

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

MICHAEL KEEGAN
March 07, 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.,

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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 continued Rule 39.03 Examination of
 10 MICHAEL KEEGAN, a non-party witness herein, taken
 11 at the offices of Neeson Court Reporting Inc., 77
 12 King Street West, Suite 2020, Toronto, Ontario, on
 13 the 7th 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, Esq., for the Defendant
 21 Crown.
 22
 23 Adam Goldenberg, Esq., for the OLG.
 24
 25 Also present: Alexander Steele, Student-at-Law

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1 I N D E X
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 3 WITNESS: MICHAEL KEEGAN
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 5 Continued Cross-Examination
 6 by Mr. Matthews..... 239
 7 Cross-Examination by Mr. Goldenberg..... 402
 8 Re-Examination by Mr. Ratcliffe..... 441
 9 Further Cross-Examination by Mr. Lisus... 447
 10
 11 **The following list of undertakings, advisements
 12 and refusals is meant as a guide only for the
 13 assistance of counsel and no other purpose**
 14 INDEX OF UNDERTAKINGS
 15 The questions/requests undertaken are noted by U/T
 16 and appear on the following pages: 240, 241, 264,
 17 310, 311, 324, 328, 329, 352, 354, 355, 364, 374,
 18 389, 393
 19 INDEX OF ADVISEMENTS
 20 The questions/requests taken under advisement are
 21 noted by U/A and appear on the following pages:
 22 268, 349, 389
 23 INDEX OF REFUSALS
 24 The questions/requests refused are noted by R/F
 25 and appear on the following pages: None

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1 INDEX OF EXHIBITS
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 3 NUMBER/DESCRIPTION PAGE NO.
 4
 5 22: Email chain, Bates numbered 244
 6 CRE435235.
 7 23: Briefing memo, Bates numbered 248
 8 CRE459272.
 9 24: "Proposed Minister's Speaking 250
 10 Remarks for Treasury Board" dated
 11 February 26, 2013, Bates numbered
 12 CRE458901.
 13 25: Email chain, Bates numbered 259
 14 CRE554102.
 15 26: Email, Bates numbered CRE439155. 261
 16 27: Email chain, Bates numbered 267
 17 CRE439170.
 18 28: Email chain, Bates numbered, on 272
 19 the back, CRE0439542.
 20 29: Newspaper article dated March 4, 277
 21 2013 entitled "Premier Wynne Attends
 22 Flamborough Chamber Awards Gala."
 23 30: Briefing note and attachment, 288
 24 Bates numbered CRE439776 and
 25 CRE439777.

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1 31: Email chain, Bates numbered 292
 2 CRE441125.
 3 32: Email, Bates numbered CRE441132. 296
 4 33: Email, Bates numbered CRE457136. 298
 5 34: Briefing memo, Bates numbered 299
 6 CRE444296.
 7 35: Email and attached briefing 300
 8 note, CRE444649 and CRE444650.
 9 36: Status update for deputy 302
 10 ministers, Bates numbered CRE447079.
 11 37: Update for a deputy ministers 306
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 13 38: Key messages document, Bates 320
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 15 39: Email and attachments, Bates 324
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 17 40: Briefing memo, Bates numbered 326
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 19 41: Horseracing transition update, 335
 20 Bates numbered CRE457535, and attached
 21 "Confidential Horseracing Industry
 22 Transition Synopsis," Bates numbered
 23 CRE458367.
 24 42: Briefing note, Bates numbered 339
 25 CRE452229.

<p style="text-align: right;">Page 237</p> <p>1 43: Email, Bates numbered CRE453342. 340 2 44: Email, Bates numbered CRE479887. 347 3 45: Email, Bates numbered CRE479884. 350 4 46: Email, Bates numbered CRE479952. 352 5 47: Internal Ministry briefing for 355 6 OMAF and MRA, slide deck. 7 48: Email and attachment, Bates 361 8 numbered CRE545346. 9 49: Email, Bates numbered CRE481645. 369 10 50: Email, Bates numbered CRE469869. 374 11 51: Email, Bates numbered CRE482309. 375 12 52: Article, Bates numbered 376 13 SB0003434. 14 53: Document, Bates numbered 381 15 CRE474139. 16 54: Email, Bates numbered CRE482760. 382 17 55: Document, Bates numbered 389 18 CRE483771. 19 56: Email and attachment, Bates 393 20 numbered CRE485640 and CRE485641. 21 57: Document, Bates numbered 394 22 CRE485951. 23 58: Email, Bates numbered CRE544114. 395 24 59: Email, Bates numbered 398 25 CRE0485346.</p>	<p style="text-align: right;">Page 239</p> <p>1 -- Upon commencing at 10:00 a.m. 2 MICHAEL KEEGAN: SWORN PREVIOUSLY. 3 CROSS-EXAMINATION BY MR. MATTHEWS: 4 (CONTINUED): 5 992 Q. Good morning, Mr. Keegan. 6 A. Morning. 7 993 Q. I just want to go back to a couple 8 of the exhibits we discussed last day. I'm passing 9 you what we marked as Exhibit 2 to your 10 examination. This is the memo you composed which 11 we discussed last day, which includes the comment 12 that Minister Naqvi played a lead role in the 13 cancellation of SARP when he was the PA to Minister 14 Duncan. You recall discussing that? 15 A. Yes. 16 994 Q. So my next question is really for 17 your counsel. Mr. Ratcliffe, has Ontario searched 18 the records of Mr. Naqvi for documents responsive 19 to the issues in this litigation? 20 MR. RATCLIFFE: Unless they came up 21 specifically with respect to the various issues 22 that were identified at the very beginning, no, we 23 haven't searched his documents specifically, as far 24 as I am aware. 25 BY MR. MATTHEWS:</p>
<p style="text-align: right;">Page 238</p> <p>1 60: Letter dated July 31, 2014 467 2 attaching "The 64th Annual and 3 Statistical Report 2013-2014, Ontario 4 Racing Commission." 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 240</p> <p>1 995 Q. Well, in view of the lead role 2 that Mr. Keegan's memo records that he played, we 3 ask that you make those searches and produce any 4 documents that are responsive to the issues in this 5 litigation from Minister Naqvi? 6 U/T MR. RATCLIFFE: We will consider your 7 request and get back to you on that in terms of 8 further searches. 9 MR. MATTHEWS: Thank you. 10 BY MR. MATTHEWS: 11 996 Q. Can I have Exhibit 2 back, please, 12 Mr. Keegan. So just to refresh your memory, when 13 we left off last day we had reviewed a number of 14 documents in the 2012 timeframe, and I think the 15 last document we showed you was CRE458767, which 16 was a memorandum to the Premier and Minister of 17 Agriculture, February 20th, 2013. 18 And so just to orient you, that's the 19 time period where I'd like to pick up with you 20 today. 21 A. Okay. 22 997 Q. I'm going to pass you an email 23 chain. You're one of the recipients. It's an 24 email chain between yourself, Bobby Seeber, 25 S-E-E-B-E-R, and a number of folks in the Premier's</p>

<p style="text-align: right;">Page 241</p> <p>1 Office.</p> <p>2 First of all, a question for</p> <p>3 Mr. Ratcliffe. The redaction on page 768 of</p> <p>4 CRE435235, what's the basis for that redaction?</p> <p>5 U/T MR. RATCLIFFE: We can look up that</p> <p>6 document specifically and I can provide a little</p> <p>7 bit more detail.</p> <p>8 As you are aware, I believe, Michael</p> <p>9 Keegan wrote these updated reports and sent them,</p> <p>10 or prepared these reports and sent them to the</p> <p>11 Premier, and a large variety of the issues in these</p> <p>12 reports that he provided had nothing to do</p> <p>13 whatsoever with horseracing, and what we've done is</p> <p>14 we've gone through them and redacted those parts</p> <p>15 that were sensitive and irrelevant to the</p> <p>16 litigation here and left the part dealing with</p> <p>17 horseracing.</p> <p>18 If you can just give me one minute, we</p> <p>19 can maybe...</p> <p>20 My understanding is that the redaction</p> <p>21 at the bottom of the page deals with commercially</p> <p>22 sensitive and third party -- sorry, page 1 contains</p> <p>23 information that wasn't responsive to the summons</p> <p>24 and outlines information about other OMAFRA</p> <p>25 programs and issues unrelated to horseracing.</p>	<p style="text-align: right;">Page 243</p> <p>1 lease payments, capital assistance or transition</p> <p>2 funding being received by Woodbine Entertainment</p> <p>3 Group subsequent to the cancellation of revenue</p> <p>4 sharing of the Slots at Racetrack Program?</p> <p>5 MR. RATCLIFFE: I can't tell you</p> <p>6 specifically what it relates to. It was a dollar</p> <p>7 figure.</p> <p>8 BY MR. MATTHEWS:</p> <p>9 1001 Q. All right. So, Mr. Keegan, if you</p> <p>10 can take the document back, please. I'm looking at</p> <p>11 the email from you February 23rd, second email</p> <p>12 down, where, among other things, you say that:</p> <p>13 1002 Q. "P is pretty up to speed on</p> <p>14 this."</p> <p>15 That's a reference to Premier Wynne,</p> <p>16 correct?</p> <p>17 MR. RATCLIFFE: Where are you looking</p> <p>18 on the page? Half-way down?</p> <p>19 THE WITNESS: Premier, yes.</p> <p>20 BY MR. MATTHEWS:</p> <p>21 1003 Q. That's Premier Wynne?</p> <p>22 A. Yes.</p> <p>23 1004 Q. And you continue by saying:</p> <p>24 "We have briefed her twice and</p> <p>25 are headed to TB next week on it."</p>
<p style="text-align: right;">Page 242</p> <p>1 MR. MATTHEWS: Perhaps we're looking at</p> <p>2 different documents, Mr. Ratcliffe. I'm asking you</p> <p>3 about the redaction made to the first page of</p> <p>4 CRE0438235.</p> <p>5 MR. RATCLIFFE: Yes.</p> <p>6 BY MR. MATTHEWS:</p> <p>7 998 Q. Is it your position that the</p> <p>8 redaction in the sentence that reads "WEG is</p> <p>9 getting about [blank] than they used to" is being</p> <p>10 redacted because it's irrelevant and commercially</p> <p>11 sensitive?</p> <p>12 MR. RATCLIFFE: Yes, in this particular</p> <p>13 case it is irrelevant and commercially sensitive</p> <p>14 and it has no bearing on the litigation that we're</p> <p>15 dealing with here.</p> <p>16 BY MR. MATTHEWS:</p> <p>17 999 Q. So your position is that the</p> <p>18 amount that Woodbine Entertainment Group is</p> <p>19 receiving is irrelevant to the issues in this</p> <p>20 litigation?</p> <p>21 MR. RATCLIFFE: Yes, we would take that</p> <p>22 position.</p> <p>23 BY MR. MATTHEWS:</p> <p>24 1000 Q. Is the redacted number,</p> <p>25 Mr. Ratcliffe, a number that relates to either the</p>	<p style="text-align: right;">Page 244</p> <p>1 I understand that to mean that you're</p> <p>2 going to go to Treasury Board to discuss matters</p> <p>3 related to horseracing the following week, correct?</p> <p>4 A. It's definitely Treasury Board.</p> <p>5 I'm not sure exactly what we're going about, but</p> <p>6 it's probably...</p> <p>7 MR. MATTHEWS: Okay. That will be the</p> <p>8 next exhibit, please.</p> <p>9 EXHIBIT NO. 22: Email chain, Bates</p> <p>10 numbered CRE435235.</p> <p>11 BY MR. MATTHEWS:</p> <p>12 1005 Q. One other thing I wanted to ask</p> <p>13 about from the last day, Mr. Keegan. My friend</p> <p>14 Mr. Lisus had asked you questions about when you</p> <p>15 and Minister McMeekin first learned about the</p> <p>16 cancellation of the revenue sharing arrangement</p> <p>17 from the Slots at Racetrack Program, and I</p> <p>18 understood your evidence to be that you learned</p> <p>19 about it for the first time at a fundraiser for</p> <p>20 Minister McMeekin at which Mr. Duncan was the guest</p> <p>21 speaker; is that correct?</p> <p>22 A. No. We learned about it a few</p> <p>23 days prior. I just remember that time period</p> <p>24 because of the fundraiser. The fundraiser was when</p> <p>25 I first understood it to be the significant issue</p>

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<p>1 that it was.</p> <p>2 1006 Q. All right. Do you know who Bill</p> <p>3 O'Donnell is?</p> <p>4 A. Yes.</p> <p>5 1007 Q. Have you met him before?</p> <p>6 A. Many times.</p> <p>7 1008 Q. All right. I'm going to pass you</p> <p>8 an affidavit that Mr. O'Donnell has sworn in this</p> <p>9 case and ask you to take a look at paragraph 21,</p> <p>10 please.</p> <p>11 And you see at the first sentence of</p> <p>12 paragraph 21 Mr. O'Donnell is saying that along</p> <p>13 with a fellow by the name of John Gallinger and a</p> <p>14 number of other directors of Standardbred Canada,</p> <p>15 he attended a fundraiser for Agriculture Minister</p> <p>16 Ted McMeekin, at which Minister Duncan was present,</p> <p>17 and he records the date of that as being February</p> <p>18 16, 2012. Does that sound like the fundraiser we</p> <p>19 were discussing yesterday?</p> <p>20 A. Yes.</p> <p>21 1009 Q. And my information is that the</p> <p>22 Drummond report was publicly released on February</p> <p>23 15th, 2012, being the day before this fundraiser.</p> <p>24 Is that your recollection, sir?</p> <p>25 A. Yes, I recall it being very close</p>	<p>1 mean, it was a few days prior, three-four days. I</p> <p>2 don't remember exactly.</p> <p>3 1015 Q. Okay.</p> <p>4 A. It was shortly before that</p> <p>5 fundraiser.</p> <p>6 1016 Q. All right. Can I have</p> <p>7 Mr. O'Donnell's affidavit back, please.</p> <p>8 I'm going to give you CRE459272. It's</p> <p>9 one of the briefing memos that you prepared for the</p> <p>10 Premier and Minister of Agriculture dated February</p> <p>11 27th, 2013, correct?</p> <p>12 A. Yes.</p> <p>13 1017 Q. And you start by mentioning</p> <p>14 horseracing, and you indicate that:</p> <p>15 "Building on the discussion and</p> <p>16 decisions at TB yesterday."</p> <p>17 Does that refresh your recollection,</p> <p>18 sir, what had happened at Treasury Board February</p> <p>19 26th, 2013?</p> <p>20 MR. RATCLIFFE: Take a moment just to</p> <p>21 read the section.</p> <p>22 THE WITNESS: (Witness reads document).</p> <p>23 So, this looks familiar. We had many -- well,</p> <p>24 many -- we had a number of trips to Treasury Board,</p> <p>25 so this looks like -- I do -- this looks familiar,</p>
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<p>1 to that date.</p> <p>2 1010 Q. Okay. And so, do I understand</p> <p>3 your evidence to be then, sir, that you and</p> <p>4 Minister McMeekin learned about the cancellation of</p> <p>5 SARP revenue sharing a few days prior to this</p> <p>6 February 16th, 2012 fundraising? Is that correct?</p> <p>7 A. Yes, I believe I said that we had</p> <p>8 been briefed a few days prior, our office had been</p> <p>9 briefed a few days prior.</p> <p>10 1011 Q. By OLG?</p> <p>11 A. I believe it was by the Ministry</p> <p>12 of Finance. I was not at that briefing but I was</p> <p>13 debriefed on that briefing.</p> <p>14 1012 Q. Is it fair to say perhaps the</p> <p>15 briefing occurred three or four days prior to the</p> <p>16 February 16th, 2012 fundraiser? Is that fair?</p> <p>17 A. February 16th?</p> <p>18 1013 Q. The briefing that we were just</p> <p>19 discussing occurred three or four days prior to the</p> <p>20 fundraiser of February 16th, 2012? Is that fair?</p> <p>21 A. Yes, a few days. I can't be any</p> <p>22 more precise than that.</p> <p>23 1014 Q. Well, would it have been more than</p> <p>24 three or four days?</p> <p>25 A. If I had a calendar I could -- I</p>	<p>1 yes.</p> <p>2 BY MR. MATTHEWS:</p> <p>3 1018 Q. What happened, to the best of your</p> <p>4 recollection, relating to horseracing at Treasury</p> <p>5 Board on February 26th, 2013?</p> <p>6 A. I can't remember precise details</p> <p>7 of that discussion.</p> <p>8 1019 Q. Well, it certainly appears to me,</p> <p>9 sir, that based on some of the key messages</p> <p>10 reflected in your February 27, 2013 memo that, at</p> <p>11 least going forward, some of the messages that the</p> <p>12 Premier and Minister of Agriculture was going to</p> <p>13 project included that the government is behind</p> <p>14 horseracing for the long run, correct?</p> <p>15 A. Yes.</p> <p>16 1020 Q. And that there is going to be a</p> <p>17 new racing model that will support the breeding of</p> <p>18 high quality Ontario race horses, correct?</p> <p>19 A. Yes.</p> <p>20 1021 Q. And also messaging about the</p> <p>21 government is in it for the long run, correct?</p> <p>22 A. Yes.</p> <p>23 MR. MATTHEWS: All right. That's the</p> <p>24 next exhibit, please.</p> <p>25 EXHIBIT NO. 23: Briefing memo, Bates</p>

<p style="text-align: right;">Page 249</p> <p>1 numbered CRE459272. 2 BY MR. MATTHEWS: 3 1022 Q. Do you recall, Mr. Keegan, whether 4 or not Mr. Duncan was still the Minister of Finance 5 as of February 26th, 2013? So this would have been 6 a couple of weeks after Premier Wynne became 7 Premier. 8 A. Is he still -- sorry, repeat your 9 question? 10 1023 Q. Was Minister Duncan still the 11 Minister of Finance on February 26th, 2013? 12 A. To the best of my recollection, 13 no, he was not. 14 1024 Q. And when did he leave office, to 15 the best of your recollection? 16 A. I'm not sure when he left office, 17 but he would -- Premier Wynne's Cabinet was on or 18 about Valentine's Day of 2013, and that was when a 19 new Minister of Finance -- I know there was a new 20 Minister of Finance at that time. 21 1025 Q. That was Mr. Sousa? 22 A. Yes. 23 1026 Q. I pass you CRE458901, "Proposed 24 Minister's Speaking Remarks for Treasury Board," 25 February 26th, 2013.</p>	<p style="text-align: right;">Page 251</p> <p>1 along with folks in the Premier's Office, Tom 2 McGrath, Andrew Bevan, Tom Teahen, who I understood 3 from your testimony the other day was the Chief of 4 Staff to Kathleen Wynne? 5 A. In her role as Premier, yes. 6 1030 Q. All right. So, can I have you 7 perhaps look right at the start of the email chain 8 which begins on March 1st, 2013. Excuse me, it 9 begins with an email to you and others February 10 28th, 2013, so just following Treasury Board, and 11 the subject is "Horseracing Antigovernment 12 Campaign." And the message is: 13 "Hearing they are out 14 fundraising and getting ready to 15 relaunch their campaign very soon." 16 Do you see that? 17 A. Yes. 18 1031 Q. And then on from there you have a 19 number of discussions with folks in the Premier's 20 Office, and I'd like you to look at the email you 21 send March 1st at 10:09 a.m. to Tom Teahen, Andrew 22 Bevan and John McGrath, where what you're 23 suggesting to the folks in the Premier's Office is 24 to have the Premier do an announcement signalling a 25 clear shift in horseracing policy, new approach,</p>
<p style="text-align: right;">Page 250</p> <p>1 My question, Mr. Keegan, is whether or 2 not you played a hand in composing these proposed 3 Minister's speaking remarks for Treasury Board, 4 February 26th, 2013? 5 A. I don't remember specifically, but 6 I know that standard practice in our office was 7 that I or one of our senior staff would have 8 reviewed them. 9 1027 Q. Reviewed them and given sign-off 10 before they were presented to the Minister of 11 Agriculture? 12 A. Yes. 13 1028 Q. On February 26th, 2013, the 14 Minister was Premier Wynne, correct? 15 A. Yes. 16 MR. MATTHEWS: Mark that as the next 17 exhibit, 24. 18 EXHIBIT NO. 24: "Proposed Minister's 19 Speaking Remarks for Treasury Board" 20 dated February 26, 2013, Bates numbered 21 CRE458901. 22 BY MR. MATTHEWS: 23 1029 Q. I'll show you an email chain 24 marked as Exhibit 29 to Mr. Bardeesy's examination, 25 CRE554102. You're on this email chain throughout</p>	<p style="text-align: right;">Page 252</p> <p>1 new government. Do you see that? 2 A. Yes. 3 1032 Q. So what was happening here? Does 4 this refresh your recollection as to a shift in 5 thinking around the horseracing file once Premier 6 Wynne becomes the Premier and Minister Duncan 7 leaves his role as Finance Minister? 8 A. I'm not sure about the Duncan part 9 of the question, but certainly the Premier brought 10 a different approach to this file. 11 1033 Q. Different in what way? 12 A. She was -- I suppose it created 13 the space to have -- to allow us to make the case 14 for further investment in the industry and to 15 enhance the partnership plan that we had been 16 working on in the previous months. 17 1034 Q. And when you say "make the space," 18 was it your view, sir, that prior to Ms. Wynne 19 becoming Premier, you and Mr. McMeekin did not have 20 the space to make that case? 21 A. There was certainly less space to 22 make that case, yes. 23 1035 Q. Why was that? 24 A. Well, as we talked about 25 yesterday, there was a significant difference of</p>

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<p>1 opinion over the extent of the impact of the 2 decision as well as the broader political 3 ramifications for the budget in terms of climbing 4 down from decisions in that budget. 5 1036 Q. What do you mean by "broader 6 political ramifications for the budget"? What do 7 you mean by that? 8 A. Well, as we discussed yesterday, 9 the me too asked the -- in the sense that it would 10 be seen as a climb-down. 11 1037 Q. When we examined Mr. Orsini, he 12 gave evidence that no decision is final until it's 13 actually included in the budget, printed. Do you 14 agree with that? 15 A. Yes. 16 1038 Q. So, between when the decision was 17 made by the Ministry of Finance and it was 18 published in the budget? The budget was in June 19 2013, correct? 20 MR. RATCLIFFE: Counsel, I don't think 21 that's a fair question. We went over this with 22 Mr. Orsini. You are referring to the decision made 23 by Mr. Duncan that was then published in the 24 budget. It was very clear from the evidence that 25 these were recommendations going forward and</p>	<p>1 1043 Q. Okay. So it was your 2 understanding that the Ministry of Finance as an 3 organization made the decision to cancel the 4 revenue sharing from the Slots at Racetrack 5 Program? 6 MR. RATCLIFFE: There you go using the 7 word "decision," counsel. I think that's unfair in 8 light of the earlier evidence that we've heard from 9 Mr. Orsini. 10 BY MR. MATTHEWS: 11 1044 Q. Yes, I'm just referring you to 12 Mr. McMeekin's own words, Exhibit 4 to your 13 examination, second paragraph, Mr. Keegan, where 14 Mr. McMeekin writes: 15 "To be clear, the decision to 16 end the SAR program was made by the 17 Ministry of Finance and not the 18 Ministry of Agriculture, Food and 19 Rural Affairs." 20 And was that your understanding from 21 your discussions with Minister McMeekin when you 22 were his Chief of Staff? 23 A. Yes, the trajectory we were on 24 came from a decision out of the Ministry of 25 Finance.</p>
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<p>1 proposals, and then they were there for Cabinet to 2 decide on. 3 So, to characterize it as Mr. Duncan's 4 decision is unfair. 5 BY MR. MATTHEWS: 6 1039 Q. Well, do you know who made the 7 decision, Mr. Keegan? 8 A. Which decision? 9 1040 Q. The decision to terminate the 10 revenue sharing from the Slots at Racetrack Program 11 with zero transition funding? 12 A. I do not. 13 1041 Q. Because we looked at an email 14 earlier, it was the Ted to Ted email where he was 15 outlining some thoughts, and I'm paraphrasing but 16 he said something to the effect of, to be clear, 17 this was a decision made by the Ministry of 18 Finance, not the Ministry of Agriculture. Do you 19 recall that? 20 A. Yes. 21 1042 Q. Does that refresh your 22 recollection about your understanding of who made 23 the decision? 24 A. I thought you meant an individual 25 as opposed to an organization.</p>	<p>1 1045 Q. So back to the email we were 2 looking at, CRE554102 that you have in front of 3 you. If you keep following the chain, there's an 4 email from Tom Teahen March 1st at 10:34 a.m., 5 where he says: 6 "Okay. So discussion with OLG 7 and MOF needs to happen ASAP. Will 8 OLG be surprised by change of 9 course?" 10 And then he goes on. And you respond 11 to that message and say: 12 "They won't be surprised but 13 they won't like it." 14 Do you see that? 15 A. Yes. 16 1046 Q. Why did you write that in response 17 to Mr. Teahen's email? 18 A. Well, as we discussed yesterday, 19 Ministry of Finance and OLG were primarily focused 20 on the land-based gaming modernization procurement 21 process which we talked about yesterday, and their 22 focus on maximizing commercial value from that 23 process, and their view that further funding and 24 some of the other decisions around the partnership 25 program for horseracing would lower that commercial</p>

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<p>1 value. 2 1047 Q. And when you write that OLG "won't 3 be surprised," why was it your belief, Mr. Keegan, 4 that OLG would not be surprised by this change? 5 A. Because we -- we -- so Ministry of 6 Agriculture, Food and Rural Affairs, the panel, 7 Finance, OLG had been debating this issue for 8 months. 9 1048 Q. And were you involved in any of 10 those debates or discussions amongst those groups 11 you just mentioned? 12 A. Sometimes, yes. 13 1049 Q. Were you involved in any 14 discussions with OLG? 15 A. In which timeframe? 16 1050 Q. Let's say the middle of 2012 up 17 until March 1st, 2013? 18 A. I don't believe I had direct 19 contact with OLG until about February of 2013, 20 unless there were staff members at meetings at the 21 Ministry of Finance, but I wasn't -- it wasn't 22 apparent to me that OLG would be in the room. 23 1051 Q. Wouldn't be? 24 A. In the room. 25 1052 Q. And what happened in February</p>	<p>1 Larry Flynn? 2 A. In which timeframe? 3 1058 Q. February 2013 until you left 4 government in 2014. 5 A. I may have but not that I recall 6 in any significant way. 7 1059 Q. What about Beth Webster, same 8 question. 9 A. I recall her being at a few 10 briefings at some point but I don't recall the 11 timeframe. 12 1060 Q. All right. Will Hill, same 13 question. 14 A. I don't recall him being at those 15 briefings. 16 1061 Q. Tony Bitonti? 17 A. Tony? Is he the communications 18 guy? No. 19 1062 Q. He has a communications role, yes. 20 A. No. 21 MR. MATTHEWS: All right. This email 22 that you have in front of you, Exhibit 29 to 23 Mr. Bardeesy, will be the next exhibit on your 24 examination, 25. 25 EXHIBIT NO. 25: Email chain, Bates</p>
<p>1 2013, to your recollection, that resulted in you 2 having contact with OLG directly? 3 A. The Premier became the Minister. 4 1053 Q. And who at OLG do you remember 5 having contact with beginning in February 2013? 6 A. So, I may be mistaken about that 7 date, but I started to engage in conversations with 8 Phil Olsen when he became the chair, so I don't 9 recall exactly when that happened. It might have 10 been March. 11 1054 Q. I think it was May 16th, 2013 is 12 when Mr. Godfrey resigned. 13 A. There you go. 14 1055 Q. And Mr. Olsen, as I understand it, 15 ultimately became the acting chair; does that 16 accord with your recollection? 17 A. Yes. So that's a couple of months 18 further down the road, but Phil Olsen was my 19 primary point of contact with OLG. 20 1056 Q. Okay. 21 A. I never talked with Paul Godfrey. 22 I was in a couple of meetings with Rod Phillips 23 while he was the CEO but more as an observer than a 24 participant. 25 1057 Q. Did you ever have any contact with</p>	<p>1 numbered CRE554102. 2 BY MR. MATTHEWS: 3 1063 Q. CRE439155, email between you and 4 Mr. Buchanan, Mr. Snobelen, Mr. Wilkinson, March 5 3rd, 2013. In this email, Mr. Snobelen is telling 6 you that: 7 "The most important thing to 8 communicate to the Premier is 9 urgency." 10 Correct? 11 A. Yes. 12 1064 Q. And why, to your understanding, 13 was it important to communicate urgency to Premier 14 Wynne in March 2013? 15 A. Well, as we talked about before, 16 there were ongoing points of urgency within the 17 industry, from the breeding sector to tracks 18 setting race dates and purse levels. The longer 19 there was uncertainty, the more risk there was to 20 the industry. 21 1065 Q. And we talked last day about there 22 being some urgency for government to make an 23 announcement directed towards the breeders in the 24 fall of 2012 when they were holding their auctions. 25 Do you recall that?</p>

<p style="text-align: right;">Page 261</p> <p>1 A. Yes.</p> <p>2 1066 Q. And we went through and it was</p> <p>3 suggested to you that the government did not make a</p> <p>4 statement in the fall of 2012, correct?</p> <p>5 A. Not that I recall, correct.</p> <p>6 1067 Q. So now we're in March of 2013 and</p> <p>7 that's breeders' breeding season, correct?</p> <p>8 A. From what I understand, yes.</p> <p>9 1068 Q. And so, as it relates to breeders,</p> <p>10 what Mr. Snobelen is saying to you is that you need</p> <p>11 to impress on Premier Wynne the urgency of making</p> <p>12 announcements to give confidence to breeders so</p> <p>13 that they can make investments in the horses and</p> <p>14 farms, correct?</p> <p>15 A. As I said, that was one of the</p> <p>16 imperatives. There were others such as the racing</p> <p>17 schedule, and there are many elements to the</p> <p>18 industry that required some certainty.</p> <p>19 1069 Q. I accept that, but as it relates</p> <p>20 to breeders, that was the imperative for urgency,</p> <p>21 correct?</p> <p>22 A. Correct.</p> <p>23 MR. MATTHEWS: All right. That's the</p> <p>24 next exhibit, please, 26.</p> <p>25 EXHIBIT NO. 26: Email, Bates numbered</p>	<p style="text-align: right;">Page 263</p> <p>1 1073 Q. And he says:</p> <p>2 "It would have worked if we had</p> <p>3 met the December 15th drop dead</p> <p>4 deadline."</p> <p>5 What's your understanding of this</p> <p>6 December 15th drop dead deadline, Mr. Keegan?</p> <p>7 A. I don't recall. I'd have to</p> <p>8 guess.</p> <p>9 MR. RATCLIFFE: Don't guess.</p> <p>10 THE WITNESS: Okay.</p> <p>11 BY MR. MATTHEWS:</p> <p>12 1074 Q. Well, whatever it was, it's clear</p> <p>13 from Mr. Wilkinson's email that whatever this</p> <p>14 deadline was, it was not met; fair?</p> <p>15 A. Yeah.</p> <p>16 1075 Q. And he continues by saying:</p> <p>17 "Finance refused to heed our</p> <p>18 warning, paid Deloitte to go</p> <p>19 reinvent the wheel and has led the</p> <p>20 industry to conclude that we are</p> <p>21 sunseting them."</p> <p>22 What do you understand that to mean,</p> <p>23 Mr. Keegan?</p> <p>24 A. This is John's way of saying that</p> <p>25 the industry still doesn't have certainty in the</p>
<p style="text-align: right;">Page 262</p> <p>1 CRE439155.</p> <p>2 BY MR. MATTHEWS:</p> <p>3 1070 Q. CRE439170. This is another</p> <p>4 sequence of emails that you're exchanging with the</p> <p>5 panelists, correct?</p> <p>6 A. Yes.</p> <p>7 1071 Q. And if you look in the middle of</p> <p>8 the page, you see an email from Mr. Wilkinson to</p> <p>9 you and his two co-panelists discussing the</p> <p>10 short-term communications plan, and this is a</p> <p>11 communications plan that you received around that</p> <p>12 time from the Ministry of Finance, correct?</p> <p>13 A. There is a communications plan</p> <p>14 from the Ministry of -- oh, I see.</p> <p>15 MR. RATCLIFFE: Yes, just take a moment</p> <p>16 to read the email all the way through.</p> <p>17 THE WITNESS: (Witness reads document).</p> <p>18 Okay.</p> <p>19 BY MR. MATTHEWS:</p> <p>20 1072 Q. So my question to you with respect</p> <p>21 to Mr. Wilkinson's email in the middle of the page,</p> <p>22 when he refers to the comms plan, this is the comms</p> <p>23 plan that was received from the Ministry of</p> <p>24 Finance, correct?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 264</p> <p>1 future.</p> <p>2 1076 Q. What do you understand his</p> <p>3 reference to Deloitte reinventing the wheel to</p> <p>4 mean?</p> <p>5 A. I'm not sure about the specific</p> <p>6 one but we did talk yesterday about Deloitte having</p> <p>7 a study around impacts for the industry.</p> <p>8 1077 Q. All right, Mr. Ratcliffe, I would</p> <p>9 like a copy of that Deloitte study if it hasn't</p> <p>10 been produced already, which I don't think it has.</p> <p>11 U/T MR. RATCLIFFE: I'll look into that.</p> <p>12 Certainly if we have it, we'll provide that to you.</p> <p>13 BY MR. MATTHEWS:</p> <p>14 1078 Q. So in March 2013, now that</p> <p>15 Minister Duncan has retired as the Minister of</p> <p>16 Finance, who was it that was driving the</p> <p>17 horseracing and OLG modernization file at the</p> <p>18 Ministry of Finance?</p> <p>19 A. Well, like all government</p> <p>20 decisions, once broad policy is set to budget or by</p> <p>21 Cabinet, it is handed over to civil servants to</p> <p>22 implement. So my recollection is very good when</p> <p>23 being the primary -- the person with the primary</p> <p>24 responsibility to implement this.</p> <p>25 1079 Q. All right. So at this time,</p>

<p style="text-align: right;">Page 265</p> <p>1 though, Mr. Keegan, that we've just discussed, 2 you've been asked to communicate to the Premier 3 that there's a sense of urgency, correct? 4 MR. RATCLIFFE: Which paragraph are you 5 referring to? 6 BY MR. MATTHEWS: 7 1080 Q. This was the previous document 8 that we had looked at, one of the briefing memos 9 that you had prepared for Premier Wynne. Excuse 10 me, it was Exhibit 26 where Mr. Snobelen was saying 11 the most important thing to communicate to Premier 12 is that she gets the urgency. Do you recall that? 13 A. Yes. 14 1081 Q. So you're being told to 15 communicate to the Premier that there's some 16 urgency, correct? 17 A. Yes. 18 1082 Q. You were communicating that 19 message to the Premier? 20 A. Yes. 21 1083 Q. The Premier understood that there 22 was urgency, correct? 23 A. So, maybe we should back up to the 24 previous question. My communications with the 25 Premier were not always directly one-on-one. As</p>	<p style="text-align: right;">Page 267</p> <p>1 EXHIBIT NO. 27: Email chain, Bates 2 numbered CRE439170. 3 BY MR. MATTHEWS: 4 1086 Q. CRE439539. Mr. Ratcliffe, can you 5 assist with respect to the redaction? 6 MR. RATCLIFFE: My understanding is 7 that the redacted portion refers to negotiations 8 with specific racetracks and is commercially 9 sensitive and may have an impact on future 10 negotiations and doesn't have any direct bearing on 11 the issues in this litigation. 12 MR. MATTHEWS: There are specific 13 pleadings, Mr. Ratcliffe, about racetracks and 14 funds paid to racetracks as indicative of being bad 15 faith. Just the fact that it's commercially 16 sensitive is not a reason for withholding. 17 Is it your position that this 18 information about funds being paid to racetracks in 19 the context of horseracing and transition are 20 irrelevant to the issues in this case? 21 MR. RATCLIFFE: Sorry, could you say 22 that again? Is it our position that what's 23 irrelevant? 24 MR. MATTHEWS: Funds paid to racetracks 25 in the context of horseracing transition are</p>
<p style="text-align: right;">Page 266</p> <p>1 you see through the memos, sometimes they go 2 through staff. So if you are asking me did I talk 3 on the phone or in person with the Premier to 4 indicate a sense of urgency, I would have if I had 5 the opportunity. I'm not sure in that timeframe 6 what conversations we had had, but certainly 7 through her office I was doing that. 8 1084 Q. And the Premier understood the 9 urgency, correct? 10 A. I think she was sensitive to the 11 need to communicate that. I hesitate to indicate 12 what level of understanding she would have on any 13 given file. She had a lot on her plate, obviously. 14 1085 Q. Okay. So why do we have, in March 15 2013, Finance through Deloitte trying to reinvent 16 the wheel if there's this sense of urgency? 17 A. So again, this is a historical 18 reference to Deloitte. John, as I said, this is 19 his way of communicating. This is an opportunity 20 for him to say that I was right. I'm not sure 21 exactly what he's referring to, but I think it's 22 back in early 2012 when they were debating with 23 Deloitte and McKinsey on the various impacts of 24 modernization and the SARP cancellation. 25 MR. MATTHEWS: Okay, next exhibit, 27.</p>	<p style="text-align: right;">Page 268</p> <p>1 irrelevant to this case? 2 MR. RATCLIFFE: This doesn't deal with 3 funds paid. It deals with negotiations. 4 MR. MATTHEWS: Negotiations that 5 resulted in funds being paid to racetracks, 6 correct? 7 MR. RATCLIFFE: Without -- 8 BY MR. LISUS: 9 1087 Q. Will you just give us the numbers 10 then? We're not interested in the negotiations. 11 We want to know what numbers were paid. 12 U/A MR. RATCLIFFE: Okay, I'll take that 13 under advisement as to the request for specific 14 numbers. 15 BY MR. MATTHEWS: 16 1088 Q. Can I have that document back, 17 Mr. Keegan. I'm passing you a document. It 18 doesn't appear to have a document identification 19 stamp on it, but if you look on the back of the 20 document, it's CRE0439542. 21 Question for your counsel, Mr. Keegan. 22 I would like to understand the redactions and the 23 basis for them on both pages. 24 MR. RATCLIFFE: I can't provide you 25 with an explanation. We'll hold that down for</p>

<p style="text-align: right;">Page 269</p> <p>1 later this morning and I'll get back to you. 2 BY MR. LISUS: 3 1089 Q. Can I just propose, 4 Mr. Ratcliffe -- you have these documents 5 unredacted in your database. Can I propose that we 6 see the unredacted documents on a counsel eyes only 7 basis and see if we can dispense with this 8 exercise, or at least narrow it in terms of what 9 we're interested in pursuing? Because we've got a 10 pretty compressed timeframe. I don't want to go 11 back to Justice Emery and then have to bring 12 Mr. Keegan back. How do you feel about that? 13 MR. RATCLIFFE: Certainly I prefer 14 that, you know, we can take this a step at a time. 15 You know, we got your request for 52 documents 16 there yesterday or last night, and certainly we 17 have approached it in terms of redacting material 18 that we, in good faith, believe has no direct 19 bearing on the issues in play. 20 If you are able to narrow it down, I 21 suppose, we can perhaps give you a more detailed 22 explanation as to what it is that the redaction 23 pertains to. 24 MR. LISUS: But the onus is on you 25 guys. These are redactions within documents that</p>	<p style="text-align: right;">Page 271</p> <p>1 Emery on a motion. We've made these redactions 2 that we believe are proper in the circumstances. I 3 guess what we could suggest is if there's specific 4 documents in particular -- 5 MR. LISUS: Well, the first two. 6 MR. RATCLIFFE: Okay. Then we'll make 7 a note of those first two and we'll -- I'll provide 8 you, not today, or not this morning, but with a 9 more fulsome answer, I guess, in terms of the basis 10 for our -- 11 MR. LISUS: Oh, that doesn't help us in 12 moving on with the examination. What I'm asking is 13 you let me see on a counsel eyes only basis what 14 the redaction is. 15 MR. RATCLIFFE: We're not going to do 16 that right now, sorry. 17 MR. LISUS: Then we'll have to bring a 18 motion. 19 BY MR. MATTHEWS: 20 1090 Q. All right, Mr. Keegan, I'll take 21 the document back. Before I do, though, you're 22 copied on this email chain, correct? 23 A. Yes. 24 MR. MATTHEWS: Right. So I'll mark it 25 as the next exhibit, please, 28.</p>
<p style="text-align: right;">Page 270</p> <p>1 are produced as relevant. I don't know how there 2 can be portions of relevant documents that are 3 irrelevant, and that's not the test in the case 4 law. 5 But if it has no bearing to anything, 6 why do you care if it's just seen? There is a lot 7 in these materials that are produced that are not 8 redacted that, frankly, aren't probative of the 9 core issues in the lawsuit, so you've redacted 10 documents or sections of documents. The onus is on 11 you to justify the redaction. 12 I'm simply trying to come up with a 13 streamlined way to deal with it, and which I think 14 the rules contemplate, which is to let me see the 15 document unredacted and we can make a judgment 16 about whether I'm going to pursue it. Otherwise 17 we're going to get into a cumbersome procedure of 18 having to bring a motion, put the documents before 19 the court, have the court review them unredacted, 20 make a ruling, and I expect some redactions are 21 going to be not upheld and then Mr. Keegan is going 22 to come back, and I just don't see the point of 23 that. 24 MR. RATCLIFFE: Certainly it would be 25 our preference not to have to take this to Justice</p>	<p style="text-align: right;">Page 272</p> <p>1 EXHIBIT NO. 28: Email chain, Bates 2 numbered, on the back, CRE0439542. 3 BY MR. MATTHEWS: 4 1091 Q. I'm passing you a newspaper 5 article dated March 4th, 2013 entitled "Premier 6 Wynne Attends Flamborough Chamber Awards Gala." 7 First of all, do you have a recollection of your 8 Minister attending this gala in March of 2013? 9 A. No. 10 1092 Q. All right. Have a look at the 11 third page of the document where the first full 12 paragraph says: 13 "As the end of the Slots at 14 Racetracks Program looms, Wynne 15 stressed the province's need for a 16 strong and sustainable horseracing 17 industry." 18 Do you see that? 19 A. Which paragraph is that? 20 1093 Q. Second paragraph on the third 21 page. It has 797 in the top corner. 22 A. Oh, yes, sorry, yes. 23 1094 Q. And you see right below that 24 Minister Wynne is quoted as saying: 25 "'I think you know that some of</p>

<p style="text-align: right;">Page 273</p> <p>1 the decisions that were made were 2 possibly not as well thought through 3 as they needed to be. And my 4 predecessor knew that,' she said. 5 'The former Minister of Agriculture, 6 Food and Rural Affairs understood 7 that we needed to take a second look 8 at some of those decisions that were 9 made.'" 10 Did you have an understanding that that 11 was Minister McMeekin's view when you were his 12 Chief of Staff, Mr. Keegan? 13 A. To take a second look? 14 1095 Q. Yes. 15 A. Certainly that's -- we put a whole 16 process in place with the panel. 17 1096 Q. And did you know when you 18 subsequently became Minister Wynne, her Chief of 19 Staff in her capacity as Minister of Agriculture, 20 did you understand that her view in March 2013 was 21 that the decision around the Slots at Racetracks 22 Program was not as well thought through as it 23 needed to be? Did you have that understanding? 24 A. So, these are -- so what I know of 25 where the Premier and the Minister was at on</p>	<p style="text-align: right;">Page 275</p> <p>1 through as it needed to be? Was that your 2 understanding as her Chief of Staff? 3 A. So, as in did we ever have a 4 conversation that this decision was not well 5 thought through? 6 1099 Q. Yes. Did you ever have a 7 discussion with Premier Wynne about whether or not 8 the decision, the original decision about the Slots 9 at Racetrack Program was well thought through? 10 A. I don't recall that kind of 11 conversation. 12 1100 Q. What kind of conversation do you 13 recall? 14 A. I recall having many conversations 15 about the vigour with which the Ministry of Finance 16 was pursuing that decision. 17 1101 Q. Okay. And do you have any reason 18 to doubt that the quote given by Minister Wynne 19 reflected in this news story, March 4th, 2013, is 20 inaccurate? 21 MR. RATCLIFFE: Are you in a position 22 to know that? 23 MR. LISUS: You shouldn't -- 24 Mr. Ratcliffe, please don't modify questions on a 25 cross-examination. The question is quite clear.</p>
<p style="text-align: right;">Page 274</p> <p>1 horseracing in particular was a number of things. 2 One, she was comfortable with the need to 3 rationalize the industry; two, she was very 4 concerned with the implications of that; and three, 5 wanted to make sure that rationalization happened 6 in a way that minimized negative impacts and 7 maximized the sustainability of the industry into 8 the future. 9 So, she's talking in public, she's 10 trying to indicate here that she's making a shift 11 in where the government is headed. I'm not sure 12 that this reflects her thinking so much as the kind 13 of partnership and relationship she wants to have 14 with the industry. 15 1097 Q. So, do I understand you to say, 16 then, that you're not sure whether or not Minister 17 Wynne felt that the SARP decision was not thought 18 through as well as it needed to be? Is that your 19 evidence, you're not sure? 20 A. I think the implications of the 21 Slots at Racetrack decision were her primary 22 concern. 23 1098 Q. That may be so, but did she have a 24 concern that the original decision about the Slots 25 at Racetrack Program was not as well thought</p>	<p style="text-align: right;">Page 276</p> <p>1 Minister Wynne is quoted in the press. The 2 question is does that accurately reflect what she 3 said? 4 MR. RATCLIFFE: And I think he's said 5 that he had conversations with her at various 6 times. 7 BY MR. LISUS: 8 1102 Q. I'm asking whether -- the question 9 is -- the question is does the statement in the 10 press accurately reflect what she said? 11 A. I guess. 12 1103 Q. Right. Did you ever write to the 13 press or did she ever write to the press to say you 14 have misquoted Minister Wynne? 15 A. Not to my knowledge. 16 1104 Q. Did your office ever express a 17 concern internally or externally that the Premier 18 had been misquoted? 19 A. Not to my knowledge. 20 1105 Q. So we can agree that it's an 21 accurate quote and accurately reflects her views, 22 right? 23 A. As far as I can tell. 24 MR. MATTHEWS: All right. So we'll 25 mark that as the next exhibit, 29.</p>

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1	EXHIBIT NO. 29: Newspaper article	1	represented.
2	dated March 4, 2013 entitled "Premier	2 1115	Q. Sure, but you see her sending a
3	Wynne Attends Flamborough Chamber	3	briefing note to Mr. Walman in the Premier's
4	Awards Gala."	4	Office, correct?
5	BY MR. MATTHEWS:	5	A. Yes.
6 1106	Q. CRE439776 and its attachment 777.	6 1116	Q. And when Mr. Walman forwards it to
7	This is a briefing note that is sent originally by	7	you, he says that:
8	Jane Holmes to Bobby Walman in the Premier's	8	"Jane's note was discussed
9	Office, and is subsequently forwarded by Bobby	9	yesterday with Tom."
10	Walman to you, correct?	10	That's Tom Teahen, right?
11	A. Yes.	11	A. Probably, yes.
12 1107	Q. Who is Bobby Walman?	12 1117	Q. All right. So, the briefing note
13	A. Bobby Walman at that time I	13	that is attached to the email is being shared with
14	believe was director of stakeholder relations in	14	and discussed with the Premier's Office and with
15	the Premier's Office.	15	you, the Chief of Staff to the Minister of
16 1108	Q. Do you recall receiving the	16	Agriculture, right?
17	briefing note that's the attachment?	17	A. Yes.
18	A. No.	18 1118	Q. All right. So, if you look at the
19	MR. RATCLIFFE: Take a moment and look	19	attachment, the very first paragraph, the issue is
20	at the attachment.	20	identified as there being an immediate need to
21	THE WITNESS: (Witness reads document).	21	incorporate the industry into the modernization
22	Yes.	22	strategy in order to ensure its long-term stability
23	BY MR. MATTHEWS:	23	-- sustainability, correct?
24 1109	Q. So, when you received this	24	A. Yes.
25	briefing note June 2013, you'd been involved with	25 1119	Q. It also says the industry is at
Page 278		Page 280	
1	the horseracing file for approximately one year,	1	serious risk of continuing in a downward spiral to
2	correct?	2	a point beyond which it will be unable to survive
3	A. Yes.	3	as a strong and vibrant industry, contributing to
4 1110	Q. And so you communicated	4	the provincial economy, correct?
5	extensively with the panel?	5	A. Yes.
6	A. Yes.	6 1120	Q. And that's consistent with what
7 1111	Q. Correct? And you composed a	7	you were learning and being communicated to you by
8	number of briefing notes for the Premier, your	8	the Horseracing Industry Transition Panel, correct?
9	Minister, correct?	9	A. Yes.
10	A. Yes.	10 1121	Q. And when Ms. Holmes gives the
11 1112	Q. And you know who Jane Holmes is,	11	background, she describes the Slots at Racetrack
12	correct?	12	Program as a partnership between the horseracing
13	A. Yes.	13	industry and the Ontario Lottery and Gaming
14 1113	Q. She is the head of OHRIA, correct?	14	Corporation in which the industry earned 20 percent
15	A. No, Jane Holmes was the director	15	of the slot revenue. That was your understanding
16	of -- or vice-president of public relations at	16	of the Slots at Racetrack Program, correct?
17	Woodbine.	17	A. The 20 percent revenue share, yes.
18 1114	Q. All right. That's right, thank	18 1122	Q. And that SARP was a partnership
19	you. And Jane Holmes was someone who the	19	between the horseracing industry and the Ontario
20	government looked to for insight into the	20	Lottery and Gaming, correct?
21	horseracing industry, correct?	21	A. So I'm not a lawyer, I don't know
22	A. I would say it would be more	22	the legal meaning of "partnership," but certainly
23	accurate to say that she was a stakeholder who	23	the industry viewed it as a partnership.
24	provided insight into her industry, specifically	24 1123	Q. Well, you described earlier what
25	the Woodbine Entertainment Group that she	25	was designed by Premier Wynne and the government in

<p style="text-align: right;">Page 281</p> <p>1 the aftermath as a new partnership with the 2 horseracing industry, correct? 3 A. Yes. 4 1124 Q. So my question to you is, SARP was 5 also a partnership with the horseracing industry, 6 correct? 7 MR. RATCLIFFE: Well, I think he said 8 that -- you're asking him there a little bit 9 different question, a legal question maybe. 10 MR. MATTHEWS: I asked him for his 11 understanding, Mr. Ratcliffe. 12 MR. RATCLIFFE: Well, again he's not a 13 lawyer in terms of what his understanding is. 14 BY MR. MATTHEWS: 15 1125 Q. And did you know that the Slots at 16 Racetrack Program was the result of a two-year 17 negotiation, as is expressed in this briefing note? 18 A. No, I -- I did not know that. 19 1126 Q. All right. If you look down to 20 the impact of SARP, where the briefing note says 21 that: 22 "The horseracing industry 23 committed to increasing the number 24 of jobs it generated by 7,500 with 25 the implementation of SARP. In fact</p>	<p style="text-align: right;">Page 283</p> <p>1 1131 Q. Revenue that was not there before 2 the Slots at Racetrack Program, correct? 3 A. Yes. 4 1132 Q. If you look over to the following 5 page, there is a discussion about the consequences 6 of cancelling SARP, and the first one is listed as 7 the immediate impact on the breeding industry, and 8 the briefing note says: 9 "The breeding industry has been 10 particularly hard hit by the 11 announcement of the SARP 12 cancellation." 13 That's consistent with what you learned 14 through your work with the panel, correct? 15 A. Yes. 16 1133 Q. And you also learned, and I think 17 your evidence was yesterday, that the business 18 model of horse breeders generally operates on a 19 five-year cycle, correct? 20 A. Yes. 21 1134 Q. If you look down to the next 22 paragraph, where it says: 23 "The announcement to cancel the 24 SAR program came in the midst of the 25 2012 horse breeding season."</p>
<p style="text-align: right;">Page 282</p> <p>1 almost 15,000 new jobs were 2 generated." 3 Was that your understanding, 4 Mr. Keegan? 5 A. No, I was not aware of that. 6 1127 Q. You have no knowledge about that 7 one way or the other? 8 A. One way or the other. 9 1128 Q. But you do know, if you look at 10 the next paragraph, that the SARP program was far 11 more successful than the original revenue 12 projections and all partners benefitted equally, 13 the province, municipality and industry, correct? 14 A. The equally meaning the way that 15 the different percentages had been set up, yes. I 16 mean, they weren't equally shared, like 25/25/25. 17 1129 Q. So not in financial terms, because 18 there was a division of how the revenue was shared, 19 correct? 20 A. Yes. 21 1130 Q. But the fact that the province, 22 municipalities and the horseracing industry all 23 benefitted from the Slots at Racetrack Program, you 24 understood that, correct? 25 A. They all shared the revenues, yes.</p>	<p style="text-align: right;">Page 284</p> <p>1 That's correct, right? 2 A. Yeah. Yes. 3 1135 Q. All right. And it continues to 4 say: 5 "Given the uncertain future of 6 the industry, the breeding of racing 7 horses in Ontario halved from 2011 8 levels." 9 That's consistent with what you 10 understood from your work with the panel, correct? 11 A. In general terms. I don't know 12 about the specific percentages. 13 1136 Q. Fair enough. Then it continues to 14 say: 15 "With still no plan or idea on 16 the future of the industry, the 17 summer standardbred horse sales saw 18 the average price for brood mares 19 down by 65 percent over 2011 20 prices." 21 Without holding you to the firm 22 percentage, that's consistent with the magnitude of 23 drop in horse values that you understood from your 24 work with the panel, correct? 25 A. Yes.</p>

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<p>1 1137 Q. And the third paragraph reads: 2 "The second breeding season is 3 underway since the announced 4 cancellation and further declines 5 are expected with the future market 6 for race horses still uncertain. 7 Anecdotal information is that a 8 number of breeders are selling off 9 their stock and farms to downsize 10 and/or leaving the industry or 11 relocating to other jurisdictions." 12 And that as well, sir, is consistent 13 with the information you were learning through the 14 Horseracing Industry Transition Panel, correct? 15 A. Yes. 16 1138 Q. And I think you said yesterday 17 that Minister McMeekin's idea behind constituting 18 and setting up the panel was to get the best 19 information available so that the government could 20 make appropriate transition decisions going 21 forward. Fair? 22 A. Yes. 23 1139 Q. If you look at the following page, 24 there is a discussion of social and economic cost 25 related to loss of the Ontario industry. Do you</p>	<p>1 correct? 2 A. I believe so, yes. 3 1144 Q. What, if anything, do you remember 4 doing with this briefing note when you received it 5 in March 2013? 6 A. I don't recall receiving this. I 7 do -- 8 1145 Q. Well, do you dispute that you did 9 not receive it? Because it's sent to you by Bobby 10 Walman. 11 A. I accept that I received it. I 12 don't remember receiving it and I don't remember 13 what I did with it. The final sections of the 14 briefing note are familiar to me because this was 15 -- this line of argument from Woodbine became a key 16 campaign for them, I guess you could call it, 17 around putting them in a special category within 18 the modernization procurement process. 19 So, I don't recall this specific 20 briefing note, but that specific information was an 21 ongoing topic of discussion. 22 1146 Q. Well, by this point in time, March 23 2013, Woodbine had signed its new agreement, 24 correct? 25 A. I believe at the time those were</p>
<p>1 see that heading? 2 A. Yes. 3 1140 Q. And it begins by there being a 4 discussion of the Quebec experience. You're 5 familiar with what happened in Quebec with the 6 abrupt withdrawal of funding for the horseracing 7 industry? 8 A. Yes, in general terms, yes. 9 1141 Q. And in general terms, it 10 collapsed, correct? 11 A. It disappeared, yes. 12 1142 Q. And this briefing note says: 13 "As the largest horseracing 14 jurisdiction in Canada, the economic 15 and social toll will be greater." 16 That's consistent with what you learned 17 through your work with the panel, correct? 18 A. Yes. 19 1143 Q. It also says that: 20 "There has been no 21 comprehensive study done to put a 22 price tag on the costs associated 23 with thousands of job losses as a 24 result of cancelling SARP." 25 That was true as of March 2013,</p>	<p>1 five-year lease agreements, yes. 2 1147 Q. And Woodbine was the first to sign 3 its lease agreement in January of 2013, correct? 4 A. I'm not sure if they were first, 5 but probably, yeah. I'm not referring to the lease 6 agreements, though. This is their -- they wanted 7 to be -- have a special -- have a special place in 8 the procurement process separate from the others in 9 the other zones. 10 So that's why I remember this topic, 11 not necessarily this specific briefing note. 12 1148 Q. Sure. But Woodbine's desire to 13 have a special place in the procurement process had 14 nothing to do with the impact on the breeding 15 industry from cancelling SARP, right? 16 A. Not on the face of it, no. 17 MR. MATTHEWS: Next exhibit, please. 18 30. 19 EXHIBIT NO. 30: Briefing note and 20 attachment, Bates numbered CRE439776 21 and CRE439777. 22 BY MR. MATTHEWS: 23 1149 Q. The next document which I don't 24 need to show you, Mr. Keegan, because, 25 Mr. Ratcliffe, the question is about the redaction,</p>

<p style="text-align: right;">Page 289</p> <p>1 CRE440621, the third page of the document. I want 2 to understand why it's redacted, please? 3 MR. RATCLIFFE: What's the number 4 again? 621 are the last three digits? 5 MR. MATTHEWS: Correct. 6 MR. RATCLIFFE: My understanding is 7 that it relates to negotiations with specific 8 racetracks, and the information is commercially 9 sensitive and it may have an impact on future 10 negotiations and it's not relevant to the issues in 11 play here. 12 BY MR. MATTHEWS: 13 1150 Q. CRE441125. This is an email chain 14 beginning with an email from you to Tom Teahen and 15 Andrew Bevan from the Premier's Office, March 13, 16 2013, with the subject "Next Steps," where you say 17 that: 18 "Over the next seven days, the 19 horseracing file is going to 20 encounter two significant political 21 challenges." 22 A. Yes. 23 1151 Q. In point number 2 in your email 24 where you discuss about integration with OLG 25 modernization strategy, you say to Mr. Teahen and</p>	<p style="text-align: right;">Page 291</p> <p>1 forward. Our priority was on that. We were not 2 looking to relitigate why we got to where we were; 3 it was all about moving forward. And in the 4 context of government, arguing with other 5 departments over why this happened was never 6 something that I engaged in. 7 1157 Q. And because the political reality 8 would be that going back would be interpreted as a 9 capitulation and an about-face, correct? 10 A. I'm not talking about public 11 discussions, I'm talking about internal ones. 12 1158 Q. But one of the political 13 challenges with going back and reinstating the 14 Slots at Racetrack Program was that it would be 15 viewed as capitulation or about-face, correct? 16 A. Reinstating the SARP program? 17 1159 Q. Yes. 18 A. I don't think that that was ever 19 discussed as a realistic option. 20 1160 Q. Because it would be viewed as a 21 capitulation or about-face, correct? 22 A. No, I think the reasons for that 23 were really around the problems that were 24 highlighted with the program. 25 1161 Q. If I can direct you to the third</p>
<p style="text-align: right;">Page 290</p> <p>1 Mr. Bevan that you have your own perspective on the 2 modernization strategy which you try to keep to 3 yourself. What's your perspective? 4 A. On modernization, that it's -- I 5 don't think that it's a good strategy. 6 1152 Q. And why do you say that? 7 A. Because I don't think that it's 8 politically sustainable and I don't think that the 9 economics are recognizable in the real world, it's 10 more of a theoretical strategy than a real world 11 strategy. 12 1153 Q. And did you ever share that 13 perspective with your Minister at the time, 14 Ms. Wynne? 15 A. Possibly. I don't recall 16 specifically. 17 1154 Q. Well, you were her Chief of Staff, 18 correct? 19 A. Yes. 20 1155 Q. She looked to you for advice? 21 A. Yes. 22 1156 Q. Correct? Did she share your 23 perspective on the modernization strategy? 24 A. Possibly. As I've said before, we 25 -- we had a lot of work to do on moving this file</p>	<p style="text-align: right;">Page 292</p> <p>1 point under item 2 in your email, you say to 2 Mr. Teahen and Mr. Bevan that: 3 "Without agreements before 4 April 1st, the tracks will close, 5 the slots at OLG will not have slot 6 revenue. This would be highly 7 problematic, far beyond the 8 horseracing file." 9 What do you mean when you say "This 10 would be highly problematic, far beyond the 11 horseracing file"? 12 A. I believe there was still 13 outstanding lease agreements. 14 1162 Q. What I understand you to say, sir, 15 is that not having slots revenue would be highly 16 problematic, far beyond the horseracing file? 17 A. Slot revenues are a significant 18 source of revenue for the provincial government. 19 1163 Q. So why would that be problematic 20 if those revenues disappeared? 21 A. Well, it would create a fiscal 22 pressure in the provincial budget. 23 MR. MATTHEWS: Okay. Next exhibit, 24 please. 25 EXHIBIT NO. 31: Email chain, Bates</p>

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1 numbered CRE441125.
 2 BY MR. MATTHEWS:
 3 1164 Q. Who is Ian Howard?
 4 A. Ian Howard? I recognize the name.
 5 Is there a context?
 6 1165 Q. He was emailing you.
 7 A. I think he was a horseman of some
 8 kind.
 9 1166 Q. How did you get in contact with
 10 him?
 11 A. To the best of my recollection, he
 12 just emailed me. I'm not sure I ever met him
 13 face-to-face.
 14 1167 Q. CRE441132.
 15 A. (Witness reads document).
 16 1168 Q. This is an email from Ian Howard
 17 to you copying Ted McMeekin and Kathleen Wynne?
 18 A. Yes.
 19 1169 Q. What my initial question is, is
 20 why it would be the case that Mr. Howard would
 21 know, for instance, to just send an email to you
 22 out of the blue to discuss issues around OLG
 23 modernization and horseracing?
 24 A. I honestly don't know. I do
 25 receive or did receive emails like this with some

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1 regularity from people just looking at the Info-Go
 2 website, the government directory. I don't know
 3 how he identified me.
 4 1170 Q. Because as I read Mr. Howard's
 5 email, he seems to be fairly plugged in
 6 politically, if I can put it that way, where he
 7 says to you:
 8 "You have solidified Hudak's
 9 hold in rural Ontario...and have
 10 given both the PCs and the NDP the
 11 moral high ground to bemoan racing's
 12 fate... I think seats like Milloy
 13 and Craitors are gone.
 14 ...Premier Wynne must take
 15 control of OLG before another Crown
 16 corporation brings you down. By
 17 trying to manage so much in a year
 18 the OLG has upped the political ante
 19 to a level that puts you at too
 20 great a risk for too little reward.
 21 The gaming lobby somehow managed to
 22 convince Duncan to go all in."
 23 These are all comments directed sort of
 24 at political implications of the OLG modernization
 25 strategy, correct?

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1 A. Yes.
 2 1171 Q. From the perspective of the
 3 Liberals, correct?
 4 A. Well, from Ian's perspective, I
 5 suppose. He's making a critique of the gaming
 6 strategy as if -- yes, as if from a Liberal
 7 perspective.
 8 1172 Q. And so, you respond to Mr. Howard
 9 just indicating that you wish you had met him
 10 sooner. Does that refresh your recollection as to
 11 whether or not you ever met Mr. Howard, or are you
 12 just referring to meeting him over email?
 13 A. As I said, I don't ever recall
 14 meeting him face-to-face, so just over email.
 15 1173 Q. Okay. And I read your response as
 16 saying "I wish we had met sooner" as expressing
 17 some agreement or endorsement of some of the views
 18 he expresses in his email. Is that a fair reading?
 19 A. No. As I said, I got emails like
 20 this on this topic and others with some frequency.
 21 I was especially sensitive to the horseracing
 22 emails like this because I knew that there was
 23 significant angst, anxiety and stress, so this is
 24 just me at a human level being kind.
 25 I can -- well, I mean, you could look

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1 at any number of emails from people providing
 2 political -- unsolicited political advice where I
 3 am kind, considerate and polite in my response.
 4 1174 Q. Fair enough.
 5 A. I would just add this was probably
 6 a common perception in the industry at that time.
 7 1175 Q. Do you agree with Mr. Howard's
 8 comment that:
 9 "By trying to manage so much in
 10 the year OLG has upped the political
 11 ante to a level that puts the
 12 Liberals at too great a risk for too
 13 little reward"?
 14 A. I'm not really sure what that
 15 means.
 16 MR. MATTHEWS: All right. Can I have
 17 the document back, sir. Mark it as Exhibit 32.
 18 EXHIBIT NO. 32: Email, Bates numbered
 19 CRE441132.
 20 BY MR. MATTHEWS:
 21 1176 Q. Do you want to take the morning
 22 break, Mr. Keegan?
 23 A. I would appreciate that.
 24 1177 Q. Ten minutes?
 25 A. Sure. Thank you.

Page 297	<p>1 -- RECESS AT 11:25 --</p> <p>2 -- UPON RESUMING AT 11:37 --</p> <p>3 BY MR. MATTHEWS:</p> <p>4 1178 Q. CRE457136. This is an email</p> <p>5 initially between Peter Cleary, Bobby Seeber and</p> <p>6 others with the subject "Breeders Association April</p> <p>7 18, 2013." Do you know who Peter Cleary is?</p> <p>8 A. Yes.</p> <p>9 1179 Q. And he appears to be affiliated</p> <p>10 with the MRA. What is MRA?</p> <p>11 A. Ministry of Rural Affairs.</p> <p>12 1180 Q. So this was when the Minister of</p> <p>13 Agriculture became Kathleen Wynne, she split off</p> <p>14 the Ministry of Rural Affairs and Jeff Leal was the</p> <p>15 Minister of Rural Affairs, correct?</p> <p>16 A. Yes, he was the Minister of</p> <p>17 Agriculture and Food and the Minister of Rural</p> <p>18 Affairs.</p> <p>19 1181 Q. And so the email subsequently gets</p> <p>20 forwarded to you by Mr. Seeber, correct?</p> <p>21 A. Yes.</p> <p>22 1182 Q. And the Ministry of Rural Affairs</p> <p>23 is saying to Bobby Seeber, Jason Lagerquist and</p> <p>24 Amber Anderson at OMAFRA that they're wondering if</p> <p>25 they can have a conversation on horse breeding and</p>	Page 299	<p>1 If you go over the page, it appears you</p> <p>2 have included a track -- excuse me, a chart listing</p> <p>3 the different racetracks, providing a status of</p> <p>4 transfer payment agreements, and where there has</p> <p>5 been an agreement in principle or an agreement</p> <p>6 signed, you have provided the amount of transition</p> <p>7 funding for 2013 to '14 and 2014 to '15. Correct?</p> <p>8 A. Correct.</p> <p>9 1187 Q. And so the transition funding you</p> <p>10 outline is one bucket of funding along with revenue</p> <p>11 from leases and capital assistance payments to</p> <p>12 racetracks that were paid to racetracks following</p> <p>13 the cancellation of revenue sharing from the slots</p> <p>14 program, correct?</p> <p>15 A. Yes.</p> <p>16 MR. MATTHEWS: Next exhibit, please.</p> <p>17 EXHIBIT NO. 34: Briefing memo, Bates</p> <p>18 numbered CRE444296.</p> <p>19 BY MR. MATTHEWS:</p> <p>20 1188 Q. CRE444649 and its attachment 650.</p> <p>21 This is an email to you attaching a briefing note</p> <p>22 in connection with a meeting that Premier Wynne is</p> <p>23 going to have with OHRIA, correct?</p> <p>24 A. (Witness reads document). Yes.</p> <p>25 1189 Q. And you would have reviewed this</p>
Page 298	<p>1 impacts to them due to the SART program. Do you</p> <p>2 see that?</p> <p>3 A. Yes.</p> <p>4 1183 Q. And one of the options that's</p> <p>5 being discussed in the emails is to establish a</p> <p>6 compensation model for breeders, correct?</p> <p>7 A. Yes.</p> <p>8 1184 Q. Did you ever participate in any</p> <p>9 discussions about establishing a compensation model</p> <p>10 for breeders in connection with the cancellation of</p> <p>11 revenue sharing from SARP?</p> <p>12 A. Not to my recollection.</p> <p>13 MR. MATTHEWS: All right. Next</p> <p>14 exhibit, please.</p> <p>15 EXHIBIT NO. 33: Email, Bates numbered</p> <p>16 CRE457136.</p> <p>17 BY MR. MATTHEWS:</p> <p>18 1185 Q. CRE444296. This is one of the</p> <p>19 briefing memos that you were preparing for the</p> <p>20 Premier and Minister of Agriculture, April 22nd,</p> <p>21 2013. Correct?</p> <p>22 A. Yes.</p> <p>23 1186 Q. One of the things you're providing</p> <p>24 to her is in relation to the horseracing file, a</p> <p>25 status of tracks updated in attached chart.</p>	Page 300	<p>1 profile note in advance of it being provided to the</p> <p>2 Premier for her meeting with Sue Leslie of OHRIA,</p> <p>3 correct?</p> <p>4 MR. RATCLIFFE: Take a look at the</p> <p>5 note.</p> <p>6 THE WITNESS: (Witness reviews</p> <p>7 document). So, I don't recall reviewing this but</p> <p>8 someone in our office, including me, would have</p> <p>9 reviewed it. It was standard practice.</p> <p>10 BY MR. MATTHEWS:</p> <p>11 1190 Q. Sure. And if you look at the</p> <p>12 final page of the profile note, it appears to have</p> <p>13 been prepared by George McCaw and David Meinen in</p> <p>14 the EDP Branch. Is that Economic Development and</p> <p>15 Policy Branch of the Ministry of Agriculture?</p> <p>16 A. I believe that's correct, yes.</p> <p>17 MR. MATTHEWS: Next exhibit, please.</p> <p>18 EXHIBIT NO. 35: Email and attached</p> <p>19 briefing note, CRE444649 and CRE444650.</p> <p>20 BY MR. MATTHEWS:</p> <p>21 1191 Q. Did you attend the meeting between</p> <p>22 Premier Wynne and Sue Leslie?</p> <p>23 A. Probably. I don't recall</p> <p>24 specifically. I usually was with the Premier when</p> <p>25 she met stakeholders in her capacity as Minister,</p>

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1 although not every single one.
 2 1192 Q. Do you have a specific
 3 recollection of her meeting with Sue Leslie in
 4 April 2013?
 5 A. No. She and Sue met a number of
 6 times. I was present for many or most of them. I
 7 don't recall that one specifically.
 8 1193 Q. CRE447079. The document I have
 9 passed to you suggests that it's a status update
 10 for deputy ministers in advance of a telephone call
 11 about horseracing around May 28th. Correct?
 12 A. Yes.
 13 1194 Q. Now, around this time, May 28th,
 14 2013, I understand that there were regular
 15 telephone calls amongst deputy ministers in the
 16 Ministry of Finance and the Ministry of
 17 Agriculture; is that correct?
 18 A. I can only assume. That would
 19 make sense.
 20 1195 Q. Did you participate? I know you
 21 were not a deputy minister, but did you participate
 22 in any of these calls amongst deputy minister of
 23 Finance and Agriculture discussing horseracing in
 24 May or June of 2013?
 25 A. So, this kind of formal deputy to

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1 deputy updates, I don't recall participating. I
 2 did talk with deputies from OMAFRA and Finance with
 3 some regularity though.
 4 1196 Q. And Finance was Mr. Orsini,
 5 correct?
 6 A. Yes.
 7 1197 Q. And Agriculture was Ms. Chan?
 8 A. At this point in 2013 I believe
 9 Agriculture would have been Deb Stark. And Orsini
 10 did become Secretary of Cabinet, I don't recall, I
 11 think he was -- I don't recall when he did switch.
 12 It might have been at this point.
 13 1198 Q. And when he did switch, who
 14 replaced him as deputy minister of Finance?
 15 A. You're testing me. I'm not sure I
 16 remember. I should know this, shouldn't I? I
 17 can't remember off the top of my head. I'm sure I
 18 do know this somewhere in my mind.
 19 1199 Q. We'd like to know about the
 20 redaction made to this document, Mr. Ratcliffe.
 21 Next exhibit, please.
 22 EXHIBIT NO. 36: Status update for
 23 deputy ministers, Bates numbered
 24 CRE447079.
 25 MR. RATCLIFFE: I'll make a note of

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1 that.
 2 BY MR. MATTHEWS:
 3 1200 Q. CRE447624. This appears to be a
 4 very similar document to the one we just looked at.
 5 It's an update for a deputy ministers call on
 6 horseracing approximately a week later than the
 7 last one we just looked at, correct?
 8 A. It's June 4th? Yes.
 9 1201 Q. Question for you only is about the
 10 second bullet point under the heading "Issues
 11 Management," where there is a sub-bullet point that
 12 says:
 13 "Need to be clear about dollar
 14 amounts being used by the two
 15 Ministries/OLG (for example, dollar
 16 amounts of the tax exemption for the
 17 industry, lack of clarity about
 18 one-time capital assistance to
 19 certain tracks, and 180 million over
 20 three years in transitional
 21 assistance)."
 22 Do you see that?
 23 A. Yes.
 24 1202 Q. Did you come to develop an
 25 understanding around this time, June 2013, about

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1 one-time capital assistance payments being made to
 2 certain racetracks?
 3 A. I had an awareness that those had
 4 happened.
 5 1203 Q. Okay. Did you have any
 6 understanding as to why capital assistance payments
 7 were being made to certain tracks?
 8 A. Just a general awareness that
 9 there was some negotiation on capital assets that
 10 had debt, but I wasn't --
 11 1204 Q. Capital assets of racetracks?
 12 A. Sorry. I thought this was
 13 referring to -- if we go back to our original three
 14 buckets, the support to -- so if we have leases,
 15 transfer payment agreements in the other one around
 16 capital assistance to settle outstanding capital
 17 investments, but maybe this is something different.
 18 1205 Q. That's what I'm trying to
 19 understand.
 20 A. Oh.
 21 1206 Q. If it is the payments to provide
 22 capital assistance relating to outstanding capital
 23 assets, what I'm trying --
 24 A. That's what I took it to be.
 25 1207 Q. Well, can you help me understand

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1	why and who was making these payments of capital assistance?	1	A. Questions from?
2		2	1216 Q. From the media or from members of
3	MR. RATCLIFFE: Do you know that?	3	the Legislative Assembly.
4	THE WITNESS: I just had a general	4	A. So, there would be different kinds
5	awareness that Finance and OLG had made -- had an	5	of notes that would include key messaging, some for
6	agreement or had made payments to some tracks	6	the House, some for stakeholder meetings, some for
7	around those outstanding debts.	7	public engagements. Those key messages would
8	BY MR. MATTHEWS:	8	generally be the same, maybe nuanced for different
9	1208 Q. Would Mr. Orsini be involved with	9	audiences, but --
10	the authorization or approval of capital assistance	10	1217 Q. But can you and I agree that key
11	payments made to tracks by the Ministry of Finance	11	messages are intended to be projected out to the
12	or its agency, OLG?	12	public, whether it be to stakeholders or speaking
13	A. I don't know. I would assume so.	13	points for questions in the Legislative Assembly?
14	1209 Q. Do you know whether in order to --	14	A. Yes. So, they're not intended to
15	in order for the Ministry of Finance or OLG to make	15	be verbatim; they're to capture concepts in ways
16	one-time capital assistance to certain racetracks	16	that are communicatable.
17	there needed to be formal transfer payment	17	1218 Q. Communicatable to the public,
18	agreements to deliver that capital assistance?	18	correct?
19	A. I don't know how they would do	19	A. To various audiences, yes.
20	that.	20	1219 Q. Public audiences, correct?
21	1210 Q. Do you know the amount of one-time	21	A. Well, the public would be one
22	capital assistance that was paid by Finance for OLG	22	audience, yes.
23	to certain racetracks?	23	1220 Q. What I'm getting at, sir, is key
24	A. I do not.	24	messages are formulated and put together to be put
25	1211 Q. Would Mr. Orsini?	25	out into the public realm, they're not secret,
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1	A. I don't know.	1	internal messages to be guarded closely within the
2	MR. MATTHEWS: Okay. Next exhibit.	2	Ministry, correct? They're for public consumption?
3	EXHIBIT NO. 37: Update for a deputy	3	A. That would generally not be the
4	ministers call, Bates numbered	4	intent, no. There might be key messages developed
5	CRE447624.	5	for confidential conversations like Treasury Board
6	BY MR. MATTHEWS:	6	or Cabinet, so there could be instances where key
7	1212 Q. Do you have any understanding as	7	messages would be developed, not for broad public
8	to who at OLG was involved in negotiating capital	8	consumption, but for specific audiences that --
9	assistance payments to certain racetracks?	9	1221 Q. Within government?
10	A. No, my only understanding was	10	A. Within government.
11	Finance.	11	1222 Q. Okay. I think I've already given
12	1213 Q. Do you recall reading about	12	the document number of this but it's CRE448635.
13	certain settlement payments made by OLG to certain	13	Did you have any involvement in
14	racetracks in the Auditor General's report in 2014?	14	reviewing key messages on horseracing that were
15	A. No.	15	being formulated for the Minister of Agriculture in
16	1214 Q. CRE448635. Before I give it to	16	June 2013?
17	you, are you familiar with key message documents	17	A. Yes.
18	that are prepared for ministers such as the	18	1223 Q. And would these key messages have
19	Minister of Agriculture?	19	been things that would come across your desk in the
20	A. Yes.	20	course of your duties as Chief of Staff to the
21	1215 Q. And are those key messages	21	Minister of Agriculture?
22	intended to be suggested speaking points for the	22	A. Yes.
23	Minister in the event that he or she is asked	23	1224 Q. So you'd generally be aware of the
24	questions, those are the suggested key messages to	24	key messages that were being developed or proposed
25	deliver?	25	to the Minister, correct?

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1 A. Yes. My hesitation was I wouldn't
 2 necessarily author them but I would certainly
 3 review them.
 4 1225 Q. But you would have a general
 5 awareness of what the key messages would be that
 6 your Minister would be delivering on key files at
 7 any given time; fair?
 8 A. Yes.
 9 1226 Q. All right. So question for your
 10 counsel. There's a number of redactions to the key
 11 messages, Mr. Ratcliffe. I'd like to understand
 12 the basis for those redactions?
 13 MR. RATCLIFFE: We have your request.
 14 Sorry, I'm just looking at the --
 15 MR. MATTHEWS: So the first page has
 16 896 in the top right-hand corner. You see at the
 17 bottom it says redacted?
 18 MR. RATCLIFFE: Oh, yes, I see
 19 redacted.
 20 MR. MATTHEWS: And if you go over the
 21 page to 897, almost the entirety of the page is
 22 redacted, but it's redacted in white so you don't
 23 see a black box, so --
 24 MR. RATCLIFFE: Yes.
 25 BY MR. MATTHEWS:

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1 1227 Q. I would like to understand what
 2 these key messages are and the basis on which key
 3 messages are being redacted?
 4 U/T MR. RATCLIFFE: We'll review that and
 5 get back to you.
 6 BY MR. MATTHEWS:
 7 1228 Q. And do you see attached to the key
 8 messages, Mr. Keegan, the third page of the
 9 document, you see the subheading "Current
 10 Situation." Is this format of document familiar to
 11 you as something that you -- that would have come
 12 across your desk?
 13 A. Yes.
 14 1229 Q. So, I'm going to put to you that
 15 this is the key messages and sort of current update
 16 for the Minister of Agriculture as at June 12, 2013
 17 as it relates to horseracing. Fair?
 18 A. Yeah, I can't tell what the
 19 intention of this note would have been.
 20 1230 Q. Fair enough, but if you flip to
 21 the last page you'll see it's being prepared by
 22 folks in the Economic Development and Policy
 23 Branch. I see another redaction on page 899 under
 24 the heading "Background." Again, I don't
 25 understand why "Background" is being redacted,

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1 Mr. Ratcliffe.
 2 U/T MR. RATCLIFFE: That's one of the
 3 redactions that we will address.
 4 MR. MATTHEWS: Thank you.
 5 BY MR. MATTHEWS:
 6 1231 Q. Just a couple of points,
 7 Mr. Keegan. Page 898 in the top right-hand corner,
 8 second bullet point, it says that the one-time
 9 payments were an anticipated impact of
 10 modernization. Is that something that you came to
 11 understand in the course of your involvement with
 12 the horseracing file?
 13 A. In very broad, general terms.
 14 1232 Q. And when it says that the one-time
 15 payment respects the racetracks' investments and
 16 provides OLG with the flexibility to optimize OLG's
 17 future operations, dealing with the first point,
 18 respects the racetracks' investments, was it your
 19 understanding, Mr. Keegan, in general terms, that
 20 the reason that capital assistance or capital
 21 improvement payments were made to certain
 22 racetracks was because certain racetracks had made
 23 capital investments in upgrading their premises for
 24 slot machines, and when the SARP revenue sharing
 25 was discontinued, certain of the racetracks were

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1 upset that they had made those capital investments
 2 in anticipation of having slot machines that they
 3 may no longer have? Is that fair?
 4 A. I think that would be a level of
 5 detail beyond my understanding.
 6 1233 Q. Well, this is a briefing note
 7 being prepared within Agriculture to go to the
 8 Minister of Agriculture, correct?
 9 A. I can't tell who this went to.
 10 1234 Q. This was produced by you in
 11 connection with this examination through your
 12 counsel.
 13 A. I was not the author of this note
 14 and I'm not sure where it would have gone.
 15 1235 Q. Well, the authors of the notes are
 16 within the Ministry of Agriculture, correct?
 17 MR. RATCLIFFE: Well, I think he
 18 indicated that he didn't know who it was addressed
 19 to. Is it clear on the document itself who it was
 20 addressed to?
 21 MR. MATTHEWS: It's your document. It
 22 was produced by Mr. Keegan in response to his
 23 summons.
 24 MR. RATCLIFFE: I think you said that
 25 it was to go to the Minister.

<p style="text-align: right;">Page 313</p> <p>1 BY MR. MATTHEWS: 2 1236 Q. Well, if you look at the bottom of 3 the document, it says "for Minister's use only" on 4 each page, correct? 5 A. Yes, it does. 6 1237 Q. You recognize the format of these 7 documents as documents being made to update the 8 Minister on key messages and the current status of 9 certain files like horseracing, correct? 10 A. So, these kind of notes would be 11 generated for the Minister's Office and would not 12 necessarily go to the Minister. So, for example, 13 Amber Anderson, as the manager of issues 14 management, would ask for status updates to update 15 House book notes, for example. 16 1238 Q. Well, why do they say "for 17 Minister's use only" if they're not going to the 18 Minister? 19 A. You would have to ask them. I 20 don't know why. 21 1239 Q. You're the Chief of Staff in the 22 Ministry of Agriculture. 23 A. Yes. 24 1240 Q. Can you answer that question? 25 A. I can only answer that that</p>	<p style="text-align: right;">Page 315</p> <p>1 "One-time payments were an 2 anticipated impact of modernization. 3 OLG made a business decision that 4 respects the racetracks' investments 5 and provides OLG with the 6 flexibility to optimize OLG's future 7 operations." 8 Do you have any understanding of what 9 that means? 10 A. Yes. 11 1245 Q. What's your understanding? 12 A. That OLG made payments to 13 racetracks on long-term investments that they had 14 done on their sites in relation to modernization. 15 1246 Q. Okay. And are you aware, 16 Mr. Keegan, that there was no contractual 17 obligation under the siteholder agreements between 18 OLG and individual racetracks to make those 19 payments? 20 A. No. 21 MR. RATCLIFFE: You're really asking a 22 legal question. 23 MR. MATTHEWS: I'm asking for his 24 awareness. 25 MR. RATCLIFFE: You're asking whether</p>
<p style="text-align: right;">Page 314</p> <p>1 doesn't necessarily mean it's for Minister's use 2 only. 3 1241 Q. All right. So when I see "for 4 Minister's use only" on Ministry of Agriculture's 5 documents, I should not take that to mean it's for 6 the Minister's use only; is that what you're 7 telling me? 8 A. Those would go to the Minister's 9 Office. 10 1242 Q. Right. 11 A. Not necessarily directly to the 12 Minister. 13 1243 Q. Okay. But they were intended for 14 the Minister, correct? 15 A. I'm not sure that that's true in 16 every case. 17 1244 Q. So when you receive a briefing 18 note like this that comes across your desk that 19 describes the current situation, and this briefing 20 note is prepared by folks in the Horseracing 21 Industry Transition and Economic Development and 22 Policy Branch of your Ministry, my question for 23 you, sir, is do you have any understanding of 24 what's meant by the second bullet point on page 898 25 where it says:</p>	<p style="text-align: right;">Page 316</p> <p>1 or not there was a contract of some kind and he's 2 not in a position to answer that. 3 BY MR. MATTHEWS: 4 1247 Q. And when that bullet point says, 5 at its conclusion, "flexibility to optimize OLG's 6 future operations," you understand that to mean, 7 Mr. Keegan, that the Ministry of Finance and OLG do 8 not want to risk alienating racetracks that have 9 made capital investments if they want to ensure 10 that slot machines can continue to be located at 11 racetracks? 12 MR. GOLDENBERG: That isn't his 13 evidence and you don't get to put words in his 14 mouth. He just said he doesn't recall reviewing 15 this note. You're asking him if he understood that 16 to mean and then you're telling him what you think 17 it means. That's not his evidence. 18 MR. MATTHEWS: Can you read back my 19 question, please, Ms. Neeson, for the witness. 20 THE REPORTER: 21 "Question: And when that 22 bullet point says, at its 23 conclusion, "flexibility to optimize 24 OLG's future operations," you 25 understand that to mean, Mr. Keegan,</p>

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1 that the Ministry of Finance and OLG
 2 do not want to risk alienating
 3 racetracks that have made capital
 4 investments if they want to ensure
 5 that slot machines can continue to
 6 be located at racetracks?"
 7 MR. RATCLIFFE: Do you understand the
 8 question? Do you know the answer to the question
 9 or not?
 10 THE WITNESS: Well, if you're asking my
 11 general understanding, when I see flexibility to
 12 optimize future operations within modernization,
 13 that was always code for moving to other sites. Or
 14 the potential to move to other sites.
 15 BY MR. MATTHEWS:
 16 1248 Q. By this time, Mr. Keegan, June
 17 2013, the City of Toronto had, by a vote of 40 to
 18 4, rejected a casino in downtown Toronto, correct?
 19 A. That's my understanding, yes.
 20 1249 Q. So, if OLG wanted flexibility to
 21 optimize its operations, it had to leave itself the
 22 ability to locate slot machines at racetracks,
 23 correct?
 24 A. So, again, my general
 25 understanding was that Toronto is not the only

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1 available site.
 2 1250 Q. Okay. Ottawa was a site, correct?
 3 A. There were many sites. Vaughan
 4 was a site that was talked about.
 5 1251 Q. None of those sites ended up
 6 having casinos, correct?
 7 A. So, you asked about my general
 8 understanding. That's my general understanding. I
 9 can't argue any further than that.
 10 1252 Q. And are you aware, Mr. Keegan,
 11 that when the Slots at Racetracks Program was
 12 introduced in 1998 at racetracks, it was because
 13 communities and municipalities were unwilling to
 14 have slot machines in other locations such as
 15 restaurants and bars?
 16 MR. RATCLIFFE: I think he indicated
 17 earlier, at the very beginning yesterday, that he
 18 wasn't familiar with what was going on in 1998, so
 19 your question about what was happening and what the
 20 understanding of communities was at that time is an
 21 unfair question for Mr. Keegan.
 22 MR. MATTHEWS: Well, if he's not aware,
 23 then his answer would be simply no, I'm not aware,
 24 Mr. Ratcliffe. So you can let him answer the
 25 question.

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1 MR. RATCLIFFE: Are you aware of what
 2 was going on in 1998?
 3 THE WITNESS: No.
 4 BY MR. MATTHEWS:
 5 1253 Q. Did you come to develop any
 6 understanding in the course of your work with the
 7 panel over more than a year as to why slot machines
 8 were installed in racetracks in 1998?
 9 A. Yes.
 10 1254 Q. Okay. What was that
 11 understanding? Was it because racetracks were the
 12 only place that slot machines could be installed
 13 without municipal opposition?
 14 A. So, John Snobelen would tell me
 15 that that was the most politically palatable option
 16 at that time.
 17 1255 Q. And it was the only option,
 18 correct? Because municipalities were not accepting
 19 slot machines into their communities?
 20 MR. GOLDENBERG: You're trying to give
 21 his evidence for him. He answered your question.
 22 MR. LISUS: Don't interrupt. It's a
 23 cross-examination. You can re-cross-examine him,
 24 if you want.
 25 BY MR. MATTHEWS:

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1 1256 Q. Do you want my question again?
 2 A. Sure.
 3 MR. MATTHEWS: Ms. Neeson, please.
 4 THE REPORTER:
 5 "Question: And it was the only
 6 option, correct? Because
 7 municipalities were not accepting
 8 slot machines into their
 9 communities?"
 10 THE WITNESS: I don't know that it was
 11 the only option.
 12 MR. MATTHEWS: All right. Mark this as
 13 the next exhibit, please.
 14 EXHIBIT NO. 38: Key messages document,
 15 Bates numbered CRE448635.
 16 BY MR. MATTHEWS:
 17 1257 Q. I asked you a little earlier,
 18 Mr. Keegan, about deputy ministers' teleconferences
 19 regarding horseracing that were occurring in May
 20 and June of 2013. Do you recall that?
 21 A. I recall that conversation, yes.
 22 1258 Q. So, let me show you CRE449262 and
 23 its attachments. It's an email to Karen Chan --
 24 from Karen Chan, rather, to Steve Orsini and Deb
 25 Stark. And I'm going to put to you that suggests

<p style="text-align: right;">Page 321</p> <p>1 that at this time Mr. Orsini and Ms. Stark are the 2 deputy ministers in their respective ministries. 3 Do you agree with that? 4 A. Yes, I do. 5 1259 Q. As well as to you and to Elizabeth 6 Yeigh and others in OMAFRA and Finance; fair? 7 A. Yes. 8 1260 Q. And what Ms. Chan says in her 9 message is: 10 "Attached you'll find material 11 for tomorrow morning's 12 teleconference on horseracing." 13 Go over the page. You will see there 14 is an agenda for the DMs' teleconference June 18, 15 2013, and over the next page you see another 16 briefing note similar to the ones we've looked at a 17 little while back. Do you see that? 18 A. Yes. 19 1261 Q. Does that refresh your 20 recollection on your participation in these 21 teleconferences with the deputy ministers? 22 MR. RATCLIFFE: Take a moment just to 23 read through it. 24 THE WITNESS: I can read through it, it 25 won't matter. I had many conversations. As to</p>	<p style="text-align: right;">Page 323</p> <p>1 document you have in front of you -- 2 A. Sorry? Oh, 910. Got you. 3 1264 Q. What you see is the "HRIT Draft 4 Long-Term Plan for Ontario Horseracing Industry, 5 Executive Summary." So I'm going to put to you, 6 Mr. Keegan, that what we were discussing in terms 7 of the second agenda item in this document is that 8 these are in broad terms the outline of the 9 long-term plan for horseracing industry stability 10 being developed by the panel in consultation with 11 stakeholders and the Ministry of Finance and 12 OMAFRA. Is that fair? 13 A. Yes, I see, for example, the 14 separation of the Commission into its business 15 development and regulatory roles. I don't see the 16 -- I don't see here the support levels. But yes. 17 1265 Q. I think that this is just the 18 executive summary, if you look at the title of the 19 document. 20 A. Yes. These are the broad terms of 21 what would become that, yeah. 22 1266 Q. And if you look to page 912, you 23 see a document saying OMAF and Ministry of Finance 24 comments on the HRIT draft long-term plan. Do you 25 see that?</p>
<p style="text-align: right;">Page 322</p> <p>1 whether it was part of this formal one, I don't 2 recall specifically. 3 BY MR. MATTHEWS: 4 1262 Q. Fair enough. If you look at the 5 agenda, which is the second page of the document I 6 have given you, page 907 in the top right-hand 7 corner, you see that the second item is 8 "Consultation paper - draft long-term plan for 9 sustainable Ontario horseracing industry." 10 Now, what do you understand that to be? 11 A. So, there was a kind of continual 12 evolution of the transition strategy that became 13 the partnership plan, and as we spoke about many 14 times before, one of our objectives was getting to 15 or creating a more sustainable or predictable 16 future for the industry to try and right the 17 investment climate. 18 One of our tasks to accomplish that was 19 to create a much more long-term agreement, and I 20 don't remember dates exactly, but we moved from 180 21 million to 300 million, that was probably the end 22 result of this, so this was part of the evolution 23 of that planning. 24 1263 Q. All right. And if you look at 25 page 910 in the top right-hand corner of the</p>	<p style="text-align: right;">Page 324</p> <p>1 A. Yes. 2 1267 Q. And so what this appears to be is 3 your Ministry and the Ministry of Finance providing 4 comments on the panel's 12-point executive summary 5 of their draft long-term plan for the Ontario 6 horseracing industry; fair? 7 A. Yes. 8 1268 Q. Mr. Ratcliffe, I want to 9 understand the redactions being made to the 10 comments, please? 11 U/T MR. RATCLIFFE: We will clarify that. 12 MR. MATTHEWS: All right, next exhibit. 13 39. 14 EXHIBIT NO. 39: Email and attachments, 15 Bates numbered CRE449262. 16 BY MR. MATTHEWS: 17 1269 Q. CRE449591. This is another one of 18 the briefing memos that you prepared for the 19 Premier and Minister of Agriculture, June 20th, 20 2013, correct? 21 A. Yes. 22 1270 Q. You've prepared a number of these 23 memos, Mr. Keegan. Can you guess what's behind the 24 redaction that follows your name in the "from" 25 field? Would it have been your phone number?</p>

<p style="text-align: right;">Page 325</p> <p>1 A. Yes.</p> <p>2 1271 Q. That would have been your office</p> <p>3 phone number?</p> <p>4 A. Or my cell phone more likely.</p> <p>5 1272 Q. I see. Were you redacting these</p> <p>6 documents, Mr. Keegan?</p> <p>7 A. No.</p> <p>8 1273 Q. My question for you has to do with</p> <p>9 both the general KMs, which I understand to be</p> <p>10 general key messages?</p> <p>11 A. Yes.</p> <p>12 1274 Q. These are general key messages</p> <p>13 you're conveying to your Minister as of June 20th,</p> <p>14 2013, correct?</p> <p>15 A. Yes.</p> <p>16 1275 Q. And the first one is that you're</p> <p>17 suggesting that a potential key message for her is</p> <p>18 that she knows how important the horseracing and</p> <p>19 breeding industries are to the culture and economy</p> <p>20 of communities across Ontario, and it goes on from</p> <p>21 there. Correct?</p> <p>22 A. Yes.</p> <p>23 1276 Q. And if you look down, there's key</p> <p>24 messages specific to the consultation. That's the</p> <p>25 consultation that's ongoing with the panel,</p>	<p style="text-align: right;">Page 327</p> <p>1 numbered CRE449591.</p> <p>2 BY MR. MATTHEWS:</p> <p>3 1280 Q. I'm giving you CRE457535. It</p> <p>4 appears to have an attachment, 458367. Let me ask</p> <p>5 you a general question about whether or not you</p> <p>6 recognize the format of the first document, which</p> <p>7 is horseracing transition update, June 20th, 2013.</p> <p>8 Do you recognize the format of this document?</p> <p>9 A. Generally. It's a little bit</p> <p>10 different than normal, but generally.</p> <p>11 1281 Q. Okay. And are these updates that</p> <p>12 the Ministry of Agriculture would be preparing for</p> <p>13 the Ministry and the Minister's Office about the</p> <p>14 status of the horseracing file?</p> <p>15 A. It's tough to tell because</p> <p>16 generally they would have an author and a contact.</p> <p>17 This one doesn't. So this looks like it's been</p> <p>18 prepared for something more specific.</p> <p>19 1282 Q. Okay. What about the second</p> <p>20 document that is "Confidential Horseracing Industry</p> <p>21 Transition Synopsis"? Do you recognize this</p> <p>22 document or do you have any information on who</p> <p>23 prepared it? It was produced by your counsel in</p> <p>24 response to your summons.</p> <p>25 A. I don't recognize this note. I do</p>
<p style="text-align: right;">Page 326</p> <p>1 correct?</p> <p>2 A. I believe so, yes.</p> <p>3 1277 Q. And it makes reference to an</p> <p>4 announcement that the government would support the</p> <p>5 Horse Improvement Program which will total up to</p> <p>6 \$30 million in each of the next two years to give</p> <p>7 Ontario's vibrant horseracing and breeding industry</p> <p>8 the confidence that there is a future here for</p> <p>9 Ontario bred race horses. That's one of the key</p> <p>10 messages that you were conveying to the Minister on</p> <p>11 June 20th, 2013, correct?</p> <p>12 A. Yes.</p> <p>13 1278 Q. And you understood that the Horse</p> <p>14 Improvement Program was a program designed to</p> <p>15 support the breeding of race horses in Ontario,</p> <p>16 correct?</p> <p>17 A. It was an incentive program, yes.</p> <p>18 1279 Q. And so, by projecting that there</p> <p>19 would be stable funding for that program, it was</p> <p>20 intended that the breeding industry would have the</p> <p>21 confidence to know that there is a future for</p> <p>22 breeding horses in Ontario, correct?</p> <p>23 A. Yeah, that's what it says.</p> <p>24 MR. MATTHEWS: Next exhibit, please.</p> <p>25 EXHIBIT NO. 40: Briefing memo, Bates</p>	<p style="text-align: right;">Page 328</p> <p>1 recognize much of the content.</p> <p>2 1283 Q. I'm going to suggest to you, sir,</p> <p>3 that the second document, the one entitled</p> <p>4 "Confidential Horseracing Industry Transition</p> <p>5 Synopsis" was prepared by the panel as a synopsis</p> <p>6 for you and for Finance and for the Ministry of</p> <p>7 Agriculture?</p> <p>8 A. Sorry, could you repeat the</p> <p>9 question?</p> <p>10 1284 Q. I said I was going to suggest to</p> <p>11 you that this document appears to be prepared by</p> <p>12 the panel for the Ministry of Finance and OMAFRA.</p> <p>13 And I say that based on the way in which this</p> <p>14 document is structured and written. But I wanted</p> <p>15 to get your evidence on that.</p> <p>16 A. I couldn't say one way or another.</p> <p>17 This looks different from notes I would generally</p> <p>18 have gotten from the panel as well.</p> <p>19 1285 Q. Mr. Ratcliffe, can we get your</p> <p>20 best information as to where this document was</p> <p>21 retrieved from and whether or not it was sent in</p> <p>22 connection with an email and who prepared this</p> <p>23 document?</p> <p>24 U/T MR. RATCLIFFE: We will review the</p> <p>25 document and try to ascertain where it came from.</p>

<p style="text-align: right;">Page 329</p> <p>1 BY MR. MATTHEWS: 2 1286 Q. So, looking at the "Confidential 3 Horseracing Industry Transition Synopsis," 4 CRE458367, Mr. Ratcliffe, I want to understand the 5 redaction that is made to the cancellation 6 assumptions. 7 U/T MR. RATCLIFFE: We will review that 8 document and provide you with an explanation 9 regarding the redaction. 10 MR. MATTHEWS: Okay. This might be a 11 good time to take a break. We could have lunch 12 right now, if you'd like, maybe 35 minutes. 13 -- LUNCHEON RECESS AT 12:25 -- 14 -- UPON RESUMING AT 1:00 -- 15 BY MR. MATTHEWS: 16 1287 Q. Mr. Keegan, before we broke for 17 lunch we were looking at two documents, CRE457535 18 and CRE458367. So directing your attention to that 19 second document, the "Confidential Horseracing 20 Industry Transition Synopsis," if you look down at 21 the bottom of that, the first page of that 22 document, you see a reference to the panel 23 informally advises potential for class action from 24 breeders. 25 My question for you, sir, is given your</p>	<p style="text-align: right;">Page 331</p> <p>1 A. Along the general lines of the 2 panel suggesting there could be some legal 3 liability and the Finance officials suggesting that 4 there wasn't and that they weren't lawyers and 5 weren't qualified to make an opinion on that. 6 1294 Q. Do you have any understanding from 7 your conversations with the panelists on the panel 8 why they would informally advise the potential for 9 a class action from breeders? 10 A. I don't know what information 11 specifically they were using to inform that 12 opinion. I think just -- 13 1295 Q. Well, why did they have that view 14 or opinion, to the best of your understanding? 15 MR. RATCLIFFE: Well, I think he said 16 he didn't know why they had that opinion. 17 BY MR. MATTHEWS: 18 1296 Q. Let him answer. Why, to your 19 belief, did the panelists, who you worked closely 20 with, have the view that there was a potential for 21 a class action from breeders? 22 A. Just based on their work. 23 1297 Q. Can you be more specific? 24 A. I cannot. 25 1298 Q. And when you were in the room for</p>
<p style="text-align: right;">Page 330</p> <p>1 involvement with the panel and the panelists over 2 the course of the year, of almost a year, do you 3 have any recollection of having any discussions 4 with the panel or any of the panelists about 5 potential for a class action from horse breeders? 6 A. I recall a couple of conversations 7 in which there was debate over liability with 8 breeders, yes. 9 1288 Q. Okay. And were those 10 conversations among the members of the Horseracing 11 Industry Transition Panel and you? 12 A. I was in the room, but the ones 13 that I recall were with, I believe, Finance 14 officials. 15 1289 Q. Okay. Any lawyers? 16 A. No. 17 1290 Q. Okay. 18 A. Not to my knowledge. 19 1291 Q. Right. 20 A. They weren't self-identified. 21 1292 Q. Who were the Finance officials 22 that you remember being in the room? 23 A. Barry Goodwin and Liz Yeigh. 24 1293 Q. Tell me what you remember from 25 those conversations?</p>	<p style="text-align: right;">Page 332</p> <p>1 conversations involving Ministry of Finance 2 officials like Ms. Yeigh and Mr. Goodwin about the 3 potential for a class action from breeders, what 4 was the response of Finance in that discussion? 5 A. That the panel weren't lawyers and 6 they weren't qualified to comment. 7 MR. RATCLIFFE: Well, I'm not sure 8 that's an appropriate question. 9 BY MR. MATTHEWS: 10 1299 Q. I've seen it in the draft panel 11 reports, references to potential legal liability. 12 Do you recall seeing those references in draft 13 reports of the panel? 14 A. Again, I recall the general 15 conversation. There were many drafts of that 16 report. 17 1300 Q. And I'm going to put to you, 18 Mr. Keegan, that one of the reasons the panel 19 believed that there was a potential for a class 20 action from the breeders was because the abrupt 21 announcement of the discontinuance of SARP revenue 22 sharing had a catastrophic impact on the value of 23 foal crops bred by breeders? 24 MR. RATCLIFFE: He's already answered 25 your question, Mr. Matthews. He said he didn't</p>

Page 333	<p>1 know what the basis was for their views on that.</p> <p>2 MR. MATTHEWS: Will you give the</p> <p>3 witness my question again, please, Ms. Neeson.</p> <p>4 THE REPORTER:</p> <p>5 "Question: And I'm going to</p> <p>6 put to you, Mr. Keegan, that one of</p> <p>7 the reasons the panel believed that</p> <p>8 there was a potential for a class</p> <p>9 action from the breeders was because</p> <p>10 the abrupt announcement of the</p> <p>11 discontinuance of SARP revenue</p> <p>12 sharing had a catastrophic impact on</p> <p>13 the value.."</p> <p>14 BY MR. MATTHEWS:</p> <p>15 1301 Q. Let me put it to you this way,</p> <p>16 Mr. Keegan. Through your work with the panel, you</p> <p>17 understood that breeders of horses, who had bred</p> <p>18 horses many years in advance of the announcement of</p> <p>19 the cancellation of slots revenue sharing, were</p> <p>20 catastrophically impacted by the abrupt</p> <p>21 announcement of its termination with no transition</p> <p>22 support, correct?</p> <p>23 A. Sorry, can you repeat that?</p> <p>24 1302 Q. You understood, Mr. Keegan,</p> <p>25 through your work with the panel that breeders, who</p>	<p>1 examine Mr. Snobelen and Mr. Wilkinson.</p> <p>2 MR. LISUS: But we didn't have these</p> <p>3 documents.</p> <p>4 MR. RATCLIFFE: Well, again, there's</p> <p>5 nothing mysterious or new about what it is these</p> <p>6 questions pertain to. It's the basis for your</p> <p>7 claim.</p> <p>8 So again, I just don't see how this is</p> <p>9 anything that Mr. Keegan can really assist with.</p> <p>10 MR. MATTHEWS: All right. Let's mark</p> <p>11 the two documents you have in front of you as the</p> <p>12 next exhibit, Mr. Keegan, CRE457535 and CRE458367,</p> <p>13 together as Exhibit 41.</p> <p>14 EXHIBIT NO. 41: Horseracing transition</p> <p>15 update, Bates numbered CRE457535, and</p> <p>16 attached "Confidential Horseracing</p> <p>17 Industry Transition Synopsis," Bates</p> <p>18 numbered CRE458367.</p> <p>19 BY MR. MATTHEWS:</p> <p>20 1306 Q. Did you ever speak with any horse</p> <p>21 breeders following the announcement about SARP in</p> <p>22 2012, Mr. Keegan, personally?</p> <p>23 A. In what timeframe?</p> <p>24 1307 Q. From March 2012 until you left</p> <p>25 government in February 2014.</p>
Page 334	<p>1 had made breeding decisions many years in advance</p> <p>2 of the announcement of the cancellation of the</p> <p>3 slots at racetracks revenue sharing arrangement</p> <p>4 were catastrophically impacted by the abrupt</p> <p>5 termination with no transition funding of that</p> <p>6 program in 2012, correct?</p> <p>7 A. Many were, yes.</p> <p>8 1303 Q. And the value of their foal crops</p> <p>9 that had yet to be sold at auction dropped</p> <p>10 precipitously, correct?</p> <p>11 A. Many did, yes.</p> <p>12 1304 Q. In some cases as much as 65</p> <p>13 percent in value, correct?</p> <p>14 A. I think I said that I wasn't sure</p> <p>15 about those percentages.</p> <p>16 1305 Q. And breeders had made business</p> <p>17 decisions to invest in their horses and those</p> <p>18 business decisions and investments were</p> <p>19 significantly diminished in value when the decision</p> <p>20 was publicly announced, correct?</p> <p>21 MR. RATCLIFFE: Well, Mr. Matthews,</p> <p>22 this is your argument that you're making in the</p> <p>23 litigation. I don't know why you're asking these</p> <p>24 questions of Mr. Keegan. Certainly in terms of</p> <p>25 what the panel thought, you had an opportunity to</p>	<p style="text-align: right;">Page 336</p> <p>1 A. Yes, I would have spoken with</p> <p>2 breeders in that timeframe.</p> <p>3 1308 Q. Okay. Do you remember the names</p> <p>4 of any of the breeders you spoke with?</p> <p>5 A. Well, I would have -- well, Sue</p> <p>6 Leslie for sure. Actually, I'm not sure if she's</p> <p>7 still breeding. Bill O'Donnell. Certainly members</p> <p>8 of OHRIA -- not members, but executive members of</p> <p>9 OHRIA, board members.</p> <p>10 1309 Q. Did they convey to you that the</p> <p>11 impact of the cancellation of Slots at Racetracks</p> <p>12 Program revenue sharing termination had been</p> <p>13 catastrophic to the breeding sector?</p> <p>14 A. Among others. It would not have</p> <p>15 solely been breeders.</p> <p>16 1310 Q. But breeders had been</p> <p>17 catastrophically impacted, correct?</p> <p>18 A. Yes, and it was perhaps more acute</p> <p>19 in certain segments of that sector.</p> <p>20 1311 Q. Standardbred breeders, correct?</p> <p>21 A. Well, I was thinking more of the</p> <p>22 difference between the kind of ABC quality of</p> <p>23 those.</p> <p>24 1312 Q. Sure, but you understood that</p> <p>25 standardbred was the largest segment --</p>

<p style="text-align: right;">Page 337</p> <p>1 A. Yes.</p> <p>2 1313 Q. -- of breed in the industry,</p> <p>3 correct?</p> <p>4 A. By numbers, yes.</p> <p>5 1314 Q. And you understood that the</p> <p>6 Auditor General concluded that standardbred and</p> <p>7 quarter horse sectors had been disproportionately</p> <p>8 impacted by the announcement? You understood that,</p> <p>9 correct?</p> <p>10 A. I don't recall reading that in the</p> <p>11 Auditor General's report.</p> <p>12 1315 Q. And in fact, Mr. Keegan, the</p> <p>13 abruptness of the announcement regarding the Slots</p> <p>14 at Racetrack Program, and then the failure by the</p> <p>15 government to announce measures that would instill</p> <p>16 confidence in the horseracing industry led to an</p> <p>17 overcorrection in terms of the rationalization of</p> <p>18 the breeding sector, correct?</p> <p>19 A. I think my understanding would be</p> <p>20 more about a lack of confidence in the future. I</p> <p>21 think my recollection of briefings from industry</p> <p>22 people and logging efforts on their behalf would</p> <p>23 have largely been focused on that confidence</p> <p>24 problem.</p> <p>25 1316 Q. Look at the document I passed you,</p>	<p style="text-align: right;">Page 339</p> <p>1 A. Yes, most likely.</p> <p>2 MR. MATTHEWS: Next exhibit, please.</p> <p>3 EXHIBIT NO. 42: Briefing note, Bates</p> <p>4 numbered CRE452229.</p> <p>5 BY MR. MATTHEWS:</p> <p>6 1318 Q. In 2012 and 2013, Mary Ormsby of</p> <p>7 the Toronto Star was writing a number of stories</p> <p>8 about horseracing, correct?</p> <p>9 A. Yes.</p> <p>10 1319 Q. You spoke with Mary in connection</p> <p>11 with some of the stories that she was writing</p> <p>12 around that time?</p> <p>13 A. I believe I did. Maybe once or</p> <p>14 twice. Mark Cripps in our office would have done</p> <p>15 so more often.</p> <p>16 1320 Q. CRE453342. We have another email</p> <p>17 to you and Minister McMeekin and Minister Wynne</p> <p>18 from Ian Howard, July 24th, 2013, that you in turn</p> <p>19 forward to John Wilkinson, John Snobelen, and Elmer</p> <p>20 Buchanan, correct?</p> <p>21 A. Yes.</p> <p>22 1321 Q. Why were you forwarding that email</p> <p>23 to the panelists?</p> <p>24 MR. RATCLIFFE: Take a moment to review</p> <p>25 it.</p>
<p style="text-align: right;">Page 338</p> <p>1 CRE452229. This is one of your briefing notes to</p> <p>2 the Premier and Minister of Agriculture from July</p> <p>3 12th, 2013, correct?</p> <p>4 A. Yes.</p> <p>5 1317 Q. If you go to the third page, page</p> <p>6 928 in the top right-hand corner, at the bottom</p> <p>7 where you see the horseracing panel consultations,</p> <p>8 you see the fifth -- excuse me, the fourth -- the</p> <p>9 fifth bullet point down reads:</p> <p>10 "The industry has also</p> <p>11 expressed considerable interest in</p> <p>12 having details of the final plan</p> <p>13 communicated before the fall</p> <p>14 yearling sales that take place in</p> <p>15 the second week of September. The</p> <p>16 impact of rapid transition in this</p> <p>17 industry to a smaller size has had</p> <p>18 devastating impacts on the breeding</p> <p>19 of Ontario horses. Likely this</p> <p>20 sector has overcorrected and will</p> <p>21 need long-term positive signals to</p> <p>22 begin re-investing in breeding</p> <p>23 mares."</p> <p>24 Is that a point that you composed in</p> <p>25 this memorandum to the Premier?</p>	<p style="text-align: right;">Page 340</p> <p>1 THE WITNESS: (Witness reads document).</p> <p>2 I would have forwarded this because it fit with the</p> <p>3 overall narrative that we were promoting.</p> <p>4 BY MR. MATTHEWS:</p> <p>5 1322 Q. Okay. So Mr. Howard's message is</p> <p>6 congruent with the narrative that the Ministry of</p> <p>7 Agriculture is promoting at the time, July of 2013?</p> <p>8 A. Yes.</p> <p>9 MR. MATTHEWS: All right. Next</p> <p>10 exhibit, please.</p> <p>11 EXHIBIT NO. 43: Email, Bates numbered</p> <p>12 CRE453342.</p> <p>13 BY MR. MATTHEWS:</p> <p>14 1323 Q. Did you ever speak with Caroline</p> <p>15 Thornton?</p> <p>16 A. I don't recall that name. Is</p> <p>17 there a context?</p> <p>18 1324 Q. I'll show you an email, CRE479887.</p> <p>19 It's not an email that is sent to you initially.</p> <p>20 It gets forwarded to you by Chad Walsh at the</p> <p>21 Ministry of Rural Affairs and the subject of the</p> <p>22 email is "Tragedies, Carolyn Thornton of Oak Knoll</p> <p>23 Stables," writing to Jeff Leal, who is the Minister</p> <p>24 of Rural Affairs, and cc'ing the Premier who is the</p> <p>25 Minister of Agriculture, correct?</p>

<p style="text-align: right;">Page 341</p> <p>1 A. Yes.</p> <p>2 1325 Q. And in her initial email,</p> <p>3 Ms. Thornton says to Jeff Leal that she's:</p> <p>4 "...dismayed at how little you</p> <p>5 understand what is happening. I</p> <p>6 have begged you as Minister of Rural</p> <p>7 Affairs to listen and respond to the</p> <p>8 plight of the racing industry in</p> <p>9 this province. We both agree that</p> <p>10 the decision to end the SAR program</p> <p>11 was poorly handled and ever since</p> <p>12 that announcement in March 2012 the</p> <p>13 Liberal Party has failed to act."</p> <p>14 Did Minister Leal ever express to you</p> <p>15 his view that the decision to end the Slots at</p> <p>16 Racetracks Program was poorly handled?</p> <p>17 A. Yes, Jeff was not happy with --</p> <p>18 with how the industry was faring and was definitely</p> <p>19 a big advocate on correcting or righting the</p> <p>20 industry.</p> <p>21 1326 Q. Did Minister Leal learn about the</p> <p>22 decision to terminate revenue sharing from the</p> <p>23 Slots at Racetrack Program with no transition</p> <p>24 funding at the same time Minister McMeekin learned</p> <p>25 about it?</p>	<p style="text-align: right;">Page 343</p> <p>1 your response is "Wilkinson working on putting</p> <p>2 something out this week, next week at latest."</p> <p>3 What is your response in reference to</p> <p>4 Mr. Wilkinson about?</p> <p>5 A. This is September of 2013, so in</p> <p>6 terms of Wilkinson, I would have been suggesting</p> <p>7 that Wilkinson call this person to talk about her</p> <p>8 requests, and I believe at this time we were</p> <p>9 working on putting together our full partnership</p> <p>10 plan as an announcement.</p> <p>11 1334 Q. And did you ever, in response to</p> <p>12 Mr. Walsh's request for some advice on Carolyn</p> <p>13 Thornton's email, have any discussions with him or</p> <p>14 anyone else in the Ministry of Rural Affairs about</p> <p>15 compensation for breeders?</p> <p>16 A. I don't recall this conversation</p> <p>17 so I don't know on that specifically. I recall</p> <p>18 some general conversations about things like</p> <p>19 agri-stability, eligibility for horse breeders in</p> <p>20 conversations like that. I don't ever recall</p> <p>21 compensation as part of the partnership plan.</p> <p>22 1335 Q. Well, it wasn't part of the</p> <p>23 partnership plan?</p> <p>24 A. Right.</p> <p>25 1336 Q. Did you form a view, sir, as to</p>
<p style="text-align: right;">Page 342</p> <p>1 A. I don't know when he learned about</p> <p>2 it. I don't think he was in Cabinet at the time</p> <p>3 either.</p> <p>4 1327 Q. Where is Jeff Leal's riding?</p> <p>5 A. Peterborough.</p> <p>6 1328 Q. And one of the things Ms. Thornton</p> <p>7 is saying to Ministers Leal and Wynne in her</p> <p>8 initial email is that she's referencing a meeting</p> <p>9 of April 15th of 2013. Do you see that, about five</p> <p>10 lines down into her email?</p> <p>11 A. On the first page?</p> <p>12 1329 Q. Yes.</p> <p>13 A. Oh, I met you April 15th.</p> <p>14 1330 Q. Of this year.</p> <p>15 A. Yes.</p> <p>16 1331 Q. Do you see that?</p> <p>17 A. Yes.</p> <p>18 1332 Q. Were you at that meeting?</p> <p>19 A. I don't believe so.</p> <p>20 1333 Q. Okay. And she says to Minister</p> <p>21 Leal that she asked him to address four requests,</p> <p>22 the first being compensation for breeders. And the</p> <p>23 reason I'm asking about this is because the email</p> <p>24 is then forwarded to you by Chad Walsh and he says</p> <p>25 to you "Would appreciate your advice on that." And</p>	<p style="text-align: right;">Page 344</p> <p>1 whether or not breeders of horses deserved</p> <p>2 compensation for what happened to them as a result</p> <p>3 of the announcement about the Slots at Racetrack</p> <p>4 Program?</p> <p>5 A. I was focused on the partnership</p> <p>6 plan.</p> <p>7 1337 Q. So what is the answer to my</p> <p>8 question?</p> <p>9 MR. RATCLIFFE: Well, I'm not sure it's</p> <p>10 a proper question. What bearing does that have on</p> <p>11 the merits of the case, what his view was? I mean,</p> <p>12 he wasn't involved in the decision to terminate</p> <p>13 SARP, and whether or not it was fair or unfair, I</p> <p>14 mean, you're free to argue that. But Mr. Keegan</p> <p>15 really isn't in a position to answer that.</p> <p>16 MR. MATTHEWS: You have to allow me to</p> <p>17 establish a foundation on cross-examination if</p> <p>18 you're going to let me get to my ultimate</p> <p>19 questions, Mr. Ratcliffe.</p> <p>20 MR. RATCLIFFE: Okay.</p> <p>21 MR. MATTHEWS: So without telling you</p> <p>22 where I'm going, I think I should have some</p> <p>23 latitude in the context of cross-examination of</p> <p>24 Minister Wynne's Chief of Staff.</p> <p>25 BY MR. MATTHEWS:</p>

<p style="text-align: right;">Page 345</p> <p>1 1338 Q. So let me put the question to you 2 again, Mr. Keegan. Did you form a view as to 3 whether or not breeders of horses, including 4 standardbred horses, deserved some compensation 5 relating to the manner in which the revenue sharing 6 from the Slots at Racetrack Program was cancelled? 7 A. I have a complicated view on that, 8 yes. 9 1339 Q. I'd like to know what it is. 10 A. At a personal level, I feel 11 sympathy for those affected by the impact of the 12 changes to the program. 13 At a professional level, I see 14 government decisions impact the agriculture sector 15 generally all the time, and I see at a personal 16 level very sad stories all the time. 17 I think it's always a debate internally 18 to us about the proper role of government providing 19 compensation in these kinds of situations 20 regardless of our personal feelings. 21 1340 Q. All right. In your capacity as 22 Chief of Staff to the Premier and Minister of 23 Agriculture, did you ever advise her of your view 24 on whether or not breeders of horses deserved 25 compensation relating to the manner in which the</p>	<p style="text-align: right;">Page 347</p> <p>1 A. I know that those -- that there 2 were payments made. I'm not -- wasn't involved in 3 the specific negotiations, so I don't know 4 precisely what was compensated, or if there was 5 compensation at all. 6 1344 Q. The reason compensation was given 7 to racetracks is because OLG needed a location to 8 put its slot machines? 9 MR. RATCLIFFE: Well, I think he said 10 he didn't know what the basis was and whether it 11 was compensation. 12 MR. MATTHEWS: All right. This will be 13 the next exhibit, 44. 14 EXHIBIT NO. 44: Email, Bates numbered 15 CRE479887. 16 BY MR. MATTHEWS: 17 1345 Q. When did you first learn about 18 this lawsuit, Mr. Keegan? 19 A. Do you mean the potential for it 20 or the -- 21 1346 Q. That's a better question. When 22 did you first learn of the prospect of a lawsuit by 23 standardbred horse breeders? 24 A. When Peter Curtis contacted me and 25 asked me to meet with your colleague.</p>
<p style="text-align: right;">Page 346</p> <p>1 Slots at Racetrack Program was cancelled? 2 A. So, in my professional capacity I 3 don't ever recall and I don't think I would have 4 pursued a compensation option in the work that we 5 were doing. 6 1341 Q. But you understood that breeders 7 made breeding decisions on a five-year time 8 horizon, correct? 9 A. Yes, I've seen that in other 10 elements of the sector as well, the broader 11 agriculture sector. 12 1342 Q. So breeders who had made decisions 13 two or three years in advance of the announcement 14 about the Slots at Racetracks Program, by the time 15 those horses were ready to race, it was a very 16 different landscape as a result of the announcement 17 that slots would be cancelled without any sort of 18 transition assistance, correct? 19 A. Yes, like changes to 20 agri-stability and other programs. 21 1343 Q. And you're aware that OLG made a 22 business decision to compensate racetracks for 23 capital investments they made in their facilities 24 prior to the announcement of the cancellation of 25 the Slots at Racetracks Program, correct?</p>	<p style="text-align: right;">Page 348</p> <p>1 1347 Q. Mr. Lissus? 2 A. Yes. 3 1348 Q. And did you meet with Mr. Lissus? 4 A. I did not. 5 1349 Q. And were you still in government 6 at the time -- 7 A. Yes. 8 1350 Q. -- that Mr. Curtis contacted you? 9 A. Yes. 10 1351 Q. I just want to show you a document 11 really quickly here, CRE479884. I don't need you 12 to read the whole document. I'm just interested in 13 the exchanges right at the top of the page where 14 you're exchanging emails with your colleagues in 15 the Ministry of Agriculture about someone 16 identified as RS. Do you see that? 17 A. Yes. 18 1352 Q. Did you come to understand that 19 the RS referenced in these email chains refers to 20 Rod Seiling? 21 A. No. We did look at this prior to 22 me coming to this -- this -- what is this called, a 23 deposition? 24 1353 Q. Examination. 25 A. Examination. We did look at this,</p>

<p style="text-align: right;">Page 349</p> <p>1 and when I first looked at it, I didn't know who RS 2 was. There was some speculation similar to yours, 3 but without -- I'm not fully certain who that is at 4 this point. 5 1354 Q. Did you ever get an answer to the 6 question that you posed in the email, which is who 7 is RS? 8 A. Not that I recall. I don't recall 9 this email. 10 1355 Q. Okay. Mr. Ratcliffe, I'd ask you 11 to look back and see if there's any email responses 12 to this particular message from Mr. Keegan 13 inquiring about who is RS, and if you find them, 14 I'd like you to produce them, please? 15 U/A MR. RATCLIFFE: We will consider your 16 request and get back to you. 17 BY MR. MATTHEWS: 18 1356 Q. Because when I look at the email 19 in the chain, I do see there being some discussion 20 about the Ontario racing program and the ORC, and 21 this is shortly before the period of time where you 22 ultimately end up calling Mr. Seiling and conveying 23 the government's direction that he be asked to step 24 back from his role as chair of the ORC, correct? 25 A. I believe that's the timeline.</p>	<p style="text-align: right;">Page 351</p> <p>1 they were frustrated, long days. 2 1362 Q. Well, we haven't established who 3 RS is. I'm just asking for your view about 4 Mr. Seiling. Is there another RS that you're aware 5 of? 6 A. Not that I can think of off the 7 top of my head. 8 1363 Q. Fair. CRE479952. This is an 9 email September of 2013 that you're sending to 10 Andrew Bevan and Fahim in the Ministry of Finance 11 discussing the panel's briefing of the Premier and 12 Minister. Correct? 13 A. Yes. 14 1364 Q. And you say in your email "Agenda 15 attached." Do you see that? 16 A. Yes. 17 1365 Q. Mr. Ratcliffe, I would like 18 production of the attachment, please? 19 MR. RATCLIFFE: We've provided all of 20 the relevant documents, as far as we are aware. 21 I'll take your request under advisement in terms of 22 us searching for it. It may be just as easy for 23 you to search for it if it's in the documents. 24 MR. MATTHEWS: It's not in the 25 documents, which is why we would like it produced,</p>
<p style="text-align: right;">Page 350</p> <p>1 MR. MATTHEWS: Let's mark this as the 2 next exhibit, please. 3 EXHIBIT NO. 45: Email, Bates numbered 4 CRE479884. 5 BY MR. MATTHEWS: 6 1357 Q. And I know that you spoke with 7 Mr. Seiling to convey the government's request that 8 he step back from his role as chair of the ORC. 9 Correct? 10 A. Yes. 11 1358 Q. Prior to that, had you ever spoken 12 with Mr. Seiling? 13 A. Yes, I think we talked about that 14 yesterday. I talked to him many times. 15 1359 Q. And did you form the view that 16 Mr. Seiling was nutty and a liar? 17 A. That was not my view. 18 1360 Q. He was a chair of a government 19 agency trying to do the best he could for his 20 agency, correct? 21 A. Yes. As I told you yesterday, we 22 had a difference of opinion on how to best execute 23 that role. 24 1361 Q. Sure. 25 A. In defense of my staff, I think</p>	<p style="text-align: right;">Page 352</p> <p>1 or if it's being withheld on the basis of a claim 2 of privilege, we would like to know the basis of 3 any such claim. 4 U/T MR. RATCLIFFE: I will look into what 5 it is and whether we have it. 6 MR. MATTHEWS: Next exhibit, please, 7 46. 8 EXHIBIT NO. 46: Email, Bates numbered 9 CRE479952. 10 BY MR. MATTHEWS: 11 1366 Q. So, in some of your answers 12 earlier, you were describing how transition funding 13 to the horseracing industry evolved in the period 14 from mid-2012 into 2014 and went from 50 million to 15 100 million to 180 million to 300 to 400; is that 16 correct? 17 A. Is it four? 400 in the end? It 18 was a hundred million a year roughly, yes. Yes. 19 1367 Q. I won't hold you to the numbers, 20 but you and I can agree, sir, that the approach to 21 transitional funding to the horseracing industry 22 evolved in the period of mid-2012 until 2014? 23 A. Yes. 24 1368 Q. And ultimately more transition 25 funding than was available in 2012 was ultimately</p>

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<p>1 made available in 2014, correct? 2 A. Yes. 3 1369 Q. In September 2013 there was a 4 joint Cabinet submission made by your Ministry and 5 the Ministry of Finance regarding the horseracing 6 industry plan and OLG modernization, correct? 7 A. Yes, I believe it was OMAF and 8 MOF. 9 1370 Q. This is a document produced in 10 response to your summons by your counsel. It 11 appears to be slide decks outlining the key 12 recommendation and impact analysis on the racing 13 industry in rural Ontario as at September 6th, 14 2013, correct? 15 A. Yes, this is an internal Ministry 16 briefing for OMAF and MRA. 17 1371 Q. In advance of Cabinet, correct? 18 A. It appears that way, yes. 19 1372 Q. So if you look at the context for 20 action on the first page of the deck, you see that 21 the deck sets out the state of affairs. There are 22 now too fewer racetracks offering live racing. The 23 total number of race dates have decreased from 24 1,380 to 840, representing a 41 percent decline. 25 Total industry revenue has declined 40 percent.</p>	<p>1 U/T MR. RATCLIFFE: Yes, we will provide 2 you with the basis for the redaction. 3 MR. MATTHEWS: Thanks. Next exhibit, 4 please. 5 EXHIBIT NO. 47: Internal Ministry 6 briefing for OMAF and MRA, slide deck. 7 BY MR. MATTHEWS: 8 1377 Q. I can tell you, Mr. Keegan, that 9 just judging by the context in which the redactions 10 are made, it appears that what's being redacted is 11 the amount that OLG is paying by way of lease 12 payments to racetracks. Does that seem right to 13 you? 14 A. I didn't -- I couldn't tell you. 15 1378 Q. Well, let me give you back the 16 document. 17 MR. RATCLIFFE: You're asking him to 18 speculate about the basis for the redaction. We'll 19 get back to you regarding that. 20 MR. MATTHEWS: Not the basis. It's 21 just what is being redacted. 22 BY MR. MATTHEWS: 23 1379 Q. I'm going to suggest -- take a 24 look, for example, Mr. Keegan, at page 16 marked as 25 983 in the top right-hand corner of Exhibit 47,</p>
<p>1 Wagering commissions have held at 90 percent of 2 previous levels. Breeding activity has decreased 3 on average by 46 percent. 4 Do you see that? 5 A. Yes. 6 1373 Q. If you look at page 7 of the deck, 7 you see page 7 of the PowerPoint deck, it's got 8 page 8 at the bottom right-hand corner, page 975. 9 A. Yes. 10 1374 Q. I think we're looking at a 11 different page. 12 MR. RATCLIFFE: 974 or 975? 13 BY MR. MATTHEWS: 14 1375 Q. 975. You see that there is a 15 graphical representation of horseracing industry 16 funding, historical and projected. I'd like to 17 understand the basis for the redactions made on 18 that page as well as the redactions made to the 19 assumptions supporting the funding to the 20 horseracing industry, Mr. Ratcliffe? 21 U/T MR. RATCLIFFE: We will review that and 22 provide you the basis and rationale. 23 BY MR. MATTHEWS: 24 1376 Q. Same thing on pages marked 983 and 25 984 at the top, the redactions?</p>	<p>1 where you see the redaction. It's on the sources 2 of revenue side, and one of the sources of revenue 3 for the horseracing industry was lease payments to 4 racetracks, correct? 5 A. One of the sources for racetracks 6 is leases, yes. 7 1380 Q. And if you look at all the other 8 sources of revenue there, you don't see lease 9 revenue there anywhere, right? 10 A. I don't see it specifically 11 labelled. 12 1381 Q. I'm going to put to you, 13 Mr. Keegan, that OLG was paying an aggregate 14 approximately \$102 million per year by way of lease 15 payments to racetracks that hosted slot machines. 16 Do you accept that? 17 MR. RATCLIFFE: Do you know? 18 THE WITNESS: I don't know. 19 BY MR. MATTHEWS: 20 1382 Q. Well, you've got a lot of 21 documents with lease information in it, Mr. Keegan. 22 You don't have any recollection? 23 MR. RATCLIFFE: Well, he said he didn't 24 know what the specific amount was. 25 THE WITNESS: I don't recall the</p>

<p style="text-align: right;">Page 357</p> <p>1 specific amount. 2 BY MR. MATTHEWS: 3 1383 Q. Does a hundred million sound about 4 right? 5 A. It was in that neighbourhood. 6 1384 Q. May I have the document, please. 7 I'm going to show you Exhibit 32 of Mr. Bardeesy's 8 examination. 9 So, there's a covering email which is 10 initially an email from you to people in the 11 Premier's Office saying, here's today's memo, 12 includes horseracing deck and policy note for OLF 13 event tomorrow night. 14 A. Yes. 15 1385 Q. OLF, Ontario Labour Federation, is 16 that accurate? 17 A. No, I believe that's the Ontario 18 Liberal Fund. 19 1386 Q. I see. What's that? 20 A. It's part of the party apparatus. 21 1387 Q. Is it part of the party 22 fundraising apparatus? 23 A. Yes. 24 1388 Q. Take a look at the deck, the 25 horseracing deck. Now, you're sending this email</p>	<p style="text-align: right;">Page 359</p> <p>1 1392 Q. So this is a Ministry of 2 Agriculture template? 3 A. Yes. 4 1393 Q. All right. And the content of the 5 deck would have been accurate, to the best of your 6 information at the time? 7 A. Yes. 8 1394 Q. So, if you look at the second page 9 of the deck where it talks about the context, and 10 you see that there's the heading "2012 racing 11 industry plunged into disarray," the disarray was a 12 result of the announcement as part of OLG's 13 modernization to terminate the Slots at Racetrack 14 Program with no transition funding, correct? 15 A. The disarray came from the 16 decision to end the SARP program. 17 1395 Q. Right. And if you look at the 18 third, as part of OLG modernization strategy, as 19 the bullet under the heading indicates, correct? 20 MR. RATCLIFFE: Are you still looking 21 at the same slide? 22 THE WITNESS: The first bullet, yes. 23 BY MR. MATTHEWS: 24 1396 Q. Just my point for clarification is 25 that the cancellation of revenue sharing from the</p>
<p style="text-align: right;">Page 358</p> <p>1 to the Premier's Office. Is this the deck that 2 your office created? 3 MR. GOLDENBERG: Sorry, can we have the 4 document number for this one? 5 MR. MATTHEWS: It's Exhibit 32 on 6 Mr. Bardeesy's examination. The deck is marked as 7 CRE545346. 8 THE WITNESS: Is this part of the memo? 9 BY MR. MATTHEWS: 10 1389 Q. Sorry, I didn't hear you. 11 A. Is this part of the memo? 12 1390 Q. It's part of the attachments to 13 the email that you sent. 14 A. This looks like the deck we just 15 looked at. 16 1391 Q. Right. So just coming back to my 17 question, because it looks to be -- the deck, the 18 content of the deck seems to be similar but 19 slightly different to the deck we just looked at. 20 My question for you is, seeing this email and the 21 attached deck, my question is whether or not your 22 Ministry, or the Minister's Office and the Ministry 23 of Agriculture, produced this deck? 24 A. Yes, I would think so. It's on 25 their -- it's on their template.</p>	<p style="text-align: right;">Page 360</p> <p>1 Slots at Racetrack Program was one part of OLG's 2 broader modernization strategy, correct? 3 A. Yes. 4 1397 Q. And that particular action plunged 5 the horseracing industry into disarray, correct? 6 A. Yes. 7 1398 Q. And the third bullet point 8 reflects the Ministry of Agriculture's 9 honestly-held view at the time of this slide, which 10 is: 11 "The breeding sector was 12 immediately impacted. Four years of 13 incented breedings, foals and 14 yearlings are in the system. Prices 15 drop because of oversupply and 16 uncertainty of industry's future." 17 That was the Ministry of Agriculture's 18 view at the time of this slide deck, correct? 19 A. Yes. 20 1399 Q. If you look over to page 997, it's 21 page 8 of the deck, you see the same sort of 22 graphical representation that we were looking at 23 earlier, but this time you see the totals of 24 funding here. 25 And so, by my calculation, Mr. Keegan,</p>

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1	if you take 2013 and you take the total of 333 and	1	1405 Q. 52.
2	you subtract out the 110 and 52 and 69, you get a	2	A. 52, sorry, PMTR.
3	value of about \$102 million, and if you look at the	3	1406 Q. And then at the bottom, 69 of CRF,
4	assumptions on the right-hand side, you see the	4	consolidated revenue fund. That's the transfer
5	second assumption is:	5	payment, correct? So let's look at 2013.
6	"OLG lease revenues are	6	A. So, 110 on wagering commission, 52
7	projected as stable but are unknown	7	on PMTR, is it 55?
8	three to five years out."	8	MR. RATCLIFFE: Yes, it looks like 55.
9	Do you see that?	9	THE REPORTER: Could we go off the
10	A. Yes.	10	record for one second?
11	MR. MATTHEWS: Next exhibit, please.	11	-- OFF THE RECORD DISCUSSION --
12	EXHIBIT NO. 48: Email and attachment,	12	BY MR. MATTHEWS:
13	Bates numbered CRE545346.	13	1407 Q. What we're trying to understand
14	BY MR. MATTHEWS:	14	here, if you'd look in 2013, you see that the
15	1400 Q. Just so we're clear, sir, if you	15	amount for wagering commissions is 110, correct?
16	accept my math as being \$102 million, does that	16	A. Yes.
17	sound correct as the amount that OLG lease revenues	17	1408 Q. The amount for PMTR is 52?
18	projected between the 2013 and 2018 years on an	18	A. Yes.
19	annual basis?	19	1409 Q. Correct? The amount for the
20	MR. RATCLIFFE: Do you want to see the	20	consolidated revenue fund is 69, correct?
21	chart again?	21	A. In this document, yes. In this
22	THE WITNESS: So, what was all included	22	document it's 55. So, I can tell you that the
23	in those numbers?	23	numbers in this file were always complicated which
24	BY MR. MATTHEWS:	24	is -- so when I say I don't remember exactly, it's
25	1401 Q. I'll give it back to you and we	25	because they were always changing, and so there is
Page 362		Page 364	
1	can go through it together. So, let's look at	1	an order of magnitude that, as I said, you're in
2	2013. The print quality makes it somewhat	2	the ballpark, but as to the specifics...
3	difficult to make out, but you see the total for	3	1410 Q. The number that is identified as
4	2013 is 333?	4	coming from the consolidated revenue fund, that is
5	A. Sure.	5	the amount of transition funding that is going to
6	1402 Q. Do you agree?	6	racetracks by means of transfer payment agreements,
7	A. It's difficult to see.	7	correct?
8	MR. RATCLIFFE: You need a magnifying	8	A. I've never -- I don't recall it
9	glass.	9	ever being accounted for as CRF.
10	THE WITNESS: I think it says that,	10	1411 Q. Well, that's where transfer
11	yeah.	11	payments come from?
12	MR. RATCLIFFE: Can you pull it up on	12	A. Yes.
13	your computer, the screen?	13	1412 Q. The consolidated revenue fund?
14	MR. LISUS: Just go off the record.	14	A. Yes.
15	-- OFF THE RECORD DISCUSSION --	15	1413 Q. All right. May I have the two
16	BY MR. MATTHEWS:	16	documents back, please. I'm giving you a document
17	1403 Q. I passed you Exhibit 47. Looking	17	that has redactions, including redactions that
18	at the same chart, it seems to be a bit clearer.	18	cover up the document ID, but one page has
19	So you don't see the total there but you see the	19	CRE481645 that's not redacted.
20	numbers underneath it. So there is 110, correct,	20	So, Mr. Ratcliffe, we would like to
21	for 2013?	21	understand the basis for all of these redactions.
22	A. Yes.	22	But just turning your attention to the document --
23	1404 Q. 110 and 52?	23	can I have that undertaking, Mr. Ratcliffe?
24	A. So the 110 is the wagering	24	U/T MR. RATCLIFFE: We will provide you
25	commission. 32 is PMTR.	25	with our explanation of the reason for the

<p style="text-align: right;">Page 365</p> <p>1 redactions. 2 MR. MATTHEWS: Thanks. 3 BY MR. MATTHEWS: 4 1414 Q. So looking at the part that is not 5 redacted, Mr. Keegan, this is an email from you to 6 people within your Ministry describing activity on 7 the horseracing file, and you begin by saying that: 8 "Minister Leal and Deputy 9 Minister Stark did a great job at 10 JEP today along with MOF in 11 presenting the horseracing plan." 12 Do you see that? 13 A. Yes. 14 1415 Q. This is September 24th, and JEP is 15 the Jobs and Economic Policy Committee of Cabinet, 16 correct? 17 A. I believe so. 18 1416 Q. And you go to that committee as 19 one stop on the way to Cabinet, correct? 20 A. Yes. 21 1417 Q. And I see in your email to your 22 staff that you recount some of the questions that 23 were asked at the Jobs and Economic Policy 24 Committee, including questions about the level of 25 savings from SARP posed by Yasir Naqvi. See that?</p>	<p style="text-align: right;">Page 367</p> <p>1 1422 Q. But you express it as concern 2 about the level of savings from SARP. So what was 3 the concern about the level of savings? 4 A. I think questions ranged -- this 5 is just sloppy writing. This is a range of 6 questions from concern about horse welfare to level 7 of savings from SARP to concern about the impact of 8 the Vaughan casino on Woodbine -- of a Vaughan 9 casino on Woodbine. 10 1423 Q. You're going to have to help me 11 out, sir, because in one sense it's quite simple, 12 the government decided to cancel revenue sharing 13 and it kept 345 million dollars per year that was 14 previously being shared with the horseracing 15 industry, correct? 16 A. Yes. 17 1424 Q. So what is Mr. Naqvi's concern 18 about the level of savings, if it's not the 19 concern -- 20 A. So, SARP money was not the 21 entirety of the revenues that were -- that went 22 into horseracing. There was the PMTR, there was 23 the wagering commission. So I recall a chart of 24 some kind or discussion of some kind over total 25 revenues in the industry pre-SARP and total</p>
<p style="text-align: right;">Page 366</p> <p>1 A. Yes. 2 1418 Q. What's your recollection of the 3 questions that Minister Naqvi was posing about the 4 level of savings from SARP? 5 A. I'm not sure I could add anything 6 to what's there. It's a question of how much money 7 the government saved, you know. So it's how much 8 money are we spending versus how much we saved. 9 1419 Q. Well, when I read this message, 10 the context of it, when you say "Minister Leal and 11 Deputy Minister Stark did a great job at JEP," it 12 suggests that you were there. 13 A. Yes. 14 1420 Q. Do you recall being at this Jobs 15 and Economic Policy Committee meeting, September of 16 2013? 17 A. Vaguely, yes. 18 1421 Q. Okay. So just give me your best 19 recollection of what Minister Naqvi's concern was 20 about the level of savings from SARP at that 21 meeting? 22 A. I think it was just a straight-up 23 question of -- so there was a discussion on how 24 much we're spending, so how much have we saved 25 relative to what we're spending now.</p>	<p style="text-align: right;">Page 368</p> <p>1 revenues to the industry post-SARP. 2 1425 Q. What was Yasir Naqvi's position in 3 September 2013? Was he still parliamentary 4 assistant in Finance? 5 A. I don't think so. I can't recall 6 what his position was. I believe he was in Cabinet 7 at that time. 8 1426 Q. Was Minister Naqvi expressing 9 concern that as a result of the increase to 10 transition funding to the horseracing industry, the 11 government was not saving as much from the 12 cancellation of Slots at Racetrack Program revenue 13 sharing as it was when it cancelled the program 14 with zero transition funding? Was that his 15 concern? 16 MR. RATCLIFFE: Mr. Keegan said he 17 couldn't recall exactly what the -- his concern 18 was. 19 BY MR. MATTHEWS: 20 1427 Q. Was that his concern, Mr. Keegan? 21 A. Not to my recollection. Again, I 22 think if you look at the third bullet, I suggested 23 these questions are the right questions, so it's 24 around what are the total funding, how is 25 transition affecting horse people, and the track</p>

<p style="text-align: right;">Page 369</p> <p>1 transition, and ultimately an acceptance of the 2 plan to move forward. 3 So, I mean, from my perspective, I go 4 into these meetings looking for certain objectives. 5 I think I'm communicating that we met those 6 objectives and we're moving forward. 7 MR. MATTHEWS: Can I have that document 8 back and I'll mark it as Exhibit 49, please. 9 EXHIBIT NO. 49: Email, Bates numbered 10 CRE481645. 11 BY MR. MATTHEWS: 12 1428 Q. Do you remember an article 13 published in the Globe and Mail around June 2013 14 reporting that OLG paid out \$80.6 million capital 15 improvement payments to racetrack owners? 16 A. I don't remember that. 17 1429 Q. I'm handing you CRE469869 and ask 18 you to look at page 1064 in the top right-hand 19 corner. 20 A. Yes. 21 1430 Q. So you see a reference to that 22 Globe and Mail article there? 23 A. Yes. 24 1431 Q. And you see how the \$80.6 million 25 is broken out?</p>	<p style="text-align: right;">Page 371</p> <p>1 A. Yes, I didn't do that very often 2 but on occasion. 3 1437 Q. And is there a reason that you 4 would send an email to her Liberal account as 5 opposed to her Government of Ontario account? 6 A. So, that's not a Liberal account. 7 That is a Legislative Assembly account. 8 1438 Q. For the Liberal party? 9 A. No, for the -- in her role as MPP. 10 1439 Q. Correct. But a Liberal MPP, 11 correct? 12 A. Yes, all MPPs have an account like 13 this. 14 1440 Q. Maintained by the caucus services 15 bureau of their political party? 16 A. Through the legislature, yes. 17 1441 Q. Right. 18 A. So, you can imagine that she gets 19 quite a bit of correspondence on her 20 Premier@Ontario.ca account. That's a public 21 account. She's not monitoring that herself at all 22 times. Other people do that. This was an account 23 through the legislature that she would look at 24 regularly. 25 1442 Q. And I notice that that was a</p>
<p style="text-align: right;">Page 370</p> <p>1 A. Yes. 2 1432 Q. Okay. Is that your understanding 3 of how the capital assistance payments were 4 allocated? 5 A. So, as I indicated, I didn't 6 remember the numbers, but to those two companies, 7 yes. 8 1433 Q. Okay. And what are the numbers? 9 A. It says here 31.5 million to Great 10 Canadian and 26.3 to WEG. 11 1434 Q. All right. Could I have the 12 document, please. Remind me, Mr. Keegan, what 13 Cristina Taglione's role was at OMAFRA when you 14 were the Chief of Staff? 15 A. I think she was the -- I think she 16 was our operations person. 17 1435 Q. All right. So, here I see you -- 18 this is an email, CRE470764, I see you 19 corresponding with Kathleen Wynne at 20 Liberal.OLA.org email address, correct? 21 A. Yes, that's her legislative email. 22 1436 Q. Did you often send emails to 23 Ms. Wynne at her legislative email? Was that the 24 email account that you contacted her at when you 25 needed to raise her on email?</p>	<p style="text-align: right;">Page 372</p> <p>1 similar type of account that you would correspond 2 with Minister McMeekin through, through Minister 3 McMeekin's Liberal legislative account, right? 4 A. Yes. 5 1443 Q. And did you ever correspond with 6 Dwight Duncan using Mr. Duncan's Liberal 7 legislative account? 8 A. I don't ever recall sending Dwight 9 Duncan an email. 10 1444 Q. What I wanted to ask you about, if 11 you've had a moment to review this email, 12 Mr. Keegan, is Ms. Taglione's comment to you at the 13 top of the page where she's congratulating you on 14 the heels of a proposal sailing through Treasury 15 Board, and she's saying to you: 16 "Truthfully, I don't know that 17 anything of this scale we faced has 18 ever turned around so well." 19 Do you see that? 20 A. Yes. 21 1445 Q. And what she's referring to, 22 Mr. Keegan, is the change under your leadership as 23 Chief of Staff in the approach to transition 24 funding to the horseracing industry from the time 25 you got involved with the panel in June 2012 up to</p>

<p style="text-align: right;">Page 373</p> <p>1 the day she wrote the email, correct?</p> <p>2 A. It's rare for a line Ministry to</p> <p>3 take on the Ministry of Finance, yes.</p> <p>4 1446 Q. And that's what she means when she</p> <p>5 says something of this scale, because as we</p> <p>6 discussed earlier, your Ministry had encountered</p> <p>7 resistance from Finance at different stages in</p> <p>8 terms of increasing transition payments to the</p> <p>9 horseracing industry, correct?</p> <p>10 A. Yes.</p> <p>11 1447 Q. And this email, which talks about</p> <p>12 a proposal being approved by Treasury Board, is</p> <p>13 sort of the culmination of increasing funding</p> <p>14 through the horseracing industry transition plan to</p> <p>15 the industry, correct?</p> <p>16 A. I believe this was the final</p> <p>17 approval for the partnership plan.</p> <p>18 1448 Q. And when she's referring to the</p> <p>19 scale, you understood that to be both the</p> <p>20 resistance of Finance that your line Ministry has</p> <p>21 had to overcome, but also the magnitude of the</p> <p>22 program and its consequences being the Slots at</p> <p>23 Racetrack Program that you had to work to mitigate</p> <p>24 by way of this horseracing industry transition</p> <p>25 plan, correct?</p>	<p style="text-align: right;">Page 375</p> <p>1 around the time that the proposal has passed</p> <p>2 through Treasury Board, correct?</p> <p>3 A. Yes.</p> <p>4 1451 Q. And so this is you exchanging</p> <p>5 platitudes with Mr. McMeekin who took the role in</p> <p>6 spearheading the panel that led to this point,</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 MR. MATTHEWS: The next exhibit.</p> <p>10 EXHIBIT NO. 51: Email, Bates numbered</p> <p>11 CRE482309.</p> <p>12 BY MR. MATTHEWS:</p> <p>13 1452 Q. I'm giving you an article that is</p> <p>14 SB0003434, and what I want to direct your attention</p> <p>15 to is page 1091, where Ms. Wynne is quoted as</p> <p>16 discussing with Ted McMeekin:</p> <p>17 "We've got to take a second</p> <p>18 look at this. The way the SAR</p> <p>19 program was cancelled was not</p> <p>20 thoughtful. It needed another look</p> <p>21 and that's what we're doing."</p> <p>22 Did Mr. McMeekin ever share with you</p> <p>23 that he had those conversations with Ms. Wynne?</p> <p>24 A. That's on 1091?</p> <p>25 MR. RATCLIFFE: Just take a moment to</p>
<p style="text-align: right;">Page 374</p> <p>1 A. Yes, it would be rare to get \$100</p> <p>2 million a year in our Ministry for anything.</p> <p>3 MR. MATTHEWS: That's the next exhibit,</p> <p>4 please.</p> <p>5 EXHIBIT NO. 50: Email, Bates numbered</p> <p>6 CRE469869.</p> <p>7 BY MR. MATTHEWS:</p> <p>8 1449 Q. CRE482309. My question is for</p> <p>9 your counsel. It appears what's being redacted</p> <p>10 here is an email from Sue Leslie of OHRIA?</p> <p>11 MR. RATCLIFFE: It appears what?</p> <p>12 MR. MATTHEWS: What is being redacted</p> <p>13 here --</p> <p>14 U/T MR. RATCLIFFE: We will provide you</p> <p>15 with the basis for that redaction.</p> <p>16 MR. MATTHEWS: I am hard pressed,</p> <p>17 Mr. Ratcliffe, to understand why an email from the</p> <p>18 chair of OHRIA is anything that the government has</p> <p>19 a business redacting.</p> <p>20 MR. RATCLIFFE: Well, we'll review that</p> <p>21 and we'll get back to you.</p> <p>22 BY MR. MATTHEWS:</p> <p>23 1450 Q. All right. And just while you</p> <p>24 have the email, Mr. Keegan, I see you emailing</p> <p>25 Mr. McMeekin saying "We did it." This is right</p>	<p style="text-align: right;">Page 376</p> <p>1 read that.</p> <p>2 THE WITNESS: (Witness reads document).</p> <p>3 BY MR. MATTHEWS:</p> <p>4 1453 Q. Do you want my question again?</p> <p>5 A. Yes, please.</p> <p>6 1454 Q. Do you recall having any</p> <p>7 conversations with Mr. McMeekin where he conveyed</p> <p>8 the fact that he and Kathleen Wynne had</p> <p>9 conversations such as the one quoted in the article</p> <p>10 I passed you?</p> <p>11 A. I mean, this is consistent with</p> <p>12 what Ted would talk about in regards to</p> <p>13 horseracing. I don't recall any detailed or</p> <p>14 specific debriefs on conversations he had with</p> <p>15 Kathleen or as a candidate or as Premier. I know</p> <p>16 he was on her campaign for leadership and he would</p> <p>17 have briefed her many times on this.</p> <p>18 1455 Q. Consistent with what you see</p> <p>19 reflected in the quote in the document passed to</p> <p>20 you, correct?</p> <p>21 A. Yes, along with many other things</p> <p>22 we've seen.</p> <p>23 MR. MATTHEWS: Next exhibit, please.</p> <p>24 EXHIBIT NO. 52: Article, Bates</p> <p>25 numbered SB0003434.</p>

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1 BY MR. MATTHEWS:
 2 1456 Q. Do you recall any messaging around
 3 the Slots at Racetrack Program saying that it was
 4 the PCs who designed the program without benchmarks
 5 or goals?
 6 A. Yes, to that effect, yeah.
 7 1457 Q. I think you said you never
 8 reviewed any of the siteholder agreements for which
 9 the Slots at Racetrack Program was implemented,
 10 correct?
 11 A. Correct.
 12 1458 Q. So you don't know whether or not
 13 there were any provisions in that contract for the
 14 establishment of benchmarks or goals?
 15 A. Not first-hand knowledge, no.
 16 1459 Q. Do you have any knowledge as to
 17 whether or not there were provisions in the
 18 siteholder agreement for benchmarks?
 19 A. Just the advice I would have
 20 received from the Ministry and/or the panel.
 21 1460 Q. What was the advice you received?
 22 A. On messaging? Along the lines of
 23 what you described.
 24 1461 Q. That was advice that came from the
 25 panel about messaging?

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1 A. Around accountability. I don't
 2 know those specific words, but generally
 3 accountability was insufficient under the SAR
 4 program.
 5 1462 Q. But are you telling me that the
 6 PCs -- you were getting messaging from the panel
 7 that the PCs designed the program without
 8 benchmarks; is that part of the messaging that the
 9 panel was giving you?
 10 A. No, as I said, around
 11 accountability. I'm sure there were flourishes
 12 added to make it partisan.
 13 1463 Q. And was the panel or any of its
 14 panelists providing your Ministry with messaging to
 15 be used by the Premier in relation to horseracing?
 16 A. Yes, in terms of engagement with
 17 industry, not on public or political messaging.
 18 That would have been, as I said, flourishes added
 19 by our office, the Premier's Office or related.
 20 1464 Q. So just to make sure I heard you
 21 correctly, the panel and the panelists would give
 22 you messaging to use with stakeholders, but any
 23 political messaging would be things that would be
 24 added by your Minister's Office, correct?
 25 A. Or other political staff, yes.

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1 1465 Q. So it wasn't the role of any of
 2 the panelists to give you political messaging to
 3 use in relation to horseracing?
 4 A. Correct.
 5 1466 Q. What is John Snobelen's middle
 6 name?
 7 A. I have no idea.
 8 1467 Q. I'm going to pass you a document
 9 that's been produced to us and I'm going to tell
 10 you, Mr. Keegan, that the metadata of the document
 11 indicates the author of this document is John
 12 Snobelen. And you see this is a document and at
 13 various junctures you see insert where it says JCS
 14 note. Do you see that?
 15 A. Yes.
 16 1468 Q. Is JCS John Snobelen?
 17 A. It could be. I don't -- I don't
 18 know what his middle name is.
 19 1469 Q. All right. Well, what I want to
 20 ask you to look at is the second page of the
 21 document, 1123, and I've given you CRE474139, where
 22 the JCS note reads, among other things --
 23 MR. RATCLIFFE: The top one or the
 24 middle one?
 25 BY MR. MATTHEWS:

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1 1470 Q. The top one. The JCS note says:
 2 "Every review of racing
 3 industry has concluded that SARP was
 4 bad. Only the PC party and NDP
 5 support SARP because they have no
 6 understanding of the industry and no
 7 ideas to make the industry better."
 8 Is that something that John Snobelen
 9 was telling you to convey to the Premier?
 10 A. It could have been.
 11 1471 Q. It was, wasn't it?
 12 A. I honestly don't recall this, but
 13 it could have been.
 14 1472 Q. Do you know that the Sadinsky
 15 Report recommended maintaining and increasing the
 16 revenue share from the Slots at Racetrack Program?
 17 A. I don't remember reading the
 18 Sadinsky Report.
 19 1473 Q. You see that the JCS note says
 20 that:
 21 "Drummond questioned SARP as
 22 public policy."
 23 A. Yes.
 24 1474 Q. Is this a document you recall
 25 receiving?

<p style="text-align: right;">Page 381</p> <p>1 A. Not specifically but it's similar 2 to many documents that I received. 3 1475 Q. What I'm going to suggest to you 4 here, Mr. Keegan, is happening is that Mr. Snobelen 5 is being provided on key messaging and being 6 provided with key messages on the horseracing file 7 and asked to add his comments for the benefit of 8 the Premier and Minister of Agriculture. Is that 9 correct? 10 A. I -- I can't confirm that. 11 1476 Q. Well, that would be something you 12 would ask Mr. Snobelen to do from time to time, 13 correct? 14 A. Yes. 15 MR. MATTHEWS: Next exhibit, please, 16 53. 17 EXHIBIT NO. 53: Document, Bates 18 numbered CRE474139. 19 BY MR. MATTHEWS: 20 1477 Q. CRE482760. Mark Cripps was in the 21 communications part of the Ministry of 22 Agriculture's office, correct? 23 A. Yes. 24 1478 Q. What appears to be happening in 25 this document is you're having some discussions by</p>	<p style="text-align: right;">Page 383</p> <p>1 of 2013, discussing whether or not Ontario is 2 prepared to enter into a tolling agreement to 3 suspend the running of a limitations period to have 4 a discussion about whether or not there can be a 5 resolution of claims of standardbred breeders. 6 Do you recall in December of 2013 being 7 forwarded or receiving from Mr. Snobelen this email 8 or any inquiry by Mr. Lisus about whether Ontario 9 was prepared to sign a tolling agreement in 10 connection with the claims of standardbred 11 breeders? 12 A. I don't recall an email. I do 13 recall John speaking to it at some point. 14 1482 Q. Speaking to it in what sense? 15 Speaking with you about it? 16 A. Yeah, with me or in a meeting that 17 I was at, yes. 18 1483 Q. And what was he saying to you? 19 A. That the standardbred breeders 20 were looking for a tolling agreement, which I had 21 no idea what that meant. 22 1484 Q. Okay. Do you have an 23 understanding of what that is now? 24 A. I think it's an extension of time 25 or something for -- for legal action.</p>
<p style="text-align: right;">Page 382</p> <p>1 email with Mr. Cripps about how to respond to a 2 media inquiry you've received regarding Progressive 3 Conservative plans for the horseracing industry 4 which at that time involved reinstating the Slots 5 at Racetracks Program, correct? 6 A. I don't recall that PC but it does 7 say that here. 8 1479 Q. Well, you see Mr. Cripps' email to 9 you in the middle of the page where he says: 10 "Reinstate but fix doesn't 11 offer a lot in terms of a concrete 12 plan." 13 A. Yes. 14 1480 Q. Does that refresh your memory as 15 to what the PC plan was for horseracing at that 16 time? 17 A. I think that was about it, yes. 18 MR. MATTHEWS: All right. And this 19 will be the next exhibit, 54. 20 EXHIBIT NO. 54: Email, Bates numbered 21 CRE482760. 22 BY MR. MATTHEWS: 23 1481 Q. This has been marked as Exhibit 27 24 on Mr. Snobelen's examination. This is an email 25 between Mr. Lisus here and Mr. Snobelen in December</p>	<p style="text-align: right;">Page 384</p> <p>1 1485 Q. Okay. And you say that you may 2 remember there being a meeting with Mr. Snobelen 3 where this was discussed. Was this an in-person 4 meeting that you recall? 5 A. I think so, vaguely. 6 1486 Q. Who do you recall being at this 7 meeting or participating in it, aside from yourself 8 and Mr. Snobelen? 9 A. I think OMAFRA officials 10 potentially. I don't have a very good recollection 11 of it. 12 1487 Q. Give me your best recollection. 13 A. Probably Karen Chan. She was the 14 ADM responsible. Gwen McBride. Those would be the 15 most likely. 16 1488 Q. Do you remember whether or not 17 Mr. Snobelen was in favour of there being a tolling 18 agreement to suspend the running of the limitation 19 period so that there could be a discussion between 20 Ontario and the standardbred breeders about whether 21 they could resolve their differences and not have 22 to worry about filing a lawsuit? 23 A. John's position, I don't recall 24 that. I think it was -- I mean, as I said, I don't 25 have a very clear recollection of it. I only</p>

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<p>1 remember it because it was such a weird name or an 2 uncommon concept that I hadn't encountered before. 3 1489 Q. By uncommon concept, you're 4 referring to tolling agreement? 5 A. Yes. 6 1490 Q. I see. And who was John Snobelen 7 reporting to in relation to the inquiries being 8 made by standardbred breeders through Mr. Lisus? 9 A. Either Karen or Gwen. I'm not 10 sure exactly what the direct reporting line was. 11 1491 Q. So either Karen Chan or Gwen 12 McBride? 13 A. Yes. 14 1492 Q. Karen Chan was the Assistant 15 Deputy Minister? 16 A. And CAO, yes. 17 1493 Q. And chief administrative officer? 18 A. Yes. 19 1494 Q. And Gwen McBride was? 20 A. She was the director of 21 horseracing transition, I think it was called. 22 1495 Q. And are they both on the 23 bureaucratic side of the Ministry of Agriculture? 24 A. Yes. 25 1496 Q. And were you instructing or</p>	<p>1 1500 Q. So if you got any of these emails 2 from Mr. Snobelen, where would you have sent the 3 emails or to whom would you have sent the emails? 4 A. To Gwen and/or Karen. 5 1501 Q. And are Gwen and Karen still in 6 government? 7 A. No. 8 1502 Q. Neither of them? 9 A. No, Karen retired last year and 10 Gwen left the Ministry a couple of years ago. 11 1503 Q. And what is Gwen doing now, if you 12 know? 13 A. I don't know. 14 1504 Q. So do you have any recollection of 15 receiving a copy of this email attaching a letter 16 from Mr. Lisus? 17 A. I do not. 18 1505 Q. All right. So I'll take the 19 document back. We don't need to mark it. It's 20 Exhibit 27 to Mr. Snobelen's examination. 21 MR. RATCLIFFE: Mr. Matthews, I'm just 22 wondering if you're close to being done because 23 Mr. Keegan has an important family matter that he 24 has to leave for at 4:30 at the latest, I guess was 25 the time.</p>
<p>1 relaying any instructions to Mr. Snobelen from the 2 political side about how to deal with the inquiries 3 being made by Mr. Lisus on behalf of standardbred 4 horse breeders? 5 A. On the tolling agreement, I think 6 that there was -- I'm trying to remember where that 7 went, if we -- if there was a decision to proceed 8 or not. I have, again, a very vague recollection 9 of this discussion. 10 1497 Q. Who in your understanding would 11 have been making the ultimate decision as to 12 whether or not a tolling agreement would be signed 13 by Ontario? 14 A. Well, I would assume it would be 15 either the Deputy or the Minister. 16 1498 Q. In the Ministry of Agriculture? 17 A. Or actually maybe the Attorney 18 General. That's probably where it would have went. 19 Legal questions -- 20 1499 Q. Do you have any knowledge as to 21 where it went? 22 A. I don't recall, but I do know that 23 a standard practice was with legal questions we 24 referred them to the Ministry of the Attorney 25 General.</p>	<p>1 MR. MATTHEWS: Yes, I am close to done, 2 Mr. Ratcliffe. 3 BY MR. MATTHEWS: 4 1506 Q. CRE483771. This again, 5 Mr. Keegan, is a document produced to us in 6 response to your summons and I can advise that the 7 metadata associated with the document indicates 8 that the author is John Snobelen. 9 A. What does metadata mean? 10 1507 Q. Metadata is sort of the file 11 properties associated with electronic files that 12 are produced to us. 13 A. Okay. 14 1508 Q. So the date last modified, if 15 there is an author it reflects whose computer was 16 used to work on the document, things like that. 17 A. Got you. 18 MR. RATCLIFFE: Does it address the 19 syntax or does it just -- 20 BY MR. MATTHEWS: 21 1509 Q. Well, on the face of the document 22 I can certainly tell you it doesn't identify who 23 the author is, so my question for you, 24 Mr. Ratcliffe, is to ask you to confirm if this is 25 a document authored by Mr. Snobelen or, if not, to</p>

<p style="text-align: right;">Page 389</p> <p>1 advise us who authored this document? 2 U/A MR. RATCLIFFE: We will consider your 3 request and take it under advisement. 4 BY MR. MATTHEWS: 5 1510 Q. Thank you. I would also like your 6 position on the basis for the redactions in this 7 document, please? 8 U/T MR. RATCLIFFE: We will provide you 9 with the basis for the redactions in this document. 10 MR. MATTHEWS: Thank you. Given that 11 it's a document produced in connection with the 12 response to Mr. Keegan's summons, I would like to 13 mark it as the next exhibit, 55. 14 EXHIBIT NO. 55: Document, Bates 15 numbered CRE483771. 16 BY MR. MATTHEWS: 17 1511 Q. Another document produced by your 18 counsel where the author is not identified and 19 there are redactions. This is CRE485641. So, 20 Mr. Ratcliffe, I would like you to use your best 21 efforts to identify and advise who the author of 22 this document is, and also to give us your position 23 and the basis for the redactions related to this 24 document? 25 U/T MR. RATCLIFFE: We will provide our</p>	<p style="text-align: right;">Page 391</p> <p>1 answer to the question about who produced it? Are 2 you suggesting that -- are you saying that it was 3 prepared by the Ministry to be sent? 4 THE WITNESS: Oh, I'm not sure who 5 authored it, but it's -- it's been sent by me to 6 them, yes. 7 BY MR. MATTHEWS: 8 1514 Q. Did you author it? 9 A. I don't recall. Possibly. 10 1515 Q. Do you want to look at the 11 document and see if that refreshes your 12 recollection as to whether or not it's something 13 that you authored? 14 Because I can tell you, Mr. Keegan, 15 when I look through the document I see, for 16 example, on the first page under the heading 17 "Updates," number 1, integrating horseracing into 18 Ontario's gaming strategy, the second sentence 19 says: 20 "We discussed last week the 21 need to consider altering the 22 current modernization plan to 23 reflect the current reality and the 24 requirements of the partnership 25 plan."</p>
<p style="text-align: right;">Page 390</p> <p>1 best efforts to give you -- well, we will provide 2 you with the basis for the redaction and we will 3 make reasonable efforts to determine who might be 4 the author of that document. 5 BY MR. MATTHEWS: 6 1512 Q. Mr. Keegan, maybe I can do this. 7 The document I have provided to you, Mr. Keegan, is 8 actually attached to an email sent by you, 9 CRE485640. So perhaps that gives some context to 10 the discussion we were just having, because in the 11 covering email, Mr. Keegan, you're writing to 12 Mr. Snobelen and Mr. Wilkinson saying: 13 "Can the two of you review the 14 following as an update for my 15 Minister." 16 See that? 17 A. Yes. 18 1513 Q. So can we agree that what is 19 happening here is you or your Ministry has composed 20 a draft update memo that appears to be January 28th 21 of 2014 and you're sending it to Mr. Snobelen and 22 Mr. Wilkinson to review it because you would like 23 to provide an update to Minister Wynne? 24 A. Yes. 25 MR. RATCLIFFE: Does that provide an</p>	<p style="text-align: right;">Page 392</p> <p>1 And so when I see the word "we" being 2 used in the document, it suggests that the author 3 was having a discussion with the Premier. So I'm 4 going to suggest that indicates that you were the 5 author of this document. Do you agree with me? 6 A. It's possible. I honestly can't 7 remember writing this. 8 1516 Q. Okay. What I'm interested in in 9 this document is item number 3 in the horseracing 10 update, the options for breeder support, because as 11 I go later into the document, I don't see any 12 discussion of that but what I do see are some 13 redactions that seem to line up with where there 14 would be a discussion around options for breeder 15 support. 16 So I'd like you to think back, 17 Mr. Keegan, to January 28th of 2014 and whether or 18 not you have any recollection of providing options 19 for breeder support to Minister Wynne? 20 A. Well, I think we talked yesterday 21 about the enhanced HIP programs. Those are the 22 only breeder support programs that I can recall 23 discussing with anybody. 24 MR. MATTHEWS: Okay. So I'll mark it 25 as the next exhibit, 485640 is the covering email,</p>

<p style="text-align: right;">Page 393</p> <p>1 and 641 is the attachment. 56. 2 EXHIBIT NO. 56: Email and attachment, 3 Bates numbered CRE485640 and CRE485641. 4 BY MR. MATTHEWS: 5 1517 Q. You were still in government 6 February 4, 2014, correct? 7 A. Yes. 8 1518 Q. CRE485951. This is a document 9 that you composed, Mr. Keegan? 10 A. Is it? 11 1519 Q. I don't know. That's my question 12 to you. 13 A. Oh. 14 1520 Q. It was produced to us in response 15 to your summons. 16 MR. RATCLIFFE: Do you know whether 17 that's yours? 18 THE WITNESS: I don't know. 19 BY MR. MATTHEWS: 20 1521 Q. I'd like you then, Mr. Ratcliffe, 21 to make efforts to see if you can identify the 22 author of the document and advise us, and also to 23 provide the basis for the redactions made to the 24 document, please. 25 U/T MR. RATCLIFFE: We will try to</p>	<p style="text-align: right;">Page 395</p> <p>1 government, correct? 2 A. Yes. 3 1526 Q. And Mr. Olsen is writing about the 4 current state of affairs and listing the immediate 5 priorities, being -- the second one is breeder 6 support. Do you see that? 7 A. Yes. 8 1527 Q. And he says that: 9 "The first two items are being 10 worked out by John Snobelen with 11 financial involvement by OLG as 12 required for integration." 13 So, was it your understanding that 14 Mr. Snobelen, with financial involvement by OLG, 15 was in charge of working out breeder support? 16 A. So, he was at that point the 17 director or equivalent of the business development 18 portion of ORC, so yeah, he would be making 19 opinions and comments of those kinds of ideas, 20 concepts, yes. 21 1528 Q. Including enhancements to breeder 22 support, correct? 23 A. Yes. 24 MR. MATTHEWS: Next exhibit, please. 25 EXHIBIT NO. 58: Email, Bates numbered</p>
<p style="text-align: right;">Page 394</p> <p>1 determine who authored the document and we'll 2 provide you with the basis for the redactions. 3 MR. MATTHEWS: Next exhibit, please. 4 EXHIBIT NO. 57: Document, Bates 5 numbered CRE485951. 6 BY MR. MATTHEWS: 7 1522 Q. We talked earlier about Phil Olsen 8 becoming chair of OLG and Mr. Godfrey stepped back 9 from his role, and that being the person that you 10 remember having some interaction with from OLG. Do 11 you recall that discussion? 12 A. Sorry, this discussion? 13 1523 Q. Not in the document, just focus on 14 my question for a second. I was just trying to 15 orient you and ask you if you recall our earlier 16 discussion about you having direct contact with 17 Phil Olsen once he became chair of OLG? 18 A. Yes. 19 1524 Q. Take a look at the document I've 20 given you, CRE544114. The initial email is not one 21 in which -- actually, it is. You are a recipient 22 of the original email from Phil Olsen, February 23 10th, 2014? 24 A. Yes. 25 1525 Q. Shortly before you left</p>	<p style="text-align: right;">Page 396</p> <p>1 CRE544114. 2 BY MR. MATTHEWS: 3 1529 Q. February 14th, 2014, I'm going to 4 give you CRE0485346, an email between you and 5 Mr. Olsen. 6 A. Yes. 7 1530 Q. What I want to ask you about is in 8 Mr. Olsen's original email, which just appears to 9 be to OLG recipients, and then you respond to 10 Mr. Olsen's message. Do you see that? 11 A. Yes. 12 1531 Q. So, do I take from this that 13 Mr. Olsen must have blind copied you on his 14 original message and that's how you get it; is that 15 fair? 16 A. That's possible, yes. 17 1532 Q. Because you respond to him and his 18 original message by saying "Thanks." Correct? 19 A. Yes. 20 1533 Q. And I don't see you listed as 21 someone who the email is sent to or someone who the 22 email is carbon copied to, correct? 23 A. Yes. 24 1534 Q. All right. But in any event, we 25 have Mr. Olsen's original email that you respond</p>

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1 to. What I'm interested in is the fourth and fifth
 2 paragraphs of Mr. Olsen's email, because what he
 3 appears to be discussing is information and updates
 4 provided by John Snobelen regarding discussions and
 5 negotiations he's having with quarter horse owners
 6 about enhancements to the Horse Improvement
 7 Program.
 8 A. Yes.
 9 1535 Q. And what I want to direct your
 10 attention to is where Mr. Olsen says in the
 11 following paragraph:
 12 "As the standardbred owners,
 13 he," referring to John Snobelen,
 14 "he's as happy as we are that they
 15 have taken themselves out of play by
 16 sending notice of litigation."
 17 Do you have any understanding as to
 18 what Mr. Olsen is referring to or the happiness
 19 that he and Mr. Snobelen appear to share in this
 20 email?
 21 A. Well, I think it says we talked
 22 about yesterday the threat or reality of legal
 23 action makes conversations much more difficult with
 24 stakeholders.
 25 1536 Q. I accept that. Why is Mr. Olsen

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1 and Mr. Snobelen happy at the fact that the
 2 standardbred breeders have taken themselves out of
 3 play by sending notice of litigation? Why is that
 4 a cause of happiness?
 5 A. I don't know.
 6 1537 Q. Did you have any discussions with
 7 Mr. Snobelen about this?
 8 A. About this email?
 9 1538 Q. About his sentiments around the
 10 standardbred breeders having to serve notice of
 11 litigation?
 12 A. Yes, I don't think he was ever
 13 happy about it.
 14 1539 Q. That's not what this email says,
 15 correct?
 16 A. Correct.
 17 1540 Q. And did you have any discussions
 18 with Mr. Olsen about his reaction to standardbred
 19 owners sending notice of litigation?
 20 A. No.
 21 MR. MATTHEWS: Next exhibit.
 22 EXHIBIT NO. 59: Email, Bates numbered
 23 CRE0485346.
 24 MR. RATCLIFFE: Mr. Matthews, much
 25 more? We're up at three o'clock.

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1 MR. MATTHEWS: I'm right at the end,
 2 Mr. Ratcliffe, rest assured.
 3 BY MR. MATTHEWS:
 4 1541 Q. I'm going to show you Exhibit 30
 5 to Mr. Snobelen's examination. This is an email
 6 from Walter Parkinson to John Snobelen. Do you
 7 know who Walter Parkinson is?
 8 A. I do.
 9 1542 Q. This is February 28th of 2014 and
 10 we're looking at Exhibit 30 to Mr. Snobelen's
 11 examination.
 12 So, this is nearly two weeks after the
 13 email we just looked at between Mr. Olsen and
 14 others where he was expressing their happiness that
 15 the standardbred owners have delivered notice of
 16 litigation.
 17 And what appears to be happening here
 18 is Mr. Parkinson is writing to Mr. Snobelen saying
 19 he wants to convey the SBOA's continued willingness
 20 to engage in meaningful discussions with you and
 21 the government for achieving a fair compensation
 22 package for standardbred breeders. And then he
 23 continues by saying:
 24 "In order for these discussions
 25 to occur, the standardbred breeders

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1 need to have a tolling agreement in
 2 place in order to suspend the
 3 rapidly approaching limitation
 4 period."
 5 And he concludes by saying:
 6 "With the tolling agreement in
 7 place we could then focus on solving
 8 this issue for all of those involved
 9 in a timely and amicable manner."
 10 Did you receive this email from
 11 Mr. Snobelen?
 12 A. This email?
 13 1543 Q. Yes.
 14 A. Not that I recall.
 15 1544 Q. Okay. Once you left the Ministry,
 16 Bobby Seeber took over your role as Chief of Staff
 17 to Minister Wynne in her capacity as Minister of
 18 Agriculture?
 19 A. Yes.
 20 1545 Q. And notwithstanding the fact that
 21 you left government, did you keep up with what was
 22 happening on the horseracing file?
 23 A. Yes.
 24 1546 Q. Did you continue to speak to
 25 Mr. Seeber?

<p style="text-align: right;">Page 401</p> <p>1 A. On occasion, yes.</p> <p>2 1547 Q. And did you know that Mr. Seeber</p> <p>3 was briefing Minister Wynne in connection with the</p> <p>4 release of the Auditor General's report in late</p> <p>5 March and April 2014?</p> <p>6 A. No.</p> <p>7 1548 Q. And did you know that Mr. Seeber</p> <p>8 was suggesting messaging to Ms. Wynne that she's</p> <p>9 always argued that the decision to cancel the Slots</p> <p>10 at Racetracks Program was not done properly, which</p> <p>11 the Auditor General confirms?</p> <p>12 A. I did see that in some material we</p> <p>13 looked at before I came here, yes.</p> <p>14 1549 Q. And is that a sentiment that Ms.</p> <p>15 Wynne expressed to you when you were her Chief of</p> <p>16 Staff?</p> <p>17 A. Can you read it again?</p> <p>18 1550 Q. "The decision to cancel the</p> <p>19 Slots at Racetracks Program was not</p> <p>20 done properly."</p> <p>21 A. Again, I think we've talked about</p> <p>22 my understanding of her -- her concerns with the</p> <p>23 whole decision and the implications coming from it.</p> <p>24 1551 Q. Which is?</p> <p>25 A. She was concerned about it and</p>	<p style="text-align: right;">Page 403</p> <p>1 Minister McMeekin was first briefed about the</p> <p>2 decision to terminate SARP specifically?</p> <p>3 A. Not precisely, no.</p> <p>4 1556 Q. And you aren't able to say who</p> <p>5 briefed Minister McMeekin on the decision to</p> <p>6 terminate SARP?</p> <p>7 A. Correct.</p> <p>8 1557 Q. And you aren't able to say what</p> <p>9 advice Minister McMeekin gave the Minister of</p> <p>10 Finance in connection with the decision to</p> <p>11 termination SARP?</p> <p>12 A. Correct.</p> <p>13 1558 Q. And you weren't at the Cabinet</p> <p>14 meeting on February 8th, 2012 where the decision</p> <p>15 was taken to terminate SARP?</p> <p>16 A. Correct.</p> <p>17 1559 Q. And you don't know what was said</p> <p>18 about the termination of SARP at the Cabinet</p> <p>19 meeting of February 8th, 2012?</p> <p>20 A. Correct.</p> <p>21 1560 Q. Mr. Lissus suggested to you that</p> <p>22 OMAFRA was not consulted about the decision to</p> <p>23 terminate SARP until shortly before it went to</p> <p>24 Cabinet?</p> <p>25 MR. LISUS: I didn't suggest that.</p>
<p style="text-align: right;">Page 402</p> <p>1 wanted to right the industry.</p> <p>2 MR. MATTHEWS: Those are our questions</p> <p>3 for now, Mr. Keegan. Thank you.</p> <p>4 MR. RATCLIFFE: Take a little break, 10</p> <p>5 minutes.</p> <p>6 -- RECESS AT 3:02 --</p> <p>7 -- UPON RESUMING AT 3:12 --</p> <p>8 CROSS-EXAMINATION BY MR. GOLDENBERG:</p> <p>9 1552 Q. Good afternoon, Mr. Keegan. My</p> <p>10 name is Adam Goldenberg, I am a lawyer for OLG and</p> <p>11 I just have a few questions for you.</p> <p>12 Mr. Lissus asked you yesterday some</p> <p>13 questions about whether OMAFRA was consulted about</p> <p>14 the decision to terminate SARP. Do you remember</p> <p>15 those questions?</p> <p>16 A. Yes.</p> <p>17 1553 Q. You aren't able to say when</p> <p>18 Minister McMeekin was first briefed about OLG's</p> <p>19 modernization initiative, are you?</p> <p>20 A. I know when I became aware of it.</p> <p>21 1554 Q. But I'm asking you aren't able to</p> <p>22 say when Minister McMeekin was first briefed about</p> <p>23 OLG's modernization initiative?</p> <p>24 A. Not precisely, no.</p> <p>25 1555 Q. And you aren't able to say when</p>	<p style="text-align: right;">Page 404</p> <p>1 BY MR. GOLDENBERG:</p> <p>2 1561 Q. Mr. Lissus suggested to you that</p> <p>3 OMAFRA was, in the words of Mr. Keegan, blacked out</p> <p>4 of the Ministry of Finance's consultation prior to</p> <p>5 Cabinet's decision to terminate SARP; is that</p> <p>6 correct?</p> <p>7 A. That's my recollection.</p> <p>8 1562 Q. He asked you those questions?</p> <p>9 A. Yes.</p> <p>10 1563 Q. Sorry, I should have been more</p> <p>11 specific. Was OMAFRA knowledgeable about the</p> <p>12 horseracing industry in late 2011 or early 2012?</p> <p>13 A. Not to my knowledge.</p> <p>14 1564 Q. Would OMAFRA have been able to</p> <p>15 offer any special expertise about the horseracing</p> <p>16 industry at that time?</p> <p>17 A. Not to my knowledge.</p> <p>18 1565 Q. Did Minister McMeekin have</p> <p>19 specialized knowledge about the horseracing</p> <p>20 industry in late 2011 or early 2012?</p> <p>21 A. Not as minister, no.</p> <p>22 1566 Q. In late 2011 and early 2012, did</p> <p>23 OMAFRA have any relationship with the ORC?</p> <p>24 A. Not to my knowledge.</p> <p>25 1567 Q. In late 2011 and early 2012, did</p>

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1	OMAFRA have any relationship with OLG in respect of horseracing?	1	as part of reviewing Cabinet briefing documents.
2		2	1578 Q. So, you'd agree with me that it's
3	A. Not to my knowledge.	3	just before it would go to Cabinet that the
4	1568 Q. Is it fair to say that you	4	Ministry would see it?
5	personally didn't know much about SARP at the time	5	A. Yes.
6	Cabinet took the decision to cancel it?	6	1579 Q. And is that true of line
7	A. Zero would be accurate.	7	ministries generally?
8	1569 Q. Fair enough. At that time, that's	8	A. Yes.
9	because it wasn't really your job to know about	9	1580 Q. So that would have been considered
10	SARP back then, right?	10	completely ordinary, that if something wasn't
11	A. Correct.	11	within OMAFRA's remit, OMAFRA wouldn't have been
12	1570 Q. And to the best of your knowledge,	12	briefed on it until just before it went to Cabinet?
13	OMAFRA first got involved in the SARP termination	13	A. Yes.
14	discussion after the Heritage Park fundraising	14	1581 Q. As part of the budget process?
15	event we talked about in February 2012, right?	15	A. Yes.
16	A. Correct.	16	1582 Q. And it was up to the Ministry of
17	1571 Q. And is that because Minister	17	Finance to determine which ministries needed to
18	McMeekin was being lobbied by rural interests?	18	know about a particular budget item based on those
19	A. Well, certainly that was part of	19	ministries' responsibilities, right?
20	it, but also his concern with the impact generally.	20	A. Normally, yes.
21	1572 Q. But it was brought to his	21	1583 Q. And that decision was based on the
22	attention by rural stakeholders of the department?	22	Ministry's responsibilities, rather than who the
23	A. Rural stakeholders, yes.	23	Ministry stakeholders happened to be?
24	1573 Q. Going back to the Ministry of	24	A. Yes.
25	Finance's consultations before SARP was terminated,	25	1584 Q. In your experience, when a budget
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1	is there a reason prior to -- in those budget	1	item was going to have significant commercial
2	consultations, is there a reason, other than	2	implications, was the Ministry of Finance more or
3	OMAFRA's lack of expertise in the horseracing	3	less likely to limit the number of line ministries
4	industry, why OMAFRA would have been left out of	4	that knew about it in advance?
5	the loop at that time?	5	A. I don't really recall being
6	A. On OLG's modernization?	6	involved in commercial issues like this prior to,
7	1574 Q. On the termination of SARP	7	so I wouldn't know.
8	specifically?	8	1585 Q. Mr. Lisus suggested to you
9	A. Would there be other reasons?	9	yesterday that the ORC was not consulted until
10	1575 Q. Right. In the pre-budget process,	10	shortly before the decision to terminate SARP was
11	was it common for the Ministry of Finance to	11	announced. If that were true, would that surprise
12	consult OMAFRA -- would you have expected the	12	you?
13	Ministry of Finance to consult OMAFRA about the	13	A. I don't know what their normal
14	decision to terminate SARP in early 2012?	14	operating relationship was.
15	A. No.	15	1586 Q. Let me ask you this. Do you
16	1576 Q. And that's because the Ministry of	16	actually know when the ORC was told about the
17	Finance kept its cards pretty close to its chest	17	decision to terminate SARP?
18	where the budget was concerned?	18	A. No.
19	A. In all regards, yes.	19	1587 Q. Do you know when Mr. Seiling was
20	1577 Q. If a budget item, a particular	20	told about the decision to terminate SARP?
21	budget item was not within OMAFRA's responsibility,	21	A. No.
22	how long before that item went to Cabinet would you	22	1588 Q. At that time, prior to the
23	have expected OMAFRA typically to hear about it?	23	decision to terminate SARP, am I right that ORC did
24	A. As a line Ministry, the Ministry's	24	not report to OMAFRA?
25	first exposure would be anything going to Cabinet	25	A. Yes.

<p style="text-align: right;">Page 409</p> <p>1 1589 Q. And would it have been usual or 2 expected to involve Mr. Seiling in budget 3 discussions generally? 4 MR. LISUS: How does he know? 5 THE WITNESS: I don't know. 6 BY MR. GOLDENBERG: 7 1590 Q. Well, you were Chief of Staff in a 8 minister's office. You knew Mr. Seiling prior to 9 February 2012? 10 A. No. 11 1591 Q. Okay. Prior to the decision to 12 terminate SARP, how keen was the horseracing 13 industry to engage with the government about the 14 future of SARP? 15 MR. LISUS: What does that mean? 16 BY MR. GOLDENBERG: 17 1592 Q. So, was the horseracing industry, 18 to your knowledge, actively encouraging the 19 government to consult with it about the future of 20 SARP prior to the decision to terminate SARP? 21 A. I did not know those issues or 22 those stakeholders or their relationships. 23 1593 Q. Okay. Let me ask you about the 24 panel, the horseracing transition panel which we've 25 been talking about.</p>	<p style="text-align: right;">Page 411</p> <p>1 industry -- 2 MR. LISUS: You're going to call 3 McKinsey as a witness? 4 BY MR. GOLDENBERG: 5 1599 Q. Was it your understanding that 6 McKinsey thought that a sustainable horseracing 7 industry needed less money than the panel thought 8 it needed? 9 MR. LISUS: Are you going to call 10 McKinsey as a witness? 11 MR. GOLDENBERG: I'm asking about his 12 understanding. 13 MR. LISUS: There has to be a 14 foundation for his understanding. He didn't engage 15 McKinsey, he wasn't involved with McKinsey. If 16 you're going to put evidence to him about McKinsey, 17 be very careful about committing yourself to 18 calling McKinsey, because that's the position I'll 19 be taking and if you don't, I'll ask for an 20 inference to be drawn. I'm giving you notice, 21 Mr. Goldenberg. 22 BY MR. GOLDENBERG: 23 1600 Q. Thank you. You are familiar with 24 the advice the government was providing McKinsey, 25 at least in general terms?</p>
<p style="text-align: right;">Page 410</p> <p>1 Ultimately the panel concluded that 2 terminating SARP was good public policy, right? 3 A. Yes. 4 1594 Q. And so it would have been bad 5 public policy to continue SARP? 6 A. Yes. 7 1595 Q. And ultimately, even with expanded 8 transition funding, the panel recommended the 9 government should spend less on horseracing than it 10 had been spending under SARP, right? 11 A. Yes. 12 1596 Q. Yesterday, Mr. Lius asked you 13 some questions about work that McKinsey did for the 14 Ministry of Finance to evaluate the funding needs 15 of the horseracing industry. Do you remember those 16 questions? 17 A. Yes. 18 1597 Q. Do you recall from that time that 19 McKinsey recommended a much lower figure than the 20 panel did for transition funding? 21 A. There was a lot of numbers but 22 generally, McKinsey was less than what the panel 23 was thinking, yes. 24 1598 Q. So I'm right to suggest that 25 McKinsey thought that a sustainable horseracing</p>	<p style="text-align: right;">Page 412</p> <p>1 A. Yes. 2 1601 Q. So in general terms, was 3 McKinsey's view that the horseracing industry 4 needed less funding than the panel thought it 5 needed? 6 A. Yes, that was an ongoing debate. 7 1602 Q. And you say it was an ongoing 8 debate. This is the sort of thing on which 9 reasonable minds differed at the time? 10 A. Define reasonable. 11 1603 Q. Smart people were disagreeing back 12 then about how much money the horseracing industry 13 needed? 14 A. Yes. 15 1604 Q. I understand that Mr. Wilkinson, 16 John Wilkinson, is a friend of yours, right? 17 A. Yes. 18 1605 Q. So this might be a bit delicate 19 but bear with me. Mr. Lius yesterday took you to 20 an email that Mr. Wilkinson sent to Dave Gene in 21 August 2012. It's Exhibit 5. 22 Do you remember being shown an email 23 from Mr. Wilkinson to Mr. Gene? I can dig it up 24 for you if you need it. 25 MR. MATTHEWS: He's copied on it.</p>

<p style="text-align: right;">Page 413</p> <p>1 BY MR. GOLDENBERG: 2 1606 Q. Yes, you are copied on this email. 3 Here, we'll pull it up for you. Exhibit 5. 4 So, I'm showing you Exhibit 5 from 5 yesterday, an email from Mr. Wilkinson to Mr. Gene 6 on which you're copied. Do you remember being 7 shown that email yesterday? 8 A. Yes. 9 1607 Q. We've also seen some email 10 correspondence from Mr. Wilkinson emailing directly 11 with you. I can show you Exhibit 27 from today. 12 A. Yes. 13 1608 Q. And you were also just a few 14 minutes ago shown by Mr. Matthews a couple of 15 documents that, and email correspondence back and 16 forth between yourself and Mr. Snobelen. Do you 17 recall those documents? 18 A. I think there was a number of 19 them. 20 1609 Q. Here, I'll show you one for 21 example, number 53. This is the one where there 22 were allegedly comments from Mr. Snobelen in the 23 text of the document. 24 A. Yes. 25 1610 Q. So, you were corresponding with</p>	<p style="text-align: right;">Page 415</p> <p>1 together. 2 1615 Q. And do you yourself have any 3 evidence to suggest that the government in any way 4 directed the panel or influenced its conclusions? 5 A. So, I would suggest that Finance 6 in particular didn't like where the panel was going 7 throughout almost the entire time I was on this 8 project. 9 I would say the panel didn't operate in 10 a vacuum. There were certainly parameters around 11 which they were operating, but I think Minister 12 McMeekin and then Minister Wynne were pretty clear 13 that they wanted the best advice for the industry 14 within those broad parameters. 15 1616 Q. So, the panel's conclusions are 16 the panel's advice, not the government's? 17 A. Yes. 18 1617 Q. Mr. Lisus and Mr. Matthews asked 19 you some questions about differences of opinion 20 between the Ministry of Finance and OMAFRA 21 regarding the appropriate level of funding for 22 horseracing. Do you remember being asked those 23 questions? 24 A. Yes. 25 1618 Q. And OMAFRA took the view that more</p>
<p style="text-align: right;">Page 414</p> <p>1 and interacting with the members of the horseracing 2 panel throughout late 2012 and into 2013, right? 3 A. Yes. 4 1611 Q. Was the government at this point 5 relying, or at any point relying, on Mr. Wilkinson 6 to manage the work of the transition panel or the 7 outcomes of its work? 8 A. Like as a chair you mean? 9 1612 Q. No, to ensure that the panel 10 reached some predetermined result, for instance. 11 A. No. 12 1613 Q. Was the government relying on 13 Mr. Snobelen to manage the panel's work in the same 14 way? 15 A. No, I mean -- and the government's 16 not monolithic, right? There was an ongoing debate 17 in many quarters about what the government should 18 be doing. 19 1614 Q. Right. 20 A. So I don't know that the 21 government had a position. There were several 22 positions. I think our position is the Ministry of 23 Agriculture, Food and Rural Affairs was very much 24 where we headed with the sort of partnership plan, 25 that the panel was largely responsible for putting</p>	<p style="text-align: right;">Page 416</p> <p>1 funding was required? 2 A. I think you can see that laid out 3 over time. 4 1619 Q. And would you agree with me that 5 that reflected OMAFRA's role, which was to focus on 6 the interests of the rural economy? 7 A. I would say the rural economy and 8 the horseracing industry quite specifically. 9 1620 Q. After the decision to terminate 10 SARP was announced, OMAFRA was the subject of, or 11 the target of a well organized lobbying campaign by 12 the horseracing industry, right? 13 A. OMAFRA? 14 1621 Q. OMAFRA, yes. 15 A. There was definitely lobbying 16 going on. Well organized? I don't know. 17 1622 Q. Organized at least? 18 A. There was a concerted effort. 19 1623 Q. And the horseracing industry 20 wanted you either to reinstate SARP or provide a 21 lot of money through other programs, right? 22 A. Yes, they were looking for either 23 a reinstatement of SARP or alternative gambling 24 revenues, a share of. 25 1624 Q. These were your stakeholders at</p>

<p style="text-align: right;">Page 417</p> <p>1 OMAFRA, people you built relationships with over a 2 long period of time? 3 A. Yes. Well, since February 2012. 4 1625 Q. But in other contexts, players in 5 the rural economy were people you had worked with 6 as stakeholders in the OMAFRA Minister's Office? 7 A. Yes, I would say only the Ontario 8 Federation of Agriculture got into that debate. 9 Most of the other kind of tradition stakeholders 10 were largely silent. 11 1626 Q. Were you threatened with protests? 12 A. Yes. 13 1627 Q. And am I right to suggest that 14 Minister McMeekin didn't want protestors 15 slaughtering horses on the grounds of Queen's Park? 16 MR. LISUS: Slaughtering horses? 17 BY MR. GOLDENBERG: 18 1628 Q. Yes. Is that a concern that 19 Mr. McMeekin had at the time? 20 A. Yes. 21 1629 Q. And do you recall that that was 22 something that was specifically threatened at the 23 time? 24 A. It was talked about as a potential 25 reality.</p>	<p style="text-align: right;">Page 419</p> <p>1 1635 Q. Its mandate was and is to focus on 2 maintaining the province's overall fiscal position, 3 right? 4 A. Yes. 5 1636 Q. And so the Ministry of Finance, in 6 fulfilling that broader mandate, had to consider a 7 broader range of stakeholders, right? 8 A. Yes. 9 1637 Q. So the Ministry of Finance didn't 10 just have to listen to OMAFRA stakeholders, they 11 had to listen to all Ministry stakeholders? 12 A. Yes. 13 1638 Q. And ultimately it's the Ministry 14 of Finance, not OMAFRA, that had responsibility for 15 the province's budget, right? 16 A. Yes. 17 1639 Q. So OMAFRA wasn't responsible for 18 weighing the tradeoffs between, for example, 19 subsidizing horseracing and paying for other 20 programs that were competing for those same 21 taxpayer funds. 22 A. Yes. 23 1640 Q. And OMAFRA, given its line 24 Ministry of responsibilities, wasn't in a position 25 to speak to what Ontario, the province, could</p>
<p style="text-align: right;">Page 418</p> <p>1 1630 Q. So, this lobbying, threats of 2 protest, these are the kinds of steps, or were the 3 kinds of steps, in your time in government that 4 stakeholders would typically take to try to 5 influence government policy, right? 6 A. Most of them, yeah. 7 1631 Q. And OMAFRA's response to these 8 efforts was to seek additional funding for rural 9 communities that would be affected by the decision 10 to terminate SARP? 11 A. I would say that lobbying always 12 plays a role, but that there was more consideration 13 than just lobbying. 14 1632 Q. Of course. But OMAFRA, given its 15 line responsibilities to rural communities, that 16 was predictable, that it would push for more money 17 for those communities, for its stakeholders? 18 A. Well, in response to real concerns 19 about what was happening, yes. 20 1633 Q. Certainly. But the Ministry of 21 Finance has different responsibilities, doesn't it? 22 A. Yes. 23 1634 Q. It has a broader mandate than 24 OMAFRA does? 25 A. Yes.</p>	<p style="text-align: right;">Page 420</p> <p>1 afford? 2 A. No. 3 1641 Q. You told us yesterday that OMAFRA 4 and the Ministry of Finance had to work together on 5 a number of files at once. Do you remember giving 6 that evidence? 7 A. Was that in the context of the 8 budget? 9 1642 Q. Sure. At any given time, you were 10 having multiple conversations with Finance all at 11 the time? 12 A. Yes. 13 1643 Q. Was it unusual for OMAFRA and the 14 Ministry of Finance to disagree about how much 15 funding should go to a particular government 16 policy? 17 A. No. 18 1644 Q. Was it unusual for line ministries 19 generally to disagree with the Ministry of Finance 20 on how much funding should go to a particular 21 government policy? 22 A. No. 23 1645 Q. But those kinds of disagreements 24 didn't mean one Ministry or the other was acting in 25 bad faith, right?</p>

<p style="text-align: right;">Page 421</p> <p>1 A. No.</p> <p>2 1646 Q. And they didn't mean that one</p> <p>3 Ministry or the other was acting irrationally,</p> <p>4 right?</p> <p>5 A. Not in my opinion.</p> <p>6 1647 Q. Because disagreements between</p> <p>7 ministries over funding priorities are part of the</p> <p>8 democratic process, right?</p> <p>9 A. Well, it's standard business</p> <p>10 inside government, yes.</p> <p>11 1648 Q. Did Minister McMeekin ever convey</p> <p>12 the view that terminating SARP, not how it was</p> <p>13 done, but terminating it was the wrong policy</p> <p>14 decision to make?</p> <p>15 A. No.</p> <p>16 1649 Q. What about Premier Wynne?</p> <p>17 A. No.</p> <p>18 1650 Q. Did you come to the view at any</p> <p>19 point that terminating SARP was the wrong policy</p> <p>20 decision?</p> <p>21 A. No.</p> <p>22 1651 Q. Is it fair to say that that</p> <p>23 decision was a core government policy decision?</p> <p>24 MR. LISUS: That's not a proper</p> <p>25 question. It's a decision for the court to make.</p>	<p style="text-align: right;">Page 423</p> <p>1 1657 Q. Was it your impression that</p> <p>2 everyone, including the team at the Ministry of</p> <p>3 Finance, understood the kinds of consequences that</p> <p>4 would follow once SARP was cancelled?</p> <p>5 A. Yes.</p> <p>6 1658 Q. So everyone understood that ending</p> <p>7 SARP would result in job losses?</p> <p>8 A. Yes.</p> <p>9 1659 Q. And everyone understood that</p> <p>10 ending SARP would mean more dead horses than the</p> <p>11 horseracing industry slaughtered in the ordinary</p> <p>12 course?</p> <p>13 A. Yes.</p> <p>14 1660 Q. Incidentally, the horseracing</p> <p>15 industry killed a surprising number of horses</p> <p>16 before SARP was terminated, right?</p> <p>17 MR. LISUS: What's the foundation for</p> <p>18 that?</p> <p>19 MR. GOLDENBERG: The gentleman knows</p> <p>20 about the horseracing industry as you established</p> <p>21 yesterday.</p> <p>22 BY MR. GOLDENBERG:</p> <p>23 1661 Q. To your knowledge, did the</p> <p>24 horseracing industry kill a lot of horses before</p> <p>25 SARP was cancelled?</p>
<p style="text-align: right;">Page 422</p> <p>1 BY MR. GOLDENBERG:</p> <p>2 1652 Q. Well, from where you sat in the</p> <p>3 Minister's Office, was this a policy decision that</p> <p>4 the government had to make, whether to keep funding</p> <p>5 SARP or not?</p> <p>6 A. Well, I see everything in the</p> <p>7 budget as a core policy decision ultimately.</p> <p>8 1653 Q. Fair enough. But ultimately this</p> <p>9 was a decision about how the government spent money</p> <p>10 to support a particular industry, right?</p> <p>11 A. This specific decision, yes.</p> <p>12 1654 Q. And after SARP was terminated, the</p> <p>13 debate was about how much of a new subsidy the</p> <p>14 government should replace SARP with, right?</p> <p>15 A. Yeah, I mean -- yes.</p> <p>16 1655 Q. And that was a separate decision</p> <p>17 from the decision to terminate it -- to terminate</p> <p>18 SARP?</p> <p>19 A. Yes.</p> <p>20 1656 Q. So we're talking now about two</p> <p>21 decisions, and the decision about how much subsidy</p> <p>22 to replace SARP with, that was a separate spending</p> <p>23 decision, a separate decision about how much public</p> <p>24 money to spend?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 424</p> <p>1 A. I came to know that that was part</p> <p>2 of the practice of the industry.</p> <p>3 1662 Q. Is it fair to say that there were</p> <p>4 some at the Ministry of Finance who thought that</p> <p>5 the horseracing industry would survive without</p> <p>6 transition funding?</p> <p>7 A. Yes.</p> <p>8 1663 Q. And were there others who thought</p> <p>9 it would collapse?</p> <p>10 A. At Finance?</p> <p>11 1664 Q. At Finance specifically.</p> <p>12 A. I don't think I heard anyone say</p> <p>13 -- well, define "collapse."</p> <p>14 1665 Q. I believe the word that Mr. Lisus</p> <p>15 used was "catastrophic"; a catastrophic decline in</p> <p>16 the industry?</p> <p>17 A. So, I think that people at Finance</p> <p>18 thought that some industry would come out the other</p> <p>19 end. It would look significantly different.</p> <p>20 1666 Q. And across the rest of government,</p> <p>21 there were some people who thought the industry</p> <p>22 would potentially not survive, as happened in</p> <p>23 Quebec, if there wasn't transition funding provided</p> <p>24 after SARP was cancelled?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 425</p> <p>1 1667 Q. But back in 2012, everyone 2 recognized that this was going to be a really hard 3 thing to predict with accuracy, right? 4 MR. LISUS: He just said he wasn't 5 involved in the decision, Mr. Goldenberg. 6 BY MR. GOLDENBERG: 7 1668 Q. Well, in the aftermath of the 8 decision, did people recognize in government this 9 was a difficult thing to predict, what the effect 10 of cancelling SARP would be on the horseracing 11 industry? 12 A. There was ongoing debate of the 13 implications. 14 1669 Q. And because ultimately a 15 significant amount of money was ultimately provided 16 to the horseracing industry in government funding, 17 we never actually got to find out what would happen 18 if no transition funding was extended, right? 19 A. The experiment, there was no real 20 live experiment to that, yes. 21 1670 Q. After SARP was cancelled, the 22 discussion was about maintaining a sustainable 23 horseracing industry, right? We've heard that word 24 a lot, "sustainable." 25 A. Yes.</p>	<p style="text-align: right;">Page 427</p> <p>1 are about 14 racetracks still in operation as of 2 last year; is that right? 3 A. The last time that I checked we 4 had actually a new one, Leamington, so yes. 5 1677 Q. When Minister McMeekin was worried 6 about job losses in the aftermath of SARP's 7 termination, the jobs he was most worried about 8 weren't the horse breeders' jobs, it was the jobs 9 of the people working the back stretches of the 10 racetracks, right? 11 A. I think he was concerned about all 12 of the industry, but the people most vulnerable was 13 definitely his top tier concern. 14 1678 Q. After the termination of SARP, you 15 now understand that OLG entered into leases with 16 racetracks to obtain spaces for slot machines, 17 right? 18 A. Yes. 19 1679 Q. But you don't know the particulars 20 of those leases? 21 A. No. 22 1680 Q. And you aren't able to speak as to 23 whether SARP was a transfer payment? 24 A. No. 25 1681 Q. But you understand that after SARP</p>
<p style="text-align: right;">Page 426</p> <p>1 1671 Q. In 2012 and 2013, am I right to 2 suggest that the general understanding in 3 government, and by the horseracing panel, was that 4 a sustainable industry meant five or six surviving 5 racetracks; do you recall? 6 A. I think there was a debate on the 7 number of tracks, but that it did look smaller. 8 1672 Q. But would you agree with me it was 9 in the neighbourhood of five or six tracks? 10 A. That was definitely Finance's 11 view, yes. 12 1673 Q. What about the horseracing 13 panel's? 14 A. I think that that evolved over a 15 period of time. At one point, perhaps. 16 1674 Q. But everyone agreed that there 17 would have to be a significant reduction in the 18 number of horseracing tracks for the industry to be 19 sustainable, right? 20 A. Yes. 21 1675 Q. As things have turned out, to the 22 best of your knowledge, Ontario still has a lot 23 more than five or six racetracks, right? 24 A. Yes. 25 1676 Q. And I would suggest to you there</p>	<p style="text-align: right;">Page 428</p> <p>1 was cancelled, in order to provide support for the 2 horseracing industry, Ontario entered into transfer 3 payment agreements with various participants in the 4 horseracing industry? 5 A. Yes. 6 1682 Q. And that's because funds were no 7 longer flowing to those industry participants 8 through SARP, right? 9 A. Yes. 10 1683 Q. And this was part of what the 11 Drummond report recommended in terms of being more 12 transparent with the industry support that Ontario 13 was providing, right? 14 A. That's what I understood. 15 1684 Q. And these funds in the transfer 16 payment agreements, pursuant to the transfer 17 payment agreements, those funds are coming out of 18 consolidated revenue, right? 19 A. To the best of my knowledge. 20 1685 Q. They're not coming from OLG to the 21 best of your knowledge? 22 A. To the best of my knowledge. 23 1686 Q. Yesterday Mr. Lisus asked you 24 whether the funds paid through SARP were, in his 25 words, quote, "taxpayer funds." Do you remember</p>

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1 him asking you that?
2 A. Yes.
3 1687 Q. You're aware that OLG pays all of
4 its revenue to the government and into the
5 consolidated revenue fund, right?
6 A. Generally, yes.
7 1688 Q. So if OLG made payments under SARP
8 out of its revenue, the funds it used to make those
9 payments were funds that weren't going into the
10 consolidated revenue fund, right?
11 A. Yes.
12 1689 Q. How did Mr. Seiling take the news
13 that he was being asked to resign?
14 A. He was angry.
15 1690 Q. Why was he asked to resign?
16 A. As I said I think yesterday, we
17 didn't see him implementing the mandate that we had
18 for ORC in a way that was -- that we needed him to
19 do.
20 1691 Q. Was Mr. Seiling seen as a team
21 player?
22 A. No.
23 1692 Q. Had Mr. Seiling become accustomed
24 to running the ORC at a remove, at a distance from
25 the Ministry he reported to?

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1 A. I don't know.
2 MR. LISUS: Mr. Seiling was here to be
3 examined by OLG, and I find it of significant
4 concern that you would make these kinds of
5 suggestions and assertions about Mr. Seiling, who
6 was the head of a government agency, having chosen
7 not to put any of them to him, and I intend to
8 raise that with the court when this is brought
9 before them.
10 If you are going to cast aspersions on
11 Mr. Seiling, you ought to have put those to him at
12 the time.
13 BY MR. GOLDENBERG:
14 1693 Q. I'm interested, Mr. Keegan, in
15 simply your --
16 MR. LISUS: And I find it quite
17 concerning that you did not put these suggestions
18 to Mr. Seiling, and you're doing it through the
19 back door when he can't respond, after a career of
20 service to the government.
21 MR. GOLDENBERG: You made your
22 objection.
23 MR. LISUS: I would invite you,
24 Mr. Ratcliffe, to comment on this approach to
25 Mr. Seiling's character and his contribution.

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1 MR. RATCLIFFE: Well, I wasn't involved
2 directly in what was -- I wasn't there for the
3 examination of Mr. Seiling, so you've got your
4 objection on the record.
5 BY MR. GOLDENBERG:
6 1694 Q. So I'm asking, Mr. Keegan, to be
7 clear, about how Mr. Seiling was thought of inside
8 government, to the best of your knowledge, prior to
9 his being asked to resign as the head of the ORC.
10 You understand that's what I'm asking you?
11 A. So as a person, I think he was
12 well respected. Obviously he had been appointed.
13 I actually got along quite well with him at a
14 personal level.
15 We had a difference of opinion, I think
16 it's fair to say, on how the ORC need to be engaged
17 with the industry as we were kind of evolving down
18 this partnership plan.
19 1695 Q. Were there concerns inside
20 government about his style of decision-making?
21 A. So, again, I think we had concerns
22 about --
23 MR. LISUS: Mr. Goldenberg, it's very
24 apparent that you've spoken with this witness about
25 these questions in advance and in preparation for

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1 this so-called cross-examination; am I correct,
2 Mr. Keegan?
3 MR. GOLDENBERG: I can ask the
4 questions, Mr. Lisus.
5 MR. LISUS: Am I correct, Mr. Keegan?
6 BY MR. GOLDENBERG:
7 1696 Q. Mr. Keegan, did you speak with me
8 -- well, he answered this yesterday.
9 Mr. Keegan, you spoke with counsel for
10 Ontario and OLG in preparation for this
11 cross-examination?
12 A. Yes, I did.
13 MR. GOLDENBERG: What's your objection?
14 MR. LISUS: You spoke about these
15 issues of Mr. Seiling and the government's view of
16 it?
17 THE WITNESS: We -- yes.
18 MR. LISUS: Okay. So, Mr. Goldenberg,
19 this is clearly what the case law calls a
20 sweetheart cross-examination. In addition to that,
21 you are impugning the service and the performance
22 of a senior civil servant, who was here as a
23 witness, and none of these were put to him, none of
24 these assertions or aspersions were put to him to
25 give him an opportunity to respond.

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1 I would caution you in the strongest
 2 possible terms about the propriety of this
 3 examination, particularly having elicited the
 4 information from Ontario's witnesses in advance and
 5 never putting it to Mr. Seiling.
 6 So I caution you to consider that
 7 before you continue.
 8 MR. GOLDENBERG: I appreciate the
 9 caution, Mr. Lisus.
 10 BY MR. GOLDENBERG:
 11 1697 Q. You asked Mr. Keegan about the
 12 decision to ask Mr. Seiling to resign. I would
 13 like to know more about that issue.
 14 MR. LISUS: You know more. The witness
 15 has confirmed that you've spoken with him about it
 16 and he's told you. You knew more before I asked
 17 him a single question today. You chose not to put
 18 this to Mr. Seiling when he was examined.
 19 So, it's got nothing to do with what I
 20 asked him. I didn't have any access to this
 21 witness; you did. You had this information. You
 22 chose to not put it to Mr. Seiling, and to try and
 23 put it in the back door without giving Mr. Seiling
 24 any opportunity to respond.
 25 MR. GOLDENBERG: You've put your

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1 objection on the record. I'm going to continue
 2 with this line of questioning and you can deal with
 3 this issue subsequently.
 4 BY MR. GOLDENBERG:
 5 1698 Q. I was asking you, Mr. Keegan, if
 6 there were concerns inside government about
 7 Mr. Seiling's style of decision-making?
 8 A. I think I said yesterday that
 9 industry was concerned with ORC generally about
 10 their kind of default to being a regulator, the
 11 czar of the industry, rather than -- well, as
 12 separate from their business development function,
 13 and particularly in these anxious times, there was,
 14 I think, a hope and expectation that ORC would be
 15 more integrated into this partnership concept.
 16 1699 Q. Like a czar, were there concerns
 17 that he changed the rules of the industry without
 18 warning or consultation?
 19 A. Those were criticisms that I
 20 heard.
 21 1700 Q. Were there concerns about how good
 22 Mr. Seiling was at co-ordinating ORC's operations
 23 with the policy goals of the Ministry to which ORC
 24 reported?
 25 A. Can you be more specific?

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1 1701 Q. Were people concerned inside
 2 government that Mr. Seiling ran ORC without due
 3 regard to the policy objectives of the Ministry he
 4 was answerable to?
 5 A. I don't know about others. I
 6 think I'd repeat my answer around need to execute
 7 the mandate differently.
 8 1702 Q. Did you form an impression as to
 9 whether the horseracing industry trusted
 10 Mr. Seiling?
 11 A. So, I don't think the horseracing
 12 industry, their frustration wasn't directed
 13 necessarily specifically at Rod, it was to the ORC
 14 generally. Whether that was Rod's leadership or
 15 just kind of, you know, a sense that the ORC, you
 16 know, as an organization generally I think would be
 17 fair.
 18 1703 Q. Did the horseracing industry, to
 19 the best of your knowledge, have confidence in
 20 Mr. Seiling's leadership of ORC?
 21 MR. LISUS: Who is the horseracing
 22 industry?
 23 MR. GOLDENBERG: The stakeholders.
 24 MR. LISUS: There are multiple. Are
 25 you talking about breeders, which this lawsuit is

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1 about? Are you talking about racetrack operators?
 2 Are you talking about thoroughbred breeders? Who
 3 do you mean by "the horseracing industry"?
 4 BY MR. GOLDENBERG:
 5 1704 Q. Did the representatives of the
 6 horseracing industry with whom you came into
 7 contact in your role as Chief of Staff have
 8 confidence in Mr. Seiling's leadership of ORC?
 9 MR. LISUS: What evidence is there of
 10 any contact with representatives of the horseracing
 11 industry? What's the foundation for the question?
 12 MR. GOLDENBERG: Mr. Matthews elicited
 13 evidence about the representatives of the
 14 horseracing industry with whom Mr. Keegan had
 15 contact. Maybe you were out of the room,
 16 Mr. Lisus, but that evidence is on the record.
 17 BY MR. GOLDENBERG:
 18 1705 Q. To the best of your knowledge, was
 19 there concerns among representatives of the
 20 horseracing industry, including breeders, racetrack
 21 owners or others, about Mr. Seiling's leadership of
 22 ORC?
 23 A. Well, again, I think it was
 24 Mr. Seiling and others and ORC generally, yes.
 25 1706 Q. So you've told us that you,

Page 437	<p>1 yourself, weren't involved in the Cabinet decision 2 to terminate SARP, right? 3 A. Yes. 4 1707 Q. But you subsequently became 5 involved in policy discussions around horseracing 6 funding, right? 7 A. Yes. 8 1708 Q. And over the last couple of days, 9 you've reviewed a large number of documents put to 10 you by Mr. Lisus and Mr. Matthews, right? 11 A. Yes. 12 1709 Q. Do you have any information to 13 suggest that the decision to terminate SARP was 14 made by anyone other than the Cabinet? 15 A. No. 16 1710 Q. It was not made by the Ministry of 17 Finance? The decision that terminated SARP was 18 made by Cabinet, not the Ministry of Finance? 19 A. Yes, yes. 20 1711 Q. And do you have any information to 21 suggest that anyone other than the Cabinet decided, 22 at least at the outset, that there would be no 23 transition funding for the horseracing industry? 24 A. No. 25 1712 Q. Do you have any evidence to</p>	Page 439	<p>1 in bad faith? 2 A. No. 3 1719 Q. And do you have any evidence to 4 suggest that the decision to end funding to the 5 horseracing industry in March 2013 was taken in bad 6 faith? 7 A. So the implementation of that 8 decision? No. 9 1720 Q. Do you have any information to 10 suggest that the decision to cancel SARP was made 11 to inflict pain on opposition-held ridings? 12 A. No. 13 1721 Q. Practically speaking, it caused a 14 lot of pain in Liberal ridings too, right? 15 A. Yes. 16 1722 Q. Ridings like Minister McMeekin's, 17 right? 18 A. Yes. 19 1723 Q. Flamboro Downs is in his riding, 20 right? 21 A. It might be right on the edge on 22 the neighbouring riding. It's very close, yes. 23 1724 Q. And it caused some pain in 24 Minister Duncan's riding down in Windsor, too, 25 right?</p>
Page 438	<p>1 suggest that cancelling SARP was an irrational 2 decision when it was made? 3 A. I have no knowledge of the 4 decision, period. 5 1713 Q. What about the decision to 6 discontinue funding to the horseracing industry in 7 March 2013, was that irrational? 8 A. To continue? 9 1714 Q. To discontinue funding to the 10 horseracing industry in March 2013. 11 A. What happened in March 2013? 12 1715 Q. This is when the decision that 13 Cabinet made to terminate SARP went into effect, 14 right? 15 A. Oh, I see, the actual ending. 16 Yes. Sorry, what was the question? 17 1716 Q. Was that decision to discontinue 18 funding in March 2013 irrational? 19 A. Well, that was the decision that 20 had been made and communicated earlier, so it was 21 the same decision. 22 1717 Q. So it wasn't irrational? 23 A. Yes. 24 1718 Q. Do you have any evidence to 25 suggest that the decision to cancel SARP was taken</p>	Page 440	<p>1 A. Yes. 2 1725 Q. And the Windsor Raceway is in 3 Minister Duncan's riding, isn't it? 4 A. Or close by, yes. 5 1726 Q. Do you have any information to 6 suggest the decision to cancel SARP was taken to 7 hurt horse people? 8 A. No. 9 1727 Q. Do you have any information to 10 suggest that the decision to discontinue funding to 11 the horseracing industry in March 2013 was intended 12 to hurt horse people? 13 A. No. 14 1728 Q. Was the decision to cancel SARP 15 taken in a manner that was extremely careless? 16 A. I couldn't tell you. 17 1729 Q. In your view, sitting inside 18 government where you were, was it an extremely 19 careless decision? 20 A. It looked like a typical Finance 21 decision to me. 22 1730 Q. And what about the decision to 23 discontinue funding in March 2013, was that 24 extremely careless? 25 A. Again, that's just the</p>

<p style="text-align: right;">Page 441</p> <p>1 implementation of the decision. 2 1731 Q. So, same answer? 3 A. So, no. 4 1732 Q. No. You can't say whether SARP 5 was a contract with horse people? 6 A. No. 7 1733 Q. You can't say whether OLG or 8 Ontario had any contractual obligations to horse 9 people? 10 A. I don't know. 11 MR. GOLDENBERG: Okay, just give me one 12 moment to review and make sure I don't have 13 anything else to ask you. 14 Thank you. Those are my questions. 15 MR. RATCLIFFE: I'll be very brief, 16 probably less than five minutes. 17 MR. LISUS: Take your time. 18 MR. GOLDENBERG: Maybe go off the 19 record while we reorganize. 20 -- OFF THE RECORD -- 21 RE-EXAMINATION BY MR. RATCLIFFE: 22 1734 Q. Mr. Keegan, it's Robert Ratcliffe 23 here on behalf of Her Majesty the Queen in Right of 24 Ontario. I just have a few questions. 25 Mr. Lisus took you to the background</p>	<p style="text-align: right;">Page 443</p> <p>1 SARP, we will nevertheless do so 2 because so many people we spoke to 3 will advocate reinstatement of the 4 program." 5 Were there people that were advocating 6 for reinstatement of the program? Do you know, or 7 were you in a position to know that, given your 8 role and where you came into the process? 9 A. Yes. As I said before, there was 10 lobbying efforts to reinstate SARP and/or 11 establishing a share of other revenues from other 12 gaming products. 13 1738 Q. And the panel finding continues 14 on: 15 "It is the panel's view that 16 continuing SARP would be poor public 17 policy." 18 Was that a view that you shared, or are 19 you in a position to have any views on that? 20 A. I mean, I think I came around to 21 that position, yes. 22 1739 Q. And it continues: 23 "The program has contributed to 24 a fractious industry that has lacked 25 accountability, transparency, a</p>
<p style="text-align: right;">Page 442</p> <p>1 and construction of the panel. As I recall, one 2 was an NDP member, one was a Conservative member at 3 one point in time, and one was a Liberal member, of 4 course? 5 A. Yes. 6 1735 Q. And this tripartisan group, was 7 that intended to -- I mean, did the government 8 intend to approach things that way to get a variety 9 of different views or political backgrounds in 10 terms of how this project was to be approached? 11 A. Yes. 12 1736 Q. And the decision or conclusions 13 that they reached in the report were unanimous; is 14 that fair? 15 A. Yes. 16 1737 Q. And I'm just going to take you to 17 their conclusion. I have a copy of this. This is 18 Mr. Wilkinson's, Exhibit 45 to Mr. Wilkinson's 19 examination. It's a copy of the interim report by 20 the horseracing panel. 21 If you could turn to page 26 at the 22 bottom, "Panel Finding": 23 "Though it is outside our 24 mandate to comment on the merits of 25 the government's decision to cancel</p>	<p style="text-align: right;">Page 444</p> <p>1 common vision and a proper focus on 2 the consumer. It would be possible 3 for the government to simply reduce 4 the share of slot revenues going to 5 the industry, but this would not 6 solve the underlying problem. 7 Further investment in this program 8 would not be a wise use of public 9 funds, and in the long run would not 10 benefit the industry. 11 Continuation of SARP would allow 12 the industry to keep evading the 13 competitive challenge of today's 14 entertainment marketplace." 15 Did the government agree with that, or 16 did your Ministry - I guess you can only speak to 17 what was going on in your Ministry at that time - 18 was there agreement with this conclusion that they 19 reached that continuation of SARP was bad public 20 policy? 21 A. Yes. Broadly, yes. 22 1740 Q. And when Mr. Lisus presented you 23 with certain comments by Premier Wynne, where she 24 was critical of the process, you were her Chief of 25 Staff. Did you have a sense of whether or not she</p>

<p style="text-align: right;">Page 445</p> <p>1 was criticizing the cancellation of SARP, or she 2 was criticizing or critical or uncertain about the 3 way things were to be handled following the 4 cancellation of SARP? 5 A. Well, yeah. It would be accurate 6 to say both Minister McMeekin and Minister Wynne 7 were generally supportive of the cancellation of 8 the program, but very concerned with the 9 consequences and how that was rolled out. 10 1741 Q. So, any suggested criticism on the 11 part of McMeekin or Wynne wasn't about the 12 cancellation, it was about the consequences? 13 MR. LISUS: Mr. Ratcliffe, I'm going to 14 caution you, you're not calling these witnesses. 15 You have access to these witnesses. You shouldn't 16 be leading evidence about them. 17 MR. RATCLIFFE: I'm not leading any 18 evidence. All I was saying was -- 19 MR. LISUS: I think you are. 20 MR. RATCLIFFE: -- what Mr. Keegan 21 worked with them, and I'm asking him what his views 22 were. 23 MR. LISUS: I know what you're doing, 24 but they're your clients and they're choosing to 25 keep their evidence from the court. I am</p>	<p style="text-align: right;">Page 447</p> <p>1 that point in time in terms of transition funding? 2 We've heard evidence throughout that it 3 went from \$50 million or \$60 million, to \$100 to 4 \$300 million to 400 and to 500; were you around at 5 what stage? 6 A. So, to the best of my recollection 7 it was \$100 million for five years with perhaps 8 some of it already being spent, and -- 9 1745 Q. When you say "for five years," for 10 each year for five years 100 million, or a hundred 11 million spread over five years? 12 A. Each year. 13 1746 Q. Each year? 14 A. A hundred million each year, and 15 then some of the outstanding pieces were the 16 establishment of the Standardbred Alliance and the 17 agreements between tracks and how -- so there was 18 some mechanics behind that that were still to be 19 done, but the broad outline of the five-year 20 partnership plan was complete. 21 MR. RATCLIFFE: Thank you. Those are 22 my questions. 23 FURTHER CROSS-EXAMINATION BY MR. LISUS: 24 1747 Q. I just want to ask you a couple of 25 questions, Mr. Keegan, about some procedural</p>
<p style="text-align: right;">Page 446</p> <p>1 cautioning you about eliciting evidence through 2 this witness while your clients are maintaining 3 privilege, because your clients have the ability to 4 give evidence directly. They have chosen not to do 5 that. You shouldn't be eliciting that evidence 6 through other witnesses. 7 BY MR. RATCLIFFE: 8 1742 Q. Well, that's fine. I think 9 Mr. Keegan provided the answer that it wasn't the 10 cancellation of SARP that was in issue; is that 11 correct? 12 A. They were concerned with the 13 implications of that decision. 14 1743 Q. Thank you. Now, you were actively 15 involved in the transition planning that followed 16 that, I guess? I mean, were you meeting on a 17 regular basis, or what role did you play in terms 18 of this whole discussion about how much interim -- 19 how much transition funding there should be? 20 A. Yes. From the -- basically from 21 the establishment of the panel until I left 22 government, I was involved in policy discussions, 23 funding discussions of all kinds. 24 1744 Q. And when you left government in or 25 around February of 2014, where did things stand at</p>	<p style="text-align: right;">Page 448</p> <p>1 issues. Counsel for OLG asked you a number of 2 questions a few minutes ago, correct? 3 A. Yes. 4 1748 Q. And you had met with counsel for 5 OLG in advance and reviewed those questions, 6 correct? 7 A. They asked me questions, yes. 8 1749 Q. Okay. And the questions they 9 asked you looked essentially like the questions 10 they asked you today, right? 11 A. They were similar. 12 1750 Q. Okay. And among the questions 13 they asked you today were questions about 14 Mr. Seiling, right? 15 A. Yes. 16 1751 Q. And you gave them information for 17 the purposes of them formulating questions about 18 the views about Mr. Seiling held by the horseracing 19 industry, correct? 20 A. Today, yes. 21 1752 Q. Right. And you gave them that 22 information in advance of testifying here today 23 about that, correct? 24 A. Similar information, yes. 25 1753 Q. Right. And you say you knew</p>

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1 Mr. Seiling, or you know Mr. Seiling?
 2 A. Through my -- through the work we
 3 did, yes.
 4 1754 Q. And I presume you didn't tell him
 5 that you were going to provide this information
 6 about his reputation and performance to the OLG for
 7 the purposes of you giving evidence here today.
 8 You didn't tell him that, right?
 9 A. I provided this evidence
 10 reluctantly, yes. Generally.
 11 1755 Q. You mean you're providing it under
 12 summons?
 13 A. Yes.
 14 1756 Q. You received a summons from me,
 15 correct?
 16 A. Yes.
 17 1757 Q. You declined the invitation to
 18 meet with me and talk about the issues in this
 19 lawsuit, correct?
 20 A. On advice of counsel.
 21 1758 Q. But you met with the OLG at some
 22 length and talked with them about the information
 23 in the lawsuit, including the information about
 24 Mr. Seiling that we've just discussed, correct?
 25 A. Yes.

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1 1759 Q. You weren't reluctant to do that,
 2 sir. You did that voluntarily, didn't you?
 3 A. None of this process has been
 4 voluntary from my perspective.
 5 1760 Q. You could have refused to meet
 6 with OLG and come here and answered their questions
 7 cold as you did with me. You could have done that,
 8 right?
 9 A. I'm not sure what my obligations
 10 are.
 11 1761 Q. You're not a government employee
 12 anymore?
 13 A. No, I'm not.
 14 1762 Q. Were you not counselled by Ontario
 15 that you did not have to meet with OLG, or did you
 16 think that you did have to meet with OLG?
 17 A. I didn't ask that question.
 18 1763 Q. Right. Did you think you had to
 19 meet with OLG and have them prepare you to give
 20 evidence here?
 21 A. As I said, since receiving the
 22 summons, I have assumed I am compelled to do all of
 23 this.
 24 1764 Q. But you were advised by counsel
 25 that you shouldn't meet with me and answer my

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1 questions and give me information in advance of
 2 your examination, correct? That was the advice
 3 Ontario gave to you?
 4 A. That might have been an
 5 assumption, but yeah.
 6 1765 Q. Okay. Now, one of the other
 7 things you told OLG in preparation for giving your
 8 evidence today was this story about horses being
 9 slaughtered on the lawns of Queen's Park, right?
 10 A. Yes. It was something we heard.
 11 1766 Q. I haven't seen any reference to
 12 that in any of the documents; have you?
 13 A. I don't recall.
 14 1767 Q. You didn't see it in any of the
 15 documents you reviewed for the purpose of giving
 16 evidence here today, right?
 17 A. I think that's true, yes.
 18 1768 Q. You just volunteered that to
 19 counsel for the OLG for the purposes of them
 20 eliciting it in answer to questions they were going
 21 to ask you today, correct?
 22 A. I don't think that the way you're
 23 describing it is --
 24 1769 Q. You gave that information to OLG
 25 counsel in advance of the questions today, right?

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1 A. I think we talked about that
 2 yesterday.
 3 1770 Q. "We" being who?
 4 A. Me and you.
 5 1771 Q. No, I never talked about horses
 6 being slaughtered on Queen's Park lawns,
 7 Mr. Keegan. Are you telling me that we did?
 8 A. We talked about concerns about
 9 horse and animal welfare yesterday.
 10 1772 Q. Yes. In the context of the
 11 transition report and the consequences of the
 12 termination of SARP. You aren't telling me that
 13 you told me yesterday that there were threats to
 14 slaughter horses on the lawn of Queen's Park, are
 15 you, sir?
 16 A. I don't think so.
 17 1773 Q. I don't think so either. But you
 18 told OLG's counsel that for the purposes of having
 19 them elicit it in your evidence today, right?
 20 A. No.
 21 1774 Q. You just told them that generally?
 22 A. I don't recall telling them
 23 anything like that.
 24 1775 Q. Sir, you told me a few minutes ago
 25 that you told them in advance of your questioning

<p style="text-align: right;">Page 453</p> <p>1 today.</p> <p>2 A. Sorry. You're trying to confuse</p> <p>3 me. I don't understand.</p> <p>4 1776 Q. I'm not trying to confuse you at</p> <p>5 all. I'm trying to understand you.</p> <p>6 Are you aware that Minister Duncan</p> <p>7 approved the ORC business plan in the three years,</p> <p>8 July '11 to 2014? I'll give you that again.</p> <p>9 Are you aware that in July 2011,</p> <p>10 Minister Duncan approved the three-year ORC</p> <p>11 business plan from 2011 to 2014?</p> <p>12 A. No.</p> <p>13 1777 Q. Are you aware of that?</p> <p>14 A. No.</p> <p>15 1778 Q. Are you aware that he wrote a</p> <p>16 letter to Mr. Seiling:</p> <p>17 "Dear Rod:</p> <p>18 I am pleased to receive the</p> <p>19 Ontario Racing Commission's business</p> <p>20 plan 2011 to 2014, on July 29,</p> <p>21 2011."</p> <p>22 Are you aware of that?</p> <p>23 A. No.</p> <p>24 1779 Q. Are you aware that Minister</p> <p>25 Duncan, in that letter, wrote to Mr. Seiling</p>	<p style="text-align: right;">Page 455</p> <p>1 with counsel for OLG for the purposes of leading</p> <p>2 your evidence about what a poor job Mr. Seiling did</p> <p>3 and how the government didn't respect him, did</p> <p>4 anyone point out to you Exhibit 13 on the</p> <p>5 examination of Mr. Orsini, in which the Minister</p> <p>6 congratulated Mr. Seiling for his contribution to</p> <p>7 the industry?</p> <p>8 A. I don't think I ever told anybody</p> <p>9 that Rod Seiling was doing a bad job. I think</p> <p>10 that --</p> <p>11 1782 Q. Just listen to my question. When</p> <p>12 you met with OLG and talked about Mr. Seiling's</p> <p>13 performance and the way he was perceived in</p> <p>14 industry, did anyone point out to you Exhibit 13 on</p> <p>15 the examination of Mr. Orsini, which is the letter</p> <p>16 from Mr. Duncan?</p> <p>17 A. No.</p> <p>18 1783 Q. Did anyone, when you were</p> <p>19 discussing Mr. Seiling's performance and his</p> <p>20 reputation, direct you to Minister Duncan's letter</p> <p>21 in which he says he "looks forward to ongoing</p> <p>22 progress and updates from the ORC on the proposed</p> <p>23 initiatives highlighted in the business plan"?</p> <p>24 A. Not that I recall.</p> <p>25 1784 Q. Were you aware that Mr. Seiling</p>
<p style="text-align: right;">Page 454</p> <p>1 saying:</p> <p>2 "Please extend my sincere</p> <p>3 thanks to the Board of Directors and</p> <p>4 your staff for producing this most</p> <p>5 important accountability document,</p> <p>6 which highlights a number of key ORC</p> <p>7 activities to enhance live</p> <p>8 horseracing for industry</p> <p>9 participants and customers,</p> <p>10 including the new Ontario Racing</p> <p>11 Program."</p> <p>12 Are you aware that Minister Duncan said</p> <p>13 that?</p> <p>14 MR. RATCLIFFE: Mr. Lisus, I think he</p> <p>15 indicated he wasn't familiar with this</p> <p>16 communication that you started off reading to him,</p> <p>17 so I'm not sure that continuing to read parts of it</p> <p>18 really advances --</p> <p>19 BY MR. LISUS:</p> <p>20 1780 Q. Are you aware that Minister Duncan</p> <p>21 thanked Mr. Seiling for his contribution to live</p> <p>22 horseracing, the live horseracing industry in July</p> <p>23 2011?</p> <p>24 A. No.</p> <p>25 1781 Q. Right. And when you were meeting</p>	<p style="text-align: right;">Page 456</p> <p>1 had testified in these proceedings when you gave</p> <p>2 your evidence today?</p> <p>3 A. No. I assumed he had, but I</p> <p>4 didn't know.</p> <p>5 1785 Q. Were you told by counsel for OLG</p> <p>6 that Mr. Seiling had testified in these</p> <p>7 proceedings?</p> <p>8 A. No, I assumed he would be.</p> <p>9 1786 Q. But there was no discussion about</p> <p>10 the fact that he had?</p> <p>11 A. Not that I recall.</p> <p>12 1787 Q. Have you seen any documents, in</p> <p>13 the documents you reviewed, that indicate that the</p> <p>14 horseracing industry didn't like or trust</p> <p>15 Mr. Seiling?</p> <p>16 A. Over the last few days or over --</p> <p>17 1788 Q. In preparing to give your</p> <p>18 evidence, have you seen - because I haven't - have</p> <p>19 you seen any documents?</p> <p>20 A. I don't think so.</p> <p>21 1789 Q. Counsel for OLG asked you about</p> <p>22 the blacking out of OMAFRA from Finance's decision</p> <p>23 to cancel revenue sharing. Do you recall that?</p> <p>24 A. Yes.</p> <p>25 1790 Q. And it was suggested to you that</p>

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1	OMAFRA was blacked out because they didn't know	1	about horseracing industry, which strikes me as
2	anything about the horseracing industry. Do you	2	passing strange, because it was the third largest
3	recall that?	3	sector in the agricultural sector.
4	A. Yes.	4	A. Again, how would that be defined
5	1791 Q. Are you aware that in every budget	5	as hay or feed, sales?
6	since SARP was enacted, the Ontario Government	6	1800 Q. The horseracing industry made a
7	stated that:	7	significant contribution to the rural economy and
8	"Payments to racetracks and	8	employment, correct?
9	horse people are a major economic,"	9	A. I know that to be true, yes.
10	this is from SARP. "...are a major	10	1801 Q. Right. And you knew that to be
11	economic stimulus for the	11	true every year you were employed by OMAFRA, didn't
12	agriculture industry in Ontario."	12	you?
13	Are you aware that?	13	A. No.
14	A. I believe you read that yesterday.	14	1802 Q. You didn't. So, when did you
15	1792 Q. Are you aware that every budget	15	learn that in 2012?
16	identified the revenue sharing from SARP as a major	16	A. As we went through this process,
17	economic stimulus for the agriculture industry in	17	yes.
18	Ontario?	18	1803 Q. I see. So you're the Chief of
19	A. Not until you told me about it.	19	Staff of the Minister of Agriculture, and the first
20	1793 Q. Right now.	20	time you learn that the horseracing industry is a
21	A. Yesterday, I believe.	21	major contributor to the rural economy and
22	1794 Q. Yesterday was the first time you	22	employment is in 2012; is that what you're telling
23	were aware of that?	23	me?
24	A. Yes.	24	A. So, there's the equine industry
25	1795 Q. And you don't know anything about	25	which includes horseracing which we know to have
Page 458		Page 460	
1	the 1998 Letter of Intent which establishes revenue	1	intersection with agriculture in terms of feed, in
2	sharing?	2	terms of vets. Horseracing in and of itself, I
3	MR. RATCLIFFE: I think he indicated	3	think I said yesterday, was always something
4	that in your examination yesterday, Mr. Lisus.	4	separate and was never an intrinsic part of OMAFRA.
5	BY MR. LISUS:	5	1804 Q. I'm reading from the material for
6	1796 Q. So you wouldn't know that when the	6	the Estimates Committee in 2011, which is Exhibit
7	1998 Letter of Intent was established, SARP was	7	11 on the examination of Steve Orsini. Do you know
8	identified as an important economic stimulus for	8	who he is?
9	the agricultural sector in Ontario, right?	9	A. Yes.
10	A. Right.	10	1805 Q. And this is what was prepared for
11	1797 Q. I've seen documents which identify	11	the benefit of the Estimates committee:
12	the horseracing industry as the third largest	12	"The Ontario horseracing
13	industry in the agricultural sector. Have you seen	13	industry makes a significant
14	such documents?	14	contribution to the rural economy
15	A. I don't believe so.	15	and employment."
16	1798 Q. Do you dispute that the	16	Do you agree with that?
17	horseracing industry was the third largest industry	17	A. Yes.
18	in the agricultural sector?	18	1806 Q. And did you know that prior to
19	MR. RATCLIFFE: Mr. Lisus, I think you	19	2012?
20	pursued that line of questioning yesterday in terms	20	A. Maybe not in those terms, no.
21	of who the major players were in the agricultural	21	1807 Q. I'm reading from the Minister's
22	industry.	22	Q and A's for the estimates defense. Do you know
23	BY MR. LISUS:	23	what the estimates defense is?
24	1799 Q. I am just re-cross-examining on	24	A. Yes.
25	the evidence that Mr. Keegan didn't know anything	25	1808 Q. May 2011.

<p style="text-align: right;">Page 461</p> <p>1 A. Which Minister? 2 1809 Q. Finance. 3 "The Ontario horseracing 4 industry makes a significant 5 contribution to the rural economy 6 and employment." 7 MR. RATCLIFFE: Mr. Lisus, how is this 8 proper re-examination? 9 MR. LISUS: This is not re-examination, 10 Mr. Ratcliffe. This is re-cross-examination as the 11 rules provide. 12 MR. RATCLIFFE: I would say that it 13 should have been dealt with on your examination. 14 MR. LISUS: I don't think so, because 15 this was raised for the first time that OMAFRA 16 didn't know anything about the horseracing industry 17 and that's why it was blacked out from the decision 18 to cancel SARP which we know from this witness, in 19 his words, had a catastrophic effect. 20 BY MR. LISUS: 21 1810 Q. So I'm just trying to 22 re-cross-examine Mr. Keegan to establish that every 23 year leading up to the cancellation of SARP, in 24 multiple places, including the provincial budgets 25 and the estimates defenses, it was stated that</p>	<p style="text-align: right;">Page 463</p> <p>1 decision were felt in the rural economy, correct? 2 A. Yes, and the efforts of Minister 3 McMeekin. 4 1815 Q. Right. And the reason the 5 consequences were felt in the rural economy is 6 because the horseracing industry was a key 7 contributor to the rural economy. Straight line 8 connection. Fair? 9 A. Yeah, particularly in the 10 communities where the racetracks were. 11 1816 Q. This is what the Ontario budgets 12 said about the horseracing industry in 2008 and 13 2009. I can read you others if you want: 14 "Payments to racetracks and 15 horse people are a major economic 16 stimulus for the agriculture 17 industry in Ontario, with spinoff 18 benefits for farmers, who stable and 19 provide care for horses and who 20 supply provide feed." 21 MR. RATCLIFFE: Mr. Lisus, you already 22 made that point with two or three other quotes, if 23 that's your position. Mr. Keegan has to leave in 24 about seven minutes to catch his train, and that's 25 what we all agreed to.</p>
<p style="text-align: right;">Page 462</p> <p>1 horseracing was a key part of the rural economy. 2 But Mr. Keegan has explained he only 3 learned that in 2012. 4 A. I think you said yourself those 5 are Ministry of Finance speaking points, not 6 OMAFRA. 7 1811 Q. So Ministry of Finance knew that 8 but the Ministry of Agriculture didn't; is that 9 what you're telling me? 10 A. They would have been responsible, 11 yes, so they would have focused on that, not us. 12 1812 Q. So you're telling me the Ministry 13 of Agriculture didn't know what the key 14 contributors to the agricultural economy was; is 15 that what you're saying, sir? 16 A. In the way that you're portraying 17 it, it's certainly the equine industry was in its 18 broadest sense part of the OMAFRA mandate. 19 1813 Q. That's why OMAFRA led the efforts 20 to try and mitigate the consequences of the 21 decision, because the consequences of the decision 22 were felt within the rural economy, right? 23 A. Well, primarily because of 24 Minister McMeekin. 25 1814 Q. Because the consequences of the</p>	<p style="text-align: right;">Page 464</p> <p>1 MR. LISUS: He'll leave in seven 2 minutes to catch his train, Mr. Ratcliffe. Don't 3 worry. 4 MR. RATCLIFFE: Thank you. 5 BY MR. LISUS: 6 1817 Q. Elmer Buchanan replaced 7 Mr. Seiling as chair of the ORC, correct? 8 A. Yes. 9 1818 Q. And that is in 2013, right? 10 A. Yes. 11 1819 Q. And you were intimately involved 12 in the replacement of Mr. Seiling by Mr. Buchanan, 13 correct? 14 A. Yes. 15 1820 Q. And are you aware of the statement 16 that was made when that occurred? The public 17 statement, "Message from the Chair of the ORC"? 18 A. Around Mr. Buchanan's appointment? 19 1821 Q. Yes. 20 A. Generally, yes. I don't recall 21 specifically. 22 1822 Q. Okay. Here's what the statement 23 was from Mr. Buchanan. I'm looking at the ORC 24 annual report under cover of letter dated July 31, 25 2014 which begins with a message from the chair,</p>

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1 Mr. Buchanan, who says:
2 "It is with great pride that I
3 submit this report for the period of
4 April 1, 2013 to March 31, 2014, the
5 first as chair since my appointment
6 in the 3rd Quarter of this fiscal
7 year."
8 And I want you to listen to this,
9 Mr. Keegan:
10 "I would like to acknowledge my
11 predecessor, Rod Seiling, who served
12 the people of Ontario and the
13 horseracing community with
14 distinction for seven years."
15 Do you hear that?
16 A. Yes.
17 1823 Q. Do you agree that that was the
18 statement given to the people of Ontario?
19 A. Yes.
20 1824 Q. And that's accurate, right?
21 A. So I was compelled to come here,
22 told to answer questions...
23 1825 Q. Just answer my question, sir. Is
24 that an accurate statement?
25 A. Yes. Why? I'm not trying to


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1 impugn -- to criticize Rod. I'm not sure why you
2 are directing this at me. I was --
3 1826 Q. When you met with counsel for the
4 OLG to tell them about Mr. Seiling's performance,
5 did you bring to their attention the letter from
6 the message of the -- the letter from the chair of
7 the ORC, thanking Mr. Seiling for serving the
8 people of Ontario and the horseracing community
9 with distinction for seven years?
10 A. As I did here, I answered the
11 questions to the best of my ability. I don't have
12 an agenda.
13 1827 Q. Did counsel for OLG or counsel for
14 Ontario draw this statement --
15 MR. RATCLIFFE: He's already --
16 BY MR. LISUS:
17 1828 Q. -- from the ORC to your attention?
18 MR. RATCLIFFE: Mr. Lisus, he's already
19 indicated --
20 THE WITNESS: Not that I recall, no.
21 MR. RATCLIFFE: -- that he wasn't aware
22 of it.
23 MR. LISUS: This is going to be the
24 next exhibit in sequence, it's the July 31, 2014
25 annual report with cover letter from Mr. Buchanan,

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1 "The 64th Annual and Statistical Report 2013-2014,
2 Ontario Racing Commission."
3 EXHIBIT NO. 60: Letter dated July 31,
4 2014 attaching "The 64th Annual and
5 Statistical Report 2013-2014, Ontario
6 Racing Commission."
7 MR. LISUS: Thank you, Mr. Keegan.
8
9 -- Whereupon the cross-examination concluded at
10 4:26 p.m.
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1 REPORTER'S CERTIFICATE
2
3 I, KIMBERLEY A. NEESON, FAPR, RPR,
4 CRR, CSR, CRC, Certified Shorthand Reporter,
5 Realtime Systems Administrator, certify:
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 That the foregoing is a true and
15 correct transcript of my shorthand notes so taken.
16
17 Dated this 15th day of March, 2018.
18
19 
20
21 NEESON COURT REPORTING INC.
22 PER: KIMBERLEY NEESON, FAPR, RPR, CRR,
23 CSR, CRC (RSA)
24 CERTIFIED REAL-TIME REPORTER
25

EXHIBITS

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