

PRINCE EDWARD ISLAND LEGISLATIVE ASSEMBLY



Speaker: Hon. Francis (Buck) Watts

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Standing Committee on Public Accounts

DATE OF HEARING: 11 JANUARY 2017

MEETING STATUS: PUBLIC

LOCATION: COMMITTEE ROOM, J. ANGUS MACLEAN BUILDING, CHARLOTTETOWN

SUBJECT: AUDITOR GENERAL'S REPORT ON E-GAMING

COMMITTEE:

James Aylward, MLA Stratford-Kinlock [Chair]
Jordan Brown, MLA Charlottetown-Brighton [Vice-chair]
Dr. Peter Bevan-Baker, Leader of the Third Party, MLA Kellys Cross-Cumberland
Darlene Compton, MLA Belfast-Murray River
Bush Dumville, MLA West Royalty-Springvale
Sonny Gallant, MLA Evangeline-Miscouche
Chris Palmer, MLA Summerside-Wilmot
Hal Perry, Tignish-Palmer Road

COMMITTEE MEMBERS ABSENT:

none

MEMBERS IN ATTENDANCE:

Jamie Fox, Leader of the Opposition, MLA Borden-Kinkora
Matthew MacKay, MLA Kensington-Malpeque
Steven Myers, MLA Georgetown-St. Peters
Brad Trivers, MLA Rustico-Emerald

GUESTS:

Auditor General's Office (Jennifer Bowness, Jane MacAdam)

STAFF:

Ryan Reddin, Clerk Assistant (Research, Committees and Visitor Services)

Edited by Parliamentary Publication and Services

The Committee met at 10:00 a.m.

Chair (Aylward): All right, ladies and gentlemen, I'd like to call this committee meeting to order.

First and foremost, I'd like to welcome everybody back and wish them a Happy New Year as we embark on the 150th anniversary and celebrating all the great things that'll come in 2017.

Just a couple of housekeeping items before we get rolling. I do want to remind committee members that the meeting was scheduled to start at 10:00 a.m. and I'd ask that we be respectful of the time, especially when we have guests in.

Also, I just wanted to get clarification on something quickly from the Auditor General. Jane, in your report you state that there were key participants for whom your office was not provided any government records, and that was covered off earlier on in the report.

Can you provide the names of the officials that you did not receive those records from?

Jane MacAdam: I think I should explain. First of all, it was accounts that were removed. I think I should explain how it evolved. There were accounts that were removed when individuals left government, and in those accounts there were government records. We have evidence that the relevant public body did not maintain records in accordance with legislation.

There were three former senior officials where we didn't receive any records at all, emails or hardcopy documents (Indistinct) from the relevant public body, and based on our knowledge of the file we would have expected records to exist. We know that records did exist because we got those records from other public bodies or sources outside of government.

The three accounts that were involved were Chris LeClair, Melissa MacEachern, and Rory Beck.

Chair: You received everything that pertained to communications, emails, etc.,

from the previous finance minister during this time, Wes Sheridan?

Jane MacAdam: We received records from Wes Sheridan's office.

Chair: Okay. All right, thank you.

I think Chris Palmer had a quick question there and then we're going to roll into adoption.

Mr. Palmer: My question was around that. Can you tell us whose email accounts were deleted?

Jane MacAdam: Whose email accounts were deleted? Those were the three people that I just named.

Mr. Palmer: So those were the only ones? Is that part of standard operating procedure? What is the – do you know the standard –

Jane MacAdam: The issue – it's normal – we say in the report it's normal practice when an employee leaves government that their email account be removed.

Mr. Palmer: Okay.

Jane MacAdam: That's normal. In these cases, the authorization to remove those accounts was made by management and that's in accordance with the policy.

The issue is not so much that the accounts were removed. The issue is that when the accounts were removed there were records – government records – that were not retained. If employees are managing their records properly they would be saving those records – either printing them off and saving the hard copy of what was in the email account or they would be saving them in some other manner. But for these individuals we did not receive any electronic records or any hard copy records.

Mr. Palmer: Chair, can I get clarification on what's a record to an email?

Jane MacAdam: Well, an email is a record.

Mr. Palmer: Okay.

Jane MacAdam: Not all emails are government records, so there could be

transitory records that would just be: See you at the Old Triangle at 5:00 p.m. If it was a personal matter that's not a government record.

Mr. Palmer: Okay.

Jane MacAdam: We determined that these were, in fact, government records that were not maintained.

Chair: Peter Bevan-Baker had a question.

Dr. Bevan-Baker: Thank you, Chair.

I have a number of questions related to this, but I think I'll wait to ask them later.

But just as a quick follow-up, Jane, to what you just said, that we know now that there were three high-ranking individuals for whom we have no records at all. The Chair asked the question about the former finance minister. While it's clear now that that was not one of the files that was completely removed, do you feel confident that we have all of the information related to that particular individual and perhaps others?

What I'm saying is we know we have full, complete removal of some. Do you think we also have partial access to others?

Jane MacAdam: As I say in the report, we're not confident that we've received all relevant records in connection with this assignment.

Dr. Bevan-Baker: Thank you.

Chair: Jordan had a question there as well.

Mr. J. Brown: Yes. I guess, and just having been an observer of this debate as it unfolded in the House, I'll be honest in saying it is troubling, kind of, the way this is recorded in your report and the way that it's come out here in terms of the information, I think, being somewhat misleading or having a potential to be misleading.

I guess the question ultimately in my mind is: Are you saying that you have evidence of something untoward having happened that was done by Chris LeClair or Melissa MacEachern, or Rory Beck who passed away suddenly and, presumably, didn't have

the opportunity to do this kind of thing because of that?

Jane MacAdam: That's not what we're saying in the report.

Mr. J. Brown: So there's no –

Jane MacAdam: What we're saying in the report is that there were government records that were not retained in accordance with legislation.

Mr. J. Brown: Okay.

Jane MacAdam: We know that to be a fact, because we received emails to and from those individuals that I named that we received from a separate public body. They should have been maintained within that office or within that department because that's what the legislation requires.

Mr. J. Brown: As we heard these unfold in the House, the answer from the minister and a few others at the time was that there are – I can't remember the number – 2,400 or 2,500 accounts that were, I think, removed is the word that was used, and that – you know, I guess my question to you out of that would be: Are these the only three that this procedure was followed for or is this a kind of a larger issue?

Jane MacAdam: The normal procedure when an employee leaves is that their email account be removed, so that's standard procedure. The authorization to remove the account is supposed to come from management, so that's just normal practice.

In these three cases the accounts were removed, we didn't receive any records for these individuals, and we would have expected to receive records based on our knowledge of the file.

I mean, there could be other accounts removed and we didn't get records, but we weren't concerned because we couldn't say that there should or shouldn't be records. We were just looking for relevant records, and based on our knowledge of the file it didn't seem reasonable that there would be no records for these individuals. In fact, we determined that there were records. They just weren't retained by government because we got them from other sources.

Mr. J. Brown: Right.

Chair: Chris.

Mr. Palmer: So (Indistinct) you were – let's see, how do I explain this? If you found the records through your investigation – so if, for example, Chris LeClair had sent an email to somebody who still works in government, there would be a record of that email based on whoever that other person's email is. Is that correct? Would that information still be available to us?

Jane MacAdam: It might be. But again, there was more than one person that didn't have any records, and based on the other issues that we raised in the report about the management of government records, we're not confident that we received all records.

This issue is one issue with regards to records management, but in the report there are other issues related to records management, like the retention and disposition schedules not being available for all public bodies. There were issues around the Public Archives and Records Office not monitoring compliance with the policies and procedures. They did an assessment in 2009 and only 93% of the public bodies that they received responses from indicated that they even addressed electronic records management.

Issues around electronic records management are throughout government.

Chair: Bush.

Mr. Dumville: The policy. They were following the policy or the lack of policy in government records management. There's no conspiracy or ill-will to delete anything, it was just what's been transpiring in government over a number of years in records management. They just follow – I guess it, what, after 12 months they write-over a lot of this information?

Jane MacAdam: After a year if an email account is deleted it cannot be recovered.

Mr. Dumville: Okay. You know these emails did exist or these government records which could have been emails, you got them – there's a sender and there's a receiver, so possibly you found them in receivers' and

you could re-establish them. Did you receive enough to get the whole picture? Do you feel confident that you know exactly what happened from the information that you did glean?

Jane MacAdam: No, I'm not confident that I received all relevant government records.

Chair: Thank you –

Jane MacAdam: We have that scope limitation in the report.

Mr. Dumville: Thank you, Chair.

Chair: Darlene was next.

Ms. Compton: Thank you, Chair.

Thank you again for coming out today.

Just getting back to responsibility because – I don't think it's your job to comment on whether there was a conspiracy or ill-will, that's not your department. But we're getting back to responsibility, and we talked about this in the Legislature about following procedure.

Can you just explain to me who is responsible for records management, for instance, in the Premier's Office, or Melissa MacEachern's records management? Where does that responsibility lie? Who is going to say: Melissa, you need to retain the records that are pertinent to any one file?

Jane MacAdam: Each individual is responsible for maintaining their own records. But ultimately, each public body in accordance with the *Archives and Records Act*, I mean, each public body is responsible to maintain records within their own entity with respect to their own affairs.

Chair: One more?

Ms. Compton: Yes. Thank you, Chair.

The onus is on the person. Is that communicated to them in a way that it's – the importance of records management is communicated or is it just assumed? I know we talk about things weren't done that way in that past, people didn't follow the rules, but now they're going to keep following the rules. But there has to be some kind of a

reckoning to: Is there a head of a department? It is the minister who's responsible for ensuring that those records (Indistinct) –

Jane MacAdam: Under the legislation, it's the minister that's the head of the public body under the *Archives and Records Act*.

Ms. Compton: So, he would, yea or nay, here she would, yea or nay, whether that needed to be done, and whether it was done.

Jane MacAdam: Ultimately under the legislation they are responsible. But we did determine as a result of our work and our interviews that it has not been a priority of government. Records management has not been a priority.

The people that we interviewed in the Public Archives and Records Office, as well as the liaison officers in the departments, indicated that there was not enough resources dedicated to training, that this was an area that needed to be improved.

Chair: Okay, Jordan was next on the list.

Mr. J. Brown: Thank you, Chair.

That's an interesting statement and I just want to dwell on that for a minute. It sounds to me like what you're saying is that when I get an email I'm supposed to take that email and print it off, and then if I reply to somebody I take the reply and I print it off. Presumably, going along with that, I have to do something with them, too, when I print them all off. I have to file them in some kind of an order.

Jane MacAdam: I don't necessarily think that you have to print them off. You could save them electronically. They just have to be maintained.

Mr. J. Brown: But we're saving them electronically. We have just heard that when I leave my account's gone after a year.

Jane MacAdam: But, I mean, that's your email account. You could save it in a directory separate from your email account. You could save it on somewhere else. It's out of your email account.

Mr. J. Brown: I guess my point or my question is this, okay? I know between my government life and my private life I probably get a few hundred emails a day. I presume the people that we're talking about here were probably in a similar circumstance.

The policy basically seems onerous to me. I'm wondering – and it sounds like you're indicating that this was the case – how many people are complying with it and whether the policy itself was a reasonable policy at the time.

Jane MacAdam: We didn't assess the adequacy of the policy. We know there's legislation and there are policies. We do know from our work, though, that the Public Archives and Records Office is responsible for monitoring compliance with the policies and reporting to the minister, and that wasn't happening.

Mr. J. Brown: Overall it sounds like, to me – and correct me if I'm wrong on this – you don't have any evidence or you haven't seen anything to indicate a malicious intent. Like, somebody was on purpose going out and deleting emails that they had crafted and sent or received and didn't want to have seen.

Jane MacAdam: That's correct. It wasn't clear to us that emails were deleted on purpose.

Chair: Chris Palmer.

Mr. Palmer: Thank you, Chair.

The statement that you made about training and practice that weren't being followed – and I've been looking through the report and it may be there: Did you make any recommendations on what should happen on a go-forward basis around records management?

Jane MacAdam: We made sort of an overarching recommendation that the minister responsible under the act should enforce compliance with the act.

Mr. Palmer: Okay, and this wasn't happening before, but as a recommendation

Jane MacAdam: Right, so that has many parts to it.

Mr. Palmer: All right, thank you.

Chair: Steven Myers.

Mr. Myers: Thank you.

I guess we spent a lot of time just talking about emails, but you said records, so there's more than just emails. There would have been text messages, BlackBerry PIN messages, paper records. Is it fair to say that you had access to none of those records and in your opinion they all are missing, PINs, texts, paper?

Jane MacAdam: We didn't receive any PINs or texts and we were advised that ITSS doesn't have the capacity to back those up and save them.

Mr. Myers: Bell does. Bell actually – government can – because they own the accounts and this has gone to court and they had to be provided PIN messages. Bell backs them up for years so they are available.

Jane MacAdam: That was the explanation that we were provided with. We are certain – it was an issue for us and we raise it in the report that we didn't get (Indistinct) expected to.

Mr. Myers: The other question I had was: You interviewed both Chris and Melissa?

Jane MacAdam: Yes.

Mr. Myers: Did you ask them if they were aware that their records had been deleted?

Jane MacAdam: Yes, we asked them if they took any action to retain their records. Melissa said she didn't recall specifically doing any work with her records just prior to her leaving, and Chris left abruptly and he said he didn't take any specific action with his records.

Mr. Myers: Okay, because they were both head of public bodies at the time and the head of the public body were the ones that were responsible for records management in their area, right? Both of them would have

been responsible to take care of – is that correct?

Jane MacAdam: Each person has a responsibility to maintain their own records.

Mr. Myers: Right, but the head of the public body is the one that has the overarching responsibility for the department, right?

Jane MacAdam: Under the act, yes.

Mr. Myers: Yes, which would have been Melissa in her area and Chris in his?

Jane MacAdam: Under the act it's the minister that's responsible.

Mr. Myers: Who would have been the two ministers? Robert Ghiz?

Jane MacAdam: It would have been Robert Ghiz and it would have been Allen Roach.

Mr. Myers: Robert Ghiz and Allen Roach were the heads of the public body that allowed this to happen. Okay.

The other question I had was – it's a little bit broader because through your report – we're just talking about the egaming file in kind of a silo approach – but you talked about conflict of interest and numerous other things throughout this report. Is it safe to say that these missing emails or these missing records could have wide-spread implications throughout the report in the many different facets of it?

Jane MacAdam: I can't really speculate. All I can say is that I'm not confident that I have all the records.

Mr. Myers: Thank you.

Chair: Next I have Jordan Brown.

Mr. J. Brown: Thank you, Chair.

I just have a question. I take an issue with what Mr. Myers had said about, in particular, the BBM messages and I'll explain what I mean and see what your thoughts are on it.

My knowledge of BBM is that each person has one BBM account that's unique to them

regardless of what devices they would use. In other words, it's their personal BBM account and that's actually maintained by BlackBerry not by Bell or whoever their service provider is. That transfers regardless – and I can give you the example that is relevant to me.

I have my own communications devices outside of government that I can only have one BBM account, and whether I sent a message that was relevant to government or relevant to where I'm going this weekend, it's all on that account. I guess the issue is – and I'll say it in a forthright way, and I don't even know whether I'm subject to this stuff or not, I will say that in a forthright way too – I would have no idea how to preserve those messages in any sort of way on my own, and I would take great offense to any indication that I should take all of my BBM messages and make them available to anybody, frankly, whether it be my employer or whether it be a public body or whether it be anything else.

I'm curious as to whether you're saying that's the requirement, and I think if it is we need to look at how that can happen in a different way.

Jane MacAdam: I think we determined that best practice is not to do government business on BlackBerrys. That's one of the things that we determined as part of our work.

Chair: Bush was on my list next.

Mr. Dumville: Just a point –

Jane MacAdam: It's the text messaging we're talking about.

Mr. J. Brown: Sorry, say –

Jane MacAdam: It's the text messaging aspect of using the BlackBerry, not –

Mr. J. Brown: I guess – just to finish that out – I mean, because you say in your report we didn't get those messages, but do I take it to mean you're agreeing with me that they're not something that you would say would normally be producible?

Jane MacAdam: ITSS told us they have no way to do it right now, but we had evidence

during the assignment that business was conducted using BlackBerry messaging so that's why it became an issue for us.

Mr. J. Brown: Right. I don't mean to dwell too much on this, but this gets to be the problem with this kind of stuff. It's that there's practical realities that have to overlap with technical realities and the problem is, frankly, we had however many days straight of questions being asked in what I'm going to say was a way that inferred that there was some malicious intent in emails being deleted while you're telling me here today that not only was there no malicious intent in those emails being deleted, but with particular regard to BBM messages there's no possible way to have produced them.

I think we need to be clear on those points, and I think we need to be careful to ensure that the public's not walking away from these meetings thinking Joe civil servant or Joe deputy minister or whatever purposely went in and hit delete on all their emails or their BlackBerry messages before they left government.

Jane MacAdam: That's not what we said in this report. We did not say that anybody purposely did that.

What we're saying in the report, what we concluded, is that government records are not being managed in accordance with legislation, and that's true.

Chair: I'm just going to interject for a second because I think we're getting off in a sort of a different tangent.

Yes, the question was asked every day in the Legislative Assembly: Whose emails were deleted? It would have been very easy for the Premier or for the minister responsible for records management to have stood up and simply stated Chris LeClair, Melissa MacEachern, and Rory Beck.

Mr. J. Brown: But there were 2,400 other people (Indistinct), did say.

Chair: At no time was there ever a question asked that was meant to be malicious, and I sat there every day and I listened to the question every day, and I tried hard to listen to the answer, but at no time was the information forthcoming.

To sit here and say that it was done in a malicious way, that's completely inaccurate.

Next on the list is Bush Dumville.

Mr. J. Brown: Wait, wait, wait now. Before you leave that –

Chair: Next on the list is Bush Dumville.

Mr. J. Brown: No, we went into – this was out of my comment, and I want to have a chance to address that.

I'm going to say that the way in which those questions were asked –

An Hon. Member: Questioning the Chair.

Chair: Yeah, are you questioning the Chair?

Mr. J. Brown: I am questioning the Chair because you questioned me.

Chair: Okay, you're out of order. You're out of order. The Chair rules you out of order.

Mr. J. Brown: Okay, great, well, apparently –

Chair: Bush Dumville, you're next.

Mr. J. Brown: – you don't want to give everybody a fair shot to say their piece –

Mr. Myers: How does it feel (Indistinct)?

Mr. J. Brown: – because you want to run it so that you're (Indistinct).

Some Hon. Members: (Indistinct).

Mr. Perry: (Indistinct) vote on that.

Chair: Mr. Dumville, you're next.

Mr. Dumville: Just on a point of –

Mr. Perry: (Indistinct) Sonny? If he challenges the Chair do we not vote?

Mr. Gallant: Yeah, do we not vote, Mr. Chair?

Mr. Myers: He ruled him out of order. He's out of order.

Chair: (Indistinct) under advisement, but for now we're going onto Mr. Dumville.

Mr. Dumville: Just on a point of clarification. Is not the minister of education responsible for records management and not the former premier?

Jane MacAdam: The minister of education is responsible for administration of the *Archives and Records Act* –

Chair: Yeah, so –

Jane MacAdam: – to make sure that the act is complied with.

Mr. J. Brown: I'd like to be added to the list.

Mr. Dumville: So going forward, I guess this has been a problem for years, and ministers of education, they do change over time, and it's been probably a low priority of any government the last few years.

It's probably the present minister of education that would be responsible for taking the recommendations of your report and fixing this records management?

Jane MacAdam: Yes.

Mr. Dumville: Thank you. Thank you, Chair.

Jane MacAdam: I just want to clarify that it wasn't always the minister of education that was responsible for the administration of that act. It was tourism and culture at one point. I think it was only in 2015 that the minister of education assumed responsibility for that act, so it does change.

But as of – currently it's the minister of education.

Mr. Dumville: Thank you.

Chair: Folks, I'm trying to wrap this up because we need to move on the agenda, but I do have just a couple more people on the list.

Matt MacKay.

Mr. MacKay: Thank you, Chair.

Thank you both for coming in this morning. It's certainly a lot to absorb there, so I'm trying to get my head around a bit of it.

As far as the records, any public servant, I guess, that works for the province – is there not – is in the past, their records not made hardcopy? As I recall from the past, was there not tapes or storage made that these records are always accessed for life?

Jane MacAdam: We were advised that they could be recovered –

Mr. MacKay: That they could –

Jane MacAdam: – up to a year.

Mr. MacKay: Only up –

Jane MacAdam: A year from when the account was removed or deleted.

Mr. MacKay: Have you asked anybody, I guess, in that department – I was always under the assumption that, whether they're on a server or in storage or they're – I think there used to be physical tapes made – that they could never ever be deleted? Like, they might absorb after a year, but they're always in storage.

Did you ever ask that question?

Chair: No, we're – I've got two left on the list and then we're moving on.

Jennifer Bowness: I mean, if the record was saved on a hard drive or a server, then yes, they would still be there. It's until they're deleted that they're no longer recoverable.

If the person saved, like, a non-transitory record in their email onto a shared directory, then it would still be there.

Mr. MacKay: Chair?

Chair: Just one more, quickly.

Mr. MacKay: As far as all records, are all public records not stored on that? Somebody would physically have to go in and remove them? Do they not sit on a server?

Jennifer Bowness: It depends how the individual employee saved their records. They're not just automatically there if they

were deleted. Or where they were saved, if they were saved on a hard drive versus a shared directory. It really depends on how it was saved.

Mr. MacKay: Okay, thank you.

Chair: Steven Myers.

Mr. Myers: Thank you.

Just a couple of clarifications. One is, I think that when Jordan was talking about not knowing how to deal with his own records, the rule was simple. You're to print them off and store them. Whether or not he knows how to do that is irrelevant to what the rule is. If he wants the rule changed, then perhaps he can lobby government to have that changed.

But am I correct in saying that the rule was you're to print them off and store them?

Jane MacAdam: I think the policy is that you're supposed to retain your records.

Mr. Myers: Yeah.

Jane MacAdam: That could be hard copy or electronically.

Mr. Myers: Yeah.

Just the couple of other things is that, as far as the policy goes on records management, it was this government in 2007 who created a policy booklet on how to deal with this. When you guys came here you guys had a booklet, and I can give it all to you if you'd like. I had it in the Legislature and talked about it extensively during the fall session. It was you guys that brought in the policy on how records had to be handled, that there was a committee. It had to go to committee. They would decide how it got destroyed. There would be a destruction order. Remember me asking the Premier for the destruction order that he never provided to us? It was those things.

The final thing is that ITSS has a major backup system that they implemented under this government as well, that they would have all the stuff backed up. Like, there's no way this stuff doesn't exist. The only way this stuff doesn't exist in backups is if

somebody went in and deleted it from backups. This stuff absolutely exists.

Mr. J. Brown: So you're saying, with certainty, those emails that are allegedly deleted, which we heard here today that they are overwritten –

Mr. Myers: Chair, do I still have the floor?

Mr. J. Brown: – are still there.

Chair: You do. Yeah.

Mr. Myers: Thank you.

I wonder where the system broke down that ITSS wasn't able to provide you with the emails because they did put in a major system, and all the systems are linked to it. They used to have a tape backup system, but now it just runs out. That's not my area of expertise, but it was a major system that they implemented a number of years ago, and it was part of their business continuity strategy that was implemented. We may have talked about that at one point in public accounts here.

But anyway, I'm just wondering: Did they tell you with certainty that they could not provide you with the emails out of backup, ITSS?

Jane MacAdam: Yes.

Mr. Myers: Okay, thank you.

Chair: Last person on my list is Jordan Brown.

Mr. J. Brown: I wanted to address the comment that was made earlier because I think it was unfair, as unfair as the questions were when they were posed in the House.

The question that was posed in the House was: Whose emails that were deleted, related to the Auditor General's report? We all know that she had a very specific purview in her report and had specific folks in mind. The question as it was demanded to the Premier was set up to ask generally about emails that were deleted, and the answer was: There were over 2,400 of them, I think, since 2007.

An Hon. Member: That's not (Indistinct).

Mr. J. Brown: How would you reasonably expect, hearing what we've heard here today –

Mr. Trivers: The questions were specific.

Mr. J. Brown: – to have somebody answer that question and indicate that there were specific emails that were –

Mr. Trivers: (Indistinct) were in context.

An Hon. Member: You were too busy writing Christmas cards.

Chair: Gentlemen, please, excuse me. I don't want to have sidebar conversations, and remember everything should be going through the Chair.

Mr. Brown?

Mr. J. Brown: That's all I wanted to say, is to sit here and try and say that that was anything different is misleading.

My point when we were here today was there were specific individuals that the Auditor General had in mind when she prepared her report, and I think that's very fair, and the question as put directly to her is a fair question. But the question put to anybody else can only be answered to say that happened to a number of different people.

You're saying the Premier knew who the Auditor General was talking about when he had some different knowledge than you had when you were asking the question?

Mr. Myers: Yes.

Mr. Trivers: Pretty much.

Ms. Compton: Yes (Indistinct).

Chair: Okay, we're going to move on now.

Number two, I'd ask for adoption of the agenda. Okay, Darlene, thank you.

Okay, item number three is the consideration of the December 9, 2016 AG's memorandum regarding information requests as of October 19, 2016.

Within that we had previously requested some information of the Auditor General's office, namely the legal opinion that the deputy attorney general sought from Tom Isaac, the legal opinion provided by Michael Lipton that was used by the working group, and information on the cost of the legal opinion provided by Tom Isaac.

The AG wrote back to this committee on December 9th and stated: At the public accounts committee meeting of October 19, a motion was approved and as follows: That the production of documents be put off until the completion of the section in the Auditor General's report or at the end of a meeting.

Then she went on to say: However, when this motion was approved there had already been three requests for documents. In addition, there was extensive discussion regarding who can request documents.

She was asking for clarification on whether these three items that I had previously read off remain as requests from the committee. My belief, it would be that it would be yes. Any contrary opinions on that?

If we could, once again, request those items from the Auditor General?

Now we're moving on to item number 4, which is the review of the Auditor General's Report entitled Special Assignment: Government Involvement with the E-gaming Initiative and Financial Services Platform, dated October 4th, 2016. When we left off we were just – as I went through Hansard – coming to the very end of section 5, which is based on the MOU. I had Darlene Compton down with just, I think, a couple of questions you said you had left there.

Ms. Compton: I do.

Just like to comment first because we're getting into the conflict of interest is the next – or potential conflict of interest is how we're finishing up, and then we'll get into conflict of interest.

To Mr. Brown's comment about the 2,400 emails, I think that's too cute by half. We know exactly whose emails we were looking for and this is the perfect storm of mismanagement of taxpayers' money we're looking at.

Let me see. We've got conflict of interest. Well, first we've got no written agreements where there was supposed to be written agreement. They didn't follow due-diligence, they're not following the rules, and now we're into conflict of interest.

Under 5.15 it was stated that the former deputy minister of innovation and the consultant "were aware of the potential conflicts and managed the situation."

I'd just like for the Auditor General to talk about how that was done. That comment was part of the report, so I'm assuming that we have some idea of how that was done. I mean, how do you manage conflict when you have two people that are in the middle of it?

Jane MacAdam: This is what we were advised. We didn't conclude ourselves that they did an adequate job of managing the situation. When we interviewed these individuals they said they managed the situation. But clearly, I mean, that wasn't an adequate explanation because we have a recommendation that for contracts Treasury Board policy should be enhanced to address potential conflict of interest situations with contractors. That sentence was just their explanation of how they dealt with the situation.

Chair: Darlene.

Ms. Compton: There obviously was a conflict is what you're saying.

Jane MacAdam: We're saying that there was a potential conflict. In these kinds of situations it's important that these potential conflicts be identified and document how they are managing the situation to ensure that taxpayers' interests are protected.

Ms. Compton: Why was there no clearly defined process as far as to identify, document, and manage the conflict of interest situation? Why was there none? This wouldn't have been the first kick at the can as far as dealing with government entities and private business.

Jane MacAdam: There is a Treasury Board policy on contracting but it just doesn't address that area.

We made a recommendation in the past – we note that here – in our 2014 annual report and it still hasn't been implemented so we repeat it in this report.

Chair: One more and then I have somebody else on the list.

Ms. Compton: I'm just wondering: Did this gap exist in all government departments? I mean, we weren't talking about innovation here, but was there no way of determining whether there's a conflict of interest, or would any other department – did they face this before in another government file? Obviously –

Jane MacAdam: In 2014 we noted a similar issue with an IT contract. But I can only speak to the work that we did on this assignment.

Chair: Chris.

Mr. Palmer: Thank you, Chair.

I think Darlene may have gotten to the point I was looking towards. In 5.15, what was the policy about conflict of interest at the time? Was there a well-developed or is that –

Jane MacAdam: There was no specific clause. It wasn't mentioned in Treasury Board policy on contracting. But, I mean, it's good practice not to put yourself in a position where there could be a perception or an appearance that you're not putting government's interests first.

Mr. Palmer: But there wasn't a policy that would have –

Jane MacAdam: There was no policy.

Mr. Palmer: – would have given staff direction on what they should be doing.

Jane MacAdam: No.

Mr. Palmer: But you had made recommendation that that be put into place?

Jane MacAdam: Yes.

Mr. Palmer: Okay, that's good. All right, that's all I wanted, thanks.

Chair: I would like to make one quick comment on that.

We're not talking about uneducated individuals or people that aren't accustomed to business practices. We're talking about, in some cases, a deputy minister or lobbyist as well that is a lawyer, educational background. We're talking about somebody that has worked as a business professor. If these people don't know what conflict of interest means, then who would?

There are policies in place by Treasury Board around conflict of interest and various types of those things. But if we can't rely on our senior bureaucrats to be following these rules, then how can we rely on anybody to be following them?

Mr. Palmer: You're suggesting this senior bureaucrat should follow the rule that's not yet made?

Chair: No, what I'm saying is if you're a professional and you're working for the taxpayer of Prince Edward Island, then you should know whether or not you're putting yourself in a conflict of interest.

Mr. Palmer: Should there be regulation? I think that's what the Auditor General has told us is that now that there's a policy in place that that clearly defines that. In the past that rule wasn't there, which arguably maybe it should have been but it wasn't, and now the government is putting that into place. Correct?

We can't make rules afterward, apply them retroactively. We need to have the rule in place. The Auditor General told us that there was no policy. There is a recommendation, though, made going forward which is terrific because that's our job is to make sure that we can do things going forward.

Chair: Jane, would you like to clarify that?

Jane MacAdam: I guess there was a recommendation made in 2014 because there was a similar situation at the time with an IT contract that we identified. We made a recommendation but it hasn't been implemented.

Chair: Next on the list was Jordan Brown.

Mr. J. Brown: We've kind of gone down the road that I was wondering about to a degree, and I think Ms. Compton is also wondering about it.

My understanding was – and I can't remember if it was before the election or just after – the Premier addressed these issues and imposed a policy that dealt with, and I think – and this could be just for my benefit because I wasn't here last time – but the person that we were talking about was Tracey Cutcliffe. When she left government – she was a deputy minister – she left government. She had contracts at the time with government right afterwards that kind of directly ensued her leaving, but that was okay at that time. Since that time the Premier has enacted a policy, I gather, that has said there's going to be a six-month cooling off period and that those kinds of things are going to have to be disclosed.

I guess I just wanted to ask the question: Is it your understanding that that's happened or is happening, and is that what your – is it your thought that that is the kind of thing that you would like to see in place?

Jane MacAdam: That's the post-employment part of the new conflict of interest policies. We do talk about that in 6.24 and 6.25. Yeah, there are new policies around that in the *Conflict of Interest Act*. Not act, (Indistinct) policy, sorry.

Mr. J. Brown: Basically –

Mr. Trivers: That's a different section in the report.

Mr. J. Brown: Right, but it deals with the subject matter of this squarely. This is what we're talking about in 5.15.

I guess ultimately my question is there's been a finding that, look, there's an issue that we should cover off and steps have been taken to cover that off at this point in time.

Jane MacAdam: There really are two different issues. The issue on post-employment is that when a senior official leaves government they're not to enter into contracts. There's a cooling off period. That's what this post-employment issue is. The issue –

Mr. J. Brown: Now there is whereas there wasn't before.

Jane MacAdam: Right, that's true. But in the other section here where we're talking about in section 5, this is a potential conflict between a contractor that government has hired.

Mr. J. Brown: Is that dealt with in the new policy?

Jane MacAdam: No.

Mr. J. Brown: Okay. Is that recommendation, to your knowledge, being dealt with?

Jane MacAdam: We made the recommendation in 2014 and it wasn't addressed, so we repeat it again here in paragraph 5.18. It's potential conflict of interest situations with contractors. If you have a situation where you've hired a contractor and a situation arises where you're not – the potential exists that they may not be representing the best interests of government because they have other contracts. That's what we're talking about in section 5.

Chair: Peter?

Dr. Bevan-Baker: Thank you, Chair.

I'd just like to skip ahead a tiny bit, but it's absolutely relevant to this, and in 6.3 it outlines –

Chair: Peter, just before you get there I just want to make sure: Are there any other questions on section 5? Because if there's not I'm going to first ask if there's any information requests that people have, and then if there are no information requests at the completion of this section – Darlene?

Ms. Compton: I just have one point to make. At the very end, at 5.16, we talk about addressing potential conflict with contractors which was raised in the 2014 annual report, and it says: "As of July 31, 2016, action has not been taken to implement this recommendation."

As the Auditor General, I'm sure that that has to be alarming and concerning to you because we're talking about following rules.

The recommendation was put there in 2014 and we're no closer to that, so I want to point that out because I think it's important.

Chair: Peter, I'm not trying to cut you off.

Dr. Bevan-Baker: (Indistinct).

Chair: It's just we are getting into section 6 here in a moment.

Again, I'm asking if there are any information requests from committee members. Remember, it's committee members that can request information from the Auditor General.

Bush?

Mr. Dumville: Just a quick question. You received about 10,000 documents and you had about 50 interviews. That seems like a significant investigation to me even though maybe there's a few loose ends that you didn't tie down. Are you confident that you've got the total picture?

Jane MacAdam: We do have some scope limitations in the audit that we point out in the back section of the report here in Appendix A. There were scope limitations around the information we did not get from the law firm, for example. There were scope limitations around the government records. Those were the two main areas.

Mr. Dumville: You could subpoena Bell. Did you consider subpoenaing Bell? Because Mr. Myers made mention that they have the backup.

Jane MacAdam: No, I didn't consider that.

Mr. Dumville: Thank you.

Chair: Again, there are no more questions on this section because I've already asked for questions.

I'm asking if there are any regular committee members of this committee that are requesting any information be brought back from the Auditor General.

Chris?

Mr. Palmer: Chair, maybe you can direct me on this a little bit because I don't really,

since I'm the new guy, understand where the committee ends and the Legislature begins.

Because my understanding is our job is to go through this and this is a forward looking piece, that we make sure that whatever we discover in here can't happen again.

As related to documents, I know during the Legislature there was talk by Mr. Myers of having documents about receipts and conflict of interest and those kinds of things. Are those to be tabled here or is that in the Legislature? Is that different or can we just talk about them and not have them show up? I'd like your advice on that.

Chair: Essentially what we're looking at is in the Legislative Assembly you can request a minister to table a document, to bring a document back and table it.

Mr. Palmer: Okay.

Chair: You should note that request and the date you put that request in because you're probably going to have to go back and look at that list to make sure that the information is coming back to you.

Here at this committee, as you've seen already throughout this fall, this committee reviews the reports. The Auditor General and her staff come in, reviews the reports, but it is also your right, as a regular committee member, to request – as we said before, we've asked for legal opinions, the cost of the legal opinion to the government for different things. Those are the types of things. You can ask virtually for any of the 10,000 documents that the Auditor General may have. You could ask for something that she never received or in some cases, and I'm not trying to jump to another report, but the ALC report that was done by the four Atlantic Provinces' auditor generals, we had asked for something. The Auditor General wrote back to us and said that we should be requesting that information directly from ALC.

Mr. Palmer: Can I make a request, then, that we get the documents that Mr. Myers talked about in the Legislature that related to golf at Crowbush and something about a dinner somewhere, those documents that he talked about in the Legislature? So I can request those?

Chair: Yes, you can certainly request any pertinent information that the Auditor General may have relating to those documents.

For the invoice, I believe it was at Sims or for information as far as who may or may not have attended – well, you couldn't say who didn't attend, but the golf at Crowbush Cove.

Mr. Palmer: How do we formally do that?

Chair: I had asked just a few moments ago if there are any requests. You put those requests forward now.

Mr. Palmer: Okay.

Chair: The clerk duly notes it. The Auditor General will also note it and if she's able to provide that information she will do so.

Mr. Palmer: Well, she should be able to. Mr. Myers said he had them so she should be able to find those.

Okay, thank you.

Mr. Myers: I tabled them, actually.

Mr. Palmer: In the Legislature?

Mr. Myers: (Indistinct) ask for them anyway.

Mr. Palmer: So you should be able to get them –

Jane MacAdam: (Indistinct).

Mr. Palmer: Okay.

Mr. Myers: Ask for them anyway in case I didn't. I can't remember. I might just email them to you here now if you want.

Mr. Palmer: Okay.

Mr. Myers: I emailed you one already while you were talking.

Mr. Palmer: Okay.

Mr. Myers: I don't care (Indistinct).

Chair: Mr. Palmer, is there any other request that you have?

Mr. Palmer: No, that's it.

Chair: Jordan, did you have a request?

Mr. J. Brown: Yeah, just on that point. At this point, I guess, it's as much a question for Mr. Myers as anything else.

Mr. Myers, you'd indicated that you had a series of emails that you were going to table in the Legislature –

Mr. Myers: I'm not a witness, actually.

Mr. J. Brown: I know you're not, but you're here in front of the committee –

Mr. Myers: I'm not going to answer your question so I'm not a witness.

Mr. J. Brown: Well, I can make it as a point of privilege.

Mr. Myers: Would you like –

Mr. J. Brown: You had indicated that you had emails (Indistinct) –

Mr. Myers: Would you like to go back to the Legislature to make your point of privilege? Because you can't make one here.

Mr. J. Brown: I can do it here at a committee.

Mr. Myers: No, you can't.

Mr. J. Brown: Well, I can ask for the emails to (Indistinct) –

Mr. Myers: It'll go in the report and it'll go back to the Legislature in the spring, so go ahead.

Mr. J. Brown: Okay, well, I'll do that then.

Mr. Myers: Ask Chris for them. He may have them.

Chair: Ladies and gentlemen, come on.

We're getting offline here. Again –

Mr. J. Brown: In all seriousness, Chair, I would – in the spring sitting or in the fall sitting Mr. Myers had indicated that he had a series of emails that he was going to table, which as of the last time I checked, which is

now a little while ago, had not been tabled. I would like this committee to seek the production of those documents from Mr. Myers.

Chair: I don't think this committee has that authority, Mr. Brown.

Mr. J. Brown: Why do we not?

Mr. Myers: No it doesn't.

Mr. Palmer: Isn't that what I just asked?

Chair: Ryan, can you clarify that?

Mr. Myers: Not from me, though.

An Hon. Member: From the AG.

Mr. Palmer: From the AG?

Mr. J. Brown: What are you scared of? Do you get them from CMT's legal counsel?

Chair: Order, please!

Excuse me for a moment. I'm just conferring –

Mr. Myers: (Indistinct).

Chair: Steven, Jordan –

Mr. J. Brown: I'm just asking you a straight up question.

Chair: I'm just conferring with the clerk for a moment here.

Clerk Assistant (Reddin): Committees do have the power to seek production of records. I would suggest that a committee can send a letter to a member to ask the member for records to be produced. That would be the first way of doing it. The committee should be specific, though, as to which records you're talking about.

Mr. J. Brown: I'd be fine with that, Chair.

The specific records are the records that he indicated that he was going to – the emails that he had received that he had indicated that he was going to table. My recollection is it was in the last week of the House sitting, and I can go back and find the specific reference in Hansard if we so wish,

or the clerk can do that. A letter would be fine as far as I'm concerned.

Chair: Okay.

Ryan, you can look after that request?

Clerk Assistant: Yes.

Chair: Are there any other requests of the Auditor General for section 5? Going once, going twice. Gone.

Moving on to section 6 which is titled Conflict of Interest.

Jane, I'll turn it over to you. Again, ladies and gentlemen, what we had discussed previously is that we would hold off questions until the completion of a section. Again, all questions should come through the Chair.

Jane MacAdam: We found compliance with the annual disclosure requirements of the *Conflict of Interest Act* by Members of the Legislative Assembly. However, there were instances where disclosures for deputy heads and staff were not obtained as required by the Conflict of Interest policy.

The Conflict of Interest policy in place during our scope period required employees, including deputy heads, to file either a declaration or disclosure statement upon initial hire, upon a change in circumstance, or when requested.

We expected one of these statements to be filed for each employee in accordance with the policy.

We requested the statements of 17 executive level employees and four non-executive level employees who were closely connected with egaming, the loyalty card program or the financial services platform files. Of the 17 executive level employees, 14 did not have all the required statements completed, and of the four non-executive level employees, one did not have all the required statements.

Then the apparent conflict of interest situations. An apparent conflict of interest exists where it can be reasonably perceived, or appears, that a public official's private interests could improperly influence the

performance of his or her duties, whether or not this in fact is the case.

We know the two situations during the assignment involving the former chief of staff and a former deputy minister.

For the former chief of staff, in the spring of 2011 the former chief of staff's spouse purchased \$1,500 in convertible debentures in Revolution Technologies which was a company targeted for a reverse takeover by Capital Market Technologies.

The involvement of the former chief of staff in government relations with CMT and his spouse's investment in Rev Tech creates the perception of a conflict. The reverse takeover did not transpire and we were advised that the debentures expired later that year and he did not receive a financial benefit from this investment.

The second situation involved the former deputy minister of tourism and culture who was also the former deputy minister of innovation and advanced learning. In this case she provided preferential treatment to CMT and Simplex, which involved both the loyalty card program and the Memorandum of Understanding signed with Trinity Bay Technologies, a subsidiary of Capital Market Technologies.

We concluded that she should have stepped away from both of these files, citing the apparent conflicts to her minister and/or the clerk of Executive Council. We were advised that when the PEI superintendent of securities investigation began she was asked by a senior government official to remove herself from the file.

We note that in 2016 a new policy was approved for executive level staff. This policy requires annual disclosure statements to be filed and expands the disclosure requirements that previously existed. As part of our work we verified that the required disclosure forms were completed and provided to the ethics and integrity commissioner as of March 31st, 2016.

The next section is on post-employment. During our work we noted that a former deputy minister became a partner of a consulting company after departing government. Within six months of departure

this former deputy minister secured three separate contracts for the consulting company with a total value of approximately \$100,000. All three contracts were quite broadly worded in terms of scope of work. A competitive process was not used to award the contracts, which was in contravention of Treasury Board policy on contracting.

Although there was no cooling off period in the conflict of interest policies for deputy ministers at that time, all of these post-employment activities are normally restricted through a cooling off period. We noted that in the new policy for deputy heads post-employment restrictions are included, and the conduct noted would be in contravention of the new policy.

(Indistinct) any questions?

Chair: Peter.

Dr. Bevan-Baker: Thank you, Chair.

I'm seeking clarification on conflict of interest regulations as they apply to non-MLAs, to civil servants. The MLAs, of course, the *Conflict of Interest Act* applies to us. But in 6.3 it's quite clearly stated here at the end of the paragraph: "For Deputy Heads and other government staff, conflict of interest requirements are outlined in Treasury Board policy."

I've heard this morning some conflicting things, that there are conflict of interest guidelines and requirements and rules in place, or there are not. I'm just seeking clarification. That sentence to me seems pretty unambiguous, that there are indeed requirements for non-elected officials. Am I correct?

Jane MacAdam: There are conflict of interest requirements for deputy heads under Treasury Board policy.

Dr. Bevan-Baker: Right. I just remember a conversation a few minutes ago where it was almost left to their own accord, their own volition, to come forward with sort of a recognition that they may be in conflict, but actually that's not the case. There are requirements and rules and regulations in place.

Jane MacAdam: I think the other one was with regards to contracting. When a department contracts for work the relationship between the contractor and government may pose a potential conflict, and that's not outlined in the contracting policies.

Chair: Peter.

Dr. Bevan-Baker: Here we're talking about individuals within those departments and quite clearly there are regulations and requirements that they should be following. Am I correct in saying that?

Jane MacAdam: There are rules around deputy heads, and all employees for that matter. All employees, there are rules around conflict of interest, and those are outlined in Treasury Board policy. It's about how they conduct their own affairs and fulfill the duties of their job.

Chair: One more, Peter, and then I've got a couple of more on the list.

Dr. Bevan-Baker: Therefore, is it fair to say that the individuals involved here did not follow those requirements in some cases?

Jane MacAdam: You mean with – yes, we have a lot of examples here where the required disclosures and declarations were not completed in accordance with Treasury Board policy. Like, 14 out of 17 executive level employees did not complete all the required disclosures under Treasury Board policy on conflict of interest.

Dr. Bevan-Baker: (Indistinct)

Chair: Yeah, I can come back to you.

Darlene.

Ms. Compton: Thank you, Chair.

I guess just on that note, it's a matter of what type of conflict of interest we're looking at. Specifically in section 5 when it comes to a contract that –

Jane MacAdam: In section 5, when we talk about that potential conflict with a contractor, we are recommending that the Treasury Board policies on contracting be

expanded to address potential conflict of interest situations that could arise with a contractor.

You could have a situation where a contractor has – like, they're working for government, but maybe because of another contract that they have there could be a situation where they have loyalty to two parties and it may create the perception of a conflict. It's important that before contractors even sign there's a requirement for them to notify the department: Here's a situation that's arisen, I'm bringing it to your attention, we're going to document how it's going to be managed. Or if it can't be managed, then maybe government has to take action to step away from the contract if they feel their interests are not going to be served. It's a contracting issue.

In this case here, it's employees avoiding the appearance of a conflict or an actual conflict in their workplace.

Chair: Go ahead.

Ms. Compton: In 6.2, maybe you can just refresh my memory. It talks about apparent conflict of interest situation with two senior executives involved in these files. Who were the two senior executives?

Jane MacAdam: It was Chris LeClair and Melissa MacEachern.

Chair: Any other questions, Darlene?

Ms. Compton: Yes. Again to Peter's point. Now we're talking about a totally different conflict of interest. There are numerous conflicts of interest in this whole file is what we're saying.

Jane MacAdam: As part of this work we were asked to examine the conduct. It was part of what the Order in Council asked us to do was to examine the conduct of senior officials.

Chair: I'm just going to interject for a quick second.

We've had a request from Hansard. Apparently somebody's phone that's on your table, I thank you first for having it on vibrate, but it's sitting on the table and Hansard's picking it up through the

microphones. I'd ask members just to take your phones off the table and perhaps put them on your chair or in your pocket. Thank you.

Sorry, Darlene. Go ahead.

Ms. Compton: I think I'm clear on the conflict of interest and the different types of conflict of interest.

We're looking at Section 6.5 here. It says the disclosure statements for MLAs cover their spouse and dependent children.

Would the spouses of adult children of an MLA fall into a grey area under this section of conflict of interest? A lot of us have children who are married. Is that considered a conflict of interest, too, if it's a spouse of a –

Jane MacAdam: I think that would be a question for the commissioner, like –

Ms. Compton: There's no specific –

Jane MacAdam: It says here "dependent children." I think if there's any grey areas I'm not comfortable speaking to that.

Ms. Compton: If they're grown up and married and their spouse has a contract, that's not a conflict?

Chair: Thank you.

I had Brad Trivers on the list next.

Mr. Trivers: Thank you, Chair.

I'm looking at section 6.8 here, and it says: The Conflict of Interest Policy in place during the time reviewed required employees to file disclosure statements upon hiring or change of duties, right? Whenever there was a change, specifically hiring (Indistinct) change of duties.

Who would you actually make those disclosures to? Who is it that they make those disclosures to?

Jane MacAdam: The policy at the time required that deputies disclose to the CEO of the Public Service Commission. That's how the policy is worded.

Chair: Is there anything else, Brad?

Mr. Trivers: Yes, thank you, I have other questions.

On 6.10, we get into the – well, what you'd referred to, how 14 out of 17 executive level employees who are closely connected to the files did not have disclosure statements complete. There weren't complete disclosure statements.

In those executive-level employees, what type of positions would make up those employees? I mean, are they all deputies or agency heads, or maybe it's just easiest to get a list, I don't know.

Jane MacAdam: Executive level, they would be deputy heads or deputy ministers or CEOs, those types of positions.

Mr. Trivers: So all 17 are either deputies or CEOs.

Jane MacAdam: Yes.

Mr. Trivers: Okay. Now, did government give any reason as to why the disclosures weren't completed?

Jane MacAdam: Not any specific reason, no. They just weren't there.

Mr. Trivers: They just weren't following the rules. Okay.

Jane MacAdam: They just didn't provide us with the statements. Now, we know that some individuals told us that they recall preparing a statement, but we weren't provided with statements.

Mr. Trivers: Okay. You've alluded to this already, but I mean, 14 out of 17, that's over 80% of those people of the disclosure statements your office requested didn't exist. How concerned are you about that?

Jane MacAdam: It is concerning because it's non-compliance with a policy that existed at the time.

Mr. Trivers: Right. Do you feel that when a policy is in place and the rule is not being followed making recommendations to make sure you follow the rules is going to be effective? All you can do, when the rule is in

place, you have to say: We want you to make sure you follow the rules. That's essentially what the recommendation is. Do you think that's going to work? Do you think that'll help?

Jane MacAdam: We don't set policy. These are Treasury Board policies so they set the rules, and our job is we come in and we assess compliance. When we observe non-compliance, that's what we do, we make a recommendation so that it improves compliance with the policy.

Mr. Trivers: Chair?

Chair: Go ahead, Brad.

Mr. Trivers: We have these 14 out of 17 people who did not complete their disclosure agreement. Were you able to find out if, in fact, those disclosure statements were eventually produced for the period in question? Or were they just – that was it, they weren't – no disclosure statements were there. You found there were none, and they were just left uncompleted.

Jane MacAdam: There was a new policy approved. We note in the report that as of March 31st, I believe it's 2000 and –

Jennifer Bowness: Sixteen.

Jane MacAdam: As of March 31st, 2016, all the required disclosures were on file in accordance with the new policy. There was some action taken after this to address disclosures regarding potential conflict of interest situations for senior level employees.

Chair: One more and then I've got – I'm going to keep going through my list here.

Mr. Trivers: We've confirmed that all 17 of these employees are either CEOs or deputy level. I was going to ask you if you could tell the committee which 14 executive level positions weren't in compliance with the disclosure policy for conflicts of interest. Can you just list those out? Maybe it would be even more helpful to have a list of all 17, what the titles were, and then who was in each position, and which ones were compliant and which ones weren't.

Chair: Okay, again, we're asking for specific information to be brought back.

Mr. Trivers: Okay.

Chair: I believe we've had the discussion before that regular sitting members are the only ones that can actually request that information.

Mr. Trivers: But is that information you can just verbally give, though? You know what I mean? Like, do you have that list in front of you? You can just read them off? Or is that something that we need to request through a formal process?

Chair: Okay, all right. If you have the information –

Jane MacAdam: Do you want to request that, or –

Mr. Trivers: Okay, I'll defer that to the end of the section for the request, then. I'll ask my colleague across the floor to note that.

Mr. Palmer: I'll do it. When we get to the end (Indistinct).

Ms. Compton: End of the section.

Chair: Do you have another question, Brad?

Mr. Trivers: That's good for now for me.

Chair: I have Matt on the list next, and then Chris, and then Jordan.

Mr. MacKay: Thank you, Chair.

On section 6.14 it talks about a local business owner introducing a former chief of staff to CMT's vice-president of business development, and the CEO of Simplex. Could you identify each of the parties referenced in this section?

Jane MacAdam: The local business owner was Paul Jenkins, the former chief of staff was Chris LeClair, the vice-president of CMT was Paul Maines, and the CEO of Simplex was Philip Walsh.

Mr. MacKay: Chair?

Chair: Matt.

Mr. MacKay: Section 6.16 talks about activities to raise capital for a company called Revolution Technologies.

Can you expand on what you discovered in that section?

Jane MacAdam: I'm not sure I understand the question.

Mr. MacKay: Just when you were going through, I guess, your investigation, as far as what you discovered around the Revolution Technologies as far as raising the capital.

Jane MacAdam: We knew that they were raising capital directly, and we say here that the chief of staff's spouse purchased \$1,500 of convertible debentures in Rev Tech.

Mr. MacKay: That's all you found in that section was the \$1,500?

Jane MacAdam: We say here we were unable to substantiate Rev Tech's investor list, so we didn't have a complete list of everyone that invested in Rev Tech. We weren't able to get that as part of our work.

Chair: I'm just – sorry, I'm just going to jump in again for a quick second.

Matt, you had mentioned during her investigation. I think we need to call this what it was. It was an audit. It wasn't an investigation as such, so just the terminology.

Thank you.

Mr. MacKay: Okay. Chair?

Chair: Go ahead.

Mr. MacKay: Was your office able to learn why CMT needed to acquire this company through a reverse takeover to reestablish themselves on the stock exchange?

Jane MacAdam: It was identified as a target company that CMT wanted to take over to establish itself on the stock exchange. I don't know why this particular company was identified. I'm not sure why it was this company.

Mr. MacKay: Final question, Chair.

Section 6.17 discusses the purchase of convertible debentures in Revolution Technologies by the spouse of the former chief of staff in the spring of 2011. Was your office able to establish how the premier's former chief of staff learned about this investment opportunity in a company slated to be acquired by CMT?

Jane MacAdam: That speaks to why we conclude there was an apparent conflict of interest. Because he had knowledge of CMT doing business in the province through the E-gaming working group and other discussions that were happening.

We knew that the former chief of staff was aware of CMT's involvement with government, but we don't have any documents – we weren't provided with any documents to indicate that he knew the connection between CMT and Revolution Technologies.

Mr. MacKay: Thank you, Chair, I'm good for now.

Chair: Next I have Chris Palmer on the list.

Mr. Palmer: Thank you, Chair.

I have a clarification and then a question. Clarification is on the question that Mr. Trivers had asked about section 6.1 and the folks that didn't have their disclosures completed, which I'll be happy to request at the end when we get to that section.

At that time the disclosures weren't completed and he had asked the question: Do you think putting a new policy in place would actually help? But I know it's not your job to really determine that, but in March 2016 you had said that everyone has filled out those disclosures?

Jane MacAdam: Yes.

Mr. Palmer: This is a forward-looking committee and I think that's one of the recommendations that were made and that's been implemented and it seems to have worked, which is great.

My question is around this new policy in 2016 about post-employment contracts.

Jane MacAdam: Yes?

Mr. Palmer: At the time what was the – I think the term was cooling off period – what was the cooling off period requirement at the time of this report, this audit that we're looking at?

Jane MacAdam: There was no cooling off period in the previous policies.

Mr. Palmer: So the deputy could leave work on Monday and Tuesday get a contract with government?

Jane MacAdam: There was no policy on cooling off (Indistinct) former –

Mr. Palmer: Okay.

Jane MacAdam: - employee.

Mr. Palmer: Okay, but there is a policy now?

Jane MacAdam: Yes.

Mr. Palmer: How long is that cooling off period? I should know that, I just –

Jane MacAdam: Six months.

Mr. Palmer: Six months? Okay.

Thank you, Chair.

Chair: Thank you.

Next we have Jordan Brown.

Mr. J. Brown: I just wanted to go back. I've a couple of questions and a couple points of clarification.

Earlier when Ms. Compton was asking about the conflicts of interest I think you had said that you had found a number of conflicts of interest. The word that's used in here is apparent conflict of interest. I'm just wondering if you – I guess firstly, did you find conflicts or do you find apparent conflicts?

Jane MacAdam: Apparent.

Mr. J. Brown: Apparent conflict. In your mind, what's the difference between the two?

Jane MacAdam: An apparent is where it could be reasonably perceived, and an actual conflict is where there's documentary evidence to indicate that there was a conflict.

Mr. J. Brown: Okay. Following up on Matt's question in relation to Mr. LeClair, you've indicated that there was no documentary evidence to establish a conflict. I'm wondering if you had asked him about that, about this conflict.

Jane MacAdam: When we talked to Chris LeClair?

Mr. J. Brown: Yes.

Jane MacAdam: That we talked about the conflict? Yes, we did.

Mr. J. Brown: What did he say?

Jane MacAdam: He confirmed that his spouse did make this investment.

Mr. J. Brown: Did you ask him – the questions that Matt was asking, like, how he became aware, why she made the investment or did he make any money off it or –

Jane MacAdam: Yeah, he indicated that he did not make any money off the investment. How he became aware was through – yeah, it was – actually how he became aware of Rev Tech was through Paul Jenkins.

Mr. J. Brown: Just to be clear, Rev Tech is a different company from – I guess I could ask you that question. I think we heard that back in chapter one. But my recollection of it is Rev Tech was a publicly traded company – I'm not sure whether that's on the Toronto stock exchange or where – and CMT is, I guess, a private company?

Jane MacAdam: Yes.

Mr. J. Brown: Was Chris asked whether he knew the two were somehow linked?

Jane MacAdam: Yeah, we asked him that question and he said he didn't know.

Mr. J. Brown: He didn't know. Was there anything to indicate otherwise?

Jane MacAdam: No. We couldn't – we weren't provided with any documents to indicate that he knew the connection between CMT and Rev Tech.

Mr. J. Brown: Okay.

Chair, this is a separate question (Indistinct).

Chair: Go ahead, Jordan.

Mr. J. Brown: So we're back – 6.9, you had indicated in that section that for the purpose of your review you considered “a change in circumstance to be... when an employee changes positions...” This policy was enacted by Treasury Board for deputies and government staff.

Was there a Treasury Board definition at that time of “change in circumstances” or something like that?

Jane MacAdam: No. I don't think there was anything specific.

Mr. J. Brown: Okay. So your definition, is that from a government policy somewhere? I guess, can you tell us where –

Jane MacAdam: It's just based on the whole purpose of conflict of interest for senior government officials. Like, change in circumstance – if you're switching from one department to another, and you don't feel you have any potential conflicts when you were in the department of health but then you go to innovation, you really have to reassess whether you have any potential conflicts.

Change in circumstance, we interpret it to be a change in assignment or a reorganization. If, for example, you were the deputy head of a department and, say, culture was added or energy was added, that you would reassess whether or not that impacts what you've disclosed in terms of your potential conflict.

Mr. J. Brown: The idea is basically to turn your mind to the scope of your department as a –

Jane MacAdam: To your responsibilities.

Mr. J. Brown: I think there were two you had mentioned here that were apparent conflicts of interests. Other than those, did

you find any apparent or perceived or actual conflicts of interest in that – I think it is 14 and 17.

Jane MacAdam: No, but as we indicate, for the limited number of disclosures that were on file we assessed those but there weren't that many to look at.

Mr. J. Brown: I guess I'm just wondering – like, we were asking earlier about you might not have somebody's email, but you probably have the email account of the person they sent it to. In this situation you might – I don't know whether you had the conflict of interest report for – I think we said this was Melissa MacEachern and Chris LeClair – but you have had enough to figure out: Okay, there's an apparent conflict of interest there that we're going to report on in our report.

I guess what I'm wondering is: With the others was there any concern in relation to this issue, that there's an apparent or an actual conflict of interest?

Jane MacAdam: If there had have been we would have reported it.

Mr. J. Brown: Okay. Thanks. That's it for now. Thanks.

Chair: Next on the list I have Jamie Fox.

Leader of the Opposition: Thank you, Chair.

I've just got four questions. I'm interested in 6.18 and it says: “The reverse takeover did not transpire...”

I'm curious that if it had proceeded is there any way to determine, or did you determine, how much money that possibly the chief of staff could have made off this?

Jane MacAdam: No. I mean, we didn't speculate on what might happen.

Leader of the Opposition: Can you speculate?

Jane MacAdam: It would depend how much it was traded at. I can't speculate how the shared price would go, when it would happen.

Leader of the Opposition: Yeah.

Jane MacAdam: All I can say is it was \$1,500 invested.

Leader of the Opposition: He could have made some. Thank you.

Chair, 6.19, picking up with what Mr. Brown started – and I don't think I heard the answer. But can you identify who this former deputy minister of tourism and culture and was also the former deputy minister of innovation and advanced learning, who that was?

Jane MacAdam: That was Melissa MacEachern.

Leader of the Opposition: That was Melissa MacEachern.

Question: Would this situation of preferential treatment be a common finding in past audits by your office or department?

Jane MacAdam: It wouldn't be common, but this assignment was different because we were specifically asked by the Order in Council to examine the conduct of former and senior elected officials and staff, so it was a very direct part of our assignment. We don't always look at these kinds of things in our normal audits.

Leader of the Opposition: Can you clarify to me – am I understanding right that there were no limitations on what your scope was actually? You were supposed to have full access to everything? Is that not right?

Jane MacAdam: My access is governed by the *Audit Act* so we use that in our audit planning and scoping out our assignment.

Leader of the Opposition: Section 6.20, final question here, Chair.

In 6.20 on page 38 it says the former deputy minister and her former spouse had both social and commercial ties to CMT executives and their family at the same time CMT was pursuing a business relationship with government.

Why wouldn't – or shouldn't this have raised a red flag somewhere within the government?

Jane MacAdam: I don't know. I mean, that's why we have the finding here.

Leader of the Opposition: I'm asking your opinion, I guess. Shouldn't somebody have –

Jane MacAdam: If the disclosures had been completed the way the policy required them to be completed, it may have been flagged through that process.

Leader of the Opposition: Did you find any flags?

Jane MacAdam: Melissa was one of the examples where there weren't – she didn't file all her required disclosures. I'm just saying that maybe if she had filed them all it would have been picked up by somebody, that they maybe should ask more questions.

Leader of the Opposition: Thank you, Chair.

Chair: Next on the list is Steven Myers.

Mr. Myers: Thank you, Chair.

I want to go back to 6.17 and just talk about that. You said that Chris LeClair found out from Paul Jenkins about the Rev Tech investment opportunity.

Jane MacAdam: Yes.

Mr. Myers: Paul Jenkins would have been involved with the CMT file?

Jane MacAdam: Yes, he was.

Mr. Myers: In your opinion – because you said that the "...shell company that was traded on an Over-the-Counter exchange... would not be known by the average investor..." – the fact that that happened and it wouldn't be known to the average investor, isn't that the definition of insider trading?

Jane MacAdam: I'm not sure of a definition of insider trading, but based on the policies that existed at the time for a conflict of interest, all that information taken together led us to conclude that there was an apparent conflict of interest.

Mr. Myers: Yes, and I do understand that from reading 6.17 and 6.18. But I guess my question is that if Paul Jenkins was involved with CMT, which you say he is, and Paul Jenkins told Chris LeClair, and Chris LeClair's wife bought stock in a company that CMT was going to overtake, and no one else knew about it because the average investor wouldn't know –

Jane MacAdam: Right. That's the point we make here, it's Over-the-Counter. So yes, the average investor wouldn't know because it was an Over-the-Counter exchange.

Mr. Myers: In your opinion, would you think that that clause right there, 6.17, and what we know about Paul Jenkins' relationship with Chris LeClair, that this should be investigated by the police?

Jane MacAdam: As we said, we concluded it was an appearance of a conflict and we don't have any – we weren't provided with any documentation indicating that Chris LeClair knew the connection between CMT and Rev Tech, and that's all we can go by. We don't have any documents.

Mr. Myers: Okay, fair. Just going with the line that you said that Rev Tech was a shell company that was traded Over-the-Counter, the exchange, and would not be known to the average investor, I guess, are you implying that – this is what I'm trying to wrap my head around. Is that statement enough to take to the police? Is that what you're saying, that they had knowledge that no one else had.

Jane MacAdam: We're saying that the average investor wouldn't know about Rev Tech.

Mr. Myers: Thank you.

Chair: Darlene Compton's next on the list. Chris Palmer after Darlene, and then Peter.

Ms. Compton: Thank you, Chair.

Just back a little bit to – (Indistinct) forward I guess from where Mr. Myers was.

In 6.20, we talk about the relationship that Melissa MacEachern and her family had with CMT and we know that there was a Memorandum of Understanding with CMT

and its subsidiaries around a Loyalty Card Program without a competitive process. Right there there's a conflict of interest.

Can you put an estimated value on that, the MOU with CMT and what could have come out of that?

Jane MacAdam: I can't put a value on it. There was no ask by Trinity Bay. The MOU was a period of exclusive negotiations, but there was no specific ask.

Ms. Compton: What supporting documents did your office receive around the MOU with CMT?

Jane MacAdam: Supporting documents?

Ms. Compton: Yeah. Was it the MOU itself or was there any other – why this happened, or a justification for –

Jane MacAdam: We had the MOU itself and we conducted a number of interviews. There were some emails that we received leading up to the signing of the MOU between Trinity Bay and Innovation PEI.

Ms. Compton: Presumably the deputy didn't come up with this idea by herself, the MOU. Maybe we covered that, but did your office find any authorization for the department to proceed with the MOU with CMT, from either the minister or Cabinet or the Executive Council office or the Premier's office?

Jane MacAdam: No. We say here – on page 30 there was an email – the former deputy minister of the department received an email from Simplex regarding a plan for a financial services platform. That was in January of 2012, so there was some initiation from Simplex to Melissa.

Ms. Compton: When you interviewed the deputy did she talk about it in any kind of length or was that just it, there was an email and we jumped on it, we're going to go with an MOU without any kind of – it's just between – it's between – wasn't it herself and Billy Dow that came up with this idea of an MOU?

Jane MacAdam: It was proposed through the (Indistinct). There were emails between Billy Dow and Gary Evans is kind of –

Ms. Compton: That's where it started.

Jane MacAdam: That's where it started. Then Gary Jessop sent an email with a draft MOU.

Ms. Compton: Okay. That's good.

Chair: Chris Palmer.

Mr. Palmer: Thank you, Chair.

I just have a clarification on a question. In 6.9 we talked about a conflict statement – I think that's what it's called – would have to be updated with a change in circumstances, in 6.9.

So if the chief of staff – what change in circumstances would have to happen for him to be required under the legislation or the policy at the time that his wife had made a \$1,500 investment? What rule was there or policy was there around spousal investment that wasn't followed?

Jane MacAdam: For Chris LeClair, like, as far as change in circumstance, we only expected one disclosure for him because during the scope period there was no change in circumstance. We looked for one statement from Chris LeClair and he did fill out a disclosure statement.

Mr. Palmer: There wouldn't have been a requirement for him to update his disclosure to say that: Hey, my wife invested \$1,500?

Jane MacAdam: But under the policy, if he did perceive a conflict, he's to bring that forward.

Mr. Palmer: Right. If he didn't know there was a conflict and there's no requirement because there's no change in circumstances for him to update that, is that correct?

Jane MacAdam: There were no change in circumstances with regards to his job duties that we –

Mr. Palmer: But now we have policy in place that would address that?

Jane MacAdam: The new policy is that there are annual disclosure statements.

Mr. Palmer: So that would cover it off.

Jane MacAdam: On an annual basis they completed the statement and also meet with the ethics commissioner and –

Mr. Palmer: Even if there isn't a change in circumstances.

Jane MacAdam: Even if there isn't a change in circumstances on an annual basis.

Mr. Palmer: Okay, that's great.

I guess my question is: In section 6, with all of those, aren't those all examples of things that would be strengthened by the conflict of interest disclosure and the cooling off period recommendations that you've made? They're just a whole pile of examples of stuff that happened in the past that there were no rules around. Now we have rules. As our responsibility as a committee, as a forward-looking committee to make sure this doesn't happen again, we now have rules?

Jane MacAdam: The policies were strengthened.

Mr. Palmer: Yes, okay, based on your recommendations.

Jane MacAdam: The requirements for disclosure have been enhanced in terms of on an annual basis.

Mr. Palmer: That's great. If those policies were in place back then those things couldn't have happened.

Jane MacAdam: I can't say they couldn't have happened. I can say that with the new policy there's annual disclosure requirements. So it depends what's disclosed and how it's interpreted. So, I mean I can't say that –

Mr. Palmer: But we've certainly strengthened it.

Jane MacAdam: It's been strengthened.

Mr. Palmer: Okay, good.

Thank you, Chair.

Chair: Thank you. Peter Bevan-Baker.

Dr. Bevan-Baker: Thank you.

Perhaps worth pointing out before I ask my questions that there would be no requirement for any rules or regulations or legislation, for that matter, if people independently and instinctively did the right thing, but unfortunately that's not human nature, and that's why we do need to have rules. Even if the rules are strengthened, that does not necessarily mean that people are going to behave, so –

Mr. Palmer: So they're supposed to know the rules before they're created?

Chair: Excuse me, Mr. Palmer. Peter has the floor.

Mr. Palmer: Okay, sorry.

Dr. Bevan-Baker: Thank you, Chair.

The two apparent conflicts that you deal with here – and of course we need to realize that there could well be very many more than that. We only know these because they were volunteered to you, or you discovered it in your work. But we do know that there are many instances where you didn't have enough information, too. But I think it's fair to say there's potential for more apparent conflicts or real conflicts to exist here.

Both of these related to an association with companies that, had the egaming scheme gone forward, would have potentially made a lot of money, and therefore a lot of money for those people associated with it, whether that was with awarding untendered contracts to those companies or making an investment in that company.

I want to first talk about the investment opportunity that existed. In 6.16 we see that 70% of the million dollars which was raised for Rev Tech came from Islanders, 70% of it. In 6.17 we know that Chris LeClair's wife invested \$1,500. Am I right that's because Chris volunteered that information to you? That wasn't something you went –

Jennifer Bowness: (Indistinct).

Jane MacAdam: It was first disclosed in the *Globe and Mail*. That's how it first came out, and we did get some information there. We interviewed Chris LeClair as well and he didn't deny this. I mean, he agreed with this.

Dr. Bevan-Baker: Okay. My question is – in 6.17 you say that you were unable to substantiate Rev Tech's investor list. Did you actually request that list?

Jane MacAdam: Under the *Audit Act* I don't have a mandate to. I mean, they can – I don't have the authority to get the information, I guess, so – because it's a third-party company.

Dr. Bevan-Baker: Okay.

Chair: Sorry, Peter, what list were you referring to?

Dr. Bevan-Baker: The list of investors in Rev Tech.

Chair: Okay.

Dr. Bevan-Baker: There's \$700,000 from 36 Islanders, \$2,000 a piece. The only one that we're aware of is Chris LeClair's wife. We don't know any of the others.

Jane MacAdam: No, I don't have the investor list of Rev Tech.

Dr. Bevan-Baker: Okay.

I'd like to move on to 6.22 where we seem to have a different version of events here. I think we're talking about Melissa MacEachern here where you were told, I think by PEI Superintendent of Securities, that she was asked to remove herself from the file and she maintains that she voluntarily stepped away from the file.

Am I right in interpreting that, that that's just a different version of events that you received from two people?

Jane MacAdam: Yes. She was asked by the Clerk of Executive Council to step away from the file.

Dr. Bevan-Baker: But she maintains that she voluntarily did that –

Jane MacAdam: She maintains that she voluntarily did that.

Dr. Bevan-Baker: – without being asked to do so.

Jane MacAdam: Right.

Dr. Bevan-Baker: Okay. I just wanted to clarify that.

In 6.24 the consulting company that Melissa MacEachern joined at that time and entered into the \$100,000 contract, does that consulting company still provide services to government?

Jennifer Bowness: (Indistinct).

Jane MacAdam: That was Tracey Cutcliffe. That wasn't Melissa.

Dr. Bevan-Baker: Oh, I'm sorry. Does that consulting company still provide services to government?

Jane MacAdam: I'm not sure if they still have a – if there's a current contract outstanding with them or not.

Dr. Bevan-Baker: Could you tell me the name of that company?

Jane MacAdam: It's KCM Strategy.

Dr. Bevan-Baker: KCM Strategy.

Chair: Peter, I might point out, though, that Tracey Cutcliffe is no longer with KCM. She's now has a senior position with ALC.

Dr. Bevan-Baker: Okay, right.

Ms. Compton: Tangled web.

Dr. Bevan-Baker: Thank you for reminding me, Chair.

One final question, Chair?

Chair: Certainly.

Dr. Bevan-Baker: It's again with 6.24. The untendered contracts amounting to \$100,000 went to this consulting company. Who would have authorized those contracts?

Jane MacAdam: The first one was authorized by – she signed the contract, was Melissa. The second one was Matt McGuire, and the third one was Melissa.

Dr. Bevan-Baker: Thank you, Chair.

Chair: Peter.

Jordan Brown.

Mr. J. Brown: I just want to go back to Mr. Myers' questions about insider trading. Just for Mr. Myers' benefit, and perhaps for some of the others that weren't here for the first part of it, you had explained earlier that there were four companies. I think in fact there's a graph in there of those four companies that were all in some way kind of connected to this issue. And indicated that Rev Tech, from my recollection, is a publicly traded company. You said, I think, it's traded on an Over-the-Counter market.

Jane MacAdam: Yeah.

Mr. J. Brown: So, I guess – and I take a bit of an issue with that.

The first thing is if it's a publicly traded company, is it not presumed to be public information that that company exists? Just to go back to his definition of insider trading. Isn't that the whole thing, the whole premise upon which our public systems work? If it's a public company, everybody's deemed to have the same information unless you are an "insider"?

Jane MacAdam: It was a target company that was identified.

Mr. J. Brown: Right, but save that aside, like, save it aside just for now that it's a "target" company, what I'm wondering first is – it's a public company. It's a publicly traded company. Jordan Brown could go to his broker and say: Broker –

Mr. Myers: (Indistinct) Paul Jenkins.

Mr. J. Brown: I want –

Ms. Compton: Paul Jenkins, (Indistinct)

Mr. J. Brown: – I want \$1,500 worth of shares in that company.

Mr. Myers: Working for the people today, or –

Jane MacAdam: But the company wasn't operating, right?

Mr. J. Brown: Rev Tech?

Jane MacAdam: Rev Tech was not operating.

Mr. J. Brown: But what I want to know: Is it a publicly listed company?

Jane MacAdam: It's publicly listed, but it wasn't operating.

Mr. J. Brown: Okay. Was Paul Jenkins himself – and I guess this would go back to what Chris knew or didn't know about it – was Paul Jenkins himself an insider of that company? Was he a – I don't know what – an employee of it or a director of it, or whatever?

Jane MacAdam: No.

Mr. J. Brown: No? Did you ask Chris, or did he say: Paul Jenkins told me that there was going to be a reverse takeover between CMT and Revolution Technologies?

Jennifer Bowness: (Indistinct) coincidentally bought the shares.

Jane MacAdam: No, he didn't indicate that Paul Jenkins told him that.

Mr. J. Brown: Did you ask him that question?

Jane MacAdam: I don't know that we specifically asked that. I'd have to check.

Mr. J. Brown: Did he say – did he give a – other than saying: Paul Jenkins told me, which I would postulate here would be a stock tip, not insider trading, if he said: Paul Jenkins told me. Did he say what Paul Jenkins told him was a good reason to buy that company?

Mr. Myers: (Indistinct).

Jane MacAdam: It was just an investment opportunity, as I recall, but –

Mr. J. Brown: I guess you take what I'm saying. Like, normally an investment opportunity, you're either – you know somebody and they're going to say: This is a great investment opportunity and you just have faith in it, or they tell you something. Do you know – was he told something about that company?

Jennifer Bowness: (Indistinct).

Jane MacAdam: He didn't specifically say that, that he was investing in Rev Tech because it was going to be the target company for a reverse takeover of CMT. He never said that.

Mr. Trivers: We can ask him when he comes as a witness.

Mr. J. Brown: Related to that company and his investment in it, did you look at or were there any – like, most publicly traded companies would file their required filings on SEDAR, the website for publicly listed exchanges in Canada.

Is there any kind of indication that that wasn't the case here, that they weren't filing as required, or that he had some unique knowledge that nobody else had that this company was doing a reverse takeover?

Jennifer Bowness: (Indistinct).

Jane MacAdam: The management discussion and analysis documents on SEDAR indicated that there was – how'd you describe it?

Jennifer Bowness: It was just a potential takeover in the works.

Mr. J. Brown: Okay. That was a public document that was available to everybody, and presumably was available to Mr. LeClair, the same as the other 200 – I think we said a few hundred thousand dollars worth of investment that were made in that company around that time.

Chair: But you have to remember Mr. LeClair didn't make the investment, his wife did.

Mr. J. Brown: Right, or whoever, whatever her name was, I guess.

Ms. Compton: (Indistinct).

Mr. Myers: She doesn't (Indistinct).

Jane MacAdam: The management discussion and analysis documents are posted on SEDAR.

Chair: Anything (Indistinct)?

Ms. Compton: (Indistinct).

Mr. J. Brown: No, I think that's good, Chair.

Chair: Next I had Brad on the list.

Mr. Trivers: Thank you, Chair.

Looking at section 6.22 again on page 38, and following (Indistinct) on Peter's questions, so when the PEI securities commission began an investigation of CMT, the Clerk of Executive Council went and asked the deputy to remove herself because they recognized that there was a conflict of interest. Who was the Clerk of Executive Council at that time?

Jane MacAdam: It was Steve MacLean.

Mr. Trivers: Steve MacLean, right. (Indistinct), Chair?

Chair: Yeah.

Mr. Trivers: Again, in section 6.24 you talk about the different contracts that really could be perceived as a conflict situation with the deputy minister. Within six months of leaving government she secured these three untendered contracts worth \$108,000.

Was this a common practice? Did senior employees often leave government and then come back and secure contracts for companies they were then working for? Is this something you've seen in the past? Is it a common practice?

Jane MacAdam: I can't say that it was a common practice. I can only speak to this assignment. We wouldn't necessarily look for this when we would do other audits.

Mr. Trivers: I wanted to raise a comment. We've heard several comments today about how, well, the rule wasn't in place, therefore they didn't have to follow them. To me, it's complete common sense. If you're a senior government employee with contacts and influence and you leave government and then contract back immediately, that's something that should just raise red flags all over the place, whether there are any specific rules against that in place or not.

If I want a debate – that's my opinion. I'm going to leave that on the table today.

Another question, Chair.

Chair: Go ahead.

Mr. Trivers: These three contracts, you list them here – not specifics of the contracts, but you do have the dollar amounts. Would you say that any of these untendered contracts from the government that the former deputy minister secured when she left, were any of those three directly related to what has been deemed egaming? That includes the original egaming initiative, the financial services hub, loyalty card program.

Jane MacAdam: Like we say in 6.24, they were all very broadly worded, so I don't necessarily think that you could say any one of them was for egaming.

Mr. Trivers: So they could have been related to egaming, but they could not have been. You can't tell because they were so broadly worded.

Jane MacAdam: They're broadly worded.

Mr. Trivers: Okay. Another question, Chair.

Chair: One more.

Mr. Trivers: If the former deputy minister had a commercial relationship with CMT – and by commercial relationship, I mean that she had invested money in CMT or she sat on their board of directors or she was an employee – or its subsidiaries at the same time she was working on these untendered government contracts, would that be considered a conflict? I suppose that would go back to the contractor situation. She's now a contractor and she's –

Jane MacAdam: If she had investments, direct investments in the company, and she was – that would be more of a conflict.

Mr. Trivers: Thank you. I just wanted to follow up again. I just wanted to express my opinion on this.

Even though there were no specific rules in place saying you should really look at your contractors to make sure that if they're

working on a contract in government they're not farming out work and influencing contracts awarded to companies that they have an interest in, that's an obvious conflict of interest.

Even though there weren't official rules in there – and I know the AG has put recommendations in her report – I think that it's not excusable, in my opinion, to let those things go unnoticed. The senior officials in our government should have been doing their due diligence and recognized that right off the bat, whether there were official rules stating that or not.

Thank you.

Chair: Thank you, Mr. Trivers.

Ladies and gentlemen, it was my hope to wrap up the question time on this section right about now. I know I do have three other people on the list right now, Matt MacKay, Steven Myers, and Chris Palmer. I don't know if any other committee members around the table still had remaining questions.

What I was hoping to do is – it doesn't appear that we're going to finish this section today, I'm doubtful by noon, and I would like to just finish up a few of the other – I think there's one or two items on the agenda.

I guess what I'm asking is: Are there a lot more questions to come, do the committee members know at this time, or are you pretty much wrapped up?

Mr. J. Brown: I think (Indistinct).

Chair: Go ahead, Jordan.

Mr. J. Brown: I'd like to try and – if we could get through it in the next half hour, as long as –

Chair: Well –

Mr. J. Brown: – the Auditor General (Indistinct) –

Chair: I guess we'd have to ask what your time schedule is like. I know we do have the next two Wednesdays as well scheduled for

you, so we don't necessarily have to get this off the table today.

Jane MacAdam: I'm fine. Whatever the committee wants to do.

Chair: Does the committee want to keep going for another 20 minutes or so?

Some Hon. Members: Sure.

Chair: Okay.

Next on my list I had Matt MacKay.

Mr. MacKay: Thank you, Chair.

We were jumping around in the section here and I just want to go to 6.24. The former deputy minister we're referring to in this section, just confirm that again?

Jane MacAdam: It was Melissa MacEachern.

Mr. MacKay: In section 24?

Jane MacAdam: Oh, sorry, Tracey Cutcliffe. Sorry.

Mr. MacKay: Would this be the same individual who was a previous executive director for MCPEI prior to joining government as deputy minister?

Jane MacAdam: Yes, it was the same.

Mr. MacKay: This would be the same individual who, after leaving government, worked as a lobbyist for a firm with a business relationship with government?

Jane MacAdam: She worked for KCM Strategy.

Mr. MacKay: This is also the same individual who holds a senior executive position with Atlantic Lottery Corporation.

Jane MacAdam: I don't know. I mean, I've heard that at the table but I didn't verify that, so –

Mr. MacKay: Okay.

That's all I was wondering, Chair.

Thank you.

Chair: Steven Myers next on the list.

Mr. Myers: Thank you.

Back, I guess, in and around what I was asking on 6.17, 6.18, and it has to do with the Jenkinse. Why were Garth and Paul Jenkins involved in egaming at all? Because from everything that we've been told it was an initiative by the government, by MCPEI and McInnes Cooper. How did the Jenkinse ever fit into this?

Jane MacAdam: I think it was mainly through Paul Maines that the Jenkinse became involved.

Mr. Myers: (Indistinct).

Jane MacAdam: And Garth was marrying Paul Maines' cousin.

Mr. Myers: Okay, but how did that make them involved in egaming? Because we have Gary Jessop, we have Paul Maines, then we had the players in government, and then we had the players in McInnes Cooper. What role did either Garth or Paul Jenkins actually have?

Jane MacAdam: In 6.14 we say these companies – Paul Jenkins introduced the former chief of staff, which was Chris LeClair, to Paul Maines and Philip Walsh. That was back in early 2011. I think the involvement mainly came through Paul Maines. Paul Maines and Paul Jenkins knew each other.

Mr. Myers: Okay, I guess that's understandable. He introduced them, but from then forward he remained involved because that was in the early going, but they remained involved all the way through. What was their role as the thing moved on? Because my understanding is CMT didn't claim them as theirs so they must have been working for one of the other three or two partners, MCPEI, government, or McInnes Cooper, I guess.

Jane MacAdam: No, they weren't working for government.

Mr. Myers: Okay.

Jane MacAdam: From the investor list that was provided, like, Garth Jenkins invested in

CMT through Malpeque Seafood, I believe, so there was a connection through that.

Mr. Myers: Right, but they seemed to have a much larger involvement than the other investors.

Jane MacAdam: They're interspersed throughout the various – throughout the financial services platform and the egaming, but our focus was on government and government's dealings with these companies.

Mr. Myers: Yes.

Jane MacAdam: These are private sector individuals so we don't have a lot of information on that.

Mr. Myers: So were either Garth or Paul Jenkins using email to set up meetings on behalf of any of these groups or in a collective of these groups, that you saw?

Jane MacAdam: They may have been involved in some of the meetings.

Mr. Myers: Did they set them up, though? Did you see emails where they set them up?

Jane MacAdam: I'm not sure if they set them up.

Jennifer Bowness: (Indistinct) seen their names.

Jane MacAdam: Yeah, we saw their names in connection with meetings, but I can't say that they set them up.

Mr. Myers: Okay.

Jane MacAdam: There were certainly discussions.

Mr. Myers: Did you see any emails where either Paul or Garth Jenkins said they were the key players to get involved with this? That they were one of the key cogs of contact here on the ground in PEI?

Jane MacAdam: I don't recall that.

Mr. Myers: When you interviewed Paul Jenkins did you ask him if he considered the information he gave Chris LeClair as an insider tip?

Jane MacAdam: I can't recall if that was specifically discussed.

Mr. Myers: Did you ask him who else he may have told about this information? If he was willingly giving it out to Chris LeClair, who else did he give it to?

Jane MacAdam: No, we didn't ask him that.

Mr. Myers: Were there any other witnesses that you interviewed that were investors in Rev Tech?

Jane MacAdam: No.

Mr. Myers: Thank you.

Chair: Steven, anything else?

Mr. Myers: No, I'm good, thanks.

Chair: Mr. Palmer?

Mr. Palmer: I think I'm just looking for clarification. Our committee is a forward-looking committee and we're going through the audit report here to see what lessons we can learn. I do think it's kind of ridiculous for a couple of members to suggest that if people just did what they were supposed to do we wouldn't need any rules anywhere.

I think as you run a business, which is what this is – our government is a business – that we need to have some pieces in place. I wouldn't want to suggest – I wouldn't want someone to come back to me in three years from now and say: A cooling off period should be more than 6 months.

Mr. Trivers: Read the recommendations.

Mr. Palmer: Right. So the recommendations are there –

Chair: Okay, Brad? Please, through the Chair.

Mr. Trivers: Follow the rules (Indistinct).

Mr. Palmer: Exactly, so the recommendations –

Chair: Mr. Palmer has the floor.

Mr. Palmer: The recommendations are there. For someone to come back to me in four years from now and say: You should have just been applying a 12-month cooling off period even though your rules were only a six-month cooling off period –

Mr. Trivers: Not in the rules.

Mr. Palmer: – so for us to –

Chair: Okay, Brad, please.

Chris, I'm going to suggest one thing.

Mr. Palmer: Okay.

Chair: When we do our final report on this and table it in the Legislative Assembly we can certainly make that recommendation. Although it is a recommendation of the AG's we can recommend as well that this cooling off period should be 12 or 18 months instead of the six.

Mr. Palmer: My point is we can't be looking back and say: If people would just do whatever they were doing we wouldn't have to do any of this, as a couple of members here have suggested. We're trying to learn from past experiences and put pieces in place so that we run efficiently. We're a forward-looking committee and we have to learn.

Now, I'm not happy about what happened in the past –

Mr. Trivers: Where is that coming from?

Mr. Myers: The auditor's report is a past report.

Mr. Palmer: Yeah. I'm not happy with what happened in the past and that's why we've got recommendations on the floor and we're going to put those in place.

Mr. Trivers: (Indistinct).

Mr. Palmer: I think we just need to be aware of that, that we're here to put pieces in place to make sure that things don't happen which we have learned lessons from in the past. But to suggest that we don't need any rules because everybody should just do what everybody should do –

Dr. Bevan-Baker: That's not what I suggested.

Mr. Palmer: – doesn't really make any sense to me.

Chair: Did you have a question?

Mr. Palmer: No that's it. I just wanted to clarify.

Chair: Mr. Trivers, I think I had you on the list next.

Mr. Trivers: Thank you, Chair.

I just wanted to respond to Mr. Palmer's statement there. For example, if you look at recommendations 7.14 and 7.15 it's pretty clear here.

7.14: "The Public Archives and Records Office, in cooperation with public bodies, should monitor compliance with records management policies and procedures..." These are existing policies and procedures.

7.15: "The Minister of Education, as the Minister responsible for the *Archives and Records Act*, should take the necessary action to enforce compliance with the Act."

These are the sorts of recommendations that are throughout this report. The rules are there. The government is not doing its job to make sure the rules are followed and that is the problem, and that's what we need to come and we need to bring forward at this committee. Because it's not enough to have the rules in place because when the rules are there the government's not even following them, and that's the problem. That's what people are calling me about. They're saying it doesn't matter how many rules you put in place. If people aren't going to follow the rules, it's irrelevant.

Mr. Palmer: So what do we suggest? The Auditor General had already told us, as you had asked earlier, about senior government officials filling out declarations of conflict and we have rules in place –

Mr. Trivers: (Indistinct).

Mr. Palmer: – and as of March 16th we have them.

Mr. Trivers: What I'm suggesting is that government should follow the rules and we need to find out, as a Public Accounts Committee – or you do, I'm not a committee member – why government is not following its own rules and why those rules aren't being enforced.

Mr. Palmer: If we go back it says here that the senior officials have all filled out their conflict declarations as of March 2016.

Mr. Trivers: Until next time.

Mr. Palmer: We're following the rules.

Mr. Trivers: Until next time.

Mr. Palmer: We're following the rules.

Chair: I had Jordan Brown on the list next.

Mr. J. Brown: Thanks, Chair.

I just wanted to clarify. In 6.18 we were talking about (Indistinct) different involvement of staff, and I think you may of kind of answered this before, but I'm wondering: Did you find any evidence anywhere in your investigation of any government of PEI employees receiving any personal financial benefit from any of this initiative?

Jane MacAdam: No.

Mr. J. Brown: I guess, just to clarify why I asked that question, it would be one thing to me if we had a situation where we had folks that were at a senior level that were setting out to line their own pockets and to do something that bent the rules or didn't follow the rules or whatever to do that –

Ms. Compton: (Indistinct) if the scheme is not successful, it's not –

Mr. J. Brown: Excuse me –

Mr. Myers: It's not a crime if you don't make money.

Chair: Ladies and gentlemen, Jordan has the floor right now. I'll give you a chance to speak after, but Jordan currently has the floor.

Mr. Myers: If you break into a car and there's no change then it's not a crime.

Mr. J. Brown: In this situation it looks to me like you had former minister Sheridan and a bunch of others who were chasing down an initiative in the hopes that it would improve the province's lot, and that was the general purpose of their acting.

I just wanted to know if there was anything that you had come across that would indicate otherwise.

Jane MacAdam: We didn't have any evidence that there was any senior government official that benefitted financially from these situations.

Mr. J. Brown: Thank you.

Chair: Next I had Peter Bevan-Baker.

Dr. Bevan-Baker: Thank you, Chair.

I just want the opportunity to respond to what Jordie just said, for the record, because yes, nobody made money off of this, but the reason for that is because the egaming scheme fell apart. The point is not what happened ultimately. The point is that people put themselves in a position to potentially gain should this have been successful, and that's the point.

Thank you, Chair.

An Hon. Member: Thank you, Peter.

Chair: Darlene was next on the list.

Ms. Compton: I'm not going to comment because I just can't believe that that's the rationalization here.

But I just maybe would like to comment that we are not really done here, and maybe we should just adjourn and continue this on at the next meeting because there's obviously still questions that people – that's just my suggestion, is that we move, maybe adjourn, and carry this forward to the next meeting.

Chair: I do have some questions as well and, as normal, I like to sort of hold off until the end.

Jane, on page 37, 6.15, just at the top of the page: "Simplex, CMT's technology partner, was then engaged by the local law firm..." What law firm was that?

Jane MacAdam: That was McInnes Cooper.

Chair: That was McInnes Cooper, okay.

A short while ago Steven asked you if you interviewed any other investors besides – I'm trying to remember – who was it you referenced that –

Mr. Myers: It was Paul Maines. I just asked whether or not any other witnesses had purchased into Rev Tech.

Chair: Right. I think, Jane, you had said no at that time? You had interviewed Billy Dow, had you not?

Jane MacAdam: Yes.

Chair: Was he an investor?

Jane MacAdam: Yes, he was in Rev Tech, yeah –

Jennifer Bowness: No, (Indistinct).

Jane MacAdam: In the CMT. But the question was Rev Tech, was it not?

Mr. Myers: Yes.

Chair: Okay, sorry.

Obviously we have one committee member in particular that said that she has quite a few more questions. Just wondering is there other – Chris, Jordan.

What I'm suggesting then, at this time, is we are definitely going to go well past noon which we already are and potentially past 12:30 p.m, so what I'd recommend is that we hold off any remaining questions until we reconvene next Wednesday, the 18th.

Mr. J. Brown: Chair, I'd like to say, mine literally would take 30 seconds. I'm not sure, Chris, what your questions (Indistinct).

Mr. Palmer: You can go ahead (Indistinct) take me a little bit longer.

Mr. J. Brown: It's just our two questions. I can't envision me taking us longer than 30 seconds.

Chair: Darlene, what about you?

Ms. Compton: I mean, we keep trying to wrap this up and there seems to be more points coming forward. That's my concern. I'd like to see us make sure that we've exhausted all our questions on this section, and conflict of interest is huge in this whole scheme. It's important that we all get our voice heard and our questions asked. I don't want us to be rushing.

Mr. J. Brown: Chair, what if we just say if there are other questions that come up between now and the next day, we can ask them next day on the next section.

Ms. Compton: It's the same as continuing.

Mr. J. Brown: (Indistinct) the point being we had the ability to – what the idea was we go to the end of the day and ask for production and whatever else and then we keep moving along.

Chair: What's the consensus of the committee?

Mr. Perry: I'd like to finish, if I may, Chair.

By the time I get home my day is gone anyway. I'm here. Let's try to finish this section.

Chair: We had scheduled until noon. I do have other commitments.

Ms. Compton: I do as well.

Chair: Not right away, but quickly approaching.

Mr. Myers: I was worried you had laryngitis, so thanks for clearing that up.

Chair: We'll keep going for a little bit. Right now, Jordan, go ahead, you said you had a 30-second question.

Mr. J. Brown: It's more a point. Just further to Peter's (Indistinct). The reason I asked that question the way that I did is because there are different implications

depending on what the answers are. If there's something – and this goes back to the line of questioning I had on insider trade earlier – if there's something along those lines, then it's a different issue that I think this committee would need to look at, or a member of it, sending it on to somebody else. If it's an issue that falls directly out of the report where there's a gap in operational procedure or government policy, then we can make the recommendations to deal with it.

I think the answer that we heard on that is that there are recommendations made and it sounds like a lot of them are being put in place.

The second question I had asked was to deal with anything beyond those recommendations that were coming out of reports.

I wanted to just be very clear as to why I was asking that question.

Chair: Next I have Brad on the list.

Mr. Trivers: Thank you, Chair.

I was wondering. You have recommendations after every section, usually. Section 6, as far as I can tell, doesn't have any specific recommendations that are laid out in a grey box at the end of the section. Why is that?

Jane MacAdam: Because we acknowledge that there was a new policy put in place and we checked for compliance as of March 31st, 2016. For all the senior executives that were required to file their disclosure statements, those were on file.

Chair: Right, yes.

Mr. Trivers: Chair, (Indistinct) recommendations (Indistinct).

In section 6.25 you do say: "We noted that in the new policy for Deputy Heads, post employment restrictions are included and the conduct noted above would be in contravention of the new policy." My concern is that it doesn't seem what policies are in place, our senior executives in this government are intent on breaking them. I was wondering if you think putting a new

policy in place is really going to make things different going forward in the future, in your opinion. I mean, you've been working with some of these files in tourism in here.

An Hon. Member: (Indistinct) the same question.

Mr. J. Brown: Don't have faith in the civil service, is that what you're trying to say?

Mr. Trivers: I don't have faith in the government. I'm telling you, my constituents are losing faith in this government. That's what I hear all the time when I'm knocking door-to-door. That's why this is such an important issue. We're losing faith in government here.

Mr. J. Brown: We're talking about civil servants. These are civil servants you're talking about.

Mr. Trivers: This is confidence in government we're talking about here.

Jane MacAdam: Government establishes the policies and there's an expectation that the policies are followed.

Our role is to come in and determine, when we do these types of assignments, whether there is compliance with the policy. In instances where the policies are not being complied with we would point that out. I can't say whether there will be compliance or not. We'll go in and we'll do an audit and we'll determine whether there is or there isn't.

Chair: Go ahead.

Mr. Trivers: Are there ramifications if policies aren't followed?

Jane MacAdam: Different policies may have clauses that say: Here's what happens if you don't follow the policy. But there's an expectation that the policies be followed. It's up to government to address the situation where there is no compliance.

Mr. Trivers: Chair, one more.

Chair: Go ahead, Brad.

Mr. Trivers: Because it seems to me, right now, if policies aren't followed there are no

ramifications, and so implementing new policies is really not going to do much. I say this because as a Public Accounts Committee you're going to make recommendations to the Legislature. I think you should take that into account. Because maybe it's not just enough to introduce new policies as the AG recommends, but it's to make sure that we actually have some teeth so that if the policies aren't followed there are ramifications.

Thank you, Chair.

Chair: Next I have Bush Dumville on the list.

Mr. Dumville: I just want to make a point that we were going back there talking about. The principal players that were with government, they weren't motivated by personal profit, they were motivated to try and get something for the province, to make money to benefit the province. There will always be outliers or people that are gathered around that you deal with that are in it for profit. I just want to make that distinction, Chair.

Thank you.

Chair: Darlene was next on the list.

Ms. Compton: Just further to what Brad had to say, we are a committee here to review what the AG has had to say. But what I'm hearing in my district and out on the street is if you were in the private sector and you didn't follow the rules, and they were obviously serious consequences to that, and nothing was done, people are really disillusioned.

That's the concern I have as a member of Public Accounts. We're here to review what happened with the file. The general public are very disillusioned with the fact that no one has to take the blame for this. We're accused in the House of throwing bureaucrats under the bus. If you were in the private sector and you did wrong there would be ramifications. That's what I keep hearing.

It's about constituents, it's about Islanders and how government money is used.

You talk about not following the rules because it's going to benefit the province. That's not an excuse. They still need to follow the rules. Even if they think it's the best deal ever for the province they need to follow the rules. You can't use that excuse and you can't say it doesn't matter because there was no gain. That's even worse. The public is going to look at this and say this is a joke. It's important that we follow the rules whether there's gain or not. It's important that we follow the rules. Whether they think it's a good decision for government or whether it's good for Islanders, we still need to follow the rules.

That's why we're here. I said: It's the perfect storm. They didn't follow the rules, there was nothing in writing as far as contracts, we had an MOU – they don't usually do MOUs. I mean, it goes on and on. That's why we're here. For anyone to say that we keep belabouring this process, well, we do because it's important.

I just had to say that. (Indistinct).

Chair: Thank you.

Chris Palmer.

Mr. Palmer: I just wanted to follow up on that because I agree with both of you, then. If we look at the names of the folks on there they don't work for this government anymore.

Mr. Trivers: It's not about the names of the people in the report, it's about everyone. There's no consequences (Indistinct) break the policies, period. I'm not saying these are bad people.

Some Hon. Members: (Indistinct).

Mr. J. Brown: What consequences do you want? Their name is in the public report and they've just been listed. Would you want your name in there?

Mr. Palmer: And they don't work here anymore.

Some Hon. Members: (Indistinct).

Mr. Trivers: You won't even let them come before the committee to actually give their side of the story. I'd love to see that.

Mr. Palmer: How is that not ramifications or consequences? They don't work there. We sent them home (Indistinct).

Chair: Is there any further –

Some Hon. Members: (Indistinct).

Chair: Excuse me. Are there any further questions at this time for the Auditor General?

Mr. Myers: Sure, I have a question.

Chair: Okay, go ahead, Steven.

Mr. Myers: Let's go to 6.21. You talked about the deputy of tourism, Melissa MacEachern. She approached CMT about the loyalty card program. We know because we talked about that. Then she authorized an MOU between Trinity Bay and Innovation PEI.

With the exclusivity clauses, can you tell us what exactly was in that as far as exclusivity?

Jane MacAdam: Okay.

Mr. J. Brown: (Indistinct) back here – I mean, I wasn't here last day –

Jane MacAdam: And that's –

Mr. J. Brown: We're going back to last days (Indistinct).

Jane MacAdam: On the top of page 31 –

Chair: Last day? (Indistinct) section 6.

Mr. J. Brown: (Indistinct).

Jane MacAdam: – it says:

“PEI nor any of its employees, officers, contractors, agents, representatives and/or professional advisors, agrees not to –”

Mr. Myers: Excuse me, I can't hear with Jordan talking down there. Sorry.

Jane MacAdam: It says here:

“PEI nor any of its employees, officers, contractors, agents, representatives and/or professional advisors, agrees not to discuss

with any entity its interest and/or capabilities in hosting or creating a financial services center in the province.”

During that 60-day period there isn't to be any discussions with any other entity with regards to establishing or hosting a financial services centre in the province.

Mr. Myers: Okay. On 6.24 you talked about the three separate contracts, the \$100,000 three separate contracts, and who was that again?

Jane MacAdam: That was Tracey Cutcliffe.

Mr. Myers: Tracey Cutcliffe. You outline them on page 39. Can you give us a general understanding of what was actually accomplished through these? I mean, the contract for business development and prospecting, in what means was she doing business development and prospecting?

Jane MacAdam: As part of our assignment we didn't look to see what was accomplished with each of these contracts. Our main emphasis was the fact that these contracts were established during a period when the deputy – right after the former deputy left government.

Mr. Myers: Okay, so you do have all these contracts?

Jane MacAdam: We do have the contracts.

Mr. Myers: Okay, and do you have the invoices that were paid on those contracts?

Jane MacAdam: Yes.

Mr. Myers: That sounds good. You also say that the three contracts were broadly worded. Can you expand on that, the broadly worded part?

Jane MacAdam: For each one of them we have sort of a summary in the last sentence. For instance, the first one was for business development and prospecting services, so I mean, business development and prospecting is broad in itself.

The next one, “...as an agent for government regarding intergovernmental affairs,” I mean, that's a broad statement.

It's not very specific in terms of exactly what they're going to do.

The third one was matchmaking services “to identify export opportunities,” so that's another one that's very – it's a very broad, general statement. Matchmaking services, it doesn't identify any sectors or – it's not very specific.

Mr. Myers: So your concern here is that there was three broadly worded contracts given to a former deputy minister within six months of leaving and there was no competitive process –

Jane MacAdam: Yes, that was the finding.

Mr. Myers: – by which she attained them?

Jane MacAdam: That's the finding that we had.

Mr. Myers: Are there any repercussions for the competitive process not being followed to – when you contravene the Treasury Board policy, what happens?

Jane MacAdam: I'm not aware of any clause in the contracting policy that Treasury Board has about repercussions.

Mr. Myers: Just to kind of hone in on some of the discussion that had been had here around the table – I know Chris and Brad and Darlene kind of all touched on it. Basically, is there still an opening there whereby somebody can break the Treasury Board policy and get away with it?

Jane MacAdam: Well, I mean, the policies are there to be followed. There's always a possibility that they're not going to be followed. That's why it's important that we do our work. Part of our work involves going in and examining government programs and operations and assessing whether there is compliance with policies, legislation, and best practice.

That's part of what we do, is to go in after the fact and assess those types of things, so certainly we have lots of findings every time we do our work. It's possible it won't be fully complied with.

Mr. Myers: I guess the way that people who I talk to in the coffee shops and in the

streets, this is the way they view it, that there is a rule and somebody broke it and nothing happens. It happens repeatedly, like you said, because you keep – you have a book that you publish every year that has findings where people didn't follow rules. Yet for everybody who's not government, who's not a Cabinet minister, there's rules, and when you break them you go to jail.

This is the crux of what really has people fired up is that the rules don't matter, and that's what Brad basically had said earlier, is the rules really don't matter because whenever people break them, other than having your name spoken about here, that's it. You don't have to pay anything back, nobody goes to jail. But if you break rules out in the real world you go down and you have to get a lawyer and go to court. You have to defend yourself.

Why is it that –

Mr. J. Brown: Policy and rules –

Mr. Myers: Could I have the floor? Do I have the floor?

Mr. J. Brown: (Indistinct).

Mr. Myers: Do I have the floor?

Chair: Actually, Jordan, I'll give you the floor after he's (Indistinct).

Mr. Myers: I know you can't contain yourself when I speak, but I did for you today.

The question is: How, through your work and the work of this committee, can we ensure that there's actual punishment for breaking these? Because as you said, it happens all the time and you keep writing reports about it. As long as there's government people will choose what rules they want to follow.

Jane MacAdam: My role is to report findings, like I said, non-compliance issues. It's government's role to decide whether they want to enhance those policies or establish new policies. We don't get involved in the establishment of policy.

Mr. Myers: Fair, but you do make recommendations.

Jane MacAdam: Right.

Mr. Myers: This committee also files a report with the Legislature. I guess what I'm asking is between yourself and your recommendations and your findings, and this committee's report back to the Legislature, is there anything that, collectively, we can send back to the Legislature to say: Here, the representatives of Prince Edward Island and the constituents of which we represent, we feel that there has to be some sort of a – there has to be something that's going to prevent people from ignoring rules. I think that's – you've all probably heard that, like that's probably a very common thing. How do we stop people from not following rules? There has to be punishment.

Jane MacAdam: I see that as development of policy and outside the scope of my work.

Mr. Myers: Okay, thank you.

Chair: Thank you, Jane.

Brad was next on the list.

Mr. Trivers: Thank you, Chair.

As has been noted by Ms. Compton and others around the table today, conflict of interest is a very serious issue. It's important, and this section 6 is very important.

During our discussion today and the questions we asked you – I mean, you did a lot of great work and conducted very many interviews, reviewed a lot of documents. But it was clear in hindsight now there's probably additional questions you could have asked people like Chris LeClair and Melissa MacEachern or Tracey Cutcliffe.

I wanted to ask you whether you think it'd be useful for this committee to have those people in as witnesses.

Mr. J. Brown: We're going to audit the auditor now, are we?

Jane MacAdam: I think that's up to the committee.

Mr. Myers: Isn't that what we're doing?

Mr. J. Brown: I didn't think we were.

Jane MacAdam: For my purposes –

An Hon. Member: (Indistinct).

Chair: Ladies and gentlemen, excuse me for a moment. The Auditor General has the floor. Please show some respect.

Jane MacAdam: That's a decision of the committee. For us to complete our work and issue the report, the work that we did was sufficient in terms of who we interviewed and the questions that we asked. I think it's just – it's a committee decision.

Chair: Brad, do you have another question?

Mr. Trivers: I do (Indistinct) I want to talk – so in your opinion, though, do you think the committee should ask these people in as witnesses?

Jane MacAdam: I'm not going to comment on that. As far as I'm concerned, the work that we did was sufficient for us to reach the conclusions that we reached and then make the recommendations that we made, so it's a committee decision.

Chair: Okay, thank you.

Chris.

Mr. Palmer: When we talk about consequences, those three folks that we were talking about, did they all retire from government? Can anybody answer that for me? As far as consequences, did they voluntarily retire or did something else happen? I would suggest that if you're not doing your job and you're being sent home, that's a pretty significant consequence.

Ms. Compton: They weren't fired.

Mr. Palmer: They weren't?

Ms. Compton: No.

Mr. Palmer: Oh. They retired?

An Hon. Member: (Indistinct).

Ms. Compton: No, I think Tracey Cutcliffe got started consulting and was in with government. We just went over that.

Mr. J. Brown: (Indistinct).

Mr. Trivers: A hundred and eight thousand dollars (Indistinct) –

Mr. J. Brown: We also said she didn't do anything wrong.

An Hon. Member: Yeah.

Ms. Compton: And now she's with ALC. Oh my gosh.

Chair: All right.

Mr. Palmer: So you can't get other jobs if you're removed from a job? I don't understand that.

Chair: Okay. So the purpose of the time that we're spending right now is to ask the Auditor General questions. Do you have a specific question for the Auditor General?

Mr. Palmer: Yeah. Did those folks retire? Is that what you found in those three that we're looking at?

Jane MacAdam: I can tell you when they left. I don't know all the circumstances around them leaving.

Melissa MacEachern left government on April 20th, 2013. Chris LeClair left October 18th, I believe, 2011.

Mr. Palmer: So we don't know any of the circumstances related to when they were leaving. We just know when they left.

Jane MacAdam: I know when they left, right.

Mr. Palmer: Okay.

Chair: If you would like, we could call them in here as witnesses and ask them those questions.

An Hon. Member: Good idea.

Mr. Palmer: Ask them why they don't work there –

An Hon. Member: Yeah.

Mr. Palmer: – or if they were fired?

Some Hon. Members: Yeah, sure.

Mr. Palmer: Don't we have that information?

An Hon. Member: Nope.

Mr. Palmer: That –

Chair: I don't.

Mr. Palmer: – they were replaced?

Ms. Compton: (Indistinct).

Dr. Bevan-Baker: (Indistinct) asking.

Chair: I don't have that (Indistinct).

Mr. J. Brown: Maybe we should call the Pope in and ask why he's Catholic.

Mr. Palmer: Weren't they replaced, though?

Mr. Trivers: Sounds like you're on a witch hunt to me. I don't know.

Mr. Palmer: I'm trying to make sure that we learn our lessons.

Chair: The best way to learn that is to call those individuals in and ask them the circumstances as to why they left the employ at that time.

Mr. Palmer: I think the AG's far more qualified to do that than I am, but maybe I –

Mr. Trivers: I don't presume to judge these individuals. I think that they should have the opportunity to come in and speak for themselves. I don't know if you're judging them or not. It sounds like it, but they need to be able to come in and speak for themselves. (Indistinct).

Mr. J. Brown: What would that add in terms of new policy direction going to government as to why they left government in the first place?

Mr. Trivers: May I speak, Chair?

Chair: Go ahead, Brad.

Mr. Trivers: We're talking about conflict of interest in this section, right? As you

pointed out, Mr. Brown, it's all apparent conflict of interest. These are senior people. They're professionals. Presumably they wouldn't put themselves in conflict of interest knowingly. I'm sure they've got some very good reasons and explanations for why this happened and that's what we're trying to find out. Because the policies we put in place have to stop this sort of report from going forward in the future. So I think it's –

Mr. J. Brown: They're right there.

Mr. Trivers: It's essential –

Mr. J. Brown: The findings are right there.

Chair: Jordan, he has the floor.

Mr. Trivers: It's essential that we hear from the people who the recommendations are being made based on the actions of so that we make the right legislation in our Legislative Assembly, and this committee puts the proper recommendations in its report to the Legislature. That's exactly why these witnesses need to come in and talk to this committee.

Chair: I have Jordan up next.

Mr. J. Brown: My understanding of our mandate and the Auditor General's mandate is as follows: she reviews operations of government to determine if there are gaps in those operations which need to be brought to light; we then get a report from her which we review and we make policy recommendations based on those gaps to government in the hopes that things are improved.

You start from that point. She said that she's done an investigation where she's gone through, she's satisfied that –

Chair: She's done an audit.

Mr. J. Brown: Okay, let me finish.

Chair: I'm just –

Mr. J. Brown: An audit, okay, fair.

Chair: – correcting the verbiage.

Mr. J. Brown: An audit. She's reviewed 10,000 documents, interviewed 50 witnesses, spent 5,000 person-hours on this. Okay? She's satisfied that she's got all that she needs to make the recommendations that she's made. There's 15 recommendations in there.

My point would be: Why would we want to go back through and, as I said, audit the work that the auditor's done already, go back through and interview the same people that she's already interviewed, and think that we could do a better job than somebody that's professionally trained to do that same work?

It's not our mandate as this committee. Our mandate is to take what she's given us and make recommendations to government based on that. We don't audit the auditor. We take that, we receive input as we need it, whether it be from the public or whatever, and we put it in the recommendations and move that forward.

Chair: Brad.

Mr. Trivers: Thank you, Chair.

Mr. Brown, I think your assumptions are flawed. First of all, it's the mandate of the Public Accounts Committee to make recommendations to the Legislature so that legislation can be made better and policies can be made better.

As part of that, we take into account the excellent work that the Auditor General does, but as elected representatives that represent the people of this Island, there's a reason we're sitting around this table. It's not here to review the recommendations of the Auditor General. It's also to add our own opinions and our own recommendations, based on the feedback from our constituents, as legislators and members of the committee. That's what we're here for.

Mr. J. Brown: Nobody's stopping (Indistinct) –

Mr. Trivers: To say that our job is just to review the Auditor General's report and then take her recommendations and pass them on, I think you're missing the whole purpose of having a standing committee in the first place.

Mr. J. Brown: Maybe next time I speak you should listen because that's not what I said. Okay?

Mr. Myers: Fair to say you could take that advice (Indistinct).

Chair: Okay, ladies and gentlemen, we're going to continue to go around here in circles.

In the interest of time, again, we have the Auditor General and one of her staff with us. I would like to move on to number 5. We can certainly come back and complete section 6 next Wednesday the 18th if there are any subsequent questions on that section. But at this time we would be looking at any motions as well as requests for information from the Auditor General that we would like to be brought back.

I have three individuals that I've noted throughout our discussions today that said they were going to be putting a request in. The first is Chris Palmer.

Mr. Palmer: Yes. Based on the question that Brad had, can you give us a document that states the 17 executive level employees and the four non-executive level employees and their disclosure? Fourteen of the 17 didn't have all the required statements, but we want a list of all 17, don't we? With a yes they had or no they didn't. So it's related to section 6.10. So is that –

Chair: Just verify with the clerk that you've –

Clerk Assistant: I didn't catch the section you mentioned.

Mr. Palmer: Section 6.10.

Clerk Assistant: Okay.

Chair: All right. Next I had Peter on the list.

Dr. Bevan-Baker: Thank you, Chair.

I'm not exactly sure of the process for this because it's not a document that the Auditor General actually had in her possession, and that is the list of investors in Rev Tech.

Can we ask the Auditor General to request that and then pass it on to us, or does this

committee – could we, could I, on behalf of this committee, make a request that that list of investors be given to us?

Jane MacAdam: I'm not sure if we can get it. The superintendent of securities indicated to us that it wasn't available. It's not –

Mr. J. Brown: You'd have –

Jane MacAdam: – probably available.

Mr. J. Brown: I can perhaps provide some insight. To get it you'd have to go back and you'd have to ask probably the secretary of the company who's the list of shareholders of record as of that particular date. So I don't – there'd be no officials unless there was a subpoena issued that would have that information. Because they would change every day, right?

Dr. Bevan-Baker: I guess I'm just looking for direction from the committee as to –

Chair: Jane, you're essentially stating, then, that the securities commissioner would have access to it, but –

Jane MacAdam: No, he indicated that he didn't think it was available.

Jennifer Bowness: It's not publicly available.

Chair: Okay, I didn't know if it was one of the sealed documents that they're currently holding or not right now.

Jennifer Bowness: No, that's a different issue. This is Rev Tech.

Chair: Okay. Peter, as Chair I'd be more than happy to look into that a little bit further and get back to you.

Dr. Bevan-Baker: Appreciate that.

Chair: All right, next I had Jordan Brown on the list.

Mr. J. Brown: So this goes back – and I'm not sure, Chair, where we left this or even whether I should be seeking this now or as new business or whatever – but again, Mr. Myers stood one of the last few days of the sitting that we just went through and indicated that he had emails that he was

going to table in relation to the egaming matter which were never tabled.

We have him here today. I guess we could ask him if he would table them here before this committee or, as the Chair had indicated earlier, if the committee's not willing to ask him here today, then we could ask him via letter.

Chair: Yeah, and I thought the committee agreed that we would draft a letter and send it to Mr. Myers requesting copies of those emails.

Mr. J. Brown: And that's fine, Chair.

Chair: Okay.

Mr. J. Brown: If Mr. Myers doesn't want to answer the question today, then I guess we can send him a letter.

Mr. Myers: I'm not a witness. Send me a letter, Jordan, with your Christmas card.

Chair: All right, thank you very much.

Next I had Darlene Compton on the list.

Ms. Compton: Thank you, Chair.

Mr. Myers: I know you can sign your name.

Ms. Compton: Just pertaining –

Mr. Myers: (Indistinct) five days.

Chair: Okay, Steven.

Ms. Compton: – to 6.24, we talk about the three separate contracts that Tracey Cutcliffe secured with the province. Can we get copies of those contracts? I think it would be important for us to see how vague they are, and really what the interaction is with government and with the contractor and see, okay, are they too vague, or what exactly they say.

Jane MacAdam: Yeah, and that'll probably have to be requested from those departments, but that's (Indistinct).

Chair: Okay. I guess, then, the request would be to those departments? Is that what

you're saying Jane? You can't provide us with those copies?

Jane MacAdam: I can request them on behalf of the committee. That's what we typically have done in the past. Whenever the committee asks for information to be brought back –

Chair: So, you don't have those within your 10,000 documents.

Jane MacAdam: I do have them, but they're confidential working papers.

Chair: Okay.

Jane MacAdam: And they are accessible to me because we're doing our work.

Chair: Right.

Jane MacAdam: But they're not public documents. Typically in the past, when the committee has requested information to be brought back, I would write to the entity and say: Public Accounts Committee is asking for this, I need you to give it to me so I can give it to the committee.

Chair: Okay.

Jane MacAdam: So I don't take it out of my working papers.

Chair: All right, I understand, thank you.

Jane MacAdam: They're clear on that when I ask for it, so –

Chair: Yeah, makes sense. The Auditor General will send a request to the department requesting copies of those three and then she'll respond back to us.

Mr. Palmer: Can (Indistinct) the invoices to go with that?

Chair: Just one moment.

Jordan?

Mr. J. Brown: Not that – I don't want to belabour this and I don't really take any issue with it, but – and maybe the Auditor General can answer this question here and save us having to go through the work.

In your view, is there any relevance to those contracts – and specifically, I'm talking about the two general, I'm going to call them, business recruiting contracts. It's not the word you used, but you get the intent. Beyond what you have pulled out and said: This is what we should be concerned about generally in relation to contracts that Tracey Cutcliffe had, is there any relevance to those contracts, do you think, to this egaming piece?

Jane MacAdam: We brought it up to highlight post-employment. It does have a connection, as well, with the potential contractor issue in section 5, so that's to put it in perspective.

Ms. Compton: It says they're broadly worded, so it's very important because we have a former deputy minister who within six months gets three government contracts totaling \$108,000 that are all broadly worded.

I think it comes back to best practices of government, and whether those contracts need to have more defined parameters, because –

Mr. J. Brown: And I guess I just want to say I have no issue with asking for the contracts. The only thing I'm wondering and worry about is: Are we going on a tangent that's not related to the egaming matter in asking for them and looking for them? It's an honest question, and (Indistinct).

Ms. Compton: (Indistinct) as a conflict of interest.

Chair: It's contained in the special audit of the egaming initiative, so –

Mr. J. Brown: I recognize those conflicts. (Indistinct) question was, anything else (Indistinct).

Chair: The request is going to go from the AG's office and then she'll report back to us.

Are there any other requests for information?

Mr. Palmer: Can we get invoices related to those as well, those contracts?

Chair: Can certainly ask for them.

Mr. Palmer: Okay, thank you.

Chair: No other requests for information at this time, then?

I'd like to move on to number six, new business. Any items of new business to be brought forward?

Before I call for adjournment I'd just, again, like to remind everyone that we do have a schedule established that Ryan was good enough to communicate to us. Our next meeting is a week from today, 10:00 a.m., January 18th, as well as January 25th. On February 1st, we're also scheduled. However, the Auditor General is not available on that date, so perhaps next week we can look at if there's a reason to meet on the first or if there's a witness that we would like to call in to occupy that tentatively established date.

All right, I'd like to thank everyone for your time today and your cooperation, and at this time I'd like to call for a motion for adjournment.

Thank you, Peter. Thank you.

The Committee adjourned