

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

BLAIR STRANSKY
January 15, 2018

neelsons

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Toronto, ON M5K 1A2
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Court File No. 842/12

ONTARIO

SUPERIOR COURT OF JUSTICE

B E T W E E N:

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

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

4 - and -

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

8 -----

9 --- This is the Rule 39.03 Examination of
10 Blair Stransky, 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 15th day of January, 2018.

14 -----

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

16 Jonathan Lisus, Esq.

17 & Ian Matthews, Esq. for the Claimants.

18

19 Eunice Machado, Esq., for the Defendant

20 & Rodney Kort, Esq., Crown.

21 & Lisa La Horey, Esq.

22

23 Michael Rosenberg, Esq., for the OLG.

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19
20
21
22
23
24
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I N D E X

WITNESS: Blair Stransky

PAGE

Cross-Examination by Mr. Lisus..... 9

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

INDEX OF UNDERTAKINGS

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

INDEX OF ADVISEMENTS

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

INDEX OF REFUSALS

The questions/requests refused are noted by R/F
and appear on the following pages: 17:2, 17:17,
18:25, 19:18, 19:23, 20:11, 63:1, 132:11, 216:19,
225:17, 228:5

INDEX OF EXHIBITS	
NUMBER/DESCRIPTION	PAGE NO.
1: Summons to Witness.	15
2: Email and attached letter, Bates numbered CRE56625 and CRE56626.	44
3: Email and business plans, Bates numbered CRE55923, CRE55927, CRE55928 and CRE55929.	49
4: Email and attachments, Bates numbered CRE28369, CRE28370 and CRE28371.	54
5: Email and attached ORC Race Dates Consultation Deck, Bates numbered 17331 and 17332.	60
6: Email and attachment, Bates numbered CRE8996 and CRE8997.	63
7: Email and attachments, Bates numbered CRE320557, CRE320558 and CRE320559.	66
8: Email and attachment, Bates numbered CRE57322 and CRE57323.	69
9: Email and attachment, Bates numbered CRE75818 and CRE75819.	88

1	10: Email and attachment, Bates	91
2	numbered CRE56726 and CRE56727.	
3	11. Email and attachment, Bates	93
4	numbered CRE76151 and CRE76152.	
5	12: Email and attachments, Bates	94
6	numbered CRE105060, CRE105061 and	
7	CRE105062.	
8	13: Email and attachment, Bates	98
9	numbered CRE105084 and CRE105085.	
10	14: Email and attachments, Bates	109
11	numbered OLGSB360, OLGSB699 and	
12	OLGSB525.	
13	15: Email and attachment, Bates	112
14	numbered CRE94314 and CRE94316.	
15	16: Email and attachment, Bates	114
16	numbered CRE58180 and CRE58181.	
17	17: Email and attachment, Bates	117
18	numbered OLG526 and OLG527.	
19	A (for identification): Email, Bates	127
20	numbered OLG580.	
21	B (for identification): Memorandum	136
22	of understanding, Bates numbered	
23	CRE28815.	
24	18: Email, Bates numbered CRE28814.	138
25	19: Document entitled "Draft	149

1	Confidential Advice to Minister,"	
2	Bates numbered CR928.	
3	20: Email and attachment, Bates	151
4	numbered OLGSB1912 and LGSB1913.	
5	21: Email and attachment, Bates	151
6	numbered OLGSB970 and OLGSB972.	
7	C (for identification): Handwritten	156
8	note made by Mr. Seiling.	
9	D (for identification): Email and	161
10	attachment, Bates numbered CRE18263	
11	and CRE29772.	
12	E (for identification): Email and	167
13	attachment, Bates numbered OLGSB995	
14	and OLGSB996.	
15	F (for identification): Memorandum	170
16	to file dated December 20, 2011.	
17	G (for identification): Email, Bates	174
18	numbered CRE80473.	
19	22: Email, Bates numbered CRE105863.	176
20	23: Email and attachments, Bates	182
21	numbered CRE28760, CRE28761, CRE28762	
22	and CRE28763.	
23	24: Email, Bates numbered CRE80623	188
24	and CRE80624.	
25	25: Email, Bates numbered CRE30184.	190

1	H (for identification): Final	190
2	government deck, Bates numbered	
3	CRE87519.	
4	26: Email, Bates numbered CRE105937.	201
5	27: Email, Bates numbered CRE28697.	208
6	28: Email, Bates numbered CRE28698.	208
7	I (for identification): Email, Bates	216
8	numbered CRE360917.	
9	J (for identification): Email, Bates	219
10	numbered CRE12973.	
11	29: Email and attachments, Bates	230
12	numbered CRE30238.	
13	K (for identification): Email, Bates	236
14	numbered CRE106086.	
15	L (for identification): Email, Bates	239
16	numbered CRE32045, CRE32046, CRE32047	
17	and CRE32048.	
18	30: Email, Bates numbered CR0038429.	246
19	M (for identification): Email, Bates	255
20	numbered CRE32227.	
21	31. Email, Bates numbered CRE32142.	255
22	32: Email and letter, Bates numbered	257
23	CRE30632 and CRE30633.	
24	33: Email and letter, Bates numbered	269
25	CRD24235 and CRE24236.	

1	N (for identification): Notes of	269
2	telephone call with Mr. Stransky.	
3	34: Email, Bates numbered OLG1557.	271
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
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1 -- Upon commencing at 10:15 a.m.

2 BLAIR STRANSKY: SWORN.

3 CROSS-EXAMINATION BY MR. LISUS:

4 1 Q. Mr. Stransky, you are here
5 pursuant to a summons issued by the Superior Court.
6 Do you understand that?

7 A. I do.

8 2 Q. Okay. And I understand you have
9 not been examined before in a court proceeding.
10 Correct?

11 A. Correct.

12 3 Q. All right. So I'm going to give
13 you a few tips that hopefully will make it easier.
14 The person to my right is a court reporter and she
15 has to capture the complete question I ask you and
16 your complete answer, okay? And a transcript will
17 be produced, and in order for there to be a
18 transcript that's helpful, we both need to do a
19 couple of things.

20 One, you need to give audible responses
21 to questions, not um-hmm, or that kind of thing; an
22 audible response that can be recorded.

23 Second, you need to wait until the
24 question is complete before you give your answer so
25 that the reporter can record the question and the

1 answer, okay?

2 A. Okay.

3 4 Q. Just by way of background,
4 Mr. Stransky, I understand that you have an
5 undergraduate degree from Queen's University; is
6 that correct?

7 A. Correct.

8 5 Q. And that's in what area?

9 A. In political studies.

10 6 Q. When did you receive that?

11 A. I graduated in 2002.

12 7 Q. Okay. And I understand that you
13 then went on to do a master's degree at the London
14 School of Economics; is that right?

15 A. Correct.

16 8 Q. You graduated from the London
17 School of Economics in 2003; is that right?

18 A. Correct.

19 9 Q. And I'm just looking at a copy of
20 your curriculum vitae from LinkedIn so it may or
21 may not be accurate.

22 According to the profile which I
23 presume you composed yourself on LinkedIn...

24 A. That's correct.

25 10 Q. So, it is accurate?

1 A. I hope so certainly, yes.

2 11 Q. All right. So you graduated from
3 the LSE in 2003, and then I see from your profile
4 that your first job is 2008, 2008 -- 2008 to 2009,
5 one year, at Fleishman - F-L-E-I-S-H-M-A-N -
6 Hillard Europe.

7 A. Sorry, the question is? What's
8 your question?

9 12 Q. The question is, was that your
10 first job after graduating?

11 A. No, it was not.

12 13 Q. So what did you do between 2003
13 and 2008?

14 A. Between 2003 and 2008 I was also
15 at -- well, beginning in January 2004 I was at
16 FleishmanHillard, so I think it's maybe just the
17 format of the profile.

18 14 Q. I see. What did you do at
19 FleishmanHillard?

20 A. I was -- I started as a research
21 consultant and was a consultant there.

22 15 Q. And what were your
23 responsibilities?

24 A. I was a consultant that worked
25 initially providing information to senior

1 consultants, and then over the time that I spent at
2 the organization I came to play a greater role,
3 leading projects and then dealing directly with
4 clients.

5 16 Q. What did FleishmanHillard Europe
6 supply?

7 A. FleishmanHillard Europe, it's a
8 consulting firm, another office of
9 FleishmanHillard, and it is focused on government
10 policy and advising organizations about government
11 policy.

12 17 Q. So, when did you graduate high
13 school?

14 A. I graduated in, sorry, 19-- I
15 guess 1998.

16 18 Q. Okay. And went straight into
17 Queen's, graduated Queen's '02?

18 A. Correct.

19 19 Q. After graduating in the spring of
20 '02 you went into the LSE the fall of '03?

21 A. The fall of '02.

22 20 Q. The fall of '02. Got your
23 master's degree in '03 and then started working in
24 '04 or '03 at FleishmanHillard?

25 A. I graduated in '03, the fall of

1 '03, and I commenced at Fleishman.

2 21 Q. Now, it says FleishmanHillard
3 Europe. Were you working in Europe or for European
4 clients?

5 A. I was working in Europe from 2008
6 into 2009, so for one year's time.

7 22 Q. And from 2003 or 2004 to 2008
8 where were you working?

9 A. I was in Ottawa.

10 23 Q. In Ottawa?

11 A. Correct.

12 24 Q. And was the Ontario Government one
13 of FleishmanHillard's clients?

14 A. I can't recall.

15 25 Q. Okay. So you joined the Ontario
16 Government, as I understand your profile, in 2010;
17 is that right?

18 A. Correct.

19 26 Q. And you remained there until 2013?

20 A. Correct.

21 27 Q. Do you know what --

22 A. Sorry, actually, I would correct
23 that as well. In my position at the Ministry of
24 Finance, I was at the Ministry of Finance until
25 2013.

1 28 Q. And then what did you do?

2 A. Then I went to the Ontario
3 Securities Commission.

4 29 Q. Right. Okay. Where you remained
5 for four years?

6 A. That's correct.

7 30 Q. And who did you report to at the
8 Ministry of Finance?

9 A. I was -- served under Minister
10 Duncan and I guess I directly reported to Tim
11 Shortill who was the Chief of Staff.

12 31 Q. Okay. So your direct report was
13 to Tim Shortill, and Shortill reported to Duncan;
14 is that correct?

15 A. That's correct.

16 32 Q. And did you work in the Minister's
17 office?

18 A. That's correct.

19 33 Q. So were you were on the political
20 side of things?

21 A. Correct.

22 34 Q. Who hired you?

23 A. Tim Shortill.

24 35 Q. Now, we talked about you being
25 here pursuant to a summons. I just want to show it

1 to you, and that will be Exhibit 1.

2 EXHIBIT NO. 1: Summons to Witness.

3 BY MR. LISUS:

4 36 Q. Were you served personally with
5 that summons?

6 A. I can't recall.

7 MS. LA HOREY: Is that the original one
8 or the later one?

9 MR. LISUS: March 2, 2017.

10 BY MR. LISUS:

11 37 Q. You don't recall?

12 MS. LA HOREY: Does it matter?

13 MR. LISUS: It's a cross-examination.
14 Please don't interrupt unless you have an
15 objection.

16 THE WITNESS: I can't recall how I
17 received this.

18 BY MR. LISUS:

19 38 Q. Do you recall when you became
20 aware that the plaintiffs in this case wanted to
21 summons your evidence?

22 A. No, I can't recall.

23 39 Q. Was it on or about March 2nd,
24 2017?

25 MS. LA HOREY: He said he couldn't

1 recall.

2 THE WITNESS: I honestly can't recall.

3 BY MR. LISUS:

4 40 Q. Have you read the summons before
5 coming here today?

6 A. I honestly can't recall what
7 documents -- if this is a document that I've seen
8 before.

9 41 Q. I'm going to mark this as the
10 first exhibit on Mr. Stransky's examination.

11 Have you read or reviewed documents,
12 Mr. Stransky, in preparation for giving evidence
13 here today?

14 A. I have. Yes, I have.

15 42 Q. All right. What documents have
16 you read in preparation for giving evidence here
17 today?

18 A. I can't give an exhaustive list
19 but I've seen documents related to my work at the
20 Ministry.

21 43 Q. I presume you have met with
22 counsel from the Government of Ontario to prepare
23 to give evidence here today?

24 A. I have.

25 44 Q. And did you review those documents

1 in the course of those meetings?

2 R/F MS. LA HOREY: Objection. You're
3 getting into what he looked at in meetings with his
4 lawyers, so you're getting into solicitor/client
5 privilege.

6 MR. LISUS: It's fair game to ask what
7 the witness reviewed to prepare for his evidence,
8 Ms. La Horey, but I'm not going to argue.

9 MS. LA HOREY: Okay.

10 BY MR. LISUS:

11 45 Q. Did you meet with counsel for the
12 Ontario Lottery and Gaming Corporation as well?

13 A. I did.

14 46 Q. And did you review documents with
15 counsel for the Ontario Lottery and Gaming
16 Corporation?

17 R/F MS. LA HOREY: Don't answer the
18 question. You're asking what he reviewed with
19 counsel and this is solicitor/client privilege.

20 BY MR. LISUS:

21 47 Q. You don't consider the counsel for
22 the Ontario Lottery and Gaming Corporation to be
23 your lawyers, do you, Mr. Stransky?

24 MS. LA HOREY: Let me answer the
25 question.

1 MR. LISUS: No, I want Mr. Stransky's
2 understanding of who his lawyers are.

3 BY MR. LISUS:

4 48 Q. You don't consider the lawyers for
5 the Ontario Lottery and Gaming Corporation to be
6 your lawyers, do you?

7 MS. LA HOREY: Counsel, I'm answering
8 the question.

9 MR. LISUS: It's not a question for
10 you, Ms. La Horey. I want to know who Mr. Stransky
11 understands to be his counsel and there is some
12 significance to this.

13 BY MR. LISUS:

14 49 Q. Do you consider --

15 MS. LA HOREY: Mr. Lisus, I'm going to
16 put a statement on the record.

17 MR. LISUS: You can wait until I finish
18 my question.

19 MS. LA HOREY: Well, I am instructing
20 you not to answer.

21 BY MR. LISUS:

22 50 Q. Do you consider counsel for the
23 Ontario Lottery and Gaming Corporation to be your
24 lawyers, Mr. Stransky?

25 R/F MS. LA HOREY: Okay, don't answer the

1 question. And I'm going to put my refusal on the
2 record.

3 You know very well that counsel for
4 Mr. Stransky is Crown Law Office - Civil because we
5 have responded on his behalf and OLG has not.

6 MR. LISUS: That's why I'm asking about
7 his preparation with counsel for OLG.

8 MS. LA HOREY: Let me finish,
9 Mr. Lisus. So counsel for OLG was present at a
10 preparation meeting with counsel for Mr. Stransky,
11 that is MAG, and they were present when documents
12 were viewed. And we have a common defence
13 privilege. So I'm not going to let you ask further
14 questions about this.

15 BY MR. LISUS:

16 51 Q. And the common defence privilege
17 is reduced to writing?

18 R/F MS. LA HOREY: I'm not going to answer
19 that question. That's a refusal.

20 BY MR. LISUS:

21 52 Q. I'm refreshing my request for a
22 copy of the common defence privilege agreement.

23 R/F MS. LA HOREY: Refused.

24 BY MR. LISUS:

25 53 Q. Mr. Stransky, I guess I could

1 generally re-engineer the math, but may I ask how
2 old you were in 2010 when you started work at the
3 Ministry of Finance?

4 MS. LA HOREY: How can this possibly be
5 relevant?

6 MR. LISUS: Ms. La Horey, this is a
7 cross-examination conducted as if this were a
8 trial. I want to understand this witness'
9 experience and background. I am entitled to do
10 that.

11 R/F MS. LA HOREY: You've cross-examined
12 him or asked him about his CV. His age is
13 irrelevant. We know he graduated high school, we
14 know that he graduated with various degrees and we
15 know his work experience.

16 I am concerned about you getting off
17 into irrelevant tangents because we have a lot of
18 witnesses to examine and we want to make sure we
19 finish in due time because this witness has come
20 here of his -- he's come here, he's not a party to
21 this litigation.

22 MR. LISUS: Under summons.

23 MS. LA HOREY: Pursuant to the summons
24 as a good citizen and I don't want this examination
25 to go off into never-never land and take days,

1 which I understand some of the previous
2 examinations have.

3 So I'd ask you to ask relevant
4 questions and his age is not relevant. It's a
5 refusal.

6 MR. LISUS: You could have just given a
7 short refusal if you're concerned about time,
8 Ms. La Horey, and this would go a lot quicker.

9 MS. LA HOREY: Well, I just wanted to
10 explain to you that the questions -- why I was
11 taking the position that I was and I don't need to
12 say it again.

13 BY MR. LISUS:

14 54 Q. Now, what was your job when you
15 started at the Ministry of Finance in 2010,
16 Mr. Stransky?

17 A. I was a senior policy advisor.

18 55 Q. And what were your
19 responsibilities as a senior policy advisor?

20 A. I had acted as a liaison between
21 certain central agencies, namely the Ontario
22 Lottery and Gaming Corporation, and the Minister.

23 56 Q. When you say the Minister, you
24 mean Minister Duncan?

25 A. Correct.

1 57 Q. When you say you acted as a
2 liaison, did you liaise directly with Minister
3 Duncan?

4 A. Correct. Yes, I did.

5 58 Q. Okay. Go on.

6 A. Sorry, what?

7 59 Q. What else did you do? You told me
8 that you acted as a liaison for the relationship
9 between Minister Duncan and the Ontario Lottery and
10 Gaming Corporation.

11 What else did you do?

12 A. I also had responsibilities
13 related to the Ontario Securities Commission who
14 also reported to the Minister of Finance, Minister
15 Duncan.

16 60 Q. And what else?

17 A. In 2010? Those are the two main
18 files that I can easily recall.

19 61 Q. Again, I'm going from your profile
20 in which you say you oversaw the relationship with
21 the OSC. Is that accurate?

22 A. That's right. I was the liaison
23 between the Minister and the OSC, that's right.

24 62 Q. And you were the liaison between
25 the Minister and the OLG, correct?

1 A. Correct.

2 63 Q. And were you also the liaison
3 between the Minister and the LCBO?

4 A. In 2010 I was not.

5 64 Q. When did you become the liaison
6 between the Minister and the LCBO?

7 A. I can't recall exactly. There was
8 a time in which I had some responsibility there,
9 but that was not in 2010.

10 65 Q. And did you oversee the
11 relationship between the Minister and the LCBO at
12 any point?

13 A. I worked directly with Tim
14 Shortill on that file. I can't recall if I -- or I
15 don't know if I would characterize it as
16 overseeing, but I guess I was -- had the LCBO as
17 one of my responsibilities.

18 66 Q. Did you oversee the relationship
19 with Hydro One?

20 A. For a period.

21 67 Q. When was that?

22 A. It was not in 2010. It was also
23 later.

24 68 Q. 2012?

25 A. I can't honestly recall the exact

1 dates.

2 69 Q. So when you started in 2010, what
3 were your responsibilities?

4 A. The two that I mentioned. What I
5 recall was the two main ones that I can recall,
6 were the OLG and the OSC.

7 70 Q. Did you liaise with the Ontario
8 Racing Commission?

9 A. I did, yes.

10 71 Q. Who there?

11 A. It was principally Rod Seiling who
12 was -- yes.

13 72 Q. And the ORC was the regulator for
14 the horseracing industry in 2010, '11 and '12,
15 correct?

16 A. Correct.

17 73 Q. So when you joined the Ministry in
18 2010 and became responsible for being the liaison
19 with OLG, what did you do to inform yourself about
20 what OLG did?

21 A. From what I would recall, I likely
22 would have been given material about existing
23 issues and so on, but I can't recall the specifics.

24 74 Q. In 2010 what were OLG's business
25 lines?

1 A. In 2010? It would have been
2 gaming.

3 75 Q. And when you say "gaming," what do
4 you include in gaming?

5 A. In gaming I would say principally
6 casinos as well as slots at racetracks, and then of
7 course lottery. Those were the main business lines
8 that I immediately recall.

9 76 Q. What did you do to inform yourself
10 about those business lines in 2010?

11 A. I can't recall specifics, but I
12 would have had a number of documents, I can
13 imagine, that would have -- that would have
14 pertained to their business, annual reports, for
15 example, and performance from those reports.

16 77 Q. Prior to joining the Ministry in
17 2010, had you had any prior experience in gaming?

18 A. Not that I can recall.

19 78 Q. Pardon?

20 A. Not that I can recall.

21 79 Q. Not that you can recall?

22 A. The reason I answer like that is
23 because I would have worked as a consultant at that
24 point for a number of years and I can't immediately
25 recall all of the clients or files that I would

1 have seen during that time.

2 80 Q. So, you certainly don't recall
3 having any prior experience with the Ontario
4 horseracing industry prior to the commencement of
5 your employment in 2010?

6 A. No, not that I can recall.

7 81 Q. Okay. And if I have understood
8 your evidence correctly, your understanding of the
9 business lines of OLG in 2010 would have been
10 obtained from a review of annual reports, OLG
11 annual reports; is that correct?

12 A. As an example. That's an example
13 I have given.

14 82 Q. Okay. And anything else? I
15 didn't understand you to say anything else, but...

16 A. I can't recall specifics of
17 documents that I would have reviewed, but I know
18 that based on my approach in general to learning
19 files, whether they were for clients or for my
20 position at the Ministry, I would have certainly
21 immersed myself in getting the information that I
22 thought was relevant to do my job.

23 83 Q. And as it pertained to Ontario
24 Lottery and Gaming Corporation in 2010, what was
25 your job?

1 A. Again, you know, I'd say it was to
2 be a liaison between the Minister and the
3 Corporation, and in 2010 I can't recall
4 specifically the details there.

5 It would have been -- it would have
6 been to oversee issues and policy related to the
7 organization that, as an example I'm giving you,
8 that the Ministry would have responsibilities for
9 and the Minister ultimately would have
10 responsibilities for.

11 84 Q. When you joined in 2010 did any of
12 the issues that you were responsible for looking at
13 have to do with horseracing?

14 A. From what I recall, I would have,
15 yes.

16 85 Q. What were the issues?

17 A. There were a series of tracks
18 throughout the province and --

19 86 Q. How many?

20 A. From what I recall, it was 17.

21 87 Q. Okay.

22 A. And there was a number of
23 relationships as a result related to those tracks,
24 namely agreements from what I recall between the
25 OLG and those tracks, this is an example, related

1 to the slots that were at those tracks.

2 88 Q. But as I have understood your
3 evidence, you didn't review those agreements when
4 you started?

5 A. I can't recall.

6 89 Q. Do you recall reviewing those
7 agreements at any time during your tenure at the
8 Ministry of Finance? And I'm talking about the
9 siteholder agreements between the Ontario Lottery
10 and Gaming Corporation and the Ministry.

11 A. I would say it's quite possible
12 that I would have seen them. I can't recall
13 specifically.

14 90 Q. I'll give you my question again.

15 A. Sure.

16 91 Q. Do you recall ever reviewing the
17 terms of those siteholder agreements during your
18 tenure at the Ministry of Finance?

19 A. Specifically, no, but I would add
20 to that, you know, I guess it's quite possible
21 given that those agreements were central to the
22 relationship between the OLG and the tracks.
23 Certainly I was aware of the fact that agreements
24 existed.

25 92 Q. Do you recall ever reviewing the

1 financial statements of the racetracks that were
2 parties to the siteholder agreements we've just
3 discussed during your tenure at the Ministry of
4 Finance?

5 A. The finance -- sorry, the
6 financial...?

7 93 Q. Statements.

8 A. Statements of?

9 94 Q. Of the racetrack operators who
10 were subject to the siteholder agreements?

11 A. I can't recall specific financial
12 statements. If it was relevant, I could see
13 certain information. I'm not sure if it would have
14 come from financial statements but related to the
15 health of those tracks.

16 95 Q. I just want you to listen to my
17 question, okay? It's a simpler one than the one
18 you were answering.

19 A. Okay.

20 96 Q. Do you recall ever reviewing the
21 financial statements of any of the racetracks that
22 were subject to the siteholder agreements between
23 the Ontario Government and through OLG and the
24 racetracks? Do you recall ever reviewing the
25 financial statements?

1 A. I can't recall, and I would say in
2 part because I'm not sure I would have gotten into
3 that level of detail of going through full
4 financial statements.

5 97 Q. In 2010, when you started at the
6 Ministry, did you meet with Rod Phillips, the CEO
7 of OLG?

8 A. I would have. I can't recall the
9 specific dates or timing, but I believe he was the
10 CEO, yes, in 2010.

11 98 Q. You're using the words "I would
12 have" a lot. What I'm asking now is if you have a
13 recollection of sitting down with Mr. Phillips in
14 2010 when you -- shortly after you started at the
15 Ministry.

16 If you don't have such a recollection,
17 then --

18 A. I have no specific recollection.

19 MS. LA HOREY: You need to remember
20 that you need to let Mr. Lisus finish his full
21 question --

22 THE WITNESS: Okay.

23 MS. LA HOREY: -- or my direction to
24 you before you answer --

25 THE WITNESS: Okay.

1 MS. LA HOREY: -- so it's clear on the
2 transcript.

3 THE WITNESS: Okay.

4 BY MR. LISUS:

5 99 Q. Now, I asked you about the
6 siteholder agreements a moment ago. You understand
7 what I mean by siteholder agreements?

8 A. Yes.

9 100 Q. What do you understand the
10 siteholder agreements to be?

11 A. I understand them to be the
12 agreements that -- you know, I believe they were
13 the agreements that existed between OLG and the
14 racetracks related to having slots at those tracks.

15 101 Q. Good, we're talking about the same
16 thing.

17 Now, I reviewed the record, and
18 according to my review of the record, in 2012 there
19 are reflected in the emails requests from you for a
20 copy of the 1998 Letter of Intent between the
21 Ontario Government and the horseracing industry and
22 other. Do you recall in 2012 asking to see a copy
23 of the June 1998 Letter of Intent?

24 MS. LA HOREY: If you've got an email,
25 why don't you put it to the witness.

1 MR. LISUS: I will when I come to it.

2 BY MR. LISUS:

3 102 Q. Let me ask you this. You've told
4 me you don't have a recollection of reviewing any
5 of the siteholder agreements. I presume you don't
6 have a recollection of reviewing the 1998 Letter of
7 Intent when you started at the Ministry in 2000?

8 MS. LA HOREY: And 10.

9 MR. LISUS: 2010, yes.

10 MS. LA HOREY: You said 2000.

11 THE WITNESS: I don't have a specific
12 recollection of that.

13 BY MR. LISUS:

14 103 Q. Okay. And I take it you also
15 don't have a recollection of reviewing the addendum
16 to the 1998 Letter of Intent which was signed in
17 2000; am I correct?

18 A. I do not have a recollection of
19 that.

20 104 Q. Okay. So, did you have a specific
21 task or mandate with respect to the Ontario Lottery
22 and Gaming Corporation in 2010?

23 A. I was an employee of the Ministry,
24 so I wouldn't -- I was not mandated by the OLG if
25 that's --

1 105 Q. No, I meant with respect --
2 perhaps I didn't say it.

3 Did you have a specific mandate from
4 the Ministry with respect to the Ontario Lottery
5 and Gaming Corporation in 2010?

6 A. I was the policy advisor
7 responsible for being the liaison between the OLG
8 and the Ministry.

9 106 Q. So you didn't have any particular
10 issue of policy that you were advising on in 2010;
11 is that fair?

12 A. I don't understand that question.

13 107 Q. Did you have a particular issue of
14 policy with respect to the Ontario Lottery and
15 Gaming Corporation that you were to advise the
16 Minister on in 2010?

17 A. I was responsible for policy at
18 the Ministry related to gaming, including the OLG.

19 108 Q. And were there any specific policy
20 issues that you were responsible for with respect
21 to Ontario Lottery and Gaming Corporation in 2010?

22 A. Specific policies related to the
23 OLG?

24 109 Q. Yes.

25 A. I would imagine I did. I can't

1 recall, you know, the specifics at that time but
2 yes, I would say yes, I would have been responsible
3 for policy, as I stated, yes.

4 110 Q. But I'm trying to understand,
5 Mr. Stransky, what your job entailed in 2010 with
6 respect to OLG. What were you doing?

7 MS. LA HOREY: He's answered the
8 question.

9 MR. LISUS: No, he hasn't.

10 MS. LA HOREY: Several times.

11 BY MR. LISUS:

12 111 Q. What policy issues were you
13 engaged on or advising about?

14 A. You know, as I've stated, it was
15 related to things such as the slots at tracks, it
16 was related to things like lottery, it was related
17 to things like casinos.

18 112 Q. What about the Slots at Racetrack
19 Program were you advising the Ministry on in 2010?

20 A. Sorry, what was I?

21 113 Q. What about the Slots at Racetrack
22 Program were you advising the Ministry on in 2010?

23 A. I can't recall the specific dates
24 of when I was advising what, but what I would say
25 is that I was -- I would have -- and I don't know

1 if this was in 2010, but I would have been advising
2 about the Slots at Racetrack Program in relation to
3 potential modernization and modernization efforts
4 that OLG was considering.

5 114 Q. What is your understanding --
6 excuse me. What was your understanding in 2010 as
7 to what the Slots at Racetrack Program was?

8 A. It was a program set up between
9 the OLG and various tracks that would -- and again,
10 forgive me because it's a number of years ago, so I
11 don't -- I don't know if I will give you a very
12 accurate definition given how much time has passed,
13 but it was a program that was set up to provide
14 money to purses that would be the basis of horses,
15 you know, and their owners who were looking to win
16 those purses at those tracks.

17 115 Q. How did it work? What is your
18 understanding of how the Slots at Racetrack Program
19 worked in 2010?

20 A. What my understanding was in 2010
21 or what my understanding is now?

22 116 Q. What your understanding was in
23 2010.

24 A. Well, after I started, I would
25 have --

1 117 Q. I don't want you to tell me what
2 you would have done. I just want you to tell me
3 what you understood about the Slots at Racetrack
4 Program in 2010.

5 A. That the -- my understanding was
6 that the tracks -- or, sorry, the slots at those
7 tracks were providing money for the purses that
8 were raced for at those tracks.

9 118 Q. How did they provide money for the
10 purses?

11 A. I can't recall the specifics of
12 how exactly that worked.

13 119 Q. And what happened to the money
14 that the slots generated?

15 A. From what I recall, part of those
16 -- part of that money was used for purses and part
17 would have been used as revenue for the OLG.

18 120 Q. And when you say part was used for
19 purses, do you have any understanding beyond that
20 as to how the money was used for purses?

21 A. From what I recall, there was
22 parimutuel, and I can't remember the exact name,
23 but there was a system set up such that money was
24 provided.

25 121 Q. To?

1 A. For the purses.

2 122 Q. And who shared in the money
3 generated from the slot machines at the racetracks?
4 Did you know who shared in the money in 2010?

5 If you don't know, sir, then just tell
6 me you don't know. It's not a trick question.

7 A. From what I recall, it was -- as
8 I've said, it was in part the government and in
9 part for the purses that were won by the horse
10 breeders.

11 123 Q. And was that the extent of your
12 understanding in 2010?

13 A. I can't recall more than that of
14 the details.

15 124 Q. Is that the extent of your
16 understanding today?

17 A. Yes, I would -- I would say so in
18 giving you an immediate answer, yeah.

19 125 Q. Did the OLG, to your knowledge, at
20 some point undertake a strategic business review of
21 its operations?

22 A. I recall there being a
23 modernization initiative.

24 126 Q. What is your understanding as to
25 when that initiative started?

1 A. I can't recall specific dates.

2 127 Q. I'm not asking you for a specific
3 date; I'm asking you for your understanding
4 generally as to when that review started.

5 A. I recall it started shortly after
6 -- I believe it started -- certainly my awareness
7 of it was after I started, but beyond that I can't
8 recall.

9 128 Q. What was the purpose of the review
10 that the OLG was undertaking?

11 A. Yeah, it was to -- it was
12 modernization that was, you know, an accurate name
13 for it in the sense that it was looking at how to
14 do things better as an organization that provides
15 significant revenue to the government.

16 129 Q. And when you say how it was
17 looking at how to do things better, what things was
18 it looking to do better, to your understanding in
19 2010?

20 A. I would go back to those sort of
21 business lines that I referenced earlier, so it was
22 looking at how to do things better when it came to
23 its lottery business, its gaming including casinos,
24 including the slots.

25 130 Q. Okay. Were you involved in any of

1 the deliberations or review that the OLG was
2 undertaking in order to, as you say, do things
3 better?

4 A. I was -- I was certainly aware of
5 it.

6 131 Q. But were you involved in any of
7 the review or analysis that the OLG was
8 undertaking?

9 A. I would have been exposed to it as
10 the liaison with the Ministry on the political
11 side.

12 132 Q. When you say "exposed to it," what
13 do you mean?

14 A. I was certainly aware of the
15 things that they were looking at from -- you know,
16 to what degree of detail I can't immediately say,
17 but in order to provide recommendations, and I'm
18 speaking in respect of the OLG, I was made aware at
19 certain points of things that they wanted to
20 improve in their modernization initiative.

21 133 Q. And were you made aware as a
22 result of having reviewed documents received from
23 OLG? Is that how you became aware?

24 A. In certain circumstances, yes.

25 134 Q. Let me just ask you a question.

1 Oh, never mind. You weren't, obviously, at the
2 Ministry in 2009, correct?

3 A. Correct.

4 135 Q. In the fall of 2011, November
5 2011, there were a series of meetings between OLG
6 representatives and Ministry representatives about
7 the modernization review. Do you recall that?
8 November 2011.

9 A. I can't specifically recall.

10 136 Q. Do you know Josh Cogan?

11 A. I know that name certainly.

12 137 Q. Do you recall attending meetings
13 at which Mr. Cogan was present at which the OLG's
14 recommendations regarding modernization were
15 discussed?

16 A. It's certainly possible.

17 138 Q. Mr. Stransky, I just want your
18 recollection; I don't want possible or not. If you
19 don't have a recollection, tell me you don't have a
20 recollection.

21 A. I have no specific recollection.

22 139 Q. Okay. And you don't have a
23 general recollection either?

24 A. I'm not sure how you define the
25 difference between the two of those, but --

1 140 Q. Well, the difference between the
2 two of them would be yes, I remember attending a
3 meeting with Mr. Cogan and Mr. Phillips, for
4 example, in November but I don't remember
5 everything they said. That's a general
6 recollection.

7 Do you have any such recollection?

8 A. I have no general recollection --

9 141 Q. Okay.

10 A. -- of that.

11 142 Q. All right. I want to make sure I
12 have your evidence correct. What month did you
13 start in 2010?

14 A. In June 2010.

15 143 Q. All right. And it's your
16 recollection that in June 2010 the strategic review
17 was underway at Ontario Lottery and Gaming
18 Corporation; is that fair?

19 A. I can't recall.

20 144 Q. Okay. I'm going to ask you to
21 look at an email which is CRE56625. I'm going to
22 put it on the screen there for you. Email dated,
23 it appears to be, July 26th, 2010.

24 Now, have you seen that letter -- have
25 you seen that email before? There is a letter

1 attached to it, which is CRE56626. It's version
2 6.5 of a draft letter.

3 MS. LA HOREY: Can you make it a little
4 bit bigger, and scroll down.

5 THE WITNESS: (Witness reads document).

6 MR. LISUS: Okay?

7 MS. LA HOREY: Is there another page?

8 THE WITNESS: (Witness reads document).

9 BY MR. LISUS:

10 145 Q. All right?

11 A. The date? Could you scroll to the
12 top of the email.

13 146 Q. The date is July 26th, okay?

14 A. Okay.

15 147 Q. So, do you recall that in July
16 2010 there was consideration of the extension of
17 these siteholder agreements that we've been talking
18 about or did talk about?

19 A. I have a general recollection of
20 an extension, but not much more than that.

21 148 Q. Okay. So you don't have a
22 recollection of this discussion or any discussion
23 around the extension, you were just being kept in
24 the loop; is that fair to say?

25 A. Sorry, could you give me --

1 149 Q. You don't have -- if it's easier,
2 here's a paper copy. You don't have a recollection
3 about the nature of the discussion that was ongoing
4 regarding the extension of the siteholder
5 agreements; is that fair?

6 A. I don't have a recollection of the
7 specific discussion, no.

8 150 Q. And is it fair to presume that you
9 were receiving this letter because you're sort of
10 being kept in the loop about the potential
11 extension of the siteholder agreements as a liaison
12 with the Minister of Finance?

13 A. I can see myself having been kept
14 in the loop on certain things. It looks quite
15 possible here based on what you provided me.

16 151 Q. That you were being kept in the
17 loop?

18 A. Correct.

19 152 Q. Okay. You weren't being asked to
20 opine or advise on the policy issues regarding the
21 extension of the siteholder agreements; fair?

22 A. I can't specifically recall what I
23 was being asked.

24 153 Q. As you sit here today, you can
25 tell me that you have no recollection at all of

1 being asked to opine or advise on the extension of
2 the siteholder agreements, correct?

3 A. Sorry, can you ask that again?

4 154 Q. Were you being asked to opine or
5 advise in 2010 on the extension of the siteholder
6 agreements for five years?

7 A. This would have been the month
8 after I started. I can't say whether or not I
9 would have advised. I don't recall specifically my
10 involvement at this point.

11 MR. LISUS: All right. Let's mark that
12 as the next exhibit.

13 MR. MATTHEWS: Exhibit 2, CRE56625 and
14 56626.

15 EXHIBIT NO. 2: Email and attached
16 letter, Bates numbered CRE56625 and
17 CRE56626.

18 BY MR. LISUS:

19 155 Q. I want you to look at the next
20 exhibit, which is an email sequence, CRE55923. It
21 might be quicker to do it with paper. Do you have
22 a view on that?

23 MS. LA HOREY: I don't care. Whatever
24 is easiest for the witness. Do you want to look at
25 here or on paper?

1 THE WITNESS: If we're going back and
2 forth between documents, it's easier on paper, but
3 if it's just one document, that would be fine.

4 BY MR. LISUS:

5 156 Q. That's an email attaching the
6 business plans for ORC and OLG, okay? It's an
7 email from you to Steen Hume. Do you see that?
8 Here are the attachments.

9 A. (Witness reads document).

10 157 Q. Okay?

11 A. (Witness reads document). Sorry,
12 yes, what's your question?

13 158 Q. With this email you were sent the
14 business plans for the ORC and OLG and I've given
15 you the business plans that are attached to that
16 email and that were attached to that email, right?
17 Do you see that?

18 A. I see that, yes.

19 159 Q. Do you recall receiving the
20 business plans for ORC and OLG in July 2010?

21 A. Specifically no, I don't recall.

22 160 Q. Do you recall why you were asking
23 for the business plans of ORC and OLG in 2010?

24 A. Specifically I can't recall.

25 161 Q. Okay. And then you go on in your

1 email to say, you'll see at the bottom:

2 "Also when you have a moment
3 can we talk AGCO and bingo."

4 Can you explain what that means, "can
5 we talk AGCO and bingo"?

6 A. From what I recall, AGCO was
7 responsible for or had a role to play in working or
8 overseeing the OLG when it came to gaming, and so,
9 we were certainly mindful of that relationship
10 between AGCO and OLG, making sure that things were
11 running well there and that we were in compliance.

12 And bingo was also, I now recall, was
13 another issue similar to lottery or I guess as part
14 of gaming.

15 162 Q. And did you read the business plan
16 and financial projections for OLG 2012 to 2014?

17 A. I can't specifically recall,
18 though, as I said earlier, things like annual
19 reports or business plans and so on would have been
20 something that I can see myself wanting to use to
21 inform. I can't specifically recall.

22 163 Q. Okay. Were you aware of -- did
23 you review the ORC business plan?

24 A. I can't specifically recall.

25 164 Q. Were you aware, Mr. Stransky, in

1 2010 of any controversy within the Ministry about
2 the revenue sharing arrangement in place between
3 the OLG, racetracks, horseracing industry?

4 A. In 2010, I would have been aware
5 of --

6 165 Q. Just I want to stop you there.
7 You keep saying "would have been."

8 A. Yeah.

9 166 Q. So the purpose today here,
10 Mr. Stransky, is to get your recollection.

11 A. Right.

12 167 Q. If I want to know what you might
13 have or think would have happened, I'll ask you
14 that.

15 A. Okay.

16 168 Q. But unless I ask that kind of
17 question, I'm asking for your recollection, so I
18 don't want to know what you think would have
19 happened unless I'm asking you that, so I'm going
20 to give you the question again, okay?

21 A. Okay.

22 169 Q. Do you recall whether or not in
23 2010 you were aware of any controversy regarding
24 the revenue sharing arrangement in place between
25 the government and the horseracing industry and

1 racetrack operators?

2 A. I can't specifically recall the
3 timing of any controversy, but I certainly remember
4 there being discussions related to what that
5 relationship -- or what the revenue was -- the
6 revenue sharing that was taking place.

7 Beyond that, it's hard for me to say
8 and kind of provide detail about that.

9 170 Q. Okay. Did you subsequently become
10 aware of controversy within the government
11 surrounding the continuation of the revenue sharing
12 arrangement in place between the government,
13 racetrack operators and the horseracing industry?

14 A. Could you elaborate on
15 controversy, I guess is the question I have.

16 171 Q. Well, did you become aware of a
17 desire on the part of government to change the
18 revenue sharing arrangement that was in effect
19 between the government, the horseracing industry,
20 and the racetrack operators?

21 A. I would say certainly.

22 172 Q. And when did you become aware of
23 that?

24 A. That I can't say specifically.

25 173 Q. Do you believe it was in 2011?

1 A. I can't say specifically when.

2 174 Q. And what was your understanding of
3 the nature of the issue?

4 A. As part of modernization and a
5 look at the OLG from a policy and, frankly, from a
6 fiscal standpoint, there was a great deal of
7 discussion that I can recall, specifically when --
8 I'm not sure, but certainly during my time at the
9 Ministry, about how we generate revenue and what
10 that revenue is used for.

11 175 Q. And "how we generate revenue," who
12 are you referring to when you say "we"?

13 A. The government and its agencies.

14 176 Q. The government business
15 enterprises?

16 A. Yes.

17 MR. LISUS: I'm going to mark that
18 email and the two business plans as the next
19 exhibit.

20 MR. MATTHEWS: That's CRE55923 together
21 with CRE55927 and CRE55929, Exhibit 3. Excuse me,
22 there is also CRE55928 as well.

23 EXHIBIT NO. 3: Email and business
24 plans, Bates numbered CRE55923,
25 CRE55927, CRE55928 and CRE55929.

1 BY MR. LISUS:

2 177 Q. Now, I think you told me that you
3 became aware that OLG was undertaking a land-based
4 gaming review as part of its strategic business
5 review?

6 MS. LA HOREY: That wasn't -- he didn't
7 talk about that.

8 BY MR. LISUS:

9 178 Q. Did you become aware at some point
10 that OLG was undertaking a strategic business
11 review?

12 A. If you're referring to the
13 modernization during my time at Finance, certainly
14 I was aware of its modernization.

15 179 Q. I understood your earlier answer
16 to me to be that you understood that review or
17 modernization was undertaken to determine ways in
18 which OLG could do better or could improve the
19 performance of its various business lines; is that
20 fair?

21 A. Correct, yeah. It was looking at
22 its revenue generation and how to do it better.

23 -- REPORTER'S NOTE: Ms. Machado joins.

24 180 Q. Okay. You understood in 2010, '11
25 and '12 that the Ontario Racing Commission was the

1 regulator responsible for supervising racing in
2 Ontario?

3 A. Yes.

4 181 Q. And you spoke with Mr. Seiling on
5 a number of occasions in his capacity as chair of
6 the Ontario Racing Commission?

7 A. Yes.

8 182 Q. Now, I want to ask you --

9 MS. LA HOREY: Sorry, can we take a
10 short break? I'm going to fill up Mr. Stransky's
11 water glass.

12 -- OFF THE RECORD --

13 BY MR. LISUS:

14 183 Q. You see the email there, it's from
15 Ms. Aguzzi, I think it's a Ms., I don't know,
16 A-G-U-Z-Z-I, to you?

17 A. Yes, I see this.

18 184 Q. And Alex, is it a Mr. or a Ms.?

19 A. Ms.

20 185 Q. Ms. Aguzzi is attaching signed
21 letters from OLG to various racetracks. Two
22 examples are given to you, right? Do you see them
23 there?

24 A. Yes, I see the letters. I see one
25 letter, yes.

1 186 Q. Do you want them in paper?

2 A. I don't need them in paper right
3 now, that's fine.

4 MS. LA HOREY: Why don't we get them in
5 paper just because I note it's a three-page
6 document. You can ask questions better.

7 MR. ROSENBERG: Could we just have the
8 document number, please?

9 MR. LISUS: 28370.

10 MR. ROSENBERG: Thank you.

11 THE WITNESS: (Witness reads document).

12 BY MR. LISUS:

13 187 Q. Okay? Do you have a recollection
14 of receiving copies of these executed letters?

15 A. I do not.

16 188 Q. Now, in the letter, Mr. Godfrey
17 refers, for instance on paragraph 3 of page 1, to
18 an information gap that had developed over the
19 years. Do you see that?

20 A. I do.

21 189 Q. And do you know what Mr. Godfrey
22 was referring to?

23 A. I can't recall specifically.

24 190 Q. Do you recall anything in general?

25 A. Just from what I'm reading here.

1 191 Q. So you don't have any recollection
2 of the issue of an information gap?

3 A. I honestly can't recall --

4 192 Q. Okay.

5 A. -- the specifics.

6 193 Q. All right. You --

7 A. Or, frankly, in general, if that's
8 what you're... Yeah, yeah.

9 194 Q. Thank you. And if you look at
10 Appendix A of the letter, there is a reference to -
11 are you with me, Appendix A of the letter - a
12 reference to live horseracing benchmarks, and I
13 presume, as with the information gap, you don't
14 have any recollection about what the issue was
15 regarding live horseracing benchmarks in 2010; is
16 that correct?

17 Mr. Stransky, do you want the question
18 again?

19 A. Sure.

20 195 Q. I presume that you don't have a
21 recollection of what the issue was with regard to
22 live horseracing benchmarks in 2010?

23 A. I do not have a recollection.

24 196 Q. That's fine, thank you. So the
25 next exhibit.

1 MR. MATTHEWS: Exhibit 4, CRE28369 and
2 its attachments, 28370 and 28371.

3 EXHIBIT NO. 4: Email and attachments,
4 Bates numbered CRE28369, CRE28370 and
5 CRE28371.

6 BY MR. LISUS:

7 197 Q. I want to show you another email
8 with a document attached to it, Mr. Stransky. It's
9 an email from Steen Hume. Do you know who Steen
10 Hume is?

11 A. Certainly. He was -- I can't
12 remember his specific title but he would have been
13 a director of gaming policy when I was -- at least
14 for part of my time.

15 198 Q. On the political side or the
16 bureaucrat side?

17 A. He was bureaucrat. He was on the
18 Ministry side.

19 199 Q. And document number 17331 with an
20 attached deck is sent from Mr. Hume to you on the
21 27th of August 2010. And it's ORC Race Dates
22 Consultation Deck. Do you see that?

23 A. I see the attachment on the email.

24 200 Q. Now, do you recall, sir, that in
25 2009 the ORC had imposed a moratorium on the

1 reduction in race dates?

2 A. I do have some recollection of the
3 notion of the moratorium.

4 201 Q. But do you have any recollection
5 as to why a moratorium was imposed and what it was
6 imposed on?

7 A. I started in 2010, so I certainly
8 don't have a recollection in 2009 of the specifics
9 of why.

10 202 Q. Do you have any --

11 A. But I -- sorry, go on.

12 203 Q. Do you have any recollection today
13 of why the moratorium was imposed and what its
14 purpose was?

15 If you don't, that's fine, sir. I just
16 want to know if you do or you don't, and if you do,
17 what it is.

18 A. Not the specifics.

19 204 Q. Okay. Do you have any
20 recollection today, sir? The reason I say that is
21 because you have a habit of saying no specific
22 recollection or not the specifics, which invites me
23 to ask you do you have a recollection of any
24 generalities or general issues.

25 A. I don't.

1 205 Q. Okay. The email says:

2 "We are briefing Steve O on
3 Monday using the attached."

4 Do you see that?

5 A. I do.

6 206 Q. And who do you understand Steve O
7 to be?

8 A. My assumption is it would have
9 been Steve Orsini.

10 207 Q. Did you ever have any direct
11 communication with Steve Orsini regarding the Slots
12 at Racetrack Program in 2010, '11 or '12?

13 A. I do recall him certainly being
14 involved, yes.

15 208 Q. My question was a little
16 different. Did you have any direct communications
17 or interactions with Mr. Orsini?

18 A. Yes, I did.

19 209 Q. When was that?

20 A. Specifically I can't recall.

21 210 Q. Was it after the decision to
22 terminate the revenue sharing was made or before?

23 A. The revenue sharing, meaning the
24 Slots at Racetracks Program?

25 211 Q. Yes.

1 A. Both before and after.

2 212 Q. What was his role, Mr. Orsini's
3 role, in 2010 and '11 and '12?

4 A. I can't recall if his role changed
5 during that time, but he, I believe, was the either
6 Assistant or Associate Deputy Minister.

7 213 Q. Of?

8 A. At the Ministry of Finance.

9 214 Q. Okay.

10 A. One of the ADMs.

11 215 Q. My understanding is he was a
12 Deputy Minister. Is that --

13 A. He certainly went on to become
14 Deputy Minister. The specific timing I can't
15 recall.

16 216 Q. Was he in your reporting structure
17 or no? Was it just you to Shortill?

18 A. It was just me to Shortill.

19 217 Q. All right. And Steen Hume was a
20 bureaucrat; is that correct?

21 A. Correct.

22 218 Q. Can you just explain to me that
23 divide or the distinction between the political
24 side and the bureaucratic side as you understand
25 it?

1 A. Certainly. So, the Minister is
2 obviously elected -- an elected official. He is
3 responsible for the Ministry, but would have a
4 staff on the political side that would advise him
5 and are directly --

6 219 Q. On political issues?

7 A. On political issues, correct.

8 220 Q. And that is the staff that you
9 were a member of?

10 A. That's correct.

11 221 Q. Okay.

12 A. And then on the Ministry side,
13 there would be permanent public servants who are --
14 do not serve at the pleasure of a democratic
15 outcome like an election.

16 222 Q. And is it accurate to refer to
17 those folks as bureaucrats?

18 A. Yes.

19 223 Q. And Kathryn Royal, bureaucrat or
20 political?

21 A. I can't actually recall. I
22 believe she was a bureaucrat.

23 224 Q. And Brad Partington,
24 P-A-R-T-I-N-G-T-O-N?

25 A. He was a bureaucrat.

1 225 Q. Now, why were you receiving this
2 deck from the Gaming Policy Branch in August 2010?

3 A. I can't specifically recall apart
4 from the fact that the ORC was one of the
5 organizations that I was a liaison for the
6 Minister's office.

7 MR. LISUS: It's 11:30. Do you want to
8 take a brief break? Five minutes okay?

9 MS. LA HOREY: How about 10?

10 MR. LISUS: Sure. And I'm going to
11 suggest that you read through that deck because I'm
12 going to ask you some questions about it when we
13 come back.

14 MS. LA HOREY: You can take a break
15 though. You can read it when you come back.

16 -- RECESS AT 11:29 --

17 -- UPON RESUMING AT 11:38 --

18 BY MR. LISUS:

19 226 Q. Do you recall receiving this deck
20 in 2010?

21 A. I don't recall receiving it, no.

22 227 Q. What was the issue with the
23 Ontario Racing Commission's race dates consultation
24 that you were advising on?

25 A. So I've looked a little bit at

1 this deck since we brokeed, and what I can say is
2 really related to what the content of the deck is.

3 228 Q. You don't have any recollection
4 beyond reading the content of the deck; is that
5 fair?

6 A. I would say so, yes.

7 MR. LISUS: Fair enough. And I want to
8 mark that email and the deck attached to it as the
9 next exhibit in sequence, the email is 17331 and
10 the deck is 17332.

11 MR. MATTHEWS: That's Exhibit 5.

12 EXHIBIT NO. 5: Email and attached ORC
13 Race Dates Consultation Deck, Bates
14 numbered 17331 and 17332.

15 BY MR. LISUS:

16 229 Q. Before I continue, Mr. Stransky,
17 other than you was there anyone else on the
18 political side giving advice to the Minister with
19 respect to OLGC and the Slots at Racetrack Program
20 in 2010, '11 and '12?

21 A. Yes.

22 230 Q. Mr. Shortill was the other person?

23 A. He would have been.

24 231 Q. Okay. So you and Mr. Shortill
25 were giving Mr. Duncan policy advice with respect

1 to decisions to be made about the Slots at
2 Racetrack Program; is that fair?

3 A. That is fair.

4 232 Q. All right. And I'm going to ask
5 you to look, please, at document CRE8996 and 8997,
6 and they are an email from Steen, S-T-E-E-N, Hume
7 to you, attaching a shorter presentation of the
8 deck that we just looked at. Okay?

9 A. I see the email.

10 233 Q. And I just want to understand some
11 of the language here in the email. It says:

12 "Hi Blair: Sorry we missed
13 each other today. Attached is a
14 shorter presentation for the MIN."

15 In caps. Is that a reference to the
16 Minister, M-I-N?

17 A. I would think so.

18 234 Q. And let me understand what's going
19 on here, Mr. Stransky. Were you and Mr. Shortill
20 going to make a presentation to the Minister, or
21 were the bureaucrats going to be making a
22 presentation to the Minister and you were simply
23 being kept in the loop so that his political aides
24 were aware of the information that was being
25 presented to him?

1 A. I can't recall how this may have
2 been presented to the Minister.

3 235 Q. Did you present it to the
4 Minister?

5 A. I can't recall.

6 236 Q. Well, I presume you would recall
7 making a presentation of this scope to the Minister
8 a few months into your employment?

9 A. No, I can't recall.

10 237 Q. I'm saying to you is that the kind
11 of thing that you think you would recall if it
12 occurred?

13 A. Certainly I presented or had
14 conversations with the Minister. I can't recall if
15 this would have been something I would have taken
16 him through, or it was by the bureaucratic side.

17 238 Q. So as you sit here today, you
18 don't have any recollection of making a
19 presentation to the Minister in 2010 about the race
20 date consultation results; fair?

21 MS. LA HOREY: He said he doesn't
22 recall. He said it more than once.

23 BY MR. LISUS:

24 239 Q. You have no recollection of that
25 occurring; is that fair?

1 R/F MS. LA HOREY: You don't need to answer
2 the same question three times. It's a refusal.

3 MR. LISUS: I don't think he did say it
4 clearly, Ms. La Horey.

5 MS. LA HOREY: He did. He said he
6 couldn't recall. Next question.

7 MR. LISUS: So I'm going to mark this
8 email and the appendix as the next exhibit,
9 Mr. Stransky.

10 MR. MATTHEWS: Exhibit 6, CRE8996 and
11 its attachment 8997.

12 EXHIBIT NO. 6: Email and attachment,
13 Bates numbered CRE8996 and CRE8997.

14 BY MR. LISUS:

15 240 Q. I'm going to ask you to look at
16 another email attaching what appears to be some
17 questions and answers about the contents of the
18 deck dated September the 9th, 2010 from Mr. Lehman,
19 L-E-H-M-A-N, to you. Do you see that?

20 A. I do.

21 241 Q. And Mr. Lehman is from the Ontario
22 Racing Commission?

23 A. That's what I recall.

24 242 Q. And he's given you a deck about
25 revised model for racing?

1 A. That's what I'm seeing here, yes.

2 243 Q. But you don't have a recollection
3 of the discussion or the issue; fair?

4 A. Again, I would say I remember the
5 subject matter.

6 244 Q. What do you remember about the
7 subject matter?

8 A. Just what I'm seeing here in the
9 deck, similar to what you provided me in the -- not
10 the previous one, I guess the deck before that.

11 245 Q. You don't have any independent
12 recollection of the subject matter other than what
13 you're reading in the deck; fair?

14 MS. LA HOREY: You can look through the
15 document that you've got before answering.

16 THE WITNESS: (Witness reads document).
17 Again, I recall the subject matter but specifically
18 I don't recall the meeting.

19 BY MR. LISUS:

20 246 Q. What do you recall about the
21 subject matter?

22 A. Just the general subject matter of
23 what was being discussed as is shown here.

24 247 Q. Well, what do you understand the
25 subject matter to be as it was being discussed?

1 A. That the ORC was, you know, as it
2 says here, providing a model for horseracing.

3 248 Q. For what purpose was the model?
4 What was the purpose of the model the ORC was
5 providing?

6 A. From what I recall, it was related
7 to the support that was being provided by OLG and
8 their slots to horseracing in the province.

9 249 Q. And what about the support that
10 was being provided by OLG and the slots to
11 horseracing in the province?

12 A. That -- I can't recall much more
13 than that. Again, I'm looking at the deck here.

14 250 Q. So, I can read the deck,
15 Mr. Stransky. I'm trying to get your recollection.
16 If you have one, give it to me; if you don't have
17 one, just tell me you don't.

18 A. I don't have specific
19 recollection.

20 251 Q. Do you have a recollection beyond
21 that which you have told me?

22 A. Of, sorry, of this deck or...?

23 252 Q. Of this deck and the contents of
24 it and what the Ontario racing program was designed
25 to do or trying to do?

1 A. My recollection of what the racing
2 program and what is being presented here
3 essentially was that we were trying to find --

4 253 Q. "We" or the ORC?

5 A. I say "we" as sort of the
6 government in general. Of course including the
7 ORC.

8 254 Q. Yes.

9 A. To find a balance between race
10 dates and revenue for purses. But again, I'm
11 spotty on this and so I'm mindful of giving --
12 telling you what my recollection is because it is
13 very spotty.

14 MR. LISUS: Okay, that's the next
15 exhibit.

16 MR. MATTHEWS: Exhibit 7, CRE320557,
17 CRE320558, CRE320559.

18 EXHIBIT NO. 7: Email and attachments,
19 Bates numbered CRE320557, CRE320558 and
20 CRE320559.

21 BY MR. LISUS:

22 255 Q. So, we've now seen you received
23 that deck a few times, more than once, correct? In
24 draft form as it evolved.

25 A. I am assuming, yes, if there's a

1 deck -- sorry, I don't have them back in front of
2 me again, but I am assuming you're referring to
3 what you just showed me.

4 256 Q. Was one of your purposes as a
5 policy advisor to review the key messages that were
6 going to be given to the horseracing industry with
7 respect to the racing program?

8 A. I would have had input on that,
9 yes.

10 257 Q. One of the key messages was that:
11 "The government is supportive
12 of a Standardbred racing industry
13 that reflects strong wagering
14 numbers, offers a quality race and
15 horse product, and works
16 collaboratively to sustain the
17 industry into the future."

18 That was a key message, right?

19 MS. LA HOREY: Sorry, you're reading
20 from a document, counsel. Is the document on the
21 screen? It doesn't appear to be. What document is
22 it?

23 BY MR. LISUS:

24 258 Q. Let's have a look at CRE57323,
25 draft key message, page 11 of the deck.

1 MS. LA HOREY: Okay. Just for the
2 record, I guess it's attached to an email
3 CRE0057322.

4 MR. LISUS: Right. I thought we had
5 marked it but before I forget why don't we mark the
6 email and the deck.

7 BY MR. LISUS:

8 259 Q. So, if you look at page 11 of the
9 deck, do you see the draft key message?

10 A. I see a deck that's titled "Draft
11 Key Messages," yes.

12 260 Q. Do you recall one of the key
13 messages being that:

14 "The government is supportive
15 of a Standardbred racing industry
16 that reflects strong wagering
17 numbers, offers a quality race and
18 horse product, and works
19 collaboratively to sustain the
20 industry into the future."

21 Do you recall that being a key message?

22 A. I honestly don't recall --

23 261 Q. Okay.

24 A. -- the specific key messages.

25 MR. LISUS: Thank you. Next exhibit,

1 please.

2 MR. MATTHEWS: Exhibit 8, CRE57322, and
3 its attachment 57323.

4 EXHIBIT NO. 8: Email and attachment,
5 Bates numbered CRE57322 and CRE57323.

6 BY MR. LISUS:

7 262 Q. Do you recall, sir, the issue of
8 coordinated horse supply management being a key
9 feature of the Ontario racing program proposed by
10 the ORC?

11 A. I remember the issue of horse
12 supply.

13 263 Q. And you understand the issue of
14 horse supply to refer to the breeding of horses,
15 right?

16 A. Correct.

17 264 Q. Do you know what the breeding
18 cycle of a Standardbred horse is?

19 A. I can't recall the specifics.

20 265 Q. Can you recall anything about what
21 the breeding cycle of a Standardbred horse is?

22 A. That it was -- from what I recall,
23 it was -- it took time, like, that it was -- but I
24 can't remember how long.

25 266 Q. And that's the extent of your

1 recollection?

2 A. I can't remember the details of
3 the breeding cycle.

4 267 Q. Have you given me the extent of
5 your recollection about the breeding cycle of the
6 Standardbred horse? It's yes or no. Have you
7 given me the extent of your recollection?

8 A. Yes.

9 268 Q. Okay.

10 A. Yeah.

11 269 Q. In 2010, the fall of 2010, what
12 was your understanding as to how the Standardbred
13 horseracing industry in Ontario was sustained?

14 A. In the fall of 2010?

15 270 Q. Yeah.

16 A. How it was sustained?

17 271 Q. Yeah.

18 A. The horse -- Standardbred horse
19 industry?

20 272 Q. Yes.

21 A. My recollection was that it was
22 certainly dependent on revenue from purses and
23 those purses in part was reliant on slot money,
24 slot revenue.

25 273 Q. And you understood that in 2010,

1 you understood that in 2011, you understood that in
2 2012, right?

3 A. I understood the relationship,
4 certainly.

5 274 Q. And so you -- and I presume
6 Mr. Shortill understood that the Standardbred
7 horseracing industry also relied on revenue from
8 the Slots at Racetrack Program to be sustained?
9 Mr. Shortill, your boss, understood that?

10 A. You would have to ask him. I'm
11 not sure how -- I'm not going to answer for him.

12 275 Q. Did you advise the Minister at any
13 point in the course of your duties as his policy
14 advisor that the Standardbred horseracing industry
15 was sustained by revenue from the Slots at
16 Racetrack Program?

17 A. We would have discussed it I'm
18 sure.

19 276 Q. Right. And as you have explained
20 to me that you understood that, you would have made
21 sure that you communicated that understanding to
22 him as well, right?

23 A. I don't have a specific
24 recollection of conversations, but I think it was
25 generally understood at the time.

1 277 Q. And it was understood before the
2 decision to terminate the revenue sharing from
3 Slots at Racetrack Program was made, right?

4 A. There would have been
5 understanding of that relationship.

6 278 Q. Yes.

7 A. Yes, that's right.

8 279 Q. Did you also understand that the
9 racetracks in Ontario depended on the revenue that
10 they received from Slots at Racetrack Program to
11 maintain live racing?

12 MS. LA HOREY: When are you asking
13 about his understanding?

14 BY MR. LISUS:

15 280 Q. 2010.

16 A. Sorry, could you repeat the
17 question?

18 281 Q. Sure. In 2010 did you understand
19 that the racetracks in Ontario depended upon the
20 revenue from Slots at Racetrack Program to maintain
21 live racing?

22 A. In 2010, I can't recall the
23 specifics but in general that there was a
24 relationship between the slots and the maintenance
25 of live racing.

1 282 Q. You used the word "relationship,"
2 did you?

3 A. Yes, I did.

4 283 Q. And the relationship that you
5 understood was that the racetracks wouldn't be able
6 to continue to offer live racing without the slots
7 -- without the revenue from the slot machines at
8 the racetracks, right?

9 A. I wouldn't say that. I think
10 that's a fairly strong statement. I wouldn't want
11 to generalize. It would have -- from what I
12 recall, would have been dependent on, I suspect,
13 the -- in each of the individual tracks.

14 284 Q. Did you know?

15 A. I'm sorry?

16 285 Q. Did you know in 2010 whether or
17 not the racetracks would be able to continue to
18 have live racing without the revenue from the slot
19 machines? Did you know?

20 A. Could I have foreseen?

21 286 Q. No, in 2010 did you know whether
22 or not racetracks could continue to hold live
23 racing without the revenue from slot machines?

24 A. I can't recall specifically.

25 287 Q. Did you know in 2011 whether the

1 racetracks in Ontario could continue to offer live
2 racing without the revenue from slot machines?

3 A. Again, I can't recall.

4 288 Q. Did you know in 2012, before March
5 12, 2012, whether the racetracks in Ontario could
6 continue to offer live racing without the revenue
7 from the slot machines?

8 A. I can't recall.

9 289 Q. Did anyone on the policy side of
10 the Ministry of Finance in 2010 investigate whether
11 or not the racetracks in Ontario could continue to
12 offer live horseracing without the revenue from
13 slot machines?

14 A. It would have been something --

15 290 Q. Just tell me if you know, not
16 would have. Do you know whether or not that was
17 investigated?

18 A. From what I recall, it would have
19 been, or it was.

20 291 Q. By who?

21 A. The Gaming Policy Branch.

22 292 Q. That's not on the political side,
23 right?

24 A. Correct, that's on the Ministry
25 side.

1 293 Q. You weren't involved on the
2 Ministry side?

3 A. I was not part of the Ministry,
4 the bureaucracy.

5 294 Q. But your understanding, sir, and I
6 want to be clear, even though you were not
7 involved, is that in 2010 the Gaming Policy Branch
8 did investigate whether or not racetracks in
9 Ontario could continue to offer live horseracing
10 without revenue from slot machines?

11 A. That's my understanding, and to
12 what degree I can't say.

13 295 Q. And is it your understanding that
14 the Gaming Policy Branch investigated whether or
15 not racetracks in Ontario could continue to offer
16 live racing in 2011 without revenue from slot
17 machines?

18 A. Again, yes, I mean, it's my
19 understanding that they would have investigated.

20 296 Q. And the same question for 2012
21 prior to March 12, 2012, you understand yes, it was
22 investigated?

23 A. Correct.

24 297 Q. And who did the investigation?

25 A. I can't recall specifically, but I

1 know that there was ongoing conversations at the
2 time between the Gaming Policy Branch, the ORC, the
3 OLG and, frankly, the industry and the
4 stakeholders.

5 298 Q. I see. And so you believed as a
6 result of ongoing consultations in 2010, 2011 and
7 2012 between the Gaming Policy Branch on the one
8 hand and the ORC, racetracks and the industry on
9 the other, that it was understood that racetracks
10 in Ontario could continue to offer live horseracing
11 without revenue from slot machines?

12 MS. LA HOREY: That's not what he said.

13 BY MR. LISUS:

14 299 Q. That's what I'm asking.

15 A. Yeah, I would say that is not what
16 I said.

17 300 Q. Okay. So who did this
18 investigation and how was it done, to your
19 understanding?

20 A. I can't speak to the ins or outs
21 or, frankly, recall --

22 301 Q. Can you tell me anything?

23 MS. LA HOREY: Sorry, you need to let
24 Mr. Lisus finish, and similarly, Mr. Lisus, I think
25 in your excitement to ask questions of this

1 witness, you're interrupting the witness.

2 Gentlemen, on behalf of Ms. Neeson...

3 BY MR. LISUS:

4 302 Q. Can you tell me, sir, anything
5 about the investigations that were made, who made
6 them, who was involved, what they revealed? If you
7 can't, tell me you can't and I'll ask someone else.

8 Do you have any knowledge or
9 information?

10 A. I would say, based on what you've
11 shown me today, I've seen evidence of the fact that
12 there was an understanding of the relationship and
13 investigations being done. I use your word
14 "investigations." I would probably call it looking
15 into and understand -- trying to understand.

16 303 Q. And what is it that I showed you
17 today that leads you to believe that that
18 investigation or analysis was done?

19 A. Just very quickly looking through
20 the contents of these decks, that there was -- that
21 there was -- that there was insight in the Gaming
22 Policy Branch as well as from the ORC.

23 304 Q. So looking at the contents of
24 those decks, you believe that the Gaming Policy
25 Branch had satisfied itself that the racetracks in

1 Ontario could continue to offer live horseracing
2 without revenue from slots at the racetrack?

3 A. No, I would not say that. I would
4 not say that the decks are full evidence of the
5 fact, but sorry, if you'd like to repeat yourself
6 again, I --

7 305 Q. No, I understood you to say that
8 looking at the documents I showed you today, you
9 understand that the Gaming Policy Branch had
10 undertaken an analysis or investigation as to
11 whether or not racetracks in Ontario could continue
12 to offer live horseracing without revenue from slot
13 machines?

14 A. So, I'm not -- I'm not going to go
15 that far, but there is clearly analysis, I would
16 say, in the decks.

17 306 Q. And show me the analysis. Let's
18 pull up the deck and you show me the analysis that
19 you believe demonstrates that Gaming Policy Branch
20 satisfied itself -- let me finish the question --
21 that racetracks in Ontario would be able to
22 continue to offer live horseracing without revenue
23 from slot machines?

24 MS. LA HOREY: Okay, Mr. Lisus, the
25 witness never said that. He said that there was

1 analysis undertaken. You're assuming -- you're
2 importing into his answer a conclusion and he
3 didn't -- he didn't comment one way or another what
4 conclusion there was. He just said that there was
5 an analysis and investigation of the issues. So
6 don't misstate his evidence.

7 MR. LISUS: I don't believe I have.
8 Fortunately we have a record.

9 BY MR. LISUS:

10 307 Q. So I want you to show me where
11 there is an analysis of that issue, Mr. Stransky.
12 You'll find the various decks in those exhibits.
13 And for the record, I'm having you look at Exhibits
14 5, 6, 7 and 8.

15 A. So, I'm seeing in Exhibit 5 --

16 308 Q. Yes.

17 A. -- even within the context the
18 notion that there was an understanding of that
19 relationship. I would not say in this exhibit or,
20 frankly, in the others that they were satisfied. I
21 think to say --

22 309 Q. Mr. Stransky --

23 MS. LA HOREY: No, let him finish.

24 BY MR. LISUS:

25 310 Q. -- just give me the words which

1 you say are the analysis of that issue, please?

2 MS. LA HOREY: Let him finish his
3 statement. Let him finish his sentence.

4 THE WITNESS: So I was simply going to
5 say that -- to say that the Policy Branch was
6 satisfied is a stretch to me, based on just these
7 decks, but what I would say is that certainly these
8 decks spoke to the relationship, and the fact, and
9 if I can maybe say this, that analysis had been
10 done, because as it's outlined in the slides,
11 there's clearly an understanding of the
12 relationship between the racing industry and the
13 SARP.

14 BY MR. LISUS:

15 311 Q. I want you to show me what
16 language in those decks you say reflects an
17 analysis of whether or not racetracks in Ontario
18 could continue to offer live racing without revenue
19 from slot machines.

20 Just the language. What words do you
21 see that reflect that analysis?

22 A. I think maybe we -- and I
23 apologize if I've confused the difference between
24 relationship and -- sorry, your words were a direct
25 connection or --

1 312 Q. Mr. Stransky, what I want you to
2 do is show me what language in those decks reflect
3 an analysis, any analysis, of whether the
4 racetracks in Ontario would be able to continue to
5 offer live horseracing without slots, without
6 revenue from the Slots at Racetrack Program.

7 Just show me the language reflecting
8 that analysis of that issue.

9 I don't see it anywhere in there, so if
10 you see something --

11 MS. LA HOREY: Mr. Lisus, he's looking
12 through the decks. He will look through the decks
13 and then he will respond to your question.

14 THE WITNESS: So, I'll give you an
15 example here. On slide 11 within Exhibit 5 there's
16 examples of -- not examples, but a breakdown of the
17 purse structure at the different tracks, and my
18 understanding and my recollection in looking at a
19 slide like this is that there was revenue that
20 flowed from people betting and there was revenue
21 that flowed from the slots program.

22 Again, this is based on my
23 recollection.

24 And so I can't speak to the ins and
25 outs of that, of any in-depth analysis, but that

1 purses did -- or people's bets on these races were
2 part of the formula in determining what the purses
3 were.

4 So, you know, I can't recall how much
5 came from the betting versus how much came from the
6 slots, but what I can tell you is this is helping
7 me recall that there was a relationship there.

8 BY MR. LISUS:

9 313 Q. So, you're referring to the table
10 on page 11 of Exhibit?

11 A. Exhibit 5.

12 314 Q. And is that it?

13 MS. LA HOREY: Just take a minute,
14 finish going through. If there's anything else,
15 you can point counsel to it. If there's not, then
16 say so. You don't have to hurry.

17 THE WITNESS: Sure.

18 MS. LA HOREY: Just read it.

19 THE WITNESS: I would say that is the
20 example I would give.

21 BY MR. LISUS:

22 315 Q. All right, thank you. Now, I want
23 to ask you to look at an email in September 2010,
24 CRE75818, enclosing a news release. It starts with
25 you at the bottom:

1 "Hi all,

2 As discussed, here is the latest
3 draft with our comments and
4 revisions."

5 Do you see that?

6 A. I do.

7 316 Q. And do you see the news release?

8 A. I see the news release.

9 317 Q. So did you draft this news
10 release; is that what I'm to take from this? Or is
11 it a draft from ORC that you have commented on?

12 A. I can't recall.

13 318 Q. One or the other?

14 A. I can't recall.

15 319 Q. Okay. But there's no doubt you
16 sent that email and that news release that you're
17 talking about, right?

18 A. That's what it looks like, yes.

19 320 Q. And were you working with or were
20 you liaising with Mr. Seiling at this time?

21 A. I believe so.

22 321 Q. And you approved the content of
23 the press release, obviously?

24 A. I can't recall.

25 322 Q. Well, it says right here:

1 "Hi all,

2 As discussed, here's the latest
3 draft with our comments and
4 revisions."

5 And if you follow the sequence up, it
6 says:

7 "Per Rod's voice mail to Blair,
8 and John Blakney's to Steen... here
9 is the version to be released at 12
10 noon tomorrow."

11 And you're copied on that email. See
12 that?

13 Are you with me, Mr. Stransky?

14 MS. LA HOREY: He's reading the
15 document.

16 THE WITNESS: (Witness reads document).

17 BY MR. LISUS:

18 323 Q. Mr. Stransky, this is a very
19 simple sequence. I'm not sure what the difficulty
20 is.

21 MS. LA HOREY: Mr. Lisus, you're asking
22 the witness to try and recall what happened more
23 than seven years ago.

24 MR. LISUS: No, I'm not. I'm asking
25 him to read an email and tell me if the email

1 accurately reflects what it appears to reflect,
2 which is Mr. Stransky sending an email out on
3 September 9 at 1:59 p.m. and there being subsequent
4 emails that he's copied on attaching a draft press
5 release.

6 MS. LA HOREY: You're asking questions
7 about emails and events that happened seven years
8 ago. He's been instructed by counsel to take his
9 time and that's what he's doing.

10 MR. LISUS: Can you please run the
11 clock on this transcript.

12 MS. LA HOREY: For heaven's sake. Just
13 for the record, Mr. Lisus has indicated to the
14 reporter asking her to run the clock. It's not
15 fair to draw any -- to make any comment on how long
16 a witness is taking for some email that he wrote in
17 the course of a busy job seven years ago,
18 especially when we know you're not going to just
19 say "Did you send the email." That would be easy.

20 If you want to withdraw the question,
21 you can do so. But presuming you want to ask
22 questions, then he's going to take his time to
23 refresh his memory because he's trying to give the
24 best evidence and the most accurate evidence;
25 that's what his role is today. And if you don't

1 want that, then we can just move on.

2 THE WITNESS: (Witness reads document).

3 BY MR. LISUS:

4 324 Q. Is there something you're having
5 difficulty with about this email sequence,
6 Mr. Stransky?

7 A. I'm hoping to review it and
8 unfortunately --

9 MS. LA HOREY: Counsel keep talking.
10 So if we can have a few moments of silence when
11 neither of us speaks, he will review the email and
12 the attachment.

13 THE WITNESS: (Witness reads document).
14 Okay. Would you repeat the question?

15 BY MR. LISUS:

16 325 Q. These are emails you sent and
17 received?

18 A. I see that I've sent the email at
19 the bottom here, and --

20 326 Q. This is the news release that you
21 approved?

22 A. I don't recall the ins and outs of
23 approval based on what I'm looking at here.

24 327 Q. Well, when I see you saying "Hi
25 all, as discussed, here is the latest draft with

1 our comments and revisions," can I presume from
2 that email that you have made comments and
3 revisions to the attached press release,
4 Mr. Stransky?

5 A. I believe so.

6 328 Q. And then when I see you copied on
7 an email saying "Hello all, after Rod's voice mail
8 to Blair, and John Blakney's to Steen... here is
9 the version to be released at 12 noon tomorrow,"
10 that is the version to be released at 12 noon
11 tomorrow, right?

12 A. I don't -- this is, I think --
13 part of what I'm trying to recall is the course of
14 events over these emails. And, frankly, I can't
15 recall this voice mail that Rod -- that's being
16 referred to here.

17 329 Q. I didn't ask you about the voice
18 mail. I'm asking about the press release. Is this
19 the press release that goes with this email?

20 A. I can only assume based on the
21 attachment.

22 330 Q. And in this press release --

23 MS. LA HOREY: Sorry, you need to let
24 Mr. Stransky finish his evidence for the sake of
25 the transcript, Mr. Lisus, please.

1 BY MR. LISUS:

2 331 Q. And what you and others approved
3 was a press release saying:

4 " 'To all stakeholders involved,
5 this commitment to live horseracing
6 means they can see themselves
7 re-investing, building and growing a
8 racing industry for the future',
9 said Seiling."

10 Right? See that?

11 A. Sorry, which paragraph?

12 332 Q. Second last one.

13 A. I see the quote.

14 MR. LISUS: That's the next exhibit,
15 the email and the press release.

16 MR. MATTHEWS: CRE75818 and 819 are
17 Exhibit 9.

18 EXHIBIT NO. 9: Email and attachment,
19 Bates numbered CRE75818 and CRE75819.

20 BY MR. LISUS:

21 333 Q. I want to show you an email,
22 CRE567276, with an attachment dated October --
23 December 12 -- excuse me, December 16, 2010. It
24 appears to be a meeting being organized in which
25 you are giving an economic oversight briefing; is

1 that correct?

2 My question is whether you were giving
3 the briefing or whether you were just organizing
4 the meeting?

5 A. Sorry, I'm not clear on why you
6 think I was organizing the meeting.

7 334 Q. Because it says:

8 "Subject: ORC MOU Economic
9 Oversight Briefing, Blair Stransky."

10 That's the subject of the email, so my
11 question is --

12 A. There's a number of lines here so
13 I'm just tracing through to see where it says that.
14 I can't recall if this was a briefing for me or
15 related to -- I would have participated. I could
16 be on the invite but I can't recall whether I --

17 335 Q. My question is whether you gave
18 the briefing, Mr. Stransky?

19 MS. LA HOREY: Mr. Lisus, the
20 transcript is really going to be confusing. Can
21 you let the witness answer before you jump in with
22 your next question, please. Thank you.

23 THE WITNESS: I can't recall my
24 involvement in this briefing.

25 BY MR. LISUS:

1 336 Q. And from that you mean you don't
2 recall giving a briefing on these issues?

3 A. This specific briefing, I can't
4 recall.

5 337 Q. Okay. Who is Minister Mitchell?
6 MS. LA HOREY: Sorry, are you looking
7 at this?

8 BY MR. LISUS:

9 338 Q. No, I'm not looking at that. Was
10 there a Minister Mitchell involved in the gaming
11 portfolio?

12 A. I'm sorry, are you referring to
13 a --

14 339 Q. I am, but do you know whether or
15 not there was a Cabinet Minister called Mitchell in
16 2010?

17 A. I can't immediately recall. If
18 there's a document that you could point me to...

19 340 Q. I'm just reading an email that
20 says:

21 "Here is a deck for briefing
22 Minister Mitchell's staff."

23 Was there a Minister Mitchell in 2010?

24 A. Would you mind if I see the
25 document?

1 341 Q. No.

2 MR. MATTHEWS: Just for the record, I'm
3 marking as Exhibit 10, CRE56726 and its attachment,
4 56727.

5 EXHIBIT NO. 10: Email and attachment,
6 Bates numbered CRE56726 and CRE56727.

7 BY MR. LISUS:

8 342 Q. If you don't know, just tell me
9 and we don't have to spend time on it,
10 Mr. Stransky.

11 MS. LA HOREY: Do you know? If not,
12 say so.

13 THE WITNESS: I don't immediately
14 recall.

15 BY MR. LISUS:

16 343 Q. I want to show you a document
17 dated December 21, 2010, CRE765151 -- I'm going to
18 give that again, 76151 and 76152. 151 is the
19 email, 152 is the document. You see it's an email
20 from Elizabeth Yeigh, Y-E-I-G-H, to you and Barry
21 Goodwin?

22 A. Yes.

23 344 Q. And as of December 2010 were you
24 aware that one of the purposes of the Ontario
25 racing program was to incentivize breeding?

1 A. I can't recall the specifics.

2 345 Q. All right. Can you recall
3 anything at all about whether one of the purposes
4 of the Ontario racing program was to incentivize
5 breeding?

6 MS. LA HOREY: He just answered that
7 question.

8 MR. LISUS: No, he said specifics.

9 BY MR. LISUS:

10 346 Q. I want to know if you can recall
11 anything at all about whether or not one of the
12 purposes of the racing program was to incentivize
13 breeding?

14 A. What I would say there is I recall
15 a relationship between breeding and the general
16 business decisions that folks made, folks being
17 breeders, that they made based on the money that
18 was available to be won.

19 347 Q. That's helpful, thank you. Can
20 you explain what you mean by that?

21 A. Just that there was -- from what I
22 recall, if there wasn't money to be won on the
23 horses that were put in to horse tracks, that, of
24 course, people wouldn't provide horse supply,
25 wouldn't breed. So, yeah.

1 348 Q. And when did you come to
2 understand that in the course of your tenure at the
3 Ministry?

4 A. Specifically I can't recall,
5 although I would imagine it was --

6 349 Q. Quite early?

7 A. -- early in my days, given the
8 focus on horseracing.

9 350 Q. Right. And certainly before 2012,
10 right?

11 A. I would think so, yes.

12 MR. LISUS: Let's mark that document as
13 the next exhibit in sequence.

14 MR. MATTHEWS: CRE76151 and 152,
15 Exhibit 11.

16 EXHIBIT NO. 11. Email and attachment,
17 Bates numbered CRE76151 and CRE76152.

18 BY MR. LISUS:

19 351 Q. Now I'm going to have you look at
20 CRE105060 which is an email to you, attaching a
21 draft letter and strategic business review, terms
22 of reference.

23 A. (Witness reads document).

24 352 Q. Okay? Now, I take it that you
25 became aware in January 2011 that OLG was

1 undertaking a strategic business review?

2 A. Based on what I'm seeing here,
3 yeah, I would have had an understanding at that
4 point that there was a strategic review.

5 353 Q. What was your understanding of the
6 nature and purpose of the strategic business
7 review?

8 A. I'm having trouble recalling what
9 the difference was and if there was -- if it was
10 just terminology in terms of the modernization
11 effort being called also a strategic review, but if
12 that's what it's referring to, then that's what I
13 would refer to in terms of strategic review being
14 the modernization.

15 354 Q. Fair enough, thank you. We'll
16 mark those as the next exhibit.

17 EXHIBIT NO. 12: Email and attachments,
18 Bates numbered CRE105060, CRE105061 and
19 CRE105062.

20 BY MR. LISUS:

21 355 Q. So, I'm looking at the email which
22 we just marked as an exhibit and I'll give it back
23 to you, and it appears to me, Mr. Stransky, that
24 with respect to the terms of reference referred to
25 as TOR -- do you see that at the top of the email

1 sequence?

2 A. Um-hmm.

3 356 Q. Yes?

4 A. Yes, I see it.

5 357 Q. It says:

6 "...we've reviewed no changes
7 as [terms of reference] TOR reflects
8 last set from Blair."

9 So it appears to me that you were
10 involved in drafting the terms of reference; is
11 that correct?

12 A. I certainly can't recall whether I
13 was involved. Frankly, the terms of reference --

14 358 Q. They're attached.

15 A. Right.

16 359 Q. Keep going.

17 A. Right. This looks familiar to me.

18 360 Q. And you're looking at the terms of
19 reference when you say that?

20 A. That's right. Although these,
21 from what I recall, would have been related to
22 OLG's -- the consultation that OLG carried out.

23 361 Q. Okay.

24 A. And I can't speak to my
25 involvement in that.

1 362 Q. You were not involved in any of
2 the consultations with stakeholders that OLG
3 carried out, correct?

4 A. I can't recall. I can recall the
5 consultations. The degree to which I might have
6 been involved, I can't recall.

7 363 Q. Okay. It was marked as an exhibit
8 and I want to show you next a document dated
9 January 19, 2011 from Ms. Yeigh to you, CRE105084
10 and 105085. You remember Ms. Yeigh?

11 A. I do.

12 364 Q. You worked closely with her?

13 A. I did, yes.

14 365 Q. And she sends you an email that
15 says:

16 "ORC notice to industry, update
17 on Ontario racing program.

18 Hi Blair: FYI as discussed
19 yesterday here is a copy of the
20 notice of industry that updates
21 stakeholders on the ORC Ontario
22 racing program."

23 A. Yeah, a copy of the notice to the
24 industry.

25 366 Q. Right. If we look at the copy of

1 the notice to the industry on the second page, in
2 the bubble "Ontario racing program," it says:

3 "Ontario racing program
4 means..."

5 A. I see, yes.

6 367 Q. "...commitment to live racing,
7 greater accountability, more
8 competitive race conditions and
9 improved racing opportunities."

10 Right?

11 A. I see that on the document.

12 368 Q. And is that your recollection of
13 what the ORC said to the industry in January 2011?

14 A. I can't --

15 MS. LA HOREY: Listen to his question.

16 THE WITNESS: Sorry. In January 2011,
17 I can't recall this document or if I would have
18 gone through it in depth. What I would also say is
19 that, you know, I received a lot of FYIs and I
20 always, of course, did my best to try and go
21 through documents, but there was not a shortage of
22 information, so, you know, whether or not I would
23 have opened this, I certainly can't speak to all
24 that there was, or this being on here, rather.

25 This certainly looks like something

1 that the ORC put together. I can't say that I had
2 any involvement.

3 MR. MATTHEWS: So prior to this we
4 marked as Exhibit 12, CRE0105060, 061 and 062. And
5 as Exhibit 13 will be CRE0105084 to 085.

6 EXHIBIT NO. 13: Email and attachment,
7 Bates numbered CRE105084 and CRE105085.

8 BY MR. LISUS:

9 369 Q. I want to show you another email,
10 Mr. Stransky, with attachments. It's January --
11 excuse me, it's March 1, 2011, OLG360 and OLG699.

12 Now, you told me a minute ago that you
13 were aware of the consultations. You were aware
14 that as OLG undertook its strategic business review
15 it was conducting consultations with stakeholders
16 that would be affected by the outcome of the
17 review, correct?

18 A. Sorry, the consultations would?

19 370 Q. Consultations with stakeholders
20 would be conducted, right? You were aware of that?

21 A. That they were being conducted,
22 yes.

23 371 Q. And you received reports from time
24 to time from OLG about those consultations, right?

25 A. From what I recall that I'm seeing

1 here, yes.

2 372 Q. And what we're seeing here is a
3 copy of one of the reports that was sent to you by
4 someone called Serpe, S-E-R-P-E. Do you know that
5 person?

6 A. Yeah, I recall Rob Serpe.

7 373 Q. Okay. And he's sending you a
8 summary or update, status update, right?

9 "Hello Blair, please find
10 attached this week's status update.
11 Last week the strategic business
12 review team met with the Ontario
13 Harness Horse Association."

14 Do you see that?

15 A. I do.

16 374 Q. And do you recall who the Ontario
17 Harness Horse Association was?

18 A. I certainly know that name. I
19 can't recall a lot of specifics, but I always
20 remember them as OHHA, their acronym.

21 375 Q. And did you read the consultation
22 memos that were sent to you?

23 A. I can't recall which ones I may
24 have read or didn't read. Again, to my earlier
25 point, I know that there was a lot of activity and,

1 you know, took my position as one of keeping up to
2 speed as best I could on the priority issues.

3 So, if I had the time and deemed it
4 priority, I can certainly see myself having read
5 the report -- the reports. I can't say whether I
6 read this one specifically.

7 376 Q. If you go over to the second page
8 of the report, under the heading, second bullet,
9 "Economic Development, Agricultural Sector" --

10 A. Sorry?

11 377 Q. It's page 355 on the top right.

12 A. Okay.

13 378 Q. Second bullet: "Economic
14 Development, Agricultural Sector."

15 A. Yes.

16 379 Q. It says:

17 "The ten percent slot revenue
18 that horse people receive yearly is
19 essential to the Ontario horse
20 industry."

21 Do you see that?

22 A. I do see that.

23 380 Q. You were aware of that fact in
24 January 2011, independent of this briefing note,
25 right?

1 A. I was certainly aware of the fact
2 that horse people were dependent on revenue from
3 OLG.

4 381 Q. And the second -- excuse me, the
5 third sub-point there it says:

6 "Stability in the industry is
7 essential for the development of
8 horses - investment in each horse is
9 4-5 years as they are bred, raised,
10 trained and raced."

11 And you were aware of that fact in
12 2011, right?

13 A. This makes sense to me. That
14 looks familiar to me.

15 382 Q. Okay. And that there were about
16 60,000 Standardbred horses in Ontario?

17 A. That's a familiar number to me.

18 383 Q. Okay, thank you. Now, let me just
19 ask you to keep going. Upper right-hand corner,
20 360, 3-6-0, this is a summary of a meeting between
21 OLG and the Ontario Racing Commission. Do you see
22 that? See it says --

23 A. Yes, that they are the
24 stakeholder, yes.

25 384 Q. And Mr. Seiling, who you knew, was

1 there at the meeting, right?

2 A. I see that, yes.

3 385 Q. And it says that:

4 "ORC was happy to participate
5 in the strategic business reviews,
6 but emphasized that as they are
7 concurrently conducting a strategic
8 review of their own organization,
9 they were unwilling to adopt an
10 official position with respect to
11 OLG's future."

12 Do you recall there being discussion
13 about that, concurrent reviews by OLG and ORC?

14 A. Give me one moment, I just want to
15 read that paragraph. (Witness reads document).

16 So, I'm drawing from this that the ORC
17 was unwilling to adopt a position. I'm not sure
18 what more I can say than that.

19 386 Q. You see it's reported by OLG in
20 the second -- in the paragraph below:

21 "ORC was assured that OLG will
22 not take anything to its board or
23 government without first meeting
24 with ORC again."

25 A. I see that.

1 387 Q. And are you aware about -- are you
2 aware of any obligations on the part of Ontario or
3 OLG to consult with ORC about major changes to the
4 horseracing industry?

5 A. What I recall was that there was
6 an important dialogue taking place at the time with
7 a real understanding, there was a knowledge base at
8 the ORC of the industry, and that --

9 MS. LA HOREY: That wasn't Mr. Lisus'
10 question. Answer his question. He asked if you
11 were aware if there was any obligation.

12 THE WITNESS: Any obligation on the
13 part of the OLG to --

14 BY MR. LISUS:

15 388 Q. Or Ontario to consult with ORC
16 about major changes to the horseracing industry.

17 A. I can't recall if there was.

18 389 Q. Now, you were telling me about an
19 awareness that there was a deep understanding of
20 the industry at the ORC.

21 A. That there was, I think I said, a
22 knowledge base.

23 390 Q. I think you said there was an
24 important knowledge base at the ORC, right?

25 A. Yes.

1 391 Q. Okay. And the knowledge base was
2 about the industry, the horseracing industry and
3 how it worked, right?

4 A. That's right, yes.

5 392 Q. Including its reliance on revenue
6 from the Slots at Racetrack Program?

7 A. There was knowledge there and it
8 was not the only source of knowledge, but there was
9 knowledge, yes.

10 393 Q. And if we look at this
11 consultation memo under the heading "History," we
12 see five bullets down, six bullets down:

13 "Slots make a major
14 contribution to community racing."
15 Right?

16 A. I see that.

17 394 Q. And you understood that?

18 A. Yes.

19 395 Q. And the third bullet says:

20 "OLG's strategic business
21 report has to take the broader
22 horseracing industry into account."

23 And you understood --

24 A. I see that and I can see that was
25 the ORC's position according to this.

1 396 Q. As far as you understood at this
2 time, being March 2011, ORC was the government
3 agency with the deepest knowledge of the
4 horseracing industry?

5 A. I wouldn't -- I wouldn't say that.

6 397 Q. Who else? OMAFRA had a knowledge
7 of the horseracing industry?

8 A. I would say there was a number of
9 sources of who. It's difficult for me to recall
10 exactly. Certainly it's difficult for me to recall
11 individuals, but we would have relied on -- yes, I
12 would say there would have been information from --
13 in approaching this, I would have looked to OMAFRA.

14 MS. LA HOREY: Okay. You need to pay
15 attention to Mr. Lisus' question and answer just
16 his question.

17 MR. LISUS: He is answering, Ms. La
18 Horey. Please don't interrupt his answers like
19 that.

20 BY MR. LISUS:

21 398 Q. Continue on, please, with your
22 answer?

23 MS. LA HOREY: No, ask a question.

24 MR. LISUS: I have asked a question. I
25 was getting an answer and you didn't like the

1 answer and you interrupted it.

2 MS. LA HOREY: No, that's not the case.

3 MR. LISUS: Yes, it is the case.

4 MS. LA HOREY: Ask your next question.

5 BY MR. LISUS:

6 399 Q. Just please continue with your
7 answer.

8 MS. LA HOREY: Ask your next question,
9 counsel.

10 BY MR. LISUS:

11 400 Q. Continue with your answer, please,
12 Mr. Stransky.

13 A. Could you ask the question?

14 401 Q. You were telling me about other
15 sources that you would have consulted who had
16 knowledge about the horseracing industry in
17 addition to OMAFRA and ORC. Who else?

18 A. I can't say that I -- I can't
19 recall specific consultation, but in terms of where
20 there would have been knowledge, I think you're
21 correct in suggesting that there would have been
22 knowledge at OMAFRA.

23 402 Q. Okay. So OMAFRA, ORC, are those
24 the two knowledge sources that --

25 MS. LA HOREY: That what?

1 THE WITNESS: Sorry.

2 MS. LA HOREY: Sorry, finish your
3 question.

4 THE WITNESS: That?

5 MS. LA HOREY: Mr. Lisus, finish your
6 question, please, and then he'll answer it.

7 BY MR. LISUS:

8 403 Q. Are those the two sources of
9 knowledge about the horseracing industry in 2011
10 that you believe were to be consulted about major
11 changes?

12 A. Again, I'm not saying that they
13 would be consulted. I'm just saying in terms of
14 where there might have been knowledge.

15 404 Q. Okay. Anywhere else you can think
16 of where there might have been knowledge besides
17 ORC and OMAFRA?

18 A. I recall that there was other
19 stakeholders and we were, of course, very open to,
20 you know, trying to hear from them.

21 So, I would say stakeholders within the
22 industry. Specifically who, it's difficult for me
23 to say.

24 405 Q. Racetrack operators are an
25 example?

1 A. Potentially.

2 406 Q. Breeding associations are an
3 example?

4 A. Yes.

5 407 Q. That's who you were thinking of?

6 A. Yeah, there was OHHA and then
7 there was also OHRIA, so yes.

8 408 Q. Thank you. Do you recall
9 reviewing some of these consultation memorandums
10 that came to you, Mr. Stransky?

11 MS. LA HOREY: He's answered that
12 question. He said he did sometimes. He can't
13 recall if he read this specific one.

14 BY MR. LISUS:

15 409 Q. And if you keep going to the end
16 of that package, I think you have it there,
17 actually, there is a letter from Standardbred
18 Canada, April 6th, 2011.

19 Do you recall becoming aware of a
20 letter communication from Standardbred Canada to
21 the Ontario Lottery and Gaming Corporation?

22 A. I can't recall this letter.

23 MR. LISUS: Okay. Did we mark that as
24 an exhibit?

25 MR. MATTHEWS: No.

1 MR. LISUS: That email and those
2 consultation memorandums are the next exhibit.

3 MR. MATTHEWS: So, Exhibit 14 will be
4 OLGSB360 plus OLGSB699, plus OLGSB525, Exhibit 14.

5 EXHIBIT NO. 14: Email and attachments,
6 Bates numbered OLGSB360, OLGSB699 and
7 OLGSB525.

8 MR. LISUS: It's a couple of minutes to
9 1:00. Do you want to break for lunch now?

10 MS. LA HOREY: Fine by me.

11 -- LUNCHEON RECESS AT 12:55 --

12 -- UPON RESUMING AT 1:34 --

13 BY MR. LISUS:

14 410 Q. Before the break, Mr. Stransky, we
15 looked at a number of consultation memoranda that
16 were sent to you by folks at OLG, right?

17 A. Correct, yeah.

18 411 Q. And as I understood it, your
19 evidence is sometimes you read these and sometimes
20 you didn't, and you don't particularly recall which
21 ones you did or didn't; is that fair?

22 A. That's fair.

23 412 Q. Were you tasked with doing that at
24 the -- on the political side of the Ministry, or
25 was Mr. Shortill or others also doing that?

1 A. I can't speak to what Tim Shortill
2 would have received or not.

3 413 Q. Were you briefing -- to the extent
4 that you did read a consultation memorandum, would
5 you brief Mr. Shortill about it?

6 A. In circumstances where I thought
7 it was relevant, I would certainly, or I would say
8 likely raise it with him.

9 414 Q. In the spring of 2011 was the
10 strategic business review that OLG was undergoing
11 an issue of importance at the Ministry?

12 A. Sorry, the date was?

13 415 Q. Spring of 2011.

14 A. I believe so. I can't say, but
15 yes, I can see it being of importance, yeah.

16 416 Q. Would you update Mr. Duncan on the
17 consultation process that was underway at OLG or
18 not?

19 A. I can't recall.

20 417 Q. Okay. If you look at CRE94314,
21 Mr. Lehman, L-E-H-M-A-N, who was the chief
22 administrative officer at the ORC, sends to you and
23 others the ORC's 2011 to 2014 business plan. Why
24 did you receive that business plan?

25 A. I can't recall. It looks like I

1 was cc'd on this, I believe, but I'm not the main
2 recipient.

3 418 Q. Okay. Was it because the Ontario
4 Racing Commission and the OLG were conducting
5 strategic reviews concurrently?

6 A. I -- I don't know. I can't -- you
7 know, I can't speak to why Mr. Lehman would have
8 sent this.

9 419 Q. No recollection of why you
10 received the business plan?

11 A. No.

12 MS. LA HOREY: He said he can't recall.

13 THE WITNESS: No.

14 BY MR. LISUS:

15 420 Q. Did the Ministry have to approve
16 the ORC's business plan?

17 A. I can't exactly recall. I don't
18 recall how that worked exactly. I know it's a
19 Crown commission, so I suspect there is a
20 relationship there, but I can't recall exactly what
21 had to get approved and what didn't.

22 421 Q. I presume it would not be the
23 political side of the Ministry that would approve
24 it, it would be the bureaucratic side; is that
25 accurate or not?

1 A. I don't -- well, the -- my
2 understanding would be that it would be ultimate --
3 well, I don't know, actually. I don't know how
4 that works in terms of the business plan.

5 422 Q. Wouldn't Minister Duncan write
6 approval letters once he was satisfied that a
7 business plan was approved?

8 A. I can't recall if that applied to
9 business plans.

10 MR. LISUS: Okay. So the email and the
11 business plan are the next exhibit in sequence.

12 MR. MATTHEWS: This is CRE94314 and an
13 attachment, 94316, together will be Exhibit 15.

14 EXHIBIT NO. 15: Email and attachment,
15 Bates numbered CRE94314 and CRE94316.

16 BY MR. LISUS:

17 423 Q. And the next is an email of what
18 appears to be March 5, '11, CRE58180, about an OHHA
19 meeting with the Minister of Finance. I think it's
20 May 3, not March 5.

21 Have you got the email in front of you
22 there?

23 A. Yes, I see it.

24 424 Q. And the briefing note attached to
25 it?

1 A. Yes.

2 425 Q. And do you see the second
3 sentence -- the third sentence, excuse me, where it
4 says:

5 "While Blair is aware of the
6 issues, we have not had a chance to
7 brief the Minister."

8 Do you see that?

9 A. I do.

10 426 Q. And what do you recollect about
11 your awareness of the issues the OHHA had in May of
12 2011?

13 A. I can't speak to the specific
14 timing and what issues they had in May of 2011, but
15 I know that they are -- they are or they were a
16 major stakeholder for Standardbreds.

17 MS. LA HOREY: You need to keep your
18 voice up.

19 THE WITNESS: Yes, sorry.

20 BY MR. LISUS:

21 427 Q. For Standardbred breeders?

22 A. I believe so.

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

24 BY MR. LISUS:

25 428 Q. And continuing on, OLG526 is an

1 email, I think it's May 2011 to you from Clare
2 MacDougall.

3 MS. LA HOREY: We don't have that yet.

4 MR. ROSENBERG: What's the document
5 number?

6 MR. LISUS: 526.

7 MR. MATTHEWS: OLG526.

8 MR. ROSENBERG: Thank you.

9 MR. MATTHEWS: Just to keep the thread,
10 Exhibit 16 is CRE58180 and its attachment 181.

11 EXHIBIT NO. 16: Email and attachment,
12 Bates numbered CRE58180 and CRE58181.

13 BY MR. LISUS:

14 429 Q. So, it appears you're being
15 provided with another update on the consultations
16 by OLG, right?

17 A. That's what it looks like here,
18 yes.

19 430 Q. Now, you're aware that there was
20 an MOU executed between the ORC and the Ontario
21 Government?

22 MS. LA HOREY: When?

23 BY MR. LISUS:

24 431 Q. In 2011.

25 A. I can't recall the specific MOU.

1 432 Q. Do you recall being involved in
2 the composition of an MOU between the ORC and the
3 Minister of Finance?

4 A. No.

5 433 Q. No?

6 A. I can't.

7 434 Q. Let me, before I ask you about
8 that, ask you about a document that's OLG580,
9 Exhibit 17 to Mr. Phillips' examination.

10 MS. LA HOREY: Sorry, are we done with
11 this one?

12 MR. LISUS: Yes.

13 BY MR. LISUS:

14 435 Q. Now, one of the agencies that you
15 were responsible for liaising with was the AGCO,
16 right?

17 A. Sorry, the...?

18 436 Q. That was one of the Crown agencies
19 that you were responsible for liaising with, the
20 AGCO?

21 A. No, I wasn't responsible for the
22 AGCO, no.

23 437 Q. You had no relationship with the
24 AGCO?

25 A. No, as I mentioned earlier, the

1 AGCO was and still is a regulator on the gaming
2 side.

3 438 Q. Right.

4 A. But I didn't have responsibility
5 for the agency.

6 439 Q. Okay. Did you have any
7 involvement with them with respect to OLG?

8 A. Could you clarify "involvement"?

9 440 Q. Well, did you liaise with them at
10 all regarding OLG's strategic business review, for
11 instance?

12 A. I don't recall specific liaising
13 with them.

14 441 Q. Do you recall generally liaising
15 with them?

16 A. No.

17 442 Q. Okay. Do you know someone called
18 Jean Major or Jean Major?

19 A. The name is familiar. He was or
20 perhaps maybe was the head of the AGCO or one of
21 the senior executives there but I'm not certain.

22 443 Q. What about -- did you ever have
23 any communication with Samuel Heath at OLG who was
24 the executive director, corporate business
25 development?

1 A. Yes, I did.

2 444 Q. And why were you having
3 communications with Mr. Heath?

4 A. I can't recall details. I just
5 remember that he was one of the persons at the OLG
6 who was working on the modernization.

7 445 Q. Okay. And so, I want to show you
8 an email from Mr. Heath. It's OLG580.

9 MR. MATTHEWS: Just while he's looking
10 at that, you had previously shown him OLGSB526 and
11 its attachment 527, which is being marked as
12 Exhibit 17.

13 EXHIBIT NO. 17: Email and attachment,
14 Bates numbered OLG526 and OLG527.

15 MS. LA HOREY: And before you ask your
16 question, counsel, this is an email that is an
17 internal OLG email this witness was not copied on.
18 He barely recognizes the name. So I'm not sure how
19 this is a proper question, or I'm concerned that
20 you're getting into questions that are not proper
21 questions for this witness.

22 MR. LISUS: I have your concern. I
23 don't think he said he barely recognized the name.
24 He seemed to know exactly who Mr. Heath was and it
25 is someone who he dealt with.

1 BY MR. LISUS:

2 446 Q. Take a look at the email, please.
3 Do you see where it discusses a revised funding
4 structure for the horseracing industry?

5 A. I see reference to funding model.

6 447 Q. Now, you are aware that one of the
7 issues that was being considered by OLG and the
8 Ministry of Finance was a revised funding structure
9 for the horseracing industry in 2011, correct?

10 A. Sorry, I missed that. You said?

11 448 Q. One of the issues that was being
12 considered by the OLG and the Ministry of Finance
13 in 2011 was a revised funding structure for the
14 horseracing industry, right? You were aware that
15 was --

16 A. In terms of the flow of money from
17 OLG to the horseracing?

18 449 Q. Correct.

19 A. Yes.

20 450 Q. Okay. And did you ever speak with
21 Mr. Heath about that?

22 A. I can't recall specifically, but I
23 can imagine it may have been something we discussed
24 at some point. He was on the team, as I mentioned.

25 451 Q. All right. And in mid-2011 all

1 options with respect to the revision of the flow of
2 money or the sharing of money from slot machines
3 was being considered; is that fair?

4 A. I can't recall what specifically
5 in terms of options or when. I know that there --
6 from what I can recall, there were options that
7 were being considered, but I can't recall
8 specifics.

9 452 Q. Okay. What is your general
10 recollection of the nature of the options that were
11 being considered?

12 A. Whether -- from what I recall, it
13 was this general notion of whether OLG revenue from
14 slots would be used, but not more than that. I
15 can't recall.

16 453 Q. Would be used for what?

17 A. For the purses.

18 454 Q. Okay. But you can't recall
19 anything more than that in terms of the content of
20 discussions in 2011?

21 A. No.

22 455 Q. Were you told or were you aware in
23 2011 that industry stakeholders were not being told
24 that changes to slot revenue share were under
25 consideration?

1 A. Was I not aware?

2 456 Q. Were you aware that industry
3 stakeholders were not being informed that OLG and
4 Ontario were considering changes to revenue share
5 from slot machines?

6 A. I can't recall the specific
7 timing, but I can imagine that we wouldn't have
8 shared -- when there were discussions about
9 potential changes, we wouldn't have immediately
10 shared those options if we hadn't come to a
11 decision.

12 457 Q. And when you say "we," you mean
13 Ontario and OLG?

14 A. I think of the Ministry in terms
15 of -- yeah.

16 458 Q. In this document, Mr. Heath
17 discusses different funding structures?

18 MS. LA HOREY: Okay. So this is a
19 document that was not sent to the witness and that
20 he hasn't seen before. It's an OLG document. So,
21 if you want to ask him questions, I'm not sure that
22 you can ask him proper questions, but at the very
23 least give him a chance to read it and explain what
24 the document is.

25 Have you seen the document before?

1 THE WITNESS: No, I don't recall this
2 document.

3 MS. LA HOREY: All right.

4 MR. LISUS: I don't think that's the
5 end of it. He told me he discussed funding --
6 excuse me, he told me he had discussions with
7 Mr. Heath about revisions to the funding.

8 MS. LA HOREY: Okay.

9 MR. LISUS: I'm going to ask him about
10 what discussions he may or may not have had. I'm
11 going to use this discussion as a reference point.
12 Please don't take exhibits away from the witness
13 that I put in front of him like that.

14 BY MR. LISUS:

15 459 Q. Do you recall having discussions
16 with Mr. Heath about fixed purse funding?

17 A. No, I don't recall.

18 460 Q. Do you recall having discussions
19 with Mr. Heath or anyone else at OLG about
20 percentage of gaming revenue as a model for
21 revising revenue sharing?

22 A. I can't recall.

23 461 Q. Do you recall any discussions with
24 Mr. Heath or anyone else at OLG about an optional
25 floor for funding being established, example 325

1 million a year?

2 A. No, I can't -- I can't recall
3 including that number. That's not familiar to me.

4 462 Q. Do you recall discussions with
5 Mr. Heath or anyone else at OLG about a
6 transitional plan for funding?

7 A. Yeah, with OLG?

8 463 Q. With Mr. Heath or anyone else at
9 OLG about a transitional plan for funding?

10 A. It sounds familiar to me. The
11 details, though, are difficult for me to say.

12 464 Q. What do you recall about that?

13 A. I don't recall specifically with
14 OLG. The reason I paused there was because I
15 remember that we were mindful of any change and the
16 impact on the industry.

17 465 Q. And I take it what you say when
18 you -- what you mean when you say you were mindful
19 of any change and the impact on the industry is
20 that you were mindful about harmful economic
21 consequences that could flow from changes to the
22 revenue sharing formula that had been in place?

23 A. Specifically I was thinking of the
24 relationship between the funding, or the revenue --
25 slot revenue and the purses and the fact that there

1 was a dependency on that.

2 466 Q. Dependency on the purses by
3 breeders as the supplier of product to the racing
4 industry, right?

5 A. If you mean without -- yes, I
6 think I understand your question, yes.

7 467 Q. And what were you mindful of?

8 A. Related to the changes.

9 468 Q. Okay.

10 A. We were --

11 469 Q. Go ahead.

12 A. We were, of course, mindful of
13 any -- from a macro standpoint, a change in a
14 program such as the Slots at Racetrack would change
15 that relationship, and as a result, I recall the
16 folks being concerned about that in the horse
17 breeding industry.

18 470 Q. And when did you become aware that
19 folks in the horse breeding industry were concerned
20 about that?

21 A. I can't recall specifically when I
22 would have become aware of that.

23 471 Q. It was prior to March 2012 when
24 the termination of the revenue share was announced,
25 right?

1 A. Correct.

2 472 Q. And did you become aware of it
3 from OLG or from people in the industry or...

4 A. I would say it was something that
5 was widely understood. I can't say specifically
6 who I would have first become aware of it from, but
7 I certainly knew that it was part of the
8 discussion.

9 473 Q. All right. And what was widely
10 understood was that depending upon how changes to
11 revenue share were made or implemented, there could
12 be negative impacts on the horseracing industry and
13 the breeding sector in particular, right?

14 A. Certainly I would go back to the
15 notion of that relationship. So, I can't say
16 specifically what those outcomes were, although we
17 were -- we were mindful of them.

18 474 Q. And just to accelerate this
19 discussion, Mr. Stransky, I take it that you do
20 recall that in late 2011 the Ministry of Finance
21 was contemplating changes to the funding
22 relationship which saw a phased reduction in the
23 share of revenue from Slots at Racetrack. Do you
24 remember that?

25 A. So, do you have specifics in terms

1 of when in 2011?

2 475 Q. Well, certainly in December -- in
3 the fall and into December 2011 the Ministry was
4 talking about phased reduction in the share of
5 revenue from Slots at Racetrack with the
6 horseracing industry. Do you recall that?

7 A. Not specifics, but I remember
8 there being a focus on a potential reduction.

9 476 Q. Okay. I take it, as being a part
10 of the political side, it wasn't part of your
11 responsibility to research or determine what the
12 precise impacts of changes would be to the revenue
13 share? That wasn't your responsibility, right?

14 A. To look into the precise impact?

15 477 Q. Yes.

16 A. No, I wouldn't say it was my --
17 mine was more at a macro policy scale.

18 478 Q. And that's true of Mr. Shortill as
19 well as a senior policy advisor?

20 A. I think that's a fair
21 characterization.

22 479 Q. And I presume Mr. Duncan, as the
23 Minister, wouldn't be looking into those issues
24 himself either?

25 A. I can't say specifically.

1 Obviously I'm not either of those two people, but
2 it would be certainly less likely than in the
3 Ministry.

4 480 Q. Do you recall there being
5 discussion about a regional pooling of funds in
6 2011 from racetracks?

7 A. Just vaguely, yes.

8 481 Q. And do you recall there being
9 discussions about fixed site funding?

10 A. That is a term that I'm not
11 recalling.

12 MR. LISUS: Okay. Did we mark this as
13 an exhibit already?

14 MS. LA HOREY: No, and he didn't --
15 it's not his document, he hadn't seen it before.

16 MR. LISUS: I'm just content to mark it
17 for identification then. We can have a squabble
18 about what it stands for later. I'm told it's
19 already marked.

20 MR. MATTHEWS: Perhaps we don't need to
21 mark it and just for the record note that it's
22 already marked as Exhibit 17 to Mr. Phillips'
23 examination.

24 MS. LA HOREY: Sure, that's fine.

25 MR. LISUS: It should be an exhibit for

1 identification.

2 MS. LA HOREY: That's fine too.

3 MR. MATTHEWS: I'll make this Exhibit A
4 for identification, Ms. La Horey.

5 MS. LA HOREY: Sure.

6 EXHIBIT A (for identification): Email,
7 Bates numbered OLG580.

8 BY MR. LISUS:

9 482 Q. I want to show you a memorandum of
10 understanding between the Minister of Finance and
11 the Ontario Racing Commission in 2011, which is
12 CRE28815.

13 Take a quick look at this. You don't
14 have to read every paragraph, but I understand that
15 you were involved in the composition of this
16 document, Mr. Stransky, from my review of the
17 record. So just take a look at it and tell me if
18 you remember it?

19 MS. LA HOREY: Let's just clarify.
20 Were you involved in this document?

21 THE WITNESS: I can't -- I can't
22 recall.

23 MS. LA HOREY: Okay.

24 THE WITNESS: Yeah, I'm...

25 BY MR. LISUS:

1 483 Q. Do you remember this document?

2 You know that this document exists or you knew the
3 document exists before I put it in front of you
4 today, right?

5 A. Sorry, that I knew that this
6 existed before today?

7 484 Q. Yeah.

8 A. I'm not -- I can't -- I can't
9 speak to it, as to whether or not I've seen this
10 before. An MOU, you know, it's possible but I
11 don't know.

12 485 Q. Well, let's take a look and see if
13 I can refresh your memory.

14 Do you see --

15 MS. LA HOREY: No, let him look at the
16 document first, okay? Let's just take a few
17 minutes. Do you have an email that shows he was
18 the author of the document? Do you have a document
19 that shows he has ever seen or received a copy of
20 the document?

21 BY MR. LISUS:

22 486 Q. Have you finished reviewing it?

23 MS. LA HOREY: Well, he's turned the
24 pages. It's a legal document of some 16 pages so
25 no, he hasn't read the whole thing.

1 BY MR. LISUS:

2 487 Q. Do you see on the second page of
3 the document, article 3.4?

4 A. Yes.

5 488 Q. Do you see where it says:
6 "The Commission..."

7 You understand that's the Ontario
8 Racing Commission, right?

9 A. Yes.

10 489 Q. "...will provide economic
11 oversight of the horseracing
12 industry and set out a policy
13 framework to encourage value for the
14 government's investment and support
15 the sport of horseracing and the
16 sustainability of the industry in
17 the long term."

18 Do you see that?

19 A. I do.

20 490 Q. Do you recall having discussions
21 with the Ontario Racing Commission in 2011 about
22 the role that it would play in the horseracing
23 industry along the lines of the first sentence of
24 article 3.4?

25 A. I certainly can't recall

1 specifics.

2 491 Q. Do you have any general
3 recollection?

4 A. Frankly, no. I mean, the mandate
5 is -- I'm looking at this underneath the mandate
6 and I --

7 MS. LA HOREY: I just want to make sure
8 that you answer about your recollection.

9 THE WITNESS: Yeah.

10 MS. LA HOREY: So it's clear on the
11 record.

12 THE WITNESS: Yeah, I don't have a
13 recollection.

14 BY MR. LISUS:

15 492 Q. Do you recall there being a
16 discussion about, if you look at article 6.1, the
17 Minister being responsible for informing and
18 consulting with the chair as appropriate on the
19 government's priorities and broad policy directions
20 for the Commission?

21 Do you recall any discussions like
22 that?

23 A. This specifically, no, I can't
24 recall.

25 493 Q. Do you recall discussions about

1 your Minister agreeing to consult with the ORC
2 about government priorities and broad policy
3 directions? You don't recall those discussions?

4 A. No, I don't recall.

5 494 Q. You were the individual
6 responsible for liaising on behalf of Minister
7 Duncan with the ORC, correct?

8 A. That's correct.

9 495 Q. You were the individual who was
10 directed to telephone Mr. Seiling and inform him of
11 the government's decision to terminate the revenue
12 sharing with the horseracing industry effective
13 April 1, 2013 without transition support, right?

14 A. I can't recall specifically
15 whether that was something I did.

16 496 Q. You don't recall phoning
17 Mr. Seiling at home, or at his office, and telling
18 him --

19 A. Seven years ago, a conversation,
20 I'm sorry, I don't recall.

21 497 Q. I'm not asking you to recall the
22 words in the conversation, but are you telling me
23 you don't recall telephoning Mr. Seiling and
24 informing him of that decision?

25 A. I had conversations and fairly

1 regular with Rod Seiling. It's possible but I
2 don't recall.

3 498 Q. You don't recall a conversation
4 like that in March 2012?

5 MS. LA HOREY: He's already -- you've
6 asked the question, he said he doesn't recall,
7 you've asked the question more than once, he said
8 he doesn't recall. Next question, please, counsel.

9 BY MR. LISUS:

10 499 Q. I'm correct you don't recall?

11 R/F MS. LA HOREY: Don't answer the
12 question. He's answered that question.

13 BY MR. LISUS:

14 500 Q. Do you recall any discussions with
15 Mr. Seiling about the decision to terminate revenue
16 sharing without transition assistance?

17 A. I don't recall a discussion about
18 without assistance, but I -- yeah.

19 501 Q. Leaving aside without assistance,
20 do you recall any discussion with Mr. Seiling about
21 termination of revenue share?

22 A. I recall many -- like, I recall
23 the fact that he and I had regular discussions but
24 specifically to that, I can't recall.

25 502 Q. Okay. And do you recall telling

1 Mr. Seiling in one of those discussions that the
2 government had made the decision to terminate
3 revenue share with the horseracing industry
4 effective April 1, 2013 without transition
5 assistance and Mr. Seiling telling you that would
6 have very bad consequences for the horseracing
7 industry?

8 A. I don't recall that specifically.

9 503 Q. Do you recall Mr. Seiling telling
10 you that that decision would create huge job losses
11 in the horseracing industry?

12 A. I -- I can't recall specifics from
13 Rod on that.

14 504 Q. Do you recall telling Mr. Seiling
15 that the government was very comfortable with the
16 numbers that it had calculated being the numbers of
17 jobs that would be lost as a result of the
18 termination of revenue share effective April 2013
19 without transition assistance?

20 A. Was there a date that you're
21 referring to, like a specific conversation?

22 505 Q. March 2012.

23 A. So, you know, I probably should be
24 on the record on one point just in terms of where I
25 was at in March of 2012.

1 That was a difficult time for me. I
2 had a newborn son as of December 25th, 2011 and he
3 was very sick for the first couple of weeks of his
4 life. Thankfully everything is fine and I was able
5 to go back to work. But a lot was happening at
6 that time and I -- I -- I can't recall a lot.

7 506 Q. Okay. Fair enough. Thank you for
8 letting me know that.

9 Were you off work while your son was
10 being cared for?

11 A. I was off work for at least two
12 weeks after he was born, while he was in a
13 hospital. I can't recall specifically when I
14 returned to work. I did return to work, of course.

15 507 Q. Okay. Were you off work the first
16 week of February 2012?

17 A. I can't recall specifically.

18 508 Q. You are aware that in the first
19 week of February 2012 the decision was made to
20 terminate the revenue share effective April '13
21 without transition assistance? Do you know that or
22 you don't recall that?

23 A. I can't recall the specifics of
24 what happened and when. I know that there was a
25 cancellation, yeah.

1 509 Q. All right. Were you at a Cabinet
2 meeting on February 7th or 6th, 2012 at which the
3 decision -- okay, we've got conflicting dates
4 whether it's 6, 7 or 8 but it's one of those dates,
5 at which the decision to cancel revenue sharing was
6 made. Were you at that Cabinet decision?

7 A. I recall being at a Cabinet
8 meeting. I honestly can't remember if it was that
9 one specifically.

10 510 Q. But you can't recall what was
11 discussed about horseracing; is that what you're
12 telling me? At that Cabinet meeting?

13 A. No, I'm not telling you that.

14 511 Q. You can recall what was discussed
15 about horseracing?

16 A. No, I can't recall. I can recall
17 being at a Cabinet meeting. Whether it was on this
18 subject, frankly, is difficult for me to recall.

19 512 Q. Okay. When did you return to
20 work, do you recall, approximately?

21 A. I believe I returned two weeks
22 after.

23 513 Q. After your --

24 A. After my son was born, so it would
25 have been the first half of January, early to

1 mid-January.

2 514 Q. But you were still very
3 distracted?

4 A. I -- I felt at the time that I was
5 capable of contributing and so I went to work but a
6 lot was certainly happening at that time. You
7 know, not only sickness but he was our first kid.

8 515 Q. I'm going to put on the screen, to
9 see if it assists your memory, a document.

10 Did we mark this MOU?

11 MS. LA HOREY: No, and he didn't
12 identify it. He couldn't identify it. So we can
13 mark it for identification, B I think.

14 EXHIBIT B (for identification):

15 Memorandum of understanding, Bates
16 numbered CRE28815.

17 MR. LISUS: Just go off for a minute.

18 -- OFF THE RECORD --

19 BY MR. LISUS:

20 516 Q. CRE28814. So I'm showing you on
21 the screen, I've just identified the number, an
22 email sequence culminating in you sending the MRU
23 to -- excuse me, the MOU to Mr. Shortill who was
24 your boss at the time, right?

25 A. I see an email, yeah, between me

1 and him.

2 517 Q. And you say:

3 "Hi Tim - as discussed, here's
4 the ORC MOU and the particular
5 section re 'economic oversight'
6 below. This would likely go out
7 mid-March if we don't release ahead
8 of that."

9 What are you talking about there?

10 A. All I recall is based on reading
11 this is referencing that but I can't recall.

12 518 Q. Okay. Do you recall what the
13 reference to "if we don't release ahead of that"
14 is?

15 A. No, I can't recall.

16 519 Q. But certainly in March, 2nd of
17 March 2012, you were familiar with the MOU, right?

18 A. According to this, it looks like
19 it.

20 520 Q. Right. And does that assist you
21 in recalling whether you had any discussions with
22 Mr. Seiling about the direction that the government
23 was going to take about revenue sharing?

24 A. No, I can't recall.

25 521 Q. Okay.

1 MS. LA HOREY: Sorry, one second. Ian,
2 you've got emails popping up here and I presume
3 some of that might be confidential, so you might
4 want to get rid of the pop-up. I mean, I can
5 ignore it but I just wanted to point out to you
6 that we could see the emails.

7 MR. LISUS: So we've got that email as
8 the next exhibit. The MOU is Exhibit B for
9 identification. The email which is discussing --

10 MR. MATTHEWS: Which is CRE28814, will
11 be Exhibit 18.

12 EXHIBIT NO. 18: Email, Bates numbered
13 CRE28814.

14 MS. LA HOREY: Sorry, I missed the last
15 number. 28814?

16 MR. MATTHEWS: Will be Exhibit 18.

17 MR. LISUS: That is the email which was
18 discussing Exhibit B.

19 MS. LA HOREY: Okay.

20 BY MR. LISUS:

21 522 Q. Are you aware, Mr. Stransky,
22 whether the Minister ever informed and consulted
23 with Mr. Seiling about the government's priorities
24 and broad policy directions for the Commission?

25 MS. LA HOREY: At any time or is there

1 a specific timeframe?

2 BY MR. LISUS:

3 523 Q. 2011 or 2012.

4 A. I can't recall specific -- did you
5 say discussions or...

6 524 Q. Yeah.

7 A. I can't recall specific
8 discussions.

9 525 Q. Now, we talked about the strategic
10 review that the OLG was undertaking and I'm going
11 to ask you to look at document CR928.

12 This is a document that's entitled
13 "Draft Confidential Advice to Minister."

14 A. Yes.

15 526 Q. And it's dated October 18, 2011,
16 it's an OLG document. The Minister there would be
17 Minister Duncan?

18 A. That's correct.

19 527 Q. Just take a minute and review the
20 document.

21 A. (Witness reads document).

22 528 Q. Okay? As of October 18, 2011
23 you'd been in your position for a year and four
24 months, right?

25 A. Yeah, that makes sense, yeah.

1 529 Q. And obviously the strategic review
2 at OLG is one of the important issues that you're
3 involved in as a liaison for the Minister?

4 A. Yes, that's right.

5 530 Q. And so you were up to speed as to
6 the strategic direction OLG was recommending it
7 take in the fall of 2011? They were keeping the
8 Ministry in the loop?

9 A. From what I recall, we would have
10 heard from the OLG about this.

11 531 Q. And this document and others like
12 it were provided to the Ministry to keep it in the
13 loop as to the direction that it was thinking of
14 taking, correct?

15 A. Sorry, you're asking me if that
16 was the intent of this document?

17 532 Q. Well, that was done?

18 A. Yeah, I can see that, certainly.

19 533 Q. And you were aware, as we have
20 seen, that in the process that was underway the OLG
21 was communicating with stakeholders through its
22 consultation process and sending reports on to you,
23 right?

24 A. Right.

25 534 Q. Now, if we go forward, we see that

1 OLG -- and just before we get into this, draft
2 confidential advice to Minister, what does that
3 mean? What do those words mean?

4 A. To me?

5 535 Q. Yeah.

6 A. My interpretation?

7 536 Q. Yeah.

8 A. I would guess that this is --
9 yeah, this is a draft, I don't know which draft,
10 but that it is meant to be information that informs
11 what the -- you know, the Ministry and ultimately
12 if there is a ministerial decision, what's needed
13 for that.

14 537 Q. So as of October 2011, OLG had
15 identified six growth opportunities in lottery and
16 gaming, right?

17 A. I see that here on the document.

18 538 Q. And if we go back a page, we see
19 the bullet points, it says:

20 "Current levels of support to
21 every stakeholder group will be
22 maintained."

23 Do you see that at the bottom, the last
24 bullet on the prior page?

25 A. Yes, I do.

1 539 Q. And just so -- the six growth
2 opportunities, these were six ways the OLG had
3 identified that it could change its operations to
4 increase profitability and generate a larger
5 dividend to the province, right?

6 A. Yes, and, you know, I take even
7 the title here of that slide that you're referring
8 to as evidence of that.

9 540 Q. Okay. And it's divided both -- it
10 divides its business lines up into gaming and
11 lottery, right?

12 A. Yes, I see that.

13 541 Q. And were you aware of which was a
14 bigger business line at the time, gaming or
15 lottery?

16 A. If I recall correctly, it was
17 gaming.

18 542 Q. Okay. So, there were three
19 changes that were identified with respect to the
20 gaming operations, right?

21 A. On this slide, yes, I see.

22 543 Q. One was facility location based on
23 market demand, which was moving gaming facilities
24 into downtown Toronto and Ottawa, North Bay and
25 Kenora, right?

1 A. I see that here.

2 544 Q. Okay. And another change to the
3 operations that was being considered was to revise
4 existing contracts with private operators and allow
5 private sector construction of amenities at GBH and
6 in Niagara Falls, right?

7 A. I see that here, yes.

8 545 Q. Do you understand what GBH is
9 short for?

10 A. I believe it's referencing Great
11 Blue Heron.

12 546 Q. Okay. That's a casino?

13 A. Yes.

14 547 Q. Where is it?

15 A. It is -- I'm trying to remember
16 the exact location. I believe it's near Port Perry
17 and Lake Scugog.

18 548 Q. Then a third change to the
19 operations being recommended is improve efficiency
20 of, I think the word is operations, reduce
21 marketing costs through better coordination across
22 resort and other sites, reduce OLG responsibility
23 for construction. Do you see that?

24 A. I do.

25 549 Q. Do you recall there being

1 discussion about these issues, Mr. Stransky?

2 A. I can't recall the specifics, but
3 I certainly recall the notion of the potential
4 opportunities.

5 550 Q. Okay. And then with respect to
6 lottery, the changes to the operations that were
7 under consideration were to expand the distribution
8 of lottery by rolling out internet and mobile sales
9 of lottery tickets?

10 A. Yes, I see that.

11 551 Q. And develop the hospitality
12 channel. Do you see that?

13 A. Yes, I see that.

14 552 Q. What was the "develop the
15 hospitality channel" a reference to?

16 A. Frankly, I can't recall that
17 specifically. I'm more remembering in bits and
18 pieces the notion of mobile sales. I can't recall
19 the hospitality channel.

20 553 Q. And then there's a discussion of
21 continued pipeline of products like Poker, Lotto,
22 Rock Paper Scissors, right?

23 A. Yes, I see that.

24 554 Q. And improving costs through
25 operating efficiencies?

1 A. I see that, yes.

2 555 Q. And going on, they talk about how
3 to develop these opportunities and coordinated
4 changes to achieve the overall plan. Do you see
5 that?

6 A. Sorry, which page is that?

7 556 Q. This one (indicating). It's page
8 20 of the document if you look at the bottom.

9 A. Yes, I see 20, sorry.

10 557 Q. It says:

11 "Several coordinated changes
12 need to occur to achieve the overall
13 plan."

14 Right?

15 A. I'm sorry, could you tell me where
16 exactly that is?

17 558 Q. Okay.

18 MR. MATTHEWS: It's the title.

19 THE WITNESS: Sorry, okay, yes, I see
20 it.

21 MS. MACHADO: He was looking at the
22 bubbles.

23 BY MR. LISUS:

24 559 Q. An overall plan as we've discussed
25 was increasing the efficiencies of OLG and

1 generating a higher return, right?

2 A. Yes.

3 560 Q. And then specifically with respect
4 to horseracing, it was:

5 "The changes that were being
6 considered were allowing OLG to
7 relocate slots away from racetracks,
8 and build new casinos in the GTA and
9 elsewhere in the province that
10 cannibalize racetrack sites without
11 reducing support for horse
12 racing..."

13 Do you see that? That was a change
14 being contemplated?

15 A. Sorry, where is that?

16 561 Q. 1A.

17 A. 1A, yes. Yes, I see that.

18 562 Q. And you do recall there being
19 discussion about relocating slot machines away from
20 racetracks in rural areas and putting them into
21 casinos in urban areas closer to demand, right?

22 A. Yes, I do.

23 563 Q. And also what was under
24 consideration at that time was that the revenue
25 that would flow to the horseracing industry would

1 be maintained, notwithstanding that relocation of
2 slot machines, correct?

3 A. I can't recall what the specific
4 commitment was there.

5 564 Q. Well, do you see where it says:
6 "Allows OLG to relocate slots
7 away from racetracks, and build new
8 casinos in the GTA and elsewhere in
9 the province that cannibalize
10 racetrack sites without reducing
11 support for horseracing (\$375
12 million...)"

13 A. Yeah, I see this as part of this
14 draft document.

15 565 Q. Okay. And the document also
16 contemplates changes to the horseracing model,
17 right?

18 A. On the following page?

19 566 Q. Yes.

20 A. Yes, I see that.

21 567 Q. Now, were you aware of how long
22 OLG had been undertaking this planning and review
23 process?

24 A. I couldn't say.

25 568 Q. Do you know whether or not it had

1 engaged experts to assist it in the process?

2 A. I'm not sure.

3 569 Q. Okay.

4 MS. LA HOREY: Just before you leave
5 and go on to the next question, I just want to note
6 that we've spent a lot of time today and the last
7 few minutes just asking Mr. Stransky to confirm
8 words on a page, and I am mindful that we've set
9 aside a day for this examination and I think that,
10 you know, you can't go on indefinitely with each of
11 these witnesses. So, you know, I haven't objected
12 so far but we're not going to be days and days with
13 this witness.

14 I know that we're on a document in
15 October 2011. So I just give you fair warning
16 that, you know, we'll be reasonable with respect to
17 timeframes and going a little bit over, but you've
18 estimated three-quarters of a day for this witness,
19 as I recall, and we need some time to respond, and
20 if we don't have time you can ask a few more
21 questions.

22 When I say respond, I mean further
23 re-examination. But I would ask you to be mindful
24 of time that this witness is taking to come here
25 today away from his job, and that we not unduly

1 prolong this.

2 MR. LISUS: So the next exhibit in the
3 sequence.

4 MR. MATTHEWS: Exhibit 19, CR928.

5 EXHIBIT NO. 19: Document entitled
6 "Draft Confidential Advice to
7 Minister," Bates numbered CR928.

8 BY MR. LISUS:

9 570 Q. You're not aware, Mr. Stransky, of
10 any experts that the government commissioned to
11 review the changes that could be made to enhance
12 the performance of OLG in 2011, are you?

13 A. I can't recall specifically in
14 general. And when you say government?

15 571 Q. Ministry of Finance.

16 A. I can't recall specifically, but
17 generally it's possible.

18 572 Q. I haven't seen any evidence that
19 there was such --

20 A. Yeah, I'm --

21 573 Q. You don't know one way or the
22 other?

23 A. Yeah, I'm not...

24 574 Q. Okay. I want to ask you to look
25 at OLG1912 which is an email from Will Hill to you,

1 enclosing a document for review.

2 Now, just in light of your earlier
3 comments to me, Mr. Stransky, I take it that the
4 issues, the personal issues that you were having
5 which you think may make remembering some of these
6 details significant occurred with the birth of your
7 child from December 25, 2011 forward?

8 A. That's correct.

9 575 Q. So we're here on November 10, 2011
10 and Mr. Hill, who I presume is someone who you
11 dealt with at OLG?

12 A. That's correct.

13 576 Q. He's sending a document to you
14 which appears to be based upon the draft document
15 that we just discussed. Do you see that?

16 A. I don't see the direct connection,
17 but I'll take your word for it.

18 577 Q. Okay. Do you remember receiving
19 this document from Mr. Hill in the late fall of
20 2011?

21 A. It looks vaguely familiar.

22 578 Q. Okay.

23 A. But I -- yes.

24 MR. LISUS: Next exhibit, please.

25 MR. MATTHEWS: OLGSB1912 is Exhibit --

1 and 1913, Exhibit 20.

2 EXHIBIT NO. 20: Email and attachment,
3 Bates numbered OLGSB1912 and LGSB1913.

4 BY MR. LISUS:

5 579 Q. And I want to show you another
6 document, November 17, OLG970, which appears to be
7 the next version of this document being sent to
8 you. You see the email from Mr. Hill to you and
9 Mr. Shortill?

10 A. Yes.

11 580 Q. Why were these documents being
12 sent to you at this time?

13 A. I can't recall.

14 MR. LISUS: Okay. Next exhibit.

15 MR. MATTHEWS: Exhibit 21, OLGSB970 and
16 its attachment 972.

17 EXHIBIT NO. 21: Email and attachment,
18 Bates numbered OLGSB970 and OLGSB972.

19 BY MR. LISUS:

20 581 Q. I want to ask you to look at a
21 document which is CR00757. These are handwritten
22 notes of Mr. Cogan and there is a transcription of
23 them. I'm going to give you the transcription up
24 on the screen there.

25 So these are -- the evidence has been

1 from Mr. Cogan that these are notes that he made at
2 a meeting on November 30, 2011 with OLG and the
3 discussion concerned the recommendations that OLG
4 was making.

5 Now, let me ask you -- take a minute
6 and read the transcription, and what I would like
7 you to tell me is if that assists you in telling me
8 whether or not you were at that meeting?

9 A. Who did you say? It was Josh
10 Cogan and...?

11 582 Q. Well, he couldn't really recollect
12 who else was there.

13 A. Okay.

14 MS. LA HOREY: So the question is, were
15 you at a meeting with Josh Cogan on November 30th,
16 2011, do you recall?

17 THE WITNESS: This document is not
18 helping me recall.

19 BY MR. LISUS:

20 583 Q. So, for instance, if we look at
21 the first page under the line that says:

22 "End of Jan cab, land based
23 gaming - OLG recommendations -
24 Minister excited and supportive."
25 You don't --

1 A. He was on the Ministry side. I
2 know who Josh Cogan is.

3 584 Q. Okay.

4 A. But I --

5 585 Q. All I'm going to do is take you to
6 some of these entries and see if it triggers in you
7 a memory as to whether or not you were there.

8 A. Okay.

9 MS. LA HOREY: Well, he's skimmed the
10 document. He says he doesn't recall.

11 MR. LISUS: Please, Ms. La Horey, just
12 don't interrupt.

13 BY MR. LISUS:

14 586 Q. If you take a look at the next
15 page, do you see the third page, at the top, there
16 is an asterisk, "Slots at Racetracks"?

17 A. Third page? Yes, I see that.

18 587 Q. It says:

19 "Currently no accountability
20 for horse dollars; large
21 stakeholder; insane when compared to
22 other economic development
23 programs."

24 None of this is ringing any bells with
25 you?

1 A. As to whether or not I was at the
2 meeting?

3 588 Q. Yeah.

4 A. No.

5 589 Q. No? "All in Tory ridings." Do
6 you recall there being discussion about people
7 being affected by any material change in the
8 revenue share being in Tory, not Liberal, ridings?

9 A. No, I can't recall. I know that
10 there were a number of tracks and they were spread
11 across different parties, but that's...

12 590 Q. Okay. Thank you. So you're
13 confident in telling me that you don't have a
14 recollection of being at this meeting?

15 A. That's right.

16 591 Q. Okay. We've identified the
17 document number. I want to show you another
18 document which is a handwritten note that
19 Mr. Seiling made in early December. It was
20 marked on -- I don't know what exhibit number it
21 was on Mr. Seiling's examination. Right, Seiling,
22 it was a composite exhibit of notes.

23 So, Mr. Seiling testified that he had a
24 discussion with you in early December and he made
25 notes of it, and it says:

1 "Call Blair after discussion
2 with JB."

3 Any idea who JB is?

4 A. My guess would be that it's John
5 Blakney who worked at the ORC.

6 592 Q. Okay.

7 "In which he told me Ministry
8 staff saying three tracks closing:
9 Fort Erie, Windsor, Hiawatha. Tell
10 Blair hearing rumours three tracks
11 closing and am concerned. Word may
12 leak and if time ORC left in lurch
13 what to say. Blair says not to
14 worry, that nothing to that extent
15 will happen."

16 Do you recall a discussion with
17 Mr. Seiling in early December 2012 along the lines
18 of these entries in this note?

19 A. No, and I would be mindful of some
20 of the things perhaps said here in terms of how I
21 generally converse with folks, so --

22 593 Q. Let me just break that down. With
23 the benefit of this note, are you telling me you
24 don't recall the --

25 A. No, no, no, I don't.

1 594 Q. Let me finish. You don't recall a
2 discussion with Mr. Seiling in early December about
3 rumours or information about three tracks closing?
4 You don't recall any such discussion?

5 A. No, I don't.

6 MR. LISUS: Off for a minute.

7 -- OFF THE RECORD DISCUSSION --

8 MR. LISUS: I'm going to mark this note
9 the next exhibit for identification.

10 EXHIBIT C (for identification):

11 Handwritten note made by Mr. Seiling.

12 BY MR. LISUS:

13 595 Q. In early December 2012,
14 Mr. Stransky, what -- sorry, early December 2011,
15 what were the Ministry's intentions with respect to
16 the revenue share from Slots at Racetrack Program
17 and the horseracing industry?

18 A. I -- I can't recall.

19 596 Q. Okay.

20 A. Yeah.

21 597 Q. Let me see if this helps your
22 recollection. Would you take a look at the
23 following document, CRE18263.

24 And while I get that document, Barry
25 Goodwin was on the bureaucratic side of the

1 Ministry, right?

2 A. Correct.

3 598 Q. And Tanya Watkins?

4 A. Also in bureaucracy.

5 599 Q. And so what I'm showing you here,
6 sir, is an email dated Thursday, December 8th, 2011
7 from Elizabeth Yeigh at Finance, and you worked
8 closely with Ms. Yeigh in 2011 and 2012, correct?

9 A. Correct.

10 600 Q. And she seems to be circulating to
11 folks at OLG and Finance a draft approach, as she
12 terms it. Do you see this?

13 A. Yes, I see it.

14 601 Q. And that email is also sent along
15 to Poland Lai, L-A-I, in Finance. Is that the
16 political side or bureaucrat side?

17 A. I believe bureaucrat, although
18 he's someone I'm not as familiar with.

19 602 Q. Okay. Brad - can you read it? -
20 Partington?

21 A. Yes. I recognize his name as
22 being on the Ministry side.

23 603 Q. Ministry being political?

24 A. No, Ministry being the
25 bureaucracy.

1 604 Q. All right. So in December 2012
2 the Ministry of Finance is proposing a five-year
3 approach. If you go over to the actual proposal
4 entitled "Proposed Five-Year Approach, Horseracing
5 Industry," and if you go about two-thirds of the
6 way down, it says "Funding." Do you see that?

7 A. I do.

8 605 Q. You see there's two bullets?

9 A. I do.

10 606 Q. See the second bullet?

11 A. Yes.

12 607 Q. It says:

13 "Slots at Racetrack Program
14 funding will be phased out over a
15 five-year period. First year
16 funding is status quo followed by a
17 25 percent year reduction in the
18 following years (i.e., moving from
19 \$340 million annually in year 1;
20 \$255 million in year 2; \$170
21 million...in year 4; by year 5 - the
22 only government support available to
23 the industry will be the PMTR)."

24 [As read]

25 Which we understand is the parimutuel

1 tax reduction, right? Yes?

2 A. That would make sense to me.

3 608 Q. Do you remember there being
4 discussion within Finance of this phased approach
5 to the change in the revenue sharing?

6 A. What I can recall is that there
7 was -- we were looking at possible -- possible
8 approaches. I can't recall this one specifically.

9 609 Q. But among the possible approaches,
10 leaving aside this specific articulation in this
11 document, you were aware that one of the approaches
12 being looked at was a phased-out approach over five
13 years; is that fair?

14 A. I can't recall specifically five
15 years, but I do remember options being -- I vaguely
16 remember options of a phase-out.

17 610 Q. And am I understanding things
18 correctly, Mr. Stransky, that you don't have a very
19 clear recollection of it because these were
20 decisions that were made on the bureaucrat side of
21 Ministry and it was your job simply to deal with
22 communications around it?

23 A. Sorry, you're asking if that's the
24 right interpretation?

25 611 Q. Yes, of where and how such

1 approaches were being developed.

2 A. I would say the detailed look at
3 the actual -- sorry, I'm searching for the words.

4 612 Q. Approach?

5 A. The approach of looking at the
6 details and the options would have been something
7 that the Ministry would typically look at more than
8 we.

9 613 Q. And when you say Ministry, you
10 mean the bureaucrat side?

11 A. That's right.

12 MS. LA HOREY: Do you know if you ever
13 even got this? Because you're not copied on it.

14 THE WITNESS: Yeah, and that's why,
15 again, I can't recall this one specifically.

16 BY MR. LISUS:

17 614 Q. Okay. Now, do you recall
18 discussing with Ms. Yeigh, for instance, a
19 phased-out approach over five years?

20 A. No, I don't recall.

21 MR. LISUS: The next exhibit.

22 MR. MATTHEWS: How would you like us to
23 mark it?

24 MS. LA HOREY: Identification.

25 MR. MATTHEWS: Exhibit D, CRE18263 and

1 CRE29772.

2 EXHIBIT D (for identification): Email
3 and attachment, Bates numbered CRE18263
4 and CRE29772.

5 BY MR. LISUS:

6 615 Q. In December 2011 what was your
7 view, sir, as to how to approach any change in
8 funding to the horseracing industry?

9 MS. LA HOREY: I don't know that
10 Mr. Stransky's personal views are relevant to the
11 examination and the purpose for which he's being
12 examined.

13 MR. LISUS: I'm not asking his personal
14 view; I'm asking his view as the policy advisor to
15 the Minister.

16 MS. LA HOREY: Why don't you rephrase
17 the question so that it's a proper question.

18 MR. LISUS: Well, I'll leave it the way
19 it is. I'm not asking his personal views on
20 anything in this examination, Ms. La Horey, I think
21 we both understand that.

22 MS. LA HOREY: Well, maybe the witness
23 doesn't.

24 MR. LISUS: I think he does.

25 BY MR. LISUS:

1 616 Q. Go ahead.

2 A. Sorry, could you repeat the
3 question?

4 617 Q. What were your views as to the
5 approach to be taken to the changes to the revenue
6 sharing of Slots at Racetrack?

7 MS. LA HOREY: At what time?

8 BY MR. LISUS:

9 618 Q. December 2011.

10 A. From what I can recall, and it is
11 vague, nevertheless we were considering what
12 changes could happen in order to direct revenue to
13 where we thought it should best go, and I'm talking
14 from a very macro fiscal policy standpoint.

15 So, as a part of my responsibilities,
16 it was my view at the time that -- again, what I
17 recall, that we wanted to explore that and
18 determine whether or not revenue from major
19 agencies like the OLG was being maximized and from
20 there, you know, availability to dedicate it to
21 priority policy objectives.

22 619 Q. When you say "explore that," what
23 was involved in exploring that issue?

24 A. Well, I think, you know, from what
25 you've shown me today, it's helping me recall that

1 we were looking at agencies like the OLG and asking
2 them, although I am mindful of even suggesting that
3 it was us asking, I can't recall exactly how it
4 happened, but there were certainly conversations as
5 a result at the time exploring what we might do to
6 maximize revenue.

7 620 Q. To the province?

8 A. That's correct.

9 621 Q. And OLG had been either asked or
10 directed to do that and they had done that and made
11 recommendations to the Ministry, right?

12 A. Yeah. I mean, basically I can say
13 that more confidently based on what I've seen
14 today.

15 622 Q. You were aware that Mr. Drummond
16 was conducting a review of sorts?

17 A. Certainly, yes.

18 623 Q. Did you ever speak with him?

19 A. I can't -- I can't recall.

20 Certainly -- no, I can't recall.

21 624 Q. Did you ever speak with
22 Mr. Phillips and get his opinion about how the
23 sharing of revenue from slot machines at racetracks
24 should be changed?

25 A. I can't recall specifically.

1 625 Q. Okay. I want to show you an email
2 dated December 15, 2011.

3 MR. MATTHEWS: OLGSB995 and its
4 attachment 996.

5 BY MR. LISUS:

6 626 Q. Read the email, please.

7 A. (Witness reads document).

8 627 Q. Did you have any involvement in
9 composing language for inclusion in the Drummond
10 report?

11 A. Not that I can directly recall.

12 628 Q. Were you aware that the Ministry
13 was composing language for inclusion in the
14 Drummond report?

15 A. I can remember that there was a
16 review and that --

17 629 Q. When you say a review, you mean
18 the Drummond --

19 A. The Drummond, a review of how we
20 might raise revenue or -- yes.

21 630 Q. Okay, but just to my question, my
22 question was, were you aware that the Ministry
23 composed language for inclusion in the Drummond
24 report?

25 A. In the specific circumstance, I

1 can't recall.

2 631 Q. Okay. Leaving aside your
3 recollection of the specific circumstance, were you
4 aware of such a practice?

5 MS. LA HOREY: What do you mean "a
6 practice"?

7 BY MR. LISUS:

8 632 Q. Of composing language for
9 inclusion in the Drummond report.

10 A. I can't recall how things were set
11 up in terms of how that review took place, and
12 where.

13 633 Q. The reason I'm asking you that,
14 Mr. Stransky, is if you look at the last line of
15 the email, it says:

16 "Based on what Barry said on
17 the call yesterday, you may want to
18 flip this to him (and possibly Blair
19 at the same time). Let me know when
20 you do so I can send to Liz as well
21 as a courtesy."

22 So it seems like you had been involved
23 in a discussion about what language should be
24 suggested for inclusion in the Drummond report.
25 Does that assist your memory?

1 MS. LA HOREY: Well, I don't think you
2 have fairly paraphrased what is said.

3 MR. LISUS: I didn't paraphrase it, I
4 read it.

5 MS. LA HOREY: No, you didn't, but ask
6 your question and we don't accept the paraphrase.

7 MR. LISUS: I did read it. Can you
8 just read back what I said, please, Ms. Neeson.

9 THE REPORTER: Question:

10 "The reason I'm asking you
11 that, Mr. Stransky, is if you look
12 at the last line of the email, it
13 says:

14 'Based on what Barry said on the
15 call yesterday, you may want to flip
16 this to him (and possibly Blair at
17 the same time). Let me know when
18 you do so I can send to Liz as well
19 as a courtesy.' "

20 MR. LISUS: That's a read, not a
21 paraphrase.

22 MS. LA HOREY: I know, and then your
23 next statement, your next question was a paraphrase
24 and I don't think it was accurate. In any event,
25 your question is, does he recall, does this assist

1 him in recalling what the review process was.

2 MR. LISUS: No, that wasn't my
3 question.

4 MS. LA HOREY: Okay. Why don't you put
5 your question on the record. I've lost it.

6 BY MR. LISUS:

7 634 Q. Does that assist you in
8 remembering whether or not you were involved in a
9 practice of composing language for inclusion in the
10 Drummond report?

11 A. No, it does not.

12 MR. LISUS: All right. That's the next
13 exhibit.

14 MS. LA HOREY: For identification
15 because he's not copied or cc'd. This email is not
16 to or from Mr. Stransky.

17 MR. LISUS: I don't care if it's
18 identification or not.

19 MS. LA HOREY: Okay.

20 MR. MATTHEWS: E for identification,
21 OLG995 and 996.

22 EXHIBIT E (for identification): Email
23 and attachment, Bates numbered OLG995
24 and OLG996.

25 BY MR. LISUS:

1 635 Q. I want to show you a memorandum to
2 file which was marked on Mr. Seiling's examination.
3 It appears to be December --

4 MS. LA HOREY: December 20, it looks
5 like.

6 BY MR. LISUS:

7 636 Q. December 20, 2011. It says:
8 "Memo to file - Stransky meeting," and it says:
9 "A discussion racing. Based on
10 previous call not anything hard
11 coming down for racing."

12 Do you recall a meeting with
13 Mr. Stransky around December the 20th -- excuse me,
14 with Mr. Seiling in around December 20th?

15 A. No.

16 637 Q. No recollection?

17 A. No, I don't recall.

18 638 Q. Let me ask you this, sir. In the
19 third week of December 2011 was it your
20 understanding that there likely would be a change
21 to the revenue sharing with the horseracing
22 industry but it would be phased in over multiple
23 years? Was that what your general understanding
24 was?

25 A. I can't recall where we might have

1 been at that point and if it was a phased approach
2 that was being discussed. It's possible but I
3 don't recall.

4 639 Q. Then there's a reference in the
5 note, the second last sentence, that says:
6 Reinstated offer -- excuse me:

7 "Reiterated offer of
8 administration that ORC could supply
9 info to government - told don't need
10 it."

11 Do you recall Mr. Seiling offering to
12 provide the Ministry with information about the
13 horseracing industry and you telling him the
14 Ministry doesn't need it?

15 A. No, I don't recall that.

16 640 Q. Okay. Do you recall whether you
17 had been instructed not to communicate with ORC
18 about changes being contemplated to horseracing
19 industry funding in December 2011?

20 A. I don't recall being instructed as
21 such.

22 641 Q. Okay. So, if I understand you,
23 Mr. Stransky, you're just telling me that you don't
24 have any recollection of this kind of discussion
25 with Mr. Seiling in late December 2011, him

1 offering to provide information to government
2 through the ORC and you saying the government
3 doesn't need it?

4 A. Specifically, no, I don't recall.
5 MR. LISUS: Okay. Our next exhibit,
6 please.

7 MS. LA HOREY: F for identification.
8 EXHIBIT F (for identification):
9 Memorandum to file dated December 20,
10 2011.

11 BY MR. LISUS:

12 642 Q. Are you aware in late February
13 2012 that certain radio ads were run which
14 characterized the revenue sharing as a secret
15 subsidy? Do you remember that?

16 A. The dates of that, do you recall?

17 643 Q. February 26, 2012.

18 A. February 26, 2012. I don't recall
19 certainly the specifics. It's possible.

20 644 Q. Were you aware of a decision being
21 made to run radio ads in advance of the public
22 announcement of the termination of revenue sharing
23 to characterize the funds shared with the
24 horseracing industry as a secret subsidy created by
25 Tim Hudak for a few rich racetrack owners?

1 A. I don't -- I honestly don't recall
2 that. I was on the policy side. I was generally
3 aware of, obviously, the file, but I can't recall
4 being involved.

5 645 Q. That was not a decision that you
6 were involved in then, correct?

7 A. No, I don't recall being part of a
8 decision there.

9 646 Q. And it wasn't a decision that
10 Mr. Shortill was involved in?

11 A. You'd have to ask him.

12 647 Q. And do you recall hearing these
13 ads or learning of them?

14 A. They sound vaguely familiar but I
15 don't -- again, it was a pretty busy time for me,
16 so...

17 648 Q. Right.

18 A. Yeah.

19 MR. LISUS: Take a five or ten-minute
20 break?

21 -- RECESS AT 3:15 --

22 -- UPON RESUMING AT 3:27 --

23 BY MR. LISUS:

24 649 Q. Just continuing with the narrative
25 there, Mr. Stransky. By the way, did you ever

1 speak with Mr. Flynn at OLG?

2 A. Larry Flynn?

3 650 Q. Yeah.

4 A. I recall his name. He was not one
5 of my regular contacts.

6 651 Q. Okay. Your regular contacts were
7 Mr. Phillips?

8 A. Yeah, from what I recall,
9 Mr. Phillips was, yeah, one of --

10 652 Q. Okay. I want to show you CRE80473
11 which is an email from Tanya Watkins, and Tanya was
12 on Elizabeth Yeigh's team, for lack of a better
13 word?

14 A. Yes.

15 653 Q. And this is December 22, 2011, and
16 it appears that Ms. Watkins and Ms. Yeigh are
17 preparing a slide for -- it says HR slide for PO
18 briefing. And my interpretation of that is
19 horseracing slide for Premier's Office briefing.
20 Does that make sense?

21 A. That certainly could be what it
22 is.

23 654 Q. Is PO the acronym typically used
24 for the Premier's Office?

25 A. Correct.

1 655 Q. Now, you're not on this email?

2 A. Correct.

3 656 Q. And do you recall your team, and
4 by your team, I mean you or Mr. Shortill, being
5 involved in any briefings of the Premier or the
6 Premier's Office in December 2012 about
7 horseracing?

8 A. I don't recall.

9 657 Q. Were you ever involved in any
10 briefings of the Premier's Office?

11 MS. LA HOREY: With respect to
12 horseracing?

13 BY MR. LISUS:

14 658 Q. Yes, horseracing.

15 A. I can't recall being part of a
16 briefing.

17 659 Q. Okay. Am I correct that a
18 Premier's Office briefing doesn't necessarily mean
19 the Premier; it could be his or her staff?

20 A. That would make sense to me, yeah.

21 660 Q. So in this email, Ms. Yeigh and
22 Ms. Watkins appear to be preparing a briefing for
23 the Premier's Office which has funding or revenue
24 sharing with the horseracing industry phased out
25 over three years. Do you see that in the email?

1 It's a repeat of the model or the
2 formula we saw in an earlier email. Do you see
3 that?

4 A. Sorry?

5 661 Q. The proposed approach.

6 A. Oh, yeah. It's blanked out here a
7 little bit so I think it's from a hole.

8 662 Q. The bullet is, over the next three
9 years funding typically --

10 A. Yes.

11 663 Q. Okay. You weren't involved with
12 Ms. Yeigh or Watkins in preparing a briefing note
13 of this kind for the Premier's Office, that's my
14 question?

15 A. I don't recall being part of a
16 briefing, no.

17 664 Q. And did they tell you, by the way,
18 we are preparing or are going to brief -- preparing
19 to brief or are going to brief the Premier's Office
20 on the phased approach?

21 A. I was not aware of --

22 MR. LISUS: Okay, that's the next
23 exhibit for identification.

24 EXHIBIT G (for identification): Email,
25 Bates numbered CRE80473.

1 BY MR. LISUS:

2 665 Q. Again, just so I'm faithful to
3 your evidence, you have the birth of your son on --

4 A. December 25th, 2011.

5 666 Q. Okay. And then after that you're
6 out of the loop for two weeks?

7 A. From what I can recall, yeah, it
8 was -- yes, two weeks.

9 667 Q. Understand. This is going to help
10 me when I ask you about certain dates.

11 A. Okay.

12 668 Q. And you were on leave?

13 A. I took two weeks off after he was
14 born.

15 669 Q. Okay.

16 A. Yes.

17 670 Q. And while we are speaking of
18 acronyms, CO is Cabinet Office, right?

19 A. That would make sense to me.

20 671 Q. Now, I asked you about your status
21 in early January, and I just noticed an email here,
22 if I look at CRE105863, which is from you, January
23 16, 2012, saying:

24 "Hi guys - can I get a copy of
25 this deck?"

1 Do you remember asking for a copy of
2 the deck?

3 A. I can't recall. I'm just seeing
4 it here in the email.

5 672 Q. Okay. No recollection of this?

6 A. No.

7 673 Q. Okay. So that email from you is
8 the next exhibit, please.

9 And the deck that you're referring to,
10 Mr. Stransky, is attached to an email. Do you have
11 that exhibit? The next exhibit.

12 MR. MATTHEWS: This is Exhibit 22,
13 CRE105863.

14 EXHIBIT NO. 22: Email, Bates numbered
15 CRE105863.

16 BY MR. LISUS:

17 674 Q. If we go to CRE28760, there is an
18 email from Will Hill to Tim Shortill and you, and
19 I'll give it to you, and if you look with me, it
20 includes a Minister generic letter, stakeholder
21 engagement doc and government deck final and the
22 email says:

23 "Tim and Blair, looking forward
24 to our session tomorrow scheduled
25 for 1:30 p.m. January 19."

1 A. I see that.

2 675 Q. Now, if we take a look at the deck
3 that's attached, and if you just keep going you'll
4 see there is a deck dated January 19, 2012.

5 A. Yes.

6 676 Q. And if we go to page 3, it says
7 "Summary of Proposal."

8 A. Yes, I see that.

9 677 Q. And this appears to be a summary
10 of the proposal regarding opportunities that we
11 looked -- a draft of which we looked at earlier
12 this afternoon from mid-December. Do you recall
13 that? Lottery/gaming...

14 A. Yes, I -- I need to read this to
15 directly connect them, but it's the same headers
16 here in the slide.

17 678 Q. Okay. And if you go over to page
18 11, we see there the six key improvements to
19 lottery and gaming?

20 A. Yes.

21 679 Q. And the deck talks about the
22 consultation that was undertaken?

23 A. Is there a specific reference
24 you're making?

25 680 Q. Yes. Page 19 of the deck,

1 "Extensive Stakeholder Consultation and Market
2 Analysis."

3 A. Yes, I see that.

4 681 Q. To your understanding, what was
5 the purpose of the stakeholder consultation
6 undertaken in the spring of 2011?

7 A. I can't recall all of the
8 specifics. General recollection is that, and in
9 reading this, that there was work done by OLG, I
10 believe, to learn more and -- about -- get more
11 information from stakeholders to inform potential
12 modernization, I would guess.

13 682 Q. Okay. And if we continue on to
14 24, we see the horseracing proposed approach. The
15 proposed approach is in the middle of the deck:

16 OLG payments under SARP continue
17 for 2012-13. Beginning in 2013-14,
18 OLG to return previous SARP funds to
19 the consolidated revenue fund for
20 distribution by government to the
21 industry via transfer payments. By
22 2015-16, industry to receive 100
23 million in annual transfer payments
24 for purses/operations, i.e. three
25 year reduction... et cetera. [As

1 read]

2 That seems to be the phased approach
3 that was being proposed by Ms. Watkins and Yeigh
4 and their team in Finance, right?

5 A. I see the consistency with what
6 you provided.

7 683 Q. So in January 2012, am I correct
8 that it was your understanding that what was being
9 proposed to the Minister was a change to the SARP
10 revenue share, in that it would be phased out over
11 five years? Is that what you understood to be the
12 approach recommended by Finance?

13 A. I can't -- I can't recall what was
14 the ultimate proposed --

15 684 Q. Not ultimate. As of January --

16 A. As of this date, that appears to
17 be. Again, it's marked draft, so things are always
18 moving fairly quickly, so there's always potential
19 for change, so...

20 685 Q. And did it change?

21 A. I kind of look to you in terms of
22 the outcome, mainly because it was so long ago, and
23 I'm trying to remember exactly, frankly, where we
24 landed. My sense is that it did, but I'd like the
25 sort of history show.

1 686 Q. Do you know why it changed?

2 MS. LA HOREY: Sorry, why it? Let's
3 clarify.

4 BY MR. LISUS:

5 687 Q. Do you know why the --

6 MS. LA HOREY: Because this is OLG's
7 deck.

8 MR. LISUS: Well, I think it's more
9 than that.

10 MS. LA HOREY: It's OLG's. It's got
11 OLG's logo on it.

12 MR. LISUS: Okay.

13 MS. LA HOREY: So are you talking about
14 OLG's proposal or the Ministry's recommendation?

15 MR. LISUS: Well, the proposal, Ms. La
16 Horey, of a phased approach as summarized in this
17 deck came from the Ministry, not OLG. That's what
18 the evidence we've gone through demonstrates.

19 MS. LA HOREY: Well, I don't know about
20 that, but just make it clear what you're proposing
21 to the witness and see if he agrees with you.

22 BY MR. LISUS:

23 688 Q. Did the phased approach in this
24 deck and in the emails that we've seen from
25 Ms. Watkins and Ms. Yeigh, was that the approach

1 ultimately taken?

2 A. I can't recall specifically where
3 we landed. My sense is it was -- it was not.

4 689 Q. And who made the decision that it
5 would not be the approach taken?

6 A. That I'm unable to say because I
7 can't recall.

8 690 Q. You weren't in any meeting of any
9 kind in which the decision not to follow the
10 approach proposed of a phased-out approach was
11 taken; am I correct?

12 A. I can't recall a meeting such as
13 that.

14 691 Q. You just became aware at some
15 point that the phase-out over five-year approach
16 wasn't going to be taken, right?

17 A. I can't recall specifically, but I
18 know -- it strikes me that it wasn't.

19 692 Q. And you say it strikes you that it
20 wasn't in part because of the litigation and that
21 we're sitting here today?

22 A. Well, I'd say in part because of
23 the timing this took place in my life and the fact
24 that it was exactly seven years ago.

25 MR. LISUS: So this email to you with

1 the attachments is the next exhibit, please.

2 EXHIBIT NO. 23: Email and attachments,
3 Bates numbered CRE28760, CRE28761,
4 CRE28762 and CRE28763.

5 BY MR. LISUS:

6 693 Q. Let me ask you this, Mr. Stransky.
7 Do you have any recollection of when you received
8 this email and this deck saying to anyone in
9 Finance, has anyone looked at what the consequences
10 of this would be for the horseracing industry?

11 A. Do I recall someone saying that?

12 694 Q. Yes.

13 A. Someone raising in my --

14 695 Q. At any time, do you recall at any
15 time before the decision was made and communicated
16 to anyone saying, has anyone looked at what the
17 impact of the decision not to follow the phased
18 approach that is summarized in the January deck we
19 just reviewed would be?

20 A. To me, it would be common practice
21 to consider what potential impacts of a multiple
22 number of options would be.

23 696 Q. But you're not aware of what
24 consideration was made or analysis undertaken?

25 A. I can't recall the specifics of

1 what those impacts were and what guided us to make
2 decisions.

3 697 Q. You say "us." Who do you mean?

4 A. The government.

5 698 Q. It wasn't your decision, right?

6 A. No, it would not have been my
7 decision.

8 699 Q. It wasn't Mr. Shortill's decision?

9 A. I can't say beyond myself. I can
10 say that I didn't make the decision.

11 700 Q. And you don't know when the
12 decision was made?

13 A. I know a rough timeframe based on
14 what you've shown me. I have a general sense.

15 701 Q. What's your understanding of when
16 the decision was made?

17 A. Well, you've left me off at
18 January 19th, 2012, so I'm assuming it was in that
19 neighbourhood, but again, it's difficult for me to
20 say.

21 702 Q. I want to ask you about an email
22 exchange between you and Ms. Yeigh and Ms. Watkins
23 and Mr. Goodwin, it's CRE80623. You send to
24 Mr. Goodwin and Ms. Yeigh and Ms. Watkins a letter
25 from OHRIA, and you say:

1 "FYI - note their messaging
2 around the Slots and Tracks Program
3 on the second of two pages."

4 A. I see that.

5 703 Q. Okay. Now, have a look at the
6 OHRIA letter and the second page of it. The email
7 is to the back page of the letter.

8 MR. MATTHEWS: Just while the witness
9 is looking, for the record, Exhibit 22 was
10 CRE105863; Exhibit 23 was CRE28760 and attachments
11 761, 762, and 763.

12 BY MR. LISUS:

13 704 Q. Okay. Now, you say:

14 "Note their messaging around
15 the Slots and Tracks Program on the
16 second of two pages."

17 What messaging were you referring to?

18 A. (Witness reads document). So, my
19 assumption is it's to the first bullet under the
20 "Horseracing creates jobs in Ontario and preserves
21 farmland" header.

22 705 Q. Yes.

23 A. So that's what I would assume.

24 706 Q. The other message is "Horseracing
25 and government working together," right?

1 A. Above that I see that, yes.

2 MS. LA HOREY: Do you have a
3 recollection or are you just guessing?

4 MR. LISUS: Please don't do that,
5 Ms. La Horey. This is a cross-examination. You
6 wouldn't do that in a courtroom if I was
7 cross-examining this witness, blurt out in the
8 middle of a cross-examination sequence as to if the
9 witness has a recollection. Please don't do that.

10 MS. LA HOREY: I just want to make sure
11 that he's not just speculating.

12 MR. LISUS: Please don't do that.

13 MS. LA HOREY: I want to make sure that
14 this transcript is clear and that the questions --

15 MR. LISUS: What is clear is that you
16 are jumping into a cross-examination at an
17 important point, and I'm asking you not to do it.

18 MS. LA HOREY: I don't think this is an
19 important point.

20 MR. LISUS: Well, then there's no need
21 to jump in.

22 MS. LA HOREY: Because I don't want him
23 guessing. I want to make sure that he's -- if this
24 is refreshing his --

25 MR. LISUS: You know, you're

1 telegraphing to the witness. It's completely
2 inappropriate.

3 MS. LA HOREY: No, I am not.

4 MR. LISUS: Just don't do it.

5 MS. LA HOREY: I'm not.

6 BY MR. LISUS:

7 707 Q. Answer the question, please. Do
8 you remember the question?

9 A. What I believe is you were asking
10 what the messaging was referring to?

11 708 Q. Right. There are three messages.
12 One is that horseracing and the government will
13 work together. That was a message, correct?

14 A. I see that.

15 709 Q. Okay. The next message was
16 horseracing creates jobs in Ontario and preserves
17 farmland. That was a message, right?

18 A. I see that.

19 710 Q. And the next message was
20 horseracing is an economic driver for rural
21 Ontario, right?

22 A. Yes, I see that.

23 711 Q. And you say their messaging around
24 -- you say note their messaging around Slots and
25 Tracks Program. Why were you sending to

1 Ms. Watkins that letter with an email to say note
2 their messaging?

3 A. Because as part of my learning and
4 understanding of how the industry was talking about
5 the issue, and was flagging this with the Ministry.

6 712 Q. And what you had -- what you knew
7 at that time is that the government hadn't told the
8 horseracing industry that it was going to
9 dramatically change the revenue share, right?
10 Hadn't told it?

11 A. Are you asking if there had been a
12 public announcement?

13 713 Q. Yes.

14 A. To my knowledge there had not
15 been.

16 714 Q. And there hadn't been a private
17 heads-up to OHRIA either, right?

18 A. I can't recall if we had.

19 715 Q. So as far as you knew at January
20 23, 2012, the government wasn't working with the
21 horseracing industry to inform it of material
22 changes to revenue share, right?

23 A. Based on what you've shared with
24 me today on the -- with the OLG deck that I just
25 saw, which was four days prior to this

1 correspondence, I suspect we were not.

2 716 Q. And had you told anyone at OMAFRA
3 what was under consideration for the funding share?

4 A. I can't recall what discussions
5 may or may not have taken place.

6 717 Q. But you did know that horseracing
7 was an economic driver for rural Ontario in January
8 2012? You knew that, right?

9 A. I knew that there were jobs
10 related to horseracing.

11 718 Q. Okay. How many?

12 A. Well, based on what I'm reading
13 here, OHRIA says that there were an estimated
14 60,000.

15 719 Q. How many did the Ministry of
16 Finance estimate were dependent on the horseracing
17 industry in January 2012?

18 A. I honestly can't recall.

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

20 MR. MATTHEWS: Exhibit 24, CRE80623 and
21 624.

22 EXHIBIT NO. 24: Email, Bates numbered
23 CRE80623 and CRE80624.

24 BY MR. LISUS:

25 720 Q. I want to ask you about an email

1 sequence, CRE30184. We're now at January 26, 2012.

2 What's a four corners?

3 A. I can't recall exactly what's a
4 four corners.

5 721 Q. Had you heard that term before?

6 A. Yes, I have.

7 722 Q. But you can't recall what it
8 refers to?

9 A. I do not know who it would refer
10 to.

11 723 Q. No, no, not who, what.

12 A. I know it's a reference to a type
13 of meeting.

14 724 Q. Okay. What type of meeting?

15 A. Between who I'm not sure.

16 725 Q. Okay. Did you ever participate in
17 a four corners?

18 A. It's possible but I can't
19 immediately recall. I'm just looking at the
20 document here to understand the reference.

21 726 Q. I'm not going to take time with
22 that document, Mr. Stransky. We can just mark it
23 for the record. I want to ask you about --

24 MR. MATTHEWS: Exhibit H for
25 identification.

1 BY MR. LISUS:

2 727 Q. The final government deck --

3 MS. LA HOREY: You can mark it as an
4 exhibit. He's copied on it.

5 MR. MATTHEWS: Thank you. Exhibit 25.

6 EXHIBIT NO. 25: Email, Bates numbered
7 CRE30184.

8 MR. LISUS: I think it was actually
9 sent to him, but in any event...

10 BY MR. LISUS:

11 728 Q. The final government deck is at
12 CRE87519 and this is an email dated January 26,
13 2012 entitled "Government Deck Final." Who is
14 Terry Oh, O-H?

15 A. I am honestly not familiar with
16 that name.

17 729 Q. Tanya Watkins we've --

18 A. Yes, I am familiar with that name.

19 MR. LISUS: So that's the final
20 government deck and we're at January 26th. I'm
21 going to mark it as an exhibit for identification
22 for now, please.

23 EXHIBIT H (for identification): Final
24 government deck, Bates numbered
25 CRE87519.

1 BY MR. LISUS:

2 730 Q. I want to ask you, as of the end
3 of January, Mr. Stransky, what was your
4 understanding as to when a decision was going to be
5 made about any changes to the revenue share from
6 the Slots at Racetrack Program?

7 A. My understanding of when a
8 decision was going to be made?

9 731 Q. Yeah.

10 A. On that date or...?

11 732 Q. As of the end of January, what did
12 you understand, or when did you understand a
13 decision was going to be made? We see decks being
14 prepared for ministers and confidential advice and
15 all sorts of things happening, so you're nodding,
16 you remember --

17 A. I'm recalling you sharing the
18 Cabinet date.

19 733 Q. So as of the end of January, what
20 was your understanding as to when government was
21 going to make a decision about what was going to be
22 done with OLG and its gaming review and all of the
23 things it was recommending, including the revenue
24 share?

25 A. So, from what you shared with me

1 today, it appears to have been at that time
2 tracking to a Cabinet meeting where there would
3 have been discussion on it.

4 734 Q. Are you reconstructing that from
5 the record I've gone through with you today or do
6 you have a recollection that --

7 A. I'm relying on what you shared
8 today.

9 735 Q. So, the answer to my question when
10 you thought government would make a decision back
11 in January 2012 is you don't remember when you
12 thought government would make a decision; fair?

13 A. Are you asking a general time
14 period?

15 736 Q. Yeah.

16 A. Like within months? Is that what
17 you're asking, or within --

18 737 Q. Any time. Any time. When was a
19 decision going to be made?

20 A. It was my -- at that time my sense
21 would have been, and I'm mindful of not speculating
22 here, but that it would be forthcoming and it would
23 be forthcoming in the coming weeks, I would say.

24 738 Q. And was it your expectation that
25 when the forthcoming decision arrived, it would,

1 insofar as the sharing of the revenue from slots at
2 racetracks with the horseracing industry, it would
3 follow the phased approach that we've seen in the
4 various government decks culminating in the final
5 one of January 26th?

6 A. So, I recall that that was one of
7 the options being considered.

8 739 Q. And what were the other options?

9 A. I can't say in the sense that I'm
10 familiar essentially with what you've shared with
11 me today as a means of recalling, but beyond that,
12 you know, it was -- I think it's fair to say that
13 we would be considering a number of facts at the
14 time.

15 740 Q. When you say "we," you and I have
16 discussed that you weren't involved in the
17 composition of this plan for the phased five-year
18 reduction, correct?

19 A. Well, based on what you shared
20 with me today, I was aware of it.

21 741 Q. Correct.

22 A. It looks like it.

23 742 Q. But it originated from the --

24 A. The ultimate decision --

25 743 Q. Just bear with me.

1 A. Sorry. Yeah.

2 744 Q. You were aware of the phased plan,
3 correct?

4 A. Based on what you've shown.

5 745 Q. I understood you to say that you
6 were not involved in its creation or initial
7 suggestion; that came from review?

8 A. I don't recall being directly
9 involved in that.

10 746 Q. You've also told me today that you
11 don't know who or when the -- who or when the
12 decision was made to terminate revenue share
13 effective April 1, 2013 with no transition
14 assistance or phasing. Do you remember you told me
15 that?

16 A. That I was not involved in that
17 ultimate decision, sure.

18 747 Q. And you don't know who made that
19 decision, right?

20 A. The ultimate decision, yes, I
21 recall saying that.

22 748 Q. Okay. So, my question to you is,
23 what other options were you aware of in January
24 2012, because we haven't seen any record of
25 anything else being considered?

1 A. I'm speaking in general or
2 generalities in the sense that we consider a number
3 of options when we're considering a macro policy
4 change such as this.

5 749 Q. I don't want generalities. I want
6 you to tell me, as a matter of evidence, was there
7 any other specific approach or proposal that you
8 are aware of being considered?

9 A. Not that I can recall.

10 750 Q. Okay. Because all I've seen is
11 the proposal in the January 26th final deck, right?

12 A. From what you've shown me, yes.

13 751 Q. And you haven't seen anything
14 else?

15 A. Not from what you've shown me
16 today.

17 752 Q. And not in what you looked at in
18 preparing to give evidence, right?

19 A. Not that I can recall.

20 753 Q. Okay. And you can't recall any
21 other proposal today as you sit here?

22 A. No, I honestly cannot.

23 754 Q. Okay. Let me just see if this
24 refreshes your memory. This is CRE81193. That's a
25 text of the radio ad that ran on February 26. Does

1 that assist you in remembering those radio ads?

2 A. I see an email here that captures
3 what it says is two radio ads.

4 755 Q. Does it --

5 A. What I would say it assists me in
6 recalling is that there were a number of policy
7 priorities, as I mentioned before --

8 756 Q. Mr. Stransky --

9 A. Yes.

10 757 Q. -- do you remember these radio
11 ads? You told me earlier you didn't. I'm showing
12 you this, which is the actual text, to see if it
13 assists your recollection. Just tell me if you
14 remember the ads or if you do not, that's all.

15 A. I honestly do not.

16 758 Q. All right, thank you. Do you know
17 David Gene?

18 A. I know that name, yes.

19 759 Q. Did you speak with him regarding
20 the OLG or the horseracing file in 2011 or '12?

21 A. I can see that, yes, I would have.

22 760 Q. You did?

23 A. That would make sense to me.

24 761 Q. What did you speak with Mr. Gene
25 about?

1 A. Are there specific -- he was one
2 of the persons I spoke to regarding horseracing and
3 gaming.

4 762 Q. When?

5 A. Yes, that's -- I can't recall
6 specifically but he would be somebody who
7 discussions would take place with.

8 763 Q. Now, he wasn't in the Ministry of
9 Finance?

10 A. No, he was not.

11 764 Q. So why were you -- and he wasn't
12 at OLG?

13 A. Correct.

14 765 Q. And he wasn't at OMAFRA?

15 A. Correct.

16 766 Q. So why were you speaking with him
17 about --

18 A. Because he was in the Premier's
19 Office.

20 767 Q. And what's significant about him
21 being in the Premier's Office?

22 A. He was the Deputy Chief of Staff,
23 I believe was his title. I can't recall beyond
24 that.

25 768 Q. And why would he have an interest

1 in how OLG was going to become more efficient and
2 move its slot machines and change its revenue
3 share?

4 A. I can't recall the specifics
5 except to say that I know the Premier's Office was
6 mindful of modernization and what options it was
7 presenting.

8 769 Q. So tell me what you recollect
9 speaking with Mr. Gene about? That's G-E-N-E, by
10 the way.

11 A. I can't recall specifics.

12 770 Q. I don't require specifics. Just
13 give me your best recollection of what --

14 A. I would have -- I can recall,
15 vaguely, speaking with him about modernization and
16 about how OLG was considering potential
17 modernization, gaming and casinos in general was a
18 focus, and much in line with the slide that you
19 still have up there in terms of the summary of
20 proposal.

21 771 Q. Did you talk with Mr. Gene about
22 the proposal to phase out the revenue sharing with
23 the horseracing industry?

24 A. I can't recall.

25 772 Q. What was his view on the proposed

1 changes to sharing of revenue from slots at
2 racetrack?

3 A. I can't recall what his view is.
4 You'd have to ask him.

5 773 Q. Do you ever speak with
6 Mr. Bardeesy, B-A-R-D-E-E-S-Y, about --

7 A. Sorry?

8 774 Q. Did you speak with Mr. Bardeesy
9 about the horseracing file and in particular the
10 changes to the revenue share?

11 A. I can't recall speaking to him
12 about that. I know who you're referring to though.

13 775 Q. Are you telling me you spoke to
14 him about things but not about horseracing revenue
15 share?

16 A. I can recall having -- knowing
17 Karim Bardeesy and occasionally having discussions
18 with him.

19 776 Q. About horseracing or not?

20 A. I can't recall specifically.

21 777 Q. So you don't recall any
22 discussions with Mr. Bardeesy about horseracing?

23 A. That's correct.

24 MR. LISUS: All right. I'm going to go
25 off for a second.

1 -- OFF THE RECORD DISCUSSION --

2 BY MR. LISUS:

3 778 Q. I want to show you an email,
4 Mr. Stransky. We're now at January 31. I take it
5 you're back at work at this point?

6 A. I believe so.

7 779 Q. And just review the email chain.
8 You can see that it's involving you and Ms. Yeigh
9 and Mr. Goodwin, right?

10 A. I see, yes. I see.

11 780 Q. And the email sequence ends at
12 3:48 by you saying:

13 "Yep, four ministers will first
14 show to Tim and Rod to flag with
15 them."

16 See that? Do you see that?

17 A. I do, yes.

18 781 Q. I understand that you were having
19 meetings with ministers about the proposed --
20 Mr. Rosenberg, it's CRE105937, sorry.

21 Are you briefing Cabinet ministers
22 about the proposed phase-out over five years of the
23 revenue share?

24 A. I can't recall briefing on
25 phase-outs.

1 782 Q. Can you recall briefing ministers
2 on anything to do with the revenue share?

3 A. I can recall briefings with
4 members of caucus which could have included
5 ministers.

6 783 Q. Who do you recall briefing?

7 A. And specifically on -- was it
8 specifically on horseracing or on modernization in
9 general?

10 784 Q. The changes to the revenue share
11 with horseracing were one part of the proposed
12 modernization, right?

13 A. That's correct.

14 785 Q. Okay. So, who do you recall
15 briefing, which Cabinet ministers?

16 A. So, that's where I'm blurry,
17 trying to recall which Cabinet ministers. I
18 remember briefing, I believe it was, Laura
19 Albanese, and I recall also briefing Liz Sandals
20 who at the time I do not believe was a Cabinet
21 Minister, although I stand to be corrected. Yeah.

22 MR. LISUS: Okay. The next exhibit.

23 MS. LA HOREY: I think that's --

24 MR. MATTHEWS: 26.

25 EXHIBIT NO. 26: Email, Bates numbered

1 CRE105937.

2 BY MR. LISUS:

3 786 Q. And I want to show you an email at
4 CRE28697, it's an email from you to Mr. Shortill
5 February 1 saying, you're saying:

6 "Hi Tim,

7 Below is a quick summary of our
8 meetings."

9 A. I see that, yes.

10 787 Q. Does that assist you in recalling
11 your meetings?

12 A. I see on the following page here
13 reference to meetings that I reference at the
14 beginning of the email.

15 788 Q. All right. So let's just look at
16 it. You say February 1, Shafiq, S-H-A-F-I-Q,
17 Qaadri, Q-A-A-D-R-I. Was that a Cabinet minister?

18 A. I do not believe so.

19 789 Q. Was it a Chief of Staff or --

20 A. No, I believe he -- he is an MPP.

21 790 Q. Oh, an MPP?

22 A. Yeah.

23 791 Q. And then Minister Wynne and David
24 Zimmer. Who is David Zimmer?

25 A. An MPP as well.

1 792 Q. And do you remember Minister Wynne
2 and David Zimmer being skeptical? That's what you
3 say.

4 A. I see here that it says skeptical
5 after David Zimmer, and I can't say beyond that.

6 793 Q. What do you recall about your
7 briefing of Minister Wynne and David Zimmer?

8 A. I can't recall the details apart
9 from what I'm seeing here.

10 794 Q. Do you recall Minister Wynne
11 making public comments in 2012 and 2013 about the
12 manner in which the decision to terminate revenue
13 sharing was made?

14 A. No, I do not recall.

15 795 Q. You don't recall her making public
16 comments to the effect that she remembers sitting
17 in Cabinet and thinking that the decision wasn't
18 made properly or thoughtfully?

19 A. I can't recall that.

20 796 Q. And do you recall Mr. McMeekin
21 making comments about the government dropping the
22 ball on the manner in which it changed the revenue
23 share?

24 A. I can't recall.

25 797 Q. No recollection of that?

1 A. If you give me a timeframe, maybe
2 I can give you a sense.

3 798 Q. Well, you had a meeting with
4 Minister Wynne and David Zimmer, two MPPs, right?

5 A. That's correct.

6 799 Q. Minister Wynne was a Cabinet
7 minister at that time?

8 A. Correct.

9 800 Q. And you've identified nine
10 specific -- actually 11 specific points that came
11 out of that meeting. Do you see that?

12 A. I do.

13 801 Q. And you're telling me you have no
14 recollection of that meeting?

15 A. This would have -- the date on
16 this meeting would have been, I would guess, before
17 February 1st, based on the email date.

18 802 Q. I'm just asking if you have no
19 recollection of that meeting?

20 A. I do not have a recollection.
21 These were -- there were a number of meetings and
22 that was seven years ago.

23 803 Q. Do you recall what it was you were
24 communicating to them? Was it a communication to
25 them of the plan to move slots into casinos at

1 cities and change the revenue share with the
2 horseracing industry?

3 A. I'm going based on what I'm seeing
4 here.

5 804 Q. No recollection of what --

6 A. Beyond what you've provided me
7 here, I don't have a recollection.

8 805 Q. And no recollection of what they
9 said to you?

10 A. No. Six years later I do not have
11 a recollection.

12 806 Q. And no recollection of the
13 meeting, for instance where it was?

14 A. I'm vaguely familiar -- I vaguely
15 recall, pardon me, that it -- it may have been in
16 our office at the Ministry of Finance.

17 807 Q. That Ms. Wynne and Mr. Zimmer
18 would have come to your office?

19 A. Possibly. But again, I can't
20 recall.

21 808 Q. Wouldn't protocol have been for
22 you to go to their office to brief them?

23 A. I don't know all the circumstances
24 under which that might have happened. It's
25 possible that they were there for other reasons,

1 but I'm not sure.

2 809 Q. Is it possible that Mr. Shortill
3 was doing the briefing and you were just along with
4 him?

5 A. Based on this email, I would think
6 not, given that I was briefing him about it. So,
7 no.

8 810 Q. Right, okay. Do you recall
9 telling Ms. Wynne and Mr. Zimmer, we're going to
10 phase out revenue share with the horseracing
11 industry over five years?

12 A. I do not recall.

13 811 Q. Okay. And do you recall telling
14 them that you were going to phase out the revenue
15 share in one year with no transition support?

16 A. Sorry, could you just repeat that?

17 812 Q. Do you recall telling Ms. Wynne
18 and Mr. Zimmer that the decision had been made to
19 stop sharing revenue from slots at racetracks with
20 the horseracing industry?

21 A. I don't recall that.

22 813 Q. Who spoke with Mr. McMeekin?

23 A. I can't recall. Is there a
24 reference to a discussion with him?

25 814 Q. There is a subsequent reference to

1 a discussion with Mr. McMeekin. Anyway, let's mark
2 this sequence as the next exhibit, please.

3 MS. LA HOREY: Are these two -- these
4 look to be two different document numbers, 28697
5 and 28698.

6 MR. MATTHEWS: It means the second one
7 is an attachment to the first. In this case it
8 looks like they are two separate and distinct
9 emails.

10 MR. LISUS: Right. There are two
11 emails. The first half is the same, but I see that
12 -- let's mark them -- the summary of your
13 Cabinet -- of your meetings with the various
14 ministers is forwarded.

15 Right, the difference between 28697 and
16 28698 is who the summary is forwarded to, and the
17 comments and the forwarding. 28697 is forwarded to
18 Karim Bardeesy with a copy to Tim Shortill, Chris
19 Morley and Dave Gene, and 28698 is forwarded to
20 Chris Morley with a copy to Tim Shortill, Dave Gene
21 and Karim Bardeesy as well. Anyway, you can have a
22 look at them both.

23 MS. LA HOREY: Do you want them marked
24 as one exhibit or separate? It doesn't matter to
25 me.

1 MR. MATTHEWS: Perhaps, to make it
2 cleaner, separate exhibits. So CRE28697 will be
3 Exhibit 27 and --

4 BY MR. LISUS:

5 815 Q. Do you know who made the
6 presentation to Cabinet?

7 MR. MATTHEWS: -- 28698 will be Exhibit
8 28.

9 THE WITNESS: I can't recall who would
10 have done that.

11 EXHIBIT NO. 27: Email, Bates numbered
12 CRE28697.

13 EXHIBIT NO. 28: Email, Bates numbered
14 CRE28698.

15 BY MR. LISUS:

16 816 Q. And you don't recall whether you
17 were at the Cabinet meeting when that presentation
18 was made?

19 A. I can't recall being at that
20 meeting, but I will say it is possible.

21 817 Q. Okay.

22 A. This was a major file for me.

23 818 Q. Pardon?

24 A. This was a major file for me, to
25 your earlier point that it was an important issue.

1 819 Q. But you can't remember if you were
2 there?

3 A. At that specific meeting on the
4 date that we were --

5 820 Q. February 8, let's say.

6 A. Okay. I can't recall.

7 821 Q. Do you know what recommendation
8 was made at the Cabinet meeting with respect to the
9 revenue sharing?

10 MS. LA HOREY: I'm not going to let you
11 ask questions about what was said at Cabinet. If
12 you're asking if the staff had a position that they
13 were advising by way of presentation at Cabinet,
14 yes, but not what was said at the Cabinet meeting.
15 It's privileged.

16 MR. LISUS: Well, if it is, I think
17 it's waived by what has been put into evidence on
18 your affidavits and with the documents.

19 BY MR. LISUS:

20 822 Q. But, in any event, do you know
21 what recommendation was being made at Cabinet by
22 staff?

23 A. And could you clarify staff?

24 823 Q. Well, who do you understand staff
25 to mean? I've never been to a Cabinet meeting.

1 A. Staff to me, to me there's two
2 definitions, I think, of our Minister's staff or
3 Ministry staff.

4 824 Q. Okay, either one of those.

5 A. Do I recall what the
6 recommendation was?

7 825 Q. Yeah.

8 A. I remember that, if I recall
9 correctly, it was around modernization, but
10 specifics beyond that --

11 826 Q. You don't have a recollection as
12 to what recommendation was made as to whether or
13 not there would be a multi-year phase-out as
14 reflected in the decks we've seen as of January 26,
15 2001 or some other approach; is that correct?

16 A. I can't recall what was in the
17 deck that was ultimately presented.

18 827 Q. Okay. Now, I want to show you an
19 email dated February 2, an email sequence. Did you
20 speak with Mr. Bardeesy in advance of the Cabinet
21 meeting? You told me Mr. Bardeesy is someone who
22 you spoke to over the course of your tenure at OLG,
23 right?

24 A. At the Minister's office?

25 828 Q. Yeah.

1 A. I can't recall a specific
2 discussion immediately before the Cabinet meeting,
3 if that's what you're asking.

4 829 Q. Do you recall whether Mr. Bardeesy
5 told you that he was in a meeting with the Premier
6 and the Premier decided that they were going to go
7 to zero for horseracing, i.e. no phased-out
8 approach as recommended by Finance?

9 A. I can't recall discussion of that.

10 830 Q. No recollection of that?

11 A. No.

12 831 Q. When did you first learn that a
13 decision had been made to go to zero? Have you
14 heard that term before?

15 A. I can't recall. I can't recall.
16 When exactly -- are you looking for a general time
17 period or --

18 832 Q. Sure. Any time period.

19 A. I would guess it would have
20 been --

21 MS. LA HOREY: Don't guess.

22 THE WITNESS: Sorry.

23 BY MR. LISUS:

24 833 Q. When do you believe you learned
25 that the recommendation by Finance in the January

1 26th deck had not been adopted?

2 MS. LA HOREY: By Cabinet?

3 MR. LISUS: Well, no, had not been
4 adopted. The decision was made before Cabinet.

5 MS. LA HOREY: That's your argument.
6 That's your argument.

7 MR. LISUS: Well, that's what the
8 record shows.

9 MS. LA HOREY: Well, we can dispute
10 that, but I don't want you to suggest --

11 BY MR. LISUS:

12 834 Q. When did you become aware that the
13 recommendation of staff for a five-year phased-out
14 approach was not followed?

15 A. I cannot recall.

16 835 Q. And did you learn that at some
17 point?

18 A. I can only imagine I would have.

19 836 Q. Was it before the Cabinet meeting?

20 A. I cannot recall.

21 837 Q. I'm showing you an email from
22 Mr. Bardeesy, CRE360917, February 2, from
23 Mr. Bardeesy to your boss, Tim Shortill. Is that a
24 fair description of him in February 2012?

25 A. Tim Shortill?

1 838 Q. Yes.

2 A. Yes.

3 839 Q. Okay. Dave Gene, Chris Morley,
4 Steeve Jamison. Do you see that email?

5 A. I do.

6 840 Q. Now, you saw that email before you
7 came here today. You reviewed it in preparation
8 for giving evidence, right?

9 A. It's possible. I was given a
10 number of documents.

11 841 Q. And this was one of them?

12 A. I can't recall.

13 842 Q. Okay. Do you see where
14 Mr. Bardeesy describes a meeting with the Premier
15 having just ended and he was inclined to go to zero
16 for horseracing. Do you see that?

17 A. I do.

18 843 Q. February 2 at 16:26 in the
19 afternoon?

20 A. I see that.

21 844 Q. And it's sent to your boss,
22 Mr. Shortill, as we discussed, and others, right?

23 A. Yes, I see that.

24 845 Q. And so, does that assist you in
25 recollecting when the decision to go to zero was

1 made?

2 A. I'm not on this email so...

3 846 Q. I understand that but your boss
4 is.

5 A. But my boss did not always share
6 with me everything that he got in his email.

7 847 Q. Okay. So you're telling me that
8 this information was not shared with you on
9 February 2nd?

10 A. I can't recall this being shared
11 with me.

12 848 Q. And you're telling me that you
13 don't recall your boss telling you that the
14 recommendation of a five-year phased-out had been
15 rejected by the Premier in favour of going to zero?

16 A. I can't recall.

17 849 Q. This was a big file for you?

18 MS. LA HOREY: He said he can't recall.

19 BY MR. LISUS:

20 850 Q. This was a big file for you?

21 MS. LA HOREY: Next question.

22 BY MR. LISUS:

23 851 Q. Mr. Stransky, it was a big file
24 for you?

25 MS. LA HOREY: He said that.

1 THE WITNESS: It was.

2 BY MR. LISUS:

3 852 Q. It was a big file for
4 Mr. Shortill?

5 A. You'd have to ask him.

6 853 Q. Well, we've got the Premier
7 directly involved. Seems like a big file, right?

8 A. That's your interpretation.

9 854 Q. Isn't it yours?

10 A. I repeat what I said before, that
11 it was -- it was certainly important.

12 855 Q. Okay. The Premier's Chief of
13 Staff, Mr. Gene, right, is involved?

14 A. Both Dave Gene, yes.

15 856 Q. Who is Chris Morley?

16 A. Chris Morley was, I believe, at
17 this time the Chief of Staff.

18 857 Q. Okay. Who is Steeve Jamison?

19 A. Jamison Steeve I believe at that
20 time was principal secretary, but I stand to be
21 corrected.

22 858 Q. Principal secretary to the
23 Premier?

24 A. Correct.

25 859 Q. And this is forwarded to Steve

1 Orsini, he is the Deputy Minister of Finance in
2 February 2012?

3 A. I would have to -- I'm not sure.
4 He was certainly, at least I believe, Associate
5 Deputy Minister.

6 860 Q. And Scott Thompson, who is that?

7 A. I see C-A-B after his name so I am
8 assuming he would have been in Cabinet office.

9 861 Q. And no one shared this information
10 with you on February 2nd, that's what you're
11 telling me?

12 MS. LA HOREY: He's already answered he
13 can't recall.

14 MR. LISUS: I'm just seeing if that
15 sequence of names refreshes his memory.

16 BY MR. LISUS:

17 862 Q. So you still don't recall being
18 told?

19 R/F MS. LA HOREY: You put the document to
20 him, he looked at it, he saw who sent it, he said
21 he didn't recall. Ask your next question.

22 MR. LISUS: The next exhibit.

23 MS. LA HOREY: For identification.

24 MR. MATTHEWS: That would make it I.

25 EXHIBIT I (for identification): Email,

1 Bates numbered CRE360917.

2 MS. LA HOREY: Sorry, which one is it?

3 MR. LISUS: I.

4 MS. LA HOREY: Thanks.

5 BY MR. LISUS:

6 863 Q. As far as you were aware,
7 Mr. Stransky, between the final deck recommending a
8 five-year phase-out on January 26th, which is a
9 Friday, and go to zero on February 2nd, you weren't
10 aware of any new analysis being done, right?

11 A. I can't speak to what may or may
12 not have happened during that time. I can't
13 recall.

14 864 Q. And you weren't aware of any new
15 consultation being done with stakeholders, right?

16 A. I can't recall.

17 865 Q. Did you work on the speaking notes
18 for presentation to Cabinet at the Cabinet meeting?

19 MS. LA HOREY: Whose speaking notes?

20 BY MR. LISUS:

21 866 Q. Whoever spoke.

22 A. I can't recall writing any notes
23 or drafting anything.

24 867 Q. I want to show you an email on
25 February the 7th -- excuse me. Yes, February the

1 7th.

2 Before we do that, let's look at an
3 email on February 4, please, CRE12973. And this is
4 a sequence on February 3 and 4, CRE12973,
5 Mr. Stransky, which you are involved in and which
6 you appear to be participating in the preparation
7 of content for Cabinet meeting.

8 Do you remember doing so?

9 MS. LA HOREY: Just let him look at the
10 document first.

11 THE WITNESS: (Witness reads document).
12 I don't see my name associated with this, although
13 I may have missed it here. Is there a reference
14 you're referring to where I was part of this chain?

15 BY MR. LISUS:

16 868 Q. Yeah, at Saturday, February 4,
17 13:50, page 697, from Elizabeth Yeigh to Susan
18 Ampleford at Cabinet:

19 "Thanks. So we have comments
20 from Blair too. His points are
21 helpful below and we will
22 incorporate."

23 So, I'm taking from your question that
24 you don't have any recollection of this?

25 A. The comments you're referring --

1 that she refers to, are they part of this?

2 869 Q. Do you have any recollection of
3 being involved in the composition of talking points
4 for Cabinet or not in the first week of February,
5 Mr. Stransky? If you don't, tell me you don't; if
6 you do, tell me what they are.

7 A. I don't.

8 MR. LISUS: Okay. Next exhibit.

9 MS. LA HOREY: For identification.

10 MR. MATTHEWS: Exhibit J.

11 EXHIBIT J (for identification): Email,
12 Bates numbered CRE12973.

13 BY MR. LISUS:

14 870 Q. The next email is document number
15 30238. This is an email from you enclosing the
16 Minister's speaking points. So, this is an email
17 from you to Mr. Goodwin, Ms. Yeigh and Mr. Orsini
18 and an Andre Cote, saying:

19 "Here is latest version of
20 speaking points."

21 Do you see that?

22 A. I do.

23 871 Q. Did you compose these speaking
24 points?

25 A. I can't recall the role I played

1 in these, if I did play a role.

2 872 Q. No recollection?

3 A. No.

4 873 Q. Okay. Take a look, please, at
5 page 4 of the speaking notes.

6 A. Yes.

7 874 Q. Under the heading "Strategic
8 Considerations," fourth bullet. Are you with me?

9 A. Yes.

10 875 Q. "It is also worth noting that
11 the Drummond report will make
12 several recommendations for OLG that
13 the government will need to review.
14 These include: 1. Closing one of
15 the two head offices, OLG's proposal
16 does not do that."

17 Now, were you aware in February 2012
18 that Mr. Drummond had recommended closing one of
19 OLG's two head offices?

20 A. I -- I can't recall. I'm just
21 basing my understanding of this on what you're
22 showing me.

23 876 Q. No recollection of his
24 recommendation on that issue one way or the other?

25 A. No.

1 877 Q. Next point:

2 "Closing one of the two casinos
3 in Niagara Falls. Again, OLG's
4 proposal does not do that."

5 No recollection of Mr. Drummond's
6 recommendation on closure of casinos in Niagara
7 Falls, correct?

8 A. No, correct.

9 878 Q. Point 3:

10 "And several other
11 recommendations that are consistent
12 with OLG's proposal, including
13 eliminating the Slots at Racetrack
14 funding support to the horseracing
15 industry."

16 Do you see that?

17 A. I see that.

18 879 Q. Was it your understanding on
19 February the 6th, 2012 that Mr. Drummond had
20 recommended eliminating the Slots at Racetrack
21 funding support to the horseracing industry?

22 A. I can't recall the details of what
23 he recommended.

24 880 Q. Where would you get that
25 information from?

1 A. Of what was in his report or...?

2 881 Q. Yes.

3 A. I can only assume that -- I'm
4 sorry, I just want to make sure I have clarity on
5 the question. You're asking whether or not I --
6 how I got information?

7 882 Q. In the speaking notes you composed
8 to be delivered by the Minister to Cabinet --

9 MS. LA HOREY: Hang on. He says he
10 doesn't recall his role.

11 BY MR. LISUS:

12 883 Q. In these speaking notes that
13 someone composed which are under your email, it is
14 said that Mr. Drummond recommended eliminating the
15 Slots at Racetrack funding support to the
16 horseracing industry, right? Do you see that?

17 A. You're referring to the third
18 sub-bullet?

19 884 Q. Correct. Yeah. And I'm asking
20 you where that information came from?

21 A. I can't recall the interplay
22 between the report and its timing and --

23 885 Q. Are you aware that I examined
24 Mr. Drummond?

25 A. I -- I am aware that he is a

1 witness, but I don't know much more.

2 886 Q. Are you aware that he testified
3 that he made no such recommendation?

4 MS. LA HOREY: Hang on. You
5 specifically asked us to have the witnesses not
6 look at each other's evidence.

7 MR. LISUS: I agree.

8 MS. LA HOREY: So it's not fair for you
9 to proffer and cross-examine on what a witness
10 said.

11 MR. LISUS: Mr. Drummond said he made
12 no such recommendation.

13 MS. LA HOREY: Well, I'm not going to
14 let --

15 MR. LISUS: Mr. Drummond's report makes
16 no such recommendation.

17 MS. LA HOREY: Unless you have the
18 specific text, I'm not letting you ask questions
19 about evidence he doesn't know about.

20 MR. LISUS: All right.

21 MS. LA HOREY: And that you
22 deliberately said that he shouldn't know about.

23 MR. LISUS: Okay, let's take a look at
24 the text.

25 MS. LA HOREY: It's not fair.

1 BY MR. LISUS:

2 887 Q. Can you show me where in the
3 Drummond report Mr. Drummond recommended
4 eliminating Slots at Racetrack funding support to
5 the horseracing industry?

6 A. Sorry, are you asking if I recall
7 where in the report he makes that recommendation?

8 888 Q. Yes, I'm asking you that.

9 A. I don't recall, though I have not
10 looked at the report.

11 889 Q. Did you ever look at the report or
12 do you not recall?

13 A. The Drummond report?

14 890 Q. Yeah.

15 A. I can certainly remember the
16 Drummond report.

17 891 Q. Did you read it?

18 A. The degree to which I read it, I
19 can't say what degree, but I'm certainly familiar
20 with it and would have looked at it.

21 892 Q. Okay. I can't find anywhere in
22 the Drummond report a recommendation that the Slots
23 at Racetrack funding support to the horseracing
24 industry be eliminated, Mr. Stransky.

25 MS. LA HOREY: So he said he couldn't

1 recall the Drummond report.

2 BY MR. LISUS:

3 893 Q. Well, I would like you to look at
4 the Drummond report --

5 MS. LA HOREY: No.

6 MR. LISUS: I'm not finished the
7 question.

8 MS. LA HOREY: Sorry, put your question
9 on the record.

10 BY MR. LISUS:

11 894 Q. I'd like you to look at the
12 Drummond report and tell me where he recommends
13 eliminating the Slots at Racetrack funding support
14 to the horseracing industry. Okay? You don't have
15 to do it right now; you can do it by way of
16 undertaking.

17 R/F MS. LA HOREY: The question is refused.
18 It's not a fair question and it's not relevant.

19 MR. LISUS: Why is it not fair?

20 MS. LA HOREY: You've got the Drummond
21 report. If you want to make some hay of it at some
22 point, then do so. But having Mr. Stransky look
23 through the Drummond report --

24 MR. LISUS: I'm just asking
25 Mr. Stransky about the message that he composed for

1 a Minister to deliver to Cabinet.

2 MS. LA HOREY: And whether or not --

3 THE WITNESS: And, sorry, but --

4 MS. LA HOREY: Hang on. When I say
5 don't answer a question when I'm talking, you don't
6 talk.

7 THE WITNESS: Yeah, good.

8 MS. LA HOREY: We're done with this
9 question because it's not a fair question to the
10 witness. You'll make whatever argument you want to
11 make at the appropriate time. We're not giving
12 that undertaking.

13 MR. LISUS: I just don't understand why
14 the question is not fair, Ms. La Horey, because the
15 record is that Mr. Stransky composed the Minister's
16 speaking points --

17 MS. LA HOREY: No, he --

18 MR. LISUS: Let me finish. And the
19 Minister's speaking points say something very
20 specific about what Mr. Drummond's report says and
21 I can't find it in Mr. Drummond's report.

22 MS. LA HOREY: Well, then you'll make
23 an argument. But for the record, he didn't say --
24 he said he couldn't recall his role in this. The
25 question is refused. Move on to your next

1 question.

2 So is this one exhibit or two, Ian?

3 MR. MATTHEWS: One.

4 BY MR. LISUS:

5 895 Q. And if you take a look at page 2 -
6 I am not done with the document just yet - what is
7 being recommended is the elimination of support,
8 right?

9 A. Can you refer me back to which
10 page you were saying?

11 896 Q. We're on page 2.

12 MS. LA HOREY: Not page 2 of the whole
13 exhibit. Page 2 of the speaking notes. Okay,
14 there we go. Page 702 of whatever the brief is.

15 THE WITNESS: Okay.

16 BY MR. LISUS:

17 897 Q. And again, you don't remember --
18 when you look at the content of this, it doesn't
19 assist you in remembering anything about composing
20 this speaking note; is that right?

21 MS. LA HOREY: Again you're misstating
22 his evidence. You're assuming he is composing it.
23 He says he doesn't recall. State his evidence
24 fairly.

25 BY MR. LISUS:

1 898 Q. If Mr. Stransky didn't compose it,
2 Ms. La Horey, which is what the documents you have
3 given me indicate, would you let me know who did,
4 please?

5 R/F MS. LA HOREY: Are you asking for an
6 undertaking? No. You've got a whole bunch of
7 other witnesses to ask. He says he doesn't
8 remember. This is not an examination for
9 discovery.

10 MR. LISUS: You're right.

11 MS. LA HOREY: This is an examination
12 of Mr. Stransky pursuant to Rule 39.03.

13 BY MR. LISUS:

14 899 Q. The speaking note says at the
15 bottom of page 2:

16 "The proposal has the full
17 support of OLG's Board of Directors
18 under the leadership of chair Paul
19 Godfrey."

20 Do you see that? See that, bottom of
21 page 2, top of 3?

22 A. Yes.

23 900 Q. And who told you that the Board of
24 Directors and Mr. Godfrey supported the elimination
25 of the revenue sharing with the horseracing

1 industry?

2 MS. LA HOREY: You're presuming that
3 someone told him. I think your first question
4 should be "Did someone tell you that."

5 BY MR. LISUS:

6 901 Q. Did you make it up?

7 MS. LA HOREY: No, that's not a fair
8 question either.

9 BY MR. LISUS:

10 902 Q. Well, where did you get it from?

11 MS. LA HOREY: No, you are assuming
12 that he got the question. So "Did someone tell
13 you," question. Next question, "Who was it."

14 BY MR. LISUS:

15 903 Q. Okay. Did someone tell you,
16 Mr. Stransky, that Mr. Godfrey and the full board
17 of OLG supported the elimination of revenue sharing
18 with the horseracing industry from Slots at
19 Racetrack Program?

20 A. I cannot recall.

21 904 Q. Okay. Did you ever speak with
22 Mr. Godfrey about the elimination of the revenue
23 sharing with the horseracing industry from the
24 Slots at Racetrack Program?

25 A. I don't recall having that

1 discussion with him.

2 905 Q. Do you know whether Mr. Godfrey
3 was made aware of the decision on February 2 to go
4 to zero at the time it was made?

5 A. I don't -- I'm not aware.

6 906 Q. Do you know whether or not he
7 agreed with it?

8 A. I -- I do not know.

9 MR. LISUS: Let's mark it as an
10 exhibit.

11 MS. LA HOREY: I think it is two, you
12 said?

13 MR. MATTHEWS: No, the email with
14 attachments, so it will be Exhibit 29, CRE30238,
15 and its attachments --

16 BY MR. LISUS:

17 907 Q. Just so that I'm clear --

18 MS. LA HOREY: Sorry.

19 MR. LISUS: Did you get it?

20 MS. LA HOREY: Yeah, I just wanted to
21 make sure.

22 EXHIBIT NO. 29: Email and attachments,
23 Bates numbered CRE30238.

24 BY MR. LISUS:

25 908 Q. Just so that I'm clear, when

1 Mr. Stransky tells me he doesn't remember or he has
2 no recollection, it's not the position of Ontario
3 that these emails aren't authentic, right?

4 MS. LA HOREY: No. When you say these
5 emails, if they are emails that we produced that
6 are from Finance, yeah, that's right.

7 BY MR. LISUS:

8 909 Q. I want to ask you about an email,
9 CRE106086. It's February 19, it's an email
10 sequence between Mr. Goodwin and Ms. Yeigh and it
11 goes back to February 17. So I'll give you the
12 sequence, 106086.

13 MS. LA HOREY: Before we move on, just
14 for the record, it's now five o'clock and, you
15 know, Mr. Stransky is down for a full day or
16 three-quarters of a day.

17 MR. LISUS: Full day.

18 MS. MACHADO: Three-quarters of the day
19 was supposed to be allotted to counsel.

20 MS. LA HOREY: You've now had pretty
21 much -- as of 5:30, which we said is a hard stop,
22 that's a full day. So I think you need to finish
23 up soon. I see you've got a brief of documents
24 before you that's four inches thick, so this
25 examination is going to end today at 5:30, and if

1 you think you're -- I'd ask you how much longer you
2 think you have in terms of questions.

3 BY MR. LISUS:

4 910 Q. Take a look at that email, please?

5 MS. LA HOREY: Mr. Lisus, how much
6 longer do you think you have in terms of questions?

7 MR. LISUS: I think we'll finish at
8 5:30.

9 MS. LA HOREY: Okay, thanks.

10 So this is an email. I don't see
11 Mr. Stransky on any of the chains.

12 MR. LISUS: Well, it would go a lot
13 quicker if you would just let me ask the questions,
14 Ms. La Horey, we would save a lot of time.

15 BY MR. LISUS:

16 911 Q. So you see the email sequence
17 starts at February 17, Mr. Stransky, Barry Goodwin
18 to Steve Orsini?

19 A. Yes. Yes, I do.

20 912 Q. And the second paragraph:

21 "Discussed issues on a call
22 with Minister McMeekin this
23 afternoon. As Agriculture Minister
24 he was hoping that there was a more
25 in-depth economic impact analysis

1 that had been done of the strategy
2 of one year withdrawal of subsidy."

3 Do you see that?

4 A. I do.

5 913 Q. And then he goes on in the next
6 paragraph to say:

7 "I stressed with Blair I was
8 accessible throughout the weekend if
9 he needed help or to talk something
10 through."

11 Do you see that?

12 A. I do.

13 914 Q. Do you recall having a discussion
14 with Minister McMeekin along with Mr. Goodwin?

15 A. No, I do not.

16 915 Q. Do you recall Minister McMeekin
17 being very upset about the decision to cancel the
18 revenue share with no transition funding?

19 A. No, actually, I do not.

20 916 Q. You do not. So if you continue on
21 the email sequence to Monday, February the 2nd --
22 excuse me, Monday, February 20th, middle of the
23 page, Monday, February 20th, 9:19 a.m., an email
24 from Mr. Goodwin to Ms. Yeigh.

25 A. Yes.

1 917 Q. Are you with me there?

2 "Yes, I assumed some horses
3 would be put down rather than
4 maintained, especially if
5 neighbouring jurisdictions also
6 getting smaller."

7 Do you see that?

8 A. I do.

9 918 Q. Do you remember there being
10 discussion of many horses being euthanized as a
11 result of the decision that was made?

12 A. Sorry, do I recall discussions?

13 919 Q. About the euthanization of horses
14 as a result of the decision to terminate the
15 revenue share in the manner that it was decided,
16 i.e. one year no transition?

17 A. I recall there being discussion
18 about euthanization in general but I can't recall
19 specifics tied to any particular option.

20 920 Q. Okay. And it says:

21 "Confidentially, a few strange
22 exchanges with T..."

23 Is that Ted? Okay, it says:

24 "Confidentially, a few strange
25 exchanges with T late Friday with

1 Blair and that got him edgy about
2 the information we have been using
3 and how confident [it] be..."

4 Do you see that?

5 MS. LA HOREY: To be.

6 BY MR. LISUS:

7 921 Q. "...how confident to be."

8 Correct.

9 A. I do see that.

10 922 Q. And do you recall being edgy about
11 information?

12 A. I don't consider myself to be the
13 type of person to be edgy, but overall I don't
14 recall.

15 923 Q. Okay, do you recall there being a
16 concern that the decision was made with inaccurate
17 information about the impact of the decision on the
18 breeding sector, rural economy and horse stock?

19 A. I can't recall specifics of --
20 about this.

21 924 Q. It says:

22 "Meeting with Minister McM..."

23 That would be Minister McMeekin,
24 correct?

25 A. That would be my assumption.

1 925 Q. "Meeting with Minister McMeekin
2 not so good."

3 Do you recall what that was about?

4 A. No.

5 926 Q. No recollection at all?

6 A. No, no recollection at all.

7 927 Q. Do you see the email going up
8 above that from Ms. Yeigh to Mr. Goodwin saying:

9 "Thanks. I will touch base
10 Tuesday morning with you -- she did
11 send me an email about it...making
12 us all edgy as a result. McM
13 feeling left out in the cold no
14 doubt."

15 Do you see that?

16 A. I do.

17 928 Q. And do you understand that
18 Minister McMeekin was not told in advance of the
19 Cabinet meeting about the decision to go to zero?

20 A. I honestly can't recall what he
21 was -- what he was told.

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

23 MS. LA HOREY: For identification.

24 EXHIBIT K (for identification): Email,
25 Bates numbered CRE106086.

1 BY MR. LISUS:

2 929 Q. As of the end of February 2012,
3 were you satisfied that the decision that had been
4 taken was based on the best information available?

5 MS. LA HOREY: Which decision? The
6 decision of Cabinet?

7 BY MR. LISUS:

8 930 Q. To go to zero with no transition
9 funding.

10 A. I can't recall what -- how I felt
11 specifically.

12 931 Q. And in fairness to you, I think
13 you told me that the inputs to the decision in
14 terms of its impacts and consequences was not your
15 team's responsibility; your team was communications
16 and policy and messaging. Is that fair?

17 A. I was not on the Ministry side, so
18 I would say that I had a role on a more macro
19 level, and I certainly was a policy advisor, so it
20 was with a policy focus and a political focus.

21 932 Q. You're aware that -- just before
22 we get to that --

23 A. And maybe if I can also just add
24 to that answer that this was, while an important
25 file, it was one of many files that I still had

1 responsibility for at the time, so it wasn't just
2 gaming and OLG, it was also the OSC and I can't
3 recall all the other files, but yeah.

4 933 Q. I just want to show you an email
5 sequence about the Minister's speaking points from
6 February the 7th and in particular the email from
7 Barry Goodwin at 4:37 p.m.

8 MS. LA HOREY: Sorry, this is document
9 CRE0032045.

10 BY MR. LISUS:

11 934 Q. Do you see where --

12 MS. LA HOREY: Sorry, he's still
13 reading.

14 THE WITNESS: (Witness reads document).

15 BY MR. LISUS:

16 935 Q. Do you see at the top of the page
17 where he says:

18 "I've just provided these
19 updated Minister's comments to
20 Blair. Tim and Blair will work on
21 to reflect the caucus discussion
22 points that may have arisen so our
23 changes (modest) will get their new
24 version in the morning I'm sure."

25 Do you see that?

1 A. I see what you're referring to.

2 936 Q. And does that assist you in
3 remembering what your involvement was in the
4 composition of the Minister's speaking points?

5 A. So, what I'm taking from this is
6 that the updated Minister's comments were sent to
7 me and that it looks to me like there was a number
8 of people working on this. You know, that's what
9 I'm taking away from this.

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

11 EXHIBIT L (for identification): Email,
12 Bates numbered CRE32045, CRE32046,
13 CRE32047 and CRE32048.

14 BY MR. LISUS:

15 937 Q. I want to ask you to look at
16 CR38429.

17 MS. LA HOREY: Perhaps we should just
18 put the number on the record, the last one.

19 MR. MATTHEWS: This will be L for
20 identification.

21 MR. LISUS: I think you want the
22 document number, right?

23 MS. LA HOREY: Yeah.

24 MR. MATTHEWS: Document number
25 CRE32045, 46 and 47 and 48.

1 BY MR. LISUS:

2 938 Q. Now, I asked you earlier about
3 radio ads and I'm showing you an email, CR38429.
4 Who was Melanie Wright?

5 A. Melanie Wright was political staff
6 in the Minister's office.

7 939 Q. And she forwarded these radio ads
8 to you on February 26th. Do you see that?

9 A. I see --

10 940 Q. It's at the top of the sequence.

11 A. I see it, yeah.

12 941 Q. Why did she forward them to you?

13 A. I don't know.

14 942 Q. And that doesn't assist you in
15 remembering whether you had any involvement in the
16 decision to run such ads or their content?

17 A. All I see here is that there's an
18 email that says new ads that were forwarded to me
19 on February 26th.

20 943 Q. But again, your evidence is you
21 didn't have any involvement in the decision to run
22 such ads or their content, correct?

23 A. I can't recall.

24 944 Q. You may have but you don't recall?

25 A. I can't recall my involvement in

1 any ads.

2 945 Q. You're not telling me you had no
3 involvement; you're saying you may have, you just
4 can't recall?

5 A. Yeah, I'm not part of the
6 communications team within my Minister's office, so
7 radio ads and their composition would not typically
8 fall to me, although this is on a subject matter
9 that I would be very much aware of.

10 946 Q. Right. Did you suggest language
11 to Mr. Phillips to put into the OLG's report about
12 the revenue share?

13 A. I can't recall giving him --
14 talking to him about that.

15 947 Q. The OLG's report was supposed to
16 be independent advice to government, right?

17 A. I can't -- I can't recall the -- I
18 can't recall how it was requested and how it would
19 have been received. I know that there were -- it
20 was not uncommon to have discussions about the
21 subject matter about the report specifically. I
22 can't recall.

23 948 Q. Sure, but the purpose of OLG doing
24 a report was to give the Ministry the benefit of
25 the OLG's independent analysis and recommendation

1 about how to improve gaming, correct?

2 A. From what I can recall, the report
3 was about providing recommendations about
4 modernization.

5 949 Q. And the report was supposed to be
6 the independent work product of OLG, who were
7 expert in their gaming operations, right?

8 A. I can't recall the terms of
9 reference in which we were asking for an
10 independent -- if it was an independent report. I
11 can say that the OLG and the Ministry of Finance
12 are connected.

13 950 Q. Well, the OLG is an agent of the
14 Ontario Government, correct? Agency?

15 A. Yes, I think that's a fair
16 characterization.

17 951 Q. But the government asked the OLG
18 to undertake a strategic business review, right?

19 A. I can't -- I can't recall the
20 mechanics of that but I --

21 952 Q. Let me just ask you this. The OLG
22 undertook a strategic business review, right?

23 A. Correct.

24 953 Q. And part of the strategic business
25 review was the modernization of gaming, right?

1 A. Yes.

2 954 Q. And the government presented the
3 report produced by the OLG as the product of OLG's
4 independent work and analysis; fair?

5 A. I can't recall how it was
6 characterized.

7 955 Q. Well, haven't we -- haven't we
8 seen, for instance, in the Minister's notes
9 comments that this was OLG's recommendation as
10 well?

11 MS. LA HOREY: He's answered the
12 question.

13 BY MR. LISUS:

14 956 Q. That you can't remember?

15 MS. LA HOREY: He's answered the
16 question, that's correct.

17 BY MR. LISUS:

18 957 Q. Well, do you recall telling the
19 OLG what to say about sharing of revenue from Slots
20 at Racetrack Program, Mr. Stransky?

21 A. I can't recall.

22 958 Q. Is that something that you would
23 have done?

24 A. As I said, I was in contact with
25 the OLG at the time but I can't recall --

1 959 Q. Is telling OLG what to say about
2 the revenue sharing arrangement with the
3 horseracing industry something that you would have
4 done in your position as policy advisor at the
5 Ministry of Finance?

6 A. I can see having discussions on
7 that subject matter but --

8 960 Q. But not telling them what to say?

9 A. Dictate? Well, dictating or
10 telling them what to say, I can't say. I can't
11 recall a circumstance where that took place, but --

12 961 Q. That wouldn't be appropriate to
13 do, right?

14 A. I would say there was -- there is
15 a reliance on OLG to know its business and its
16 operations.

17 962 Q. Correct. And to exercise its
18 independent judgment?

19 A. That there is a relationship with
20 the Minister and the Ministry is not foreign at all
21 to the notion of OLG and the Ministry of Finance.

22 963 Q. And so, in March of 2012 did you
23 tell Mr. Phillips that the Ministry would like OLG
24 to change the language in the report to say:

25 "The Slots at Racetrack Program

1 limits OLG's flexibility to locate
2 gaming facilities near OLG
3 customers. Furthermore, the formula
4 restricts OLG's ability to maximize
5 revenues for key government
6 priorities. As such, the Slots at
7 Racetracks Program should be drawn
8 to a close."

9 Did you tell Mr. Phillips to put that
10 language in the report?

11 A. Is there a document that you're
12 referring to?

13 964 Q. Yes, there is.

14 MS. LA HOREY: Then put it to him.

15 BY MR. LISUS:

16 965 Q. Before I put it to him, I'm asking
17 you, did you tell Mr. Phillips to put that in the
18 report?

19 MS. LA HOREY: If you're referring to a
20 document, fairness dictates that you put the
21 document to the witness.

22 MR. LISUS: I will, but before I show
23 him that he said that, I am trying to understand
24 whether he has any recollection of telling OLG to
25 do that.

1 BY MR. LISUS:

2 966 Q. And you're telling me you don't,
3 sir?

4 MS. LA HOREY: No, I'm telling you to
5 put the document to him. The question is refused
6 until you put the document to him. It's not fair
7 otherwise.

8 MR. LISUS: I don't agree with you but
9 I don't think it matters.

10 EXHIBIT NO. 30: Email, Bates numbered
11 CR0038429.

12 BY MR. LISUS:

13 967 Q. CRE32142. Right?

14 MS. LA HOREY: Let him finish reading
15 the document please, Mr. Lisus.

16 THE WITNESS: (Witness reads document).

17 MS. LA HOREY: You can read the whole
18 document. Take your time.

19 BY MR. LISUS:

20 968 Q. So on March 8 you told or you
21 asked Mr. Phillips to replace the language with
22 language you gave him, right?

23 A. What I'm seeing here is reference
24 to language and I'm not -- I'm not sure what
25 because there's language clearly missing in the

1 quotation marks, so it says so, instead of "in
2 order to allow..." the content of that... I'm not
3 familiar with.

4 MS. LA HOREY: Is there another page to
5 this?

6 BY MR. LISUS:

7 969 Q. What's the subject of the email?

8 MS. LA HOREY: Sorry, is this the
9 complete document?

10 MR. MATTHEWS: Yes.

11 BY MR. LISUS:

12 970 Q. What's the subject of the email?

13 A. It says "Paragraph replacement."

14 971 Q. Okay. What is the replacement
15 that you composed?

16 A. I was inquiring, it looks like
17 here, if we can replace with.

18 972 Q. With what?

19 A. This italicized language here.

20 973 Q. "The Slots at Racetrack Program
21 limits OLG's flexibility to locate
22 gaming facilities near OLG
23 customers. Furthermore, the formula
24 restricts OLG's ability to maximize
25 revenues for key government

1 priorities. As such, the Slots at
2 Racetracks Program should be drawn
3 to a close."

4 That's what you wanted the paragraph
5 replaced with, correct?

6 MS. LA HOREY: Right. Do we not have
7 the original?

8 BY MR. LISUS:

9 974 Q. That's what you wanted the
10 paragraph replaced with?

11 MS. LA HOREY: Hang on. We're going to
12 be fair to this witness.

13 MR. LISUS: Ms. La Horey, if you want
14 to re-examine him on this point, you can re-examine
15 him. I am not required to put every document you
16 want me to put to him.

17 BY MR. LISUS:

18 975 Q. The complete text of the paragraph
19 replacement you asked for is in that email,
20 correct?

21 MS. LA HOREY: Sorry, it's replacing
22 something with something. Do we have --

23 MR. LISUS: I'm not asking him about
24 the something with something. I'm asking him about
25 the replacement that he composed.

1 MS. LA HOREY: If he doesn't have an
2 independent recollection --

3 MR. LISUS: He hasn't said that.

4 MS. LA HOREY: -- without the aid of
5 documents --

6 MR. LISUS: He hasn't said that. He
7 has not said that. You're testifying for him, and
8 if you want we can swear you in and examine you.
9 But right now I'm asking this witness the question.

10 BY MR. LISUS:

11 976 Q. That is the paragraph replacement
12 that you composed, correct?

13 A. That's what it looks like.

14 977 Q. Where did you get that language
15 from?

16 A. Well, that's, I think, what is
17 unclear here, is whether or not this is to change
18 the communication or the actual substance, and I
19 don't know --

20 978 Q. I'll put it on the screen for you.

21 A. Okay.

22 MS. LA HOREY: Sorry, is this the final
23 version?

24 MR. MATTHEWS: Yes, I'm just on the
25 internet right now.

1 MR. LISUS: Okay. Well, you can
2 re-examine him if you want on this, Ms. La Horey.
3 Or your co-counsel, Mr. Rosenberg. But I'm asking
4 him --

5 MS. LA HOREY: Mr. Rosenberg is not my
6 co-counsel.

7 MR. LISUS: A joint defence agreement
8 with you.

9 MS. LA HOREY: Mr. Rosenberg is counsel
10 for OLG.

11 BY MR. LISUS:

12 979 Q. I'm asking you, sir, where did you
13 get that language that you put in that email from?
14 Did you make it up yourself or was it given to you?

15 A. I can't recall.

16 980 Q. Okay. And that language was put
17 into the final report, correct?

18 A. I don't know.

19 981 Q. That I'm going to show you. Do
20 you see it there on page 13, right-hand side,
21 middle column? That's verbatim the language that
22 you asked OLG to insert into its final report,
23 correct?

24 MS. LA HOREY: He wants to know if that
25 language is the same as that language, referring to

1 the language in 324142 that's italicized, is the
2 same that's in the final report, page 13.

3 THE WITNESS: I see it's the same.

4 BY MR. LISUS:

5 982 Q. Okay.

6 A. And I cannot speak to how it
7 changed from what was previously there because I
8 can't see all the information of what the previous
9 draft was.

10 983 Q. It changed from how it was
11 previously there because you gave the text in your
12 email, Mr. Stransky, right?

13 A. To my earlier point, I don't know
14 if the context changed. Like, if it was a change
15 in the wording or a change in the substance.

16 984 Q. Okay. Were you aware -- you are
17 aware that after the decision was communicated, an
18 industry panel was appointed?

19 A. I knew of a panel related -- are
20 you speaking about the one --

21 985 Q. A panel chaired by Mr. Snobelen,
22 Mr. Buchanan and Mr. Wilkinson?

23 A. Yes, I am aware of that.

24 986 Q. Did you participate in that panel
25 process?

1 A. I recall being involved, certainly
2 being aware of the panel, details of which it's
3 difficult for me to say, but yes, I am aware of the
4 panel.

5 987 Q. And how were the panelists
6 selected, do you know?

7 A. That I can't recall. I can't
8 recall.

9 988 Q. Did you have any involvement in
10 the composition of the panel's interim or final
11 report?

12 A. I can't recall to which degree
13 there was any involvement there. Yeah.

14 MS. LA HOREY: Could we go off the
15 record for a few minutes?

16 -- OFF THE RECORD DISCUSSION --

17 MS. LA HOREY: It's 5:30 and we need to
18 finish within five or ten minutes, so I assume you
19 can do that?

20 MR. LISUS: I'll do my best.

21 BY MR. LISUS:

22 989 Q. A few more questions. CRE32227,
23 this is an email from March 14, 2012 from Barry
24 Goodwin to Steve Orsini, copying a number of
25 others.

1 MS. LA HOREY: Not including
2 Mr. Stransky.

3 MR. LISUS: Wait for it, Ms. La Horey.

4 THE WITNESS: (Witness reads document).

5 BY MR. LISUS:

6 990 Q. Let me know when you've read the
7 email. Okay? You see where Mr. Goodwin says:

8 "Blair and chair have had
9 several animated discussions.
10 Expectation of fuller earlier
11 disclosure of OLG plan."

12 Do you see that reference?

13 A. I see that.

14 991 Q. Did you and Mr. Seiling have
15 several animated discussions regarding
16 Mr. Seiling's expectation that as chair of the ORC
17 he expected earlier disclosure of the OLG plan?

18 A. From what I can vaguely recall, we
19 had discussions and regular discussions and I can
20 remember him being concerned.

21 992 Q. Was he angry?

22 A. I don't know exactly how to
23 characterize it. He was certainly frustrated.

24 993 Q. Okay. And he was frustrated that
25 the ORC, which was the regulator of the horseracing

1 industry, hadn't been given a heads-up about the
2 decision that had been made, right?

3 A. From what I'm seeing here, that's
4 what I'm taking away from this.

5 994 Q. But does that not accord with your
6 recollection?

7 A. I can recall a number of
8 conversations with Mr. Seiling about how much he
9 wanted to be informed and in the loop, and as you
10 shared with me in the MOU, there's no question that
11 we hoped to have discussions and keep each other in
12 the loop, but that doesn't mean that we share
13 everything, and unfortunately Mr. Seiling had, from
14 what I recall, a different interpretation of that.

15 995 Q. It wasn't your decision not to
16 keep the ORC in the loop, I presume; you didn't
17 make that decision?

18 A. I can't recall who would have made
19 decisions, but given the sensitivity at the time,
20 and what was taking place, we were very mindful of
21 how we shared information even with our regulator
22 who was very much on the ground with the industry.

23 MR. LISUS: Right. That's the next
24 exhibit.

25 MS. LA HOREY: For identification.

1 EXHIBIT M (for identification): Email,
2 Bates numbered CRE32227.

3 BY MR. LISUS:

4 996 Q. I'm showing you a letter that
5 Mr. Seiling wrote to the horseracing industry on
6 April 11, 2012, CRE30633.

7 MR. MATTHEWS: It doesn't look like we
8 marked that but we should.

9 MR. LISUS: We should mark the exhibit
10 around the language to be inserted in the report.
11 Did we not do that, Ms. Neeson, CRE32142?

12 MR. MATTHEWS: I don't think we did but
13 it would be Exhibit 31.

14 EXHIBIT NO. 31. Email, Bates numbered
15 CRE32142.

16 BY MR. LISUS:

17 997 Q. I'm showing you a letter to the
18 horseracing industry Mr. Seiling sent as chair of
19 the ORC in April 2012. However, I should give you
20 as well the cover email in which Ms. Yeigh sends it
21 to you.

22 MS. LA HOREY: That's CRE0030632, is
23 the cover email.

24 BY MR. LISUS:

25 998 Q. Do you remember Mr. Seiling

1 sending that letter and Ms. Yeigh bringing it to
2 your attention?

3 A. I see here that she sent it to me,
4 but I can't recall -- this letter is not addressed
5 to anyone but I am assuming -- I need to read it
6 here to understand -- this is to the industry.
7 This was a general letter, I guess, that he
8 released from the ORC to the industry.

9 999 Q. Do you recall speaking with
10 Mr. Seiling about it?

11 MS. LA HOREY: About the letter?

12 BY MR. LISUS:

13 1000 Q. Yeah, about the contents of the
14 letter.

15 A. Just bear with me. I just want to
16 make sure I get through the letter here. (Witness
17 reads document).

18 Sorry, if you could just repeat your
19 question?

20 1001 Q. Do you recall that letter?

21 A. I can't specifically recall this.

22 MR. LISUS: Okay, next exhibit, please.

23 BY MR. LISUS:

24 1002 Q. I want to show you another email
25 -- that's the next exhibit -- an email with a

1 letter.

2 MR. MATTHEWS: CRE30632 and 633.

3 EXHIBIT NO. 32: Email and letter,

4 Bates numbered CRE30632 and CRE30633.

5 BY MR. LISUS:

6 1003 Q. There is another email and letter,
7 CRE24235 and 24236. And this is an email of June 3
8 in which various people are forwarded a copy of an
9 OLG letter from Mr. Seiling to Paul Godfrey. Do
10 you see that?

11 A. Yes.

12 1004 Q. Do you remember Mr. Seiling
13 writing to Paul Godfrey on May 31?

14 A. I have a vague recollection,
15 likely because I was bcc'd on here.

16 1005 Q. Okay. And do you see the email
17 says:

18 "Blair has indicated his strong
19 displeasure with it and obviously
20 was not engaged by Rod Seiling prior
21 to it being sent."

22 Right?

23 A. I see that, yes.

24 1006 Q. Do you recall being strongly
25 displeased about Mr. Godfrey's letter -- excuse me,

1 Mr. Seiling's letter to Mr. Godfrey?

2 A. I can remember frustration around
3 the fact that -- the fact that a very public letter
4 like this was being written from Mr. Seiling to
5 Mr. Godfrey.

6 1007 Q. What was public about it?

7 A. It was from one head of a
8 provincial commission to the head of the largest
9 public agency of the Province of Ontario.

10 1008 Q. How does that make it public?

11 A. To me it's certainly public at
12 least in the sense of between two major public
13 officials or heads of public.

14 1009 Q. I'm sorry? Mr. Seiling is writing
15 a letter to Mr. Godfrey and he's blind copied you.
16 How is that a public letter?

17 A. To me, again, I would define
18 public in the sense that it's a letter between two
19 major public officials or senior public officials.

20 1010 Q. So every communication between
21 public officials, to your way of thinking, is
22 public?

23 A. I think anyone in government
24 assumes their responsibilities around these sorts
25 of documents as public and as something that you

1 were very mindful of.

2 1011 Q. Why?

3 A. From a sense, I would say, of
4 disagreement. No one likes to potentially be --
5 have this sort of thing be seen.

6 1012 Q. By whom?

7 A. The perception around this sort of
8 document, this letter, is obviously troubling.

9 1013 Q. To whom?

10 A. I would say any Ontarian. There
11 would be a concern here that the two senior policy
12 or senior public officials would be upset with each
13 other, or at least one with the other, and how we
14 display that is certainly of concern to a Minister
15 who has direct connections to these two officials.
16 We want to obviously make sure that everyone is
17 working well together.

18 1014 Q. How is Mr. Seiling as chair of the
19 ORC supposed to communicate his views about the
20 propriety and fairness of the decision that was
21 made and which he wasn't told about?

22 A. Mr. Seiling never had a problem
23 communicating his views, and to do so in a letter
24 like this was completely out of line with how he
25 had been communicating prior.

1 1015 Q. Well, we see he sent a letter in
2 April.

3 A. Yeah, to me this was him wanting
4 to be absolutely on the record, and I appreciate
5 where he was coming from, but that -- you know, to
6 me his frustration could have been communicated
7 differently and he had always been able to do that
8 up until this point.

9 1016 Q. He was being absolutely on the
10 record about what to you?

11 A. From what I see here, he was being
12 on the record about his concerns about horseracing
13 in Ontario.

14 1017 Q. And that was a bad thing for him
15 to do?

16 A. Not, not at all, but that -- to me
17 it was important, and this is my own, obviously,
18 personal style, to have discussions and, as you saw
19 in the previous exhibit, Mr. Seiling had, and not
20 to his fault, but had a real sense of obligation to
21 serve the industry, and so we were mindful of that
22 in the sense that when we provided him information,
23 he was arguably conflicted in terms of whether or
24 not he would share that, and so, you know, we'd
25 take that into consideration.

1 1018 Q. So you thought that he would be
2 conflicted if you told him about what Finance was
3 going to do in advance because he might what?

4 A. I'll let you -- you know, if you
5 have a question, I'm happy to answer.

6 1019 Q. My question is, what was your
7 concern about this so-called conflict?

8 A. We always are concerned about the
9 information and, from what I can recall, what we
10 were considering and when and where we communicated
11 it.

12 1020 Q. Well, what was the conflict that
13 Mr. Seiling had that gave you this concern?

14 A. Again, he was, as I said earlier,
15 he was on the ground with the industry, so --

16 1021 Q. Why is that a conflict?

17 A. It's not inappropriate, I'm not
18 suggesting that, if that's what you're asking.

19 1022 Q. I'm asking why it's a conflict.

20 A. A conflict with our objectives,
21 what was being considered at the Ministry level?

22 1023 Q. That's what you said,
23 Mr. Stransky. I'm simply trying to understand.

24 A. Yeah. So, to me, the industry
25 would be curious about what was happening and would

1 be regularly inquiring with him and the ORC, and
2 so, that was certainly my interpretation and I
3 think it's supported by the documents that I
4 certainly have seen today, and so we were mindful
5 of that.

6 1024 Q. Who is "we"?

7 A. "We" meaning the Ministry and the
8 Minister's Office, I think I could say. So the
9 more that we spoke about things that wouldn't
10 necessarily have come to be, and you've suggested
11 today that things were moving quickly, and I don't
12 dispute that that's something that happens within a
13 Minister's office.

14 1025 Q. What are you referring to?

15 A. Just in terms of decision-making.

16 1026 Q. What decisions do you --

17 A. Well, just what you've been
18 referring to today in terms of arriving at a
19 decision about the Slots at Racetracks Program.

20 1027 Q. You are referring to the way in
21 which the go-to-zero decision was made, when you
22 say things were moving quickly? Am I understanding
23 you correctly?

24 A. I would characterize my statement
25 as more general in the sense of how things move in

1 a Minister's office, as I just said.

2 1028 Q. Well, what were you referring to
3 when you said a minute ago that as I pointed out
4 today, things were moving quickly with decisions?

5 A. Things move quickly on a regular
6 basis in the Minister's office, and when you asked
7 me if I can recall certain things, I guess I've
8 been trying to communicate that there's a lot of
9 things that come and go through the Minister's
10 office, not only on these files, but on other
11 files.

12 1029 Q. I'm still trying to understand
13 what the Minister's office viewed as Mr. Seiling's
14 conflict of interest or conflict? That's what I
15 don't understand.

16 A. I would characterize it as concern
17 that he would be conflicted, he would find himself
18 conflicted.

19 1030 Q. What was the conflict? That's
20 what I'm trying to understand. What's the conflict
21 between what and what?

22 A. He oversees and regulates an
23 industry, but also --

24 1031 Q. Pursuant to a statute.

25 MS. LA HOREY: Hang on, let him finish

1 his answer.

2 THE WITNESS: But also reports to -- as
3 I recall, he has a direct reporting relationship
4 with the Minister.

5 BY MR. LISUS:

6 1032 Q. And what's the conflict?

7 A. So, if you find yourself in that
8 situation, I can only imagine that you have
9 personal relationships, and I'm not speaking of
10 anyone that I'm thinking of by personal
11 relationships, where you would be asked by the
12 people that you're regulating what's going on, and
13 when things are changing on a regular basis and
14 options are being considered, be very mindful of
15 providing him with regular updates that could
16 change the following day based on new information
17 that we had.

18 So, that's how I would characterize it.

19 1033 Q. Well, you didn't -- there wasn't
20 any new information, as we've discussed. There was
21 January 26, 2011 five-year phase-out and a couple
22 of days later it was go to zero, and you told me
23 already that you weren't aware of anything changing
24 in between, right?

25 A. I'm not sure I would have -- I

1 said that specifically. I think I said that I
2 couldn't recall all of the options that may have
3 been discussed, and, frankly, I'm not sure whether
4 I was a party to them, as you've shown me today. I
5 clearly wasn't on certain discussions.

6 1034 Q. Was one of your concerns about the
7 fact that Mr. Seiling put his displeasure in
8 writing was that it could be subject to an FOI
9 request and be produced?

10 A. I think any public servant is
11 always mindful of how anything can be perceived,
12 whether it be through FOI or --

13 1035 Q. Was one of your concerns that
14 Mr. Seiling's written expression of displeasure
15 could be revealed through an FOI request?

16 A. From what I can recall, I think
17 there was a concern on my point -- my side at that
18 time that he was putting it on the record for such
19 a purpose.

20 1036 Q. And you didn't want it on the
21 record?

22 A. Well, I thought that there was
23 another approach that could be taken.

24 1037 Q. Which is what?

25 A. Discussion and ultimately on his

1 side, I guess, you know, if he was so uncomfortable
2 with it that would be a decision as to how he
3 wanted to address it. To put something in writing
4 like this --

5 1038 Q. Isn't it --

6 MS. LA HOREY: Sorry, you need to let
7 the witness finish his answer.

8 THE WITNESS: -- is to me not
9 constructive, and that was why -- you know,
10 probably another reason why I was frustrated. I
11 don't know if I knew where Rod was going with this
12 and that was a real concern to me. And Rod
13 Seiling, I should say. I know there's more than
14 one Rod.

15 MS. LA HOREY: Okay. We're at 5:52.

16 BY MR. LISUS:

17 1039 Q. You had a telephone call with
18 Mr. Seiling on January -- excuse me, on June 4. Do
19 you remember that?

20 A. I can't recall it.

21 1040 Q. About his letter?

22 A. I can't recall a specific
23 conversation.

24 MS. LA HOREY: Do you have a
25 transcription?

1 MR. MATTHEWS: We have Mr. Seiling's
2 transcript where he actually --

3 MS. LA HOREY: Well, do you want to
4 pull it up and read the transcription, if you're
5 going to ask him.

6 BY MR. LISUS:

7 1041 Q. Do you recall having a telephone
8 call with Mr. Seiling on or about June 4, shortly
9 after this letter of May 31?

10 A. Specifically I can't recall.
11 Again, I can recall having discussions with Rod
12 Seiling.

13 1042 Q. Did you tell him that his letter
14 was problematic and was not good?

15 A. I can see myself using language
16 saying problematic.

17 1043 Q. Did you tell him that he exposed
18 the Minister?

19 MS. LA HOREY: If you're reading from
20 parts of it, let's just get the transcript up,
21 okay? So you're referring now to Mr. Seiling's
22 transcript and question 903, and do you want to
23 read it in? He's translating --

24 BY MR. LISUS:

25 1044 Q. Here's what Mr. Seiling said his

1 notes say:

2 "Problematic. Letter on
3 agency. Not good. Exposes Minister
4 - puts him in awkward position. Not
5 care if true. Hear my frustration.
6 Why ORC not call OLG. Told him
7 unrealistic to expect us to call and
8 ask why not involved. Told him
9 letter not mean to embarrass
10 Minister or government - could have
11 if wanted. Told him problem is if
12 FOI comes re any discussion between
13 OLG and ORC. Told him needs to look
14 at situation from ORC. Staff knows
15 ORC sidelined. Staff knows ORC not
16 consulted by OLG. Staff knows many
17 to lose jobs.

18 ORC never embarrassed government.
19 Letter carefully not aimed at
20 government with unsaid. Hopeful OLG
21 to build connection to ORC. Were
22 communications prior re around
23 ability and all stopped with
24 commencement." [As read]
25 Does that assist your recollection

1 about this discussion?

2 A. Again, I can't recall the
3 specifics but words like "problematic" and
4 "frustration" would be something that I could see
5 myself using.

6 1045 Q. I want to show you OLG1557.

7 So we'll mark the cover email and the
8 letter as the next exhibit.

9 MS. LA HOREY: Exhibit for
10 identification. Although he says he saw the
11 letter, so that's fine.

12 MR. MATTHEWS: So the email and the
13 letter, CRE24235 and 236, can be Exhibit 33.

14 EXHIBIT NO. 33: Email and letter,
15 Bates numbered CRD24235 and CRE24236.

16 MR. MATTHEWS: The notes of telephone
17 call with Mr. Stransky from June 4th, 2012 can be
18 the next exhibit for identification.

19 EXHIBIT N (for identification): Notes
20 of telephone call with Mr. Stransky.

21 BY MR. LISUS:

22 1046 Q. So OLG1557. This is an email
23 sequence, August 23, 2012. You're sending an email
24 to Rod Phillips which is a draft of the interim
25 report of the panel.

1 A. I take your --

2 1047 Q. See where it says:

3 "Here is a draft report of the
4 horseracing committee provided by
5 Blair. We will review and provide a
6 summary."

7 See that as you follow the sequence up?

8 A. Yes, I see that.

9 1048 Q. Now, you chose to send this on
10 personal email to personal email, correct?

11 A. I see that.

12 1049 Q. And one of the reasons you did
13 that was so that it wasn't subject to FOI or
14 wouldn't be caught by FOI requests?

15 A. I certainly can't recall why I
16 sent this from my personal email.

17 1050 Q. Did you do that sometimes, too, so
18 that documents wouldn't be caught by FOI requests?

19 A. Again, I can't recall using my
20 personal email in specific.

21 1051 Q. You're sending it from your
22 personal address to others' personal addresses,
23 right?

24 A. I see that, yes.

25 MR. LISUS: Okay, Mr. Stransky, subject

1 to the refusals, those are my questions.

2 MR. ROSENBERG: Just go off the record
3 for a minute.

4 MR. LISUS: Mark OLG1557 as the next
5 exhibit.

6 MR. MATTHEWS: 34.

7 EXHIBIT NO. 34: Email, Bates numbered
8 OLG1557.

9 -- OFF THE RECORD --

10 MR. ROSENBERG: I have no questions for
11 OLG. Thank you for attending today, sir.

12 MS. LA HOREY: No re-examination.

13 Thank you.

14 -- Whereupon the cross-examination concluded at
15 6:00 p.m.

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That the testimony of the witness
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That the foregoing is a true and
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\$	1012 259:6	1045 269:6	120 36:18	14 164:2
\$170 158:20	1013 259:9	1046 269:22	121 36:25	150 43:8
\$255 158:20	1014 259:18	1047 270:2	122 37:2	151 43:16 91:18
\$340 158:19	1015 260:1	1048 270:9	123 37:11	152 43:19 91:19 93:14
\$375 147:11	1016 260:9	1049 270:12	124 37:15	153 43:24
0	1017 260:14	105 33:1	125 37:19	154 44:4
02 12:17,20,21,22	1018 261:1	1050 270:17	126 37:24	155 44:19
03 12:20,23,24,25 13:1	1019 261:6	105085 96:10	127 38:2	156 45:5
04 12:24	102 32:3	1051 270:21	128 38:9	157 45:10
061 98:4	1020 261:12	106 33:9	129 38:16	158 45:13
062 98:4	1021 261:16	106086 231:12	12:55 109:11	159 45:19
085 98:5	1022 261:19	107 33:13	13 11:12 98:5,6 134:20 250:20 251:2	16 12:5 88:23 114:10,11 128:24 175:23
1	1023 261:22	108 33:19	130 38:25	160 45:22
1 9:4 15:1,2 52:17 98:11 131:13 133:4 158:19 194:13 202:5,16 220:14	1024 262:6	109 33:24	131 39:6	161 45:25
10 10:25 32:8 59:9 91:3,5 150:9	1025 262:14	10:15 9:1	132 39:12	162 46:15
100 31:9 178:22	1026 262:16	11 11:2 24:14 50:24 56:12 57:3 60:20 67:25 68:8 81:15 82:10 93:15,16 112:18 177:18 204:10 255:6	133 39:21	163 46:22
1000 256:13	1027 262:20	110 34:4	134 39:25	164 46:25
1001 256:20	1028 263:2	111 34:12	135 40:4	165 47:6
1002 256:24	1029 263:12	112 34:18	136 40:10	166 47:9
1003 257:6	103 32:14	113 34:21	137 40:12	167 47:12
1004 257:12	1030 263:19	114 35:5	138 40:17	168 47:16
1005 257:16	1031 263:24	115 35:17	139 40:22	169 47:22
1006 257:24	1032 264:6	116 35:22	13:50 218:17	16:26 213:18
1007 258:6	1033 264:19	117 36:1	14 11:18 109:3,4, 5 252:23	17 12:12 27:20 115:9 117:12,13 126:22 151:6 231:11 232:17
1008 258:10	1034 265:6	118 36:9	140 41:1	170 48:9
1009 258:14	1035 265:13	119 36:13	141 41:9	171 48:16
101 31:15	1036 265:20	11:29 59:16	142 41:11	172 48:22
1010 258:20	1037 265:24	11:30 59:7	143 41:15	173 48:25
1011 259:2	1038 266:5	11:38 59:17	144 41:20	17331 54:19 60:9,14
	1039 266:17	12 11:9 24:14 50:25 56:12 57:3 60:20 74:5 75:21 84:9 87:9,10 88:23 94:17 98:4 196:20	145 42:10	17332 60:10,14
	104 32:20		146 42:13	174 49:2
	1040 266:21		147 42:15	175 49:11
	1041 267:7		148 42:21	
	1042 267:13		149 43:1	
	1043 267:17		15 11:22 112:13,	
	1044 267:25			

176 49:14	1A 146:16,17	2011 40:4,5,8	2017 15:9,24	230 60:22
177 50:2	1st 204:17	48:25 71:1 73:25	202 55:10	231 60:24
178 50:9		75:16 76:6 93:25	203 55:12	232 61:4
179 50:15	2	96:9 97:13,16	204 55:19	233 61:10
18 12:16 138:11, 12,16 139:15,22	2 9:8 15:9 44:13, 15 158:20 210:19	98:11 100:24	205 56:1	234 61:18
180 50:24	212:22 213:18	101:12 105:2	206 56:6	235 62:3
181 51:4 114:10	227:5,11,12,13	107:9 108:18	207 56:10	236 62:6 269:13
182 51:8	228:15,21 230:3	110:9,13,23	208 56:15	237 62:10
183 51:14	20 12:22 145:8,9	113:12,14 114:1, 24 118:9,13	209 56:19	238 62:17
184 51:18	151:1,2 168:4,7	119:20,23 124:20	20th 168:13,14 233:22,23	239 62:24
185 51:20	170:9	125:1,3 126:6	21 13:2 91:17 151:15,17	24 13:12 178:14 188:20,22
186 52:1	200 54:24	127:11 129:21	210 56:21	240 63:15
187 52:13	2000 32:7,10,17	134:2 139:3,15,22	211 56:25	241 63:21
188 52:16	2001 210:15	140:7 141:14	212 57:2	242 63:24
189 52:21	2002 10:11	148:15 149:12	213 57:7	24236 257:7
19 12:19 96:9 149:4,5 176:25 177:4,25 231:9	2003 10:17 11:3, 12,14 13:7	150:7,9,20 152:2, 16 156:14 157:6,8	214 57:9	243 64:2
19-- 12:14	2004 11:15 13:7	161:6 162:9 164:2	215 57:11	244 64:6
190 52:24	2005 10:11	168:7,19 169:19, 25 170:10 172:15	216 57:16	245 64:11
191 53:1	2006 10:11	175:4 178:6	217 57:19	246 64:20
1913 151:1	2007 10:17 11:3, 12,14 13:7	196:20 264:21	218 57:22	247 64:24
192 53:4	2008 11:4,13,14 13:5,7	2012 23:24	219 58:6	248 65:3
193 53:6	2009 11:4 13:6 40:2 54:25 55:8	31:18,22 46:16	22 13:7 172:15 176:12,14 184:9	249 65:9
194 53:9	201 55:4	71:2 74:4,5 75:20, 21 76:7 93:9	220 58:8	25 13:15 150:7 158:17 190:5,6
195 53:20	2010 13:16 20:2 21:15 22:17 23:4, 9,22 24:2,14,18, 24 25:1,10,17	123:23 132:4	221 58:11	250 65:14
196 53:24	26:5,9,24 27:3,11	133:22,25 134:16, 19 135:2 137:17	222 58:16	251 65:20
197 54:7	30:5,10,14 32:9, 22 33:5,10,16,21	139:3 155:17	223 58:19	252 65:23
198 54:15	34:5,19,22 35:1,6, 19,20,23 36:4	156:13 157:8	224 58:23	253 66:4
199 54:19	37:4,12 38:19	158:1 170:13,17, 18 173:6 175:23	225 59:1	254 66:8
1998 12:15 31:20,23 32:6,16	41:13,14,16,23	177:4 179:7	226 59:19	255 66:22
19th 183:18	42:16 44:5 45:20, 23 47:1,4,23	183:18 187:20	227 59:22	256 67:4
1:00 109:9	50:24 53:15,22	188:8,17 189:1	228 60:3	257 67:10
1:30 176:25	54:21 55:7 56:12	190:13 192:11	229 60:16	258 67:24
1:34 109:12	57:3 59:2,20	194:24 203:11	23 13:10 182:2 184:10 187:20 269:23	259 68:8
1:59 85:3	60:20 62:19 63:18	212:24 216:2	2012-13 178:17	25th 134:2 175:4
	70:11,14,25	220:17 221:19	2013 13:19,25	26 13:19 170:17, 18 189:1 190:12
	72:15,18,22	237:2 244:22	131:13 133:4,18	
	73:16,21 74:10	252:23 255:6,19 269:17,23	194:13 203:11	
	75:7 76:6 82:23	2013-14 178:17	2014 46:16	
	88:23 90:16,23	2014 46:16	110:23	
	91:17,23	2015-16 178:22	2015-16 178:22	

195:25 201:24,25 210:14 264:21	28697 207:4,15, 17	306 78:17	336 90:1	369 98:9
260 68:12	28698 207:5,16, 19 208:7	307 79:10	337 90:5	37 15:11
261 68:23	287 73:25	308 79:16	338 90:9	370 98:19
262 69:7	288 74:4	309 79:22	339 90:14	371 98:23
263 69:13	28814 138:15	30th 152:15	34 14:22 271:6,7	372 99:2
264 69:17	289 74:9	31 14:12 200:4 255:13,14 257:13 267:9	340 90:19	373 99:7
265 69:20	29 14:4 230:14,22	310 79:25	341 91:1	374 99:16
266 69:25	290 74:15	311 80:15	342 91:8	375 99:21
267 70:4	291 74:20	312 81:1	343 91:16	376 100:7
268 70:9	292 74:22	313 82:9	344 91:23	377 100:11
269 70:11	293 75:1	314 82:12	345 92:2	378 100:13
26th 41:23 42:13 190:20 193:5 195:11 212:1 217:8 240:8,19	294 75:5	315 82:22	346 92:10	379 100:16
27 13:21 208:3,11	295 75:13	316 83:7	347 92:19	38 15:19
270 70:15	296 75:20	317 83:9	348 93:1	380 100:23
271 70:17	297 75:24	318 83:13	349 93:6	381 101:4
272 70:20	298 76:5	319 83:15	35 14:24	382 101:15
273 70:25	299 76:14	32 14:16 257:3	350 93:9	383 101:18
274 71:5	2nd 15:23 137:16 214:9 216:10 217:9 233:21	320 83:19	351 93:19	384 101:25
275 71:12	<hr/> 3 <hr/>	321 83:22	352 93:24	385 102:3
276 71:19		322 83:25	353 94:5	386 102:19
277 72:1	3 9:12 49:21,23 52:17 112:20 177:6 218:4 221:9 228:21 257:7	323 84:18	354 94:15	387 103:1
278 72:6		324 86:4	355 94:21 100:11	388 103:15
279 72:8	3-6-0 101:20	324142 251:1	356 95:3	389 103:18
27th 54:21	3.4 129:3,24	325 86:16 121:25	357 95:5	39 15:23
28 14:1 208:8,13	30 14:7 152:2 246:10	326 86:20	358 95:14	39.03 228:12
280 72:15	300 76:17	327 86:24	359 95:16	390 103:23
281 72:18	301 76:22	328 87:6	36 15:4	391 104:1
282 73:1	302 77:4	329 87:17	360 95:18 101:20	392 104:5
283 73:4	30238 219:15	33 14:19 269:13, 14	361 95:23	393 104:10
28370 52:9 54:2	303 77:16	330 87:22	362 96:1	394 104:17
28371 54:2	304 77:23	331 88:2	363 96:7	395 104:19
284 73:14	305 78:7	332 88:12	364 96:12	396 105:1
285 73:16		333 88:21	365 96:14	397 105:6
286 73:21		334 89:7	366 96:25	398 105:21
		335 89:17	367 97:6	399 106:6
			368 97:12	3:15 171:21

3:27 171:22	425 113:2	458 120:16	490 129:20	517 137:2
3:48 200:12	426 113:10	459 121:15	491 130:2	518 137:12
<hr/>	427 113:21	46 17:14 239:25	492 130:15	519 137:16
4	428 113:25	460 121:18	493 130:25	52 19:21
<hr/>	429 114:14	461 121:23	494 131:5	520 137:20
4 10:3 54:1,3 158:21 218:3,4,16 220:5 266:18 267:8	43 16:21	462 122:4	495 131:9	521 137:25
4-5 101:9	430 114:19	463 122:8	496 131:16	522 138:21
40 16:4	431 114:24	464 122:12	497 131:21	523 139:3
400 106:11	432 115:1	465 122:17	498 132:3	524 139:6
401 106:14	433 115:5	466 123:2	499 132:10	525 139:9
402 106:23	434 115:7	467 123:7	4:37 238:7	526 114:6 139:15
403 107:8	435 115:14	468 123:9	4th 269:17	527 117:11 139:19
404 107:15	436 115:18	469 123:11	<hr/>	528 139:22
405 107:24	437 115:23	47 17:21 239:25	5	529 140:1
406 108:2	438 116:3	470 123:18	5 10:8 60:11,12 79:14,15 81:15 82:11 112:18,20 158:21	53 19:25
407 108:5	439 116:6	471 123:23	50 18:22	530 140:5
408 108:8	44 16:25	472 124:2	500 132:14	531 140:11
409 108:15	440 116:9	473 124:9	501 132:19	532 140:17
41 16:9	441 116:14	474 124:18	502 132:25	533 140:19
410 109:14	442 116:17	475 125:2	503 133:9	534 140:25
411 109:18	443 116:22	476 125:9	504 133:14	535 141:5
412 109:23	444 117:2	477 125:15	505 133:22	536 141:7
413 110:3	445 117:7	478 125:18	506 134:7	537 141:14
414 110:9	446 118:2	479 125:22	507 134:15	538 141:18
415 110:13	447 118:6	48 18:4 239:25	508 134:18	539 142:1
416 110:16	448 118:11	480 126:4	509 135:1	54 21:14
417 110:20	449 118:18	481 126:8	51 19:16	540 142:9
418 111:3	45 17:11	482 127:9	510 135:10	541 142:13
419 111:9	450 118:20	483 128:1	511 135:14	542 142:18
42 16:15	451 118:25	484 128:7	512 135:19	543 142:22
420 111:15	452 119:9	485 128:12	513 135:23	544 143:2
421 111:22	453 119:16	486 128:22	514 136:2	545 143:8
422 112:5	454 119:18	487 129:2	515 136:8	546 143:12
423 112:17	455 119:22	488 129:5	516 136:20	547 143:14
424 112:24	456 120:2	489 129:10		548 143:18
	457 120:12	49 18:14		549 143:25

55 21:18	58 22:5	603 157:23	636 168:7	669 175:15
550 144:5	580 151:11	604 158:1	637 168:16	67 23:21
551 144:11	581 151:20	605 158:8	638 168:18	670 175:17
552 144:14	582 152:11	606 158:10	639 169:4	671 175:20
553 144:20	583 152:20	607 158:12	64 23:5	672 176:5
554 144:24	584 153:3	608 159:3	640 169:16	673 176:7
555 145:2	585 153:5	609 159:9	641 169:22	674 176:17
556 145:7	586 153:14	61 22:19	642 170:12	675 177:2
557 145:10	587 153:18	610 159:17	643 170:17	676 177:6
558 145:17	588 154:3	611 159:25	644 170:20	677 177:9
559 145:24	589 154:5	612 160:4	645 171:5	678 177:17
56 21:23	59 22:7	613 160:9	646 171:9	679 177:21
560 146:3	590 154:12	614 160:17	647 171:12	68 23:24
561 146:16	591 154:16	615 161:6	648 171:17	680 177:25
562 146:18	592 155:6	616 162:1	649 171:24	681 178:4
563 146:23	593 155:22	617 162:4	65 23:10	682 178:13
564 147:5	594 156:1	618 162:9	650 172:3	683 179:7
565 147:15	595 156:13	619 162:22	651 172:6	684 179:15
566 147:19	596 156:19	62 22:24	652 172:10	685 179:20
56626 44:14	597 156:21	620 163:7	653 172:15	686 180:1
567 147:21	598 157:3	621 163:9	654 172:23	687 180:5
56727 91:4	599 157:5	622 163:15	655 173:1	688 180:23
568 147:25	5:30 231:21,25 232:8 252:17	623 163:18	656 173:3	689 181:4
569 148:3	5:52 266:15	624 163:21 188:21	657 173:9	69 24:2
57 22:1		625 164:1	658 173:14	690 181:8
570 149:9	<hr/> 6 <hr/>	626 164:6	659 173:17	691 181:14
571 149:15		627 164:8	66 23:18	692 181:19
572 149:18	6 10:10 63:10,12 79:14 135:4	628 164:12	660 173:21	693 182:6
573 149:21	6.1 130:16	629 164:17	661 174:5	694 182:12
57323 69:3	6.5 42:2	63 23:2	662 174:8	695 182:14
574 149:24	60 22:16	630 164:21	663 174:11	696 182:23
575 150:9	60,000 101:16 188:14	631 165:2	664 174:17	697 183:3 218:17
576 150:13	600 157:10	632 165:8	665 175:2	698 183:5
577 150:18	601 157:14	633 165:13 257:2	666 175:5	699 183:8
578 150:22	602 157:19	634 167:7	667 175:9	6:00 271:15
579 151:5		635 168:1	668 175:12	6th 108:18 135:2 221:19

7	729 190:17	761 184:11 196:24	792 203:1	82 26:14
	73 24:17	76151 91:18	793 203:6	820 209:5
7 10:12 66:16,18 79:14 135:4	730 191:2	76152 91:18	794 203:10	821 209:7
70 24:7	731 191:9	762 184:11 197:4	795 203:15	822 209:20
700 183:11	732 191:11	763 184:11 197:8	796 203:20	823 209:24
701 183:15	733 191:19	764 197:11	797 203:25	824 210:4
702 183:21 227:14	734 192:4	765 197:14	798 204:3	825 210:7
703 184:5	735 192:9	766 197:16	799 204:6	826 210:11
704 184:13	736 192:15	767 197:20	7th 135:2 217:25 218:1 238:6	827 210:18
705 184:22	737 192:18	768 197:25	8	828 210:25
706 184:24	738 192:24	769 198:8		829 211:4
707 186:7	739 193:8	77 25:16	8 10:16 69:2,4 79:14 135:4 209:5 246:20	83 26:23
708 186:11	74 24:24	770 198:12		830 211:10
709 186:15	740 193:15	771 198:21	80 26:2	831 211:12
71 24:10	741 193:21	772 198:25	800 204:9	832 211:18
710 186:19	742 193:23	773 199:5	801 204:13	833 211:24
711 186:23	743 193:25	774 199:8	802 204:18	834 212:12
712 187:6	744 194:2	775 199:13	803 204:23	835 212:16
713 187:13	745 194:5	776 199:19	804 205:5	836 212:19
714 187:16	746 194:10	777 199:21	805 205:8	837 212:21
715 187:19	747 194:18	778 200:3	806 205:12	838 213:1
716 188:2	748 194:22	779 200:7	807 205:17	839 213:3
717 188:6	749 195:5	78 25:19	808 205:21	84 27:11
718 188:11	75 25:3	780 200:11	809 206:2	840 213:6
719 188:15	750 195:10	781 200:18	81 26:7	841 213:11
72 24:13	751 195:13	782 201:1	810 206:8	842 213:13
720 188:25	752 195:17	783 201:6	811 206:13	843 213:18
721 189:5	753 195:20	784 201:10	812 206:17	844 213:21
722 189:7	754 195:23	785 201:14	813 206:22	845 213:24
723 189:11	755 196:4	786 202:3	814 206:25	846 214:3
724 189:14	756 196:8	787 202:10	815 208:5	847 214:7
725 189:16	757 196:10	788 202:15	816 208:16	848 214:12
726 189:21	758 196:16	789 202:19	817 208:21	849 214:17
727 190:2	759 196:19	79 25:21	818 208:23	85 27:16
728 190:11	76 25:9	790 202:21	819 88:16 209:1	850 214:20
	760 196:22	791 202:23		851 214:23

852 215:3	885 222:23	912 232:20	944 240:24	977 249:14
853 215:6	886 223:2	913 233:5	945 241:2	978 249:20
854 215:9	887 224:2	914 233:13	946 241:10	979 250:12
855 215:12	888 224:8	915 233:16	947 241:15	98 30:11
856 215:15	889 224:11	916 233:20	948 241:23	980 250:16
857 215:18	89 28:6	917 234:1	949 242:5	981 250:19
858 215:22	890 224:14	918 234:9	95 29:16	982 251:5
859 215:25	891 224:17	919 234:13	950 242:13	983 251:10
86 27:19	892 224:21	92 28:25	951 242:17	984 251:16
860 216:6	893 225:3	920 234:20	952 242:21	985 251:21
861 216:9	894 225:11	921 235:7	953 242:24	986 251:24
862 216:17	895 227:5	922 235:10	954 243:2	987 252:5
863 217:6	896 227:11	923 235:15	955 243:7	988 252:9
864 217:14	897 227:17	924 235:21	956 243:14	989 252:22
865 217:17	898 228:1	925 236:1	957 243:18	99 31:5
866 217:21	899 228:14	926 236:5	958 243:22	990 253:6
867 217:24	8997 61:5 63:11	927 236:7	959 244:1	991 253:14
868 218:16	8th 157:6	928 236:17	96 29:20	992 253:21
869 219:2	<hr/>	929 237:2	960 244:8	993 253:24
87 27:21	9	93 29:7	961 244:12	994 254:5
870 219:14	9 10:19 85:3	930 237:8	962 244:17	995 254:15
871 219:23	88:17,18	931 237:12	963 244:22	996 164:4 167:21
872 220:2	90 28:14	932 237:21	964 245:13	255:4
873 220:4	900 228:23	933 238:4	965 245:16	997 255:17
874 220:7	901 229:6	934 238:11	966 246:2	998 255:25
875 220:10	902 229:10	935 238:16	967 246:13	999 256:9
876 220:23	903 229:15	936 239:2	968 246:20	9:19 233:23
877 221:1	267:22	937 239:15	969 247:7	9th 63:18
878 221:9	904 229:21	938 240:2	97 30:5	<hr/>
879 221:18	905 230:2	939 240:7	970 247:12	A
88 28:2	906 230:6	94 29:9	971 247:14	<hr/>
880 221:24	907 230:17	940 240:10	972 151:16	A-G-U-Z-Z-I
881 222:2	908 230:25	941 240:12	247:18	51:16
882 222:7	909 231:8	942 240:14	973 247:20	a.m. 9:1 233:23
883 222:12	91 28:16	943 240:20	974 248:9	ability 245:4
884 222:19	910 232:4	94316 112:13	975 248:18	247:24 268:23
	911 232:16		976 249:11	absolutely
				260:4,9
				accelerate

<p>124:18</p> <p>accept 166:6</p> <p>accessible 233:8</p> <p>accord 254:5</p> <p>account 104:22</p> <p>accountability 97:7 153:19</p> <p>accurate 10:21, 25 22:21 35:12 38:12 58:16 85:24 111:25 166:24</p> <p>accurately 85:1</p> <p>achieve 145:4, 12</p> <p>acronym 99:20 172:23</p> <p>acronyms 175:18</p> <p>acted 21:20 22:1,8</p> <p>activity 99:25</p> <p>actual 158:3 160:3 196:12 249:18</p> <p>ad 195:25</p> <p>add 28:19 237:23</p> <p>addendum 32:15</p> <p>addition 106:17</p> <p>address 266:3 270:22</p> <p>addressed 256:4</p> <p>addresses 270:22</p> <p>administration 169:8</p> <p>administrative 110:22</p> <p>ADMS 57:10</p> <p>adopt 102:9,17</p>	<p>adopted 212:1,4</p> <p>ads 170:13,21 171:13 196:1,3, 11,14 240:3,7,16, 18,22 241:1,7</p> <p>advance 170:21 210:20 236:18 261:3</p> <p>advice 60:18,25 139:13 141:2 149:6 191:14 241:16</p> <p>advise 33:15 43:20 44:1,5 58:4 71:12</p> <p>advised 44:9</p> <p>advising 12:10 33:10 34:13,19, 22,24 35:1 59:24 209:13</p> <p>advisor 21:17, 19 33:6 67:5 71:14 125:19 161:14 237:19 244:4</p> <p>affected 98:16 154:7</p> <p>affidavits 209:18</p> <p>afternoon 177:12 213:19 232:23</p> <p>AGCO 46:3,5,6, 10 115:15,20,22, 24 116:1,20</p> <p>age 20:12 21:4</p> <p>agencies 21:21 49:13 115:14,18 162:19 163:1</p> <p>agency 105:3 116:5 242:14 258:9 268:3</p> <p>agent 242:13</p> <p>agree 223:7 246:8</p> <p>agreed 230:7</p>	<p>agreeing 131:1</p> <p>agreement 19:22 250:7</p> <p>agreements 27:24 28:3,7,9,17, 21,23 29:2,10,22 31:6,7,10,12,13 32:5 42:17 43:5, 11,21 44:2,6</p> <p>agrees 180:21</p> <p>Agricultural 100:9,14</p> <p>Agriculture 232:23</p> <p>Aguzzi 51:15,20</p> <p>ahead 123:11 137:7,13 162:1</p> <p>aid 249:4</p> <p>aides 61:23</p> <p>aimed 268:19</p> <p>Albanese 201:19</p> <p>Alex 51:18</p> <p>allotted 231:19</p> <p>allowing 146:6</p> <p>amenities 143:5</p> <p>Ampleford 218:18</p> <p>analysis 39:7 77:18 78:10,15, 17,18 79:1,5,11 80:1,9,17,21 81:3, 8,25 178:2 182:24 217:10 232:25 241:25 243:4</p> <p>Andre 219:18</p> <p>angry 253:21</p> <p>animated 253:9, 15</p> <p>announced 123:24</p> <p>announcement 170:22 187:12</p>	<p>annual 25:14 26:10,11 46:18 178:23</p> <p>annually 158:19</p> <p>answering 18:7 29:18 64:15 105:17</p> <p>answers 63:17 105:18</p> <p>apologize 80:23</p> <p>appears 41:23 63:16 85:1 88:24 94:23 95:9 112:18 114:14 150:14 151:6 168:3 172:16 177:9 179:16 192:1</p> <p>appendix 53:10, 11 63:8</p> <p>applied 112:8</p> <p>appointed 251:18</p> <p>approach 26:18 157:11 158:3,4 159:4,12 160:4,5, 19 161:7 162:5 169:1 174:5,20 178:14,15 179:2, 12 180:16,23,25 181:5,10,15 182:18 193:3 195:7 210:15 211:8 212:14 265:23</p> <p>approaches 159:8,9,11 160:1</p> <p>approaching 105:13</p> <p>approval 86:23 112:6</p> <p>approve 111:15, 23</p> <p>approved 83:22 86:21 88:2 111:21 112:7</p> <p>approximately 135:20</p>	<p>April 108:18 131:13 133:4,18 134:20 194:13 255:6,19 260:2</p> <p>area 10:8</p> <p>areas 146:20,21</p> <p>arguably 260:23</p> <p>argue 17:8</p> <p>argument 212:5,6 226:10,23</p> <p>arisen 238:22</p> <p>arrangement 47:2,24 48:12,18 244:2</p> <p>arrived 192:25</p> <p>arriving 262:18</p> <p>article 129:3,24 130:16</p> <p>articulation 159:10</p> <p>assist 137:20 148:1 165:25 166:25 167:7 196:1 202:10 213:24 227:19 239:2 240:14 268:25</p> <p>assistance 132:16,18,19 133:5,19 134:21 194:14</p> <p>Assistant 57:6</p> <p>assists 136:9 152:7 196:5,13</p> <p>Associate 57:6 216:4</p> <p>Association 99:13,17</p> <p>associations 108:2</p> <p>assume 87:20 184:23 222:3 252:18</p> <p>assumed 234:2</p>
--	--	---	---	---

<p>assumes 258:24</p> <p>assuming 66:25 67:2 79:1 183:18 216:8 227:22 229:11 256:5</p> <p>assumption 56:8 184:19 235:25</p> <p>assured 102:21</p> <p>asterisk 153:16</p> <p>attached 42:1 44:15 45:15,16 54:8,20 56:3 60:8, 12 61:13 68:2 87:3 95:14 99:10 112:24 176:10 177:3</p> <p>attaching 45:5 51:20 61:7 63:16 85:4 93:20</p> <p>attachment 54:23 63:11,12 69:3,4 86:12 87:21 88:18,22 91:3,5 93:16 98:6 112:13,14 114:10, 11 117:11,13 151:2,16,17 161:3 164:4 167:23 207:7</p> <p>attachments 45:8 54:2,3 66:18 94:17 98:10 109:5 182:1,2 184:10 230:14,15,22</p> <p>attending 40:12 41:2 271:11</p> <p>attention 105:15 256:2</p> <p>audible 9:20,22</p> <p>August 54:21 59:2 269:23</p> <p>authentic 231:3</p> <p>author 128:18</p> <p>availability 162:20</p>	<p>aware 15:20 28:23 39:4,14,18, 21,23 46:22,25 47:4,23 48:10,16, 22 50:3,9,14 61:24 91:24 93:25 98:13,20 100:23 101:1,11 103:1,2, 11 108:19 113:5 114:19 118:6,14 119:22 120:1,2 123:18,22 124:2,6 134:18 138:21 140:19 142:13 147:21 149:9 159:11 163:15 164:12,22 165:4 170:12,20 171:3 174:21 181:14 182:23 193:20 194:2,23 195:8 212:12 217:6,10, 14 220:17 222:23, 25 223:2 230:3,5 237:21 241:9 251:16,17,23 252:2,3 264:23</p> <p>awareness 38:6 103:19 113:11</p> <p>awkward 268:4</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>B-A-R-D-E-E-S-Y 199:6</p> <p>back 38:20 45:1 59:13,15 67:1 94:22 124:14 134:5 141:18 166:8 184:7 192:10 200:5 227:9 231:11</p> <p>background 10:3 20:9</p> <p>bad 133:6 260:14</p> <p>balance 66:9</p> <p>ball 203:22</p> <p>Bardeesy 199:6,8,17,22 207:18,21 210:20,</p>	<p>21 211:4 212:22, 23 213:14</p> <p>barely 117:18,23</p> <p>Barry 91:20 156:24 165:16 166:14 232:17 238:7 252:23</p> <p>base 103:7,22,24 104:1 236:9</p> <p>based 26:18 43:15 77:10 80:6 81:22 86:23 87:20 92:17 94:2 137:10 142:22 150:14 152:22 163:13 165:16 166:14 168:9 183:13 187:23 188:12 193:19 194:4 204:17 205:3 206:5 237:4 264:16</p> <p>basically 163:12</p> <p>basing 220:21</p> <p>basis 35:14 263:6 264:13</p> <p>Bates 44:16 49:24 54:4 60:13 63:13 66:19 69:5 88:19 91:6 93:17 94:18 98:7 109:6 112:15 114:12 117:14 127:7 136:15 138:12 149:7 151:3,18 161:3 167:23 174:25 176:14 182:3 188:22 190:6,24 201:25 208:11,13 217:1 219:12 230:23 236:25 239:12 246:10 255:2,14 257:4 269:15 271:7</p> <p>Bay 142:24</p> <p>bcc'd 257:15</p> <p>bear 193:25 256:15</p>	<p>beginning 11:15 178:17 202:14</p> <p>behalf 19:5 77:2 131:6</p> <p>believed 76:5</p> <p>bells 153:24</p> <p>benchmarks 53:12,15,22</p> <p>benefit 155:23 241:24</p> <p>bets 82:1</p> <p>betting 81:20 82:5</p> <p>big 214:17,20,23 215:3,7</p> <p>bigger 42:4 142:14</p> <p>bingo 46:3,5,12</p> <p>birth 150:6 175:3</p> <p>bit 42:4 59:25 148:17 174:7</p> <p>bits 144:17</p> <p>Blair 9:2 61:12 84:7 87:8 89:9 95:8 96:18 99:9 113:5 155:1,10,13 165:18 166:16 176:23 218:20 233:7 235:1 238:20 253:8 257:18 270:5</p> <p>Blakney 155:5</p> <p>Blakney's 84:8 87:8</p> <p>blanked 174:6</p> <p>blind 258:15</p> <p>Blue 143:11</p> <p>blurry 201:16</p> <p>blurt 185:7</p> <p>board 102:22 228:17,23 229:16</p> <p>born 134:12 135:24 175:14</p>	<p>boss 71:9 136:24 212:23 213:21 214:3,5,13</p> <p>bottom 46:1 82:25 86:19 141:23 145:8 228:15,20</p> <p>Brad 58:23 157:19</p> <p>Branch 59:2 74:21 75:7,14 76:2,7 77:22,25 78:9,19 80:5</p> <p>break 51:10 59:8,14 109:9,14 155:22 171:20</p> <p>breakdown 81:16</p> <p>breaked 60:1</p> <p>bred 101:9</p> <p>breed 92:25</p> <p>breeders 37:10 92:17 113:21 123:3</p> <p>breeding 69:14, 17,21 70:3,5 91:25 92:5,13,15 108:2 123:17,19 124:13 235:18</p> <p>briefing 56:2 88:25 89:3,9,14, 18,24 90:2,3,21 100:24 110:3 112:24 172:18,19 173:16,18,22 174:12,16 200:21, 24 201:1,6,15,18, 19 203:7 206:3,6</p> <p>briefings 173:5, 10 201:3</p> <p>bringing 256:1</p> <p>broad 130:19 131:2 138:24</p> <p>broader 104:21</p> <p>bubble 97:2</p> <p>bubbles 145:22</p>
---	--	---	---	--

Buchanan 251:22	175:18 191:18 192:2 200:21 201:15,17,20 202:17 203:17 204:6 207:13 208:6,17 209:8, 11,13,14,21,25 210:20 211:2 212:2,4,19 216:8 217:18 218:7,18 219:4 222:8 226:1 236:19 237:6	198:17 204:25 221:2,6	characterized 170:14 243:6	co-counsel 250:3,6
build 146:8 147:7 268:21	calculated 133:16	caucus 201:4 238:21	chief 14:11 110:21 197:22 202:19 215:12,17	Cogan 40:10,13 41:3 151:22 152:1,10,15 153:2
building 88:7	call 77:14 155:1 165:17 166:15 168:10 232:21 266:17 267:8 268:6,7 269:17,20	caught 270:14, 18	child 150:7	cold 236:13
bullet 100:8,13 104:19 141:19,24 158:10 174:8 184:19 220:8	called 90:15 94:11 99:4 116:17	cc'd 111:1 167:15	chose 270:9	collaboratively 67:16 68:19
bullets 104:12 158:8	Canada 108:18, 20	central 21:21 28:21	Chris 207:18,20 213:3 215:15,16	column 250:21
bunch 228:6	cancel 135:5 233:17	CEO 30:6,10	circulating 157:10	comfortable 133:15
bureaucracy 75:4 157:4,25	cancellation 134:25	cetera 178:25	circumstance 164:25 165:3 244:11	commenced 13:1
bureaucrat 54:16,17 57:20 58:19,22,25 157:16,17 159:20 160:10	cannibalize 146:10 147:9	chain 200:7 218:14	circumstances 39:24 110:6 205:23	commenceme nt 26:4 268:24
bureaucratic 57:24 62:16 111:24 156:25	capable 136:5	chains 232:11	cities 205:1	commencing 9:1
bureaucrats 58:17 61:21	capacity 51:5	chair 51:5 130:18 228:18 253:8,16 255:18 259:18	citizen 20:24	comment 79:3 85:15
business 24:24 25:7,10,14 26:9 37:20 38:21,23 45:6,14,15,20,23 46:15,19,23 49:14,18,23 50:4, 10,19 92:16 93:21 94:1,6 98:14 99:11 102:5 104:20 110:10,23, 24 111:10,16 112:4,7,9,11 116:10,24 142:10, 14 242:18,22,24 244:15	care 44:23 167:17 268:5	chaired 251:21	Civil 19:4	commented 83:11
busy 85:17 171:15	capture 9:15	chance 113:6 120:23	Clare 114:1	comments 83:3 84:3 87:1,2 150:3 203:11,16,21 207:17 218:19,25 238:19 239:6 243:9
<hr/> C <hr/>	careful 268:19	change 48:17 122:15,19 123:13, 14 142:3 143:2,18 146:13 154:7 159:5 161:7 168:20 179:9,19, 20 187:9 195:4 198:2 205:1 244:24 249:17 251:14,15 264:16	clarify 116:8 127:19 180:3 209:23	commission 14:3 22:13 24:8 50:25 51:6 63:22 101:21 111:4,19 127:11 129:6,8,21 130:20 138:24 258:8
C-A-B 216:7	carried 95:22 96:3	changed 57:4 163:24 180:1 203:22 251:7,10, 14	clarity 222:4	Commission's 59:23
cab 152:22	case 15:20 106:2,3 207:7	changing 264:13,23	cleaner 208:2	commissioned 149:10
Cabinet 90:15 135:1,6,7,12,17	casino 143:12	channel 144:12, 15,19	clear 31:1 75:6 89:5 130:10 159:19 180:20 185:14,15 230:17, 25	commitment 88:5 97:6 147:4
	casinos 25:6 34:17 38:23 146:8,21 147:8	characterizatio n 125:21 242:16	clients 12:4 13:4,13 25:25 26:19	committee 270:4
		characterize 23:15 170:23 253:23 262:24 263:16 264:18	clock 85:11,14	common 19:12, 16,22 182:20
			close 245:8 248:3	communicate 169:17 259:19
			closely 96:12 157:8	
			closer 146:21	
			closing 155:8,11 156:3 220:14,18 221:2	
			closure 221:6	

263:8	concern 117:22 235:16 259:11,14 261:7,13 263:16 265:17 266:12	confusing 89:20	110:4,17 140:22 177:22 178:1,5 217:15	contribution 104:14
communicated 71:21 182:15 251:17 260:6 261:10	concerned 20:16 21:7 117:19 123:16,19 152:3 155:11 253:20 261:8	connect 177:15	consultations 76:6 96:2,5 98:13, 15,18,19,24 114:15	controversy 47:1,23 48:3,10, 15
communicating 140:21 204:24 259:23,25	concerns 260:12 265:6,13	connected 242:12	consulted 106:15 107:10,13 138:22 268:16	conversation 131:19,22 132:3 133:21 266:23
communicative 56:11 108:20 116:23 204:24 249:18 258:20	concluded 271:14	connection 80:25 150:16 268:21	consulting 12:8 130:18	conversations 62:14 71:24 76:1 131:25 163:4 254:8
communications 56:16 117:3 159:22 237:15 241:6 268:22	conclusion 79:2,4	connections 259:15	contact 243:24	converse 155:21
community 104:14	concurrent 102:13	consequences 122:21 133:6 182:9 237:14	contacts 172:5, 6	coordinated 69:8 145:3,11
compared 153:21	concurrently 102:7 111:5	consideration 42:16 119:25 144:7 146:24 182:24 188:3 260:25	contemplated 146:14 169:18	coordination 143:21
competitive 97:8	conditions 97:8	Consideration s 220:8	contemplates 147:16	copied 84:11 85:4 87:6 117:17 160:13 167:15 190:4 258:15
complete 9:15, 16,24 247:9 248:18	conducted 20:7 98:20,21	considered 118:7,12 119:3,7, 11 143:3 146:6 193:7 194:25 195:8 261:21 264:14	contemplating 124:21	copies 52:14
completely 186:1 259:24	conducting 98:15 102:7 111:4 163:16	consistency 179:5	content 60:2,4 83:22 119:19 126:16 218:7 227:18 240:16,22 247:2	copy 10:19 19:22 31:20,22 43:2 96:19,23,25 99:3 128:19 175:24 176:1 207:18,20 257:8
compliance 46:11	confident 154:13 235:3,7	consistent 221:11	contents 63:17 65:23 77:20,23 256:13	copying 252:24
compose 219:23 228:1	confidential 138:3 139:13 141:2 149:6 191:14	consolidated 178:19	context 79:17 251:14	corner 101:19
composed 10:23 164:23 222:7,13 225:25 226:15 247:15 248:25 249:12	Confidentially 234:21,24	construction 143:5,23	continuation 48:11	corners 189:2,4, 17
composing 164:9,13 165:8 167:9 227:19,22	confidently 163:13	constructive 266:9	continue 60:16 73:6,17,22 74:1,6, 11 75:9,15 76:10 78:1,11,22 80:18 81:4 105:21 106:6,11 178:13, 16 233:20	corporate 116:24
composite 154:22	confirm 148:7	consult 103:3, 15 131:1	contents 63:17 65:23 77:20,23 256:13	Corporation 17:12,16,22 18:5, 23 21:22 22:10 26:24 27:3 28:10 32:22 33:5,15,21 41:18 108:21
composition 115:2 127:15 193:17 219:3 239:4 241:7 252:10	conflict 261:7, 12,16,19,20 263:14,19,20 264:6	consultant 11:21,24 25:23	context 79:17 251:14	correct 9:10,11 10:6,7,15,18,24 12:18 13:11,18, 20,22 14:6,14,15, 18,21 21:25 22:4, 25 23:1 24:15,16 26:11 32:17 40:2,
	conflicted 260:23 261:2 263:17,18	consultants 12:1	continued 144:21	
	conflicting 135:3	consultation 54:22 59:23 60:13 62:20 95:22 99:21 104:11 106:19 108:9 109:2,15	continuing 113:25 171:24	
	confused 80:23		contracts 143:4	
			contributing 136:5	

3 41:12 43:18 44:2 50:21 53:16 57:20,21 58:7,10 66:23 69:16 74:24 75:23 89:1 95:11 96:3 98:17 106:21 109:17 118:9,18 124:1 131:7,8 132:10 139:18 140:14 147:2 150:8,12 157:2,8, 9 163:8 171:6 172:25 173:2,17 179:7 181:11 186:13 193:18,21 194:3 197:13,15 199:23 201:13 204:5,8 210:15 215:24 221:7,8 222:19 235:8,24 240:22 242:1,14, 23 243:16 244:17 248:5,20 249:12 250:17,23 270:10	cover 255:20,23 269:7 CR0038429 246:11 CR00757 151:21 CR38429 239:16 240:3 CR928 139:11 149:4,7 CRD24235 269:15 CRE0030632 255:22 CRE0032045 238:9 CRE0057322 68:3 CRE0105060 98:4 CRE0105084 98:5 CRE105060 93:20 94:18 CRE105061 94:18 CRE105062 94:19 CRE105084 96:9 98:7 CRE105085 98:7 CRE105863 175:22 176:13,15 184:10 CRE105937 200:20 202:1 CRE106086 231:9 236:25 CRE12973 218:3,4 219:12 CRE18263 156:23 160:25 161:3	CRE24235 257:7 269:13 CRE24236 269:15 CRE28369 54:1,4 CRE28370 54:4 CRE28371 54:5 CRE28697 202:4 208:2,12 CRE28698 208:14 CRE28760 176:17 182:3 184:10 CRE28761 182:3 CRE28762 182:4 CRE28763 182:4 CRE28814 136:20 138:10,13 CRE28815 127:12 136:16 CRE29772 161:1,4 CRE30184 189:1 190:7 CRE30238 230:14,23 CRE30632 257:2,4 CRE30633 255:6 257:4 CRE32045 239:12,25 CRE32046 239:12 CRE32047 239:13 CRE32048 239:13 CRE320557	66:16,19 CRE320558 66:17,19 CRE320559 66:17,20 CRE32142 246:13 255:11,15 CRE32227 252:22 255:2 CRE360917 212:22 217:1 CRE55923 44:20 49:20,24 CRE55927 49:21,25 CRE55928 49:22,25 CRE55929 49:21,25 CRE56625 41:21 44:13,16 CRE56626 42:1 44:17 CRE56726 91:3,6 CRE56727 91:6 CRE567276 88:22 CRE57322 69:2,5 CRE57323 67:24 69:5 CRE58180 112:18 114:10,12 CRE58181 114:12 CRE75818 82:24 88:16,19 CRE75819 88:19 CRE76151 93:14,17 CRE76152 93:17	CRE765151 91:17 CRE80473 172:10 174:25 CRE80623 183:23 188:20,23 CRE80624 188:23 CRE81193 195:24 CRE87519 190:12,25 CRE8996 61:5 63:10,13 CRE8997 63:13 CRE94314 110:20 112:12,15 CRE94316 112:15 create 133:10 created 170:24 creates 184:20 186:16 creation 194:6 cross- examination 9:3 15:13 20:7 185:5,8,16 271:14 cross-examine 223:9 cross- examined 20:11 cross- examining 185:7 Crown 19:4 111:19 115:18 culminating 136:22 193:4 curious 261:25 Current 141:20 curriculum 10:20
---	--	--	--	---

customers 245:3 247:23	decided 211:6 234:15	deep 103:19	desire 48:17 138:24
CV 20:12	decision 56:21 72:2 120:11 131:11,24 132:15 133:2,10 134:19 135:3,5,6 141:12 170:20 171:5,8,9 181:4,9 182:15,17 183:5,7,8,10,12, 16 191:4,8,13,21 192:10,12,19,25 193:24 194:12,17, 19,20 203:12,17 206:18 211:13 212:4 213:25 230:3 233:17 234:11,14 235:16, 17 236:19 237:3, 5,6,13 240:16,21 251:17 254:2,15, 17 259:20 262:19, 21 266:2	deepest 105:3	detail 30:3 39:16 48:8
cycle 69:18,21 70:3,5	decision-making 262:15	defence 19:12, 16,22 250:7	detailed 160:2
<hr/> D <hr/>	decisions 61:1 92:16 159:20 183:2 254:19 262:16 263:4	define 40:24 258:17	details 27:4 37:14 70:2 117:4 122:11 150:6 160:6 203:8 221:22 252:2
date 38:3 42:11, 13 62:20 110:12 133:20 179:16 191:10,18 204:15, 17 209:4	deck 54:20,22 59:2,11,19 60:1,2, 4,8,10,13 61:8 63:18,24 64:9,10, 13 65:13,14,22,23 66:23 67:1,25 68:6,9,10 78:18 90:21 175:25 176:2,9,21 177:2, 4,21,25 178:15 180:7,17,24 182:8,18 187:24 190:2,11,13,20,24 195:11 210:17 212:1 217:7	definition 35:12 210:2	director 54:13 116:24
dated 41:22 63:18 88:22 91:17 96:8 139:15 157:6 164:2 170:9 177:4 190:12 210:19	decks 77:20,24 78:4,16 79:12 80:7,8,16 81:2,12 191:13 193:4 210:14	definitions 210:2	Directors 228:17,24
dates 24:1 30:9 34:23 38:1 54:21 55:1 59:23 60:13 66:10 135:3,4 170:16 175:10	dedicate 162:20	degree 10:5,13 12:23 39:16 75:12 96:5 224:18,19 252:12	disagreement 259:4
Dave 207:19,20 213:3 215:14	deemed 100:3	degrees 20:14	disclosure 253:11,17
David 196:17 202:23,24 203:2, 5,7 204:4		deliberately 223:22	discovery 228:9
day 148:9,18 231:15,16,17,18, 22 264:16		deliberations 39:1	discussed 29:3 40:15 64:23,25 71:17 83:2 84:2 86:25 96:18 118:23 121:5 135:11,14 137:3 145:24 150:15 169:2 193:16 213:22 232:21 264:20 265:3
days 20:25 93:7 148:12 187:25 264:22		deliver 226:1	discusses 118:3 120:17
deal 49:6 159:21		delivered 222:8	discussing 138:9,18 160:18
dealing 12:3		demand 142:23 146:21	discussion 42:22 43:3,7 49:7 64:3 102:12 121:11 124:8,19 126:5 130:16 132:17,20 144:1, 20 146:19 152:3 154:6,24 155:1,16 156:2,4,7 159:4 165:23 168:9 169:24 192:3 200:1 206:24 207:1 211:2,9 230:1 233:13 234:10,17 238:21 252:16 265:25 268:12 269:1
dealt 117:25 150:11		democratic 58:14	discussions 48:4 119:20 120:8 121:6,10,15,18,23
December 88:23 91:17,23 125:2,3 134:2 150:7 154:19,24 155:17 156:2,13, 14 157:6 158:1 161:6 162:9 164:2 168:3,4,7,13,14, 19 169:19,25 170:9 172:15 173:6 175:4		demonstrates 78:19 180:18	
		depended 72:9, 19	
		dependency 123:1,2	
		dependent 70:22 73:12 101:2 188:16	
		depending 124:10	
		depth 97:18	
		Deputy 57:6,12, 14 197:22 216:1,5	
		describes 213:14	
		description 212:24	
		designed 65:24	
			difficult 105:9, 10 107:22 122:11 134:1 135:18 183:19 252:3
			difficulty 84:19 86:5
			direct 14:12 56:10,16 80:24 150:16 162:12 259:15 264:3
			directed 131:10 163:10
			direction 30:23 137:22 140:6,13
			directions 130:19 131:3

122:4 126:9 129:20 130:21,25 131:3 132:14,23 133:1 137:21 139:5,8 188:4 197:7 199:17,22 234:12 241:20 244:6 253:9,15,19 254:11 260:18 265:5 267:11	152:17 153:10 154:17,18 156:23, 24 159:11 164:7 184:18 189:20,22 207:4 216:19 218:10,11 219:14 227:6 238:8,14 239:22,24 245:11, 20,21 246:5,6,15, 16,18 247:9 248:15 253:4 256:17 259:8	163:15 164:9,14, 18,19,23 165:9,24 167:10 220:11,18 221:19 222:14,24 223:11 224:3,13, 16,22 225:1,4,12, 20,23	effect 48:18 203:16 effective 131:12 133:4,18 134:20 194:13 efficiencies 144:25 145:25 efficiency 143:19 efficient 198:1 effort 94:11 efforts 35:3 elaborate 48:14 elected 58:2 election 58:15 eliminated 224:24 eliminating 221:13,20 222:14 224:4 225:13 elimination 227:7 228:24 229:17,22 Elizabeth 91:20 157:7 172:12 218:17 email 31:24 41:21,22,25 42:12 44:15,20 45:5,7, 13,16 46:1 49:18, 23 51:14 54:3,7,9, 23 56:1 60:8,9,12 61:6,9,11 63:8,12, 16 66:18 68:2,6 69:4 82:23 83:16 84:11,25 85:2,16, 19 86:5,11,18 87:2,7,19 88:15, 18,21 89:10 90:19 91:5,19 93:16,20 94:17,21,25 96:14 98:6,9 109:1,5 112:10,14,17,21 114:1,11 117:8, 13,16,17 118:2 127:6 128:17 136:22,25 138:7, 9,12,17 149:25 151:2,8,17 157:6,	14 161:2 164:1,6 165:15 166:12 167:15,22 172:11 173:1,21,25 174:2,24 175:21 176:4,7,10,14,18, 22 181:25 182:2,8 183:21 184:6 187:1 188:22,25 190:6,12 196:2 200:3,7,11 201:25 202:3,4,14 204:17 206:5 208:11,13 210:19 212:21 213:4,6 214:2,6 216:25 217:24 218:3 219:11,14, 15,16 222:13 230:13,22 231:8,9 232:4,10,16 233:21,23 236:7, 11,24 238:4,6 239:11 240:3,18 246:10 247:7,12 248:19 250:13 251:12 252:23 253:7 255:1,14, 20,23 256:24,25 257:3,6,7,16 269:7,12,14,22,23 270:10,16,20 271:7 emails 31:19 85:4,7 86:16 87:14 138:2,6 180:24 207:9,11 231:3,5 embarrass 268:9 embarrassed 268:18 emphasized 102:6 employee 32:23 employment 26:5 62:8 enclosing 82:24 150:1 219:15 encourage 129:13
display 259:14 displeased 257:25 displeasure 257:19 265:7,14 dispute 212:9 262:12 distinct 207:8 distinction 57:23 distracted 136:3 distribution 144:7 178:20 divide 57:23 divided 142:9 dividend 142:5 divides 142:10 doc 176:21 document 16:7 42:5,8 45:3,9,11 52:6,8,11 54:8,19 61:5 64:15,16 67:20,21 84:15,16 86:2,13 90:18,25 91:16,19 93:12,23 96:8 97:11,17 102:15 114:4 115:8 120:16,19, 20,24,25 121:2 126:15 127:16,20 128:1,2,3,16,18, 20,24 129:3 136:9 139:11,12,16,20, 21 140:11,16 141:17 145:8 147:14,15 148:14 149:5 150:1,13, 14,19 151:6,7,21	documents 16:7,11,15,19,25 17:14 19:11 25:12 26:17 39:22 45:2 78:8 97:21 151:11 209:18 213:10 228:2 231:23 249:5 258:25 262:3 270:18 dollars 153:20 doubt 83:15 236:14 downtown 142:24 draft 42:2 66:24 67:25 68:9,10 83:3,9,11 84:3 85:4 86:25 93:21 139:13 141:1,9 147:14 149:6 150:14 157:11 177:11 179:17 251:9 269:24 270:3 drafting 95:10 217:23 dramatically 187:9 draw 85:15 drawing 102:16 drawn 245:7 248:2 driver 186:20 188:7 dropping 203:21 Drummond	Drummond's 221:5 223:15 226:20,21 due 20:19 Duncan 14:10, 13 21:24 22:3,9, 15 60:25 110:16 112:5 125:22 131:7 139:17 duties 71:13 <hr/> E <hr/> earlier 38:21 46:18 50:15 99:24 115:25 150:2 174:2 177:11 196:11 208:25 240:2 251:13 253:10,17 261:14 early 93:6,7 135:25 154:19,24 155:17 156:2,13, 14 175:21 easier 9:13 43:1 45:2 easiest 44:24 easily 22:18 easy 85:19 economic 88:25 89:8 100:9, 13 122:20 129:10 137:5 153:22 186:20 188:7 232:25 Economics 10:14,17 economy 235:18 edgy 235:1,10,13 236:12		

end 108:15 121:5 152:22 191:2,11, 19 231:25 237:2	109:19 142:8 149:18 151:25 175:3 180:18 195:6,18 209:17 213:8 223:6,19 227:22,23 240:20	exhibit 15:1,2 16:10 44:12,13, 15,20 49:19,21,23 53:25 54:1,3 60:9, 11,12 63:8,10,12 66:15,16,18 68:25 69:2,4 79:15,19 81:15 82:10,11 88:14,17,18 91:3, 5 93:13,15,16 94:16,17,22 96:7 98:4,5,6 108:24 109:2,3,4,5 112:11,13,14 113:23 114:10,11 115:9 117:12,13 126:13,22,25 127:3,6 136:14 138:8,11,12,16,18 149:2,4,5 150:24, 25 151:1,2,14,15, 17 154:20,22 156:9,10 160:21, 25 161:2 167:13, 22 170:5,8 174:23,24 176:8, 11,12,14 182:1,2 184:9,10 188:19, 20,22 189:24 190:4,5,6,21,23 201:22,25 207:2, 24 208:3,7,11,13 216:22,25 219:8, 10,11 227:2,13 230:10,14,22 236:22,24 239:10, 11 246:10 254:24 255:1,9,13,14 256:22,25 257:3 260:19 269:8,9, 13,14,18,19 271:5,7	192:24 253:10,16	fair 17:6 33:11 41:18 42:24 43:5, 8,21 50:20 60:5,7 61:2,3 62:20,25 64:3,13 85:15 94:15 109:21,22 119:3 125:20 134:7 148:15 159:13 192:12 193:12 212:24 223:8,25 225:18, 19 226:9,14 229:7 237:16 242:15 243:4 246:6 248:12
ended 213:15	evolved 66:24	explained 71:19	fairly 73:10 131:25 166:2 179:18 227:24	
ends 200:11	exact 23:25 36:22 143:16	explains 21:10 46:4 57:22 92:20 120:23	fairness 237:12 245:20 259:20	
engaged 34:13 148:1 257:20	examination 16:10 20:24 115:9 126:23 148:9 154:21 161:11,20 168:2 228:8,11 231:25	explored 162:17, 22	faithful 175:2	
engagement 176:21	examined 9:9 161:12 222:23	explores 268:3	fall 12:20,21,22, 25 40:4 70:11,14 125:3 140:7 150:19 241:8	
enhance 149:11	examines 20:18 249:8	expression 265:14	Falls 143:6 221:3,7	
entailed 34:5	examined 9:9 161:12 222:23	extension 42:16,20,23 43:4, 11,21 44:1,5	familiar 95:17 101:14,17 116:19 122:3,10 137:17 150:21 157:18 171:14 190:15,18 193:10 205:14 224:19 247:3	
enterprises 49:15	examples 51:22 81:16	Extensive 178:1	farmland 184:21 186:17	
entitled 20:9 139:12 149:5 158:4 190:13	exchange 183:22	extent 37:11,15 69:25 70:4,7 110:3 155:14	fault 260:20	
entries 153:6 155:18	exchanges 234:22,25	facilities 142:23 245:2 247:22	favour 214:15	
Erie 155:9	excited 152:24	fact 28:23 59:4 77:11 78:5 80:8 100:23 101:1,11 122:25 132:23 181:23 258:3 265:7	feature 69:9	
essential 100:19 101:7	excitement 76:25	facts 193:13	February 134:16,19 135:2 170:12,17,18 195:25 202:5,16 204:17 209:5 210:19 212:22,24 213:18 214:9 216:2,10 217:9,25 218:3,4,16 219:4 220:17 221:19 230:3 231:9,11	
essentially 66:3 193:10	excuse 35:6 49:21 88:23 98:11 101:4 113:3 121:6 136:23 168:13 169:6 217:25 233:22 257:25 266:18	F		
established 121:25	executed 52:14 114:20	F-L-E-I-S-H-M-A-N 11:5		
estimate 188:16	executive 116:24	facilities 142:23 245:2 247:22		
estimated 148:18 188:13	executives 116:21	facility 142:22		
Europe 11:6 12:5,7 13:3,5	exercise 244:17	fact 28:23 59:4 77:11 78:5 80:8 100:23 101:1,11 122:25 132:23 181:23 258:3 265:7		
European 13:3	exhaustive 16:18	facilities 142:23 245:2 247:22		
ethanization 234:13,18		fact 28:23 59:4 77:11 78:5 80:8 100:23 101:1,11 122:25 132:23 181:23 258:3 265:7		
ethanized 234:10		facts 193:13		
event 166:24 190:9 209:20				
events 85:7 87:14				
evidence 15:21 16:12,16,23 17:7 26:8 28:3 41:12 77:11 78:4 79:6 85:24 87:24				

232:17 233:21,22, 23 237:2 238:6 240:8,19 feeling 236:13 felt 136:4 237:10 file 23:14 168:2,8 170:9 171:3 196:20 199:9 208:22,24 214:17, 20,23 215:3,7 237:25 files 22:18 25:25 26:19 237:25 238:3 263:10,11 fill 51:10 final 176:21 190:2,11,13,19,23 193:4 195:11 217:7 249:22 250:17,22 251:2 252:10 finance 13:24 14:8 20:3 21:15 22:14 28:8,18 29:4,5 43:12 50:13 57:8 74:10 112:19 115:3 118:8,12 124:20 127:10 149:15 157:7,11,15 158:2 159:4 179:4,12 182:9 188:16 197:9 205:16 211:8,25 216:1 231:6 242:11 244:5,21 261:2 financial 29:1,6, 11,14,21,25 30:4 46:16 find 66:3,9 79:12 99:9 224:21 226:21 263:17 264:7 fine 45:3 52:3 53:24 55:15 109:10 126:24 127:2 134:4 269:11 finish 18:17 19:8 20:19 30:20 76:24	78:20 79:23 80:2, 3 82:14 87:24 107:2,5 156:1 226:18 231:22 232:7 246:14 252:18 263:25 266:7 finished 128:22 225:6 firm 12:8 fiscal 49:6 162:14 five-year 158:2, 4,15 181:15 193:17 212:13 214:14 217:8 264:21 fixed 121:16 126:9 flag 200:14 flagging 187:5 Fleishman 11:5 13:1 Fleishmanhilla rd 11:16,19 12:5, 7,9,24 13:2 Fleishmanhilla rd's 13:13 flexibility 245:1 247:21 flip 165:18 166:15 floor 121:25 flow 118:16 119:1 122:21 146:25 flowed 81:20,21 Flynn 172:1,2 focus 93:8 125:8 198:18 237:20 focused 12:9 FOI 265:8,12,15 268:12 270:13,14, 18 folks 58:17 92:16	109:16 123:16,19 155:21 157:11 follow 84:5 181:9 182:17 193:3 270:7 foreign 244:20 foreseen 73:20 forget 68:5 forgive 35:10 form 66:24 format 11:17 formula 82:2 122:22 174:2 245:3 247:23 Fort 155:9 forthcoming 192:22,23,25 Fortunately 79:8 forward 140:25 150:7 176:23 240:12 forwarded 207:14,16,17,19 215:25 240:7,18 257:8 forwarding 207:17 fourth 220:8 framework 129:13 frankly 49:5 53:7 76:3,21 79:20 87:14 95:13 130:4 135:18 144:16 179:23 265:3 Friday 217:9 234:25 front 67:1 112:21 121:13 128:3 frustrated 253:23,24 266:10 frustration 258:2 260:6 268:5 269:4	full 30:3,20 78:4 228:16 229:16 231:15,17,22 fuller 253:10 fund 178:19 funding 118:3,5, 8,13 120:17 121:5,7,16,25 122:6,9,24 124:21 126:9 158:6,14,16 161:8 169:19 173:23 174:9 188:3 221:14,21 222:15 224:4,23 225:13 233:18 237:9 funds 126:5 170:23 178:18 future 67:17 68:20 102:11 future' 88:8 FYI 96:18 184:1 FYIS 97:19 <hr/> G <hr/> G-E-N-E 198:9 game 17:6 gaming 17:12, 15,22 18:5,23 21:22 22:10 25:2, 3,4,5,17 26:24 28:10 32:22 33:5, 15,18,21 38:23 41:17 46:8,14 50:4 54:13 59:2 74:21 75:7,14 76:2,7 77:21,24 78:9,19 90:10 108:21 116:1 121:20 141:16 142:10,14,17,20, 23 152:23 177:19 191:22 197:3 198:17 238:2 242:1,7,25 245:2 247:22 gap 52:18 53:2, 13	gave 89:17 246:22 251:11 261:13 GBH 143:5,8 Gene 196:17,24 198:9,21 207:19, 20 213:3 215:13, 14 general 26:18 40:23 41:5,8 42:19 52:24 53:7 55:24 64:22 66:6 72:23 92:15 119:9,13 130:2 149:14 168:23 178:8 183:14 192:13 195:1 198:17 201:9 211:16 234:18 256:7 262:25 generalities 55:24 195:2,5 generalize 73:11 generally 20:1 38:4 71:25 116:14 149:17 155:21 171:2 generate 49:9, 11 142:4 generated 36:14 37:3 generating 146:1 generation 50:22 generic 176:20 Gentlemen 77:2 give 9:12,20,24 16:18,23 28:14 35:11 42:25 47:20 65:16 79:25 81:14 82:20 85:23 91:18 94:22 102:14 120:23 148:15 151:23 176:19 195:18 198:13 204:1,2 231:11
---	---	---	--	--

241:24 255:19	131:11 138:23	happened	Heron 143:11	115:10 117:15
giving 16:12,16	graduate 12:12	36:13 47:13,19	Hiawatha 155:9	120:18 121:3,8
27:7 37:18 60:18,	graduated	84:22 85:7 134:24	high 12:12 20:13	126:14,24 127:2,
25 66:11 88:25	10:11,16 11:2	163:4 205:24	higher 146:1	4,5,19,23 128:15,
89:2 90:2 213:8	12:14,17,25	217:12	Hill 149:25	23 130:7,10
226:11 241:13	20:13,14	happening	150:10,19 151:8	132:5,11 136:11
glass 51:11	graduating	134:5 136:6	176:18	138:1,14,19,25
go-to-zero	11:10 12:19	191:15 261:25	Hillard 11:6	148:4 152:14
262:21	great 49:6	happy 102:4	hired 14:22	153:9,11 160:12,
Godfrey 52:16,	143:10	261:5	history 104:11	24 161:9,16,20,22
21 228:19,24	greater 12:2	hard 48:7 168:10	179:25	162:7 165:5
229:16,22 230:2	97:7	231:21	hold 73:22	166:1,5,22 167:4,
257:9,13 258:1,5,	ground 254:22	harmful 122:20	hole 174:7	14,19 168:4 170:7
15	261:15	Harness 99:13,	home 131:17	173:11 180:2,6,
Godfrey's	group 141:21	17	honestly 16:2,6	10,13,16,19
257:25	growing 88:7	hay 225:21	23:25 53:3 68:22	185:2,5,10,13,18,
good 20:24	growth 141:15	he'll 107:6	135:8 171:1	22 186:3,5 190:3
31:15 226:7 236:2	142:1	head 116:20	188:18 190:15	201:23 207:3,23
267:14 268:3	GTA 146:8 147:8	220:15,19 258:7,8	195:22 196:15	209:10 211:21
Goodwin 91:21	guess 12:15	header 184:21	236:20	212:2,5,9 214:18,
156:25 183:23,24	14:10 19:25 23:16	headers 177:15	hope 11:1	21,25 216:12,19,
200:9 219:17	28:20 46:13 48:15	heading 100:8	hoped 254:11	23 217:2,4,19
231:10 232:17	64:10 68:2 141:8	104:11 220:7	Hopeful 268:20	218:9 219:9 222:9
233:14,24 236:8	155:4 178:12	heads 258:13	223:4,8,13,17,21,	25 224:25 225:5,
238:7 252:24	204:16 211:19,21	heads-up	8,17,20 226:2,4,8,	25 224:25 225:5,
253:7	256:7 263:7 266:1	187:17 254:1	14,17,22 227:12,	25 224:25 225:5,
government	guessing 185:3,	health 29:15	21 228:2,5,11	25 224:25 225:5,
12:9,10 13:12,16	23	heads-up	229:2,7,11	25 224:25 225:5,
16:22 29:23 31:21	guided 183:1	187:17 254:1	230:11,18,20	25 224:25 225:5,
37:8 38:15 47:25	guys 175:24	hear 107:20	231:4,13,20	25 224:25 225:5,
48:10,12,17,19		268:5	232:5,9,14 235:5	25 224:25 225:5,
49:13,14 66:6	H	heard 140:10	236:23 237:5	25 224:25 225:5,
67:11 68:14		189:5 211:14	238:8,12 239:17,	25 224:25 225:5,
102:23 105:2	habit 55:21	hearing 155:10	23 243:11,15	25 224:25 225:5,
114:21 131:2	half 135:25	171:12	245:14,19 246:4,	25 224:25 225:5,
133:2,15 137:22	207:11	Heath 116:23	14,17 247:4,8	25 224:25 225:5,
149:10,14 158:22	hand 76:8	117:3,8,24 118:21	248:6,11,13,21	25 224:25 225:5,
169:9 170:1,2	handwritten	120:16 121:7,16,	249:1,4,22 250:2,	25 224:25 225:5,
176:21 178:20	151:21 154:18	19,24 122:5,8	5,9,24 252:14,17	25 224:25 225:5,
183:4 184:25	156:11	heaven's 85:12	253:1,3 254:25	25 224:25 225:5,
186:12 187:7,20	hang 222:9	helpful 9:18	255:22 256:11	25 224:25 225:5,
190:2,11,13,20,24	223:4 226:4	92:19 218:21	263:25 266:6,15,	25 224:25 225:5,
191:20 192:10,12	248:11 263:25	helping 82:6	24 267:3,19 269:9	25 224:25 225:5,
193:4 203:21	happen 155:15	152:18 162:25	271:12	25 224:25 225:5,
220:13 241:16	162:12	helps 156:21	horse 37:9 67:15	25 224:25 225:5,
242:14,17 243:2			68:18 69:8,11,14,	25 224:25 225:5,
245:5 247:25			18,21 70:6,18	25 224:25 225:5,
258:23 268:10,18,			92:23,24 99:13,17	25 224:25 225:5,
20			100:18,19 101:2,8	25 224:25 225:5,
government's			123:16,19 146:11	25 224:25 225:5,
129:14 130:19			153:20 235:18	25 224:25 225:5,
			horseracing	25 224:25 225:5,
			24:14 26:4 27:13	25 224:25 225:5,
			31:21 47:3,25	25 224:25 225:5,

48:13,19 53:12, 15,22 65:2,8,11 67:6 70:13 71:7, 14 74:12 75:9 76:10 78:1,12,22 81:5 88:5 93:8 103:4,16 104:2,22 105:4,7 106:16 107:9 118:4,9,14, 17 124:12 125:6 129:11,15,22 131:12 133:3,6,11 135:11,15 146:4, 25 147:11,16 156:17 158:4 161:8 168:21 169:13,18 170:24 172:19 173:7,12, 14,24 178:14 182:10 184:20,24 186:12,16,20 187:8,21 188:6, 10,16 193:2 196:20 197:2 198:23 199:9,14, 19,22 201:8,11 205:2 206:10,20 211:7 213:16 221:14,21 222:16 224:5,23 225:14 228:25 229:18,23 244:3 253:25 255:5,18 260:12 270:4	I	185:17,19 208:25 215:11 237:24 260:17	64:11 100:24 241:16,25 242:6, 10 243:4 244:18 249:2	170:1 178:11 214:8 216:9 221:25 222:6,20 235:2,11,17 237:4 251:8 254:21 260:22 261:9 264:16,20
horses 35:14 69:14 92:23 101:8,16 234:2, 10,13	i.e 158:18	importing 79:2	indicating 145:7	informed 120:3 138:22 254:9
hospital 134:13	i.e. 178:24 211:7 234:16	imposed 54:25 55:5,6,13	individual 73:13 131:5,9	informing 130:17 131:24
hospitality 144:11,15,19	lan 138:1 227:2	improve 39:20 50:18 143:19 242:1	individuals 105:11	informs 141:10
HR 172:17	idea 155:3	improvements 177:18	industry 24:14 26:4 31:21 47:3, 25 48:13,19 67:6, 12,17 68:15,20 70:13,19 71:7,14 76:3,8 80:12 88:8 96:16,20,24 97:1, 13 100:20 101:6 103:4,8,16,20 104:2,22 105:4,7 106:16 107:9,22 118:4,9,14 119:23 120:2 122:16,19 123:4,17,19 124:3,12 125:6 129:12,16,23 131:12 133:3,7,11 146:25 156:17 158:5,23 161:8 168:22 169:13,19 170:24 173:24 178:21,22 182:10 187:4,8,21 188:17 193:2 198:23 205:2 206:11,20 221:15,21 222:16 224:5,24 225:14 229:1,18,23 244:3 251:18 254:1,22 255:5,18 256:6,8 260:21 261:15,24 263:23	initial 194:6
Hudak 170:25	identification 126:17 127:1,4,6 136:13,14 138:9 156:9,10 160:24 161:2 167:14,18, 20,22 170:7,8 174:23,24 189:25 190:21,23 216:23, 25 219:9,11 236:23,24 239:11, 20 254:25 255:1 269:10,18,19	improving 144:24	insane 153:21	initially 11:25
huge 133:10	identified 136:21 141:15 142:3,19 154:16 204:9	in-depth 81:25 232:25	input 67:8	initiative 37:23, 25 39:20
Hume 45:7 54:9, 10,20 57:19 61:6	identify 136:12	inaccurate 235:16	inputs 237:13	inquiry 247:16 262:1
hurry 82:16	ignore 138:5	inappropriate 186:2 261:17	ins 76:20 81:24 86:22	insane 153:21
Hydro 23:19	imagine 25:13 33:25 93:5 118:23 120:7 212:18 264:8	incentivize 91:25 92:4,12	insert 250:22	inserted 255:10
	immediately 25:8,24 39:16 90:17 91:13 120:9 189:19 211:2	inches 231:24	insight 77:21	instance 52:17 116:11 152:20 160:18 205:13 243:8
	immersed 26:21	inclined 213:15	instructed 85:8 169:17,20	instructing 18:19
	impact 122:16, 19 125:14 182:17 232:25 235:17	include 25:4 220:14	instructing 18:19	intent 31:20,23 32:7,16 140:16
	impacts 124:12 125:12 182:21 183:1 237:14	included 201:4	info 169:9	intentions 156:15
	implemented 124:11	includes 176:20	inform 24:19 25:9 46:21 131:10 178:11 187:21	interactions 56:17
	importance 110:11,15	including 33:18 38:23,24 66:6 104:5 122:3 191:23 221:12 253:1	information 11:25 26:21 29:13 52:18 53:2,13 61:24 77:9 97:22 105:12 141:10 156:3 169:12	interest 197:25 263:14
	important 103:6,24 140:2	inclusion 164:9, 13,23 165:9,24 167:9	interim 252:10 269:24	
		incorporate 218:22		
		increase 142:4		
		increasing 145:25		
		indefinitely 148:10		
		independent		

internal 117:17	irrelevant 20:13,17	jobs 133:17 184:20 186:16 188:9 268:17	187:6,19 188:8,9 251:19 266:11	185:2,5,10,13,18, 22 186:3,5 190:3 201:23 207:3,23 209:10 211:21
internet 144:8 249:25	issue 33:10,13 46:13 49:3 53:2, 14,21 59:22 64:3 69:7,11,13 79:11 80:1 81:8 110:11 162:23 187:5 208:25 220:24	John 84:8 87:8 155:4	knowing 199:16	knowledge 37:19 77:8 103:7, 22,24 104:1,7,8,9 105:3,6 106:16, 20,22,24 107:9, 14,16 187:14
interplay 222:21	issued 9:5	joined 13:15 24:17 27:11	<hr/> L <hr/>	212:2,5,9 214:18, 21,25 216:12,19, 23 217:2,4,19 218:9 219:9 222:9 223:4,8,13,17,21, 25 224:25 225:5, 8,17,20 226:2,4,8, 14,17,22 227:12, 21 228:2,5,11 229:2,7,11 230:11,18,20 231:4,13,20 232:5,9,14 235:5 236:23 237:5 238:8,12 239:17, 23 243:11,15 245:14,19 246:4, 14,17 247:4,8 248:6,11,13,21 249:1,4,22 250:2, 5,9,24 252:14,17 253:1,3 254:25 255:22 256:11 263:25 266:6,15, 24 267:3,19 269:9 271:12
interpretation 141:6 159:24 172:18 215:8 254:14 262:2	issues 24:23 27:6,12,16 33:20 34:12 43:20 55:24 58:6,7 79:5 90:2 100:2 113:6,11,14 118:7,11 125:23 140:2 144:1 150:4 232:21	joining 25:16	L-A-I 157:15	Lack 172:12
interrupt 15:14 105:18 153:12	it...making 236:11	joins 50:23	L-E-H-M-A-N 63:19 110:21	Lai 157:15
interrupted 106:1	italicized 247:19 251:1	joint 250:7	La 15:7,12,25 17:2,8,9,17,24 18:7,10,15,19,25 19:8,18,23 20:4,6, 11,23 21:8,9 30:19,23 31:1,24 32:8,10 34:7,10 42:3,7 44:23 50:6 51:9 52:4 59:9,14 62:21 63:1,4,5 64:14 67:19 68:1 72:12 76:12,23 78:24 79:23 80:2 81:11 82:13,18 84:14,21 85:6,12 86:9 87:23 89:19 90:6 91:11 92:6 97:15 103:9 105:14,17,23 106:2,4,8,25 107:2,5 108:11 109:10 111:12 113:17 114:3,22 115:10 117:15 120:18 121:3,8 126:14,24 127:2, 4,5,19,23 128:15, 23 130:7,10 132:5,11 136:11 138:1,14,19,25 148:4 152:14 153:9,11 160:12, 24 161:9,16,20,22 162:7 165:5 166:1,5,22 167:4, 14,19 168:4 170:7 173:11 180:2,6, 10,13,15,19	Lake 143:17
interrupting 77:1	J	Josh 40:10 152:9,15 153:2	lack 172:12	Lai 157:15
investigate 74:10 75:8	Jamison 213:4 215:18,19	judgment 244:18	land 20:25 152:22	Lake 143:17
investigated 74:17 75:14,19,22	Jan 152:22	July 41:23 42:13, 15 45:20	land-based 50:3	landed 179:24 181:3
investigation 75:24 76:18 77:18 78:10 79:5	January 11:15 93:25 96:9 97:13, 16 98:10 100:24 135:25 175:21,22 176:25 177:4 179:7,15 182:18 183:18 187:19 188:7,17 189:1 190:12,20 191:3, 11,19 192:11 193:5 194:23 195:11 200:4 210:14 211:25 217:8 264:21 266:18	jump 89:21 185:21	language 61:11 80:16,20 81:2,7 164:9,13,23 165:8,23 167:9 241:10 244:24 245:10 246:21,22, 24,25 247:19 249:14 250:13,16, 21,25 251:1 255:10 267:15	larger 142:4
investigations 77:5,13,14	J	jumping 185:16		
investment 101:8 129:14	J	June 31:23 41:14,16 257:7 266:18 267:8 269:17		
invite 89:16	Jamison 213:4 215:18,19	jurisdictions 234:5		
invites 55:22	Jan 152:22	K		
involved 38:25 39:6 56:14 75:1,7 77:6 88:4 90:10 95:10,13 96:1,6 115:1 127:15,20 140:3 162:23 165:22 167:8 171:4,6,10 173:5, 9 174:11 193:16 194:6,9,16 215:7, 13 218:5 219:3 252:1 268:8	January 11:15 93:25 96:9 97:13, 16 98:10 100:24 135:25 175:21,22 176:25 177:4 179:7,15 182:18 183:18 187:19 188:7,17 189:1 190:12,20 191:3, 11,19 192:11 193:5 194:23 195:11 200:4 210:14 211:25 217:8 264:21 266:18	Karim 199:17 207:18,21		
involvement 44:10 89:24 95:25 98:2 116:7,8 164:8 239:3 240:15,21,25 241:3 252:9,13	J	Kenora 142:25		
involving 200:8	J	key 67:5,10,18,25 68:9,11,12,21,24 69:8 177:18 245:5 247:25		
	JB 155:2,3	kid 136:7		
	Jean 116:18	kind 9:21 47:16 48:8 62:10 169:24 174:13 179:21 181:9		
	job 11:4,10 21:14 26:22,25 34:5 85:17 133:10 148:25 159:21	knew 101:25 124:7 128:2,5		

largest 258:8	268:2,9,19 269:8, 11,13,14	51:13 52:9,12 54:6 59:7,10,18 60:7,15 62:23 63:3,7,14 64:19 66:14,21 67:23 68:4,7,25 69:6 72:14 76:13,24 77:3 78:24 79:7,9, 24 80:14 81:11 82:8,21 84:17,21, 24 85:10,13 86:3, 15 87:25 88:1,14, 20 89:19,25 90:8 91:7,15 92:8,9 93:12,18 94:20 98:8 103:14 105:17,20,24 106:3,5,10 107:5, 7 108:14,23 109:1,8,13 111:14 112:10,16 113:20, 23,24 114:6,13,23 115:12,13 117:22 118:1 121:4,9,14 126:12,16,25 127:8,25 128:21 129:1 130:14 132:9,13 136:17, 19 138:7,17,20 139:2 145:23 149:2,8 150:24 151:4,14,19 152:19 153:11,13 156:6,8,12 160:16,21 161:5, 13,18,24,25 162:8 164:5 165:7 166:3,7,20 167:2, 6,12,17,25 168:6 170:5,11 171:19, 23 173:13 174:22 175:1 176:16 180:4,8,12,15,22 181:25 182:5 184:12 185:4,12, 15,20,25 186:4,6 188:19,24 190:1, 8,10,19 191:1 199:24 200:2 201:22 202:2 207:10 208:4,15 209:16,19 211:23 212:3,7,11 214:19,22 215:2 216:14,16,22 217:3,5,20 218:15	219:8,13 222:11 223:7,11,15,20,23 224:1 225:2,6,10, 19,24 226:13,18 227:4,16,25 228:10,13 229:5, 9,14 230:9,16,19, 24 231:7,17 232:3,5,7,12,15 235:6 236:22 237:1,7 238:10,15 239:10,14,21 240:1 243:13,17 245:15,22 246:1, 8,12,15,19 247:6, 11 248:8,13,17,23 249:3,6,10 250:1, 7,11 251:4 252:20,21 253:3,5 254:23 255:3,9, 16,24 256:12,22, 23 257:5 264:5 266:16 267:6,24 269:21 270:25 271:4	109:15 159:12 177:11 182:9,16 195:17 216:20 224:10,20	loop 42:24 43:10, 14,17 61:23 140:8,13 175:6 254:9,12,16	lose 268:17	losses 133:10	lost 133:17 167:5	lot 20:17 21:8 30:12 97:19 99:19,25 134:5,6 136:6 148:6 232:12,14 263:8	lottery 17:12,15, 22 18:5,23 21:22 22:9 25:7 26:24 28:9 32:21 33:4, 14,21 34:16 38:23 41:17 46:13 108:21 141:15 142:11,15 144:6, 8,9 177:19	Lottery/ gaming 177:13	Lotto 144:21	LSE 11:3 12:20	lunch 109:9	LUNCHEON 109:11	lurch 155:12	M	M-I-N 61:16	Macdougall 114:2	Machado 50:23 145:21 231:18	machines 37:3 73:7,19,23 74:2,7, 13 75:10,17 76:11 78:13,23 80:19 119:2 120:5 146:19 147:2
----------------------	-------------------------------	--	--	--	--	--------------------	----------------------	--------------------------	--	--	-----------------------------------	---------------------	-----------------------	--------------------	---------------------------	---------------------	----------	--------------------	----------------------------	---------------------------------------	--

163:23 198:2 macro 123:13 125:17 162:14 195:3 237:18 made 39:18,21 56:22 61:1 71:20 72:3 77:5 87:2 92:16,17 124:11 133:2 134:19 135:6 149:11 152:1 154:19,24 156:11 159:20 163:10 170:21 181:4 182:15,24 183:12,16 191:5, 8,13 192:19 194:12,18 203:13, 18 206:18 208:5, 18 209:8,21 210:12 211:13 212:4 214:1 223:3,11 230:3,4 234:11 235:16 254:2,18 259:21 262:21 MAG 19:11 mail 84:7 87:7, 15,18 main 22:17 24:5 25:7 111:1 maintain 72:11, 20 maintained 141:22 147:1 234:4 maintenance 72:24 major 103:3,16 104:13 107:10 113:16 116:18 162:18 208:22,24 258:12,19 make 9:13 20:18 41:11 42:3 61:20 85:15 104:13 127:3 130:7 150:5 159:2 172:20 173:20 175:19 180:20 183:1,10 185:10,13,23 191:21 192:10,12	196:23 208:1 216:24 220:11 222:4 225:21 226:10,11,22 229:6 230:21 250:14 254:17 256:16 258:10 259:16 makes 101:13 139:25 223:15 224:7 making 46:10 61:21 62:7,18 152:4 177:24 203:11,15,21 management 69:8 mandate 32:21 33:3 130:4,5 mandated 32:24 manner 203:12, 22 234:15 March 15:9,23 74:4 75:21 98:11 105:2 112:18,20 123:23 132:4 133:22,25 137:16, 17 244:22 246:20 252:23 mark 16:9 44:11 49:17 60:8 63:7 68:5 93:12 94:16 108:23 126:12,16, 21 136:10,13 156:8 160:23 189:22 190:3,21 207:1,12 230:9 255:9 269:7 271:4 marked 68:5 94:22 96:7 98:4 117:11 126:19,22 154:20 168:2 179:17 207:23 255:8 market 142:23 178:1 marketing 143:21	marking 91:3 marks 247:1 master's 10:13 12:23 material 24:22 154:7 187:21 math 20:1 matter 15:12 64:5,7,12,17,21, 22,25 195:6 207:24 241:8,21 244:7 matters 246:9 MATTHEWS 44:13 49:20 54:1 60:11 63:10 66:16 69:2 88:16 91:2 93:14 98:3 108:25 109:3 112:12 114:7,9 117:9 126:20 127:3 138:10,16 145:18 149:4 150:25 151:15 160:22,25 164:3 167:20 176:12 184:8 188:20 189:24 190:5 201:24 207:6 208:1,7 216:24 219:10 227:3 230:13 239:19,24 247:10 249:24 255:7,12 257:2 267:1 269:12,16 271:6 maximize 163:6 245:4 247:24 maximized 162:19 Mcm 235:22 236:12 Mcmeekin 203:20 206:22 207:1 232:22 233:14,16 235:23 236:1,18 meaning 56:23 262:7 means 46:4 88:6	97:4 193:11 207:6 meant 33:1 141:10 mechanics 242:20 meet 17:11 30:6 meeting 19:10 41:3 64:18 88:24 89:4,6 101:20 102:1,23 112:19 135:2,8,12,17 152:2,8,15 154:2, 14 168:8,12 181:8,12 189:13, 14 192:2 204:3, 11,14,16,19 205:13 208:17,20 209:3,8,14,25 210:21 211:2,5 212:19 213:14 217:18 218:7 235:22 236:1,19 meetings 17:1,3 40:5,12 200:19 202:8,11,13 204:21 207:13 Melanie 240:4,5 member 58:9 members 201:4 memo 104:11 168:8 memoranda 109:15 memorandum 110:4 127:9 136:15 168:1 170:9 memorandums 108:9 109:2 memory 85:23 128:13 136:9 153:7 165:25 195:24 216:15 memos 99:22 mentioned 24:4 115:25 118:24 196:7	message 67:18, 25 68:9,21 184:24 186:13,15,17,19 225:25 messages 67:5, 10 68:11,13,24 186:11 messaging 184:1,14,17 186:10,23,24 187:2 237:16 met 16:21 99:12 mid-2011 118:25 mid-december 177:12 mid-january 136:1 mid-march 137:7 middle 178:15 185:8 233:22 250:21 million 122:1 147:12 158:19,20 178:23 million...in 158:21 MIN 61:14 mind 40:1 90:24 mindful 46:9 66:11 122:15,18, 20 123:7,12 124:17 148:8,23 155:19 163:2 192:21 198:6 254:20 259:1 260:21 262:4 264:14 265:11 mine 125:17 minister 14:9 21:22,23,24 22:2, 9,14,23,25 23:3,6, 11 27:2,9 33:16 43:12 57:6,12,14 58:1 60:18 61:16, 20,22 62:2,4,7,14, 19 71:12 90:5,10,
---	---	--	--	--

15:22,23 112:5,19 113:7 115:3 125:23 127:10 130:17 131:1,6 138:22 139:13,16, 17 140:3 141:2 149:7 152:24 161:15 176:20 179:9 201:21 202:17,23 203:1, 7,10 204:4,6,7 216:1,5 222:8 226:1 232:22,23 233:14,16 235:22, 23 236:1,18 244:20 259:14 264:4 267:18 268:3,10	14 180:17 187:5 188:15 197:8 205:16 210:3 237:17 241:24 242:11 244:5,20, 21,23 261:21 262:7	23 37:2,4 70:23 92:17,22 118:16 119:2	Neeson 77:2 166:8 255:11	number 25:12, 24 27:22 35:10 51:5 52:8 54:19 89:12 101:17 105:8 109:15 114:5 122:3 136:21 138:15 154:10,17,20 182:22 193:13 195:2 196:6 204:21 213:10 219:14 239:7,18, 22,24 252:24 254:7
Minister's 14:16 59:6 210:2, 24 219:16 226:15, 19 238:5,19 239:4,6 240:6 241:6 243:8 262:8,13 263:1,6, 9,13	Ministry's 156:15 180:14	month 41:12 44:7	negative 124:12	numbered 44:16 49:24 54:4 60:14 63:13 66:19 69:5 88:19 91:6 93:17 94:18 98:7 109:6 112:15 114:12 117:14 127:7 136:16 138:12 149:7 151:3,18 161:3 167:23 174:25 176:14 182:3 188:22 190:6,24 201:25 208:11,13 217:1 219:12 230:23 236:25 239:12 246:10 255:2,14 257:4 269:15 271:7
ministerial 141:12	minutes 59:8 109:8 128:17 148:7 252:15,18	months 62:8 139:24 192:16	neighbourhood 183:19	neighbouring 234:5
ministers 191:14 200:13,19, 21 201:1,5,15,17 207:14	missed 61:12 118:10 138:14 218:13	moratorium 54:25 55:3,5,13	neighbouring 234:5	never-never 20:25
Ministry 13:23, 24 14:8 16:20 20:3 21:15 24:17 25:16 26:20 27:8 28:8,10,18 29:3 30:6,15 32:7,23 33:4,8,18 34:19, 22 39:10 40:2,6 47:1 49:9 54:18 57:8 58:3,12 74:10,24 75:2,3 93:3 109:24 110:11 111:15,23 118:8,12 120:14 124:20 125:3 126:3 140:8,12 141:11 149:15 153:1 155:7 157:1,22,23,24 158:2 159:21 160:7,9 163:11 164:12,22 169:12,	missing 246:25	Morley 207:19, 20 213:3 215:15, 16	newborn 134:2	news 82:24 83:7, 8,9,16 86:20
model 63:25 65:2,3,4 118:5 121:20 147:16 174:1	misstate 79:6	morning 236:10 238:24	news 82:24 83:7, 8,9,16 86:20	Niagara 143:6 221:3,6
modernization 35:3 37:23 38:12 39:20 40:7,14 49:4 50:13,14,17 94:10,14 117:6 178:12 198:6,15, 17 201:8,12 210:9 242:4,25	misstating 227:21	MOU 89:8 114:20,25 115:2 128:10 136:10,23 137:4,17 138:8 254:10	nodding 191:15	noon 84:10 87:9, 10
modest 238:23	Mitchell 90:5,10, 15,23	move 86:1 198:2 204:25 226:25 231:13 262:25 263:5	North 142:24	note 50:23 52:5 100:24 112:24 126:21 148:5 154:18 155:18,23 156:8,11 169:5 174:12 184:1,14 186:24 187:1 227:20 228:14
moment 31:6 46:2 102:14	Mitchell's 90:22	moving 142:23 158:18 179:18 262:11,22 263:4	note 50:23 52:5 100:24 112:24 126:21 148:5 154:18 155:18,23 156:8,11 169:5 174:12 184:1,14 186:24 187:1 227:20 228:14	notes 151:22 152:1 154:22,25 217:17,19,22 220:5 222:7,12 227:13 243:8 268:1 269:16,19
moments 86:10	mobile 144:8,18	MPP 202:20,21, 25	notice 96:16,20, 23 97:1	noticed 175:21
Monday 56:3 233:21,22,23	model 63:25 65:2,3,4 118:5 121:20 147:16 174:1	MPPS 204:4	noting 220:10	notion 55:3 79:18 119:13 124:15 144:3,18 244:21
money 35:14 36:7,9,13,16,20,	modest 238:23	MRU 136:22	notwithstanding g 147:1	November 40:4,8 41:4 150:9 151:6 152:2,15
	moment 31:6 46:2 102:14	multi-year 210:13	noting 220:10	
	moments 86:10	multiple 168:22 182:21	noting 220:10	
	Monday 56:3 233:21,22,23	<hr/> N <hr/>	noting 220:10	
	money 35:14 36:7,9,13,16,20,	names 216:15	notion 55:3 79:18 119:13 124:15 144:3,18 244:21	
		narrative 171:24	notwithstanding g 147:1	
		nature 43:3 49:3 94:6 119:10	November 40:4,8 41:4 150:9 151:6 152:2,15	
		necessarily 173:18 262:10		
		needed 141:12 233:9		
				<hr/> O <hr/>
				O-H 190:14
				objected 148:11
				objection 15:15 17:2
				objectives 162:21 261:20
				obligation 103:11,12 260:20
				obligations 103:2
				obtained 26:10

<p>occasionally 199:17</p> <p>occasions 51:5</p> <p>occur 145:12</p> <p>occurred 62:12 150:6</p> <p>occurring 62:25</p> <p>October 88:22 139:15,22 141:14 148:15</p> <p>offer 73:6 74:1,6, 12 75:9,15 76:10 78:1,12,22 80:18 81:5 169:6,7</p> <p>offering 169:11 170:1</p> <p>offers 67:14 68:17</p> <p>office 12:8 14:17 19:4 59:6 131:17 172:19,24 173:6, 10,18,23 174:13, 19 175:18 197:19, 21 198:5 205:16, 18,22 210:24 216:8 240:6 241:6 262:8,13 263:1,6, 10,13</p> <p>officer 110:22</p> <p>offices 220:15, 19</p> <p>official 58:2 102:10</p> <p>officials 258:13, 19,21 259:12,15</p> <p>OHHA 99:20 108:6 112:18 113:11</p> <p>OHRIA 108:7 183:25 184:6 187:17 188:13</p> <p>OLG 19:5,7,9 22:25 24:6,19,20 26:9,10 27:25 28:22 29:23 30:7 31:13 32:24 33:7, 18,23 34:6 35:4,9 36:17 37:19 38:10</p>	<p>39:1,7,18,23 40:5 45:6,14,20,23 46:8,10,16 47:3 49:5 50:3,10,18 51:21 65:7,10 76:3 93:25 95:22 96:2 98:14,24 101:3,21 102:13, 19,21 103:3,13 109:16 110:10,17 111:4 114:16 116:7,23 117:5,17 118:7,12,17 119:13 120:3,13, 20 121:19,24 122:5,7,9,14 124:3 139:10,16 140:2,6,10,20 141:1,14 142:2 143:22 145:25 146:6 147:6,22 149:12 150:11 152:2,3,23 157:11 162:19 163:1,9 172:1 178:9,16,18 180:17 187:24 191:22 196:20 197:12 198:1,16 210:22 220:12 229:17 238:2 241:23 242:6,11, 13,17,21 243:3, 19,25 244:1,15, 21,23 245:2,24 247:22 250:10,22 253:11,17 257:9 268:6,13,16,20 271:11</p> <p>OLG's 24:24 40:13 95:22 102:11 104:20 116:10 180:6,10, 11,14 220:15,19 221:3,12 228:17 241:11,15,25 243:3,9 245:1,4 247:21,24</p> <p>OLG1557 269:6, 22 271:4,8</p> <p>OLG1912 149:25</p> <p>OLG360 98:11</p> <p>OLG526 113:25</p>	<p>114:7 117:14</p> <p>OLG527 117:14</p> <p>OLG580 115:8 117:8 127:7</p> <p>OLG699 98:11</p> <p>OLG970 151:6</p> <p>OLGC 60:19</p> <p>OLGSB1912 150:25 151:3</p> <p>OLGSB360 109:4,6</p> <p>OLGSB525 109:4,7</p> <p>OLGSB526 117:10</p> <p>OLGSB699 109:4,6</p> <p>OLGSB970 151:15,18</p> <p>OLGSB972 151:18</p> <p>OLGSB995 164:3 167:21,23</p> <p>OLGSB996 167:24</p> <p>OMAFRA 105:6, 13 106:17,22,23 107:17 188:2 197:14</p> <p>ongoing 43:3 76:1,6</p> <p>Ontarian 259:10</p> <p>Ontario 13:12, 15 14:2 16:22 17:12,15,22 18:5, 23 21:21 22:9,13 24:7 26:3,23 28:9 29:23 31:21 32:21 33:4,14,21 41:17 50:25 51:2,6 59:23 63:21 65:24 69:9 70:13 72:9, 19 74:1,5,11 75:9, 15 76:10 78:1,11, 21 80:17 81:4 91:24 92:4 96:17, 21 97:2,3 99:12,</p>	<p>16 100:19 101:16, 21 103:2,15 108:21 111:3 114:20 120:4,13 127:11 129:7,21 184:20 186:16,21 188:7 231:2 242:14 258:9 260:13</p> <p>open 107:19</p> <p>opened 97:23</p> <p>operating 144:25</p> <p>operations 37:21 142:3,20 143:3,19,20 144:6 242:7 244:16</p> <p>operators 29:9 48:1,13,20 107:24 143:4</p> <p>opine 43:20 44:1,4</p> <p>opinion 163:22</p> <p>opportunities 97:9 141:15 142:2 144:4 145:3 177:10</p> <p>option 234:19</p> <p>optional 121:24</p> <p>options 119:1,5, 6,10 120:10 159:15,16 160:6 182:22 193:7,8 194:23 195:3 198:6 264:14 265:2</p> <p>ORC 24:13 45:6, 14,20,23 46:23 54:21,25 59:4 60:12 65:1,4 66:4, 7 69:10 76:2,8 77:22 83:11 89:8 96:16,21 97:13 98:1 102:4,13,16, 21,24 103:3,8,15, 20,24 105:2 106:17,23 107:17 110:22 114:20 115:2 131:1,7 137:4 155:5,12</p>	<p>169:8,17 170:2 253:16,25 254:16 255:19 256:8 259:19 262:1 268:6,13,14,15, 18,21</p> <p>ORC's 104:25 110:23 111:16</p> <p>order 9:17 39:2, 17 162:12 247:2</p> <p>organization 12:2 27:7 38:14 102:8</p> <p>organizations 12:10 59:5</p> <p>organized 88:24</p> <p>organizing 89:3,6</p> <p>original 15:7 248:7</p> <p>originated 193:23</p> <p>Orsini 56:9,11, 17 216:1 219:17 232:18 252:24</p> <p>Orsini's 57:2</p> <p>OSC 22:21,23 24:6 238:2</p> <p>other's 223:6</p> <p>others' 270:22</p> <p>Ottawa 13:9,10 142:24</p> <p>outcome 58:15 98:16 179:22</p> <p>outcomes 124:16</p> <p>outlined 80:10</p> <p>outs 76:20 81:25 86:22</p> <p>oversaw 22:20</p> <p>oversee 23:10, 18 27:6</p> <p>overseeing 23:16 46:8</p>
--	---	--	--	---

oversees 263:22	181:20,22 187:3 201:11 218:14 219:1 241:5 242:24	permanent 58:13	181:23 188:5 197:7 244:11 254:20	76:2,7 77:22,24 78:9,19 80:5 125:17,19 129:12 130:19 131:2 138:24 161:14 162:14,21 171:2 195:3 196:6 237:16,19,20 244:4 259:11
oversight 88:25 89:9 129:11 137:5		Perry 143:16	plaintiffs 15:20	
owners 35:15 170:25	participate 102:4 189:16 251:24	person 9:14 60:22 99:5 235:13	plan 46:15,23 110:23,24 111:10, 16 112:4,7,11 122:6,9 145:4,13, 24 193:17 194:2 204:25 253:11,17	
P	participated 89:15	personal 150:4 161:10,13,19 260:18 264:9,10 270:10,16,20,22	planning 147:22	
P-A-R-T-I-N-G-T-O-N 58:24	participating 218:6	personally 15:4	plans 45:6,14, 15,20,23 46:19 49:18,24 112:9	political 10:9 14:19 39:10 54:15 57:23 58:4,6,7,20 60:18 61:23 74:22 109:24 111:23 125:10 157:16,23 237:20 240:5
p.m. 85:3 176:25 238:7 271:15	parties 29:2 154:11	persons 117:5 197:2	played 219:25	pooling 126:5
package 108:16	Partington 58:23 157:20	pertained 25:14 26:23	pleasure 58:14	pop-up 138:4
pages 128:24 184:3,16	parts 267:20	phase 198:22 206:10,14	PMTR 158:23	popping 138:2
panel 251:18,19, 21,24 252:2,4 269:25	party 20:20 265:4	phase-out 159:16 181:15 200:22 210:13 217:8 264:21	PO 172:17,23	Port 143:16
panel's 252:10	passed 35:12	phase-outs 200:25	point 23:12 25:24 37:20 44:10 50:9 71:13 82:15 90:18 94:4 99:25 118:24 121:11 133:24 138:5 169:1 181:15 185:17,19 200:5 208:25 212:17 221:1,9 225:22 248:14 251:13 260:8 265:17	portfolio 90:11
panelists 252:5	Paul 228:18 257:9,13	phased 124:22 125:4 158:14 159:4 168:22 169:1 173:24 174:20 179:2,10 180:16,23 182:17 193:3,17 194:2	pointed 263:3	position 13:23 21:11 26:20 100:1 102:10,17 104:25 139:23 209:12 231:2 244:4 268:4
paper 43:2 44:21,25 45:2 52:1,2,5 144:22	paused 122:14	phased-out 159:12 160:19 181:10 211:7 212:13 214:14	points 39:19 141:19 204:10 218:20 219:3,16, 20,24 226:16,19 238:5,22 239:4	possibly 20:4 165:18 166:16 205:19
paragraph 52:17 88:11 102:15,20 127:14 232:20 233:6 247:13 248:4,10, 18 249:11	pay 105:14	phasing 194:14	Poker 144:21	potential 35:3 43:10 120:9 125:8 144:3 178:11 179:18 182:21 198:16
paraphrase 166:3,6,21,23	payments 178:16,21,23	Phillips 30:6,13 41:3 163:22 172:7,9 241:11 244:23 245:9,17 246:21 269:24	Poland 157:15	potentially 108:1 259:4
paraphrased 166:2	people 81:20 92:24 100:18 101:2 124:3 126:1 154:6 239:8 257:8 264:12	Phillips' 115:9 126:22	policies 33:22	practice 165:4,6 167:9 182:20
pardon 25:19 205:15 208:23	people's 82:1	phoning 131:16	policy 12:10,11 21:17,19 27:6 33:6,10,14,17,19 34:3,12 43:20 49:5 54:13 59:2 60:25 67:5 71:13 74:9,21 75:7,14	precise 125:12, 14
parimutuel 36:22 158:25	perceived 265:11	pieces 144:18	Premier 173:5, 19 211:5,6 213:14 214:15 215:6,23	Premier's 172:19,24 173:6, 10,18,23 174:13, 19 197:18,21 198:5 215:12
part 30:2 36:15, 16,18 37:8,9 46:13 48:17 49:4 50:4 54:14 70:23 75:3 82:2 87:13 103:2,13 124:7 125:9,10 147:13 162:15 171:7 173:15 174:15	percent 100:17 158:17	pipeline 144:21		
	percentage 121:20	place 47:2,24 48:6,12 103:6 122:22 165:11		
	perception 259:7			
	performance 25:15 50:19 149:12			
	period 23:20 158:15 192:14 211:17,18			

<p>preparation 16:12,16 19:7,10 213:7 218:6</p> <p>prepare 16:22 17:7</p> <p>prepared 191:14</p> <p>preparing 172:17 173:22 174:12,18 195:18</p> <p>present 19:9,11 40:13 62:3</p> <p>presentation 61:7,14,20,22 62:7,19 208:6,17 209:13 217:18</p> <p>presented 61:25 62:2,13 66:2 210:17 243:2</p> <p>presenting 198:7</p> <p>preserves 184:20 186:16</p> <p>press 83:23 85:4 87:3,18,19,22 88:3,15</p> <p>presume 10:23 16:21 32:5 43:8 53:13,20 62:6 71:5 87:1 111:22 125:22 138:2 150:10 254:16</p> <p>presuming 85:21 229:2</p> <p>pretty 171:15 231:20</p> <p>previous 21:1 64:10 168:10 178:18 251:8 260:19</p> <p>previously 117:10 251:7,11</p> <p>principal 215:20,22</p> <p>principally 24:11 25:5</p>	<p>prior 25:16,17 26:3,4 75:21 98:3 123:23 141:24 187:25 257:20 259:25 268:22</p> <p>priorities 130:19 131:2 138:23 196:7 245:6 248:1</p> <p>priority 100:2,4 162:21</p> <p>private 143:4,5 187:16</p> <p>privilege 17:5, 19 19:13,16,22</p> <p>privileged 209:15</p> <p>problem 259:22 268:11</p> <p>problematic 267:14,16 268:2 269:3</p> <p>proceeding 9:9</p> <p>process 110:17 140:20,22 147:23 148:1 167:1 251:25</p> <p>produced 9:17 231:5 243:3 265:9</p> <p>product 67:15 68:18 123:3 242:6 243:3</p> <p>products 144:21</p> <p>proffer 223:9</p> <p>profile 10:22 11:3,17 13:16 22:19</p> <p>profitability 142:4</p> <p>program 34:19, 22 35:2,7,8,13,18 36:4 56:12,24 60:19 61:2 65:24 66:2 67:7 69:9 71:8,16 72:3,10, 20 81:6,21 91:25 92:4,12 96:17,22</p>	<p>97:2,3 104:6 123:14 156:16 158:13 184:2,15 186:25 191:6 229:19,24 243:20 244:25 245:7 247:20 248:2 262:19</p> <p>programs 153:23</p> <p>projections 46:16</p> <p>projects 12:3</p> <p>prolong 149:1</p> <p>proper 117:19, 20 120:22 161:17</p> <p>properly 203:18</p> <p>proposal 158:3 177:7,10 180:14, 15 195:7,11,21 198:20,22 220:15 221:4,12 228:16</p> <p>proposed 69:9 158:4 174:5 178:14,15 179:3, 9,14 181:10 198:25 200:19,22 201:11</p> <p>proposing 158:2 180:20</p> <p>propriety 259:20</p> <p>protocol 205:21</p> <p>provide 35:13 36:9 39:17 48:8 92:24 129:10 169:12 170:1 270:5</p> <p>provided 36:24 43:15 64:9 65:7, 10 114:15 140:12 179:6 205:6 238:18 260:22 270:4</p> <p>providing 11:25 36:7 65:2,5 242:3 264:15</p>	<p>province 27:18 65:8,11 142:5 146:9 147:9 163:7 258:9</p> <p>provincial 258:8</p> <p>public 58:13 170:21 187:12 203:11,15 258:3, 6,9,10,11,12,13, 16,18,19,21,22,25 259:12 265:10</p> <p>pull 78:18 267:4</p> <p>purpose 38:9 47:9 55:14 65:3,4 94:6 161:11 178:5 241:23 265:19</p> <p>purposes 67:4 91:24 92:3,12</p> <p>purse 81:17 121:16</p> <p>purses 35:14,16 36:7,10,16,19,20 37:1,9 66:10 70:22,23 82:1,2 119:17 122:25 123:2</p> <p>purses/ operations 178:24</p> <p>pursuant 9:5 14:25 20:23 228:12 263:24</p> <p>put 18:16 19:1 31:25 41:22 92:23 98:1 121:13 128:3 136:8 167:4 209:17 216:19 225:8 234:3 239:18 241:11 245:9,14,16,17,20 246:5,6 248:15,16 249:20 250:13,16 265:7 266:3</p> <p>puts 268:4</p> <p>putting 146:20 265:18</p>	<p style="text-align: center;">Q</p> <hr/> <p>Q-A-A-D-R-I 202:17</p> <p>Qaadri 202:17</p> <p>quality 67:14 68:17</p> <p>Queen's 10:5 12:17</p> <p>question 9:15, 24,25 11:7,8,9 17:18,25 18:8,9, 18 19:1,19 28:14 29:17 30:21 33:12 34:8 37:6 39:25 45:12 47:17,20 48:15 53:17 56:15 63:2,6 72:17 75:20 78:20 81:13 85:20 86:14 89:2, 11,17,22 92:7 97:15 103:10 105:15,16,23,24 106:4,8,13 107:3, 6 108:12 117:16, 19 123:6 132:6,7, 8,12 148:5 152:14 161:17 162:3 164:21,22 166:6, 9,23,25 167:3,5 174:14 186:7,8 192:9 194:22 214:21 216:21 218:23 222:5 225:7,8,17,18 226:5,9,14,25 227:1 229:3,8,12, 13 243:12,16 246:5 249:9 254:10 256:19 261:5,6 267:22</p> <p>questions 9:21 19:14 21:4,10 52:6 59:12 63:17 76:25 85:6,22 117:20,21 120:21, 22 148:21 185:14 209:11 223:18 232:2,6,13 252:22 271:1,10</p> <p>quick 127:13</p>
---	---	---	---	---

202:7	153:16 163:23	reading 52:25	86:22 87:13,15	194:8,21 195:9,
quicker 21:8	193:2 206:19	60:4 64:13 67:19	89:14,16,23 90:2,	19,20 197:5,23
44:21 232:13	245:7 248:2	84:14 90:19	4,17 91:14 92:1,2,	198:4,11,14,24
quickly 77:19	262:19	137:10 178:9	10,14,22 93:4	199:3,11,16,20,21
179:18 262:11,22	racing 24:8	188:12 238:13	95:12,21 96:4,6	200:24 201:1,3,6,
263:4,5	50:25 51:1,6	246:14 267:19	97:17 98:25 99:6,	14,17,19 203:6,8,
quo 158:16	59:23 63:22,25	reads 42:5,8	16,19,23 102:12	10,14,15,19,20,24
quotation 247:1	65:24 66:1 67:7,	45:9,11 52:11	103:5,17 105:9,10	204:23 205:15,20
quote 88:13	12 68:15 69:9	64:16 84:16 86:2,	106:19 107:18	206:8,12,13,17,
	72:11,21,25 73:6,	13 93:23 102:15	108:8,13,19,22	21,23 208:9,16,19
	18,23 74:2,6	139:21 164:7	109:20 110:19,25	209:6 210:5,8,16
	75:16 80:12,18	184:18 218:11	111:12,17,18,20	211:1,4,9,15
	88:8 91:25 92:4,	238:14 246:16	112:8 114:25	212:15,20 213:12
	12 96:17,22 97:2,	253:4 256:17	115:1 116:12,14	214:10,13,16,18
	3,6,9 101:21	real 103:7 260:20	117:4 118:22	216:13,17,21
	104:14 111:4	266:12	119:4,6,7,12,15,	217:13,16,22
R/f 17:2,17 18:25	123:3 127:11	reason 25:22	18 120:6 121:1,	219:25 220:20
19:18,23 20:11	129:8,21 146:12	55:20 122:14	15,17,18,22,23	221:22 222:10,21
63:1 132:11	168:9,11	165:13 166:10	122:2,4,12,13	224:6,9,12 225:1
216:19 225:17	radio 170:13,21	266:10	123:15,21 124:20	226:24 227:23
228:5	195:25 196:1,3,10	reasonable	125:6 126:4,8	229:20,25 233:13,
race 54:21 55:1	240:3,7 241:7	148:16	127:22 129:20,25	16 234:12,17,18
59:23 60:13 62:19	raise 110:8	reasons 205:25	130:15,21,24,25	235:10,14,15,19
66:9 67:14 68:17	164:20	270:12	131:3,4,14,16,20,	236:3,20 237:10
97:8	raised 101:9	recall 13:14	21,23 132:2,3,6,8,	238:3 240:23,24,
raced 36:8	raising 182:13	15:6,11,16,19,22	10,14,17,20,22,	25 241:4,13,17,
101:10	ran 195:25	16:1,2,6 22:18	24,25 133:8,9,12,	18,22 242:2,8,19
races 82:1	re-engineer	23:7,14,25 24:5,	14 134:6,13,17,	243:5,18,21,25
racetrack 29:9	20:1	21,23 25:8,11,18,	22,23 135:7,10,	244:11 250:15
34:18,21 35:2,7,	re-examination	20,21,25 26:2,6,	14,16,18,20	252:1,7,8,12
18 36:3 48:1,13,	148:23 271:12	16 27:3,14,20,24	137:10,11,12,15,	253:18 254:7,14,
20 56:12 60:19	re-examine	28:5,6,12,16,25	24 139:4,7 140:9	18 256:4,9,20,21
61:2 71:8,16 72:3,	248:14 250:2	29:11,20,24 30:1,	142:16 143:25	257:24 261:9
10,20 78:2 81:6	re-investing	8 31:22 34:1,23	144:2,3,16,18	263:7 264:3
104:6 107:24	88:7	36:11,15,21 37:7,	146:18 147:3	265:2,16 266:20,
123:14 124:23	read 16:4,11,16	13,22 38:1,5,8	148:19 149:13,16	22 267:7,10,11
125:5 146:10	46:15 59:11,15	40:7,9,12 41:19	151:13 152:16,18	269:2 270:15,19
147:10 156:16	65:14 82:18 84:25	42:15 43:22 44:9	153:10 154:6,9	recalling 94:8
158:13 162:6	99:21,24 100:4,6	45:19,21,22,24	155:16,24 156:1,	126:11 137:21
170:25 191:6	102:15 108:13	46:6,12,17,21,24	4,18 159:6,8,14	167:1 191:17
199:2 221:13,20	109:19 110:4	47:22 48:2 49:7	160:15,17,20	193:11 196:6
222:15 224:4,23	120:23 127:14	52:23,24 53:3	162:10,17,25	202:10
225:13 229:19,24	128:25 152:6	54:24 56:13,20	163:3,19,20,25	receive 10:10
243:20 244:25	157:19 158:24	57:4,15 58:21	164:11 165:1,10	100:18 110:24
247:20	164:6 166:4,7,8,	59:3,19,21 62:1,5,	166:25 168:12,17,	178:22
racetracks 25:6	20 177:14 179:1	6,9,11,14,22 63:6,	25 169:3,11,15,	received 15:17
29:1,21,24 31:14	224:17,18 246:17	23 64:17,18,20	16,20 170:4,16,18	39:22 66:22 72:10
37:3 47:3 51:21	253:6 256:5	65:6,12 68:12,21,	171:1,3,7,12	86:17 97:19 98:23
56:24 72:9,19	267:4,23 268:24	22 69:7,19,20,22	172:4,8 173:3,8,	110:2 111:10
73:5,8,17,22 74:1,		72:22 73:12,24	15 174:15 175:7	128:19 182:7
5,11 75:8,15 76:8,		74:3,8,18 75:25	176:3 177:12	241:19
9 77:25 78:11,21		76:21 82:4,7	178:7 179:13	receiving 43:9
80:17 81:4 126:6		83:12,14,24 84:22	181:2,7,12,17	45:19 52:14 59:1,
146:7,20 147:7			182:11,14,25	19,21 150:18
			187:18 188:4,18	
			189:3,7,19 193:6	

<p>RECESS 59:16 109:11 171:21</p> <p>recipient 111:2</p> <p>recognize 157:21</p> <p>recognized 117:23</p> <p>recognizes 117:18</p> <p>recollect 113:10 152:11 198:8</p> <p>recollecting 213:25</p> <p>recollection 30:13,16,18 32:4, 6,12,15,18 40:18, 19,20,21,23 41:6, 7,8,16 42:19,22 43:2,6,25 47:10, 17 52:13 53:1,14, 21,23 55:2,4,8,12, 20,22,23 60:3 62:18,24 64:2,12 65:15,19,20 66:1, 12 70:1,5,7,21 71:24 81:18,23 97:12 111:9 119:10 130:3,8,13 154:14 156:22 159:19 165:3 168:16 169:24 176:5 178:8 182:7 185:3,9 192:6 196:13 198:13 203:25 204:14,19, 20 205:5,7,8,11, 12 210:11 211:10 218:24 219:2 220:2,23 221:5 231:2 236:5,6 245:24 249:2 254:6 257:14 268:25</p> <p>recommendati on 180:14 209:7, 21 210:6,12 211:25 212:13 214:14 220:24 221:6 223:3,12,16 224:7,22 241:25 243:9</p>	<p>recommendati ons 39:17 40:14 152:3,23 163:11 220:12 221:11 242:3</p> <p>recommended 143:19 179:12 211:8 220:18 221:20,23 222:14 224:3 227:7</p> <p>recommending 140:6 191:23 217:7</p> <p>recommends 225:12</p> <p>reconstructing 192:4</p> <p>record 9:25 18:16 19:2 31:17, 18 51:12 68:2 79:8,13 85:13 91:2 126:21 127:17 130:11 133:24 136:18 156:7 167:5 184:9 189:23 192:5 194:24 200:1 212:8 225:9 226:15,23 231:14 239:18 252:15,16 260:4,10,12 265:18,21 271:2,9</p> <p>recorded 9:22</p> <p>reduce 143:20, 22</p> <p>reduced 19:17</p> <p>reducing 146:11 147:10</p> <p>reduction 55:1 124:22 125:4,8 158:17 159:1 178:25 193:18</p> <p>refer 58:16 69:14 94:13 189:9 227:9</p> <p>reference 53:10,12 61:15 93:22 94:24 95:7, 10,13,19 118:5 121:11 137:13 144:15 169:4</p>	<p>177:23 189:12,20 202:13 206:24,25 218:13 242:9 246:23 253:12</p> <p>referenced 38:21</p> <p>referencing 137:11 143:10</p> <p>referred 87:16 94:24</p> <p>referring 49:12 50:12 52:22 67:2 82:9 90:12 94:12 133:21 142:7 176:9 184:17 186:10 199:12 218:14,25 222:17 239:1 245:12,19 250:25 262:14,18, 20 263:2 267:21</p> <p>refers 52:17 189:8 219:1</p> <p>reflect 80:21 81:2 85:1 238:21</p> <p>reflected 31:19 210:14</p> <p>reflecting 81:7</p> <p>reflects 67:13 68:16 80:16 85:1 95:7</p> <p>refresh 85:23 128:13</p> <p>refreshes 195:24 216:15</p> <p>refreshing 19:21 185:24</p> <p>refusal 19:1,19 21:5,7 63:2</p> <p>refusals 271:1</p> <p>refused 19:23 225:17 226:25 246:5</p> <p>regard 53:21</p> <p>regional 126:5</p> <p>regular 132:1,23 172:5,6 253:19 263:5 264:13,15</p>	<p>regularly 262:1</p> <p>regulates 263:22</p> <p>regulating 264:12</p> <p>regulator 24:13 51:1 116:1 253:25 254:21</p> <p>Reinstated 169:6</p> <p>Reiterated 169:7</p> <p>rejected 214:15</p> <p>related 16:19 22:13 27:6,23,25 29:14 31:14 33:18,22 34:15,16 48:4 60:2 65:6 89:15 95:21 123:8 188:10 251:19</p> <p>relation 35:2</p> <p>relationship 22:8,20 23:11,18 28:22 46:9 48:5 71:3 72:5,24 73:1, 4 77:12 79:19 80:8,12,24 82:7 92:15 111:20 115:23 122:24 123:15 124:15,22 244:19 264:3</p> <p>relationships 27:23 264:9,11</p> <p>release 82:24 83:7,8,10,16,23 85:5 86:20 87:3, 18,19,22 88:3,15 137:7,13</p> <p>released 84:9 87:9,10 256:8</p> <p>relevant 20:5 21:3,4 26:22 29:12 110:7 161:10 225:18</p> <p>reliance 104:5 244:15</p> <p>reliant 70:23</p>	<p>relied 71:7 105:11</p> <p>relocate 146:7 147:6</p> <p>relocating 146:19</p> <p>relocation 147:1</p> <p>relying 192:7</p> <p>remained 13:19 14:4</p> <p>remember 30:19 36:22 41:2, 4 48:3 54:12 64:4, 6 69:11,24 70:2 96:10 99:20 117:5 122:15 124:24 125:7 127:18 128:1 135:8 143:15 150:18 159:3,15,16 164:15 170:15 176:1 179:23 186:8 191:16 192:11 194:14 196:10,14 201:18 203:1 209:1 210:8 218:8 224:15 227:17 228:8 231:1 234:9 243:14 253:20 255:25 257:12 258:2 266:19</p> <p>remembering 144:17 150:5 167:8 196:1 227:19 239:3 240:15</p> <p>remembers 203:16</p> <p>repeat 72:16 78:5 86:14 162:2 174:1 206:16 215:10 256:18</p> <p>rephrase 161:16</p> <p>replace 246:21 247:17</p> <p>replaced 248:5, 10</p>
---	--	--	--	---

replacement 247:13,14 248:19, 25 249:11	39:18 60:19,25 67:7 94:24 102:10 116:7 119:1 142:19 144:5 146:3 148:16 156:15 173:11 209:8	10,11 50:22 56:22,23 66:10 70:22,24 71:7,15 72:2,9,20 73:7,18, 23 74:2,6,12 75:10,16 76:11 78:2,12,22 80:18 81:6,19,20 100:17 101:2 104:5 119:13,24 120:4 121:20,21 122:22, 24,25 123:24 124:11,23 125:5, 12 131:11 132:15, 21 133:3,18 134:20 135:5 137:23 146:24 154:8 156:16 159:5 162:5,12,18 163:6,23 164:20 168:21 170:14,22 173:23 178:19 179:10 187:9,22 191:5,23 193:1 194:12 198:2,22 199:1,10,14 200:23 201:2,10 203:12,22 205:1 206:10,14,19 209:9 228:25 229:17,22 233:18 234:15 241:12 243:19 244:2	reviewed 16:11 17:7,18 26:17 31:17 39:22 95:6 182:19 213:7 reviewing 28:6, 16,25 29:20,24 32:4,6,15 108:9 128:22 reviews 102:5, 13 111:5 revise 143:3 revised 63:25 118:3,8,13 revising 121:21 revision 119:1 revisions 83:4 84:4 87:1,3 121:7 rich 170:25 rid 138:4 ridings 154:5,8 right-hand 101:19 250:20 ringing 153:24 Rob 99:6 Rock 144:22 Rod 24:11 30:6 87:15 132:1 133:13 200:14 257:20 266:11,12, 14 267:11 269:24 Rod's 84:7 87:7 role 12:2 46:7 57:2,3,4 85:25 129:22 219:25 220:1 222:10 226:24 237:18 rolling 144:8 Rosenberg 52:7,10 114:4,8 200:20 250:3,5,9 271:2,10 rough 183:13 Royal 58:19 Rule 228:12	rumours 155:10 156:3 run 85:10,14 170:13,21 240:16, 21 running 46:11 rural 146:20 186:20 188:7 235:18
report 14:7,12 100:5,8 104:21 164:10,14,24 165:9,24 167:10 220:11 222:1,22 223:15 224:3,7, 10,11,13,16,22 225:1,4,12,21,23 226:20,21 241:11, 15,21,24 242:2,5, 10 243:3 244:24 245:10,18 250:17, 22 251:2 252:11 255:10 269:25 270:3 reported 14:10, 13 22:14 102:19 reporter 9:14,25 85:14 166:9 REPORTER'S 50:23 reporting 57:16 264:3 reports 25:14,15 26:10,11 46:19 98:23 99:3 100:5 140:22 264:2 representative s 40:6 request 19:21 265:9,15 requested 241:18 requests 31:19 270:14,18 require 198:12 required 248:15 research 11:20 125:11 resort 143:22 respect 32:21 33:1,4,14,20 34:6	respond 81:13 148:19,22 responded 19:5 response 9:22 responses 9:20 responsibilitie s 11:23 21:19 22:12 23:17 24:3 27:8,10 162:15 258:24 responsibility 23:8 116:4 125:11,13 143:22 237:15 238:1 responsible 24:18 27:12 33:7, 17,20 34:2 46:7 51:1 58:3 115:15, 19,21 130:17 131:6 restricts 245:4 247:24 result 27:23 39:22 76:6 123:15 133:17 163:5 234:11,14 236:12 results 62:20 RESUMING 59:17 109:12 171:22 return 134:14 135:19 146:1 178:18 returned 134:14 135:21 revealed 77:6 265:15 revenue 36:17 38:15 47:2,24 48:5,6,11,18 49:9,	revenues 245:5 247:25 review 16:25 17:14 26:10 28:3 31:18 37:20 38:4, 9 39:1,7 40:7 41:16 46:23 50:4, 5,11,16 67:5 86:7, 11 93:21 94:1,4,7, 11,13 98:14,17 99:12 102:8 110:10 116:10 127:16 139:10,19 140:1 147:22 149:11 150:1 163:16 164:16,17, 19 165:11 167:1 191:22 194:7 200:7 220:13 242:18,22,25 270:5	S S-E-R-P-E 99:4 S-H-A-F-I-Q 202:16 S-T-E-E-N 61:6 sake 85:12 87:24 sales 144:8,18 Samuel 116:23 Sandals 201:19 SARP 80:13 178:16,18 179:9 satisfied 77:25 78:20 79:20 80:6 112:6 237:3 Saturday 218:16 save 232:14 scale 125:17 scheduled 176:24 school 10:14,17 12:13 20:13 Scissors 144:22 scope 62:7 Scott 216:6 screen 41:22 67:21 136:8,21 151:24 249:20 scroll 42:4,11 Scugog 143:17 searching 160:3	

secret 170:14,24	179:24 181:3	200:23 201:2,10	164:1 168:1	simple 84:19
secretary 215:20,22	183:14 192:20	203:23 205:1	172:10 179:25	simpler 29:17
section 137:5	193:9 195:2	206:10,15 214:5	200:3,14 202:3	simply 61:22
sector 100:9,14 124:13 143:5 235:18	196:23 204:2	233:18 234:15	210:18 217:24	80:4 159:21 261:23
Securities 14:3 22:13	258:12,18 259:3	241:12 254:12	224:2 238:4	sir 37:5 54:24 55:15,20 69:7 75:5 77:4 157:6 161:7 168:18 246:3 250:12 271:11
Seiling 24:11 51:4 83:20 88:9 101:25 131:10,17, 23 132:1,15,20 133:1,5,9,14 137:22 138:23 154:19,21,23 155:17 156:2,11 168:14 169:11,25 253:14 254:8,13 255:5,18,25 256:10 257:9,12, 20 258:4,14 259:18,22 260:19 261:13 265:7 266:13,18 267:8, 12,25	260:20,22 262:25	260:24	245:22 250:19 256:24 269:6	showed 67:3 77:16 78:8
Seiling's 154:21 168:2 253:16 258:1 263:13 265:14 267:1,21	sensitivity 254:19	shared 37:2,4 120:8,10 170:23 187:23 191:25 192:7 193:10,19 214:8,10 216:9 254:10,21	showing 136:20 157:5 196:11 212:21 220:22 240:3 255:4,17	shown 64:23 77:11 117:10 162:25 183:14 194:4 195:12,15 265:4
selected 252:6	sentence 80:3 113:3 129:23 169:5	sharing 47:2,24 48:6,11,18 56:22, 23 72:2 119:2 121:21 122:22 131:12 132:16 135:5 137:23 159:5 162:6 163:23 168:21 170:14,22 173:24 191:17 193:1 198:22 199:1 203:13 206:19 209:9 228:25 229:17,23 243:19 244:2	shows 128:17, 19 212:8	sit 43:24 62:17 195:21
send 85:19 165:20 166:18 183:23 236:11 270:9	separate 207:8, 24 208:2	short 21:7 51:10 143:9	sick 134:3	site 126:9
sending 85:2 99:7 136:22 140:22 150:13 186:25 256:1 269:23 270:21	September 63:18 82:23 85:3	shortage 97:21	sickness 136:7	siteholder 28:9, 17 29:2,10,22 31:6,7,10 32:5 42:17 43:4,11,21 44:2,5
sends 96:14 110:22 255:20	sequence 44:20 60:9 84:5,19 86:5 93:13 95:1 112:11 136:22 149:3 185:8 189:1 200:11 207:2 210:19 216:15 218:4 231:10,12 232:16 233:21 238:5 240:10 269:23 270:7	shorter 61:7,14	side 14:20 39:11 54:15,16,18 57:24 58:4,12 60:18 62:16 74:9,22,25 75:2 109:24 111:23,24 116:2 125:10 153:1 156:25 157:16,22 159:20 160:10 171:2 237:17 250:20 265:17 266:1	sites 143:22 146:10 147:10
senior 11:25 21:17,19 116:21 125:19 258:19 259:11,12	series 27:17 40:5	Shortill 14:11, 13,23 23:14 57:17,18 60:22,24 61:19 71:6,9 109:25 110:1,5 125:18 136:23 151:9 171:10 173:4 176:18 202:4 206:2 207:18,20 212:23, 25 213:22 215:4	sidelined 268:15	sitting 30:13 181:21 203:16
sense 38:13 101:13 139:25 159:2 172:20 173:20 175:19	Serpe 99:4,6	Shortill's 183:8	signed 32:16 51:20	situation 264:8 268:14
	servant 265:10	shortly 30:14 38:5 267:8	significance 18:12	skeptical 203:2, 4
	servants 58:13	show 14:25 54:7 78:17,18 79:10 80:15 81:2,7 88:21 91:16 96:8 98:9 117:7 127:9 151:5 154:17	significant 38:15 150:6 197:20	skimmed 153:9
	serve 58:14 260:21		silence 86:10	slot 37:3 70:23, 24 73:7,18,23 74:2,7,13 75:10, 16 76:11 78:12,23 80:19 100:17 119:2,24 120:5 122:25 146:19 147:2 163:23 198:2
	served 14:9 15:4		similar 46:13 64:9	slides 80:10
	session 176:24		similarly 76:24	slot 37:3 70:23, 24 73:7,18,23 74:2,7,13 75:10, 16 76:11 78:12,23 80:19 100:17 119:2,24 120:5 122:25 146:19 147:2 163:23 198:2
	set 35:8,13 36:23 95:8 129:12 148:8 165:10			slots 25:6 28:1 31:14 34:15,18,21 35:2,7,18 36:3,6, 14 38:24 56:11,24 60:19 61:1 65:8, 10 71:8,15 72:3, 10,20,24 73:6
	Shafiq 202:16			
	share 119:24 120:4 123:24 124:11,23 125:4, 13 132:21 133:3, 18 134:20 154:8 156:16 179:10 187:9,22 188:3 191:5,24 194:12 198:3 199:10,15			

78:2 81:5,6,21 82:6 104:6,13 119:14 123:14 124:23 125:5 146:7 147:6 153:16 156:16 158:13 162:6 184:2,15 186:24 191:6 193:1 199:1 204:25 206:19 221:13,20 222:15 224:4,22 225:13 229:18,24 243:19 244:25 245:6 247:20 248:1 262:19	226:16,19 227:13, 20 228:14 238:5 239:4 251:20 256:9 264:9	133:12 134:23 144:2 170:19 178:8 182:25 198:4,11,12 210:10 234:19 235:19 269:3	108:17,20 113:21	25 21:16 34:5 40:17 46:25 47:10 53:17 54:8 60:16 61:19 63:9 65:15 79:11,22 81:1 84:13,18 85:2 86:6 87:4,24 89:9, 18 91:10 94:23 98:10 106:12 108:10 109:14 124:19 127:16 138:21 144:1 148:7 149:9 150:3 156:14 159:18 165:14 166:11 167:16 168:8,13 169:23 171:25 176:10 182:6 189:22 191:3 196:8 200:4 214:23 217:7 218:5 219:5 224:24 225:22,25 226:15 228:1,12 229:16 231:1,15 232:11,17 243:20 251:12 253:2 261:23 269:17,20 270:25
smaller 234:6	speaks 86:11		Standardbreds 113:16	
Snobelen 251:21	specific 29:11 30:9,18 32:11,20 33:3,19,22 34:23 38:1,2 40:21 43:7 54:12 55:21 57:14 65:18 68:24 71:23 90:3 106:19 108:13 113:13 114:25 116:12 120:6 133:21 139:1,4,7 147:3 159:10 164:25 165:3 177:23 195:7 197:1 204:10 209:3 211:1 223:18 226:20 266:22 270:20	speculating 185:11 192:21	standpoint 49:6 123:13 162:14	
so-called 261:7	specifically 27:4 28:13,19 40:9 43:22 44:9 45:21,24 46:17, 21,24 48:2,24 49:1,7 52:23 56:20 59:3 64:17 73:24 75:25 93:4 100:6 107:22 118:22 119:4 122:13,23 123:21 124:5,16 125:25 130:23 131:14 132:24 133:8 134:13,17 135:9 144:17 146:3 149:13,16 159:8, 14 160:15 163:25 170:4 181:2,17 197:6 199:20 201:7,8 223:5 237:11 241:21 256:21 265:1 267:10	speed 100:2 140:5	stands 126:18	
solicitor/client 17:4,19		spend 91:9	start 41:13	
son 134:2,9 135:24 175:3		spent 12:1 148:6	started 11:20 12:23 20:2 21:15 24:2 28:4 30:5,14 32:7 35:24 37:25 38:4,5,6,7 44:8 55:7	
sort 38:20 43:9 66:5 179:25 259:5,7		spoke 51:4 80:8 197:2 199:13 206:22 210:22 217:21 262:9	starts 82:24 232:17	
sorts 163:16 191:15 258:24		sport 129:15	State 227:23	
sound 171:14		spotty 66:11,13	stated 34:3,14	
sounds 122:10		spread 154:10	statement 18:16 73:10 80:3 166:23 262:24	
source 104:8		spring 12:19 110:9,13 178:6	statements 29:1,7,8,12,14,21, 25 30:4	
sources 105:9 106:15,24 107:8		squabble 126:17	status 99:8,10 158:16 175:20	Stransky's 16:10 18:1 51:10 161:10
speak 76:20 81:24 95:24 97:23 110:1 111:7 113:13 118:20 128:9 163:18,21 172:1 196:19,24 199:5,8 210:20 217:11 229:21 251:6		Stability 101:6	statute 263:24	strategic 37:20 41:16 50:4,10 93:21 94:1,4,6,11, 13 98:14 99:11 102:5,7 104:20 110:10 111:5 116:10 139:9 140:1,6 220:7 242:18,22,24
speaking 39:18 175:17 195:1 197:16 198:9,15 199:11 217:17,19 219:16,20,23 220:5 222:7,12	specifics 24:23 25:11 26:16 34:1 36:11 53:5 55:8, 18,22 69:19 72:23 92:1,8 99:19 119:8 124:25 125:7 130:1	staff 14:11 58:4,8 90:22 155:8 173:19 197:22 202:19 209:12,22, 23,24 210:1,2,3 212:13 215:13,17 240:5 268:14,15, 16	Steen 45:7 54:9 57:19 61:6 84:8 87:8	strategy 233:1
		stakeholder 101:24 113:16 141:21 153:21 176:20 178:1,5	Steeve 213:4 215:18,19	stressed 233:7
		stakeholders 76:4 88:4 96:2,21 98:15,19 107:19, 21 119:23 120:3 140:21 178:11 217:15	Steve 56:2,6,9, 11 215:25 232:18 252:24	stretch 80:6
		stand 201:21 215:20	stock 235:18	strikes 181:18, 19
		Standardbred 67:12 68:15 69:18,21 70:6,12, 18 71:6,14 101:16	stop 47:6 206:19 231:21	strong 67:13 68:16 73:10 257:18
			stopped 268:23	strongly 257:24
			straight 12:16	structure 57:16
			strange 234:21, 24	
			Stransky 9:2,4 10:4 16:12 17:23 18:10,24 19:4,10,	

81:17 118:4,8,13	supply 12:6 69:8,12,14 92:24 169:8	talked 14:24 139:9	term 126:10 129:17 189:5 211:14	122:23 140:13 203:17 258:21 264:10
structures 120:17	support 65:7,9 129:14 131:13 141:20 146:11 147:11 158:22 206:15 221:14,21 222:15 224:4,23 225:13 227:7 228:17	talking 28:8 31:15 42:17 83:17 86:9 125:4 137:9 162:13 180:13 187:4 219:3 226:5 241:14	terminate 56:22 72:2 131:11 132:15 133:2 134:20 194:12 203:12 234:14	Thompson 216:6
studies 10:9	supported 228:24 229:17 262:3	talks 177:21	termination 123:24 132:21 133:18 170:22	thought 26:22 68:4 110:6 162:13 192:10,12 261:1 265:22
style 260:18	supportive 67:11 68:14 152:24	tangents 20:17	terminology 94:10	thoughtfully 203:18
sub-bullet 222:18	supposed 231:19 241:15 242:5 259:19	Tanya 157:3 172:11 190:17	terms 28:17 93:21 94:10,13,24 95:7,10,13,18 106:19 107:13 112:4 118:16 119:5,19 120:14 124:25 133:24 155:20 157:12 165:11 179:21 198:19 232:2,6 237:14 242:8 260:23 262:15,18	thread 114:9
sub-point 101:5	surrounding 48:11	task 32:21	Terry 190:14	three-page 52:5
subject 29:10,22 64:5,7,12,17,21, 22,25 89:8,10 135:18 241:8,21 244:7 247:7,12 265:8 270:13,25	Susan 218:17	tasked 109:23	testified 154:23 223:2	three-quarters 148:18 231:16,18
subsequent 85:3 206:25	suspect 73:12 111:19 188:1	tax 159:1	testifying 249:7	Thursday 157:6
subsequently 48:9	sustain 67:16 68:19	team 99:12 118:24 172:12 173:3,4 179:4 237:15 241:6	text 195:25 196:12 223:18,24 248:18 251:11	tickets 144:9
subsidy 170:15, 24 233:2	sustainability 129:16	team's 237:15	textfully 134:4	tied 234:19
substance 249:18 251:15	swear 249:8	Ted 234:23	things 9:19 14:20 34:15,16,17 38:14,17,22 39:2, 15,19 43:14 46:10,18 155:20 159:17 165:10 179:17 191:15,23 199:14 262:9,11, 22,25 263:4,5,7,9 264:13	Tim 14:10,13,23 23:13 110:1 137:3 170:25 176:18,23 200:14 202:6 207:18,20 212:23, 25 238:20
suggest 59:11 212:10 241:10	SWORN 9:2	telegraphing 186:1	thick 231:24	time 12:1 13:6 20:19 21:7 23:8 26:1 28:7 34:1 35:12 49:8 50:13 54:14 57:5 69:23 71:25 76:2 83:20 85:9,22 91:9 98:23,24 100:3 103:6 105:2 134:1,6 136:4,6, 24 138:25 142:14 146:24 148:6,19, 20,24 151:12 155:12 162:7,16 163:5 165:19 166:17 171:15 182:14,15 187:7 189:21 192:1,13, 18,20 193:14 201:20 204:7 211:16,18 215:17, 20 217:12 226:11 230:4 232:14 238:1 243:25 246:18 254:19
suggested 165:24 262:10	system 36:23	telephone 131:10 266:17 267:7 269:16,20	thing 9:21 31:16 62:11 128:25 259:5 260:14	
suggesting 106:21 163:2 261:18		telephoning 131:23	thinking 108:5	
suggestion 194:7		telling 66:12 103:18 106:14 131:17,22 132:25 133:5,9,14 135:12,13 152:7 154:13 155:23 169:13,23 199:13 204:13 206:9,13, 17 214:7,12,13 216:11 241:2 243:18 244:1,8,10 245:24 246:2,4		
summarized 180:16 182:18		tells 231:1		
summary 99:8 101:20 177:7,9 198:19 202:7 207:12,16 270:6		ten 100:17 252:18		
summons 9:5 14:25 15:2,5,21 16:4 20:22,23		ten-minute 171:19		
Superior 9:5		tenure 28:7,18 29:3 93:2 210:22		
supervising 51:1				
supplier 123:3				
	T			

265:18	TOR 94:25 95:7	158:5	understanding 18:2 26:8 35:5,6, 18,20,21,22 36:5, 19 37:12,16,24 38:3,18 49:2 57:11 70:12 71:21 72:5,13 75:5,11, 13,19 76:19 77:12 79:18 80:11 81:18 94:3,5 103:7,19 112:2 127:10 136:15 159:17 168:20,23 178:4 179:8 183:15 187:4 191:4,7,20 220:21 221:18 262:22	unwilling 102:9, 17
timeframe 139:1 183:13 204:1	Toronto 142:24	type 189:12,14 235:13	update 96:16 99:8,10 110:16 114:15	
timeframes 148:17	Tory 154:5,8	typically 160:7 172:23 174:9 241:7	updated 238:19 239:6	
times 34:10 63:2 66:23	touch 236:9		updates 96:20 264:15	
timing 30:9 48:3 57:14 113:14 120:7 181:23 222:22	tracing 89:13	U	Upper 101:19	
tips 9:13	tracking 192:2	ultimate 112:2 179:14,15 193:24 194:17,20	upset 233:17 259:12	
title 54:12 142:7 145:18 197:23	tracks 27:17,23, 25 28:1,22 29:15 31:14 34:15 35:9, 16 36:6,7,8 73:13 81:17 92:23 154:10 155:8,10 156:3 184:2,15 186:25	ultimately 27:9 141:11 181:1 210:17 265:25	urban 146:21	
titled 68:10	trained 101:10	um-hmm 9:21 95:2	V	
today 16:5,13, 17,23 37:16 43:24 47:9 55:12,20 61:13 62:17 77:11,17 78:8 85:25 128:4,6 148:6,25 162:25 163:14 181:21 187:24 192:1,5,8 193:11,20 194:10 195:16,21 213:7 231:25 262:4,11, 18 263:4 265:4 271:11	transcript 9:16, 18 31:2 85:11 87:25 89:20 185:14 267:2,20, 22	unable 181:6	vague 162:11 257:14	
told 22:7 32:3 50:2 65:21 98:12 119:22,23 121:5,6 126:18 155:7 169:9 187:7,10 188:2 194:10,14 196:11 210:21 211:5 216:18 228:23 229:3 236:18,21 237:13 246:20 259:21 261:2 264:22 268:6,8,11,13	transcription 151:22,23 152:6 266:25 267:4	unclear 249:17	vaguely 126:7 150:21 159:15 171:14 198:15 205:14 253:18	
tomorrow 84:10 87:9,11 176:24	transfer 178:21, 23	uncomfortable 266:1	verbatim 250:21	
top 42:12 94:25 100:11 153:15 228:21 238:16 240:10	transition 131:13 132:16 133:4,19 134:21 194:13 206:15 233:18 234:16 237:8	uncommon 241:20	version 42:1 84:9 87:9,10 151:7 219:19 238:24 249:23	
	translating 267:23	undergoing 110:10	view 44:22 161:7,14 162:16 198:25 199:3	
	trick 20:8	undergraduate 10:5	viewed 19:12 263:13	
	triggers 153:6	underneath 130:5	views 161:10,19 162:4 259:19,23	
	troubled 94:8	understand 9:6,8 10:4,12 13:16 20:8 21:1 26:15 31:6,9,11 33:12 34:4 56:6 57:24 61:10,18 64:24 69:13 72:8, 18 75:21 77:15 78:9 93:2 123:6 127:14 129:7 143:8 158:25 161:21 169:22 175:9 189:20 191:12 200:18 209:24 214:3 226:13 236:17 245:23 256:6 261:23 263:12,15, 20	vital 10:20	
	troubling 259:8	undertaking 37:20 242:18	voice 84:7 87:7, 15,17 113:18	
	true 125:18 268:5	undertaken 50:17 78:10 79:1 177:22 178:6 182:24	W	
	Tuesday 236:10	undertook 98:14 242:22	wagering 67:13 68:16	
	turned 128:23	underway 41:17 110:17 140:20	wait 9:23 18:17 253:3	
	two-thirds	unduly 148:25		
		University 10:5		
		unrealistic 268:7		
		unsaid 268:20		

<p>waived 209:17</p> <p>wanted 15:20 21:9 39:19 138:5 162:17 230:20 248:4,9 254:9 266:3 268:11</p> <p>wanting 46:20 260:3</p> <p>warning 148:15</p> <p>water 51:11</p> <p>Watkins 157:3 172:11,16 173:22 174:12 179:3 180:25 183:22,24 187:1 190:17</p> <p>ways 50:17 142:2</p> <p>week 99:11 134:16,19 168:19 219:4</p> <p>week's 99:10</p> <p>weekend 233:8</p> <p>weeks 134:3,12 135:21 175:6,8,13 192:23</p> <p>widely 124:5,9</p> <p>Wilkinson 251:22</p> <p>win 35:15</p> <p>Windsor 155:9</p> <p>withdraw 85:20</p> <p>withdrawal 233:2</p> <p>witness' 20:8</p> <p>witnesses 20:18 148:11 223:5 228:7</p> <p>won 37:9 92:18, 22</p> <p>word 73:1 77:13 143:20 150:17 155:11 172:13</p> <p>wording 251:15</p> <p>words 30:11</p>	<p>79:25 80:20,24 131:22 141:3 148:8 160:3 269:3</p> <p>work 14:16 16:19 20:2,15 35:17 134:5,9,11,14,15 135:20 136:5 178:9 186:13 200:5 217:17 238:20 242:6 243:4</p> <p>worked 11:24 23:13 25:23 35:19 36:12 96:12 104:3 111:18 155:5 157:7</p> <p>working 12:23 13:3,5,8 46:7 83:19 117:6 184:25 187:20 239:8 259:17</p> <p>works 67:15 68:18 112:4</p> <p>worry 155:14</p> <p>worth 220:10</p> <p>Wright 240:4,5</p> <p>write 112:5</p> <p>writing 19:17 217:22 257:13 258:14 265:8 266:3</p> <p>written 258:4 265:14</p> <p>wrote 85:16 255:5</p> <p>Wynne 202:23 203:1,7,10 204:4, 6 205:17 206:9,17</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>Y-E-I-G-H 91:20</p> <p>year 11:5 122:1 139:23 158:15,17, 19,20,21 178:25 206:15 233:2 234:16</p>	<p>year's 13:6</p> <p>yearly 100:18</p> <p>years 14:5 25:24 35:10 44:6 52:19 84:23 85:7,17 101:9 131:19 158:18 159:13,15 160:19 168:23 173:25 174:9 179:11 181:24 200:22 204:22 205:10 206:11</p> <p>Yeigh 91:20 96:9,10 157:7,8 160:18 172:16 173:21 174:12 179:3 180:25 183:22,24 200:8 218:17 219:17 231:10 233:24 236:8 255:20 256:1</p> <p>Yeigh's 172:12</p> <p>yesterday 96:19 165:17 166:15</p> <hr/> <p style="text-align: center;">Z</p> <hr/> <p>Zimmer 202:24 203:2,5,7 204:4 205:17 206:9,18</p>
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