

March 26, 2007: Edited transcript of press conference by Ombudsman André Marin, for the report "A Game of Trust: Investigation into the Ontario Lottery and Gaming Corporation's Protection of the Public from Fraud and Theft"

[Opening remarks, followed by invitation to questions]

Question: Are you saying we may never know how large the OLG's insider fraud problem is?

Absolutely, I think that – let's put it this way – the OLG's scant documentation, and it is scant, reveals that \$100 million was pocketed by insiders between 1999 and 2006. We were able in 90 days to piece together five cases where retailers claiming tickets were liars. They lied about being retailers, they lied about where they got the tickets.

That represents about \$15 million paid to internal fraudsters. It is likely that over the course of the years, there are tens of millions of dollars that have been paid to internal fraudsters. It is likely that high. We'll never quite know because the OLG doesn't keep track of the number of retailers it has. It does not keep track of retailer wins. It used to track only wins of over \$50,000. It is very hard to get a tangible amount.

But the most telling point: \$100 million was given to retailers between 1999 and 2006 despite very questionable circumstances. And only one person has ever been denied a win.

Question: How did it get to be that way?

I have concluded that they put profits ahead of public service. I think that there was a point – a crossroads – in 2002. The OLG had steadfastly maintained the position that it owed no duty of care to members of the public: "You're not happy with our retailer? That's not our problem."

They fought in court and lost. The court told them, "You must be a prudent payor." At that point the OLG could have gone in one of two ways. It could have said, "We'll apply the law and take the measures to act diligently." A month later Bob Edmonds surfaced, and they pretended that the binding law of the Superior Court of this province didn't apply.

And then it became a slippery slope. Insider wins kept increasing, of course, with the banner year of 2005, when there were 31 insider wins, three of which were over \$1 million.

You would have expected, in light of the state of the law, that the OLG would have firmed up their role as guardian of public trust, they would have made a call to arms to protect the public money. Instead, the OLG "turtled," then retreated *en masse*.

It's fair to say there has been a crisis in leadership and management at OLG since that period. As a coping mechanism, they kind of developed these games that they would play on people who'd come forward. One of these was the "neuter and spin" game. If you have an obstreperous

claimant coming forward, insisting that he was ripped off, such as Mr. Edmonds, what you do is, you write him off and propagate that you have the most secure system in North America, if not the world.

Then, there's the "zap, it's gone!" game. Retailers were problematic, they were winning too much, they were becoming an irritant to management. What do you do? You take the insider definition; you take the retailers out of it. Zap! The problem's gone.

And of course, there's the "hold your nose, duck the question and sign off" game, in which, if you are faced with transactions that don't pass the smell test, or as one senior executive said, it was causing "rot in his socks," you hold your nose, and you don't ask any questions and you sign off the jackpot.

As the law and circumstances should have been pushing the OLG in a certain direction, it was going in another direction. And that's why we're here today.

Question: Has the problem been addressed with the removal of the OLG's CEO?

The message has to be given from the top and the message from the top of "holding your nose" is not the message that you want to see. But, to be fair, this probably has been long-standing, back to 2002; it is deep within the bowels of the OLG.

To give you an example: The call centre, where members of the public can call to say, "I've been ripped off by an insider," is the same call centre where retailers can call in. Well, in that call centre, retailers are referred to as "customers," whereas ticket-buyers are referred to as "consumers." So that's who they see as their clientele – the retailer, and not the member of the public.

I think it's a cultural issue within the organization ... since 2002. And, unfortunately, and interestingly enough, just before all of this came to a pass, when the CBC was asking for documents and the OLG started to feel a bit of heat, just on the verge of that, they were going to get completely out of the business of investigating tickets. They were considering a policy of "pay the bearer." So, again, they were getting entrenched in getting away from the problem instead of fixing it.

Now, of course, we all know that things began to happen very quickly once the Edmonds case became public and now we have some initiatives that have already been implemented, such as the lowering of the insider-win investigation threshold from \$50,000 to \$10,000.

Question: Comment décrivez-vous la culture à l'intérieur de l'OLG?

Il y avait un système copain-copain qui existait entre les détaillants de l'OLG et l'OLG. Les enquêtes qui étaient menées par l'OLG dans les situations suspectes n'étaient pas menées pour faire sortir les faits ou la vérité – les enquêtes étaient menées pour exonérer les détaillants. Donc, pendant plusieurs années, l'OLG, au lieu de relever le défi d'enquêter des situations suspectes, a plutôt ignoré cette situation-là. Il a permis qu'il y a des millions de dollars qui soient payés aux

personnes, des détaillants qui prennent avantage du système. Ce sont vraiment des cas de fraude et de vol.

Question: Est-ce que l'OLG est responsable de fraude?

L'OLG est gardien public des fonds. Les critères étaient beaucoup trop bas chez l'OLG. L'OLG se contentait d'ignorer des situations qui auraient pu mener aux enquêtes plus approfondies. En 2002, la Cour supérieure de justice de l'Ontario a reconnu qu'il y a un devoir de prudence qui est imposé sur l'OLG. L'OLG a ignoré le devoir qui leur a été assigné par le tribunal, et a plutôt continué à émettre les chèques, à émettre l'argent à ceux qui fraudaient le système.

Question: Est-ce que ça venait de la direction de l'OLG jusqu'à ses employés?

Il y avait une culture là, que les détaillants sont des bonnes personnes, on n'est pas là pour faire enquêter sur les détaillants. Si on avait des réclamations de la part des personnes qui étaient liées à la compagnie, à l'OLG, la façon de réagir, c'était justement d'ignorer ses plaintes-là et d'écrire un chèque.

Question: Regarding the investigating officer in the Edmonds case who wanted to pursue charges of obstruction against OLG: What did you find related to that?

We interviewed the OPP officer, and took a step back and wondered whether to pursue this course. There's a point where we believed it wouldn't add anything to the investigation. His complaint is he was obstructed by the OLG – it's quite likely he was. I mean, I don't have a problem accepting that as a point of argument.

We've concluded today that the bigger picture is that the OLG's oversight is non-existent. The OLG has turned a blind eye to allegations of crime for many years. There's likely in the area of tens of millions of dollars that have been paid to unscrupulous retailers. I mean, there's a point where you are digging a hole and it's so deep that you've got to start looking at ways to get yourself out of the hole, instead of continuing too deep. I think investigating the obstruction against the OPP would have been an interesting read, but when you look at what's been recommended here, if these recommendations are adopted, that won't happen again.

Question: Regarding your Recommendation #18 about a new procedure for insider investigations. What was your point there?

What we are recommending today is that the investigation of complaints of insider wins be taken out of the hands of the OLG and given to a regulatory body; that retailers be accredited, that there be criminal checks on them; that there be a code of conduct; that there be "secret shoppers" out there to test them. If [the Edmonds case] happened again, the police would not be dealing with the OLG, they'd be dealing with this oversight body, and it would have a much different reaction.

The problem with how the OLG dealt with allegations is that there was way too much hanky-panky between retailers and the OLG.

Question: The allegation of obstruction of justice takes it into a criminal realm, but nothing came of it. If there are no charges, where's the accountability for the OLG?

My role as Ombudsman is to fix systems, not to cause people to be fired or to be charged criminally. What I've proposed today are measures that fix the system, that prevent this from happening again. There will not be an opportunity now for salespeople of the OLG to walk down to their friendly retailer and say, "Let me ask you a couple of questions. You say you won? You bought your ticket from the mall down the street, didn't you? Nudge-nudge, wink-wink."

That's the kind of investigations that were conducted. Under the regime I'm proposing today, that wouldn't happen.

Question: Do you think the obstruction allegations should be pursued?

I didn't look at whether there were reasonable grounds to believe there was obstruction of justice or interference in a police investigation occurred, because that's not my function. All I'm saying to you is, even if you assume for the sake of argument that it happened, it wouldn't change the role that I fulfil here as Ombudsman in proposing a regime that prevents this from happening in future. The OPP are free to pursue their investigation if they believe there are reasons to pursue it; I'm not making recommendations in that direction.

Question: How much did the government have to do with this?

You have to realize whenever government gets into a Crown corporation business, it's doing it for a very specific purpose. It wants to allow the government to act in an area that is, traditionally, in this case, a corporate commercial area. So you give Crown corporations the leverage to operate like a private company. You set up a board and the government's the shareholder. You give them as much latitude as possible to allow them to do the right thing.

In this case, I met with Minister Caplan and I certainly got the sense that he was floored to learn the findings that we brought to his attention.

Did the government cut the OLG too much slack? Maybe. Is the government committed to reforming the system and perhaps making it the best in the world? Certainly I would find that very encouraging. Beyond that, I think the responsibility rests, first and foremost, with the OLG.

Question: Si les détaillants vont continuer à jouer, comment est-ce que vous pouvez dire au public que ce genre de code de fraude ne se produira?

Les détaillants ne sont pas réglementés en ce moment. C'est le laisser-faire. Le système qu'on a propose aujourd'hui crée cette situation-là – il aura des règlements.

I've been asked in French about the retailers. We considered banning retailers from playing. We didn't do that for a few reasons. First of all, the instrument of prohibition sounds like a rather blunt one when this area has remained totally loose without any regulation. Do you want to kill a fly with a sledgehammer? Throw the baby out with the bathwater? There are various ways to conceptualize it. I think that the relationship has been way too cozy over the years and what we need to do is try a system to regulate it. I mean, retailers have been stealing for one good reason: Because they can. Maybe we should make the atmosphere a little less encouraging. It's like saying, "People speed all the time – let's ban driving." I think we need to start enforcing instead.

That's why today what we're proposing is a code of conduct for retailers. We're proposing pre-screening for criminal records. We're proposing continuing monitoring of their activity to determine whether they are deserving or lacking as a retailer for OLG. We are recommending zero tolerance for fraud and theft. We are recommending they be policed by an outside agency. We're recommending that if there is a dispute over winning, it be adjudicated by an independent body, not by the OLG. I think that when you put in all those measures, that you'll have a very different climate.

Question: Did you find any criminal activity within the Corporation as opposed to the retailers?

No, not criminal activity. What I found was a very, very lax attitude towards retailer fraud. The atmosphere we now have is such an incestuous one, where the retailer has a symbiotic relationship with the OLG rep, who then is the person investigating them, who leads them to the right answers during an investigation, as opposed to investigating objectively. So I think it's morally reprehensible. As far as criminal activity, that of course is not my mandate so I leave that to the OPP.

Question: En français, s'il vous plait?

On a décidé que d'interdire les détaillants, c'est une mesure excessive. Il y a d'autres moyens de s'attaquer aux problèmes que d'empêcher les détaillants de jouer les jeux de loterie. Maintenant, le climat, c'est un climat de laisser-faire; ce n'est pas un climat où il y a des contraintes. Ce n'est pas un climat qui décourage les fraudes et les vols. Le climat qu'on a proposé aujourd'hui, c'est un climat qui décourage ce genre de comportement.

You know, all these things that we are proposing today, when we initially proposed them to the OLG, there was a lot of pushback. They would say "Oh, we can't do criminal investigation checks. We don't want to register retailers." There was a lot of pushback because they didn't see it as being their business. Their business is sales; profits.

Bear in mind that all the money that comes into the OLG, all the money that is funnelled in – it's not government money, it's not OLG money. This is money that goes to charities, that goes to hospitals. So when you write a cheque, a \$12.5 million cheque to an unscrupulous retailer, someone in a charity somewhere isn't going to get that money. So it's important to keep in mind

this is not OLG money; it's not consolidated-revenue money for the government; it goes into those causes. That's why we need to strengthen the system.

Question: Can you comment on the resignation of OLG CEO Duncan Brown? Was that an appropriate first step?

The government can decide who they have confidence in and when they decide to change the blood of the corporation. As I've indicated before, I'm in the business of fixing problems, not getting people dismissed and so on. So I really don't have any comment beyond to say it's the government's prerogative.

Question: You say you're in the business of fixing problems, but you agree millions have been paid in fraudulent circumstances. Why did you not recommend the OLG to go back and reinvestigate?

The problem is that there's no paper trail. There's very, very little documented. Because of the disinterest they have had for so many years in getting to the bottom of things, there's just nothing that would sustain further investigation. You're dealing with shreds of pieces of paper that you can't connect together. If at any point someone has any concerns over being deprived of their winnings, I would contact the police. I mean, it's worth setting in gear but as Ombudsman I certainly didn't see anything here in our investigation that would allow us to put together a persuasive case that a criminal offence has happened. That's the problem.

Question: Not even in the five cases in 2003 that you talk about in the report?

The problem is the OLG decided to pay these people. That's the problem. These people didn't come in and help themselves to the money in the dead of night.

Question: They also paid Ms. Laplante in the Edmonds case, but Bob Edmonds ultimately prevailed.

Yes, yes, definitely. The money has been paid off. The OLG has accepted that given their current standards applied at the time, they'd pay off the money. The problem is those standards were wrong. That's why I want them changed today.

Question: So these people are getting a free pass?

I think the system has been cheated. I think charities have been cheated. Hospitals have been cheated. And that's why we need today to move on to finding solutions.

Question: But there are people out there who legitimately have won prizes. What about them?

There is absolutely no doubt that the OLG's position was, in many of these suspicious cases, "well, we held on to the ticket until the expiry period and then we paid them." Some of our recommendations today are to the effect that the OLG should start advertising when there are

suspicious circumstances, to encourage people to come forward. What can we do? You can't unring a bell. It's been done, there have been people cheated out of money; there are hospitals and charities that were cheated out of money.

KPMG conducted a \$644,000 investigation and made some good but very friendly suggestions to the OLG to how to better advise the public. Today our focus is on the OLG to get their house in order.

Question: Why couldn't you do that retroactively? Why couldn't they go back and advertise now and try to right a wrong?

Well, maybe that is something the OLG will want to do. I had systemic issues I wanted to fix to prevent these problems from happening again. That's why I think urgent action is needed today – to put an end to these insider wins that shouldn't be happening.

Question: If this was a private corporation running a potentially crooked game, it would be shut down. Why does the government still have the right to sell lottery tickets to the public if this is the way they were selling them?

Well, I think today is a day of reckoning, it's a day of closure, it's a day of moving forward. What do you do with the lottery system? Do you close it down and deprive hospitals and charities and local communities of billions of dollars? Or do you bring in radical reforms that make it work? And what we're saying today is bring in those radical reforms; bring them now. And the government said they would bring them in and we'll be hearing later about that.

Question: Your report said you received about 420 complaints. Some of those complaints we know had to do with other issues related to OLG business including casinos, slot machines, etc. What else has come to your attention, related to OLG, that you may or may not continue to examine?

Right now we are going through those complaints, trying to identify where we go from here. We thought that there was such urgency surrounding this particular investigation that we needed to release this report. We will be identifying whether or not, out of those 400-odd complaints – and they're still coming in – whether there are other issues that need to be addressed, that are not covered by the report.

Question: So does the investigation continue, then?

The investigation continues.

Question: Vous avez parlé d'un système un peu lax du côté de l'OLG, qu'on en a profité. Est-ce que vous avez remarqué là-dedans un pattern? Est-ce que ce sont tous des cas individuels, ou est-ce qu'il pourrait y avoir eu collusion? Est-ce qu'il y avait des groupes d'individus parmi les détaillants qui ont profités des faiblesses du système?

Je pense qu'il n'y avait pas de collusion comme tel, mais je pense qu'il était très connu que le système était facile à exploiter. Et donc, que c'est une raison pour laquelle le système se faisait exploiter facilement.

Thank you.