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**Official Report
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(Hansard)**

Wednesday 25 April 2012

**Journal
des débats
(Hansard)**

Mercredi 25 avril 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
Greffier : William Short

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON PUBLIC ACCOUNTS

COMITÉ PERMANENT DES COMPTES PUBLICS

Wednesday 25 April 2012

Mercredi 25 avril 2012

The committee met at 0830 in room 151.

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

The Chair (Mr. Norm Miller): I'll call this meeting to order. We do need to go in camera to discuss a couple of issues that have come up, to begin with.

The committee continued in closed session from 0830 to 0900.

ORNGE

The Chair (Mr. Norm Miller): We'll start this morning, then, with our first presenter, Barry McLellan, board member of Ornge. Thank you very much for being so understanding, having been bumped twice from presenting. We appreciate you coming in this morning and changing your schedule.

Just to confirm, you've received the letter about information of a witness testifying before the committee?

Dr. Barry McLellan: I did.

The Chair (Mr. Norm Miller): Okay. Our clerk has an oath for you.

The Clerk of the Committee (Mr. William Short): There's a Bible on the witness table there for you.

Mr. McLellan, do you solemnly swear that the evidence that 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?

Dr. Barry McLellan: I do so swear.

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

The Chair (Mr. Norm Miller): Very well. You have five minutes for an opening statement, and then we'll go to the three parties for questioning.

Dr. Barry McLellan: I appreciate having been provided with the opportunity to make an opening statement. In fact, I do not have a statement this morning. I feel that the best use of time is to provide as much time as possible for questions and me to be able to advance the process.

The Chair (Mr. Norm Miller): That's fine. We'll split the time amongst the three parties. We'll start with the official opposition, and you have 10 minutes.

Mr. Frank Klees: Thank you for being here. At the outset, let me thank you for taking on a huge challenge.

As someone with an extensive background in the medical field and health care delivery, I'm sure that you haven't taken on this responsibility lightly. You are the president and CEO of a major hospital?

Dr. Barry McLellan: That's correct.

Mr. Frank Klees: I understand that you're getting paid approximately \$700,000 for that responsibility. Is that right?

Dr. Barry McLellan: That's correct.

Mr. Frank Klees: What is the operating budget of your hospital, and what is the total staff complement there?

Dr. Barry McLellan: The total operating budget inclusive of all sources, including research, would be just over \$850 million per year. We have just over 10,000 staff, including part-timers, and that does not include the medical staff or volunteers.

Mr. Frank Klees: What is the operating budget for Ornge, and what is the total staff complement there?

Dr. Barry McLellan: The total operating budget is in the range of \$150 million. I actually don't know the current full-time staff complement, Mr. Klees.

Mr. Frank Klees: Approximately?

The Chair (Mr. Norm Miller): The Auditor General has comments on it.

Mr. Jim McCarter: I think it's about 400 people, Mr. Klees, if that helps.

Dr. Barry McLellan: I was going to say "just short of that," but I'm sure it's in that zone, Mr. McCarter.

Mr. Frank Klees: Okay. Thank you. So when you compare, Mr. McLellan, your pay and the scope of your responsibilities to the \$1.4 million received by Dr. Mazza and the comparative 10,000 staff to some 400, how would you describe the decision of the previous board in approving that pay package for Dr. Mazza?

Dr. Barry McLellan: I'm not sure I can really comment on the decision-making of others. It is fair to say that that is a significant salary compared to others in comparable positions, Mr. Klees. I was not party to any of that discussion. I'm not sure exactly what discussion did or did not take place, but it has been pointed out, and I don't disagree, that that is a very large salary.

Mr. Frank Klees: Would you have voted in favour of supporting that compensation package if you were on the board at that time?

Dr. Barry McLellan: No.

Mr. Frank Klees: Mr. McLellan, I understand that in addition to the typical responsibilities that come with directorships, you've also taken on the task of heading up a committee to address patient safety issues at Ornge, strengthening the on-scene process, resolving the medical interior issues of the helicopters and also conducting a review of all of the policies. That's what was reported. Can you confirm that? Is that the task that you've taken on as a director?

Dr. Barry McLellan: I am the chair of the quality committee, Mr. Klees. Originally, it was called the quality of care committee, but with the new performance agreement it will be changing to the quality committee. In that position, as a director at Ornge, as a board member, we have oversight for quality issues. That does include the medical interior issue. It includes many other quality issues as well.

Mr. Frank Klees: It's a huge undertaking. How much of your time is actually being taken up with that ominous task?

Dr. Barry McLellan: Do you know, it's quite variable week to week, as you might expect. It is not an insignificant amount of time. I would say that in a week it could be as much as 15 to 20 hours, and then other weeks it is less.

Mr. Frank Klees: You are familiar, obviously, with the Auditor General's report. You've seen some of the very specific references to the concerns about quality of care and response time. You are familiar with the Auditor General's specific reference to the fact that over 2009-10, in that particular year, some 20 incidents were reported back to the board. Some of those involved the deaths of the patients. Obviously quality care and quality and service delivery are a concern.

What are you doing in your capacity to reach down into the front lines? Whether it's paramedics or whether it's people in the dispatch area, whether it's pilots who have been very frustrated, based on information that we're getting—certainly members of this committee have been getting feedback from that front line in terms of the inability that they have to actually get the job done. What are you doing to reach out to those front-line people to get their input into what went wrong and what needs to be done to restore confidence in that service?

Dr. Barry McLellan: I'm going to address the specific aspects around what we are doing. I just have to indicate that I've no reason to question the specific dates that you gave in the Auditor General's report or the numbers, but without having the report in front of me—I'm not suggesting you want me to validate those; I'm unable to do so without the report in front of me.

Mr. Frank Klees: I trust the Auditor General.

Dr. Barry McLellan: I think it was context, and you're more interested as to what we're actually doing.

Mr. Frank Klees: Right.

Dr. Barry McLellan: The quality committee has identified three major issues for management to focus on, and the reason that we have chosen three and the specific issues relate to priority and the fact that there are other

quality issues that may be of concern, but we want to ensure that they're addressed in a way that we can make progress around individual areas and not as management to take on too much, which would not be in the best interests of patient care.

The three areas that we have identified through our committee for major initial focus include staffing—and staffing relates specifically to critical care paramedics and advanced care paramedics. We are concerned that we are not fully staffed. This is particularly of note in north-eastern Ontario and northwestern Ontario. As a result of this, there are certain calls where we don't have the appropriate level of paramedic in order to provide optimum care. That staffing issue is the number one quality priority.

I don't want to suggest that pilot staffing is not also an issue, but the major concern is the staffing as it relates to paramedics. That's number one.

Number two is the interior issue. You mentioned that earlier, Mr. Klees, specifically as it relates to the AW139.

The third is the quality of information that's being collected around individual calls, and I'll even extend that to certain calls where Ornge is unable to respond. I can indicate that there's even a greater concern beyond that, because we believe that there may be circumstances where hospitals are not even putting a call in to Ornge because of previous experience where Ornge has been unable to respond.

Those are the three areas where we are asking management to focus their initial attention.

Mr. Frank Klees: I'd like to just spend a little bit of time on the interior design. I had a discussion with Mr. McKerlie when he was here about that.

The Chair (Mr. Norm Miller): Mr. Klees, you have about a minute left.

Mr. Frank Klees: Time flies. Let me just put it this way. There's a medical director at Ornge today: Dr. Sawadsky. My understanding is that it was actually Dr. Sawadsky who was the medical director and had responsibility for oversight. One of those issues of oversight was the medical interiors; that he signed off on those medical interiors. I was told that as the medical director he had not even been inside one of these helicopters to determine the appropriateness of it, yet he signed off. I questioned why Dr. Sawadsky, with that background and with that record, continues to be the medical director. Mr. McKerlie said, "Well, he's doing a good job." I don't know that that was a good job.

Could you just very briefly comment on the role that Dr. Sawadsky had in approving those interiors and whether, in your opinion, Dr. Sawadsky, keeping in mind that your role is to restore confidence at Ornge, should remain in that position?

Dr. Barry McLellan: There may be an opportunity from others who are asking questions to address what we're doing about the medical interiors. The reason I raise that, Mr. Klees, is that as a board member who was appointed at the end of January, we're focusing on the go-forward. So I'm not really in a position to comment

on what took place prior to that, the decision-making, but what I would say is that for all management—that would include Dr. Sawadsky in his role as chief of staff—what is most important is that they're able to function with the appropriate governance model in place, which we believe now is in place. We have discussed this with Mr. McKerlie, and we believe that we do have appropriate management staff in place now with an appropriate governance model to be dealing with the work that needs to be done now and going forward. I've not heard otherwise from Mr. McKerlie in his role as interim CEO.

The Chair (Mr. Norm Miller): Thank you. If we can move to the NDP; who would—Jagmeet?

0910

Mr. Jagmeet Singh: Sure. Thank you, and good morning. I just want to start off with some areas. You've addressed the three areas of concern: staffing, interior issues and the quality of information that, I guess, is received regarding the calls. I just want to go into some more detail: exactly, if you could summarize a more expansive list of what was actually wrong with Ornge. I understand these are the three areas that you're narrowing in on, because it's hard to narrow in on everything, but what were—if you can give me a little bit of a list—some of the issues that were at Ornge when you took over as one of the members of the board?

Dr. Barry McLellan: If I could just clarify, this would be specifically around quality-of-care delivery, Mr. Singh?

Mr. Jagmeet Singh: Yes. Sorry, I should have clarified: the delivery of the care and the quality of that care.

Dr. Barry McLellan: I'll give some context, and then I'll try and answer your question with respect to other matters that may be in front of the board. It is absolutely critical in a province like Ontario that we do have an aeromedical transport system. We have great distances between organizations. We have the need, in order to get patients directly from scenes to trauma units, and it's absolutely essential.

We do have some very good paramedics and pilots who are doing excellent work each and every day. From the board perspective, we wanted to ensure that there was oversight for all aspects of quality of care. One of the early questions was: Did we have appropriate information coming forward in a timely fashion in order to appropriately assure ourselves that high-quality care was being delivered? I've mentioned the quality of information. That deals with the timeliness of information being brought forward to the board as well.

Around individual incidents, reporting of incidents: As best as we can tell, information is being brought forward to the board through critical incident and sentinel incident reporting. We do have issues with respect to, as I've indicated, the staffing, interiors, and the overall quality and timeliness of information. Otherwise, we're really getting information sent to us from management about other individual issues. I'm more than happy to address any of them. There's not a specific list beyond those top three that we're monitoring. I would indicate that we are

comforted by the new performance agreement that in the schedules lists many different areas that will be monitored going forward. There's nothing specific in those areas that I wanted to flag for you this morning, Mr. Singh.

Mr. Jagmeet Singh: That's fine, then. I'm just going to ask you some questions on hiring, and then I'll pass it over to my colleague. With respect to hiring, who hired you for your position at Ornge, or who was involved in your appointment as a member of the board?

Dr. Barry McLellan: I was contacted by the deputy minister, Saäd Rafi.

Mr. Jagmeet Singh: Okay, and was it your understanding that Minister Matthews had some input in that?

Dr. Barry McLellan: My understanding is that the minister did have input into that, yes.

Mr. Jagmeet Singh: Okay, and did she contact you directly herself, as well?

Dr. Barry McLellan: Prior to the board having its first meeting, I was contacted by Minister Matthews, but I can't say that that related to the decision-making process.

Mr. Jagmeet Singh: Okay, and just with respect to oversight, when you took over or when you were involved, the new performance agreement was not even contemplated yet. You still had the ability to oversee what was going on at Ornge, as a board member, and to review the quality of care and to assess that. Is that correct?

Dr. Barry McLellan: Yes, just as—if I was to use a comparable situation—the board at my hospital, through the quality of care committee, receives information from management on quality, yes.

Mr. Jagmeet Singh: Okay. I'll pass it over.

M^{me} France Gélinas: Thank you for coming. It's a pleasure to see you.

I wanted to know: Right now, when the board meets, I take it that you keep minutes of those meetings?

Dr. Barry McLellan: Yes.

M^{me} France Gélinas: When the board needs to meet in camera, do you keep minutes of the in-camera meetings?

Dr. Barry McLellan: There is some recording of in-camera discussions, yes.

M^{me} France Gélinas: Okay. When the previous board used to meet, did they also keep minutes?

Dr. Barry McLellan: I have not gone back and looked at any minutes of the previous board meetings.

M^{me} France Gélinas: Okay. The secretary who keeps minutes—is it the same one who used to keep minutes before?

Dr. Barry McLellan: No, it is a new secretary who is keeping minutes now.

M^{me} France Gélinas: Okay. Since the new board has been put in place, have you reported back to the Ministry of Health?

Dr. Barry McLellan: The board chair has had discussions with both the minister and the deputy following

our board meetings. I'm not clear as to exactly what has been communicated.

M^{me} France Gélinas: Okay. It's not a function of the board to make sure that a reporting relationship is done back to the ministry?

Dr. Barry McLellan: There are regular communications between the board chair on behalf of the board. I'm just not party to those communications, so I don't know exactly what has been communicated.

M^{me} France Gélinas: Okay. You know that your hospital is now under FOI, freedom of access to information, since January of this year, as is—

Dr. Barry McLellan: Yes, I'm aware of that.

M^{me} France Gélinas: —every hospital in Ontario. Ornge is not. Would you allow freedom of access to information for information that is presently at Ornge, or is this a discussion that you would be willing to bring to the board?

Dr. Barry McLellan: I'm not in a position to respond on behalf of the board, related to your question. I think you asked what my position would be on that.

M^{me} France Gélinas: Correct.

Dr. Barry McLellan: That's a matter that has not yet been discussed at the board; it's a matter that could be discussed at the board. The decision about how one would respond to requests for information is different than what would otherwise be a legislative decision as to whether Ornge would be included or not.

M^{me} France Gélinas: You've been in trauma care for a long time, and you've had to deal with transport of trauma patients to your hospital certainly for some time now. You've mentioned, when answering my colleagues, that some hospitals are reluctant to call Ornge because of previous dealings with the air ambulance. Are they reluctant because the dealings were not positive?

Dr. Barry McLellan: I have only heard anecdotally—so that does need to be qualified—that some hospitals, particularly in northwestern Ontario, have not been calling Ornge for certain circumstances because, in previous times, Ornge was unable to respond. That's something that we want to understand better, and the way to better understand that is to go out and to speak with those hospitals, to actually survey them, and that is something that will be done in the future. But I have to indicate that the concern we have is based on anecdotal information only.

The Chair (Mr. Norm Miller): You have two minutes, France.

M^{me} France Gélinas: Okay.

I note that your hospital, Sunnybrook, was interested in leveraging some of its knowledge, skills etc. abroad. Is this something that you have pursued?

Dr. Barry McLellan: Yes, we are continuing to pursue international opportunities.

M^{me} France Gélinas: Okay. Had you ever pursued any of those international opportunities with Ornge?

Dr. Barry McLellan: In fact—and there's maybe a bit of context for this—as the country's largest trauma centre, and first trauma centre, much of what we are

looking at around international opportunities focuses on trauma. As such, the individuals that we're meeting with are very interested in the entire system of trauma, which includes aeromedical transport. So we did have discussions with Ornge, in previous years, about how we may be able to work together on some of those international opportunities. Nothing has come of that, but we did have discussions with Ornge.

M^{me} France Gélinas: And were those discussions regarding Brazil and Kazakhstan, or—

Dr. Barry McLellan: Those are the two specific examples that I'm aware of, yes.

0920

M^{me} France Gélinas: But nothing came to fruition. At the time, when you were looking at exporting Ontario skills and working with Ornge to bring a package of trauma expertise, do you know which branch of Ornge you were dealing with?

Dr. Barry McLellan: No. We were just dealing at a general level with Ornge at the time. If there were specific discussions between our lead for international work with any specific division, I wasn't aware of that.

The Chair (Mr. Norm Miller): Thank you. It's now time for the government to ask the questions. Who would like to ask? Reza, go ahead.

Mr. Reza Moridi: Thank you, Mr. Chair. Thank you, Dr. McLellan, for taking the time and appearing before this committee. Dr. McLellan, patient safety and public safety are very important for us, as members of the Ontario Legislature as well as government, on this side. I'm sure it's very important to you as well, as a doctor, as CEO of Sunnybrook Hospital and also as a member of the board of Ornge. Since your appointment to the board of Ornge about three months ago, could you explain to us what immediate steps you have taken and the board has taken to address patient safety as it relates to Ornge's operations?

Dr. Barry McLellan: Right. One of the first important steps was the creation of a quality committee, and we used the framework of the Excellent Care for All Act, as it relates to hospitals, in order to establish that committee. That led to reporting between management and the quality-of-care committee. In my role as chairing that committee, I had meetings with management in order to deal with the same type of reporting as exists in our hospital between our quality-of-care committee and our board—so, between management and quality-of-care committee, quality-of-care committee and the board. From my perspective, that was the logical oversight model and the logical reporting through to the board itself.

As I indicated in an answer to one of Mr. Klees's questions, we prioritized what we felt management should be focusing on initially. Importantly, when one is dealing with matters of quality of care, you need to have a trusting relationship between management and the board, so that one is sure that incidents of concern are being reported through and that if there are concerns on the part of management, they're clearly brought forward

to the board. Much of our work has been developing those relationships, getting to know those who are involved in monitoring and reporting on care, so that we can be confident that any issues of concern are being made available to the board.

Mr. Reza Moridi: Thank you, Dr. McLellan. Dr. McLellan, there has been some discussion in the past that because of a certain design flaw on these helicopters, the paramedics weren't able to conduct CPR on patients when they took them to the helicopters. Has this been addressed in the past, this problem, this issue?

Dr. Barry McLellan: This was a significant concern, and it had to do with the height of the stretcher in the interior of the helicopter and the ability of paramedics to access and treat a patient, which would include not only CPR but perhaps advanced airway management, intubation, other procedures.

Now, there are really what I'll describe as three phases around dealing with the interior issue. The first was to ensure that patient transport was going to be safe until we dealt with a longer-term solution. That resulted in a change in transport position for certain patients, and that was dealt with quite quickly, once the concern was brought to the attention of the board and to management.

The second phase is that by changing the pedestal design, we are able to have to have transport which is beyond what I would call the workaround that I've described for safe transport until we actually look at a formal redesign of the interior, which I'll call the longer term or phase 3. We're just in the process now of implementing phase 2.

I had a recent meeting of the quality of care committee held at the Toronto Island base so that we could see what was being proposed. I had a chance to see it, review it with paramedics and the medical leadership, and it is a very logical step in the minds of those who are treating patients, as well as the board.

The third will be a longer-term redesign of the interior. That's going to involve looking at what other systems and jurisdictions are doing, and that will likely go on for many more months.

Mr. Reza Moridi: Thank you very much, Dr. McLellan. There have been reports that at Ornge there were some issues in relation to poor dispatching. Has this issue been addressed in terms of patient safety since you have been appointed to the board?

Dr. Barry McLellan: There are a number of aspects to the dispatch of an aircraft. It includes getting good-quality information early on, processing that information and then having the aircraft dispatched. All of those phases are being looked at. Some of it requires new technology, new software information around collecting information on the calls and processing it. Some of that is still being worked on, but all of those individual components are currently being addressed.

Mr. Reza Moridi: Thank you. There have also been reports, Dr. McLellan, that at Ornge there was a shortage of paramedics, as well as the shortage of pilots. As a result of one shortage of paramedics, then patients

couldn't receive the necessary care, and because of the shortage of pilots for shift work, some of the helicopters couldn't be in service. Have these issues been addressed since the three past months you have been appointed to the board?

Dr. Barry McLellan: They are being addressed. There still is an overall shortage of pilots. There still is a shortage of critical care and advanced-care paramedics. Management is working to address both the pilot and the paramedic staffing issue. It is not addressed yet, but they are being addressed.

Mr. Reza Moridi: Thank you again, Dr. McLellan. Would you please tell us about your medium- and long-term strategies at Ornge to address the issues which already exist, and also the future planning and strategies for the improvement of the service of Ornge?

Dr. Barry McLellan: Right. Ultimately, you would like a system where you have fully staffed aircraft who can respond to calls in a timely fashion, recognizing that there are still times down the road when, as a result of weather or an aircraft already being involved with a call, there will be challenges in being able to deal with high-quality transport for each and every circumstance. It doesn't mean that good quality can't be provided, but there are certain circumstances where it's going to take longer to get an aircraft to a patient. One has to accept that in this system, and it's no different than that in other systems.

We're trying to put together a comprehensive, quality monitoring process in place which would parallel that of what exists in a hospital environment, and that is a medium- to longer-term strategy because we don't have all of the building blocks currently in place, but we have strategies in place to deal with them all.

Some of the issues that I've addressed, and I'll use the staffing issue around paramedics: That's going to take more than a year in order to address. That takes time to train paramedics, to get the right level of staffing. So some of those are longer-term strategies, but we do have a plan and working with management, and if I was to summarize, it would be to have the same type of quality oversight for Ornge as what exists in a hospital, such as Sunnybrook.

0930

The Chair (Mr. Norm Miller): And you have 30 seconds left.

Mr. Reza Moridi: Thank you. Dr. McLellan, I understand that you were a member of the coroner's review of air ambulance services some years ago. Could you briefly tell us the outcome of that review?

Dr. Barry McLellan: I was, in fact, the chief coroner. I did not actually lead a review myself, as chief coroner, into air ambulance services. The coroner's office may have done so, over time. I did not actually lead that investigation.

The Chair (Mr. Norm Miller): Thank you very much. Thank you for coming in today. We appreciate it.

Dr. Barry McLellan: Thank you.

MINISTRY OF FINANCE

The Chair (Mr. Norm Miller): Our next witness is Tim Shortill, chief of staff, Ministry of Finance. Again, Tim, thank you for coming today. I know you've twice been bumped, so I appreciate you being flexible.

Mr. Tim Shortill: No problem.

The Chair (Mr. Norm Miller): You have received the letter for those presenting to the committee?

Mr. Tim Shortill: Yes, I have.

The Chair (Mr. Norm Miller): Okay, thank you. Our clerk has an oath for you.

The Clerk of the Committee (Mr. William Short): Mr. Shortill, if you could just raise your hand, please. 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. Tim Shortill: I do.

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

The Chair (Mr. Norm Miller): You have five minutes for a presentation.

Mr. Tim Shortill: Thank you, Chair, committee members. Mr. Auditor General, nice to see you. Good morning. My name is Tim Shortill, and I'm the chief of staff to the Minister of Finance.

I thought I'd open with a brief description of my background. I started at Queen's Park with MPP Gerard Kennedy in 2002. Then in November 2003, I became the executive assistant to MPP Linda Jeffrey. After a year with Ms. Jeffrey, I moved to municipal affairs and housing, to be a senior policy adviser to Minister John Gerretsen, in December 2004.

In April 2006, I moved to the Ministry of Tourism, as a senior adviser to Minister Jim Bradley. In December 2007, the minister asked me to be his chief of staff, a role I served in until January 2010, when I moved to my present role with Minister Dwight Duncan.

Having been called here, my involvement likely stems from media reports of having been copied on a letter from Ornge to the Minister of Health in January 2011. I do not recall receiving that letter, and am only aware of the letter through those media reports that state I was copied. I did not read the letter and do not currently have a copy of it. I've had no other contact, either through meetings, email or phone calls, with Ornge.

I did, however, participate in a meeting in the fall of 2010 with Mr. Alfred Apps, formerly of Fasken Martineau, who was representing Ornge. It was a brief meeting, lasting no more than a half-hour. The purpose of this meeting, as I recall, was a presentation from Mr. Apps suggesting Ornge was a success story that the government should promote. This meeting occurred during the preparation of the fall economic statement in 2010, and since Ornge was not part of the fall statement, I took no follow-up action after that meeting or at any point since. I do not recall any discussion at that meeting

of any of the issues that the Auditor General raised in his report.

With that, I'm pleased to answer any questions that the committee may have.

The Chair (Mr. Norm Miller): Thank you very much. It's time for the NDP to go first. Who would like to ask questions?

Mr. Jagmeet Singh: Sure, I'll start.

The Chair (Mr. Norm Miller): Mr. Singh.

Mr. Jagmeet Singh: Thank you. Good morning, sir.

Mr. Tim Shortill: Good morning.

Mr. Jagmeet Singh: Just building on that last point that you raised, you indicated that Alfred Apps met with you and had a presentation on Ornge and that it was a success story. Is that correct?

Mr. Tim Shortill: Those were his words, yes.

Mr. Jagmeet Singh: Those were his words. So his presentation on Ornge, I take it, in terms of the success story and why it was a success—it was the layout, or the way in which Ornge was organized, with a number of subsidiary for-profit companies blended with the ostensibly public company. Is that correct?

Mr. Tim Shortill: I don't have a perfect recollection of the details of the meeting. I do not recall any discussion of any subsidiaries or the organizational makeup. My brief recollection of that meeting was, as I stated, Mr. Apps felt that Ornge was a success story and encouraged the government to promote that. But with respect to the specifics that you asked, no, I don't have any recollection of a discussion of the organizational makeup of Ornge.

Mr. Jagmeet Singh: Sure, thank you. And if you could say very briefly, what was he indicating to you, if you can recall, that was the success portion of Ornge? What was he suggesting?

Mr. Tim Shortill: I don't have perfect recollection of that. I think he felt that the provision of service that Ornge was providing was a success. But in terms of what he felt met the definition of "success," I think, is a question better put to him, as I don't have perfect recall on that.

Mr. Jagmeet Singh: Certainly—not what he was thinking, but what you recall he was telling you, is all I—

Mr. Tim Shortill: Yeah, it had to do with the provision of service, in that Ornge, in his words, was a success in that respect. Like I said, I don't have any recollection of the organizational makeup.

Mr. Jagmeet Singh: That's fine. Thank you.

I'm just going to move on to, just in general, oversight that your ministry is involved with.

Mr. Tim Shortill: Sure.

Mr. Jagmeet Singh: Your ministry is obviously very involved with the sunshine list. That's a component of—

Mr. Tim Shortill: I don't know if I'd say "very involved." The tradition that has grown over the years is that the Ministry of Finance is responsible for compiling the information that is gathered through the requirements of the Public Sector Salary Disclosure Act. The ministry then makes that compiled information available both on the ministry website as well as in hard copy. It's possible

we even produce a CD copy—I'm not aware—but definitely the website and a printed version.

Aside from being responsible for those within the ministry that fall within the requirements of the sunshine list, the Ministry of Finance's responsibility doesn't extend any farther than simply compiling the information.

Mr. Jagmeet Singh: Okay. In compiling that information, one of the purposes of compiling that information and presenting it to the public is to offer some transparency to Ontarians about where public money is being spent. That's essentially the purpose. Would you agree?

Mr. Tim Shortill: I won't propose to give an opinion on the purpose—that was for the members of the Legislature when the bill was passed—but I don't see any reason to disagree with that statement.

Mr. Jagmeet Singh: Okay. In doing so, would you agree with me, then, that the fact that a publicly funded institution like Ornge, which, for all intents and purposes, was primarily 99% publicly financed—that the fact that someone like the executive and other members of that organization did not disclose their salary, were not a part of the public salary disclosure—was that something that raised any concerns in your ministry or to you?

Mr. Tim Shortill: I'm not aware if it raised any concerns within the ministry. With respect to myself, I'm not sure I'm best qualified to opine on whether or not the requirements or someone meeting those requirements is a concern. I think that is a question that's best put to the responsible ministry from within which Ornge reports.

Mr. Jagmeet Singh: Okay. So your opinion would be that the Ministry of Health, being the ministry that's directly involved with Ornge, would have been the ministry that should have been concerned about the salary, as opposed to the Ministry of Finance?

Mr. Tim Shortill: No, I wouldn't say that's my opinion. I would say, my opinion is that your question is best put to them.

Mr. Jagmeet Singh: Okay. Was there an impediment to receiving information from Ornge because of the nature of it being a federally incorporated charity or because of its charity status?

Mr. Tim Shortill: That's a question that simply is beyond my expertise and probably best put to ministry officials. I'm not aware of any impediment myself.

Mr. Jagmeet Singh: My last question, before I pass it over to my colleague, is just regarding freedom-of-information applications or access-to-information requests. Did you receive or did your ministry receive any notification that there were a number of freedom-of-information applications or access-to-information requests made in 2010 regarding the salary of executives at Ornge, specifically Mr. Mazza?

Mr. Tim Shortill: I'm not aware, but to be perfectly honest the way the FOI system works is that there's a division within the ministry that processes those, so I think that type of question is probably better put to those that administer the FOI process. I'm simply too far removed from that.

Mr. Jagmeet Singh: And who are those people?

Mr. Tim Shortill: I don't actually know them by name, but there is a division. Each ministry has an FOI coordinator, and it would be that person who would have a better understanding of what FOI requests were made and how they were administered.

Mr. Jagmeet Singh: Last question, following up on that: Who do you think would be the best FOI coordinator for this particular issue? Would it be the Ministry of Finance or the Ministry of Health?

Mr. Tim Shortill: I don't know. It all depends on your specific question and where the initial request went to. Sometimes requests are passed from ministry to ministry, depending on who actually holds the records. In this case, I'm not actually sure where the records reside.

Mr. Jagmeet Singh: Okay, thank you.

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

M^{me} France Gélinas: A minute and a half? Oh, well. Okay.

So you had a 30-minute meeting with Mr. Apps in the fall of 2010. Who else attended that meeting?

Mr. Tim Shortill: It was Mr. Apps, myself and Alex Mazer from my office, who's my director of policy. My recollection is that it was just the three of us. It was about a half-hour, but I won't say exactly 30 minutes.

M^{me} France Gélinas: Do you recall where that meeting took place?

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Mr. Tim Shortill: Sure. It took place in my office, which is the seventh floor of the Frost south building.

M^{me} France Gélinas: How often do you meet with law firms that represent an agency of the government without having that agency present?

Mr. Tim Shortill: Oh, I don't know how many times I have—

M^{me} France Gélinas: Okay, so go back, from today back. When was the last time you had in your office—like yesterday, the week before, the month before. When was the last time you met with just a lawyer representing a transfer payment agency of the government?

Mr. Tim Shortill: I have no recollection of that. I mean, it was a significant number of people in the course of the year. I'm not saying I haven't, but I simply don't have any recollection of when the last time—

M^{me} France Gélinas: But certainly not last week, yesterday or this month. It's not something—

Mr. Tim Shortill: I can say definitively it was not yesterday.

M^{me} France Gélinas: Okay. You don't, on a regular basis, meet with a lawyer and nobody else. Who had set up the meeting?

Mr. Tim Shortill: My recollection is that Mr. Apps or someone from his office requested the meeting. It was certainly not my initiative.

M^{me} France Gélinas: Was the meeting requested with the minister, and you subbed in, or was the meeting requested of you?

Mr. Tim Shortill: No. As I remember, the meeting was a request of me. So whether or not it came to me directly or to my assistant, I can't remember, but the request was to meet with me directly.

The Chair (Mr. Norm Miller): And you are out of time, I'm afraid.

M^{me} France Gélinas: Could you look back, through your assistant, to find that out, please?

Mr. Tim Shortill: I'll endeavour to do that and provide it to the clerk.

M^{me} France Gélinas: Thank you.

The Chair (Mr. Norm Miller): Thank you. And if we can move to the government for questioning, Mr. Zimmer.

Mr. David Zimmer: I have five questions. I just want to confirm—ask you: In your role as chief of staff, finance, did you have any direct responsibility with respect to Ministry of Health and Long-Term Care health policy?

Mr. Tim Shortill: No, I do not have any direct responsibility for health care policy. Within my office, there is a health care adviser, but on a day-to-day basis, I do not get directly involved in health care policy.

Mr. David Zimmer: And again, as chief of staff, finance, can you comment on what your level of engagement, direct or indirect, was with the Ministry of Health and Long-Term Care?

Mr. Tim Shortill: Just on an overall basis?

Mr. David Zimmer: Yes, as opposed to direct responsibility. What was your level of engagement with issues coming up in the Ministry of Health?

Mr. Tim Shortill: Sure. I don't so much have direct engagement with the Ministry of Health on issue management. I would say that my level of engagement with the Ministry of Health on a yearly basis is probably most acute during the budget formation process, simply given the size of the Ministry of Health's budget. I would still, even in that case, characterize my role as indirect involvement with the Ministry of Health during the formation of their budget process, but I would say, on a yearly basis, that is the extent of my involvement.

Mr. David Zimmer: Thirdly, again, as chief of staff, finance, did you have any direct or indirect engagement with Ornge?

Mr. Tim Shortill: No, I had no direct engagement, other than the meeting with Mr. Apps, which could be characterized as indirect engagement. To the best of my recollection, that's the only time I've had any engagement with Ornge.

Mr. David Zimmer: With respect to the meeting with Mr. Apps in the fall of 2010, it lasted about half an hour?

Mr. Tim Shortill: That's my recollection.

Mr. David Zimmer: So from your point of view, at the end of the 30-minute meeting, what was the end result of that meeting?

Mr. Tim Shortill: I would say there was actually no result of that meeting. The request that Mr. Apps had or the opinion that he had was not being contemplated for the fall economic statement.

The preparation of the fall economic statement is a consuming process, and to the best of my ability, I try to prioritize my time. Because we had no contemplation of any mention or involvement of Ornge in the fall economic statement, I simply took no follow-up action, other than, probably, a thank you to Mr. Apps. But I never actioned anything or took any follow-up steps after that meeting.

Mr. David Zimmer: I want to come to this issue that's come up recently about the \$275-million bond issue. Again, in your capacity as chief of staff to the Minister of Finance, perhaps you can answer this. It's been raised by opposition parties that with respect to the \$275-million bond, the province, if you will, is somehow on the hook should the bondholders find themselves in a position of not getting paid back. Can you comment on that issue?

Mr. Tim Shortill: Sure. I'll comment to the best of my ability. I'm not, by any means, an expert in securities policy. I know that the secretary of cabinet was before the committee last week and asked was these similar questions. He is in a far better position than I to answer those questions, and I simply have no additional information other than what Mr. Wallace provided.

The information that has been provided to me by ministry officials and reiterated both by Secretary Wallace and Minister Duncan is that the province had no incremental risk to its debt by this bond issue of Ornge. Beyond that, I simply do not have the expertise to offer up any more insight or opinion on this matter.

Mr. David Zimmer: Thank you. My last question: Coming back to the meeting with Mr. Apps in the fall of 2010, after that meeting, as you said, there was no take-up on your part as chief of staff or by the minister/ministry. Was there any further contact with Mr. Apps to follow up on his initial idea of including something in the fall economic statement with respect to Ornge?

Mr. Tim Shortill: To be clear, he wasn't requesting any mention in the fall economic statement; he was simply requesting, I guess, some mention at some point by the government. But to answer your specific question: No, I had no follow-up, no further contact. I'm not aware that my assistant did either. It was, so to say, the last of it.

Mr. David Zimmer: All right. Thank you, Mr. Shortill.

The Chair (Mr. Norm Miller): We'll move to the opposition. Mr. Klees.

Mr. Frank Klees: Thank you very much. Can you tell me, Mr. Shortill: When did the Ontario air ambulance file first come to your attention?

Mr. Tim Shortill: Sure. It probably first came to my attention, frankly, through media reports. So it would be tough for me to pinpoint a time frame, but I think it's fair to say, when the media started to generate more and more stories, whenever that time period was, probably within the last six months to a year, that's when it came to my attention.

Mr. Frank Klees: When was that 30-minute meeting that you had with Mr. Apps?

Mr. Tim Shortill: My recollection is, it was during the preparation of the fall economic statement of 2010. We deliver this statement in November. It would have been unlikely for me to have taken a meeting in November, so close to the statement. We generally begin work in early September. So, if I had to pinpoint a time frame, I would say September or October of 2010.

Mr. Frank Klees: Media reports about Ornge didn't happen until the end of 2011.

Mr. Tim Shortill: Yes.

Mr. Frank Klees: You just said that you first became aware of Ornge when you read about it in the media.

Mr. Tim Shortill: Sure. I was differentiating between Ornge as an organization and the issues that the Auditor General's report brought to light. I did not become aware of the issues until the media started reporting it. Ornge, as in entity, as a provider of air ambulance service—I couldn't give you a time frame, but probably for a few years I've been aware of its existence.

Mr. Frank Klees: In an email dated December 7, 2010, written by Mr. Apps to Jamison Steeve, he asks specifically that you and—

Mr. David Zimmer: Is that the—

Mr. Frank Klees: It is. You have it, yes. He asked specifically that he, Mr. Steeve, invite you to attend a briefing. Did Mr. Steeve ever follow through on that? Did you get invited to that meeting?

Mr. Tim Shortill: No. I'm not aware of the email. I'm not aware of having been suggested to appear at any meeting, nor did I appear at any meeting.

Mr. Frank Klees: The purpose of that meeting was pretty substantive. It was a major undertaking on the part of Ornge and had some significant implications, as Mr. Apps said in that email, to the broader government. Specifically, he mentioned—

Mr. David Zimmer: Just a second. Mr. Shortill, did you have a chance to see the email?

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Mr. Tim Shortill: No, I have not.

Mr. David Zimmer: In fairness to the witness, can somebody give him a copy?

Mr. Frank Klees: Fair enough. This is the email that Mr. Apps provided in his submission to the Integrity Commissioner when he was asserting that he wasn't lobbying.

The Chair (Mr. Norm Miller): Just a second, Mr. Klees. Do we have a copy of this email?

Mr. Frank Klees: Why don't I provide a copy of that here so that we don't have to waste any more time.

The Chair (Mr. Norm Miller): Very well.

Mr. Frank Klees: Here it is.

The Chair (Mr. Norm Miller): I think our clerk has it as well.

Mr. Frank Klees: Do you have it as well?

The Clerk of the Committee (Mr. William Short): Is this the one you're talking about?

Mr. Frank Klees: The December 7 one. No, this one.

Mr. Apps specifically referred to the fact that there would be significant impact, and it would be important

for the Ministry of Finance to participate in that. I'm surprised that something like this, where the request was made directly to the chief of staff to the Premier asking that you attend something as far-reaching as this, number one, you were never contacted—or you say that you weren't; I'm not suggesting that you were—and that you wouldn't be present at a briefing like that. Does that surprise you at all?

Mr. Tim Shortill: I have no comment. I didn't—

Mr. David Zimmer: Chair?

The Chair (Mr. Norm Miller): Mr. Zimmer, you don't have the floor. Please let the questioning continue.

Mr. David Zimmer: But this is a witness protection issue.

The Chair (Mr. Norm Miller): No. Continue, please.

Mr. David Zimmer: Well, I think he should have a couple of minutes. It's a three-page memo, single-spaced. He's seeing it for the first time. All the memos have a context. He should have a chance to read that so he has a context—

The Chair (Mr. Norm Miller): As I stated, you don't have the floor. I will ask our presenter: Please take the time you need to read it over and let me know if you have any concerns.

Mr. Tim Shortill: Sure.

Mr. Frank Klees: I'm assuming, Chair, that—

The Chair (Mr. Norm Miller): We'll give the witness time, please.

Mr. Frank Klees: Chair, how much time do I have left?

The Chair (Mr. Norm Miller): You have two and a half minutes left.

Mr. Frank Klees: Is this encroaching on my time?

The Chair (Mr. Norm Miller): Yes, it is.

Mr. Frank Klees: Chair, that's inappropriate.

The Chair (Mr. Norm Miller): Okay. We'll stop the clock and allow him so you'll get your time.

Mr. Frank Klees: I'm assuming you're stopping it retroactively.

The Chair (Mr. Norm Miller): Retroactively, yes. So you have four minutes.

Mr. Tim Shortill: I'm ready when you are, sir.

Mr. Frank Klees: Okay. So my point simply was the fact that Mr. Steeve was specifically asked to invite you. You didn't get the invitation and so you know nothing about that meeting.

Mr. Tim Shortill: I have no comment.

Mr. Frank Klees: The 30-minute meeting that you had with Mr. Apps—you made reference, in responding to my colleague, that the request that Mr. Apps had of you was not being contemplated in the fall economic statement. So Mr. Apps came to see you with a specific request?

Mr. Tim Shortill: Yes. In answer to the member's question over here, I don't believe his request was any mention in the fall economic statement. That's not my recollection. It was just that government, at some point, should promote, in his words, the success story of Ornge. It just happened to occur—the meeting—during the

preparation of the fall statement. Because, frankly, that was my priority at the time, and because we weren't contemplating any mention, I took no follow-up action.

Mr. Frank Klees: But look, he wasn't about to organize a meeting with the chief of staff to the Minister of Finance without having a specific purpose for that and a specific ask. And so the ask that he made of you in that meeting was what?

Mr. Tim Shortill: As I've mentioned, he felt Ornge was a success story and something the government should promote—no recollection of anything more specific or broader than that.

Mr. Frank Klees: So he came to you, representing Ornge, with a very specific request that the government of Ontario should promote the successes of Ornge. Is that correct?

Mr. Tim Shortill: That's my recollection, yes.

Mr. Frank Klees: Would you consider that lobbying?

Mr. Tim Shortill: I don't know. I think the question of whether or not that's lobbying is a question better put to someone who has more expertise in the definition of lobbying. I'm more used to lobbying being requests for funding, to be truthful, at the Ministry of Finance. So I won't say it is or it isn't. I'm probably not qualified to make that definition.

Mr. Frank Klees: You mentioned that Alex Mazer was attending that meeting. He is your assistant?

Mr. Tim Shortill: He's the minister's director of policy.

Mr. Frank Klees: I'm assuming that both of you, or either one of you, kept notes of that meeting. Could I ask you to table those notes with the committee, please?

Mr. Tim Shortill: I've done a search; I have no notes of that meeting. I don't recall Mr. Apps providing any written paper either. If he did, I don't currently have those records. That's not unusual for me; I'm not an avid note taker. But in preparation for today's appearance, I did do a search of my records, and I simply don't have any. I'm more than willing to undertake a secondary search, though.

Mr. Frank Klees: Yes, if you would check with Mr. Mazer. It would be very, very odd for a chief of staff and someone of Mr. Mazer's capacity that no notes are taken at a meeting, so—

Mr. Tim Shortill: I don't think it's odd for me. As I mentioned, I'm not an avid note taker. I try as best I can to—

Mr. Frank Klees: I'm assuming Mr. Mazer probably is.

Mr. Tim Shortill: Pardon me?

Mr. Frank Klees: I'm assuming Mr. Mazer is, and—

Mr. Tim Shortill: I can only speak for myself.

Mr. Frank Klees: Okay. I would ask the clerk to follow up with you—

Mr. Tim Shortill: Absolutely.

The Chair (Mr. Norm Miller): You're on your last minute, Mr. Klees.

Mr. Frank Klees: Thank you. There are a number of other issues that I need to follow up with you, and we look forward to having you back.

Mr. Tim Shortill: Absolutely.

Mr. Frank Klees: One last question: Since that meeting, have there ever been any other occasions when Mr. Apps contacted you, spoke with you directly, regarding Ornge? And did you report to the minister on your meeting with Mr. Apps?

Mr. Tim Shortill: I don't recall discussing with the minister my meeting with Mr. Apps. That's not unusual either. I don't report to the minister all the meetings that I take. So I don't have any recollection of that, and it would not be unusual.

In answer to the first part of your question, I've had no contact with Mr. Apps since that meeting, to the best of my knowledge, through email or phone. I've had no contact with him in person since that meeting. In fact, the last time I saw him was here at committee last week.

Mr. Frank Klees: Did you have—

The Chair (Mr. Norm Miller): Thank you very much. Mr. Klees, you can invite him back for another time, but you've used your time.

Thank you very much, Mr. Shortill, for coming for the committee; it's appreciated.

MINISTRY OF HEALTH AND LONG-TERM CARE

The Chair (Mr. Norm Miller): Our next presenter is from the Ministry of Health and Long-Term Care: Carole McKeogh, deputy director, legal services branch. Welcome. You have received the information for someone presenting to the committee?

Ms. Carole McKeogh: I have.

The Chair (Mr. Norm Miller): Very well. Our clerk has an oath for you.

The Clerk of the Committee (Mr. William Short): Ms. McKeogh, if you could just raise your—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. Carole McKeogh: I do.

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

The Chair (Mr. Norm Miller): You have up to five minutes for a presentation, and then there will be questions from the parties.

Ms. Carole McKeogh: Good morning. My name is Carole McKeogh. Since 2003, I've been a deputy director with the legal services branch of the Ministry of Health and Long-Term Care. I became involved in providing legal services for the ministry in connection with Ornge in January 2012. At that time, I was asked to prepare an amended performance agreement between the ministry and Ornge. This amended agreement was signed by both parties on March 19, 2012. I was also involved in

the development of the proposed amendments to the Ambulance Act.

In my view, the amended performance agreement and the proposed legislation, if passed, provide a strong and effective response to address the concerns identified in the Auditor General's report on Ornge. I would like to speak to you briefly about these two initiatives.

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The amended performance agreement is comprised of the following three elements: first, the technical material in the original agreement, signed in 2005, which had not changed and which was carried over into the amended performance agreement; second, the transfer payment agreement template, which was prepared by the Ministry of the Attorney General's commercial lawyers' group. The province of Ontario has many transfer payment arrangements across all its ministries. The template serves as a best practices document that is adaptable to different ministries and projects. The third component of the amended performance agreement consists of additional elements which are specific to Ornge and which I will outline briefly.

In response to the Auditor General's recommendations, the amended performance agreement contains additional key performance indicators and increased reporting requirements.

The amended agreement contains a statement of principles which Ornge must follow in providing its services. These principles include the requirement that Ornge's operations will support exclusively the provision of air ambulance services on a not-for-profit basis. It contains a number of elements relating to quality improvement and patient relations, which mirror the requirements in the Excellent Care for All Act. This legislation currently applies to public hospitals. Its provisions are made applicable to Ornge through the amended performance agreement.

Under the amended agreement, a number of actions by Ornge require the ministry's prior approval. These include the purchase of real estate; incurring debt; the sale of assets, subject to a specified threshold; as well as any changes to Ornge's corporate structure.

Ornge is required to post a broad range of information on its website, including its complaints process, its quality improvement plan and its conflict-of-interest policies.

I have also been involved in the development of Bill 50, An Act to amend the Ambulance Act with respect to air ambulance services, which received first reading on March 21, 2012. The proposed legislation, if passed, would provide the province with many of the same powers for intervention in the public interest which currently exist for public hospitals under the Public Hospitals Act.

In my view, there is a useful comparison to be made between public hospitals and Ornge. Both hospitals and Ornge are non-profit corporations. They are both charities with volunteer boards. They both provide essential health services to patients and are funded almost entirely by the province.

However, in the case of public hospitals, the legislative framework includes the power to intervene in the governance of a hospital through the appointment of a hospital supervisor, who can assume all the powers of the board and the corporation. This is viewed as an extraordinary power of intervention which exists to protect the public interest. It is an important safeguard which has been included in the proposed legislation for Ornge.

However, it is important to note that it will not be possible for the province to exercise this power of intervention with respect to Ornge until it is continued as an Ontario corporation. Currently, Ornge is incorporated under federal legislation.

To conclude, the amended performance agreement and the proposed legislative changes were introduced in response to the issues at Ornge identified by the Auditor General. They were designed to increase Ornge's accountability and transparency, and to protect the public interest.

Thank you again for this opportunity to address you, and now I would be happy to take your questions.

The Chair (Mr. Norm Miller): Thank you. We go to the government first. Mr. McNeely.

Mr. Phil McNeely: Thank you, Ms. McKeogh, for being here today. A lot of the information that I was seeking has come out in what you've presented, but I would just go over some of it. You obviously read the Ornge air ambulance and related services special report of March 2012. Would you just expand on what the major changes are in the performance agreement that we were presented here by the clerk on April 3, 2012? It seems to be quite a heavy document. What would be the three significant changes that have been made from the old agreement?

Ms. Carole McKeogh: Well, I think the "principle" statement is very important. It sets out a number of principles and provides that Ornge shall perform its obligations under the agreement in accordance with them. Firstly, aviation safety and patient care are paramount. Ornge's operations will support exclusively the provision of air ambulance services and related services on a not-for-profit basis. Its operations will be transparent and accountable to Ontarians; full accountability for the use of public funds; public reporting on performance, measured according to the key performance indicators; and full commitment to quality improvement activities.

The amended agreement contains additional key performance indicators and increased reporting requirements. To enhance accountability, it requires more detailed reporting of financial and operational information in order to assess the quality and value of the service provided by Ornge, and it contains stronger audit and inspection powers to verify that information. Ornge's demonstrated ability or inability to meet the key performance indicators in the amended agreement is a factor in determining its funding.

As I mentioned, a number of provisions from the Excellent Care for All Act were included in the amended performance agreement, and these include a quality

committee; patient satisfaction surveys; a patient relations process, including a patient complaints process and a patient advocate function; a declaration of values; annual quality improvement plans; and performance-based executive compensation. These are all taken from the Excellent Care for All Act, which currently applies to public hospitals.

Mr. Phil McNeely: I think that's good detail on the additional information that we're going to be getting. Certainly we're here because of the audit and inspection powers of the ministry, or that's my opinion. How are those being changed under the new agreement?

Ms. Carole McKeogh: The audit—under the 2005 performance agreement, the ministry was permitted to make on-site inspections only twice a year, and under the amended performance agreement, this has been changed to provide for inspections at any time throughout the year.

Mr. Phil McNeely: The position of taking on debt that occurred in the past—you mentioned that. What are the limits on that debt etc. that they can take on without ministry approval?

Ms. Carole McKeogh: Any debt incurred—

Mr. Phil McNeely: Any debt?

Ms. Carole McKeogh: Any debt—I just have to check the agreement briefly here, if you'll give me a minute. I think there's an exception for routine business transactions; for example, purchase of gasoline.

Mr. Phil McNeely: Was there a limit on that?

Ms. Carole McKeogh: No.

Mr. Phil McNeely: Okay. The important part, of course, is for the ministry to be able to scrutinize the budgetary performance, and that wasn't a strong part of the first agreement. Has that been strengthened a great deal?

Ms. Carole McKeogh: Yes, I think so. There are extensive budget requirements in connection with providing a proposed budget, having it reviewed by the ministry and approved by the ministry; financial reporting and operational reporting as well. The reporting requirements are quite extensive.

Mr. Phil McNeely: This proposed legislation to say that the laws governing ambulance in Ontario—you mentioned those in your first statements. What are the changes that will be coming into the air ambulance legislation that are important?

Ms. Carole McKeogh: As I mentioned, it imports a lot of the public interest safeguards which are found in the Public Hospitals Act currently and which apply to hospitals: the power for cabinet to appoint provincial representatives to the board of directors, and those provincial representatives will have all the powers of a board member; the power for cabinet to appoint special investigators and supervisor, as I mentioned in my opening comments. These actions are taken where cabinet considers it to be in the public interest, and the legislation contains the same public interest test, very broadly worded, that is found in the Public Hospitals Act.

Mr. Phil McNeely: Are you aware with the hospitals—how does this provincial investigator part work? How does that work with the hospitals? Has that been used in the past?

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Ms. Carole McKeogh: Those amendments to the Public Hospitals Act were introduced in 1981, and I think they've probably been used in the range of maybe 15 or 20 times since then. I'd be happy to provide that information, if the committee would like to have it.

When cabinet appoints an investigator, it's viewed, as I've mentioned, as an extraordinary power of intervention—only in the most serious circumstances where there are concerns about governance or financial management or quality of care. We had an example of it recently in the case of the Windsor Hôtel-Dieu Grace Hospital. It's a very effective mechanism.

Mr. Phil McNeely: So you're quite pleased that the new agreement, the new legislation, will put the Ministry of Health and Long-Term Care in the proper position in being able to make sure what's happening is happening for the good of the people, the public of Ontario?

Ms. Carole McKeogh: I think those are very important safeguards that are very appropriate in this case, yes.

Mr. Phil McNeely: I have no other questions. Thank you.

The Chair (Mr. Norm Miller): You have a minute left, Mr. McNeely. All finished? Okay, thank you.

We'll go to the opposition then and—

Mr. David Zimmer: Just one second. Thank you very much—

The Chair (Mr. Norm Miller): Mr. Zimmer, I haven't recognized you, but I'm happy to—

Mr. David Zimmer: I'm sorry.

The Chair (Mr. Norm Miller): Go ahead, Mr. Zimmer.

Mr. David Zimmer: My apologies, Chair. Thank you, Mr. Klees, for the heads-up on the document. Presumably you're going to question the witness on the document, and it's just a partial document because the last sentence is, "I am not at all certain that...." and the rest of it's missing. So we need the—

Mr. Frank Klees: It's all I have.

Mr. David Zimmer: Through you, Chair, to counsel: If you're going to put a document—

The Chair (Mr. Norm Miller): He can ask questions on this document and the email that—

Mr. David Zimmer: Well, I want to hear from the counsel on that. You can't put half a document to a person and ask them questions on it.

The Chair (Mr. Norm Miller): Would counsel like to respond?

Ms. Catherine Beagan Flood: It's for you to rule, not for me to—

The Chair (Mr. Norm Miller): Okay. This is fine. Mr. Klees can ask questions on this. There's an email document beside you there, if you want to have a look.

Ms. Carole McKeogh: Thank you.

The Chair (Mr. Norm Miller): We'll now go to the official opposition for questioning. Do you want to take some time to read that first?

Ms. Carole McKeogh: Sure.

Mr. Frank Klees: Please, not on my time.

The Chair (Mr. Norm Miller): We may have to have the witness come back, but yes, I won't count your time. And I will use the same strategy for all people who—

Mr. David Zimmer: That's fine. Thank you.

Mr. Frank Klees: Chair, my first question relates only to the first paragraph of this email.

The Chair (Mr. Norm Miller): We'll give the witness a chance to read it and then we'll start.

Ms. Carole McKeogh: Yes, I'm fine.

The Chair (Mr. Norm Miller): Ready?

Ms. Carole McKeogh: Yes.

The Chair (Mr. Norm Miller): You can go ahead.

Mr. Frank Klees: Thank you. Your role as the deputy director of legal services branch: You've held that position since 2003?

Ms. Carole McKeogh: I have.

Mr. Frank Klees: And you see the email that I've put before you. Can you tell us who Mel Springman is?

Ms. Carole McKeogh: Mel Springman was a senior lawyer of our branch and was with the branch for many years. He retired December 31, 2010.

Mr. Frank Klees: A respected individual, no doubt, within the ministry?

Ms. Carole McKeogh: Yes.

Mr. Frank Klees: You reported to him, did you?

Ms. Carole McKeogh: No. Mel was one of the counsel in our branch.

Mr. Frank Klees: Okay. The email that you're looking at is from Mel Springman and it is addressed to a number of people in the Ministry of Health. You are copied on it. He starts his email off by saying, and I'll read this into the record, "I continue to have serious concerns respecting the substance and tone of the MB-20." For those who aren't familiar, those are documents, submissions to cabinet for approval of a policy. "These concerns are a legacy and reflection of the concerns I expressed to you from the outset of this initiative, particularly in terms of successive decision documents and implementation documents."

The fourth paragraph down, he goes on to say, "Whatever one may think of the final recommendation in the MB-20 on air ambulance reform, for me the various incarnations of that document have consistently stood on rather flimsy, indeed sometimes misleading, grounds."

My question to you is: Receiving a document like this with an opinion from a senior lawyer in the ministry, what was your reaction when you read this?

Ms. Carole McKeogh: I'm just looking at the date, because I don't recall this email particularly.

Mr. David Zimmer: Chair—

The Chair (Mr. Norm Miller): Let the witness respond.

Mr. David Zimmer: —it's solicitor-client privilege. The letter is advice to the minister.

Mr. Frank Klees: It is not advice to the minister.

The Chair (Mr. Norm Miller): Please continue.

Ms. Carole McKeogh: I think that's a good point, though. It is legal advice to ministry staff.

Mr. David Zimmer: It is, and counsel, I would like your advice on this as a member of committee. You've heard my objection to further comment—

The Chair (Mr. Norm Miller): We'll get comment from legal counsel, then, Mr. Zimmer.

Ms. Catherine Beagan Flood: As I previously indicated to the committee, with respect to solicitor-client privilege, it is within the rights of the committee to require a witness to answer a question, even if it requires them to divulge information that is solicitor-client privilege. However, solicitor-client privilege is an extremely important, fundamental legal principle in the Canadian legal system, and therefore, traditionally, legislative committees have kept in mind the importance of that legal principle in deciding whether or not to require a witness to answer questions that would require them to divulge privileged information.

Mr. David Zimmer: Does the witness have the right to decline to answer?

Ms. Catherine Beagan Flood: It is for the committee to decide whether to require the witness to answer.

Mr. Frank Klees: Mr. Chair, if I might?

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

Mr. Frank Klees: I am not asking for any specific comment relative to any of the details or recommendations of this email. I am asking the witness to simply provide her response to what she, as someone who was director of the legal services branch when she saw this—what her reaction was. I'm simply asking that.

The Chair (Mr. Norm Miller): I would ask the witness, if you wish to discuss this in camera, we can go in camera, if you're not comfortable answering the question that Mr. Klees is asking.

Ms. Carole McKeogh: I'm prepared to answer the question just in terms of my own reaction to this email. The people copied were Dianne Dougall, who was the legal director at the time; Janice Crawford, a deputy director; and myself, a deputy director. So he was copying, basically, the management team at the legal branch. Then other lawyers who were involved in the file—the email was addressed to his clients. I don't specifically remember this email. I do know that Mr. Springman had concerns about the MB-20 submission. I wasn't, however, directly involved in the file or providing legal advice for reviewing the MB-20 or anything like that. It was probably intended more as a heads-up that there was an issue.

Mr. Frank Klees: Thank you. Were you involved in the drafting of the original performance agreement?

Ms. Carole McKeogh: I was not.

Mr. Frank Klees: Did you review it at any time?

Ms. Carole McKeogh: In January 2012, when I was asked to prepare the amended version.

Mr. Frank Klees: Okay. You're familiar with article 15 of the original agreement, I'm sure. That is the article

that provides suspension rights to the ministry. It gives the ministry the right to enter the premises and suspend the operations of Ornge if they feel that they have reason to do so. Can you tell me what the difference is between the current performance agreement and the original performance agreement with respect to those rights of the ministry to investigate and to suspend operations?

Ms. Carole McKeogh: They're identical.

Mr. Frank Klees: Okay. You're also familiar with legislation that provides the ministry the right to enter any medical facility. I believe it's under the alternative medical facilities act? Or help me with the actual name—

Ms. Carole McKeogh: Are you talking about the Independent Health Facilities Act?

Mr. Frank Klees: Yes, the Independent Health Facilities Act.

The Chair (Mr. Norm Miller): You're on your last minute now, Mr. Klees.

Mr. Frank Klees: That act, if you could just confirm for me, gives the ministry the right to enter and actually to appoint a supervisor. Is that correct?

1020

Ms. Carole McKeogh: Now, I'm sorry, I don't know that offhand, but Ornge is not an independent health facility.

Mr. Frank Klees: It is not?

Ms. Carole McKeogh: No. An independent health facility under that act is a very particular type of facility that's licensed under that act, and Ornge is not covered by that.

Mr. Frank Klees: Could I ask you to do this for me? Could I ask you to review that legislation—

Ms. Carole McKeogh: Yes.

Mr. Frank Klees: —and provide us with an opinion regarding that? The reason I say that is that my reading of that is, because it refers to ambulance as well—and Ornge, I believe, was actually appointed a base hospital, and my understanding is that because it was designated a base hospital that it falls into that category.

Ms. Carole McKeogh: I wonder if you're thinking about the Health Facilities Special Orders Act rather than the Independent Health Facilities Act.

Mr. Frank Klees: Well, you know, I'll take your advice on that, and if you could look at both of those pieces of legislation. The reason is—

The Chair (Mr. Norm Miller): You are out of time now, Mr. Klees.

Mr. Frank Klees: Okay. If you would do that, I'd appreciate it, and I'm sure members of the committee would benefit from that.

Ms. Carole McKeogh: My pleasure.

The Chair (Mr. Norm Miller): If we could move to the NDP, please.

Ms. Carole McKeogh: Can I just add one comment in response to that?

The Chair (Mr. Norm Miller): Yes, please do.

Ms. Carole McKeogh: Both article 15—well, article 15 applies to the ministry taking control only of communications services, not the entire Ornge, and it is in the

case of a threat to patient safety, and the same applies with the Health Facilities Special Orders Act. There are very stringent tests dealing basically with patient safety. So I am happy to provide that information.

The Chair (Mr. Norm Miller): Thank you very much.

Jagmeet.

Mr. Jagmeet Singh: Thank you for being here. Who is the FOI coordinator for the Ministry of Health?

Ms. Carole McKeogh: Sorry, I can't remember his name right now.

Mr. Jagmeet Singh: Okay, and in 2010, would it have been the same person?

Ms. Carole McKeogh: It might not have been. I'd have to check into that for you.

Mr. Jagmeet Singh: Okay. Did you receive any of the FOIs that were requested on behalf of the NDP in 2010?

Ms. Carole McKeogh: The FOI requests?

Mr. Jagmeet Singh: Yes.

Ms. Carole McKeogh: I did not; I'm sorry.

Mr. Jagmeet Singh: Were you aware that there were FOI requests made by the NDP in 2010 regarding Ornge?

Ms. Carole McKeogh: Not at that time, no.

Mr. Jagmeet Singh: And now you are aware of that?

Ms. Carole McKeogh: Yes.

Mr. Jagmeet Singh: Okay. Are you aware of what protocols are followed normally when an FOI request is made?

Ms. Carole McKeogh: In a general sense, I am.

Mr. Jagmeet Singh: And if your ministry receives an FOI request, what's the procedure that's followed?

Ms. Carole McKeogh: I think that the FOI office sends the request to the branches that it considers may have information in response to the request and requests them to respond.

Mr. Jagmeet Singh: Okay. Do you know if there's any reason why we didn't receive an answer to our 2010 FOI request until 2012?

Ms. Carole McKeogh: I don't; I'm sorry.

Mr. Jagmeet Singh: Does that strike you as peculiar, that it takes two years to receive a response?

Ms. Carole McKeogh: It does seem long.

Mr. Jagmeet Singh: Okay. I'll just pass it over to my colleague, briefly.

M^{me} France Gélinas: Thank you.

I take it that you've seen a few performance agreements before?

Ms. Carole McKeogh: Yes.

M^{me} France Gélinas: You do a lot of them?

Ms. Carole McKeogh: Some.

M^{me} France Gélinas: You do some?

Ms. Carole McKeogh: Yeah.

M^{me} France Gélinas: Okay. Would you say that it has been heard of that the ministry would change an existing performance agreement?

Ms. Carole McKeogh: It doesn't happen that often.

M^{me} France Gélinas: But it has happened?

Ms. Carole McKeogh: I can't think of it offhand.

M^{me} France Gélinas: It could happen?

Ms. Carole McKeogh: It could happen.

M^{me} France Gélinas: It could happen. Okay. When you were asked to change the performance agreement for Ornge, that was the first time that you had any contact with Ornge?

Ms. Carole McKeogh: Yes. I had heard comments about Ornge in our office, but I had not worked directly on the file.

M^{me} France Gélinas: Who in your office worked on the Ornge file?

Ms. Carole McKeogh: That would have been Mel Springman originally, and a second lawyer in our office who worked with Mel, Bill Georgas.

M^{me} France Gélinas: And Bill Georgas is still there?

Ms. Carole McKeogh: Yes, he is.

M^{me} France Gélinas: Why didn't they go back to do the modification to the performance agreement?

Ms. Carole McKeogh: Well, it was really more of a workload issue. I think the branch wanted, first of all, a more senior lawyer working on the amended performance agreement, and I was the one who had the time available.

The Chair (Mr. Norm Miller): I'm afraid we're out of time, and I do recognize the NDP didn't get their full time. If the committee decides, it can request to have Ms. McKeogh back again, but you were short by five minutes on your time.

Thank you very much for coming this morning.

We're recessed till this afternoon.

The committee recessed from 1025 to 1232.

MR. RAINER BELTZNER

The Chair (Mr. Norm Miller): I'd like to call this meeting to order and welcome our first presenter of the afternoon, Mr. Rainer Beltzner. Mr. Beltzner, you've received information about a witness coming before the committee?

Mr. Rainer Beltzner: I did.

The Chair (Mr. Norm Miller): Very well. I believe our clerk has an oath for you.

The Clerk of the Committee (Mr. William Short): Please put your hand on the Bible in front of you. Thank you. Mr. Beltzner, 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. Rainer Beltzner: I do.

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

The Chair (Mr. Norm Miller): Very well, thank you. You have five minutes for an opening statement and then the three parties will have some time for questions.

Mr. Rainer Beltzner: Thank you, Mr. Chair. Good afternoon. Thank you for providing me with an opportunity to come and speak to you today in relation to your inquiry about Ornge.

I began with Ornge in 2004 and served as the non-executive chair of Ornge's board of directors until January of this year.

From the outset, significant changes were needed in order to establish Ornge as a viable unified entity. This was achieved under the guidance of a highly dedicated, hard-working and independent board. I'm proud to have had a role in Ornge's work and remarkable achievements.

There was and remains a significant funding gap between current service levels and demand for Ornge's services. This applies, of course, to most health care services in Ontario. Ornge, therefore, engaged in a combination of fundraising and for-profit initiatives, much like any hospital would do. The objective was to supplement government funding. These initiatives were known to the ministry. Ornge took considerable steps throughout this process to ensure that the government was always informed.

In order to put this funding strategy into effect and receive investor support, the initial corporate structure of Ornge had to be reorganized. This was driven to ensure that the benefits would flow to Ornge's air medical transport system. The relative complexity of the new structure resulted from the need to meet a number of interrelated legal, tax, economic, and accounting objectives. All of these steps were pursued only after the board had received and considered outside legal and accounting counsel that confirmed the legality of the proposed venture, its compliance with the performance agreement, and its practicality from an economic perspective. The board also took considerable steps to ensure that (a) Ornge was insulated from any downside risk; (b) the integrity of operations would not be compromised; and (c) the use of all government funds was restricted to the benefit of Ontario's air medical transport system.

On the last point, I'm compelled to reiterate my position and the instructions conveyed to management by the board. The board's absolute, unequivocal directive to Ornge management was that no public funds were to be used for the operations of the for-profit side of the company. Any such use would have been made without board knowledge and in direct contravention of the board's directive to management.

Throughout my time as chair of the board of Ornge, only once did the government convey any concerns to me. And when this occurred, I and the board responded immediately, full disclosure of the relevant information was provided, and the matter was clearly settled to the government's satisfaction.

A similar proactive approach was taken with respect to the AG's audit of Ornge. Members of management and the board provided the AG's team with an initial and comprehensive presentation and immediately made themselves available to provide any assistance required. The AG's draft report provided to me contained many inaccuracies and was highly suggestive. I immediately called the AG's representative to raise my concerns. Management, at the direction of the board, conducted an extensive written response of over 80 pages to correct the

errors in the draft report. I also initiated three separate meetings with officials at the AG's office at which I expressed concerns regarding these inaccuracies.

The allegations that the Ornge board somehow stonewalled the AG's office with respect to its audit is simply baseless. The board provided the AG's office with a full briefing of the for-profit initiatives. This included providing the AG's office with all documents that Ornge had legal access to.

On the issue of Ornge executive and board compensation, the board engaged independent external consultants to conduct an exhaustive study and provide recommendations to the board on compensation for both Ornge executives and the board. After consideration, the board followed these recommendations.

During the process of reporting executive compensations to the ministry, I became aware that Dr. Mazza's professional corporation was being paid substantial amounts for services apparently not being provided. I took immediate steps to stop these payments and informed the ministry's internal auditor.

My personal board compensation as reported included, yes, a basic retainer, in addition to meeting fees and supplementary approved fees as a recovery for the significant additional time expended throughout that period on matters pertaining to Ornge. All of these matters were designed to secure Ornge's financial viability and serve the long-term interests of Ontario patients.

It was understood that the government could not force our resignation. However, we conveyed the message to the government early this year that, if requested, we would step down. We did not want to stand in the way of government.

Thank you very much. I'd be happy to answer any questions that committee members may have.

The Chair (Mr. Norm Miller): Thank you. The rotation is such that the official opposition will go first. Mr. Klees?

Mr. Frank Klees: Thank you. If I could have the clerk distribute the CV that I distributed earlier.

Mr. Beltzner, thank you for appearing here. Can I just ask—I'm familiar with your CV.

Mr. Rainer Beltzner: Thank you.

Mr. Frank Klees: In fact, I couldn't imagine Methuselah having as long a CV. You have been a very busy man. There isn't a sector that you have not been involved in. You are familiar with boards and the responsibility that a director has, which really comes down to one thing, and that is to ensure the financial integrity. There is a fiduciary responsibility that every director has to its shareholders, to its stakeholders. Can I ask you this: Who, in your opinion, were your stakeholders to whom you had a fiduciary responsibility?

Mr. Rainer Beltzner: Clearly, part of the stakeholder component was the Ministry of Health under our responsibility under the performance agreement.

Mr. Frank Klees: Anyone else?

Mr. Rainer Beltzner: The people of Ontario.

Mr. Frank Klees: Okay. In your opinion, when did things start to go wrong at Ornge? There was a great vision that was put on paper, I think a very complex structure. I see your presentation. When did things start going wrong, or do you think anything went wrong?

Mr. Rainer Beltzner: The first indication was the draft report from the Auditor General, which—

Mr. Frank Klees: That was the first time that you thought Ornge may not be on the right track?

Mr. Rainer Beltzner: That draft report, as I indicated in my opening statement, contained, in my view, a substantial difference between my understanding of Ornge through the many years and the board's understanding, and that is reported by the Auditor General.

As I indicated in my opening statement, I instructed management, as well as the board members involved, to very carefully review that draft report and to respond in writing should the response be required to become public. That response was over 80 pages.

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Mr. Frank Klees: I understand that you were a very hands-on chairman of the board.

Mr. Rainer Beltzner: I am a non-executive chair of the board.

Mr. Frank Klees: What was your remuneration?

Mr. Rainer Beltzner: My remuneration, as reported, was slightly over \$200,000 in that fiscal year.

Mr. Frank Klees: Was that correct?

Mr. Rainer Beltzner: Yes.

Mr. Frank Klees: You also, I believe, sit on the board of directors of Humber College.

Mr. Rainer Beltzner: That is not correct. I used to sit on the board of directors of Humber College until such time as I was encouraged to leave the board.

Mr. Frank Klees: What was your remuneration there?

Mr. Rainer Beltzner: Zero.

Mr. Frank Klees: You're familiar with directors' compensation.

Mr. Rainer Beltzner: Absolutely.

Mr. Frank Klees: The compensation, notwithstanding the fact that you say it was recommended by an independent advisory group—I'm somewhat familiar with directors' compensation as well, as I sit on a couple of boards. This \$200,000 fee for an organization the size of Ornge is exorbitant, would you not agree?

Mr. Rainer Beltzner: I responded to the compensation issue in my opening remarks. I have no further comment.

Mr. Frank Klees: You think it's fair.

Mr. Rainer Beltzner: The entire board reviewed the recommendations of the external consultants that had reviewed the extent of work required by members of the board, and acted on that basis.

Mr. Frank Klees: Did you maintain an office at Ornge?

Mr. Rainer Beltzner: No, I did not maintain an office in Ornge.

Mr. Frank Klees: Did you maintain an office at any of its affiliated offices?

Mr. Rainer Beltzner: No, I did not.

Mr. Frank Klees: Is it true that you asked Enola Stoye, the professor of the Schulich business school, and Shanon Grauer, the lawyer at McCarthy's, to resign from the Ornge board of directors because they disagreed with the creation of Dr. Mazza's J Smarts initiative?

Mr. Rainer Beltzner: No, it is not.

Mr. Frank Klees: You deny that. Is Anne Brunet your daughter?

Mr. Rainer Beltzner: Yes, she is.

Mr. Frank Klees: How did she come to work at Ornge?

Mr. Rainer Beltzner: She applied for a position at Ornge in response to an advertisement that Ornge had run.

Mr. Frank Klees: What experience did she have?

Mr. Rainer Beltzner: She had been out of the house for many, many years, obviously, living as an adult. I believe she had been working at Credit Union Central of Ontario for something like five or six years in a variety of different positions.

Mr. Frank Klees: She took on quite some responsibility. There was a report this morning that the \$6.7-million consulting fee that was paid to Ornge by Agusta was basically the responsibility of your daughter and one other individual, a Ms. Long. Is that something that you were familiar with, that that would be her responsibility?

Mr. Rainer Beltzner: My daughter and I did not discuss Ornge business—

Mr. Frank Klees: Are you familiar with that \$6.7-million contract?

Mr. Rainer Beltzner: There are two contracts, I believe, that compose the \$6.7 million. I believe there was roughly a \$4.5-million or \$4.7-million marketing services contract from Agusta to Ornge Global as well as a subsequent \$2-million contract, which I believe, if my—I'm not absolutely certain of my memory on this point, but I believe it called for payments of a quarter of a million dollars per quarter over several years.

Mr. Frank Klees: And you thought that was a reasonable—

The Chair (Mr. Norm Miller): Mr. Klees, you have a minute and a half.

Mr. Frank Klees: Okay. Can I just ask: Did you approve Dr. Mazza's salary?

Mr. Rainer Beltzner: The board approved Dr. Mazza's salary.

Mr. Frank Klees: Did you approve the \$1 million, or coming close to that, of unsecured loans to Dr. Mazza?

Mr. Rainer Beltzner: The loans were not unsecured.

Mr. Frank Klees: They were not unsecured? But you approved them.

Mr. Rainer Beltzner: The board approved the loans.

Mr. Frank Klees: And you thought that was appropriate.

Mr. Rainer Beltzner: The board approved the loans.

Mr. Frank Klees: I find it interesting that you, at the outset, indicated that you had a fiduciary responsibility to the taxpayers of this province, and yet, even based on your extensive experience, you and the board, and as the leader of the board, made some decisions that I think are highly questionable. I wish we had more time to pursue that, but we don't. I look forward to having you back, and hopefully under a circumstance where we do have more time to pursue these issues.

I'll defer to my colleague.

The Chair (Mr. Norm Miller): Thank you, Mr. Klees. We'll move on to the NDP. Who would like to question there? Ms. Gélinas.

M^{me} France Gélinas: Welcome to Queen's Park.

Mr. Rainer Beltzner: Thank you.

M^{me} France Gélinas: In your role as chair of the board, you would be aware that the board kept minutes of its meetings.

Mr. Rainer Beltzner: The board absolutely kept detailed minutes of finance and audit, governance, and compensation committee meetings, in addition to board minutes, yes.

M^{me} France Gélinas: When you went in camera, did you keep minutes of the in-camera parts of your meetings?

Mr. Rainer Beltzner: Yes.

M^{me} France Gélinas: You did? To your knowledge, before you left Ornge, were those minutes still all there at Ornge?

Mr. Rainer Beltzner: To the best of my knowledge, all of the minutes were certainly taken by and provided by the corporate board secretary. As to whether they were there or not there, I don't know. I presume they were.

M^{me} France Gélinas: Who was the board secretary?

Mr. Rainer Beltzner: Lynne Taylor.

M^{me} France Gélinas: Lynne Taylor. Okay. We saw, through other witnesses and through correspondence, that you had the opportunity to go and brief the Minister of Health. Do you remember briefing the Minister of Health in late 2010, early 2011?

Mr. Rainer Beltzner: We had the opportunities, pursuant to a letter that I wrote the minister on—I believe the date of the letter was January 19, 2010. There were three opportunities subsequent to that letter to make presentations to ministries. The first of those presentations was, I think, January 25. I may be wrong—I apologize—but I believe it was around about January 25—to ministry representatives at the Ministry of Health; that's correct. Mr. Saäd Rafi was there, as well as a number of other individuals.

M^{me} France Gélinas: So you attended those meetings? They were here at the Ministry of Health, I'm guessing?

Mr. Rainer Beltzner: I believe they were up at the Ministry of Health in the Ministry of Health boardroom.

M^{me} France Gélinas: Okay. The minister didn't attend, but the deputy minister was there.

Mr. Rainer Beltzner: Absolutely.

M^{me} France G elinas: And a number of other people were there as well?

Mr. Rainer Beltzner: That is correct. I believe Ms. Li was there, and several others representing the government.

M^{me} France G elinas: Okay. And when you did your presentation, did you talk about the corporate structure?

Mr. Rainer Beltzner: Absolutely. In addition to having provided that very detailed letter, outlining both the purpose, the objectives, the corporate structure, the composition and the chart of the corporate structure, we provided a PowerPoint presentation, which I believe is now public, and went through that in some detail and answered clarifying questions and so on. Absolutely.

M^{me} France G elinas: How long would you say that meeting lasted?

Mr. Rainer Beltzner: Well, my recollection—certainly an hour, perhaps longer.

M^{me} France G elinas: Were there any questions that you were asked? Did you leave with the feeling that they understood what you had presented to them?

Mr. Rainer Beltzner: Certainly, that was my understanding. There was nothing raised during the course of that meeting that was, shall we say, in the least bit controversial. We indicated certainly during the course of the meeting that they should ask any questions. We invited questions; we asked clarifications. Nothing was brought up of any concern whatsoever.

M^{me} France G elinas: I'm with the NDP. We had filed a freedom of access of information to get to Mr. Mazza's salary. Has anybody from the government ever asked you Mr. Mazza's salary?

Mr. Rainer Beltzner: There was a request for information concerning Dr. Mazza's salary. I think the last time was in the fall of 2011, yes.

M^{me} France G elinas: Did you give that information?

Mr. Rainer Beltzner: We did not, and the reason we did not was because Dr. Mazza's salary, by legal advice, was apparently protected under confidentiality—I think the same reason that Mr. McKerlie recently responded to a similar request, indicating that for legal reasons, one cannot disclose personal information of companies that are not covered under the disclosure act. We indicated that to government at the time, and very clearly as to why.

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M^{me} France G elinas: You were very successful in getting your budget to increase a little bit every year. One specific year, you asked for a \$2.5-million increase directed at salaries. What is some of the information you shared at this point to justify the \$2.5-million increase in your budget for salaries?

Mr. Rainer Beltzner: I was not involved in that discussion with government with respect to the increase in salaries. That's a role of the CEO and the management team. The board receives the budget based on anticipated revenues and anticipated expenses, and reviews that, but in terms of negotiating with government for additional

compensation or providing rationale, that, of course, is the role of management.

M^{me} France G elinas: Was the full salary of Mr. Mazza—\$1.4 million, as we know it—under the budget that you administered?

Mr. Rainer Beltzner: I believe so.

M^{me} France G elinas: Okay. My colleague.

Mr. Jagmeet Singh: You indicated that there was only one concern that was ever raised by the government and that it was satisfied—

Mr. Rainer Beltzner: Yes.

Mr. Jagmeet Singh: —or it was resolved. What was that concern?

Mr. Rainer Beltzner: This was back in late 2008. Ruth Hawkins, who was at that time the assistant deputy minister responsible for emergency health services, I believe, communicated to me that she was in receipt of a letter that had been sent to a minister in government. That letter, strangely, was dated April of that year, and we're now into September or October—I can't quite recall, but it was certainly the fall. She had communicated with me that there was a concern and that we needed to get together and meet, and offered some date. I responded, I believe by email, indicating that I wanted to meet as soon as possible, and a subsequent meeting was held with her, Ken Flynn from the ministry's internal audit, and, I believe, I might have had Luis Navas with me, who was another board member at the time, at that meeting.

At that meeting, Ruth Hawkins presented to me a letter from an individual—and I'm not sure I recall his name; it might have been Keith Walmsley, I think—and the letter made allegations of a double set of books, inappropriate, excessive bonuses, items of that nature. This, of course—my response to Ruth Hawkins and Ken Flynn was that it needed to be looked into immediately, and it was, by both the ministry's internal audit and ourselves, and the matter of the double set of books, I think, was resolved very quickly, and compensation was responded to in a letter.

Mr. Jagmeet Singh: Okay. I'm sorry to interrupt. I just want to squeeze in some questions.

The Chair (Mr. Norm Miller): Mr. Singh, you have 30 seconds left.

Mr. Jagmeet Singh: How many times did you brief the government in total?

Mr. Rainer Beltzner: In terms of the last session?

M^{me} France G elinas: No, in terms—

Mr. Jagmeet Singh: In terms of the entirety when you were a board member, how many times?

Mr. Rainer Beltzner: Let me be clear the number of times that I personally met with government. I personally met with government officials three times. This would have been in the early part of 2011; I think once in January, once in February and once in March. I subsequently after that, I believe, attended a dinner which was attended by Dwight Duncan and Minister Papatello, along with an executive from Agusta. I believe after that I might have met with Patricia Li the next time, when I expressed some concerns about the manner in which the

AG's office was vetting data. And, I believe, subsequently, the meeting that I requested with the Minister of Health to provide information with respect to the—and this would have been in late December, I believe, when, on my request, I wanted a meeting with the Minister of Health to respond to some of the allegations that were out in the—

The Chair (Mr. Norm Miller): Thank you. I'm sorry, we're out of time, Mr. Singh.

Mr. Jagmeet Singh: Before 2011, any other meetings?

Mr. Rainer Beltzner: Not that I recall.

The Chair (Mr. Norm Miller): We'll have to move on to the government. If you do wish to have Mr. Beltzner back another day, of course, you can do that.

Ms. Sandals.

Mrs. Liz Sandals: Thank you very much. You mentioned in your opening remarks that you received a basic retainer for your services on the board?

Mr. Rainer Beltzner: That is correct.

Mrs. Liz Sandals: And you quoted \$200,000. Is the \$200,000 the basic retainer?

Mr. Rainer Beltzner: I don't recall the exact composition, but my payment consisted of a base retainer, and then, on top of that, as with every other board member—the base retainer, just to be clear, is the retainer for a position as a director—

Mrs. Liz Sandals: So is the \$200,000, then, the total compensation?

Mr. Rainer Beltzner: What is reported was the total compensation, which was retainer plus meeting fees, plus my billings, which were at the rate of \$250 an hour—approved—for the additional work working on the items related to the independent committee at the time.

Mrs. Liz Sandals: Okay. How would that compare, because you've served on a number of boards—how does that compare with other public boards, taxpayer-funded boards on which you have served?

Mr. Rainer Beltzner: First of all, the retainers did not relate to any boards that were charitable boards. These were all retainers related to boards that had a not-for-profit or a for-profit structure. Most of the public sector boards that I was involved in—for example, the Humber board is, in fact, a charitable board, volunteer, so there's no retainer—

Mrs. Liz Sandals: So in terms of other institutions which are publicly funded, this would be a rather different level of compensation for a board member than in other public sector, publicly funded boards?

Mr. Rainer Beltzner: In some cases, yes.

Mrs. Liz Sandals: We talked about the salary of Dr. Mazza: \$1.4 million. You were on the board that approved that salary?

Mr. Rainer Beltzner: Yes.

Mrs. Liz Sandals: And—

Mr. Rainer Beltzner: May I just clarify? That's not totally salary—

Mrs. Liz Sandals: His total compensation of \$1.4 million.

You were a member of the board that approved his transfer from employment of Ornge the non-profit to one of the for-profit subsidiaries? You were on the board that approved that transfer of employment?

Mr. Rainer Beltzner: That is correct. Dr. Mazza originally became an employee of Ornge as a result of his transfer from Sunnybrook and Women's back in 2006. Ornge, at the time, was a not-for-profit entity. Because we wanted to attract fundraising funds, we then moved Ornge to a charitable status along with the creation of a foundation, which is quite normal in that kind of environment. Dr. Mazza and a number of the other executives then moved from Ornge charity into a for-profit subsidiary called Ornge Peel.

Mrs. Liz Sandals: So it appears that Dr. Mazza's compensation rose quite abruptly from \$250,000 when it was listed on the sunshine list, as it's known, at the not-for-profit. You approved his transfer to for-profits, and it abruptly rose to \$1.4 million. Why was that transfer of employment made?

Mr. Rainer Beltzner: One of the things that we wanted to do was, obviously, create a structure that allowed for for-profit ventures—

Mrs. Liz Sandals: I didn't ask you why you changed the structure. Why did you transfer Dr. Mazza from a position where he was publicly listed as making \$250,000 to something where you've said the legal advice was that his salary amount was subject to privacy? Why did you transfer his employment from one body to the other?

Mr. Rainer Beltzner: I don't think it was a specific transfer of Dr. Mazza. We transferred all of the non-medical staff from Ornge the charity that was providing services under the Ambulance Act to a subsidiary. So it was not only Dr. Mazza but all of the other executives and staff that were not directly involved as required under the Ambulance Act for Ornge.

Mrs. Liz Sandals: So all of the staff who had previously been funded by public money and previously appeared on the sunshine list, all of them disappeared from the sunshine list?

Mr. Rainer Beltzner: Only—well, those that were transferred to the subsidiary company that were not required to remain within Ornge under its medical status.

Mrs. Liz Sandals: I don't think I'm hearing yet why they got transferred from one position to another. I understand that they were transferred, but why? There seems, from a public point of view, to be a correspondence between the transfer of employment—that's why I'm saying "why"—and the dramatic increase in salary. I mean, the salary increased sixfold with that move to—

Mr. Rainer Beltzner: Over time.

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Mrs. Liz Sandals: Well, and of course we can't see what went on in between because it disappeared from the sunshine list.

Mr. Rainer Beltzner: I understand, but that salary increased over time as the number of activities and the complexity of the organization changed.

Mrs. Liz Sandals: So over a matter of two or three years it increased sixfold?

Mr. Rainer Beltzner: That's correct.

Mrs. Liz Sandals: Does that make it okay, if it took two or three years?

Mr. Rainer Beltzner: As I indicated in my opening remarks, the compensation issues, because of the complexity and the scope of business that we were moving into, was very carefully reviewed by independent outside consultants. They gave their recommendations and we responded to those recommendations.

The Chair (Mr. Norm Miller): Ms. Sandals, you have about a minute and a half.

Mrs. Liz Sandals: Okay, then I'd like to change direction a little bit. Do you know a gentleman by the name of Kelly Mitchell?

Mr. Rainer Beltzner: Yes, I do.

Mrs. Liz Sandals: Were you on the board when he was appointed to the board of Ornge?

Mr. Rainer Beltzner: Yes.

Mrs. Liz Sandals: So were you responsible for that appointment as chair?

Mr. Rainer Beltzner: Well, Kelly Mitchell was identified as a possible replacement to Lorne Crawford, who had unfortunately passed away. Kelly Mitchell had a similar, if you like, presence in northwestern Ontario as did Lorne Crawford. We were looking for somebody to replace Lorne Crawford on the board who had that presence in that part of the province. So Kelly Mitchell was presented as—and I certainly asked him, as a matter of course, would he be available to join the board of Ornge.

Mrs. Liz Sandals: And was it usual practice to have people who were employed as consultants, or at least held a contract as a consultant acting for Ornge, to also be on the board of Ornge?

Mr. Rainer Beltzner: I'm not aware of the particulars of any consulting contract that Kelly Mitchell may have had.

Mrs. Liz Sandals: So you're unaware that Mr. Mitchell appears to have billed Ornge for over \$350,000 in contracts for lobbying?

Mr. Rainer Beltzner: I'm certainly not aware of any of that.

Mrs. Liz Sandals: So you did not approve that lobbying contract?

Mr. Rainer Beltzner: No.

Mrs. Liz Sandals: Thank you. I think we can pursue that more next week.

The Chair (Mr. Norm Miller): Thank you, and you are out of time. So thank you very much for your presentation today.

Mr. Rainer Beltzner: Thank you very much.

FASKEN MARTINEAU DUMOULIN, LLP

The Chair (Mr. Norm Miller): Our next presenter is Lynne Golding, partner and director, health law practice

group from Fasken Martineau DuMoulin, LLP. Welcome.

Ms. Golding, you've received the letter with information about a presenter to the committee?

Ms. Lynne Golding: I have.

The Chair (Mr. Norm Miller): Very well, and our clerk will have you swear an oath.

The Clerk of the Committee (Mr. William Short): I'm sorry. Ms. Golding, did you want to be affirmed or swear an oath?

Ms. Lynne Golding: I'll swear.

The Clerk of the Committee (Mr. William Short): Do you have the Bible?

Ms. Lynne Golding: I do.

The Clerk of the Committee (Mr. William Short): Ms. Golding, 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?

Ms. Lynne Golding: I do so swear.

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

The Chair (Mr. Norm Miller): Very well. You have five minutes for an opening statement and then the three parties will ask questions.

Ms. Lynne Golding: Very good. Thank you. As you've heard, my name is Lynne Golding, and I'm a partner of the law firm of Fasken Martineau DuMoulin. I am one of a team of lawyers at my firm who have provided advice to Ornge over the years. There are five significant matters in the history of Ornge with respect to which I played a lead role. They are:

- its incorporation as Ontario Air Ambulance Services Co. and the transfer of assets to it from Sunnybrook in 2004;

- the negotiation of the performance agreement with the ministry in 2005;

- structuring advice with respect to the formation and incorporation of Orngeco and Ornge Peel in 2006 and 2007;

- Ornge's response to the first draft of the Auditor General's report in the fall of 2011; and

- the corporate activities completed since January 1, 2012, including the resignation of the board led by Rainer Beltzner, the election of the board led by Ian Delaney, the wind-up of the Ornge Global entities, and the petition of two of those entities into bankruptcy.

There are a few facts based on my personal experiences that I would like to have recorded. Firstly, why was Ornge incorporated as a non-share capital corporation rather than formed as an agency of the government? Mr. Delaney, when he appeared before you on April 4, speculated that it may have been an effort to emulate STARS, a successful air ambulance operation in Alberta, and that was part of it.

But from a legal perspective, we took as our model an example closer to home. At the time, there were approximately 150 health service providers operating in the province, offering their services to the public, receiving

almost all of their operating funding from the province. Most, but not all, were provincially incorporated. They were non-share capital corporations registered as federal charities, with boards elected by their members and without provincial government appointees. What were they? Ontario's public hospitals.

Corporations carrying on business in Ontario can be incorporated under the laws of Ontario, Canada or any other jurisdiction. The choice has little to do with the division of powers in the Constitution Act. It has generally to do with tax treatment, name availability and protection, and the cost and time necessary to incorporate.

In 2004, at the time Ornge was incorporated, a non-share capital corporation could be incorporated much more quickly federally than provincially. In order to meet certain legal obligations to employees, it was necessary that the company be incorporated by November 1. By the time we received the necessary consents to proceed in the fall of 2004, we knew we did not have enough time to incorporate provincially. Ornge was incorporated under the Canada Corporations Act on October 8, 2004. Its assets were transferred to it by Sunnybrook 24 days later, on November 1. It was well understood by Ornge that, though federally incorporated, it would be subject to all provincial laws.

Secondly, why was the devolution of the air ambulance system not subject to a public procurement process? Around that time and in the years to follow, the ministry was extricating itself from the operation of a number of programs, including the Cardiac Care Network and a number of psychiatric hospitals. I understand that in each case, the government relied on existing management and others it considered knowledgeable and experienced to serve as the initial leaders of the devolved entities.

Thirdly, questions have been raised regarding the performance agreement. The agreement was negotiated over a 10-month period of time. The ministry's team was led by Dennis Brown, likely the most knowledgeable person in the ministry regarding the operation of the air ambulance system at the time. He was supported by two other members of his department as well as a senior ministry lawyer and a very able junior.

The agreement includes extensive reporting obligations and provides the ministry with three separate inspection rights. It gave the ministry access to the records pertaining to the grant funds, whether they were held by Ornge or under Ornge's control. It gave the ministry the right to terminate the agreement for cause, including failing to comply with any one of Ornge's 15 pages of covenants. If the ministry believed that Ornge was not complying with the agreement but did not want to terminate the agreement for fear that they would create further risks to patient safety, the ministry could have issued a notice of default or threatened to do so. That usually gets the attention of a grant recipient.

Finally, the ministry had the right to assume control of the Ornge communications centre if it was concerned for the health or safety of patients.

I make these statements not because I believe the ministry should have taken those steps, but only to clarify and record the rights of the ministry in this regard.

I'd be pleased to answer any of your questions.

The Chair (Mr. Norm Miller): Thank you for your opening statement. Questions go to the NDP. Who would like to start? Ms. Gélinas.

M^{me} France Gélinas: I will be starting. Thank you for coming to Queen's Park, and thank you for your presentation.

In layman's terms, whether you incorporate at the federal level or at the provincial level, like many hospitals do, it changes in nothing the responsibility or the oversight of the government of Ontario, more specifically the Ministry of Health.

Ms. Lynne Golding: That is correct. There are at least half a dozen hospitals incorporated federally. I think they would all take the view that they are subject to the laws of Ontario and the dictates of the Ministry of Health.

M^{me} France Gélinas: In your dealings with Ornge, have you ever informed people at the government level—whether the Ministry of Health, the Premier's office, finance, anybody—as to the work that was being done by Ornge?

Ms. Lynne Golding: I never had any part in briefing the government. I did receive an email from Ms. McKeogh recently asking me why we incorporated federally, but I think that's really the only advice I've ever given to the government about Ornge.

M^{me} France Gélinas: In your work with Ornge, did Ornge ever raise flags that they needed to explain their corporate structure—they were going to meet with the government; they had had questions or concerns coming from the government?

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Ms. Lynne Golding: No. I knew that they were going to have that meeting in January. I knew all about that, and I had read parts of the letter before they went. I didn't really give them their advice to do with the provincial government.

M^{me} France Gélinas: Sorry. Say that—

Ms. Lynne Golding: I didn't give them their advice pertaining to keeping the provincial government briefed on their matters. I gave them advice at times, suggesting they should seek consent of the government, but I wasn't involved in preparing them for any of those arrangements.

Mme France Gélinas: Okay.

Mr. Jagmeet Singh: The minister has indicated a number of times—and I think you've already answered this, but let's make it clear: The minister indicated that the existing performance agreement was not strong, didn't give her the ability to do the proper oversight. I just want you to respond, given the fact that you've indicated a number of tools that the minister did have, including the ability to issue the notice of default or at least threaten to do so, including the right to terminate the agreement based on the 15 pages of covenants. What's your response to that?

Ms. Lynne Golding: Those were all of their rights. In addition, the ministry, as the chief funder of Ornge, had great powers of moral suasion. I can tell you, all of my broader public sector clients work very hard to make sure that the ministry is kept happy with them.

Mr. Jagmeet Singh: Just to build on that, similarly with a hospital or any other public institution that's receiving funds in a similar format, if the ministry had indicated that they were upset by something or they had a problem with something, in your experience, the institution would respond and would try to allay any concerns.

Ms. Lynne Golding: Absolutely.

Mr. Jagmeet Singh: And with respect to the ability of the minister or the ministry to control Ornge, you indicated that there is the ability to obtain information regarding—would the ability have affected the access to salary disclosure?

Ms. Lynne Golding: No, it didn't, so long as the employees were paid by Ornge or a subsidiary of Ornge. That was why, at the end of 2011, when the ministry asked to receive the salary information of those employees for the 2010 year, our advice was that they should provide those because those funds were paid out of monies that were under Ornge's control at that time. The Auditor General had access to that information as well, and he had recorded the aggregate number in his draft report. The fact that the ministry had access to that information was enough, in our view, to say that they should willingly, therefore, hand it over.

The Chair (Mr. Norm Miller): I believe the auditor would like to make a comment.

Mr. Jim McCarter: I think we found—we did try to get the T4 information. We found it difficult—I guess “time-consuming” would be the right word—to get all the information. We got most of it, but we were unable to get all of it, especially when it came to the for-profit subsidiaries.

That was one of the areas that we did mention to the ministry in suggesting they strengthen the performance agreement. The ministry didn't know what the salaries were of either the board or senior management. We said that we think they're at a high enough level that you need to get this information. We said that the performance agreement will get you part of the way; we're not sure if it'll get you all the way, I guess, was our interpretation of it, Ms. Golding.

Mr. Jagmeet Singh: Just two pieces, then: The performance agreements that you helped in drafting provided that there were a number of reporting requirements that Ornge had to report back to the ministry?

Ms. Lynne Golding: Yes. Three pages' worth.

Mr. Jagmeet Singh: And in addition, the ministry had access to records pertaining to grant funds, whether they were held by Ornge or under Ornge's control. Would that include subsidiaries as well?

Ms. Lynne Golding: Subsidiaries, yes. So up until the end of 2010, all of that information should have been available to the Auditor General or to the ministry. The ministry would have had access to those. That changed after January 1, 2011.

M^{me} France Gélinas: Did Don Guy do work for Ornge?

Ms. Lynne Golding: Yes, he did.

M^{me} France Gélinas: Do you know in what capacity he did and over what period of time?

Ms. Lynne Golding: I didn't know that he had this relationship with Ornge until December 2011. To this day, I don't know very much about it. Really, it was a relationship between Mr. Apps and Mr. Guy, and I think you'd be best to direct your questions that way. However, based on the Hansard of last week and Mr. Apps's testimony, I know that you were looking for figures about the actual billings, and I do have those.

M^{me} France Gélinas: You will table that with the clerk?

Ms. Lynne Golding: Yes.

M^{me} France Gélinas: Thank you. To the best of your knowledge, why was Mr. Don Guy hired?

Ms. Lynne Golding: I really couldn't say.

M^{me} France Gélinas: No? Okay.

Mr. Jagmeet Singh: Can you confirm that Guy Giorno suggested that using the \$1.6 million in public money to start the private companies would raise serious legal concerns or legal issues?

Ms. Lynne Golding: Yes, it was the view of Guy and myself that ministry funds should not be either loaned or granted to any of these for-profits without the consent of the ministry. The performance agreement wasn't absolutely clear on that point, but we thought the better view was that the ministry's consent should be obtained.

Mr. Jagmeet Singh: And did you provide that information, or did you alert the ministry of that?

Ms. Lynne Golding: No. Our relationship was directly with Ornge. They were our client, so that's who we provided our advice to.

Mr. Jagmeet Singh: Okay.

M^{me} France Gélinas: So you had no way of knowing if Ornge acted upon—did you follow up to see if they acted upon that recommendation not to use public funds for their other pursuit?

Ms. Lynne Golding: I'll tell you, I don't even know if the loan was ever made. I looked for it before I came here to see if there was any evidence. I couldn't find any, but that doesn't mean it wasn't made.

I do know that the vertical restructuring, as I call it, the one where Orngeco and Peel were created—we had suggested that the ministry be apprised of all of that before it was begun. It wasn't, which made us uneasy, but I do understand that in 2008, Ornge officials met with the ministry and fully briefed them on all of those transactions.

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

Mr. Jagmeet Singh: If it was obvious to you and at least to Mr. Giorno that this would raise concerns—the public and the private kind of overlapping—do you see any reason why the ministry officials wouldn't reach the same conclusion, that there were some issues with this?

Ms. Lynne Golding: I think that they could have taken great comfort from the fact, as I say, that Ornge took the view, based on the language of the performance agreement, that all assets and revenues of Ornge or under its control were subject to review by the ministry. I would hope that the ministry would have been satisfied with the explanations given. It appears they were, if they were so briefed in 2008.

The Chair (Mr. Norm Miller): We are pretty much out of time, so a very short question.

M^{me} France Gélinas: What do you know about Ornge Brazil?

Ms. Lynne Golding: Nothing.

The Chair (Mr. Norm Miller): Thank you very much. We'll move to the government now. Mr. Leal.

Mr. Jeff Leal: Thank you for your presentation today. I have a number of questions. Are you or have you been a member of either the Conservative Party of Canada or the Progressive Conservative Party of Ontario?

Ms. Lynne Golding: I am a proud member of both.

Mr. Jeff Leal: It is my understanding that you're in fact married to Tony Clement, a former provincial cabinet minister and currently a minister in the Harper government. Can you confirm that for the record?

Ms. Lynne Golding: That is true.

Mr. Jeff Leal: In the past 12 months, have you spoken with any Ontario Progressive Conservative MPPs or political staffers about Ornge?

Ms. Lynne Golding: I saw Mr. Miller on Saturday and I asked him to please make sure I appeared today and didn't have to put this off for yet another week. That was it.

Mr. Jeff Leal: So you're saying that other than Mr. Miller—in the past 12 months, he's the only one that you've talked to?

Ms. Lynne Golding: MPPs, yes.

Mr. Jeff Leal: In recent months, the Ontario PC caucus, many of whom you no doubt know personally from your days with the Ontario PC Party, have been highly critical of your work and what your firm did for Ornge, particularly as it relates to the creation of the for-profit affiliates and subsidiaries. Mr. Klees in the House on several occasions has referred to this work as a "scheme." Do you stand by your work that your firm has done for Ornge?

Ms. Lynne Golding: Yes. I stand by the work that we have done. The structures that are in place are standard structures on the for-profit side for for-profit entities, and the structure on the "left side," as we call it, the not-for-profit structure, is also commonly used in the charitable and not-for-profit sector.

Mr. Jeff Leal: Last week, during his testimony, Mr. Apps indicated that your firm, Fasken Martineau DuMoulin, had a lucrative retainer with Ornge and provided a wide range of legal services to the organization. He indicated that you had considerable responsibility for this retainer and in fact were a billing partner at one point in time. Is that correct?

Ms. Lynne Golding: No, I was not the billing partner.

Mr. Jeff Leal: What is the precise nature of the legal services that you provided to Ornge?

Ms. Lynne Golding: We were their general counsel, which means that we provided pretty much all their legal advice in the province of Ontario, with the exception of insured litigation and union labour advice.

Mr. Jeff Leal: We have a summary of some billings from your law firm—and these are summaries. I wonder if it would be possible to get a more precise breakdown of time chits from your firm.

Ms. Lynne Golding: All right. What I've just circulated there, those are Mr. Guy's invoices to our firm for his services, but I do have a summary of our legal fees, if you'd like those as well.

Mr. Jeff Leal: Your personal billings?

Ms. Lynne Golding: My firm's billings.

Mr. Jeff Leal: Are they time chits or just summaries?

Ms. Lynne Golding: It's the gross amount billed of our fees for the for-profit and not-for-profit entities from 2003-12. It sets out as well the amount with taxes and disbursements.

Mr. Jeff Leal: Could you table that quickly so we get a chance to do an analysis on it, please?

Ms. Lynne Golding: It also describes the types of services that we provided, examples of them.

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Mr. Jeff Leal: If I can continue: Last week, Mr. Apps indicated that Mr. Giorno, a lawyer with your firm and also a prominent Conservative, provided legal advice with respect to Mr. Mazza's salary. Is that correct?

Ms. Lynne Golding: I'm sorry. The question was, did we provide advice?

Mr. Jeff Leal: Yes.

Ms. Lynne Golding: A lawyer in our firm did draft the 2007 employment contract and the 2011 employment contract.

Mr. Jeff Leal: What is the name of that lawyer?

Ms. Lynne Golding: Donna Gallant.

Mr. Jeff Leal: Thank you very much.

Ms. Lynne Golding: She received her instructions on that from Mr. Apps.

Mr. Jeff Leal: Did any work involve determining whether Mr. Mazza's \$1.4-million salary was appropriate under provincial rules and guidelines, including the public sector salary disclosure rules?

Ms. Lynne Golding: We gave advice on whether the salary should be disclosed under that act.

Mr. Jeff Leal: Was that generally the conclusion that Mr. Giorno reached?

Ms. Lynne Golding: Mr. Giorno and I did conclude that while Dr. Mazza was employed by Peel, he was not subject to disclosure of his salary under the act. Now, if I may, that wasn't the end of our advice. Our advice went on to say that Ornge should be aware that the ministry could, with the stroke of a pen, pass a regulation designating Ornge and its subsidiaries—Ornge was already subject to it, but its subsidiaries—as entities that would be required to comply. We also urged them to voluntarily

disclose the salaries, but said that they could only do that with the consent of—

Mr. Jeff Leal: Were you aware that Mr. Mazza was earning \$1.4 million in salary and compensation last year?

Ms. Lynne Golding: No. I only became aware of that on December 21, after the amount had been disclosed to the ministry.

Mr. Jeff Leal: In your professional view, do you think that's an appropriate salary considering most of Ornge's funding comes from the provincial treasury?

Ms. Lynne Golding: I think it's outrageous.

Mr. Jeff Leal: Were you involved in the decision to transfer Dr. Mazza's employment contract for the non-profit Ornge to one of Ornge's for-profit entities?

Ms. Lynne Golding: I was asked to give advice on that, and I suggested that they obtain the consent of the ministry before doing so.

Mr. Jeff Leal: When did that take place?

Ms. Lynne Golding: That was in November 2006—November 15.

Mr. Jeff Leal: Did the move have anything to do with providing him with an opportunity to earn more salary and more compensation?

Ms. Lynne Golding: I don't actually think that was the motivation. I think that the motivation was to put management in the separate for-profit corporation so that they could lend out their services, so they could provide those management services to other entities and earn a revenue stream from doing so.

Mr. Jeff Leal: Were you aware that this transfer would result in him being removed from Ontario's sunshine list?

Ms. Lynne Golding: It didn't occur to me when I first gave the advice, but certainly we knew in January, because that was when we were asked for specific advice on that question.

Mr. Jeff Leal: Do you see any connection between Dr. Mazza's salary skyrocketing from \$250,000 a year to \$1.4 million a year at the same time as his salary was taken off-book?

Ms. Lynne Golding: Well, it clearly happened. I don't know why, but it clearly happened.

Mr. Jeff Leal: With the benefit of hindsight, do you think Mr. Giorno's advice to Ornge with respect to the appropriateness of Dr. Mazza's salary was good advice?

Ms. Lynne Golding: I want to be clear: Mr. Giorno didn't suggest that Dr. Mazza's employment should be transferred. He simply answered the question: If his employment was transferred, would his salary be subject to disclosure rules? He said that it would not be, but that government could easily make it so by passing a regulation.

Mr. Jeff Leal: Have you ever worked with Kelly Mitchell in his role as one of the partners of the Pathway Group, in relationship to your work at Ornge and he being a former board member? Did your paths ever cross?

Ms. Lynne Golding: Not in that capacity at all, no.

The Chair (Mr. Norm Miller): You have about a minute and a half, Mr. Leal.

Mr. Jeff Leal: Could I go back just to clarify? Could you repeat that one more time, Ms. Golding, please—

Ms. Lynne Golding: No, I didn't do any work with Mr. Mitchell relating to Ornge.

Mr. Jeff Leal: But you know Mr. Mitchell?

Ms. Lynne Golding: Oh, yes.

Mr. Jeff Leal: Okay.

Mr. David Zimmer: We understand from Mr. Apps that there are relationship partners, billing partners and responsible partners. Which partner are you?

Ms. Lynne Golding: Responsible partner. We have three different categories of our client files. A responsible partner is the one who's responsible for a specific matter. So I was responsible for some matters, including those five that I listed at the beginning.

Mr. David Zimmer: I've got your time summary here. You've got the total staff part and the other one—I've got it here.

Ms. Lynne Golding: You want—

Mr. David Zimmer: It totals \$9.5 million plus HST and some other things.

Ms. Lynne Golding: Right.

Mr. David Zimmer: And those are summaries. Can we have the actual time chits that the lawyers fill out, which would show us who met with whom and on what date and what they actually did?

Ms. Lynne Golding: Twenty-two thousand hours—it's a lot. I will have to find out if we can provide that. If we can, we will.

Mr. David Zimmer: But that information would tell us who met with whom, on what dates and—

Ms. Lynne Golding: Is it that you're looking for a list of who met with government people or who met with—

Mr. David Zimmer: No. Can you produce the detailed billing dockets?

Ms. Lynne Golding: I will have to speak to my managing partner about—

The Chair (Mr. Norm Miller): And we are out of time at this time, so we'll move to the opposition. Mr. Klees.

Mr. Frank Klees: Thank you, Chair. Ms. Golding, I think you've given us the turning point of these hearings. We have, for the last number of months, heard repeatedly from the Minister of Health that the reason that she was not able to intervene at Ornge was because the performance agreement didn't allow her to do so because Ornge was incorporated federally. That was, I think, the third or fourth reason that she gave us.

We have been trying to draw their attention to the original performance agreement. I think one of the specific schedules was schedule 15. They've, for whatever reason, refused to look there.

We've drawn attention to the fact, as well, that there's other legislation that certainly empowers the Ministry of Health to step in, as you pointed out today, to five hospitals that are similarly incorporated, and what you have given us today is a confirmation that those were

simply excuses on the part of the Minister of Health and, quite frankly, a cover-up of their lack of oversight, and the Auditor General pointed that out.

I am wrestling with this, and perhaps you can help me. Would you have any thought as to what kind of advice the minister might have relied on to give her such confidence to stand in the Legislature and tell the members of the Legislature that she had no authority to intervene? Where might she get that advice?

Ms. Lynne Golding: I really don't know.

Mr. Frank Klees: It certainly couldn't come from anyone who is at all familiar, first of all, with legislation relating to the ministry's authority. It couldn't come from anyone who was intimately familiar with the performance agreement. Is that correct?

Ms. Lynne Golding: I wouldn't think so.

Mr. Frank Klees: I'd like to ask you about this shift between the not-for-profit and the for-profit entities. As I understand the performance agreement, it never contemplated this transition to the for-profit scheme, and I have no problem referring to it as that, and the reason I don't is because I see an intentional leverage of public funds into those for-profit companies.

I see your billings here to the for-profit companies was \$2.8 million. We have no evidence that those for-profit companies generated any revenue. The only conclusion that we can draw is that the funds that flowed into those for-profit companies came from the operational dollars, from that steady cash flow that came from the Ministry of Health intended for our air ambulance services.

Ms. Lynne Golding: I'm not sure that is true. Remember, the global side did have some other sources of revenue. There was, as we all know, the \$4.8 million from AugustaWestland. So it would have been used to pay expenses on the right side, as we call it, the for-profit side, presumably including our legal fees. As well, that credit lease transaction which you've all heard about generated \$5.6 million of investment, also on the right side, and presumably those amounts were also available to pay our legal fees. I don't know for sure, but certainly that is a pool of money that could have been available for that purpose.

Mr. Frank Klees: Sure. So, with regard to that credit lease transaction, based on what we are hearing, that was all debt. It was basically generated by what we understand was an inflated appraisal of that property that Ornge very quickly mortgaged.

1330

Ms. Lynne Golding: The Auditor General takes the view that it was an inflated price. The Auditor General received one valuation which said that it was much lower than the valuation that Ornge received. Ornge doesn't take the view that it was inflated.

Mr. Frank Klees: With regard to the not-for-profit, I understand that advice was given to Ornge that it would be inappropriate to fund, from the not-for-profit Ornge entity, government funds into this charity that was being created. Do you recall the advice that Fasken gave to Ornge on that, and could you—

Ms. Lynne Golding: To not fund the not-for-profit with the charitable monies—

Mr. Frank Klees: Right.

Ms. Lynne Golding: —without the consent of the ministry, yes.

Mr. Frank Klees: I also understand that there is a contradictory opinion that was given by the same law firm?

Ms. Lynne Golding: That's right. A few months after Mr. Giorno and I provided our advice, Mr. Apps provided a separate opinion. It was on a different structure that he had proposed, but he didn't think that the consent of the ministry would be required. He thought it would be appropriate.

Mr. Frank Klees: So your advice was, "You shouldn't do this." Mr. Apps came along a few months later and said, "No, that's okay. We'll do it this way," and that, I think, was going to involve some \$1.6 million of seeding.

Ms. Lynne Golding: Right.

Mr. Frank Klees: When there's a conflict between two lawyers of the same firm, what typically would happen?

Ms. Lynne Golding: Well, you know, the law is unfortunately not always black and white. It's often grey, so there are disagreements that do emerge between partners. Generally, we get together and see if we can resolve our differences, reason with each other, do more research, speak to other people. If we can't resolve those—and it's not very often; usually we can—then we would present to our client both different perspectives and say what the risks were of accepting one or the other.

Now, in this case, it was kind of odd because the client knew full well of the difference in our opinions, but actually the lawyers didn't. Certainly, Mr. Giorno and I knew nothing about the advice that Mr. Apps gave, and I don't know whether he knew of our prior advice.

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

Ms. Lynne Golding: In the end, the client had both pieces of advice.

Mr. Frank Klees: Interesting. At the end of the day, the shift into this for-profit side: From your perspective, did it achieve the intended goal that Ornge had?

Ms. Lynne Golding: I think the bankruptcy of the Ornge Global entity shows that it did not achieve their objective.

Mr. Frank Klees: Thank you.

The Chair (Mr. Norm Miller): Thank you. And, Auditor, did you want to make a comment about the lease?

Mr. Jim McCarter: Just on the lease transaction, I think our focus was not so much on the market value of the building; it was more on, Ornge renegotiated higher lease rates. We actually brought in a large national commercial real estate company to assess if those renegotiated lease rates were really market value for the airport corporate area. The advice we got was that the lease rates were 40% higher than market value, and they structured a

25-year lease. So when you have a building, the higher the lease rates and the longer the lease term, that, in itself, increases the market value of the building. I will add, though, as we said in our report, that they did get an opinion from another—it was actually a public accounting firm that indicated that they felt the lease rate was reasonable. So, Mr. Klees, we presented both sides of the story.

Mr. Frank Klees: Thank you.

The Chair (Mr. Norm Miller): Thank you for your presentation today, Ms. Golding.

Okay, so now we have a bit of time before our next presenter, in that the next presenter is scheduled for 2 o'clock, and we have a backlog of motions before the committee. So we're going to deal with them in the time available, and if we run out of time, we're going back to our presenters. We'll deal with them starting with the oldest moving towards the newest.

The first motion we have, the oldest one, starting from oldest to newest, is one Mr. Barrett had put forward. Do you want to move that motion?

Mr. Toby Barrett: Thank you, Chair. This is a motion that the Standing Committee on Public Accounts ("the committee") direct the clerk of the committee to request the attendance of the following individuals as witnesses in relation to the committee's consideration of the 2012 special report of the Auditor General of Ontario on Ornge air ambulance and related services: Mr. Bruce Bennett, (former ADM, controller, Ministry of Finance); Mr. Skanda Skanthavarathan (chief accountant, Ministry of Health); Ron Sapsford (former MOH deputy who testified at the February 23, 2006, public accounts); Ms. Mary Kardos Burton (former MOH ADM of acute services division); Jennifer Tracey (Ornge); and, lastly, Diane Flanagan, chief of staff to Dwight Duncan (2007).

I think that's been distributed to everybody, that motion.

The Chair (Mr. Norm Miller): Okay. Any comments? Ms. Sandals.

Mrs. Liz Sandals: I would like to table an amendment, which I believe people have on their desks.

The Chair (Mr. Norm Miller): Very good. Everyone has a copy of the amendment, I understand.

Mrs. Liz Sandals: Would you like me to read that into the record?

The Chair (Mr. Norm Miller): Yes, please do.

Mrs. Liz Sandals: And, in addition, that the committee direct the clerk of the committee to request the attendance of Kelly Long, former associate vice-president at Ornge, for the purpose of providing evidence to assist the committee in its consideration of the 2012 special report of the Auditor General of Ontario on Ornge air ambulance and related services and that her attendance be scheduled at the earliest possible opportunity.

The Chair (Mr. Norm Miller): Any discussion? No discussion, so we vote on the amendment first. All in favour? Carried.

The motion, as amended, all in favour? Carried.

What's next, Mr. Clerk, in the pile?

The Clerk of the Committee (Mr. William Short): France Gélinas's motion.

The Chair (Mr. Norm Miller): Okay. We'll get the next motion.

M^{me} France Gélinas: I was told that I can read it into the record to save time. Is this okay with you, Mr. Chair?

The Chair (Mr. Norm Miller): Please.

M^{me} France Gélinas: Thank you. That the Standing Committee on Public Accounts direct the clerk of the committee to request the attendance of the following individual as a witness in relation to the committee's consideration of the 2012 special report of the Auditor General of Ontario on Ornge air ambulance and related services: Cynthia Heinz, administrator of Ornge Global Brazil.

1340

The Chair (Mr. Norm Miller): Any discussion?

All in favour? Carried.

What's our next motion, Mr. Clerk?

Interjections.

Mr. Frank Klees: I'll read it, with your permission: That the Standing Committee on Public Accounts ("the committee") direct the clerk of the committee to request the attendance of the following individuals as witnesses in relation to the committee's consideration of the 2012 special report of the Auditor General of Ontario on Ornge air ambulance and related services: Jim Sinclair, director, legal services, Ministry of Finance; Peter Wallace, former Deputy Minister of Finance; Trevor Kidd, flight paramedic; Ron Smith, director of transportation, CAW/TCA Canada; Randy L'Heureux, associate vice president, operations, Ornge; and Hon. David Caplan, former health minister.

The Chair (Mr. Norm Miller): Yes, Liz?

Mrs. Liz Sandals: Just to note for the record that this has been tabled so long that I believe Mr. Caplan is scheduled for next week, and in fact Mr. Wallace has already appeared. So would it be a friendly amendment to delete the two who've already either appeared or have been already scheduled?

Mr. Frank Klees: I don't have a problem with deleting Mr. Caplan or Peter Wallace. I would like to, in that case, add Mr. Wallace to my motion that is recalling witnesses.

Interjection.

The Chair (Mr. Norm Miller): Okay. So we have an amendment to delete those two names. Any discussion? All in favour of the motion, as amended? So the motion, as amended—that's with the names taken off. Carried.

Mr. Frank Klees: With your permission, Chair?

The Chair (Mr. Norm Miller): Yes, please, Mr. Klees.

Mr. Frank Klees: That the Standing Committee on Public Accounts ("the committee") direct the clerk of the committee to recall the following individuals to attend as witnesses in relation to the committee's consideration of the 2012 special report of the Auditor General of Ontario on Ornge air ambulance and related services: Hon. Deb Matthews, Minister of Health; Saäd Rafi, Deputy Min-

ister of Health; George Smitherman, former Minister of Health; Patricia Li, ADM, Ministry of Health; and Malcolm Bates, director, emergency health services branch, Ministry of Health.

Mr. Chair, if I might just speak to this.

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

Mr. Frank Klees: It's very clear with all of these people that we do not have the time to properly question and to get through the important information that we have. All of these people have been here, every one of them. We have not had the opportunity to fully question them. That's why I'm asking for the recall.

In another motion that I have, I'm going to be making another recommendation with the people whom we are recalling that we do so on the understanding that they are to come and attend here until we, as a committee, are finished with them.

I think this business of us constantly calling them back and having people come here and then not be able to do our work just is not only frustrating for us, but it's an inconvenience for the witnesses as well.

The Chair (Mr. Norm Miller): Thank you. We'll see whether we have time to get to your next motion, and if not, I would suggest that the subcommittee talk about it next Monday if we don't get to it. Ms. Sandals?

Mrs. Liz Sandals: I'm not arguing with the fact that you might want to recall them. I'm concerned about process here, and it actually goes to the thing that you just said, which is, you want to add the ability to endlessly call them back. It seems to me that it would be much more efficient for the committee and much more efficient for the witnesses, because some of these people, like, we've got the secretary of cabinet—he's got better things to do than sit here and wait for us to say, "At our pleasure, we'd like to talk to you for 10 minutes now and 20 minutes some other day." He really does have other things to do in this world.

Perhaps this is something that we need to work on at subcommittee: that we'll go through everybody once, and then when we've got all the comment about everything, it would be more efficient to call them back, so that when we call them back, we've got the accumulation of everything that we've discovered in the interim. We might want to talk to them further, rather than having them being treated like Ping-Pong balls.

Mr. Frank Klees: Mr. Chair, I have no objection to that. I think what I will be insisting, though, that we adopt is from the timing: that when we do call them back, it's not for half an hour—that we call them in such a way that we give them a time to be here, and it will be up to the clerk to appropriately schedule to allow for that time. If we need an hour or an hour and a half with a particular witness, they should be ready to come and know that they're here as a witness for as long as this committee wants to question them. So it may be an hour; it may be 45 minutes; it may be longer. I think if we're to get down to work here and get the information that we need, we need to have that latitude with these witnesses—and to your point, to their benefit as well.

Mrs. Liz Sandals: If I could make one other suggestion, then, and perhaps, again, it's a friendly amendment: that we add on to the motion that the question of the timing of the scheduling of these recalled witnesses be referred to the subcommittee, because we don't need to thrash that all out today. But if we have an understanding that it will be after we've heard the rest—but just say "referred to the subcommittee" and we can discuss it at length then.

The Chair (Mr. Norm Miller): Very well. Mr. Ouellette?

Mr. Jerry J. Ouellette: It has been the practice of this committee, with most of the other presentations and the other reviews that we undertake, to have extended periods of time for these individuals to come forward. The set-up that we have now is more the exception to the rule that I'm used to in the years that I've had on this committee. I think that it would be in the best interest—to use a specific individual, Mr. Peter Wallace, for example—to say, "Make yourself available for this afternoon," and other individuals at that time, possibly, to come forward. I would agree that the subcommittee should be the one to define those rules as necessary.

The Chair (Mr. Norm Miller): So we have a motion and we have an amendment to it, I believe. We'll need two minutes to draft up the change to the motion, so we'll recess for a couple of minutes.

The committee recessed from 1345 to 1347.

The Chair (Mr. Norm Miller): Okay, so we'll come back to order here, back in session. Do you want to read out the amended motion?

The Clerk of the Committee (Mr. William Short): The amendment that was just agreed to, on top of Mr. Klees's original motion, that the committee refer the decision of scheduling recalled witnesses to the subcommittee: That was agreed to by everybody?

The Chair (Mr. Norm Miller): Yes, and that Peter Wallace—

The Clerk of the Committee (Mr. William Short): And that Peter Wallace's name be added to the original motion and deleted off of the previous one as a recalled witness. That's now what we're dealing with, so if a member can just read this into the record, then we're official.

Mrs. Liz Sandals: What, as an amendment?

The Clerk of the Committee (Mr. William Short): That's the amendment to the original motion.

Mrs. Liz Sandals: Okay. Did you already read Peter Wallace in, Frank?

Mr. Frank Klees: Yes.

Mrs. Liz Sandals: I'll move an amendment that the committee refer the decision of scheduling recalled witnesses to the subcommittee.

The Chair (Mr. Norm Miller): Okay, any discussion? So all in agreement on the amendment? Carried.

And the original motion as amended? Carried.

Okay, this is another Mr. Klees motion that everybody has a copy of.

Mrs. Liz Sandals: Which one is it? We've got a bunch of Mr. Klees's motions.

The Chair (Mr. Norm Miller): This is the one with Don Guy.

Mr. Frank Klees: That the Standing Committee on Public Accounts, pursuant to standing order 110(b), whereby each committee shall have power to send for persons, papers and things, compel the government to produce and table to this committee any and all emails, correspondence, notes and/or materials that were sent, received or copied or named or referenced Mr. Don Guy that relate to Ornge and/or Ontario's air ambulance service.

The Chair (Mr. Norm Miller): Discussion?

Mrs. Liz Sandals: I have an amendment, which I happily do have copies of this time.

The Chair (Mr. Norm Miller): And your amendment?

Mrs. Liz Sandals: This is because this is production, so this is more production.

That Kelly Mitchell be compelled to produce and table with the committee no later than Monday, April 30, all written records, including but not limited to billing statements, invoices, emails, correspondence and notes relating to Pathway Group's work for Ornge and/or Ontario's air ambulance service.

I do have copies.

The Chair (Mr. Norm Miller): Your date on that was April 30?

Mrs. Liz Sandals: Yes. I think that's related to his appearing at the committee on May 2. That would facilitate trying to get the documents so committee could actually see the documents before we do the examination, which would seem to be helpful.

M^{me} France Gélinas: Mr. Chair?

The Chair (Mr. Norm Miller): Yes.

M^{me} France Gélinas: I really hate procedures, but it seems to me that this is not an amendment; this is two individual motions that should just be treated as such. One has nothing to do with the other. As much as I hate procedures, here I am bringing forward this point that this is not an amendment. It has nothing to do with the motion. Although I have no problem with what she's bringing forward, it's a motion of its own.

The Chair (Mr. Norm Miller): I will confer with the clerk to decide if this is in order or not as an amendment.

My advice from the clerk is that it is more a separate motion, so we'll deal with it as a separate motion.

Mrs. Liz Sandals: Just hang on to it?

The Chair (Mr. Norm Miller): Yes, we shall. We have Mr. Klees's motion. Any discussion on that motion? All in favour? It's passed, carried.

Okay, I think we have another Mr. Klees motion.

Mr. Frank Klees: This is a bit lengthy. Everyone has a copy of it, I'm assuming.

That the Standing Committee on Public Accounts, pursuant to standing order 110(b), whereby each committee shall have power to send for persons, papers and things, compel Mr. Alfred Apps to produce and table to

this committee forthwith all documents and materials referenced during his testimony under oath before this committee, including but not limited to the following documents, materials, papers and things related to his testimony:

(1) "a summary of my personal and professional background";

(2) "a detailed overview of the legal work I did in relation to Ornge";

(3) documents pertaining to how, when and what Mr. Apps was referring to when he said, "I was aware of the marketing services agreement with AgustaWestland";

(4) documents in Mr. Apps's possession, or his ability to possess, that prove or back up his assertion that the corporate structuring of Ornge "was a conventional, bankruptcy-remote, private equity, limited-partnership investment structure that those experienced in private equity investment would easily recognize and understand as commonplace";

(5) Any documents, briefings, notes, emails, logs and/or correspondence that support Mr. Apps's assertion that "the government was thoroughly informed in respect of this reorganization before it was completed" and any correspondence and/or responses and/or evidence that show the government's response had "raised no objections in respect of it";

(6) documents that support Mr. Apps's assertions when asked about Dr. Mazza's salary and/or loans where he said the "government was thoroughly, painstakingly and, in all cases, truthfully briefed in advance of Ornge taking any of these actions";

(7) detailed documents promised to be tabled by Mr. Apps when responding to questioning by the member from Bramalea-Gore-Malton, Mr. Jagmeet Singh:

"Mr. Jagmeet Singh: You indicated that you briefed the government and you were present during those briefings. Who did you brief and who was present?"

"Mr. Alfred Apps: I've got a detailed record of every briefing that I participated in.

"Mr. Jagmeet Singh: Would you be able to just—

"Mr. Alfred Apps: I can just give you a high-level overview, and if you want more detail, I'm happy to give it.

"Mr. Jagmeet Singh: Would you be able to table that detailed—

"Mr. Alfred Apps: Sure, I'm happy to table it."

Just very quickly, Mr. Chair, the reason for this is that Mr. Apps made it very clear that he had very detailed information. He did provide us with a summary, which we don't consider to be sufficient. We are looking forward to Mr. Apps following through on his commitment to provide us with those detailed records regarding every one of his meetings that he conducted with representatives of this government.

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

Mr. David Zimmer: It might be, Mr. Klees, in answer to my question to Ms. Golding—she produced, you'll recall, what were effectively summaries of the billings. I said: Could she produce the detailed time

dockets? For the non-lawyers here, lawyers fill out a docket entry and they have to put in great detail in there: “Mr. Zimmer met with Mr. Klees on December 4 at such-and-such and we discussed this, that and the other thing.” It’s all there in great detail. Her answer was that she would take that up with her managing partner. Certainly, if they released those records, that would have everything and more in spades, right down to “we met for 27 minutes” or “we met for nine hours” or whatever, and the detail about it. So perhaps we should pursue that.

Mr. Frank Klees: Mr. Zimmer, I’m happy to have you pursue that. I know what I’m looking for through this motion—

The Chair (Mr. Norm Miller): Okay, and we have a minute left to discuss this, if we want to deal with it now. Any other further comments?

Mr. Frank Klees: I would hope you’d call the question, sir.

The Chair (Mr. Norm Miller): Okay. All in favour? Carried.

We are now going to leave the rest of the motions. We did get through a fair stack of them.

Mr. David Zimmer: Just following up on that, could I ask the—

Mrs. Liz Sandals: Could we do the others?

The Chair (Mr. Norm Miller): We’re out of time for more motions, but we will deal with them in order as time becomes available, so as we don’t get off our schedule. We have lots of witnesses—

Mr. David Zimmer: Not a motion, just to the clerk: If you could follow up with Ms. Golding and get an answer to her question—“I’ll check with my managing partner.” And then we’ll go from there.

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

The Chair (Mr. Norm Miller): Very well. The clerk will follow up on that, Mr. Zimmer.

INFRASTRUCTURE ONTARIO

The Chair (Mr. Norm Miller): Our next presenter is from Infrastructure Ontario. That’s Mary Lowe, executive vice-president, lending and new business. Welcome.

Ms. Mary Lowe: Is this where you want me to sit?

The Chair (Mr. Norm Miller): Yes, please. You’ve received the letter with advice on a witness coming before the committee?

1400

Ms. Mary Lowe: I did, thank you.

The Chair (Mr. Norm Miller): Very well. Our clerk will have an oath for you to swear.

The Clerk of the Committee (Mr. William Short): Ms. Lowe, you wanted to be affirmed, right?

Ms. Mary Lowe: Affirm, yes.

The Clerk of the Committee (Mr. William Short): Could you please raise your hand? Ms. Lowe, 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. Mary Lowe: Yes, I do.

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

The Chair (Mr. Norm Miller): You have five minutes for an opening statement, and then the three parties will ask questions.

Ms. Mary Lowe: Thank you to everyone for the opportunity to appear before the committee. I also appreciate the time, Chair, that you’ve afforded me to provide some introductory comments.

In October 2009, I was asked to be the chief of staff to the Minister of Health and Long-Term Care. This is a position I held until February 2011, approximately 16 months.

The majority of my career has been spent in the public service. At the federal level, I worked in British Columbia in the British Columbia regional office for Industry Canada and the Canadian Food Inspection Agency. I also spent a few years in the private sector working on a large transit project in Vancouver. Prior to joining health—and currently, as the clerk mentioned—I worked for the provincial infrastructure agency. I’m responsible for managing a lending program which provides financing to municipalities and broader public sector organizations to enable them to borrow for their infrastructure needs.

As chief of staff at the Ministry of Health and Long-Term Care, my role was to manage the staff in the minister’s office, to liaise with ministry officials on legislative and policy issues, and to act as a representative for the minister to health stakeholders. During my 16 months at health, I was involved in a number of government files and policy initiatives. A priority was continuing to work with the hospital sector on the government’s wait times agenda.

Many pieces of legislation were introduced during that time. An early priority—in fact, in my first week—was acting on the H1N1 global challenge. Public health legislation was introduced during that time to increase the powers of the chief medical officer of health following that global outbreak in 2009. A safe narcotics act was introduced to provide tools to health practitioners to better track narcotic use across the province. Legislation related to quality health care was passed, changing how hospitals are compensated for the care they provide and to implement best practices in governance. The Broader Public Sector Accountability Act was also brought forward by Minister Matthews during the time that I worked for her. The minister was very keen—as I see some committee members here who sat on the all-party committee—to progress the mental health agenda, and that was certainly a big priority for our office during the time I acted as her chief of staff.

On the regulatory side, Minister Matthews also introduced changes to the way pharmacies are compensated and to generic drug prices. I personally was heavily involved in that exercise and in the discussions with pharmacy representatives, with generic drug manufac-

turers, along with seniors' groups, health advocates, insurance companies and other medical stakeholders. All of these initiatives had complex, often very difficult stakeholder relationships to work through. Minister Matthews was consistent about the need across the sector to find ways to improve the quality of care for Ontarians while strengthening accountability.

Minister Matthews had an activist agenda on a number of health fronts, including, as I said, improving the quality of health services, transparency and accountability in the system. The minister and our office worked hard to be available to meet with health stakeholders and health care workers in the system to better understand the complexities they dealt with on a day-to-day basis and where our intervention from a policy perspective might improve that.

I say all this to provide my perspective on the action taken while I was in her office to improve quality health care and also accountability, action which, in some cases, put the minister in a very public battle against well-resourced lobby efforts.

Speaking specifically about air ambulance services, I received two pieces of correspondence from the air ambulance organization: one was in December 2012 and the other was in January 2011. These were written descriptions of an initiative they wanted to undertake to expand their services. They were clear in the correspondence to point out that no public funds would be used for the effort, nor would there be any downside risk to the Ontario air ambulance system.

Knowing that further conversations were needed on this, I asked the ministry to follow up and include any other relevant ministries in a meeting. A meeting with officials from the air ambulance provider was set up in late January 2011, following the correspondence that was received. I did not attend that briefing.

The Auditor General has pointed out real problems at the agency. That information in the auditor's report was tabled after I left the ministry. As I understand, when these problems were brought forward, the minister acted on them.

Thank you for the opportunity to provide some comments, and I'd be pleased to answer any of your questions.

The Chair (Mr. Norm Miller): Thank you. It's time for the government to go first. Ms. Sandals?

Mrs. Liz Sandals: Thank you very much for providing that summary of what was going on at the ministry when you were there as chief of staff. Just refresh my memory: What years were you actually there?

Ms. Mary Lowe: Minister Matthews was appointed in early October 2009. I think I followed her about a week or two later, and then I left in February 2011. So I've been gone over a year.

Mrs. Liz Sandals: Okay, thank you very much. I would conclude from your remarks that if you were to summarize your responsibilities, the files that you were actively involved in were those which were ongoing policy issues or, in the case of H1N1, an ongoing health emergency.

Ms. Mary Lowe: Correct. Certainly H1N1 was a key component. There was legislation on quality health care and the safe narcotics act, and the pharmacy negotiations consumed a considerable amount of my time.

Mrs. Liz Sandals: So if we just go back to Ornge, then, you mentioned in your statement that you were not made aware of the problems at Ornge—or at least that's what I understood you to say—during your time as chief of staff. Just to get really specific, so it's clear, did you ever have any reason to meet with Chris Mazza during the time you were chief of staff?

Ms. Mary Lowe: No, I did not, and I did not meet with him.

Mrs. Liz Sandals: A similar question: Mr. Beltzner, the chair of the board?

Ms. Mary Lowe: I did not meet with him.

Mrs. Liz Sandals: Tom Lepine?

Ms. Mary Lowe: I did not meet with him.

Mrs. Liz Sandals: Have you ever received a tour of any of the Ornge facilities?

Ms. Mary Lowe: I have not.

Mrs. Liz Sandals: Have you ever had a conversation with Mr. Apps?

Ms. Mary Lowe: Mr. Apps sent me correspondence. I did not speak with him.

Mrs. Liz Sandals: And have you ever met or spoken to Don Guy in relation to Ornge? I mean, obviously, you may have had conversations with Mr. Guy about other things, but have you ever spoken to him about Ornge?

Ms. Mary Lowe: I had no discussions with Mr. Guy about air ambulance services or the Ornge agency.

Mrs. Liz Sandals: Okay, thank you very much. If we then go forward to January 2011—because, again, you mentioned that you did receive the email from Mr. Apps, along with a very long list of people—could you just remind us then, briefly, what the email was about?

Ms. Mary Lowe: Sure. So there were two pieces of correspondence. One was a letter that was to a number of different officials within government.

Mrs. Liz Sandals: Oh, okay.

Ms. Mary Lowe: And one was an email that I was copied on, requesting a meeting. That correspondence did come from Mr. Apps. With both pieces of correspondence, I forwarded it on to the ministry. I'd understood after reading it, after taking a review of the materials, that there would need to be further conversations on what was contained in the letters. I forwarded it on to the ministry and asked that they follow up with a meeting.

Mrs. Liz Sandals: Just so I can sort this out in my own mind, then: First of all, you got an email asking to have a meeting, which you forwarded to the ministry, and then you got the letter which was copied to the world, which you made sure was followed up on at the ministry or at least was sent on to the ministry for their action?

Ms. Mary Lowe: Correct. When the email was sent to me, I did follow up with the agency itself and asked them to contact the ministry directly, rather than through external counsel, to set up any further meetings.

Mrs. Liz Sandals: And just to be clear, when you had a look at the letter, it didn't raise any flags for you; it was one more piece in your in-basket?

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Ms. Mary Lowe: It was certainly detailed correspondence, and in my review of it, what I recall are some of the things they highlighted saying that no public funds would be used, that there would be no downside risk to air ambulance services. It was a comprehensive piece of information, and so I did know that further conversations were going to be needed on the initiative, and then I forwarded it on.

Mrs. Liz Sandals: Okay, thank you very much. You then, as you said, about a year ago, left as chief of staff. Do you mind sharing why?

Ms. Mary Lowe: Certainly. I don't think it's any surprise to any member in this House the kind of personal demands your positions place on your lives on a day-to-day basis. I have two young children who, during the 16 months—one was two at the time. It was a big sacrifice on their life and wasn't something, over the long term, that I was prepared to continue.

Mrs. Liz Sandals: And now that you've returned to Infrastructure Ontario, have you had anything at all to do with Ornge since you've gone to Infrastructure Ontario?

Ms. Mary Lowe: Nothing.

Mrs. Liz Sandals: Okay. Thank you very much. Thank you for your help.

The Chair (Mr. Norm Miller): We'll move, then, to the opposition. Mr. Klees?

Mr. Frank Klees: Thank you, Ms. Lowe.

You said that you received some correspondence from Dr. Mazza?

Ms. Mary Lowe: No, there was nothing—I don't recall if it was from Dr. Mazza, the letter. I recall that I had an email from Mr. Apps. There was another piece of correspondence; I don't recall who that was from. There was a letter that a number of us were copied on. I'm sorry; I don't remember who that was from.

Mr. Frank Klees: I'm quite sure that in response to the question that Ms. Sandals asked—if you had had any contact with Dr. Mazza—you said, “No, no contact, but I did receive correspondence from him.”

Ms. Mary Lowe: Sorry, from the agency—

Mrs. Liz Sandals: That was Mr. Apps.

Mr. Frank Klees: Was it Mr. Apps?

Ms. Mary Lowe: My apologies. If that was what you said, I should affirm that I don't recall receiving any correspondence from Dr. Mazza. I never met with Dr. Mazza.

Mr. Frank Klees: Okay.

Mrs. Liz Sandals: And just a point of clarification: The letter we are talking about was the letter from Mr. Beltzner that the entire world was copied on.

Mr. Frank Klees: Okay. It's interesting that the entire world was copied on that letter and we can't find anybody who actually attended the—or read the letter.

Ms. Mary Lowe: So, I'm sorry, I did review the letter—

Mr. Frank Klees: Oh, you did? Okay.

Ms. Mary Lowe:—and I understood that there were a few things that were highlighted in the letter, including the fact that no public funds would be used. There were attestations in there about third parties. I cannot recall who those third parties were who looked at it. It was one of the big five accounting firms that I remember in my mind. But I did know at the time that there needed to be further conversations on the information being presented.

This was in January 2011. At the time, I forwarded it to the ministry and asked them to follow up with a briefing. I did not attend that briefing. Then I did leave the ministry in February 2011, so probably about two to three weeks after that correspondence was received.

Mr. Frank Klees: Okay. Any other correspondence that you might have received from anyone at Ornge, or consultants who may have contacted you regarding Ornge—do you recall receiving anything?

Ms. Mary Lowe: I do not.

Mr. Frank Klees: Okay. As chief of staff to the minister—it's a busy occupation—there's not very much that the chief of staff doesn't know about the minister, and the minister relies heavily on the chief of staff for information. Did you at any time have conversations, discussions, any meetings with the minister on the topic of Ornge?

Ms. Mary Lowe: When the correspondence was forwarded to us, I did not discuss the correspondence with the minister at the time. I had forwarded it on to the ministry for further follow-up and left the position. So those documents I didn't discuss with her.

When I first started—when the minister took office and when I first started in the office, we had received an introductory briefing on air ambulance services. There was nothing in that briefing that would have prompted a meeting or further follow-up, that signified any challenges or problems with air ambulance services in Ontario. Certainly, nothing that the auditor has since raised in his report—there was no information available, at the time that I was in her office, that was brought forward to suggest the kind of real challenges that the auditor pointed out in his report.

Mr. Frank Klees: You're now at Infrastructure Ontario?

Ms. Mary Lowe: That's correct.

Mr. Frank Klees: Are you familiar with the statement that Mr. Apps made about the folks over there in his testimony here? If not, I'll—

Ms. Mary Lowe: Would you mind repeating it?

Mr. Frank Klees: Sure. Here's what he said. In talking about Ornge, he first declared it a “great Ontario company,” and he said, unfortunately—he essentially suggested that the public sector doesn't know anything about how to manage public-private partnerships. You know something about public-private partnerships. You're in the business of putting out billions of dollars through Infrastructure Ontario. What is your sense about the competency of the people at Infrastructure Ontario to, first of all, understand those funding mechanisms, and their ability to manage them and oversee them?

Ms. Mary Lowe: Infrastructure Ontario has four main business lines. The one that I am responsible for is the lending program. So we provide financing to public sector entities to leverage the province's borrowing rate. In fact, it was a program that was started by the previous government some 10 years ago.

Our business line that manages the alternative financing and procurement division, our major projects division—they manage the large infrastructure projects in Ontario and look at ways to better manage risk on construction projects. We take some of the province's largest infrastructure facilities and largest new construction facilities and try to ensure that taxpayers are getting the best value for that construction project.

Mr. Frank Klees: Here's what he said: "... fundamental absence within parts of the public sector of the required skill set and competence in commercial and legal matters to properly understand and manage public-private partnerships." It's somewhat sobering to think that someone as well-versed with financing models would give us that comment about the people in our public sector. In terms of your ministry, was this something that hit the radar, Mr. Apps's comments?

Ms. Mary Lowe: Sorry, I'm not sure I understand your question. At Infrastructure Ontario? In my position now at Infrastructure Ontario or at the Ministry of Health?

Mr. Frank Klees: At Infrastructure Ontario. That's where you are now. This comment was just made last week. Was Mr. Apps's comment discussed in your office or anywhere?

Ms. Mary Lowe: It was not discussed by me. Infrastructure Ontario is an agency. We are not in the Queen's Park precinct, so, as an example, no staff in our office have access to these committee proceedings. So someone would have had to look up Hansard to read the committee proceedings. I certainly read the committee proceedings from last week, knowing that I would be called here today, but I can't speak to if any of my colleagues have read it. I know they wouldn't have access to the TV proceedings in the building where we're located.

Mr. Frank Klees: How do you think they'd feel about it?

The Chair (Mr. Norm Miller): You have 30 seconds, Mr. Klees.

Mr. Frank Klees: How do you think they'd feel about that comment, coming from Mr. Apps?

Ms. Mary Lowe: Our clients are ministries of the Ontario public service, and every day we meet with and work with very smart people in the public service, in order to work with them, understand what type of performance they need out of the facilities that we are being asked to build. I would disagree with his comments. The public service works hard—very smart people who are dedicated to the job that they do and the trust that they're given to deliver on their responsibilities.

Mr. Frank Klees: Thank you.

The Chair (Mr. Norm Miller): Thank you. We'll move to the NDP. Ms. Gélinas.

M^{me} France Gélinas: Thank you. You're about to go through a little bit of a memory test. Apparently it's good for Alzheimer's also, but we'll see how it goes.

Ms. Mary Lowe: I'll do my best.

M^{me} France Gélinas: You had just started at the time. It was in October 2009 and estimates were going on. If I recall, I kind of remember you being there, but here again, we're both testing our memories.

Estimates was health estimates. The Minister of Health was brand new also, but she attended the estimates nevertheless and tried her best to answer what she could and had a roomful of people helping her.

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In that period of estimates in October 2009, we—as in, the NDP—spent an entire afternoon asking questions about Ornge. In October 2009, we already had been flagged that things were going on at Ornge that in the inner circle we would say did not pass the smell test. There were decisions that were being made at Ornge at the time that had raised red flags for people.

I'm usually the health critic. I'm usually the one who would have asked the questions, but I was subbed in. My leader at the time was Howard Hampton. Howard Hampton was subbed in and he's the one who took the entire afternoon of our estimates time to ask questions about Ornge—a total of 42 questions. Substantial questions were asked that the minister, being brand new, could not answer, but promised that she would get the answers.

Following, when the estimates period was done, the clerk wrote to the minister, wrote to the deputy minister and asked for those outstanding questions to be answered. Those questions were never answered.

My question to you is—you were in the minister's office at the time: Were you made aware that they were outstanding questions about Ornge that some of the staff needed to answer?

Ms. Mary Lowe: I don't recall. I definitely was not at the October 2009 estimates. I don't recall those estimates. I do recall the following-year estimates, but there was no information brought forward to me on the October 2009 estimates. I do recall the following year's estimates, but not—

M^{me} France Gélinas: You're right; it is 2010. My mistake. You're right. It's 2010. See, it was a test of memory. You passed.

Ms. Mary Lowe: At first when you said "estimates," I'm sure I wasn't there. I did not attend the—was it October? Anyway—

M^{me} France Gélinas: October-November 2010.

Ms. Mary Lowe: October-November 2010: I remember those estimates. I remember that there were a number of questions brought forward from your colleague at the time. I was told at the time that they were being followed up on, that there were a number of questions not just from you but that a number had been read into the record at the end of the committee hearing one day, that the ministry was following up on them, not just about air ambulance services but other policy initiatives within the

ministry. When I left in February, I don't recall those questions, nor the answers being brought to me before I left the ministry.

M^{me} France Gélinas: So you're pretty sure that people within your ministry knew that there were outstanding questions and that somebody should answer them?

Ms. Mary Lowe: When I left, they were being worked on.

M^{me} France Gélinas: They were being worked on.

Ms. Mary Lowe: Correct.

M^{me} France Gélinas: Okay. Are you surprised to find out that actually those questions were answered in 2012 after we had already started, etc., etc? Are you surprised that although those questions were being worked on, we never got any answers?

Ms. Mary Lowe: I was not aware. As I said, I left in February 2011, and it is unfortunate that those were not answered.

M^{me} France Gélinas: Okay. Who was the director of EMS when you were at the Ministry of Health?

Ms. Mary Lowe: The director—I apologize. I'm not sure if he was director, but the assistant deputy minister was Patricia Li at the time, and I think Malcolm Bates was the director or the manager. I'm not positive what his title is, but those are the people who had provided the introductory briefing to me.

M^{me} France Gélinas: Okay. Those are the people who would have been tasked with answering questions about outstanding estimates questions about Ornge and about air ambulance?

Ms. Mary Lowe: That would be my safe assumption, yes.

M^{me} France Gélinas: Okay. Well, just so that you know, anyway, the answers never came.

Mr. Jagmeet Singh: Just some quick questions for you. Were you aware of a letter in 2008 from Keith Walmsley and a subsequent interview that took place with ministry officials regarding some of the things that were going on at Ornge, including the fact that there were private shell companies being used to hide Mr. Mazza's salary?

Ms. Mary Lowe: No, I was not. Sorry, you said 2008?

Mr. Jagmeet Singh: That's right.

Ms. Mary Lowe: That was prior to my time there, so, no, that was not something I recall being brought to my attention.

Mr. Jagmeet Singh: Fair enough. In terms of the ministry's ability to oversee or to control or to have any ability to impact the way Ornge conducted its affairs, would you agree with the comment that the ministry did have sufficient tools in place to have oversight over Ornge?

Ms. Mary Lowe: Having the benefit of reading the auditor's report—and I had the opportunity to meet with the auditor and with the minister many times on previous reports—the type of information on the real challenges at that agency that were released as part of his report are

incredibly troubling. Minister Matthews—her directions to me on a number of fronts were to ensure accountability and transparency and the best in quality care. Had that information been available to us, it was something we would have acted on.

There was other information brought forward on other initiatives. Pharmacy compensation is a great example of one that I said in my introductory comments, where there was not transparency in how compensation was being managed for pharmacy services in Ontario. That was an initiative we moved forward on in a very public way with a lot of real relationship challenges with the industry on that.

In my entire 16 months of working there, I don't recall any instances where Minister Matthews received information that she didn't act on. So had that information been brought to our attention, I know we would have acted on it.

As I've had the hindsight of the auditor's report and the information provided in it, as all of you members are here—the amount of time the government is spending on this, it is troubling.

Mr. Jagmeet Singh: Just in terms of the powers—

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

Mr. Jagmeet Singh: Sure. Just in terms of the powers that did exist with the performance agreement, would you agree with me that the ministry did have sufficient tools to oversee Ornge and to make decisions in terms of the way patient care was being conducted or any of those issues?

Ms. Mary Lowe: I can't speak to, did I know what tools were in place? What I can say is that had that information been made available to us, had we known the types of issues that the Auditor General brought forward, we would have acted on them.

The Chair (Mr. Norm Miller): Thank you very much for coming before the committee today. We appreciate it.

Ms. Mary Lowe: Thank you very much.

INFRASTRUCTURE ONTARIO

The Chair (Mr. Norm Miller): Our last presenter today is from Infrastructure Ontario: David Livingston, president and chief executive officer. Welcome. You've received the letter with information about presenting to the committee?

Mr. David Livingston: I received a letter that I was invited, yes.

The Chair (Mr. Norm Miller): Very well. We have an oath to swear.

The Clerk of the Committee (Mr. William Short): If you just want to raise your hand. Mr. Livingston, 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. David Livingston: I do.

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

The Chair (Mr. Norm Miller): Thank you. You have five minutes for an opening statement—then questions from the parties.

Mr. David Livingston: I thought what might be a little bit helpful was to talk about Infrastructure Ontario and talk about what we do, and then try to offer some insight into why I've been invited to speak today and to answer questions.

Infrastructure Ontario was created in 2005, as an agency of the government, to build infrastructure. We had a long list of projects, mostly hospitals. We were doing some courthouses and some roads. I think the government's view, when we were created, was that it wanted to try to take advantage of private sector practices around construction. It wanted to transfer risk to the private sector to get things built, and it felt that it was best able to do that by having an agency that was dedicated to the task of building these things.

It was very clear from the creation of Infrastructure Ontario that we weren't going to be involved in deciding what the government should be investing its infrastructure dollars in. That was the government's prerogative. Once these things got decided, then it was our job to make them happen as best as we possibly could.

We established—I think it's by legislation, but it's at the very least by practice—a process whereby we work on that which the government assigns to us. So if we're building a hospital, then the Minister of Infrastructure will send us a letter saying, "Build this hospital. Here's the budget that you have to work within," and it's our job, then, to execute it against that budget. If we're building a road, then they would come from the Minister of Transportation to the Minister of Infrastructure, who would then assign it to us. So there was a very established protocol that we worked on that which we were told to work on, and they were all infrastructure-related.

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As time evolved and the nature of the projects that we had evolved, we started dealing with more ministries, so we have now broadened the infrastructure program. I would say that in the early days, it was probably 70% hospitals. More recently, it has moved into—we're doing more roads; we're starting to do some transit and some other kinds of things. It's just that I think the nature of the portfolio has changed, but the nature of what we do has not, which is, we still build that which the government tells us to build.

A year ago, a decision was made to merge Infrastructure Ontario with the Ontario Realty Corp. At that time, then, our responsibilities broadened to also include that which ORC used to do on its own, which included developing properties, selling properties, occasionally buying properties and essentially acting as a landlord for the public service, the people who work in the public service, and all the lands and buildings associated with it. So we broadened ourselves from being an infrastructure organization to one that manages property and manages buildings that the government owns.

However, the process and the practice are still the same. We do what we're directed to do. We have a very well-established protocol that says that we're not policy-makers. We don't initiate what gets done; we just make sure that what gets decided to do, we do it well. So there's a very clear distinction between people who set policy and people who execute, and we're on the execution side of things. We make stuff happen.

I think that our track record has been reasonably good, and because it's reasonably good, whenever there are infrastructure dollars around, it gets assigned to us and it's our job to bring them in. If I can just give a slight commercial for us, I think we've had 55 projects; I think we're 55-0 in terms of being on-budget. So this model has worked well.

With all of that as context: I know lots of lawyers; I know lots of construction people; I know lots of bankers. These are all people who are in and around what we do all the time. One of the lawyers who I know is Alf Apps. At some point along the line, among other things we've discussed, he did mention Ornge to me. He was the one who initiated the conversation. It wasn't obvious to me why this would ever be an infrastructure project that the government was ever going to assign to us, so I frankly didn't pay that much attention to what he was saying or what he was talking about. It was not something that was going to get assigned to Infrastructure Ontario and it was never suggested to me or proposed that this would be a project that would be assigned to us. It didn't look like something that we would be building, so there was no reason for me to engage in the conversation.

Then somewhere along the line, I think it was in January a year ago, when the letter that was sent from, I guess, the chair of Ornge to the minister, Minister Matthews—I got copied on the letter, and I'm presuming that I got copied on the letter because Alf asked them to copy me on the letter.

I have a couple of filters when I look at things. First thing, that it's not addressed to me—that's one filter—it doesn't get that much attention. If it's addressed to me and they get my name wrong, I'd probably look at it even less. If they get my name wrong and my title wrong, then I really look at it a lot less. There was not much about this that would suggest that I should read a 40- or 50-page letter on which I was c.c.'d.

I don't mean to be evasive and I don't mean to be blasé about something that's obviously important, but I just didn't spend much time on this file or much time on this effort because it wasn't something that I was directed to do, didn't look like I was going to be directed to do, or that really had anything to do with Infrastructure Ontario or what we did as a business for the government.

The Chair (Mr. Norm Miller): If we can move to questions now.

Mr. David Livingston: That would be my pleasure.

The Chair (Mr. Norm Miller): Very well. The opposition gets to ask the questions first. Mr. Klees.

Mr. Frank Klees: Thank you for joining us. We're still searching for someone who actually read that letter that they were copied on.

I imagine they got your name as well as your title wrong on that letter.

Mr. David Livingston: The title for sure was wrong. I don't remember whether the name was wrong or not.

Mr. Frank Klees: All right. So what you're telling us is that you know Mr. Apps casually?

Mr. David Livingston: Right—well, professionally, I would say.

Mr. Frank Klees: Did you at any time have any discussion with Mr. Apps about Ornge? Any aspect of it, and let me say specifically any of the financing structure: Did he ever seek your advice on it?

Mr. David Livingston: So, as I said in my remarks, I certainly recall Alf raising Ornge. I really don't know—I just don't know enough about it. I don't recall what we talked about. I don't recall spending a lot of time on it. So I can't honestly tell you what was the nature of the conversation. If he raised it, it didn't stick with me because there was no reason for it to stick with me.

Mr. Frank Klees: The reason that I would think that Mr. Apps may want to initiate a conversation with you is because when we look at what they did at Ornge in terms of doing their raising of money—through a bond offering—it seems there are some parallels between what Infrastructure Ontario is doing and what they ultimately did.

Correct me if I'm wrong, but essentially what Mr. Apps structured, along with his financial advisers, is a \$275-million bond offering. They brought in Standard and Poor's to provide the credit rating, which I understand it, at the initial blush was AA-, which is a pretty strong rating.

My understanding of reading the offering memorandum is, that in large part, that rating was directly related to the Ontario government and the fact that the Ontario government stands behind Ornge. Essentially, it's a monopoly ambulance service, and there's a significant annual cash flow into Ornge. At the end of the day, the market really does look to the provincial government as the guarantor. Whether you say that directly, indirectly, it would be the Ontario government that gives traction to that bond rating that Standard and Poor's was able to assign. Would you agree with that?

Mr. David Livingston: So, I frankly have no idea. On the projects—the way Infrastructure Ontario works, we don't do the financing on the projects that we do. The way our process works is that we run an RFQ. From that RFQ we pick—not pick; there's a process we go through to get three bidders. It's the responsibility of the three bidders to then arrange the financing. What they do is, they go to the capital markets, they go to the equity markets, they go to their own various advisers, and they put together structures that involve different sorts of security arrangements. They're the ones that get the facility rated. It's not really something that we do, so I'm not sure what the parallel would be between whatever Ornge was thinking about and how we work.

Mr. Frank Klees: Well, let me try this: Your third party entity to whom you've awarded the contract goes to

the market and raises funds. I'm sure you're familiar with the offering memorandums that those third parties would be using in the market to raise their bonds. In those offering memorandums, is there a reference to the fact that this is an Ontario government program and that it is the Ontario government that is funding the project?

Mr. David Livingston: It would certainly be noted in those documents that we're the take-out on the bond, but there would be a lot of other stuff in there about how much equity they put in, what their security arrangements are. These would not be documents, frankly, that I would spend that much time personally looking at. I'm giving you a pretty high-level view of what the structure would be. All I would say is, I think it's more complicated than just it's this and it's that and the result is a certain credit rating.

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Mr. Frank Klees: While you're here, what would the typical equity participation be of a project of a company, be that the general contractor or whoever you award the contract to?

Mr. David Livingston: So, again, I don't want to be evasive. It will depend a lot on who the contractor is, the size of the project, the nature of the project, whether or not we have revenue risks, whether we transfer revenue risk in the project or do not transfer the revenue risk. The size of the equity would vary a lot and there would be a lot of variables, so I'm not sure I can give you a—

Mr. Frank Klees: Is there a minimum equity participation that you require?

Mr. David Livingston: Not established by us. It would be established by the bankers—

Mr. Frank Klees: So it would be possible that one of your infrastructure projects could be 100% financed.

Mr. David Livingston: I think it unlikely.

Mr. Frank Klees: But it's possible.

Mr. David Livingston: I guess. As I'm answering the question, I'm trying to think about whether I can think of one that would have been 100% financed, and it doesn't come immediately to mind.

The Chair (Mr. Norm Miller): You have a couple of minutes, Mr. Klees.

Mr. Frank Klees: Okay. Did you know what your friend Mr. Apps said about folks in the government of Ontario and their understanding of public-private partnerships?

Mr. David Livingston: No.

Mr. Frank Klees: Well, let me—this will make your day. He said, "... fundamental absence within parts of the public sector of the required skill set and competence in commercial and legal matters to properly understand and manage public-private partnerships."

So he's essentially saying that folks in the public sector know very little about the complexity of these arrangements.

Mr. David Livingston: I'd like to suggest that I think we know a little bit about them. Everybody's got a view—

Mr. Frank Klees: You disagree with Mr. Apps?

Mr. David Livingston: Again, he's entitled to his opinion. I think we have a pretty good track record at delivering projects using AFP, which is the Ontario program for transferring risk to the private sector, alternative financing and procurement. We've got a well-established track record of bringing projects in on time and on budget. The market seems to like them; they come to us regularly. I think that speaks for itself.

Mr. Frank Klees: Don't feel too badly, by the way, because he wasn't very complimentary of the Auditor General either, so you're in good company.

Interjections.

Mr. David Livingston: Jim and I are in the same boat. I think we're in good shape.

Mr. Frank Klees: Thank you.

The Chair (Mr. Norm Miller): We'll move to the NDP, then. France?

M^{me} France Gélinas: So what are your—not personal, but your relationship with Mr. Apps. When do you ever deal with him?

Mr. David Livingston: Honestly, I know tons of people that I would talk to all the time, and I've always found Alf to be—he's got good ideas; he's a smart guy. So things would come up. There's no particular reason why I would call him; there's no particular reason why he would call me. I talk to him like I talk to lots of people.

M^{me} France Gélinas: When was the last time you did talk to him?

Mr. David Livingston: I'd be hard-pressed to think that it was—it was about a year ago, probably, around all the time that this was going on.

M^{me} France Gélinas: Okay. Do you remember if it was a phone call, email, or you saw him? Where was it? When was it?

Mr. David Livingston: I've certainly seen him. I don't recall—I mean, I've certainly had phone conversations with him; I've certainly seen him. I don't recall whether there was any email traffic on any topic.

M^{me} France Gélinas: So the last time you talked to him, was it over the phone? Was it in person?

Mr. David Livingston: Gee, I really don't remember. I don't know.

M^{me} France Gélinas: Okay. But how long have you known him for?

Mr. David Livingston: Years.

M^{me} France Gélinas: Years. Only through Infrastructure Ontario, or from before?

Mr. David Livingston: I think so. In getting ready for this, I was trying to remember if I knew him from my banking days, and I don't remember whether I knew him or not. We dealt with Fasken as a firm a lot when I was at TD, so it's entirely possible I met him beforehand, but the conversations I recall are since Infrastructure Ontario.

M^{me} France Gélinas: Okay. In some of the projects that you bring forward, do you look at the corporate structure of those projects? Do you solely deal with not-for-profit corporations, or—

Mr. David Livingston: Well, in the work that we do, the bidders, these are all very for-profit corporations, so their structures matter a lot. But most of what they do are project financing deals and so, as I said, they arrange the financing themselves. So the structure that they would put together is really up to them, and how much, whether they try and do it as a project finance, whether they're behind it, is really up to them and their lenders.

M^{me} France Gélinas: So you remember the letter, you remember not looking at it, and you remember thinking, "This is none of my business."

Mr. David Livingston: Pretty much.

M^{me} France Gélinas: You got named because you knew Mr. Apps and he said, "Include this person."

Mr. David Livingston: I'm presuming that was the case.

M^{me} France Gélinas: And nobody from Ornge, nobody from his firm, nobody else ever tried to make sure that you attended a briefing?

Mr. David Livingston: I know nobody at Ornge. I've never had a contact with them, nobody else at the firm, no.

M^{me} France Gélinas: Nobody from Infrastructure Ontario attended a briefing with Ornge or for Ornge?

Mr. David Livingston: No, certainly not to my knowledge.

M^{me} France Gélinas: None of the above? Okay.

Do you want to go?

Mr. Jagmeet Singh: I just want to put to you a scenario, if you can comment, perhaps, on the way Ornge was conducting its affairs, that essentially a public institution, publicly funded, was filtering or funnelling some of its publicly derived income or funds into for-profit, in a schema that was quite complex. If you had seen that or if you'd been briefed on that, what would your reaction be?

Mr. David Livingston: That seems like an incredibly speculative question. If somebody came to me and said, "This company is breaking the law," or something like that was happening, I would do something about it. But to comment otherwise, I would have to know a lot more about what was going on and what was involved. So I just don't know.

Mr. Jagmeet Singh: That's fair. What if it came to your attention that, due to a corporate change or a change in the structure, salaries that were once publicly disclosed were then hidden? Would that raise a flag, in your experience or in your opinion?

Mr. David Livingston: I don't have any experience with that at all. It has not happened in anything that I've ever touched, so I just don't know.

Mr. Jagmeet Singh: Okay. In terms of your personal background—sorry, your background with Infrastructure Ontario—and communications with Alfred Apps, is there any contact you had with Ornge whatsoever?

Mr. David Livingston: No.

Mr. Jagmeet Singh: I have no further questions.

The Chair (Mr. Norm Miller): Very well. The government members?

Mrs. Liz Sandals: Yes. It's delightful to see you, but I think you've just said you had nothing to do with Ornge, so, I'm sorry, I have no questions.

We actually have a few motions to deal with, Chair, so I would suggest we do that.

Thank you very much for coming.

The Chair (Mr. Norm Miller): Thank you for your testimony, and thanks for coming before the committee.

Mr. David Livingston: My pleasure. Thanks for having me.

The Chair (Mr. Norm Miller): How much time do we have? We have 10 minutes. May I suggest, then, that the one time-sensitive motion we have is the one that you just proposed, to do with Mr. Mitchell. Maybe we could deal with that one first.

Mrs. Liz Sandals: If I may, I'll move that: that Kelly Mitchell be compelled to produce and table with the committee, no later than Monday, April 30, 2012, all written records, including but not limited to billing statements, invoices, emails, correspondence and notes relating to Pathway Group's work for Ornge and/or Ontario's air ambulance service.

The Chair (Mr. Norm Miller): Any discussion? All in favour?

M^{me} France Gélinas: Chair?

The Chair (Mr. Norm Miller): Sorry.

M^{me} France Gélinas: I do have discussion.

The Chair (Mr. Norm Miller): Okay, yes.

M^{me} France Gélinas: I don't know this person or whatever, but I know that this is April 25, and that means, really, two opening days for him—it's a him? Him or he, whatever. Kelly—is it a him?

The Chair (Mr. Norm Miller): It's a male.

M^{me} France Gélinas: It's a male? Okay.

The Chair (Mr. Norm Miller): He's a male.

M^{me} France Gélinas: This man will have two days to do this. I fully agree with the intent of it. I would be willing—if he needs a few more days to get that together, I would much rather that he fully comply with what we ask him than he rush through.

I fully support what the member is trying to do. I'm just conscious of the time. It is now 3 o'clock on the 25th. On the weekend, his firm will be closed, just like everybody else. I'm guessing that the poor secretary who will photocopy all this is allowed the days off, just like everybody else. It's kind of short, isn't it?

Interjection: Yes, it is.

The Chair (Mr. Norm Miller): Good point. Any comments from you, Liz?

Mrs. Liz Sandals: I'm just thinking here. Can we take out—I'm going to change it, and I can't do it grammatically, quite, as it is. If you delete "no later than Monday, April blah-blah-blah," so that it will read "compelled to produce and table with the committee all written records," and then we'll add a clause "and that in so far as possible that the records be produced by Monday, April 30."

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Interjection.

Mrs. Liz Sandals: Do you have a better wording for that, that says, "Please give us what we can get as quickly as possible"?

Mr. David Zimmer: Well, you don't want to say, "as soon as possible" or "in so far as possible." You've got to have some end thing to it. It has to have a reasonable time, and there's got to be an end point.

Mrs. Liz Sandals: Yes, but that's what I was going to say: "that in so far as possible that the records be produced by Monday, April 30." And if he says it's not possible, then we'll have to deal with him when he appears as a witness. He'll be here next week.

The Chair (Mr. Norm Miller): Did you get all that, clerk?

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

The Chair (Mr. Norm Miller): I did. So you've added on to it, "in so far as possible that the records be produced by April 30" and you struck out "no later than Monday, April 30, 2012."

Mrs. Liz Sandals: Yes. That provides some flexibility for—

The Chair (Mr. Norm Miller): Okay. Everybody understand that? Any discussion? All in favour, as amended? Agreed? Carried.

We have a little bit of time left. Mr. Klees, you have a motion?

Mr. Frank Klees: Yes, I do, if I can find it, Chair. Which one are we on?

The Chair (Mr. Norm Miller): It's something about authorization of the House leaders.

Mr. Frank Klees: I'll read this, then, Chair: that the Standing Committee on Public Accounts ("the committee") formally seek the authorization of the House leaders for each of the recognized political parties in the Legislative Assembly of Ontario so as to permit the committee to sit and call witnesses during the May 2012 break week, during the week of May 21-25, 2012, and that the committee be permitted to sit for up to three full days so that the committee may continue its debate and inquiry into the 2012 special report of the Auditor General of Ontario on Ornge air ambulance and related services.

The reason I'm tabling this now: The last time that we wanted to sit during a break week, the House leaders said there wasn't enough time. We are running out of time. We only have five weeks left—five days left, basically—before we break for the summer. We have many witnesses to hear from, and I think we need to focus on this.

The Chair (Mr. Norm Miller): Is there other comment on this motion?

Mr. David Zimmer: Is that constituency week?

The Chair (Mr. Norm Miller): It is constituency week. Mr. Leal?

Mr. Jeff Leal: As part of the House leaders' meetings that I tend to on Thursday—this would be something that the House leader for the Progressive Conservative Party could put on the agenda for tomorrow's House leaders' meeting, and we could have an ample discussion there.

That would be the correct way, Mr. Chair, I think, of handling this particular item.

Mr. Frank Klees: Mr. Chair, I think it's important for this committee to demonstrate its intent to sit, and that's why the motion is there. I would ask you to call the question on it.

Mr. Jeff Leal: Let me interject, Mr. Chair.

The Chair (Mr. Norm Miller): Go ahead, Mr. Leal.

Mr. Jeff Leal: There's a variety of requests right now from a whole variety of committees who want to, perhaps, sit during the May break week and into June. I think it would be respectful of the House leaders' committee that meets on Thursdays—that we have the opportunity to look at all these requests that are coming forward. That's the appropriate mechanism to deal with this.

Mr. Frank Klees: Mr. Leal is being less than forthcoming. He knows full well—

Mr. Jeff Leal: Oh, no, you're not questioning my integrity, Frank.

Mr. Frank Klees: He knows full well that in the House leaders' meeting yesterday—

Mr. Jeff Leal: No, no, you're not questioning my integrity, Frank.

The Chair (Mr. Norm Miller): Okay, if we could be civil.

Mr. Frank Klees:—the reason that he's not prepared to accept that the committee sit is because there has been no request from the committee. This will be the request from the committee, so Mr. Milloy will not have an excuse.

The Chair (Mr. Norm Miller): The committee can make a decision on this issue. Is there any further comment? I'll wait for Mr. Zimmer to get back to his chair. Is there any further comment? Okay. Those in favour? Those opposed? Carried.

I think we're just about out of time. Thank you very much to all the committee members for your participation today. Adjourned.

The committee adjourned at 1456.

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