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ISSN 1180-5218

Legislative Assembly of Ontario

Second Session, 40th Parliament

Assemblée législative de l'Ontario

Deuxième session, 40e législature

Official Report of Debates (Hansard)

Monday 30 September 2013

Journal des débats (Hansard)

Lundi 30 septembre 2013

Standing Committee on General Government

Comité permanent des affaires gouvernementales

Automobile insurance review

Examen de l'assurance-automobile

Chair: Grant Crack
Clerk: Sylwia Przezdziecki

Président : Grant Crack
Greffière : Sylwia Przezdziecki

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Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

COMITÉ PERMANENT DES AFFAIRES GOUVERNEMENTALES

Monday 30 September 2013

Lundi 30 septembre 2013

The committee met at 1404 in committee room 2.

AUTOMOBILE INSURANCE REVIEW

The Chair (Mr. Grant Crack): I'd like to call the meeting to order. I'd like to welcome members of the committee, members in the audience and presenters this afternoon. We're here to consider Ontario regulation 273/13, which is an industry-wide rate reduction target. We have scheduled five delegations that are presenters this afternoon, two of which were scheduled last week, but due to some unique circumstances unfolding in the House, we were unable to hear them. We welcome them back today.

ONTARIO TRIAL LAWYERS ASSOCIATION

The Chair (Mr. Grant Crack): What I would do at this particular point is that I would like to welcome the first presenter, the Ontario Trial Lawyers Association. I believe we have Mr. Gluckstein with us this afternoon. Welcome, sir. You have five minutes and then we'll have 10 minutes from members of the government and the two opposition parties to either ask questions or make comments. Welcome.

Mr. Charles Gluckstein: Thank you. Good afternoon. My name is Charles Gluckstein and I'm the president of the Ontario Trial Lawyers Association. I want to thank you for allowing me to appear in front of you today.

I'm here with John Karapita, our director of public affairs. I may lean on him if there are some questions I can't answer.

As you may be aware, our association is made up of over 1,400 members who represent accident victims. Our purpose is to promote access to justice for all Ontarians and to advocate for those who have suffered injury and losses as the result of wrongdoing by others.

I realize my time is short today so I want to address two concerns with you. The first comment deals with a concern that one of my colleagues and our past president, Andrew Murray, raised to this group a year ago, and that is the need to use caution when changing the auto insurance system and to be aware of the three Ps: protection, premiums and profits.

The second comment I will make is in relation to accountability and transparency, the mechanism that was discussed in the budget.

First, the three Ps: To borrow from Mr. Murray's metaphor, the automobile insurance system as a whole can be compared to a three-legged stool, each leg representing protection, premiums and profits: protection for all policyholders at a fair and affordable price, which is premiums, while allowing insurers to earn a reasonable return on equity—profits. Changes to insurance that favour one of the three Ps at the expense of the other parts of the system are not consistent with a fair, mandatory auto insurance system. I have distributed to all of you the MPP newsletter which grades the three Ps.

Our research indicates that since September 2010, we have a system that guarantees high profits at the expense of auto accident victims as well as the premium-paying public. I appreciate that action is being taken to address premiums, but we state in the newsletter that any changes must maintain a balance among the three Ps; in particular, protection.

The 15% reduction is being processed and implemented over a two-year period, but I urge you not to lose sight of what is happening to injured accident victims. Most of us may never be injured in an accident, but we need to know that our insurance provides adequate protection in the form of medical care, rehabilitation and coverage for the repair of vehicles.

Our system currently short-changes the injured. Members of my association and I see this in our practices every day. Countless victims of auto crashes are only able to qualify for up to $3,500 for their care. And in addition to this low amount of coverage, they are subjected to unnecessary, intrusive and expensive insurance medical evaluations.

Although our members are aware of the current review of the minor injury guideline, I urge you as well to consider ways to provide for greater coverage for individuals through access to courts. Our association has long called for changes to both the deductible and the verbal threshold, which are significant barriers to access to justice.

Certainly, Ontario coverage, which was cut September 2010, must not be further eroded. Any proposed changes in the future, including revisions to the definition of catastrophic impairment, must begin with a thorough, open and transparent analysis of the data on current claims costs and the impact of possible changes on victims.

I'm now going to turn to accountability and transparency. In the spring budget, the government announced that it would be, for the first time, introducing a new accountability mechanism for insurance data. The budget said that the government will create a transparency and accountability mechanism in the form of an independent annual report by outside experts on the impact of automobile insurance reforms introduced to date on both costs and premiums. The report is to review industry costs and changes to premiums paid by Ontario drivers and make recommendations as to further actions that may be required to meet the government's reduction targets.

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I want to say that the minister and the government deserve full credit for bringing this initiative forward in the budget this year. I believe, and it is no exaggeration to say, that this is an unprecedented initiative here in Ontario, and likely across the country, with respect to openness and transparency in insurance data. It is greatly overdue and most welcome. Auto insurance is a mandatory financial service. It only makes sense that the Legislature and the public at large have access to annual reports on the performance of our auto insurance system, the premiums we pay, the coverage we receive and the profit the industry makes.

It is fundamental and of paramount importance that this initiative be implemented as soon as possible. I urge this committee and the members of the Legislative Assembly to act on this priority item. In this time when there are contradictory reports on the financial performance of the industry, this accountability and transparency mechanism would put an end to the debate about a question to which there was really only one answer.

I note that the issue of accountability was included in the recent policy statement from the Minister of Finance. I also note that the commitment stated in the regulation differs materially from the budget papers filed earlier this year. For example, the budget indicates there will be annual reports on reforms to date. The policy statement only makes a vague and passing reference to retaining experts to report on the government's cost and rate reduction strategy. The wording from the budget is obviously much stronger and should take precedence.

Thank you for your time, and I'll welcome any questions.

The Chair (Mr. Grant Crack): Thank you very much. That was almost within the five minutes, just a little bit over. So thank you, sir.

If the committee is in agreement, we'll start with the opposition, third party and then government, and maybe for the next presenter we can switch it around. Would that be reasonable?

Mr. Jagmeet Singh: Yes.

The Chair (Mr. Grant Crack): Okay, so we'll lead with the opposition. You have 10 minutes.

Mr. Jeff Yurek: Thanks for coming out.

Mr. Charles Gluckstein: Thank you.

Mr. Jeff Yurek: It's good to see you. What are your thoughts regarding the Liberals' promise to cut rates by 15%?

Mr. Charles Gluckstein: Thank you for that question, Mr. Yurek. As you can see from the report card that we sent out, we believe that insurance profits get an A+ because they're out of balance. We have done our own analysis on the data and we have found that the return on equity in both 2011 and 2012 exceeded 14% in both of those years, and that was after tax. Our analyst— and this should be further addressed by an actuary, but from a summary level, we understand that before taxes these profits were in excess of 20%. So we believe that the government-mandated 15% rate cut is easily obtainable.

Mr. Jeff Yurek: And what's your opinion on the pace of change they're taking these cuts?

Mr. Charles Gluckstein: It goes back to my comment about caution. When we cut down part of the leg to make the stool even, we have to make sure that the whole product is being considered. If you're going to take away the profits in the system that equalize what premiums should be, then you must make sure that protection isn't affected. I fear that further consideration of changes to the auto insurance product would be really not warranted, and if that's being considered, then we would really urge caution in any of these changes. But if it's simply just phasing in the rate reduction over the two years, there's certainly profit in the system to make that happen without any other changes to the insurance product.

Mr. Jeff Yurek: Thanks. Now, in past committees, we've had lots of discussions on different sets of data that people have used to come up with their profitability of the insurance industry. The debate—we've had representatives here who clearly were totally apolitical and didn't answer a single question. But between GISA and OSFI statistics, which one do you think is better in assessing profitability?

Mr. Charles Gluckstein: I don't want to say I'm qualified to answer that question either. I know there's an actuary presenting today who can probably better speak to that. I'm told, and this is what I can comment on, that GISA is sort of the gold standard in terms of insurance data. It is the most transparent information we have, and it seems to be—if you read from their website, it says, "The main purpose for the collection of this data is to provide premium and claim information to support fair rates." It seems to be saying that the purpose for its existence is to give the numbers and the very analysis that we're relying on. That's why we put a lot of weight on the GISA data.

Mr. Jeff Yurek: And I never doubt GISA data or OSFI data. I also have something from GISA's website. I'll state what's on the website and then ask for an opinion. GISA's website has the following on it: "The current data elements do not accurately reflect the rating variables that the majority of the insurance companies are using." If the data elements do not align with the rating variables, do you think GISA's figures should be valid and used in assessing profitability?

Mr. Charles Gluckstein: Again, I don't hold myself as an expert in looking at differentiating the data. I have been told that if you took 100 companies and their data and you look at it through GISA, you get one number, but if you look at it in the financial statements that get put through on all the individual companies, it's very hard to filter out what all the companies are doing when they bring forward past years of losses and reserve numbers. It's very difficult to differentiate. But GISA puts it all on one big playing field and everything appears clear.

This goes back to my comment about what the budget has said about openness and transparency with insurance data. We wouldn't have this debate over what profits are if we move forward with the openness and transparency that the government has promised in their budget.

Mr. Jeff Yurek: I'll just change what we're talking a bit. Going back to the three Ps you mentioned earlier—which is one of the first three Ps I mentioned when I met with OTLA at the beginning of my tenure as an MPP; they had a great discussion on it. But recently, there was a decision, Scarlett v. Belair. Can you walk me through what your views of that decision are and give us your perspective?

Mr. Charles Gluckstein: Sure. The Scarlett decision is a decision that talks about the minor injury guideline. In that case, there was a consideration of the interpretation of the minor injury guideline, whether it's a mandatory guideline or not, and the arbitrator found in that decision that the minor injury guideline is not mandatory but should just be considered, which takes it out of it being a forced definition. So that decision, I know, has gone to an appeal and we await that decision. It has been argued.

The impact it has, obviously, is: What is the implication of the superintendent's minor injury guideline on other minor injury guideline cases? I think the government did pass regulations to make it clearer that the minor injury guideline should be mandatory, although it's basically a recommendation from the arbitrator as to how to strengthen the wording in the statutory schedule.

Mr. Jeff Yurek: Now, if that goes through appeal and is carried on, what do you think the cost implications will be in the insurance system?

Mr. Charles Gluckstein: I think that decision is still a factual decision. I don't think it will have, you know—it won't have industry-wide implications, necessarily. That was also a case where they were considering a pre-existing injury and a psychological injury, which are not supposed to be in the minor injury guideline. It's really a factual distinction that can be made on that case. So I don't think it's going to greatly change the outlook on what the minor injury guideline implications are.

Mr. Jeff Yurek: And further to that, this decision was from the 2010 reform changes, so it's been over two years to go through the mediation/arbitration system. Can you outline some of the problems that you're seeing in this dispute resolution process? Because I think two years is a heck of a long time to actually obtain an answer.

Mr. Charles Gluckstein: It certainly is, and thank you for that comment, Mr. Yurek. We've just finalized our submissions to Justice Cunningham on the DRS system and our views as to what should be changed. We were asked to do that and two weeks ago we finalized our submissions.

My comment on the DRS system: From 2006 until 2013, FSCO, the Financial Services Commission of Ontario, accumulated a backlog of over 30,000 cases and needed some solutions to resolve it. They brought in privatized mediators. It currently stands that there is no backlog. Our organization supports the Financial Services Commission program on dispute resolution. FSCO also has statistics that show that 60% to 70% of FSCO mediations resolve at the stage of mediation.

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We were asked by Justice Cunningham to decide whether to throw away the system or to offer suggestions on how to make it work better. Obviously, now that there is no backlog, and I know personally that my own cases can be heard within 60 days, I'm in favour of it, as is our association, in terms of keeping it, not throwing it out. But we have some suggestions to make it better, and that is that there are certain disputes that we know will never get revolved at FSCO mediation, and some of those are questions about what category of coverage would apply. So whether you're trying to get out of the minor injury guideline or whether you're trying to get out of the non-catastrophic category and be declared catastrophic, those are disputes that are never going to resolve at a FSCO mediation.

What we've suggested is that the insured person have the ability to opt out of FSCO mediation on their application, and they can be streamlined ahead to arbitration. For those disputes, we think that's a fair way to get it ahead. Although 60 days is not a long time to wait, even if you're not able to opt out, we think that that would be an improvement.

We do think FSCO has the specialized knowledge, both with mediation and arbitration, to handle these disputes rather than privatizing the system. We have some personal experience with the privatized mediators and we haven't had the same success rate in terms of resolving the disputes.

Mr. Jeff Yurek: Thank you.

The Chair (Mr. Grant Crack): Twenty seconds.

Mr. Jeff Yurek: Very much.

Laughter.

Mrs. Donna H. Cansfield: Touché.

The Chair (Mr. Grant Crack): Thank you, Mr. Yurek. We'll move to the third party and MPP Singh.

Mr. Jagmeet Singh: Thank you very much for being here again. Let's move right into the questions.

You touched on this in terms of your giving the insurance profits an A+ in your report. If I could ask you to comment on the industry claim that their return on equity was between 1% and 4% in 2011 and 2012: Do you think that value is too low, and, in reality, where does it stand? I'm assuming that your position is it's much higher than that.

Mr. Charles Gluckstein: Thank you, Mr. Singh. The report card that we've distributed is in response to what we've seen the industry or the IBC promote as what they say the data shows in terms of profits. Our own financial expert has talked to us and they've told us the numbers are quite different, and that's what is revealed in this report card.

I obviously am not—I don't have an actuary background and I can't differentiate that, as other experts can. What I can tell you in terms of the difference and from what I understand is that individual companies who have financial statements will employ all sorts of different methods in calculating their individual profits, but when you look at the industry as a whole, we say the GISA data should be the gold standard.

Mr. Jagmeet Singh: Something that has been coming up time and time again in the Liberal government's position on reducing auto insurance is that they need to remove costs out of the system. That's something that has been said time and time again.

Our concern as the NDP is that costs have already been removed out of the system and we don't think—if the suggestion is that costs need to be removed out of the system, meaning that the coverage needs to be reduced or something along those lines, we're very much opposed to that.

What is your position on this comment that costs need to be removed out of the system and that needs to happen for the reductions to take place?

Mr. Charles Gluckstein: Thank you. That's a very important issue to discuss.

Obviously, we applaud the government in moving forward with the anti-fraud task force, and we hope that there will be some savings in the system when some other measures are implemented. In fact, 85% of those measures are measures that our association also put forward and agreed with. So I think tackling fraud is one area where you probably could look at some savings in the future.

In terms of taking it out of the protection, we don't believe that there are any further savings. In fact, we think it has gone way too far, and the lag for profits is much longer than the lag for protection. That's the problem: If you start looking at further ways to erode the coverage, you're really not getting covered for anything anymore.

To look at the catastrophic definition, the analysis that was done the previous round did not look at any data on who was catastrophic and what the payouts were in terms of the issue and the problem that the industry was facing. In fact, the medicine that was employed to look at the definition was done in a very quick fashion, and it wasn't done to the same degree, for instance, that they're taking this full-year study to look at the minor injury guideline. I would expect that for the most vulnerable and the most catastrophically injured, there would be a very large group of experts compiled and taking their time over a longer period of time to make sure they've got it right, if they're going to do that.

Mr. Jagmeet Singh: Okay. You touched on this briefly, and I just want you to elaborate on it. In the budget, there was a commitment to addressing this concern. What are the insurance industry's profits, actually? If there are significant profits, then we don't need to look at reducing coverage for the catastrophically injured, and if the profits are significant, then we can start looking at premium reductions. As long as we have a lack of transparency on reporting what the actual profits are, we're left with this potential, I think, catastrophe where further cuts may be suggested or implemented because there's this fear that there are not enough profits.

What's your opinion on the importance of having clear and transparent data with respect to profits? Could you frame that in terms of maintaining protection for consumers in terms of the product and providing a vehicle to really getting at what the proper premium, the third leg, should be?

Mr. Charles Gluckstein: The open and transparent process that we've asked for is the same process and mechanism that was announced in the budget. We believe that if you move forward on that recommendation and you have an independent expert involved to compile the data on a regular basis, we won't have this debate every year on what the profits are.

It's our view that the industry has made almost a billion and a half in each of 2011 and 2012, simply with premiums, and there's enough in that profit to get that 15% reduction over the two years.

Mr. Jagmeet Singh: If it could be established that the profits that the industry was enjoying were significant, then would you agree that there wouldn't be any need for the industry or the government to look at reducing the number of folks who fall within the catastrophic category? Do you agree with that comment, and would you like to elaborate on that connection?

Mr. Charles Gluckstein: I would like to elaborate. To target the most vulnerable category, we're talking about 1% of accident victims. If there are 70,000 or 65,000 accident victims, we're talking about less than 1,000 people. These are the people who have brain injuries; they're amputees; they're paraplegics; they have multiple physical injuries or psychiatric injuries. These are the most vulnerable of all accident victims. Why is the industry looking to target this group for further reductions and contraction of the policy? There's no data to support it, and it's curious as to what the desire is to pursue this category.

Mr. Jagmeet Singh: With respect to the current cap, there's a $3,500 cap on minor injury guidelines. How has that minor injury guideline impacted industry profits specifically, and what is your experience with respect to how that cap is being used by the industry?

Mr. Charles Gluckstein: The $3,500 cap is the minor injury guideline. It was a new category that came in in September 2010. We've been told from the Financial Services Commission and from the industry that about 70%—and it could be higher—of all accident victims fall in this category. This category, pre-September 2010, was entitled to a policy that allowed for $72,000 in attendant care and $100,000 in medical rehab dollars if it was reasonable and necessary. Those individuals now get $3,500 and no attendant care coverage, so it's a huge savings in the system.

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To create that category, unfortunately, there was no research done to figure out what and who should go into the minor injury guideline. In fact, I was on the committee, and the committee that was struck by FSCO with stakeholders simply took the pre-approved framework that was set up based on the Quebec whiplash study for WAD 1 and WAD 2, and they switched the title. They took the title and they switched it to "minor injury guideline," so now you've got people with strains and sprains being treated for whiplash, essentially. The same amount of money that a whiplash victim gets is what these people get.

Obviously, there were record profits that could be generated out of that, and that is, I believe, directly in relation to the profits that you've seen, the $1.5 billion in both years. We think the pendulum has swung too far that way. We hope that with the minor injury guidelines study there will be some better expert evidence as to what these minor injuries need in terms of treatment, and hopefully there will be greater coverage for these individuals.

Mr. Jagmeet Singh: How much time do I have left?

The Chair (Mr. Grant Crack): Just under a minute.

Mr. Jagmeet Singh: Okay. You'll have just under a minute to respond, then.

Just a final clarification: If we were able to have a clear and transparent accounting of the profits, what is your position with respect to the industry's ability, then, to go after the catastrophic definition? If we knew for certain what the profits were, would the industry be in a better or worse position to then look at the catastrophic injury guideline?

Mr. Charles Gluckstein: If there are going to be any further changes to auto insurance, there has to be data to show what the trends are and what the concerns are. I think that previously the industry showed that the accident benefits system was out of proportion, and that's why there were these September 2010 changes, but to go and look at the catastrophic injured people, there was no data for that. If there are going to be further changes to any part of the product that affects protection, there should be data to support it, and that data should be from a consensus view from that open and transparent report.

Mr. Jagmeet Singh: Thank you.

The Chair (Mr. Grant Crack): Thank you very much. Who is the lead from the government side? Madam Damerla.

Ms. Dipika Damerla: Thank you, Chair, and thank you, Mr. Gluckstein, for coming today. I learned a lot in the last 25 minutes.

I'm just going to begin with this: $3,500 is the ceiling in Ontario when it comes to minor injuries. I know you say that that's among the lowest in Canada, and I was just wondering if you could give me a jurisdictional scan. I thought BC was about the same, so just give me some idea of what the other provinces would pay in the case of a minor injury.

Mr. Charles Gluckstein: I'm not prepared for that question, but I can certainly get back to you on that, unless Mr. Karapita has that answer at the top of his mind. Certainly I'll get back to you on that.

Ms. Dipika Damerla: Okay. Since you've said it's the lowest, I presumed that you'd have some basis of evidence for that, but that's all right.

My understanding, also, is that on the catastrophic side, Ontario has amongst the richest benefits. I just wanted your views on that.

Mr. Charles Gluckstein: Well, prior to Bill 59, which came out in 1996, we actually had an even better system, under Bill 164, that was more generous than it currently is, in that we had no restriction on attendant care. Now we have a $6,000 cap and a million-dollar limit. In fact, all injured victims were eligible for all categories of coverage. There wasn't a catastrophic category. I don't believe there exists another catastrophic auto category, unless we look at the US system. I think Michigan has a catastrophic category. I'm not clear on—I think the coverage is similar.

Ms. Dipika Damerla: So let me just reframe that, then. If somebody had a catastrophic injury, say, in Manitoba—I'm just trying to understand—would their benefits be fairly similar to what somebody—I understand that they may not have that definition, but if somebody did have a brain injury—

Mr. Charles Gluckstein: I have a chart back in my office, and that's how I did come up with that comment earlier, that tells me each jurisdiction. Manitoba, I believe, is public, so it's just a no-fault system. They don't have the ability to claim in tort, and I believe it is a similar type of recovery system, but I don't know if they classify the injuries based on cat. It may have been closer to the Bill 164 system.

Ms. Dipika Damerla: I'm just wondering, because I know this is important for your industry: Can you explain for us how the definition of catastrophic impairment would affect the benefits that someone gets?

Mr. Charles Gluckstein: There are currently six categories that can qualify for catastrophic injury: spinal cord injured; brain injured; amputee; blindness; multiple fractures, which make up a whole-person impairment; or psychiatric impairment. The coverage goes to a million dollars for medical and a million dollars for attendant care, plus you get the housekeeping coverage and the caregiver benefit for those categories—different than the other levels of coverage. There's a lot of important coverage in there for people, for instance, who have a spinal cord injury. If they're left with the $50,000 medical coverage, that's going to be a huge burden on the OHIP system.

Ms. Dipika Damerla: Those benefits are well deserved, because these are people—as you said, they're a very small percentage, 1%, who have had the most horrific accidents and, absolutely, they should get the benefits that you've just spoken to.

What about psychological issues? Where do you stand when you consider this one compared with physical injuries?

Mr. Charles Gluckstein: Psychiatric injuries have to be pretty serious to qualify as catastrophic. We're talking about people who could be committed to a hospital based on their inability to manage life in society as a normal adult. It's quite an extreme behaviour that would qualify. Once again, I don't know what the statistics are because we've never seen them. It would be interesting to see how many actually get declared catastrophic under that category. Oftentimes, the case law now allows you to combine your psychiatric score with your physical impairment score. We've seen that in the Kusnierz decision, where the amputee was allowed to use the psychological classification to get him over the 55% coverage. It's important that that was considered because the individual is an amputee and they needed all that coverage.

Ms. Dipika Damerla: Your point about the reduction to $3,500 from, I think it was, $72,000 and $100,000 is well taken. Clearly, there was some benefit to the insurance companies once we brought in that definition of a minor injury. That point is really well taken.

I did want to come back to the idea that as we try to reduce premiums for Ontarians, we really have to balance the profits, as you mentioned, of the insurance companies with the premiums that they charge. There is some relationship between those two, and I know that MPP Yurek referred to it as well. There is some concern that the courts now might be overturning the idea of what we define as a minor injury, and insurance companies are concerned that means that they would not be able to project very well what their claims payout could be—because you don't know, once the courts start to overturn these definitions, how that might play out in terms of insurance premiums going up again. I just wanted your thoughts on that.

Mr. Charles Gluckstein: Thank you for that question. It's a two-part question. First is the impact of the decision, but second is the importance of the category—the minor injury guideline.

I want to answer the category question first and just refer you to a client of mine who I helped. This individual plays hockey in the US and had a few concussions playing hockey. He lives in Ontario and plays hockey in Minnesota at the university. He came back to Ontario for the summer and training, and was in a pretty bad crash. His car was written off. His injury was a concussion. You can imagine, after having two prior concussions, that it's not great to have a third concussion. It's actually much worse than if it was his first concussion. The insurance company, in this case, put him in the minor injury guideline. The minor injury guideline is sprains, strains, whiplash-associated disorders. The definition is quite clear, and this didn't fit in the definition. It took me about a year, with medical evidence from the Mayo Clinic in Minnesota, to convince the insurer to change the category. All that year, this individual sat out his hockey season—he was a junior in university—and wasn't able to get access to treatment without his parents and the university funding it for him. The insurance system failed him. He would have had access to $50,000 worth of medical treatment, and he would have had some other coverage that would have helped him; rather, he got the $3,500, which was used quite quickly.

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So we have to use some caution with what we've come up with, because the minor injury guideline, as I mentioned, was invented just by taking the whiplash-associated disorder schedule for the two pre-approved treatment frameworks and slapping a new title on there. I hope that the expert committee has some good recommendations after they've done their study.

The second part of your question is the impact of the Scarlett decision. I go back to my earlier comments that this decision did not interpret the minor injury guideline definitions, so the definitions have not been challenged. They are still intact. If you open up the Statutory Accident Benefits Schedule, there's a preamble to the minor injury guideline, where the superintendent writes a letter asking that this guideline be considered. That is what tripped up the arbitrator. In fact, the superintendent had the power to have this regulation be mandatory, and the arbitrator would have used it as a mandatory guideline but for the fact that there was this preamble in the letter where the superintendent said it shall be considered. That's why the decision is a little bit off in terms of understanding what the impact of the minor injury guideline is. In fact, a new preamble would solve that issue. Your government also passed legislation to strengthen the fact that the minor injury guideline should still be treated as mandatory. I don't think this case has the far-reaching application—and, once again, the case was very fact-specific. It was another example of a lady with a pre-existing injury, which is one of the reasons in the minor injury guideline that you can get out of the minor injury guideline. There were a lot of reasons why that decision can be distinguished and not concern that it will have wide application.

Ms. Dipika Damerla: I really appreciate that clarification. That was important.

The Chair (Mr. Grant Crack): Twenty-five seconds.

Ms. Dipika Damerla: In that case, thank you very much. I learned a lot. Again, thanks for coming.

The Chair (Mr. Grant Crack): Thank you to the three parties, and thank you, Mr. Gluckstein, for coming forward. It was very informative, and we appreciate you taking the time. Have a great day.

Mr. Charles Gluckstein: Thank you very much.

INSURANCE BUREAU OF CANADA

The Chair (Mr. Grant Crack): It's my pleasure, as Chair, to welcome the Insurance Bureau of Canada. I believe we have Doug DeRabbie, Barb Sulzenko and Barb Taylor with us today. Is that correct?

Ms. Barb Taylor: Yes.

The Chair (Mr. Grant Crack): Good. Welcome. You have five minutes to make your deputation, and then we will hear questions and comments from the three parties.

Ms. Barb Taylor: Good afternoon. My name is Barb Taylor. I'm the director of policy for Ontario for the Insurance Bureau of Canada. I'm accompanied by Barb

Sulzenko-Laurie, the vice-president of policy, and Doug DeRabbie, the director of government relations. We appreciate this opportunity to present to the Standing Committee on General Government.

As we have said in the past, consumers deserve a competitive auto insurance system that delivers affordable premiums for all drivers and fair benefits for injured collision victims. This can only be achieved with a commitment to real reforms that address costs.

Earlier this year, the government introduced legislative amendments as part of its cost and rate reduction strategy that committed to an average rate reduction of 15% over two years, with an interim target of 8% by August 2014.

Reducing auto insurance rates without a plan to tackle the root problems in the auto insurance system will have a negative impact on drivers, insurers and, ultimately, Ontario's economy.

Auto insurance is a competitive industry. Some companies have been able to take premium reductions and others have not. This is because while the 2010 reforms were much needed, they have not produced the savings necessary to dramatically decrease rates, certainly not by 15%. Prior to the reforms, the industry was losing over a billion dollars a year. The reforms helped to stop that bleeding. In fact, some parts of the auto insurance product have experienced rising costs, such as bodily injury costs.

Since premiums are tied to claims costs, we are encouraged to see that the budget includes measures that help reduce costs. Anti-fraud measures such as the licensing of health care clinics and the expansion of the provincial regulator's authority, along with conducting studies such as on dispute resolution and towing, are a move in the right direction. We also know that the government is in the process of hiring experts who will do an independent annual review of the auto insurance system, with a view to recommending ongoing reforms.

These are all important measures, but each will take time to implement. That makes it all the more important that these measures have a specific cost reduction goal so they can translate into lower costs for the industry and lower premiums for consumers.

Fraud has been an ongoing and entrenched concern for the industry for many years, with many parties having a vested interest in maintaining the status quo in the auto insurance system for their own personal gain. This will not change overnight.

No one can dispute that auto insurance in Ontario is a very high-cost insurance product, particularly when it comes to compensation for injury claims. We need only look at the fact that bodily injury tort claims in Ontario result in an average payment of $148,686. In Alberta, it's $36,475; in New Brunswick, it's $39,475. Similarly, for no-fault injury claims, the average payout in Ontario is $28,390. In Alberta it was $3,626, and in New Brunswick it was $11,415.

We believe that much more needs to be done if the government's targeted reductions are to be achieved and if Ontario's drivers are to finally reap the benefits of ongoing premium stability enjoyed by Canadians in every other province. To that end, IBC has recommended actions for further reform. These include measures that safeguard the goals of the 2010 reforms by removing excessive and unnecessary over-utilization of available benefits, acting on the recommendations of the expert review of the dispute resolution process, addressing the spiraling costs of bodily injury tort claims, and simplifying rate regulation. We must do these things, and do them quickly, for the benefit of all Ontario drivers.

Now we would like to take a moment to address the allegations that the industry is in a financial position to immediately reduce rates.

In March, IBC released two reports, one done by KPMG and the other by Joe Cheng. The KPMG report showed that during the period of 2008 to 2012, losses were at an all-time high of $3 billion. KPMG estimated the return on equity at 3.3% and a net income of $294 million. Joe Cheng's report had similar results: a return on equity of 4.9%, and $492 million.

Both reports were based on financial data using the Office of the Superintendent of Financial Institutions. The rate is far lower than the 11% return on equity allowed by FSCO and far below returns of other industries, such as banking at 16.5%, retail at 12.2%, and securities at 12.6%.

To conclude, it's quite simplistic to call for a drastic rate change without a plan. A straight 15% cut to premiums would turn a modest profit in 2012 into another significant loss for the over 90 insurance companies that operate in Ontario auto. We need perseverance to build a sustainable, stable and affordable auto insurance system. Although the budget introduced measures that will help reduce costs, they will not fix the problem soon enough. More and ongoing reforms are needed to help insurers move closer to achieving rate reduction targets.

If we invest the time and effort to make the right changes, Ontarians will get the effective and affordable auto insurance system they deserve.

Thank you for the opportunity to address you today.

The Chair (Mr. Grant Crack): Thank you very much, Ms. Taylor. We will ask the third party to begin the questioning. Mr. Singh.

Mr. Jagmeet Singh: Thank you very much.

In referring to the two reports that you spoke about, my question is in reference to those. What role does increasing or pumping up your reserves have in reducing your stated profits? So how does attributing reserves or increasing that value impact your profits—first part.

If you increase your reserves, you decrease your claims payouts: Is that correct?

1450

That is the difference between using OFSI data and GISA data. The GISA data has a far lower claims payout. Therefore, if you use GISA data your ROE would be much higher.

That was a three-part question, and I can break that down again for you at any time.

Ms. Barb Taylor: I'm not an actuary. I think those questions would probably be best handled by the persons involved in doing those reports. What I can say is that the reason we would use the financial data offered by OFSI is that that data is actual data, whereas GISA data is an estimate. If you look back at the presentation to this committee back in May, FSCO presented as well, and they also indicated that to analyze the return on equity, they would suggest that it would be more reliable to use the financial data. The financial data does include our reserves, whereas the GISA data does not.

Mr. Jagmeet Singh: Are you aware of the impact that increasing or decreasing reserves would have on your profits? I suggest to you that if you increase the reserves you would immediately decrease the profits reported. A simple accounting of increasing or decreasing reserves would have an immediate impact on increasing or decreasing profits, though there's absolutely no difference in terms of the circumstances surrounding the data. Do you agree with that?

Ms. Barb Taylor: Again, as I said, that would be a better question for the people involved in doing the actual studies.

Ms. Barb Sulzenko-Laurie: If I could just add a comment: Insurance companies are required, when they get a claim, to reserve against the potential ultimate payout, and that is included in the OSFI data. But I think the other point, in terms of the whole issue of the transparency of the profitability of the insurance industry—I think you'll recall that last May the executive director of GISA was here and said that they were undertaking a study of expenses and profits for Ontario auto and that they expected that that report would be available sometime at the end of the summer or fall. Certainly we're looking forward to receiving that report, and I'm sure this committee is looking forward to receiving that report. It's interesting because GISA actually does the collection of the data. If they've done an analysis of profitability as well as expenses—I'd really like to look forward to that report.

Mr. Jagmeet Singh: Thank you so much. The concern we have is that the perspective that's being projected by the IBC that the insurance industry is not making a significant profit is something that we have a hard time believing and I think even the government has a hard time believing, given the fact that they're moving forward on the NDP budget demand of reducing insurance premiums by 15%. Do you agree that there are certainly people who have a concern with the numbers that you're raising and that there seems to be a much more significant profit than you are presenting as the IBC?

Ms. Barb Taylor: It has certainly been a topic of debate. One thing I can refer you to are the two economists that were tasked with looking at the return on equity for the industry. They determined that the overall return on equity for the last 10 years was approximately 4%. This was two independent actuaries. They are both professors from York University.

Mr. Jagmeet Singh: My other concern is that if we look at the past number of years when the 2010 amendments came into effect, from 2010 to 2011 and from 2011 to 2012, in that time period when there have been significant cost reductions—and I think we all agree that there have been the most historically significant cost reductions that this province has seen—that, given those cost reductions, the premiums haven't come down. If we look from the 2010 period to present, there's been an increase of 4% in terms of premiums. If your projections or estimates of profits turn out to be wrong, then there have been three years where the insurance industry has enjoyed significant profits, historic profits, and Ontario residents and Ontarians who drive here in this province have not received anything. There's no way for them to receive a return on this significant profit that insurance companies have made but a significant premium reduction that didn't occur that Ontarians were looking for. Do you agree with that comment?

Ms. Barb Sulzenko-Laurie: I understand the logic of your question. Having said that, in the years building up to those reforms, the industry was losing billions of dollars a year. The last year before the reforms came in, our estimate was a loss of $1.7 billion that the industry incurred. So, while the reforms of 2010, at least on paper—and I emphasize that: on paper—have produced some savings, even if those paper savings end up being real, it just brings us back to the point where we're not losing money in the extraordinary sense that we were prior to the reforms.

I said that they're paper savings as well, because there are so many of the minor injury claims that are currently in dispute in the FSCO mediation/arbitration system and ultimately in the courts that we won't know for some time to come whether there are any savings at all, depending upon the outcome of those disputes.

Mr. Jagmeet Singh: Well, I beg to differ. In terms of the backlog, I think it's very clear that we have a very strong sense that the backlogs have been addressed and that, moving forward, there isn't going to be a significant spike in any way, given the statistics we have and the evidence we have in terms of where the results are, and it would be pure speculation to suggest otherwise.

But I have another question I'd like to ask you. On page 3 of your report, at the top of the page, it has a paragraph where you cited the difference in terms of average payments in Ontario versus Alberta and New Brunswick. In fairness, the system is quite different in Alberta versus Ontario, so you're not comparing apples to apples. I'd ask you if you agree or disagree with this comment. In fact, in Alberta the claimants have access to the courts, so a substantial portion of the costs that are actually attributed to each claim is borne out by the tort system, so that wouldn't be covered by this fact here. In Ontario, it's a different case where, for minor injuries, there's no access to the courts, so the injuries that are paid out on a minor injury basis don't meet a threshold to actually go to court. So there's a significant difference in the systems.

Ms. Barb Sulzenko-Laurie: You'll note, again, from the numbers that we presented here, that the average cost of both a no-fault claim and a tort claim in Alberta is much, much lower than it is here in Ontario.

Mr. Jagmeet Singh: My question was that the systems are quite different. You're not actually comparing—

Ms. Barb Sulzenko-Laurie: Actually, they're not so different. In fact, you were talking earlier about the definition of "minor injury" that's in the minor injury guideline. It's very similar, if not almost identical, to the definition of "minor injury"—

Mr. Jagmeet Singh: I wasn't referring to the definition, but the system in Alberta is significantly different from Ontario. I hope you're not suggesting to this committee that they're similar systems when they are—

Ms. Barb Sulzenko-Laurie: I don't think so. I think there's been an enormous harmonization of the systems over the course of the last 10 years. Alberta has increased its no-fault threshold to $50 million. Ontario now has a no-fault threshold of $50 million. Both of them have access to the courts, and so I think that the system here and in Alberta, as well as in the Atlantic provinces, has been substantially harmonized over the course of the last 10 years.

Mr. Jagmeet Singh: Well, we'll certainly bring evidence forward to suggest that the systems aren't actually as similar as you're claiming they are, but we'll move on.

One of the interesting points is that there are two different reports that were presented by two different—

The Chair (Mr. Grant Crack): One minute.

Mr. Jagmeet Singh: —actuarial consultants, and there is such a significant difference—$200 million—in terms of the spread between one report to the other. Do you agree that there is a significant issue here with getting to the facts of what the true profits are in the industry, and that we need a transparent and accountable mechanism to actually get at what the true profits are in this industry? Do you agree that there are certainly problems, when your own reports have a $200-million difference between the two of them? There's something wrong in this way of accounting.

Ms. Barb Taylor: The reason for the difference is that each individual actuary will make assumptions with regard to allocations, because there are allocations by province and by line that have to be made on the product. That's basically where the difference would be.

Mr. Jagmeet Singh: My question is, doesn't that contribute to a significant problem if we're trying to make decisions on whether there's been profitability and what steps we need to take to ensure that our protection is maintained and that the premiums go down in a fair manner? If the consultants, the actuaries themselves, are finding $200 million different between them, there's a problem here in being able to provide an accountable, transparent way of presenting the actual profits the industry is making. Do you agree that that difference speaks to the problem that we're facing?

Ms. Barb Taylor: I actually don't think that's a—

The Chair (Mr. Grant Crack): Time is up. If you could maybe just wrap this one up quickly, I'll allow it.

Ms. Barb Taylor: I just refer back to the GISA report that's going to be available.

1500

The Chair (Mr. Grant Crack): Thank you very much. Government?

Ms. Dipika Damerla: Thank you, Chair, and once again, thank you to Barb and Doug for being here.

Actually, I'm just going to continue where MPP Singh left off, because I don't think I really got a chance to hear the answer on why there is this difference in average payouts between Ontario and the other provinces; I think we got caught up in whether we were comparing apples to apples or not. But assuming we're comparing apples to apples for a minute, could you explain why there is this difference?

Ms. Barb Sulzenko-Laurie: Ah, yes. I spent many, many, many hours and days thinking about the differences.

Ms. Dipika Damerla: I think it is the crux of the issue, as well.

Ms. Barb Sulzenko-Laurie: And the problem with Ontario auto is not new. It's been building up over 20, 25 years as a result of the incredible richness of our product. Efforts have been made in recent years to rein that back, whereas in some of the other jurisdictions they have been moving it towards the Ontario—

Ms. Dipika Damerla: Sorry, I can't hear you.

Ms. Barb Sulzenko-Laurie: In other jurisdictions, they have been moving, in some respects, but cautiously and with a great deal of oversight over the operation of the system and the stakeholders in the system. As a result, they have been able to control the growth in those costs.

Over 20 years we've had the build-up of cottage industries around towing, med rehab, psychology, physiotherapists, chiropractors and so on, that have taken advantage of the fact that there was this very, very rich Ontario auto insurance product. Currently—

Ms. Dipika Damerla: Can I just stop you? Are these numbers historical or they after the 2010 reforms?

Ms. Barb Sulzenko-Laurie: They are what the situation is right now. These numbers are 2012 numbers that we've cited here. But when you ask the question as to why it has happened that Ontario has become such a very expensive auto insurance system, it's the product of 20 years of neglect and a very rich product that a lot of stakeholders have seen as an opportunity to make good livings off.

Ms. Barb Taylor: Just as an example, there are over 9,000 medical and health providers that are registered on HCAI providing services to auto insurance claimants.

Ms. Barb Sulzenko-Laurie: And there are only 62,000, 63,000 claimants, so there are 9,000 providers that are making a living off something like 62,000, 63,000 injury claimants.

Ms. Dipika Damerla: The part that puzzles me is that if 70%—that's my understanding of the numbers that were discussed earlier—of the claims are covered off by the $3,500 cap, which is a substantial change from before 2010, the vast majority are clearly being capped at

$3,500. Despite that, why is there such an anomalous situation? The portrait you're painting is of runaway claims costs, but I'm trying to square that with the idea that 70% of people who have an accident in Ontario cannot claim more than $3,500.

Ms. Barb Sulzenko-Laurie: I think there's no question that the 2010 reforms have had an impact. There's no question about it. We would not deny that at all, but what we're coming from is a period when the industry was losing $2 billion a year. As a result, some substantial reductions in the cost of minor injuries as well as more serious injuries were necessary in order to break even. At the same time, of course, what we've been seeing is a surging tort cost within Ontario in the post-2010 reform period.

Ms. Dipika Damerla: Fair enough. Would you be able to tell me what, in your opinion, is the biggest challenge to lowering the cost of insurance rates?

Ms. Barb Sulzenko-Laurie: I think the government has probably got it right. There's not a single thing that needs to be done. It took 22 years to mess up the system and hopefully it's not going to take 22 years to fix it up.

But there are problems with the dispute resolution system. There are problems with the enormous backlogs in the courts, as well. It takes two and a half years to get to court on a tort claim, which then shows up in terms of the interest that's payable on the awards and so on. There is the expectation of the med rehab community that they're going to continue to be able to make as good a living off auto insurance and it's hard to push that back. It will take a while, but we're saying start now.

Ms. Barb Taylor: Including fraud. I mean, fraud has been a concern for the industry as well. We really have to cut back on—eliminating that from the system. It takes time, because there have been behaviours going on in the industry for a long time, and to change those behaviours will take aggressive measures.

Ms. Dipika Damerla: Thank you for bringing up the issue of fraud, because that is a central part of the problem we're trying to tackle. Would you be able to give me some idea of how fraud in Ontario compares with fraud in other jurisdictions?

Ms. Barb Taylor: I would say fraud in Ontario is particularly fraud in the GTA. It's not throughout Ontario. It's prevalent in the GTA. If you look at those 9,000 providers, I would think the majority probably are in the GTA. There's fraud from right out staged accidents to where you get into perhaps overtreatment, prolonged stays away from work, things like that. There's just opportunity there to find loopholes in the current system and that can be taken advantage of.

Ms. Dipika Damerla: My final question before I turn it over to MPP Hunter is the internal rate of return: Can you link for me what reducing FSCO's internal rate of return that we guarantee for the insurance companies—what kind of impact would it have on the insurance industry and costs on premiums?

Ms. Barb Taylor: You mean going from—

Ms. Dipika Damerla: Yes, reducing the internal rate of return.

Ms. Barb Taylor: —from 12% to 11%?

Ms. Dipika Damerla: Yes.

Ms. Barb Taylor: Like I said, on average, the industry has not made the 11% or 12%, but that's a target and that's basically for rates going forward in the future. Insurers use that as part of their calculations, so it is very important to them. But as far as whether insurers are on average achieving that, they have not been. But that's not to say—it's a competitive industry. Some insurers strive to reduce their costs, become more efficient and effective in their operations. That's what it's encouraging: innovations, creativity.

Ms. Mitzie Hunter: How much time, Mr. Chair?

The Chair (Mr. Grant Crack): You have two minutes and 35 seconds.

Ms. Mitzie Hunter: Okay. I have two questions. Just continuing along the question of fraud—and you said this is a specific GTA issue as it relates to Ontario—I'm wondering what you see as some of the approaches that we can take to get at this issue, and do you see the industry itself playing a role in that?

Ms. Barb Sulzenko-Laurie: Well, some of the initiatives have already been initiated by the government insofar as some of the regulations that have recently been passed. There's also the proposal of the anti-fraud task force to require licensing of med rehab clinics, and with the licensing, a requirement for their transparency, their communication with their patients or their claimants and their adherence to standards of practice that represent the best medical knowledge as to how to treat these types of injuries that arise from motor vehicle accidents. Some of these initiatives are under way, and also the use of HCAI data to more easily identify potentially fraudulent situations. They're not going to happen overnight. We need a culture change. Yes, licensing of clinics and the adherence of 9,500 clinics to standards and being held to account will move the system forward a great deal, but it's not going to happen tomorrow. We need a culture change.

Ms. Barb Taylor: And certainly there is more authority to be given to FSCO with respect to clamping down on fraud; as well, the ADR study that's being done by Justice Cunningham. We're very hopeful that that study will show a lot of progress on how there can be changes to the whole system.

Ms. Mitzie Hunter: And the industry, in terms of what you see the industry itself being able to do about this issue?

Ms. Barb Sulzenko-Laurie: The industry does have anti-fraud units in every single insurance company, and they have to, because there's always a potential for fraudulent claims. The industry has a responsibility to be vigorous in the identification of fraud in terms of the benefit to its own bottom line, but also, most importantly, to the benefit of consumers.

1510

The Chair (Mr. Grant Crack): Okay. Thank you very much. That's just over the 10 minutes. We'll go to the official opposition. Mr. Yurek.

Mr. Jeff Yurek: Thank you, Chair. I just want some clarification before I dive into my questions, because it has come up from the last presenters and during questioning with the NDP. Mediation's backlog has been cleared. Now, are all these cases in arbitration now, or is everything clear? Let's get this—

Ms. Barb Sulzenko-Laurie: An awful lot of them have gone to arbitration. So we had a backlog in mediation, and now it's replaced by a backlog in arbitration.

Ms. Barb Taylor: They don't call it a "backlog" in arbitration, because there was never a 60-day timeline.

Mr. Jeff Yurek: Just the wait-list.

Ms. Barb Taylor: And also, basically, there were about 24,000 mediations being registered every year, but what's happening now is that there isn't the—it's not called a backlog, because within 60 days they're being assigned, but that means they are basically sitting on somebody's desk. They haven't gone away. They're assigned and on someone's desk, whether it's a FSCO mediator or whether it's ADR Chambers.

Mr. Jeff Yurek: So it wouldn't be speculative at all for you to say that because these cases haven't gone through arbitration, there's a potential that your costs could drastically go through the roof through these arbitration cases?

Ms. Barb Sulzenko-Laurie: Absolutely, because the arbitration decisions will be, of course, retroactive to the passing of the regulations in 2010, so potentially, you know, there's no constraint on what the ultimate costs could be, with some disadvantageous arbitration decisions.

Mr. Jeff Yurek: So, otherwise, if you go to the task of the NDP's thought process, then, you'd have to assume that every single case is going to be ruled in your favour. Does that occur all the time in arbitration, in previous history?

Ms. Barb Sulzenko-Laurie: Very seldom. Very seldom.

Mr. Jeff Yurek: Okay. I'll go on with my questions. I just wanted to clarify; I was getting so confused with what was being said today.

IBC runs ads that I've noticed around, saying that your ROE in 2011 was 1.3% and in 2012 it was 4%, and we have a report coming to committee later on today saying that it's around 14%. Why is there such a huge difference?

Ms. Barb Sulzenko-Laurie: I can't speak to the report that you're going to receive today—you know, who did it and how it was done. I haven't seen that report, but the reports that we've had done have been done by very respectable organizations, KPMG and Joe Cheng and Associates. But again, we refer you to the GISA report that's going to be coming out. It is going to be transparent, and you can examine it. We're certainly very anxious about looking at it as well. We expect that it will find results that are similar to the analysis that was done by our experts, because we chose them for their expertise, but we'll look forward to it.

Ms. Barb Taylor: Basically, the ad was based on the KPMG data, so if you are looking for the specific analysis on the numbers, we have those available and can provide it. That's where we got the numbers for the ad.

Mr. Jeff Yurek: Okay. It has also been said lately in the media that the insurance industry has been raising auto insurance premiums in response to the mandated 15% from last March. Is that true? And explain, yes or no, if it is true, why, and then let me know why rates are going up right now.

Ms. Barb Taylor: Absolutely untrue. If you look at FSCO's rate approval system for 2013, rates have gone down just over 1%. In the prior year, I think it was 0.2%—a smaller one, 0.26%—so you have to basically look at those changes overall that have come through. They're posted quarterly, and if you look at those, you'll see the kind of average rate changes that come through.

Mr. Jeff Yurek: So is it possible for the insurance industry just to start hiking rates immediately?

Ms. Barb Taylor: No. For example, my renewal is in October. If my insurer were to come in with a rate increase, I probably wouldn't see it till next October.

Ms. Barb Sulzenko-Laurie: There's no rate that can be charged in Ontario that hasn't been approved by FSCO. It's all subject to regulation.

Mr. Jeff Yurek: And can they get that changed within a week?

Ms. Barb Sulzenko-Laurie: Absolutely not, no. The rate application process—well, one of the concerns that we have is that it's a very lengthy process. It might take two to three months to prepare a rate application, then some months to go through the FSCO process. Then the rates are approved, and then there are lead times before the implementation of the rates can occur.

Mr. Jeff Yurek: So you're looking at over a year before your rates would—

Ms. Barb Sulzenko-Laurie: Absolutely, and then they would occur as individuals' renewals came up.

Mr. Jeff Yurek: Okay. Now, across-the-board cuts auto insurance premiums would definitely save money to people paying the premiums. I feel that it would save more money on those who have more expensive cars and are able—they pay a higher premium. So a 15% cut would have them have an increased cut, whereas those people who have cheaper cars, or are unable to afford higher cars—they're paying premiums, too—their reduction would be much lower. So, in a sense, this case would be more so for the rich and wealthy to just cut premiums down 15%. Do you think there's a better way to actually achieve savings for both classes, richer and poorer, as opposed to focusing on a cut that's benefiting the rich in Ontario?

Ms. Barb Taylor: If you're looking at an across-the-board 15% cut, not only would you affect people differently based on the value of their cars; you'd be affecting people based on their driving behaviours as well. It would be very inconsistent with the way that actuaries do the rating process. For example, you'd be benefiting people who have had four or five accidents, so it would be really inconsistent with the way that actuaries work.

Like I said, the best way to do it is to, one, bring costs down in this system and have actuaries take those costs into consideration. Again, those costs have to be real costs. They can't be costs in the future. Once those costs have actually been reduced, then the actuaries, when they do their indications, will show that they have rate adequacy and then the rates can come down.

Mr. Jeff Yurek: What are your thoughts on the impact of the Facility Association on a 15% cut in rates?

Ms. Barb Taylor: Again, the people in the Facility Association are amongst some of the worst drivers with the most accidents. Giving them rate reductions, I think, would be inconsistent with the policy intent, as well as would be giving, for example, some of the non-standard companies that also target towards drivers who have had more accidents and convictions.

Mr. Jeff Yurek: The report—we're going to hear later on from a deputant on his report. I know there's such a huge difference between what the IBC has proposed and what he is proposing. Would you be willing to sit down and have your actuaries have a meeting with him and see where the discrepancy lies?

Ms. Barb Taylor: Absolutely.

Ms. Barb Sulzenko-Laurie: Although, I must say, I would like to wait until the GISA report is out as well.

The Chair (Mr. Grant Crack): Two minutes.

Mr. Jeff Yurek: Two minutes? Okay. No, I'm good. That's good. Thanks, Chair.

The Chair (Mr. Grant Crack): Okay. Well, thank you very much. We appreciate you taking the time in coming—a very interesting discussion. Thank you.

INSURANCE BROKERS ASSOCIATION OF ONTARIO

The Chair (Mr. Grant Crack): We have the Insurance Brokers Association of Ontario. I believe we have Mr. Orr and Mr. Lofsky with us this afternoon. Welcome. We will begin with the five-minute presentation, and then we will move to the government first, the opposition second, and the third party third.

So welcome. The floor is yours, sir.

Mr. Rick Orr: Thank you. My name is Rick Orr. I am chairman of the board and past president of the Insurance Brokers Association of Ontario. I'm joined here today by our government relations consultant, Arthur Lofsky. I want to thank the committee for having us back again today to comment on the government's regulations.

The Insurance Brokers Association of Ontario represents six million consumers across the province and 12,000 insurance brokers. We help consumers with their auto and property insurance needs. Our priority is to protect the interests of our customers, from the time they purchase the policy through to when they may have a claim and need an independent advocate at the time of loss.

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We work closely with insurers and the Insurance Bureau of Canada, but we do not represent insurers. We are licensed and educated professionals whose prime concern is that of our customers: the consumer. As an association, the IBAO often differs on certain policy matters with insurers, as a broker's prime responsibility is to advocate and serve the consumer, often giving a different perspective than the companies themselves.

On August 23 of this year, the government revealed regulations that require a 15% reduction in average premiums over a two-year period ending August 15, 2015. The minister announced a number of things they're planning to do in order to achieve lower rates, but nothing other than this target regulation was implemented.

On behalf of the six million policyholders our brokers represent, we support lower premiums in this province. We understand they are needed, but they need to be achieved in a responsible fashion. Mandating a 15% premium reduction without pairing it with identified cost reductions makes us very concerned, and it should concern you as well. It could have unintended negative consequences on the industry and for consumers.

Last November, the Ontario anti-fraud task force presented 38 recommendations in their report. It has now been 10 months since the release of that report. At this point, we have no idea when the crackdown on fraud will begin. The key recommendations still to be implemented include the licensing of health care clinics and tow truck regulations. IBAO believes that when these recommendations are implemented, rate reductions that consumers deserve will follow. We were hoping that the August 23 announcement would include regulations to implement health care clinic licensing, a key recommendation to control accident benefit fraud and abuse.

Something has to give. Regardless of the type of business you are running, you cannot reduce revenue without implementing cost reduction measures to reduce expenses and expect to survive. It just doesn't work.

The government could also help reduce rates if they would implement the new catastrophic definition that is with the Ministry of Finance. However, the government continues to further consult even though it already went through a thorough consultation process.

Regarding the dispute resolution system, we were happy to see an announcement of a review to overhaul the system, a problem that has been festering for over two years now. The sooner this is dealt with, the sooner unnecessary costs and uncertainty will be taken out of the system, resulting in lower premiums.

Our expectation for the August 23 announcement was that we would see more progress being made, given the challenging timeline to achieve lower premiums. Since there wasn't, we believe that there's an inherent risk that forcing rate reductions without identifying cost savings of any kind will result in future availability and affordability concerns for consumers in Ontario.

On a more positive note, we wanted to bring to your attention a number of things that were contained in the policy statement the minister published in the Ontario Gazette on August 24, the day after his rate announcement. The minister has the power to issue such policy statements, which the Financial Services Commission of Ontario "shall have regard to" in making decisions.

Of note to IBAO is that FSCO is directed to study whether insurers are in compliance with the prohibition of credit scoring on auto insurance and to study the mandatory collision reporting threshold under the Highway Traffic Act. IBAO believes these two items in particular are direct responses to our advocacy efforts on behalf of consumers.

On the first item, IBAO has raised concerns that credit scoring on home insurance may be subverting the credit ban on auto insurance, given that the two products are often sold together with a discount. On the second, IBAO has suggested that reporting a collision under an increased threshold for minor accidents should not be counted against a driver if that driver does not make a claim. The current threshold is $1,000, which has not been adjusted in many, many years.

Since this statement was issued, MPP Mike Colle has introduced Bill 100, the minor accidents and new drivers act. IBAO strongly endorses this bill. The bill raises the reporting threshold for minor accidents to $2,500 and prohibits insurers from rating drivers negatively if the driver does not make a claim. It also proposes a "first chance" system similar to that in New Brunswick, which gives new drivers the benefit of the doubt and lower initial premiums. These are great ideas that respond to the minister's policy statement and would help lower rates sooner rather than later. We do not understand why the government or the opposition does not run with these.

The policy statement also encourages FSCO to implement usage-based insurance. We believe telematics could play a key role in lowering rates and look forward to working with regulators and government to enact the proper consumer protections around this model.

To conclude, we really need to get moving on providing relief to consumers. Merely passing a regulation to decree lower rates will not work. The industry needs concrete cost reduction measures to achieve the government's targets, and we're hoping to see these in the very near future.

Thank you, Mr. Chair. We'd be happy to take any questions.

The Chair (Mr. Grant Crack): Thank you very much. We'll turn it over to the government side. Ms. Damerla.

Ms. Dipika Damerla: Thank you, Mr. Orr and Mr. Lofsky, for coming. I'm going to start with the whole idea of licensing health clinics, because I know you mentioned that. As you are probably aware, the government is going ahead with that.

Mr. Rick Orr: They announced it 10 months ago and we're waiting to see how that's proceeding.

Ms. Dipika Damerla: It is proceeding, so I just wanted to assure you. I got the sense that you were waiting for that announcement on August 23 and I just wanted to say that we're going ahead with it.

Mr. Arthur Lofsky: I'll just say that we know that you passed that in the budget legislation. We were expecting to see some form of regulation because the timelines are tight. That's why we were a little bit disappointed that we didn't see those right there and then.

Ms. Dipika Damerla: All right, but just to know that we're working on it. I also thank you for supporting Mike Colle's bill. It's good news to hear that you guys are supporting it.

I hear you loud and clear. There are two parts to the profit side. One is the fraud, and the other is the fact that we have, since 2010, reduced costs for the insurance industry by limiting claims to $3,500 for 70% of people who have accidents. I know you've spoken quite a bit about the fact that we need to do more to contain fraud, and I agree with you on that. But I did want to get your sense on passing on those savings over the last two years. I heard the insurance folks earlier say that they had past losses; I hear that. Now that the past losses have hopefully been absorbed by the new profits, would you say that there is room for insurance premium cuts, just based on the fact that now 70% of accident cases are going to be capped at $3,500, as opposed to the old $70,000?

Mr. Rick Orr: I'd like to clarify a little bit. It's not like we're all of sudden taking 70% of people who used to collect $70,000 and they're now only going to get $3,500. There was a great bulk of clients who always were minor injuries. They're just contained to that $3,500. They've defined it and they've made it regulation.

But the problem with that was, again, the backlog that hit the mediation table of some 20,000 cases. FSCO made a big announcement a month or so ago that the backlog has been moved on, and, as you mentioned with IBC, it's been moved on to arbitration. Unfortunately, arbitration is actually more binding than mediation, so the uncertainty still rests there. Insurers have been concerned about giving up rates, but we also have to look at the bodily injury claims costs that have risen. We've capped that $3,500 piece, which has just given the trial lawyers more meat to go after on the tort side, so the BI costs have gone up.

Yes, I believe there are some savings, which we're going to see in that 3% to 5% in January, but there is absolutely not 15% savings with what they've delivered.

Ms. Dipika Damerla: I know fraud is a big part of the equation as well. Can you explain for us how fraud usually plays out in the auto insurance world here in Ontario?

Mr. Rick Orr: Sure, and I'll actually use an anecdote. Earlier this year we worked with all parties in the House and did town hall sessions with different MPPs. I delivered one in an area and we talked about the fraud challenges of when you have an accident on the side of the highway and all of a sudden you've got a multitude of tow trucks there. I'm a small-town guy; I'm from Stratford. My biggest fear is to have an accident as I'm driving on the 401 and to have five tow trucks, these big guys, around me. What do you do? You end up getting hooked up. The stories that we hear are the tow truck drivers then taking you to a paralegal clinic or to a health care clinic directly, getting referral fees, delivering the vehicle to a body shop and getting referral fees, and the fraud just starts to build from there.

After we delivered one of these town hall sessions, I had a young lady come up to us and say, "Everything you guys said was absolutely true. My father had an accident and he was taken from the site, in the tow truck, to a paralegal's office, where he was to sign documents saying that he wasn't supposed to leave his house because he could be photographed that he wasn't actually disabled. I took him right away and we reported this."

It reaffirmed for me that what we're just hearing anecdotally is actually true in what's happening out there, and we need to stop it.

Ms. Dipika Damerla: One of the things that I'm very interested in and very encouraged by is the fact that with the passing of the new budget going forward, an accident victim will actually get an invoice from the health clinic telling them, "We have charged your insurance company for 10 physio sessions." That's one way for a quick audit, because if it was not really 10, it gets flagged. I just wanted to hear from you: How far would that go in tackling the fraud issue as far as the health clinics go?

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Mr. Rick Orr: It would be a step, one of many steps. Once an accident benefit victim gets signed off onto a paralegal, that paralegal gets the power of attorney, and I'm not sure how much contact the insurance company can then actually have with the claimant, or is it going to have to go through the paralegal? And if it's a fraudulent paralegal, are you actually getting through to the—

Ms. Dipika Damerla: Well, my understanding is, the invoice would go to the patient, not to the paralegal.

Mr. Rick Orr: That would be my hope, but knowing the legal system, I'm not entirely sure that that's where we're at yet.

Ms. Dipika Damerla: We'll make a note of that, though.

Mr. Arthur Lofsky: Well, that will help with people getting charged for services that they don't know they're being charged for. But then you get into another part of the abuse spectrum, where you have, perhaps, fraudulent patients colluding with certain health care professionals, or those who aren't even health care professionals, to push things through the system. The licensing of health care clinics would get at that and we think that's why it's a significant piece of the puzzle that needs to be implemented yesterday.

Ms. Dipika Damerla: Okay, fair enough. Do you think the steps are in place, or is there something else that you want to see happen? What in your opinion needs to still happen to reduce insurance premiums in Ontario?

Mr. Rick Orr: Oh, there's the fraud piece which you've talked about, but again, we need to see those regulations actually start to get enacted. To regulate the health care and towing industry is a long-term project. It's not something that's going to turn around next week and all of a sudden happen. The fraud report was turned in 10 months ago; we're still waiting to see something. We need some action on that.

We're happy to see that Justice Cunningham is going to review the arbitration/mediation system; that needs to be overhauled. We need to get that backlog out of there so that victims get the benefits that they need, but also that the insurers get the certainty. There's the catastrophic definition that we talked about. And finally, we need to continue the product reform, because the longer it stays the same, the more they figure out the fraud and how to work into the system.

Ms. Dipika Damerla: Okay. So we've spoken about three signature things that the government is doing: We're licensing the health care clinics; we're making sure that patients get a copy of their invoice; and we're also going to go ahead—and I think FSCO has much more power when it comes to investigating fraud as well. These are some concrete steps that we've taken.

Another step that we have taken is reducing the target internal rate of return, from 12% to 11%, for insurance companies. Could you tell us what role that might play in reducing insurance premiums for everyday Ontarians?

Mr. Rick Orr: Personally, I don't see it as driving a great reduction in premiums. When they're achieving an average of 4% over the last 10 years, reducing their target profit from 12% to 11% isn't really much of a factor, I think. When they're filing rates, they choose that they can put in up to 12% profit. Again, in a competitive nature, not all of them may file for that full profit that they're allowed. It's certainly not a guarantee; it's a factor they can build into their rate. Reducing it will certainly help. But when they're only achieving a 4% ROE now, reducing from 12% to 11% isn't going to save the consumer their 15%.

Mr. Arthur Lofsky: Even if you cut it in half, it wouldn't make a difference at this point, because they're making less than 6%.

Ms. Dipika Damerla: Okay. Thank you very much.

The Chair (Mr. Grant Crack): Thank you. We'll move to the official opposition. Mr. Yurek.

Mr. Jeff Yurek: Thank you, Chair. I'm going to pretend I'm Michael Colle for a second because he's very effective when he does this. I'm getting calls at my office—I'm sure all of us are getting calls in our office: "Where's my 15% reduction? Why haven't I received it yet?" Do you hear that a lot, and how are you handling that situation? Why haven't all Ontarians received their 15% decrease?

Mr. Rick Orr: Well, first of all, you need more grey hair if you're going to pretend to be Mike Colle.

Mr. Jeff Yurek: And a little more excitable, yes.

Mr. Rick Orr: A little more, yes.

The day the government announced their 15% reductions, the emails started coming into my office saying, "Where's my 15%? Where's my 15%? When am I going to get it and why haven't I got it yet?" The message that we're constantly having to deliver is that it's a targeted average of 15%.

Originally, the announcement was that it was a targeted average of 15% to be achieved along with the savings from fraud. Reduce fraud and the rates will come down. Then, in August, the announcement came out that it was going to be mandated over the next two-year period.

It's difficult. I'm in rural Ontario, and I have to tell our guys, "Guys, the original announcement was: 'Drive the fraud out and rates are going to come down.'" In Goderich, Ontario—you know, take the fraud out and you're going to save 1%. You're not going to see 15% savings unless insurers decide to take it out of the rural areas and try to leave as much rate as they can in the GTA, where they're combatting the fraud.

Mr. Jeff Yurek: So how are the rural areas going to attain the 15% decrease?

Mr. Rick Orr: Well, they won't, and that's part of our problem. The government isn't delivering a responsible message. You know, a responsible rate reduction needs responsible messaging, in that it's a 15% on average discount across the province. Measure it on the benchmark and you're going to see a 15% reduction, but that doesn't mean everyone is going to see a 15% reduction.

Mr. Jeff Yurek: So it would be safe to say that rural Ontario and northern Ontario are not going to see a 15% rate reduction?

Mr. Rick Orr: In my opinion, I would certainly not expect to see it.

Mr. Jeff Yurek: Okay. Now, the big key to the rate reduction of whatever they're going to try to get, other than an across-the-board cut from the insurers mandated by FSCO, is that they want to go after fraud, which I think is a great idea. The task force had a report with 38 recommendations. There's only been a handful implemented. There has been a lot of talk and conversation about implementing the rest of the procedures over the last two years. I think it's a fairly slow process in getting these implemented, whereas fraud is not going to disappear overnight; it's going to take a longer time period. The longer for the implementation of these fraud measures to take place—do you think they're going to hit their 15% after two years with the lengthy delays that are going on?

Mr. Rick Orr: We're very concerned that they won't. We're 10 months into it and we have four of 38 recommendations implemented, with the major ones still outstanding, which is the health care clinics and the towing industry. We're hearing a lot of talk about it; we're not yet seeing the regulation coming out.

There are going to have to be hearings, there are going to have to be—you can't just implement that regulation. There's a lot of work to be done to get there, and 10 months in, we're not seeing it. We're concerned that consumers are going to not see that 15% savings. In fact, we're concerned about an affordability/availability issue. We're concerned that if they've mandated a 15% reduction and you've got the public in the GTA that's saying, "I want my 15%"—an insurer can't be legislated or regulated to lose money. They're going to figure out a way to get around it somehow and we're already hearing rumours of GTA insurance companies cancelling GTA brokers and just—you know, I'm going to lose less money if I insure less people, so I'll just throw these people out to the street.

Mr. Jeff Yurek: Go further on that. You're hearing in the GTA that in fact insurers will not have their product in place, so they're getting rid of the brokers that are giving them problems. So number one, there are fewer choices for the consumer, especially newer Canadians, newer drivers who don't have the history, and number two, there's a possibility brokers won't have the product to sell and therefore they might lose their business. Is that a possibility?

Mr. Rick Orr: That's certainly the rumblings you hear. When you mandate an industry to lose 15%—you take a 15% premium out without delivering them a cost savings, an industry can't survive. Then all of a sudden, your whole mandate was to save 15% for those new and young drivers and they end up in the Facility Association, which has the highest rates in the industry. That's the market of last resort. That's where they end up going. The last hard market was 2004, 2002. Facility represented 15% of the auto population in the province of Ontario. It's down now to less than a point. If we have another affordability/availability issue, the Facility market will repopulate.

Mr. Jeff Yurek: So if Facility was high—and Facility is the insurer of last hope. So if an insurance claimant can't get insurance, they have to go to Facility and that's—

Mr. Rick Orr: And Facility has to insure.

Mr. Jeff Yurek: So it's showing that the saturation of insurers is providing product for enough people.

Mr. Arthur Lofsky: This is our main message today, that if the government is pushing too hard and there's too much pressure and something has got to give, we're worried that the unintended consequence could be higher rates for some people and an affordability and availability issue.

Mr. Jeff Yurek: You raised the question earlier about bodily injury claims have started to skyrocket. Why is that occurring? What's going on?

Mr. Rick Orr: You've capped the minor injury guideline to $3,500. People are looking for more relief, so they're going to the court system and accessing tort through the BI instead.

Mr. Jeff Yurek: To me, that's a warning signal. If that's occurring now, two years down the road, we're going to be at the same committee table talking about how we can get bodily injury claims made affordable. What are the NDP and the government doing to mitigate the bodily injury claims?

Mr. Arthur Lofsky: I don't know.

Mr. Rick Orr: Silence at the end of the table.

Mr. Arthur Lofsky: Not specifically on the bodily injury claims. If we could get at the fraud issue and deal with the incentives for fraud and abuse, we think all of this stuff could come down. If you get at the health clinics and the tow truck folks who are not behaving properly, the long-term benefit will be a reduction everywhere. That's why we're concerned that things aren't moving fast enough.

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Mr. Rick Orr: As a representative of the consumer, it's our intent to get the coverage to the consumer, the benefits that they need to get better and get them healthy and back on their way. We don't need the abuse in the system. IBC said it nicely: We need a cultural reform. We need the health care industry, we need everyone involved in the auto industry to get back to where it once was. Let's just do the right thing: Get the consumer back healthy, get them back to work and get what they need to be done, and stop everybody from trying to make their entire profits off the auto industry.

Mr. Jeff Yurek: So what I'm hearing is, I think, your concern would be that if the government's dragging their feet, getting these changes to occur, we're going to come to crunch time on their mandated promise and we might end up regulating that FSCO makes every insurer drop their rates 15%.

Mr. Arthur Lofsky: We just don't see 15% in cost savings that will justify a 15% reduction within two years at this point in time.

Mr. Jeff Yurek: Okay. How much time have I got there?

The Chair (Mr. Grant Crack): Two minutes, 18 seconds.

Mr. Jeff Yurek: Two minutes, 18 seconds. I just want to touch upon a product out there, telematics. You had a press release out a week ago on it. Let's talk about technology in the marketplace and how that might bring savings to the marketplace.

Mr. Rick Orr: One of the pieces that was in the budget and again in the policy announcement was usage-based insurance, or telematics. We strongly believe that telematics could help reduce premiums in Ontario. However, I want to be very clear that telematics is just another rating tool. It still delivers the same product, so you're still going to deliver the same accident benefits to the same health care providers and the same tow industry. It's just another rating method. We can't lose focus on the rest of it.

In telematics, the device is installed in the vehicle, and the insurer has access to different rating criteria or just the different driving habits of that driver: their acceleration, their deceleration, their cornering, their kilometres driven. It's become popular in the United Kingdom. It's starting to become popular in the United States. In Ontario, we believe that it's another tool we can offer to consumers to reduce their premiums, but we're very concerned about the consumer protection around it. We can't just make this the Wild West. There's a lot of private information that needs to be there. We've been working with the regulators and meeting with the three parties to talk about how the consumer needs to own their own data; it's not the insurer's data. That data needs to be portable; the consumer needs to be able to take it from one insurer to another, and the insurer should be limited only to the data that they need to rate that policy, not to all the other data that could lead to lifestyle rating, which is currently banned and should remain banned.

Mr. Jeff Yurek: Would a file-and-use approval system benefit telematics?

Mr. Rick Orr: In the long term, yes, but not in the short term. In the short term, FSCO needs a number—and reasonably so. FSCO needs a reasonable number of data points and history for an insurer to demonstrate that they're actuarially sound when they present their rating criteria. I fully support FSCO in getting this right off the start. Once they've gotten it established and once the insurers understand how it's going to work—because this is all new to them—then a file-and-use system would benefit them, but that would be in the long term, not in the short term.

Mr. Jeff Yurek: Thank you.

The Chair (Mr. Grant Crack): Thank you. Right on time. Good job.

The members of the third party.

Mr. Jagmeet Singh: Thank you very much. I'm just going to take you through a couple of areas. We're well aware of changes to the insurance product in 2010, and you agree with me, and I think it's not contentious—IBC also agrees—that those changes removed about $2 billion of cost from the system. In the GTA, about a 70% cost reduction happened within one year alone, from 2010 to 2011. Do you agree, roughly, with those numbers?

Mr. Rick Orr: No, I don't. That's completely the accident benefits savings. You're not putting in the costs that went in on the BI side. So that's a false savings. You're looking at one line instead of looking at the product.

Mr. Jagmeet Singh: Sure. So let's just talk about one thing at a time, then; I think that's fair to say. On the SAB side, you saw a 70% reduction, in the ballpark of multi-billion dollar saving, in terms of costs to insurance companies on the SAB side. That's something that's not contentious.

Mr. Rick Orr: There was a savings. I don't know what the exact number was. IBC's report had it in there, but there was a savings on the accident benefits side.

Mr. Jagmeet Singh: Right, the accident benefits side.

Mr. Arthur Lofsky: For the sake of argument, if those are correct, and I take you at your word, that helped stem the losses that were coming at the industry. If those cost reductions and reforms did not occur, rates would probably have had to go up another 10% to 15%.

Mr. Rick Orr: In fact, I think if you look at the 2010 reforms, they were called a rate stabilization act; they weren't called a rate reduction act. They were actually deemed as a rate stabilization, knowing that the industry needed to stop the bleed.

Mr. Jagmeet Singh: The finance minister at the time, actually, Dwight Duncan, indicated that the reason that he was doing this was, very clearly stated in Hansard and I've quoted it a number of times, to actually reduce premiums. But the point is that you acknowledge, and I think we all acknowledge, that costs were significantly reduced because of that. A vast majority of those costs—

it was a 70% reduction in costs in the GTA. Does that sound like something that accords with what you—

Mr. Rick Orr: I know there was a reduction. I know it was only in the AB, but I don't have the IBC report in front of me, sorry.

Mr. Jagmeet Singh: That's fine. In terms of fraud, and fraud, obviously, just to make it clear—I don't think any party here would say that they support or encourage fraud in any way. Everyone discourages that practice. That's something that none of us want to see in any industry, let alone insurance. That's not something that we want to encourage. It's clearly illegal, so we don't support that.

With respect to fraud, you would agree with me that in terms of the anti-fraud task force—they made it very clear that we don't know the exact figure of how much it's costing Ontario in terms of any sort of concrete number. That's something that you're—

Mr. Arthur Lofsky: They did have an estimate of, I think they said, $1.3 billion to $1.6 billion per year.

Mr. Jagmeet Singh: That's fair.

Mr. Rick Orr: So give it a range, but it was $1.3 billion to $1.6 billion.

Mr. Jagmeet Singh: Right. The task force made it clear, though—I asked in committee hearings, and the chairperson of the task force said, "We don't have a factual number. We don't have a clear number we can point to. We have an estimate. We don't have a factual number where we can say, 'Fraud is accounting for this much right now in the province of Ontario.'" They're not able to say that. That was a fair comment, and I think you'd agree with it.

Mr. Arthur Lofsky: That's the nature of fraud. It's hard to record. You can do comparisons to other jurisdictions of what's going on. You can look at the increase in accident benefits over the years, the increase in people who are injured, and when you see a disconnect, you can make some interpolations, I think. I think that's what they were getting at when they made their estimate.

Mr. Jagmeet Singh: Right. One of the interesting things that happened is that when we placed a cap, the minor injury guideline cap, which applies to about 70% of people who make a claim in Ontario—they fall within the minor injury guideline, and that means that they're only entitled to about $3,500 of coverage. That significantly addressed many of the fraud concerns. That's why much of the costs went down. This is, again, non-contentious. You would agree with that comment as well, that it's a non-contentious issue?

Mr. Rick Orr: Yes, there was a reduction in the number, but again, there were a lot of people that were already under $3,500. They were all minor injuries to start with. It was just defined within the regulation. But then their other concern was that everything ended up going to mediation and sitting in mediation.

Mr. Arthur Lofsky: Coinciding with that, there probably were a lot of disputes that arose out of that.

Mr. Jagmeet Singh: Sure. So what's happened is, we've seen a significant reduction in costs. We've seen costs being reduced in particular areas. But in terms of the premiums, from 2010 to present, they've actually increased by an average of 4%. This quarter in 2013, the reductions were less than a percentage point. I believe in 2013, the quarter 1 and quarter 2 total was still less than 0.5%, and in previous years, it was in the 0.02% and 0.03% range. So again, we're talking about less than half of a percentage point reductions. We're seeing premiums have still increased.

Given that there's been a reduction in cost but no reduction in premiums, do you see the concern that citizens in Ontario have that our benefits are reduced, costs have gone down, but premiums have actually increased from 2010 to present? I'm sure your consumers, your clients, are concerned with that, that the optics here are that insurance companies are getting a benefit, we're losing our benefits, our premiums are going up and their costs have gone down. It doesn't seem to add up to the average Ontarian.

Mr. Rick Orr: Actually, in my area, my consumers are enjoying a reduction in premiums. But the flaw in your argument, again, is that you're looking at a reduction in costs on one line and comparing premiums overall. You've got fraud going on. You've got the BI costs going in. So insurers are transferring rates out of their rural areas and placing them in the GTA where they're suffering losses. Rates are staying relatively stable, but the areas that don't have the fraud are enjoying reductions already.

Mr. Jagmeet Singh: So the question is, if we had a transparent and accountable mechanism to accurately display or demonstrate what the profits were in the industry, would you agree with me that if we could unequivocally state that the insurance industry was making record profits, unequivocally confirm that the insurance industry was making record profits, unequivocally confirm that the insurance industry was making well above the between 1% and 3% or 1% and 4% ROE they were making—if we could conclusively state that, it would certainly make the case that they could pass on some of those savings to drivers.

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Mr. Rick Orr: I think the OSFI data and the MSA data—

Mr. Jagmeet Singh: That's not my question. Just to clarify—

Mr. Rick Orr: —unequivocally say that they're losing money.

Mr. Jagmeet Singh: I didn't mention OSFI or GISA.

Mr. Rick Orr: I know you didn't. You're asking if we need something, and I'm saying no, we don't. We already have OSFI and MSA.

Mr. Jagmeet Singh: Here's my question, sir. My question is not that. My question to you is, if we could demonstrate that there was a significant profit—not that there is or isn't one, because I understand that in your position there isn't one—you would agree that it would make sense then to pass some of those savings on to drivers, that it would make sense, if the industry was making significant profits and a significant return on equity, to pass on some of those savings to consumers. You would agree with that? I'm assuming that that's quite reasonable.

Mr. Arthur Lofsky: I think the OSFI numbers are reasonably transparent right now—

Mr. Jagmeet Singh: Sir, I didn't mention anything about OSFI.

Mr. Arthur Lofsky: But I'm saying, of course, if we knew definitively—and OSFI is one of those places where you go for these things—that they were making lots of profits, yes, we would like to see rates come down. But you have to look at how the industry behaves over the years. After 2004, profits did go up and then rates did come down, eventually up to 14%. So there were reforms made. They identified cost savings. They were allowed to file again and the competitive part of the industry allowed for a 14% reduction.

This time, we've had a stabilization of rates, I believe, because of the 2010 reforms, because they were losing, but there haven't been any further cost savings. The fraud reforms will provide some of that. Redefining the catastrophic reduction will provide more of that, but I would contend that if they were making profits right now—the type of extraordinary profits you're talking about—you would see rates going down naturally.

Mr. Jagmeet Singh: Sure. I'm hoping you can respond to two of my questions. I'm not going to mention GISA or OSFI, so I'm hoping you're not going to just randomly throw out those responses. My question to you is not about GISA or OSFI. Would you support an independent, clear and transparent mechanism for accounting for the profits in the province of Ontario? Is that something that you would support?

Mr. Arthur Lofsky: I don't think anyone can oppose something put in that fashion.

Mr. Jagmeet Singh: Okay. The second question I have for you is, if we were to look at this—I'm going to channel my inner Mike Colle as well.

Mr. Rick Orr: Wow. He's popular in here.

Mr. Arthur Lofsky: I like him very much.

Mr. Jagmeet Singh: Maybe you can give me your perspective. If I operated my own clothing store and in my clothing store I was noticing a significant increase in shoplifting, would it make sense to you if I was to then take my concern about shoplifting in my store and go to the Ontario provincial government and say, "You need to do something so that shoplifting decreases in my store," or would you expect that each industry would take certain steps on their own to ensure that they're reducing costs in terms of shoplifting?

Why is it that the insurance industry seems so bent on obtaining the assistance of the provincial government? We support the reduction of fraud. But just to understand, why is it that an industry with a mandatory product that everyone in Ontario has to obtain doesn't have its own mechanisms in place to address these concerns? Why is it that they're any different than any other industry?

The Chair (Mr. Grant Crack): Final response.

Mr. Rick Orr: Because in your clothing store, the government does not regulate the price of your suit or the quality of your suit or how you handle the suit. In our industry, government sets the benefit and government sets the price. The only way that we can really come to you and ask for help is on a global basis. It's a regulated product. It's a regulated price. It needs to have regulated controls.

Mr. Jagmeet Singh: Interesting.

The Chair (Mr. Grant Crack): Thank you very much, gentlemen. I appreciate it.

Mr. Rick Orr: Thank you very much.

Mr. Arthur Lofsky: Thank you.

ONTARIO REHAB ALLIANCE

The Chair (Mr. Grant Crack): I believe we now have two members from the Ontario Rehab Alliance with us today, Mr. Gurevich and Ms. Davis. Welcome.

Mr. Nick Gurevich: Thank you, folks. For some reason I feel a very strong urge to apologize on behalf of every health care provider for the fraud that every single health care provider out there is committing, but let me assure you that that is not the case, not even remotely the case.

The Chair (Mr. Grant Crack): You have five minutes, sir, and then we will begin the rotation with—I believe the official opposition will start, then the NDP, followed by the government. Welcome.

Ms. Laurie Davis: Thank you. We're happy to be here. I'm Laurie Davis, the executive director.

The Ontario Rehab Alliance is an association representing 90 health care organizations with about 3,500 to 4,000 health care professionals, including physicians, neuropsychologists, physiotherapists, occupational therapists, speech pathologists, chiropractors, psychologists, social workers, rehab support workers, personal support workers and case managers. It's these professionals who are the primary providers of health care and rehab services to Ontarians who are injured in auto accidents.

I also want to say that a great many of our members, a very large proportion of them, also work outside of the auto insurance sector.

The Chair (Mr. Grant Crack): Sorry to interrupt. Could you pull back a little bit? There's a lot of static when you speak too close.

Ms. Laurie Davis: Is that better?

The Chair (Mr. Grant Crack): Yes. That goes for all members here who are trying speak as well. Thank you.

Ms. Laurie Davis: Thank you; sorry.

I just wanted to point out that our members are, of course, concerned about auto accident benefits, but they're not wholly dependent on this sector. We do work in other sectors as well. There was a comment earlier which led to that sort of impression.

Mr. Nick Gurevich: My name is Nick Gurevich. Our organization appeared before a number of parliamentary hearings on the topic of auto insurance over the years. Every time we appear, we note that in order for Ontario's auto insurance system to be stable, there needs to be a balance between insurer profitability, cost of premiums and the protection of victims.

These three pillars are now, and have been for the past three years, in a state of disequilibrium. Simply stated, the past reform has sacrificed premiums and protection to increase insurer profitability. According to information published by GISA and in recent newspaper articles, in 2012 almost 60 cents out of every accident benefit premium dollar collected in Ontario went toward insurer profits. Ontario currently has the highest profitability on accident benefits and the lowest payouts in the country.

Notwithstanding, faced with the government's call to pass some of the savings stemming from the last set of reforms to consumers, insurers now ask for more cuts to benefits to protect their profitability.

I am here to tell you that there is simply nowhere to cut from when it comes to health care. Despite what you might hear from insurers and brokers, the facts on the ground are simple: Following the 2010 reform, we have the worst health care benefit system in Canada—the lowest, I should say. Our system has drifted far away from the original intent of the insurance product, which is to protect premium payers in the event of loss or injury. Any further cuts will simply render it a road tax.

Approximately 65,000 Ontarians are injured each year in motor vehicle accidents, enough to populate a good-sized town. These victims suffer from a double-pronged offensive: On the one hand their paid-for auto insurance health care benefits have been drastically slashed, and on the other hand, OHIP offers substantially less in-patient/outpatient and home care health care services than any other province in Canada. In summary, outcomes experienced by car crash victims are devastating.

If something needs to be done to decrease premiums, it cannot be at the expense of more cuts to health care benefits.

The government is on the right track with the steps it took recently, specifically those addressing fraud in the system, mandatory rate filings, savings to drivers with clean records, licensing of health care facilities etc. While we are unsure whether the magnitude of premium cuts needs to be 15% or when such savings need to be realized, we are confident that the above-mentioned measures, combined with reductions in insurer profitability more in line with other provinces, should easily achieve the desired reductions.

Whatever your action is, please do not abandon your responsibility to protect the vulnerable victims.

The Chair (Mr. Grant Crack): Thank you very much. We'll start with the opposition: Mr. Yurek.

Mr. Jeff Yurek: Thanks very much for coming in. I just want to talk about assessments for a bit. A lot of times what I've read and seen is assessments tend to be major cost drivers in the system. Can you walk me through the assessment process and if it has changed or not, let me know?

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Mr. Nick Gurevich: Sure. The process is fairly simple. A client has the right to receive their health care benefits. In order for those health care benefits to be provided, the first step, as it would be in any hospital that you walk into or if you go to see your family physician, is they would assess you to figure out what is wrong, if anything, and they would make recommendations that you then need to be sent for treatment, if it's required, and those recommendations need to be preapproved by the insurer.

The insurer then has the right to either approve the treatment plan or deny it. If the insurer decides to deny it—before the 2010 reforms there was a mandatory call for them to seek a second opinion by another health care provider because there was a realization that the adjusters themselves are not health care providers, and then they would appoint their own hired consultant who would advise on whether the original treatment plan submitted was reasonable and necessary or not. As part of the 2010 reforms, the mandatory aspect of providing that second opinion has been waived. So insurers do not have to now hire another assessor in order to approve or deny a treatment plan.

So based on that alone, assessments have been substantially decreased. I do not have any sort of empirical data on it, but anecdotally from speaking to colleagues who perform what are called IEs or insurer examinations, the number of assessments that they conduct has decreased by upwards of 50%.

The 2010 reforms also addressed the issue of assessments or of assessment cost in the way that it limited the assessment cost to $2,000, and it also limited assessment by clients in the home only to those who are outside of the minor injury guideline or category. So those three approaches, taken together, have significantly reduced the cost. Again, we don't know to what extent because we don't have access to HCAI, and won't be given any, but anecdotally speaking the decrease has been very substantial.

Mr. Jeff Yurek: Thank you. Now, would instituting independent peer-to-peer assessments help reduce the number of assessments and speed up the system?

Mr. Nick Gurevich: I'm sorry. I didn't hear because of the traffic—

Mr. Jeff Yurek: Sorry. The traffic, yes. Independent peer-to-peer assessments, would that help alleviate the number of assessments and speed up a person getting the treatment that they need?

Mr. Nick Gurevich: Well, I think that not only would it help in doing that, but it would also eliminate some of the disputes that are in the system because some of the disputes that are in the system stem from the fact that one physician or one health care provider would provide an opinion as to what a treatment protocol or recommendation should be, and then an insurer would hire another health care provider from a completely different profession to comment on those recommendations, and I think that then perhaps the plaintiff representation might take issue with that and say, "Well, we don't know if this is right or not because it's not a like-to-like discipline," and perhaps proceed to dispute.

Mr. Jeff Yurek: Now, there's no question that those mostly severely injured need to access adequate coverage—someone who's lost their legs or has become mentally impaired—and I feel there's no question they should be looked at as catastrophic and have access to full benefits. How often do these claims get held up and what barriers are there for people to get the coverage they need?

Mr. Nick Gurevich: Are you asking what are the barriers in terms of qualifying people as being catastrophic, or once they are catastrophic?

Mr. Jeff Yurek: Becoming catastrophic.

Mr. Nick Gurevich: There are a number of aspects here at play. Number one, there needs to be an application made to the insurer to deem a client catastrophic. An insurance company can, of course, dispute that and get their own experts to say why the patient is not catastrophic. That can carry on for a prolonged period of time.

The unfortunate consequence of that is that in our literature it is very well documented that medical intervention and rehabilitative intervention is much more beneficial in the early stages. If the patient was made to wait, then chronicity would set in and their return to function would be either substantially delayed or will never get there. So that is certainly a major difficulty and barrier in terms of what catastrophic clients face.

Mr. Jeff Yurek: In terms of the catastrophic impairment panel, can you outline what you think were the strengths of that panel and the weaknesses?

Mr. Nick Gurevich: I would say that tying the catastrophic definition to science is a good move, and we certainly indicated that in the reports that we've previously submitted, which critiqued the work of the panel. But I think the problems with the panel specifically were that (a) I don't think that they were given enough time, and (b) the composition of the panel itself needed to include more treating physicians. I think it failed in that regard. There were a couple of treating physicians, but for the most part, the other six were not. We thought that that was a problem. The other problem was that a number of the folks on the panel have done previous work for the insurance industry, and we were concerned about bias that they might have been bringing forward.

Mr. Jeff Yurek: With the imposed deadline of a year for a 15% cut and the slowness that the government is moving on this, what's probably going to happen, after what we're talking about today, is that they're just going to have to impose a 15% cut on the insurance industry to make good on their promise. What do you think that will be, the effect on the insurance industry and your patients in particular, if there's a straight 15% cut?

Mr. Nick Gurevich: There's no question that a 15% reduction in premium will cause some sort of an erosion in insurer profitability. I don't know what that will be, but just by looking at GISA numbers, some of that can be extrapolated fairly easily. In preparation for this, I did some back-of-an-envelope while looking at the numbers, and I think that a 15% reduction against strictly looking at the GISA numbers will render it more in line with what's experienced by the other provinces.

Mr. Jeff Yurek: But what do you think would happen if they just cut 15% to coverage for the clients?

The Chair (Mr. Grant Crack): One minute.

Mr. Nick Gurevich: Oh, 15% coverage in terms of benefits.

Mr. Jeff Yurek: A 15% cut in the premiums. They just cut away without making any of the changes that they're trying to implement because they're running out of time. What would be the result?

Mr. Nick Gurevich: Just from a premium perspective?

Mr. Jeff Yurek: Yes.

Mr. Nick Gurevich: Yes, so what I'm saying is that there would be erosion in profitability; there's no question.

Mr. Jeff Yurek: It wouldn't affect the clients at all?

Mr. Nick Gurevich: It would not affect them if there was no corresponding change to the benefit structure, but I think that what's on the table right now, for example, are amendments to the catastrophic definition, which we think that, if proceeded with as recommended, would substantially decrease the number of people who qualify as catastrophically injured today. That would, of course, lead to a problem.

Mr. Jeff Yurek: Okay, thanks.

Chair.

The Chair (Mr. Grant Crack): Fine, thank you. Right on. Unbelievable.

We'll move to the third party. Mr. Singh.

Mr. Jagmeet Singh: Thank you for attending. I just want to build on that last question—the modification of the definition. What are some of the key problems to the proposed changes to the catastrophic definition?

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Mr. Nick Gurevich: I'll answer it from a high-level perspective. From a high level, the problem is that that line in the sand—again, it's not a scientific line in the sand; it's really a policy line in the sand—of who is considered catastrophic is very uneven. What do I mean by that? What I mean is if you take—you know, historically speaking, somebody who is a paraplegic was determined to be catastrophic, and everyone with the same level of injury, as defined by what's called a WPI, or a whole person impairment scale, was considered to be catastrophic as well; okay?

The whole person impairment scale, not to get too technical, is basically a process by which every impairment is rated, and then there's a sort of addition process. If somebody qualifies to 55%, then they're catastrophic. Paraplegia, for instance, would be an example.

However, with the new proposed definition, depending on the impairment—various impairments and the test scores that are required as per that new definition would vary the level of that whole person impairment that would qualify. I'll make it easy: Somebody with paraplegia would be 55% and they would qualify, but for a psychiatric disorder, based on the test that has been proposed by the panel, the score that they require would equate to 70% on the whole person impairment scale.

That theme carries throughout the recommendations, that there are different scales and they don't all equate. The line needs to be equal, and that was one of the points that we were trying to get to in our critique.

The other obvious issue is the lack of combination. It has been proven in the literature. We have case law that supports combination of physical and mental-behavioural impairments. The panel has disallowed that in their recommendations. One of the reasons that they gave was that they simply didn't have enough time or resources to figure out a good solution. That, in my books, is not a good recommendation.

Mr. Jagmeet Singh: And just to build on the last point, one of the reasons why, in many ways, psychological impairments were, let's put it this way, biased against in the definition—you would not be considered catastrophic unless you reached a very high threshold of psychological impairment. One of the reasons that people have mentioned for that problem or that criticism is because of the modified delta system that was employed in the panel and the fact that there weren't enough specialists or experts in mental health that were on the panel to make that modified delta system work. Do you agree with that assessment?

Mr. Nick Gurevich: Yes. But let me give you an example of this combination issue. Loss of my hand would be 54% on the whole person impairment scale. It is absurd to think that I will not have psychological issues as a result of the loss of my hand. What the panel says is that those two should not be combined.

Mr. Jagmeet Singh: That's a good way to put it.

The other issue I wanted to talk about is, what have you seen in terms of the impacts on the new changes, the changes in 2010—I guess they're not new anymore—the impact that the changes in 2010 have had on the assessment and the accessibility for people in northern regions or more remote regions or more rural regions, where they don't have as many resources, particularly psychiatrists or other experts or other medical professionals that they need to meet with in order to get diagnosed or be assessed for whatever level of care is appropriate? What has been the impact that you've seen?

Mr. Nick Gurevich: Part of the problem—Laurie, feel free to jump in—has been this $2,000 cap on assessments. The problem is that for the remote locations, the cost of transportation would be higher and, as a result, would exceed the $2,000. Again, the anecdotal evidence that we've been exposed to suggests that fewer people are interested in servicing the remote areas.

Ms. Laurie Davis: Absolutely. Although we do have some members, and we know there are health providers outside—and we don't even have to be talking about "remote" to be talking about how quickly a distance needs to be travelled—a four-hour drive from Toronto and back. There aren't as many providers outside of the GTA or even outside of southern Ontario. As a result, there are real barriers to people who are remotely or rurally located because even something like an occupational therapist, let alone a neuropsychologist—even an occupational therapist who has skills in this field may not be local to somebody living in the countryside outside of Sault Ste. Marie.

Mr. Jagmeet Singh: So would perhaps the solution be that in circumstances where people who reside in remote areas there's a different budget assessed because of the travel demands or requirements of people who live in more remote communities? Would that work to address that systemic barrier that exists?

Ms. Laurie Davis: Absolutely. There should be some way of flagging travel costs or it will just continue to be a barrier for people outside of the GTA.

Mr. Jagmeet Singh: One of the things you mentioned is a scientific or an evidence-based model for—this is, again, looking at the catastrophic definition. Looking at a scientific or evidence-based model is something that, of course, you would support, but is there any evidence or an evidentiary basis for even modifying the definition? Have you seen, in any of the discussions or reports, that there was any sort of evidentiary reason or basis for even redefining or looking at modifying the definition? Has that ever been presented?

Mr. Nick Gurevich: We were curious about the same point, and we actually tried to find any background information that we could on any costs to the system based on cat. They're impossible to locate. But I will tell you this: Regardless of the fact that someone is deemed catastrophic, there's a misconception out there that if I'm injured and I'm deemed catastrophic, I have access to all this money, which is absolutely untrue. In fact, there's a secondary test that the patients need to pass in order to access those funds. All that the catastrophic designation does is show you the door. But in order for me to walk through that door, I need a key, and that key is "reasonable and necessary."

If a treatment provider, a health care provider, recommends a course of treatment to a catastrophically injured victim, the insurer still has to deem it reasonable and necessary. If they don't think that it's reasonable and necessary, they can deny it. They can, in fact, deny it without even calling for a second opinion today. But they do have that ability and there is that secondary test. So a designation doesn't mean an automatic consumption.

Mr. Jagmeet Singh: A question for you flowing from that is that—just to clear up a further misconception, there is this notion that if you're deemed catastrophic, then you receive a $1-million cheque. That's the idea, and I think you're clarifying that. In fact, it means that you've been given the authorization to access funds, but there's that secondary step that you have to go through to even access those funds—

Ms. Laurie Davis: You get authorization to apply.

Mr. Nick Gurevich: To apply.

Mr. Jagmeet Singh: There you go.

Mr. Nick Gurevich: That's all you're given.

Ms. Laurie Davis: I'll just weigh in. That's true for right across the accident benefits scheme. That's also true for the serious, non-catastrophically injured. Earlier somebody made reference to this. I think it's very important for everyone to realize that there's no treatment provided that has not been previously applied for and approved by an adjuster. Just as catastrophic isn't a cheque for $1 million, neither is a serious injury a cheque for $50,000, and neither, even, is a minor injury a cheque for $3,500. All of those have checks and balances built in with each treatment plan and with each invoice.

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The Chair (Mr. Grant Crack): Thank you very much. We appreciate it. Time's up. We will now move to the government: Madam Damerla.

Ms. Dipika Damerla: Thank you, Laurie and Nick, for coming. I just wanted to start by asking you, because you're so close to the field, can you explain in which category of injury that fraud is most often found, and why?

Mr. Nick Gurevich: In my opinion, I would suggest that it's in the minor injury. I would suggest that no reasonable person will sustain a catastrophic injury or become a quadriplegic to ensure some sort of funding, which, by the way, then also needs to be reasonable and necessary.

I would suggest, or my best guess would be, that if someone is committing fraud, it would be in the minor injury, because the injuries are short-lived, if at all sustained, and are difficult to prove. A fracture is easy to show. A lot of these accidents are staged and, in fact, don't even take place. Whiplash is easier to fake than a broken arm or an MRI of the brain.

Ms. Dipika Damerla: Okay, fair enough. You're probably familiar with one of our initiatives that we passed in the budget, which is to license health care clinics that service the auto insurance industry. I just wanted your thoughts on it.

Mr. Nick Gurevich: Fully in support.

Ms. Dipika Damerla: How far do you think this will go in eliminating fraud?

Mr. Nick Gurevich: You mean the licensing?

Ms. Dipika Damerla: Yes, the licensing.

Mr. Nick Gurevich: We were one of the groups that appeared before the anti-fraud task force—as a matter of fact, we appeared before them a number of times—and we recommended the licensing of health care facilities. I think it's an important step in terms of getting to know who the provider of services is.

Believe me when I say that we are not less enthusiastic about getting rid of fraud than the insurers or the government, because, as you could hear, we're all implicated in this. A small minority represents those folks, and we're all at fault here, regretfully. So we are very much interested in making sure that the licensing is passed. We are obviously interested in making sure that it addresses fraud, because I think it's to everyone's benefit to have a stable system in place.

Ms. Dipika Damerla: I'm sympathetic to what you're saying. It's unfortunate. I think we're sensitive to the idea that not everybody ought to be tarred with the same brush. I think most of us do acknowledge that it's a small minority that might be abusing the system. The vast majority are indeed ethical clinics. I just wanted you to know that.

My other question is, would you be able to share if there are any warning signs that a claimant can look for, to know if fraud is being committed on their behalf?

Mr. Nick Gurevich: Hard to tell. I heard somebody ask the question before, about invoices being sent to clients. That is in fact the case; they will be sent to the clients. It's a new addition to the regulation that dates back to the spring. I think it's a very positive one. They can certainly take a look at a copy of an invoice that has been submitted on their behalf and confirm whether that is in fact correct or not. That's a great step, I'm sure, in the right direction and one that will contribute to early identification. But generally speaking, I think if a client is used as a pawn in a fraud scheme, for the most part it involves billing, because money needs to flow in order to make it profitable for the person who commits the fraud.

I can't think of anything else—at least, nothing comes to mind right now—that will improve on the provision that already exists, which is checking what money actually flows out.

Ms. Dipika Damerla: As we look to reduce premiums gradually, and on average—that's really important to stress—by 15% over the next couple of years, what is your biggest concern?

Mr. Nick Gurevich: Our biggest concern is that in order to mitigate some of the pain to the insurers, which they are complaining about, it will be taken out of the benefit system. Our benefit system, the last time around, in 2010, has been significantly cut. We are faced with a $3,500 minor injury guideline, which is the lowest in the country, and it applies for the vast majority of the claimants out there.

We have a non-catastrophic limit of $50,000, which in fact is not really $50,000; it's something much smaller because assessment costs come out of it, so it's not real treatment that clients receive, it's something smaller. Then we have 600 or so people a year who qualify for catastrophic, which does not in fact exist in any other province, and that's a positive, but that's also under attack.

If you take a weighted average of those three buckets and what's available and apply the percentages of people who represent each bucket, we in fact have the lowest benefit system in the country right now. So there is really nowhere to cut from, and our concern is that cuts will come from that ground.

Ms. Laurie Davis: We're seeing impacts already on the 2010 cuts and patients' ability to complete their rehab. We surveyed not just our own members but a number of other members. We had close to 200 respondents—and some of those were responding on behalf of large practices—who told us that they're having to discharge a much greater proportion of their clients before they've achieved what they consider to be their functional rehab goal. So we would be concerned that any erosion of benefits will make it harder for people.

Ms. Dipika Damerla: I think you may have noticed that in the budget that we just passed there was no mention of eroding benefits. I want to reassure you. That really wasn't the intent, and you've probably seen where we are going with trying to reduce insurance premiums. Cracking down on fraud has really been our prime focus. So I want to reassure you on that.

How much time do we have left?

The Chair (Mr. Grant Crack): Two minutes, 20 seconds.

Ms. Dipika Damerla: Did any of my colleagues have a question?

Okay, we'll pass, then. Thank you very much.

Mr. Nick Gurevich: Thank you.

The Chair (Mr. Grant Crack): Thank you very much for taking the time to come before us and providing your opinions and your insight. Appreciate it.

MR. BILL ANDRUS

The Chair (Mr. Grant Crack): Our next delegation is Mr. Bill Andrus. Welcome back again, sir. It's good to have you back, and we look forward to your presentation. You have five minutes, and then each party will have 10 minutes to ask you questions or make comments.

Mr. Bill Andrus: Good afternoon. Thank you for meeting with me. I tried it earlier, and it didn't work; we did it this time. That's good. That's progress.

There's a handout of my presentation. The time is limited, so I'm going to speak to the words that are in bold, but there are words there in italics. I leave it to your discretion. If you wish to read them, please do so. Very briefly, I'll go through my presentation.

My name is Bill Andrus. I have an honours degree in mathematics, in actuarial science, 1973—so I may be the oldest person in the room—from the University of Waterloo. I'm an associate of the Casualty Actuarial Society. I have over 35 years' experience in this insurance business, and for part of my career I did work at the Insurance Bureau of Canada.

I'm here to today to speak specifically to the issue of measuring the rate of return on equity for the Ontario auto insurance industry. I speak to you today, not as a consultant for anyone, but as a businessman/investor with specific experience in the insurance business, including Ontario auto.

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I'm motivated to do this because I have read press releases and seen advertised in various print media that Ontario auto is producing returns of 1.3% to 4%. This is simply wrong. The Ontario auto business is very strong and certainly has produced actual returns well in excess of 4% in past two years. If they were only doing 1%, there would be an investment problem; there's no question. I wish to speak to this point, focusing on two themes: (1) accuracy and (2) transparency.

Accuracy: This is achieved when the results are stated accurately in the same way as any other economic indicator is stated. It is important to state the source of the data and the formula used to achieve the conclusion. Using this simple, basic approach, the numbers are what the numbers are. Two plus two equals four, no matter what the political ideology or vested interest.

Specifically for Ontario auto, this task is made relatively easy, because we have an excellent data source in what's called the GISA database; in my time, it used to be called the green book data. A problem arises when data becomes the subject of debate and conjecture. Let me stress, as I did at the beginning, that while everybody is entitled to their own opinion, they're not entitled to their own facts. Data in the insurance industry is no different: There's only one set of numbers, and they must be reported accurately and free of interference from any stakeholder or group.

Transparency: We also need greater transparency in the availability of data. Fortunately, improvements—I might say great improvements—have been made in the past number of years. GISA was founded to provide independent oversight of the auto insurance database and publications. GISA has made their insurance experience, which is excellent, readily available on the Internet. There is, however, greater need for transparency from the authors of the various presenters of the important metric of auto insurance, the metric being the rate of return.

Can you imagine this? The current situation is somewhat akin to a golf tournament where each golfer keeps his own score. You'd have chaos. Essentially that's what the rate of return is.

I invite questions on how a common method is used. I use it for my clients. The IBC has used it in past presentations to various governments. There's no secret. It's not hard. While it does take a person of specific expertise to calculate it, the results are what the results are.

Let me close by saying that just recently, a large Ontario auto insurance company, Dominion of Canada, a fine company that's been around for many, many years, was purchased by an American insurer, Travelers. I assure you that Travelers, having paid a fair price, knows the formula for return on equity, and Travelers isn't here for 1% to 4%. In summary, I conclude by saying that auto insurance is in great financial health, performing very well for its investors.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Andrus. We will start with the third party. Mr. Singh.

Mr. Bill Andrus: Excuse me. I do have, as I mentioned earlier—it might help to go through it very quickly—the profitability of the industry since 2000. It's a simple little table, very simple, very straightforward. Could I go through it?

Mr. Jagmeet Singh: Would you be able to table—do you have copies of that?

Mr. Bill Andrus: Yes, many copies.

Mr. Jagmeet Singh: We could have the Clerk distribute that.

Mr. Bill Andrus: I'll go through this table very quickly. This is the GISA data—

The Chair (Mr. Grant Crack): Sorry, sir. It's the NDP's time at this point. Your five minutes have expired.

Perhaps some of the members could ask you some questions, and that would be an appropriate forum.

Mr. Bill Andrus: So you don't want to talk about this, then?

Mr. Jagmeet Singh: What I'll do is give you a chance to talk about it in my time. I have couple of other quick questions, but then I'd love to hear you explain this, and we'll go through this in my time.

Mr. Bill Andrus: You want me to go now, or do you want to go through questions?

Mr. Jagmeet Singh: You actually already started, so let's go through this, if you could.

Mr. Bill Andrus: This is GISA data, the famous GISA data. It's excellent data. It's available on the public website to anybody who wishes to look at it. Very simply, this is the underwriting data. It does not include investment incomes: pure premiums, claims, expenses—premiums and claims, I'm sorry.

Those are the vehicles earned, so basically it's the number of insured cars. So approximately, in 2012, 6.7 million cars were insured in Ontario. Private passenger premiums earned: $10 billion. Number of claims: about 598,000. The dollars of claims: $6.5 billion. The average premium, what people pay per vehicle: about $1,500. But you can see the trend over time. The average claim size: You notice how it has gone down since the new legislation.

A very, very interesting statistic, one that does not get enough attention, is the decline in claims frequency. The consumers, I submit, are doing their part by putting in fewer claims. I suspect part of that—a large part if it—is that they're frightened to put in a claim in case their rates go through the roof, so they just don't put in the claim, but that's a rather remarkable decrease.

The average claim severity is going up. There's the claims ratio. Basically, of $100 in premium, what percentage goes out in claims? In 2012, it was at 62%. There has been only one other year since 2000 at 62%. Every other year has been higher. If, at 62%, you're only getting 1% to 4%, that's one sorry tale for the industry. It just doesn't make any sense, because it's one of the best years ever.

Mr. Jagmeet Singh: Perfect. Thank you so much, Mr. Andrus.

Mr. Andrus, why are your numbers and your calculations so different from what the IBC has been putting out, which are 1% to 4%? Why are they so different?

Mr. Bill Andrus: I've read the IBC presentation. I've read the work behind it. I know their various expertise. I'm just puzzled. I think it was KPMG that used—I know the people at KPMG. I hire them. My colleagues hire them. We're hiring them right now for tax advice. I don't know the answer to that. I read it; I scratch my head. I read it again; I scratch my head. My head starts to hurt. That's the best answer I can give you.

Mr. Jagmeet Singh: So you stand by your numbers that an industry of this size and of this nature wouldn't be just making 1% to 4%. They're making some significant returns.

Mr. Bill Andrus: We're not a charity. I'm an investor in business. I've never been accused of being charitable. At 1%, that's rather disgraceful.

Mr. Jagmeet Singh: In terms of the discussions at insurance companies around the board of directors, if they were to present to their stakeholders that they're only making a 1% to 3% return, what would the response be, do you think?

Mr. Bill Andrus: I'd be looking for a new job. It's not hard.

Mr. Jagmeet Singh: Can you talk to me a little bit about some of the details? If we get into it, the methodology you use in your report—I believe it's called the Cheng methodology—is that something that's widely accepted and widely used?

Mr. Bill Andrus: I'll give you my methodology. One more handout, if you bear with me.

Mr. Jagmeet Singh: Sure. Yes.

The Chair (Mr. Grant Crack): Mr. Singh, is it okay?

Mr. Jagmeet Singh: Yes, yes. Certainly. Please hand it out. Yes. Not a problem.

Mr. Bill Andrus: What I tried to do here—first of all, rate of return on equity. This is not rocket science. I don't think it's difficult at all. What I tried to portray here is a model, and this model says—let's each one of us pretend it's January 1 of, say, 2012, and we invest $100 in the Ontario auto insurance business—100 bucks. Now we go away for a year, and we come back on December 31 at midnight. Let's see if we made money. Let's keep it that simple.

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We put in $100. We've had great assistance here because FSCO has just come out with new parameters of how to measure this, and they're very, very helpful. FSCO has really been cranking stuff out lately and it's very good. There's one factor called premium leverage. We invest $100. That allows us to accept premiums from other people of $170. It's a leverage factor of 1.7. So we can take premiums of 170 bucks.

Now, you can see that on the GISA data the 2012 loss ratio was 62%; 62% of 170 bucks goes in claims. On the FSCO technical bulletin—and it's quite a generous expense ratio, I might add—25% of 170 bucks goes to pay the bills for running the business: the overhead, the salaries etc. That adds up to 87.l% of $170. Hey, we've got underwriting profit here, underwriting income, of 12.9% of the 170 bucks. This isn't hard. And 12.9% of $170 is 22 bucks. We only invested $100, so coming out of the chute we're at 22% pre-tax.

Now, then, there are the investments. The beauty of the insurance business, the magic of this business, why I love it: We don't invest in bricks and mortar. Look at BlackBerry. They had to go out and invest in research and development. We just stick our 100 bucks from our personal bank account into a different bank account, but we're still getting interest. I'm using the interest rate of 4%, so on our 100 bucks the investment income in equity is four bucks.

Now, another beauty of the insurance business—and Warren Buffett has made this famous—is the float. You get people's premiums up front, but the beauty is that you don't have to pay claims till later. So while you've got that money, you're investing it, and the investment income is all yours. This is a great business.

The investment leverage, the float leverage I'm using is $1.88. There's a bit of room here. This is subjective. I've checked with professional colleagues of mine. It's about $1.50 to two bucks. I put in $1.88. Put in whatever factor you want. That generates eight bucks. So on the investment income, I got another 12 bucks, plus $22 is $34.

Now, FSCO gave us a tax rate. I was surprised by the tax rate. I'm not a tax expert, but they're allowing 26%. I thought that was pretty low but I don't know. I'd go ask KPMG, "What's the tax rate?" But I'm using FSCO because it's there. And 26% is nine bucks. So $34 minus nine bucks in tax is 25 bucks. Our beloved $100 we stuck in here a year ago has made $25 after tax. This ain't bad. That's my point.

Mr. Jagmeet Singh: Thank you so much. How much time do I have left?

The Chair (Mr. Grant Crack): One thirty-eight.

Mr. Jagmeet Singh: Okay. So two things: One is, do you support the idea of making the profitability of the industry even more transparent and more clear so that people have a real, true notion of what the industry is making in terms of profit?

Mr. Bill Andrus: I think it could be. GISA has all the parameters there to do it and for the industry—also, GISA came out with one other very important figure of 11%. They're saying that is what you should make in the auto insurance business over time, is 11%. Hey, I like the 34%, frankly. But they're saying 11%. They're saying what it is. So should it be more transparent? I think GISA could do that on their website. It could be quite easy, and to answer your question, yes.

Mr. Jagmeet Singh: Can I squeeze in a last question?

Mr. Bill Andrus: Yes.

Mr. Jagmeet Singh: In 2010, after the SABS re-definition or the SABS amendments, the amendments to the statutory accident benefits, you've seen profits go up from that. Is that something that's going to change in any way or is that something that seems to be a consistent trend?

Mr. Bill Andrus: Well, the profits will be what the premiums that are charged—yes, the profits have really taken off since there was that legislative change, to go from a loss ratio of 88% to 65% was a profound—I think the rates will stabilize. Now, you've got this 15% thing kicking around, but I'm not really here to deal with that.

Mr. Jagmeet Singh: Would that be one of the most historically significant increases in profits you've seen in the industry?

Mr. Bill Andrus: Well, we can go down and eyeball it; you've got it right in front of you. It ranks right up there.

Mr. Jagmeet Singh: Okay.

The Chair (Mr. Grant Crack): Thank you very much. The government side.

Ms. Dipika Damerla: Thank you, Mr. Andrus, for coming. I understand you flew in from Winnipeg last week.

Mr. Bill Andrus: No, Calgary.

Ms. Dipika Damerla: Calgary; I'm sorry.

Mr. Bill Andrus: Actually it's a little town 70 miles south of Calgary called Stavely. The population of this building is bigger than that town.

Ms. Dipika Damerla: I just wanted to apologize that we—

Mr. Bill Andrus: That was unpleasant, but let's leave it at that.

Ms. Dipika Damerla: I really, really appreciate your persistence in coming back. Thank you so much.

Thank you very much for a very lucid explanation and your thoughts. You've been able to take a very complex subject and simplify it for me. From what you're telling me, in 2012 insurance companies made $4 billion in profits—you're saying that premiums earned were $10 billion and payouts were about $6.4 billion, so that's gross profit, right?

Mr. Bill Andrus: There are expenses, overhead expenses.

Ms. Dipika Damerla: So that's why I'm saying it's just underwriting income.

Mr. Bill Andrus: Use 12% of the $10 billion. That would be ballpark—10% to 12% profit; underwriting profit plus investment income.

Ms. Dipika Damerla: Okay. So here's my question: If insurance companies are making this profit and if their profits have increased, given that it's a free market, why have these savings not been passed on to the customer? It's something that boggles me. What's your take on that?

Mr. Bill Andrus: Why? I would say that a 15% rate increase has got everybody a bit spooked, but if the market were on its own devices, I think you would have seen decreases. I understand that a large company has decreased its rates just recently, and more will follow. Like, this is crazy: 3% to 4%.

Ms. Dipika Damerla: Sorry. If I understood you correctly, what you're saying is that if we left things as is, insurance premiums would come down automatically?

Mr. Bill Andrus: Yes. There's a lot of money that's yearning for a return, and if they were out there earning 25%, that's going to attract a lot of dough—lower prices—because lots of people are happy at 8% or 9%. I'm not, but others are.

Ms. Dipika Damerla: Okay. Based on your experience, what do you think is the number one contributor to costs in the auto insurance system?

Mr. Bill Andrus: Claims. I wish I could get rid of claims; then I'd buy this place.

Ms. Dipika Damerla: How much do you think fraud contributes to the cost of auto insurance?

Mr. Bill Andrus: You know, there's fraud everywhere. Fraud affects Costco. Fraud is fraud. You should minimize it, but I can't answer your question. I don't get overly exercised about it. If I'm the insurance company and I'm signing the cheques, if I think it's fraudulent, well, I won't pay the bill. I don't know why that's complicated.

Ms. Dipika Damerla: Based on your experience, what do you think would be the best form of accountability in the auto insurance system to guarantee that savings are passed on?

Mr. Bill Andrus: I'd say the free market. Just make sure that people can—if you've got an industry out there, 25% after tax, that's going to attract a lot of money. Many, many people would be happier with a far lesser rate of return, so that will lower prices; it has to.

Ms. Dipika Damerla: It hasn't happened in two years, is what my clients are saying. I'm not saying it's not happening, so I'm just curious. That's what my constituents are saying.

Mr. Bill Andrus: The average premium has gone from $1,500 to $1,544, but the rate of increase has certainly slowed down. I think there's a certain jumpiness out there, but left to its own devices—you've asked me, and hey, I'm a capitalist; make no mistake about it—I think the market would stabilize. But I'd stop monkeying around with it. That's all.

Ms. Dipika Damerla: Thank you.

The Chair (Mr. Grant Crack): Ms. Hunter.

Ms. Mitzie Hunter: Thank you for appearing and for bringing this additional—

Mr. Bill Andrus: Well, I didn't come in from Stavely. I do live in Brampton. I pay Ontario taxes.

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Ms. Mitzie Hunter: Thank you for bringing this additional data before us.

In terms of the years that you've presented, so between 2000 and 2012, the number of vehicles has grown. The premiums earned have also grown, as you've pointed out. But the number of claims has gone down. It seems like whatever is happening is addressing some of the behaviour—

Mr. Bill Andrus: You're quite correct. The number of claims going down: First of all, people buying higher deductibles, all kinds of—and they're submitting fewer claims because they're scared skinny of getting whacked with a premium increase. But also, and this could be easily checked, to go and check with, I don't know, traffic enforcement or whatever; maybe there are fewer accidents out there than there were in 2000. I don't know the answer, but it wouldn't be hard to find out.

Ms. Mitzie Hunter: That's part of the system, right? We have to try to work on the whole system.

Getting back to the question on fraud, you said that fraud will occur. Do you think it's a significant part of the system as it is today?

Mr. Bill Andrus: It gets a lot of attention. I've been involved. Fraud is always a cost in any business. Costco: You've got to check out because of fraud. But there are ways to control it. Don't pay a fraudulent claim. I've been faced with a fraudulent claim; I said, "I'm not paying it." It's not hard.

Ms. Mitzie Hunter: Are there any ideas that you would have for us to improve the system?

Mr. Bill Andrus: Let me run the whole thing at 25%; it would be delightful. Seriously, yes, there are. I think there are systemic things that can be done, but that's above and beyond my purpose to be here and not something I can explain in 30 seconds. But there are systemic issues that I think would be spectacular improvements. It wouldn't cost—

Ms. Mitzie Hunter: Can you give us one or two examples?

Mr. Bill Andrus: I'd rather not, at this stage. They're systemic to the delivery of the product. There are many different approaches. There's the whole cost base, and access to the product. If I have a second—how's my time doing here?

Ms. Mitzie Hunter: How are we for time, Mr. Chair?

The Chair (Mr. Grant Crack): We have two minutes and 41 seconds.

Mr. Bill Andrus: Maybe the other people have questions, I don't know.

Ms. Mitzie Hunter: We have two minutes with you, so you can continue for two minutes.

Mr. Bill Andrus: As strange as this may sound, access to a product—see, I'm an insurance wonk; I make no bones about it. In my family, with my friends, I've always issued this challenge. If they're complaining about their insurance, and someone in my family always is, tell me about it and I can save them money. My personal record is saving 5,000 bucks. But you have to shop the product.

FSCO, again, have done a tremendous thing. Do you realize that on their website there are, I think, four sample scenarios where you can look up the highest-rated company to the cheapest-rated company. Even if you took advantage of that, looked at the cheaper companies, went to your broker and said, "I want to pull from that company," this isn't hard.

But the broker might say, "I don't represent that company." That's a difficult thing, because now you have to fire your broker. A lot of people don't want to do that. There are solutions to that.

Ms. Mitzie Hunter: Okay. So consumer awareness and some market courses—

Mr. Bill Andrus: Yes, but FSCO has done a good job here. Putting out that price list is remarkable, but very few people know about it. That surprises me.

Ms. Mitzie Hunter: Mr. Andrus, thank you so much for coming in today.

Mr. Bill Andrus: You're welcome.

The Chair (Mr. Grant Crack): Thank you, and we'll go to the official opposition. Mr. Yurek.

Mr. Jeff Yurek: Thank you, Chair. Thanks for coming back, Mr. Andrus.

Mr. Bill Andrus: Not a problem.

Mr. Jeff Yurek: Do you have a report printed out, written out, that you can submit to committee on how you achieved these numbers and your methodology and—

Mr. Bill Andrus: I have that model. To answer your question directly, no.

Mr. Jeff Yurek: Okay. We've talked at the committee about various data sets and how they've indicated profitability of insurers—GISA versus OSFI stats, I'm talking about. Which one do you think is best at assessing profitability?

Mr. Bill Andrus: I think they're both the same. But one tests the rates, the other tests the financial outcome of that particular company. But the OSFI data is always problematic because it is all lines of business and it's difficult to split it out. They've made some attempts to do it, but to do it provincially, it's tougher and tougher. It is tough, whereas the GISA data has a singular purpose: to track the premium claims performance of Ontario auto insurance in great detail. If companies do not report their data accurately, they're fined money—serious fines. This is serious stuff. This GISA database is good. The actuary for GISA is the Ernst accounting firm. They've got a team of good actuaries. Hey, this is good stuff, and it is reconciled back to the OSFI data. You have to reconcile it back, or you get whacked with a fine.

Mr. Jeff Yurek: It goes to my next question. In your analysis that you made, or report that we don't have, did you make allowances for the fact that GISA data are estimates? It gets changed as the year-end continues on.

The Scarlett v. Belair case—

Mr. Bill Andrus: I'm sorry?

Mr. Jeff Yurek: The Scarlett v. Belair case. Have you heard of that?

Mr. Bill Andrus: Help me out.

Mr. Jeff Yurek: That was an arbitration case which changed over—the insurance company had to pay out more money for a certain case, which affects all the cases along the line. In which case it would change the GISA data. Did you make allowances for changes to data due to claims?

Mr. Bill Andrus: I'll answer the question. Hang on.

As the claim changes, it changes constantly over time. You can have a judge make a decision, or you could have a claims guy change the reserve. I believe the reportings to GISA are monthly. Of course the change is made, to answer your question.

Mr. Jeff Yurek: Did you make allowances in the calculations—

Mr. Bill Andrus: No, I'm sorry. I don't make the allowance; GISA does.

Mr. Jeff Yurek: But you made the report and made the calculation. Did you make allowances in your report?

Mr. Bill Andrus: It's in the data. It's in the data. You're looking at the data. This case you mentioned is in these numbers.

Mr. Jeff Yurek: All I have is two pieces of paper. I don't have a report, which makes it really hard for this committee to have a discussion about this without an understanding, when all the other actuaries who have testified at this committee have brought reports that we could actually read and study and have good coherence, so—

Mr. Bill Andrus: I'm here as a businessman more than an actuary. I am an actuary, but I know how to calculate a rate of return, and it's ridiculous to think that it's 3%. It's that simple.

Mr. Jeff Yurek: Are you a practising actuary, or are you just now in a business?

Mr. Bill Andrus: I've practised most of my life. Somebody said that that was my problem: I only practised. I invest in insurance companies. I sign the front of a cheque.

Mr. Jeff Yurek: Okay. The federal government uses OSFI data to evaluate the financial stability of the company. Are they using the wrong data? Should they be—

Mr. Bill Andrus: No, they're using—as you'll see in my resumé, I authored a book, sold all over the world, measuring the financial solvency of companies. I had 17 years—sold it all over the world, on every insurance company in Canada. I know how to measure the solvency. OSFI does a very good job. That is on the total book of business. It has got nothing to do with Ontario auto. It's the total book of business, and there are many other parameters that come into it. It's excellent.

The capital test is publicly available on the OSFI website quarterly. It's excellent.

Mr. Jeff Yurek: The ROE issued by FSCO, the benchmark, is that guaranteeing the industry a profit of 12%?

Mr. Bill Andrus: I wish. No. Most certainly not. If it was a guarantee, even I'd be happy with it.

Mr. Jeff Yurek: Can you explain how the benchmark ROE works in the rate filing process?

Mr. Bill Andrus: Yes. It's the 11%—I'm sorry—

Mr. Jeff Yurek: It's 12% right now, but I think they're aiming to get it down to 11%.

Mr. Bill Andrus: It has gone to 11%, yes. I haven't done a rate filing for many, many years. I used to do all kinds of—yes, what's the problem?

The Chair (Mr. Grant Crack): Sorry, sir, could you just pull back away from the microphone? Because there's static. We can hear you well if you're about four or five inches away from the microphone.

Mr. Bill Andrus: All right.

The Chair (Mr. Grant Crack): We appreciate that. Thank you.

Mr. Bill Andrus: All right. Better? Apologies. The question was?

Mr. Jeff Yurek: Talk to me about the ROE is done in the rate filing process.

Mr. Bill Andrus: I haven't done a rate filing in many, many years, but back when I did it to advise management—there was no FSCO, there was rate regulation at the time, but to my bosses I would put in the rates to get our desired underwriting ratio, which is this 62% number we're looking at here. That is the thing that drives everything. I would price the product—I knew what the expense ratio was—to a desired loss ratio. With the desired loss ratio we know our investment leverage. So back in those days we were fairly happy if we came in with a loss ratio of 70% or 71%, which would give us a rate of return—hey, we had more generous owners back then—approximately a 10% or 11% return. But that's when investment yields were banging around 6% or 6.5%. You could get guaranteed money and returns at 6%

or 6.5%. In the insurance business they were happy at about 11% or 12%.

Mr. Jeff Yurek: A question for you: The logic behind a return-of-equity calculation, when applied generally to any industry, is a performance metric of profitability.

Mr. Bill Andrus: You've got a hell of a list there, man. Go ahead.

Mr. Jeff Yurek: I'm dedicated, man.

Mr. Bill Andrus: I know you are.

Mr. Jeff Yurek: Generally, in high-risk industries ROEs tend to be higher than lower-risk industries. Investors are usually compensated for risk—

Mr. Bill Andrus: This is not a high-risk industry—

Mr. Jeff Yurek: You don't think insurance is high-risk?

Mr. Bill Andrus: No, it's the law of large numbers. Look at those numbers; they're almost like a frozen rope. I'll tell you what's high-risk, is BlackBerry. That's tough. Think about it, guys; come on. The people pay you the money upfront. They've got to buy the product; you don't even have to sell it to them. The government says, "Hey, you've got to buy this product." This is magic. I don't understand why this is high-risk. Hey, I've put a lot of my family's money in it and we're not starving, I'll tell you that.

Mr. Jeff Yurek: So there's no risk in insurance?

Mr. Bill Andrus: Well, there's risk in any business if it's badly managed. There's management risk. But the inherent—it's the law of large numbers. It's one of the most secure laws known to mankind. Do the gambling houses in Vegas lose money? They use the law of large numbers. Now I'm almost sounding like an actuary. Go ahead.

Mr. Jeff Yurek: I'll ask you one more. I asked IBC this earlier, and they were more than willing, but would you be willing to sit down with IBC's actuaries and figure out where the 10% is missing between your figures and their figures?

Mr. Bill Andrus: Yes, sure, of course. I'd be delighted to. I'll stop scratching my head. That would be pleasant, frankly.

Mr. Jeff Yurek: Great. Thank you very much.

The Chair (Mr. Grant Crack): Well, thank you very much, Mr. Andrus. I appreciate you returning. Very insightful. I take it that's it? So this meeting is adjourned.

The committee adjourned at 1703.

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