

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

DARCY MCNEILL
January 25, 2018

neelsons

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1 Court File No. 842/12

2 ONTARIO

3 SUPERIOR COURT OF JUSTICE

4 B E T W E E N:

5
6 SEELSTER FARMS INC., WINBAK FARM OF CANADA INC.,
7 STONEBRIDGE FARM, 774440 ONTARIO INC., NORTHFIELDS
8 FARM INC., JOHN MCKNIGHT, TARA HILLS STUD LTD.,
9 TWINBROOK LTD., EMERALD RIDGE FARM, CENTURY SPRING
10 FARMS, HARRY RUTHERFORD, DIANE INGHAM, BURGESS
11 FARMS INC., ROBERT BURGESS, 453997 ONTARIO LTD.,
12 TERRY DEVOS, SONIA DEVOS, GLENN BECHTEL, GARTH
13 BECHTEL, 496268 NEW YORK INC., HAMSTAN FARM INC.,
14 ESTATE OF JAMES CARR, deceased, by its executor
15 Darlene Carr, ESTATE OF GUY POLILLO, deceased, by
16 its executor Carolyn Polillo, DAVID GOODROW,
17 TIMPANO GAMING INC., CRAIG TURNER, GLENGATE
18 HOLDINGS INC., KENDAL HILLS STUD FARM LTD., ANDY
19 KLEMENCIC, TIM KLEMENCIC, STAN KLEMENCIC, JEFF
20 RUCH, BRETT ANDERSON, DR. BRETT C. ANDERSON
21 PROFESSIONAL VETERINARY CORPORATION, KILLEAN ACRES
22 INC., DECISION THEORY INC., 296268 ONTARIO LTD.,
23 DOUGLAS MURRAY MCCONNELL, QUINTET FARMS INC., KARIN
24 BURGESS, BLAIR BURGESS, ST. LAD'S LTD., WINDSUN
25 FARM INC., SKYHAVEN FARMS, HIGH STAKES INC.,

1 1806112 ONTARIO INC., GLASSFORD EQUI-CARE, JOHN
2 GLASSFORD, GLORIA ROBINSON and KEITH ROBINSON
3 Plaintiffs

4 - and -

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

8 -----

9 --- This is the Rule 39.03 Examination of
10 Darcy McNeill, a non-party witness herein, taken at
11 the offices of Neeson Court Reporting Inc., 77 King
12 Street West, Suite 2020, Toronto, Ontario, on the
13 25th day of January, 2018.

14 -----

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

16 Jonathan Lisus, Esq.,
17 Ian Matthews, Esq.,
18 & Vivien Milat, Esq., for the Plaintiffs.

19
20 Lisa La Horey, Esq., for the Defendant
21 & Meagan Williams, Esq., Crown.

22
23 Dharshini Sinnadurai, Esq., for the OLG.

24
25

I N D E X

WITNESS: Darcy McNeill

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The following list of undertakings, advisements and refusals is meant as a guide only for the assistance of counsel and no other purpose

INDEX OF UNDERTAKINGS

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

INDEX OF ADVISEMENTS

The questions/requests taken under advisement are noted by U/A and appear on the following pages: None

INDEX OF REFUSALS

The questions/requests refused are noted by R/F and appear on the following pages: 11:24, 12:3, 12:7, 129:10

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1 -- Upon commencing at 10:00 a.m.

2 DARCY MCNEILL: SWORN.

3 CROSS-EXAMINATION BY MR. LISUS:

4 1 Q. Good morning, Mr. McNeill.

5 A. Good morning.

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

8 A. No.

9 3 Q. You've never given evidence in any
10 kind of proceeding?

11 A. Never.

12 4 Q. All right.

13 MS. LA HOREY: How is that relevant?

14 BY MR. LISUS:

15 5 Q. The woman to my right has to
16 record my questions and your answers and prepare a
17 transcript of the questions and the answers and any
18 comments, and so I'm going to ask you to just make
19 sure that you wait until I finish the question
20 before you answer. Okay?

21 A. Okay.

22 6 Q. And that you give audible answers,
23 not um-hmm or nods, but a word, so that the
24 reporter can capture your answer accurately. Okay?

25 A. I understand.

1 7 Q. And keep your voice up.

2 A. Okay.

3 8 Q. All right. You are here today
4 pursuant to a Summons to Witness, correct?

5 A. Correct.

6 9 Q. And do you recall when you were
7 summonsed?

8 A. I don't.

9 10 Q. Do you recall approximately when?

10 A. Late summer/early fall.

11 11 Q. I'm going to show you a copy of
12 the summons that was issued. Were you personally
13 served or did you become aware of the summons
14 through communications from the Crown?

15 A. I believe I became aware through
16 communications with the Crown.

17 12 Q. And you read the summons?

18 A. I did.

19 13 Q. You saw that it asked for
20 documents?

21 A. I did.

22 14 Q. And did you search your records to
23 find documents responsive to the summons?

24 A. I did.

25 15 Q. And where did you look?

1 A. I looked in files at home and on
2 my computer at home.

3 16 Q. Did you review the contents of an
4 email mailbox with the heading "Kim dot McNeill at
5 Sympatico dot ca?

6 A. No.

7 17 Q. You did not?

8 A. No.

9 18 Q. Why not?

10 A. We stopped using Bell as a service
11 provider at home about three years ago and I no
12 longer have access to that account.

13 19 Q. And you don't have any records
14 from that account?

15 A. Correct.

16 20 Q. Did you look?

17 A. I did not.

18 21 Q. And when you say you looked at
19 your records at home, what records did you have at
20 home that you looked at?

21 A. I have -- I have a folder of
22 speeches that I wrote during my times at Queen's
23 Park, my time at Queen's Park, and that's where I
24 found the one record that I believe is a duplicate.

25 22 Q. And is that the extent of the

1 records you have at home other than records which
2 were sent from or received at the Kim dot McNeill
3 at Sympatico dot ca?

4 A. That is the extent.

5 MR. LISUS: Mark the summons as the
6 first exhibit, please.

7 MR. MATTHEWS: Can you pass me the
8 summons please, Mr. McNeill. Thank you.

9 EXHIBIT NO. 1: Summons to Witness.

10 BY MR. LISUS:

11 23 Q. Now, you have reviewed documents
12 in preparation for giving evidence here today?

13 A. I have.

14 24 Q. And what documents have you
15 reviewed?

16 MS. LA HOREY: Refusal. He has
17 reviewed documents given by counsel. I am not
18 going to give you the set of those documents.

19 MR. LISUS: I'm not asking you to give
20 me a set at this point, Ms. La Horey. I am asking
21 what the witness has reviewed to prepare himself to
22 give evidence here today.

23 BY MR. LISUS:

24 25 Q. You have reviewed documents to
25 give evidence here today?

1 A. I have reviewed some documents,
2 yes.

3 26 Q. And can you tell me what documents
4 you reviewed?

5 A. There were some email exchanges
6 with former colleagues at Queen's Park.

7 27 Q. And yourself?

8 A. And myself.

9 28 Q. Is that it?

10 A. Yes, other than the Statement of
11 Claim.

12 29 Q. You read the Statement of Claim?

13 A. Parts of it, yes.

14 30 Q. Okay. Just parts?

15 A. Just parts.

16 31 Q. Why just parts?

17 MS. LA HOREY: Mr. Lisus, how is this
18 relevant?

19 BY MR. LISUS:

20 32 Q. Why just parts, Mr. McNeill?

21 I am not required -- this is a
22 cross-examination, Ms. La Horey; you can refuse the
23 question and I'll continue.

24 R/F MS. LA HOREY: Refused.

25 BY MR. LISUS:

1 33 Q. How did you identify the parts of
2 the Statement of Claim that you reviewed?

3 R/F MS. LA HOREY: Refused.

4 BY MR. LISUS:

5 34 Q. Why didn't you review the whole
6 Statement of Claim?

7 R/F MS. LA HOREY: Refused.

8 BY MR. LISUS:

9 35 Q. I presume the parts of the claim
10 that you reviewed were identified for you?

11 A. That's an incorrect presumption.

12 36 Q. So how did you come to review just
13 parts of the claim?

14 A. I found the document very dense
15 and difficult to read.

16 37 Q. Okay. But you read certain parts
17 of it?

18 A. I skimmed through some parts, yes.

19 38 Q. And I'm trying to understand what
20 it was about those parts that you found relevant
21 for the purposes of giving your evidence today.

22 A. I don't think I mentioned
23 relevance. I said I found the document dense and
24 difficult to read.

25 39 Q. You also said that you read parts

1 of the document.

2 A. Correct.

3 40 Q. And I'm trying to understand what
4 parts of the documents you found important or worth
5 reading?

6 MS. LA HOREY: He said he skimmed it.

7 THE WITNESS: I think I've answered the
8 question. I found the document dense and difficult
9 to read.

10 BY MR. LISUS:

11 41 Q. What is your education, sir?

12 A. I have -- the highest attainment I
13 have achieved is a masters of arts.

14 42 Q. And that's in 1992 from University
15 of Western Ontario?

16 A. Correct.

17 43 Q. And what did you do after getting
18 your master of arts?

19 A. I'm not sure how much detail you
20 want.

21 44 Q. Just give me your general
22 employment history.

23 A. I worked in retail for a year or
24 two. I did some research for a professor at the
25 university during that time as well. I then

1 volunteered at the Liberal Caucus Service Bureau at
2 Queen's Park. I started working there full-time in
3 1993.

4 From 1995 to 2000 I worked for an
5 international lobby firm called GPC, Government
6 Policy Consultants.

7 From there I went to Clearnet, Telus
8 and Bell, over approximately six years.

9 Then I worked for myself as an
10 entrepreneur in a startup, and then in 2008 I
11 started working at the Ministry of Finance.

12 45 Q. And what did you start doing at
13 the Ministry of Finance in 2008?

14 A. I was the director of
15 communications in the Minister's office.

16 46 Q. Which Minister?

17 A. Dwight Duncan, and I stayed on
18 after he retired and spent some time with Charles
19 Sousa.

20 47 Q. What were your responsibilities as
21 director of communications in the Minister's
22 office?

23 A. I briefed the Minister for
24 question period before interactions with the media;
25 I, in some cases, wrote speeches, in other cases

1 edited speeches.

2 My main job was as editor in-chief of
3 the provincial budget.

4 48 Q. And what did your responsibilities
5 as editor in-chief of the provincial budget
6 include?

7 A. Editing the budget, ensuring
8 consistency between different chapters. Several
9 hundred writers contribute to the document itself,
10 so it was my job to bring some harmony to the voice
11 and the messages that all these people were putting
12 down.

13 49 Q. And you were an editor in-chief of
14 the provincial budget from the years 2008 until you
15 left the Ministry; is that correct?

16 A. Correct. I left in June 2013. I
17 did return for about seven weeks in 2016 on
18 secondment.

19 50 Q. You did return, you say?

20 A. I returned, yes, for seven weeks
21 on a secondment.

22 51 Q. When?

23 A. It was the -- 2016.

24 52 Q. Into what job?

25 A. I was a contractor, it wasn't a

1 job, so it was essentially the same job I had had
2 before, as director of communications, but there
3 was a director of communications but he was very
4 new and he needed some help.

5 53 Q. Who did you report to in your job
6 as director of communications at the Ministry from
7 2008 until 2013?

8 A. The Chief of Staff.

9 54 Q. Who was that?

10 A. There were three. The chief that
11 hired me was David Bryce.

12 55 Q. The chief that hired you?

13 A. Was David Bryce. There was a
14 short period where a woman named Beth Hirshfeld was
15 my chief, and then Tim Shortill.

16 56 Q. And do you recall Tim Shortill's
17 tenure as Chief of Staff?

18 A. I do.

19 57 Q. What was it?

20 A. Well, precise dates? I'm not a
21 hundred percent certain. He started in the fall of
22 2010 and left a little bit before me. I left in
23 June 2013. I'm not sure when he left.

24 58 Q. So, you --

25 A. Sorry, technically I guess there

1 was a chief after he left, but my time afterwards
2 was very short.

3 59 Q. So, you reported directly to
4 Mr. Shortill?

5 A. Correct.

6 60 Q. And Mr. Shortill directly reported
7 to the Minister?

8 A. That's my understanding.

9 61 Q. Did you attend meetings with the
10 Minister?

11 A. I'm not sure which kind of meeting
12 you mean.

13 62 Q. Well, any kind of meetings.

14 A. I didn't attend any kind of
15 meeting with the Minister, no.

16 63 Q. So, to be clear, during your
17 tenure at the Ministry of Finance, 2008 to 2013,
18 you did not attend any meetings with Minister
19 Duncan?

20 A. So, I want to be clear about your
21 use of the word "any." I attended some meetings
22 but I did not attend any kind of meeting. I did
23 not attend meetings with stakeholders, for example,
24 outside parties who had an interest in government
25 relations.

1 I would meet with outside economists
2 who were providing advice.

3 MS. LA HOREY: That wasn't his
4 question.

5 THE WITNESS: With the Minister.

6 MS. LA HOREY: With the Minister?

7 THE WITNESS: Yes, with the Minister.
8 I would certainly attend meetings with Ministry
9 officials, so I would call that a briefing, not a
10 meeting. That's my definition of the word
11 "meeting," but I'm not sure what you mean.

12 BY MR. LISUS:

13 64 Q. Did you attend any meetings or
14 briefings with the Minister at which the topic of
15 the Slots at Racetrack Program was discussed?

16 A. I did attend some briefings with
17 the Minister, yes, where that was discussed.

18 65 Q. And do you recall those meetings?

19 A. I recall some, sure, yeah.

20 66 Q. And what was your role in
21 attending such meetings?

22 A. To listen.

23 67 Q. Is that it?

24 A. Yes.

25 68 Q. You were just there to listen?

1 A. Correct.

2 69 Q. You weren't supposed to do
3 anything with what you heard?

4 A. Well, it was my job to prepare the
5 Minister for interactions with the media, so --

6 70 Q. How --

7 A. -- if and when those circumstances
8 arose, and if and when we anticipated questions on
9 a specific subject, then I would draw upon what I
10 had heard and help prepare him for his messaging.

11 71 Q. How would you help prepare him for
12 his messaging?

13 A. I would review the facts and
14 suggest context or framing around which to put --
15 or within which to put those facts.

16 72 Q. In context and framing for the
17 Minister's responses to questions about those
18 facts?

19 A. Correct.

20 73 Q. And did you perform that service
21 with respect to issues relating to the Slots at
22 Racetrack Program?

23 A. I don't remember any specific
24 exchanges I would have had with him on that
25 subject, but I dealt with him pretty regularly and

1 consistently, so it is safe to assume that yes, I
2 did.

3 74 Q. Did you ever speak with
4 Mr. Drummond?

5 A. Never.

6 75 Q. Did you ever speak with
7 Mr. Phillips?

8 A. Rod Phillips, yes.

9 76 Q. Did you speak with Mr. Phillips
10 regarding the Slots at Racetrack Program?

11 A. No, not specifically.

12 77 Q. Did you speak with Mr. Phillips
13 regarding the modernization of OLG's gaming
14 activities?

15 A. I honestly don't recall.

16 78 Q. What do you recall, if anything,
17 speaking to Mr. Phillips about?

18 A. I would have been in some of the
19 meetings where Mr. Phillips came to brief the
20 Minister. I've known Rod for many years, so we
21 would have exchanged pleasantries, how are you
22 today, how's the family, how's the wife, things
23 like that.

24 79 Q. At meetings or briefings about
25 topics that could be the subject of questions or

1 communications to and from either stakeholders or
2 the media, it was your job to organize the facts
3 and suggest responses for the Minister; is that
4 fair?

5 A. That's fair.

6 80 Q. And you would do so based on the
7 content of discussions at meetings and whatever
8 documents you reviewed or information you received
9 in addition; fair?

10 A. Fair.

11 81 Q. Now, I presume that in the course
12 of these meetings for the purposes of fulfilling
13 those responsibilities, you would make notes?

14 A. Very rarely.

15 82 Q. Okay. And when you would make
16 them, where would you make them?

17 A. The place I would make notes would
18 be on decks that were presented and -- prepared and
19 presented by Ministry officials.

20 83 Q. You mean you would do it
21 electronically on a laptop?

22 A. No, we would get paper copies. I
23 didn't have a laptop during my time at government.

24 84 Q. So you would draft decks in the
25 course of the meetings?

1 A. I would not draft decks, no.

2 85 Q. Okay. So, you said that you
3 rarely took notes and I asked you when you took
4 notes, how you took them, and you have explained to
5 me you didn't do it electronically with a laptop.
6 How did you do it?

7 A. As I said, the Ministry officials
8 would prepare decks, I would receive a paper copy
9 of that deck for the briefing, and I would write
10 notes in the margins.

11 86 Q. I see. And what would you do with
12 those paper decks with the notes in the margins?

13 A. The decks that were prepared by
14 the Ministry officials were confidential and were
15 collected at the end of briefings or at the end of
16 a budget cycle, and the Ministry has very strict
17 rules on disposal of those decks.

18 87 Q. What are the rules?

19 A. I don't know.

20 88 Q. Are they disposed of?

21 A. They take them back. I don't know
22 what they do with them but I was told that they had
23 strict rules on how to handle those things.

24 89 Q. So, you didn't keep any paper
25 records?

1 A. That's correct.

2 90 Q. When did you first become involved
3 in the Slots at Racetrack Program issue?

4 A. It would have been either very
5 late in the fall of 2010 -- 2011 or very early in
6 the new year of 2012.

7 91 Q. Prior to your involvement in the
8 Slots at Racetrack Program issue, what knowledge
9 did you have of the Slots at Racetrack Program?

10 A. None.

11 92 Q. So, the first time you became
12 aware of the Slots at Racetrack Program was when
13 you became engaged in, what's the correct term, a
14 file/issue?

15 A. A file.

16 93 Q. And what was the file referred to?
17 How did you call it?

18 A. I don't recall.

19 94 Q. Okay. Was Josh Cogan on your
20 team?

21 A. He was not on my team.

22 95 Q. Whose team was he on?

23 A. He was on Dianne Lone's team.

24 96 Q. Spelled?

25 A. Dianne with two Ns, Lone, L-O-N-E.

1 97 Q. And did you work with Josh Cogan?

2 A. We worked together on some files,
3 correct.

4 98 Q. Was the Slots at Racetrack Program
5 one of them?

6 A. Yes, it would have been, but it
7 would be more correct to say that Josh managed
8 overall communications for the OLG file and Slots
9 at Racetrack Program would have been a subset of
10 that.

11 99 Q. Did you also provide services to
12 the Ontario Liberal Party?

13 A. I did not.

14 100 Q. Were you involved in the
15 developing or the development of any communications
16 or messaging for the Ontario Liberal Party?

17 A. I was not.

18 101 Q. Never?

19 A. Never.

20 102 Q. Are you aware that in February
21 2012, certain radio ads about the Slots at
22 Racetrack Program were run?

23 A. I was not aware until recently,
24 during the process to prepare for today.

25 103 Q. All right. So, you are aware, as

1 you sit here today, that on or about February 26,
2 2012, two radio ads were run about the Slots at
3 Racetrack Program, correct?

4 A. I have been told that that is
5 happening, yes.

6 104 Q. Have you reviewed the text of
7 those radio ads?

8 A. I did.

9 105 Q. For the purpose of giving your
10 evidence here today?

11 A. I saw them in the documents that
12 were provided.

13 106 Q. But what you're telling me is that
14 in February of 2012 you had no involvement in
15 either the decision to run those ads or their text;
16 is that correct?

17 A. That is correct.

18 107 Q. When did you first become aware of
19 them?

20 A. As I said --

21 MS. LA HOREY: He's answered that.

22 THE WITNESS: -- in the process of
23 examination for today, so within the last few
24 weeks.

25 BY MR. LISUS:

1 108 Q. You don't recall being aware of
2 them in February 2012?

3 A. I don't.

4 109 Q. Now, you've told me that prior to
5 becoming involved in the Slots at Racetrack Program
6 file in the fall of 2010 or early 2011, you weren't
7 aware --

8 A. Sorry, I just want to be clear. I
9 corrected those dates. I go by budget year fiscal,
10 so I was thinking of 2011, but it was the 2012
11 budget, so it was 2011 that I became aware, late
12 2011 or possibly early 2012.

13 110 Q. Okay. So I'll do this again so
14 that you're comfortable with it. Your first
15 involvement in the Slots at Racetrack Program file
16 you believe was fall of 2011 or early 2012?

17 A. That is correct. It was in
18 preparation for the 2012 budget.

19 111 Q. All right. Just explain to me,
20 sir, how you came to be involved in the Slots at
21 Racetrack Program file in preparation for the 2012
22 budget?

23 A. Mr. Phillips and Mr. Godfrey came
24 to brief the Minister. I was not in that meeting,
25 I clearly recall. And then they exited the

1 boardroom and the Minister came out and said that
2 the OLG had uncovered, I believe was the term he
3 used, a program that would create ways for us to
4 help address the fiscal challenge facing the
5 province.

6 112 Q. And you believe this to be the
7 fall of 2011?

8 A. So, I believe it to be within the
9 budget cycle for 2012.

10 113 Q. Which is what?

11 A. The budget cycle typically starts
12 in December and runs through until budget date,
13 which is anywhere from February until April.

14 114 Q. And what did you understand the
15 Minister to be telling you?

16 A. The Minister said that there was a
17 support program that amounted to a subsidy for
18 horseracing that existed by sharing revenue from
19 the slot machines at racetracks.

20 115 Q. Okay. And what else did he say?

21 A. Coming out of the recession, which
22 we categorized as arguably the largest recession in
23 the province's history, the Premier felt that the
24 people of Ontario had values aligned with schools
25 and hospitals more than any other area where the

1 government provides services, and that we, as a
2 government, were committed to dedicating as many
3 resources as possible to those two areas, and if
4 government programs or supports or subsidies did
5 not fall within those two areas of public policy,
6 that they would have to be examined very closely to
7 see if they should continue in their current form,
8 or at all.

9 116 Q. Are you testifying as to your
10 recollection of what Minister Duncan walked out of
11 this meeting and said to you?

12 A. I am.

13 117 Q. And that is your clear
14 recollection of what Minister Duncan said?

15 A. Very clear, yes.

16 118 Q. Did you write it down somewhere?

17 A. No, it was a conversation in a
18 hallway.

19 119 Q. Did you record it anywhere or
20 email it to anyone?

21 A. No.

22 120 Q. And what did you understand that
23 to mean, Mr. McNeill?

24 A. What did I understand that
25 conversation to mean?

1 121 Q. Yes. And, by the way, before you
2 answer that, was that the entirety of what Minister
3 Duncan said to you?

4 A. That's my recollection.

5 122 Q. And what did you understand that
6 to mean?

7 A. It meant that we were going to
8 investigate the -- how the program may or may not
9 have aligned with the values of Ontarians.

10 123 Q. But you told me you didn't know
11 anything about the program at that point, correct?

12 A. That's correct.

13 124 Q. And so, how were you going to
14 investigate how the program would align with the
15 values of Ontarians?

16 A. I wasn't going to investigate it.
17 That wasn't my role.

18 125 Q. Who was going to investigate it?

19 A. Presumably the Minister and the
20 Premier and their policy staff.

21 126 Q. And how was that investigation
22 going to be undertaken?

23 A. I don't know. I was not involved
24 with policy formulation or development.

25 127 Q. Did you speak with Mr. Phillips at

1 any time about the investigation as to whether or
2 not that program aligned with the values of
3 Ontarians?

4 A. I believe I've already said, I
5 never spoke with Mr. Phillips about the program
6 specifically.

7 128 Q. Did you speak with Mr. Godfrey
8 about how that investigation was going to be
9 undertaken --

10 A. No.

11 129 Q. Wait for the question.

12 A. Sorry, I apologize.

13 130 Q. To determine whether the program
14 aligned with the values of Ontarians?

15 A. I did not speak with Mr. Godfrey
16 about that subject.

17 131 Q. What did you learn about the
18 investigation undertaken into whether or not that
19 program aligned with the values of Ontarians?

20 A. I'm sorry, can you repeat the
21 question?

22 132 Q. What did you learn about the
23 investigation as to whether or not that program
24 aligned with the values of Ontarians?

25 A. I learned about the conclusion, so

1 I didn't learn about the investigation. Again, not
2 my role.

3 133 Q. The next thing you learned about
4 this question of whether or not the program aligned
5 with the values of Ontarians was when you learned
6 of a conclusion; is that right?

7 A. No, that's not correct.

8 134 Q. Well, what did you learn about the
9 steps leading up to the conclusion?

10 A. I learned that we were ready to
11 put into the public --

12 135 Q. Who is "we"?

13 A. The government. That the
14 government, through the voice of the Minister of
15 Finance, was ready to open discourse about whether
16 or not this support program was in alignment with
17 Ontarians' values.

18 136 Q. With who was the government going
19 to open discourse?

20 A. I think I said the public.

21 137 Q. How?

22 A. We made an announcement.

23 138 Q. What announcement is that?

24 A. That was in a speech, we called it
25 a -- it was before the budget, it's called a

1 preconditioning speech.

2 139 Q. This is the February 2013 speech
3 that the Minister delivered at the -- February 2012
4 speech that the Minister delivered at the Economic
5 Club, correct?

6 A. That is correct.

7 140 Q. You drafted that speech?

8 A. I did.

9 141 Q. That was the discourse?

10 A. That was the beginning of the
11 discourse, yes.

12 142 Q. And what was the next part of the
13 discourse?

14 A. I'm not aware. It wasn't
15 something I was involved in. I was communications,
16 so... Discourse is policy development and that's
17 not something I was engaged in.

18 143 Q. But you wrote the speech?

19 A. I did.

20 144 Q. Did you speak with anyone at the
21 Ministry about the investigation into whether or
22 not Slots at Racetrack Program aligned with the
23 values of Ontarians?

24 A. No, that's not the kind of
25 interaction that I would have undertaken and

1 Ministry officials do not participate in values
2 conversations. Those are political. The Ministry
3 would be doing research. But, in any event, I
4 wouldn't have engaged in those kinds of
5 conversations.

6 145 Q. What was your understanding as of
7 the fall of 2011 as to what steps the OLG had taken
8 to determine whether or not the Slots at Racetrack
9 Program aligned with the values of Ontarians?

10 A. Well, the fall of 2011 I had no
11 awareness of the program, so I wouldn't know
12 anything about that.

13 146 Q. As of the date Mr. Duncan came out
14 and gave you this comment, which you have told me
15 about, what understanding did you have about the
16 steps, if any, OLG itself had taken or had been
17 taking to determine whether the Slots at Racetrack
18 Program aligned with the values of Ontarians?

19 A. So, I think I've been pretty
20 clear, those are policy developments. I did not
21 engage or participate in policy developments.

22 147 Q. Were you aware that the OLG had
23 been engaged in an extensive land-based gaming
24 review?

25 A. Prior to that meeting?

1 148 Q. Yes.

2 A. I can't speak with certainty of
3 what I was aware of.

4 149 Q. Did you become aware that OLG had
5 been engaged in an extensive land-based gaming
6 review and a modernization review?

7 A. I was aware of the modernization
8 review, yes.

9 150 Q. When did you become aware of the
10 modernization review?

11 A. I don't recall.

12 151 Q. What did you understand the
13 modernization review to be?

14 A. My understanding of the
15 modernization was that the corporation was
16 operating under guidelines that had been developed
17 10 or 20 years earlier, and that the industry had
18 evolved and the corporation had not kept up with
19 the development of gaming, and the Minister had
20 given a mandate for the corporation to modernize.

21 152 Q. And where is that understanding
22 from?

23 A. My understanding? Where is my
24 understanding of that? I'm sorry, I don't
25 understand the question.

1 153 Q. You just testified about an
2 understanding you had about the purpose of the
3 land-based gaming review. My question is, where
4 did you get the understanding from?

5 A. In one of our budgets we wrote
6 about it, we talked about how the government was
7 looking at all of its assets, looking to maximize
8 the value of the assets, and one such example would
9 have been the modernization of the Lottery
10 Corporation.

11 That's where I recall my understanding.

12 154 Q. You recall seeing it written about
13 in a budget, right?

14 A. I recall seeing it written about
15 in a draft budget that, yes, I would have edited
16 and put together.

17 155 Q. You would not have composed the
18 content of that draft budget about the
19 modernization or gaming review that the OLG was
20 undertaking, correct?

21 A. That is correct.

22 156 Q. You didn't have any knowledge of
23 it other than what you read for the purpose of
24 editing, correct?

25 A. As I said, I don't recall where I

1 got the understanding. It's possible that I might
2 have heard about it beforehand, but I don't
3 remember that.

4 157 Q. All right.

5 A. So, I definitely remember it being
6 contained in one of the budgets.

7 158 Q. And as I said to you, you didn't
8 have any role in composing the contents of that
9 budget with respect to the gaming review; you were
10 simply reading it for the purposes of editing?

11 A. That is correct.

12 159 Q. What did you know about the
13 horseracing industry in the fall of 2012? Excuse
14 me, the fall of 2011?

15 A. Nothing.

16 160 Q. What did you know about the
17 breeding cycle of a Standardbred racing horse in
18 the fall of 2011?

19 A. Nothing.

20 161 Q. What did you know about the
21 breeding cycle of a Standardbred racing horse in Q1
22 2012?

23 A. Nothing.

24 162 Q. What did you know about the
25 breeding cycle of a Standardbred racing horse in Q2

1 2012?

2 A. Nothing.

3 163 Q. Did you at some point come to
4 learn anything about the breeding cycle of a
5 Standardbred racing horse?

6 A. No.

7 164 Q. Have you ever read the siteholder
8 agreements between the Ontario Lottery Corporation,
9 as it then was, and individual racetracks?

10 A. No.

11 165 Q. Do you have any understanding of
12 the economic terms of the siteholder agreement?

13 A. The only understanding I have,
14 which I don't know if it's the economic terms, was
15 that there was discussion around sharing revenues
16 from the slot machines. That's the economic terms
17 of the siteholder. I don't even know if that's
18 part of the siteholder agreements, but I know that
19 there was a discussion around sharing revenues to
20 support the racing industry.

21 166 Q. Do you know anything about the
22 share?

23 A. I believe it was 20 percent to go
24 from slots to the racetracks.

25 167 Q. And when did you become aware of

1 that?

2 A. I don't remember.

3 168 Q. So, I take it you also, in 2011
4 and 2012, didn't know anything about a June 1998
5 Letter of Intent and the 2000 addendum to it; is
6 that correct?

7 A. That is correct, I didn't know
8 about it.

9 169 Q. Have you read the affidavit of Jim
10 Bullock, B-U-L-L-O-C-K?

11 A. No.

12 170 Q. He deposes to a meeting in July
13 2009, July 20, 2009, with Minister Duncan, at which
14 he discussed the Slots at Racetrack Program and the
15 Standardbred industry. Were you at that meeting?
16 Do you know if you were?

17 A. As I said, I very rarely went to
18 meetings with stakeholders with the Minister. So
19 can I categorically say I wasn't there? No. But
20 it would be highly unlikely and I certainly don't
21 remember it.

22 171 Q. Do you recall being in a meeting
23 with a man called James Deacey, D-E-A-C-E-Y?

24 A. The name sounds familiar but I
25 don't know that I've ever met with him, no.

1 172 Q. Did you ever speak with Mr. Rod
2 Seiling, S-E-I-L-I-N-G?

3 A. Never spoke with him.

4 173 Q. Do you know who Rod Seiling is?

5 A. I do.

6 174 Q. Who is he?

7 A. He was on Team Canada in 1972,
8 which I think is pretty cool, and I believe he's
9 got some professional capacity with the ORC but I'm
10 not certain what it is.

11 175 Q. Do you have any idea what the
12 professional capacity he has with ORC?

13 A. I am assuming he is an executive
14 at a senior level at the Racing Commission but I
15 don't know specifically.

16 176 Q. What was the role of the ORC in
17 2011?

18 A. Actually I know nothing about the
19 role of the ORC either today or then.

20 177 Q. Who was responsible for the
21 communications of the Liberal Party in 2012?

22 A. I don't know. There's a party
23 office, they have people there. I didn't deal with
24 the party very often, so I could probably list a
25 few names of people both who over the last 20 years

1 have helped with communications, but no idea who
2 would have been in charge of communications in
3 2012.

4 178 Q. Did you ever review any draft
5 reports or presentations of the OLG regarding its
6 modernization review or land-based gaming review in
7 2011 or 2012?

8 A. I wouldn't say I reviewed. I'm
9 sure I would have read some reports as they came
10 across to me.

11 179 Q. Pardon?

12 A. I'm sorry. I would have read some
13 reports, yes, as they came to me. But reviewed, I
14 wouldn't use that word, no.

15 180 Q. Why do you draw a distinction
16 between read and reviewed?

17 A. Reviewed suggests input, and I
18 wouldn't have ever really provided input to a
19 report written by the OLG.

20 181 Q. Okay. So, if I'm looking at
21 documents about OLG's strategic and tactical
22 decisions regarding the land-based gaming review
23 that was underway in May 2010, am I correct that
24 you would not have seen any of these documents or
25 been involved in any discussion about them because

1 your first involvement in the Slots at Racetrack
2 Program file was Q4 2011?

3 A. You lost me a little bit there,
4 sorry. If you could make that a little shorter?

5 182 Q. I understood that your first
6 involvement in issues regarding the Slots at
7 Racetrack Program was the fall or the fourth
8 quarter of 2011, correct?

9 A. Correct.

10 183 Q. And so, am I correct therefore
11 that you would not have had any exposure to or
12 involvement in communications with the OLG or
13 reading or reviewing OLG documents in 2010, for
14 instance?

15 A. On that subject?

16 184 Q. Yes.

17 A. I certainly don't recall any,
18 correct.

19 185 Q. So, if I show you a letter, for
20 instance, June 2010 from the Office of the
21 Minister, you were in the Office of the Minister in
22 June 2010, correct?

23 A. Yes, I was.

24 186 Q. And one of your responsibilities
25 was composing responses of the Minister to people

1 who wrote to him?

2 A. No, actually I had nothing to do
3 with that kind of response.

4 187 Q. So take a look at this letter,
5 which is CRE94175.

6 A. (Witness reads document).

7 188 Q. So you never composed draft
8 letters?

9 MS. LA HOREY: Hang on, Mr. Lisus, he's
10 still reading the letter.

11 MR. LISUS: Well, if he didn't compose
12 letters, we don't need to wait while he reads it.

13 MS. LA HOREY: Yes, we're going to do
14 one thing at a time. He's going to read the letter
15 and then he's going to answer the next question.

16 THE WITNESS: Okay. The question was
17 did I participate in letter-writing?

18 BY MR. LISUS:

19 189 Q. Yes.

20 A. I did not.

21 190 Q. Was there someone who did?

22 A. Well, I'm sure there was somebody.
23 I don't know who it would have been.

24 191 Q. Okay.

25 A. The Ministry had -- has a

1 correspondence unit, but it's on the Ministry side,
2 not the Minister's office, and I know that policy
3 advisors on their respective files would provide
4 information in the correspondence.

5 192 Q. Thank you. I want to show you
6 another document, 3610.

7 MS. LA HOREY: For the record, that's a
8 CRE document?

9 MR. LISUS: Yes, 3610130.

10 BY MR. LISUS:

11 193 Q. That's dated May 31, 2011.

12 MS. LA HOREY: Read it.

13 THE WITNESS: (Witness reads document).

14 Okay.

15 BY MR. LISUS:

16 194 Q. I take it your responsibilities
17 included preparing draft Q's and A's for the use of
18 the Minister?

19 MS. LA HOREY: You need to make sure
20 you're clear, so I suggest you remove your hand
21 from your chin. Thank you.

22 THE WITNESS: I would have prepared Q's
23 and A's for the Minister for many things, not all
24 things.

25 BY MR. LISUS:

1 195 Q. And is this the form of a Q and A
2 that you would have prepared in the course of your
3 duties?

4 A. So, I can say very clearly that
5 not once in my six years did I ever work on
6 documents to prepare the Minister for estimates.

7 196 Q. Did you work on documents to
8 prepare the Minister for Q and A's?

9 A. With media and for question
10 period.

11 197 Q. Okay. Thank you. So, I am now
12 beginning to understand a bit better your role.
13 You prepared speeches for the Minister?

14 A. Correct.

15 198 Q. You prepared Q and A's for the
16 Minister for question period in the House?

17 A. Correct.

18 199 Q. And for what else?

19 A. For media.

20 200 Q. For media. And when you say
21 media, do you mean press conferences or scrums --
22 and scrums?

23 A. Correct.

24 201 Q. So, have I now identified your
25 communications, your areas of communications

1 responsibility?

2 A. Certainly the main central
3 responsibilities, yes.

4 202 Q. Are there any others?

5 A. The role of communications advisor
6 is ambiguous and nebulous. He would talk to me and
7 just say what do you think about this, what do you
8 think about that, so I would define that as a
9 pretty big responsibility, but it's not one that's
10 easily defined or put into a box.

11 203 Q. Did you compose letters to the
12 editor?

13 A. I did. Or actually, more
14 appropriately, I had a team that did and I would
15 oversee that process.

16 204 Q. Did you respond to written
17 requests for information from the media?

18 A. Sometimes, yes.

19 205 Q. All right. Now, the document I
20 showed you, May 31, 2011, Minister's Q's and A's,
21 estimates defense, you are telling me that you had
22 no involvement in this document because it
23 addresses estimates defense and that was not part
24 of your responsibility, correct?

25 A. That's correct.

1 206 Q. All right. Did you prepare
2 speaking notes for Cabinet meetings for the --

3 A. No.

4 207 Q. -- Minister?

5 MS. LA HOREY: You have to wait until
6 the question is finished, then you answer, so the
7 transcript is clear.

8 THE WITNESS: I apologize. I did not
9 prepare speaking notes for the Minister for Cabinet
10 meetings.

11 BY MR. LISUS:

12 208 Q. Did you attend Cabinet meetings?

13 A. Once.

14 209 Q. Which one?

15 A. It was right before I left because
16 there's one thing I wanted to do to cross off my
17 list before I left government.

18 210 Q. So I take it from that you did
19 not attend the Cabinet meeting on February 8 at
20 which --

21 MS. LA HOREY: 2012.

22 THE WITNESS: I did not.

23 BY MR. LISUS:

24 211 Q. I'll start again. You did not
25 attend the Cabinet meeting on February 8, 2012 at

1 which the Slots at Racetrack Program revenue
2 sharing was discussed?

3 A. I did not.

4 212 Q. I take it you had no role in the
5 composition of the deck that was presented at the
6 February 8, 2012 Cabinet meeting, correct?

7 A. That is correct, no role.

8 213 Q. And I take it as well that you had
9 no role in the composition of the speaking notes
10 for the February 8, 2012 Cabinet meeting, correct?

11 A. Correct.

12 214 Q. Do you know who did compose the
13 speaking notes for the February 2012 --

14 A. No. I'm sorry.

15 215 Q. Do you know who did compose the
16 speaking notes for the February 8, 2012 Cabinet
17 meeting?

18 A. No idea.

19 216 Q. Have you ever read them?

20 A. Not to my recollection.

21 217 Q. Have you ever read the deck that
22 was presented to Cabinet for the February 8, 2012
23 Cabinet meeting?

24 A. Not to my recollection.

25 218 Q. Have you ever read any of the

1 documentation that was presented to Cabinet for the
2 February 8, 2012 Cabinet meeting?

3 A. Not to my recollection.

4 219 Q. Did you ever compose email
5 responses for Dalton McGuinty?

6 A. For Dalton McGuinty, no.

7 220 Q. Did you ever compose email
8 responses for Minister Duncan?

9 A. Email responses to?

10 221 Q. Anyone.

11 A. On his behalf? Under his name?

12 222 Q. Yes.

13 A. No.

14 223 Q. So, if I show you an email, 15 of
15 September 2011, from Dalton McGuinty, I take it you
16 had no involvement in its composition, even though
17 it may have had to do with the horseracing file, or
18 the SARP file?

19 A. No, I wouldn't have had a role to
20 play in writing this email.

21 224 Q. Thank you. Give it back, please.

22 MS. LA HOREY: I am just recording the
23 document number.

24 MR. LISUS: Well, you can keep it if
25 you want.

1 MS. LA HOREY: No, I'm just writing
2 down the document number. Did we say it for the
3 record? It's SB0000150.

4 BY MR. LISUS:

5 225 Q. Was Blair Stransky on your team?

6 A. He was not on my team.

7 226 Q. Whose team was he on?

8 A. He was on the policy team.

9 227 Q. Who was your team?

10 A. My team would have consisted of
11 the --

12 228 Q. And I'm just talking here,
13 Mr. McNeill, in 2011 and 2012.

14 A. The press secretary.

15 229 Q. Which was who?

16 A. There were a number of press
17 secretaries over the years. I'm not sure who was
18 then where. It was probably Aly Vitunski; I'm not
19 a hundred percent sure.

20 230 Q. I've seen that name, yes.

21 A. I had an LA, a legislative
22 assistant.

23 231 Q. Who was that?

24 A. Who at that time probably, again a
25 lot of staff over the years, would have been Jon

1 Wypych.

2 232 Q. Spelled?

3 A. I'm guessing, W-Y-P-Y-C-H.

4 233 Q. Okay.

5 A. And we had a senior issues
6 manager, I think that was her title, I'm not a
7 hundred percent sure of the title. And her name
8 was Melanie Wright.

9 234 Q. With a W?

10 A. Correct.

11 235 Q. G-H?

12 A. Correct. And I had a writer who
13 at that time I believe was Mathieu, "Matthew" but
14 French, Labreche.

15 236 Q. Spelled?

16 A. L-A-B-R-E-C-H-E.

17 237 Q. Okay.

18 A. That's it.

19 238 Q. I asked you some questions about
20 your knowledge of the breeding cycle in 2011 and
21 2012. Do you remember that?

22 A. I remember you asking the
23 questions, yes.

24 239 Q. I asked you some questions about
25 whether you had looked at the siteholder

1 agreements?

2 A. Yes.

3 240 Q. In 2011 and 2012 did you have any
4 understanding of the relationship between purses
5 and horse breeding?

6 A. No.

7 241 Q. Did you have any understanding in
8 2011 and 2012 as to the relationship between the
9 revenue from slot machines and racetracks, and the
10 ability of racetracks to offer live horseracing?

11 A. I'm sorry, can you repeat the
12 question?

13 242 Q. Did you have any understanding of
14 the relationship between the revenue generated from
15 slot machines at racetracks, and the ability of
16 those racetracks to offer live horseracing?

17 A. No.

18 243 Q. And I presume that the answer to
19 those questions I have asked you about purses and
20 the ability to offer live horseracing is true today
21 as well; you don't have an understanding of those
22 issues; fair?

23 A. That's fair.

24 244 Q. Did Blair Stransky report to Tim
25 Shortill as well?

1 A. Blair would have reported to a
2 director of policy.

3 245 Q. Was that Tim Shortill?

4 A. Tim was the Chief of Staff.

5 246 Q. Okay. Did the person that Blair
6 report to report to Tim Shortill?

7 A. Yes.

8 247 Q. So you and Blair both had the
9 ultimate report to Shortill and then on to the
10 Minister, correct?

11 A. Ultimately, correct.

12 248 Q. Did you say director of policy?

13 A. I did.

14 249 Q. And is that a term synonymous with
15 policy director, or is that a different position?

16 A. I don't know.

17 250 Q. Okay. But Tim Shortill was, in
18 your understanding, the director of policy?

19 A. No, Tim Shortill was the Chief of
20 Staff.

21 251 Q. Got it.

22 A. So he was the director of
23 everything.

24 252 Q. Right. And director of policy was
25 who in the Ministry?

1 MS. LA HOREY: At what time?

2 BY MR. LISUS:

3 253 Q. 2011/2012.

4 A. So again, a lot of staff. I will
5 guess it was Alex Mazer. I'm not a hundred percent
6 sure when Alex left.

7 254 Q. Who was Mr. Shortill's counterpart
8 in the Premier's Office?

9 A. The Chief of Staff in 2011/2012 --

10 255 Q. It wasn't Mr. Gene, whose name
11 I've seen, correct?

12 A. Dave was never Chief of Staff.

13 256 Q. What was he?

14 A. I don't know what his title was.

15 257 Q. Was it Mr. Livingston?

16 A. I think this predates
17 Mr. Livingston so it would have been either Chris
18 Morley or Peter Wilkinson.

19 258 Q. I think it was Chris Morley. His
20 name is on the email, and you understood him to
21 have the office of Chief of Staff in the Premier's
22 Office?

23 A. He held that office at some point
24 in time. He also was the executive director of
25 communications for a lot of my tenure there, and I

1 think he actually, in that role as communications
2 director, was a policy advisor in addition to his
3 communications responsibilities on the gaming
4 file --

5 259 Q. Okay.

6 A. -- to the Premier.

7 260 Q. And you're going to pardon my
8 ignorance of civics but is the Cabinet Office the
9 same thing as the Premier's Office?

10 A. No, they're different.

11 261 Q. Is there a Chief of Staff in the
12 Cabinet Office?

13 A. Not by that title.

14 262 Q. Okay. What's the equivalent?

15 A. So, it's the Cabinet Secretary or
16 Secretary to Cabinet.

17 263 Q. And in 2011 and 2012 who was that?

18 A. It was either Peter Wallace or
19 Shelly Jamison.

20 264 Q. Right. And it's currently
21 Mr. Orsini?

22 A. That's correct.

23 265 Q. And Mr. Orsini in 2011 and 2012
24 was Deputy Minister of Finance; have I got that
25 right?

1 A. I'm not a hundred percent sure of
2 the dates. He was the Deputy Minister of Finance
3 for part of my tenure there and he was preceded by
4 Peter Wallace when I started, so I'm not sure when
5 the hand-off might have happened.

6 266 Q. Proceeded, I think.

7 A. I apologize.

8 267 Q. I want to show you some notes
9 dated November 30, 2011 which we now know were
10 taken by Mr. Cogan, and don't try and read them,
11 there is a transcription of them.

12 MS. LA HOREY: Shall we put the
13 document number on the record, please?

14 BY MR. LISUS:

15 268 Q. Yes, thank you. The document is
16 CR757. The transcription is 16994791. Tell me
17 when you have reviewed the document.

18 A. (Witness reads document). Okay.

19 269 Q. Mr. Cogan testified that these
20 notes were taken during a meeting on November 30th,
21 2011. Okay?

22 A. Okay.

23 270 Q. And having reviewed them, can you
24 tell me whether or not you were in that meeting?

25 A. I have no idea.

1 271 Q. Okay. You have no recollection of
2 the subject matter of a meeting on November 30,
3 2011 as described by these notes; is that fair?

4 A. I don't recall the meeting,
5 correct.

6 272 Q. Okay. Thank you. Let me just see
7 if there's any way to -- if you do have any
8 recollection at all if I take you to some data
9 points.

10 If you take a look at what is page 3 of
11 the transcription, you see where at the first entry
12 there is an asterisk called slots at racetracks?

13 A. I see that.

14 273 Q. And if you go down to the second
15 arrow, it says:

16 "Insane when compared to other
17 economic development programs."

18 Do you see that?

19 A. I see that.

20 274 Q. Does that assist you in
21 remembering whether you were at a meeting in which
22 these kind of things were said?

23 A. I don't remember the descriptor of
24 "insane," no, but certainly we made comparisons to
25 what we would have called corporate supports.

1 275 Q. And who is "we"?

2 A. The government, Ministry of
3 Finance.

4 276 Q. Who in the Ministry of Finance
5 made those comparisons?

6 A. Well, I probably did.

7 277 Q. Okay. And you remember doing
8 that?

9 A. Do I remember doing it? No.

10 278 Q. But you think you probably did for
11 the purposes of communications?

12 A. Comparing to other supports, yes,
13 I can see myself doing those kinds of comparisons.

14 279 Q. Okay. How many people in the fall
15 of 2011 did the horseracing industry employ?

16 A. No idea.

17 280 Q. Do you know how many full-time
18 equivalent jobs were supported by the horseracing
19 industry in 2011?

20 A. No.

21 281 Q. Do you know how many jobs
22 full-time and/or part-time were supported by the
23 horseracing industry in 2011 or 2012?

24 A. No.

25 282 Q. Did you know in 2011 or 2012 how

1 many full-time and/or part-time jobs the
2 horseracing industry supported in Ontario?

3 A. No.

4 283 Q. Did you know in 2011 or 2012 how
5 many Standardbred horses there were in Ontario?

6 A. No.

7 284 Q. Did you know in 2011 or 2012 how
8 many Standardbred racetracks there were in Ontario?

9 A. No.

10 285 Q. Did you know in 2011 or 2012 how
11 many racetracks there were in Ontario?

12 A. I think I heard the number 17 in
13 reference to racetracks.

14 286 Q. And when did you hear that?

15 A. I don't recall. It would have
16 been early 2012.

17 287 Q. Okay. And so, you say you
18 probably made a comparison to other economic
19 development programs. Can you tell me what other
20 economic development programs you made a comparison
21 to?

22 A. Specifically, no. The government
23 has a number of regional economic development
24 funds. In one of those budgets we consolidated
25 some into something called the jobs and prosperity

1 fund, and then there are individual loans and
2 grants given to specific companies for job
3 retention and job creation in specific industries,
4 so I would have been comparing to those programs.

5 288 Q. Which programs, which industries,
6 which grants?

7 A. Well, as I said, there are a
8 number of regional economic development funds,
9 northern, eastern, south-western, I think they're
10 called.

11 289 Q. Are there any others?

12 A. Those are the three I am aware of.

13 290 Q. Okay.

14 A. As I said, we took a number of
15 other programs and supports, merged them into one
16 called the jobs and prosperity growth fund, that's
17 a very specific fund, and then there are other
18 companies that I can't name off the top of my head
19 now, but I want to say UbiSoft which was a high
20 tech gaming company.

21 291 Q. She wants...

22 A. Sorry, UbiSoft, U-B-I Soft, which
23 is an electronic gaming company. Firms like that,
24 that's the scope.

25 292 Q. And how do those programs work,

1 Mr. McNeill?

2 A. I don't know. Not involved at
3 all.

4 293 Q. I see. But I presume, leaving
5 aside the details, the government provided funds
6 from the consolidated revenue funds to recipients
7 -- consolidated revenue fund to recipients in the
8 form of grants of some kind; is that fair?

9 A. I don't know which fund the money
10 came -- I don't know the accounting. I can't
11 comment on that.

12 294 Q. But it was your understanding that
13 the Slots at Racetrack Program was comparable to
14 these other programs in 2011 and 2012?

15 A. Yes.

16 295 Q. And who told you that?

17 A. I don't recall.

18 296 Q. But someone would have, you
19 believe, right?

20 A. Correct. Sorry, I'm nodding.
21 Yes.

22 297 Q. Because we already discussed you
23 didn't know anything about the siteholder
24 agreements or the way the money was shared or
25 flowed, correct?

1 A. That's correct.

2 298 Q. And you didn't know anything about
3 the establishment of the program, correct?

4 A. Correct.

5 299 Q. And we see a reference here, it
6 says:

7 "All in Tory ridings."

8 Do you see that?

9 A. I do see that.

10 300 Q. Does that help in remembering
11 discussion at meetings?

12 A. It doesn't help to remember the
13 discussion in meetings, no.

14 301 Q. Do you know what that means?

15 A. I do. You know, whenever
16 something glaring like this, where the government
17 would make a policy decision that would, whether
18 all or overwhelmingly, affect Tory ridings
19 negatively, it was such an easy avenue for
20 criticism and attack that we would just be aware of
21 it and try to avoid any appearance of political
22 favouritism.

23 So it would have been an acute
24 political awareness of that perceived problem with
25 this.

1 302 Q. I see. And so, are you telling me
2 that you believe the reference is there to reflect
3 the government's desire not to be seen to be making
4 decisions on a partisan basis? Is that what you're
5 saying?

6 A. That's what I'm saying.

7 MS. LA HOREY: If we're moving off that
8 document, can we take a five-minute break?

9 MR. LISUS: If you need to.

10 MS. LA HOREY: Yes, thank you.

11 -- RECESS AT 11:05 --

12 -- UPON RESUMING AT 11:15 --

13 BY MR. LISUS:

14 303 Q. So having looked at some of these
15 particular entries, Mr. McNeill, you don't have any
16 more of a recollection than what you've told me?

17 A. Correct, no recollection.

18 304 Q. And then that document was --

19 MS. LA HOREY: I think I read it out.

20 MR. LISUS: Yes, CR757 is the original
21 and the transcription is 16994791. We're going to
22 mark it, okay?

23 MS. LA HOREY: For identification,
24 sure.

25 MR. MATTHEWS: A.

1 EXHIBIT A (for identification): Notes,
2 Bates numbered CR757, and
3 transcription, Bates numbered 16994791.

4 BY MR. LISUS:

5 305 Q. I want to show you a document from
6 December 8, 2012. By December 8 -- and before we
7 go into the document and before you review --
8 excuse me, it's 2011, December 8, 2011.

9 At this point you are engaged in the
10 Slots at Racetrack file, right?

11 A. It would have been on or around
12 that date that I became engaged.

13 306 Q. Perhaps I'm being a little less
14 precise in my language than I should be.

15 In the fall of 2011, when you get
16 engaged, am I correct that your understanding is
17 that the file has to do with OLG and its land-based
18 gaming, not specifically Slots at Racetrack
19 Program?

20 A. I would actually put it the other
21 way around.

22 307 Q. Okay.

23 A. My recollection is that I was
24 first aware of the Slots at Racetrack Program.

25 308 Q. Okay.

1 A. And OLG's involvement in that
2 program, as opposed to the bigger, overall review.

3 309 Q. So, that's helpful. Now, this is
4 a document from Elizabeth Yeigh. Do you know her?

5 A. I recognize the name.

6 310 Q. Did you work with her on the Slots
7 at Racetrack Program file?

8 A. She was from the Ministry, so I
9 wouldn't -- it's not an appropriate categorization
10 that I worked with her on anything because I really
11 didn't work with Ministry people.

12 311 Q. I want to understand your
13 nomenclature and the way in which you use it,
14 Mr. McNeill. When you say she was with the
15 Ministry --

16 MS. LA HOREY: Sorry, you need to say
17 yes or no or --

18 THE WITNESS: I apologize, yes.

19 BY MR. LISUS:

20 312 Q. When you say she was with the
21 Ministry and I didn't work with Ministry people,
22 right, you said that?

23 A. I said that, yes.

24 313 Q. You're drawing a distinction
25 between who in government?

1 A. Political staff and civil
2 servants. She was a civil servant and, to be very
3 precise, the civil servants with whom I would have
4 worked with would be communications people, which
5 Mr. Cogan was one.

6 314 Q. Mr.?

7 A. Cogan, Josh. So I did work very
8 closely with the communications people on certain
9 aspects of certain files, and I worked with the
10 Deputy Minister and his office.

11 MS. LA HOREY: So, I'm sure that's very
12 helpful but we're going to be a lot longer if you
13 don't just answer the question asked, okay?

14 BY MR. LISUS:

15 315 Q. So when you say the Ministry
16 people, you're meaning civil servants. How did you
17 describe you and your colleagues on the political
18 side?

19 A. Political staff.

20 316 Q. Political staff. Right, got it.
21 So, this is an email from Ms. Yeigh to someone at
22 OLG called Beth Tsai, T-S-A-I, and two other people
23 at OLG as well as Barry Goodwin and Tanya Watkins.
24 Do you see this?

25 A. I do see that.

1 317 Q. And Barry Goodwin was a civil
2 servant?

3 A. He was.

4 318 Q. And Tanya Watkins was a civil
5 servant?

6 A. I don't recognize the name Tanya.

7 319 Q. Did you work with Barry Goodwin on
8 the Slots at Racetrack Program file?

9 A. I would not categorize my
10 interactions with Barry as working with. He was a
11 senior civil servant, so I would have sat in
12 meetings where he was briefing political staff, but
13 that would have been the extent of my interaction.

14 320 Q. And did you sit in meetings in
15 which Mr. Goodwin was briefing political staff
16 about the Slots at Racetrack Program?

17 A. I have no specific recollection of
18 that, but I do know that he was the ADM in charge
19 of gaming.

20 321 Q. All right. Now, this document is
21 an approach, a five-year approach that we see
22 prepared and distributed by civil servants in the
23 Ministry of Finance.

24 Did you become aware of a proposed
25 five-year approach with respect to the horseracing

1 industry in December of 2011?

2 A. I don't recall any mention of the
3 five-year approach.

4 322 Q. Okay. Did you at any time in 2011
5 or 2012 become aware of Finance civil servants
6 proposing a five-year approach to the Slots at
7 Racetrack Program revenue sharing arrangement?

8 A. I don't recall any reference to a
9 five-year approach.

10 323 Q. Okay. That's CRE18263.

11 MS. LA HOREY: And the attachment is
12 CRE0029772.

13 MR. LISUS: Thank you.

14 MS. LA HOREY: Are we done with this
15 document?

16 MR. LISUS: Yes.

17 BY MR. LISUS:

18 324 Q. Did you participate in any work
19 with civil servants with respect to the contents of
20 the Drummond report?

21 A. I did not.

22 325 Q. Were you aware that civil servants
23 were working on composition of content for
24 insertion in the Drummond report?

25 A. I was not.

1 326 Q. Did you participate with OLG in
2 the composition of content for inclusion in the
3 Drummond report?

4 A. I did not.

5 327 Q. Were you aware that OLG was
6 working with civil servants on the composition of
7 language for inclusion in the Drummond report?

8 A. I was not.

9 328 Q. Do you know a person Laryssa,
10 L-A-R-Y-S-S-A, Hetmanczuk, H-E-T-M-A-N-C-Z-U-K?

11 A. I do not.

12 329 Q. Now, I want to show you some
13 handwritten notes of an additional meeting, and
14 again, these were marked on the examination of
15 Mr. Cogan. Again, they are contemporaneous notes,
16 January 12, 2012. Just look at the transcription.

17 A. (Witness reads document). Okay.

18 330 Q. Okay? And before I ask you about
19 this, I wanted to get some clarity on a couple of
20 other points related to questions I asked you
21 earlier.

22 Do you know when the breeding season is
23 for Standardbred breeders?

24 A. No.

25 331 Q. And you obviously did not know

1 then in 2011 and 2012?

2 A. I did not.

3 332 Q. Did you know in 2011 or 2012 how
4 Standardbred horses were brought to market for
5 sale?

6 A. No.

7 333 Q. Did you know anything in 2011 and
8 2012 as to how Standardbred horses were bred?

9 A. No.

10 334 Q. So you didn't know about
11 arrangements made for the breeding of mares by
12 stallions, right?

13 A. I did not know.

14 335 Q. You didn't know anything about
15 boarding with respect to Standardbred mares,
16 stallions or yearlings or foals, correct?

17 A. I did not know.

18 336 Q. Now, going back to this
19 document --

20 MS. LA HOREY: Should we reference the
21 doc ID number?

22 MR. LISUS: Yes, thank you, 16994791 is
23 the transcription of CR761.

24 BY MR. LISUS:

25 337 Q. You've taken a look at it,

1 Mr. McNeill?

2 A. I have.

3 338 Q. And looking at the entries on the
4 document, does this refresh your recollection at
5 all about a meeting in January 2012, January 12th?

6 A. It does not.

7 339 Q. Okay. You see there is reference
8 about a third -- about a quarter of the way down
9 to:

10 "Karim in PO has it."

11 A. I see that.

12 340 Q. Do you have any idea what that
13 means?

14 A. I don't know what it means.

15 341 Q. Do you know a chap called Karim?

16 A. I do.

17 342 Q. Who is that?

18 A. Well, I know more than one chap.

19 Karim in PO would be Karim Bardeesy.

20 343 Q. I presume the other Karim you know
21 doesn't have anything to do with the Premier's
22 Office?

23 A. That's a fair presumption.

24 344 Q. And probably therefore wouldn't be
25 the subject of discussion at a January 12, 2012

1 meeting?

2 A. Probably not.

3 345 Q. Okay. And do you see the
4 reference about half-way down to:

5 "Horseracing will be up in
6 arms."

7 A. I see that.

8 346 Q. And that doesn't assist your
9 recollection?

10 A. It does not.

11 347 Q. So as far as you can tell me, you
12 were not a participant in the meeting which these
13 notes reflect; fair?

14 A. As I say, these notes mean nothing
15 to me.

16 348 Q. And no recollection of a meeting
17 in January 2012 at which the topics which are
18 reflected in these notes were discussed?

19 A. That's correct.

20 349 Q. All right.

21 MR. MATTHEWS: Ms. La Horey, can we
22 mark this Exhibit B for ID?

23 MS. LA HOREY: Yes.

24 EXHIBIT B (for identification): Notes,
25 Bates numbered CR761, and

1 transcription, Bates numbered 16994791.

2 BY MR. LISUS:

3 350 Q. Now, I want to have you take a
4 look at this document, CRE431574, and see if you
5 can identify it for me.

6 You are in the email addresses, I
7 believe.

8 A. I am, yes. (Witness reads
9 document).

10 351 Q. You've seen emails like this
11 before?

12 A. In my life, yes, I have. This
13 looks like a meeting invitation.

14 352 Q. Right. And do you remember
15 attending a meeting in January, towards the end of
16 January 2012, with, among others, Laura Miller, who
17 I understand was a Deputy Chief of Staff in the
18 Premier's Office, right?

19 A. I don't remember attending the
20 meeting, and yes, Laura Miller was the Deputy Chief
21 of Staff.

22 353 Q. The only reason I mentioned Laura
23 Miller is because if I looked at the required
24 attendees, there are some pretty senior political
25 staff at this meeting, correct? There's

1 Mr. Bardeesy who was the Premier's Chief of Staff,
2 right?

3 A. Karim was never the Premier's
4 Chief of Staff.

5 354 Q. What was he?

6 A. I don't know. I would hazard a
7 guess that he was the director of policy in the
8 Premier's Office.

9 355 Q. Mr. Morley, what was he?

10 A. At one time he was the Premier's
11 Chief of Staff and he was also the executive
12 director of communications.

13 356 Q. And Ms. Livingston -- excuse me,
14 Ms. Miller was --

15 A. Deputy Chief of Staff. Sorry,
16 I'll let you finish your question.

17 357 Q. My only point is a collection of
18 senior political folks here, right, and you? And
19 your boss, Mr. Shortill?

20 A. I think I have a different
21 definition of senior folks. I wouldn't categorize
22 too many of these people as senior folks, so...

23 358 Q. All right. Well, would you
24 characterize Mr. Morley as senior?

25 A. I would categorize him as one

1 senior person, yes.

2 359 Q. Would you characterize Mr. Gene as
3 senior?

4 A. Not really, no.

5 360 Q. Mr. Shortill?

6 A. He was my boss but I'd still say
7 no.

8 361 Q. Okay. So, leaving aside who is
9 senior and who isn't, do you remember this meeting?

10 A. I don't remember this meeting.

11 362 Q. You don't remember what it was
12 about?

13 A. I don't remember what it was about
14 but it says here, just to be clear, at the bottom,
15 communications planning meeting on budget.

16 363 Q. Right. And does that assist your
17 recollection as to --

18 A. It does not. Sorry.

19 364 Q. Thank you. Now, the next document
20 I want to have you look at is CR1585 and the
21 transcription 16994791.

22 These are meeting notes on January 24,
23 2012.

24 MS. LA HOREY: Just before you ask your
25 question, I think the transcription seems to be all

1 the same documents and we should probably make
2 reference to the PDF page number for the record.
3 This one is PDF 33 of 51.

4 THE WITNESS: (Witness reads document).

5 BY MR. LISUS:

6 365 Q. Tell me when you've reviewed the
7 entries.

8 A. Okay.

9 366 Q. Now, having looked at the entries,
10 does this generate any recollection for you about
11 being in a meeting on January 24, 2012, at which
12 OLG/horseracing was discussed?

13 A. It does not generate any memories
14 for me, no.

15 367 Q. Thank you. And if I could have it
16 back and I'm going to give you another sequence of
17 notes and a transcription which are dated January
18 25, 2012, 16994791 is the transcription and 762 is
19 the handwritten notes.

20 I want you to take a look at the --

21 MS. LA HOREY: The PDF for the
22 transcription is PDF 12 of 51.

23 THE WITNESS: (Witness reads document).

24 BY MR. LISUS:

25 368 Q. Take a look at the transcribed

1 entries and tell me if you have any recollection of
2 being in a meeting in which the topics reflected in
3 the entries were discussed?

4 A. Are these still the handwritten
5 notes of the same person?

6 369 Q. Same person, yes. But don't worry
7 about the handwritten notes, they'll take you a
8 long time. Just look at the transcription, it's
9 accurate.

10 A. No, they don't jog any memories.

11 370 Q. No memory of being in such a
12 meeting, right?

13 A. Correct.

14 371 Q. I want to show you another set of
15 notes, CR764 is the handwritten note, and 16994791
16 is the entry -- excuse me, the transcription.

17 MS. LA HOREY: And it's PDF 15 of 51.

18 BY MR. LISUS:

19 372 Q. Right. If you look at the
20 handwritten entries, do you have any recollection
21 of being in a meeting in which topics such as those
22 reflected in the entries were discussed?

23 A. No recollection of the meeting,
24 no.

25 373 Q. Do you have any recollection of

1 being involved in a discussion about the topics
2 reflected in this note?

3 A. No, nothing; no memories.

4 374 Q. And I did ask you this. There is
5 a document, 361006, in which proposed content for
6 Mr. Drummond's report is being discussed, but I
7 understood your evidence to be that you didn't have
8 any involvement in reviewing or composing the
9 content for Mr. Drummond's report.

10 A. I did say that, yes.

11 375 Q. Okay. And so, if you take a look
12 at this document which I'm showing you, 361006,
13 it's an email with proposed content for different
14 chapters. That doesn't refresh your recollection
15 at all as to whether or not you were involved in
16 the process of composing or revising language for
17 the Drummond report?

18 A. Well, I'm not sure if I agree with
19 the premise of the question. But refreshing my
20 memory, I have a clear memory that I was not
21 involved.

22 376 Q. Okay. Do you know what
23 Mr. Drummond recommended with respect to the Slots
24 at Racetrack Program?

25 A. I don't.

1 377 Q. And did you know at any point what
2 Mr. Drummond recommended with respect to the Slots
3 at Racetrack Program?

4 A. Did I know after the report came
5 out?

6 378 Q. Yes.

7 A. I probably saw it.

8 379 Q. And do you remember what he
9 recommended?

10 A. I don't.

11 380 Q. But prior to his report coming
12 out, did you have any information or belief as to
13 what recommendation he was going to make about the
14 Slots at Racetrack Program?

15 A. I did not.

16 381 Q. And as you sit here today, are you
17 telling me that after the report came out, you did
18 know what his recommendation was, but you cannot
19 recall it here today?

20 A. I can make a pretty good guess,
21 but it would be a guess, and it's from today's
22 point of view, not from the week after the report's
23 release.

24 382 Q. Do you recall, sir, whether or not
25 Mr. Drummond's recommendation with respect to the

1 Slots at Racetrack Program was of any importance to
2 you and your job in 2012?

3 A. It would have been of import
4 because it would have been third party validation
5 for the policy decisions being taken by the
6 government.

7 383 Q. And you understood in 2012 that
8 Mr. Drummond's final recommendation was a
9 validation of the decision taken by the government
10 in the 1st Quarter of 2012, right?

11 A. I'm not sure of the timing, but
12 certainly there would have been an alignment in the
13 decisions, yes. The decision and the
14 recommendation.

15 384 Q. And did you understand that the
16 decision was, in part, based upon the
17 recommendation of the Drummond report?

18 A. I have no insight into that
19 process.

20 385 Q. You did understand that in 2012,
21 February, the decision was made to terminate the
22 revenue sharing with the horseracing industry from
23 Slots at Racetrack Program effective March 2013,
24 correct?

25 A. I am aware there was a Cabinet

1 decision in February to end the revenue sharing in
2 March of 2013, yes.

3 386 Q. And was it your understanding,
4 sir, that the final recommendation of the Drummond
5 report recommended the cessation of that revenue
6 sharing?

7 A. I am not sure of the precise
8 details of Mr. Drummond's recommendation on the
9 matter.

10 387 Q. Leaving aside the precise details,
11 is it your understanding that Mr. Drummond's
12 recommendation was to discontinue revenue sharing?

13 A. That is my understanding.

14 388 Q. And where did that understanding
15 come from?

16 A. I don't know. Sorry, I don't
17 recall.

18 389 Q. And your understanding was the
19 common understanding, or the understanding of
20 government at the time, correct?

21 A. Correct.

22 390 Q. And --

23 MS. LA HOREY: Sorry --

24 BY MR. LISUS:

25 391 Q. Am I correct also, Mr. McNeill,

1 that the final recommendation in the OLG report, as
2 you understood it, was to terminate revenue sharing
3 from Slots at Racetrack Program with the
4 horseracing industry?

5 A. I recall nothing about the program
6 from the final OLG report.

7 392 Q. Take a look, please, at the
8 document at tab 31, which is another handwritten
9 sequence of notes and transcription, CR765, and
10 16994791 for the transcription, and, Ms. La Horey,
11 PDF 17 of 51. Am I right?

12 MS. LA HOREY: Correct.

13 BY MR. LISUS:

14 393 Q. So, take a minute and have a look
15 at the transcriptions.

16 A. (Witness reads document).

17 MS. LA HOREY: So it's 17 to 19 of 51,
18 three pages.

19 THE WITNESS: Okay.

20 BY MR. LISUS:

21 394 Q. When I look at 765, it appears to
22 be notes with respect to two meetings on January
23 30, 2012. But, in any event, if you look at the
24 second transcription for January 30, 2012, you see
25 in the upper left-hand corner there is an entry

1 that says "Darcy"?

2 A. I see that.

3 395 Q. And do you recall being at a
4 meeting on January 30th, 2012 discussing the topics
5 that are reflected in these entries?

6 A. I do not recall this meeting or
7 being there.

8 396 Q. Okay. So, if we look in the
9 middle of the page, an entry that says "Leak
10 horseracing day of Cabinet," you have no
11 recollection of there being discussions about that?

12 A. I have no specific recollections,
13 no. It would have been very common to talk about
14 how to communicate a Cabinet or policy decision.

15 397 Q. And would one of the ways of
16 communicating a Cabinet or policy decision be a
17 leak?

18 A. Yes.

19 398 Q. And how would that actually be
20 done? Just a tip to a reporter or providing
21 information to a reporter?

22 A. That's accurate.

23 399 Q. And what's the strategy behind
24 that? What's the purpose in doing that?

25 A. Well, it would be -- well, there

1 were two or three different purposes. One would be
2 to set the frame of the story. It helps position
3 an issue or a story, it sets the frame and the
4 context.

5 It might be to return a favour to a
6 reporter. It might actually have nothing to do
7 with a specific longer-term agenda.

8 A very common strategy or purpose would
9 be to, especially leading into the budget, to
10 signal an intent about the direction of the budget
11 in general, about where it's going.

12 400 Q. And was there a plan in early 2012
13 to signal an intent with respect to the Slots at
14 Racetrack Program and the upcoming budget?

15 A. I don't remember any specific
16 strategy speaking to that.

17 401 Q. Do you remember specific
18 discussions about leaking information about
19 horseracing and the Slots at Racetrack Program in
20 Q1 2012?

21 A. I do not.

22 402 Q. And there is a reference to white
23 paper; do you see that?

24 A. I do see the reference.

25 403 Q. Do you understand the reference?

1 A. I know what a white paper is. I
2 don't know what white paper is being mentioned
3 here.

4 404 Q. What is a white paper?

5 A. It's a policy piece to generate
6 discussion on a specific subject.

7 405 Q. And are you aware of there being a
8 policy piece or white paper with respect to the
9 manner in which revenue sharing with the
10 horseracing industry from the Slots at Racetrack
11 Program was to be treated existing?

12 A. I have no awareness of such a
13 white paper.

14 406 Q. Do you see the reference to:
15 "Government not closing Fort
16 Erie."

17 A. I do see that.

18 407 Q. Does that assist you in
19 recollecting any discussion about the Fort Erie
20 racetrack?

21 A. It does not.

22 408 Q. And do you see the reference to
23 "Removing large subsidy"?

24 A. I do see that.

25 409 Q. Does that assist you in

1 recollecting any discussion about the cessation or
2 change to revenue sharing from Slots at Racetrack
3 Program?

4 A. It does not.

5 410 Q. Do you see a reference to "Soon
6 after Cabinet announcing re decision"? Does that
7 assist your recollection at all?

8 A. It does not.

9 411 Q. And so, I think what I'm
10 understanding you to say, sir, is that not only do
11 you not remember being in a meeting in which these
12 issues are discussed, you don't remember
13 participating in a discussion of these issues in or
14 around the end of January 2012?

15 A. I remember participating in
16 discussions. I do not have any specific
17 recollections about timing or dates or
18 participants.

19 412 Q. What about content?

20 A. I remember some content, yes.

21 413 Q. Tell me what you remember from the
22 content.

23 MS. LA HOREY: And the timing is late
24 2012 -- late January 2012?

25 THE WITNESS: It would have been, I

1 think, material we've already --

2 BY MR. LISUS:

3 414 Q. I want to be precise here. I want
4 you to tell me if you have a recollection, because
5 you said "would have," okay?

6 A. Okay.

7 415 Q. So if you have a recollection,
8 give it to me. If you don't have a recollection,
9 tell me that and we can discuss that.

10 A. I have recollection of
11 conversations around the context for this issue.

12 416 Q. With who?

13 A. As I said, I don't remember dates,
14 other participants or other specifics of that
15 nature.

16 417 Q. Tell me what you remember about
17 the topic of discussion?

18 A. It would have been about the
19 nature of the subsidy, it would have been about how
20 Ontario was spending more, giving more money to
21 racetracks than a number of other jurisdictions in
22 North America, not just Canada, combined, and that
23 the economics of the industry did not justify the
24 subsidy, the size of the subsidy.

25 418 Q. Now, you said you recall

1 discussion about the nature of the subsidy?

2 A. Um-hmm.

3 419 Q. Yes?

4 A. I said that.

5 MS. LA HOREY: He's asking "yes" for
6 the record, because you said "um-hmm." Remember,
7 yes/no.

8 THE WITNESS: Sorry. I don't
9 remember if -- so you're asking me if I just now
10 said the nature of the subsidy?

11 BY MR. LISUS:

12 420 Q. You did just say the nature of the
13 subsidy and I want to ask you what you mean by the
14 nature of the subsidy?

15 A. \$345 million in that fiscal year.
16 That and only that.

17 421 Q. All right. And we've already
18 discussed how you didn't review any documentation
19 about the industry -- excuse me, about the program,
20 SARP, so how did you know it was 345 million in
21 that fiscal year? You were told that by someone?

22 A. I would have been briefed, yes.

23 422 Q. And you were told that was a
24 subsidy?

25 A. That is how it would have been

1 categorized, yes.

2 423 Q. That is how it was categorized?

3 A. That is how it was categorized.

4 424 Q. You said Ontario was giving more
5 money to racetracks, right, than other
6 jurisdictions?

7 A. It's possible. It was racetracks
8 or the racing sector.

9 425 Q. And what did you understand about
10 how Ontario was giving money to the racetracks?

11 A. By giving a portion of slots
12 revenue.

13 426 Q. And so, your understanding was
14 that the slots revenue that was shared with
15 racetracks was Ontario's money that was being given
16 to racetracks?

17 A. That's correct.

18 427 Q. And it was also your understanding
19 that the slot money that was being shared with the
20 horseracing industry pursuant to the arrangement
21 that was in place was money that belonged to
22 Ontario and was being given to the horseracing
23 industry?

24 A. That question contains a far
25 greater amount of detail than I ever would have

1 been participating in a conversation I would have
2 had.

3 428 Q. Well, you said subsidy. Did you
4 understand that the money that was being received
5 by racetracks and the horseracing industry was
6 money that belonged to Ontario and which Ontario
7 gave to horseracing tracks and the horseracing
8 industry?

9 A. That is a better categorization of
10 my understanding, yes.

11 429 Q. Okay. Have you now told me
12 everything that you can remember? You told me the
13 nature of the subsidy, how Ontario was giving more
14 money to racetracks, and a third point you made
15 about -- I'll let the record reflect what you said.

16 But have you now told me everything you
17 can recollect?

18 A. There would be one additional, and
19 it was a reference to a pari-mutuel tax which I
20 can't define, but I know that there were tax
21 concessions made.

22 430 Q. And do you understand what the tax
23 concessions were?

24 A. No.

25 431 Q. And can you tell me what you mean

1 by a tax concession?

2 A. The industry was not being asked
3 to pay taxes that otherwise it would be.

4 432 Q. Did you understand that to be
5 unique to the horseracing industry?

6 A. Yes.

7 433 Q. And that is because what you were
8 told by someone in Finance, I presume?

9 A. Correct.

10 434 Q. I think that we identified the
11 document for the record.

12 MS. LA HOREY: Um-hmm.

13 BY MR. LISUS:

14 435 Q. The next document I want to ask
15 you to look at, Mr. McNeill, is CR00769, and I
16 simply want to ask you whether you recognize the
17 handwriting -- handwritten entries on the document,
18 because it looks like a Q and a Q and an A, a
19 communications type of construct.

20 Is that your handwriting?

21 A. It doesn't look like my
22 handwriting, no.

23 436 Q. Do you have any idea whose it is?

24 A. No idea.

25 MR. LISUS: Okay. Thank you. Take a

1 five-minute break or so?

2 MS. LA HOREY: Sure.

3 -- RECESS AT 11:53 --

4 -- UPON RESUMING AT 11:58 --

5 BY MR. LISUS:

6 437 Q. Mr. McNeill, CRE10886 is an email
7 January 30, 2012.

8 A. (Witness reads document).

9 438 Q. Tell me when you've read it.

10 A. (Witness reads document). Okay.

11 439 Q. Now, the cc's, Mr. Valido,
12 V-A-L-I-D-O, that's civil service?

13 A. I don't know that name.

14 440 Q. Partington?

15 A. Don't know that name either.

16 441 Q. Lai, L-A-I?

17 A. Don't know that name.

18 442 Q. Oh, O-H?

19 A. Don't know that name.

20 443 Q. Okay, you do know, as we
21 discussed, Watkins, Yeigh and Goodwin, right?

22 A. I don't know Watkins, I believe I
23 did say that. I do know Elizabeth's name and
24 Barry.

25 444 Q. Now, as of January 30, 2012 were

1 you aware that there was a pending Cabinet meeting
2 at which one of the issues to be discussed was the
3 land-based gaming review and the question of the
4 revenue sharing from Slots at Racetrack Program?

5 A. I had very little interaction with
6 Cabinet in the process and the agendas, so no, I
7 wouldn't have known that.

8 445 Q. You've seen the entry, the
9 reference to you in this email?

10 A. I see that.

11 446 Q. And the email in paragraph
12 numbered 1 says:

13 "Josh followed up with the MO
14 (Minister's Office) (Darcy) on this
15 after the meeting."

16 Do you see that?

17 A. I do see it.

18 447 Q. And it says:

19 "Darcy indicated he would look
20 into it, thought it was a good
21 point."

22 See that?

23 A. I do see it.

24 448 Q. And I take it that by looking into
25 it, you were going to simply ask in the Minister's

1 office if there was going to be an official report
2 submitted; you didn't know one way or the other,
3 you were just going to try and find out? Am I
4 reading that correctly?

5 A. So, I have no recollection of
6 this. Reading this now, my interpretation is the
7 same as yours.

8 449 Q. Okay. Thank you.

9 MR. MATTHEWS: Maybe we should mark
10 this one as an exhibit.

11 MS. LA HOREY: Well, he's not a
12 recipient on the email, so exhibit for
13 identification. I think we're at C.

14 MR. MATTHEWS: Yes, we are.

15 EXHIBIT C (for identification): Email,
16 Bates numbered CRE10886.

17 BY MR. LISUS:

18 450 Q. In January -- or let me rephrase
19 my question. Prior to becoming aware of the
20 Cabinet decision in February 2012, did you have an
21 understanding as to what the government's intention
22 was with respect to the revenue sharing arrangement
23 at the Slots at Racetrack Program?

24 A. Prior to?

25 451 Q. Being aware, being made aware of

1 the Cabinet decision.

2 A. I'm sorry, can you repeat the
3 question? I've lost the thread.

4 452 Q. You became aware at some point
5 after the Cabinet meeting on February 8 that a
6 decision had been made, either at that meeting or
7 before, about the termination of revenue sharing
8 with the horseracing industry effective March 2013,
9 correct?

10 A. After the Cabinet meeting I was
11 made aware at some point that the decision had been
12 made, yes.

13 453 Q. Right. And you understood that
14 the decision was that the revenue share would
15 continue to March 2013 and then would stop,
16 correct?

17 A. That is my understanding, yes.

18 454 Q. Now, prior to becoming aware of
19 that decision, did you have any understanding as to
20 what the government intended to do about the
21 revenue sharing with the horseracing industry?

22 A. I would not have had any
23 understanding of the intent until after the
24 decision was made.

25 455 Q. So, you didn't know whether it was

1 going to continue uninterrupted or be phased out or
2 be stopped without any transition within a year; no
3 information or understanding at all?

4 A. Rather than choosing one of those
5 options, my understanding would have been limited
6 to that this is something the government was
7 looking into.

8 456 Q. Okay. And you understood that the
9 Drummond report was going to be one of the inputs
10 to the government's decision?

11 A. No, I wouldn't categorize it that
12 way at all.

13 457 Q. How would you characterize -- did
14 you say categorize?

15 A. Categorize.

16 458 Q. How would you categorize it?

17 A. I knew that the Drummond report
18 was going to make sweeping recommendations about
19 government's operations in general and I would not
20 have known any specifics.

21 459 Q. Okay. So, you weren't aware, I
22 take it, that on February the 2nd there was a
23 meeting between Mr. McGuinty and Mr. Bardeesy and
24 others at which a decision was made to go to zero
25 for horseracing?

1 A. That means nothing to me.

2 460 Q. Okay. So, if I show you an email
3 dated February 2, which is an exhibit in someone's
4 examination, but it's 360917, it's an email from
5 Mr. Bardeesy to Mr. Shortill and others. I just
6 want you to read that email.

7 A. (Witness reads document). Okay.

8 461 Q. And just so that I understand a
9 couple of things, Jamison Steeve, who is that?

10 A. Jamison Steeve --

11 462 Q. S-T-E-E-V-E.

12 A. -- held a number of roles in
13 government. I suspect at this time he was the
14 principal secretary to the Premier.

15 463 Q. Okay. So in this email,
16 Mr. Bardeesy says, and I'm paraphrasing:

17 "Meeting with Premier just
18 ended. He was inclined to go to
19 zero for horseracing, to not go
20 ahead with self-serve terminals or
21 hospitality games, and to only put
22 one GTA casino on the table."

23 Et cetera.

24 When did you become aware of the
25 information in this email?

1 A. When you handed me this document.

2 464 Q. Okay.

3 A. This is a level of detail I would
4 never have been involved with.

5 465 Q. Okay. Do you recall when you
6 became aware that a decision had been made to
7 terminate revenue sharing with no transition
8 assistance effective March 2013?

9 A. Sometime after the Cabinet
10 meeting.

11 466 Q. And do you recall being told?

12 A. No.

13 467 Q. Now, I want to show you another
14 email, 208878, which is a -- and 2887 -- oh,
15 208879, which is an email from Josh Cogan to you
16 which says, I'm paraphrasing:

17 "Hey Darcy,
18 Here is the horse narrative."

19 A. (Witness reads document). Okay.

20 468 Q. All right? And do you see the
21 horse narrative he sends you?

22 A. I do see that.

23 469 Q. Did you participate in the
24 composition of the horse narrative, or, as the
25 document is called, "Slots At Racetracks

1 Narrative"?

2 A. I don't remember participating in
3 it.

4 470 Q. Is it the kind of thing that you
5 would have participated in at the time?

6 A. It is.

7 471 Q. Okay. And can you just explain to
8 me what this document is and what the purpose --
9 what its purpose is?

10 A. I believe I can. This looks to
11 me, and again, given the timing of the date, we
12 were looking at options to put into the Minister's
13 speech at the Economic Club the following week.

14 472 Q. Right.

15 A. And this would have been one of
16 the options that we were considering.

17 473 Q. I see.

18 A. So I would have asked for speech
19 -- for content prose that would have been usable in
20 the speech assuming that this is one of the
21 subjects that made the speech.

22 474 Q. Got it. And so, Mr. Cogan would
23 provide you with the content and you would
24 construct a speech around it; is that fair?

25 A. I would use it in the speech

1 rather than constructing a speech around it.

2 475 Q. Okay. And so, Mr. Cogan was on
3 the civil service side?

4 A. He was.

5 476 Q. All right. And so, if we look at
6 the narrative he's given you for use in the speech
7 that you were -- you were preparing for Mr. Duncan
8 to deliver, correct?

9 A. Correct.

10 477 Q. All right. So, if we look at the
11 data points in the Slots at Racetracks narrative he
12 gives you, these are all data points which were
13 just given to you by the civil service side, and
14 you plugged them into your speech, so to speak?

15 You didn't go out and validate any of
16 these, or think --

17 A. That's correct. I'm sorry, I
18 thought you were finished.

19 478 Q. Finished enough.

20 A. I would not have gone out to
21 validate it, correct.

22 479 Q. Thank you.

23 MR. MATTHEWS: Exhibit 2.

24 EXHIBIT NO. 2: Email and attachment,
25 Bates numbered 208878 and 208879.

1 BY MR. LISUS:

2 480 Q. And you used the word earlier in
3 your examination, "precondition"?

4 A. Preconditioning speech.

5 481 Q. Preconditioning speech. So was
6 this part of the process of preparing a
7 preconditioning speech for Minister Duncan to give
8 at the Economic Club the following week?

9 A. Yes.

10 482 Q. And what was the preconditioning
11 here?

12 A. Coming out of the global
13 recession, Ontario had invested in its people, the
14 government had invested in its people, social
15 services, mainly schools and hospitals. As a
16 result, the province had a large deficit and the
17 government needed to take steps to reduce the
18 deficit and, as I mentioned earlier, address --
19 pardon me, maximize the value of its assets was the
20 language we were using, and looking at ways to
21 decrease our costs and increase revenues.

22 Then we would have wanted to signal
23 specific policies that would be in the budget and
24 provide some concrete examples.

25 483 Q. Okay. But you haven't mentioned

1 anything about Slots at Racetrack in that answer,
2 so I'm trying to understand what the
3 preconditioning is with respect to Slots at
4 Racetrack?

5 A. Well, this would have been one of
6 the examples of maximizing our assets, was the
7 language that we used, so the OLG is a government
8 enterprise which makes it an asset, so how do we
9 maximize the value of our enterprise.

10 And this would have been -- the ending
11 of the Slots at Racetrack subsidy would have been
12 one such way to maximize the asset of the
13 enterprise.

14 484 Q. So, as far as you understood it,
15 the message that you were delivering as a
16 preconditioning was that the revenue sharing with
17 the horseracing industry was going to be terminated
18 to maximize the value of OLG as an asset to the
19 government?

20 A. I think in the speech, to be more
21 precise, it would be an example of the level of
22 detail of government operations that we were going
23 to look at to achieve that.

24 485 Q. But what was to be done, the
25 actual decision, was to terminate the revenue

1 share, as you explained, to maximize the value of
2 the OLG asset to the government; fair?

3 A. No, because at that time, in the
4 drafting of that email that I think we're still
5 talking about, we were talking about the different
6 programs that we were going to consider looking at.

7 So what we were preconditioning was one
8 example of the kinds of things that we were going
9 to be looking at.

10 486 Q. But preconditioning for what
11 decision with respect to the Slots at Racetrack
12 narrative, sir?

13 A. So a preconditioning speech is to
14 provide a frame and a context. It is not to
15 provide decisions.

16 487 Q. I understand, but it's a
17 preconditioning for a frame and a context of a
18 decision, right?

19 A. No, sir. It is the framing and
20 context for future decisions and policy decisions
21 and paths that the government is going to be
22 considering.

23 488 Q. Well --

24 MS. LA HOREY: If you're going to refer
25 him to the document, and I see you have turned it

1 up, give it back to him, please.

2 BY MR. LISUS:

3 489 Q. You weren't aware that the
4 decision to go to zero had already been made,
5 right?

6 A. As I said, that term means nothing
7 to me so I'm still not sure what you're asking.

8 490 Q. You weren't aware that the Premier
9 and others in the meeting had already decided to
10 terminate the revenue share with no transition
11 support effective March 2013, correct?

12 A. I'm not aware of any decision
13 being made until Cabinet.

14 491 Q. Now, I want to show you CR475 and
15 16994791, Mr. Cogan's handwritten notes and the
16 transcription. Take a look at the transcription,
17 please, and tell me if you were involved in the
18 discussion recorded in these notes, or reflected in
19 these notes.

20 MS. LA HOREY: For the record, it's PDF
21 2 of 51 is the transcription page.

22 THE WITNESS: (Witness reads document).
23 I have no specific recall of this meeting or the
24 content.

25 BY MR. LISUS:

1 492 Q. Do you have any general
2 recollection?

3 A. The only general recollection I
4 could surmise is that in leading up to the budget,
5 the communications team would consider a multitude
6 of options, so this looks like a multitude of
7 options.

8 493 Q. So, do you think that you were
9 part of the group discussing these options?

10 A. I can't speak to the notes that
11 somebody in the Ministry would have taken.

12 494 Q. Well, do you remember being
13 involved in a discussion about ending the slots
14 program?

15 A. I don't.

16 495 Q. Do you recall being involved in a
17 discussion about closing some slot facilities?

18 A. I don't, I'm sorry.

19 496 Q. Do you remember being in a
20 discussion about some slot facilities remaining
21 open?

22 A. I don't.

23 497 Q. Do you remember being in a
24 discussion about expecting movement of some slot
25 facilities to new locations with unmet demand?

1 A. I do not.

2 498 Q. Do you remember there being a
3 discussion about dollars being misaligned?

4 A. I do not.

5 499 Q. Or whether 100 million is enough?

6 A. No.

7 500 Q. Do you recall a discussion about
8 dealing with stakeholders?

9 A. I do not.

10 501 Q. Okay, thank you. I want to ask
11 you to look at CR768 and 16994791.

12 MS. LA HOREY: PDF 22 of 51.

13 THE WITNESS: (Witness reads document).

14 BY MR. LISUS:

15 502 Q. These notes appear to have been
16 composed --

17 A. Okay, sorry.

18 503 Q. I'm not sure when exactly they
19 were composed.

20 You see under the heading "Feb. 9"
21 third entry it says "Darcy"?

22 A. I do.

23 504 Q. And the first and second entries
24 say:

25 "After Cab. Sub," which I

1 presume is Cabinet submission,
2 "wants to advise what has happened.

3 Darcy.

4 We would do news release."

5 Does that assist you in understanding
6 what was going on here?

7 A. It doesn't. Again, it looks like
8 there were a multitude of communications options
9 that were being considered and discussed.

10 505 Q. About what to be done immediately
11 after the Cabinet meeting on February 8, right?

12 A. It does look that way, yes.

13 506 Q. Okay. But you don't recall being
14 involved in any of these discussions or these
15 plans, right?

16 A. I do not.

17 507 Q. Okay. So, for instance, the
18 reference to "Darcy," someone could have been
19 referring to you as someone to be spoken to about
20 something?

21 A. That's possible.

22 508 Q. Now, the next document I want to
23 ask you to look at is CRE50269, this is dated
24 February 7.

25 A. May I take a moment?

1 509 Q. Sure. It's your speech.

2 A. Okay. (Witness reads document).

3 Okay.

4 510 Q. Just take a look at the speech.

5 A. (Witness reviews document).

6 MS. LA HOREY: Just while he's
7 reviewing that, the draft of the speech that is
8 attached is CRE0050270.

9 THE WITNESS: (Witness reads document).

10 BY MR. LISUS:

11 511 Q. All right, this is a speech --

12 MS. LA HOREY: He's not finished yet.

13 THE WITNESS: I'm not quite finished.

14 MS. LA HOREY: Take your time.

15 THE WITNESS: Okay. (Witness reads
16 document). I'm really sorry, I know we just took a
17 break but I could use another quick bio break, if
18 that's okay.

19 MR. LISUS: Yes, go ahead.

20 -- RECESS AT 12:22 --

21 -- UPON RESUMING AT 12:27 --

22 BY MR. LISUS:

23 512 Q. Now, in your speech you make
24 reference to the OLG Slots at Racetrack Program,
25 right?

1 A. I do. I would appreciate it if
2 you could tell me what page just so I can make sure
3 I'm looking at exactly the right section.

4 513 Q. The seventh page, I think.

5 A. Got it.

6 514 Q. And there's six paragraphs there,
7 right, beginning with "First, since 1998"?

8 A. Okay, yeah.

9 515 Q. I take it that those are simply
10 the narrative points that we looked at a few
11 minutes ago provided to you by civil servants at
12 Finance which you put into the speech?

13 A. Roughly, yes. I think this is an
14 early draft of the speech, so I think more content,
15 more proof points would have been added, but this
16 is thematically correct with the question.

17 516 Q. Okay. And what was the purpose of
18 making those points in the speech?

19 A. Them making the points or the
20 Minister?

21 517 Q. The Minister.

22 A. It was to provide accurate
23 examples of what the \$345 million a year could do
24 to benefit people in Ontario if it wasn't being
25 directed to horseracing.

1 518 Q. And was the purpose also to
2 provide an accurate account of what the revenue
3 share actually was?

4 A. Yes.

5 519 Q. Both in terms of its nature and in
6 terms of its dollar volume?

7 A. Yes.

8 MR. LISUS: That's the next exhibit.

9 MR. MATTHEWS: Exhibit 3.

10 EXHIBIT NO. 3: Report, Bates numbered
11 CRE0050269, and attached draft speech,
12 Bates numbered CRE0050270.

13 BY MR. LISUS:

14 520 Q. Now, as of February 7, when you
15 composed that report, you didn't know anything
16 about the decision made on February 2nd that we saw
17 in that email, correct?

18 A. When I composed the speech?

19 521 Q. Yes.

20 A. I did not, correct.

21 522 Q. I want to show you a document
22 which I think is the final version of the speech,
23 and let's look at the -- its content with respect
24 to the Slots at Racetrack Program...

25 MR. MATTHEWS: This is CRE297789.

1 THE WITNESS: You're talking about the
2 part that's circled, the "third"?

3 BY MR. LISUS:

4 523 Q. Yes.

5 A. (Witness reads document). Okay.

6 524 Q. And with respect to the commentary
7 there about the Slots at Racetrack Program, again
8 that would have all been data provided to you by
9 civil servants at the Ministry of Finance, right?

10 A. Correct.

11 MR. LISUS: That's the next exhibit.

12 MR. MATTHEWS: Exhibit 4.

13 EXHIBIT NO. 4: Speech, Bates numbered
14 CRE297789.

15 BY MR. LISUS:

16 525 Q. I'll have you look at a document
17 which is CR1586, and the handwritten -- the
18 transcription of the handwritten entry is 16994791.
19 This appears to be an OLG teleconference call. I
20 want you to review the handwritten entries.

21 MS. LA HOREY: For the record, it's PDF
22 35 of 51 and it's dated February 8th, 2012.

23 THE WITNESS: (Witness reads document).

24 MS. LA HOREY: And it goes through to
25 PDF 38 of 51.

1 THE WITNESS: (Witness reads document).

2 BY MR. LISUS:

3 526 Q. Now, do you recall being in a
4 conference, teleconference or a meeting in which
5 OLG was teleconferenced in on February 8,
6 discussing the decision to terminate revenue share?

7 A. I do not.

8 527 Q. At any point in February or March
9 of 2012 did you have any communication with anyone
10 in OMAFRA?

11 A. I don't recall specifically, but
12 generally in my years at government, I interacted
13 with very few other ministries and staff, so it's
14 very unlikely.

15 528 Q. And so, no recollection of
16 interaction with anyone at OMAFRA regarding the
17 Slots at Racetrack Program file?

18 A. That is correct.

19 529 Q. And if we look at these
20 handwritten notes, is this some kind of a
21 communication plan being composed?

22 A. I don't know.

23 530 Q. What does it look like?

24 A. It looks like short bullets that
25 don't mean a whole lot to me.

1 531 Q. Really?

2 A. Um-hmm. Yes, sorry.

3 532 Q. So the word "key stakeholders"
4 doesn't mean anything to you?

5 A. I know what the term "key
6 stakeholders" means, yes, but in this context, no.

7 533 Q. Was the horseracing industry, to
8 your knowledge, a key stakeholder in the SARP
9 revenue sharing arrangement in February 2012?

10 A. I have no direct knowledge, but
11 logic would dictate that yes, they would be.

12 534 Q. And do you see a reference of "a
13 lot of outreach to MPPs"?

14 A. Can you be more specific?

15 535 Q. Last page:

16 "Doing a lot of outreach to
17 MPPs."

18 Does that not mean anything to you?

19 A. In any context, you know, the
20 Lottery Corporation had operations in several
21 ridings across the province, so they would have
22 ongoing outreach to MPPs of all parties on any
23 given day.

24 MR. LISUS: Next exhibit.

25 MR. MATTHEWS: This will be for

1 identification?

2 MS. LA HOREY: Yes.

3 EXHIBIT D (for identification): Notes,
4 Bates numbered CR1586, and
5 transcription, Bates numbered 16994791.

6 BY MR. LISUS:

7 536 Q. I want to show you a document
8 called "Ministry of Finance, Minister Speaking
9 Points, Cabinet Submission."

10 MS. LA HOREY: For the record, take a
11 look at it, that's CRE0032047. Take your time.
12 Read it.

13 THE WITNESS: (Witness reads document).
14 Okay.

15 BY MR. LISUS:

16 537 Q. Did you have any role in composing
17 these speaking points?

18 A. No.

19 538 Q. Did you see them before they were
20 submitted?

21 A. I can't speak specifically if I
22 saw them before they were submitted. I am
23 familiar -- many of the talking points seem
24 familiar, but whether I saw this document
25 specifically or not, I don't know.

1 539 Q. And which of the talking points --
2 which are the talking points that seem familiar?

3 A. It would be the sub-bullets in the
4 middle of the second page, firstly we have a mature
5 gaming market in Ontario, lottery tickets sold at
6 convenience stores, \$345 million.

7 540 Q. So those three bullet points on
8 page 2 are familiar?

9 A. Feel familiar, yes. And that's
10 about it.

11 541 Q. Okay. Thank you. I want to show
12 you an email, CRE50271, which attaches 50272, and
13 it appears to be a draft of Minister Duncan's
14 speech.

15 I don't see you in the email sequence.
16 Did you have any involvement in the composition of
17 a speech for Minister Duncan to deliver?

18 A. Yes, I would have drafted this
19 speech.

20 542 Q. Okay. You did draft this speech?

21 A. I did draft the speech, yes.

22 543 Q. And what information -- is this
23 the speech delivered at the Empire Club?

24 A. This is a draft --

25 544 Q. Excuse me, Economic Club.

1 Economic Club.

2 A. I can't remember the specific club
3 either. This is an early draft of the speech
4 delivered at the Economic Club, yes.

5 545 Q. You can give that back, thank you.
6 Take a look, please, at 1590 and the transcription
7 is 17092183.

8 These are handwritten notes and a
9 transcription of a meeting on February 9, 2012. Do
10 you recall being in a meeting with OLG after the
11 Cabinet meeting, discussing the impact or
12 postmortem of the decision to end revenue share
13 with the horseracing industry?

14 A. I do not recall.

15 546 Q. So, if we look at the second page
16 at the back with the third hash mark, it says:

17 "Key facts on horseracing.

18 Little education.

19 Will be hit hard."

20 Do you recall any discussion about
21 issues like that?

22 A. I do not.

23 547 Q. I want you to look at CR31479,
24 please, and this email sequence appears to be about
25 the passage in the speech you were writing, but

1 there's also "Key Messages Q's and A's." Okay?

2 So, if you look at the third page, it
3 says key messages and there's those bullet points
4 where we have seen -- where there's information
5 that we see you included in your speech, right?

6 A. There does seem to be some
7 overlap, yes.

8 548 Q. My question to you sir, is the Q's
9 and A's, the questions and answers, did you compose
10 these?

11 A. They don't look familiar, no.

12 549 Q. The reason I'm asking you that is
13 because if you look at the top of the email
14 sequence, it says:

15 "The current Q's and A's media
16 or otherwise are geared towards a
17 clear termination."

18 And I understood you earlier to say
19 that you were responsible for the composition of
20 Q's and A's for the media.

21 A. I believe I said Q's and A's that
22 I would prepare for the media. All of these people
23 whose names I don't know appear to work in the
24 Ministry. They would often work up their own sets
25 of Q's and A's that I wouldn't use.

1 550 Q. Okay. So you don't believe you
2 had any involvement in the composition of these Q's
3 and A's?

4 A. I believe I had no involvement in
5 the preparation of these Q's and A's.

6 551 Q. All right, thank you. Do you
7 recall there being confusion in the Ministry as to
8 how the decision to terminate revenue sharing was
9 to be communicated publicly?

10 A. I recall no confusion.

11 552 Q. Do you recall there being clarity
12 around how it was to be communicated?

13 A. I recall with clarity my role in
14 how it was to be communicated.

15 553 Q. And what was your role?

16 A. To use it, the decision, as an
17 example. Actually, not the decision. To use the
18 program as an example of the government's intent to
19 make policy decisions to focus resources on health
20 care and education.

21 554 Q. And that came, that clarity came
22 to you from where and who?

23 A. That clarity would have come from
24 that first discussion with the Minister in terms of
25 his intent and his desire to bring that belief to

1 the Premier's Office -- pardon me, to the Premier
2 and his colleagues in Cabinet.

3 555 Q. And so it was your understanding
4 that from that first time that he came out of that
5 meeting with Mr. Phillips and Mr. Godfrey in 2011,
6 the revenue sharing was going to be terminated?

7 A. No. As I said, he saw it as a
8 very good opportunity to explain and communicate
9 the government's intent to focus its resources on
10 health care and education, and that he looked
11 forward to taking the goal to the Premier and his
12 Cabinet colleagues.

13 556 Q. That's what you remember him
14 coming out and saying to you, as I have understood
15 you, right?

16 A. That's my understanding. You
17 asked about my clarity and how it was going to be
18 communicated. That is my recollection of how it
19 was to be communicated.

20 557 Q. My question is, what was the plan
21 to communicate that? I'm talking about the actual
22 operational plan to communicate that message and
23 the decision that was made in service of that
24 message?

25 A. Well, there was no concrete plan

1 until after the decision was made, and as we've
2 seen in the documents, there were a number of
3 options that we were looking at using as examples
4 in the speech, and then once the decision was made,
5 some options were put in and kept in, other options
6 were removed.

7 558 Q. The reason I'm asking you is
8 because if you look at CRE209040, it's an email
9 chain towards the bottom, Andre Cote -- do you know
10 Andre Cote?

11 A. I know who he is, yes.

12 559 Q. Who is he?

13 A. At the time he was a -- I don't
14 know what his title would have been, he was a
15 policy person in the Deputy Minister's office.

16 560 Q. Deputy Minister was who? Orsini?

17 A. It was probably Orsini. As we
18 discussed, depending on the time, it might have
19 been Wallace.

20 561 Q. And he's writing to Josh Cogan and
21 he says:

22 "FYI - clearly there is much
23 confusion about how exactly this is
24 to be rolled out..."

25 A. Sorry, I haven't read the email so

1 if I could have a minute. (Witness reads
2 document).

3 562 Q. You see where it begins with:
4 "Attaching the latest draft of
5 the proposed Minister's speech for
6 Monday."

7 This is February 8th and they're
8 talking about the Minister's speech that you were
9 composing, correct?

10 A. I see that.

11 563 Q. And if you follow the train up, it
12 says:

13 "Insert on page 9.

14 We suggest that this be reworked
15 significantly to moderate - the
16 Minister can frame the issue of
17 excessive financial support to the
18 sector and it is not sustainable and
19 under review. But as the speech is
20 written, this reads pretty much as a
21 decision that has been taken and
22 this is the communication of it..."
23 Do you see that?

24 A. I do see that.

25 564 Q. And in your speech that you wrote

1 and which was delivered, it doesn't say that the
2 decision has been taken, correct?

3 A. Well, I'd like to address the
4 question. So I also see in this paragraph --

5 565 Q. Excuse me. My question is, in
6 your speech it does not say that the decision has
7 been taken? That's the question. In your speech
8 that was delivered, the speech does not say the
9 decision has been taken? That's the question.

10 MS. LA HOREY: Hang on. But you read
11 part of something but not all of it. You didn't
12 read:

13 "We thought that was to be held
14 until the week of February 20 for an
15 announcement and this speech was to
16 allude to it but not announce the
17 cancellation."

18 BY MR. LISUS:

19 566 Q. Fine. In your speech February 13,
20 it does not say that the decision has been taken,
21 correct?

22 A. I'll need to see the speech again,
23 and I'm assuming we don't need this exhibit anymore
24 then?

25 567 Q. Leave it there.

1 A. Okay. I'm sorry, the premise of
2 the question is based on confusion, so I'm not sure
3 what I'm supposed to answer.

4 568 Q. Don't worry about the premises of
5 my questions.

6 A. I do worry about the premise.

7 MS. LA HOREY: Well...

8 BY MR. LISUS:

9 569 Q. Just answer the questions. Here's
10 your final speech.

11 MS. LA HOREY: Mr. Lisus, if he doesn't
12 agree with the premise of the question, that's
13 something that needs to be addressed.

14 MR. LISUS: He's not here to argue
15 premises. He has very capable counsel who is
16 capable of arguing premises. I want the witness to
17 answer the question.

18 MS. LA HOREY: No, but if he doesn't
19 agree with the premise of a question, if he agrees
20 with the question it could be confusing.

21 BY MR. LISUS:

22 570 Q. Is that your speech, the speech
23 that you composed?

24 A. This appears to be the speech,
25 yes.

1 MS. LA HOREY: We already identified it
2 as Exhibit 4 to this examination.

3 BY MR. LISUS:

4 571 Q. Is that the speech that was
5 delivered?

6 A. It appears to be a printed copy of
7 the speech that was delivered.

8 572 Q. May I see it, please? Will you
9 read into the record what your speech says about
10 Slots at Racetrack Program?

11 A. "Since 1998, Ontario taxpayers
12 have been subsidizing horseracing in
13 Ontario to the tune of \$345 million
14 a year through the OLG's Slots at
15 Racetracks Program. To put that
16 annual subsidy in perspective, it's
17 more support than we provide for
18 water protection or road safety to
19 protect our families. It's also
20 more than 10 times the amount BC,
21 Alberta and Manitoba combined
22 provide to horseracing. That kind
23 of money would pay for over 9
24 million hours of home care or
25 insulin pumps and supplies for five

1 years for almost 17,000 people. We
2 are reviewing every program, every
3 asset, and every function of
4 government. We are considering if
5 government should be in a specific
6 line of business or service
7 delivery. If not, then we will get
8 out of that business. If we should
9 be there, we will transform
10 operations to ensure Ontario
11 families are receiving the best
12 possible service. And if an asset
13 is not delivering the highest value
14 to taxpayers, we will take action to
15 ensure that it does so. We are
16 lowering the rate of spending growth
17 and we will continue to meet our
18 targets on the way to eliminating
19 the deficit."

20 573 Q. Can you agree with me, sir, that
21 that speech does not say that the decision to
22 terminate the Slots at Racetrack Program revenue
23 share has been taken?

24 A. It doesn't say anything about a
25 Cabinet decision.

1 574 Q. It does not say that the decision
2 to terminate the Slots at Racetrack Program revenue
3 share has been taken, correct?

4 A. It doesn't say anything about a
5 Cabinet decision.

6 575 Q. It does not say that the decision
7 to terminate the Slots at Racetrack Program revenue
8 share has been taken by Cabinet or anyone else,
9 correct?

10 A. It doesn't reference any decisions
11 to the program.

12 576 Q. And as of the date of that speech,
13 the decision had been taken, hadn't it?

14 A. I believe it had been made on
15 February 8th.

16 577 Q. And you knew that on February 9th,
17 correct?

18 A. I assume so. Are we finished with
19 this one?

20 MS. LA HOREY: Counsel, if we're moving
21 on to the next document, I wonder if it's time to
22 take the lunch break, it's 12:53.

23 MR. LISUS: I have a few more
24 questions. We'll break at 1:00.

25 MS. LA HOREY: Okay.

1 MR. LISUS: We'll mark the CR209040 as
2 the next exhibit.

3 MS. LA HOREY: If he is not an email
4 recipient or an email from him, then we'll mark it
5 for identification, okay?

6 EXHIBIT E (for identification): Email,
7 Bates numbered CRE209040.

8 BY MR. LISUS:

9 578 Q. Here is CRE210773 which is a
10 version of your speech as of February 9, 2012 at
11 2:42 p.m. coming from you. Would you identify
12 that, please?

13 A. Okay.

14 579 Q. I just want you to identify it.

15 A. Okay, sorry.

16 MR. LISUS: The next exhibit.

17 MR. MATTHEWS: Exhibit 5.

18 EXHIBIT NO. 5: Speech, Bates numbered
19 CRE210773.

20 BY MR. LISUS:

21 580 Q. I want to show you a document at
22 208706. Were you involved at all in the
23 composition of this document, "Eliminating the
24 Slots at Racetracks Program"? It's CRE208706.

25 MS. LA HOREY: While the witness is

1 taking a look at that -- yes, you said CRE, right?
2 Good. I just wanted to make it clear for the
3 record.

4 THE WITNESS: (Witness reads document).
5 Okay.

6 BY MR. LISUS:

7 581 Q. The reason I ask you that is
8 because I understood you to tell me earlier that
9 Aly, A-L-Y, Vitunski, V-I-T-U-N-S-K-I, was on your
10 team?

11 A. Correct.

12 582 Q. So this is your team composing
13 these - what are they - speaking points?

14 A. This appears to be a draft news
15 release. Oh, I'm sorry, it doesn't look that way,
16 actually. It looks to be what we would call an
17 issues note or background note.

18 583 Q. Okay. Were you involved in the
19 composition of this issues note or background note?

20 A. I don't recall specifically, but I
21 see I'm referenced, so good chance.

22 MR. LISUS: Okay. Thank you. This is
23 the next exhibit.

24 MR. MATTHEWS: 6.

25 EXHIBIT NO. 6: Document, "Eliminating

1 the Slots at Racetracks Program," Bates
2 numbered CRE208706.

3 BY MR. LISUS:

4 584 Q. Do you recall being aware in
5 February 2012 of any discussion about the impact
6 that the cancellation of the revenue share would
7 have on Standardbred breeders?

8 A. I remember certain associations or
9 members of the industry releasing information and
10 that information being discussed.

11 585 Q. What do you remember?

12 A. I remember a claim about 60,000
13 jobs.

14 586 Q. What else?

15 A. That's it.

16 587 Q. That's the only thing you
17 remember, a claim about 60,000 jobs?

18 A. That is the only thing that I
19 remember.

20 588 Q. And what do you remember about the
21 response in government to that claim about 60,000
22 jobs?

23 A. I remember one of our senior
24 economists equating that claim to being equal in
25 import to Ontario's auto manufacturing sector.

1 589 Q. Okay. Anything else?

2 A. Only that that was a vastly
3 overblown figure.

4 590 Q. What was the discussion of what
5 the correct figure was?

6 A. I have no recollection of that, of
7 any further discussion.

8 591 Q. What was your reaction to that
9 information when you became --

10 R/F MS. LA HOREY: Sorry, what his personal
11 reaction is is irrelevant. The question is
12 refused.

13 MR. LISUS: I don't think so.

14 MS. LA HOREY: Yes.

15 BY MR. LISUS:

16 592 Q. Were you surprised to hear that
17 there was 60,000 jobs involved?

18 A. I don't remember that kind of
19 reaction, no. I don't remember any kind of
20 reaction, to be more precise.

21 593 Q. Did you read the Auditor General's
22 report in 2014?

23 A. No.

24 594 Q. You say that quite emphatically?

25 A. I left government, so I didn't

1 read a lot of AG reports when I worked there, I
2 certainly didn't read them after I left.

3 595 Q. Okay.

4 MS. LA HOREY: Okay. It's one o'clock.
5 Let's take lunch.

6 MR. LISUS: Sure.

7 -- LUNCHEON RECESS AT 1:00 --

8 -- UPON RESUMING AT 1:30 --

9 BY MR. LISUS:

10 596 Q. I want to have you look at
11 CRE32059 in connection with a question I asked you
12 regarding your knowledge of when the decision to
13 terminate revenue share had been made, okay?

14 So just review that email sequence,
15 please. It's easier if you start at the back of
16 it.

17 A. (Witness reads document). Okay.

18 597 Q. So, we see that February 9 and
19 February 10 there's still discussion with you and
20 others about the draft speech, right?

21 A. It appears that way, yes.

22 598 Q. And on February 9 at 5:35 p.m.,
23 Daniel Tiburcio, T-I-B-U-R-C-I-O, sends track
24 changes to Mr. Duncan's speech, right?

25 A. Yes.

1 599 Q. Is he on the civil service side or
2 the political side?

3 A. Civil service.

4 600 Q. And you say to him, Mr. McNeill,
5 in response, second last paragraph:

6 "On the horseracing section
7 there's a note about the language
8 suggesting a decision has been made
9 when it hasn't. I agree we've
10 softened the positioning but no one
11 has flagged this issue with the
12 current wording, including Premier's
13 Office. I'm inclined to keep it."
14 Correct? See that?

15 A. I do see it.

16 601 Q. And Mr. Orsini responds to you
17 later that evening saying:

18 "On horseracing industry, we
19 have a Cabinet decision."
20 Correct?

21 A. I see that there, yes.

22 602 Q. So you and I can agree if we're
23 looking at this -- from looking at this email
24 sequence, that as of 10 to 5:00 on February 9th,
25 you were not aware that a decision had been made on

1 the termination of revenue sharing, correct?

2 A. I can agree with that statement,
3 yes.

4 603 Q. It's 10 to 7:00 p.m., excuse me.

5 A. Oh, sorry, yes.

6 604 Q. And Mr. Orsini tells you that
7 there is a Cabinet decision, right?

8 A. Yes, he does.

9 605 Q. And can you explain your response
10 to me, please?

11 A. I can.

12 MS. LA HOREY: Sorry, which one?

13 THE WITNESS: You're talking about "an
14 even better argument"?

15 BY MR. LISUS:

16 606 Q. Yes.

17 A. So I think this email thread
18 outlines the nature of the moving parts of the
19 construction of the speech and what was going to be
20 in the speech and how it was going to be
21 contextualized.

22 So in the drafting of the speech a
23 Cabinet decision had not been taken. As I
24 mentioned earlier, I was not part of the Cabinet
25 process, I didn't go to Cabinet or prepare Cabinet

1 materials. And so the positioning of the context
2 in the speech would have been considered in a few
3 different ways.

4 The Ministry officials, whose role was
5 to fact-check the speech, had made some changes. I
6 said what I said. Deputy Orsini came back and said
7 well, we went to Cabinet and we have a decision,
8 and so I said oooo, an even better argument to
9 suggest, all right then, now we know we have
10 direction and we know what edits to make.

11 607 Q. What was the argument you were
12 referring to?

13 A. I don't think I said argument.
14 Ah, I see, I did say argument, then you mean.
15 Well, about the argument to say which -- so, on the
16 second paragraph below on the horseracing section,
17 there is a note about the language suggesting a
18 decision has been made when it hasn't. I agree
19 with the argument that we softened the positioning
20 but no one has flagged the issue. So I'm inclined
21 to keep it as saying it's something we're looking
22 at.

23 And then Orsini would have come back
24 and said well, there is a decision, so that's an
25 argument to go with the changes in wording that the

1 Ministry officials had made.

2 608 Q. But the changes are never made?

3 A. I don't understand. I don't see
4 the draft here.

5 MS. LA HOREY: We don't know what's
6 attached.

7 THE WITNESS: There were 12 versions of
8 the speech so I'm not sure which versions you're
9 referring to.

10 BY MR. LISUS:

11 609 Q. Well, we have the final version
12 marked as an exhibit and we went through a
13 discussion of that before the break. I won't do it
14 again.

15 A. But we went through a discussion
16 of two or three versions of the speech. There were
17 12.

18 610 Q. We went through a discussion of
19 the final version.

20 I want to continue on with the email,
21 and if you look at Mr. Goodwin's contribution to
22 the discussion the following morning, do you see
23 the last paragraph of his email where it says:

24 "I can live with that because
25 the objective for Monday was not to

1 announce the end of slots at tracks
2 Monday but to use it as an example
3 of a program that was out of sync
4 and needing close review -
5 suggesting it was likely toast but
6 not saying that."

7 Do you recall there being discussion
8 about that approach to the public communication of
9 the decision that had been taken already?

10 A. I don't recall that discussion and
11 I see that I'm not copied on this email, so...

12 611 Q. Do you see where the email goes on
13 to say:

14 "I don't think MO..."
15 That's Minister's office, right?

16 A. It is.

17 612 Q. "...or OLG or MOF..."
18 That's Ministry of Finance, right?

19 A. Correct.

20 613 Q. "...ready to handle an
21 announcement of program
22 cancellation."

23 Do you remember there being discussion
24 about neither the Minister's office nor OLG nor the
25 Ministry of Finance being ready to handle an

1 announcement of program cancellation?

2 A. I do not.

3 614 Q. Do you see where it says:

4 "OLG is not operationally ready
5 to answer questions about impact."

6 Do you remember there being discussion
7 amongst the communications people or staff about
8 OLG not being operationally ready to handle
9 questions about the impact of the decision that
10 government had made?

11 A. I think there were two questions
12 there. I see the sentence. I do not recall
13 conversations.

14 615 Q. Okay. And you mean I asked you
15 two questions?

16 A. Correct.

17 616 Q. And if you look, please, at
18 208903.

19 And this email sequence is the next
20 exhibit, please, the email being CRE32059, that's
21 the next exhibit.

22 MR. MATTHEWS: Exhibit 7.

23 EXHIBIT NO. 7: Email, Bates numbered
24 CRE32059.

25 BY MR. LISUS:

1 617 Q. I'm showing you 208903 attaching
2 208905, which is an email from Andre Cote to you
3 and others on February 10.

4 And the email appears to include "Key
5 facts and Q and A's for the three areas to be
6 referenced in the Minister's speech on Monday."

7 Right?

8 A. It does.

9 618 Q. Now, we see that the document that
10 it attaches has questions and answers and key
11 facts, et cetera. Am I correct, Mr. McNeill, that
12 the document provided to you under cover of this
13 email contains data which, again, the civil
14 servants in Finance prepared, and you just arranged
15 it in the speech?

16 A. I would say there's a correlation.
17 The email is dated after the speech, so I don't
18 know that there is an identical match-up.

19 619 Q. No, no, it's not, it's February
20 10. The speech is February 9.

21 A. I apologize, I had February 9th in
22 my mind, so then yes, regardless, these facts would
23 correlate -- would relate to what we put in the
24 speech.

25 620 Q. My question to you is that these

1 facts were given to you by the civil service at
2 Finance?

3 A. Correct.

4 MR. LISUS: The next exhibit.

5 MR. MATTHEWS: Number 8.

6 EXHIBIT NO. 8: Email, Bates numbered
7 208903, and attachment, Bates numbered
8 208905.

9 BY MR. LISUS:

10 621 Q. Were you there when Mr. Duncan
11 delivered his speech?

12 A. Yes.

13 622 Q. What time of day was it? Lunch?

14 A. It was a lunch address.

15 623 Q. Take a look, please, at 30283.

16 Now, if you start at the back, start over the page,
17 Mr. McNeill, that's where the thread starts.

18 We're now on -- it starts on the
19 Sunday, February 12th, the day before the speech,
20 and it's an email from Allison Sparkes at OLG. Do
21 you know her?

22 A. I do.

23 624 Q. What did she do there? Was she in
24 communications?

25 A. I think she was a vice-president

1 of public affairs, something like that, so
2 communications would have been part of her mandate.

3 625 Q. So she sends you an email, copied
4 some other folks, and do you see the email?

5 A. I do.

6 626 Q. She says that she:

7 "...shared the text with Rod
8 and he advised that it was 345
9 million last year but not so in
10 earlier years, and suggests it would
11 be more accurate to say in the
12 hundreds of millions and up to \$345
13 million last year..."

14 Right?

15 A. It does say that, yes.

16 627 Q. And you respond, saying:

17 "Nothing's ever easy. I'll fix
18 up the speech but you guys'll have
19 to check the caucus products."

20 Do you see that?

21 A. I do see it.

22 628 Q. What does that mean, caucus
23 products?

24 A. Whenever we made an announcement
25 we would prepare materials, communications

1 materials for caucus with messages and Q's and A's
2 and key facts.

3 629 Q. So, what you're saying is you'll
4 make sure the speech is accurate but you were going
5 to leave it to them to ensure that the point she
6 was raising was accurately reflected in materials
7 being given to caucus?

8 A. I would have been asking her to --
9 yes, to check the other products probably because I
10 didn't have the bandwidth to do it in that short
11 period of time.

12 630 Q. Okay. And then we see that
13 Mr. Stransky pipes in on the morning of the 13th,
14 not to you, but to Mr. Goodwin and Ms. Yeigh. He
15 makes a similar point as Ms. Sparkes does, which
16 is:

17 "We need to make sure we don't
18 say 345 million from the start -
19 likely just better to say 345 in
20 11-12 and 3.4 billion since 1998."
21 Right?

22 A. I see that there, yes.

23 MR. LISUS: That's the next exhibit.

24 EXHIBIT NO. 9: Email, Bates numbered
25 30283.

1 BY MR. LISUS:

2 631 Q. And I do recall you telling me
3 earlier that you had no knowledge and information
4 about what the breeding cycle was in Ontario and
5 when breeding season began.

6 A. I did say that, yes.

7 632 Q. Did you have any knowledge or
8 information about what the impact Minister Duncan's
9 speech would have on Standardbred breeders?

10 A. I don't recall having any such
11 information.

12 633 Q. And you don't recall anyone in Mr.
13 Duncan's office raising that issue?

14 A. Not with me, no.

15 634 Q. And I want to just give you 83916,
16 which is the complete email sequence that we've
17 been discussing, okay? And you'll see that it
18 concludes by saying:

19 "Timing is ASAP as the speech
20 is around noon."

21 Which accords with your recollection of
22 when it was, right?

23 A. I do see that.

24 635 Q. Thank you. May I have that back,
25 please?

1 MR. MATTHEWS: That's Exhibit 10.

2 EXHIBIT NO. 10: Email, Bates numbered
3 83916.

4 MR. LISUS:

5 636 Q. I'm showing you handwritten notes
6 dated February 14th and a transcription. This
7 appears to be a discussion involving OLG and Liz
8 Yeigh, and Mr. Stransky, or Blair Stransky, or not.
9 I can't quite recall what Mr. Cogan said or if he
10 knew, but these are the names mentioned.

11 In any event, it's notes made by
12 Mr. Cogan of a February 14 meeting.

13 MS. LA HOREY: For the record, it's PDF
14 42 of 51, doc ID 16994791.

15 BY MR. LISUS:

16 637 Q. So you read the transcription?

17 A. I see it, yes.

18 638 Q. Do you recall participating in a
19 meeting with OLG and Finance civil servants the day
20 after the delivery of Mr. Duncan's speech at the
21 Economic Club?

22 A. I do not.

23 639 Q. Do you see where it says under the
24 heading "Drummond" --

25 A. I do.

1 640 Q. "Done a lot of work to get rid
2 of bad things."

3 A. I see that line, yes.

4 641 Q. Do you recall discussion like that
5 being had in particular that Mr. Drummond had
6 identified things that were fiscally bad that
7 needed to be gotten rid of and Slots at Racetrack
8 Program revenue share was one of them?

9 A. I have no idea what this means.

10 MR. LISUS: Okay. That's an exhibit
11 for identification.

12 EXHIBIT F (for identification): Notes,
13 Bates numbered 1593, and transcription,
14 Bates numbered 16994791.

15 BY MR. LISUS:

16 642 Q. Now, I want to just go back to
17 Exhibit 10 for a minute which had the Q and A's,
18 and just take a look again at Exhibit 10 and the
19 questions and answers, and tell me am I correct
20 that you had no involvement in the composition of
21 those Q and A's, those were Finance Q and A's, or
22 were they your office's Q and A's?

23 A. I don't recall having participated
24 in the preparation of this document, but generally
25 speaking, if it was a document for the Ministry,

1 they would not have been my key messages and Q's
2 and A's.

3 MR. LISUS: Thank you. Did we mark
4 1593?

5 MR. MATTHEWS: Yes, that's Exhibit F
6 for identification.

7 BY MR. LISUS:

8 643 Q. Do you recall in the wake or
9 immediately after Mr. Duncan's speech there being
10 an outcry in the press about the suggestion that
11 revenue sharing from Slots at Racetrack Program
12 with the horseracing industry would be terminated?

13 A. In the days following and weeks
14 following?

15 644 Q. No, days following.

16 A. I don't remember the timing. I
17 would not have categorized it as days, but in
18 weeks, perhaps, I do remember, and I wouldn't call
19 it an outcry in the press. I remember some ads
20 being put up in the subways around Queen's Park by
21 the horse industry and a couple of news articles.
22 But I would not equate that to being an outcry.

23 645 Q. Was there subsequently an outcry?

24 A. Not -- not in my radar.

25 646 Q. Okay. You say not on your radar,

1 and by that I take it you mean that you personally
2 weren't aware of any public outcry after the
3 announcement of the cancellation of revenue
4 sharing; am I correct?

5 A. What I mean by that is you asked
6 about a media outcry and the media I deal with,
7 dealt with, were Queen's Park, so there was
8 certainly not a deluge of articles that would
9 constitute an outcry out of the Queen's Park press
10 gallery.

11 647 Q. At any time?

12 A. At any time, to my recollection.
13 And just now you referenced the public, and again,
14 I didn't interact with stakeholders or the public.

15 648 Q. Thank you for that answer. It's
16 helpful. I actually said immediate, not media.
17 Immediate outcry.

18 A. I apologize.

19 649 Q. That's okay, your answer is
20 helpful. Do you recollect there being an immediate
21 outcry from the industry, for instance, after Mr.
22 Duncan's speech?

23 A. So again, immediate, no. I
24 remember in subsequent weeks, which I don't think
25 of as being immediate.

1 650 Q. Did Minister Duncan ever speak
2 with you about a significant negative reaction to
3 the announcement in March of 2012?

4 A. Not that I recall.

5 651 Q. Okay. And were you in regular
6 contact with him in the spring of 2012?

7 A. I would have been, yes.

8 652 Q. Okay. And he never made any
9 mention about the industry being harmed by the
10 decision to terminate the revenue share?

11 A. Not that I recall.

12 653 Q. And he never made any mention to
13 you about the negative impacts on employment in
14 rural Ontario as a result of the decision to
15 terminate revenue share?

16 A. Not that I recall.

17 654 Q. He never made any mention to you
18 about negative impacts on horse people, including
19 breeders, as a result of the decision to terminate
20 revenue share?

21 A. Not that I recall.

22 655 Q. Did anyone else in the Minister's
23 Office?

24 A. Not that I recall.

25 656 Q. Did anyone else in Finance?

1 A. I remember a reference to the
2 report that I mentioned earlier that one of the
3 associations put out that referenced the 60,000
4 jobs, the only thing I remember, and it was more
5 that it was a claim that the industry was making.

6 657 Q. Okay. But you don't recollect
7 there being any hostile reaction from the media or
8 public in terms of questions to the Ministry?

9 A. Well, I remember that the Minister
10 received a package in the mail and it contained the
11 scrotum of a farm animal with a note saying, "From
12 the horse industry, since you don't have any balls,
13 I'm sending you a pair," and I remember the
14 bloodcurdling scream of the young woman that had to
15 open the package.

16 So I guess you could call that an
17 outcry from at least one person in the public, but
18 that would be the extent of it.

19 658 Q. I take it that was a pretty
20 unusual event to occur?

21 A. It was a very unusual event.
22 There was actually one other unpleasant series of
23 events surrounding an individual who was emailing
24 pictures of dissected animals to Aly that I
25 mentioned and also the Premier's press secretary,

1 so I sought counsel from the OPP on how to address
2 the harassment.

3 659 Q. And you didn't consider these
4 incidents to be the reflection of a negative public
5 reaction to the announcement?

6 A. I didn't. They were so extreme
7 and not in the mainstream that it was hard to take
8 them as a significant representation of widespread
9 reaction.

10 660 Q. Whether or not it's a significant
11 representation of widespread reaction, it's
12 certainly, as you say, an extremely unusual
13 occurrence, correct?

14 A. Isolated, yes, and unusual, yes.

15 661 Q. And given that you didn't know
16 anything about breeding, the breeding cycle or
17 horses or the impacts, what did you think about
18 these kinds of packages arriving and the
19 consequences of them?

20 MS. LA HOREY: I'm not sure what his
21 personal views are. I'm sure he had some strong
22 personal views but I don't think they're relevant.

23 THE WITNESS: I'm happy to say I didn't
24 think they were representative of the industry
25 because they were so out there that, and to use

1 your word unusual, I didn't think that they were
2 representative.

3 BY MR. LISUS:

4 662 Q. And the package that you described
5 that the young woman opened, how did that get
6 through security to the Minister's Office?

7 A. No idea.

8 663 Q. And you didn't think there was any
9 relation to these kinds of events and the decision
10 that had been made and its impact on the industry?

11 A. No, I didn't. I didn't connect to
12 that. You know, in public life there are a lot of
13 crazy people out there that get excited about a lot
14 of seemingly random issues.

15 664 Q. And you thought that that was the
16 likely explanation for this event?

17 A. I did.

18 665 Q. Um-hmm. Okay. Now, let me just
19 ask you a question on a slightly different topic.
20 You were aware an industry panel was appointed,
21 right?

22 A. I am aware of the panel being
23 appointed, yes.

24 666 Q. You are aware that it produced an
25 interim report in August 2012?

1 A. If you tell me there was an
2 interim report produced, I will believe you.
3 Whether or not I was aware of it or the contents, I
4 don't remember.

5 667 Q. Were you aware that the panel
6 reported that the consequences of the government's
7 decision would be approximately 13,000 euthanized
8 horses?

9 A. As I said, I am not aware of the
10 contents of the report.

11 668 Q. Were you aware that the panel
12 reported the consequences of the government's
13 decision would be many thousands of job losses?

14 A. Again, I'm not aware of any
15 contents of the report.

16 669 Q. And were you aware that the panel
17 reported that there would likely as well be
18 suicides from people who owned horses as a result
19 of euthanization or loss of horses?

20 A. Again, not aware of any of the
21 contents of the report.

22 670 Q. Let me understand that,
23 Mr. McNeill. You worked on this file and the
24 communications around it for many months, correct?

25 A. No, I wouldn't agree with that

1 statement.

2 671 Q. Okay. Two months?

3 A. That's about right.

4 672 Q. Okay. And you knew it was an
5 important decision that the government made, right?

6 A. I knew that, yes.

7 673 Q. And you knew that the government
8 then appointed a tripartisan panel to review the
9 impact of the decision?

10 A. I knew there was a panel
11 appointed, yes. I wouldn't have called it a
12 tripartisan appointment. I realize that three
13 political alumni were there, but I don't recall it
14 being categorized that way.

15 674 Q. And you never bothered to read it?

16 A. That's correct.

17 675 Q. Why is that?

18 A. I worked at the Ministry of
19 Finance. As I told you earlier, I outlined my
20 responsibilities. The panel was -- the logistics
21 and operations of the panel were run by another
22 Ministry, and Finance was not involved in not even
23 the day-to-day, not really any aspects of the panel
24 and its work. Certainly not -- if Finance was,
25 certainly not from a communications point of view.

1 676 Q. Did Mr. Duncan ever mention the
2 work of the panel to you?

3 A. No.

4 677 Q. Did Mr. Shortill ever mention the
5 work of the panel to you?

6 A. Not to my recollection.

7 678 Q. Did Mr. Shortill ever discuss the
8 impacts of the decision the government made on
9 rural Ontario?

10 A. No.

11 679 Q. Did he ever discuss the impacts or
12 consequences of the decision the government made on
13 the breeding industry?

14 A. No.

15 680 Q. Did he ever discuss the impacts or
16 the consequences of the decision the government
17 made on the Standardbred horses?

18 A. No.

19 681 Q. Did anyone in government at any
20 time discuss any of those things or mention any of
21 those things to you?

22 A. Not to me, no.

23 682 Q. Did you read the comments that
24 Mr. Snobelen made publicly in the press in February
25 2012 following Minister Duncan's speech?

1 A. I believe I saw that in the
2 documents leading up to today.

3 683 Q. But you didn't follow them at the
4 time?

5 A. I did not.

6 684 Q. And did you look at the video
7 Mr. Snobelen posted on Ontario News Watch at the
8 time?

9 A. I am not aware of any video that
10 he posted anywhere.

11 685 Q. Are you aware that in 2013
12 Kathleen Wynne said that she thought that the --
13 publicly that the manner in which the decision to
14 cancel revenue sharing from the Slots at Racetrack
15 Program was not thoughtful?

16 A. I have a dim recollection of that,
17 but I also, again, I think any memory I recall I
18 had was revived by the documents leading up to
19 today.

20 686 Q. Do you have a recollection of
21 Minister McMeekin saying publicly in 2013 that the
22 government "dropped the ball" with respect to the
23 way in which it made the decision to terminate
24 revenue sharing at Slots at Racetrack Program?

25 A. I have no recollection of that

1 statement.

2 687 Q. Why did you understand a
3 three-person panel was struck? What was your
4 understanding of the purpose of it?

5 A. It was part of the consultation
6 exercise to work with the industry.

7 688 Q. Well, the decision had already
8 been made.

9 A. My understanding is the panel was
10 struck after Premier Wynne came to power and she
11 was looking at the decision in retrospect.

12 689 Q. When did you understand Premier
13 Wynne came to power?

14 A. January/February 2013.

15 690 Q. The panel was struck, sir, in the
16 spring of 2012 and released its interim report in
17 August 2012, but you don't --

18 A. Obviously I have no recall of the
19 circumstances or the reasoning.

20 691 Q. Did you understand that one of the
21 things the OLG was recommending in its land-based
22 review was the removal of slot machines from
23 racetracks and the relocation of them in urban
24 centres, one of them being the City of Toronto?

25 A. I have a general awareness of

1 that, yes.

2 692 Q. You had a general?

3 A. Have. Have and had.

4 693 Q. Correct. And were you aware of
5 whether or not any steps had been taken to
6 determine whether slot machines could be located in
7 cities if they were removed from racetracks?

8 A. No awareness of that at all.

9 694 Q. CR1854.

10 MS. LA HOREY: While the witness is
11 reading it, it's PDF 49 of 51 of doc 16994791 is
12 the transcription. This is Mr. Cogan's notes, I
13 presume?

14 MR. LISUS: Yes.

15 BY MR. LISUS:

16 695 Q. Any recollection of being in a
17 meeting or discussion in which the issues reflected
18 in these entries were discussed?

19 A. No recollection.

20 MR. LISUS: Next exhibit, please.

21 MR. MATTHEWS: G for identification.

22 EXHIBIT G (for identification): Notes,
23 Bates numbered CR1854, and
24 transcription, Bates numbered 16994791.

25 BY MR. LISUS:

1 696 Q. CR30355.

2 A. (Witness reads document). Okay.

3 697 Q. Now, we see here that Mr. -- is
4 Aly a mister?

5 A. A woman.

6 698 Q. That Ms. Vitunski with a copy to
7 you is asking Barry Goodwin and Greg
8 S-t-a-j-d-u-h-a-r with high importance on February
9 22 for a copy of the original agreement from 1998.
10 Remember that?

11 A. I don't remember that, no.

12 699 Q. Okay. Do you know why your team
13 was looking for a copy of the 1998 agreement?

14 A. I do not. I'm comfortable
15 guessing that since it was Aly, somebody from the
16 press gallery was asking to see a copy.

17 700 Q. Aly dealt with requests from the
18 press gallery?

19 A. She was the press secretary.

20 MR. LISUS: Thank you. Next exhibit,
21 please.

22 MR. MATTHEWS: Number 11.

23 EXHIBIT NO. 11: Email, Bates numbered
24 CR30355.

25 BY MR. LISUS:

1 701 Q. I want to show you, please, 209096
2 and 209097. This is an email to you with an OLG
3 strategic direction news release and plan. Can you
4 just review them, please, and tell me what was
5 going on here?

6 A. (Witness reads document). Okay.
7 I'm sorry, the question?

8 702 Q. What was going on here? What were
9 you doing here, you and Mr. Cogan?

10 A. So this looks like a draft news
11 release to update the media on shorter-term
12 initiatives being taken by the Lottery Corporation.

13 703 Q. Okay. All of the different things
14 the Lottery Corporation was going to do in the
15 future?

16 A. Correct.

17 704 Q. One of them being end the Slots at
18 Racetrack Program effective March 31, 2013?

19 A. It does say that, yes.

20 705 Q. Whose decision do you understand
21 it to have been to terminate the revenue sharing
22 arrangement with the horseracing industry effective
23 March 2013?

24 A. My understanding is this was a
25 Cabinet decision.

1 706 Q. And is it your understanding that
2 it was a decision recommended by OLG as well?

3 A. I don't know the relationship
4 between a Crown agency and Cabinet. They would
5 have made a recommendation to the Minister of
6 Finance who oversees the corporation, and then he
7 would have taken the recommendation forward.
8 That's an educated guess but that's how government
9 works, so...

10 707 Q. And this messaging was composed by
11 the civil servants in Finance?

12 A. I assume so. That's certainly the
13 channel through which I received it.

14 708 Q. Thank you.

15 MR. MATTHEWS: Exhibit 12.

16 EXHIBIT NO. 12: Email and attachment,
17 Bates numbered 209096 and 209097.

18 BY MR. LISUS:

19 709 Q. We asked you about the attack
20 radio ads, and has the discussion that we've had to
21 date refreshed your memory about ads on the radio
22 on February 26/27, 2012?

23 A. No, it has not.

24 710 Q. No? Let me show you the text of
25 one that Mr. Goodwin has sent to Mr. Orsini. So,

1 if you take a read of those, does that refresh your
2 recollection at all?

3 A. Nope. Sorry, no, it does not.

4 711 Q. Why are you laughing?

5 A. Because I said "nope" and that
6 seems very informal and I'm trying to be respectful
7 of the process.

8 712 Q. Thank you. This, I have been told
9 by some of the witnesses, would be an ad that the
10 government would not fund or procure. Is that your
11 understanding as a communications expert?

12 A. That's absolutely correct.

13 713 Q. And so it would have to be funded
14 by who? The party, the Liberal Party?

15 A. Correct.

16 714 Q. And would it have to be authorized
17 by the Liberal Party?

18 A. I don't know how that works. I've
19 never done political advertising, so I don't know
20 their approvals process.

21 And actually, any government ads at
22 that time, well, would have had to have been
23 approved by the Auditor General, so even had I been
24 involved in something like that, well, I wouldn't
25 have because the Auditor General would have thrown

1 it back at us.

2 715 Q. Why?

3 A. There are very strict rules about
4 government dollars being spent on partisan
5 advertising.

6 716 Q. And this was clearly partisan
7 advertising?

8 A. I would say so.

9 717 Q. What did it have to do with gaming
10 policy, this ad?

11 A. No idea.

12 718 Q. I think this was marked on
13 Mr. Phillips' examination.

14 I'd ask you about an email sequence,
15 CRE208936 and 937.

16 A. (Witness reads document). Okay.

17 719 Q. Do you remember this?

18 A. I remember it now that I've read
19 it, yes.

20 720 Q. Okay. What do you remember about
21 it?

22 A. Kerry Gillespie at the time was on
23 the editorial board at the Toronto Star, so I dealt
24 with her on several different matters over the
25 years, and being an editor, she wasn't a reporter,

1 so my interactions with her were on background and
2 to provide in-depth context on specific issues.

3 So, I see here at the beginning of her
4 email she's asking why my guy, meaning the
5 Minister, was --

6 721 Q. Go slow.

7 A. I'm sorry. She's asking why my
8 guy, meaning the Minister, was raising horseracing,
9 what's the connection, and then I -- it appears she
10 posited a number of questions and I answered them.

11 722 Q. And the questions that she posited
12 are posited as fact, and then you respond; is that
13 correct?

14 A. That appears to be the layout,
15 yes.

16 723 Q. And is Kerry Gillespie a man or a
17 woman?

18 A. A woman.

19 724 Q. And so, Kerry Gillespie on
20 February 29 sends an email to you, as you say,
21 saying:

22 "Your guy first raised the
23 horseracing in a speech, so does
24 this mean this is your issue?"
25 Right? That's what she says?

1 A. It does say that, yes.

2 725 Q. And she is there referring to the
3 February 13th speech that we discussed earlier,
4 correct?

5 A. That certainly seems to be the
6 case.

7 726 Q. And she gives you a series of
8 facts to respond to or to answer, right?

9 A. Well, so the introduction to that
10 is she is being absolutely inundated with attacks
11 on our view, meaning the Star's view, on
12 horseracing, so my interpretation of that is that
13 these statements are being positioned as facts by
14 people in the industry.

15 727 Q. Got it. And she's giving you
16 these facts for you to respond to on behalf of the
17 government?

18 A. Correct.

19 728 Q. Okay. And you do that. We see
20 your responses here, right?

21 A. That's correct.

22 729 Q. And you respond on March 1 saying:
23 "Good day. I had to get some
24 help."

25 See that?

1 A. I do.

2 730 Q. "Our combined answers are
3 below..."
4 Right?

5 A. Correct.

6 731 Q. And who did you get help from?

7 A. It would have been Blair, the
8 policy person, and Ministry officials.

9 732 Q. Civil servants?

10 A. Civil servants.

11 733 Q. And who would that have included?

12 A. I don't remember. My interactions
13 with the civil service would have been through the
14 Deputy Minister's Office and then they would serve
15 as my liaison with the subject matter experts.

16 734 Q. So, it's fair to say that the
17 responses to the facts that she was putting was a
18 joint effort by you, Mr. Stransky and the civil
19 servants in Finance?

20 A. That's correct.

21 735 Q. Okay. And would that include
22 Ms. Watkins, Ms. Yeigh?

23 A. I don't remember Ms. Watkins so I
24 can't speak to her. It could have included
25 Elizabeth Yeigh but I just recognize the name, I

1 don't really remember the person.

2 736 Q. Mr. Goodwin?

3 A. Could have been Mr. Goodwin. But
4 again, my liaison would have been somebody in the
5 deputy's office who would have gone out and
6 collected the information from any number of these
7 people and then collated the answers and presented
8 it to me.

9 737 Q. The point being it was a collation
10 of information, as you say?

11 A. Correct.

12 738 Q. Then you send it to Melanie Wright
13 and I think you mentioned Melanie Wright earlier?

14 A. I did. She worked on my team.

15 739 Q. And Jon Wypych, W-Y-P-Y-C-H, who
16 was Jon?

17 A. Jon was the LA. I mentioned him
18 earlier.

19 740 Q. That was your legislative
20 assistant?

21 A. Sorry, legislative assistant.

22 741 Q. And then Mathieu Labreche on your
23 team as well?

24 A. Correct.

25 742 Q. And I think you told us already

1 who that person was but tell us again in case you
2 didn't say the role?

3 A. I did. He was the writer, a
4 writer.

5 743 Q. And Aly Vitunski dealt with the
6 press?

7 A. Correct.

8 MR. LISUS: That's the next exhibit.

9 MR. MATTHEWS: 13.

10 EXHIBIT NO. 13: Email, Bates numbered
11 CRE208936 and CRE208937.

12 BY MR. LISUS:

13 744 Q. I want to show you CRE209214,
14 please, email March 10. And the announcement is
15 March 12, correct? The public announcement is
16 March 12?

17 A. (Witness reads document). I'm
18 sorry, I don't know what announcement you mean.

19 745 Q. The announcement that revenue
20 sharing was going to be terminated was made on
21 March 12th, 2012. Do you remember that?

22 A. I actually don't remember that
23 announcement at all, never mind when it took place.

24 746 Q. Okay. And do you see this email
25 sequence?

1 A. I do.

2 747 Q. And what's going on here?

3 A. It looks like there are edits
4 being made to a news release.

5 748 Q. What's the nature of the edits?

6 A. Change to a quick fact that
7 ensures that the gross revenue over the life of the
8 program is accurate with what we used before, and
9 then it appears I'm asking a question about jobs in
10 some capacity.

11 749 Q. Right. Why?

12 A. I don't know.

13 750 Q. What's the answer?

14 A. Well, I can read what Josh says.

15 It says:

16 "I think because in reality we
17 lose jobs..."

18 751 Q. Slowly.

19 A. "...ending SARP with kill 'em.
20 But specific OLG items should
21 create. So from OLG perspective
22 they create. But technically we
23 lose overall."

24 752 Q. Is that what you understood or you
25 didn't have an understanding?

1 A. I have no recollection of the
2 exchange so I can't comment as to what I did or
3 didn't understand.

4 MR. LISUS: Okay. That's the next
5 exhibit.

6 MR. MATTHEWS: 13.

7 MS. LA HOREY: No, it's 14.

8 EXHIBIT NO. 14: Email, Bates numbered
9 CRE209214.

10 BY MR. LISUS:

11 753 Q. I want to show you CRE208767 which
12 is a draft news release for the modernization of
13 gaming. Do you recall this news release being
14 discussed and composed?

15 If you look at the March 11, 2012, 7:39
16 p.m. email, it says:

17 "Here are final Ministry of
18 Finance news release and Q and A's
19 for gaming announcement tomorrow
20 a.m."

21 A. So this is the announcement you
22 were just asking me about?

23 754 Q. Yes.

24 A. I don't remember this announcement
25 at all.

1 755 Q. Were you involved in the
2 composition of the news release with the Q and A's?

3 A. Sure appears that way.

4 MR. LISUS: Okay, next exhibit.

5 EXHIBIT NO. 15: Draft news release,
6 Bates numbered CRE208767.

7 BY MR. LISUS:

8 756 Q. I want to have you look at
9 CRE209643, please.

10 A. Okay.

11 757 Q. Do you know Mary Ormsby?

12 A. I don't. I know who she is.

13 758 Q. Who is she?

14 A. She is a Toronto Star reporter.

15 759 Q. You obviously had contact with her
16 in June 2012?

17 A. It appears that way.

18 760 Q. She was writing about the
19 cancellation of the slots revenue program and its
20 impact?

21 A. It appears that way, yes.

22 761 Q. Are you aware that she's continued
23 to follow the story, so to speak, and write about
24 it?

25 A. I am. I've seen a couple of

1 stories from her over the last few months.

2 762 Q. So what's going on here,
3 Mr. McNeill, between you and Ms. Ormsby?

4 A. It looks to me like she wrote a
5 story about Dennis, which I believe is Dennis
6 Mills, who is a former Liberal MP and I used to
7 live in his riding so I think that's why I say
8 here, I know him but he won't remember me.

9 763 Q. Okay.

10 A. I suspect he made some statements
11 about the program and, if memory serves correctly,
12 he's in the industry.

13 764 Q. And just pausing there, you say:

14 "Mary, my good friends Rob
15 Ferguson and Rob Benzie said it'd be
16 okay to drop you a line."
17 Who are Rob Ferguson and Rob Benzie?

18 A. They're the Queen's Park reporters
19 for the Star.

20 765 Q. So am I understanding this
21 correctly that Mary Ormsby had written an article
22 in the Star and it had come to the attention of you
23 and/or your colleagues, and the government wasn't
24 happy with the content of the story and they asked
25 you or gave you the go-ahead to contact Mary to put

1 the government's position on the record, so to
2 speak; is that a fair characterization?

3 A. That's very close. I wouldn't say
4 the government wasn't happy. It was something we
5 were involved with so it's very likely that we saw
6 it.

7 766 Q. Who is "we"?

8 A. Myself and my team, me, and wanted
9 to address what we saw as misrepresentations of our
10 view.

11 767 Q. Okay.

12 A. So --

13 768 Q. What do you recall being the
14 misrepresentation?

15 A. I'll need more time to read the
16 email.

17 769 Q. Yeah, sure. I will take a little
18 break while you do that.

19 -- OFF THE RECORD --

20 BY MR. LISUS:

21 770 Q. I'm going to find the Toronto Star
22 article that you guys were discussing.

23 On the screen in front of you we've
24 pulled up the Toronto Star article dated June 18,
25 2012, and it's got a picture of a subway ad, and

1 you happened to refer to that in your evidence to
2 me a few minutes ago. You remember that?

3 A. I do.

4 771 Q. And it says:

5 "Mr. Premier, a partnership is
6 not a subsidy."

7 The ad says that, right?

8 A. It does.

9 772 Q. And then there is the --
10 Ms. Ormsby -- is it Ms. Ormsby?

11 A. It is.

12 773 Q. Ms. Ormsby writes an article and
13 this is the article that you were responding to,
14 right?

15 A. It certainly appears to be, yes.

16 774 Q. So, Ms. La Horey, are you content
17 just to have -- we can agree this is the article on
18 paper after the examination and mark it as the
19 exhibit we're referring to?

20 MS. LA HOREY: Yes, that's fine.

21 BY MR. LISUS:

22 775 Q. So that's the article that you're
23 responding to in your June 20 email. What day of
24 the week was June -- Monday, June 18. Then you
25 read your response on the break we took, right?

1 A. I did.

2 MR. MATTHEWS: Before you go there, so
3 we'll mark as Exhibit 15 the Toronto Star article
4 June 18, 2012.

5 MR. LISUS: By Ms. Ormsby.

6 MS. LA HOREY: 16.

7 MR. MATTHEWS: 16.

8 EXHIBIT NO. 16: Toronto Star article
9 by Ms. Ormsby dated June 18, 2012.

10 BY MR. LISUS:

11 776 Q. Now, looking at your response,
12 it's evident that you had input from others in
13 composing this response, right?

14 A. Why is it evident?

15 777 Q. Well, did you?

16 A. I don't remember the specifics.
17 This is written fairly informally and it sounds
18 like my voice, so...

19 778 Q. Are you familiar with the 1998
20 Letter of Intent?

21 A. I'm not familiar with it now.
22 Obviously I refer to it so I must have gotten a
23 line from it somewhere somehow.

24 779 Q. Mr. McNeill, you're not telling me
25 that you would have written this email to the

1 Toronto Star about this issue in the context of
2 there being ads on the subways and ministers'
3 offices receiving the kinds of packages that you
4 are talking about without getting approval and
5 input from other people in government, are you?

6 A. I am telling you that. I didn't
7 always get approval from other people in government
8 for my media interactions.

9 780 Q. So are you telling me that you
10 sent this email to the Star without any input from
11 anyone else?

12 A. I'm not telling you that.

13 781 Q. That's what I'm asking you. Did
14 you get input?

15 A. I'm sorry, sir, you made a
16 statement that it was obvious that I did get input
17 and I don't think it is obvious, and I don't know
18 if I did or did not.

19 782 Q. And you're telling me you wouldn't
20 have required signoff to send an email like this to
21 the Star?

22 A. In some cases that would have been
23 true.

24 783 Q. I'm talking about this case.

25 A. I don't remember, sir. It was six

1 years ago.

2 784 Q. In any event, this was your
3 honestly-held view at the time, correct?

4 A. It was, yes.

5 MR. LISUS: All right. Just mark that,
6 please, as the next exhibit.

7 MR. MATTHEWS: 17.

8 EXHIBIT NO. 17: Response to article,
9 Bates numbered CRE209643.

10 BY MR. LISUS:

11 785 Q. Now I ask you to look at CRE28971.

12 A. (Witness reads document). Okay.

13 786 Q. Can you explain to me what this
14 sequence is about?

15 A. It appears that Mr. Hudak
16 submitted a piece to his local paper -- oh, pardon
17 me, no, to an industry paper, outlining his
18 position on the issue we've been discussing. The
19 article eventually was forwarded to me and I
20 commented on it.

21 787 Q. What were your comments?

22 A. I have a strong negative reaction
23 to consistent progressive conservative references
24 to bureaucracy and fat in government being the sole
25 or easily most-blamed reason for deficit financing,

1 and do not believe with the position that the
2 bureaucracy is bloated and believe that it is an
3 overused falsehood.

4 788 Q. And so your email again reflects
5 your opinions, your genuinely-held views?

6 A. Correct.

7 789 Q. Were you at all concerned,
8 Mr. McNeill, in June of 2012 that the government
9 had made its decision to terminate the revenue
10 sharing without understanding the consequences that
11 doing so would have on the Standardbred breeders in
12 Ontario?

13 A. I don't believe I was, no.

14 790 Q. Were you at all concerned in 2012
15 that the government had not properly studied the
16 impact of its decision on Standardbred breeders in
17 particular and the rural Ontario economy in
18 general?

19 A. What I remember being concerned
20 about in those days was whether or not there were
21 enough resources to support social programs, which
22 was very important to Ontarians.

23 791 Q. Do you want my question again?

24 MS. LA HOREY: He answered it.

25 THE WITNESS: I feel I've answered it.

1 BY MR. LISUS:

2 792 Q. No, you didn't.

3 MS. LA HOREY: He did.

4 BY MR. LISUS:

5 793 Q. I didn't ask you about social
6 programs. I asked you whether you were at all
7 concerned about the accuracy or reliability of the
8 analysis that went into the decision that you were
9 involved in?

10 A. Just to be clear, you're asking me
11 what I was concerned about?

12 MS. LA HOREY: Hang on.

13 THE WITNESS: That was a nod?

14 MS. LA HOREY: Hang on. So answer his
15 question. So his question was, were you concerned
16 about the reliability of the analysis that went
17 into the decision? So answer that question.

18 THE WITNESS: I was not concerned about
19 the analysis.

20 BY MR. LISUS:

21 794 Q. Because you considered it to be
22 reliable and accurate?

23 A. I did.

24 795 Q. And on what basis did you consider
25 it to be reliable and accurate?

1 A. Ontario's public servants,
2 particularly from the Ministry of Finance, are the
3 envy of the world.

4 796 Q. Okay. Any other basis?

5 A. No.

6 797 Q. All right. And did you consider
7 yourself an Ontario public servant at the time?

8 A. I did. I do.

9 798 Q. From the Ministry of Finance?

10 A. When I used that term in the
11 previous question, I was referring to the civil
12 service.

13 799 Q. And so, that was the basis that
14 you were satisfied?

15 A. Correct.

16 800 Q. Okay. And I presume that was part
17 of the basis upon which you thought Mr. Hudak's
18 views were driven?

19 A. Yes.

20 801 Q. Next exhibit, thank you.

21 I take it, given the regard in which
22 you held the public service, as you have just
23 explained it to me, you held the three appointees
24 to the panel in very high regard?

25 A. I don't know them and I --

1 802 Q. You don't know every civil servant
2 in the Ministry of Finance either, do you,
3 Mr. McNeill?

4 A. Well, my understanding is the
5 three appointees were not civil servants.

6 803 Q. That's the answer to my question?
7 Is that the answer to my question, whether you held
8 them in high regard?

9 A. That's my answer to your question,
10 yes.

11 804 Q. Okay. Do you know that they
12 concluded that the government did not understand
13 the impact of its decision?

14 A. I do not know that but you made an
15 inference earlier, so...

16 805 Q. And do you know that they
17 concluded the government's assumptions regarding
18 employment and impact on racetracks and the ability
19 to offer live horseracing were all wrong?

20 A. I am not aware of that, no.

21 MR. LISUS: This email is the next
22 exhibit, CRE28971.

23 MR. MATTHEWS: 18.

24 EXHIBIT NO. 18: Email, Bates numbered
25 CRE28971.

1 MS. LA HOREY: Do you think it's time
2 for an afternoon break? How much longer are you
3 going to be? Do you need a break?

4 THE WITNESS: I'm okay.

5 BY MR. LISUS:

6 806 Q. Now, you told me earlier that you
7 didn't read the report, the interim report of the
8 industry panel. Do you remember telling me that?

9 A. Correct, I do.

10 807 Q. And you still haven't?

11 A. Correct.

12 808 Q. And you didn't read the final
13 report?

14 A. Correct.

15 809 Q. And you still haven't?

16 A. Correct.

17 810 Q. Do you know what they're about?

18 A. The reports? I don't.

19 811 Q. Take a look at CRE29303.

20 A. (Witness reads document). Okay.

21 812 Q. Do you remember this discussion
22 with Mr. Shortill regarding the interim report?

23 A. I do not.

24 813 Q. You see it there?

25 A. I do.

1 814 Q. And what is going on here?

2 A. Well, it appears there's an
3 article about the panel reporting. I make a
4 reference to a McKinsey report, I have no idea what
5 that is. It appears that Tim is educating me that
6 the report is already public. He makes some
7 comments about some industry internal politics that
8 seems to have occurred when I was on vacation, and
9 then he offers to tell me about some meetings that
10 he had with somebody.

11 815 Q. Right. So you knew that the panel
12 report was coming out on Friday, right?

13 A. It appears I did, yes.

14 MR. LISUS: That's the next exhibit.

15 EXHIBIT NO. 19: Document, Bates
16 numbered CRE29303.

17 BY MR. LISUS:

18 816 Q. Take a look at CRE235450.

19 A. (Witness reads document). Okay.

20 817 Q. What's the sequence about?

21 MS. LA HOREY: Well, is he anywhere on
22 this email?

23 BY MR. LISUS:

24 818 Q. Is Aly Vitunski on your team?

25 A. She is.

1 MS. LA HOREY: Well, unless you know
2 something about the email, it's not a proper
3 question.

4 BY MR. LISUS:

5 819 Q. Are you aware that the Minister's
6 Office engaged McKinsey to do a report?

7 A. I have no recollection of that.

8 820 Q. Do you see where Aly Vitunski...
9 Did she report to you?

10 A. She did.

11 821 Q. ...releases to the press gallery a
12 report done by McKinsey and Co.?

13 A. Well, if I may, I do see that.
14 I'm curious about where this is on a timeline
15 against --

16 822 Q. It's August 29 --

17 A. Against the last email, because it
18 appears in reference to the last email I was on
19 vacation. So just because Aly was on my team, it
20 doesn't mean that I had any knowledge or awareness
21 that this was being sent out.

22 I'm obviously not copied on the email,
23 so I have no knowledge about the report or its
24 release.

25 823 Q. We'll get to that in a minute.

1 A. Okay.

2 824 Q. I just want to ask you --

3 A. Sure.

4 825 Q. -- a question here. Aly Vitunski,
5 on August 29, 2012, releases to the press gallery a
6 McKinsey report, correct?

7 A. That's what this email says, yes.

8 826 Q. We know from Exhibit 19 that as of
9 August 14 you're communicating with Mr. Shortill,
10 right? We saw that on the last email?

11 A. If that's the date, August 14th,
12 yeah, I recall that.

13 827 Q. And we know that on August 14
14 you're saying to Mr. Shortill:

15 "Dude, we have to get the
16 McKinsey stuff out before this
17 becomes public, 210 million a
18 year!!!??"

19 Right? That's what you're saying to
20 him?

21 A. That's what the email says, yes.

22 828 Q. Okay. So, you are saying to
23 Mr. Shortill on August 14:

24 "We have to get the McKinsey
25 stuff out before this becomes

1 public."

2 Right?

3 MS. LA HOREY: Well, if you're
4 referring to an email that he doesn't remember,
5 you'd better show him the email.

6 THE WITNESS: Yes, I see that here.

7 BY MR. LISUS:

8 829 Q. Okay. So, let's go back and look
9 at the timeline again.

10 A. I think you've made your point. I
11 see that the date is accurate.

12 830 Q. Which point is that?

13 A. That the new exhibit was August
14 29th.

15 831 Q. I'm not done just yet.

16 A. I apologize.

17 832 Q. Exhibit 19, August 14, you're with
18 me?

19 A. I'm with you.

20 833 Q. We see that it's evident that the
21 horseracing panel is going to release its report,
22 right?

23 A. It is evident, yes.

24 834 Q. The \$210 million refers to an
25 OHRIA report that says \$210 million is going to be

1 needed as transition funding. Does that ring a
2 bell?

3 A. It doesn't ring a bell, actually,
4 no.

5 835 Q. Okay. But you say on August 14 to
6 Mr. Shortill:

7 "Dude, we have to get the
8 McKinsey stuff out before this
9 becomes public, 210 million a
10 year!!!??"

11 Right?

12 A. That's what it says here, yes.

13 836 Q. Okay. And then if we look at the
14 prior email, we see that Aly Vitunski on August 29
15 sends to the press gallery a McKinsey report?

16 A. That's what it says, yes.

17 837 Q. So, you and I can agree that
18 certainly you were aware of a McKinsey report being
19 distributed, because on August 14 you were telling
20 your boss that you had to get it out before the
21 interim report comes out from the panel, right?

22 A. I don't think we can agree on
23 that. Aly would often communicate with the gallery
24 without me knowing every little detail.

25 838 Q. On August 14 you say we have to

1 get the McKinsey stuff out before this becomes
2 public, correct?

3 A. I did say that.

4 MS. LA HOREY: Can I see that, please?
5 Just be clear. Hang on. Okay. All right. Can we
6 have that -- I just want to keep it in front of us
7 if you're going to keep referring to it.

8 BY MR. LISUS:

9 839 Q. You've got my question?

10 A. I answered it.

11 840 Q. It's correct, right?

12 A. I said that, yes.

13 841 Q. All right. So, you say:

14 "We've got to get the McKinsey
15 stuff out, 210 million a year!!!??"

16 Three exclamation marks, two question
17 marks, right?

18 A. Shall I count them?

19 842 Q. No, you can take my word for it.

20 A. Yes, that's what's there.

21 843 Q. And on August 29, Aly Vitunski
22 sends out a McKinsey report?

23 A. She does.

24 844 Q. And you're telling me those two
25 events aren't connected?

1 A. That's not what I said. Your
2 question, I believe, was I knew it was circulated.
3 I'm not copied on the email, I don't remember it
4 being circulated. Aly would often communicate with
5 the gallery without me knowing what was being
6 communicated.

7 845 Q. You wanted it circulated on August
8 14th, right?

9 A. It appears I wanted it circulated
10 at some point in time, yes.

11 846 Q. Certainly on August 14, right?

12 A. I made the statement on August
13 14th that I wanted it communicated, yes.

14 847 Q. On August 29 it's communicated?

15 A. It was.

16 848 Q. Okay. And did you tell OMAFRA or
17 anyone in OMAFRA that your office had a McKinsey
18 report?

19 A. As I said many times today, I had
20 very few dealings with other ministries, so I have
21 no recollection of telling OMAFRA anything that I
22 did or did not have.

23 849 Q. Did you tell OMAFRA that the
24 McKinsey report was going to be released?

25 A. I have no recollection of anything

1 I did or did not tell OMAFRA.

2 850 Q. The reason you wanted the McKinsey
3 report released was to respond to the interim
4 panel's report that a lot more money might be
5 needed, right?

6 A. I believe you said that the \$210
7 million figure came from an OHRIA report, so if I'm
8 responding to something, it would be the \$210
9 million in the OHRIA report and nothing to do with
10 the interim panel.

11 851 Q. Do you know Mark Cripps?

12 A. I don't. I know the name but I
13 don't know him.

14 852 Q. Who do you know him to be?

15 A. It looks like he was a staffer at
16 OMAFRA.

17 853 Q. Do you know Michael Keegan?

18 A. No.

19 854 Q. Do you know who he is?

20 A. No.

21 855 Q. Do you know Douglas Tindal?

22 A. I know the name. I'm sure I met
23 him once or twice.

24 856 Q. Who do you understand him to be?

25 A. I think he was the Chief of Staff

1 at OMAFRA.

2 857 Q. Mark Cripps appears to be the
3 press secretary for Ted McMeekin, Minister of
4 Agriculture, Food and Rural Affairs?

5 A. He does appear to be.

6 858 Q. He says:

7 "Are we being end-rounded
8 here?"

9 A. I see that.

10 859 Q. Was your office end-rounding
11 OMAFRA?

12 A. I don't remember the incident and
13 I am not in a position to say we were or were not.

14 860 Q. Do you see where Michael Keegan
15 says:

16 "Amber, did Finance run this by
17 you?"

18 A. I do.

19 861 Q. And who is Amber?

20 A. She was a staffer. I don't know
21 her role. I'm guessing --

22 MS. LA HOREY: Don't guess.

23 BY MR. LISUS:

24 862 Q. Do you see where Douglas Tindal
25 says:

1 "I've never seen it and I think
2 it stinks. We should turn Wilkinson
3 loose on them."

4 A. I do see that.

5 863 Q. What was that about?

6 A. I have no idea.

7 864 Q. Do you know who Wilkinson was?

8 A. I do. He was at one point the
9 Minister of Revenue and was one of the panelists.

10 865 Q. So, looking at this, sir, can we
11 agree that the Ministry of Finance was releasing a
12 report that OMAFRA had no knowledge of in advance
13 of the interim panel's report to -- go on.

14 A. No, you please go on.

15 866 Q. I'm done.

16 A. I don't think I can draw any
17 conclusions to a series of emails to which I was
18 not a party.

19 867 Q. Any idea as to why OMAFRA would be
20 saying they think it stinks?

21 A. No.

22 868 Q. Any idea why OMAFRA would be
23 querying whether Finance is doing an end-around
24 around them?

25 A. No.

1 869 Q. Is there any reason why Finance
2 would procure a report from McKinsey and not share
3 it with OMAFRA?

4 A. I don't know how to answer that
5 question. I have no sense of that dynamic. I was
6 never part of commissioning a report from anybody.

7 870 Q. You never spoke with anybody at
8 McKinsey?

9 A. I never spoke to anyone.

10 MR. LISUS: Next exhibit.

11 MR. MATTHEWS: 20.

12 EXHIBIT NO. 20: Email, Bates numbered
13 CRE235450.

14 MS. LA HOREY: Let's take a break.

15 -- RECESS AT 2:56 --

16 -- UPON RESUMING AT 3:03 --

17 BY MR. LISUS:

18 871 Q. Take a look, please, at
19 CRE0031925.

20 A. (Witness reads document). Okay.

21 872 Q. And what I'm actually going to do,
22 Mr. McNeill, is give you another document which for
23 some reason I have this document email by email
24 instead of the complete sequence, so I'm going to
25 give you CRE91986 which is the same email sequence

1 but it continues into December 12. All right?

2 So you don't have to read the whole
3 thing again, just read up to the top.

4 A. (Witness reads document). Okay.

5 873 Q. And do you have the prior one with
6 you as well?

7 A. I do.

8 874 Q. Okay. So, let's just look at the
9 prior one first. The sequence originates with an
10 inquiry from Global News, right?

11 A. I see that, yes.

12 875 Q. And a series of questions are put
13 to you?

14 A. Correct.

15 876 Q. Do you remember receiving these
16 questions?

17 A. I don't.

18 877 Q. And no recollection at all, not
19 even a general one?

20 A. Not at all, no.

21 878 Q. And you composed responses to
22 these questions, right?

23 A. It appears I did.

24 879 Q. So you receive and you -- the
25 request comes to you December 3, 2012, and

1 Mr. Valido, V-A-L-I-D-O, Ben, who is he?

2 A. I don't recognize the name.

3 880 Q. Sends the composed responses,
4 composed/proposed responses to Global to
5 Mr. Goodwin to review and approve. Right?

6 A. Yes.

7 881 Q. Now, I presume when you composed
8 these responses, you would have had input from the
9 civil servants at Finance?

10 A. These feel like that kind of
11 answer, yeah.

12 882 Q. And Mr. Goodwin says:

13 "Seems to me like many of the
14 answers don't respond to the
15 questions."

16 And there is a typo, it says "I," it
17 should be:

18 "[Is] that a strategy that
19 communications advised?"

20 Do you see that?

21 A. I do.

22 883 Q. And Mr. Valido says:

23 "Yes - (verified this with
24 Liz)."

25 See that?

1 A. I don't see the "yes," there is a
2 hole punch there. Oh, I see it.

3 884 Q. Okay. So, do you recall there
4 being a strategy of not responding to questions
5 about the information Mr. Drummond had and the
6 content of his report as it relates to Slots at
7 Racetrack Program?

8 A. I don't remember that kind of
9 strategy.

10 885 Q. This is the next exhibit, please.

11 A. I would like to add, I mean, the
12 questions about the Drummond commission I wouldn't
13 have answered because I was not on the Drummond
14 commission, so it's possible Barry was comparing
15 oranges to apples.

16 886 Q. Right. Well, you've explained to
17 me the responses were likely the product of input
18 from civil servants Finance, right?

19 A. Correct.

20 887 Q. That's the next exhibit.

21 A. Got it.

22 888 Q. And then the -- what is the next
23 exhibit?

24 A. It's this one, I thought?

25 889 Q. And then the email which goes in

1 sequence and goes up to December 5 is the exhibit
2 after that.

3 MR. MATTHEWS: So CRE91986 is going to
4 be 21, and CRE31925 is 22.

5 EXHIBIT NO. 21: Email, Bates numbered
6 CRE91986.

7 EXHIBIT NO. 22: Email, Bates numbered
8 CRE31925.

9 MR. LISUS: And this discussion -- I'm
10 not going to mark them all, Ms. La Horey, I'll just
11 refer to them on the record because the discussion
12 evolves with the emails with the final one, and the
13 sequence is CRE91986, 211210, 31927, 90135, 31926,
14 and I will mark 31926, which appears to be the
15 final response, as the next exhibit in sequence.
16 Okay?

17 MS. LA HOREY: Is that the one that's
18 on the screen?

19 MR. LISUS: No, it's tab 111, for
20 Mr. Matthew's benefit, 31926.

21 MR. MATTHEWS: So CRE31926 is Exhibit
22 23.

23 EXHIBIT NO. 23: Email, Bates numbered
24 CRE31926.

25 BY MR. LISUS:

1 890 Q. When did you leave the Ministry?

2 A. June 2013.

3 891 Q. So, you were there when the City
4 of Toronto voted against the creation of a casino
5 in downtown Toronto?

6 A. That feels familiar. Not a clear
7 recollection, but I suspect.

8 892 Q. You told me earlier that you
9 composed the responses for Dwight Duncan to give in
10 the House in question period?

11 A. Correct.

12 893 Q. And again, I'll display my
13 ignorance of civics. Do ministers on either side
14 of the House know the questions that are going to
15 be asked of them in a session?

16 A. So, there are no ministers on
17 either side of the House, there are ministers on
18 the government side.

19 894 Q. Okay. Right.

20 A. And there is a belief that that is
21 the case because -- the answer is no, they do not.

22 895 Q. You seem to be getting at what I
23 was trying to understand. There is a belief that
24 that is the case because of the manner in which
25 they give their responses?

1 A. No, actually, I'm a
2 parliamentarian nerd and in England the ministers
3 are given a heads-up about what the subject of the
4 question will be but no sense of what the question
5 will be.

6 896 Q. Okay.

7 A. In Canada, that's not the case,
8 and --

9 897 Q. So how is it that you prepare
10 responses for the Minister to assist the Minister
11 in answering questions?

12 A. So, there is a team of civil
13 servants that come in very early and put together a
14 clippings package of the news of the day. The LA
15 comes in very early and prepares a summary, and
16 then myself, the press secretary come in and sit
17 down and go over the clippings together and try to
18 anticipate where the opposition will try to attack.

19 898 Q. Okay. So, I've looked at a series
20 of debates, not debates, transcripts from Hansard
21 in March 2012 in which Minister Duncan is making
22 statements or responding to statements or questions
23 put by the opposition, or the NDP, whoever the
24 party may be.

25 Did you compose the draft responses

1 that he delivered in March 2012?

2 A. I was very blessed, Minister
3 Duncan, Dwight Duncan is a great communicator.
4 Very rarely would he read -- he would read from a
5 script for a major speech. For day-to-day
6 interaction, like question period, we would give
7 him some facts, we would suggest tone and approach,
8 and then he would extemporize, he would make it up
9 as he went along.

10 899 Q. And who is "we"?

11 A. The LA, the press secretary and
12 myself.

13 MR. LISUS: Ms. La Horey, do you have
14 any idea what these additional documents that you
15 have located are?

16 MS. LA HOREY: I am sad to say that our
17 computer program has crashed for the entire day so
18 I had hoped to have more news for you as to what
19 the nature of the documents are. I am told that a
20 lot of them are media clippings. What percentage,
21 I don't know. I'm sorry I don't have more
22 information for you.

23 MR. LISUS: Do you have any indication
24 when we're going to know what they are and the
25 volume?

1 MS. LA HOREY: I continue to ask my
2 staff that very issue.

3 MR. LISUS: All right. Well, subject
4 to that issue, those are all my questions.

5 MS. LA HOREY: Thank you. And I will
6 wait until the examination is concluded to see if
7 there's any further questions. We'll let you
8 finish first, Mr. Lisus.

9 MR. LISUS: I'm done.

10 MS. LA HOREY: You're done. Do you
11 have anything?

12 MS. SINNADURAI: Do you want to step
13 away for a minute?

14 MS. LA HOREY: We'll take a quick
15 break.

16 -- RECESS AT 3:16 --

17 -- UPON RESUMING AT 3:20 --

18 MS. LA HOREY: So back on the record.
19 I just confirmed with Ms. Sinnadurai and neither
20 OLG nor the Crown has any questions of the witness
21 at this time based on the examination to date. We
22 may if we resume.

23 Just for the record, I will be -- I
24 know Mr. McNeill is under cross-examination but I
25 will be communicating with him once we have a

1 further set of documents, to provide him with those
2 documents.

3 MR. LISUS: To provide him with the
4 documents?

5 MS. LA HOREY: Yes.

6 MR. LISUS: Yes, that's fine.

7 MS. LA HOREY: Thank you.

8 -- Whereupon upon the cross-examination concluded
9 at 3:21 p.m.

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REPORTER'S CERTIFICATE

I, KIMBERLEY A. NEESON, RPR, CRR,
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Realtime Systems Administrator, 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 the
examination were recorded stenographically by me
and were thereafter transcribed;

That the foregoing is a true and
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Dated this 31st day of January, 2018.



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EXHIBITS	
EXHIBIT 1: - Summons to Witness	10
EXHIBIT 2: - Email and attachment, Bates	99
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