

Hearing Transcript

2017 Automobile Insurance Review

September 6, 2018

PRESENT:

The Board:

Darlene Whalen, Chair and CEO
Dwanda Newman, Vice-Chair
James Oxford, Commissioner

Board Counsel/ Staff:

Jacqueline Glynn, Board Counsel
Ryan Oake, Regulatory Analyst
Peter O'Flaherty, Q.C., Hearing Counsel

Parties (Alphabetical Order)

Atlantic Provinces Trial Lawyers Association
Ernest Gittens

Presenters:

Paula Elliott, Oliver Wyman

Campaign to Protect Accident Victims

Colin Feltham
Jerome Kennedy

Consumer Advocate

Dennis Brown, Q.C.
Andrew Wadden

Insurance Bureau of Canada (IBC)

Amanda Dean
Kevin Stamp
Trevor Foster

Spinal Cord Injury NL

Thomas Fraize
Lara Fraize-Burry
Michael Burry

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1 (9:08 a.m.)
 2 CHAIR:
 3 Q. Good morning, everybody. It looks like all
 4 the same faces. I think the only
 5 acknowledgement I'll make this morning is to
 6 recognize Mr. Peter O'Flaherty, who will be
 7 acting as hearing counsel for this session.
 8 I don't think we need to do anything else on
 9 a preliminary matter. I guess, today we're
 10 just picking up where we left off, and when
 11 we finished on June 8th, Ms. Elliott had
 12 responded to questions from the Atlantic
 13 Provinces Trial Lawyers Association. I
 14 understand we're going right to the Campaign
 15 for continuation of questioning, and we'll
 16 turn it to you.
 17 MR. FELTHAM:
 18 Q. Good morning, Chair, Commissioners, thank
 19 you. Good morning, Ms. Elliott, welcome
 20 back.
 21 MS. ELLIOTT:
 22 A. Good morning.
 23 MR. FELTHAM:
 24 Q. I'm sure it's good to be back. So I think
 25 what we'll do is I'll start sort of at the

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1 end, and ask you to go to page 28 of your
 2 report. I don't want to beat this to death
 3 too much, but I do think it's important that
 4 we do note this for the record, and what
 5 we're looking at here is sort of the
 6 disclaimer portion of your report and it
 7 notes what the limitations are. Yes?
 8 MS. ELLIOTT:
 9 A. Yes.
 10 MR. FELTHAM:
 11 Q. And this is quite similar to the same
 12 limitations disclaimer that we've seen in
 13 the other reports that you've reviewed up to
 14 this point, correct?
 15 MS. ELLIOTT:
 16 A. Yes.
 17 MR. FELTHAM:
 18 Q. And you note that, "For our review, we
 19 relied on data and information available
 20 from GISA and Board staff without an audit".
 21 So again no independent auditing on your
 22 part of what was reviewed?
 23 MS. ELLIOTT:
 24 A. That's correct.
 25 MR. FELTHAM:

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1 Q. Or by any other entity?
 2 MS. ELLIOTT:
 3 A. To the best of my knowledge, yes.
 4 MR. FELTHAM:
 5 Q. And you go on to also note that, "Reviewed
 6 the data for reasonableness and
 7 consistency", again not audited or otherwise
 8 verified the data, and then, "We have
 9 assumed that the data provided is both
 10 accurate and complete"?
 11 MS. ELLIOTT:
 12 A. That's correct, we're not auditors, yeah.
 13 MR. FELTHAM:
 14 Q. And no other auditors were engaged to review
 15 the data provided to you that you know of?
 16 MS. ELLIOTT:
 17 A. I can't speak fully to the process of GISA's
 18 review. I do know that they reviewed the
 19 data and had their own internal audits and
 20 checks, but I can't speak to that in a
 21 fulsome manner.
 22 MR. FELTHAM:
 23 Q. Okay. Speaking of GISA, I don't know if we
 24 can go to the GISA letter which should be on
 25 the website. That was provided to parties by

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1 the Board dated August 24th, 2018.
 2 MS. KEAN:
 3 Q. GISA letter?
 4 MR. FELTHAM:
 5 Q. Yes.
 6 MS. KEAN:
 7 Q. And the date?
 8 MR. FELTHAM:
 9 Q. August 24, 2018. It's a letter from GISA to
 10 the Chair of the Board. Ms. Elliott, it's
 11 on the screen now. Have you ever seen this
 12 document before?
 13 MS. ELLIOTT:
 14 A. Yes.
 15 MR. FELTHAM:
 16 Q. When did you first see it?
 17 MS. ELLIOTT:
 18 A. I don't know the exact date, but within the
 19 last two weeks, I would think.
 20 MR. FELTHAM:
 21 Q. And do you know anything about what
 22 precipitated the issuance of this letter?
 23 MS. ELLIOTT:
 24 A. None whatsoever. I was just provided a
 25 copy.

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1 MR. FELTHAM:
 2 Q. You were provided with the information, so
 3 you were aware that it existed, but you
 4 weren't involved in discussions with GISA
 5 for the production of the letter, or that
 6 sort of thing?
 7 MS. ELLIOTT:
 8 A. No.
 9 MR. FELTHAM:
 10 Q. No?
 11 MS. ELLIOTT:
 12 A. No, not – no, no.
 13 MR. FELTHAM:
 14 Q. Okay, if we could go back to the report
 15 document, please, and page 5. Thank you.
 16 So this is under the Methodology and
 17 Discussion section of your report, and it's
 18 here that you note your key assumptions,
 19 correct?
 20 MS. ELLIOTT:
 21 A. It's in reference to the information that's
 22 used to derive the calculations, yes.
 23 MR. FELTHAM:
 24 Q. Right, and these A, B, and C items under
 25 Methodology and Discussions, these are

Page 6

1 assumptions made by you in the preparation
 2 of this report?
 3 MS. ELLIOTT:
 4 A. It's simply referencing that we're going to
 5 look at loss amounts, expense amounts, and
 6 profit, yeah.
 7 MR. FELTHAM:
 8 Q. Okay, so were not key assumptions here in
 9 this process relating to the claim costs you
 10 indicated in A, the operating cost reported
 11 by the insurers in B, and the return on
 12 investment in C?
 13 MS. ELLIOTT:
 14 A. Yes, that's what we considered, yes.
 15 MR. FELTHAM:
 16 Q. Okay, and we don't see here in this
 17 particular section anything related to the
 18 return on equity, but this was also an
 19 assumed factor on your part, was it not,
 20 that the appropriate return on equity was 10
 21 percent?
 22 MS. ELLIOTT:
 23 A. No, I – let me explain. In our report, we
 24 present three parts. Part I is a hindsight
 25 measurement of what the return was. Part II

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1 – so in that case, we don't assume 10
 2 percent. We're trying to measure what it
 3 was. In Part II, we say what would the
 4 required premiums be if you targeted a 10
 5 percent return in our Part II, and compare
 6 that to what the actual premium earned was,
 7 and then Part C is trying to – Part III,
 8 rather, is trying to forecast what 2017
 9 would be. So in Part I, we're trying to
 10 measure the profit as opposed to saying it
 11 was 10, and what would the premiums be if
 12 you targeted 10 percent. So there's no need
 13 to state it here.
 14 MR. FELTHAM:
 15 Q. Okay, and if we look at page 2, and I'm
 16 getting at the Part B that you're referring
 17 to in your answer –
 18 MS. ELLIOTT:
 19 A. Uh-hm.
 20 (9:15 a.m.)
 21 MR. FELTHAM:
 22 Q. At the bottom underneath Table 1, "We note
 23 that the Board of Commissioners, Public
 24 Utilities Board, guideline target profit
 25 level for private passenger automobile rate

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1 filings is an ROE of 10 percent". So that's
 2 what you're assessing your findings against,
 3 if you will, that's the benchmark that
 4 you're assessing results against as to what
 5 should be achieved?
 6 MS. ELLIOTT:
 7 A. Yes, so when rates are filed with the Board,
 8 the companies target 10 percent in their
 9 pricing model to determine what rate is
 10 indicated, and then now we're looking back
 11 in time and trying to estimate what was the
 12 ROE after-tax achieved, and then saying,
 13 well, 10 percent was the target upon which
 14 rates were set, but sometimes your losses
 15 are higher or lower than what are expected,
 16 and so your profit, of course, will be
 17 higher or lower accordingly. So this is a
 18 look back in time to see what the returns
 19 were.
 20 MR. FELTHAM:
 21 Q. Right, and in determining whether you have
 22 rate adequacy or insufficiency, we are
 23 measuring results against that 10 percent
 24 benchmark?
 25 MS. ELLIOTT:

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1 A. Not in this table, but in Part II, yes.

2 MR. FELTHAM:

3 Q. No, no, I'm sorry, it's not in the table.

4 MS. ELLIOTT:

5 A. Yes, yeah.

6 MR. FELTHAM:

7 Q. Just in the overall approach to the report

8 and your analysis, that's what you're doing?

9 MS. ELLIOTT:

10 A. Yes, companies target a return when they set

11 their rates, and then you can look back in

12 time and say, well, gee, did I achieve that

13 or not, and that's what we're doing here.

14 MR. FELTHAM:

15 Q. Right, and in this case, did we achieve an

16 ROE of 10 percent or not?

17 MS. ELLIOTT:

18 A. Right.

19 MR. FELTHAM:

20 Q. And that 10 percent figure, that comes, as I

21 understand it, from the Board's benchmark

22 hearing ruling in, I think, 2005?

23 MS. ELLIOTT:

24 A. Economists would have determined that

25 number.

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1 MR. FELTHAM:

2 Q. Right, and you haven't done any

3 determination – made any determination,

4 engage in anything to determine whether or

5 not 10 percent is a reasonable return on

6 equity?

7 MS. ELLIOTT:

8 A. I'm not an economist. That's not what I do,

9 no.

10 MR. FELTHAM:

11 Q. And you're not a cost of capital expert?

12 MS. ELLIOTT:

13 A. Not that either, no.

14 MR. FELTHAM:

15 Q. So you have any idea how the cost of equity

16 capital today compares to what it would have

17 been in 2005?

18 MS. ELLIOTT:

19 A. Well, the cost of capital and return on

20 equity are often used interchangeably. A 10

21 percent guideline that the Board has equates

22 to approximately, with the current tax rate,

23 an investment rate assumption of 5.74

24 percent of premium as a loading provision in

25 the rates. Alberta has a 7 percent

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1 provision, a comparable provision, and

2 Ontario is 5 percent. So it would be in the

3 range of what other provinces are using.

4 MR. FELTHAM:

5 Q. My understanding, though, is that's –

6 comparing to other provinces is not the

7 manner in which an appropriate ROE should be

8 set, you know, if we were engaged in that

9 process?

10 MS. ELLIOTT:

11 A. I'm not stating that that's how you should

12 determine it. What I'm stating is that in

13 using that number, it was in the range of

14 what is used and a reasonable number to use.

15 I'm not saying that it's the right number

16 nor the wrong number. I'm just stating that

17 it is in the range of what is used in other

18 provinces. So in my use of that number, it

19 would not be unreasonable.

20 MR. FELTHAM:

21 Q. And no one asked you to examine whether the

22 ROE should be 10 percent or not, or a

23 benchmark?

24 MS. ELLIOTT:

25 A. That's correct.

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1 MR. FELTHAM:

2 Q. Okay, but that determination should be made

3 based on evidence and a hearing process?

4 MS. ELLIOTT:

5 A. By an economist.

6 MR. FELTHAM:

7 Q. Yes, by an economist.

8 MS. ELLIOTT:

9 A. Yeah.

10 MR. FELTHAM:

11 Q. So if the target ROE, which is what I'll

12 call that, 10 percent, if it was not

13 assumed, then it should have been different

14 each year based on what evidence would tell

15 us. Then that would make your premium

16 adequacy estimates misleading, would it not?

17 MS. ELLIOTT:

18 A. Well, it certainly would not make what we've

19 presented here in the table that is on the

20 screen misleading because that's measuring

21 what it was in hindsight, and furthermore,

22 looking at Part II where we measure what was

23 the actual earned premium and what was the

24 required premium based on that 10 percent,

25 it does not make that unreasonable or

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1 inappropriate to review or misleading
 2 because it is a measurement of what was used
 3 for the rate filings. The assertion that
 4 the findings are misleading because we used
 5 10 percent, I don't agree with, because that
 6 was the value that insurers were allowed to
 7 use in their rate applications.
 8 MR. FELTHAM:
 9 Q. But if those – if that target ought to have
 10 been something, say, less than 10 percent,
 11 or more than 10 percent, in reality, other
 12 than based on the assumed number from 2005,
 13 the degree to which there is inadequacy or
 14 perhaps rates were too high would change?
 15 MS. ELLIOTT:
 16 A. Well, sure, any number, if you substitute a
 17 different assumption and wish it was
 18 something else, of course, it would change,
 19 but we're not dealing with wishes and I wish
 20 it was something different. I was measuring
 21 what it was.
 22 MR. FELTHAM:
 23 Q. Based on that assumed 10 percent as the
 24 benchmark?
 25 MS. ELLIOTT:

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1 A. Based on a target of 10 percent, yes.
 2 MR. FELTHAM:
 3 Q. Yes, okay. Let's go back just one page to
 4 page 1, please. So the second paragraph
 5 here you note that, "Insurance industry
 6 profit levels can be estimated and measured
 7 in several ways". I guess, my question for
 8 you on that is how many ways are there and
 9 what are they?
 10 MS. ELLIOTT:
 11 A. Well, the two key ways are percent of
 12 premium referred to as POP, and return on
 13 equity, and then you can look at that pre-
 14 tax, after-tax. So that's our reference.
 15 That's the two common ways, and as an
 16 investor, you'd want to look at what's the
 17 return on equity if you're investing in a
 18 company, so that's a very typical way. Then
 19 the percent of premium is sort of a
 20 simplified way to look at it because
 21 consumers can understand if the percentage
 22 of premium – a profit as a percentage of
 23 premium is allowed is 5.74 percent, and they
 24 would know for every \$100.00 of premium,
 25 there's \$5.74 allowed for profit. So that's

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1 kind of a simplified approach.
 2 MR. FELTHAM:
 3 Q. All right, so you say several ways there,
 4 and then you do note two, and what I take
 5 from what you're telling me is really
 6 primarily your view is there are two ways?
 7 MS. ELLIOTT:
 8 A. And pre-tax, after-tax, yes.
 9 MR. FELTHAM:
 10 Q. Okay. Back to page 2 of the report, please.
 11 So here you're reviewing estimated profit
 12 levels. You say, "We use the total of all
 13 premium actually charged by insurers in
 14 Newfoundland and Labrador for private
 15 passenger automobile insurance in each of
 16 accident years; 2007 to 2016. So that's the
 17 amount estimated for claims and all expenses
 18 in each of those years based on industry
 19 data as of June 30th, 2017, plus estimated
 20 investment income". So to estimate the
 21 profit levels then, you're using the total
 22 of all the premiums that are actually
 23 charged by insurers in Newfoundland for
 24 private passenger auto, and then you
 25 subtract from that an amount estimated for

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1 claims and the expenses, and you say based
 2 on industry data plus the investment –
 3 estimated investment income. When you say
 4 "based on industry data", what you're saying
 5 is that you're accepting the expenses as
 6 reported by the insurers?
 7 MS. ELLIOTT:
 8 A. That's correct.
 9 MR. FELTHAM:
 10 Q. Okay. You've not examined the
 11 reasonableness of those expenses in any way?
 12 MS. ELLIOTT:
 13 A. Well, I would say I've examined the
 14 reasonableness of them. I am fully aware of
 15 what the expense ratio is in other
 16 provinces, and the numbers are typically in
 17 the range from 25 to 30 percent, or under
 18 30, in that upper 20 percent range. So if
 19 the number was 40 percent, I would certainly
 20 look at that and say, gee, that's not
 21 reasonable, what's going on?
 22 MR. FELTHAM:
 23 Q. That's in terms of the ratio, expense ratio?
 24 MS. ELLIOTT:
 25 A. Yes, because that's –

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1 MR. FELTHAM:
 2 Q. But you haven't examined whether the
 3 expenses themselves –
 4 MS. ELLIOTT:
 5 A. Again I'm not an auditor. I do not audit
 6 data.
 7 MR. FELTHAM:
 8 Q. You've just accepted what's being provided
 9 and you work with those?
 10 MS. ELLIOTT:
 11 A. Yes, that's correct.
 12 MR. FELTHAM:
 13 Q. And if the expenses were determined to be
 14 overstated, that would affect your findings
 15 on profit levels?
 16 MS. ELLIOTT:
 17 A. Understated, overstated, either way, yeah.
 18 MR. FELTHAM:
 19 Q. Yes. I had some questions for you as well
 20 in relation to the written answers to
 21 interrogatories, and that's where I'd like
 22 to go next if I could. This would be the
 23 Oliver Wyman letter of July 6th, 2018,
 24 Responses to Interrogatories. Okay. So, I
 25 have the document and I'm interested in

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1 going to page 6. So, this is – page 6 is in
 2 the area that contains your response to
 3 questions from the Insurance Bureau of
 4 Canada. It actually starts on page 5
 5 though. And Answer 3 on page 6. So, this –
 6 well, I'll repeat the question, just so we
 7 have some context.
 8 "Ms. Elliott, an intervener has
 9 requested that you estimate industry return
 10 on equity (ROE) ratio to expense percentages
 11 in Newfoundland and Labrador. These
 12 percentages include 18.2, 20.2 and 24.4.
 13 Could you please comment on why you used the
 14 General Insurance Statistical Agency's
 15 published expense ratios and the
 16 reasonableness of your selection relative to
 17 these three requested percentages above?"
 18 So, I gather what IBC is asking there
 19 is in relation to the question that CAPLA
 20 APTLA had asked, where they asked you to
 21 substitute some expense ratios and redo some
 22 calculations, okay.
 23 So, your response here below indicates
 24 "the suggested expense provisions" which are
 25 the 18.2 percent and so on, "are not based

Page 19

1 on the most recent actual expense
 2 information requested by each individual
 3 insurer in Newfoundland and Labrador, which
 4 was the expense information we relied on."
 5 So, and again, so, you're using the expense
 6 ratios based on the information that the
 7 insurers provided?
 8 (9:30 a.m.)
 9 MS. ELLIOTT:
 10 A. Yes. We're using the GISA information, yes.
 11 MR. FELTHAM:
 12 Q. Which comes from the insurers to GISA?
 13 MS. ELLIOTT:
 14 A. That's correct.
 15 MR. FELTHAM:
 16 Q. Okay. And then you go on to say, at the
 17 last paragraph under 3, "testing and
 18 estimating what the profit level might have
 19 been if the expense provision were different
 20 would be appropriate if changes to the
 21 expense provision were under consideration.
 22 The terms of reference did not outline this
 23 consideration." So, your view, I'll just
 24 paraphrase here, is that examining the
 25 expense provisions and, I guess, whether

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1 those are reasonable and that sort of stuff,
 2 is not something that is part – ought to be
 3 part of this review based on terms of
 4 reference?
 5 MS. ELLIOTT:
 6 A. We were asked to look at what the historical
 7 profits were. So, using the actual expense
 8 ratio provided by GISA as opposed to an
 9 expense ratio that would be hypothetical was
 10 not – we weren't asked to use a hypothetical
 11 expense ratio; that is the expense ratio
 12 could be reduced to X, whatever that X would
 13 be, what would be the profits. So, that
 14 wasn't something that we did or were asked
 15 to do.
 16 MR. FELTHAM:
 17 Q. Okay. I'd like to refer you to a couple of
 18 points in the Terms of Reference, if I could
 19 discuss those with you. I apologize for all
 20 the document jumping, but if we could bring
 21 up the Terms of Reference, please? Sorry,
 22 there it is. Quicker than I thought. Okay.
 23 So, under Phase II, you'll note is says
 24 "Phase II will review the existing private
 25 passenger automobile insurance products and

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1 assess and recommend possible options to
 2 contain costs.” So, as a starting point, I
 3 would suggest to you that’s fairly broad.
 4 And then if we go to the very bottom, the
 5 last point under II, it indicates “to report
 6 any other cost savings or other improvements
 7 on any aspect of automobile insurance
 8 offered in this province”. So, you know,
 9 again, that’s a big broad catchall, I would
 10 suggest, in terms of anything that can be
 11 done to reduce costs.
 12 MS. ELLIOTT:
 13 A. It would be very broad. It could be
 14 improving, you know, roads to make them
 15 safer. I mean, there are many aspects of
 16 that. Our report was not that broad.
 17 MR. FELTHAM:
 18 Q. And in your view, there was no need to go
 19 into the expense provision and determine
 20 whether any changes could be made or ought
 21 to be made in that regard? Obviously
 22 changes there would mean changes in cost.
 23 MS. ELLIOTT:
 24 A. In terms of the expenses, again repeating
 25 myself, we were looking at the hindsight,

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1 what they were in the measurements that we
 2 did, not what if they were a certain number.
 3 In looking forward to expenses, I’m
 4 certainly in favour of anything that makes
 5 the expense provision in rates lower, so
 6 that that reduction in expense cost
 7 translates to lower premiums for consumers.
 8 It’s a very positive thing.
 9 There are three main parts to expenses:
 10 the commissions that are paid to brokers;
 11 the contingent commission that is paid to
 12 brokers, that component of commissions; the
 13 premium tax rate that’s five percent; and
 14 then the general operating expenses, the
 15 rent, the salaries. To conduct such a
 16 study, and we’re dealing with numerous
 17 companies, so to drive out lower rates,
 18 lower costs, that’s a different review and
 19 that was not something that we undertook or
 20 stated that we would undertake.
 21 MR. FELTHAM:
 22 Q. Well, I mean, I follow what you’re telling
 23 me, but you know, with respect, I’m not sure
 24 it’s a different review.
 25 MS. ELLIOTT:

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1 A. Well, with respect, I would have to go to
 2 Intact or Aviva and find out, you know, what
 3 their operation is and spend months and
 4 months reviewing their operation, as to how
 5 to lower perhaps their general expense ratio
 6 from 10 to 9.5 and you know, there are
 7 numerous companies in the province and that
 8 wasn’t the exercise that I certainly
 9 understood or was directed to undertake, to
 10 go to advise all the large companies how to
 11 reduce their costs.
 12 MR. FELTHAM:
 13 Q. Okay. No, fair enough. And instead, we
 14 accept what’s provided by the insurers as
 15 expenses in various -
 16 MS. ELLIOTT:
 17 A. Knowing they’re in very similar range in
 18 other provinces, yes.
 19 MR. FELTHAM:
 20 Q. Be that as it may, we’re still relying on
 21 what they provide to you as the expense
 22 figures?
 23 MS. ELLIOTT:
 24 A. Yes. I can’t make up a number, so I have to
 25 use what’s given to me by the people that

Page 24

1 collect the data.
 2 MR. FELTHAM:
 3 Q. Okay. So, switch gears a little bit here.
 4 When you – in making your calculations in
 5 your report of auto insurance company profit
 6 in Newfoundland and Labrador, you didn’t
 7 exclude any companies from your analysis?
 8 You would have included data from all the
 9 companies who are underwriting auto policies
 10 here? Is that correct?
 11 MS. ELLIOTT:
 12 A. That’s correct, yes.
 13 MR. FELTHAM:
 14 Q. And did you consider whether it might be
 15 reasonable to exclude some of the companies
 16 for any reason?
 17 MS. ELLIOTT:
 18 A. Well, I think, you know, you can go in and
 19 make exclusions and say gee, if we excluded
 20 all the companies that made high profits,
 21 then we’d have a different number and if we
 22 excluded all the people that had low
 23 profits, then we’d have a different number,
 24 and perhaps that would be informative, but
 25 we chose not to make any decision to exclude

Page 25

1 people or companies rather because we were
 2 trying to frame the answer in a different
 3 way or manner. I think we were – not I
 4 think, I know we were presenting an estimate
 5 for the industry, including all insurers, be
 6 that what it may, you know, make money, lose
 7 money, and not trying to exclude anybody to
 8 frame a different answer, just provide the
 9 facts as they are.
 10 MR. FELTHAM:
 11 Q. So, the answer is no, you didn't think it
 12 was reasonable to exclude any companies?
 13 MS. ELLIOTT:
 14 A. I see no reason to exclude any companies if
 15 we're trying to measure what the results
 16 were in the past.
 17 MR. FELTHAM:
 18 Q. But more than trying to measure what results
 19 were in the past, we're also trying to
 20 determine what's appropriate for the future
 21 as part of this, are we not?
 22 MS. ELLIOTT:
 23 A. I don't think measuring what the results
 24 were for the past of the profits, loss
 25 experience, all the different reasons that

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1 drive the results, excluding anything
 2 doesn't assist you in any manner.
 3 MR. FELTHAM:
 4 Q. What if a company or companies had negative
 5 ROEs, perhaps even significantly negative
 6 ROEs, for the entire past period? That
 7 doesn't change your view?
 8 MS. ELLIOTT:
 9 A. It is what it is. I mean, they lost money
 10 and so they lost money. To exclude them is
 11 just to exclude them and make the number
 12 higher. I don't see the benefit of saying
 13 "oh, I wish we could exclude these companies
 14 because they lost money" and then the number
 15 will be higher. I don't – you can do that,
 16 but if you're trying to look back and say
 17 what were the profits, that's what you want
 18 to know. If you want to exclude some
 19 companies, go ahead and do that, but I don't
 20 see the appropriateness of just cherry
 21 picking who you want to exclude.
 22 MR. FELTHAM:
 23 Q. But if an auto insurance company is
 24 underwriting in the province and are
 25 consistently losing money, and if we include

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1 them in the analysis with this sort of
 2 aggregate approach that you've taken,
 3 doesn't the auto insurance consumer kind of
 4 wind up subsidizing the business operation
 5 of that company?
 6 A. Nobody's subsidizing anything. We're
 7 looking back at what the results were. They
 8 are what they are. If you want to exclude
 9 somebody then you're just saying well, these
 10 are the results if I exclude the guys that
 11 have a low profit level. That's all you
 12 know now. We're just measuring it. Moving
 13 forward and how that will benefit consumers
 14 in the future with whatever the Government
 15 decides to do here, that's how you're going
 16 to benefit consumers. Looking back and
 17 making artificial measurements of the past
 18 results because you exclude the low people,
 19 the low insurers, I'm not sure what that
 20 achieves. You can do it, but you're just
 21 giving hypothetical results of what the
 22 profits would have been if we exclude the
 23 low ROE insurers.
 24 MR. FELTHAM:
 25 Q. Let's take a bank for example. Some of

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1 them, most of them, are in the insurance
 2 business, auto insurance business in
 3 particular, and I guess other types of
 4 insurance, but we're talking about auto.
 5 The business model of the bank -
 6 MS. ELLIOTT:
 7 A. I'm sorry, which bank are you referring to
 8 here in the Province?
 9 MR. FELTHAM:
 10 Q. Well, we can talk about TD Bank.
 11 MS. ELLIOTT:
 12 A. Okay.
 13 MR. FELTHAM:
 14 Q. Doesn't matter. You know, if they're in the
 15 province with a business model that's not
 16 designed to make money on insurance product,
 17 you know, they may be here to say "look,
 18 we're going to sell insurance, but it's
 19 really part of a bigger plan for us. We're
 20 going to get customers there. We don't mind
 21 losing money and having negative ROEs."
 22 That might be like a loss leader type of
 23 product to them and that's their
 24 prerogative. But is it fair then to
 25 effectively have the auto insurance consumer

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1 subsidize that type of business model?
 2 MS. ELLIOTT:
 3 A. Well, you're asking me to make an assumption
 4 that they are providing insurance as a loss
 5 leader.
 6 MR. FELTHAM:
 7 Q. I am.
 8 MS. ELLIOTT:
 9 A. And I'm not prepared to make that assumption
 10 when I present my results of what the
 11 history is of the profits in the province.
 12 MR. FELTHAM:
 13 Q. But if that were the case?
 14 MS. ELLIOTT:
 15 A. Well, again, that's an if. It's a hypo –
 16 you're hypothesizing and I'm not prepared to
 17 present results on a hypothesis. I'm only
 18 prepared, which I did, to present results on
 19 the actual data that was available, not to
 20 say well, what if I exclude the companies
 21 without low negative ROE. You can do that
 22 calculation, but that's not what I chose to
 23 do because I don't know why their ROE was
 24 negative.
 25 MR. FELTHAM:

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1 Q. Okay. But you understand that by including
 2 a company with a consistently negative ROE
 3 from the past results, we do just – we get
 4 those past results and we get the numbers,
 5 but -
 6 MS. ELLIOTT:
 7 A. And what if that company had -
 8 MR. FELTHAM:
 9 Q. Just let me finish, please. And but, it's
 10 not only the past because we are looking at
 11 that past history to determine whether or
 12 not rates have been adequate in Newfoundland
 13 and Labrador, and that's with a view to the
 14 future.
 15 MS. ELLIOTT:
 16 A. I beg to differ. We presented the results
 17 including all companies. We were not asked
 18 to draw a line in the sand and exclude those
 19 companies that had an ROE below a certain
 20 number and to make, you know, some judgment
 21 call and hypothesize that. And I'm not sure
 22 if you're presenting factual information for
 23 me to consider here what TD's results are in
 24 other provinces, what their ROE is, and
 25 whether they should be excluded in any

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1 hindsight review of their profits. But no,
 2 our choice was to include all companies.
 3 The results are what they are. They do
 4 operate here and so, we didn't draw some
 5 line, artificial line to say well, we're
 6 going to exclude those companies that have
 7 an ROE less than what we think should be if
 8 you wanted to stay around in the province.
 9 MR. FELTHAM:
 10 Q. Okay. Move on from that one. I'd like to
 11 go back to the answers in interrogatories,
 12 which I think we're not on that document.
 13 I'd like to speak with you about commission
 14 expenses. And if we go to page one, please,
 15 and these are your interrogatory responses
 16 to the Atlantic Provinces Trial Lawyers
 17 questions. And I'm not going to read this,
 18 but if we go down to the last paragraph
 19 under number one, you indicate that the
 20 Newfoundland and Labrador 2016 average
 21 commission ratio was 12.2 percent and the
 22 premium tax rate, five percent. Is that
 23 correct?
 24 MS. ELLIOTT:
 25 A. Yes, yeah.

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1 MR. FELTHAM:
 2 Q. Okay. And again, other than you mentioned
 3 comparing things for other provinces, you
 4 took no other means to determine
 5 reasonableness of the commission, average
 6 commission ratio? Is that correct?
 7 (9:45 a.m.)
 8 MS. ELLIOTT:
 9 A. Well, no, I know what the commission ratio
 10 are, the commission rate paid to brokers.
 11 So, it's 12 and a half percent, plus a
 12 contingent commission. So, I would
 13 certainly say that I would know what's
 14 reasonable and what's not.
 15 MR. FELTHAM:
 16 Q. And whether that rate is appropriate in the
 17 particular sales model that exists in
 18 Newfoundland and Labrador, you didn't do any
 19 analysis with respect to that?
 20 MS. ELLIOTT:
 21 A. I'm sorry, what is your question? I'm not
 22 following.
 23 MR. FELTHAM:
 24 Q. The 12.2 percent, you accepted it without
 25 doing any analysis as to whether that 12.2

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1 percent is appropriate in the context -
 2 MS. ELLIOTT:
 3 A. I certainly -
 4 MR. FELTHAM:
 5 Q. - of the sales models in this province?
 6 MS. ELLIOTT:
 7 A. I certainly know what's appropriate or not
 8 for a commission rate. I know the rate is
 9 12.5 percent for brokers and it's a lower
 10 cost if you're a direct writer. I'm
 11 certainly aware of what those numbers are
 12 and -
 13 MR. FELTHAM:
 14 Q. How do you know that's a reasonable rate?
 15 MS. ELLIOTT:
 16 A. I'm sorry, in what context are you saying -
 17 the rate that's charged or what we pay
 18 brokers or whether that is -
 19 MR. FELTHAM:
 20 Q. The 12.2 percent.
 21 MS. ELLIOTT:
 22 A. Well -
 23 MR. FELTHAM:
 24 Q. The ratio.
 25 MS. ELLIOTT:

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1 A. I'm sorry, what is your definition of
 2 reasonable? So, we can answer this
 3 effectively here.
 4 MR. FELTHAM:
 5 Q. Whether that's an appropriate commission
 6 ratio in the context of this province.
 7 MS. ELLIOTT:
 8 A. Yes, I believe it is an appropriate and
 9 reasonable number. It's in line with what
 10 brokers are paid.
 11 MR. FELTHAM:
 12 Q. Okay. Did you do any examination of how
 13 automobile insurance is sold in Newfoundland
 14 and Labrador?
 15 MS. ELLIOTT:
 16 A. Well, I do know how it's sold, yes.
 17 MR. FELTHAM:
 18 Q. Okay. How did you - what did you do to
 19 determine that?
 20 MS. ELLIOTT:
 21 A. Well, I know there's a mix. I know which
 22 companies are operating in the province,
 23 which companies are broker based and which
 24 companies are direct writers. I'm aware of
 25 that.

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1 MR. FELTHAM:
 2 Q. Okay. And the Campaign asked you some
 3 questions as well on this in the
 4 interrogatories and if we go to page nine.
 5 Questions actually are repeated at number
 6 five there. So, those are the questions and
 7 I'm not going to go through each one, but
 8 the answers are actually on - start on the
 9 next page. I want to take you to Answer A.
 10 So, the question here was - just, I guess, I
 11 should repeat that.
 12 Okay. "How did you estimate your
 13 general expense ratios for the industry? A.
 14 What has happened to commissions over time?"
 15 And, you note in the second sentence or
 16 third sentence, sorry, "as supported by
 17 GISA, the commissions, excluding contingent
 18 commissions, as a percentage of premiums in
 19 Newfoundland and Labrador for 2013 to 2016,
 20 the most recent report from GISA, were 11.3
 21 percent, 11.8 percent, 12.2 percent and 12.1
 22 percent respectively."
 23 And then you refer to the contingent
 24 commission. So, can you help me out with
 25 that? Can you explain the concept of

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1 contingent commission versus the other
 2 commission?
 3 MS. ELLIOTT:
 4 A. Um-hm. Well, the brokers are paid a
 5 standard commission rate of 12.5 percent per
 6 uniform, and then, contingent commission is
 7 contingent, depends upon the broker's
 8 performance and each company has a different
 9 arrangement that they would have with the
 10 broker. So, and the amount of this
 11 contingent commission that's paid to a
 12 broker would vary by things such as their
 13 growth in premium volume, the level of their
 14 premium volume, and their loss ratio
 15 results.
 16 MR. FELTHAM:
 17 Q. So, more based on achievements in a larger
 18 book of business context versus individual
 19 sales?
 20 MS. ELLIOTT:
 21 A. It can be growth level of volume of premium
 22 and results, yeah.
 23 MR. FELTHAM:
 24 Q. Okay. And you also note in the same
 25 paragraph, and sentence—the last sentence

<p style="text-align: right;">Page 37</p> <p>1 that there's been a shift in commissions. 2 You say, "These shifts in commissions 3 imply"—well, let me back up a sentence I 4 suppose. "Hence, most recently, the 5 commission rate excluding contingent 6 commissions has increased from 2013 to 2016, 7 and the contingent commissions have 8 decreased from 2013 to 2016." 9 MS. ELLIOTT: 10 A. Um-hm. 11 MR. FELTHAM: 12 Q. "These shifts in commissions imply that 13 there may be a shift towards the use of 14 broker-based companies." And the sentence 15 carries on. Did you examine the ownership 16 arrangement of insurance brokerages in the 17 province? 18 MS. ELLIOTT: 19 Q. Intact has increased its market share in the 20 province, and it is a broker-based company, 21 and that may be driving it, yeah. 22 MR. FELTHAM: 23 Q. Yes, because you say, "A shift towards the 24 used of broker-based companies." 25 MS. ELLIOTT:</p>	<p style="text-align: right;">Page 39</p> <p>1 they're operating Anthony Insurance and 2 Macdonald Chisholm Trask, insurance brokers. 3 You're aware of that? 4 MS. ELLIOTT: 5 A. They would be an ownership arrangement which 6 is different than a company arrangement. 7 MR. FELTHAM: 8 Q. Okay, but they're a part of Intact's 9 operation according to Intact. 10 MS. ELLIOTT: 11 A. That broker does not come (unintelligible) 12 the set of rates. We're dealing with 13 insurance companies here. 14 MR. FELTHAM: 15 Q. No, no, I'm not suggesting that they do. 16 I'm just saying Intact has told us in its 17 submission, "These are entities that we 18 operate." 19 MS. ELLIOTT: 20 A. Yeah. 21 MR. FELTHAM: 22 Q. Okay? 23 MS. ELLIOTT: 24 A. Um-hm, they're not insurance companies. 25 MR. FELTHAM:</p>
<p style="text-align: right;">Page 38</p> <p>1 A. Um-hm, um-hm. 2 MR. FELTHAM: 3 Q. So, and Intact, I think in their submission 4 actually, they say they operate three brands 5 in the province? 6 MS. ELLIOTT: 7 A. Um-hm. 8 MR. FELTHAM: 9 Q. Their own brands. Excuse me. And two of 10 those are Anthony Insurance and Macdonald 11 Chisholm Trask Insurance? 12 MS. ELLIOTT: 13 A. Yeah, I'm sorry, they're brokers that you're 14 referring to; not brands. 15 MR. FELTHAM: 16 Q. No, I say Intact referred to them as brands 17 in their submission. That's not—I'm not 18 saying that's what they are. They're 19 brokers, I agree with you. 20 MS. ELLIOTT: 21 A. The Intact Financial Corporation, Intact 22 Group, would have Novex Insurance as a brand 23 insurer, yeah. 24 MR. FELTHAM: 25 Q. Okay. Well, in any event, Intact notes</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. No, they're not. I understand, but the 2 commissions that those brokers, Anthony 3 Insurance, Macdonald Chisholm Trask, are 4 charging, the 12½ percent, plus whatever 5 contingent commissions, they're ultimately 6 staying now under the Intact umbrella, are 7 they not? 8 MS. ELLIOTT: 9 A. Well, yes, they would roll through the 10 Intact data that's reported to GISA that 11 we're using, yeah. 12 MR. FELTHAM: 13 Q. And then, I mean there's other examples. 14 So, you know, Johnson Insurance, locally. 15 MS. ELLIOTT: 16 A. I'm sorry, examples of what? 17 MR. FELTHAM: 18 Q. I'm going to give them to you. 19 MS. ELLIOTT: 20 A. Oh. 21 MR. FELTHAM: 22 Q. Johnson Insurance in this province sells 23 insurance, a brokerage, and they're owned by 24 Royal Sun Alliance. Are you aware of that? 25 MS. ELLIOTT:</p>

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<p>1 A. I'm not sure who owns which broker.</p> <p>2 MR. FELTHAM:</p> <p>3 Q. Okay, fine.</p> <p>4 MS. ELLIOTT:</p> <p>5 A. Yeah.</p> <p>6 MR. FELTHAM:</p> <p>7 Q. And you mentioned that--well, I mean there</p> <p>8 appears to be a shift in brokerages being</p> <p>9 acquired by insurance companies. Are you—do</p> <p>10 you have any knowledge of that or awareness</p> <p>11 of it?</p> <p>12 MS. ELLIOTT:</p> <p>13 A. Yes. Yes, I do. Um-hm.</p> <p>14 MR. FELTHAM:</p> <p>15 Q. And then, you mentioned the shift toward</p> <p>16 insurers selling their product through</p> <p>17 brokerages versus direct selling?</p> <p>18 MS. ELLIOTT:</p> <p>19 A. Yeah. Who owns a broker has nothing to do</p> <p>20 with the set of—like the commission rate.</p> <p>21 That's independent. It's who puts capital</p> <p>22 in a broker. Whether the broker owns the--</p> <p>23 self-owned, owner-operated or somebody else</p> <p>24 that investing it in it like an insurance</p> <p>25 company.</p>	<p>1 sits down in front of the broker, and</p> <p>2 describes what their needs are, and the</p> <p>3 broker provides that service, and there's a</p> <p>4 12½ percent commission paid for that, that's</p> <p>5 –</p> <p>6 MR. FELTHAM:</p> <p>7 Q. But Co-operators sells their product</p> <p>8 directly.</p> <p>9 MS. ELLIOTT:</p> <p>10 A. I know.</p> <p>11 MR. FELTHAM:</p> <p>12 Q. You go into their office, you tell them what</p> <p>13 their needs are, they tell you what they're</p> <p>14 going to charge.</p> <p>15 MS. ELLIOTT:</p> <p>16 A. It's a different model. It's a different</p> <p>17 model.</p> <p>18 MR. FELTHAM:</p> <p>19 Q. No, I appreciate it's a different model.</p> <p>20 MS. ELLIOTT:</p> <p>21 A. Um-hm.</p> <p>22 MR. FELTHAM:</p> <p>23 Q. But Co-operators collects the premium, and</p> <p>24 it stays in Co-operators. Here, Anthony</p> <p>25 Insurance collects the premium, it's in</p>
<p>Page 42</p> <p>1 MR. FELTHAM:</p> <p>2 Q. Yes, and I want to talk to you about that</p> <p>3 because I had trouble understanding that,</p> <p>4 why it makes no difference. And I note that</p> <p>5 in your—on page 10, the same page here of</p> <p>6 your answers, and you—because we asked you</p> <p>7 question.</p> <p>8 MS. ELLIOTT:</p> <p>9 A. Um-hm.</p> <p>10 MR. FELTHAM:</p> <p>11 Q. And you say in C, "The acquisition of</p> <p>12 brokers by insurers does not dictate or</p> <p>13 require a change in the commission</p> <p>14 compensation structure," and I struggle with</p> <p>15 that because, and this may be a simplistic</p> <p>16 view of it, but in my mind once the insurer</p> <p>17 acquires the brokerage that sells its</p> <p>18 product, it's effectively direct selling,</p> <p>19 but it's still collecting the commission</p> <p>20 that it would be paying to a broker if it</p> <p>21 didn't own the broker.</p> <p>22 MS. ELLIOTT:</p> <p>23 A. It's not direct selling. It's a broker</p> <p>24 relationship. If the broker comes in—the</p> <p>25 consumer, sorry, the consumer comes in and</p>	<p>Page 44</p> <p>1 Intact Insurance, but they're collecting a</p> <p>2 commission as well. And that commission</p> <p>3 ultimately finds its way into commission</p> <p>4 expenses which finds its way back into</p> <p>5 rates?</p> <p>6 MS. ELLIOTT:</p> <p>7 A. Yes, if brokers are paid 12½ percent, a</p> <p>8 broker owner-operator may decide to get</p> <p>9 other investors and they may find it</p> <p>10 advantageous to get Intact to be an</p> <p>11 investor, and maybe Intact owns half of the</p> <p>12 brokerage, 75 percent, 25 percent, whatever.</p> <p>13 It does not change the operation of that</p> <p>14 brokerage. Clearly, it may funnel more</p> <p>15 volume through to Intact. I understand</p> <p>16 that, but it does not mean that because you</p> <p>17 have a different ownership of a brokerage</p> <p>18 that they're still not getting compensated</p> <p>19 by 12½ percent. You're making the</p> <p>20 assumption that they are, and you have</p> <p>21 evidence to present to say that.</p> <p>22 MR. FELTHAM:</p> <p>23 Q. But here's how I look at it. Is it really</p> <p>24 an expense to the insurer anymore? You</p> <p>25 know, if you have an independent broker and</p>

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1 I understand that, you know, Aviva or
 2 whoever is going to have to pay a commission
 3 to that broker if it sells a policy.
 4 MS. ELLIOTT:
 5 A. Yeah, um-hm.
 6 MR. FELTHAM:
 7 Q. That money, that commission paid, is an
 8 expense to the insurer. It does not go back
 9 to the insurer in any way. It stays with
 10 that little brokerage, but if Aviva—well,
 11 let's not take Aviva because I don't know
 12 which one they own, but let's take Intact
 13 again. Intact pays a commission to Anthony
 14 Insurance for a policy that it sells.
 15 MS. ELLIOTT:
 16 A. Um-hm.
 17 MR. FELTHAM:
 18 Q. That money is really staying in Intact
 19 Insurance effectively?
 20 MS. ELLIOTT:
 21 A. Well, it depends on what their percentage of
 22 ownership is of that brokerage.
 23 MR. FELTHAM:
 24 Q. Okay.
 25 MS. ELLIOTT:

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1 A. Whether it's a 100 percent owner or
 2 whatever.
 3 MR. FELTHAM:
 4 Q. Okay. It could—that could matter.
 5 MS. ELLIOTT:
 6 A. Sure.
 7 MR. FELTHAM:
 8 Q. Yes.
 9 MS. ELLIOTT:
 10 A. But just because you have a new owner, if
 11 somebody invested capital in a brokerage,
 12 that doesn't change the operation and the
 13 operating model for that brokerage.
 14 MR. FELTHAM:
 15 Q. Not even if it is the insurer that pays the
 16 commission –
 17 MS. ELLIOTT:
 18 A. We don't –
 19 MR. FELTHAM:
 20 Q. - and is the owner?
 21 MS. ELLIOTT:
 22 A. Well, let's just put that aside that
 23 somebody invested money and that allows that
 24 broker—maybe he is planning on retiring and
 25 this is his way to get the money out of the

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1 brokerage, whatever the reason he's chosen
 2 to do this, somebody has put capital in to
 3 get ownership of a brokerage. That does not
 4 necessitate that they have to change their
 5 operating model of that brokerage. And
 6 secondly, the data that is reported to GISA
 7 is the commission amounts that are paid, and
 8 these are the data that we use. So, we're
 9 kind of going around in circles. How does
 10 the operating business model for a brokerage
 11 change? And there's always different
 12 brokers out there. Be that what they may,
 13 how they change, regardless this is the
 14 commission amounts that are reported to GISA
 15 that are paid.
 16 MR. FELTHAM:
 17 Q. No, I totally appreciate that, that they are
 18 still reported commissions and claimed as an
 19 expense by the insurers as part of their
 20 expense. And it makes its way into what the
 21 expense ratio ultimately is and so on.
 22 MS. ELLIOTT:
 23 A. Um-hm.
 24 MR. FELTHAM:
 25 Q. And then, ultimately, what rates are

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1 required to achieve rate adequacy?
 2 MS. ELLIOTT:
 3 A. Um-hm.
 4 MR. FELTHAM:
 5 Q. The problem I have is that while it's being
 6 claimed as an expense by an insurer--let's
 7 say for a moment that Anthony Insurance is
 8 wholly owned by Intact, that they own all of
 9 it. They've paid a commission.
 10 MS. ELLIOTT:
 11 A. Um-hm.
 12 MR. FELTHAM:
 13 Q. Which ultimately is not really an expense.
 14 MS. ELLIOTT:
 15 A. No, no, no.
 16 MR. FELTHAM:
 17 Q. It's staying within their operation.
 18 MS. ELLIOTT:
 19 A. No, no, no, no. No, they paid a commission.
 20 And at the end of the day, the Anthony
 21 agency has all different costs, its salary,
 22 its rent, and they collect this revenue and
 23 its commission, 12½ percent. They collect
 24 all that. That's their revenue in. They
 25 have salaries, rent to pay out, and at the

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1 end of it that brokerage has a profit. And
 2 if Intact owns it, 100 percent, they're
 3 getting the profit of the brokerage.
 4 MR. FELTHAM:
 5 Q. Okay.
 6 MS. ELLIOTT:
 7 A. Yeah, that's how that works.
 8 MR. FELTHAM:
 9 Q. But the commission finds its way, at the
 10 full rate, into the expenses?
 11 MS. ELLIOTT:
 12 A. If that's their model that they're working
 13 under, yes.
 14 MR. FELTHAM:
 15 Q. Sorry, just see where I'm going next here.
 16 The Answers to Interrogatories Document, and
 17 over to page 6. And so, this time we are
 18 back into answers to IBC questions. And if
 19 we do down to answer 5, our question 5,
 20 answer 5, and we have the IBC asking you a
 21 question on question another intervener
 22 asked you, and it says, "Ms. Elliott the
 23 intervener asked you to calculate the 2017
 24 premium deficiency based on a higher
 25 investment return such as six percent.

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1 Could you please comment on why you use 2.9
 2 percent and the reasonableness of using a
 3 return as high as 6 percent?" And your
 4 response was, "We use 2.9 percent as this is
 5 the average investment rate, ROI, earned by
 6 insurers in 2014 to 2016 based on the
 7 financial data that the insurers provided to
 8 the Office of the Superintendent of
 9 Insurance." And you go on to comment that
 10 in your view that's—that average of the
 11 recent past is the reasonable estimate to
 12 use.
 13 MS. ELLIOTT:
 14 A. That was basis for the 2.9.
 15 MR. FELTHAM:
 16 Q. Yes.
 17 MS. ELLIOTT:
 18 A. Um-hm.
 19 MR. FELTHAM:
 20 Q. And you say that picking that period, 2014
 21 to 2016, is the appropriate period to
 22 choose?
 23 MS. ELLIOTT:
 24 A. Well, it's what, in doing the calculations,
 25 we found appropriate and reasonable in the

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1 circumstance to use, yes.
 2 MR. FELTHAM:
 3 Q. Yes, okay. So, the 2.9 percent--maybe to
 4 help here, if we look at, in the report,
 5 Table 6 which is on page 8 in the actual
 6 report documents. I just want to make sure
 7 the source that the 2.9 percent comes from
 8 that I'm clear on that.
 9 MS. ELLIOTT:
 10 A. Um-hm.
 11 MR. FELTHAM:
 12 Q. Okay, so we have the table there. So, your
 13 2.9 percent figure in the answers there
 14 comes out of this table, 2014, 2015, 2016
 15 pre-tax investment income rate?
 16 MS. ELLIOTT:
 17 A. Um-hm.
 18 MR. FELTHAM:
 19 Q. And you average those three, I assume, yes?
 20 That's the level of math.
 21 MS. ELLIOTT:
 22 A. Yeah, that's pretty much it. Yeah.
 23 (10:00 a.m.)
 24 MR. FELTHAM:
 25 Q. Okay, and you're—and did you give any

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1 consideration to using a greater period of
 2 time to do—come up with that the appropriate
 3 average should be?
 4 MS. ELLIOTT:
 5 A. Well, we're trying to –
 6 MR. FELTHAM:
 7 Q. Three years just seems like a really short
 8 period to me, that's all.
 9 MS. ELLIOTT:
 10 A. Well, we want 2017 to reflect what we think
 11 is happening, and the more recent timeframe
 12 would reflect what would be happening given
 13 what's going on in the markets. So, going
 14 back to 2002, that might be—I don't know
 15 what the number might be. Ten percent.
 16 That wouldn't be reasonable to assume that
 17 you'd get ten percent in 2017. So, it was
 18 the view that the more recent timeframe is
 19 indicative of what will happen in the
 20 subsequent year.
 21 MR. FELTHAM:
 22 Q. So, but in order to get more representative
 23 average of a history period, wouldn't it
 24 make sense to include more years that just
 25 three?

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1 MS. ELLIOTT:
 2 A. I'm not trying to—just say, what do we think
 3 will happen in 2017?
 4 MR. FELTHAM:
 5 Q. And your view, we should base that off the
 6 three previous years?
 7 MS. ELLIOTT:
 8 A. Yeah, and that's what we did, right. Right,
 9 it's—I don't believe interest rates and the
 10 returns for the company, and I know for a
 11 fact what they are now in 2017, and they're
 12 in that 2½ to 3 percent range. We know what
 13 the Government of Canada bonds are.
 14 MR. FELTHAM:
 15 Q. Yes. And do you recall when Mr. Mason was
 16 asking you questions and you know—because he
 17 spent some time talking about the time
 18 periods used for various things as well.
 19 The notion of cycles, do you recall that?
 20 MS. ELLIOTT:
 21 A. Sure. Well, you're not –
 22 MR. FELTHAM:
 23 Q. Vaguely at least?
 24 MS. ELLIOTT:
 25 A. Vaguely at least.

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1 MR. FELTHAM:
 2 Q. Yes, okay.
 3 MS. ELLIOTT:
 4 A. Yeah.
 5 MR. FELTHAM:
 6 Q. I don't recall it much better than that,
 7 but—and again, I'll put this to you. It
 8 seems to me that if we take a very narrow
 9 window, we're not really capturing those
 10 longer cycles in the market.
 11 MS. ELLIOTT:
 12 A. This is no cycle in the market. We're
 13 trying to estimate what the ROI will be in
 14 2017. Simply that. I'm fully aware of what
 15 the Government of Canada bonds are, and I
 16 know they're not five percent. I don't need
 17 to have a long-term interest rate to
 18 forecast what 2017 will be. We already know
 19 like doing this work. So, I know it's going
 20 to be in that 2½ to 3 percent range. I
 21 don't if it'll be 2.5 or 2.9 or what exactly
 22 the number will be, but I'm pretty certain
 23 it's going to be in that range. And the
 24 data is out now, and I know that I was right
 25 with the number that I used, what was

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1 actually earned in 2017.
 2 MR. FELTHAM:
 3 Q. No, I understand that there's a hindsight
 4 piece to it now, but in any event, your view
 5 is the three-years is the appropriate
 6 period. So, we can move on from that. If
 7 we go to page 8 of the answers, and this is
 8 Answers to Campaign Interrogatories. And
 9 under number 1 were asking you questions
 10 here about how pre-tax investment returns
 11 you used were calculated. And your response
 12 under number 1 was, "Pre-tax investment
 13 returns, ROI, used by Oliver Wyman are based
 14 on"—"are based," I guess it should be "on
 15 ROI values calculated by each insurer and
 16 reported to the OSFI annually." So, you
 17 know, I mean it's sort of obvious here, but
 18 it's not your calculations. You're relying
 19 on data from the insurers, what they
 20 provided?
 21 MS. ELLIOTT:
 22 A. Yes, so OSFI. This data is audited by Ernst
 23 and Youngs and the PWCs of the world, and
 24 the ROI is stated in the financial
 25 documents, and that's what we use for each

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1 insurer. Yeah.
 2 MR. FELTHAM:
 3 Q. Right, okay. And then, you go on to say,
 4 the same paragraph, "These ROI amounts are
 5 company-wide values. They're not line of
 6 business or province specific because
 7 investments held by insurers are not line of
 8 business or province specific." So, they're
 9 comingling all of that there?
 10 MS. ELLIOTT:
 11 A. They have a big pot of investments.
 12 MR. FELTHAM:
 13 Q. Yes.
 14 MS. ELLIOTT:
 15 A. Yeah.
 16 MR. FELTHAM:
 17 Q. Yes, sure. And then, the next paragraph,
 18 "Each insurer is required to report amongst
 19 other financial data, its investment income
 20 that it allocates to each province for the
 21 automobile line of business to GISA. This
 22 is a notional allocation process completed
 23 by each insurer." So, the insurer, they
 24 have to report the investment income that it
 25 allocates. I get that, but the method or

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1 the manner of allocation, all of that is
 2 within the domain of the insurer, correct?
 3 How it allocates?
 4 MS. ELLIOTT:
 5 A. Yeah, I didn't use that number, but yes,
 6 that's correct. Um-hm.
 7 MR. FELTHAM:
 8 Q. Sorry?
 9 MS. ELLIOTT:
 10 A. I did not use that number that is allocated
 11 notionally by the company.
 12 MR. FELTHAM:
 13 Q. Okay.
 14 MS. ELLIOTT:
 15 A. I did not use that. We use a number that's
 16 reported to OSFI, the federal regulator of
 17 the ROI that is audited by PWCs and Ernst
 18 and Young, et cetera. We did not use the
 19 dollar amount that is notionally allocated
 20 by companies in their GISA reporting. We
 21 did not use that.
 22 MR. FELTHAM:
 23 Q. Okay. Perhaps I misunderstood. So, you did
 24 not use the numbers that would have involved
 25 notional allocation process by the insurers?

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1 MS. ELLIOTT:
 2 A. No.
 3 MR. FELTHAM:
 4 Q. Okay. I think I misunderstood. Okay, and
 5 staying with the Answers to Interrogatories
 6 still, I'd like to go to page 2, please.
 7 And just to set the stage if you will,
 8 there's really a series of questions and
 9 answers here that all arise from
 10 hypotheticals I guess that Mr. Mason had
 11 given you, changing inputs for UL and ALAE
 12 and other items I guess, and asking you to
 13 recalculate with certain assumptions. Is
 14 that correct?
 15 MS. ELLIOTT:
 16 A. Yes, different expense ratios and, I don't
 17 have it in front of me, but -
 18 MR. FELTHAM:
 19 Q. Primarily it was, I think ratios and UL and
 20 ALAE changes.
 21 MS. ELLIOTT:
 22 A. I think it was ROI changes, not ULAE, but
 23 anyway, yeah.
 24 MR. FELTHAM:
 25 Q. No, no, he definitely asked you to consider

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1 a different UL and ALAE, if you recall he
 2 took you back and said, look, 2014, you
 3 should use that year.
 4 MS. ELLIOTT:
 5 A. I don't have it in front of me, but okay,
 6 yeah.
 7 MR. FELTHAM:
 8 Q. Okay, all right, well I'll ask you the
 9 question and we'll go through, okay. So we
 10 can look at Question 4, I'm not going to go
 11 through each one of these, but 4 we can work
 12 on. And he said, the question was, "If the
 13 UL and ALAE is \$354.37 per car and the
 14 operating expenses are reduced by 6.2
 15 percent, as noted above, what is the return
 16 on equity for auto insurers in 2017? And
 17 just to help us remember the figures that,
 18 that \$354.37 UL and ALAE come from your
 19 schedule of documents to your report.
 20 MS. ELLIOTT:
 21 A. Uh-hm, yes.
 22 MR. FELTHAM:
 23 Q. If we go to Appendix A, page 3 of 5, so then
 24 if we look across, we've got the Ultimate
 25 Loss & ALE Cost/Car column, very top one,

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1 bodily injury, \$354.37, and this is for
 2 accident year 2014.
 3 MS. ELLIOTT:
 4 A. Correct, yes.
 5 MR. FELTHAM:
 6 Q. As of June 30th, 2017, so as we know it now.
 7 MS. ELLIOTT:
 8 A. Right.
 9 MR. FELTHAM:
 10 Q. Not now, but June 30th, last year.
 11 MS. ELLIOTT:
 12 A. Then, yes.
 13 MR. FELTHAM:
 14 Q. But that's important in terms of what I'm
 15 going to talk to you about. And can you
 16 maybe just explain for us again what that
 17 figure, that category of Ultimate Loss &
 18 ALAE Cost/Per, \$354.37 is?
 19 MS. ELLIOTT:
 20 A. That's the amount of losses and allocated
 21 loss adjustment expenses that are estimated
 22 will ultimately be paid when all the claims
 23 are settled and closed for the claims that
 24 occurred in the accident year, 2014, what
 25 that cost will be per vehicle, the claim's

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1 component, yeah.

2 MR. FELTHAM:

3 Q. And that figure, whatever it is, and the

4 operating expenses, they have to come out

5 of, from the premiums collected and the

6 investment returns in order to figure out

7 what's left over for profits?

8 MS. ELLIOTT:

9 A. Yes, you take the losses, add up all the

10 operating costs and taxes, commissions.

11 MR. FELTHAM:

12 Q. Yes. And I believe the figure that you were

13 using was \$406.00, instead of \$354.37, do

14 you recall that?

15 MS. ELLIOTT:

16 A. What we use is an average of the last three

17 years, yeah.

18 MR. FELTHAM:

19 Q. And maybe what we will do is go back to, I

20 think we can leave that chart and go back to

21 page 2 of the answers, and we can actually

22 just review the question so we have the full

23 context. Okay, so again, "If the UL and

24 ALAE is \$354.37 per car and the operating

25 expenses are reduced by 6.2 percent, as

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1 noted above, what is the return on equity

2 for auto insurers in 2017?" And your

3 response was, "Similar to Question No. 1

4 above, it's unclear if the request to apply

5 an expense ratio of 23 percent or 18.2

6 percent, we therefore provide our response

7 with both hypothetical expense ratios for

8 the sensitivity test." And under the next

9 page, the second bullet, "The accident year

10 2017 estimate of the UL and ALAE cost per

11 vehicle presented in our report is

12 approximately \$406.00, and the expense

13 provision is 26.2 percent." So that's where

14 I was, the \$406.00, that's where you affirm

15 that's the number you were using?

16 MS. ELLIOTT:

17 A. Uh-hm.

18 MR. FELTHAM:

19 Q. "Using a hypothetical estimate of the UL &

20 ALAE for accident year 2017 of \$354.37,

21 instead of \$406.00 and an expense ratio of

22 18.2 percent, instead of 26.2 percent, and

23 no other changes and assumptions, increases

24 the 2017 accident year ROE estimate from -9

25 percent to +8.7 percent." And then you go

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1 on to say you don't agree with the

2 hypothetical, but there it is. And I gather

3 what this arose from, what Mr. Mason had

4 been asking you about that kind of gave rise

5 to these calculations was, the concern he

6 was raising, I'll ask if you remember or

7 agree with me, the concern over the

8 reliability of the UL and ALAE cost per

9 vehicle figure due to the fact that reserves

10 might be overstated or out of line in the

11 sort of more recent year, versus what they

12 might look like more historically, do you

13 remember that?

14 (10:15 a.m.)

15 MS. ELLIOTT:

16 A. Well, these are estimates, so in terms of

17 the 2017 year at the point of doing these

18 calculations, we only have the first half of

19 the year available, so we're trying to

20 estimate, it's not even a matter of case

21 reserves being too high or too low, they

22 weren't available for the second half, so we

23 were really trying to say what will 2017 be

24 and we only know the first six months of the

25 claim was not how the weather was in the

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1 second half in 2017 and what claims resulted

2 in the second half, that we're dealing with

3 only six months of data doing this

4 calculation. In terms, you know, that's an

5 estimate looking forward to say what do I

6 think 2017 will be, given what I know in the

7 other years that have occurred. This is a

8 little separate issue from case reserves

9 being too high or too low because we're

10 trying to forecast forward for a year that

11 hasn't even occurred yet and we don't have

12 data for the second half.

13 MR. FELTHAM:

14 Q. The case reserves, though, and the

15 supplemental reserve, they're included in

16 that figure, well in 2014 it was \$354.37?

17 MS. ELLIOTT:

18 A. Yes, so we're using the prior three years,

19 averaging that and trying to forecast that

20 forward for 2017. So it is an estimate that

21 we are providing and it's dependent upon the

22 GISA data that's reported to us, the case

23 reserve, et cetera, yeah.

24 MR. FELTHAM:

25 Q. And that figure of \$406.00 is overstated

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1 because reserves are overstated, the result
 2 is that the actual experience, as it turns
 3 out, might be a lot different than the
 4 calculation as it comes out with \$406.00
 5 unit.
 6 MS. ELLIOTT:
 7 A. Yeah, that's the nature of the beast, you
 8 know, it's an estimate, it could be too low
 9 or it could be too high, either way, yeah.
 10 MR. FELTHAM:
 11 Q. And we can't see, looking at your Appendix
 12 A, what component of that is made up from
 13 reserves, we can't—there's nothing to tell
 14 us –
 15 MS. ELLIOTT:
 16 A. Not in the way that we presented it, I mean,
 17 if I was asked for that, yes, but it's not
 18 presented that way.
 19 MR. FELTHAM:
 20 Q. And I'll talk to you about that because I
 21 think what he was concerned about was that
 22 the result that the, you know, if the actual
 23 payout for the costs for the ultimate loss
 24 and the ALAE costs, were a lot less than
 25 what was reserved, then the insurer could

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1 end up with actually a much higher ROE than
 2 was anticipated?
 3 MS. ELLIOTT:
 4 A. Yeah, and we won't know 2017 for a number of
 5 years, so, yeah.
 6 MR. FELTHAM:
 7 Q. And do you recall him giving the example
 8 from 2002 in Nova Scotia where in that case
 9 he suggested that the estimated ROE in
 10 hearing process was in the negative, but it
 11 actually turned out to be, in reality, once
 12 time went by, the ROE turned out to be
 13 something like 10 percent.
 14 MS. ELLIOTT:
 15 A. Well I think, you know, to make sure the
 16 understanding of that point is clear, in
 17 Nova Scotia looking forward, you know, the
 18 ROE did become quite high in the province.
 19 When the reforms were introduced there was
 20 an estimate that the severity amount for
 21 each claim, the costs for each claim, would
 22 reduce as a result of the reforms, but it
 23 hadn't been anticipated that there would be
 24 a very steep decline in the frequency rate
 25 that wasn't built into the costing model at

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1 that time, and the frequency rate did
 2 decline, coincident with the introduction of
 3 the reforms and that was not built into the
 4 rates that were set in that province and
 5 then as a result, in hindsight, the rates
 6 were too high and therefore, the ROE was
 7 beyond the, much higher than the targets, so
 8 that's what happened there.
 9 MR. FELTHAM:
 10 Q. Okay, and I gather that was Mr. Mason was
 11 suggesting was that look, we should use a
 12 lower figure than \$406.00 because that's
 13 very current, we should use a figure
 14 something like for the 2014, it's matured,
 15 right, more time has gone by, we know now
 16 whether the reserves, you know, that were
 17 paid out, we have more of a real number, if
 18 you will, then one that's made up of
 19 reserves.
 20 MS. ELLIOTT:
 21 A. Well certainly looking at 2014, I agree it's
 22 more mature than 2016, sure, but I don't
 23 think it's reasonable to take 2014 and not
 24 project it forward for what the cost level
 25 would be in 2017 because we know that claim

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1 costs increase each year, inflation, CPI or
 2 whatever measurement of loss trend would be
 3 positive, so to take 2014 and say that
 4 value, \$354 would be unchanged in 2017 or in
 5 2018, 2019, that it would never change,
 6 that's not realistic.
 7 MR. FELTHAM:
 8 Q. And just accounting for those items that you
 9 mentioned, would that get us to \$406.00 in
 10 that range? Would they be that significant?
 11 MS. ELLIOTT:
 12 A. Well our view was to take three most recent
 13 year which reflects different experience, it
 14 can be more claims in one year, less in
 15 another, so we don't know what 2017 will be.
 16 It kind of gives you an average of results,
 17 if we believe or we've estimated as best we
 18 can the claims costs for each of those three
 19 years and we think they're all reasonable
 20 estimate and then take an average of that,
 21 which are all projected out to 2017.
 22 MR. FELTHAM:
 23 Q. And I guess the, we'll call it the downside,
 24 if you will, of using those—that more recent
 25 time period is that you do have this issue

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1 with respect to more uncertainty around
 2 accuracy of reserves and whether that ends
 3 up being what the true experience is for
 4 claims?
 5 MS. ELLIOTT:
 6 A. Yeah, it's a trade-off.
 7 MR. FELTHAM:
 8 Q. Yeah, okay. So you mentioned before and I
 9 was going to ask you about this, so I'm glad
 10 you brought it up, but you weren't asked to
 11 do an analysis with respect to the reserves,
 12 you mentioned –
 13 MS. ELLIOTT:
 14 A. No, we looked at the estimate of the
 15 ultimate losses and what the reserves that
 16 are carried and what they should ultimately
 17 be, we just didn't present out findings,
 18 broken down in any little gritty detail.
 19 MR. FELTHAM:
 20 Q. Okay, because I father there is an analysis
 21 you can do to sort of break out the actual
 22 amount paid versus the case reserves
 23 historically?
 24 MS. ELLIOTT:
 25 A. Uh-hm, yes.

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1 MR. FELTHAM:
 2 Q. And my understanding is this is called a
 3 paid to incur ratio and average incurred
 4 loss, does that make sense?
 5 MS. ELLIOTT:
 6 A. Yeah, we look at it, yeah.
 7 MR. FELTHAM:
 8 Q. Okay, and has that been done here?
 9 MS. ELLIOTT:
 10 A. Have I done that one?
 11 MR. FELTHAM:
 12 Q. Yes.
 13 MS. ELLIOTT:
 14 A. Yes.
 15 MR. FELTHAM:
 16 Q. Okay, and has it been produced for the Board
 17 or any of the Intervenor?
 18 MS. ELLIOTT:
 19 A. No, I have not produced those exhibits, but
 20 in terms of our analysis of estimating what
 21 the ultimate losses are, we go through a
 22 number of steps to develop those estimates
 23 and not all our working papers are included
 24 in the new list, XL files and they're not
 25 all included in this.

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1 MR. FELTHAM:
 2 Q. But doing that, well maybe you can explain
 3 what it is—can you explain for us what a
 4 paid to incur ratio and average incurred
 5 loss?
 6 MS. ELLIOTT:
 7 A. Well average incurred loss is really just
 8 the claim amount and the severity and you're
 9 looking at how that changes over time, and
 10 then the ratio of paid to incurred, again
 11 you want to look at is there a change over
 12 time in that relationship, is it increasing,
 13 is there more being paid with respect to the
 14 amount that's incurred, or is it less, so we
 15 look at those patterns.
 16 MR. FELTHAM:
 17 Q. In the patterns and what might that help us
 18 see, in terms of the patterns?
 19 MS. ELLIOTT:
 20 A. If the paid to incurred ratio is decreasing,
 21 that would be an indication that the case
 22 reserves are stronger and vice versa.
 23 MR. FELTHAM:
 24 Q. So if the company's reserve setting practice
 25 had changed, for example, and now reserves

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1 were being increased, compared to the past,
 2 they were putting larger reserves on files,
 3 that analysis would allow us to see that?
 4 MS. ELLIOTT:
 5 A. And we look at the components and we look at
 6 the components to see if the loss
 7 development factors are changing, so that's
 8 all part of the review, yeah.
 9 MR. FELTHAM:
 10 Q. So that type of analysis, the paid to
 11 incurred and the average incurred loss, that
 12 hasn't been performed here?
 13 MS. ELLIOTT:
 14 A. No, I did not say that, I said that we
 15 complete many different steps, including
 16 that as part of our XL models, which are
 17 massive files, and they're not all produced,
 18 they're internal working papers, but yeah,
 19 to get to the estimate of the ultimate loss
 20 amount, we look at all those components.
 21 MR. FELTHAM:
 22 Q. And do you know here today whether, because
 23 you spoke of the patterns, whether any
 24 patterns emerged here with respect to, you
 25 know, historical change in reserve setting?

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1 MS. ELLIOTT:
 2 A. No, there were no patterns that were evident
 3 here using this June 30th, data that there
 4 was anything unusual, and remember, this is
 5 a mix of all the companies' data together,
 6 and growth of one insurer in a marketplace,
 7 decline of another, so we're dealing with
 8 aggregated industry data, which is different
 9 that if you're an individual insurance
 10 company looking at your own data.
 11 MR. FELTHAM:
 12 Q. Okay, but that analysis is something that
 13 can be done, I guess you just haven't
 14 provided it, as part of the report. Is that
 15 something that can be done and provided to
 16 us?
 17 MS. ELLIOTT:
 18 A. Those exhibits of ratios of paid to
 19 incurred, they're all available through the
 20 GISA files as well.
 21 MR. FELTHAM:
 22 Q. But it takes something to get it from the
 23 GISA files into a format where we can
 24 actually see –
 25 MS. ELLIOTT:

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1 A. It's out in PDF, you can read it.
 2 MR. FELTHAM:
 3 Q. And is that what's referred to as the paid
 4 to incurred ratio and average incurred loss,
 5 the actual calculations and –
 6 MS. ELLIOTT:
 7 A. It's a GISA exhibit, yeah.
 8 MR. FELTHAM:
 9 Q. And what GISA exhibit specifically?
 10 MS. ELLIOTT:
 11 A. I think it's 7001.
 12 MR. FELTHAM:
 13 Q. And just to be clear, your recollection is
 14 that looking historically back—and I'm not
 15 talking about just three years, but going
 16 back further in time, there were no patterns
 17 that emerged that caused you to consider
 18 there were changes in reserve settings such
 19 that reserves appeared to be larger than in
 20 the past, in recent years?
 21 MS. ELLIOTT:
 22 A. No, not in the—no.
 23 MR. FELTHAM:
 24 Q. Now I was asking those questions because I
 25 gather from my understanding was that in

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1 2002 that analysis was provided to the
 2 regulator in Nova Scotia, and so I was
 3 somewhat surprised, I guess, that we didn't
 4 see a similar analysis here, that's the
 5 basis for my questions. So getting back to
 6 your answer though, based on what Mr. Mason
 7 asked you to do and using a 354.37 ultimate
 8 loss and ALAE figure and expense ratio of
 9 18.2 percent, versus the one you used in
 10 your report of 26.2, just those changes
 11 actually took the 2017 accident year ROE
 12 estimate from a negative of almost a full 10
 13 percent, right around to a positive of 8.7
 14 percent.
 15 MS. ELLIOTT:
 16 A. Yes.
 17 MR. FELTHAM:
 18 Q. Which is actually fairly close to the 10
 19 percent benchmark even.
 20 MS. ELLIOTT:
 21 A. That's right, yes.
 22 MR. FELTHAM:
 23 Q. Okay, those are all my questions, thank you.
 24 CHAIR:
 25 Q. Thank you. Mr. Fraize?

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1 FRAIZE, Q.C.:
 2 Q. My chance now?
 3 CHAIR:
 4 Q. Yes.
 5 FRAIZE, Q.C.:
 6 Q. I just have a couple of questions. Under
 7 questioning from my learned colleague, there
 8 was a discussion about companies that made
 9 high profits and companies that made low
 10 profits, so in our insurance market there
 11 are companies that are doing better than
 12 others?
 13 MS. ELLIOTT:
 14 A. Yes, that would be correct, yes.
 15 FRAIZE, Q.C.:
 16 Q. Pardon me?
 17 MS. ELLIOTT:
 18 A. Yes.
 19 FRAIZE, Q.C.:
 20 Q. Okay, and basically you said no companies
 21 were excluded, so they were all put into the
 22 pot, so to speak? You looked at all the
 23 companies, those that made money, more money
 24 than others and those that made less money,
 25 is that correct?

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1 MS. ELLIOTT:
 2 A. We were looking at the aggregated data, yes.
 3 FRAIZE, Q.C.:
 4 Q. Did you take a look at why some companies
 5 were more profitable than others?
 6 MS. ELLIOTT:
 7 A. No, well, the expense ratio for companies is
 8 in a relatively narrow band, what
 9 differentiates profit typically between
 10 companies, whether they make more or lose
 11 money, would be their loss experience, so
 12 they could have had, you know, a large loss,
 13 million-dollar loss, something, so the
 14 driver of whether you make money or lose
 15 money is typically by claims experience,
 16 higher loss ratios.
 17 FRAIZE, Q.C.:
 18 Q. The reason why I'm asking that, there seems
 19 to be a tendency in just some articles I
 20 read that the, especially in the United
 21 States, the expenses for insurance companies
 22 are going down, in terms of pulling out
 23 their insurance policies, part of it,
 24 they're booking their insurance through the
 25 Internet; in other words, you can direct,

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1 you call in and you provide your driver's
 2 abstract and bingo, you got a price. They
 3 seem to be able to control or reduce their
 4 costs.
 5 MS. ELLIOTT:
 6 A. Uh-hm.
 7 FRAIZE, Q.C.:
 8 Q. Have you looked at how the companies operate
 9 in this province to see if they should be
 10 reducing their costs in a comparable way?
 11 MS. ELLIOTT:
 12 A. Well, I think what you're referring to is
 13 the direct writers who are not even
 14 necessarily calling in, you're doing it,
 15 applying for your insurance online, you
 16 enter in the appropriate information, but
 17 different companies have different business
 18 models, you know, there are broker-based
 19 companies and some consumers to deal
 20 directly with a broker, and other people
 21 like to do their business online, in a self-
 22 directed manner, so both models exist and
 23 consumers have the option to go to the
 24 direct online model and insurance companies
 25 with a direct model would have a lower

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1 operating cost because they don't have the
 2 12.5 percent commission rate that a broker-
 3 based company has. So in the province
 4 consumers have the choice, which, where they
 5 want to go to and they do so accordingly.
 6 (10:30 a.m.)
 7 FRAIZE, Q.C.:
 8 Q. Do you also agree that the insurance
 9 companies are moving towards call centres?
 10 For instance, even the adjustors, some of
 11 the adjustors on accidents in this province,
 12 you're dealing with someone from Nova
 13 Scotia, New Brunswick, PEI?
 14 MS. ELLIOTT:
 15 A. Well you have two points there. The claims
 16 operation, the handling and the management
 17 of claims, a call centre is pretty typical.
 18 To do that, you call in your claim and it's
 19 handled. With respect to companies, some
 20 entities, larger companies, the group will
 21 have five, six, two, three, whatever number
 22 of individual insurance companies and within
 23 that group they could have different models
 24 for distributing their product. So Intact
 25 could have a company that's a broker-based

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1 company and they could have a company that's
 2 a direct writer, so Intact would have a
 3 Belair insurance, which is direct, online,
 4 and they would have, Intact Insurance, or
 5 Nordic—or Novex where you use a broker, so—
 6 FRAIZE, Q.C.:
 7 Q. So more profitable insurance companies, you
 8 made a reference that some may have had
 9 major losses, but is it not also true that
 10 some of these companies have a model which
 11 is far more efficient in putting out the
 12 insurance product?
 13 MS. ELLIOTT:
 14 A. It's a different model, so consumers –
 15 FRAIZE, Q.C.:
 16 Q. Some have a more profitable model?
 17 MS. ELLIOTT:
 18 A. I wouldn't say it's a lower cost model and
 19 that's built into their pricing, so if one
 20 company has an expense ratio of 22 percent
 21 and another company has an expense ratio of
 22 28 percent, those differences would be built
 23 into their premium. So the one with the 22
 24 percent cost structure, that's how their
 25 rates are set and the one with the 28

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1 percent cost structure, that's in those
 2 rates, so that doesn't make the profit
 3 different, it just makes the premium lower
 4 on a 22 percent expense cost basis.
 5 FRAIZE, Q.C.:
 6 Q. If an insurance company was able to reduce
 7 the bricks and mortar, the buildings they
 8 have, that reduces cost, correct?
 9 MS. ELLIOTT:
 10 A. Which should reduce the premium.
 11 FRAIZE, Q.C.:
 12 Q. Like the banks now are reducing a number of
 13 branches to reduce their costs and some of
 14 the insurance companies are able to
 15 manoeuvre such that they have call centres,
 16 so I'm just saying that some of the
 17 insurance companies have a better model of
 18 operations and consequently their costs are
 19 lower; hence they have higher profits?
 20 MS. ELLIOTT:
 21 A. No, I disagree. Yes, you can have a
 22 different structure to operate such that
 23 your expenses are lower and the lower
 24 expense cost would be used in the pricing
 25 model that lowers the premium, but that does

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1 not drive higher profits because they lower
 2 expense ratio was used to set the premiums,
 3 which were then lower as well.
 4 FRAIZE, Q.C.:
 5 Q. So one of the things we're talking about is
 6 lower premiums, correct? So if they have a
 7 more efficient cost model, the premiums go
 8 down?
 9 MS. ELLIOTT:
 10 A. Yes, if your expenses are lower, all else
 11 being equal your premiums would be lower.
 12 FRAIZE, Q.C.:
 13 Q. As far as I know we still have insurance
 14 competition in this province? They compete
 15 against each other?
 16 MS. ELLIOTT:
 17 A. Correct.
 18 FRAIZE, Q.C.:
 19 Q. Okay. No further questions.
 20 CHAIR:
 21 Q. Mr. Stamp.
 22 STAMP, Q.C.:
 23 Q. Yes, thank you, Madam Chair. Ms. Elliott,
 24 I'd like to focus on a couple of issues
 25 associated with a report that's been

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1 provided by the Campaign authored by Dr.
 2 Lazar, if I'm saying his name right, and
 3 Prisman. And, of course, when you did your
 4 material, did your reports, I guess the
 5 latest back in March or so, I'm not sure of
 6 the exact dates, you didn't have the benefit
 7 of this document, of course.
 8 MS. ELLIOTT:
 9 A. It wasn't provided at that time.
 10 STAMP, Q.C.:
 11 Q. No, of course. Have you looked at it since
 12 this all started?
 13 MS. ELLIOTT:
 14 A. I did look at the report when it was
 15 provided, yes.
 16 STAMP, Q.C.:
 17 Q. The reason I think we should speak about it
 18 a little bit is that you're going to be
 19 finished here and leave and then Dr. Lazar
 20 and Dr.—well I don't know if Dr. Prisman is
 21 coming or not, but anyway, somebody is
 22 coming and they're going to, and they're
 23 suggesting, of course, to some extent that
 24 the results that you've created or
 25 generated, the information you've provided

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1 is not accurate, not reliable for some
 2 reason and so you should look at, the Board
 3 should look at what they have said as being
 4 the more appropriate approach. So I want to
 5 just ask you a few questions about some of
 6 that, if I can.
 7 MS. ELLIOTT:
 8 A. Okay.
 9 STAMP, Q.C.:
 10 Q. Particularly, for example, if we can start
 11 with the issue of ROI and I don't know if
 12 you can get up this report of Lazar and
 13 Prisman, okay, at page 30 if I can bring you
 14 to that, thank you, that's it. And so,
 15 these are, there's a series of six bullets,
 16 do you see those, Ms. Elliott? One of those
 17 is the fifth bullet, they say "we've done
 18 this"--I guess this is the authors of this
 19 report saying "we've done this using the
 20 following assumptions", what they describe
 21 in the paragraph above that if more
 22 reasonable assumptions are used, that's what
 23 they say and how they characterize it, and
 24 they say "an expected investment income
 25 return on equity of 6 percent." Now I don't

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<p>1 know if that means, if that means ROI or 2 ROE, do you know what they're referring to 3 there? 4 MS. ELLIOTT: 5 A. I believe they're referring to ROI, but it's 6 not framed the way I would have framed it. 7 STAMP, Q.C.: 8 Q. Sure. I think it is possibly referring to 9 ROI but there's a bit of confusion, I agree. 10 In any event, staying with that thought then 11 on that point, being a reference to ROI, if 12 you could just—if we could just turn back to 13 the Table 7 in that same report? It's at 14 page 13 of the report, if that helps. Okay, 15 there's enough of the year report that I can 16 see what I need to do. So, Ms. Elliott, 17 look, I want to draw your attention to the 18 line which is one, two, three, four, five, I 19 think from the bottom, so you got pre-tax, 20 pre-tax, pre-tax, premiums and equity, 21 investment income and equity, so I'm looking 22 at that line there, do you see it? 23 MS. ELLIOTT: 24 A. Um-hm, yes. 25 STAMP, Q.C.:</p>	<p>1 of the two numbers above, yes. 2 STAMP, Q.C.: 3 Q. Right, so all they've not is taken net 4 investment income which is two lines above 5 that, right? 6 MS. ELLIOTT: 7 A. Um-hm. 8 STAMP, Q.C.: 9 Q. \$13,217,000.00? 10 MS. ELLIOTT: 11 A. Yes. 12 STAMP, Q.C.: 13 Q. And divided it by \$196,045,000.00. 14 MS. ELLIOTT: 15 A. Right. 16 STAMP, Q.C.: 17 Q. And they get that number and that's the 18 number they—whatever that number means, 19 that's how they get it. 20 MS. ELLIOTT: 21 A. I think so, I'm not positive. 22 STAMP, Q.C.: 23 Q. Well, I did the arithmetic, so I'm assuming— 24 of course, they do say that it's, in the 25 reference, they do say it's 5 divided by 6.</p>
<p>Page 86</p> <p>1 Q. And so it's a division, of course, to get 2 that number apparently, but from 2012 – 3 2016, the authors of this report come up 4 with investment income to equity, is that 5 ROI? Is that what they're thinking about? 6 MS. ELLIOTT: 7 A. No, this is not—ROI is Return On your 8 Investments which is a ratio of your 9 investment income divided by your invested 10 assets. What's presented her in this row is 11 the investment income divided by the equity 12 and the equity does not equal the invested 13 assets. 14 STAMP, Q.C.: 15 Q. Right. I'm trying—this is what I'm trying 16 to understand actually. Those rates that we 17 have here ranging from 15.08 percent in 2012 18 to 6.74 percent in 2016 and just before I go 19 to the next chart, are they arrived at in, 20 let's say, 2016, is the \$13,217,000.00 21 divided by \$196,000,000.00, is that the two 22 numbers above there? 23 MS. ELLIOTT: 24 A. It's a little confusing, but the investment 25 income divided by equity is just the ratio</p>	<p>Page 88</p> <p>1 MS. ELLIOTT: 2 A. Yes, that's how they calculate that number. 3 STAMP, Q.C.: 4 Q. Right. 5 MS. ELLIOTT: 6 A. Yes, that's correct. 7 STAMP, Q.C.: 8 Q. I'm not asking you to explain, at this 9 point, what that is. I'm just asking, this 10 is what they—the two numbers they show, the 11 two lines above it being the actual net 12 investment income and then the allocated 13 equity and then a percentage that they 14 create by dividing. Now, if I just go back 15 to your report and it's too bad we got to 16 back, but we can't—without getting it up 17 again. Your report, at page 8 of your 18 report and it's Table 6. Do you have that? 19 MS. ELLIOTT: 20 A. Um-hm. 21 STAMP, Q.C.: 22 Q. I'm sorry, yes, you do. So, 2016 you have, 23 I guess, developed a series of investment 24 rates including 2016 at 2.4 percent? 25 MS. ELLIOTT:</p>

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1 A. Yes.
 2 STAMP, Q.C.:
 3 Q. And what I'm assuming the authors of this
 4 other report are saying is that they're
 5 comparing your 2.4 percent and saying it's
 6 not reasonable, it should be 6.74 percent.
 7 MS. ELLIOTT:
 8 A. That's my understanding.
 9 STAMP, Q.C.:
 10 Q. And so we have, in their report, that Table
 11 7 that we just looked at a few minutes ago
 12 ranging from 15.08 percent in 2012—so, it
 13 would be all in the right hand column for
 14 our purposes of comparison—they have 15.08,
 15 you have 4. They have 10.93 for 2013; you
 16 have 2.8. They have 13 percent for 2014;
 17 you have 3.9. They have 14.44 for 2015;
 18 where as you have 2.3. They have 2016 at
 19 6.4 percent; whereas you have 2.4 percent.
 20 So, what I'd like to know from you is, is
 21 the manner in which they have created a
 22 number which I presume they are referring to
 23 as ROI, is that how it's calculated, the way
 24 that they've done it? I mean, it seems like
 25 a very simple way and of course, it's

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1 fundamentally different from yours.
 2 MS. ELLIOTT:
 3 A. Right. No, because the return on investment
 4 rate are your investment income including
 5 the realized capital gains and losses,
 6 that's included in the number that we
 7 present and it's taken as a ratio of the
 8 average at the beginning of the year and the
 9 end of the year of your investment assets
 10 that you have. So, all your investments,
 11 your bonds and your stocks and everything
 12 else. And these are the actual return on
 13 investment rates that are reported in the,
 14 what's referred to as P&C-1, the financial
 15 statement that is audited and each company
 16 is required to file this annually with the
 17 federal regulatory OSFI. So, our numbers
 18 are different. What Lazar has presented is
 19 a ratio of the investment income as he has
 20 extracted it from the GISA exhibit divided
 21 by equity and equity in invested assets are
 22 not the same thing.
 23 (10:45 a.m.)
 24 STAMP, Q.C.:
 25 Q. Right. So, does it make any sense, in your

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1 opinion, to have done an ROI calculation the
 2 way this was done in Table 7?
 3 MS. ELLIOTT:
 4 A. No, because it's not an ROI. They are not
 5 the invested assets; it's equity. They are
 6 two different things.
 7 STAMP, Q.C.:
 8 Q. Right. So, even though he does this
 9 calculation, we can see the calculation, and
 10 he describes the result and you get the
 11 answer from the division as and ROI, it's
 12 not an ROI.
 13 MS. ELLIOTT:
 14 A. No, because we know that companies,
 15 insurance companies are required to invest
 16 conservatively. Most of their investments,
 17 a large proportion are in government grade
 18 bonds. And we know that government grade
 19 bonds are risk free with a very low interest
 20 rate. And so, if you see this measurement
 21 as presented by Lazar, you know, double
 22 digit, 15 percent, we know that that would
 23 be a red flag because we know that
 24 government bonds that companies invest in
 25 are not 15 percent. So, it's a different,

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1 it's something else. It's not an ROI.
 2 STAMP, Q.C.:
 3 Q. Whoever does this and gets those rates, I
 4 want them to be looking after my money.
 5 MS. ELLIOTT:
 6 A. Yes, me too, yes.
 7 STAMP, Q.C.:
 8 Q. If you can just turn, Ms. Elliott, to page
 9 15 of yours, that is and it's Table 9. Do
 10 you see that? It's page 15, sorry.
 11 MS. ELLIOTT:
 12 A. Yes.
 13 STAMP, Q.C.:
 14 Q. I'm sorry, I misspoke. It's the Lazar
 15 Report. I apologize for that. Page 15,
 16 thank you. Table 9. Thank you. So, this
 17 is where they are saying, they're comparing
 18 the GISA pre-tax, what they call GISA pre-
 19 tax investment returns and those of Oliver
 20 Wyman. Now, I know yours came from the
 21 table at page 6 that we looked at a moment
 22 ago. And this is what he has described as
 23 investment income rates. So, he uses these
 24 rates, his rate that he's developed the way
 25 we just described it and you commented on to

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<p>1 justify his comment, in the paragraph below, 2 that it appears that Oliver Wyman has 3 consistently underestimated its potential 4 ROIs. That's what he—he makes those 5 comparisons and says Oliver Wyman is 6 consistently underestimated ROI because for 7 2012 it should have been over 15 percent. 8 Do you see any merit in that suggestion? 9 MS. ELLIOTT: 10 A. No, I don't agree that companies achieved an 11 ROI of 15.1 percent in 2012, no. 12 STAMP, Q.C.: 13 Q. Okay. If I can turn to the next, page 16, 14 in the same Dr. Lazar report. Sorry, I just 15 want to go back for a moment, just a moment, 16 please. At page 20, I just want to go back 17 for a moment, at page 20 of that report, I 18 don't know if you can speak to this, at page 19 20, towards the bottom of the page, the 20 paragraph that begins with "this 21 discussions", do you have that? 22 MS. ELLIOTT: 23 A. Um-hm. 24 STAMP, Q.C.: 25 Q. If you could just take a moment to read that</p>	<p>1 A. Um-hm. 2 STAMP, Q.C.: 3 Q. And the operating expense ratio maybe. At 4 the top of the page 16 they say, "now we 5 turn to the operating expense ratios", okay? 6 And at Table 10 they list 2012 – 2016, 7 Oliver Wyman general expense ratios and what 8 they call GISA expense ratios. Now, can you 9 just—I know if you go to your report at 10 Table 12 at page 21—I don't know if you need 11 to go there to look at it—would you like to 12 see that for a moment? I can bring it up; I 13 have it - 14 MS. ELLIOTT: 15 A. Sure. 16 STAMP, Q.C.: 17 Q. Oliver Wyman report at page 21, please. And 18 you'll see the 8.2 and 7.2, 8.5, 7.7, 9.1 19 are general expenses ratios. 20 STAMP, Q.C.: 21 Q. Right, so this table presents a commissions 22 including contingent, premium taxes and then 23 the general expenses, 3 components to derive 24 the total expense ratio. 25 STAMP, Q.C.:</p>
<p>1 please, to yourself there. 2 MS. ELLIOTT: 3 A. Yes. 4 STAMP, Q.C.: 5 Q. So you see there, Ms. Elliott, that the 6 authors say that in Ontario the regulatory, 7 FSCO, has been using an ROI assumption of 6 8 percent to set premiums. Now, my 9 understanding is that that is not the case. 10 MS. ELLIOTT: 11 A. That's my understanding too. That's not the 12 case. 13 STAMP, Q.C.: 14 Q. I just want to make sure that we're clear. 15 Is that an accurate statement to your 16 knowledge? 17 MS. ELLIOTT: 18 A. It's not accurate, no. 19 STAMP, Q.C.: 20 Q. Okay. That's fine, thank you. I'll just 21 come over to page 16 of the same report and 22 to Table 10. This is on the issue of, I 23 guess, general expenses or operating 24 expenses. 25 MS. ELLIOTT:</p>	<p>1 Q. Right and can you tell us where you obtained 2 the general expense percentages? 3 MS. ELLIOTT: 4 A. Yes, this is from a GISA report 9502 that is 5 specific to private passenger expenses for 6 each province. 7 STAMP, Q.C.: 8 Q. Right. And so do I understand it's the 9 industry expense report? 10 MS. ELLIOTT: 11 A. Yes, it's the industry expense report of the 12 mandatory reporting by insurers. 13 STAMP, Q.C.: 14 Q. Right and in that report you're able to 15 generate from the data right in the report 16 itself. 17 MS. ELLIOTT: 18 A. Might I just—the numbers presented I don't 19 need to calculate anything. 20 STAMP, Q.C.: 21 Q. It's right there. 22 MS. ELLIOTT: 23 A. Yes. 24 STAMP, Q.C.: 25 Q. And so now the suggestion is offered that,</p>

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1 so they attribute this to an Oliver Wyman
 2 data, but it's actually GISA data.
 3 MS. ELLIOTT:
 4 A. Yes.
 5 STAMP, Q.C.:
 6 Q. So, in the right hand column at Table 10 of
 7 the Lazar report—if you can just pop that
 8 back up again, thank you. So, they show two
 9 columns for those years, GISA and Oliver
 10 Wyman. The Oliver Wyman, they seem to
 11 imply, I guess, that is somehow you made
 12 these numbers up, but they are right out of
 13 GISA.
 14 MS. ELLIOTT:
 15 A. Correct.
 16 STAMP, Q.C.:
 17 Q. And they suggest that the column that they
 18 use, GISA numbers, they pull that out of, I
 19 guess, the same report maybe.
 20 MS. ELLIOTT:
 21 A. No, they pulled that out of 9501. What
 22 they're presenting is a subset of the
 23 general expenses. So, they're both from
 24 GIS, but one is a subset of the general
 25 expenses, the column labelled OW, which is

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1 GISA 9502 is all general expenses.
 2 STAMP, Q.C.:
 3 Q. Right. And is that report you're referring
 4 to called the Industry Profit and Loss
 5 Report?
 6 MS. ELLIOTT:
 7 A. Under the column GISA is, yeah.
 8 STAMP, Q.C.:
 9 Q. Right. Okay. And so they've essentially
 10 jumped from one GISA report with the
 11 expenses that they show attributed to Oliver
 12 Wyman, they're actually GISA, jumped to a
 13 different report.
 14 MS. ELLIOTT:
 15 A. Right, they have used the profit and expense
 16 report which presents a subset of the
 17 general expenses and didn't use the total
 18 general expenses which is available in the
 19 report that we use that is specific to
 20 private passenger expenses only.
 21 STAMP, Q.C.:
 22 Q. So, can you offer any explanation why the
 23 authors would have left the expense report,
 24 the industry expense report that has the
 25 data right in it and gone off to a different

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1 report to take a different set of expense
 2 percentages?
 3 MS. ELLIOTT:
 4 A. I have no idea why, I don't know.
 5 STAMP, Q.C.:
 6 Q. Does that make any sense?
 7 MS. ELLIOTT:
 8 A. No, I don't agree with their number.
 9 They're missing a component of the general
 10 expenses.
 11 STAMP, Q.C.:
 12 Q. So, you're not comparing apples and apples.
 13 MS. ELLIOTT:
 14 A. Right.
 15 STAMP, Q.C.:
 16 Q. Can I just turn to page 7 of the Oliver
 17 Wyman report please? The bottom of the page
 18 please. Do you see the paragraph, Ms.
 19 Elliott, beginning "since 2012"?
 20 MS. ELLIOTT:
 21 A. Yes, um-hm.
 22 STAMP, Q.C.:
 23 Q. It says, "since 2012 the expense costs and
 24 premiums for private passenger automobile
 25 insurance in each province are report to

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1 GISA by each insurer. GISA complies this
 2 information and presents it in an expense
 3 report that GISA prepares and releases for
 4 each province". Is that the expense report
 5 that you're referring to?
 6 MS. ELLIOTT:
 7 A. Yes.
 8 STAMP, Q.C.:
 9 Q. And so that's the one that is, you named the
 10 report and so on, but it's the Industry
 11 Expense report where you took the
 12 percentages right out of their presentation.
 13 MS. ELLIOTT:
 14 A. Correct.
 15 STAMP, Q.C.:
 16 Q. So, you used a phrase a little earlier this
 17 morning, "cherry picked". Would it be fair
 18 to say that the authors of this report
 19 "cherry picked" an expense from a different
 20 GISA report material that is only a subset,
 21 as you say, of the total expenses?
 22 MS. ELLIOTT:
 23 A. Well, the reference earlier was deciding to
 24 exclude the high and the low. I'm going to
 25 assume that the author misunderstood the

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<p>1 data. I don't know why or what was provided</p> <p>2 to Dr. Lazar, but perhaps did not have the</p> <p>3 complete information that would be required</p> <p>4 to present the expense information.</p> <p>5 STAMP, Q.C.:</p> <p>6 Q. Okay. Can I go back to the table 7 of the</p> <p>7 Lazar report please? And the third item in</p> <p>8 that table, Ms. Elliott, is claims ratio, do</p> <p>9 you see that?</p> <p>10 MS. ELLIOTT:</p> <p>11 A. Um-hm.</p> <p>12 STAMP, Q.C.:</p> <p>13 Q. Which is simply net premium earned and I</p> <p>14 guess, dividing net claims and adjusted by</p> <p>15 net premium earned, is that right?</p> <p>16 MS. ELLIOTT:</p> <p>17 A. Correct.</p> <p>18 STAMP, Q.C.:</p> <p>19 Q. So, there's ratios there for 2012 it's</p> <p>20 79.13; 80.40; 94.22. I'm looking at some of</p> <p>21 that industry and profit of loss report, are</p> <p>22 those percentages right out of that same</p> <p>23 report, do you know, can you tell that?</p> <p>24 MS. ELLIOTT:</p> <p>25 A. I'm sorry, what was your question?</p>	<p>1 Q. So, he has this expense report. He's</p> <p>2 obviously pulled numbers out of it. I'm</p> <p>3 sorry, I misspoke, I said expense report.</p> <p>4 It's the Industry Profit and Loss Report.</p> <p>5 MS. ELLIOTT:</p> <p>6 A. Right.</p> <p>7 STAMP, Q.C.:</p> <p>8 Q. That's where it comes from.</p> <p>9 MS. ELLIOTT:</p> <p>10 A. Yes.</p> <p>11 STAMP, Q.C.:</p> <p>12 Q. My apologies, I misspoke. That's what he</p> <p>13 has those numbers and that's where he got</p> <p>14 those percentages that were incorrectly</p> <p>15 applied.</p> <p>16 (11:00 a.m.)</p> <p>17 MS. ELLIOTT:</p> <p>18 A. Right, he picks up the ratio of the general</p> <p>19 expenses from this report, yes.</p> <p>20 STAMP, Q.C.:</p> <p>21 Q. Which you characterize as a subset of the</p> <p>22 expenses.</p> <p>23 MS. ELLIOTT:</p> <p>24 A. Of the total general expenses, yes,</p> <p>25 everything excluding commission and premium</p>
<p>1 STAMP, Q.C.:</p> <p>2 Q. Okay. I'm looking at a page, page 25, it's</p> <p>3 not something that I have here that you</p> <p>4 have. I'm sure you have it, but not here</p> <p>5 perhaps. It's the Industry Profit and Loss</p> <p>6 Report at page 25, it's the report you're</p> <p>7 referring to.</p> <p>8 MS. ELLIOTT:</p> <p>9 A. Yes, okay.</p> <p>10 STAMP, Q.C.:</p> <p>11 Q. And I'm looking at a line on that report</p> <p>12 that is described as "Net Claims and</p> <p>13 Adjustment Expenses" and it gives an amount</p> <p>14 and a ratio for each year. And the ratio it</p> <p>15 gives for 2012 is 79.1; for 2013 it's 80.4;</p> <p>16 for 2014 it's 94.2; for 2015 it's 92.1; and</p> <p>17 for 2016 it's 74.4.</p> <p>18 MS. ELLIOTT:</p> <p>19 A. Correct.</p> <p>20 STAMP, Q.C.:</p> <p>21 Q. Those are the same numbers in Professor</p> <p>22 Lazar's table 7.</p> <p>23 MS. ELLIOTT:</p> <p>24 A. Correct.</p> <p>25 STAMP, Q.C.:</p>	<p>1 taxes we put in the bucket of general</p> <p>2 expenses.</p> <p>3 STAMP, Q.C.:</p> <p>4 Q. Right. Which is shown in the Industry</p> <p>5 expense report.</p> <p>6 MS. ELLIOTT:</p> <p>7 A. Correct.</p> <p>8 STAMP, Q.C.:</p> <p>9 Q. Thank you.</p> <p>10 CHAIR:</p> <p>11 Q. Mr. Stamp, might this be a good time to</p> <p>12 break.</p> <p>13 STAMP, Q.C.:</p> <p>14 Q. Yes, that's fine, Chair. Thank you.</p> <p>15 (BREAK – 11:01 a.m.)</p> <p>16 (RESUME – 11:34 a.m.)</p> <p>17 CHAIR:</p> <p>18 Q. Back to you, Mr. Stamp.</p> <p>19 STAMP, Q.C.:</p> <p>20 Q. Thank you, Madam Chair. Ms. Elliott, I'm</p> <p>21 going to ask if we can see the Lazar Report</p> <p>22 at page 11, please. If I can catch the</p> <p>23 paragraph above the table. Yeah, that's it,</p> <p>24 that's fine there. So, Ms. Elliott, you see</p> <p>25 there that the table, sorry, Table 5, and</p>

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1 that material is in your own report and I
 2 guess the table--maybe it's the exact same
 3 table, but in any event, you'll see that in
 4 the paragraph above that, the authors say
 5 that Oliver Wyman did disaggregate the
 6 operating expenses into three categories and
 7 describes those categories, and the
 8 breakdown is presented in Table 5. What
 9 I'm--in looking at the Industry Expense
 10 Report that we've mentioned a couple of
 11 times earlier, I believe from looking at
 12 that report that all those expenses are
 13 broken down the exact same way the table has
 14 it in that GISA Expense Report.
 15 MS. ELLIOTT:
 16 A. Correct, those numbers are from the -
 17 STAMP, Q.C.:
 18 Q. So, it wasn't the case that Oliver Wyman
 19 broke the numbers down as we have in this
 20 table, the GISA numbers are broken down that
 21 way?
 22 MS. ELLIOTT:
 23 A. That's correct, yes.
 24 STAMP, Q.C.:
 25 Q. In other words, you didn't have to do

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1 anything to create this table?
 2 MS. ELLIOTT:
 3 A. Correct.
 4 STAMP, Q.C.:
 5 Q. In your chart, it was just taken directly
 6 from the GISA Industry Expense Report?
 7 MS. ELLIOTT:
 8 A. It's all clearly laid out. It's just taking
 9 the numbers from the chart and putting them
 10 into a table in our report.
 11 STAMP, Q.C.:
 12 Q. So, it wasn't that Oliver Wyman
 13 disaggregated, it was that GISA had done
 14 this?
 15 MS. ELLIOTT:
 16 A. Uh-hm, yeah.
 17 STAMP, Q.C.:
 18 Q. Thank you. I just have one other topic to
 19 cover with you for a moment and that is in
 20 the general discussion on loss ratios and
 21 maybe I--we have the Lazar report here, so I
 22 could just maybe go to table 8, which is at
 23 page 15 of that report. Do you recognize
 24 that table, Ms. Elliott?
 25 MS. ELLIOTT:

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1 A. May I just--pardon me, go back to the prior
 2 question, I want to make sure I'm accurate?
 3 STAMP, Q.C.:
 4 Q. Yes.
 5 MS. ELLIOTT:
 6 A. GISA, in their exhibit does provide
 7 commissions and contingent commissions and
 8 those are presented in our report as a
 9 total. And so, we provided our report using
 10 the GISA data in the three categories;
 11 commissions, taxes and general expenses.
 12 Taking the data which all adds up to the
 13 total percentage expenses.
 14 STAMP, Q.C.:
 15 Q. Right.
 16 MS. ELLIOTT:
 17 A. Yeah.
 18 STAMP, Q.C.:
 19 Q. Yeah, I think they had the expenses broken
 20 into other acquisition and general expenses?
 21 MS. ELLIOTT:
 22 A. Right. So, just to be 100 percent correct,
 23 that's -
 24 STAMP, Q.C.:
 25 Q. Thank you for that clarification. So, Ms.

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1 Elliott, table 8 in the Lazar Report, I
 2 think you'll probably recognize it as the
 3 same table that you had in your own report.
 4 I believe it's at page 12 of your report.
 5 MS. ELLIOTT:
 6 A. Yes, um-hm.
 7 STAMP, Q.C.:
 8 Q. My question here is, and of course, the loss
 9 ratios that Oliver Wyman utilized are the
 10 direct accident year loss ratios that are
 11 listed here in the years '12 through '16?
 12 MS. ELLIOTT:
 13 A. Right, they're direct accident year loss
 14 ratios.
 15 STAMP, Q.C.:
 16 Q. Right, and in the column to the left is the
 17 FIIP & L calendar year loss ratios?
 18 MS. ELLIOTT:
 19 A. Right, and these are net of reinsurance
 20 calendar year loss ratios.
 21 STAMP, Q.C.:
 22 Q. Right, okay. Now, what I'm wondering is,
 23 because obviously the loss ratios you have
 24 used for your purposes are the accident year
 25 loss ratios.

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1 MS. ELLIOTT:
 2 A. Correct.
 3 STAMP, Q.C.:
 4 Q. Why is that done? Why are the loss ratios
 5 done by accident year?
 6 MS. ELLIOTT:
 7 A. The information that's provided where we do
 8 our analysis of estimating what the
 9 ultimate losses will be is provided by
 10 coverage on an accident year basis. And we
 11 also, as part of the review process wanted
 12 to review the coverage information that is
 13 only available by accident year and it
 14 would be the standard way to review
 15 pricing, review work is on an accident year
 16 basis. So, when companies submit rate
 17 applications, it's using accident year data
 18 and so this review was looking at a
 19 hindsight review of the return on equity
 20 that was achieved and measuring that again
 21 is the 10 percent target that would be
 22 allowed in rates and that is all done on an
 23 accident year basis. So, the detailed data
 24 is available by accident year. If you look
 25 at the calendar year data, it's done on a

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1 higher level. So it's third party
 2 liability accident benefits and all other
 3 coverages combined, it doesn't have the
 4 same detail as the accident year data does.
 5 And also, the calendar year data is net of
 6 reinsurance arrangements whereas when we're
 7 looking at pricing, it is all before any
 8 financial reinsurance that's done kind of
 9 after the fact by the financial departments
 10 in insurance companies. So, for a variety
 11 of reasons, accident year data is used.
 12 STAMP, Q.C.:
 13 Q. And I take it then the choice is that you
 14 chose deliberately not to use calendar year,
 15 because it doesn't provide the same level of
 16 particulars that you want.
 17 MS. ELLIOTT:
 18 A. Right, because it's, you know, its net of
 19 reinsurance pricing is not done, net of
 20 reinsurance, it's done without any
 21 consideration of reinsurance.
 22 STAMP, Q.C.:
 23 Q. And when you say, "net of reinsurance", you
 24 mean that some of the insurers hand of some
 25 of their risks for some of their losses?

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1 MS. ELLIOTT:
 2 A. Right.
 3 STAMP, Q.C.:
 4 Q. And this calendar year is the loss after
 5 they've handed off some of it?
 6 MS. ELLIOTT:
 7 A. Right, the premium and the losses are
 8 adjusted per reinsurance.
 9 STAMP, Q.C.:
 10 Q. So, you'd have to look at several companies
 11 to figure out what the loss really was?
 12 MS. ELLIOTT:
 13 A. Yes, so it's -
 14 STAMP, Q.C.:
 15 Q. If you use calendar year?
 16 MS. ELLIOTT:
 17 A. Yeah.
 18 STAMP, Q.C.:
 19 Q. So, on that point then, if I come back to, I
 20 think it was at--certainly I believe that
 21 the authors of this report are suggesting
 22 that we ought to use, you ought to use, the
 23 Board ought to use FIIP & L loss ratios by
 24 the calendar year. That's what they appear
 25 to say you should use?

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1 MS. ELLIOTT:
 2 A. That's what they used, yes.
 3 STAMP, Q.C.:
 4 Q. Right, and for the reasons you just
 5 outlined, you observed that it's the
 6 accident year that's the critical measure?
 7 MS. ELLIOTT:
 8 A. There's just more information available by
 9 accident year, yes.
 10 STAMP, Q.C.:
 11 Q. So, when I come over to page 3 of the Lazar
 12 Report and I'm looking at that set of
 13 bullets that we looked at early on, you see
 14 the second bullet?
 15 MS. ELLIOTT:
 16 A. Uh-hm.
 17 STAMP, Q.C.:
 18 Q. They've made some assumptions, they've used
 19 now a claims ratio I guess for, I don't know
 20 if that's '16, I guess, yeah. For '16 and
 21 '17, the claims ratio is 79 percent and they
 22 say that's halfway between the GISA estimate
 23 for 2016 and the Oliver Wyman assumption for
 24 '17. So, I take it what they're saying is
 25 it's halfway between the 74 percent in table

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1 number 8 for the calendar year and some
 2 other number?
 3 MS. ELLIOTT:
 4 A. I don't know, they didn't elaborate on the
 5 rationale for that. They've taken two
 6 numbers, averaged it and used that number.
 7 STAMP, Q.C.:
 8 Q. Right, but I mean, is it appropriate to take
 9 an average of loss ratio done by calendar
 10 year, which has the weaknesses that you've
 11 described and average it with a loss ratio
 12 done by the way you've described as being
 13 the correct way and say that the halfway,
 14 the average is the right one to use?
 15 MS. ELLIOTT:
 16 A. Yeah, it doesn't have a, like a precise
 17 meaning. So, if we looked at the chart that
 18 we were referencing on table 8, each has a
 19 definite meaning.
 20 STAMP, Q.C.:
 21 Q. Yes.
 22 MS. ELLIOTT:
 23 A. And then taking an average of the two is, I
 24 guess that's what it is, it's an average of
 25 the two. I don't have a definition for it

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1 other than that. Why would you do it? I
 2 don't know why it was done here, no.
 3 STAMP, Q.C.:
 4 Q. I'm asking you, I guess to think about what
 5 the merit is of that approach, an averaging
 6 of these two approaches.
 7 MS. ELLIOTT:
 8 A. I don't know what the merit is of averaging
 9 of the two.
 10 STAMP, Q.C.:
 11 Q. Do you see any merits?
 12 MS. ELLIOTT:
 13 A. It's not what I would do. I don't see a
 14 merit in--what we were presenting in our
 15 report was a consistent use of accident year
 16 data with the full understanding of what an
 17 accident year means, without any influence
 18 of reinsurance. That changes over time, of
 19 course. So, they've taken an apple or an
 20 orange and if you will and average them
 21 together.
 22 STAMP, Q.C.:
 23 Q. Okay. Thank you, Ms. Elliott, those are all
 24 of my questions.
 25 (11:45 a.m.)

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1 CHAIR:
 2 Q. Thank you, Mr. Stamp. Consumer Advocate?
 3 MR. WADDEN:
 4 Q. Good morning, Paula, welcome back.
 5 MS. ELLIOTT:
 6 A. Thank you.
 7 MR. WADDEN:
 8 Q. Just a couple of questions. Looking at your
 9 report and no particular page; you've
 10 discussed two measures of profitability,
 11 right?
 12 MS. ELLIOTT:
 13 A. Yes.
 14 MR. WADDEN:
 15 Q. The profitability as a percentage of premium
 16 on a pre-tax basis, the POP method and I
 17 guess what we easily say is the more
 18 commonly used standard after tax rate of
 19 return on equity, ROE, right?
 20 MS. ELLIOTT:
 21 A. Yeah.
 22 MR. WADDEN:
 23 Q. Mr. Feltham was asking you some questions
 24 surrounding reserves. I'm just trying, and
 25 I don't want to be repetitive, so I'm just

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1 trying to get a better understanding I
 2 either one of those methods how you factor
 3 in reserves? I just don't have—maybe you
 4 could help me out here.
 5 MS. ELLIOTT:
 6 A. Okay, sure. What we're trying to measure is
 7 here, for a particular year, so these are
 8 the premiums that were earned in that year.
 9 These are--and subtract from that the losses
 10 that we estimate will be paid, ultimately be
 11 paid for claims that occurred in that year.
 12 We subtract out the expenses that are
 13 associated with that year, we take into
 14 consideration the investment income that
 15 would have been earned that year on the cash
 16 flows that you have.
 17 MR. WADDEN:
 18 Q. Yeah.
 19 MS. ELLIOTT:
 20 A. And the remainder is the profit and we
 21 measure it as a percentage of premium or as
 22 a percentage of equity and pre-tax or after
 23 tax. So, in terms of the component of the
 24 losses that we subtract out, we're
 25 subtracting out an estimate of what the

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1 losses will ultimately be paid for each of
 2 those years, the claims that have occurred
 3 in that year.
 4 So, on table 1, for accident year 2007,
 5 the bulk of the claims have been settled and
 6 closed. The estimates are of what's left to
 7 be paid, are pretty minimal, whereas for
 8 2016, the estimate of what's left to be paid
 9 would be much more substantive, it would be
 10 the bulk of it. So, the companies report to
 11 GISA, and we're using GISA data, the amount
 12 that's been paid for that accident year, the
 13 case reserves that they estimate on each
 14 individual file and then on top of that we
 15 add in a provision, which is referred to as
 16 a bulk reserve or an actual reserve and
 17 that's our estimate, looking at hindsight
 18 out claims have settled and closed over
 19 time.
 20 MR. WADDEN:
 21 Q. Okay.
 22 MS. ELLIOTT:
 23 A. But will ultimately be paid.
 24 MR. WADDEN:
 25 Q. Right. So that's your way of accounting for

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1 the fact that reserves are sort of moving
 2 targets, because they pop in, pop out, could
 3 go up, could go down, depending on the
 4 claim?
 5 MS. ELLIOTT:
 6 A. Right, and the coverage.
 7 MR. WADDEN:
 8 Q. All right. This may be stating the obvious,
 9 but obviously this report and every report
 10 you've done is based, in looking at auto
 11 insurance and if we accept--in looking at
 12 this particular report, if the Consumer
 13 Advocate accepts, I'm not 100 percent that
 14 we do, but if we do accept that
 15 profitability for the insurers has not been
 16 great, is not looking good in terms of the
 17 automobile line of business?
 18 MS. ELLIOTT:
 19 A. Right. Good years, bad years, more recently
 20 it's good.
 21 MR. WADDEN:
 22 Q. Right, okay. So, let's assume for the
 23 moment that we accept that. It goes without
 24 saying, I suppose, that this does not speak
 25 to their entire business as it were. I'm

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1 sorry, and to be more specific, my point
 2 being that most insurers, not all, but most
 3 have a number of lines of business. I mean,
 4 some sell everything from home and auto, to
 5 pet insurance, to medical health benefits,
 6 things like that. But we're only looking
 7 here, in fairness to you at the auto line,
 8 correct?
 9 MS. ELLIOTT:
 10 A. Correct, yeah.
 11 MR. WADDEN:
 12 Q. So, if we accept that next year every
 13 insurer who sells auto in Newfoundland is
 14 going to lose money on that line of
 15 business; let's just say that for a moment,
 16 okay. It doesn't mean that on the whole
 17 their business is not profitable, right? I
 18 mean, because they could be doing quite well
 19 on the other lines.
 20 MS. ELLIOTT:
 21 A. Right. Each province, for different
 22 reasons, each line of business for different
 23 reasons could be worse or better.
 24 MR. WADDEN:
 25 Q. Right, and you could almost say, I suppose

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1 that in that case the auto line is looked at
 2 in the insurance industry sometimes as a
 3 lost leader, much like, you know, milk in a
 4 convenience store.
 5 MS. ELLIOTT:
 6 A. I don't believe that insurance companies
 7 consider auto insurance as a lost leader,
 8 that's not my understanding, no.
 9 MR. WADDEN:
 10 Q. Okay, right. Fair enough.
 11 MS. ELLIOTT:
 12 A. And then it might, it's not my
 13 understanding.
 14 MR. WADDEN:
 15 Q. They certainly don't want it to be a lost
 16 leader, I get that. But I suppose in a
 17 given year, if they've not been profitable,
 18 it could be looked at as a lost leader if
 19 that's the one line of business where
 20 they're not doing well?
 21 MS. ELLIOTT:
 22 A. Possibly, but -
 23 MR. WADDEN:
 24 Q. Yeah, okay. I just want to go briefly to, I
 25 think it's page 9 of this particular report.

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1 And just sort of a point of clarification
 2 for our own sake. In paragraph 2 there, it
 3 says, “we assume there’s an average delay in
 4 the receipt of premium of three months and
 5 take this delay into consideration of our
 6 calculations. We make no allowance for
 7 finance fee revenues collected by insurers.”
 8 And of course, there’s a foot note. “If we
 9 took into consideration finance fees
 10 collected by insurers, this will increase
 11 our estimates of profit level”. My only
 12 question there is why not make that
 13 allowance; why not consider those fees?
 14 MS. ELLIOTT:
 15 A. Right. The reason for it is the reporting
 16 of the expense information. Many companies
 17 net out the revenue that they receive for--I
 18 think often it’s a three percent of your
 19 premium is a charge for a monthly payment
 20 plan they refer to as finance fees. So,
 21 that amount is netted out from their general
 22 expenses that are reported. So, it’s not
 23 available to us who’s netted it out or how
 24 they’ve handled those finance fees. So,
 25 it’s likely the majority has been netted

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1 out, so it is taken into account, but not in
 2 all cases nor do we know who’s done what
 3 with that.
 4 MR. WADDEN:
 5 Q. And is there a way to find out?
 6 MS. ELLIOTT:
 7 A. Yes, and when companies submit rate
 8 application that is requested to identify
 9 their finance fees, revenues as a percentage
 10 of premium and that is taken into account
 11 specifically for each company in a rate
 12 application, but in terms of this aggregated
 13 data of industry expenses, it’s buried
 14 within the general expense date for some
 15 companies.
 16 MR. WADDEN:
 17 Q. Okay. That’s fine, Paula, thank you very
 18 much.
 19 MS. ELLIOTT:
 20 A. Thank you.
 21 CHAIR:
 22 Q. Thank you. Do we have any further
 23 questions, Mr. O’Flaherty?
 24 O’FLAHERTY, Q.C.:
 25 Q. No, questions.

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1 CHAIR:
 2 Q. I guess we’ll go back to you. We’ll move to
 3 the next report.
 4 O’FLAHERTY, Q.C.:
 5 Q. Thank you, Madam Chair. At this stage, I
 6 understand Ms. Elliott is ready to make her
 7 presentation on the report entitled Other
 8 Coverages Review-Private Passenger
 9 Automobile.
 10 CHAIR:
 11 Q. Whenever you’re ready, Ms. Elliott.
 12 MS. ELLIOTT:
 13 A. Okay. So, we were asked to review some
 14 other elements, specific coverages for
 15 private passenger automobile. A little
 16 lower down on this page are the four topics
 17 that were considered and these four are:
 18 consideration of the \$200,000 minimum
 19 mandatory third party liability limit, which
 20 is currently 200,000, and the implications
 21 of increasing that limit; to look at the
 22 impact of offering direct compensation for
 23 physical damage. Number three was to review
 24 the uninsured automobile coverage in
 25 Newfoundland; and also to review the

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1 relationship between Section B accident
 2 benefits and the settlement of claims with
 3 regard to Section A benefits and whether
 4 accident benefits should be mandatory.
 5 And going down a few pages into our
 6 report, on page five, looking at the most
 7 recent information that we had available at
 8 the time, which was 2016 data, a very small
 9 percentage vehicles are insured at the
 10 minimum \$200,000 limit. It was just a
 11 little over one percent. All private
 12 passenger vehicles are insured at the
 13 minimum limit and the majority of policy
 14 holders are at 500,000 or higher.
 15 We did note that, with respect to the
 16 Facility Association, which is often
 17 referred to as the insurer of last resort,
 18 it had 13 percent of its vehicles at the
 19 minimum limit of 200,000. So, a change to
 20 increase the minimum limit from 200,000 to
 21 500,000 would affect more of the Facility
 22 Association drivers and a pretty small
 23 percentage, obviously one percent, of all
 24 drivers in the province if it was to be
 25 increased. And the increase in third party

<p style="text-align: right;">Page 125</p> <p>1 liability limit from 200 to 500,000 is 11 2 percent for FA and insurers, it ranges from 3 an increase of 11 percent to 18 percent to 4 go from 200 to 500,000 limit. 5 Our other finding was on -- the next 6 item was on direct compensation. So, direct 7 compensation right now, what is done in Nova 8 Scotia and New Brunswick, it was introduced 9 there, and third party liability currently 10 consists of the bodily injury component and 11 the property damage component. 12 So, with the introduction of DCPD that 13 takes the property damage component of TPL 14 and splits that further into two parts known 15 as DCPD and PD-Tort. So, there's not a new 16 coverage, if you will, introduced. It's 17 really just a splitting of a current 18 coverage. And in the pricing, we'd have to 19 figure out how do we split that between the 20 two components, because then they'll have a 21 separate premium for DCPD and PD-Tort. And 22 the rationale behind that is a more 23 efficient way of claims handling. It's 24 reduction in the claims handling costs 25 because you won't have subrogation between</p>	<p style="text-align: right;">Page 127</p> <p>1 We didn't -- we tried to assess the 2 relationship between accident benefit claim 3 payments and bodily injury claim payments 4 using the Closed Claim Study data, but 5 through the collection process, there wasn't 6 sufficient data available for that. 7 The other component that we were asked 8 to review was whether many policy holders 9 would be affected if the AB coverage was to 10 become mandatory. But currently, 11 approximately 95 percent of the policy 12 holders do have accident benefit coverage. 13 It's an optional coverage in this province, 14 but the majority -- the vast majority buy the 15 coverage. So, changing to a mandatory basis 16 would not affect many policy holders, very 17 few, and the average premium currently is 18 \$72. And that's sort of an overview of this 19 report. 20 O'FLAHERTY, Q.C.: 21 Q. Madam Chair, I understand from discussion 22 with counsel that the ordinary order of 23 questioning would now resume, which begins 24 with the Campaign. 25 CHAIR:</p>
<p style="text-align: right;">Page 126</p> <p>1 insurers. It's a way to reduce claims 2 handling expenses. It doesn't add new costs 3 to the system. 4 We do observe some changes with 5 collision coverage, a change in the 6 frequency rate and severity, but in 7 aggregate, the total cost for collision 8 don't change, just the number of claims and 9 the average cost of those claims, we've 10 observed that in the other provinces. 11 The uninsured auto, this is a recovery 12 of the -- when there is a vehicle involved in 13 the accident for bodily injury or there's 14 death or property damage and that other 15 vehicle is either uninsured or unidentified. 16 The number of claims in Newfoundland is much 17 higher than the other Atlantic Provinces. 18 When we look at our data, we don't know 19 specifically why a claim occurred, what 20 caused that claim or why it would be higher 21 in Newfoundland, the uninsured auto coverage 22 more claims in Newfoundland versus Nova 23 Scotia and New Brunswick, but that is in 24 fact the case it is. Then we have a chart 25 within our report that outlines that.</p>	<p style="text-align: right;">Page 128</p> <p>1 Q. Okay, thank you. To you, Mr. Feltham. 2 (12:00 noon) 3 MR. FELTHAM: 4 Q. Thank you, Chair. I only just have a few 5 questions, Ms. Elliott, on this report. The 6 first thing, page two of the report -- well, 7 it doesn't matter whether we look at it or 8 not, but you note four topics that are 9 discussed. 10 MS. ELLIOTT: 11 A. Um-hm. 12 MR. FELTHAM: 13 Q. How were those four topics decided on? 14 These are the four we're going to do versus 15 not more or not less, whatever. 16 MS. ELLIOTT: 17 A. I'd have to go back to the Terms of 18 Reference to refresh my memory on that. 19 MR. FELTHAM: 20 Q. Sure, we can certainly do that. 21 MS. ELLIOTT: 22 A. Sure. 23 MR. FELTHAM: 24 Q. If we can have the Terms of Reference 25 brought up, please?</p>

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1 MS. ELLIOTT:
 2 A. Phase II, the second bullet refers to the
 3 \$200,000 limit. The third bullet refers to
 4 -- the last two bullets Section B and
 5 whether coverage should be mandatory. And
 6 then scroll down to the next page was the
 7 direct compensation and then Section D, the
 8 uninsured auto.
 9 MR. FELTHAM:
 10 Q. So, I guess, in terms of making the decision
 11 as to which topics to report on, that was
 12 your discretion?
 13 MS. ELLIOTT:
 14 A. We have an engagement letter and those were
 15 the topics that we felt we could provide.
 16 MR. FELTHAM:
 17 Q. So, I guess, you know, one of the things
 18 that I expected when this report would come
 19 out that I might see that I did not see was
 20 any analysis or examination of the, you
 21 know, comprehensive collision coverages in
 22 terms of the overall premium experience in
 23 the province historically, how that may have
 24 contributed to any increase in premiums over
 25 time, that subject area.

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1 MS. ELLIOTT:
 2 A. I believe we've provided that.
 3 MR. FELTHAM:
 4 Q. Where would I find that?
 5 MS. ELLIOTT:
 6 A. Well, if I could have a moment?
 7 MR. FELTHAM:
 8 Q. Sure.
 9 MS. ELLIOTT:
 10 A. In the profit and rate adequacy report in
 11 the appendix, we provide the coverage
 12 information, collision, comprehensive,
 13 specified perils, and we provide our
 14 estimate of what the required premium would
 15 be and what the premium earned is for each
 16 accident.
 17 MR. FELTHAM:
 18 Q. But is there any examination of these
 19 optional physical damages coverage, because
 20 they are optional -
 21 MS. ELLIOTT:
 22 A. Um-hm.
 23 MR. FELTHAM:
 24 Q. - in terms of whether people are purchasing
 25 more of those policies. Obviously, you

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1 know, the premium being paid is tied to the
 2 optional coverages. If you buy those,
 3 you're paying more premium. So, that
 4 contributes to a greater overall premium
 5 being paid in the province for auto
 6 insurance.
 7 MS. ELLIOTT:
 8 A. Yes, right. So, when people buy a coverage
 9 that they didn't have before, their total
 10 premium would increase, yes.
 11 MR. FELTHAM:
 12 Q. And but there's been no examination by you
 13 of what's transpired in that regard over
 14 time in this province?
 15 MS. ELLIOTT:
 16 A. Well, in our report, the data is presented
 17 of the number of purchases, if you will,
 18 vehicles with the coverage in the last five
 19 years. That's provided, yes.
 20 MR. FELTHAM:
 21 Q. Okay. But not in a way that translates to
 22 how that relates to what the premiums being
 23 paid are?
 24 MS. ELLIOTT:
 25 A. We have the premium related to the

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1 coverages, yes. It's available.
 2 MR. FELTHAM:
 3 Q. It's in the report?
 4 MS. ELLIOTT:
 5 A. It's in the report, yes.
 6 MR. FELTHAM:
 7 Q. In the profit report you say?
 8 MS. ELLIOTT:
 9 A. Yes, um-hm.
 10 MR. FELTHAM:
 11 Q. Next question I have relates to the direct
 12 compensation property damage. So, that's
 13 back to your Other Coverage Report at page
 14 two. And I want to take you to the last two
 15 sentences of the second paragraph under that
 16 heading, direct compensation property
 17 damage, and it says "there's no data to
 18 measure the reduction in claims handling
 19 costs with the introduction of DCPD in Nova
 20 Scotia or New Brunswick. However, for
 21 reasons that are not fully understood, in
 22 Nova Scotia there's been some evidence of an
 23 increase in the total DCPD and PD-Tort
 24 claims costs following the introduction of
 25 DCPD."

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1 So, I don't know if I understand this
 2 correctly, but what we know from the Nova
 3 Scotia and New Brunswick experience, what
 4 little we can say is we don't really know
 5 what has happened with claims handling costs
 6 in New Brunswick. Nova Scotia, it appears
 7 that the claims costs may have actually gone
 8 up. So, is it fair to state that from that,
 9 if we introduce that model in Newfoundland
 10 and Labrador, and I'm not saying it
 11 shouldn't be, I'm just trying to understand,
 12 we won't necessarily know, based on the Nova
 13 Scotia and New Brunswick experience, what'll
 14 happen with claims handling costs as it
 15 relates to that?

16 MS. ELLIOTT:
 17 A. Right. So, we looked at the aggregated
 18 data. So, we know it's the same coverage.
 19 It's now just split into two sub-coverages.

20 MR. FELTHAM:
 21 Q. Right.

22 MS. ELLIOTT:
 23 A. With the intent of, all else being equal,
 24 that there should be a reduction in the
 25 claims handling costs, minor as it might be.

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1 So, that's what it's supposed to provide.
 2 As opposed to calling up the other company
 3 and back and forth and back and forth, you
 4 just deal with your own company. Easier for
 5 the consumer, easier for the insurance
 6 company, and because there's less of this
 7 back and forth, the process of settling that
 8 claim for the physical damage should be less
 9 expense.

10 MR. FELTHAM:
 11 Q. And that's sort of logically you're saying,
 12 right?

13 MS. ELLIOTT:
 14 A. Right.

15 MR. FELTHAM:
 16 Q. Yeah, okay. But the data that's out there,
 17 I guess there's not a lot, whatever there
 18 is, doesn't necessarily match up with the
 19 logical expectation?

20 MS. ELLIOTT:
 21 A. It's not refined enough that we could drill
 22 down to that level to really understand
 23 exactly. Consumers like it because they get
 24 to deal with their own insurer. It's an
 25 easier streamlined process of getting a

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1 claim handled.
 2 MR. FELTHAM:
 3 Q. But as far as claims costs, that aspect, the
 4 only thing we can say is that in Nova Scotia
 5 we saw some increase?

6 MS. ELLIOTT:
 7 A. Yes, and that could be attributed to many
 8 different things. Maybe it was a bad winter
 9 and that went up. You know, we don't know
 10 why claims are submitted. We're just making
 11 that observation. So, it's a more
 12 streamlined, efficient way. You know, we're
 13 looking for efficiencies and improvements,
 14 it's a more streamlined, efficient way to
 15 handle claims settlement.

16 MR. FELTHAM:
 17 Q. But whether it'll help claims costs, we
 18 don't know?

19 MS. ELLIOTT:
 20 A. Not for sure, but that's -- in theory,
 21 that's the idea.

22 MR. FELTHAM:
 23 Q. Okay. Going to page ten, and this relates
 24 to the uninsured automobile coverage, there
 25 was no recommendation made on how to

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1 decrease the number of uninsured drivers,
 2 thereby reducing the number of uninsured
 3 automobile claims.

4 MS. ELLIOTT:
 5 A. Right.

6 MR. FELTHAM:
 7 Q. Any consideration given to that? Was there
 8 any examination done with respect to other
 9 jurisdictions or something of that nature?

10 MS. ELLIOTT:
 11 A. I think there has to be an understanding of
 12 what's driving the higher number of claims
 13 in the Province. And so, when you think
 14 about who's driving a vehicle without
 15 insurance, your immediate assumption -- need
 16 to hypothesize -- well, they can't afford to
 17 pay for insurance and that they need to
 18 drive somewhere. And so, then you have to
 19 extrapolate and try to understand, you know,
 20 what segment -- where is this occurring and
 21 what can be done. It may be associated with
 22 those that either are unemployed, so they
 23 can't afford insurance, and I'm not sure
 24 that's really a policy issue over how to
 25 deal with drivers that are driving

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1 uninsured. What we presented are the actual
 2 differences with the other provinces, but I
 3 think the next step would be some sort of
 4 policy of Government to address the issues
 5 that are causing or allowing drivers to
 6 drive without insurance.
 7 MR. FELTHAM:
 8 Q. Thank you. And over to the next page, page
 9 11, in terms of accident benefits, and
 10 middle paragraph, you refer to, I guess,
 11 what I'll call the Section B Closed Claims
 12 Study. Is that fair?
 13 MS. ELLIOTT:
 14 A. Um-hm.
 15 MR. FELTHAM:
 16 Q. It says for the 235 claimants that have
 17 reported medical and rehabilitation costs,
 18 the average medical and rehab costs were
 19 just a little over \$3,000 and for those, for
 20 the 234 claimants that had reported
 21 disability income costs, the average paid
 22 disability income costs were 462.
 23 So, one of the changes that's being
 24 proposed or advocated is – by at least some
 25 entities is an increase in Section B

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1 coverage limits from \$25,000 where they
 2 presently stand to \$50,000, and that may be
 3 quite valuable to someone who's able to
 4 access or needs to access a greater level of
 5 coverage beyond \$25,000 but it seems to me
 6 that what these figures are telling us is
 7 that most folks have not accessed or been
 8 able to access beyond a few thousand dollars
 9 or a few hundred dollars in each of these
 10 benefit types.
 11 So, I guess the question is: what value
 12 do you see to the consumer in doubling the
 13 Section B limit in reality, given these
 14 Closed Claim Study numbers?
 15 MS. ELLIOTT:
 16 A. Okay. Well, first of all, what we were
 17 trying to provide here was a fulsome answer
 18 of what was collected and not intended to
 19 say that this would be statistically
 20 accurate. It was just what was available
 21 and this was what was given and obviously 87
 22 percent didn't report anything. So, pretty
 23 limited what we did have. In terms of – you
 24 know, it would be like, if you will, any
 25 limit over time. It may not meet the needs

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1 of policy holders, so the \$25,000 limit was
 2 set in 19 – I don't know when it was set,
 3 but say 1980, presumably and thought that
 4 was sufficient at the time. With inflation,
 5 policy holders, claimants, would not be
 6 getting the same level of coverage when they
 7 are involved in an accident and would have
 8 to call on AB coverage with the same limit
 9 today. So, for reasons that things increase
 10 over time that limits – you know, it's
 11 prudent to review it and see if that's
 12 appropriate.
 13 MR. FELTHAM:
 14 Q. And I'm not suggesting that, you know, it's
 15 our position that it shouldn't be \$50,000.
 16 It's just, I guess, for most folks, based on
 17 these numbers, whether it's 25,000 or
 18 \$50,000 or a million dollars, kind of
 19 irrelevant. They're only accessing or able
 20 to access, on average, \$3,058 in medical and
 21 462 in disability income.
 22 MS. ELLIOTT:
 23 A. Right. And that's for a very small segment
 24 where that information was provided. They
 25 certainly – that's not reflective of the

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1 actual costs for those sub-coverages.
 2 MR. FELTHAM:
 3 Q. So, perhaps that's not very reliable in
 4 terms of what it tells us? Is that what you
 5 mean?
 6 MS. ELLIOTT:
 7 A. It simply tells you for those claimants,
 8 this is what their average is. If you
 9 wanted to look at what the average cost
 10 today is for medical, for AB and for
 11 disability income, that would be a different
 12 number.
 13 (12:15 p.m.)
 14 MR. FELTHAM:
 15 Q. Thank you very much.
 16 CHAIR:
 17 Q. Thank you, Mr. Feltham.
 18 GITTENS, Q.C.:
 19 Q. No questions from APTLA in this regard.
 20 FRAIZE, Q.C.:
 21 Q. No questions.
 22 STAMP, Q.C.:
 23 Q. No questions.
 24 CHAIR:
 25 Q. Consumer Advocate.

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1 MR. WADDEN:
 2 Q. Just going back to the point Colin was
 3 making about uninsured vehicles, and you
 4 know, these questions with respect to how to
 5 fix the problem of uninsured vehicles, the
 6 numbers on the roads, are probably more
 7 properly put to the Registrar of Motor
 8 Vehicles and people like that to speak to it
 9 more anecdotally. But that being said,
 10 given you've done work across the country,
 11 do you have any anecdotal comments or
 12 evidence with respect to uninsured vehicles
 13 on the road and what can or may be done to
 14 reduce that issue, reduce that problem
 15 rather?
 16 MS. ELLIOTT:
 17 A. First of all, not knowing the exact reason
 18 why it is higher in Newfoundland than other
 19 provinces, and if you can get to the bottom
 20 of why it's higher in the province, that
 21 will help solve. But hypothetically, if it
 22 is drivers that get insurance, they get
 23 their pink slip and then they cancel their
 24 policy for whatever reason, they are then
 25 driving with a slip that they can show. To

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1 the extent that when a cancellation occurs
 2 that there's some other link mechanism to
 3 get the plates off that car, perhaps that's
 4 a solution. But I think there are better
 5 people than myself that might dig into the
 6 reason and then find solutions with
 7 everybody involved working together.
 8 Because certainly having uninsured drivers
 9 on the road is not good for anybody. But
 10 I'm sure many people could come up with
 11 ideas.
 12 MR. WADDEN:
 13 Q. Yeah, no, and fair enough. Like I said,
 14 that's probably – I appreciate your comments
 15 and that may be something more properly
 16 answered by some of the Registrar of Motor
 17 Vehicles who sees on the ground what the
 18 causal link is.
 19 I only had one other question. I don't
 20 think we need to go to the particular
 21 paragraph, but you referenced in here in
 22 terms of the number of vehicles in Facility,
 23 I think it's in excess of 10,000 and
 24 approximately 1400 of those vehicles, give
 25 or take, are vehicles that have about

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1 \$200,000 in public liability coverage,
 2 right?
 3 MS. ELLIOTT:
 4 A. Um-hm.
 5 MR. WADDEN:
 6 Q. Any idea of the number of those that would
 7 be taxi cabs?
 8 MS. ELLIOTT:
 9 A. Oh, this is the private passenger -
 10 MR. WADDEN:
 11 Q. Oh, sorry. In the Taxi Cab Report, does
 12 that – I can't remember if that had a
 13 particular number in it. We know pretty
 14 much all of them were in Facility.
 15 MS. ELLIOTT:
 16 A. Yes.
 17 MR. WADDEN:
 18 Q. I'm just trying to figure out how many that
 19 is. Do you know?
 20 MS. ELLIOTT:
 21 A. Not off the top of my head. I'd have to
 22 look again to see.
 23 MR. WADDEN:
 24 Q. Right. Sorry about that. No, that's fine.
 25 Thank you, Paula.

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1 CHAIR:
 2 Q. Thank you, Mr. Wadden. Any questions, Mr.
 3 O'Flaherty?
 4 O'FLAHERTY, Q.C.:
 5 Q. No questions. And that concludes Ms.
 6 Elliott's presentation, Madam Chair.
 7 CHAIR:
 8 Q. Thank you, Ms. Elliott.
 9 MS. GLYNN:
 10 Q. We will be back tomorrow morning, 9:00, with
 11 Dr. Misik.
 12 CHAIR:
 13 Q. Dr. Misik will be -
 14 MS. GLYNN:
 15 Q. I think I'm saying his name -
 16 MR. FELTHAM:
 17 Q. You are correct.
 18 CHAIR:
 19 Q. Thank you so much. Thank you, Ms. Elliott.
 20 UPON CONCLUSION AT 12:20 P.M.
 21
 22
 23
 24
 25

CERTIFICATE

I, Judy Moss, hereby certify that the foregoing is a true and correct transcript in the matter of the 2017 Automobile Insurance Review heard before the Board of Commissioners of Public Utilities, 120 Torbay Road, St. John's, Newfoundland and Labrador and was transcribed by me to the best of my ability by means of a sound apparatus.

Dated at St. John's, Newfoundland and Labrador this 6th day of September, 2018

Judy Moss

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