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Thursday 12 May 2005

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Jeudi 12 mai 2005

Standing committee on public accounts

Comité permanent des comptes publics

2004 Annual Report,
Provincial Auditor:
Ministry of the Attorney General

Rapport annuel 2004,
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Ministère du Procureur général

Chair: Norman W. Sterling
Clerk: Susan Sourial

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON PUBLIC ACCOUNTS

COMITÉ PERMANENT DES COMPTES PUBLICS

Thursday 12 May 2005

Jeudi 12 mai 2005

The committee met at 0946 in committee room 1, following a closed session.

2004 ANNUAL REPORT, PROVINCIAL AUDITOR

MINISTRY OF THE ATTORNEY GENERAL

Consideration of section 3.01, Office of the Public Guardian and Trustee.

The Chair (Mr. Norman W. Sterling): Good morning. I'm sorry for the slight delay. We had a nice little closed-door session talking about some of the auditor's report.

Before we go to questions, I'd ask you, Mr. Segal, Deputy Attorney General, if you have opening remarks or if the trustee also has some opening remarks—however you want to share this. I invite you to introduce the people who are with you and then go ahead and make your introductory remarks.

Mr. Murray Segal: Thank you, Chair. It's a pleasure to be back.

With me, to my right, is Elizabeth Patterson, the assistant deputy minister of the family justice services division. To my left is Louise Stratford, the public guardian and trustee, and with her in the audience are two senior staff, Sharon Yetter and Laurie Redden.

I am pleased to have this opportunity to meet with you today, and I will take the opportunity to make some brief remarks to discuss the Provincial Auditor's report on the Office of the Public Guardian and Trustee and to present the ministry's response to the issues that it raised.

Again, I'd like to say that we're very pleased with the auditor's positive conclusions about the public guardian and trustee services—the PGT services—to incapable adults. We find it particularly satisfying that he reported an overall improvement in the systems and procedures used to provide services to incapable clients since the last audit in 1999. I noted that only two of the 11 issues cited in the 1999 report appeared in the 2004 report. We welcome and we accept all of his recommendations, and we're currently at work implementing every one of them. I'll say more on that in a moment.

At this point, I'd like to provide you with a brief overview of the roles and responsibilities of the OPGT. Essentially, the job of the public guardian and trustee, as you know, is to help people who are unable to make their own decisions about matters that affect their security and their well-being. The office also serves a number of other functions, however, including administering estates for people who die without a will and without heirs in Ontario, investigating allegations of abuse against incapable adults, acting as the accountant of the Superior Court of Justice and safeguarding the public interest in charitable property.

Operating within the family justice services division of the Ministry of the Attorney General, the OPGT has about 330 staff operating in six locations throughout Ontario, with a budget of $30.4 million to deliver 14 programs. In the guardianship area, our client representatives maintain an average caseload of about 140 clients. In addition to the client representatives, the office employs multidisciplinary teams of dedicated staff with varied experience in fields such as health care, social work and financial planning. These teams receive professional support from lawyers, accountants and investigators as required.

Often, because there is no one else, the OPGT must, of necessity, become involved in advocating on behalf of clients, facilitating services and alerting health authorities when they may be in crisis. For example, the office delivers a series of programs that go beyond property guardianship for mentally incapable adults who do not have family support. Its staff members may be required to make substitute decisions concerning medical treatment, long-term-care admission, litigation and personal affairs. In 2004, the OPGT made over 3,000 medical treatment decisions.

Turning to guardianship, our largest program by far is property guardianship. We currently serve more than 9,000 clients, most of whom suffer from mental illness, dementia, developmental disabilities or head injuries. Many have been victims of abuse or neglect. Some are transient and have behavioural problems, and in many cases, their finances are in a shambles. Although the majority receive social assistance or live in institutional settings, more than 44% live in the community, and OPGT works hard to keep them there, if at all possible.

OPGT staff members serve 9,000 mentally incapable clients, with assets of about $380 million. Our people ensure that they receive the income and benefits they are entitled to, that their bills are paid, that their assets are properly managed and that their legal interests and personal needs are looked after. Each year, this involves making 7,000 applications for income and benefits; paying one million bills; locating, securing or managing

10,000 assets, including 500 real properties; instituting 2,000 legal actions to protect clients' legal interests; and ensuring that 10,000 tax filings are made.

In 2004, we greatly increased the number of home visits, compared to 1999, from about 4,500, representing about half of our client base, to about 6,900, representing all clients requiring or needing visits. In all cases, the office makes every reasonable effort to find relatives or other parties who are willing to become private guardians. It's recognized that, in most cases, the best solution for clients involves their families assuming some responsibility for their well-being. However, family members often refuse to become involved with clients who are in extreme personal, financial or legal distress. This means that many of the cases that fall into the OPGT are among those that are the most complex and difficult to manage.

Not only are OPGT staff handling increasing numbers of cases, but they are also serving clients with increasingly more complex and challenging personal circumstances. I've been extremely impressed with the commitment and professionalism that staff have shown in carrying out such fundamental duties as helping clients find a place to live, ensuring that they get medical help, and putting them in touch with community services.

This may mean making emergency arrangements to secure property while a client is in hospital, or rushing to assist a client who has just been evicted. It may mean arranging for delivery of food for a client who has neglected to feed himself for many days. It may mean calling an ambulance for a client who is experiencing symptoms of a serious medical problem but has no idea where to go and what to do.

OPGT staff members manage these types of difficulties on a daily basis, with sensitivity and understanding, and I would like to take this opportunity to publicly acknowledge their skill and commitment.

A few words about technology: To assist them in their work, we're investing in more and better resources to enhance the efficiency, management and monitoring of all program areas. This means, for example, improving our ability to conduct searches for heirs and distribute estate assets more quickly by enhancing staff capabilities and improving our system for tracking the status of files.

Our computerized logging and tracking system currently processes 12,000 benefits applications and income redirections for incapable clients on an annual basis. The office is also undertaking a large-scale information technology replacement program that will result in a more efficient and user-friendly system and even better client service.

A few words about estates: The office has improved its effectiveness in locating heirs on a timelier basis. In 2004, an additional estates analyst was hired, which will assist in further improving the timeliness of estate distribution. I'd also like to point out that while it is obviously important to distribute assets in a timely manner, beneficiaries never lose their right to an inheritance. A file can always be reopened, no matter how long it takes for the beneficiary to be identified.

In relation to accounts, I'd like to advise the committee that OPGT has reviewed all of the accounts belonging to former minors that are held with the accountant of the Superior Court of Justice. Over 96% of the assets identified as overdue in the 1999 audit have now been paid out. We have implemented a new tracking system for these accounts to monitor responses from beneficiaries, and we intend to continue aggressive follow-up of these accounts.

I now turn to the issue of vendors. With respect to the auditor's comments about OPGT's vendor relationships, we acknowledge that a request for a proposal was in fact posted for 14 days, rather than the 15 days set out in the Management Board policy. We have taken steps to ensure that any future RFPs posted on the MERX Web site will fully comply with this requirement.

We acknowledge the auditor's observation that we should have refused a fee adjustment by the firm that we selected to manage some of investment accounts. We accepted the change at the time because, although the bidder had made a mistake in its fee quotation, the new, adjusted fee was still below those of other competitors who had presented bids. In addition, since the original fee quoted was in error, it was also possible that it could not have been legally enforced. The adjusted fee was considered to be a reasonable resolution of the issue at the time it was accepted.

The auditor has also suggested that we take a more critical look at past performance in selecting investment managers. We will do so. OPGT will continue to have the assistance of members of its investment advisory committee to help in the selection and ongoing evaluation of its investment managers. However, I would point out to the committee that past performance is only one of the factors to be considered in selecting an investment manager. As the RRSP advertisements say, "Past performance is no guarantee of future performance."

Our first duty to our clients is preservation of their capital. This means that we must also look at a firm's investment philosophy and style, risk controls, succession planning, staff turnover, client services, experience and reputation. As every investor knows, high performance usually means accepting a higher level of investment risk. That is something that we, as trustee of other people's money, are very reluctant to do. Most of our vulnerable clients are not in a financial position to accept investment risk, and many of them rely on the income earned on investments to provide for monthly necessities. Preservation of capital is paramount.

Nevertheless, we agree with the auditor that suitable investment benchmarks should be used to measure the performance of our fund managers. We intend to regularly review and update those already in place and investigate others that may be appropriate.

Because of the unique nature of our responsibilities, some of the standard benchmarks are not appropriate for our application. That is why we are continuing to look for a suitable benchmark for our bond fund rather than simply use the Scotia Capital Universe Bond Index or other standard measures. In addition, of course, we will closely monitor the current bond fund manager to ensure compliance with fund policies.

With respect to financial management, we would say that we agree with the auditor's observations that investment decisions for individual clients should be fully documented after the consultation and review process has been completed.

We're developing a plan to ensure regular reviews of our clients' portfolios and will act promptly on recommendations from financial planners.

We're also taking steps to improve the process for assessing the health status of our clients in developing and maintaining their financial plans. This includes use of a standardized health questionnaire that staff will complete based on input from the client's health care workers.

In the case of trusts for children, we will continue to work with parents or guardians to obtain information on their health and financial needs to assist us in creating and managing their financial plans.

I now turn to the issue of losses. In his report, the auditor noted that some of our clients' portfolios experienced substantial losses. While this is certainly true, I think it is only fair to point out that everyone working in the investment industry has been contending with highly volatile markets over the past four years or so. In our case, this volatility has meant that the extremely small number of our clients with private stock portfolios have experienced major swings between gains and losses. The office has added staff to help manage these assets more strategically in response to market fluctuations.

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On the topic of overweighting, in his report, the auditor also pointed out that the investment portfolios of 22 of our clients were overweighted in equities contrary to recommended investment guidelines. He also quite fairly pointed out that these guidelines are only rules of thumb. Investing is never an exact science. In these cases, a variety of criteria were used in making investment decisions, including: how much cash the client had; how much cash he or she was likely to need in the short term; and how high a level of financial security was required over the longer term. Because of their strong cash positions, all of these 22 clients were considered to be good candidates for long-term investments with a substantial weighting in equities, the idea being that satisfactory growth would be achieved, with the effect of market volatility being smoothed out over time. Unfortunately, each of the clients passed away unexpectedly and was unable to benefit personally from this longer-term strategy.

At this point, I'd also like to deal with the client mentioned in the auditor's report whom the media has claimed lost millions as a result of our management of his portfolio. In fact, the client did not lose money; he gained an average of about 4% on his portfolio during the time we managed it. What happened was that this client came to the OPGT with investments in the stock of a well-established, Canadian-based high-tech corporation with a long history of success in global markets. However, during the period covered by the auditor's review, this company, like many major corporations in the telecommunications sector, experienced a high degree of volatility in the equity markets. In other words, its share price went through huge rises and falls before settling down in a price range far below its peak. During this period, experts disagreed on whether the stock was a buy or sell proposition. At its peak, the stock assumed an enormous percentage value of the client's portfolio and represented, on paper at least, a tremendous gain. When the stock collapsed to virtually penny-stock status, of course, the loss—again, on paper—was also tremendous. While it would obviously have been better to sell off the stock at or near its peak, I believe any financial planner will tell you that attempting to pick the peaks and valleys of any given stock's pricing is a sure route to difficulty.

The fact is, the client did not suffer the financial disaster that one would assume from reading the media reports. He came to us with over $900,000 in cash and investments. When this client left our jurisdiction eight years later, after payment of all his living expenses during that time, he had almost $1.3 million. Over a lengthy period that included considerable upheaval in the markets, his portfolio achieved a positive return overall. There are many long-term investors who would be delighted to be able to make the same claim.

With respect to charitable organizations, the Provincial Auditor noted in his report that the OPGT did not follow up after sending letters in September 2003 to about 350 former Ontario charities that had been deregistered by the Canada Revenue Agency. As part of this special project, the office asked for the reasons for the revocation and what steps they were taking to wind up their operations. Fewer than 50 bothered to reply, and the OPGT took no further action at that time.

The Provincial Auditor has recommended that the OPGT review Canada Revenue Agency's reasons for deregistering charities on a timely basis and follow up in cases presenting a higher risk that charitable donations might be misused or misappropriated.

In December of last year, the Charities Directorate of the Canada Revenue Agency agreed to provide the office with information on charities that had been deregistered for cause. This information will help OPGT to implement the auditor's recommendation in an efficient manner.

Mr. Chair and members of the committee, that would be my report. As I've suggested, we're very grateful for the auditor's recommendations and pleased to note the progress that has been made with respect to his earlier report.

We have a number of extremely dedicated and professional people working in the Office of the Public Guardian and Trustee, helping and protecting those who may not be able to manage their own affairs. I'll take this opportunity to thank them for their great work on behalf of all Ontarians in ensuring that we continue to live in a compassionate, caring social environment in this province.

The Chair: Thank you very much. Ms. Stratford, did you want to say anything? OK. Do we have questions?

Ms Shelley Martel (Nickel Belt): Thank you for being here today, the three of you. Let me begin with—maybe we'll call him Mr. X. I'm not sure how best to describe him, because we don't want to give anyone's name. I'm looking at the auditor's report on page 48, with respect to an elderly client whose stockholding was worth over $3 million. I'm assuming we're talking about the same client who was reported in the media as losing a significant amount of money. I don't know if I need confirmation from the auditor's office that we're talking about one and the same person.

Interjection.

Ms. Martel: OK. What I'm concerned with is that I see that the auditor's office says, "We noted that the recommendation of the financial planner to sell at least 75% of this stockholding was never implemented. As well, in August 2000, the office invested an additional $400,000 of the client's remaining cash in the diversified fund." That paragraph ends by saying that the total stockholding's market value had fallen from its August 2000 value by over 80%. As I read what the auditor had to say, I see problems in that the financial planner's advice was not followed by, I'm assuming, staff at the office, and as I read this, it seems that the client lost a significant amount of money. How do we square what the auditor has written down with what I just heard from you, Deputy?

Mr. Segal: I'm going to ask Louise Stratford to respond.

Ms. Louise Stratford: The recommendation that was made by the financial planner was not acted on in a timely way. With hindsight, it's easy to see now that the timing on the sale of that stock was very important. However, there was really no way at the time to realize the significant and dramatic increase and drop in value that that stock would bring. In hindsight, it's obvious there was a time to sell that stock, but at the time it simply wasn't appreciated and the recommendation was not followed in a timely way. Now we know, with hindsight, what that time would have been.

Ms. Martel: So when a financial planner makes a recommendation to sell, who does that? Do you just decide to hold on that for a while? If that's their job, and I assume it is, to look at the markets and make decisions about when it's a good time to get rid of things, if their advice is not followed, what do people do from there?

Ms. Stratford: As I say, it was difficult, with that stock, to actually know what the perfect time to sell was. The planner had been noting that there were a number of equities in that client's portfolio, and was recommending that the number of equities be reduced. The recommendation was not specific to the planner noting that there had been a rise in price; it was based on the number of equities that were in the file and what would have been appropriate for that client. As I say, with hindsight, it's clear that there should have been a sale at that time in order to optimize the value and the potential in that stock, but it didn't take place.

Generally speaking, though, recommendations from financial planners are carefully considered by the client representatives who make the decision. There is discussion between them about what ought to be done. Sometimes things are more clear than at other times. Every individual client's circumstances have to be carefully considered before the decision is ultimately made.

Ms. Martel: Can I ask one further question? Not only was it not sold in a timely fashion—it didn't seem that it was sold at all—the office then, in August 2000, invested an additional $400,000 of the client's remaining cash in a diversified fund. So there was one huge, gross error, and then it was—from my perspective; you're going to correct me if I'm wrong—reinforced by an additional investment of money for that client that probably shouldn't have been invested in the diversified fund either. Is that correct?

Ms. Stratford: Once you consider the loss in the particular stock that the client brought with them, and then you add to it the fact that the equities fund that the client was placed into also contained some of that stock, then yes: Overall, that did not yield a good result for that client. I point out, though, that a diversified fund is 60% equities but 40% fixed income. It's not a strict equities fund.

Ms. Martel: Can I ask the auditor, then: You've heard what the discussion has been. Where was our client left at the end of the day?

Mr. Jim McCarter: We can't go in with a crystal ball and say, "You should have sold at the very high." Our concern was the need to diversify assets. Clearly, in this case and in other cases that we noted, there wasn't enough diversification.

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Our recommendation was essentially that you need to be on top of this. If you have a situation like this where you've got a significant portion of one stock, it's just a matter of diversifying. We're not coming in, to be honest—we made the comment that you also have to watch the equity-fixed income mix. Again, our concern was the financial planner, which was good. The financial planner had a look at this and said, "This is wrong. You should be liquidating this stock, you should be reducing the exposure." It wasn't done. We did notice this in other situations too. Essentially, we were saying that you need to be on top of this, you need to be more closely monitoring this.

Ms. Martel: Do you have any sense that the checks and balances are in place? You said that this wasn't the only individual case where a financial planner had said, "Do something." There were other clients where that same thing happened. Do we know how much money might have been at stake with respect to those clients?

Mr. McCarter: Yes. I think that at this time we haven't gone back to see whether the checks and balances are in place. I think, as I discussed in the in camera meeting, we certainly got the impression in discussions with the deputy and the PG and T that they were concerned about this and they would be taking action to rectify it. I can't say whether or not the appropriate actions have been taken until we go in and do our follow-up, which would be a year from now.

Ms. Martel: Can I ask what the checks and balances are, then, to respond to the auditor's concerns when a financial planner makes a recommendation? Who is ensuring that that gets carried out in a timely fashion—that it actually gets carried out, and in a timely fashion?

Ms. Stratford: We have in place a number of procedures and policies in this regard. They require that the financial planner fill out a financial plan, a formal document, offer that to the client services representative, the substitute decision-maker on file. The team leader of that client services representative also comes into the loop. If the recommendation is not going to be followed, the team leader has to take that up with the manager for the financial planner. So there will be a great deal of scrutiny in any case where a recommendation is not about to be acted upon. Otherwise, it will be acted upon, and there is a department within the office that now takes charge of the financial plan and makes sure that recommendations that have been endorsed are actually followed up. I'm very confident that we now have in place very, very clear policies and procedures that will make sure those recommendations are dealt with appropriately.

Ms. Martel: Is that new since the auditor's report was released?

Ms. Stratford: It was there when the auditor did his review, and during the time of those files, but it was not as clearly monitored as it is now. We did not have the oversight at the more senior levels. The diversified fund was a new fund for our office back in 2000. The files that the auditor reviewed were all files that were generated in the early portion of that file's creation. Since then, we've had an opportunity to tighten up those procedures and for them to become much better known among the staff.

Ms. Martel: Can I ask some questions about the error? Deputy, later you say that the fee that was quoted by the firm that was selected was in error. I don't want to paraphrase, but I gather that you talked about some form of a legal challenge if you didn't recognize that it was an error. I look at the auditor's report, which says very clearly that the firm that was selected had been given an opportunity by the office to resubmit a bid with respect to its fees and that the selected vendor did not change its fee structure before it was chosen by the office. I don't see how you can describe this as an error when the firm that was selected had an opportunity, a second opportunity, to actually change their mind and didn't.

Ms. Stratford: Clearly, that firm made an error, had an opportunity to fix it, didn't, and discovered it after. It's highly regrettable that all of that took place. However, at the end of the day, when the firm did discover the error, they came to us about it. They knew that they had made this mistake and that they'd had an opportunity to fix it, but hadn't done so, and put us, obviously, in an awkward position. But we decided that there was a slight chance, from a legal point of view, that if we tried to compel performance, we might have had some difficulty from them. But moreover, their bid was still the lowest. Ultimately, we would have chosen them anyway.

Ms. Martel: OK. Let me look at what the auditor said. I don't pretend to be an expert on this, so they're going to help me if I get this wrong; they took a look at that as well. I'm reading from page 42 of the auditor's report, where it says that after subtracting the higher fee difference of 2.8 basis points from the top 20—that paragraph, Auditor—you still said that the second-choice candidate would have yielded an additional return of over $500,000 per year to the office's clients. Am I reading that correctly? Are you saying that if the second choice, which was essentially the incumbent firm, had been selected, even with the higher fee, the choice of them would have resulted in additional funds?

Mr. McCarter: What we were saying is that the track record of the number two candidate—they basically earned more on the money market investments. So we pointed that out. We also pointed out the fact that the primary criterion used by the PG and T was, "What fee are you going to charge us to do this?" I kind of had two issues: Take the performance into consideration, but probably more critical to us was the fact that you said it's going to be based on the lowest fee.

They came in and quoted 2.2. The PG and T kind of looked at this. That's a very low fee. I mean, that's a very competitive fee, 2.2 basis points. PG and T went back to the two candidates and said, "Can you please confirm to us that this is the fee that you're going to be charging?" The two candidates came back and said, "Yes, we're sticking to our 5.0," and "Yes, we're sticking to our 2.2." Then the PG and T said, "Fine. This is our primary criterion. You get the business. That's a very competitive fee quote."

Subsequently, the firm came back and said, "Oops. We goofed. We should have quoted a higher fee. This is our new fee." The concern we had is, they signed a contract, and they said, "OK. Let's compromise and we'll sort of split the difference." We raised that as being questionable.

Ms. Martel: I guess I don't understand how a legitimate firm that's doing significant business can make a mistake like that. It's just beyond me that someone can make a mistake like that after they have been asked by your office if that is clearly their fee. I have a real problem with that.

Mr. Segal: I can explain the ministry's position. It's hard for me to explain the private sector's position, but I understand absolutely what you're saying. In my remarks, I tried to convey that we've learned from that and that we acknowledge the auditor's point of view and criticism.

Ms. Martel: OK. I guess what I have a concern with is your deputy—and I appreciate your accepting some responsibility for this. It would be hard to describe this as an error, which is what you did in your remarks. I'm sorry. These guys had every opportunity. I don't know what the game was here with them.

Mr. Segal: I'm not sure there was a game. Again, it would be unfair for me to ascribe motive or intention etc. on the part of an entity in the private sector. I've taken responsibility for our part, clearly and repeatedly on this, and with the benefit of hindsight, maybe we should have done better. I acknowledge that. I don't know what else I can say in that respect.

The tracking that the auditor is doing with respect to the second-place company is speculative. In other words, if this had happened and that had happened, maybe it would have been a half-million-dollar something or other. I'm just taking responsibility. I'm telling you that at the time, there was a concern with respect to the possibility of legal liability. If we had to do it all over again, maybe we would have just stuck to our guns, and I take that responsibility. I take your point.

Ms. Martel: They're still there. How long are they there, managing the second fund? I have some questions about the first fund, but I'll leave the rotation here. Can I ask how long this firm has got a contract for to manage the fixed income fund?

Ms. Stratford: The contract is basically dependent on termination by us at any time, depending on their performance. So, as a matter of fact, this year we're evaluating performance, and this will be a year when we determine whether to tender that contract again.

Ms. Martel: So there are no requirements to tender either the contract for the fixed income fund manager or the investment management firms? There's nothing in legislation or in policy at the office that every five years, every six years, you go to tender to see if you can get a better deal?

Interjection.

Ms. Martel: I think she's saying that for the investment manager, there's some kind of rule about that now, although it didn't seem that that rule was in place for that tender either.

Ms. Stratford: Yes, it's standard to have an open end so that you can terminate at any time.

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Ms. Martel: You have some policy in the office about that?

Ms. Stratford: We do. We review performance by the managers on a regular basis. We have quarterly meetings with our investment advisory committee. We meet with the managers and with our consultant, who also gives us advice on this, review their performance and decide if it's satisfactory. If it isn't, we'll go out to tender for a new manager.

Ms. Martel: Do you guys have questions, or can I— OK, let me stop there.

The Chair: Mr. Patten is next.

Mr. Richard Patten (Ottawa Centre): Thank you for being with us today. I empathize with you, having gone through this experience. I might suggest there are other areas in the government where somehow performance on investments isn't maximized, but I'll tell you later where they are.

One thing I wanted to ask was that, managing investments, of course, I recognize is not easy. It's probably more difficult in government because of the constraints of legislation and the requirements from Management Board and things of that nature. When you want to maximize your decision-making, that requires timely responses. I would like to get a better appreciation of how that relationship works. I don't have a big portfolio myself, but I have a broker and I play around with a little bit of money. My broker will call and say, "Listen, I've got an idea for you. My suggestion is this and this." I make the decision there. Do I want to do anything? But I've got the information and I can act. That's not the case, I would suspect, in your situation. Could you tell me the staff office's relationship when information is put in? How long does that take, because if you're dealing with equities, as you can appreciate—

Ms. Stratford: I should first of all say, just to put it in perspective, that it's a very small number of our clients who actually bring these private investments with them. They're the ones we really have to be careful with. Our own fund has firm management, is overseen every single day and there aren't these kinds of decisions to be made. It's really only about 8% of our clients who bring these private portfolios with them. Historically, they bring the type of investment that's really the blue-chip stock you don't have to worry too much about. It was only back in 2000 when we first had experience with a volatile stock and had to make those kinds of fast decisions. Having said that, and having had that experience, we certainly are mindful of the need to have timely decisions in that area.

When we get a new client, the first step we do is bring out all the assets, which can take some time, because many of our clients—they come to us completely unknown to us, of course—may have been on a bit of a downward slide for many years, particularly our elderly clients who don't have family to look out for them, who have been in the community and who probably have been very gainfully employed, earning money and accumulating assets, and then they begin to suffer from dementia. In fact, 60% of our clients are over the age of 60, and a good number of them fall into that category. They've accumulated some wealth, they've started to feel the effects of dementia and they don't have family looking out for them. By the time they get to us, things can be in a pretty severe state of disarray. So our first order of business is to try and find out where their money is. This can involve going to their house or apartment, searching around for bank books, letters, any kind of evidence we can find, contacting neighbours and looking for family.

Eventually we find whatever we can and bring all those assets in. If we locate some private stockholdings, we immediately bring those in and transfer the file to the financial planner, who will sit down and do a financial plan for that client, assuming the assets are of appreciable value. Obviously, if there's just very little, it's not as serious a concern, but where the client has investments of $10,000 or more, we do an immediate review of the file. The financial planner surveys the holdings and does some research, and then we will make recommendations to the client services representative who makes decisions for that client. That representative will then implement the recommendations, say yes or no, and the planner will then forward the plan to our department, which actually effects the transaction. All of that should be happening in a very timely way when there are assets of appreciable value that are subject to that kind of volatility.

As I say, we've spent a lot of time in the past couple of years really tightening up those procedures, providing education to staff and making sure everyone is well aware of the need for timely action in those cases.

Mr. Patten: When you say "timely," what's the time frame for that: two days, a week, two weeks?

Ms. Stratford: By the time we've got all the assets in, it can take a few months before we actually know the picture. Within the first six months of having a client, we should have everything in and that financial plan made and those decisions implemented.

Mr. Patten: I think that's part of the difficulty of the situation. If it's going to take a few months, especially when you are dealing with portfolios that are high in equities—market stocks—the response time has to be much shorter than that. In fact, over a two-month period of time, a considerable change might occur. Therefore, my suggestion is to look at the timing of these things. Do you have a response to that?

Mr. Segal: Mr. Patten, you raise an interesting point. There are two distinct time periods. As Ms. Stratford indicated, one is the time necessary to get the picture, to find the actual assets, because the person may not have things in order like we would, for example.

As soon as that is known, then the next question of timing is, how does that compare with, for example—I'm not someone who has a portfolio—getting calls from a broker or having an exchange with a broker about buys and sells. The main distinction is that this particular population requires a more conservative approach. Indeed, that's one of the lessons regarding putting all of one's eggs in one basket. So there is a more conservative approach taken, also bearing in mind the particular needs of the client. Do they need a very predictable and fixed income? Those kinds of questions. There is an issue of timeliness, but at the same time, there is an inherent conservatism in terms of the approach of these vulnerable people, and not wanting to take too many risks.

Mr. Patten: I have some other questions, but I want to share my time with my colleagues.

Mrs. Liz Sandals (Guelph–Wellington): Perhaps I can follow along the stream we were on. I understand what you're saying about it may take six months or whatever to work through the mess of paper that's accumulated and try and figure out what's there and what's owned. I understand how frustrating that process must be, trying to figure out what you've got.

But the auditor also made some comments around the issue of whether there should be high-risk investments in the portfolio of a person who is older, and that there were these instances of elderly patients who, even if they had come to you with that mix—what happens with the portfolio to ensure that what would be presumably a bad mix for an elderly patient, however it got to be that way—what do you do now to make sure you don't carry on with this situation, which the auditor has identified, of having elderly patients with a portfolio that is much too high-risk?

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Mr. Segal: I'll just lead off and then turn it over to the public guardian and trustee.

I don't mean this is a criticism at all—I should say that really there's no frustration in this line of work at all; it's actually one of the more rewarding types of work. I remember, as a new deputy whose background was in criminal law, that I was quite taken at the very important public-minded and public-spirited work people do and the dedication they bring. Most of these people don't have a lot of money—it's a very small amount of money—and it's all about delivering services and making sure there's good-quality care. A lot of attention has been paid, and understandably so, to a couple of clients, one in particular who had an extremely large amount of money but absolutely no supports in the community, no family etc., and we have to do a better job.

The general point, as Ms. Stratford said, is that an assessment is made of the small percentage of people who come in with something to ensure that if there is the potential for volatility in having too much concentration, as we've learned from the one example I referred to earlier, there is a sort of appropriate blending as quickly as possible so that there is an inherent conservatism. The assets are mixed in a way that provides a maximum and steady return, matching the needs, the profile, the age and the health of the client, and the size of their holdings and the like.

Mrs. Sandals: Is that a change in policy? Because if that was the policy that was in place at the time when Mr. X—I understand what you're saying, that most of these folks don't have large assets, but having a lot of assets doesn't protect you from dementia and old age, so you're going to continue to get some clients who have lots of assets. Is that a change of policy from the time when Mr. X first came to you, where you did maintain a portfolio that had some volatile, high-risk assets? Given that experience, is that a change in policy?

Mr. Segal: I'll just say that we're very much more tuned in to this issue. There are very few who have that kind of holding, but that's not an excuse. We learned something out of it. I rather think there probably were tens of thousands of Canadians who had the same experience with that stock, a very unfortunate stock, wondering, "Should I buy? Should I sell? Should I short?" I'm going to betray my ignorance: sell, short, whatever.

Mrs. Sandals: Just so you don't misunderstand me, my issue here isn't that particular stock—should you have sold, shorted or whatever—it's if somebody comes to you now, having had this experience, and they've got a portfolio that's potentially volatile. What are you going to do about it?

Mr. Segal: Louise?

Ms. Stratford: We now conduct a very thorough review, as we did then, but now with much more timeliness built in, in terms of the oversight. Instead of just the planner and the client representative, we have the managers of those two areas getting involved, if the planner's recommendations are not going to be implemented if the client rep is not sure about them. So we have more oversight. But we've also changed our policies in terms of the age of people, when we're looking at asset allocation, which is to say, how much of their money to have in stocks, how much to have in fixed income. At that time, we were considering that you could still be in stocks even if you were over 75. We've changed our policy now, and if someone is 75 or older, we don't invest them in equities, and if they're already in when they come to us, we find a suitable time to get them out. Now that may not be right away. Obviously we're not going to sell a stock that's performing well and have the client experience a capital loss. We'll have to watch that portfolio very carefully. But certainly we have changed our approach somewhat on that with respect to elderly people.

Mrs. Sandals: OK, good. I think that element of moving high-risk portfolios to lower-risk portfolios as people age—you have changed the policy somewhat there. Thank you.

The Chair: I was asking the auditor, when Ms. Martel was talking about the 2.2 to 4.5 basis points, what kind of money this entailed in terms of the overall operations or what fee was paid. I think he's done a sort of back-of-an-envelope estimate here, but maybe it's important, too, to put the perspective. Basically, if it was 2.2 on $300 million, which was the amount, they would have gotten something like $75,000 in fees, and instead they got something like $150,000. That doesn't take away from the real question of why it was done, but I think that amount of money is relatively small in relation to the $300 million they were carrying forward. The more troubling part of the choice was whether or not they were good performers in terms of earning all they could have with that $300 million.

Mr. Segal: Thank you for that clarification, Mr. Chair.

If memory serves me, the contract had not been signed at the time this arose. As I said, maybe we would have done it differently.

The auditor today used the expression, "The figure of 2.2 was highly competitive," and Ms. Martel noted that that may perhaps—described it as an error. "Highly competitive" might err on the other side. Sometimes one has to ask, "Are you sure you're right?" Maybe we asked too many times here, because it was somewhat off. But I appreciated the clarification in terms of the amount of money. Next time we'll be more rapid in accepting these competitive bids.

The Chair: Do you have any questions, Mrs. Munro?

Mrs. Julia Munro (York North): Yes, and I do apologize for having stepped out; I hope my question isn't redundant. Obviously, when you're looking at the overall issue of what you do, you have this legal responsibility for the most frail and potentially disfranchised people, in the sense that no one else is there to act on their behalf. So it seems to me that oversight is of absolute, paramount importance in what you do.

I appreciated the changes you have made from 1999. As a matter of fact, I was a member of this committee then and recall quite vividly some of the issues that were raised and certainly appreciate your comments and the fact that the auditor also found that much had happened in a positive way since then.

My question is with regard to a mechanism for reviewing the kinds of things that you undertake on the financial side. Obviously, much has been made of the questions of investments and matching them to the age of people and things like that. When you think about it as an individual, any of us who has anyone performing that function for us expects that we're going to call them pretty frequently, or at least monitor or take a very active role in the decisions that are made. Obviously, you play that role for these people. My question, then, is, what are the steps that would give the people who are making the financial decisions concern about your phone call—of your review of any kind of oversight that you're going to provide them?

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Mr. Segal: I'll ask Ms. Stratford to review some of the steps that have been put in place in the last number of years, many of which have been commented on in a positive way by the auditor.

Before I do that, I just want to underscore the fact that while the focus of these questions is very understandably on the financial management, this is actually about full-scale and compassionate management. There's a multidisciplinary team of people. The financial part is one part, an important part, because without protected finances, that might challenge, in terms of the rest of the assistance. But the women and men at the PGT spend a huge amount of time dealing with the range of needs, financial being one of those issues.

We certainly have put in steps to improve, but at the same time, as I've tried to indicate, there is frequent contact and attentive, compassionate staff who are dealing with every little need, including stuff that most of us would never, ever think of as a challenge. The commitment to customer service and people support is remarkable and keeps on improving.

So I'll turn to Ms. Stratford to just underscore some of the financial improvements made, but I wanted to stress that this is a daily thing, with phone calls on every issue, including imagined problems, imagined ills. All I can say is it's quite remarkable to see the kinds of support. It's one of the more rewarding types of assistance, with the financial part being one aspect of that.

Ms. Stratford: I'll just speak directly to the issue of financial monitoring. As I mentioned earlier, it has only been since the changes in the Trustee Act in 1999 that the office has had the jurisdiction to look at clients' investments, from the point of view of what a prudent investor would do, as opposed to just investing clients in a very safe set of fixed-return investments. Since that time, we've been engaging in ongoing, continuing education with our staff to make sure that they understand what that really means, bearing in mind of course that, as everyone knows, and as the deputy said earlier, investing is not an exact science. It's very hard to really know exactly what to do. You can only go on the best advice that you can get.

Our staff certainly understand that we have experts on staff in the form of financial planners. We have six financial planners who have their CFP designations. Most of them are also chartered accountants; some have M.B.A.s. They have a great deal of expertise in the area. We also have access to external resources, in the form of our external brokers, who keep us informed on industry alerts and that kind of thing that would assist in analyzing particular stockholdings.

We also have an investment advisory consultant, a firm that we hire to provide advice on the performance of our funds and the performance of the market in general so that our financial planners can be informed as to what kind of advice they ought to be giving.

We have an investment advisory committee, composed of private sector members with great degrees of expertise in investments and in law and the financial sector, who meet with us quarterly or as often as we need—it's usually more than that that we get together—to discuss the big picture. They help us filter the information that we get from our fund managers when they come in to report on how our portfolios have been doing.

So we have a great deal of expertise being brought to bear, we have continuing education for the front-line staff and we have much enhanced and tighter internal procedures for people to follow. We have particular forms to be filled out, signed off and left in the file as evidence that certain recommendations were made and decisions were taken. We have very clear accountabilities for staff, including supervisory oversight of this area where we have clients who need that kind of attention, those few clients who do have those kinds of sophisticated investments.

Mrs. Munro: If I may just have a final comment, I have to certainly recognize the kind of work on the human side, as I know of at least one constituent for whom your office does perform the kind of tasks that you have identified, and how important it is to be able to have that kind of opportunity for individuals. As I say, in my own riding I'm aware of that. So thank you.

The Chair: I'll just ask one question: In terms of your relationship with the Ombudsman of Ontario, do you have many requests from the Ombudsman?

Ms. Stratford: We get inquiries from the Ombudsman's office. There are very few complaints that actually, in the end, are acted upon and recommendations are made on. I can only think of one or two over the course of my six years as public guardian that actually resulted in recommendations.

The Chair: That sort of leads to this next question: Who advocates on behalf of these people?

Ms. Stratford: We have about 9,000 adult clients. As I said earlier, many of them are elderly. Of the elderly group, there are about 20% of them who are over 80 and they really are suffering from dementia. The others, though, although they may need our help in managing their finances, are by no means incapable of speaking up for themselves. Many of them are certainly capable of doing that, and they know how to do it. So there are many complaints to the Ombudsman from clients, frankly, who think that perhaps we should be giving them money more regularly, wondering where there money is, that kind of thing. But when the Ombudsman inquires into them, we have not found that there have been any kinds of concerns that the Ombudsman has had, other than those one or two cases, in terms of how we've managed the file.

I take your point, obviously. These people are incapable of managing money and, therefore, you might assume that they're incapable of advocating for themselves. Certainly I don't suggest that they're all perfectly fine in that regard. There are agencies—the Advocacy Centre for the Elderly has represented some of our clients in disputes that they've had. Some have gone to their MPPs, and we've certainly heard from them about concerns of their clients. Many of them have social workers who can bring forward their concerns. So we do hear from people, and I feel that most of them are aware, if they have a concern, of what do about it.

The Chair: I guess my concern would always be that this person was basically not represented or nobody really cared about the individual, and to recognize whether or not her or his needs were being cared for—how does that rise to the top? Are there any other public trustees who have what I would call an internal advocate or an ombudsman kind of advocate that goes around and looks at individual files just to sort of bring it from the bottom up?

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Ms. Stratford: I don't know of any other jurisdictions that have an actual, formal ombudsman. Certainly, there are internal auditors, and we have them as well, who review files and go through the transactions and make sure that the policies are being followed in the office, and whether or not they bring them to the attention of the staff and those items are looked into. I believe the auditors can confirm that we do have that function, and it is quite a rigorous one in our office.

Ms. Martel: I want to return to the matter of the managers of your funds, because I asked that question about whether they're contracts, and you have said that the contracts both for the diversified funds and to manage the fixed-income fund are open-ended. I'd be curious to know what criteria the office has in place to determine if their performance is satisfactory, which would lead to that manager continuing in place, and what the criteria would be to decide to go to an RFP to have a new manager.

Ms. Stratford: Every fund has a number of benchmarks that are set in order to monitor the performance of that fund, and thereby the manager. Every quarter we get a report from the management firms. Our consultant filters those reports for us. We look at them as well. The consultant will analyze those returns and compare them to the benchmark. We get reports from all of them in terms of how they have done. If we find that they are underperforming, not meeting that benchmark for a period of time, then we would begin to have serious concerns about them, and we would think it would probably be time to go out to have a look for new managers.

Ms. Martel: You have a manager, if I read this right, for the diversified fund, because there are two managers. Your top choice is the choice that the auditor said would probably have ranked 13th out of 15 in terms of past performance. Over the last three and a half years, the top-choice manager's return has been $10 million lower than the return that was earned by the second-choice manager. That appears to be over a three and a half year period, so you have now had some experience with a top-choice manager: a return of 7.1% for the second choice, and the top-choice manager at only 1.7%.

Now, it says that both of the firms are meeting benchmarks—I'm assuming those are the office's benchmarks—but the fact of the matter is, one is seriously outperforming the other. The one that is not performing well, which is the top choice, was also the one that the auditor said, if you ranked on past performance, would have been 13th out of the 15 candidates that came forward. At what point do you decide that that is not very good performance and that maybe some in those other 15 could have been doing a better job?

I remain very concerned about the choice that was initially made, from what I have read in terms of the auditor looking at the past performance of the office's first choice. I remain even more concerned when I see that that individual is consistently outperformed by another firm and maybe could be outperformed by some of the other firms who came forward for the RFP but were not successful.

Ms. Stratford: As the auditor acknowledges, past performance is one indicator of a firm's performance, but there are other criteria that you would look at before you would select a fund manager—things like the investment philosophy, the style, the succession planning at the firm, the firm's reputation, the client service record, the experience and so on. The firms that we looked at were all pretty good performers. Relative to each other, some may have done better than others, but they were all good performers.

The firm that we chose as our first choice ranked particularly well in those other areas. There is a firm called Greenwich that does evaluations of fund managers. They do a survey of fund managers every year, and they report to financial institutions and other kinds of bodies on their findings. The firm that we chose as our top choice was in their top list of leading fund managers. They had ranked very highly on a number of criteria. To categorize that firm as a poor choice, I think, is really unfair to them. Relative to the other players in the industry, they perform well. Now over the course of those 10 years, on an annualized basis, it's true that they did not do as well as some of the other firms, but as I say, they still did well relative to the market, and that is really the test. On the other criteria, they did very well.

Since that time, it's true they have not performed as well as the second-choice firm, but again, you can't look at that in isolation. These firms have different investment styles, and we purposely chose two firms with different styles on the thinking that, depending on what market conditions were, one firm probably would do better than the other.

The firm with the style that was more conservative would do better where the stock market was not performing particularly well, and vice versa. Frankly, that's what we've seen borne out, because our top-choice firm is a more aggressive, growth-oriented firm, and you would expect to see them do better in years where the market was performing better. In fact, that has been the case.

Unfortunately, since 2000, the market has not been performing well overall. So when you add up the years of performance, the second-choice manager, which has a more conservative style and keeps more money in the safer longer-term investments, has done better.

Ms. Martel: I'm concerned, though, about the office's top choice in relation to the firms that were not selected, and whether now it's an appropriate time to look at the other firms that were not successful.

I've heard you say—and I've read through the documents—that past investment performance wasn't the only thing you looked at, except the first choice, I would have to say, did not do well at all, frankly, with respect to past performance. The auditor says the top-choice candidate had the lowest annualized investment performance of all 15 short-listed candidates. It was also consistently underperforming in relation to benchmarks for global equity market. It had only outperformed the TSE 300 Index once in the 10-year period beforehand on an annualized return basis. Also, because it's the same firm that was selected to be the fixed-income fund manager, the top choice there, again, the same candidate, was the lowest of the three candidates in that RFP in seven of the previous 10 years.

I'm looking at the choice and—we're going to disagree on this—I don't think it was a good choice. I think that three years later, when you look at their performance in relation to the second-choice manager, that has been borne out. The auditor also expressed concerns about how the same manager was performing with respect to the money markets. His comments weren't terribly complimentary either. At what point do you say, "We better take another look at this"? I say that especially because this firm essentially has a monopoly now over your funds. I assume they still have half of the diversified fund, which would be $50 million of the $100 million, and they also are entirely managing the other portfolio of—what?—about $800 million. I mean, they essentially have a monopoly. At what point—no? Well, they run both sets of funds, right?

Ms. Stratford: They run the money market fund and half of the diversified fund, but the bond fund is with the third manager, and the bond fund is actually the largest fund, in excess of $500 million.

Ms. Martel: So it's not the same manager that has the bond fund?

Ms. Stratford: No.

Ms. Martel: My apologies. I thought there were only two sets of RFPs here that we were talking about. Is there a third RFP for the bond fund?

Ms. Stratford: That's right, yes.

Ms. Martel: There were no concerns about that? I don't think it was referenced at all in this.

Mr. Andrew Cheung: There was no open tender.

Ms. Martel: There was no open tender for $500 million?

Mr. Rudolph Chiu: Our concern on that one was that—just the invitation of the three existing managers that had performed for OPGT before. So it's not extended to the other.

Mr. David Zimmer (Willowdale): Sorry, I'm not hearing.

Mr. McCarter: We didn't comment on the report on the bond fund, just on the diversified equity fund and the money market fund. That's where our primary concerns were.

Ms. Martel: OK. So if you have a portfolio of $1 billion, $500 million is to a company that is not referenced in your report one way or the other, and the top choice of the office is looking after $300 million in one fund and $50 million in others—so about $350 million that it's managing, in some way, shape or form, out of $1 billion?

Mr. Zimmer: I thought that you mentioned you had no comment one way or the other; I thought you had no concerns with that.

Mr. Cheung: Our comment was that there was no open tender; it was invitation-dependent. The entire fixed income fund was $800 million, and our comment with respect to the whole thing was that it was by invitation, whereas our particular concern with the money market fund was the way the contract was awarded.

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Mr. McCarter: The issue with the fixed income fund was that under Management Board guidelines, we felt there should have been an open tender or, if not, then the deputy minister should have signed off. We saw no evidence of that. That was our primary concern there, as opposed to when we looked at the tender process and how the selection process went. We didn't really have any comments there, unlike the comments that we did have on the equities fund and the money market fund. It was more an issue of, did they follow the rules with respect to an open, competitive tender?

Ms. Stratford: If I could speak to the money market fund, which is the $500 million-plus fund, the performance of the manager since the manager was selected has been very good. The manager has beat the benchmark. The auditor's comments in terms of performance there were again just on past performance. The auditor has not suggested that the current performance is deficient relative to the other managers we could have chosen. The auditor is saying, "Based on past performance, perhaps you should have chosen the higher performer." But the difference in performance for those past 10 years was really small. The investment consultant we hired to help us with the selection process said that basically it was insignificant, and therefore you would turn your attention to other criteria to make your decision. In that case, the other criteria were mainly fees, which, even after the adjustment, were still better than the other manager was offering.

Ms. Martel: But the fee was attached to the selection of the diversified fund, right? No, it's the other way around.

Ms. Stratford: The money market fund was the fee issue.

Ms. Martel: But in terms of the diversified fund, the firm that was your top choice has, over the three-and-a-half-year period, done about $10 million less in terms of return. Is that continuing for this year, because that was up to March 2004?

Ms. Stratford: In 2003, our top-choice candidate performed better than the other firm, because that was the year that the stock market did very well, as I explained. That's what we expect to see. The investment manager with a style that is more suited to a bull market is going to do better in those years, and we've only had one. So the other manager is now performing better because, based on market conditions, that's what you would expect from that manager.

Ms. Martel: But can I ask, over a four-and-a-half-year period—because that's now where we are—what is the difference between the top-choice manager's return and the second-choice manager's, both in terms of monetary value and percentage? Do you have that?

Ms. Stratford: I don't. I have a year-by-year record of the percentage they each made on the funds for us, the value in percentage. I don't have it in dollars. I could compute it.

Ms. Martel: If you could get that for the committee, that would be great.

Ms. Stratford: Sure.

The Vice-Chair (Mrs. Julia Munro): Just for clarification, could you repeat exactly what you were asking for?

Ms. Martel: The monetary value of the rate of return for the first—well, what the difference was between the first and second choice in terms of the rate of return for 2004-05, because right now we only have it up to March 2004 in the auditor's report.

Ms. Stratford: I have the most previous return, if that's what you're asking; I just haven't added it all up. I know that for the year ended 2004, the top-choice candidate brought in 8.6% on the portfolio, which computed to $1.6 million, and the second-choice candidate brought in 10%, which computed to $2.3 million.

Ms. Martel: It's 2004-05 that we're missing, which is what you will be able to get for us.

Ms. Stratford: We do it on a calendar year basis. It's just a different way of looking at it. So that's really the most recent annual figure that I have.

Ms. Martel: Let me go back to the issue of the contracts, if I might. In the auditor's report, one of the concerns that was noted had to do with the selection of the investment advisory firm. The deputy has said it would be 15 days instead of 14, as per Management Board guidelines. But it looked like 10 years had gone by before there was actually a request for a proposal for that contract. Is that correct? They came on board in 1992, and then was the next RFP in 2002 or was there one between that time?

Ms. Stratford: There was one in between; maybe more than one. There was at least one in between.

Ms. Martel: Under either legislation or policy, there is an actual termination? That contract is not open-ended. Is that—

Ms. Stratford: That's the one that does have a term.

Ms. Martel: Is it a five-year term?

Ms. Stratford: I think it's a three-year term, with the possibility of two extensions of up to a year each.

Ms. Martel: That RFP essentially went out—I don't know when the selection was—in December of 2002. So at some point this year, you would be looking at either going to tender again or an extension. Is that correct?

Ms. Stratford: Actually, we already posted an RFP on MERX earlier this year, and we're now looking at the responses.

Ms. Martel: Does that contract end in December 2005?

Ms. Stratford: Yes, it ends imminently.

Ms. Martel: It's earlier than it would have been in the contract.

Ms. Stratford: We were working on an extension, and the extension is up at the end of this month.

Ms. Martel: Oh, because it's three years? Sorry, I'm not understanding this. I thought the contract for that firm, that RFP, had gone out in December 2002, so even if you had a three-year contract, it would be ending in December 2005.

Ms. Stratford: I'd have to check the exact dates. I know it's a three-year term, the term is up and we're now operating under an extension. I guess the date of the contract must have been sooner than 2002. It must have been 2001.

Ms. Martel: I didn't think it was, only because it said on page 37 of the auditor's report that the "contract was most recently granted to the investment advisory firm in December 2002 at a cost of approximately $225,000 over two years." The contract is not three; it's two. That's where the change is.

Interruption.

The Vice-Chair: Could we just have you make the comment up at the table, so that it's recorded in Hansard? You should identify yourself, if you could.

Ms. Laurie Redden: My name is Laurie Redden. The answer I was giving related to the term of the current contract for the investment consultant. We are going to double-check the initial commencement date. The term of the contract provided for a fixed term of two or three years, with two possible extensions of up to one year each. Even though the contract started in December of a year, on the last extension, which we invoked last December, the decision was made to extend it for less than one year, which is why it's coming due and we're in the process of re-tendering now. That's why it's coming due before December 2005.

Ms. Martel: Can I be clear on what the role and responsibility of the investment consultant is? What services are they providing in your office?

Ms. Stratford: The investment consultant reviews the reports that we get on a quarterly basis from our investment fund managers and provides us with reports analyzing their performance based on the benchmark, compared to each other, and based on other kinds of events that are affecting the world's economy, so that we have some perspective on all that. They're available to us for any kind of advice we might require. We're able to call them up and ask them questions about anything we think they can help us with.

Their other major function is with the manager selection. When we're ready to look at hiring new fund managers going out to tender, then we would use that firm to assist us in the process. Most kinds of funds that operate like ours have that kind of consultant and that kind of expertise, because there is a very accepted way of making that search. Our firm, and most of these consultants, have expertise in that area.

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Ms. Martel: Can I ask one final question on that? The auditor said that the investment firm that was chosen last time was not registered with the OSC. Is that now a requirement in this competition?

Ms. Stratford: No. It's our understanding that registration with the OSC is not necessary for this kind of consultant. We did a search of the top consultants we know of to see if any of them were registered. None of them were. It's our information that it is just not required unless they are going to be giving specific advice on individual buy and sell decisions on a stock. They don't do that. They just give general advice in terms of what the stock market is doing overall and how people have done relative to benchmarks. They don't tell you whether you should buy or sell this or that. That's when you would require registration with the OSC.

Mr. Zimmer: I have a question or comment having to do with the selection process and this issue of other criteria. It's not unusual in the private sector, for instance, on RFPs that a business is doing, that when they have an RFP out, they have this idea that it is not necessarily the lowest bid. The analogy in your case would be to the highest return. If there are bids that are within a range, they can choose a bid that's not necessarily the lowest bid. They may revert to other criteria, the compatibility of the company, the mission statement of the company and a whole host of other criteria that would trump the lowest bid. I guess the analogy in your case is the highest return. I wonder if you could help us to understand what some of those other criteria are that you look at that would trump the highest return bidder?

Ms. Stratford: Our investment advisory consultant whom we were just talking about helped us with that and provided us with the industry-standard criteria that funds would look for in terms of performance from a potential fund manager. Those things are matters such as investment style. Managers have different styles. Some are more value-oriented. They tend to hold stocks for a long period of time. They are more conservative. Others are more growth-oriented. They tend to turn over their stocks more aggressively and are looking for quicker gains. Those kinds of managers are obviously less conservative. You would be looking to see what is the investment style or philosophy of the firm. You would be looking for the stability of the firm. What has the turnover been? Are people coming and going all the time? Are people tending to stay there? What is the ownership of the firm? Do the staff have a piece of the firm and therefore a stake in it and a long-term interest, or are they all employees?

You look at the record on client service and the Greenwich survey I alluded to earlier. It gives information there about what other clients of that firm have said about the type of client service they are getting. In other words, is this firm able to explain what they have done? Will they come out and talk to you if you want them to come and have a meeting and explain performance or talk about issues? They rank them on that basis. They also look at the firm's reputation generally. Again, the Greenwich survey is useful for that. There are a large number of other things that are important when you are deciding where you are going to place your money because, obviously, you want this firm not only to have done well in the past, but you want it to be around for the long term. You want it to have the kind of stability, expertise and reputation that you really feel you can put your trust and your client's trust in it.

Mr. Zimmer: I have one other question—a short matter. I guess you've got people's assets and money you're managing, and they may not be at the older end of the range but somewhere in the mid-range. Of course, on life expectancy, if you're anticipating that someone's going to live a long life, that triggers one investment strategy. I suppose if health concerns develop and you have reason to think their life expectancy is going to shorten, you want to move the investments into other things. So there's a tie-in there with what you know about the person's health status. What challenges have you got when you're trying to make some inquiries in figuring out if somebody has got some health problems that have developed—or for other reasons—that would make you want to change the investment strategy? How responsive is the health care information?

Ms. Stratford: As you know, unlike in the private sector, where an investment fund counsellor would simply ask the client, "What's your tolerance for risk?" and, "How's your health," we're unable to do that with our clients. Most of them would not be able to provide us with helpful information. So we have to look for other sources of information on their health status. Obviously, we would speak with medical professionals, like their doctor. If they're in a long-term-care facility, we would be checking with the nurses there, the health care aides, whoever we could really get an opinion from. But this has never been an easy task.

We have a health questionnaire our staff have to fill out. They have to be as diligent as possible in trying to find out the situation, but it's not always easy to get reliable information. The health care professionals in these institutions are extremely busy. To get them to sit down and really analyze a patient's file and then actually give you an opinion on how long an investment horizon they think that person might have is a difficult matter, even in the best of times—to pin down a health care professional in terms of life expectancy, where you're dealing with an elderly person. Someone can appear well and be doing well for their age, yet that may not be a guarantee of a long-term kind of outlook for them. So we have to gather all that information as best we can and then we make a judgment call.

If we are not certain on health, if we have some doubts, if there are some real gaps in the information, then we err on the side of being conservative and put them into fixed-term and very safe investments. We don't consider them long-term prospects.

Only when we have health information that we think is pretty reliable would we then assess them as being a long-term prospect, provided the other things in their situation call for it, such as they've got a lot of cash they aren't going to need and they're able to afford it otherwise.

The health information is a challenge.

Mrs. Sandals: One of the things that is mentioned in the auditor's report is the issue of distribution of assets to minors who have reached the age of majority. Maybe because I live in a university town and often have students at my office talking about the stresses in funding post-secondary education, I'm rather sensitive to this. I'm looking at the amounts here. It talks about 600 former minors with about $4.6 million in assets. Just roughly, that would be something over $7,500 or $8,000, on average, per student. While that may not seem like large dollars, for a young person that age, it could be a tremendously significant amount of money.

I see that the issue around notifying them seems to have been done on a more timely basis, but then they seem to get lost and there's not much follow-up. I'm wondering if there has been anything done to address that situation of tracking down these young folks where you have some assets that I'm sure they could use quite desperately.

Ms. Stratford: We've been doing a lot of work in this area since the auditor first raised it back in 1999. I'm happy to say that we're now down to 419 as the remaining number of former minors whom we have yet to locate, and their assets total about $2 million. That's what we have left. As you note, it's not insignificant. We would like to find those people. However, for that group, we have exhausted all the searches that are available to us at present. Obviously, we send letters to last known addresses and those kinds of obvious things. We are able to get information from the Ministry of Transportation to try to track them that way.

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The last alternative for those people, which we're now working on, is to try to get information from the Ministry of Health. Obviously, there are a lot of privacy concerns when you're trying to get information about people, and we certainly don't want to infringe on any of the privacy regulations around any of that information. So we've been having to tread quite carefully and we're working very carefully with these other ministries, health in particular, in terms of having them attain the regulatory power to give us the information, and then having a very tight memorandum of understanding so that it's very clear what the type of information we're getting and the reason for it, and only in these circumstances will we get it. We're just about there in terms of working with the Ministry of Health to enable us to get at some of this information or enable them to access that and then tell us if they can find these people. We're hoping we're going to be able to find quite a few of them that way. If not, we're going to have to really think hard about what we do for the rest.

This problem will hopefully, though, not repeat itself in the future. When we took over the function of the accountant, it had not been the practice to look for children when they came of age and became entitled to their money. So many years had gone by in some cases between the time when the money was paid in and the time that the child became eligible, and then the time that the money had sat there. So it was very hard for us, when we first opened up those files, to try to locate the children in question. There wasn't much information on file, and there hadn't been requirements in the past to really put a lot of information on file when the original payment was made.

We've changed those rules so that when payments are made now, we have a lot more information about where we're going to look for that person when the time comes to locate them. So, as I say, I think we will overcome this obstacle in time with the better information we'll have already and then the improved search techniques for finding people generally. But, as you say, it's an area of concern, and we're certainly not giving up on these last 400 or so. We're going to do everything we can to find them.

Mrs. Sandals: For the minors who are in the system now, do I understand that you're doing a closer job of tracking them continuously? It sounds to me like you've got a name and a dollar amount and then you've lost track of them long before they got to the age of majority. Just instinctively, it would seem to me that the thing to do is keep track of them while they're minors so that when they reach 18, or whatever the magic age is, you already know where they are instead of looking for them after they're lost.

Ms. Stratford: Right, and we do make better efforts in that regard. We send out statements and keep better tabs on them overall. As I say, I think we've got a much better handle on the situation. We shouldn't see this kind of thing in the future.

Mrs. Sandals: Good. Thank you very much.

Ms. Laurel C. Broten (Etobicoke–Lakeshore): I want to pick up where Ms Sandals left off. She was speaking to you about locating minors. I want to ask, in terms of the auditor's concerns, about the backlog in administering other estates and distributing assets, and, in particular, what efforts have been made to respond to that concern?

Ms. Stratford: This is an area that we had been working on, again, continuously since the last report. There were some older files that we had not exhausted searches on. We redoubled our efforts to try to find those beneficiaries, and we're making good inroads there. We have hired additional staff for that area, so the caseloads now are more manageable and they're able to get through more cases in a year. We've also improved our search techniques. The Internet has been of a lot more assistance in the past few years than we used have available to us, so we're able to find people more easily.

Overall, we're seeing a much better search success rate, and with our additional staff we're able to get through those files quicker. Once we clear this original group of older files—there are about 400 of them—we'll be more or less current in terms of our ability to look through those files and begin the searches for heirs. It does take time, as the auditor notes in the report, to actually locate heirs and distribute money, and that will vary with every single file depending on where, ultimately, we find those heirs, where we have to look for them, how many of them there are and so on. But certainly, in terms of getting on top of the files, getting the searches underway, we're now in a better position staff-wise to do that, and the search techniques we have available are much improved.

Mrs. Munro: I'd like to just take a couple of minutes to ask you a question about the charities part of the auditor's report. In his report, he noted that there's an ongoing delisting of charities through the Canadian Revenue Agency and then the concern that you have in terms of the question about the disposal of any monies.

The report suggests that 350 charitable organizations out of 1,100 had special mailings sent to them and more than 300 didn't respond. I just wondered if you could give us a sense of what kind of tools are available to you and what happens, because obviously from the public perspective the appropriate winding down of these monies is quite significant. My question, then, is with regard to what options you have, what tools you have.

Ms. Stratford: Our best source of information is the Canada Revenue Agency, as the federal overseer of charities. Previously, we were not able to get a great deal of information from them, but we've been working in the past couple of years on working out some protocols with them to get more information. I'm happy to say we've been very successful in that regard, particularly over the past year, in working out agreements to share information.

The project mentioned in the auditor's report undertaken by our office was kind of a one-time special project. Our concern is with charitable property and what becomes of it when these charities wind up. Previously, Canada Revenue Agency would publish in the gazette once a month a list of charities that had been deregistered, but back in 2003 they published an annual kind of roll-up list, and that's the one that caught our eye. We thought to ourselves, "I wonder what's happening with these?" We sent out a sample of letters and did not get much of a response, as was noted. We were kind of thinking, "Where should we take this?"

The auditor was concerned that we hadn't actually followed up on it and suggested that we should focus our efforts on companies that had wound up that maybe were of real concern, because there would be lots of these where there wouldn't have been any property and it's not a concern at all. The question was, how do we know which ones those are? That's where we started talking to our counterparts at the federal level and working out an agreement. So we now have a protocol with them where they will let us know when they've deregistered some of these charities—which might be of concern, which might have some property that does need following up—and that's the group we'll be targeting.

We got our first batch of information at the beginning of this year, and we're just looking at it now. We will be following up on the ones that really seem to be of concern.

Mrs. Munro: What kind of opportunity do you have if you find something that creates some concern in terms of the way in which the disposal of any property is being made? What's your next step?

Ms. Stratford: Our first step, obviously, would be to ask the directors, "What's happened here?" Oftentimes we find that it's really a matter of education. People start up charities and have perfectly good intentions, but they don't understand or appreciate all of the formalities that go with incorporating a company and dealing with property. Often, after we speak to them about it, they understand. We put them right and everything is resolved.

But there are certainly cases where the people perhaps don't have as pure motives, and those are the ones that we follow up. If we don't get satisfactory answers from the directors concerned, we do have the power to go to court and ask the judge to order that that charity produce its accounts and satisfy the court that everything has been managed appropriately. If the court is not satisfied, then they have remedies that they can invoke against the charity.

The Chair: Ms. Martel.

Ms. Martel: I want to return to the question of locating heirs: I heard you say that there were about 400 left. Is that 400 of the pre-1996 files where you are trying to track down heirs, or is that 400 in total, including current searches?

Ms. Stratford: That's the special—

Ms. Martel: OK, so 400 of pre-1996. Now, the auditor had used a figure of 1,800 estates where the heirs needed to be located as of December 2003. Are those post-1996 files, and is the 1,800 still relevant, or is it less than that now?

Ms. Stratford: The current number is 1,700, and the 400 are in that number. So the 1,700 includes the 400 older files that we're working on with special efforts to try and clear because they're aging.

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Ms. Martel: Of the 1,700 in total, which is still fairly significant, what is the asset value attached to those 1,700 claims? Do you have a sense of that?

Ms. Stratford: It's about $70 million.

Ms. Martel: Seventy million dollars. Were the new staff hired to deal with the pre-1996 claims, or is everybody doing a mix of new and old, if I can describe it that way?

Ms. Stratford: They weren't hired for that, but obviously they're helping the overall productivity. There is a group that remains focused on those earlier files, but they're also doing some new files.

Ms. Martel: As the new files come in, are you able to even keep up on the new files on an annual basis?

Ms. Stratford: Files get attention based on a number of things. If files have wasting assets, houses that need attention and so on, obviously we need to get to those first. For files of small value, we would do some easy searches, Internet-based searches that you can do for free. Obviously if the estate is not worth a lot, you're not going to spend all of the money looking for people. So we might wait a little bit on those files. There is a rationale the staff employ in terms of priorities for which files come first.

As the auditor notes, we're disposing of more files than we're taking in every year, so we are making definite inroads into the workload, but there will always be work on hand. It's just the nature of it. There are always going to be files in progress, at varying degrees of completion.

Ms. Martel: I guess I'm not clear: If you're dealing with the current number coming in on a regular basis and you had 400 of pre-existing 1996, where does the balance come from? If you've been able to keep up currently—I understand the group that are very difficult because you're dealing pre-1996, but there still must be a whole group in there that even after 1996 you weren't able to keep up on.

Ms. Stratford: Like I said, there are varying ages, but there may be good reasons why they aren't out the door by now. Some of these files are incredibly complicated in terms of the heir searches that have to be undertaken, in terms of the family trees that have to be traced and in terms of the sheer number of heirs we find. Until we are able to distribute the estate to all the heirs, we can't actually close the file. We may be able to distribute some of the money—once we've found a certain number of heirs, we're able to do an interim distribution—but if there are still heirs out there who we can't find, but we know they're there, we have to keep the file open. There are a number that would be like that. There are a number that are in process, and we're searching and it's taking time. There are a number where we found heirs, but they haven't submitted the paperwork we require from them. So they're at all different kinds of stages, but basically we get about 240 in every year and we send about 300 out the door.

Ms. Martel: The last one, where the heir needs to submit the appropriate documentation as proof, what is that percentage or value in terms of the 1,700 in total? Is that a significant portion where you've located somebody but they're not sending in what they need to?

Ms. Stratford: I don't have exact numbers in terms of a breakdown of where things are from that perspective.

Ms. Martel: Just in terms of the overall total, you're working on the 400 and you essentially need some information, probably from the Ministry of Health, to do some tracking there. If I take those out of the mix, the balance, the 1,300 that are left, do you have a sense of when you'll be able to deal with those? Because it would represent a fairly significant amount of money.

Ms. Stratford: As I say, we're kind of dealing with them all the time. It's not like there are some sitting, getting dusty in the corner that no one has lifted the cover of. All the files are looked at when they come in and then they are prioritized, in terms of, some might have wasting assets and we have to get to those right away, others are of small value and so we know they are of less priority. They are all kind of triaged, if you will, and pursued in what seems to be the most appropriate way.

The project continues, because those are older files, without question, that need attention and we want to get those dealt with. Once we're past that older group of files and we're with what we call the current group, it then depends on this priority-setting. So they are all in various stages; nothing is sitting there absolutely unattended to.

Ms. Martel: I want to be clear about the contracts that are in place for the various private sector firms that are helping you with investments. The previous contract for the investment advisory firm was, I think, listed as $225,000 for two years. What's the posting on MERX now for the value of the contract?

Ms. Stratford: We would wait for them to tell us what their fee was. We would ask for the service, and they would get back to us with what they would charge. We wouldn't actually mention a number.

Ms. Martel: I'm curious about that. I'm trying to find the right page where the auditor talked about the contract that went to the firm in 2002; it was approximately $225,000 over two years. Are you saying that figure of $225,000 was only arrived at after they told you what their fee was?

Ms. Stratford: That would have been the fees they charged us over the course of that term of the contract.

Ms. Martel: But how do you make decisions about how to go to Management Board? One of the other criticisms was—you must have a figure.

Ms. Stratford: We had hired them. We go through the selection process. The firms put in their proposals, and in their proposals they say, "Our fee for these services will be X." We choose one of them, and then that becomes the contract price. Once they start delivering the services, they're charging their fees according to that contract. So that figure would have been what fees were paid to that firm during that time, I believe.

Ms. Martel: Do you just make an assumption because the Management Board guidelines say that at $100,000 you should be going out to open tender?

Mr. McCarter: They would put out a contract saying, "Here are the services we require. Can you bid and tell us how you'll fulfill the services, what people you're going to put on the account, what type of reporting you're going to get and what your fee is going to be?" Then the PG and T would look at the proposals coming in and basically make an assessment on all these things and select a winning bidder; I'm assuming that's how the process would work. Then that would be put into a contract with the successful bidder. One of the terms of the contract would be, "We'll pay you $200,000"—whatever their bid price is—"over the period of the contract."

Ms. Martel: Was that the same, not just for the investment firm that's helping with the selection, but for the managers as well?

Mr. McCarter: Yes, and the same thing for the money market firm; 5.0 basis points, or whatever the fee is, would be in the contract that's basically signed and negotiated after they've picked the winning firm.

Ms. Martel: But Management Board guidelines say that if it's over $100,000 in consulting services, you need to have a tender, right?

Mr. Cheung: You have some ballpark figure, some idea of what it's likely to cost.

Ms. Martel: So in each case I would make the assumption that the office, whatever contract they're looking for, should actually go to tender, because it's going to come out over $100,000. Do you see what I mean? You have to make that assumption, right?

Ms. Stratford: We would know in advance. We know by experience that it's going to cost us around this figure, so we would apply the rules of Management Board that govern that particular figure.

Ms. Martel: Right now for the investment advisory firm, which is what is out on MERX, we don't know what that charge is going to be. That would be worked through depending on what is coming from the companies involved.

Ms. Stratford: Right. Based on what we've been paying before, we know it's going to be around that. It might be less; it might be more.

Ms. Martel: Can you tell me what the contracts are, then, with the three other fund managers you have?

Ms. Stratford: What the fees are?

Ms. Martel: Yes.

Ms. Stratford: They aren't quantified numbers; they're percentages of the funds. I can go through them, if you like. It's a bit complicated. The diversified fund: Up to $5 million, they charge 0.5%; the next $15 million, it's 0.3%; and the next $100 million, it's 0.2%. That's one of the firms. The other firm has a slightly different scale: They charge 0.5% up to $5 million; the next $5 million is 0.35%; the next $15 million is 0.25%; the next $25 million is 0.2%; the next $50 million is 0.15%; and over $100 million is 0.1%.

Ms. Martel: The second one was the fixed-income fund?

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Ms. Stratford: Those were the two firms for the diversified fund. We've talked about the money market fund; that's the one in the report. The bond fund is a $100,000 annual flat fee, and there's a most-favoured-client clause in there which gives us some other kind of adjustment.

Ms. Martel: What does that mean?

Ms. Stratford: It means we get their cheapest rate. After five years, you get into some cheaper rate, if we keep them that long.

Ms. Martel: A cheaper rate on an annual basis—somewhere under $100,000—or is that in addition to the $100,000 flat fee?

Ms. Stratford: The $100,000 is for the five years. It's a flat annual fee for the first five years, and after that it's the favoured client.

Ms. Martel: And you haven't had them that long, or have you?

Ms. Stratford: No.

Ms. Martel: You'll be coming up to that. No. They were selected in 2002, so you've got a ways to go for them.

Mr. Zimmer: One of my little pet projects here in the public accounts committee is that I always ask a question about the challenge of IT. We hear from all of the ministries across the board that the tasks that they're responsible for have considerable IT challenges. What are your IT challenges?

Ms. Stratford: We have many. As you note, it is a concern. IT improves practically every month, and you really want to get the benefit of those improvements if you can, but obviously, you have to do the best with what you have in terms of resources.

We were fortunate enough to get approval to overhaul our information technology system. We've had our legacy system in place for a number of years; it's serving us pretty well. But there are a lot of improvements that have been made in technology since we got that, which we really want to take advantage of. Our system is DOS-based, which means you have to enter codes for everything. There are no drop-down menus, there are no windows—none of the things that make it user-friendly. For staff, it's a daunting exercise just to learn the system. We want to make it easier for them, so that they can be more efficient and avoid duplication and all of the kinds of things that come from a difficult-to-manage system.

We have received approval from Management Board to replace the system, and we have hired consultants to help us with that. We're about halfway down the road, I would say, to having that new system in place. We have built the foundation for the new system, and we're now looking at each business area and figuring out how best to configure the system for their needs.

Our business is unlike any other, I have to say. The various consultants we've had in to talk to us about it have all been surprised at the diversity of functions we perform. They're used to creating a system for a business that is really a single line of work. But in our office, we're fulfilling about 14 different functions, and we need IT that will help us with all of those, so it is a very large undertaking. We certainly didn't underestimate it.

It's going to take some time, but like I say, we're about halfway there. We have seen some good results already, in terms of tracking systems that we were able to implement, but there is more work to be done. We're certainly optimistic that once it's done, it will really get us down the road to improving our efficiency, saving time on things, eliminating duplication and giving, overall, better client service.

Mr. Zimmer: Just on that, can you give me just one or two examples of how leading-edge IT might reflect directly in the management of the various investment portfolios, such that it means, at the end of the day, more money for the—

Ms. Stratford: Generally speaking, the technology that we're introducing is enabling staff to access information from wherever it lies in the office. Right now, everything is separate. You have to enter each individual system in order to find out the status of things, and when you enter something in one part of the system, if someone else needs it in another part, they have to re-enter it over there. It's extremely tedious, and because you're entering the same data more than once, there is more opportunity for error. So we're looking, of course, to eliminate that opportunity by having a single port of entry and a system that's transparent so that anyone who needs something can get it from entering the system through one portal.

In terms of investments, just like everywhere else, there will be improvements in terms of that ability to access data, but our major hope for the system is that it will free up time of staff. Instead of sitting at their desks entering codes and trying to do things in this very top-heavy fashion, they will have more time to spend with the clients. They will have more time to actually do the things that only people can do, which is to talk to those clients to figure out what their needs and concerns are, to talk to service providers to figure out what kind of deals can be had for the clients, and to talk to health care professionals about what our clients really are needing to improve their quality of life. Those are the things that we'd really like our staff to be spending their time on, not sitting at their desk entering codes. That, I think, would be the largest benefit we would hope to yield from IT.

Mr. Patten: I'd like to explore a little bit the whole area of property guardianship. I ask for a specific reason, and I shall share an experience that we've had, but I want to preface my remarks by acknowledging and appreciating the comments you made about the diversity and the delicacy and the overall responsibilities that you have with people who are vulnerable. This is really a social mission with legal and financial implications etc.

When you talk about property, do you have your own property managers internally? What's your relationship with the private sector or real estate firms in terms of managing and selling assets or things of that nature?

Ms. Stratford: When it comes to property management and the sale of property, we tender for those services and hire private sector suppliers.

Mr. Patten: What do you tell them when you engage with them, if you accept a real estate firm to act on your behalf in a particular area? What are the conditions or the arrangements that you make with them? Is it purely a financial arrangement?

Ms. Stratford: Our duty is to our clients. If we're selling a house for a client who is a guardianship client, or we're selling a house for an estate, our duty is the same. As fiduciaries, our obligation is to realize the best price that we can on that asset. So we would give the same instructions to the real estate agent that you or I would give, I think: Just to get the best price possible.

Mr. Patten: That was my understanding—what you just described—as well. I would sort of posit the assumption that in many areas, the community in which the properties are held may also be suffering from many social problems. The example I give is one in which we had someone who became a guardian of an estate of someone who owned a house. The use of that house was questionable. The person ended up being imprisoned, and your office ended up engaging Royal LePage. They then sold this house. We discovered in the community—and these are people fighting for the quality of their community—that the person they sold it to was the same guy who owned a crack house down the block that had just been closed down. So you can imagine how delighted the neighbours were. I pursued this personally. I ended up speaking with the real estate agent—not the agent, but the company—and, of course, they don't do this kind of investigation. So my point is that this obviously adds another question to what is there, but in terms of your management of assets for your clients, there is the other side and that is the community and the community impact.

Now, we do this with the renewal or the sale of a licence with the LCBO. We ask the community, "Is there any reason why this licence should or should not be renewed?" We also have generally, in community issues, community impact statements—this sort of thing. I'm not trying to add an extra burden to your job, but frankly, the way in which some of these happen adds another burden on the community.

Given your strong sense of your growing appreciation for the complexity of what's there in the interests of helping people to retain or maintain their assets, I would suggest to you that there's a community dynamic that may or perhaps should be reviewed.

Mr. Segal: We'll certainly take your comments into consideration. You've touched upon a very difficult issue. It sounds like the house in its original state had some problems as well, and maybe some work has to be done in terms of community education that may involve the real estate sector.

The problem you raise is much broader than the one house we were involved with. It comes up all the time in terms of the seizure of property in relation to criminal conduct, the proceeds of crime, and then selling off those assets to get monies back for the police and the government etc., and those kinds of problems could occur. So it's a bit tricky, bearing in mind that the law is very clear in that there's a fiduciary responsibility to get the best price possible. You've raised a vexing issue. It doesn't admit of an easy solution, and we have to be mindful as well of our legal obligations, although you rightly point out that there's a broader dynamic.

The Chair: Are we finished? No further questions?

Thank you very much, Mr. Segal.

Mr. Segal: Thank you, Chair. Thank you, committee.

The Chair: We'll grab a bit of lunch and then come back and have a little discussion.

The committee continued in closed session at 1153.

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Mr. Peter Fonseca (Mississauga East / Mississauga-Est L)

Also taking part / Autres participants et participantes
Mr. Jim McCarter, Auditor General
Mr. Andrew Cheung, Office of the Auditor General
Mr. Rudolph Chiu, Office of the Auditor General

Clerk / Greffière
Ms. Susan Sourial

Staff / Personnel
Mr. Ray McLellan, research officer,
Research and Information Services