

In the Matter Of:
Seelster Farms Inc., et al. v.
HMQ(O) and OLG

KATHLEEN WYNNE
June 27, 2018

neelsons

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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.,
1806112 ONTARIO INC., GLASSFORD EQUI-CARE, JOHN

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GLASSFORD, GLORIA ROBINSON and KEITH ROBINSON

Plaintiffs

- and -

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO and

ONTARIO LOTTERY AND GAMING CORPORATION

Defendants

--- This is the Rule 39.03 Examination of
Kathleen Wynne, a non-party witness herein, taken
at the Toronto Design Exchange, 234 Bay Street, 4th
Floor, Toronto, Ontario, on the 27th day of June,
2018.

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

Jonathan Lisus, Esq.,

Ian Matthews, Esq.,

& Vivien Milat, Esq , for the Plaintiffs.

Lisa La Horey, Esq.

Robert Ratcliffe, Esq.,

& Rodney Kort, Esq., for the Defendant
Crown.

Awanish Sinha, Esq.,

& Michael Rosenberg, Esq., for the OLG.

ALSO PRESENT: Jamie Yoon, OLG Senior Legal Counsel

I N D E X

WITNESS: Kathleen Wynne

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1 -- Upon commencing at 10:03 a.m.

2 KATHLEEN WYNNE: SWORN.

3 CROSS-EXAMINATION BY MR. LISUS:

4 1 Q. Good morning, Ms. Wynne.

5 A. Good morning.

6 2 Q. I understand you are still the
7 Premier of Ontario?

8 A. Until Friday.

9 3 Q. And what is the correct or
10 preferred manner of addressing you; is it Premier,
11 Ms. Wynne, how do I address you on this
12 examination?

13 A. Either is fine.

14 4 Q. Now, you appreciate that you're
15 here today pursuant to a summons?

16 A. Yes.

17 5 Q. And do you understand the context
18 of the summons, that there's a lawsuit?

19 A. I believe so, yes. Yes.

20 6 Q. And have you actually seen the
21 summons?

22 A. Yes, I have.

23 MR. LISUS: We'll mark that as Exhibit
24 1, please.

25 EXHIBIT NO. 1: Summons.

1 BY MR. LISUS:

2 7 Q. Now, can you recall, ma'am, when
3 you first became aware of the lawsuit that brings
4 you here today? You don't have to give me the day.

5 A. I don't remember the exact date.
6 I really don't.

7 8 Q. Was it around the time of the
8 summons, or were you aware of its commencement in
9 the spring of 2014?

10 A. Oh, I was aware -- I was aware
11 before the summons, but I can't tell you exactly
12 when, when I became aware.

13 9 Q. Okay. And I want you to think
14 back to the spring of 2014. I understand you were
15 Premier then, and if you could just remind me, were
16 you also the Minister of Agriculture in 2014?

17 A. So, when I became -- yes, when I
18 became Premier in February of 2013 I appointed
19 myself at the same time Minister of Agriculture and
20 Food, and I served in that position until after the
21 2014 election, which was in June of 2014.

22 So from January -- or, sorry, from
23 February 2013 until June of 2014 I served as
24 Minister of Agriculture and Food and then no longer
25 after that.

1 10 Q. Thank you. Was there a reason you
2 appointed yourself as Minister of Agriculture and
3 Food in the 1st Quarter of 2013?

4 A. Yes.

5 11 Q. What was the reason?

6 A. The reason was that I wanted to
7 make it very clear to particularly rural Ontarians,
8 but also to people in the cities and my colleagues
9 from city ridings, that I perceived the province to
10 be one province, and that as a Toronto member that
11 I had a sincere and genuine concern for what
12 happened in rural and agricultural Ontario.

13 12 Q. And at the time that you made the
14 decision to appoint yourself as Minister of
15 Agriculture and Food, did you have a concern about
16 rural Ontario's perception of the government?

17 A. Yes.

18 13 Q. What was your concern?

19 A. My concern was that there seemed
20 to be a narrative that had taken hold that our
21 government didn't care about rural Ontario. That
22 was absolutely not true, but that was a perception
23 that we had seen in rural newspapers and certainly
24 coming from the opposition.

25 14 Q. Right. And I take it that the

1 consequences of the termination of the SARP revenue
2 share for the horseracing industry in rural Ontario
3 was part of that narrative that had taken hold as
4 you perceived it?

5 A. Well, I would say that the issue
6 was much bigger than that.

7 15 Q. Was that part of it?

8 A. I think laterally it was, but it
9 was a much bigger issue that had taken hold long
10 before that.

11 16 Q. Okay. Is it fair to say then,
12 ma'am, that the decisions with respect to Slots at
13 Racetrack Program and the consequences of those
14 decisions were unhelpful to the narrative that had
15 taken hold prior to that, from your perspective?

16 A. That's fair.

17 17 Q. Just so that I get the sequence
18 correct, prior to your election as leader and your
19 assumption of the Agriculture and Food portfolio,
20 Ted McMeekin was the Minister of Agriculture; is
21 that correct? You succeeded him?

22 A. Yes, that's correct.

23 18 Q. Okay.

24 A. And I was -- and I took on the
25 portfolio, as you say, Minister of Agriculture and

1 Food, and Jeff Leal -- at the same time that I was
2 Minister of Agriculture and Food, Jeff Leal was the
3 Minister of Rural Affairs.

4 19 Q. Okay. I was going to ask you
5 that.

6 A. So I split -- I split that
7 previous Ministry that Ted McMeekin had held.

8 20 Q. And you took Agriculture and Food
9 and Leal took Rural Affairs?

10 A. He did, yes.

11 21 Q. Got it. Thank you. And Leal was
12 or is from Peterborough; is that right?

13 A. He is, he is.

14 22 Q. And McMeekin is Hamilton?

15 A. Hamilton, Flamborough, Dundas
16 area, yes.

17 23 Q. I understand that you've prepared
18 yourself to give evidence here today?

19 A. With the help of the lawyers here,
20 yes.

21 24 Q. Right. But you've reviewed
22 documents?

23 A. I have.

24 25 Q. And have you reviewed any
25 transcripts of the testimony of other witnesses who

1 I have examined?

2 A. No. No, I haven't.

3 26 Q. Have you been briefed on the
4 testimony of any other witnesses that I have
5 examined?

6 A. No.

7 27 Q. You are aware that I have examined
8 other witnesses?

9 A. I am.

10 28 Q. You are aware that I have examined
11 Mr. McGuinty?

12 A. Yes.

13 29 Q. Mr. Snobelen?

14 A. Yes.

15 30 Q. Mr. Wilkinson?

16 A. Yes.

17 31 Q. Mr. Duncan?

18 A. Yes.

19 32 Q. Okay. Again, just on a point of
20 logistics, ma'am, when approximately did you become
21 aware that I wanted to examine you on behalf of the
22 plaintiffs in this lawsuit?

23 A. A couple of weeks, I guess.

24 33 Q. A couple of weeks ago?

25 A. Ago, yeah.

1 34 Q. Were you aware that I wanted to
2 examine you or first convey an intention to examine
3 you in the spring of 2013; were you aware of that?

4 A. So, okay, I just need to be clear.
5 Are you asking me -- I didn't know you, I didn't
6 know who you were.

7 35 Q. Fair enough.

8 A. I was aware that there was --

9 36 Q. Someone out there?

10 A. -- someone out there who was
11 interested in examining me much earlier than a
12 couple of weeks ago.

13 37 Q. Right. Around the spring of 2013?

14 A. I think that would be right.

15 38 Q. And were you aware that --

16 A. The spring of 2013?

17 39 Q. Yes. Excuse me --

18 A. No, it can't be.

19 40 Q. You're right, I'm sorry, I'm
20 anchored in the events of 2013-14.

21 A. It can't be '13.

22 41 Q. 2017.

23 A. Yeah, that would be right.

24 MR. RATCLIFFE: Well, perhaps it would
25 be helpful just to ask the Premier if she was aware

1 that a motion was brought to quash the original
2 summons that was --

3 BY MR. LISUS:

4 42 Q. Sure. Did you follow
5 Mr. Ratcliffe's question?

6 A. Yes, so --

7 MR. RATCLIFFE: There was the original
8 summonses that were served.

9 BY MR. LISUS:

10 43 Q. I confused you because I used the
11 date 2013. It was 2017.

12 Were you aware in the spring of 2017
13 that there was a request by counsel for the
14 plaintiffs in a lawsuit against Ontario to examine
15 you?

16 A. Yes, I think that would be about
17 right. I wasn't aware of the details of the motion
18 to quash, but I was aware.

19 44 Q. Now, you explained to me the
20 circumstances of your assumption of the portfolio
21 of Agriculture and Food.

22 A. Um-hmm.

23 45 Q. The Chief of Staff you inherited
24 in that position was Mr. Keegan, correct?

25 A. Correct.

1 46 Q. And he was the Chief of Staff to
2 you in your capacity as Minister of Agriculture and
3 Food in '13 and '14?

4 A. Correct.

5 47 Q. Now --

6 A. Yes.

7 48 Q. Would that mean he was also your
8 Chief of Staff in your capacity as Premier or not?

9 A. No, he was not.

10 49 Q. And who was your Chief of Staff?

11 A. Tom Teahen.

12 50 Q. Okay. And Mr. Bardeesy was still
13 in the --

14 A. Yes, he was one of my advisors but
15 he was not Chief of Staff.

16 51 Q. Thank you. I presume, Ms. Wynne,
17 that in preparing to give evidence here today you
18 reviewed the Auditor General's report of 2014?

19 A. I did. I scanned it, yes.

20 52 Q. And did you also review comments
21 that you made in various interviews and in the
22 House about the cancellation of the Slots at
23 Racetrack Program?

24 A. I did.

25 53 Q. And perhaps I can truncate this.

1 I presume that with respect to the interviews you
2 gave that are on YouTube and are referred to in the
3 materials, you were briefed on the file before you
4 gave those interviews? You didn't do them cold?

5 A. Correct.

6 54 Q. Did you know Mr. Keegan before you
7 assumed the role of Minister of Agriculture in
8 2013?

9 A. No, only in passing as a --
10 somebody else's staffer. I didn't know him.

11 55 Q. Before I ask you that, what
12 portfolio did you hold in February 2012?

13 A. So, 2010 I became Minister of
14 Transportation, I was Minister of Transportation
15 until the election of 2011, and then I was
16 appointed to the Ministry of Municipal Affairs and
17 Housing and Ministry of Aboriginal Affairs. So I
18 had two portfolios.

19 56 Q. Okay. So that at the time the
20 decision was made to cancel the revenue share of
21 the Slots at Racetrack Program you were Minister of
22 Aboriginal Affairs and Minister of Community
23 Housing?

24 A. Minister of Municipal Affairs and
25 Housing.

1 57 Q. Excuse me, Minister of Municipal
2 Affairs and Housing and Minister of?

3 A. Aboriginal Affairs, yes.

4 58 Q. Two portfolios?

5 A. Two portfolios, yes. Ministry of
6 Municipal Affairs and Housing was one, and then
7 Aboriginal Affairs was the second.

8 59 Q. Were you involved in the decision
9 to terminate the Slots at Racetrack Program revenue
10 sharing with zero transition assistance?

11 A. No.

12 60 Q. When did you first become aware of
13 the decision to terminate the Slots at Racetrack
14 Program with zero transition assistance?

15 A. So my recollection of this whole
16 discussion was that it was in the context of the
17 modernization of gaming in the province, and my --
18 the briefings that I had and the discussions that I
19 had at the beginning of that process were about my
20 concerns about the expansion of gaming in the
21 province.

22 61 Q. And if I was to suggest to you,
23 ma'am, that the briefings that you received about
24 the modernization process were at the tail end of
25 January or the very first day of February 2012, is

1 that consistent with your recollection?

2 A. That sounds right, yeah.

3 62 Q. That's what the records indicate.

4 A. Yes, that sounds right.

5 63 Q. And I presume that those briefings
6 did not include any briefing of you on the decision
7 to cancel the Slots at Racetrack Program with zero
8 transition assistance?

9 A. They did not.

10 64 Q. And were you aware, ma'am, that at
11 the time of those briefings, the recommendation
12 from the Ministry of Finance was that the revenue
13 sharing with the horseracing industry be phased
14 down over five years, culminating in a hundred
15 million dollars a year? You don't recall that?

16 A. I did not have that level of
17 detail.

18 65 Q. And do you recall the Cabinet
19 meeting at which this issue was discussed,
20 specifically the termination of Slots at Racetrack
21 Program with zero transition?

22 A. Again, what I recall --

23 MR. RATCLIFFE: Excuse me, we're not
24 going to get into any discussion about the Cabinet
25 meeting, who said what to whom.

1 MR. LISUS: I'm just asking if she
2 recalls there being discussion about that.

3 BY MR. LISUS:

4 66 Q. If you don't recall --

5 A. What I need to say is that what I
6 recall about this period and the discussion around
7 the expansion of gaming was that there was a fair
8 bit of consternation on my part and a few other
9 members about a policy that would actually
10 encourage more gambling in the province.

11 67 Q. Right.

12 A. And bringing in young people, I
13 was concerned about that. And really that was my
14 preoccupation at this point.

15 68 Q. Right. And you may have seen it,
16 ma'am, in preparation for your testimony, but there
17 is a reference to you being skeptical, that's the
18 word, about the modernization plan. Do you recall
19 that?

20 A. Absolutely. And there was --
21 there was some concern, I believe, that I was --
22 and the skepticism, the opposition that I was
23 expressing, the concern I was expressing was about,
24 as I say, the expansion of gambling in the province
25 and I wanted to understand what we were doing and

1 how we were doing it.

2 69 Q. Right. And when you say "what we
3 were doing and how we were doing it," may I presume
4 that you're saying you wanted to understand what
5 the implications would be for --

6 A. Right.

7 70 Q. -- a policy that encouraged more
8 gambling?

9 A. Yeah, I wanted to understand the
10 proposal.

11 71 Q. Right. And did you ever
12 understand the proposal?

13 A. I think so, yes.

14 72 Q. What did you understand the
15 proposal?

16 MR. RATCLIFFE: Well, can you be a bit
17 more specific in terms of the proposal. What is it
18 you're asking her to comment on?

19 BY MR. LISUS:

20 73 Q. The proposal with respect to slot
21 machines was to take them out of racetracks and
22 have them in casinos in large population centres
23 like Toronto, right? That was part of the
24 proposal?

25 A. That was part of the proposal,

1 yes. I understood that.

2 74 Q. You did not support that; is that
3 fair to say?

4 A. No, that's not -- that's not true.

5 75 Q. I think I might have said to you
6 that -- I might have asked you whether you were
7 aware that the plan in February 2012 was a
8 phase-down over five years. If I said that, I
9 meant to say over three years, with a one hundred
10 million dollar steady state --

11 A. I did not have that level of
12 detail.

13 76 Q. You didn't -- you weren't briefed
14 on anything about what was actually to be done with
15 the Slots at Racetrack Program revenue share,
16 correct?

17 A. No, that was not the focus of the
18 briefings.

19 77 Q. Okay. Mr. Keegan, and I will be
20 examining Mr. McMeekin in a few weeks, but
21 Mr. Keegan, who I have examined, testified that he
22 and Mr. McMeekin became aware of the decision to
23 terminate the Slots at Racetrack Program -- excuse
24 me, the Slots at Racetrack Program revenue share
25 without transition funding at a fundraiser for

1 Minister Duncan on or about February 16.

2 MR. RATCLIFFE: Sorry, who is --

3 BY MR. LISUS:

4 78 Q. Mr. Keegan testified to that.

5 A. I have no knowledge of that.

6 79 Q. Okay. Do you recall when you
7 personally became aware of what -- excuse me, let
8 me rephrase that.

9 Do you recall when you personally
10 became aware of this decision to cancel the Slots
11 at Racetrack Program revenue sharing with zero
12 transition assistance?

13 A. I don't remember exactly when I
14 did.

15 80 Q. But you do remember becoming aware
16 of it?

17 A. I remember as this discussion
18 evolved becoming aware, particularly because of Ted
19 McMeekin's discussions with all of us, that he was
20 very concerned about the impact on the horseracing
21 industry. That's what I recall.

22 81 Q. And he had -- when you say "all of
23 us," he had discussions with you?

24 A. Well, I think he had discussions
25 with other members as well, but I particularly

1 remember that Ted was very worried about the impact
2 on the horseracing industry.

3 82 Q. And one of the impacts that he was
4 worried about, as I understand it, ma'am, was the
5 impact of the decision on the breeders of
6 standardbred horses, correct?

7 A. I don't remember him talking about
8 it in that specificity. I remember him talking
9 about the horseracing industry.

10 83 Q. Okay. Was he upset?

11 A. Yes.

12 84 Q. And did he feel that he had been
13 excluded from the decision?

14 A. You'll have to ask him that.

15 85 Q. The only reason I ask that is
16 because there's emails which you may or may not
17 have seen that say Minister McMeekin feels like he
18 was left out in the cold.

19 MR. RATCLIFFE: Well --

20 THE WITNESS: But you'll have to ask
21 him.

22 MR. RATCLIFFE: Mr. McMeekin is going
23 to be examined so you'll have your opportunity to
24 ask how he feels or how he felt.

25 MR. LISUS: Thank you.

1 BY MR. LISUS:

2 86 Q. You do recall though, ma'am, that
3 in the spring of 2012 there was an announcement by
4 the government that the revenue sharing with the
5 horseracing industry from the Slots at Racetrack
6 Program would be terminated effective 2013? Do you
7 remember becoming aware of that?

8 A. I do remember that that became
9 public, yes.

10 87 Q. And is it your recollection that
11 you became aware of that when the announcement was
12 made?

13 A. Perhaps a bit before, but around
14 the same time, yeah.

15 88 Q. And that would be in or about
16 March of 2012?

17 A. Yeah. Again, I can't -- I can't
18 give you the exact dates, but certainly my
19 understanding of the issue had evolved to include
20 this impact on the horseracing industry by that
21 time.

22 89 Q. Did you know anything about the
23 horseracing industry in Q1 2012? And that's not a
24 trick question. I'm presuming you didn't. It
25 wasn't your --

1 A. No. I mean, I did not have any
2 personal experience of the horseracing industry.

3 90 Q. And therefore I presume you didn't
4 know anything about the breeding cycle of a race
5 horse?

6 A. No, I learned about that but I
7 didn't know.

8 91 Q. You learned. You learned about
9 that when you became Minister of Agriculture and
10 were working with the transition panel; is that
11 fair?

12 A. Well, I think that as this
13 discussion evolved, one of the factors in the
14 concern around the support for the horseracing
15 industry was the planning time that's needed
16 because of a three- to five-year cycle, and so I
17 became aware of it. But yes, I was more aware of
18 it when I became Minister of Agriculture.

19 92 Q. Right. And did you become aware
20 of that from information provided to you by
21 Mr. Snobelen and Mr. Wilkinson, or was it OMAFRA
22 staff? Do you recall?

23 A. It's probably all of the above.

24 93 Q. Did you work closely with
25 Mr. Snobelen with respect to his work to mitigate

1 the impacts of the decision to terminate revenue
2 sharing with zero transition assistance?

3 A. Well, it wasn't a day-to-day
4 working relationship, but certainly I felt -- I
5 felt comfortable talking to him or John Snobelen --
6 sorry, or John Wilkinson or Elmer Buchanan. They
7 were all very helpful.

8 94 Q. Was it your understanding, ma'am,
9 in the spring of 2012, and when you became aware
10 that the decision had been made to cancel revenue
11 sharing with zero transition assistance, that
12 Mr. Drummond had made that recommendation?

13 A. I knew that -- I knew that the
14 Drummond report had been critical of the SARP, but
15 I couldn't have told you exactly what his
16 recommendation was. But I knew -- I knew and had
17 scanned the Drummond report to the point that I
18 knew that the SARP was not seen as a positive
19 policy.

20 95 Q. Right. So, you aren't able to say
21 today whether or not you believed, based on
22 information from Finance or OLG, that Mr. Drummond
23 recommended the termination of SARP?

24 A. Correct. I wouldn't have been
25 able to say that specifically.

1 96 Q. Okay. Were you under the
2 understanding in the 1st Quarter of 2012 that prior
3 to the decision to terminate revenue sharing with
4 zero transition assistance, there had been
5 extensive consultation with stakeholders in the
6 industry?

7 A. I wouldn't have been able to say
8 how much consultation.

9 97 Q. And are you able to tell me
10 whether you were told as a Cabinet Minister that
11 there was consultation with industry?

12 A. I don't recall.

13 98 Q. Were you under the impression in
14 the 1st Quarter of 2012 that there had been
15 consultation with experts about the decision to
16 terminate SARP revenue share with zero transition
17 assistance?

18 A. Again, I don't recall having any
19 knowledge of the level of consultation.

20 99 Q. Was it your expectation that there
21 had been extensive consultation with industry
22 stakeholders before the decision was made to
23 terminate SARP revenue share with zero transition?

24 A. I don't think I had an opinion on
25 that one way or another on this issue.

1 100 Q. Okay. And I take it what you're
2 telling me is that this wasn't in your area of
3 responsibility as a Minister?

4 A. Exactly. Exactly.

5 101 Q. Did you become aware, ma'am, that
6 OLG had conducted an extensive consultation process
7 with industry stakeholders about the modernization
8 recommendations it was considering?

9 MR. RATCLIFFE: Would you just clarify
10 what time period you're talking about there.

11 BY MR. LISUS:

12 102 Q. 2011, 2010.

13 A. Again, I just don't know the level
14 of consultation. I don't know what the process
15 was.

16 103 Q. Were you aware in the spring of
17 2012 who the regulator of the horseracing industry
18 was?

19 A. I probably couldn't have said, but
20 -- yeah. What I learned was the horseracing
21 industry is very complicated and the areas of
22 responsibility are very complicated.

23 104 Q. Right.

24 A. And so I don't think I could have
25 said in spring of 2012 exactly who regulated what.

1 105 Q. Were you aware in the spring of
2 2012 how much the Slots at Racetrack Program shared
3 with the horseracing industry in terms of
4 commissions from net wins at slot machines?

5 A. So I -- quite early on in this
6 discussion once I became -- you know, once the
7 Slots at Racetrack Program was being discussed --

8 106 Q. And that's after the decision was
9 made, 2013 or '12?

10 A. Again, the dates. I mean, the
11 discussion started in 2012 as a discussion around
12 the modernization of gaming. As that discussion
13 evolved, the Slots at Racetrack Program became part
14 of it and I became much more aware of that, and
15 around that time, the -- I think it's \$345 million
16 was -- that became a number that I was aware of.

17 107 Q. And I appreciate that. I'm just
18 clarifying that you became aware of this number
19 after the decision to terminate had been made?

20 A. I believe so.

21 108 Q. Right.

22 A. I believe so.

23 109 Q. And were you told, ma'am, that
24 \$345 million were public funds?

25 A. My understanding was that that 345

1 million was money that came from the slot machines,
2 so it was money that people bet, yeah.

3 110 Q. But was it your understanding that
4 those funds belonged to the Province of Ontario?

5 MR. RATCLIFFE: Well, aren't you asking
6 a legal question here?

7 MR. LISUS: No, I'm asking what
8 Ms. Wynne's understanding --

9 MR. RATCLIFFE: Public funds belong to
10 the Province of Ontario? Are you talking about
11 something different?

12 MR. LISUS: Well, there's rules about
13 what are public funds, Mr. Ratcliffe. It's not
14 just what people say are public funds. That's one
15 of the features of a democracy.

16 MR. RATCLIFFE: As long as it's not a
17 legal question you're asking.

18 BY MR. LISUS:

19 111 Q. Did you understand, ma'am, in 2012
20 and '13 and '14 that the revenue shared with the
21 horseracing industry generated from slot machines
22 were funds that belonged to Ontario?

23 A. So, I didn't think of that in
24 those terms. My understanding was that there was
25 an understanding that that \$345 million was money

1 that would flow to the horseracing industry. That
2 was the level of my understanding.

3 112 Q. That was the extent?

4 A. Absolutely.

5 113 Q. You didn't have a belief or
6 understanding as to whether or not they were
7 government funds or public funds; is that fair?

8 A. What I believed was that there was
9 the ability to develop policy that would allow
10 those funds to be used differently than they were
11 being used. So I just didn't think of it in terms
12 of whether it was public or private money.

13 114 Q. Okay. Fair to say then, if I'm
14 understanding you, that you didn't believe that
15 these were government funds?

16 A. I didn't think of it in that term.
17 I didn't frame the discussion in that way, so I
18 can't say that your statement is accurate because
19 that is not how I framed it.

20 115 Q. Is it fair to say that what you
21 understood is that these were monies generated
22 by --

23 MR. RATCLIFFE: Well, Mr. Lisus,
24 haven't you really asked this question and the
25 Premier has answered the question. You keep -- you

1 reframe it a little bit but she's answered it. She
2 said she didn't have that kind of concept or she
3 didn't view it differently, so I'm not quite sure
4 why you're pursuing that.

5 MR. LISUS: Well, you don't have to be
6 sure why I'm pursuing it. That's the beauty of
7 cross-examination, Mr. Ratcliffe. But if you're
8 instructing Ms. Wynne not to answer, I'll take your
9 refusal and continue.

10 R/F MR. RATCLIFFE: I think she's answered
11 the question, so...

12 BY MR. LISUS:

13 116 Q. Were you aware, ma'am, that the
14 345 million -- which was the number in 2011 but not
15 every year; you appreciate that, right?

16 A. Yeah, it would change year to
17 year.

18 117 Q. And it would change depending on
19 the net win from slot machines?

20 A. Yes.

21 118 Q. Were you aware that the monies,
22 those monies, were audited every year by KPMG and
23 the Auditor General?

24 A. Certainly by the Auditor General
25 and, you know, my understanding was that as we were

1 in -- we were in a pretty deep deficit situation,
2 that our government was looking at everything, as
3 Don Drummond had suggested we do and as we knew we
4 needed to do, we were looking at everything that
5 could help us to address our deficit.

6 And so my understanding of that \$345
7 million is that it could be part of a plan to
8 address the deficit because it would flow to the
9 provincial treasury, if not -- if there weren't a
10 policy for it to flow elsewhere.

11 119 Q. Can you and I agree on this,
12 Ms. Wynne, that because the government is in a
13 deficit, it isn't entitled to characterize monies
14 as public funds belonging to it if they are not
15 public funds belonging to it, correct?

16 MR. RATCLIFFE: Well, I'm not sure I
17 understand your question. What is your question?
18 I mean --

19 BY MR. LISUS:

20 120 Q. The fact that the government is in
21 a deficit doesn't entitle the government to take
22 property from people, right? Can we agree on that?

23 MR. RATCLIFFE: Well, it depends on
24 what the context is.

25 MR. LISUS: Please.

1 MR. RATCLIFFE: Well, I just want --

2 MR. LISUS: Don't give me answers.

3 MR. RATCLIFFE: I'm not giving you an
4 answer.

5 MR. LISUS: Then just tell the witness
6 not to answer and I'll ask the next question, or
7 let the witness answer. I don't want to examine
8 you, Mr. Ratcliffe.

9 MR. RATCLIFFE: Please answer the
10 question then.

11 BY MR. LISUS:

12 121 Q. Do you remember the question?

13 A. Um-hmm.

14 122 Q. Okay.

15 A. I don't have an opinion on it.

16 123 Q. So to be clear, you don't have an
17 opinion on the question that just because the
18 government has a deficit, it is not entitled to
19 take funds that aren't public funds and property?

20 R/F MR. RATCLIFFE: I'm going to object.
21 That's not a proper question.

22 BY MR. LISUS:

23 124 Q. Are you aware that these, the
24 funds that we are talking about, being the
25 percentage of net win from slot machines shared

1 with the horseracing industry, were identified by
2 OLG every year as a commission paid as an operating
3 expense? Did you know that?

4 A. I didn't know that that was the
5 language used.

6 125 Q. Did you know that the Auditor
7 General every year reviewed the financial
8 statements of OLG and confirmed that these monies
9 were properly accounted for as commissions paid as
10 an operating expense by OLG?

11 A. Well, again, I'm not aware. I'm
12 not aware that that's how they were characterized.

13 126 Q. Okay. Now that you are aware that
14 that is how they were characterized by OLG and its
15 auditors and the Auditor General, can you and I
16 agree that they are not public funds?

17 MR. RATCLIFFE: Well, perhaps you can
18 take us to those documents, Mr. Lisus, if you're
19 going to be referring to them in terms of what they
20 said exactly.

21 MR. LISUS: Well, I have examined
22 multiple witnesses on the financial statements of
23 OLG as well as the consolidated financial
24 statements of the province in which these monies
25 are identified as operating expenses.

1 MR. RATCLIFFE: You're asking Ms. Wynne
2 to, you know, review something that you say is
3 there and we're not sure that it's actually in the
4 document that you're talking about, or if it is,
5 please take us to the document and again she may
6 not be in a position at all to --

7 BY MR. LISUS:

8 127 Q. I'm not going to take the time to
9 do that. I'm going to ask you to assume for the
10 purposes of my question, Ms. Wynne, that the
11 financial statements of OLG every single year
12 characterized the revenue shared with the
13 horseracing industry as a commission, okay? Would
14 you assume that?

15 R/F MR. RATCLIFFE: Well, I'm going to
16 refuse. I don't see the basis for pursuing this
17 with her. You're asking her to speculate about
18 what and assume -- make certain assumptions that,
19 you know, that you're putting forward but you're
20 not prepared to take her to the document.

21 MR. LISUS: I'll take her to the
22 document, if you want, Mr. Ratcliffe.

23 MR. RATCLIFFE: Well, again, I mean,
24 she has no familiarity with this. She came in,
25 she's indicated in the chronology leading up to

1 this that she took on certain responsibilities and
2 became familiar with the program. You're asking
3 her to speculate and she's not the proper witness
4 to take --

5 BY MR. LISUS:

6 128 Q. You are obviously aware that every
7 year public accounts of Ontario reviews and reports
8 on the financial statements of government business
9 enterprises?

10 A. Yes, of course.

11 129 Q. You are also aware that OLG is a
12 government business enterprise?

13 A. Yes.

14 130 Q. So, I'm showing you the financial
15 statements of government business enterprises,
16 trust and miscellaneous statements for the year
17 2011/2012, which include the financial statements
18 of OLG.

19 MR. ROSENBERG: Do you have a copy for
20 us?

21 MR. LISUS: No.

22 MR. RATCLIFFE: Mr. Lisus, I'm not sure
23 where this is going, and you're asking her to look
24 at financial statements and --

25 MR. LISUS: Let me see if I can

1 truncate this, Mr. Ratcliffe. This is not new.
2 Multiple witnesses have been examined about the
3 fact that OLG, KPMG and the Auditor General
4 accounted for these funds as operating expenses in
5 the nature of a commission.

6 MR. RATCLIFFE: And if multiple
7 witnesses have done that, there is no need to
8 pursue this with the Premier when she has no
9 familiarity with these issues.

10 MR. LISUS: I'm asking the Premier's
11 understanding because the record indicates that the
12 Premier understood that the revenue shared with the
13 horseracing industry, pursuant to the Slots at
14 Racetrack Program, were public funds. That's all.

15 MR. RATCLIFFE: So, what is your
16 question then in terms of --

17 MR. LISUS: The Auditor General and
18 KPMG don't appear to have considered these public
19 funds.

20 MR. RATCLIFFE: Then you've had your
21 testimony, you've had your evidence, and I don't
22 see why you're trying to pursue this with
23 Ms. Wynne.

24 MR. LISUS: I'm just trying to get the
25 basis for the Premier's understanding. As I

1 understand her from the record, these monies were
2 public funds.

3 BY MR. LISUS:

4 131 Q. And as I understand it, ma'am,
5 you're saying you don't have an understanding one
6 way or the other?

7 A. Yeah. I mean, it seems to me
8 you're asking me to weigh in on the fundamental
9 legal understanding of gambling revenue in the
10 province, and I just don't have the expertise to do
11 that.

12 132 Q. All right.

13 A. Yeah.

14 MR. RATCLIFFE: Well, she indicated she
15 didn't have the expertise to do it.

16 BY MR. LISUS:

17 133 Q. Let me ask you this. Is it the
18 position of Ontario that these revenues are public
19 funds?

20 MR. RATCLIFFE: Well, I guess it
21 depends what you mean by public funds. If you want
22 to put your question in writing, and we'll be
23 taking the position that the government was able to
24 make decisions in terms of how the monies would be
25 allocated, but I'm not sure what -- I'm not sure

1 what your question really means.

2 MR. LISUS: Well, Mr. Ratcliffe, in
3 many, many documents and many witnesses have said
4 these funds were public funds, they were a subsidy,
5 and so my question to you, sir, is, is it Ontario's
6 position that these are public funds or public
7 monies.

8 MR. RATCLIFFE: Well, this isn't a
9 discovery. You are here to conduct a
10 cross-examination of Ms. Wynne. You understand our
11 position in terms of the fact that this was a
12 policy decision and the government was permitted to
13 terminate SARP.

14 Getting off into a discussion of what
15 you mean by "public funds," in quotation marks, I'm
16 not prepared to answer that.

17 BY MR. LISUS:

18 134 Q. Let me ask you this, ma'am. Was
19 it your view when you were -- well, you still are
20 the Premier. Was it your view when you had
21 responsibility for ameliorating the impact of the
22 decision on the horseracing industry that the
23 revenues shared with the industry pursuant to SARP
24 was a subsidy, a government subsidy?

25 MR. RATCLIFFE: Well, again, what do

1 you mean by subsidy? That's really a legal
2 question, isn't it? You're getting into --

3 MR. LISUS: I don't think so.

4 MR. RATCLIFFE: You keep asking the
5 same questions over and over again, Mr. Lisus.
6 Ms. Wynne -- you know, you used public monies, you
7 used subsidies --

8 MR. LISUS: I'm just using the
9 government's terms, sir.

10 MR. RATCLIFFE: Well...

11 MR. LISUS: That's the term the
12 government used in thousands of documents and
13 statements, and I can take the time and show Ms.
14 Wynne them, but I don't think this is
15 controversial. This is a characterization - let me
16 finish - in the House of Commons. This is a
17 characterization in press releases. This is a
18 characterization in documents. My simple question
19 is --

20 MR. RATCLIFFE: Then you have your
21 answer.

22 MR. LISUS: Let's just answer the
23 question.

24 MR. RATCLIFFE: You have your answer.

25 MR. LISUS: Look, just let me ask the

1 question, you can refuse it and we'll deal with it,
2 okay?

3 MR. RATCLIFFE: Okay.

4 THE WITNESS: My understanding, as it
5 evolved, as I came to understand the horseracing
6 industry better, was that there needed to be
7 support by government of the horseracing industry,
8 that SARP had been part of that, that the break on
9 the pari-mutuel tax had been part of that, but that
10 the horseracing industry in Ontario and in other
11 jurisdictions could not survive without support.

12 BY MR. LISUS:

13 135 Q. Did you also --

14 A. And there were various words used
15 for that support.

16 136 Q. Did you also understand that the
17 horseracing industry supported the government by
18 allowing it to install slot machines in privately
19 owned racetracks? Did you understand that?

20 A. My understanding has always been
21 and remains, and I believe it to be true, that the
22 net support flowed from government to the
23 horseracing industry, that it's a relationship, but
24 that the net benefit flowed from the government to
25 the horseracing industry.

1 137 Q. You are aware, ma'am, that the
2 slot machines were installed in racetracks which
3 are private property, right?

4 A. Yes.

5 138 Q. You are aware that the government
6 needed the permission of racetrack operators to
7 install their slot machines on their property?

8 A. Yes.

9 139 Q. You are aware that the slot
10 machines were installed on racetrack operators'
11 private property because municipalities wouldn't
12 permit them to be located in municipalities? You
13 know that, right?

14 A. Correct.

15 140 Q. And you are aware that the
16 government kept 75 percent of the net win from the
17 slot machines at racetracks, right?

18 A. I knew that it was a substantial
19 percentage, yes.

20 141 Q. So can you and I agree, ma'am,
21 that the racetrack and horseracing industry
22 supported government by permitting slot machines on
23 their property?

24 A. The net support flowed from
25 government to the horseracing industry.

1 142 Q. You say net support. Government
2 got 75 cents of every dollar?

3 A. But there were other supports in
4 place for the horseracing industry. The
5 horseracing industry, as I understand it, has not
6 been for many years able to support itself and that
7 there needed to be a subsidy, needed to be a
8 support.

9 143 Q. And the support, and you're
10 referring to -- the other support you're referring
11 to or subsidy is the pari-mutuel tax reduction?

12 A. Correct.

13 144 Q. And can we agree or will you agree
14 with me, Ms. Wynne, that the Slots at Racetrack
15 Program was substantially more profitable than
16 forecast at inception? Do you know?

17 A. I actually don't -- I actually
18 don't know what the original projection was.

19 145 Q. Are you prepared to agree with me
20 that the government derived a very substantial
21 benefit from the Slots at Racetrack Program?

22 MR. RATCLIFFE: Do you know the answer
23 to that?

24 THE WITNESS: Sorry?

25 MR. RATCLIFFE: Do you know the answer

1 to that?

2 THE WITNESS: Well, I know that there
3 was -- I know that there was a benefit but I
4 actually can't give you the total number.

5 BY MR. LISUS:

6 146 Q. Billions of dollars, you know
7 that?

8 A. Yes, I know it was substantial.

9 147 Q. And the only reason the government
10 got those billions of dollars is because it
11 contracted with racetrack operators to put slot
12 machines at racetracks, right?

13 A. Correct.

14 148 Q. And have you ever reviewed those
15 contracts that are called siteholder agreements?

16 A. No.

17 149 Q. Are you aware that those contracts
18 obligated racetrack operators and horse people to
19 conduct their affairs in a way to maximize the
20 success of the government's slot machine business?

21 A. I am not aware of that.

22 MR. RATCLIFFE: I think she said she
23 wasn't aware or familiar with the contracts.

24 BY MR. LISUS:

25 150 Q. You are aware, however, that there

1 was a commercial agreement memorialized in
2 contracts pursuant to which government put its slot
3 machines in racetracks, right? You know that much?

4 A. I know there was a relationship.
5 I am not aware of the details of contracts.

6 151 Q. I'm not asking you about the
7 details of the contracts. You are aware that there
8 was a private contract between government and
9 racetrack operators pursuant to which slot
10 machines --

11 A. I knew that there was an
12 understanding. I knew that there was a
13 relationship that allowed that money to flow.

14 152 Q. You knew that this money didn't
15 flow pursuant to a transfer payment agreement,
16 correct?

17 A. Correct.

18 153 Q. You knew that this money didn't
19 flow pursuant to the government job program,
20 correct?

21 A. But what -- well, yeah. I mean,
22 what I knew was that there was a policy that was in
23 place that allowed this money to flow. I did not
24 know the details of -- any of the details of the
25 relationship, but I knew that there was a policy

1 that had put the SARP in place and that that was
2 the policy that we were reviewing.

3 154 Q. And when you say "there was a
4 policy," what you're telling me is that there was a
5 government intention or plan to contract with
6 operators to have slot machines in their premises
7 and share the revenue from them with the
8 horseracing industry and municipalities, and the
9 government would keep a cut, right?

10 A. And that that policy had been
11 generated by government.

12 155 Q. Okay. And negotiated with
13 racetrack operators?

14 A. Well, again, I don't know any of
15 the details of the negotiation. I know there was a
16 government policy that had been initiated.

17 156 Q. I want to ask you to think back to
18 the 1st Quarter of 2012, okay? Do you have any
19 recollection of a February 8 Cabinet meeting at
20 which the OLG modernization was one of a number of
21 agenda items discussed?

22 A. I know that it happened. What are
23 you asking me? Are you asking me --

24 157 Q. Do you remember being there?

25 A. Being at that meeting?

1 158 Q. Yeah.

2 A. I have a general memory of
3 discussing the issues but --

4 159 Q. Discussing modernization?

5 A. Yeah.

6 160 Q. And do you recall after that
7 meeting, around February the 13th, 2012, in the
8 pre-budget period, Minister Duncan making a speech
9 at the Economic Club?

10 A. I don't remember. I don't
11 remember from that time. I mean, I have seen the
12 document since, but I don't -- I don't recall and I
13 wasn't there. I wasn't at that speech.

14 161 Q. All right. I want to just show
15 you the speech that Mr. Duncan gave --

16 MS. LA HOREY: Do you have a copy for
17 us?

18 MR. LISUS: I just gave you one.

19 MR. MILAT: It's Exhibit 18 to
20 Mr. Shortill.

21 MS. LA HOREY: Do you have a copy for
22 us?

23 MR. MILAT: I don't.

24 THE WITNESS: Do you want me to look at
25 it?

1 BY MR. LISUS:

2 162 Q. At page 4 of the speech, at the
3 bottom, there is reference to:

4 "Since 1998 Ontario taxpayers
5 have been subsidizing horseracing in
6 Ontario to the tune of 345 million a
7 year."

8 Do you see that?

9 A. Um-hmm. Yes.

10 163 Q. If you would just read to the
11 bottom of the page, to yourself.

12 A. (Witness reads document).

13 164 Q. Just let me know when you're done.

14 A. Yes.

15 165 Q. Does this refresh your memory at
16 all, Mr. Duncan's speech?

17 A. Well, what this refreshes is my
18 memory, and also what I said earlier, that I knew
19 that we were looking at all of the programs, all of
20 the policies in government because we were dealing
21 with an -- earlier in the speech he talks about a
22 \$16 billion deficit. I mean, the fact is we were
23 looking at everything to figure out if there were
24 ways that we could address that deficit.

25 So it was in that context that he was

1 talking about.

2 166 Q. I appreciate that, but do you
3 recall hearing about this speech or do you --

4 A. I don't recall hearing about this
5 specific speech, but I certainly recall that this
6 was the -- this was the pre-budget discussion that
7 we were having.

8 167 Q. All right. And as of February
9 13th, 2012, Ms. Wynne, can you tell me whether you
10 were aware of a decision having been made to
11 terminate the Slots at Racetrack Program revenue
12 share with zero transition?

13 A. So, that's a decision only Cabinet
14 would have made, so it just depends on the timing
15 of the Cabinet.

16 168 Q. The Cabinet meeting was February
17 8th.

18 A. 8th, so again, I can't tell you
19 that I -- that I was fully aware of the specifics
20 of the transition.

21 169 Q. Okay. Or anything about the
22 transition at all, right?

23 A. Only that at that point I would
24 have been starting to be aware that there needed to
25 be a transition, there needed to be support.

1 170 Q. Okay.

2 A. Because the horseracing industry
3 was dependent on support.

4 171 Q. Right. And when you say
5 "dependent on support," you are saying dependent on
6 the revenue, its portion of the revenue share?

7 A. Dependent on support.

8 172 Q. I'm not going to quibble with you
9 about the correctness of the characterization of
10 support. All I'm confirming with you is that when
11 you say "support," you're referring to that portion
12 of revenue shared with the horseracing industry,
13 right?

14 A. Actually I'm not.

15 173 Q. Okay.

16 A. What I'm saying is that my
17 understanding at this point was that there had to
18 be some way of supporting the horseracing industry,
19 otherwise it would not thrive in the province.

20 174 Q. In February 2013?

21 A. Well, that was my evolving
22 understanding. I can't tell you if it was in
23 February or March or April, exactly when that --

24 175 Q. It's about then.

25 A. When that understanding matured,

1 but my understanding evolved to the point where
2 there needed to be support for the horseracing
3 industry because it could not sustain itself.

4 176 Q. Right. And it could not sustain
5 itself with the termination of the revenue sharing
6 without some replacement of those funds, correct?

7 A. That became -- that came to be my
8 understanding, yes.

9 177 Q. Okay. And did that come to be
10 your understanding in 2014 or later in 2012?
11 Because you weren't Minister of Agriculture until
12 '13 so I presume you weren't paying attention to
13 this.

14 A. No, but I can tell you that by the
15 time spring and the fall, Premier McGuinty stepped
16 down in the fall of 2012, and previous to that I
17 had come to understand that there was a real
18 problem in terms of the horseracing industry if
19 there weren't a better support put in place.

20 178 Q. Right.

21 A. With the cancellation of SARP.

22 179 Q. Okay. And the problem included a
23 significant economic impact on the breeders of race
24 horses, correct?

25 A. It was the whole ecosystem, as I

1 understood it.

2 180 Q. Which included the breeders of
3 race horses?

4 A. It would have included all of the
5 various -- you know, one of the groups of people
6 that I remember having specific conversations about
7 were the people who worked in the barns, you know,
8 who had a limited skill set, who might not be able
9 to have the transferrable skills to go to other
10 jobs. So there were various parts of the ecosystem
11 in the horseracing industry that I understood to be
12 at risk.

13 181 Q. Okay. And I'm simply confirming
14 that among those parts of the ecosystem you
15 understood were the breeders of the actual horses
16 that raced at racetracks, right?

17 A. Well, they're part of the
18 ecosystem of horseracing.

19 182 Q. The transition panel describes
20 them as the heart of the horseracing industry. Do
21 you agree with that?

22 A. Well, with no horses, there's no
23 industry.

24 183 Q. Right. In his speech, it's at
25 page 5, about a third of the way down, Minister

1 Duncan says:

2 "Government needs to remove
3 itself from lines of business that
4 are not central to the expectations
5 of Ontarians. Our job is to ensure
6 that they are done the Liberal way,
7 with deliberation, compassion and a
8 steady hand."

9 Do you see that?

10 A. Yep. I do, yes.

11 184 Q. Do you agree that it is incumbent
12 upon government to -- if it's going to make and
13 implement decisions, to do so in a fully considered
14 way?

15 A. Yes.

16 185 Q. And do you also agree that it's
17 incumbent upon government to make and implement
18 decisions with an understanding of the consequences
19 of those decisions on stakeholders?

20 A. Yes, to the greatest degree
21 possible.

22 186 Q. And do you agree it should also
23 implement those decisions with compassion,
24 particularly if there is expected to be harmful
25 consequences?

1 A. I do, and when there is an
2 implementation of a policy where that is not the
3 case, it is government's responsibility to --

4 187 Q. Fix it?

5 A. -- work to ameliorate that, yes.

6 188 Q. And would you also agree that it
7 is incumbent upon government when it is
8 implementing a decision that will have or may have
9 harmful consequences to be honest in its
10 communication about that decision?

11 A. It's always my policy that we be
12 honest, absolutely.

13 189 Q. Were you aware, ma'am, in the
14 spring of 2012 that the Slots at Racetrack Program
15 was identified and disclosed in every provincial
16 budget?

17 A. Sorry, say that again?

18 190 Q. Were you aware in the spring of
19 2012 that the Slots at Racetrack Program was
20 described and identified in every provincial
21 budget?

22 A. Well, it would have been on the
23 revenue side, yes.

24 191 Q. And were you aware in the spring
25 of 2012 that the Slots at Racetrack Program was

1 identified and described in every OLG annual
2 report?

3 A. I can't -- I can't say that I
4 would have explicitly been aware of that.

5 192 Q. Were you aware, ma'am, in the
6 spring of 2012 that in the fall of 2010 the Ontario
7 Racing Commission had issued press releases and
8 notices to the industry about the Ontario racing
9 program which promised a certain number of live
10 race dates going forward?

11 A. I wasn't aware of that.

12 193 Q. Okay. We can, however, agree,
13 based on what we've just said, that the Slots at
14 Racetrack Program wasn't a secret?

15 A. Correct.

16 194 Q. Do you recall being aware of
17 Mr. Snobelen making a statement and broadcasting
18 it, or having it broadcast on Ontario News Watch on
19 February 16, 2012, in reaction to Mr. Duncan's
20 speech?

21 A. I wasn't aware at the time.

22 195 Q. Okay. You have --

23 A. I have subsequently seen that.

24 196 Q. And have you seen it in the
25 context of preparing to give testimony here today,

1 or did you see it in the context of working with
2 the panel in 2013 and '14 to ameliorate the impacts
3 of the decision?

4 A. I don't remember seeing it as part
5 of my work with the panel.

6 197 Q. Just for the purposes of giving
7 evidence here today?

8 A. Yes.

9 198 Q. The speech of Mr. Duncan has
10 already been marked, I'm not going to re-mark it.

11 A. So I can give that back to you?

12 199 Q. Yes.

13 A. (Witness reads document). Is
14 there a particular part you want me to read?

15 200 Q. No. Have you read it?

16 A. I have read it before. If you
17 want me to read it again, I'm doing it now.

18 MR. RATCLIFFE: Take a moment.

19 THE WITNESS: Yeah, yeah. (Witness
20 reads document). Um-hmm.

21 BY MR. LISUS:

22 201 Q. So, Mr. Snobelen expressed his
23 views on what he perceived to be a plan to end the
24 revenue sharing, right?

25 A. Correct.

1 202 Q. But as of February 16th, such a
2 plan had not been announced, right?

3 A. Correct.

4 203 Q. And indeed, it's not announced
5 until March 2012, right?

6 A. Correct.

7 204 Q. Now, you are aware, as a result of
8 preparing to give your evidence here today, that
9 certain radio attack ads were run on February 26th,
10 2012, correct?

11 A. Yes.

12 205 Q. And when did you become aware of
13 those ads?

14 A. I honestly don't remember those
15 ads. I don't remember ever hearing them and I
16 don't remember them being developed. I honestly
17 don't recall from that time.

18 206 Q. You have seen them?

19 A. I have seen them.

20 207 Q. And I just want to ask you about
21 them because you've now had the benefit of seeing
22 them and you've also had the benefit of reviewing
23 documents.

24 In February 2012, remind me, ma'am, you
25 were a Cabinet Minister and your portfolio was?

1 A. Municipal Affairs and Housing and
2 Aboriginal Affairs.

3 208 Q. And Ms. Broten was a Cabinet
4 colleague of yours?

5 A. She was. She was Minister of
6 Education.

7 209 Q. I just want to show you these ads.
8 And before we look at the actual ad, I want to ask
9 you to look at an email, which is CR38429, Exhibit
10 13 on the examination of Mr. Shortill.

11 A. Okay. Which part am I looking at?

12 210 Q. You see there's an email sequence
13 there?

14 A. Yes.

15 211 Q. Now, we know who Laurel Broten is,
16 she was Minister of Education. Who is Jon Wypych?

17 A. I don't know.

18 212 Q. Does it refresh your recollection
19 if I suggested to you he was a legislative
20 assistant or parliamentary assistant to Minister
21 Duncan?

22 A. Again, I don't know him, but
23 that's entirely possible.

24 213 Q. Okay.

25 A. There are a lot of staff.

1 214 Q. Right.

2 A. I don't know them all.

3 215 Q. Did you know Darcy McNeill?

4 A. I did know Darcy.

5 216 Q. Do you recall what Darcy McNeill's
6 role was?

7 A. He was -- he was one of Dwight's
8 staffers. He might have been the Chief of Staff,
9 I'm not sure. I don't remember.

10 217 Q. So Melanie Wright, did you know
11 her?

12 A. I know Melanie Wright, yes. I
13 don't know what her role -- I don't know all the
14 roles that these people were in in Dwight's shop.

15 218 Q. And Aly, A-L-Y, Vitunski,
16 V-I-T-U-N-S-K-I?

17 A. Yes, at the time I wouldn't have
18 known her but she worked in my government as well.

19 219 Q. In Finance?

20 A. Later. No, she was -- she became
21 Chief of Staff in Indigenous Relations and Melanie
22 Wright worked in my office, so I know these people.

23 220 Q. All right. Are they senior
24 people? You don't know Mr. Wypych, but McNeill and
25 Wright and Vitunski?

1 A. They wouldn't have been senior at
2 this point. Certainly Aly wouldn't have been at
3 this point.

4 221 Q. Now, Ms. Broten sends an email to
5 Mr. Wypych and others about the decision to --
6 well, there's no decision, it's February 26th, and
7 it's about the \$345 million a year, as she calls
8 it, horseracing subsidies started by the Hudak PCs.
9 Do you see that?

10 A. Um-hmm.

11 MR. RATCLIFFE: You have to say yes.

12 THE WITNESS: Yes, I do, I do. Sorry.

13 BY MR. LISUS:

14 222 Q. And she goes on to say:
15 "Tim Hudak would choose to
16 protect a few wealthy racetrack
17 owners while seniors and
18 kindergarten students are left in
19 the dust."

20 Do you see that?

21 A. Yes.

22 223 Q. You and I can agree, ma'am, that
23 the revenue shared with the horseracing industry
24 did not only benefit a few wealthy racetrack
25 owners, correct?

1 A. This is a political ad, that's all
2 I can agree with you on. This is a political ad.

3 224 Q. Let's take a look at the actual
4 ad. It's the second document.

5 A. Well, she has the link to the ad
6 in the email.

7 225 Q. Yes. And this is a political ad
8 promulgated by a Cabinet Minister, correct?

9 A. She's a member of the Liberal
10 Government. She is a Liberal MPP.

11 226 Q. She's also a Cabinet Minister?

12 A. Yes, yes.

13 227 Q. Of a very senior Cabinet
14 portfolio?

15 A. Correct.

16 228 Q. And here's the copy from the two
17 radio ads. Why don't you just take a minute and
18 read them. It's CRE81193.

19 A. (Witness reads document). Okay.

20 229 Q. Now, this is February 27, before
21 there's been an announcement of any decision,
22 correct?

23 A. Correct.

24 230 Q. And are you aware that February is
25 right in the breeders' breeding season?

1 A. I wouldn't have been aware of
2 that, no.

3 231 Q. And the radio ad says:

4 "Did you know that Tim Hudak's
5 PCs started a secret subsidy..."

6 Pausing there, there was nothing secret
7 about the Slots at Racetrack Program, correct?

8 A. This is a political ad in the
9 run-up to a budget that could have been a run-up to
10 an election, so I -- I mean, I'm not going to
11 comment on the choice of language that the party
12 used.

13 232 Q. It's not true, right?

14 A. We can compare political ads from
15 various parties and we can --

16 233 Q. You see, that's not what this
17 process is about, ma'am. I'm not here to compare
18 political ads. I'm here to ask you about --

19 A. I've already said that it was
20 clear in all of our public documents that SARP was
21 -- that SARP existed.

22 234 Q. Right. And therefore, the
23 characterization of it on the radio as a secret
24 subsidy is not honest, right?

25 A. I've answered that question.

1 235 Q. No, that's the question you
2 haven't answered.

3 A. I actually have. I said it was --
4 MR. RATCLIFFE: She answered that SARP
5 was out there so you're free to make your argument
6 and draw your conclusions from that.

7 BY MR. LISUS:

8 236 Q. Let me ask you this, ma'am. This
9 is a message from the Ontario Liberal Party, right?

10 A. Correct.

11 237 Q. Are you the head of the Ontario
12 Liberal Party?

13 A. I am now.

14 238 Q. Right.

15 A. Well, actually for a couple more
16 days, but yes.

17 239 Q. All right.

18 A. I'm actually not. We have an
19 interim leader now, but yes, and I wasn't then.

20 240 Q. But you were a member?

21 A. Yes.

22 241 Q. A Cabinet Minister?

23 A. Yes.

24 242 Q. All I'm asking you, ma'am, is
25 whether you agree with me that this radio ad is not

1 honest in its characterization of SARP as a secret
2 subsidy? That's my question.

3 A. I have said, and I will say again,
4 that it was very clear from all of our public
5 documents that SARP existed.

6 243 Q. But you're not prepared to agree
7 that this is not an honest account of the program?

8 MR. RATCLIFFE: Well, she's answered
9 the question, Mr. Lisus.

10 BY MR. LISUS:

11 244 Q. Mr. McGuinty, who I asked these
12 kinds of questions, said that he will not defend
13 these ads. Are you aware of that?

14 A. I already said I am not aware of
15 what others have said.

16 245 Q. He said he's not prepared to
17 defend these ads.

18 A. Well, he was the Premier at the
19 time.

20 246 Q. Are you prepared to defend these
21 ads?

22 R/F MR. RATCLIFFE: This isn't a proper
23 question, Mr. Lisus.

24 BY MR. LISUS:

25 247 Q. This is a Cabinet colleague of

1 yours?

2 MR. RATCLIFF: This isn't a proper
3 question, Mr. Lisus.

4 BY MR. LISUS:

5 248 Q. Let me ask you this, ma'am.

6 MR. RATCLIFFE: She's indicated, she's
7 indicated that it was public knowledge that SARP
8 was there and, you know, I'm not sure quite what
9 you're pursuing here.

10 BY MR. LISUS:

11 249 Q. Why were these ads run?

12 A. As I said, these were ads that
13 were run in a pre-budget period in a minority
14 government. They are political ads. There is no
15 doubt about that. And the choice of language was
16 not a Cabinet decision, it was not my decision.
17 They were political ads that were drafted for a
18 particular purpose.

19 250 Q. What's the purpose?

20 A. The purpose was to demonstrate
21 that there may need to be changes in some programs
22 that the government had engaged in and a change in
23 policy.

24 251 Q. Well, you see, that's what I
25 wanted to ask you about. It's one thing to say

1 there may need to be changes in programs and we may
2 need to do things differently; it's quite another
3 to dishonestly characterize a program as a secret
4 subsidy for a few very wealthy --

5 MR. RATCLIFFE: Mr. Lisus --

6 BY MR. LISUS:

7 252 Q. -- racetrack owners. Can we agree
8 on that much?

9 MR. RATCLIFFE: Mr. Lisus, you just
10 keep beating this drum.

11 MR. LISUS: No, I don't, because I'm
12 not getting --

13 R/F MR. RATCLIFFE: The answer, you know,
14 the answer has been provided in terms -- and no, I
15 mean, the words speak for themselves. You can put
16 that forward. You've got Mr. McGuinty's testimony
17 and others' testimony. But again, Ms. Wynne has
18 indicated that it was very clear and that these
19 were political ads, so no, I'm not going to allow
20 her to answer that.

21 BY MR. LISUS:

22 253 Q. You understood, ma'am, as of late
23 February 2012, as a member of the government, that
24 the decision to terminate revenue sharing was going
25 to have very significant impacts on rural Ontario,

1 including on standardbred breeders, right?

2 A. What I understood was that the
3 SARP had been characterized as a program that was
4 not transparent, that was not having the impact,
5 whether you look at the Sadinsky Report or the
6 panel, and my understanding was that through the --
7 through the discussions at Finance, this was not a
8 transparent program, it was not having the impact
9 on the whole industry that it was intended to have.

10 254 Q. Transparent to who?

11 A. Transparent to politicians,
12 transparent to the public, that there was not a
13 transparency and accountability in the SARP that
14 there needed to be.

15 So, the characterization of this as a
16 program that needed to be dealt with was my
17 understanding of it.

18 255 Q. So this email -- excuse me, this
19 ad is the manner in which it was being dealt with?

20 A. Well, no, absolutely not and I
21 think we've been clear. There were other decisions
22 that were being made. This is a political ad and
23 the language was not chosen by Cabinet, it was not
24 chosen by me.

25 256 Q. Cabinet was aware of it, right?

1 MR. RATCLIFFE: Mr. Lisus, you just
2 keep beating the same drum.

3 MR. LISUS: Because I don't get
4 answers, Mr. Ratcliffe, and I'll take the
5 consequences of that and raise it.

6 BY MR. LISUS:

7 257 Q. Let me ask you something about --
8 something else about this. You used the word
9 "transparent," right?

10 A. Correct.

11 258 Q. Who was the Slots at Racetrack
12 Program required to be transparent to?

13 A. Well, I think to the Auditor
14 General and to the Cabinet and to the --

15 259 Q. The Auditor General reviewed it
16 every single year, ma'am, in its review of the
17 consolidated financial statements and never once
18 expressed concern about it, correct?

19 MR. RATCLIFFE: Well --

20 MR. LISUS: Just let her answer the
21 question, please.

22 MR. RATCLIFFE: Mr. Lisus, your
23 questions are unfair and she's already made
24 reference to Sadinsky's report and Drummond's
25 report, and if you look at the interim panel report

1 in terms of --

2 MR. LISUS: Please don't make speeches.
3 Just answer. The witness said that the program
4 wasn't transparent. I'm asking who it was --

5 THE WITNESS: I said --

6 MR. RATCLIFFE: You said --

7 MR. LISUS: Let me finish, please.

8 MR. RATCLIFFE: Well, you didn't --

9 MR. LISUS: Let me finish, please.

10 MR. RATCLIFFE: Okay, I'll let you
11 finish.

12 BY MR. LISUS:

13 260 Q. I'm asking who it was to be
14 transparent to, and you told me the Auditor
15 General. Anybody else?

16 A. So you know what? My
17 understanding, and you can question that, whatever,
18 my understanding was that this was a program that
19 was short on accountability and needed to be
20 reviewed and that's --

21 261 Q. Accountability to who?

22 MR. RATCLIFFE: Let her finish the
23 answer, Mr. Lisus.

24 BY MR. LISUS:

25 262 Q. I'm just trying to understand.

1 Accountable to who?

2 A. Accountable to those of us who had
3 to make decisions about policy. Accountable to,
4 whether it's the Auditor General, whether it was
5 Don Drummond, whether it was Cabinet, that we had a
6 responsibility to have a support for the
7 horseracing industry that was in place, that
8 benefitted the people it was intended to benefit.
9 That was my understanding of it. And that SARP
10 didn't do that.

11 263 Q. You knew that the manner in which
12 it was cancelled, if you didn't take the steps that
13 you did take to ameliorate, it would have
14 devastating consequences on rural Ontario including
15 standardbred breeders, right?

16 A. It is government's responsibility
17 to do its very best at a given moment in time to
18 introduce policies that it thinks are going to be
19 in the best interests of the people of the
20 province, and if those policies need to be changed,
21 then it's government's responsibility to change
22 those. That happens all the time. That is the
23 nature of government.

24 264 Q. Right.

25 MR. RATCLIFFE: Do you want to take the

1 morning break here now, Mr. Lisus? It's 20 after
2 11:00.

3 MR. LISUS: Sure.

4 -- RECESS AT 11:20 --

5 -- UPON RESUMING AT 11:30 --

6 BY MR. LISUS:

7 265 Q. Ms. Wynne, I want to show you some
8 exhibits that were marked on Mr. McGuinty's
9 examination.

10 A. Are we finished with these? These
11 ads?

12 266 Q. For now.

13 A. Okay.

14 267 Q. This is Exhibit 15 on
15 Mr. McGuinty's examination. It's a composite
16 exhibit. If you just flip through it, it's a
17 series of newspaper articles and industry reactions
18 to the communication of the radio ad of February
19 26th.

20 A. Um-hmm.

21 268 Q. Can I just see that we have the
22 same exhibit?

23 A. Mine is highlighted.

24 269 Q. Right.

25 A. Is there something specific that

1 you'd like me to look at?

2 270 Q. Yes. If you look at the Toronto
3 Star article of February 29th, for instance, on the
4 second page, five paragraphs down, you see --

5 A. Recent radio ads?

6 271 Q. Yes:

7 "Recent radio ads claiming that
8 the program in place is a secret
9 subsidy for a few very wealthy
10 racetrack owners..."

11 You see that is a reference to the
12 radio ads?

13 A. I do see that.

14 272 Q. And it's clear from the media that
15 the media has picked up the ads, right?

16 A. Correct.

17 273 Q. Would you agree with the
18 characterization of these as attack ads, Ms. Wynne?

19 A. Yes.

20 274 Q. And it's the industry that's being
21 attacked, right?

22 A. It's the nature of the program
23 that's being attacked.

24 275 Q. And the --

25 A. And the choice that the opposition

1 might make.

2 276 Q. And the nature of the program
3 obviously is a program pursuant to which revenue is
4 shared with the horseracing industry?

5 A. Correct.

6 277 Q. Now, can we also agree, ma'am, as
7 an experienced politician that it was to be
8 expected that the ads would be picked up by the
9 media?

10 A. Yes.

11 278 Q. And can we also agree that it
12 would be expected that the ads would be of great
13 concern to the stakeholders in the horseracing
14 industry?

15 A. Yes. Yes.

16 279 Q. And can we also agree that for
17 breeders making decisions about investing in their
18 business that these ads would be frightening to
19 them?

20 A. I can't -- I can't speculate on
21 what the impact on particular people would be.

22 280 Q. But as we look at them today, can
23 we not agree that these ads would be upsetting to
24 them?

25 MR. RATCLIFFE: Well, she said she

1 couldn't speculate at that time as to the impact of
2 the ad.

3 BY MR. LISUS:

4 281 Q. They're not friendly ads, right?

5 A. They are political ads aimed at a
6 choice that our opposition would make.

7 282 Q. They were also aimed at the
8 beneficiaries of a program that has been in effect
9 since 1998, correct?

10 A. Well, they are aimed at our
11 opposition. That's what a political ad is about.
12 I mean, there was no -- there would be no intention
13 to attack the industry. This was an attack on Tim
14 Hudak, an attack on the Conservatives and the
15 choices that they would make.

16 283 Q. And whoever gets caught in the
17 crossfire gets caught in the crossfire, right?

18 A. Again, that's, you know -- these
19 are political ads.

20 284 Q. Ms. Wynne, in fairness, you have a
21 program that has been in place as of 2012 for some
22 13 years, right?

23 A. Correct.

24 285 Q. It's a program and an arrangement
25 that the government has repeatedly described as

1 being very beneficial for and important for the
2 rural economy, including the breeding sector.
3 That's been the government's official position,
4 correct?

5 A. That -- I mean, that is --

6 286 Q. That's the reality?

7 A. That is the reality.

8 287 Q. Okay.

9 A. That it was beneficial, yes.

10 288 Q. And then on a day, on February

11 26th, the government puts out an attack ad
12 characterizing this program as being a secret
13 subsidy for a few wealthy racetrack owners, right?

14 A. So, this is in the context, all of
15 this is in the context of having to deal with a
16 deficit, of reports that have identified this
17 program as a problem, and that we are looking, as a
18 government, looking for ways to tackle a deficit
19 and to deal with programs, and we're going
20 line-by-line, program-by-program, looking for ways
21 to deal with the deficit.

22 At the same time, it's a minority
23 government, there are political realities, and
24 these are political ads. So those two things are
25 parallel realities.

1 289 Q. So this is the way the government
2 has chosen to deal with the issue at this time?

3 A. You know what?

4 MR. RATCLIFFE: Your question isn't
5 clear. What do you mean this is the way the
6 government --

7 BY MR. LISUS:

8 290 Q. People listening to this report,
9 to this ad, particularly breeders, you and I can
10 agree, again sensible Ontarians aren't going to
11 draw a distinction in their head between this is
12 the Ontario Liberal Party as opposed to this is the
13 Ontario Government, correct?

14 A. Well, there would have been a
15 disclaimer on the ad that it was a political ad.

16 291 Q. And that's enough?

17 A. There would have been a disclaimer
18 that would have made it clear that it was a
19 political ad.

20 292 Q. Let me ask you this, ma'am. When
21 in the government --

22 A. That's the law.

23 293 Q. When in the government's view did
24 the Slots at Racetrack Program become bad policy?

25 MR. RATCLIFFE: Well, your question,

1 how do you answer that question? You know, when
2 did it become bad policy? I mean, can you break it
3 down? When did the government decide? Well, I
4 mean, there's a Cabinet decision.

5 BY MR. LISUS:

6 294 Q. Let me reframe the question. You
7 told me multiple times earlier today that the
8 program wasn't transparent and that was a problem,
9 right?

10 A. That was my understanding, that's
11 what I told you that that was my understanding.

12 295 Q. When did the lack of transparency
13 become a problem to the government such that it had
14 to cancel the program without transition support?

15 A. I really -- I cannot answer that
16 question.

17 296 Q. Okay. One of the reasons I ask
18 you that, Ms. Wynne, is because I reviewed
19 documents from the estimates defense process in
20 2011. You're familiar with the estimates defense
21 process?

22 A. I am. Having been through it, I
23 am.

24 297 Q. Okay. I'm going to show you the
25 document.

1 MR. ROSENBERG: What's the exhibit
2 number, counsel?

3 -- REPORTER'S NOTE: Cross-talk.

4 MR. LISUS: CRE6095.

5 BY MR. LISUS:

6 298 Q. Go to the bottom of the page, the
7 bottom right-hand --

8 A. 335? Page 335?

9 299 Q. Sure. And if you go, if it's
10 easier, ma'am, if you look at the bottom right-hand
11 corner there is a number --

12 A. Okay.

13 300 Q. -- 171. Do you see bottom
14 right-hand corner 171?

15 A. No.

16 MR. RATCLIFFE: Well, at the top the
17 number is --

18 MR. LISUS: Go to the top.

19 MR. RATCLIFFE: -- 335.

20 BY MR. LISUS:

21 301 Q. Fine. Go to the top 367.

22 MR. MILAT: I think the confusion is
23 there is an apparent email and an attachment and
24 Mr. Lisus is talking to the page numbers in the
25 attachment.

1 THE WITNESS: I've got 367.

2 MR. RATCLIFFE: In the top right-hand
3 corner?

4 THE WITNESS: Top right-hand corner.

5 BY MR. LISUS:

6 302 Q. Do you see where it says about a
7 third of the way down, this is May 2011, "What is
8 the purpose of the Slots at Racetrack Program?"

9 A. Just a sec. I haven't got it.
10 367?

11 303 Q. 367, top right-hand corner.

12 A. Okay. So I'm looking for the
13 bolded question, what is -- okay, I don't think I
14 have it. I have got you have announced 76 million,
15 the consolidation of research, what are the court
16 service efficiencies, and then Ontario Drug
17 Benefit.

18 304 Q. We are actually on page 513.

19 A. 513? Okay. "What is the
20 purpose," okay. Um-hmm.

21 MR. RATCLIFFE: Just take a moment to
22 read this.

23 THE WITNESS: Yes, I haven't seen this.

24 MR. ROSENBERG: Which page is this?

25 THE WITNESS: 513. And there's the

1 171.

2 BY MR. LISUS:

3 305 Q. Yes.

4 A. (Witness reads document). Okay.

5 306 Q. We can agree that in May 2011 the
6 position of the Ministry of Finance and the
7 government is that:

8 "The Ontario horseracing
9 industry makes a significant
10 contribution to the rural economy
11 and employment."

12 A. Correct.

13 307 Q. "The Slots at Racetrack Program
14 has been a success for all parties,
15 including the horseracing and
16 breeding industry."

17 A. Correct. That's what it says
18 here, yes.

19 308 Q. And:

20 "Ontario's horseracing and
21 breeding industry remains a vital
22 part of rural and agricultural
23 Ontario."

24 A. Correct.

25 309 Q. So in May 2011, the government

1 seems pretty happy with the Slots at Racetrack
2 Program?

3 A. So as I read this, there is one --
4 there is one comment about the Slots at Racetracks
5 Program, but there is a more general sentiment in
6 this that horseracing is a vital part of rural
7 Ontario and the Ontario economy, and the Ontario
8 culture, and that is the sentiment that continues
9 throughout, to this day.

10 310 Q. The only sentiment about the Slots
11 at Racetrack Program, Ms. Wynne, you and I can
12 agree, is that - may I have that for a moment? - is
13 that it:

14 "...has been a success for all
15 parties, including the horseracing
16 and breeding industry, local host
17 municipalities and the people of
18 Ontario through redistribution of
19 OLG slot revenue."

20 A. Yes.

21 311 Q. That's the only sentiment about
22 the SARP in that document?

23 A. Yes, about the SARP.

24 312 Q. Okay.

25 A. But there is a broader context

1 that that comment is made in, and that is support
2 for the horseracing industry which I would suggest
3 to you does not change throughout our government.

4 313 Q. Fine. So my question is, when
5 between May 2011 and February 2012 does the
6 government suddenly decide that Slots at Racetrack
7 Program is a secret subsidy, is not transparent,
8 and has to be cancelled without any transition
9 support? When did that happen and what was the
10 information?

11 MR. RATCLIFFE: Are you in a position
12 to answer, Ms. Wynne?

13 THE WITNESS: No, I'm not in a position
14 to say when that happened.

15 BY MR. LISUS:

16 314 Q. Okay. If I could have that back,
17 please.

18 A. Do you want the whole thing?

19 315 Q. Yes. Were you involved in the
20 appointment of the horseracing transition panel
21 populated by Mr. Snobelen, Mr. Duncan and
22 Mr. Buchanan?

23 A. Ted McMeekin had already put that
24 in place. Wilkinson, Snobelen and Buchanan.

25 316 Q. Right. Did I -- definitely not

1 Duncan.

2 A. No Duncan, no.

3 317 Q. But were you involved in the
4 decision or the effort to get that panel composed
5 and appointed?

6 A. Not directly.

7 318 Q. Indirectly?

8 A. Well, only in the sense that it
9 was something that Ted McMeekin was putting forward
10 and I supported doing it, I thought it was a good
11 idea.

12 319 Q. When it was appointed or struck in
13 May 2012, were you aware that one of the issues
14 that it was going to look at was support to horse
15 breeders?

16 A. My understanding was that it was
17 going to be looking at support to the whole
18 industry. I wouldn't have been able to separate
19 out all the pieces, but that there needed to be a
20 relook at what the support to the whole industry
21 should be.

22 320 Q. Okay. And the reason there needed
23 to be a relook is because there wasn't, as I think
24 you've said in your public statements, due
25 consideration to the impacts of the decision on the

1 industry?

2 A. There needed to be a review of
3 what those supports should be, correct.

4 321 Q. And I'm looking at documents that
5 have been discussed in the course of this process,
6 this examination process, and, for instance, there
7 is documentation in April/May of 2012 about
8 consideration of support to the horse breeding side
9 of the industry.

10 MR. RATCLIFFE: Sorry, which document
11 are you referring to, Mr. Lisus?

12 MR. LISUS: CRE235371.

13 MR. RATCLIFFE: Is that one of the
14 exhibits?

15 MR. MILAT: It's not.

16 THE WITNESS: What is that?

17 MR. LISUS: I suspect it is an exhibit
18 but here's my question. I can make it an exhibit,
19 if you want me to.

20 BY MR. LISUS:

21 322 Q. Here's my question. Were you
22 aware in the spring of 2012, and I think you've
23 told me you were, that there was agreement that the
24 panel needed to examine support to the breeding
25 industry?

1 MR. RATCLIFFE: Just take a moment and
2 look at this document.

3 BY MR. LISUS:

4 323 Q. It's at page 296, the third
5 bullet.

6 A. (Witness reads document). Well,
7 as I said, my understanding of the panel was that
8 it would be looking at the whole industry.

9 324 Q. Okay. Do I understand that you
10 only became personally involved in trying to
11 ameliorate the impacts of the decision to terminate
12 revenue sharing with zero transition upon your
13 assuming the role as Premier and Minister of
14 Agriculture and Food in 2013, that you weren't
15 involved in 2012?

16 A. I was not involved in the
17 decision-making process. I was not involved in the
18 specifics. I had become more aware and as a member
19 of Cabinet was more aware, but I was not -- I was
20 not directly involved, that's true.

21 This was -- what month was this?

22 325 Q. It's April or May of 2012.

23 A. Okay. Yeah. I mean, this would
24 have been a document within OMAFRA or --

25 326 Q. And you weren't in OMAFRA yet,

1 right?

2 A. I wasn't part of OMAFRA yet. I
3 was not.

4 327 Q. And when you say you weren't
5 involved in the decision, I take it you're saying
6 you weren't involved in the decision to either
7 cancel with zero transition support or to appoint
8 the panel after that decision was made, right?

9 A. Correct.

10 328 Q. Did you become aware at some point
11 that OMAFRA officials, prior to the February 8
12 Cabinet meeting, had told Ministry of Finance that
13 the approach that was then being contemplated,
14 being a three-year phase-out and \$100 million a
15 year, that they didn't know what the impacts of
16 that would be in rural Ontario and how it would
17 work? Are you aware of that?

18 A. I don't recall knowing that.

19 329 Q. Do you recall being -- and let me
20 rephrase this.

21 I take it from your answers that you've
22 given today that you were not aware that the
23 Ministry of Finance staff had initially recommended
24 a phased reduction to the revenue share over three
25 years culminating in the \$100 million annual

1 payment. You weren't aware of that?

2 A. I was not.

3 330 Q. And you also were not aware that
4 prior to ministry staff recommending that approach,
5 it had also modelled or recommended a five-year
6 phaseout of the revenue sharing?

7 A. I don't recall having seen those
8 options.

9 331 Q. And once you assumed the role of
10 Premier and Minister of Finance, were you told
11 that --

12 A. Premier and Minister of
13 Agriculture.

14 332 Q. Excuse me.

15 A. I was never Minister of Finance.

16 333 Q. You were not. You're going to
17 have to forgive me. I've examined a lot of people
18 with a lot of different positions.

19 A. That's okay.

20 334 Q. I'll start again. Once you became
21 Premier and Minister of Agriculture and Rural
22 Affairs, were you informed or did you become aware
23 that ministry staff had recommended to the Minister
24 of Finance in February 2012 that revenue share be
25 phased out over three years to a \$100 million

1 annual steady state payment?

2 A. So when I became Premier and
3 Minister of Agriculture and Food, I don't recall
4 specifically being made aware of those options. I
5 do recall and know that the general discussion was
6 the support that was in place wasn't adequate, that
7 there was more that we needed to do.

8 That was my going-in understanding.

9 335 Q. And the support that was in place
10 was 50 million over three years initially after the
11 decision was made, correct?

12 A. Yeah, in addition to the other --

13 336 Q. But to be clear, you were not
14 briefed on and weren't aware that prior to Finance
15 making the decision to terminate revenue share
16 without transition support, there had been a
17 recommendation of a three-year step down and a
18 hundred million steady state --

19 A. I don't recall -- I don't recall
20 having that specific knowledge.

21 337 Q. All you recall is that when you
22 came into those positions, i.e. Premier and
23 Minister of Agriculture and Food, the decision had
24 been made to terminate revenue share with no
25 transition assistance, and then there was a

1 decision made to provide 50 million over three
2 years and that was not sufficient to avoid a
3 complete collapse of the industry?

4 A. Correct.

5 338 Q. And so, you didn't have the
6 benefit of what folks from the Gaming Policy Branch
7 or the civil service to Finance had initially
8 recommended to Minister Duncan and his Chief of
9 Staff before the decision?

10 A. Again, I don't recall having seen
11 those documents.

12 339 Q. Thank you. You mentioned the
13 briefing you received prior to the Cabinet meeting
14 in February and that it was focused on that aspect
15 of the modernization report that had an expansion
16 of gaming in the province and the creation of
17 casinos in urban centres, right?

18 A. Correct.

19 340 Q. Do you actually recall that
20 briefing? Do you have a recollection of it?

21 A. I actually recall being in that
22 room because I remember one of my colleagues and I
23 being very worried about people who were living in
24 poverty or people who couldn't afford -- you know,
25 we were worried about the impacts.

1 341 Q. Right. And are you able to say,
2 ma'am, about how long this briefing was?

3 A. I imagine it was about an hour. I
4 can't imagine that it would have been longer than
5 that.

6 342 Q. Do you recall who gave you the
7 briefing? Was it Mr. Stransky and Shortill?

8 A. I think Tim was in the room. I
9 don't know if Darcy was in the room. I'm not sure.
10 I know Tim was in the room. In fact, I think Tim
11 might have led the briefing.

12 343 Q. Thank you. When did Minister
13 Duncan resign?

14 A. So that would have been shortly
15 after Dalton did, I guess, right? In the fall --

16 344 Q. October 2012?

17 A. Fall of 2012. It was around the
18 same time.

19 345 Q. Did you ever discuss with him the
20 decision that he made about termination of revenue
21 share?

22 A. No. I mean, he knew how I felt
23 about the modernization but I don't remember ever
24 talking to him about it.

25 346 Q. Did you meet with the panel,

1 Messrs. Snobelen, Buchanan and Wilkinson?

2 A. Yes.

3 347 Q. They were critical of the decision
4 that was made?

5 A. Well, they were critical of SARP
6 and they were critical of removal of support from
7 the horseracing industry and that there needed to
8 be more support.

9 348 Q. Did you read the interim report of
10 the panel from August 2012?

11 A. I did.

12 349 Q. And have you seen in preparation
13 for giving evidence an email exchange between
14 Mr. Wilkinson, Mr. Keegan and Mr. Gene on August
15 the 3rd, 2012?

16 A. I think I have, but should I be
17 looking at it?

18 350 Q. Who is Dave Gene?

19 A. Dave Gene worked in the Liberal
20 caucus bureau, so support for caucus when we were
21 government under Dalton McGuinty.

22 351 Q. And why was he involved in
23 horseracing?

24 A. Because he worked with
25 stakeholders.

1 352 Q. I see.

2 MR. RATCLIFFE: Take a moment and look
3 through it all.

4 THE WITNESS: (Witness reads document).
5 Oh, this is the one from Wilkinson to Dave, right.

6 BY MR. LISUS:

7 353 Q. Yes. Did you see this at or about
8 the time, being August 3, 2012?

9 A. I don't remember seeing it at the
10 time. I've seen it --

11 354 Q. In preparation for --

12 A. In preparation for this.

13 355 Q. Okay. I'm not going to ask you
14 questions about that.

15 A. Okay.

16 356 Q. 445. I'm showing you a document
17 that was marked on Mr. Shortill's examination.
18 It's a deck that was prepared by the panel, the
19 transition panel.

20 A. Um-hmm.

21 357 Q. It's dated August 6, 2012.

22 A. Right.

23 358 Q. And if we go to the second slide
24 of the deck, it's slide number 2.

25 A. Purpose?

1 359 Q. Yes. Do you see where it says
2 "Timing is urgent"?

3 A. Yes.

4 360 Q. And if we go to slide 5 --

5 MS. LA HOREY: Sorry, what's the CRE
6 number or the exhibit number?

7 MR. LISUS: 29295.

8 MR. RATCLIFFE: Was that Exhibit number
9 18?

10 MR. LISUS: 16, I think.

11 MR. RATCLIFFE: 16 to Tim Shortill's.

12 THE WITNESS: So 5?

13 BY MR. LISUS:

14 361 Q. Yes. The fifth slide.

15 A. "Industry faces imminent
16 collapse," yes.

17 362 Q. Yes, without additional funds
18 industry faces collapse.

19 A. Um-hmm.

20 MR. RATCLIFFE: You have to say yes.

21 THE WITNESS: Yes, yes.

22 BY MR. LISUS:

23 363 Q. And if you go to slide 9, under
24 the heading "Maintain course," it says:

25 "Job losses, horse

1 euthanization, loss of value of
2 investments with high potential for
3 litigation."

4 Do you see that?

5 A. Yes.

6 364 Q. Just pausing there, did you have
7 an understanding in the summer of 2012 that, as a
8 result of the decision taken by Finance, that the
9 industry was going to collapse and that timing was
10 urgent to get additional funds into the horseracing
11 industry sector? Did you know that in August 2012?

12 A. I would not have had specific
13 knowledge of that, but I knew there was a concern.

14 365 Q. About those issues?

15 A. Exactly, yes.

16 366 Q. And then if we take a look at
17 slide 15, you see where it says "Timing urgent"?

18 A. Yes.

19 367 Q. And it says:

20 "The horse breeding industry
21 has been severely impacted by the
22 announcement of the cancellation of
23 SARP, 50 percent drop. Yearling
24 horse sales occur in early
25 September. With the uncertainty

1 that currently exists in the
2 industry, buyers will not have
3 confidence which will negatively
4 impact the prices paid for yearlings
5 crystallizing industry financial
6 losses."

7 A. Um-hmm.

8 368 Q. "Industry needs a clear signal
9 from government about what the
10 future of the industry will look
11 like prior to September 1."

12 Right?

13 A. Yes.

14 369 Q. Were you aware in the summer of
15 2012 that these were the views of the panel
16 communicated to Finance?

17 A. I was not. I was aware that Ted
18 McMeekin was very agitated about getting some
19 resolution to this.

20 370 Q. Okay. And was it your
21 understanding that Mr. McMeekin was agitated
22 because of these issues identified by the panel?

23 A. Because of the impact on the
24 industry, yes.

25 MR. RATCLIFFE: Are you done with this

1 now?

2 MR. LISUS: Yes.

3 BY MR. LISUS:

4 371 Q. Do you recall speaking with
5 Mr. McMeekin in the immediate period after the
6 decision by Finance to terminate revenue share?

7 A. I don't remember specific
8 conversations, but I do remember that I knew that
9 Ted was agitated. He was worried about the impact.
10 You know, I remember that we talked about the panel
11 and that there was a need to get -- there was a
12 need to get a different support in place, that what
13 was being proposed was not adequate.

14 372 Q. I want to just ask you, please, to
15 look at an email sequence, and this is an email
16 sequence between Mr. Goodwin and Mr. Orsini and
17 others on February 17, 2012.

18 MR. RATCLIFFE: Just take a moment to
19 read it.

20 THE WITNESS: It goes bottom up?

21 MR. LISUS: Yes.

22 MS. LA HOREY: What's the exhibit
23 number?

24 MR. LISUS: Number 6086, Exhibit 7.

25 MR. RATCLIFFE: From Michael Keegan.

1 THE WITNESS: Is this from Goodwin to
2 Orsini?

3 BY MR. LISUS:

4 373 Q. Right. And it's the second last
5 paragraph I'm going to ask you about.

6 A. "Discussed issues"?

7 374 Q. Yes.

8 A. (Witness reads document). Okay.

9 375 Q. And you mentioned Minister
10 McMeekin being agitated. Do you recall him being
11 agitated around mid-February 2012, or did that
12 become apparent to you later?

13 A. I don't remember exactly.

14 376 Q. And Mr. Goodwin says:

15 "Discussed issues on a call
16 with Minister McMeekin this
17 afternoon. As Agriculture Minister
18 he was hoping that there was a more
19 in-depth economic impact analysis
20 that had been done of the strategy
21 of one-year withdrawal of subsidy.
22 We clarified some direct employment
23 numbers with him on the phone and
24 said ORC was doing a few scenarios
25 for next week, but frankly, we do

1 not have a detailed study of the
2 sort that he was hoping we had."

3 Did you become aware in the spring or
4 summer of 2012 that Minister McMeekin was hoping
5 that there had been a more detailed study of the
6 impact of the decision and that there was not such
7 a study?

8 A. I think part of his agitation was
9 that there wasn't that kind of work done.

10 377 Q. And is that why, when you became
11 Premier and Minister of Agriculture, you pressed
12 for there to be a further review and additional
13 funding?

14 A. Yes. There were a number of
15 issues that I felt were very urgent when I -- when
16 I made the decision to run for the leadership and
17 through that process, and then into my becoming
18 Premier. This was one of them that had to be
19 addressed.

20 378 Q. And when you say "this," you mean
21 ameliorating the impacts of the decision that was
22 made in February 2012?

23 A. Yeah, making sure that we had in
24 place a support for the horseracing industry that
25 would allow it to continue to thrive. I believed

1 that the horseracing industry was important to
2 Ontario; I believed that it was an ecosystem of
3 employment and culture, rural Ontario culture that
4 was important; and that, as other jurisdictions
5 did, we should have a way of supporting the
6 industry.

7 379 Q. Okay. And you obviously felt that
8 those factors had not been properly accounted for
9 in the initial decision in February 2012?

10 A. Well, I mean, that's not how I
11 would characterize it. But the way I would
12 characterize it is that a decision had been made,
13 part of which I thought was a good decision. I
14 thought that the cancellation of SARP was a valid
15 decision and that had been -- that part of the
16 decision had been confirmed by the panel, but that
17 there was more that needed to be done.

18 So it was an evolving -- an evolving
19 support need.

20 380 Q. And there was more that needed to
21 be done on an urgent basis, right?

22 A. Correct.

23 381 Q. And the reason that it needed to
24 be done on an urgent basis, you came to understand,
25 was that because there was a breeding cycle --

1 A. Yes, the planning issue was --
2 became clearer to me as I understood the industry a
3 bit better.

4 382 Q. And again returning to your
5 characterization of Minister McMeekin's reaction to
6 the decision, if we look at the last email in the
7 sequence, very last email, it says:

8 "M feeling left out in the cold
9 no doubt."

10 Do you see that?

11 A. Yes.

12 383 Q. And did you understand that
13 Mr. McMeekin felt that he was excluded from a
14 decision that had a significant impact on interests
15 in his riding?

16 MR. RATCLIFFE: Do you know this?

17 BY MR. LISUS:

18 384 Q. Excuse me, in his portfolio?

19 A. Yeah, again, I didn't have
20 knowledge of that particular sentiment.

21 385 Q. Thank you. What involvement or
22 role did Ms. Broten play in the Slots at Racetrack
23 Program?

24 A. To my knowledge, she didn't have a
25 role.

1 386 Q. Were you generally aware that the
2 Ontario Racing Commission was the regulator of the
3 horseracing industry in 2012?

4 A. Yes.

5 387 Q. Were you aware that the Ontario
6 Racing Commission was not consulted about the
7 decision to terminate the revenue sharing from
8 Slots at Racetrack Program?

9 A. I can't say I was aware of that
10 specifically. I do -- actually, this might be a
11 good time for me to just say this, that one of the
12 things that I wanted to do, and that I believe was
13 -- well, I know is part of my discussion with the
14 members of the panel, was -- and it relates to your
15 question about the role of the ORC, I believe and
16 believe to this day, that there needs to be better
17 integration between the horseracing industry and
18 gaming in the province, and so that was one of the
19 things that was an objective of mine when I came
20 into the role of Minister of Agriculture and Food.

21 This is 293.

22 388 Q. So, this is an email, again we're
23 in either April or May of --

24 A. This is not an email. This is the
25 internal document.

1 389 Q. The internal document is attached
2 to the email?

3 A. Oh, I see what you're saying.
4 Okay, sorry. Yes.

5 390 Q. And if you just look at the third
6 page of the internal document --

7 A. 296?

8 391 Q. Yes.

9 A. Okay.

10 392 Q. It says "Implications for the
11 sector."

12 A. Um-hmm.

13 393 Q. And it says:

14 "The horse industry makes
15 breeding and planning decisions on a
16 multi-year timeline. It will be
17 important to signal to industry the
18 high level details of the proposal
19 as soon as possible so that it can
20 plan accordingly."

21 Right?

22 A. Correct.

23 394 Q. Did you understand that in the
24 summer of 2012 that there was a multi-year planning
25 and breeding cycle to the horseracing industry?

1 A. Well, I think as I said, my
2 understanding of that --

3 395 Q. Evolved?

4 A. -- was evolving, yes.

5 396 Q. It evolved after the decision to
6 terminate was made in February 2012?

7 A. Correct.

8 397 Q. And because you had an
9 understanding that evolved in 2012 and 2013, you
10 did, as you told me a minute ago, recognize the
11 urgency of signalling to the industry, including
12 breeders, that there would be some level of
13 additional funding, additional to the 50 million
14 over three years, right?

15 A. Right. That was one of the things
16 that I wanted to look at immediately when I became
17 the Minister of Agriculture and Food.

18 398 Q. And if I could ask you to look at
19 the next document. This is an OMAFRA document.

20 MR. MILAT: We should mark this as
21 Exhibit 2.

22 EXHIBIT NO. 2: Email dated May 5th,
23 2012 and attached internal document
24 titled Horse Racing Transitional
25 Update.

1 THE WITNESS: I've got 306 now.

2 BY MR. LISUS:

3 399 Q. Yes, ma'am. Now, this is an
4 internal OMAFRA document which obviously is the
5 Ministry that you assumed leadership of in February
6 '13, right?

7 A. Correct.

8 400 Q. And so there's --

9 A. This is from May '12?

10 401 Q. Correct.

11 MS. LA HOREY: Do you have the doc ID
12 number?

13 MR. LISUS: Yes, CRE256943 and 945.

14 BY MR. LISUS:

15 402 Q. And I want to just ask you to look
16 at the deck, please, Ms. Wynne, prepared May 18.
17 Keep going. There's a deck attached?

18 A. Okay.

19 403 Q. And if you go to the sixth, what
20 appears to be page 6 of that deck, the sixth slide.

21 A. Transitional funding program?

22 404 Q. Correct. And the question of
23 transitional funding, as that term is used, was the
24 question of how much additional funds had to be
25 provided to the horseracing industry to ameliorate

1 the impacts of the February 2012 decision, right?

2 A. Correct.

3 405 Q. And if we look here at the second
4 bullet, it says:

5 "Of the three types of
6 horseracing in the province -
7 standardbred, thoroughbred and
8 quarter horse - the standardbred
9 sub-sector is expected to undergo
10 the most significant pressure.
11 However, all racing sectors will be
12 affected."

13 Do you see that?

14 A. I do.

15 406 Q. And did you understand when you
16 assumed responsibility for OMAFRA that the
17 standardbred sector or sub-sector was going to
18 undergo the most significant pressure as a
19 consequence of the decision made in February 2012?

20 A. No, I don't recall having that
21 specific understanding. My understanding was at
22 the level of the whole industry needs more support.

23 407 Q. So when you came over -- excuse
24 me, when you assumed carriage -- is that the
25 correct term, assumed carriage?

1 A. Sure.

2 408 Q. In February '13, you weren't
3 briefed by officials to say that standardbred is
4 under significant pressure, we really need to deal
5 with them quickly?

6 A. I don't recall that, but I knew
7 that there was urgency to deal with the whole
8 industry.

9 409 Q. Okay. And if we look at slide 8.

10 A. The Horse Improvement Program?

11 410 Q. Yes.

12 A. Um-hmm.

13 411 Q. Did you come to understand what
14 the Horse Improvement Program was?

15 MR. RATCLIFFE: Take a moment and look
16 through the slide.

17 THE WITNESS: Just let me look at it.
18 (Witness reads document). So yes, I knew that it
19 existed, I knew it was to do a variety of things
20 within the industry.

21 BY MR. LISUS:

22 412 Q. Did you know that it was directly
23 funded, the 10 million was --

24 A. From SARP.

25 413 Q. -- directly funded from -- did you

1 know that?

2 A. I knew that it was at risk when
3 the SARP was cancelled.

4 414 Q. Did you know that \$117 million
5 from SARP funded standardbred purses?

6 A. I did not. I do not recall that.

7 415 Q. And if we go to slide 15.

8 A. Um-hmm, yes.

9 416 Q. There was discussion about making
10 or consideration about making payments directly to
11 qualifying horse owners, one of the pros being
12 recognize the loss of value of investments and
13 provide fund to transition out of industry, right?

14 A. I see that, yes.

15 417 Q. I take it that you became aware in
16 '13 that there was obviously an investment in
17 breeding operations?

18 A. Correct. But I wouldn't have had
19 that degree of understanding at this point.

20 418 Q. In 2012?

21 A. Yes. And I never would have seen
22 this deck, this was an OMAFRA deck.

23 419 Q. I understand. But again, my
24 question is simply, when you came in February '13,
25 you weren't sat down and said look, standardbred

1 people -- standardbred breeders are going to be hit
2 the hardest, there is going to be a loss of value
3 of investments in their horses and operations? You
4 weren't specifically briefed on that?

5 A. Not specifically on standardbred,
6 no.

7 420 Q. I'll just ask you a question.
8 Treasury Board, is that made up of MPPs or is it
9 political -- or is it government staffers? Who
10 controls Treasury Board?

11 A. MPPs, ministers, and there would
12 be one or two non-minister members.

13 421 Q. But Treasury Board is controlled
14 by the government in power?

15 A. It is.

16 422 Q. I see.

17 MR. MILAT: We'll mark this as Exhibit
18 3.

19 EXHIBIT NO. 3: Internal OMAFRA
20 document, Bates numbered CRE256943 and
21 CRE256945.

22 BY MR. LISUS:

23 423 Q. I showed you that August 3 email
24 exchange between Mr. Wilkinson, Mr. Keegan and
25 Mr. Gene. Do you recall that?

1 A. I do.

2 424 Q. And do you recall, I can give it
3 back to you but it might not be necessary, do you
4 recall Mr. Gene's response to Mr. Wilkinson's email
5 to the "we need to slow them down"?

6 MR. RATCLIFFE: Can we just see it
7 again?

8 THE WITNESS: I don't think I read
9 that.

10 BY MR. LISUS:

11 425 Q. August 3 email.

12 A. Okay, yes, I see that.

13 426 Q. Do you see that?

14 A. I do.

15 427 Q. Do you know why Mr. Gene wanted to
16 slow down the panel?

17 A. I don't.

18 428 Q. Did Mr. Gene work with you when
19 you became Premier and Minister of Agriculture?

20 A. He no longer worked for us, no.

21 429 Q. When did he leave?

22 A. Pretty much when I came in.

23 430 Q. Did that have anything to do with
24 his involvement in the modernization process?

25 A. No, he just -- he wasn't part of

1 my team.

2 MR. LISUS: Do you mind if we take a
3 five-minute break.

4 MR. RATCLIFFE: Oh, sure.

5 -- RECESS AT 12:27 --

6 -- UPON RESUMING AT 12:33 --

7 BY MR. LISUS:

8 431 Q. Is it fair to say, Ms. Wynne, that
9 it was only upon your assuming the role of Minister
10 of Agriculture and Food and Premier that you really
11 dug into what had to be done to ameliorate the
12 consequences of the February 2012 decision?

13 A. Yes, that's fair.

14 432 Q. And who did you work with
15 primarily to get up to speed and figure out what
16 the response was? Was it Mr. Keegan and
17 Mr. Snobelen?

18 A. It would have been through -- it
19 would have been Michael Keegan advising me and then
20 the panel members would have supported that, and
21 then OMAFRA officials. But Michael was my
22 go-between.

23 433 Q. And you weren't going to go back
24 and revisit the why and the how of the decision;
25 what you were going to do was simply address what

1 you understood to be the consequences of it; is
2 that fair?

3 A. Correct.

4 434 Q. So, it was a forward-looking
5 exercise you undertook?

6 A. It was.

7 435 Q. I just want to ask you this
8 question because I showed you Mr. Gene's response
9 to Mr. Wilkinson's email.

10 A. Yes.

11 436 Q. And in Mr. Wilkinson's email he
12 describes in very direct terms what the
13 consequences of the decision were going to be, and
14 he says --

15 MR. RATCLIFFE: Take a moment to read
16 through it.

17 BY MR. LISUS:

18 437 Q. Read the first couple of
19 paragraphs of Mr. Wilkinson's email.

20 A. This is about the job losses and
21 the horses, yeah.

22 438 Q. Yes.

23 A. (Witness reads document).

24 439 Q. Right?

25 A. Yes.

1 440 Q. And similar sentiments are
2 expressed in the interim report of August 2012
3 which you said you did read, right?

4 A. Correct.

5 441 Q. And I presume that when you came
6 into the position of Minister of Agriculture and
7 Premier, Mr. Snobelen and Mr. Wilkinson were
8 expressing the same kinds of views of the
9 consequences of the decision as are reflected in
10 this email?

11 A. Yes.

12 442 Q. So, do you have any explanation
13 why Mr. Gene and Mr. Shortill wanted to slow down
14 the panel in this context?

15 A. I don't know why. I don't know
16 why.

17 443 Q. I want to ask you to look, please,
18 at an email at tab 5 -- excuse me, it's page 535,
19 document number CRE560801, Exhibit 21 on
20 Mr. Bardeesy's examination.

21 And if you start at the back, it's
22 Tyler Charlebois, C-H-A-R-L-E-B-O-I-S. Do you know
23 that person?

24 A. I don't.

25 444 Q. And Ms. Miller and Ms. McCann and

1 Mr. Bardeesy and Mr. Tefee (ph) talking about a
2 draft statement of Minister McMeekin regarding the
3 horseracing transition panel?

4 A. Correct.

5 445 Q. Ms. McCann, did you say you do
6 know Ms. McCann?

7 A. I know Ms. McCann. I know all of
8 the rest of them, I just don't know Tyler.

9 446 Q. Who was Ms. McCann?

10 A. She was -- as I understood it, she
11 was communications -- she was in the communications
12 department of the Premier's Office.

13 447 Q. And her reaction to the statement
14 Mr. McMeekin wants to make is that:

15 "It will be reported as an
16 about-face or capitulation,
17 especially after all our messaging
18 about choosing children over
19 horses."

20 Do you see that?

21 A. I do.

22 448 Q. What do you understand that to
23 mean?

24 A. I understand that to mean that if
25 there is an increased support to the horseracing

1 industry it would contradict some of the previous
2 messaging.

3 449 Q. But given the urgency and the
4 consequences that were now understood, why is that
5 a problem?

6 A. Well, it wouldn't be a problem for
7 me.

8 450 Q. Okay. Can we agree that actual --
9 that ameliorating harmful consequences that were
10 not understood is more important than messaging?
11 Can you and I agree on that?

12 A. You know, my position on this when
13 I became Premier and Minister of Agriculture and
14 Food is that it's something that needed to be done,
15 that we needed to regroup, figure out how to move
16 forward, and so that was -- that was my objective.

17 451 Q. And you weren't constrained by
18 so-called messaging from --

19 A. I was not.

20 452 Q. From 2012?

21 A. I was not.

22 453 Q. Because you understood that there
23 was going to be -- had been significant harm caused
24 to the horseracing industry, including amongst
25 breeders, right?

1 A. I wasn't concerned about messaging
2 because, first of all, that wasn't a factor for me,
3 and my understanding was that the whole industry
4 needed more support than we were at that point
5 providing.

6 454 Q. And in that -- and that included
7 breeders, right? You did understand that by the
8 time you took over?

9 A. It was the whole industry, yeah.

10 455 Q. Right. And therefore messaging
11 from the prior year was not a priority for you?

12 A. It wasn't -- the messaging was not
13 a factor for me.

14 456 Q. Now, I again want to ask you about
15 Mr. McMeekin, and if you'd take a look, please, at
16 CRE29093, which is an email. While we find that
17 document, Ms. Wynne, in the fall of 2012 - the fall
18 of 2012 - you are aware now that the decision that
19 was taken in February was going to have significant
20 consequences that were not understood at the time
21 the decision was made for the horseracing industry,
22 including breeders, right?

23 A. Correct. But remember, in the
24 fall of 2012, as soon as Premier McGuinty stepped
25 down and I became part of --- I was thinking about

1 whether I'd run for leadership, as soon as I made
2 the decision to run for leader, I was no longer in
3 Cabinet.

4 457 Q. Understood. And I appreciate the
5 clarification. But you had a general understanding
6 that there was a big problem with the consequences
7 of this decision?

8 A. Right.

9 458 Q. And were you generally aware in
10 the fall of 2012 that race horses that were bred
11 were sold at auction in the fall? Did you know
12 that in the fall --

13 A. I don't know if I would have had
14 that level of detail.

15 459 Q. You came to know that?

16 A. Yeah, and I don't think I would
17 have had it in the fall of 2012.

18 460 Q. Okay. The reason I ask you that
19 is if you look at this email, the bottom of the
20 first page.

21 A. So this is 559?

22 461 Q. Yes.

23 A. Bottom of the first page, Sue
24 Leslie?

25 462 Q. Yes, Sue Leslie.

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463

A. To Ted.

Q. To Ted. And it says:
"Hi Ted. The results of the thoroughbred sales this past week are devastating. I just want to ask again that either you or the Premier make a statement prior to the standardbred sale this weekend that will give some buyers confidence that there will be a viable horseracing industry where buyers will be able to race their purchases. This is desperately needed if we are going to have an industry going forward."

And then Mr. McMeekin responds saying there are ongoing discussions.

A. You can tell from this that Ted was working with the Premier's Office to -- I'm just inferring from this, he was working with the Premier's Office to get to a place where we could make -- we as a government could make a statement about what we would do going forward.

464

Q. Okay.

A. But I would not have seen these

1 emails, I was not involved at this point.

2 465 Q. And you don't think that you
3 understood there was an auction process?

4 A. I would not have had that detail.

5 466 Q. Thank you. That was Exhibit 12 on
6 Mr. Keegan's examination.

7 So we know the interim panel report is
8 released mid-August 2012, and you did read it?

9 A. Um-hmm.

10 MR. RATCLIFFE: You have to say yes.

11 THE WITNESS: Yes. Sorry. I did read
12 it, but I will just say that I reread it once I
13 became Premier and --

14 BY MR. LISUS:

15 467 Q. It meant more to you?

16 A. It meant more to me, yes.

17 468 Q. And so I want to ask you about
18 CRE241356. We're now in late September 2012,
19 September 28, 2012. Were you in Cabinet at that
20 time?

21 A. You know what, I'm trying to
22 remember.

23 469 Q. I think Mr. McGuinty resigns
24 August -- excuse me, October.

25 A. October, yes. So I would have

1 been in Cabinet up until and some time after Dalton
2 resigned, but not long.

3 470 Q. Okay. I don't know if this was
4 visible to you or not, there's some OMAFRA people
5 on this, there's some Cabinet people on this, but
6 it says, if you go over to the back of it, to the
7 beginning of the sequence --

8 A. Where are we at?

9 471 Q. Go to the back.

10 A. There seems to be an attachment
11 here.

12 472 Q. Just go to the emails.

13 A. Here? 573?

14 473 Q. Correct. At the bottom.

15 A. At the bottom, okay.

16 474 Q. A chap from OMAFRA is sending an
17 attachment to Michael Keegan and others and it's
18 saying:

19 "FYI, staff prepared the
20 attached review background at the
21 request of CO..."

22 Which I presume is Cabinet Office?

23 A. Yes.

24 475 Q. "...in preparation for the
25 potential Cabinet meeting next week

1 on the topic."

2 Okay?

3 A. Correct.

4 476 Q. And so this is six weeks or so
5 after the release of the interim report calling for
6 additional funds, right?

7 A. Um-hmm. Um-hmm.

8 477 Q. And then if we look at the
9 information that is attached, the last bullet point
10 says --

11 A. On the first page?

12 478 Q. Yes.

13 "The government's response to
14 the panel's recommendation needs to
15 come very quickly as there are many
16 decisions on the part of tracks and
17 horse people before racing schedule
18 can be established for next year.
19 The racing schedule needs to be
20 approved by the end of December.
21 The horse race breeding industry is
22 extremely vulnerable without clarity
23 and government direction."

24 A. Right.

25 479 Q. Now, do you recall this topic and

1 this information coming to Cabinet in the fall of
2 2012?

3 MR. RATCLIFFE: Well, if it's a
4 discussion about what was discussed in Cabinet, I
5 guess the first step would be to ask her if she
6 recalls this.

7 MR. LISUS: I think I did that.

8 THE WITNESS: Yeah, I don't recall the
9 specifics of this but what I do recall is a general
10 sense that this was an issue that was becoming more
11 urgent.

12 BY MR. LISUS:

13 480 Q. Okay.

14 A. But I don't recall the specifics.

15 481 Q. You don't recall the specifics but
16 you do recall in your capacity as a Cabinet member
17 that this issue, being ameliorating the
18 consequences of the decision and increasing
19 funding, was becoming more urgent as of the fall of
20 2012?

21 A. Yes, I recall that because at the
22 time of Premier McGuinty stepping down, it was one
23 of the urgent issues that needed to be addressed.

24 MR. LISUS: Okay. I'd like to mark
25 this as an exhibit, please.

1 MR. MILAT: It's been marked on --

2 MR. RATCLIFFE: It's already been
3 marked as an exhibit on Michael Keegan, Exhibit
4 number 13.

5 MR. LISUS: That's fine.

6 BY MR. LISUS:

7 482 Q. And just on this question of the
8 continuing urgency, if I can show you CRE560559,
9 this is an exhibit on Mr. Bardeesy's examination.

10 MR. MILAT: And on Mr. Keegan's,
11 Exhibit 14.

12 BY MR. LISUS:

13 483 Q. And take a minute just to review
14 it, Ms. Wynne.

15 A. (Witness reads document).

16 484 Q. Okay?

17 A. Um-hmm.

18 485 Q. Now, Mr. Bardeesy is reporting on
19 a conversation he's had with Mr. Wilkinson, right?

20 A. Correct.

21 486 Q. And he reports to the group that:

22 "The standardbred auction was
23 cancelled because there are no
24 buyers. Another market indicator
25 that there won't be a soft landing."

1 Were you aware in the fall of 2012 that
2 the standardbred auction was cancelled?

3 A. I don't remember being aware of
4 that.

5 487 Q. And it says down towards the
6 bottom, do you see where it says:

7 "Deal with job losses and dead
8 horses. McKinsey set aside 28
9 million to deal with the horses."
10 Do you see that?

11 A. I do.

12 488 Q. Do you know what that means?

13 A. I actually don't know what that
14 means. It's the end part of this email that
15 captures my knowledge, which is that we as a
16 collective came to the conclusion that there needed
17 to be some --

18 489 Q. "We" being government?

19 A. "We" being government, that there
20 needed to be some more support. Certainly that is
21 what was being advised by Wilkinson and the panel.

22 490 Q. And that additional support was
23 urgently needed?

24 A. Exactly.

25 491 Q. I just want to ask you one more

1 thing about that. It says:

2 "We have come back with an
3 upper cost of 300 million but we are
4 also quite confident that you can
5 negotiate a lower price."

6 Do you recall there being a discussion
7 about 300 being needed but because of the condition
8 the industry was in, it would be possible to
9 negotiate a lower amount?

10 A. What I recollect was that there
11 was a lot of backing and forth about what the
12 number would be, and I think that, quite frankly,
13 that's an ongoing conversation.

14 492 Q. And so, we're now -- we're still
15 in October 2012, CRE32651.

16 A. October 2012?

17 493 Q. Yes, ma'am.

18 MR. MILAT: Exhibit 15 to Mr. Keegan's
19 examination.

20 THE WITNESS: So this is before Dalton
21 stepped down.

22 BY MR. LISUS:

23 494 Q. Right. And just to explain that
24 to me, after he stepped down, you --

25 A. Then I had to make a decision

1 about whether I would run for leader, and --

2 495 Q. And if you run for leader you
3 cannot be in Cabinet?

4 A. There's no law about it, but
5 it's --

6 496 Q. But you stepped out of Cabinet?

7 A. I stepped out of Cabinet.

8 497 Q. So you have a hiatus from Cabinet
9 between the date Mr. McGuinty resigns --

10 A. From October until January 26th,
11 2013 when the leadership race culminated.

12 498 Q. Does that mean you are blacked out
13 from information to Cabinet or you just don't --

14 A. Correct.

15 499 Q. You are?

16 A. I'm not there, I don't get the
17 Cabinet information.

18 500 Q. Okay. But as of October 1 --

19 A. I still would have been there.

20 501 Q. And so here's a communication from
21 Mr. Keegan to various folks, including Mr. Shortill
22 and Mr. Gene and Mr. Bardeesy, including the final
23 report synopsis.

24 A. Um-hmm.

25 MR. RATCLIFFE: Take a moment to look

1 at that.

2 THE WITNESS: (Witness reads document).

3 BY MR. LISUS:

4 502 Q. If you want, you can read the
5 whole thing but I'm just going to ask you --

6 A. Why don't you tell me what you
7 want me to look at.

8 503 Q. I'm just going to ask you whether
9 you had an understanding of the decision sought as
10 it's described in the first two paragraphs and the
11 reason for that decision.

12 A. So this is laying out what
13 Wilkinson had communicated about the 300 million
14 and the ability to negotiate.

15 504 Q. It appears to be, from the title
16 of the document, HRIT Panel Final Report Synopsis.

17 A. Correct.

18 505 Q. The final report comes out in
19 October '12?

20 A. Correct.

21 506 Q. And it has recommendations about
22 what level of additional funds is required?

23 A. Right.

24 507 Q. The point I wanted to ask you
25 about is that it says that "the horseracing

1 industry, after six months of uncertainty, is
2 beginning to rapidly unravel." Is that consistent
3 with your understanding as of the fall of 2012 of
4 the consequences of the decision?

5 A. Well, to the degree that that
6 fact, as it's laid out here, underpinned the sense
7 that there was urgency to get a resolution on this,
8 that the industry needed to understand from
9 government where we were going.

10 508 Q. Okay. And the report goes on to
11 say:

12 "At this critical juncture, the
13 government has optimal leverage."

14 Do you see that?

15 A. I do.

16 509 Q. Do you recall there being
17 discussion about the government having a lot of
18 leverage?

19 A. I don't remember that.

20 510 Q. Okay. And in the second paragraph
21 it says:

22 "Critically, in negotiating a
23 mandate of not more than 300 million
24 over the next three years as
25 required, we strongly urge this

1 figure not be publicly disclosed
2 since the panel is of the opinion
3 that a substantially better deal is
4 possible, but only with maximum
5 leverage applied."

6 Do you see that?

7 A. I do.

8 511 Q. And did you understand that
9 maximum leverage was applied to the stakeholders in
10 the horseracing industry?

11 A. Again, I didn't -- I didn't have
12 visibility into what the tactic -- this is a
13 negotiating tactic.

14 512 Q. May I infer, ma'am, based on your
15 comments and the statements that you have made,
16 that you would not have favoured the application of
17 maximum leverage to the industry at this point in
18 time?

19 A. I don't know what it means. I
20 don't know what kind of pressure they're talking
21 about and my objective would always have been, and
22 always was, to work with the horseracing industry
23 to come up with an arrangement that would be fair,
24 that would allow for race dates, that would allow
25 for the maximum number of tracks to survive,

1 because that was -- that was one of the issues
2 that -- you know, I came at it from how many tracks
3 have we got, how many race dates have we got,
4 because that drives the health of the industry.

5 513 Q. And that also drives horse supply?

6 A. It drives horse supply. So that
7 was my -- that's where my focus always was more on
8 the --

9 514 Q. Well, the leverage would be --

10 A. -- activity.

11 515 Q. The leverage would be not paying
12 more funds, right?

13 MR. RATCLIFFE: Well, she said she
14 didn't know specifically what they're referring to
15 there.

16 THE WITNESS: That wouldn't be the
17 leverage, that would be outcome of a negotiating
18 tactic, and what I'm saying to you is I don't know
19 the nature of what those negotiating tactics would
20 have been.

21 BY MR. LISUS:

22 516 Q. Did you ask at any point?

23 A. No.

24 517 Q. Okay.

25 A. I mean, this is -- this is

1 October. I'm still the Minister of Municipal
2 Affairs and Housing and Aboriginal Affairs.

3 518 Q. I understand.

4 A. These are internal conversations
5 with OMAFRA and Finance.

6 519 Q. I understand you're not part of
7 this decision-making process.

8 A. Exactly.

9 520 Q. Did you know whether Finance was
10 supportive of the provision of additional funding?

11 A. I believe I had a general sense
12 that there was a conflict between what Finance was
13 willing to do and what OMAFRA might have wanted to
14 do.

15 521 Q. And the panel, what --

16 A. And that -- my sense was that the
17 panel and OMAFRA were looking for the best deal
18 possible, and that Finance -- but that is kind of
19 the definition of Finance, is that they're
20 constantly trying to find ways to maximize. And
21 remember, again, we're still in a time when we're
22 trying to balance the budget.

23 522 Q. Why should I remember that?

24 A. Because I've said it a number of
25 times. That's all I meant. I've talked about the

1 context of this whole discussion was we were in a
2 deficit, 2008-2009. I mean, we didn't recover --
3 we finally balanced the budget last year, but it
4 took years.

5 523 Q. Wasn't there some controversy
6 about that?

7 A. About what?

8 524 Q. Whether that budget was balanced
9 last year?

10 A. I think that's irrelevant.

11 525 Q. You raised it, not me, ma'am. Let
12 me ask you this.

13 A. No, I raised it to tell you, to
14 remind you that we were in the process of, as a
15 government, digging out of a hole because of a
16 global economic downturn, that it meant that we
17 were in a deficit position because of the hit that
18 our economy had taken.

19 526 Q. Right. Let me ask you this. Can
20 you and I agree, Ms. Wynne, that the fact that the
21 government is trying to balance the budget does not
22 excuse it from being honest in its communications
23 about its so-called policy decisions?

24 A. You know what? I just challenge
25 the premise of that question.

1 527 Q. I'm not asking you to accept the
2 premise, I'm just saying whether you accept it or
3 not, the fact that the government is trying to
4 balance a budget doesn't excuse it from its
5 obligation of honesty in describing the reasons for
6 its decisions, and the nature of its decisions.
7 That's all. Right?

8 MR. RATCLIFFE: Mr. Lisus --

9 BY MR. LISUS:

10 528 Q. You don't have to accept that the
11 government wasn't honest. I'm just asking you to
12 accept the proposition.

13 MR. RATCLIFFE: You're free to make
14 this argument in court. This has nothing to do
15 with the actual merits of the claim.

16 MR. LISUS: Well, I think I pleaded bad
17 faith and irrationality, Mr. Ratcliffe.

18 BY MR. LISUS:

19 529 Q. But, in any event, let me ask you
20 this. Does the fact that the government is trying
21 to balance the budget excuse it from taking all of
22 the relevant factors into account when it makes
23 decisions that it knows will have significant
24 impacts?

25 A. Again, I don't accept the premise

1 of the question.

2 530 Q. Well, I think --

3 A. You are assuming that that's what
4 we, what government did, and I don't accept the
5 premise of the question.

6 531 Q. Are you aware that the panel
7 concluded in three weeks from a, quote, cold start
8 that the government's assumptions were wrong and
9 hadn't taken proper information into account?

10 MR. RATCLIFFE: If you're going to
11 pursue that line of questioning, why don't you take
12 her to the panel report.

13 MR. LISUS: It's not in the panel
14 report. It's in Mr. Wilkinson's testimony.

15 MR. RATCLIFFE: Well, she hasn't had
16 the benefit of Mr. Wilkinson's testimony.

17 BY MR. LISUS:

18 532 Q. I'm just asking you about the
19 process of government, Ms. Wynne, and I've heard a
20 lot from you about policy making and policy
21 decisions, and all I'm trying to understand is that
22 when the government is making decisions, it has to
23 make those decisions, as you have said, I think,
24 thoughtfully and with due consideration of the
25 relevant information about the consequences of

1 those decisions, correct?

2 A. Correct.

3 533 Q. And the fact that it is trying to
4 balance the budget does not excuse it from its
5 obligation to make considered policy decisions,
6 taking all of the relevant information available to
7 them into account, right?

8 A. And you are --

9 534 Q. I just need an answer to that.

10 A. Well --

11 MR. RATCLIFFE: She's trying to give
12 you an answer.

13 BY MR. LISUS:

14 535 Q. No, no, the fact --

15 A. You ask your question.

16 536 Q. The fact that the government is
17 trying to balance the budget doesn't excuse it from
18 making decisions in a properly considered,
19 thoughtful way, with a full assessment of the
20 information?

21 A. And again, I would just challenge
22 the premise of your question.

23 537 Q. There's no premise. It's just a
24 question.

25 A. The premise is that it didn't

1 happen.

2 538 Q. No, ma'am, it's not the premise.
3 It's just a straight question about policy making.

4 A. So, I can only speak for my
5 experience and the work that I have done in
6 government, and when I became the Premier and the
7 Minister of Agriculture and Food, I worked to
8 evolve that policy, to change that policy, and do
9 it with consideration of all of the factors.

10 539 Q. Okay. And all of the factors that
11 you took into account were available to the people
12 who made the decision when they made them?

13 A. You'll have to ask them about
14 that.

15 540 Q. All right. Let me ask you this.
16 There isn't one standard for considered
17 policy-making when you're trying to balance the
18 budget and another standard when you're not trying
19 to balance the budget? Can we agree on that much?

20 MR. RATCLIFFE: I'm not sure I
21 understand what your question is here.

22 BY MR. LISUS:

23 541 Q. There isn't one standard of --

24 MR. RATCLIFFE: What do you mean by a
25 standard? A legal standard?

1 BY MR. LISUS:

2 542 Q. A standard of conduct. Government
3 conducts itself the same way when making important
4 policy decisions whether it's trying to balance the
5 budget or whether it isn't, right? That's the role
6 of government, right?

7 A. Correct.

8 543 Q. Okay. Thank you.

9 MR. RATCLIFFE: It's 1:04. Did you
10 want to take the lunch break right now?

11 MR. LISUS: Sure. Just a quick one.

12 -- LUNCHEON RECESS AT 1:03 --

13 -- UPON RESUMING AT 1:28 --

14 BY MR. LISUS:

15 544 Q. I'm going to ask you to look,
16 please, at a document which is CRE235625 and 626,
17 which is an email and deck.

18 We're now in mid-October. It's a
19 Cabinet submission - I'll give it to you - October
20 17th, so I don't know if you're still in Cabinet or
21 not.

22 MR. MILAT: This is Exhibit 17 to
23 Mr. Keegan's examination.

24 THE WITNESS: He stepped down the week
25 before.

1 BY MR. LISUS:

2 545 Q. He stepped down when?

3 A. The week before. I'm trying to
4 remember the date.

5 546 Q. If you just look at the email, at
6 the bottom it says "attachments, Cabinet submission
7 for October 17 final." And it's the horseracing
8 industry transition.

9 So do you know if you were still in
10 Cabinet then?

11 A. You know what? I would have to
12 look up the dates. I don't actually remember.

13 547 Q. All right.

14 MR. MILAT: If it would help, your
15 Legislative Assembly bio.

16 THE WITNESS: Thank you. November 5th.
17 So this would have been probably my last Cabinet
18 meeting.

19 BY MR. LISUS:

20 548 Q. Okay. So, this is a deck that
21 appears to have been prepared for Cabinet and it's
22 dated October 17, and if we just look at the second
23 slide which is "Context."

24 And what I'm going to do, ma'am, is
25 just give you some of the data points that are

1 summarized in these slides and ask you whether you
2 were aware of this information.

3 So the second last bullet says:

4 "Without an orderly transition
5 over a three-year period,
6 significant employment impacts and
7 potential horse euthanasia issues
8 will occur if the industry
9 collapses."

10 Do you recall being aware in the fall
11 of 2012 that this was the view of the panel?

12 A. Generally I would say yes, in the
13 fall of '12 I would have understood that this was a
14 concern.

15 549 Q. And then over the page at the
16 third slide --

17 A. But it's interesting, the next
18 sentence in that deck, which is also part of my
19 understanding, is that there was no consensus on
20 the true size of the industry, so there were --
21 there were discussions about exactly what the
22 impacts would be and I don't -- I don't remember
23 there being a consensus.

24 550 Q. The panel landed on a figure which
25 it felt would accurately reflect it, right?

1 A. Yeah, but there had been some back
2 and forth about that. So what am I looking at now?

3 551 Q. The third slide, the second point
4 -- or the first point, second hash:

5 "Breeding investment and other
6 business decisions must be made
7 before year end."

8 A. Sorry?

9 552 Q. Slide 3.

10 MR. RATCLIFFE: Slide 3? There's
11 different bullet points.

12 THE WITNESS: This is different.

13 BY MR. LISUS:

14 553 Q. See breeding investment?

15 A. Oh, breeding investment and other
16 business decisions must be made before year end.
17 Yes, I see that.

18 554 Q. And it says:

19 "Any delay beyond in a decision
20 runs a serious risk of the industry
21 reaching a tipping point beyond
22 which it will be very difficult to
23 recover from. Industry contraction
24 has already begun due to the current
25 uncertainty in the industry. Fall

1 yearling sales have been weak
2 resulting in lost revenue to horse
3 breeders."

4 Were you aware of those facts?

5 A. Again, I was generally aware of
6 this concern. I don't recall specifically this
7 language, but, yes, I was aware of this issue.

8 555 Q. Then if we look at the sixth
9 slide, second hash mark, it says:

10 "Breeders' financial losses for
11 breeding operations whose
12 year-to-date sales have been 20 to
13 50 percent below last year's
14 average."

15 Were you aware of that data point?

16 A. So, if you look at that whole
17 number 1, all of those points, I was aware that
18 there was an industry concern and, you know, I
19 wasn't specifically or personally focused on one
20 aspect of the industry.

21 556 Q. And do you recall discussions
22 about this at Cabinet in the fall of 2012?

23 A. I don't. I don't recall that
24 specific discussion. I'm sure it happened but I
25 don't recall it.

1 MR. LISUS: Okay. We'll mark that as
2 the next exhibit.

3 MS. LA HOREY: Was it already made an
4 exhibit?

5 MR. MILAT: It was Exhibit 17 to
6 Mr. Keegan's. Do we want to mark it again?

7 MR. LISUS: We have it identified on
8 the record, right?

9 MR. RATCLIFFE: Yes.

10 MR. LISUS: So we don't have to mark it
11 again.

12 BY MR. LISUS:

13 557 Q. Were you aware in the fall of 2012
14 that at the same time that the panel was making and
15 pushing for the acceptance of its recommendations
16 that negotiations were underway to enter into
17 agreements with racetracks to compensate them and
18 to reach new agreements for slot machines?

19 A. I believe that I was aware at that
20 time that there was another conversation going on.

21 558 Q. And by the fall of 2012, Ms.
22 Wynne, had you focused on that aspect of the
23 modernization strategy that called for casinos in
24 Toronto and other cities?

25 A. Well, I wouldn't say I was focused

1 as a primary part of my work on any of this. This
2 was all more peripheral. But I was certainly aware
3 of the debate in Toronto about where the casino
4 could be.

5 559 Q. Were you aware that the -- well,
6 you were aware that there was a statute that
7 governed the OLG?

8 A. Yes.

9 560 Q. And were you aware that that
10 statute had in it a specific provision that spoke
11 to the siting of new casinos in cities? Are you
12 familiar with that?

13 A. I'm not familiar with that
14 statute.

15 561 Q. Did you know that there was a
16 process under the statute that required a specific
17 location to be identified and there to be a
18 business case and --

19 A. Yes. So that's what I was just
20 going to say. I can't cite the statute, but I know
21 that there was a requirement that municipality --
22 that there was a process that the municipality had
23 a role in.

24 562 Q. Were you aware in the fall of 2012
25 that OLG had not done a business case for a casino

1 in Toronto or any other city?

2 A. I knew that it was a hard process
3 for OLG. I couldn't have told you that specific
4 fact, but I knew that there was a lot of
5 resistance.

6 563 Q. Were you aware that they hadn't
7 approached any municipal decision-makers or
8 councils about it?

9 A. No, I don't think I was aware of
10 that.

11 564 Q. Were you aware that they hadn't,
12 leave aside a business case, hadn't identified a
13 location for a casino in the GTA or other cities?

14 A. I knew that none of that had been
15 settled, but I couldn't have told you exactly
16 where, what stage it was at.

17 565 Q. Okay. I'd like to show you,
18 please, an email from Mr. McMeekin to himself and
19 Mr. Keegan and Mr. Tindal. Do you know Douglas
20 Tindal?

21 A. I do.

22 566 Q. Who is he?

23 A. He was a staff member. I believe
24 he was Chief of Staff to Ted McMeekin at one point,
25 or at least his executive assistant, I'm not sure.

1 567 Q. Okay. Have you seen this email
2 before today?

3 A. (Witness reads document). I don't
4 think so. I don't think I've seen this.

5 568 Q. And the second paragraph of the
6 email of Mr. McMeekin says:

7 "To be clear, the decision to
8 end the SAR program was made by the
9 Ministry of Finance."

10 A. Oh, maybe I have. I've seen that
11 line before. Maybe I have seen this.

12 569 Q. Is your understanding the same as
13 Mr. McMeekin's, that the decision to end the SAR
14 program was made by the Ministry of Finance?

15 A. It would have been a Finance
16 decision, yes. Yes.

17 570 Q. Thank you. And did Mr. McMeekin
18 convey the same kinds of beliefs to you as he has
19 expressed in the second paragraph of this email?

20 A. The second paragraph or the third
21 paragraph?

22 571 Q. The second, "To be clear, the
23 decision..."

24 A. Yes.

25 572 Q. Okay.

1 A. I did read this, I think, in one
2 of the...

3 573 Q. I can't recall if I identified
4 that on the record. CRE235396 is the document.

5 MR. ROSENBERG: Sorry, again, counsel?

6 MR. LISUS: CRE235396.

7 MR. RATCLIFFE: For identification?

8 MR. LISUS: You don't have to mark it.

9 BY MR. LISUS:

10 574 Q. You didn't see that email, other
11 than in preparing to give your evidence here today?

12 A. Right, yeah.

13 MS. LA HOREY: It was marked as Exhibit
14 4 to Mr. Keegan's examination.

15 BY MR. LISUS:

16 575 Q. I want to ask you about an email,
17 we're now in January 2013, page 714, CRE434485, and
18 I presume that by January 2013, ma'am, you had made
19 your views known about the horseracing issue?

20 A. Um-hmm.

21 576 Q. You have to say yes or no.

22 A. Yes, sorry.

23 577 Q. Okay. And your views were that
24 there needed to be a second look at the decision
25 and its impacts and there needed to be more

1 support, more financial support than had been
2 approved in April 2012, being 50 million over three
3 years, right?

4 A. Right.

5 578 Q. Okay. Now, can you take a look --

6 A. I'm just looking at --

7 579 Q. Yes, go ahead.

8 A. (Witness reads document).

9 580 Q. Okay?

10 A. Um-hmm.

11 581 Q. January 9, 2013 you're in the
12 leadership race to succeed Mr. McGuinty?

13 A. Correct.

14 582 Q. And there seems to be some
15 discussion of having the horseracing panel offer to
16 meet with leadership candidates for a briefing on
17 the issue?

18 A. Correct.

19 583 Q. And did you take them up on that
20 offer?

21 A. Just as I read this, I'm trying to
22 remember. I don't think I met with the panel as a
23 leadership candidate.

24 584 Q. Okay. And so, Mr. Keegan and
25 Mr. McMeekin's efforts at the Cabinet, certainly up

1 to this point, did not involve you except to the
2 extent that you might have been at Cabinet meetings
3 and been supportive of their position, right?

4 A. Right.

5 585 Q. And then it says:

6 "John Wilkinson is going to
7 endorse Kathleen."

8 I presume that's you?

9 A. That is.

10 586 Q. And did he endorse you as a
11 leadership candidate?

12 A. Quite late in the process. This
13 was already January 9th. The vote was on January
14 26th, so...

15 587 Q. Is that late?

16 A. Yeah, it was pretty late. And he
17 hadn't done it yet. I can't remember. It was
18 probably the next week, I can't remember.

19 588 Q. Okay. And it says:

20 "May complicate things."

21 Why would that complicate things?

22 A. Well, I presume because John was
23 part of the panel and was offering advice to the
24 government.

25 589 Q. And you might be the leader of the

1 government?

2 A. Correct.

3 590 Q. And the advice that was being
4 offered by the panel was not embraced by Finance;
5 is that fair?

6 A. I assume. Again, you'd have to
7 ask them what they meant by that.

8 591 Q. So the concern would be that if a
9 panel member was seen to endorse you and you had
10 made your views known, and your views weren't
11 consistent with Finance, it could complicate
12 things?

13 A. Well, or the assumption would be
14 that there would be some kind of quid pro quo or
15 something, there could be some kind of inherent
16 bias in that. I assume but I don't know. You
17 would have to ask Ted.

18 592 Q. Or Finance might resist further
19 the adoption of the panel's recommendations if they
20 saw them?

21 A. I don't know. We're getting into
22 speculation that I really can't confirm.

23 593 Q. Thanks. You become - forgive me
24 if I asked you this before - you become Premier
25 when?

1 A. January 26th is the vote, so I'm
2 Premier designate that night, but February 11th I'm
3 sworn in.

4 594 Q. Okay.

5 A. So there was a short transition.

6 595 Q. Okay. Did you have any knowledge
7 of or involvement in the negotiation of
8 compensation arrangements with the racetracks?

9 A. No.

10 596 Q. I'm sorry, tell me again when you
11 actually became the Premier?

12 A. February the 11th.

13 597 Q. February the 11th. The vote is
14 the 26th?

15 A. The 26th.

16 598 Q. And you win the vote. So what is
17 your status as of that --

18 A. Premier designate, the same as
19 Doug Ford is right now, until you're sworn in.

20 599 Q. Okay.

21 A. It was a transition, a different
22 kind of transition than we're in right now because
23 we weren't changing -- government wasn't changing
24 but the leader was changing.

25 600 Q. But are you going to -- is

1 Parliament in session?

2 A. No, Dalton prorogued Parliament.

3 601 Q. So government is not doing
4 business?

5 A. No. Well, only as necessary but
6 there's no -- and, I mean, Cabinet is still --
7 Cabinet still exists but the government is not
8 sitting.

9 602 Q. Okay. So Cabinet isn't meeting
10 other than an emergency?

11 A. You know what? I actually don't
12 know. There would have been some business that
13 would have needed to be transacted, but...

14 603 Q. Okay. When does government
15 resume? When does the House resume?

16 A. We actually made a commitment to
17 come back I believe it was February 19th, so the
18 swearing in was the 11th, I think it was February
19 19th, because that was -- it was the day after or
20 the first working day after the Family Day weekend
21 which was the parliamentary calendar, we had made a
22 commitment to do that in my leadership.

23 604 Q. So February 13th Parliament is not
24 yet back in session?

25 A. Correct.

1 605 Q. And you haven't resumed your
2 duties as the Premier?

3 A. No, I have. I have my duties as
4 Premier, I've moved into the office, I was then the
5 Premier.

6 606 Q. Okay. Who is Shelly Potter?

7 A. Shelly Potter was part of my
8 senior staff and she had responsibility for the
9 public appointment secretary.

10 607 Q. Could I ask you to look at an
11 email, CRE437780.

12 A. Before that she had been my Chief
13 of Staff at Ministry of Municipal Affairs and
14 Housing.

15 608 Q. So did she move over?

16 A. She moved over to the Premier's
17 Office.

18 609 Q. And you inherited Keegan?

19 A. I inherited Michael Keegan, yes.

20 MR. RATCLIFFE: Take a moment to read
21 this through.

22 THE WITNESS: So this is February 13th?

23 BY MR. LISUS:

24 610 Q. Correct. Have you seen this email
25 before today?

1 A. I think maybe I have but -- sorry,
2 I'm drawing a blank on whether I've seen it. It's
3 Michael Keegan.

4 611 Q. We see that Keegan is writing to
5 Potter asking her -- I presume Shelly is a she?

6 A. A she.

7 612 Q. Asking her, as opposed to Sheldon,
8 asking Ms. Potter for help. He appears to be
9 asking Ms. Potter for help to get a decision on the
10 horseracing file, right?

11 A. Correct.

12 613 Q. And he gives her the context and
13 the problem and the recommendation, right?

14 A. Um-hmm.

15 614 Q. And if you go to the bottom of the
16 email, he says:

17 "I think this is very important
18 to resolve in short order and we
19 need to get a decision from the
20 Premier/Minister as soon as
21 possible. With the right corrective
22 action we could emphasize a dramatic
23 and positive turn-around on this
24 file culminating in an event
25 involving the Premier to kick off

1 the 2013 race season. This would go
2 a long way to mitigating what has
3 become a major rural irritant."

4 So do you remember Mr. Keegan trying to
5 get the decision out of you as Minister and Premier
6 to put the funding recommendation in place in
7 February 2013?

8 A. I remember that it was a very
9 urgent and high priority issue, yes.

10 615 Q. And if we just look back at some
11 of the documents we reviewed together, ma'am, we've
12 seen that in mid-2012 the panel is identifying the
13 urgency of the situation and the vulnerability of
14 the horseracing sector, right?

15 A. Correct.

16 616 Q. And then in October 2012, they're
17 re-emphasizing that?

18 A. Correct.

19 617 Q. And they're saying that a decision
20 really needs to be taken by December, end of the
21 year, right?

22 A. Correct.

23 618 Q. And yearling sales were cancelled,
24 the auction was cancelled, prices were
25 significantly depressed. As of February there

1 still isn't any kind of signal to the industry or
2 an announcement, right?

3 A. Correct. Because there had really
4 been that pause on government business while the
5 prorogation was in place.

6 619 Q. Right. And Mr. Keegan at this
7 point had been very involved in the issues,
8 certainly from the spring of 2012, right?

9 A. Correct.

10 620 Q. Did you trust his assessment of
11 the situation?

12 A. Yes.

13 621 Q. And in his email to Ms. Potter, he
14 says that:

15 "The context of the issue is
16 that the decision to take away the
17 Slots at Racetrack revenue share was
18 based on an analysis by Finance
19 based on assumptions that have not
20 been realized."

21 Do you recall there being discussion
22 about that, that Finance's decision was based on
23 assumptions that were not realized?

24 A. I don't know that I remember it
25 being phrased that way, but the whole reason that

1 it was an issue of high priority for me was that I
2 believed, having been informed by conversations
3 with people like Michael Keegan, that this was
4 something we needed to act on and that we could
5 send a clear signal by doing that to rural Ontario.

6 622 Q. He goes on to say that:

7 "The other basis for the
8 decision was a desire to wedge the
9 opposition in the short-term."

10 Do you see that?

11 A. Yeah, I saw it here. And I -- I
12 really -- I really wasn't aware and that political
13 tactic issue was not part of my consciousness.

14 623 Q. You had no involvement in or
15 exposure to the decision taken in February 2012 to
16 not follow staff's recommendation of a phased
17 step-down and to go to zero with no transition
18 support, right?

19 A. Correct.

20 624 Q. And you said you had no
21 involvement in the messaging or communication that
22 occurred afterwards, the attack ads and the
23 speeches?

24 A. Correct.

25 625 Q. And it was Mr. Keegan's opinion in

1 2012 that the way this decision was made and
2 implemented was a desire to wedge the opposition.
3 Do you agree with that?

4 A. Well, you'll have to ask him.

5 626 Q. I did.

6 A. Okay.

7 627 Q. I asked Mr. McGuinty and Mr.
8 Duncan, no one seems to know anything about that.

9 A. Well, you know, if they don't
10 know, I mean, I -- I don't have --

11 MR. RATCLIFFE: Don't speculate.

12 THE WITNESS: I wouldn't have had any
13 access to that. You'd have to ask --

14 BY MR. LISUS:

15 628 Q. Does it look like a wedge when you
16 view it in context?

17 A. Again, I don't -- I don't
18 understand the -- I don't understand the context in
19 which it would be a wedge, so I just can't comment
20 on it.

21 629 Q. And you also don't understand the
22 context in which the decision was made?

23 A. I was not part of that.

24 630 Q. Did you trust Mr. Keegan's
25 judgment?

1 A. I did and do.

2 631 Q. Did Ms. Potter come to you to say,
3 Premier, how do we get this decision which is
4 urgent finally made?

5 A. I don't remember having that
6 conversation with Shelly, but I certainly remember
7 wanting to get this done.

8 632 Q. Was Mr. McMeekin speaking to you
9 about the issue upon your appointment?

10 A. Ted and I -- Ted and I had many
11 conversations about this. I don't remember the
12 specific conversations we had. By this time, he
13 had been -- he was Minister of Community and Social
14 Services and I had taken over the Agriculture file,
15 so he would have moved on to those issues, but I
16 knew that he was concerned that we get this done.

17 633 Q. You recall the August 3 email from
18 Mr. Wilkinson to Mr. Gene and Mr. Keegan, right?

19 A. Yes.

20 634 Q. Do you recall that Mr. Wilkinson
21 also articulates a justification for accepting the
22 panel's recommendations of wedging Tim and Andrea
23 in upcoming by-elections?

24 A. I do remember that, yes.

25 635 Q. And did you discuss that with

1 Mr. Wilkinson at any time?

2 A. No.

3 636 Q. What is a wedge?

4 A. A wedge is an issue that divides
5 either different segments of the population or
6 divides the opposition, provides space between our
7 policy and another important opinion group, and
8 leverages -- leverages support.

9 637 Q. If we go on to February 20th,
10 CRE458776, there is an email here from Maria Hart.
11 Is she an assistant of yours?

12 A. She is, was, yes.

13 MR. RATCLIFFE: Read this through.

14 THE WITNESS: (Witness reads document).

15 Um-hmm.

16 BY MR. LISUS:

17 638 Q. And Ms. Hart sends out an email to
18 a number of senior people saying -- apologizing for
19 the short notice but asking them to make
20 arrangements to brief you on the horseracing file.

21 A. Correct.

22 639 Q. I take it this is because now that
23 you actually had the opportunity or the ability to
24 really affect decision-making, you wanted to move
25 very quickly because you recognized the urgent need

1 for help as a consequence of the February 2012
2 decision?

3 A. Yes, I would have asked for this.

4 640 Q. It appears you did.

5 A. Yes.

6 641 Q. And did you get -- was that your
7 first briefing?

8 A. Probably. Probably. Yes, it was
9 February 11th. Probably.

10 642 Q. February 20th.

11 A. Yeah, but I'm working back.

12 Um-hmm.

13 643 Q. And do you know who identified the
14 people to attend that briefing? Because I know
15 from a review of the documents these are many of
16 the people involved in the decision and the
17 subsequent management of it.

18 A. So, I don't know how the decision
19 was made but my guess would be that Maria would
20 have spoken with Michael and gotten advice from him
21 on who should be there.

22 644 Q. Michael Keegan?

23 A. Michael Keegan.

24 MR. LISUS: That's the next exhibit,
25 please.

1 MR. MILAT: It's Exhibit 4.

2 EXHIBIT NO. 4: Email from Maria Hart,
3 Bates numbered CRE458776.

4 BY MR. LISUS:

5 645 Q. Just moving along, CRE438235.

6 MS. LA HOREY: This is Exhibit 22 to
7 Keegan?

8 MR. MILAT: Yes, it is.

9 MR. LISUS: Yes.

10 BY MR. LISUS:

11 646 Q. Saturday, February 23, the second
12 email in the sequence, Ms. Wynne --

13 A. Wait a second.

14 MR. RATCLIFFE: Take a moment to read
15 it here.

16 BY MR. LISUS:

17 647 Q. It's not a big point. I'm just
18 taking you to a reference which says in the second
19 email from the top:

20 "P is pretty up to speed on
21 this. We have briefed her twice and
22 are headed to Treasury Board next
23 week on it."

24 I'm just orienting you to the time.

25 A. Um-hmm.

1 648 Q. So February 23 you now appear to
2 be pretty up to speed on the --

3 A. On the issue, yeah.

4 649 Q. Yes. And there is discussion
5 about WEG, which is WEG and --

6 A. Woodbine Entertainment.

7 650 Q. The context of this appears to be
8 the negotiation of agreements with various
9 racetracks to allow the government to keep their
10 slot machines in their tracks, right?

11 A. Right.

12 651 Q. And at this point, ma'am, late
13 February 2013, the issue of a casino in Toronto and
14 other cities is a fairly public and contentious
15 one, correct?

16 A. Correct.

17 652 Q. And you did not support an issue
18 -- you did not support the construction of another
19 casino in the GTA?

20 A. What I supported was
21 municipalities making those decisions.

22 653 Q. Fair enough. And the municipality
23 didn't make the decision, 40 to 4 or so against,
24 correct?

25 A. Correct.

1 654 Q. And because there wasn't any place
2 in municipalities to put slot machines, they needed
3 to stay in the racetracks in order for government
4 to get revenue from them, right?

5 A. Right.

6 655 Q. And it was a lot of revenue; the
7 government needed it, right?

8 A. Right.

9 656 Q. But your predecessor and Mr.
10 Duncan had instructed the contracts with the
11 racetracks to be cancelled and the slot machines
12 were not going to be in there unless a new deal was
13 struck, right?

14 A. Correct.

15 657 Q. So the racetracks had a lot of
16 leverage? That's what Mr. Phillips told me.

17 A. I -- I --

18 658 Q. Do you agree with him?

19 A. I assume -- again, I was not part
20 of that conversation.

21 659 Q. Okay. And the racetracks had to
22 be compensated in addition to having new
23 arrangements reached for the maintenance of slot
24 machines in their facilities, right?

25 A. I expect that's true. Again, I

1 really didn't have that -- I didn't have an
2 intimate knowledge of what was going on at the
3 racetracks.

4 660 Q. Do you recall what OLG said its
5 modernization plan would increase the net profit to
6 the province by?

7 MR. RATCLIFFE: What document are you
8 referring to?

9 THE WITNESS: I don't recall a number.

10 MR. LISUS: Well --

11 THE WITNESS: Two to five hundred
12 million, I actually don't remember.

13 BY MR. LISUS:

14 661 Q. I think it was a billion or more.

15 A. Was it a billion? Okay. Again,
16 sorry, I don't have that.

17 662 Q. So you were in favour of having
18 municipalities decide, right?

19 A. On the location.

20 663 Q. On the casinos?

21 A. On casinos, yes.

22 664 Q. Was it your expectation that OLG
23 would have spoken with municipalities before it
24 terminated all of the siteholder agreements on the
25 premise of relocating them into municipalities?

1 A. I wouldn't have had a specific --
2 I wouldn't have had that specific expectation. I
3 don't know. I wouldn't have known enough about the
4 relationship.

5 665 Q. Would you have expected there was
6 at least a business case for the location of --

7 A. I would have expected there to
8 have been some process whereby that decision would
9 be made that would be laid out.

10 666 Q. And do you know if there was one?

11 A. I don't know.

12 667 Q. Now, I want to ask you about a
13 briefing note that we've got, February 27, 2013.
14 You can just reflect for a minute on the sequence
15 of documents I'm putting to you. It does appear,
16 and tell me if you agree, that very quickly upon
17 your election as the Premier and your assumption of
18 the role as Minister of Agriculture and Food,
19 you're paying close attention to and giving the
20 horseracing file a high priority?

21 A. Correct.

22 668 Q. And again, I presume that is
23 because you recognized there was real urgency to
24 it?

25 A. Correct. And it's a commitment

1 that I had made.

2 669 Q. And the urgency was in part what
3 you understood to be the very significant economic
4 consequences on the horseracing industry and the
5 agricultural sector generally as a result of the
6 February 2012 decision, right?

7 A. Correct.

8 670 Q. So we see that --

9 A. And this note outlines that.

10 671 Q. Right. And one of the priorities
11 of yours was to ensure that there would be a new
12 racing model which would support the breeding of
13 high quality Ontario race horses, right? I'm just
14 reading from the document.

15 A. Well -- yeah, yeah.

16 MR. RATCLIFFE: Can you refer
17 specifically to where --

18 BY MR. LISUS:

19 672 Q. The new racing model will be based
20 on the engagement --

21 A. Support the breeding of high
22 quality Ontario race horses.

23 673 Q. Right.

24 A. That was one of the things that
25 the new racing model should do, correct.

1 674 Q. And one of the ways it would do
2 that was ensure that there was a sufficient number
3 of live race dates to draw on a horse supply of
4 high quality Ontario bred horses, right?

5 A. Correct.

6 675 Q. And that was one of the things
7 that the prior decision did not do that you wanted
8 to change and did change, right?

9 A. Yes.

10 MR. LISUS: Next exhibit.

11 MR. RATCLIFFE: It's already marked as
12 23 for Michael Keegan.

13 BY MR. LISUS:

14 676 Q. Were you aware at this point,
15 being --

16 MR. MILAT: It was marked already.

17 MR. LISUS: We should mark it again
18 because it was to Ms. Wynne.

19 MR. MILAT: We will mark it as Exhibit
20 5.

21 EXHIBIT NO. 5: Briefing note, Bates
22 numbered CRE459272.

23 THE WITNESS: It's good we live in a
24 paperless world now.

25 MR. LISUS: Off the record.

1 -- OFF THE RECORD DISCUSSION --

2 BY MR. LISUS:

3 677 Q. Now we're at March 4 and it's
4 another briefing note from Mr. Keegan to you,
5 CRE459564. So you --

6 MR. RATCLIFFE: Just look at it for a
7 moment.

8 THE WITNESS: Um-hmm.

9 BY MR. LISUS:

10 678 Q. I'm not going to do anything
11 detailed about this. The only point I'm making is
12 you're having weekly briefings with Mr. Keegan.
13 You obviously have accelerated this issue as a
14 priority; fair?

15 A. Fair, yes.

16 679 Q. And if you want to just look at
17 point number 7.

18 A. (Witness reads document). And by
19 HIP he means the Horse Improvement Program?

20 680 Q. Right. And you understand that
21 was a program exclusively for breeders and for
22 breeding horses, right? You have to say --

23 A. Correct, yes. Correct, yes. It
24 was for a number of aspects of the breeding
25 industry though.

1 681 Q. Different breeds.

2 A. Yes.

3 682 Q. Thoroughbred, standardbred and
4 quarter horse. But you understood that
5 standardbred was by far the biggest breed in
6 Ontario, right?

7 A. Yeah, I should have understood
8 that. I'm not sure I could have told you the
9 numbers, but yes.

10 683 Q. I'm not suggesting you knew the
11 number of horses, but by count it was bigger?

12 A. More, yes. Okay.

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

14 MR. MILAT: That's Exhibit 6.

15 EXHIBIT NO. 6: Briefing note, Bates
16 numbered CRE459564.

17 BY MR. LISUS:

18 684 Q. Who is Bob Lopinski?

19 A. Bob Lopinski did work for Premier
20 McGuinty.

21 685 Q. As an employee of the government?

22 A. He worked -- he was in the
23 Premier's Office, I don't know exactly what his
24 title was, and he's a political advisor. I mean,
25 for example, in this past election he was in our

1 political war room. So he's a friend and
2 supporter.

3 686 Q. In Q1 of '13 was he a government
4 employee or was he a consultant to your folks on
5 the horseracing file?

6 A. You know what? He does government
7 relations. I don't know. I don't know where he --
8 I don't exactly know.

9 687 Q. But he wasn't on your staff?

10 A. He wasn't on my staff but I don't
11 know his employment status at that point.

12 688 Q. Do you know whether your staff or
13 the government had engaged Mr. Lopinski to advise
14 them on the horseracing file?

15 A. I don't remember. That's possible
16 but I don't remember.

17 689 Q. Okay. And --

18 A. We'd have to check -- we'd have to
19 check with someone else about that. I just don't
20 remember.

21 690 Q. Right. Are you aware -- do you
22 recall in the spring of 2013, late February, early
23 March, that there was a concern about the
24 horseracing industry organizing an antigovernment
25 campaign or communications campaign because no

1 announcement had yet been made about funding?

2 A. I think I had a general awareness
3 of that. I don't know that I had the specifics,
4 but that would have been a concern.

5 691 Q. Was it your understanding that the
6 government could not make an announcement about
7 funding until it had concluded its compensation
8 agreements or its deals with racetracks?

9 A. I know that there was an
10 interaction between those things and that there was
11 a need for there to be coordination.

12 692 Q. Okay. So I was going to ask you
13 about a sequence of emails, which are CRE554102.

14 MR. MILAT: This is Exhibit 25 to
15 Mr. Keegan's examination.

16 BY MR. LISUS:

17 693 Q. And if you just run through those
18 emails quickly, please, Ms. Wynne.

19 A. So --

20 694 Q. It starts with one from
21 Mr. Lopinski saying --

22 MR. RATCLIFFE: It's a little light.
23 What exhibit number is that? 29.

24 BY MR. LISUS:

25 695 Q. Mr. Lopinski says:

1 "Hearing they are out
2 fundraising and getting ready to
3 relaunch their campaign..."

4 That's how it starts.

5 MR. RATCLIFFE: It's hard to read
6 because it's so light.

7 BY MR. LISUS:

8 696 Q. You can take mine.

9 A. You just read it.

10 697 Q. Take mine. Just ignore the notes.

11 A. I don't see -- I don't see the
12 content --

13 698 Q. That's the last page.

14 A. Okay. Okay. So I see that, yes.

15 699 Q. Okay?

16 A. Again, I don't know the capacity
17 -- well, public affairs council. So I don't know
18 who -- I don't know who Bob was working for, but
19 obviously he was giving us advice on that.

20 700 Q. Let me just -- I'm just going to
21 ask you about one comment in here.

22 A. Okay.

23 701 Q. Let me just see.

24 A. I can read this. It's just that
25 last page.

1 702 Q. So, there still hasn't been any
2 signal or announcement to the industry from
3 government about what kind of funding there's going
4 to be, how much and for how long, right?

5 A. Right.

6 703 Q. And the government has known that
7 there is urgency to this certainly since the spring
8 of 2012 when they approved 50 million over three
9 years?

10 A. Right.

11 704 Q. We're now coming to the spring of
12 '13.

13 A. Right.

14 705 Q. And it appears that the industry
15 is going to start having a campaign of some kind,
16 and Tom --

17 MR. RATCLIFFE: Where are you referring
18 to?

19 MR. LISUS: Top of 785.

20 BY MR. LISUS:

21 706 Q. It says from Tom Teahen and Andrew
22 Bevan. Who are they?

23 A. No, it's to Tom --

24 707 Q. Sorry, to Tom Teahen.

25 A. So Tom was my Chief of Staff,

1 Andrew is my principal secretary, John McGrath was
2 helping us in communications, he was working for
3 us.

4 708 Q. And it's from Michael Keegan,
5 right? The email is from Michael Keegan and
6 Michael Keegan says, over on page 784 --

7 A. Oh, I see, it's from Michael,
8 yeah, yeah.

9 709 Q. "Have the Premier do an
10 announcement signalling a clear
11 shift in horseracing policy. New
12 approach - new government."

13 A. Yes. "Announce the additional
14 tracks."

15 710 Q. Right.

16 A. Yes. So all of this is consistent
17 with the fact that I said, when I came in, that I
18 was going to move the relationship with the
19 horseracing industry forward, that I thought there
20 was more work that needed to be done in order for
21 the horseracing industry to be sustained --
22 sustainable. There was more support that needed to
23 be put in place. All of this is consistent with
24 that.

25 711 Q. Okay. And the information that

1 you relied on to come up with that approach was the
2 information from the horseracing industry panel
3 contained in its interim report of August 12 and
4 its final report of October 12?

5 A. Correct.

6 MR. MILAT: So we'll mark the last
7 document, which is Exhibit 25 to Mr. Keegan, as
8 Exhibit 7 to Ms. Wynne's examination.

9 EXHIBIT NO. 7: Email chain, Bates
10 numbered CRE554102.

11 BY MR. LISUS:

12 712 Q. And then just continuing in this
13 timeframe, March 2013, CRE439155, and this is a
14 discussion between Mr. Snobelen, Mr. Buchanan,
15 Mr. Keegan and Mr. Wilkinson, and up at the top
16 Mr. Snobelen is saying to the group:

17 "The most important thing to
18 communicate is Premier gets the
19 urgency. She arrived on this file a
20 couple of weeks ago, a month before
21 the end of SARP."

22 Do you see that?

23 A. Yes.

24 713 Q. And did you get the urgency of
25 this?

1 A. Yes, I did.

2 714 Q. Okay. And --

3 A. At no point did I say we were
4 bringing SARP back.

5 715 Q. I understand. But at this point
6 you understood what the breeding cycle was?

7 A. Correct.

8 716 Q. At this point you understood that
9 horse breeders had made long-term investments in
10 their horses and breeding operations, right?

11 A. Correct.

12 717 Q. At this point you understood that
13 -- at this point you understood that an auction had
14 been cancelled in the fall of '12 and that prices
15 were way down?

16 A. I had forgotten that now, but yes,
17 I would have known that, yes.

18 718 Q. And you understood that as of the
19 date of Mr. Duncan's decision that there was four
20 years of SARP incented breeding in the pipeline,
21 right?

22 MR. RATCLIFFE: Well, Mr. Lisus, I
23 think we talked about this with earlier
24 examinations. You refer to Mr. Duncan's decision.
25 I don't think that's what the facts and evidence

1 reflect.

2 BY MR. LISUS:

3 719 Q. I think it's pretty clear that's
4 what it reflects, but, in any event, you were aware
5 that as of February 2012, Mr. Duncan and Mr.
6 Shortill --

7 A. As of the Cabinet decision, is
8 what you're talking about?

9 720 Q. I think it was actually maybe
10 before Cabinet.

11 A. No, that's not true.

12 721 Q. I understand your position.

13 A. No, no, well, it's just not true
14 because there are decisions -- there are decisions
15 that come from a Ministry that frequently are
16 changed or overturned at Cabinet, so the decision
17 has to be made by Cabinet. Even if the coming-in
18 position of the Ministry is the same as the Cabinet
19 decision, that does not mean that the decision was
20 made before Cabinet.

21 722 Q. I understand. I understand your
22 position.

23 A. Then it's a mischaracterization to
24 say that the decision was made anywhere but in
25 Cabinet.

1 723 Q. Do you want me to talk about some
2 mischaracterizations? About what happened at
3 Cabinet? Do you know that Cabinet --

4 A. Have you sat in Cabinet?

5 724 Q. No, but I have read what was put
6 to Cabinet. Do you know that Cabinet was told that
7 Mr. Drummond recommended the elimination of SARP?

8 MR. RATCLIFFE: Mr. Lisus --

9 THE WITNESS: I'm just telling you,
10 having been Premier of this province for five years
11 and having sat in Cabinet since 2006 --

12 BY MR. LISUS:

13 725 Q. But Ms. Wynne --

14 A. -- the decisions that are made are
15 made at Cabinet.

16 726 Q. I understand that is your
17 position.

18 A. It is not a position. That is the
19 reality.

20 727 Q. That is not the reality in this
21 case, ma'am. That's why we're here.

22 MR. RATCLIFFE: Well, you're making
23 arguments there now. I mean, you've heard the
24 evidence and you've heard it previously, so let's
25 just move on.

1 BY MR. LISUS:

2 728 Q. Sure. As of February 2013, did
3 you understand that there were four years of SARP
4 incented breeding in the pipeline?

5 MR. RATCLIFFE: Haven't you asked this
6 question before?

7 MR. LISUS: About a minute before we
8 got on to this track and I didn't get an answer.

9 MR. RATCLIFFE: Well, you've been
10 asking what Ms. Wynne knew at that moment in time.

11 MR. LISUS: And I'm waiting for the
12 answer.

13 MR. RATCLIFFE: You're asking her
14 again.

15 MR. LISUS: No, I'm not.

16 THE WITNESS: I know that there was a
17 breeding cycle.

18 BY MR. LISUS:

19 729 Q. Did you know that breeders had
20 bred on the basis of SARP and the revenue stream
21 from SARP?

22 A. Well, SARP was not the only
23 support for the horseracing industry in this
24 province.

25 730 Q. You're talking about the

1 pari-mutuel tax as the other?

2 MR. RATCLIFFE: Let her finish.

3 THE WITNESS: Yes, I am talking about
4 there being other supports, so it would not have
5 been on the basis of one program support.

6 BY MR. LISUS:

7 731 Q. Well, let me see if I can assist
8 your understanding, Ms. Wynne. If you take a look
9 at the document produced by your Ministry in 2013,
10 CRE545346.

11 MS. LA HOREY: And this was marked as
12 Exhibit 48 to Mr. Keegan's examination.

13 MR. LISUS: And 32 on Bardeesy.

14 THE WITNESS: Ontario Horseracing Plan
15 for a Sustainable Future?

16 BY MR. LISUS:

17 732 Q. Yes.

18 A. Yes.

19 733 Q. So this is September 2013, you're
20 the Premier and the Minister of Agriculture, right?

21 A. Correct.

22 734 Q. And this is the horseracing deck
23 for and policy note for OLF event tomorrow night.
24 What's the OLF?

25 A. Ontario Liberal Fund.

1 735 Q. Okay. And the context on slide 2
2 gives the context for horseracing and wagering in
3 Ontario. Are you with me?

4 A. Um-hmm. Yes.

5 736 Q. 1998 to 2012, government entered
6 into a relationship with racetracks to host slot
7 facilities. In return, horseracing industry
8 received 20 percent of gross slot revenues. 50
9 percent directed to purses, 50 percent to tracks.
10 Right?

11 A. Correct.

12 737 Q. "2012, racing industry plunged
13 into disarray," that's a fair characterization,
14 right?

15 A. Where is that, sorry?

16 738 Q. Middle of the slide.

17 MR. RATCLIFFE: There is a heading.

18 THE WITNESS: Oh, I see. I see. Okay.

19 BY MR. LISUS:

20 739 Q. Right? The racing industry was
21 plunged into disarray, right?

22 A. There certainly were changes that
23 caused concern, yes.

24 740 Q. Okay. And if we look at the third
25 point:

1 "Breeding sector immediately
2 impacted. Four years of SARP
3 incented breedings. Foals and
4 yearlings are in the system. Prices
5 drop because of oversupply and
6 uncertainty of industry's future."

7 That was the view of your government in
8 September 2013?

9 A. Correct, correct.

10 741 Q. And it certainly wasn't a
11 newly-discovered fact that there were four years of
12 SARP incented breeding. The breeding cycle of race
13 horses and the reliance on SARP revenue was well
14 known in 2012, right?

15 A. The reliance on government
16 support, the reliance on a relationship with
17 government was part of the sustainability of the
18 horseracing industry. It was then, it was before
19 SARP, it was as of SARP, and it was after SARP.

20 742 Q. Thank you.

21 A. But that's exactly why I moved to
22 put more supports in place. I did not -- did not
23 reinstate SARP because there were good reasons not
24 to continue with SARP.

25 743 Q. I understand why you moved to put

1 more supports in place. The consequences of not
2 doing so would have been catastrophic, right?

3 A. It would have made the horseracing
4 industry unsustainable.

5 744 Q. And it would have resulted in
6 thousands of euthanized horses, right?

7 A. It would have made the horseracing
8 industry unviable, unsustainable in the province.

9 745 Q. And would have resulted in
10 thousands of job losses, correct?

11 A. All of those things are part of an
12 unsustainable industry.

13 746 Q. It would have resulted in very
14 significant emotional consequences, including
15 suicides as a result of the mass euthanization?

16 A. I really cannot speculate on all
17 of that.

18 747 Q. Isn't that what the panel
19 reported?

20 A. The panel said that there would be
21 severe impacts and that's exactly why -- that's
22 exactly why I moved forward.

23 748 Q. I know. And the panel understood
24 the certainty of those severe impacts by --
25 certainly by August 3, 2012, having begun its work

1 in the first week of June 2012, right?

2 A. I guess I just don't understand
3 what -- you know, I mean, I think I've said all of
4 this and, you know, I think I have explained why I
5 moved forward, I have explained why I didn't
6 reverse the decision that had been made by the
7 previous government.

8 749 Q. Ms. Wynne, I'm not --

9 A. I'm not sure what we're getting
10 at.

11 750 Q. You don't need to worry what I'm
12 getting at and I'm not criticizing you for the
13 decision that you made. Okay? So --

14 A. No, I...

15 751 Q. I understand this is a different
16 kind of exercise than what you're used to but
17 you're just going to have to bear with me.

18 A. I understand what kind of exercise
19 it is. But I also -- I also feel like I have given
20 you a clear understanding of my position.

21 752 Q. You have.

22 A. So...

23 753 Q. You have --

24 A. Okay.

25 754 Q. -- given me --

1 A. Okay.

2 755 Q. -- a clear understanding --

3 A. Okay.

4 756 Q. -- of your position.

5 A. Yeah.

6 757 Q. Thank you. Yes, Mr. Ratcliffe?

7 MR. RATCLIFFE: Well, I think if we can
8 close it off and move on, that would be good. All
9 you're doing is really making argument.

10 THE WITNESS: Yeah.

11 MR. LISUS: I'm just trying to
12 understand what Ms. Wynne understood.

13 MR. RATCLIFFE: You're repeating
14 yourself over and over again.

15 MR. LISUS: I don't think I am but
16 fortunately there will be a record, okay?

17 MR. MILAT: Can we mark CRE0439155 as
18 Exhibit 8 and this --

19 MR. RATCLIFFE: Sorry, too many voices
20 here.

21 EXHIBIT NO. 8: Email, Bates numbered
22 CRE0439155.

23 BY MR. LISUS:

24 758 Q. Did you present at the Ontario
25 Liberal Fund on September -- in September 2013?

1 A. I don't remember.

2 759 Q. Okay.

3 A. I might have. I don't remember.

4 MR. LISUS: Do you want to take - I'm
5 happy to continue -- do you want to take a brief
6 five minutes?

7 MR. MILAT: Before the break, can we
8 mark the last exhibit, this was Exhibit 48, as
9 Exhibit 9 to Ms. Wynne's examination.

10 EXHIBIT NO. 9: Email and attachment,
11 Bates numbered CRE545346.

12 -- RECESS AT 2:26 --

13 -- UPON RESUMING AT 2:35 --

14 BY MR. LISUS:

15 760 Q. We discussed a few minutes ago the
16 view amongst your staff that it was important to
17 communicate that you understood or got the urgency
18 of the situation?

19 A. Correct.

20 761 Q. And again, we're back in March of
21 2013. I want to show you a document, CRE439170.

22 MR. MILAT: I think the next exhibit in
23 Mr. Keegan's examination.

24 MS. LA HOREY: Which exhibit?

25 MR. MILAT: 27.

1 BY MR. LISUS:

2 762 Q. It's CRE439170.

3 A. I'm just looking at this.

4 763 Q. I'm not going to ask you. Just
5 note that the subject is the short-term comms plan,
6 which I take it is communications plan?

7 A. Correct. (Witness reads
8 document). Yes.

9 764 Q. Okay?

10 A. Did you have a question about
11 this?

12 765 Q. Yeah. These emails reflect a
13 concern by Mr. Wilkinson and Buchanan and Snobelen,
14 as well as Mr. Keegan, about the communication of a
15 plan to the industry about the government's
16 intentions, right?

17 A. Right.

18 766 Q. And Mr. Wilkinson, in the middle
19 sequence, says to Mr. Keegan:

20 "This communications plan would
21 have worked if we met the December
22 15 drop dead deadline but Finance
23 refused to heed our warning, paid
24 Deloitte to go reinvent the wheel
25 and has led the industry to conclude

1 that we are sunseting them."

2 Do you see that?

3 A. Yes.

4 767 Q. Do you recall those views being
5 expressed by Mr. Wilkinson?

6 A. I don't remember John ever saying
7 that exact thing to me.

8 768 Q. Do you recall Mr. Wilkinson
9 expressing a continuing concern that there was
10 urgency to the communication of a clear government
11 commitment to additional funds and that Finance
12 wasn't being supportive?

13 A. I remember John being agitated
14 about getting this done, yes. But I didn't have
15 this level of detail.

16 769 Q. Okay. So, did you know whether or
17 not -- can you guys keep it down, down there,
18 please.

19 Do you recall knowing that the Ministry
20 of Finance had in March 2013 engaged Deloitte to,
21 quote, reinvent the wheel?

22 A. I didn't remember that.

23 770 Q. Okay. And Mr. Wilkinson goes on
24 to say at the top:

25 "You don't have the luxury of

1 waiting. You need to go this week
2 to change the channel and get out in
3 front. The question is where to
4 have the page-turner event."

5 Do you see that?

6 A. I do.

7 771 Q. What was that about?

8 A. That was about the urgency of
9 signalling to the industry that we were going to
10 put more supports in place.

11 772 Q. And can we agree, ma'am, that the
12 signal by this time was well overdue?

13 A. Well, I mean, I think that was the
14 position of OMAFRA and the panel because there was
15 concern. That was what was generating the urgency.

16 MR. LISUS: Okay, that's the next
17 exhibit.

18 MR. MILAT: Exhibit 10.

19 EXHIBIT NO. 10: Email chain, Bates
20 numbered CRE439170.

21 BY MR. LISUS:

22 773 Q. And I presume Mr. Keegan was
23 continuing to convey the urgency to you?

24 A. Correct.

25 774 Q. And did you subsequently make a

1 page-turner announcement at an event?

2 A. That's what I'm trying to
3 remember.

4 775 Q. Let me see if I can help you.

5 A. It might have been at the Western
6 Fair.

7 776 Q. Okay.

8 A. It might have been there.

9 777 Q. There is an article from --

10 A. Is it from London?

11 778 Q. Flamborough Review, March 4, 2013.

12 A. Did I do it in Hamilton? Okay.

13 At Mohawk then? I did make an announcement at
14 Mohawk.

15 779 Q. This is the quote that's
16 attributed to you. This is Exhibit 29 on someone's
17 examination.

18 MR. MILAT: Mr. Keegan's.

19 BY MR. LISUS:

20 780 Q. Right. There is a quote
21 attributed to you at the top of the second page:

22 "I think you know that some of
23 the decisions..."

24 Do you see that?

25 A. Yes.

1 781 Q. And is that your quote? Did you
2 say that?

3 A. I would have said that, yes.

4 782 Q. Okay. Is it your recollection
5 that this is where you made the announcement, or
6 was this a lead-up to it?

7 A. I thought I made an announcement
8 at a track.

9 783 Q. Well, you may have. We'll come to
10 it.

11 A. I did go to Mohawk at one point,
12 but I don't -- I don't -- I don't recall the
13 sequence, I'm sorry.

14 784 Q. Okay. And that quote accurately
15 reflected your view at the time, right?

16 A. Yes.

17 MR. LISUS: Okay. That's the next
18 exhibit.

19 MR. MILAT: Exhibit 11.

20 EXHIBIT NO. 11: Newspaper article
21 dated March 4, 2013 entitled "Premier
22 Wynne Attends Flamborough Chamber
23 Awards Gala."

24 BY MR. LISUS:

25 785 Q. Did you ever meet with Sue Leslie

1 or Jane Holmes?

2 A. Yes.

3 786 Q. Which one?

4 A. Both. At different times.

5 787 Q. In March 2013?

6 A. I don't remember. I don't
7 remember exactly when.

8 788 Q. Again, do you recall --

9 A. Jane was working with Woodbine,
10 correct?

11 789 Q. Yeah.

12 A. And Sue Leslie was with the
13 horse --

14 790 Q. OHRIA.

15 A. With OHRIA.

16 791 Q. And did they give you information
17 that you found useful?

18 A. Yes, especially Sue Leslie was a
19 very important set of ears on the ground in terms
20 of not just at this juncture, but as we moved into
21 the integration of horseracing into gaming, which
22 was very problematic, she was a helpful advisor to
23 me.

24 792 Q. And did Ms. Jones and Ms. Leslie
25 further explain to you --

1 A. Ms. Holmes you mean?

2 793 Q. Sue Leslie and Ms. Holmes.

3 A. Okay, yes.

4 794 Q. Did they add to your understanding
5 of the consequences of cancelling the SARP revenue
6 share for the breeding industry?

7 A. I don't recall having
8 conversations focused solely on breeding. I
9 remember talking to both of them about the entire
10 industry.

11 795 Q. Who is Bobby Walman?

12 A. Bobby Walman was one of the
13 fundraisers with the Ontario Liberal Fund.

14 796 Q. Okay. And so --

15 A. He was the head of the Ontario
16 Liberal Fund at one point.

17 797 Q. The reason I ask you that, ma'am,
18 is because there's an email here, which is Exhibit
19 30 on Mr. Keegan's, CRE439776, in which there is a
20 briefing note that appears to have been put
21 together by Ms. Jones --

22 A. I don't know who Ms. Jones is.

23 798 Q. I'm sorry, I keep saying that.
24 Ms. Holmes.

25 A. Holmes, okay.

1 799 Q. And the briefing note at the
2 second page under the heading "Consequences of
3 cancelling SARP, immediate impact on breeding
4 industry."

5 A. Yes.

6 800 Q. If you just take a minute and read
7 that paragraph to yourself.

8 A. (Witness reads document). Okay.

9 801 Q. And the information in that
10 paragraph, being immediate impact on breeding
11 industry, a description of year 1, year 2, year 3,
12 year 4, year 5, you became aware of that
13 information in early 2013, correct?

14 A. Yes.

15 802 Q. And you did not know it prior to
16 assuming your role as Premier and Minister of
17 Agriculture; is that fair?

18 A. Yeah, I think I've said though
19 that there were certainly hints at the breeding
20 cycle and the planning --

21 803 Q. Right.

22 A. -- needed.

23 804 Q. And those hints were evident to
24 you in the summer/fall of 2012?

25 A. Correct.

1 805 Q. Okay. But certainly by the time
2 you assumed office, the Premier's Office in early
3 '13, you were well aware of the information in this
4 paragraph?

5 A. So just so that we're clear, I
6 could not have delineated for you what happened in
7 years 1, 2, 3, 4 and 5, but I knew enough that
8 there was a cycle that there needed to be planning,
9 that instability in the industry would interrupt
10 that planning, to be concerned about it.

11 806 Q. And you knew enough --

12 A. And I didn't need to know what
13 happened in each year.

14 807 Q. Thank you. That's helpful. And
15 did you know that in the summer and fall of '12 or
16 did you learn that in Q1 '13?

17 A. I think I would have -- I think I
18 would have had some inkling of it in '12.

19 808 Q. And that's from discussion with
20 Mr. McMeekin and perhaps the industry panel
21 appointees, Wilkinson, Buchanan, Snobelen?

22 A. Mostly McMeekin, but yes.

23 809 Q. And that's what led you to believe
24 that the decision to cancel wasn't well thought out
25 because it didn't take into account this breeding

1 cycle or this planning cycle; is that fair?

2 A. Well, I think you're making a
3 direct link there that I wouldn't necessarily make.
4 I think there was a much more general sense that
5 there needed to be further improvement in the
6 relationship, there needed to be further support.
7 It wasn't as direct as the impact on one sector or
8 one part of the industry.

9 MR. LISUS: Right. I'd like to mark
10 that as an exhibit, please.

11 MR. MILAT: Exhibit 12.

12 EXHIBIT NO. 12: Briefing note and
13 attachment, Bates numbered CRE439776
14 and CRE439777.

15 BY MR. LISUS:

16 810 Q. Do you recall when you ultimately
17 made an announcement of the government's commitment
18 to long-term additional funds?

19 A. I'm trying to rack my brain. I
20 don't remember when I made that announcement, I'm
21 sorry.

22 811 Q. I'm sure I can find that date
23 somewhere.

24 A. I'm sorry, I don't know.

25 812 Q. But you do recall that that

1 announcement was held off until negotiations were
2 concluded with racetracks to compensate them for
3 the impact of the decision and to reach new
4 agreements for slot machines staying there, right?

5 A. Again, I know that that
6 negotiation was parallel, on a parallel track.

7 813 Q. Okay. Were you concerned -- you
8 were concerned in 2013 about there being discussion
9 by OLG and an apparent expectation that Toronto
10 would get a special hosting fee for a downtown
11 casino, right?

12 A. Yes, I was aware.

13 814 Q. And was one of the concerns that
14 you had that it would be seen as some kind of
15 special benefit to the city folk at the expense of
16 the rural-based horseracing industry?

17 A. My concern was more that every
18 municipality in the province would be treated the
19 same.

20 815 Q. Do you know a fellow called Ian
21 Howard?

22 A. I think -- I think I have met him
23 but I don't --

24 816 Q. He was a horse person who was
25 having a dialogue with Michael Keegan in the spring

1 of 2013.

2 A. Yeah, I think I met him but I
3 didn't work closely with him.

4 817 Q. So let me see if I can refresh
5 your recollection and mine.

6 MR. MILAT: It's a press release from
7 the Ontario Government website dated March 26th,
8 2013.

9 BY MR. LISUS:

10 818 Q. It's got your picture on the back
11 of it.

12 A. Um-hmm. So this would have been
13 around the time of an announcement.

14 819 Q. Right. It says tentative
15 transition funding agreements were reached with
16 Georgian Downs, Flamboro Downs and Fort Erie, six
17 other tracks have agreements in principle, 30
18 million for the Horse Improvement Program. This is
19 late March 2013.

20 A. Right.

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

22 MR. MILAT: Exhibit 13.

23 EXHIBIT NO. 13: Press release from
24 Ontario Government dated March 26,
25 2013.

1 -- OFF THE RECORD DISCUSSION --

2 BY MR. LISUS:

3 820 Q. I understand that in April of 2013
4 you became aware that the Auditor General was going
5 to conduct a review or audit of the OLG
6 modernization program as well as the manner in
7 which the decision to terminate SARP revenue share
8 was made?

9 A. Yes.

10 821 Q. And that was -- you'll have to
11 forgive my ignorance of civics, how does that
12 happen? Does an MPP or a party have to bring --

13 A. She can decide, but she can also
14 be requested by a party.

15 822 Q. In this case was it requested by a
16 party?

17 A. I don't know.

18 823 Q. I guess it might say in her
19 report.

20 A. Yeah, it may say that, I don't
21 remember. It's also quite possible that she would
22 have just decided. So the Legislature --

23 824 Q. Apparently the Legislature called
24 for it by motion.

25 A. Fine. There you go. But she can

1 take it upon herself, if she wants to.

2 825 Q. She can?

3 A. She can.

4 826 Q. CRE444296, page -- excuse me,
5 444296, it's Exhibit 34 to --

6 MR. MILAT: Mr. Keegan's.

7 BY MR. LISUS:

8 827 Q. This is a note from you -- excuse
9 me, to you from Mr. Keegan, Ms. Wynne. And just
10 before you get into it, do you recall being briefed
11 or kept in the loop by Mr. Keegan about what the
12 status of negotiations with racetracks were? Was
13 that something that you were focused on?

14 A. Yes. No, he would give me an
15 update.

16 828 Q. Okay. And was he doing that
17 because you wanted to come to and announce a final
18 deal with the industry and you were waiting for the
19 agreements with the racetracks to be concluded
20 first so you were getting regularly updated on the
21 status of those?

22 A. Actually, Michael was my Chief of
23 Staff, and because I was Premier and Minister of
24 Agriculture and Food, we had a regular meeting and
25 he would brief me on the most urgent issues, and so

1 at this point, this was -- this was still a pretty
2 urgent issue.

3 829 Q. But is that why you were being
4 updated on the tracks, because the track
5 negotiations were --

6 A. We were trying to get them
7 completed.

8 830 Q. Right. So that you could then
9 make an announcement to the industry?

10 A. Right.

11 831 Q. Right. And I presume that you
12 needed them completed because if you didn't have
13 them completed and a continued revenue flow from
14 slot machines, you wouldn't have funding, or that
15 source of funding to do -- to make a commitment to
16 the industry, right?

17 A. Right.

18 MR. LISUS: CRE -- we should mark that,
19 yes.

20 MR. MILAT: We'll mark this as Exhibit
21 14.

22 EXHIBIT NO. 14. Briefing memo, Bates
23 numbered CRE444296.

24 BY MR. LISUS:

25 832 Q. CRE444649 is another communication

1 internally in OMAFRA about the industry.

2 MS. LA HOREY: Is this Exhibit 35 to
3 Mr. Keegan's examination?

4 MR. LISUS: Yes.

5 BY MR. LISUS:

6 833 Q. And if you just go to page 3 of
7 that profile note, Ms. Wynne, bottom right-hand
8 corner are the numbers, profile note, page 3, at
9 the top it says:

10 "Future of the horseracing
11 industry in Ontario."

12 Do you see that?

13 A. Yes.

14 834 Q. The second bullet says:

15 "There is a lack of confidence
16 that the industry will be able to
17 adjust to the cancellation of SARP.
18 Prices for breeding stock and
19 breeding activity have diminished."

20 A. Yes.

21 835 Q. So you knew that?

22 A. I knew that, yes.

23 MR. LISUS: Next exhibit.

24 MR. MILAT: We'll mark this as Exhibit

25 15.

1 EXHIBIT NO. 15: Briefing note, Bates
2 numbered CRE444649.

3 BY MR. LISUS:

4 836 Q. And CRE550364 is a letter from you
5 to Mr. Snobelen, Wilkinson and Buchanan, carbon
6 copying Mr. Sousa. Just take a minute and review
7 that.

8 A. (Witness reads document). Okay.

9 837 Q. Okay? So you seem to be saying to
10 the panel I need a final concrete model or concrete
11 plan by June 1?

12 A. Right.

13 838 Q. And why were you doing that?

14 A. Why June 1?

15 839 Q. Well, why were you sending a
16 letter saying I need this plan?

17 A. Well, just to put in writing what
18 I had asked them for. And also you'll note that
19 the point that I was making earlier about
20 facilitating a new integrated relationship between
21 the industry and OLG, that was a big part of my
22 concern going forward and I wanted that to be in
23 black and white, that that needed to happen.

24 840 Q. Did you ask for Mr. Godfrey's
25 resignation?

1 A. I was very unhappy with the
2 progress that was being made on the integration of
3 horseracing with gaming.

4 841 Q. Right. And as I understand it
5 from my review of the records, you had -- you
6 believed that the modernization plan had excluded
7 horseracing?

8 A. I did believe that and still
9 believe that.

10 842 Q. And you thought that that was the
11 wrong thing?

12 A. Indeed.

13 843 Q. Because of the consequences to the
14 rural economy and horseracing stakeholders,
15 correct?

16 A. Well, I think it was -- I think
17 it's an artificial delineation between the gaming
18 that happens at horse races and the gaming that
19 happens everywhere else.

20 844 Q. Right. And just help me
21 understand what you mean by the gaming?

22 A. Well, I think gambling.

23 845 Q. Right.

24 A. So it seemed to me that
25 horseracing should be part of the whole -- seen as

1 part of the gambling environment in the province,
2 and that there should be a way for horseracing to
3 be sustained, at least partially, through gambling.

4 846 Q. And as a result of that
5 unhappiness, you asked for Mr. Godfrey's
6 resignation or terminated him? I'm just going by
7 press accounts.

8 A. Yes, it became clear that that was
9 not a relationship that was going to last.

10 847 Q. Were you aware, ma'am, that OLG's
11 recommendation to the Ministry of Finance in late
12 2011 was to maintain full funding for the
13 horseracing industry?

14 A. So, you know, I wasn't aware of
15 all of the interaction. All I knew was that every
16 attempt that we were making to make it clear that
17 we needed to have this integration in order for
18 there to be a new model for horseracing in the
19 province was not moving ahead, that integration was
20 not happening.

21 848 Q. And when you're talking about your
22 attempts to achieve that integration, you're
23 talking about your attempts, the attempts that had
24 begun with the work of the horseracing panel in the
25 summer of 2012, right?

1 A. Well, in an attempt to come up
2 with a new model for a sustainable horseracing
3 industry, having made decisions about SARP, that we
4 needed a new model. Part of that solution was to
5 have -- was to have an integrated model with
6 horseracing and gaming.

7 849 Q. And you understood that OLG was
8 resisting the integration?

9 A. Yes.

10 850 Q. And were you confident that it was
11 OLG as opposed to Finance directing OLG?

12 A. I think it was both. My
13 understanding is it was both.

14 851 Q. And was it your understanding that
15 it was bureaucratic staff or political staff at
16 Finance that resisted?

17 A. I couldn't -- I couldn't tell you.

18 852 Q. And it didn't matter because you
19 were in a position to call the shots, right?

20 A. Well, yeah. I mean, it seemed to
21 me that if we were going to be able to find, for
22 example, new products that could support the
23 horseracing industry, there had to be a willing
24 integration.

25 853 Q. It couldn't be forced, it had to

1 be something that was --

2 A. Exactly. And the horseracing
3 industry needed to be at the table and to be a
4 partner.

5 854 Q. Right. Did you ever get an
6 understanding as to why the horseracing industry
7 was excluded by OLG?

8 A. I've never totally understood that
9 other than it being, if I may say, a turf war.

10 855 Q. Right. A turf war between OLG and
11 its gaming activities and the horseracing industry
12 and its --

13 A. I think it was a cultural shift.
14 I think horseracing had grown up differently than
15 the other parts of the industry, and so I think
16 there was a shift that was needed and it's just
17 been very difficult to realize.

18 856 Q. Right. Has it been realized?

19 A. I don't think we're there yet
20 totally.

21 857 Q. And did Mr. McMeekin share your
22 views?

23 MR. RATCLIFFE: Which views are you
24 speaking of?

25 THE WITNESS: About the integration?

1 BY MR. LISUS:

2 858 Q. Yes, and the resistance of OLG to
3 it?

4 A. I don't know -- actually don't
5 think Ted and I had much conversation about that.
6 By that time he was in another Ministry, so --

7 859 Q. I take it you considered the
8 premise of the modernization plan being a downtown
9 Toronto casino and casinos in other urban centres
10 to be ill-conceived?

11 A. Well, this goes back to one of the
12 questions earlier on. You know, I -- I am
13 generally concerned that we, as a society, be
14 responsible about how we entice more people into
15 gambling or drinking, or, you know, name the
16 addictive behaviour. And so, I'm always going to
17 ask questions about are we doing this responsibly,
18 is this something we need to do, what's the
19 rationale here? So -- so that was -- that was my
20 position.

21 860 Q. But you do and did support a
22 vibrant, strong horseracing industry?

23 A. I do and I did, and I think I
24 probably have, and maybe this is just my age, but I
25 think I have -- I probably have a higher tolerance

1 for the horseracing industry than I do for a casino
2 endeavour, just because there's a different degree
3 of integration into a community, there's a
4 different ecosystem of jobs that are supported.
5 It's a different -- it's, by definition, a
6 different kind of industry.

7 861 Q. Did I mark --

8 A. That's my bias though, that's not
9 government. That's me.

10 862 Q. Did I mark your --

11 MR. MILAT: Not yet. We'll mark this
12 as Exhibit 16.

13 EXHIBIT NO. 16: Letter from Ms. Wynne
14 to Messrs. Snobelen, Wilkinson and
15 Buchanan, Bates numbered CRE550364.

16 BY MR. LISUS:

17 863 Q. Can you just explain something to
18 me. That's Exhibit 16. The date stamp on this,
19 May 1, '13, see that? It's got a date stamp but no
20 typed date on the letter.

21 A. That often happens. The letter
22 may be signed, and then just to make sure that it's
23 accurate when it's sent out, it's date stamped.

24 864 Q. So the date stamp it when it's
25 sent out?

1 A. Yes.

2 865 Q. Okay. And then May 13 there is
3 another news release from you saying that Ontario
4 has asked the Horseracing Industry Transition Panel
5 to bring forward a long-term plan to implement
6 recommendations from its final report.

7 A. Now, that's May?

8 866 Q. 1-3.

9 A. 1-3. We had something from June
10 1st?

11 867 Q. No, the letter says you want to
12 plan by June 1st.

13 A. That's right, yes. May 13th,
14 okay.

15 868 Q. Okay?

16 A. Yes. So this was about making
17 public the progress that we were making and
18 committing to, right?

19 MR. LISUS: Thank you. That's the next
20 exhibit.

21 MR. MILAT: Exhibit 17.

22 EXHIBIT NO. 17: News release dated May
23 13.

24 BY MR. LISUS:

25 869 Q. And you made a comment earlier

1 about Finance as well as OLG being resistant to the
2 integration of horseracing, and I want to show you
3 a briefing note that Mr. Keegan sent to you on May
4 24th, 2013, CRE446958.

5 I take it this is to you. So it would
6 go -- if it says Premier Minister, your eyes go on
7 it?

8 A. Correct.

9 MR. RATCLIFFE: Take a moment, just
10 look at it.

11 THE WITNESS: Um-hmm. (Witness reads
12 document).

13 BY MR. LISUS:

14 870 Q. You don't need to read -- I'm just
15 going to ask you about the first page.

16 A. Okay.

17 871 Q. It says in the middle:

18 "We have learned from Finance
19 staff that they are through OLG
20 about to kick off a four-month study
21 of horseracing by Deloitte."

22 Do you see that?

23 A. I do.

24 872 Q. And there's other documents which
25 refer to Finance staff without OMAFRA's knowledge

1 or participation releasing McKinsey studies to the
2 press gallery; do you remember that?

3 A. I remember the McKinsey study,
4 yes.

5 873 Q. Here what I'm taking from this
6 note is that Finance staff appear to be working at
7 cross-purposes from OMAFRA and your plan to
8 reintegrate horseracing into modernization.
9 Finance staff and OLG?

10 A. Well, I mean, definitely
11 initiating a parallel process at best.

12 874 Q. And that's not helpful, right?

13 A. I think we saw it as problematic,
14 yeah.

15 875 Q. And one of the reasons it was
16 problematic is because it was slowing down a final
17 commitment to funding that could be gotten from
18 Treasury Board and communicated to the industry?

19 A. Correct, correct.

20 MR. LISUS: Thank you. That's the next
21 exhibit.

22 MR. MILAT: Exhibit 18.

23 EXHIBIT NO. 18: Briefing note, Bates
24 numbered CRE446958.

25 BY MR. LISUS:

1 876 Q. And when did you terminate
2 Mr. Godfrey, do you recall?

3 A. I don't remember the date. It
4 would have been around this time though, I think.

5 877 Q. Right.

6 A. Before the 2014 election.

7 878 Q. Did you want this issue put to bed
8 before the 2014 election campaign?

9 A. I wanted -- I wanted us to move as
10 quickly as possible. I wasn't under any illusion
11 that we'd have it completely resolved. First of
12 all, we didn't know when there was going to be an
13 election. We were attempting -- we had gotten one
14 budget passed in 2013, we were attempting to get
15 another budget passed in 2014.

16 879 Q. The 2014 election was as a result
17 of the NDP withholding support?

18 A. Correct. So I didn't know when we
19 were working towards an election.

20 880 Q. Got it.

21 A. So I was trying to get it resolved
22 because of all of the issues of urgency that we've
23 talked about.

24 881 Q. There is a news release June 14.
25 My information is that Mr. Godfrey was fired on May

1 16th. Does that sound accurate?

2 A. If that's what the internet says,
3 then it's true.

4 882 Q. A news release June 14, 2013, and
5 I'm going to give it to you shortly, and the first
6 line in this is:

7 "Ontario is extending its
8 support of the Horse Improvement
9 Program into 2015 to encourage the
10 breeding of quality Ontario race
11 horses."

12 Do you see that?

13 A. I do.

14 883 Q. So at this point in time you
15 certainly well understood that in order to have
16 breeders continue to breed and invest in their
17 horses and farms and operations, they needed to
18 know that there was support?

19 A. Correct, yes.

20 884 Q. And that's why you put this
21 release out?

22 A. Right.

23 885 Q. But there still hasn't been a
24 commitment to a long-term funding formula, right?

25 A. Right. I mean, this process was a

1 series of let's get this piece in place while we
2 work on the next piece, all of it working towards a
3 long-term plan.

4 886 Q. Was it difficult?

5 A. It was.

6 887 Q. Why was it so difficult?

7 A. Because there are so many
8 different players and it's such a complex industry.
9 And, you know, I had the privilege of serving as
10 the Minister of Agriculture and Food for a year and
11 I still don't feel that I have an inside
12 understanding of how the industry works. I think
13 you have to live it and breathe it to really
14 understand it.

15 888 Q. There's lots of different factors
16 to understand?

17 A. So many. So many. Yeah. And so
18 many historical relationships. So yes, it was very
19 challenging.

20 889 Q. And you had a lot of dedicated
21 support to understand the industry and what it
22 needed with the panel and OMAFRA, correct?

23 A. I did. I did.

24 890 Q. Did you know OMAFRA was not
25 consulted about the decision to terminate SARP

1 revenue share with zero transition assistance?

2 A. Well, I -- again, that goes back
3 to our earlier conversation in that --

4 891 Q. Let me rephrase. Did you learn
5 that?

6 A. Minister McMeekin was very
7 agitated about that process.

8 892 Q. And I presume he was agitated
9 because he understood the complexity of the context
10 in which this decision was being made and no one
11 had looked at that?

12 A. Yeah, he was concerned about the
13 way that process unfolded, and -- yes, and we've
14 talked about that.

15 893 Q. By June of 2014, with the benefit
16 of the --

17 A. '14 or '13? This is '13.

18 894 Q. '13, excuse me. With the benefit
19 of the work of the expert panel and Mr. Keegan and
20 the resources being deployed, did you feel that you
21 and your advisors had a proper understanding of the
22 horseracing industry and the extent to which it had
23 been impacted by the February 2012 decision?

24 A. I felt that we were at least on a
25 path to getting a resolution to the issue. I was

1 still worried about some of the smaller racetracks,
2 that a longer -- a longer term plan was needed, but
3 I -- but I felt -- I felt that we -- we were at
4 least re-establishing some credibility in the
5 industry that we were trying to come to a solution.
6 That was -- that was I hoped where -- that was
7 where I hoped we were and where I believed we had
8 gotten to.

9 895 Q. I want to show another briefing
10 note to you, June 20, 2013, CRE449591.

11 MR. MILAT: We'll mark the press
12 release as Exhibit 19.

13 EXHIBIT NO. 19: Press release dated
14 June 14, 2013.

15 MR. MILAT: And this is Exhibit 40 to
16 Mr. Keegan's examination.

17 THE WITNESS: This is another note to
18 me?

19 BY MR. LISUS:

20 896 Q. Yes.

21 A. (Witness reads document).

22 897 Q. What does general KM mean? Key
23 messages?

24 A. Key messages. (Witness reads
25 document).

1 898 Q. Okay? So the first page you begin
2 under the first general key message by saying:

3 "I know how important the
4 horseracing and breeding industries
5 are to the culture and economy of
6 communities across Ontario and
7 that's why our government will
8 continue to work with the industry
9 to make sure it has a strong
10 sustainable future."

11 And you meant that?

12 A. I did.

13 899 Q. That was your view at the time?

14 A. It was.

15 900 Q. And then if I drop down to the
16 second -- excuse me, the third last bullet, you
17 mention the \$30 million in Horse Improvement
18 Program funding?

19 A. Yes.

20 901 Q. 30 million in each of the next two
21 years to give Ontario's vibrant race horse breeding
22 industry the confidence that there is a future here
23 for Ontario bred race horses?

24 A. Right.

25 902 Q. And the reason you were giving

1 that key message is because you understood that as
2 a result of the February 2012 decision, unless
3 there were changes, there would not be a breeding
4 industry in Ontario, right?

5 A. Correct. And I had promised that
6 I would address that.

7 MR. LISUS: Understand. The next
8 exhibit.

9 MR. MILAT: Exhibit 20.

10 EXHIBIT NO. 20: Briefing note, Bates
11 numbered CRE449591.

12 BY MR. LISUS:

13 903 Q. And I believe the document speaks
14 to the integration of horseracing with
15 modernization, OLG modernization, which you felt
16 was missing at that time, correct?

17 A. Correct. I saw that integration
18 as part of the long-term sustainability of the
19 horseracing industry.

20 904 Q. Right. CRE452229.

21 MR. MILAT: This is Exhibit 42 to
22 Mr. Keegan's examination.

23 BY MR. LISUS:

24 905 Q. This is another note from
25 Mr. Keegan to you and I just want to try and

1 truncate this. Because it's redacted, I don't know
2 the context of this, but he appears to be giving
3 you key messages for you to deliver somewhere, or
4 to give to someone.

5 A. I think these are the same key
6 messages that we had before, and he's reporting on
7 an event and giving me a sense of how what we're
8 saying is being received.

9 906 Q. Okay. All right. So if we go to
10 the points under the heading "Horseracing panel
11 consultations," and if we go five bullets down --

12 A. Industry?

13 907 Q. Yes, ma'am.

14 A. Um-hmm.

15 908 Q. It says:

16 "Industry has also expressed
17 considerable interest in having
18 details of the final plan
19 communicated before the fall
20 yearling sales that take place the
21 second week in September."

22 Right?

23 A. Um-hmm.

24 909 Q. This is the urgency issue again,
25 right?

1 A. Um-hmm.

2 910 Q. You have to say --

3 A. Yes.

4 911 Q. Then it says:

5 "The impact of rapid transition

6 in this industry to a smaller size

7 has had devastating impacts on the

8 breeding of Ontario horses."

9 And is that what you understood as of

10 June 2013?

11 A. That was the advice I was getting.

12 912 Q. Okay. And it says that:

13 "Likely this sector has

14 overcorrected and will need

15 long-term positive signals to begin

16 re-investing in breeding mares."

17 Right?

18 A. Right.

19 MR. LISUS: Next exhibit.

20 MR. MILAT: Exhibit 21.

21 EXHIBIT NO. 21: Briefing note, Bates

22 numbered CRE452229.

23 BY MR. LISUS:

24 913 Q. Do you know the Toronto Star

25 reporter Mary Ormsby?

1 A. I know of her.

2 914 Q. She wrote a number of stories on
3 this issue?

4 A. I don't know that I've ever been
5 interviewed by her.

6 915 Q. I have a note here that says you
7 will be speaking with Mary Ormsby of the Toronto
8 Star about horseracing.

9 A. Maybe once. She wasn't a regular
10 Queen's Park reporter. She is not part of the
11 gallery.

12 916 Q. And I'm going to ask you to look
13 at CRE453342.

14 MR. MILAT: This is Exhibit 43 to
15 Mr. Keegan's.

16 BY MR. LISUS:

17 917 Q. And the reason I asked you about
18 Mr. Howard, Ms. Wynne, you have a powerful memory,
19 you were emailed by this person, whoever it is, you
20 and Mr. Keegan and Mr. McMeekin were all emailed by
21 Ian Howard.

22 A. I'm trying to call up his face,
23 but okay.

24 918 Q. It doesn't really matter. I just
25 want to refer to this email he sent you. Do you

1 see it there?

2 A. I do. Yes.

3 919 Q. Just give it a quick read.

4 A. (Witness reads document).

5 920 Q. He says to you in the second
6 paragraph of his email:

7 "The ugly forgotten truth that
8 the standardbreds have generated a
9 yearling crop in size that is meant
10 to fit the needs of SARP."

11 A. Right.

12 921 Q. "This fall, if the people I have
13 talked to are correct, their value
14 under the current recommendations
15 will be gauged by the pound, not by
16 their value as race horses."

17 Do you recall receiving this
18 information and discussing it with Mr. -- it
19 appears it was discussed with Mr. Keegan and
20 Snobelen and Buchanan and Wilkinson.

21 A. Yeah, I can't say that I remember
22 receiving this specific email but I remember
23 this --

24 922 Q. You remember the theme?

25 A. Absolutely.

1 923 Q. And what is it that you recall
2 about it?

3 A. Well again, just that there needed
4 to be a long-term plan.

5 MR. LISUS: Right. Next exhibit.

6 MR. MILAT: 22.

7 THE WITNESS: All of that is consistent
8 with what I've been saying, that we knew we needed
9 to get a long-term plan.

10 MR. MILAT: Exhibit 22.

11 EXHIBIT NO. 22: Email, Bates numbered
12 CRE453342.

13 BY MR. LISUS:

14 924 Q. Was Minister Leal concerned about
15 the state of the horseracing industry in the summer
16 and fall of 2013?

17 A. Yes, he was concerned all along.

18 925 Q. And what was his concern?

19 A. The impact on rural communities.

20 926 Q. And part of the impact on rural
21 communities was the impact on breeders and in
22 particular the decline in value of their breeding
23 stock?

24 A. Yes, but his concern was the
25 general impact on the industry and therefore the

1 impact on rural communities.

2 927 Q. Right. And I want to show you an
3 email, CRE479887, to Minister Leal copied to you,
4 you being Premier@Ontario.ca. I don't know if that
5 gets sent to you or not.

6 A. I don't always see all of them. I
7 didn't always.

8 928 Q. And it's an email from someone.

9 A. Is this Carolyn Thornton?

10 929 Q. Yes.

11 A. Okay.

12 930 Q. And the email makes its way from
13 Mr. Leal up to Mr. Keegan and it talks about the
14 impact on breeders of the decision, the February
15 2012 decision.

16 And at the end of the email it says:

17 "You and the panel and Premier
18 Wynne have been told over and over
19 again that an announcement about the
20 future of racing must be made by the
21 first week of September. Now that
22 the week is here there is a
23 resounding silence." Et cetera.

24 And it goes on about the impact. And
25 then the email sequence concludes with Mr. Keegan

1 saying:

2 "Wilkinson working on putting
3 something out this week, next week
4 at latest."

5 Do you recall this kind of concern in
6 the industry and amongst your Cabinet colleagues
7 and staff?

8 A. Well, again, it's all part of that
9 urgency. I mean, this is -- I don't know who this
10 person is, but clearly she is someone who has been
11 -- was directly impacted and, you know, is venting
12 to Jeff.

13 931 Q. Right. Was the position that
14 Finance and OLG were taking delaying the
15 implementation of communication of a plan?

16 A. I don't think there was anything
17 that malevolent. I don't think it was that. I
18 think it was a complicated process to try to figure
19 out what the next steps should be, how we should
20 put a long-term plan in place, and, you know, there
21 was -- there was the inevitable back and forth
22 between entities that had some shared but some
23 divergent interests, and we were working -- you
24 know, the accusation here that we had done nothing
25 just wasn't true.

1 932 Q. No, you had been trying --

2 A. We had been working very hard and
3 trying to come up with a plan that was going to
4 work.

5 933 Q. Right.

6 A. And that's -- you know, it doesn't
7 matter the file, that is often the perception of
8 people who are a part of an industry or who are in
9 the general public, that government is not doing
10 anything, when that is not the case.

11 934 Q. Right.

12 A. We're trying to come to a
13 resolution.

14 935 Q. Right. Can I have that back?
15 That's the next exhibit. Next is CRE478822 which
16 is a breeding -- excuse me, a briefing note, not a
17 breeding note to you, and this is from Bobby
18 Seeber, S-E-E-B-E-R.

19 A. He was a policy advisor in OMAFRA.
20 In OMA.

21 936 Q. In OMAFRA.

22 A. He was in my Ministry so it was
23 OMA. RA is the rural affairs.

24 937 Q. Got it.

25 EXHIBIT NO. 23: Email string dated

1 September 4, 2013, Bates numbered
2 CRE479887.

3 THE WITNESS: (Witness reads document).

4 BY MR. LISUS:

5 938 Q. So I just want you to look at
6 under panel update, the third --

7 A. Um-hmm.

8 939 Q. -- point:

9 "The panel will likely suggest
10 that an early signal be given
11 regarding the government's intent to
12 look at a five-year commitment to
13 the industry which would align with
14 the development cycle of breeders."
15 Do you see that?

16 A. Yes.

17 940 Q. What did you understand that to be
18 saying?

19 A. That that kind of commitment would
20 give breeders the confidence to make their
21 investments.

22 941 Q. Okay. And again, there is an
23 emphasis on the need to communicate the commitment
24 as early as possible, right?

25 A. Correct.

1 MR. LISUS: Next exhibit.

2 MR. MILAT: That will be 24.

3 EXHIBIT NO. 24: Briefing note, Bates
4 numbered CRE478822.

5 BY MR. LISUS:

6 942 Q. And I want to ask you please to
7 look at a Cabinet submission, horseracing industry
8 plan and OLG modernization joint Cabinet decision,
9 CRE478802, September 6, 2013.

10 MR. MILAT: This is Exhibit 47 to
11 Mr. Keegan's.

12 BY MR. LISUS:

13 943 Q. Do you recall going to Cabinet
14 with the recommendation in the fall of 2013?

15 A. I know that we would have. Yes, I
16 don't remember the meeting, but I thought that we
17 did that.

18 944 Q. The second slide, context, it
19 provides -- the joint Cabinet submission provides a
20 context for the information being put before
21 Cabinet in September 2013, right?

22 A. Correct.

23 945 Q. The context slide, and it says
24 there are two fewer racetracks --

25 A. Correct.

1 946 Q. -- offering live racing, total
2 number of race dates have decreased from 1,380 to
3 840 which is a 41 percent decline, right?

4 A. Correct.

5 947 Q. And obviously a 41 percent decline
6 in race dates will have an impact on horse supply?

7 A. Correct.

8 948 Q. Total racing industry revenue has
9 declined from?

10 A. 524 to 319, is that the line?

11 949 Q. Yes. And then it goes on to say
12 breeding activity has decreased on average by, is
13 it 46 --

14 A. 46 percent.

15 950 Q. And was that your understanding in
16 the fall of 2013?

17 A. That's what I was being told, yes.

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

19 MR. MILAT: Exhibit 25.

20 EXHIBIT NO. 25: Cabinet submission,
21 CRE478802.

22 BY MR. LISUS:

23 951 Q. As of November 2013, Mr. Bardeesy
24 is working in your office?

25 A. Correct.

1 952 Q. And Belinda Hansen, who is that?

2 A. Belinda was an assistant to my
3 executive assistant. My executive assistant at
4 that time was Kim Howsen.

5 953 Q. And Mr. Keegan is sending a
6 horseracing deck and policy note for an OLF event
7 tomorrow night. This appears to be another OLF
8 event or maybe it's the same.

9 A. Just to be clear --

10 MS. LA HOREY: You've already made it
11 as an exhibit.

12 MR. LISUS: Have I? Is it the same
13 deck?

14 MS. LA HOREY: It's Exhibit 9 already.

15 MR. LISUS: Okay.

16 THE WITNESS: So it's the same.

17 BY MR. LISUS:

18 954 Q. I just want to ask you about a
19 statement that was attributed to you in the
20 Winnipeg Free Press.

21 A. Yes.

22 955 Q. "We have acknowledged that
23 there were decisions made that were
24 not necessarily in the best
25 interests of the industry or rural

1 communities,' Wynne said at the
2 annual international plowing match
3 at Mitchell, Ontario."

4 Do you recall being there and saying
5 that?

6 A. I recall being at Mitchell at the
7 plowing match and I was acknowledging to many of
8 the opinion leaders in rural Ontario that we had
9 more work to do, that there were concerns with
10 decisions, policy decisions we had made.

11 MS. LA HOREY: For the record, I think
12 that's FC0003405.

13 THE WITNESS: Yes. Why that got picked
14 up by the Winnipeg Free Press, who knows.

15 BY MR. LISUS:

16 956 Q. That's a bit odd, isn't it?

17 A. Now, if it were about Kenora, I
18 would understand.

19 MR. MILAT: So we'll mark this as
20 Exhibit 26.

21 EXHIBIT NO. 26: Winnipeg Free Press
22 article, Bates numbered FC0003405.

23 BY MR. LISUS:

24 957 Q. You mentioned the policy decision.
25 What makes a decision a policy decision?

1 A. So, I'm sorry, I'm just trying to
2 -- what are you getting at? What makes it a policy
3 decision as opposed to...?

4 958 Q. Well, governments make all kinds
5 of decisions, right?

6 A. Right.

7 959 Q. So, for instance, government can
8 enter into a contract with either another
9 government or a private person?

10 A. But all of those things would be
11 within the context of a government policy.

12 960 Q. Okay. Fair enough. So that
13 because the government serves a public interest,
14 every decision it makes is a policy decision?

15 A. There are -- there are --

16 MR. RATCLIFFE: Mr. --

17 MR. LISUS: Please, Mr. Ratcliffe.

18 MR. RATCLIFFE: Well, again, Mr. Lisus,
19 you're asking a legal question.

20 MR. LISUS: No, I'm not.

21 MR. RATCLIFFE: Yes, you are.

22 BY MR. LISUS:

23 961 Q. No, the Premier has repeatedly
24 stated that policy decisions were made, and I want
25 to understand what she considers a policy decision

1 to be. And I'm simply now confirming if all
2 decisions made by the government are in some way or
3 another policy decisions?

4 A. I think everything that government
5 does is within the context of a policy framework.

6 962 Q. So every decision made in that
7 context is a policy decision; fair?

8 A. Well, I think you're asking a
9 technical question.

10 MR. RATCLIFFE: Well, again, you're
11 asking a legal question here, aren't you?

12 MR. LISUS: No, I'm not.

13 MR. RATCLIFFE: Yes, you are, it's a
14 legal question. You're asking in terms of what is
15 a policy decision.

16 BY MR. LISUS:

17 963 Q. Well, what is a policy decision?

18 MR. RATCLIFFE: Ms. Wynne has been very
19 clear that in terms of the termination of SARP --

20 MR. LISUS: No, please don't give
21 evidence.

22 MR. RATCLIFFE: I'm not giving
23 evidence. I'm just repeating what she just said.

24 MR. LISUS: Don't telegraph answers.
25 If you want to have a discussion about this, then

1 we can ask the witness to leave, but don't
2 telegraph content.

3 MR. RATCLIFFE: Again, you've asked her
4 a question --

5 MR. LISUS: Please don't telegraph
6 content.

7 MR. RATCLIFFE: I'm not.

8 MR. LISUS: Just refuse.

9 R/F MR. RATCLIFFE: We'll refuse then
10 because you're really asking her a legal question.

11 MR. LISUS: I don't think I am.

12 BY MR. LISUS:

13 964 Q. Let me give you an example. Is a
14 decision to buy laptops for all members of the
15 Ontario public service a policy decision?

16 R/F MR. RATCLIFFE: Don't answer that.

17 BY MR. LISUS:

18 965 Q. Is a decision to lease space in a
19 privately-owned building a policy decision?

20 R/F MR. RATCLIFFE: Don't answer that.

21 BY MR. LISUS:

22 966 Q. Is a decision to break a lease
23 with a private landlord a policy decision?

24 R/F MR. RATCLIFFE: Don't answer that.

25 BY MR. LISUS:

1 967 Q. Is a decision to buy a fleet of
2 vehicles from the manufacturer for government use a
3 policy decision?

4 R/F MR. RATCLIFFE: Don't answer that
5 either.

6 BY MR. LISUS:

7 968 Q. Is a decision to breach a contract
8 for the purchase of equipment and material a policy
9 decision?

10 R/F MR. RATCLIFFE: Don't answer that.

11 MR. LISUS: Okay.

12 THE REPORTER. Could we take five?

13 MR. LISUS: Yes.

14 -- RECESS AT 3:40 --

15 -- UPON RESUMING AT 3:49 --

16 BY MR. LISUS:

17 969 Q. So, Ms. Wynne, SB03434, Exhibit
18 52, and this is a -- I'm not exactly sure what it
19 is. You can probably describe it.

20 A. QP Briefing?

21 970 Q. Yes, what is QP Briefing?

22 A. QP Briefing is a news medium that
23 is circulated among Queen's Park staff and
24 bureaucrats.

25 971 Q. Okay.

1 A. It's owned by the Toronto Star.
2 But it will be no more because it's being
3 cancelled.

4 972 Q. Okay.

5 A. Or subscriptions are being
6 cancelled.

7 973 Q. Who provides the content? Queen's
8 Park people?

9 A. No, she's a reporter. Ashley
10 Csanady is a reporter.

11 974 Q. So this is an entry and QP
12 Briefing October 14, 2013 and it says:

13 "A five-year plan, \$400 million
14 in funding and a new governance
15 model seeks to 'give horse racing a
16 sure footing going forward,' Premier
17 Kathleen Wynne announced Friday."
18 Right?

19 A. Correct.

20 975 Q. And do you recall making that
21 announcement in mid-October 2013?

22 A. I recall making that announcement.
23 This is what we were working towards.

24 976 Q. Okay.

25 A. Yeah.

1 977 Q. And you had to get Treasury Board
2 approval for that?

3 A. Correct.

4 978 Q. Right. And Cabinet approval as
5 well?

6 A. Correct.

7 979 Q. And again, to display my
8 ignorance, those two are not synonymous, right?

9 A. No. You go to Treasury Board and
10 then you come to Cabinet. Because Treasury Board
11 approves the money, but there may have been a
12 discussion in Cabinet in terms of the policy before
13 and then you go to Treasury Board for the money and
14 then make the final decision in Cabinet.

15 980 Q. So it has to go through -- the
16 decision has to go through both places?

17 A. Correct.

18 981 Q. One can't override the other? Or
19 can it? Can Cabinet say no?

20 A. Yes.

21 982 Q. It can?

22 A. Yes.

23 983 Q. And then Treasury Board has to
24 fund it?

25 A. Cabinet can direct Treasury Board.

1 984 Q. I see.

2 A. But Cabinet pays very close
3 attention to and is pretty much always aligned with
4 Treasury Board advisors.

5 985 Q. Is there overlap between
6 membership?

7 A. Oh, sure, because Treasury Board
8 is made up of Ministers. Ministers and, as I said,
9 one or two MPPs.

10 986 Q. And so, in this report you are
11 quoted as saying on the second page:

12 "I can remember sitting in
13 Cabinet meetings with Ted saying:
14 'We've got to take a second look at
15 this,' Wynne said in an interview
16 Friday. The way the SARP program
17 was cancelled was not thoughtful.
18 It needed another look and that's
19 what we're doing."

20 And that was your view at the time,
21 October 2013?

22 A. I think I said that was -- that
23 was my concern.

24 MR. LISUS: Okay. So that's the next
25 exhibit, please.

1 MR. MILAT: That will be Exhibit 27.

2 EXHIBIT NO. 27: QP Briefing, October
3 14, 2013.

4 BY MR. LISUS:

5 987 Q. In October 2013, do you remember
6 Mr. Keegan or others expressing the view that
7 breeders were being very difficult and not
8 recognizing the efforts being made on their behalf
9 and were threatening legal action and such? Do you
10 remember --

11 A. I remember -- I remember that
12 there was talk about legal action, yes.

13 988 Q. And what was your reaction to
14 that?

15 A. I was probably frustrated because
16 we were trying to find a way forward and I don't
17 believe that legal action is the way to resolve
18 relationships or issues.

19 989 Q. Okay. Do you agree that sometimes
20 it is the only way to resolve a difference of
21 opinion?

22 R/F MR. RATCLIFFE: Well, I don't think
23 that's a proper question.

24 BY MR. LISUS:

25 990 Q. Well, I want to understand this.

1 Are you saying your view as Premier is that legal
2 action is never appropriate?

3 A. Do I believe we should have a
4 legal system? Absolutely. No, I'm just saying --
5 I'm just saying in this case we were working very
6 hard to try to find a resolution.

7 991 Q. And the resolution that you
8 believe you found was the 400 million over four
9 years, right? That's announced in the Queen's Park
10 -- excuse me, 400 million over five years, that was
11 the resolution you believed --

12 A. Correct. But there's been an
13 ongoing discussion since then about how to have a
14 20-year plan, for example.

15 992 Q. Were you disappointed or
16 frustrated that breeders continued to threaten or
17 make reference to legal action after you had gotten
18 approval from Cabinet and Treasury Board for 400
19 million over five years?

20 A. Well, I had certainly hoped -- I
21 had certainly hoped that we could have come to a
22 resolution.

23 993 Q. Okay.

24 A. Sorry.

25 MR. RATCLIFFE: It's all right.

1 BY MR. LISUS:

2 994 Q. Did you ever speak with Minister
3 Duncan or his deputy to ask why, if they were
4 taking the position in May of 2011 that the SARP
5 was a very successful program that was good for the
6 horseracing industry, good for the province, good
7 for everyone, why just ten months or nine months
8 later it was the position of government that it was
9 a bad subsidy that was an inappropriate use of
10 public funds and needed to be cancelled?

11 Did you ever have that discussion?

12 A. I never asked that question.

13 995 Q. Did you ever ask him how and why
14 -- did you ever ask Minister Duncan and his chief,
15 Mr. Shortill, why they came to the view they did in
16 February 2012?

17 A. I don't believe I ever asked them
18 that question.

19 996 Q. Okay. Did you ever ask
20 Mr. McGuinty why he made the decision he did in the
21 first week of February 2012 that SARP revenue share
22 should be cancelled with no transition support?

23 MR. RATCLIFFE: Well, there you're
24 using the word "decision," Mr. Lisus.

25 MR. LISUS: Look, the record will show

1 what it shows.

2 MR. RATCLIFFE: Then refer to the
3 record but it's not a proper question for this
4 witness.

5 BY MR. LISUS:

6 997 Q. We've all seen the same emails.
7 Let me try it this way. Did you ever ask
8 Mr. McGuinty why he had the view that he did of how
9 Slots at Racetrack Program revenue share was to be
10 dealt with in February 2012?

11 A. Again, the Cabinet discussions and
12 the discussions that I had with my other colleagues
13 informed my opinion about this. I didn't -- I
14 didn't ask -- I didn't ask Dalton specifically why
15 he'd come to that conclusion.

16 998 Q. Or Dwight?

17 A. Or Dwight.

18 999 Q. Or Tim Shortill?

19 A. Correct. But remember, I was
20 briefed by Tim Shortill on the modernization plan,
21 so there were discussions then.

22 1000 Q. When did Mr. Shortill leave
23 government?

24 A. I don't remember. He wasn't my
25 staff.

1 1001 Q. Right. He was Finance?

2 A. Yeah.

3 1002 Q. Were you aware that when -- that
4 the Quebec horseracing industry collapsed?

5 A. I didn't have any specific
6 information about the Quebec industry. I knew that
7 -- I knew that Ontario's support for the
8 horseracing industry was greater than other
9 jurisdictions, for sure, but I didn't have any
10 details about the Quebec industry.

11 1003 Q. I want to ask you to look at
12 CRE485640, and this is an email with an attachment
13 from Mr. Keegan to Mr. Snobelen and Wilkinson, late
14 January 2014.

15 The attachment says horseracing update.
16 There are three outstanding issues with
17 horseracing. One is integration with modernization
18 and you and I have already discussed that already,
19 right?

20 A. Um-hmm.

21 1004 Q. Yes?

22 A. Yes.

23 1005 Q. And then number 3 is options for
24 breeder support?

25 A. Yes.

1 1006 Q. And then if we drop down, it says:
2 "Overall recommendation for
3 action on all three issues."
4 A. Oh, right. Okay.
5 1007 Q. Just continuing on.
6 A. Yes.
7 1008 Q. And it says, under the second
8 sub-bullet:
9 "To provide special breeder
10 supports through a Premier's award
11 program."
12 Do you remember there being discussion
13 about that?
14 A. You know, I was trying -- when I
15 saw that, I was trying to remember. I'm not sure
16 that that ever got set up, so I don't -- I don't
17 recall what happened to that.
18 1009 Q. Okay.
19 A. I know that, you know, as I look
20 at this, the issue around Fort Erie was of real
21 concern. Some of the small tracks but Fort Erie in
22 particular at that point, we were trying to find a
23 way to support it.
24 MR. LISUS: Okay, that's the next
25 exhibit.

1 MR. MILAT: 28.

2 EXHIBIT NO. 28: Email and attachment,
3 Bates numbered CRE485640.

4 BY MR. LISUS:

5 1010 Q. Were you aware in the 1st Quarter
6 of 2014 that Mr. Snobelen was speaking to me on
7 behalf of standardbred breeders about a potential
8 lawsuit against the government and OLG?

9 A. Speaking to you? No, I was not.

10 1011 Q. Okay. Were you aware that he was
11 speaking to counsel on behalf of standardbred
12 breeders about a potential lawsuit?

13 A. I don't -- I don't think I was.

14 1012 Q. And if we could just look at
15 CRE484851. Mr. Snobelen, do you recall he was head
16 of the Ontario Racing Commission at this point, at
17 your --

18 A. Yes.

19 1013 Q. -- pleasure, right?

20 A. Yes.

21 1014 Q. And it's February 7, 2014 and he's
22 talking about the Ontario horseracing partnership
23 plan that you announced October 2013, right?

24 A. Correct.

25 1015 Q. Would you read these letters that

1 he sent you? Or would they go to your staff?

2 A. I would have gotten them
3 eventually. They would have gone to my staff
4 first, yes.

5 1016 Q. But would you read them?

6 A. Most of them, yes.

7 MR. LISUS: Okay. Next exhibit.

8 MR. MILAT: That will be 29.

9 EXHIBIT NO. 29: Letter dated February
10 7, 2014, Bates numbered CRE484851.

11 BY MR. LISUS:

12 1017 Q. Now, 1232, this is an email
13 exchange between me and Mr. Snobelen in which I am
14 communicating with him about a public -- a PACA
15 notice, Proceedings Against the Crown Act.

16 A. Okay.

17 1018 Q. So, again, are you aware of any
18 communications by counsel on behalf of breeders
19 with Mr. Snobelen in his capacity as head of the
20 ORC about the notice?

21 A. I'm really not.

22 1019 Q. And CRE485346, this is a
23 communication. Who is Phil Olsen?

24 A. He was the -- he came into OLG
25 after Godfrey.

1 1020 Q. Oh, okay. As a chair?

2 A. Yes. Let me get that right. Yes.

3 1021 Q. I want to ask you to look at this
4 email of February 14, 2014, Ms. Wynne.

5 MR. MILAT: Exhibit 59 of Mr. Keegan's.

6 BY MR. LISUS:

7 1022 Q. Again we see at the beginning, Bob
8 Lopinski phoned yesterday and he appears to be
9 lobbying on behalf of Great Canadian Gaming?

10 A. Correct, yes.

11 1023 Q. Does that refresh your --

12 A. That makes sense. What are you
13 asking me?

14 MR. RATCLIFFE: Just take a moment to
15 read through it, I guess.

16 THE WITNESS: Okay. (Witness reads
17 document).

18 BY MR. LISUS:

19 1024 Q. Okay?

20 A. Okay.

21 1025 Q. Do you see that Mr. Snobelen --
22 excuse me, Mr. Keegan is forwarding an email in
23 which Mr. Olsen is reporting to some OLG people
24 where he says:

25 "John's update is that he is

1 close to a deal with the quarter
2 horse owners. He says they have a
3 letter from MOF dated two months
4 before SARP was cancelled confirming
5 that it would continue until at
6 least 2015, giving them considerable
7 leverage. As to the standardbred
8 owners, he's as happy as we are that
9 they have taken themselves out of
10 the play by sending notice of
11 litigation."

12 Do you see that?

13 A. I do see that.

14 1026 Q. And were you aware that the
15 decision appears to have been made by the Ontario
16 Racing Commission that standardbred owners would be
17 excluded from any new funds in the form of
18 breeders' rewards because they intended to commence
19 litigation?

20 A. I really -- I really was not aware
21 of that whole machination.

22 1027 Q. Okay. You're hearing about this
23 for the first time today or in preparation for
24 giving testimony?

25 A. In preparation and -- yeah.

1 1028 Q. Did Mr. Snobelen --

2 A. I mean, there was -- I should --
3 let me just be clear. I knew that there was some
4 litigation that was being talked about, but my
5 understanding was that we were still trying to find
6 a way to make the whole industry sustainable, so I
7 didn't distinguish between litigants and
8 non-litigants.

9 1029 Q. Did Mr. Snobelen ever tell you
10 that the standardbred breeders aren't going to
11 accept the new plan and were going to sue the
12 government and OLG?

13 A. I don't remember whether John ever
14 told me that. I actually don't remember that.

15 MR. LISUS: That's the next exhibit,
16 please.

17 MR. MILAT: Exhibit 30.

18 EXHIBIT NO. 30: Email, Bates numbered
19 CRE0485346.

20 BY MR. LISUS:

21 1030 Q. And I want to ask you, please, to
22 look at Exhibit 29 to Mr. Snobelen's, an email
23 exchange between him and me, February 20, 2014 and
24 February 21. The context of this is that I'm
25 asking Mr. Snobelen whether the government will

1 enter into a tolling agreement because we're
2 approaching March 2014.

3 A. A tolling agreement?

4 1031 Q. Something which suspends the
5 operation of a limitation period. Again, were you
6 informed by either Mr. Snobelen or Mr. Keegan that
7 there were -- there was a request for a tolling
8 agreement?

9 A. I don't remember ever hearing
10 that.

11 1032 Q. Okay. And I want to show you
12 Exhibit 30 on the examination of Mr. Snobelen.
13 Have you heard of the Standardbred Breeders of
14 Ontario Association?

15 A. I believe so, yes.

16 1033 Q. You understand it to be an
17 association --

18 A. An association of breeders.

19 1034 Q. This is an email from the
20 president to Mr. Snobelen in which he says that the
21 breeders do want to have discussions about
22 achieving a fair compensation package for
23 standardbred breeders. And John Snobelen says
24 "Walter, thank you for this."

25 Were you aware of the Standardbred

1 Breeders Association communicating with
2 Mr. Snobelen about the possibility of compensation?

3 A. I don't recall having this level
4 of detail. I just don't.

5 1035 Q. Do you recall having a general
6 awareness of there being a dialogue?

7 A. Well, I mean, my understanding was
8 that we were -- we were in conversation with the
9 whole industry, that we were trying to address all
10 of the different issues that the different
11 organizations and different segments of the
12 industry were bringing forward.

13 1036 Q. Okay. The next -- that doesn't
14 have to be an exhibit on Ms. Wynne's. SB17106.
15 This is a letter to you from Mr. Snobelen.

16 MS. LA HOREY: This is Exhibit 33 to
17 Mr. Snobelen's examination?

18 MR. LISUS: Correct.

19 MR. RATCLIFFE: 33.

20 THE WITNESS: (Witness reads document).
21 Okay. So this speaks to the Premier's awards, to
22 the Horse Improvement Program.

23 BY MR. LISUS:

24 1037 Q. You remember that we looked at
25 documents a little while ago which reflected the

1 authorization of \$30 million in breeders' support
2 for the breeders?

3 A. Yeah, I couldn't remember if the
4 breeders award, but obviously it did.

5 1038 Q. And in this letter Mr. Snobelen
6 informs you that he is delighted to report that
7 he's reached agreement, ORC has reached agreement
8 that will enhance the \$30 million Horse Improvement
9 Program; specifically we are now finalizing
10 five-year breeder support programs with the Ontario
11 division of the Canadian Thoroughbred Horse Society
12 and the quarter horse racing owners of Ontario.

13 A. And that adds the extra 12
14 million. Correct?

15 1039 Q. I'm not sure what you mean.

16 A. In the next paragraph.

17 1040 Q. Yes. Absent from the provision of
18 breeder support are the standardbred breeders. Do
19 you see that? It's only made available to
20 thoroughbred and quarter horse racing?

21 A. Right.

22 1041 Q. Okay?

23 A. I see that.

24 1042 Q. You recall being told that by
25 Mr. Snobelen?

1 A. I honestly -- as I said, my
2 understanding was that we were in conversation with
3 various parts of the industry, and so I -- I didn't
4 have that, I didn't have that nuance.

5 1043 Q. Okay. You didn't appreciate that
6 standardbred had been excluded from participating
7 in the \$30 million Horse Improvement Program
8 funding model?

9 A. I do not recall that.

10 1044 Q. You do not recall knowing that?

11 A. I do not recall knowing that.

12 MR. LISUS: That's the next exhibit,
13 please.

14 MR. MILAT: Make that Exhibit 31.

15 EXHIBIT NO. 31: Letter dated March 11,
16 2014, Bates numbered SB17106.

17 BY MR. LISUS:

18 1045 Q. The next exhibit is Exhibit 34 on
19 Mr. Snobelen's examination. Now, you've heard of
20 Standardbred Canada before?

21 A. I -- I don't recall, but I assume
22 that it's the national version of --

23 1046 Q. An industry association?

24 A. Yes.

25 1047 Q. And they have a website and a

1 publication of some sort. You are aware of that?

2 A. Um-hmm.

3 1048 Q. Okay.

4 A. You can see that here, yes. Okay.
5 So this is the announcement of the filing of the
6 lawsuit.

7 1049 Q. Well, Standardbred is reporting on
8 the letter to you from Mr. Snobelen as well as the
9 filing of the lawsuit. See that?

10 A. Yes.

11 1050 Q. And it says:

12 "In a letter issued to Premier
13 Kathleen Wynne on March 11, John
14 Snobelen of Ontario horseracing
15 announced support programs for
16 thoroughbred and quarter horse
17 breeders. Not mentioned in this
18 announcement was the standardbred
19 sector. On Monday, a group of
20 standardbred breeders filed a \$65
21 million lawsuit against the OLG for
22 damages stemming from the
23 cancellation of the Slots at
24 Racetrack Program two years ago
25 today.

1 Snobelen told Trot Insider on
2 Wednesday morning that the timing of
3 the two announcements is merely
4 coincidence, but the exclusion of
5 the standardbred side is not."

6 So Mr. Snobelen told Standardbred
7 Canada as well as standardbred breeders that the
8 standardbred breeders were being excluded because
9 they commenced a lawsuit, okay?

10 A. I see that here, yes.

11 1051 Q. And were you aware of that in
12 March 2014?

13 A. I don't -- I don't recall that
14 connection being made. As I said, I had some
15 inkling that there was a lawsuit, and at the same
16 time my understanding was that we were trying to
17 come to an agreement.

18 But, as I understand this, there was a
19 complication because of what was in front of the
20 courts.

21 1052 Q. Give me that again.

22 A. I'm just reading this here. I'm
23 just reading what he said here.

24 1053 Q. Well, let me just pick up on
25 something you said to me a few minutes ago. You

1 obviously recognize and support the right of
2 standardbred breeders to go to court for a
3 determination of their rights with respect to the
4 cancellation of Slots at Racetrack Program revenue
5 share, right?

6 MR. RATCLIFFE: Mr. Lisus, I mean, this
7 has nothing to do with the issues in play here.

8 MR. LISUS: This is specifically
9 pleaded, Mr. Ratcliffe, and I'm going to invite
10 you to let Ms. Wynne answer this or I'm going to
11 bring --

12 MR. RATCLIFFE: Well, let's hear the
13 question. That's fine, ask her the question and
14 I'll decide whether or not it's a proper question.

15 BY MR. LISUS:

16 1054 Q. Did Mr. Snobelen report to you in
17 March of 2014?

18 A. As part of the commission?

19 1055 Q. Well, with respect to his
20 authorization of breeders' rewards or breeders'
21 supports, did he report to you as --

22 A. Well, those were government
23 initiatives.

24 1056 Q. But you were head of government
25 and the Minister of Agriculture, right?

1 A. We're talking about before the
2 election? Yes.

3 1057 Q. We're talking about March 2014.

4 A. Yes.

5 1058 Q. So did he report to you?

6 A. Yes, he would have. Yes. Sorry,
7 just the dates.

8 1059 Q. Did you instruct Mr. Snobelen to
9 withhold breeders' supports from standardbred
10 breeders because they started a lawsuit?

11 A. I do not have a recollection of
12 that so I cannot say one way or the other. I do
13 not have a recollection. I honestly do not.

14 1060 Q. But you might have done so but you
15 don't recall one way or the other?

16 A. My understanding was that we were
17 trying to come to an agreement with all parts of
18 the industry in order to have a sustainable
19 horseracing industry in Ontario.

20 1061 Q. That really isn't my question,
21 ma'am.

22 A. Well, that's my answer.

23 MR. RATCLIFFE: I think she said she
24 doesn't recall, Mr. Lisus, so you're asking her to
25 speculate about what she may recall even though she

1 said she doesn't recall.

2 MR. LISUS: Mr. Snobelen --

3 Mr. Ratcliffe, please don't make speeches. Just --
4 just instruct Ms. Wynne not to answer and she won't
5 answer and I'll take --

6 THE WITNESS: I did answer.

7 BY MR. LISUS:

8 1062 Q. I know. I have another question.

9 A. Okay.

10 1063 Q. You understood, as a result of
11 your work in 2013 and the 1st Quarter of 2014, that
12 breeders had suffered a significant loss in the
13 value of their breeding stock and their investments
14 as a result of the February 2012 decision, correct?

15 A. I certainly understood that that
16 was the -- their position and that it was exactly
17 -- that was part of the issue that I was trying to
18 deal with and looking for collaborative
19 relationships with the horseracing industry.

20 1064 Q. You say that was their position.
21 You and I looked at --

22 A. Yes, yes.

23 1065 Q. You and I looked at multiple
24 documents prepared by government which refers to a
25 significant drop in value?

1 A. And that was the case, yes.

2 1066 Q. And because that was the case, one
3 of the decisions that you made was to establish \$30
4 million in breeder support to assist those
5 breeders, right?

6 A. Correct.

7 1067 Q. And you felt very strongly about
8 that, correct?

9 A. Correct.

10 1068 Q. And you knew that it was needed,
11 correct?

12 A. Correct.

13 1069 Q. And Mr. Snobelen extended that
14 support to thoroughbred owners and breeders and to
15 quarter horse owners and breeders, right? We've
16 seen that?

17 A. Correct.

18 1070 Q. He did not extend it to the
19 standardbred breeders, correct?

20 A. Correct.

21 1071 Q. Now, Mr. Snobelen said that he was
22 instructed not to extend it to the standardbred
23 breeders. Right?

24 MR. RATCLIFFE: Well, she doesn't know
25 that.

1 THE WITNESS: I don't know who
2 instructed him to do that. But I'm not --

3 BY MR. LISUS:

4 1072 Q. Did you?

5 A. But I'm not denying that. I'm not
6 denying that. I don't have any recollection of
7 giving that direct instruction. Whether he was
8 given that direct instruction by someone else, I
9 can't tell you.

10 1073 Q. Okay. And the instruction was to
11 withhold that support because of the commencement
12 of the lawsuit?

13 A. Well, you'll have to speak to the
14 person who gave him that direct instruction.

15 1074 Q. Well, I can't find them because no
16 one seems to know who it is and I've asked a lot of
17 people. Do you have any suggestions how I can find
18 out?

19 A. I'm just telling you I don't
20 recall giving him that direct instruction.

21 1075 Q. But you would agree that in March
22 2014, with respect to that instruction, the buck
23 stopped with you?

24 A. I agree. I take responsibility,
25 absolutely.

1 1076 Q. And you also understood that that
2 was a time where the breeders really needed that
3 money because of where they were in the breeding
4 cycle?

5 A. And it was also a time when, in
6 order to come to a resolution on this issue, we
7 needed a collaborative working relationship with
8 the different partners in the horseracing industry
9 and those relationships were more or less
10 functional depending on the group.

11 1077 Q. And if certain people weren't
12 prepared to collaborate with the government, then
13 they weren't going to get funding, right?

14 A. No, if we couldn't come to a
15 resolution, then we had to continue to talk. I
16 mean, this is a discussion that is ongoing to this
17 day. The next government is going to have to pick
18 up this discussion because there are still
19 outstanding issues.

20 1078 Q. Are you aware that the issue of
21 withholding breeder support was raised with the
22 court in the fall of 2014?

23 A. I don't know that. I don't know
24 what's happened in court.

25 1079 Q. Mr. Parkinson wrote a letter to

1 you on March 21.

2 A. This is Walter Parkinson?

3 1080 Q. Mr. Walter Parkinson. Do you know
4 the man?

5 A. I don't know that I've ever met
6 him but I probably have. I don't remember.

7 1081 Q. SB4509.

8 MR. MILAT: We'll mark Exhibit 34 as
9 Exhibit 32.

10 EXHIBIT NO. 32: Announcement from
11 standardbred Canada dated March 12,
12 2014, Bates numbered SB0004297.

13 THE WITNESS: So what am I looking at
14 here?

15 BY MR. LISUS:

16 1082 Q. It's just a letter that was sent
17 to you and Minister McMeekin and Minister Leal.

18 A. This is the threatening to go to
19 court or saying you don't want to go to court?

20 MR. RATCLIFFE: Just take a minute to
21 read it.

22 BY MR. LISUS:

23 1083 Q. Yes, do you remember that?

24 MR. RATCLIFFE: There's no date on this
25 one.

1 THE WITNESS: I'm looking at the last
2 paragraph.

3 BY MR. LISUS:

4 1084 Q. It's March 21, I believe. It's
5 referred to in the affidavit of Walter Parkinson,
6 Exhibit 117.

7 A. (Witness reads document). So it's
8 the threat to go to court if we don't accept their
9 -- their request for compensation.

10 MR. RATCLIFFE: Just wait for the
11 question. Wait for the question to come.

12 BY MR. LISUS:

13 1085 Q. As of March 21 and as of
14 Mr. Snobelen's announcement by letter dated March
15 11, the standardbred breeders had not sued the
16 Ontario Government. You see that from this letter?

17 A. I see that from the letter but I
18 also see the threat to do that, yes.

19 1086 Q. So you understood that a threat to
20 sue the government had been made, and that was of
21 concern to you because of the efforts that you had
22 made to try and address the problems caused by the
23 2012 decision, fair?

24 A. Fair.

25 1087 Q. And did you think that withholding

1 breeders' rewards would facilitate a more
2 collaborative approach?

3 A. As I said, I have no recollection
4 of making that link.

5 1088 Q. Do you see where Mr. Parkinson
6 concludes his letter saying:

7 "Premier Wynne, we do not want
8 to go to court."

9 A. I see that.

10 1089 Q. Do you recall getting this letter?

11 A. I don't recall reading this
12 letter.

13 1090 Q. Do you recall being informed about
14 this letter?

15 A. I don't have a recollection of
16 understanding that Walter Parkinson had written
17 this letter, no.

18 1091 Q. Is it fair to say that the extent
19 of your recollection is that you were unhappy with
20 the fact that the standardbred breeders were going
21 to sue or were saying they were going to sue
22 Ontario and OLG, which you thought would be
23 counterproductive given the efforts the government
24 had made over the last year and a half to
25 ameliorate the impact of the February 2012

1 decision?

2 A. Well, I just -- again, I'm going
3 to repeat what I have said, which is that I was
4 looking for a resolution to these issues. I was
5 very hopeful that if we worked with all segments of
6 the industry that we could find that resolution,
7 and that conversation is ongoing.

8 1092 Q. What do you mean that conversation
9 is ongoing?

10 A. I mean that there is still a
11 discussion about how to have a long-term
12 sustainable horseracing industry for tracks across
13 the province.

14 1093 Q. And there was an announcement at
15 the end of March 2018 that the government has
16 committed to a hundred million dollars a year until
17 when?

18 A. I think it's a 20-year agreement.

19 1094 Q. 20-year agreement at a hundred
20 million dollars a year. And that was -- that
21 commitment was made to bring stability to the
22 horseracing and breeding industry?

23 A. Correct, but there still is --
24 yes.

25 1095 Q. And are you aware that that is the

1 recommendation that Ministry of Finance staff made
2 in February of 2012, three-year phased down and a
3 hundred million dollars a year annually?

4 A. Well, I think we've been through
5 that.

6 MR. RATCLIFFE: We're covering the same
7 territory over and over again, Mr. Lisus.

8 BY MR. LISUS:

9 1096 Q. The Auditor General released her
10 report in April 2014?

11 A. That sounds right.

12 1097 Q. Did you read it?

13 A. I did. I always scan. I mean, I
14 don't read every word but...

15 1098 Q. And I want to just, before I talk
16 to you about that, ask you about SB4516, a letter
17 of April 4 from you to Mr. Parkinson. That's a
18 letter that bears your signature?

19 A. Correct. (Witness reads
20 document). Yes.

21 1099 Q. And you say the horseracing
22 partnership plan also supports industry-wide
23 initiatives such as the Horse Improvement Program
24 which includes an enhanced breeders' program that
25 is available for all racing breeds, standardbred,

1 thoroughbred and quarter horse, right?

2 A. Correct.

3 1100 Q. So we can agree that the Horse
4 Improvement Program \$30 million funding was
5 supposed to be available for all racing breeds?

6 A. I think I have said a number of
7 times that that was my understanding, that we were
8 going to be working with all sectors.

9 1101 Q. So why was it withheld?

10 MR. RATCLIFFE: She's answered that.
11 She doesn't know.

12 THE WITNESS: I can't -- I can't -- I
13 can't explain that. It's my understanding that we
14 were working with all of the -- all of the
15 industry.

16 MR. LISUS: And that's the next
17 exhibit, please.

18 MR. MILAT: 33.

19 EXHIBIT NO. 33: Letter from Ms. Wynne
20 to Mr. Parkinson, Bates numbered
21 SB4516.

22 BY MR. LISUS:

23 1102 Q. You go on to say in Exhibit 33
24 that:

25 "With respect to matters

1 related to the litigation, it is
2 inappropriate for me to comment.
3 Please have your counsel contact
4 counsel at the Ministry of Attorney
5 General for all further
6 communications related to such
7 matters."

8 Do you see that?

9 A. Correct, yes, I do.

10 1103 Q. Can we agree that standardbred
11 breeders' participation in the Horse Improvement
12 Program is not a matter related to litigation?

13 A. I -- I can't comment on that.

14 1104 Q. No, but -- sure you can.

15 MR. RATCLIFFE: You're asking a legal
16 question.

17 THE WITNESS: No, I can't, I can't
18 comment on that.

19 MR. RATCLIFFE: And in fact you're
20 arguing, Mr. Lisus, that it is part of the claim
21 and that's why you're asking questions about it,
22 so...

23 BY MR. LISUS:

24 1105 Q. I'm arguing that the withholding,
25 the exclusion of the standardbred breeders is part

1 of the claim, but the establishment of the
2 horseracing partnership plan and the Horse
3 Improvement Program funding had nothing at all to
4 do with litigation that was commenced in 2014.
5 That fund and that plan was set up before, right?

6 MR. RATCLIFFE: You're asking her a
7 legal question.

8 MR. LISUS: I'm not asking her a legal
9 question.

10 R/F MR. RATCLIFFE: I'm asking her to not
11 answer that question.

12 BY MR. LISUS:

13 1106 Q. Let me try it this way, Ms. Wynne.
14 When you advocated for and saw to the creation of a
15 \$30 million Horse Improvement Program to assist
16 breeders, you didn't do that for any litigation
17 purpose, right? You did that because you believed
18 it was the right thing to do for all breeders in
19 the province, right?

20 A. I think I said that in the letter.

21 1107 Q. Right. And that was your view,
22 what I've just said, correct?

23 A. Correct.

24 1108 Q. All right. And so, you still
25 aren't able to assist me in explaining why

1 Mr. Snobelen was told by someone to exclude
2 standardbred breeders from participating because
3 they went to court?

4 A. I'm not.

5 MR. RATCLIFFE: We've answered that.

6 BY MR. LISUS:

7 1109 Q. And are you aware that when the
8 breeders again asked Mr. Snobelen, he refused to
9 comment because of the litigation?

10 A. I'm not aware of what Mr. Snobelen
11 did or didn't comment on.

12 1110 Q. The Auditor General expressed
13 certain views about the modernization plan
14 including its overly ambitious timeline, right?
15 Remember that?

16 A. Correct.

17 MR. RATCLIFFE: Can you point Ms. Wynne
18 to the provision you're speaking of in terms of the
19 Auditor General's report?

20 BY MR. LISUS:

21 1111 Q. Sure.

22 A. Which section are you in?

23 1112 Q. 4.0.

24 MR. RATCLIFFE: What page? The pages
25 are in the top left-hand corner.

1 BY MR. LISUS:

2 1113 Q. 15.

3 A. I'm there. Overly ambitious
4 timeline, yes.

5 1114 Q. And the Auditor General concluded
6 that the decision to cancel Slots at Racetrack
7 Program was not open and transparent?

8 A. Fair enough. Yes, that's her
9 judgment.

10 1115 Q. You agree with that?

11 A. Yeah, I just need to find the
12 section, but I recall her -- yeah.

13 MR. RATCLIFFE: Where are you reading
14 from, Mr. Lisus?

15 MR. LISUS: Page 16.

16 MR. RATCLIFFE: Take a moment to just
17 look at it.

18 THE WITNESS: (Witness reads document).
19 She talks about it being unexpected by the
20 horseracing -- yes, yes, right there. Yeah,
21 um-hmm, that's what she said.

22 BY MR. LISUS:

23 1116 Q. "The decision to terminate the
24 Slots at Racetrack Program can
25 hardly be considered to have been

1 open and transparent, as we were
2 told it caught most stakeholders by
3 surprise."

4 Right?

5 A. Yes, I see that there, yes.

6 1117 Q. And the Auditor General also
7 found, I'm looking at page 46 --

8 A. Um-hmm, yes.

9 1118 Q. -- on the right-hand side,
10 considering proper consultation?

11 A. Did the province properly consult,
12 is that what you're looking at?

13 1119 Q. Yes. And she concluded they did
14 not, the province and OLG did not properly consult.

15 A. Yes, I see that.

16 1120 Q. Are you aware that Minister Duncan
17 told the Legislature in March 2018 that there had
18 been extensive consultation with both the industry
19 and experts about the cancellation of Slots at
20 Racetrack Program?

21 A. So that would have been a matter
22 of record if it was in the Legislature.

23 1121 Q. Yes, but were you aware that that
24 representation was made?

25 A. I would have at the time, I would

1 have been aware of that, yes.

2 1122 Q. All right. You thought it was
3 accurate?

4 A. Yeah. I mean, the fact is that
5 the Auditor General's job is to look at -- in this
6 case she was looking at the modernization plan and
7 to have an opinion about it and she has expressed
8 an opinion and we appreciate that.

9 1123 Q. I meant to say March 2012, if I
10 didn't. But you are aware that Minister Duncan
11 told the House that there was extensive
12 consultation with --

13 A. That's a matter of record, yeah.

14 1124 Q. But you don't have a recollection?

15 A. Do I recall everything that Dwight
16 Duncan said in the Legislature? No.

17 1125 Q. Not everything, just that there
18 was extensive consultation with stakeholders and
19 experts about the cancellation of SARP. Do you
20 remember that?

21 MR. RATCLIFFE: I think she said she
22 doesn't remember.

23 THE WITNESS: I don't remember. I
24 don't remember the specific --

25 BY MR. LISUS:

1 1126 Q. Do you remember in the material to
2 Cabinet there was a representation?

3 A. Of consultation, yes.

4 1127 Q. Extensive consultation with
5 industry and experts about the cancellation of
6 SARP. Do you remember that?

7 A. Yes.

8 1128 Q. And you know now there was no such
9 consultation?

10 A. Well, I know -- I know that there
11 is definitely a difference of opinion between what
12 the Ministry of Finance called extensive
13 consultation and what the Auditor General would
14 characterize as consultation.

15 1129 Q. Ms. Wynne, if you want, I can go
16 through the email sequence. There was no
17 consultation with anyone in the industry or any
18 expert about the termination of revenue share at
19 all, or with zero transition assistance.

20 MR. RATCLIFFE: Mr. Lisus, if you're
21 relying on the report, I mean --

22 MR. LISUS: No, I'm not relying just on
23 the report. I'm relying on the emails and I'm
24 relying on the evidence of Mr. Shortill and --

25 MR. RATCLIFFE: I think you said there

1 was no consultation.

2 MR. LISUS: Yeah.

3 BY MR. LISUS:

4 1130 Q. Are you aware that there was no
5 consultation or do you believe there was
6 consultation?

7 A. So again, it's a broad question.
8 We've talked about the failings of the SARP and --

9 1131 Q. I'm not asking about the failings
10 of SARP.

11 A. Well, yes, yes, you are.

12 MR. RATCLIFFE: Mr. Lisus, why don't
13 you let her answer the question.

14 MR. LISUS: Because it's not the
15 question I asked.

16 THE WITNESS: You said advice from
17 experts. We had reports from experts that said
18 that SARP was not transparent, was not -- so --

19 BY MR. LISUS:

20 1132 Q. And which expert is that?

21 A. Well, I'm talking about the
22 reports.

23 1133 Q. Which report?

24 A. The Sadinsky Report.

25 1134 Q. And the Sadinsky Report

1 recommended continuing revenue sharing with --

2 A. But a review of the program.

3 1135 Q. Okay.

4 A. Yeah.

5 1136 Q. That's fine. Do you understand
6 that there was a review of the program and there
7 was consultation with stakeholders and experts
8 about the termination of the Slots at Racetrack
9 Program?

10 A. Okay, so you know what? I have
11 been very clear that my position when I became the
12 Premier and had the decision-making authority and I
13 was Minister of Agriculture and Food at the same
14 time, I was very clear that I believed that there
15 needed to be changes made. I moved forward with
16 those changes in good faith.

17 1137 Q. Yeah.

18 A. And I recognized that there needed
19 to be more support in place for the horseracing
20 industry. So that action speaks to my
21 understanding of and concern for the horseracing
22 industry, and that really is the only position that
23 is relevant to this issue.

24 1138 Q. Fair enough.

25 MR. RATCLIFFE: Mr. Lisus, she's --

1 MR. LISUS: Please don't give evidence.

2 MR. RATCLIFFE: I'm not giving
3 evidence. I'm just taking you back to what you've
4 already heard in the evidence, that she wasn't
5 there at the time in terms of the details of how
6 that recommendation from the Ministry of Finance
7 came forward.

8 BY MR. LISUS:

9 1139 Q. I appreciate your answer, Ms.
10 Wynne, thank you. And the reason you formed that
11 opinion and took those actions is because you
12 thought that a proper decision had not been
13 followed, correct?

14 A. I believed that there was more
15 support needed. I believed that there had been a
16 proper decision made in terms of the cancellation
17 of the SARP, but I also believed that there needed
18 to be more support and it needed to evolve into a
19 different relationship with the horseracing
20 industry. I was not suggesting in any way that
21 SARP shouldn't have been cancelled.

22 1140 Q. Okay. But you didn't believe that
23 SARP had been cancelled properly?

24 A. I am not prepared to say that.

25 1141 Q. Did you believe that it was proper

1 to cancel SARP with zero transition support? You
2 didn't believe that because you changed it, right?

3 MR. RATCLIFFE: Well, Mr. Lisus, we've
4 been through this. You just keep going around and
5 around.

6 MR. SINHA: Mr. Lisus, I apologize, I
7 am a bit lost.

8 MR. LISUS: No apology necessary.

9 MR. SINHA: Can you give me the
10 citation for -- you say there was representation to
11 Cabinet and statement by Minister Duncan in the
12 Legislature, that there was extensive consultation
13 on the cancellation of SARP.

14 MR. LISUS: You can find that in the
15 Hansard from March 2012 from Mr. Duncan and in the
16 Cabinet materials there is a representation that
17 there was extensive consultation with industry and
18 experts. You'll find it there, Mr. Sinha.

19 MR. SINHA: So I found references in
20 those documents about extensive consultation
21 regarding a review of land-based gaming and lottery
22 distribution networks and a statement by Minister
23 Duncan that there has been a variety of groups
24 consulted when there were decisions being made and
25 choices among priorities in government. I just

1 haven't found any reference to extensive
2 consultations with stakeholders and experts
3 regarding the cancellation of SARP.

4 MR. LISUS: Well, fortunately there is
5 a record of what was said and what wasn't said.

6 MR. SINHA: I'm just curious about what
7 was the basis --

8 MR. LISUS: Well, Mr. Duncan said on
9 Thursday, April 26th:

10 "First of all, let me set the
11 record straight. In fact the
12 industry was consulted extensively
13 as part of the land-based gaming
14 review."

15 This is in response to a question about
16 consultation to end the horseracing revenue sharing
17 program.

18 MR. SINHA: Thank you.

19 MR. LISUS: You're welcome.

20 BY MR. LISUS:

21 1142 Q. So when the Auditor General
22 concluded that the OLG or province did not properly
23 consult, did you accept that conclusion?

24 A. I accepted it as her conclusion,
25 but there's always an interaction with the Auditor

1 General, and, you know, it's very helpful to have
2 her perspective, and, as you know, in her report
3 there's always a government response to how we are
4 dealing with those issues.

5 1143 Q. The Auditor General reported that
6 at the meetings, industry stakeholders conveyed to
7 us that at no time was cancelling the program
8 discussed. OLG employees confirmed this.

9 A. I have no knowledge of what
10 happened at those meetings.

11 1144 Q. Okay. You received a draft of the
12 Auditor General's report before it was published or
13 circulated; is that right?

14 A. That is the practice, yes.

15 1145 Q. And the practice was followed in
16 April 2014?

17 A. As far as I know, yes.

18 1146 Q. So before the report was released
19 and was public, you knew what it was going to say
20 on the question, among other things, of proper
21 consultation by the province and OLG with the
22 industry?

23 A. Yeah. Honestly, I don't -- I
24 don't remember the specifics of that briefing, but
25 that is -- that was my practice, to have a briefing

1 before.

2 1147 Q. Your staff would have briefed you
3 on the contents of the draft report and key
4 messaging in response to it, correct?

5 A. Correct.

6 1148 Q. And they did do that?

7 A. As far as I know.

8 1149 Q. And if we look at CRE547 --

9 A. 849? Is that the one?

10 1150 Q. 846.

11 A. Well, then, I've got the wrong
12 one.

13 MR. MILAT: These have different
14 numbers on each page.

15 THE WITNESS: I've got the wrong one.
16 846 has nothing on it.

17 BY MR. LISUS:

18 1151 Q. That's right. It's just part of
19 the same exhibit. Just go over the page. This is
20 a briefing deck for your benefit with respect to
21 the, among other things, draft Auditor General
22 report, right?

23 A. Right. Yes.

24 1152 Q. And the proposed response for you
25 to the findings of the Auditor General are to

1 message that:

2 "I've always argued the
3 decision to cancel the Slots at
4 Racetrack Program was not done
5 properly which the Auditor General
6 confirms."

7 That reflects your view as of March 24,
8 2014?

9 A. And the horseracing industry
10 having a new path forward was my objective, yes.

11 1153 Q. Right. Those two points would
12 accurately reflect your view?

13 A. Correct.

14 MR. LISUS: Okay. Let's mark the
15 Auditor General's report.

16 MR. MILAT: Auditor General's report
17 will be Exhibit 34.

18 EXHIBIT NO. 34: Auditor General's
19 report.

20 BY MR. LISUS:

21 1154 Q. Did you ever speak with the
22 Auditor General about her conclusion?

23 A. I don't remember whether I had a
24 conversation with her about that, but -- I don't
25 remember. I mean, I had many meetings with the

1 Auditor General about various reports and I'd have
2 to consult the calendar. I don't remember.

3 1155 Q. Do you know how breeders' rewards
4 as part of the \$30 million funding that was put in
5 place came to be subsequently released to
6 standardbred breeders?

7 A. No.

8 1156 Q. Do you know that they were?

9 A. No, I don't know that. I need to
10 say something about key messages. Sorry, I need to
11 go back to that question.

12 MR. RATCLIFFE: Sure.

13 THE WITNESS: Just so you understand
14 how this works, these are -- these are the messages
15 that are proposed by staff, and you have quotes
16 from me about what I said in the Legislature and in
17 other fora about the need to review and to move
18 forward to find a sustainable path for the
19 horseracing industry.

20 So I just want to be clear. I don't
21 ever want anyone to suggest that I said exactly
22 what the key message suggestion was. Just so we
23 can be clear about that.

24 BY MR. LISUS:

25 1157 Q. Right. But the key message

1 suggestion accurately reflects your views at the
2 time, right?

3 A. But it may not be the way I would
4 phrase it.

5 MR. MILAT: Let's mark this, which was
6 Exhibit 35 to Mr. Bardeesy, as Exhibit 35 also to
7 this examination.

8 EXHIBIT NO. 35: Memo dated March 24,
9 2014, Bates CRE0547847.

10 MR. LISUS: Those are my questions, Ms.
11 Wynne. Thank you.

12 THE WITNESS: Okay. Thank you.

13 MR. LISUS: Your counsel and co-counsel
14 may have some questions.

15 MR. RATCLIFFE: Do you want to take
16 just five minutes or --

17 MR. SINHA: I have one question, if I
18 can just get that out of the way.

19 CROSS-EXAMINATION BY MR. SINHA:

20 1158 Q. Thank you, Premier Wynne. I'm
21 counsel for OLG.

22 A moment ago my friend, Mr. Lisus, took
23 you to a passage from the Auditor General's report
24 citing you saying that you have always been of the
25 view that the cancellation of SARP was not done

1 properly and that we needed to find a way forward.

2 Do you recall that?

3 A. Yes.

4 1159 Q. And we've discussed through the
5 examination by Mr. Lisus today various places where
6 you thought there was a need to take a second look,
7 as it's been phrased, with respect to the
8 cancellation of SARP?

9 A. Correct.

10 1160 Q. Premier Wynne, anywhere in any of
11 the briefings and information you gained on the
12 file throughout your tenure as Premier or as
13 Minister of Agriculture did you ever gain the
14 knowledge or information or form the belief that
15 OLG lacked the legal authority to cancel the
16 contracts that underlay the SARP program?

17 A. No.

18 MR. SINHA: Thank you.

19 MR. RATCLIFFE: I have a few questions,
20 not many.

21 RE-EXAMINATION BY MR. RATCLIFFE:

22 1161 Q. You were a Cabinet Minister before
23 you were Premier and you were Premier for a number
24 of years. In terms of the decision-making process
25 that goes on, when programs are being looked at or

1 changes are being looked at, what kinds of factors
2 do you look at when cuts are being made? Are there
3 different factors that you look at or
4 considerations that come into play?

5 A. Always. There are -- when there
6 are changes -- when there are major policy changes
7 being made, there's always an interaction with
8 people in whatever that sector is to determine what
9 the impacts are and to get advice on that.

10 1162 Q. And what happens if there's more
11 than one sector that you're looking at, you know,
12 balancing the interests or making changes to?

13 A. Well, there are, in my experience
14 since 2003, is that there are very few policies
15 that don't have a differential impact on different
16 parts of a sector and that they're usually -- you
17 know, there will be -- there will be some parts of
18 a sector that will be very happy about a particular
19 change, and others will be less so, and if there
20 are changes that need to be made once a policy is
21 implemented, and that happens all the time, then
22 those changes need to be made going forward.

23 1163 Q. And is there sometimes
24 disagreement amongst ministries, not at the Cabinet
25 level, we're not talking about that, about Cabinet

1 ministers, but is there disagreement between
2 ministries sometimes about the best way to approach
3 things?

4 A. Frequently. Frequently.

5 1164 Q. So there's nothing unusual about
6 that if there was a disagreement about that?

7 A. Nothing at all.

8 1165 Q. And in terms of program proposals,
9 in this instance you have indicated in your
10 evidence for Mr. Lisus that this was an evolving
11 process, it became apparent at the beginning that
12 in terms of addressing the challenges around the
13 termination of SARP that knowledge grows and
14 there's an evolution, I guess, as new information
15 comes to light; is that correct?

16 A. Right.

17 1166 Q. Can you explain that a little more
18 fully?

19 A. Well, I think the more people that
20 are brought in at the political level, the more
21 people that are brought in and asking questions
22 from their own perspectives, the more information
23 that's attained and the more a policy gets refined
24 or a perspective gets refined, and I think in a
25 situation like this, with this issue, because it's

1 a complicated sector, you know, there was an
2 evolving understanding of what the impacts of
3 decisions would be. And at the same time, because
4 we were bringing in a new framework for gaming in
5 the province, that was a complicating factor.

6 So I think that it's -- again, it's not
7 unusual that there would be an evolution of both an
8 understanding and of a relationship, a policy
9 relationship with a sector like this.

10 1167 Q. So there's nothing unusual about
11 the fact that maybe, for lack of a better
12 expression, you don't get things quite right the
13 first time but you build on that or you work with
14 that initial proposal as new information comes in?

15 A. I see that as the role of
16 government, actually. We develop policies that
17 reflect the reality of a particular time, the
18 particular needs of people in the province and of
19 the economy.

20 1168 Q. Now, as this process moved
21 forward, we've -- Mr. Lisus has referred to a
22 number of steps in the process, the initial
23 proposal was to have \$50 million over three years,
24 and then you have the panel's recommendations that
25 that wasn't enough.

1 Are you able to take us very briefly
2 just through the steps in the process in terms of
3 the different changes or the evolution, the
4 program. Again, Mr. Lisus, I think, has touched on
5 these numbers. At one point in time we were
6 looking or you were looking at -- you know, over
7 four years you were looking at --

8 A. 400 million.

9 1169 Q. \$400 million over five years and
10 then what happened next after that?

11 A. I think, I mean the 50 million, it
12 was quite clear that wasn't going to be enough.
13 The 400 million over five years, again, it was an
14 ongoing discussion with the sector about what was
15 going to be adequate in conjunction with the
16 pari-mutuel --

17 1170 Q. Tax?

18 A. Tax reduction.

19 1171 Q. Benefit?

20 A. Benefit to the industry. And I
21 think the big issue was how long would the term be,
22 how long could we commit to the hundred million
23 dollars a year, which I think that number was
24 floating around for some time, but it became how
25 long could we commit to that. And, you know, we

1 looked at one Cabinet submission, which tracks
2 would it benefit and how would that money be
3 allocated. Those were questions that continued to
4 be discussed.

5 1172 Q. And certainly that was then the --
6 you indicated that we now have a long-term plan in
7 place or agreement in place in terms of the
8 benefits that flow?

9 A. Correct.

10 1173 Q. Or the support that flows to the
11 horse people?

12 A. Correct.

13 1174 Q. Of the different groups, and
14 that's a hundred million dollars, roughly?

15 A. A hundred million dollars,
16 roughly, but again, there's still -- there's still,
17 and I said a couple of times, that it's an ongoing
18 conversation because there's still, and the people
19 from OLG may be able to correct me, but my
20 understanding is there's still a discussion about
21 the integration of the two and possible products
22 and how there could be other things that would
23 contribute to the sustainability of the industry.

24 So that's what I mean by an ongoing
25 discussion.

1 1175 Q. And again, Mr. Lisus touched on
2 this in a couple of different ways, and, you know,
3 he's read you various statements that you made to
4 the media at different times, but did you ever
5 disagree with the fact that SARP should be
6 terminated?

7 A. No.

8 1176 Q. It was the results that flowed
9 from that and how you address the challenges around
10 the termination of SARP?

11 A. Correct.

12 MR. RATCLIFFE: Those are my questions.

13 THE WITNESS: Okay.

14 MR. LISUS: Thank you very much.

15 THE WITNESS: You're very welcome.

16 -- Whereupon the cross-examination concluded at
17 5:00 p.m.

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REPORTER'S CERTIFICATE

I, KIMBERLEY A. NEESON, RPR, CRR,
CSR, CCP, CBC, Certified Shorthand Reporter,
Realtime Systems Administrator, certify;

That the foregoing proceedings were
taken before me at the time and place therein set
forth, at which time the witness was put under oath
by me;

That the testimony of the witness
and all objections made at the time of the
examination were recorded stenographically by me
and were thereafter transcribed;

That the foregoing is a true and
correct transcript of my shorthand notes so taken.

Dated this 6th day of July, 2018.



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