:00:09 9 this.  
16:00:31 10 A. Sure.  
16:00:31 11 1113 Q. It appears that the report is  
16:00:37 12 actually for the 1st Session, 39th Parliament,--  
16:00:37 13 A. Mm-hmm.  
16:00:44 14 1114 Q. --December 2007.  
16:00:47 15 Do you see that?  
16:00:48 16 A. No.  
16:00:49 17 MR. RATCLIFFE: What page is that on?  
16:00:51 18 MR. LISUS: First page.  
16:00:53 19 MR. RATCLIFFE: 653--  
16:00:57 20 MR. LISUS: Yeah.  
16:00:58 21 MR. RATCLIFFE: --at the top right-hand  
16:00:58 22 corner?  
16:00:58 23 BY MR. LISUS:  
16:01:00 24 1115 Q. This is SB 0902.  
16:01:04 25 But there's a cover letter that's from

16:01:07 1 Ernie Hardeman to the Speaker of the Legislative  
16:01:13 2 Assembly, saying your Standing Committee on  
16:01:16 3 Government Agencies has the honour to present its  
16:01:17 4 report and commends it to the House.

16:01:19 5 A. Yeah. Mm-hmm.

16:01:21 6 1116 Q. Okay. And I want you just to  
16:01:23 7 look... This is a report on the Ontario Racing  
16:01:25 8 Commission?

16:01:25 9 A. Right, which would have been  
16:01:27 10 required probably by law,--

16:01:29 11 1117 Q. Okay.

16:01:30 12 A. --the review.

16:01:34 13 And there are some Standing Committees  
16:01:36 14 that are chaired by the opposition, and I'm  
16:01:38 15 assuming Mr. Hardeman -- yeah.

16:01:40 16 1118 Q. And it gives -- the Committee  
16:01:42 17 gives a list of Committee recommendations at the  
16:01:45 18 back.

16:01:53 19 MR. RATCLIFFE: Which page?

16:01:53 20 MR. LISUS: Page 19 of the report.

16:01:53 21 THE WITNESS: ...page 19, okay.

16:01:53 22 The problem is, it doesn't... Those  
16:01:58 23 page numbers are off of this, so I'm just flipping  
16:01:59 24 through. Let me work backwards.

16:02:00 25 MR. RATCLIFFE: Do you have a number in

16:02:02 1 the top right-hand corner?

16:02:04 2 MR. LISUS: 678.

16:02:07 3 THE WITNESS: Oh, okay. That helps.

16:02:07 4 Thanks. Sure.

16:02:07 5 BY MR. LISUS:

16:02:08 6 1119 Q. And do you see, in the middle of

16:02:09 7 the page:

16:02:10 8 "All racetracks participating

16:02:12 9 in the Slots Program should be

16:02:13 10 required to provide live horse

16:02:16 11 racing, given that they are

16:02:20 12 complementary and inseparable

16:02:21 13 entertainment venues, and

16:02:23 14 acknowledged to be mutually

16:02:25 15 dependent."

16:02:26 16 Do you see that?

16:02:27 17 A. Yes.

16:02:27 18 1120 Q. Are you aware, and I will read the

16:02:30 19 rest:

16:02:31 20 "In the event that a facility

16:02:32 21 is not in the position to offer

16:02:34 22 horse racing, the Minister should

16:02:36 23 review the Prescribed Lottery Scheme

16:02:40 24 Site Holder Facilities Agreement and

16:02:42 25 decide on the racetrack's gaming

16:02:44 1 option(s)."

16:02:46 2 Correct?

16:02:46 3 A. That's their recommendation to the

16:02:48 4 Minister.

16:02:48 5 1121 Q. Yeah.

16:02:48 6 A. I...

16:02:49 7 1122 Q. And which Minister would that be;

16:02:51 8 Finance, in 2007, or Revenue?

16:02:53 9 A. No. It looks like... My reading

16:02:55 10 would be, if you look to Point 1, it was actually

16:02:58 11 the Ministry of Energy and Infrastructure that had

16:03:02 12 scope over the Ontario Racing Commission.

16:03:03 13 It had moved around to many, many

16:03:06 14 Ministries over the years. Also, I think in

16:03:08 15 hindsight, an issue on -- on oversight. We made

16:03:11 16 a -- we made a comment about that. I did.

16:03:13 17 1123 Q. And what you're telling me, if I'm

16:03:15 18 understanding you, Mr. Wilkinson, is the fact that

16:03:19 19 Ontario Racing Commission and then, I presume,

16:03:22 20 oversight for the Slots at Racetrack Program had

16:03:26 21 moved or bounced around amongst Ministries.

16:03:29 22 Is that right?

16:03:30 23 A. Uh. Yeah. We didn't -- one of

16:03:32 24 the things we noticed is, there had not been a

16:03:35 25 consistent Ministry, umm, which would allow them,

16:03:38 1 in our -- in our opinion - so when this became an  
16:03:43 2 issue - to have the depth --

16:03:44 3 --- (Court reporter appeals.)

16:03:44 4 MR. LISUS: When this became an issue.

16:03:45 5 THE WITNESS: When this became an

16:03:47 6 issue, that they had the -- the depth to -- to,

16:03:50 7 umm, to review it. Hmm.

16:03:50 8 BY MR. LISUS:

16:03:54 9 1124 Q. And so, the fact that it moved  
16:03:55 10 from Ministry to Ministry without the continuity  
16:04:01 11 that would give rise to depth was one of the  
16:04:04 12 factors that you believed gave rise to the program  
16:04:10 13 evolving into poor public policy and no one really  
16:04:13 14 noticing.

16:04:14 15 Is that fair to say?

16:04:15 16 A. Yes. I think what we wrote in  
16:04:21 17 our, umm, report is that the analysis that had been  
16:04:27 18 done, uh, was the same type of analysis that would  
16:04:30 19 have been done for any industry - some of the ones  
16:04:32 20 you mentioned; automotive, aerospace - and, you  
16:04:35 21 know, I came to the conclusion that the economic  
16:04:37 22 driver of horse racing was different; that for  
16:04:40 23 business - I'm a businessman - it is a profit  
16:04:45 24 motive. That's what drives decisions; making a  
16:04:48 25 profit, avoiding losses, maximizing return.

16:04:52 1 In the gaming world, but particularly  
16:04:54 2 in the horse racing world, it's driven by hope,  
16:04:57 3 right. It's not driven by rational profit margin.

16:05:01 4 So when you take a look at an industry  
16:05:03 5 like that and examine it in good faith using that  
16:05:06 6 mindset, umm, you have -- you know, I think what  
16:05:08 7 happened is, you kind of miss -- you don't get the  
16:05:10 8 analysis right.

16:05:11 9 So it doesn't matter how many people  
16:05:13 10 analyze it, looking at the -- the raw data because  
16:05:16 11 when I looked at the data, it didn't strike me, as  
16:05:18 12 a businessperson, to be rational whatsoever until I  
16:05:23 13 realized what is driving it is -- is the same thing  
16:05:26 14 that drives any gambling, which is hope.

16:05:28 15 1125 Q. But you've not talking about  
16:05:30 16 Ministry of Finance officials and bureaucrats.  
16:05:30 17 They weren't driven by hope, right?

16:05:36 18 You're talking about industry  
16:05:40 19 participants.

16:05:40 20 A. Yes, yeah.

16:05:40 21 What I'm saying is, the analysis that  
16:05:40 22 we saw that we came to the conclusion was flawed  
16:05:44 23 was not -- the analytical methodology seemed to be  
16:05:48 24 -- seemed to be standard and -- and, uh, well done.

16:05:48 25 But it struck us afterwards that it was

16:05:51 1 inappropriate because it didn't understand the  
16:05:54 2 difference between a -- a hope-based business where  
16:05:59 3 people are not making money - only a few make money  
16:06:04 4 - as opposed to reviewing it like you would for a  
16:06:06 5 business.

16:06:07 6 1126 Q. Well, do you see where this--

16:06:09 7 A. Yeah.

16:06:09 8 1127 Q. --report says that there's two  
16:06:13 9 complementary and inseparable entertainment venues  
16:06:18 10 in the racetracks; correct?

16:06:19 11 A. Uh. Yes. That was...

16:06:20 12 1128 Q. Right.

16:06:22 13 There's a lottery, prescribed lottery  
16:06:26 14 scheme which is the lottery business run by OLG,  
16:06:29 15 right?

16:06:29 16 A. Mm-hmm.

16:06:29 17 1129 Q. Yes?

16:06:30 18 A. Uh. Yeah. That's what they mean.

16:06:32 19 I -- I--

16:06:32 20 1130 Q. Yes.

16:06:32 21 A. --would disagree with that,  
16:06:33 22 actually, but yes.

16:06:33 23 1131 Q. You would disagree with what?

16:06:35 24 A. I would disagree.

16:06:36 25 In my own opinion, after going through

16:06:39 1 this process, I would not say that they're  
16:06:40 2 complementary and inseparable because the two  
16:06:44 3 bettors are different bettors.

16:06:46 4 1132 Q. In 2009, the position of the  
16:06:49 5 government was that they were complementary and  
16:06:52 6 inseparable?

16:06:52 7 A. No. A Standing Committee made up  
16:06:55 8 of all parties wrote a report that was given to the  
16:06:58 9 Speaker, not to the government.

16:06:59 10 1133 Q. Okay. Let me try it this way.

16:07:01 11 A. So that --

16:07:02 12 1134 Q. There was a business inside  
16:07:02 13 racetracks.

16:07:03 14 MR. RATCLIFFE: He --

16:07:04 15 BY MR. LISUS:

16:07:06 16 1135 Q. There was a lottery machine  
16:07:08 17 business inside racetracks, right; slot machines?

16:07:08 18 A. There's a slot machine business  
16:07:11 19 inside racetracks.

16:07:11 20 1136 Q. And it's called a Prescribed  
16:07:14 21 Lottery Scheme; correct?

16:07:15 22 A. Umm...

16:07:15 23 1137 Q. That's what it's called.

16:07:15 24 A. Okay.

16:07:15 25 1138 Q. Okay?



16:07:15 1 A. I will agree with you. You're a  
16:07:17 2 lawyer.  
16:07:17 3 1139 Q. That business made money. It was  
16:07:19 4 profitable for the Ontario Lottery Gaming  
16:07:23 5 Corporation; correct?  
16:07:23 6 A. Yes.  
16:07:24 7 1140 Q. It was profitable for racetracks;  
16:07:27 8 correct?  
16:07:27 9 A. Yes.  
16:07:30 10 1141 Q. And it was also profitable for the  
16:07:33 11 horse racing industry, right?  
16:07:35 12 A. It improved the odds that people  
16:07:39 13 in the industry would make money, though most did  
16:07:42 14 not because that's the nature of ra- -- there's no  
16:07:45 15 guarantee when you breed a horse, raise a horse,  
16:07:49 16 train a horse, run a horse, that you're actually  
16:07:51 17 going to make money. That's not the reality, sir.  
16:07:54 18 But it improved the likelihood that  
16:07:55 19 they would make money.  
16:07:56 20 1142 Q. When they cancelled the revenue  
16:07:59 21 share from the Slots at--  
16:07:59 22 A. Okay. Then it's --  
16:08:01 23 1143 Q. --Racetrack Program, the horse  
16:08:02 24 racing industry lost a lot of money, right?  
16:08:05 25 A. When they cancelled it, if they

16:08:07 1 had not replaced at least some of the money, the  
16:08:10 2 industry would have collapsed.

16:08:12 3 That's our conclusion.

16:08:13 4 1144 Q. Right. And the industry would  
16:08:14 5 have collapsed because it would have lost a lot of  
16:08:16 6 money?

16:08:16 7 A. Yes, and it would have been the  
16:08:18 8 track owners who would never be able to get their  
16:08:21 9 shareholders to agree to continue.

16:08:22 10 1145 Q. And we saw, in our discussion with  
16:08:24 11 Mr. Snobelen, that the yearling sales in September  
16:08:27 12 2012 were some 50 per cent less the value of --

16:08:32 13 MR. ROSENBERG: That's not his  
16:08:34 14 evidence, Mr. Lisus.

16:08:34 15 MR. LISUS: Pardon?

16:08:35 16 MR. ROSENBERG: That's not his evidence  
16:08:35 17 or the evidence that you put to him at Exhibit 42.

16:08:59 18 Page 4 on the...

16:08:59 19 --- (Court reporter appeals.)

16:09:00 20 MR. RATCLIFFE: Page 4 of Exhibit 42,  
16:09:02 21 was it?

16:09:04 22 MR. ROSENBERG: Correct.

16:09:21 23 MR. LISUS: You are right.

16:09:25 24 It was 54 per cent less than the year  
16:09:28 25 before.

16:09:28 1 Thank you, Mr. Rosenberg.

16:09:36 2 BY MR. LISUS:

16:09:36 3 1146 Q. You know that, sir?

16:09:37 4 The total value of the 2012

16:09:39 5 Standardbred sale was 56 per cent of the 2011 sale.

16:09:43 6 You're aware of that?

16:09:43 7 MR. ROSENBERG: That's not what you

16:09:44 8 said, Mr. Lisus. You are talking about prices.

16:09:44 9 The chart --

16:09:44 10 MR. LISUS: I didn't say anything about

16:09:54 11 prices. I said "the value".

16:09:54 12 MR. ROSENBERG: The transcript will

16:09:56 13 show what it shows.

16:09:59 14 BY MR. LISUS:

16:09:59 15 1147 Q. Are you with me, Mr. Wilkinson?

16:10:01 16 A. I know nothing about it.

16:10:01 17 1148 Q. Do you know -- did you know in

16:10:03 18 September 2012 that the total value of the 2012

16:10:06 19 sale was 46 per cent of the 2011 sale?

16:10:10 20 A. What I knew was that the--

16:10:12 21 1149 Q. Just tell me 'yes' or 'no'.

16:10:14 22 A. --sales were down.

16:10:15 23 1150 Q. Did you know that?

16:10:16 24 A. I knew they were down.

16:10:18 25 1151 Q. Okay. Did you know they were down

16:10:20 1 54 per cent?

16:10:20 2 A. No, but I knew they were down a

16:10:22 3 lot.

16:10:22 4 1152 Q. All right. Did you know that the

16:10:23 5 average price was 60 per cent of that received in

16:10:26 6 2011?

16:10:28 7 A. Uh. I knew it was down a lot.

16:10:30 8 1153 Q. Okay.

16:10:30 9 A. That's all I knew.

16:10:31 10 1154 Q. Did you know that the volume was

16:10:33 11 down 81 per cent from 2011 to 2012?

16:10:37 12 A. That -- that -- that first sale,

16:10:40 13 the one in... Where was that sale? I think

16:10:40 14 there's three in a cycle.

16:10:46 15 1155 Q. September 15th and 16.

16:10:48 16 A. But what's the name of the sale?

16:10:49 17 There's three.

16:10:51 18 1156 Q. Standardbred 2012 Canadian

16:10:52 19 yearling sale.

16:10:54 20 A. Yeah. I know there's three

16:10:55 21 locations, so I do recall that that first sale was

16:10:58 22 -- was down. I think there was some... I think

16:11:01 23 there were some things that we were able to share

16:11:04 24 with the public about the HIP program.

16:11:06 25 I believe it wasn't as bad the

16:11:13 1 subsequent sales, but I agree with you, that they  
16:11:13 2 were down.  
16:11:13 3 THE COURT REPORTER: "...it wasn't as  
16:11:13 4 bad..."?  
16:11:13 5 THE WITNESS: ...for the subsequent  
16:11:14 6 sales that were held in other locations.  
16:11:15 7 I think one of them was in Ohio or  
16:11:17 8 something.  
16:11:18 9 MR. LISUS: "...but I agree with you,  
16:11:19 10 that they were down," he said.  
16:11:20 11 THE WITNESS: Oh, yeah.  
16:11:23 12 BY MR. LISUS:  
16:11:23 13 1157 Q. Okay. So, we can agree that once  
16:11:25 14 the decision was made, there was an immediate  
16:11:29 15 impact on the value of yearlings.  
16:11:32 16 I think we already discussed that,  
16:11:35 17 right?  
16:11:35 18 A. Umm. Yeah. Yeah. Horses...  
16:11:38 19 Yeah. It didn't become crystallized until they  
16:11:41 20 actually had their annual sale.  
16:11:45 21 There was concern about that. They  
16:11:46 22 shared that with us. We believed them,--  
16:11:46 23 1158 Q. Okay.  
16:11:48 24 A. --of why they thought it would go  
16:11:49 25 down.

16:11:49 1 1159 Q. Okay.

16:11:50 2 A. And I remember that it was down.

16:11:52 3 1160 Q. Right.

16:11:54 4 MR. LISUS: I'm going to mark the

16:11:56 5 Standing Committee Report, SB 902, as the next

16:12:13 6 exhibit.

16:12:13 7 MR. MATTHEWS: Exhibit 23.

16:12:14 8 ---EXHIBIT NO. 23: Standing Committee

16:12:14 9 on Government Agencies, Report on Agencies, Boards

16:12:14 10 and Commissions, Ontario Racing Commission; Doc ID

16:12:14 11 Number SB 902.

16:12:19 12 BY MR. LISUS:

16:13:27 13 1161 Q. Now, you released the Horse Racing

16:13:31 14 Industry Transition Panel Interim Report on August

16:13:34 15 17, right?

16:13:35 16 A. Yeah. That's what I recall.

16:13:35 17 1162 Q. And I'll give you a copy of it.

16:13:37 18 MR. LISUS: And let's mark it as an

16:13:37 19 exhibit, please. Oh. It might be. It's an

16:13:38 20 exhibit on Snobelen, eh?

16:13:40 21 MR. RATCLIFFE: It is, but I had extra

16:13:42 22 copies made, so if you...

16:13:42 23 BY MR. LISUS:

16:14:26 24 1163 Q. Now, the Interim Report obviously

16:14:28 25 expressed the opinions of the Panel; correct?

16:14:30 1 A. Yes. Yeah.

16:15:17 2 1164 Q. And if I look at page 8, in the  
16:15:20 3 middle, under the heading "Jobs"...

16:15:23 4 A. Mm-hmm.

16:15:23 5 1165 Q. Yes?

16:15:24 6 A. Oh. Page...

16:15:25 7 1166 Q. Page 8?

16:15:26 8 A. Oh. I don't -- I don't see 8. I  
16:15:28 9 have 7 and I have 9.

16:15:30 10 MR. RATCLIFFE: Oh.

16:15:31 11 THE WITNESS: Oh. There it is. Okay.  
16:15:32 12 It was just put in backwards.

16:15:34 13 MR. RATCLIFFE: They put that one  
16:15:34 14 page--

16:15:34 15 THE WITNESS: Great.

16:15:35 16 MR. RATCLIFFE: --in backwards.

16:15:37 17 THE WITNESS: Oh. I am paying  
16:15:37 18 attention. Yes, okay. So "Jobs".  
16:15:40 19 Where would you...?

16:15:42 20 BY MR. LISUS:

16:15:42 21 1167 Q. The bottom of the first paragraph:  
16:15:43 22 "...the Panel feels comfortable  
16:15:46 23 with a range of 20- to 30,000  
16:15:50 24 full-time equivalents as the  
16:15:52 25 estimated employment impact on

16:15:54 1 Ontario horse racing." [As read.]

16:15:55 2 Right?

16:15:55 3 A. Yes, because that number had been

16:15:57 4 contentious and so we -- we offered an opinion.

16:15:59 5 1168 Q. Okay.

16:16:00 6 A. Yeah.

16:16:00 7 1169 Q. And that's full-time equivalents?

16:16:04 8 A. Yes. FTE.

16:16:04 9 1170 Q. All right.

16:16:08 10 A. That's right.

16:16:08 11 1171 Q. The estimate of Finance, when it

16:16:13 12 made the decision a few months before, was 5,000?

16:16:17 13 A. Yeah. Between -- I think between,

16:16:19 14 like, 3,500 and 5,600, if I recall; somewhere in

16:16:22 15 there.

16:16:22 16 1172 Q. Okay.

16:16:23 17 A. Yeah.

16:16:23 18 1173 Q. How did it get it so wrong? Do

16:16:27 19 you know?

16:16:27 20 A. The, umm... Oh. Because -- no.

16:16:34 21 Hang on. Just give me one second.

16:16:52 22 Yeah. What we said in the report is

16:16:53 23 that there seems -- particularly when it comes to

16:16:55 24 multiplier effects, uh, induced and indirect jobs,

16:16:58 25 uh, you use a factor.



16:17:02 1 Economists, of course, never agree on  
16:17:05 2 anything. They use different factors, so we felt  
16:17:08 3 -- we put that in there because we felt that we  
16:17:09 4 should, as a panel, umm, take a position as to what  
16:17:11 5 the impact was.

16:17:12 6 1174 Q. That wasn't my question.

16:17:14 7 A. Yeah.

16:17:14 8 1175 Q. My question was that you concluded  
16:17:18 9 that there were 20- to 30,000 full-time  
16:17:23 10 equivalents; correct?

16:17:23 11 A. We didn't conclude; we just felt  
16:17:26 12 comfortable -- yes. Yeah. So we felt comfort with  
16:17:33 13 a range.

16:17:33 14 1176 Q. ...of 20- to 30,000 --

16:17:35 15 A. ...of 20- to 30,000 FTEs, which  
16:17:40 16 again is a huge range, but, you know, that's how  
16:17:43 17 much it was art and not science.

16:17:44 18 1177 Q. The Ministry of Finance, when it  
16:17:47 19 made the decision to cancel the revenue share,  
16:17:49 20 thought that there was about 5,000 full-time  
16:17:52 21 equivalents, right?

16:17:53 22 A. Yeah, because they assumed that,  
16:17:55 23 umm, the big tracks would stay open. The tracks  
16:17:58 24 would stay open. They didn't say that all tracks  
16:18:00 25 would close.

16:18:01 1 We had come to that conclusion, that  
16:18:02 2 that was the result of status quo; 50,000  
16:18:05 3 transition, you end up with complete closure of the  
16:18:09 4 industry.

16:18:10 5 1178 Q. Is the assumption that the big  
16:18:23 6 tracks remaining open the only reason for the  
16:18:23 7 difference between Finance's estimate and your  
16:18:25 8 conclusion?

16:18:26 9 A. Each report we saw used a  
16:18:29 10 different economic multiplier.

16:18:32 11 I'm not an economist. All I had was  
16:18:34 12 the information that showed a range, which is what  
16:18:36 13 we reported.

16:18:37 14 1179 Q. So you can't really tell me why  
16:18:40 15 your range was four to five times higher than the  
16:18:43 16 government estimate.

16:18:44 17 If you can't, that's fine and I will  
16:18:45 18 move on. I am just trying to understand why  
16:18:47 19 there's such a big difference. If you can't tell  
16:18:50 20 me, that's fine.

16:18:51 21 A. Our assumption was the consequence  
16:18:54 22 of collapse.

16:18:54 23 1180 Q. Okay.

16:18:55 24 A. Yeah.

16:18:56 25 1181 Q. But collapse doesn't answer the

16:19:06 1 question of how many jobs are in the industry, does  
16:19:08 2 it?

16:19:08 3 A. Well, see, and -- and that's one  
16:19:09 4 of the problems.

16:19:10 5 That -- that again is, one would think  
16:19:13 6 because, from a public policy point of view, the  
16:19:15 7 amount of money involved, billions of dollars, it  
16:19:18 8 would behoove any government to actually be  
16:19:21 9 tracking that data, and we said that was not  
16:19:25 10 happening.

16:19:26 11 It didn't happen when it was created.  
16:19:28 12 It didn't happen when it was continued. That was  
16:19:28 13 just the status quo that we uncovered and that was  
16:19:28 14 something that needed to be addressed.

16:19:34 15 I believe we made a recommendation to  
16:19:36 16 consolidate the oversight into a stable  
16:19:40 17 organization with a stable kind of Ministry that  
16:19:43 18 was responsible, and to get this economic data and  
16:19:46 19 get it sorted out.

16:19:47 20 1182 Q. Right.

16:19:48 21 A. Uh. Not just to oppose or opine  
16:19:48 22 on different economic formula, Mr. Lisus, but it's  
16:19:48 23 to say that it wasn't there consistently.

16:20:01 24 It's not that it wasn't there, but it  
16:20:02 25 -- but it was inconsistent.

16:20:02 1 1183 Q. And, as you say, it behooved the  
16:20:04 2 government because of the huge amount of money  
16:20:08 3 involved, right?

16:20:08 4 A. Well, just from a public policy  
16:20:10 5 point of view, absolutely, yeah.

16:20:10 6 1184 Q. And the number of people's lives  
16:20:12 7 that were impacted by the program and its  
16:20:14 8 cancellation was another reason why it behooved the  
16:20:17 9 government, right?

16:20:18 10 A. Especially if -- if the government  
16:20:20 11 made a decision not understanding how many people  
16:20:22 12 were involved, and that would be what we found.

16:20:24 13 1185 Q. Right. And not only not  
16:20:27 14 understanding how many people were involved, but  
16:20:29 15 the different kinds of impacts, including loss of  
16:20:35 16 the investment in a horse, the value of the  
16:20:40 17 investment in a horse; correct?

16:20:41 18 A. From the breeders' perspective,  
16:20:43 19 yes.

16:20:43 20 1186 Q. The trauma of many thousands of  
16:20:47 21 euthanizations, right?

16:20:48 22 A. Yes. If that had happened, it  
16:20:50 23 would have been very traumatic.

16:20:52 24 1187 Q. Right. The loss of investments in  
16:20:56 25 breeding facilities which were overbuilt for the

16:21:00 1 market as a result of the cancellation, right?

16:21:03 2 A. Yeah. Yes. It was an  
16:21:04 3 underpinning of the decision to expand that people  
16:21:07 4 made and... Yeah.

16:21:08 5 1188 Q. Which was a reasonable one to make  
16:21:10 6 when they made it?

16:21:13 7 O/B MR. ROSENBERG: Object. How is he  
16:21:15 8 supposed to comment on that?

16:21:17 9 BY MR. LISUS:

16:21:17 10 1189 Q. Have the question again? Do you  
16:21:18 11 the remember the question?

16:21:18 12 A. Yeah. Just ask the question  
16:21:25 13 again. Sure.

16:21:26 14 1190 Q. Yeah. That the -- just as  
16:21:27 15 racetracks made investments in building out their  
16:21:30 16 facilities for slots, so did breeders make  
16:21:32 17 investments in building out their breeding  
16:21:34 18 facilities; correct?

16:21:35 19 A. Yes, 'cause it was -- it was  
16:21:36 20 driven by the sources of revenue, a large one --  
16:21:38 21 the largest one being slots, yeah.

16:21:40 22 1191 Q. A sensible investment, at the  
16:21:41 23 time, to make?

16:21:42 24 A. Well, anything in horse racing is  
16:21:44 25 not, in my opinion, a sensible investment, but it's

16:21:47 1 a reasonable investment for someone who wants to  
16:21:52 2 participate in, basically, a gaming operation.  
16:21:54 3 1192 Q. Right.  
16:21:55 4 A. Yeah.  
16:21:55 5 1193 Q. And, as you point out in your  
16:21:58 6 Interim Report, the, umm --  
16:22:03 7 MR. RATCLIFFE: What page are you  
16:22:04 8 referring to?  
16:22:06 9 MR. LISUS: 9.  
16:22:07 10 THE WITNESS: Oh. I have to go back,  
16:22:09 11 then, right, to 9? Great.  
16:22:09 12 MR. ROSENBERG: Sorry. When you say  
16:22:10 13 "Interim Report", are you talking about the July  
16:22:13 14 draft?  
16:22:13 15 MR. LISUS: No.  
16:22:14 16 THE WITNESS: No. This is the August.  
16:22:16 17 MR. ROSENBERG: August.  
16:22:17 18 THE WITNESS: Right.  
16:22:18 19 MR. ROSENBERG: Thank you.  
16:22:19 20 MR. RATCLIFFE: Do you have a copy of  
16:22:21 21 it? I have an extra one.  
16:22:22 22 MR. ROSENBERG: I do. Thank you.  
16:22:24 23 BY MR. LISUS:  
16:22:25 24 1194 Q. We see the production cycle?  
16:22:27 25 A. Mm-hmm.

16:22:28 1 1195 Q. Yes?

16:22:28 2 A. Yes.

16:22:29 3 1196 Q. And we see that the -- you

16:22:30 4 concluded that there was a four- to five-year

16:22:32 5 production cycle, right?

16:22:33 6 A. Uh. Yes.

16:22:35 7 1197 Q. And the breeding sector produces a

16:22:37 8 significant revenue streams -- stream with horse

16:22:41 9 sales and stud fees, right?

16:22:44 10 A. Uh. Yeah. Just...

16:22:50 11 --- (Witness reviewing document.)

16:22:51 12 THE WITNESS: Okay. Right.

16:22:53 13 MR. RATCLIFFE: Just -- well, read the

16:22:54 14 whole paragraph.

16:22:55 15 THE WITNESS: Yeah. Okay. The

16:22:56 16 breeding 'cause I know you're -- you want to talk

16:22:58 17 about the breeding... Okay.

16:23:00 18 --- (Witness reviewing document.)

16:23:01 19 BY MR. LISUS:

16:23:01 20 1198 Q. Okay?

16:23:02 21 A. Uh. Yes. The breeding sector;

16:23:04 22 its economic percentage of its economic activity,

16:23:08 23 yeah.

16:23:12 24 Yeah. Then we talked about--

16:23:14 25 BY MR. LISUS:

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1199 Q. And then --

A. --cancellation; what that would mean, yeah.

1200 Q. Yeah. And there's a section there:

"In addition to the horses that started racing in 2012, breeders and owners now have a sizeable investment in pregnant mares and young horses on the farm."

Can you just explain to me what that means, and the bullet points?

A. Well, yeah. The -- the -- as we said before, the gestation period a horse is 11 months.

Horses are bred so that they, uh, have an age upon which they race with other horses the same age.

But a one-year-old can be anywhere from one year and 11 months, but it's a one-year-old, so they understand that.

They bred accordingly, and with an 11-month gestation, umm, they -- and this -- you know, so the announcement was made some time February-March, and -- the end of March, and now



16:24:18 1 we're writing in --

16:24:18 2 --- (Court reporter appeals.)

16:24:18 3 BY MR. LISUS:

16:24:18 4 1201 Q. ...the end of March, and now we're

16:24:18 5 writing in...?

16:24:19 6 A. Yeah. Uh. And then, we're

16:24:21 7 writing in August to say, 'Okay. One of the things

16:24:23 8 you have to understand here, people, and

16:24:25 9 government, Minister, is that there are -- there

16:24:30 10 are, uh, there are more than just horses alive;

16:24:32 11 there are horses yet to be born who had been bred.'

16:24:36 12 1202 Q. Horses in the pipeline?

16:24:39 13 A. Well, I -- I guess you could say

16:24:40 14 that, yeah.

16:24:40 15 1203 Q. Yeah.

16:24:40 16 A. Maybe that's what we said.

16:24:41 17 1204 Q. And what is the significance of

16:24:46 18 telling this to government in the way you're

16:24:49 19 setting it out?

16:24:51 20 A. Umm. To actually, umm... To

16:24:57 21 actually -- to take the information that we had

16:24:59 22 been given, in this case, by the breeding sector -

16:25:03 23 all these different stakeholders had come to us -

16:25:05 24 and decided which of the things that were important

16:25:08 25 for us to put into the public record that we were

16:25:11 1 making our recommendations based on the data.

16:25:14 2 And so, what was the data presented to  
16:25:15 3 us upon which we relied.

16:25:17 4 1205 Q. Okay.

16:25:18 5 A. And so, this was information that  
16:25:19 6 we had received from the breeding -- breeding  
16:25:22 7 sector, as we had received the Quarter Horse  
16:25:26 8 sector, as we had received from the trainers, like,  
16:25:28 9 all the different stakeholders.

16:25:30 10 That's what we were trying to do there.

16:25:32 11 1206 Q. And the reason you were setting  
16:25:33 12 out, I presume, this production cycle and this  
16:25:37 13 pipeline is to show that there is an existing  
16:25:40 14 sizeable investment in pregnant mares and young  
16:25:45 15 horses, the -- for which, if something isn't done,  
16:25:52 16 there isn't going to be a market for?

16:25:54 17 A. Yes. If -- if -- if there was a  
16:25:57 18 -- a collapse and -- that and the fact that if you  
16:26:02 19 adopted our recommendation of understanding what  
16:26:04 20 was the revenue that was generated by the  
16:26:06 21 government, you needed to make sure that you were  
16:26:09 22 capturing all of the different economic  
16:26:11 23 contributions, including the breeding sector and  
16:26:16 24 people that train horses and people who -- who make  
16:26:18 25 saddles and all that kind of stuff; that it was

16:26:21 1 important that the government look at all -- the  
16:26:22 2 whole -- the impact of (sic) the industry, umm,  
16:26:24 3 when it was -- when it would compare amount of  
16:26:26 4 money coming from government, as we proposed, money  
16:26:29 5 out versus money in. And so what would be the --  
16:26:32 6 what would be the revenue that would come from that  
16:26:35 7 economic activity.

16:26:36 8 So we wanted to -- we wanted to give,  
16:26:38 9 umm, credence and note to the various components  
16:26:41 10 that we thought should be included in those  
16:26:44 11 metrics, breeding being one of them.

16:26:46 12 1207 Q. And at page 13 of the report, the  
16:27:06 13 comments from the draft remain in for the 1998 to  
16:27:11 14 2002 time frame.

16:27:15 15 You see that paragraph?

16:27:17 16 A. Yeah, okay.

16:27:21 17 --- (Witness reviewing document.)

16:27:42 18 THE WITNESS: Uh. Yes, 'cause that --

16:27:43 19 BY MR. LISUS:

16:27:43 20 1208 Q. Okay.

16:27:43 21 A. We were taking that from a report  
16:27:46 22 that we had read and had gleaned --

16:27:46 23 1209 Q. Accepted?

16:27:47 24 A. I think the BW... Was it the BW  
16:27:50 25 report? No.

16:27:50 1 MR. RATCLIFFE: It's in the footnote  
16:27:53 2 there.  
16:27:53 3 THE WITNESS: Yeah. Yeah. Brinkman  
16:27:57 4 and Weersink. Alfons, yeah.  
16:28:07 5 Yeah. It's all part of the background,  
16:28:08 6 I think.  
16:28:08 7 BY MR. LISUS:  
16:28:09 8 1210 Q. And on page 16 of the report, you  
16:28:11 9 talk about the Quebec experience, right?  
16:28:13 10 A. Uh. Yes. We had been briefed on  
16:28:14 11 that.  
16:28:14 12 1211 Q. And you looked at the Quebec  
16:28:16 13 experience in which the -- what happened in Quebec?  
16:28:26 14 MR. RATCLIFFE: Just take a moment to  
16:28:28 15 read it through.  
16:28:28 16 THE WITNESS: Okay.  
16:28:28 17 BY MR. LISUS:  
16:28:29 18 1212 Q. Well, do you remember?  
16:28:29 19 You don't have to -- I'm not going to  
16:28:30 20 ask you, at this point, particulars about numbers  
16:28:33 21 and dates, but do you remember what happened in  
16:28:36 22 Quebec?  
16:28:36 23 A. It was a -- I know it was a  
16:28:37 24 smaller industry, that the government support was  
16:28:39 25 withdrawn and the industry, uh, collapsed and

16:28:43 1 helped make the point that we were making, that we  
16:28:46 2 could find no jurisdiction where there was a  
16:28:48 3 vibrant horse racing industry that did not receive  
16:28:51 4 some form of, uh, government support.

16:28:53 5 There were various types of programs  
16:28:55 6 out there, but in different States.

16:28:59 7 1213 Q. Okay. And at the conclusion of  
16:29:01 8 that section, you say:

16:29:02 9 "In October 2009, the Quebec  
16:29:04 10 government launched a 9.2-million  
16:29:07 11 transition assistance program for  
16:29:10 12 Standardbred horse breeders, which  
16:29:12 13 ended in March 2012."

16:29:13 14 A. Mm-hmm.

16:29:14 15 1214 Q. "Many breeders have either sold  
16:29:17 16 their farms or gone bankrupt."

16:29:17 17 [As read.]

16:29:19 18 You saw that?

16:29:20 19 A. Mm-hmm.

16:29:21 20 1215 Q. And that fact was known prior to  
16:29:26 21 the decision to cancel revenue share, right; what  
16:29:31 22 had happened in Quebec?

16:29:31 23 A. Uh...

16:29:33 24 1216 Q. The Quebec experience was an  
16:29:36 25 known?

16:29:36 1 A. The Quebec experience was -- was  
16:29:38 2 public. Whether or not people were paying to  
16:29:44 3 attention to that, I don't know.

16:29:44 4 1217 Q. Right.

16:29:46 5 A. But there wasn't a... Yeah. Of  
16:29:48 6 course, it was a much smaller industry in Quebec  
16:29:48 7 than --

16:29:48 8 1218 Q. Right.

16:29:51 9 A. -- than here. Certainly, really  
16:29:53 10 Trois-Rivières and --  
16:29:53 11 --- (Court reporter appeals.)  
16:29:54 12 THE WITNESS: Trois-Rivières and Quebec  
16:29:55 13 City.

16:29:56 14 Most of those horses ended up at  
16:29:58 15 Rideau.

16:29:58 16 BY MR. LISUS:

16:29:58 17 1219 Q. All right.

16:30:16 18 What was the -- after you released the  
16:30:17 19 report, what was the reaction of Ministry of  
16:30:22 20 Finance to it?

16:30:23 21 A. Uh. They were supportive because  
16:30:24 22 that had already been agreed to. That's why it was  
16:30:27 23 an Interim Report--

16:30:27 24 1220 Q. Okay.

16:30:29 25 A. --and not a report.

16:30:30 1 That was agreed that it was an Interim  
16:30:32 2 Report that would lead to a Final Report.

16:30:34 3 And the issuance of that report was  
16:30:34 4 agreed to by all the parties who, mere weeks ago,  
16:30:40 5 had been in quite a bit of, uh, consternation about  
16:30:42 6 this file.

16:30:43 7 So we helped bring clarity, uh, to the  
16:30:47 8 government, which we thought was our  
16:30:48 9 responsibility, and, uh, proud of the fact that  
16:30:52 10 they agreed to make it Interim, that we were able  
16:30:55 11 to publish it, that we were then asked by the  
16:30:57 12 Minister to take the next step and write the Final  
16:31:01 13 Report.

16:31:01 14 1221 Q. And at page 27 of the report where  
16:31:26 15 you say "Impact of SARP Cancellation" as the  
16:31:30 16 heading,--

16:31:30 17 A. Mm-hmm.

16:31:32 18 1222 Q. --you conclude or find that:

16:31:35 19 "Without slots revenue or a new  
16:31:37 20 revenue stream, the horse racing  
16:31:39 21 industry in Ontario will cease to  
16:31:42 22 exist."

16:31:42 23 Right?

16:31:42 24 A. Yeah. That was our conclusion,  
16:31:44 25 yeah.

16:31:44 1 1223 Q. Okay. And at 29,--

16:31:58 2 A. Mm-hmm.

16:31:58 3 1224 Q. --you give your findings about the

16:32:01 4 industry dissolving, right, which you had in the

16:32:06 5 draft report back in -- in July; correct?

16:32:09 6 A. Mm-hmm. Yeah. It looks -- it

16:32:11 7 looks about the same as what you showed me before,

16:32:13 8 yeah.

16:32:14 9 1225 Q. Yeah.

16:32:16 10 And on page 30, under the heading,

16:32:17 11 "Impact on Horses",--

16:32:21 12 A. "Impact on Horses". Right, okay.

16:32:23 13 1226 Q. --you report that, in the second

16:32:40 14 paragraph:

16:32:41 15 "The downsizing of the horse

16:32:43 16 racing and breeding industry in

16:32:45 17 Ontario began right after the March

16:32:49 18 2012 announcement that SARP was

16:32:53 19 ending. Breeders report about half

16:32:56 20 of breeding activity stopped

16:32:59 21 immediately. This will begin to

16:33:00 22 reduce the horse herd in 2013."

16:33:04 23 That was in the Draft Report, as well;

16:33:06 24 correct.

16:33:06 25 A. Yeah. That was our -- that was



16:33:10 1 our conclusion.

16:33:13 2 1227 Q. Okay.

16:33:13 3 A. Yeah.

16:33:14 4 1228 Q. Good.

16:33:22 5 And you maintained your findings with

16:33:26 6 respect to euthanization of horses and -- or "herd

16:33:31 7 reduction", as you've put it, right?

16:33:32 8 A. Yes. Yeah. Yeah. Mmm.

16:33:33 9 1229 Q. And you go on to say, at the

16:33:43 10 bottom of 31, that all of these consequences could

16:33:46 11 be avoided.

16:33:48 12 "The Panel is convinced it

16:33:50 13 doesn't have to be this way."

16:33:52 14 Right?

16:33:52 15 A. Yep. Yes.

16:34:04 16 1230 Q. Did you speak with Ms. Wynne about

16:34:05 17 the findings in this report after it was released

16:34:08 18 and in 2012?

16:34:09 19 A. Umm. I... I'm not sure if I have

16:34:17 20 got my dates right on this. Did I speak to...?

16:34:25 21 Okay. So when did -- when did she become Premier;

16:34:29 22 2013?

16:34:30 23 1231 Q. Yeah.

16:34:31 24 A. Okay. So this is August. Umm.

16:34:34 25 Help me out. Did -- had the Premier already

16:34:36 1 resigned by then?

16:34:37 2 1232 Q. He resigned in October 2012, I

16:34:43 3 believe.

16:34:43 4 A. Yeah. In October.

16:34:44 5 MR. RATCLIFFE: I think Wynne came in,

16:34:47 6 in February of 2013.

16:34:49 7 THE WITNESS: Yeah. Yeah, okay. So

16:34:50 8 this was... I did not talk to... I don't recall

16:34:51 9 any discussions with Kathleen Wynne.

16:34:54 10 Umm. I did talk to her... She -- she

16:34:59 11 called me after her leadership race started and she

16:35:03 12 asked for my support. I remember that call and I,

16:35:06 13 uh, I didn't talk to her -- and I didn't give her

16:35:09 14 my support at time, uh...

16:35:09 15 BY MR. LISUS:

16:35:09 16 1233 Q. Okay.

16:35:09 17 A. And, uh...

16:35:12 18 1234 Q. Let me stop you there.

16:35:13 19 A. Yeah. So I'm just trying to

16:35:14 20 think.

16:35:14 21 But once she became Minister of

16:35:17 22 Agriculture, yes. I mean, uh,--

16:35:19 23 1235 Q. You did --

16:35:19 24 A. --she needed a briefing--

16:35:21 25 1236 Q. Okay.

16:35:21 1 A. --because -- and she appointed  
16:35:22 2 herself Minister of Agriculture.

16:35:27 3 1237 Q. Did you give her a briefing when  
16:35:28 4 she -- did you give her a briefing about the report  
16:35:29 5 and the cancellation of Slots at Racetrack Program?

16:35:33 6 A. Well, it was already a public  
16:35:34 7 document and by that time, we had given our Final  
16:35:34 8 Report.

16:35:38 9 It had been accepted and it needed to  
16:35:39 10 be implemented. It fell to her Ministry to  
16:35:43 11 implement it.

16:35:43 12 1238 Q. Okay.

16:35:44 13 A. Yeah.

16:35:45 14 1239 Q. And so, did you give her a  
16:35:46 15 briefing?

16:35:47 16 A. Yes. As a Minister, yes, so she  
16:35:49 17 would have already been Premier.

16:35:50 18 1240 Q. And Premier Wynne has said  
16:35:53 19 publicly that she felt that the manner in which the  
16:35:57 20 decision to cancel the revenue share from Slots at  
16:36:03 21 Racetrack Program was not thoughtful. There was  
16:36:05 22 not sufficient consideration given to the impact on  
16:36:09 23 the supply chain or suppliers.

16:36:11 24 Are you aware of that?

16:36:13 25 MR. RATCLIFFE: Do you have -- I mean,

16:36:15 1 just in terms of what you're quoting from, do you  
16:36:17 2 have something specific in --

16:36:21 3 BY MR. LISUS:

16:36:22 4 1241 Q. Well, are you aware of her making  
16:36:23 5 statements to that effect publicly?

16:36:24 6 A. Yes, 'cause she read the report  
16:36:26 7 and that's what the report concluded. It wasn't...

16:36:26 8 1242 Q. Okay.

16:36:28 9 A. She agreed with the report.

16:36:31 10 1243 Q. Did she have that opinion  
16:36:33 11 independently of the report?

16:36:34 12 A. Umm.

16:36:34 13 MR. RATCLIFFE: Do you know that?

16:36:36 14 THE WITNESS: I --

16:36:36 15 MR. LISUS: I'm asking him. He said he  
16:36:38 16 briefed her. He said he spoke with her.

16:36:40 17 THE WITNESS: No, no. This is after  
16:36:41 18 she became Premier and I thought you were asking me  
16:36:43 19 about the fact when she was -- before she became  
16:36:46 20 Premier, which is actually when she was running, if  
16:36:48 21 that's the question.

16:36:48 22 BY MR. LISUS:

16:36:49 23 1244 Q. At any time, Mr. Wilkinson, after  
16:36:53 24 the release of your report, the Interim Report, did  
16:36:57 25 you speak with Ms. Wynne about the findings of your

16:37:06 1 Panel and the decision that Mr. McGuinty's  
16:37:09 2 government made?

16:37:09 3 A. I don't recall having any --  
16:37:14 4 again, I will just -- recalling my conversations  
16:37:18 5 with Kathleen Wynne, I did not recall having any  
16:37:20 6 conversation with her after the report was  
16:37:22 7 released.

16:37:28 8 Umm. The next discussion I had with  
16:37:30 9 her that I recall is -- is after the Premier had  
16:37:32 10 resigned, and she announced that she was running  
16:37:34 11 for leader and we had a discussion, perhaps in the  
16:37:38 12 car -- umm --

16:37:40 13 1245 Q. Let me give you my --

16:37:42 14 A. Yeah.

16:37:43 15 1246 Q. Here is my question.

16:37:43 16 I know you're trying to be helpful,  
16:37:45 17 Mr. Wilkinson, and you want to be precise, but I  
16:37:48 18 want to get this exercise concluded.

16:37:50 19 Are you aware of Ms. Wynne having made  
16:37:56 20 statements to the effect that the manner in which  
16:38:01 21 the decision was made...

16:38:01 22 --- (Witness's water glass refilled.)

16:38:04 23 THE WITNESS: Oh. Thanks.

16:38:04 24 BY MR. LISUS:

16:38:05 25 1247 Q. ...was not thoughtful?

16:38:07 1 A. Yes.

16:38:08 2 1248 Q. So, to assist you recollection, on

16:38:34 3 September 16, 2013, Ms. Wynne said:

16:38:37 4 "The original changes to the

16:38:38 5 Slots at Racetracks Program were not

16:38:39 6 as well thought through as they

16:38:40 7 needed to be." [As read.]

16:38:41 8 Do you recall her making that

16:38:43 9 statement?

16:38:43 10 A. This is now -- now in September of

16:38:46 11 the next year?

16:38:48 12 1249 Q. Yes.

16:38:49 13 A. Umm. I recall being at an event

16:38:51 14 with her when she made an announcement at one of

16:38:54 15 the Standardbred tracks. I'm trying to remember

16:38:56 16 which one. I think -- I think she visited Fort

16:38:59 17 Erie and I remember she had an allergic reaction.

16:39:02 18 But anyways... And she soldiered on.

16:39:06 19 But anyways... Sorry. So, I do...

16:39:09 20 I --

16:39:09 21 1250 Q. Do you remember her saying that?

16:39:10 22 A. Yes, yes.

16:39:11 23 1251 Q. Okay. And had you spoken with her

16:39:14 24 about her belief that the original changes were not

16:39:19 25 as well thought through as they needed to be?

16:39:21 1 A. Yes. As I said, after she became  
16:39:24 2 Minister of Agriculture, it would have been around  
16:39:27 3 February of 2013, I and my colleagues briefed  
16:39:31 4 Minister Wynne/Premier Wynne at OMAFRA.

16:39:43 5 1252 Q. Thank you.

16:39:43 6 And what did you tell her? Is there a  
16:39:44 7 briefing document that you would have generated for  
16:39:45 8 that purpose?

16:39:45 9 A. No. I don't remember a -- a  
16:39:47 10 briefing document.

16:39:47 11 I remember it was kind of a -- a  
16:39:48 12 discussion.

16:39:49 13 1253 Q. Okay.

16:39:49 14 A. And she was trying to, umm...

16:39:51 15 She knew that the government that she  
16:39:52 16 had been a part of had decided to first cancel  
16:39:58 17 SARP, but had a report from us that they had --  
16:39:58 18 --- (Court reporter appeals.)

16:39:58 19 MR. LISUS: ...had decided to cancel  
16:39:58 20 SARP.

16:39:59 21 THE WITNESS: ...had decided to cancel  
16:40:01 22 SARP; that there -- a Panel had been -- had written  
16:40:03 23 two -- or one, and then a second report.

16:40:06 24 She knew it fell to her Ministry  
16:40:09 25 because the decision had been that it would be --

16:40:11 1 OMAFRA would be responsible. It fell to her  
16:40:14 2 Ministry and she sought a briefing.

16:40:16 3 I'm sure she would have received  
16:40:18 4 briefing notes from her officials.

16:40:20 5 She wanted to have a conversation with  
16:40:21 6 the three guys who had actually done the work and  
16:40:24 7 asked questions.

16:40:24 8 BY MR. LISUS:

16:40:25 9 1254 Q. Do you remember her saying in  
16:40:26 10 October 2013:

16:40:29 11 "I can remember sitting in  
16:40:30 12 Cabinet meetings with Ted saying,  
16:40:33 13 'We've got to take a second look at  
16:40:35 14 this.'

16:40:35 15 "'The way the SARP program was  
16:40:38 16 cancelled was not thoughtful.'"

16:40:39 17 [As read.]

16:40:39 18 A. I wasn't in that Cabinet meeting,  
16:40:41 19 but I do know from Minister McMeekin that during  
16:40:43 20 that period of time, he told me that he had raised  
16:40:47 21 the issue and gone to bat to have a Panel.

16:40:51 22 And if the Panel had not been  
16:40:54 23 empowered, I -- I think that this whole sorry thing  
16:40:57 24 would have turned out in a much different  
16:41:00 25 situation.



16:41:00 1 1255 Q. And on November 13, Premier Wynne  
16:41:05 2 said in the Legislature that the cancellation of  
16:41:08 3 the program, there was not due consideration of the  
16:41:12 4 impacts.

16:41:14 5 That was an opinion that you, yourself,  
16:41:16 6 shared; correct?

16:41:17 7 A. Yes. Publicly, yes. Yeah.

16:41:38 8 MR. LISUS: Do we need to mark the  
16:41:40 9 final report as an exhibit?

16:41:42 10 MR. RATCLIFFE: Sorry. The Interim --  
16:41:43 11 the --

16:41:43 12 MR. LISUS: Sorry. The Interim Report.

16:41:44 13 MR. RATCLIFFE: Interim Report?

16:41:46 14 MR. LISUS: Yeah.

16:41:46 15 MR. MATTHEWS: It will be Exhibit 24,  
16:41:56 16 CRE 24643.

16:41:56 17 ---EXHIBIT NO. 24: Interim Report of  
16:42:00 18 the Horse Racing Industry Transition Panel, Doc ID  
16:42:00 19 Number CRE 24643.

16:42:00 20 BY MR. LISUS:

16:42:03 21 1256 Q. Now, you subsequently produced a  
16:42:05 22 Final Report; correct?

16:42:05 23 A. Uh. As a panel, yes, October of  
16:42:08 24 2012, I believe.

16:42:09 25 1257 Q. And I want to show you a HRIT

16:42:24 1 Panel Final Report Synopsis, CRE 230201.

16:42:29 2 A. Okay.

16:42:42 3 1258 Q. And it -- there's a cover e-mail,  
16:42:44 4 CRE 230200, and the e-mail at the bottom of the  
16:42:53 5 page starts with an e-mail from you on September  
16:42:55 6 28th, Mr. Wilkinson.

16:42:58 7 Do you see that?

16:42:58 8 MR. RATCLIFFE: Sorry. Where are you  
16:42:59 9 referring to on the page?

16:42:59 10 THE WITNESS: So we're in -- okay.

16:43:00 11 We're back to 2012--

16:43:00 12 BY MR. LISUS:

16:43:00 13 1259 Q. Yeah.

16:43:02 14 A. --because we got away to 2013.

16:43:07 15 Okay.

16:43:07 16 And then, this is...

16:43:08 17 1260 Q. September 28, 2012, at the bottom  
16:43:11 18 the page.

16:43:12 19 A. Okay.

16:43:12 20 1261 Q. 8:47 p.m..

16:43:17 21 MR. RATCLIFFE: Sorry. 8:47, did you  
16:43:19 22 say?

16:43:20 23 THE WITNESS: Yeah.

16:43:21 24 --- (Witness reviewing document.)

16:43:30 25 THE WITNESS: Yes.

16:43:30 1 BY MR. LISUS:

16:43:31 2 1262 Q. All right?

16:43:32 3 A. Yeah. I remember that, yeah. We

16:43:34 4 were struggling to get this report out, this final

16:43:36 5 one.

16:43:36 6 1263 Q. Okay. So you've taken a deep dive

16:43:38 7 and made changes for clarity and remaining typos,

16:43:42 8 you said?

16:43:42 9 A. Yeah. Of the three of us, I was

16:43:44 10 the one that seemed to be the best ability to do

16:43:48 11 that, so--

16:43:48 12 1264 Q. Who had the pen on --

16:43:49 13 A. --that fell to me.

16:43:50 14 1265 Q. Who had the pen on this?

16:43:51 15 A. Umm. I would... I would... This

16:43:56 16 -- I think we still had James, I think, uh,

16:44:00 17 Mr. Dorey available to us.

16:44:09 18 --- (Court reporter appeals.)

16:44:09 19 THE WITNESS: D-o-r-e-y, James.

16:44:16 20 MR. LISUS: So, the e-mail is the next

16:44:18 21 exhibit, please, and then the Final Report and

16:44:22 22 Synopsis is the exhibit after that in sequence.

16:44:24 23 --- EXHIBIT NO. 25: E-mail string, Doc

16:44:24 24 ID Number 230200, and HRIT Panel Final Report and

16:44:24 25 Synopsis, Doc ID Number CRE 230201.

16:44:27 1 BY MR. LISUS:

16:44:27 2 1266 Q. I want to ask you about the...

16:44:29 3 Just read the "Decision Sought", please.

16:44:32 4 A. Umm. Okay. I don't know --

16:44:34 5 MR. RATCLIFFE: Just --

16:44:36 6 THE WITNESS: I don't think I wrote

16:44:37 7 that.

16:44:38 8 --- (Court reporter appeals.)

16:44:40 9 THE WITNESS: Okay. I don't think I

16:44:41 10 wrote this.

16:44:42 11 THE COURT REPORTER: Just wait.

16:44:43 12 "Decision..." What did you say?

16:44:44 13 MR. LISUS: "Decision sought",

16:44:47 14 s-o-u-g-h-t.

16:44:50 15 MR. RATCLIFFE: Just read it through.

16:44:52 16 THE WITNESS: This, here?

16:44:54 17 MR. RATCLIFFE: Mm-hmm.

16:45:20 18 --- (Witness reviewing document.)

16:45:37 19 THE WITNESS: Yeah. So this was a...

16:45:37 20 This was a briefing note for the Minister, Minister

16:45:37 21 McMeekin.

16:45:37 22 BY MR. LISUS:

16:45:41 23 1267 Q. Okay.

16:45:41 24 A. Okay.

16:45:43 25 1268 Q. From the Panel?

16:45:44 1 A. Yeah. What was required; how much  
16:45:46 2 money, by, when, who. Yeah.

16:45:49 3 1269 Q. And what was required for the plan  
16:45:58 4 that the Panel formulated to save the industry from  
16:46:04 5 total collapse was not more than 300-million over  
16:46:09 6 next -- the next three years, right?

16:46:15 7 A. Uh. Yes. And maintaining the  
16:46:18 8 pari-mutuel tax reduction; that type of stuff, as  
16:46:23 9 well, but yeah.

16:46:23 10 1270 Q. Okay. And so, going back -- I'm  
16:46:24 11 just -- I just want to make sure that I've tracked  
16:46:26 12 this accurately.

16:46:27 13 A. Mm-hmm.

16:46:27 14 1271 Q. Going back to the making of the  
16:46:29 15 decision, it was cancellation with no transition  
16:46:34 16 support; correct?

16:46:35 17 A. That's my understanding, yeah.

16:46:36 18 1272 Q. And then, at or about the time  
16:46:40 19 there was agreement to appoint a panel, it was  
16:46:44 20 cancellation plus up to 50-million over three--

16:46:50 21 A. Years.

16:46:51 22 1273 Q. --years; correct?

16:46:52 23 A. For transition to a  
16:46:54 24 self-sustaining industry.

16:46:56 25 1274 Q. All right.

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A. Not an ongoing.  
That was kind of what I read from  
"self-sustaining", what the intent was, yeah.  
Q. Okay. And your Panel's  
recommendation is that what was needed to have a  
viable horse racing industry was 300-million over  
the next three years, and then ongoing government  
participation; correct?  
A. Yeah. In the hopes that -- that  
there might be some new gaming products that would  
come, and we were... Yeah.  
Q. Okay.  
A. But always --  
---(Court reporter appeals.)  
THE WITNESS: Some new gaming products  
that would come.  
BY MR. LISUS:  
Q. "New gaming products that would  
come."  
A. Yeah.  
Q. Okay. And you... Or the Panel  
says:  
"Critically, a negotiating  
mandate of not more than 300-million  
over the next three years is

16:47:49 1 required. We strongly urge this  
16:47:52 2 figure not be publicly disclosed--"  
16:47:54 3 A. Mm-hmm.  
16:47:54 4 1279 Q. "--since the Panel of is the  
16:47:56 5 opinion that a substantially better  
16:47:58 6 deal is possible, but only with maximum  
16:48:00 7 leverage applied." [As read.]  
16:48:01 8 What does that mean?  
16:48:02 9 A. That -- that the government would  
16:48:05 10 make a choice as to whether or not they should sell  
16:48:08 11 (sic), before the negotiations, how much money they  
16:48:12 12 had or -- or just empower the people that were, uh,  
16:48:14 13 negotiating to have a framework of money.  
16:48:17 14 But you couldn't have people  
16:48:19 15 negotiating without a commitment, at least  
16:48:22 16 internally, that there would be money available.  
16:48:24 17 It wouldn't be in good faith to negotiate with  
16:48:26 18 people if the government...  
16:48:28 19 So, therefore, it fell to the Minister,  
16:48:32 20 for us to tell the Minister, 'Okay. Here is where  
16:48:35 21 we are and if you are going to move forward, this  
16:48:38 22 is what we think it's going to cost. And it's  
16:48:41 23 going to be hard. There are many parts of this  
16:48:43 24 industry, many sectors. Going to be tough  
16:48:43 25 negotiations.'

16:48:43 1 And our advice, which the Minister  
16:48:43 2 could take or not take, is -- is whether to  
16:48:43 3 disclose that amount publicly.

16:48:53 4 Our advice was, 'Don't.'

16:48:55 5 1280 Q. And who is going to be doing the  
16:48:57 6 negotiation, negotiating on behalf of the  
16:48:58 7 government?

16:48:58 8 A. Umm. Well, I -- I guess it would  
16:49:01 9 be... I have to look back. We made -- we made,  
16:49:06 10 uh, recommendations on that.

16:49:09 11 I don't recall them right off the top  
16:49:09 12 of my head.

16:49:11 13 1281 Q. But was it Panel Members?

16:49:13 14 A. Well, there was a new industry  
16:49:16 15 structure that was -- that was coming.

16:49:18 16 1282 Q. But who was going to oversee this  
16:49:20 17 negotiation process?

16:49:22 18 A. Well, I -- I can tell you that it  
16:49:26 19 was -- if I recall, it was Finance.

16:49:27 20 1283 Q. Okay. But was it contemplated  
16:49:29 21 that the Panel Members would be involved in the  
16:49:31 22 negotiation?

16:49:32 23 A. Umm. It was... I -- I know --  
16:49:37 24 I'm not exactly sure of the dates, but I know that  
16:49:41 25 Mr. Buchanan became the Ontario Racing



16:49:44 1 Commissioner. I don't recall exactly where that  
16:49:46 2 fit in.

16:49:46 3 I know that John took on, uh, a new  
16:49:50 4 role. I knew that I stepped back, but, uh, was  
16:49:54 5 asked to stay involved as needed to provide advice.

16:49:57 6 1284 Q. Okay. So my question is, would  
16:49:59 7 the Panel Members be involved in the negotiation  
16:50:04 8 with the horse racing industry over the provision  
16:50:10 9 of support to remain viable?

16:50:13 10 A. If the Minister asked us to do  
16:50:17 11 that, and I'm just trying to remember that.

16:50:19 12 1285 Q. Okay.

16:50:21 13 A. Yeah.

16:50:21 14 1286 Q. What...? Did you have a view on  
16:50:30 15 whether Panel Members should participate in that  
16:50:33 16 negotiation?

16:50:33 17 A. Uh. I think it was -- given the  
16:50:36 18 fact that we seemed to have, over a short period of  
16:50:38 19 time, gotten a pretty good depth of what was  
16:50:41 20 driving everybody's behaviour, uh, that would -- it  
16:50:44 21 would be good to have us at the -- at the table.

16:50:46 22 But we weren't the government. I mean,  
16:50:48 23 ultimately, if I was negotiating with the  
16:50:50 24 government, at the end of the day, I want to talk  
16:50:52 25 to the person who would write the cheque. And it

16:50:54 1 wouldn't be the Panel. We were just consultants.

16:51:00 2 1287 Q. Okay.

16:51:01 3 A. Yeah.

16:51:01 4 1288 Q. And just so that I understand the  
16:51:03 5 state of play as of October 2nd, 2012 --

16:51:06 6 A. Okay. I don't know where you are.

16:51:08 7 1289 Q. I'm just looking at the date of  
16:51:09 8 the e-mail.

16:51:10 9 A. Oh. I don't have that. Sorry.

16:51:10 10 MR. RATCLIFFE: Here.

16:51:11 11 THE WITNESS: I just have this in front  
16:51:13 12 of me.

16:51:15 13 Okay. Thanks. All right.

16:51:15 14 BY MR. LISUS:

16:51:16 15 1290 Q. No commitment had been made by the  
16:51:20 16 government to flow any funding to the industry.  
16:51:27 17 Is that right?

16:51:27 18 A. Umm. I want to answer your  
16:51:31 19 question, but I -- I'm completely confused now  
16:51:34 20 about what you're asking me.

16:51:35 21 MR. RATCLIFFE: What moment in time are  
16:51:36 22 you speaking of? Is it in the e-mail?

16:51:38 23 BY MR. LISUS:

16:51:38 24 1291 Q. October 2nd, 2012.

16:51:38 25 A. October 2nd.

16:51:42 1 1292 Q. October 2012, Mr. Wilkinson, the  
16:51:45 2 Panel --  
16:51:45 3 A. That was like October 23rd.  
16:51:48 4 This is an e-mail of October 2nd, so  
16:51:50 5 I'm...  
16:51:50 6 1293 Q. That's what I'm saying.  
16:51:52 7 A. Okay. So...  
16:51:53 8 1294 Q. October 2012, okay? October  
16:51:55 9 2012...  
16:51:56 10 A. As a whole, 31 days in the month,  
16:51:58 11 yes.  
16:52:03 12 1295 Q. ...the government had not agreed  
16:52:04 13 to make \$300-million available, right?  
16:52:08 14 A. Umm. Well, I don't know when the  
16:52:11 15 date of this was, but that was our recommendation.  
16:52:15 16 It was up to the government to decide.  
16:52:16 17 1296 Q. Try this again.  
16:52:18 18 A. Okay.  
16:52:20 19 1297 Q. March 2012, the government  
16:52:26 20 announces the cancellation of revenue share from  
16:52:29 21 Slots at Racetrack Program, so that 345-million  
16:52:33 22 that formerly went to the horse racing industry  
16:52:37 23 will stop in March 2013; correct?  
16:52:39 24 A. It might have been as early as  
16:52:42 25 February, but yes.

16:52:43 1 1298 Q. Okay. February 2013.

16:52:44 2 There is no transition funding

16:52:49 3 contemplated at that time. It's a cold stop, Feb.

16:52:54 4 2013, right?

16:52:55 5 A. That's what I understood.

16:52:57 6 1299 Q. Panel is appointed in June;

16:53:00 7 correct?

16:53:01 8 A. Yes.

16:53:02 9 1300 Q. At or about the time of the

16:53:05 10 Panel's appointment, the government says,

16:53:06 11 '50-million will be available over three years,'

16:53:09 12 right?

16:53:09 13 A. Yes. It was in my contract, yeah,

16:53:11 14 if I recall.

16:53:12 15 1301 Q. Panel very quickly determines that

16:53:16 16 that is completely inadequate; correct?

16:53:19 17 A. Uh. Yes. That what the

16:53:22 18 government assumed was going to happen was not

16:53:24 19 going to happen.

16:53:25 20 It took us about a month, I think, by

16:53:27 21 the middle of June. So within four weeks, we

16:53:30 22 figured out and within, uh... Four weeks later, we

16:53:31 23 had an Interim -- an Interim Report.

16:53:34 24 1302 Q. Right.

16:53:35 25 As of the date of your Interim

16:53:35 1 Report, --

16:53:35 2 A. Mm-hmm.

16:53:37 3 1303 Q. --August 17, 2012, the only money

16:53:40 4 on the table for the industry is 50-million over

16:53:45 5 three years, right?

16:53:46 6 A. Uh. Well, I don't... Well, by

16:53:52 7 accepting the Interim Report, we said in the

16:53:55 8 report, there would have to be more money.

16:53:56 9 We didn't say how much.

16:53:57 10 1304 Q. They didn't -- you didn't say how

16:54:00 11 much and they didn't say there would be more money.

16:54:02 12 They just --

16:54:03 13 A. ...said we would -- that we would

16:54:07 14 be asked to do a Final Report--

16:54:08 15 1305 Q. Right.

16:54:09 16 A. --to give the government advice on

16:54:11 17 that.

16:54:11 18 1306 Q. Right.

16:54:11 19 A. Now, the only question is, when

16:54:13 20 did we give that to them in the month of October,

16:54:13 21 and that's not what I --

16:54:13 22 1307 Q. Just bear with me.

16:54:15 23 A. I don't know when that was.

16:54:16 24 1308 Q. You are needlessly focusing on day

16:54:19 25 of the month.

16:54:19 1 I'm just trying to get a timeline here,  
16:54:22 2 okay?  
16:54:22 3 A. Okay.  
16:54:22 4 1309 Q. As of date of the release of your  
16:54:25 5 Interim Report on August 17th, the government had  
16:54:27 6 made no commitment of any funds to the horse racing  
16:54:31 7 industry above 50-million over three years;  
16:54:34 8 correct?  
16:54:39 9 A. All I know is what I know.  
16:54:41 10 I don't know what other people said to  
16:54:43 11 other people. I don't know what the government  
16:54:45 12 said.  
16:54:46 13 1310 Q. Had the government made an  
16:54:47 14 announcement it would pay more than 50-million over  
16:54:50 15 three months as of August 2012?  
16:54:52 16 A. Uh. It had made no public  
16:54:55 17 announcement--  
16:54:55 18 1311 Q. Okay.  
16:54:57 19 A. --in that regard, yeah.  
16:54:57 20 1312 Q. All right. So--  
16:54:58 21 A. That is my recollection.  
16:55:00 22 1313 Q. --the only government money on the  
16:55:02 23 table as of August 2012 is 50-million over three  
16:55:11 24 years, right?  
16:55:11 25 A. Yes. But if you read our report,

16:55:13 1 you would see that the 50-million would not be...

16:55:16 2 It was -- we recommended that that was inadequate,

16:55:18 3 no matter which way the government went.

16:55:20 4 1314 Q. I agree with you.

16:55:21 5 A. Yeah.

16:55:21 6 1315 Q. I'm not --

16:55:23 7 A. But I --

16:55:23 8 1316 Q. I'm just trying to clarify data

16:55:26 9 points, okay?

16:55:26 10 A. Well, that's why--

16:55:26 11 1317 Q. I know you --

16:55:28 12 A. --months have days, Mr. Lisus.

16:55:30 13 1318 Q. Pardon?

16:55:30 14 A. That's why months have days.

16:55:33 15 When you ask me a question about a

16:55:34 16 month, if we're going to be precise --

16:55:34 17 1319 Q. As of August 17, the only money on

16:55:41 18 the table from the government, which you knew was

16:55:42 19 inadequate, was 50-million over three years, right?

16:55:45 20 A. Yes.

16:55:45 21 1320 Q. Okay.

16:55:46 22 A. And they accepted my -- our report

16:55:49 23 on that day,--

16:55:49 24 1321 Q. Right.

16:55:50 25 A. --which called for more money.

16:55:52 1 1322 Q. In October, you release this Final  
16:55:57 2 Report to government?  
16:55:58 3 A. October 23rd, if I remember.  
16:56:00 4 1323 Q. October 23rd.  
16:56:01 5 Prior to October 23rd, on October 2nd,  
16:56:04 6 you give this briefing note to government, right?  
16:56:07 7 A. This one? (Indicating)  
16:56:13 8 1324 Q. Yes. That's attached to the  
16:56:14 9 e-mail --  
16:56:14 10 A. To... When you say "government",  
16:56:17 11 to Minister McMeekin, right. To our Minister that  
16:56:20 12 we were hired to report to, yes.  
16:56:22 13 1325 Q. Okay. On October 2nd, you give  
16:56:24 14 that briefing note, right?  
16:56:26 15 A. Mm-hmm.  
16:56:27 16 1326 Q. Yes?  
16:56:27 17 A. It doesn't have a date on it,  
16:56:29 18 but --  
16:56:29 19 1327 Q. The e-mail which sends it.  
16:56:30 20 MR. RATCLIFFE: Well, I think he has  
16:56:32 21 agreed, it was -- you know, it was attached to the  
16:56:36 22 e-mail.  
16:56:37 23 --- (Witness reviewing document.)  
16:56:37 24 THE WITNESS: Okay. Wait a minute.  
16:56:39 25 MR. RATCLIFFE: Or was it?



16:56:41 1 THE WITNESS: "For your records, this  
16:56:41 2 is the..."  
16:56:44 3 Okay. This is from Thom to Michael and  
16:56:46 4 Karen. Okay.  
16:56:46 5 "For your records, this is the  
16:56:47 6 final version that Frank informs me  
16:56:50 7 went to the Minister." [As read.]  
16:56:51 8 Okay. So I don't know when the  
16:56:52 9 Minister got it. It could have been days before.  
16:56:55 10 "I have not looked at it to see  
16:56:55 11 what is different from the earlier  
16:56:55 12 draft version you saw. I'll be  
16:56:59 13 sending this to Barry and Liz."  
16:56:59 14 [As read.]  
16:56:59 15 Which is at Finance.  
16:56:59 16 BY MR. LISUS:  
16:57:00 17 1328 Q. I don't know why this is so  
16:57:02 18 difficult, sir.  
16:57:02 19 I have an e-mail produced to me from  
16:57:04 20 the government with this Final Report Synopsis  
16:57:07 21 attached to it. The e-mail is dated October 2.  
16:57:10 22 A. Mm-hmm. And if that's -- yeah.  
16:57:11 23 If that's what was attached to it.  
16:57:15 24 I'm sure there's no date on this, yeah,  
16:57:18 25 but...

16:57:26 1 So by October 2nd, after doing a lot of  
16:57:29 2 work in August and September, we had formulated our  
16:57:33 3 recommendations of what -- what should be in the  
16:57:35 4 Final Report.

16:57:36 5 1329 Q. And your recommendation was to  
16:57:40 6 have a negotiating mandate of 300-million over the  
16:57:44 7 next three years, right?

16:57:45 8 A. Yeah. That's -- that's how much  
16:57:47 9 money we thought should be --

16:57:47 10 1330 Q. Okay.

16:57:49 11 A. Yeah.

16:57:49 12 1331 Q. Right.

16:57:50 13 But that wasn't known to the industry  
16:57:54 14 or to the public as of October 2nd, right?

16:57:57 15 A. Yes. It was confidential.

16:57:59 16 1332 Q. It was very confidential?

16:58:03 17 A. Until we give the report to the  
16:58:05 18 Minister, what we did was confidential.

16:58:07 19 1333 Q. Okay. So as far as the industry  
16:58:10 20 knows--

16:58:11 21 A. Right.

16:58:12 22 1334 Q. --and as far as the public knows,  
16:58:15 23 the only money on the table is 50-million over  
16:58:20 24 three years.

16:58:22 25 That's what the industry knows in

16:58:24 1 October 2012, right?

16:58:26 2 A. But they know that the Panel that  
16:58:29 3 they just spent the last six weeks talking to, from  
16:58:33 4 the middle August to the beginning of October, was  
16:58:36 5 talking about money and that people were telling us  
16:58:39 6 the amounts of money that were required, so it's  
16:58:41 7 not like there weren't --

16:58:42 8 1335 Q. And they don't know what the Panel  
16:58:44 9 is going to say?

16:58:45 10 A. No, they don't.

16:58:45 11 1336 Q. Right.

16:58:46 12 A. But they do know --

16:58:47 13 1337 Q. The Panel could say, 'No money,  
16:58:49 14 industry,' because you didn't make any promises in  
16:58:53 15 your consultations, right?

16:58:54 16 A. No. We didn't make... No. We  
16:58:57 17 couldn't -- we couldn't bind the government.

16:58:58 18 1338 Q. Of course.

16:58:59 19 A. Yeah.

16:58:59 20 1339 Q. So although industry members were  
16:59:02 21 speaking to the Panel, they had no idea what the  
16:59:05 22 Panel was going to recommend to the government,  
16:59:08 23 okay?

16:59:08 24 A. Yes.

16:59:11 25 1340 Q. Okay.

16:59:12 1 A. The mere fact that we were talking  
16:59:13 2 about money was...

16:59:14 3 1341 Q. Just "yes", okay?

16:59:16 4 MR. RATCLIFFE: Well, is that your  
16:59:18 5 complete answer?

16:59:18 6 THE WITNESS: My complete answer is, we  
16:59:20 7 been talking to people about money and they were  
16:59:22 8 very, very clear about -- everyone's saying how  
16:59:25 9 much money they needed--

16:59:25 10 BY MR. LISUS:

16:59:25 11 1342 Q. And they had no idea --

16:59:26 12 A. --if there was more money.

16:59:27 13 1343 Q. And they had no idea if there was  
16:59:29 14 going to be more money, right?

16:59:30 15 A. But we did highlight to people  
16:59:32 16 who -- who - talking about politics - that the  
16:59:33 17 government had accepted the Interim Report --  
16:59:34 18 --- (Court reporter appeals.)

16:59:36 19 THE WITNESS: Oh, I'm sorry.

16:59:37 20 THE COURT REPORTER: "But we did  
16:59:40 21 highlight to people who..."?

16:59:44 22 THE WITNESS: ...who we were speaking  
16:59:44 23 with during that six-week period, that they should  
16:59:49 24 recognize the fact that the government had, indeed,  
16:59:51 25 accepted an Interim Report that called for more

16:59:55 1 money, that the government had asked us to write a  
16:59:58 2 Final Report that talked about money, so I wouldn't  
17:00:00 3 -- I wouldn't...

17:00:00 4 BY MR. LISUS:

17:00:01 5 1344 Q. I just --

17:00:02 6 A. There had been no commitment, but  
17:00:04 7 it's not like people were not talking about money  
17:00:06 8 and what was required to save the industry.

17:00:08 9 1345 Q. They didn't know whether it would  
17:00:09 10 be 55-million or over three years or 75-million  
17:00:12 11 over three years?

17:00:12 12 A. Or a billion dollars. They  
17:00:15 13 wouldn't know.

17:00:15 14 1346 Q. Correct.

17:00:16 15 A. That's why we were trying to give  
17:00:18 16 advice to the government.

17:00:19 17 1347 Q. They wouldn't know. So on October  
17:00:21 18 2, 2012, they didn't know. The horse racing  
17:00:25 19 industry and the public didn't know --

17:00:26 20 A. No.

17:00:27 21 1348 Q. Okay.

17:00:27 22 A. They just had the hope that our  
17:00:30 23 report would call for more.

17:00:31 24 1349 Q. Right. Not sure why it took us so  
17:00:34 25 long to get there, Mr. Wilkinson, but there we are.

17:00:39 1 A. I think it was the month of  
17:00:40 2 October, Mr. Lisus, that threw me.

17:00:41 3 1350 Q. Now, in -- also in October 2012,  
17:00:48 4 we know that the prices and volumes of yearling  
17:01:00 5 sales for Standardbred breeders have revealed  
17:01:03 6 themselves; correct?

17:01:05 7 You discussed that a few minutes ago.

17:01:07 8 A. Yeah. There was a number of sales  
17:01:08 9 during that--

17:01:08 10 1351 Q. Right.

17:01:09 11 A. --period of time. Yep.

17:01:10 12 1352 Q. And volume,--

17:01:11 13 A. Yes.

17:01:12 14 1353 Q. --value and price were all  
17:01:15 15 substantially down; correct?

17:01:17 16 A. Umm. Yeah. That's my  
17:01:18 17 recollection.

17:01:19 18 1354 Q. Okay. And you also know, from  
17:01:24 19 your stakeholder consultations, that there's a  
17:01:27 20 great deal of anxiety and fear amongst breeders,  
17:01:32 21 right?

17:01:32 22 A. Yeah. They, like everybody else  
17:01:36 23 in the industry, yeah. They were part of it.

17:01:38 24 1355 Q. And you were recommending that the  
17:01:45 25 government engage in a negotiation with the

17:01:48 1 industry, with a negotiating mandate of 300-million  
17:01:54 2 over three years, right?

17:01:55 3 A. We were asked to give advice of  
17:01:57 4 what was the amount of money that we -- that we  
17:01:59 5 recommended.

17:02:00 6 1356 Q. And the breeders were one of the  
17:02:02 7 stakeholders that would participate in those  
17:02:05 8 negotiations; correct?

17:02:06 9 A. Yes. Their greatest concern was  
17:02:09 10 whether or not the -- the HIP program would be  
17:02:13 11 maintained.

17:02:13 12 At the time, that was very important.

17:02:15 13 I think we took steps to get that out  
17:02:17 14 into the public.

17:02:18 15 1357 Q. And how would maximum leverage be  
17:02:23 16 applied in these negotiations?

17:02:24 17 A. Uh. By not having an open,  
17:02:28 18 transparent, 'Everybody come to the buffet and tell  
17:02:32 19 us how much money you want,' but actually to sit  
17:02:34 20 down with -- with groups and -- and negotiate.

17:02:36 21 But not start the negotiation by  
17:02:39 22 saying, 'Here is how much money I have.'

17:02:40 23 1358 Q. Okay.

17:02:42 24 A. And leave the government some  
17:02:43 25 flexibility.

17:02:44 1 1359 Q. But in practical terms, given that  
17:02:48 2 you were now an expert on the industry, how -- what  
17:02:52 3 leverage points were there?

17:02:54 4 What was the practical advice you were  
17:02:56 5 giving to the government? What were the leverage  
17:02:59 6 points in this negotiation?

17:03:00 7 A. That the alternative was collapse.

17:03:03 8 1360 Q. Okay.

17:03:04 9 A. Because that's what was -- what we  
17:03:06 10 had determined, and I think the government had  
17:03:08 11 accepted that that was actually the alternative  
17:03:11 12 outcome.

17:03:12 13 1361 Q. And the industry knew that, as  
17:03:13 14 well,--

17:03:14 15 A. Mmm.

17:03:15 16 1362 Q. --right?

17:03:16 17 A. Very public report, yeah.

17:03:18 18 1363 Q. Yeah.

17:03:27 19 So when did these negotiations start?

17:03:29 20 A. Okay. Well, first of all, the  
17:03:36 21 government would have to accept our Final Report.

17:03:38 22 1364 Q. And did they?

17:03:39 23 A. Uh. Yes.

17:03:40 24 They may not have accepted our  
17:03:44 25 strategy. They accepted the report.



17:03:45 1 Nowhere in the report does it say,  
17:03:47 2 'There should be negotiations for \$300-million over  
17:03:50 3 three years,' I don't think. But, you know, our  
17:04:00 4 job was to determine whether there was a  
17:04:02 5 willingness between the two sides that had been so  
17:04:04 6 far apart mere months before, to work together to  
17:04:10 7 come to a resolution.

17:04:11 8 And we had worked hard to get both  
17:04:13 9 sides to get to a position where they could  
17:04:15 10 actually negotiate this which, in large measure,  
17:04:23 11 they did.

17:04:47 12 MR. LISUS: I want to mark the e-mail  
17:04:49 13 and the Panel Final Report Synopsis as the next  
17:04:54 14 exhibit.

17:04:55 15 MR. ROSENBERG: It's marked.

17:04:55 16 MR. RATCLIFFE: That's marked as 25  
17:04:57 17 already.

17:04:57 18 MR. LISUS: Okay.

17:04:57 19 MR. MATTHEWS: So just to be clear,  
17:05:00 20 this is CRE 230200 together with the attachment  
17:05:05 21 230201 as Exhibit 25.

17:05:05 22 BY MR. LISUS:

17:05:19 23 1365 Q. Now, are you aware of...?

17:05:29 24 Are you familiar with the Harrisburg  
17:05:33 25 Yearling Sales?

17:05:33 1 A. Yes. Now that you mention it,  
17:05:35 2 that's -- I said there was three.  
17:05:37 3 I think there's -- they are in  
17:05:38 4 Pennsylvania,--  
17:05:38 5 1366 Q. Right.  
17:05:39 6 A. --if I remember correctly, yeah.  
17:05:41 7 1367 Q. And what do you know about the  
17:05:43 8 Harrisburg Yearling Sales?  
17:05:45 9 A. I know that it's a North American,  
17:05:49 10 umm, annual event that is held, just kind of a ro--  
17:05:55 11 -- there's a predetermined rotation with what goes  
17:05:58 12 on, I think, in London.  
17:06:00 13 Umm. And there's -- I thought there  
17:06:02 14 was one in Ontario, one in Ohio, one in  
17:06:04 15 Pennsylvania is what I recall.  
17:06:05 16 1368 Q. And I presume you were aware that  
17:06:23 17 the Harrisburg event is a multiday event?  
17:06:27 18 A. Umm. No. I don't think I would  
17:06:28 19 know that. I don't know if --  
17:06:28 20 1369 Q. Okay.  
17:06:29 21 A. That was a big event.  
17:06:35 22 1370 Q. And it's an event at which the  
17:06:38 23 value of Standardbred horses will be revealed?  
17:06:40 24 A. Yes, as the market would tell us.  
17:06:42 25 1371 Q. Okay. And were you aware that in

17:06:48 1 the -- that the Harrisburg sales event occurred  
17:06:54 2 over three days in November 2012?

17:07:05 3 A. I wouldn't know the dates.

17:07:10 4 MR. RATCLIFFE: Well, is this -- I  
17:07:11 5 mean, do you have something to show him, I guess,  
17:07:14 6 just in terms of sharing the document that you're  
17:07:17 7 referring to?

17:07:17 8 BY MR. LISUS:

17:07:18 9 1372 Q. You are aware that there was the  
17:07:22 10 Harrisburg sales in November 2012?

17:07:26 11 A. I know there were Harrisburg  
17:07:28 12 sales. I don't know the date.

17:07:28 13 1373 Q. Okay.

17:07:46 14 MR. ROSENBERG: What is this, Counsel?

17:07:48 15 MR. LISUS: It's a United States  
17:07:50 16 Trotting Association report of the November 2012  
17:07:59 17 Harrisburg sales.

17:08:00 18 MR. ROSENBERG: Has it been produced to  
17:08:02 19 us?

17:08:02 20 MR. LISUS: I don't believe before now.

17:08:05 21 MR. ROSENBERG: Then, can I have a copy  
17:08:06 22 if it's being produced now? Counsel?

17:08:19 23 MR. LISUS: I don't have another copy  
17:08:20 24 for you.

17:08:20 25 MR. ROSENBERG: You don't have a copy

17:08:22 1 for me. It hasn't been produced.

17:08:24 2 MR. LISUS: No.

17:08:25 3 MR. ROSENBERG: Well...

17:08:28 4 BY MR. LISUS:

17:08:28 5 1374 Q. Could you take a look at that,

17:08:30 6 Mr. Wilkinson?

17:08:34 7 MR. RATCLIFFE: Well, do you want to --

17:08:34 8 or maybe we can make a quick copy? I don't know.

17:08:37 9 How much longer are you going to be,

17:08:39 10 Mr. Lisus? I know Mr. Rosenberg --

17:08:43 11 THE WITNESS: How about this? Why

17:08:43 12 don't I go to the bathroom while you guys make a

17:08:47 13 coffee -- or a copy.

17:08:47 14 Does that work?

17:08:47 15 MR. LISUS: I'll go with you.

17:08:54 16 THE WITNESS: I'll be right back.

17:08:54 17 ---Recess at 5:08 p.m.

17:15:14 18 ---On resuming at 5:15 p.m.

17:15:16 19 MR. LISUS: So let's just go back on.

17:15:17 20 BY MR. LISUS:

17:15:17 21 1375 Q. I'm showing you this document and

17:15:18 22 in it, it references an announcement made on the

17:15:21 23 second day or the third day...

17:15:22 24 A. Mm-hmm.

17:15:23 25 1376 Q. ...second day of the Harrisburg

17:15:24 1 event, --

17:15:25 2 A. Mm-hmm.

17:15:25 3 1377 Q. --that the Panel made an

17:15:27 4 announcement.

17:15:28 5 A. Mm-hmm. With the blessing of --

17:15:29 6 of the Minister.

17:15:30 7 1378 Q. Right.

17:15:31 8 A. Yeah.

17:15:31 9 1379 Q. That money for Sires Stakes would

17:15:34 10 be maintained from 2013 beyond -- and beyond.

17:15:39 11 Do you remember that?

17:15:39 12 A. Yeah, because there was a -- there

17:15:41 13 was a question about whether or not, uh... Some of

17:15:41 14 the Americans, that when they heard the industry

17:15:55 15 was going to collapse --

17:15:55 16 --- (Court reporter appeals.)

17:15:56 17 THE WITNESS: Sorry.

17:15:56 18 BY MR. LISUS:

17:15:56 19 1380 Q. There was a question about whether

17:15:57 20 or not...

17:15:57 21 A. ...the, umm, whether or not the,

17:15:57 22 umm, industry was going to collapse.

17:16:04 23 And they had heard -- I think this

17:16:05 24 marketplace had heard various things about what was

17:16:08 25 happening in Ontario.

17:16:10 1 The industry had come to us and said  
17:16:12 2 that it was -- was important, if it was possible  
17:16:14 3 for us, at all, to send a signal that clarified  
17:16:18 4 that, yes, we, indeed, saw the HIP program  
17:16:22 5 continuing, which I think we had said in our  
17:16:24 6 report, but I can -- maybe people weren't sure  
17:16:27 7 about that. They asked for clarity.

17:16:30 8 Uh. And then we were able to send out  
17:16:33 9 a press release that was approved by the Minister's  
17:16:42 10 Office.

17:16:43 11 That was the only time we spoke beyond  
17:16:45 12 the -- the public documents that we provided to the  
17:16:47 13 Minister, or that the Minister decided to make  
17:16:50 14 public, right, because we gave it to him, and then  
17:16:52 15 it was up to him whether to make it, uh, public.

17:16:55 16 But I remember, at the time, being --  
17:17:01 17 understanding there was some urgency and some  
17:17:05 18 clarity that would be helpful if it could be  
17:17:06 19 provided. Yeah.

17:17:13 20 1381 Q. Okay. It's... We haven't been  
17:17:14 21 able to find in the productions that release, so I  
17:17:17 22 would like --

17:17:18 23 MR. RATCLIFFE: Sorry. You haven't  
17:17:19 24 been able to...?

17:17:20 25 MR. LISUS: ...find in the productions

17:17:22 1 the release that Mr. Wilkinson just referred to,  
17:17:25 2 the announcement or the press release that HIP  
17:17:29 3 would be maintained.

17:17:30 4 THE WITNESS: Okay.

17:17:31 5 U/T MR. RATCLIFFE: Well, we'll -- I guess  
17:17:32 6 we'll undertake to make reasonable efforts to try  
17:17:35 7 to locate this release. I mean, and we don't -- is  
17:17:39 8 there a date on it, then, in terms of --

17:17:42 9 THE WITNESS: Well, whenever the  
17:17:43 10 Harrisburg was, right?

17:17:43 11 MR. RATCLIFFE: In terms of Harrisburg?

17:17:46 12 THE WITNESS: Yeah, yeah.

17:17:46 13 MR. MATTHEWS: It's going to be right  
17:17:48 14 around... Probably was the evening of Tuesday,  
17:17:50 15 November 6, 2012, or thereabouts.

17:17:53 16 BY MR. LISUS:

17:17:53 17 1382 Q. And until that release, the  
17:17:59 18 Standardbred industry didn't know for sure whether  
17:18:02 19 the government was going to maintain the HIP  
17:18:07 20 program support for breeding; correct?

17:18:09 21 A. That was -- that was an open  
17:18:11 22 question.

17:18:11 23 1383 Q. Okay.

17:18:12 24 A. We thought we had been clear  
17:18:13 25 because we had spoken very highly in both of our

17:18:17 1 reports about that program.

17:18:18 2 1384 Q. But the government -- as you

17:18:19 3 pointed out to me,--

17:18:20 4 A. Right.

17:18:20 5 1385 Q. --the Panel wasn't the government,

17:18:22 6 right?

17:18:22 7 A. Right. They had accepted the

17:18:24 8 report.

17:18:24 9 1386 Q. But they haven't agreed to

17:18:27 10 implement the recommendations that you made in it,

17:18:30 11 right?

17:18:30 12 A. Because it had to follow up -- the

17:18:32 13 amount of work that had to get done to organize

17:18:34 14 that. There was a finite amount of money that the

17:18:37 15 government had decided they were going to put to --

17:18:39 16 to put toward it, which was a lot better than where

17:18:41 17 they had started.

17:18:42 18 1387 Q. That was the 300-million?

17:18:44 19 A. Uh. Yeah. Over three years,

17:18:46 20 yeah, this -- this new stable funding, and there

17:18:46 21 was a lot of -- there was a lot of mouths to feed.

17:18:46 22 --- (Court reporter appeals.)

17:18:46 23 THE WITNESS: This new stable funding.

17:18:52 24 And there were a lot of mouths to feed.

17:18:55 25 This -- it's a large industry. There was a lot of



17:18:59 1 people that needed support.

17:19:00 2 One of the things that was there was  
17:19:02 3 the HIP Improvement Program, and so we were trying  
17:19:05 4 to be very clear that our vision saw that being  
17:19:07 5 maintained.

17:19:07 6 BY MR. LISUS:

17:19:09 7 1388 Q. Were you aware that in December of  
17:19:17 8 2011, the Ministry of Finance had recommended the  
17:19:21 9 sum of \$400-million over four years to assist the  
17:19:29 10 horse racing industry if the slot machines were  
17:19:34 11 relocated from racetracks to urban centres?

17:19:38 12 A. No. No one ever -- no one ever  
17:19:45 13 shared that with -- with me or the Panel.

17:19:47 14 1389 Q. You're hearing that for the first  
17:19:48 15 time now?

17:19:49 16 A. Umm. Umm. No. It's not -- yes.  
17:19:57 17 All to say that as I looked at it, you know, coming  
17:20:00 18 in after the fact, it struck me that it would -- it  
17:20:07 19 was such a decision from -- you know, from white to  
17:20:12 20 black.

17:20:16 21 You know, my recollection of government  
17:20:18 22 is they generally have a Goldilocks option in there  
17:20:22 23 somewhere between too hot and too cold, and it  
17:20:25 24 seemed to be that what was presented us was hot  
17:20:27 25 versus cold.

17:20:27 1 So -- but I was never told there was  
17:20:30 2 any other money, any other contemplation, and I can  
17:20:33 3 assure you that the civil servants would not  
17:20:35 4 disclose, to me, any discussion and nor did I press  
17:20:40 5 them on that. It's -- it's not for me to ask what  
17:20:44 6 they did, serving the government.

17:20:46 7 It was to take a look at the fact base  
17:20:48 8 that they sent to us.

17:20:50 9 1390 Q. Were you aware that in December  
17:20:52 10 2011, OLG's recommendation was to relocate slot  
17:21:03 11 machines to urban centres, but to maintain the  
17:21:08 12 amount of money that was then being shared with the  
17:21:13 13 horse racing industry?

17:21:17 14 MR. ROSENBERG: That's not correct,  
17:21:18 15 Counsel.

17:21:18 16 THE WITNESS: No.

17:21:20 17 O/B MR. ROSENBERG: I object.

17:21:22 18 THE WITNESS: Well, what I can say is,  
17:21:24 19 the question, am I aware of something that you're  
17:21:28 20 asking me to take on faith; umm, I was not aware of  
17:21:30 21 that.

17:21:30 22 BY MR. LISUS:

17:21:30 23 1391 Q. All right.

17:21:31 24 A. Nor -- I wasn't in government.

17:21:32 25 1392 Q. Right.

17:21:32 1 A. I don't know why anybody would  
17:21:34 2 call me up.  
17:21:35 3 1393 Q. And you didn't become aware of it  
17:21:36 4 in the course of your review?  
17:21:37 5 A. Uh. No. We relied on the  
17:21:39 6 documents that were provided to us.  
17:21:40 7 1394 Q. Okay.  
17:21:41 8 MR. LISUS: So. So the United States  
17:21:44 9 Trotting Association document is the next exhibit.  
17:21:56 10 ---EXHIBIT NO. 26: United States  
17:21:56 11 Trotting Association report on the November 2012  
17:21:56 12 Harrisburg sales.  
17:21:56 13 BY MR. LISUS:  
17:22:00 14 1395 Q. When was the Final Report and its  
17:22:04 15 recommendations accepted?  
17:22:04 16 A. Other than the financial piece,  
17:22:06 17 which was, umm, not disclosed, as -- as was our  
17:22:08 18 advice, the report was accepted publicly by the  
17:22:16 19 Minister on October 23rd and distributed.  
17:22:20 20 1396 Q. But the \$300-million was never  
17:22:22 21 disclosed to the industry or the public.  
17:22:25 22 Is that correct?  
17:22:26 23 A. Well, we didn't disclose it and  
17:22:27 24 our advice to government was not to disclose it.  
17:22:27 25 1397 Q. Okay.

17:22:30 1 A. Now, whether people said something  
17:22:31 2 to other people, I don't know. But our advice was  
17:22:33 3 consistent and we -- and we moved forward on that  
17:22:35 4 basis.

17:22:38 5 MR. RATCLIFFE: Could we just go off  
17:22:39 6 the record for a minute?

17:22:44 7 MR. LISUS: Yes.

17:23:50 8 --- (Discussion off the record.)

17:23:50 9 MR. LISUS: Okay. So we're back on.

17:23:51 10 MR. RATCLIFFE: Back on the record.

17:23:53 11 BY MR. LISUS:

17:23:53 12 1398 Q. Off the record, we had a  
17:23:55 13 discussion about locating this November 2012 press  
17:23:57 14 release, and it appears that it was on November the  
17:24:00 15 6th, 2012.

17:24:01 16 Mr. Wilkinson says he remembers having  
17:24:05 17 a -- he remembers a press release going out or--

17:24:05 18 A. Mm-hmm.

17:24:08 19 1399 Q. --an announcement going out on or  
17:24:10 20 about November 6, 2012, right?

17:24:12 21 A. From all three of us, from the  
17:24:14 22 Panel--

17:24:14 23 1400 Q. From the Panel.

17:24:14 24 A. --meaning the three, yes.

17:24:16 25 1401 Q. Right. That the Ontario Sires

17:24:18 1 Stakes program would be maintained from -- for 2013  
17:24:22 2 and beyond, right?

17:24:23 3 A. Right.

17:24:25 4 1402 Q. But there wasn't a commitment to  
17:24:26 5 how far the "beyond" was, right?

17:24:29 6 A. Umm. Yes. So there was an  
17:24:30 7 agreement that we could say "and beyond" because it  
17:24:38 8 was... We couldn't bind the government, uh, but we  
17:24:40 9 did say it was the -- our intention, and the  
17:24:42 10 government is set to report that it -- that it  
17:24:45 11 continue.

17:24:45 12 1403 Q. But given the five-year breeding  
17:24:48 13 cycle we have discussed, breeders needed to know  
17:24:50 14 how long it would continue for, so that they could  
17:24:53 15 plan, right?

17:24:53 16 A. Umm. Well, breeders are in a  
17:24:59 17 speculative business and they would have taken that  
17:25:01 18 into account, yeah. Yeah.

17:25:02 19 There would be no clarity, other than  
17:25:05 20 what three panelists put out.

17:25:06 21 1404 Q. Was that part of the leverage that  
17:25:09 22 the -- that the government had?

17:25:10 23 A. No. I -- what I recall,  
17:25:14 24 Mr. Lisus, is that -- is that the Standardbred  
17:25:17 25 Breeders Association, I think; not individual, but

17:25:19 1 their Association urged both, umm, the Minister --  
17:25:24 2 the Minister's Office and us to see if there was  
17:25:28 3 anything that we could do.  
17:25:29 4 I -- I believe Sue Leslie from OHRIA  
17:25:33 5 subsequently put out a press release that said,  
17:25:37 6 'Thank you,' and it was a good indication that the  
17:25:39 7 industry and the government were actually talking  
17:25:41 8 and trying to sort out their differences, which had  
17:25:43 9 -- which had been vast and were narrowing.  
17:25:46 10 So I think it was well received, also,  
17:25:48 11 by the industry, that it was a sign of hope.  
17:25:51 12 1405 Q. Okay. The Final Report is dated  
17:25:54 13 October 23, 2012, and it's SB 3832.  
17:25:54 14 A. Yeah. Mm-hmm.  
17:25:54 15 MR. LISUS: I'm going to mark that as  
17:25:54 16 the next exhibit.  
17:26:05 17 Was it marked on Snobelen's?  
17:26:07 18 MR. MATTHEWS: The Final? No.  
17:26:08 19 MR. RATCLIFFE: I don't think that went  
17:26:09 20 in on Snobelen's.  
17:26:12 21 BY MR. LISUS:  
17:26:12 22 1406 Q. And am I correct that the Final  
17:26:14 23 Report does not refer to the amount of funding  
17:26:17 24 there was available for the industry?  
17:26:21 25 That was kept confidential, right?

17:26:23 1 A. Yeah. But that was our advice, so  
17:26:26 2 if it's not in the report, that's why it's not in  
17:26:28 3 the report--

17:26:28 4 1407 Q. Okay.

17:26:31 5 A. --because that was our advice.

17:26:31 6 THE COURT REPORTER: Sorry. And the  
17:26:32 7 number of that exhibit?

17:26:32 8 MR. MATTHEWS: ...just confirm that.

17:26:32 9 MR. LISUS: The document number?

17:26:32 10 THE COURT REPORTER: No, no. The  
17:26:32 11 exhibit number.

17:26:46 12 MR. MATTHEWS: I just gave it to the  
17:26:47 13 witness to confirm that this is the Final Report.

17:26:47 14 MR. LISUS: What's the exhibit number?

17:27:04 15 MR. MATTHEWS: It will be Exhibit 27  
17:27:06 16 once he confirms it.

17:27:13 17 --- (Witness reviewing document.)

17:27:17 18 THE WITNESS: Yeah. I think our cover  
17:27:18 19 letter also showed that there was some concern by  
17:27:22 20 the industry about--

17:27:22 21 BY MR. LISUS:

17:27:22 22 1408 Q. Okay.

17:27:23 23 A. --disclosure of confidential  
17:27:26 24 information in the negotiations. They should be  
17:27:28 25 done behind closed doors.

17:27:30 1 --- (Witness reviewing document.)

17:27:35 2 THE WITNESS: Yes. So basically, you

17:27:37 3 know, we put this to Ted and then Ted, I think his

17:27:40 4 office asked us to write the October 23rd letter,

17:27:43 5 just so that there was a -- there was a way of

17:27:46 6 announcing that there would be good faith

17:27:48 7 negotiations starting,--

17:27:50 8 BY MR. LISUS:

17:27:50 9 1409 Q. Okay.

17:27:52 10 A. --coming out of this report.

17:27:53 11 So if anybody wanted to negotiate with

17:27:55 12 the government, 'Okay. Here is what you need to

17:27:55 13 know.

17:27:56 14 And this was a lot of work done in two

17:27:58 15 months, I can assure you, as well.

17:28:00 16 MR. MATTHEWS: Can I have that?

17:28:02 17 THE WITNESS: Oh.

17:28:02 18 MR. MATTHEWS: So just for the

17:28:03 19 record,--

17:28:03 20 THE WITNESS: Yeah.

17:28:04 21 MR. MATTHEWS: --Exhibit 27, SB 3832.

17:28:07 22 ---EXHIBIT NO. 27: Final Report, dated

17:28:08 23 October 23, 2012; Doc ID Number SB 3832.

17:28:12 24 BY MR. LISUS:

17:28:12 25 1410 Q. Do you remember going on the Steve



17:28:14 1 Paikin show on TVOntario?

17:28:16 2 A. With my colleagues,--

17:28:17 3 1411 Q. Yeah.

17:28:18 4 A. --if that's what you're talking

17:28:19 5 about, yes.

17:28:19 6 1412 Q. And there's a summary prepared by

17:28:22 7 the government of your comments, which is attached

17:28:25 8 to that e-mail?

17:28:30 9 A. I haven't seen -- I don't -- don't

17:28:32 10 think I've seen this, but I know I participated.

17:28:35 11 1413 Q. Okay.

17:28:35 12 A. And I believe there was

17:28:37 13 actually -- always, with Steve, there's a -- you

17:28:38 14 can probably go video -- you can actually go online

17:28:42 15 and see it.

17:28:42 16 1414 Q. Right.

17:28:45 17 A. Yeah.

17:28:45 18 1415 Q. I just want to ask you a question

17:28:47 19 about--

17:28:47 20 A. Sure.

17:28:48 21 1416 Q. --a statement that you made.

17:28:49 22 A. Okay.

17:28:49 23 1417 Q. In middle of the second page,--

17:28:53 24 A. Okay. Oh. Middle, yeah.

17:28:54 25 1418 Q. --see "JW"? Middle of the page,--

17:28:56 1 A. Oh, yeah.

17:28:57 2 1419 Q. --it says:

17:28:58 3 "SARP, what was it?"

17:28:59 4 A. Yeah.

17:29:00 5 1420 Q. And then, it appears that you say:

17:29:05 6 "John Snobelen was part of

17:29:07 7 government at that time."

17:29:08 8 And this is an abbreviation of the

17:29:10 9 comments prepared by Issues Management at OMAFRA,

17:29:14 10 it appears.

17:29:15 11 But your comments are said to be:

17:29:18 12 "John Snobelen was part of

17:29:19 13 government at that time. Government

17:29:20 14 wanted to have casinos. Horse

17:29:23 15 racing industry was struggling."

17:29:25 16 A. Mm-hmm.

17:29:25 17 1421 Q. "Partnership arranged to put two

17:29:28 18 together as a win-win. Became a lot of

17:29:30 19 money." [As read.]

17:29:30 20 A. Mm-hmm.

17:29:31 21 1422 Q. Do you see that?

17:29:31 22 A. Yeah.

17:29:32 23 1423 Q. And does that generally reflect

17:29:34 24 your views at the time?

17:29:35 25 A. Yeah. I mean, there's -- there's

17:29:36 1 a full record of what I said--

17:29:36 2 1424 Q. CRE --

17:29:38 3 A. --but that sounds about right

17:29:40 4 'cause I would have said, 'Hey, Steve --'

17:29:41 5 Actually, John is the guy to ask about

17:29:44 6 SARP because he was around the Cabinet table--

17:29:44 7 1425 Q. Yeah.

17:29:46 8 A. --when it started.

17:29:47 9 But I just kind of gave a -- a brief

17:29:47 10 synopsis, and that these sides that had been so far

17:29:51 11 apart were actually working together, which was a

17:29:53 12 tremendous turnaround from -- from what it was when

17:29:55 13 we got involved in June. Yeah.

17:30:08 14 MR. LISUS: That's the next exhibit.

17:30:08 15 --- (Sotto voce discussion between

17:30:29 16 Mr. Lisus and Mr. Matthews.)

17:30:29 17 MR. MATTHEWS: Exhibit 28, CRE0235431.

17:30:29 18 --- EXHIBIT NO. 28: A summary of

17:30:29 19 Mr. Wilkinson's comments to Steve Paikin; Doc ID

17:30:29 20 Number CRE0235431.

17:30:41 21 THE WITNESS: And there is a full

17:30:42 22 transcript available about who said what and not a

17:30:42 23 summary.

17:30:42 24 BY MR. LISUS:

17:30:47 25 1426 Q. Have you seen that transcript?

17:30:48 1 A. No.

17:30:48 2 1427 Q. Okay.

17:30:48 3 A. But I'm just saying, you can go --

17:30:50 4 1428 Q. Well, we have a transcript.

17:30:52 5 A. Okay.

17:30:52 6 1429 Q. It was marked on --

17:30:52 7 A. You can actually go and hear what

17:30:53 8 we said.

17:30:55 9 1430 Q. Yeah. No, we have one. It was

17:30:55 10 marked on Mr. Snobelen's--

17:30:56 11 A. Well, what you--

17:30:57 12 1431 Q. --Exam.

17:30:58 13 A. --showed me was just like notes

17:30:59 14 that somebody took.

17:31:00 15 THE COURT REPORTER: You have to wait

17:31:01 16 until he finishes before you start.

17:31:02 17 THE WITNESS: Sorry. Sorry.

17:31:03 18 BY MR. LISUS:

17:31:03 19 1432 Q. I will show you the transcript of

17:31:05 20 your comment, if you want.

17:31:06 21 A. No. We can move on. I mean...

17:31:17 22 1433 Q. I want to ask you about...

17:31:51 23 I'm showing you a letter dated March

17:31:53 24 11, 2014 -- 22...

17:31:58 25 A. Okay.

17:31:59 1 1434 Q. Okay.

17:32:05 2 MR. ROSENBERG: What's the document

17:32:05 3 number?

17:32:08 4 MR. MATTHEWS: SB 4508.

17:32:19 5 THE WITNESS: One -- one second. I'm

17:32:19 6 going to -- I might need to correct something--

17:32:19 7 MR. RATCLIFFE: Okay.

17:32:21 8 THE WITNESS: --because I -- I could

17:32:24 9 actually check the e-mail 'cause I sent it to you

17:32:25 10 and it's...

17:32:25 11 But I might have said I was done the

17:32:27 12 end of March 2015. It might have been 2014, and

17:32:29 13 that would be a fact.

17:32:32 14 BY MR. LISUS:

17:32:33 15 1435 Q. That's fine.

17:32:33 16 A. Okay. Just let me --

17:32:33 17 1436 Q. Do you think that's what it is?

17:32:35 18 A. Uh. Well, I know if I -- I know

17:32:37 19 I'm not supposed to look at stuff, so...

17:32:38 20 1437 Q. No. You can look at stuff.

17:32:41 21 Who told you you're not supposed to

17:32:42 22 look at stuff?

17:32:43 23 A. Well, I -- I know I'm supposed to

17:32:45 24 focus on what's in front of me and not be running

17:32:48 25 around --

17:32:48 1 MR. RATCLIFFE: Well, if it was 2014,  
17:32:50 2 that's good to clarify that because in terms of...  
17:32:53 3 THE WITNESS: Yeah. I -- I just --  
17:32:55 4 'cause I was asked --  
17:32:57 5 BY MR. LISUS:  
17:32:57 6 1438 Q. Okay. Will you just look at your  
17:32:58 7 records--  
17:32:58 8 A. Sure. Okay.  
17:32:59 9 1439 Q. --and clarify when you finished  
17:33:02 10 up; if it was March '14 or '15, okay?  
17:33:10 11 U/T A. Okay.  
17:33:10 12 1440 Q. I'm showing you a letter, dated  
17:33:10 13 March 11, 2014, from John Snobelen, to Kathleen  
17:33:10 14 Wynne.  
17:33:10 15 Do you see it?  
17:33:11 16 A. Yes. The Minister, yes.  
17:33:11 17 1441 Q. Were you involved in the horse  
17:33:18 18 racing industry transition in March 2014, or had  
17:33:28 19 you finished your work on the Panel?  
17:33:29 20 A. No. If it was March 11, I believe  
17:33:31 21 I was still working for ORC, providing support--  
17:33:31 22 1442 Q. Okay.  
17:33:35 23 A. --to Mr. Snobelen.  
17:33:35 24 1443 Q. All right. So you see that  
17:33:38 25 Mr. Snobelen is reporting on March 11 that he is

17:33:42 1 delighted to inform her that agreement has been  
17:33:47 2 reached that will enhance the \$30-million Horse  
17:33:51 3 Improvement Program, the third paragraph of the  
17:33:53 4 letter, right?

17:33:53 5 A. Mm-hmm.

17:33:54 6 1444 Q. Yes?

17:33:54 7 A. Uh. Yes.

17:33:55 8 1445 Q. Do you remember that?

17:33:56 9 A. Uh... Yes. Thoroughbred, Quarter  
17:34:01 10 Horse, yeah.

17:34:10 11 1446 Q. Okay. So you remember agreement  
17:34:10 12 being reached to enhance the Horse Improvement  
17:34:13 13 Program--

17:34:13 14 A. Mm-hmm.

17:34:14 15 1447 Q. --with five-year breeder support  
17:34:17 16 programs with the Thoroughbred Horse Society and  
17:34:19 17 the Quarter Horse Society?

17:34:20 18 A. Yes.

17:34:21 19 1448 Q. And why was -- why wasn't there a  
17:34:25 20 similar enhancement to the breeder support programs  
17:34:30 21 for Standardbred announced in March 2014?

17:34:38 22 A. Well, my recollection is that, uh,  
17:34:40 23 agreement wasn't sought. And one of the biggest  
17:34:44 24 stumbling blocks was, uh, the threat by some of a  
17:34:47 25 lawsuit.

17:34:48 1 1449 Q. I see.

17:34:52 2 A. And that made it very difficult...

17:34:52 3 I'm not a lawyer, but I -- my understanding is,

17:34:55 4 that makes it very difficult to -- to negotiate.

17:34:56 5 1450 Q. So the biggest stumbling block in

17:34:58 6 terms of enhanced breeder support for the

17:35:04 7 Standardbreds was the threat of a lawsuit in March

17:35:09 8 2014; the fact that such a threat was being made,

17:35:12 9 right?

17:35:13 10 A. Yeah. I just -- I just remember,

17:35:21 11 umm, it -- it -- it added a layer of complexity

17:35:24 12 that the other two breeds did not have.

17:35:25 13 1451 Q. Okay. So whose decision was it

17:35:27 14 that while there was a threat of a lawsuit, there

17:35:30 15 couldn't be enhanced breeder support for

17:35:42 16 Standardbreds? Whose decision was that?

17:35:43 17 A. Well... Well, I didn't say that

17:35:44 18 people didn't negotiate. I just said it made it

17:35:46 19 complicated and no agree- -- at that date, no

17:35:49 20 agreement had been reached for Standardbred.

17:35:52 21 1452 Q. And no agreement had been reached

17:35:54 22 for Standardbred because the Standardbred breeders

17:35:56 23 weren't prepared to say they would not sue, right?

17:35:58 24 A. Umm. Yeah. They were very

17:36:04 25 adamant that they were -- they were not going to do



17:36:04 1 the -- there was some term -- like, was there some  
17:36:09 2 term like a turn -- a --  
17:36:09 3 1453 Q. A tolling agreement?  
17:36:11 4 A. Yeah. Okay. I'm not a lawyer.  
17:36:13 5 So there was -- I know there was some  
17:36:14 6 discussion of that, if I recall.  
17:36:17 7 1454 Q. You're right.  
17:36:18 8 A. But I don't -- I don't...  
17:36:20 9 I'm not a lawyer, so I don't... If you  
17:36:22 10 asked me to define it, I wouldn't know.  
17:36:24 11 But if I looked at it again, I would  
17:36:25 12 probably, 'Oh, yeah.' I would know what that's  
17:36:27 13 about.  
17:36:28 14 1455 Q. Okay. Well, this was -- we  
17:36:30 15 discussed this with Mr. Snobelen and -- on his  
17:36:35 16 Examination.  
17:36:35 17 And you are correct; there was  
17:36:38 18 discussion of a tolling agreement, and maybe  
17:36:43 19 this --  
17:36:43 20 A. What does that do? Does that...?  
17:36:44 21 1456 Q. That stops the running of a  
17:36:46 22 limitation period.  
17:36:51 23 A. Oh. I see. Because they have,  
17:36:52 24 like, a limitation?  
17:36:52 25 1457 Q. Yes.

17:36:53 1 A. Oh, I see.

17:36:54 2 1458 Q. Starting a suit.

17:36:54 3 A. Oh, okay. Okay.

17:36:54 4 1459 Q. Does that ring a bell?

17:36:55 5 A. Yeah. I knew if you would explain

17:36:57 6 it to me, I knew it had something to do with the

17:36:59 7 timing and all that.

17:37:00 8 1460 Q. Right.

17:37:01 9 A. Okay. So this... That's you,

17:37:03 10 "Jonathan". All right.

17:37:14 11 --- (Witness reviewing document.)

17:37:14 12 BY MR. LISUS:

17:37:22 13 1461 Q. That --

17:37:22 14 A. So this would have been to MAG,

17:37:24 15 right?

17:37:24 16 1462 Q. Yes. That's the tolling

17:37:26 17 agreement.

17:37:26 18 MR. RATCLIFFE: Did you have any

17:37:27 19 involvement with this?

17:37:29 20 THE WITNESS: No. That's MAG.

17:37:29 21 BY MR. LISUS:

17:37:32 22 1463 Q. Okay. You were aware that there

17:37:33 23 was discussion of a tolling agreement; correct?

17:37:33 24 A. I was aware that at every

17:37:35 25 agreement that I attended with Stand- -- that some

17:37:37 1 Standardbred breeders were adamant that they were  
17:37:40 2 suing the government.

17:37:40 3 1464 Q. Okay.

17:37:40 4 A. I remember that.

17:37:40 5 1465 Q. Right.

17:37:41 6 A. And that was a complication to  
17:37:43 7 reach an agreement.

17:37:44 8 1466 Q. Okay. It was a complication  
17:37:47 9 because the government didn't want to give enhanced  
17:37:50 10 breeder supports if the Standardbred breeders were  
17:37:53 11 going to sue, right?

17:37:54 12 A. I don't know that.

17:37:55 13 1467 Q. All right. Well, why do you say  
17:37:56 14 it was a complication, sir?

17:37:57 15 A. Just that it's very difficult to,  
17:38:01 16 uh -- for a contractor for the Government of  
17:38:06 17 Ontario to be entering into any type of negotiation  
17:38:09 18 with a group that was going to sue the government.

17:38:11 19 What was required was to have  
17:38:13 20 government lawyers there, uh, and to resolve those  
17:38:17 21 issues.

17:38:17 22 So it just struck me that that -- that  
17:38:22 23 was complicating.

17:38:23 24 That we -- that was not the case with  
17:38:24 25 the other two breeds.

17:38:25 1 1468 Q. Okay.

17:38:26 2 A. Yeah.

17:38:27 3 1469 Q. And because that was not the case

17:38:29 4 with the other two breeds, they received the

17:38:34 5 enhanced breeder support programs, right, in the --

17:38:42 6 A. Yeah. My understanding, they

17:38:45 7 reached agreement, yeah.

17:38:48 8 1470 Q. Okay. And after the March 11

17:38:51 9 letter, there is a discussion in Standardbred

17:39:01 10 Canada; do you see that,--

17:39:02 11 A. Okay.

17:39:05 12 1471 Q. --on March 12th, in which it

17:39:05 13 reports that:

17:39:05 14 "In a letter issued to Premier

17:39:05 15 Kathleen Wynne on March 11,--"

17:39:12 16 A. Mm-hmm.

17:39:12 17 1472 Q. "--John Snobelen of Ontario Horse

17:39:16 18 Racing announced support programs for

17:39:19 19 Thoroughbred and Quarter Horse."

17:39:20 20 A. Mm-hmm.

17:39:21 21 1473 Q. "Not mentioned in this

17:39:22 22 announcement was the Standardbred

17:39:24 23 sector."

17:39:25 24 Do you see that?

17:39:27 25 A. Mm-hmm.

17:39:27 1 1474 Q. And Snobelen told --

17:39:28 2 THE COURT REPORTER: Sorry. 'Yes' or

17:39:28 3 'no'.

17:39:28 4 THE WITNESS: Okay.

17:39:29 5 BY MR. LISUS:

17:39:29 6 1475 Q. Yes.

17:39:29 7 MR. RATCLIFFE: Sorry. What paragraph

17:39:30 8 are you referring to?

17:39:32 9 MR. LISUS: "Not mentioned in this

17:39:32 10 announcement--"

17:39:32 11 MR. RATCLIFFE: Okay.

17:39:34 12 MR. LISUS: "--was the Standardbred

17:39:34 13 sector."

17:39:34 14 BY MR. LISUS:

17:39:34 15 1476 Q. You see that, Mr. Wilkinson?

17:39:34 16 A. Yes.

17:39:37 17 1477 Q. Okay.

17:39:38 18 A. Yeah.

17:39:38 19 1478 Q. And then --

17:39:39 20 A. "And on Monday, a group of

17:39:39 21 Standardbred breeders..."

17:39:39 22 1479 Q. Yes.

17:39:39 23 A. I guess your clients.

17:39:41 24 "...filed a \$65-million lawsuit

17:39:44 25 against OLG."

17:39:45 1 1480 Q. Yes.

17:39:46 2 A. All right. And then:

17:39:46 3 "Snobelen told Trot

17:39:46 4 -(indecipherable)- that the timing

17:39:54 5 of --" [As read.]

17:39:54 6 --- (Court reporter appeals.)

17:39:54 7 THE WITNESS: Okay. Sorry, sorry.

17:39:54 8 Okay.

17:39:54 9 MR. RATCLIFFE: Just read it to

17:39:54 10 yourself first.

17:39:55 11 THE WITNESS: I will read it to myself.

17:39:57 12 Sorry about that, Bonnie.

17:39:57 13 BY MR. LISUS:

17:39:57 14 1481 Q. No. Read it out loud.

17:40:00 15 "Snobelen told..."

17:40:00 16 Go ahead.

17:40:00 17 A. The...

17:40:01 18 "Snobelen told Trot Insider on

17:40:03 19 Wednesday morning..."

17:40:04 20 I don't know what day that is.

17:40:04 21 1482 Q. Just read it.

17:40:07 22 A. "...that the timing of the two

17:40:08 23 announcements is merely coincidence,

17:40:11 24 but the exclusion of the Standardbred

17:40:12 25 side is not." [As read.]

17:40:12 1 1483 Q. Okay.

17:40:18 2 A. I don't know what that means.

17:40:18 3 1484 Q. So Mr. Snobelen told the Trot

17:40:21 4 Insider that the timing of the two announcements;

17:40:25 5 that's the support programs for Thoroughbred and

17:40:28 6 Quarter Horse--

17:40:28 7 A. Right.

17:40:30 8 1485 Q. --and the announcement of the

17:40:30 9 lawsuit is a coincidence, right?

17:40:32 10 A. Umm...

17:40:35 11 1486 Q. Is --

17:40:36 12 A. Well, it was up to you when you

17:40:38 13 want to file suit. It wasn't up to Mr. Snobelen or

17:40:40 14 the government.

17:40:41 15 I mean, that was their decision, not...

17:40:45 16 Okay. I don't know what you're asking

17:40:47 17 me, so I'm confused now.

17:40:53 18 1487 Q. Snobelen told Trot Insider that

17:40:58 19 the Standardbreds were excluded because of the

17:41:02 20 lawsuit, right?

17:41:03 21 A. Okay.

17:41:09 22 --- (Witness reviewing document.)

17:41:13 23 THE WITNESS: Yes. He went on to

17:41:20 24 explain and I... That sounds like John, yes.

17:41:20 25 BY MR. LISUS:

17:41:23 1 1488 Q. Okay. So you understood, as well,  
17:41:25 2 sir, that the reason there wasn't support provided  
17:41:29 3 for Standardbreds at that time was because they  
17:41:32 4 commenced a \$65-million lawsuit.

17:41:34 5 That's what you understood at the time?

17:41:36 6 A. That was going to make getting to  
17:41:42 7 an agreement more difficult.

17:41:43 8 1489 Q. And why is that?

17:41:44 9 A. Umm. Because no one, the  
17:41:46 10 government or the breeders, want to interfere with  
17:41:48 11 the matters that are before the courts.

17:41:50 12 And Cabinet Ministers know all about  
17:41:55 13 sub judice. That's drilled into us and tattooed  
17:41:55 14 onto us.

17:41:55 15 --- (Court reporter appeals.)

17:41:57 16 THE WITNESS: Sub judice, which is that  
17:41:57 17 we don't talk about things before the courts. It's  
17:42:00 18 just the nature of being a Cabinet Minister.

17:42:00 19 BY MR. LISUS:

17:42:04 20 1490 Q. What did giving breeder support to  
17:42:04 21 Standardbreds have to do with about -- have to do  
17:42:04 22 with talking about things before the court?

17:42:04 23 MR. RATCLIFFE: Well --

17:42:04 24 THE WITNESS: There is a lawsuit. My  
17:42:04 25 point is, is there was a lawsuit, so therefore,



17:42:04 1 there was -- there was a process that had  
17:42:18 2 nothing... Doesn't matter -- there was a process  
17:42:19 3 that would need -- the people that Mr. Snobelen was  
17:42:21 4 to speak to were suing the government upon, who he  
17:42:25 5 was acting for, and he was not a lawyer.

17:42:25 6 BY MR. LISUS:

17:42:28 7 1491 Q. But why does that disentitle the  
17:42:30 8 breeders from getting --

17:42:32 9 MR. RATCLIFFE: Well --

17:42:33 10 MR. LISUS: Don't interrupt, please,  
17:42:34 11 Mr. Ratcliffe.

17:42:35 12 MR. RATCLIFFE: You're asking a legal  
17:42:37 13 question.

17:42:37 14 BY MR. LISUS:

17:42:37 15 1492 Q. Why does a lawsuit disentitle the  
17:42:40 16 breeders, the Standardbred breeders from getting  
17:42:42 17 the same kind of breeding support as Thoroughbreds  
17:42:45 18 and Quarter Horse?

17:42:46 19 MR. RATCLIFFE: You're asking a legal  
17:42:47 20 question.

17:42:48 21 MR. LISUS: No, I'm not.

17:42:48 22 BY MR. LISUS:

17:42:49 23 1493 Q. I'm asking why Mr. Wilkinson, as a  
17:42:52 24 member of the Panel, is of the view that the  
17:42:54 25 commencement of a lawsuit disentitles Standardbred

17:42:57 1 breeders from getting the same kind of support that  
17:43:00 2 Thoroughbred and Quarter Horse breeders do?  
17:43:02 3 A. I agree with Mr. Snobelen. It  
17:43:05 4 makes agreements more difficult.  
17:43:06 5 1494 Q. Okay.  
17:43:07 6 A. It just makes it more difficult.  
17:43:09 7 1495 Q. Thank you.  
17:43:10 8 And whose decision was it that because  
17:43:12 9 they commenced a lawsuit, they weren't going to get  
17:43:15 10 enhanced breeding support like the Quarter Horse  
17:43:19 11 and Thoroughbred breeders were?  
17:43:21 12 Whose decision was that?  
17:43:22 13 A. Whose decision -- they didn't --  
17:43:26 14 they hadn't been able to reach an agreement--  
17:43:29 15 1496 Q. And part of --  
17:43:30 16 A. --on that day because they -- on  
17:43:32 17 -- on that day, March 11, two had agreed and one  
17:43:35 18 had yet to agree.  
17:43:37 19 1497 Q. Not to sue?  
17:43:37 20 A. No. They hadn't agreed to what  
17:43:40 21 the new support agreement would be.  
17:43:42 22 On March 11th, he wrote Kathleen and  
17:43:47 23 said, 'I've got -- just so you know, Minister, I've  
17:43:48 24 got an agreement with these guys; I've got  
17:43:48 25 agreement with those guys.'

17:43:51 1 That's all he's telling her. That's --  
17:43:51 2 'I have agreement from...'  
17:43:53 3 And we knew there was three breeds, so  
17:43:55 4 we told her that.  
17:43:56 5 And later on, he said, 'The fact that  
17:43:57 6 there's a lawsuit is going to make this more  
17:44:00 7 difficult to achieve.'  
17:44:04 8 1498 Q. Quarter Horse had not agreed at  
17:44:04 9 that date, Mr. Wilkinson.  
17:44:04 10 A. Well, I'm just reading what was in  
17:44:04 11 the letter from Mr. Snobelen.  
17:44:06 12 1499 Q. I'm not asking you what you're  
17:44:06 13 reading.  
17:44:08 14 I'm asking you what you knew at the  
17:44:08 15 time, as a member of the Panel.  
17:44:10 16 MR. RATCLIFFE: Well, are -- you're  
17:44:11 17 referring him to the letter.  
17:44:12 18 MR. LISUS: No, I'm not.  
17:44:13 19 MR. RATCLIFFE: Okay.  
17:44:14 20 BY MR. LISUS:  
17:44:14 21 1500 Q. I'm asking you what you remember  
17:44:15 22 at the time, as a member of the Panel, okay?  
17:44:17 23 A. That the Standardbred people had  
17:44:19 24 always said to us -- some of them had always said,  
17:44:21 25 no matter what, they were going to sue the

17:44:24 1 government, and that that made it very difficult,  
17:44:26 2 uh, to, uh -- for us to, uh, be able to reach  
17:44:30 3 agreement - even though we continued to try to  
17:44:32 4 reach an agreement - to reach an agreement with  
17:44:34 5 that over our head without having to bring in the  
17:44:38 6 lawyers of the government.

17:44:38 7 We -- we couldn't bind the government  
17:44:41 8 if there was an issue that was before the courts.  
17:44:45 9 Of course, we couldn't.

17:44:48 10 MR. ROSENBERG: Can we go off?

17:44:48 11 BY MR. LISUS:

17:44:50 12 1501 Q. What was the issue -- what does  
17:44:53 13 the lawsuit have to do with the Standardbred  
17:44:57 14 breeders' right to receive breeding support like  
17:45:01 15 the Thoroughbred--

17:45:01 16 A. I -- I --

17:45:03 17 1502 Q. --and Quarter Horse?

17:45:03 18 MR. RATCLIFFE: The witness has said --

17:45:03 19 THE WITNESS: I signed a contract that  
17:45:05 20 said I could not bind the government; so did  
17:45:08 21 Mr. Buchanan, so did Mr. Snobelen. All we did is  
17:45:13 22 make recommendations, sir.

17:45:13 23 BY MR. LISUS:

17:45:14 24 1503 Q. Whose decision was it to withhold  
17:45:17 25 support from the Standardbred breeders?

17:45:18 1 A. There's no decision. There was no  
17:45:21 2 agreement that was reached.  
17:45:22 3 1504 Q. Well, there still hasn't been an  
17:45:24 4 agreement reached.  
17:45:25 5 A. Okay. There you go. That's why  
17:45:27 6 there's no agreement 'cause it hasn't been agreed  
17:45:31 7 to.  
17:45:31 8 1505 Q. But breeding support was released  
17:45:33 9 to the Standardbred breeders in the fall of 2012  
17:45:36 10 after the lawsuit was commenced -- excuse me --  
17:45:37 11 2014.  
17:45:38 12 Do you know that?  
17:45:39 13 A. The, umm...  
17:45:42 14 MR. RATCLIFFE: Do you know the answer  
17:45:44 15 to that question or not?  
17:45:45 16 THE WITNESS: No.  
17:45:46 17 MR. RATCLIFFE: Okay. Why don't --  
17:45:46 18 BY MR. LISUS:  
17:45:46 19 1506 Q. So whose --  
17:45:47 20 MR. RATCLIFFE: I'm just wondering if  
17:45:48 21 we should pause here. Mr. Rosenberg is getting  
17:45:52 22 ready to leave and we are going to have to talk  
17:45:54 23 about when we are going to continue this.  
17:45:56 24 I don't know whether you have to run  
17:45:58 25 and how quickly.

17:46:00 1 MR. ROSENBERG: Go off the record for a  
17:46:01 2 moment.  
17:46:03 3 --- (Discussion off the record.)  
17:47:24 4 MR. LISUS: Back on.  
17:47:43 5 MR. ROSENBERG: I'm just going to put  
17:47:44 6 on the record that Counsel for OLG is leaving.  
17:47:47 7 I have asked Counsel for the Plaintiffs  
17:47:50 8 to advise as to whether he will finish today, in  
17:47:53 9 which case I am content with him continuing.  
17:47:56 10 Otherwise, I have requested that we all  
17:48:00 11 reconvene as I will have some questions for the  
17:48:01 12 witness. I understand the Crown will, as well, at  
17:48:04 13 which point Counsel for the Plaintiffs could  
17:48:05 14 continue.  
17:48:06 15 I understand that Counsel for the  
17:48:08 16 Plaintiffs have elected to continue and I am  
17:48:10 17 leaving the Examination at this time.  
17:48:14 18 BY MR. LISUS:  
17:48:18 19 1507 Q. Are you aware that Mr. Parkinson  
17:48:24 20 wrote to Mr. Snobelen?  
17:48:25 21 A. Who is Mr. Parkinson?  
17:48:27 22 1508 Q. Seelster Farms.  
17:48:37 23 A. Mmm. No.  
17:48:37 24 MR. RATCLIFFE: Why don't you refer him  
17:48:39 25 to the letter that...?

17:48:49 1 Can you just indicate what the time is  
17:48:53 2 on the transcript at this point, please?

17:48:58 3 THE COURT REPORTER: Yes.

17:49:09 4 --- (Mr. Rosenberg withdraws at 5:49  
17:49:15 5 p.m.)

17:49:15 6 --- (Sotto voce discussion between  
17:49:15 7 Mr. Lisus and Mr. Matthews.)

17:50:40 8 MR. LISUS: We're off the record.

17:50:40 9 --- (Discussion off the record.)

17:54:43 10 THE COURT REPORTER: Back on?

17:54:43 11 MR. LISUS: Yes.

17:54:44 12 MR. MATTHEWS: All right. So letter  
17:54:48 13 dated March 11th, 2014, SB 4508, will be Exhibit  
17:54:50 14 29.

17:54:52 15 --- EXHIBIT NO. 29: Letter dated March  
17:54:52 16 11th, 2014, Doc ID Number SB 4508.

17:54:53 17 MR. RATCLIFFE: Well, I guess we should  
17:54:53 18 really be checking with Michael just to see whether  
17:54:54 19 or not he's --

17:54:54 20 MR. LISUS: Well, then, so between him  
17:54:54 21 and Dharshini and --

17:54:55 22 --- (Court reporter appeals.)

17:54:55 23 MR. MATTHEWS: Can I just finish  
17:55:06 24 putting this on the record?

17:55:08 25 And SB 4927, March 12th, 2014 article

1 from Standardbred Canada will be Exhibit 30.

2 ---EXHIBIT NO. 30: March 12th, 2014  
3 article from Standardbred Canada.

4 MR. MATTHEWS: Thank you.

5 ---[ Adjourned at 5:55 p.m.; to resume  
6 on Monday, December 18, 2017 at 4:00 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 oath  
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 by me;

That the foregoing is a true and  
correct transcript of my shorthand notes so taken.

Dated this 5th day of January, 2018.



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BONNIE LYNN VAN DER MEER, CSR  
NEESON COURT REPORTING INC.