

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

MICHAEL KEEGAN

March 06, 2018

neesons

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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.,

<p style="text-align: right;">Page 2</p> <p>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 MICHAEL KEEGAN, a non-party witness herein, taken 11 at the offices of Neeson Court Reporting Inc., 12 77 King Street West, Suite 2020, Toronto, Ontario, 13 on the 6th day of March 2018. 14 ----- 15 A P P E A R A N C E S : 16 Jonathan Lisus, Esq., 17 Ian Matthews, Esq., for the Plaintiffs. 18 19 Robert Ratcliffe, Esq., 20 & Michele Valentini, SAL, for the Defendant 21 Crown. 22 23 Adam Goldenberg, Esq., for the OLG. 24 25 REPORTED BY: Carissa Stabbler, RPR, CSR</p>	<p style="text-align: right;">Page 4</p> <p>1 INDEX OF REFUSALS 2 The questions/requests refused are noted by R/F and 3 appear on the following pages: 115:20 4 5 6 INDEX OF EXHIBITS 7 8 9 NUMBER/DESCRIPTION PAGE/LINE NO. 10 1: Summons to Witness. 21:13 11 2: CRE470063. 29:9 12 3: CR0000761 with transcription. 31:24 13 4: CRE0235396. 48:23 14 5: CRE0029291. 88:13 15 6: CRE0437780. 88:16 16 7: CRE0106086. 99:11 17 8: SB0005058. 106:2 18 9: Press release dated August 24, 19 2012, entitled "Statement from the 123:17 20 Minister of Agriculture and Rural 21 Affairs on the Horse Racing Industry." 22 10: CRE0235450. 134:1 23 11: CRE0235365. 141:24 24 12: CRE0029093. 143:18 25 13: CRE0241356 and CRE0241357. 158:7</p>
<p style="text-align: right;">Page 3</p> <p>1 I N D E X 2 3 WITNESS: MICHAEL KEEGAN 4 PAGE 5 CROSS-EXAMINATION BY MR. LISUS..... 6 6 7 8 **The following list of undertakings, advisements 9 and refusals is meant as a guide only for the 10 assistance of counsel and no other purpose** 11 12 13 INDEX OF UNDERTAKINGS 14 The questions/requests undertaken are noted by U/T 15 and appear on the following pages: 178:13, 210:20, 16 223:7 17 18 19 INDEX OF ADVISEMENTS 20 The questions/requests taken under advisement are 21 noted by U/A and appear on the following pages: 22 181:23, 217:15, 217:23 23 24 25</p>	<p style="text-align: right;">Page 5</p> <p>1 14: CRE0560559. 164:25 2 15: CRE0032651 and CRE0032652. 174:5 3 16: CRE0230200 and CRE0230201. 182:3 4 17: CRE0235625 to CRE0235628. 188:18 5 18: CRE0436762 to CRE0436765. 206:7 6 19: SB0003346. 207:5 7 20: CRE0434681 to CRE0434694. 218:2 8 21: CRE0498049 to CRE0498068. 223:18 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

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<p>1 -- Upon Commencing at 10:05 a.m. --</p> <p>2 MICHAEL KEEGAN: AFFIRMED.</p> <p>3 CROSS-EXAMINATION BY MR. LISUS:</p> <p>4 1 Q. Good morning, Mr. Keegan.</p> <p>5 A. Morning.</p> <p>6 2 Q. You used to be the chief of staff</p> <p>7 to Kathleen Wynne; is that correct?</p> <p>8 A. In her role as Minister of</p> <p>9 Agriculture and Food, yes.</p> <p>10 3 Q. Were you also her chief of staff</p> <p>11 in her capacity as Premier?</p> <p>12 A. No.</p> <p>13 4 Q. Who was?</p> <p>14 A. Tom Teahen.</p> <p>15 5 Q. Spelled?</p> <p>16 A. T-O-M, T-E-A-H-A-N, I think.</p> <p>17 6 Q. And so from what date to what date</p> <p>18 were you Kathleen Wynne's chief of staff?</p> <p>19 A. Started on or about Valentine's</p> <p>20 Day 2013 to Valentine's Day 2014. I don't remember</p> <p>21 the exact date it started. It was for</p> <p>22 approximately one year.</p> <p>23 7 Q. And what did you do after</p> <p>24 Valentine's Day 2014?</p> <p>25 A. I left the Ontario Public Service</p>	<p>1 13 Q. And chief of staff was a</p> <p>2 political-side job?</p> <p>3 A. Yes.</p> <p>4 14 Q. And so what did you do prior to</p> <p>5 your employment as a manager in the Ministry of</p> <p>6 Agriculture?</p> <p>7 A. I was manager in another</p> <p>8 department at OMAFRA. I think it was rural</p> <p>9 development. I was primarily focused on, at that</p> <p>10 time, delivery of infrastructure programming for</p> <p>11 Ontario and Canada related to infrastructure</p> <p>12 spending coming out of the great recession.</p> <p>13 15 Q. How long did you have that</p> <p>14 position?</p> <p>15 A. About six months.</p> <p>16 16 Q. Before then?</p> <p>17 A. I was on secondment with new</p> <p>18 Federal Development Agency, FedDev Ontario.</p> <p>19 There's a fuller name. I think it was Economic</p> <p>20 Development Agency for southern Ontario. I was on</p> <p>21 a secondment there for about seven months helping</p> <p>22 to set that up as a new federal agency.</p> <p>23 17 Q. So that was from when to when?</p> <p>24 A. It must have been January of 2010</p> <p>25 until probably June or July of 2010.</p>
<p>1 and, several weeks later, started a consulting</p> <p>2 firm.</p> <p>3 8 Q. What did you do prior to</p> <p>4 Valentine's Day 2013?</p> <p>5 A. I was chief of staff to</p> <p>6 Ted McMeekin, Minister of Agriculture, Food and</p> <p>7 Rural Affairs.</p> <p>8 9 Q. For how long?</p> <p>9 A. I started in late November 2011</p> <p>10 and went until the transition to the -- to</p> <p>11 Kathleen Wynne.</p> <p>12 10 Q. What did you do prior to late</p> <p>13 November 2011?</p> <p>14 A. I was in the Ministry of</p> <p>15 Agriculture and Food. I was the manager of</p> <p>16 intergovernmental relations and trade.</p> <p>17 11 Q. What date did you start that</p> <p>18 position?</p> <p>19 A. Again, it was about a year, so it</p> <p>20 was fall of 2010 until I left to join McMeekin's</p> <p>21 office the end of November 2011.</p> <p>22 12 Q. In your role as manager at the</p> <p>23 Ministry of Agriculture, was that a political-side</p> <p>24 job or a civil-service-side job?</p> <p>25 A. Civil service.</p>	<p>1 18 Q. What did you do before then?</p> <p>2 A. I was on a parental leave with the</p> <p>3 birth of my second child.</p> <p>4 19 Q. And before then?</p> <p>5 A. I was the manager of economic</p> <p>6 development and policy at OMAFRA.</p> <p>7 20 Q. When did you start in that job?</p> <p>8 A. I honestly can't remember.</p> <p>9 21 Q. Just a year.</p> <p>10 A. Probably 2009.</p> <p>11 22 Q. Okay. And before then?</p> <p>12 A. I was the manager of governance</p> <p>13 and accountability at OMAFRA. I started in 2008.</p> <p>14 23 Q. Before then?</p> <p>15 A. Senior policy advisor in OMAFRA.</p> <p>16 Started in late 2006.</p> <p>17 24 Q. Before then?</p> <p>18 A. I was -- they called it executive</p> <p>19 assistant in those days to Minister of Agriculture,</p> <p>20 Food and Rural Affairs. Actually, I don't think it</p> <p>21 was rural affairs then. Steve Peters.</p> <p>22 25 Q. Okay. Started there when?</p> <p>23 A. August of '05.</p> <p>24 26 Q. And before then?</p> <p>25 A. I was an advisor to Minister of</p>

Page 10		Page 12	
1	Labour, Chris Bentley.	1	42 Q. Where would beef fit into that?
2	27 Q. And before then?	2	A. Part of livestock.
3	A. I was regional organizer for then	3	43 Q. Part of livestock. And where
4	leader of the opposition, Dalton McGuinty.	4	would dairy fit in?
5	28 Q. When was that?	5	A. Dairy would be its own. Dairy,
6	A. That was late 2002 to -- until the	6	chicken, and eggs are kind of separate from that,
7	election in 2003.	7	being supply-managed commodities. They're also
8	29 Q. What did you do before being	8	large -- we always think of supply managed and
9	regional organizer for Dalton McGuinty?	9	non-supply managed as kind of separate industries
10	A. I was doing a masters degree at	10	because they're very different.
11	the University of Sussex.	11	44 Q. Does "supply managed" mean the
12	30 Q. Doing what?	12	existence of a quota?
13	A. International relations.	13	A. Yes.
14	31 Q. So when the Liberal government	14	45 Q. Okay. And where would horse
15	came to power in 2003, you got a job in government?	15	racing fit in in terms of size of agricultural
16	A. Yes.	16	industries?
17	32 Q. And you stayed in government under	17	A. Based on -- based on sales?
18	the Liberals from 2003 to about Valentine's Day	18	46 Q. Same measure that you were using
19	2014?	19	for the other industries you've given me.
20	A. In various roles in both the civil	20	A. I wouldn't know.
21	service and political side.	21	47 Q. Okay. In 2012, had you had any
22	33 Q. Okay. In 2012, what was the	22	experience with the horse racing industry?
23	biggest agricultural industry in Ontario?	23	A. No.
24	A. 2012?	24	48 Q. Okay. In 2012, had you had any
25	34 Q. Yeah.	25	experience with the breeding sector of the horse
Page 11		Page 13	
1	A. From -- defined as --	1	racing industry?
2	35 Q. Revenue.	2	A. No.
3	A. Revenue --	3	49 Q. Now, you prepared yourself to give
4	36 Q. Generated.	4	evidence here today; correct?
5	A. Like farm gate receipts, cash	5	A. I talked to my counsel, yes.
6	receipts?	6	50 Q. You also reviewed documents?
7	37 Q. Yes.	7	A. Yes.
8	A. I wouldn't know off the top of my	8	51 Q. Okay. How many documents
9	head.	9	approximately did you review? You can see I've got
10	38 Q. Are you able to give me any	10	a big binder in front of me.
11	understanding of what the biggest industries in the	11	A. Not that many. Probably -- I
12	agricultural sector were in Ontario in 2012?	12	don't know. I'd guess 30 to 50.
13	A. Yeah. So it would be field crops,	13	52 Q. Okay. And you met with
14	largely grain and oilseeds, and then livestock	14	Mr. Ratcliffe?
15	broadly defined and then probably horticulture.	15	A. Yes.
16	39 Q. When you answer that question,	16	53 Q. At that meeting, was counsel for
17	what are you using as the measure for the size of	17	OLG also present?
18	the industry?	18	A. Yes.
19	A. A general sense of what the farm	19	54 Q. So you prepared jointly with
20	gate sales would be.	20	Mr. Ratcliffe and counsel for OLG for the purposes
21	40 Q. And "farm gate" means what?	21	of giving your evidence here today?
22	A. What sold off of the farm.	22	A. Yes.
23	41 Q. Okay.	23	55 Q. How many meetings?
24	A. So that's sales aggregated per	24	A. One in person, one over the phone.
25	farm.	25	56 Q. Now, you understand that you're

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<p>1 here pursuant to a Summons to Witness? 2 A. Yes. I've received two. 3 57 Q. I want to show you the one that 4 you're here pursuant to. You reviewed your Summons 5 to Witness? 6 A. Yes. 7 58 Q. Now, if you take a look at the 8 second page of paragraph 1, you see there's a 9 reference to an email, michaelkeegan7@yahoo.ca? 10 A. Yes. 11 59 Q. Did you review the contents of 12 that email address or inbox to determine if there 13 were documents responsive to the summons? 14 A. Yes. 15 60 Q. And were there? 16 A. There were not. That is not an 17 email that I use. It's the email address I give 18 when I know it's going to be spammed. So that's 19 been an inactive account for many years. And I 20 haven't -- I -- when I -- many years ago, I tried 21 to clean that up. There was thousands of unread 22 emails, and I erased a whole bunch of them. 23 61 Q. Okay. How long did you work with 24 Ted McMeekin for? 25 A. When I -- well, in my capacity as</p>	<p>1 MR. LISUS: Correct. 2 MR. RATCLIFFE: Okay. Sorry. 3 THE WITNESS: Sorry, I was in error 4 earlier. You're correct. 5 BY MR. LISUS: 6 65 Q. I'm not sure what you mean by you 7 were in error earlier; I'm correct. 8 A. You asked me if I had knowledge of 9 the horse racing industry in 2012. I didn't until 10 the information that was in the Drummond report 11 came out. 12 66 Q. Okay. That's helpful. Thank you. 13 So your first knowledge of and 14 involvement in the horse racing industry and the 15 breeding sector occurred after the release of the 16 Drummond report when the announcement to terminate 17 the revenue sharing from Slots at Racetrack Program 18 was made; correct? 19 A. Yes. Our office was briefed on 20 the OLG modernization plan a couple of days prior. 21 67 Q. Couple of days prior to -- 22 A. The -- I don't remember if it was 23 a news release or a speech, but the content of the 24 Drummond report and his comments on horse racing 25 became public.</p>
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<p>1 chief of staff from November -- late November 2011 2 until he transitioned to -- I think it was 3 community services in February of -- 4 62 Q. All right. Now, I asked you a 5 minute ago whether you had any -- let me ask you 6 the question again. 7 I understood you to say a few minutes 8 ago that you didn't have knowledge of or experience 9 with the horse racing industry or the horse racing 10 breeding sector in 2012; is that fair? 11 A. Yes. Not until the Drummond 12 report and the information that came out there, 13 which was -- that was 2012 or 2013? 14 63 Q. 2012. 15 A. Sorry. So, yes, when that came 16 out, which was February 2012, I became aware of 17 SARP and horse racing and those things, yes. 18 64 Q. Thank you. And -- 19 MR. RATCLIFFE: Well, just to correct, 20 in terms of -- are you talking about the interim 21 report or the final report? 22 MR. LISUS: No, we're talking about the 23 Drummond report, Mr. -- 24 MR. RATCLIFFE: Oh, sorry, the Drummond 25 report.</p>	<p>1 A few days prior to that, we were 2 briefed on the OLG modernization plan. I was not 3 at that briefing. I was debriefed on it. It was 4 largely focused on the land-based gaming strategy, 5 and there was obviously information about horse 6 racing. So that was the first time that we had 7 heard. 8 68 Q. Okay. And so that is consistent 9 with my review of the many thousands of documents, 10 Mr. Keegan, that the first involvement your office 11 had was in the decision to cancel the 12 revenue-sharing arrangement pursuant to Slots at 13 Racetrack Program was some days before a Cabinet 14 meeting in February 2012; is that fair? 15 A. I don't know about a Cabinet 16 meeting, but certainly it was in February of 2012. 17 69 Q. So you obviously weren't at a 18 February 8, 2012, Cabinet meeting in which the 19 termination of Slots at Racetrack Program and the 20 OLG modernization report was discussed? 21 A. No. 22 70 Q. Was Ted McMeekin at that Cabinet 23 meeting? 24 A. I can only assume he was. I don't 25 know.</p>

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<p>1 71 Q. He never spoke to you about that 2 Cabinet meeting or what occurred at it? 3 A. Not to my recollection. 4 72 Q. Okay. And so obviously, as far as 5 you are aware, your office was not involved in any 6 of the discussions leading up to that Cabinet 7 meeting at which the termination of Slots at 8 Racetrack Program revenue share was discussed; 9 correct? 10 A. Correct. First time is that 11 briefing in February. 12 73 Q. And who briefed you? 13 A. I wasn't at the briefing. I was 14 told it was Ministry -- Ministry of Finance 15 officials. 16 74 Q. Okay. Do you know which Ministry 17 of Finance officials briefed who in the Ministry of 18 Agriculture? 19 A. To my recollection, it was 20 Tom Hagerty, who was, I believe, a director at the 21 time from OMAFRA, and I think it was Mark Cripps 22 from the minister's office. In terms of Ministry 23 of Finance officials, I don't know. I believe that 24 Yasir Naqvi, the PA, was involved. 25 75 Q. Yasir Naqvi, current Attorney</p>	<p>1 October 2013 that Yasir Naqvi had played a lead 2 role in the decision to cancel the Slots at 3 Racetrack Program revenue sharing? 4 MR. RATCLIFFE: Counsel, where is this 5 coming from? We haven't heard anything so far in 6 this whole process about this Yasir Naqvi being a 7 lead person on the cancellation. 8 MR. LISUS: I agree. I learned this 9 from the new documents that you produced, 10 Mr. Ratcliffe. 11 MR. RATCLIFFE: Well, maybe you can 12 share that with us. 13 MR. LISUS: I'm happy to. 14 BY MR. LISUS: 15 82 Q. I'm showing you CRE470063. Now, 16 this is a document dated October 1, 2013, authored 17 by you; correct? 18 MR. RATCLIFFE: Just take a moment just 19 to look at the document. 20 MR. GOLDENBERG: Can we have the 21 document number again? 22 MR. LISUS: CRE470063. This was part 23 of the new documents produced. 24 THE WITNESS: I don't remember writing 25 this, but I did author these kinds of documents.</p>
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<p>1 General? 2 A. He was the parliamentary assistant 3 at the -- to the Minister of Finance. 4 76 Q. Parliamentary assistant to the 5 Minister of Finance; right? 6 A. Yeah. 7 77 Q. Minister of Finance was 8 Dwight Duncan at the time? 9 A. Yes. 10 78 Q. You came to learn that Yasir -- 11 that's Y-A-S-I-R? 12 A. Y-A-S-I-R, yes. 13 79 Q. -- Naqvi was involved in the 14 decision to cancel the revenue sharing from Slots 15 at Racetrack Program; correct? 16 A. I don't know what his involvement 17 was. I just recall my staff saying that Yasir was 18 part of that briefing. 19 80 Q. Okay. Do you recall becoming 20 aware in 2013 that Yasir Naqvi had played a lead 21 role in the cancellation of the revenue sharing at 22 Slots at Racetrack Program? Do you want the 23 question again? 24 A. Yes, please. 25 81 Q. Do you recall becoming aware in</p>	<p>1 BY MR. LISUS: 2 83 Q. Okay. And what do you call this 3 kind of document? 4 A. This was a regular memo that we 5 provided the Premier in her role as minister. 6 84 Q. And "we" being you and others on 7 your staff? 8 A. The minister's office, yes. 9 85 Q. Okay. This particular -- 10 MR. LISUS: Before I ask you questions 11 about it, we're going to mark your summons as 12 Exhibit 1. 13 EXHIBIT NO. 1: Summons to Witness. 14 BY MR. LISUS: 15 86 Q. And what was the purpose of -- is 16 it fair to call them briefing memorandums? 17 A. Yeah, I guess. I mean, this -- 18 the Premier obviously had not a lot of time to -- 19 had many responsibilities. This was one of the 20 primary ways for me and my office to ensure she 21 knew she was briefed on the issues and the various 22 accountabilities in the ministry. 23 87 Q. Okay. You were obviously careful 24 to give her as accurate of information as you 25 could?</p>

<p style="text-align: right;">Page 22</p> <p>1 A. Obviously, yes.</p> <p>2 88 Q. Now, you, in October 2013,</p> <p>3 prepared a briefing memorandum, it appears, for the</p> <p>4 purposes of getting her ready for a Cabinet</p> <p>5 meeting; right?</p> <p>6 A. Yeah.</p> <p>7 89 Q. Therefore, as we agreed a minute</p> <p>8 ago, care would have been taken to ensure she had</p> <p>9 accurate information?</p> <p>10 A. To the best of my knowledge, yes.</p> <p>11 90 Q. And you see under the heading</p> <p>12 "Horse Racing Cabinet," five bullets down, you</p> <p>13 state:</p> <p>14 "I should also point out that</p> <p>15 Minister Naqvi played a lead role in</p> <p>16 the cancellation of SARP in the 2012</p> <p>17 budget as PA to the previous</p> <p>18 Minister of Finance Duncan."</p> <p>19 Do you see that?</p> <p>20 A. Mm-hm.</p> <p>21 91 Q. Yes?</p> <p>22 A. Yes.</p> <p>23 92 Q. It's important, Mr. Keegan, that</p> <p>24 you give audible answers so the court reporter can</p> <p>25 accurately capture what you're saying. She has</p>	<p style="text-align: right;">Page 24</p> <p>1 That was the last time I spoke to him about this.</p> <p>2 98 Q. Before you were summonsed, how</p> <p>3 were you aware that Mr. Snobelen was involved in</p> <p>4 the case?</p> <p>5 A. He told me. He told me he had</p> <p>6 been summoned and was working with Ministry of</p> <p>7 Attorney General.</p> <p>8 99 Q. Why did he tell you that?</p> <p>9 A. We work together in my current</p> <p>10 business.</p> <p>11 100 Q. What did he tell you?</p> <p>12 A. I think -- I don't recall specific</p> <p>13 conversations, but just generally that he was</p> <p>14 involved, that he was being deposed, that they</p> <p>15 were -- you, I suppose, were looking for</p> <p>16 information on the decision around SARP.</p> <p>17 101 Q. How the decision around SARP was</p> <p>18 made; right?</p> <p>19 A. Yeah.</p> <p>20 102 Q. And did you speak with</p> <p>21 Mr. Wilkinson?</p> <p>22 A. No.</p> <p>23 103 Q. Okay. Did you speak with anyone</p> <p>24 else that was involved in the cancellation of SARP?</p> <p>25 A. Not that I can recall. I do speak</p>
<p style="text-align: right;">Page 23</p> <p>1 trouble knowing whether "mm-hm" is positive or</p> <p>2 negative. Okay?</p> <p>3 A. Okay.</p> <p>4 93 Q. How did you come to learn in</p> <p>5 October 2013 that Minister Naqvi played a lead role</p> <p>6 in the cancellation of SARP in the 2012 budget as</p> <p>7 PA -- that's parliamentary assistant; right?</p> <p>8 A. Yes.</p> <p>9 94 Q. -- to Minister Duncan?</p> <p>10 A. As I said, I don't remember</p> <p>11 writing this one. I would assume this came out in</p> <p>12 the various conversations that we would have around</p> <p>13 this. There's a lot of stuff going on.</p> <p>14 95 Q. We'll come back to that later.</p> <p>15 You, I presume, haven't spoken with</p> <p>16 Dwight Duncan about this case?</p> <p>17 A. I haven't seen Dwight Duncan in</p> <p>18 years.</p> <p>19 96 Q. Okay. Have you spoken with</p> <p>20 Ted McMeekin about the case?</p> <p>21 A. No.</p> <p>22 97 Q. What about Mr. Snobelen?</p> <p>23 A. Before my summons, I was aware</p> <p>24 that John was involved in this. Once I had</p> <p>25 received my summons, I asked for Robert's contacts.</p>	<p style="text-align: right;">Page 25</p> <p>1 with people at Queen's Park with some frequency,</p> <p>2 but not about this.</p> <p>3 104 Q. I want to just understand a little</p> <p>4 bit more deeply about when you first became</p> <p>5 involved in the termination of SARP revenue share.</p> <p>6 And I understood you to say, sir, that you became</p> <p>7 involved after the decision was made by the</p> <p>8 government?</p> <p>9 A. I don't know when the decision was</p> <p>10 made.</p> <p>11 105 Q. Okay.</p> <p>12 A. So all I know is when I became</p> <p>13 aware.</p> <p>14 106 Q. Okay. And you believe it was</p> <p>15 around the time of the public release of</p> <p>16 Mr. Drummond's report?</p> <p>17 A. Well, I remember actually because</p> <p>18 we were having an event the day or the day after</p> <p>19 that that became public, and our event filled up</p> <p>20 quickly with horsemen who were interested in</p> <p>21 meeting the guest, who was Dwight Duncan. So I do</p> <p>22 specifically recall that.</p> <p>23 107 Q. Okay. And so it was at that event</p> <p>24 that you learned that the SARP revenue share had</p> <p>25 been cancelled by the government?</p>

<p style="text-align: right;">Page 26</p> <p>1 A. It was around that date that I 2 learned, but I remember that event and knowing that 3 something was happening with horse racing at that 4 time. 5 108 Q. Did you understand that 6 Mr. Drummond had recommended the cancellation or 7 elimination of the Slots at Racetrack Program? 8 A. I did come to realize that. 9 I think at that time I didn't even know what the 10 Slots at Racetrack Program was, so it took a little 11 bit of time to gather that knowledge. 12 109 Q. How did you come to realize, as 13 you say, that Mr. Drummond recommended the 14 cancellation or elimination of the Slots at 15 Racetrack Program revenue share? 16 A. Well, I believe the event where a 17 number of horsemen came obviously created -- it was 18 an obvious issue which required me and my office to 19 seek further information. 20 110 Q. Okay. And was it your 21 understanding that Mr. Drummond had recommended the 22 elimination of the revenue sharing from information 23 given to you by Mr. Duncan or the Ministry of 24 Finance's office? 25 A. Are you asking a specific question</p>	<p style="text-align: right;">Page 28</p> <p>1 Not at -- not to that point. 2 BY MR. LISUS: 3 116 Q. The reason I'm asking you the 4 question, Mr. Keegan, is because I examined 5 Mr. Drummond in this process. Are you aware of 6 that? 7 A. No. 8 117 Q. And Mr. Drummond testified that he 9 did not recommend the cancellation or elimination 10 of the Slots at Racetrack Program. Are you aware 11 of that? 12 A. No. 13 118 Q. And if you look at the report 14 Mr. Drummond wrote, his report does not recommend 15 the elimination of the Slots at Racetrack Program. 16 A. I never read that section of the 17 Drummond report. We had a very specific section 18 related to our ministry in agriculture. That was 19 my primary focus in that report. 20 119 Q. And so the very specific section 21 of the report that was relevant to the Ministry of 22 Agriculture was not the section of the report 23 dealing with the Slots at Racetrack Program and OLG 24 modernization; is that fair? 25 A. Yes.</p>
<p style="text-align: right;">Page 27</p> <p>1 or just how -- like, my knowledge of -- 2 111 Q. Why it is or how it is that you 3 came to understand that Mr. Drummond recommended 4 the elimination of Slots at Racetrack Program 5 revenue share. 6 A. Well, from speaking to horsemen at 7 that event. 8 112 Q. Okay. And did you also understand 9 that the Ministry of Finance had taken the position 10 publically and within government that Mr. Drummond 11 had recommended the elimination of the Slots at 12 Racetrack Program revenue share? 13 A. Isn't that the same question? 14 113 Q. Yes. 15 A. Yes. 16 114 Q. Okay. Well, your answer to me to 17 that question, sir, was that you learned from the 18 horsemen at that event, but I'm -- 19 A. Yes. 20 115 Q. -- now asking you whether you 21 learned that as well from Ministry of Finance 22 officials. 23 MR. RATCLIFFE: Did you have any direct 24 involvement with them? 25 THE WITNESS: With Ministry of Finance?</p>	<p style="text-align: right;">Page 29</p> <p>1 120 Q. So I want to have you look, 2 please, at CR761 and its transcription, which is an 3 exhibit. 4 MR. LISUS: I want to just mark the 5 memorandum that you composed as the next exhibit 6 before I forget. 7 MR. MATTHEWS: So this is CRE470063, 8 Exhibit 2. 9 EXHIBIT NO. 2: CRE470063. 10 BY MR. LISUS: 11 121 Q. So Document CR761 and its 12 transcription is part of Exhibit 2 on the 13 examination of Mr. Cogan. I just want to have you 14 look at that. Do you know Josh Cogan? 15 A. Does he work at OLG? 16 122 Q. He does now, yes. 17 A. Yes, I've met him. 18 123 Q. Okay. Now, these are 19 transcriptions of notes that he took in January 20 2012, which was before your involvement in Slots at 21 Racetrack Program and modernization; correct? 22 A. Yeah. 23 124 Q. And at the top of the handwritten 24 notes, the first hashtag under the arrow, it says: 25 "Reference to other</p>

<p style="text-align: right;">Page 30</p> <p>1 ministries." 2 And then an entry which Mr. Cogan says: 3 "Black it out." 4 Okay? Do you see that? First hashmark under the 5 arrow: 6 "Reference to other ministries 7 - black it out." 8 Do you see that? 9 A. Mm-hm. 10 125 Q. Yes? 11 A. Yes. Sorry. 12 126 Q. Now, is it your understanding, 13 sir, that Ministry of Agriculture was blacked out 14 from the deliberations that Finance was undertaking 15 in December and January 2012 with respect to the 16 modernization of OLG and, in particular, the 17 elimination of Slots at Racetrack Program? 18 A. I would have no knowledge of that. 19 127 Q. Okay. If you take a look at the 20 transcription, which is the second page, the second 21 of the two documents I gave you, the last entry 22 says: 23 "Confidential of MAH, OMAFRA, 24 correction services." 25 Do you see that?</p>	<p style="text-align: right;">Page 32</p> <p>1 BY MR. LISUS: 2 132 Q. Do you recall, sir, whether anyone 3 within the Ministry of Agriculture in late February 4 or early January was briefed about the possibility 5 of a change to the revenue sharing of monies 6 generated by the Slots at Racetrack Program and, in 7 particular, a change to the distribution formula? 8 A. Again, to the best of my 9 recollection, the first time we became aware of any 10 of this was the briefing a few days prior to that 11 event. And my knowledge of SARP specifically began 12 with that event. 13 133 Q. What was the event? 14 A. It was a fundraising event at the 15 place in Milton, Heritage Park. 16 134 Q. Fundraising for who? 17 A. Ted McMeekin. 18 135 Q. Okay. Was Dwight Duncan the 19 keynote speaker at that event? 20 A. Correct. 21 136 Q. Okay. What was your 22 understanding, sir, in February 2012 as to who made 23 the decision to terminate revenue sharing from 24 Slots at Racetrack Program with zero transition 25 assistance?</p>
<p style="text-align: right;">Page 31</p> <p>1 A. Yes. 2 128 Q. So in any event, sir, you've 3 already confirmed to me that in December, January, 4 and February 2012, your ministry had no knowledge 5 of or involvement in the decision making regarding 6 the OLG modernization generally and the 7 cancellation of the Slots at Racetrack Program 8 revenue share, in particular; right? 9 A. To the best of my knowledge, yes. 10 129 Q. And you were the minister's chief 11 of staff at that point? 12 A. Correct. I mean, I didn't know 13 everything that happened in that ministry. It's a 14 big ministry. But to the best of my knowledge, 15 absolutely. 16 130 Q. And to the best of your knowledge, 17 Minister McMeekin wasn't aware of those 18 deliberations either; correct? 19 A. Until the briefing we received, 20 yes. 21 131 Q. Thank you. 22 MR. MATTHEWS: So the next exhibit is 23 CR761 plus a transcription. 24 EXHIBIT NO. 3: CR0000761 with 25 transcription.</p>	<p style="text-align: right;">Page 33</p> <p>1 A. I don't know that I would have 2 understood that decision to that level of detail at 3 that time. I believe -- the best of my 4 recollection is that Finance was the ministry 5 making those decisions for whatever the program -- 6 for that program. 7 137 Q. In Q1 2012, were you aware of who 8 the regulator of the horse racing industry was? 9 A. I think I would have heard of the 10 ORC, but I wouldn't have had any in-depth 11 understanding of that. They weren't an agency of 12 our ministry at that time. 13 138 Q. They were an agency of the 14 Ministry of Finance? 15 A. They had moved around to many -- 16 probably. I don't remember exactly, but probably. 17 139 Q. In 2012, who was your counterpart 18 in the Ministry of Finance? 19 A. Chief of staff at that time was 20 Tim Shortill. 21 140 Q. Okay. At any point prior to the 22 fundraising event at which you learned of the 23 cancellation of revenue sharing from SARP, had 24 Mr. Shortill spoken to you about the decision to 25 terminate revenue sharing from SARP?</p>

<p style="text-align: right;">Page 34</p> <p>1 A. Not that I recall.</p> <p>2 141 Q. At any time prior to that</p> <p>3 fundraising event, had Mr. Shortill spoken to you</p> <p>4 about OLG modernization and its implications for</p> <p>5 the horse racing industry?</p> <p>6 A. Not that I recall. Again, the</p> <p>7 first time I had any awareness of that was the</p> <p>8 briefing from Finance.</p> <p>9 142 Q. Who was your counterpart in the</p> <p>10 Premier's office in Q1 2012?</p> <p>11 A. I believe it was Chris Morley.</p> <p>12 143 Q. At any time prior to the</p> <p>13 fundraising event that you told me about in</p> <p>14 February 2012, had Chris Morley spoken to you about</p> <p>15 the Slots at Racetrack Program revenue share and</p> <p>16 any possibility of changing the share in any way?</p> <p>17 A. No.</p> <p>18 144 Q. At any time prior to the</p> <p>19 fundraising event in February 2012, had</p> <p>20 Chris Morley spoken to you about the OLG</p> <p>21 modernization plan and its implications for rural</p> <p>22 Ontario?</p> <p>23 A. No. In fact, I may be mistaken.</p> <p>24 It might have been David Livingston by that time.</p> <p>25 145 Q. Okay. But no one in either</p>	<p style="text-align: right;">Page 36</p> <p>1 A. So, again, I don't know about</p> <p>2 the -- that level of detail of the decision, but to</p> <p>3 the best of my recollection, the -- we -- I vividly</p> <p>4 recall discussing this around the event.</p> <p>5 150 Q. With Mr. McMeekin?</p> <p>6 A. Yes.</p> <p>7 151 Q. And tell me what you vividly</p> <p>8 recall.</p> <p>9 A. This is obviously a big issue.</p> <p>10 152 Q. And by "big issue," I take it you</p> <p>11 mean this decision obviously has significant</p> <p>12 implications for rural Ontario generally and the</p> <p>13 horse racing industry, in particular?</p> <p>14 A. No. The stakeholders impacted by</p> <p>15 this are clearly upset.</p> <p>16 153 Q. Okay. And who did you understand</p> <p>17 the stakeholders to be?</p> <p>18 A. The horsemen.</p> <p>19 154 Q. And that included horse breeders;</p> <p>20 right?</p> <p>21 A. At that time, I wouldn't have</p> <p>22 known the distinction.</p> <p>23 155 Q. Okay. And it was your impression,</p> <p>24 sir, that both you and Mr. McMeekin learned about</p> <p>25 the decision and its impact on stakeholders at that</p>
<p style="text-align: right;">Page 35</p> <p>1 Finance or Premier's office spoke to you as chief</p> <p>2 of staff or anyone else that you're aware of about</p> <p>3 changes to the SARP revenue share or the OLG</p> <p>4 modernization plan and its implications for</p> <p>5 Agriculture and Rural Affairs; correct?</p> <p>6 A. Correct.</p> <p>7 146 Q. I presume, sir, as far as you</p> <p>8 know, no one from the office of economic policy</p> <p>9 spoke to anyone in OMAFRA about the implications</p> <p>10 for the rural economy of the OLG modernization plan</p> <p>11 and any changes to SARP revenue share; correct?</p> <p>12 A. Who are the -- who's economic</p> <p>13 policy?</p> <p>14 147 Q. You don't know who the office of</p> <p>15 economic policy is?</p> <p>16 A. No, I didn't.</p> <p>17 148 Q. Okay. That would mean that no one</p> <p>18 spoke to you then; right?</p> <p>19 MR. RATCLIFFE: I think that's your</p> <p>20 answer.</p> <p>21 BY MR. LISUS:</p> <p>22 149 Q. When did you understand that</p> <p>23 Minister McMeekin became aware that Finance had</p> <p>24 decided to terminate Slots at Racetrack Program</p> <p>25 revenue share with zero transition assistance?</p>	<p style="text-align: right;">Page 37</p> <p>1 event?</p> <p>2 A. I don't know when Ted would have</p> <p>3 known, but that's the first time that I recall us</p> <p>4 having a discussion about needing to learn more and</p> <p>5 dig into it.</p> <p>6 156 Q. And "us" is you and Mr. McMeekin?</p> <p>7 A. Yes.</p> <p>8 157 Q. Okay. Was Mr. McMeekin upset?</p> <p>9 A. He was concerned.</p> <p>10 158 Q. Okay. And I take it he was also</p> <p>11 surprised?</p> <p>12 A. I think we were both operating</p> <p>13 with less than adequate knowledge. We didn't</p> <p>14 understand the issue. I'm not sure surprise so</p> <p>15 much as some confusion and concern.</p> <p>16 159 Q. About the consequences of the</p> <p>17 decision for stakeholders?</p> <p>18 A. Yeah. There was clearly a number</p> <p>19 of upset stakeholders that -- and we didn't fully</p> <p>20 understand the background to that or the underlying</p> <p>21 issues.</p> <p>22 160 Q. Okay. And the stakeholders, of</p> <p>23 course, were stakeholders in the rural and</p> <p>24 agricultural economy; right? Or sector, I should</p> <p>25 say.</p>

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1 A. Again, I'm not sure that we would
2 have understood the impact of horse racing broadly
3 defined and its role in rural Ontario. I mean, we
4 would have -- we obviously knew that there was
5 tracks and that very, very generally that horses
6 were part of the rural economy around those tracks.
7 But horse racing was not an intrinsic
8 part of OMAFRA at that time. In fact, I remember
9 many, many years ago, an ADM named Jim Wheeler
10 talking about this -- and I don't know why I recall
11 this, but him saying that horse racing had been,
12 you know, hived off as something separate.
13 161 Q. Was it your understanding that
14 horse racing was overseen by the ORC?
15 A. I think I vaguely understood that
16 in the same way that I would understand, you know,
17 other sectors of the economy having agencies,
18 boards, and commissions as regulators.
19 162 Q. In Q1 2012, did you know
20 Mr. Snobelen?
21 A. I did not know John until we
22 established the panel.
23 163 Q. Okay. And did you know
24 Mr. Wilkinson before the establishment of the
25 panel?

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1 A. Yes.
2 164 Q. Okay. And how did you know him?
3 A. I worked on his campaign when he
4 first ran in 1999 in Stratford. I grew up in
5 Stratford as well in town.
6 165 Q. And I think he's from Stratford
7 too; right?
8 A. He still lives there, yes.
9 166 Q. And did you know Mr. Buchanan in
10 Q1 2012?
11 A. Yes.
12 167 Q. How did you know him?
13 A. He was -- I don't know exactly
14 when I met him, but he was part of the Ontario Farm
15 Products Marketing Commission. I had known him for
16 some time from my various roles.
17 168 Q. Did you know David Gene in 2012?
18 A. Yes.
19 169 Q. How did you know him?
20 A. I worked for Dave in my role as a
21 regional organizer from 2002 to 2003 in the
22 opposition leader's office and kept in touch with
23 him infrequently throughout the years.
24 170 Q. What did Dave do when you were a
25 regional organizer?

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1 A. He was -- I think he was the
2 director of operations.
3 171 Q. So you had known him for quite a
4 while as of Q1 2012; right?
5 A. Yes.
6 172 Q. What was his role in the Premier's
7 office in 2012?
8 A. I understood him to be the same
9 kind of role, kind of operations director. I think
10 he was a deputy chief of staff.
11 173 Q. What does an operations director
12 do?
13 A. They bring a -- so I understood
14 Dave's role as bringing a political perspective to
15 the Premier's office.
16 174 Q. I was asking you some questions a
17 few minutes ago about the concern that you describe
18 having upon learning of the decision to terminate
19 revenue sharing from Slots at Racetrack Program at
20 the February 2012 fundraising event; correct?
21 A. Again, I didn't have that level of
22 knowledge of the decision.
23 175 Q. My question was different. You
24 referred to "we," and I think you told me that it
25 was you and Mr. McMeekin?

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1 A. Yes.
2 176 Q. Okay. I want to just ask you to
3 look at a document, please, which is CRE235396,
4 which is a document that -- it's an email that
5 Mr. McMeekin authored and sent to himself and you
6 in late October 2012. Let me know when you've read
7 it.
8 A. Okay.
9 177 Q. Now, do you remember getting this
10 email?
11 A. No, not this specific one.
12 178 Q. Okay. Now, this, sir, seems very
13 consistent with what -- did you see this email
14 before today?
15 A. No.
16 179 Q. Okay. So the reason I'm showing
17 you is it seems very consistent with your
18 recollection of your reaction and Mr. McMeekin's
19 reaction in February 2012.
20 Mr. McMeekin says:
21 "When Ontario's Minister of
22 Finance announced that he supported
23 the OLG decision to terminate the
24 Slots at Racetrack Program effective
25 March 31, 2013, there was widespread

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1	and understandable concern within	1	192 Q. Okay. Does January sound right?
2	the horse racing community."	2	A. Well, if you're talking about
3	Do you see that?	3	breeding, yeah.
4	A. Yes.	4	193 Q. Okay. And when are the auctions
5	180 Q. And I just wanted to ask you about	5	for standardbred racehorses? Do you know?
6	the reference to understandable concern. What do	6	A. I don't know.
7	you understand the understandable concern to refer	7	194 Q. Does September and October sound
8	to?	8	right?
9	A. Well, I mean, you'd have to ask	9	A. Yes.
10	Ted exactly, but my --	10	195 Q. Okay. So returning to this email,
11	181 Q. Ted is in parliamentary privilege,	11	Mr. McMeekin says he too was worried about the
12	so I can't do that.	12	future of the industry. And that accords with your
13	A. Okay.	13	recollection of his reaction in February 2012?
14	182 Q. So you're here to help.	14	A. Yes.
15	MR. RATCLIFFE: If you know the answer.	15	196 Q. And he goes on to say:
16	THE WITNESS: I mean, Ted's concern was	16	"To be clear, the decision to
17	largely around how people downstream from the -- in	17	end the SAR program was made by the
18	the -- in the horse racing ecosystem would be	18	Ministry of Finance, not the
19	impacted by rationalization of the industry.	19	Ministry of Agriculture, Food and
20	BY MR. LISUS:	20	Rural Affairs."
21	183 Q. Such as breeders?	21	Correct?
22	A. Potentially.	22	A. That -- to the best of my
23	184 Q. Well, you say "potentially," sir.	23	knowledge, yes.
24	The horse is the heart of the horse racing	24	197 Q. And as you've explained to me,
25	industry; right?	25	Ministry of Agriculture, Food and Rural Affairs had
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1	A. Well, actually, there's three.	1	no involvement in the decision made by Finance;
2	You need horses, tracks, and customers.	2	right?
3	185 Q. Right. And the three legs of the	3	A. None that I'm aware of, yes.
4	stool? Yes?	4	198 Q. Why was Ted writing this email to
5	A. Yes.	5	him and to you?
6	186 Q. And if you don't have tracks,	6	A. Ted would often send emails to
7	there's no live horse racing; right? Yes?	7	organize his thoughts. This could potentially --
8	A. Yes. Sorry.	8	he -- I don't know specifically, but he would often
9	187 Q. If there's no live horse racing,	9	do that before going to an event, if he was going
10	there's no horses; right?	10	to Cabinet, if he was going to be meeting with
11	A. Yes.	11	stakeholders. It was a way for him to -- he'd be
12	188 Q. And if there's no horses, there's	12	in the car a lot coming in from Hamilton. He'd
13	no breeders; right?	13	bang away. It's better this than on Twitter.
14	A. Yes.	14	199 Q. Was there Twitter in 2012?
15	189 Q. What's the breeding cycle for a	15	A. Oh, yeah.
16	standardbred racing horse?	16	200 Q. Who's Shelley Potter?
17	A. I have heard around five years to	17	A. Shelley Potter is -- well, was a
18	get -- yes.	18	colleague.
19	190 Q. When does the standardbred	19	201 Q. Of?
20	breeding cycle begin?	20	A. Mine. She worked in -- and
21	A. Like, in terms of --	21	I believe still does, in the Premier' office.
22	MR. RATCLIFFE: Do you know the answer?	22	202 Q. Was she a peer of yours?
23	BY MR. LISUS:	23	A. She was and I still believe is
24	191 Q. The time of year.	24	deputy chief of staff.
25	A. I don't know.	25	203 Q. Okay. So roughly a peer of yours?

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1	A. Yeah.	1	A. Not in -- I mean, I think they saw
2	204 Q. Okay.	2	risk in that.
3	A. She was actually Kathleen's chief	3	214 Q. What risk did they see in it?
4	of staff before she became Premier while she was	4	A. I think they saw risk to their
5	at -- I think it was Ministry of Municipal Affairs.	5	decision around land-based gaming modernization.
6	205 Q. Kathleen, as you call her, became	6	215 Q. Including their decision to
7	Minister of Agriculture in February of 2013; right?	7	terminate the revenue share with zero transition
8	Yes?	8	assistance; right?
9	A. To the best of my recollection,	9	A. I don't know about that. I know
10	yes. It was around about Valentine's Day.	10	that their focus was almost exclusively on
11	206 Q. Right. And your boss?	11	land-based gaming modernization and their
12	A. She was my boss, yes.	12	procurement process, which they saw as paramount to
13	207 Q. Was she knowledgeable about the	13	everything else.
14	horse racing industry and the breeding sector in	14	216 Q. And so the termination of the
15	February 2013?	15	Slots at Racetrack Program revenue share was just
16	A. Well, knowledgeable -- define	16	one small part, in their view, of the OLG
17	"knowledgeable." She was aware of that issue for	17	modernization?
18	sure. It was --	18	A. Correct.
19	208 Q. Of the cancellation and its	19	MR. LISUS: I want to mark this email
20	impacts on the horse racing industry and breeding	20	as the next exhibit.
21	sector?	21	MR. MATTHEWS: CRE235396 is going to be
22	A. Yes. It was part of the	22	Exhibit 4.
23	leadership campaign that preceded her becoming	23	EXHIBIT NO. 4: CRE0235396.
24	Premier.	24	BY MR. LISUS:
25	209 Q. Okay. And when you say it was	25	217 Q. Did you ever speak with
Page 47		Page 49	
1	part of the leadership campaign, what do you mean?	1	Rod Seiling?
2	A. The concern and the issues around	2	A. Yes.
3	horse racing were part of the debate throughout the	3	218 Q. Okay. When?
4	leadership campaign.	4	A. Numerous times.
5	210 Q. When you say "the concern and the	5	219 Q. Okay. Tell me what you remember
6	issues around horse racing," what you mean is that	6	speaking to him about.
7	concern around the consequences of the decision to	7	A. I remember -- well, so the ORC was
8	terminate Slots at Racetrack Program revenue share	8	moved over to OMAFRA as a -- so we became
9	on horse racing; right?	9	responsible for that agency.
10	A. The impact to the -- to the	10	So I recall speaking to Rod about
11	broader community, primarily rural community, yes.	11	coming onboard, how we -- what kind of relationship
12	211 Q. Okay. In this email, Ted goes on	12	we wanted to have, his thoughts on where we were
13	to say:	13	at, where the industry was at, many kind of updates
14	"It was my decision to fight to	14	on what was going on and decisions they had been
15	establish a review process."	15	making, and then finally, his departure from the
16	Do you see that?	16	ORC.
17	A. Yes.	17	220 Q. Okay. Was he fired from the ORC?
18	212 Q. I take it that's a reference to	18	A. No. He resigned.
19	the panel consisting of Mr. Snobelen, Buchanan, and	19	221 Q. Was he invited to resign?
20	Wilkinson?	20	A. Yes.
21	A. Yes.	21	222 Q. Okay. By who?
22	213 Q. Mr. Wilkinson, when I examined	22	A. Me.
23	him, told me that Ministry of Finance was not in	23	223 Q. Why?
24	favour of the establishment of the panel. Does	24	A. For several reasons. One, Rod,
25	that accord with your recollection?	25	I think, had difficulty transitioning to a

<p style="text-align: right;">Page 50</p> <p>1 different kind of chair role that we needed. 2 The -- under his leadership, the ORC was very much 3 a regulator, although they did have two roles at 4 that time. 5 224 Q. "That time" being? 6 A. While Rod was -- there was a 7 change to the ORC kind of around when Rod left. 8 The ORC was both the regulator and the business 9 development agency for the industry. 10 225 Q. The horse racing industry? 11 A. The horse racing industry, yes. 12 226 Q. Okay. 13 A. Rod and the staff there saw 14 themselves very much as the regulator and in their 15 business development function functioned very much 16 as a -- like, a horse racing czar. I think that's 17 what we would have called it. 18 We were moving to transitioning to a 19 different kind of relationship where we needed that 20 business development function to be built around 21 partnership. Rod was having trouble, I think, 22 letting go of the regulatory czar role, and so it 23 led to a lot of friction with the industry. 24 You know, another reason was -- as you 25 can imagine, it was a sensitive time. Our role at</p>	<p style="text-align: right;">Page 52</p> <p>1 to which Ministry of Finance agreed to consult with 2 the ORC about any policy changes that were relevant 3 to the ORC's mandate? 4 A. I knew about the MOU. I didn't 5 know that level of detail. 6 231 Q. Why is it that you knew about the 7 MOU? 8 A. Because we -- well, first of all, 9 we had to sign a new MOU when it -- when the agency 10 came to OMAFRA, and then later on, we revised that 11 MOU as we restructured the agency. MOUs are a 12 standard governing document between -- 13 232 Q. Are you aware that ORC was not 14 consulted or informed in any way about the decision 15 to terminate the revenue share from Slots at 16 Racetrack Program before it was made? 17 A. I learned that that was their 18 perspective later, yes. 19 233 Q. When you say "that was their 20 perspective," that's a fact. Are you aware that 21 that's a fact? 22 A. Well, I'm -- I work in a business 23 where people tell you things, and you don't 24 necessarily know if they're true or not. So that 25 was what I was told certainly.</p>
<p style="text-align: right;">Page 51</p> <p>1 OMAFRA required us to be on top of issues, knowing 2 what was going on. 3 Rod and the ORC would often make 4 decisions around racing schedules and rules without 5 informing us. That would create angst in the 6 industry and then create issues for us. 7 So under Rod's leadership, the ORC was 8 not managing their role and their relationship with 9 the industry in a way that we felt was required at 10 that time. 11 227 Q. Who's "we"? 12 A. The -- myself, the minister, 13 and -- 14 228 Q. Minister being? 15 A. Minister McMeekin. And certainly 16 advice we were getting from the panel at that time. 17 229 Q. Did you ever speak to him about 18 the manner in which Ministry of Finance made the 19 decision to terminate SARP revenue share? 20 A. I don't recall any conversations 21 about decisions. I do recall Rod talking about 22 being frustrated with his relationship with 23 Finance. 24 230 Q. Are you aware that there was a 25 Memorandum of Understanding signed in 2011 pursuant</p>	<p style="text-align: right;">Page 53</p> <p>1 234 Q. By? 2 A. I think several people. 3 235 Q. Like? 4 A. Like the executive director, whose 5 name escapes me at the moment. 6 236 Q. Of? 7 A. Of the ORC. 8 237 Q. Okay. That's not Mr. Seiling? 9 That's someone else? 10 A. Yes. 11 238 Q. Okay. Who else? 12 A. I believe that I heard that from 13 the panel. I don't recall. It was kind of an idea 14 that was circulated. I assume it's true, but I 15 wasn't there. I don't know. 16 239 Q. You assume it's true because 17 people who seem like reasonable people told you 18 that; right? 19 A. Yeah. 20 240 Q. And the panel members, I believe, 21 told you that because they found it noteworthy that 22 the ORC was not consulted about the decision before 23 it was made; right? 24 A. Probably. 25 241 Q. Mr. Snobelen, I think you told me,</p>

<p style="text-align: right;">Page 54</p> <p>1 you know was examined by me in this process? 2 A. Yes. 3 242 Q. And are you aware that he 4 testified that when the government made the 5 decision to terminate the SARP revenue share, it 6 didn't have the information it needed to understand 7 the impact of its decision? 8 A. I don't know what he testified to. 9 243 Q. But are you aware that that is his 10 opinion today and was his opinion in 2012? 11 A. Could you repeat it? 12 244 Q. Yes. That the government didn't 13 have the information it needed to understand the 14 impact of its decision to terminate the SARP 15 revenue share with the horse racing industry? 16 A. That sounds pretty consistent with 17 his perspective, yeah. 18 245 Q. And he also testified that the 19 information that was provided to Cabinet when it 20 made the decision was not, quote, Cabinet-ready. 21 Were you aware of that in 2012, that that was his 22 opinion? 23 A. Was I aware in 2012? 24 246 Q. Yes. 25 MR. RATCLIFFE: That that was his</p>	<p style="text-align: right;">Page 56</p> <p>1 A. So I don't know if she fired him. 2 That's certainly what was in the news. I think it 3 was more subtle than that, but, yes, I was. 4 252 Q. Okay. And you say you think it 5 was more subtle than that. Tell me what you mean. 6 A. I think there was a parting of 7 ways as opposed to a termination. 8 253 Q. Were you working for Ms. Wynne 9 when she said that she would not agree to have the 10 City of Toronto receive a \$100 million fee to host 11 a slot machine casino? 12 A. I recall that that was an issue 13 that had come up. 14 254 Q. Were you working for Ms. Wynne 15 when the City of Toronto voted 40 to 4 against the 16 establishment of a casino in the GTA? 17 A. I don't know when that was, but -- 18 255 Q. May 2013. 19 A. Then, yes, I was. 20 256 Q. Were you interviewed by the 21 Auditor General for its report? 22 A. No. 23 257 Q. Was Kathleen Wynne? 24 A. Not to my knowledge, but I'm -- I 25 don't know.</p>
<p style="text-align: right;">Page 55</p> <p>1 opinion? 2 THE WITNESS: At what point in 2012? 3 BY MR. LISUS: 4 247 Q. That the information presented to 5 Cabinet -- 6 A. Oh, sorry. 7 248 Q. -- for that decision was not 8 Cabinet-ready. His words, Cabinet-ready. 9 A. I don't think I've ever heard -- I 10 don't recall him ever using those words, but, 11 again, consistent with his general perspective. 12 249 Q. What was his general perspective, 13 sir, as you understood it? 14 A. That the land-based gaming 15 objectives overwhelmed the horse racing part of 16 that decision. 17 250 Q. And when you say "the land-based 18 gaming objective," you mean principally the desire 19 to relocate slot machines from racetracks into 20 large casinos in urban centres? 21 A. Yeah, to increase revenues through 22 land-based gaming, I think part of the strategy was 23 relocation in some areas, yes. 24 251 Q. Were you working for 25 Kathleen Wynne when she fired Paul Godfrey?</p>	<p style="text-align: right;">Page 57</p> <p>1 258 Q. Was Ted McMeekin? 2 A. Not to my knowledge. 3 259 Q. Was Dwight Duncan? 4 A. I have no idea. 5 260 Q. Was Don Drummond? 6 A. I have no idea. 7 261 Q. Have you ever spoken to 8 Don Drummond? 9 A. Yes. 10 262 Q. When? 11 A. In his report-writing process. 12 263 Q. But not about gaming or Slots at 13 Racetrack Program? 14 A. No. No. 15 264 Q. Did you ever review the material 16 that was put before Cabinet in February 8, 2012, 17 with respect to land-based gaming and termination 18 of Slots at Racetrack Program revenue share? 19 A. Not that I recall. 20 265 Q. Did you ever review any of the 21 siteholder agreements? 22 A. No. 23 266 Q. Do you know what a siteholder 24 agreement is? 25 A. No.</p>

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1	267	Q.	Did you ever review the 1998
2			Letter of Intent between the OLG on behalf of
3			government and the horse racing industry?
4		A.	No.
5	268	Q.	Do you know that there is such a
6			document?
7		A.	No.
8		MR. LISUS:	Do you want to take a brief
9			break now?
10		MR. RATCLIFFE:	Sure.
11		MR. LISUS:	Ten minutes or so.
12			-- Recess at 11:17 a.m. --
13			-- Upon resuming at 11:28 a.m. --
14		BY MR. LISUS:	
15	269	Q.	Mr. Keegan, I want to ask you to
16			think back to February 2012. Remind me, sir, the
17			fundraising event for Mr. McMeekin that we
18			discussed earlier, you said that was in Milton?
19		A.	Yes.
20	270	Q.	And do you recall the location or
21			the venue?
22		A.	Heritage Park.
23	271	Q.	Heritage Park. Okay.
24			And we talked about the decision being
25			communicated and the concerns of stakeholders. I
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1			want to just see if you can remember any other
2			expressions of concern from that time period. In
3			particular, I'm showing you a statement that -- is
4			it fair to describe Mr. Snobelen as a friend of
5			yours?
6		A.	Now?
7	272	Q.	Yes.
8		A.	Yes.
9	273	Q.	Okay. Was he in 2012?
10		A.	No.
11	274	Q.	This is a statement that
12			Mr. Snobelen made on Ontario News Watch. Do you
13			know what Ontario News Watch is?
14		A.	Yes.
15	275	Q.	Okay. And this is a statement he
16			made on February 16, 2012. Pretty vintage
17			Snobelen; right?
18		A.	Yeah. He still writes like this.
19	276	Q.	Do you remember Mr. Snobelen
20			expressing these kinds of views in February 2012?
21		A.	So I'm not sure I would have
22			talked to John in February of 2012.
23	277	Q.	Fair enough, but he was making
24			these kinds of statements publically like on
25			News Watch and in the Toronto Sun; right?
1		A.	Yeah.
2	278	Q.	Do you remember that?
3		A.	Yes.
4	279	Q.	Okay. And do you remember what
5			Mr. McMeekin's reaction was to them?
6		A.	I remember that Ted thought John
7			was someone he should talk to about horse racing.
8	280	Q.	Okay. This is in February 2012 or
9			around that time?
10		A.	Around that time, yeah.
11	281	Q.	Okay. Because he felt that John
12			understood horse racing and the consequences of the
13			decision for the industry; fair?
14		A.	Yes.
15	282	Q.	Okay.
16		A.	Well, and he had read these
17			articles.
18	283	Q.	Okay. And did Ted know John?
19		A.	I -- he did, yes.
20	284	Q.	Okay. And did he speak with him?
21		A.	He did at a point in time. I
22			don't recall exactly when.
23	285	Q.	Is that how John came to be
24			appointed to the panel?
25		A.	Yes.
1	286	Q.	Through Ted?
2		A.	Yes.
3	287	Q.	Okay. And you see that
4			Mr. Snobelen concludes his broadcast with the
5			statement:
6			"Good thinking, Dwight. Just
7			kill another industry in Ontario and
8			pretty soon we can all work for the
9			government."
10			Do you see that?
11		A.	Yes.
12	288	Q.	And the panel, after its
13			appointment, quickly came to the view that the
14			government's decision to terminate SARP revenue
15			share without transition support would kill the
16			horse racing industry; right?
17		A.	The panel concluded that there was
18			a risk to a catastrophic -- a catastrophic -- there
19			was risk that the industry could come to a
20			catastrophic point in the industry. I don't think
21			anyone ever used the word "kill," but that that
22			kind of correction at that speed would put the
23			industry at risk, yes.
24	289	Q.	Would be catastrophic for the
25			industry; right?

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<p>1 A. Potentially, yes.</p> <p>2 290 Q. And the panel had more than a</p> <p>3 belief that there could be a catastrophic end to</p> <p>4 the industry. In fact, that's what the panel's</p> <p>5 view was, and it communicated that view in August</p> <p>6 2012 to you and Dave Gene; right?</p> <p>7 A. I think probably before that it</p> <p>8 was communicated. I don't -- if you're talking</p> <p>9 about Wilkinson talking to Dave Gene, yeah, John</p> <p>10 would go off on his own sometimes, but the panel</p> <p>11 reported to the minister. And so --</p> <p>12 291 Q. And the panel reported to the</p> <p>13 minister, you're referring to which minister?</p> <p>14 A. McMeekin.</p> <p>15 292 Q. Okay. And so the panel -- so that</p> <p>16 I'm following your evidence, sir, the panel</p> <p>17 reported to Minister McMeekin before August 2012</p> <p>18 that the termination of Slots at Racetrack Program</p> <p>19 revenue share without transition support would be</p> <p>20 catastrophic for the horse racing industry; right?</p> <p>21 A. It could have catastrophic impact</p> <p>22 on animal welfare and jobs.</p> <p>23 293 Q. Okay. And breeders and their</p> <p>24 investments in their horses and breeding</p> <p>25 operations; right?</p>	<p>1 decision was made; right?</p> <p>2 A. Again, I don't know what people</p> <p>3 knew or didn't know of the decision. I wasn't</p> <p>4 involved. But certainly after the decision, our</p> <p>5 concern around the impacts were not adequately</p> <p>6 addressed, which is why the panel was appointed,</p> <p>7 which is why we went down the road that we did.</p> <p>8 297 Q. Okay. And you went down the road</p> <p>9 that you did for a couple of years trying to come</p> <p>10 up with a response to the consequences of the</p> <p>11 decision; correct?</p> <p>12 A. Yes.</p> <p>13 298 Q. And a lot of effort was put into</p> <p>14 that process?</p> <p>15 A. Significant.</p> <p>16 299 Q. You personally were involved in</p> <p>17 it?</p> <p>18 A. Yes.</p> <p>19 300 Q. Your ministry was heavily involved</p> <p>20 in it?</p> <p>21 A. Yes.</p> <p>22 301 Q. And the transition panel members</p> <p>23 were heavily involved in it?</p> <p>24 A. For a period, yes.</p> <p>25 302 Q. And all of that effort by those</p>
Page 63	Page 65
<p>1 A. The entire industry. I think they</p> <p>2 would have suggested and did that Woodbine and</p> <p>3 Mohawk would probably come out the other end of</p> <p>4 that.</p> <p>5 294 Q. Was that information communicated</p> <p>6 by the panel before August 2012 a surprise to</p> <p>7 Ted McMeekin and you?</p> <p>8 A. No. I think as we came to learn</p> <p>9 more about the industry after the decision was made</p> <p>10 in February, that there was implications from that</p> <p>11 decision that, from Ted's perspective at least,</p> <p>12 weren't adequately addressed.</p> <p>13 295 Q. Okay. And they weren't adequately</p> <p>14 understood at the time the decision was made;</p> <p>15 correct?</p> <p>16 A. From our perspective -- we weren't</p> <p>17 involved in the decision. I wasn't anyway. But</p> <p>18 certainly we didn't feel that they were adequately</p> <p>19 addressed.</p> <p>20 296 Q. Okay. And when you say -- and I</p> <p>21 understand that Agriculture was not involved in the</p> <p>22 decision. It was blacked out. But when you say</p> <p>23 weren't adequately addressed, what I'm</p> <p>24 understanding you to say is weren't adequately</p> <p>25 understood or understood at all at the time the</p>	<p>1 industries and organizations were directed at</p> <p>2 addressing the consequences of the decision which</p> <p>3 were not addressed before that decision was made;</p> <p>4 fair?</p> <p>5 A. Dealing with the impacts of the</p> <p>6 decision, yes.</p> <p>7 303 Q. And so as it turns out, if your</p> <p>8 ministry and the panel hadn't intervened,</p> <p>9 Mr. Snobelen's comments in February 16, 2012, that</p> <p>10 the industry would be killed turned out to be</p> <p>11 accurate?</p> <p>12 A. Actually, that's probably some</p> <p>13 exaggeration. I think what we know now is that</p> <p>14 Woodbine and Mohawk probably would have been fine,</p> <p>15 but there would have been a significant contraction</p> <p>16 of the industry and province.</p> <p>17 304 Q. And when you say Woodbine and</p> <p>18 Mohawk would have been fine, those tracks would</p> <p>19 have remained open; right?</p> <p>20 A. Yes. Well, who can really know,</p> <p>21 but based on what we know now, yeah.</p> <p>22 MR. LISUS: I'm just going to mark -- I</p> <p>23 don't think I will mark it, but we can mark for</p> <p>24 identification the transcription of the News Watch.</p> <p>25 BY MR. LISUS:</p>

<p style="text-align: right;">Page 66</p> <p>1 305 Q. Do you recall being aware of it at 2 the time that came out, Mr. Snobelen's statements 3 on News Watch? 4 A. Ted told me about it. I don't 5 recall reading it. 6 306 Q. Okay. Mr. Keegan, as chief of 7 staff at OMAFRA in 2012, were you aware of any 8 economic development or business support programs 9 that provided taxpayer funds from the ministry? 10 A. To industry? 11 307 Q. Yes. 12 A. Yes, of course. Significantly. 13 308 Q. Can you give me an example of 14 some? 15 A. Risk management program, cost of 16 production based program that goes to grain and 17 oilseed and livestock production. 18 309 Q. Goes to? You have to speak 19 slower. 20 A. Oh, sorry. Goes to grain and 21 oilseed and livestock production. Self-directed 22 risk management, to horticulture production, to our 23 national programs liking AgriStability, AgriInvest, 24 AgriInsurance. 25 310 Q. And how were those funds provided</p>	<p style="text-align: right;">Page 68</p> <p>1 314 Q. Yes. 2 A. Not that I'm aware of, no. 3 315 Q. Okay. I asked you about 4 Mr. Snobelen's comments on Ontario News Watch, and 5 I want to show you two documents, Exhibit 13 on the 6 examination of Mr. Shortill and Exhibit 31 on the 7 examination of Mr. Orsini. 8 Exhibit 13 on the examination of 9 Mr. Shortill is an email sequence that begins with 10 an email from Laurel Broten. Do you know who she 11 was in February 2012? She's a Liberal Cabinet 12 minister? 13 A. Yes. 14 316 Q. And included on the email sequence 15 are Mr. McNeil and others, and the email is 16 disseminating a radio ad. Now, I presume you've 17 seen that particular email before I showed it to 18 you this morning; right? 19 A. No. 20 317 Q. You did not review it in 21 preparation for giving evidence here today? 22 A. No, not that one. 23 318 Q. Pardon? 24 A. Not that one, no. 25 319 Q. Okay. Take a minute and</p>
<p style="text-align: right;">Page 67</p> <p>1 to recipients? 2 A. They are -- apart from 3 AgriInsurance, they're direct payments administered 4 through Agricorp, an agency of OMAFRA. 5 311 Q. All right. Was the Slots at 6 Racetrack Program ever identified by OMAFRA as an 7 economic development program or business support 8 program? 9 A. I was not aware of that program 10 until February of 2012. So from my perspective, 11 no. 12 312 Q. All right. And funds paid to 13 recipients pursuant to the various business support 14 and economic development programs that you have 15 just identified were accounted for by who and how? 16 A. Well, again, those direct payment 17 programs would be accounted for by Agricorp and 18 reported through consolidation through the 19 ministry. 20 313 Q. And we can agree, sir, that Slots 21 at Racetrack Program was never accounted for, 22 identified, or reported in any ministry records as 23 an economic development or business support 24 program? 25 A. At OMAFRA?</p>	<p style="text-align: right;">Page 69</p> <p>1 familiarize yourself with it. Are you done? 2 A. Yeah. 3 320 Q. All right. So I want to just ask 4 you a couple questions about this. Ms. Broten 5 sends this email out from an email address called 6 dailywire@ontarioliberal.ca. Do you see that? 7 A. Yes. 8 321 Q. What is 9 dailywire@ontarioliberal.ca? 10 A. I have a vague recollection that 11 that was a communication kind of message-of-the-day 12 thing. 13 322 Q. A communication -- 14 A. Message-of-the-day kind of 15 activity. 16 323 Q. Put out by who? The Liberal 17 party? 18 A. I wouldn't know. I -- this wasn't 19 something I was regularly involved in. 20 324 Q. Okay. The email is -- it says: 21 "Subject: Priority check new 22 ads. Ontario Liberal party" -- 23 And it says "friends" and then goes on. Do you see 24 that? 25 A. Yes.</p>

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1	325	Q.	And it says, if you go over the	1			this -- this kind of messaging might be unfair.
2		page:		2	336	Q.	And that was a concern on the part
3			"That's why, starting today,	3			of Mr. McMeekin and you?
4			we're spreading the word. Listen to	4		A.	Yeah.
5			our new radio ads here."	5	337	Q.	By "unfair," I take it you mean to
6		Do you see that?		6			the stakeholders in the industry, including
7		A.	Yes.	7			breeders; right?
8	326	Q.	Okay. And then take a look at	8		A.	There's more than racetrack owners
9			Exhibit 31 on Mr. Orsini's examination, which is an	9			involved in the industry, yes.
10			email from Mr. Goodwin to Mr. Orsini and others	10	338	Q.	Right. And the three legs of the
11			enclosing the text of the radio ad. Do you see	11			stool you're referring to when you say that;
12			that?	12			correct?
13		A.	I'm reading it.	13		A.	Yes. And I would add Minister
14	327	Q.	Have you seen that text before I	14			McMeekin's motivation -- his motivating concern,
15			gave it to you this morning?	15			the primary one, were people who were quite
16		A.	Not that I recall.	16			marginal in the industry who didn't have the skills
17	328	Q.	Okay.	17			to do other things. That was his driving concern
18		A.	Okay.	18			with the -- with the implication.
19	329	Q.	Do you recall hearing about these	19	339	Q.	That would include many breeders
20			radio ads in late February 2012?	20			of horses who had been breeding horses for the
21		A.	I don't remember these radio ads.	21			industry for many years; right?
22			I remember this kind of messaging.	22		A.	It could. It was primarily
23	330	Q.	Okay. Can you tell me what you	23			back-track people.
24			recollect?	24	340	Q.	Okay. And what these ads were
25		A.	Well, I recall there's basically a	25			doing was creating a climate for those stakeholders
Page 71		Page 73					
1			choice between health care and horse racing, that	1			in the industry of instability and fear; right?
2			kind of message.	2		A.	I'm sure it contributed to that.
3	331	Q.	Being put out by who?	3	341	Q.	And that's why you and
4		A.	I don't remember radio ads. I	4			Mr. McMeekin thought they were unfair?
5			remember the Premier at that time speaking to that	5		A.	Yes.
6			at different events.	6	342	Q.	And you now understand that
7	332	Q.	If we look at this radio ad, it	7			January/February is a breeder's breeding season?
8		says:		8		A.	I understand the breeding cycle.
9			"Tim Hudak's PCs started a	9	343	Q.	Okay. And what did you and
10			secret subsidy for a few very	10			Mr. McMeekin think about the government attacking
11			wealthy racetrack owners."	11			the industry with these kinds of ads in February
12		Do you see that?		12			2012?
13		A.	Yes.	13		A.	So, again, I recall more towards
14	333	Q.	You understood in February that	14			March, and there are -- horse racing is not the
15			that was not an accurate account of Slots at	15			only file that we engaged with. And I would say
16			Racetrack Program; correct?	16			that at any given point, you know, we agreed with
17		A.	In February, I wouldn't have known	17			some of what the government was doing and disagreed
18			one way or another. Later on, I would have known	18			with others.
19			that that did not capture the nuances of the	19	344	Q.	This was an instance in which you
20			industry for sure.	20			disagreed with what the government was doing?
21	334	Q.	Okay. Do you recall Mr. McMeekin	21		A.	Yes.
22			also being aware of this kind of messaging?	22	345	Q.	I understand that, sir, and it's
23		A.	Certainly by mid-March, yes.	23			understandable, but this is a Cabinet minister
24	335	Q.	Okay. And was he upset about it?	24			disseminating as widely as she can an attack ad
25		A.	I think there was concern that	25			that, among other things, is untrue; right?

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<p>1 MR. RATCLIFFE: Well, we don't know 2 that. 3 MR. LISUS: Well, we do know that SARP 4 wasn't secret, Mr. Ratcliffe. 5 MR. RATCLIFFE: Well, you've inquired a 6 number of times as to who disseminated this and -- 7 MR. LISUS: Well, she's disseminating 8 it, for one thing. We can see that from the email; 9 right? 10 MR. RATCLIFFE: Well, I'm not sure that 11 that's the message that she's disseminating. Is 12 that clear? 13 MR. LISUS: She's sending the ad 14 around, but I think it speaks for itself. 15 BY MR. LISUS: 16 346 Q. What was your reaction as a chief 17 of staff and your minister's reaction to another 18 minister disseminating this kind of unfair, untrue 19 ad? 20 A. Again, I don't recall these ads 21 specifically. The general messaging, I thought, 22 was unhelpful to what we wanted to do from a policy 23 perspective. 24 347 Q. Which was stabilize the industry 25 following the communication of decisions which were</p>	<p>1 to an email that I sent, that email was sent in an 2 attempt to get this file onto -- or make it a 3 priority in where the government -- one of the 4 government's priorities. 5 MR. RATCLIFFE: Maybe you could refer 6 Mr. Keegan to the email. 7 BY MR. LISUS: 8 350 Q. You reviewed that email before 9 coming here today; right? 10 A. Yes. 11 351 Q. This was an email that you 12 composed and sent to Shelley Potter; right? 13 A. Yes. 14 352 Q. And it's CRE437780. So that's the 15 email you composed; right? 16 A. Do you want these back? 17 353 Q. Sure. 18 A. Yes. 19 354 Q. And I just want to understand 20 something. As of February 13, 2013, you have now 21 been involved in the horse racing file for a year; 22 right? 23 A. Yeah. Yes. 24 355 Q. You've worked closely with the 25 panel?</p>
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<p>1 destabilizing it; right? 2 A. They were adding to the anxiety in 3 the industry for sure. But I would add we've both 4 been around long enough to know that this is 5 typical of decisions. There are policy decisions 6 made and then politics made by all parties around 7 those decisions. 8 So we may disagree with the messaging, 9 but I think that's the business that we engage 10 with. Our job was to try and get good outcomes 11 regardless of where the politics were going with 12 this. 13 348 Q. The CEO of OLG said he found this 14 kind of -- not this kind of -- this particular ad 15 very unusual at the time because it was out of the 16 election cycle; right? 17 A. It was a minority government. It 18 was an unusual time every day. That was a very, 19 very unusual time. 20 349 Q. And is that why in February 2013 21 you were of the view that the government's decision 22 which -- the government's decision to terminate the 23 Slots at Racetrack Program revenue share was made 24 to wedge the opposition in the short-term? 25 A. So if you're referring, I think,</p>	<p>1 A. Yes. 2 356 Q. You've worked closely with OMAFRA 3 staff? 4 A. Yes. 5 357 Q. You've worked closely with Finance 6 staff? 7 A. Less so, but I've worked with 8 them. 9 358 Q. You are fully up to speed on the 10 industry, the decision made, and the steps that 11 were underway to try and address the consequences 12 of that decision; correct? 13 A. We were, yes, focused on the 14 consequences of the decision, yes. 15 359 Q. Okay. And you were trying here to 16 accelerate the making of a decision because you 17 understood that the timing was very sensitive 18 because of the negative consequences of the 19 decision for the horse racing industry and the 20 breeding sector; right? 21 A. That was part of it, but I don't 22 think it was all of it. 23 360 Q. Fair enough. And what you were 24 trying to do was get a funding package onto a 25 decision agenda quickly; right?</p>

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1 A. Yes.
2 361 Q. And you, therefore, composed an
3 email to Shelley Potter, who you told me earlier
4 was a peer of yours in the Premier's office; right?
5 A. Yes.
6 362 Q. And you wanted to give Ms. Potter
7 all of the information that you thought was
8 important for her to get this decision onto a
9 decision agenda quickly; correct?
10 A. It was my attempt at my best
11 argument.
12 363 Q. Okay. And it was also your
13 attempt to give her all of the relevant background
14 that she would need to assist you in advancing this
15 decision onto a decision agenda; right?
16 A. As an argument, yes.
17 364 Q. Okay. And so you constructed a
18 report to her which had an identification of the
19 context of the decision, the problem at hand, the
20 risks, and the recommendations; right?
21 A. Yes.
22 365 Q. And I presume that you wouldn't
23 have sent that to a senior colleague in the
24 Premier's office without the support of your
25 minister, Mr. McMeekin?

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1 A. So this was around the time
2 that -- I'm not sure if Cabinet had changed, but
3 this was a very strange time in which it was
4 uncertain who was where. And so I guess this was a
5 bit more for me personally trying to move this file
6 along.
7 366 Q. Okay. But these were your
8 honestly-held views at the time?
9 A. This was the best argument that I
10 could muster.
11 367 Q. And your honestly-held views. You
12 weren't going to be less than truthful with your
13 colleague; correct?
14 A. Well, you're going to ask me about
15 this desire to wedge the opposition in the
16 short-term.
17 368 Q. Well, you're anticipating what I'm
18 going to ask you, Mr. Keegan, and you shouldn't do
19 that.
20 A. Okay.
21 369 Q. You should simply answer the
22 questions that I ask you --
23 A. Okay.
24 370 Q. -- as honestly as you can.
25 A. I am.

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1 371 Q. All right. We'll let someone else
2 worry about why I'm asking you the questions. I'd
3 like you just to focus on what I'm asking you.
4 Okay? Do you want the question again?
5 A. Yes, please.
6 372 Q. Okay. When you composed this for
7 the purposes of getting a decision onto Cabinet
8 agenda, you expressed your honestly-held views;
9 fair?
10 A. I expressed the best argument I
11 have based on what was the common understanding of
12 where this file was at and how it evolved.
13 373 Q. Okay. And that common
14 understanding and your view included a belief that
15 the decision to terminate revenue sharing from
16 Slots at Racetrack Program with no transition
17 support was based on an analysis by Finance which
18 included assumptions that were not realized; right?
19 That is accurate?
20 A. Yeah. So my meaning there was
21 around assumptions about horse mortality and job
22 loss, you know, based on what we came to know as
23 the decision at that time.
24 374 Q. And those assumptions on horse
25 mortality and job loss were inaccurate; correct?

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1 A. I think that was definitely our
2 perspective, the panel's perspective, yes.
3 375 Q. And you also had the view in
4 February 2013 that the decision was also driven by
5 a desire to wedge the opposition in the short-term;
6 right?
7 A. So there was definitely politics
8 around that decision. I would -- I did not know if
9 that drove the decision or was created subsequent
10 to the decision.
11 376 Q. Well, the -- we'll come to that in
12 a minute, but all I'm asking you about, sir, is at
13 the time, this was your view. I'm not asking you
14 how you got there or why you got there, but at the
15 time, this was your view; right?
16 A. Yeah, I mean, I'm trying to make
17 the argument that there was a political calculus
18 around here that was, I think, misinformed or
19 inaccurate.
20 377 Q. Fair enough. And unrelated to
21 gaming policy; right?
22 A. Well, I mean, there's politics in
23 every decision; right?
24 378 Q. And that doesn't mean that every
25 decision is a bona fide policy decision, does it?

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<p>1 Do you agree with that?</p> <p>2 A. That every decision is not a bona</p> <p>3 fide --</p> <p>4 379 Q. The fact that every decision has</p> <p>5 politics in it doesn't make every decision a</p> <p>6 bona fide policy decision; right?</p> <p>7 A. A bona fide policy -- yeah.</p> <p>8 MR. RATCLIFFE: Well, I'm not sure your</p> <p>9 question is clear in terms of what you're asking.</p> <p>10 MR. LISUS: I think it's pretty clear,</p> <p>11 and he understood it and gave me an answer.</p> <p>12 BY MR. LISUS:</p> <p>13 380 Q. You've seen the February 26 radio</p> <p>14 attack ads; right?</p> <p>15 A. Yes.</p> <p>16 381 Q. Those radio attack ads don't serve</p> <p>17 any gaming policy purpose; right?</p> <p>18 A. Not on its face, no.</p> <p>19 382 Q. Okay. And your view, sir, is</p> <p>20 consistent with every witness I've examined to</p> <p>21 date. Okay?</p> <p>22 MR. RATCLIFFE: You have to say "yes."</p> <p>23 You're nodding your head.</p> <p>24 THE WITNESS: Yes.</p> <p>25 BY MR. LISUS:</p>	<p>1 that email; right?</p> <p>2 MR. RATCLIFFE: Can you call that one</p> <p>3 up just so he can refresh his memory? Do you have</p> <p>4 that number?</p> <p>5 MR. LISUS: CRE29291.</p> <p>6 BY MR. LISUS:</p> <p>7 386 Q. You have reviewed this email for</p> <p>8 the purposes of giving your evidence today; right?</p> <p>9 A. Yes.</p> <p>10 387 Q. Do you recall getting it at the</p> <p>11 time around August 3, 2012?</p> <p>12 A. Yes.</p> <p>13 388 Q. I see that it's sent to an address</p> <p>14 michaelkeegan7@yahoo.ca; right?</p> <p>15 A. Yes.</p> <p>16 389 Q. Which is clearly not spam?</p> <p>17 A. Yes.</p> <p>18 390 Q. So it would appear that important</p> <p>19 emails did go to that address; right?</p> <p>20 A. Very rarely. So because I've</p> <p>21 known John for so long -- I set this email up in</p> <p>22 2001, and on occasion, John would send emails to</p> <p>23 that.</p> <p>24 391 Q. Why would he send an important</p> <p>25 email like this to that email address? One reason</p>
<p>1 383 Q. For example, Mr. Phillips was</p> <p>2 asked:</p> <p>3 Q. "And was there any gaming</p> <p>4 purpose that you could discern from</p> <p>5 these ads as the CEO of Ontario's</p> <p>6 gaming corporation?</p> <p>7 A. No.</p> <p>8 Q. Was there any valid policy</p> <p>9 purpose that you could discern from</p> <p>10 these ads as the CEO of Ontario's</p> <p>11 gaming corporation?</p> <p>12 A. Policy?</p> <p>13 Q. Yes. These attack ads didn't</p> <p>14 serve any valid gaming policy</p> <p>15 purpose; right?</p> <p>16 A. No, they weren't about gaming</p> <p>17 policy."</p> <p>18 Do you agree with Mr. Phillips' answers?</p> <p>19 A. Yes.</p> <p>20 384 Q. You've also seen in August 2012,</p> <p>21 Mr. Wilkinson writes to Mr. Gene talking about</p> <p>22 wedging Tim and Andrea in by-elections? You're</p> <p>23 aware of that?</p> <p>24 A. Yes, I did see that.</p> <p>25 385 Q. And you were, in fact, copied on</p>	<p>1 is that it wouldn't be caught by an FOI request;</p> <p>2 right?</p> <p>3 A. Possibly. I'm sure you asked him.</p> <p>4 392 Q. And you agree with that?</p> <p>5 A. That's one possible reason, yes.</p> <p>6 393 Q. Okay. Because this is you and</p> <p>7 Mr. Gene and Mr. Wilkinson involved in a pretty</p> <p>8 sensitive discussion; right?</p> <p>9 A. This is John's opinion on where</p> <p>10 things were at and how to proceed.</p> <p>11 394 Q. But you agreed with John Snobelen</p> <p>12 and John Wilkinson about the consequences of this</p> <p>13 decision for the industry, right, if you weren't</p> <p>14 able to get transition support from the government?</p> <p>15 MR. RATCLIFFE: Just read through it if</p> <p>16 you haven't already.</p> <p>17 THE WITNESS: Yeah, so we've already</p> <p>18 spoken that we were concerned about the</p> <p>19 catastrophic consequences, yes.</p> <p>20 BY MR. LISUS:</p> <p>21 395 Q. Okay. And the catastrophic</p> <p>22 consequences included 23,000 job losses and 27,000</p> <p>23 dead horses; right?</p> <p>24 A. I think there was a number -- a</p> <p>25 lot of different numbers put around, but, yeah, big</p>

<p style="text-align: right;">Page 86</p> <p>1 numbers.</p> <p>2 396 Q. And it was because of these kinds</p> <p>3 of consequences that were identified to you in</p> <p>4 August of 2012 that you were trying to get a</p> <p>5 resolution advanced quickly a year later in -- not</p> <p>6 a year later. Six months later in February 2013.</p> <p>7 You were concerned; right?</p> <p>8 A. Yes.</p> <p>9 397 Q. And you see that Mr. Wilkinson is</p> <p>10 making reference to wedging Tim and Andrea; right?</p> <p>11 A. Yes.</p> <p>12 398 Q. In August 2012; right?</p> <p>13 A. Yes.</p> <p>14 399 Q. And in February 2013, you also</p> <p>15 told Shelley Potter that the decision was based on</p> <p>16 a desire to wedge the opposition in the short-term?</p> <p>17 A. Yes.</p> <p>18 400 Q. And can we agree, sir, that with</p> <p>19 the benefit of the information that you came to</p> <p>20 receive and understand through 2012 and '13, by</p> <p>21 early 2013, you had formed the view that the</p> <p>22 decision was made in 2013 to wedge the opposition</p> <p>23 in the short-term?</p> <p>24 A. I'm not sure that I shared that</p> <p>25 conclusion. John was part of the Premier's</p>	<p style="text-align: right;">Page 88</p> <p>1 had already been suffered by stakeholders,</p> <p>2 including breeders; right?</p> <p>3 A. So if by "harm" you mean that</p> <p>4 people went out of business or made decisions to</p> <p>5 exit the industry, yes.</p> <p>6 404 Q. Okay.</p> <p>7 MR. LISUS: I just want to mark the</p> <p>8 August 3 email as an exhibit, please, next exhibit</p> <p>9 in sequence, and the February 2013 email as the</p> <p>10 next exhibit in sequence.</p> <p>11 MR. MATTHEWS: So CRE29291 will be</p> <p>12 Exhibit 5.</p> <p>13 EXHIBIT NO. 5: CRE0029291.</p> <p>14 MR. MATTHEWS: CRE437780 will be</p> <p>15 Exhibit 6.</p> <p>16 EXHIBIT NO. 6: CRE0437780.</p> <p>17 BY MR. LISUS:</p> <p>18 405 Q. Sir, I want to show you some</p> <p>19 emails from February 17 through February 20, 2012,</p> <p>20 which is about the time, I understand, that you and</p> <p>21 Minister McMeekin became aware of the decision to</p> <p>22 terminate Slots at Racetrack Program revenue share</p> <p>23 without transition support.</p> <p>24 I don't think, Mr. Keegan, that you</p> <p>25 were copied on any of these emails. They're</p>
<p style="text-align: right;">Page 87</p> <p>1 leadership campaign and so had briefed her many</p> <p>2 times on that and given her his opinion on that,</p> <p>3 which is why I use that language because I knew</p> <p>4 that it would be recognized as such.</p> <p>5 401 Q. And Shelley Potter would</p> <p>6 communicate with the Premier?</p> <p>7 A. Correct.</p> <p>8 402 Q. And the Premier wasn't happy about</p> <p>9 this kind of decision with its consequences being</p> <p>10 used to wedge -- or being made for the purpose of</p> <p>11 wedging the opposition; fair?</p> <p>12 A. Whether it was made for that</p> <p>13 reason --</p> <p>14 MR. RATCLIFFE: Do you know the answer?</p> <p>15 THE WITNESS: I don't --</p> <p>16 MR. RATCLIFFE: Do you know what was in</p> <p>17 the Premier's mind?</p> <p>18 THE WITNESS: I know that she was</p> <p>19 concerned with the implications of the decision and</p> <p>20 the political rhetoric around that decision, which</p> <p>21 we changed significantly following her installation</p> <p>22 as Premier.</p> <p>23 BY MR. LISUS:</p> <p>24 403 Q. Okay. And you do understand that</p> <p>25 by the time you changed it, a great deal of harm</p>	<p style="text-align: right;">Page 89</p> <p>1 Finance folks, including Mr. Orsini, who then was</p> <p>2 the deputy minister, but they are talking about</p> <p>3 your minister and his reaction to the decision.</p> <p>4 Okay?</p> <p>5 A. Okay.</p> <p>6 406 Q. Have you reviewed them?</p> <p>7 A. Yes.</p> <p>8 407 Q. All right. You see that it starts</p> <p>9 on February 17 with an email from Barry Goodwin to</p> <p>10 Mr. Orsini and others. And in the second</p> <p>11 paragraph, he says:</p> <p>12 "Discussed issues on a call</p> <p>13 with Minister McMeekin this</p> <p>14 afternoon. As agriculture minister,</p> <p>15 he was hoping that there was a more</p> <p>16 in-depth economic impact analysis</p> <p>17 that had been done of the strategy</p> <p>18 of one-year withdrawal of subsidy."</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 408 Q. And does that refresh your</p> <p>22 recollection about Minister McMeekin's views about</p> <p>23 the adequacy of the analysis that was done about</p> <p>24 the consequences of the decision to terminate SARP</p> <p>25 revenue share without transition support?</p>

<p style="text-align: right;">Page 90</p> <p>1 A. Yes, I do recall him inquiring 2 about an economic impact analysis with both our 3 ministry and with Finance. 4 409 Q. And obviously your ministry didn't 5 have one because it was excluded from the decision; 6 correct? 7 A. As far as I know, yes. 8 410 Q. And Finance didn't have one either 9 as of the time that your minister was asking; 10 right? 11 A. Not that I'm aware of. 12 411 Q. Okay. You'll see that Mr. Goodwin 13 says: 14 "We clarified some direct 15 employment numbers with him on the 16 phone and said ORC was doing a few 17 scenarios for next week, but 18 frankly, we do not have a detailed 19 study of the sort that he was hoping 20 we had." 21 Right? Do you see that? 22 A. Yes. 23 412 Q. What was your understanding of the 24 kind of study that Minister McMeekin hoped existed 25 to evaluate the consequences of the decision that</p>	<p style="text-align: right;">Page 92</p> <p>1 process -- so that SARP had been in effect since 2 1998? 3 A. I believe that's correct. 4 417 Q. And you were aware that it was 5 disclosed as an important program that benefitted 6 the rural economy in every annual budget since 7 1998? 8 A. I learned that, yes. 9 418 Q. Were you aware as well that in 10 2010 and 2011, the government testified to the 11 estimates committee that SARP was an important 12 program that benefitted the rural economy? 13 A. I don't know about estimates at 14 that time. 15 419 Q. So let me ask you this, sir: When 16 did SARP become bad public policy? 17 A. I think that concerns around the 18 accountability of funds -- 19 420 Q. Accountability by who? 20 A. So what kinds of investments were 21 being made with those funds. 22 421 Q. By who? 23 A. Horse people, tracks, 24 municipalities. 25 422 Q. Well, I examined Mr. Snobelen and</p>
<p style="text-align: right;">Page 91</p> <p>1 had been made? 2 A. Well, again, he was primarily 3 interested in animal welfare, job losses, and 4 particularly around the most vulnerable workers in 5 the industry. 6 413 Q. But I presume he was also 7 interested in the economic consequences of the 8 decision for standardbred breeders which made their 9 living breeding and boarding horses; right? 10 A. I don't recall him asking 11 specifically about standardbred breeders. I don't 12 think at that time we would have had that kind of 13 nuance, understanding of the industry. 14 414 Q. And your understanding, sir, in 15 2012 and 2013 -- am I correct? -- is or was that 16 SARP was bad public policy? 17 A. So as we learned more about the 18 program, I think we learned about significant 19 concerns around accountability of funds, yes. 20 415 Q. And you only learned more about 21 the program and came to have those concerns after 22 the decision was made and you were evaluating its 23 consequences; correct? 24 A. Correct. 25 416 Q. And you were aware in that</p>	<p style="text-align: right;">Page 93</p> <p>1 Mr. Wilkinson on this point, and they testified 2 that there wasn't any concerns about the 3 transparency or the conduct of breeders. 4 A. Fair enough. I don't recall 5 anyone saying that. 6 423 Q. You don't recall anyone ever 7 saying that breeders who bred horses for racing did 8 anything wrong; right? 9 A. Again, breeders weren't singled 10 out as a specific part of the industry in those 11 discussions. 12 424 Q. Because it just wasn't understood 13 what role they played in the industry at that time? 14 Is that why? 15 A. More nuance, understanding of the 16 industry came over time. 17 425 Q. By "over time," you mean over time 18 after the decision was made? 19 A. Correct. 20 426 Q. And we see, if we just follow this 21 sequence -- and before we do that, you understood 22 that to the extent that there were accountability 23 issues, they had to do with racetracks and, in 24 particular, the Woodbine Entertainment Group; 25 right?</p>

<p style="text-align: right;">Page 94</p> <p>1 A. That was something discussed 2 repeatedly, yes. 3 427 Q. Right. Now, just following this 4 email sequence into the morning of the 20th, we see 5 an email exchange between Barry Goodwin and 6 Elizabeth Yeigh. Do you see that? 7 A. Yes. 8 428 Q. It says: 9 "Confidentially" -- 10 I'm at the second paragraph -- well, let's begin 11 with the first paragraph: 12 "Yes, I assumed some horses 13 would be put down rather than 14 maintained especially if 15 neighbouring jurisdictions also 16 getting smaller. 17 Confidentially, a few strange 18 exchanges with T late Friday with 19 Blair and that got him edgy about 20 the information we have been using 21 and how confident to be." 22 Do you see that? 23 A. Yes. 24 429 Q. Can I understand "T" to be a 25 reference to Ted McMeekin or --</p>	<p style="text-align: right;">Page 96</p> <p>1 A. Well, thereabouts, yes. That's 2 when we acutely became aware, yes. 3 435 Q. Right. We know that Mr. McMeekin 4 around February 17 has been asking for an economic 5 impact analysis which doesn't exist; right? 6 A. Yes. 7 436 Q. And we know that, therefore, there 8 was a -- we know that there was a meeting with 9 Minister McMeekin that wasn't so good, according to 10 Barry Goodwin in Finance. 11 Now, does that assist your recollection 12 as to what Minister McMeekin's views were about the 13 manner in which this decision was made as of 14 February 20? 15 MR. RATCLIFFE: Do you know the answer 16 to that? 17 MR. LISUS: That's what I'm asking him. 18 THE WITNESS: About the manner in which 19 the decision was made? I know that he was very 20 concerned with the impact of that decision and was 21 looking for ways to address that. As I've said, 22 his -- he was very concerned about animal welfare 23 and impact on people in the industry. 24 BY MR. LISUS: 25 437 Q. Okay. Now, if we follow the chain</p>
<p style="text-align: right;">Page 95</p> <p>1 A. Or Tim Shortill. 2 430 Q. Or Tanya Watkins? 3 A. I don't know Tanya. 4 431 Q. Okay. Well, it says: 5 "A few strange exchanges with T 6 late Friday with Blair and that got 7 him edgy about the information we 8 have been using and how confident to 9 be." 10 OMAFRA had no idea what information Finance had 11 used when they made this decision; right? 12 A. No. No. 13 432 Q. I'm correct? 14 A. Correct. 15 433 Q. And then it says: 16 "Meeting with Minister McM." 17 That must be McMeekin; right? 18 A. I would assume so, yes. 19 434 Q. Okay. 20 "Meeting with Minister McMeekin 21 not so good." 22 Can you assist me in understanding what that 23 reference means? We're now at February 20th. We 24 know that you and Minister McMeekin learn about 25 this decision at a fundraising event; right?</p>	<p style="text-align: right;">Page 97</p> <p>1 up, we see Ms. Yeigh. Do you know her? 2 A. Yes. 3 438 Q. Who is she? 4 A. At that time, she was, I believe, 5 the director working under Barry around land-based 6 gaming modernization. 7 439 Q. And she says: 8 "McM, which is McMeekin, 9 feeling left out in the cold no 10 doubt." 11 Do you see that? 12 A. Yes. 13 440 Q. And what do you understand that to 14 mean? 15 A. That our -- the -- well, the 16 minister's concerns at that point were not -- were 17 not having an impact. 18 441 Q. And he also hadn't been included 19 or consulted about the decision before it was made; 20 right? 21 A. Yes. So, I mean, not every 22 decision that's made by government involves every 23 Cabinet minister. 24 442 Q. Unless it's going to have 25 significant impact for their portfolio; right?</p>

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<p>1 A. Presumably. But, again, OMAFRA 2 and horse racing weren't connected at that time. 3 443 Q. But you and I can agree, sir, that 4 the consequences of a catastrophic outcome for the 5 industry would be felt acutely in rural Ontario 6 which was part of the Ministry of Agriculture and 7 Rural Affairs' portfolio; correct? 8 A. Correct. That's why we were 9 concerned. 10 444 Q. Okay. Therefore, the Ministry of 11 Agriculture and Rural Affairs should have been 12 included and then consulted about the decision 13 before it was made; correct? That was your view? 14 A. Definitely. I think Finance's 15 view was that those outcomes were not realistic. 16 They had a different set of assumptions, as I said 17 earlier. 18 445 Q. And we know that those assumptions 19 were wrong; right? 20 A. That was definitely our 21 perspective, yes. 22 446 Q. Well, it was proven with the panel 23 analysis; right? 24 MR. RATCLIFFE: What assumptions are 25 you referring to?</p>	<p>1 your minister were aware of the publication of 2 Mr. Snobelen's views on the question of termination 3 of revenue share. 4 A. Yeah. Yes, I remember this. 5 450 Q. Okay. And what do you remember 6 about it? You'll see, Mr. Keegan, that 7 Mr. Snobelen here is reacting to that February 26 8 ad that you and I discussed this morning; right? 9 So what do you remember about this? 10 A. I remember Minister McMeekin 11 talking about this. He got -- he was getting very 12 interested in John and his views on this file. 13 451 Q. Okay. 14 A. I don't remember specifically the 15 content, but just that John was someone he was very 16 interested in and wanted to talk to. 17 452 Q. And I presume that Mr. McMeekin 18 wanted to talk with John because he valued his 19 views on this issue? 20 A. Yeah. Ted is a pretty wily, old 21 veteran who thinks, I think -- strategically, we 22 kind of call him Columbo. He looks a bit like a 23 bumbler, but he knows what he's doing. And I think 24 this plan of a panel was forming in his mind. 25 I didn't know it at the time, but</p>
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<p>1 BY MR. LISUS: 2 447 Q. The horse mortality, job losses; 3 right? 4 A. Yes. 5 448 Q. Okay. And the Auditor General's 6 report? 7 A. Yes. 8 MR. LISUS: That email sequence is the 9 next exhibit. 10 MR. MATTHEWS: So Exhibit 7, CRE106086. 11 EXHIBIT NO. 7: CRE0106086. 12 MR. LISUS: Do you want to pause now 13 and take a brief lunch and then push through? 14 MR. RATCLIFFE: Sure. 15 -- Recess at 12:26 p.m. -- 16 -- Upon resuming at 1:02 p.m. -- 17 BY MR. LISUS: 18 449 Q. Mr. Keegan, I want to ask you to 19 think back again to early 2012, this time March, 20 and your friend Mr. Snobelen. 21 I want to show you an editorial or a 22 column. I don't think it's an editorial. I think 23 it's a column that he wrote in the Toronto Sun 24 March 3, 2012. 25 My question, sir, is whether you and</p>	<p>1 shortly thereafter -- actually, I don't even 2 remember the timing of that, but John was 3 definitely someone that he wanted to bring into 4 this conversation. 5 453 Q. Right. I want to reorient you for 6 a minute to Exhibit Number 4 from this morning, 7 which was the email from Ted to Ted copied 8 Douglas Tindal, you, and Mark Cripps. Who, by the 9 way, is Mark Cripps? 10 A. He was the press secretary at that 11 time. 12 454 Q. Okay. And so on this email, 13 Exhibit 4, he is -- "he" being Ted McMeekin is 14 saying: 15 "To be clear, the decision to 16 end the SAR program was made by the 17 Ministry of Finance, not the 18 Ministry of Agriculture, Food and 19 Rural Affairs." 20 Right? And he goes on to say: 21 "It was my decision to fight to 22 establish a review process." 23 Right? 24 A. Correct. 25 455 Q. Which was a review process</p>

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<p>1 undertaken by the transition panel? 2 A. Correct. 3 456 Q. And we know that OMAFRA was 4 excluded from the decision making; right? 5 A. To the best of my knowledge, yes. 6 457 Q. And why is it, then, that OMAFRA 7 becomes the ministry that drives and leads the 8 review process? And we see that all the way to the 9 end in 2014. It's driven by OMAFRA. 10 So they were excluded, but they then -- 11 but McMeekin then presses for the review panel, and 12 OMAFRA drives the process. Why was that? 13 A. So I believe that the -- that 14 Finance was driven more by their considerations of 15 land-based gaming than implications for horse 16 racing. 17 When we came -- when Ted and his staff 18 came to understand the implications, particularly 19 in rural Ontario, he became quite concerned, and so 20 there were competing imperatives inside of 21 government. 22 458 Q. Right. And Mr. Wilkinson 23 testified that Finance was not in favour of the 24 appointment of a panel and didn't agree with some 25 of the panel's directions. Is that your</p>	<p>1 460 Q. Because they wouldn't be able -- I 2 don't understand. I don't understand why providing 3 additional funding to the industry would change the 4 procurement process. 5 A. And the outcome. So it would 6 reduce overall revenues that would come from that 7 gaming. 8 461 Q. I see. 9 A. Presumably, they -- 10 462 Q. If they had to share a portion of 11 revenue generated from gaming to stabilize the 12 horse racing industry, it would mean less revenue 13 for Finance by way of a dividend from OLG's gaming 14 operations; fair? 15 A. Partly, but more precisely that 16 the commercial bids to that process would be 17 valuing or devaluing that -- the worth of that 18 service provision based on their understanding of 19 their responsibility for horse racing or not. I'm 20 paraphrasing their argument. 21 463 Q. And that's because potential 22 bidders, being casino operators, would submit 23 different bids if they had to share a portion of 24 the revenue earned from casinos with the horse 25 racing industry; is that right?</p>
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<p>1 recollection as well? 2 A. Yeah, as I said earlier, the -- 3 Finance was concerned about the risk to their 4 procurement process around land-based gaming. 5 459 Q. I don't understand that. What do 6 you mean by "the risk to their procurement 7 process"? 8 A. I'm laughing because this came up 9 a lot. Finance had set up -- or did set up a 10 procurement -- a public procurement process for the 11 rights to service provision for gaming in these 12 zones. 13 And this process was seen as, from 14 their perspective, the most important part of 15 the -- of how to move this strategy forward. It 16 was how they were going to generate new revenue. 17 And they had a fairness commissioner 18 and a whole bunch of rules around that process to 19 make sure it was fair and transparent and that they 20 got the highest commercial value through that 21 process. 22 I believe they felt or it was at least 23 explained that changing the calculus around horse 24 racing inside of that would affect the commercial 25 outcome of that process.</p>	<p>1 A. Yes, or be responsible for running 2 it at the location, yes. 3 464 Q. Or be responsible for running the 4 casino at a racetrack that had live racing; is that 5 what you're saying? 6 A. Or that a new facility would be 7 required to have a racetrack, so it would affect 8 the infrastructure at that new facility. 9 465 Q. I see. So in other words, it was 10 just a simpler model to procure bids for if there 11 was no horse racing component in it? 12 A. I don't ever -- I don't recall 13 simple. I think it was maximizing commercial 14 value. 15 466 Q. Right. But commercial value would 16 be maximized if, A, the facilities were dual 17 purpose to accommodate horse racing with a track 18 and stables and back stretch, and there wasn't any 19 revenue share; right? Just drop quarters in slot 20 machines? 21 A. Yes. 22 467 Q. Okay. So were you involved in the 23 appointment of the panel members? 24 MR. LISUS: And Exhibit 9 on 25 Mr. Snobelen's examination is the next exhibit on</p>

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<p>1 Mr. Keegan's. 2 EXHIBIT NO. 8: SB0005058. 3 THE WITNESS: Yes, I was involved. 4 BY MR. LISUS: 5 468 Q. Okay. And tell me how that 6 happened. 7 A. Minister McMeekin had this idea to 8 bring in John Snobelen and have him take a look at 9 the impact of the SARP cancellation decision on the 10 industry and make recommendations on a different 11 course of action to lessen, reduce, or eliminate 12 the -- in particular, the jobs and the animal 13 welfare issues. 14 469 Q. How did the others get involved, 15 being Wilkinson and Buchanan? 16 A. So as we started to promote, 17 socialize this idea -- 18 470 Q. Within? 19 A. Within government. 20 471 Q. Meaning? 21 A. Premier's office, Ministry of 22 Finance primarily and OMAFRA. 23 472 Q. And "we" is you and Ted McMeekin? 24 A. Yes. 25 473 Q. And at that time that you were</p>	<p>1 backgrounds, different political perspectives to 2 get what our objective was, which was the best 3 advice possible on how to -- how to move forward. 4 477 Q. And my understanding is that 5 Mr. Gene was not supportive of the idea of a panel 6 and, in particular, the idea of having to provide 7 additional funding to help alleviate the 8 consequences of the decision? 9 A. I don't remember Dave being 10 against the panel. Dave and others were definitely 11 against putting more money into the -- into 12 transition. 13 478 Q. And I understand that Ms. Miller, 14 who was the deputy chief of staff, was also against 15 the idea of putting more money in? 16 A. I don't remember talking to Laura 17 about this. Dave was the primary one. 18 479 Q. All right. Who else, to your 19 recollection, was opposed to the idea of putting 20 more money? 21 A. Finance officials. 22 480 Q. Why, sir, were Finance officials 23 opposed to the idea of putting more money in if it 24 had become evident that the consequences of the 25 decision were going to be catastrophic in rural</p>
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<p>1 socializing the idea, the idea is that it was just 2 Mr. Snobelen? 3 A. Correct. 4 474 Q. Okay. 5 A. And I think that -- I don't 6 remember exactly who said it, but I think it was 7 Minister of Finance. Minister Duncan suggested 8 bringing in John Wilkinson as someone who could 9 bring a financial perspective to John Snobelen's 10 horse racing perspective and someone that might 11 have a little bit more trust inside of government. 12 John Snobelen was seen as kind of the 13 archetype from the Mike Harris government years, 14 which we had a bit of a trust issue around. 15 475 Q. "We" being the Liberals? 16 A. Yes. 17 476 Q. Okay. 18 A. So bringing in John and John was 19 seen as a way to mitigate some of that and make 20 sure that those perspectives were rounded. 21 Then -- again, I don't recall who 22 exactly, but someone suggested, "What about an NDP 23 voice," which we quickly zeroed in on Elmer as a 24 former Minister of Agriculture. 25 And it worked well from different</p>	<p>1 Ontario? 2 A. So I guess there's two parts to 3 this answer: One, as I said before, I think they 4 were focused more on the land-based gaming revenue 5 generation. 6 481 Q. And didn't understand the rural 7 Ontario impact? 8 A. I think they were less sensitive 9 to it. They have a much broader perspective on the 10 province than OMAFRA would. There was lots of cuts 11 in that budget and a lot of unhappy stakeholders. 12 So from their perspective, this was one amongst 13 many. 14 482 Q. Yeah, but they were cuts in that 15 budget that they understood; right? 16 A. Well, again, I think they 17 understood that this was a cut that would have an 18 impact. I think it was the sensitivity to the 19 impact that we differed with. 20 483 Q. Right, but I understood you to 21 say, sir, and other witnesses have said as well and 22 the panel report says that the consequences of this 23 cut were not understood in terms of job loss, 24 equine welfare, impact on the horse racing industry 25 as a whole?</p>

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1	A. The analysis changed over time for	1	A. I believe the deputy chief of
2	sure.	2	staff, yes.
3 484	Q. Right. So given that that	3 496	Q. And who's Tyler Charlebois?
4	analysis changed over time -- which was in 2012;	4	A. I don't know.
5	correct?	5 497	Q. Karim Bardeesy?
6	A. Over the course of the year.	6	A. He was, I believe, the executive
7 485	Q. Why was Finance still resistant to	7	director of policy.
8	the idea of putting money to mitigate those	8 498	Q. In the Premier's office?
9	consequences which weren't understood when the	9	A. Yes.
10	decision was made? Do you know?	10 499	Q. And Brian Teefy?
11	MR. RATCLIFFE: Do you know?	11	A. Policy advisor in the Premier's
12	THE WITNESS: Well, the only reason	12	office.
13	that I know is the threat of me toos.	13 500	Q. And Wendy McCann is saying:
14	BY MR. LISUS:	14	"Will be reported as an
15 486	Q. And you know that from speaking	15	aboutface or capitulation especially
16	with who?	16	after all our messaging about
17	A. It was either Blair Stransky or	17	choosing children over horses."
18	Tim Shortill that we can't walk back decisions.	18	Right? And is that consistent with what you
19 487	Q. We can't walk back decisions?	19	recollect the reaction of Finance staffers to be to
20	A. Because it will start a cascade of	20	the direction that OMAFRA wanted to go, that it
21	me toos. Now, there may be other reasons. That's	21	would be seen as a capitulation or an aboutface by
22	the only conversation I had around it.	22	Finance?
23 488	Q. Have you seen the email in which	23	A. Yeah, they were trying to hold the
24	the possibility of providing financial relief from	24	line on a tough budget, and this was a potential
25	the consequences of this decision is discussed by	25	first crack in that line, yes.
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1	Ms. Miller, Ms. McCann, Mr. Bardeesy, and	1 501	Q. Mr. Bardeesy testified that there
2	Mr. Teefy?	2	was a concern that any change would be seen as an
3	MR. RATCLIFFE: Can you show him the	3	embarrassment to Minister Duncan. Do you remember
4	email?	4	concerns about that?
5	MR. LISUS: Sure. Exhibit 21 on	5	A. I don't.
6	Mr. Bardeesy's examination.	6 502	Q. You said "trying to hold the line
7	BY MR. LISUS:	7	on a tough budget." Right?
8 489	Q. So you've gone through that email,	8	A. Yes.
9	August 21, 2012?	9 503	Q. You, in early 2013, with just a
10	A. That was August, yeah.	10	few months' involvement, had satisfied yourself
11 490	Q. So what is being discussed is a	11	that this decision was made by Finance based on a
12	draft of Minister McMeekin's statement on the	12	number of assumptions that were not realized;
13	interim report, which was released August 17;	13	right?
14	right?	14	A. Yes, that's the argument I had,
15	A. Before this email?	15	yeah.
16 491	Q. The report is August 17, and then	16 504	Q. That's not an argument. It's a
17	there was going to be a statement about it.	17	fact; right?
18	A. Okay.	18	A. Yes.
19 492	Q. Okay?	19 505	Q. Okay. And you read the Auditor
20	A. Yes.	20	General's report in 2014?
21 493	Q. Who's Wendy McCann?	21	A. Yes.
22	A. I don't know.	22 506	Q. And you read the multiple ways in
23 494	Q. Okay. Who is Laura Miller?	23	which it identified the modernization plan was
24	A. Laura Miller is the --	24	based on assumptions that were not realized?
25 495	Q. Deputy chief of staff?	25	A. Yes.

<p style="text-align: right;">Page 114</p> <p>1 507 Q. Makes you question the validity of 2 the budgeting process; right? 3 MR. GOLDENBERG: I don't think this 4 witness is qualified to answer that question. 5 BY MR. LISUS: 6 508 Q. Do you agree with that, 7 Mr. Keegan? 8 A. The budgeting process -- 9 509 Q. Well, let me put it to you this 10 way, sir: You're a Ministry of Agriculture 11 staffer; right? 12 A. Yes. 13 510 Q. And within six or seven months of 14 looking at a process you had involvement in, you've 15 come to realize it's based on assumptions that 16 weren't realized; right? 17 A. Yes. 18 511 Q. Okay. And Mr. Wilkinson testified 19 that within weeks of being appointed, he knew that 20 Finance's assumptions were all wrong. Are you 21 aware of that? 22 A. I was aware of his -- yeah, that 23 that was his perspective, yeah. 24 512 Q. And Mr. Snobelen, we've seen, was 25 telling Finance in February that its assumptions</p>	<p style="text-align: right;">Page 116</p> <p>1 little bit more complicated than that. 2 MR. LISUS: Well, I'm not so sure it 3 is. 4 BY MR. LISUS: 5 517 Q. Were you aware that the day before 6 the decision was made to cancel SARP revenue share 7 without transition support, the recommendation from 8 Finance was to reduce it over a three-year period 9 and then go to \$100 million annually? 10 MR. RATCLIFFE: I don't think it was 11 the day before, was it? 12 MR. GOLDENBERG: You also already have 13 his evidence that he didn't know about this 14 decision until after it had been made, so I don't 15 know how he would possibly be expected to respond 16 to questions about what happened before. 17 MR. RATCLIFFE: You're just asking him 18 to speculate about something that he's not in a 19 position to speculate about. 20 MR. LISUS: You fellows seem pretty 21 sensitive about this. 22 BY MR. LISUS: 23 518 Q. You were involved in policy making 24 in Agriculture, weren't you? 25 A. Yes.</p>
<p style="text-align: right;">Page 115</p> <p>1 were all wrong? 2 A. In a -- in a column, yes. 3 513 Q. Sure. A lot of people read 4 columns; right? 5 A. Yes. 6 514 Q. It's a good way to warn the 7 government that they're about to make a serious 8 mistake? 9 A. It's definitely one of the avenues 10 to do that, yes. 11 515 Q. And they did make a serious 12 mistake which you tried to correct with the panel 13 process and everything else you did through '13 and 14 '14; correct? 15 A. Yes. We put a lot of time into 16 that. 17 516 Q. You certainly put a lot more time 18 into it than Finance did when they made the 19 decision? 20 R/F MR. RATCLIFFE: Well, I don't think 21 that's a fair question. He's not in a position to 22 know. 23 MR. LISUS: Well, the evidence that I 24 have is that the decision was made in a day. 25 MR. RATCLIFFE: Well, I think it's a</p>	<p style="text-align: right;">Page 117</p> <p>1 519 Q. And when you were involved in 2 policy making, you tried hard to ensure that you 3 made policy decisions that were going to affect 4 people based upon the best information available; 5 right? 6 A. The best information available, 7 always incomplete, never sufficient for a perfect 8 decision. 9 520 Q. I'm not talking about perfection, 10 Mr. Keegan. I'm talking about the best information 11 available; right? 12 A. Yes. 13 521 Q. And we know that Mr. Wilkinson 14 looked at some public financial statements and knew 15 immediately that the Ministry of Finance's 16 assumptions were wrong. You're aware of that too? 17 MR. RATCLIFFE: Well, I don't know that 18 he said exactly that. 19 BY MR. LISUS: 20 522 Q. We know that Mr. Wilkinson very 21 quickly came to the view that Finance's assumptions 22 were all wrong; right? 23 MR. RATCLIFFE: The report that was -- 24 he was part of it -- was a unanimous report. 25 MR. LISUS: I'm not talking about his</p>

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<p>1 report.</p> <p>2 MR. RATCLIFFE: It sets out what the</p> <p>3 assumptions are.</p> <p>4 MR. LISUS: I'm talking about his</p> <p>5 evidence about --</p> <p>6 MR. RATCLIFFE: You're asking --</p> <p>7 MR. LISUS: -- what he reviewed in</p> <p>8 March 2012 and immediately knew that the</p> <p>9 assumptions were wrong.</p> <p>10 MR. RATCLIFFE: You're asking</p> <p>11 Mr. Keegan for what Mr. Wilkinson's assumptions</p> <p>12 were and --</p> <p>13 BY MR. LISUS:</p> <p>14 523 Q. Well, Mr. Wilkinson, as you've</p> <p>15 explained to me helpfully a minute ago, was the</p> <p>16 fellow that the Ministry of Finance wanted to put</p> <p>17 on the panel because of his financial acumen and</p> <p>18 experience; right?</p> <p>19 A. That was part of it, yeah.</p> <p>20 524 Q. And we know that Minister</p> <p>21 McMeekin, very shortly after learning about this</p> <p>22 decision, was very concerned that there wasn't any</p> <p>23 kind of in-depth economic analysis of the</p> <p>24 consequences of the decision. We've seen those</p> <p>25 emails from February 2012; right?</p>	<p>1 done; right? Do you want me to go back to the</p> <p>2 emails we discussed?</p> <p>3 A. Yeah, you -- you're asking me</p> <p>4 if -- you're asking me if Minister McMeekin's</p> <p>5 request for that economic analysis was the result</p> <p>6 of his concern that there was not sufficient</p> <p>7 analysis done or whether that was a method by which</p> <p>8 he could revisit the decision. I think there's --</p> <p>9 529 Q. Let me read you the email. Okay?</p> <p>10 A. Okay.</p> <p>11 530 Q. See if it refreshes your</p> <p>12 recollection from an hour or so ago. Exhibit 7:</p> <p>13 "Discussed issues on a call</p> <p>14 with Minister McMeekin this</p> <p>15 afternoon. As agriculture minister,</p> <p>16 he was hoping that there was a more</p> <p>17 in-depth economic impact analysis</p> <p>18 that had been done of the strategy</p> <p>19 of one-year withdrawal of subsidy."</p> <p>20 Pretty clear; right?</p> <p>21 A. Yes, in that email, yes.</p> <p>22 531 Q. Okay. And Minister McMeekin, as</p> <p>23 you've told me, was a pretty wily guy and</p> <p>24 experienced politician; right?</p> <p>25 A. Correct.</p>
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<p>1 A. Correct.</p> <p>2 525 Q. And we know that that is the kind</p> <p>3 of analysis that he would have expected for this</p> <p>4 kind of decision; right?</p> <p>5 A. So the normal budgeting process --</p> <p>6 526 Q. Don't tell me about the normal</p> <p>7 budgeting process. I'll give you the question</p> <p>8 again.</p> <p>9 MR. RATCLIFFE: He's trying to give you</p> <p>10 an answer to your question.</p> <p>11 BY MR. LISUS:</p> <p>12 527 Q. Minister McMeekin expected that</p> <p>13 there would have been a lot more in-depth economic</p> <p>14 analysis about this decision in February 2012;</p> <p>15 right?</p> <p>16 MR. RATCLIFFE: Do you know what was in</p> <p>17 his mind?</p> <p>18 THE WITNESS: Mr. McMeekin was looking</p> <p>19 for ways to revisit that decision and/or mitigate</p> <p>20 the impact of that.</p> <p>21 BY MR. LISUS:</p> <p>22 528 Q. And he wanted to mitigate the</p> <p>23 impact because he was of the view that the decision</p> <p>24 was made without an understanding of the impact</p> <p>25 because there wasn't an in-depth economic analysis</p>	<p>1 532 Q. How long had he been a Cabinet</p> <p>2 minister in 2012?</p> <p>3 A. This go-around, little over --</p> <p>4 well, not quite a year, and he had been out of</p> <p>5 Cabinet, and previous to that, in Cabinet maybe two</p> <p>6 years. So he had been in Cabinet maybe three years</p> <p>7 total.</p> <p>8 533 Q. I've seen that throughout 2012,</p> <p>9 2013, 2014, there were a number of press releases</p> <p>10 or news releases entitled "Statement from the</p> <p>11 Minister of Agriculture and Rural Affairs on the</p> <p>12 Horse Racing Industry." Do you remember those?</p> <p>13 A. We put lots of press releases out.</p> <p>14 Are there specific ones?</p> <p>15 534 Q. Well, sure, here's one dated</p> <p>16 August 24, 2012. What was the purpose of putting</p> <p>17 out lots of press releases?</p> <p>18 A. Well, again, the context for</p> <p>19 decision making is a fairly messy one. There's no</p> <p>20 science. I mean, there's a formal process for</p> <p>21 ratifying decisions, but zeroing in on problems,</p> <p>22 developing potential solutions to those problems is</p> <p>23 both a policy process and a political process.</p> <p>24 So putting out press releases like this</p> <p>25 allows us to communicate with our stakeholders, the</p>

<p style="text-align: right;">Page 122</p> <p>1 public, and, frankly, other parts of government 2 around what the -- you know, the facts of whatever 3 issue we're dealing with are at that given point. 4 535 Q. That's helpful. So that 5 explanation is generally true of news releases from 6 the government? 7 A. I think communications staff would 8 say you shouldn't communicate with your 9 stakeholders through press releases, but -- 10 536 Q. You shouldn't? 11 A. Should not communicate with 12 stakeholders through public statements or press 13 releases, but I think that most -- there is more 14 than one audience when these things are drafted 15 generally. 16 Again, there's a science, and there's 17 also an art to these things. So, yes, I would say 18 that that is generally true. There's a lot going 19 on behind these. 20 537 Q. Behind communicating through press 21 releases? 22 A. Yes. 23 538 Q. Were you aware of the press 24 releases in 2010 about the Ontario Racing 25 Commission's racing program?</p>	<p style="text-align: right;">Page 124</p> <p>1 Industry is communication of a decision around race 2 program, race dates. In this case, it looks like a 3 consultation of some kind. It's -- for ORC, this 4 was one of their primary ways of informing the 5 industry of how they were implementing their 6 mandate. 7 543 Q. Okay. And did OMAFRA put out -- 8 well, we know they put out news releases. Did it 9 also put out Notices to the Industry when you were 10 chief of staff? 11 A. Around -- 12 544 Q. Not around this issue. Around any 13 issue. Like, was it a communications method that 14 OMAFRA used? 15 A. So there were actually several 16 ways that we communicated with stakeholders, 17 everything from the appeal's tribunal and kind of 18 formal disagreements among industry participants. 19 The Ontario Farm Products Marketing 20 Commission would have similar notices, whatever 21 those are called -- 22 545 Q. Notice to industry? 23 A. -- notice to industry around 24 decisions for the boards that they have control 25 over.</p>
<p style="text-align: right;">Page 123</p> <p>1 A. Not at that time, no. 2 539 Q. Are you familiar with Notices to 3 the Industry? 4 A. From ORC? 5 540 Q. Yes. 6 A. I became aware of those after ORC 7 became one of our agencies, yes. 8 541 Q. Okay. So I want to show you an 9 exhibit on Mr. Orsini's examination. This is a 10 February 1, 2010, Notice to the Industry. 11 MR. LISUS: I'll mark the August 24, 12 2012, press release as the next exhibit. 13 MR. MATTHEWS: So the press release of 14 August 24, 2012, entitled "Statement from the 15 Minister of Agriculture and Rural Affairs on the 16 Horse Racing Industry" is going to be Exhibit 9. 17 EXHIBIT NO. 9: Press release dated 18 August 24, 2012, entitled "Statement 19 from the Minister of Agriculture and 20 Rural Affairs on the Horse Racing 21 Industry" 22 BY MR. LISUS: 23 542 Q. What's the purpose of a Notice to 24 the Industry? 25 A. Generally, a Notice to the</p>	<p style="text-align: right;">Page 125</p> <p>1 546 Q. And that's to communicate the 2 government's position to industry stakeholders or 3 participants? 4 A. Yeah, or in the Commission's -- 5 the Commission's role as a regulator of those 6 boards, yes. 7 547 Q. Okay. Now, I want to ask you 8 about an email sequence in August of 2012. Take a 9 look at it. You are involved in this. It begins 10 with a release of the McKinsey report to the Press 11 Gallery on August 29. Do you remember this? 12 MR. RATCLIFFE: Just give him a moment 13 to review it. 14 THE WITNESS: Okay. I didn't hear your 15 question. 16 BY MR. LISUS: 17 548 Q. Do you remember this? 18 A. I don't remember this email 19 exchange. I do remember some of these arguments. 20 549 Q. When you say "arguments," you mean 21 disagreements? 22 A. Yes. 23 550 Q. Okay. What was going on here? 24 A. This was different facts being put 25 out into the public around horse racing.</p>

<p style="text-align: right;">Page 126</p> <p>1 551 Q. And your team, the OMAFRA team, 2 weren't very happy about these different facts 3 being put out into the public by Finance; right? 4 A. Yes. Clearly. 5 552 Q. And you clearly weren't happy, in 6 part, because Finance didn't tell you that they 7 were doing this? 8 A. It certainly appears that way. 9 553 Q. And they were working at 10 cross-purposes with what OMAFRA was doing; right? 11 A. We were working on a partnership 12 plan, yes. 13 554 Q. And they were working against you? 14 A. At least not working with us on 15 that, yeah. 16 555 Q. Well, who's Douglas Tindal? 17 A. Doug is the -- he was the director 18 of communications. 19 556 Q. And he thought that what Finance 20 did stinks; right? 21 A. Yes. 22 557 Q. And I presume you understood why 23 he thought that? 24 A. Yes. 25 558 Q. And it was because Finance was not</p>	<p style="text-align: right;">Page 128</p> <p>1 don't remember that private member's bill, but I 2 assume had something to do with horse racing that 3 was, I assume, again, being critical of the 4 decision and where the government had landed on 5 that, at that point anyway. 6 563 Q. Finance and Dave Gene didn't like 7 the direction the interim panel was going. And 8 we've already seen that with Ms. Miller and others' 9 email; correct? 10 A. In particular, the costs 11 associated, yes. 12 564 Q. Right. And what we're seeing here 13 some 12 days or so after the interim panel's report 14 is Finance trying to put out a counter-narrative; 15 right? 16 A. But in the context of a private 17 member's bill from the opposition. I don't know 18 exactly what they're responding to. 19 565 Q. And what they were doing was 20 engaging McKinsey to try and come up with different 21 numbers than the interim panel's study; correct? 22 MR. GOLDENBERG: You've asked him to 23 read Finance's mind a number of different ways. 24 MR. LISUS: Stop, please. 25 BY MR. LISUS:</p>
<p style="text-align: right;">Page 127</p> <p>1 working as a part, and they were working against 2 what OMAFRA was trying to do; right? 3 A. Yes. This -- it wasn't an 4 uncommon thing on this file and others. 5 559 Q. Good to hear that as a taxpayer. 6 A. There are many perspectives inside 7 of government. 8 560 Q. The decision was made that -- and 9 certainly Minister McMeekin wasn't involved or told 10 about this decision by Finance, right, because 11 there's a debate about whether Mr. McMeekin should 12 be told; right? 13 A. Yeah. 14 561 Q. And the decision was that he 15 should be told because it was better than him 16 reading about it in the paper tomorrow; correct? 17 A. Yes. 18 562 Q. And what Finance was doing here 19 was trying to get evidence to put out in the public 20 that would contradict the findings of the interim 21 panel that had been communicated in the interim 22 panel report; right? That's what Finance was up to 23 here? 24 A. Yeah, so it looks like they were 25 responding to a private member's bill that was -- I</p>	<p style="text-align: right;">Page 129</p> <p>1 566 Q. What Finance had done was engage 2 McKinsey and tasked it with coming up with 3 different numbers; correct? 4 MR. RATCLIFFE: Do you know what 5 Finance did? 6 THE WITNESS: I don't know what their 7 contract with McKinsey was. 8 BY MR. LISUS: 9 567 Q. Do you know what they did? 10 A. They had -- they did their -- an 11 analysis on the industry, yes. 12 568 Q. Finance had them do an analysis to 13 try and contradict the panel's finding of 20- to 14 30,000 job losses; right? 15 A. I don't know that that was their 16 objective. 17 569 Q. You don't? 18 A. No. 19 570 Q. Okay. Who would know? 20 A. Finance, the people who signed the 21 contract. 22 571 Q. Was Mr. Gene involved? 23 A. I don't know. 24 572 Q. Would Mr. Duncan have been 25 involved?</p>

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1	A. I doubt it, but I don't know.	1	off by the minister. There were many
2 573	Q. Would Mr. Orsini have been	2	communications that went out without the minister
3	involved?	3	signing off that did not involve a direct quote.
4	A. I doubt it, but I don't know.	4 587	Q. You're talking about radio ads?
5 574	Q. Who was involved in procuring the	5	A. I have never procured a radio ad
6	February 26 radio ads?	6	or been involved with the procurement of a radio
7	A. For the party?	7	ad.
8 575	Q. Yeah.	8 588	Q. It's an unusual thing to do?
9	A. The ones from Minister Broten? I	9	A. As a ministry, maybe not unheard
10	don't know.	10	of. I think that Foodland Ontario does that, but
11 576	Q. No one seems to know. I've asked	11	we're not involved in that as political staff. In
12	a lot of people.	12	fact, I think they do television as well.
13	A. I wasn't involved in party	13 589	Q. Okay. So Doug Tindal thinks that
14	communications.	14	what Finance did on August 29, without telling
15 577	Q. How do ads like that get procured?	15	OMAFRA, stinks; right?
16	Someone has got to engage the agency; right?	16	A. Yes.
17	A. Yes.	17 590	Q. And you were cautioning people not
18 578	Q. Someone has got to agree on the	18	to freak out; right?
19	copy or the content; right?	19	A. Yes.
20	A. Yes.	20 591	Q. Because you were concerned that
21 579	Q. Someone has got to pay the bill?	21	they were freaking out?
22	A. Yes.	22	A. Yes. My -- the staff that I had
23 580	Q. So where does that get done?	23	around me were -- their job was to anticipate and
24	A. I would assume at the party	24	head off issues. My job was to make sure they were
25	office.	25	managed effectively. So they've got an itchy
Page 131		Page 133	
1 581	Q. By who?	1	trigger finger, and I'm sober second thought.
2	A. The party staff.	2 592	Q. Okay. And what's Amber Anderson's
3 582	Q. The Premier is the leader of the	3	role?
4	party; right?	4	A. She was the issues manager. So
5	A. Yes.	5	she was primarily in charge of House duties in the
6 583	Q. And before ads like that go out,	6	legislature.
7	the Premier would have to sign off on them; right?	7 593	Q. So Amber was going to tell
8	MR. RATCLIFFE: Do you know that?	8	Minister McMeekin in person because it was better
9	THE WITNESS: I don't know that.	9	that way than having him read about what Finance
10	BY MR. LISUS:	10	had done in the paper; right?
11 584	Q. Well, I presume that kind of an ad	11	A. Yes. I mean --
12	making those kinds of comments couldn't go out	12 594	Q. Did you speak to Minister McMeekin
13	without the Premier knowing.	13	about it?
14	MR. RATCLIFFE: Well, he said he didn't	14	A. I don't remember this specific
15	know.	15	issue. I spoke to Minister McMeekin about our
16	BY MR. LISUS:	16	relationship with Finance all the time.
17 585	Q. I'm asking for your understanding	17 595	Q. Okay. Because you were concerned
18	based on your experience in government.	18	that Finance wasn't working collaboratively with
19	A. My experience in government was	19	OMAFRA?
20	exclusively with ministries and the opposition	20	A. Because Finance, as a central
21	leader's office.	21	agency, was always difficult -- a difficult
22 586	Q. Okay. That kind of ad couldn't go	22	relationship to manage on all files. This --
23	out without a minister signing off on it; right?	23	again, this was not our only file.
24	A. Any communication that quoted or	24	MR. LISUS: This is the next exhibit.
25	had a direct line from a minister would be signed	25	MR. MATTHEWS: Exhibit 10, CRE235450.

<p style="text-align: right;">Page 134</p> <p>1 EXHIBIT NO. 10: CRE0235450. 2 BY MR. LISUS: 3 596 Q. Now, you were aware in the fall of 4 2012 that the situation was urgent for breeders 5 because yearling sales at auction were coming up; 6 right? 7 A. In 2012? 8 597 Q. Yes. 9 A. I don't recall specifically, but I 10 would imagine the panel would have given that 11 advice, yes. 12 598 Q. You did become aware of that at 13 some point in 2012 or '13; right? 14 A. The breeding cycle and the -- yes. 15 Yes. 16 599 Q. Okay. I'm going to show you 17 CRE235365. This is an email that Mr. McMeekin gets 18 about a press release for transition support of 19 \$50 million over three years. Okay? Do you 20 remember that? 21 MR. RATCLIFFE: Take a moment to review 22 it. 23 THE WITNESS: Remember which? 24 BY MR. LISUS: 25 600 Q. That there was a deal done with</p>	<p style="text-align: right;">Page 136</p> <p>1 definition of "collapse" that you'd like to use? 2 A. Well, I think the definition of 3 "collapse" in Quebec was that the industry 4 disappeared. I don't think anyone thought that the 5 industry would completely disappear in Ontario with 6 Woodbine and Mohawk still being viable inside that 7 new system, but most of the rest of the industry 8 would disappear. 9 606 Q. There would just be 20- to 30,000 10 job losses and thousands of dead animals; right? 11 A. Catastrophic. 12 607 Q. Okay. 13 A. Yeah. 14 608 Q. All right. So you knew that 15 \$50 million over three years wasn't enough to 16 prevent that catastrophic outcome; right? 17 A. Yeah. 18 609 Q. Okay. And Finance was not in 19 favour of any funding beyond \$50 million over three 20 years; correct? 21 A. At that point in time. 22 610 Q. Being the fall of 2012; right? 23 A. It was late summer, into the fall. 24 611 Q. Okay. And that's because they 25 considered it to be a capitulation to the horse</p>
<p style="text-align: right;">Page 135</p> <p>1 the NDP as part of getting the 2013 budget 2 approved, that there would be \$50 million 3 transition support payable over three years. Do 4 you remember that? 5 A. The 2013 budget? 6 601 Q. 2012, '13. I'm not sure which 7 one, but... 8 MR. RATCLIFFE: Just read through that 9 memo. 10 BY MR. LISUS: 11 602 Q. Do you remember that there was an 12 agreement by the government to extend transition 13 support to the industry in the amount of 14 \$50 million payable over three years? 15 A. Yes. 16 603 Q. Okay. And do you remember 17 understanding that that transition support was 18 completely inadequate and would not prevent an 19 industry collapse? 20 A. I remember having conversations 21 that that was not going to be enough money. 22 604 Q. To prevent industry collapse? 23 A. Well, if by "collapse" you mean a 24 lot of dead animals and a lot of job losses, yes. 25 605 Q. All right. Is there some other</p>	<p style="text-align: right;">Page 137</p> <p>1 racing industry? 2 A. That was my understanding, yes. 3 612 Q. Okay. And what the prior email 4 was about, an email in which OMAFRA staff said the 5 conduct of Finance stinks, was Finance engaging 6 McKinsey to try and come up with a report that 7 justified Finance's resistance to the government 8 providing transition support in an amount more than 9 \$50 million payable over three years; correct? 10 MR. RATCLIFFE: Are you reading that 11 from this memo? 12 MR. LISUS: No. I'm just composing 13 that question as I sit here, Mr. Ratcliffe. 14 MR. RATCLIFFE: So perhaps you could 15 break it down into smaller pieces. It starts to 16 get very lengthy. 17 MR. LISUS: I think it was pretty 18 clear. 19 BY MR. LISUS: 20 613 Q. Do you want the question again? 21 A. Sure. 22 614 Q. What the prior email was about, 23 the email in which OMAFRA staff said the conduct of 24 Finance stinks -- remember looking at that with me 25 a minute ago?</p>

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<p>1 A. Yes, I do.</p> <p>2 615 Q. Was Finance engaging McKinsey to</p> <p>3 try and come up with a report that justified</p> <p>4 Finance's resistance to the government providing</p> <p>5 transition support in an amount more than</p> <p>6 \$50 million payable over three years?</p> <p>7 A. So I don't think that's what that</p> <p>8 email was about. I think that was an email that</p> <p>9 was frustrated with Finance putting out numbers in</p> <p>10 an attempt to debate a private member's bill that I</p> <p>11 don't know -- I don't recall was about.</p> <p>12 So that was more about being off</p> <p>13 message from where we were trying to go in terms of</p> <p>14 our partnership language with the industry.</p> <p>15 616 Q. But you were trying to get funding</p> <p>16 well more than \$50 million over three years because</p> <p>17 you knew that \$50 million over three years would</p> <p>18 not prevent a catastrophe in the industry; right?</p> <p>19 A. So we were trying to do whatever</p> <p>20 we could.</p> <p>21 617 Q. Just listen to my question. You</p> <p>22 knew, as you told me a minute ago, that \$50 million</p> <p>23 over three years would not prevent a catastrophe in</p> <p>24 the industry; fair?</p> <p>25 A. Yes.</p>	<p>1 623 Q. They had numbers that were wrong</p> <p>2 and based on the wrong assumptions; right?</p> <p>3 A. I think we understood that to be</p> <p>4 true subsequently, yes.</p> <p>5 624 Q. And then when you understand it to</p> <p>6 be true subsequently, Finance still won't support</p> <p>7 OMAFRA in its long-term objective; fair?</p> <p>8 A. I think they -- they had a</p> <p>9 different perspective on what they wanted to do,</p> <p>10 yeah. We disagreed with them.</p> <p>11 625 Q. Right.</p> <p>12 A. But this, again, is common in our</p> <p>13 relationship with Finance. They often take a</p> <p>14 different view than we do.</p> <p>15 626 Q. That's fine, sir, when they take a</p> <p>16 different view based upon accurate information and</p> <p>17 consultation with people who actually know</p> <p>18 something about the industry that's going to be</p> <p>19 affected by the decision; would you agree?</p> <p>20 A. They set parameters around funding</p> <p>21 envelopes for things like our business risk</p> <p>22 management program, AgriStability and others.</p> <p>23 627 Q. And do those parameters include</p> <p>24 excluding the only entity who knows anything about</p> <p>25 the industry that's going to be affected, in</p>
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<p>1 618 Q. All right. So you, therefore,</p> <p>2 wanted to get more money in order to prevent a</p> <p>3 catastrophe in the industry; right?</p> <p>4 A. That was our long-term objective.</p> <p>5 That might not be the actual tactical piece that we</p> <p>6 move forward at any given point.</p> <p>7 619 Q. Finance didn't share your</p> <p>8 long-term objective in late summer, fall of 2012;</p> <p>9 right?</p> <p>10 A. I believe that's true, yes.</p> <p>11 620 Q. Okay. So Finance had excluded</p> <p>12 OMAFRA from the original decision in Q1 2012;</p> <p>13 right?</p> <p>14 A. Correct.</p> <p>15 621 Q. Finance didn't understand the</p> <p>16 consequences of that decision when they made it;</p> <p>17 right?</p> <p>18 A. I think -- I don't know that, but</p> <p>19 it's certainly our feeling that those consequences</p> <p>20 were unacceptable.</p> <p>21 622 Q. And weren't understood when they</p> <p>22 made it. Finance didn't want to kill 13,000 horses</p> <p>23 and cause 20- to 30,000 job losses, or did they?</p> <p>24 A. I think they had numbers that were</p> <p>25 less than that.</p>	<p>1 particular, the ORC? Do those parameters include</p> <p>2 that?</p> <p>3 A. Well --</p> <p>4 MR. RATCLIFFE: Are you in a position</p> <p>5 to answer questions about measures around budgets?</p> <p>6 THE WITNESS: I know that in our own</p> <p>7 budgeting process, we have an opportunity to</p> <p>8 provide a perspective --</p> <p>9 BY MR. LISUS:</p> <p>10 628 Q. I'm not talking about your</p> <p>11 budgeting process, Mr. Keegan. You already</p> <p>12 explained to me that you were blacked out of this</p> <p>13 decision.</p> <p>14 MR. GOLDENBERG: Those are your words,</p> <p>15 not his.</p> <p>16 MR. LISUS: No, they're Mr. Cogan's</p> <p>17 words, and he agreed with them.</p> <p>18 BY MR. LISUS:</p> <p>19 629 Q. I want to ask you to look at</p> <p>20 CRE29093.</p> <p>21 MR. LISUS: This is the next exhibit,</p> <p>22 CRE235365.</p> <p>23 MR. MATTHEWS: That's Exhibit 11.</p> <p>24 EXHIBIT NO. 11: CRE0235365.</p> <p>25 BY MR. LISUS:</p>

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1	630	Q. We're now in September 2012. What happens in the horse racing industry in September and October, Mr. Keegan?	1	the euthanization of horses?
2		A. Sales.	2	A. Yes. I don't remember the exact --
3		Q. Right. And what was Mr. McMeekin told about the September 2012 thoroughbred sales results?	3	
4		A. Sue Leslie says here:	4	640 Q. Did you read what it said about what the consequences for veterinarians and owners would be of the mass euthanization of horses?
5	631	"The results of the thoroughbred sales this past week are devastating."	5	MR. RATCLIFFE: If you could show him the report, he could just quickly look at it, and that might help.
6		Q. And what else does she say?	6	BY MR. LISUS:
7		A. She asked:	7	
8		"That either you or the Premier make a statement prior the standardbred sale this weekend that will give buyers some confidence that there will be a viable horse racing industry where buyers will be able to race their purchases."	8	641 Q. Do you remember Mr. Wilkinson telling you -- leave aside the report for a minute. Do you remember Mr. Wilkinson telling you that there would be mass euthanization of horses and likely suicides associated with that?
9		Q. What else does she say?	9	A. Yes. We were very concerned about the impact on people around the animal welfare issue.
10		A. "This is desperately needed if we are going to have an industry going forward."	10	
11	632	Q. Did the Premier or the minister	11	642 Q. And you spoke with Finance about that?
12		make a statement for that weekend?	12	A. Probably. I don't remember.
13		A. I don't recall. I don't know.	13	643 Q. And that fact is referenced in the August 17, 2012, interim panel report; correct?
14		Q. Do you remember discussing this with Mr. McMeekin?	14	A. I believe so, yes.
15		A. Not this particular one, no. We did know that there was pressure and anxiety around every sale that was going on. So I know that we discussed that generally. I don't remember discussing this one specifically.	15	644 Q. And almost a month later in
16		Q. Is that why, sir, come January 2013 you are really trying to get this agenda advanced to a decision and why you're writing to Ms. Potter?	16	
17		A. I think that -- yeah, that was definitely part of that, yes.	17	
18		MR. LISUS: Next exhibit.	18	
19		MR. MATTHEWS: Exhibit 12, CRE29093. EXHIBIT NO. 12: CRE0029093.	19	
20		BY MR. LISUS:	20	
21	636	Q. Did you read the interim panel report?	21	
22		A. Which one?	22	
23	638	Q. August 17, 2012.	23	
24		A. Yes.	24	
25	639	Q. Did you read what it said about	25	
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1		September 10 -- on September 10, breeders are saying a statement is desperately needed and that sales are devastating, and no one will make a statement.	1	
2		MR. RATCLIFFE: Is there a question there?	2	
3	635	Q. Do you remember discussing this with Mr. McMeekin?	3	
4		A. Not this particular one, no. We did know that there was pressure and anxiety around every sale that was going on. So I know that we discussed that generally. I don't remember discussing this one specifically.	4	
5		Q. Is that why, sir, come January 2013 you are really trying to get this agenda advanced to a decision and why you're writing to Ms. Potter?	5	
6		A. I think that -- yeah, that was definitely part of that, yes.	6	
7		MR. LISUS: Next exhibit.	7	
8		MR. MATTHEWS: Exhibit 12, CRE29093. EXHIBIT NO. 12: CRE0029093.	8	
9		BY MR. LISUS:	9	
10	636	Q. Did you read the interim panel report?	10	
11		A. Which one?	11	
12	638	Q. August 17, 2012.	12	
13		A. Yes.	13	
14	639	Q. Did you read what it said about	14	
15		the euthanization of horses?	15	
16		A. Yes. I don't remember the exact --	16	
17		Q. Did you read what it said about what the consequences for veterinarians and owners would be of the mass euthanization of horses?	17	
18		MR. RATCLIFFE: If you could show him the report, he could just quickly look at it, and that might help.	18	
19		BY MR. LISUS:	19	
20	640	Q. Do you remember Mr. Wilkinson telling you -- leave aside the report for a minute. Do you remember Mr. Wilkinson telling you that there would be mass euthanization of horses and likely suicides associated with that?	20	
21		A. Yes. We were very concerned about the impact on people around the animal welfare issue.	21	
22	642	Q. And you spoke with Finance about that?	22	
23		A. Probably. I don't remember.	23	
24	643	Q. And that fact is referenced in the August 17, 2012, interim panel report; correct?	24	
25		A. I believe so, yes.	25	
	644	Q. And almost a month later in		

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<p>1 bring some stability to the industry? 2 A. I don't -- I don't know. 3 649 Q. You were aware as of August 17 4 that the panel had reported that, quote: 5 "The panel has also spoken with 6 experts who advise that mass herd 7 reductions in other jurisdictions 8 have resulted in extreme emotional 9 distress for owners and other 10 industry participants that can be 11 life threatening." 12 A. That's part of the report. 13 650 Q. That was known on August 17, 2012, 14 by government; right? It's in the report. 15 A. It was known by -- so yes. 16 651 Q. And it was also known by 17 government because it was in the report that as 18 well, the panel has been warned that owners may put 19 off the humane dispatching of horses, particularly 20 yearlings and weanlings, but leave the animals in 21 distress from inadequate care and feeding or 22 outright abandonment. That was known to the 23 government; right? 24 A. As a risk, yes. 25 652 Q. And Mr. Wilkinson testified that</p>	<p>1 that similar mass herd reductions in 2 other jurisdictions have resulted in 3 extreme emotional distress for 4 owners that can be life threatening. 5 A. Yes. So we need -- those 6 people would have to be supported in 7 that kind of nightmarish scenario. 8 In regard to that nightmarish 9 scenario, we had drawn the 10 conclusion that it was -- it was 11 very important that people would be 12 provided with emotional counselling. 13 It was going to be very traumatic." 14 Do you remember the panel advising you and 15 Mr. McMeekin that this was one of the risks of the 16 consequences of Finance's decision? 17 A. Yes. 18 656 Q. "And the panel was, therefore, 19 recommending supports to encourage 20 euthanizing horses and the support 21 mechanism for horse owners in 22 emotional distress; correct? 23 A. Yes. 24 Q. And the reason you were making 25 that recommendation is because the</p>
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<p>1 it was known to the panel and the government that 2 because people wouldn't be able to cope with 3 killing their horses, they would set them free, and 4 they would be predated in the wild by wolves and 5 other predators. You know that? 6 MR. RATCLIFFE: Well, he doesn't know 7 what Mr. Wilkinson said. 8 BY MR. LISUS: 9 653 Q. You were speaking with 10 Mr. Wilkinson during the process; right? I presume 11 he told you that? 12 A. I don't recall him saying that. I 13 do know that there was -- we talked about risk 14 around -- 15 654 Q. Predation? 16 A. No, not predation, but dispatching 17 of animals. 18 655 Q. I want to tell you what 19 Mr. Wilkinson said when I examined him on this and 20 ask if that refreshes your recollection of what he 21 was telling you and Mr. McMeekin. 22 Q. "Well, the reason I ask the 23 question, sir, is because the 24 interim report says the panel has 25 also spoken with experts who advise</p>	<p>1 panel was concerned that some horse 2 owners would be so traumatized by 3 the prospect of having to kill their 4 horses that they wouldn't -- they 5 wouldn't be able to care for them 6 properly, and you would have a mass 7 of horses in distress from 8 inadequate care and feeding? 9 A. That or released into the wild. 10 I remember that also where they 11 would be subject to predation by 12 wolves and things. Yeah, it was 13 terrible. Terrible." 14 Do you remember Mr. Wilkinson informing you and 15 Mr. McMeekin of that in the summer of 2012? 16 A. The first part. I don't remember 17 the predation, but the rest, words to that effect, 18 yes. 19 657 Q. So in order to prevent that, why 20 isn't the government making more than \$50 million 21 over three years available when it was known that 22 that kind of funding would not prevent this sort of 23 catastrophe? 24 MR. RATCLIFFE: Are you able to speak 25 for the government or just what you know?</p>

Page 150	<p>1 THE WITNESS: All I know is what I 2 know. I don't know why they made those decisions. 3 I know that the \$50 million was largely directed 4 towards managing those kinds of impacts. 5 BY MR. LISUS: 6 658 Q. But you knew as well that it 7 wouldn't prevent them? 8 A. Yes. I didn't make those 9 decisions. 10 659 Q. Sir, are you aware of how SARP 11 worked, how the flow of funds worked? 12 A. The general outlines, yes. 13 660 Q. How did you understand it worked? 14 A. So I came to understand that over, 15 you know, subsequent years. So my understanding is 16 it was a percentage of slots that went to the 17 racetrack, the -- 18 661 Q. Percentage of slot revenue? 19 A. Slot revenue to the racetrack, the 20 purses, the horsemen, and the municipalities. 21 662 Q. Where did the revenue come from? 22 A. My understanding is from the slot 23 revenues. 24 663 Q. Where did the slot revenues come 25 from?</p>	Page 152	<p>1 didn't know the specific contractual arrangements. 2 BY MR. LISUS: 3 669 Q. It's not taxpayer funds; right? 4 Slot revenues were not taxpayer funds; right? 5 A. Not in the general kind of public 6 understanding, but, again, I'm not -- I don't do 7 finance. It's not my thing. 8 MR. LISUS: Do you want to take a brief 9 break? 10 MR. RATCLIFFE: Sure. 11 -- Recess at 2:11 p.m. -- 12 -- Upon resuming at 2:26 p.m. -- 13 BY MR. LISUS: 14 670 Q. I want to show you a document 15 which is an email and a background briefing note. 16 We're now in late September 2012. And Mr. McLean 17 is sending to you something from the Cabinet 18 office, it appears. 19 "FYI - Cabinet office request - 20 horse racing. 21 FYI - staff prepared the attached 22 overview/background at the request 23 of Cabinet office in preparation for 24 potential Cabinet meeting next week 25 on the topic."</p>
Page 151	<p>1 A. Customers that are gambling. 2 664 Q. It did not come from the 3 consolidated revenue fund; right? 4 A. Correct. 5 665 Q. There was no transfer agreement -- 6 transfer payment arrangement in effect with respect 7 to the revenue from slots at racetrack; right? 8 A. I don't know the specific 9 agreements between -- 10 666 Q. Are you aware how the OLG 11 accounted for the slot revenue on its financial 12 statements? 13 A. No. 14 667 Q. Are you aware that it was an 15 operating expense in the nature of a commission 16 incurred to raise revenue? 17 A. I do not. 18 668 Q. Are you aware that there was no 19 transfer agreement instrument of any kind governing 20 Slots at Racetrack? 21 MR. RATCLIFFE: He said he isn't 22 familiar with how it operated. 23 MR. LISUS: He said he became familiar. 24 MR. RATCLIFFE: Not for this piece. 25 THE WITNESS: General outlines. I</p>	Page 153	<p>1 Right? 2 A. Mm-hm. Yes. 3 671 Q. Now, do you remember what's going 4 on here? 5 A. Bobby is talking about the change 6 to last bullet, page 3. 7 672 Q. Well, it appears that OMAFRA is 8 going to Cabinet to get more money; right? So the 9 background summarizes the panel's interim findings. 10 It's got potential recommendations. It's got next 11 steps, et cetera; right? 12 A. Yes. 13 673 Q. Okay. So just explain to me, sir, 14 briefly what this document is. It's obviously 15 composed for the purposes of a submission to 16 Cabinet. 17 A. Okay. This is a standard 18 Information Note that the ministry generates. 19 674 Q. Standard Information Note that the 20 ministry generates? 21 A. Yes. 22 675 Q. Your ministry? 23 A. OMAFRA, yes. 24 676 Q. For the purposes of? 25 A. There would be many purposes.</p>

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<p>1 677 Q. In this case. 2 A. Well, it appears in preparation 3 for a Cabinet meeting, but -- 4 678 Q. Go on. 5 A. I'm just -- I'm not sure because 6 without that reference, I wouldn't be able to tell 7 necessarily without reading this pretty carefully. 8 679 Q. Well, if we look at -- let's just 9 talk about this for a second formulaically. This 10 is an Information Note for Cabinet's purpose; 11 right? 12 A. Yeah. Yes, it appears that way. 13 680 Q. That's what it's called, 14 Information Note? 15 A. Yes. 16 681 Q. Okay. And it's composed by the 17 ministry for the purposes of briefing Cabinet on 18 the current situation? 19 A. No, I don't think that's true. 20 682 Q. Okay. 21 A. This would appear -- so these 22 Information Notes -- and this is on the status of 23 Horse Racing Industry Transition Panel. These 24 would be generally developed for requests for 25 information, so what's the status of the panel.</p>	<p>1 request," and then it says "horse racing 2 background, Cabinet office, CO"? That's what CO 3 means, Cabinet office; right? 4 A. Yes. 5 690 Q. It says: 6 "Horse racing background for 7 Cabinet office, 2012 09 28 - 8 Final.doc." 9 That's why I'm asking you, Mr. Keegan. It appears 10 that this Information Note is prepared for the 11 purposes of the ministry, your ministry, going to 12 Cabinet. 13 MR. RATCLIFFE: Do you know why this 14 was prepared? 15 THE WITNESS: I don't know why this was 16 prepared. It does appear they shared it with 17 Cabinet office. 18 BY MR. LISUS: 19 691 Q. Right. That's what I'm getting 20 at. 21 A. Yes. 22 692 Q. And you were on the sequence; 23 right? Like, it begins with Mr. McLean telling you 24 and others at OMAFRA that staff prepared the 25 attached overview background at the request of</p>
<p>1 They may have used this as a way to -- 2 683 Q. Who's "they"? 3 A. The ministry. 4 684 Q. Your ministry? 5 A. Our ministry, yes, is generating 6 this. It's not for Cabinet. It might be for the 7 minister in preparation for Cabinet. 8 685 Q. Got it. 9 A. But this wouldn't go beyond 10 OMAFRA. 11 686 Q. Got it. So this is for the use of 12 the ministry if someone who needs to know says to 13 the ministry, "What's the status of the horse 14 racing file?" 15 A. Correct. 16 687 Q. Okay. They could have this as a 17 resource to answer questions like that from Cabinet 18 or Premier's office or whoever? 19 A. Correct. 20 688 Q. All right. So it's the best 21 current encapsulation of the status of the horse 22 racing file? 23 A. At that point in time, yes. 24 689 Q. All right. But why does the 25 subject line say "Cabinet office request, CO</p>	<p>1 Cabinet office -- 2 A. Yes. 3 693 Q. -- in preparation for potential 4 Cabinet meeting next week on the topic? 5 A. Yes. 6 694 Q. So can you and I agree, sir, 7 having looked at this more closely that the 8 Information Note is prepared, as the email says, by 9 OMAFRA for the purposes of giving Cabinet an update 10 at a potential Cabinet meeting on the status of the 11 Horse Racing Industry Transition Panel? 12 A. Cabinet office, yes. 13 695 Q. Okay. In preparation for a 14 potential Cabinet meeting? 15 A. Yes. 16 696 Q. All right. And then on page 1, 17 Current Situation, the last bullet, it says: 18 "The horse racing breeding 19 industry is extremely vulnerable 20 without clarity on government 21 direction." 22 Do you see that? 23 A. Yes. 24 697 Q. Okay. And that was accurate; 25 right?</p>

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1	A. Yes.	1	welfare issues and the anxiety from those dealing
2 698	Q. Okay.	2	with that. So I think that's what that's about.
3	MR. LISUS: That's the next exhibit,	3 709	Q. So the 28 million was a separate
4	the email and the Information Note.	4	sum of money to deal with the fallout from
5	MR. MATTHEWS: Which is CRE241356 and	5	euthanization and the emotional consequences of it?
6	its attachment, 57. Exhibit 13.	6	A. No. My understand -- my
7	EXHIBIT NO. 13: CRE0241356 and	7	recollection of this is that McKinsey had some kind
8	CRE0241357.	8	of analysis. The 50 million was around dealing
9	BY MR. LISUS:	9	with those, as we talked about earlier.
10 699	Q. So that is September 28, and now I	10 710	Q. All right. And then it says:
11	am showing you an email that is amongst Finance and	11	"We wrote for Michael Keegan a
12	Premier's office folks on October 1, a few days	12	synopsis where we're at."
13	after.	13	Do you know what that's a reference to?
14	A. Okay.	14	A. So this is October of 2012, so
15 700	Q. All right. Now, you smiled when I	15	this is as we're trying to make the case to go to
16	gave you this. You have a recollection of this?	16	the 300 million.
17	A. I mostly listened.	17 711	Q. Got it.
18 701	Q. Okay.	18	A. Yes.
19	A. That would be consistent with my	19 712	Q. What is also contained in this
20	experiences.	20	October email is a statement that says:
21 702	Q. With Mr. Bardeesy?	21	"Standardbred auction was
22	A. With Mr. Wilkinson.	22	cancelled because there are no
23 703	Q. Because he's very voluble?	23	buyers. Another market indicator
24	A. Yes.	24	that there won't be a soft landing."
25 704	Q. I spent a couple days with him. I	25	Right?
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1	know the feeling.	1	A. Yes.
2	In the middle of this email, there's a	2 713	Q. Okay. Were you aware that the
3	reference to:	3	standardbred auction was cancelled in the fall of
4	"Empower someone (Minister	4	2012?
5	McMeekin) to quickly negotiate	5	A. This reminded me of that.
6	components; then you'll know what it	6 714	Q. And you recall, sir, a few moments
7	costs and if it'll be successful."	7	ago we saw that email in which the author is saying
8	Do you see that reference?	8	that the industry desperately needs a statement
9	A. Yes.	9	from the government prior to the standardbred sale
10 705	Q. And do you understand it?	10	this weekend, September 10, 2012; right?
11	A. Not really.	11	A. Yes.
12 706	Q. Okay. Do you see where he says:	12 715	Q. And obviously a statement from the
13	"Deal with job losses and dead	13	government didn't come?
14	horses."	14	A. It would appear that way.
15	Next sentence.	15 716	Q. And the standardbred auction was
16	A. Yes.	16	cancelled because there were no buyers?
17 707	Q. "McKinsey set aside \$28 million to	17	A. Yes.
18	deal with the horses."	18 717	Q. So you understood, sir, that at
19	A. Yes.	19	this point in time, there's a foal crop that's been
20 708	Q. "Politically, it's suicidal."	20	bred in reliance on the continuation of SARP
21	Can you explain that to me?	21	revenue share; right?
22	A. Well, these are John's -- these	22	A. Yes.
23	are quotes from John. So John is talking about,	23 718	Q. And that foal crop is the product
24	I guess, the original transition amount, as we	24	of a five-year breeding cycle?
25	talked about earlier, to deal with the animal	25	A. Yes.

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<p>1 719 Q. And there's five years, as one of 2 the documents said, of SARP-incented breeding in 3 the pipeline; right? You understood that? 4 A. Yes. 5 720 Q. And the standardbred breeders are 6 telling the government that it's urgent that it 7 make a statement in advance of the auction that 8 there will be support for the industry or there 9 won't be any market for these horses; right? 10 A. So Sue Leslie said that as, I 11 assume, head of OHRIA. And not standardbred 12 breeders specifically. She's not -- 13 721 Q. You didn't believe her? 14 MR. RATCLIFFE: I don't think that's 15 what he said. 16 BY MR. LISUS: 17 722 Q. Did you believe her? 18 A. Of course I believed her. 19 723 Q. And we know what happened to the 20 auction in the absence of the statement. It was 21 cancelled; right? 22 A. It may have been cancelled even 23 with a statement. There was significant pressure 24 on the breeding sector at that moment, yes. 25 724 Q. So you got a lot of horses without</p>	<p>1 desperate? 2 A. Yes, they were. 3 729 Q. Do you think that's fair to 4 bargain that way with an industry that's desperate 5 as a result of a decision imposed without any 6 analysis or understanding of the consequences? 7 MR. RATCLIFFE: Are you in a position 8 to answer that? 9 THE WITNESS: I don't know about fair. 10 That was not my objective. My objective was to do 11 everything that I could to try and right the 12 industry. 13 BY MR. LISUS: 14 730 Q. Do you think that's dealing in 15 good faith? 16 A. I certainly was. 17 731 Q. That's as far as you can go on 18 that? 19 A. It's the only thing I know for 20 certain. 21 MR. LISUS: That's the next exhibit. 22 MR. MATTHEWS: So Exhibit 26 to 23 Mr. Bardeesy's examination is going to become 24 Exhibit 14 to Mr. Keegan's examination. 25 EXHIBIT NO. 14: CRE0560559.</p>
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<p>1 a market, right, because the government hasn't 2 announced a plan; fair? 3 A. Well, that and the significant 4 changes to the market, yes. 5 725 Q. Okay. And Mr. Bardeesy continues 6 on to say: 7 "We've come back with an upper 8 cost of 300 million, but we're also 9 quite confident that you can 10 negotiate a lower price." 11 Do you see that? 12 A. Yeah. I think that's another 13 Wilkinson quote. 14 726 Q. Right. And when I examined 15 Mr. Wilkinson, he said he told government that they 16 could negotiate a lot less than 300 million because 17 there was significant leverage; right? 18 MR. RATCLIFFE: Well, he doesn't know 19 what Mr. Wilkinson said. 20 BY MR. LISUS: 21 727 Q. Take my word for it, Mr. Keegan. 22 A. Sure. 23 728 Q. There was significant leverage in 24 the government at this point with respect to the 25 industry, wasn't there? The industry was</p>	<p>1 BY MR. LISUS: 2 732 Q. And I take it, sir, that you were 3 getting pretty concerned about what was going on; 4 right? 5 A. We could see a line. 6 733 Q. You're making an indication of a 7 downward line? 8 A. Sorry. Yes. 9 734 Q. Right? 10 A. Yes. 11 735 Q. And you say "we." That's you and 12 Mr. McMeekin? 13 A. And the panel. 14 736 Q. What you are indicating is that 15 you could see a downward spiral leading to 16 catastrophe as you've used that word; right? 17 A. That was certainly a risk we were 18 very concerned about. 19 737 Q. It was more than a risk. It was a 20 likelihood at this point; right? 21 A. Again, the indicators were 22 pointing in that direction. 23 738 Q. Okay. I want to show you the next 24 document, which is 32651. It attaches that 25 document. This is an email from you, sir, to</p>

<p style="text-align: right;">Page 166</p> <p>1 Dave Gene, Tim Shortill, Brian Teefy, and 2 Karim Bardeesy. These are folks in the Premier's 3 office; right? 4 A. Yes. 5 739 Q. Except Shortill? 6 A. Yes. Sorry. Shortill is the 7 Ministry of Finance. 8 740 Q. And you were sending this to them 9 to try and get them to act and provide the funds 10 necessary to prevent a catastrophic outcome; right? 11 A. Yeah. As I said before, we were 12 putting forward what we -- our best advice on how 13 to get -- how to right the industry. 14 741 Q. And you wanted to get up to 15 300 million; right? 16 A. Yeah, that's -- I think that's the 17 language we landed on. 18 742 Q. What the panel -- and you're 19 passing on the panel's comments; right? 20 A. Yes. 21 743 Q. And what the panel says: 22 "The horse racing industry, 23 after six months of uncertainty, is 24 beginning to rapidly unravel." 25 Right?</p>	<p style="text-align: right;">Page 168</p> <p>1 for the industry, the fall of 2012; right? 2 A. Well, I think they were all 3 critical junctures. They were making decisions 4 throughout this period. 5 751 Q. At this stage, as I read these 6 comments from the horse racing industry panel, 7 second sentence, it says: 8 "At this critical juncture." 9 Do you see that? 10 A. Yes. 11 752 Q. And what I take from that is the 12 industry is on the verge of collapse? 13 A. Yes. 14 753 Q. And that critical juncture with 15 the industry on the verge of collapse, the panel is 16 telling the government it has optimal leverage; 17 right? 18 A. Optimal leverage for -- 19 754 Q. To achieve a vibrant, sustainable 20 industry that will maintain jobs and avoid horse 21 euthanasia; right? 22 A. Yes. 23 755 Q. And the next paragraph, middle, it 24 says: 25 "Critically, a negotiating</p>
<p style="text-align: right;">Page 167</p> <p>1 A. Yes. 2 744 Q. And that rapid unravelling 3 included the cancellation of auctions and the 4 dramatic loss of value of foal crops; right? 5 A. Yes. 6 745 Q. It included the loss of investment 7 in breeding farms and operations? 8 A. Yes. 9 746 Q. It included the potential for mass 10 euthanization of horses? 11 A. Yes. 12 747 Q. And it included the potential for 13 serious emotional harm, including suicide of owners 14 and veterinarians? 15 A. Yes. 16 748 Q. And it also included cancellation 17 of stallion bookings? 18 A. I don't know. 19 749 Q. And you knew that the industry was 20 desperate at this point, as did Finance? 21 MR. RATCLIFFE: Well, I think you've 22 already asked that question, and he's answered it a 23 number of times, Mr. Lisus. 24 BY MR. LISUS: 25 750 Q. And this was a critical juncture</p>	<p style="text-align: right;">Page 169</p> <p>1 mandate of not more than 2 \$300 million over the next three 3 years is required. We strongly urge 4 this figure not be publicly 5 disclosed since the panel is of the 6 opinion that a substantially better 7 deal is possible, but only with 8 maximum leverage applied." 9 Do you see that? 10 A. Yes. 11 756 Q. So you and I can agree, sir, that 12 we have the industry on the verge of collapse; 13 right? 14 A. Yes. 15 757 Q. We have auctions cancelled; right? 16 A. The standardbred, yes. 17 758 Q. We have horse breeders in fear of 18 the loss of their livelihoods? 19 A. Yes. 20 759 Q. And the destruction of their 21 horses? 22 A. Yes. 23 760 Q. We have Finance refusing to 24 support funding beyond 50 million over three years; 25 right?</p>

<p style="text-align: right;">Page 170</p> <p>1 A. Well, I'm not sure they refused 2 because I believe we did get that. 3 761 Q. Ultimately you did. 4 A. But we had work to do to change 5 their minds on that, yes. 6 762 Q. Excuse me, I said beyond 7 50 million over three years. Finance was not 8 supportive of funding beyond 50 million over three 9 years at this point? 10 A. At this point. 11 763 Q. Right. And as you told me, 12 50 million over three years would not prevent 13 catastrophe? 14 A. It would manage it, yes. 15 764 Q. Pardon? 16 A. It would manage it, the 17 catastrophe, yes. 18 765 Q. There would still be a catastrophe 19 with 50 million over three years. 20 MR. RATCLIFFE: Well, Mr. Lisus, 21 I think you've asked the same question multiple 22 times. 23 MR. LISUS: That's why I didn't 24 understand the answer, manage the catastrophe. 25 THE WITNESS: Well, provide supports</p>	<p style="text-align: right;">Page 172</p> <p>1 question? 2 MR. RATCLIFFE: Do you know the answer? 3 BY MR. LISUS: 4 770 Q. Have you? 5 A. Have I seen other industries? I 6 have dealt with claims of catastrophe by 7 agriculture sectors over the years, yes. 8 771 Q. And you dealt with them 9 efficiently and quickly? 10 A. We were provided a mandate and 11 asked to leverage maximum outcome with least amount 12 of investment, yes. 13 772 Q. Okay. It was pretty clear to you, 14 however, in the fall of 2012 that the government or 15 whoever made this decision hadn't made a thoughtful 16 choice in February 2012? 17 MR. RATCLIFFE: Are you going to refer 18 him to the memo that you're looking at? 19 MR. LISUS: I'm not looking at a memo. 20 BY MR. LISUS: 21 773 Q. It was pretty clear to you, sir, 22 having regard to the facts we've just discussed in 23 the fall of 2012, that whoever made this decision 24 had not made a thoughtful choice? 25 A. As I've said, we were very</p>
<p style="text-align: right;">Page 171</p> <p>1 through that catastrophic rationalization, yes. 2 BY MR. LISUS: 3 766 Q. Okay. But not prevent it. 4 And government is being told don't 5 disclose 300 million publically because a deal 6 could be done for less because of the dire straits 7 that the industry was in; right? 8 A. So I know that that was part of 9 that opinion, yes. 10 767 Q. Pretty hard bargaining, if you can 11 even call it bargaining; right? 12 A. I suppose, but at that point, the 13 industry needed -- to right the industry, we needed 14 more than 50 million. Like every other sector, the 15 government was not interested in putting more money 16 than what was required. So every -- every 17 negotiation gets a mandate. 18 768 Q. Was every other sector on the 19 verge of a catastrophe? 20 A. There are other sectors, yes. 21 769 Q. I haven't seen any other sector 22 referred to in the 80,000 or so documents that we 23 produced that was on the verge of a catastrophe as 24 a result of the budget. 25 A. Of this budget? Is that a</p>	<p style="text-align: right;">Page 173</p> <p>1 concerned about the implications of that decision 2 and tried to modify that, yes. 3 774 Q. And your boss, Kathleen Wynne, 4 subsequently said on the record that the decision 5 wasn't made thoughtfully, didn't she? 6 A. Probably words to that effect, 7 yeah. 8 775 Q. And Mr. McMeekin said the 9 government dropped the ball with its decision in 10 February 2012; right? 11 A. Probably words to that effect, 12 yes. 13 776 Q. That was your view as well; fair? 14 A. Yeah, again, my view was that 15 there were -- the implications of that decision 16 were not well managed, and we needed to change the 17 trajectory of that. 18 777 Q. Or well thought out? 19 A. Again, I don't know. I wasn't 20 part of that decision. 21 778 Q. Right. So that final report and 22 synopsis, that synopsis becomes a final version. 23 I'm going to show you the copy, Mr. Keegan. It's 24 Exhibit 25 to the examination of John Wilkinson. 25 MR. LISUS: I'm going to mark the prior</p>

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1 one as the next exhibit in sequence. But here's
2 the final one. I believe it's the same.
3 MR. MATTHEWS: Exhibit 15 is CRE32651
4 and its attachment, 652.
5 EXHIBIT NO. 15: CRE0032651 and
6 CRE0032652.
7 BY MR. LISUS:
8 779 Q. Were you responsible for
9 negotiating payments to racetracks?
10 A. No.
11 780 Q. I understand that there were three
12 forms of payments to racetracks. One was payment
13 in the nature of a capital payment for investments
14 that had been made by racetracks. Do you know
15 that?
16 MR. RATCLIFFE: Well, I think he said
17 he wasn't responsible for that area.
18 THE WITNESS: Yeah, I wasn't involved.
19 BY MR. LISUS:
20 781 Q. Were you involved in 2014 with
21 respect to breeders' rewards?
22 A. I knew -- yeah, so that was part
23 of the -- part of the panel's recommendation -- or
24 maybe it was actually Snobelen's recommendation to
25 bring another level of confidence into the

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1 investment in the breeding sector.
2 782 Q. Were you involved in the decision
3 to withhold breeders' rewards from standardbred
4 breeders when they commenced litigation in March
5 2014?
6 A. I was no longer in government in
7 March 2014.
8 783 Q. You left around Valentine's Day,
9 February 2014; right?
10 A. That was my last day.
11 784 Q. So were you involved at all in the
12 decision to withhold from standardbred breeders the
13 receipt of breeders' rewards because they
14 communicated their intention to commence this
15 action in Superior Court?
16 A. I know that the threat or the
17 reality of that litigation made those conversations
18 very difficult. There was a directive at that time
19 that prohibited political staff from engaging in
20 any conversations.
21 785 Q. I'm not asking about a
22 conversation, Mr. Keegan. We know that in the
23 spring of 2014, breeders' rewards were authorized
24 for quarter horse breeders; right?
25 A. Yeah, I wasn't there.

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1 786 Q. Okay. Are you aware that
2 breeders' rewards were authorized for quarter horse
3 breeders before you left government?
4 A. I knew that the three breeds -- we
5 were looking at options for all three breeds for --
6 787 Q. Right. And who instructed the
7 withholding of breeders' rewards from standardbred
8 breeders because they said they were going to
9 court?
10 A. I'm not aware of anyone telling
11 them to withhold them. I do know that there was
12 reluctance to talk with standardbred in the threat
13 or the reality of litigation.
14 788 Q. Are you aware that breeders'
15 rewards were withheld from standardbred breeders
16 but not thoroughbred breeders and quarter horse
17 breeders in Q1 2014 and Q2 2014?
18 MR. RATCLIFFE: Were you there when
19 that was done?
20 BY MR. LISUS:
21 789 Q. You were there in Q1 2014?
22 A. I wasn't there in -- well, for the
23 first part of it, yes.
24 790 Q. So are you aware that breeders'
25 rewards were withheld from standardbred breeders

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1 but not thoroughbred, quarter horse breeders?
2 A. I became aware of that
3 subsequently.
4 791 Q. How did you become aware of it?
5 A. I was -- I don't remember how I
6 found that out. It might have been in
7 conversations with -- it was in conversation with
8 people who were still in government.
9 792 Q. Mr. Snobelen?
10 A. Potentially. I really don't
11 remember who told me.
12 793 Q. And whose decision was it to
13 withhold those rewards from standardbred breeders?
14 A. I don't know. I wasn't part of
15 that decision.
16 794 Q. Who would know?
17 A. Cabinet.
18 795 Q. You think it was Cabinet who
19 issued that direction?
20 A. Well, any -- or Treasury Board
21 because if it was money that was in excess of
22 anything that had been already approved --
23 796 Q. It was approved, sir. It was just
24 withheld.
25 MR. RATCLIFFE: Well, Mr. Keegan

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1 started to tell you about a policy document that
2 addresses those issues where there's litigation.
3 BY MR. LISUS:
4 797 Q. Tell me about that policy
5 document.
6 A. It was a directive instructing
7 political staff not to engage in any discussions
8 with outside organizations or individuals that had
9 a potential for liability. This was directly out
10 of the gas plant scandal, I guess you'd call it.
11 798 Q. Can I see that directive, please,
12 Mr. Ratcliffe?
13 U/T MR. RATCLIFFE: I'll see if we can find
14 that for you.
15 MR. LISUS: Thank you.
16 BY MR. LISUS:
17 799 Q. But I don't understand you to be
18 telling me that breeders' rewards were withheld
19 from standardbred breeders but not thoroughbred or
20 quarter horse breeders because of that directive.
21 A. Yeah, so that required me to not
22 be involved in those conversations.
23 800 Q. Okay. That precluded you from
24 being involved in the discussion?
25 A. Correct.

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1 801 Q. But the directive didn't preclude
2 the payment of the breeders' rewards?
3 A. Not necessarily.
4 802 Q. Okay.
5 A. It made those discussions more
6 difficult.
7 803 Q. I understand. I'm not interested
8 in the discussions. I'm just interested in the
9 fact that breeders' rewards were paid to
10 thoroughbred and quarter horse but withheld from
11 standardbred. Okay?
12 A. Yeah.
13 804 Q. You became aware that that
14 occurred?
15 A. Yes.
16 805 Q. And your belief is that that
17 directive came from either Cabinet or Treasury
18 Board; right?
19 A. Yes. I don't know.
20 806 Q. Okay. Who was the head of
21 Treasury Board in Q1, Q2 '14?
22 A. I'd have to look that up.
23 807 Q. Where would you look? Just on the
24 internet?
25 A. Yeah, I would do a Google search.

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1 It might even be in some of these documents.
2 808 Q. What is the title of the head of
3 the Treasury Board?
4 A. President.
5 809 Q. President. So if I want to find
6 out who the head of the Treasury Board was in Q1
7 2014, I should look at who the president --
8 MR. RATCLIFFE: I think Mr. Keegan went
9 on to say he didn't know. He threw that out as a
10 possibility.
11 MR. LISUS: I'm trying to help him
12 by --
13 MR. RATCLIFFE: But he did indicate
14 that he didn't know who made the decision.
15 MR. LISUS: Understood.
16 BY MR. LISUS:
17 810 Q. Was Deborah Matthews the president
18 of the Treasury Board in Q1 2014?
19 A. Could have been.
20 811 Q. Was she also Deputy Premier?
21 A. I believe so.
22 812 Q. Is she still in Cabinet?
23 MR. RATCLIFFE: If you don't know --
24 THE WITNESS: I don't know.
25 BY MR. LISUS:

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1 813 Q. And Treasury Board would have had
2 to approve the payment of those breeders' rewards;
3 right?
4 A. Again, I --
5 MR. RATCLIFFE: Do you know?
6 THE WITNESS: All I know is the
7 process. There are requirements depending on how
8 approvals are done.
9 BY MR. LISUS:
10 814 Q. So, Mr. Ratcliffe, would you
11 please, if you don't know, inform yourself who
12 directed the withholding of the breeders' rewards
13 from the standardbred breeders in 2014?
14 MR. RATCLIFFE: I'll take your request
15 under advisement.
16 MR. LISUS: Because I asked
17 Mr. Wilkinson, and he didn't know. I asked
18 Mr. Snobelen; he didn't know. Mr. Keegan, who
19 seems to have had responsibility at OMAFRA, doesn't
20 know. So it might be the same person who
21 authorized the attack ads, but I'd like you to find
22 out and let me know, please.
23 U/A MR. RATCLIFFE: Well, I've indicated I
24 will take your request under advisement.
25 MR. LISUS: Next exhibit.

<p style="text-align: right;">Page 182</p> <p>1 MR. MATTHEWS: So Exhibit 25 to 2 Mr. Wilkinson's examination will be Exhibit 16. 3 EXHIBIT NO. 16: CRE0230200 and 4 CRE0230201. 5 BY MR. LISUS: 6 815 Q. I want to show you CRE235625. 7 This is a deck I'm going to show you, sir, prepared 8 by OMAFRA for a Cabinet submission for October 9 2017. 10 A. '17? 11 816 Q. Excuse me. October 17, 2012. It 12 appears to be a deck to be submitted on behalf of 13 the minister and deputy minister. Minister in 14 October 2012 is McMeekin. Who's the deputy? 15 Hagerty? 16 A. No. Probably Karen Chen acting. 17 817 Q. Right. So if we just take a look 18 at the deck here -- and before we do, we see that 19 this is a meeting invite or notice to go over this 20 deck for purposes of a minister briefing on horse 21 racing. You're on the email. Seems to be all 22 OMAFRA folks. 23 A. Right. So this is a briefing for 24 ministry officials, OPS and political, set up by 25 the deputy minister's office.</p>	<p style="text-align: right;">Page 184</p> <p>1 resulting in lost revenue to horse 2 breeders." 3 Do you see that? 4 A. Yes. 5 820 Q. And if you go to Slide 6, second 6 hashmark under paragraph 1: 7 "Breeders - financial losses 8 for breeding operation whose 9 year-to-date sales have been 20 to 10 50 percent below last year's 11 averages." 12 Right? 13 A. Yes. 14 821 Q. At the same time, OMAFRA is -- is 15 OMAFRA working on securing new lease arrangements 16 with tracks for slots? 17 A. No. 18 822 Q. Okay. I want to ask you about 19 Slide 7. It says: 20 "OLG is working to secure 21 leases at 14 racetracks. The leases 22 would be calculated on commercial 23 terms rather than on a percentage of 24 slots revenues. The payments could 25 exceed simple commercial rent since</p>
<p style="text-align: right;">Page 183</p> <p>1 818 Q. Okay. And it appears to be for 2 the purposes of OMAFRA going to Cabinet and asking 3 for more money to prevent the catastrophe that you 4 were concerned about; right? 5 A. Yeah, so this is additional 6 funding. 7 819 Q. Right. If we look at the second 8 slide in the deck, it gives the context, and if you 9 go to the third slide under the heading "Need For 10 Action." And we're now mid-October. And it says, 11 second point: 12 "The 2013 racing schedule needs 13 to be established. 14 Breeding investment and other 15 business decisions must be made 16 before year-end. 17 Any delay in this decision runs a 18 serious risk of the industry 19 reaching a tipping point beyond 20 which it will be very difficult to 21 recover from. 22 Industry contraction has already 23 begun. Due to the current 24 uncertainty in the industry, fall 25 yearling sales have been weak</p>	<p style="text-align: right;">Page 185</p> <p>1 OLG wants to avoid business 2 disruption or relocation costs." 3 Do you see that? 4 A. Yes. 5 823 Q. I understand, sir, from the review 6 of the documents, there were three kinds of 7 payments made to racetracks. One was payments in 8 the form of rent payments and new leases? 9 A. That's what this refers to, yes. 10 824 Q. Another was a payment in the terms 11 of one-time capital payments for compensation for 12 slot-related buildings. Do you know that to be the 13 case? 14 A. I was not involved in those, but 15 I think that was George and others. I was not 16 involved in those. I don't know the terms of that 17 at all. 18 825 Q. Who was? Was it OLG who conducted 19 those negotiations? 20 A. OLG or Finance. 21 826 Q. Okay. And then another bucket of 22 payments made to tracks was transition funds to 23 compensate for the loss of horse racing from the 24 horse racing partnership plan. Do you understand 25 that?</p>

<p style="text-align: right;">Page 186</p> <p>1 A. Those were the transfer payment 2 agreements to support -- 3 827 Q. Yes. 4 A. Yes. 5 828 Q. Was OMAFRA involved in those 6 transfer payment agreements? 7 A. Yes. 8 829 Q. Okay. And were you involved in 9 negotiating those? 10 A. No. 11 830 Q. Who was? 12 A. The civil servants. 13 831 Q. Okay. 14 A. And maybe the panel as support, 15 but definitely the civil service. 16 832 Q. Okay. And none of those payments 17 were contemplated by the modernization plan, 18 correct, in February 2012? 19 A. Not to my understanding. You mean 20 the transfer payment agreements? 21 833 Q. Yes. 22 A. Yeah. 23 834 Q. Or the transition funds from the 24 horse racing partnership plan, right, were not 25 contemplated by the modernization plan?</p>	<p style="text-align: right;">Page 188</p> <p>1 one point, OLG was thinking about putting slot 2 machines in tents? 3 A. Yes. 4 841 Q. And he thought that was a pretty 5 silly proposition? 6 A. He did. 7 842 Q. I presume the rest of the panel 8 did as well? 9 A. They didn't think -- yes, that's 10 true. 11 843 Q. As did you and Mr. McMeekin? 12 A. Yes. 13 844 Q. As do I, sir. 14 MR. LISUS: That deck is the next 15 exhibit. 16 MR. MATTHEWS: That's Exhibit 17, 17 CRE235625 and 626 as well as 628 and 627. 18 EXHIBIT NO. 17: CRE0235625 to 19 CRE0235628. 20 BY MR. LISUS: 21 845 Q. Who were you communicating with at 22 Treasury Board in the fall of 2012? 23 A. Fall of 2012? I would normally 24 communicate with Finance, so probably Tim Shortill, 25 Blair Stransky --</p>
<p style="text-align: right;">Page 187</p> <p>1 A. Well, as you said, there was 2 different buckets of spending. Transfer payments, 3 no. 4 835 Q. Right. And capital assistance was 5 not contemplated either by -- 6 A. I don't know that. 7 836 Q. Okay. Now, were you aware, sir, 8 in 2012 that OLG had not done a business case for 9 the location of slot machines in urban centres? 10 A. I wasn't involved in that. 11 837 Q. Are you aware that OLG had not 12 formally approached any municipal councils to 13 determine whether they would permit a casino? 14 MR. RATCLIFFE: He said he wasn't 15 involved in that process. 16 MR. LISUS: Well, it's a different 17 question. 18 BY MR. LISUS: 19 838 Q. Did you know that? 20 A. No. 21 839 Q. Were you aware that no locations 22 had been identified for the location of OLG slot 23 machines in cities? 24 A. I did not know that at the time. 25 840 Q. Did Mr. Wilkinson tell you that at</p>	<p style="text-align: right;">Page 189</p> <p>1 846 Q. That's distinct from Treasury 2 Board? 3 A. Yeah. Premier's office. I don't 4 remember who the liaison in Treasury Board was, to 5 be honest. 6 847 Q. But you were communicating with 7 Treasury Board? 8 A. Presumably. I don't recall. 9 That -- the fall of 2012? Were they separate at 10 that time? 11 848 Q. I don't know. When you say 12 "separate," do you mean -- 13 A. There was a time when Finance and 14 Treasury Board were the same thing. 15 849 Q. I see. 16 A. That might be why I don't recall. 17 850 Q. Okay. Do you know when Treasury 18 Board was part of Finance? Were they part of 19 Finance in 2012? 20 A. I seem -- I can't recall 21 specifically, but I do recall that they were the 22 same for a period of time, and I believe they split 23 when the Premier -- when Premier Wynne became the 24 Premier. 25 851 Q. I see. Okay. So there had to be</p>

<p style="text-align: right;">Page 190</p> <p>1 Treasury Board approval for any funding in addition 2 to the 50 million over three years; right? 3 A. So the way I always thought about 4 it, Cabinet set broad policy and spending 5 parameters. Treasury Board dealt primarily with 6 in-year (ph) spending. 7 852 Q. In-year spending? 8 A. So deviations from the plan. 9 853 Q. Right. But we know that in early 10 2012, there was agreement reached that there would 11 be \$50 million paid over three years for transition 12 support; right? 13 A. Yes. 14 854 Q. And during that period, your 15 belief is that Treasury Board was part of Finance 16 because you think that it was split up when 17 Premier Wynne came in Q1 '13; right? 18 A. Yes. 19 855 Q. So any increase beyond the 20 50 million over three years would have to be 21 approved by the powers that be at Finance because 22 Treasury Board was part of Finance? 23 MR. RATCLIFFE: Do you know the answer 24 to that? 25 THE WITNESS: Yeah. So Treasury Board</p>	<p style="text-align: right;">Page 192</p> <p>1 BY MR. LISUS: 2 861 Q. We're in the end of October 2012, 3 Mr. Keegan. I want to just take you back to an 4 exhibit I marked earlier, which is this note that 5 Mr. McMeekin composed. 6 So having gone through with me the 7 events of the fall of 2012, which appear to have 8 been directed to getting additional funding out of 9 Cabinet, does that assist you in remembering the 10 context for this note that Mr. McMeekin composed? 11 Was he preparing to make comments at Cabinet to try 12 and get some additional funding or -- 13 A. No. I mean, I don't know. I -- 14 this is -- this looks like Ted just getting his 15 thoughts together to be able to speak to this. 16 This file was moving very quickly, 17 particularly through this period of time. So this 18 is likely Ted just making sure he's got the story 19 straight in his own mind, the narrative. 20 862 Q. Okay. 21 MR. MATTHEWS: Just for the record, the 22 witness had Exhibit 4. 23 BY MR. LISUS: 24 863 Q. CRE235354, were you aware that 25 there were efforts ongoing to negotiate agreements</p>
<p style="text-align: right;">Page 191</p> <p>1 is a separate -- a separate body and accountability 2 than Finance. The minister would have acted as 3 minister and Treasury Board of Finance, but they're 4 separate roles. 5 BY MR. LISUS: 6 856 Q. Got it, but if you go up to the 7 top of the chain, the Finance minister prior to 8 Minister Wynne separating the function out of 9 Finance; right? 10 A. I believe that's the case. 11 857 Q. And that's Minister Duncan; right? 12 Yes? 13 A. Yes. 14 858 Q. The guy who made the decision to 15 begin with; right? 16 A. Yes. 17 859 Q. Along with his advisors, 18 Mr. Shortill and Stransky; right? 19 A. Yes. He may have had different 20 advisors for Treasury Board. 21 860 Q. Okay. That's helpful. Thank you. 22 MR. LISUS: Take a break. 23 MR. RATCLIFFE: Sure. 24 -- Recess at 3:17 p.m. -- 25 -- Upon resuming at 3:28 p.m. --</p>	<p style="text-align: right;">Page 193</p> <p>1 with tracks so that they would continue to offer 2 live horse racing which they wouldn't otherwise 3 without slot machines? 4 A. Can you repeat that question? 5 864 Q. I'll break it down differently for 6 you. You were aware that the decision made by 7 Finance in 2012 included cancelling the siteholder 8 agreements with racetracks; right? 9 A. What are the siteholder 10 agreements? 11 865 Q. Siteholder agreements were the 12 agreements pursuant to which slot machines were 13 installed in racetracks and the revenue from them 14 was shared between the OLG, the racetracks, and 15 horse people. 16 A. And municipalities. 17 866 Q. And the municipalities, yes. So 18 you did understand that in February 2012, as part 19 of the implementation of the modernization plan and 20 the intention to locate slot machines elsewhere, 21 minimum notice was given under siteholder 22 agreements to cancel them? Did you know that? 23 A. No, I did not. 24 867 Q. Okay. You were aware, however, 25 that as part of the modernization plan, OLG</p>

<p style="text-align: right;">Page 194</p> <p>1 intended to take slot machines out of most of the 2 racetracks and relocate them in urban centres; 3 right? 4 A. My understanding was that there 5 was a procurement process where that would be an 6 option, but the immediate term, OLG was looking to 7 extend slot -- basically rent space to continue to 8 have slots. 9 868 Q. Because it very quickly became 10 apparent that there was nowhere to put slot 11 machines in cities, right, as we discussed a few 12 minutes ago? 13 A. Well, I mean, we saw the City of 14 Toronto and others, Hamilton and others. 15 869 Q. Say no? 16 A. City Councillors, yeah. 17 870 Q. Said no? 18 A. Yeah. So my understanding is that 19 there's still a procurement process. 20 871 Q. Right. My only point, sir, is 21 that the idea was to take slot machines out of 22 racetracks and put them in cities as part of 23 modernization; right? You knew that? 24 A. I -- 25 MR. RATCLIFFE: Did you know that?</p>	<p style="text-align: right;">Page 196</p> <p>1 keep the slot machines there because the old 2 agreements had been cancelled; right? 3 MR. RATCLIFFE: Well, Mr. Keegan said 4 he wasn't involved in that process, as I understand 5 it. 6 BY MR. LISUS: 7 877 Q. Well, the reason I'm asking you 8 this question, sir, is part of the new agreements 9 that were having to be negotiated with racetracks 10 to maintain their revenue stream from slot 11 machines, part of that exercise was to ensure that 12 live racing would continue; right? 13 A. I don't know that that was, like, 14 a requirement. 15 878 Q. Okay. Do you know that it was a 16 feature of the new agreements that there would be a 17 certain number of live racing days? 18 A. Subsequent agreements, yes. I 19 don't know that those were part of the lease 20 agreements. 21 879 Q. I understand. My only question to 22 you, sir, is that you were aware that there was a 23 need to conclude negotiations with tracks pursuant 24 to which slot machines would remain, and live 25 racing would be conducted as it was prior to</p>
<p style="text-align: right;">Page 195</p> <p>1 THE WITNESS: My understanding was that 2 there was an objective to increase revenues. 3 Movement of casinos was a possibility in that plan. 4 I'm not -- I don't know that that was a specific 5 objective on that plan. 6 BY MR. LISUS: 7 872 Q. All right. You did become aware 8 that Toronto and Hamilton and Ottawa said, "We're 9 not having slot machines." Right? 10 A. The City Councillors passed 11 resolutions, yes. 12 873 Q. Right. So the slot machines had 13 to go back to the racetracks; right? 14 A. Well, they never left. 15 874 Q. Correct. They had to stay there; 16 right? If the government wanted to get revenue 17 from them, they had to stay there with the 18 permission of the racetrack operators; right? 19 A. Presumably, yes. 20 875 Q. And as Mr. Phillips testified, all 21 of a sudden the racetrack operators had leverage; 22 right? 23 A. I wasn't involved, but presumably. 24 876 Q. The government had to set about 25 negotiating new agreements with the racetracks to</p>	<p style="text-align: right;">Page 197</p> <p>1 Finance's decision in February 2012? 2 A. So I was aware of Finance or 3 OLG -- I'm not sure which -- negotiating leases to 4 keep slots at racetracks. As to whether there was 5 a requirement in those agreements for live racing, 6 I don't know that. In fact, one of the issues that 7 came up over a period of time was whether that was 8 a requirement or not. 9 880 Q. Right. And so you were aware they 10 were negotiating leases. You were also aware that 11 they were negotiating payments that would be 12 subject to transfer payment agreements? 13 A. My understanding is those were 14 separate. 15 881 Q. I agree, separate. 16 A. Yes. 17 882 Q. And separate, again, was 18 transition payments; right? Excuse me, capital 19 assistance payments? 20 A. Yeah. Again, I -- those -- I know 21 the least about those, but I'm saying they were 22 separate. 23 883 Q. You believe that was Finance doing 24 that or OLG? 25 A. I can only assume. I don't know.</p>

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1 884 Q. Okay. CRE436762, 63, and 64.
2 This is an email sequence, and it appears to be
3 about a negotiation with Woodbine. You see that
4 you were copied on the email from Elmer Buchanan to
5 Wilkinson, Snobelen, and you?
6 A. Yes.
7 885 Q. What's going on here?
8 A. This looks like a few
9 conversations.
10 886 Q. There's an effort to negotiate an
11 agreement with Woodbine; right?
12 A. Yes. That appears to be the
13 original email.
14 887 Q. And Woodbine is not accepting the
15 numbers that are being offered to them; right?
16 A. Yeah.
17 888 Q. He says they need another
18 10 million on top of the 36 million offered; right?
19 A. Yes.
20 889 Q. What was the 36 million offered
21 for?
22 A. I'm not sure exactly. Is this --
23 it would either be -- it would either be
24 thoroughbred racing or the Standardbred Alliance or
25 perhaps both. I'd have to take several minutes to

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1 review this to be clear.
2 890 Q. Go ahead.
3 A. Okay. Well, Finance is suggesting
4 this is information sharing, but it looks like a
5 negotiation around what -- I'm not sure what's all
6 included in the 24 and 12, but that would be the --
7 I guess the two buckets of funding --
8 891 Q. The capital assistance and
9 transition funds?
10 A. Yeah.
11 892 Q. And then the lease would be
12 separate; right?
13 A. Yes.
14 893 Q. Those three buckets collectively
15 would be the new arrangement for Woodbine to keep
16 OLG slot machines there and to offer live horse
17 racing; right?
18 A. To continue to race. It looks
19 like there's significant pressure to reduce the
20 third-year funding, which they're suggesting --
21 this is the trust conversation that they need new
22 revenue streams to be able to --
23 894 Q. So Woodbine was the biggest slot
24 parlour in the OLG network; right?
25 A. I don't know, but I believe that's

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1 the case.
2 895 Q. And it's closest to the largest
3 population centre, Toronto; right?
4 A. And Ajax, yeah.
5 896 Q. Woodbine had 2,700 slots in 2012.
6 The next closest location to Toronto had 1,250. Do
7 you know that to be the case?
8 A. No.
9 897 Q. And OLG had gone and terminated
10 its siteholder agreements with respect to its slot
11 machines; right?
12 A. Yes.
13 898 Q. But they had nowhere to put the
14 slot machines?
15 A. Again, I wasn't involved. I don't
16 know.
17 899 Q. And OLG and Finance very much
18 wanted that revenue from those slot machines;
19 right?
20 A. Yes.
21 900 Q. So all of a sudden, they had to do
22 a deal with Woodbine, or Woodbine would tell them
23 they weren't going to have much slot machine
24 revenue; correct?
25 A. Yes, looked like -- yes.

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1 901 Q. And the alternative was to put
2 slot machines in tents?
3 A. I did hear that from
4 John Wilkinson, yes.
5 902 Q. Okay. And Finance needed to have
6 a deal done with Woodbine so it could then go on
7 and do other deals with the tracks to get their
8 slot machines up and running again; right?
9 MR. RATCLIFFE: Do you know that?
10 THE WITNESS: I don't know that.
11 BY MR. LISUS:
12 903 Q. But you do know that the three
13 buckets or silos of financial arrangements were the
14 new leases, capital assistance, and the transition
15 funds; right?
16 A. The transfer payment funds, yes.
17 904 Q. Okay. And here there's a hard
18 negotiation going on with Woodbine; right?
19 A. It appears to be.
20 905 Q. And one of the things that the
21 government is -- one of the cards, if I can put it
22 that way, that government is playing with Woodbine
23 in this negotiation is saying that if they don't do
24 a deal with government, the government will put the
25 transition money in the standardbred tracks and

<p style="text-align: right;">Page 202</p> <p>1 purses instead of at Woodbine; right?</p> <p>2 A. Where does it say that?</p> <p>3 906 Q. Email from Mr. Buchanan to</p> <p>4 Mr. Wilkinson and you:</p> <p>5 "If that doesn't cut it with</p> <p>6 WEG, we need to tell them that next</p> <p>7 week, we will start working on a</p> <p>8 model that puts the transition</p> <p>9 dollars in the standardbred tracks</p> <p>10 and purses for their program."</p> <p>11 Right?</p> <p>12 MR. RATCLIFFE: Which paragraph are you</p> <p>13 looking at? On page 1?</p> <p>14 MR. LISUS: Yeah.</p> <p>15 MR. RATCLIFFE: The first paragraph?</p> <p>16 MR. LISUS: Yes.</p> <p>17 THE WITNESS: I see that.</p> <p>18 BY MR. LISUS:</p> <p>19 907 Q. He goes on to say:</p> <p>20 "Regardless, they need to know</p> <p>21 that the transition money will be</p> <p>22 committed next week and they will be</p> <p>23 talking to themselves after Monday!</p> <p>24 No politicians, no panel, no</p> <p>25 transition money!"</p>	<p style="text-align: right;">Page 204</p> <p>1 A. Yes.</p> <p>2 914 Q. Okay. So essentially what he's</p> <p>3 saying is if you don't do a deal with us, we're</p> <p>4 going to put this money into standardbred purses,</p> <p>5 and standardbred horses can race for it?</p> <p>6 A. Yeah, so if you look back here,</p> <p>7 they're talking about this alliance idea where</p> <p>8 they're pooling resources and leveraging Woodbine</p> <p>9 standardbred expertise to manage the full circuit.</p> <p>10 I think what Elmer is suggesting here</p> <p>11 is that if Woodbine doesn't want to run that, they</p> <p>12 can just do it with the other standardbred tracks</p> <p>13 and cut Woodbine out of it.</p> <p>14 So I don't think they're withholding.</p> <p>15 Their -- Elmer's advice here is that they could</p> <p>16 threaten Woodbine by putting that money in the</p> <p>17 other tracks rather than having Woodbine manage it.</p> <p>18 915 Q. Okay. But at the same time, it</p> <p>19 was known that OLG needed to keep those 2,750 slot</p> <p>20 machines going because it was, by far, the most</p> <p>21 profitable slot parlour in the OLG network?</p> <p>22 MR. GOLDENBERG: Maybe you want to</p> <p>23 specify. It was known by whom?</p> <p>24 MR. LISUS: Everyone.</p> <p>25 MR. RATCLIFFE: Well, the other</p>
<p style="text-align: right;">Page 203</p> <p>1 Right?</p> <p>2 A. That's what it says, yes.</p> <p>3 908 Q. So what's going on here is the</p> <p>4 government is playing the standardbred breeders or</p> <p>5 the prospect of helping standardbred breeders off</p> <p>6 against Woodbine who's having a hard bargaining</p> <p>7 session with government; right?</p> <p>8 A. No. He's talking about</p> <p>9 standardbred tracks. It's not -- government is</p> <p>10 Elmer.</p> <p>11 909 Q. No, I understand that. Fair</p> <p>12 enough. The transition panel is appointed and paid</p> <p>13 for by the government; right?</p> <p>14 A. Yes.</p> <p>15 910 Q. They speak for government?</p> <p>16 A. They provide advice to government.</p> <p>17 911 Q. Okay. And Elmer is referring to</p> <p>18 money going into purses; right? See that?</p> <p>19 A. Yeah.</p> <p>20 912 Q. And the purses are what the horses</p> <p>21 race for; right?</p> <p>22 A. Yes.</p> <p>23 913 Q. So if money goes into purses, it</p> <p>24 enriches the rewards that racers on standardbred</p> <p>25 horses race for; right?</p>	<p style="text-align: right;">Page 205</p> <p>1 problem, Mr. Lisus, is I don't see how this is</p> <p>2 relevant to the claim. Maybe if you could just</p> <p>3 clarify how these issues with --</p> <p>4 MR. LISUS: Well, it's specifically</p> <p>5 pleaded that the selective compensation of</p> <p>6 racetracks in 2012 was done in bad faith and in</p> <p>7 breach of the obligations owed to breeders who</p> <p>8 suffered greater harm than the racetracks did.</p> <p>9 MR. RATCLIFFE: So you're arguing that</p> <p>10 there was bad faith in terms of the dealings with</p> <p>11 the racetracks?</p> <p>12 MR. LISUS: No. I'm arguing it was bad</p> <p>13 faith in terms of the dealings with the breeders.</p> <p>14 MR. RATCLIFFE: Well, I know you've</p> <p>15 argued that, but, again, it's not entirely clear</p> <p>16 how this has any bearing on that question.</p> <p>17 MR. LISUS: I won't debate it with you.</p> <p>18 It also is relevant to the irrationality of OLG and</p> <p>19 the government's conduct and the decision they</p> <p>20 made, cancelling slot machine agreements when it</p> <p>21 had nowhere to put them other than in tents and</p> <p>22 then --</p> <p>23 MR. RATCLIFFE: Well, I don't think</p> <p>24 they did put them in tents, and they were able to</p> <p>25 work out all these arrangements and get contracts</p>

<p style="text-align: right;">Page 206</p> <p>1 with everybody in the end. 2 MR. LISUS: They probably wouldn't have 3 a lot of patrons in the winter months if they did. 4 That's the next exhibit. Mr. Keegan, 5 thank you for helping me with that. 6 MR. MATTHEWS: 18. 7 EXHIBIT NO. 18: CRE0436762 to 8 CRE0436765. 9 BY MR. LISUS: 10 916 Q. I'm going to ask you about a 11 statement that Mr. McMeekin made in The Hamilton 12 Spectator. He's giving an interview. SB3346. The 13 question is: 14 "But you're not planning on 15 retiring from provincial politics?" 16 And he says: 17 "I'm having a helluva good time 18 and, you know, when I see issues 19 like the horse racing issue, which I 20 think our government dropped the 21 ball on." 22 Do you remember him saying that? 23 A. No. 24 917 Q. But you remember him having that 25 view?</p>	<p style="text-align: right;">Page 208</p> <p>1 2013, for the encouragement of 2 agriculture within Ontario." 3 Do you see that? 4 A. Yes. 5 923 Q. And do you see where it says: 6 "Whereas the Government of 7 Ontario recognizes the important 8 economic and social contribution of 9 agriculture." 10 Et cetera. Do you see that? 11 A. That's the first one? 12 924 Q. Yes. 13 A. Yes. 14 925 Q. And it says: 15 "Whereas the Government of 16 Ontario reviewed the SARP as well as 17 other Government of Ontario programs 18 as part of its plan to eliminate the 19 current fiscal deficit." 20 A. Yes. 21 926 Q. Do you know what review of SARP 22 was done when the decision was made to cancel it 23 without transition support? 24 A. No. 25 927 Q. Okay. Do you see where it says:</p>
<p style="text-align: right;">Page 207</p> <p>1 A. Sure. Yes. 2 918 Q. Now, I want to ask you -- 3 MR. LISUS: Next exhibit. 4 MR. MATTHEWS: 19. 5 EXHIBIT NO. 19: SB0003346. 6 BY MR. LISUS: 7 919 Q. I want to ask you a question. Do 8 you know what an Order in Council is? 9 A. Yes. 10 920 Q. What is an Order in Council? 11 A. An Order in Council -- I don't 12 know what the legal definition is. 13 921 Q. What do you understand it to be as 14 a -- 15 A. It's a decision of Cabinet to use 16 for things like appointing people to agencies, 17 boards, and commissions, directing industries and 18 agencies to do different things. 19 922 Q. I want to show you an Order in 20 Council dated February 1, 2013, which appears to be 21 establishing the Horse Racing Industry Transition 22 Assistance Program. And it says: 23 "Horse Racing Industry 24 Transition Assistance Program is 25 hereby established as of February 1,</p>	<p style="text-align: right;">Page 209</p> <p>1 "And whereas the Report of the 2 Commission on the Reform of 3 Ontario's Public Services 4 recommended the elimination of the 5 SARP." 6 A. Yes. 7 928 Q. What do you understand that to 8 mean? 9 A. That's the Drummond report, I 10 believe. 11 929 Q. I presume OMAFRA pushed this Order 12 in Council in order to establish the Horse Racing 13 Industry Transition Assistance Program? 14 A. Yes. I recall that OMAFRA is one 15 of maybe only two ministries that has in its 16 establishing legislation a requirement for an OIC 17 to be used to do any programming. 18 930 Q. Okay. So who composed this Order 19 in Council? 20 A. The -- there is a legislative 21 drafting team as part of the legislature. 22 931 Q. And the Order in Council goes 23 where? 24 A. That's a good question. 25 MR. LISUS: Do you know, Mr. Ratcliffe?</p>

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1 THE WITNESS: Probably some binder.
 2 MR. LISUS: No, no, I mean who -- is it
 3 a Cabinet --
 4 MR. RATCLIFFE: In terms of exact
 5 process, I would have to just double-check on that.
 6 MR. LISUS: Is it a Cabinet instrument?
 7 MR. RATCLIFFE: My understanding is,
 8 yeah, that it's a --
 9 MR. LISUS: I see. It's a Cabinet
 10 instrument that's approved and then published in
 11 the Gazette?
 12 MR. RATCLIFFE: If you look at the very
 13 end, it says recommended by the minister and then
 14 concurred by Chair of Cabinet and approved and
 15 ordered by the Lieutenant Governor.
 16 So, again, it maybe varies in terms of
 17 the types of different Orders in Council.
 18 MR. LISUS: Can I get, please, a signed
 19 copy of this, Mr. Ratcliffe, like, the final one?
 20 U/T MR. RATCLIFFE: We will look for a
 21 signed copy of this actual Order in Council.
 22 MR. LISUS: Thank you.
 23 BY MR. LISUS:
 24 932 Q. This is recommended by the
 25 Minister of Agriculture, Food and Rural Affairs;

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1 right?
 2 A. Yes.
 3 933 Q. And so Cabinet was being told that
 4 Mr. Drummond recommended the elimination of the
 5 SARP, right, in February 2013?
 6 A. So I'm not sure that OICs are part
 7 of the briefing material that would go to Cabinet.
 8 Again, I'm not certain, but I think these are
 9 follow-up documents.
 10 934 Q. No, but this is the actual Order
 11 in Council approved by Cabinet; right?
 12 A. Not necessarily reviewed by
 13 Cabinet but as the --
 14 935 Q. No, approved by Cabinet is what I
 15 said. Like, it says "approved and ordered, date,
 16 Lieutenant Governor."
 17 A. Yeah, so that would be the
 18 Lieutenant Governor that approves that.
 19 936 Q. Right. And I'm only asking
 20 this -- it appears that the Lieutenant Governor is
 21 being told by the Chair of Cabinet and Minister
 22 McMeekin in this Order in Council that Mr. Drummond
 23 recommended the elimination of the Slots at
 24 Racetrack Program; right? That's what I'm reading.
 25 MR. RATCLIFFE: Well, you're asking him

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1 to speculate about what the Lieutenant Governor --
 2 MR. LISUS: I'm just reading the
 3 document produced pursuant to the Summons.
 4 MR. RATCLIFFE: You've read that. If
 5 there's a legal issue that you want to develop in
 6 terms of arguing that somehow this Order in Council
 7 is not valid or invalid because of the wording of
 8 the "whereas," you're free to do that, but in terms
 9 of asking this witness, Mr. Keegan, I just don't
 10 think that --
 11 MR. LISUS: I don't want to make
 12 arguments with Mr. Keegan about the validity of
 13 this Order in Council. I just want to understand
 14 what his understanding as chief of staff of the
 15 Minister of Agriculture who recommended this Order
 16 in Council to the Lieutenant Governor -- what he
 17 understood to be the basis of the recommendation
 18 and the Order in Council to be.
 19 BY MR. LISUS:
 20 937 Q. And one of the things you
 21 understood, sir, was that the Drummond report
 22 recommended the elimination of Slots at Racetrack
 23 Program?
 24 MR. RATCLIFFE: Well, he's already --
 25 you've asked him that earlier, and he answered

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1 that. But this is a different issue, so are you --
 2 MR. LISUS: I agree. That's why I'm
 3 asking him now.
 4 THE WITNESS: My engagement with OICs
 5 was minimal to nothing. These were documents
 6 managed through Cabinet office that I wouldn't have
 7 really seen.
 8 BY MR. LISUS:
 9 938 Q. Okay. So Cabinet office would
 10 have prepared this?
 11 A. They would have managed how it was
 12 prepared. I don't know who prepared them.
 13 939 Q. All right. Who was Chair of
 14 Cabinet in February 2013?
 15 A. I don't know off the top of my
 16 head.
 17 940 Q. Okay. You do, however, see that
 18 the Order in Council says that Mr. Drummond -- or
 19 the Report of the Commission on the Reform of
 20 Ontario's Public Services recommended the
 21 elimination of the SARP. You see it says that;
 22 right?
 23 A. I can read that, yes.
 24 MR. RATCLIFFE: It doesn't use
 25 Mr. Drummond's name.

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<p>1 BY MR. LISUS: 2 941 Q. I want to read you what 3 Mr. Drummond said to me when I examined him on what 4 he recommended about SARP. Okay? 5 "The recommendations dealing 6 with this issue are very atypical of 7 the 366 recommendations. In almost 8 every case, they're very precise, 9 and they're very action-oriented, 10 and this one is not, and it stands 11 out in that regard. It says to do 12 an evaluation of the arrangement. 13 It does not say to end the 14 arrangement or to change it in some 15 particular fashion. 16 So it didn't automatically by 17 itself lead to an action, whereas 18 the others were intended to lead to 19 a specific action. 20 Q. Right. And specifically you 21 had not evaluated what the impact 22 would be on racetracks if the 23 revenue share was terminated; right? 24 A. No, I did not evaluate that. 25 Q. You did not evaluate what the</p>	<p>1 that an evaluation would occur 2 before there was any action; right? 3 A. Yes." 4 So you see that Mr. Drummond says he didn't 5 recommend the elimination of SARP or in any way -- 6 MR. RATCLIFFE: Well, you've got 7 Mr. Drummond's answer. I'm not sure why you're 8 pursuing this with Mr. Keegan. 9 MR. LISUS: Because Mr. Keegan is the 10 chief of staff of the minister who recommended an 11 Order in Council which is inaccurate. That's why 12 I'm asking him. And I want to understand how that 13 inaccuracy came to be put before Cabinet again 14 because the same misrepresentation was made to 15 Cabinet in February 2012. 16 MR. RATCLIFFE: And I think he said he 17 didn't know the answer to that. 18 THE WITNESS: I rarely, if ever, dealt 19 with OICs in the drafting or signing. As I said, 20 Cabinet office dealt with those. I -- this was not 21 a document that I ever reviewed and recommended to 22 my minister to sign. 23 BY MR. LISUS: 24 942 Q. Did Mr. McMeekin know that the 25 Order in Council misrepresented what the Commission</p>
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<p>1 impact would be on standardbred 2 horse breeds if the revenue share 3 was terminated? 4 A. I did not evaluate that. 5 Q. You did not evaluate what the 6 impact would be on employment in 7 rural Ontario if the revenue share 8 was terminated? 9 A. I did not. 10 Q. You did not evaluate what the 11 impact would be on horses in the 12 province if the revenue share was 13 terminated? 14 A. I did not. 15 Q. That wasn't any part of your 16 mandate; right? 17 A. That wasn't my mandate, but, 18 again, I was not recommending to 19 terminate the program, so why would 20 I have evaluated that? 21 Q. I understand. My question, 22 though, was when you recommended 23 that the government evaluate the 24 revenue share with the horse racing 25 industry, it was your expectation</p>	<p>1 on the Reform of Ontario Public Services 2 recommended? 3 A. To the best of my knowledge, this 4 is the first time I've seen this document. 5 943 Q. Okay. Well, are you aware that in 6 the Cabinet material in February 8, 2012, it was 7 also stated that the Commission on the Reform of 8 Ontario's Public Services recommended the 9 elimination of SARP? 10 A. I wasn't at that meeting. 11 944 Q. Would you please ask Mr. McMeekin, 12 Mr. Ratcliffe, if he was aware that the Commission 13 on the Reform of Ontario's Public Services never 14 recommended the elimination of SARP? 15 U/A MR. RATCLIFFE: We'll take your request 16 under advisement. 17 BY MR. LISUS: 18 945 Q. Thank you. And would you also ask 19 Mr. McMeekin if he was aware that the Order in 20 Council in February '13 stated that the Report of 21 the Commission on the Reform of Ontario's Public 22 Services recommended the elimination of SARP? 23 U/A MR. RATCLIFFE: We'll also take that 24 request under advisement. 25 MR. LISUS: Thanks. That's the next</p>

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<p>1 exhibit.</p> <p>2 EXHIBIT NO. 20: CRE0434681 to</p> <p>3 CRE0434694.</p> <p>4 BY MR. LISUS:</p> <p>5 946 Q. I take it you and I can agree,</p> <p>6 Mr. Keegan, that the Commission on the Reform of</p> <p>7 Ontario's Public Services was an important report</p> <p>8 which the government used to justify many of its</p> <p>9 budget decisions in 2012?</p> <p>10 A. I can speak to our own ministry</p> <p>11 that that is true, yes.</p> <p>12 MR. MATTHEWS: Exhibit 20 is the</p> <p>13 document beginning CRE434681.</p> <p>14 BY MR. LISUS:</p> <p>15 947 Q. And would you agree that it was</p> <p>16 important to accurately present the recommendations</p> <p>17 of the Commission on the Reform of Public Services</p> <p>18 to decision makers in government?</p> <p>19 A. So I know that in my own -- in the</p> <p>20 way that I operate, I gave the best advice that I</p> <p>21 could at all times.</p> <p>22 948 Q. And by best advice that you could,</p> <p>23 you mean honest advice?</p> <p>24 A. Well, so I give the advice based</p> <p>25 on facts that I know, and where I don't know</p>	<p>1 there was no such recommendation, you would not</p> <p>2 allow such a representation of a recommendation to</p> <p>3 be made to Cabinet; right?</p> <p>4 MR. RATCLIFFE: Well, you're asking him</p> <p>5 to speculate about something here, Mr. Lisus. He</p> <p>6 said he wasn't aware, and he's indicated that he's</p> <p>7 always personally tried to be honest and correct in</p> <p>8 the approach that he takes. So to speculate about</p> <p>9 what he would do in a hypothetical situation is an</p> <p>10 inappropriate question.</p> <p>11 MR. LISUS: I don't think it's a</p> <p>12 hypothetical, Mr. Ratcliffe. The Order in Council</p> <p>13 in the Cabinet material contains an important</p> <p>14 misrepresentation.</p> <p>15 MR. RATCLIFFE: And you're free to make</p> <p>16 that argument, but this witness, he's not -- in</p> <p>17 this particular situation asking him about that,</p> <p>18 he's talked about his own personal views and</p> <p>19 values, and that's what he's answered. And you're</p> <p>20 asking him to speculate about something else that</p> <p>21 you think is very clear.</p> <p>22 MR. LISUS: Mr. Drummond thought it was</p> <p>23 very clear too.</p> <p>24 MR. RATCLIFFE: You're free to argue</p> <p>25 that.</p>
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<p>1 things, I provide that as well.</p> <p>2 949 Q. Right. You try your best to give</p> <p>3 an honest account of what highly influential</p> <p>4 documents and reports recommend; right?</p> <p>5 A. That's how I personally operate,</p> <p>6 yes.</p> <p>7 950 Q. And that's how you expect everyone</p> <p>8 in government to operate; right?</p> <p>9 MR. RATCLIFFE: He said that's how he</p> <p>10 personally operates.</p> <p>11 BY MR. LISUS:</p> <p>12 951 Q. Well, don't you expect your</p> <p>13 colleagues in other ministries to operate the same</p> <p>14 way?</p> <p>15 A. I would be on guard for errors and</p> <p>16 omissions at all times.</p> <p>17 952 Q. Right. And if you were aware in</p> <p>18 February 2013 that the Commission on the Reform of</p> <p>19 Public Services did not recommend the elimination</p> <p>20 of SARP, you would not have allowed Cabinet to be</p> <p>21 told that it did so recommend; right?</p> <p>22 MR. RATCLIFFE: Well, he wasn't aware</p> <p>23 at the time.</p> <p>24 BY MR. LISUS:</p> <p>25 953 Q. I'm saying if you were aware that</p>	<p>1 BY MR. LISUS:</p> <p>2 954 Q. Let me ask you to look at a deck</p> <p>3 dated February 18, 2013. This is a deck that was</p> <p>4 prepared by your ministry.</p> <p>5 MR. MATTHEWS: CRE498049.</p> <p>6 BY MR. LISUS:</p> <p>7 955 Q. So this is prepared by ADM</p> <p>8 Tom Hagerty, CAO Karen Chen. What's that acronym</p> <p>9 for?</p> <p>10 A. Chief administrative officer.</p> <p>11 956 Q. And you see Slide 3 entitled</p> <p>12 "Background"?</p> <p>13 A. Yes.</p> <p>14 957 Q. It reports:</p> <p>15 "The industry has begun to show</p> <p>16 signs of contraction. One racetrack</p> <p>17 has closed. Yearling prices and</p> <p>18 sales volumes have fallen. Breeding</p> <p>19 activity has decreased."</p> <p>20 Right?</p> <p>21 A. Yes.</p> <p>22 958 Q. And if you go to Slide 6, it says:</p> <p>23 "The Horse Racing Industry</p> <p>24 Transition Program was approved by</p> <p>25 Treasury Board in January 2013."</p>

<p style="text-align: right;">Page 222</p> <p>1 A. Yes.</p> <p>2 959 Q. And I presume the Order in Council</p> <p>3 we just reviewed was part of the Treasury Board's</p> <p>4 approval process?</p> <p>5 A. Yes.</p> <p>6 960 Q. Okay. Did it ever occur to you or</p> <p>7 anyone else at OMAFRA to go back and see what</p> <p>8 Mr. Drummond did actually recommend about Slots at</p> <p>9 Racetrack Program?</p> <p>10 A. It was never a priority to reargue</p> <p>11 the decision. We were focused on fixing what we</p> <p>12 saw were the problems.</p> <p>13 961 Q. Okay. If you go to Slide 10, you</p> <p>14 see where it identifies stakeholders?</p> <p>15 A. Yes.</p> <p>16 962 Q. This slide is identifying who the</p> <p>17 stakeholders are in the Slots at Racetrack Program;</p> <p>18 right?</p> <p>19 A. Yes.</p> <p>20 963 Q. And under "horse people," it</p> <p>21 identifies those that make a living on horse</p> <p>22 racing, jockeys and drivers and others. They tend</p> <p>23 to have limited education and employment</p> <p>24 opportunities. And it also identifies as horse</p> <p>25 people owners and breeders, right --</p>	<p style="text-align: right;">Page 224</p> <p>1 of hours, by the time you send this email,</p> <p>2 Mr. Keegan, you're pretty emersed in the horse</p> <p>3 racing file and the consequences of the decision to</p> <p>4 cancel Slots at Racetrack Program revenue share;</p> <p>5 right?</p> <p>6 A. Yes.</p> <p>7 967 Q. And you understand the urgency to</p> <p>8 get funding in place and the catastrophic</p> <p>9 consequences if that doesn't occur; right?</p> <p>10 A. Yes.</p> <p>11 968 Q. And you'd been working extensively</p> <p>12 with the panel since its appointment in June 2012;</p> <p>13 right?</p> <p>14 A. Yes.</p> <p>15 969 Q. You'd also been speaking with</p> <p>16 Finance, Mr. Gene and others; right?</p> <p>17 A. Yes.</p> <p>18 970 Q. You'd been speaking with</p> <p>19 Mr. Wilkinson; correct?</p> <p>20 A. All of the panel, yes.</p> <p>21 971 Q. And Mr. McMeekin?</p> <p>22 A. Yes.</p> <p>23 972 Q. And with the benefit of all of</p> <p>24 that information, you composed this email and sent</p> <p>25 it to Shelley Potter; right?</p>
<p style="text-align: right;">Page 223</p> <p>1 A. Yes.</p> <p>2 964 Q. -- who are losing investments and</p> <p>3 may face difficulties providing care for animals?</p> <p>4 A. Yes.</p> <p>5 965 Q. Now, at Slide 17, can you tell me</p> <p>6 what is redacted and why, Mr. Ratcliffe?</p> <p>7 U/T MR. RATCLIFFE: We'd have to go back</p> <p>8 and look at the original. We sent you a letter</p> <p>9 setting out the basis for various redactions. I</p> <p>10 will provide you with an explanation of what that</p> <p>11 redaction is on page 17.</p> <p>12 MR. LISUS: Okay. So your letter isn't</p> <p>13 particularized to the documents --</p> <p>14 MR. RATCLIFFE: No, and I understand</p> <p>15 that, so I will provide you with that.</p> <p>16 MR. LISUS: Thank you. That's the next</p> <p>17 exhibit.</p> <p>18 EXHIBIT NO. 21: CRE0498049 to</p> <p>19 CRE0498068.</p> <p>20 BY MR. LISUS:</p> <p>21 966 Q. So now I want to get to a document</p> <p>22 I asked you about earlier today, which is</p> <p>23 Exhibit 6, and this is the email that you sent to</p> <p>24 Shelley Potter.</p> <p>25 As we've discussed for the last couple</p>	<p style="text-align: right;">Page 225</p> <p>1 A. Yes.</p> <p>2 973 Q. And so we can agree that by this</p> <p>3 time, you have a pretty complete understanding of</p> <p>4 the decision that was made and the consequences for</p> <p>5 the industry; right?</p> <p>6 A. Yes.</p> <p>7 974 Q. Now, I want to ask you about</p> <p>8 CRE458767.</p> <p>9 MR. LISUS: Mr. Ratcliffe, first</p> <p>10 question is for you. What is this redaction?</p> <p>11 MR. RATCLIFFE: Without comparing it</p> <p>12 with the original, I can't tell you exactly what it</p> <p>13 is, but we will provide you with a description of</p> <p>14 the kind of -- the basis for the redaction.</p> <p>15 MR. LISUS: Can we agree to this</p> <p>16 instead of going away and having to come back and</p> <p>17 perhaps bring Mr. Keegan back: If you could bring</p> <p>18 the originals to tomorrow's examination so we can</p> <p>19 just run through these redactions because there's a</p> <p>20 lot of them, and they're very large. And I don't</p> <p>21 want to have to have you write letters, me write</p> <p>22 letters, and then bringing Mr. Keegan and perhaps</p> <p>23 others back.</p> <p>24 So can you just bring the originals</p> <p>25 tomorrow and tell me tomorrow or Mr. Matthews what</p>

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<p>1 these redactions are about?</p> <p>2 MR. RATCLIFFE: Well, I guess it would</p> <p>3 be helpful if we knew which documents you were</p> <p>4 going to be referring to that have redactions. I</p> <p>5 mean, if we're talking about a dozen or two, well,</p> <p>6 then that's easily enough done.</p> <p>7 MR. LISUS: I think it is just a dozen</p> <p>8 or two.</p> <p>9 MR. RATCLIFFE: Yeah.</p> <p>10 MR. LISUS: Go off the record.</p> <p>11 -- OFF THE RECORD DISCUSSION --</p> <p>12 BY MR. LISUS:</p> <p>13 975 Q. Are you aware that shortly after</p> <p>14 the Auditor General released her report in 2014,</p> <p>15 the Premier told Cabinet that she had always</p> <p>16 argued, always argued, that SARP wasn't cancelled</p> <p>17 properly and the Auditor General --</p> <p>18 MR. RATCLIFFE: Is that accurate that</p> <p>19 she told Cabinet or she was reported publicly to</p> <p>20 have said something that --</p> <p>21 MR. LISUS: No, she had notes prepared</p> <p>22 for her to deliver that message to Cabinet.</p> <p>23 MR. RATCLIFFE: Which notes are you</p> <p>24 referring to there?</p> <p>25 MR. LISUS: They were an exhibit on</p>	<p>1 Racetrack Program was not done</p> <p>2 properly which the Auditor General</p> <p>3 now confirms."</p> <p>4 Do you see that?</p> <p>5 A. I do.</p> <p>6 982 Q. Okay. And does that accord with</p> <p>7 your recollection of Kathleen Wynne's views, or did</p> <p>8 she not share them with you?</p> <p>9 A. So her views on the -- on horse</p> <p>10 racing we talked about a number of times. She was,</p> <p>11 like Ted, concerned about the implications of the</p> <p>12 decision. I think -- you know, this is Bobby's</p> <p>13 interpretation of that.</p> <p>14 983 Q. Did she also find out about the</p> <p>15 decision when Minister McMeekin did in February</p> <p>16 2012?</p> <p>17 A. I don't know when she found out.</p> <p>18 I was not her chief of staff then.</p> <p>19 984 Q. Who was?</p> <p>20 A. Shelley Potter.</p> <p>21 MR. RATCLIFFE: It might be helpful to</p> <p>22 ask what she was the minister of at that time. Are</p> <p>23 you speaking of February 2012?</p> <p>24 BY MR. LISUS:</p> <p>25 985 Q. What was she the minister of?</p>
<p>1 Mr. Orsini's examination or someone's examination.</p> <p>2 I'll find them for you, if you want.</p> <p>3 BY MR. LISUS:</p> <p>4 976 Q. I want to just show you a document</p> <p>5 from March 24. Now, are you telling me March 24,</p> <p>6 2014, you weren't in the minister's office?</p> <p>7 A. Correct.</p> <p>8 977 Q. But Bobby Seeber replaced you?</p> <p>9 A. Yes.</p> <p>10 978 Q. Does Bobby Seeber work with you</p> <p>11 now?</p> <p>12 A. He does.</p> <p>13 979 Q. Okay. So I want to show you a</p> <p>14 document. I'll pull it up on the screen there for</p> <p>15 you. So he was the minister's chief of staff in</p> <p>16 March 2014?</p> <p>17 A. Yes.</p> <p>18 980 Q. And as of this point in time, the</p> <p>19 AG has circulated a draft of her report; right?</p> <p>20 A. I don't remember exactly, but...</p> <p>21 981 Q. Okay. And the Premier was being</p> <p>22 prepared to go to Cabinet, and the suggested</p> <p>23 messaging was:</p> <p>24 "I've always argued the</p> <p>25 decision to cancel the Slots at</p>	<p>1 A. I believe Municipal Affairs.</p> <p>2 986 Q. Okay. And Shelley Potter was her</p> <p>3 chief of staff?</p> <p>4 A. At that time, yes.</p> <p>5 987 Q. Is Shelley Potter still in</p> <p>6 government?</p> <p>7 A. I believe so.</p> <p>8 988 Q. And so when Kathleen Wynne became</p> <p>9 Premier, Shelley Potter moved with her in 2013?</p> <p>10 A. Yes.</p> <p>11 989 Q. So that's why you're writing that</p> <p>12 February 2013 email to Shelley Potter to get her</p> <p>13 assistance in accelerating the decision-making</p> <p>14 process around funding for the industry; right?</p> <p>15 A. Yes.</p> <p>16 990 Q. Okay. She had influence with the</p> <p>17 Premier?</p> <p>18 A. Well, that office was just being</p> <p>19 set up, and, yes, it was unclear as to how to</p> <p>20 navigate that office.</p> <p>21 991 Q. Okay.</p> <p>22 MR. MATTHEWS: Just for the record,</p> <p>23 we've been looking at what's been marked as</p> <p>24 Exhibit 35 to Mr. Bardeesy's examination.</p> <p>25 MR. LISUS: Do you want to adjourn</p>

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1 until tomorrow morning?
2 MR. RATCLIFFE: Yeah, that's fine.
3 -- Whereupon the cross-examination adjourned at
4 4:25 p.m. --
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1 REPORTER'S CERTIFICATE
2
3 I, CARISSA STABBLER, Court
4 Reporter, certify;
5
6 That the foregoing proceedings were
7 taken before me at the time and place therein set
8 forth, at which time the witness was put under oath
9 by me;
10 That the testimony of the witness
11 and all objections made at the time of the
12 examination were recorded stenographically by me
13 and were thereafter transcribed;
14
15 That the foregoing is a true and
16 correct transcript of my shorthand notes so taken.
17
18 Dated this 14th day of March 2018.
19
20
21
22
23 NEESON COURT REPORTING INC.
24 PER: CARISSA STABBLER, RPR, CSR
25 COURT REPORTER

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