

No DU DOSSIER : CV-21-656040-00CL

**ONTARIO  
COUR SUPÉRIEURE DE JUSTICE  
(RÔLE COMMERCIAL)**

**DANS L’AFFAIRE DE LA LOI SUR LES ARRANGEMENTS AVEC LES  
CRÉANCIERS DES COMPAGNIES, LRC 1985, c C-36**

**DANS L’AFFAIRE D’UN PLAN DE TRANSACTION OU D’ARRANGEMENT DE  
L’UNIVERSITÉ LAURENTIENNE DE SUDBURY**

**DOSSIER DE MOTION SUPPLÉMENTAIRE II  
(Renvoyable le 30 avril 2021)**

Le 27 avril 2021

**SHEPPARD & CLAUDE**

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Avocats de l’Université de Sudbury

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**ONTARIO**  
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DANS L’AFFAIRE DE LA *LOI SUR LES ARRANGEMENTS*  
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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

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

Applicant

**AFFIDAVIT OF PIERRE RIOPEL  
(sworn April 14, 2021)**

I, Pierre Riopel, of the Municipalité of Rivière-des-Français, in the Province of Ontario,  
**MAKE OATH AND SAY:**

1. I am the Chair of the Board of Regents at the University of Sudbury ("**USudbury**"), and as such have personal knowledge of the matters hereinafter deposed to. Where I do not have personal knowledge of the facts set out in this affidavit, I state the source of that information and verily believe the information to be true.
2. In preparing this affidavit, I have reviewed the affidavit of Robert Haché sworn January 30<sup>th</sup>, 2021 (the "**Haché Affidavit**") in support of the Application of Laurentian University of Sudbury ("**Laurentian**") under the *Companies' Creditors Arrangements Act* "**CCAA**").

**History of the Federated Relationship Between USudbury and Laurentian**

3. USudbury was founded as Collège du Sacré-Coeur in 1913. On April 20, 1914, the Ontario legislature adopted the *Charte du Collège du Sacré-Coeur*. In 1957, the Collège du Sacré-Coeur changed its name to University of Sudbury.

4. Under its enabling statute, Sudbury was bestowed with a number of powers, including the power to confer degrees.
5. USudbury is a bilingual and tri-cultural university based in the tradition of its founding francophone Jesuit Fathers. It is committed to promoting the traditions and culture of the Indigenous people. USudbury offers French- and English-language programs and courses in “Culture et Communications” (including journalism and folklore components) (French-language only), Indigenous Studies (founded in 1975), Philosophy and Religious Studies. A number of the French-language courses offered through Laurentian have been provided by USudbury.
6. Besides providing French and English language electives to students enrolled in a program at Laurentian or at another Federated University, USudbury offers students the possibility of adding a minor or minors to a specialized program as well as the possibility of earning a language certificate as a complement to any degree. The transdisciplinary skills (critical, analytical and creative thinking, problem-solving, adaptation, communications and multicultural awareness) and knowledge acquired through the courses taught at USudbury are invaluable to students in their quest for future employment, career development and everyday life.
7. Laurentian owes its existence to the USudbury. In 1960, USudbury, the Anglican Diocese of Algoma, and the United Church Presbytery petitioned the Ontario government to establish Laurentian as a non-denominational, bilingual university to serve the Sudbury community. Laurentian’s enabling legislation specifically contemplates that Laurentian would enter into federation agreements with church-related universities or colleges and that credits from such institutions would be treated as if they were given in Laurentian’s “University College.”<sup>1</sup>

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<sup>1</sup> *An Act to Incorporate Laurentian University of Sudbury*, S.O. 1960, c. 151 C. 154 4(c).

8. One of the driving factors for the creation of Laurentian was to ensure that it would become a beacon for the francophone community in offering programs and courses in French to meet its needs, and that this mission would always remain a priority for the newly created university. Laurentian was incorporated in 1960. It is a non-share capital corporation created by *An Act to Incorporate Laurentian University of Sudbury* S.O. 1960, c. 151 C. 154, operating as a publicly funded, bilingual university in Sudbury, Ontario. It is a registered charity under the *Income Tax Act*.
9. From inception, Laurentian's incorporating statute contemplates that it would enter into federation agreements with other universities.
10. In 1960, the year it was incorporated, Laurentian entered into a Federation Agreement with Sudbury (the "**Federation Agreement**"). The Federation Agreement includes the declarations of Laurentian and Sudbury that they each:

[E]xpress the firm hope and conviction that the relationship between the Universities established by this agreement will be a permanent one and that they and the other universities and colleges which become federated or affiliated with Laurentian University will work together to fulfil the objects of the Act of Incorporation of Laurentian University...The Parties fully realize that the success of the task which they have set themselves will depend more on the mutual understanding, goodwill and cooperation between the institutions now or hereafter associate together in Laurentian University, than upon any formal agreements.

A copy of the Federation Agreement is attached as **Exhibit "A"**.

11. As part of the federation arrangement between Laurentian and USudbury, the parties entered into a perpetual lease dated April 9, 1965 for an initial term of 99 years (the "**Lease**"), a copy of which is attached as **Exhibit "B"**.
12. Consistent with the parties' stated intention for a permanent and perpetual federated relationship (the "**Federation Relationship**"), the Lease contained an option for USudbury to renew for another 99 years, with the options to renew and continue on each renewal.

13. The Federation Agreement was intended to be permanent and perpetual. There is no provision for its termination, and the parties never intended for there to be the possibility of a unilateral termination of the Federation Relationship.
14. Despite the contemplated permanency of the Federation Relationship, Laurentian seeks to terminate it by its Notice to Disclaim or Resiliate an Agreement dated April 1, 2021 (the “**Proposed Disclaimer**”) in which the Federation Agreement and a Financial Distribution Notice between Laurentian and USudbury dated May 1, 2019, amending the Proposed Grant Distribution and Services Fees agreement between Laurentian, USudbury, Thorneloe University, and Huntington University dated November 10, 1993 (the “**Financial Distribution Notice**”) are sought to be disclaimed.

A copy of the Financial Distribution Notice is attached as **Exhibit “C”**.

15. The Federation Relationship is reflected in the Federation Agreement, the Financial Distribution Notice and the Lease, the terms of all of which are interdependent and interlocked. USudbury expected that the Federation Relationship would be permanent and relied on it being so when it entered into the Federation Agreement and the Lease.
16. The Federation Relationship required USudbury to:
  - a) suspend its right to confer diplomas on students in favour of Laurentian, except for diplomas in Theology;
  - b) give up its right to receive money directly from the Ministry of Colleges and Universities for students (“**Grants**”);
  - c) give up its right to receive tuition funds directly from students (“**Tuitions**”);

- d) pay out of its own funds for the construction and operating costs of buildings and student housing (the “**Buildings**”) on lands under the Lease (the “**Leased Lands**”); and
- e) maintain and pay the full costs of its professors and teaching staff for all courses it offers.

17. The Financial Distribution Notice states, as its underlying principle that:

...none of Laurentian University or any of the Federated Universities will subsidize the operations or services of another, and each will be responsible for covering its own costs. The funding mechanism in place at any given time will be consistent with the funding mechanism between the Province and Laurentian University.

...

Each Federated University employs its own staff and is, and will continue to be, responsible for its own financial affairs. Laurentian University is the principal employer for administering pension plan and benefits and provides access to these employee benefits to each of the Federated Universities, with each Federated University bearing the sole financial responsibility for all contributions and funding for such employee benefits for its own staff.

18. USudbury has two buildings on the Leased Lands, a main building for administration and classrooms, and a residence, which were constructed by USudbury at its cost of more than **\$5M** (the “**Buildings**”).

19. Section 6 of the Lease provides that:

... this lease and any renewal thereof shall at the option of [Laurentian] cease and be void if at any time during the term hereby granted [USudbury] shall withdraw from federation with [Laurentian] or if the lands and premises cease for a period of three years to be used by [USudbury] for educational instruction at a university level, or if [USudbury] shall cease for a period of three years to operate as a University. In the event of such termination [USudbury] shall have the right to purchase the demised lands forthwith...<sup>2</sup>

20. In the event of any of the foregoing, USudbury has the right to purchase the demised lands on which USudbury's building has been constructed at a value to be determined in accordance with the terms set out in the lease. If USudbury does not exercise its right to purchase the demised lands, then Laurentian shall have the option to purchase the USudbury's building at cost minus depreciation (based on a formula set out in the USudbury Lease).

21. Laurentian also entered into federation agreements with University of Thorneloe ("**Thorneloe**") and Huntington University ("**Huntington**") (USudbury, Thorneloe and Huntington, collectively, the "**Federated Universities**").

### **Lack of Good Faith**

22. The Proposed Disclaimer is unfortunately not the first time Laurentian has attempted to unilaterally terminate or materially alter the Federation Agreement.

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<sup>2</sup> USudbury Lease at s 6, Laurentian Mediation Brief at Appendix D.

## The 2019 Financial Distribution Notice

23. During the course of their 60-year federation, Laurentian and the Federated Universities entered into a series of agreements to address the allocation of funding and costs of services. The final agreement between the Federated Universities and Laurentian is a Grant Distribution and Service Fees Agreement dated November 10, 1993 (the “**1993 Funding Agreement**”).
24. The 1993 Funding Agreement governed for over 25 years and included a funding formula that detailed, among other things, how (i) Grants and Tuition received by Laurentian would be distributed to the Federated Universities; and (ii) the service fees that would be paid to Laurentian, which were calculated as being a portion of the Grants and Tuitions received by each Federated University.
25. Effective May 1, 2019, Laurentian, without the consent of USudbury or the other Federated Universities, purported to unilaterally revise or replace the 1993 Funding Agreement and the allocation of funding between Laurentian and each of the Federated Universities through the issuance of separate “Notices of Terms of Financial Distribution” to each of the Federated Universities. The most recent of these is the Financial Distribution Notice which is one of the two agreements that Laurentian seeks to disclaim.
26. USudbury was not asked to and did not consent to Laurentian unilaterally revising or replacing the 1993 Funding Agreement through the Financial Distribution Notice or otherwise. By purporting to revise the allocation of revenues on its own, without consultation or discussion with USudbury, Laurentian was not acting within the guiding principles of the Federation Agreement or in good faith.
27. Based on its own proposed formula, Laurentian retains 15% of the Tuition funding per student, releasing only 85% of the funding from Grants and Tuitions to the Federated Universities who actually deliver the courses and programs. Laurentian

receives funding based on the number of students enrolled at the Federated Universities for purposes of the provincial funding formula but does not pay the Federated Universities the full amount for each student, even before an allocation between the Federated Universities and Laurentian applies. The 15% that goes to Laurentian comes “off the top”.

28. The existing funding formula was not forced upon Laurentian by USudbury or the Federated Universities. To the contrary, Laurentian sought to impose it on the Federated Universities. The 2019 revised funding formula reflected Laurentian’s own unilateral assessment of the economic allocation of Grants and Tuition and funding between Laurentian and the Federated Universities.
29. There is no reason that the allocation of revenues from Tuition and Grants cannot be divided in a way that is acceptable to both Laurentian and USudbury and that does not hamper Laurentian financially or create undue hardship to USudbury. If necessary, the Financial Distribution Notice should be revised, by agreement of the parties, not unilaterally disclaimed by Laurentian. The Federation Agreement itself in no way causes any financial obligations on Laurentian that either hinders or hampers it from making a viable plan to its creditors. By seeking to terminate the Agreements rather than attempting to negotiate new terms for financial allocation of revenues and expenses, Laurentian is acting contrary to the principles agreed to and enunciated in the Federation Agreement and in bad faith.

## **Lease**

30. The Lease gives Laurentian the right to elect whether or not to trigger any termination and its right to purchase the Buildings. The Lease was intended to work in parallel with the Federation Agreement so that neither party could withdraw from the Federation Arrangement without the consent of the other. A disclaimer of the Federation Agreement would saddle USudbury with all of the cost of maintaining the Buildings while depriving it of any revenues from Tuitions or Grants, all of which



would be kept by Laurentian, along with Laurentian's unilateral ability to control who owns the land beneath the Buildings.

31. I am advised by André Claude, USudbury's lawyer, and verily believe that the Lease cannot be disclaimed under the CCAA which is likely why Laurentian has not attempted to do so. However, by attempting to disclaim the Agreements and putting itself in a position to keep all revenues and force USudbury to pay the operating costs of the Buildings and put itself in a position to unilaterally determine who will own the Buildings, Laurentian is not acting in good faith in connection with the Lease, the Agreements or the Proposed Disclaimers. The approximate annual cost of maintaining the Buildings is \$400,000, not including any additional repairs or replacements that are required from time to time.

### **Employees**

32. In the 2019/2020 academic year, USudbury had a faculty of 13 full-time professors and 37 sessional professors. USudbury had an average faculty to student ratio of 1:45, an average class size of 14, a Full Student Course Equivalent (full-year) enrolment of 2,228 and individual registrations in all courses of 4,080 students.
33. USudbury has estimated the cost of terminating its employees if the Proposed Disclaimer was permitted to be as high as \$4 million. The teaching faculty is under a collective bargaining agreement and is represented by LUFA. Other employees, also unionized, are under a collective agreement negotiated with UNIFOR.

### **Laurentian's Insolvency**

34. The Haché Affidavit describes low class enrolment as being a factor in its insolvency (para. 12 and following) and suggests that an overhaul and restructuring of the Federation Arrangement must occur to make Laurentian's courses financially sustainable. Under the Federation Agreement, USudbury pays the full costs of teaching any courses it offers and under the Lease it pays for the construction and

operation of the Buildings. Mr. Haché provides no explanation whatsoever as to how the Federation Agreement is causing or materially contributing to Laurentian's courses not being financially unsustainable. The Federation Agreement in no way contributes to Laurentian's current financial woes. On top of its attempt to dissolve the Federation, Laurentian has now announced deep cuts to its programs and course offering, which may resolve some of its problems and create a whole new set of problems. In doing so, Laurentian is striking at the very heart of its obligations towards the Francophone community, and it is striking directly at USudbury's ability to carry-out its obligations towards this same community. In support of this statement, I rely on the Notice of Motion and its supporting materials served and filed by the Assemblée de la francophonie de l'Ontario, which is dated on March 31, 2021.

35. What is obvious from the Haché Affidavit, as the real cause of Laurentian's insolvency, is the debt burden it carries related to capital expenditures and construction, bank lending and disputed grievances, as described in paragraphs 212 to 260. The Federation Arrangement has nothing to do with these expenditures. Mr. Haché does not explain how terminating the Federation Arrangement will result in Laurentian being operationally solvent so long as those other obligations exist.

### **Lease Rights**

36. USudbury intends to continue the Lease in accordance with its terms and will continue to utilize the properties and Buildings for its purposes.
37. Laurentian can only terminate the Lease if USudbury (i) withdraws from the federation with Laurentian; (ii) ceases to use the land for university-level education for three years; or (iii) ceases to operate as a university for three years. USudbury has not had or expressed any intention of withdrawing from the federation with Laurentian, prior to February 1, 2021. To the contrary it is Laurentian that wishes

to terminate the federation against the wishes of USudbury and without the good faith discussions required by the Federation Agreement.

38. Mr. Haché says in paragraph 295 of the Haché Affidavit that Laurentian seeks to establish a “Laurentian 2.0” by, among other things “...terminating the agreements and relationship with the Federated Universities”. By making this statement without discussion or consultation with the Federated Universities, and USudbury in particular, in connection with the Proposed Disclaimer, Laurentian is not acting in good faith in connection with the Agreements or in connection with its actions under the CCAA.

### **Likely Significant Financial Hardship to USudbury**

39. The immediate effect of a termination of the Federation Relationship, effective April 30<sup>th</sup>, 2021 would be to leave USudbury unable to take the myriad steps needed to convert itself into an independent university. At the same time, USudbury would be required to pay for all of the expenses associated with the Federation Relationship and its termination, including:

- a) The lay-off costs for its employees which could amount to \$4 million; and
- b) The annual upkeep of its buildings on the Leased Lands of approximately \$400,000.

40. In addition, the disclaimer of the Agreements would cause a significant financial loss to USudbury from the future loss of income from Grants and Tuition fees.

### **Likelihood of Viable Plan not Enhanced by Proposed Disclaimers**

41. USudbury desires and intends to continue to operate as a university and provide university-level education whether or not the Court permits the Proposed

Disclaimers. If it is compelled to continue operating in the absence of a Federation Relationship with Laurentian, it will do so without the benefit of the Agreements and the Relationship which commit Laurentian and USudbury to find solutions together to serve the Sudbury and area population.

42. I am advised by our legal counsel, André Claude, and I verily believe, that he wrote to Laurentian's counsel, Ms. D.J. Miller, on April 12, 2021 for the purposes of opening a discussion with Laurentian about the possibility of having French-language programming, services and infrastructure transferred to USudbury, while remaining federated with Laurentian, in an effort to avoid irreparable harm to the Franco-Ontarian community. Laurentian's counsel responded to Mr. Claude's letter on the same day, making clear that Laurentian would not entertain any discussion with USudbury about any such transfer in the course of its restructuring. A copy of these letters are attached hereto as **Exhibit "D"** and **Exhibit "E"** respectively.
43. USudbury needs to go on, regardless, and as a result, Laurentian will risk losing revenue for each student that enrolls for a USudbury course. Given that under the Federation Relationship USudbury only receives a portion of Grant and Tuition funds but has to pay the costs of the Buildings and the full costs of its teaching staff for the courses it provides, Laurentians' financial position will not be bettered but will be worsened by the Proposed Disclaimers.
44. If, despite its desire to continue as an operating university, USudbury is unable to pivot quickly enough in becoming an independent university due to the immensely short time span in which it must take all mechanical and administrative steps to separate itself from the Federated Relationship because of the Proposed Disclaimers, this would cause more than significant financial hardship. USudbury wishes, if at all possible, to arrive at an arrangement with Laurentian with the Federation Agreement and Relationship, to offer all of the French programs and courses. The significance to the Francophone community of ensuring not only the survival but the actual promotion of these programs and courses cannot be overstated. Such an arrangement can be arrived at, or imposed if necessary, within

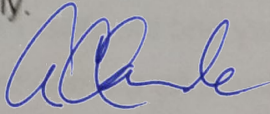
the scope of the Federation. In either scenario, the Proposed Disclaimers and the unilateral termination of the Federation Agreement and Federation Relationship should not be permitted by this Court and may be contrary to the *French Language Services Act*, RSO 1990, c. F. 32, amongst other.

**Disclaimer Means Substantially Higher Claims and Creditor Opposition to any Plan**

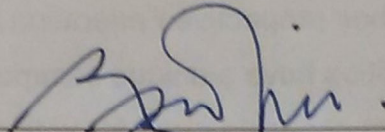
45. Under their respective Federation Agreements, USudbury and the other Federated Universities have a unique commonality of interest sufficient for them to be put into their own separate class for voting purposes. Their combined claims for damages will be substantially higher by millions of dollars if their respective agreements are disclaimed. The result of this is that a viable plan that will be accepted by all classes of creditors is less, not more likely, to occur if the Proposed Disclaimer is permitted.
46. USudbury will be seeking to have the Federated Universities put into one class for voting purposes and will vote against any plan that includes the disclaimer of the Agreements without its consent. The likelihood that Laurentian will be able to file a viable plan acceptable to all classes of creditors is smaller, not greater, if that plan includes the termination of the Federation Arrangement.
47. Laurentian and USudbury currently have integrated IT and email systems, including email currently managed by Laurentian. As Mr. Haché says in paragraph 63 of the Haché Affidavit, “For all intents and purposes, the Federated Universities are integrated into Laurentian...” It is not possible to disentangle USudbury from Laurentian so that USudbury is able to restructure to be able to offer courses and diplomas to students for the next academic semester beginning May 1, 2021. It is likely that the earliest semester USudbury could offer courses for would be September 1, 2021 or January 1, 2022.
48. This affidavit is made in the English language for the sake of expediency.

49. I make this Affidavit in support of the relief set out in the Notice of Motion herein and for no other or improper purpose.

Sworn remotely by Pierre Riopel in the )  
Municipalité of Rivière-des-Français, in )  
the province of Ontario, before me in )  
the city of Ottawa, in the province of )  
Ontario, on April 14, 2021, in )  
accordance with O. Reg. 431/20 )  
Administering Oath or Declaration )  
Remotely. )

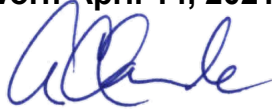


A Commissioner, etc. )



PIERRE RIOPEL

**This is Exhibit "A" to the  
Affidavit of Pierre Riopel  
sworn April 14, 2021**

A handwritten signature in blue ink, appearing to be 'A. Riopel', is written over a horizontal line.

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**A Commissioner for taking  
Affidavits.**



DATED 10th SEPTEMBER 1960

LAURENTIAN UNIVERSITY OF SUDBURY

- and -

THE UNIVERSITY OF SUDBURY

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A G R E E M E N T

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CASSELS, BROCK & KELLEY  
255 Bay Street  
Toronto 1 Ontario



THIS AGREEMENT made in quadruplicate this 10th day of September, A. D. 1960:

BETWEEN:

LAURENTIAN UNIVERSITY OF SUDBURY  
hereinafter called "Laurentian University"

OF THE FIRST PART

- and -

THE UNIVERSITY OF SUDBURY  
hereinafter called "Sudbury University"

OF THE SECOND PART

WHEREAS Sudbury University is a corporation incorporated by Chapter 131 of the Statutes of Ontario, 1914, as amended by Chapter 103 of the Statutes of Ontario, 1928, Chapter 160 of the Statutes of Ontario 1957 and Chapter 173 of the Statutes of Ontario, 1959;

AND WHEREAS Laurentian University was incorporated by the Laurentian University of Sudbury Act, 1960, being Chapter 151 of the Statutes of Ontario, 1960, pursuant to the petition of The University of Sudbury, The United Church of Canada and The Incorporated Synod of the Diocese of Algoma (Anglican) praying for the incorporation of Laurentian University as a non-denominational bilingual institution to provide facilities for instruction in all branches of higher learning;

AND WHEREAS Laurentian University is empowered by virtue of its said Act of Incorporation to admit into federation or affiliation with it other colleges or universities and to continue in Laurentian University, faculties, schools, institutions, departments and chairs already established in Sudbury

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University;

AND WHEREAS Sudbury University is desirous of entering into federation with Laurentian University in accordance with the provisions of the said Act of Incorporation of Laurentian University and upon the terms and conditions hereinafter set forth and Laurentian University has agreed to admit Sudbury University into federation with it in accordance with its said Act of Incorporation, and upon the terms and conditions hereinafter set forth;

WITNESSETH that pursuant to the said Act of Incorporation of Laurentian University and in consideration of the terms, covenants and agreements on the part of the parties hereto to be respectively observed, fulfilled and performed, the Parties hereto covenant and agree as follows:

1. Sudbury University is hereby and by virtue of the said Act of Incorporation of Laurentian University admitted into federation with Laurentian University.

2. While this agreement remains in force, Sudbury University shall suspend all its degree-conferring powers except the power to grant degrees in Theology.

3. Laurentian University agrees to continue all faculties, schools, institutes, departments and chairs now established in Sudbury University except those in Theology and Philosophy in accordance with the provisions of the Act of Incorporation of Laurentian University.

4. Laurentian University agrees that in continuing

W. B. G. M.  
[Signature]

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the faculties, schools, institutes, departments and chairs now established in Sudbury University, it will do so upon the basis of the Act of Incorporation of Laurentian University by virtue of which Laurentian University is a bi-lingual, non-denominational university and it will continue the system of bi-lingual instruction in the respective faculties, schools, institutes, departments and chairs heretofore followed in Sudbury University.

5. / All students, including those enrolled in federated universities or colleges who intend to proceed towards degrees or to obtain diplomas, certificates or other academic qualifications at Laurentian University shall register at Laurentian University and must comply with the requirements of Laurentian University for entry to and registration in Laurentian University and to become entitled to degrees, diplomas, certificates or other academic qualifications at Laurentian University must comply with all requirements of Laurentian University. In the case of students enrolled in federated universities or colleges, fees paid shall be apportioned between Laurentian University and such federated universities or colleges as may from time to time be agreed upon between the parties hereto provided however that the academic standing of all students now registered at Sudbury University who by virtue of the Act of Incorporation of Laurentian University and of this agreement, become registered as students of Laurentian University shall be accepted by Laurentian University upon the basis of their academic standing at Sudbury University, provided they comply with the requirements of Laurentian University



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in regard to registration and payment of fees.

6. Sudbury University shall have disciplinary jurisdiction over and entire responsibility for the conduct of its students in respect of all matters arising or occurring in or upon the buildings and grounds, including residences, occupied by Sudbury University but in all other cases Laurentian University shall have disciplinary jurisdiction over students registered in it.

7. Sudbury University hereby agrees to sell to Laurentian University its entire library and library equipment other than books and documents on theology and philosophy and Laurentian University agrees to purchase the same at a price to be agreed upon between the parties.

8. Sudbury University hereby agrees to sell to Laurentian University its entire laboratory equipment and supplies and Laurentian University agrees to purchase the same at a price to be agreed upon between the parties.

9. Laurentian University agrees to assume the contracts of employment entered into by Sudbury University with members of its teaching staff or to enter into new contracts of employment with such members in the Faculty of Arts and Sciences, the School of Business Administration, the School of Nursing, the Graduate School and the Extension Department being all of its existing faculties, schools, institutes, departments and chairs, with the exception of the Departments of Theology and Philosophy.

H. L. Blum  
W. A. ✓

10. Sudbury University agrees to assign and transfer to Laurentian University the leases of premises occupied by it in the Empire Building, Sudbury, and on the third floor of the Federal Building, Sudbury, subject to the approval of the Lessors of the said premises being obtained and Laurentian University agrees to indemnify Sudbury University in respect of any liability under the said leases which may arise subsequent to such assignments and transfers.

11. General facilities provided by Laurentian University such as physical training, health and athletic facilities, buildings and quarters (other than residences) provided for the use of Laurentian University faculty and students shall be available to the faculty and students of Sudbury University upon the same fee basis as to the faculty and students of Laurentian University.

12. Laurentian University shall allocate and reserve land within its campus which Sudbury University may acquire and upon which Sudbury University may construct buildings for teaching, administration, and faculty and students residences, with or without chapels, subject to the prior written approval of Laurentian University as to architectural design and upon such financial arrangements and conditions as to title and tenure as may be agreed upon between Sudbury University and Laurentian University.

13. Public appeals for financial or other contributions or assistance for Sudbury University shall be made only

*W.L. L.H.*  
*[Signature]*

with the prior written approval of Laurentian University. A request for money through a Church body to be raised from its members shall not be considered a public appeal.

14. Sudbury University and Laurentian University respectively shall retain as their own property all gifts, bequests, devises, scholarships, endowments or grants of any kind made to them respectively, except as may otherwise be agreed upon between the parties hereto and subject to any trusts which may affect the same.

15. Any federation or affiliation agreements or modifications thereof relating to federation or affiliation with Laurentian University shall be discussed with the universities and colleges federated or affiliated with Laurentian University prior to Laurentian University entering into any such agreements or agreeing to modifications of any such agreements.

16. Laurentian University will make arrangements to commence the courses which are to be conducted by it, not later than the 30th day of September, 1960.

17. Both Laurentian University and Sudbury University declare and express the firm hope and conviction that the relationship between the Universities established by this agreement will be a permanent one and that they and the other universities and colleges which become federated or affiliated with Laurentian University will work together to fulfill the objects of the Act of Incorporation of Laurentian University and to build a great institution of learning which shall forever

*H.L. B.T. 70*  
*[Signature]*



- 7 -

be bi-lingual and non-denominational in its character. The Parties fully realize that the success of the task which they have set themselves will depend more on mutual understanding, goodwill and cooperation between the institutions now or hereafter associated together in Laurentian University, than upon any formal agreements.

IN WITNESS WHEREOF the Parties hereto have hereunto affixed their corporate seals under the hands of their proper officers duly authorized in that behalf.

LAURENTIAN UNIVERSITY OF SUDBURY

*Emile J. D'Amico S.J.*

*Robert J. M.D.*

THE UNIVERSITY OF SUDBURY

*G. J. Beland S.J.*

*J. L. Gaudette S.J.*

*H.L. G.M.  
war*

**This is Exhibit "B" to the  
Affidavit of Pierre Riopel  
sworn April 14, 2021**

A handwritten signature in blue ink, appearing to be 'A. Riopel', is written over a horizontal line.

**A Commissioner for taking  
Affidavits.**



THIS INDENTURE made in triplicate this 9th day of April, 1965, in pursuance of The Short Forms of Leases Act;

B E T W E E N:

LAURENTIAN UNIVERSITY OF SUDBURY,

hereinafter called "the Lessor"

OF THE FIRST PART

- and -

THE UNIVERSITY OF SUDBURY

hereinafter called "the Lessee"

OF THE SECOND PART

WHEREAS the Lessee has entered into an agreement of federation with the Lessor;

AND WHEREAS the Lessor has agreed to allocate and reserve land within its campus which the Lessee may acquire and upon which it may construct buildings for teaching at the University level, administration, and faculty and students residences, with or without chapels, subject to the prior written approval of the Lessor as to architectural design and upon such arrangements and conditions as to title and tenure as may be agreed upon;

WITNESSETH that in consideration of the premises and in further consideration of the rents, covenants and agreements hereinafter contained on the part of the Lessee to be observed and performed, the Lessor hath demised and leased and by these presents doth demise and lease unto the Lessee

That part of Lot 3 in the First Concession and that part of Lot 3 in the Second Concession of the Township of MaKim in the District of Sudbury and being designated as PART 4 on a plan of survey of record in the office of Land Titles at Sudbury as SR-Plan 525.

TOGETHER WITH A RIGHT-OF-WAY for all those now and hereafter entitled thereto, over along and upon: That part of Lot 3 in the First Concession and that part of Lot 3 in the Second Concession of the Township of McKim in the District of Sudbury and being designated as PART 1 on said SR-Plan 525.

2. TO HAVE AND TO HOLD the said demised lands for and during the term of ninety-nine (99) years from and inclusive of the 1st day of September, 1963, and thenceforth next ensuing and fully to be completed and ended.

3. YIELDING AND PAYING therefor during the said term the sum of ONE DOLLAR (\$1.00) of lawful money of Canada on the 1st day of September, 1963, and on the 1st day of September of each year of the remainder of the term hereby granted, if demanded.

4. THE LESSEE covenants with the Lessor to pay rent.

5. THE LESSOR covenants with the Lessee that if the Lessee duly and regularly pays the said rent, if demanded, and performs all and every the covenants, provisos and conditions herein and on the part of the Lessee to be paid and performed, the Lessor will at the expiration of the said term (at the cost of the Lessee and upon the written request of the Lessee, mailed by registered post to or delivered to the Lessor not later than six (6) months before the expiration of the said term) grant to the Lessee a renewal lease of the said lands and premises for a further term of ninety-nine (99) years, at the same rent, and subject to the same covenants, provisos and agreements as are herein contained, and such new lease shall contain all the covenants, provisos and agreements contained in the present lease, including the right of renewal.

6. PROVIDED that this lease and any renewal thereof shall at the option of the Lessor cease and be void if at any time during the term hereby granted the Lessee shall withdraw



from federation with the Lessor or if the lands and premises cease for a period of three years to be used by the Lessee for educational instruction at a university level, or if the Lessee shall cease for a period of three years to operate as a University. In the event of such termination the Lessee shall have the right to purchase the demised lands forthwith from the Lessor and shall pay therefor to the Lessor the value thereof as at the time of termination, the said value and the terms of agreement thereof to be determined by arbitration in the manner set out in paragraph 16 hereof on the basis of the value thereof as though there were no buildings erected thereon but taking into consideration the services and improvements to the land furnished by the Lessor, the Lessee covenanting and agreeing in any such purchase that the said lands shall be used only for the purpose of educational instruction at a university level; provided that if the Lessee does not forthwith exercise its right to purchase the said lands as aforesaid in the event of such termination the said lands shall revert to the Lessor, and any building or buildings erected thereon shall be dealt with as follows:

- (a) The Lessor shall within a period of six months select the building or buildings it may wish to acquire from the Lessee, and the Lessor shall pay to the Lessee for such building or buildings the value thereof as of the date of such selection, the said value and the terms of payment therefor to be determined by arbitration in the manner set out in paragraph 16 hereof.
- (b) The Lessee shall have the right to use and occupy for the purposes of educational instruction at a university level, or for such other purpose as may be consented to by the Lessor in the exercise of an absolute discretion, and upon such terms as to maintenance, upkeep and access as may then be agreed upon, any building or buildings not acquired by the Lessor under sub paragraph (a) hereof.

- (c) The Lessor may require vacant possession of any building or buildings occupied by the Lessee under sub paragraph (b) hereof upon giving one year's notice in writing from the first day of August in any year. Upon obtaining such vacant possession the Lessor shall pay to the Lessee the value thereof to the Lessor as of the date that possession is acquired, such value and the terms of payment thereof to be determined by arbitration in the manner set out in paragraph 16 hereof.
- (d) The Lessor may designate in writing to the Lessee any building or buildings not acquired by it under sub paragraph (a) hereof, or occupied by the Lessee under sub paragraph (b) hereof, and upon paying the maintenance charges thereof and keeping it or them insured against damage by fire, the Lessor shall have the right to acquire such building or buildings for a period of ten years following the termination of this lease upon paying to the Lessee the value thereof to the Lessor as of the date of such acquisition, such value and the terms of payment to be determined by arbitration in the manner set out in paragraph 16 hereof. Any such building or buildings not so acquired during such ten year period shall be demolished by the Lessee or become the property of the Lessor as set out in sub paragraph (e) hereof.
- (e) Any building or buildings not acquired by the Lessor under sub paragraph (a) hereof, or occupied by the Lessee under sub paragraph (b) hereof, or designated by the Lessor under sub paragraph (d) hereof shall forthwith be demolished by the Lessee at its expense and the demised lands upon which any such building or buildings are situate shall be restored to a condition in conformity with the remainder of the demised lands, failing which any such building or buildings shall forthwith become the property of the Lessor.



The Lessor and the Lessee agree that if at the time of such termination the demised lands and any building or buildings to be constructed thereon by the Lessee for which the Lessor has agreed to pay the Lessee the value thereof as hereinbefore set out in the event of such termination are subject to a mortgage, the Lessor shall assume the obligation of such mortgage, in respect to any such building or buildings only in the event that the Lessee does not exercise its option to purchase the said lands as hereinbefore set out, and only and to the extent only of the amount which it would be obligated in such event to pay to the Lessee hereunder, and any such amounts so assumed shall be deducted by the Lessor from the amount to be paid to the Lessee.

7. THE LESSEE covenants with the Lessor that it will during the term of this lease and any renewal hereof keep and maintain in good and proper repair the exteriors of all buildings to be constructed on the demised lands and grounds appurtenant thereto to the standards of maintenance of the Lessor and other federated universities and colleges.

8. THE LESSOR and the Lessee agree that those portions of the demised lands and of the remaining lands of the Lessor above a contour level of nine hundred and sixty feet (960') constitute an outstanding topographical feature of the Laurentian University of Sudbury campus and that to preserve this outstanding feature of the campus for the use and enjoyment of all students and staff members of the Lessor and of the federated or affiliated universities or colleges the Lessor and the Lessee covenant and agree as follows:

(a) The Lessee covenants that it will not during the term of this lease or any renewal thereof erect any building or structure the foundation of which shall be on land above the said contour level of nine hundred and sixty feet (960').

(b) The Lessor and the Lessee agree that the said portions of the demised lands above the said

contour level of nine hundred and sixty feet (960') may be developed as a landscape area or observation lookout by either the Lessor or the Lessee according to plans to be approved by the Lessor and the Lessee for the use of the Lessor and the Lessee in common with other universities or colleges federated or affiliated with the Lessor.

(c) The Lessor and the Lessee agree that it is desirable that no building be erected by the Lessor on the devised lands (or by the Lessor on its remaining lands or by any university or college federated or affiliated with the Lessor on the lands devised to it or then by the Lessor) shall exceed in elevation a contour level of nine hundred and seventy feet (970').

(d) The Lessor reserves to itself and its federated or affiliated universities or colleges the right of access to and egress from the said lands above a contour level of nine hundred and sixty feet (960') from and to the lands of the Lessor adjacent to the devised lands over, along and upon a footpath or roadway to be constructed by the Lessor or the Lessee according to plans as to design and location to be approved by the Lessor and the Lessee.

(e) The Lessee shall have disciplinary jurisdiction over the said lands above a contour level of nine hundred and sixty feet (960') including the right to set reasonable hours during which persons will be allowed in this area.

9. THE LESSEE covenants with the Lessor that no part of any building or structure shall be erected closer to the boundary of the devised lands than fifteen (15') feet and that it will not erect any building or buildings or other



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structure or structures upon the lands hereby demised without the written approval of the Lessor as to site planning and building design first had and obtained, and that it will not remove or make major alterations to or in any of the buildings now or at any time during the currency of this lease or any renewal hereof situate upon the lands hereby demised without the written consent of the Lessor first had and obtained, and that it will not erect or cause to be erected conspicuous notices, signs or symbols on or about the demised lands or any building or structure to be constructed thereon without the written consent of the Lessor as to design and appropriateness within the Lessor's overall plan for the Laurentian campus first had and obtained.

10. THE LESSEE further covenants with the Lessor that subject to any statutory exemptions which it may enjoy, it will during the term hereby granted pay all taxes, rates, duties and assessments whatsoever whether municipal, parliamentary or otherwise, including municipal taxes for local improvements or works the cost of which is properly assessed upon the property benefited thereby now charged or hereafter to be charged upon the demised premises or upon any buildings or erections thereon or upon the Lessor on account thereof.

11. THE LESSEE further covenants with the Lessor that it will not during the term hereby demised or any renewal thereof hew, fell, cut down or destroy or cause or knowingly permit or suffer to be hewed, felled, cut down or destroyed without the consent in writing of the Lessor, any trees that may now or during the said term or any renewal thereof be growing upon the demised premises.

12. THE LESSOR agrees at its own expense to install and maintain water, electrical, gas, and sewer lines or services to one point selected by the Lessor at or near the boundary of the demised lands and will allow the Lessee to connect to the said lines and services at its own expense. The Lessee covenants to pay its own electricity, water, gas and sewerage charges and to maintain such services with respect to the demised lands.



13. **PROVIDE ALWAYS** and it is hereby expressly agreed that in case of the breach or non-performance of any of the covenants or agreements herein contained on the part of the Lessee, the Lessee shall be given six months' notice in writing to remedy such breach or non-performance and if the Lessee fails to remedy such breach or non-performance within the six months, it shall be lawful for the Lessor, its successor and assigns at any time thereafter into and upon the demised premises or any part thereof in the name of the whole to re-enter and the same to have again repossess and enjoy as of its former estate, subject to the provisions of paragraph 6 herein contained.

14. **AND THE LESSEE** further agrees to observe and fulfill the provisions and requirements of all statutes, orders-in-council, by-laws, rules and regulations relating to the use by the Lessee of the said demised premises, plumbing fixtures, drain pipes, sidewalks, areas, streets and lanes connected therewith, and that upon request being made or notice being given by the proper official charged with the enforcement of the said provisions and requirements to the Lessee or to the Lessor in respect of any non-performance or infraction of any such provisions or requirements the Lessee shall immediately comply with the demand contained in such request or demand and in default thereof the Lessor may procure to be done any work necessary to comply therewith and may charge the cost thereof against the Lessee and shall have the same remedies for the recovery of the moneys so paid as if the same were arrears of the rent reserved hereby in respect of the said demised premises.

15. **IF**, after the expiration or termination of this lease, or any renewal thereof the Lessee shall remain in possession of the demised premises, with or without the consent of the Lessor, or without any further written agreement, a tenancy from year to year shall not be created by implication

of law, but the Lessee shall be deemed to be a monthly tenant only, at a rental of ONE DOLLAR (\$1.00) per month, payable in advance on the 1st day of each month, if demanded, and subject in all other respects to the terms of this lease.

16. IT IS HEREBY AGREED that in case any dispute or question shall arise between the Lessor and the Lessee relative to the maintenance of the lands and buildings herein mentioned, or as to matters consequent upon termination hereof, or as to construction of the terms of this lease, such dispute or question shall be referred to the arbitration and determination of three arbitrators, one to be named by each of the parties hereto and the third to be named by the two so appointed; and the award and determination of the said arbitrators shall be final and binding.

17. IT IS FURTHER PROVIDED AND AGREED that any notice given by the Lessor to the Lessee or by the Lessee to the Lessor may be sufficiently given by sending it by Registered Mail in a letter, postage prepaid and shall be taken to have been received by the party to whom the letter is addressed on the second day after it is deposited in the post at Sudbury, or, if that day is a Sunday or a public holiday then on the next day following.

IN WITNESS WHEREOF the parties hereto have hereunto affixed their respective corporate seals duly attested by the signatures of their proper officers in that behalf.

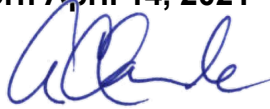
LAURENTIAN UNIVERSITY OF SUDBURY

[Signature]  
[Signature]

THE UNIVERSITY OF SUDBURY

[Signature]  
[Signature]  
Rodolphe Tremblay, S.J.

**This is Exhibit "C" to the  
Affidavit of Pierre Riopel  
sworn April 14, 2021**

A handwritten signature in blue ink, appearing to be 'A. Riopel', is written over a horizontal line.

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**A Commissioner for taking  
Affidavits.**

**LAURENTIAN UNIVERSITY FINANCIAL DISTRIBUTION TO  
FEDERATED UNIVERSITIES**

**THESE TERMS OF FINANCIAL DISTRIBUTION**, effective as of the 1<sup>st</sup> day of May, 2019  
(the “Effective Date”)

**B E T W E E N :**

**LAURENTIAN UNIVERSITY OF SUDBURY**

**(“Laurentian University”)**

**- and -**

**UNIVERSITY OF SUDBURY**

**(the “Recipient”)**

This Notice is delivered further to the Proposed Grant Distribution and Services Fees document dated November 10, 1993 (the “**1993 Funding Model**”) and sets out the terms for the distribution of operating grants to the Recipient and service fees charged to the Recipient from and after the Effective Date. This document amends, restates and replaces in its entirety any prior documentation, oral or written representations and past practices relating to the distribution of grant funding, tuition fees and service fees between Laurentian University and the Recipient, including but not limited to those described under the 1993 Funding Model. No future amendments to the terms set out in this Notice are effective unless confirmed and agreed to in writing, in advance, by Laurentian University.

The Recipient is a separate legal entity established by separate Acts and governed by an independent Board. The Recipient owns its own buildings on land that is owned by Laurentian University and leased to the Recipient by Laurentian University.

The Recipient is recognized under the *Laurentian University Act* by allowing Laurentian University to admit “church-related universities or colleges into federation as colleges of the Faculty of Arts and Science, which church-related universities or colleges have the right to give instruction in philosophy and religious knowledge and in such other subjects as may from time to time be approved by the Faculty of Arts and Science of the University and be consented to by the Senate and Board, and the University shall accept such courses in partial fulfillment of the requirements for a degree under the same academic terms and conditions as would obtain if the instruction were given in University College”.



Huntington University, Thorneloe University and the University of Sudbury are each referred to in this Notice as a “Federated University” and are collectively referred as the “**Federated Universities**”.

## REVENUE SHARING

The Federated Universities do not receive funding directly from the government. Laurentian University has historically transferred a portion of the funding it receives from the government to each Federated University according to a set formula, unless otherwise instructed by the government. Since 1993 that formula has been pursuant to the 1993 Funding Model.

As the Recipient is aware, the Province introduced a new university funding model for 2017-2018 (the “**New Funding Model**”). The New Funding Model includes an enrolment-based envelope. Consistent with the enrolment-based envelope, the Province provides each institution with a base level of operating funding determined in accordance with a specific level of eligible enrolment and program of registration.

Laurentian University advanced funds for 2017-18 and 2018-19 in accordance with the 1993 Funding Model, while it considered the effect of any changes.

The purpose of this Notice is to ensure that all funding transferred by Laurentian University to any of the Federated Universities from and after the Effective Date is consistent with the New Funding Model, and that the financial effects of the New Funding Model are recognized and assumed proportionately by each of Laurentian University and the Federated Universities, on the terms set out herein. The underlying principle is that none of Laurentian University or any of the Federated Universities will subsidize the operations or services of another, and each will be responsible for covering its own costs. The funding mechanism in place at any given time will be consistent with the funding mechanism between the Province and Laurentian University.

As outlined in Schedule **A**, as at and from the Effective Date, Laurentian University will transfer **grant funding** to each Federated University based on the current and future provincial funding formulas for post-secondary institutions, consistent with the terms of the New Funding Model to which Laurentian University is now subject.

**Tuition fees** are collected by Laurentian University and will be transferred to the Recipient based on enrolment in courses, less the tuition set-aside obligation, as outlined in Schedule **B**.

Laurentian University will be implementing the New Funding Model as at and from the Effective Date. All aspects of funding and the distribution of revenue by Laurentian University to the Federated Universities will be strictly in accordance with this Notice.

## ADMINISTRATIVE SERVICE FEES

Laurentian University provides direct non-academic administrative services to each Recipient as outlined in Schedule C. From and after the Effective Date, an administrative services fee will be charged to the Recipient by Laurentian University calculated in accordance with Schedule C based on 15% of shared revenues, being Grant Revenue and Tuition Revenue as such terms are defined on Schedule A (the “**Administrative Services Fee**”).

The Administrative Services Fee will only partially cover the costs incurred by Laurentian University for a number of non-academic services it provides as set out on Schedule C. This formula will be reviewed and, if required, updated by Laurentian University not less than once every three (3) years.

Each Federated University employs its own staff and is, and will continue to be, responsible for its own financial affairs. Laurentian University is the principal employer for administering pension plan and benefits and provides access to these employee benefits to each of the Federated Universities, with each Federated University bearing the sole financial responsibility for all contributions and funding for such employee benefits for its own staff.

## AMENDING THE TERMS OF FINANCIAL DISTRIBUTION TO FEDERATED UNIVERSITIES

As set out on Schedule A, at all times the funding model established between the Province and Laurentian University from time to time will be reflected in the financial distribution model between Laurentian University and each of the Federated Universities. Any modification by the Province in the grant structure or through regular negotiation with the Province through the Strategic Mandate Agreements (SMA) or otherwise with Laurentian University will be correspondingly reflected in the grant allocation calculations by Laurentian University with each of the Federated Universities. If a change occurs, an amendment to the terms contained in this Notice will be provided by Laurentian University to each of the Federated Universities, and become effective. Laurentian University will keep the Recipient informed when the Province implements modifications in the grant structure and formulas.

## LAURENTIAN UNIVERSITY OF SUDBURY

Per: 

Name: Dr. Pierre Zundel

Title: Interim President and Vice-Chancellor

## SCHEDULE “A” GRANT REVENUE ALLOCATION

Operating grant revenue allocations from Laurentian University to the Federated Universities will be consistent at all times with the Provincial funding formulae for post-secondary institutions.

In accordance with the terms of the New Funding Model, Laurentian University receives a specified amount of operating funding provided through a new Core Operating Grant (“**COG**”). Enrolment will continue to be counted using a single measure of activity-enrolments as measured by Full-time Equivalent enrolments in specific programs. These enrolments will be weighted by program and level of study using the new program weights as provided by the Ministry of Training, Colleges and Universities (the “**Ministry**”). Information on the reallocation of grants is available in the Ministry’s University Funding Technical Design Manual.

The total COG provided to Laurentian University annually will be equal to the total Weighted Grant Unit (“**WGU**”) at its corridor midpoint multiplied by the average grant per WGU funding determined by the New Funding Model. Under the corridor funding model, Laurentian University will receive the amount of funding with enrolments levels at its corridor midpoint, as long as it remains within its enrolment corridor range of plus or minus 3%.

Should Laurentian University fall above or below the corridor lower threshold, the grant adjustment by the Province will be correspondingly reflected on the grant allocation made by Laurentian University to the Recipient.

Each Federated University will receive Grant Revenue for the COG based upon their relative students’ enrolment in programs as reported to the Ministry for 2017-18.

Until SMA3 (or any replacement or modification thereof) is negotiated between Laurentian University and the Province, or there is any change in the funding formula by the Ministry, the **Northern Grant** will remain consistent with the historical allocation.

Until SMA3 (or any replacement or modification thereof) is negotiated between Laurentian University and the Province, or there is a change in the funding formula by the Ministry, the **Performance Grant** will be distributed to each Federated University based upon their relative WGU as a share of gross Laurentian University WGU for 2017-18. This grant is currently under review by the Province, and effective May 1, 2020, Laurentian University will update the grant allocation to be consistent with the Province’s determination.

Laurentian University will also continue to transfer to the University of Sudbury its share of the **French Language Grant** and the **Bilingualism Grant** as mandated by the Province and will notify the University of Sudbury if any changes are established by the Province, which will then flow through in a corresponding manner to the amounts distributed by Laurentian University to the University of Sudbury.

The Ministry provides Facilities Renewal Program (FRP) capital funding to institutions through the **Facilities Renewal Grant** based on space standards (“generated space” – the amount of theoretical space a university should have) and the current formulae is under review by the Province. If the funding formulae are modified by the Ministry, Laurentian University will update the grant allocation for each Federated University to be consistent with the Province’s funding principles. Unless and until that occurs, the current Grant Revenue allocation will remain unchanged.

#### GRANT REVENUE ALLOCATION EFFECTIVE MAY 1, 2019

| 2017-2018 Enrolment<br>Data |     | Laurentian<br>University | U of S | Huntington | Thorneloe | Total Federated | Grand Total |
|-----------------------------|-----|--------------------------|--------|------------|-----------|-----------------|-------------|
| Grant                       |     |                          |        |            |           |                 |             |
|                             | WGU | 16,247.5                 | 97.5   | 263.7      | 111.1     | 472.3           | 16,719.8    |

Grant Revenue Allocation to Federated Universities based upon 2017-18 data and effective May 1, 2019 to April 30th, 2020:

|                         | U of S    | Huntington | Thorneloe | Total Federated |
|-------------------------|-----------|------------|-----------|-----------------|
| Grant                   |           |            |           |                 |
| Core                    | 283,043   | 765,521    | 322,523   | 1,371,087       |
| Performance             | 41,075    | 111,093    | 46,805    | 198,972         |
| Northern                | 212,816   | 172,832    | 80,462    | 466,185         |
| Bilingualism            | 615,185   | 0          | 0         | 615,185         |
| Total Grant Distributed | 1,152,119 | 1,049,446  | 449,790   | 2,651,354       |



FRP funding will continue on the same basis as is currently allocated, pending any change in the funding formula by the Ministry. Prior year's allocations and distributions were as follows:

| <b>CAPITAL<br/>GRANTS</b> | <b>TOTAL<br/>PROVINCIAL<br/>ENVELOPE</b> | <b>TOTAL<br/>LU + FEDS</b> | <b>Laurentian</b> | <b>U of S</b> | <b>Huntington</b> | <b>Thorneloe</b> |
|---------------------------|------------------------------------------|----------------------------|-------------------|---------------|-------------------|------------------|
|                           |                                          |                            | 92.98 %           | 3.54 %        | 2.04 %            | 1.43 %           |
| 2018                      | 40,000,000                               | 656,308                    | 610,235           | 23,299        | 13,389            | 9,385            |
| 2017                      | 56,093,200                               | 920,300                    | 855,694           | 32,671        | 18,744            | 13,161           |
| 2016                      | 26,630,000                               | 436,900                    | 406,229           | 15,510        | 8,913             | 6,248            |
| 2015                      | 17,300,000                               | 291,800                    | 271,315           | 10,359        | 5,953             | 4,173            |
| 2014                      | 17,300,000                               | 291,800                    | 271,315           | 10,359        | 5,953             | 4,173            |

**SCHEDULE “B”**  
**TUITION REVENUE DISTRIBUTION**

Tuition fee revenue (“**Tuition Revenue**”) resulting from course registrations are received by each Recipient offering the courses, from Laurentian University.

All Tuition Revenue collected from students for course registrations at Federated Universities are transferred by Laurentian University to the Recipient, net of Tuition Set-Aside (TSA). Beginning in 1996/1997 the TSA fund was established in addition to the government’s Ontario Student Assistance Program (OSAP). The fund required universities to expend the TSA amount annually to provide financial support to students through bursaries, scholarships, work-study programs and work between academic terms. This is monitored annually by the Ministry.

Laurentian University administers scholarships and bursaries paid from the TSA funds to students registered at all Federated Universities. Laurentian will continue to calculate the TSA percentage annually.

Work study is a component of TSA. Laurentian University will allocate a proportionate share to each Federated University for work study. For clarity, the total amount for work study in 2019-20 will be \$50,000. The Recipient will receive a proportionate Work Study share based upon its *pro rata* share of the amount of tuition revenue allocated to it by Laurentian University. The Recipient shall provide supporting information on their use of Work Study funds to Laurentian University in order to allow for reporting to the Ministry.

**SCHEDULE “C”**  
**ADMINISTRATIVE SERVICES PROVIDED BY LAURENTIAN UNIVERSITY**

Laurentian University provides services to its students and academic departments through a number of central services. Laurentian University strives to optimize the delivery of cost-effective, flexible and reliable services to all customers.

There exists an understanding between the Recipient and Laurentian University that they will work together, in good faith, to achieve synergistic benefits through administrative capacity and efficiencies.

Consistent with that understanding, Laurentian University provides the following services to the Recipient and the student population: student fees collection and accounting, central computing services, administration of all pension and employee benefit services, security, registrarial functions, library, recruitment and liaison services, student support services (such as but not limited to academic advising, international supports, mental health and wellness, accessibility and counselling services, campus recreation, equity and diversity).

While ensuring efficiency among Laurentian University and the Federated Universities and in promoting elimination of duplication, Laurentian University shall recover the cost of providing services through the payment by each Federated University of an annual Administrative Service Fee. As at and from the Effective Date, the actual administrative cost associated with the provision of these student services by Laurentian University represents approximately 30% of Laurentian University’s total annual expenses. For clarity, these costs do not include the provision of any facility costs or administrative costs other than those provided to the Recipient.

The Administrative Services Fee will be deducted annually from the Grant Revenue and Tuition Revenue distributions made by Laurentian University to each Federated University in accordance with Schedule A. Effective May 1, 2019, the Administrative Services Fee payable to Laurentian University by each Federated University shall be set at 15% of shared gross revenue with the Recipient (comprised of Grant Revenue and Tuition Revenue), all as set out on Schedule A.

Laurentian University and the Recipient will continue to identify opportunities for increased operational capacity and efficiencies through ongoing, successful collaborations in connection with administration services including but not limited to:

1. (Environmental/facility services, (includes sharing of operating costs of facilities, leases, utilities, maintenance, etc.);
2. security services;
3. human resources;
4. procurement;
5. insurance and risk;
6. ancillary services;

7. technology services;
8. financial services;
9. registration, collection and accounting of tuition and ancillary fees;
10. students support services;
11. advancement support and alumni;
12. communications support;
13. francophone support services;
14. Indigenous support services;
15. emergency preparedness

**This is Exhibit "D" to the  
Affidavit of Pierre Riopel  
sworn April 14, 2021**

A handwritten signature in blue ink, appearing to be 'A. Riopel', is written above a horizontal line.

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**A Commissioner for taking  
Affidavits.**





lundi, 12 avril 2021

Transmission par courriel

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**Objet : DANS L'AFFAIRE CONCERNANT UNE TRANSACTION OU UN  
ARRANGEMENT VISANT L'UNIVERSITÉ LAURENTIENNE (sous la LACC)  
Dossier de la cour n° CV-21-656040-00CL  
Demande de l'Université de Sudbury liée à la programmation des cours en  
français de l'Université Laurentienne**

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Mesdames et Messieurs :



Nous vous avisons que l'Université de Sudbury a l'intention de s'objecter à toutes démarches judiciaires présentes et futures entamées par l'Université Laurentienne (la Laurentienne) qui portent ou pourraient porter atteinte aux droits et acquis de l'Université de Sudbury. Notamment elle s'objecte à l'avis de résiliation que vous nous avez signifié le 1<sup>er</sup> avril courant.

Comme vous le savez, l'Université de Sudbury a annoncé le vendredi, 12 mars dernier, qu'elle devient une université homogène de langue française. Elle a déjà entamé sa transition en vue de réaliser rapidement cette mission renouvelée.

À cette fin, l'Université de Sudbury réclame l'ensemble des programmes, des cours et des services offerts en français à l'Université Laurentienne, ainsi que des installations et des ressources afférentes. Nous croyons cette avenue non seulement dans le meilleur intérêt des deux universités, mais surtout nécessaire pour éviter les torts irréparables qui sont infligés sur la communauté franco-ontarienne à cause de l'incertitude entourant l'avenir de la Laurentienne, particulièrement en ce qui regarde la continuité de cette programmation si essentielle à la communauté francophone.

Nous avons tous pu observer depuis plus d'une décennie, et surtout dans les dernières semaines, une réduction dans l'intérêt de la Laurentienne, voire un manque de passion, pour les grands efforts dans sa prestation de services en français. Force est de reconnaître que la continuité de tous les services en français est actuellement en péril, et que dire de l'épanouissement de l'offre de programmes pour la communauté? Entre les mains de la Laurentienne le dossier est et demeurera en régression plutôt qu'en progression. Il ne faut surtout pas s'étonner que la communauté franco-ontarienne accorde maintenant à l'Université de Sudbury tout son appui et réclame que lui soit confiée la charge totale de cette filière.

Tout cela dit, la communauté francophone demande à la Laurentienne sa coopération pour assurer un transfert coordonné des programmes et services durant le cours de cette importante transition. Étant donné les présentes circonstances, ceci est le moindre que la Laurentienne puisse faire pour le bien-être de la communauté.

Une possibilité assez directe pour atteindre cet objectif, si la Laurentienne y est intéressée, est d'effectuer cette transition à l'intérieur de l'entente de fédération existante. Le cas échéant, on procéderait à négocier un remaniement complet des contrats.

Nous croyons possible de le faire dans un esprit de collaboration, afin de colmater les torts déjà infligés sur la communauté franco-ontarienne. Ainsi, l'Université de Sudbury invite le Conseil des gouverneurs et le Sénat de l'Université Laurentienne à rencontrer l'Université de Sudbury afin d'établir les modalités d'un tel transfert et d'une collaboration pour bâtir ensemble ce nouvel avenir. Un tel dialogue entre les parties offre une occasion unique permettant à la Laurentienne de s'allier avec l'Université de Sudbury dans le but de donner effet au projet d'une université par et pour les francophones, avec tous les bénéfices que cela engendrera sur le plan financier, et il y aura



assurément des bénéfices financiers importants si la collaboration est au rendez-vous. L'Université de Sudbury considère que cette avenue est dans l'intérêt de toutes les parties concernées : elle favorise à la fois la viabilité financière de la Laurentienne et assure du même coup le respect des droits de la minorité linguistique.

Le projet de l'Université de Sudbury répond à la volonté exprimée de la communauté franco-ontarienne et permettra de mieux desservir ses besoins. Il existe un consensus communautaire selon lequel le développement et l'épanouissement de la communauté de langue minoritaire passent nécessairement par la mise en place d'institutions gérées par et pour les Franco-Ontariennes et Franco-Ontariens; nous en avons déjà la preuve au scolaire (élémentaire et secondaire) et au collégial. Tout en reconnaissant les nombreuses années que la Laurentienne a évolué avec elle, la communauté franco-ontarienne préconise aujourd'hui un modèle d'université unilingue de langue française, qui pourra s'effectuer soit dans le cadre de l'entente de fédération existante ou de façon indépendante.

Il y a ici une opportunité unique qui se présente aux deux institutions de repositionner l'enseignement post-secondaire dans le Moyen-Nord de sorte que ces deux institutions pionnières de Sudbury puissent s'entraider afin de fleurir et accroître l'offre d'enseignement dans un nouveau modèle de fonctionnement qui répondra aux besoins pressants de la communauté franco-ontarienne.

Aussi n'oublions pas la possibilité d'unir les forces de l'Université de Sudbury à celles de la Laurentienne pour continuer à améliorer l'offre de services envers les communautés autochtones dont les liens d'appartenance sont profonds avec les deux institutions universitaires.

Étant donné l'urgence occasionnée par l'insolvabilité de l'Université Laurentienne et la vitesse à laquelle se déroule le processus entamé en vertu de la LACC, nous vous prions de nous confirmer dès midi lundi (demain) votre ouverture à entretenir avec nous des pourparlers à l'amiable sur la possibilité de la mise en œuvre, en partie ou en totalité, de notre proposition.

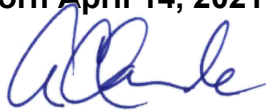
Dans l'attente d'une réponse favorable, veuillez agréer, Mesdames et Messieurs, nos salutations les meilleures.

**Sheppard & Claude**

André Claude

c.c. Pierre Riopel, Président du Conseil des régents, Université de Sudbury  
John Meehan, Recteur, Université de Sudbury  
Ronald F. Caza, Caza Saikaley

**This is Exhibit "E" to the  
Affidavit of Pierre Riopel  
sworn April 14, 2021**

A handwritten signature in blue ink, appearing to be 'A. Riopel', is written over the text.

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**A Commissioner for taking  
Affidavits.**

April 12, 2021

VIA EMAIL ([aclaude@sheppardclaud.ca](mailto:aclaude@sheppardclaud.ca))

Sheppard & Claude  
202 – 1173 Road Cyrville Road,  
Ottawa ON K1J 7S6

**Attention: André Claude**

Dear Sir:

**Re: In the Matter of the *Companies' Creditors Arrangement Act* and In the Matter of a Plan of Compromise or Arrangement of Laurentian University of Sudbury, Court File No.: CV-21-00656040-00CL**

We acknowledge receipt of your letter of today's date.

We agree that the restructuring of Laurentian University of Sudbury ("**Laurentian**") ought to proceed with a spirit of collaboration, and Laurentian has every intention of working with the University of Sudbury ("**US**") to that end. In particular, Laurentian remains prepared to engage in meaningful discussions with US as to how to best transition to two separate institutions following: (i) the announcement by US on March 12, 2021 that it intends to become a unilingual Francophone university, and (ii) the issuance of the Notice of Disclaimer of the Federation Agreements by Laurentian on April 1, 2021. Laurentian has made clear that it respects the historic legacy of US, notwithstanding termination of the federation relationship.

Laurentian and US are on different paths in terms of how they intend to deliver French language post-secondary education in Ontario. US has taken a view that it ought to be a French-only institution. Laurentian intends to maintain its commitment to the Franco-Ontario community and to remain a tri-cultural institution that provides strong, comprehensive academic programs in both English and French.

Laurentian's French language programs (serving approximately 2,000 Laurentian students) are at the core of its mandate. As such, Laurentian does not intend to transfer any French language programs or services to US. Laurentian does not agree that transferring its French language programmes and services to US, "... promotes both the financial viability of Laurentian and at the same time ensures respect for the rights of the linguistic minority." To the contrary, Laurentian believes that maintaining French-language programs is critical to its successful restructuring and



its ability to serve both the English and French speaking communities, in addition to its strong commitment to the Indigenous communities of Ontario.

Laurentian is a “government agency” for the purposes of the *French Language Services Act* and O. Reg. 398/93 *Designation of Public Service Agencies* and it intends to continue to comply with its obligations therein.

Notwithstanding the different approaches that Laurentian and US intend to pursue for the delivery of French language post-secondary education in the future, Laurentian confirms its continued willingness to engage in a cooperative dialogue with US as to the best path forward through the necessary transition. In that regard, we have not received a response from US in respect of the transition proposal delivered by Laurentian on March 26, 2021, and we would be pleased to discuss same.

Yours truly,

**Thornton Grout Finnigan LLP**



D.J. Miller

cc:     *Laurentian University of Sudbury*  
          *Ernst & Young Inc.* – Court-appointed Monitor  
          *Stikeman Elliott LLP* – Counsel to the Court-appointed Monitor

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*  
R.S.C. 1985, c. C-36, AS AMENDED

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

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

Proceedings commenced at Toronto

**AFFIDAVIT OF PIERRE RIOPEL  
Sworn April 14, 2020**

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Lawyers for the Moving Party  
University of Sudbury

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**UNOFFICIAL COURTESY TRANSLATION OF THE  
NOTICE OF MOTION**

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

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

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

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

**NOTICE OF MOTION**

(s. 11, 23 of the *Companies' Creditors Arrangement Act*,  
R.S.C. 1985, c. C -36)  
(Returnable April 8, 2021)

The Assemblée de la francophonie de l'Ontario will make a motion to Chief Justice Morawetz on April 8, 2021, at 10:00 a.m., or as soon as possible.

PROPOSED METHOD OF HEARING: We propose that the motion be heard by video conference via Zoom or another video conferencing platform approved by the Court.

**THE MOTION IS FOR:**

- 1) If necessary, an order abridging the time for service of this Notice of Motion and Responding Motion Record to the Notice of Motion;
- 2) An order, pursuant to section 11 of the *Companies' Creditors Arrangement Act*, (the "CCAA") that:
  - i. Laurentian University ("LU") immediately initiate consultations with the Assemblée de la francophonie de l'Ontario (the "AFO") as representative of the Franco-Ontarian community regarding any restructuring plan or financial sustainability initiatives that may impact the status or use of French, including:
    - a. services offered in French or that must be offered in French;
    - b. programs offered partially or entirely in French;
    - c. courses offered in French;
    - d. persons employed by LU to teach courses, or offer programs or services in French;
    - e. French-language academic research and publications;
    - f. enrolment levels of French-speaking students, including quotas thereof;

**UNOFFICIAL COURTESY TRANSLATION OF THE  
NOTICE OF MOTION**

- g. governance and administration, including the structure and sustainability of LU's relationships with its three federated universities;
  - h. community use of LU facilities and services; and
  - i. funding allocations with respect to all of the above;
- ii. LU immediately enter into joint negotiations with the AFO and the University of Sudbury ("US") to evaluate any financial or structural proposal that may impact the restructuring in accordance with the objectives of the CCAA and the rights of the Franco-Ontarian community, including those arising from LU's designation as a "public service agency" within the meaning of the *French Language Services Act*, RSO 1990, c F.32, section 23 of the *Canadian Charter of Rights and Freedoms* (the "**Charter**") and Part VII of the *Official Languages Act*, RSC 1985, c 31 (4<sup>th</sup> suppl.) (the "**OLA**");
- iii. the monitor and the mediator shall facilitate and oversee the consultations (at 2.i.) and negotiations (at 2.ii.); and
- iv. the monitor shall advise the Court regarding any financial or structural proposal that may impact the above-mentioned items (at 2.i.) and evaluate its impact on:
- a. the rate of recovery of creditor claims;
  - b. the restructuring plan and measures that may impact the status or use of French; and
  - c. the language and constitutional rights of the Franco-Ontarian community;
- 3) An order, pursuant to sections 11 and 23 of the CCAA, directing the monitor to advise the Court on the reasonableness and fairness of any restructuring plan and any compromise or arrangement with creditors with regards to the status and use of French at LU;
- 4) Any other order that the Court may deem just and appropriate.

**THE GROUNDS FOR THE MOTION ARE:**

**I. The procedural context**

1. LU is insolvent and has obtained CCAA protection.
2. On February 1, 2021, an initial Order for protection was granted to LU (2021 ONSC 659). The initial Order was amended and extended on February 11 until April 30, 2021 (2021 ONSC 1098).
3. The Court granted a stay of proceedings pursuant to s. 11.02(1) of the CCAA prohibiting the commencement of any proceeding against LU regarding *inter alia* violations of section 5 of the *French Language Services Act* and section 23 of the *Charter*.



~~UNOFFICIAL COURTESY TRANSLATION OF THE~~  
~~NOTICE OF MOTION~~

4. LU is negotiating with stakeholders to implement long-term measures aimed at achieving financial sustainability and the restructuring of its program offering. LU is also evaluating the structure and sustainability of its ongoing relationships with its three federated universities, one of which is also designated as a “public service agency” within the meaning of the *French Language Services Act* (i.e. US).
5. Ernst and Young is the monitor and shall, *inter alia*:
  - i. advise the Court on the reasonableness and fairness of any compromise or arrangement that is proposed between LU and its creditors (para. 23(1)i) of the CCAA); and
  - ii. carry out any other functions in relation to LU that the court may direct (para. 23(1)k) of the CCAA).
6. The Court appointed Justice Dunphy as mediator to address, *inter alia*, (i) the review and restructuring of LU’s existing academic programs; (ii) the review and restructuring of the faculty required to deliver LU’s restructured academic programs, and (iii) the review and restructuring of the model of LU’s federated universities.
7. The mediator was ordered to assist LU on any matters that are referred to him by LU, the monitor, stakeholders or this Court (Order dated February 5, 2021, at paras. 3 and 5). The Court has granted the mediator the discretionary power to consult any parties.
8. On March 11, 2021, the Board of Regents of US unanimously passed a resolution mandating the President and Vice-Chancellor of US, John Meehan, to:

undertake all necessary steps to ensure that the University of Sudbury becomes, as soon as possible, a university administered and governed by and for the Ontario Francophone community:

  - a) whose programming and services are offered in French;
  - b) whose working language is French;
  - c) who assumes all responsibilities arising from the partial designation of the University of Sudbury under the *French Language Services Act* and who will seek full designation under said Act;
  - d) ensure one of its objectives is the training of professionals required to implement section 23 of the *Canadian Charter of Rights and Freedoms* in Ontario; and
  - e) to explore whether it is desirable to develop partnerships with other post-secondary institutions.

(Affidavit of P. Riopel at para. 3)

9. On March 15, 2021, the AFO asked the Senate and the Board of Governors of LU to agree to discuss a “transfer” of the programs, courses and services in French and the associated facilities and resources to US (Affidavit of C. Jolin at para. 13).
10. On March 19, 2021, President Haché responded to the AFO, stating that due to the proceedings that had been commenced under the CCAA, LU “cannot comment on developments in this process nor engage in discussions outside this process regarding its academic programs or its relationship with its federated partners” [emphasis added] (Affidavit of C. Jolin at para. 14).
11. The AFO has exhausted all possible avenues to participate in the proceeding to assert the constitutional and quasi-constitutional rights of the Franco-Ontarian community through the monitor, the mediator and LU.
12. The AFO is turning to this honourable Court as a last resort.

**II. The CCAA allows for the participation of stakeholders and requires that interests other than those of the debtor and the creditors be taken into account**

13. The exclusion of the representative of the Franco-Ontarian community by LU, the monitor and the mediator is fundamentally inconsistent with the objectives of the CCAA, including that of protecting the public interest (2020 SCC 10, para. 40). The consideration of the public interest is especially important in this case because the proceeding has been brought by a publicly funded post-secondary institution that provides the Franco-Ontarian community with services, courses and programs that are protected under the *Charter* and the *French Language Services Act*.
14. The CCAA gives the Court broad discretion to make appropriate orders consistent with the objectives of the Act. The purpose of the orders sought in this Notice of Motion is to ensure that the constitutional and quasi-constitutional rights of the Franco-Ontarian community are upheld.
15. The CCAA allows stakeholders recognized as “social stakeholders” to participate in proceedings brought under the Act. The interests at stake in a restructuring are not limited to the interests of the debtor and the creditors.
16. A variety of interests by which the Court must be guided have been identified by the case law, for example those of travellers ([2003] OJ No. 4822 (SC), para. 13), television viewers (2010 ONSC 4209, para. 26), blood donation recipients ([1998] OJ No. 3306 (SC), para. 50), *Blue Jays* fans ([1998] OJ No. 6547 (SC), para. 7), and the interest of preserving sites of ecological, heritage and cultural significance (2015 BCSC 656, para. 66). The interest of protecting the constitutional and quasi-constitutional rights of the Franco-Ontarian community must therefore be among the interests by which the Court must be guided.
17. The public interest must be considered by the Court at every stage of these proceedings. The Supreme Court of Canada has recognized that “on occasion the

broader public interest will be engaged by aspects of the reorganization and may be a factor against which the decision of whether to allow a particular action will be weighed” ([2010] 3 SCR 379, para. 60).

18. The Court must also balance the various interests at stake when assessing the fairness and reasonableness of the proposed compromise or plan of arrangement. This requires a comparison of all alternatives to the proposed restructuring plan.

### **III. The AFO has the standing to act as representative of the Franco-Ontarian community**

19. The AFO is the umbrella organization and political voice of the Franco-Ontarian community. Its mandate is to consult with and speak on behalf of the Franco-Ontarian community (Affidavit of C. Jolin at para. 3). The Franco-Ontarian community supports the AFO’s participation in the proceedings (Affidavit of T. Bissonnette at para. 10, Affidavit of C. Jolin, Exhibit CJ-1).
20. The members of the AFO and the community it represents have interests in the CCAA proceedings, including as students or faculty of LU, and as parents who are rights holders under section 23 of the *Charter* (Affidavit of C. Jolin at para. 3).
21. For example, the Regroupement des professeures et professeurs francophones de l’Université Laurentienne (the “**RPF**”) has shared its concerns with the AFO regarding the potential impacts of the restructuring of programs and has asked the AFO to become involved as its union refused to address the status and use of French at LU by asserting the rights of Francophone faculty (Affidavit of T. Bissonnette at para. 10).
22. The Franco-Ontarian community, represented by the AFO, is more than a social stakeholder; its interest arises out of the constitutional and quasi-constitutional rights of the community it represents and its members (2015 QCCS 1920, paras. 64-65 and 87-89). The protection afforded by the CCAA does not allow these rights to be “suspended” and they cannot be ignored, much less flouted, in the restructuring plan and the plan of arrangement to be determined under the CCAA.
23. The AFO’s participation is not intended to short-circuit the restructuring process or take over the role of the creditors. On the contrary, the AFO wants to ensure that LU and this Court explore and consider structural and financial alternatives that would protect rather than violate the constitutional and quasi-constitutional rights of the Franco-Ontarian community. These structural and financial alternatives could even be favourable to the creditors. The AFO is not asking to have a say in what share of the recovery each creditor will receive (i.e., its “share of the pie”) under the plan of arrangement. The AFO’s participation in the proceedings is limited to matters relating to the status and use of French at LU and the defence of the constitutional and quasi-constitutional rights of the Franco-Ontarian community.

**IV. The constitutional and quasi-constitutional rights the AFO wishes to defend through its participation in the LU restructuring process**

24. The AFO's standing arises, on the one hand, from the Franco-Ontarian community's right to be consulted and, on the other hand, from its financial interest as a holder of constitutional and quasi-constitutional rights that give rise to a corresponding funding obligation on the part of the provincial and federal governments.
25. LU and one of its federated universities, US, are designated as "public service agencies" within the meaning of the *French Language Services Act*. Consequently, members of the public have a quasi-constitutional right ((2001) 56 O.R. (3d) 577 (CA)) to communicate with LU and US, and to receive services from them in French. The province must provide the necessary funding to ensure that these public service agencies meet their legal obligations.
26. Specifically, under subsection 2(1) of the *Designation of Public Service Agencies Regulation* made under the *French Language Services Act*, LU is required to provide, and the province is required to fund, the following programs and services:
- |                                                                                                                                                                          |                                                                                                                                                                                                      |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. The provision of programs leading to the following degrees:                                                                                                           | 1. La prestation de programmes menant aux grades suivants :                                                                                                                                          |
| i. Bachelor of Commerce (B.Comm.).                                                                                                                                       | i. Baccalauréat en commerce (B.Com.).                                                                                                                                                                |
| ii. Bachelor of Education (B.Ed.).                                                                                                                                       | ii. Baccalauréat en éducation (B.Éd.).                                                                                                                                                               |
| iii. Bachelor of Physical and Health Education (B.P.H.E.).                                                                                                               | iii. Baccalauréat en éducation physique et santé (B.É.P.S.).                                                                                                                                         |
| iv. Bachelor of Science (B.Sc.).                                                                                                                                         | iv. Baccalauréat ès sciences (B.Sc.).                                                                                                                                                                |
| v. Bachelor of Science in Nursing (B.Sc.N.).                                                                                                                             | v. Baccalauréat en sciences infirmières (B.S.I.).                                                                                                                                                    |
| vi. Bachelor of Social Work (B.S.W.).                                                                                                                                    | vi. Baccalauréat en service social (B.S.S.).                                                                                                                                                         |
| vii. Bachelor of Arts (B.A.).                                                                                                                                            | vii. Baccalauréat ès arts (B.A.).                                                                                                                                                                    |
| viii. Bachelor of Health Sciences (B.H.Sc.).                                                                                                                             | viii. Baccalauréat ès sciences de la santé (B.Sc.S.).                                                                                                                                                |
| ix. Doctor of Philosophy (Ph.D.) in Human Studies.                                                                                                                       | ix. Doctorat en philosophie (Ph.D.) en sciences humaines.                                                                                                                                            |
| x. Master of Human Kinetics (M.H.K.).                                                                                                                                    | x. Maîtrise en activité physique (M.A.P.).                                                                                                                                                           |
| xi. Master of Social Work (M.S.W.).                                                                                                                                      | xi. Maîtrise en service social (M.S.S.).                                                                                                                                                             |
| xii. Master of Arts (M.A.).                                                                                                                                              | xii. Maîtrise ès arts (M.A.).                                                                                                                                                                        |
| xiii. Master of Health Sciences (M.H.Sc.).                                                                                                                               | xiii. Maîtrise ès sciences de la santé (M.Sc.S.).                                                                                                                                                    |
| 2. Academic support services provided to students and prospective students by the schools or departments of the University that offer the degrees listed in paragraph 1. | 2. Les services de soutien aux études qui sont fournis aux étudiants et aux éventuels étudiants par les écoles ou départements de l'Université qui offrent les grades mentionnés à la disposition 1. |
| 3. Non-academic services provided to students by the University.                                                                                                         | 3. Les services non liés aux études qui sont fournis aux étudiants par l'Université.                                                                                                                 |

27. Similarly, under subsection 3.2(1) of the *Designation of Public Service Agencies Regulation* made under the *French Language Services Act*, US is required to provide, and the province is required to fund, the following programs and services:
- |                                                                                                                                                                                                                              |                                                                                                                                                                                                                                            |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. The provision of French-language and bilingual undergraduate programs leading to a Bachelor of Arts degree, with the exception of the Indigenous studies program, including academic support services for those programs. | 1. La prestation de programmes de premier cycle en français et bilingues menant à un baccalauréat ès arts, à l'exception du programme d'études autochtones, y compris les services de soutien aux études liés à ces programmes.            |
| 2. Reception services, the sale of course materials, the provision of parking passes, the distribution of internal mail, library services and the provision of housing in university residences.                             | 2. Les services de réception, la vente de matériel de cours, la fourniture de permis de stationnement, la distribution du courrier interne, les services de bibliothèque et la fourniture de logements dans les résidences universitaires. |
28. For example, subsection 2(1) of the *Designation of Public Service Agencies Regulation* protects the provision of programs leading to a “Bachelor of Education (B.Ed.).” There is a significant shortage of Francophone teachers in Ontario, and as a result, Francophone school boards in Ontario and most Anglophone school boards offering French immersion or other French-language programs are under-staffed and rely on under-qualified staff (Affidavit of D. Chartrand at para. 7, Exhibit DC-1).
29. Under section 23 of the *Charter*, the province has a positive obligation to implement institutional measures to give effect to the Franco-Ontarian community’s right to receive an educational experience in French that is substantively equivalent to the educational experience of the Anglophone majority, and this requires the allocation of resources to finance education with public funds. This positive obligation includes the obligation to provide sufficient operational funding to post-secondary institutions, including LU and US, to train a sufficient number of teachers and other staff to enable Ontario’s twelve Francophone school boards to achieve substantive equivalence.
30. In this regard, the Supreme Court of Canada recently explained that “a school whose teachers are not properly trained cannot provide [the] substantively equivalent educational experience” to which Francophone communities are entitled under section 23 of the *Charter* (2020 SCC 13, para. 115).
31. LU applies a specific provincial policy on the training of teachers and staff in order to fulfill the obligations arising out of section 23 of the *Charter*.
32. Taking into account the particular needs of the Franco-Ontarian community requires meaningful consultation (2009 SCC 8, paras. 51-53). Moreover, LU receives federal funding under the *Protocol for Agreements for Minority-Language Education and Second-Language Instruction 2013-2014 to 2017-2018*, in part due to its “bilingual” mandate, and this protocol requires, at a minimum, effective, meaningful consultation with the Franco-Ontarian community, the ultimate beneficiary of this funding in the province (Affidavit D. Hurtubise at para. 28, Exhibit DH-5 at p. 16).



33. Government decisions on post-secondary education and the decisions of LU have a major impact on French-language schools. Accordingly, when exercising its discretion over its programs and structures, LU must take into account the particular needs of the Franco-Ontarian community, even in CCAA proceedings (2015 QCCS 1920, para. 74; 2020 BCSC 1586, paras. 128-129).
34. Under section 41 of the *OLA*, the federal government has a positive obligation to implement its commitment to “[enhance] the vitality of the English and French linguistic minority communities and [support] and [assist] their development,” and to “[foster] the full recognition and use of both English and French in Canadian society.”
35. The Court should also take into account the fact that since it was founded, LU has had a well-established practice of consulting and involving the Franco-Ontarian community before implementing major reforms (Affidavit of S. Dupuis at paras. 6, 9, 31, 48-49). This practice of LU now has a constitutional and quasi-constitutional basis under the *Charter* and the *French Language Services Act*.
36. Under section 43 of the *OLA*, the Minister of Canadian Heritage “shall take such measures as that Minister considers appropriate to advance the equality of status and use of English and French in Canadian society” and may take measures to:

|                                                                                                                                                                           |                                                                                                                                                         |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|
| enhance the vitality of the English and French linguistic minority communities in Canada and <u>support and assist</u> their development (s. 43(1)(a) of the <i>OLA</i> ) | favoriser l’épanouissement des minorités francophones et anglophones du Canada et à <u>appuyer</u> leur développement (art. 43(1)(a) de la <i>LLO</i> ) |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                                                            |                                                                                                            |
|------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|
| encourage and <u>support</u> the learning of English and French in Canada (s. 43(1)(b) of the <i>OLA</i> ) | encourager et <u>appuyer</u> l’apprentissage du français et de l’anglais (art. 43(1)(b) de la <i>LLO</i> ) |
|------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|

|                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| encourage and <u>assist provincial governments</u> to support the development of English and French linguistic minority communities generally and, in particular, to offer provincial and municipal services in both English and French and <u>to provide opportunities for members of English or French linguistic minority communities to be educated in their own language</u> (s. 43(1)(d) of the <i>OLA</i> ) | encourager et <u>aider les gouvernements provinciaux</u> à favoriser le développement des minorités francophones et anglophones, et notamment à leur offrir des services provinciaux et municipaux en français et en anglais et <u>à leur permettre de recevoir leur instruction dans leur propre langue</u> (art. 43(1)(d) de la <i>LLO</i> ) |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                                                                                                                       |                                                                                                                                                    |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|
| encourage and <u>assist provincial governments</u> to provide opportunities for everyone in Canada to learn both English and French (s. 43(1)(e) of the <i>OLA</i> ). | encourager et <u>aider ces gouvernements</u> à donner à tous la possibilité d’apprendre le français et l’anglais (art. 43(1)(e) de la <i>LLO</i> ) |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|

**V. The constitutional and quasi-constitutional rights of the Franco-Ontarian community are being ignored by LU**

37. The Franco-Ontarian community is concerned about LU's disregard for French, and even more so since the university applied for protection under the CCAA (Affidavit of D. Hurtubise at para. 31, Exhibit DH-7; Affidavit of T. Bissonnette at paras. 18-20, Exhibits TB-4, TB-5; Affidavit of A. Lacassagne at para. 19, Exhibit AL-5).
38. In the absence of a Court order, the constitutional and quasi-constitutional rights of the Franco-Ontarian community will be ignored in the restructuring proceedings.

**A. The CCAA proceeding does not take into account the status and use of French**

39. President Haché's affidavit of January 30, 2021 in support of LU's application to commence CCAA proceeding does not address the status and use of French (Affidavit of D. Hurtubise at para. 32). Moreover, President Haché's affidavit ignores LU's designation under the *French Language Services Act*, the constitutional and quasi-constitutional rights of the Franco-Ontarian community, and their effects on French-language programs, courses and services at LU (Affidavit of D. Hurtubise at para. 32).
40. No details are provided on the websites of either the monitor or LU as to how the status and use of French will be affected (Affidavit of C. Jolin at para. 10). The monitor refuses to share anything about LU's proposed restructuring with the AFO that LU has not decided to disclose (Affidavit of C. Servant-L'Heureux at para. 3).
41. This proceeding is being conducted in English and the documentation available is almost entirely in English, even in the French version of the monitor's website (Affidavit of C. Jolin at para. 10).
42. As part of its restructuring plan, LU will identify savings relating to its least profitable programs, courses and services (Affidavit of President Haché in support of LU's application at paras. 12, 302; Affidavit of T. Bissonnette at para. 12, Exhibit TB-12). These changes will have a disproportionate impact on the smallest programs, courses and services offered in French (Affidavits of T. Bissonnette at para. 19; Affidavit of D. Hurtubise at para. 20) and will be implemented by individuals or entities that do not have a full understanding or appreciation of the right to receive funding under the *French Language Services Act*, other language rights, and the corresponding provincial and federal obligations to provide funding (Affidavit of A. Lacassagne at para. 17, Exhibit AL-4; Affidavit of D. Hurtubise, at para. 25).
43. The restructuring of LU is already affecting French Ontario and causing disproportionate harm to numerous members of the Franco-Ontarian community (Affidavit of C. Jolin at para. 5).

44. On March 8, 16 and 17, 2021, the President published open letters addressed to the community (Affidavit of T. Bissonnette at paras. 21, 25, Exhibits TB-6, TB-9, TB-13, TB-15). President Haché states that “[LU’s] commitment to Ontario’s Francophone community is a primary goal at Laurentian University” (Affidavit of T. Bissonnette at para. 25, Exhibit TB-9) and indicates that LU will propose “a new Laurentian that celebrates and preserves much of the culture that has defined us: [...] where Francophone programming is valued and where our bilingual character is celebrated” (Affidavit of A. Lacassagne at para. 8; affidavit of T. Bissonnette at para. 30, Exhibit TB-13).
45. As with earlier commitments made by LU with respect to French, no measures to deliver on this commitment have been announced, and Francophone faculty are skeptical (Affidavit of A. Lacassagne at paras. 5-8; Affidavit of T. Bissonnette at paras. 25-27, 29-31, Exhibit TB-10, TB-11, TB-13).

**B. LU has been neglecting the status and use of French for decades**

46. The Franco-Ontarian community’s concerns about the status and use of French in the CCAA proceeding stem in large part from LU’s failure in the past to honour its commitments to French and French-language courses, programs and services. LU’s charter states that it is a “bilingual” institution, yet French-language programs, courses and services are not managed or controlled by the Franco-Ontarian community (Affidavit of D. Hurtubise at paras. 3-5). LU neglects the status and use of French. English predominates at LU in the provision of courses and services as well as in governance, despite the fact that the university has been informed of numerous deficiencies and dissatisfaction among its Francophone faculty (Affidavits of D. Hurtubise at paras. 6-23; affidavit of T. Bissonnette at paras. 12-13 and Affidavit of A. Lacassagne at para. 3).
47. The Supreme Court of Canada has explained on numerous occasions that the Francophone minority cannot always be certain that the majority will take into account all its linguistic and cultural concerns, and that this failure is not necessarily intentional: the majority cannot be expected to understand and appreciate the various ways in which decisions may affect the language and culture of the minority ([1990] 1 SCR 342, p. 372; 2000 SCC 1, para. 43; 2020 SCC 13, para. 86).
- a. *LU is not fulfilling its obligations arising out of its designation under the French Language Services Act*
48. LU demonstrates a lack of understanding – and publicly expresses its misconception – of the effect and scope of the designation under the *French Language Services Act* (Affidavit of A. Lacassagne, at para. 17, Exhibit AL-4). This designation protects the services that were offered by LU when LU was designated under the *French Language Services Act* in 2014 and guarantees the offering of those services in French ((2001) 56 O.R. (3d) 577 (CA), para. 160).

49. Some of the degree programs designated under the *French Language Services Act* regulation that are protected under the *French Language Services Act* are no longer offered (Affidavit of D. Hurtubise at para. 25). The full range of programs, courses and services offered by LU on April 30, 2014, when the regulation designating LU under the *French Language Services Act* was made, is not known to the AFO (Affidavit of D. Hurtubise at para. 24).
50. LU has touted its designation as a concrete commitment on its part (Affidavit of A. Lacassagne at para. 17). Yet the offering of programs, courses and services in French has not increased since April 30, 2014 – on the contrary (Affidavit de D. Hurtubise at para. 24; Affidavit of A. Lacassagne at para. 17).
51. Despite its designation under the *French Language Services Act*, no program in French leading to a Master of Human Kinetics (M.H.K.) appears on the LU website (Affidavit of D. Hurtubise at para. 24). The Bachelor of Commerce (B.Comm.) in French, also designated under the Act, does not appear on the LU website either (Affidavit of D. Hurtubise at para. 24). Admissions to French-language programs in Mathematics, Environmental and Sustainability Studies, Drama, Anthropology, Archeology, Music, Outdoor Adventure Leadership and Geography, eight French-language programs leading either to a Bachelor of Science (B.Sc.) or Bachelor of Arts (B.A.), both designated under the *French Language Services Act*, were also suspended in the summer of 2020 (Affidavit of D. Hurtubise at para. 24).
- b. *LU does not value access to programs and courses in French*
52. A gap has developed between enrolments in French and English language programs, primarily as a result of the large amount of money LU has invested in creating new programs in English (between 2000 and 2012) (Affidavit of D. Hurtubise at paras. 8, 15, 18, 21, Exhibits DH-3 and DH-4). Also, LU has invested less in creating courses and programs in French (even for some programs LU had publicly committed to investing in and promoting in its strategic plan (2012-2017)) (Affidavit of D. Hurtubise at para. 21, Exhibit DH-3; Affidavit of A. Lacassagne, Exhibit AL-1)). Also, from 2000 to 2017, LU chose to focus on promoting its English-language programs abroad (Affidavit of D. Hurtubise at para. 16, Exhibits DH-3 and DH-4), neglecting the recruitment of Francophone students (Affidavit of D. Hurtubise at para. 15; Affidavit of A. Lacassagne at para. 3).
53. The offering of courses and programs in French has also decreased at LU, and this has contributed to the decline in enrolment in French-language programs. The reduction in faculty has led to a decrease in the offering of courses and programs in French (Affidavit of A. Lacassagne at paras. 10-11).

- c. *Members of the Franco-Ontarian community occupy a secondary place in LU governance and bodies*
54. Decisions affecting the status and use of French at LU, including the creation of programs in French, are the responsibility of the President and Vice-President, Academic, and not of Francophone bodies (Affidavit of D. Hurtubise at paras. 3-4).
55. In late 2013 or early 2014, the powers of the only person within the university's governance structure whose mandate is to defend and promote French at LU, the Associate Vice-President, Academic (Francophone Affairs) ("**AVPAFA**"), were significantly curtailed (Affidavit of D. Hurtubise at paras. 7-8). Since the Vice-President has become only an associate, he is no longer a member of the President's executive committee and no longer has a budget to implement initiatives (only a modest budget for office supplies) (Affidavit of D. Hurtubise at para. 8).
56. Moreover, the President and Vice-President, Academic, of LU, to whom the AVPAFA reports, oversee and limit in various ways the actual ability of the AVPAFA to exclusively and effectively defend and promote French. For example, a former Vice-President blocked an initiative 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 (Affidavit of D. Hurtubise at para. 8).
57. LU also limits the effectiveness of the person holding the position of AVPAFA by requiring that they perform duties other than those relating to Francophone education and affairs (Affidavit of D. Hurtubise at para. 9; Affidavit of T. Bissonnette at para. 17).
58. The Board of Governors and Senate Joint Committee on Bilingualism lacks commitment, openness and sensitivity to Francophone faculty and French-language programs, courses and services (Affidavit of T. Bissonnette at para. 14). Contrary to the Senate's bylaws, its members do not meet often enough (no meetings have been held since March 2020) (Affidavit of T. Bissonnette at para. 14, Exhibit TB-2). The AVPAFA is a non-voting member (Affidavit of T. Bissonnette at para. 14, Exhibit TB-3).
- d. *The use of English predominates at LU*
59. LU's bilingualism policy is not adhered to. For example, a large portion of LU faculty does not understand French (Affidavit of A. Lacassagne at para. 18) and a number of executives have been hired who were not able to express themselves in French either orally or in writing (Affidavit of D. Hurtubise at para. 13). As a result, meetings of LU's governing bodies take place primarily in English (Affidavit of D. Hurtubise at para. 11). LU frequently uses only English or poor-quality French in its signage and communications (Affidavit of D. Hurtubise at para. 19). The French



version of LU's signage and communications does not always appear as prominently as the English version (Affidavit of D. Hurtubise at para. 19).

60. LU's Centre for Academic Excellence offers some of its services in English only, such as the university preparation program, and offers English courses but not French courses (Affidavit of D. Hurtubise at para. 18).
61. LU ignores and violates the constitutional and quasi-constitutional rights of the Franco-Ontarian community, and the record in this case demonstrates that LU does not intend to fulfill its obligations and uphold the rights of the Franco-Ontarian community in its restructuring of programs, courses and services. The position adopted by President Haché is rooted in the logic of preserving the "bilingual" institution rather than listening to the Franco-Ontarian community that created it, and that LU claims it wants to serve.

**VI. The solution chosen by the AFO and the Franco-Ontarian community to rectify LU's deficiencies with regard to the status and use of French is an institution "by" and "for" Francophones**

62. For several years, the Franco-Ontarian community has been expressing its desire and need for a university "by" and "for" Francophones in mid-northern and northern Ontario (Affidavit of A. Lacassagne at paras. 12, 15-16, Exhibits AL-2 and AL-3; Affidavit of S. Dupuis at para. 100) and it is currently reiterating this position (Affidavit of T. Bissonnette at paras. 23-24, 31, Exhibits TB-7, TB-8, TB-14).
63. Institutions "by" and "for" the community enhance the vitality of official language minority communities such as the Franco-Ontarian community. These communities need institutions that operate in their language and that provide services only in that language (in other words, homogeneous institutions), rather than "bilingual" institutions in which the majority language is the dominant language (Affidavit of R. Léger). The Franco-Ontarian community is not thriving in a "bilingual" LU.
64. The Provincial Forum on Post-Secondary Education in French Ontario revealed a consensus within the Franco-Ontarian community to strengthen access to French-language programs and to obtain university governance "by" and "for" Francophones extending to administration, finance, student life, university activities, research and physical infrastructure, including mid-northern and northern Ontario (Affidavit of A. Lacassagne at paras. 12, 15-16, Exhibits AL-2 at p. 3, AL-3 at pp. 4-5).
65. For example, as early as 2013, the Franco-Ontarian community was considering the possibility of splitting LU to create a French-language university (Affidavit of A. Lacassagne at para. 16, Exhibit AL-3 at p.20).
66. On March 12, 2021, the AFO organized a northern round table that brought together some sixty stakeholders and organizations representing the Franco-Ontarian communities of Sudbury and northern Ontario. They reiterated the community's

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preference for a university “by” and “for” Francophones (Affidavit of C. Jolin at para. 11, Exhibit CJ-2).

67. That same day, US, one of LU’s federated universities, announced at a joint press conference with the AFO that US had decided, by a resolution of its Board of Regents passed unanimously on March 11, 2021, to become a university managed and controlled “by” and “for” the Franco-Ontarian community (Affidavit of P. Riopel at para. 3).
68. Key ministers in the Ontario and federal governments have expressed their interest in this project (Affidavit of P. Riopel at paras. 5-6, Exhibits PR-4, PR-5). Moreover, the federal government’s recent commitment to reform the official languages regime includes measures to address the shortage of teachers able to teach in French (Affidavit of D. Chartrand at para. 8, Exhibit DC-2).
69. The option put on the table by US appears to be a financially viable alternative (Affidavit of P. Riopel at para. 12).
70. The government of Ontario provides operational grants to LU, one of which is based on its “bilingual” mandate (Affidavit of D. Hurtubise at paras. 27-28). LU also receives additional federal funding which it is supposed to use to support French-language education (Affidavit of D. Hurtubise at para. 28). French-language programs, courses and services at LU should be financially viable (Affidavit of D. Hurtubise, at para. 29).
71. LU is not transparent regarding its allocation of the government funding it is supposed to use to support French-language education, and provides no information on the allocation of the money it receives (Affidavit of D. Hurtubise at para. 30). There is no accountability mechanism for the allocation of the funding received by LU for bilingualism and French. If it is the case, as the monitor and LU claim, that revenue from English-language programs and courses help “subsidize” French-language programs and courses (Affidavit of C. Servant-L’Heureux at para. 6), LU has failed to uphold the constitutional and quasi-constitutional obligations of government, as well as its own, to fund French-language programs, courses and services under s. 23 of the *Charter* and the *French Language Services Act*.
72. Conversely, if there are no deficits in French-language programs, courses and services, there is no need to cut any of them as part of the restructuring. Because of the lack of transparency and the exclusion of the AFO from the CCAA process, it is impossible to know what the actual situation is.
73. On March 19, 2021, sixty members of the RPF unanimously passed a resolution calling on LU to commit to allowing Francophones to manage and control French-language programs and the funding dedicated to those programs, establishing governance “by” and “for” Francophones (affidavit T. Bissonnette at para. 31, Exhibit TB-14).

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74. LU has shown no intention of changing its structures and practices with respect to the Franco-Ontarian community; on the contrary, in an open letter, President Haché issued a message that flies in the face of the RPF resolution (affidavit T. Bissonnette at para. 33, Exhibits TB-15, TB-16).
75. LU's senior management says that it wants to preserve the university's unpopular "bilingual" structure, which does not have the support and confidence of the Franco-Ontarian community. LU is preparing to make what it considers to be "necessary" cuts to its Francophone component, but refuses to discuss its future with the representative of the Franco-Ontarian community. The exclusion of the AFO from the CCAA restructuring process is not in the best interest of LU, since even if it is able to regain its financial footing at the end of the process, it will have done so at the expense of, and without regard for, the Franco-Ontarian community to which it owes its very existence (Affidavit of S. Dupuis at paras. 19, 25, 27).
76. In the absence of a willingness on the part of LU to take concrete steps to understand and uphold the rights of the Franco-Ontarian community, the absence of a Francophone voice in the CCAA proceedings, as is generally the case at LU, will have the effect of undermining the status and use of French.
77. A meaningful consultation process with the spokesperson of the Franco-Ontarian community is needed, particularly in view of the confidential nature of the proceeding. The Court must intervene to craft an appropriate, properly-adapted role for the AFO at all stages of the CCAA proceeding to ensure that its process does not result in a restructuring plan and a plan of arrangement that exacerbate or lead to further violations of the rights of the Franco-Ontarian community.

**LANGUAGE OF PROCEEDINGS:**

78. Section 125 of the *Courts of Justice Act* provides that "[t]he official languages of the courts of Ontario are English and French." Section 126 provides that "[a] party to a proceeding who speaks French has the right to require that it be conducted as a bilingual proceeding." The AFO operates in French (Affidavit of C. Jolin at para. 4).

**OTHER GROUNDS:**

79. The *Amended and restated initial order* of February 11, 2021;
80. Sections 11 and 23 of the CCAA;
81. Sections 1 and 5 of the *French Language Services Act*, SRO 1990, c F.32;
82. *Designation of Public Service Agencies Regulation*, O. Reg. 398/93;
83. Section 23 of the *Canadian Charter of Rights and Freedoms*;
84. Sections 41 and 43 of the *Official Languages Act*, RSC 1985, c 31 (4th Supp.);

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85. Sections 125 and 126 of the *Courts of Justice Act*, SRO 1990, c C.43;
86. The *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194;
87. The inherent and equitable jurisdiction of this Honourable Court;
88. Such further and other grounds as counsel may advise and this Court may permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of this motion:

1. the Affidavit of Carol Jolin;
2. the Affidavit of Pierre Riopel;
3. the Affidavit of Denis Hurtubise;
4. the Affidavit of Thierry Bissonnette;
5. the Affidavit of Aurélie Lacassagne;
6. the Affidavit of Rémi Léger;
7. the Affidavit of Serge Dupuis;
8. the Affidavit of Denis Chartrand;
9. the Affidavit of Charlotte Servant-L'Heureux; and
10. such further and other evidence as counsel may advise and this Court may permit.

*March 31, 2021*

**Power Law**



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**TO: SEE ATTACHED SERVICE LIST**

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**UNOFFICIAL TRANSLATION OF  
THE AFFIDAVIT OF CAROL JOLIN  
SWORN ON MARCH 31, 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 CAROL JOLIN  
(March 31, 2021)**

I the undersigned, CAROL JOLIN, of the city of Ottawa, in the county of Carleton,  
AFFIRM that:

1. I was elected president of the Assemblée de la francophonie de l'Ontario (the "**AFO**") in 2016.
2. I have personal knowledge of the facts set out in this affidavit, except where they are otherwise stated to be based on information or belief.
3. The AFO is the umbrella organization and political voice of Franco-Ontarians. Its mandate is to consult with and speak on behalf of Ontario's Francophone community. The AFO's members include 152 associations and 23 institutions. Its individual members include LU students and faculty, and parents who are rights holders under section 23 of the *Charter*. The AFO promotes and defends the rights and interests of more than 744,000 Franco-Ontarians. The AFO focuses primarily on seven issues of great importance to Franco-Ontarians: education, language rights, arts and culture, employability, immigration, health, and communications.
4. French is the working language and the language of communication of the AFO, as set out in article 1.9 of its bylaws.
5. The restructuring of Laurentian University ("**LU**") is already harming French Ontario and having a disproportionately negative impact on many Franco-Ontarians.
6. LU is the second largest of the few universities that offer post-secondary education in French in Ontario; it is much larger than the third largest, and is by far the largest in Mid-Northern and Northern Ontario.



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SWORN ON MARCH 31, 2021**

7. Some 20 publicly funded universities across the province offer a full range of quality English-language programs, courses and services.
8. The AFO is concerned about what will happen to the thousands of students who do not know whether they will be able to complete their studies in French at LU, or have been admitted to LU and do not know whether LU will continue to offer the program to which they have been admitted. LU educates a significant portion of the future pool of employees able to work in French, not only in Mid-Northern and Northern Ontario, but also in other parts of the province, and the AFO is also concerned for the employers who depend on the workforce educated in French at LU.
9. In an open letter dated March 10, 2021, faculty who closely follow Franco-Ontarian community issues expressed their support for the AFO's participation in the LU restructuring process, notably because LU is not in a position to represent the Franco-Ontarian community and assert its rights. Attached to this affidavit as **Exhibit CJ-1** is a true copy of this open letter, accessible at the following link: <https://www.lavoixdunord.ca/opinions/lafo-devrait-representer-la-francophonie-ontarienne-dans-le-dossier-de-luniversite-laurentienne-1fb2c6f12c37f26f0bdf3105e209df3b?sourceOrganizationKey=le-voyageur>.
10. The proceeding initiated by LU under the *Companies' Creditors Arrangement Act* (the "CCAA") is being conducted almost exclusively in English, and the orders are available in English only. I have consulted the information on the monitor's website relating to this proceeding and the documents are available in English only, even on the French version of the site. The only document available in French is the *Notice to Creditors* (dated February 2, 2021). The portion of the monitor's website relating to these proceedings is accessible at the following link: <https://documentcentre.ey.com/#/detail-engmt?eid=459>. No details are provided on either the monitor's website or LU's website as to how the status and use of French will be affected.
11. On Friday, March 12, 2021, I participated in the AFO's *Table de concertation du Nord* [Northern roundtable]. At that event, some 60 actors and organizations representing the Francophone community of Sudbury and Northern Ontario developed a plan to advocate for a university "by" and "for" Francophones. The President and Vice-Chancellor of the University of Sudbury, John Meehan, was there. Attached to this affidavit as **Exhibit CJ-2** is a true copy of an article dated March 15, 2021 about this roundtable, accessible at the following link: <https://www.lavoixdunord.ca/actualites/education/les-francophones-du-moyen-nord-se-preparent-a-imaginer-et-revendiquer-leur-universite-0bb389e2ee1495e19fc9beda26c153b4>.
12. On Friday, March 12, 2021, I participated in a joint press conference with the University of Sudbury at which I publicly announced that the AFO supports the

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SWORN ON MARCH 31, 2021**

University of Sudbury's decision to become a university "by" and "for" Francophones.

13. On March 15, 2021, I sent a letter on behalf of the AFO to the President and Vice-Chancellor of LU, Dr. Robert Haché (hereinafter "**President Haché**"), and to the Chair of the Board of Governors of LU, M<sup>e</sup> Claude F. Lacroix, inviting them to meet with the AFO outside the CCAA proceedings to discuss possible avenues relating to course, program and service offerings at LU and the University of Sudbury. Attached to this affidavit as **Exhibit CJ-3** is a true copy of this letter.
14. On March 19, 2021, I received a response from President Haché stating that due to the CCAA proceeding, LU "*cannot* comment on developments in this process nor engage in discussions outside this process regarding its academic programs or its relationship with its federated partners" [emphasis added]. Attached to this affidavit as **Exhibit CJ-4** is a true copy of this letter.

Sworn remotely by Carol Jolin in the city of Ottawa in the province of Ontario, before me in the city of Montréal in the province of Québec, on March 31, 2021, in accordance with O. Reg. 431/20  
*Administering Oath or Declaration Remotely.*

**CAROL JOLIN**

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**UNOFFICIAL TRANSLATION OF  
THE AFFIDAVIT OF PIERRE RIOPEL  
SWORN ON MARCH 31, 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 PIERRE RIOPEL  
(March 31, 2021)**

I the undersigned, PIERRE RIOPEL, of the municipality of Rivière-des-Français in the province of Ontario AFFIRM that:

1. I have been the Chair of the Board of Regents of the University of Sudbury since 2017. I have personal knowledge of the facts set out in this affidavit, except where they are otherwise stated to be based on information or belief.
2. Established in 1914, the “Sacred Heart College of Sudbury” was re-named the “University of Sudbury” in 1957. Attached as **Exhibit PR-1** are true copies of its Act of Incorporation and the amendments thereto (jointly).
3. On March 11, 2021, I chaired a meeting of the Board of Regents of the University of Sudbury to discuss and re-evaluate its position in light of the restructuring of Laurentian University (“LU”) under the *Companies' Creditors Arrangement Act* (“CCAA”). The Board of Regents unanimously passed the following resolution:

**WHEREAS** Laurentian University is insolvent and has applied for protection under the *Companies' Creditors Arrangement Act*, LRC 1985, C-36, and, given the likely consequences of this application on the future of the University of Sudbury;

**IT IS RESOLVED THAT:**

1. The Board of Regents mandates the President of the University of Sudbury to undertake all necessary steps to ensure that the University of Sudbury becomes, as soon as possible, a university administered and governed by and for the Ontario Francophone community:

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- a) whose programming and services are offered in French;
- b) whose working language is French;
- c) who assumes all the responsibilities arising from the partial designation of the University of Sudbury under the *French Services Act* and who will seek full designation under the said Act;
- d) ensures one of its objectives is the training of professionals required to implement section 23 of the *Canadian Charter of Rights and Freedoms* in Ontario;
- e) to explore whether it is desirable to develop partnerships with other post-secondary institutions.

2. The Board of Regents mandates the President of the University of Sudbury to take all necessary steps to create a new university administered and governed by and for the Indigenous communities of Northern Ontario within the meaning of section 35 of the *Constitution Act, 1982*.

4. The day after this resolution was passed, on Friday, March 12, 2021, I participated in a joint press conference with the AFO to publicly announce the University of Sudbury's decision to become a university "by" and "for" Francophones and the AFO's support for that decision on behalf of the Franco-Ontarian community. True copies of articles dated March 12, 2021 reporting on this are attached to this affidavit as:

**Exhibit PR-2**, accessible at the following link: <https://ici.radio-canada.ca/nouvelle/1776881/afo-universite-sudbury-francophone-laurentienne> ; et **Exhibit PR-3**, accessible at the following link: <https://onfr.tfo.org/luniversite-de-sudbury-veut-devenir-une-universite-a-100-fracophone/>.

5. I listened to an interview conducted on March 15, 2021 with the Minister of Francophone Affairs, Caroline Mulroney, who described the University of Sudbury's decision as "very interesting." She also stated that "We [the government] are ready to work with institutions and stakeholders in the sector to chart a possible new course." She then described the situation at LU as "very concerning" and creating "problems for post-secondary programming in the North." Attached as **Exhibit PR-4** is a true copy of a Radio-Canada article dated March 15, 2021 reporting the Minister's remarks, accessible at the following link: <https://ici.radio-canada.ca/premiere/emissions/jonction-11-17/segments/entrevue/347347/caroline-mulroney-universite-laurentienne-sudbury-uof>.
6. I listened to an interview conducted on March 17, 2021 with the Minister of Economic Development and Official Languages, Mélanie Joly. The Minister stated

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that “an academic institution in Sudbury for Francophones and by Francophones is an idea [she] likes very much and one that will appeal to the government.” She said that the establishment of a French-language university is always good news, and whenever it happens, she would be there to act as an ally. The interview of March 17, 2021 is summarized in a Radio-Canada article, a copy of which is attached to this affidavit as **Exhibit PR-5** and is accessible at the following link:

<https://ici.radio-canada.ca/premiere/emissions/le-matin-du-nord/segments/entrevue/347613/universite-sudbury-francophone-melanie-joly-reaction?fbclid=IwAR3pAqiIg8ND5MGR7fx8x95AboBINyy48HFdXBv2vdV6wyvd14HB4JUMuU>.

7. In my capacity as Regent since 2012, I have found that despite the “bilingual” and “tri-cultural” nature of LU, the reality is that English predominates – both in terms of governance and in terms of the provision of courses and services.
8. Professors have told me that for several decades, Franco-Ontarian organizations such as the Assemblée de la francophonie d’Ontario, the Association canadienne-française de l’Ontario du grand Sudbury and the Regroupement étudiant franco-Ontarien have been questioning LU’s commitment to the French fact. These same people have told me that questions have been raised as to whether all the funding received by LU for French is actually used for French. The University of Sudbury has decided to address the Francophone community’s concerns and provide it with an alternative that meets its needs.
9. The University of Sudbury’s decision to become a homogeneous Francophone university was motivated in part by the lack of commitment to French on the part of LU, which has lost the confidence of the Franco-Ontarian community. As it makes its transition, the University of Sudbury will listen to and actively work with the community.
10. As a homogeneous Francophone university, the University of Sudbury will provide what the Franco-Ontarian community has been demanding for decades: for governance to be in the hands of Francophones, for French programming to be expanded and better adapted to the needs of the community, and for government funding for French to be actually used for French.
11. The CCAA proceeding was initiated by a university that receives public funds, including funds to support French-language education, and that is accountable to the Franco-Ontarian community. As an essential part of the future of French-language post-secondary programming in northern Ontario, the Franco-Ontarian community has an interest in being involved in these proceedings. The voice of the Franco-Ontarian community is not currently represented by LU.



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12. The decision of the University of Sudbury to become a university “by” and “for” Francophones and to offer programs only in French appears to me to be financially viable.

Sworn remotely by Pierre Riopel in the municipality of Rivière-des-Français in the province of Ontario, before me in the city of Ottawa in the province of Ontario, on March 31, 2021, in accordance with O. Reg. 431/20 *Administering Oath or Declaration Remotely*.

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**PIERRE RIOPEL**

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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](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**

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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 THIERRY BISSONNETTE  
(March 29, 2021)**

I the undersigned, Thierry Bissonnette, of the city of Sudbury in the province of Ontario  
AFFIRM that:

1. I have been a professor of literature at Laurentian University ("UL") since 2007 and full professor since 2019. I am a spokesperson for the Regroupement des professeurs et des professeurs francophones at LU (the "RPF") and a member of its coordinating committee. Since September 2020, I have been serving on the Joint Committee on Bilingualism (a committee of the Senate and Board of Governors) at LU. Since the fall of 2019, I have also been participating in a working group set up by LU on the development of the Francophone sphere (*l'épanouissement de l'espace francophone*).
2. I have personal knowledge of the facts set out in this affidavit, except where they are otherwise stated to be based on information or belief.
3. The RPF is an organization that has represented Francophone professors at LU for more than thirty years, addressing issues relating to courses, programs and research in French. The RPF is dedicated to supporting, developing and promoting social and cultural life in French through the organization of activities.

***The particular concerns of Francophone professors relating to the status and use of French at LU are not being communicated or taken into consideration in the proceedings commenced by LU under the Companies' Creditors Arrangement Act (the "CCAA")***

4. The professors who belong to the RPF are also members of a union, the Laurentian University Faculty Association ("LUFA").

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5. LUFA is a party to the mediation relating to the restructuring of Laurentian University under the CCAA. The scope of LUFA's activities is limited to collective agreements and labour relations for the benefit of all its members.
6. On February 8, 2021, I contacted the Chief Steward of LUFA, Linda St. Pierre, on behalf of the RPF to ask if LUFA would address the specific concerns of LU's Francophone faculty in the CCAA proceedings.
7. On February 10, 2021, Ms. St. Pierre informed me and I believe that LUFA's lawyers would not raise the particular concerns of Francophone faculty relating to the status and use of French at LU.
8. On February 10, 2021, Ms. St. Pierre informed me and I believe that because RPF members are also members of LUFA, they are not permitted to be represented by counsel independently of LUFA.
9. On February 10, 2021, Ms. St. Pierre informed me and I believe that LUFA is pleased that some external Francophone organizations are seeking to be involved in the CCAA proceedings.
10. On February 11, 2021, the RPF met with AFO Executive director Peter Hominuk and shared with him the particular concerns of Francophone faculty regarding the status and use of French at LU. The RPF encouraged the AFO to participate in the proceedings commenced by LU under the CCAA.

***Faculty, students, and the Franco-Ontarian community are concerned about the status and use of French at LU***

11. In my 13 years as a professor, I have found that English predominates over French at LU.
12. On February 9, 2021, I was involved in developing a questionnaire for RPF members that included the following question: "Are you satisfied with the state of bilingualism at Laurentian?" I helped distribute the questionnaire and tally the responses of the 63 respondents. Not a single respondent answered "Yes, very" and only 17.5% answered "Overall, yes." More than 82.5% of members said they were dissatisfied ("Overall, no" (50.8%) or "No, not at all" (31.7 %)).
13. In September 2019, I co-authored a brief that was submitted by the RPF to the President and Vice-Chancellor, Dr. Robert Haché (hereinafter "**President Haché**"), raising concerns about the status and use of the French language at LU (**Exhibit TB-1**).
14. One of the items raised in the 2019 brief that I co-authored on behalf of the RPF concerns the Board of Governors and Senate **Joint Committee on Bilingualism**. I



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denounced its lack of commitment, openness and sensitivity toward Francophone faculty and French-language programs, courses and services (at pp. 3-4 of Exhibit TB-1). Since I became a member of this committee in March 2020, its members have not had a single meeting, despite the fact that the 2020-2021 Senate bylaws (c. XI, art. 1.(2)(f)) stipulate that the committee *must* meet at least twice a year. Attached to this affidavit as **Exhibit TB-2** is a true copy of the 2020-2021 LU Senate bylaws, accessible at the following link: <https://drive.google.com/file/d/1PR7qXNSMjVIA0C6UnBna1RoRpeuGSZWd/view?usp=sharing>. The Associate Vice President, Academic and Francophone Affairs (the “AVPAFA”) is a non-voting member of this committee. Attached as **Exhibit TB-3** is a true copy of the terms of reference of the Joint Committee on Bilingualism, accessible at the following link: [https://laurentienne.ca/assets/files/JOINT-CTTEE-ON-BILINGUALISM-Terms-of-Ref-Sept-27\\_16-EN.pdf](https://laurentienne.ca/assets/files/JOINT-CTTEE-ON-BILINGUALISM-Terms-of-Ref-Sept-27_16-EN.pdf).

15. The brief also raises the issue of the decline in enrolment in French-language programs. LU has been in no hurry to address this problem. As a follow-up to its 2018-2023 strategic plan, in 2019, LU mandated the AVPAFA to establish a **working group on the vitality of the Francophone sphere**, of which I have been a member since the fall of 2019. The working group includes faculty, managers and other employees, and was established to make recommendations on issues relating to the Francophone community at LU. In February 2020, the working group stopped meeting just as it was about to embark on a wide-ranging review of recruitment for and the creation of French-language programs. In the fall of 2020, the AVPAFA (Yves Pelletier) told me and I believe that he was writing a report on the evolution of the offering of French-language programs. However, the AVPAFA left his position on March 1, 2021. Before he did so, the AVPAFA (Yves Pelletier) told me in the winter of 2021 and I believe that he had completed his report. I have never seen the report and to the best of my knowledge it has not been made public.
16. LU has also established a committee to evaluate the offering of French-language programs at LU, but that committee has not publicly announced any findings or recommendations.
17. Between March 1 and March 15, the position of AVPAFA was vacant. On March 16, 2021, at a meeting of the Senate, President Haché announced the appointment of Provost and Vice-President, Academic, Marie-Josée Berger (hereinafter “Vice-President Berger”), to the position of AVPAFA as of the previous day, March 15, 2021. I do not know if this appointment is permanent or interim. Vice-President Berger chairs the planning committee responsible for restructuring and deciding which academic programs will be eliminated as part of LU’s CCAA proceedings.
18. As French is not a priority for LU under normal circumstances, I am very concerned, as are other RPF members, that the CCAA proceedings will have an adverse effect on

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the status and use of French at LU and jeopardize some of the French-language programs, courses and services offered at LU.

19. This concern stems in part from LU's decision in the summer of 2020 to suspend admission to 17 programs, ten of which were offered in French, which has had a disproportionately adverse effect on the offering of French-language programs.
20. I have noted that students have also expressed their concerns about the future of French at LU. Attached to this affidavit as **Exhibit TB-4** is a true copy of an open letter published in *La voix du Nord* on February 25, 2021, signed by a history student at LU, reacting to the proceedings commenced by LU and expressing concern about the status and use of French at LU, accessible at the following link:  
<https://www.lavoixdunord.ca/opinions/reponse-au-recteur-de-luniversite-laurentienne-robert-hache-9e529fc8eb14f9281a32e999f5884148?sourceOrganizationKey=le-voyageur>.  
 Another open letter published in *La voix du Nord* on March 17, 2021 expressing the anxiety and confusion felt by students and the Franco-Ontarian community as a result of the uncertainties created by the restructuring and its lack of transparency is attached herewith as **Exhibit TB-5**, accessible at the following link:  
<https://www.lavoixdunord.ca/opinions/lul-doit-arreter-de-mettre-la-tete-de-ses-etudiants-dans-le-sable-7b14b17b9e048d0c1d0e5c8505ab7d10?sourceOrganizationKey=le-voyageur>.
21. President Haché issued an open letter on March 8, 2021, a copy of which is attached to this affidavit as **Exhibit TB-6**, accessible at the following link:  
<https://www.lavoixdunord.ca/opinions/la-communaute-de-la-laurentienne-definit-la-voie-a-suivre-f08111760d2ea33d7fbb0d294b201bf1>. I am not at all reassured by President Haché's letter.
22. On March 12, 2021, the University of Sudbury announced that it was becoming a university "by" and "for" Francophones. This announcement was met with great enthusiasm on the part of RPF members, including myself.
23. On March 13, 2021, RPF member and co-author of the 2019 brief I wrote on behalf of the RPF, Joel Belliveau, made the following statement during an interview on behalf of the RPF:

For us, what matters is *the survival and development of French-language programs and governance of those programs by and for Francophones*. For now, we take no position as to where this should take place: in the University of Sudbury, in Laurentian University, or in both. [...] We are prepared to work with anyone who is *willing to advance these goals*. [emphasis added]

Professor Belliveau's remarks accurately represent the position of the RPF. Attached to this affidavit as **Exhibit TB-7** is a true copy of the article reporting this interview,

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accessible at the following link: <https://ici.radio-canada.ca/nouvelle/1777140/universite-sudbury-francophone-questions-professeurs-etudiants-reponses>.

24. On March 16, 2021, two professors who are experts on Francophone issues in Ontario expressed their support for the University of Sudbury's decision to renew itself as a university "by" and "for" Francophones. Attached to this affidavit as **Exhibit TB-8** is a true copy of an open letter published in *La voix du Nord* in which this support is expressed, accessible at the following link: <https://www.lavoixdunord.ca/courrier-des-lecteurs/universite-de-sudbury--la-gouvernance-par-et-pour-la-minorite-concept-valide-par-les-tribunaux-et-lexperience-c2c4d91aa3d87c13b7af3880a86057ec>.
25. On March 16, 2021, following the University of Sudbury's decision to become a university "by" and "for" Francophones, President Haché responded: "To be clear, the commitment to Ontario's Francophone community is a primary goal of Laurentian University." I received this message by e-mail and it has been published on LU's website. Attached to this affidavit as **Exhibit TB-9** is a true copy, accessible at the following link: <https://www.laurentianu.info/a-beacon-of-ontarios-francophonie/>. I do not believe President Haché is sincere when he states that French-language programming and instruction will be "valued" by LU and that "this objective will continue throughout [the] restructuring" under the CCAA. The President remains vague and does not commit to anything concrete.
26. On March 16, 2021, I gave an interview in which I expressed my skepticism and that of RPF members regarding President Haché's promises:

It's an empty shell. He merely repeats the idea that bilingualism and French are important, but no actions have been taken since 2019. [...] It raises hope, but without any guarantees. Is it intended to smooth things over? But we're being asked to hand over a blank cheque, and it doesn't inspire much confidence [...] We've been told we're important 50,000 times over, and we've been asking for concrete change for three years.

Attached to this affidavit as **Exhibit TB-10** is a true copy of the article published the same day quoting my remarks, accessible at the following link: <https://onfr.tfo.org/la-laurentienne-la-programmation-en-francais-nira-pas-a-luniversite-de-sudbury-dit-le-recteur/>.

27. On March 17, 2021, 41 faculty members, including myself, responded to President Haché's statements. Attached to this affidavit as **Exhibit TB-11** is a true copy of that letter, accessible at the following link: <https://www.lavoixdunord.ca/courrier-des-lecteurs/le-regroupement-des-professeures-francophones-demande-des-reponses-0fc1363c8e8e654121a12626ca1e9851?sourceOrganizationKey=le-voyageur>.

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28. On its website, responding to questions about the restructuring, LU states:

[A]s part of the CCAA proceedings, Laurentian will be reviewing its program offerings to ensure that all classes and programs have sufficient student interest to justify their continued offering. Classes and programs with chronic low enrolment may be restructured to help facilitate Laurentian's financial sustainability.

[...]

Laurentian will be reviewing its program offerings to ensure that all classes and programs have sufficient student interest to justify their continued offering. Classes and programs with chronic low enrolment may be restructured to help facilitate Laurentian's financial sustainability.

Attached to this affidavit as **Exhibit TB-12** is a true copy of these excerpts from the website (updated on March 22, 2021), accessible at the following link:

<https://www.laurentianu.info/faq/>.

29. I agree with the following excerpt from the open letter published in *La voix du Nord* on March 17, 2021:

[LU] has demonstrated in the past that it has little regard for its Laurentian Federation partners. The prime example is the unilateral change in revenue sharing with its federated partners in 2019. Laurentian often acts like a jealous big brother who wants to keep all the toys for himself but doesn't touch them once he has them. And the letter sent by the President to the university community proves that the institution has no intention of letting anyone else have its French-language programs. So we run the risk of being stuck with an institution that wants to keep everything for itself despite the harm that does to minorities.

A copy of this open letter of March 17, 2021 is attached to this affidavit as Exhibit TB-5.

30. Also on March 17, 2021, President Haché issued a message stating, among other things, that LU's restructuring plan will propose a "new Laurentian that celebrates and preserves much of the culture that has defined us: [...] where Francophone programming is valued and where our bilingual character is celebrated." Even if LU were to make such a proposal, I do not believe that LU will be able to achieve this modest goal regarding the status of French. Attached to this affidavit as **Exhibit TB-13** is a true copy of this message, accessible at the following link:

<https://www.laurentianu.info/message-from-president/>.

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31. On March 19, 2021, I voted in favour of a resolution passed unanimously by 60 RPF members, asking LU to “commit to provide institutional autonomy for Francophone programs as a whole (governance, curriculum, funding).” The resolution states:

WHEREAS students in the Mid-North are taking the equivalent of more than 1,300 full-time university course loads in French;

WHEREAS young Franco-Ontarians, immersion students and newcomers deserve a full range of university programs in French in the Mid-North;

WHEREAS French-language university programs in this region have been a driving force – and a most important one – behind the economic, social and cultural development of the Francophone community of Northeastern Ontario for more than a century and will continue to be essential, particularly for economic development and integration;

WHEREAS there is an urgent need for transparency in the management of public funds for French-language university education in the Mid-North;

WHEREAS management “by and for” the community is recognized as the cornerstone of social, economic, cultural and educational development in Canada’s official language minority communities;

WHEREAS a board of governors drawn from the French-speaking community would be in a better position to know the community’s needs with regard to French-language academic programming;

WHEREAS the current model of full bilingualism at Laurentian University disperses Francophone faculty members and leaves them unable to implement programming designed for and with Francophones;

WHEREAS the Associate Vice-Presidency, Francophone Affairs, by its very nature, is nothing more than an appendage to the actual senior administration and does not have the capacity to direct French-language academic programming;

WHEREAS in its current structure, Laurentian University has long neglected certain tasks that are essential to the success of its French-language programs (lack of new programs, international recruitment and differentiated marketing campaigns);

BE IT RESOLVED that the Regroupement des professeurs francophones demand that the governance of French-language university programs in the Mid-North, along with related services and funding, be entrusted to a board of governors drawn from the French-speaking community of New Ontario

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according to the “by and for” principle, as the community has been demanding for decades.

Attached to this affidavit as **Exhibit TB-14** is a true copy of the letter and the resolution I sent.

33. On March 26, 2021, President Haché issued the following message, which may resonate with my Anglophone colleagues at LU, but flies in the face of the RPF’s resolution of March 19, 2021 (Exhibit TB-15):

There is no ‘single story’ of the Laurentian University student. In pursuit of self-discovery, our students have vibrantly diverse and sometimes opposing views. Yet they are also part of a community, one in part driven by shared outlooks on the world.

In the past sixty years, we have provided an education to 66,000+ thought leaders committed to the idea of building, nurturing, and contributing to the prosperity of their communities here in the North, across Ontario, and beyond.

Laurentian students *are multicultural and richly diverse*. They are driven by curiosity in their learning, teaching, and research. They prioritize their relationships with each other and with the community. They are breaking trails within their families and on behalf of communities around the globe.

Above all, they honour our *tricultural roots*, celebrating Indigenous and Francophone cultures here on Turtle Island, in Ontario, and around the globe.

Laurentian is *Canada’s only university with a tricultural mandate, offering a post-secondary experience in English and French* with a comprehensive approach to Indigenous education. These principles are a point of pride, they are part of our story, and of what we aspire to be as a community.

*Much ink has flowed over the future of Laurentian’s tricultural mandate, calling into question whether or not the sacred character of our cultural identity will be preserved as we navigate a restructuring under the Companies’ Creditors Arrangement Act (CCAA).*

Yet as I recently wrote in an open letter to the community, a new Laurentian is one that emphasizes and values Indigenous and Francophone programming, learning, and teaching, principles that are very much a part of the fabric of who we are as an academic community.



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*A new Laurentian will provide our community with the opportunity to reinvent itself and deepen its commitment to Indigenous and French-language education. To be a university where our students are culturally diverse and culturally aware. Immersed in more than one language. And proud of it.*

A new Laurentian offers us the possibility to live up to *the promise of our tricultural mandate* by further immersing ourselves in our *budding trilingualism*, bringing our respect, pride, and enthusiasm for the Anishinaabemowin language to bear on our *community's tricultural identity*.

We will earnestly uphold the Truth and Reconciliation Commission Calls to Action and work to heal our relationship with First Nations, Métis, and Inuit peoples, honouring our connection to the land and the history of the traditional territory of the Atikameksheng Anishnawbek on which Laurentian is situated.

We will celebrate the grit and determination of Indigenous communities across Turtle Island, further honouring the advocacy of many in the Laurentian community who have led the way for the inclusion and vitality of the Anishinaabemowin language on our campus.

Together, we will continue to write the Laurentian story: one where we rise to the challenge of who we aspire to be as a community of learners determined to realize our full potential, changemakers who will shape the future of our communities here on Turtle Island, in the North, and across Ontario, and beyond. [emphasis added]

Attached to this affidavit as **Exhibit TB-15** is a true copy of President Haché's message dated March 26, 2021 published on the LU's website, accessible at the following link: <https://www.laurentianu.info/committed-to-a-tricultural-laurentian/>.

34. In his message dated March 26, 2021 (Exhibit TB-15), the President states in the ninth paragraph that "[a] new Laurentian offers us the possibility to live up to the promise of our tricultural mandate by further immersing ourselves in our [budding trilingualism](#), bringing our respect, pride, and enthusiasm for the Anishinaabemowin language to bear on our community's tricultural identity." When reading the message of March 26, 2021 on the LU's website, I clicked on the words "budding trilingualism" and was taken to an article in the *Maclean's* issue of November 1, 2019, entitled "Laurentian University's path to reconciliation is trilingual," a copy of which is attached herewith as **Exhibit TB-16**, accessible at the following link: <https://www.macleans.ca/education/laurentian-universitys-path-to-reconciliation-is-trilingual/>. In the body of this article, the *only* mention of French is about the possibility of learning Anishinaabemowin and offering courses in that

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language *at the expense of* (rather than in addition to) *offering* French language courses and courses in French: “Maybe we increase the availability of classes to learn the language or provide opportunities for staff and faculty to take classes [in Anishinaabemowin] rather than French.”

Sworn remotely by Thierry Bissonnette in the city of Sudbury in the province of Ontario, before me in the city of Vancouver in the province of British Columbia, on March 29, 2021, in accordance with O. Reg. 431/20 *Administering Oath or Declaration Remotely*.

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**THIERRY BISSONNETTE**

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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 AURÉLIE LACASSAGNE  
(March 29, 2021)**

I the undersigned, AURÉLIE LACASSAGNE, of the city of Montréal in the province of Québec  
AFFIRM that:

1. I have been an associate professor of Political Science at Laurentian University (LU) since 2006. I served as head of the Political Science Department at LU from 2012 to 2013, and as Francophone Associate Dean of the Faculty of Social Sciences and Humanities at LU from 2010 to 2013. As such, I have personal knowledge of the facts set out in this affidavit, except where they are otherwise stated to be based on information or belief.
2. In my 15 years as a professor, I have found that although LU describes itself as a “bilingual” and tricultural university, LU does not provide equitable access to French-language and English-language courses and neglects its Francophone faculty. This is illustrated by the following examples.
3. When the previous President and Vice-Chancellor, Dominic Giroux, began his term in 2008, I wrote a letter to him denouncing the decline in enrolment in French-language programs at LU and recommending measures to promote the recruitment of Francophone students from abroad. I never received a response to my letter.
4. In 2010-2011, I was a member of the Steering Committee for LU’s very first strategic plan (2012-2017). I was the only Francophone faculty member on the committee, and at that time, all my teaching was in English.
5. The first draft of the strategic plan presented to us by the LU administration identified “signature programs” that LU would support financially and promote across Canada. The first draft did not have any French-language programs among the “signature programs.” I pointed out this omission to the other members of the Steering Committee, and after I insisted, they agreed to designate some French-language programs as “signature programs.” I had to press even harder to convince them to give this designation to the history and theatre programs. In

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the end, of the 13 undergraduate “signature programs,” only five were French-language programs (Education, Midwifery, History, Theatre, and Nursing Sciences), and not a single one of the six graduate “signature programs” was offered in French. Attached to this affidavit as **exhibit AL-1** is a true copy of the strategic plan, accessible at the following link:

[https://stor.laurentian.ca/www\\_laurentian\\_ca/sites/default/files/misc\\_files/About\\_LU/Documents/StratPlanElec\\_ENG\\_Jan2012.pdf](https://stor.laurentian.ca/www_laurentian_ca/sites/default/files/misc_files/About_LU/Documents/StratPlanElec_ENG_Jan2012.pdf).

6. Although it had designated the History and Theatre programs as “signature programs”, LU did not invest in these programs or promote them. The Theatre Department had only one full-time professor, and the number of Francophone professors in the History Department decreased.
7. In its strategic plan (2012-2017) (Exhibit AL-1), LU also committed to “support [its] high quality French-language programs including those that respond to community need for services in health, education, culture, and business” and, by 2017, to launch “new programs [...] responding to community needs, including [...] theatre and Franco-Ontarian literature.” LU has not followed through on these commitments.
8. Since LU has not honoured its commitments regarding French-language programming and teaching in the past, I do not believe the President and Vice-Chancellor, Robert Haché, when he states that he is “committed to the future of Laurentian as a university where French-language programming and teaching is valued and our bilingual character celebrated” in a message of March 16, 2021, accessible at the following link: <https://www.laurentianu.info/a-beacon-of-ontarios-francophonie/>.
9. In its strategic plan (2012-2017) (Exhibit AL-1), LU states that: “Laurentian University with its federated partners offers an outstanding university experience, in English and French.” I can attest to the fact that this did not reflect the situation in 2011, and it still does not reflect the reality today.
10. Faculty contracts at LU specify whether professors are hired to teach in French or English. Currently, if professors hired to teach in English (like myself) did not decide to teach additional courses in French, a number of French-language courses would no longer be offered. Also, if professors hired to teach in English did not decide to teach additional courses in French, a number of programs could no longer be offered in French because they do not have enough faculty members (some programs have just one or two professors, including the following: Law and Justice, Francophone Literature and Culture, French as a Second Language, and Economics).
11. LU has a policy of not replacing tenured faculty members, including when they retire. The reduction in the number of faculty members leads to a reduction in the number of courses and programs offered in French-language programs. For example, in the Political Science Department, the number of professors hired to teach in French was reduced from four in 2010 to one since 2018. Around 2011, the two professors in the Political Science Department who were experts in public administration and had been hired to teach in French left LU; LU did

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not replace them, and enrolment in the public administration program was suspended. In 2018, a third professor in the Political Science Department hired to teach in French left LU. This professor usually taught five courses in French. The fourth and final professor in the Political Science Department hired to teach in French worked intermittently and was on leave a number of times from 2016 to 2018; since 2018, his course load has been reduced. To fill the gaps resulting from these departures and absences, LU hired a single lecturer (responsible for teaching two courses in French), which is not enough to maintain the department's French-language course offering as it was in 2018. In the fall of 2018, LU suspended enrolment in the French-language Political Science program (the specialization and the major). The only major now available in French is Law and Politics.

12. In 2013, I was a member of the coordinating committee of the Provincial Forum on Post-Secondary Education in French Ontario. As part of this Provincial Forum, the *Regroupement étudiant franco-ontarien* [Franco-Ontarian Student Organization], in partnership with the *Assemblée de la francophonie de l'Ontario* and the Fédération de la jeunesse franco-ontarienne [Franco-Ontarian Youth Federation], organized six regional consultations and four youth consultations to provide an overview of the population's needs and expectations in a number of areas affecting the future of French-language post-secondary education in Ontario. Out of these consultations, a consensus emerged on the need for a post-secondary network managed "by" and "for" Ontario's Francophones. Attached to this affidavit as **Exhibit AL-2** is a true copy of the report (dated September 26, 2014) that resulted from the regional and youth consultations conducted as part of the Provincial Forum on Post-Secondary Education in French Ontario, accessible at the following link:  
<http://etatsgeneraux.ca/resources/Rapport%20des%20consultations%20de%20l'automne%202013%20-%20États%20généraux%20sur%20le%20postsecondaire%20en%20Ontario%20français.pdf>.

13. I was the only LU professor on the coordinating committee.
14. On Saturday, November 2, 2013, the then President and Vice-Chancellor, Dominic Giroux, and I were at École secondaire du Sacré-Cœur in Sudbury for one of the regional consultations of the Provincial Forum on Post-Secondary Education in French Ontario. President Giroux asked me privately to step down from the coordinating committee of the Provincial Forum on Post-Secondary Education in French Ontario. I replied that I would not step down from the coordinating committee. During the same conversation, President Giroux also told me and I believe that he was working on a way to prevent the project of establishing a Francophone university in Ontario from going forward.
15. In the Report of the Provincial Summit of the Provincial Forum on Post-Secondary Education in French Ontario, a summit held in Toronto in October 2014 as the culmination of regional and youth consultations conducted in the fall of 2013, including the regional consultation in Sudbury in which I took part, four priorities were identified. These included:



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- a. “enhance access to French-language programs, particularly in Central Ontario where the gap between the Franco-Ontarian population and the inadequate offering of programs is greatest, but also in Eastern and Northern [Ontario]”; and
- b. “obtain university governance by and for Franco-Ontarians, i.e. an institution designed specifically for them and one that is managed and controlled by them. This must not be limited to the advisory management of programs, but must also extend to administration, finances, student life, academic activities, research, and physical facilities.”

Attached to this affidavit as **Exhibit AL-3** is a true copy of this report dated February 10, 2015, accessible at the following link:

<http://etatsgeneraux.ca/resources/Rapport%20du%20Sommet%20provincial%20des%20%C3%89tats%20g%C3%A9n%C3%A9raux%20sur%20le%20postsecondaire%20en%20Ontario%20fran%C3%A7ais.pdf>.

16. The Report of the Provincial Summit of the Provincial Forum on Post-Secondary Education in French Ontario (Exhibit AL-3) also states the following:

While the scenario of a new French-language university was favoured by the overwhelming majority of participants, a student from Laurentian University suggested that “perhaps we could start with another model [the division of a bilingual university or the creation of a new entity within it] to begin a transition toward that ideal.” Thus, we would start with the division of existing bilingual universities. For example, the University of Ottawa and Laurentian University would be split, resulting in two smaller French-language universities and two additional English-language universities. Funding, administrators, employees, professors, pavilions and student services would be divided in order to integrate French-language programs and their management within a new French-language institution. [at p. 19]

[...]

With the exception of administrators of bilingual universities, who expressed strong reservations about all the models, there was a consensus among participants in the six sessions of this workshop. There was almost unanimous support for the first model, i.e. the establishment of an independent French-language university. Others saw the establishment of an affiliated or federated university as an interim solution that could plausibly allow an independent French-language university to emerge seamlessly in the not-too-distant future. [at p. 26]

17. In 2014, LU was designated as a public service agency within the meaning of of the *French Language Services Act*. President Giroux touted this designation as a concrete commitment by LU to French at the university. I did not notice any concrete improvement in the offering of French-language programs, courses and services after this designation. I was disappointed to learn that according to LU, “[t]he partial designation was not intended to, nor does it

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guarantee: (a) “[t]he delivery of a specific program or course in French,” (b) “[a] minimum number of French-language courses or programs” or (c) “[a] minimum number of Francophone faculty university-wide or by department or school.” Attached to this affidavit as **Exhibit AL-4** is a true copy of the page of LU’s website on which this information appears, accessible at the following link: <https://laurentian.ca/francophone-affairs/institutional-bilingualism>.

18. Contrary to LU’s policy on bilingualism (art. 9.4), there are many professors at LU who do not understand French, which undermines the mandate of LU’s Research Ethics Board. This Board reviews all research involving human participants and ensures that they are respected. When I was a member of the Research Ethics Board from September 2015 to July 2016, only one other person among its twelve members was a Francophone. The other ten members did not understand French. As a result, the other Francophone professor and I were responsible for all applications in French. That meant that if one of us had a conflict of interest, the review was done by a single person.
19. Since LU does not provide equitable access to French-language and English-language courses and neglects its Francophone faculty, I am concerned that this negative treatment will be exacerbated during and after the proceedings under the *Companies’ Creditors Arrangement Act*. Attached to this affidavit as **Exhibit AL-5** is a true copy of an article dated March 10, 2021 in which I am quoted expressing this view, accessible at the following link: <https://www.lavoixdunord.ca/actualites/francophonie/universite-laurentienne--la-banqueroute-pour-mieux-couper-3f3fabdfd6b3c03f1c270294db5d35a2?sourceOrganizationKey=le-voyageur>
20. On March 2, 2021, I participated in a round table entitled “Laurentian University and the challenges facing French-language teaching in Northern Ontario,” organized by the *Collège des chaires de recherche sur le monde francophone* [College of research chairs in the Francophone world] of the University of Ottawa. It included five guest professors – four from LU (including myself), and one from the University of Sudbury. The key takeaway of this round table that LU’s bilingualism does not meet the expectations of the French-speaking minority, particularly when it comes to access to quality French-language programs and the status and use of French. Attached to this affidavit as **Exhibit AL-6** and **Exhibit AL-7** are true copies of articles on this round table, dated March 9, 2021 and March 2, 2021 respectively, accessible at the following links: <https://www.lavoixdunord.ca/actualites/education/une-universite-francophone-a-sudbury-77511210d41f01b790694d04600bdf9e?sourceOrganizationKey=le-voyageur> and

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THE AFFIDAVIT OF AURÉLIE LACASSAGNE  
SWORN ON MARCH 29, 2021**

<https://www.lavoixdunord.ca/actualites/education/une-universite-bilingue-qui-ne-reve-pas-en-francais-bec42ef7242a99fec73c641f8bd2c55d?sourceOrganizationKey=le-voyageur>.

Sworn remotely by Aurélie Lacassagne in the city of Montréal in the province of Québec, 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*.

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**AURÉLIE LACASSAGNE**

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**UNOFFICIAL TRANSLATION OF THE  
AFFIDAVIT OF RÉMI LÉGER  
SWORN ON MARCH 18, 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 RÉMI LÉGER  
(March 18, 2021)**

I the undersigned, RÉMI LÉGER, of the city of Vancouver in the province of British Columbia, AFFIRM that:

1. I am an associate professor of Political Science and Director of the Public and International Affairs program at Simon Fraser University in British Columbia. I am also the editor of the journal *Francophonies d'Amérique* and the head of the research committee on the relationship between language and politics in the International Political Science Association.
2. I have a B.A. in Political Science from the Université de Moncton (2005), an M.A. in Political Science and Canadian Studies from the University of Alberta (2007) and a Ph.D. in Political Studies from Queen's University (2012). Between 2012 and 2018, I was an assistant professor of Political Science at Simon Fraser University; in 2018, I obtained tenure and was promoted to associate professor in the same institution.
3. I specialize in Francophone minorities in Canada and Canadian language policies. My research generally looks at the recognition of linguistic minorities, and public and community governance. More specifically, I study *why* and *how* the state should intervene to protect and promote the interests and rights of minorities. The first of these questions is a normative one, while the second is institutional. These two questions must be considered together, since they allow us to focus on both the concrete solutions and the rationales behind those solutions.
4. I have published some 20 peer-reviewed articles and chapters on Canada's language framework, the political action of Canada's Francophone minorities, and Canadian language policies. I also co-edited an introductory textbook on political science, a book about the concept of "Canadian duality" and three thematic issues of academic journals, including an issue on the concept of "institutional completeness."

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5. My career and accomplishments are more fully described in the CV filed with this affidavit as **Exhibit RL-1**.
6. On March 15, 2021, Power Law asked me to prepare an expert opinion answering the following question: Do official language minority communities require institutions that operate in a single language and offer services in that language only, rather than bilingual institutions, and if so, why?
7. I have read the duties of an expert and have signed the Acknowledgment of Expert's Duty attached to this affidavit as **Exhibit RL-2**.
8. In this affidavit, I outline the main reasons minorities, including Canada's Francophone minorities, require their own institutions in as many areas as possible, including post-secondary education. In my view, the vitality of these communities depends on their ability to control homogeneous spaces, including homogeneous post-secondary institutions, i.e. operating in a single language, and offering services in that language only.
9. In concrete terms, I outline three reasons that come out of my own work as well as scholarly research on linguistic minorities and language policies. In particular, I have relied on my own research and the works listed in the bibliography that is attached to this affidavit as **Exhibit RL-3**. The first reason relates directly to homogeneous spaces; the second is well captured by the concept of institutional completeness; and the last relates to the idea of control and management – also referred to as the “by and for” principle by Canadian Francophone organizations. Taken together, these three reasons allow me to assert that homogeneous institutions managed by and for the linguistic minority make a greater contribution to the transmission of language and culture, which are inseparable.
10. The **first reason** was first formulated by the political scientist Jean Laponce, and has since been taken up and improved upon by a number of others. His full reasoning can be found in two essential works entitled *Langue et territoire* [Languages and Their Territories] (1984) and *Loi de Babel et autres régularités des rapports entre langue et politique* (2006).
11. According to Laponce, a linguistic minority's vitality depends on the concentration of its speakers. In the absence of such concentration, the dominant language (English, for example) replaces the minority language (French, for example). In more technical terms, “additive bilingualism” (where the dominant language is juxtaposed with the minority language without replacing it) gives way to “subtractive bilingualism” (where the dominant language is superimposed on the minority language and gradually supplants it), and the latter leads only to linguistic assimilation and the eventual extinction of the minority language community.
12. In his research, Laponce shows that languages are in competition and “chase each other” (1980:480). From the moment two languages share the same space, the dominant language tends to impose itself to regulate communication. Thus, in so-called “bilingual” spaces,



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because of its demographic weight and prestige, the dominant language tends to supplant the minority language.

13. To counter the assimilative pressure on the minority language in bilingual spaces, Laponce argues that “the weaker language must be given its own reserved areas of use” (2006:12). In other words, it needs to be given its own homogeneous spaces. To achieve this, two strategies are available to the minority language community: territory or institutions. In both cases, the objective is the same: to create geographic or institutional spaces in which the working language is the minority language.
14. The optimal strategy is to establish a “territorial niche,” as this allows the minority community to impose its language on all political, economic and social institutions within its territory. However, this strategy is not available to all minorities, as many do not have their own exclusive geographic area; some minorities, including many of Canada’s French-speaking minorities, share their territory with the majority as well as other groups.
15. If the minority language community is not geographically concentrated, the second strategy is for the state to set aside institutional spaces for it, in which its language is given “royal” status. Here, the objective is to create institutions in which the normal language of work, communications and activities is the minority language. Thus, for a linguistic minority that shares its territory with other languages, control over its own institutions in areas that are deemed to be sensitive is the essential precondition for survival.
16. This first reason for which the vitality of minority language communities depends on their ability to control homogeneous institutions leads us directly to the **second reason**: institutional completeness. The concept of institutional completeness has its origins in the research of sociologist Raymond Breton. In 2017, Linda Cardinal and I co-edited a journal issue that showed how this concept continues to be relevant to the study of linguistic minorities in Canada and other parts of the world.
17. In simple terms, institutional completeness postulates that the more institutions a community has of its own, the greater its capacity to sustain itself over time.
18. Breton first developed the concept in a study to assess the impact of both majority and minority institutions on the integration of immigrants in the Montréal area (1964). In that first study, Breton observed that the more institutions a group had, the better it was able to retain its members and attract new ones. In other words, a minority community’s ability to sustain itself over time depends on its level of institutional completeness, i.e. the range of institutions it has.
19. In the 1980s, Breton studied Canada’s Francophone minorities through the lens of institutional completeness, giving the concept greater normative significance. In this work, Breton underlines the importance of providing Francophone minority communities with a “distinct institutional life” (1985b:80), i.e. a network of institutions in a wide range of areas of activity.

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20. In his research on Francophone minority communities, Breton reflects on the relative importance of different sectors of activity for community vitality. He writes that some sectors are more important than others “because they take up a larger part of people’s lives and because they provide more frequent opportunities for social relations within ethnolinguistic boundaries” (1985a:10). In his view, the family, the economy and education are important factors for community vitality, as well as leisure and cultural activities, which are factors “that should not be neglected” (*ibid.*). Here, we must not lose sight of the relationship between these factors and, more importantly, the central role a post-secondary institution plays in the ecosystem of a linguistic minority, contributing to both the economic sector and leisure and cultural activities. Thus, the creation of a homogeneous post-secondary institution has a positive impact on many of the factors that contribute to the vitality of a minority language community.
  
21. This analysis of the importance of institutions for the vitality of linguistic minorities leads us directly to a **third reason** minorities require institutions of their own: control and management, commonly referred to as the “by and for” principle.
  
22. In my own work, I have interpreted control and management in light of theories of empowerment (Léger, 2014; see also Léger and Normand, 2020a). This allows us to better understand the two components of control and management. Firstly, empowerment focuses on the ability of actors to shape their reality or aspects of their reality. Secondly, empowerment requires us to focus on the aspirations of the individuals or communities concerned. From this perspective, empowerment refers to the idea that individuals or communities are best placed to define their needs, develop strategies for action, and implement them. This concept implies the transfer of a degree of control to communities so that they can make their own decisions.
  
23. The principle of control and management, commonly referred to as the “by and for” principle, follows the logic of duality rather than that of bilingualism. In Canada, bilingualism generally refers to bilingual institutions in which both languages have status, rights and privileges. In these bilingual institutions, the dominant language (English) supplants the minority language (French), which means that bilingual institutions are incapable of fully protecting and promoting minority interests and rights.
  
24. Duality, on the other hand, involves separate institutions that operate in a single language and that protect and promote the interests of that linguistic community. Francophone parents’ struggles to manage their own schools in many parts of the country provide a good illustration of the difference between bilingual and homogeneous institutions. Francophones in provinces and territories outside Québec have been fighting to gain full control of programs and schools, because they are in the best position to make decisions about their children’s education. Where programs or even schools are managed by Anglophone or bilingual school boards, the interests of the minority are relegated to second place.

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25. Thus, the case for control and management is one that advocates autonomy, urging the state to give Francophone minorities the means to realize their ambitions, i.e. to have their own institutions, and to have control over them.
26. In my own work, I have studied all the political manifestos and study reports produced by the Fédération des communautés francophones et acadienne [Federation of Francophone and Acadian Communities], formerly the Fédération des francophones hors Québec [Federation of Francophones outside Québec] (FFHQ/FCFA), since it was founded (Léger, 2012; Léger and Normand, 2020b). This organization is the leading organization promoting the interests and defending the rights of Canada's Francophone minorities. It includes the organizations that represent Francophones in the twelve provinces and territories outside Québec, including the Assemblée de la francophonie de l'Ontario (AFO), as well as eight national organizations. It also oversees the Forum des leaders [Leaders' forum], which brings together 49 institutions and organizations working to develop Canada's Francophonie.
27. An analysis of the documents produced by the FFHQ/FCFA shows that this organization has been calling for control and management, and that the communities it represents require institutions of their own. For example, it has called for communities to be enabled "to develop their own means of economic, social and cultural advancement" (1977: 118), for a comprehensive development policy that "must be aimed at transferring as much power as possible to the communities" (1982: 38-39), "for our communities to become as autonomous as possible" (1992: 12), and for the broadening of "control and management (i.e. the management of schools) to other key institutions and sectors" (2007: 7).

Sworn remotely by Rémi Léger in the city of Vancouver in the province of British Columbia, before me in the city of Montréal in the province of Québec, on March 18, 2021, in accordance with O. Reg. 431/20 *Administering Oath or Declaration Remotely*.

**RÉMI LÉGER**

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**UNOFFICIAL COURTESY TRANSLATION OF  
THE AFFIDAVIT OF SERGE DUPUIS  
SWORN ON MARCH 3, 2021**

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

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

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C.  
1985, c. C-36, AS AMENDED

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

**AFFIDAVIT OF SERGE DUPUIS  
(March 3, 2021)**

**(EXPERT REPORT CONCERNING  
THE HISTORY OF LAURENTIAN UNIVERSITY  
AND ITS RELATIONSHIP WITH FRANCO-ONTARIANS)**

I, SERGE DUPUIS, of Quebec City in the province of Quebec, AFFIRM:

1. I was born in Sudbury and I work as a historian specializing in Ontario's Francophonie.
2. I hold a PhD in history from the University of Waterloo (2013) and a MA in history from the University of Ottawa (2009). In 2016, I completed a postdoctoral fellowship at Université Laval in history and I am currently an associate member of the *Chaire pour le développement de la culture d'expression française en Amérique du Nord* (CEFAN) at this university. My career path and achievements are more fully described in the curriculum vitae attached to this affidavit as **Exhibit SD-1**.
3. In this affidavit, I refer to various historical studies, research reports, and articles, some of which I have written. The contents of this affidavit are also based on the material I consulted in the course of my research and preparation of this affidavit, which I verily believe to be true, and which are detailed in **Exhibit SD-2**.
4. My affidavit presents the overall evolution of Laurentian University as a bilingual institution, highlighting the salient features of its relationship with and towards Franco-Ontarians.
5. On February 27, 2021, I received instructions from Power Law to prepare a historical synthesis of the Laurentian University and its relationship with the Franco-Ontarian community, focusing on the evolution of bilingualism at the institution and the interaction between the representatives of the minority community and the majority community during its history.

6. The history and evolution of Laurentian University reveals a unique relationship between the Franco-Ontarian minority and the linguistic majority through consultation, collaboration, consent, and autonomy.
7. This affidavit demonstrates the variety of practices, customs, claims, tensions, and structures that have allowed for the expression of Francophone decision-making participation in the development of French-language higher education in Sudbury, and in particular, at the University of Sudbury, founded as the first university in Northern Ontario in 1957, and at Laurentian University, founded as a secular bilingual university in 1960.
8. Two clarifications are necessary. First, the separate (Catholic) school boards in Northeastern and Eastern Ontario, where Catholics are predominantly French-speaking, are areas of relative administrative autonomy at the school level. Thus, the University of Sudbury, founded by Francophone Jesuits in 1957, is a place where Catholics, mainly Francophones, express their aspiration for an education that is consistent with the heritage and needs of the population it proposes to serve. Thus, the bilingualism of these institutions is sometimes instrumentalized to legitimize their existence and their service to French Canadians.
9. Next, it is important to understand how the origins and evolution of Laurentian University demonstrate the extent to which this institution is not like other universities, and that its history is unique in that it has, to varying degrees, recognized its responsibility to consult and obtain consent from Francophones, with respect to its decisions and structures, and to allow them spaces for autonomy for teaching, the management of that teaching, but also for cultural expression. The history and culture of Laurentian University is unlike that of other Ontario universities.
10. Although the first signs of French presence in Ontario date back to 1610, most French Canadians settled in Ontario during the 19th century. In 1911, Ontario had 202,000 French Canadians (60% were unilingual Francophones) and had 200 “bilingual” elementary schools, which taught mainly in French, as well as a handful of private Franco-Catholic colleges, according to historians Robert Choquette (1987) and Fernand Ouellet (2005).
11. With the official recognition of French by the province of Quebec and certain federal institutions, French Canadians in Ontario become a “viable” community, according to historian Gaétan Gervais (1993), “endowed with an institutional network” sufficient to endure over time as a national minority, unlike the descendants of immigrants who integrate into English-speaking society and maintain little or no use of their ancestral language.
12. In June 1912, the Conservative provincial government proclaimed Regulation 17, which prohibited French-language education in the province’s schools starting in Grade 3.



13. Hardware store owner Félix Ricard and doctor J.-Raoul Hurtubise joined the separate school board to force it to better divide Francophones and Anglophones in the classroom. André Lalonde (1965) recalled that French-speaking Catholics occupied three out of six seats in 1913 and four out of six seats in 1915. With the help of the Jesuits and the Grey Nuns, the commission “organized from scratch a system of bilingual schools contrary to the letter of the law [Regulation 17], but in accordance with its spirit” according to J.-Raoul Hurtubise (1954).
14. French Canadians used separate schools and separate school boards as a place of power, of decision making, to create distinct spaces that French Canadians could manage, in a setting where they were in the majority, even if they were not alone on the separate school board, and shared authority with the Irish and Italian minority.
15. At the secondary school level, the opening of Sudbury High School (1908), with a mining department that taught chemistry, geology, mineral science, physics, metallurgy, and soil evaluation, helped train skilled workers, according to the *Sudbury Journal* (November 10, 1910). The first cohort of 22 graduates, according to the *Sudbury Journal* (July 4, 1912), included 3 French Canadians.
16. At that time, the Jesuits had just begun work with J.-B. Laberge to build a three-storey Catholic college. According to the *Sudbury Journal* (May 30, 1912), the Jesuits said they wanted to teach “subjects taken up in the High School,” in addition to Greek and Latin. The Jesuits were responding to the desire of the Diocese of Sault Ste. Marie, established in 1904, to have an institution to form an elite Catholic and inspire vocations in Northern Ontario. The first cohort of 94 boys, welcomed in September 1913, included about 20 English-speaking men. However, since the teachers were all French-Canadians, the English-speaking students stopped enrolling. Collège du Sacré-Cœur taught only in French from 1916 and affiliated itself with the University of Ottawa (1914-1926), then with Laval University (1927-1957), to award bachelor's degrees to those who completed the classical eight-year course, as Gaétan Gervais and Robert Toupin pointed out (2014).
17. As Guy Gaudreau's chapter in *Laurentian University: A History* (2010) demonstrated, the origins of Laurentian University can be traced back to Collège du Sacré-Cœur.
18. The prosperity generated by the Second World War enabled the Jesuits to obtain the support of their provincial government in 1941 to establish a university in Sudbury. The Jesuits were able to obtain the support of Sudbury MPP Robert Carlin, elected in 1943, to apply for a charter.
19. Private Bill 15, An Act respecting Sacred Heart College of Sudbury (1945) amended the charter (Chapter 131, Statutes of Ontario, 1914) and changed its name to “University of Sudbury.” The bill is silent on the language or religion of the future institution, but since Collège du Sacré-Cœur is Francophone and Catholic, it is implicit that these characteristics would be at the heart of the new university.

20. The project calls for the formation of a Board of Governors, made up of 10 to 21 "British subjects" and a Board of Directors whose purpose would be "to maintain and operate the University in order to promote the intellectual, moral and physical welfare of its students and teaching staff".
21. The bill passed its second reading (March 20, 1945), but died on the Order Paper when the Assembly was dissolved in April.
22. When the 21-member Royal Commission on Education in Ontario, four of whom were Catholic and one Franco-Ontarian, flourished with the idea of abolishing the separate school system and restricting French-language education at the elementary level, despite strong opposition from Catholic and Francophone commissioners, the *Association canadienne-française d'éducation d'Ontario* (ACFEO) raised its voice against the project. The *Centre de recherche en civilisation canadienne-française* (2004) reminds us that Premier Leslie Frost considers that he is not bound by the report and relegates its main recommendations to oblivion.
23. The Jesuits restarted their efforts to obtain a university in the 1950s, in part because they were, according to Daniel Bouchard (1996), "overwhelmed by debt". Originally from Verner and a former student of the Collège, Rector Alphonse Raymond wanted his university's bachelor's degree to become autonomous and obtain provincial funding. However, Raymond faced two difficulties: the province did not fund French-language education or Catholic education beyond Grade 10. It funded English-language public high schools and English-language secular universities. Other French-language or religious high schools, colleges, and universities cannot receive public funds.
24. The outlines of this first university project remain vague, but Raymond envisioned an association with English-speaking Catholics and Protestants to secure the coveted public funding.
25. According to Pierre Ouellette (1994), MPPs Gerry Monaghan (Sudbury) and Rhéal Bélisle (Nickel Belt), Gaston Vincent (President of the ACFEO), and Father Raymond are developing plans to have the Collège du Sacré-Coeur's charter amended.
26. The Ministry of Education, William Dunlop, accepts the merits of the request, but ruled that the Sudburian charter did not hold full academic authority. He therefore suggests a new vote in the assembly to name the Middle North institution and validate its status as a full-fledged university.
27. On March 30, 1957, the law is passed at third reading.
28. According to Guy Gaudreau (2010), "[t]he vote carried this time because Monaghan and Bélisle promised their support to other MPPs who needed their support with respect to a similar request from Carleton University." It is a bicultural barter to have an English university in Ottawa and a French/bilingual university in Sudbury.

29. At the time, there were a few university projects circulating among religious leaders in North Bay, Timmins, and Sudbury, including that of Reverend Earl Lautenslager of St. Andrew's United Church, who travelled to Toronto to inquire about the possibility of establishing a Protestant university in Sudbury.
30. Raymond and Lautenslager sought to agree on a partnership to obtain provincial funding, but Raymond refused to allow the United Church to co-found the university federation, according to Gaudreau (2010), arguing that the Jesuits in Sudbury had some 40 years of experience in the field and that the University of Sudbury wished to preserve a Catholic, bilingual education.
31. An advisory Council of Regents was set up in May 1958 to bring together senior executives (Ralph Parker of INCO, Horace Fraser of Falconbridge, Ben Avery of the Espanola and Sturgeon Falls paper mills), as well as French-Canadian business people and professionals (Conrad Lavigne, Gaston Vincent, Jean-Noël Desmarais).
32. The University of Sudbury continues to have financial problems, according to André Bertrand (1988), as it does not receive government revenues due to its denominational status.
33. It began to offer courses in English in the fall of 1958, according to Daniel Bouchard (1996), to diminish the authority of Reverend Lautenslager's project.
34. Matt Bray (2010) recalls Lautenslager's determination to obtain a "non-Roman university" in Sudbury. In his letter of invitation to form a Northern Ontario University Association, Lautenslager wrote alarmingly on November 27, 1958: "[i]f we do nothing, the Roman Catholics will close every community to us by occupying it with a proposed college, [...] I anticipate that we will in due time experience a demand that Northern Ontario become a separate and Roman Catholic dominated province."
35. Ralph Parker, Chair of the University of Sudbury's Board of Regents, was taken by Lautenslager's letter. The Northern Ontario University Association was formed in December 1958 with Ralph D. Parker as an honorary member, with about thirty representatives from North Bay to Sault Ste. Marie "[t]o found and support in Northern Ontario an institution of higher learning on the university level, United Church and/or Protestant in foundation and control, or at least a Protestant College in a federated University."
36. The group eventually agreed that Sudbury should be chosen as the location, in part according to Bray (2010), because of the existence of the University of Sudbury and in order to include it in the new federation. The Jesuit provincial replaced Father Raymond at the head of the University of Sudbury in January 1959 with Jesuit Émile Bouvier, a Quebec native and Georgetown University professor of political economy with broader academic experience.
37. Upon his arrival in Sudbury, Bouvier portrayed institutional bilingualism as crucial at the University of Sudbury. In Ottawa's *Le Droit* daily newspaper of February 23, 1959, he

- was quoted as saying: “[y]our University of Sudbury is called upon to play a role of a very special character for all of Canada by the coexistence of two cultures without one ever weakening the other... By virtue of its historical background and its strategic location in Northern Ontario, the University of Sudbury, before Canadian public opinion, must meet the requirements of the two cultures, which form the very basis of our 1867 Constitution.”
38. Bouvier felt that Father Raymond was not sufficiently conciliatory in his approach to Protestant leaders and politicians in Toronto.
39. Bouvier still wished to maintain “the integrity of the French university course, from literature to philosophy” and “the integrity of the culture he has chosen.” Coexistence and equity are not unanimous, neither among Jesuits nor among Anglophones, but budgetary reality prevents him from doing otherwise, according to Daniel Bouchard (1996).
40. Negotiations began in March 1959, and led to many compromises, Bray (2010) reminds us. According to rhetoric professor Father André Girouard (1992) in an interview with Bouchard (1996), the federation Bouvier imagined was “based on exactly the same model as the University of Toronto, that is, a non-denominational university college and federated institutions that are denominational.”
41. The Jesuits believed, however, that the University of Sudbury could be the federative entity, to which new English-language religious colleges would be attached, a principle that would ensure the bilingualism of the new secular university. The Jesuits believe that the University of Sudbury would be the umbrella institution and proposed the creation of a Catholic “Lalement College” at the level of the federated Protestant universities.
42. Matt Bray (2010) recalls from the minutes of the exchanges that both parties refused to be “Junior Colleges... dominated by the U. of Sudbury” and forced the University of Sudbury to be on the same level as the proposed universities Huntington (United) and Thornloe (Anglican).
43. This proposal meant that French Canadians and Catholics will be in the minority in the new bilingual, secular institution.
44. According to Ralph Parker (1971, quoted in Bray 2010), Prime Minister Frost would have called him and said: “I’d like you to tell them that the Province can’t subsidize church-related colleges but that if they can get together behind a non-denominational university, they’ll have a deal, especially if there’s a bit of nickel money to sweeten the pot.”
45. In early fall of 1959, the University of the North Association, according to Bray (2010), replaced the idea that the “principle of the duality of culture and language be implemented,” with “be recognized,” which significantly diluted its potential.
46. Writing to Émile Bouvier on September 28, 1959, ACFEO President Gaston Vincent judged the agreed-upon model to be “unacceptable” and “likely to provoke the

disapproval of the Catholic population of Ontario, and more particularly of the French-speaking Catholic population.”

47. Vincent resigned, in protest, from the Board of Regents of the University of Sudbury to fight the new proposal, historians Michel Bock and François-Olivier Dorais recall (2016). In a letter dated September 28, 1959, Vincent reiterated the impossibility for “Catholics and Protestants” to “share a common institution,” that “Catholics should not have to renounce the confessionality of their institution,” that Bouvier “had no power to negotiate an agreement” without the approval of the Council of Regents, that the Protestants “would control technical and scientific education, and therefore grants,” and that the Catholic and bilingual university “would be controlled by the regents of the neutral university.” Vincent also went to complain to the provincial, J. d’Auteuil Richard, on October 5, 1959. Vincent might have continued his fight if he had not been mortally struck by a thunderbolt during a storm, as announced by *Le Droit* on October 13, 1959.
48. It could be said that the notion of consultation with Franco-Catholics is still in place, but that the consent, of the spokesperson association, has been breached and does not follow custom.
49. The proposal that the bilingual, Catholic University of Sudbury be subject to a secular federation, in the same way as federated universities of the Anglican and United Churches, divides the Jesuits of Sudbury, who feel the need to take a vote on the proposal to create a Laurentian University with the mission of offering bilingual services, but without the obligation to offer a minimum threshold of courses in French. As philosopher Lucien Pelletier (2012) reminds us, “the situation was presented to all the Jesuits of Sudbury but, in order to give everyone time to reflect, it was agreed to postpone the discussion until the following day. On February 21 [1960], the Jesuits expressed themselves: nine rejected the proposed new orientation, eight were in favour, two had not yet formed their opinion and two gave a conditional opinion. Faced with such a divided result, the consultants maintained their decision. Then, on February 23, they met in the morning with Father Provincial, who asked them not to back down.”
50. Consent from the founding fathers of Sudbury's university teaching tradition is narrowly obtained, but it cannot be said that a consensus is reached.
51. Aimé Arvisais, the interim president of the ACFEO, tried to familiarize himself with the issue, but the process with the province was already underway.
52. On March 22, 1960, Arvisais obtained an interview with Bouvier. As the transcript of the telephone conversation in the ACFEO archives shows, Bouvier wanted to reassure a reluctant ACFEO to accept the game plan. Arvisais noted the lack of guarantees regarding the quantity of programs offered in French, as well as the place of French Canadians and Catholics in decision-making bodies. Bouvier shared that equal annual budgets will be provided to offer the same programs in arts, English and French. The autonomy of the University of Sudbury would also be guaranteed, by operating, according to Bouvier, “absolutely independently”, simply lending resources “on a contract basis... in return for remuneration” to Laurentian University. As for administration, budgets would be

prepared “in both languages” and “everyone will be able to discuss in their own language.” Arvisais asked for guarantees in writing, but will not obtain them.

53. Matt Bray (2010) points out that there are a variety of competing interests between the provincial government, the three religious groups and local industry. In February 1960, the Ontario Legislature received four private bills incorporating Laurentian University (non-denominational), Huntington University (United), the University of Sudbury (Roman Catholic) and Lalement University (a Roman Catholic theological college).
54. Laurentian University’s constituent act was signed six days later, on March 28, by R. J. Boyer, J.-N. Desmarais, R. D. Parker, J. E. Fullerton, L. J. Côté, R. Bélisle, E. Bouvier, E. S. Lautenslager, and Justice Dana Porter.
55. On March 29, 1960, Roger Poirier wrote in *Le Droit* that “Laurentian cannot establish existing faculties [and] institutes... at the University of Sudbury” and that the new university must rent the services of the latter for all teaching in these fields. With well-established departments of arts and science, the University of Sudbury would become the principal educational institution of Laurentian. At the end of July, after the University of Sudbury designated itself as the federation’s main teaching college, Huntington’s representatives deemed it “positively unacceptable,” and asked, “to be assured of the establishment of an active University College under the administration and direction of the Laurentian University of Sudbury.” By the end of August, having learned that the payment of provincial grants would depend on the conclusion of all federation agreements and the unequivocal designation of Laurentian as a nondenominational institution, the Board of Governors went to work. Bouvier turned around in early September and recommended to the Executive Committee not only the create of the university college, but also that it considers “the advisability of instruction in the Faculty of Arts and Sciences to be given by Laurentian University through University College.”
56. As the train of the new university has already left the station, it would be difficult to change course. Historian Robert Toupin, who made the transition from the Jesuit institution to the new university in September 1960, recalled in an interview on December 9, 1992, with Bouchard (1996), “[t]he Jesuits were abandoning the totally French context to accept working in a bilingual environment with an English dominance. It was all a bit hard and, for some, traumatic. At the college, fathers who had been teaching for ten, fifteen, twenty years, with a lot of motivation, work and fervour for the Catholic and French cause were somehow sidelined. Once they had left the Collège du Sacré-Cœur, there was no French home.”
57. One advantage of the new agreement was the access to provincial grants to offer and expand courses in French.
58. According to Matt Bray (2010), “[l]ost in the controversy surrounding the birth of Laurentian University was the history-making enormity of the event, not simply for Northern Ontario, but for the province and even the country. The creation of a non-denominational, bilingual, bicultural, federated university encompassing theologically



diverse religious colleges would have been revolutionary anywhere in the Canada of 1960.”

59. Guy Gaudreau (2010) reminds us that the foundation of a teacher training college in Sudbury continued to motivate the Jesuits. The provincial brought the issue back to the forefront in 1961 and allowed the province to announce, the following year, the construction of a normal school, whose affiliation remained undetermined. Partially bitter about the Laurentian compromise, the Jesuits and the ACFEO were determined that the University of Sudbury should be the founding institution. When the institution opened in 1963, a Jesuit was appointed to head it and it would not be affiliated with Laurentian University until 1975.
60. Matt Bray (2010) notes that Laurentian University of Sudbury establishes bicameral governance (Board of Governors and Senate) as is the norm in Canadian universities. The Board is responsible for governing the University and managing its finances. The province appoints 6 of the 24 governors and the three founding churches the remainder. The early members were male, drawn from the social, entrepreneurial, and professional elite of Sudbury and area. There were 14 Protestants, 9 Catholics, and 1 Jew. Of the 24 governors, 6 are francophone, in proportion to their demographic weight in the population of Northeastern Ontario.
61. The Sudbury business community played a key role in the management of Laurentian during its first decade of existence. Ralph Parker of INCO led the Board of Governors until he was replaced by Horace Fraser, of Falconbridge Nickel, in 1965.
62. The Council, through its Executive Committee, is involved in internal issues and issues related to teaching and research. For its part, the Senate, which is responsible for university education policy, rarely gets involved in other matters.
63. The number of professors quadrupled between 1963 and 1968.
64. Émile Bouvier acted as the first rector for the first year. To recall Matt Bray (2010), “[f]luently bilingual, the Roman Catholic Bouvier balanced Parker, the Protestant board chair, as prescribed by the religious duality clause in the first Parker report. Given this exigency and the skeletal nature of its administrative staff, the choice was logical, as the new university needed the leadership of someone with Bouvier’s academic stature and administrative experience.”
65. While Rector Bouvier has a tendency to crush eggs, including firing Yves Ferland, a veteran professor at Collège du Sacré-Cœur and the University of Sudbury and Dean of Arts and Science, for insubordination for leading a “clique” mounted against him, the second Rector, Harold Bennett, was more concerned about the advisory functions and prerogatives of the Council, recalls Matt Bray (2010). “As a governor, furthermore, he appreciated the religious and linguistic sensitivities of his fellow board members, and the need for an Anglophone Protestant acting president whose command of French was less than perfect to curry their support.”



66. The Rectorate maintained a tradition of biculturalism. Rector Stanley Mullins recalls Matt Bray (2010), “came under scrutiny when the board established a special committee on bilingualism. The committee’s existence reflected, first and foremost, dissatisfaction on the part of Francophone governors with Mullins’ publicly expressed views about the ‘failure’ of bilingualism at Laurentian, dissatisfaction that dated from the autumn of 1964.”
67. The 1965 report of the Special Committee on Bilingualism recognized a high degree of dissatisfaction with “the day-to-day efficiency of the normal functioning of the University.” Matt Bray pointed out that it was Francophones who felt that the conditions of their consent were not being met.
68. As Gaétan Gervais (1992) has written, the province’s replacement of discretionary funding in 1967 with the “basic income unit”, a mechanism that calculates funding based on enrolment, is compensated for bilingual universities through the creation of a \$1.7 million compensation fund for French-language programs, a form of recognition of the additional cost of translation of documents, duplication of programming and lower enrolment.
69. In the winter of 1966, Laurentian University offered a quarter of its 132 courses in French, recalls Guy Gaudreau (2010).
70. In the mid-1960s, the perception of a broken pact between the two language groups and of a lack of respect for the consent of the linguistic minority emerged within Laurentian University.
71. An assembly of professors and students demanded an increase in the number of professional programs in French, the establishment of a quota of French-language students corresponding to one-third of the student body and the creation of an ombudsman's office, but their proposals were ignored.
72. When Louis Painchaud (1968), an investigator for the Royal Commission on Bilingualism and Biculturalism, visited the Laurentian campus in 1965, he noted that the French-Canadian elite did not find “a cultural environment conducive to its development.” Painchaud points out the difficulty of establishing bilingualism and biculturalism outside of courses and activities held in French, since Anglophones are rarely bilingual. Painchaud suggested that Laurentian establish “parity of the two languages and [...] of the two groups” and welcomed the existence of decision-making bodies to develop bilingualism and biculturalism. In his view, all staff and students would need, at a minimum, to develop “the ability to understand the second language” both orally and in writing.
73. In 1967, students demanded a better place in the governance of the institution, under the leadership of the president of the Students’ General Association (SGA), Étienne St-Aubin. The legislative committee decided that henceforth “Laurentian professors and students should be consulted” in a redefinition of the university’s status. According to Bray (2010), “[i]n a strategically adept move, in October 1968, the SGA requested that

- six student voting positions be added to Senate. Although not without opposition from some of its members, Senate did so in December.”
74. Wanting to imagine the “Confederation of tomorrow”, Premier John Robarts asked University of Ottawa Professor Roger Saint-Denis to chair the Franco-Ontarian Cultural Inquiry Committee. The Saint-Denis report (1969) emphasized the importance of bilingual universities to the cultural development of French Ontario, but noted that the range of programs and courses in French was very incomplete and that this challenge was particularly pronounced in the natural sciences. He also notes the dramatic under-representation or even absence of Franco-Ontarians among executives and professors.
75. In October 1969, 175 representatives of Franco-Ontarian high schools and youth movements converged on Ottawa, at the invitation of the new *Assemblée provinciale des mouvements de jeunes de l'Ontario français* (APMJOF), to take stock of the bilingual universities. The demographic decline of the French-speaking population in the universities of Ottawa (at 51%) and Laurentian (at 17%) was indicative of a loss of influence in decision-making.
76. According to the APMJOF's brief (1970), “[a] university must not only allow French-Canadian students to study in their own language but, we believe, provide them with a cultural environment that is specific to them, an environment that is favourable to their cultural development. [...] In our opinion, it is not only the classroom that forms the workplace; the campus, the atmosphere and the activities are also part of it. [...] The vocation of bilingualism [...] is, in fact, to ensure French post-secondary education in a homogeneous French environment. It is the vocation of bilingualism in an English-speaking province.”
77. In the weeks following the October 1969 assembly, student Donald Obonsawin returned to Sudbury and published a manifesto in the pages of the bilingual student newspaper Lambda, noting the failure of Laurentian bilingualism and encouraging the creation of a French-language faculty or university in Sudbury.
78. In 1972, the Commission on Post-Secondary Education in Ontario, headed by Professor Edmund Wright, proposed at Queen’s Park to increase French-language programming in bilingual universities, but refrained from measuring the effectiveness of institutional bilingualism and confined itself to the need for Franco-Ontarians to be bilingual and the difficulty of providing a university education to a dispersed minority population.
79. We can see considerable differences between the APMJOF and Wright in their understanding of the needs and aspirations of Franco-Ontarians.
80. At Laurentian University, the administration recognizes the legitimacy of certain criticisms levelled at it. According to Bray (2010), “‘the relatively inflexible position’ of the Laurentian board which ‘became used [during the Mullins era] to... making decisions on the basis of agreements with the president and find it difficult to understand the current agitation for greater Faculty participation.’” It is recommended that a “mediation team” advise the President. Premier Davis’ candidate to lead the team is J. G. (Gerry) Hagey.

81. Overall, Hagey proposed a decentralized, multi-faculty institution with an administrative organization closer to the professors and staff, from which students will gain greater respect.
82. The Board of Governors was appalled when they learned that Hagey was proposing the creation, within Laurentian University, of a French college, composed of an autonomous administration and physical space. The Board rejected this recommendation out of hand, according to Gaudreau (2010). Fearing that such a college would create a “ghetto”, the Council mandates the Joint Committee on Bilingualism to propose a more targeted intervention.
83. The Committee submitted *Mémoire sur les besoins de l’Université Laurentienne pour qu’elle joue pleinement son rôle d’institution bilingue* (1971), a “Memorandum on the Needs of Laurentian University to Fully Play its Role as a Bilingual Institution,” in which it proposed the establishment of a translation and interpretation program, whose graduates could help ease linguistic tensions.
84. In 1973, the Senate established an Advisory Committee on Francophone Affairs (*Comité consultatif des affaires francophones*, CAF), which was mandated to make recommendations to the Senate on how to spend the federal government's annual allocation to Laurentian University for bilingualism. According to François-Olivier Dorais (2013), this body was the first form of administrative autonomy for Francophones within Laurentian.
85. In the absence of a significant parallel administrative structure, the Franco-Ontarian community is creating spaces for autonomy on campus. The francophone community borrowed the path of culture to become autonomous within Laurentian University. The emergence of federal grants for cultural projects, along with a growing cultural awareness among Franco-Ontarian youth, fostered a certain parallel institutional development. Alumni of the *Troupe Laurentienne* (1969) founded the *Théâtre du Nouvel-Ontario* and *Réaction*, the first French-language student newspaper, in 1971. In the winter of 1973, the *Franco-Parole* congress led to the first *La Nuit sur l’étang* concerts and the publishing house *Prise de parole*. In 1974, 57% of French-speaking students voted to create an independent student association and to leave the Students’ General Association (bilingual). On September 25, 1975, students and lecturer Gaétan Gervais made and raised the Franco-Ontarian flag at the University of Sudbury. In the fall of 1976, professors from various backgrounds founded the *Institut franco-ontarien* to establish the credibility of Franco-Ontarian studies. Several of their works in the field would appear in the *Revue du Nouvel-Ontario*, which they launched in 1978.
86. In the absence of a parallel administrative structure, the Franco-Ontarian community created spaces for autonomy on campus.
87. Over the course of the decade, Bray (2010) recalls, Laurentian expanded its consultation mechanisms. In 1970, two senators (one from the faculty and one from the student body) were added to the executive committee as non-voting members. “Reform and

transparency persisted in subsequent years.” In 1972, the board began to circulate executive minutes to non-voting members, and granted membership to the Laurentian University Administrative Staff Association and to “all sections of the University not now represented by the [other staff] associations. Four years later, it allocated a non-voting seat to the Laurentian University Alumni Association, and one to the *Association des étudiant(e)s francophones* (AEF) in 1977.”

88. Bray (2010) adds: “[i]n order to recast governance at Laurentian in the ‘participatory decision-making’ mould then sweeping across Canadian post-secondary educational institutions, Senate enhanced its role in a number of areas, four being particularly crucial. One was the adoption of procedures in the spring of 1971 providing for faculty selection of departmental chairs, school directors, deans, and associate deans, a radical change from the previous top-down appointment process.”
89. Gradually, the CAF was given new responsibilities and began to review and develop French-language programs. In 1978, it was replaced by a Conseil de l'enseignement en français (CEF). Like its predecessor, recalls Dorais (2013), the CEF is an advisory body reporting to the Senate. That said, it has greater autonomy in its ability, in collaboration with faculty, students and the community, to propose, manage, and promote courses and programs in French.
90. In 1981, the percentage of Francophone students enrolled at Laurentian University was 18% (a rate that has stagnated since the mid-1960s) and no courses were offered in French in the natural sciences. As a corollary, only 10% of students are enrolled in a French-language program. In the fall of 1983, the CEF launched a commerce program in French. It also succeeded in ensuring the hiring of a higher proportion of French-speaking executives, again according to Dorais (2013).
91. The administration rejects the recommendation to create a parallel Senate to manage French-language pedagogy and programs. The dependence of Francophones on a Senate with a strong English majority contributes to slowing down the expansion of these programs and marginalizing the interests of Francophone students and professors.
92. The deficits accumulated by the university do not help the institution’s actualization. According to Bray (2010), “larger than expected numbers of Northern Ontario students chose universities elsewhere in the province,” and due to “shifts in students away from the traditional arts and sciences, the areas strongest in terms of faculty, to under-staffed, more expensive professional schools such as commerce,” “provincial funding failed to keep pace with inflation,” and “deficits mounted, threatening to carry the accumulated debt into the realm of unmanageability.”
93. The eclectic nature of French-language programming in the province was the subject of reflection among Franco-Ontarians in the early 1970s. In 1972, ACFO’s general conference urged the organization to “immediately begin to study the need and means of establishing a French-language university in Ontario.” In 1978, Direction-Jeunesse, the representative organization for Franco-Ontarians aged 14 to 30, also published a report on French-language student life on campus, entitled *Le Complexe des différents*, “[t]he

complexes of those who are different,” which shed light on the lack of resources for student life and studies in French in bilingual universities and called, the following year, for the establishment of exclusively French-language postsecondary institutions, according to Direction Jeunesse and the Fédération de la jeunesse franco-ontarienne (1988).

94. In February 1979, Bock and Dorais (2016) recall the AEF occupied the administrative offices for two days to demand the centralization of services in French. In February 1980, the AEF, accompanied by professors and the regional ACFO, set up an Action Committee for a Franco-Ontarian university to be established in the Northeast.
95. The provincial ACFO favoured a Franco-Ontarian university “in the long term,” being open to an intermediate stage, “a network of services organically constituted according to the will of the community” (1983). Nevertheless, the horizon of “a complete network of university services [...] administered by the stakeholders themselves in such a way as to be the most flexible and responsive” remained in their aspirations.
96. At the same time, the Committee for the Restructuring of the Universities of Northeastern Ontario (Parrot Committee) created by the Bill Davis government urged Franco-Ontarian groups to demand more French-language university programs, grants and university structures for Francophone students.
97. At the beginning of January 1983, the regional ACFOs of the Northeast organized a consultation in Timmins with some forty Franco-Ontarian participants from various backgrounds to produce a brief that recalled the difficulties of Laurentian University in “offering a satisfactory range of courses in French” and a “bilingual design that [...] still does not work in favour of Franco-Ontarians. Their chronic under-representation among executives and professors and Anglophone power “in decision-making bodies” explained these difficulties according to Serge Dignard and Pierre Raymond (1983).
98. During the Parrot Committee hearings, representatives repeated these grievances and recommended a “parity Francophone presence in decision-making bodies” according to Jeanne Rheault (1983), as “a concrete expression of full bilingualism, [...] according to the spirit of the new Canadian constitution” in order to achieve “a serene cohabitation of groups” according to the ACFO (1983). As soon as “the Franco-Ontarian population pool in the northeast” was sufficient, this intermediate stage would give rise to the establishment of “a unilingual French university.” According to ACFO, the Franco-Ontarian community needed to be able to “rely on university teaching and research to develop” in order to better “take charge of its own affairs”. At the hearings of the same committee, Direction-Jeunesse (1983) spoke of restructuring the higher education community in order to obtain “equitable treatment” for Acadians and Anglo-Quebecers, who hold universities by and for them, and to be able to “escape the worrisome power of assimilation.”
99. However, the Parrot Committee’s mandate was to identify economies of scale and did not recommend any reforms beyond the expansion of French-language programs.

100. In order to “develop an original model of a university system for the use of Francophones” and to obtain “a university system that is specific to them, [...] controlled and managed by Franco-Ontarians themselves,” the ACFO (1984) asked the government to create a commission on French-language postsecondary education. The Ontario government did accept the request.
101. The report of the Bovey Commission, *Options for the Future*, recommended the establishment of a coordination network managed by the Franco-Ontarian community, in particular to increase the number of professional programs offered in French, but this coordination network would not see the light of day.
102. Since 1982, section 23 of the *Canadian Charter of Rights and Freedoms* has guaranteed the right of parents who have been educated in the official language of the minority to enrol their children in primary and secondary schools in that language. Following judgments of the Ontario Court of Appeal in 1984 and the Supreme Court of Canada in 1990, Franco-Ontarians gradually took over the management of “their” schools, Stéphanie Chouinard (2016) reminds us.
103. The French Language Services Act (FLSA), passed in 1986, requires that all provincial government services be available in French by 1989 in 22 regions where Francophones exceed the 10% threshold or represent more than 5,000 people. Instead of offering programs in French in 22 regions, impractical and undesirable, the province decided to concentrate these programs in three new French-language colleges (La Cité collégiale in 1990, Collège des Grands Lacs, and Collège Boréal in 1995). A dozen francophone community health centres were also created in the designated regions. Municipalities and universities are excluded from the provisions of the FHA.
104. Laurentian’s enrolment rose to 4300 in 1989 and grants increased to an average of 8% under the Liberal government, allowing Laurentian to build up a reserve, according to Bray (2010).
105. However, delays in access for Franco-Ontarians continued. The work of Stacy Churchill, Saeed Quazi and Normand Frenette (1985) revealed that a Franco-Ontarian student tended to be admitted in the same proportions as his or her English-speaking counterparts, but was only half as likely to apply. Between 1977 and 1982, this rate barely increased (from 48% to 50%) compared to the provincial average. The researchers established a correlation between the attendance rates of Franco-Ontarians and the proportion of programs available in French. According to them, the lack of regional accessibility and the low availability of programs in French contributed to the social ascent of Franco-Ontarians. In addition, it particularly disadvantaged young men, proportionally more inclined to be interested in natural sciences, technology and industry. In these fields, they enrolled two to ten times less than their demographic weight.
106. In another report, the Conseil de l’éducation franco-ontarienne (1986) added that the under-representation of Franco-Ontarians at the university was the result of their relative absence from administrative and academic positions. “Unless they make up for this by undertaking an affirmative action program in this area,” they noted, “the situation is likely



to deteriorate further. In the absence of models in the areas of university research and teaching, it will always be difficult for young Franco-Ontarians to see the need or usefulness of pursuing a university education.” To counter this trend, according to the researchers, more Franco-Ontarian professors should be hired and Franco-Ontarians should be more involved in the governance of university institutions. “The role of Francophones in the management of most post-secondary institutions is practically non-existent,” they wrote. “[Bilingual post-secondary institutions] are managed by votes decided by the majority without regard to the fact that the linguistic minority loses the opportunity to make its interests prevail.”

107. A Laurentian professor of commerce, Jean-Charles Cachon produced a report (1985), which echoed Alain Massot’s earlier findings (1973) on the University of Ottawa, by showing that a program offering only first-year courses in French deprived itself of two-thirds of its possible clientele, since in these cases the majority chose to make the transition to English upon arrival at the university. If Laurentian University administration heard Cachon’s criticism of incomplete programs, it dismissed his recommendation to establish a French-language college and a bicameral Senate.
108. In May 1987, the administration abolished the CEF, then under the direction of Gaétan Gervais, and replaced it with a vice-rectorate associated with French-language programs and services. Appointed to the new position, Dyane Adam would act as mediator and spokesperson for French programs, according to Gaudreau (2010).
109. Laurentian was able to increase its francophone enrolment by 38% between 1984 and 1988. Thanks in part to the creation of new programs, the proportion of students enrolled in French-language programs increased from 20% to 27% of its overall enrolment between 1986 and 1990.
110. In the wake of the implementation of the LSF, ACFO devoted its 1987 general conference to the issue of post-secondary education. The congress delegates expressed their disappointment with university bilingualism and demanded the right for Franco-Ontarians to govern their own post-secondary institutions. The ACFO then proposed a model of a French-language university with multiple campuses, modelled on the province-wide Université du Québec. The arguments for establishing a university, with figures to back them up, are numerous. Institutional autonomy would be a form of redress, since Franco-Ontarians have historically suffered from under-education.
111. During the September 1990 provincial election, NDP leader Robert Rae declared himself in favour of a French-language university, a support that was reiterated a few months after he took office by his Minister of Colleges and Universities, Richard Allen. However, the NDP’s enthusiasm cooled in the context of a recession in 1991. The government first requires representatives to confirm a consensus within the community, recalls Michel Bock (2019).
112. In 1991-1992, Ontario university programs in French had approximately 650 professors and 10,001 students (all cycles combined), in addition to the 1,310 students enrolled part-time. Queen’s Park devoted \$70 million to bilingual universities for French-language

education. Thus, the viability of a French university with multiple campuses was beyond question, according to Gervais. Raymond Tremblay (1992), rector of the Collège universitaire de Hearst, a French-language university college affiliated with Laurentian, reminded us that a university could also have to its credit the \$134 million collected in tuition fees from Franco-Ontarian families. Moreover, by offering mainly programs in the social sciences and humanities (at low cost), Franco-Ontarian students indirectly subsidize the expensive equipment in pure science programs offered only or almost exclusively in English.

113. The ACFO's claim and the public debate on the issue also had echoes in Sudbury, where the ACFO of Greater Sudbury (ACFOGS) organized a symposium on the question of Franco-Ontarian university on October 25 and 26, 1991. In reference to the first Franco-Parole colloquium held in 1973, the "Franco-Parole II" conference attracted 160 participants from the university, community, professionals and politicians of Northern Ontario.
114. Bock (2019) reminds us that the delegates even went so far as to ask the Jesuits to make the University of Sudbury's charter available to the Franco-Ontarian community. In January 1992, the president of the provincial ACFO, Jean Tanguay, asked the Jesuits to activate the charter of Lalemant College (which they had obtained in 1960 during discussions surrounding Jesuit participation in Laurentian University, but which remained unused), to transfer the assets of the University of Sudbury to them and make it the basis of a Franco-Ontarian university.
115. If "Franco-Parole II" evoked the ideal of a long-term French-language university, the congress also imagined intermediate steps to lead to the empowerment of French-speaking students and professors. In the medium term, Gaudreau (2010) reminds us, the creation of a French college within Laurentian University was proposed. In the short term, it was suggested that a linguistic bicameralism be established in departments, where possible. Moreover, some forty francophone professors called for control over the funding of French-language programs. In the spring of 1992, the Laurentian administration showed a certain openness to the autonomist demand for Franco-Ontarian leadership, Gaudreau (2010) recalls. The report, *Vision éclairée de l'avenir*, "A Clear Vision of the Future", proposed to explain to the general public the resources allocated to the French-language sector and to grant management of French-language programs to the Francophone component.
116. The Senate deemed French and English administrative parity at all levels too complex to achieve. However, it accepted that Francophone professors, in departments where numerous enough, hold separate meetings and have their decisions endorsed by the entire department. In January 1994, the Department of History was the first to inaugurate the practice. Gratien Allaire, who had just succeeded Adam as Vice-Rector, extended the practice to departments with a sufficient number of French-speaking professors. This practice will have no follow-up in the natural sciences departments, where Francophone professors are more accustomed to working in English and tend not to see the need for bicameralism. According to Gaudreau (2010), the increase in the contingent of francophone professors in the pure sciences contributes to weakening the militancy of the

Assembly of Francophone Professors, which became more of a social than a political grouping.

117. Rolande Faucher (1999) points out that the expansion of the range of programs offered in French contributed to increasing the participation of Franco-Ontarians from 50% to 75% of the provincial average between 1981 and 1991.
118. The election of the Progressive Conservatives under Michael (Mike) Harris in June 1995 resulted in a significant reduction in spending on public services, particularly in the university sector.
119. As Bray (2010) points out, full-time enrolment at Laurentian dropped in 1995-96 after fifteen years of steady growth. With 400 fewer full-time students, Laurentian finds itself dangerously close to its low point, below which its subsidies will be reduced. Budgetary restraint reaches \$7 million.
120. Jean Watters is the first francophone appointed rector, in 1998, since Émile Bouvier. Originally from Quebec, he studied adult education in Quebec and Alberta and was the first president of Collège Boréal. According to Bray (2010), “[b]oth benefitting and suffering from being a somewhat known quantity, Watters’ presidency began in an environment of mixed uncertainties, which his first presentations to the university community in September 1998 did little to dispel. [...] Watters’ comments to Senate in September 1998 that “in his view, the question is not if there will be a Francophone University [in Ontario], but rather when and where that Francophone University will be [located]” also unsettled the university community, raising hopes in some and fears in others about the ultimate objective of his then-unspecified restructuring plans. Neither was warranted. In terms of governance, the changes introduced early in 1999 extended the principles of bicameralism, already functioning, in part, at the departmental and decanal levels, to the senior administration. Despite Laurentian’s nearly forty-year history as a bilingual institution, the idea stirred up a good deal of controversy, the board executive, for example, narrowly adopting the April motion to establish the new positions of vice-president academic (Anglophone Affairs) and vice-president academic (Francophone Affairs) by a rare, recorded vote.”
121. At Laurentian, a second pilot project for francophone autonomy is developed. Gaudreau (2010) reminds us that in 1997, the Council of the Faculty of Social Sciences created a French chamber within the Faculty, but this was abandoned in 2000, the results being disappointing according to the Faculty.
122. Laurentian founded a few new programs in French, including Expression Arts, Accounting, Speech Therapy, and Midwifery.
123. That said, the number of Francophone students dropped from its historic high of 1,951 in 1990-91 to 1,173 in 2000-01. The reasons for this include the exodus from the North, the low birth rate, competition between universities and assimilation.

124. The share of provincial grants in university budgets remains at about 37%, as do the shares of tuition fees (26%), business activities (16%), and federal grants (9%) according to Shanahan (2014).
125. Elected in October 2003, Dalton McGuinty's Liberal government gave Bob Rae the responsibility to study the operation of post-secondary institutions. In February 2005, the report *Ontario, A Leader in Education* pointed out that Franco-Ontarians continue to be under-represented at university and that this is still largely due to a “serious accessibility problem.” While the university access rate for Franco-Ontarians reached 85% of the provincial average in 1998, it has stagnated since then.
126. In 2006-2007, the total number of students enrolled at Laurentian exceeded 9,100, a growth of 44% compared to 2002-2003. However, the proportion of the francophone contingent fell from 27% to 21% between 1990 and 1997 and reached 18% in 2007, Gaudreau (2010) points out. While actively bilingual teachers were in a slight majority in 1975, they were a minority (40%) 30 years later.
127. In May 2005, Queen’s Park unveiled its Reaching Higher policy, which promised to increase access to French-language education. Normand Labrie and Sylvie Lamoureux (2012) point out that 56% of Franco-Ontarian high school graduates continue their studies in French at the postsecondary level and two-thirds of them go on to college.
128. In January 2007, the student newspaper *L'Original déchaîné* revealed, according to a survey of approximately 100 students, that two-thirds of Francophone students would prefer to study in a unilingual French institution.
129. Beginning with the economic crisis of 2007-2009, governments adopted austerity policies that led to financial cuts to universities, which, in return, refrained from replacing many of the professors who were retiring. The reduction in faculty meant the cancellation of courses. Between 2009 and 2012, some traditionally full French-language programs lost up to one-third of their courses and came dangerously close to becoming incomplete programs, according to Serge Dupuis and Michel Laforge (2012). The administration is facing difficult demographic and financial realities, but these austerity measures are forcing Francophone students to take more and more courses in English, reducing enrolment in French-language courses and thereby undermining the justification for increasing the number of courses offered in French.
130. In the meantime, Laurentian created two regionally important professional schools, the Northern Ontario School of Medicine (2005) and the Laurentian School of Architecture (2013), which do not offer courses in French, but set the Francophone quota at one-third of registrants and allow students to submit their assignments in French.
131. In 2008, the creation of the Office of Francophone Affairs was a rare breakthrough in these years and allowed Laurentian to support more cultural activities in the Sudbury area and on campus.

132. In the fall of 2011, in response to the reduction in course offerings, some francophone professors took steps to encourage bilingual universities to voluntarily become subject to the LSF and to obtain the designation of organization offering services in French. This designation, to them, seems to be the only way, within existing institutions, to stem the leakage of services and programs, recalls jurist Samantha Puchala (2015). Designation would provide quasi-constitutional protection for university bilingualism programs and policies. It could counter the abolition of courses below the minimum threshold that would prevent a student from completing his or her program in French, according to Michel Giroux (2010).
133. Since the only two autonomous bilingual universities do not have recourse mechanisms when their policies are violated, the designation would allow the Office of the Commissioner of French Language Services, a body created in 2007 and reporting to the Ontario government, to impose its solutions.
134. As a result, the *Regroupement des professeurs francophones de l'Université Laurentienne* (RPF) took steps to convince the Board of Governors to submit such a request for designation. Steps were taken, according to Puchala (2015), in the winter of 2012, but the Office of Francophone Affairs (OFA) of Ontario rejected Laurentian's initial request for designation in February 2014, deeming it incomplete. While the OFA proposed to protect the majority of French-language programs (it had excluded a few from the list, including the political science program), the University asked that the Senate's autonomy be recognized, giving it the discretion to eventually eliminate a protected program.
135. The OFA believes that partial designation should ensure the protection of programs on a permanent basis. Upon being advised that the application was likely to be denied, Laurentian prepared a new application, which was approved in June 2014. The application protects 13 "degrees" (not its 38 programs) in French. In other words, the "partial designation" prevents Laurentian from removing the courses required for a student to obtain an arts degree, but does not guarantee, for example, the sociology or drama degree entirely in French. Since no specific courses are protected, the threshold is the number of courses required to obtain a degree.
136. In an essay on specialization on the issue, Puchala (2015) characterizes the guarantee as "laughable," since the partial designation gives the Senate the power to eliminate the majority of undergraduate courses offered in French in the arts and social sciences while remaining within its partial designation.
137. According to Puchala (2015), the revision of Laurentian's bilingualism policy in 2013 has had a negative impact on the francophone component, as its new version gave the Associate Vice-President of Academic and Francophone Affairs more discretion in terms of exemptions for the hiring of unilingual Anglophone staff, as the long list of positions requiring bilingualism was eliminated. Discretion may allow for more flexibility, but it also opened the door to abuse and the gradual reduction of bilingual requirements for staff.

138. In 2013-2014, Laurentian University offered 98 full programs in English and 38 full programs in French, including 10 master's programs and one doctoral program, offered partially or mostly in French. Laurentian University had 1,696 full-time Francophone students, or 19% of its 9,107 students, but only 16% (1,438) were enrolled in a French program.

139. In 2015, Laurentian announced for 2020, the Mining Engineering program and a workshop at the School of Architecture would be offered in French.

Affirmed remotely by Serge Dupuis of the city of Quebec in the province of Quebec before me at the city of Vancouver in the Province of British Columbia, on March 3, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

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*Commissioner for Taking affidavits*

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Serge Dupuis



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**UNOFFICIAL COURTESY TRANSLATION OF  
THE AFFIDAVIT OF DENIS CHARTRAND  
SWORN ON MARCH 30, 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 CHARTRAND  
(March 30, 2021)**

I, DENIS CHARTRAND, of the City of Ottawa, in the County of Carleton, AFFIRM the following:

1. I am the current chair of the Conseil des écoles publiques de l'Est de l'Ontario ("CÉPEO"). I have chaired the CÉPEO on numerous occasions, since 1998. I am also the chair of the Association des conseils scolaires des écoles publiques de l'Ontario ("ACÉPO") since 2016.
2. I have personal knowledge of that facts in this affidavit, except where they are otherwise stated to be based on information or belief.
3. The CÉPEO is one of Ontario's publicly funded school boards. More than 16 000 students are registered in the CÉPEO's 44 French-language elementary and secondary schools in Eastern Ontario (Trenton, Pembroke, Ottawa, Hawkesbury, Cornwall, etc).
4. The ACÉPO is an organization that represents Ontario's four French-language public (as opposed to Catholic) school boards, to which are registered nearly 35 000 students, including the CÉPEO's students.
5. The ACÉPO works closely with the Association franco-ontarienne des conseils scolaires catholiques ("AFOCSC"), which represents Ontario's eight French-language Catholic school boards, to which are registered nearly 78 000 students.
6. In sum, pursuant to their mandates under section 23 of the *Canadian Charter of Rights and Freedoms* and the *Education Act*, Ontario's 12 publicly funded school boards deliver homogeneous French-language instruction to more than 112 000

**UNOFFICIAL COURTESY TRANSLATION OF  
THE AFFIDAVIT OF DENIS CHARTRAND  
SWORN ON MARCH 30, 2021**

- students, i.e. instruction in French only, save and except for the teaching of other languages, such as English. Ontario's 12 French-language school boards do not offer any French immersion programs. French is the internal working language of these 12 school boards.
7. There is a severe shortage of teachers capable of teaching in French in Ontario, which bars the implementation of section 23 of the *Canadian Charter of Rights and Freedoms* throughout Ontario. More specifically, it is estimated that Ontario's French-language school boards need at least 950 more teachers right away. Attached to this my affidavit as **exhibit DC-1** is a true copy of an article from Radio-Canada in which I am cited, dated March 3, 2021, available at the following Internet address: <https://ici.radio-canada.ca/nouvelle/1774601/penurie-enseignant-francophone-ontario-canada-joly>.
  8. On February 19, 2021, the government of Canada, through the Honourable Mélanie Joly, Minister of Economic Development and Official Languages, announced a major reform of the federal official languages regime. The reform includes measures to address the shortage of teachers capable of teaching in French, for instance by recognizing “in the next pan-Canadian strategy for official languages (the next *Action Plan for Official Languages*), the importance of supporting a training and recruitment strategy for Francophone and French-language teachers—for immersion and teaching of second language programs, and for French-language education—including through immigration initiatives.” (at p 14 of both the English and French versions). Further, the government of Canada has undertaken to “[s]trengthen the commitment under Part VII of the Act to reinforce the “learning, acceptance and appreciation” of both official languages, in collaboration with provincial and territorial governments” (at p 14 of both the English and French versions). Attached as **exhibit DC-2** is a true copy of the English and French versions of the federal government's policy document titled “English and French: Towards a substantive equality of official languages in Canada”, available at the following Internet address: <https://www.canada.ca/en/canadian-heritage/corporate/publications/general-publications/equality-official-languages.html>.

Affirmed remotely by Denis Chartrand of the city of Ottawa in the county of Carleton before me at the city of Montreal in the Province of Quebec, on March 30, 2021 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*.

**DENIS CHARTRAND**

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**UNOFFICIAL TRANSLATION OF  
THE AFFIDAVIT OF CHARLOTTE SERVANT-L'HEUREUX  
SWORN ON MARCH 30, 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 CHARLOTTE SERVANT-L'HEUREUX  
(March 30, 2021)**

I the undersigned, Charlotte Servant-L'Heureux, of the city of Montréal, in the province of Québec AFFIRM that:

1. I am a lawyer with the firm Power Law and I represent the Assemblée de la francophonie de l'Ontario (the "AFO") in these proceedings.
2. I have a personal knowledge of the facts set out in this affidavit.
3. On February 19, 2021, along with my colleague M<sup>e</sup> Francis Poulin, I participated in a video conference with the monitor's representative, Sharon Hamilton, and her counsel, Ashley Taylor. My colleague raised some of the AFO's concerns about the impact of the restructuring on the status and use of French at Laurentian University ("LU") and stated that the AFO wished to participate in the process in order to put forward its claims and interests. The monitor and their lawyer invited us to set out the AFO's arguments in writing and said they would share the document with LU. However, they refused to share anything with the AFO regarding the restructuring proposed by LU that LU has not chosen to disclose, and informed us that all information regarding the proposed restructuring would remain confidential.
4. On March 3, 2021, a notice of motion was served (but not filed) on behalf of the AFO to all those identified on the service list, requesting that the Court allow the AFO to participate in the proceedings initiated by LU under the *Companies' Creditors Arrangement Act*.
5. On March 5, 2021, along with M<sup>e</sup> Francis Poulin, I participated in a second video conference with the monitor (Sharon Hamilton) and her counsel (M<sup>e</sup> Ashley Taylor). They recommended that the AFO directly ask the mediator, Justice

**UNOFFICIAL TRANSLATION OF  
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SWORN ON MARCH 30, 2021**

Dunphy, to participate in the mediation rather than file its motion and list it for hearing before Chief Justice Morawetz.

6. During the video conference of March 5, 2021, M<sup>e</sup> Francis Poulin pointed out that LU was receiving funding from the provincial and federal governments to offer courses, programs and services in French. The monitor (Sharon Hamilton) responded that according to the information she had received from LU, revenue from programs and courses offered in English helped “subsidize” programs and courses offered in French.

7. On the same day, M<sup>e</sup> Francis Poulin

copy [Redacted]  
attached to this affidavit as **Exhibit CSL-1**.

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is

8. On the same day, an amended notice of motion was served (but not filed) on all those identified on the service list. The service email informed them that the motion would not be listed for hearing.

9. On March 12, 2021, M<sup>e</sup> Francis Poulin and I

[Redacted]

10. On March 13, 2021, the AFO

[Redacted]

A copy is attached with this affidavit as  
**Exhibit CSL-2**. At the time of signing of this affidavit, [Redacted]

Sworn remotely by Charlotte Servant-L'Heureux in the city of Montréal in the province of Québec, before me in the city of Montréal in the province of Québec, on March 30, 2021, in accordance with O. Reg. 431/20  
*Administering Oath or Declaration Remotely.*

**CHARLOTTE  
SERVANT-L'HEUREUX**



3

**UNOFFICIAL TRANSLATION OF  
THE AFFIDAVIT OF PIERRE RIOPEL  
SWORN ON APRIL 18, 2021**

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

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

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

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

**AFFIDAVIT OF PIERRE RIOPEL  
(April 18, 2021)**

I the undersigned, PIERRE RIOPEL, of Municipalité de la Rivière-des-Français, in the province of Ontario, MAKE OATH AND SAY that:

1. I have been the Chair of the Board of Regents of the University of Sudbury (the "UoS") since 2017. I have a personal knowledge of the facts set out in this affidavit, except where I indicate that a statement is based on information I believe to be true.
2. This affidavit provides an update to the affidavit I signed on March 31, 2021.
3. I could never have imagined a time when the urgency was as great as it is now for the UoS to make the shift toward becoming a homogeneous Francophone university. It has now become critical for us to meet the demands of the Franco-Ontarian community by ensuring that governance is in the hands of Francophones, that French programming is expanded and better adapted to the needs of the community, and that government funding for French is actually used for French.
4. On April 1, 2021, Laurentian University (LU) served a notice of disclaimer to the UoS's lawyer, André Claude to end its federation agreement. I received this information from Mr. Claude and I believe it to be true.

A copy of the notice of disclaimer of April 1, 2021 is filed with this affidavit as **Exhibit PR-1**.

5. The announcement of massive cuts to French-language programs at LU has sounded a troubling alarm when it comes to the future of post-secondary education in French for Francophone university students currently studying in the Sudbury area, and it is even more troubling for high school students who would like to stay in Sudbury to receive their French-language education. I read the announcement coming from LU in a Radio-Canada article on April 12, 2021.

**UNOFFICIAL TRANSLATION OF  
THE AFFIDAVIT OF PIERRE RIOPEL  
SWORN ON APRIL 18, 2021**

The article dated April 12, 2021 is filed with this affidavit as **Exhibit PR-2**, accessible at the following link: <https://ici.radio-canada.ca/nouvelle/1784144/nord-ontario-enseignement-francais-programmes-abolis?depuisRecherche=true>.

6. On April 12, 2021, the President of LU announced a plan involving the closure of many French and English-language programs. A message from the President published on the LU website provides a list of the programs that have been eliminated.

Copies of two messages from the President of LU, dated April 12, 2021, regarding the LU's decision to cut programs, are filed with this affidavit as **Exhibit PR-3**, accessible at the following links: <https://www.laurentianu.info/message-from-the-president-on-the-ccaa-restructuring-staff-and-faculty/> and <https://www.laurentianu.info/message-from-the-president-and-vice-chancellor-to-students-on-program-restructuring-student-supports/>.

7. Around 2,000 students are studying in French at Laurentian University.

A copy of a message from the President dated April 15, 2021 is filed with this affidavit as **Exhibit PR-4**, accessible at the following link: <https://www.laurentianu.info/message-from-the-president-and-vice-chancellor/>.

8. I am concerned that the reduction in the offering of programs in French at LU, coupled with the request to dissolve the federation with the UoS will further reduce the number of post-secondary programs and courses available to students who wish to study in French in Sudbury, and I believe this will further expose them to the ravages of assimilation into English that are already a major concern for our community.
9. On the morning of April 12, 2021, the UoS submitted a request to LU to cooperate with us – essentially, with the Francophone community, which supports the initiative of the UoS – for the greater good of the Francophonie in Sudbury and beyond. I reproduce below an excerpt from André Claude's letter of April 12, a copy of which is filed with this affidavit as **Exhibit PR-5.1**. Mr. Claude informs me that he emailed this letter to LU's lawyers on April 12, 2021, and I believe this to be true.

“To this end, the University of Sudbury claims all the programs, courses and services offered in French at Laurentian University, as well as the facilities and resources associated with them. We believe this course of action [is] not only in the best interest of both universities, but above all, it is necessary to prevent the irreparable harm that is being inflicted on the Franco-Ontarian community by the uncertainty surrounding the future of Laurentian, particularly with respect to the continuity of this programming which is so essential to the Francophone community.”

**UNOFFICIAL TRANSLATION OF  
THE AFFIDAVIT OF PIERRE RIOPEL  
SWORN ON APRIL 18, 2021**

10. André Claude has informed me that he received a response to his letter on the same day from LU's lawyers, and I believe this to be true. With this affidavit I file a copy of said letter of response as **Exhibit PR-5.2**. In short, it is my understanding that LU states, through its lawyers, that it has no intention of transferring its programs to us.
11. As Chair of the Board of Regents, I can say that we are working with great diligence to build the Université de Sudbury "by" and "for" Francophones, with the support of the Francophone community in the Sudbury area. It is our aim to provide current and future students with programs in French as soon as possible. We have a duty to save post-secondary education in French, at a time when I see its future being seriously undermined.
12. I am convinced that there is a way to transfer full responsibility for the programs, courses and services offered in French at LU to the UoS, along with the necessary facilities, if there is a genuine willingness to do so, for the greater good of the Francophonie in the Sudbury area.
13. I believe that the restructuring of the University of Sudbury into a French-language university can be achieved within a short period if governments provide concrete support for the plan and if LU is required to enter into good-faith negotiations with the University of Sudbury and the Assemblée de la francophonie de l'Ontario (the "AFO").
14. The UoS believes this course of action is in this interest of all parties concerned: it promotes the financial viability of Laurentian while at the same time ensuring that the rights of the linguistic minority are upheld. LU does not realize the irreparable harm it is inflicting on the Franco-Ontarian community in order to achieve its ends:

"Laurentian does not agree that transferring **its** French language programmes and services to US, '... promotes both the financial viability of Laurentian and at the same time ensures respect for the rights of the linguistic minority.' To the contrary, Laurentian believes that maintaining French-language programs is critical to **its** successful restructuring and **its** ability to serve both the English and French speaking communities, in addition to its strong commitment to the Indigenous communities of Ontario."

[emphasis added]

15. On April 15, 2021, the government of Ontario tabled a bill that officially recognizes the essential role of the University of Hearst in providing access to French-language training in Northern Ontario and its full autonomy from Laurentian. There is therefore a precedent for doing the same thing with the University of Sudbury.

A copy of the news released issued on April 15, 2021 by the Ministry of Colleges and Universities is filed with this affidavit as **Exhibit PR-6**, accessible at the following link: <https://news.ontario.ca/en/release/61175/ontario-takes-steps-to-strengthen-postsecondary-education-in-northern-ontario>.

**UNOFFICIAL TRANSLATION OF  
THE AFFIDAVIT OF PIERRE RIOPEL  
SWORN ON APRIL 18, 2021**

16. Just last Friday, April 16, the UoS reached an agreement with LU for the benefit of students enrolled in the Indigenous Studies program developed in English by the UoS. I file with this affidavit a copy of that agreement, entered into by the UoS and LU on April 16, 2021, as **Exhibit PR-7**.
17. The agreement sets out an arrangement involving six courses, taught by UoS faculty, that should have been available to LU students. The UoS has worked since 1975 to develop post-secondary courses to meet the needs of Aboriginal communities – the tricultural dimension of the UoS. President John Meehan has informed me – and I believe it to be true – that between 120 and 140 students enrolled in the six courses in the Indigenous Studies program were affected by the announcement that the federation would be terminated, having understood that the UoS would no longer be able to offer courses to LU students after April 30.
18. This amicable agreement with LU is beneficial first of all for the affected students, since LU will be able to provide them with the courses that would otherwise have been cancelled, but the agreement is also financially beneficial to LU. The UoS is seeking to develop more agreements with LU that will serve both institutions – LU in its restructuring, and the UoS in its shift to become the university dedicated to serving the needs of Sudbury's Francophones.
19. I file this affidavit both in support of the AFO's motion, and in support of the UoS in its own motion opposing the dissolution of the federation.

Sworn remotely by Pierre Riopel )  
 in the municipality of Rivière-des- )  
 Français in the province of Ontario, )  
 before me in the city of Ottawa in )  
 the province of Ontario, on April 18, )  
 2021, in accordance with O. Reg. )  
 431/20 *Administering Oath or* )  
*Declaration Remotely.* )

\_\_\_\_\_  
 Commissioner for Oaths...

\_\_\_\_\_  
**PIERRE RIOPEL**

4

N° DU DOSSIER : CV-21-656040-00CL

**ONTARIO**  
**COUR SUPÉRIEURE DE JUSTICE**  
**(RÔLE COMMERCIAL)**

DANS L’AFFAIRE DE LA *LOI SUR LES ARRANGEMENTS AVEC LES CRÉANCIERS*  
*DES COMPAGNIES*, LRC 1985, c C-36

DANS L’AFFAIRE D’UN PLAN DE TRANSACTION  
OU D’ARRANGEMENT DE L’UNIVERSITÉ LAURENTIENNE DE SUDBURY

**AFFIDAVIT DE PIERRE RIOPEL**

(23 avril 2021)

Je, soussigné, PIERRE RIOPEL, de la Municipalité de la Rivière-des-Français, dans la province de l’Ontario, DÉCLARE SOUS SERMENT que :

1. Je suis le président du Conseil des régents de l’Université de Sudbury (l’US) depuis 2017. J’ai une connaissance personnelle des faits énoncés dans cet affidavit, sauf si j’indique que l’information est sur la foi de renseignements que je tiens pour véridique.
2. Le présent affidavit fait suite à l’affidavit que j’ai signé le 18 avril 2021, et après que j’eue pris connaissance de l’affidavit de Robert Haché du 21 avril 2021.
3. Me référant au paragraphe 147 de l’affidavit du Recteur Haché, je me souviens d’une rencontre qui a eu lieu où Pierre Zundel, le recteur intérimaire, est venu nous livrer au Conseil des régents la « Notice » d’une nouvelle formule de financement. J’y étais présent. Nous avons été placés devant un fait accompli, sans discussion, ce jour d’avril 2019. Nous avons demandé une rencontre de conseil à conseil pour dialoguer de la situation, alors qu’il y avait besoin d’adresser la question de financement. L’UL nous a tout simplement imposé sa volonté sans autre discussion sur le sujet. D’ailleurs



c'est pourquoi il n'y a aucune signature d'acceptation sur le document, autre que celle de Monsieur Zundel pour la Laurentienne.

4. M. Haché décrit aux paragraphes 150 et 151, qu'il y a eu révision du modèle de la Fédération Laurentienne, des études sur avenir dudit modèle. Pourtant nous, à l'US, n'avons pas été approchés pour contribuer à cette analyse, ni consultés pour chercher une solution. À ma connaissance, ce modèle universitaire en fédération fonctionne ailleurs dans les universités du pays et il a fonctionné ici pendant plusieurs décennies. À en lire la description, le modèle de fédération universitaire a fait de l'US un compétiteur indésirable, un acteur de trop sur le campus Laurentienne. Je l'ai vu après mon arrivée sur le Conseil en 2012. L'US était exclue des articles promotionnels de l'UL, nous étions exclues de ses planifications stratégiques.
5. Comme l'US paie tout son personnel enseignant, de soutien et aussi l'entretien de ses bâtiments, je questionne l'affirmation qu'il y aura un gain véritable de 7,7 millions pour l'UL si elle réussit à résilier la fédération. Depuis que l'UL a imposé sa formule de distribution de financement en 2019, l'US a clairement été mis à contribution pour aider l'UL. Pourtant, l'US et les deux autres universités fédérées ne sont pas responsables pour l'endettement massif de l'UL. Et maintenant, l'UL cherche à éteindre l'US, à lui enlever le droit d'enseigner aux étudiants de la Fédération Laurentienne qui appartient aux quatre universités depuis leur pacte en 1960.
6. Le Recteur Haché veut réduire notre convention de fédération à un simple contrat commercial qu'il juge non profitable, et il demande l'aide d'un prêteur provisoire/intérimaire qui, je n'oserais jamais croire, est mieux placé que nous pour juger de la situation si délicate. Puis il restera quoi de la Laurentienne après que ce prêteur aura été remboursé et qu'il eut quitté les lieux?
7. À ce que j'ai pu lire des intentions des deux affidavits du Recteur Haché (janvier et avril) et que je comprenne de l'avis de résiliation et de l'offre qui fut présentée à l'US (à la pièce K), il en ressort une intention claire chez l'UL de dissoudre la fédération à

tout prix. C'est aussi ce que j'ai pu comprendre de notre Recteur John Meehan de ses résumés du dossier depuis le début de la requête sous la LACC et des conclusions apparentes de la médiation, de qui je tiens ces renseignements, que je crois véridiques.

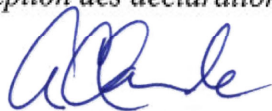
8. Donc, si je me permets de résumer le dossier tel que j'en comprends les faits :
  - a. l'UL n'a jamais tenu de consultation véritable avec l'US dans les derniers six à 12 mois pour adresser le véritable malaise, l'endettement massif de l'UL ;
  - b. l'UL a embauché une firme experte en insolvabilité en août 2020 dont le mandat incluait de piloter un dossier sous la LACC comme Contrôleur, et ceci, sans jamais le dévoiler à l'US, je tiens ceci de mes propres connaissances et des renseignements du Recteur John Meehan, que je tiens pour véridiques ;
  - c. l'UL a entamé sa requête le 1er février dernier au grand émoi de l'US et de toute la communauté de Sudbury et d'ailleurs au pays ;
  - d. le Recteur Haché y annonce son souhait de dissoudre la fédération Laurentienne ;
  - e. il se plaint que la médiation n'a pas porté fruit parce que nous avons refusé d'accepter sa proposition de dissolution de la fédération ;
  - f. jusqu'ici, l'UL refuse d'entretenir toute discussion avec l'US sur un transfert de cours en français, malgré que la communauté francophone supporte pareille initiative ;
  - g. l'UL nous présente une offre bidon qui stipule qu'il ne sera permis à aucun étudiant de l'UL de suivre des cours à l'US en vue d'obtenir son diplôme de la Laurentienne, et nous pouvons aussi y lire qu'il y a même une demande de payer 6,6 millions \$ au régime de retraite de la Laurentienne résultant de la dissolution de la fédération.

Tout ceci est totalement incompréhensible et, il va sans dire, très décevant pour tout le Conseil des régents à l'US et pour moi.

9. Pourtant l'US s'est dévouée à fonder et à contribuer au bien-être de l'UL, des étudiants de la fédération Laurentienne et à toutes les communautés avec qui nous avons tissé des liens serrés.
10. J'ai pu lire dans l'affidavit d'avril du Recteur Haché, qu'il parle de nous permettre d'opérer nos bâtiments après la dissolution de la fédération, mais avec quels moyens le ferons-nous et à quelles conditions? Il sera davantage difficile de remplir la résidence de l'US après toutes ces coupures dans les programmes.
11. À ce que je sache, l'US ne recevra pas un sou de la prochaine tranche du prêt provisionnel (DIP Loan). Mais je ne comprends pas comment l'UL croit qu'elle pourra attirer plus d'étudiants après sa restructuration sans l'US, et plus particulièrement sans l'appui de la communauté francophone qui appuie le virage de l'US. À mon sens, l'UL aurait tout intérêt à s'asseoir avec nous dans les prochaines semaines afin de rebâtir ses liens avec l'US. On dirait que l'UL tente d'éliminer un compétiteur en éducation postsecondaire. Cette attitude est néfaste et va entièrement à l'encontre des valeurs exprimées entre les quatre institutions en 1960.
12. Tel que je l'ai déjà dit dans mon affidavit du 18 avril, l'UdeS reste ouverte à l'idée d'avoir de véritables discussions avec l'UL sur son avenir et sur celui de l'US.

Je dépose le présent affidavit à l'appui de la motion de l'US, qui s'oppose à la dissolution de la fédération.

Déclaré sous serment à distance par )  
 Pierre Riopel dans la municipalité de )  
 la Rivière-des-Français dans la )  
 province de l'Ontario, devant moi à la )  
 ville d'Ottawa dans la province de )  
 l'Ontario, le 22 avril 2021, (23) )  
 conformément au Règl. de l'Ont. )  
 431/20 *Prestation des serments ou* )  
*réception des déclarations à distance.* )



Commissaire aux affidavits



PIERRE RIOPEL

DANS L'AFFAIRE DE LA *LOI SUR LES ARRANGEMENTS AVEC LES  
CRÉANCIERS DES COMPAGNIES*, LRC 1985, c C-36

DANS L'AFFAIRE D'UN PLAN DE TRANSACTION OU D'ARRANGEMENT DE  
**L'UNIVERSITÉ LAURENTIENNE DE SUDBURY**

N° DU DOSSIER : CV-21-656040-00CL

**ONTARIO  
COUR SUPÉRIEURE DE JUSTICE  
(RÔLE COMMERCIAL)**

INSTANCE INTRODUITE À TORONTO

**AFFIDAVIT DE PIERRE RIOPEL**  
(23 avril 2021)

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# Laurentian CCAA

Pierre Riopel  
on Saturday, April 24, 2021



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File No. CV-656040-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

(COMMERCIAL LIST)

IN THE MATTER OF THE COMPANIES' CREDITORS  
ARRANGEMENT ACT, R.S.C. 1985, c. C-36,  
AS AMENDED

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

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--- This is the Cross-examination of PIERRE  
RIOPEL, taken by Neesons, a Veritext Company,  
via Zoom virtual platform, on the 24th day of  
April, 2021.

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REPORTED IN ENGLISH BY: Helen Martineau, Csr  
REPORTED IN FRENCH BY: Manuel Garand, S.O.  
FRENCH LANGUAGE INTERPRETER : Reuben Wright

A P P E A R A N C E S:

D.J. MILLER, Esq., for the Applicant  
& ANDREW HANRAHAN, Esq.,  
& FRASER HUGHES, Esq.

ANDRÉ CLAUDE, Esq. for University  
& RON CAZA, Esq. of Sudbury

EUGENE MEEHAN, Q.C. for Thornloe  
& DEMETRIOS YIOKARIS, Esq. University  
& ANDREW J. HATNAY, Esq.

ASHLEY JOHN TAYLOR for the Monitor

Also Present:

Sharon Hamilton (Court-appointed Monitor of the  
Applicant), Sara Kunto

I N D E X

PAGE

WITNESS: PIERRE RIOPEL

Cross-examination by Mr. Hanrahan.....7

The following list of undertakings, advisements  
and refusals is meant as a guide only for the  
assistance of counsel and no other purpose.

INDEX OF UNDERTAKINGS

The questions/requests undertaken are noted by  
U/T and appear on the following page/line:  
53/6; 65/23; 129/11; 129/17; 130/25; 138/6;  
139/18; 140/25; 141/7; 142/6.

INDEX OF ADVISEMENTS

The questions/requests taken under advisement  
are noted by a U/A and appear on the following  
page/line: 87/16; 88/18; 118/13.

INDEX OF REFUSALS

The questions/requests refused are noted by R/F  
and appear on the following page/line: 73/5;  
117/21; 125/20; 126/7; 135/3; 143/13.

|    |                   |      |
|----|-------------------|------|
| 1  | INDEX OF EXHIBITS |      |
| 2  | NO. / DESCRIPTION | PAGE |
| 3  |                   |      |
| 4  | NONE MARKED .     |      |
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1        --- Upon commencing at 9:16 a.m.

2                MR. CLAUDE: Mr. Wright, I think what  
3 we established that Mr. Riopel will be able to  
4 receive the question in English without the need  
5 for interpretation, that will cut your work down  
6 by a good margin.

7                But, however, other counsel will wish  
8 to have the benefit from French to English. So  
9 I don't think you're going to be needing to do  
10 from English to French throughout this whole  
11 examination.

12               THE INTERPRETER: Okay.

13               MR. CLAUDE: So Ms. Miller, if you  
14 will allow me? The correction is this, it  
15 relates to the affidavit of Mr. Riopel contained  
16 in the motion record, delivered to you on  
17 April 14, although the affidavit contained in  
18 that motion record refers to three federation  
19 documents, which include the lease, attached as  
20 Exhibits A, B and C, during the document  
21 assembly process, I inserted the first page only  
22 as a reminder of what the document was that I  
23 wished to include entirely in the affidavit and,  
24 by inadvertence, I've omitted to add the  
25 remaining pages of those exhibits.

1                   So Mr. Riopel did have those  
2 documents -- was aware of those documents in the  
3 process of preparing that affidavit, but  
4 throughout -- through the omission we're missing  
5 documents. And the full documents correspond to  
6 Exhibits J, K, and L from the applicant's  
7 record -- sorry, the application record at  
8 Volume 1 of 4.

9                   So I thought I'd get that straight  
10 because clearly the affidavit refers to  
11 documents. I think there are even excerpts from  
12 those documents, but clearly you only have  
13 page 1 attached as exhibits, and that is my  
14 mistake. And we'll correct that as soon as  
15 possible either with a new motion record, Fresh  
16 as Amended, we'll find -- we'll find the correct  
17 way to put before the court the full document.

18                  MS. MILLER: Thank you.

19                  MR. HANRAHAN: Just to clarify, so the  
20 witness does have the full versions of the  
21 documents in front of him today?

22                  MR. CLAUDE: Yes, I believe he has,  
23 which are the Exhibits J, K and L from the  
24 application record, so if you wish to refer to  
25 the page numbers of the application record, or

1 whatever reference you wish to make, I believe  
2 those documents are before Mr. Riopel for this  
3 morning's purposes.

4 MR. HANRAHAN: Okay. Thank you. Is  
5 there anything else you wanted to mention?

6 MR. CLAUDE: No, that would be it,  
7 thank you.

8 PIERRE RIOPEL: AFFIRMED.

9 [Testifying through a French language  
10 interpreter for giving his answers  
11 only.]

12 CROSS-EXAMINATION BY MR. HANRAHAN.

13 1 Q. Good morning, Mr. Riopel.

14 A. Bonjour. Good morning.

15 2 Q. Mr. Riopel, you understand that  
16 you're here today to answer questions regarding  
17 three affidavits, that you swore on this  
18 proceeding, in support of the University of  
19 Sudbury's motion opposing the Notice of  
20 Disclaimer that was delivered by Laurentian  
21 University?

22 A. Oui.

23 [Yes].

24 3 Q. And those affidavits were an  
25 affidavit sworn April 14th, 2021, a second



1 affidavit sworn April 18th, 2021, and a third  
2 affidavit sworn April 23rd, 2021?

3 A. Oui, c'est ça.  
4 [Yes, that's correct.]

5 4 Q. And do you have a copy of your  
6 affidavits in front of you today?

7 A. Oui, devant moi.  
8 [Yes, before me.]

9 5 Q. And have you had a chance to  
10 review those affidavits again before you  
11 appeared here today?

12 A. Oui.  
13 [Yes].

14 6 Q. And other than what your counsel  
15 just mentioned a moment ago, are there any other  
16 changes or corrections to your affidavits that  
17 you'd like to make?

18 A. Pas à ma connaissance, non.  
19 [Not that I'm aware of, no.]

20 7 Q. So you stand by the contents of  
21 your affidavit today?

22 A. Oui.  
23 [Yes.]

24 8 Q. And you're sworn to tell the  
25 truth today?

1 A. Oui, tout à fait.

2 [Yes, exactly.]

3 9 Q. And if we turn to your  
4 April 14th affidavit the signature on page 14 is  
5 yours, correct?

6 A. Oui, c'est ma signature.

7 [Yes, that's my signature.]

8 10 Q. And your April 18th affidavit, on  
9 page 4, that's your signature?

10 A. C'est également ma signature,  
11 oui.

12 [Yes, that's my signature.]

13 11 Q. And on page 5 of your April 23rd  
14 affidavit, that's your signature?

15 A. Oui.

16 [Yes.]

17 12 Q. Okay. And just before we get  
18 going, I'll just clarify for the record, so your  
19 first affidavit was submitted in English, your  
20 second affidavit of April 18th was submitted in  
21 French, and we received, from your counsel, a  
22 rough translation of that document, which is  
23 where I'll be working from today.

24 And your April 23rd affidavit, that we  
25 received yesterday, was also in French and I'm

1 working off a rough translation that we have had  
2 created for us. But to the extent anything I  
3 refer to in those does not accurately reflect  
4 how you understand what's expressed in your  
5 affidavit please feel free to correct me.

6 A. Je ferai de mon mieux.

7 [I'll do my best.]

8 13 Q. Mr. Riopel, did your lawyer draft  
9 the affidavits for you?

10 A. Oui.

11 [Yes.]

12 14 Q. And then you reviewed them before  
13 signing?

14 A. Absolument.

15 [Absolutely.]

16 15 Q. And in addition to your  
17 affidavits do you have a copy of the motion  
18 record that University of Sudbury has submitted  
19 in front of you?

20 A. Je crois que oui.

21 [I believe so.]

22 16 Q. So that would be the motion  
23 record dated April 14th. I have two tabs, the  
24 Notice of Motion and your affidavit, is that  
25 what you have?

1                   A.    Ce que j'ai devant moi, c'est mon  
2 affidavit. Mon affidavit puis un document  
3 intitulé « application record ».

4                   [I have in front of me my affidavit  
5 and a document titled "Application of Record".]

6                   MR. CLAUDE: Counsel, maybe I can  
7 help? If you will allow me?

8                   Monsieur Riopel, ce serait « motion  
9 record of the University of Sudbury ».

10                  Mr. Riopel it's the motion record of  
11 the University of Sudbury.

12                  THE WITNESS: Je l'ai en format  
13 électronique, oui.

14                  [No translation provided.]

15                  MR. CLAUDE: Et ça contient la date du  
16 14 avril, et votre affidavit du 14 avril se  
17 trouve à l'intérieur de ce cahier-là.

18                  It's dated the 14th of April your  
19 affidavit is included.

20                  THE WITNESS: Oui, j'ai le document en  
21 format électronique.

22                  [Yes, I have that document in a  
23 digital format.]

24                  BY MR. HANRAHAN:

25   17              Q.    You mentioned the "application

1 record", is that the application record that  
2 Laurentian filed? Is that what you're referring  
3 to?

4 A. Je pense que oui.

5 [I believe so.]

6 MR. CLAUDE: Mr. Hanrahan, just so you  
7 understand, the three exhibits drawn from the  
8 application record have the front vague, "Volume  
9 1 of 4" with the three exhibits J, K and L  
10 attached to that one document. So that those  
11 three exhibits are in one PDF document with the  
12 front page that refers or reminds, I guess, the  
13 person looking at that document that's it's  
14 drawn from Volume 1 of 4 of the applicant's  
15 application record.

16 MR. HANRAHAN: Okay. But does he have  
17 the full application record in front of him?

18 MR. CLAUDE: I don't believe so.  
19 We'll let the witness answer but what I believe  
20 the document he was referring to is specifically  
21 so that when you refer to Exhibits A, B and C of  
22 his affidavit he has that document with that  
23 front page of the applicant's application record  
24 with J, K and L attached.

25 BY MR. HANRAHAN:

1 18 Q. And how about the  
2 April 21st motion record that the applicant  
3 filed? Do you have that in front of you?

4 A. Non, je n'ai pas ce document-là.  
5 [No, I do not have that document. Oh  
6 attends une minute.]

7 J'ai l'affidavit du docteur Haché daté  
8 du 21 avril 2021.

9 [Oh, just a minute. I have a document  
10 the affidavit of Dr. Haché dated...]

11 Le 21 avril 2021.

12 [... the 21st of April, 2021.]

13 19 Q. And do you have the exhibits to  
14 that affidavit there as well?

15 A. Non.

16 [No.]

17 20 Q. Do you have access to those  
18 exhibits electronically?

19 MR. CAZA: Mr. Hanrahan, we can do one  
20 of two things. We could bring it on the screen,  
21 if you want to refer to any of the exhibits.  
22 You can bring it on the screen, or we could  
23 bring it on the screen, whichever way you want  
24 to proceed.

25 Or if you have specific documents or

1 specific exhibits you're referring to they can  
2 maybe be forwarded to the witness so he can  
3 actually have them to look at them. We are in  
4 your hands.

5 MR. HANRAHAN: I am fine with  
6 forwarding them. Why don't we take it as it  
7 goes and see what documents we get to and need  
8 to refer to and if we need to get something to  
9 him we can take a break and make sure he has it.

10 BY MR. HANRAHAN:

11 21 Q. Mr. Riopel, you're aware that  
12 Dr. Gibaut from Thorneloe University was cross  
13 examined yesterday?

14 A. Oui.

15 [Yes.]

16 22 Q. Did you speak to anyone about the  
17 contents of his examination since that took  
18 place?

19 A. Non.

20 [No.]

21 23 Q. Could you describe for me your  
22 post-secondary educational background?

23 A. Je déttiens un baccalauréat  
24 spécialisé en histoire, concentration en  
25 sciences politiques de l'Université d'Ottawa.



1 [I have obtained a Baccalaureate with  
2 a specialization in history and political  
3 science from the University of Ottawa.]

4 J'ai également un baccalauréat en  
5 éducation de l'Université d'Ottawa, obtenu en  
6 1990.

7 [I have a Baccalaureate -- or an  
8 education from the University of Ottawa obtained  
9 in 1991 -- no, 1990.]

10 THE INTERPRETER: L'interprète a perdu  
11 l'année. Sorry, the interpreter missed the year.

12 THE WITNESS: Je détiens également  
13 une maîtrise en éducation de l'Université de  
14 Toronto obtenue...

15 [I also have a Master's degree in  
16 Education from the University of Toronto,  
17 obtained...]

18 ... en 1996.

19 [... in 1996.]

20 BY MR. HANRAHAN:

21 24 Q. And you're currently the Chair of  
22 the Board of Regents at the University of  
23 Sudbury?

24 A. Oui, je le suis.

25 [Yes, I am.]

1 25 Q. And when did you assume that  
2 role?

3 A. Au mois d'octobre 2017.  
4 [Month of October 2007.]  
5 2017.  
6 [2017.]

7 26 Q. And were you appointed to that  
8 position?

9 A. J'ai été élu par mes pairs.  
10 [I was elected.]

11 27 Q. And by whom were you elected?

12 A. Par les membres du conseil.  
13 [By the committee members.]

14 28 Q. Which committee is that?

15 A. Le conseil des régents de  
16 l'Université de Sudbury.

17 THE INTERPRETER: Pouvez-vous répéter  
18 s'il vous plait pour l'interprète? Il y a des  
19 problèmes de son. Can you repeat that for the  
20 interpreter please? The sound is not great.

21 THE WITNESS: Le conseil des régents  
22 de l'Université de Sudbury.

23 [The members of the council of the  
24 University of Sudbury.]

25 BY MR. HANRAHAN:

1       29               Q.    And what does the job of the  
2                   Chair of the Board of Regents entail?

3                   A.    Essentiellement de présider les  
4                   rencontres du conseil, offrir des conseils au  
5                   recteur ou à la rectrice, et assumer un  
6                   leadership au sein du conseil des régents.

7                   [Essentially council meetings,  
8                   offering advice to the Rector, or female Rector,  
9                   and assume the leadership for the Council of  
10                  Regions.]

11       30               Q.    Is that a full-time position or  
12                   are you otherwise employed?

13                   A.    Je suis à la retraite. Et le  
14                   poste de président du conseil d'administration,  
15                   c'est un poste bénévole.

16                   [I'm retired. And the post of  
17                   President at Board of Directors...]

18                   C'est un poste bénévole.

19                   It's a volunteer position.

20       31               Q.    And did you have any role with  
21                   the University of Sudbury prior to the being  
22                   appointed in October 2017?

23                   A.    J'étais membre du conseil depuis  
24                   le mois de février 2012.

25                   [I've been a member of the council

1 starting in the month of February 2012.]

2 32 Q. Mr. Riopel, you're aware that  
3 Laurentian and the University of Sudbury have  
4 been in a federation since 1960?

5 A. Oui.

6 [I am.]

7 33 Q. And that arrangement is pursuant  
8 to a Federation Agreement between Laurentian and  
9 the University of Sudbury, correct?

10 A. C'est ce que je comprends.

11 [That's what I understood.]

12 34 Q. And that's an agreement that was  
13 executed in 1960?

14 A. À ma connaissance.

15 [That I am aware of, yes.]

16 35 Q. And you just told me a moment ago  
17 that you first joined or had taken a role with  
18 the University of Sudbury in February 2012,  
19 correct?

20 A. Hum, hum. Oui.

21 [Yes.]

22 36 Q. So at the time the Federation  
23 Agreement was signed you weren't at the  
24 University of Sudbury in any capacity?

25 A. Je n'étais pas au monde, monsieur

1 Hanrahan.

2 [No, I was not even in the world, no.]

3 37 Q. Fair enough. So given that you'd  
4 agree with me that other than reading the words  
5 of the agreement you have no personal knowledge  
6 about the agreement itself?

7 A. Des circonstances de signature,  
8 non.

9 [The situation surrounding its  
10 signature? No.]

11 38 Q. So could we pull up the  
12 Federation Agreement, which was Exhibit A to  
13 your affidavit? And do you have that in front  
14 of you?

15 A. Est-ce qu'on parle de l'entente  
16 de 1960 ici?

17 [Are you speaking of the agreement of  
18 1960?]

19 39 Q. Correct. September 1960,  
20 September 10.

21 MR. CLAUDE: Perhaps, Mr. Hanrahan,  
22 Mr. Liopel, that would be referring to Exhibit  
23 K, I believe, from Volume 1 of 4 from the  
24 application record.

25 THE WITNESS: J'ai le document devant

1           moi.

2                           [I have the document in front of me.]

3           MR. HANRAHAN: And Mr. Claude, feel  
4 free to provide those because I don't have the  
5 corresponding references to the application  
6 record.

7                           BY MR. HANRAHAN:

8   40           Q. And before I actually get into  
9 the Federation Agreement, could we actually pull  
10 up your April 14th affidavit? And if you could  
11 pull up paragraph 13?

12                          A. Oui.

13                          [Yes.]

14   41           Q. So if we look at paragraph 13 of  
15 your April 14th affidavit you say:

16                               "The Federation Agreement was  
17 intended to be permanent and  
18 perpetual. There is no provision for  
19 its termination and the parties never  
20 intended for there to be the  
21 possibility of a unilateral  
22 termination of the federation  
23 relationship."

24                          Do you see that?

25                          A. Oui.

1 [Yes.]

2 42 Q. Now, when you say that the  
3 parties intended the relationship to permanent  
4 or that they never intend a unilateral  
5 termination, you the don't actually know what  
6 the parties intended, do you?

7 A. Je n'étais pas présent, non.

8 [No, I wasn't present.]

9 43 Q. You weren't part of the  
10 negotiations of the agreement, right?

11 A. De l'entente de 1960? Non.

12 [To the agreement of 1960? No.]

13 44 Q. Thank you. So you agree with me  
14 that in interpreting this document you'd need to  
15 look at the words on the page, correct?

16 A. Oui.

17 [Yes.]

18 45 Q. So let's look at the agreement.  
19 Turn to the actual Federation Agreement now.  
20 And could you turn to paragraph 17 of the  
21 agreement?

22 A. C'est beau.

23 All right.

24 46 Q. And if we look at paragraph 17 it  
25 say:



"Both Laurentian University and Sudbury university declare and express the firm hope and conviction that the relationship between the universities, established by this agreement, will be a permanent one."

Do you see that?

A. Oui.

[I do.]

47 Q. You'd agree with me that expressing a hope to do something is not the same agreeing to do something, correct?

A. Si je comprends bien la distinction, oui.

[If I understand the distinction correctly, yes.]

Mais j'ajouterais que dans la même phrase, il y a le mot « conviction », conviction. Alors ça aussi, je pense qu'il faut regarder le plein portrait.

[But I would also add that in the same sentence the word "conviction" appears so I believe that that would need to be included.]

48 Q. Fair enough. And would you agree that there's still a distinction between a

1 "hope" and "conviction" and an "agreement"?

2 A. Je ne suis pas avocat et je ne  
3 suis pas linguiste, mais il y a une distinction  
4 à faire.

5 [I'm neither a lawyer nor a linguist  
6 but the distinction is clear.]

7 49 Q. And the distinction is that one  
8 is a commitment and one is on aspiration, right?

9 MR. CAZA: I have an objection. I  
10 want to make sure -- is your position that what  
11 he thinks and his opinion on the interpretation  
12 of this contract is relevant to the motion or  
13 the application? I just -- because if it's not  
14 you shouldn't continue with these questions, and  
15 if it is I just want you to state it on the  
16 record.

17 MR. HANRAHAN: Well, he's put in his  
18 affidavit an understanding of what this means  
19 and I'm testing his understanding of that.

20 MR. CAZA: Okay, that's fine.

21 BY MR. HANRAHAN:

22 50 Q. Madam Court Reporter, can you  
23 read back the question to the witness.

24 [Question read back.]

25 A. C'est ce que je comprends.

1 [It is to -- what I understand, yes.]

2 51 Q. Let's take a look at paragraph 3  
3 of the agreement. So if we look at paragraph 3  
4 it says:

5 "Laurentian University agrees to  
6 continue all faculties, schools,  
7 institutes, departments and chairs now  
8 established in Sudbury University,  
9 except these in theology and  
10 philosophy, in accordance with the  
11 provisions of the Act and Corporation  
12 of Laurentian University."

13 Do you see that?

14 A. Oui.

15 [Yes.]

16 52 Q. And you would agree with me that  
17 this provision here is a particularly important  
18 term in the Federation Agreement, correct?

19 A. Je dirais que oui.

20 [I would say so, yes.]

21 53 Q. And in that case, taking into  
22 account that this is an important provision the  
23 parties have used the language "agrees", right?

24 A. C'est ce que je lis, mais je ne  
25 suis pas un avocat, moi.

1 [That's what I read, but I'm not a  
2 lawyer.]

3 54 Q. If we look at paragraph 12, I  
4 won't read the whole paragraph because it's  
5 lengthy, but it starts:

6 "Laurentian university shall  
7 allocate and reserve land within its  
8 campus, which Sudbury University may  
9 acquire [...]."

10 And it goes on from there. So here we  
11 have used language "shall". And you'd agree  
12 with me that again we've used the language  
13 "shall" do something rather than "hope" to do  
14 something, right?

15 A. Shall » exprime un engagement,  
16 pour moi.

17 [For me "shall" expresses a  
18 commitment.]

19 55 Q. I would agree with that. And if  
20 we look at paragraph 7, 8, 9, those each begin  
21 with the language -- those each use the language  
22 "agrees". Do you see that?

23 A. Oui.

24 56 Q. So you'd agree with me that where  
25 the parties intended to express a commitment --

1 an agreement or a commitment to do something  
2 they used the language "agrees" or "shall",  
3 right?

4 A. C'est ce que le document semble  
5 indiquer, mais...

6 [That's what the document would appear  
7 to indicate, but...]

8 57 Q. I wasn't sure from the  
9 interpretation whether that was the end of the  
10 answer?

11 A. C'est la fin de ma réponse.  
12 [That's the end of my answer.]

13 58 Q. Now, in addition to the  
14 Federation Agreement, Laurentian and Sudbury  
15 also have an Indenture Agreement in which the  
16 University of Sudbury leases land from  
17 Laurentian, correct?

18 A. C'est ce que je comprends, oui.  
19 [That's what I have understood, yes.]

20 59 Q. And can we take a look at that  
21 document, which I believe is Exhibit B to your  
22 affidavit?

23 A. J'ai le document devant moi.  
24 [I have the document in front of me.]

25 60 Q. And so this document sets out the

1 terms under which the University of Sudbury  
2 leases the land from Laurentian, correct?

3 A. C'est ce que je comprends.

4 [That's what I can understand, yes.]

5 61 Q. And like the Federation Agreement  
6 we were just looking at, this document is from  
7 the 1960s so I think it's a safe assumption from  
8 me to say that you were not involved in the  
9 drafting or the negotiation of this, correct?

10 A. Le 9 avril 1965, j'étais au  
11 monde, mais je n'étais pas là à la signature de  
12 ce document.

13 [The 9th of April 1965 I was a member  
14 but I was not there for the signature.]

15 62 Q. Sorry, can you repeat the  
16 interpretation? I didn't catch the answer.

17 THE INTERPRETER: I don't have the  
18 transcript before me so the answer will need to  
19 be repeated.

20 THE WITNESS: Le 9 avril 1965, j'étais  
21 au monde, mais je n'étais pas présent à la  
22 signature de ce document.

23 [The 9th of April 1965 I was a member  
24 but I was not present at the signature.]

25 BY MR. HANRAHAN:

1 63 Q. Sorry, when you say you were a  
2 "member" what do you mean by that?

3 A. J'étais au monde.  
4 [I was in the world.]

5 64 Q. In the world, I get it.

6 THE INTERPRETER: Sorry, the sound is  
7 not great.

8 BY MR. HANRAHAN:

9 65 Q. And can we take a look at  
10 paragraph 6 of the indenture? Do you have that  
11 in front of you?

12 A. Je crois que oui, je n'ai pas le  
13 paragraphe numéroté, par contre.  
14 [I believe I do but I don't have the  
15 paragraph number.]

16 66 Q. It should be on page 2 of the  
17 indenture?

18 A. Est-ce qu'on parle du 6, ici?  
19 [Are you speaking about paragraph 6  
20 here?]

21 67 Q. Yes.

22 A. À la page 2 du document, j'ai les  
23 paragraphes 2, 3, 4 et 5.

24 [On page 2 of the document I have  
25 paragraphs 2, 3, 4, and 5.]



1       68               Q.    And the document I'm looking at  
2               there is a paragraph 6 that begins right near  
3               the bottom of the page.

4               A.    Il me manque ces phrases-là. Je  
5               pense que la différence, c'est que le document  
6               original, c'est un foolscap. Moi, j'ai en 8 et  
7               demi par 11.

8               [I believe the difference is the  
9               original document is a foolscap.]

10      69               Q.    So the bottom didn't print, is  
11               that what you mean?

12               A.    C'est ce que je pense.

13               [That's what I believe.]

14      70               Q.    Is there an electronic version  
15               that you can access to look at?

16               MS. MILLER:  André, would you like me  
17               to send and copy you and Mr. Caza with the  
18               agreements?  Let me know, or if you have it  
19               handy?

20               MR. CAZA:  Do you have an objection --  
21               we can do it that way but do you have an  
22               objection to putting it up on the screen?

23               MS. MILLER:  I think it's hard to do  
24               on the screen because we lose the image and  
25               stuff with people and the witness.

1 MR. CAZA: That's sound familiar.  
2 Can we take a minute just to send it  
3 over? Send a copy?

4 MS. MILLER: Well do that.

5 THE WITNESS: Ah je l'ai.

6 MR. CAZA: I think Mr. Riopel just  
7 stated that he found it.

8 BY MR. HANRAHAN:

9 71 Q. So you can now see the paragraph  
10 6 that I was referring to?

11 A. Oui, j'ai ma copie électronique  
12 devant moi.

13 [Yes, I have my electronic copy in  
14 front of me.]

15 72 Q. Thank you. So if we look at  
16 paragraph 6 it says:

17 "Provided that this lease, and  
18 any renewal thereof, shall, at the  
19 option of the lessor, cease and be  
20 void if at any time during the term  
21 hereby granted the lessee shall  
22 withdraw from federation with the  
23 lessor."

24 Do you see that?

25 A. Oui.

1 [Yes.]

2 73 Q. So you would agree with me that  
3 this provision says that the lease can be void  
4 if Sudbury withdraws from the federation?

5 A. Je ne suis pas avocat, donc c'est  
6 difficile pour moi de répondre.

7 [I'm not a lawyer so it's difficult  
8 for me to answer.]

9 Sauf que je peux vous dire que depuis  
10 que je suis au conseil, en 2012, j'ai toujours  
11 compris que l'entente de la Fédération était  
12 véridiquement permanente et perpétuelle. Ça, je  
13 peux vous l'affirmer.

14 [But I can say, since I've been a  
15 member on the council, since 2012, I have  
16 understood that the Federation Agreement was  
17 perpetual and permanent. That I can confirm to  
18 you.]

19 74 Q. Well, I just want to focus on the  
20 paragraph we're looking at right now. And  
21 without -- I'm not asking for a legal  
22 interpretation because I appreciate that you're  
23 not a lawyer. But this provision at least  
24 contemplates a scenario where the University of  
25 Sudbury withdraws from the federation, correct?

1                   A.    J'imagine qu'elle soulève la  
2                   possibilité, oui.

3                   [I imagine that that brings up the  
4                   possibility, yes.]

5   75            Q.    So, in other words, this document  
6                   is contemplating a scenario that the Federation  
7                   Agreement might not be permanent, right?

8                   A.    J'imagine si un des partis  
9                   choisit de se retirer de la Fédération.

10                  [Yes. I imagine if one of the parties  
11                  decides to withdraw from the agreement.]

12                  Mais le souhait, c'est que justement,  
13                  cette Fédération soit permanente et perpétuelle.

14                  [But the desire is indeed that this  
15                  Federation Agreement be perpetual and  
16                  permanent.]

17   76            Q.    Mr. Riopel, there is also a  
18                   Financial Distribution Notice that is in effect  
19                   between Laurentian University and the University  
20                   of Sudbury, is that direct?

21                  A.    Oui.

22                  [Yes.]

23   77            Q.    And that notice sets out the  
24                   terms for the distribution of operating grants  
25                   and tuition from Laurentian to the University of

1 Sudbury, correct?

2 A. C'est ce que je comprends.

3 [According to what I understand.]

4 78 Q. And the financial distribution  
5 notice has been in effect since May 2019, is  
6 that right?

7 A. 1er mai 2019, oui

8 [April 2019, yes.]

9 Le 1er mai.

10 [The 1st of May.]

11 79 Q. Could we turn to paragraph 26 of  
12 your April 14th affidavit?

13 A. Oui, paragraphe 26.

14 [Yes, paragraph 26.]

15 80 Q. And you say in that paragraph:

16 "USudbury was not asked to and  
17 did not consent to Laurentian  
18 unilaterally revising or replacing  
19 1993 funding agreement, through the  
20 Financial Distribution Notice, or  
21 otherwise, by purporting to revise the  
22 allocation of revenues on its own  
23 without consultation or discussion  
24 with USudbury. Laurentian was not  
25 acting within the guiding principles

1 of the Federation Agreement or in good  
2 faith."

3 Do you see that?

4 A. Oui.

5 [Yes.]

6 81 Q. And could we now look at  
7 paragraph 3 of your April 23rd affidavit?

8 A. Oui.

9 [Yes.]

10 82 Q. In that paragraph 3 of your  
11 April 23rd affidavit you describe being present  
12 for an April 2019 meeting with the president of  
13 Laurentian regarding the new funding formula,  
14 correct?

15 A. Oui, c'était le 30 avril.

16 [Yes, it was on the 13th of April --  
17 30th of April.]

18 Merci.

19 Thank you.

20 83 Q. So in the paragraph we looked at  
21 from your April 14th affidavit when you said  
22 Laurentian revised the formula without  
23 discussion with USudbury, that wasn't quite  
24 accurate, was it?

25 A. Non, c'est juste.

1 [No, that's correct.]

2 84 Q. Well, you're describing there  
3 being a meeting in paragraph 3 of your  
4 April 23rd affidavit, where this was discussed?

5 A. Il n'y a pas eu de discussion le  
6 30 avril.

7 [There was no discussion the 30th of  
8 April.]

9 85 Q. Well, there was a meeting right?

10 A. Nous étions dans la même salle,  
11 mais il n'y a pas eu de discussion. On nous a  
12 placés devant un fait accompli.

13 [We were in the room on the 30th but  
14 there was no discussion. We were placed before  
15 a fait accompli.]

16 86 Q. When you say "there was no  
17 discussion" you didn't say anything during the  
18 meeting?

19 A. Maître Hanrahan, on nous a  
20 présenté une document signé par le recteur de  
21 l'Université Laurentienne, le docteur Zundel.

22 [Your Honour -- Hanrahan, we were  
23 presented with a document signed by the Rector  
24 of Laurentian, Dr. Zundel.]

25 Il n'y a pas eu de discussion. Nous

1 n'avons signé aucun document.

2 [There was no discussion. We signed no  
3 document.]

4 Nous avons réagi. Nous avons posé des  
5 questions mais c'était des fins de non-recevoir  
6 de la part des membres du conseil et de  
7 l'administration de l'Université Laurentienne.

8 [We did react and we did ask questions  
9 but it was from the members of Laurentian and  
10 the administration of Laurentian that we  
11 received this.]

12 87 Q. But you don't consider that to be  
13 a discussion.

14 A. Pas du tout.

15 [Not at all.]

16 88 Q. In any event, both Laurentian and  
17 Sudbury have been operating under the terms of  
18 the notice since May 1st, 2019, correct?

19 A. Oui.

20 [Yes.]

21 89 Q. And the notice itself, if we look  
22 at it in schedule B?

23 A. Hum, hum.

24 [Uhm-hmm.]

25 90 Q. Schedule B provides that:



1 "All tuition revenue collected  
2 from students for course registrations  
3 at the Federated Universities is  
4 transferred by Laurentian to the  
5 Federated Universities."

6 Correct? That's in the second  
7 paragraph of schedule B.

8 A. À quelle page?

9 [On which page?]

10 91 Q. I believe it's page 7 of the  
11 document, and it's titled "Schedule B Tuition  
12 Revenue Distribution"?

13 A. Oui, c'est ce que je comprends.

14 [Yes. That's what I understand.]

15 92 Q. Now, Mr. Riopel, students who  
16 take programs through the Federated  
17 Universities, including the University of  
18 Sudbury, those are Laurentian University  
19 students, correct?

20 A. Alors c'est une grande question.  
21 Ces étudiants suivent les programmes à  
22 l'Université de Sudbury, mais ils obtiennent des  
23 grades de l'Université Laurentienne. Ça, c'est  
24 l'entente à ce que j'en comprends.

25 [That's the -- that's a very good

question. These students follow their courses at the University of Sudbury but they obtain a degree from Laurentian University, that's what's in the agreement.]

93 Q. And students who take a program offered through the University of Sudbury, when they're applying they apply to Laurentian, right?

A. Je ne suis pas au courant des détails du Bureau du registraire, mais c'est ce que je comprends.

[I am not aware of the details involved in the Registrar's office but that's what I would understand.]

94 Q. And admissions decisions are made by Laurentian rather than the University of Sudbury?

A. Je ne suis pas au courant de ces détails-là.

[I'm not aware of these details.]

95 Q. Does the University of Sudbury have a Registrar?

A. Un secrétaire-général, oui.

[A General Secretary, yes.]

96 Q. And I think you said a moment ago

1       that at the end of their program the students  
2       will graduate with a degree from Laurentian  
3       rather than a degree from the University of  
4       Sudbury, correct?

5               A.    C'est ce que je comprends.

6               [That's what I've understood.]

7               Maintenant, j'ajouterais, pour avoir  
8       assisté à des collations de grades à  
9       l'Université Laurentienne...

10              [Now, I would add, having attended the  
11       hmm (sic) at Laurentian...]

12              Des cérémonies de remise de diplômes,  
13       des collations de grades à l'Université  
14       Laurentienne.

15              [...this graduation and awarding of  
16       diplomas for Laurentian, a ceremony...]

17              Il y a une mention dans le  
18       programme...

19              [...there is a mention, a comment in  
20       the program...]

21              ... du rattachement ou du lien de cet  
22       étudiant-là ou cette étudiante-là avec  
23       l'Université de Sudbury.

24              [...there is a mention on those  
25       programs of this -- the attachment of this

1 student to the university.]

2 97 Q. Their degree and their diplomas  
3 it says "Laurentian University", right?

4 A. C'est ce que je comprends.  
5 [That's what I've understood.]

6 98 Q. Can we turn to paragraph 27 of  
7 your April 14th affidavit? So in this paragraph  
8 you're referring to grant money that's provided  
9 by the provincial government and you say:

10 "Laurentian receives funding  
11 based on the number of students  
12 enrolled at the Federated Universities  
13 for purposes of the provincial funding  
14 formula, but does not pay the  
15 Federated Universities the full amount  
16 for each student."

17 Do you see that?

18 A. Oui.

19 [Yes.]

20 99 Q. But isn't it true that the  
21 province doesn't actually allocate money  
22 specifically for the Federated Universities?

23 A. Ce que je comprends, c'est en  
24 vertu de notre entente, nous recevons ou  
25 l'Université Laurentienne reçoit du financement

1       pour les étudiants inscrits à nos programmes.

2               [Well, from what I understand it's in  
3       virtue of the agreement that Laurentian  
4       University receives funding for students  
5       registered in the program.]

6               Et j'ajouterais, je crois que  
7       l'Université de Sudbury également reçoit du  
8       financement pour les étudiants qui choisissent  
9       des cours au choix.

10              [And I would add that I believe the  
11       University of Sudbury receives funding for  
12       students who choose elective classes.]

13              Voilà.

14              [There you are.]

15   100       Q.    There are no provincial funding  
16       grants provided specifically in respect of the  
17       Federated Universities, correct?

18              A.    Ce que je comprends du ministère  
19       des Collèges et des Universités, à l'exception  
20       de l'Université de Hearst qui reçoit directement  
21       son financement, et c'est une exception, alors  
22       que toutes les autres universités fédérées  
23       reçoivent leur financement via l'établissement  
24       universitaire principal, je vais dire ça comme  
25       ça.

1 [I understand, according to the  
2 Ministry of Colleges and Universities with the  
3 exception of the University of Hearst that  
4 receives its funding directly, and that's the  
5 exception, while all the other Federated  
6 Universities receive their funding via the  
7 principal or main institution or university,  
8 I'll say it that way.]

9 Et à ce que je comprenne, c'est la  
10 même chose pour l'Université de Western Ontario,  
11 l'Université de Waterloo, l'Université de  
12 Toronto, qui ont des formules semblables.

13 [And from what I understand that's the  
14 same way it works for University of Western,  
15 University of Waterloo, University of Toronto,  
16 they have the same set-up.]

17 101 Q. So what I think you're saying is  
18 that the provincial grant money that goes to  
19 Laurentian is provided in respect of Laurentian,  
20 is that right?

21 A. En principe, oui, c'est ce que je  
22 comprends.

23 [In principle, yes, that's what I  
24 understood.]

25 102 Q. And Laurentian only transfers

1 grant funds to the Federated Universities as a  
2 result of the Financial Distribution Notice,  
3 correct?

4 A. C'est ce qui est en vigueur  
5 depuis le 1er mai 2019.

6 [That's what's been in vigour (sic)  
7 since the first (sic) of 2019.]

8 103 Q. Now, I just want to talk about  
9 the University of Sudbury's operations for a  
10 minute. It's fair to say the University of  
11 Sudbury operates independently in many ways, is  
12 that correct?

13 A. Je dirais que oui.

14 [I would say, yes.]

15 104 Q. It's managed by its own  
16 independent Board of Regents?

17 A. Oui.

18 [Yes.]

19 Petite précision. C'est que le conseil  
20 des régents ne gère pas, nous assurons la  
21 gouvernance de l'établissement.

22 [I'd like to specify. We are the  
23 regents, we don't --]

24 THE INTERPRETER: Can you repeat that?  
25 Répétez, s'il vous plaît.

1 THE WITNESS: Oui. Nous ne gérons pas,  
2 nous assurons la gouvernance de l'université.

3 [We don't manage the University of  
4 Sudbury, we ensure the governance.]

5 BY MR. HANRAHAN:

6 105 Q. Fair enough. And the University  
7 of Sudbury operates its own buildings?

8 A. Oui, nous avons un édifice  
9 administratif et une résidence.

10 [Yes. We have administrative and  
11 residence.]

12 En fait, l'édifice administratif,  
13 c'est aussi l'édifice des salles de classe.

14 [In fact the administer part is the  
15 classrooms.]

16 106 Q. And you have your own  
17 administrative staff?

18 A. Oui.

19 [Yes.]

20 107 Q. And your own faculty?

21 A. Oui.

22 [Yes.]

23 108 Q. And they have their own labour  
24 union separate from the Laurentian labour union?

25 A. En fait, l'unité syndicale avec



1 qui nous négocions s'appelle LUFA, l'Association  
2 des professeurs de l'Université Laurentienne,  
3 parenthèses, l'Université de Sudbury.

4 [In fact the union with whom we  
5 negotiate is called the "LUFA", the Association  
6 for the Federation of the University of  
7 Laurentian, and in brackets University of  
8 Sudbury.]

9 Donc le même syndicat est comme un  
10 groupe un peu à part, autonome.

11 [So the same union but a different  
12 part, a different group apart.]

13 109 Q. Right, it has its own chapter?

14 A. C'est ça. C'est ce que je pense.

15 [That's right. That's what I  
16 believe.]

17 110 Q. And the staff and faculty of the  
18 University of Sudbury are employed by the  
19 University of Sudbury?

20 A. Exact.

21 [Exactly.]

22 111 Q. And paid by the University of  
23 Sudbury?

24 A. Exact.

25 [Exactly.]

1 112 Q. And the University of Sudbury has  
2 its own bank account?

3 A. Oui.

4 [Yes.]

5 113 Q. It's own financial statements?

6 A. Oui.

7 [Yes.]

8 114 Q. So the University of Sudbury  
9 currently offers five different programs, is  
10 that correct?

11 A. Je crois que oui.

12 [I believe so, yes.]

13 115 Q. And those are Indigenous Studies,  
14 Philosophy, Religious Studies, études  
15 journalistiques, and Folklore and Ethnology,  
16 correct?

17 A. Oui. Quelques précisions,  
18 ethnologie et folklore, c'est en français.

19 [Yes. Some precisions, Folklore and  
20 Ethnology is in French...]

21 Études journalistiques, exclusivement  
22 en français aussi.

23 [... and journalistic studies  
24 exclusively in French as well.]

25 Études religieuses et philosophie sont

des programmes bilingues.

[Religion and philosophy are bilingual programs.]

Et indigenous studies, c'est un programme en anglais mais offrant des cours en français

[And Indigenous Studies is an Anglophone course but offering French classes.]

116 Q. And in terms of student headcount, for fall 2020 there were 69 full-time equivalent students enrolled in the University of Sudbury's programs, is that right?

A. Ça, je peux pas vous l'assurer. Moi, j'ai entendu des chiffres aussi à 80, 100, 110, donc je peux pas confirmer vraiment de façon certaine.

[I can't confirm it for you. I've heard numbers around 80, 110, so I can't confirm that perfectly.]

117 Q. Does it sound in the ball park of what you would expect?

MR. CAZA: Objection. Mr. Riopel, we don't wanted you to be making any guesses. And I don't think that's what counsel is expecting. So if you don't know the answer don't guess and

1 if you do know the answer please provide the  
2 answer.

3 THE WITNESS: I don't know the answer.

4 Je ne sais pas la réponse

5 [I don't know the answer.]

6 BY MR. HANRAHAN:

7 118 Q. No, I don't want you to guess,  
8 but I guess my question was just, if I told you  
9 that there was 69 full-time equivalent students  
10 that doesn't sound out of line with your  
11 expectation?

12 A. Je peux pas vous l'affirmer, je  
13 ne sais vraiment pas.

14 [I can't confirm that for you because  
15 I really don't know.]

16 119 Q. Now, if we look at paragraph 32  
17 of your April 14th affidavit, do you have that  
18 in front of you?

19 A. Oui.

20 [Yes.]

21 120 Q. So in paragraph 32 you refer to  
22 University of Sudbury having a full student  
23 course equivalent enrollment of 2,228. Do you  
24 see that?

25 A. Oui.

1 [Yes.]

2 121 Q. And individual registrations in  
3 all courses of 4,080 students. Do you see that  
4 as well?

5 A. Oui.

6 [Yes.]

7 122 Q. Now, when you say in this  
8 paragraph "full student course equivalent  
9 enrollment", what does that mean?

10 A. C'est de l'information qui m'a  
11 été fournie par, via mon avocat ou l'avocat de  
12 l'Université de Sudbury, de l'information qui a  
13 été fournie par notre équipe administrative. Je  
14 ne connais pas les précisions, là,  
15 terminologiques, ici.

16 [There is information provided to me  
17 by the lawyers, or the lawyers of Sudbury. This  
18 information is provided to me by the  
19 administrative team so I don't know the details  
20 of that information.]

21 123 Q. So you don't understand what that  
22 number represents?

23 A. Moi, je fais confiance à l'autre  
24 équipe.

25 [I trust the other team on that.]

1 124 Q. Did you have any questions about  
2 that before you signed this affidavit?

3 A. Je n'ai pas demandé de  
4 précisions. Je me fie à cette équipe.

5 [I did not ask for specification. I  
6 trust that team.]

7 125 Q. You didn't indicate in the  
8 affidavit that you were relying on information  
9 from someone else for those numbers, did you?

10 A. Je pensais que oui, au tout  
11 début. Au paragraphe 1.

12 [I believe so, at the very beginning.  
13 Paragraph 1.]

14 126 Q. Let's take a look at paragraph 1.  
15 Paragraph 1 says:

16 "Where I do not have personal  
17 knowledge of the facts set out in this  
18 affidavit I state the source of that  
19 information and verily believe the  
20 information to be true."

21 Now, if you look at -- back at  
22 paragraph 32 again, there's no reference to  
23 another source for that information that you're  
24 relying on, is there?

25 A. Moi, ce que je peux vous

1 partager, c'est qu'on m'a toujours indiqué que  
2 nous desservions approximativement, au grand  
3 total, 2 000 étudiants, peu importe l'année.

4 [What I can indicate to you is that we  
5 would offer services to students at a very  
6 maximum of around 2,000 students.]

7 Donc c'est peut-être pour cette  
8 raison-là que je n'ai pas questionné ce  
9 paragraphe-là.

10 [So it's perhaps for that reason I  
11 hadn't questioned that paragraph.]

12 127 Q. Did you not think it would be  
13 necessary to check on the figures you're citing  
14 in our affidavit? You've sworn them to be true,  
15 right?

16 A. Oui. Et on m'avait déjà indiqué  
17 que nous desservions approximativement 2 000  
18 étudiants.

19 [Yes. And I had already indicated  
20 that we serve approximately 2,000 students.]

21 128 Q. So what you're saying is that  
22 there's approximately 2,000 students who take  
23 courses as the University of Sudbury, is that  
24 your evidence?

25 A. J'ai déjà entendu ça, oui.

1 [We've already heard that, yes.]

2 129 Q. But you're not sure exactly what  
3 that number refers to?

4 A. Non.

5 [No.]

6 130 Q. And the next number in that  
7 paragraph, individual registrations in all  
8 courses of 4,080 students. Do you see that?

9 A. Oui.

10 [Yes.]

11 131 Q. Do you know what that number  
12 refers to?

13 A. Encore, je fais confiance à  
14 l'équipe administrative qui me fournit ces  
15 données-là.

16 [Again, I'm confident in the team that  
17 provides me these informations.]

18 132 Q. And do you understand what the  
19 distinction between the two numbers is, 2,228  
20 versus 4,080?

21 A. Je comprends les mots, mais je ne  
22 comprends pas nécessairement toutes les  
23 implications à l'intérieur de l'organisation.

24 [I understand the words but I perhaps  
25 don't understand all the details within the



1 organization structure.]

2 133 Q. Counsel, can we have an  
3 undertaking for an explanation of how these  
4 numbers were calculated and what they represent?

5 U/T MR. CAZA: Yes, we will provide you  
6 with that undertaking.

7 MR. HANRAHAN: Thank you.

8 BY MR. HANRAHAN:

9 134 Q. Now, I think you said a moment  
10 ago that your understanding was there was about  
11 2,000 students who take courses through the  
12 University of Sudbury, is that right?

13 A. C'est l'information que j'ai eue  
14 la dernière fois qu'on m'a fourni quelque chose,  
15 très informellement.

16 [That's the information I received the  
17 last time someone provided me information very  
18 formally.]

19 135 Q. And we just talked a few minutes  
20 ago about the fact that there's roughly 69  
21 full-time equivalent students at the University  
22 of Sudbury?

23 A. Bien, c'est vous qui le dites,  
24 oui.

25 [You're the one saying that, yes.]

1       136               Q.    Well, and I thought that you told  
2       me that was within -- that was the number that  
3       you thought was within the range of  
4       reasonableness without committing to that  
5       figure?

6                       A.    Bien moi, je n'ai pas ces  
7       informations-là pour confirmer ou infirmer.

8                       [I don't have this information in  
9       front of me to either confirm or not confirm.]

10      137               Q.    Okay. Is it fair to say that  
11      most of the 2,000 or so students who are taking  
12      the courses at University of Sudbury are  
13      enrolled in Laurentian University programs?

14                       A.    Je dirais que oui.

15                       [I would say that, yes.]

16      138               Q.    And so when we were discussing  
17      earlier about the Financial Distribution Notice,  
18      if a student is enrolled in a program through  
19      Laurentian but they take an elective course  
20      through the University of Sudbury, the tuition  
21      revenue for that course is then paid from  
22      Laurentian to the University of Sudbury,  
23      correct?

24                       A.    C'est ce que j'ai toujours  
25      compris.

1 [That's how I've always understood  
2 it.]

3 139 Q. And did you review Dr. Haché's  
4 April 21st affidavit?

5 A. Rapidement, oui.

6 [Quickly, yes.]

7 140 Q. And you submitted an affidavit in  
8 response that Dr. Haché affidavit, right?

9 A. Par la suite, oui.

10 [Just afterwards, yes.]

11 141 Q. And do you recall in Dr. Haché's  
12 affidavit that he provided the amount, specific  
13 amounts of money transferred from Laurentian to  
14 the Federated Universities?

15 A. Pas comme ça, mais c'est à quel  
16 paragraphe?

17 [What paragraph is that in again?]

18 142 Q. That is paragraph 152 and 153.

19 A. J'ai le paragraphe devant moi.

20 [I have the paragraph in front of me.]

21 143 Q. And Dr. Haché in those paragraphs  
22 refers to:

23 "In fiscal year 2020 the amount  
24 of tuition and grants and fee  
25 transferred to the Federated

1 Universities, net of the service fee  
2 paid to Laurentian, was 7.7 million."

3 Do you see that?

4 A. Oui.

5 [Yes.]

6 144 Q. . Now, if the same roughly 2,000  
7 students we were talking about earlier, who take  
8 courses through the University of Sudbury, took  
9 all of their electives solely through Laurentian  
10 University, all the tuition revenue for those  
11 students would stay within Laurentian, correct?

12 [I'm far from being an expert in the  
13 financial affairs of the university so it's hard  
14 for me to answer you on that.]

15 145 Q. Well, if a student doesn't take  
16 any courses through the University of Sudbury is  
17 there any reason that tuition money would be  
18 transferred to the University of Sudbury for  
19 that student?

20 A. Bien, si on offre un programme et  
21 si on offre des cours, ça veut dire qu'il faut  
22 payer nos professeurs. Donc c'est notre source  
23 de financement, là

24 [Yes. If a course is offered then we  
25 have to pay a professor to teach that course, so

1           that's our funding for that.]

2                       Ça m'apparaît logique, hein.

3                       [It's logical.]

4   146               Q.    I'm asking a slightly different  
5           question, which is, if there's a student who  
6           doesn't take any courses at the University of  
7           Sudbury, he only takes courses through  
8           Laurentian, is there any reason that any tuition  
9           money in respect of that student would be  
10          transferred to the University of Sudbury?

11                      A.    Encore une fois, je ne suis pas  
12           un expert, là, puis je ne connais pas toutes les  
13           subtilités du financement, mais ce que vous  
14           dites me semble logique. Mais je ne suis pas  
15           sûr, là.

16                      [Again, I'm not an expert on the  
17           financial -- the subtleties of financial affairs  
18           but, again, what you say seems to be correct.  
19           Seems to be logical.]

20                      Et ce que je comprends, c'est que  
21           l'Université de Sudbury et les deux autres  
22           universités fédérées reçoivent du financement,  
23           justement, pour les cours au choix, hein. C'est  
24           ce que je comprends, ainsi que pour nos  
25           étudiants qui sont inscrits à nos programmes.

[From what I understood the University of Sudbury and the other two Federated Universities receive funding for elective courses.]

147 Q. It's fair to say that every time one of those 2,000 students, who is a student taking a program offered by Laurentian, takes an elective course offered through the University of Sudbury, that would represent lost tuition for Laurentian, correct?

A. Si on voit les deux établissements comme étant très distincts et en fonction de la formule de financement, c'est l'Université Laurentienne qui achète ce service-là. Je ne le vois pas comme étant une perte. C'est un achat de service, hein.

[If we look at the two institutions as being distinct one from the other this financial set up is no more that Laurentian purchases the services from the university. So it's not an actual loss it's a purchase of services.]

148 Q. But if a student took all of their classes within Laurentian then there wouldn't be any money transferred to the University of Sudbury, right?

1                   A.    Parce qu'implicitement, il n'y a  
2                   pas d'achat de service, hein. On n'offre pas,  
3                   l'étudiant a choisi de ne pas suivre de cours à  
4                   Thorneloe, Huntington, ou l'Université de  
5                   Sudbury, donc il n'y a pas de raison d'avoir à  
6                   ce moment-là, selon...

7                   [Because implicitly if a student  
8                   doesn't take the courses then they are not  
9                   offering courses at Huntington, Thorneloe...]

10       149           Q.    Did our interpreter freeze?

11                   MR. CAZA: No, I don't think there was  
12                   a question.

13                   BY MR. HANRAHAN:

14       150           Q.    Well, there was a question. He  
15                   was giving the interpretation.

16                   Mr. Riopel, can you turn to tab --  
17                   your April 23rd affidavit. So if we can look at  
18                   paragraph 5 of your April 23rd affidavit?

19                   A.    Oui.

20                   [Yes.]

21       151           Q.    And in this paragraph you say  
22                   that:

23                   "Because the University of  
24                   Sudbury pays all of its teachers,  
25                   support staff, and the maintenance of

1                   its buildings, I question the  
2                   assertion that there will be a real  
3                   benefit of 7.7 million for Laurentian  
4                   if it succeeds in terminating the  
5                   federation."

6                   Do you see that?

7                   A.    Oui.

8                   [Yes.]

9   152            Q.    Can you just explain what you  
10                meant by that?

11                A.    Je reviens au concept de l'achat  
12                de services.

13                [I'm going return to the concept of  
14                purchasing services.]

15                Les étudiants vont suivre des cours  
16                d'une façon ou d'une autre. Quand on les suit à  
17                l'Université de Sudbury, il y a un coût, il y a  
18                un coût d'entretien de l'édifice. Il y a un coût  
19                de payer notre personnel, de payer nos profs.  
20                Ça, c'est clair. Mais ces mêmes étudiants, s'ils  
21                étaient inscrits ailleurs, il y aurait des  
22                dépenses semblables, alors j'ai du mal à  
23                comprendre l'idée d'un gain véritable de 7.7  
24                pour l'Université Laurentienne.

25                [If students are following a course



1 they're going to be following one way or  
2 another. If these students and -- at the  
3 University of Sudbury is going to have a cost we  
4 have to pay our person, our staff, we have to  
5 pay our teachers. And if those students were to  
6 enroll elsewhere there would not really be a  
7 benefit for them anywhere.]

8 153 Q. So is your suggestion that the  
9 7.7 million that that just represents all of  
10 your costs for teacher, support staff and  
11 maintenance of the building?

12 A. Je dirais que c'est  
13 principalement ça.

14 [I would say it's mainly that.]

15 Mais il faut pas oublier, je pense que  
16 le chiffre de 7.7, on parle des trois  
17 universités fédérées.

18 [ But don't forget when we're talking  
19 about this amount we're speaking of the three  
20 Federated Universities.]

21 154 Q. This would be a good time for a  
22 break.

23 -- RECESSED AT 10:35 A.M. --

24 -- RESUMED AT 10:50 A.M. --

25 BY MR. HANRAHAN:

1 155 Q. Mr. Riopel, can you turn to your  
2 April 18th affidavit?

3 A. Oui.

4 [Yes.]

5 156 Q. And just looking at paragraph 3.  
6 In paragraph 3 you say:

7 "I could never have imagined a  
8 time when the urgency was as great as  
9 it is now for the University of  
10 Sudbury to make the shift toward  
11 becoming a homogenous Francophone  
12 university."

13 Do you see that?

14 A. Oui.

15 [Yes.]

16 157 Q. And then you go on to say in  
17 paragraph 11:

18 "As Chair of the Board of  
19 Regents, I can say we are working with  
20 great diligence to build the  
21 University of Sudbury by and for  
22 Francophone, with the support of the  
23 Francophone community in the Sudbury  
24 area."

25 Do you see that?

1 MR. CAZA: Just for the purposes of  
2 the transcript, he actually doesn't see that  
3 because you are reading a translation. He's  
4 actually looking at the French, the original  
5 affidavit.

6 BY MR. HANRAHAN:

7 158 Q. Fair enough. And is what I read  
8 to you -- it captures what you're saying in that  
9 paragraphs?

10 A. Je m'en souviens pas, et je suis  
11 loin d'être un traducteur.

12 [I don't remember exactly and I'm far  
13 from being a translator.]

14 159 Q. Would you prefer that we have the  
15 translator translate what I'm saying to you in  
16 French.

17 MR. CAZA: I can tell you that just  
18 for the purposes of what you're reading I'll let  
19 you know if I have any disagreements with what  
20 you're reading in English.

21 The translation you prepared, as  
22 compared to the original, from what you've told  
23 me today it's quite close to what -- it's  
24 exactly quite accurate as to what was in French.

25 I am not doing that with anything, and

1 André and I, and Pierre better not be doing  
2 that, with respect to any of the interpretation  
3 that's going on at this hearing. I'm not even  
4 listening to it.

5 So I will be doing that for your  
6 document so there's no need to have that  
7 translated.

8 BY MR. HANRAHAN:

9 160 Q. And from the paragraph I just  
10 read you're fine with --

11 MR. CAZA: I am fine. From what  
12 you've read I'm fine. It's accurate.

13 BY MR. HANRAHAN:

14 161 Q. Is it fair to say, in the two  
15 paragraphs we just looked at, you're expressing  
16 the goal for the University of Sudbury to be an  
17 independent, French-language university?

18 A. Le 11 mars, au moment de  
19 l'adoption de la résolution à cet effet, nous  
20 avons mandaté le recteur de l'Université de  
21 Sudbury de faire toutes les démarches avec cet  
22 objectif en tête.

23 [On the 11th of March, the date of the  
24 adoption of this resolution, we mandated the  
25 Rector, a principal of the University of

1 Sudbury, to apply this.]

2 162 Q. Sorry, to "apply" this? Maybe  
3 it's a translation issue. When you say "to  
4 apply this" what do you mean?

5 A. Ce que je veux dire, c'est de  
6 faire en tout en son autorité pour la mise en  
7 oeuvre d'une université de langue française.

8 [When I say that it's to put  
9 everything in its power to implement a French  
10 university.]

11 163 Q. And you mentioned that there was  
12 a resolution passed by the Board of Regents to  
13 that effect?

14 A. Oui.

15 [Yes.]

16 164 Q. And you may have said this, what  
17 was the date of that resolution?

18 A. Adoptée le 11 mars 2021.

19 [Adopted on the 11th of March 2021.]

20 165 Q. Counsel, can we have an  
21 undertaking for production of that resolution?

22 U/T MR. CAZA: Yes, we will undertake to  
23 provide you with a copy of that resolution.

24 BY MR. HANRAHAN:

25 166 Q. Thank you.

1                   Mr. Riopel, when did the University of  
2                   Sudbury start having serious discussions about  
3                   transitioning to a unilingual French school?

4                   A.    Moi je vais vous dire que ça ne  
5                   date pas d'hier. On en parle comme ça depuis des  
6                   années, en fait, où l'Université de Sudbury a  
7                   été, la suggestion a été faite que l'Université  
8                   de Sudbury pourrait devenir un établissement de  
9                   langue française, un établissement autonome de  
10                  langue française.

11                  [I can say that that's not -- you  
12                  know, it didn't come up. It wasn't just  
13                  yesterday. We've been hearing this kind of  
14                  suggestion, the idea that the University of  
15                  Sudbury suggests becoming its own independent,  
16                  autonomous, French-language university for  
17                  years.]

18                  Maintenant, pour votre bénéfice, je  
19                  veux vous expliquer que l'Université de Sudbury  
20                  a existé en tant qu'établissement autonome de  
21                  langue française de 1957 à 1960.

22                  [And now, for your benefit I would  
23                  like to explain that the University of Sudbury  
24                  has existed as an independent institution of  
25                  French language learning between the years of

1 1957 and 1960.]

2 J'ai devant moi le grade, le  
3 baccalauréat en arts de mon père reçu au mois de  
4 juin 1960

5 [I have before me the degree, my  
6 father's degree, received on the date of  
7 June 1960.]

8 Et c'est par la suite, avec la  
9 création de la Fédération Laurentienne, avec la  
10 création de l'Université Laurentienne qu'on a  
11 établi cette entente de la Fédération, en 1960.

12 [And it's after the creation of the  
13 Laurentian University that this accord or  
14 agreement was established.]

15 Et je peux vous dire que la  
16 communauté franco-ontarienne parle d'un  
17 établissement, d'une université autonome de  
18 langue française depuis des années.

19 [And I can tell you the  
20 Franco-Ontarian people are speaking about an  
21 autonomous, French-language university since  
22 quite some time.]

23 167 Q. But since the Federation  
24 Agreement has been in effect the University of  
25 Sudbury has been a bilingual institution,

1 correct?

2 A. Oui.

3 [Yes.]

4 168 Q. And you said that it's been under  
5 discussion for years converting to a unilingual,  
6 French university?

7 A. La discussion est revenue à  
8 maintes reprises.

9 [The discussion's come back several  
10 times.]

11 169 Q. And who are those discussion  
12 amongst?

13 A. Les individus, formellement, au  
14 conseil. Informellement, il y a eu plusieurs  
15 discussions. Écoutez, la question d'une  
16 université de langue française à Sudbury remonte  
17 à des générations. Alors c'est difficile de  
18 cerner et d'identifier spécifiquement des  
19 moments où on a eu cette discussion-là.

20 [Formally there have been with  
21 individuals at the council, in conversations  
22 informally, with -- there have been several  
23 discussions. Listen, the question about Sudbury  
24 having a Francophone-language university dates  
25 back generations.]



1                               Ça résume à peu près, oui

2                               [That's it. Yes.]

3       170                   Q.     It's fair to say that more  
4       recently those discussion became more serious?

5                            A.     Face à tout ce qui se passe à  
6       l'Université Laurentienne, oui.

7                            [That's everything that happens at  
8       Laurentian University, yes.]

9       171                   Q.     And is it fair to say that you  
10      decided recently that this transition was  
11      necessary because you don't think that  
12      Francophone interests can be met in a bilingual  
13      university like Laurentian?

14                          A.     Maître Hanrahan, j'ai vécu et  
15      j'ai obtenu des grades dans deux de ces  
16      universités bilingues. Moi, ce que je peux vous  
17      dire, ça, c'est mon expérience personnelle,  
18      c'est que ça ne se vit pas bien sa francophonie  
19      dans un établissement bilingue, O.K.?

20                          [Mr. Hanrahan, I can tell you that  
21      from my personal experience I've obtained -- I  
22      lived both things. I've received degrees in  
23      bilingual universities. I can speak of my  
24      personal experience that one's Francophone  
25      culture is not lived well in a bilingual

1 institution.]

2 Et je peux vous assurer, encore une  
3 fois, de façon anecdotique, les gens à qui je  
4 parle dans la communauté franco-ontarienne  
5 m'indiquent exactement la même chose.

6 [And I can assure you in an anecdotal  
7 way that the people with whom I've spoken in  
8 Franco-Ontarian communities feel the same way.]

9 Pour votre bénéfice, la communauté  
10 franco-ontarienne, de façon générale, désigne  
11 maintenant l'établissement en question de  
12 « Laurentian University ». Les francophones ont  
13 arrêté de l'appeler « l'Université  
14 Laurentienne », tellement on a perdu confiance.

15 [Or -- and for your benefit, the  
16 Franco-Ontarians -- generally Franco-Ontarians  
17 designate this institution as Laurentian  
18 University not as the University of Laurentian.  
19 So much the Francophone community has lost  
20 faith.]

21 Mais je veux faire la distinction, et  
22 je veux que ce soit très très clair...

23 MR. CAZA: Excusez, Pierre, je veux  
24 juste corriger la traduction.

25 I just need to, if I may,

1 Mr. Hanrahan, can I make a comment on the  
2 interpretation?

3 MR. HANRAHAN: Sure.

4 MR. CAZA: Okay. Just so -- in fact  
5 what Mr. Riopel said is that the Francophone  
6 community no longer -- refers to the institution  
7 as "Laurentian University" and does not refer to  
8 it as "Université Laurentienne". So what he's  
9 saying is they don't refer to it by its  
10 Francophone denomination. And it's hard to  
11 translate that and keep -- because if you're  
12 translating it you're taking it away. I just  
13 wanted to that to be clear on the record.

14 THE INTERPRETER: Thank you.

15 BY MR. HANRAHAN:

16 172 Q. Thank you for the clarification.

17 Now, Mr. Riopel, the announcement and  
18 resolution of Sudbury's intention to become an  
19 independent Francophone university, that was  
20 made several weeks before the Notice of  
21 Disclaimer was issued by Laurentian, right?

22 A. La résolution a été adoptée le 11  
23 mars, et puis l'avis, nous l'avons reçu le 1er  
24 avril.

25 [The resolution was adopted

1 11th March...]

2 THE INTERPRETER: Pouvez-vous répéter  
3 la dernière partie?

4 THE WITNESS :

5 Et l'avis de dissolution de la  
6 Fédération, nous l'avons reçu le 1er avril.

7 [ And the life of the dissolution was  
8 the 1st of April.]

9 THE INTERPRETER: Sorry. That's a lot  
10 of information. C'est beaucoup d'informations.

11 THE WITNESS: Voilà, O.K.

12 [There you go.]

13 BY MR. HANRAHAN:

14 173 Q. Sorry, I wasn't sure if there was  
15 more in the translation or that was it?

16 So, in other words, Sudbury's plan to  
17 leave the federation and become an independent  
18 French university was already in motion before  
19 Laurentian issued the disclaimer, correct?

20 R/F MR. CAZA: I'm sorry, objection. The  
21 premise you've given has not in any way been the  
22 evidence that was provided by Mr. Riopel.

23 BY MR. HANRAHAN:

24 174 Q. Which part is not in evidence?

25 MR. CAZA: Can I ask Ms. Martineau to

1 read back or repeat the question you just gave  
2 to the witness?

3 THE COURT REPORTER: Yes:

4 "So, in other words, Sudbury's  
5 plan to leave the federation and  
6 become an independent French  
7 university was already in motion  
8 before Laurentian issued the  
9 disclaimer, correct?"

10 MR. CAZA: Can you repeat that?

11 THE COURT REPORTER: Ye:

12 ""So, in other words, Sudbury's  
13 plan --"

14 MR. CAZA: Where did you get that?

15 That is grossly misinterpreting the evidence  
16 provided by the witness.

17 BY MR. HANRAHAN:

18 175 Q. Why don't we clarify that with  
19 the witness?

20 MR. CAZA: I want to -- where did you  
21 get -- did you hear that evidence to date? I'm  
22 just wondering because if you have I need to  
23 know. I'm taking notes and I need to know if  
24 Mr. Riopel said that.

25 MS. MILLER: Mr. Caza, I'm taking note

1 as well and we've just heard the witness say  
2 that that has been in discussion for years. And  
3 he's just given evidence that there was a  
4 resolution passed by the Board of Regents on  
5 March 11th.

6 MR. CAZA: To leave the federation?

7 MS. MILLER: Is that the nature of the  
8 objection? Because the reference to the leaving  
9 the federation was part of the objection?

10 MR. CAZA: So if you did rephrase your  
11 question we can maybe take it from there?

12 BY MR. HANRAHAN:

13 176 Q. I will rephrase the question.

14 Mr. Riopel, is it fair to say that  
15 Sudbury's plan to become an independent French  
16 language university was already set in motion  
17 long before Laurentian issued its Notice of  
18 Disclaimer?

19 A. Je répondrais non, dans la mesure  
20 que le conseil des régents, ce n'est pas une  
21 planification depuis des années. C'est que la  
22 communauté en parle depuis des années. Je pense  
23 qu'il y a une nuance excessivement importante  
24 ici. Et puis j'ajouterais que la résolution du  
25 11 mars mandate le recteur de faire ses devoirs

1 en vue de cette possible éventualité.

2 [I answer very no, in the measure that  
3 the Board of Regents does not have a formal  
4 plan, but that the community has been speaking  
5 about this for quite a while. It's something  
6 that is very important here.

7 And that the dissolution, dated  
8 11th March, mandates or directs the principal to  
9 do their duty before this eventuality, in front  
10 of this eventuality.]

11 177 Q. So I think you've told me that  
12 this conversion to a French-language university  
13 has been under discussion for years. You issued  
14 this resolution and made an announcement on  
15 March 11th, and the Notice of Disclaimer was  
16 issued on April 1st.

17 So given that timeline isn't it a fact  
18 that your decision was already made and in  
19 motion long before Laurentian issued the Notice  
20 of Disclaimer?

21 A. Je n'irai pas à ce point-là. Très  
22 honnêtement, je n'irai pas à ce point-là.

23 [I would not go as far as to say that.  
24 Honestly, I would not go so far as to say that.]

25 Maintenant, l'autre élément aussi,

1 nous avons reçu ce avis-là le 1er avril, oui.

2 [Now the other element we have on  
3 April 1st, yes.]

4 Moi, j'ai lu l'affidavit du docteur  
5 Haché, qui a été déposé le 1er février.

6 [I've read Dr. Haché's affidavit that  
7 was disposed on February 1st.]

8 Et maintenant, je sais lire entre les  
9 lignes, par contre, et puis le docteur Haché  
10 semblait signaler, et ça, c'est mon  
11 interprétation, semblait signaler son intention  
12 de dissoudre la Fédération.

13 [And I can now -- now I can read  
14 between the lines, and I'll signal that that's  
15 my interpretation of this affidavit, that the  
16 Dr. Haché had in his intention to dissolve.]

17 178 Q. So you understood Dr. Haché's  
18 January 30th affidavit to be saying that the  
19 federation would be dissolved?

20 A. Bien disons qu'il y avait des  
21 signaux assez clairs.

22 [Let's say that there was some signals  
23 were clear enough.]

24 179 Q. But ultimately your decision, and  
25 when I say "your" the University of Sudbury's



1 decision, to announce that it would become an  
2 independent, French-language university was made  
3 before Laurentian officially issued a Notice of  
4 Disclaimer?

5 A. Nous avons mandaté le recteur de  
6 l'Université de Sudbury de faire tout ce qui  
7 était requis pour que l'Université de Sudbury  
8 devienne une université gérée par la  
9 francophonie ontarienne. C'est le texte.  
10 Maintenant, c'est ce que je peux partager avec  
11 toi, c'est ce que j'ai, c'est ce que j'ai comme  
12 information.

13 [The university -- we mandated the  
14 director of the University of Sudbury to do -  
15 inaudible (sic) - so that the university will  
16 become an Franco-Ontarian. That's what the text  
17 says. Now that's what I'm able to share with  
18 you. That's the information I have.]

19 180 Q. And that was done before there  
20 was a Notice of Disclaimer from Laurentian,  
21 right?

22 A. Je répète, nous avons adopté le  
23 11 mars et puis nous avons reçu l'avis le  
24 1er avril.

25 [I repeat, we adopted it the 11th of

1 March and received the hmm (sic) the 1st of  
2 April.]

3 181 Q. So I would like to take a look at  
4 a letter that your counsel sent to my firm on  
5 April 12th, it was attached to Dr. Haché's most  
6 recent affidavit, April 21st, affidavit. Is  
7 that something you have available or should we  
8 get a copy of that to you?

9 A. J'ai la réponse.

10 [I have the response...]

11 Mais je n'ai pas la lettre originale.

12 [... but I don't have my original  
13 letter.]

14 182 Q. I ask if your counsel has access  
15 it's Exhibit R to the Haché affidavit from  
16 April, is that something we can provide the  
17 witness?

18 MR. CAZA: Sir, are you okay if we --  
19 Mr. Claude sends a copy to Mr. Riopel?

20 MS. MILLER: Yes, I understood  
21 Mr. Riopel saying that he had all of the  
22 exhibits to Mr. Haché's affidavit?

23 MR. CLAUDE: I don't recall that he  
24 said he had exhibits, definitely the affidavit.  
25 But the letter in question is that dated

1 April 12th?

2 MS. MILLER: Yes.

3 THE WITNESS: Oui, je l'ai.

4 [I have it. Yes.]

5 MR. CLAUDE: Because I believe that  
6 same exhibit is part of one of the -- possibly  
7 the April 18th affidavit of Mr. Riopel.

8 BY MR. HANRAHAN:

9 183 Q. Okay.

10 A. J'ai les copies des deux lettres.  
11 [I have a copy of -- copies of both  
12 those.]

13 MR. CLAUDE: And Mr. Hanrahan, the  
14 original letter written from my office is in  
15 French but I believe you have a translation of  
16 the letter. Once again, I guess to the extent  
17 where you're reading from an English version and  
18 he's looking at a French version we just want to  
19 be sure we're clear that the translation is  
20 necessarily appropriate.

21 MS. MILLER: Just to be clear, the  
22 translation of the English version of the letter  
23 from your office was provided by your office.  
24 That's not a translation we did. You provided  
25 us with both a French and an English version of

1           that letter.

2                       MR. CLAUDE: Yes, but I'm not sure  
3           that the witness has the English version of the  
4           letter before him.

5                       MS. MILLER: That's fine. As long as  
6           you can assure your client that the English  
7           version that you provided to us is consistent  
8           with the French version that you prepared or  
9           provided to him then I think we're good.

10                      BY MR. HANRAHAN:

11   184               Q.    Mr. Riopel, do you have a copy of  
12           the letter in front of you?

13                      A.    J'ai une copie des deux lettres,  
14           oui.

15                      [I have a copy of both letters, yes.]

16   185               Q.    And when you say "both letters"  
17           you're referring to the April 12th letter from  
18           Mr. Claude and the response from Ms. Miller?

19                      A.    Oui.

20                      [Yes.]

21   186               Q.    Now, this letter that was sent  
22           from Mr. Claude, was this letter sent at your  
23           request?

24                      A.    J'en ai discuté avec maître  
25           Claude, et puis il a été convenu d'en envoyer.

1 Je suis en CC à la lettre.

2 [I spoke with Mr. Claude about the  
3 letter.]

4 187 Q. And did you review the letter  
5 before it was sent?

6 A. Ça, je me souviens pas.

7 [I don't recall that.]

8 188 Q. Did you discuss the contents of  
9 the letter with him before it was sent?

10 A. Oui.

11 [Yes.]

12 189 Q. And you agreed with the content?

13 A. De façon générale, oui.

14 [In a general way, yes.]

15 190 Q. Can we just turn to the second  
16 paragraph of the letter? And again, I'm reading  
17 from a translated copy provide by Mr. Claude,  
18 which says:

19 "As you know, the University of  
20 Sudbury announced on Friday,  
21 March 12th that it was becoming a  
22 Francophone university. It has  
23 already begun its transition to  
24 achieve this new mission quickly."  
25 Do you see that?

1 A. Oui.

2 [Yes.]

3 191 Q. What has the University of  
4 Sudbury already done to begin the transition?

5 A. Le conseil des régents de  
6 l'Université de Sudbury a créé un groupe ad hoc  
7 en vertu de la résolution adoptée le 11 mars, en  
8 vue de l'établissement d'une université de  
9 langue française.

10 [The regional committee of the  
11 University of Sudbury has created an ad hoc  
12 committee with the vision of the 11th March  
13 resolution, with the vision of creating a French  
14 language university.]

15 A également été créé un comité ad hoc  
16 avec les mêmes objectifs pour la communauté  
17 autochtone.

18 [And they also equally made an ad hoc  
19 committee for the indigenous community.]

20 Maintenant, le comité ad hoc...

21

22 [Technical issues.]

23

24 THE COURT REPORTER: I dropped off  
25 there, I did not get that.

1 BY MR. HANRAHAN:

2 192 Q. Mr. Riopel, maybe if you can  
3 repeat your answer for the court reporter?

4 A. Le conseil des régents a procédé  
5 à la création d'un comité ad hoc pour piloter le  
6 dossier de l'université de langue française.

7 [The regional (sic) committee of the  
8 University of Sudbury proceeded with the  
9 creation of an ad hoc committee to pilot the  
10 creation of a French-language university.]

11 Simultanément, nous avons créé un  
12 comité ad hoc pour le dossier des indigenous  
13 studies

14 [Simultaneously we created an ad hoc  
15 committee for the case of Indigenous studies.]

16 Maintenant, le groupe francophone  
17 s'est entouré d'un comité de travail et ce  
18 comité s'est rencontré au début avril.

19 [Now, the French group is surrounded  
20 by a work committee, a work team and this  
21 committee met the beginning of April.]

22 Et nous sommes à élaborer un plan  
23 d'affaires en...

24 [And we drafted a business -- we  
25 drafted a business plan - inaudible.]

1 THE COURT REPORTER: Pardon M. Riopel,  
2 je n'ai pas entendu la dernière partie de votre  
3 réponse, après « plan d'affaires ».

4 THE INTERPRETER: I didn't understand  
5 the last sentence after business plan.

6 THE WITNESS: Bien, je crois, « en vue  
7 de l'établissement de l'université de langue  
8 française ».

9 [With an eye toward creating a  
10 French-language university.]

11 BY MR. HANRAHAN:

12 193 Q. Mr. Riopel, I think you just  
13 mentioned, and I just want to clarify, that  
14 there is an ad hoc committee and then a work  
15 committee. Are those two separate committees?

16 A. Oui, parce que le comité ad hoc,  
17 c'est le comité du conseil des régents.

18 [Yes, because to ad hoc committee is a  
19 part of the Federation of Regents.]

20 194 Q. And who is on the work committee?

21 A. Je fais partie du comité.

22 [I'm part of the committee.]

23 Le vice-président du conseil des  
24 régents. Donald Dennie, professeur émérite de  
25 l'Université Laurentienne. Johanne Gervais, de



1 l'ACFO du Grand Sudbury. Gisèle Chrétien,  
2 l'ancienne présidente du Collège Boréal. Parmi  
3 d'autres.

4 [The vice-president of the regional.  
5 Donald Dennie, emeritus professor at the  
6 university of hmm (sic). Joanne hmm (sic)  
7 Sudbury. Gisèle Chrétien. And the previous  
8 president of Collège Boréal. Among others.]

9 195 Q. There are others? How many  
10 people are on the committee?

11 A. On est huit ou dix, je me  
12 souviens pas.

13 [Eight or ten, I can't say exactly.]

14 BY MS. MILLER:

15 196 Q. For the record, Mr. Caza is on  
16 the committee?

17 A. Oui, je crois que oui.

18 [ Yes, I believe so.]

19 BY MR. HANRAHAN:

20 197 Q. And what is the difference in  
21 responsibility between the work committee and  
22 the ad hoc committee?

23 A. Le comité ad hoc relève du  
24 conseil des régents.

25 [The ad hoc committee lifts up the

1 regent committee.]

2 N'ayant pas toutes les expertises  
3 nécessaires au dossier, nous avons pensé bon de  
4 créer un comité de travail.

5 [Not having all the necessary  
6 expertise we thought it was a good idea to  
7 create a work team.]

8 198 Q. And do both the ad hoc committee  
9 and the work committee report to the Board of  
10 Regents?

11 A. Le comité ad hoc se rapporte au  
12 conseil des régents, le comité de travail se  
13 rapporte au comité ad hoc. Les membres du comité  
14 ad hoc sont membres du comité de travail.

15 [The ad hoc reports to the regents --  
16 to the ad hoc they are a member.]

17 Le comité de travail se rapporte au  
18 comité ad hoc.

19 [The work committee reports to the ad  
20 hoc committee.]

21 199 Q. I think you mentioned a moment  
22 ago that the work committee had drafted a  
23 business plan as part of the --

24 A. Nous sommes dans ce processus-là.  
25 [We're in this process of that.]

1           200           Q.    So it's currently being drafted?

2                    A.    C'est ça.

3                    [That's right.]

4           201           Q.    Is there a draft at the moment?

5                    A.    Oui, mais un document de travail.

6                    [Yes, but a working document.]

7           202           Q.    Counsel, can I have an  
8                    undertaking for the draft business plan?

9                    MR. CAZA:  Sorry, an undertaking to  
10                   obtain what?

11                   BY MR. HANRAHAN:

12           203           Q.    The draft business plan that we  
13                    were just discussing.

14           U/A           MR. CAZA:  I will take that under  
15                    advisement.  Can you explain the relevance of  
16                    that?  It will just assist me in determining  
17                    whether we will provide it.  What would be the  
18                    relevance of that to the motion?

19                   MR. HANRAHAN:  Well, he's told us that  
20                    the business plan is in relation to the  
21                    University of Sudbury becoming an independent,  
22                    French-language institution.

23                   MR. CAZA:  Right.  And what's the  
24                    relevance of that to the motion?

25                   MR. HANRAHAN:  Well, you're opposing a

1 disclaimer that we've issued in relation to the  
2 Federation Agreement.

3 The University of Sudbury has  
4 indicated it intends to become an independent,  
5 French-language university and we'd like to  
6 understand the planning around that.

7 MR. CAZA: Sorry, I never understood  
8 that they would become independent of the  
9 federation. I'm sorry, is that what you've  
10 understood?

11 MR. HANRAHAN: Yes, and I've asked  
12 several questions to that effect.

13 MR. CAZA: Yes, but nowhere has there  
14 been any evidence that they were looking to  
15 become independent of the federation.

16 U/A Anyway, I'll take under advisement  
17 the business plan. I can tell you that all the  
18 under advisements or the undertakings we want to  
19 get the answers to you today. I'm just telling  
20 you we're getting those as we speak and we'll  
21 get those to you before the end of the day.

22 And this under advisement, if we  
23 accept to provide it, we will provide it to you  
24 before the end of the day, to both you and  
25 Ms. Miller.

1 MR. HANRAHAN: Appreciate that, thank  
2 you.

3 BY MR. HANRAHAN:

4 204 Q. Coming back to the work committee  
5 we were discussing, have there been meetings of  
6 the work committee?

7 A. Nous avons eu une rencontre.  
8 [We've had one meeting.]

9 205 Q. And when was that meeting?

10 A. Le 7 ou le 8 avril.

11 [The 7th or 8th of April.]

12 206 Q. And how about the ad hoc  
13 committee? Have there been meetings of that  
14 committee?

15 A. La journée précédente pour  
16 préparer le travail, le travail du groupe de  
17 travail.

18 [The day prior to talk about the work  
19 of the work team.]

20 207 Q. Sorry, when you say "the day  
21 prior" you mean the day prior to the work  
22 committee meeting?

23 A. C'est ça, c'est ça, exact.

24 [That's exactly, yeah.]

25 208 Q. And are there minutes from those

1 meetings?

2 A. Non.

3 [No.]

4 209 Q. Do you take notes from the  
5 meetings?

6 A. Pas copieuses, non.

7 [Not copious, no.]

8 210 Q. But you have some notes of the  
9 meeting?

10 A. J'ai probablement la date, les  
11 gens qui étaient présents, les grandes lignes de  
12 la discussion.

13 [I would probably have the date, the  
14 people present and the overarching subjects.]

15 211 Q. And the ad hoc committee meeting  
16 that you mentioned, is that the only meeting of  
17 that committee that's taken place?

18 A. À date, oui.

19 [To date? Yes.]

20 212 Q. Is there another meeting planned?

21 A. Je crois, nous essayons pour  
22 mardi de la semaine prochaine.

23 [I believe we're trying for Tuesday of  
24 next week.]

25 213 Q. What's on the agenda, what are

1 the next steps for the ad hoc committee?

2

3 A. Pour le comité ad hoc et le  
4 comité de travail, c'est le plan d'affaires.

5 [For the ad hoc committee and the work  
6 committee it's the business plan.]

7 214 Q. You want to be discussing  
8 comments to the business plan, is that what you  
9 mean?

10 A. C'est ce que j'ai compris, oui.  
11 [According to what I've understood,  
12 yes.]

13 215 Q. Can we just turn back to the  
14 letter we were looking at a few minutes ago?  
15 The April 12th, letter? We looked at the third  
16 paragraph of the letter.

17 And in the English translation I'm  
18 looking at it says --

19 MR. CAZA: Sorry, the third paragraph  
20 on the second page? It would be of the letter?  
21 That's fine I'm there. Sorry.

22 BY MR. HANRAHAN:

23 216 Q. Yes, the paragraph starting, "To  
24 this end".

25 So in that paragraph it says:

1 "[...] the University of Sudbury  
2 is calling for all programs, courses  
3 and services offered in French at  
4 Laurentian University as well as  
5 facilities and related resources."

6 Do you see that?

7 A. Oui.

8 [Yes.]

9 217 Q. So in this letter you're  
10 requesting that Laurentian transfer to the  
11 University of Sudbury all of its French language  
12 programming?

13 A. C'est clair.

14 [That's clear.]

15 218 Q. What consideration was the  
16 University of Sudbury intending to pay in  
17 exchange for those programs?

18 A. Je ne me souviens pas que la  
19 discussion se soit rendue là.

20 [I don't recall the discussion getting  
21 to that.]

22 219 Q. Do you expect that there would be  
23 consideration paid if this type of transaction  
24 were to happen?

25 A. On m'a déjà, on m'a parlé de



1 l'exemple de Cambrian College et le Collège  
2 Boréal où il y avait eu un transfert d'argent,  
3 semblable à ce que vous suggérez.

4 [I've heard speak about the example of  
5 Cambrian College and Collège Boréal where  
6 transfer of money was made, something similar to  
7 that effect.]

8 Maintenant, dans la phrase qu'on est  
9 en train de lire, on parle du transfert des  
10 programmes, des cours et des services, ainsi que  
11 des installations et des ressources afférentes.  
12 Ça, ça veut dire des subventions  
13 gouvernementales aussi, là.

14 [Now, the sentence that we're reading  
15 refers to the transfer of programs,  
16 installations, all related things, and that  
17 would also refer to governments -- money given  
18 by the government subventions (sic).]

19 220 Q. Sorry, government what?

20 A. Des subventions gouvernementales.

21 [Money given by the government.]

22 MR. CLAUDE: I think it's government  
23 grants.

24 THE WITNESS: C'est ça.

25 [Great.]

1 MR. CAZA: There's other parts of the  
2 letter that actually answer that question. I'm  
3 sorry, let me know if you want me otherwise I'll  
4 wait.

5 BY MR. HANRAHAN:

6 221 Q. And you mentioned it would also  
7 include transfer of government grants. Is it  
8 your understanding that the University of  
9 Sudbury is eligible to receive those grants?

10 A. Ce que j'ai compris, il y a une  
11 annonce faite par le ministre des Collèges et  
12 des Universités.

13 [According to what I have understood  
14 there is an announcement made by the Ministry of  
15 Colleges and Universities.]

16 Monsieur Romano, qui aurait dit que  
17 l'Université de Sudbury pourrait recevoir du  
18 financement, possiblement, si elle devenait  
19 francophone, il y avait aussi l'aspect de  
20 confessionnalité, alors confessionnel ou pas  
21 confessionnel.

22 [Mr. Hmm (sic) also spoke about the  
23 University of Sudbury being able to receive  
24 funding with the possibility of becoming a  
25 Francophone institution, with a confessional

1 aspect.]

2 222 Q. But that's not possible under the  
3 current legislation, is it?

4 A. Pas à ma connaissance.

5 [Not that I'm aware of.]

6 223 Q. Now, we talked a little bit  
7 earlier about the headcount of students at the  
8 University of Sudbury, and I think I suggested  
9 to you that there were 69 full-time equivalent  
10 student. You said you weren't sure if that  
11 number is correct.

12 And we also talked about the fact that  
13 the University of Sudbury has five academic  
14 programs that it offers right now, is that fair?

15 A. C'est ça.

16 [Yes.]

17 224 Q. Now, are you aware that as of  
18 fall 2020 Laurentian had 1,256 full-time  
19 equivalent, French-language students?

20 A. J'ai entendu le chiffre 1 300,  
21 mais vos chiffres sont peut-être plus précis.

22 [I had heard the number 1,300 but  
23 perhaps your numbers are more precise.]

24 225 Q. So my numbers are taken from  
25 Dr. Haché's affidavit, but it sounds like we're

1           talking in the same ballpark number.

2                       Now, are you also aware that following  
3           the recent academic restructuring at Laurentian,  
4           Laurentian will have 38 French-language  
5           programs?

6                       A.    Je n'ai pas fait le calcul.  
7                       [I haven't calculated it exactly.]

8   226               Q.    Well, that is also referenced in  
9           Dr. Haché's affidavit where he references the  
10          restructuring.

11                      So for the University of Sudbury to  
12          assume all of Laurentian's French-language  
13          programs, as your letter is suggesting, by my  
14          math that would mean a 1700 percent increase in  
15          the full-time equivalent students at the  
16          University of Sudbury, and a 600 percent  
17          increase in the number of programs. How is that  
18          in any way realistic for the University of  
19          Sudbury to do?

20                      A.    La communauté franco-ontarienne a  
21          relevé des défis équivalents, sinon supérieurs  
22          dans notre histoire. Tout est possible à mon  
23          avis. Si j'ai bien compris, l'Université  
24          Laurentienne risque, je ne sais pas, c'est ce  
25          que j'entends, risque d'avoir des pieds carrés

1 de disponibles.

2 [The Franco-Ontarian community has  
3 raised itself to many challenges either  
4 equivalent to or beyond so anything is possible.

5 I don't know but I heard there is a  
6 risk that there might be some square footage  
7 available.]

8 227 Q. But you don't currently have the  
9 facilities to undertake this plan, do you?

10 A. Nous avons quand même un édifice  
11 administratif, et des salles de classe et une  
12 résidence, mais au moment où on se parle, non.  
13 Mais tel que j'ai mentionné, Laurentian  
14 University risque d'avoir beaucoup d'édifices ou  
15 beaucoup de pieds carrés de disponibles.

16 [Presently we have an administrative  
17 board, we have classrooms, we have a residence.  
18 We don't have it now at present but, as I  
19 mentioned, Laurentian University risks having  
20 available square footage available.]

21 228 Q. The facilities you currently have  
22 would not be able to accommodate more than a  
23 thousand full-time equivalent students,  
24 French-language students at Laurentian?

25 A. Ça, je n'ai pas cette

1 expertise-là pour savoir combien de pieds carrés  
2 j'ai besoin pour 1 000 élèves, ou 1 000  
3 étudiants. Mais ne pourrait-il pas, et je pose  
4 la question, ne pourrait-il pas y avoir des  
5 ententes entre cette nouvelle université de  
6 langue française et Laurentian University en ce  
7 qui a trait à la location de pieds carrés, si  
8 c'était nécessaire?

9 [I don't have the expertise to say  
10 what the square footage required would be to  
11 have a thousand students but, again, I would say  
12 it could be possible that there would be a  
13 rental agreement between the university and  
14 Laurentian University to rent the facilities.]

15 Écoutez, on l'a fait avant dans les  
16 écoles secondaires, au collégial. Donc ce n'est  
17 pas impossible. Et puis moi, je suis convaincu  
18 que la communauté franco-ontarienne saura  
19 relever le défi s'il lui est présenté.

20 [We did it before with the secondary  
21 schools and college school. So I think it's a  
22 possibility and the Franco-Ontarian community is  
23 able to meet the challenge.]

24 229 Q. But that type of rental  
25 arrangement has never been proposed or suggested

1 as a possibility by Laurentian, right?

2 A. C'est moi qui l'envisage comme  
3 possibilité. C'est moi qui avance ça comme  
4 suggestion.

5 [It's me that has mentioned that as a  
6 possibility, it's me that is putting that  
7 forward as a suggestion.]

8 MR. CAZA: Sorry, did you want -- did  
9 you want an undertaking for us to provide you  
10 with a document to explain how this could be  
11 done.

12 MS. MILLER: No. We're not looking  
13 for your evidence, Mr. Caza, we're looking for  
14 your clients.

15 MR. CAZA: I'm just asking if you  
16 wanted an undertaking my client would could have  
17 prepared that.

18 BY MR. HANRAHAN:

19 230 Q. And in fact Laurentian has  
20 explicitly told you they're not interested in an  
21 arrangement that would transfer their  
22 French-language programming to the University of  
23 Sudbury, right?

24 A. C'est ce que je comprends par la  
25 réponse.

1                   That's what I've understood, yes, by  
2                   their answer.

3   231            Q.    So while you may imagine a  
4                   scenario where this could be workable, there's  
5                   nothing to suggest that that's a realistic  
6                   possibility, is there?

7                   A.    C'est toujours une possibilité  
8                   réelle.

9                   [It's always a real possibility.]

10   232           Q.    A realistic possibility?

11                   A.    Oui.

12                   [Yes.]

13   233           Q.    Well, how can you say it's a  
14                   realistic possibility when Laurentian's never  
15                   made an offer along the lines of what you're  
16                   talking about, and has never even indicated that  
17                   it would be amenable to discussing that type of  
18                   arrangement?

19                   A.    On n'a jamais eu la discussion.  
20                   On a eu des échanges de lettres.

21                   [We've never had any discussion, we've  
22                   had letter exchange.]

23   234           Q.    And the letter was quite clear  
24                   that Laurentian was not interested in that type  
25                   of arrangement, right?



1                   A.    C'est ce que j'ai compris.  
2   Maintenant... well, now I'm gonna stop there.  
3                   [That's what I understood. But --  
4   well, now I'm going stop there.]

5   235            Q.    If the University of Sudbury did  
6   proceed with the type of plan you're talking  
7   about with the transfer of French language  
8   programs from Laurentian, would the University  
9   of Sudbury be intending to employ all the  
10   faculty that currently teach those courses at  
11   Laurentian?

12                A.    On n'est pas rendu là dans nos  
13   réflexions. Ça, c'est vraiment dans du détail.  
14                [That would depend on our reflection.  
15   You're going into great detail there.]

16   236            Q.    Well, you would need to go into  
17   great detail if you were going to do this,  
18   wouldn't you?

19                A.    Mais au moment où on se parle,  
20   l'idée, ou le projet d'une université de langue  
21   française, c'est vraiment un projet. Je vous  
22   dirais qu'on a à en discuter et préciser nos  
23   pensées sur ces questions-là.

24                [But I'm saying, at the time of  
25   speaking the idea of French Laurentian

1 university we're speaking about...]

2 237 Q. Sorry, I'm afraid I didn't  
3 understand that answer.

4  
5 [TECHNICAL ISSUES]

6  
7 238 Q. Mr. Riopel, just before we had  
8 technical difficulties, we were talking about  
9 your plans about the transfer of French language  
10 programming to the University of Sudbury, and  
11 whether the University of Sudbury would then be  
12 taking on the faculty that teaches those  
13 programs currently at Laurentian.

14 And I think you told me you hadn't  
15 fully thought that through and didn't have a  
16 decision, is that right?

17 A. Oui.

18 [Yes.]

19 239 Q. So it's possible you may not take  
20 on all those faculty, is that fair?

21 A. C'est vraiment prématuré pour  
22 répondre à cette question-là.

23 [It's actually very premature to pose  
24 that question.]

25 240 Q. Well, is it premature? Because

1       you have made an announcement that you intend to  
2       become a French-language university. You've  
3       asked Laurentian to transfer all of its  
4       programming to you. Have you not thought about  
5       what faculty would teach that programming?

6               A.    On est encore devant une  
7       situation vraiment de projet et une situation  
8       hypothétique. Alors on n'est pas rendu là dans  
9       notre réflexion, tout simplement.

10              [We are actually just in front of a  
11     project or a situation that's hypothetical and  
12     so we haven't gone into that much detail.]

13              L'autre chose que j'ajouterais aussi,  
14     c'est que le regroupement des Professeurs  
15     francophones, le RPF, a fait une sortie  
16     publique comme quoi ils appuyaient le projet de  
17     l'Université de Sudbury, mais il n'y a eu aucune  
18     discussion concernant la question que vous  
19     soulevez.

20              [I'd like to add that the French  
21     teaching staff made a public statement  
22     supporting the University of Sudbury's decision,  
23     but there was no discussion about that.]

24     241           Q.    I'm not sure that that answered  
25     my question, but you've made an announcement and

1 requested programs from Laurentian University.  
2 And that -- what you're proposing would  
3 potentially impact more than 1200 full-time  
4 equivalent French-language students. Don't you  
5 think it's important to have thought through how  
6 this would work and who would teach the programs  
7 and how that transition would go?

8 A. Nous sommes dans ce processus-là.  
9 [We're in that process. We're in that  
10 very process.]

11 242 Q. And if you assume the faculty  
12 from Laurentian to teach these programs, would  
13 you also be assuming obligations related to  
14 those faculty? Vacation pay, pension plan  
15 obligations, those type of things?

16 A. On n'est vraiment pas rendu là  
17 dans notre analyse de la situation.

18 [We haven't really gone into the  
19 detail and analysis of that.]

20 243 Q. It's fair to say you haven't  
21 really fully thought this plan through?

22 A. Le plan est en processus  
23 d'élaboration. On n'a pas abordé la question que  
24 vous posez.

25 [The plan is in the process of being

1 drafted. We have not addressed your -- those  
2 kinds of questions you're putting forth.]

3 244 Q. Do you think it would have been a  
4 good idea to think through these types of things  
5 in the plan before making a public announcement  
6 about your plan?

7 A. Le plan d'affaires est en  
8 processus d'élaboration, tout simplement, et on  
9 n'a pas abordé cette question-là. C'est tout.

10 [The business plan is in the process  
11 of being drafted, we haven't addressed those  
12 questions there, that's all.]

13 Il ne veut pas dire que dans les jours  
14 ou dans les semaines qui viennent, qu'on  
15 n'abordera pas cette question-là.

16 [That does not mean that in the coming  
17 weeks we won't address those questions.]

18 245 Q. I think we talked earlier about  
19 the programs that are currently offered at the  
20 University of Sudbury, and we said there's three  
21 of those programs are either English language or  
22 bilingual programs and two of the them are fully  
23 Francophone, correct?

24 A. Oui.

25 [Yes.]

1       246               Q.    And so in terms of the programs  
2       that are English-language programs your  
3       announcement that you're going to become a  
4       French-language university effectively means  
5       you're telling the students in the English  
6       language programs that their programs are being  
7       terminated, correct?

8                       A.    Ce n'est pas ma compréhension.  
9                       [That's not my understanding -  
10       inaudible.]

11                      Puisque la résolution du 11 mars  
12       aborde également la question, la question du  
13       programme autochtone, le indigenous studies.

14                      [Since my resolution of 11 March also  
15       addresses questions around Indigenous studies  
16       programs.]

17       247               Q.    And in what ways does it address  
18       Indigenous studies programs?

19                      A.    Nous avons mandaté le recteur  
20       avec le même mandat, pour ce qui est de la  
21       création éventuelle et possible d'un  
22       établissement d'enseignement supérieur pour la  
23       communauté autochtone.

24                      [We have mandated in that same mandate  
25       the eventual creation of a secondary school for

1 the Indigenous.]

2 MS. MILLER: Can I ask, Mr. Caza, that  
3 you turn your video off because when you shake  
4 your hand "no", in answer to a question that  
5 Mr. Hanrahan asks, it is a signal to your  
6 client.

7 MR. CAZA: I will do that. Sorry  
8 about that.

9 MS. MILLER: Thank you.

10 BY MR. HANRAHAN:

11 248 Q. Okay. I want to come back to the  
12 Indigenous studies program in a minute. But  
13 before we get there, let's just talk about the  
14 other two programs that I think you said are  
15 bilingual, Philosophy and Religious Studies.

16 Students taking those programs in  
17 English, based on your announcement, that would  
18 mean those students have their programs  
19 terminated, right?

20 A. Je n'ai pas les détails à ce  
21 niveau-là, c'est une question beaucoup plus...  
22 beaucoup plus administrative, à mon avis.

23 [I don't have the exact information at  
24 that level. In my opinion it is a question at a  
25 more administrative level.]

1 Je pense que c'est important aussi de  
2 préciser et de répéter qu'on a mandaté le  
3 recteur d'entrevoir ces deux possibilités-là,  
4 une université de langue française et un  
5 établissement équivalent pour la communauté  
6 autochtone.

7 [But I think that it would be -- I  
8 think it's necessary to specify and repeat that  
9 we've mandated the director to undertake the  
10 creation of two programs, a French program and  
11 an Indigenous Studies.]

12 249 Q. But I'm speaking right now about  
13 Philosophy and Religious Studies. And I don't  
14 think it's an administrative question, I think  
15 it's a question of you've announced that you're  
16 going to become a unilingual, French-language  
17 university. So how would it be the case -- how  
18 would it not be the case that students taking  
19 their programs in English would be having their  
20 programs terminated? You won't continue to  
21 offer courses in English, right?

22 A. Moi, ce que j'ai compris de  
23 l'entente qui met fin à la Fédération, c'est  
24 qu'à partir du 1er mai, il n'y a aucun programme  
25 qui sera offert à l'Université de Sudbury, parce



1           que l'Université Laurentienne...

2                       [Once -- what I have understood from  
3           the agreement is that starting at the 1st of May  
4           there will be no programs offered by the  
5           University of Sudbury.]

6                       Parce que l'Université Laurentienne ne  
7           reconnaîtrait pas les cours et les programmes  
8           offerts à l'Université de Sudbury. Donc il y  
9           aura comme techniquement, le 1er mai, ce que je  
10          comprends de la situation, c'est qu'on ne  
11          pourrait même pas offrir, qu'ils soient en  
12          français ou en anglais, des cours. C'est ce que  
13          je comprends.

14                      [So because the Laurentian University  
15          would no longer recognize courses or programs  
16          offered by the University of Sudbury,  
17          technically starting from the 1st of May, that's  
18          how I've understood that. We couldn't even  
19          offer language -- courses either in French or  
20          English.]

21   250               Q.    But you're speaking in respect of  
22          the effect of the Notice of Disclaimer that was  
23          issued April 1st, right?

24                      A.    C'est ce que je comprends.

25                      [That's what I understood.]

1       251               Q.    And I'm talking about a decision  
2       that was made several weeks earlier, with your  
3       announcement on March the 11th, that you would  
4       be becoming a unilingual, French-language  
5       university.

6                       That decision was made first, and the  
7       effect of that decision would mean that English  
8       language students in Philosophy and Religious  
9       Studies would have their programs terminated,  
10      right?

11                    A.    À la lumière de l'annonce de  
12      Laurentian University du 1er avril.

13                    [At the announcement of the Laurentian  
14      University on the 1st of April.]

15                    Maintenant, la résolution du 11 mars,  
16      c'est que nous exprimons notre intention de le  
17      devenir. Nous ne pouvons pas nous autoproclamer  
18      une université de langue française, donc on a  
19      mandaté le recteur de mettre la machine en  
20      branle pour arriver à ça, mais on ne pouvait pas  
21      s'autoproclamer.

22                    [No, that's for the 1st of April. The  
23      resolution of the 11th of March is that we were  
24      expressing our intention to be a self-proclaimed  
25      French-language university. And we're mandating

1 the Rector, the director, to undertake the  
2 actions toward that goal.]

3 252 Q. And if you achieve that goal that  
4 was expressed in the resolution of March 11th,  
5 the goal is to become a unilingual,  
6 French-language university that would no longer  
7 offer courses in English, in Philosophy or  
8 Religious Study, right?

9 A. C'est ce que je comprends.

10 [That's what I understood.]

11 253 Q. And the effect of that is that  
12 students enrolled in those programs are having  
13 their program terminated.

14 A. Au même titre que l'université,  
15 que la Laurentian University a annulé, question  
16 de financement j'imagine, a annulé son programme  
17 de philosophie. Le programme de philosophie est  
18 un programme conjoint.

19 [In the same way I imagine Laurentian  
20 University cancelled its funding for the  
21 Philosophy program.]

22 Le programme de philosophie, c'est un  
23 programme conjoint. Il faut pas l'oublier, ça.

24 [The Philosophy program is a shared  
25 program.]

1 Et si ma mémoire est bonne, le  
2 programme d'études religieuses est également un  
3 programme conjoint avec nos deux partenaires  
4 fédérés.

5 [And if memory serves me right, the  
6 hmm (sic) class is also a shared program.

7 Le programme en question, c'était  
8 études religieuses, religious studies.]

9 [The Religious Study is the one in  
10 question, Religious Studies.]

11 254 Q. And so those programs would no  
12 longer be available?

13 A. C'est une possibilité existante,  
14 oui.

15 [That's a possibility that exists,  
16 yes.]

17 255 Q. And have you communicated that  
18 possibility to any of the students currently  
19 enrolled in those programs?

20 A. Je ne sais pas, parce que ça,  
21 c'est une question administrative de communiquer  
22 avec les étudiants.

23 [I don't know because that is  
24 administrative question of -inaudible (sic).]

25 256 Q. Let me just repeat. It's an

1 administrative question of what, Mr. Riopel?

2 A. La communication avec les  
3 étudiants, pour moi, c'est l'administration de  
4 l'université qui fait ça.

5 [Communication with these students,  
6 it's administrative task.]

7 257 Q. That's not something that you  
8 would be concerned with?

9 A. Je me fie à mes administrateurs,  
10 c'est pour ça qu'on a un recteur.

11 [I trust my administrators, it's for  
12 that reason I'm a director.]

13 258 Q. And have you spoken with any of  
14 them about whether this was communicated to  
15 students?

16 A. Je sais... non, pas précisément à  
17 ce point-là.

18 [No, not precisely to that point, no.]

19 259 Q. Well, it's probably fair to say  
20 that a student in Philosophy or Religions  
21 Studies might be concerns about the possibility  
22 of their program being cancelled, wouldn't they?

23 A. Je dirais que oui. Et si je me  
24 fie à nos étudiants, ils ont probablement  
25 communiqué avec le bureau du secrétaire-général

1       pour avoir plus d'informations. Ça aussi, c'est  
2       une possibilité.

3               [I would say yes. And if I trust my  
4       students will probably say I have made their  
5       concerns known to the General Secretary.]

6   260           Q.   And wouldn't you think it would  
7       be important to communicate with students to  
8       explain to them how this will impact them and  
9       what plans there might be for how they can move  
10      forward?

11              A.   Absolument. Et encore une fois,  
12      je me fie au secrétaire-général et au recteur de  
13      faire ces démarches-là.

14              [Absolutely, and I trust my General  
15      Secretary and the director to do the necessary  
16      thing in that regard.]

17   261           Q.   But as far as you know that  
18      hasn't happened yet?

19              A.   Je ne le sais vraiment pas.

20              [I really don't know.]

21              Et encore une fois, je fais confiance  
22      à cette équipe administrative pour faire ce  
23      genre de démarches.

24              [But I trust this administrative team  
25      to realize those administrative processes.]

1 262 Q. So that being the case, if your  
2 administration -- administrators hadn't had  
3 these communications with students you would  
4 think they were not sufficiently doing their  
5 job?

6 A. Répétez la question? C'est  
7 vraiment pas clair, là.

8 [Can you repeat the question? It's  
9 really not clear.]

10 263 Q. Sure. If your administrators  
11 hadn't communicated with students, who might be  
12 having their programs terminated, like we were  
13 just discussing, you would consider that to not  
14 be fulfilling the responsibilities of their job?

15 A. Je ne m'imagine pas tirer cette  
16 conclusion. Il m'apparaît très très très  
17 improbable que l'équipe administrative n'ait pas  
18 communiqué avec les étudiants.

19 [I don't believe that. It seems to  
20 me, very, very, very improbable that the  
21 administrative team did not communicate that to  
22 students.]

23 264 Q. Well my question though was, if  
24 they hadn't would you consider that they had  
25 missed an obligation of their job?

1                   A.    Situation hypothétique, à mon  
2                   avis.

3                   [In my opinion that's a hypothetical  
4                   situation.]

5   265            Q.    Well, it's not hypothetical, it's  
6                   a possibility, right? Because you told us you  
7                   don't know whether they've had those  
8                   communications.

9                   A.    C'est une question hypothétique  
10                  parce que vous avez commencé votre question avec  
11                  « si ».

12                  [It's a hypothetical question because  
13                  you begun your question with the word "if".]

14   266            Q.    Well, I had to begin my question  
15                   because you told us you don't know what has  
16                   happened.

17                  MR. CLAUDE: I have to object,  
18                  Mr. Hanrahan, to this question. It hasn't been  
19                  established that communications did not take  
20                  place, therefore, the whole discussion about is  
21                  there some legal implication or consequence that  
22                  results from that, is entirely hypothetical.

23                  So perhaps we can establish, if you  
24                  wish, whether or not communications have been  
25                  made with the students, and then from there,



1 which the witness is not able to answer today,  
2 and from there we'll be able to answer your  
3 hypothetical question. Because perhaps it's not  
4 hypothetical we just don't have the basis for  
5 it.

6 BY MR. HANRAHAN:

7 267 Q. Well, I'm not the one who can  
8 establish whether those communications have  
9 happened. I've asked the witness if they did,  
10 he's told me he doesn't know. So I'm asking  
11 him -- there's two possibilities, based on what  
12 he's told me: The communication happened or it  
13 didn't.

14 And I'm asking him in the scenario  
15 where it didn't would he consider that to be a  
16 failure to comply with an obligation of his  
17 administrative employee's job? That's not a  
18 legal question.

19 R/F MR. CLAUDE: No. We do object and so  
20 please duly note the objection and move on to  
21 your next question.

22 MS. MILLER: So will you give an  
23 undertaking to make inquiries, since he's not  
24 informed on that issue today, make inquiries and  
25 determine if communications have been issued to

1 students and if so provide us with copies of  
2 them.

3 MR. CLAUDE: Could you make your  
4 request more clear? Inquiries of what exactly?

5 MS. MILLER: To students with respect  
6 to the effect of the announcement of  
7 March 11th to become a Francophone university,  
8 on the existing English language programs and  
9 bilingual programs that are offered through the  
10 University of Sudbury.

11 U/A MR. CAZA: I think we can take that  
12 under advisement.

13 MS. MILLER: Thank you.

14 BY MR. HANRAHAN:

15 268 Q. Mr. Riopel, how many of the  
16 existing University of Sudbury faculty teach in  
17 the English language program?

18 A. Je sais que nous avons treize  
19 professeurs, mais je ne pourrais pas préciser  
20 qui enseigne dans quel département, et qui a  
21 quelles compétences linguistiques. Ça, j'ai  
22 vraiment pas ces détails-là.

23 [I know we have thirteen professors,  
24 but I couldn't specify who works in what  
25 department and who possesses specific linguistic

1 skills or not. I don't have those details.]

2 269 Q. But it's fair to say that several  
3 of them teach in the English language?

4 A. Bien, ça dépend de ce qu'on veut  
5 dire par « several », mais je compterais  
6 probablement cinq ou six de ces profs-là, mais  
7 je ne sais vraiment pas.

8 [It depends on what you mean to say by  
9 "several", but I would say five or six.]

10 270 Q. And will those faculty be  
11 terminated when the University of Sudbury  
12 becomes exclusively Francophone?

13 A. Ce que je comprends, maître  
14 Hanrahan, c'est que nous sommes en négociation  
15 présentement avec LUFA à partir du 1er mai à  
16 cause de l'avis de résiliation de la Fédération.  
17 Pratiquement tous nos employés seront mis à pied  
18 puisque nous n'avons plus de revenus.

19 [From what I understand, Mr. Hanrahan,  
20 is that we are in negotiations with LUFA now,  
21 starting from the 1st of May, because of the  
22 federation's resolution, and that practically  
23 all of our staff will be laid off because  
24 there's no funding.]

25 Et j'ajouterais que ce n'est pas

1 l'effet de la déclaration du 11 mars qui nous  
2 amène à ce point-là.

3 [And I would like to add and specify  
4 that it is not the announcement of the 11th of  
5 March that brought us to that situation.]

6 271 Q. Well, I'm speaking in respect of  
7 the impacts of your March 11th announcement.  
8 Setting aside the disclaimer from Laurentian  
9 University, as we have discussed, you made this  
10 announcement that you would be converting to a  
11 unilingual, French-language institution. You  
12 wouldn't have any need for professors that teach  
13 in the English language if that were to go  
14 forward, right?

15 A. Le 11 mars, nous avons déclaré  
16 notre intention d'aller vers ça. Les effets sur,  
17 parce qu'on est vraiment en phase exploratoire,  
18 on n'a peut-être pas procédé à cette analyse-là.

19 [Our 11th March -- on the 11th of  
20 March we expressed our intention to move towards  
21 that, but the effect on -- because we're really  
22 in an exploratory phase of that we haven't gone  
23 into the details.]

24 Maintenant, l'effet de l'annonce, si  
25 vous me permettez de poursuivre, c'est que

1 l'effet de l'annonce du 1er avril de Laurentian  
2 University fait en sorte que le 1er mai, et je  
3 parle à titre de président de conseil et membre  
4 de ce conseil-là, on n'a plus de revenus, là. Et  
5 puis on va se retrouver dans une situation  
6 financière excessivement difficile. Donc c'est  
7 pour cette raison-là qu'on est en train de  
8 négocier avec nos syndicats, une situation qui  
9 est vraiment, vraiment très difficile et très  
10 urgente.

11 [And so now the effect, if you allow  
12 me to continue what I was saying, the  
13 announcement of Laurentian on the 1st of April  
14 makes it so that many -- as of the 1st of May we  
15 will no longer have any -- we are not receiving  
16 any money, which puts us in a financial  
17 situation which is too difficult, and that's why  
18 we're in negotiations with the unions, because  
19 we're in an urgent and difficult situation.]

20 Donc les mises à pied qui s'en  
21 viennent, là, il n'y a aucun, à ma connaissance,  
22 il n'y a aucun lien avec la résolution du 11  
23 mars, mais c'est tout en lien avec l'annonce de  
24 la résiliation de la Fédération qui nous a été  
25 présentée par Laurentian University.

1 [So all of the layoffs that -- all of  
2 the coming layoffs have no link with the  
3 resolutions of the 11th of March but they all  
4 have to do with the -- Laurentian's  
5 announcement.]

6 272 Q. Again, I'm speaking in respect of  
7 the effects of your March 11th announcement.  
8 And if -- without there being a disclaimer from  
9 Laurentian University, you had announced that  
10 you would become a unilingual French-language  
11 university, that necessarily means once that  
12 happens you would no longer have a need for  
13 English language professors, right?

14 A. J'imagine que oui.

15 [I imagine, yes.]

16 273 Q. And so they would be terminated?

17 A. Je peux pas me prononcer  
18 là-dessus parce qu'on est encore dans une phase  
19 de planification.

20 [I can't answer that because we're  
21 still in a planning stage, in the planning  
22 stages.]

23 274 Q. Well, is there a scenario that  
24 you would continue to employ faculty who don't  
25 teach courses?

1                   A.    On ne s'est pas rendu là dans nos  
2   discussions.

3                   [We haven't got into that in our  
4   solution.]

5                   MR. CAZA:  Sorry, I think it was  
6   discussions.

7                   BY MR. HANRAHAN:

8   275            Q.    Can you think of a reason that  
9   you would want to continue employing five or six  
10  faculty members who teach in English when you  
11  offer courses exclusively in French?

12                  A.    Encore, je n'ai vraiment aucune  
13  idée, mais j'imagine que les profs anglophones  
14  ne pourraient pas continuer à enseigner en  
15  français dans un établissement autonome de  
16  langue française.

17                  [I have no idea, again, but I would  
18  imagine that an English professor could not  
19  teach a French class in a French school.]

20  276            Q.    Madam Court Reporter, I don't  
21  know if this is a good time for a break.  We've  
22  been going for a little while.

23                  --    RECESSED AT 12:25 P.M.  --

24                  --    RESUMED AT 12:38 P.M.  --

25                  BY MR. HANRAHAN:

1       277               Q.    So Mr. Riopel, we've been  
2       discussing a fair bit today the University of  
3       Sudbury's intention to convert to a unilingual  
4       French language institution, right?

5               A.    Oui.

6               [Yes.]

7       278               Q.    So I wonder if I could ask you to  
8       turn back to the Federation Agreement that we  
9       were looking at earlier? And if you could turn  
10      to paragraph 17? And if you look about half way  
11      through paragraph 17 it's speaking about  
12      Laurentian and Sudbury University. And it says:

13               "[...] they and the other  
14              universities and colleges, which  
15              become federated or affiliated with  
16              Laurentian University, will work  
17              together to fulfill the objects of the  
18              active incorporation of Laurentian  
19              University, and to build a great  
20              institution of learning which shall  
21              forever be bilingual and  
22              nondenominational in its character."

23              Do you see that?

24              A.    Oui.

25              [Yes.]



1       279               Q.    And you agree with me that the  
2       plan that the University of Sudbury has  
3       announced is not consistent with that plan of  
4       the Federation Agreement, right?

5                    A.    À la lumière du fait que  
6       Laurentian University a très mal rempli le  
7       mandat de bilinguisme, moi je ne suis pas  
8       inconfortable avec ce qu'on a fait.

9                    [Right. In light of the fact that  
10      Laurentian University has very badly fulfilled  
11      their bilingual obligation I'm completely  
12      comfortable with what I've done.]

13      280               Q.    Let's set aside what Laurentian  
14      University has done for a moment, and I'm just  
15      speaking about your announcement, it's not  
16      consistent with that provision of the Federation  
17      Agreement, is it?

18      R/F            MR. CAZA: That's a legal question and  
19      item objecting and directing the client, the  
20      witness not to answer.

21                    BY MS. MILLER:

22      281               Q.    Can we ask the question this way,  
23      Mr. Riopel. That is, if Laurentian complied  
24      with the letter that Mr. Claude sent requesting  
25      that all French language programs and courses be

1 transferred to the University of Sudbury, would  
2 that be consistent with the language of  
3 paragraph 17 of the Federation Agreement, which  
4 says that Laurentian shall forever be bilingual?

5 R/F MR. CAZA: Same objection. I can  
6 provide, just for the purposes of the  
7 transcript, because I believe when I give an  
8 objection to provide a reason.

9 What I can tell you is, the bilingual  
10 aspect, when it says "bilingual", our position  
11 is what they really mean is there definitely has  
12 to be French being offered. In no way is that  
13 any protection to ensure that courses are  
14 offered in English.

15 MS. MILLER: And to be clear, the  
16 context for the question that's just been asked  
17 is in the context of Laurentian University being  
18 recognized under the French Language Services  
19 Act as a specifically bilingual university.

20 And so I'll just put that on the  
21 record and we don't need to debate it, but we  
22 have your objection.

23 BY MR. HANRAHAN:

24 282 Q. Mr. Riopel, can I ask you to turn  
25 to paragraph 39 of your April 14th affidavit?

1 A. C'est beau.

2 [I'm good.]

3 283 Q. And this paragraph 39, you're  
4 talking about what you say are -- is the likely  
5 significant financial hardship to the University  
6 of Sudbury that would result from the disclaimer  
7 of the Federation Agreement, correct?

8 A. C'est ça.

9 [Yes.]

10 284 Q. And if we look at paragraph 2,  
11 specific items that you break out. And I'd like  
12 to look at the first one, which is under numeral  
13 (a) which says:

14 "[...] the layoff costs for its  
15 employees, which could amount to  
16 \$4 million."

17 Do you see that?

18 A. Oui.

19 [Yes.]

20 285 Q. Is that a figure that you  
21 calculated?

22 A. Non, ça, c'est le personnel  
23 administratif de l'université qui l'a fait.

24 [No, that's the university's  
25 administrative staff that did that.]

1       286               Q.    And how did they go about  
2       calculating that \$4 million figure?

3                    A.    Je n'ai aucune idée. C'est en  
4       collaboration avec une avocate des ressources  
5       humaines et puis notre personnel au sein de  
6       l'université.

7                    [I really have no idea. Again that's  
8       a collaboration with a lawyer, human resources  
9       and the university staff.]

10      287               Q.    Do you have an understanding of  
11      what -- what the costs are that are included in  
12      that \$4 million?

13                   A.    J'ai une petite idée, à la  
14      lumière de mon expérience personnelle dans ce  
15      genre de dossier.

16                   [I have a small idea due to my  
17      personal information in this kind of case.]

18      288               Q.    And what's your understanding of  
19      what's included in that number?

20                   A.    Bien, c'est des mises à pied.  
21      Donc on doit, s comprends bien, là, c'est qu'on  
22      doit aux employés un certain montant d'argent en  
23      fonction de lois et de règlements, et puis  
24      d'avis, aussi, là-dedans. C'est ce que j'en  
25      connais.

1 [Well, I know that there will be  
2 certainly layoffs and we are required to pay a  
3 certain amount, in accordance with laws and  
4 regulations and notice.]

5 289 Q. Counsel, can we have an  
6 undertaking for an explanation of how this  
7 number was calculated, and the numbers that went  
8 into it?

9 U/T MR. CAZA: Yeah. What we will do is  
10 we will give you an undertaking to provide you  
11 with the analysis, okay, Mr. Hanrahan, that led  
12 to this number.

13 MS. MILLER: I think we're looking for  
14 the calculation not the analysis.

15 U/T MR. CAZA: And the -- I guess what I  
16 meant by the analysis, so that you can  
17 understand, what was taken into consideration to  
18 arrive at that number. So that's the  
19 undertaking we'll provide.

20 BY MR. HANRAHAN:

21 290 Q. Thank you.

22 And then if we move on to number (b),  
23 you refer to the annual upkeep of its buildings  
24 on the leased lands of approximately \$400,000.  
25 Do you see that?

1 A. Oui.

2 [I do.]

3 291 Q. Those upkeep costs on the  
4 buildings that you're referring to, those are  
5 costs that Sudbury is already responsible for,  
6 right?

7 A. À ce que je sache, oui.

8 [To my knowledge, yes.]

9 292 Q. And are those costs that you pay  
10 every year and have paid for every year for a  
11 number of years?

12 A. Ça, je pourrais pas me prononcer.  
13 [I couldn't give you an answer to  
14 that.]

15 293 Q. So who calculated the annual  
16 upkeep amount of \$400,000?

17 A. Le personnel d'administration  
18 d'université.

19 [The university's administrative  
20 staff.]

21 294 Q. And could we have an undertaking  
22 from the same explanation of those costs?

23 U/T MR. CAZA: Yes, we'll provide you with  
24 that undertaking.

25 BY MR. HANRAHAN:

1 295 Q. Now, these upkeep costs in the  
2 buildings, you said those are costs already --  
3 those are already something that the University  
4 of Sudbury is responsible for. So it's fair to  
5 say that those are not costs that are a result  
6 of the disclaimer, right?

7 A. Ce que je comprends, c'est que  
8 c'est des coûts actuels de l'entretien de ces  
9 édifices-là.

10 [From what I understand those are the  
11 actual costs of the - inaudible (sic).]

12 296 Q. Sorry, you broke up there,  
13 Mr. Riopel at the end of your answer.

14 A. C'est les coûts, à ce que je  
15 sache, de l'entretien de ces édifices-là, de  
16 façon annuelle.

17 [To my knowledge that's the cost that  
18 the maintenance and upkeep of these buildings  
19 cost annually.]

20 297 Q. And that's not a result of the  
21 disclaimer, those are costs that you've been  
22 paying to date?

23 A. À ce que je sache.

24 [That I'm aware of, yes.]

25 298 Q. Can we turn to paragraph 22 of

1 your April 14th affidavit?

2 A. Oui.

3 [Yes.]

4 299 Q. And you will see there's a  
5 heading just above paragraph 22 that says "Lack  
6 of Good Faith", do you see that?

7 A. Oui.

8 [Yes.]

9 300 Q. And then in paragraph 22, it  
10 says:

11 "The proposed disclaimer is  
12 unfortunately not the first time  
13 Laurentian has attempted to  
14 unilaterally terminate or materially  
15 alter the Federation Agreement."

16 Do you see that?

17 A. Oui.

18 [Yes.]

19 301 Q. Other than the disclaimer that  
20 was issued on April 1st, when has Laurentian  
21 attempted to unilaterally terminate the  
22 Federation Agreement?

23 A. À ce que je sache, il y a eu des  
24 échanges de lettres, même avant que j'arrive au  
25 conseil, possiblement après 2012, où la



1 Laurentienne voulait mettre fin à la Fédération.

2 [To my knowledge that was an exchange  
3 of letters before my arrival on the committee  
4 after 2012, wherein Laurentian wanted to put an  
5 end to the federation.]

6 Et nous avions, à ce moment-là,  
7 répondu, je ne me souviens pas si c'était par  
8 l'entremise d'un avocat ou non, nous avions  
9 répondu que nous avions une entente qui était  
10 signée en 1960, renouvelée en 1993, qui faisait  
11 en sorte qu'on ne pouvait pas dissoudre la  
12 Fédération.

13 [And we responded at that time, I  
14 can't remember whether it was through the --  
15 with the help of a lawyer, but we responded that  
16 there was a signed agreement dating -- signed in  
17 1960 and renewed in 1993 that did not allow for  
18 a dissolution?]

19 302 Q. So the letters you're referring  
20 to you're saying that they discuss the  
21 possibility of ending the federation?

22 A. C'est très vague dans mon esprit,  
23 mais il me semble que c'était l'essentiel des  
24 échanges à ce moment-là.

25 [It's very vague, in my mind, but the

1           essential of it seemed -- it's in that vein.]

2       303           Q.     But there wasn't actually an  
3       attempt to terminate the Federation Agreement,  
4       right?

5                   A.     Ce que j'ai compris, c'est que la  
6       correspondance qu'on a reçue de la part de  
7       Laurentian University, c'était justement de  
8       mettre fin à la Fédération, et nous avons  
9       répondu que nous croyions, à ce moment-là, être  
10      sur du terrain solide légalement en ce qui a  
11      trait à la Fédération.

12                   [What I understand that that was the  
13      concept. It was Laurentian's -- sorry.

14                   What I understand is that it was in  
15      this correspondence from Laurentian that it was  
16      their intent to put an end to the relation. And  
17      our response at that time was to -- that we  
18      believed we were -- to be on legal solid  
19      ground.]

20      304           Q.     Could we turn to paragraph --

21                   MS. MILLER: Just before we leave  
22      that, can we please have an undertaking to  
23      produce the correspondence that you're referring  
24      to, in respect of paragraph 22, that you have  
25      just given evidence on?

1 R/F MR. CAZA: Actually, we won't give you  
2 that undertaking.

3 But may I just ask Mr. Riopel  
4 questions about how we could get a hold of that  
5 letter, if he can?

6 MS. MILLER: No, he's just given  
7 evidence about communications and correspondence  
8 that he's saying support the statement in his  
9 affidavit that this is not the first time that  
10 Laurentian has attempted to terminate the  
11 Federation Agreement.

12 So he's referred to correspondence  
13 that he's received, he's given evidence on that.  
14 And he's indicated there's been responses to  
15 that. And he's purported to give evidence on  
16 what the contents of that are. And we're asking  
17 for him to produce the communications and  
18 correspondence that he has no personal knowledge  
19 of but that he's giving evidence on.

20 MR. CAZA: I have to tell you that his  
21 evidence is that he recalls having read a letter  
22 in the past, after 2012. We can't give you an  
23 undertaking now to go through all that  
24 correspondence to find the letter.

25 That's why I was going to ask

1 Mr. Riopel, and I mean you can object. I'm  
2 asking him now, object if you want to.

3 Mr. Riopel, is this correspondence  
4 that you could find quite easily.

5 BY MS. MILLER:

6 305 Q. But before you answer that,  
7 Mr. Riopel, you've just sworn an affidavit, and  
8 you've clearly had information to swear an  
9 affidavit under oath, and you've put in a  
10 reference in an affidavit to this exchange, that  
11 Mr. Caza refers to as being impossible or  
12 difficult to put your hands on.

13 And I'm just asking, how did you  
14 inform yourself, other an anecdotal hearsay, you  
15 know, exchange of correspondence at a time that  
16 doesn't sound like it involved you, in order to  
17 inform yourself to be able to swear this  
18 affidavit.

19 MR. CAZA: I'm sorry, where does it  
20 say in the affidavit that he had an exchange of  
21 correspondence?

22 MS. MILLER: He's just given evidence  
23 on that.

24 MR. CAZA: You just said in his  
25 affidavit. He didn't say that in his

1 affidavit.

2 MS. MILLER: His affidavit says -- he  
3 makes an assertion, under oath, that it's not --  
4 unfortunately it's not the first time that  
5 Laurentian has attempted to do it.

6 He's referenced correspondence.

7 MR. CAZA: Right.

8 MS. MILLER: And we'd like to see what  
9 correspondence he's relying on in making that  
10 assertion?

11 MR. CAZA: He's referenced  
12 correspondence in the evidence he's given now.  
13 He didn't reference it in his affidavit.

14 You have asked to have that  
15 documentation produced. I've asked him, is that  
16 something you can easily obtained? That's why  
17 I've asked him. Because if he says "yes", then  
18 we'll be able to give you the undertaking. If  
19 he says "no", we can't give you the undertaking.

20 And if you don't want him to answer  
21 the question, I've attempted to see if I can  
22 answer the undertaking and we can move on.

23 BY MS. MILLER:

24 306 Q. Mr. Riopel, what's the answer to  
25 that question?

1                   A.    Je ne saurais pas par où  
2           commencer.

3                   [I wouldn't know where to begin.]

4       U/T           MR. CAZA:  Why don't we do this:  We  
5       will undertake for Mr. Riopel to take a look,  
6       just to take a look, if he's able to, and  
7       usually we use the word "reasonable efforts".

8                   Mr. Riopel, I guess -- how much  
9       time -- do you think if you spent like an hour  
10      you think you might be able to find it?  Or that  
11      wouldn't help?

12                  THE WITNESS:  Je peux vérifier, voir  
13      ce que j'ai dans le dossier, mais je peux rien  
14      garantir.

15                  [I have to check and see what I have  
16      in my files, but I can't guarantee anything on  
17      that regard.]

18                  MR. CAZA:  Do you have your files with  
19      you?  Est-ce que vous les avez avec vous?

20                  THE WITNESS:  Oui.

21                  [Yes.]

22                  MR. CAZA:  Are we in a position to  
23      give an undertaking that you will review your  
24      files to see if those letters are there?

25                  THE WITNESS:  Sure.

1 MS. MILLER: I think we've established  
2 that he wasn't a party to the letters. He's  
3 seen them, in some source, through University of  
4 Sudbury.

5 So he's swearing an affidavit on  
6 behalf of the University of Sudbury so it's not  
7 limited to his files, he's swearing it on behalf  
8 of the University of Sudbury so it includes  
9 their files.

10 MR. CAZA: You know, we're going  
11 through COVID, and getting files and having  
12 access to documentation and everything is a  
13 nightmare so I'm looking at the undertaking.

14 I'm going to say this in English just  
15 to save work for Mr. Wright.

16 U/T So the -- what he's told us is he  
17 might have that in his files. So he's got his  
18 files with him. We're ready to give you an  
19 undertaking. He'll look at the files.

20 We will make inquiries and give you  
21 that undertaking. We will make some inquiries  
22 to see if we are able to locate those letters.  
23 We'll make a couple -- we'll make some phone  
24 calls and if we are able to get those letters  
25 we'll provide them to you.

1 BY MS. MILLER:

2 307 Q. Including to the President of  
3 University of Sudbury and to the administrative  
4 staff to see if they have it.

5 MR. CAZA: Well, I don't know to what  
6 extent we can communicate with all of the  
7 administrative staff but we will do -- now, the  
8 president -- he's president now but he wasn't  
9 president at the relevant time.

10 But we will inquire of the president  
11 if he's aware of those letters; and if he is and  
12 he can find them without sort of -- acting  
13 reasonably, we will obtain those and provide  
14 them to you.

15 I don't know who else, Mr. Riopel, we  
16 could ask. Is there anybody else we can inquire  
17 of?

18 THE WITNESS: Je peux pas penser à  
19 personne d'autre. Ça serait dans les dossiers  
20 dans le bureau du recteur.

21 [I can't think of anybody else. That  
22 would be in the Director's files.]

23 U/T MR. CAZA: So we're prepared to give  
24 you the undertaking.

25



1 BY MS. MILLER:

2 308 Q. Did you say you are or you are  
3 not?

4 MR. CAZA: Yes, I am.

5 MS. MILLER: Thank you.

6 U/T MR. CAZA: Just so it's clear on the  
7 record, Mr. Riopel will verify his files at his  
8 office or where he's at. If he's got them we  
9 will produce them.

10 We will communicate with the president  
11 of the university, or the present Rector, at the  
12 present. We will ask him if he has access? If  
13 he's able to find those? Has he heard of these?  
14 Can he get them?

15 And if he says he can, with exercising  
16 reasonable efforts in all of the circumstances,  
17 we will ask him to do so. And if we obtains  
18 those letters we'll provide them to you. That's  
19 the undertaking.

20 BY MS. MILLER:

21 309 Q. Thank you. And the one thing I  
22 would ask you to add to that is to include the  
23 administrative assistance to the president as  
24 part of that.

25 MR. CAZA: I don't know who the

1 Executive Assistant is. Is that somebody,  
2 Pierre, that we can write to.

3 THE WITNESS: Yes. She's not on  
4 campus though.

5 U/T MR. CAZA: Okay. But we will make the  
6 inquiry of her also.

7 MS. MILLER: Thank you.

8 BY MR. HANRAHAN:

9 310 Q. Okay. So if we could turn to  
10 paragraph 29 of your affidavit?

11 A. Oui.

12 [Yes.]

13 311 Q. And I'm looking at the last  
14 sentence of the paragraph. And you say:

15 "By seeking to terminate the  
16 agreements rather than attempting to  
17 negotiate new terms for financial  
18 allocation of revenues and expenses,  
19 Laurentian is acting contrary to the  
20 principles agreed to and enunciated in  
21 the Federation Agreement and in bad  
22 faith."

23 Do you see that?

24 A. Oui.

25 [Yes.]

1       312               Q.    You're aware that Laurentian and  
2       the Federated Universities just concluded an  
3       intensive, two-month mediation process?

4                       A.    C'est ce que je comprends.  
5                       [That's -- from what I understand,  
6       yes.]

7       313               Q.    So it's not the case, as you say  
8       here, that Laurentian is terminating the  
9       agreement rather than attempting to negotiate,  
10      there was just a two-month long negotiation with  
11      intensive mediation sessions, right?

12      R/F           MR. CAZA: I'm objecting. We have no  
13      evidence and there is no evidence as to what  
14      went on at those mediations, what was said.

15                    We tried to discuss that issue in the  
16      cross-examination and it was clearly said none  
17      of that can be brought forward. We don't see  
18      how that can be referred to or even considered  
19      by Mr. Riopel.

20                    MR. HANRAHAN: I'm not getting into  
21      any of the substance of the mediation and I  
22      don't want anyone to discuss. I'm simply  
23      referring to the existence of the mediation and  
24      the fact that it happened. I don't think that's  
25      confidential. It's in the court materials that

1 the mediation happened. That's all I'm  
2 referring to.

3 MR. CAZA: My objection is it's  
4 irrelevant. Because that mediation we don't  
5 know, maybe nothing happened. Maybe nothing was  
6 said. Maybe Laurentian University showed up and  
7 said, We don't want to even talk to you. How  
8 can it be relevant, the fact that there was  
9 actual mediation, that nobody can discuss what,  
10 if anything, was discussed in the context of  
11 that mediation? So we're objecting to that  
12 question.

13 BY MS. MILLER:

14 314 Q. Well, that's clearly argument,  
15 but you can reserve that argument and make that  
16 argument.

17 You're suggesting you don't want your  
18 client to answer the question as to whether  
19 University of Sudbury participated in the court  
20 mediation process pursuant the February 5th  
21 court order?

22 MR. CAZA: Sorry, is that the  
23 question? That's not the question. Is the  
24 question only, was the University of Sudbury a  
25 participant in that mediation? Yes, Mr. Riopel,

1           you can answer that.

2                       THE WITNESS: C'est ce que j'ai  
3           compris. Oui.

4                       [Yes, according to what I've up  
5           understand.]

6                       BY MS. MILLER:

7   315               Q.   And did the University of Sudbury  
8           deliver a mediation brief in the context of that  
9           mediation?

10                      A.   Je n'ai aucune idée.

11                      [I have no idea.]

12                      MR. CLAUDE: And entering into that  
13           area is to, I believe, cross the line in terms  
14           of the breach of the confidentiality agreement.  
15           What was said, what documents were filed, are  
16           sealed, as far as the mediation order is  
17           concerned.

18                      MS. MILLER: Yeah, and there's no  
19           intention to get into the documents. And if you  
20           prefer I'm happy to strike that and have it not  
21           appear as part of the transcript.

22                      MR. CAZA: Actually you can't strike.  
23           We're not in the United States, we don't strike  
24           anything from the record.

25                      I think you may have waived,

1       presently, the confidentiality pertaining to  
2       those mediation briefs, because I guess now we  
3       need to look at everybody's mediation briefs  
4       since you've raised that as an issue, the fact  
5       that -- I wasn't present, from what you've  
6       advised mediation briefs were filed.

7               MS. MILLER: Clearly we're not  
8       waiving, and unless you are, we are not waiving.  
9       And the reference to the fact that, you know,  
10      that the mediation took place, in accordance  
11      with and as set out in a February 5th court  
12      order, is a matter of public knowledge.

13             So we're not getting into anything to  
14      do with the mediation other than stating that it  
15      happened. So to be clear we are not getting  
16      into the details of anything relating to  
17      mediation. We are not waiving anything relating  
18      to the confidentiality of the mediation, and  
19      we're not asking the witness to speak to any  
20      aspect of the mediation.

21             MR. CLAUDE: But you just did,  
22      Ms. Miller. You just did. You asked the  
23      witness if the University of Sudbury had filed a  
24      mediation brief. If you've opened that door,  
25      and we believe that you have, then it should be

1 opened for us to then file the documentation  
2 that went -- that went forth during the  
3 mediation. You've opened this door.

4 MR. HANRAHAN: Just to be clear, the  
5 confidentiality is not something that can be  
6 waived, the confidentiality is by court order so  
7 it's not for a party to waive.

8 MR. CAZA: This is what's going on,  
9 you're actually relying, and you've done this,  
10 and you did this yesterday, on this mediation  
11 process and that confidentiality to say, Well,  
12 no, because of things that nobody can discuss  
13 that happened we've done everything we have to  
14 do.

15 And now you've actually opened the can  
16 of worms by -- you're the ones that have  
17 basically, I would argue, waived -- they will  
18 need to speak to the court and advise the court  
19 that in all of these circumstances, and the  
20 position you're taking, and how you've made the  
21 mediation briefs relevant to the issues  
22 discussed, that the court needs to overrule, or  
23 whatever, waive the confidentiality so that it  
24 can obtain these briefs.

25 Unless, and I guess the only thing is

1       you're telling us that it is totally irrelevant.  
2       And the university cannot and does not rely on  
3       the mediation process for any of the issues that  
4       are being discussed at the -- at your motion, at  
5       the motion we brought to --

6               MS. MILLER: To be clear that is the  
7       case. We are not relying on anything to do with  
8       the mediation, or anything that was dealt with  
9       in the mediation for the motion, that is  
10      absolutely clear.

11             But let me just finish, Mr. Caza,  
12      because I allowed you to finish.

13             Through the cross-examination of our  
14      client yesterday you went into details,  
15      including whether he participated in the  
16      mediation? Who he was discussing with? And  
17      which ones he attended? Did he attend this one?  
18      So we didn't object to that. We let you ask  
19      those questions and we didn't raise objections  
20      to it on the basis that, you know, nobody is  
21      getting into discussions about what took place  
22      and all the rest of it.

23             But we showed leeway in terms of  
24      establishing whether he was there or not. The  
25      concept of the participation of the parties in



1 the mediation, in and of itself, is not  
2 confidential. The participation of the parties  
3 is not confidential.

4 So I think we've established, and we  
5 can confirm on the record if that's what you  
6 would like to hear, there's no aspect of the --  
7 anything that occurred in that mediation that  
8 forms part of, or will be discussed, or  
9 addressed, or relied upon in respect of the  
10 motions that are proceeding on the 29th and the  
11 30th, I can confirm that unequivocally.

12 MR. CAZA: I can advise you that  
13 yesterday during the cross-examination of  
14 Mr. Haché when I asked him to give me any  
15 evidence he had that basically there had been  
16 discussions, he said it was at the mediation.

17 So he's basically -- so if what you're  
18 telling me, and this is what I want to be clear,  
19 at the motion later next week, Laurentian  
20 University is not at all going to be saying, any  
21 obligation we had to enter into discussion  
22 before attempting to bring this contract to an  
23 end, that we met those obligations in the  
24 mediation. If you're saying that then we are  
25 entitled to the mediation brief.

1                   And if you're not saying that, and  
2                   basically any -- that that had nothing to do --  
3                   it's irrelevant to meeting the obligations. If  
4                   Laurentian met those obligations it would have  
5                   had to have been elsewhere and not in the  
6                   process or in participating in this mediation.  
7                   Well then I may, and I'll have to seek  
8                   instructions, I think we may need to -- it may  
9                   be a situation where the mediation briefs may  
10                  not be relevant.

11                 MS. MILLER: I don't understand what  
12                 you just said, but I appreciate that you were  
13                 not involved, and I don't want to get into this  
14                 on the record more than we have.

15                 But you know, you're co-counsel here  
16                 were. So I don't want to talk about what -- I  
17                 don't want to talk about materials, and so on,  
18                 that you may not have, your co-counsel does.

19                 So let's please not delve into an  
20                 issue. You've raised an issue of concern.  
21                 You're inviting a discussion on the record to  
22                 delve further into an issue that we think is not  
23                 appropriate to get into. So I'd suggest that we  
24                 just park this whole discussion right here.  
25                 Leave it where it is.

1 I've been clear, we are not waiving  
2 any confidentiality. We are not asking your  
3 client to waive any confidentiality. And, as  
4 Mr. Hanrahan points out, that confidentiality is  
5 pursuant a court order, it's not a contractual  
6 agreement of the parties it's pursuant to a  
7 court order.

8 I think we should just move on from  
9 that. I think we understand each other's  
10 positions, let's move on.

11 MR. CAZA: Actually, no, you've told  
12 me you do not understand my position so I just  
13 want to be clear. And I'm not going to refer at  
14 all to the mediation. So this is what I want to  
15 be clear.

16 Laurentian University, our position  
17 is, before proceeding to file that disclaimer  
18 had an obligation to enter into discussions,  
19 let's leave it at that. That's going to be our  
20 position.

21 Now, my understanding of the answers  
22 yesterday was, part of the response of  
23 Laurentian University is that the answer or  
24 proof that they did exercise that obligation, or  
25 they respected that obligation was the

1 mediation, okay? I don't want do get into it  
2 I'm just saying that's what we were told.

3 What I'm hearing now is, no, the whole  
4 mediation is irrelevant to all the issues that  
5 are going to be discussed later this week.  
6 That's what I'm hearing.

7 So I will not hear you, counsel for  
8 Laurentian university, in answering allegations  
9 we will bring forward, that Laurentian  
10 University did not meet the conditions, or its  
11 obligations, its legal obligations in bringing  
12 this -- in attempting to end this disclaimer,  
13 that their participation in the mediation was  
14 part of it. If I'm hearing that from you that  
15 that's the clarification I want.

16 MS. MILLER: We're speaking at  
17 cross-purposes Mr. Caza. The existence of the  
18 mediation, all of the evidence of Laurentian  
19 University and what Laurentian intends to rely  
20 on is clearly set out in Dr. Haché's affidavit.  
21 I am not going to paraphrase it, I'm not going  
22 to restate it. You cross-examined him on it  
23 yesterday.

24 That affidavit sets out Laurentian's  
25 position and that is the evidence that we're

1 going to be using for the motion. I'm not going  
2 to add to it, I'm not going to try and explain  
3 it. It is what it is.

4 And you've stated a position. You  
5 know, we're not agreeing or disagreeing with  
6 your position. We understand you'll make  
7 whatever arguments you want to make. The  
8 Laurentian University's position is set out in  
9 Dr. Haché's affidavit.

10 I don't think we're going to do any  
11 good in continuing to go back and forth and  
12 debating this. We have are our positions on the  
13 record and let's leave it at that.

14 MR. CAZA: I agree. What I can tell  
15 you is, once we get the transcripts we'll review  
16 the transcripts and we'll bring any motions or  
17 take any -- anything we need to do we'll do it  
18 once we receive the transcript. I agree we can  
19 move on.

20 BY MR. HANRAHAN:

21 316 Q. Mr. Riopel, you're aware that in  
22 fact Laurentian made an open offer of settlement  
23 to the University of Sudbury on April 14th  
24 seeking a resolution of the issues between  
25 Laurentian and the University of Sudbury,

1 correct?

2 A. Hum, non. Dans quel document?

3 [No, in which document?]

4 317 Q. It was attached as Exhibit T to  
5 Dr. Haché's most recent affidavit. It was  
6 provided to the University of Sudbury's counsel  
7 on April 14th.

8 MR. CLAUDE: Mr. Hanrahan, did you  
9 want to point to where we can find that  
10 document? If it's only contained in Dr. Haché's  
11 affidavit it may take a moment.

12 BY MR. HANRAHAN:

13 318 Q. It's Exhibit T to that affidavit.  
14 I'm happy to have him pull it up if he wants,  
15 I'm just asking him if he's aware of that offer?

16 A. Honnêtement, je m'en souviens  
17 pas.

18 [I don't remember.]

19 319 Q. Did you counsel provide you the  
20 offer at the time it was made?

21 A. Probablement, là, mais j'ai  
22 beaucoup de textes ici et je ne le retrouve pas.

23 [Probably, but I have a lot of papers  
24 there - inaudible (sic).]

25 Et je ne le trouve pas.

1 [And I don't find it.]

2 320 Q. Do you remember receiving it?

3 A. Je ne me souviens pas.

4 [I don't remember.]

5 MR. CLAUDE: So either, Mr. Hanrahan,  
6 it's important to get the document or it's not.  
7 If we're going to take a moment or you want to  
8 send it by email, or whatnot, then we go on.

9 BY MR. HANRAHAN:

10 321 Q. That's fine, I don't think it's  
11 necessary.

12 Mr. Riopel, the University of Sudbury  
13 hadn't responded to that offer, has it?

14 A. Je ne sais même pas de quelle  
15 offre il s'agit, là.

16 [I don't know. I don't know about  
17 that.]

18 MR. CAZA: In fairness to the witness,  
19 Mr. Hanrahan, you've referred to a document;  
20 it's before -- it's in the motion materials. He  
21 doesn't have a copy. We must -- I'm insisting  
22 that he be provided with a copy and be able to  
23 review it so he can answer your question.

24 BY MR. HANRAHAN:

25 322 Q. Well, I just said a minute ago

1 I'm happy to have him pull it up if he'd like to  
2 see it.

3 MR. CAZA: Sorry, I thought you were  
4 saying forget it. I thought Mr. Claude asked  
5 and you said no.

6 BY MR. HANRAHAN:

7 323 Q. Mr. Claude asked and I said I  
8 didn't think it was necessary but if he'd like  
9 to see it before answering the questions I'm  
10 happy to have him pull it up.

11 MR. CAZA: Yeah, I think I would.

12 I just want to make sure with  
13 Mr. Claude. You have no objection that we send  
14 a copy to Pierre Riopel?

15 BY MR. HANRAHAN:

16 324 Q. Is that question for me or  
17 Mr. Claude?

18 MR. CAZA: For you, Mr. Hanrahan. Are  
19 you okay with that?

20 MS. MILLER: I thought he had all the  
21 exhibits to Mr. Haché's affidavit?

22 MR. CAZA: You've said that earlier  
23 and we answered that that wasn't the case.  
24 Mr. Claude, can you send Exhibit T to  
25 Mr. Haché's second affidavit.



1 MS. MILLER: I can send it, if you  
2 like. I'll send it to you, André, as a separate  
3 stand-alone.

4 MR. CLAUDE: Yes, please, because  
5 otherwise the only copy I would have is within  
6 the huge file, the PDF file, the motion record.

7 MS. MILLER: That's what I was  
8 concerned about.

9 MR. CLAUDE: Did you receive the mail,  
10 Mr. Riopel?

11 THE WITNESS: Oui, je viens de le  
12 recevoir.

13 [Yes, I did.]

14 MR. CLAUDE: Tu peux l'imprimer, ça  
15 serait peut-être utile, c'est neuf pages  
16 seulement.

17 You may want to print it, it's useful,  
18 it's just nine pages.

19 THE WITNESS: O.K., donnez-moi deux  
20 secondes, je vais... J'ai le document.

21 [I have the document.]

22 BY MR. HANRAHAN:

23 325 Q. So Mr. Riopel, you now have in  
24 front of you the open offer from Laurentian  
25 University that was attached as Exhibit T to

1 Dr. Haché's April 21st, affidavit, correct?

2 A. Bien, j'ai le document qu'on  
3 vient de m'envoyer, là. Je sais pas à quoi il  
4 était joint.

5 [I have the document that you just  
6 sent me. I don't know what it was attached to.]

7 326 Q. Well, I will represent to you  
8 that that's the document that we provided to  
9 you.

10 Do you remember -- now that you have  
11 it in front of you do you remember seeing this  
12 document before?

13 A. Possiblement, mais... assurément,  
14 non.

15 [It's possible but not with  
16 certainty.]

17 327 Q. And this document is what  
18 Dr. Haché describes in his affidavit as:

19 "[...] an effort to consensually  
20 resolve determination of Laurentian's  
21 Federation Agreements".

22 And if we look at the document under  
23 the heading "Purpose" it says:

24 "This document constitutes a  
25 transition agreement between USudbury

1 and Laurentian following Laurentian's  
2 disclaimer of the Federation Agreement  
3 between USudbury and Laurentian, dated  
4 November 10th, 1960, and the Financial  
5 Distribution Notice between USudbury  
6 and Laurentian dated May 1st, 2019."

7 And it goes on to say:

8 "The terms set out herein  
9 represent an offer by Laurentian to  
10 USudbury which are open for acceptance  
11 until the commencement of the motion  
12 brought by Laurentian, which is  
13 returnable on April 29th, 2021."

14 Do you see that?

15 A. Oui.

16 [Yes.]

17 328 Q. And you're not aware, and to the  
18 best of your knowledge, the University of  
19 Sudbury has not responded to this offer, right?

20 A. Pas à ma connaissance.

21 [Not to my knowledge.]

22 329 Q. I think I'm just about done. Can  
23 we take five minutes so I can look at my notes?

24 -- RECESSED AT 1:25 P.M. --

25 -- RESUMED AT 1:31 P.M. --

1 BY MR. HANRAHAN:

2 330 Q. So subject to any undertaking,  
3 under advisements and refusals, those are my  
4 questions. Thank you, Mr. Riopel.

5 MR. CAZA: Thank you, Mr. Hanrahan.

6 Mr. Riopel, and counsel, we need  
7 another five minutes, okay, to review our notes.  
8 We don't think there's going to be a  
9 re-examination; if there is it's going to be one  
10 question. We are just reviewing our notes to  
11 see if we need to do that. So if we can come  
12 back at 13:36.

13 -- RECESSED AT 1:31 P.M. --

14 -- RESUMED AT 1:36 P.M. --

15 MR. CAZA: Mr. Hanrahan, two points.  
16 First, we had taken under advisement your  
17 request that we provide you with the most recent  
18 draft of the business plan. So we are  
19 withdrawing the under advisement, we are -- it's  
20 going to be an undertaking. We are going to  
21 provide it to you.

22 So we do not have any re-examination  
23 of Mr. Riopel.

24 I would like to take the opportunity,  
25 Mr. Wright Mr. Garad, thank you so much for

1 being here on a Saturday, it's much, much  
2 appreciated. Same to you, Madam Martineau, much  
3 appreciated that you are here to assist us to  
4 get this done during the weekend. It's over and  
5 the call of duty. We have no further questions.

6 MR. HANRAHAN: I just echo that as  
7 well. Thank you to all of you. I appreciate  
8 it. I know we've gone longer than we told you  
9 this week so many, many thanks.

10 --- Whereupon the examination was  
11 completed at 1:40 p.m.

REPORTER'S CERTIFICATE

I, HELEN MARTINEAU, CSR, Certified  
Shorthand Reporter, certify;

That the foregoing proceedings were  
taken before me at the time and date therein set  
forth at which time the witness was put under  
oath by me;

That the testimony of the witness and  
all objections made at the time of the  
examination were recorded stenographically by me  
and were thereafter transcribed;

That the foregoing is a true and  
accurate transcript of my shorthand notes so  
taken. Dated this 25th day of April, 2020.



---

PER: HELEN MARTINEAU  
CERTIFIED SHORTHAND REPORTER

Je soussigné, Manuel Garand,  
sténotypiste officiel, dûment assermenté comme

1 tel, certifie sous mon serment d'office que les  
2 pages qui précèdent sont et contiennent en  
3 langue française la transcription exacte et  
4 fidèle de mes notes recueillies au moyen de la  
5 sténotypie, le tout conformément à la Loi.

6 Et j'ai signé,

7  
8 

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11 Manuel Garand, s.o.  
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6

# Laurentian CCAA

Robert Hache  
on Friday, April 23, 2021



77 King Street West, Suite 2020  
Toronto, Ontario M5K 1A1

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1 Court File No. CV-656040-00CL  
2 ONTARIO  
3 SUPERIOR COURT OF JUSTICE  
4

5 (COMMERCIAL LIST)  
6

7 IN THE MATTER OF THE COMPANIES' CREDITORS  
8 ARRANGEMENT ACT, R.S.C. 1985, c. C-36,  
9 AS AMENDED  
10

11 AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
12 ARRANGEMENT OF LAURENTIAN UNIVERSITY OF SUDBURY  
13

Applicant  
14

15 -----  
16

17 --- This is the Cross-examination of ROBERT  
18 HACHÉ, taken by Neesons, a Veritext Company,  
19 via Zoom virtual platform, on the 23rd day of  
April, 2021.

20 -----  
21

22  
23 REPORTED BY: Helen Martineau, CSR  
24  
25

A P P E A R A N C E S:

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& ANDREW HANRAHAN, Esq.,  
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ANDRÉ CLAUDE, Esq. for University  
& RON CAZA, Esq. of Sudbury

PETER J. OSBORNE, Esq. for the Board of  
Governors of  
Laurentian  
University of  
Sudbury

EUGENE MEEHAN, Q.C. for Thornloe  
& DEMETRIOS YIOKARIS, Esq. University  
& ANDREW J. HATNAY, Esq.

ASHLEY JOHN TAYLOR for the Monitor

Also Present:

Sharon Hamilton (Court-appointed Monitor of the  
Applicant), Sara Kunto

I N D E X

PAGE

WITNESS: ROBERT HACHÉ

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The following list of undertakings, advisements  
and refusals is meant as a guide only for the  
assistance of counsel and no other purpose.

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U/T and appear on the following page/line:  
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INDEX OF ADVISEMENTS

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are noted by a U/A and appear on the following  
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1           --- Upon commencing at 8:00 a.m.

2                       ROBERT HACHÉ: AFFIRMED:

3                       CROSS-EXAMINATION BY MR. CAZA:

4       1               Q.     Now, my understanding is that  
5       you -- you've -- you've sworn two affidavits.  
6       And I just want to let you know, I've actually  
7       got a paper copy of your affidavit. So are you  
8       looking at an electronic version or do you have  
9       a paper copy?

10                      A.     I have a caper copy, yes.

11       2               Q.     So what I'll be doing is I'll be  
12       referencing the actual page number that was --  
13       that's in the top, right-hand corner that your  
14       counsel -- the pagination for the whole  
15       application record. So you'll see it's in the  
16       top, right-hand corner. So if I go to tab 1,  
17       the Notice of Application starts at page 6, do  
18       you see that?

19                      A.     No, I do not.

20       3               Q.     And do you see a page 6 in the  
21       top, right-hand corner?

22                      A.     I don't have any pagination in  
23       the top, right-hand corner. My pagination is in  
24       the middle.

25       4               Q.     So you don't have, I guess, the

1 copy of the affidavit from the -- from the --  
2 the application record? You've got a copy  
3 simply of your application or the Notice of  
4 Application that's paginated in the middle of  
5 the page. So, for example, the application  
6 itself, let's start at page 3.

7 A. Yes.

8 5 Q. And your affidavit --

9 A. That's what it says in mine.

10 6 Q. That's fine. And how about your  
11 affidavit? Your first affidavit, the one you  
12 swore on January 30th, 2021? Do you have that  
13 simply also paginated, basically your 100 and --  
14 110 pages?

15 A. Yes.

16 7 Q. Okay. So I will be referencing,  
17 just for everybody's -- so everybody we're on  
18 the same page literally, the actual page number  
19 of your affidavit or the page number of the  
20 application.

21 Now, Mr. Haché, is your mother tongue  
22 French?

23 A. My mother's tongue is French,  
24 yes.

25 8 Q. And were you provided with the



1 opportunity -- were you given the opportunity to  
2 prepare your affidavit in French?

3 A. I imagine so. It wasn't really  
4 an issue.

5 9 Q. Okay. So just so that I'm clear,  
6 you were told or you were aware that you could  
7 have proceeded in French, correct?

8 A. I am aware that the court can  
9 function in French and English, yes.

10 10 Q. And you -- my understanding is  
11 you knew that we could cross-examine you in  
12 French and you asked to be cross-examined in  
13 English, correct?

14 A. I actually don't know that, but I  
15 imagine my counsel --

16 11 Q. That was my understanding.

17 A. My counsel is -- does not speak  
18 French and therefore it is important for them to  
19 understand the cross-examination.

20 12 Q. Okay. So just so I'm clear, so  
21 we're proceeding in English because your counsel  
22 doesn't understand French, correct? Otherwise  
23 we'd be proceeding in French, right?

24 MR. HANRAHAN: I don't think -- that's  
25 not what he said.

1 BY MR. CAZA:

2 13 Q. Well, --

3 A. What I said is we're proceeding  
4 in English.

5 14 Q. Well, let's put it this way, if  
6 you were able to proceed in French, would you  
7 prefer proceeding in French?

8 A. Not this morning.

9 15 Q. No, not this morning because you  
10 have counsel that cannot proceed in English  
11 (sic), but I'm asking you, if you had been given  
12 the option as to whether or not you would prefer  
13 proceeding in French or English, would you have  
14 preferred to proceed in French?

15 MR. HANRAHAN: Counsel, what's the  
16 relevance of this? He's entitled to proceed in  
17 either language.

18 BY MR. CAZA:

19 16 Q. Actually, it's going to be quite  
20 relevant because of the position we're taking  
21 with respect to Laurentian University and its  
22 commitment to the offering Francophone programs,  
23 being able to serve the Francophone community.

24 My question is very simple, Mr. Haché  
25 would you have preferred to --

1 MR. HANRAHAN: I can tell you he's  
2 going to proceed in English and his counsel  
3 speaks English and he's entitled to have his  
4 counsel represent him here at this examination.

5 Beyond that, I don't really see how  
6 this is relevant to what Laurentian is doing in  
7 terms of its French language programs.

8 BY MR. CAZA:

9 17 Q. Well, actually, are you objecting  
10 because you're saying it's not relevant? I'm  
11 telling you it's very relevant that the fact  
12 that we're proceeding in English instead of  
13 French is actually quite relevant.

14 My question, if you're objecting, I'm  
15 going to ask the question again. Mr. Haché, if  
16 you had your preference as to whether you'd  
17 rather proceed to be cross-examined in French or  
18 English, would you rather be cross-examined in  
19 French?

20 A. I am completely comfortable being  
21 cross-examined in English.

22 18 Q. So you're actually refusing to  
23 answer my question?

24 MR. HANRAHAN: I think he's answered  
25 your question.

1 BY MR. CAZA:

2 19 Q. I've asked you whether you would  
3 prefer to do it in French or English. Are you  
4 refusing to answer the question?

5 A. I believe I've answered the  
6 question.

7 20 Q. Well, actually you've told me  
8 you're comfortable in either language. Let's  
9 move on.

10 Now, I'm looking at the application.  
11 So I'm assuming that you were involved in the  
12 preparation of this Notice of Application?

13 A. Yes.

14 21 Q. Okay. For the purposes of the  
15 record, and I'm speaking to -- and I guess it  
16 would be Andrew. If you don't mind me calling  
17 you by your first name, I can call you counsel  
18 for Laurentian University. Can we agree that  
19 the exhibit will be the actual application  
20 record even though it's not the application  
21 record that the witness has before him?

22 MR. HANRAHAN: I guess I'd like to  
23 clarify. Rob, do you have the full -- what is  
24 it that you have in front of you?

25 THE WITNESS: So I have the paper copy

1 of the -- what was -- what you provided me in  
2 terms of the full application. I do have, I  
3 believe, the application of record of the second  
4 filing electronically that has the numbers up on  
5 the right-hand tab. I haven't seen a difference  
6 between the two.

7 BY MR. CAZA:

8 22 Q. Actually there is no difference.  
9 I just want to make sure we're all -- so the  
10 affidavit you had, does it have all of your  
11 exhibits?

12 A. Yes.

13 23 Q. The copy you have in front of  
14 you? Okay.

15 So are we satisfied, Mr. Hanrahan,  
16 that we're going to mark the application record  
17 or do you want to mark as -- I actually don't  
18 have a loose copy of his affidavit. I only have  
19 the application record. I just want to make  
20 sure we're all on the same page.

21 MR. HANRAHAN: That is fine. We can  
22 mark that.

23 BY MR. CAZA:

24 24 Q. So we'll mark -- in fact, the way  
25 I do it is we'll mark as Exhibit 1 -- there'll

1 be Exhibit 1, volume 1 of the application  
2 record; Exhibit 1, volume 2; Exhibit 1, volume  
3 3; and, Exhibit 1, volume 4. So now I'm in  
4 Exhibit 1, volume 1.

5 EXHIBIT NO. 1: Application Record,  
6 Volume 1, Volume 2, Volume 3 and  
7 Volume 4.

8 BY MR. CAZA:

9 25 Q. So if I'm looking at the actual  
10 grounds for the application. And if I go to  
11 page 6 of the Notice of Application, are you  
12 with me?

13 A. So which -- are we talking about  
14 the January or April?

15 26 Q. We're looking at the Notice of  
16 Application. There's only one. The other one's  
17 Notice of Motion.

18 A. So we're presumably talking about  
19 the January one then?

20 27 Q. Yeah. It's -- in fact, I'll give  
21 you the date. It was --

22 A. January 30th.

23 28 Q. That's right. It's an 11-page  
24 document -- 12-page document. And then after  
25 the 12 pages, there's a list of -- a service

1 list.

2 MR. HANRAHAN: Rob, just to clarify,  
3 do you have -- so you have your January  
4 affidavit, but do you have the Notice of  
5 Application in front of that or is it just your  
6 affidavit that you have there?

7 THE WITNESS: It is just the  
8 affidavit.

9 BY MR. CAZA:

10 29 Q. We're going to need the exhibits.  
11 So you don't --

12 MS. MILLER: Can you not pull it up on  
13 the screen and do a screen share of exactly  
14 where in the Notice of Application you want to  
15 refer him to?

16 BY MR. CAZA:

17 30 Q. Yeah, I'd rather not do that. I  
18 think for one reason when I do that, I can't see  
19 the witness. And the other thing is I think the  
20 witness should have a copy of the document.

21 Do you only have one screen,  
22 Mr. Haché, or two screens?

23 A. I have more than one screen, yes.

24 31 Q. So why don't we -- can we --  
25 maybe somebody can forward you a copy of the

1 affidavit and you can maybe put it up on the  
2 screen, if you don't have the full copy. If you  
3 don't have the copy with the exhibits, and I'm  
4 referring to your affidavit of January 30th,  
5 2021.

6 MS. MILLER: I think you were  
7 referring to the Notice of Application. You're  
8 referring now to the affidavit?

9 BY MR. CAZA:

10 32 Q. No, we are referring to the  
11 Notice of Application, but I think we also need  
12 to provide, Mr. Haché, my understanding is he  
13 does not have a full copy of his affidavit. He  
14 only has the affidavit without the exhibits, so  
15 we're going to have to give him access --

16 A. No, I have the affidavit with the  
17 exhibits.

18 33 Q. You do have it? Both of them?

19 A. Yes.

20 34 Q. Okay. Perfect. So now, do you  
21 have a copy of the Notice of Application?

22 A. That's what I'm suggesting I  
23 don't have.

24 35 Q. Okay. Okay. Then that's okay --  
25 maybe, I have no objection, Mr. Hanrahan, if you



1 want to forward a copy to him. Email him a  
2 copy.

3 MS. MILLER: I will do that.

4 MR. HANRAHAN: Thank you.

5 BY MR. CAZA:

6 36 Q. So, Mr. Haché, just let me know  
7 when you get a copy so we can continue.

8 A. Depends on the refresh rate.  
9 It's not instantaneous, as much as we'd like it.

10 MR. OSBORNE: Mr. Caza, just while  
11 we're waiting here, if there are other documents  
12 you wish to put to Dr. Haché, could you or one  
13 of your colleagues on your team get them ready  
14 so we could put them up on the screen as we go  
15 along? It's your examination but it just make  
16 things faster. Thanks so much.

17 MR. CAZA: Well, I can advise you the  
18 only documents I'll be putting on for the next  
19 few hours, I'll only be referring to his  
20 affidavits and the exhibits to his affidavits.  
21 Now I'm referring to the Notice of Application.

22 THE WITNESS: I have it now.

23 BY MR. CAZA:

24 37 Q. Thank you so much. The copy you  
25 have, does it have pagination in the top,

1 right-hand corner?

2 A. No, it does not.

3 38 Q. Okay. So can we go to page 4?

4 A. Okay.

5 39 Q. So what we have here is what  
6 the -- what the university is applying for, and  
7 on page 4, under paragraph (g), it says:

8 "granting the following charges  
9 over the Applicant's property:"

10 And Roman numeral two says:

11 "a charge in favour of the  
12 current and future directors and  
13 officers of the Applicant in the  
14 maximum amount of \$2 million, such  
15 amount to be in priority to the DIP  
16 Charge (as hereafter defined) pursuant  
17 to the Initial Order, with a further  
18 amount of \$3 million to be subordinate  
19 to the DIP Charge [...]."

20 I just want to make sure my

21 understanding is correct. So the DIP Lender who  
22 is actually seeking, if you want, protection or  
23 guarantees, actually comes after an -- a  
24 \$2 million amount that has been -- that has  
25 been, if you want, set aside in case it's needed

1 for potential liability of future directors or  
2 current and/or future directors and officers?

3 A. I believe that's what it says.

4 40 Q. Okay. If we go to page 11 --  
5 sorry, you'll have to bear with me. I've got my  
6 whole transcript set with the application.

7 If you go to page 6, under paragraph  
8 (d). Are you there?

9 A. Yes.

10 41 Q. It says:

11 "The Applicant requires immediate  
12 protection from this Court to permit  
13 it to, amongst other things:"

14 And it's got five points set up. And  
15 the fourth one says:

16 "Evaluate the structure and  
17 sustainability of its ongoing  
18 relationships with the Federated  
19 Universities."

20 Can you just explain to me what  
21 exactly is meant by evaluate? What is it that  
22 you wanted the opportunity to do?

23 A. So at that phase, as we entered  
24 into the application, we were -- it was  
25 necessary to, you know, look at all of the

1 operations of the university, how finances are  
2 flowing in one direction or other, and  
3 determine, you know, what was sustainable for  
4 the university going forward.

5 42 Q. So, Mr. Haché, as far as the:  
6 "[...] structure and  
7 sustainability of its ongoing  
8 relationships with the Federated  
9 Universities."

10 The application says that's something  
11 that you will need to evaluate, which means that  
12 you'll need to look at what your options are  
13 with respect to that ongoing relationship,  
14 correct?

15 A. That's what it says.

16 43 Q. Okay. And that's what it means.  
17 That was your intention.

18 On January 30th, Mr. Haché, had you  
19 already made a determination or decision that  
20 Laurentian was going to seek to terminate the  
21 ongoing relationships with the Federated  
22 Universities?

23 A. We, on January 30th thinking  
24 back, recognized there was a fiscal imbalance  
25 that needed to be dealt with in one way or

1 another.

2 44 Q. Mr. Haché, on January 30th when  
3 you swore this affidavit, a decision had already  
4 been made at Laurentian University that you  
5 would be seeking to terminate the -- the  
6 agreements you had -- Laurentian had with its  
7 three Federated Universities, that's fair?

8 A. No. I think all options were on  
9 the table at that point.

10 45 Q. Okay. So I want to --

11 A. Including seeking the  
12 termination, if that were necessary.

13 46 Q. So your evidence is that you were  
14 not seeking termination of those agreements when  
15 this Notice of Application was issued?

16 A. It was one of the things that was  
17 under consideration. And recognizing it was a  
18 very -- it was -- you know, recognizing where we  
19 were financially and what the financials said,  
20 it needed to be a strong consideration.

21 47 Q. So I just want to get your  
22 evidence just so I'm clear. On January 30th,  
23 2021, when this application was issued, your  
24 evidence is that you had not yet decided as to  
25 whether or not you would be seeking the

1           termination of the agreements with the Federated  
2           Universities?

3                       A.    We expected that this would be  
4           one likely -- we expected that this -- it was  
5           one thing that we strongly expected would  
6           happen, based on what the analysis at the time.

7   48                   Q.    And I think, Mr. Haché, I think  
8           it's fair to say that you're describing it as  
9           being, you know, highly likely or whatever words  
10          you used. Effectively, you were -- Laurentian  
11          had decided that there was no way it would be  
12          able to continue and be able to get out of its  
13          predicament, its financial predicament, without  
14          bringing to an end those relationships, that is,  
15          the agreements with the Federated Universities,  
16          that's fair?

17                       A.    It was very difficult to see a  
18          way forward in the current federal structure.

19   49                   Q.    Now, just so we're fair, so if --  
20          so you're telling me that the decision had not  
21          yet been made? You were still looking as to  
22          whether or not you'd be seeking that  
23          termination?

24                       A.    I think that the decision was  
25          unless there was something else that could be

1 identified, we would have to go in that  
2 direction.

3 50 Q. And we can agree that you never,  
4 and no one at Laurentian University, ever spoke  
5 to anyone -- any representative of one of the  
6 three -- either of the three Federated  
7 Universities to discuss whether or not there  
8 were alternatives to bringing to an end the  
9 agreements between Laurentian University and the  
10 Federated Universities?

11 A. We had been discussing that for  
12 some time actually.

13 51 Q. There was no discussion as of  
14 January 30th, the day you swore your affidavit,  
15 right through till today, at no point has anyone  
16 at Laurentian University discussed with anyone  
17 at any of the Federated Universities any option  
18 other than offering or advising that you were  
19 seeking to terminate the agreements with the  
20 Federated Universities?

21 A. Other than in the context of  
22 mediation, I don't believe so.

23 52 Q. Well, the context of mediation,  
24 actually you refer to that in your affidavit.  
25 You actually say which there's a question as to

1 whether or not that should have been in your  
2 affidavit, but we'll talk about what happens in  
3 the -- to whatever extent we can examine.

4 So you're -- you're telling me, okay,  
5 and mediation, who was present at mediation from  
6 the Federated Universities? First of all, who  
7 was present from Laurentian University?

8 A. I would have to -- I don't recall  
9 exactly who was in the room.

10 53 Q. You were in the room?

11 A. I was not in the room.

12 54 Q. You were not in the room. So you  
13 have no idea what was discussed at the  
14 mediation, correct?

15 A. I have no specific knowledge of  
16 the conversation in the room, yes.

17 55 Q. So what you're telling me is  
18 anything you'd know from what went on in that  
19 room is what somebody may have told you that was  
20 in the room, is that fair?

21 A. Yes.

22 56 Q. So I think we can agree that  
23 you're the Rector and you can advise us that  
24 there was no discussion with any representative  
25 of one of the Federated Universities on the



1 issue of whether or not the relationship between  
2 Laurentian University and the Federated  
3 Universities should come to an end. You can  
4 confirm that.

5 MR. HANRAHAN: Counsel, are we still  
6 talking about in the context of the mediation,  
7 because he's not going to get into those  
8 discussions?

9 BY MR. CAZA:

10 57 Q. He can't get into those  
11 discussions. He told us he wasn't there.

12 So my question to you is, never mind  
13 the mediation. You've already told us that the  
14 only time there may have been discussions  
15 between representatives of the -- of Laurentian  
16 University and the federated representatives of  
17 the Federated Universities as to whether or not  
18 the relationship should continue was at the  
19 mediation.

20 So I'm asking you, can you confirm --  
21 can you confirm that there were no discussions  
22 between Laurentian University and its  
23 representatives and the representatives of the  
24 Federated Universities on the issue of whether  
25 or not it was a good thing or a bad thing, or

1 alternatives to bringing to an end the agreement  
2 between Laurentian and the Federated  
3 Universities?

4 A. So I can't confirm that. What I  
5 can say is that we -- there was one conversation  
6 that I had in the context of mediation, but  
7 outside the mediator's room, with the president  
8 of Threlloe to determine seeking --

9 MR. HANRAHAN: Rob, we're not going to  
10 get into --

11 BY MR. CAZA:

12 58 Q. So why don't we -- maybe what we  
13 can agree on, you've told us this, I think it's  
14 fair to say that you were never involved in any  
15 discussions, you, as the Rector of a rich  
16 university, were not involved in any discussions  
17 with a representative of a federated university  
18 other than what you're talking about possibly  
19 this one, whatever, discussion at the mediation  
20 where the issue of a possible ongoing  
21 relationship was discussed?

22 A. I was not in the room.

23 59 Q. Now, and so actually I didn't ask  
24 if you were in the room.

25 Mr. Haché, you're the Rector. You

1 have never spoken to anyone, any representative  
2 of the Federated Universities, where you gave  
3 them an opportunity to have a discussion with  
4 you on the issue of whether or not the agreement  
5 should come to an end as between your  
6 organizations?

7 A. I never turned down any  
8 opportunities for the discussion.

9 60 Q. You were not involved in any such  
10 discussions, is that correct?

11 A. That is correct.

12 61 Q. And you're not aware of anyone at  
13 Laurentian University that would have been  
14 involved in any such discussions?

15 A. No.

16 62 Q. Okay. Now, if I go to page 8,  
17 and I'm at paragraph P, are you with me?

18 A. I am.

19 63 Q. So it says, there's a title at  
20 the top, it says "Urgent Need for the DIP Loan."  
21 And paragraph (p) says:

22 "The Applicant requires this  
23 debtor-in-possession financing to  
24 [...] providing operating cash."  
25 Correct?

1 "[...] fund the costs of its  
2 day-to-day operations, and negotiate  
3 and then implement a plan for its  
4 restructuring."

5 So that was the role that you had  
6 anticipated or hoped that the DIP Lender would  
7 play, correct?

8 A. Yes.

9 64 Q. And it's the university that  
10 would be negotiating and implementing a plan for  
11 the restructuring. It's not the DIP Lender,  
12 correct?

13 A. It is the university's job to do  
14 the negotiating, yeah.

15 65 Q. So it wasn't the DIP Lender that  
16 was doing the negotiations. It was the -- it  
17 was Laurentian University, correct?

18 A. It was Laurentian University  
19 through our representatives.

20 66 Q. Were you involved in any  
21 discussions with the DIP Lender before the DIP  
22 Lender was retained? And I'm speaking about  
23 Firm Capital Mortgage Fund. Were you involved  
24 in any discussions with them concerning their  
25 retainer or conditions for their advancing of

1 the funds?

2 A. I was aware of all discussions.  
3 I was not directly involved.

4 67 Q. So you did not attend any  
5 meetings, and you were not part of any Zoom or  
6 any other type of conference, or teleconference,  
7 where there were discussions involving a  
8 representative of Firm Capital Mortgage Fund?

9 A. That is correct.

10 68 Q. Okay. Now, you said that you  
11 were kept aware or that you were kept advised.  
12 Who was actually carrying out those discussions?

13 A. Those discussions were led by my  
14 counsel or the university's insolvency counsel,  
15 rather, to be correct.

16 69 Q. And who would that be?

17 A. DJ Miller.

18 70 Q. So your understanding is that  
19 DJ Miller is the one that negotiated the terms  
20 of the DIP Lender or the DIP Lending Agreement?

21 A. Yes.

22 71 Q. And she would keep you advised as  
23 to what those terms were, what they were  
24 negotiating?

25 A. Yes.

1       72               Q.    Now, why don't you tell me what  
2       information you have as to the issue of the  
3       initial conditions that the DIP Lender wanted to  
4       impose? So tell me what your evidence is as to  
5       what the DIP Lender advised Laurentian  
6       University that it wanted as conditions for  
7       providing the DIP loan, the initial \$25 million  
8       DIP loan?

9                    A.    I have the term sheet.

10       73              Q.    Okay. Well, the term sheet is  
11       there, but you -- what information do you have  
12       that -- as to what was proposed by the DIP  
13       Lender or what was proposed by Ms. Miller? Do  
14       you have any of that information or evidence?

15                   A.    I don't know specifically what  
16       you're referring to. I mean, I have the end  
17       product and there were a number of conversations  
18       leading up to that.

19       74              Q.    And you weren't involved in any  
20       of those conversations, but you're telling us  
21       you were kept aware or kept advised as to what  
22       was discussed, correct?

23                   A.    That is correct.

24       75              Q.    Okay. We'll get back to that  
25       when we -- when we're looking at the actual

1 details.

2 If I now turn the page, so I'm at  
3 page 9.

4 A. Okay.

5 76 Q. So we see here a court order,  
6 charges, it says:

7 "The Applicant is seeking the  
8 Court's approval of an Administration  
9 Charge and a Director's Charge as part  
10 of the Initial Order, and a DIP Charge  
11 as part of the Amended and Restated  
12 Initial Order (collectively, the  
13 'Charges')."

14 It says:

15 "[...] to secure the professional  
16 services required to complete this  
17 CCAA proceeding, ensure the continued  
18 assistance and oversight of the  
19 Applicant's directors and officers,  
20 and maintain the Applicant's continued  
21 operation in the ordinary course of  
22 business during the Stay of  
23 Proceedings."

24 My understanding is that \$25 million  
25 has been spent, am I correct? That's what I

1 understood.

2 A. Are we -- so can you hone in on  
3 that page 9 paragraph what?

4 77 Q. T.

5 A. Paragraph (t), sorry.

6 78 Q. Sorry, I should have been more  
7 precise, that's my mistake. So if you want to  
8 just review paragraph (t). My question is, I've  
9 read the sort of -- the court ordered charges.  
10 My question is, so the \$25 million that was  
11 advanced by the DIP Lender, has it been -- my  
12 understanding is it's been fully spent?

13 A. I believe, depending on payroll  
14 at the end of this month, it will be close to  
15 being fully spent is my understanding.

16 79 Q. Well, you would know this.  
17 You're the Rector. I'm assuming you're keeping  
18 an eye on what's going on with that \$25 million?

19 A. I don't receive a daily cash flow  
20 analysis.

21 80 Q. So you get what? A weekly cash  
22 flow analysis?

23 A. We do weekly cash flow.

24 81 Q. So you obtain a weekly cash flow  
25 analysis?



1                   A.    We do a weekly cash flow  
2                   analysis, yes.

3   82               Q.    So I want to be clear, so are you  
4                   saying that as of -- your evidence, and I'm  
5                   assuming you have this knowledge, is that as of  
6                   April 30th, the full \$25 million will have been  
7                   spent? You have knowledge of that?

8                   MR. HANRAHAN: That's not what he  
9                   said. He said he wasn't sure exactly --

10                  BY MR. CAZA:

11   83               Q.    I'm actually asking him.

12                  A.    Yeah.

13   84               Q.    Are you able --

14                  MS. MILLER: I'm going to ask that you  
15                  suggest that you clarify whether you're asking  
16                  him if the full 25 million has been fully drawn  
17                  down on the borrowings as opposed to having been  
18                  spent. I think that's the question, is it not?

19                  BY MR. CAZA:

20   85               Q.    Well, actually I don't know to  
21                  what extent. There's a difference.

22                  But you have \$25 million that was made  
23                  available to the university from the DIP Lender.  
24                  Has it been fully drawn down or will it be fully  
25                  drawn down by April 30th, 2021?

1                   A.    We have received the full  
2       \$25 million.   Is every last penny out the door?  
3       That I cannot say.

4   86            Q.    And as the last that you heard,  
5       how much money was not -- had not yet been --  
6       was not yet out the door?

7                   A.    I do not recollect.

8   87            Q.    Okay.   Now, is that something you  
9       can check and let me know?   Like are you able to  
10      check to get that information?

11                  A.    I believe it is a question that I  
12      could ask.   I would be guessing.

13   88            Q.    Well, who would know that?

14                  A.    Our finance people and the  
15      monitor.

16   89            Q.    Okay.   Now, when was the last  
17      cash flow analysis you got?   When was the last  
18      time you got a cash flow analysis?

19                  A.    I saw something last week, I  
20      think.

21   90            Q.    So and how much was left to be  
22      spent at that point?

23                  A.    I do not have a specific  
24      recollection of the amount.

25   91            Q.    Are you able to assist us in

1 understanding how much of the \$25 million was  
2 actually spent on professional services?

3 A. Again, I don't have the exact  
4 figures in front of me.

5 92 Q. Well, tell me -- give me --  
6 what's your best -- what's your knowledge?  
7 What's your information?

8 MR. HANRAHAN: No, we don't want him  
9 to guess. I think he's told you he's not sure  
10 what the answer to that question is.

11 BY MR. CAZA:

12 93 Q. Let me know what is your  
13 knowledge as to how much money has been spent on  
14 professional fees? Of the \$25 million, how much  
15 was drawn to pay for professional service fees?

16 A. I do not know the answer to that.

17 94 Q. Okay. Now, you don't know the  
18 exact number. Do you have an idea of how much  
19 has been spent?

20 MS. MILLER: You're asking him to  
21 guess, Mr. Caza. He's already told you he  
22 doesn't know the answer.

23 BY MR. CAZA:

24 95 Q. Well, no, actually I'm not asking  
25 him to guess.

1 Just so I'm clear, you're telling me,  
2 Mr. Haché, you're the Rector, and you have no  
3 idea how much money of the \$25 million has been  
4 spent on professional services? Is that your  
5 evidence?

6 A. I am the Rector.

7 96 Q. Yes.

8 A. And I cannot provide you with an  
9 exact number --

10 97 Q. I didn't ask for an exact number.

11 A. -- at this moment.

12 98 Q. I didn't ask for an exact number.

13 I said do you have any idea how much has been  
14 spent? That's a question. Do you have any idea  
15 how much has been spent in professional  
16 services? Do you know if it's less than a  
17 million dollars?

18 A. I know it's not less than a  
19 million dollars.

20 99 Q. In fact, my understanding is that  
21 it's in excess of \$5 million. Is that your  
22 information?

23 A. I cannot confirm that because I  
24 do not have that information in front of me.

25 100 Q. Is it your understanding that

1 more than \$5 million or 20 percent of the  
2 \$25 million has been spent on professional  
3 services?

4 A. I cannot confirm that.

5 101 Q. I didn't ask you to confirm. I  
6 said is that your understanding?

7 MR. HANRAHAN: He just answered that  
8 question and he told you he doesn't know.

9 BY MR. CAZA:

10 102 Q. So you've told us you know it's  
11 more than a million dollars. Do you know if  
12 it's more than \$2 million?

13 A. You have me into guessing  
14 territory again.

15 103 Q. But you definitely know that it's  
16 more than a million?

17 A. I expect that it is, yes.

18 104 Q. Well, actually you told me that  
19 you knew it was more than a million. Are you  
20 saying now you expect it to be or you know it's  
21 more than a million?

22 A. I would be very surprised if it  
23 was not more than a million.

24 105 Q. I just want to be clear. I'm  
25 cross-examining you on an affidavit in an

1 application where you're seeking to go to court  
2 to get another \$10 million and you're telling me  
3 you have no idea how much of the \$25 million was  
4 used to pay professional services. That's your  
5 evidence, correct?

6 A. That is not what I said.

7 106 Q. Well, actually, okay, so what did  
8 you say if you didn't tell me that you had no  
9 idea?

10 A. I said my expectation is that  
11 there is an amount greater than a million  
12 dollars that has been spent on professional  
13 services and I do not know the exact amount as I  
14 do not have it in front of me.

15 107 Q. So you don't know if it's --

16 A. It's not in front of me.

17 108 Q. I'm not asking if it's in front  
18 of you. This is something I would expect the  
19 Rector to remember. You don't know if it's a  
20 million a hundred thousand or if it's 5 million?  
21 You have no idea. All you can tell me is you  
22 know it's more than a million. That's your  
23 evidence?

24 A. I would be guessing with any  
25 other figure.

1 109 Q. You know, this is the trouble I'm  
2 having, okay? I'm not asking you to give me a  
3 precise number, okay? I'm asking you to tell me  
4 what knowledge you have. And what you're  
5 telling me is you have no knowledge that the --  
6 as to how much those fees are, the professional  
7 fees that have been incurred, which are  
8 significant, other than you'd be surprised that  
9 it's not more than a million dollars. That's  
10 the only information or knowledge you have?  
11 That's your evidence under oath?

12 A. I receive updates on --

13 110 Q. Tell me about the updates. Tell  
14 me about the updates. What's the last update  
15 you saw? What were the numbers?

16 A. I cannot -- without having the  
17 update in front of me, I cannot tell you how  
18 much was from February 1st because the updates I  
19 get are longer term and cumulative and they are  
20 also after the fact. So I actually don't have  
21 the information. We do track the information,  
22 but I do not have it for you this morning.

23 111 Q. When's the last update you  
24 received?

25 A. It was last week.

1 112 Q. Okay. Why don't you -- you got  
2 an email?

3 A. Not that I have access to.

4 113 Q. Okay. Sorry, how do you not have  
5 access to your email?

6 A. I have downloaded the update  
7 somewhere.

8 114 Q. Well, why don't we take -- let's  
9 take a short break and go get the update.  
10 Download it and then you can answer my  
11 questions.

12 MR. HANRAHAN: All right, counsel, no,  
13 we're not going to do that on the fly here. If  
14 you want to make a request, we can take it under  
15 advisement, but we're not going to do that while  
16 we're sitting here.

17 BY MR. CAZA:

18 115 Q. This is not under advisement.  
19 This is not an examination for discovery. This  
20 witness has access to that information now. I'm  
21 asking him to get it to give me the evidence.

22 R/F MR. HANRAHAN: I'm telling you we're  
23 not going to do that.

24 BY MR. CAZA:

25 116 Q. And sorry, can you explain to me



1 what's the basis of your objection to him  
2 getting relevant evidence that he can access  
3 right now? What's the basis of your objection?

4 MR. HANRAHAN: Because if you'd like  
5 the information, you're free to make a request  
6 and we'll give you our answer whether we're  
7 going to take it under advisement, whether we're  
8 going to provide it, we'll do that, but we're  
9 not going to have him open up his email on the  
10 fly while we're sitting here and do that.

11 BY MR. CAZA:

12 117 Q. And I'm trying to understand  
13 here. Actually, he wasn't going to open his  
14 email. My understanding is he has got the  
15 document, he was going to download it.

16 He was supposed to attend with all the  
17 relevant documents. This is a relevant  
18 document. I'm -- and I accept that he's  
19 attending if he has brought them with him if he  
20 has access to him.

21 It's very relevant how much money has  
22 been spent by Laurentian University on  
23 professional fees in order to go through this  
24 CCAA. This witness has said that he has access  
25 to that information. He can go get it for me

1 right now by downloading the document and you're  
2 actually telling him not to do that. Is that  
3 correct?

4 MR. HANRAHAN: I am telling him not to  
5 do that. I told you we'll take your request  
6 under advisement and we'll get back to you.

7 MR. CAZA: No, it's not under  
8 advisement. This is a cross-examination. You  
9 either object and I move on. Are you objecting  
10 to this witness getting this evidence that he  
11 actually can go get right now that's very  
12 relevant to this application and to our motion?  
13 Are you objecting?

14 MR. HANRAHAN: I think I've given you  
15 our position, so why don't you move on because  
16 we're not going to do that right now.

17 BY MR. CAZA:

18 118 Q. No, no, I'm sorry. Your position  
19 is you're taking it under advisement. That's  
20 not a position. You're objecting. If you're  
21 not objecting, the witness should be looking up  
22 the document and giving me the information.

23 MR. HANRAHAN: You're free to take  
24 that position, but I've given you our position.  
25

1 BY MR. CAZA:

2 119 Q. So, Mr. Haché, can you please  
3 answer the question? Please get the document  
4 and provide me with the information. There's  
5 been no objection.

6 MS. MILLER: Mr. Caza, if you refer to  
7 Mr. Haché's affidavit, he clearly says in  
8 paragraph 251 of his affidavit that the cash  
9 flow forecast will be filed with the court, will  
10 be attached to a monitor's report in connection  
11 with this motion.

12 So if you want to ask Mr. Haché  
13 something specific that's in his affidavit with  
14 respect to the cash flow, that's what his  
15 affidavit refers to.

16 BY MR. CAZA:

17 120 Q. I'm sorry, Ms. Miller, a  
18 cross-examination is in no way limited to what  
19 you've decided is going to be in the affidavit.  
20 I can ask questions on anything that's relevant.  
21 I've asked the question. Either the witness is  
22 going to answer or you're going to object.  
23 You're going to object on the record and I'm  
24 going to continue. Are you objecting?

25 If not, Mr. Haché, answer the

1 question.

2 MS. MILLER: You have our position.

3 BY MR. CAZA:

4 121 Q. I'm sorry, no, so there's no  
5 position. There's no objection.

6 Mr. Haché, answer the question,  
7 please. Download the document and give me the  
8 information.

9 MR. HANRAHAN: You're not going to do  
10 that. We've been over this several times now,  
11 so I think you should just move on.

12 BY MR. CAZA:

13 122 Q. No, I'm not moving on. You're  
14 not going to sit here and say the witness is  
15 going to do this, the witness is going to do  
16 that. This is a cross-examination. You're  
17 either going to object or he's going to answer.  
18 You can't be telling him don't answer this  
19 question. Are you objecting or are you not  
20 objecting?

21 MR. HANRAHAN: It's not -- what you're  
22 asking him is not a question. You're giving him  
23 a direction asking him to download a document  
24 and I'm telling you he's not going to do.

25

1 BY MR. CAZA:

2 123 Q. Hold on. So you're objecting to  
3 the request I've asked the witness to consult a  
4 document that he has access to right now while  
5 he's being cross-examined. You're objecting to  
6 that, correct?

7 MR. HANRAHAN: I've already answered  
8 that a few times.

9 BY MR. CAZA:

10 124 Q. Give me the basis of your  
11 objection.

12 MR. HANRAHAN: I don't see the purpose  
13 in going round and round on this. We've told  
14 you --

15 BY MR. CAZA:

16 125 Q. Well, actually we're going to  
17 move on. I don't understand why you're not  
18 objecting. I think you're not objecting  
19 because, and I want this to be stated on the  
20 record, because you know there is no basis to  
21 not permit the witness to get this information  
22 and answer. I'm moving on.

23 Can we go to page -- we go to the  
24 service list, which is after page 12 in the  
25 Notice of Application.

1                   Laurentian University is paying those  
2           legal fees. So the lawyers for the applicant,  
3           Thornton Grout Finnegan, those legal fees are  
4           paid by Laurentian, correct, Mr. Haché?

5                   A. That is correct.

6   126           Q. And Ernst & Young, the court  
7           appointed monitor, those fees are paid by  
8           Laurentian University?

9                   A. That is correct.

10   127          Q. The next page, Stikeman Elliott,  
11           the legal fees for the lawyers for the monitor,  
12           that's paid by Laurentian University?

13                  A. That is correct.

14   128          Q. The Lenczner Slaght legal fees,  
15           lawyers for the Board of Governors of Laurentian  
16           University of Sudbury, that's paid by the  
17           university?

18                  A. That is correct.

19   129          Q. Now, the Davies Ward and Beck  
20           lender counsel, that's paid by the university?

21                  A. Lender counsel, so that's counsel  
22           for whom?

23   130          Q. To the applicant. To Laurentian.  
24           Davies Ward and Beck, Natasha MacParland?

25                  A. Who are they counsel to?

1 131 Q. The applicant. They're lender  
2 counsel to the applicant?

3 A. Lender counsel?

4 132 Q. Yes.

5 A. I'm not quite sure what that  
6 means, but.

7 133 Q. Do you know if you're paying  
8 their legal fees?

9 A. I -- it's the lender counsel for  
10 the applicant part that I find --

11 134 Q. Well, the applicant is  
12 Laurentian, so they're lender counsel to you so  
13 you'd be paying the legal fees?

14 A. So it's the counsel to the  
15 lender, yes, I believe that is correct.

16 135 Q. And you're paying the legal fees  
17 of the DIP Lender?

18 A. I believe that is correct.

19 136 Q. And you're paying Hicks Morley,  
20 your labour counsel for their legal fees?

21 A. Yes.

22 137 Q. If we can now go to your  
23 affidavit, if you can pull up your affidavit,  
24 and I'd like to start at paragraph 11.

25 A. Okay.

1 138 Q. Now, this affidavit, I'm assuming  
2 before you swore that it was true and that is  
3 your signature we see at page 110? Page 110 of  
4 your affidavit. It was sworn by video?

5 A. That is my signature.

6 139 Q. Now, I'm assuming you reviewed  
7 drafts of this affidavit before you signed it?

8 A. I did.

9 140 Q. And you made changes and  
10 corrections to the drafts that you received?

11 A. I did.

12 141 Q. And then they were returned and  
13 then when you were satisfied with everything  
14 that was in the affidavit, after having read it  
15 carefully, you swore that it was true, correct?

16 A. After conversations with my  
17 counsel, yes.

18 142 Q. So you -- okay, now just so I'm  
19 clear, what you've sworn is true. You -- it is  
20 your evidence that to the best of your  
21 information, knowledge and belief it's all true,  
22 correct?

23 A. That is correct. To the best of  
24 my information, knowledge and understanding that  
25 much of the information here was information



1 provided to me, I believe it is true.

2 143 Q. Well, I guess I'm a little  
3 concerned. If you go to page -- paragraph 4 at  
4 page 4 of your affidavit. Are you there?

5 A. Yes.

6 144 Q. It says:

7 "As such, I have knowledge of the  
8 matters hereinafter deposed to, save  
9 where I have obtained information from  
10 others. Where I have obtained  
11 information from others, I have stated  
12 the source of the information and  
13 believe it to be true."

14 Do you see that?

15 A. Yeah, that is correct.

16 145 Q. Unless you say in the paragraph  
17 or when you're giving the evidence that you got  
18 the information from someone else, for example  
19 your lawyer, you actually have knowledge of  
20 the -- of the evidence you're providing in your  
21 affidavit, correct?

22 A. I would think that's what it  
23 says, but I'm not a lawyer.

24 146 Q. You don't have to be lawyer. You  
25 swore this. I'm reading your affidavit. This

1 is you. You swore this is true. So you're  
2 telling me you don't know what this means? You  
3 swore it was true, you don't know what it means?

4 A. I believe I know what it means.

5 147 Q. So it says:

6 "As such, I have knowledge of the  
7 matters hereinafter deposed [...]."

8 That means you know what you're  
9 saying. You have personal knowledge.

10 A. I have knowledge of it.

11 148 Q. "[...] save where I obtained  
12 information from others." And when you've done  
13 that, you've actually said in your affidavit,  
14 and you've done it in certain paragraphs, you  
15 state the source and you also state you believe  
16 it to be true. So you'll agree with me on that?

17 A. I believe what's in here to be  
18 true, that is correct.

19 149 Q. Not only that it's true, you have  
20 personal knowledge of it, correct?

21 A. And that I have knowledge of  
22 those parts which I said I have knowledge of.

23 150 Q. It's not what you said you have  
24 knowledge. It's your whole affidavit. Unless  
25 you've specifically said you got the information

1 from someone else. Do you agree with me on  
2 that?

3 A. That's what I understand, yes.

4 151 Q. Go to paragraph 11 at page 6.

5 A. Yes.

6 152 Q. Okay. So you start by saying:

7 "One significant source of  
8 financial challenge are the terms of  
9 Laurentian University's Collective  
10 Agreement With LUFA, which is  
11 addressed in this affidavit."

12 I'm trying to understand, what  
13 percentage of your budget would be wages, wages  
14 and salaries?

15 A. I don't have an exact percentage.

16 153 Q. Just give me what is your  
17 understanding? Just give me what your belief  
18 and knowledge is as to what that percentage is.  
19 Is it more than 50 percent?

20 A. What is that number looking back?  
21 I mean, I have access -- I'm not going to -- no.

22 MS. MILLER: That information is  
23 contained in his affidavit. Would you like to  
24 direct him to it?

25

1 BY MR. CAZA:

2 154 Q. We'll get to that -- we'll get to  
3 the sort of different percentages because it's  
4 actually broken down in a different fashion, but  
5 I guess that information is something that you  
6 knew or were aware of at the time you swore this  
7 affidavit, is that fair? For you to say that  
8 it's a significant source, you had information  
9 and knowledge as to how significant that source  
10 was. Is that fair?

11 A. Yes, that is correct.

12 155 Q. Okay. Now, so and we'll come  
13 back to the issue of how much money, but I think  
14 it's fair to say that probably one of the big  
15 sources of concern for Laurentian University, in  
16 order to be able to come out of its financial  
17 predicament was to get significant and important  
18 concessions from its unions, is that fair?

19 A. Yes, to be financially  
20 sustainable, we needed to have changes in the  
21 total amount of compensation going to our  
22 unionized people, yes.

23 156 Q. And my understanding is that you  
24 had attempted to negotiate that or did you  
25 attempt to negotiate that before seeking --

1 attempting to seek relief from the CCAA?

2 A. Yes.

3 157 Q. Now, if I go to page -- so that's  
4 one significant source of financial challenge.  
5 The other one, I'm in paragraph 12, you say:

6 "Operationally, the academic  
7 programming offered by Laurentian  
8 University is not sustainable in its  
9 current form and must be addressed."

10 What did you mean by that?

11 A. What I meant by that, the cost of  
12 operating the number of programs that are listed  
13 there exceeds the revenue that was received for  
14 those programs and therefore was not  
15 sustainable.

16 158 Q. And that's all you meant by that  
17 sentence, right? That's what you were referring  
18 to, the courses and the programs that Laurentian  
19 University is offering, what it's costing you,  
20 and how much revenue you're getting to offer  
21 those courses, correct?

22 A. Yes. It's an academic structure  
23 that is not -- that doesn't balance revenue with  
24 the cost of delivering those courses and  
25 programs.

1 159 Q. Now, if I go to paragraph 13, I  
2 see here, you go:

3 "When considering individual  
4 courses (each program offers multiple  
5 courses), the issues are magnified."

6 I just want to be clear that this  
7 paragraph 13 and these numbers have nothing to  
8 do with any of the courses that are offered by  
9 the Federated Universities.

10 A. These are courses and programs  
11 offered by Laurentian.

12 160 Q. And the same with paragraph 12:

13 "[...] the academic programming  
14 offered by Laurentian University  
15 [...]."

16 You're not at all, in paragraph 12,  
17 referring to any of the courses or anything with  
18 respect to the Federated Universities, is that  
19 fair?

20 A. That is correct. These are --  
21 I'm referring to Laurentian courses and  
22 programs.

23 161 Q. If I go to paragraph 14, again  
24 this has nothing to do with any of the courses  
25 that are being offered and the students that are

1 taking the courses offered by Federated  
2 Universities?

3 A. I believe that faculty student  
4 number is based on Laurentian registrations  
5 only. That's my understanding.

6 162 Q. Sorry, so the -- when we look at  
7 these -- this information, when you swore the  
8 affidavit, you were -- your knowledge was that  
9 this only refers to Laurentian University,  
10 correct?

11 A. That is correct. That is my  
12 knowledge.

13 163 Q. I think somebody may be  
14 objecting?

15 MR. HANRAHAN: I just wanted to  
16 clarify that there's reference in the second --  
17 we're talking about paragraph 14?

18 BY MR. CAZA:

19 164 Q. Yeah.

20 MR. HANRAHAN: So there's reference in  
21 there to numbers from other schools outside of  
22 Laurentian.

23 BY MR. CAZA:

24 165 Q. Sorry, so is that an objection?

25 MR. HANRAHAN: Well, I just wanted to

1 clarify you're --

2 BY MR. CAZA:

3 166 Q. What are you doing?

4 MR. HANRAHAN: Your question --

5 BY MR. CAZA:

6 167 Q. Is this an objection? I'm  
7 cross-examining this witness. Are you  
8 objecting? This is not a discovery.

9 MR. HANRAHAN: I'm clarifying the  
10 question. Thank you, I'm aware of that. Your  
11 question was suggesting that this paragraph only  
12 has to do with Laurentian and I'm saying to you  
13 that the second half of this paragraph refers to  
14 numbers from schools other than Laurentian.

15 BY MR. CAZA:

16 168 Q. So your objection is that my  
17 question was improper?

18 MR. HANRAHAN: It was unclear.

19 BY MR. CAZA:

20 169 Q. Next time if you want to object,  
21 please object before the witness answers the  
22 question, if you're going to object to a  
23 question. And I am going to insist that we let  
24 the witness answer questions at this  
25 cross-examination.



1                   Now, your counsel has objected. Does  
2                   that change your answer to paragraph 14 that you  
3                   just gave me?

4                   A.    So the reference to the  
5                   significant number of courses that have 10 or  
6                   fewer students, majority have 14 or fewer  
7                   students that I have direct knowledge of.

8                   The averages that are there for  
9                   Canadian universities are, of course, secondhand  
10                  based on information that is either publically  
11                  available or otherwise provided.

12   170            Q.    You actually gave it to us. See  
13                   at the bottom? You've actually given us the  
14                   source of that information. I was referring to  
15                   the first two sentences. So you're correct,  
16                   you've actually given the sources.

17                  A.    Okay.

18   171            Q.    Paragraph 15 reads as follows:

19                   "Low enrolment in courses causes  
20                   such courses to be financially  
21                   unsustainable. The cost of offering  
22                   such courses greatly exceeds the grant  
23                   and tuition revenue received by  
24                   Laurentian University for those  
25                   courses."

1                   You are referring to courses offered  
2                   by Laurentian University and not the Federated  
3                   Universities, correct?

4                   A.     That is correct.

5   172            Q.     Paragraph 16.   It states in  
6                   paragraph 16:

7                                "Within the current structure, it  
8                   costs more for Laurentian University  
9                   and the Federated Universities to  
10                  educate each student per year when  
11                  compared to the average cost across  
12                  all other Ontario universities."

13                  Okay, where are you getting that  
14                  information?  You have knowledge of that?  
15                  What's your knowledge based on?

16                  A.     That's based on the total  
17                  enrollments at Laurentian including the  
18                  Federated Universities.  And the Ontario average  
19                  as based on data provided by the Council of  
20                  Ontario Universities.

21   173            Q.     So just so that I'm clear, when  
22                   you're looking at what the cost is to educate  
23                   each student per year, your concern and  
24                   Laurentian University's concern is what it's  
25                   costing Laurentian University to educate each

1 student and not what it's costing the Federated  
2 Universities, is that fair?

3 A. Of course our concern is  
4 Laurentian, yes.

5 174 Q. So if we now go to paragraph 17.  
6 You state in paragraph 17:

7 "Historical efforts to address  
8 Laurentian University's program  
9 offerings have been unsuccessful."

10 And you give an example where you  
11 temporarily suspended admissions to 17 academic  
12 programs with low enrollment and there was a  
13 judicial review. All of that had nothing to do  
14 with any courses offered by Federated  
15 Universities, correct?

16 A. That is correct.

17 175 Q. Now, if we go to paragraph 19,  
18 are you with me?

19 A. Yes.

20 176 Q. You start by saying -- you start  
21 your paragraph by saying:

22 "It is in the interest of public  
23 policy [...]."

24 Do you see that?

25 A. Yes.

1 177 Q. "[...] as well as current and  
2 future students, faculty, staff,  
3 retirees, the Greater Sudbury  
4 community and the Northern Ontario  
5 region generally, to provide  
6 Laurentian University with the  
7 breathing room and platform of a  
8 court-supervised proceeding with the  
9 oversight and assistance of a Monitor,  
10 in order for it to restructure."

11 Why are you saying that that's in the  
12 interest of public policy?

13 A. It's in the interest of public  
14 policy because Laurentian University serves and  
15 provides for an important need for northern  
16 Ontario.

17 178 Q. Just so that I'm clear, so you  
18 say it's in the interest of public policy and  
19 I'm trying to understand what you mean by that.  
20 What do you mean by the "interest of public  
21 policy"? I just want to understand what that  
22 means.

23 A. The university makes an important  
24 contribution to the community and to the north  
25 in providing access to post-secondary education.

1 179 Q. So you'll agree with me that it  
2 is also in the interests of public policy that  
3 the Federated Universities also be able to offer  
4 courses to students and have faculty and staff.  
5 You'll agree with me on that?

6 A. What I will say is that the  
7 presence of Laurentian University in the north  
8 is important for the community, yes. And then  
9 if you want to say that Laurentian University at  
10 large, in whatever structure that represents,  
11 yes.

12 180 Q. You brought up the interest of  
13 public policy. You've actually said that in  
14 your affidavit. So obviously you've said that  
15 because it's relevant or you wouldn't have put  
16 it in there. So the interest of public policy  
17 is something that you've considered and you're  
18 asking the judge, this will be read by the  
19 court, this affidavit and this transcript. So  
20 this is -- you're giving evidence to the court.

21 A. Yes.

22 181 Q. You told the court in your  
23 affidavit that one of the things that should be  
24 considered is the interest of public policy. I  
25 think we can agree, just as you've explained it,

1 is in the interest of public policy for  
2 Laurentian University to be able to -- to  
3 function well, it's also in the -- you'll agree  
4 with me, it's in the interest of public policy  
5 for your Federated Universities to also be able  
6 to do so, is that fair?

7 A. All I can say is it's in the  
8 interest of public policy for Laurentian to  
9 function well. That is my responsibility.

10 182 Q. So you are refusing to answer my  
11 question, which is do you agree with me that it  
12 is also in the interest of public policy for the  
13 Federated Universities to be able to continue  
14 offering courses? You're refusing to answer  
15 that question?

16 MR. OSBORNE: Mr. Caza, I'm going to  
17 jump in here. That's precisely not what he said  
18 as you know.

19 BY MR. CAZA:

20 183 Q. Well, --

21 MR. OSBORNE: So I've been very  
22 patient here, Mr. Caza. Please let Dr. Haché  
23 finish his answers before you interrupt him and  
24 you're certainly entitled to put to him a  
25 proposition, if you wish, and he can agree or

1 disagree. But please don't misstate what his  
2 evidence has clearly and unequivocally been.  
3 Thank you, sir.

4 BY MR. CAZA:

5 184 Q. Well, Mr. Osborne, one thing is,  
6 I want to apologize. With the -- when we're  
7 doing this virtually, it's hard for me sometimes  
8 to see whether or not Mr. Haché has actually  
9 completed answering.

10 MR. OSBORNE: Understood. Fair  
11 enough.

12 BY MR. CAZA:

13 185 Q. If I ask you a question, if you  
14 haven't finished, I would ask you put your hand  
15 up. I literally mean that, and I will stop,  
16 because I thought you had finished.

17 So I'm sorry. So I guess the  
18 question -- I'll just rephrase the question.  
19 I'll ask you the question.

20 Would you agree with me that it is in  
21 the interest of public policy that the Federated  
22 Universities also be able to continue offering  
23 courses?

24 A. I believe I've already answered  
25 that question. I can agree that it is important

1 for Laurentian University to function -- to have  
2 the presence and ability to offer the courses.  
3 I cannot comment beyond that.

4 186 Q. So actually you can. You can  
5 refuse -- or I guess my understanding is you're  
6 refusing to answer the question because the  
7 answer can be yes, it is in the interest of  
8 public policy, no, it's not, or provide another  
9 answer. And my understanding is when I ask you  
10 the question, do you agree with me that it's in  
11 the interest of public policy for the Federated  
12 Universities to be able to teach their courses,  
13 your answer is that what's important is the  
14 interest of public policy of Laurentian  
15 University, is that fair?

16 A. That is what I said.

17 187 Q. Okay. Let's move on.  
18 Now, if we go to the next page,  
19 paragraph 20, so that's at page 9.

20 A. Uhm-hmm.

21 188 Q. So it says here:  
22 "Laurentian University has made  
23 every effort over the last several  
24 years to support its students and  
25 provide [...]."



1                   Then it says that -- the third  
2           sentence:

3                   "However, Laurentian University  
4           must take steps to ensure its  
5           long-term sustainability,"

6           Then I'm just quoting your affidavit  
7           here:

8                   "Laurentian University requires  
9           financial assistance and the breathing  
10          room afforded by CCAA protection to  
11          effect an overall restructuring and to  
12          safeguard against significant changes  
13          to its operations and a corresponding  
14          decline in student experience which  
15          would likely result if this is not  
16          undertaken through a coordinated,  
17          transparent and efficient  
18          court-supervised process."

19                  Now, you've used the word  
20          "transparent". Why do you use the word  
21          "transparent"? What did you mean by that?

22                  A. So my understanding is that the  
23          CCAA protection provides for a transparent  
24          process, all of the affidavits and so forth  
25          become -- are public documents, and the outcome

1 of all mediations become public. So it is --  
2 everything is -- is done out in the open through  
3 a court-assisted process.

4 189 Q. And you're -- what you're telling  
5 us, and you'll agree with me, that transparency  
6 is very important in a process of this nature,  
7 is that fair?

8 A. I believe a process of this  
9 nature provides for that transparency, yes.

10 190 Q. And the transparency is very  
11 important. You'll agree with me it's important  
12 that there be transparency?

13 A. It's integral to the process.

14 191 Q. Then you go on and your next  
15 sentence reads:

16 "A successful restructuring of  
17 Laurentian University will necessarily  
18 involve its federated universities."

19 Then you name the three universities.  
20 So I just want to be clear here. So when you  
21 say involve, what you're saying is they have to  
22 participate in the discussion that's going to  
23 lead to whatever decisions may be made  
24 concerning the -- your relationship with the  
25 Federated Universities, is that fair?

1                   A.    I think that that sentence refers  
2                   to is that the restructuring that must occur  
3                   needs to include restructuring of the federation  
4                   because that federation is part of the issue  
5                   with sustainability of the university.

6   192            Q.    And you were involved and you  
7                   were in fact played a leading role in  
8                   determining that the agreements between  
9                   Laurentian University and the Federated  
10                  Universities needed to come to an end? You were  
11                  involved in those discussions and played a  
12                  leading role in arriving at that decision, is  
13                  that fair?

14                A.    I was involved in those  
15                  discussions leading to the conclusion that there  
16                  was no viable alternative to that end, yes.

17   193            Q.    So you say you were or were not?

18                A.    I was, yes.

19   194            Q.    Okay, good. So you'll be able to  
20                  assist the court in understanding why Laurentian  
21                  University is taking the position that they need  
22                  to bring these agreements to an end, is that  
23                  fair?

24                A.    That is correct, yes.

25   195            Q.    So we'll be dealing with that

1 later on as we get into the details.

2 Now, I'm going to -- so maybe just go  
3 back. And I must have misread this and I  
4 apologize. When you say:

5 "A successful restructuring of  
6 Laurentian University will necessarily  
7 involve its federated universities."

8 You didn't mean that they needed to be  
9 involved in those discussions. What you meant  
10 is we have to deal with that structure that  
11 exists?

12 A. I believe that's what it says,  
13 yes. The -- what it says is that the  
14 restructuring needs to involve the federation  
15 and it says, "as described below" so I believe  
16 that that is elaborated on at great length  
17 below.

18 196 Q. Now, and we'll -- we can deal  
19 with that later.

20 So we go now to paragraph 21. Are you  
21 with me?

22 A. Yes.

23 197 Q. What I'd like to do is I want to  
24 go to Exhibit A. Okay? So Exhibit A, have you  
25 got access to Exhibit A?

1                   A.    I do have the exhibits.  It'll  
2           take me a moment.

3   198           Q.    So why don't you pull up Exhibit  
4           A?

5                   A.    I have it.

6   199           Q.    It's an 11-page document.

7                   A.    I have Exhibit A.  I have it.

8   200           Q.    Now, you were familiar with this  
9           Act before the whole question of CCAA came up  
10          when you were appointed to your present position  
11          because initially it was on an interim basis.

12                   You became or you made sure to become  
13          aware and were aware of this legislation, is  
14          that fair?

15                   A.    To be correct, I was not  
16          appointed on an interim basis.  I was appointed  
17          directly as the permanent president.

18   201           Q.    Perfect.

19                   A.    And I was aware there was  
20          legislation.  Did I read the legislation before  
21          taking up the position or only sometime  
22          thereafter, I cannot remember.  But at some  
23          point, I read the legislation, yes.

24   202           Q.    Is the right title -- should I  
25          say President?  It's not Rector, it's President,

1 right?

2 A. If we are speaking English, it is  
3 President and Vice Chancellor. If we are  
4 speaking French, it would be Rector and Vice  
5 Chancellor.

6 203 Q. So now, Mr. Haché, so you hadn't  
7 read this until you swore your affidavit.  
8 That's the first time you saw this piece of  
9 legislation?

10 A. No. I've read it before I swore  
11 the affidavit, for sure.

12 204 Q. So you were familiar before --  
13 you had read this legislation before this whole  
14 CCAA issue came up at Laurentian, you had  
15 already read this Act?

16 A. Yeah, I read it. I wouldn't say  
17 I had a recital knowledge of it, but I had read  
18 it and I was familiar with it.

19 205 Q. So you knew, if we look at the  
20 preamble, it says:

21 "WHEREAS the University of  
22 Sudbury, the United Church of Canada  
23 and The Incorporated Synod of the  
24 Diocese of Algoma by their petition  
25 have represented that they are

1                   desirous of establishing [...]."

2                   This university.

3                   So you were aware that the three  
4       Federated Universities are actually the three  
5       institutions that got together in order to  
6       effectively ensure the creation of Laurentian  
7       University?

8                   A.    Yes.

9       206           Q.    And if we go to paragraph 4 on  
10       the second page, are you with me? Under  
11       "Powers"?

12                  A.    Oh, yes.

13       207           Q.    It says:

14                       "The University has university  
15       powers, including the power,"

16       It says:

17                       "Establish courses."

18       It says:

19                       "to establish and maintain, in  
20       either or both of the French and  
21       English languages, such faculties,  
22       schools, institutes, departments and  
23       chairs as determined by the Board,  
24       other than those already established  
25       by the University of Sudbury, which

1 faculties, schools, institutes,  
2 departments and chairs are continued  
3 in the University under authority of  
4 the Board and Senate."

5 So you were aware that all of those  
6 courses, the faculties, the schools, everything  
7 that existed at the University of Sudbury, this  
8 piece of legislation continued their existence  
9 at Laurentian University, with Laurentian  
10 University, correct?

11 A. That's what the paragraph says.

12 208 Q. And you were aware of that when  
13 you swore your affidavit?

14 A. Yes.

15 209 Q. If we go to the next page, page 3  
16 at the top of the page. We have "Federation of  
17 church-related colleges". And then when it  
18 looks at the power, because we're under the  
19 power section, it says:

20 "to admit church-related  
21 universities or colleges into  
22 federation as colleges of the Faculty  
23 of Arts and Sciences, which  
24 church-related universities or  
25 colleges have the right to give



1 instruction [...]."

2 So you were aware that you had the  
3 power to basically federate other universities  
4 and colleges, correct?

5 A. That is correct.

6 210 Q. Now, if I go to -- under the --  
7 under "Federation", it goes under e):

8 "to permit federation or  
9 affiliation of other colleges or  
10 universities with the University and  
11 to make agreements for federation or  
12 affiliation with other colleges or  
13 universities [...]."

14 It says:

15 "[...] provided that Hearst  
16 College and Prince Albert College,  
17 presently affiliated with The  
18 University of Sudbury, may enter into  
19 agreements to affiliate with the  
20 University."

21 Now, presently you do have an  
22 affiliation with Université de Hearst, correct?

23 A. That is correct.

24 211 Q. Yeah. What other affiliations do  
25 you have?

1 A. Of a federated nature?

2 212 Q. Yes.

3 A. That I'm aware of, well, I guess  
4 the other one would be the Northern Ontario  
5 School of Medicine.

6 213 Q. Right.

7 A. It's not strictly a federated  
8 relationship, but there is a relationship there  
9 that in terms of utilizing the Laurentian Senate  
10 for the approval of courses and programs.  
11 Unless I'm forgetting any, I believe that's it.

12 214 Q. Well, that's two. So there's the  
13 Université de Hearst and NOSM, right, those are  
14 the two, correct?

15 A. To my understanding, yes.

16 215 Q. Now, recently, and I think it was  
17 like last week, there was legislation passed.  
18 You're familiar with that legislation?

19 A. Yes.

20 216 Q. Okay. And what was the impact of  
21 that legislation on your relationship with these  
22 two -- with NOSM and Université de Hearst?

23 A. It signaled the likelihood of a  
24 change in that relationship.

25 217 Q. Has that change occurred yet?

1 A. No, it has not.

2 218 Q. Have discussions started with  
3 respect to that change?

4 A. Not with the university.

5 219 Q. Now, if go to paragraph -- on  
6 page 4, paragraph 2, so it's under the title  
7 "Enrolment of students". Do you see that?

8 A. Yes.

9 220 Q. It says:

10 "Every undergraduate student in  
11 the Faculty of Arts and Science shall  
12 enroll either in University College or  
13 in one of the church-related colleges  
14 of the Faculty. "

15 So that's provided for in the Act,  
16 correct, and you were aware of that at the time  
17 you swore your affidavit?

18 A. Yes, I was aware of the Act.

19 221 Q. And aware of this section  
20 pertaining to undergraduate students and how  
21 they're able to enroll, correct?

22 A. Yes.

23 222 Q. Are you familiar -- are you aware  
24 as to whether or not this Act has ever been  
25 amended or changed?

1                   A.    I'm not either, I must say.  
2    Unless there's something written at the end of  
3    it saying it was updated at some point, I am not  
4    aware.

5    223            Q.    So if we go to page 6.  We've got  
6    at the bottom of the page, it says:

7                   "Management of University vested  
8                   in Board."

9                   Except -- and then it goes on 18(1):

10                  "Except as to such matters as are  
11                  by this Act specifically assigned to  
12                  the President, the Senate, federated  
13                  universities and federated colleges."

14                  And then it goes on to say, basically  
15    all the powers that the university has.  So you  
16    understood that those powers are subject to any  
17    powers resting with the Federated Universities,  
18    correct?

19                  A.    It says -- it says:

20                  "[...] and the Board has all  
21                  powers necessary or convenient to  
22                  perform its duties and achieve the  
23                  objects and purposes of the University  
24                  and, without limiting the generality  
25                  of the foregoing, has power."

1                   So I believe it refers to the Board.

2   224           Q.    Right. And the powers of the  
3       Board are -- they go to such matters unless  
4       they've been specifically assigned to, among  
5       other entities, the Federated Universities,  
6       correct?

7                   A.    You'd have to show me where it  
8       says that.

9   225           Q.    Yeah, just go to the top of -- in  
10      fact, bottom of page 6, top of page 7.

11                  A.    Yes.

12                       "[...] to such matters as are by  
13       this Act specifically assigned to the  
14       Present, the Senate, federated  
15       universities [...] all powers."

16                  Yes.

17   226           Q.    Now, if we go to page 8. And at  
18      page 8, we have "Composition of Senate". Are  
19      you with me?

20                  A.    Yes.

21   227           Q.    So the Senate, as per this Act,  
22      the legislation, shall be composed, so:

23                       "There shall be a Senate of the  
24      University composed of,"

25                       And if we look at c), it's the

1 principal and head of each federated university  
2 or college, correct?

3 A. That is correct.

4 228 Q. That's in the Act, correct?

5 A. That is correct.

6 229 Q. And then h) says:

7 "one full-time professor elected  
8 annually by each federated university  
9 [...]."

10 Do you see that?

11 A. That is correct, yes.

12 230 Q. So I'm just trying to understand  
13 here. So just so I'm clear, you're attempting,  
14 you're seeking to bring the agreement between  
15 Laurentian University and the Federated  
16 Universities to an end. Just so that I'm clear,  
17 even though you're bringing that to an end, is  
18 it your understanding that they're still going  
19 to sit on your Senate?

20 A. No, that would not be correct.

21 231 Q. So maybe you can assist me  
22 because the Act actually says they sit on your  
23 Senate. So explain to me where I'm wrong.

24 A. We expect -- we understand that  
25 the Act may need to be amended.

1       232               Q.    I'm sorry.  So just so I'm clear,  
2       so for the -- your understanding is that for the  
3       agreements to be set aside, we're going to need  
4       to amend this Act?  Is this your understanding?

5               A.    No.  My understanding is that  
6       should the agreements be set aside, the Act will  
7       need to be amended.

8       233               Q.    Okay.  But you don't have any  
9       control as to amending this Act.  This would  
10      need to be the legislature, correct?

11              A.    This would be -- need to be the  
12      legislature, that is correct.

13      234               Q.    Now, if we can go to page 9.

14              A.    Yes.

15      235               Q.    Sorry, wrong page number.  See at  
16      to the bottom of page 10, there's a title called  
17      "Suspension of degree-granting rights of  
18      federated colleges."  Do you see that?

19              A.    Yes.

20      236               Q.    Paragraph 27, it says:

21                      "If any university or college is  
22                      federated or affiliated with the  
23                      University and has the right to grant  
24                      degrees, such right, except for  
25                      degrees in Theology, shall remain

1                   dormant during the time that such  
2                   university or college remains  
3                   federated or affiliated with the  
4                   University."

5                   So just so we're clear here, when the  
6                   federated colleges entered into -- and I'm  
7                   talking Thorneloe and the Université de Sudbury,  
8                   when they entered into the agreement or if I'm  
9                   looking at this Act, when they joined the  
10                  university as per this Act, they were in a  
11                  position to grant degrees, and that right was  
12                  rendered or it had to remain dormant, which is  
13                  what the present situation is, correct?

14                  A.     That is what that paragraph says.

15   237            Q.     So the Université de Sudbury and  
16                  Thorneloe presently cannot grant degrees,  
17                  correct?

18                  A.     Except for theology.

19   238            Q.     Except for theology. Do you know  
20                  what they would need to do in order to be in a  
21                  position to award degrees and no longer be  
22                  dormant? Do you have any idea what would need  
23                  to be done?

24                  A.     I do not.

25   239            Q.     Now, if we go to -- back to your



1 affidavit. So I'm at paragraph 25 of your  
2 affidavit at page 10. So it states at page 10,  
3 I'm just going to read you what we've got here.  
4 It says at paragraph 25:

5 "As further discussed below,  
6 Laurentian University has a federated  
7 school structure whereby it has formal  
8 affiliations with several independent  
9 universities under the overall  
10 Laurentian University umbrella."

11 Now, can you explain to me what's --  
12 what is a federated school structure? What does  
13 that mean?

14 A. It means that each of the  
15 universities listed there are independently  
16 incorporated entities that participate in a  
17 federal structure.

18 240 Q. Now, so, Mr. Haché, just so I'm  
19 clear, and I will use for the example Université  
20 de Sudbury, the same with Thorneloe, they offer  
21 courses and those courses are offered by  
22 their -- sort of their -- courses of their  
23 institution, their university, correct?

24 A. They offer courses and programs  
25 approved through the Senate of Laurentian

1 University, but the delivery of those courses  
2 and programs happens at the federated  
3 institution.

4 241 Q. So when we're looking at courses  
5 offered by the Université de Sudbury or  
6 Universitie de Sudbury, they are courses that  
7 are actually offered by Université de Sudbury,  
8 correct?

9 A. They are delivered by faculty  
10 members who are employed by the University of  
11 Sudbury, yes.

12 242 Q. And the courses are courses  
13 offered by Université de Sudbury. If we look at  
14 what are the courses and programs offered by  
15 Université de Sudbury, we will find those  
16 courses. They're not offered by Laurentian  
17 University?

18 A. They are -- they are offered by  
19 Laurentian University in the sense that they are  
20 courses that qualify for Laurentian degrees. So  
21 they -- maybe it's best to say they are offered  
22 through Laurentian University by the federated  
23 institution. Trying to be correct, not trying  
24 to be misleading.

25 243 Q. No, no. In fact, my

1 understanding is that the courses are offered by  
2 Université de Sudbury, other courses are offered  
3 by University of Thorneloe, and those courses  
4 are recognized by Laurentian University for  
5 giving or providing diplomas or allowing your  
6 students to graduate, correct?

7 A. I believe that is the correct way  
8 to say it, yes.

9 244 Q. So we have -- if I'm a student,  
10 I'm a student of Laurentian University. If I  
11 sign up for a course at Université de Sudbury,  
12 I'm actually taking a course that is offered by  
13 an independent university, but there's an  
14 agreement that that course will be recognized  
15 when I am to obtain my diploma at Laurentian  
16 University?

17 A. That is correct.

18 245 Q. Can you explain to me how -- what  
19 is the administrative arrangement? I'm trying  
20 to understand the details of administrative  
21 arrangement between Laurentian University and  
22 its federated -- and the Federated Universities.  
23 More specifically, I want to understand costs,  
24 revenues, explain to me how that works, just  
25 practically speaking so the court can

1 understand?

2 A. Can you be more specific?

3 246 Q. Sure. So I guess if -- so I'm  
4 trying to see -- remember how you were saying a  
5 while ago or we looked at -- so I'm looking at a  
6 course -- so let's say there's a course offered  
7 at Université de Sudbury, and we'll just say a  
8 certain course in philosophy, we'll call it  
9 Introduction a la Philosophie. Now, that course  
10 is offered at Université de Sudbury. Now, does  
11 Laurentian University make any money or get --  
12 receive any revenue from the fact that  
13 Université de Sudbury is offering this course?

14 A. It depends.

15 247 Q. So explain.

16 A. Can you be more specific?

17 248 Q. Well, I mean, I think I'm being  
18 very specific. Explain to me, does Laurentian  
19 University -- how does Laurentian University, if  
20 at all, make any money or generate any revenue  
21 for itself when students sign up for a course at  
22 one of the Federated Universities?

23 A. So I believe the funding formula  
24 is included in the documents.

25 249 Q. What's your understanding of the

1 funding formula?

2 A. So the -- you know, I think, if  
3 we want to get precise, we can go to the actual  
4 page in the document, but my understanding,  
5 without going to that, and, you know, subject to  
6 correction of what's specifically written when  
7 I'm looking at the document, is that the student  
8 who is registered in a program at the  
9 university -- the program that is delivered by  
10 the University of Sudbury, grant and tuition  
11 revenue attribute to the University of Sudbury,  
12 minus an administration fee that is collected  
13 for all the things that Laurentian University  
14 does in a centralized manner.

15 250 Q. And since when has that been the  
16 case?

17 A. Early 2019. I believe before my  
18 arrival at the university.

19 251 Q. Okay. So I am a student. I sign  
20 up for a course at Université de Sudbury  
21 Introduction de la Philosophie, so where does  
22 the money come from that you're taking the  
23 15 percent cut? That's coming from where?

24 A. That comes from the combination  
25 of grant and tuition revenues that attribute to

1 that registration.

2 252 Q. So there's grant and tuition  
3 revenue for this course offered at Université de  
4 Sudbury and that money does not come directly to  
5 them, it goes through you?

6 A. Yes. Funding flows through  
7 Laurentian.

8 253 Q. So all of that money is generated  
9 because -- or is generated as a result of a  
10 student signing up to take a course at either a  
11 formal university or Université de Sudbury,  
12 that's what's generating that money, the tuition  
13 and the grants, but they're not getting that  
14 money directly. It's actually going through  
15 Laurentian University and they end up getting or  
16 being transferred or Laurentian ends up  
17 transferring 85 percent of that amount, correct?

18 A. If the student is registered in a  
19 program at the federated institution, correct.

20 254 Q. Now, so all of the courses -- all  
21 of the students that are registered presently at  
22 Thorneloe or at Université de Sudbury,  
23 Laurentian University makes 15 percent of the  
24 revenue generated by that student taking that  
25 course, right?

1                   A.    Laurentian doesn't make  
2   15 percent.   Laurentian -- in order to  
3   administer to allow the student to apply to the  
4   university, come to the university, use student  
5   services, library facilities, recreational  
6   facilities, everything that is associated with  
7   the university, and there is a cost to that and  
8   that is reflected in the administration charge  
9   that is retained by the university.

10                   And these are all, you know, things  
11   that students need to have access to and, of  
12   course, they are all things that do cost to  
13   deliver the service, and the service is  
14   delivered centrally by Laurentian University.

15   255            Q.    And Laurentian, for what you've  
16   described, keeps 15 percent of the revenue  
17   generated, either through grants or tuition  
18   fees, as a result of a student taking a course  
19   in one of the Federated Universities, correct?

20                   A.    That is correct.

21   256            Q.    Now, just so that I'm clear, so  
22   for example, if I'm only taking four courses,  
23   and I'm only taking courses at Université de  
24   Sudbury, four courses that are offered by  
25   Université de Sudbury, those are the only

1 courses I'm taking, that doesn't change anything  
2 in what you said. That amount of money -- the  
3 money will still be sent to Laurentian  
4 University for --

5 A. The student has still applied  
6 through Laurentian, the student is still  
7 taking -- getting all the administration of  
8 their progress and their degree through  
9 Laurentian, they're using the libraries, the  
10 various facilities at Laurentian, all that is  
11 centrally provided in the federated model.

12 257 Q. So the answer is yes, right?

13 A. The answer is they have -- the  
14 answer really is that, you know, a student at  
15 the university takes courses, but there is a lot  
16 of infrastructure, support, advising, et cetera,  
17 many things are needed in order to enable the  
18 student to successfully take and complete those  
19 courses and complete their degree that go beyond  
20 the course itself.

21 258 Q. I wasn't asking you to justify.  
22 I didn't ask you to justify.

23 A. I was merely explaining the cost.

24 MR. CAZA: Rob, just make sure you let  
25 Mr. Caza finish before you speak.



1 BY MR. CAZA:

2 259 Q. My question was simply in the  
3 situation I described to you, you would still  
4 end up keeping 15 percent of the amount. And I  
5 think the answer was yes and you explained why  
6 you thought that was okay.

7 Now, so that I'm clear, if I have a  
8 situation where a number of students are signed  
9 up, and I'll give you, for example, the last  
10 school year. So it would be -- why don't we  
11 take the last one. So why don't we take from  
12 September 2019, okay, through to June 2020.  
13 Would that be the year -- what would the year be  
14 for the university if you look at numbers?  
15 What's your fiscal year?

16 A. The fiscal year runs from  
17 May 1st. The academic year runs from July 1st.

18 260 Q. So let's use the May 1st year.  
19 So May 1st, 2019, till April 30th, 2020, okay?  
20 A certain amount of revenue was generated by --  
21 at Laurentian University that you were able to  
22 use, and if you want in your general account,  
23 from courses that students had signed up for in  
24 Federated Universities, correct?

25 A. That is correct, yes.

1       261               Q.    And what's that amount of money?  
2       Where would I find how much money that  
3       represents?

4                       A.    I believe there is a -- one of  
5       the exhibits has that breakdown. I'm not sure  
6       exactly where it is, but there is one in the  
7       exhibits.

8       262               Q.    What would the document be? What  
9       would it be called? Is it the financial  
10      statement?

11                      A.    Well, it's broken out of the --  
12      it would not be in the consolidated financial  
13      statement, I don't believe, but it would be  
14      broken out within the financial statements, yes.

15      263               Q.    Do you know -- would you have an  
16      idea -- would you have any knowledge as to  
17      approximately how much money would be generated  
18      from courses offered by Université de Sudbury  
19      and Thorneloe?

20                      A.    The total amount of revenues that  
21      go to --

22      264               Q.    Yes.

23                      A.    I believe the total amount of  
24      revenues, and I would have to say to all three  
25      of the federated institutions for the past

1       fiscal year, '19/'20, I believe that amount is  
2       9.1 million. And I also believe it's in one of  
3       the exhibits in this document, if that's not the  
4       exact figure.

5       265               Q.    Let's say it's 9.1 million.  
6       Could be another number. That's your  
7       recollection, correct?

8               A.    That is my recollection. I'm  
9       trying to figure out where within the 750 pages  
10      the exact number is.

11      266               Q.    That's fine, but your  
12      recollection is it's approximately that number,  
13      right?

14               A.    The total amount of revenue  
15      that's generated is approximately that number.

16      267               Q.    So if I go 9,100,000 and multiply  
17      that by 15 percent, you would be retaining  
18      \$1,365,000, correct?

19               A.    I believe that's about -- that is  
20      approximately correct, yes.

21      268               Q.    Now, just so I'm clear, and if I  
22      sign up for a course at Université de Sudbury or  
23      Thorneloe, or -- and at one point it was  
24      Huntington, but we're now talking about  
25      Thorneloe and Université de Sudbury, if I sign

1 up, you get that. But if I decide I'm not going  
2 to take a course at Université de Sudbury, but  
3 instead I'm going to go take a course at  
4 Lakehead or I'm going to take a course  
5 elsewhere, or I'm not going to take a course,  
6 well, obviously you're not making that revenue,  
7 correct?

8 A. Yeah, if the student doesn't  
9 register to take a course, there is no revenue  
10 to anyone within the federation.

11 269 Q. Just so I'm clear, Mr. Haché, the  
12 agreement you have that your evidence is you  
13 have an agreement and you're getting 15 percent,  
14 correct?

15 MS. MILLER: Mr. Caza, I'm loathe to  
16 interrupt, but I think you're recharacterizing  
17 what he's referring to when you say you're  
18 getting 15 percent. I think Mr. Haché's  
19 evidence is they're getting 100 percent and they  
20 are delivering a portion.

21 BY MR. CAZA:

22 270 Q. Actually, well, actually I find  
23 that -- I don't actually think that's a fair  
24 correction, but you've heard what your counsel  
25 has said.

1                   Mr. Haché, you're getting the money  
2                   because you're the channel through which the  
3                   money from the ministry or whatever the tuition  
4                   fees and the grants, wherever they're coming  
5                   from, they're going through you as a channel to  
6                   the federated university?

7                   A.    One of the services that we  
8                   provide is collecting tuition and, yes, the  
9                   ministry flows money to a single entity in the  
10                  federation and that is Laurentian and it is  
11                  passed on thereafter.

12   271            Q.    You do not consider that money  
13                   that you're receiving as revenue. It's not  
14                   revenue. It's money that's going through you  
15                   that needs to be remitted at 85 percent to the  
16                   federated university. That's not your revenue.

17                  A.    It is revenue that is generated  
18                   as a result of students registered in programs  
19                   leading to Laurentian degrees.

20   272            Q.    Well, it's interesting that you  
21                   describe it that way because actually what we  
22                   have -- you'll agree with me, Mr. Haché, is what  
23                   you have are people that are signing up for  
24                   courses at an independent university, a  
25                   university that is independent from Laurentian,

1 and that money -- those tuition and grants that  
2 are being provided for that course are being  
3 provided for a course that's offered to the  
4 students by a federated university.

5 The only reason you're getting that  
6 money that is going through you is because  
7 that's the agreement you have with the Federated  
8 University.

9 A. And the government.

10 273 Q. And the government. Now, just so  
11 that I'm clear, if I look at the actual  
12 agreement that you have, and we'll be going  
13 through that agreement, because you've referred  
14 to it's been there since 2019, if that agreement  
15 was negotiated and you would get a higher  
16 percentage, so instead of 15 percent you'd get a  
17 higher percentage, you'd get say 20 percent, if  
18 you would have negotiated that kind of an  
19 agreement, you would have increased the revenue  
20 that would be made by Laurentian as a result of  
21 its relationship with the Federated  
22 Universities, correct?

23 A. That is correct.

24 274 Q. But you never discussed that  
25 option with the Federated Universities, is that

1 fair.

2 A. I have not, no.

3 -- RECESSED AT 9:43 A.M. --

4 -- RESUMED AT 10:01 A.M. --

5 BY MR. CAZA:

6 275 Q. If we go to page 10 of your  
7 affidavit, and I'm always referring to your  
8 affidavit of January 30th, 2020 for now.

9 A. Okay.

10 276 Q. And if I go to paragraph 27.

11 A. Uhm-hmm.

12 277 Q. It says:

13 "[Laurentian University] is  
14 considered an 'access university,'  
15 [it says] over 50% of the student  
16 population is comprised of  
17 first-generation postsecondary  
18 students (those whose parents did not  
19 attend university) and over 12% of the  
20 student population self-identifies as  
21 Indigenous."

22 That is 12 percent of the student body  
23 of Laurentian University excluding the  
24 federations, correct?

25 A. I would believe that would be

1 including the federation in this case, but let  
2 me say I'm not -- I can't confirm one way or the  
3 other, but that would be my suspicion.

4 278 Q. Well, one of the reasons you have  
5 that suspicion is that there are significant  
6 courses offered in Indigenous studies at  
7 Université de Sudbury, so you would assume that  
8 that would contribute to increasing that  
9 percentage, is that fair?

10 A. So I think -- yeah, there is an  
11 undergraduate program in Indigenous studies that  
12 is offered through the University of Sudbury,  
13 yes.

14 279 Q. Now, if we go to page -- I just  
15 have to convert these pages, give me a second  
16 here, page 12, paragraph 36.

17 And you -- it says here, 36:

18 "Within these faculties, students  
19 can choose from approximately 132  
20 undergraduate programs to enroll in.  
21 Each faculty offers English and French  
22 programs and the Faculty of Science,  
23 Engineering and Architecture offers a  
24 bilingual Bachelor of Engineering  
25 program designed to be responsive to



1 the Francophone population at  
2 [Laurentian University]."

3 Can you explain how a bilingual  
4 program can be responsive to the Francophone  
5 population? Like, I don't understand that.

6 A. I think bilingual program can be  
7 responsive to the needs of all populations. I  
8 think it is one of the value-add that we have at  
9 Laurentian University that one has the ability  
10 to study in their language of choice, in their  
11 first language and also to benefit from courses  
12 in the other official language of the country.

13 280 Q. What you say there -- sorry, go  
14 ahead.

15 A. We offer programs that are  
16 completely Francophone; we offer programs that  
17 are completely Anglophone; and we offer the  
18 ability for students to study between the two  
19 languages in many cases.

20 281 Q. Well, to study between the two  
21 languages, just so that I'm clear, I think we  
22 can agree that if you are a Francophone student  
23 at Laurentian University, you can take all your  
24 courses in French, like you're able to take all  
25 your courses in French. You would not need to

1 take courses in English because of any  
2 impediment to take it in French. So that is why  
3 I'm a little confused when you say --

4 A. We are a suite of programs,  
5 Francophone programs where students can complete  
6 their degrees entirely in French, yes.

7 282 Q. Okay, that's correct. And that  
8 would be designed to be responsive to the  
9 Francophone population where you can actually  
10 take all of your courses in French. You will  
11 agree with me on that one?

12 A. Absolutely.

13 283 Q. You are not responding to the  
14 Francophone population where some of the courses  
15 you take, you have to take them in English. You  
16 will agree with me on that?

17 A. I think we are providing, you  
18 know, the broadest spectrum of courses and  
19 programs available in French that students are  
20 looking for, yes.

21 284 Q. Well, I guess my question is --  
22 and I don't want to belabour the point -- I find  
23 it odd to be quite honest that you say in your  
24 affidavit that you have -- you speak of Faculty  
25 of Science, Engineering and Architecture

1 offering a bilingual Bachelor of Engineering as  
2 opposed to one in French, and you're saying it's  
3 designed to be responsive to the Francophone  
4 population.

5 A. Yes.

6 285 Q. So am I missing something or --

7 A. You might be. The -- the  
8 bilingual Bachelor of Engineering program, there  
9 is no Francophone engineering program in the  
10 Province of Ontario, but Laurentian is trying to  
11 meet the desires and needs of the Francophone  
12 population and, therefore, we offered in  
13 Science, Engineering and Architecture, Bachelor  
14 of Engineering program that was, in fact,  
15 bilingual in which the earlier courses were  
16 offered to be taken in French, but not all  
17 courses leading to the degree could be taken in  
18 French. So it is, in the way that you have --  
19 yeah.

20 286 Q. Now if I go to -- and that  
21 paragraph, it says here in paragraph 43, it  
22 starts with:

23 "Through agreement between  
24 [Laurentian University] and Lakehead  
25 University (located in Thunder Bay

1                   ...), the Northern Ontario School of  
2                   Medicine opened in 2005."

3                   Can you explain to me, does that  
4                   agreement end up generating any source of income  
5                   for Laurentian University? Your relationship --  
6                   sorry?

7                   A.     There is no net income for  
8                   Laurentian University through that relationship.

9     287            Q.     Okay. So as opposed to your  
10                   relationship with the Federated Universities  
11                   where you're getting 15 percent of the moneys  
12                   that are paid in tuition and grants, you're  
13                   actually telling me you're getting no money as a  
14                   result --

15                   A.     No, no. I'm saying there is no  
16                   net income. As per the federations, there is no  
17                   profit being made as a result of the  
18                   relationship. Maybe I should say it that way.  
19                   We don't make a profit for NOSM. We do provide  
20                   certain services, and so forth, and students,  
21                   you know, their programs go through Laurentian  
22                   Senate. But there is a flow -- but there is a  
23                   flow-through of tuition and so forth.

24     288            Q.     But you keep --

25                   A.     And we have a relationship

1           agreement -- I expect there is an administrative  
2           charge, yes.

3       289           Q.    Okay.

4                   A.    It may be in the document.  I  
5           don't know exactly what the charge is --

6       290           Q.    I saw somewhere --

7                   A.    -- at this point.

8       291           Q.    I saw somewhere where you are  
9           charging \$250 or something per application.  But  
10          I'm trying to understand, first of all you say  
11          there is no profit.  My understanding is that  
12          Laurentian is a not-for-profit organization,  
13          correct?

14                   A.    That's right.  We are not  
15          generating revenue in excess of our expenses  
16          with relation to our relationship with NOSM.  
17          We're a federated institution.

18       292           Q.    Well, this is what I'm trying to  
19          understand.  Are you generating revenue as a  
20          result of your relationship with NOSM?

21                   A.    Yes, but not in -- not in excess  
22          of expenses.

23       293           Q.    Okay.  Well, I guess I'm a little  
24          at a loss there.  So when you say not in excess  
25          of expenses, so have the expenses specifically

1           attributable to NOSM been identified?

2                   A.    I believe so, yes.

3   294           Q.    Okay.  So just so that I'm clear,  
4           so as opposed to your situation with the  
5           Federated Universities where you've told us all  
6           the services you're offering, but none of the  
7           costs have been specifically identified or  
8           attributed to the students, correct?  Like for  
9           example, some students may use your facilities,  
10          some may not.  That is what I'm trying to  
11          understand.  I'm trying to understand the  
12          difference --

13                  A.    I don't think materially there is  
14          that much difference.

15   295           Q.    This is what I'm trying to  
16          understand here.  First of all, I guess, if a  
17          student registers at NOSM, okay, so they decide  
18          they're going to -- just like a student can  
19          register for courses at Federated University,  
20          students register for courses at NOSM to follow  
21          the program at NOSM?

22                  A.    No, it's not --

23                  MR. HANRAHAN:  Sorry, Rob, just wait  
24          until the question to finished.

25                  THE WITNESS:  Sorry, yeah.

1 BY MR. CAZA:

2 296 Q. Sorry, I was going to say, is --  
3 the students that attend NOSM, do they register  
4 through Laurentian University?

5 A. That's a good question. So  
6 students that are in the medical program at  
7 NOSM, which is -- it's an entirely  
8 self-contained program, so they, at the end of  
9 that program, receive a degree from Laurentian  
10 University, so the program is -- and courses  
11 goes through the Laurentian University Senate  
12 and Lakehead Senate, in fact. It has to go  
13 through both.

14 But there is a degree of separation  
15 that is greater for NOSM students in the sense  
16 that it is entirely a self-contained program.  
17 There is no free flow of students between  
18 courses and programs, as far as I understand.

19 297 Q. Now so, but just so I'm clear, so  
20 when students pay tuition, are they paying a  
21 tuition to Laurentian University?

22 A. Laurentian University collects  
23 the tuition and flows it through to NOSM. That  
24 is one of the services that we presently  
25 provide.

1       298               Q.   And instead of retaining  
2       15 percent, you're actually retaining a specific  
3       amount per student, correct?

4                   A.   That seems to be correct, and the  
5       difference, of course, is the much more  
6       substantial tuition for medical education than  
7       for programs. I mean, one could -- I presume  
8       could do a percentage as well, but I can't  
9       comment on how this historic relationship was  
10      set up.

11     299               Q.   Now I guess the -- and do you  
12      know the impact of the legislation that was  
13      passed last week? In fact, maybe you can just  
14      explain to us. How does the legislation that  
15      was passed, how does it change the nature of the  
16      NOSM? How does it change it?

17                  A.   So the -- the legislation that  
18      was introduced, if it achieves royal assent,  
19      will provide NOSM as a stand-alone institution  
20      so degrees will no longer be granted by  
21      Laurentian or Lakehead University; they will be  
22      granted by NOSM themselves. So it would be, in  
23      essence, the same as if a student who applied to  
24      any other university in Ontario compared to  
25      Laurentian University.



1                   They would be, you know, completely  
2                   separate. There would no longer be a  
3                   relationship agreement, and, you know, what --  
4                   and I can't really comment beyond that because I  
5                   don't know what form it will take going forward.

6       300           Q.     So you don't know what the  
7                   financial impact will be if they get royal  
8                   assent, but I think we can assume that it's not  
9                   going to be good for Laurentian University?

10                  A.     It will be --

11                  MS. MILLER: I'm sorry to interrupt,  
12                  but you're asking him a question without  
13                  referring to his affidavit. There is a specific  
14                  section of his affidavit addressing that very  
15                  point and the question you've asked.

16                  MR. CAZA: Sorry, which question?

17                  MS. MILLER: The question you've asked  
18                  in terms of any financial impact of the -- any  
19                  changes at NOSM, and that is specifically  
20                  addressed in his affidavit.

21                  MR. CAZA: That would be specifically  
22                  addressed in your second affidavit, correct?

23                  MS. MILLER: Correct.

24                  BY MR. CAZA:

25       301           Q.     I don't want to jump around too

1 much here. So you have provided evidence to  
2 that effect. Do you remember what that evidence  
3 is?

4 A. Yeah, there is -- there is not  
5 expected to be -- you know, there would be no  
6 negative -- no impact on Laurentian financially.

7 302 Q. Okay, which means that --

8 A. No net impact at the end of the  
9 day because NOSM is completely a flow-through  
10 relationship.

11 303 Q. Just so that I'm clear, so what  
12 you're saying whatever revenue you're getting  
13 and it could be a -- stipend per student, it is  
14 actually costing you that much money. So at the  
15 end of the day, if they separate, you're even  
16 because you don't have the expense but you don't  
17 have the revenue; that's what you're telling me,  
18 right?

19 A. That's my understanding, yes.

20 304 Q. Okay. Now, if I go to paragraph  
21 45, so what is the arrangement with the  
22 buildings? Does NOSM -- just so I'm clear, and  
23 I see there is a copy of the lease here. But  
24 they are actually leasing those buildings from  
25 you? You own those buildings, correct?

1                   A.    Yeah, Laurentian owns the primary  
2   NOSM building, and NOSM leases space from  
3   Laurentian in an adjacent building as well.

4   305            Q.    And you don't know -- you don't  
5   know what is going to happen? Like, has there  
6   been discussion yet that they would end up  
7   purchasing those buildings from you now that  
8   they would be sort of independent? Or that  
9   hadn't been discussed?

10               A.    There has been no discussion yet.

11   306            Q.    So if I go to paragraph 48 it  
12   says here:

13                   "[...] Laurentian and Lakehead  
14   each agreed to provide certain support  
15   services and faculty to NOSM."

16                So, and I see here the facilities are  
17   support services, student registration and  
18   student fee collection, scholarship receipt and  
19   disbursements.

20                That's the work you're doing, and both  
21   universities are doing this with NOSM?

22               A.    Yeah. We each do it on our  
23   separate campuses for students that are located  
24   on one or the other campus.

25   307            Q.    Now here's 49. This is what I

1 was referring to earlier. It says that:

2 "NOSM and [Laurentian] entered  
3 into a subsequent agreement as a  
4 schedule to the Relationship Agreement  
5 which governs the collection and  
6 accounting of tuition and incidental  
7 fees for 2020/2021 academic year. As  
8 part of this agreement, Laurentian  
9 University provides collection and  
10 accounting services for NOSM at a fee  
11 of \$250 per NOSM student enrolled at  
12 the Sudbury campus."

13 Now, do you know how much money -- do  
14 you know how many students there are at NOSM?

15 A. I believe it's --

16 MR. HANRAHAN: I think that is  
17 referred to in paragraph 46.

18 THE WITNESS: Oh, yeah there is more  
19 than I thought. But I think that's across both  
20 campuses. 461 students.

21 BY MR. CAZA:

22 308 Q. How many?

23 A. 461 students it says in paragraph  
24 46, and I believe that would be across -- okay,  
25 the MD residency. You have the complete list

1           there of what it comprises.

2       309           Q.    And what are you looking at now?

3           Paragraph 47?

4           A.    Paragraph 46 --

5       310           Q.    46.   Okay.

6           A.    -- the answer to that question.

7       311           Q.    And how many of those students  
8           would you estimate would be at Laurentian?  What  
9           percentage?

10           A.    Either -- it would either be 100  
11           or 50 percent, I'm not sure.

12       312           Q.    It says:

13                   "The medical school has  
14           approximately 461 students enrolled in  
15           the 2020-21 academic year across the  
16           medical doctor program, residency  
17           [...]"?

18           A.    Yes.

19       313           Q.    So is that only in Sudbury at  
20           Laurentian?

21           A.    If it refers to the medical  
22           school in its entirety, that would be split  
23           between Sudbury and Lakehead -- Sudbury and  
24           Thunder Bay, sorry.

25       314           Q.    Do you know?  Do you know how

1 many students there are on the -- the \$250,  
2 you're only getting paid 250 for the students  
3 that are at the Sudbury campus, correct?

4 A. That is correct.

5 315 Q. So, okay. That's fine. And that  
6 is an amount that is paid to you every year,  
7 correct?

8 A. That is an amount that is  
9 collected every year, yes, for the services that  
10 are provided. And if the services would change,  
11 I would imagine that that amount would change as  
12 well.

13 316 Q. And just so I understand what  
14 your evidence is, your evidence is that if you  
15 no longer collect the \$250 from all of the  
16 students, you are not losing any money because  
17 your evidence is that it's costing you that much  
18 money to be able to offer the services that have  
19 been described in your affidavit, right?

20 MS. MILLER: Mr. Caza, can you please  
21 look at and direct the deponent to the evidence  
22 that you're referring to which is paragraph 49,  
23 which refers to the \$250, and which is what it  
24 relates to, the collection and accounting  
25 services? Can you please direct the deponent to

1 the question that you're referring to?

2 MR. CAZA: No. I'm asking him  
3 questions. I'm not going to tell him, look,  
4 this is what you said in your affidavit. I've  
5 actually read that section to him. I just read  
6 it.

7 317 Q. And I just want to be clear and I  
8 just want to understand, your evidence is that  
9 if you lose that \$250 because NOSM no longer  
10 will use your collection and accounting  
11 services, your evidence to me is, you're not  
12 losing, and if I'm not -- if that's incorrect  
13 let me know, but I understood that you would not  
14 be losing any money because your evidence is  
15 that's how much it costs you to actually carry  
16 or offer those services?

17 A. Yeah. The expenses balance the  
18 revenues that are received, yes. That's my  
19 understanding. That reflects the cost of the  
20 services that we provided, and if we no longer  
21 provide those services we no longer have that  
22 cost.

23 318 Q. And it's the same thing with the  
24 Federated Universities?

25 MR. HANRAHAN: When you say the same

1           thing, what do you mean?

2                       THE WITNESS: What do you mean by  
3           that?

4                       BY MR. CAZA:

5   319               Q.    If they were no longer -- if you  
6           were no longer needing to provide the services  
7           you're providing to students that are at  
8           Université de Sudbury, so, for example if for  
9           some reason the services you were offering were  
10          no -- you no longer needed to offer them, you  
11          would not be losing any money. That's my  
12          understanding of your evidence because it's  
13          costing you 15 percent to do that work, right?

14                      A.   Yeah, but they're -- these are  
15          all Laurentian students so presumably we still  
16          need to do the work for the students that remain  
17          at Laurentian.

18   320               Q.    Well, actually I'm going to want  
19           to talk to you about that later because  
20           that's -- you're making quite a few presumptions  
21           when you arrive at that conclusion, and I want  
22           to discuss that with you later.

23                      But just so I'm clear, I had -- when  
24           there is a student that takes a course at  
25           Université de Sudbury, they take that course and



1       they -- there is a thousand dollars paid in  
2       grants and tuition -- I'm just giving you that  
3       as an example -- for that course taken at a  
4       university that is independent from Laurentian.  
5       It's Université de Sudbury.

6               The grants and the tuition comes to  
7       Laurentian University; they keep \$150 and they  
8       send \$850 to Université de Sudbury, correct?

9               A.    Yeah, I think for every student  
10       that comes to Laurentian University and  
11       registers in a course and takes a program, it  
12       costs a certain amount of money to provide those  
13       services. And so, yes, I mean the answer to  
14       your question is that for every student, be they  
15       at the University of Sudbury or be they at  
16       Laurentian proper, there is a cost for those  
17       services that are provided that are attributed  
18       directly to, you know, the revenues that the  
19       student brings in.

20   321           Q.    Mr. Haché, no, your evidence --  
21       this is my understanding of your evidence. The  
22       15 percent that you're keeping, actually it's  
23       costing you that amount of money to offer that  
24       service. So if the student is not signed up at  
25       Laurentian -- at Université de Sudbury, you are

1 not getting the 15 percent but it doesn't matter  
2 because even if you got it, you're incurring  
3 that amount of expenses so you'd be -- you'd end  
4 up net in any event, right?

5 A. I don't believe that's what I  
6 said, if I followed you correctly, and I'm not  
7 sure I did, but what I'm saying is for any  
8 student that comes to Laurentian there is --  
9 there are administrative costs. And if the  
10 students at the University of Sudbury, it's  
11 approximately 15 percent and if it's at  
12 Laurentian -- if they're in a Laurentian  
13 program, it's approximately 15 percent.

14 And so if a student, if you had -- add  
15 or subtract a student here or there, the impact  
16 in terms of the cost is the same. It's not --  
17 it's not a profit-making exercise.

18 322 Q. You know there is a difference  
19 between profit and having activities that are  
20 generating more income than they are incurring  
21 costs. That is not profit. You have to have  
22 that.

23 Because there is other activities that  
24 generate no income but have costs. And if you  
25 are going to balance the budget, you actually

1 need to be generating revenue. You have to  
2 generate revenue.

3 What you're telling me -- and this is  
4 why, and if I'm not understanding you correctly,  
5 I want you to correct me. All of the revenue  
6 that is generated as a result of you keeping  
7 15 percent for the tuition and grants that are  
8 paid to -- for students that are taking courses  
9 at Federated Universities, that 15 percent is  
10 actually not a source of revenue for you because  
11 the cost to offer it is the same.

12 So for you to end that -- this is what  
13 I understand your evidence to be -- for you to  
14 bring an end to that issue would generate no  
15 loss and no income to you. That's your  
16 evidence.

17 A. Assuming that the student is no  
18 longer at the university, that would be the  
19 case; however, much of the revenue that flows to  
20 the University of Sudbury is from students that  
21 are registered in Laurentian programs or taking  
22 courses at the University of Sudbury, and those  
23 students would be expected to remain at  
24 Laurentian University.

25 323 Q. Listen, now hold on. You're

1 making an assumption there, and I -- this has  
2 got to be really important --

3 MS. MILLER: Mr. Caza, he is answering  
4 the question. He's not making an assumption  
5 there.

6 THE WITNESS: No assumption there.

7 BY MR. CAZA:

8 324 Q. Mr. Haché, Mr. Haché, no, there  
9 is an assumption. Mr. Haché, you have a  
10 significant amount of students -- we've looked  
11 at the numbers -- that are taking courses in the  
12 Federated Universities. They are taking courses  
13 in the Federated Universities, okay.

14 And, just so that I'm clear, if you  
15 terminate -- if you terminate the agreement,  
16 which is what you're trying to do, with the  
17 Federated Universities, the reason you're doing  
18 that is that you're hoping that the students  
19 that are taking the courses, the courses that  
20 are being taken at these Federated Universities,  
21 instead of taking those courses they are going  
22 to take courses at Laurentian University because  
23 those courses are no longer available?

24 A. Well, they will take courses at  
25 Laurentian University because they're registered

1 in Laurentian University programs, and they will  
2 have a selection of courses to choose from, yes.

3 325 Q. So what you're doing is you're  
4 incapacitating the Federated Universities.  
5 You're stopping them -- by bringing this  
6 agreement to an end, you're stopping them from  
7 being able to offer these courses that they are  
8 actually offering to their students, and the  
9 only reason you're doing that is because what  
10 you're hoping is that those students will,  
11 therefore, have to take courses at Laurentian  
12 and that will provide you with an additional  
13 source of income. That's the only reason you're  
14 doing it, right?

15 A. So I think the first correction  
16 is that our students, we have -- you know, when  
17 you do the analysis of the financial situation  
18 of the university, we have -- and looked at  
19 where there are outflows of money, where there  
20 are capacities to deliver the activities inside  
21 the university and yet we are spending money to  
22 deliver the activities outside the university,  
23 that is one of the things that we need to  
24 correct to arrive at a university structure that  
25 is financially sustainable.

1                   And so Laurentian students registered  
2                   in Laurentian programs need to be taking their  
3                   courses at Laurentian University where we have  
4                   capacity and courses that they can take in order  
5                   for the university to be financially viable  
6                   going forward.

7   326            Q.    So what you want is you want  
8                   students -- they are not your students. They  
9                   are students that are taking courses at  
10                  Laurentian University, and they are taking  
11                  courses at other universities that are  
12                  independent of Laurentian.

13                  And what you're doing is you are  
14                  trying to create a situation where the other  
15                  universities are basically killed off, because  
16                  you are bringing them -- your attempt is to stop  
17                  them from being able to offer the courses so  
18                  that the students will then need to or you are  
19                  hoping will end up taking courses at your  
20                  university, at Laurentian University.

21                  A.    I disagree with what you said.  
22                  Go ahead.

23   327            Q.    Will you explain to me why you  
24                   disagree? Explain to me why you disagree that  
25                   that is exactly what Laurentian is trying to do

1 by bringing -- by terminating this agreement.

2 A. I disagree with your  
3 characterization of the students. These are  
4 Laurentian students that we are talking about,  
5 students that are registered in Laurentian  
6 programs that need to -- need to -- for  
7 Laurentian's programs to be viable take their  
8 courses at Laurentian University.

9 328 Q. Just so that I'm clear, presently  
10 you have an agreement with universities, two  
11 that I'm talking about, Thorneloe and  
12 Laurentian, and you've had that for what?  
13 Almost over 50 years now that you've had the  
14 agreement, right?

15 A. It's over 50 years, yes.

16 329 Q. It's over 50 years and what  
17 happens is students -- because, and that's the  
18 agreement you have. People can sign up for  
19 courses in those universities, but they go  
20 through you. That's the agreement you have,  
21 correct?

22 A. Students can register for  
23 programs -- they go through us and they register  
24 for programs that are offered direct -- at  
25 Laurentian directly or at one of the Federated

1 institutions. And they can register for courses  
2 across those boundaries, outside of their  
3 program.

4 330 Q. A student cannot presently  
5 register directly with one of the Federated  
6 Universities to take a course, correct?

7 A. I believe that is correct. The  
8 registration happens through the Laurentian  
9 system.

10 331 Q. So there is a pipe -- there's a  
11 pipe that gets money to those Federated  
12 Universities. And the pipe goes from the  
13 government, or whoever else -- the student, the  
14 tuition and the grants and that pipe goes  
15 through the university. Part of it -- part of  
16 the money flows through the university, and then  
17 the pipe keeps going to these -- to the two  
18 federated colleges that we're discussing.

19 And what you want to do is you want  
20 that pipe to stop at your university and no  
21 longer continue onto the Federated Universities.  
22 That's exactly what you're doing, correct?

23 By saying -- by having a situation  
24 where those courses, since they are no longer  
25 available, because you're bringing an end to the



1 Federated agreement, the students will then --  
2 and you're hoping -- take courses at Laurentian  
3 so that all of that money that is presently  
4 going to the federation -- Federated  
5 Universities, will come to Laurentian  
6 University, correct?

7 A. Laurentian University is  
8 currently not financially sustainable under the  
9 model that we operate.

10 332 Q. And part of your solution is to  
11 stop students from being able to go, to sign up  
12 for courses at University of Sudbury, Université  
13 de Sudbury and Thorneloe. You're trying --  
14 you're stopping them by bringing that agreement  
15 to an end.

16 And the only reason you're doing that,  
17 and it's the only reason is because you want  
18 those students, instead of taking courses at  
19 those Federated Universities, to take courses at  
20 Laurentian University, correct?

21 A. We have both the capacity and the  
22 need to provide those courses to our students,  
23 yes.

24 333 Q. So the answer to my question is  
25 yes, correct?

1 A. I believe I said yes.

2 334 Q. All right. So we can move on.

3 If we can now go to page 21, paragraph 66.

4 A. Indeed.

5 335 Q. So paragraph 66 refers to Exhibit  
6 G. There are notes of a meeting, et cetera.

7 You have an understanding as to how that funding  
8 model works? What does -- how did that funding  
9 model work?

10 A. Historically I don't have a good  
11 understanding of that 1993 model, no. Well  
12 before my time.

13 336 Q. But I think it is your  
14 understanding that the present model is more  
15 generous, if you want. It leaves more money to  
16 Laurentian University than the '93 funding  
17 model, is that fair?

18 A. The present model reflects the  
19 way in which funding is received by the  
20 university.

21 337 Q. So I've asked you a question.  
22 Either you agree with me, disagree or you have  
23 no knowledge. My question to you was, the  
24 amount of money you're receiving -- okay, it's  
25 the 15 percent -- is a higher amount of money

1       than what university -- the university was  
2       receiving under the 1993 funding model. Do you  
3       agree with that?

4                   A.    I suspect --

5                   MR. HANRAHAN: I believe he answered  
6       that.

7                   THE WITNESS: I believe I answered  
8       that to the best of my knowledge.

9                   BY MR. CAZA:

10   338            Q.    So you suspect that that's true.  
11       That is what you were going to say before you  
12       were interrupted, correct?

13                  A.    No, I believe I answered that.

14   339            Q.    And your answer, just so that I'm  
15       clear, because there's -- your answer is you  
16       suspect that it's more money now, right?

17                  A.    My answer is that I have no  
18       detailed knowledge of the 1993 funding  
19       agreement. I do understand the current funding  
20       agreement.

21   340            Q.    So you have no knowledge, so I'm  
22       just going to ask you this. My question is, is  
23       the university -- please let me ask my question.

24                   Is the Laurentian University keeping a  
25       bigger share of the income generated by courses

1 offered by the Federated Universities presently  
2 with your 15 percent arrangement than they were  
3 under the 1993 funding model? Do you know that  
4 or you don't know that?

5 A. I have no specific knowledge of  
6 that, but I suspect that might be correct.

7 341 Q. So in fact -- okay, when you say  
8 might be correct, you suspect that that is  
9 correct, right?

10 MR. HANRAHAN: He has told you he  
11 doesn't have a detailed knowledge. That  
12 means --

13 MR. CAZA: I'm sorry, that's -- are  
14 you -- you can object. Don't repeat his  
15 answers, please. If you're objecting, you can  
16 object. I am cross-examining this witness. He  
17 has answered. I can come back with another  
18 question.

19 342 Q. My question is --

20 MR. HANRAHAN: Your question is  
21 misstating what he said.

22 MR. CAZA: My question is another  
23 question that I'm asking him. I'm not telling  
24 him that is what he said. I'm cross-examining  
25 him. I can put words in his mouth all day long.

1 That is part of what a cross-examination is.

2 343 Q. Mr. Haché, you'll agree with  
3 me --

4 MR. OSBORNE: Mr. Caza, with respect,  
5 there was nothing wrong with Mr. Hanrahan's  
6 objection there whatsoever. You can put  
7 whatever questions, propositions or suggestions  
8 you wish to the witness, but you cannot misstate  
9 the evidence he has already given. Thank you.

10 MR. CAZA: Well actually, when he says  
11 "may" and I come back and I say, it's not "may",  
12 it actually is, that's not putting his evidence  
13 to him; that's asking him another question.

14 MR. OSBORNE: You may do that. You  
15 just can't misstate what he has put to you.

16 MR. CAZA: That is exactly what I did.  
17 I didn't say you said this to me. I asked him a  
18 subsequent question.

19 344 Q. In any event, Mr. Haché, I am  
20 putting to you that your understanding, your  
21 general understanding is that the present  
22 arrangement whereby you keep 15 percent is more  
23 generous to the university than the previous  
24 1993 model, is that fair?

25 A. My present understanding is that

1 the present arrangement more appropriately  
2 balances the revenues and the costs, and if --  
3 right. So that we have a -- we have a  
4 distribution of funding at the present time  
5 since 2019 that more correctly reflects the  
6 costs that are incurred by the university. That  
7 much -- that I understand, and if it was out of  
8 whack previously, I don't -- I don't have a  
9 recollection or detailed knowledge of the 1993  
10 agreement on which to base any firm conclusions.

11 345 Q. Okay. That's fine. So what  
12 you're telling me, and this is my understanding,  
13 is you don't know if you were making more money  
14 or less money; what you know, your information  
15 is the money you are making now reflects what  
16 the costs are? That's a little --

17 A. And when -- upon, you know, from  
18 the time I have arrived at the university and  
19 looked at the funding model that we have, upon  
20 my arrival, it more accurately reflects the  
21 costs that are incurred by the university. And  
22 it explicitly reflects the mechanism under which  
23 the government flows funding to the university  
24 for all programs and courses, a funding formula  
25 that was adapted by the government many years

1           ago, actually.

2       346           Q.    So if we can now go to -- I'm  
3           looking at your -- paragraph 67 of your  
4           affidavit, okay?

5           A.    Okay.

6       347           Q.    And it refers to Exhibits H, I  
7           and J, so if we could go to Exhibit I to your  
8           affidavit? And that, Mr. Haché, is your  
9           agreement, the agreement between Laurentian  
10          University and Thorneloe.

11          A.    It's going to take me -- all  
12          right. "I", Laurentian University Financial  
13          Distribution to Thorneloe, is that --

14       348           Q.    That's the way it works, right?  
15          So that's the agreement you are referring to.  
16          It is signed by Dr. Pierre Zundel. That is the  
17          agreement you're referring to that is now in  
18          place, correct?

19          A.    That is the -- that is the  
20          schedule that is now in place, yes. I believe.  
21          Is it -- I don't see a signature, but maybe.

22       349           Q.    Yeah, I think there is a  
23          signature if you go to page 3, Dr. Zundel.

24          A.    Oh yes. Page 3 there is a  
25          signature by my predecessor. Yes.

1       350               Q.    Yes, he signed that.  Now, I'm  
2       trying to understand -- if you go to page 5, I'm  
3       trying to understand these numbers.  Do you  
4       understand, sir, it says "Core, Performance,  
5       Northern, Total Grant Distributed."  Do you  
6       understand how that works?  Can you explain  
7       that, so that the Court can understand what that  
8       is?

9                       A.    There is a core grant attached to  
10      each student registered in a program, and then  
11      there are other grants that can be called  
12      special purpose grants, if you will.  So, the  
13      Northern grant we get a premium from the  
14      government because of additional costs of  
15      working in the environment that we're in.  We  
16      also receive a premium for offering programs  
17      that are bilingual, which costs, there are  
18      additional costs associated with offering those  
19      programs in both official languages.

20      351               Q.    Okay.  So I see here, so I'm at  
21      page 5.  So if I look at Thorneloe, for example,  
22      all of the students that are signed up to take  
23      courses at Thorneloe, courses that are offered  
24      by that university, the core grant provided to  
25      those students is \$322,523?



1 A. That seems to be correct.

2 352 Q. And then if we look at those  
3 courses, the performance generates \$46,805?

4 A. From those programs, correct.

5 353 Q. From those programs. And the  
6 Northern amount is \$80,462, correct?

7 A. Yeah, those are distributed  
8 proportionally.

9 354 Q. Right. I'm sorry -- yeah,  
10 proportionately to the students that are there.

11 A. Yeah, yeah, right.

12 355 Q. So the total grant distributed is  
13 \$449,790, correct?

14 A. That is correct.

15 356 Q. Now, and this is what I'm trying  
16 to understand. So the total of University of  
17 Sudbury, Université de Sudbury, Huntington and  
18 Thorneloe is -- the total grant distributed is  
19 \$2,651,354, right?

20 A. That is correct.

21 357 Q. Now, is that the number -- okay.

22 A. It's what it says there, so I'm  
23 assuming that's correct.

24 358 Q. But is that the number -- I'm  
25 trying to -- is that the number from which the

1 university takes 15 percent?

2 A. That is part of the number from  
3 which the university takes 15 percent I believe.  
4 If that is not net, that would be gross. That  
5 would be part of the number, yes.

6 359 Q. And then the other missing part  
7 is the tuition, right?

8 A. Is from the tuition, yes.

9 360 Q. And if I go to page 6, we have  
10 here a chart and it breaks down the capital  
11 grants. We see here the total for the province,  
12 right? How much the Laurentian University and  
13 the Feds, the total obtained by them. And then  
14 it's broken down how much is Laurentian  
15 University, University of Sudbury, Huntington  
16 and Thorneloe, right?

17 A. That is correct.

18 361 Q. What is FRP funding?

19 A. Facilities Renewal Program I  
20 believe it refers to.

21 362 Q. So this is the sharing --

22 A. Sorry, Facilities Renewal Grants,  
23 so, yeah. Facilities Renewal Program it says at  
24 the top of page 5; FRP is the abbreviation  
25 thereof.

1       363           Q.    And that is the amount of monies.  
2       Just so I'm clear, so these are the amounts that  
3       are remitted from that envelope, and it's all  
4       based on a pro rata calculation as far as what  
5       courses are being offered by which university,  
6       is that correct?

7                   A.    Yeah, by where the students are  
8       located, in terms of their programmatic homes.

9       364           Q.    So that --

10                  A.    And that money varies from year  
11       to year. The money we receive from the province  
12       varies from year to year. It is distributed  
13       according to a formula of where students --  
14       where the home program of the student is  
15       delivered.

16       365           Q.    And if go to tab J, which is the  
17       next tab --

18                  A.    Okay.

19       366           Q.    Okay. And we have here at  
20       page 2, if you -- let me know when you're there.

21                  A.    Yeah.

22       367           Q.    So it's got "Revenue Sharing" at  
23       the top. It says:

24                               "The Federated Universities do  
25       not receive funding directly from the

1 government. Laurentian University has  
2 historically transferred a portion of  
3 the funding it receives from the  
4 government to each Federated  
5 University according to a set formula,  
6 unless otherwise instructed by the  
7 government."

8 And then you talk about the 1993  
9 funding model.

10 Now, if we look at the fourth  
11 paragraph, this is all under "Revenue Sharing"  
12 it starts, "The purpose of this notice [...]."

13 Are you with me?

14 A. Yes.

15 368 Q. "[...] is to ensure that all  
16 funding transferred by Laurentian  
17 University to any of the Federated  
18 Universities from and after the  
19 Effective Date --"

20 And the effective date would be the  
21 date, I guess, of this agreement, correct?  
22 May 1st, 2019, correct?

23 A. That would seem to be the case,  
24 yes.

25 369 Q. "[...] is consistent with the New

1 Funding Model, and that the financial  
2 effects of the New Funding Model and  
3 that the financial effects of the New  
4 Funding Model are recognized and  
5 assumed proportionately by each of  
6 Laurentian University and the  
7 Federated Universities, on the terms  
8 set out herein."

9 And it goes on:

10 "The underlying principle is that  
11 none of Laurentian University or any  
12 of the Federated Universities will  
13 subsidize the operations or services  
14 of another, and each will be  
15 responsible for covering its own  
16 costs."

17 And that's what the purpose of this  
18 agreement is, correct?

19 A. From providing provision of  
20 services, yes.

21 370 Q. Well, not just provision of  
22 services. It says:

23 "The underlying principle is that  
24 none of Laurentian University or any  
25 of the Federated Universities will

1 subsidize the operations or services  
2 of another, and each will be  
3 responsible for covering its own  
4 costs."

5 That's what the goal and that is what  
6 this agreement that you have advised us has been  
7 entered into between Laurentian University and  
8 the Université de Sudbury, also with Thorneloe,  
9 that is what it accomplishes, correct?

10 A. That is what the document says,  
11 yes.

12 371 Q. And it not only says that, but  
13 you agree with me that -- sorry -- we're -- so  
14 do you --

15 A. I agree with what it says, yes.

16 372 Q. And you agree that it does  
17 accomplish this? Your understanding is that  
18 that has been accomplished, correct?

19 A. My agreement -- my understanding  
20 is that that was the intent of the agreement,  
21 yes.

22 373 Q. And your evidence is that that  
23 was accomplished? You'll agree with me that you  
24 did accomplish that --

25 A. From the provision of services,

1           yes.

2       374           Q.   Well, from the provision -- not  
3           only that, but also on the issue of the  
4           operations of the --

5                   A.   Well, that is the -- yeah,  
6           services that are required for the operations,  
7           yes.

8       375           Q.   Yes.  Sorry, about that.  Maybe  
9           I'll just -- so I guess we're both saying the  
10          same thing.  I guess the issue is when you look  
11          at all the costs that are incurred to offer a  
12          cost, the administration that needs to be done,  
13          this formula actually attributes the revenue to  
14          where the cost is actually occurring, is that  
15          fair?

16                   A.   On a per student basis.

17       376           Q.   Okay.  Thank you so much.  We can  
18          now go back to your affidavit, and we're looking  
19          at page 22.

20                   A.   Okay.

21       377           Q.   And it's a little bit of what we  
22          were talking about here at paragraph 70:

23                           "The underlying principle behind  
24                   Laurentian University adopting the New  
25                   Funding Model was to ensure that

1                   neither [Laurentian University] or any  
2                   of the Federated Universities would  
3                   subsidize the operations or services  
4                   of the other, and each organization  
5                   would be responsible for covering its  
6                   own expenses. It was intended to align  
7                   the financial relationship of  
8                   [Laurentian University] and the  
9                   Federated Universities with the New  
10                  Funding Model introduced by the  
11                  Province, to which [Laurentian  
12                  University] was subject."

13                  That's what you did and that's what  
14                  this agreement accomplished, correct?

15                  A.     That's what -- that was the  
16                  intent of the agreement, for sure, yes.

17   378            Q.     And your understanding is that  
18                  that was accomplished, right?

19                  A.     My understanding is the agreement  
20                  has been in effect with -- and that's the goal,  
21                  yes.

22   379            Q.     And that goal has been attained,  
23                  right?

24                  MR. HANRAHAN: Sorry, when you're  
25                  talking about accomplished and goals, are you



1 saying the entering into and this agreement  
2 taking effect was accomplished or that the goal  
3 of balancing the financial relationship was  
4 accomplished?

5 BY MR. CAZA:

6 380 Q. Okay. So that -- so I'll clarify  
7 the question.

8 I guess what I'm saying is what the  
9 purpose -- what you wanted to ensure was that  
10 the model would ensure that neither Laurentian  
11 University or any of the Federated Universities  
12 would subsidize the operations or services of  
13 the other. And all I'm saying is that you're  
14 satisfied that the application and the agreement  
15 has attained that goal?

16 A. I believe it has, yes.

17 381 Q. Okay. If we can now go to  
18 paragraph 71. It says:

19 "The Financial Distribution  
20 Notices also provide that, in exchange  
21 for the provision of nonacademic  
22 administrative services by [Laurentian  
23 University] to the Federated  
24 Universities, each of the Federated  
25 Universities would be assessed a

1 charge by [Laurentian University] in  
2 the amount of 15% of shared revenues,  
3 being grant revenue and tuition [fee]  
4 as defined in the Financial  
5 Distribution [...]."

6 And it's called -- it's been  
7 identified as -- it's called the "Administrative  
8 Service Fee", correct?

9 A. That's what it says, yes.

10 382 Q. When we're talking about the  
11 Administrative Service Fee, we're talking about  
12 what we discussed earlier, right?

13 A. Yes.

14 383 Q. And these -- just so I'm clear,  
15 these are revenues that -- this 15 percent is  
16 provided to Laurentian University from revenue  
17 generated by courses that are offered by the  
18 Federated Universities, right?

19 A. Yes.

20 384 Q. Can I go -- take you now to  
21 Exhibit K? Let me know when you're there.

22 A. I have "K".

23 385 Q. So you've had a chance to review  
24 this document. It is the September 10th,  
25 1960 -- in fact, it's almost -- it's over -- I

1 guess now it's over 60 years --

2 A. Yes.

3 386 Q. -- between Laurentian University  
4 and the University of Sudbury. You've had a  
5 chance to read the document?

6 A. I've had a chance to the read,  
7 yes.

8 387 Q. So in the agreement, looking at  
9 the second paragraph, are you with me on the --  
10 my copy is -- yes, it is paginated. It would be  
11 the first page. It is not paginated, but the  
12 first page of the document, correct?

13 A. Yeah.

14 388 Q. So the agreement actually repeats  
15 what we found -- what we read earlier in the Act  
16 that it says:

17 "[...] pursuant to the petition  
18 of the University of Sudbury, the  
19 United Church of Canada and The  
20 Incorporated Synod of the Diocese of  
21 Algoma."

22 That Laurentian University was  
23 incorporated, correct?

24 A. That is correct, that is what it  
25 says.

1       389               Q.    And page 2.  And you understood  
2       this, that paragraph 2 on page 2 it says:

3                        "While this agreement remains in  
4                       force, Sudbury University shall  
5                       suspend all its degree-conferring  
6                       powers except the power to grant  
7                       degrees in Theology."

8                       And that has been suspended for the  
9       past 60 years, correct?

10                      A.    That is correct.

11       390               Q.    And Laurentian, if we go to --  
12       turn to page 3.  Are you with me?  At paragraph  
13       5, it reads as follows:

14                      "All students, including those  
15                      enrolled in federated universities or  
16                      colleges [...]."

17                      And you're enrolled in a federated  
18       university or college if that's where you're  
19       taking -- you're taking a course from one of  
20       those universities, correct?

21                      A.    If you're registered for a  
22       program in one of those universities.

23       391               Q.    Then it goes on to say, "who  
24       intend" -- well, in fact:

25                      "[...] who intend to proceed

1                   towards degrees or to obtain diplomas  
2                   certificates or other academic  
3                   qualifications at Laurentian  
4                   University shall register at  
5                   Laurentian University and must comply  
6                   with the requirements of Laurentian  
7                   University for entry to and  
8                   registration in Laurentian University  
9                   and to become entitled to degrees,  
10                  diplomas, certificates or other  
11                  academic qualifications at Laurentian  
12                  University must comply with all  
13                  requirements of Laurentian  
14                  University."

15                  So those that are enrolled in  
16                  Federated Universities or colleges, that is  
17                  where they are taking their courses, they still  
18                  need to meet all of these conditions in order to  
19                  get their diploma from Laurentian University,  
20                  right?

21                  A.    If they are enrolled at a program  
22                  at the Federated University, yes.  At a program  
23                  that is delivered by the Federated University,  
24                  yes.

25   392                  Q.   Well, hold on.  So which programs

1 would we be talking -- would you be referring to  
2 when you're talking about the University of  
3 Sudbury --

4 A. It's talking about students  
5 enrolled in Federated University or college that  
6 -- they are referring to students enrolled in a  
7 program that is delivered through the Federated  
8 University or college as opposed to a student  
9 that is simply taking an individual course.

10 393 Q. Actually, if you keep reading, it  
11 says:

12 "[...] who intend to proceed  
13 towards degrees or to obtain diplomas,  
14 certificates or other academic  
15 qualifications at Laurentian  
16 University [...]."

17 So they are actually referring to  
18 courses that are being taken. They are not  
19 referring to programs. They are saying it's  
20 courses taken to obtain diplomas, certificates,  
21 and academic qualifications from Laurentian.

22 A. The reference to diploma -- go  
23 ahead.

24 MR. HANRAHAN: We can obviously have a  
25 legal argument about that, but what Mr. Haché

1 has said it is not inconsistent with what you  
2 just read. Students that are enrolled in  
3 programs through the Federated Universities do  
4 proceed to Laurentian degrees.

5 BY MR. CAZA:

6 394 Q. I think that is a good comment  
7 that in fact it is a legal document, and I  
8 should not be asking you for your legal opinion  
9 on that and I accept that objection.

10 So it goes on to say, the next  
11 sentence:

12 "In the case of students enrolled  
13 in Federated Universities or colleges  
14 [...]."

15 And you're saying that is when they  
16 are enrolled in a program, right?

17 A. That's -- that's where they are  
18 enrolled, yes.

19 395 Q. It says:

20 "[...] fees paid shall be  
21 apportioned between Laurentian  
22 University and such federated  
23 universities or colleges as may from  
24 time to time be agreed upon between  
25 the parties [...]."

1                   While, actually, if somebody is  
2                   enrolled for one course you are sharing the  
3                   fees, correct? There is a sharing of fees?

4                   A.    There is a sharing of tuition,  
5                   yes.

6   396            Q.    And grants, not just tuition but  
7                   grants also, correct?

8                   A.    At the present time it's simply  
9                   tuition.

10   397           Q.    Okay. Sorry, what do you mean by  
11                   the present time it's only tuition?

12                   A.    We were talking about the 2019  
13                   agreement.

14   398           Q.    I'm sorry, yes.

15                   A.    Right, so that the agreement  
16                   that's in force when a student registered in a  
17                   Laurentian program takes a course at the  
18                   University of Sudbury, let's say, the tuition  
19                   from that course flows through to the University  
20                   of Sudbury. When a student at -- registered in  
21                   a program at the University of Sudbury takes a  
22                   course at Laurentian University, the tuition is  
23                   retained by Laurentian and the grant is retained  
24                   by the University of Sudbury.

25                   So when a student registered in a



1 program at the University of Sudbury takes a  
2 course at the University of Sudbury, both the  
3 grant and the tuition flow through to the  
4 University of Sudbury. That is the current  
5 funding model.

6 399 Q. Okay. That's correct, okay. And  
7 if we go to paragraph 9, it goes on to say:

8 "Laurentian University agrees to  
9 assume the contracts of employment  
10 [...]" et cetera.

11 If we go to page 5, paragraph 11:

12 "General facilities provided by  
13 Laurentian University such as physical  
14 training, health and athletic  
15 facilities, buildings and quarters  
16 (other than residences) provided for  
17 the use of Laurentian University  
18 faculty and students shall be  
19 available to the faculty and students  
20 of Sudbury University upon the same  
21 fee basis as to the faculty and  
22 students of Laurentian University."

23 And that's presently the case?

24 A. I believe that is correct, yes.

25 400 Q. And if go to paragraph 12:

1 "Laurentian University shall  
2 allocate and reserve land within its  
3 campus [...]."

4 Okay, that we know has been done.  
5 If we now go to page 6?

6 A. Yes.

7 401 Q. Paragraph 15:

8 "Any federation or affiliation  
9 agreements or modifications thereof  
10 relating to federation or affiliation  
11 with Laurentian University shall be  
12 discussed with the universities and  
13 colleges federated or affiliated with  
14 Laurentian University prior to  
15 Laurentian University entering into  
16 any such agreements or agreeing to  
17 modifications of any such agreement."  
18 And then we go to 17:

19 "Both Laurentian University and  
20 Sudbury University declare and express  
21 the firm hope and conviction that the  
22 relationship between the Universities  
23 established by this agreement will be  
24 a permanent one and that they and the  
25 other universities and colleges which

1                   become federated or affiliated with  
2                   Laurentian University will work  
3                   together to fulfill the objects of the  
4                   Act of Incorporation of Laurentian  
5                   University and to build a great  
6                   institution of learning which shall  
7                   forever be bi-lingual and  
8                   non-denominational in its character.  
9                   The Parties fully realize that the  
10                  success of the task which they have  
11                  set themselves will depend more on  
12                  mutual understanding, goodwill and  
13                  cooperation between the institutions  
14                  now or hereafter together in  
15                  Laurentian University, than upon any  
16                  formal agreement."

17                  And the question I have for you is,, I  
18                  want you to tell me what the university did  
19                  before imposing its condition, and effectively  
20                  its hope, to bring to an end the agreement, this  
21                  present agreement? What it did to show mutual  
22                  understanding, goodwill and co-operation?

23                  A.    I initiated conversations with  
24                  the presidents of the three federated  
25                  institutions in June, I believe it was June of

1 last year, to see whether we could -- how we  
2 could go forward. It was clear, I mean it talks  
3 about a firm hope in the first part and a  
4 permanent relationship. That assumes that all  
5 parties continue, including Laurentian  
6 University.

7 And the current financial situation of  
8 Laurentian is that it will not be able to  
9 continue under the present relationship. So  
10 there were conversations that were initiated on  
11 the basis of needing to talk about reciprocity  
12 and everything being on the table to develop  
13 that relationship going forward that would work  
14 for all parties. And that was initiated in  
15 June.

16 402 Q. Oh, sorry. Go ahead. I didn't  
17 want to interrupt you.

18 A. No, that was the end of my  
19 answer.

20 403 Q. Mr. Haché, you can agree with me  
21 that at no point did you ever have a discussion,  
22 from June 2020 right through to February 1st,  
23 2021, at no point did you ever advise anyone at  
24 the Federation, at any of the federations,  
25 Federated Universities, that what you intended

1 to do was to terminate the agreement, that's  
2 fair?

3 A. That is not correct. What I --  
4 when we started the conversation, I explicitly  
5 indicated that all options needed to be on the  
6 table.

7 404 Q. Sorry, that's not my question.  
8 I'm asking you very specifically, is it your  
9 evidence that you told -- you -- that you or  
10 anyone at Laurentian University actually told or  
11 advised -- I'm not talking about all options --  
12 actually advised and said that you intended,  
13 that you were actually looking at bringing to an  
14 end the agreement between Laurentian University  
15 and the Federated Universities?

16 I'm not -- I'm not -- this is not --  
17 I'm not asking you, you know, you're doing this  
18 under CCAA? What's your opinion? Can you do  
19 that? I'm not asking you that.

20 All I'm saying, there was never that  
21 discussion where you told them, Laurentian told  
22 the Federated Universities this is what we're  
23 looking at and that there was a discussion. I  
24 mean basically what happens is, my understanding  
25 and from what you told me is, Laurentian got

1 its -- has now -- has got its back up against  
2 the wall and your position is that you have no  
3 choice but to proceed in this fashion, is that  
4 correct?

5 A. That is correct. We have no  
6 choice but to proceed in this fashion.

7 MS. MILLER: You've asked about four  
8 questions without giving him an opportunity to  
9 answer those questions. You asked whether there  
10 were any discussions with respect specifically  
11 to a termination. Can you please allow him to  
12 answer that question?

13 BY MR. CAZA:

14 405 Q. So why don't I ask that question  
15 again, just so we're clear when you're answering  
16 it.

17 There was no specific meeting and  
18 there was no specific correspondence, and there  
19 was never any specific discussion where a  
20 representative of Laurentian University  
21 advised -- and I'm talking any time before  
22 February 1st, 2021, advised of Laurentian  
23 University's either interest or intent to bring  
24 to an end its agreement with the Federated  
25 Universities, that's fair?

1                   A.    So you're asking the question in  
2                   a very specific way.

3   406            Q.    Yes.

4                   A.    So let me be specific in my  
5                   answer.

6   407            Q.    Can you answer --

7                   A.    In the conversations -- I'm  
8                   trying to answer the question as accurately as I  
9                   can.

10                           In the conversations that happened  
11                   between myself and the presidents of the three  
12                   federated institutions, discussing potential  
13                   pathways forward for the Federation, I  
14                   explicitly indicated that all options needed to  
15                   be on the table including ending the current  
16                   federated structure.

17                           Now did I notify them that that was  
18                   the intention of the university? Which is the  
19                   other part of the question. What I explicitly  
20                   said that all options needed to be on the table,  
21                   so that is not expressing an intent to  
22                   immediately go to that conclusion, but that is  
23                   saying that this needs to be included in the  
24                   conversation.

25   408            Q.    Who was -- how many meetings are

1       you talking about, where you specifically said  
2       ending the current structure, basically  
3       terminating the Federation Agreements, that you  
4       put that on the table to be discussed? What  
5       meeting was that? How many meetings?

6                   A.    We met regularly from June  
7       through the end of the year once or twice a  
8       month, and that was --

9       409           Q.    And --

10                  A.    -- that was part of the  
11       conversation. You know, did that statement  
12       explicitly come up at every meeting? I can't  
13       say. Was it part of the -- was it part -- was  
14       it something that was on the -- that I put on  
15       the table and did not take off the table? Yes.  
16       Was it something that was responded to in a  
17       positive fashion? No.

18       410           Q.    Who was at the meeting where  
19       you -- first of all, I want to be clear to you.  
20       Your evidence is that you specifically said at a  
21       meeting -- I just want it to be clear -- that  
22       you advised everyone present that one of the  
23       options Laurentian University was considering is  
24       ending the agreements it had with the Federated  
25       Universities? You have a recollection of having



1       said that at a meeting?

2                   A.    I -- you know, I will be -- I  
3       will correct the way in which it is being said.  
4       So my recollection is that we needed to -- in  
5       looking at how we might be able to move forward,  
6       we needed to look at all options, all options,  
7       including ending the existing or substantially  
8       changing the existing federation structure.

9   411            Q.    Okay. And when you -- just so  
10   I'm clear, when you're giving your evidence and  
11   you say "all options" and then you continue  
12   giving sort of examples of an option, are you  
13   saying that those were understood when you said  
14   "all options" or did you specifically provide  
15   those details during the meeting?

16                  A.    I provided the details in the way  
17   in which I recounted it. That's -- that's my  
18   recollection of what I said during those  
19   meetings.

20   412            Q.    And to whom did you say that that  
21   was a representative of the Université de  
22   Sudbury?

23                  A.    John Meehan.

24   413            Q.    So you told that to John Meehan?  
25   And who did you tell that to who was a

1 representative of Thorneloe University?

2 A. John Gibaut and Kevin McCormick  
3 from Huntington.

4 414 Q. So let's -- and then I think  
5 it's -- in fairness, so you had discussions. I  
6 think we can both agree that the issue of  
7 terminating the agreement was never actually  
8 discussed. You advised that that was one of the  
9 options but there was never any discussion, is  
10 that fair?

11 A. Yeah, there was no conclusion,  
12 but that was the -- that what needed to be done.  
13 There might have been another way to -- you  
14 know, we were having conversations to see how we  
15 could work through the issues that existed.

16 415 Q. But you never had a discussion,  
17 for example, of what the consequences would be  
18 if that ended? Like, it never got to that in  
19 your discussions? Is that fair?

20 A. No, there was not an interest to  
21 entertain that discussion.

22 416 Q. Now, if we can now go back to  
23 your affidavit? One second, please.

24 Mr. Haché, if I can ask you, when you  
25 talked about and you mentioned one of the

1 possibilities was ending the current structure,  
2 the suggestion wasn't that there would no longer  
3 be any relationship between the university and  
4 the federated -- Laurentian University and the  
5 Federated Universities; what you're saying is  
6 the actual structure that existed would need to  
7 be changed dramatically, is that fair?

8 MS. MILLER: Mr. Caza, I think he's  
9 given that answer.

10 MR. CAZA: Actually no, he hasn't  
11 given that answer because I haven't asked that  
12 question.

13 MS. MILLER: You have asked and it has  
14 been answered and I think the record will  
15 reflect that.

16 MR. CAZA: Well, I'm asking you now --  
17 no, actually I have not asked this question.  
18 I'm going to ask it again and if you object,  
19 object, and Mr. Haché, you may want to wait  
20 until I finish my question before answering.  
21 Ms. Miller may be objecting, just so you know.

22 417 Q. My question is, you've spoken and  
23 told us that one of the options that you said  
24 that was part of the package or was on the table  
25 is ending the current structure. You're saying

1       -- I wrote in my notes that that is what you  
2       said.

3               So my question to you is, when you --  
4       when that -- when you talked about and you said  
5       that was one of the options being considered was  
6       ending the current structure, I think we can  
7       both agree that that didn't necessarily mean  
8       that there would no longer be a relationship  
9       between the Laurentian University and the  
10       federated colleges?

11              A.    It didn't presume that there  
12       would be zero relationship, but it didn't  
13       presume as to what form a relationship there  
14       might be.

15   418            Q.    If we can go now to page 24,  
16       paragraph 78.  Let me know when you're there?

17              A.    Yes.

18   419            Q.    So we've got here, it says:

19                    "Pursuant to an Indenture between  
20       [Laurentian University] and [Sudbury]  
21       dated April 9, 1965 [Laurentian  
22       University] leased certain land for a  
23       term of 99 years to allow [Sudbury] to  
24       construct buildings and student  
25       housing for [Sudbury].  Provided that

1 [Sudbury] performs all of the  
2 covenants during the term of the  
3 [Sudbury] Indenture, [Laurentian  
4 University] is required to renew the  
5 lease for a further 99 years on  
6 substantially the same terms."

7 You're not alleging that up until now  
8 there's been any failure to perform any  
9 covenant?

10 A. No.

11 420 Q. Okay. And if we look at  
12 paragraph 79, it lists -- it's a list that you  
13 provided from the SU Indenture as to when  
14 Laurentian University may terminate the  
15 indenture, and I think we agree that none of  
16 those conditions are met in the present case?

17 A. I believe that's correct.

18 421 Q. We can now go to page 27. And  
19 if -- I'm at paragraph 88, and there's a  
20 reference to Exhibit P. And if we can -- if I  
21 can just draw your attention, if you can pull up  
22 Exhibit P? So basically they are the same  
23 question -- it's the same wording as the last so  
24 we'll just move on.

25 -- RECESSED AT 11:10 A.M. --

1                               -- RESUMED AT 11:18 A.M. --

2                               BY MR. CAZA:

3   422                   Q.    So Mr. Haché, can we go to  
4           page 88? If we go to page 88 and I'm looking at  
5           paragraph 292. Let me know when you're there.

6                               A.    I'm there.

7   423                   Q.    So this is the section under your  
8           affidavit that's titled "Objective of the CCAA  
9           Filing", and we see the -- your evidence goes  
10          from page 292, and it keeps going until section  
11          9.

12                            So what I would like to do is if you  
13          have got 229, it says here -- and I'm just  
14          looking at it -- "Proposed Restructuring of  
15          [Laurentian University]" paragraph 292:

16                               "Leading up to this application  
17                               for protection under the CCAA, I have  
18                               worked with Internal Team to plan for  
19                               'Laurentian 2.0.'"

20                            Just so that I'm clear, is that how  
21          you're referring -- I guess 2.0 is what the  
22          Laurentian -- what you're hoping it will look  
23          like after the CCAA process has been completed;  
24          is that what we're talking about?

25                               A.    Yeah, the new Laurentian going

1 forward.

2 424 Q. And it says:

3 "Externally, Laurentian 2.0 will  
4 not look or feel much different than  
5 [Laurentian University] today because  
6 a vast majority of [Laurentian  
7 University] students take the most  
8 popular courses and the delivery of  
9 those courses should not materially  
10 change. However, [Laurentian  
11 University] will be internally  
12 overhauled from an operational and  
13 financial standpoint to focus on its  
14 strengths and shed areas of relative  
15 weakness or unnecessary costs."

16 And that, as I was saying, is under a  
17 section that's called "A. Proposed Restructuring  
18 of [Laurentian University]."

19 Now, it says at 293:

20 "Today, the future of [Laurentian  
21 University] could be in jeopardy due  
22 to, among others, the following  
23 factors:"

24 And it goes A, B, C, D, E. Can you --  
25 I just want to make sure that everything we find

1 in section 293 refers only to Laurentian  
2 University and not the Federated Universities.

3 A. Paragraph (b) says:

4 "[...] the annual cost to educate  
5 each student at [Laurentian  
6 University] and the Federated  
7 Universities [...]."

8 So I guess that one refers to both.

9 425 Q. How about the other -- the five  
10 other ones, (a) (c), (d) and (e)? Just confirm  
11 that that is all with respect to Laurentian  
12 University?

13 A. That is correct, I believe.

14 426 Q. Now, if go to next page,  
15 paragraph 294?

16 A. Yes.

17 427 Q. If you could just confirm that  
18 you're looking at the implementation -- in  
19 implementing Laurentian 2.0 you're going to be  
20 addressing these four operational and financial  
21 issues.

22 And can you confirm that the four of  
23 them are with respect to Laurentian University  
24 and have nothing to do with the Federated  
25 Universities?



1 A. Yeah, that is correct.

2 428 Q. If we go to 295 we see that -- it  
3 seeks to accomplish the foregoing, everything  
4 you've said by:

5 "(a) Restructuring the Academic  
6 Model by streamlining academic  
7 programming and delivery through the  
8 reduction of number of programs,  
9 restructuring academic supports and  
10 terminating the agreements and  
11 relationship with the Federated  
12 Universities."

13 Can you explain to me how by  
14 accomplishing what we've just read, terminating  
15 the agreements and relationships with the  
16 Federated Universities is going to assist you to  
17 accomplishing this?

18 A. It will -- it will reduce the  
19 outflows of revenue for teaching activities that  
20 can be accomplished readily within Laurentian  
21 University.

22 429 Q. So if I could just break that  
23 down, it will reduce the outflow of revenues,  
24 and the outflow of revenues are monies that are  
25 paid in tuition and grants for courses offered

1 by the Federated Universities? That's what  
2 you're talk be about, right?

3 A. Tuition specifically, yes.

4 430 Q. So tuition that's paid to the  
5 Federated Universities for courses that are  
6 taken at the Federated Universities. And what  
7 you're saying is, if that's no longer available  
8 we're going to be able to offer those courses  
9 ourselves and keep the tuition fee, is that  
10 fair?

11 A. Not quite. What I'm saying is  
12 that we already offer courses that are available  
13 that are not -- which have capacity to take in  
14 those students, so we're not offering additional  
15 courses but simply to fill the courses that we  
16 do have on offer.

17 431 Q. Let me rephrase my question,  
18 Mr. Haché. So what you have is -- what you're  
19 looking at is, by terminating the agreements and  
20 the relationship with the Federated Universities  
21 they will no longer be able to offer the courses  
22 that they're presently offering at their  
23 universities, and for which students, through  
24 Laurentian, are paying tuition fees?

25 A. Students at Laurentian would no

1 longer have the ability to take courses at the  
2 Federated Universities as credit towards their  
3 Laurentian degrees, yes.

4 432 Q. And just so I'm clear, so then  
5 the way you get money is then what you're  
6 looking is you have courses that you're already  
7 offering, and those students would then take  
8 those courses instead of taking the courses at  
9 the Federated Universities?

10 A. Yeah, those courses would have  
11 higher numbers of registrants.

12 433 Q. Now, if University of Sudbury was  
13 to awaken its degree-discerning ability to be  
14 able to get degrees, and they started, in fact,  
15 offering courses, if they did would you  
16 recognize those courses? Have you thought about  
17 whether you're recognize those courses toward a  
18 Laurentian University diploma?

19 A. There is a mechanism in the --  
20 provincially, and may even be nationally, but  
21 certainly there is a mechanism provincially for  
22 students to request to take a course at another  
23 institution and have credit granted back at the  
24 home institution. That's an existing mechanism.  
25 I imagine that that mechanism would have to be

1 followed and utilized, assuming that --

2 434 Q. If it was followed and utilized  
3 then it wouldn't work any more because if  
4 people -- if your students wanted to take the  
5 courses at the University of Sudbury then you  
6 wouldn't be getting the income you had hoped to  
7 get, right? The only way that works is if the  
8 University of Sudbury doesn't offer courses,  
9 right?

10 A. Not correct. It's called the  
11 "Letter of Permission". So the student has to  
12 demonstrate that the course that they are  
13 wishing to take is both necessary for their  
14 degree and not offered at the -- at their home  
15 institution.

16 435 Q. Okay. So just so we're clear.  
17 So the only way -- and so that's important that  
18 I understand that, so if I -- if I am a student  
19 at Laurentian and I want to take a course at the  
20 University of Ottawa, for example, or a couple  
21 of courses at the University of Ottawa, I then  
22 need you to recognize those courses if I'm going  
23 to get a diploma from Laurentian University.

24 And you're saying one of the criteria  
25 that's used is whether or not a course or

1 similar course was offered and could have been  
2 obtained at Laurentian, and if it has or is  
3 you're not going to recognize the course from  
4 another university?

5 A. A Letter of Permission is  
6 required for the student to take the course at  
7 an external university and have it registered as  
8 credit at the home university. That is for  
9 Laurentian, that's for every university in  
10 Ontario.

11 436 Q. Okay. That's fine.

12 So we've had Thorneloe that have  
13 provided that evidence if the agreement is  
14 terminated they will not be in a position to  
15 continue and to offer courses, et cetera.

16 So you would be accomplishing your  
17 goal, definitely, with respect to terminating  
18 your agreement with Thorneloe if you know they  
19 won't be able to continue, correct?

20 A. Well, our goal is for Laurentian  
21 students to register more fully in Laurentian  
22 courses, yes.

23 437 Q. Your goal is to stop students  
24 from being able to take courses at the Federated  
25 Universities that count towards their

1 university -- Laurentian University diploma;  
2 that's your goal, right?

3 A. I believe that was the answer I  
4 gave. It says essentially the same thing.

5 438 Q. So what I've said and what you're  
6 saying, we can agree, is essentially the same  
7 thing, right?

8 A. I think there is a difference in  
9 emphasis, but yes.

10 439 Q. Now, if I can now go to 297. So  
11 paragraph 90:

12 "[Laurentian University] intends  
13 to use this CCAA proceeding to  
14 commence an intensive mediation with  
15 certain of its stakeholders that can  
16 be conducted within a relatively short  
17 time frame [...]."

18 That intensive mediation that you're  
19 referring to, did that also apply to your  
20 discussions with the Federated Universities?

21 A. Yes, it did.

22 440 Q. Now, and it says at paragraph  
23 298:

24 "More particularly, during this  
25 CCAA proceeding, [Laurentian

University] intends to: (a)  
complete its review of the breadth of  
academic programs offered at LU to  
ensure that adequate students are  
enrolling in programs and classes to  
justify their continuance at  
[Laurentian University] and engaging  
in discussions with the Senate of  
[Laurentian University] in respect of  
same."

And (b) says:

"Re-evaluate the Federated  
Universities model in such a way that  
the historic significance of the  
Federated Universities can be  
preserved while ensuring that the  
relationships reflect the current  
realities of each organization."

Okay, what does that mean? Because  
this is part of your affidavit? What does that  
mean?

A. It means, as you pointed out  
earlier, we have a 60-year relationship. There  
are students that -- many students that have  
gone through and done programs or courses at the

1 three federated institutions. There is a legacy  
2 there. And to me certainly history is  
3 important.

4 And having -- finding a way to  
5 recognize that legacy, as we go forward, through  
6 whatever means we could come together on, I  
7 think was -- is something, you know, it's --  
8 that is certainly important I think to me  
9 personally, recognizing the importance of  
10 history.

11 And I think providing that legacy  
12 factor I think is simply something that I -- we  
13 thought would be a positive development.

14 441 Q. Now, I'm assuming you didn't  
15 write this affidavit? It was written by someone  
16 else and you reviewed it to satisfy yourself of  
17 its contents, is that fair?

18 A. Yes, I reviewed it and edited it  
19 and suggested this and that along the way,  
20 absolutely.

21 442 Q. But the initial draft was written  
22 by someone else?

23 A. Working with my counsel, yes.

24 443 Q. I'll tell you why. I think you  
25 will agree with me, in light of everything



1       you've told me about what the situation was at  
2       the time you signed your affidavit, what the  
3       situation was, where you were looking at what  
4       your actual options were, I think you'll agree  
5       that the word "reevaluate", "reevaluate" is a  
6       little disingenuous.

7               That's really -- that is not the word  
8       you wanted to put there. I mean, you should  
9       have been putting there, "bring to an end" the  
10      Federated University model in such a way that  
11      you weren't reevaluating anything.

12             You had made a decision. You were  
13      bringing it to an end. You'll agree with me  
14      that is the wrong word to put?

15             A. Well, I think practically  
16      speaking at that time, as we got to the 30th of  
17      January, it became obvious that there were  
18      not -- there were not a lot of practical  
19      alternatives to what you just said.

20   444           Q. There were none?

21             A. I won't say there were none, but  
22      I would say there didn't seem to be any  
23      practical call alternatives.

24   445           Q. Okay.

25             A. And so if you think we should

1 have used a word that was stronger then  
2 "reevaluate", maybe we should have.

3 446 Q. And just so that I'm clear, now I  
4 see what you're saying. You're saying, there  
5 was really no practical alternative --

6 A. There seemed to be. To me, to  
7 us, we were open to practical alternatives but  
8 there didn't seem to be --

9 447 Q. Well --

10 A. There were none that we seemed to  
11 be able to identify at the time.

12 448 Q. Well, we'll talk about how open  
13 you are there. But when you say the practical  
14 reality is, you are in desperate need of cash  
15 and need to restructure. So practically  
16 speaking you need to find a way to keep the  
17 monies that are flowing through you at the  
18 university, I think that's fair?

19 A. That's fair.

20 I know the court reporter was going to  
21 tell us to not speak at the same time.

22 449 Q. That's fair.

23 If we go to paragraph 299.

24 "In 2019, [Laurentian University]  
25 provided notice of a change in the

1 funding agreement between [Laurentian  
2 University] and each  
3 of the Federated Universities."

4 We've already talked about that:

5 "While this amendment was  
6 necessary to make the funding  
7 arrangements consistent with metrics  
8 in respect of tuition and grants from  
9 the Province, further work is  
10 required."

11 So what you're saying is that your  
12 amendment was not sufficient to meet your dire  
13 financial needs, is that fair?

14 A. That is correct.

15 450 Q. And you go on to say:

16 "[Laurentian University]  
17 estimates that the Federated  
18 Universities model costs [Laurentian  
19 University] approximately \$5 million  
20 each year."

21 So, I just want to understand here.  
22 The \$5 million a year is the amount of money  
23 that is flowing through you, basically being the  
24 source of revenue, the full source of revenue of  
25 both of your Federated Universities, correct?

1 That is the \$5 million?

2 A. You said -- can you repeat that  
3 please? I'm not sure I understood it correctly.

4 451 Q. When you say the model costs  
5 Laurentian University approximately \$5 million a  
6 year, what you're referring to is there is  
7 \$5 million flowing through you, which is the  
8 revenue to the Federated Universities for  
9 teaching their courses. And that revenue, when  
10 you say it's costing you, is that you are giving  
11 it to them, giving them the revenue instead of  
12 keeping it by having students take your own  
13 courses?

14 A. Yes, substantially that the  
15 revenue that flows for the teaching of  
16 Laurentian students in courses at the Federated  
17 Universities exceeds the revenue that is  
18 retained at Laurentian for teaching courses at  
19 Laurentian for students that are registered in  
20 programs at the Federated Universities.

21 452 Q. But the \$5 million is the total  
22 revenue that is paid for grants and tuition to  
23 the Federated Colleges for the courses that they  
24 are offering, that is the \$5 million, right?

25 A. No.

1 453 Q. So what's the 5 million --

2 A. That is the \$9.1 million we were  
3 talking about earlier, minus the administration  
4 fee.

5 454 Q. So what's the 5 million? Where  
6 do you get the 5 million figure. Where is that?

7 MS. MILLER: Mr. Caza, if you direct  
8 him to the sentence it refers to estimates.

9 BY MR. CAZA:

10 455 Q. I actually read this:

11 "[Laurentian University]  
12 Estimates that the Federated  
13 Universities model costs [Laurentian]  
14 approximately \$5 million each year."

15 That 5 million, when you say "costs",  
16 that is the amount of money flowing through  
17 Laurentian going to the Federated Universities  
18 to pay for the courses, right?

19 A. That is correct.

20 456 Q. All right. Let's move on.

21 That's what I understood.

22 -- OFF-THE-RECORD DISCUSSION --

23 BY MR. CAZA:

24 457 Q. So if we go to paragraph 301 at  
25 page 91? It says:

1 "This Court-supervised proceeding  
2 will assist [Laurentian University] in  
3 focusing its discussions and  
4 negotiations with leadership of the  
5 Federated Universities to arrive at a  
6 compromise and solution that is  
7 acceptable and, more importantly,  
8 ensures the long-term sustainability  
9 of [Laurentian University]."

10 Then you go on:

11 "If necessary, [Laurentian  
12 University] may utilize the proposed  
13 mediation [...]."

14 When you talk about "arrive at a  
15 compromise and solution", that compromise and  
16 solution would need to include Laurentian  
17 University being able to deep basically the  
18 monies that are flowing to the Federated  
19 Universities for the courses that the students  
20 are taking there, is that fair?

21 A. It would need to balance the  
22 teaching that happens at the Federated  
23 Universities and at Laurentian, yes.

24 458 Q. But actually it's more than that,  
25 or are you saying balance that could work? I

1 thought what you were saying is no, that  
2 couldn't work.

3 The compromise and solution needs to  
4 have -- needs to result in all of the revenue  
5 that is presently flowing through to be stopping  
6 at Laurentian, that's fair?

7 A. That would be the balance, yes.

8 459 Q. So that's the balance, okay.

9 Thank you.

10 If I can now go to page 114? Sorry --  
11 paragraph 302 at page 92. Can you just confirm  
12 that paragraphs 302 through to 306 have nothing  
13 do with the Federated Universities? That is all  
14 internal matters to Laurentian University?

15 A. Give me a moment to read them.

16 MR. HANRAHAN: Take a moment to read  
17 them.

18 BY MR. CAZA:

19 460 Q. Take your time and take a look at  
20 them. That's my understanding. Like I said  
21 going through them if you can just confirm.

22 A. (Witness reading the document.)

23 So to 30 what? What is the end  
24 paragraph.

25 461 Q. 06.

1                   A.    Yes, I believe that is correct.  
2       It refers entirely to Laurentian courses  
3       programs and faculty.

4   462           Q.    And it's the same with paragraph  
5       307?

6                   A.    (Witness reading the document.)  
7       Essentially, yes, although when you  
8       look at:

9                   "[...] focusing on student  
10       success leading to strong employment  
11       outcomes [...]."

12                   That speaks to activities and  
13       experiences that go beyond the classroom and  
14       would be available to all Laurentian students,  
15       including those registered in the federated  
16       programs, but substantially all related to  
17       Laurentian, yes.

18   463           Q.    Can I now draw your attention  
19       to -- it's the last tab in your last volume and  
20       it's tab HHH. It's A -- its the Firm Capital  
21       Corporation DIP Financing Agreement.

22                   A.    I believe you were saying HHH  
23       which starts "Firm Capital Corporation [...]."  
24       Okay.

25   464           Q.    Have you got a copy of that.



1 Yes, I do. So it's a seven-page letter, and  
2 attached to the letter is a schedule A, schedule  
3 B. Okay.

4 So I'm going to look at the letter.  
5 So that letter was sent to your attention,  
6 correct? On January 29, 2021?

7 A. That is the date.

8 465 Q. So we can assume that you would  
9 have received it on that date?

10 A. Fair assumption.

11 466 Q. Now, that's a fair assumption?

12 A. Yes, it's affair assumption. I  
13 would expect that's the date I received it.  
14 Unless I've been cutting out?

15 467 Q. No, that's fine.

16 So then we look at the purpose of the  
17 financing, a loan of \$25 million secured by  
18 super priority charge.

19 Then if I turn the page and we look at  
20 the interest rate, I just want do make sure I'm  
21 understanding this correctly. So the interest  
22 rate that will be paid on the \$25 million, okay,  
23 that was advanced, the interest rate is floating  
24 at the greater of 8.5 percent per annum, or the  
25 TD Canada Trust posted bank prime rate plus

1           6.05 percent.

2                       So it's a minimum interest, it's a  
3       minimum interest rate of 8.5 percent, right?

4           A.     That is what it says.

5       468       Q.     Now, the term, it says:

6                       "To mature May 1, 2021.

7                       Provided the DIP Financing is not  
8       in default, the DIP Lender shall agree  
9       to extend the Maturity Date to a date  
10      to be determined by further agreement  
11      between the Borrower and the DIP  
12      Lender, but in any event, such  
13      extension shall be for a minimum  
14      period of 90 additional days (July 30,  
15      2021) and a maximum of 5 months  
16      (October 1, 2021), subject to the  
17      Borrower achieving the following  
18      milestones [...]."

19                      So just to that I'm clear, your  
20      understanding -- I mean, this is written to you,  
21      is as long as DIP Lender is not in default, and  
22      my understanding is they are not in default, if  
23      you meet these conditions then there shall be an  
24      extension for a minimum of 90 additional days.  
25      Was that your understanding?

1                   A.    To the satisfaction of the lender  
2                   in to its sole and unfettered discretion. So my  
3                   understanding and that they have discretion.

4   469            Q.    But there's three -- but there's  
5                   three factors that you had to meet, right? One  
6                   is, you had to enter into a negotiated  
7                   settlement with LUFA, and you did that, right?

8                   A.    That is correct.

9   470            Q.    The second one was you had to  
10                  reach consensus among the stakeholders on  
11                  academic restructuring of the program offerings,  
12                  and we'll look at that later, that's the  
13                  academic restructuring. And is it your  
14                  understanding that you've done that?

15                  A.    The Senate has approved an  
16                  academic restructuring.

17   471            Q.    And the third one is:

18                               "The Borrower provides a revised  
19                               cash flow forecast and multi-year  
20                               budget to the DIP Lender, taking into  
21                               consideration the implementation of  
22                               the Faculty Settlement and the  
23                               Academic Restructuring, demonstrating  
24                               to the Lender, in its sole and  
25                               unfettered discretion that the

1 Borrower is financially sustainable."  
2 Have you provided that cash flow  
3 forecast?

4 A. Yes, we have, I believe. The  
5 Monitor can confirm that.

6 472 Q. Is that part of what's already  
7 been produced?

8 A. What do you mean? Is it in the  
9 documents.

10 473 Q. Yes.

11 MS. MILLER: Mr. Caza, the cash flow  
12 forecast was in fact filed with the court, it's  
13 referenced in the court's endorsement and it's  
14 attached to the Monitor's report.

15 BY MR. CAZA:

16 474 Q. Okay so, we find it in the  
17 exhibit of the Monitor's report?

18 MS. MILLER: Correct.

19 BY MR. CAZA:

20 475 Q. Thank you. Now, if go to page 3  
21 -- just so we're clear, there was no condition  
22 that you had to bring to an end the federated --  
23 your agreement with the Federated Universities,  
24 is that correct?

25 A. It's not mentioned explicitly,

1 no.

2 476 Q. Well, it's not even implicitly.  
3 That was not a condition when you received this  
4 document on January 29th, 2021, there was no  
5 condition of bringing to an end the federated --  
6 your agreement with the Federated Universities?

7 MS. MILLER: Mr. Caza, I think he's  
8 answered it was not explicitly mentioned. You  
9 have also read to him condition 3 and referred  
10 him to that.

11 BY MR. CAZA:

12 477 Q. I'm sorry, just so we're clear,  
13 so you're saying it was implicitly included,  
14 Mr. Haché?

15 A. I'm saying that condition 3, the  
16 borrower provide as revised cash flow, et  
17 cetera, et cetera, to the lender in its sole and  
18 unfettered discretion that the borrower is  
19 financially sustainable.

20 So what that says to me is that the  
21 lender has the sole and unfettered discretion to  
22 determine whether the borrower is financially  
23 sustainable, above and beyond what is mentioned  
24 in 1 and 2.

25 478 Q. So the revised cash flow forecast

1 that you provided, okay, does it include  
2 \$5 million for having brought to an end the  
3 existing and federation operating agreements --  
4 the agreements with the federated --

5 A. Yeah.

6 479 Q. Where is the cash flow? Where  
7 would that be? Is that in one of the -- we'll  
8 just go off the record for a second, just to go  
9 find that document.

10 -- OFF-THE-RECORD DISCUSSION --

11 MS. MILLER: This is referring to what  
12 has to occur in order for that maturity date to  
13 be pushed out, right? Which is, these are  
14 conditions in favour of the DIP Lender, and  
15 condition 3 is referring to it having received,  
16 prior to May 1, a revised cash flow forecast and  
17 a multiyear budget, taking into account those  
18 demonstrating -- so the revised cash flow  
19 forecast, which is the cash flow forecast in  
20 support of the extension of the DIP, and the  
21 extension of the stay period, which is being  
22 filed, that's referenced in Mr. Haché's  
23 affidavit at the -- towards the end. I have  
24 pointed you to that provision previously. I can  
25 find you the paragraph.

1                   That is the revised cash flow forecast  
2                   that is being attached to the Monitor's report.

3                   MR. CAZA: Sorry, where would I find  
4                   that?

5                   MS. MILLER: So that's -- the  
6                   Monitor's report for the April 29th motion has  
7                   not yet been filed.

8                   MR. CAZA: Okay, so --

9                   MS. MILLER: But I think you're --  
10                  we're talking cash flow forecast, right, which  
11                  is for a period of time, right? You're talking  
12                  about apples and oranges here. The cash flow  
13                  forecast is just showing the ins and outs of  
14                  cash for a specific period of time.

15                  The cash flow for first attendance on  
16                  February 1 was for the period February 1 to  
17                  April 30. The cash flow forecast for the next  
18                  period is for May 1 to August 31.

19                  MR. CAZA: Now, that May 1 revised  
20                  cash flow forecast, do we have a copy of that?

21                  MS. MILLER: No, because that is being  
22                  filed as part of the Monitor's court report.

23                  MR. CAZA: Okay. So we --

24                  MS. MILLER: And are we on the record  
25                  or off the record?

1 MR. CAZA: We're on the record.

2 BY MR. CAZA:

3 480 Q. What about the multiyear budget  
4 to the DIP, has that been filed yet?

5 MS. MILLER: That is not something  
6 that I believe is being filed.

7 BY MR. CAZA:

8 481 Q. So what's being filed --

9 MS. MILLER: And I don't mean to be  
10 answering these questions. I'm just trying to  
11 be of assistance.

12 BY MR. CAZA:

13 482 Q. No, while here -- this is  
14 something that you would know, and I'm just  
15 trying to understand here and it is of  
16 assistance. So the revised cash flow forecast  
17 that the borrower is to provide as the third  
18 condition to being able to get the extension has  
19 not yet -- we have not yet seen it. It is going  
20 to be filed, I guess, on May 1st or whatever,  
21 right?

22 MS. MILLER: It is going to be filed  
23 whenever the Monitor files its report to the  
24 court in respect of the April 29 motion.

25



1 BY MR. CAZA:

2 483 Q. I guess what I'm trying to  
3 understand is -- because I think the evidence --  
4 and now I'm back to you Mr. Haché, you were  
5 saying that indirectly this point, point  
6 number 3, this term, may or does take into  
7 consideration the need or -- yeah, the need by  
8 Laurentian University, that's your argument, to  
9 bring to an end its agreements with the  
10 Federated Universities. Did I understand that  
11 correctly?

12 A. Yes. The go-forward budget does  
13 require -- for the university to be sustainable  
14 does require that.

15 484 Q. But we -- but we haven't seen  
16 that budget?

17 MS. MILLER: Again, I'm sorry to  
18 interrupt but you are a little bit mixing apples  
19 and oranges, but we'll leave it at that. I'm  
20 sorry to interrupt.

21 BY MR. CAZA:

22 485 Q. I guess what I want to know is, I  
23 want the judge to understand your -- I'm reading  
24 this. I don't see in paragraph 3 where your  
25 position that you need to end or terminate your

1 agreement with the Federated Universities is  
2 relevant unless you tell me that the revised  
3 cash flow forecast, for example, includes income  
4 that you're anticipating receiving as a result  
5 of bringing to an end your agreement with the  
6 Federated Universities?

7 MS. MILLER: What I'm saying,  
8 Mr. Caza, is that that number 3 that you've  
9 referred to refers to three things: One is the  
10 revised cash flow forecast, which is for the  
11 period of the stay extension; it also refers to  
12 a multiyear budget.

13 And you're referring to a revised cash  
14 flow forecast which is the point in time showing  
15 the ins and outs of cash for the period of the  
16 stay extension. And my point was simply to  
17 clarify for your benefit that point number 3 is  
18 referring to two different things.

19 BY MR. CAZA:

20 486 Q. Can we agree, Mr. Haché, and if  
21 we can't I want you to let me know -- can we  
22 agree that we're not in a position to question  
23 you on, to what extent your request to terminate  
24 the agreement with the Federated Universities is  
25 relevant to term number 3 until we actually see

1 the Monitor's Report?

2 A. So that wouldn't -- wouldn't be  
3 for me to say definitively, but from listening  
4 to the conversation, I understand that that  
5 information will be provided in the Monitor's  
6 Report.

7 487 Q. So have you seen a draft yet of  
8 the Monitor's Report?

9 A. No.

10 488 Q. So you're not aware if, in the  
11 Monitor's Report, the Monitor has assumed or is  
12 assuming getting revenue or additional revenue,  
13 additional income as a result of the termination  
14 of your agreement with the Federated  
15 Universities?

16 A. Right. So I have not seen the  
17 Monitor's Report. I have seen the cash flow  
18 forecast and the multiyear budget forecast for  
19 the university going forward.

20 And that multiyear budget forecast  
21 includes capturing all of the tuition for  
22 students that are registered in Laurentian  
23 programs to be taking Laurentian courses.

24 489 Q. Can you show me that document?  
25 Where is that document?

1 A. I do not have it before me.

2 490 Q. Can you get it during the lunch  
3 break?

4 A. No.

5 MS. MILLER: That is a draft. It is a  
6 draft.

7 THE WITNESS: It is a draft. It is a  
8 draft. It is not a completed document but it is  
9 a draft.

10 BY MR. CAZA:

11 491 Q. So I guess I'm -- so I'm at a bit  
12 of a loss. I would like to cross-examine you on  
13 that, even if it is a draft. So I guess my  
14 question is, am I able to do that or you're not  
15 going to be providing the draft?

16 R/F MS. MILLER: No, we would object to  
17 providing a draft.

18 BY MR. CAZA:

19 492 Q. Now, just so I'm clear, so what  
20 you have is you have a DIP Lender that needs to  
21 be satisfied of your financial sustainability  
22 and that DIP Lender -- that is all the DIP  
23 Lender is looking at. What you're telling us is  
24 you've decided -- Laurentian University, you've  
25 decided to include in the document that will

1 hopefully convince the borrower of your  
2 financial sustainability, revenues that you  
3 anticipate receiving if you bring an end to  
4 the -- to the agreement between Laurentian  
5 University and the Federated Universities?

6 A. We're -- we're developing a  
7 budget that reflects the revenues and expenses  
8 of the university under the new structure going  
9 forward.

10 493 Q. Okay. And is it your evidence  
11 that you will not be able to demonstrate that  
12 you are financially sustainable unless the court  
13 brings to an end the agreement between  
14 Laurentian University and the Federated  
15 Universities?

16 A. Yeah. So -- and we've talked a  
17 little bit about this during the course of  
18 this -- this examination this morning. There  
19 are a number of components, right, a number of  
20 components both on the revenue and on the  
21 cost-saving side that need to come together to  
22 formulate the budget.

23 And so this is -- this is an overall  
24 how do you get to a budget that is sustainable  
25 for the university? And in order to achieve

1 that, yes, at this point this does include  
2 termination of the relationship with the  
3 Federated Universities to -- to allow for  
4 Laurentian -- to provide a budget that provides  
5 for the prospect of a sustainable Laurentian  
6 University going forward.

7 494 Q. So Mr. Haché, has the decision  
8 already been made? Has the decision already  
9 been made that your revised cash flow forecast,  
10 okay, will definitely include getting cash flow  
11 from bringing to an end the agreement between  
12 Laurentian University and the Federated  
13 Universities?

14 A. So, you know, we have served the  
15 disclaimer --

16 495 Q. Yes.

17 A. -- indicating the desire to  
18 terminate by the end of April, and so our  
19 budgeting reflects that.

20 496 Q. And that's definite? Like, the  
21 budget you have reflects revenues that you're  
22 anticipating receiving as a result of this --  
23 that agreement being terminated?

24 A. Yeah, that the draft budget that  
25 is being developed is based on the expectations

1 for how we'll be able to go forward past  
2 May 1st.

3 497 Q. Okay. Now, and obviously the  
4 Court will be relying on that information  
5 because that is going to be quite relevant to  
6 the determination -- not only to the Court but  
7 also the borrower will very likely be relying on  
8 that information, correct?

9 A. I would expect so.

10 498 Q. I think it's crucial evidence and  
11 I want to see it. I want to see it, and I want  
12 the opportunity to cross-examine you on it  
13 because we don't accept that evidence.

14 And we have to have the opportunity to  
15 challenge it, and right now we don't because  
16 everything is being forced at a hundred miles an  
17 hour. So I'm putting this on the record.  
18 Whenever that cash flow forecast comes out, I  
19 want to have the opportunity to cross-examine  
20 you before the hearing, so if you want to use a  
21 draft, whatever it is. Because we're not  
22 accepting that evidence and that is evidence  
23 that is going to be key, I'm assuming, in the  
24 present -- in the upcoming motions. I'm putting  
25 that on the record.

1 I do have one question for you.

2 MR. YIOKARIS: Sorry to interrupt,  
3 Mr. Caza. We reiterate that concern that was  
4 just expressed. Thank you.

5 U/T MS. MILLER: And when the cash flow  
6 forecast -- to be clear, when that cash flow  
7 forecast is filed in support of the stay  
8 extension, absolutely, if there is any questions  
9 arising from that cash flow forecast, we will  
10 certainly either, you know, you can provide the  
11 answers in writing and we'll provide them or  
12 we'll make Mr. Haché available for a further  
13 brief cross-examination addressing the cash flow  
14 forecast.

15 BY MR. CAZA:

16 499 Q. Well, we also want the same  
17 undertaking for the budget, okay. The multiyear  
18 budget we need the same undertaking.

19 U/A MS. MILLER: We are only providing him  
20 for cross-examination if -- on any evidence  
21 that's filed with the Court on which the Court  
22 will be provided and the stakeholders are to be  
23 provided as part of this motion. If that  
24 multiyear forecast is filed, then that would be  
25 an option. If it is not, because it is still in



1 draft and it's not part of the evidence or the  
2 record for the April 29th motion, then we will  
3 not be.

4 MR. CAZA: Can we go off the record  
5 for a second? And we'll be back in a second.

6 -- OFF-THE-RECORD DISCUSSION --

7 BY MR. CAZA:

8 500 Q. We're back on the record.

9 Ms. Miller, just so we're clear, our  
10 understanding, and if I'm incorrect just let me  
11 know, is that if -- you say if the evidence you  
12 filed is before the Court, but that includes  
13 also if it's evidence you're providing to the  
14 DIP Lender, is that fair? Like, if you are not  
15 providing to the DIP Lender a multiyear budget,  
16 then I think it's -- it does become irrelevant.  
17 But if he is being provided or it is being  
18 provided, we then need to see it. Because if  
19 he -- it's relying on that, we want to have the  
20 opportunity to challenge any -- any numbers that  
21 are being put forward?

22 U/A MS. MILLER: We will take that under  
23 advisement.

24 BY MR. CAZA:

25 501 Q. Can you at least, just so we're

1 clear -- and I understand you're taking it under  
2 advisement. Can you at least let me know if  
3 you've done it so that I can then take the  
4 measures to attempt, and you can -- and I  
5 understand you may be disagreeing -- to attempt  
6 to at least challenge that evidence? I won't  
7 know if you don't let me know that you've  
8 actually provided it to him. Can I have that  
9 undertaking?

10 U/A MS. MILLER: No, we'll take that under  
11 advisement.

12 BY MR. CAZA:

13 502 Q. So if you are taking everything  
14 under advisement, how do I know if -- how am I  
15 able to protect my client's best interest here?  
16 You take it under advisement whether or not very  
17 relevant evidence is going to be provided? I'm  
18 not going to know unless you decide --

19 MS. MILLER: Well, we haven't accepted  
20 the "very relevant evidence" aspect of it, but I  
21 take that that's your position.

22 BY MR. CAZA:

23 503 Q. Well, I think it will be.

24 So when will the decision be made or  
25 when will you have that information as to

1 whether or not you will be filing those  
2 documents?

3 MS. MILLER: I don't expect we will  
4 be.

5 MR. CAZA: That's the fine. If you  
6 are, I'm asking you to let me know if you are.  
7 And we may have to take our own measures. I'm a  
8 little at a loss here where I can't see how I'm  
9 going to protect my client if I don't have an  
10 undertaking from you, not to accept my position,  
11 but to put me in a position where I'm able to  
12 challenge the information. That's all I want.  
13 And I can't do that.

14 So now what I need is I've got to get  
15 a court order, and I think that is what we are  
16 going to have to do -- we're going to have to  
17 get a court order that you are to advise me if  
18 you are giving that information and it's  
19 relevant to the decision being made by the DIP  
20 Lender, you going to have to let me know. And  
21 if you don't, well, we'll have to protect  
22 ourselves accordingly.

23 504 Q. Mr. Haché, if I may, so I want to  
24 be clear here. I want to know what your  
25 evidence is. We are challenging both Thorneloe

1 and Université de Sudbury, we are challenging  
2 your right to disclaim both of these agreements.

3 So your evidence is that if we're  
4 successful, Laurentian University is going  
5 bankrupt, right?

6 A. My evidence is that if that is  
7 successful, Laurentian University will not be  
8 able to continue into the month of May.

9 505 Q. And it will go bankrupt?

10 A. If that's the technical term. I  
11 know we will cease operations.

12 506 Q. I'll tell you why, because I'll  
13 tell you -- and maybe I can ask you one more  
14 question. You have no evidence and there is no  
15 contingency plan -- and there's been no  
16 discussion about how you're going to go about  
17 satisfying the DIP Lender if, indeed, your  
18 disclaimer is refused and that the agreement  
19 with the Federated Universities is maintained.  
20 You have not even discussed the possibility of  
21 convincing the DIP Lender to proceed with  
22 advancing you 10 more million dollars.

23 A. My understanding is that that is  
24 one of the conditions of the DIP Lender  
25 advancing us \$10 million.

1       507               Q.     Just so I'm clear, and that's the  
2       only reason why you're saying that it is -- that  
3       if the -- if the Federation Agreements don't  
4       come -- are not terminated with the Laurentian  
5       University's agreements with the Federated  
6       Universities is not terminated, that it's over  
7       because that is a condition that has been put  
8       into -- that's been put up by the DIP Lender?

9               MS. MILLER:  Objection.  That's not  
10       what he said.  He did not say that was the only  
11       reason.

12              BY MR. CAZA:

13       508               Q.     Well, what other reason is there,  
14       aside from the fact that the DIP Lender has put  
15       it in as a condition?

16              MR. HANRAHAN:  I think we discussed  
17       that quite extensively, right, the fact that it  
18       was tuition money and those changes that are  
19       necessary.  So to say that the DIP Lender is the  
20       only condition or the only reason, that's just  
21       not something that Dr. Haché said.

22              BY MR. CAZA:

23       509               Q.     So let's start with the DIP  
24       Lender as a condition, and in fact we know there  
25       is condition because he's told you, right?

1 Mr. Haché, has he --

2 A. It is --

3 510 Q. You have spoken to the DIP  
4 Lender?

5 A. It is in the terms for the  
6 renewal of the DIP loan.

7 511 Q. And did you speak to the DIP  
8 Lender on that issue?

9 A. I did not speak directly with the  
10 DIP Lender but through counsel.

11 512 Q. I'm a little confused here. So  
12 you have never had a conversation with the DIP  
13 Lender?

14 A. I have not spoken in Zoom with  
15 the DIP Lender, no, or on the telephone.

16 513 Q. And you've never -- so there has  
17 been no direct communication between the DIP  
18 Lender and yourself?

19 A. That is correct.

20 514 Q. So anything you know about what  
21 the DIP Lender is saying is basically hearsay  
22 evidence that you're getting from your lawyer,  
23 is that correct?

24 A. Well, it's written -- there is  
25 written.

1 MS. MILLER: Objection.

2 THE WITNESS: Yeah, okay, sorry.

3 MS. MILLER: Finish your answer which  
4 is --

5 THE WITNESS: There is written  
6 communication from them. All of my  
7 communication with the DIP Lender has been in  
8 writing.

9 BY MR. CAZA:

10 515 Q. And you produced all of that  
11 communication?

12 MS. MILLER: We're referring to a  
13 written term sheet, Mr. Caza, that is contained  
14 in the court record which --

15 BY MR. CAZA:

16 516 Q. Actually, if I may, you may want  
17 to let Mr. Haché answer this. Do you have any  
18 exchange of emails with the DIP Lender?  
19 Mr. Haché --

20 A. I don't believe --

21 517 Q. -- have you seen any emails?

22 A. Direct emails, I don't believe  
23 so.

24 518 Q. Well how about indirect? Have  
25 you seen emails exchanged between your lawyers

1 and the DIP Lender?

2 A. Not that I recall.

3 519 Q. I am asking to be produced all  
4 emails and all correspondence exchanged with the  
5 DIP Lender.

6 Okay, Ms. Miller I'm asking for that.  
7 All of the emails you sent to him or received,  
8 anybody on your team, including the Monitor,  
9 either sent to the DIP Lender or any of its  
10 representatives or received, I'm asking you to  
11 produce all of that correspondence.

12 R/F MS. MILLER: And we will not produce  
13 that. So you have a refusal.

14 BY MR. CAZA:

15 520 Q. Well, I will tell you, so what we  
16 have, okay, and I'm asking that -- my  
17 understanding -- what about examining for  
18 discovery the DIP Lender? Has the DIP Lender  
19 been made aware that we want to examine him?  
20 Does he know that?

21 MS. MILLER: His counsel was attending  
22 the case conference when that request was made,  
23 and His Honour specifically directed, pursuant  
24 to an endorsement following that case conference  
25 that questions of the DIP Lender were to be put



1 in writing to the Monitor.

2 BY MR. CAZA:

3 521 Q. Now, so if I -- if I now go to  
4 the -- I'm now in another document. It's your  
5 second -- it's your motion record. We were  
6 looking at your application record. Now I'm in  
7 your motion record.

8 MR. YIOKARIS: Mr. Caza, sorry to  
9 interrupt. Ms. Miller, I just wanted to confirm  
10 all undertakings, under advisements, and  
11 refusals --

12 MS. MILLER: You were cutting out a  
13 bit. I didn't hear what you just said, I'm  
14 sorry.

15 MR. YIOKARIS: Yes, sorry. I just  
16 wanted to make sure that all undertakings, under  
17 advisements and refusals for Mr. Caza are also  
18 made to our client as well?

19 MR. HANRAHAN: I think you're just  
20 saying you don't want to have to repeat all the  
21 same ...

22

23 MR. YIOKARIS: Correct.

24 MR. HANRAHAN: Yes.

25

1 BY MR. CAZA:

2 522 Q. So go to your Notice of Motion.

3 A. Yes.

4 523 Q. Have you got a copy?

5 A. Yes.

6 524 Q. So this one here, is it the same  
7 thing? You have the actual document? You don't  
8 have the record?

9 A. That is correct.

10 525 Q. So can we go to the first page of  
11 the Motion Record -- sorry, the Notice of  
12 Motion.

13 A. So page 3?

14 526 Q. Actually I think it's page 1. It  
15 would be -- it says on top "Ontario Superior  
16 Court, Commercial List" and then it has got  
17 "Notice of Motion"?

18 A. I only have a page 3. I may have  
19 it electronically.

20 527 Q. You've got the grounds for the  
21 motion. It's dated April 21 -- there it is,  
22 April 21st on page 9.

23 A. Oh, yes, here it is. I found it.  
24 I'd just taken the table of contents out of the  
25 document so I could follow it easier, I guess.

1       528               Q.     So we can agree on looking at  
2       what the motion is for, and I think we can agree  
3       that nowhere in the motion does it seek as one  
4       of the orders that the agreement between the  
5       university and the -- Laurentian University and  
6       the Federated Universities be terminated. It is  
7       not one of the orders that you are seeking in  
8       your motion, is that fair?

9               MS. MILLER: Mr. Caza, let him --

10              MR. HANRAHAN: Just to be clear, first  
11      of all it's a legal question, but second of all  
12      the motions are motions brought by University of  
13      Sudbury and Thorneloe, which is why it is not  
14      reflected as a motion we're bringing here.

15              MR. CAZA: Now, if you look at -- just  
16      stop for a second.

17              -- OFF-THE-RECORD DISCUSSION --

18              MR. CAZA: Sorry, Ms. Miller, I got  
19      taken aback a little bit. The Notice of Motion  
20      I'm looking is your motion; it is not our  
21      motion.

22              MS. MILLER: Correct. But what  
23      Mr. Hanrahan was trying to point out is that  
24      under the CCAA, the motion that is to be brought  
25      if a party opposes the disclaimer is the motion

1 brought by that party. Laurentian is not  
2 required to bring a motion for an order  
3 confirming the disclaimers. The disclaimers  
4 were issued and the CCAA provides what the  
5 process is thereafter.

6 BY MR. CAZA:

7 529 Q. Okay, I understand what you're  
8 saying.

9 So if we now go to page 3, which I  
10 think is the original page you had, Mr. Haché,  
11 are you with me?

12 A. I hope so. We'll see.

13 530 Q. It says:

14 "The grounds for this motion are  
15 [...]." Do you see that?

16 A. No, I don't have the right  
17 document. I'm looking at my affidavit.

18 531 Q. If you can just pull up the  
19 Notice of Motion? Or maybe -- maybe Ms. Miller  
20 can send it to you. I have an objection.

21 MS. MILLER: It should be in the  
22 bound, printed motion record called "Motion  
23 Record, returnable April 29". It was printed.

24 THE WITNESS: I don't believe I have  
25 that. I only have January 30th and April 21st.

1 BY MR. CAZA:

2 532 Q. I think we have 15 minutes before  
3 we are going to break. Are we breaking at  
4 12:30 or at 1:00?

5 A. 12:30.

6 -- OFF-THE-RECORD DISCUSSION --

7 BY MR. CAZA:

8 533 Q. Maybe during the break if you  
9 can -- if someone from your team, Ms. Miller,  
10 can provide Mr. Haché with a copy of the Notice  
11 of Motion I'd like to --- just if we can  
12 continue.

13 If we go to now your affidavit, and  
14 more specifically I would like to go to page 3.

15 A. I have it.

16 534 Q. Okay. So this is your affidavit.  
17 Are you with me at page 3?

18 A. Yes.

19 535 Q. And you say as follows  
20 "Introduction", and then you say at paragraph 3:

21 "This affidavit is sworn in  
22 support of [Laurentian University's]  
23 motion pursuant to the [CCAA], for an  
24 order substantially in the form of the  
25 draft order attached as Tab 3 of the

1 Motion Record [...]."

2 And then you have a list of everything  
3 you're seeking. So if I now go to page 5?

4 A. Yes.

5 536 Q. So page 5 and we're at paragraph  
6 10. It says:

7 "Although [Laurentian  
8 University's] overall enrollment  
9 numbers for full-time equivalent  
10 undergraduate students has decreased  
11 over the past several years [...]."

12 You talk about Laurentian's track  
13 record in attracting French-speaking -- can I  
14 just ask you, do you know how many full-time  
15 equivalent undergraduate students, like the  
16 total number you had in fall 2016?

17 A. Off the top of my head, no.

18 537 Q. How about 2020? Would you know  
19 what it was -- the total was for fall term 2020?

20 A. It's listed in the documents  
21 somewhere.

22 538 Q. Okay. I don't recall seeing it.

23 A. I believe it's -- it's in the  
24 order of 6,000.

25 MR. HANRAHAN: I think that might have

1           been in the initial affidavit.

2                       THE WITNESS: It may have been in the  
3           initial affidavit.

4                       BY MR. CAZA:

5   539               Q.    So 2020 would be about 6,000.

6           Okay, I remember seeing that.

7                       And what about 2016? I don't remember  
8           seeing the fall term 2016. Do you recall what  
9           the fall term was for that?

10                      A.   It would have been more than  
11           that.

12   540               Q.    It would have been more than  
13           6,000?

14                      A.   Yes, it would have.

15   541               Q.    Okay. That's fine. So we can  
16           keep going. So then if I go to page 8. So at  
17           page 8 we have, under paragraph 24, you say in  
18           the middle of the paragraph:

19                                "In addition, [Laurentian  
20                               University] has acquired Huntington  
21                               University's rights to the Gerontology  
22                               program, subject to the Order sought  
23                               on this motion being granted;"

24                      So, just so that I'm clear, so that is  
25           part of your agreement that you've reached with

1           Huntington's, correct?

2                   A.    That is correct, yes.

3   542           Q.    And then you mention that  
4           Laurentian has entered into an agreement with  
5           the University of Sudbury to teach six  
6           Indigenous study courses in the spring term.

7                   So when you say it's entered into an  
8           agreement, I think it's fair to say that this  
9           was an agreement that was entered into in order  
10          to ensure short-term relief to those students so  
11          that they -- we, both institutions were working  
12          together to minimize any and all inconvenience  
13          and problems with the individuals taking those  
14          courses, right?

15                  A.    Yeah, it was to allow the courses  
16          that would have been the normal course been  
17          offered in the spring term to continued to be  
18          offered so that students would not be impacted.

19   543           Q.    So if we now go to page 15, so --  
20          and I'm trying to understand this. You see  
21          under "A. Program and Course Closures," do you  
22          see that, Mr. Haché?

23                  A.    I see that.

24   544           Q.    Okay. Now, so it goes:  
25                   "Laurentian University's approach



1 to academic restructuring was guided  
2 by four foundational principles:"

3 The second one is:

4 "[Laurentian University] must  
5 continue to meet its mandate of being  
6 a bilingual and tri-cultural  
7 postsecondary organization in Northern  
8 Ontario providing access to  
9 post-secondary education in Northern  
10 Ontario and in the [greater] -- in the  
11 City of Greater Sudbury."

12 Now, I didn't read (a) but I think we  
13 can agree that (a) has nothing to do with actual  
14 programs in French, is that fair? 46(a)?

15 A. I think it's -- it's relevant to  
16 all our programs, that there must be financial  
17 sustainability for the University for all  
18 programs.

19 545 Q. Okay, so this is what I'm trying  
20 to get my mind around, and when we see (b), so  
21 when you talk about your mandate of "being  
22 bilingual and tri-cultural post-secondary  
23 organization," you're talking about -- where do  
24 we find that mandate?

25 A. Where do we find it? It's in

1 the -- in the vision -- in the mission and the  
2 vision of the university. It's also found in  
3 the partial designation of the university as a  
4 French language institution.

5 546 Q. And I want to get back to that.  
6 See in paragraph (c):

7 "[Laurentian University] must  
8 focus on programs and courses that are  
9 in higher demand today and are  
10 expected to be in the future, with  
11 appropriate levels of academic  
12 staffing across categories, with a  
13 process to re-evaluate student demands  
14 in the future;"

15 And the last one:

16 "post-restructuring" -- thanks for  
17 telling me, I apologize.

18 "(d) post-restructuring,  
19 [Laurentian University] must continue  
20 to pursue its vision of being a  
21 leading comprehensive research-engaged  
22 university [...]."

23 I just want to make -- just something  
24 so I'm clear, (c) and (d) are not specifically  
25 addressing French programs; they are addressing

1 all the programs of the university.

2 A. Including the French programs,  
3 yes.

4 547 Q. Including the French programs.  
5 And the same with (a). It's applying in the  
6 same way to French and English programs, (a),  
7 (c) and (d), correct?

8 A. Yes.

9 548 Q. And (b), when you say:  
10 "[...] must continue to meet its  
11 mandate of being a bilingual and  
12 tri-cultural post-secondary education  
13 [...]"

14 I'm trying to understand how the cuts  
15 that you made to the French programs, how does  
16 that work into you continuing to meet your  
17 mandate of being a bilingual post-secondary  
18 organization?

19 A. We are -- we are providing the  
20 French programming that is of interest and need  
21 to the students.

22 549 Q. So what you're doing, I'm just so  
23 I'm clear, is you're applying the same criteria  
24 that you applied to determining which programs  
25 you would cut in English to the French programs,

1       except that the French programs, because you're  
2       getting additional grants to provide them, the  
3       threshold was higher before you would cut one of  
4       those courses, correct?

5               A.    Yeah. The threshold for  
6       sustainability requires students -- fewer  
7       students registered in a French language program  
8       than an English language program because we do  
9       receive specific additional funds for that --  
10      for that French language mandate. And so we are  
11      not preferencing -- we are directing the funds  
12      for which we receive them in determining the  
13      sustainability of programs.

14   550           Q.   And your decisions as to which  
15      programs in French that you eliminated, which  
16      programs in English you eliminated, was a purely  
17      objective accounting exercise, correct?

18               A.    It was an objective exercise that  
19      looked at the sustainability, but also took into  
20      account the French Language Services Act and the  
21      overall mandate of the institution.

22   551           Q.   Actually, I don't understand why  
23      you're saying that, because the decision as  
24      to -- that was made to determine which programs  
25      you would be cutting, both in French and in

1 English, was purely an accounting exercise and  
2 the French programs, because you're getting  
3 extra grants, there was more leeway in that you  
4 were able to continue offering some courses,  
5 even though there were fewer students, because  
6 of the fact that you had these subsidies which  
7 is something that wasn't -- that was sort of --  
8 it was an advantage that the French programs had  
9 that the English ones did not.

10 MS. MILLER: Objection, Mr. Caza  
11 you're trying to put words in his mouth and  
12 you're attempting to say what he is not saying.  
13 In his evidence, as reflected in --

14 MR. CAZA: Don't repeat his evidence.

15 MS. MILLER: Okay. Well, he has  
16 answered the question and given the answer, and  
17 his answer to you was that it was not purely  
18 economic.

19 BY MR. CAZA:

20 552 Q. Well, then, can you please  
21 explain to me --

22 MS. MILLER: Please restate the  
23 question, if you like.

24 BY MR. CAZA:

25 553 Q. Yeah, well, can you explain to me

1       how -- I'll tell you my understanding and I want  
2       you to explain to me how I'm wrong.

3               My understanding is that somebody sat  
4       down and you had a formula worked out and the  
5       formula was, we need so many students in order  
6       to be able to offer a certain course, and that  
7       was calculated and taken into consideration the  
8       cost of offering the course and new revenue, and  
9       how you needed to get a teacher, you did a whole  
10      analysis.

11             And then you sat down and you applied  
12      it to all your courses. When you applied it to  
13      the French courses, you took it into  
14      consideration that it would cost you less to  
15      offer that course because you actually got  
16      specific grants, but the rest of your exercise  
17      was purely objective, it was purely objective.

18             And so that you would be able to say,  
19      and you have said, that's my understanding, that  
20      the programs that were cut you were fair to both  
21      French and English programs, but the French  
22      programs less of them were cut because of the  
23      fact that they were grants. That is my  
24      understanding.

25             Where do you disagree with that?

1 MS. MILLER: Mr. Caza, I have directed  
2 you to paragraph 50. You are trying to  
3 paraphrase Mr. Haché's evidence incorrectly, and  
4 he has answered the question and told you that  
5 there were other factors.

6 MR. CAZA: I didn't --

7 MS. MILLER: He's told --

8 MR. CAZA: I told him my understanding  
9 of the evidence. I can put that to him and say,  
10 where do you disagree with me? I need to know  
11 where he disagrees with me, because I don't  
12 understand how the French Language Services Act  
13 ever came into the calculation.

14 554 Q. Maybe that's what I need for you  
15 to explain to me.

16 My understanding, it was a purely  
17 accounting exercise. It was irrelevant that you  
18 had the French Language Services Act. What am I  
19 missing?

20 MS. MILLER: And I have directed you  
21 to Mr. Haché's evidence, and you can ask him if  
22 you'd like on that point in paragraph 50 of his  
23 affidavit. But please don't --

24 BY MR. CAZA:

25 555 Q. You know what, I don't know to

1        what extent -- I don't know to what extent you  
2        should be telling the witness, that, you know,  
3        go look at this paragraph. Let's look at  
4        paragraph 50.

5                        "Ideally, programs would be  
6                        positive economic drivers for  
7                        [Laurentian University]. However,  
8                        [Laurentian University] also took into  
9                        account that, for a certain subset of  
10                      programs with a direct link to  
11                      [Laurentian University]'s mission,  
12                      such programs should operate despite  
13                      not satisfying the self-funding  
14                      threshold."

15                      Give me an example of where you did  
16                      that with a French program or a French course.  
17                      Give me one example.

18                      A. I would have to get back to you  
19                      on the specifics of that. I will say that the  
20                      list of courses and programs on the Francophone  
21                      side that were discussed in mediation were  
22                      explicitly -- explicitly considered the  
23                      implications under the French Language Services  
24                      Act and the partial designation of the  
25                      university to ensure that we were, to the best



1 of our ability, maintaining our compliance with  
2 the -- with the expectations of the university  
3 under that Act.

4 And so what you're saying is that  
5 there was a financial exercise done at the front  
6 end, yes, but there was also other things that  
7 were entered -- that entered into the equation  
8 before the final decisions were made. And  
9 ultimately at the end of that, you needed to end  
10 up with a suite that overall was sustainable.

11 556 Q. So here's my question.

12 A. And I believe that's reflected in  
13 the record.

14 557 Q. So here is my question to you. I  
15 want you to advise me of any courses that were  
16 not cancelled, okay, any courses in French that  
17 you did not cancel that when you apply the  
18 threshold in the self-funding threshold that you  
19 developed for French courses, you would have  
20 cancelled. I want you to provide me with that  
21 evidence.

22 Because my understanding is that  
23 you're saying that although you don't say that  
24 in paragraph 50, my understanding is you're  
25 suggesting at the very least that some courses

1 in French fell under that statement in paragraph  
2 50, and if you can provide us with that  
3 evidence.

4 And I think it's 12:31. You had to  
5 leave at 12:30 to take a break. We'll see you  
6 back at two o'clock.

7 -- RECESSED AT 12:31 P.M. --

8 -- RESUMED AT 2:01 P.M. --

9 BY MR. CAZA:

10 558 Q. Mr. Haché, you're still there.

11 So if we can go to your second affidavit. If we  
12 can go to tab 16, paragraph 49.

13 A. Okay.

14 559 Q. The title is "Viability Analysis  
15 of LU's Programs". I think you'll agree with me  
16 that these three paragraphs deal with the actual  
17 programs offered by Laurentian University and  
18 not by the Federated Universities?

19 A. That is correct.

20 560 Q. Now, when we're looking at the --  
21 page 17, the next page, we started talking -- we  
22 were speaking a while ago, and if I'm looking  
23 here, we've got 54 and it talks about the ratio.  
24 Mr. Haché, we talked about that before the  
25 break.

1                   Then there was the -- in addition to  
2                   the ratio, there was other issues we looked at  
3                   at 55 and 56, talks about the partial  
4                   designation.

5                   So the partial designation, if you  
6                   could just remind me, was it -- if it was taken  
7                   into consideration, what was the relevance of --  
8                   or what impact did it have on the actual  
9                   decision you made as to the courses that you did  
10                  eliminate?

11                  A.    So it was -- you know, first of  
12                  all, you need to understand that this was the --  
13                  a negotiation with the Senate group that was  
14                  nominated to conduct a discussion on behalf of  
15                  the Senate. But in that conversation, they were  
16                  very, very cognizant of the expectations of the  
17                  partial French designation for the university.  
18                  They had the list of degrees and programs and  
19                  that was actively considered in the discussions  
20                  and in the conversations.

21                  Now, I was not in the room for those  
22                  conversations, but I do know that they were  
23                  highlighted, and in all of the feedback that I  
24                  received that that was absolutely a  
25                  consideration in the decision making.

1                   So you had data in the first instance  
2                   and then you had the other parameters that  
3                   needed to be considered.

4   561            Q.    What I'm asking you, and that's  
5                   what I asked you before the break. I said,  
6                   you've used data. I said, was there a decision  
7                   made that the data was not basically the  
8                   deciding factor? Like, an actual decision. Not  
9                   did we talk about it. And I think you don't  
10                  know, right?

11                 MS. MILLER: We answered that question  
12                  prior to the break I believe, Mr. Caza, and now  
13                  you're going back on a question that's been  
14                  asked and answered.

15                 BY MR. CAZA:

16   562            Q.    I can do that all day. I can ask  
17                   the same question 10 times. Like, I can do that  
18                   in cross-examination.

19                 So, Mr. Haché, my question to you, and  
20                  if I've asked you the question, I'm asking  
21                  again. You have no evidence that the -- that  
22                  anything but the mathematical formula, the  
23                  accounting formula, was applied in determining  
24                  which French courses were to be -- were to be  
25                  eliminated.

1 A. That is -- okay.

2 MS. MILLER: Objection, because he has  
3 answered that question, Mr. Caza, to say that is  
4 not correct.

5 BY MR. CAZA:

6 563 Q. Well, you know, I think he was  
7 just going to say that it is correct before you  
8 interrupted him.

9 A. No. I was going to say that is  
10 not correct. That is absolutely incorrect.

11 564 Q. Give me your evidence of any  
12 course that was not cancelled that would have  
13 been cancelled if you'd only applied the  
14 mathematical formula.

15 MS. MILLER: You have asked for an  
16 undertaking on that and we have given that  
17 undertaking.

18 BY MR. CAZA:

19 565 Q. Sorry about that. In fact,  
20 Mr. Claude told me he thought we had an  
21 undertaking. Let's move on. I'm fine with  
22 that.

23 Now, the six-person Senate Committee,  
24 did they deal with any of the courses offered by  
25 the federations, Mr. Haché?

1 A. That was not their mandate.

2 566 Q. Now here's a question I have, I  
3 think you've told us that the French Language  
4 Services Act, and your obligations pursuant to  
5 that, were an important criteria that you took  
6 into consideration in proceeding to make the  
7 determination of courses that would be cut,  
8 right?

9 A. That is correct.

10 567 Q. Why is it that you didn't even  
11 mention the French Language Services Act in your  
12 first affidavit?

13 A. Look, I think it's very clear  
14 that in the academic considerations that were  
15 conducted that the French Language Services Act  
16 was front and centre in the consideration of all  
17 Francophone programs that were evaluated.

18 568 Q. I think it became front and  
19 centre when the University of -- Université de  
20 Sudbury took the position that they were not  
21 going to allow you and let you sacrifice, and  
22 end up with a situation where the Francophone  
23 community would suffer irreparable harm and they  
24 wanted to basically have you transfer all those  
25 programs. And then all of a sudden, Mr. Haché,

1 all of a sudden you started talking about the  
2 French Language Services Act. You didn't talk  
3 about it once in your first affidavit.

4 MS. MILLER: Objection. You're asking  
5 him for information with respect to what might  
6 have gone on in the confidential mediation and  
7 that is not an appropriate question to ask him.

8 THE WITNESS: I was going to also say  
9 I didn't hear a question there.

10 BY MR. CAZA:

11 569 Q. No, in fact I'm talking about his  
12 affidavit. His affidavit outlines all kinds of  
13 -- I'm talking about your first affidavit,  
14 which I believe is 110 pages long. It outlines  
15 all kinds of relevant factors, things you need  
16 to take into consideration. The impact that the  
17 decision will have. The words "French Language  
18 Services Act", those words, are nowhere in your  
19 affidavit because Laurentian University does not  
20 consider that to be one of its priorities.

21 How could you be facing dissemination  
22 as an institution and not bring that up in your  
23 affidavit if in fact it is an important criteria  
24 to the university?

25 MR. OSBORNE: Dr. Haché, just a

1 moment.

2 Mr. Caza, you put another statement as  
3 a premise to your question, which is simply not  
4 this witness' evidence at all, as you know.

5 If you want to break it down and  
6 remove that statement and ask Mr. Haché --  
7 Dr. Haché, excuse me, about his statements or  
8 other propositions you wish to put to him,  
9 that's fine.

10 But stop premising with your  
11 questions, if you would, sir, with improper and  
12 inaccurate statements. Put to him suggestions  
13 if you wish, but not as statements.

14 BY MR. CAZA:

15 570 Q. You know what? I am not limited  
16 in my cross-examination to putting whatever  
17 statement he may have said.

18 MR. OSBORNE: You're not. My point  
19 is, sir, if you put to him a statement as  
20 evidence, it has to be accurate or we're not  
21 going to proceed. That's my point. You can put  
22 any proposition to him you like.

23 BY MR. CAZA:

24 571 Q. Mr. Haché -- okay, I gotta tell  
25 you, I don't agree with Mr. Osborne's position



1 on this, but I will rephrase my question.

2 Mr. Haché, do you agree with me that  
3 you did not mention the French Language Services  
4 Act in your affidavit? Your first affidavit it  
5 is nowhere mentioned. Do you agree with that?

6 A. I agree that it was -- nor were  
7 the criteria for evaluating the academic  
8 programs mentioned, which is where it all ties  
9 together.

10 572 Q. So I guess the answer to my  
11 question is you agree with me that you didn't  
12 mention the French Language Services Act, is  
13 that fair?

14 A. I said I agree that we did not  
15 mention the French Language Services Act, nor  
16 did we mention any of the criteria that would be  
17 used for the evaluation of the academic  
18 programming.

19 573 Q. I didn't ask you that question.  
20 I didn't ask --

21 A. But they're intimately linked.

22 574 Q. Well, let's move on. I think  
23 it's important that you answer the questions  
24 because we'll need more than finishing at 4  
25 o'clock.

1                   You'll agree with me that when you  
2                   prepared that affidavit --

3                   MR. HANRAHAN: Hold on, just before we  
4                   move on, he's entitled to answer the questions  
5                   in the way he thinks is appropriate and  
6                   accurate, and I think that's what he's doing.  
7                   So I don't think the commentary after the answer  
8                   is not --

9                   BY MR. CAZA:

10                  575           Q.    The transcript will speak for  
11                  itself, Mr. Haché.

12                  MR. HANRAHAN: It will.

13                  BY MR. CAZA:

14                  576           Q.    When you prepared the affidavit,  
15                  when you prepared that affidavit, it was clear  
16                  that this was an affidavit that, to a great  
17                  extent, you were at least under the impression  
18                  that the survival of the university depended on  
19                  you being successful in seeking protection under  
20                  the CCAA, is that fair?

21                  A.    Yes, it was important for the  
22                  survival of the university.

23                  577           Q.    And it was important that all of  
24                  the information that would be relevant to be  
25                  taken into consideration in making that

1 determination be included in the affidavit, is  
2 that fair?

3 A. In making the determination to  
4 grant the stay of proceedings, yes.

5 578 Q. In making the determination of  
6 issues that needed to be taking into  
7 consideration in making the -- in ensuring that  
8 the survival of the university, the conditions  
9 that would encompass its survival were set out  
10 in the court proceedings, correct?

11 A. For the initial stay, yes.

12 579 Q. And now, when you told us, and  
13 I -- this is what I understood you to say, that  
14 there was a meeting, I guess would it be a  
15 meeting at the Senate where the Senate had a  
16 meeting in order to make a determination on the  
17 whole issue of approving the cuts to the -- both  
18 the English and French programs. Was it the  
19 Senate that made that decision?

20 A. It is the academic Senate of the  
21 university that has the authority to close  
22 academic programs and it is done through Senate  
23 meetings.

24 580 Q. And you were at that meeting,  
25 correct?

1 A. That is correct.

2 581 Q. Okay. And at that meeting, my  
3 understanding is -- because -- I did just math,  
4 so this is only a mathematical calculation, that  
5 there are 101 programs in English and 38 percent  
6 or 38 of the programs, so a little less than  
7 38 percent, were cut?

8 A. So, yeah, approximately  
9 40 percent of the programs in the English stream  
10 were cut and approximately 40 percent of the  
11 programs in the Francophone stream were cut.

12 582 Q. That's the numbers I got.

13 MS. MILLER: Just to be clear, you're  
14 talking undergraduate programs?

15 BY MR. CAZA:

16 583 Q. That's correct.

17 A. Undergraduate.

18 584 Q. And my understanding is at that  
19 meeting, that student Senate Academic -- or the  
20 academic -- Senate Academic Committee meeting,  
21 that a motion was made by one of the members of  
22 the committee that all of the courses that you  
23 were -- that you were cancelling, all the  
24 courses that you were no longer going to offer,  
25 a motion was made that you should transfer those

1 courses to -- or those programs to Université de  
2 Sudbury, do you recall that?

3 A. I don't believe I can comment on  
4 that as that Senate meeting was done in camera  
5 under the confidentiality order of the court.

6 585 Q. I'm speaking of the next meeting,  
7 the one that was -- there was a subsequent  
8 meeting, a Senate meeting, where the whole issue  
9 was discussed, and my understanding is that that  
10 meeting was not confidential, correct?

11 A. That is correct. If you're  
12 referring to the more recent meeting, yes.

13 586 Q. And at that meeting, you were in  
14 attendance?

15 A. At that meeting, I was in  
16 attendance.

17 587 Q. And one of the members of the  
18 Senate Committee or one of the members of your  
19 Senate made a motion that the courses that you  
20 were no longer offering that you'd made the  
21 decision the courses in French that you were not  
22 going to offer, that the motion was that those  
23 courses be transferred to the Université de  
24 Sudbury to give them an opportunity to offer  
25 those courses. Do you recall that?

1 A. That is not correct.

2 588 Q. What's your recollection?

3 A. The motion was made that the  
4 university consider whether the Francophone  
5 courses at the university be transferred to the  
6 University of Sudbury.

7 589 Q. The Francophone courses that had  
8 been cancelled?

9 A. Yes.

10 590 Q. And so, okay, so the -- my  
11 mistake. So I'm going on information that I've  
12 been told. So you're telling me actually it was  
13 a motion to have that considered -- to  
14 consider --

15 A. To consider.

16 591 Q. -- having that transferred. And  
17 my understanding is you voted against that  
18 motion, correct?

19 A. That is correct.

20 592 Q. And can you explain why you voted  
21 against that motion?

22 A. Because it's -- it was not a --  
23 it was not a motion that could be practically  
24 acted on.

25 593 Q. So you're saying it's not a

1 motion that could have been practically acted on  
2 and that you could have transferred the courses  
3 or had those courses -- offer the opportunity  
4 to -- a little bit to see how the Indigenous  
5 studies university that Sudbury and Laurentian  
6 had a discussion where you ended up offering  
7 those courses. You having decided not to offer  
8 many courses in French you're saying,  
9 practically speaking, you don't know how you  
10 could have spoken to Université de Sudbury to  
11 see how they could be prepared to offer those  
12 courses? Because you were aware that there was  
13 an interest -- they had expressed an interest to  
14 teach all of the -- or to offer all of the  
15 French courses?

16 A. The assumption you're making  
17 there is that the -- that Laurentian University  
18 has ownership of the materials needed to  
19 transfer, which is not correct.

20 594 Q. Okay. In any event, you've  
21 explained what the motion -- the motion that was  
22 made and how you voted on it.

23 One of the things I'm looking at if I  
24 go back to your affidavit, if I go to page 21 of  
25 your affidavit, at page -- top of the page, it's

65, 65's on the previous page, you see it (a):

"with respect to the Master of Arts, neither the English nor the French-language degree will continue to be offered, because the programs leading to Master's degree in History and Master's degree in Sociology have historically had low enrollment. Existing students are expected to be able to continue their program, subject to the availability of a supervisor."

So another thing that came that to an end was a French language degree, a masters in French, a Master's of Arts in French, that program was terminated, correct?

A. That program was included in the closure list. So it will end with the current students in the program graduating.

595 Q. Do you -- you're aware that a letter was sent, and I'm assuming it was brought to your attention where the Université de Sudbury would have been interested in discussing what Laurentian University purchasing or providing funds in order to obtain the courses



1       that you're offering in French in order to be  
2       able to offer them at Université de Sudbury?

3               MS. MILLER: Mr. Caza, can you direct  
4       him to the letter to which you are referring and  
5       give him an opportunity to read it?

6               BY MR. CAZA:

7       596           Q. Well, I can surely do that, give  
8       me a sec here. While we're getting that, I have  
9       to pull it out, it's in a part of our materials.

10              If we can go to page -- paragraph 69  
11      of your affidavit. Are you with me?

12              A. Yes.

13      597           Q. At page 23, it says:

14              "Continuing to offer some  
15      French-language programs with  
16      consistent very low enrollment or  
17      virtually no enrollment is not  
18      financially feasible and is not  
19      consistent with the funding that  
20      Laurentian University receives for  
21      French-language programs."

22              Okay. On that issue, did you turn  
23      your mind to seeing or trying to understand why  
24      you had very low enrollment in some of those  
25      programs?

1                   A.    Because the programs were not of  
2                   interest to students.

3   598            Q.    So that's the conclusion you came  
4                   to?  If you have low enrollment it's because the  
5                   students -- did you look into whether or not it  
6                   was sufficiently promoted, marketed, if you --  
7                   in the various Francophone high schools, et  
8                   cetera?

9                   A.    All of those things are  
10                  considered and we have programs that are highly  
11                  subscribed in which students demonstrate  
12                  consistent and growing interest and programs  
13                  that have waning interest.  It is a natural  
14                  cycle in universities that programs are popular  
15                  and, with time, priorities change and programs  
16                  become less popular.

17   599            Q.    Okay.

18                  A.    It's a natural cycle at  
19                  universities and it just happens that Laurentian  
20                  has been particularly poor at sunseting  
21                  programs with low interest.

22   600            Q.    You'll agree with me that you did  
23                   not look into what would be the impact on the  
24                   Francophone community if such a program was no  
25                   longer available?

1                   A.    Minimal impact because there're  
2                   no students in the program.

3   601            Q.    But the fact that you were no  
4                   longer offering the program or were offering it  
5                   to some students, and just so that I'm clear,  
6                   nobody was provided with any warning outside of  
7                   the university that those courses were going to  
8                   be cancelled, is that fair?

9                   A.    That the programs were going to  
10                  be ending? No. But we are providing the  
11                  opportunity for students that are in the program  
12                  to complete the program if at all possible.

13   602           Q.    All I'm saying is, but there's no  
14                  new students after. It's like a sunset. Once  
15                  those students go through, it's over.

16                  A.    That is correct. There are no  
17                  new student, but understand, there are very few  
18                  students anyway. So we're not impacting a large  
19                  number of prospective students. It's a very  
20                  small number of students that are in these  
21                  programs.

22   603           Q.    And it's been a small number of  
23                  students for the last little while, correct?

24                  A.    Years.

25   604           Q.    Years. Now, and if I can now go

1 to tab R, page -- well, you don't have the page  
2 numbers, tab R to your second affidavit.

3 A. Is there a paragraph number to  
4 that or?

5 605 Q. Actually, it's at tab R. It's  
6 attached to your affidavit.

7 A. Schedule? Are you referring to a  
8 schedule?

9 606 Q. Yes, schedule. I think it's  
10 exhibit -- I think it's called Exhibit R.

11 A. I've got schedule R, "Thesis  
12 Supervision", is that what you're referring to?

13 607 Q. No. It's a letter from Sheppard  
14 & Claude to Ms. Miller.

15 A. Let me see if I can find it in my  
16 table of contents.

17 608 Q. Exhibit R, as in Robert.

18 A. I've got Exhibit F here. I've  
19 got exhibits and I have schedules and it's all  
20 mixed together.

21 I have Exhibit H and then I go to  
22 schedule A.

23 609 Q. Okay. Well, I don't know why. I  
24 assumed you'd have a copy of the materials when  
25 I'm cross-examining you.

1                   A.    I assume I do.   Just let me look  
2                   somewhere else.

3   610            Q.    We'll get back to that, okay.  
4                   We'll get back to that.  We're actually time  
5                   limited here.

6                   A.    There is a -- in another place.  
7                   Okay, Exhibit R, okay, I have it.

8   611            Q.    Do you remember reading this  
9                   letter?

10                  MS. MILLER:  Exhibit R, for reference,  
11                  contains a French and an English version in the  
12                  record.

13                  BY MR. CAZA:

14   612            Q.    Actually it contains a French  
15                   letter and an English translation.

16                  Do you remember reading that letter,  
17                  Mr. Haché?

18                  A.    I remember seeing the letter.  
19                   Let me just refresh my memory.

20   613            Q.    Well, maybe I can just ask you  
21                   this, look at tab -- can you see tab S?

22                  MS. MILLER:  Mr. Caza, you've just  
23                  directed him to an exhibit.  He's trying to read  
24                  the letter.  Can you give him --  
25

1 BY MR. CAZA:

2 614 Q. He's taken five minutes. I don't  
3 know how much time. We're limited. If he  
4 doesn't have access to documents, I'm going to  
5 move on.

6 MR. HANRAHAN: He says he has the  
7 document.

8 THE WITNESS: I have the document.

9 BY MR. CAZA:

10 615 Q. So you've got the document at tab  
11 R. What I'd like you to do is look at the  
12 document at tab S, as in Susan, and my question  
13 is, were you involved in drafting this response?  
14 That's my question, which is a response to the  
15 letter at tab R.

16 MR. HANRAHAN: And, Dr. Haché, to the  
17 extent you need to minute to look at each of  
18 these exhibits, you should feel free to do that.

19 THE WITNESS: (Witness reading the  
20 document.)

21 So the question was, was I implicated  
22 in the response that was written?

23 BY MR. CAZA:

24 616 Q. That's correct, that was my  
25 question.

1 A. Yes.

2 617 Q. Now, can you advise me of what  
3 consultations you carried out with any  
4 organization or members of the Franco Ontarian  
5 community outside of the university, outside of  
6 Laurentian University? Who did you consult with  
7 before preparing -- before participating and  
8 preparing the response found at tab S, which is  
9 the letter from -- I guess it's from Ms. Miller  
10 dated April 12, 2021?

11 MR. HANRAHAN: Counsel, is there a  
12 suggestion in the letter he has made those  
13 consultations that you're referring to?

14 BY MR. CAZA:

15 618 Q. There is not. I'm asking, who  
16 did you consult with before providing this  
17 response, if you consulted with anyone?

18 A. There was no specific  
19 consultation around this letter.

20 619 Q. Was there any consultation at all  
21 outside of the university with any organization  
22 or members of the Franco Ontario community  
23 before you proceeded to cancel all of the  
24 classes and courses and programs that you ended  
25 up cancelling? Was there any consultation?

1 MS. MILLER: Pardon my interruption  
2 but you've referred to the cancellation of  
3 classes and I don't believe there's any evidence  
4 anywhere of cancellation of classes.

5 BY MR. CAZA:

6 620 Q. I misspoke, I apologize. I  
7 misspoke. With respect to the cancellation of  
8 courses and programs.

9 A. So that was -- I believe that was  
10 covered by the court ordered confidentiality  
11 order preventing us from doing that. So we did  
12 not breach the confidentiality of the court.

13 621 Q. I want to get this straight. So  
14 you're telling me that because of the CCAA and  
15 the process that imposed confidentiality, you're  
16 saying that because of that, all these decisions  
17 were made and were basically in the process of  
18 implementing them and you never consulted the  
19 Franco Ontario community, is that correct?

20 MS. MILLER: Mr. Caza, the objection  
21 is that there is a court ordered confidentiality  
22 in place with respect to the mediation and the  
23 academic restructuring formed part of that  
24 mediation.

25 So you can ask him -- you've asked him



1 a question about the letter in consultation,  
2 that's fine, that lettered was delivered. But  
3 with respect to things in the confidential  
4 mediation relating to the academic  
5 restructuring, he will answer to the best of his  
6 ability, but not with respect to breaching  
7 confidentiality of the court order.

8 BY MR. CAZA:

9 622 Q. What I can tell you is what  
10 you're telling me that the CCAA, this is what my  
11 understanding is, Ms. Miller, and I'm asking  
12 you, Mr. Haché, the CCAA is a process by which  
13 decisions are made that can have a serious  
14 impact on the Franco Ontario community because,  
15 according to your own evidence, Laurentian  
16 University has an important role to play and the  
17 decisions are made behind closed doors without  
18 the Franco Ontario community being involved. Is  
19 my understanding correct, Mr. Haché? That's  
20 what happened, right?

21 A. That is actually not correct.  
22 Inasmuch as the Senate group had absolute -- had  
23 representation from all of the communities at  
24 Laurentian University. So the group of senators  
25 that was elected to represent the Senate in the

1 mediation included members of the Francophone  
2 community.

3 623 Q. Members of the Francophone  
4 community that sit -- that are members of the  
5 Senate of Laurentian University, correct?

6 A. That is correct. That was the  
7 process. And within -- we ensured that not only  
8 the Francophone community, but Indigenous  
9 perspectives and all communities that the  
10 university had were represented in -- the Senate  
11 ensured really, but in the conversation with the  
12 Senate, we ensured collectively that the various  
13 communities were appropriately represented,  
14 according to the ways that were permitted  
15 through the court.

16 624 Q. I'm only asking you about the  
17 Francophone community and I just want to know --  
18 what you've told me is the only consultations  
19 that were carried out were internally at the  
20 university, correct?

21 A. I'm saying that the consultation  
22 that was had with communities was the same with  
23 the Francophone community, as the Indigenous  
24 community, as other communities, and it was  
25 based on what was the conditions that were

1 mandated by the court and that we were very  
2 conscious to include those communities to the  
3 extent possible in a fair and proportional  
4 representation.

5 625 Q. So I'm just trying to understand  
6 because my question was quite straightforward  
7 and you gave me a lot more information and  
8 that's fine. I just don't want the answer to  
9 the question to be lost in the answer you  
10 provided.

11 My question was, do you agree with me  
12 that the decisions that were made and eventually  
13 implemented on the issue of cancelling courses  
14 and programs, French courses and programs at  
15 Laurentian University, were all made without any  
16 consultation carried out outside of the  
17 university itself?

18 A. That was not permitted by the  
19 court order.

20 626 Q. Okay. That's fine. So let's  
21 keep going.

22 Remember when I asked you earlier  
23 about the motion at the Senate Committee and how  
24 there was a vote as to whether or not you should  
25 consider transferring the courses that were

1 cancelled or the programs that were cancelled,  
2 the French ones, to the Université de Sudbury,  
3 and you advised me that you voted against that  
4 motion. Do you remember how Marie Josie Berge  
5 [ph] voted?

6 A. No, I do not.

7 627 Q. You don't recall that she voted  
8 against the motion also?

9 A. There were 200 people on the  
10 call. I don't remember how everybody voted.

11 628 Q. Thank you. If I now go to  
12 paragraph 98, which is at page 30.

13 A. Yes.

14 629 Q. Okay. I just want to -- this is  
15 what I'm seeing as -- it says, page 98, I'm not  
16 going to read it all, but the last sentence in  
17 the first paragraph reads:

18 "The Sub-Committee Report made  
19 the following recommendations."

20 Correct? And that's the  
21 recommendations that were made -- that was made  
22 and that's the recommendations -- is that the  
23 recommendation that was accepted by the Senate,  
24 the academic Senate Committee?

25 A. That is correct.

1       630               Q.    Now, if we can go to paragraph  
2           102, it's "Midwifery", do you see that?

3                       A.    Yes.

4       631               Q.    Paragraph 102 through to 107, I  
5           believe. So I just want to look at this. So  
6           102 says:

7                       "Laurentian University made the  
8                       decision to close the Midwifery  
9                       program due to the financial costs  
10                      associated with running that program  
11                      that could not adequately be met by  
12                      funding received from the [ministry at  
13                      AMCU] and Ministry of Health pursuant  
14                      to a transfer payment agreement."

15                      So I'm trying to understand. MCU  
16                      funds the academic university component of the  
17                      midwifery program while the Ministry of Health  
18                      and Long-Term Care funds the clinical components  
19                      of the midwifery program. I'm just trying to  
20                      understand. So are you saying that it costs  
21                      more money to offer the program than the  
22                      revenue, the tuition and the grants or whatever  
23                      you were receiving?

24                      A.    That is the correct. Given the  
25                      limitations on enrollment, that is correct.

632

Q. So if I go to 103, it says:

"As financial support to post-secondary institutions generally is subject to the prerogative of the Province and Midwifery is an expensive program to run (relative to the programs), it is difficult for Laurentian to solely rely on grant funding to continue operating the program. Further compounding matters is the fact that the (Ministry) has imposed an annual cap of 30 students [...]."

I think that's what you just told me:

"[...] that may be accepted into the Midwifery program at Laurentian, which limits its potential growth."

Correct?

A. That limits any growth.

633

Q. And just so that I'm clear, one

of the programs that was cancelled, and my understanding is you're saying that those that are completing their fourth year will be able to continue, but basically that program has been -- has been eliminated, except people that are in

1        their third year and fourth year will be able to  
2        complete the program, but those that are in the  
3        first and second year will not. And you're  
4        going to assist them to transfer to other places  
5        and I think you mentioned McMaster and Ryerson  
6        that also offer those programs, right?

7                    A.    Yes. That is all students that  
8        are registered in midwifery will have the  
9        opportunity to complete a midwifery program.  
10       Third and fourth year students with a Laurentian  
11       degree and earlier students with a degree from  
12       Ryerson or McMaster. And in any event, Ryerson  
13       and McMaster will be facilitating the completion  
14       of all students' degrees.

15    634            Q.    My understanding is this program  
16       is offered in French?

17                    A.    That is correct.

18    635            Q.    And it's only offered in English  
19       at McMaster and Ryerson?

20                    A.    That is correct.

21    636            Q.    So I just want to be clear. So  
22       anyone that is in the process of completing  
23       their first or second year, you're prepared to  
24       assist them to go complete that program in  
25       English at another university, correct?

1 MS. MILLER: Mr. Caza -- go ahead.

2 THE WITNESS: It's not completely  
3 correct. The conversation with Ryerson has been  
4 to how to accommodate students in the  
5 Francophone program. And Ryerson has been very,  
6 very co-operative in providing a mechanism which  
7 students currently registered in the Francophone  
8 program will also be able to proceed to  
9 completion of their degree.

10 BY MR. CAZA:

11 637 Q. Did you have any discussions with  
12 any members of the Francophone community,  
13 outside of Laurentian University, before  
14 proceeding to cancel this specific program,  
15 midwifery program?

16 A. Still covered by the same  
17 confidentiality order as before.

18 638 Q. Off the record for a second.

19 -- OFF-THE-RECORD DISCUSSION --

20 BY MR. CAZA:

21 639 Q. Now, if I go to -- if we can go  
22 to paragraph 113, which is at page 34. The term  
23 sheets with the labour partners.

24 A. Yes.

25 640 Q. Mr. Haché, you know, you talk in



1 one -- paragraph 113, you talk about LUFA. And  
2 paragraph 114, we talk -- or, I should say, 124,  
3 it's LUSU and then there is LUFA. Are you able  
4 to tell me approximately how much money was  
5 saved as a result of these negotiations you had,  
6 successful negotiations, from what we  
7 understand, with the unions? How much money  
8 were you able to save?

9 A. So going forward, there are  
10 approximately 115 position reductions in the  
11 faculty association. Overall there are about  
12 170 position reductions at the university as a  
13 result of that. One would have to do the math  
14 with the average salaries of each of those  
15 categories. I don't believe I have those  
16 figures immediately in front of me, but you have  
17 the numbers of people. You know, suffice to say  
18 that it is substantial.

19 It's 115 out of 355 or 65, don't quote  
20 me on the exact number, total faculty. So  
21 almost a third of the total faculty and about 20  
22 to 25 percent of the other labour groups. And  
23 so I would say, from a salary savings  
24 perspective, you would be proportional there.

25 641 Q. And there's been -- you have seen

1 no number calculating approximately what the  
2 value was --

3 A. I have no number in front of me.

4 642 Q. What about do you recall reading  
5 any approximate calculations --

6 A. Yeah, I don't have --

7 MR. HANRAHAN: Just wait till the  
8 question is finished.

9 THE WITNESS: Sorry.

10 BY MR. CAZA:

11 643 Q. My question is, would you be  
12 aware of information that would provide us with  
13 some range of what the savings have been as a  
14 result of these successful term sheets that  
15 you've negotiated with the labour partners?

16 MS. MILLER: He's not going to guess  
17 on that.

18 THE WITNESS: As I say, I would not  
19 want to guess on something. I would not want to  
20 guess on that and I don't have the information  
21 immediately in front.

22 BY MR. CAZA:

23 644 Q. What was the -- do you remember  
24 what was the target? How much were you hoping  
25 to save? When you were doing these

1 negotiations, what was your target as to how  
2 much you wanted to save?

3 MS. MILLER: Mr. Caza, you're starting  
4 from a premise that you can put to him, Did you  
5 start with a target and go from there. But you  
6 have put to him a premise and he has not  
7 accepted that premise.

8 BY MR. CAZA:

9 645 Q. Did you have a -- had you set a  
10 target that you were hoping to attain in order  
11 to meet the needs of the DIP Lender when you set  
12 off to start negotiating with your labour  
13 partners?

14 MS. MILLER: Again, Mr. Caza, I have  
15 to interrupt. You are starting with a premise  
16 that it's a target set by a DIP Lender or that  
17 it's a target at all. Please don't start with  
18 an assumption that you are attributing to the  
19 witness that is not an assumption that he has  
20 given evidence on.

21 BY MR. CAZA:

22 646 Q. Well, actually he has given  
23 significant evidence on that. He's given  
24 significant evidence that the DIP Lender needs  
25 to be satisfied with the amount of monies

1 basically that have been saved as a result of  
2 renegotiating with the unions. He's told me  
3 that more than three times.

4 MS. MILLER: His evidence, Mr. Caza,  
5 is financial sustainability. He has not given  
6 evidence of targets or anything like that. You  
7 are attributing evidence to him that he has not  
8 given.

9 BY MR. CAZA:

10 647 Q. So how did you go about  
11 calculating what you needed to save as a result  
12 of your discussions with your labour partners to  
13 attain financial sustainability?

14 A. Okay. So everything --

15 MS. MILLER: Again, just to preface --

16 BY MR. CAZA:

17 648 Q. He was answering the question --

18 MS. MILLER: Mr. Caza, the objection  
19 is -- listen, the objection is he can answer the  
20 question to the extent that you are not asking  
21 him to breach the confidentiality of discussions  
22 that occurred in the mediation. If the question  
23 is, what are the considerations that you gave,  
24 you're perfectly fine to ask him that. If  
25 you're asking him to breach the to and fro

1 confidential discussions in a mediation subject  
2 to court order, he will not get into that.

3 BY MR. CAZA:

4 649 Q. Okay. Maybe just to start off  
5 with, Mr. Haché, is it confidential the amount  
6 of monies that you ended up saving as a result  
7 of negotiating the term sheets with the labour  
8 partners? Is that confidential?

9 A. I actually don't know.

10 650 Q. So when you told me that there  
11 were 115, that's my understanding, at one point  
12 you used the number of 115 out of 355, and then  
13 you used the number of 170. Why don't we just  
14 go back to that? There was no objection, so I'm  
15 assuming because, you know what? That may be  
16 the best way for me to do this.

17 So 115 of what? You said out of 355  
18 or 365. What staff is that? Which union would  
19 that be?

20 A. That would be faculty  
21 association.

22 MR. HANRAHAN: This evidence is in his  
23 affidavit, so why don't we give him the actual  
24 numbers that are in there. Paragraph 121.  
25

1 BY MR. CAZA:

2 651 Q. We can go back through the  
3 affidavit after. I'm just trying to understand  
4 the process.

5 So then when you were speaking of 170,  
6 what employees were you talking about there?

7 A. So that was the faculty  
8 association or LUFA members. That was LUSU  
9 members or staff association. That was  
10 nonunionized management employees and senior  
11 leaders.

12 652 Q. There's 170 of those positions,  
13 correct?

14 A. In total, yes.

15 653 Q. And faculty is approximately 115?

16 A. That is correct.

17 654 Q. Now, were there any other cuts or  
18 were there any other financial concessions that  
19 you were able to obtain other than the  
20 elimination of those positions?

21 A. Yes, there were.

22 655 Q. What were they?

23 A. There are salary rollbacks, FRO  
24 [ph] days, other changes to work rules that  
25 involve some economic -- that are of some

1 economic value to the university.

2 656 Q. Would there exist a document that  
3 would have a calculation made of the value of  
4 the savings that you were able to obtain? I  
5 mean, someone must have, I'm assuming, done a  
6 calculation. Where would I find such a document  
7 so that I'm able to determine how much was  
8 actually saved?

9 MS. MILLER: Dr. Haché, first of all,  
10 the question is, does a document exist? And I  
11 think he's asking if it does, where does he find  
12 it? So let's break that down if you don't mind.

13 THE WITNESS: Does a consolidated  
14 document exist? I think there are drafts of  
15 various parts that exist and the consolidation  
16 of it in draft potentially, but it is a  
17 continuing and evolving situation.

18 BY MR. CAZA:

19 657 Q. So I guess I'm -- I want to get  
20 that information. I think it's very relevant  
21 for the court to know how much you've succeeded  
22 in -- how much money you've succeeded in saving  
23 as a result of your negotiation with your labour  
24 partners.

25 So I guess my question to you is, how

1 would you recommend we go about obtaining that  
2 information? Because I'm not sure if you have  
3 that information. For example, 115 faculty, you  
4 said we multiply that by the average salary.  
5 Can you give us an idea of what the average  
6 salary would be approximately?

7 A. Unfortunately I don't have that  
8 figure before me.

9 658 Q. But is that a number you can  
10 obtain?

11 A. Yeah, if it's not already  
12 somewhere in the affidavit. It is a number that  
13 is obtainable, yes.

14 659 Q. Is it the same thing for the 170  
15 positions, giving an average salary for those  
16 positions?

17 A. Well, for LUSU, probably for  
18 sure. By four categories, potentially.  
19 Certainly LUSU nonunionized management. I don't  
20 know if for the senior leaders there is an  
21 average.

22 660 Q. So can I have an undertaking  
23 because I think the court would want to know  
24 that. Could I have an undertaking for you to  
25 provide us with basically a document that would



1 outline the financial value of the savings you  
2 were able to obtain that you've described to me  
3 that flow from your successful negotiation with  
4 your labour partners?

5 U/A MS. MILLER: We'll take that under  
6 advisement and we will do, to the extent  
7 possible, Mr. Caza, to the extent that things  
8 are actually quantifiable. And certainly with  
9 respect to salaries and that type of thing, I  
10 expect that's quantifiable. There may be  
11 aspects that are not, but we will take that  
12 under advisement and, on a best efforts basis,  
13 get you something that is responsive to the  
14 question.

15 BY MR. CAZA:

16 661 Q. So although you're using the word  
17 "under advisement" you are giving me the  
18 undertaking that you described, correct?

19 MS. MILLER: As I've described it.

20 BY MR. CAZA:

21 662 Q. Okay, thank you.

22 So the only thing that I may ask in  
23 addition to the undertaking that you've given,  
24 for which I thank you, is that if you are not  
25 able to provide me with the information, if you

1 could just give me a short explanation as to why  
2 you can't obtain that information. Is that  
3 fine?

4 U/T MS. MILLER: That's fine. We'll give  
5 an explanation.

6 BY MR. CAZA:

7 663 Q. Now, if I go to paragraph 131,  
8 that's the whole issue with the grievances,  
9 outstanding grievances. Can you tell me what  
10 that's about? Because it seems there's like 102  
11 outstanding grievances and there was an  
12 extension given. Can you explain to me what  
13 that's all about?

14 MR. HANRAHAN: Can you clarify when  
15 you say "what that's all about"?

16 BY MR. CAZA:

17 664 Q. I'm trying to understand. What  
18 are these outstanding grievances and why is that  
19 something that had to be settled? And I'm  
20 trying to understand by reading what exactly,  
21 what was negotiated with respect to resolving  
22 those grievances?

23 MR. HANRAHAN: Sorry, I'm still a  
24 little unclear. Is the question what is the  
25 substance of the grievances or how was the

1 resolution of those negotiated?

2 BY MR. CAZA:

3 665 Q. Well, maybe tell me a little bit.  
4 What are -- these outstanding grievances, how  
5 long have they been outstanding? Like why do  
6 you have 102 outstanding grievances?

7 A. Because that is the number of  
8 grievances that have been filed by the faculty  
9 association under the Collective Agreement.

10 666 Q. And that is how long -- for a  
11 period of how long?

12 A. I can't say specifically. I  
13 mean, they regularly get filed and regularly get  
14 resolved. There were currently at that time 102  
15 that were filed but not yet resolved and it  
16 covers a period of time.

17 667 Q. And these grievances, if they --  
18 if the union is successful, could you end up  
19 having to pay monies?

20 MS. MILLER: I think that's a legal  
21 question with respect to the CCAA and I'm happy  
22 to answer that, if you'd like.

23 BY MR. CAZA:

24 668 Q. I'd like to hear your answer, but  
25 actually my question, I didn't pose it

1 correctly. What I meant was, are you -- do the  
2 grievances themselves, could they end up with a  
3 result being that a payment is owed by the  
4 university? Not whether or not you would have  
5 to pay it and that was my question. Or are they  
6 all grievances that do not involve the payment  
7 of money?

8 MS. MILLER: Because I think it is a  
9 legal answer, Mr. Caza, because we're in a  
10 proceeding, would you like me to answer the  
11 question?

12 BY MR. CAZA:

13 669 Q. I would, I would, please, thank  
14 you.

15 MS. MILLER: So any grievance that  
16 relates to the payment of money, to the extent  
17 it is determined to be accepted and includes the  
18 payment of money, would be a claim as part of  
19 the claims process. It would not be paid in  
20 cash.

21 BY MR. CAZA:

22 670 Q. And I guess the idea is we're  
23 trying to have all of the grievances completed,  
24 is it by May 31st, 2021, so that anyone who's  
25 successful can be in a position, if need be, to

1 make a claim, correct?

2 MS. MILLER: Correct.

3 BY MR. CAZA:

4 671 Q. Now, I'm trying to understand, so  
5 I guess somebody negotiated with the DIP Lender  
6 to extend that date, correct? Because it  
7 actually says:

8 "{...} the DIP Lender has agreed  
9 to extend the date by which the  
10 Existing Grievances must be resolved  
11 [...]."

12 Previously it was April 30th, 2021,  
13 correct?

14 A. Yeah, it was part of the original  
15 conditions of the DIP financing. It was one of  
16 the milestones that needed to be achieved to  
17 extend the financing.

18 672 Q. And then discussions were had  
19 with the DIP Lender. And were you involved in  
20 those discussions that led to a one-month  
21 extension?

22 A. In the same way I've been  
23 involved in all the discussions with the DIP  
24 Lender.

25 673 Q. Which is through your counsel --

1 through legal counsel, correct?

2 A. Through my counsel.

3 -- OFF-THE-RECORD DISCUSSION --

4 BY MR. CAZA:

5 674 Q. Sorry for that brief interlude  
6 there.

7 Can we go to page 44? I'm at your  
8 second affidavit.

9 A. Yes.

10 675 Q. Okay. So at the bottom of the  
11 page, section B says:

12 "Negative Financial Impact of the  
13 Federated University Model on LU."  
14 And I'm at paragraph 150 on the next  
15 page:

16 "Arising out of its solvency and  
17 these CCAA Proceedings, LU has  
18 undertaken a full review of its  
19 operational model. That review has  
20 also necessitated a review and  
21 reconsideration of the future  
22 viability of the relationship between  
23 LU and the Federated Universities."

24 Now, when you say -- okay, "Arising  
25 out of its solvency", I'm just trying to

1 understand.

2 MR. HANRAHAN: I believe -- I'll just  
3 jump in, Mr. Caza. I think that's a typo and it  
4 should say "Arising out of its insolvency in  
5 these CCAA proceedings."

6 BY MR. CAZA:

7 676 Q. And then you go on, that review  
8 has also necessitated, the second sentence on  
9 150:

10 "[...] a review and  
11 reconsideration of the future  
12 viability of the relationship between  
13 LU and the Federated Universities."

14 I'm just trying to understand. When  
15 you say "the future viability", I'm just saying  
16 that is to continue the relationship as it  
17 exists at the moment, correct? That's -- the  
18 future viability of doing that, correct?

19 A. The viability for Laurentian  
20 University, yes.

21 677 Q. For Laurentian University to  
22 continue in a relationship by which it is  
23 withholding 15 percent and transferring all  
24 other grants and tuition fees received to the  
25 Federated University offering the course,

1 correct?

2 A. With the current relationship,  
3 correct.

4 678 Q. What I've described, correct?  
5 Which is what I've described, the current  
6 relationship?

7 A. You've described a portion of it,  
8 yes.

9 679 Q. Which parts am I missing?

10 A. The students taking -- students  
11 in one program or another taking courses at  
12 different institutions.

13 680 Q. I'll tell you something, the --  
14 sorry, go ahead. I thought you were finished.

15 A. I was.

16 681 Q. Sorry. I'll tell you something I  
17 don't understand, it's statement you've made  
18 about six times. My understanding is presently  
19 there's a federation that exists. It's  
20 Laurentian University with three other Federated  
21 Universities and together you form a federation.  
22 How do you get to say that these students  
23 somehow belong to Laurentian University when  
24 they're in fact students of the federation?

25 A. Actually all students are



1 Laurentian University students. And with --  
2 from the students that are -- all of the  
3 students are Laurentian University students.  
4 And Laurentian University students may be  
5 registered in programs that are seeded at  
6 Laurentian University or they may be registered  
7 in programs that are delivered through one of  
8 the Federated Universities. That is the  
9 actuality of our situation.

10 682 Q. So you're telling me the  
11 Université de Sudbury and Thorneloe actually  
12 have no students, correct? Those are two  
13 federated universities that have no students.  
14 That's what you're telling me, right?

15 A. Except for theology, all of the  
16 students are Laurentian students.

17 683 Q. So even -- I just want to be  
18 clear here because the way you're discussing  
19 this, and I just want to make sure I'm clear  
20 here, when you say "all of those students are  
21 Laurentian University students", the reason  
22 you're able to say that is because that's the  
23 agreement you have that was -- that's basically  
24 in the Act that we've read and the agreement you  
25 have with both of the Federated Universities

1       that all the students would sign up and be  
2       students of Laurentian University, correct?

3               A.    That is correct. All those  
4       students receive Laurentian University degrees.

5   684           Q.    Because that's how the federation  
6       has been set up, correct?

7               A.    That is correct.

8   685           Q.    Okay. Now, if I go to paragraph  
9       151:

10                "While there is strong affinity  
11       within the Laurentian University  
12       community for the Federated  
13       Universities, LU's review of the  
14       federated model demonstrated that it  
15       comes at significant financial cost  
16       [...]."

17               Actually, Mr. Haché, there is no cost.  
18       What it comes at is it comes at a -- it provides  
19       a possibility of Laurentian increasing its  
20       revenue, correct, by obtaining the revenue that  
21       is presently going to the Federated  
22       Universities. Would you agree with that?

23               A.    Absolutely not.

24   686           Q.    Where is the cost when what  
25       you're looking at is the legal entity offering

1 the actual course is getting the money? How do  
2 you get a cost? How is that a cost to your  
3 university --

4 A. It is a loss of revenue to  
5 Laurentian University not to have students in  
6 Laurentian classrooms that are there offering  
7 courses that are there, so that students can  
8 take courses elsewhere instead of taking courses  
9 at Laurentian University.

10 687 Q. And elsewhere, just so I'm clear,  
11 it's elsewhere in the federation that was  
12 basically created by the Federated Universities  
13 and agreements that flow from that creation.  
14 And what you're telling me is you're describing  
15 that arrangement as being one that comes at a  
16 cost to Laurentian because Laurentian is not  
17 keeping the revenues that are being provided to  
18 the Federated Universities offering the course,  
19 correct?

20 A. Not quite. Laurentian is not  
21 able to -- Laurentian is not teaching all of the  
22 courses that it should be or could be for -- I  
23 say could be rather than should be, for students  
24 registered in Laurentian programs.

25 688 Q. What prevents you -- is there an

1 agreement between the Federated Universities and  
2 Laurentian that you're not going to teach the  
3 same courses?

4 A. I believe we do not -- we  
5 collaborate more than compete, yes.

6 689 Q. All I'm saying is there's nothing  
7 that prevents Laurentian University from  
8 offering any of the courses that are presently  
9 being offered at Université de Sudbury, correct?

10 A. The same courses, I would think  
11 there would be prohibition on that. Related  
12 courses, no -- I mean, related programming --  
13 inasmuch as it can be approved by the Senate.

14 690 Q. And also if you wanted to teach  
15 some of the courses that are presently being  
16 offered at the Université de Sudbury, you could  
17 actually call up the President, Mr. Meehan, and  
18 say, Look, I'd like to talk to you and we'd like  
19 to teach some of the courses you're offering.  
20 You could do that, correct?

21 A. Inasmuch as the University of  
22 Sudbury owns the intellectual property  
23 associated with the course, they could. That  
24 does not work in the opposite direction as  
25 Laurentian University professors own the

1 intellectual property associated with courses  
2 that they deliver at Laurentian University.

3 691 Q. So I guess just so that I'm clear  
4 on that -- I just want to make sure I've got a  
5 clear picture and the evidence is clear.

6 When you -- when the -- when the  
7 agreement -- when you bring to an end and you're  
8 attempting and if you're successful in bringing  
9 to an end the agreement between the Federated  
10 Universities and Laurentian, what you're hoping  
11 is that since those courses will no longer be  
12 offered by the Federated Universities, the  
13 students that are taking those courses are going  
14 to take some of the courses that you have  
15 available and some of the classes where you  
16 actually have room in order to be able to  
17 complete their degree at Laurentian University,  
18 correct?

19 A. That is correct.

20 -- OFF-THE-RECORD DISCUSSION --

21 -- RECESSED AT 2:59 P.M. --

22 -- RESUMED AT 3:05 P.M. --

23 BY MR. CAZA:

24 692 Q. If we can go to page 45,  
25 paragraph 152.

1 A. Yes.

2 693 Q. "I am advised by Normand  
3 Lavallee, the Associate  
4 Vice-President, Financial Services at  
5 LU and do verily believe, that LU  
6 transferred approximately \$7.7 million  
7 in Fiscal Year 2020 as a result of LU  
8 students taking programs and courses  
9 through the Federated Universities,  
10 when those students could be taking  
11 all programs and courses through LU  
12 directly."

13 I just want to make one thing clear.  
14 First of all, you've been mentioning 5 million,  
15 but I guess it's 7.7 million. Is that what it  
16 is?

17 A. I think it's -- it says all  
18 programs.

19 694 Q. Okay.

20 A. And then I think if you break  
21 that into LU programs and programs delivered by  
22 the federation.

23 695 Q. Okay.

24 A. Right.

25 696 Q. So my question is, all of the

1 programs -- all of the courses that you are  
2 hoping the students will -- the programs and  
3 courses that are now -- right now they're taking  
4 programs and courses through the Federated  
5 Universities. If that door is shut, you're  
6 hoping they're going to take programs and  
7 courses that you already offer, correct?

8 A. Certainly students that are in  
9 Laurentian programs already will take Laurentian  
10 courses, yes.

11 697 Q. I guess what I'm saying is you're  
12 not going to be developing new programs or new  
13 courses. They're going to take programs and  
14 courses that you already have, right?

15 A. Yeah. We've just rationalized  
16 our programs so, yes, those are the programs  
17 that we'll have for the next year. Going  
18 forward, of course, for university, programs  
19 come and go.

20 698 Q. But you don't have any new  
21 programs. The rationalization is not -- you've  
22 got the same programs as you had previously, but  
23 you have less of them, right?

24 A. Yeah. 98 percent, yes. I think  
25 there was one new program in business that was

1 created at the last Senate meeting, which is  
2 a -- it's a conversion of an old program into a  
3 new program. So there's constant evolution in  
4 programming, but our suite of programs for the  
5 fall is fixed.

6 699 Q. So the students that are taking  
7 programs and courses through the Federated  
8 Universities, they decided they were going to  
9 take those courses. It's a decision they've  
10 already made, instead of the ones you want them  
11 to take now because now what you're saying is  
12 they'll have no choice because the federated  
13 university courses are not available, right?

14 A. Well, they would not be  
15 available, yes.

16 700 Q. If we go to paragraph 153, it  
17 says:

18 "Specifically, in Fiscal Year  
19 2020, LU transferred to the Federated  
20 Universities approximately  
21 \$3.5 million in total grants,  
22 \$5.3 million in net tuition, and  
23 \$0.3 million in material fees. In  
24 some, in Fiscal Year 2020, LU  
25 transferred approximately \$9.1 million



1                   in tuition, grants, and fees to the  
2                   Federated Universities, which was  
3                   offset by a 15 % service fee of  
4                   approximately 1.4 million [...]."  
5                   Okay. So now what we see here --  
6                   MR. HANRAHAN: Just to clarify, I  
7                   think you said 3.5 million in tuition and it's  
8                   5.3.

9                   BY MR. CAZA:

10       701           Q. Thanks for clarifying that. So  
11                   the total becomes 9.1 million, I think I have  
12                   that number right, and you presently are getting  
13                   15 percent of that. And what you want is,  
14                   instead of getting 15 percent, you'd end up  
15                   getting a hundred because what you're hoping is  
16                   all of the courses that are being taken at the  
17                   Federated Universities by students are now going  
18                   to be taken within the programs and courses  
19                   you're presently offering, correct?

20                   MS. MILLER: Objection. You started  
21                   the question by saying you're currently getting  
22                   15 percent, and that is not the evidence. The  
23                   evidence is that Laurentian is currently getting  
24                   100 percent and retaining 15 percent and  
25                   delivering the balance.

1 BY MR. CAZA:

2 702 Q. I want to make sure that  
3 correction is clear on the record. I want to be  
4 sure that it's clear on the record. I said that  
5 they're getting 15 percent of the monies that  
6 are coming in and you said, no, no, no, they're  
7 getting a hundred and they're keeping  
8 15 percent, is that correct?

9 MS. MILLER: That's correct.

10 BY MR. CAZA:

11 703 Q. Okay. And I just want this to be  
12 clear on the record. Your correction's going to  
13 be very important. I'm actually going to refer  
14 to it probably in the hearing.

15 You consider monies going through  
16 university as a pipeline as being monies that  
17 are paid to Laurentian University. That's what  
18 you've just told us in correcting me. That's  
19 the position you're taking, right? It's a  
20 pipeline.

21 MS. MILLER: Well, that's your word,  
22 not mine. I've described it as 100 percent of  
23 the funds that come in are funds that are  
24 received by Laurentian.

25

1 BY MR. CAZA:

2 704 Q. Well, I guess, Ms. Miller, you'd  
3 be saying, you know the bank? At the bank,  
4 somebody goes and deposits money, and it's my  
5 money that's deposited into my account. But I  
6 guess somebody could say, Well, no, the money's  
7 being paid to the bank. I mean, that's the  
8 logic.

9 MS. MILLER: That's not an analogy  
10 that we agree with, just to be clear, but I just  
11 wanted --

12 BY MR. CAZA:

13 705 Q. That's argument, you're correct.  
14 Can we go now the paragraph 162? Now,  
15 162 refers to two exhibits, Exhibit O and  
16 Exhibit P. And if you could pull those up and  
17 have a look at them, Mr. Haché. If you see it,  
18 it just says -- Mr. Claude is writing to  
19 Ms. Miller and it says:

20 "This request is made on behalf  
21 of my client, University of Sudbury,  
22 under subsection 32(8) of the  
23 Companies' Creditors Arrangements Act,  
24 for Laurentian University of Sudbury's  
25 reasons, in writing, for the

1 above-described proposed disclaimer or  
2 resiliation."

3 And the reply, do you have a copy of  
4 the reply, Mr. Haché?

5 A. That would be Exhibit P?

6 706 Q. That's correct. Do you have a  
7 copy?

8 A. Yes.

9 707 Q. Were you involved in the  
10 preparation of this reply?

11 A. I reviewed it, yes.

12 708 Q. So you didn't prepare the initial  
13 draft?

14 A. No.

15 709 Q. Okay. So I'm looking at this  
16 letter dated April 19, 2021. And I go to the  
17 second paragraph:

18 "By email exchange you advised  
19 that we did not need to respond to the  
20 request within the time referenced  
21 under the CCAA, if our client's motion  
22 record for the motion returnable  
23 [...]"

24 And then it goes on to talk about the  
25 evidence. Now, at the bottom of that page, it

1           says:

2                               "These brief reasons will be  
3                               supplemented by the motion record in  
4                               respect of the April 29 motion,  
5                               once served."

6                               Now, I just want it to be clear that  
7                               you've read this letter and you agree with all  
8                               of the contents of this letter?

9                               A.   (Witness reading the document.)

10                              Yes, I believe the letter is accurate.

11       710                   Q.   So I want to go to the second  
12                              paragraph in the second page.  It says:

13                              "The facts giving rise to  
14                              Laurentian's insolvency are outlined  
15                              in the Affidavit of Dr. Robert Haché  
16                              filed in support of the CCAA  
17                              application.  Laurentian's insolvency  
18                              has resulted in profound operational,  
19                              academic and other changes having to  
20                              be made in order to re-establish  
21                              financial sustainability.  That  
22                              includes:"

23                              And we have 1, 2, 3, 4, 5, 6, 7, 8,  
24                              there is eight bullet points of what needs to be  
25                              done, correct?

1 A. (Witness reading the document.)  
2 That's eight bullet points that  
3 include the things that need to be done.

4 711 Q. That's right. That include the  
5 things --

6 A. It's not an exhaustive list.

7 712 Q. It's not an exhaustive list, but  
8 it is a list and it's basically an answer to the  
9 question that was provided in the letter dated  
10 April 11th that was sent by -- the letter dated  
11 April 11th, that's correct, that was provided by  
12 Mr. Claude, correct?

13 A. That's what it says.

14 713 Q. Now, I'm -- so -- that's fine.  
15 You've read it and it's clear that  
16 you've agreed that you are adopting the comments  
17 in this letter.

18 -- OFF-THE-RECORD DISCUSSION --

19 BY MR. CAZA:

20 714 Q. Mr. Haché, when looking at what  
21 you have explained to me what you are hoping  
22 will happen, the consequences or the likelihood  
23 that the students were -- who are presently  
24 taking courses at one of the Federated  
25 Universities, if those Federated Universities

1 are no longer able to offer courses as a result  
2 of Laurentian ending the agreement.

3 Have you actually prepared a document  
4 that provides what you anticipate will be the  
5 number of students that will be taking those  
6 courses at Laurentian University?

7 A. Expressly outlining numbers of  
8 students, no, I don't believe we have.

9 715 Q. Did you do any studies as to --  
10 is there any document that exists where someone  
11 has sat down and said, Okay, here are the  
12 students taking these courses and we're  
13 anticipating that they're going to take these  
14 other courses that we're offering at Laurentian  
15 University? Has that exercise been done?

16 A. A transition plan has been  
17 prepared. You'd have to ask the provost and the  
18 deans about that for the specifics.

19 716 Q. Sorry, what's -- what did you  
20 call the plan?

21 A. Transition plan.

22 717 Q. Okay. So you don't have a copy  
23 of the transition plan?

24 A. No, I do not before me, no.

25 718 Q. Have you read the transition

1 plan?

2 A. I have been in discussions about  
3 it, yes.

4 719 Q. What about are there any  
5 projected enrollments?

6 A. We do have and we do maintain  
7 modelling over enrollments at the university and  
8 that includes going forward. It is -- it is  
9 our -- part of our enrollment management  
10 capacity and system.

11 720 Q. I'm just going to go off the  
12 record.

13 -- OFF-THE-RECORD DISCUSSION --  
14 BY MR. CAZA:

15 721 Q. The only thing I need to confirm  
16 is this modelling, which is current modelling,  
17 that modelling would include what is anticipated  
18 as a result of the Federation Agreements coming  
19 to an end, correct?

20 A. As a result of the program  
21 closures, all of the things that are happening  
22 in the context of the CCAA that impacts on  
23 programs and students, yes.

24 722 Q. Including cancelling the  
25 Federation Agreement?



1                   A.   Including ending the Federation  
2   Agreement, the transfer of gerontology from  
3   Huntington, all of those things.

4   723            Q.   And that modelling, that's a  
5   document that actually exists? Like, it's been  
6   completed, correct?

7                   A.   No. It is a living draft.

8   724            Q.   So there's a living -- there's an  
9   up-to-date version that exists now and you are  
10  changing it as new information comes up?

11                  A.   Yeah. It is constantly updated,  
12  tracking applications, confirmations, and so  
13  forth, and projections. It includes  
14  demographics. It's quite comprehensive and it  
15  has a modelling -- has a modelling tool and it  
16  sort of guides us through the annual cycle of  
17  recruitment and registration.

18  725            Q.   And that -- that modelling would  
19  include all the Francophone students too, right?  
20  All the French programs and the French courses?

21                  A.   Absolutely.

22  726            Q.   Okay. Thank you. Just go off  
23  the record a sec.

24                   -- OFF-THE-RECORD DISCUSSION --

25

1 BY MR. CAZA:

2 727 Q. If we can now go to paragraph 164  
3 of your second affidavit?

4 A. Yes.

5 728 Q. It says, I'm just going through  
6 it:

7 "As discussed further below, each  
8 of Thorneloe and Université de Sudbury  
9 have brought motions opposing the  
10 Notices of Disclaimer. Since it is a  
11 condition of the DIP Amendment  
12 (defined below) and the availability  
13 of a further \$10 million in DIP  
14 financing that the Disclaimers become  
15 effective on May 1, 2021, it will be  
16 necessary to determine the motions  
17 brought by Thorneloe and Université de  
18 Sudbury at the return of the  
19 Applicant's motion April 29, 2021. In  
20 addition, steps taken following the  
21 implementation of the academic  
22 restructuring of Laurentian University  
23 and the necessity to finalize the  
24 program and course offerings for Fall  
25 2021 within the timeline of the

1 academic calendar year, as outlined in  
2 the Initial Haché Affidavit, require  
3 that the issue be determined by  
4 April 30th, 2021."

5 You go on to say:

6 "The Spring term commences on May  
7 3, 2021, which necessitates the  
8 removal of courses from the available  
9 online catalogue for Thorneloe."

10 Then you go on to say:

11 "Each of Huntington and SU have  
12 already requested that Laurentian  
13 University remove the courses on offer  
14 in the program catalogue for the  
15 Spring term that they would have  
16 otherwise taught."

17 and I guess what I'm trying to  
18 understand here is, are you aware of the  
19 discussions that went on with the DIP Lender  
20 that resulted in the conditions that the DIP  
21 Lender has included in the term sheet?

22 A. As I've answered with other  
23 questions, I've not been in direct conversation  
24 the DIP Lender, but have been tracking the  
25 conversation that has been had through counsel.

1 729 Q. So the term sheet and the  
2 conditions that have been imposed by the DIP  
3 Lender are as a result of discussions between  
4 the DIP Lender and your counsel, correct?

5 A. They are conditions that are  
6 imposed by the DIP Lender. Exactly how they got  
7 to that, I'm not fully aware.

8 730 Q. But you're not -- it didn't  
9 involve you, Mr. Haché, in those discussions?

10 A. It didn't -- I -- no, it did not  
11 involve me directly in those discussions.

12 731 Q. In fact, you're not aware of  
13 anyone that was involved -- that would have been  
14 involved other than your legal counsel, correct?

15 A. That is to my knowledge, yes.

16 732 Q. Okay. Just go off the record.

17 -- OFF-THE-RECORD DISCUSSION -

18 BY MR. CAZA:

19 733 Q. If I can now go to page 54 of --  
20 yeah, 54 of your affidavit, at paragraph 182.

21 A. Yes.

22 734 Q. You state:

23 "While LU is cognizant that the  
24 Notices of Disclaimer will have  
25 financial consequences for the

1 Federation Universities, the  
2 unfortunate reality is that the  
3 termination of federated  
4 relationships, and the revenue will  
5 remain with LU as a result, is a  
6 necessary component of a successful  
7 restructuring of Laurentian  
8 University."

9 So it's not an issue of costs. It's  
10 actually an issue of revenue, correct?

11 A. As is stated there, yes, but the  
12 revenue is needed by Laurentian.

13 735 Q. And presently you've got  
14 15 percent of that revenue without needing to  
15 offer the course, and what you're looking at is  
16 basically getting the other 85 percent while  
17 actually needing to offer the course, correct?

18 MS. MILLER: Objection. That's  
19 mischaracterizing the evidence that's been  
20 given.

21 BY MR. CAZA:

22 736 Q. You are not offering the course  
23 and you get to keep 15 percent of the tuition  
24 and the grants that are being provided to the  
25 Federated Universities for offering the course.

1 Is that misexplaining the evidence --

2 MS. MILLER: Yes.

3 BY MR. CAZA:

4 737 Q. -- Mr. Haché? If it is, correct  
5 me. Mr. Haché, correct me if that's wrong.

6 MS. MILLER: I stated an objection  
7 because his evidence on the record, which we can  
8 read back, if we find the reference, is that the  
9 15 percent is in respect of all of the services  
10 and everything that is provided by Laurentian.  
11 That's what the 15 percent is retained in  
12 respect of. His evidence was that 100 percent  
13 of the revenue currently is received by  
14 Laurentian and 85 percent is paid.

15 BY MR. CAZA:

16 738 Q. Okay. And I guess the -- my  
17 understanding is you're not going to be -- the  
18 work that you're doing for which you're getting  
19 15 percent, you're still going to need to do  
20 that work and offer those services for these  
21 courses if you end up -- if these students end  
22 up taking your courses, correct?

23 A. Yeah. The services still need to  
24 be provided. I think the important correction  
25 is that we are not offering additional courses.

1 The students will take existing courses and so  
2 there's no additional cost to the course  
3 delivery for Laurentian.

4 739 Q. You are hoping the students will  
5 take the existing courses, is that fair? You  
6 have not done any -- you have not approached any  
7 of the students; you've done no -- any kind of  
8 polling; you are just assuming; you're hoping  
9 that, is that fair?

10 A. No. The courses that are  
11 available as electives and for the programs  
12 exist at Laurentian. They are courses that are  
13 offered. Students will have the opportunity to  
14 choose and take those courses as they complete  
15 their program. And --

16 740 Q. What are the courses?

17 A. They're already on the books.  
18 They're already offered.

19 741 Q. And those are courses --

20 A. And they have capacity.

21 742 Q. -- that were offered when those  
22 students decided to take the course at the  
23 Federated Universities and they preferred or  
24 wanted to take a course at the Federated  
25 Universities, correct?

1                   A.    I can't comment on their specific  
2                   motivation, but they're courses that were  
3                   offered.

4   743            Q.    Now, if I go to paragraph --  
5                   okay, one second please, just go off the record.

6                   -- OFF-THE-RECORD DISCUSSION --

7                   BY MR. CAZA:

8   744            Q.    Mr. Haché, if we can go to  
9                   paragraph 189, you say:

10                        "I am advised by Jonathan Mair of  
11                       the DIP Lender, and do verily believe,  
12                       that the DIP Lender has made clear  
13                       that the satisfaction of this  
14                       Condition to Funding is essential to  
15                       the DIP Lender's willingness to  
16                       advance further funds under the  
17                       Amended DIP Facility."

18                   I understood you to say that you had  
19                   never contacted anyone from the DIP Lender  
20                   directly. So is this -- did you misspoke here?

21                   A.    No, I said I had never had a  
22                   conversation. I didn't say there wasn't  
23                   electronic communication. That was communicated  
24                   to me by the DIP Lender through counsel.

25   745            Q.    So you didn't say through



1 counsel. You say, "I am advised by Jonathan  
2 Mair". You didn't say through counsel.

3 A. Well, it's a letter that was  
4 communicated to me through -- I believe it came  
5 through counsel, yes.

6 746 Q. So have you got that letter?

7 A. I would assume that we do.

8 747 Q. The letter was sent to you. I  
9 just want to understand. You're saying you were  
10 advised by Jonathan Mair, so he wrote the letter  
11 to you?

12 A. He wrote the letter to me and it  
13 came to me through counsel, I believe.

14 MS. MILLER: Just to correct so that  
15 we're not going down a rabbit hole here,  
16 Mr. Caza. I believe what Mr. Haché -- Dr. Haché  
17 is referring to is an email confirmation of the  
18 fact in 189, but we will confirm that, and if  
19 it's different than as I have described, then we  
20 will certainly produce it.

21 BY MR. CAZA:

22 748 Q. Actually if you can just send me  
23 a copy of the email so we can see the email.  
24 I'm a little concerned. Is the email addressed  
25 to you or is it addressed to Mr. Haché?

1 MS. MILLER: I believe -- again, I  
2 don't want to assume, but I believe it is  
3 addressed to both of us, but I will verify that.

4 BY MR. CAZA:

5 749 Q. Well, why don't you go take a  
6 look. We don't have a lot of time left. How  
7 long -- can you undertake to give me a copy of  
8 that email?

9 U/A MS. MILLER: I will take that under  
10 advisement. I'm happy to take a break and speak  
11 to it after, if you like.

12 BY MR. CAZA:

13 750 Q. I don't have a lot of time left,  
14 so I would just like to continue here.

15 Jonathan Mair, Mr. Haché, do you know  
16 who that is? What is that person's role at the  
17 DIP Lender? Do you know? Is he legal counsel  
18 or is he the actual DIP Lender?

19 A. I don't have a specific  
20 recollection of his title. I'm sure that would  
21 be in the email communication.

22 751 Q. And is that the only email that  
23 you -- that you're describing here that you  
24 received that was sent to you? Is that the only  
25 email that was sent to you from the DIP Lender?

1                   A.    Over the course of the past  
2                   several months.  Most certainly there are other  
3                   communications with the DIP Lender that we have  
4                   had that have come through counsel to me, yes.

5   752            Q.    So I think I made this request  
6                   already and if I have, I apologize.  I want to  
7                   be provided, Ms. Miller, I want all of the  
8                   correspondence, emails, exchanges that you,  
9                   anyone on your team, or anyone at Laurentian  
10                  University has had, either to or from the --  
11                  anyone working either working for the DIP Lender  
12                  or his legal counsel.

13   R/F           MS. MILLER:  Yes.  And I believe we've  
14                  refused that and I've referred you to the  
15                  request that was made at the case conference  
16                  before Justice Morawetz for an examination of  
17                  the DIP Lender.  And the endorsement that was  
18                  made was to make all requests in respect of that  
19                  through the Monitor.

20                       BY MR. CAZA:

21   753            Q.    Okay, thank you.

22                       Are we to understand, Ms. Miller, that  
23                       if we make that request, the Monitor will  
24                       provide the documentation?

25                       MS. MILLER:  No, that's not what I've

1 said. I've said that the written requests for  
2 information are to go through the Monitor. The  
3 Monitor will consider them, I'm sure, and ask  
4 us, as applicant's counsel, what our position is  
5 and we'll deal with it accordingly.

6 BY MR. CAZA:

7 754 Q. And what will be your position?

8 MS. MILLER: I don't know because I  
9 haven't seen the questions, but let's follow  
10 what the endorsement was that was issued by  
11 Chief Justice Morawetz and we'll go from there.

12 BY MR. CAZA:

13 755 Q. That was quite the confidential  
14 process. All I'm asking is to be provided --  
15 you are relying on what the DIP Lender is saying  
16 in order to force the hand of the court to  
17 accept to bring to an end the agreement between  
18 Laurentian University and the Federated  
19 Universities, and you're taking the position  
20 that you don't even know if you're going to  
21 consent or agree?

22 And, in fact, you don't need the  
23 permission of the court. The applicant could  
24 send us all that information. I'm asking you to  
25 send it to me. I'm asking you to send me that

1 information.

2 MS. MILLER: And I disagree with the  
3 characterization of forcing the court's hand and  
4 I disagree with everything that you've said.  
5 And you have our position on that request.

6 BY MR. CAZA:

7 756 Q. So you don't consider it forcing  
8 the court's hand when you say, Hey, look, this  
9 DIP Lender -- this DIP Lender has a condition  
10 here that we have to bring to an end all of the  
11 agreements between Laurentian University and the  
12 Federated Universities? A DIP Lender that I  
13 have -- we have no doubt has very little, if  
14 any, knowledge of how Federated Universities  
15 work. And all of a sudden he's got this  
16 condition and we've got an affidavit where he's  
17 spoken to the Rector saying, Oh, if I don't get  
18 that, we're not going ahead.

19 MS. MILLER: We are getting into legal  
20 argument.

21 MR. CAZA: And I apologize for that.

22 BY MR. CAZA:

23 757 Q. If we can go to paragraph 192,  
24 Mr. Haché?

25 A. Yes.

758

Q. So you go:

"To be clear, LU does not take the decision to end its federation relationships lightly and regrets that it is necessary. As noted above, there is a strong affinity within the LU community for the Federated Universities and LU is committed to honouring that legacy."

And you say:

"To that end, Laurentian University has made every effort (within its financial constraints) to smooth the transition for the Federated Universities."

You've actually sworn in an affidavit that you've made every effort. I want you to describe all the efforts you've made to smooth the transition. Like all of them. Like don't skip any. I want to hear all of them. You've sworn that you have and you've made every effort. Tell me what you've done?

You've done nothing. Mr. Haché, you know you've done nothing. You've told them it's over and there's been no discussion. You've

1 done nothing.

2 MS. MILLER: Mr. Caza.

3 BY MR. CAZA:

4 759 Q. You've made no effort.

5 MS. MILLER: Please, if you have a  
6 question, allow him to answer. And he has given  
7 evidence on that point, so allow him to answer  
8 your question.

9 BY MR. CAZA:

10 760 Q. You've asked me to let him answer  
11 the question and I agree. So if he can answer  
12 the question.

13 A. I would ask to restate the  
14 question just so I can be sure what's being  
15 asked here. There's been a lot that's gone on.

16 761 Q. The question is pretty simple.  
17 You've sworn under oath that LU has made every  
18 effort within its financial constraints to  
19 smooth the transition for the Federated  
20 Universities. I want you to tell me everything,  
21 every effort you've made to do that.

22 A. So I have had, since last June,  
23 an open-door conversation with the presidents of  
24 the Federated Universities about how we can go  
25 forward. And I have said I am available to them

1 at any time. Sometimes they've chosen to  
2 engage, other times they have not.

3 We have also, as demonstrated with  
4 Huntington University, come to agreeable terms  
5 for Huntington to move forward and for  
6 Laurentian University to move forward in a  
7 manner that is mutually acceptable.

8 I would say that's a tangible  
9 demonstration of the willingness of Laurentian  
10 University to work with the federated partners.

11 762 Q. I don't know, somebody could say  
12 that's a tangible example of intimidation that  
13 has been successful, but we can argue that one  
14 later.

15 I do want to ask you, because I don't  
16 think you've answered my question, we're talking  
17 about efforts to smooth the transition. The  
18 transition is you having made the decision that  
19 you want to end the relationship. What have you  
20 done to smooth the transition of you ending that  
21 relationship? Tell me what you've done?

22 A. We have made an offer on how to  
23 facilitate the continuation of services and so  
24 forth. I think it is outlined in our materials  
25 in terms of should -- in going forward, how can



1 we make this transition from a federation to no  
2 longer a federation as smooth as possible,  
3 recognizing that we are intertwined in a  
4 locational sense and have certain shared  
5 services and so forth and how can we go forward  
6 on that?

7 And as recently as earlier this week,  
8 Father Meehan contacted me on how to continue IT  
9 services and I referred him to our IT department  
10 to look at what could be done with respect to a  
11 service level agreement around IT, as an  
12 example.

13 763 Q. Are you telling me, because I  
14 haven't heard this at all, are you telling me  
15 that you were contacted by John Meehan? I'm  
16 just trying to understand what you're saying.

17 A. That's correct.

18 764 Q. Who was telling you that one of  
19 the things he presently needs is continuation or  
20 he needs IT services, correct?

21 A. Yeah, email and so forth. And he  
22 would be interested in negotiating an  
23 arrangement with Laurentian post May 1st. And I  
24 very rapidly responded and indicated that we  
25 would be happy to engage in that conversation

1 and work out a solution that would be amenable.

2 765 Q. And just so I understand, so  
3 presently, does everybody use the same email  
4 system?

5 A. Yeah. Presently Laurentian  
6 administers the email system and student  
7 learning system and so forth, and we have that  
8 as part of our -- I believe our service level  
9 agreement with Huntington University going  
10 forward. And we would look to use the same  
11 model with other federated institutions.

12 766 Q. Mr. Haché, I just want to know,  
13 today, nevermind -- today, Laurentian is --  
14 basically there's a one-email system for all of  
15 the Federated Universities and Laurentian. It's  
16 one email system, correct?

17 A. I believe that is true and it is,  
18 you know, part and parcel of the administration  
19 charge that we've been talking about frequently.

20 767 Q. So that's part of the -- for  
21 example, the 15 percent that you're keeping,  
22 that's part of the services you're offering?

23 A. That is correct, part of the  
24 services provided.

25 768 Q. I'm just going to go off the

1 record for a second.

2 MR. CAZA: Mr. Haché and everyone,  
3 we're going to take a few minutes to review our  
4 notes to see if we have any more questions. And  
5 my friends from Thorneloe may have some  
6 questions, so we'll be back -- it will just take  
7 a few minutes.

8 -- RECESSED AT 3:40 P.M. --

9 -- RESUMED AT 3:43 P.M. --

10 BY MR. CAZA:

11 769 Q. I can tell you that I have  
12 further questions and they deal with the DIP  
13 Lender, and we're not looking for information,  
14 which is what the order basically says we get  
15 information from the Monitor, we're actually  
16 looking -- we need evidence. There is actual  
17 evidence.

18 Mr. Haché has confirmed there's been  
19 emails that have been exchanged. We want full  
20 disclosure. I think it's important in light of  
21 the position being taken by the applicant. So  
22 we are reserving our right.

23 We will have to decide what is the  
24 best way of proceeding to get access to all that  
25 information, which is essential, and we are

1       reserving our rights to obviously return to  
2       cross-examine once we get that information or  
3       that documentation, as well as once we get the  
4       answers to the undertakings and the under  
5       advisements that have been provided and we're,  
6       of course, reserving all our rights with respect  
7       to those.

8               Now, what I'd like to do, there is 15  
9       minutes left. I don't know if my friends at  
10      Thorneloe may have some questions for you.  
11      Thank you very much, Mr. Haché.

12             A.     Thank you.

13             MS. MILLER: I just wanted to respond.  
14      You had asked for an undertaking with respect  
15      to -- an undertaking given with respect to  
16      paragraph 50 of Dr. Haché's affidavit and we  
17      would like to provide the answer to that  
18      undertaking now and on the record.

19             Paragraph 50 of his affidavit related  
20      to:

21               "Ideally, programs would be  
22      positive economic drivers for LU.  
23      However, LU also took into account  
24      that, for a certain subset of programs  
25      with a direct link to LU's mission,

1                   such programs should operate despite  
2                   not satisfying the self-funding  
3                   threshold."

4                   You had asked for an undertaking to  
5                   advise if there was any single program that  
6                   remained, notwithstanding that it fell below the  
7                   economic or financial threshold, and I'd like to  
8                   provide the answer to that undertaking as  
9                   follows. And I'll provide this list of programs  
10                  so that the reporter has it for the transcript.

11                  There is one French language  
12                  undergraduate program that was not cancelled,  
13                  notwithstanding that it fell below the  
14                  determined threshold. That program is Service  
15                  Social, which has a total of 37 students across  
16                  all four years of the program.

17                  In addition, there are 12 other French  
18                  language undergraduate programs where a  
19                  financial ratio could not be calculated because  
20                  the programs don't have a specific number of  
21                  credits that are required to complete the  
22                  program, which is one of the key inputs in  
23                  determining the financial thresholds.

24                  Twelve of these programs have very low  
25                  enrollment and would not comply with the

1 thresholds if the programs required a dedicated  
2 number of credits. The French language programs  
3 in that category that continue to be offered  
4 with a direct link to Laurentian's mission,  
5 pursuant to paragraph 15 of Dr. Haché's  
6 affidavit, are and I'll read those other 12  
7 programs in addition to the Service Social. The  
8 4-year BA which has one student registered  
9 across all four years. The BA intro which has  
10 one student registered across all of the years.  
11 The Équité, diversité et droit de la personne  
12 which has one person registered across all four  
13 years. The Pré Service Social Ste-Anne which  
14 has one student registered across all four  
15 years. The Bachelor of Science four-year degree  
16 intro has two students registered across all  
17 four years. The BA three-year degree has three  
18 students registered across all three years.  
19 Biology has four students registered across all  
20 years. The Études interdisciplinaires has four  
21 students registered across all years. And the  
22 Online BA, the three-year degree, has four  
23 students registered across all three years. And  
24 the Éducation option two hybride has nine  
25 students registered across all years. And the

1 Service social Ste- Anne has 15 students  
2 registered across all years. And the Biochimie  
3 has 19 students registered across all years.

4 So that's the answer to the  
5 undertaking with respect to paragraph 50.

6 BY MR. CAZA:

7 770 Q. So I have two points. So  
8 that's -- I believe that's 13 courses in all,  
9 correct?

10 MS. MILLER: Programs. These are  
11 programs.

12 BY MR. CAZA:

13 771 Q. Programs. So how many programs  
14 are left at Laurentian University? I had the  
15 number. Was it 37 in French? Are you able to  
16 just confirm that?

17 MS. MILLER: We're just going to  
18 check.

19 MR. HANRAHAN: It's in the affidavit.

20 THE WITNESS: Yes, it's in the  
21 affidavit.

22 MR. HANRAHAN: Paragraph 57 of the  
23 affidavit.

24 MS. MILLER: So there are 38 remaining  
25 French language programs, but what I've

1 described, these are all undergraduate programs,  
2 and so let's just confirm if the 38 is all  
3 undergrad.

4 BY MR. CAZA:

5 772 Q. Mr. Haché, are you able to  
6 confirm?

7 MS. MILLER: We will get back to you  
8 on that.

9 THE WITNESS: We'll have to. If it's  
10 not 38, I think it's 35 because -- I don't know,  
11 we'll have to check whether it includes grad or  
12 not. They're stated in different ways in  
13 different places.

14 BY MR. CAZA:

15 773 Q. So what I understand from that is  
16 that you are not able to get some of the  
17 information you would have needed to do the  
18 calculation, but that the numbers, from what  
19 you've told me, are such that you may have not  
20 allowed those 13, which means that you would  
21 have cut -- instead of cutting I guess 27, you  
22 would have cut 40. And there would only be --  
23 whatever, 25 courses left.

24 Could I have the documentation  
25 supporting the evidence that you've just



1 provided, Ms. Miller? All the documentation you  
2 Have that we could look at and study confirming  
3 all the information you've just provided to us?

4 U/T MS. MILLER: What I've just provided  
5 to you is the number of enrollments across all  
6 years and, yes, we will provide that. It was  
7 going to be provided to the reporter, in any  
8 event, and that lists the number enrollments  
9 across all years.

10 And so the answer to your question is  
11 these are ones that would have fallen below the  
12 financial sustainability threshold, but are  
13 nonetheless being retained because of the  
14 specific link to the mission, the bilingual  
15 nature of the university.

16 BY MR. CAZA:

17 774 Q. Could you -- what I want you to  
18 provide is the necessary criteria, just so I can  
19 understand. All you've done is given us  
20 information. I'd like to see the written  
21 criteria and any documentation to support  
22 basically any assessment or analysis that was  
23 carried out with respect to these 13 courses.

24 MS. MILLER: The affidavit covers that  
25 and the relief does not include an assessment of

1 the academic -- the information that you're  
2 asking for. So I think the process that was  
3 followed is set out in the affidavit. If  
4 there's something specific that you're looking  
5 for, then perhaps you could advise us and we'll  
6 take it under advisement --

7 BY MR. CAZA:

8 775 Q. I'm asking you now. All this  
9 information that you're giving me, where did you  
10 get that. That comes from where?

11 MS. MILLER: From the Registrar.

12 BY MR. CAZA:

13 776 Q. Okay. So the Registrar is  
14 looking at what? His notes? Documents? What  
15 is he looking at? He doesn't remember that by  
16 heart. I want all the documents.

17 MS. MILLER: These are enrollment  
18 numbers, Mr. Caza, that I've just provided to  
19 you for those courses.

20 BY MR. CAZA:

21 777 Q. So those are enrollment numbers  
22 that you obtained from the Registrar for those  
23 courses. And if we look at the formula that was  
24 provided in the affidavit of Mr. Haché, all of  
25 those courses don't meet the criteria, which is

1 basically for French courses, all of the --  
2 basically the costs not outweighing the revenue,  
3 with the revenue including any special grants,  
4 is that correct?

5 MS. MILLER: If you were looking at it  
6 as a purely financial analysis, then based on  
7 the enrollment numbers in those courses, that's  
8 what the undertaking was, that's what the  
9 question was, and that's the information that's  
10 been provided.

11 THE WITNESS: Could I correct that  
12 we're talking about programs and not courses.

13 BY MR. CAZA:

14 778 Q. Thank you, Mr. Haché.

15 If I can ask you a question that flows  
16 from that? Don't you get any money from the  
17 federal government? I didn't see -- maybe I'm  
18 missing something, but don't you get a  
19 substantial amount of money through government  
20 Canada departments and agencies for the offering  
21 courses and programs in French?

22 MS. MILLER: That's addressed in  
23 paragraph 54 of Mr. Haché's affidavit.

24 BY MR. CAZA:

25 779 Q. And that's the extent of it?

1       There's no more than what you've set out in  
2       paragraph 54?

3               MS. MILLER: If there's something  
4       specific that you want to ask Mr. Haché that's  
5       in his affidavit, then I'm just trying to be  
6       helpful and show you that there's a reference  
7       there in paragraph 54.

8               THE WITNESS: We also discussed it  
9       earlier in one of the exhibits where you went  
10      through the different grants and how they were  
11      allocated to the various institutions that  
12      included a bilingualism grant. And, yes, in the  
13      financial calculation, I believe we stated this  
14      earlier as well, that in the financial  
15      calculation for the sustainability of programs,  
16      the grant funding is included in the  
17      calculations such that it's understood that  
18      French language programs require fewer students  
19      to be sustainable because there are additional  
20      special purpose grants for those programs. And  
21      that is all included in the calculation and it's  
22      detailed in the affidavit.

23              BY MR. CAZA:

24      780              Q. Mr. Haché, you have provided in  
25      your affidavit all of the information pertaining

1 to all of the grants that you're obtaining for  
2 offering services or programs and courses in  
3 French. It's all in your affidavit, correct?

4 A. I believe that is true.

5 MR. CAZA: Okay. So subject to what  
6 I've already advised you, that's the end of my  
7 cross-examination. I invite Mr. Yiokaris, if he  
8 has any further questions.

9 MR. YIOKARIS: Thank you, Mr. Caza.

10 CROSS-EXAMINATION BY MR. YIOKARIS:

11 781 Q. Good afternoon, Mr. Haché, I'm  
12 counsel for Thorneloe. I will be asking you  
13 some questions. Mr. Caza has been very  
14 thorough, so I don't anticipate to be very long,  
15 maybe 20 minutes or so. And I'm not going to go  
16 over the same areas that he went over, but I do  
17 have some targeted questions in some of those  
18 areas, thank you.

19 How is my voice?

20 A. I can distinguish what you're  
21 saying, yes.

22 782 Q. As I read your evidence and  
23 hearing in your evidence today, loosely I  
24 understand part of the motivation for  
25 terminating the Federation Agreements is to --

1 those students who were enrolled in the  
2 Federated Universities, then Thorneloe, would  
3 then now be taking those courses -- would now be  
4 taking other courses at Laurentian, and  
5 Laurentian has the capacity and courses to take  
6 those students.

7 Now, what I'm curious about is in the  
8 future. A couple of years from now, 5 years  
9 from now, 10 years from now, do you have any  
10 studies or surveys to confirm that Laurentian  
11 will retain those total enrollment levels in the  
12 future if you terminate the Federated  
13 Universities?

14 A. So certainly the Laurentian  
15 programming that we offer, the programs that are  
16 cited at Laurentian University, there is both  
17 historical information in terms of the  
18 attraction of students, there is demographic  
19 information in terms of the demographics in our  
20 region and what that will mean for student  
21 applications going forward. And there is other  
22 modeling in terms of how do we continuously  
23 improve our offerings and make it attractive to  
24 students? So there's a lot of work that's done  
25 in terms of, you know, for the future, how do we

1 ensure that we maintain and even -- against  
2 demographics grow our enrollments.

3 783 Q. My question was much more  
4 specific than that. My question is terminating  
5 the federations. Have you done studies and  
6 modelling to ensure or to see whether you'll be  
7 able to retain those enrollment levels in the  
8 future?

9 A. So the studies and modelling that  
10 we have done focus specifically on Laurentian  
11 programs and students that are registered in  
12 Laurentian programs and, yes, project the, you  
13 know, the healthy maintenance of these programs  
14 going forward. We're not -- you know, there's a  
15 substantial academic reorganization that has  
16 just gone on. We are not intent on redoing that  
17 every few years.

18 784 Q. Right. But do those projections  
19 include and those studies include if you  
20 terminate the Federated Universities?

21 A. So we have not specifically  
22 looked at the programming that is offered by the  
23 Federated Universities that would be closed as a  
24 result of the termination of the federation.

25 Whether we retain the students that

1 have come for those programs, whether students  
2 that have come for those programs would come to  
3 other Laurentian programs, you know, that's a  
4 very small number of students, first of all, and  
5 it's not included nor is it -- not included in  
6 the calculations.

7 785 Q. I'm talking about those students  
8 who are taking these elective courses at the  
9 Federated Universities as well.

10 A. We anticipated --

11 786 Q. Also future students. Have you  
12 done any modelling to say now that you've  
13 terminated them, what the retention levels will  
14 be given these terminations?

15 A. We don't believe the retention  
16 levels of students in Laurentian programs will  
17 be materially affected by eliminating the  
18 opportunity for electives at the Federated  
19 Universities.

20 787 Q. But that's what I'm getting at.  
21 On what basis do you believe that? Have you  
22 done studies? Have you done student interviews?  
23 Have you gone into the high schools to ask  
24 students if this will affect them and affect  
25 their decisions?



1                   A.    Based on overall enrollment  
2    planning and based on what we're hearing from  
3    students, yes, in terms of students interacting  
4    with program directors and deans.

5    788            Q.    So prospective students, you've  
6    gone out and sampled them and surveyed them? Do  
7    you have that reported anywhere?

8                   A.    We have not done a formal survey  
9    of prospective students until we know that --  
10   what is happening.

11   789           Q.    So you haven't done any formal  
12   surveys or studies to see whether the retention  
13   in total enrollment levels will stay the same if  
14   the Federated Universities are terminated,  
15   correct?

16                  A.    That is correct. What we do know  
17   is the majority of students do not make any  
18   distinction between Laurentian and a federated  
19   institution. Most are not even aware of whether  
20   they're taking a course that is offered by  
21   Laurentian or a course that is offered by a  
22   federated institution. They see the whole thing  
23   as Laurentian, and so my expectation is they  
24   will continue to see it all as Laurentian.

25   790           Q.    Which students have said that?

1 Do you have a name or a survey or a data base of  
2 that?

3 A. No, it is anecdotal for the most  
4 part. But it is heard broadly from students  
5 when you talk to them. And if you wish -- I  
6 would ask -- if I were you, I would ask the  
7 leaders of the student associations who will  
8 confirm that.

9 791 Q. Well, sir, you are the one who  
10 are making that statement and I don't see  
11 anywhere where you've listed the students that  
12 have actually been canvassed.

13 In contrast, I'm sure you've seen at  
14 Exhibit, I believe it's C or D, of Mr. Gibaut's  
15 affidavit, he's spoken to dozens and dozens and  
16 dozens of students who say it is material to  
17 them, of the termination.

18 And what I'm looking for is not  
19 anecdotal double, triple hearsay that you've  
20 heard. I'm asking if you've got any studies or  
21 reports. And as I understand your evidence, no,  
22 you don't. You've just got some double or  
23 triple anecdotal hearsay evidence, correct?

24 A. We do not have any formal reports  
25 to that effect, yes.

1           792           Q.    Thank you.

2                   MR. HANRAHAN:  The evidence you're  
3           referring to in that affidavit and the  
4           statements are similarly anecdotal and hearsay.

5                   MR. YIOKARIS:  Counsel, unless it's an  
6           objection, please don't interrupt, thank you.

7                   BY MR. YIOKARIS:

8           793           Q.    In terms of the list of courses,  
9           now, I'm sure you're aware that Thorneloe offers  
10          courses in gender studies, ancient studies, and  
11          religious studies?

12                   A.    Yes, I'm aware of that.

13          794           Q.    And does Laurentian have  
14          equivalent courses?

15                   A.    I don't believe that we do.

16          795           Q.    So, for instance, and I'm just  
17          going to list off a few courses.  For instance,  
18          1006, Greek Civilization, is there an equivalent  
19          one being offered at Laurentian?

20                   A.    I don't know, but -- I don't  
21          know.  I would imagine not.

22          796           Q.    1007, Roman Civilizations?

23                   A.    Again, the same answer.  I don't  
24          have the full course list, but I imagine that we  
25          don't duplicate.

1 797 Q. 2016, Classical Mythology, same  
2 answer?

3 A. Same answer.

4 798 Q. 2036, the Ancient World in Film,  
5 same answer?

6 A. Yes.

7 MR. HANRAHAN: You're obviously free  
8 to conduct this how ever you like, but I suspect  
9 if you ask Dr. Haché his answer is going to be  
10 the same for every course you're listing because  
11 he doesn't have the information in front of him.

12 BY MR. YIOKARIS:

13 799 Q. Thank you, counsel, I appreciate  
14 that and I will continue on.

15 2046, Sport and the Ancient World,  
16 same answer?

17 A. I believe so.

18 800 Q. 2136, Greek and Latin Roots of  
19 English, same answer?

20 A. I believe so.

21 801 Q. 4416, Greek History, Athens and  
22 Sparta, same answer?

23 A. I believe so.

24 802 Q. 2116, Introduction to Classical  
25 Greek, same answer?

|    |                                   |    |                                   |
|----|-----------------------------------|----|-----------------------------------|
| 1  |                                   | A. | Yes.                              |
| 2  | 803                               | Q. | 2115, Introductory Latin, same    |
| 3  | answer?                           |    |                                   |
| 4  |                                   | A. | Yes.                              |
| 5  | 804                               | Q. | 2216, Religion and Violence, same |
| 6  | answer?                           |    |                                   |
| 7  |                                   | A. | Yes.                              |
| 8  | 805                               | Q. | 2246, Women, Religion and         |
| 9  | Spirituality, same answer?        |    |                                   |
| 10 |                                   | A. | Yes.                              |
| 11 | 806                               | Q. | 3107, The Pauline Letters and the |
| 12 | New Testament, same answer?       |    |                                   |
| 13 |                                   | A. | I believe so.                     |
| 14 | 807                               | Q. | 3166, Mark's Gospel, same answer? |
| 15 |                                   | A. | Yes.                              |
| 16 | 808                               | Q. | 3306, Issues in Religion and      |
| 17 | Time, same answer?                |    |                                   |
| 18 |                                   | A. | Yes.                              |
| 19 | 809                               | Q. | 1005, Introduction to Women and   |
| 20 | Gender Studies, same answer?      |    |                                   |
| 21 |                                   | A. | Yes.                              |
| 22 | 810                               | Q. | 2006, Women as Visual Artists, A  |
| 23 | Women's Art History, same answer? |    |                                   |
| 24 |                                   | A. | Yes.                              |
| 25 | 811                               | Q. | 2036, Gender, Work and Families,  |

1 same answer?

2 A. I believe so, yes.

3 812 Q. 3046, Gender, Race and Racism,  
4 same answer?

5 A. Yes.

6 813 Q. 2296, Gender Issues and  
7 Education?

8 A. Yes.

9 814 Q. 2406, Violence Against Women?

10 A. As best I know with the  
11 information I have in front of me, yes.

12 815 Q. Okay, thank you.

13 You've read the Farber Report,  
14 correct?

15 A. The Farber Report?

16 816 Q. Yes, it's part of our material.  
17 I believe you indicated in your affidavit that  
18 you had read that report?

19 A. If I said I have, I have. I'm  
20 just not recognizing the name at the moment.

21 817 Q. It's by Allan Nackan. You say at  
22 paragraph 180 of your second affidavit:

23 "I have reviewed the Disclaimer  
24 Motions including [...] the Nackan  
25 Affidavit."

1                   A.    Yes, if it says I verified it,  
2                   that was correct. Do I remember the particulars  
3                   of that affidavit at this present time, I'm  
4                   afraid it's escaping me.

5   818            Q.    It was just served, I believe on  
6                   Monday, and you just swore this affidavit on  
7                   Wednesday. So if you've forgotten, you've  
8                   forgotten, but --

9                   A.    There have been, you know,  
10                  thousands of pages of materials in the last  
11                  week. So I don't have --

12   819           Q.    Okay.

13                  A.    I've looked at everything, but I  
14                  don't have a specific recollection of this one,  
15                  I'm sorry.

16   820           Q.    Okay. I'm going to bring it up  
17                   on the screen. I just want to go over a few  
18                   sections quickly.

19                  A.    Thank you.

20   821           Q.    Is that appearing on your screen,  
21                  Mr. Haché?

22                  A.    It is.

23   822           Q.    Mr. Nackan, in his report, goes  
24                   through a number of financial numbers and I just  
25                   wanted to review some of them with you, because

1 even though you can't remember reviewing his  
2 report, specifically in your affidavit, you say  
3 he's misguided..

4 So at section 6.22 you say, Mr. Nackan  
5 says that Thorneloe received about 568,770 in  
6 grants, which is .66 percent of the total grants  
7 of approximately 86 million received by  
8 Laurentian. Are those numbers probably about  
9 right, as far as you know?

10 MS. MILLER: Objection. You're asking  
11 him to verify someone else's evidence?

12 BY MR. CAZA:

13 823 Q. Well, he's in charge of this  
14 university and I'm understanding he should know  
15 these numbers. He's given a lot of these  
16 numbers out in his affidavit. I want to know if  
17 he's contesting these numbers or if he's got any  
18 different information.

19 MS. MILLER: Well, first of all, these  
20 are not his numbers and he's just mentioned to  
21 you that he's read thousands of pages of  
22 information and now you've put a number to him  
23 and asked him if it's correct. It's found in  
24 someone else's affidavit. It does not appear to  
25 me to be something he would know off the top of



1 his head, in fairness.

2 BY MR. YIOKARIS:

3 824 Q. Well, I would suggest he does.

4 He's the one in charge of Laurentian and these  
5 are figures about his university and about the  
6 federation. I would submit to you, he should.  
7 I mean, if he doesn't know, that's fine, but  
8 it's a proper question.

9 So if you're going to object, I will  
10 take that refusal, but I would like to pose it.  
11 If he doesn't know, he doesn't know.

12 A. I cannot verify whether that's  
13 correct or not with the information I have in  
14 front of me.

15 825 Q. And similarly at 6.23, Mr. Nackan  
16 says that in 2020, Thorneloe's revenues from  
17 tuition were only 1.5 million whereas Laurentian  
18 received 50.5 million in tuition. Do you know  
19 if those numbers are about right?

20 A. Again, I can't verify the  
21 numbers, but they are what is written there.

22 826 Q. First of all, do you know if  
23 Laurentian received about 50.5 million in  
24 tuition into 2020? Do you know that?

25 A. Yeah, I think within 10 million

1           that's about -- that's -- it's ballpark, yes.

2       827           Q.    Okay.  And then in the first one  
3           that I went over before, how about the  
4           86 million received in total grants in 2020, is  
5           that ballpark right?

6                   A.    Yeah, I think that is, you know,  
7           within -- it's within the area, I would believe,  
8           yes.  I can't -- I don't have at the end of a  
9           long day specific recollection of those exact  
10          lines, but, yes.

11       828           Q.    Okay.  And then finally at  
12          section 6.24, Mr. Nackan says that Thorneloe  
13          employs only 7 full-time faculty, whereas  
14          Laurentian employs 355 full-time faculty.  And  
15          that the salary and benefits paid by Thorneloe  
16          to its faculty members was approximately  
17          2.4 million, whereas Laurentian paid 134 million  
18          to its faculty members during that same period.  
19          Is that in the ballpark?

20                   A.    Oh, I can verify that we employed  
21          355 full-time faculty members.  That's in the  
22          affidavit, we went over it today.  I can't  
23          verify any of the other three figures.

24       829           Q.    So you don't know how much  
25          Laurentian paid its faculty members?

1                   A.    Off the top of my head, I don't  
2    have that figure in front of me. I mean, it's  
3    probably in the affidavit somewhere, but asking  
4    me off the top of my head, no, I can't verify.  
5    I simply -- I would be guessing.

6    830            Q.    Okay. But even a ballpark, you  
7    don't know within 10 million if that's right or  
8    not?

9                   A.    I think I've answered the  
10   question. I don't know.

11   831            Q.    Okay. Now, as I read your  
12   affidavit, I understand you to state that the  
13   revenue gained by terminating the federated  
14   agreement and the Thorneloe agreement is crucial  
15   to Laurentian's successful restructuring.

16                   Now, you'd agree with me that you  
17   don't have degree in accounting, correct?

18                   A.    That is correct. I have a degree  
19   in biochemistry.

20   832            Q.    And you're not a financial  
21   analyst, correct?

22                   A.    I am not a certified financial  
23   analyst, no.

24   833            Q.    And has Laurentian done financial  
25   models to see how Laurentian would operate in

1 the future if it kept the Federated Universities  
2 post the LUFA and LUSU concessions that were  
3 recently reached?

4 A. So I think all of our financial  
5 modelling is comprised of a complex series of  
6 inputs. We've talked about LUFA. We've talked  
7 about LUSU. You've got the management  
8 employees. You've got the federated  
9 institutions plus, plus, plus a number of things  
10 that I haven't mentioned. And what one needs to  
11 understand is that building a sustainable  
12 university going forward requires the sum of all  
13 of those inputs. And, you know, it is like, you  
14 know, building blocks, and if there's a block  
15 missing then the whole thing doesn't work.

16 And that's what we were saying in this  
17 affidavit that the sum of all the different  
18 things, and we talked about it earlier as well,  
19 there were questions on it, but the sum of all  
20 of the different things are needed in order for  
21 the university to move forward.

22 And, you know, they will have greater  
23 or lesser contributions, but all are necessary.

24 834 Q. With respect, sir, that wasn't  
25 responsive to my question. I asked, does

1 Laurentian have financial models to see how  
2 Laurentian operated in the future if it kept the  
3 Federated Universities post the LUFA and LUSU  
4 concessions? Has it done that to see whether it  
5 could be financially viable, given all these  
6 other concessions to keep the Federated  
7 Universities? Has somebody sat down to do that  
8 modeling to see what that would look like?

9 A. It is not financially -- the  
10 point is, it is not financially viable to keep  
11 the Federated Universities in the context of all  
12 of the modeling that we have done. And I think  
13 I've answered the question.

14 835 Q. No, you haven't answered my  
15 question. I'm asking is there modelling done to  
16 see what Laurentian finances would look like,  
17 how it would operate in the future if it kept  
18 the Federated University?

19 A. I think the modelling that has  
20 been done indicates that Laurentian is only  
21 financially viable with the totality of the  
22 changes that are needed. And that is an answer  
23 to your question, I believe.

24 836 Q. Well, no, no, it's not.  
25 I'm asking if somebody sat down and

1 plugged in saying, keeping the Federated  
2 Universities post these concessions, what would  
3 the financial picture look like?

4 A. People have sat down with the  
5 sliding scale around all the different  
6 components and moved the sliders this way and  
7 that way to try to understand what a financially  
8 viable institution is. And what you have at the  
9 end of the day is the position that we've put  
10 forward.

11 837 Q. Okay. Can I have a copy of the  
12 financial modelling of what the finances would  
13 look like if the Federated Universities were  
14 kept in post the LUFA and LUSU concessions? Can  
15 I have a copy of that?

16 MS. MILLER: We've already gone over  
17 that. The objection was already previously  
18 noted and I think what you've heard is that it  
19 is a matrix. First of all, it's a draft. It's  
20 a matrix of all of the component parts. And I  
21 think we previously have registered an objection  
22 on the record in terms of the draft work that's  
23 been done.

24 BY MR. YIOKARIS:

25 838 Q. Fair enough. And those

1 objections also carry on to me. But I just  
2 wanted to make sure that no one actually sat  
3 down and did one specifically that would include  
4 the Federated Universities. I kind of  
5 understood his testimony, it wasn't clear to me  
6 whether there was one or not, but if you're  
7 objecting to it, that's fine, I will take the  
8 refusal and move on?

9 MS. MILLER: Yeah, I think it was  
10 previously answered.

11 BY MR. YIOKARIS:

12 839 Q. So I will take that refusal.  
13 At paragraph 55 of your second  
14 affidavit, Mr. Haché, if you can turn to that?

15 A. Okay.

16 840 Q. There you talk about that:  
17 "Although the Federation  
18 Agreements express a 'hope' that the  
19 federated relationships will be  
20 permanent --"

21 A. I'm sorry, you're saying  
22 paragraph 55?

23 841 Q. Sorry, paragraph 155.

24 A. I'm sorry, I was at -- I was at  
25 paragraph 55. Okay, I have 155 now.

1 842 Q. The second sentence there, you  
2 write:

3 "[...] relationships will be  
4 permanent, the parties always  
5 recognized that the Federation  
6 Agreements might be ended at some  
7 point."

8 And then you talk about it as being an  
9 aspirational goal later on in that paragraph,  
10 right?

11 A. That is the way I interpret the  
12 word "hope".

13 843 Q. Okay. So let's go to Exhibit P  
14 of your first affidavit.

15 A. Exhibit P, that will take a  
16 minute.

17 844 Q. This is the actual Federation  
18 Agreement from back in 1962. And Mr. Caza  
19 already went over the Federation Agreement, but  
20 I just have one or two points here.

21 A. I'm just going to try and find  
22 that. That would be Exhibit P, yes, I have it.  
23 Thank you.

24 845 Q. And if you can turn to clause 12,  
25 please?



1 A. Going down to number 12. There  
2 we are.

3 846 Q. And that agreement provides:

4 "Both Laurentian University and  
5 Thorneloe University declare and  
6 express the firm hope and conviction  
7 that the relationship between the  
8 universities established by this  
9 agreement will be a permanent one."

10 And a conviction, as you know, means a  
11 firmly held belief, correct?

12 A. Yes, and I understand what hope  
13 means as well. And we have -- the federation  
14 has lasted for 60 years. That's a very long  
15 time.

16 847 Q. But this is not just a hope.  
17 It's a firm hope and a conviction, right?

18 A. It is. But it is a hope and a  
19 conviction, yes. It is an aspirational goal, as  
20 we've described.

21 848 Q. Okay.

22 A. And the aspiration was maintained  
23 for 60 years.

24 849 Q. Okay. Well, let's see how you  
25 described it in your first affidavit, so if you

1 can go back to your actual first affidavit at  
2 paragraph 88, please?

3 A. Yes.

4 850 Q. Here you write:

5 "Laurentian and Thorneloe entered  
6 into a Federation Agreement in 1962  
7 [...]."

8 A. Sorry, I had the page 88, not the  
9 paragraph. Apologies, it's getting late.  
10 Taking me a little longer to react to these  
11 things. Okay, here we are.

12 851 Q. Okay:

13 "Laurentian and Thorneloe entered  
14 into a Federation Agreement in 1962  
15 [...] a copy of which is attached  
16 hereto as Exhibit 'P'. The  
17 LU-Thorneloe Federation Agreement  
18 contains a provision stipulating that  
19 the relationship between Laurentian  
20 and Thorneloe will be permanent, and  
21 the success of the relationship is to  
22 be predominantly fostered through  
23 'mutual cooperation and goodwill',  
24 rather than any formal agreements."  
25 So here you don't mention anything

1 about hope or aspirational. You come right out  
2 and say, just like the document does, that it'll  
3 be permanent, correct?

4 A. I think we've just clarified by  
5 looking at the original document about the firm  
6 hope and conviction. I think, you know, those  
7 are the -- that's very correct if the word hope  
8 is missing from paragraph 88, I apologize.

9 852 Q. Okay. Well, we can agree to  
10 disagree.

11 Now, back at paragraph 155 of your  
12 second affidavit that we were looking at before,  
13 you gave an example about why you thought it may  
14 be ended one day. And one of the things that  
15 you said in there was because the indentures  
16 support your belief:

17 "Indentures also include specific  
18 provisions for what happens to the  
19 Federated Universities' Land and  
20 buildings in the event that a party  
21 'withdraws' from the Federation  
22 Agreement."

23 Correct?

24 A. That's what is written there,  
25 yes.

1           853           Q.   And now if we are at Exhibit Q of  
2           your first affidavit again, and here's a copy of  
3           the indenture or the lease, as I'll call it,  
4           with Thorneloe.

5                   A.   Exhibit Q, which I have.

6           854           Q.   Right. Dated October 1964. If  
7           you can go to clause 2. And clause 2, you'd  
8           agree with me that this is a 99-year lease?

9                   A.   Yes. Let me say in response to  
10          the lead up to this question that you said --  
11          you first talked about should the withdrawal  
12          from the federation occur. So I think that  
13          inherently reinforces my point that while there  
14          is a hope of a long-term federation, there are  
15          provisions for should the federation fall apart  
16          by one party or another wanting to discontinue.

17          855           Q.   Sir, I haven't asked you --  
18          that's not the question I asked. The question I  
19          asked is with respect to the lease. You agree  
20          with me that there is a 99-year lease?

21                   A.   I agree that there's a 99-year  
22          lease and there is a provision to end the lease  
23          in advance of 99 years as well.

24          856           Q.   And you'd agree with me that  
25          clause 5 also provides the right of renewal for

1 another 99 years, taking it to about the year  
2 2161, correct?

3 A. Yes, I think it's 60, but, yes.  
4 Or 63 to 61, yes. But as I said, there's also  
5 clause in terms of should one want to get out of  
6 the lease or should Thorneloe want to get out of  
7 the lease.

8 857 Q. I'll get -- right, thank you. So  
9 it's not the parties who can withdraw, but it's  
10 that Laurentian may withdraw, right? That's  
11 what clause 6 talks about? Your affidavit was a  
12 little vague and talked about the parties  
13 withdrawing, but I don't see anything in this  
14 agreement referencing Laurentian being able to  
15 withdraw. It just mentions Thorneloe being able  
16 to withdraw, correct?

17 A. Well, it said -- it explicitly  
18 indicates that while the relationship, there is  
19 a hope for it to be permanent, there are  
20 mechanisms in place, in this case specifically  
21 should Thorneloe wish to withdraw.

22 858 Q. I'm talking about the lease.

23 A. In the lease, that's what I'm  
24 saying.

25 859 Q. I'm talking about the lease right

1 now. In the -- in your affidavit, you had  
2 mentioned that the lease contemplates that the  
3 parties may withdraw from the federation.

4 A. It does. And I don't believe we  
5 are disclaiming the lease.

6 860 Q. No, no, no, I know, but I'm  
7 asking specifically about the lease. Where does  
8 it say there -- where does it contemplate that  
9 Laurentian may withdraw from the federation in  
10 this lease document?

11 A. Okay. So I believe somewhere in  
12 the lease it indicates that the lease may be  
13 terminated should Thorneloe cease to meet  
14 certain expectations within the lease.

15 861 Q. And none of those terminations --  
16 issues of default have occurred here, right?

17 A. I didn't hear the last part,  
18 sorry.

19 862 Q. That Thorneloe isn't in breach of  
20 this lease, correct?

21 A. Yeah, if Thorneloe becomes in  
22 breach of the lease, it may be terminated, yes.

23 863 Q. But it doesn't talk about  
24 Laurentian withdrawing from the federation,  
25 correct?

1                   A.   Well, it doesn't talk about  
2           Laurentian disclaiming the federation, which is  
3           what we're doing.

4   864           Q.   Okay. Thank you.

5                   Now, as I understand it, four DIP  
6           Lenders were initially approached regarding the  
7           DIP. Is that your understanding --

8                   A.   I think four DIP Lenders  
9           originally approached us.

10   865          Q.   Four DIP Lenders originally  
11           approached you?

12                  A.   Four DIP Lenders expressed an  
13           interest in potentially providing a DIP to  
14           Laurentian University.

15                  MS. MILLER: So that's not confusing  
16           on the record, just to correct so there's no  
17           confusion and you're not going down a road of  
18           operating on an incorrect fact. You're talking  
19           about the prefiling period in which case DIP  
20           Lenders were approached by us on behalf of  
21           Laurentian, not the other way around. The DIP  
22           Lenders would not have known about the pending  
23           CCAA filing obviously.

24                  BY MR. YIOKARIS:

25   866          Q.   Thank you, counsel. I'll take

1 the evidence from Mr. Haché. Unless you're  
2 objecting, please -- please don't interrupt.  
3 Mr. Haché said he was kept informed of all of  
4 these DIP negotiations and I don't want to put  
5 you in a position of being an advocate and  
6 giving evidence, thank you.

7 A. Counsel is expressing it  
8 correctly. And if I misstate it, then it should  
9 be corrected.

10 867 Q. As far as you know, what was the  
11 extent of the approach?

12 A. Well, again, I was not directly  
13 involved, and so we followed advice of counsel  
14 and worked through counsel.

15 MS. MILLER: I'd like to direct him to  
16 his affidavit where he addresses that.

17 BY MR. YIOKARIS:

18 868 Q. That's directed at paragraph 29  
19 of the first Monitor's report.

20 MS. MILLER: Well, he also swore  
21 evidence on it, so perhaps you could direct him  
22 to his affidavit?

23 BY MR. YIOKARIS:

24 869 Q. I don't know if he actually swore  
25 evidence on that point, but I know it is in the



1 first Monitor's report.

2 A. I believe it does as well. I  
3 couldn't say exactly where, but I believe it  
4 does.

5 870 Q. So let's talk about what you do  
6 know about this, okay? Why was this -- do you  
7 know why this particular DIP Lender was selected  
8 over the other three?

9 A. Because they offered the most  
10 favourable terms.

11 871 Q. Okay. And, counsel, I'm assuming  
12 that the objections you made before also  
13 include -- because I'd like to ask for  
14 undertaking to provide a copy of draft term  
15 sheets and correspondence or documents relating  
16 to the negotiation of the DIP and these other  
17 potential DIP Lenders?

18 MS. MILLER: I think if you refer to  
19 his affidavit evidence on the exact points  
20 you're addressing, which are in his first  
21 affidavit, paragraphs 339 to 352.

22 BY MR. YIOKARIS:

23 872 Q. I'm happy to take a break or I  
24 should be done in about five minutes.

25 Counsel, I've asked for an undertaking

1 to provide a copy of any draft term sheets and  
2 any correspondence or documents relating to the  
3 negotiation of the DIP and these other potential  
4 DIP Lenders. May I have that undertaking?

5 R/F MS. MILLER: No, that's refused.

6 BY MR. YIOKARIS:

7 873 Q. Did any of the other DIP Lenders,  
8 Mr. Haché, as far as you know, expressly require  
9 the termination of the federated agreement?

10 A. I have no knowledge that allows  
11 me to answer that question.

12 874 Q. Okay. So at Exhibit Z, and we  
13 don't have to turn to it, but at Exhibit Z of  
14 your second affidavit is a loan amendment  
15 agreement with the DIP Lender, dated April 19th,  
16 2021.

17 Now, for the DIP extension, were the  
18 three other potential lenders, referenced in  
19 your first affidavit, approached or consulted?  
20 Do you know if that's the case?

21 A. I believe it says -- in the first  
22 affidavit it indicates that the DIP Lender has a  
23 priority on additional DIP lending and counsel  
24 can probably elaborate on that further.

25 875 Q. Sir, I'm saying that whenever you

1       went to get additional funding, right, because  
2       Laurentian got the 25 million and you needed  
3       10 million more. To get that 10 million more,  
4       do you know if you ever went back to the other  
5       three potential DIP Lenders?

6               A.    What I'm saying is that the  
7       conditions of the original DIP loan indicated  
8       that the DIP had a priority on any future DIP  
9       loans.

10  
11   876           Q.   Right. But --

12               A.    That's what I know of the  
13       situation.

14   877           Q.   Right. But what I'm asking is,  
15       if any other DIP Lenders, including these three  
16       potential DIP Lenders, were consulted about this  
17       additional 10 million funding? Like, were they  
18       canvassed? Do you know that?

19               A.    As I said, the DIP Lender that we  
20       have had a priority and so I believe we went to  
21       that DIP Lender first, as we were expected to  
22       do.

23   878           Q.   I'm not asking if you went to  
24       them first. I'm asking if you consulted any of  
25       the other three DIP Lenders?

1                   A.    I don't believe that we did. I  
2                   don't know the answer to the question, no. To  
3                   be specific, I'm not sure what the answer. I  
4                   don't know. I suspect not, but I don't know.  
5                   I'm not the person to ask that question.

6   879            Q.    And when was the term mentioned  
7                   by the DIP Lender about the Federated  
8                   Universities having to be terminated? When was  
9                   that term first mentioned by the DIP Lender? As  
10                  far as you know, is that in the  
11                  April 19th letter?

12                 A.    It was -- as far as I can recall,  
13                 it was in the draft term sheet that I saw.

14   880            Q.    And when did you see that draft  
15                   term sheet?

16                 A.    Oh, you know, it's somewhere in  
17                   the last two weeks. Again, specific date and  
18                   time, so many documents, I couldn't say for  
19                   sure.

20   881            Q.    Okay. So somewhere in the last  
21                   two weeks. They certainly said it on  
22                   April 2019, so sometime maybe in the week before  
23                   that?

24                 A.    Well, sometime around April 19th.  
25                 I couldn't be more specific honestly, I'm sorry.

1       882               Q.    And, counsel, just to confirm  
2       that that was also covered as part of the  
3       refusal, correct, the draft term sheet, as I  
4       recall?

5                       MS. MILLER:  Is the question that you  
6       want an answer to whether the first draft of the  
7       term sheet for the amendment that was provided  
8       by the DIP Lender included a term that related  
9       to the disclaimer of the Federated University?

10                      BY MR. YIOKARIS:

11       883               Q.    No.  My question was going to be  
12       if I can have an undertaking to have a copy of  
13       that draft term sheet provided about the  
14       \$10 million extension.  And as I understood it,  
15       that was already refused.  I just wanted to make  
16       sure that that was encompassed by the refusal  
17       that was given earlier.

18                      MS. MILLER:  Yes, that the refusal  
19       relates to providing copies of drafts, but if  
20       the question that you want to ask is whether  
21       the -- you know, whether from the outset in  
22       respect of the negotiation of the amendment, the  
23       condition relating to the disclaimers of the  
24       federated agreements was contained in there,  
25       then that's a separate question.

1 BY MR. YIOKARIS:

2 884 Q. Yeah, I've already asked for all  
3 the negotiations and documents with respect to  
4 any DIP Lenders and that you've already told me  
5 about 10 minutes ago is already refused. So I'm  
6 going to continue on.

7 MS. MILLER: Well, that is refused.  
8 I'm just trying to assist you by saying if your  
9 question is narrower and you want to know the  
10 answer to that question, then I'm -- that's a  
11 different question.

12 BY MR. YIOKARIS:

13 885 Q. I've asked Mr. Haché the  
14 questions I need to ask him and he's given me  
15 his evidence. Thank you.

16 Did Firm Capital ever provide you, as  
17 far as you know, Mr. Haché, any modelling of  
18 detailed financial analysis as to why the  
19 termination of the three Federated Universities  
20 was essential to the extension?

21 A. I have not seen anything to that  
22 effect from Firm Capital, no.

23 886 Q. Thank you. Now, paragraph -- and  
24 again, this you don't have to turn to, but I can  
25 tell you that paragraph 161 of your second

1 affidavit, you state Laurentian is not  
2 extinguishing the right of Thorneloe and the  
3 other Federated Universities to exist.

4 You would agree with me though that if  
5 the agreements are terminated with Thorneloe,  
6 that Thorneloe would suffer financial  
7 consequences?

8 A. I imagine they would, yes.

9 887 Q. And would you also agree with me  
10 that this would likely cause the bankruptcy of  
11 Thorneloe?

12 A. I can't say that. I don't know  
13 the inner details of the finances of Thorneloe  
14 or any other plans they may have.

15 888 Q. So you wouldn't -- you don't know  
16 that they would likely become bankrupt, is what  
17 you're saying?

18 A. I'm saying I don't have access to  
19 the information that would allow me to draw a  
20 conclusion there.

21 889 Q. All right. Okay. Now, when was  
22 Ernst & Young first engaged even before the  
23 Monitor?

24 A. So we engaged Ernst & Young, my  
25 recollection is, in September of 2020 to assist

1 us in some financial analysis of our financial  
2 issues because I felt it necessary to go  
3 externally.

4 890 Q. And when was the decision made to  
5 file for CCAA protection?

6 A. The day before we filed.

7 891 Q. The day before you filed. So  
8 you're telling me all that motion material that  
9 probably took somebody weeks to prepare was done  
10 in 24 hours?

11 A. No. I'm saying you asked me when  
12 the decision was made and I believe we had a  
13 Board meeting the day before and the Board of  
14 Governors of Laurentian University, which has  
15 the authority to make that decision, made the  
16 decision to proceed on the eve of when we filed.

17 892 Q. Okay. And when was the decision  
18 made that Laurentian would likely be pursuing a  
19 CCAA? Not when it was approved by the Board,  
20 but when you thought and believed that it looks  
21 like we're going to have to go the route of the  
22 CCAA. Like when did you have that term in your  
23 head where you thought, forget about what the  
24 Board approved, but where you thought, yes,  
25 we're going to have to file for CCAA protection?



1                   A.    I would say pretty much at the  
2                   same time. We were investigating all  
3                   possibilities for a resolution. CCAA was not a  
4                   decision of no choice or no other choice.

5   893            Q.    So you're saying that in your  
6                   head that you didn't make up the decision to  
7                   file for CCAA, but that was likely what was  
8                   going to happen, until the day before the filing  
9                   happened? That you prepared all this detailed  
10                  material and in your head it was still, I'm not  
11                  sure if we're going to file until the day  
12                  before?

13                A.    Well, it was, you know, one has  
14                  to do one's preparations, but as I said, we were  
15                  investigating all possible ways not to go down  
16                  this pathway. And, you know, it is the sort of  
17                  thing that at the 11th hour you realize there is  
18                  no other way.

19   894            Q.    So you instructed counsel and you  
20                   instructed Ernst & Young to do all this  
21                   preparatory work, which cost a substantial  
22                   amount of money, and you still weren't sure up  
23                   until the day before filing?

24                A.    I mean, the -- we're always  
25                  hoping and trying to -- we were trying to avoid

1       this right up until the end, yes, but that  
2       doesn't say, you know, you don't prepare. You  
3       do prepare, but you also try and find any other  
4       eventuality that -- any other path forward that  
5       you can because this is not a desirable path.  
6       This is a path of no choice.

7       895               Q.    Okay. Well, let me the phrase it  
8       this way, when did you think the CCAA was  
9       probable? Not --

10                   MS. MILLER: I think he's answered the  
11       question a couple of times.

12                   BY MR. YIOKARIS:

13       896               Q.    Okay. If that's his answer to  
14       the question, that's his answer. Okay. Those  
15       are my questions, subject to answers to  
16       undertakings and refusals.

17                   I just want to be clear that the  
18       number of objections that Mr. Caza had said  
19       particularly with respect to the DIP  
20       documentation and refusal to produce documents,  
21       we reiterate and support full, whole, all of  
22       those. Thank you.

23                   MS. MILLER: And I want to ask the  
24       reporter if we could impose on you, I know it's  
25       going to take some time even on an expedited

1 basis to turn around the transcript, would it be  
2 possible to get a list of the under advisements  
3 and undertakings and refusals so that counsel  
4 for the parties could review those as quickly as  
5 possible and see if we can't advance those as  
6 quickly as possible.

7 --- Whereupon the examination was  
8 completed at 4:38 p.m.

REPORTER'S CERTIFICATE

I, HELEN MARTINEAU, CSR, Certified  
Shorthand Reporter, certify;

That the foregoing proceedings were  
taken before me at the time and date therein set  
forth at which time the witness was put under  
oath by me;

That the testimony of the witness and  
all objections made at the time of the  
examination were recorded stenographically by me  
and were thereafter transcribed;

That the foregoing is a true and  
accurate transcript of my shorthand notes so  
taken. Dated this 24th day of April, 2020.



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PER: HELEN MARTINEAU

CERTIFIED SHORTHAND REPORTER

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|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|--|
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7

Court File No.: CV-21-656040-00CL

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

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED**

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

**UNDERTAKINGS CHART**

(Cross-Examination of Pierre Riopel of April 24, 2021)

April 26, 2021

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| ENGAGEMENTS DONNÉS / UNDERTAKINGS GIVEN |                 |             |                                                                                                                                                                                                                                                                                                   |                                                              |            |
|-----------------------------------------|-----------------|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|------------|
|                                         | No. de Question | No. de Page | Question                                                                                                                                                                                                                                                                                          | Réponse/Answer                                               | Onglet/Tab |
| 1.                                      | 133             | 53          | Provide an explanation of how the numbers in paragraph 34 of the affidavit were calculated and what they represent.                                                                                                                                                                               | Voir Annexe A<br>See Sch. A                                  | A          |
| 2.                                      | 165             | 65          | Provide a copy of the resolution passed by the Board of Regents, adopted March 11, 2021.                                                                                                                                                                                                          | Voir Onglet B<br>See Tab B                                   | B          |
| 3.                                      | 203             | 87-88       | Provide the University of Sudbury's draft business plan.                                                                                                                                                                                                                                          | Voir Onglet C<br>See Tab C                                   | C          |
| 4.                                      | 289-290         | 129         | Provide what was taken into consideration to arrive at the \$4M dollar number in paragraph 2.                                                                                                                                                                                                     | Voir Annexe A<br>See Sch. A                                  | A          |
| 5.                                      | 294             | 130         | Provide an explanation of the \$400,000 annual upkeep of buildings and leased lands amount.                                                                                                                                                                                                       | Voir Annexe A<br>See Sch. A                                  | A          |
| 6.                                      | 308             | 134-141     | Best efforts to verify Mr. Riopel's records to locate correspondence from Laurentian regarding discussions for an end to the Laurentian Federation.<br><br>Make inquiries of the President of the University. Provide a copy of the letter, if, exercising reasonable efforts, it can be located. | Voir Annexe A<br>See Sch. A                                  | A          |
| 7.                                      | 309             | 142         | Ask the executive assistant to the President of the University the same questions relating to such correspondence.                                                                                                                                                                                | Aucun document retrouvé/<br><br>No documents have been found |            |

| ENGAGEMENTS PRIS EN DÉLIBÉRÉ |                 |             |                                                                                                                                                                                                                                                                                                               |                                          |        |
|------------------------------|-----------------|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|--------|
|                              | No. de Question | No. de Page | Question                                                                                                                                                                                                                                                                                                      | Réponse ou raison pour refus de répondre | Onglet |
| 8.                           | 267             | 118         | Make inquiries and determine if communications have been issued to students with respect to the effect of the announcement of March 11 <sup>th</sup> to become a Francophone university, on the existing English language programs and bilingual programs that are offered through the University of Sudbury. |                                          |        |

| REFUS |                 |             |                                                                                                                                                                                                                                                                    |                                                                                                                        |        |
|-------|-----------------|-------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|--------|
|       | No. de Question | No. de Page | Question refusée / engagement refusé                                                                                                                                                                                                                               | Raison pour refus de répondre                                                                                          | Onglet |
| 9.    | 173             | 72          | Was Sudbury's plan to leave the federation and become an independent French university already in motion before Laurentian issued the disclaimer?                                                                                                                  | Répondue plus tard après reformulation de la question.                                                                 |        |
| 10.   | 267             | 117         | Would Mr. Riopel consider that to not have communicated with students who might be having their programs terminated is a failure to comply with an obligation of the University administrative employees' job?                                                     | Question hypothétique.<br><br>Un engagement en délibéré (voir #8, ci-dessus) a été donné par rapport à cette question. |        |
| 11.   | 280-281         | 125-126     | Is the announcement consistent with paragraph 17 of the Federation Agreement?<br><br>If Laurentian complied with the request to transfer all French programs to the University of Sudbury, would that be consistent with paragraph 17 of the Federation Agreement? | Question juridique.                                                                                                    |        |
| 12.   | 304             | 135         | Provide correspondence from Laurentian regarding putting an end to the Federation Agreement.                                                                                                                                                                       | Un engagement (voir #6, ci-dessus) a été donné par rapport à cette question.                                           |        |
| 13.   | 313             | 143         | It's not the case that Laurentian is terminating the agreement rather than attempting to negotiate given the two-month long negotiation with intensive mediation sessions, right?                                                                                  | Pas pertinent.                                                                                                         |        |

**ANNEXE / SCHEDULE**  
**“A”**

| Engagement Undertaking # | Réponse / Answer                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|--------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.                       | <p>Per USudbury Registrar, Paul Laverdure:</p> <p>A full-course equivalent for 2019-2020, according to its own statistics, was 2228 FSCE, i.e., there were the equivalent of 2228 students enrolled in 6 credits (i.e., a single full-year course). Some students were only taking 3 credits or a half-year. These were added to other 3-credit students to create a FSCE (full student course equivalent).</p> <p>In other words, since many of our courses are 3-credit courses, USudbury had approximately 4456 3-credit course enrolments. This is an approximation because many students take more than a single 3-credit course at USudbury. Some take all 10 courses at USudbury in a year, or a combination of 3 and 6-credit courses.</p> <p>Per USudbury President, John Meehan, he says the equivalent number of full-time students is close to 140.</p> |
| 4.                       | <p>The \$4M figure is a combination of statutory notice costs and severance payable to USudbury employees pursuant to the Employment Standards Act, worth approximately \$800,000. The balance of the figure is a rounded liability estimate for additional compensation claimed by employees which may be owed pursuant to collective bargaining agreements as a result of permanent loss of employment.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 5.                       | <p>The \$400,000 figure is comprised of an estimate of the annual costs for building maintenance and repairs, including a figure for minimal staff salaries and benefits. This figure is based on USudbury not delivering any courses to Laurentian students, meaning no student and faculty and no operation of the residences.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 6.                       | <p>Mr. Riopel states: "I had the opportunity to check my files, but I made a mistake, past discussion had been about financial distribution issues, not termination of the federation <i>per se</i>."</p> <p>The President, John Meehan, could find no correspondence.</p> <p>Legal counsel for USudbury made inquiries of the former Board of Regents Chair, Senator Josée Forest-Niesing, about the undertaking, and she could recall discussions and initiatives by Laurentian back in 2011 or thereabouts intended to reduce the influence of the federated universities</p>                                                                                                                                                                                                                                                                                    |



|  |                                                                                                                                                                                                                                                                                            |
|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  | <p>within Laurentian. She described discussion about reductions in Laurentian board seats and at its senate as part of Laurentian's review its governance structure. Financial distribution has been a longstanding issue between Laurentian and its federated universities, she said.</p> |
|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

ONGLET/ TAB B

**ATTENDU QUE** l'Université Laurentienne est insolvable et qu'elle a demandé d'être placée sous la protection de de la *Loi sur les arrangements avec les créanciers des compagnies*, LRC 1985, c C-36, et vu les conséquences probables de cette demande sur l'existence de l'Université de Sudbury ;

**IL EST RÉSOLU QUE :**

1. Le Conseil des régents mandate le recteur de l'Université de Sudbury de prendre toutes les démarches requises pour que l'Université de Sudbury devienne, dans les meilleurs délais, une université gérée et contrôlée par et pour la francophonie ontarienne :

- a) dont la programmation et les services sont offerts en français ;
- b) dont la langue de travail est le français ;
- c) qui assume toutes les responsabilités découlant de la désignation partielle de l'Université de Sudbury en vertu de la *Loi sur les services en français* et qui sollicitera la pleine désignation en vertu de cette loi ;
- d) dont l'un des objectifs soit la formation des professionnels requis pour mettre en œuvre l'article 23 de la *Charte canadienne des droits et libertés* en Ontario ; et
- e) d'explorer s'il est souhaitable de développer des partenariats avec d'autres institutions postsecondaires.

2. Le Conseil des régents mandate le recteur de l'Université de Sudbury de prendre toutes les démarches requises pour que soit créée une nouvelle université gérée et contrôlée par et pour les communautés autochtones du Nord de l'Ontario au sens de l'article 35 de la *Loi constitutionnelle de 1982*.

**WHEREAS** Laurentian University is insolvent and has applied for protection under the *Companies' Creditors Arrangement Act*, LRC 1985, c-36, and, given the likely consequences of this application on the future of the University of Sudbury;

**IT IS RESOLVED THAT:**

1. The Board of Regents mandates the President of the University of Sudbury to undertake all necessary steps to ensure that the University of Sudbury becomes, as soon as possible, a university administered and governed by and for the Ontario Francophone community:
  - a) whose programming and services are offered in French;
  - b) whose working language is French;
  - c) who assumes all the responsibilities arising from the partial designation of the University of Sudbury under the *French Services Act* and who will seek full designation under the said Act;
  - d) ensures one of its objectives is the training of professionals required to implement section 23 of the *Canadian Charter of Rights and Freedoms* in Ontario;
  - e) to explore whether it is desirable to develop partnerships with other post-secondary institutions.
2. The Board of Regents mandates the President of the University of Sudbury to take all necessary steps to create a new university administered and governed by and for the Indigenous communities of Northern Ontario within the meaning of section 35 of the *Constitution Act 1982*.

ONGLET/ TAB C

**Canevas plan d'affaires**

# **Université francophone de Sudbury (UFS)**

**Avril 2021**



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*Note: Le présent canevas a été développé sous un angle « optimal ». Sa forme finale et le contenu du plan dépendront de la disponibilité de l'information requise et des échanges avec l'équipe de gestion de l'Université de Sudbury quant aux orientations qui seront jugées comme souhaitables et à leurs incidences anticipées sur les opérations de l'UFS*



## INTRODUCTION

L'Université de Sudbury a annoncé le vendredi, 12 mars dernier, qu'elle devient une université francophone. Elle a déjà entamé sa transition en vue de réaliser rapidement cette mission renouvelée.

La situation actuelle, suite aux diverses annonces faites par l'Université Laurentienne dans les dernières semaines est particulièrement alarmante compte tenu des torts sans précédents qui sont infligés à la communauté franco-ontarienne. Cette situation désastreuse trouve sa source, d'une part, dans le désintérêt affiché par l'Université Laurentienne depuis maintenant plus d'un décennie face au besoin de durablement asseoir le succès de l'enseignement universitaire en français dans le Moyen-Nord et, d'autre part, dans l'incertitude entourant l'avenir de la Laurentienne, particulièrement en ce qui regarde la continuité d'une programmation universitaire de qualité en français, une programmation essentielle à la communauté francophone.

C'est dans ce contexte que la transformation de l'Université de Sudbury s'avère critique pour permettre la pérennisation de l'offre de service en français aux étudiants francophones dans le Moyen-Nord.

La création d'une université francophone à Sudbury rapatriant, sous les auspices de l'Université de Sudbury, l'ensemble des programmes universitaires en français offerts dans la région s'impose en effet comme la seule option crédible et réaliste pour sortir de la crise.

Ce n'est pas pour rien que cette option génère un engouement sans précédent au sein de la communauté, non seulement à Sudbury mais aussi dans l'ensemble de la francophonie ontarienne et canadienne et que les signaux envoyés par différents partenaires clés (différents paliers de gouvernement, communauté institutionnelle et d'affaires de Sudbury, milieux académiques de divers horizons, etc.) sont des plus encourageants.

Ce soutien consensuel est une condition essentielle au succès de l'entreprise. Cependant, l'Université de Sudbury est pleinement consciente que ce n'est pas suffisant. Un tel projet exige une rigueur absolue sur le plan de la planification et de la gestion. La modèle à mettre en place, même s'il s'inscrit dans une volonté de continuité, se devra d'être piloté de manière radicalement différente de l'approche ayant mené à la situation actuelle.

Forte de l'excellence de sa gestion actuelle, l'Université de Sudbury est en train de se doter des moyens indispensables à la réussite du projet, et ce à tous les niveaux :

- Renouvellement de la Charte et du cadre de gouvernance;
- Ajustement de l'offre académique;
- Renforcement des équipes professionnelles, tant sur le plan académique qu'administratif;
- Adaptation des systèmes de gestion;
- Démarchage financier pour élargir la base des ressources disponibles, etc.

Un des premiers jalons posés par l'Université de Sudbury, pour démontrer son engagement, son sérieux et sa rigueur a été de mandater le développement d'un Plan d'affaires ayant pour but

d'identifier les besoins – et les possibles enjeux – liés au projet, de documenter le « plan de match » approprié et de s'assurer que le projet repose sur des bases à la fois solides et saines.

L'élaboration d'un tel Plan est un travail intensif et de longue haleine. Il est en cours de développement.

Avec ce plan, l'Université de Sudbury sera à même de démontrer que la création de l'Université francophone de Sudbury (UFS) n'est pas seulement un modèle souhaité, mais souhaitable et viable, la seule option présentant un haut potentiel de valeur pour l'ensemble des parties prenantes, incluant les créditeurs de l'Université Laurentienne.

A cet égard, il est des plus significatif de souligner que les ressources nécessaires au développement du Plan ne proviennent pas uniquement des fonds propres de l'Université de Sudbury mais que divers acteurs-clés de la communauté, convaincus du bien-fondé du projet UFS et de la capacité de l'Université à le mener à bien, se sont mobilisés pour y contribuer.

Par ailleurs, consciente des investissements considérables du gouvernement dans le système d'éducation postsecondaire ontarien, l'Université a entamé des pourparlers avec divers partenaires du milieu afin de voir comment pourraient s'établir d'éventuelles passerelles académiques pour enrichir l'offre de cours et retenir le plus grand nombre possible d'étudiants et étudiantes francophones dans le Nord ontarien.

## SOMMAIRE EXÉCUTIF

Outre un sommaire exécutif, le plan d'affaires est présenté en cinq sections :

1. **Le contexte**
2. **Le modèle d'affaire – vision, objectifs et caractéristiques principales**
3. **Prévisions financières**
4. **Facteurs de succès et de risques**
5. **Feuille de route**

Le contexte actuel de la situation financière de l'Université Laurentienne crée une problématique sans précédent à laquelle il convient d'apporter de toute urgence une solution pérenne pour éviter de perdre la clientèle étudiante présente et future, perte qui risquerait de fragiliser davantage la communauté francophone et de renforcer le phénomène d'assimilation.

La transformation de l'Université de Sudbury en une université francophone constitue la clé de voute d'une telle solution, permettant de préserver l'accès, pour les francophones du moyen-Nord et d'ailleurs, à l'éducation post-secondaire en français..

L'Université de Sudbury est toute désignée pour reprendre la relève comme pilier de la communauté, grâce à une gestion financière responsable et saine, et à l'atteinte de ses objectifs année après année.

Le plan d'affaires présentera la vision et les objectifs de l'Université de Sudbury et démontrera par l'information financière la faisabilité de la proposition et la viabilité du projet.

La section Facteurs de succès et de risques démontre que l'Université de Sudbury aura identifié les différents facteurs nécessaires à la réussite et pris les mesures nécessaires pour faire face aux risques.

La feuille de route décrira les étape-clés. Ce faisant, elle renforcera la crédibilité de l'Université de Sudbury quant à sa capacité de mener à bien le projet.

Finalement, une annexe sera présentée, proposant une comparaison d'indicateurs-clés émergents du plan d'affaires avec ceux observables au sein d'universités comparable.

## LE CONTEXTE

### 1) Le contexte spécifique – La problématique

#### a. Le besoin impérieux de capacité d'enseignement post-secondaire en français dans le Moyen-Nord

- i. Rupture potentielle de l'offre de service – incluant la problématique des étudiants ayant de possibles problèmes pour terminer les études entreprises
- ii. Pertes d'emplois
- iii. Réduction de l'attractivité de Sudbury comme pôle d'attraction
- iv. Développement éducatif social, culturel et économique du Moyen-Nord et du Nord de l'Ontario et répercussions attendues sur l'ensemble de la francophonie ontarienne (ex : des formations en français dans des domaines où il y a une pénurie de professionnels offrant des services en français) et sur le développement économique de la province
- v. Accroissement du taux d'assimilation
- vi. Impacts attendus sur la communauté francophone du Moyen-Nord, une communauté déjà aux prises à un phénomène d'exode

#### b. La mise « hors-jeu » de l'Université Laurentienne, tant du point de vue de la contribution à la francophonie que de la saine gestion Le besoin impérieux de capacité d'enseignement post-secondaire en français dans le Moyen-Nord

### 2) La justification de l'option Université Francophone de Sudbury (« UFS »)

#### a. D'un point de vue communautaire

- i. Historique

Fondée par les Jésuites francophones en 1913 en tant que collège privé français et catholique (Collège du Sacré-Cœur). Institution demeurée franco-dominante pendant plusieurs années qui a fondé l'École normale de Sudbury en 1963 afin d'offrir un accès à la formation en enseignement, en français, dans le Nord-Est de l'Ontario. L'Université de Sudbury fut le premier établissement d'enseignement postsecondaire dans le Nord de l'Ontario, et longtemps le seul. De 1957 à 1960, l'Université décernait ses grades universitaires. À partir de 1960, l'Université de Sudbury s'est joint à la fédération avec l'UL et a dû suspendre ses pouvoirs de délivrance de diplômes selon les termes de l'entente de la fédération.

## ii. Adoption d'une nouvelle charte

Le renouvellement de la Charte de l'Université de Sudbury sera l'occasion d'instaurer une gouvernance francophone et laïque.

## iii. Conformité avec les orientations des états généraux sur le postsecondaire et au besoin urgent du parachèvement de l'éducation en langue française en Ontario.

## iv. Une solution conforme avec la requête historique de la communauté franco-ontarienne: une gouvernance par et pour les francophones, respectant les 5 piliers de la gouvernance universitaire de langue française, soient la gestion du financement, des activités académiques, de l'administration, des installations physiques et de l'expérience étudiante.

## v. Une solution qui bâtit sur des actifs existants au sein de la communauté et qui jouit d'un soutien consensuel et explicite de celle-ci.

**b. D'un point de vue de bon gestionnaire**

## i. L'Université de Sudbury est reconnue pour l'excellence de sa gestion

*Par exemple :*

*Au niveau des objectifs*

- Atteinte des objectifs fixés dans le plan stratégique
- Croissance des effectifs
- Taux de diplomation
- Satisfaction des étudiants
- Relations de travail saines
- Etc.

*Au niveau de la gestion financière*

- Budget équilibré et surplus
- Benchmarking éventuel sur certains indicateurs (ex : budget/étudiant; niveau de financement public, financement/étudiant, etc.)
- Etc.

*Au niveau des autres dimensions de gestion*

- TI
- Bâtiments
- Services aux élèves
- Etc.

## ii. L'Université de Sudbury est consciente de l'ampleur de la transformation (l'UFS sera environ 10x plus grande que l'Université de Sudbury actuelle) et met en place les mesures pour continuer son excellent bilan en matière de gestion

*Par exemple :*

- Donner quelques exemples de mesures (TI, RH, gestion, gouvernance, etc.)

- iii. L'UFS continuera d'être gérée selon les principes et valeurs <sup>1</sup>qui ont fait sa réputation et son succès et qui va lui permettre d'éviter les écueils rencontrés par l'Université Laurentienne et, donc, d'assurer la pérennité de l'institution.

*Par exemple :*

- Focus ciblé sur recrutement d'étudiants francophones/désireux de faire leur apprentissage en français
- Gestion positive et constructive des programmes et services aux étudiants et étudiantes francophones par des francophones
- Relations de travail harmonieuses et transparentes
- Gestion prudente et conservatrice des actifs
- Maximisation de l'utilisation des installations
- Engagement de la communauté
- Développement de partenariats

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<sup>1</sup> On parle ici des principes et valeurs de base, particulièrement en matière de gestion, et non des valeurs morales et religieuses puisque le changement à la Charte implique le transfert à une institution laïque.

## LE MODÈLE D'AFFAIRES - VISION, OBJECTIFS ET CARACTÉRISTIQUES PRINCIPALES

### Vision:

L'Université francophone de Sudbury (« UFS ») : une université francophone, laïque et indépendante, garante de l'offre de programmes universitaires en français dans le Nord de l'Ontario. Elle est un des lieux névralgiques du développement de la jeunesse et du futur leadership de la province.

L'UFS se veut, avant tout, un instrument de développement de l'identité francophone, apportant à la communauté des solutions d'apprentissage tangibles arrimées concrètement avec les besoins et réalités tant en matière identitaire que de marché de l'emploi. Elle ne veut pas une Université dont la raison d'être se limite à offrir en français une programmation académique donnée. .

Cette université visera à rejoindre une clientèle francophone provenant, avant tout de la province, mais sera universelle et ouverte à l'ensemble de la Francophonie. Sa mission première en sera une de formation de citoyens du monde. Comme l'Université de Sudbury l'est aujourd'hui, elle continuera à être un lieu inspirant de formation des leaders à l'image d'une société dynamique, résolument inclusive et tournée vers l'avenir. Elle s'inspirera de valeurs fondamentales axées, entre autres, sur l'excellence, l'intégrité et la transparence.

### Profil et éléments distinctifs :

*Par exemple :*

- La plus grande université francophone dans la province et la seule dans le Nord de l'Ontario
- Campus concentré sur un seul lieu
- Masse critique d'étudiantes
- Offre de services variée avec programmes « à gros volumes » et d'autres plus pointus par le biais d'ententes d'articulation
- Positionnement stratégique sur l'offre générale de programmes post-secondaires dans la province et arrimé avec les besoins économiques (ex : programme x) et sociétaux (ex : formation des enseignants)
- Opportunité unique pour acquisition/transfert d'actifs sans devoir bâtir à neuf
- Financement existant pour la livraison des programmes qui étaient déjà subventionnés à l'Université Laurentienne
- Continuité sur historique de l'Université de Sudbury
- Congruence (complémentarité) avec les autres services post-secondaires en français en Ontario et dans le Moyen-Nord (Hearst, UOF, Boréal, – voire Université d'Ottawa/Université St Paul et la Cité, ainsi que York University/le Collège Glendon) - potentiel d'articulations entre les divers programmes de différentes institutions

- Congruence avec les objectifs gouvernementaux provinciaux, sur le plan de :
  - La programmation :
    - Différenciation (à élaborer)
    - Inclusion d'une dimension spécialisation (à élaborer)
    - Complémentarité avec les partenaires du système universitaire et collégial en Ontario et avec les autres provinces.
  - La gestion :
    - Accroître la confiance et la responsabilisation grâce à la transparence et à l'amélioration du rendement et des résultats dans le système d'éducation postsecondaire de l'Ontario
    - Réduire les formalités administratives en trouvant le juste équilibre entre la responsabilisation et la présentation d'information, grâce à des processus simplifiés et à un nombre réduit de mesures
    - Encourager les collèges et les universités à réorienter leurs ressources et à investir dans des projets aux retombées économiques positives
    - Mettre en adéquation l'éducation postsecondaire et les résultats sur le marché du travail
    - Réaliser des économies en encourageant la différenciation et la spécialisation
- Congruence avec les objectifs gouvernementaux fédéraux :
  - Développement identitaire, communautés linguistiques en situation minoritaire, etc.

## Objectifs/cibles visés :

- Effectifs ciblés ?
- Corps professoral et personnel administratif?

## Offre académique et de services:

### Programme :

- A court terme
- A moyen terme

Incluant liste des programmes et les modes de livraison (en personne et à distance)



En faisant éventuellement référence aux cinq étapes du mandat stratégique incluses dans la première mouture du plan d'affaires), avec un horizon temporel pour l'élargissement de l'offre

La liste des programmes ciblés actuellement est comme suit <sup>2</sup>:

| Facultés -<br>Université<br>Laurentienne                | Programmes                                                                                                                                                                                                                                                                                                                                                                 |
|---------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Faculté de la santé</i>                              | Éducation physique et santé, kinésiologie, leadership, activités physiques et plein air, orthophonie, profession de sage-femme, promotion de la santé, psychologie du sport, santé publique, science de l'activité physique, sciences infirmières, service social                                                                                                          |
| <i>Faculté des arts</i>                                 | Criminologie, droit et justice, environnement et développement durable, équité, diversité et droits de la personne, études en éthique, études françaises, études interdisciplinaires, études journalistiques, folklore et ethnologie, français langue seconde, géographie, histoire, philosophie, psychologie, science économique, science politique, sciences religieuses |
| <i>Faculté de l'éducation</i>                           | Éducation (B.Ed), Éducation (concomitante)                                                                                                                                                                                                                                                                                                                                 |
| <i>Faculté des sciences, de génie et d'architecture</i> | Bachelor of Engineering – génie chimique (bilingue) <sup>3</sup> , Bachelor of Engineering – génie mécanique (bilingue), Bachelor of engineering – Génie minier (bilingue), biochimie, biologie, biologie médicale, Génie bilingue, chimique, mécanique, minier (bilingue), mathématique, sciences pluridisciplinaires, zoologie                                           |
| <i>Faculté de gestion</i>                               | Administration des affaires, comptabilité, entrepreneurship, gestion des opérations, gestion internationale, marketing, ressources humaines, commerce (B.Com.)                                                                                                                                                                                                             |

#### Services :

*Par exemple :*

- ✓ Archives
- ✓ Bibliothèques
- ✓ Services à la réussite des étudiants
- ✓ Services sociaux
- ✓ Services en matière de sport, de culture et de loisirs
- ✓ Services de registraire
- ✓ Etc.

Besoin de définir le mode de prestation de ces services (ex : services offerts par l'UFS uniquement, services offerts conjointement avec une autre institution, services acquis par un fournisseur tiers, etc.)

<sup>2</sup> Cette liste est une liste initiale. Elle pourrait être modifiée selon la viabilité des programmes

<sup>3</sup> Seulement la partie francophone des programmes bilingues est ciblée. L'UFS a l'intention d'offrir ces programmes entièrement en français.

### Recherche:

Besoin de définir, à haut niveau du moins, le type de recherche que l'UFS entrevoit soutenir (ou pas...) et d'identifier les incidences sur le modèle d'affaires.

### Marchés :

- Clientèle(s) (locale et internationale)
  - Effectifs visés
    - Par programme
    - Premier cycle/maitrise/doctorat
    - Étudiants canadiens/Étudiants étrangers
  - Taux de croissance des inscriptions (sur base des programmes/cours existant puis de l'horizon temporel de l'élargissement des programmes/cours identifiés à la section de l'offre académique)  
(Note : les taux de croissance doivent pouvoir tenir la comparaison avec les données des autres universités – Ces taux de croissance sont relativement faibles)

Niveau des frais d'inscriptions et frais auxiliaires

- Concurrence/partenariats

### Positionnement stratégique/Vente/Marketing :

*Par exemple :*

Le premier objectif est de conserver la clientèle étudiante existante, les rassurant sur la continuité de leurs études, l'obtention de leur diplôme. Rassurer la communauté et les futurs étudiants de la viabilité de l'UFS comme choix d'institution pour l'éducation post-secondaire en français.

Par après, un démarchage pro-actif sera entrepris pour maintenir et accroître le bassin d'étudiants

### Actifs principaux :

- Infrastructure (selon scenarios)

Actuellement, l'Université de Sudbury souhaiterait discuter des conditions d'occupation/transfert/achat touchant le centre étudiant et diverses résidences (immeubles 14 et 15, 16, 17, 18, 19), les bâtiments actuellement occupés par l'Université de Sudbury (immeubles 20 et 20 a), le Pavillon Alphonse-Raymond (immeuble 23), l'École d'architecture McEwen (immeuble 32) ainsi que divers stationnements (S, divers stationnements réservés et divers

stationnements par horodateur/parcomètre). Cette liste pourrait varier selon l'évaluation de l'état des bâtiments et de leur prix.



- Équipe de gestion et systèmes
- Partenaires stratégiques

## Gouvernance :

- Une gouvernance autonome et francophone pour les francophones avec un Conseil des régents restructuré.

## PRÉVISIONS FINANCIÈRES<sup>4</sup>

### 1) Investissements initiaux – Liste et estimation

- Achat d'un « catalogue de cours »
- Infrastructure et immobilisation
  - Liste de bâtiments, espaces (ex : stationnements) et autres actifs majeurs (ex : matériel de laboratoire, flotte de véhicules/matériel roulant)
- Mise à niveau de la bibliothèque et des centres de ressources aux étudiants
- Mise à niveau des services aux étudiants
- Acquisition et mises à niveau des systèmes informatiques
- Bibliothèque et centre de ressources
- Mise à niveau des ressources humaines (incluant ajustement des conventions collectives)
- Recrutement étudiant suite à la phase « d'hibernation »
- Marketing, promotion et rayonnement communautaire
- Acquisition et mises à niveau des systèmes informatiques
- Mise à niveau des mesures relatives à la *Loi sur les services en français*
- Mise à niveau du cadre de gouvernance, des textes fondateurs et des politiques
- Frais professionnels afférents
- Mise en place de mesures / équipements sanitaires liés à la COVID

### 2) États financiers (revenus/dépenses) provisionnels

- *Période de transition*
  - *En se basant éventuellement sur des cas similaires dans le domaine de l'éducation post-secondaire (ex : Algonquin/La Cité, Cambrian/Boréal, UOF, etc.)*
- *Période de croisière*

#### Dépenses

- Infrastructure (Immobilisation, amortissements, locations, entretien et réparations)
- Systèmes
- Masse salariale (salaires, bénéfices et avantages)
  - Recteur
  - Administrateurs principaux (vice-recteur, doyens, etc.)
  - Personnel enseignant (titulaires, agrégés, adjoints, etc.)
  - Autre personnel enseignant et bibliothécaires (chargés de cours, invités, etc.)
  - Autre personnel (administration, admission, registraire, services aux étudiants, RH, IT, communications, gestion et entretien des bâtiments, service aux logements, etc.)
  - Ratio étudiants/professeurs (actuel et projeté (note entre 17 :1 et 25 :1)
  - Ratio administratif/académique

<sup>4</sup> Le contenu de cette section dépendra de l'information disponible ainsi que des données et orientations qui seront transmises par l'équipe de gestion de l'Université de Sudbury

- Bourses
- Frais de fonctionnement (ex : Électricité, contrats d'entretien, gaz naturel, réparation et entretien sous contrat, location hors campus, l'eau, taxes municipales, assurances, récupérations diverses)

### **Revenus**

- Droits d'inscription

Estimation des revenus d'inscription afférents, par exemple : frais d'inscription actuels à l'Université de Sudbury et à l'Université Laurentienne et appliquer un taux de croissance annuel. Pour rester conservateur, la prémisse est qu'après 2020-2021, on pourrait faire l'hypothèse que les frais augmenteront en moyenne de 1,5 % par année jusqu'en 2027-2028. Alternativement, on pourrait établir les frais de scolarité de 2020-2021 en calculant la moyenne des frais de scolarité de 10 universités ontariennes en 2019-2020, soit environ 6,900 \$/par année, diminué de 10 %, 700 \$/année, pour un montant d'environ 6 200 \$)

- Subventions et contrats de recherche (subvention de programmes)
- Ventes et services (incluant revenus de location)
- Dons et autres revenus propres
- Subventions gouvernementales de base (subvention institutionnelle)

## **3) Stratégie de financement**

### **Financement initial pour le maintien de l'Université de Sudbury**

#### **Financement de transition vers l'UFS**

- Fonds de roulement de départ
- Inventaire de départ
- Terrain et aménagement (Superficie, prix d'achat, servitudes, aménagement du terrain, etc.)
- Bâtisse et améliorations locatives (Prix d'achat, superficie de la bâtisse, possibilités d'agrandissement, rénovations, etc.)
- Équipements (équipement de production, de bureau, neufs ou usagés)
- Équipements informatiques (de gestion; logiciels requis)
- Matériel roulant (achat, location/achat, d'un transfert d'actifs)
- Frais de démarrage : (dépenses de démarrage incluses au projet telles que frais d'incorporation, permis, licences, assurances, installation des systèmes (téléphonique, comptable, etc.), fournitures de bureau d'ouverture, publicité et promotion d'ouverture, honoraires professionnels d'ouverture, matériel de vente (catalogues, etc.), coûts de déménagement, dépenses de formation.
- Dépenses en recherche et développement (Frais de recrutement et d'embauche de personnel)
- Acquisition de technologie (licences, frais d'installation)
- Divers et imprévus

#### **Financement de croisière de l'UFS**

## FACTEURS DE SUCCÈS ET DE RISQUES

### Conditions nécessaires au succès de l'UFS

Quels sont les facteurs de succès impératifs, ou, de manière un peu plus négative, quelles sont les dynamiques à éviter et qui ont mené à la débandade de l'Université Laurentienne?

Dans l'évaluation des facteurs nécessaires à la réussite de l'UFS, une liste de facteurs pourrait être développée ou chaque facteur sera quantifié quant au niveau de risque, et sera surveillé, afin d'éviter le même sort que celui de l'Université Laurentienne. Par exemple, certains facteurs à surveiller qui auront une instance sur le succès sont:

- L'envergure des programmes offerts, viabilité et pertinence vis-à-vis des besoins du marché du travail
- Gestion de l'infrastructure
- Clientèle ciblée
- Relations de travail
- Relations avec la communauté
- Relations avec les partenaires

### Facteurs de risque

*Exemple :*

- Risques stratégiques
- Risques organisationnels
- Risques financiers
- Risques opérationnels
- Risques réglementaires
- Risques réputationnels

Exemples de questions à explorer :

- *Quels sont les risques en matière d'équipe de gouvernance et de, gestion?*
- *Quels sont les concurrents ?*
- *Quelles seraient les conséquences d'une baisse de la demande étudiante?*
- *Quels sont les risques inhérents à la livraison des programmes?*
- *Quels sont les risques liés au plan de marketing proposé?*
- *Quelles seraient les conséquences de l'échec d'une campagne publicitaire?*
- *Quels sont les risques en matière de ressources humaines?*
- *Quelles seraient les conséquences de la démission d'un groupe ou d'un employé ?*
- *Quels risques pour l'environnement soulèvent le projet?*

## FEUILLE DE ROUTE

### Les étapes à suivre pour la transition:

(À développer en fonction de la stratégie retenue et du choix des programmes)

Par exemple :

- *Étape 1* : Sécurisation de la forme actuelle
- *Étape 2* : Mise en place des mesures pour permettre de « ne pas laisser tomber les étudiants francophones » du moyen-Nord, en reprenant les programmes de la Laurentienne (du moins ceux que l'on peut rendre viables dans une période de 3/5 ans)
- *Étape 3* : Développement et arrimage avec les autres institutions francophones/bilingues, universitaires et collégiales.

### Chantiers prioritaires

(Un visuel pourrait être développé pour exprimer les étapes et liens entre les chantiers de manière temporelle)

- Transfert des programmes et services
- Transfert du personnel
- Transfert des étudiants, puis recrutement de nouveaux étudiants
- Transfert des immeubles et équipements
- Transfert / maintien / mise à niveau des services de soutien aux étudiants (service sociaux, aide à la réussite, bibliothèque, etc.)
- Transfert / maintien / mise à niveau des systèmes ancillaires et de gestion
- Transformation du modèle de gouvernance et mise à niveau des politiques et textes juridiques
- Partenariats stratégiques (communautaires, universitaires/collégiaux, scolaires, gouvernementaux, etc.)
- Démarchage financier
- Communication, engagement et relations publiques pour positionner et ancrer l'UFS

## ANNEXES

### États financiers (3 ans au moins)

### Benchmarking avec des référents comparables <sup>5</sup>

*Par exemple :*

- Hearst
- Brock
- UOF
- Collège Boréal
  
- Université Ste Anne (Nouvelle-Écosse)
- Université de St Boniface (Manitoba)

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<sup>5</sup> Le benchmarking pourrait se retrouver sous forme d'annexe ou encore dans le cœur du document, selon les thèmes couverts



8

**Cross-Examination of Dr. Robert Haché Held Virtually via Neesons on April 23, 2021**

| Item | Pg./Q.            | Type<br>UT/UA/R | Description                                                                                       | Answer                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|------|-------------------|-----------------|---------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1    | 189-190<br>Q. 498 | UT              | To respond to any questions regarding the Cash Flow Forecast, once filed.                         | <p>The Cash Flow Forecast will be attached as an Appendix to the Monitor's Report, which we understand is being served some time today. If there are any questions once the Cash Flow Forecast is served, we will provide answers in writing or will make Dr. Haché available for a further brief cross-examination on the Cash Flow Forecast.</p> <p>The Monitor has assisted the Applicant with the Cash Flow Forecast and we anticipate that the Monitor will also be available to the parties to respond to any inquiries.</p> |
| 2    | 190<br>Q. 499     | UA              | To respond to any questions regarding the multi-year forecast, if filed in respect of the motion. | <p>Laurentian is not filing any multi-year forecast on this motion, and to date only a <u>draft</u> of same exists.</p> <p>A document that summarizes the current estimated impact of Laurentian's draft multi-year forecast has been prepared, and will be attached as an Appendix to the Monitor's Report. We understand that the Monitor's Report will be served some time today.</p>                                                                                                                                           |

| Item | Pg./Q.                 | Type<br>UT/UA/R | Description                                                                                                                                                                                                      | Answer                                                                                                                                                                                                                                                                                                                                                                                                                             |
|------|------------------------|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3    | 191<br><br>Qs. 500-501 | UA              | To (i) provide a multiyear budget if it has been provided to the DIP Lender; and (ii) to advise if it has been provided to the DIP lender.                                                                       | As set out above, only a <u>draft</u> multiyear budget has been prepared and the draft was provided to the DIP Lender. It is not in evidence, is not being relied on in support of the relief sought by Laurentian, or in opposition to the motions brought by Thorneloe or the University of Sudbury.<br><br>The document referenced above which will be attached as an Appendix to the Monitor's Report will address this point. |
| 4    | 254-255<br><br>Q. 660  | UA              | To provide a document summarizing the financial value of the savings Laurentian was able to obtain that flow from the successful negotiations with the labour partners (LUFA and LUSU), on a best-efforts basis. | The document referenced above which will be attached to the Monitor's Report will address this point.                                                                                                                                                                                                                                                                                                                              |
| 5    | 255-256<br><br>Q. 662  | UT              | If Laurentian is not able to provide the information relating to the financial value of the cost savings, to give a short explanation as to why.                                                                 | Answered, as above.                                                                                                                                                                                                                                                                                                                                                                                                                |
| 6    | 288<br><br>Q. 749      | UA              | The request to produce a copy of the email from Jonathan Mair if it was different than as described by D.J. Miller on the record in lines 14-20 of page 287 of the transcript was taken under advisement.        | The request that was taken under advisement has been overtaken by the University of Sudbury making a request of the Monitor (pursuant to the Endorsement of Chief Justice Morawetz dated April 21, 2021) which has been relayed to the DIP Lender. Accordingly, the DIP Lender will be providing its response.                                                                                                                     |

**DANS L’AFFAIRE DE LA LOI SUR LES ARRANGEMENTS AVEC LES  
CRÉANCIERS DES COMPAGNIES, LRC 1985, c C-36**

**DANS L’AFFAIRE D’UN PLAN DE TRANSACTION OU D’ARRANGEMENT DE  
L’UNIVERSITÉ LAURENTIENNE DE SUDBURY**

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**ONTARIO  
COUR SUPÉRIEURE DE JUSTICE  
(RÔLE COMMERCIAL)**

Procédures entamées à Toronto

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**Dossier de motion supplémentaire II**

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