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**Official Report
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(Hansard)**

Wednesday 28 March 2012

**Journal
des débats
(Hansard)**

Mercredi 28 mars 2012

**Standing Committee on
Public Accounts**

Special report, Auditor General:
Ornge Air Ambulance and
Related Services

**Comité permanent des
comptes publics**

Rapport spécial, vérificateur
général : Services d'ambulance
aérienne et services connexes
d'Ornge

Chair: Norm Miller
Clerk: William Short

Président : Norm Miller
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
PUBLIC ACCOUNTS**

**COMITÉ PERMANENT DES
COMPTES PUBLICS**

Wednesday 28 March 2012

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The committee met at 1233 in committee room 1, following a closed session.

**SPECIAL REPORT, AUDITOR GENERAL:
ORNGE AIR AMBULANCE
AND RELATED SERVICES**

The Chair (Mr. Norm Miller): I'd like to call the public accounts committee to order for consideration of the 2012 special report of the Auditor General of Ontario on Ornge Air Ambulance and Related Services.

There are a couple of points I'd like to make to begin with. First of all, the committee did agree that witnesses appearing before the committee be given an oath of witness or affirmation by the committee clerk. That does not apply to the minister.

Also, for the media present, if you can restrain yourselves from taking pictures of the material on the tables—some of it may be confidential. So please do not be filming documents on the tables.

The committee wasn't expecting the minister to be here until 2, but I've been informed the minister is going to be here for the entire afternoon, from now through until 3 o'clock. So thank you to the minister.

The deputy minister is here. Maybe we could get the people before us to introduce themselves, and then we'll start.

Yes, Mr. Klees?

Mr. Frank Klees: Just a housekeeping item: We received a copy of the amended performance agreement. Unfortunately, the amended agreement does not indicate where the amendments are. Just to save some time so that research can get on this for us, I would ask that we get the amended agreement that clearly shows where the amendments were made to the original agreement.

Interjection.

Mr. Frank Klees: The question is, from Ms. Gélinas, when did I receive it? Actually, I just got this five minutes ago, and I was told that it had been distributed to all members of the committee. The Auditor General says he hasn't seen it, so I'm not sure what's happened here, but there are two things. One is that we should have had this. Let's get it to the members of the committee—

The Chair (Mr. Norm Miller): Mr. Klees, I understand it was in the research background material that was prepared by Mr. McLellan and distributed to the members of the committee.

Mr. Frank Klees: I understand that. Second, I would also ask—and I think it would be helpful for all members—to receive a copy of the original agreement. The reason for that is that it becomes relevant to the deliberations we're going to have over the next number of weeks in terms of what the ministry was responsible for under the terms of the original agreement compared to the current amendments, because I think what we'll see is that there's not much difference. So I would ask that all members receive a copy of that original agreement as well.

The Chair (Mr. Norm Miller): Very well, Mr. Klees. The clerk will look after getting a copy of the original performance agreement for all members.

Mr. Frank Klees: Thank you.

**MINISTRY OF HEALTH
AND LONG-TERM CARE**

ORNGE

The Chair (Mr. Norm Miller): I guess we could get introductions, please, and then we'll do the oath and affirmation.

Mr. Saäd Rafi: Thank you, Chair. My name is Saäd Rafi, and I'm the Deputy Minister of Health and Long-Term Care. On my immediate right is Patricia Li, the assistant deputy minister of the direct services division that oversees the emergency health services branch; and also to my right, behind me, is Malcolm Bates, who is the director of that emergency health services branch—oh, sorry. The gentleman here with the glasses, third from the left, is Malcolm Bates, director of the emergency health services branch; and of course, to my far right is Ron McKerlie, the interim president and CEO of Ornge air ambulance.

The Chair (Mr. Norm Miller): Okay. We'll start with the oath of affirmation. Clerk?

The Clerk of the Committee (Mr. William Short): We'll start with Mr. Rafi. Mr. Rafi, could you just raise your hand?

Do you solemnly affirm that the evidence you shall give to this committee touching the subject of the present inquiry shall be the truth, the whole truth and nothing but the truth?

Mr. Saäd Rafi: Yes.

The Clerk of the Committee (Mr. William Short): Ms. Li, you're going to be affirmed, as well? Raise your hand. Thank you.

Do you solemnly affirm that the evidence you shall give to this committee touching the subject of the present inquiry shall be the truth, the whole truth and nothing but the truth?

Ms. Patricia Li: Yes.

The Clerk of the Committee (Mr. William Short): Thank you. Mr. McKerlie, you wanted to swear an oath, I think—or do you want to be affirmed?

Mr. Ron McKerlie: I'd swear the oath.

The Clerk of the Committee (Mr. William Short): Okay. The Bible is right there. We'll do Mr. McKerlie and then we'll do Mr. Bates.

Mr. McKerlie, do you solemnly swear that the evidence you shall give to this committee touching the subject of the present inquiry shall be the truth, the whole truth and nothing but the truth, so help you God?

Mr. Ron McKerlie: So help me God.

The Clerk of the Committee (Mr. William Short): Mr. Bates, do you solemnly swear that the evidence you shall give to the committee touching the subject of the present inquiry shall be the truth, the whole truth and nothing but the truth, so help you God?

Interjection.

The Clerk of the Committee (Mr. William Short): Thank you.

The Chair (Mr. Norm Miller): I believe we have time for an opening statement of no more than 20 minutes, and then we'll have 20-minute rotations and questions throughout the three parties.

Hon. Deborah Matthews: Well, thank you very much. Good afternoon. I want to say thank you for this opportunity to speak to the Auditor General's report on our air ambulance services.

I want to again thank the Auditor General and his staff for their work and advice. As always, the Auditor General has completed a thorough and insightful review. He has put forward a number of specific recommendations to improve oversight, accountability and, above all, patient safety at Ornge. Many of these recommendations have already been implemented, and I can assure members of this committee that we will act on every recommendation in the Auditor General's report.

I have had the opportunity to meet many of the paramedics, staff and pilots at Ornge. I have been very impressed by their work, often under very challenging circumstances, saving lives every day. I can tell you that they are fully committed to providing the best possible care to Ontario patients, and I am just as committed to supporting them. That is why I have taken quick and decisive action to fix those problems raised by the Auditor General, to ensure that we have a high-quality air ambulance system that is there for patients in their time of greatest need.

1240

Pointed questions have been raised by members of the Legislature about my handling of this situation. I want to

take a few minutes to walk committee members through the timeline of events that demonstrate I took action immediately upon learning of problems at Ornge.

In October 2010, the Auditor General announced his value-for-money audit of Ornge. That work continued until the release of his final report on March 21 of this year.

On January 24, 2011, Ornge's former leadership and their legal team met with my ministry and members of my staff to discuss their new structure and business venture. Many of the changes had already taken place at the time of that meeting. Ornge's leadership and legal counsel gave clear and unequivocal assurances that no public funds would be used for their private endeavours. They also assured us that there would be no impact to the services they provide to the province of Ontario. Indeed, they submitted that up to \$200 million could flow back to Ontario's air ambulance service to fill what they called "service gaps" in the public air ambulance system.

I understand that Ornge also informed PC and NDP leaders, health critics, and members of their caucus of these changes.

In April, three questions regarding Ornge were asked in question period by the member from Newmarket–Aurora. When these questions were asked, I knew that the Auditor General was doing his work and that we would be provided with objective recommendations in his report. All issues related to Ornge were forwarded to the Auditor General.

On October 20, I was reappointed as Minister of Health and Long-Term Care. There were a number of issues that required my attention, Ornge being one of them, given that a draft auditor's report had been received by my ministry.

One week after being reappointed as Minister of Health, on October 27, I became aware of a number of issues that were being raised by the Auditor General in regard to his ongoing audit at Ornge.

I instructed by ministry to do an analysis of all available options to address the initial concerns that had come to light. It became very clear that the options were limited. The original performance agreement with Ornge did not give us the tools we needed to address these concerns. I could not, for example, appoint a supervisor the way I could in a hospital, nor could I make changes to that performance agreement without the approval of Ornge's board of directors. Further, because Ornge was a federally incorporated charity, legislative options were not available.

On December 1, I met with the auditor to discuss other chapters in his annual report, specifically on physician payment models. At that time, he informed me that the Ornge audit would not be complete in time for his annual report.

On December 5, Ms. Horwath asked a question in the Legislature about executive compensation, specifically asking why it was not being disclosed. I followed up with a briefing on that issue, and on December 8, a letter was sent to Ornge asking for detailed information on

compensation, demanding that they disclose executive salaries from the private side of their business.

Around the same time, I learned that the Auditor General was being stonewalled by Ornge—that they were being very uncooperative. I then spoke directly with the Auditor General, and he confirmed to me that he was not getting the information he needed to complete his review. I also asked the auditor to confirm that salary disclosure was a subject of his audit, as concerns about Ornge's compliance with public sector salary disclosure were being raised.

On December 15, I met with senior executives at Ornge: then-COO Tom Lepine and then-board chair Rainer Beltzner. I demanded that they disclose executive salaries and co-operate with the requests from the Auditor General and from the ministry.

On December 19, I sent a letter to Ornge clarifying the purpose and substance of our meeting, in response to a statement released by Ornge that misrepresented the content of our meeting. Two days later, Ornge did disclose the compensation of senior executives to my ministry and revealed particularly outrageous compensation being paid to then-CEO Chris Mazza. That was when I knew something was seriously wrong—that I could not wait for the Auditor General's final report, and that I had to step in immediately.

The next day, December 22, I directed my ministry to inform Ornge that we were sending in the Ministry of Finance's forensic audit team to follow the public dollars. That team got to work immediately: They began the very next day, December 23.

It was at this time that I began to accelerate our plans to make changes at Ornge in a way that would not adversely affect patient safety or interrupt service. We had neither the Auditor General's final report nor the tools that could compel the Ornge board to comply with government directives. However, pressure on Ornge was growing—pressure from the Auditor General, pressure from the ministry and pressure from the media.

On January 11, 2012, the board of directors at Ornge signalled their intention to resign, and I recommended the appointment of an interim CEO, Ron McKerlie. A blue-chip, volunteer, new board of directors was recommended for appointment on January 25, led by board chair Ian Delaney.

The new leadership was directed to report back to me on issues of patient safety, the use of public dollars and the development of a new performance agreement. The new leadership immediately began the process of winding down the for-profit entities at Ornge, as per my direction.

On February 16, I received a report from the forensic auditors revealing serious financial irregularities at Ornge. It was at that time that the matter was referred to the Ontario Provincial Police for investigation.

Ornge is now on the right path forward, but there were serious problems under the former leadership. As the auditor notes, we have already taken substantive action to address many of the issues raised in this report.

I want to thank the new leadership at Ornge. They have already made tremendous progress on their core mission of providing life-saving care to Ontario patients. They have my full confidence.

A new performance agreement is now in place that will ensure greater oversight, transparency and accountability moving forward. This amended performance agreement will safeguard patient care and provide better value for taxpayer dollars.

Legislative changes to the Ambulance Act have already been introduced that, if passed, would protect whistle-blowers and prevent future abuses of power at Ornge. In addition, these amendments will allow the government to take control of Ornge in extraordinary circumstances through the appointment of a supervisor.

As minister, I take my full share of responsibility for what transpired. It is important that we all learn lessons from this situation. I am fully committed to fixing the problems so they will not happen again. We didn't get this perfect, but I believe the public expects that when we don't get it right, we move quickly to take strong and substantial action at our first available opportunity. That's exactly what I did. In the eight weeks from October 27 to December 22, I went from becoming aware of a draft auditor's report to sending in a forensic audit team. Three weeks after that, a new interim CEO was in place. Two weeks later, a strong, new board was in place.

I am committed to implementing every single one of the auditor's recommendations to restore public confidence at Ornge. We know there is much more to do as we continue to rebuild Ornge. Our front-line staff deserve no less and, most of all, the public deserves no less.

I am now going to pass over to my deputy minister, Saäd Rafi.

Mr. Saäd Rafi: Thank you, and good afternoon. Thanks for this opportunity to address the Standing Committee on Public Accounts with respect to the Auditor General's report entitled Ornge Air Ambulance and Related Services.

Let me start by stating at the outset that the ministry and I also greatly appreciate the Auditor General's analysis, and let me assure the committee that the Ministry of Health and Long-Term Care is in the process of taking action to address each of the Auditor General's recommendations.

Today, I'd like to provide the context and history of air and land ambulance services. I'd like to step back a little and look at how the delivery of air ambulance service and the transfer of responsibility to what ultimately came—

Interjection.

1250

Mr. David Zimmer: Excuse me, is the report being distributed now? Just give—

Mr. Saäd Rafi: Certainly. My apologies.

Context, as they say, is everything. In the context of all that has gone before, I firmly believe that the ministry is now on the right track in working with Ornge's leadership to strengthen accountability, oversight and trans-

parency at Ornge, and most importantly, the safe and effective transportation of patients.

Since their creation in 1977, air ambulance services in Ontario have undergone a number of enhancements and extended the service across the entire province. In essence, the service had three main elements: funding, dispatch and oversight provided by the ministry; a base hospital system at Sunnybrook Health Sciences Centre, which oversaw the practise of paramedicine; and air ambulance services, both helicopter and fixed-wing, that were contracted out.

A not-for-profit entity called the Ontario Air Ambulance Services Co., or OAASC, was incorporated on October 8, 2004, under the federal Canada Corporations Act. In November 2005, a long-term performance agreement was entered into for the provision of air ambulance services between OAASC and the ministry. The performance agreement had an indefinite term and it governed all aspects of air ambulance services, including the performance standards to which Ornge is subject and the level of government funding.

For additional background, I want to turn briefly to the legislation and accountability mechanisms that govern air ambulance services in Ontario. Both land and air ambulance services are governed by the Ambulance Act and regulations and standards made under the act. The act sets out the responsibilities and expectations of the minister and other parties related to the delivery of land and air ambulance-related services. The government provides Ornge with funding through a contractual agreement to deliver air ambulance services as part of the minister's obligation under the act to fund and ensure the provision of air ambulance service. The province also provides Ornge with funding to operate critical care land ambulance services.

In 2011-12, the total combined funding for Ornge was over \$152 million. Currently, Ornge employs a total of some 600 staff approximately, including paramedics, dispatch personnel, pilots, managers and executives.

I would like to emphasize that the government contracts with Ornge to deliver critical care land and air ambulance services and that this is governed, as I mentioned earlier, through the performance agreement. The government did not appoint the previous board of directors; it recommended the current board.

However, it must be noted that Ornge is an independently governed entity. It is not an agency of government, nor a crown corporation, nor any other extension of the government. At this juncture, it is a not-for-profit corporation governed by the Canada Corporations Act that operates as an independent undertaking.

Now let me turn to the more recent past: the matter of Ornge's private sector structure and business enterprises. In January 2011, the Ornge board sent a letter to the ministry, followed by a presentation which outlined a new corporate structure along with new profit-making business ventures. The letter was positioned as due diligence on the part of Ornge to "keep its principal stake-

holder, the government of Ontario, fully informed about developments in its operations."

As I mentioned earlier, Ornge's obligations to the government are through its non-profit, charitable organization, governed through the performance agreement, which provides critical care and land ambulance services.

That characterization of the relationship between Ornge and the government is just one among a number of other confounding elements:

First, Ornge is a federally incorporated registered charity. That means that the provincial government has no powers to create laws that would affect its corporate governance or corporate structure.

Second, by the time it was presented to the ministry, the plan to create the new business structure and enter into new business ventures had already been approved by the Ornge board. For example, "Ornge is seeking nothing from the government except to make it aware of what it has done and is intending to do."

Since these for-profit activities were outside the ministry's contractual nexus with Ornge, there was no legal mechanism for intervention. In addition, since the ministry was told that these for-profit activities would not impact the services provided under the performance agreement, there was no reason to believe that such intervention was required.

Indeed, there were numerous assurances provided in the letter from the chair, Mr. Rainer Beltzner, qualified as a fellow of the chartered accountants and a director of the Institute of Corporate Directors, to the effect that: "The board has been particularly mindful of its fiduciary obligations to Ornge and its stakeholders in considering the issues raised by the new structure. Of special note is the fact that in addition to advice from its own legal and accounting advisors, the board received independent legal counsel as well."

Further, Mr. Beltzner goes on to state, "Ornge is currently seeking nothing from the government, save and except the opportunity to inform its principal stakeholder.... Ornge is not seeking ... any decision of the government."

I can assure you that probing questions were asked during the presentation. The ministry's concern was the possible blurring of the lines between public funding and private enterprise. The ministry's interests were, and remain, to ensure that there was no risk to public funds in the proposal to create a new business structure, one arm of which would continue to receive government funding for its core business of providing air and critical land ambulance services. Ornge representatives gave clear and unequivocal assurances to the ministry that the board had consulted leading legal, financial, credit rating and accounting firms, and was advised that its decisions were legitimate, above board and permissible under existing legislation, its corporate structure and the performance agreement with the ministry. The Ornge representatives also indicated that no public funds would be used in the new business venture of the for-profit enterprises and, in addition, promised a return on investment to the province

for its funding to the not-for-profit side of the provision of air ambulance services.

For example, on page 2 of the same letter, the chair indicated that, “Ornge’s pursuit of the new business ventures is being funded entirely with monies advanced as debt or equity by third parties, and is not being funded by monies advanced by the government.”

Furthermore, the ministry was told that there would be no conflicts of interest in the management agreement between Ornge and Ornge Global GP Inc., the for-profit entity.

Considering the assurances provided by the eminent chair, Mr. Rainer Beltzner, on behalf of the board of directors; the assurances of no conflict of interest and no use of public funds; and the diligence of several leading advisory firms, the ministry saw no reason to doubt Ornge’s assurances.

I should add that following the presentation, the ministry did analyze a number of issues, including the potential impact of Ornge’s new business ventures on the provision of air and critical land ambulance services, which is our core responsibility; compliance with the performance agreement; and the impact on the province’s finances. The analysis concluded that Ornge was able to undertake this restructuring under the terms of the existing performance agreement.

Further analysis indicated that the ministry had no remedies to prevent the creation of this corporate structure should it want to, except to halt all funding, which would put patients at risk. Other options were to get Ornge to agree to renegotiate the performance agreement, which was deemed unlikely, or to continue to monitor the delivery of the core services to see if this structure had any impact on the provision of those core services. Furthermore, as I mentioned earlier, Ornge is federally incorporated; hence, it was not possible for Ontario to enact legislation affecting Ornge’s corporate governance.

It wasn’t until the Auditor General told the ministry that Ornge was being uncooperative regarding the private side of their corporation that it started to emerge that there were some private sector business issues at play.

Hindsight is perfect vision, and in hindsight, it is tempting to say that the original performance agreement should have been drafted in a way that would have prevented the alleged abuses that occurred later. But frankly, Ornge’s leadership’s apparent promotion of private interests over public interests was unforeseeable. No one could have imagined when the performance agreement was drafted that measures would have to be built in to stop the leadership from apparently ignoring its fiduciary responsibilities and possibly using public funds for their own private interests.

For my part, in conclusion, I would like to assure the committee that the ministry is fully committed to strengthening Ontario’s air ambulance service so that it operates with the public interest—and patients’ interests—solely in mind. We are also committed to implementing the Auditor General’s report recommendations.

The report’s analysis and recommendations will go a long way to help the ministry achieve that goal.

I also want to thank the new leadership at Ornge, led by interim CEO Ron McKerlie and the board chair, Ian Delaney, who have already made tremendous progress to resolve the issues at Ornge.

Ontarians are fortunate to have front-line pilots, paramedics and staff at Ornge whose exemplary work continually puts patient care first. The ministry has every confidence in their dedication, commitment and professionalism.

Thank you for your attention, and we’d be pleased to answer your questions.

The Chair (Mr. Norm Miller): Thank you, Minister and Deputy Minister, for your presentations.

The format now will be that we’ll have 20-minute rounds of questions, starting with the official opposition and going through the three parties.

Mr. Klees.

Mr. Frank Klees: Thank you, Mr. Chair—

Interjection.

The Chair (Mr. Norm Miller): Yes?

Mr. Ron McKerlie: Is it possible to speak some statements into the record that may be helpful, from Ornge’s perspective, in terms of answering some of the questions?

The Chair (Mr. Norm Miller): How long of a statement do you have? We won’t cut into your time, other than—

Mr. Ron McKerlie: I promise I will speak as quickly as I can.

The Chair (Mr. Norm Miller): How long are you asking for?

Mr. Ron McKerlie: If I could have five or six minutes, that’d be perfect.

The Chair (Mr. Norm Miller): Is that agreed by the committee, to give Mr. McKerlie five minutes?

Mr. Frank Klees: Chair, I would prefer to get on with the questioning. Mr. McKerlie can have some time later, and we’ll have some questions for him as well.

The Chair (Mr. Norm Miller): So it’s not agreed by the committee—

Mr. Frank Klees: That was the agreed format.

The Chair (Mr. Norm Miller): —to give five or six minutes. Okay, then, we’ll start with the questioning. Sorry, Mr. McKerlie.

Go ahead, Mr. Klees.

Mr. Frank Klees: I’d like to start, Mr. Rafi, by asking you to clarify for me why, in your presentation, you tell us at length about why the ministry had no authority to intervene, and yet the ministry intervened very aggressively. What changed that allowed the ministry to intervene, once the minister decided to do so, from the previous set of circumstances? You had no more authority under the performance agreement to do so. No one gave you any more latitude. Your excuse—and I’m sorry to use that, but it is that—to not take action under the authority that you had under the existing performance agreement, which we both have read, I assume, that

clearly gave the ministry not only authority to intervene in terms of oversight and to hold Ornge accountable to performance levels and standards—the ministry refused to do that. What changed from the time that the minister said she had no authority to your very aggressive intervention?

1300

Mr. Saäd Rafi: The ministry has always had an authority to audit Ornge, so the minister was well within her bounds to call for auditors, that turned into forensic investigators, to go in in December.

But the direct answer to your question is: the voluntary resignation of the board. Absent that, we still would not have been able to affect Ornge's structure, either through the performance agreement—and we definitely were not able to affect Ornge's corporate structure, the for-profit side, through the performance agreement.

We did exercise our oversight capacity on the performance level standards—the term you used—within the performance agreement throughout the time that we've had this performance agreement in place, and we continue to do so today.

Mr. Frank Klees: So in other words, until such time as you went to Ornge and asked the board for their co-operation, the ministry took no initiative to do so. That could well have taken place much earlier, once there was a signal—in fact, there was a signal. If the minister didn't want to listen to members of the Legislature who raised these concerns as early as April, and if the minister had at least listened to the auditor's draft report, that should have given rise; why wait until—actually, it was about three months later. Why would the ministry not have taken initial steps—knowing that perhaps she felt, or the ministry felt, they didn't have the authority, why would they not have taken that step: called the board and said, "Look, we've got serious problems and we're going to move in"? Why?

Mr. Saäd Rafi: So there's an audit taking place. We have analyzed what our ability to step into that organization is. It is extremely limited. The remedies, as I mentioned, are not available.

There was an implication, if I'm not mistaken—and if I didn't understand you correctly, please do correct me. But I understood you to say that the ministry encouraged the board to step down. The ministry indeed did not do so. The board agreed to resign on their own volition.

Mr. Frank Klees: Well, that's unfortunate.

Mr. Saäd Rafi: I don't know what motivated them to do that. That's a question for them.

But we receive an audit report at the end of September, a draft report, and then throughout the next ensuing several weeks, actions are taken, as the minister has chronicled. But first, assessment was taken as to, one, repairing any concerns we might have had with the draft content. The auditor I think generously changed some factual elements to the report. But it was at that juncture that we were seeing the types of things that were, I think—

Mr. Frank Klees: Mr. Rafi, thank you for that.

Mr. Saäd Rafi: —the two principal elements that were causing some trouble.

Mr. Frank Klees: Thank you. You know, that's even more discouraging. I was hoping that at least it was the ministry that took the initiative, and the ministry waited until the board volunteered to resign?

Mr. Saäd Rafi: No.

Mr. Frank Klees: Mr. Rafi, you are—

Mr. Saäd Rafi: No, sir. I—

Mr. Frank Klees: —deputy minister of a \$48-billion ministry.

Mr. Saäd Rafi: I'm afraid that's unfair. I'm afraid that's unfair. I did not say we waited for the board to resign. I referred to the minister's comments and the chronology of events that she laid out there. I'd be happy to cover them again, but the point—

Mr. Frank Klees: No, I have some questions I'd like to ask you, actually.

Mr. Saäd Rafi: Sorry.

Mr. Frank Klees: I hear what has happened here.

I have another question for you. Under the terms of the performance agreement, the health services branch of your ministry had a responsibility to oversee all of the service delivery and the performance standards that were incorporated. In fact, it had a responsibility to help develop those performance standards. Apart from the financial issues that were taking place, quite frankly, the more important issue for us in this committee and in this Legislature is what happened to the performance levels of providing those emergency services.

We have heard—you know; you know full well—from paramedics and front-line pilots about how service levels were devolving: the number of missed calls, the number of patients who were put at risk. Your emergency services division is investigating now a number of incidents. The coroner is investigating certain instances. Where was the emergency services branch of the Ministry of Health while these reports were coming forward? Where was your ministry in terms of those issues?

Mr. Saäd Rafi: Exercising its due diligence and its requirements is a core responsibility under the performance agreement. I do not believe there are coroner investigations taking place today. We have an investigative function—you're quite right—in the emergency health services branch. That branch acted, when it heard, on items that we were misled on—we discovered that we were misled on. For example—this was not raised by members, but this came out through one of our communications officers through a paramedic: that the interior of the aircraft was not properly able to provide CPR. The ministry, through its emergency health services branch, launched an investigation immediately. That was in July.

In addition to that, it monitored its performance requirements through the performance agreement. The auditor has quite rightly identified areas where it should increase some performance indicators. That has been added in the amended agreement, and we will continue to

enforce the performance standards that we're obliged to do. I think—

Mr. Frank Klees: So, Mr. Rafi, here's—I have another question for your emergency services branch.

Mr. David Zimmer: Chair?

The Chair (Mr. Norm Miller): Yes, Mr. Zimmer.

Mr. David Zimmer: On a point of order: Look, these witnesses are under oath. This is a little different than the usual kind of sessions that we have at public accounts. There is a clear principle of law in these kinds of hearings when parties are under oath that there's a special obligation on the Chair or the judge, if it happens to be a judge, or the committee members who are part of the hearing process, to permit a witness—and they're witnesses now because they're under oath, and all the consequences of not giving full and complete answers follow from that. But it is a clear principle of law that, in these circumstances when a witness—in this case, the deputy minister—is asked a question, he be allowed to answer the question fully as that witness sees fit and that it's not appropriate for either the Chair or members of the committee to cherry-pick and cut off the answer that a witness is giving under oath. What Mr. Klees is—

The Chair (Mr. Norm Miller): Thank you, Mr. Zimmer, for—

Mr. David Zimmer: Well, just a second. Mr. Klees has asked a couple of questions, and he has just sort of stepped in and cut the witness off. That's not permissible.

The Chair (Mr. Norm Miller): Okay, Mr. Zimmer, that's not a point of order, but thank you for pointing that out.

Mr. Frank Klees: Chair, with all due respect—

The Chair (Mr. Norm Miller): —we can maintain cordial relations in this committee, and the questioners will give due time for those answering the questions to answer the questions.

Mr. Frank Klees: And we will do that, Mr. Chair. I would ask you to caution Mr. Zimmer to refrain from that kind of intervention. I know full well how to question a witness, and I know when my question has been answered. We know his tactic, and we know the tactic of the Liberal benchers—

The Chair (Mr. Norm Miller): Okay, if we can just continue with the questioning. We have limited time here for these proceedings, so if we could please continue.

Mr. Frank Klees: I expect that I'll at least be given the time that Mr. Zimmer took—

Mr. David Zimmer: —the protection of the witness's right to fully answer the questions.

The Chair (Mr. Norm Miller): Okay, let's—

Mr. Frank Klees: Mr. Zimmer, I know when my questions have been answered.

The Chair (Mr. Norm Miller): Let's continue.

Mr. Frank Klees: I want to ask this question of the deputy. Ornge acquired, at great cost—and we now find out that it was taxpayers' money because the \$300-million offering that was put into the market to purchase helicopters and fixed-wing aircraft was guaranteed by the province of Ontario. That's how it was represented to the

public. Those aircraft were purchased to deliver a service under the terms of the performance agreement. Did, at any time, the Ministry of Health inspect or have any indication as to whether those aircraft would be appropriate for the delivery of the services? If so, why not?

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Mr. Saäd Rafi: I apologize for not facing the committee when you were asking the question.

The arrangement that the ministry has with this not-for-profit corporation, Ornge, is that we contract services that are stipulated in the performance agreement for critical-care land ambulance and air ambulance services. Before that organization was set up, as I mentioned, we had for-profit providers and a contractual provision for air ambulance services. We didn't stipulate what aircraft they would use; we stipulated what services we would get. So we don't stipulate the type of facility that a long-term-care home must build; we stipulate the regulatory requirements to provide safe services to the residents.

Our obligation is on patient safety in the carriage, either on land or in air, of air ambulance services. We did not stipulate the type of aircraft necessary.

Mr. Frank Klees: But I would have expected that the Ministry of Health would at least want to assure themselves that CPR could be performed in these helicopters that were being used to transfer patients. One would have expected that the medical director of Ornge would at least have inspected the interiors of those helicopters. I'm told that that medical director of health for Ornge hadn't even been on the inside of one of these helicopters until the media exposed the fact that CPR couldn't be performed.

Here's my question. We've lost all confidence in the Ornge executives. Why Mr. Sawadsky is still there as the medical director, I don't know. I'm sure Mr. McKerlie can answer that question when it comes his time, but the question that I have is where was the Ministry of Health, who have the responsibility to ensure that the equipment that's used, whether it's an ambulance or air ambulance, is in fact up to standard and can accommodate the service that has been contracted for? Where was the Ministry of Health?

Mr. Saäd Rafi: You're quite right. We were given that assurance by that same medical director that the interiors were sufficient, and it wasn't until a complaint was lodged via our communications centre on or about July 2011 that we discovered that that indeed was not true. We were misled. We launched an investigation. I understand that actions have been taken to get a short-term correction to the interior structure. That has been approved by Transport Canada, but I should leave that to Mr. McKerlie.

But, sir, we were misled. We did ask about the interior, and we were told it was sufficient and up to standard.

Mr. Frank Klees: In that case, I'd like to bring Mr. McKerlie into the discussion. With all due respect, Mr. McKerlie, you have a tough job, but I do have a question about this and Dr. Sawadsky. Knowing his track record,

knowing that he failed to do his job, why is he still the medical director at Ornge?

Mr. Ron McKerlie: When I got there, I had asked for a recap of the medical interior issues on the AW139. There were a number of pieces of information that were available. I asked the medical director to recap them all. He went out and he made a complete list for us, which is the list that was subsequently published. He has done his job before and since, as far as I can tell. Bruce is still there, still working as a medical director for us and providing good service. I see no reason to let him go.

Mr. Frank Klees: You consider it good service to allow \$9.5 million to be spent on a medical interior that doesn't even allow paramedics to perform CPR, for which he had responsibility? You consider that having done a good job?

Mr. Ron McKerlie: First of all, it wasn't \$9.5 million. It was \$6 million.

Mr. Frank Klees: Oh, I'm sorry.

Mr. Ron McKerlie: Secondly, it wasn't his decision initially to approve the medical interior. He came after that. It was approved by some existing paramedics who actually used a modified version. The mistake was made by former management who outfitted 10 aircraft with the same medical interior before they ever flew one in service. That's a problem. We have worked hard with the engineers since then. We have worked with Transport Canada. We have a work-around solution which is approved to fly. We have been flying that over the last six weeks, and we're working now on a longer-term solution.

Mr. Frank Klees: Mr. McKerlie, I understand that Ornge at one time claimed that it was a member in good standing of the international Commission on Accreditation of Medical Transport Services, and I understand that that certification has been cancelled.

Mr. Ron McKerlie: We voluntarily withdrew in February. That's correct. It's not necessary for us, but given all the noise going on in the media around our membership, we felt it was easier for them and us to withdraw.

Mr. Frank Klees: Was that because you felt that once you were scrutinized, you wouldn't qualify for that accreditation?

Mr. Ron McKerlie: I don't know the answer to that, because we hadn't been scrutinized by them. We withdrew voluntarily.

Mr. Frank Klees: Would you not think that, particularly now, it would be good for you to have an accreditation and have a third party scrutinize your organization, and would you undertake to have that done?

Mr. Ron McKerlie: We have no less than seven third parties in there right now scrutinizing the organization, so I can assure you that we're getting as much oversight, probably, as this organization has ever had.

Mr. Frank Klees: Mr. McKerlie, I understand that an engine fire in one of the PC-12s took place last month. You're aware of that?

Mr. Ron McKerlie: Are you talking about the Air Bravo incident?

Mr. Frank Klees: No, I'm not.

Mr. Ron McKerlie: Sorry, you're talking about a PC-12?

Mr. Frank Klees: Yes.

Mr. Ron McKerlie: I'm not aware of an engine fire in one of our PC-12s.

Mr. Frank Klees: I understand that it happened on the ground. It's interesting that you're not aware of it. Perhaps you could look into it. What is interesting about it is that no one else knew about it either.

The other question I have for you is, at one time it was posted as public information—when I say public, I mean available to the pilots and the paramedics—when a particular helicopter was out of service or a particular base was out of service. That has now been removed from the website or from your internal communication. Is there a reason that you're taking these steps to actually reduce the amount of information that's available to your staff?

Mr. Ron McKerlie: Actually, there's an increased amount of information available to staff, including when aircraft are out of service, when there are delays due to medic late starts and if there are weather-out situations. All that is provided to our staff through the ACC and online through Lifeline. So that information is available, and there is more than there has been in the past.

Mr. Frank Klees: I would encourage you to do some research on that, because that is not the information I have and it's not the information we're getting from your front-line staff—

Mr. Ron McKerlie: There has been a lot of misinformation, so perhaps you're not getting good information. I'd be happy to share the truth with you.

Mr. Frank Klees: Well, it seems that the misinformation, up until now, has all gone the other way. The Ministry of Health is telling us that the reason they didn't do what they were supposed to is because they had all kinds of misinformation from Ornge. Where is the misinformation and where is the truth? I would ask you, what are you doing to get to the truth?

Mr. Ron McKerlie: I'd love to go back to my opening statement, which talks about what we have done since I have been there, in the nine weeks I've been on the job. Is that permissible, Mr. Chair?

The Chair (Mr. Norm Miller): There's about three minutes left in this round of questioning, so it doesn't sound like there would be time for your six minutes—

Mr. Frank Klees: In that case, I just have one more question for the minister. Minister, you know that we will agree to disagree on this issue. I only have one question for you. In your chronological description here of when you decided to take steps, you very clearly say that when I raised these issues on three different occasions in April, that wasn't enough for you to take any—in fact, you admitted you did nothing. Yet you decided that when the Auditor General, as an officer of the Legislature, brought forward a draft report to you, that tweaked your interest

somewhat. Can you tell us why, when a member of provincial Parliament, your colleague in this Legislature, brings something forward, you would just ignore that?

Hon. Deborah Matthews: Well, with respect, I did not ignore that. As I said in my statement, I did refer the issues you raised to the Auditor General, and as you have said, you also shared that information with the Auditor General.

I think it was important that I respect the work of the Auditor General. I knew his audit was ongoing, and I knew he would do an excellent job, as he always does.

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Mr. Frank Klees: Minister—

Hon. Deborah Matthews: So I think what's important also is that you did ask a question about what triggered the activity—I think you called it aggressive action—that did take place. The key element that I think is important, everyone does understand, is that the board did resign, and I, with respect, say that I played a part in that decision, because I did have a meeting with the COO, with the chair of the board, where I made it very, very clear with them that their house of cards was about to fall, that we now were moving in on—we understood that there were problems at Ornge and that we were absolutely determined to fix them.

Mr. Frank Klees: Thank you, Minister. I raised that question—

The Chair (Mr. Norm Miller): You have about 30 seconds left, Frank.

Mr. Frank Klees: Thank you. I raised that question in the Legislature because I wanted to respect your role as minister. Your role as minister, I thought, would be that you would immediately call in your ministry people who have responsibility for this and say, "Let's look into this," not defer it to an officer of the Legislature. With all due respect, the Auditor General has a role to play. It's not a proactive role. It is not an oversight role. The Auditor General's role is to come in and tell us what went wrong. The role of a minister is to ensure that it doesn't go wrong and to take proactive initiative to ensure that when a member of the Legislature brings something forward to you, the expectation would be that you take that seriously and you exercise your authority as minister, not defer to an auditor—

The Chair (Mr. Norm Miller): Thank you, Mr. Klees. It's now time for the third party to ask questions.

I would just remind people, if they have phones on in the room, if you could please turn them off. They're interfering with our—or turn the ringer off, at the very least.

Mr. Jagmeet Singh: Yes, my question, just to begin with, is a yes/no question. If you can confirm, Ornge is—I mean, we all know this, but let's just put this on the record—essentially 100% provincially funded. Is that correct? I'll begin with the minister.

Hon. Deborah Matthews: The answer is no. It is not 100%. I will pass this to the deputy.

Mr. Saäd Rafi: The majority of funding is from government, but it does have other sources of revenue, both foundational and otherwise.

Mr. Jagmeet Singh: Okay, fair enough. Ms. Li, essentially—so it's not 100%, but close to the majority of it is funded through the province?

Ms. Patricia Li: That would be correct.

Mr. Jagmeet Singh: Okay.

The Ministry of Health, in general, has an obligation to oversee where its money is being spent. Approximately \$150 million is the ballpark figure of how much money is funded towards Ornge, and one of your obligations is to oversee that. Is that correct?

Mr. Saäd Rafi: Correct.

Mr. Jagmeet Singh: Mr. Rafi, that was—

Mr. Saäd Rafi: I'm sorry. Pardon me.

Mr. Jagmeet Singh: Minister, that's correct?

Hon. Deborah Matthews: Yes.

Mr. Jagmeet Singh: Mr. Rafi, that's correct?

Mr. Saäd Rafi: Yes.

Mr. Jagmeet Singh: And Ms. Li, is that correct as well?

Ms. Patricia Li: Yes.

Mr. Jagmeet Singh: One of the essential elements of oversight is to know where the money is being spent, where it's being allocated. Is that correct, Minister?

Hon. Deborah Matthews: I know you want yes/no answers, but I'm afraid you're getting to where it gets a little more complicated.

Mr. Jagmeet Singh: Okay.

Hon. Deborah Matthews: We had a relationship with Ornge that was a contractual relationship. They had an obligation to deliver service. We gave them money to deliver that service.

Mr. Jagmeet Singh: So my question, specifically, is, a part of oversight, which is your obligation—you agree with me that oversight of Ornge is one of your obligations as the minister and as well, deputy minister, Mr. Rafi, and Ms. Li? Would you all agree that oversight is one of your essential functions and obligations and duties?

Hon. Deborah Matthews: Absolutely, and that is why we've introduced legislation that gives us far more oversight than we had before. We have a new performance agreement that gives us significantly more oversight than existed before.

Mr. Jagmeet Singh: And one of the essential elements of oversight is to know where your money is being spent. That is a very important element of oversight. Would you agree with that comment?

Interjection.

Mr. Jagmeet Singh: To the Minister, and also to Mr. Rafi and to Ms. Li.

Hon. Deborah Matthews: Within the confines of the performance agreement.

Mr. Jagmeet Singh: But that is an essential element, knowing where the money is being spent?

Mr. Saïd Rafi: Well, if you would accept that it's within the confines of the performance agreement, I would say yes.

Mr. Jagmeet Singh: Okay.

Now, the minister had already agreed to the statement—it's in her comments, so I'll direct this to Mr. Rafi and Ms. Li. To quote exactly from the comments made, "Two days later, on December 21, Ornge disclosed the compensation of senior executives to my ministry and revealed particularly outrageous compensation to then-CEO Chris Mazza.

"That's when I knew something was seriously wrong."

Mr. Rafi, would you agree with that comment that finding out that that compensation was, in the minister's words, "particularly outrageous compensation"—do you agree with me that that would be something that would raise alarms?

Mr. Saïd Rafi: Perhaps, because the way that compensation was provided, it suggested that there were funds, public funds, being provided to the for-profit side. That was the trigger for the action of ensuring, under the performance agreement—to your previous line of questions—that the ministry was either not getting the information it was supposed to and asked for and did receive with respect to the performance agreement and the oversight role that it fulfilled at its core responsibility, and therefore that revelation—and indeed it was—was something that triggered that action.

Mr. Jagmeet Singh: Okay. And Ms. Li, would you also agree that the minister's comments with respect to the fact that the compensation was particularly outrageous, that that something that—when the minister found that out, that's when she knew something was seriously wrong—would you agree that that's something that would raise concerns, seriously?

Ms. Patricia Li: I think in the context of the performance agreement.

Mr. Jagmeet Singh: Okay. I'm going to draw your attention to—Howard Hampton raised this issue November 2010, and he asked this question to Mr. Rafi. The question was, "Now I have a question. If he is the head"—sorry. The question initially was to Ms. Li: "Who runs Ornge?" Ms. Li answered, "Dr. ... Mazza. He's the CEO of the Ornge corporation." Later on, Mr. Howard Hampton asked the question, "If he is the head of Ornge, why does his name no longer appear on the Ontario salary disclosure list after 2007?" Further, the question goes, "Why would his name no longer appear on the salary disclosure list after 2007?" Mr. Rafi answers, "Again, I'll have to consult with the Ministry of Finance, who are responsible for regulating and determining who is included and who is not, and we'd like to get back to you...."

Mr. Rafi, did you get back to Mr. Hampton with regards to why his name was not on the salary disclosure?

Mr. Saïd Rafi: Regrettably, the ministry was very late in responding to that request at the estimates, the last estimates presentation.

Mr. Jagmeet Singh: And so you did not get back to him on that?

Mr. Saïd Rafi: That's correct.

Mr. Jagmeet Singh: Okay. In fact, a request is made by Mr. Rosenstock of our office, a researcher with the NDP, and a request is made through the Freedom of Information and Protection of Privacy Act. In that act, the request was this: "Any record explaining why Dr. Christopher Mazza, president and CEO of Ornge, is not listed on the 2009 public sector salary disclosure." The response to that, which was provided by the Ministry of Health and Long-Term Care—the answer is:

"I am replying to your request...."

"This is to inform you that a search was conducted in the legal services branch and 19 records were found responsive to your request. A search was also conducted in the emergency health services branch and 13 responsive records were found.

"However, we are not able to grant access to these records under the authority of sections 13 (advice to government), 19 (solicitor-client privilege) and 21 (personal privacy) of the act. Patricia Li, assistant deputy minister, and Janice Crawford, director, legal services branch, were responsible for this decision."

So I ask you, Ms. Li, why is it that you did not respond to this freedom-of-information request that wanted to get to the heart of why Dr. Mazza's salary was not disclosed when this, in your own words and in the words of the Minister of Health, was the largest red flag as to why there were some serious concerns in Ornge?

Ms. Patricia Li: I think that in terms of the records in the legal services branch—which is not within my purview, so I can't speak to that—and in terms of the records in the emergency health services branch, we do not really have detailed information. And I think that according to the act, there are certain disclosures of personal information that we could not have disclosed.

Mr. Jagmeet Singh: Okay, and in either regard, would you agree with me that this issue was raised by Mr. Hampton in 2010, which was two years ago, and there was nothing done to follow up with Mr. Hampton's request, and this freedom-of-information request was presented to the Ministry of Health and there was no follow-up with regards to why Mr. Mazza's salary was not being disclosed, both to Mr. Hampton's question and the freedom-of-information request?

Mr. Saïd Rafi: I've already said that we did not get back to Mr. Hampton. I don't agree that we did not respond to the Freedom of Information and Protection of Privacy Act request. I think you read, I presume faithfully, the response given by the ministry, and it applied the requirements under the legislation to indicate why information could or could not be provided.

Mr. Jagmeet Singh: Thank you.

M^{me} France Gélinas: I want to continue where my colleague just left off, the first one being that we're back in actually March 2010; that's two years ago pretty much to the day. The NDP starts raising a red flag about Ornge. We filed a freedom-of-information request specifically

about the salary of Mr. Mazza that had disappeared from the sunshine list. We got told that there are 19 records found that won't be shared with us, in the legal services branch, and there are 13 records found in emergency health services that won't be shared with us.

1330

Ms. Li, you were the one who signed off. In those 13 records that came from your office, none of them stated the salary of Mr. Mazza?

Ms. Patricia Li: I think that I would just have to repeat my previous answer: Under the freedom-of-information access requirements, there is certain personal information which, under the act, we cannot disclose. So we do respond to the freedom-of-information access requests in that regard.

M^{me} France Gélinas: I realize that you could not share them with us, and I will trust that you made the right decision, but you had access to those 13 records. You saw the salary that Mr. Mazza was being paid, and you did not blink an eye. But when my colleague asked you if the response from the minister—when she saw the number, she thought they were outrageous, and that prompted her to action. When you saw those numbers, what did you do?

Ms. Patricia Li: I think, just for the record, the reason that information, with respect to the 13 records, was not provided is not because I actually saw the numbers. They contained personal information which prohibited me from providing those particular records. But those records do not contain the compensation numbers of the individuals that you were requesting. So I do not have information on the compensation or any numbers related to it.

M^{me} France Gélinas: So we're in 2010; we file a freedom-of-information request asking you for the salary of Mr. Mazza. Your staff goes into the record and says, "We found 13"—

Mrs. Liz Sandals: Point of order, Chair.

The Chair (Mr. Norm Miller): Yes?

Mrs. Liz Sandals: None of us have this document that we're discussing. Would it be possible for you to table it so we can see what you're discussing?

M^{me} France Gélinas: Absolutely. We'll do this after.

The Chair (Mr. Norm Miller): Thank you, France.

M^{me} France Gélinas: We've already read it into the record, though.

Interjections.

M^{me} France Gélinas: If the clerk wants to come and pick it up—

Interjection.

Mr. David Zimmer: No, no. You can't—we've got a witness under oath—

The Chair (Mr. Norm Miller): Excuse me, Mr. Zimmer. We have limited time. We'll endeavour to get it copied.

Mr. David Zimmer: Yeah, we've got limited time, but you've got to be fair to the witness, Chair. They're under oath. This is not—

The Chair (Mr. Norm Miller): Does everyone want a copy of that? We'll have to recess for five minutes to get it.

Mr. David Zimmer: I want a copy of it, and the witness should have a copy of it to see what we're talking about. You know, we're in a different world here when you have witnesses under oath. They're entitled to be treated fairly.

The Chair (Mr. Norm Miller): Okay, we'll take a five-minute recess. We'll copy that and we'll be right back.

The committee recessed from 1332 to 1339.

The Chair (Mr. Norm Miller): If we could get the committee back in order, please.

The NDP have the floor. You have about seven minutes left for questioning, and I'll just say, so we don't have this happening going forward, that if you have documents, you might want to make copies for everybody ahead of time.

1340

M^{me} France Gélinas: Very good. I may have to speak French if I have to speak that fast, but here we go.

I'm back to a document you now have in front of you but that I think you are quite familiar with; you didn't seem uncomfortable answering my question. Basically, we are asking for Chris Mazza's compensation. How come he's not on the sunshine list anymore? Your department undertakes a review and finds 13 records; none of them can be shared with us.

This request was made to you. Those records were shown to you. Yet the minister, when she saw the amounts, reacted. When you saw those amounts, what did you do?

Ms. Patricia Li: First of all, I wanted to just clarify that, under the Public Sector Salary Disclosure Act, the records contain personal information in which the individuals were not paid through Ornge, the not-for-profit organization. I can assure you that those records do not contain any numbers that we subsequently were able to find out in December 2011.

M^{me} France Gélinas: So you agree that the records exist. Would you be willing to share that with this committee?

Interjection.

M^{me} France Gélinas: She says that the record contains information, but that it contains personal information. So she agrees that those 13 records that were not shared with us do exist, because she just made reference to them as to what they contain and what they don't contain. I'd like her to table those records with this committee.

The Chair (Mr. Norm Miller): Minister, did you want to say something?

Hon. Deborah Matthews: I do, actually. I think people have to understand that we did not have access to those salary numbers, because they were employed through the for-profits, which are not captured under the legislation, the broader Public Sector Salary Disclosure Act. So we did not have that information.

It was only when I pushed the chair and the COO and when there was media scrutiny on that question that they finally did release those numbers. We did not have those numbers internally. We did not know what those numbers were until they voluntarily released them following significant pressure from me and from the public, thank you.

M^{me} France G elinas: With all due respect—I appreciate your intervention—my question is about the 13 records that the emergency health services branch decided not to share with us through freedom of information.

Ms. Li confirmed that she’s seen those 13 records. She made reference to what was in them and what was not in them. I’m asking her to table those 13 records with the committee. When could you comply?

Ms. Patricia Li: What we would do is take it under advisement and review the records again. After our review we will consider sharing with the committee.

M^{me} France G elinas: Okay. The clerk might have a few things to share with you regarding when the committee asks you to share documents, but I don’t want to use my time to do this. We’ll let you two have a conversation.

I’d like to go back—

Mrs. Liz Sandals: Excuse me, could we have a motion specifying what you’re asking for? It’s not clear to me from the testimony I’ve been listening to that the documents that are listed have anything directly to do with Dr. Mazza’s salary, which is the—

M^{me} France G elinas: This is exactly what we’re trying to find out. We—

The Chair (Mr. Norm Miller): If we can allow the third party to continue with their questioning.

M^{me} France G elinas: We filed a freedom-of-information request. We’re told that there are 13 records that cannot be shared with us. She confirmed that she’s seen those records, because she made reference to what was not in those records; therefore, she’s seen them. I’m asking her to share those 13 records with us. I will let the procedures follow due course, but I would ask for those 13 records that are referred to in her response to us, through our freedom of information request, to be shared with this committee so we can decide for ourselves whether those salaries were shared or not.

I’d like to move on before my time goes. So that happens—

Mrs. Liz Sandals: Point of order.

The Chair (Mr. Norm Miller): I don’t believe a motion is required, but the clerk does need to know exactly what the third party, Ms. G elinas, is looking for.

M^{me} France G elinas: Okay, so read from the documents I just shared: “A search was also conducted in the emergency health services branch and 13 responsive records were found.” Those are the 13 responsive records that I want shared with this committee.

Moving on, I want to go back. I’ve talked about—

The Chair (Mr. Norm Miller): And you have about two minutes left, Ms. G elinas.

M^{me} France G elinas: We raised red flags on March 25, 2010—

Mr. David Zimmer: Just a second. The witness gave a qualified answer to that, so I don’t want the member opposite or the committee to be under the mistaken impression that—

M^{me} France G elinas: I think at this point they’re quite willing to co-operate with us.

Mr. David Zimmer: Well, the answer was she’s going to go back, review the documents and see if those documents are something that she can produce. Is that the answer, as I understand it?

Ms. Patricia Li: Yes.

Mr. David Zimmer: So it’s subject to the witness going back, reviewing the documents and making a decision based on advice that the witness will get on whether to produce the documents. So the committee ought not to leave here with the impression that the documents are coming.

M^{me} France G elinas: I think we have our own Chair, Mr. Zimmer, and he can rule on those things. We held an election and elected—

The Chair (Mr. Norm Miller): So what you’re asking for is fine.

M^{me} France G elinas: Thank you.

So, moving on, that happens on March 25, 2010. The NDP started ringing the alarm bell about what was going on at Ornge. We filed for freedom of access to information. Thirty-two records were found; none of them were shared with us.

Fast-forward, the same year; we’re now in November 2010. It’s time for estimates, a golden opportunity for us to ask questions. I’m subbed into committee so that Howard Hampton, who knows this file better than I do, comes to estimates. He asked you 46 questions about Ornge. For 20 minutes he drilled the minister—who was brand new at the time; she did the best she could—the deputy minister, who was kind of brand new also, and Mrs. Li—46 questions. For most of them, we got, “We will get back to you later. We don’t know the answer to what you’re asking, but we will get back to you later.” Never was an answer delivered. The clerk wrote a letter to the minister asking for a follow-up to our questions, and yet we got no answers.

It seems to me that from November 2010, when we put on the record 46 questions about the dealings at Ornge, about the salaries, about the corporate structure, about the for-profit, the not-for-profit, everything that this scandal is about—we put questions on the record, 46 of them—to you, and we get zero answers. We get zero answers, zero action, zero reaction.

The Chair (Mr. Norm Miller): Thank you, Ms. G elinas. It’s now time for the government to ask their questions for 20 minutes.

Mrs. Liz Sandals: Yes, first of all, I’d just like to follow up on something that the minister said. She made reference to her reappointment on October 20 and being briefed on the auditor’s report on October 27, but committee members are aware that the auditor submitted

his report to the ministry in September. I believe the date—I'll go ahead and ask the deputy.

Mr. Jim McCarter: It was submitted, I think, in late September to the ministry.

Mrs. Liz Sandals: Okay, so this was the first draft of the report.

Mr. Jim McCarter: Yes, basically a draft for factual clearance. Our work papers are not accessible under FOI. It's really a draft to discuss with the ministry.

Mrs. Liz Sandals: Thank you for that clarification, Auditor.

So there's obviously a period here where the ministry has received the report, and there has been some discussion about what should have happened to the report once the ministry received it. If I may, I'll ask the deputy. Deputy, who actually received the report then, at that point, in late September?

Mr. Saäd Rafi: I believe it's customary—and the auditor can correct me—but the director responsible, Ms. Klein, wrote to Patricia Li, submitting X number of copies on September 29 with that draft.

Mrs. Liz Sandals: Okay, and what would have happened to the report at that point?

Mr. Saäd Rafi: In any circumstances we would, as is mentioned, examine that draft for factual differences, errors or even our differences, in some cases, of emphasis. We're provided an opportunity by the auditor to respond in writing with what changes we want, which are, of course, his to accept or not, and that's what we immediately proceeded to do.

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It's also customary to brief me, in this case, on the contents, which took place in early October. We asked for a one-week extension, I believe, to submit our response to the draft. I believe we completed that in the time that we were given.

Mrs. Liz Sandals: So you submitted your response to the auditor about when?

Mr. Saäd Rafi: The third week of October, I'm thinking. I see some nodding, so hopefully that's correct. I think that's correct.

Mr. Jim McCarter: We received it on October 20, so it was probably sent a couple of days earlier.

Mr. Saäd Rafi: Yeah, so the third week.

Mrs. Liz Sandals: There has been some suggestion that when you got that—as I think those of us around the table are aware, this was during the writ period. There was an election on October 6, 2011. There have been suggestions made in the House that the minister should have been advised of the content of the Auditor General's report. Was the minister advised of the content of the draft report?

Mr. Saäd Rafi: No, she was not. That was a function of the rules that we are given during election or writ periods. I exercise my judgment in that regard. If the election was not in place, given that it's a first draft, it would not be customary for, I believe, any ministry to share that draft in that form—because, and I'll use the term, it's in a rough form; it's a first draft—until you get

to a point of understanding where the auditor's office wants to settle on certain elements. Then it's appropriate and, I think, quite customary to involve the minister's office in a briefing and to move forward on responses. Afterwards, when you get the penultimate or the second-last draft, then we have the opportunity to put our responses to those recommendations. There's a bit of discussion on that as well with the auditor's office, in that sometimes our responses tend to be a little bit longer and I think, in some cases, he would prefer them to be a little bit shorter, and there's a back-and-forth on that.

Mrs. Liz Sandals: I wonder if you could comment specifically on the writ period and what your direction is in terms of what information you share with the minister during the writ period—because there seems to be some confusion; clearly, the minister stays in place—and whether the relationship between the minister and the ministry is the normal relationship during the writ period, or whether there are some constraints put on deputies and staff in terms of the way you relate to the minister during the writ period.

Mr. Saäd Rafi: Yes. It's both a customary and rules-based approach that says that one has to be very careful about interactions with minister's office staff who might remain in the office and/or the minister. Since all parties have gone through this before, I think a reason the members would understand is that I wouldn't want to be in a position that provides information that a minister would use to some advantage during an election campaign.

In addition, there is guidance provided on urgent or very routine items. Urgent items have a definition, and the interpretation of "urgent" has to do, for me, in light of such elements as there is some matter that is developing. I'll take an example to be a public-health-related issue, perhaps: that we've seen an emergent issue in a particular part of the province with some sort of—I don't want to say "outbreak," but some sort of activity that might be linked.

Mrs. Liz Sandals: So SARS happens again.

Mr. Saäd Rafi: Yes. The second piece, I would say, is if it's absolutely an emergency. It's customary to know that the deputy has the opportunity to contact the minister should those types of occurrences take place.

It was my judgment that the first draft of the audit report, considering I was briefed in early October, with the election days away—and not knowing the outcome, obviously, of whether (1) the party is re-elected and (2) the minister is reaffirmed in her role—that this was not something to share. We did share it with her office as soon as possible upon the installation or reaffirmation of the cabinet.

Mrs. Liz Sandals: So, given the protocols that are set out during the writ period for you as a deputy by Cabinet Office, it was your conclusion that it would not be appropriate to share this information with the minister, whoever the minister might be, until there was a new minister reappointed—albeit it happens to ultimately be the same new minister.

Mr. Saād Rafi: Yes, that's correct. Also, the remedies available to us would require the input of the minister, and the remedies, as well, don't change from the first draft to the next draft. I think as the auditor has said, it is a very rough working draft.

In addition to that, there's a heightened sense of confidentiality during a writ period for, especially, audit documents. So there would be all manner of perhaps different interests wanting to see material like this.

Mrs. Liz Sandals: Okay. Thank you very much.

Mr. McKerlie has been valiantly attempting to give his opening remarks. I'll cede a little bit of our time to Mr. McKerlie to make his opening remarks.

Mr. Ron McKerlie: Thank you very much, and thank you to the committee, to the Chair and the members, for the opportunity to be here and to speak about the work that's been done at Ornge, particularly the current changes that are under way.

Let me start by saying that I don't endorse the actions that have been taken by the former leadership at Ornge. What has become quite clear in recent months is, there is a number of things that have happened, and that's the reason for this committee hearing. But I can assure you that I do not support or agree with those decisions, and an incredible amount of work has been undertaken already to begin fixing the problems and moving the organization forward towards a new level of accountability and transparency.

I don't come here to make any excuses or to apologize for the mistakes of the past. I'm here to speak to the promise of the future and to talk about the committed men and women who remain at Ornge for all the right reasons.

Ornge transports more than 19,000 patients per year, and the majority of these transports are north of Sudbury. In fact, nine out of 10 of our highest flight destinations are in northern Ontario—destinations like Kashechewan, Sandy Lake and Attawapiskat, as well as places like Thunder Bay, Timmins, Sault Ste. Marie and Sudbury. Many of the patients we transport are critically ill and injured and need immediate transport to a specialty centre. The medics that I've had the fortune to meet are some of the most committed, dedicated and highly trained health care professionals in Ontario. We have pilots whom I've met who have worked for commercial airlines but now speak of the rewarding experience working for Ornge and flying some of the sickest and most seriously injured patients to hospitals for the care that they both need and deserve.

Next week, we will transition the last helicopter base from Canadian Helicopters Ltd. to Ornge, and I welcome these dedicated pilots and aircraft maintenance engineers who will be joining the organization. A number of these individuals have been part of the air ambulance program for decades, and I and the new board respect the number of years that they've already committed to providing medical transport and air ambulance service to patients in this province.

I joined Ornge on Thursday, January 12, and in a few short months I think we've seen significant progress. For example, the previous board of directors has been replaced with a volunteer board, and we continue to strengthen the executive management team. These two moves are critical to ensuring that Ornge has the right leadership in place to move the organization forward. There's a renewed commitment to putting patients first and to providing the best patient care for the people of Ontario.

We have a renewed commitment to fulfilling our mission, to rebuilding Ornge and to ensuring that it's a vital, dynamic and accountable organization that's well placed to meet today's challenges and those of the future. From our executive changes to changes in our front-line services, change is occurring at every level of the organization.

Among the changes under way at Ornge, we have bankrupted two of the for-profit Ornge entities and have begun the windup of nine additional entities.

The top six executives are gone, including staff who worked at one of our global, for-profit entities, and the former board of directors has been replaced.

We've brought in a transition team to assist with rebuilding the organization, reviewing processes and implementing key changes.

Addressing the Ornge helicopter medical interior issues, we have an interim solution to the medical interior issue certified by Transport Canada, and work is well under way on a longer-term solution.

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A new, volunteer board of directors is in place with specialized subcommittees to support the organization during its transition and beyond.

The last of the rotor-wing base transitions happens later this week.

Demand for repayment from Dr. Mazza of his loans has happened, and we've taken steps to protect the interests of Ornge.

We have reorganized the Ornge communications centre.

We have negotiated an amended performance agreement with the Ministry of Health and begun implementing the changes required in reporting and compliance consistent with an increased level of oversight by the ministry.

We have sold non-essential assets, including the Orange County Choppers motorcycle that was in the lobby of our building and we have put two of the AugustaWestland helicopters up for sale.

We have sought voluntary disclosure from employees working for two of the Ornge for-profit companies to coincide with the 2011 disclosure release. We've posted salaries for 20 of those staff who earned more than \$100,000 last year working for one of those for-profit entities, even though disclosure is not required under the public salary disclosure rules.

And these are just a few of the changes under way.

There is another component to Ornge that may seem obvious but that I think can be forgotten in the controversy surrounding this organization. I feel it's important to remind everyone about the dedication and commitment of the staff at Ornge. They work tirelessly to serve sick and injured Ontarians and ensure that they have a reliable, professional and compassionate medical transport service. As you can imagine, the negative attention the organization has faced in recent months has taken its toll on those who work there, and it's only fair to recognize the conditions under which many of our staff have been working. From those on the front-lines to behind the scenes, these few months have been very challenging for each of them.

Paramedics, pilots, aviation maintenance engineers, communications officers and the people who support the work they do have been deeply impacted by the actions of a few. The actions of a few former executives do not and should not reflect on the staff who remain at Ornge.

I have had the opportunity to meet with many staff and to visit a number of the bases around the province. I am continually amazed and inspired by the work that they do. Each of them comes to work to fulfill the mission of providing excellent patient care. In the last year alone, Ornge transported over 19,000 patients and flew over 6.2 million miles.

We have staff located at 12 bases across the province in locations from Toronto, Markham, London, Ottawa, Peterborough, Sudbury, Timmins, Thunder Bay, Kenora, Sioux Lookout and Moosonee. In addition, our standing-agreement carriers cover an additional broad area of the province. The paramedics, pilots, aircraft maintenance engineers and transport medicine physicians who work out of these bases are responsible for flying to some of the busiest urban centres and the most remote and distant corners of this province.

Ornge purchased 10 Pilatus PC-12 Next Generation airplanes and operates them from three fixed-wing bases in Thunder Bay, Timmins and Sioux Lookout. Ornge purchased 12 AgustaWestland AW139 helicopters and operates 10 of them from the rotor bases located in Toronto, London, Sudbury and Ottawa. Ornge continues to operate the Sikorsky S-76 helicopters from the rotor-wing bases in Thunder Bay, Kenora and Moosonee.

Ornge also operates a critical care land program out of Ottawa, Peterborough and Markham. As you would have read in the report, this program will be reviewed with the Ministry of Health in coming months.

We also operate a pediatric transport program, also out of our Markham location. Ornge's pediatric transport teams are comprised of paramedics and nurses trained in pediatric critical care, operating 12 hours a day, seven days a week. Although their primary vehicle is the critical care land ambulance, staff members are trained in all three modes of transport—fixed-wing aircraft, helicopter and land—any of which may be utilized, depending on the location of the patient, anywhere in Ontario.

The work Ornge does throughout this province could not be done without our valued partners in aviation,

including the standing agreement carriers who conduct more than 40% of our air transports for us. These include companies like Air Bravo, Thunder Airlines, SkyCare, Wabusk, Commercial Aviation, Northern Air Solutions, Fort Frances Air, NovaJet, Skycharter, ExpressAir, Air Nunavut and Flightexec.

I must also mention our municipal partners who assist Ornge every day in ensuring our patients and crews receive ground transportation by the emergency medical services when required.

While we operate a land transport program, we are largely known for our air ambulance program. We believe we have an excellent fleet of aircraft. We are committed to the highest possible safety standards.

As you are aware, Ornge purchased a new fleet of helicopters, the AW-139. Introducing a new fleet of helicopters under any circumstances is a challenge. Under these circumstances, it has been extraordinary, and we continue to be under incredible scrutiny.

But I must reiterate that these aircraft are safe. There are 430 AW-139s in service worldwide. Twenty per cent of these are in EMS service, serving countries such as England, Norway, Australia, Italy, Spain and the Far East. Here in Canada, we use them in both Ontario and Alberta. To date, there have been over 70,000 flight hours logged by EMS operators worldwide. Our patients are safe. We have rigorous safety programs in place to ensure we respond to any concerns or possible safety issues as soon as possible.

I'd like to turn to what we're doing in concert with the Ministry of Health to address the previous problems at Ornge.

As you will be aware, the Ministry of Health and Ornge have entered into an amended performance agreement. This agreement sets clear performance indicators and will ensure that there is openness, transparency and accountability in all of Ornge's operations. It will ensure that what happened before doesn't happen again.

The amended performance agreement, ratified last week by the government and Ornge, will give Ontarians better air ambulance care by

- appointing a new patient advocate and publicly posting a complaints process;
- creating a new patient declaration of values;
- conducting annual surveys of staff, and members of the public, regarding their performance, and making this information public;
- improving the reporting of emergency dispatch information by including cancelled and declined air and critical land ambulance calls; and
- creating a quality improvement committee to advise the Ornge board, and publishing an annual quality improvement plan.

The performance agreement also provides taxpayers for more value for money by

- giving the ministry the authority to conduct surprise audits and unannounced inspections;
- linking the compensation of Ornge executives to public performance improvement targets;

—tying Ornge’s funding to key performance indicators;

—giving the government control over any changes to Ornge’s corporate structure and any sale of assets over a threshold of \$100,000;

—taking tighter control over how Ornge uses government funding;

—giving the ministry the ability to recover funding, based on performance;

—ensuring full compliance with the Broader Public Sector Accountability Act;

—requiring public reporting of expenses and restrictions on meals, travel and hospitality; and

—requiring regular, detailed financial reports from Ornge and creating new financial planning controls.

The Chair (Mr. Norm Miller): You have about two minutes left.

Mr. Ron McKerlie: Thank you.

In addition, the Ministry of Health introduced new legislation that, if passed, will provide a number of issues and protections, including protection for whistle-blowers who disclose information on an investigator, inspector or the government.

I’d like now to address the Auditor General’s report and thank him and his team for the work they did last year. I understand the frustration that was faced by them when they were denied access to documents at Ornge. I want to reiterate our commitment to openness and transparency.

We have agreed to proceed on all the recommendations, and we have provided our responses in the report. We’ll work with the Ministry of Health to ensure that we implement those changes.

Finally, I’d like to say I’m very proud of every person at Ornge, from the front-line paramedics, pilots and communications officers, to the corporate office staff, who are committed to the highest standards of safety and patient care. We welcome the service reviews of our service providers and the Ornge communications centre.

We’ve also initiated the review of current quality and patient safety initiatives by the quality-of-care committee of the board, under the supervision of Ornge board member and Sunnybrook president and CEO, Dr. Barry McClellan.

As we indicated in our responses to the auditor, we’re committed to acting on all the recommendations, and they serve as a guide to us as we move forward with rebuilding Ornge and restoring trust.

I’d like to summarize my remarks by saying that we’re committed to ensuring that taxpayer dollars are used prudently and that Ontarians are provided with an effective, efficient and high-quality medical transport service. These are commitments I take very seriously. I, along with all the employees of Ornge, am committed to delivering air ambulance services to the residents of Ontario at world-class standards.

There’s a lot of good work going on at Ornge. It’s going to continue. While the past few months have admittedly been challenging, I’m optimistic about the

future of the organization and the positive changes that are under way.

The Chair (Mr. Norm Miller): Thank you, Mr. McKerlie. We now move to the official opposition for questioning. Mrs. Witmer, you have 20 minutes.

1410

Mrs. Elizabeth Witmer: Thank you very much, Mr. Chair.

My question is to the deputy. I think, Deputy, I heard you say something in the nature of, you didn’t want to tell the minister about the report that you had received because it was during the writ and you didn’t want to give her any special advantage. I’d like you to maybe answer, as well, then, if that was the case and it was during the writ period, did you also advise the minister against—and I stress the word “against”—doing a multi-million dollar announcement during the writ when she announced, in her riding, new hospital money?

Mr. Saäd Rafi: I was not consulted on that, so I did not give advice on that.

Mrs. Elizabeth Witmer: Thank you very much.

Hon. Deborah Matthews: I would like to speak to that, if I might, though.

Mrs. Elizabeth Witmer: Do you know what? I’m just going to continue with the deputy right now.

I guess what I would like to know from you, Deputy: Could you table with us the guidelines that you were acting under during the writ that helped you make the decision that you shouldn’t inform the minister about the Ornge initial report?

Mr. Saäd Rafi: I’m pretty certain I can, yes.

Mrs. Elizabeth Witmer: I would certainly appreciate that. Thank you very much.

Mr. Frank Klees: Mr. Chair?

The Chair (Mr. Norm Miller): Mr. Klees?

Mr. Frank Klees: I would like to address a couple of issues in this round. I’d like to go back to the deputy on this issue that Ms. Witmer just discussed with him. I am really quite concerned about this concept that something as important as the information that was contained in the Auditor General’s report on Ornge—that somehow the deputy would think that by apprising the minister of this and engaging her support and taking some action on that, that would be an advantage. Can you explain that to me?

Mr. Saäd Rafi: I guess what I was trying to say was that I have no idea how something like that could be used—whether a different outcome would cause a different response. I exercise judgment against the rules and the conventions that I’m familiar with. That was what I based my decision on in terms of the criteria that I outlined in the previous question.

So the issue is perhaps less about whether that is used for advantage, but rather, did I feel it was appropriate to provide an early draft of an audit report during an election period. I determined it was not.

Mr. Frank Klees: And what action did you take in response to that draft?

Mr. Saäd Rafi: What action we took was to, first, do a fact-check of the draft, prepare our response to the

Auditor General's office—that went from Patricia Li—on several items of both fact and emphasis, if you will—intonation, perhaps. As I mentioned earlier, that it's up to the purview of the auditor to accept those. His office accepted some—I dare say, many—but not all. We also prepare our draft responses to the recommendations, to the best of our ability. It's understood that they are to be draft because we have another opportunity, at the second-last version of the report, to confirm those responses.

In addition to that, we continued to analyze what our remedies were and what solutions we had against not only the findings but against the tools available to us, as well as the performance agreement and how it was structured.

Mr. Frank Klees: Was there anything in that draft report that caused you to react, as saying, “We have to act with urgency on this particular matter”? Was there anything at all that concerned you?

Mr. Saäd Rafi: I will address that by—if I could just supplement my last response with one thing I forgot, if you don't mind, please, and that is, during this time, the three weeks that we are given to respond to the first draft, I think Ornge was continuing to debate and provide feedback to the auditor's office, and I believe they took another three weeks to respond. So the report really is not out of its first-draft stage, as far as we're aware, for some time.

Yes, there were aspects in that report that were actually quite surprising to us, because it was information we were not able to access nor was provided by Ornge. Some of the things that we saw in the auditor's report we did not get from Ornge.

Again, I think one has to look at context and timing as well. It's easy to sit today and say, “You could have done A, B and C.” But actually, the assessment that we took was that we had an organization that was not prepared to open its performance agreement. We had an organization that was not prepared to provide information to us. In fact, I think the auditor has said that he didn't even get all the information that he was asking for. So we had an organization that was not compliant with the ability we had at that point to get them to take action.

We could not remove their board; we didn't appoint their board. This is a contract we have with them. We could have ceased funding, but as I said earlier, I think that that would have been somewhat irresponsible to affect, potentially, patient care.

Mr. Frank Klees: Thank you, Deputy. I respectfully disagree with—yes, I understand the explanation. But with all due respect, when you see a report that contains the kind of information that the Auditor General brought forward, that clearly affects patient care, to allow yourself to be restricted within the framework of how you report or the number of weeks that you have to report, I can just tell you that I think that's indicative of a systemic problem within the bureaucracy. I would think that something that deals with practical issues, such as patient care—which, as deputy, you would have immediately taken action on and said, “Look, we can't

allow these things to happen. We can't risk one life, if this continues to be allowed.”

Nevertheless, I want to move on to another issue.

Mr. Saäd Rafi: Chair, may I respond to that? Because I think the statement that's made is suggesting that I've turned a blind eye to patient care. I'm not sure where in the auditor's report there's an indication that one life was at risk.

Mr. Frank Klees: Really? Have you read it?

Mr. Saäd Rafi: Indeed, I have.

Mr. Frank Klees: Well let's talk about the dispatch issues. Let's talk—

Mr. Saäd Rafi: Yes, indeed.

Mr. Frank Klees: You don't think that by a dispatch being delayed or being cancelled because of staffing issues, that that doesn't put a life at risk?

Mr. Saäd Rafi: There is not an indication—

Mr. Frank Klees: We have a very different perspective on this.

Mr. Saäd Rafi: Pardon me. There is not an indication in that report that a life was put at risk. We exercise—

Mr. Frank Klees: You know, I would think with your experience, sir, that you could read between the lines.

The Chair (Mr. Norm Miller): Let the deputy respond, please.

Mr. Frank Klees: Well, I can just tell you, I—

Mr. Saäd Rafi: I'm not in the business of reading between the lines. What I'm trying to do is to take the information that we've garnered and exercise our judgment against the performance agreement.

We sat down, we looked at that report and we examined the performance agreement. We changed our practices to unannounced visits—reviews, inspections. We asked the Ministry of Natural Resources to go in and do a review of the aircraft. We also examined that report. If there was an indication—and the auditor points out that the dispatch approach needs to be examined. It doesn't say, in my reading of it, that patient safety was put at risk. I think we would have reacted, based on the performance agreement, in that way.

I appreciate that you—

Mr. Frank Klees: Fair enough. I think that explains a whole lot of things, quite frankly.

Deputy, were you the deputy in April 2008?

Mr. Saäd Rafi: No.

Mr. Frank Klees: Who was?

Mr. Saäd Rafi: I don't know. I can't remember off the top of my head.

Mr. Frank Klees: I'd like to refer to a letter that was sent to—actually, it was sent to the then Ontario Minister of Health Promotion, Margaret Best. I think the minister is familiar with this letter. It was sent by a Mr. Keith Walmsley, who was working at Ornge at the time. He wanted to reach out to the Ministry of Health. I'm just going to read from his letter: “I found out that a second set of books were maintained in November of 2007”—

Mrs. Liz Sandals: Point of order: Could we have—

Mr. Frank Klees: Yeah, I'll have this for you.

Mrs. Liz Sandals: Now.

Mr. Frank Klees: I don't want to lose my time. I will read it into the record.

The Chair (Mr. Norm Miller): Mr. Klees, we need to recess for five minutes to get a copy of that.

The committee recessed from 1423 to 1428.

The Chair (Mr. Norm Miller): So the opposition has two minutes left. Go ahead, Mr. Klees.

Mr. Frank Klees: Mr. Chair, I would like members of the committee to read these two letters, and I'll take a follow-up opportunity to expand on them.

What I want to do now that the deputy is back is refer him to page 38 of the Auditor's report, where he says, "However, we found that Ornge internally reported 20 'significant patient adverse events' in 2009-10 to its board of directors, including some that involved patient deaths. (Ornge defines a 'significant patient adverse event' as a critical or major occurrence that results in serious, undesirable, or unexpected patient outcomes with potential to negatively affect a patient's health and quality of life.)" And if that isn't a reference to patient safety, I don't know what is.

I think, Chair, this incident actually reaffirms why we need a select committee of the Legislature to deal with these issues. That would enable us to bring people forward who are front-line paramedics and pilots and dispatchers who could in fact help us to read between the lines. The auditor has been very effective at giving us factual information about the operational challenges and issues at Ornge. We need the front-line people to tell us what the implication of that failed dispatch system is and what we need to do to fix it. Thank you.

The Chair (Mr. Norm Miller): Thank you very much, Mr. Klees. Now on to the third party.

Mr. Jagmeet Singh: I'm going to begin with Ms. Li. A question I'd raise with you—or I guess I could begin with all three. Minister, Mr. Rafi and Ms. Li, would you agree with me that the issue of the for-profit string of companies and their organization would raise some concerns in your mind with respect to the proper governance or the proper use of resources at Ornge?

Hon. Deborah Matthews: I think that with the benefit of hindsight, the answer is yes. I think at the time, when clear assurances were given that no public money would be used, that money would actually flow into the air ambulance service serving Ontario patients, and given the assurances that there were no conflicts of interest—we actually support the idea of taking Ontario-grown expertise and selling it to a global market. We have several Ontario innovations for which there is a global market, so the idea that we could take our air ambulance expertise and sell it internationally was an advantage. Of course, in hindsight, we would have looked at it very differently.

Mr. Jagmeet Singh: Okay. And then specifically, I guess, instead of giving you a vague question, let me ask more specifically to Mr. Rafi and Ms. Li. Ornge Air, would you agree with me that the governance of Ornge Air, which was a subsidiary company connected and related to Ornge—that its for-profit operations would

give some concerns with respect to the way Ornge was operating?

Mr. Saad Rafi: I would say it's very similar to the minister's response. In that time there was also, some months earlier, an express statement of exporting health care services by the government at the time. In addition to that, we don't have, because of those attestations and assurances—promises given—and we don't, through the performance agreement, have a line of sight into that organization.

But what we spent our time doing was looking at our core responsibility, which is how are patient activities being undertaken, be that response times, be that patient safety. We've heard from the auditor that we need to do a better job on response times and our performance indicators, and we're trying to respond to that.

Mr. Jagmeet Singh: Okay, I understand. Ms. Li, my question coming back to you then, is that Ornge Air—would you agree with me, whether or not Ornge Air was being run as a for-profit entity or whether it was being run as a not-for-profit entity, that knowing one way or the other would be quite important to you in part of your duty as overseeing Ornge and Ornge affiliates? Would you agree with me?

Ms. Patricia Li: I just want to answer that one. From my responsibility as managing the program and the air ambulance services that are contracted under the performance agreement, I think that what was given to us as information and assurances is that Ornge Air is providing air ambulance services, the services that we contracted for in the performance agreement, and there's no reason for me to determine their business directions about whether the entity is set up—we are only looking at it at the operational level, from a program oversight, from an operational level, from a service level.

Mr. Jagmeet Singh: Would it benefit you in any way to know whether it was a profit-driven model or a not-for-profit-driven model? Would that benefit you in your ability to oversee the way that Ontario money is being spent?

Ms. Patricia Li: It was not communicated to me as a for-profit model or a not-for-profit at the time. It was only communicated to me that the Ornge Air ambulance is providing ambulance services.

Mr. Jagmeet Singh: So because Ornge Air is providing the ambulance services, would it benefit your ability to oversee it if you knew whether or not it was for profit or not for profit?

Ms. Patricia Li: I think it was stated by the deputy and the minister that in hindsight, had we had all the complete information, it probably would be more beneficial.

Mr. Jagmeet Singh: Okay, that's fair. Now, in hindsight, actually—conveniently—Howard Hampton, on November 17, 2010, asked the question to you, Ms. Li. He said, "All right. Can I ask you, then: There's another entity called Air Ornge, or Ornge Air. Now, what is Ornge Air?" Ms. Li, you answered, "My understanding is that Ornge Air is an affiliate organization under Ornge

that actually provides the operations, the air ambulance,” as you’ve indicated today. Mr. Hampton then asked you, “But my understanding is that Ornge Air is a profit-driven corporation,” and Ms. Li, you indicated, “I have to look into that.” There’s an interjection, “We’ll look into that,” and finally, Ms. Li, you indicate, “Yes, I will follow up.”

Ms. Li, did you follow up to find out what Ornge Air’s model was, whether or not it was a for-profit or not-for-profit entity back on November 17, 2010?

Ms. Patricia Li: I did follow up on that question, and I think that our process is to gather the information from Ornge, the organization.

Mr. Jagmeet Singh: And so what exactly did you do to follow up? And was there a letter or any correspondence sent to the committee at that time, which was the estimates committee, or was there a letter sent to Mr. Hampton?

Hon. Deborah Matthews: If I could interject for just a moment here—

Mr. Jagmeet Singh: My apologies, Minister. I would love to hear from you at some point, but this question is very directed to Ms. Li, because the question was to Ms. Li. She was the one who responded by saying that she would follow up to Mr. Hampton, so I would like to hear from Ms. Li, if she—

Hon. Deborah Matthews: I think, as minister, I’ve got some information here that I think you’d be interested in.

Mr. Jagmeet Singh: I would love to hear from you, but I’d like to hear an answer from Ms. Li first. My apologies, Minister, but I’d love to hear an answer from Ms. Li. Did you follow up with Mr. Hampton? Did you follow up by letter? By phone call? Did you follow up with the committee?

Ms. Patricia Li: I did not follow up with Mr. Hampton. I just—

Interjection.

Ms. Patricia Li: It appears the ministry has not done that particular process.

Mr. Jagmeet Singh: Okay. Is there a reason why you did not follow up with something that you indicated that you would follow up on with Mr. Hampton or with the committee?

Mr. Saïd Rafi: I think that’s a situation where the ministry has not submitted the responses; they were just submitted today. That’s regrettable, but it was not provided.

Mr. Jagmeet Singh: Okay.

Minister, you had something you were going to respond to with respect to this.

Hon. Deborah Matthews: Thank you very much. Yes, in fact, I have a letter here. It’s dated December 15, 2010. It’s from Ornge. It’s to your leader. It does outline very clearly answers to the questions about Ornge being—the structure, and answers to questions that were raised. So you did have the information that came from Ornge, which clearly outlined the for-profit structure, the establishment of for-profit organizations. It did answer, I

think, many of the questions that were raised. That was dated December 15, 2010.

Mr. Jagmeet Singh: Thank you.

Just one more question. So just to ask you this question—if you agree with this comment or not; I don’t mind either way. It’s to all three: Minister, Mr. Rafi, Ms. Li. Would you agree with me that, in terms of oversight, which is a part of your obligations, there was a responsibility to oversee Ornge both fiscally, patient-safety-wise, as well as the business transactions that were occurring in a quasi-public, non-profit organization? Do you agree with those three categories of oversight?

Hon. Deborah Matthews: Within the context of the performance agreement, yes.

Mr. Jagmeet Singh: Mr. Rafi, do you agree with those three categories?

Mr. Saïd Rafi: Then and today, if we had the knowledge that there would be a set of organizations set up that would be for-profit and that there allegedly might be private interests being undertaken at the expense of public interests, which is what the amended performance agreement, what the legislation and what the board and new CEO are trying to rectify, then it would have been highly advantageous for us to have foreseen, in advance, in 2005, that a performance agreement should govern a far more broad set of activities. We didn’t then.

Mr. Jagmeet Singh: Okay. My question, then, is—

Interjection.

Mr. Jagmeet Singh: Thank you very much. My question, then, is, were any requests made, from the time, Minister, you became the minister, until this scandal erupted—before the scandal erupted—were any requests made with respect to salary disclosures that were made in the form of writing, and that were denied, before the scandal erupted? Were there any financial reports or accounting or expenses that were requested and denied, and what was the form? Was there any patient care information requested? And, finally, was there any audit conducted or requested before the scandal erupted regarding the helicopters or the aircraft?

Hon. Deborah Matthews: I will pass this to the deputy.

Mr. Saïd Rafi: I’m not aware of them, but my tenure is not that long. We would have to go back into our records, because I think, if you could give me a time frame that you’re interested in, then we’ll have to go back into our records to determine the answer.

Mr. Jagmeet Singh: Certainly. Just in fairness to you, when were you a deputy minister?

Mr. Saïd Rafi: February 2010 to the present.

The Chair (Mr. Norm Miller): France, go ahead.

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M^{me} France Gélinas: Before I continue on the line of questioning of my colleague, two quick questions for you, Mr. McKerlie. The first one is that on page 3 of the document you presented to us that you read into the record, you said, “Among the changes under way at Ornge”—the first change is, you had “bankrupted two of the for-profit Ornge entities and begun the windup of

nine other entities.” Would you be good enough to share with us who those entities were and their relationship to Ornge, either right now, or table them with the clerk?

Mr. Ron McKerlie: Sure; I certainly can do that. Just let me get to the names of them, because there are many similar-sounding companies.

The two we bankrupted were called Global GP Inc. and Global Holdings LP.

M^{me} France Gélinas: Okay.

Mr. Ron McKerlie: On February 2, both of those two companies were petitioned into bankruptcy. That petitioning was uncontested. On February 12, a bankruptcy trustee was put in place. They continue, to this day, the process of liquidating assets, paying off creditors and winding down the organizations.

M^{me} France Gélinas: Very good. If you could table a full report of this, I would appreciate it—with the names of the nine other entities that are being wound down and their relationship with Ornge.

Mr. Ron McKerlie: Would you like that now or would you like it tabled later?

M^{me} France Gélinas: Tabled later would be sufficient.

The next point that you made was that you “demanded repayment from Dr. Mazza of his loans” and took “steps to protect the interests of Ornge.” You demanded repayment from Dr. Mazza of loans. Do you know the size of the loans you’re asking for repayment on?

Mr. Ron McKerlie: Yes. There was one made out of Ornge the not-for-profit for \$500,000. The trustee is dealing with two additional loans: one for \$450,000 and one for \$250,000.

M^{me} France Gélinas: Okay. When you demanded repayment of Dr. Mazza, how did you communicate with him?

Mr. Ron McKerlie: We sent a formal letter of demand to Dr. Mazza’s lawyer.

M^{me} France Gélinas: Could you share those demands with us, including who his lawyer is?

Mr. Ron McKerlie: I don’t have that information with me.

M^{me} France Gélinas: But will you share it with us?

Mr. Ron McKerlie: I will seek legal advice as to whether I can share it with you, yes.

M^{me} France Gélinas: Try your best. We would really appreciate, at this point in the game, as much transparency and as much goodwill and co-operation as can be mustered.

Mr. Ron McKerlie: I can assure you, I always try my best.

M^{me} France Gélinas: Sounds good. All right. Coming back to what my colleague was talking about, we’ve established that the request for freedom of information, the first time we raised red flags, was in March 2010: two years ago, almost to the day. We got a response on June 2. Then we went back with a series of questions at estimates in the fall of that year—that’s almost a year and a half ago—asking a series of questions. Our questions were all targeted at how much Mr. Mazza was doing;

what the for-profit entities that he had created were; what their role was; what their relationship was: the basic ingredients of this scandal we’re left talking about and that our auditor put out in his report.

Deputy, the question goes to you: When the clerk put out the questions that still were left unanswered, those questions were put to you, as to: “There is a list of questions from estimates that have not been answered. All of those questions regarding Ornge are in this document, and you agree that those were the outstanding questions.” All three parties agreed that those were the outstanding questions. We received answers to all of the questions that had been asked during health estimates that needed further work, but we did not receive a single answer on a series of questions that everybody had agreed were outstanding regarding Ornge.

Try to give me anything I could hold on to that would make me believe in the process. How could it be that everything else was answered in writing in due time, but the questions about Ornge got singled out and went missing? “The dog ate my homework” is not going to cut it.

Mr. Saäd Rafi: I don’t have a dog—

M^{me} France Gélinas: Good.

Mr. Saäd Rafi: —but if I did, I certainly wouldn’t feed him my homework.

I just want to make sure I understood your question, Madame Gélinas. Are you saying that it’s your understanding that the ministry responded to all the questions from the November 2010 estimates except the questions on Ornge?

M^{me} France Gélinas: I received a document that outlined all the outstanding questions from this series of estimates. We all agreed together that those were the outstanding questions.

The Chair (Mr. Norm Miller): You have about a minute left.

M^{me} France Gélinas: Out of those, we received answers. The part that is missing is that we did not receive any answers on the outstanding questions about Ornge. That’s the question.

Mr. Saäd Rafi: Well, I think that what is clear is that, one, the ministry has not followed its own procedures.

Secondly, unfortunately, answers were not provided not just to the Ornge questions, but answers were not provided to other questions. Not only was it not even in a timely manner, but they just have not been provided, and they were provided very late before this session. That’s something we have to look into, and that’s something I regret.

But I just want to make the distinction that our lack of following procedures was not just somehow isolating the Ornge questions.

The Chair (Mr. Norm Miller): Thank you. We’ll move to the government—

M^{me} France Gélinas: Mr. Chair, I received, as of seconds ago, answers to the estimates questions of 2010. I received them seconds ago.

The Chair (Mr. Norm Miller): Do you want to share those with the committee?

M^{me} France Gélinas: I'm more than willing to share them with anybody. I have not read them, so I kind of want to make sure that once I have read them, I have an opportunity for questions.

The Chair (Mr. Norm Miller): Okay, at a future meeting.

Mrs. Liz Sandals: And could we have a copy of them too, please?

The Chair (Mr. Norm Miller): The government: Ms. Sandals.

Mrs. Liz Sandals: I wanted to think about the legislation, because there have been a number of questions about the corporate restructuring that's going on since Mr. McKerlie arrived at Ornge. The legislation that the minister tabled has some things that are fairly self-evident in it, like investigation and supervision powers commensurate with the Hospitals Act and whistle-blower protection. But when I get into corporate law, not being a lawyer, my eyes glaze over.

In section 3 of the act, there are clauses which seem to be related to the Corporations Act that talk about certain continuing bodies and civil, criminal and administrative litigation and continuing processes and things. I'm wondering if we could get the layman's Coles notes about what that section of the legislation means, Deputy.

Mr. Saäd Rafi: Okay, certainly. Ornge continues to be a Canada Corporations Act corporation in the not-for-profit realm. There's a need for clauses in the Ambulance Act for what's called continuance. It's my understanding that in order to export out of a Canadian legislative environment into a provincial legislative environment, the department in the federal government that will have to determine whether that's possible, when Ornge makes an application to do so—I understand that the board has agreed to proceed that way. The federal government will look to see, are there similar elements in their legislation in a provincial piece of legislation? There are, but that provincial piece of legislation is not yet proclaimed.

So, in order for Ornge to be imported into provincial legislative authority and exported out of federal legislative authority—the not-for-profit component of the Canada Corporations Act or a separate piece of legislation—we need these clauses to be passed, if the Legislature chooses to do so, in that legislation.

If that doesn't happen, there are several elements that will not be possible for us to have—the government and the ministry to have—powers over Ornge as a corporation, because they'll continue to be governed under the Canada Corporations Act. That means that legislative authority on things outside the standards and regulations of the Ambulance Act will not be possible through a provincial piece of legislation. I hope that doesn't confuse people.

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Mrs. Liz Sandals: So for us to get full control over Ornge and to complete the transition which Mr. McKerlie is going through and to get Ornge regularized as a

provincial corporation over which we have full control, we need this particular section of the legislation?

Mr. Saäd Rafi: I don't mean to correct you, but in order to have legislative authority over Ornge as an entity, we need this continuance piece so we can import Ornge's current status into provincial status.

The already-mutually-amended performance agreement provides some control provisions, as you probably know, that could be instituted because they have had agreement of the board. But the legislation provides the ability for the minister to issue directives, to appoint a supervisor—a special investigator—and to require the establishment of a whistle-blower policy. Some of those elements, such as directives, I believe—sorry, the whistle-blower piece—could still go forward without the continuance.

Mrs. Liz Sandals: Okay. And there's a couple of clauses here which talk about an existing cause of action, claim or liability—to prosecution being continued; civil, criminal, administrative, investigative or other action or proceedings being continued.

And again, somebody who can put it in lay language, corporate—like, have we got a lawyer here? In order for us to take any prosecution or litigation against the bodies that are being wound down, we need to have this legislation in effect to move things over, as it were.

Mr. Saäd Rafi: Sorry, I'm just checking. I want to make sure I get the—

Mrs. Liz Sandals: Yes, I understand that, because I'm asking questions that—

Mr. Saäd Rafi: Sorry, I'm going off memory now. I think that section refers to—any right someone had against that corporation as a Canadian corporation would still have rights against the corporation as a provincial corporation. So we're trying to demonstrate that this isn't trying to take away a supplier's right to bring action against that corporation. It would still continue. So the same provisions—and that's part of the continuance provisions: to demonstrate to the federal government, who's responsible for the Canadian Corporations Act, that we have a mirror set of legislative provisions to import them into.

Mrs. Liz Sandals: So in order to complete the work of regularizing Ornge, it's really important then that we have this legislation in place in order to complete the corporate restructuring. Is that correct?

Mr. Saäd Rafi: Yes, but in addition, I would say that not only is that necessary, but it speaks to remedies prior to these actions being, in this case, put before the Legislature. There was no legislative authority over that corporate entity, the private corporate entity. The previous performance agreement—not the amended one—did not contemplate the ability to take out this organization, if you will, with notice, except for three years' notice. That notice, even if it were to be given, was obviously too long of a lead time.

Mrs. Liz Sandals: Okay, thank you. I think that's helpful for us, because when we come to debate this in the Legislature, that's the part of the legislation which is

very difficult, for those of us who are not lawyers, to appreciate what's being done here. So I think it's important for us to understand that there is some urgency with the legislation in terms of Mr. McKerlie being able to complete his work.

Is that correct, Mr. McKerlie? I see you nodding your head.

Mr. Ron McKerlie: That's our understanding, and we're moving forward to move from a corporation incorporated under the Canadian Corporations Act to one under the Ontario Business Corporations Act.

Mrs. Liz Sandals: So you need this to complete your work then?

Mr. Ron McKerlie: Well, I think, more importantly, that the ministry needs it to make sure that they can impose their will on us at some future time.

Mrs. Liz Sandals: Okay. Thank you very much, and I think we're beginning to see bells ringing. So if I could, Mr. Chair, at the end of the subcommittee meeting that we had the other day, I had indicated that there were some additional witnesses that the government would like to call, and the subcommittee was not amenable to that. So, just to give notice of motion, I do have a motion here to support calling additional members.

The Chair (Mr. Norm Miller): That's fine. We won't deal with that today. I've also had members—it's

obvious that we're going to need some more time. I've had Ms. Gélinas express a need for more time, Mr. Barrett has as well, with some of the presenters today. So it's something I would leave for the subcommittee to look at, to decide at a future meeting if we might have the deputy minister and some of his staff and perhaps Mr. McKerlie back to the committee.

Mrs. Liz Sandals: Sorry, who was that you were suggesting come back?

The Chair (Mr. Norm Miller): Well, some of the presenters that were here today, including the deputy minister and Mr. McKerlie and Ms. Li—

Interjection.

The Chair (Mr. Norm Miller): We can deal with that at subcommittee, Mrs. Sandals.

Mrs. Liz Sandals: Could we just clarify then that for next week you're going—

The Chair (Mr. Norm Miller): We're going to stick with the schedule that we have is the plan, so that we don't disrupt that, but at some future meeting you may be invited back here. But I would like to thank all the presenters for coming forward. Thank you, Minister and deputy minister.

The start time for next week is 9 a.m. on Wednesday. Thank you very much, committee.

The committee adjourned at 1500.

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