

**UNOFFICIAL TRANSLATION OF
THE AFFIDAVIT OF DENIS HURTUBISE
SWORN ON MARCH 29, 2021**

COURT FILE NO.: CV-21-656040-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
RSC 1985, c C-36

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
LAURENTIAN UNIVERSITY OF SUDBURY

**AFFIDAVIT OF DENIS HURTUBISE
(March 29, 2021)**

I the undersigned, DENIS HURTUBISE, of the city of Sudbury in the province of Ontario
AFFIRM that:

1. I held the position of **Associate Vice-President, Academic and Francophone Affairs** (“**AVPAFA**”) from June 2014 to June 2016. In that capacity, I sat on the Joint Committee on Bilingualism. I have been an associate professor of philosophy at Laurentian University (“**LU**”) since 2017 and head of the Philosophy Department since 2018. I am a member of the coordinating committee of the *Regroupement des professeures et professeurs francophone* at LU (the “**RPF**”) and one of its spokespersons.
2. I have personal knowledge of the facts set out in this affidavit, except where they are otherwise stated to be based on information of belief.
3. In my seven years at LU, I have found that Francophones have no real decision-making power at LU. Ultimately, decisions affecting the status and use of French are made by the President and the Vice-President, Academic.
4. Francophone professors in the various departments and faculties have no real decision-making power with respect to French-language programs. The development and approval of new French-language programs requires a number of steps that are carried out by entities controlled by Anglophone majorities: the departments (with the exception of the Theatre and French Studies departments), the faculty councils, the Academic Planning Committee, and the Senate. Moreover, deliberations are conducted primarily – and often exclusively – in English.
5. In the process of creating programs and courses, the Council on French-language Programs, made up of Francophone representatives from various faculties and

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administrative units whose mandates relate to teaching, plays an advisory role in program development, and its decision-making authority is limited to modifying existing programs and creating courses that are not associated with a program. All decisions relating to the modification and creation of programs, the evaluation of their quality and the addition of new courses are made by the Academic Planning Committee and the Senate.

The RPF's concerns regarding the status and use of French at LU, laid out in the form of eight issues were submitted to President Haché in a brief I co-authored in 2019

6. In September 2019, I co-authored a brief that was submitted by the RPF to LU President and Vice-Chancellor, Dr. Robert Haché (hereinafter “**President Haché**”), identifying eight issues of concern relating to the status and use of the French language at LU. Attached to this affidavit as **Exhibit DH-1** is a true copy of this brief.
7. The **first issue** identified (at p. 2 of Exhibit DH-1) is the **mandate of the AVPAFA**. Prior to a restructuring that took place in late 2013 or early 2014, LU was managed by a President and three Vice-Presidents, including a Vice-President, Academic and Francophone Affairs. In late 2013 or early 2014, the position of Vice-President, Academic and Francophone Affairs was downgraded to that of *Associate Vice-President, Academic and Francophone Affairs*. The person responsible for Francophone affairs – whether they hold the position of Vice-President or Associate Vice-President – has the mandate to defend and promote French at LU. They are also responsible for the implementation of LU’s policy on bilingualism and its designation under Ontario’s *French Language Services Act*. Attached to this affidavit as **Exhibit DH-2** is a true copy of LU’s policy on bilingualism, accessible at the following link: <https://laurentienne.ca/assets/files/Bilinguisme/Politique-de-bilinguisme-approuvee.pdf>.
8. The individuals who hold the position of AVPAFA have much less autonomy, power and influence than those who have held the position of Vice-President, Academic and Francophone Affairs. Since this Vice-President is only an *associate*, they are no longer a member of the President’s executive committee and no longer have a budget to implement initiatives (only a modest budget for office supplies). Moreover, the President and the Vice-President, Academic, to whom the AVPAFA reports, control and limit in various ways the actual ability of the AVPAFA to defend and promote French exclusively and effectively. For example, when I held the position of AVPAFA, in September 2015, the then Vice-President, Academic blocked an initiative I had launched to offer preferential tuition fees to international students who wanted to study in French at LU – despite the fact that this is a common practice in Ontario – on the sole ground that students enrolled in English-language courses would not benefit from it. This widened the gap between international student enrolments in French and English programs.

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9. One of the ways in which LU limits the effectiveness of the person who holds the position of AVPAFA is by requiring them to perform duties other than those relating to Francophone affairs. For example, before I took up the position in 2014, the duties of the AVPAFA were part of the very broad portfolio of the Vice-President, Research, who also served as Dean of the Faculty of Graduate Studies. The predecessor to the current AVPAFA also performed duties that had nothing to do with Francophone academic programs or Francophone affairs. Over the past twelve years, ten people have held the position of AVPAFA, some on an interim basis.
10. The **second issue** identified in the brief I co-authored on behalf of the RPF is the improvement of the **policy on bilingualism** (Exhibit DH-2) and its implementation (at pp. 2-3 of Exhibit DH-1). The RPF had already submitted a separate brief on this subject to the AVPAFA in April 2019. A copy of that brief is attached as Appendix 3 of Exhibit DH-1 (at p. 12).
11. Although LU claims to be “bilingual,” has a policy on bilingualism (Exhibit DH-2) and its collective agreements provide for language rights, LU does not take the necessary steps to institutionalize the use of French at meetings of its governing bodies or in related documentation. LU’s institutional culture gives precedence to the linguistic majority and its language. On numerous occasions since 2014, I have faced the dilemma of having to choose between exercising my language rights and being accommodating toward members of the majority who are not bilingual, i.e. unable to speak or read French, by using English at various meetings of university bodies. On numerous occasions, LU has issued memos, including some addressed to the entire university community, in English only, contrary to LU’s policy on bilingualism (art. 6.1 of Exhibit DH-2).
12. LU offers interpretation services at Senate and Board of Governors meetings, but not at meetings of lower bodies such as the Academic Planning Committee and the councils of faculties and departments.
13. Although the policy on bilingualism states that when they are hired, faculty must understand French or commit to achieving a level that allows them to understand it (art. 9.4 of Exhibit DH-2), no mechanism has been put in place to assess this, as required by the policy (at art. 9.4(c) of Exhibit DH-2). Since 2014, LU has hired a number of executives who were unable to speak or write in French (including the last two Vice-Presidents, Research, Rui Wang and Tammy Eger; the current Vice-President, Administration, Lorella Hayes, speaks French with great difficulty).
14. The **third issue** is the **inadequate promotion** of French-language programs.
15. The 2019 brief I co-authored on behalf of the RPF addresses the decline in enrolment in programs offered in French in the arts, humanities and social sciences (at p. 3 of Exhibit DH-1), and the inadequacy of LU’s recruitment efforts compared to those of its competitors. In 2018, the Faculty of Arts passed a resolution to promote French-

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language programs in order to recruit more students. This resolution can be found in Appendix 2 of Exhibit DH-1 (at p. 10). It has not been implemented either by the Senate or by President Haché.

16. From 2000 to 2017, LU focused on promoting its English-language programs abroad. It was not until the fall of 2017 that a manager, Benoît Clément, was assigned to promote French-language programs to international students for the first time. In 2019, I published a peer-reviewed article showing the impact of LU's promotion of its English-language programs. From 2000 to 2015, 14 times fewer international students were enrolled in French-language programs compared to those enrolled in English-language programs. In September 2017, 92% of international students enrolled at LU were in programs offered in English. Attached to this affidavit as **Exhibit-3** is a true copy of this 2019 article, accessible at the following link: <https://www.erudit.org/fr/revues/minling/2019-n11-minling04924/1065213ar/>. Attached to this affidavit as **Exhibit-DH-4** is a true copy of an article from *La voix du Nord* dated February 13, 2021, summarizing my findings, accessible at the following link: <https://www.lavoixdunord.ca/actualites/francophonie/sans-planification-les-minorites-sont-affectees-aa3512b36ec73f757240a0c97b2ff33e?sourceOrganizationKey=le-voyageur>.
17. The **fourth issue** raised in the 2019 brief I co-authored on behalf of the RPF concerns the Board of Governors and Senate **Joint Committee on Bilingualism**. When I served on this Committee from 2014 to 2016, “any attempt to amend the agenda to discuss the issue of the frequency of meetings was thwarted by the administration” (at p. 3 of Exhibit DH-1).
18. As for the **fifth issue** (at p. 4 of Exhibit DH-1), for several years, LU's Centre for Academic Excellence has been offering some of its **services for students in English only**, for example the university preparation program and the specialized programs. The Centre for Academic Excellence also offers English language courses, but not French language courses. In addition to not complying with the bilingualism policy (9th paragraph of the preamble to Exhibit DH-2), these shortcomings hinder the recruitment of French-speaking students and widen the gap between enrolment in English and French programs. I raised this inequity in March 2018 with the Director of the Centre for Excellence, Shelly Watson, and with the AVPAFA, but this did not result in any improvement. President Haché also failed to address this issue after receiving the 2019 brief I co-authored on behalf of the RPF.
19. The **sixth issue** concerns the **language of signage and communication** at LU: frequently, the quality of the French is poor and the French version does not appear as prominently as the English version (at pp. 5-6 of Exhibit DH-1). I have noticed that LU regularly posts signs and sends out communications in English only. Yet LU's policy on bilingualism states that its official communications shall be in French and English (art. 6.1 of Exhibit DH-2) and that “the University's bilingual character is manifested by the quality of its official communications in both languages”

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(para. 10 of the preamble to Exhibit DH-2). At the RPF office, I collect the official communications of LU in which the quality of the French is poor or in which the French version is not as prominent as the English version (an example can be found at p. 6 of Exhibit DH-1). This poor practice illustrates the extent to which French and English do not enjoy the same status at LU. LU continues this malpractice today despite the complaints it has received from the RPF and myself when I was AVPAVA.

20. As for the **seventh issue**, in the brief I co-authored on its behalf, the RPF asked that LU deal with the **future of French-language programs** after more than a decade of austerity that has disproportionately affected these programs (at pp. 6-7 of Exhibit DH-1). This brief decries LU's failure to invest in the development of French programs.
21. In my article (Exhibit DH-3), I show that between 2000 and 2018, the gap between enrolment in French-language programs and enrolment in English-language programs has widened, above all due to the large amount of money invested in developing new programs in English (between 2000 and 2012). Recently, I analyzed the enrolment data for programs offered in French and those offered in English at LU between 2018 and 2020 and found that the gap has continued to widen up to September 2020.
22. Finally, the **eighth** and last item in the September 2019 RPF brief (at p. 7 of Exhibit DH-1) is a request that LU establish an **independent standing committee on the French fact**. This request remains unanswered.
23. After I had submitted the brief I co-authored on behalf the RPF to President Haché in September 2019, I met with him on December 9, 2019. Around 25 other members of the RPF also attended the meeting. Having recently taken up his position, President Haché seemed motivated to learn about the issues, but did not make any concrete commitments. President Haché indicated that he wanted to meet with the RPF on a monthly basis. Since then, there have been no meetings between the RPF and President Haché.

The offering of programs, courses and services in French at LU

24. I do not know what the range of programs, courses and services offered by LU was on April 30, 2014, when the regulation designating LU under the *French Language Services Act* was made.
25. On March 24, 2021, I compared the programs offered in French at LU this year with those designated under the *French Language Services Act*. Despite its designation under that Act, I found that no French-language program leading to the Master of Human Kinetics in French (M.A.P.) appears on the LU website. The Bachelor of Commerce (B.Com.) in French, also designated under that Act, does not appear on

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the LU website either. Admissions to the French-language programs in Mathematics, Environmental and Sustainability Studies, Theater, Anthropology, Archeology, Music, Leadership (Physical and Outdoor Activities) and Geography, eight French-language programs leading either to a Bachelor of Science (B.Sc.) or a Bachelor of Arts (B.A.), both designated under the *French Language Services Act*, were also suspended in the summer of 2020.

26. In addition, in the summer of 2020, LU suspended admissions to the Master of Human Kinetics in French and the Bachelor of Business Administration (Human Resources) in French.

LU's lack of transparency regarding the use of government funding received due to its "bilingual" mandate

27. The government of Ontario provides operational grants to LU, including one for its "bilingual" mandate.
28. LU also receives additional federal funding that it is supposed to use to support French-language education. This funding is part of the *Protocol for Agreements for Minority-Language Education and Second-Language Instruction, 2013-2014 to 2017-2018* (which has since been renewed), between the government of Canada and the provinces and territories. Attached to this affidavit as **Exhibit DH-5** is a true copy of the protocol, accessible at the following link: <https://www.cmec.ca/Publications/Lists/Publications/Attachments/414/Protocol-2013-2018-EN.pdf>. Attached to this affidavit as **Exhibit DH-6** is a true copy of the *Protocol for Agreements for Minority-Language Education and Second-Language Instruction, 2019-2020 to 2022-2023*, which will govern bilateral agreements for the coming years, accessible at the following link: http://publications.gc.ca/site/archivee-archived.html?url=http://publications.gc.ca/collections/collection_2020/pch/CH14-49-2020-eng.pdf.
29. During the time that I held the position of AVPAVA, LU was receiving at least \$12 million in government funding because of its "bilingual" mandate. I am very familiar with the operation of LU's French-language programs, and in my view, unless I am mistaken, they are financially viable, in part due to this funding.
30. LU lacks transparency with regard to the allocation of the government funding it is supposed to use to support French-language education. The RPF has never succeeded in obtaining from LU the allocation of at least \$12 million or information regarding the financial viability of French-language courses and programs.

I was already concerned about LU's disregard for French before February 1, 2021; I am even more concerned now that LU has placed itself under CCAA protection

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31. French is not a priority for LU. I have been even more concerned about the status of French at LU since LU placed itself under CCAA protection. I gave an interview about this on behalf of the RPF, an excerpt of which is quoted in the article of February 23, 2021 that is attached to this affidavit as **Exhibit DH-7**, accessible at the following link: <https://ici.radio-canada.ca/nouvelle/1772778/laurentienne-francais-langue-insolvabilite-subvention>. That excerpt reads as follows: “In French, we have a number of smaller programs. Even though the University has not talked about a frontal attack on the French programs, they are effectively singled out because of their nature.”
32. I have reviewed President Haché’s affidavit of January 30, 2021 in support of LU’s application to be placed under CCAA protection. The status and use of French are not mentioned in it. Moreover, President Haché’s affidavit ignores LU’s designation under the *French Language Services Act* and the constitutional and quasi-constitutional rights of the Francophone minority and their effect on programs, courses and services in French at LU.

Sworn remotely by Denis Hurtubise in the city of Sudbury in the province of Ontario, before me in the city of Richmond in the province of British Columbia, on March 29, 2021, in accordance with O. Reg. 431/20 *Administering oath or declaration remotely*.

DENIS HURTUBISE