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

COMPENDIUM OF TRANSCRIPTS, EXHIBITS, RESPONSES TO UNDERTAKINGS, UNDER ADVISEMENTS AND REFUSALS OF THORNELOE UNIVERSITY
(for motions returnable April 29 and April 30, 2021)

April 28, 2021

KOSKIE MINSKY LLP
20 Queen Street West
Suite 900, Box 52
Toronto, ON M5H 3R3

Andrew J. Hatnay - LS#: 31885W
ahatnay@kmlaw.ca
Tel: 416-595-2083 / Fax: 416-204-2872

Sydney Edmonds - LS#: 79946K
sedmonds@kmlaw.ca
Tel: (416) 595-2260 / Fax: (416) 204-4936

SUPREME ADVOCACY LLP
340 Gilmour St., Suite 100
Ottawa, ON K2P 0R3

Eugene Meehan, Q.C. - LS#: 29046T
emeehan@supremeadvocacy.ca
Tel: (613) 695-8855 / Fax: 613-695-8580

Counsel for Thorneloe University

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TAB 1(A)

Laurentian CCAA

Robert Hache
on Friday, April 23, 2021

77 King Street West, Suite 2020
Toronto, Ontario M5K 1A1

neesonsreporting.com | 416.413.7755

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Applicant

--- This is the Cross-examination of ROBERT HACHÉ , taken by Neesons, a Veritext Company, via Zoom virtual platform, on the 23rd day of April, 2021.

REPORTED BY: Helen Martineau, CSR

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

D.J. MILLER, Esq., & ANDREW HANRAHAN, Esq., & FRASER HUGHES, Esq.	for the Applicant
ANDRÉ CLAUDE, Esq. & RON CAZA, Esq.	for University of Sudbury
PETER J. OSBORNE, Esq.	for the Board of Governors of Laurentian University of Sudbury
EUGENE MEEHAN, Q.C. & DEMETRIOS YIOKARIS, Esq. & ANDREW J. HATNAY, Esq.	for Thornloe University
ASHLEY JOHN TAYLOR	for the Monitor

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

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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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--- Upon commencing at 8:00 a.m.

ROBERT HACHÉ: AFFIRMED:

CROSS-EXAMINATION BY MR. CAZA:

1 Q. Now, my understanding is that you -- you've -- you've sworn two affidavits. And I just want to let you know, I've actually got a paper copy of your affidavit. So are you looking at an electronic version or do you have a paper copy?

A. I have a caper copy, yes.

2 Q. So what I'll be doing is I'll be referencing the actual page number that was -- that's in the top, right-hand corner that your counsel -- the pagination for the whole application record. So you'll see it's in the top, right-hand corner. So if I go to tab 1, the Notice of Application starts at page 6, do you see that?

A. No, I do not.

3 Q. And do you see a page 6 in the top, right-hand corner?

A. I don't have any pagination in the top, right-hand corner. My pagination is in the middle.

4 Q. So you don't have, I guess, the

copy of the affidavit from the -- from the -- the application record? You've got a copy simply of your application or the Notice of Application that's paginated in the middle of the page. So, for example, the application itself, let's start at page 3.

A. Yes.

5 Q. And your affidavit --

A. That's what it says in mine.

6 Q. That's fine. And how about your affidavit? Your first affidavit, the one you swore on January 30th, 2021? Do you have that simply also paginated, basically your 100 and -- 110 pages?

A. Yes.

7 Q. Okay. So I will be referencing, just for everybody's -- so everybody we're on the same page literally, the actual page number of your affidavit or the page number of the application.

Now, Mr. Haché, is your mother tongue French?

A. My mother's tongue is French, yes.

8 Q. And were you provided with the

opportunity -- were you given the opportunity to prepare your affidavit in French?

A. I imagine so. It wasn't really an issue.

9 Q. Okay. So just so that I'm clear, you were told or you were aware that you could have proceeded in French, correct?

A. I am aware that the court can function in French and English, yes.

10 Q. And you -- my understanding is you knew that we could cross-examine you in French and you asked to be cross-examined in English, correct?

A. I actually don't know that, but I imagine my counsel --

11 Q. That was my understanding.

A. My counsel is -- does not speak French and therefore it is important for them to understand the cross-examination.

12 Q. Okay. So just so I'm clear, so we're proceeding in English because your counsel doesn't understand French, correct? Otherwise we'd be proceeding in French, right?

MR. HANRAHAN: I don't think -- that's not what he said.

BY MR. CAZA:

13 Q. Well, --

A. What I said is we're proceeding in English.

14 Q. Well, let's put it this way, if you were able to proceed in French, would you prefer proceeding in French?

A. Not this morning.

15 Q. No, not this morning because you have counsel that cannot proceed in English (sic), but I'm asking you, if you had been given the option as to whether or not you would prefer proceeding in French or English, would you have preferred to proceed in French?

MR. HANRAHAN: Counsel, what's the relevance of this? He's entitled to proceed in either language.

BY MR. CAZA:

16 Q. Actually, it's going to be quite relevant because of the position we're taking with respect to Laurentian University and its commitment to the offering Francophone programs, being able to serve the Francophone community.

My question is very simple, Mr. Haché would you have preferred to --

MR. HANRAHAN: I can tell you he's going to proceed in English and his counsel speaks English and he's entitled to have his counsel represent him here at this examination.

Beyond that, I don't really see how this is relevant to what Laurentian is doing in terms of its French language programs.

BY MR. CAZA:

17 Q. Well, actually, are you objecting because you're saying it's not relevant? I'm telling you it's very relevant that the fact that we're proceeding in English instead of French is actually quite relevant.

My question, if you're objecting, I'm going to ask the question again. Mr. Haché, if you had your preference as to whether you'd rather proceed to be cross-examined in French or English, would you rather be cross-examined in French?

A. I am completely comfortable being cross-examined in English.

18 Q. So you're actually refusing to answer my question?

MR. HANRAHAN: I think he's answered your question.

BY MR. CAZA:

19 Q. I've asked you whether you would prefer to do it in French or English. Are you refusing to answer the question?

A. I believe I've answered the question.

20 Q. Well, actually you've told me you're comfortable in either language. Let's move on.

Now, I'm looking at the application. So I'm assuming that you were involved in the preparation of this Notice of Application?

A. Yes.

21 Q. Okay. For the purposes of the record, and I'm speaking to -- and I guess it would be Andrew. If you don't mind me calling you by your first name, I can call you counsel for Laurentian University. Can we agree that the exhibit will be the actual application record even though it's not the application record that the witness has before him?

MR. HANRAHAN: I guess I'd like to clarify. Rob, do you have the full -- what is it that you have in front of you?

THE WITNESS: So I have the paper copy

of the -- what was -- what you provided me in terms of the full application. I do have, I believe, the application of record of the second filing electronically that has the numbers up on the right-hand tab. I haven't seen a difference between the two.

BY MR. CAZA:

22 Q. Actually there is no difference. I just want to make sure we're all -- so the affidavit you had, does it have all of your exhibits?

A. Yes.

23 Q. The copy you have in front of you? Okay.

So are we satisfied, Mr. Hanrahan, that we're going to mark the application record or do you want to mark as -- I actually don't have a loose copy of his affidavit. I only have the application record. I just want to make sure we're all on the same page.

MR. HANRAHAN: That is fine. We can mark that.

BY MR. CAZA:

24 Q. So we'll mark -- in fact, the way I do it is we'll mark as Exhibit 1 -- there'll

be Exhibit 1, volume 1 of the application record; Exhibit 1, volume 2; Exhibit 1, volume 3; and, Exhibit 1, volume 4. So now I'm in Exhibit 1, volume 1.

EXHIBIT NO. 1: Application Record, Volume 1, Volume 2, Volume 3 and Volume 4.

BY MR. CAZA:

25 Q. So if I'm looking at the actual grounds for the application. And if I go to page 6 of the Notice of Application, are you with me?

A. So which -- are we talking about the January or April?

26 Q. We're looking at the Notice of Application. There's only one. The other one's Notice of Motion.

A. So we're presumably talking about the January one then?

27 Q. Yeah. It's -- in fact, I'll give you the date. It was --

A. January 30th.

28 Q. That's right. It's an 11-page document -- 12-page document. And then after the 12 pages, there's a list of -- a service

list.

MR. HANRAHAN: Rob, just to clarify, do you have -- so you have your January affidavit, but do you have the Notice of Application in front of that or is it just your affidavit that you have there?

THE WITNESS: It is just the affidavit.

BY MR. CAZA:

29 Q. We're going to need the exhibits. So you don't --

MS. MILLER: Can you not pull it up on the screen and do a screen share of exactly where in the Notice of Application you want to refer him to?

BY MR. CAZA:

30 Q. Yeah, I'd rather not do that. I think for one reason when I do that, I can't see the witness. And the other thing is I think the witness should have a copy of the document.

Do you only have one screen, Mr. Haché, or two screens?

A. I have more than one screen, yes.

31 Q. So why don't we -- can we -- maybe somebody can forward you a copy of the

affidavit and you can maybe put it up on the screen, if you don't have the full copy. If you don't have the copy with the exhibits, and I'm referring to your affidavit of January 30th, 2021.

MS. MILLER: I think you were referring to the Notice of Application. You're referring now to the affidavit?

BY MR. CAZA:

32 Q. No, we are referring to the Notice of Application, but I think we also need to provide, Mr. Haché, my understanding is he does not have a full copy of his affidavit. He only has the affidavit without the exhibits, so we're going to have to give him access --

A. No, I have the affidavit with the exhibits.

33 Q. You do have it? Both of them?

A. Yes.

34 Q. Okay. Perfect. So now, do you have a copy of the Notice of Application?

A. That's what I'm suggesting I don't have.

35 Q. Okay. Okay. Then that's okay -- maybe, I have no objection, Mr. Hanrahan, if you

want to forward a copy to him. Email him a copy.

MS. MILLER: I will do that.

MR. HANRAHAN: Thank you.

BY MR. CAZA:

36 Q. So, Mr. Haché, just let me know when you get a copy so we can continue.

A. Depends on the refresh rate. It's not instantaneous, as much as we'd like it.

MR. OSBORNE: Mr. Caza, just while we're waiting here, if there are other documents you wish to put to Dr. Haché, could you or one of your colleagues on your team get them ready so we could put them up on the screen as we go along? It's your examination but it just make things faster. Thanks so much.

MR. CAZA: Well, I can advise you the only documents I'll be putting on for the next few hours, I'll only be referring to his affidavits and the exhibits to his affidavits. Now I'm referring to the Notice of Application.

THE WITNESS: I have it now.

BY MR. CAZA:

37 Q. Thank you so much. The copy you have, does it have pagination in the top,

right-hand corner?

A. No, it does not.

38 Q. Okay. So can we go to page 4?

A. Okay.

39 Q. So what we have here is what the -- what the university is applying for, and on page 4, under paragraph (g), it says:

"granting the following charges over the Applicant's property:"

And Roman numeral two says:

"a charge in favour of the current and future directors and officers of the Applicant in the maximum amount of $2 million, such amount to be in priority to the DIP Charge (as hereafter defined) pursuant to the Initial Order, with a further amount of $3 million to be subordinate to the DIP Charge [...]."

I just want to make sure my understanding is correct. So the DIP Lender who is actually seeking, if you want, protection or guarantees, actually comes after an -- a $2 million amount that has been -- that has been, if you want, set aside in case it's needed

for potential liability of future directors or current and/or future directors and officers?

A. I believe that's what it says.

40 Q. Okay. If we go to page 11 -- sorry, you'll have to bear with me. I've got my whole transcript set with the application.

If you go to page 6, under paragraph (d). Are you there?

A. Yes.

41 Q. It says:

"The Applicant requires immediate protection from this Court to permit it to, amongst other things:"

And it's got five points set up. And the fourth one says:

"Evaluate the structure and sustainability of its ongoing relationships with the Federated Universities."

Can you just explain to me what exactly is meant by evaluate? What is it that you wanted the opportunity to do?

A. So at that phase, as we entered into the application, we were -- it was necessary to, you know, look at all of the

operations of the university, how finances are flowing in one direction or other, and determine, you know, what was sustainable for the university going forward.

42 Q. So, Mr. Haché, as far as the:

"[...] structure and sustainability of its ongoing relationships with the Federated Universities."

The application says that's something that you will need to evaluate, which means that you'll need to look at what your options are with respect to that ongoing relationship, correct?

A. That's what it says.

43 Q. Okay. And that's what it means. That was your intention.

On January 30th, Mr. Haché, had you already made a determination or decision that Laurentian was going to seek to terminate the ongoing relationships with the Federated Universities?

A. We, on January 30th thinking back, recognized there was a fiscal imbalance that needed to be dealt with in one way or

another.

44 Q. Mr. Haché, on January 30th when you swore this affidavit, a decision had already been made at Laurentian University that you would be seeking to terminate the -- the agreements you had -- Laurentian had with its three Federated Universities, that's fair?

A. No. I think all options were on the table at that point.

45 Q. Okay. So I want to --

A. Including seeking the termination, if that were necessary.

46 Q. So your evidence is that you were not seeking termination of those agreements when this Notice of Application was issued?

A. It was one of the things that was under consideration. And recognizing it was a very -- it was -- you know, recognizing where we were financially and what the financials said, it needed to be a strong consideration.

47 Q. So I just want to get your evidence just so I'm clear. On January 30th, 2021, when this application was issued, your evidence is that you had not yet decided as to whether or not you would be seeking the

termination of the agreements with the Federated Universities?

A. We expected that this would be one likely -- we expected that this -- it was one thing that we strongly expected would happen, based on what the analysis at the time.

48 Q. And I think, Mr. Haché, I think it's fair to say that you're describing it as being, you know, highly likely or whatever words you used. Effectively, you were -- Laurentian had decided that there was no way it would be able to continue and be able to get out of its predicament, its financial predicament, without bringing to an end those relationships, that is, the agreements with the Federated Universities, that's fair?

A. It was very difficult to see a way forward in the current federal structure.

49 Q. Now, just so we're fair, so if -- so you're telling me that the decision had not yet been made? You were still looking as to whether or not you'd be seeking that termination?

A. I think that the decision was unless there was something else that could be

identified, we would have to go in that direction.

50 Q. And we can agree that you never, and no one at Laurentian University, ever spoke to anyone -- any representative of one of the three -- either of the three Federated Universities to discuss whether or not there were alternatives to bringing to an end the agreements between Laurentian University and the Federated Universities?

A. We had been discussing that for some time actually.

51 Q. There was no discussion as of January 30th, the day you swore your affidavit, right through till today, at no point has anyone at Laurentian University discussed with anyone at any of the Federated Universities any option other than offering or advising that you were seeking to terminate the agreements with the Federated Universities?

A. Other than in the context of mediation, I don't believe so.

52 Q. Well, the context of mediation, actually you refer to that in your affidavit. You actually say which there's a question as to

whether or not that should have been in your affidavit, but we'll talk about what happens in the -- to whatever extent we can examine.

So you're -- you're telling me, okay, and mediation, who was present at mediation from the Federated Universities? First of all, who was present from Laurentian University?

A. I would have to -- I don't recall exactly who was in the room.

53 Q. You were in the room?

A. I was not in the room.

54 Q. You were not in the room. So you have no idea what was discussed at the mediation, correct?

A. I have no specific knowledge of the conversation in the room, yes.

55 Q. So what you're telling me is anything you'd know from what went on in that room is what somebody may have told you that was in the room, is that fair?

A. Yes.

56 Q. So I think we can agree that you're the Rector and you can advise us that there was no discussion with any representative of one of the Federated Universities on the

issue of whether or not the relationship between Laurentian University and the Federated Universities should come to an end. You can confirm that.

MR. HANRAHAN: Counsel, are we still talking about in the context of the mediation, because he's not going to get into those discussions?

BY MR. CAZA:

57 Q. He can't get into those discussions. He told us he wasn't there.

So my question to you is, never mind the mediation. You've already told us that the only time there may have been discussions between representatives of the -- of Laurentian University and the federated representatives of the Federated Universities as to whether or not the relationship should continue was at the mediation.

So I'm asking you, can you confirm -- can you confirm that there were no discussions between Laurentian University and its representatives and the representatives of the Federated Universities on the issue of whether or not it was a good thing or a bad thing, or

alternatives to bringing to an end the agreement between Laurentian and the Federated Universities?

A. So I can't confirm that. What I can say is that we -- there was one conversation that I had in the context of mediation, but outside the mediator's room, with the president of Thrneloe to determine seeking --

MR. HANRAHAN: Rob, we're not going to get into --

BY MR. CAZA:

58 Q. So why don't we -- maybe what we can agree on, you've told us this, I think it's fair to say that you were never involved in any discussions, you, as the Rector of a rich university, were not involved in any discussions with a representative of a federated university other than what you're talking about possibly this one, whatever, discussion at the mediation where the issue of a possible ongoing relationship was discussed?

A. I was not in the room.

59 Q. Now, and so actually I didn't ask if you were in the room.

Mr. Haché, you're the Rector. You

have never spoken to anyone, any representative of the Federated Universities, where you gave them an opportunity to have a discussion with you on the issue of whether or not the agreement should come to an end as between your organizations?

A. I never turned down any opportunities for the discussion.

60 Q. You were not involved in any such discussions, is that correct?

A. That is correct.

61 Q. And you're not aware of anyone at Laurentian University that would have been involved in any such discussions?

A. No.

62 Q. Okay. Now, if I go to page 8, and I'm at paragraph P, are you with me?

A. I am.

63 Q. So it says, there's a title at the top, it says "Urgent Need for the DIP Loan." And paragraph (p) says:

"The Applicant requires this debtor-in-possession financing to [...} providing operating cash."

Correct?

"[...] fund the costs of its day-to-day operations, and negotiate and then implement a plan for its restructuring."

So that was the role that you had anticipated or hoped that the DIP Lender would play, correct?

A. Yes.

64 Q. And it's the university that would be negotiating and implementing a plan for the restructuring. It's not the DIP Lender, correct?

A. It is the university's job to do the negotiating, yeah.

65 Q. So it wasn't the DIP Lender that was doing the negotiations. It was the -- it was Laurentian University, correct?

A. It was Laurentian University through our representatives.

66 Q. Were you involved in any discussions with the DIP Lender before the DIP Lender was retained? And I'm speaking about Firm Capital Mortgage Fund. Were you involved in any discussions with them concerning their retainer or conditions for their advancing of

the funds?

A. I was aware of all discussions. I was not directly involved.

67 Q. So you did not attend any meetings, and you were not part of any Zoom or any other type of conference, or teleconference, where there were discussions involving a representative of Firm Capital Mortgage Fund?

A. That is correct.

68 Q. Okay. Now, you said that you were kept aware or that you were kept advised. Who was actually carrying out those discussions?

A. Those discussions were led by my counsel or the university's insolvency counsel, rather, to be correct.

69 Q. And who would that be?

A. DJ Miller.

70 Q. So your understanding is that DJ Miller is the one that negotiated the terms of the DIP Lender or the DIP Lending Agreement?

A. Yes.

71 Q. And she would keep you advised as to what those terms were, what they were negotiating?

A. Yes.

72 Q. Now, why don't you tell me what information you have as to the issue of the initial conditions that the DIP Lender wanted to impose? So tell me what your evidence is as to what the DIP Lender advised Laurentian University that it wanted as conditions for providing the DIP loan, the initial $25 million DIP loan?

A. I have the term sheet.

73 Q. Okay. Well, the term sheet is there, but you -- what information do you have that -- as to what was proposed by the DIP Lender or what was proposed by Ms. Miller? Do you have any of that information or evidence?

A. I don't know specifically what you're referring to. I mean, I have the end product and there were a number of conversations leading up to that.

74 Q. And you weren't involved in any of those conversations, but you're telling us you were kept aware or kept advised as to what was discussed, correct?

A. That is correct.

75 Q. Okay. We'll get back to that when we -- when we're looking at the actual

details.

If I now turn the page, so I'm at page 9.

A. Okay.

76 Q. So we see here a court order, charges, it says:

"The Applicant is seeking the Court's approval of an Administration Charge and a Director's Charge as part of the Initial Order, and a DIP Charge as part of the Amended and Restated Initial Order (collectively, the 'Charges')."

It says:

"[...] to secure the professional services required to complete this CCAA proceeding, ensure the continued assistance and oversight of the Applicant's directors and officers, and maintain the Applicant's continued operation in the ordinary course of business during the Stay of Proceedings."

My understanding is that $25 million has been spent, am I correct? That's what I

understood.

A. Are we -- so can you hone in on that page 9 paragraph what?

77 Q. T.

A. Paragraph (t), sorry.

78 Q. Sorry, I should have been more precise, that's my mistake. So if you want to just review paragraph (t). My question is, I've read the sort of -- the court ordered charges. My question is, so the $25 million that was advanced by the DIP Lender, has it been -- my understanding is it's been fully spent?

A. I believe, depending on payroll at the end of this month, it will be close to being fully spent is my understanding.

79 Q. Well, you would know this. You're the Rector. I'm assuming you're keeping an eye on what's going on with that $25 million?

A. I don't receive a daily cash flow analysis.

80 Q. So you get what? A weekly cash flow analysis?

A. We do weekly cash flow.

81 Q. So you obtain a weekly cash flow analysis?

A. We do a weekly cash flow analysis, yes.

82 Q. So I want to be clear, so are you saying that as of -- your evidence, and I'm assuming you have this knowledge, is that as of April 30th, the full $25 million will have been spent? You have knowledge of that?

MR. HANRAHAN: That's not what he said. He said he wasn't sure exactly --

BY MR. CAZA:

83 Q. I'm actually asking him.

A. Yeah.

84 Q. Are you able --

MS. MILLER: I'm going to ask that you suggest that you clarify whether you're asking him if the full 25 million has been fully drawn down on the borrowings as opposed to having been spent. I think that's the question, is it not?

BY MR. CAZA:

85 Q. Well, actually I don't know to what extent. There's a difference.

But you have $25 million that was made available to the university from the DIP Lender. Has it been fully drawn down or will it be fully drawn down by April 30th, 2021?

A. We have received the full $25 million. Is every last penny out the door? That I cannot say.

86 Q. And as the last that you heard, how much money was not -- had not yet been -- was not yet out the door?

A. I do not recollect.

87 Q. Okay. Now, is that something you can check and let me know? Like are you able to check to get that information?

A. I believe it is a question that I could ask. I would be guessing.

88 Q. Well, who would know that?

A. Our finance people and the monitor.

89 Q. Okay. Now, when was the last cash flow analysis you got? When was the last time you got a cash flow analysis?

A. I saw something last week, I think.

90 Q. So and how much was left to be spent at that point?

A. I do not have a specific recollection of the amount.

91 Q. Are you able to assist us in

understanding how much of the $25 million was actually spent on professional services?

A. Again, I don't have the exact figures in front of me.

92 Q. Well, tell me -- give me -- what's your best -- what's your knowledge? What's your information?

MR. HANRAHAN: No, we don't want him to guess. I think he's told you he's not sure what the answer to that question is.

BY MR. CAZA:

93 Q. Let me know what is your knowledge as to how much money has been spent on professional fees? Of the $25 million, how much was drawn to pay for professional service fees?

A. I do not know the answer to that.

94 Q. Okay. Now, you don't know the exact number. Do you have an idea of how much has been spent?

MS. MILLER: You're asking him to guess, Mr. Caza. He's already told you he doesn't know the answer.

BY MR. CAZA:

95 Q. Well, no, actually I'm not asking him to guess.

Just so I'm clear, you're telling me, Mr. Haché, you're the Rector, and you have no idea how much money of the $25 million has been spent on professional services? Is that your evidence?

A. I am the Rector.

96 Q. Yes.

A. And I cannot provide you with an exact number --

97 Q. I didn't ask for an exact number.

A. -- at this moment.

98 Q. I didn't ask for an exact number. I said do you have any idea how much has been spent? That's a question. Do you have any idea how much has been spent in professional services? Do you know if it's less than a million dollars?

A. I know it's not less than a million dollars.

99 Q. In fact, my understanding is that it's in excess of $5 million. Is that your information?

A. I cannot confirm that because I do not have that information in front of me.

100 Q. Is it your understanding that

more than $5 million or 20 percent of the $25 million has been spent on professional services?

A. I cannot confirm that.

101 Q. I didn't ask you to confirm. I said is that your understanding?

MR. HANRAHAN: He just answered that question and he told you he doesn't know.

BY MR. CAZA:

102 Q. So you've told us you know it's more than a million dollars. Do you know if it's more than $2 million?

A. You have me into guessing territory again.

103 Q. But you definitely know that it's more than a million?

A. I expect that it is, yes.

104 Q. Well, actually you told me that you knew it was more than a million. Are you saying now you expect it to be or you know it's more than a million?

A. I would be very surprised if it was not more than a million.

105 Q. I just want to be clear. I'm cross-examining you on an affidavit in an

application where you're seeking to go to court to get another $10 million and you're telling me you have no idea how much of the $25 million was used to pay professional services. That's your evidence, correct?

A. That is not what I said.

106 Q. Well, actually, okay, so what did you say if you didn't tell me that you had no idea?

A. I said my expectation is that there is an amount greater than a million dollars that has been spent on professional services and I do not know the exact amount as I do not have it in front of me.

107 Q. So you don't know if it's --

A. It's not in front of me.

108 Q. I'm not asking if it's in front of you. This is something I would expect the Rector to remember. You don't know if it's a million a hundred thousand or if it's 5 million? You have no idea. All you can tell me is you know it's more than a million. That's your evidence?

A. I would be guessing with any other figure.

109 Q. You know, this is the trouble I'm having, okay? I'm not asking you to give me a precise number, okay? I'm asking you to tell me what knowledge you have. And what you're telling me is you have no knowledge that the -- as to how much those fees are, the professional fees that have been incurred, which are significant, other than you'd be surprised that it's not more than a million dollars. That's the only information or knowledge you have? That's your evidence under oath?

A. I receive updates on --

110 Q. Tell me about the updates. Tell me about the updates. What's the last update you saw? What were the numbers?

A. I cannot -- without having the update in front of me, I cannot tell you how much was from February 1st because the updates I get are longer term and cumulative and they are also after the fact. So I actually don't have the information. We do track the information, but I do not have it for you this morning.

111 Q. When's the last update you received?

A. It was last week.

112 Q. Okay. Why don't you -- you got an email?

A. Not that I have access to.

113 Q. Okay. Sorry, how do you not have access to your email?

A. I have downloaded the update somewhere.

114 Q. Well, why don't we take -- let's take a short break and go get the update. Download it and then you can answer my questions.

MR. HANRAHAN: All right, counsel, no, we're not going to do that on the fly here. If you want to make a request, we can take it under advisement, but we're not going to do that while we're sitting here.

BY MR. CAZA:

115 Q. This is not under advisement. This is not an examination for discovery. This witness has access to that information now. I'm asking him to get it to give me the evidence.

R/F MR. HANRAHAN: I'm telling you we're not going to do that.

BY MR. CAZA:

116 Q. And sorry, can you explain to me

what's the basis of your objection to him getting relevant evidence that he can access right now? What's the basis of your objection?

MR. HANRAHAN: Because if you'd like the information, you're free to make a request and we'll give you our answer whether we're going to take it under advisement, whether we're going to provide it, we'll do that, but we're not going to have him open up his email on the fly while we're sitting here and do that.

BY MR. CAZA:

117 Q. And I'm trying to understand here. Actually, he wasn't going to open his email. My understanding is he has got the document, he was going to download it.

He was supposed to attend with all the relevant documents. This is a relevant document. I'm -- and I accept that he's attending if he has brought them with him if he has access to him.

It's very relevant how much money has been spent by Laurentian University on professional fees in order to go through this CCAA. This witness has said that he has access to that information. He can go get it for me

right now by downloading the document and you're actually telling him not to do that. Is that correct?

MR. HANRAHAN: I am telling him not to do that. I told you we'll take your request under advisement and we'll get back to you.

MR. CAZA: No, it's not under advisement. This is a cross-examination. You either object and I move on. Are you objecting to this witness getting this evidence that he actually can go get right now that's very relevant to this application and to our motion? Are you objecting?

MR. HANRAHAN: I think I've given you our position, so why don't you move on because we're not going to do that right now.

BY MR. CAZA:

118 Q. No, no, I'm sorry. Your position is you're taking it under advisement. That's not a position. You're objecting. If you're not objecting, the witness should be looking up the document and giving me the information.

MR. HANRAHAN: You're free to take that position, but I've given you our position.

BY MR. CAZA:

119 Q. So, Mr. Haché, can you please answer the question? Please get the document and provide me with the information. There's been no objection.

MS. MILLER: Mr. Caza, if you refer to Mr. Haché's affidavit, he clearly says in paragraph 251 of his affidavit that the cash flow forecast will be filed with the court, will be attached to a monitor's report in connection with this motion.

So if you want to ask Mr. Haché something specific that's in his affidavit with respect to the cash flow, that's what his affidavit refers to.

BY MR. CAZA:

120 Q. I'm sorry, Ms. Miller, a cross-examination is in no way limited to what you've decided is going to be in the affidavit. I can ask questions on anything that's relevant. I've asked the question. Either the witness is going to answer or you're going to object. You're going to object on the record and I'm going to continue. Are you objecting?

If not, Mr. Haché, answer the

question.

MS. MILLER: You have our position.

BY MR. CAZA:

121 Q. I'm sorry, no, so there's no position. There's no objection.

Mr. Haché, answer the question, please. Download the document and give me the information.

MR. HANRAHAN: You're not going to do that. We've been over this several times now, so I think you should just move on.

BY MR. CAZA:

122 Q. No, I'm not moving on. You're not going to sit here and say the witness is going to do this, the witness is going to do that. This is a cross-examination. You're either going to object or he's going to answer. You can't be telling him don't answer this question. Are you objecting or are you not objecting?

MR. HANRAHAN: It's not -- what you're asking him is not a question. You're giving him a direction asking him to download a document and I'm telling you he's not going to do.

BY MR. CAZA:

123 Q. Hold on. So you're objecting to the request I've asked the witness to consult a document that he has access to right now while he's being cross-examined. You're objecting to that, correct?

MR. HANRAHAN: I've already answered that a few times.

BY MR. CAZA:

124 Q. Give me the basis of your objection.

MR. HANRAHAN: I don't see the purpose in going round and round on this. We've told you --

BY MR. CAZA:

125 Q. Well, actually we're going to move on. I don't understand why you're not objecting. I think you're not objecting because, and I want this to be stated on the record, because you know there is no basis to not permit the witness to get this information and answer. I'm moving on.

Can we go to page -- we go to the service list, which is after page 12 in the Notice of Application.

Laurentian University is paying those legal fees. So the lawyers for the applicant, Thornton Grout Finnegan, those legal fees are paid by Laurentian, correct, Mr. Haché?

A. That is correct.

126 Q. And Ernst & Young, the court appointed monitor, those fees are paid by Laurentian University?

A. That is correct.

127 Q. The next page, Stikeman Elliott, the legal fees for the lawyers for the monitor, that's paid by Laurentian University?

A. That is correct.

128 Q. The Lenczner Slaght legal fees, lawyers for the Board of Governors of Laurentian University of Sudbury, that's paid by the university?

A. That is correct.

129 Q. Now, the Davies Ward and Beck lender counsel, that's paid by the university?

A. Lender counsel, so that's counsel for whom?

130 Q. To the applicant. To Laurentian. Davies Ward and Beck, Natasha MacParland?

A. Who are they counsel to?

131 Q. The applicant. They're lender counsel to the applicant?
A. Lender counsel?
132 Q. Yes.
A. I'm not quite sure what that means, but.
133 Q. Do you know if you're paying their legal fees?
A. I -- it's the lender counsel for the applicant part that I find --
134 Q. Well, the applicant is Laurentian, so they're lender counsel to you so you'd be paying the legal fees?
A. So it's the counsel to the lender, yes, I believe that is correct.
135 Q. And you're paying the legal fees of the DIP Lender?
A. I believe that is correct.
136 Q. And you're paying Hicks Morley, your labour counsel for their legal fees?
A. Yes.
137 Q. If we can now go to your affidavit, if you can pull up your affidavit, and I'd like to start at paragraph 11.
A. Okay.

138 Q. Now, this affidavit, I'm assuming before you swore that it was true and that is your signature we see at page 110? Page 110 of your affidavit. It was sworn by video?

A. That is my signature.

139 Q. Now, I'm assuming you reviewed drafts of this affidavit before you signed it?

A. I did.

140 Q. And you made changes and corrections to the drafts that you received?

A. I did.

141 Q. And then they were returned and then when you were satisfied with everything that was in the affidavit, after having read it carefully, you swore that it was true, correct?

A. After conversations with my counsel, yes.

142 Q. So you -- okay, now just so I'm clear, what you've sworn is true. You -- it is your evidence that to the best of your information, knowledge and belief it's all true, correct?

A. That is correct. To the best of my information, knowledge and understanding that much of the information here was information

provided to me, I believe it is true.

143 Q. Well, I guess I'm a little concerned. If you go to page -- paragraph 4 at page 4 of your affidavit. Are you there?

A. Yes.

144 Q. It says:

"As such, I have knowledge of the matters hereinafter deposed to, save where I have obtained information from others. Where I have obtained information from others, I have stated the source of the information and believe it to be true."

Do you see that?

A. Yeah, that is correct.

145 Q. Unless you say in the paragraph or when you're giving the evidence that you got the information from someone else, for example your lawyer, you actually have knowledge of the -- of the evidence you're providing in your affidavit, correct?

A. I would think that's what it says, but I'm not a lawyer.

146 Q. You don't have to be lawyer. You swore this. I'm reading your affidavit. This

is you. You swore this is true. So you're telling me you don't know what this means? You swore it was true, you don't know what it means?

A. I believe I know what it means.

147 Q. So it says:

"As such, I have knowledge of the matters hereinafter deposed [...]."

That means you know what you're saying. You have personal knowledge.

A. I have knowledge of it.

148 Q. "[...] save where I obtained information from others." And when you've done that, you've actually said in your affidavit, and you've done it in certain paragraphs, you state the source and you also state you believe it to be true. So you'll agree with me on that?

A. I believe what's in here to be true, that is correct.

149 Q. Not only that it's true, you have personal knowledge of it, correct?

A. And that I have knowledge of those parts which I said I have knowledge of.

150 Q. It's not what you said you have knowledge. It's your whole affidavit. Unless you've specifically said you got the information

from someone else. Do you agree with me on that?

A. That's what I understand, yes.

151 Q. Go to paragraph 11 at page 6.

A. Yes.

152 Q. Okay. So you start by saying:

"One significant source of financial challenge are the terms of Laurentian University's Collective Agreement With LUFA, which is addressed in this affidavit."

I'm trying to understand, what percentage of your budget would be wages, wages and salaries?

A. I don't have an exact percentage.

153 Q. Just give me what is your understanding? Just give me what your belief and knowledge is as to what that percentage is. Is it more than 50 percent?

A. What is that number looking back? I mean, I have access -- I'm not going to -- no.

MS. MILLER: That information is contained in his affidavit. Would you like to direct him to it?

BY MR. CAZA:

154 Q. We'll get to that -- we'll get to the sort of different percentages because it's actually broken down in a different fashion, but I guess that information is something that you knew or were aware of at the time you swore this affidavit, is that fair? For you to say that it's a significant source, you had information and knowledge as to how significant that source was. Is that fair?

A. Yes, that is correct.

155 Q. Okay. Now, so and we'll come back to the issue of how much money, but I think it's fair to say that probably one of the big sources of concern for Laurentian University, in order to be able to come out of its financial predicament was to get significant and important concessions from its unions, is that fair?

A. Yes, to be financially sustainable, we needed to have changes in the total amount of compensation going to our unionized people, yes.

156 Q. And my understanding is that you had attempted to negotiate that or did you attempt to negotiate that before seeking --

attempting to seek relief from the CCAA?

A. Yes.

157 Q. Now, if I go to page -- so that's one significant source of financial challenge. The other one, I'm in paragraph 12, you say:

"Operationally, the academic programming offered by Laurentian University is not sustainable in its current form and must be addressed."

What did you mean by that?

A. What I meant by that, the cost of operating the number of programs that are listed there exceeds the revenue that was received for those programs and therefore was not sustainable.

158 Q. And that's all you meant by that sentence, right? That's what you were referring to, the courses and the programs that Laurentian University is offering, what it's costing you, and how much revenue you're getting to offer those courses, correct?

A. Yes. It's an academic structure that is not -- that doesn't balance revenue with the cost of delivering those courses and programs.

159 Q. Now, if I go to paragraph 13, I see here, you go:

"When considering individual courses (each program offers multiple courses), the issues are magnified."

I just want to be clear that this paragraph 13 and these numbers have nothing to do with any of the courses that are offered by the Federated Universities.

A. These are courses and programs offered by Laurentian.

160 Q. And the same with paragraph 12:

"[...] the academic programming offered by Laurentian University [...]."

You're not at all, in paragraph 12, referring to any of the courses or anything with respect to the Federated Universities, is that fair?

A. That is correct. These are -- I'm referring to Laurentian courses and programs.

161 Q. If I go to paragraph 14, again this has nothing to do with any of the courses that are being offered and the students that are

taking the courses offered by Federated Universities?

A. I believe that faculty student number is based on Laurentian registrations only. That's my understanding.

162 Q. Sorry, so the -- when we look at these -- this information, when you swore the affidavit, you were -- your knowledge was that this only refers to Laurentian University, correct?

A. That is correct. That is my knowledge.

163 Q. I think somebody may be objecting?

MR. HANRAHAN: I just wanted to clarify that there's reference in the second -- we're talking about paragraph 14?

BY MR. CAZA:

164 Q. Yeah.

MR. HANRAHAN: So there's reference in there to numbers from other schools outside of Laurentian.

BY MR. CAZA:

165 Q. Sorry, so is that an objection?

MR. HANRAHAN: Well, I just wanted to

clarify you're --

BY MR. CAZA:

166 Q. What are you doing?

MR. HANRAHAN: Your question --

BY MR. CAZA:

167 Q. Is this an objection? I'm cross-examining this witness. Are you objecting? This is not a discovery.

MR. HANRAHAN: I'm clarifying the question. Thank you, I'm aware of that. Your question was suggesting that this paragraph only has to do with Laurentian and I'm saying to you that the second half of this paragraph refers to numbers from schools other than Laurentian.

BY MR. CAZA:

168 Q. So your objection is that my question was improper?

MR. HANRAHAN: It was unclear.

BY MR. CAZA:

169 Q. Next time if you want to object, please object before the witness answers the question, if you're going to object to a question. And I am going to insist that we let the witness answer questions at this cross-examination.

Now, your counsel has objected. Does that change your answer to paragraph 14 that you just gave me?

A. So the reference to the significant number of courses that have 10 or fewer students, majority have 14 or fewer students that I have direct knowledge of.

The averages that are there for Canadian universities are, of course, secondhand based on information that is either publically available or otherwise provided.

170 Q. You actually gave it to us. See at the bottom? You've actually given us the source of that information. I was referring to the first two sentences. So you're correct, you've actually given the sources.

A. Okay.

171 Q. Paragraph 15 reads as follows:

"Low enrolment in courses causes such courses to be financially unsustainable. The cost of offering such courses greatly exceeds the grant and tuition revenue received by Laurentian University for those courses."

You are referring to courses offered by Laurentian University and not the Federated Universities, correct?

A. That is correct.

172 Q. Paragraph 16. It states in paragraph 16:

"Within the current structure, it costs more for Laurentian University and the Federated Universities to educate each student per year when compared to the average cost across all other Ontario universities."

Okay, where are you getting that information? You have knowledge of that? What's your knowledge based on?

A. That's based on the total enrollments at Laurentian including the Federated Universities. And the Ontario average as based on data provided by the Council of Ontario Universities.

173 Q. So just so that I'm clear, when you're looking at what the cost is to educate each student per year, your concern and Laurentian University's concern is what it's costing Laurentian University to educate each

student and not what it's costing the Federated Universities, is that fair?

A. Of course our concern is Laurentian, yes.

174 Q. So if we now go to paragraph 17. You state in paragraph 17:

"Historical efforts to address Laurentian University's program offerings have been unsuccessful."

And you give an example where you temporarily suspended admissions to 17 academic programs with low enrollment and there was a judicial review. All of that had nothing to do with any courses offered by Federated Universities, correct?

A. That is correct.

175 Q. Now, if we go to paragraph 19, are you with me?

A. Yes.

176 Q. You start by saying -- you start your paragraph by saying:

"It is in the interest of public policy [...]."

Do you see that?

A. Yes.

177 Q. "[...] as well as current and future students, faculty, staff, retirees, the Greater Sudbury community and the Northern Ontario region generally, to provide Laurentian University with the breathing room and platform of a court-supervised proceeding with the oversight and assistance of a Monitor, in order for it to restructure."

Why are you saying that that's in the interest of public policy?

A. It's in the interest of public policy because Laurentian University serves and provides for an important need for northern Ontario.

178 Q. Just so that I'm clear, so you say it's in the interest of public policy and I'm trying to understand what you mean by that. What do you mean by the "interest of public policy"? I just want to understand what that means.

A. The university makes an important contribution to the community and to the north in providing access to post-secondary education.

179 Q. So you'll agree with me that it is also in the interests of public policy that the Federated Universities also be able to offer courses to students and have faculty and staff. You'll agree with me on that?

A. What I will say is that the presence of Laurentian University in the north is important for the community, yes. And then if you want to say that Laurentian University at large, in whatever structure that represents, yes.

180 Q. You brought up the interest of public policy. You've actually said that in your affidavit. So obviously you've said that because it's relevant or you wouldn't have put it in there. So the interest of public policy is something that you've considered and you're asking the judge, this will be read by the court, this affidavit and this transcript. So this is -- you're giving evidence to the court.

A. Yes.

181 Q. You told the court in your affidavit that one of the things that should be considered is the interest of public policy. I think we can agree, just as you've explained it,

is in the interest of public policy for Laurentian University to be able to -- to function well, it's also in the -- you'll agree with me, it's in the interest of public policy for your Federated Universities to also be able to do so, is that fair?

A. All I can say is it's in the interest of public policy for Laurentian to function well. That is my responsibility.

182 Q. So you are refusing to answer my question, which is do you agree with me that it is also in the interest of public policy for the Federated Universities to be able to continue offering courses? You're refusing to answer that question?

MR. OSBORNE: Mr. Caza, I'm going to jump in here. That's precisely not what he said as you know.

BY MR. CAZA:

183 Q. Well, --

MR. OSBORNE: So I've been very patient here, Mr. Caza. Please let Dr. Haché finish his answers before you interrupt him and you're certainly entitled to put to him a proposition, if you wish, and he can agree or

disagree. But please don't misstate what his evidence has clearly and unequivocally been. Thank you, sir.

BY MR. CAZA:

184 Q. Well, Mr. Osborne, one thing is, I want to apologize. With the -- when we're doing this virtually, it's hard for me sometimes to see whether or not Mr. Haché has actually completed answering.

MR. OSBORNE: Understood. Fair enough.

BY MR. CAZA:

185 Q. If I ask you a question, if you haven't finished, I would ask you put your hand up. I literally mean that, and I will stop, because I thought you had finished.

So I'm sorry. So I guess the question -- I'll just rephrase the question. I'll ask you the question.

Would you agree with me that it is in the interest of public policy that the Federated Universities also be able to continue offering courses?

A. I believe I've already answered that question. I can agree that it is important

for Laurentian University to function -- to have the presence and ability to offer the courses. I cannot comment beyond that.

186 Q. So actually you can. You can refuse -- or I guess my understanding is you're refusing to answer the question because the answer can be yes, it is in the interest of public policy, no, it's not, or provide another answer. And my understanding is when I ask you the question, do you agree with me that it's in the interest of public policy for the Federated Universities to be able to teach their courses, your answer is that what's important is the interest of public policy of Laurentian University, is that fair?

A. That is what I said.

187 Q. Okay. Let's move on.

Now, if we go to the next page, paragraph 20, so that's at page 9.

A. Uhm-hmm.

188 Q. So it says here:

"Laurentian University has made every effort over the last several years to support its students and provide [...]."

Then it says that -- the third sentence:

"However, Laurentian University must take steps to ensure its long-term sustainability,"

Then I'm just quoting your affidavit here:

"Laurentian University requires financial assistance and the breathing room afforded by CCAA protection to effect an overall restructuring and to safeguard against significant changes to its operations and a corresponding decline in student experience which would likely result if this is not undertaken through a coordinated, transparent and efficient court-supervised process."

Now, you've used the word "transparent". Why do you use the word "transparent"? What did you mean by that?

A. So my understanding is that the CCAA protection provides for a transparent process, all of the affidavits and so forth become -- are public documents, and the outcome

of all mediations become public. So it is -- everything is -- is done out in the open through a court-assisted process.

189 Q. And you're -- what you're telling us, and you'll agree with me, that transparency is very important in a process of this nature, is that fair?

A. I believe a process of this nature provides for that transparency, yes.

190 Q. And the transparency is very important. You'll agree with me it's important that there be transparency?

A. It's integral to the process.

191 Q. Then you go on and your next sentence reads:

"A successful restructuring of Laurentian University will necessarily involve its federated universities."

Then you name the three universities. So I just want to be clear here. So when you say involve, what you're saying is they have to participate in the discussion that's going to lead to whatever decisions may be made concerning the -- your relationship with the Federated Universities, is that fair?

A. I think that that sentence refers to is that the restructuring that must occur needs to include restructuring of the federation because that federation is part of the issue with sustainability of the university.

192 Q. And you were involved and you were in fact played a leading role in determining that the agreements between Laurentian University and the Federated Universities needed to come to an end? You were involved in those discussions and played a leading role in arriving at that decision, is that fair?

A. I was involved in those discussions leading to the conclusion that there was no viable alternative to that end, yes.

193 Q. So you say you were or were not?

A. I was, yes.

194 Q. Okay, good. So you'll be able to assist the court in understanding why Laurentian University is taking the position that they need to bring these agreements to an end, is that fair?

A. That is correct, yes.

195 Q. So we'll be dealing with that

later on as we get into the details.

Now, I'm going to -- so maybe just go back. And I must have misread this and I apologize. When you say:

"A successful restructuring of Laurentian University will necessarily involve its federated universities."

You didn't mean that they needed to be involved in those discussions. What you meant is we have to deal with that structure that exists?

A. I believe that's what it says, yes. The -- what it says is that the restructuring needs to involve the federation and it says, "as described below" so I believe that that is elaborated on at great length below.

196 Q. Now, and we'll -- we can deal with that later.

So we go now to paragraph 21. Are you with me?

A. Yes.

197 Q. What I'd like to do is I want to go to Exhibit A. Okay? So Exhibit A, have you got access to Exhibit A?

A. I do have the exhibits. It'll take me a moment.

198 Q. So why don't you pull up Exhibit A?

A. I have it.

199 Q. It's an 11-page document.

A. I have Exhibit A. I have it.

200 Q. Now, you were familiar with this Act before the whole question of CCAA came up when you were appointed to your present position because initially it was on an interim basis.

You became or you made sure to become aware and were aware of this legislation, is that fair?

A. To be correct, I was not appointed on an interim basis. I was appointed directly as the permanent president.

201 Q. Perfect.

A. And I was aware there was legislation. Did I read the legislation before taking up the position or only sometime thereafter, I cannot remember. But at some point, I read the legislation, yes.

202 Q. Is the right title -- should I say President? It's not Rector, it's President,

right?

A. If we are speaking English, it is President and Vice Chancellor. If we are speaking French, it would be Rector and Vice Chancelier.

203 Q. So now, Mr. Haché, so you hadn't read this until you swore your affidavit. That's the first time you saw this piece of legislation?

A. No. I've read it before I swore the affidavit, for sure.

204 Q. So you were familiar before -- you had read this legislation before this whole CCAA issue came up at Laurentian, you had already read this Act?

A. Yeah, I read it. I wouldn't say I had a recital knowledge of it, but I had read it and I was familiar with it.

205 Q. So you knew, if we look at the preamble, it says:

"WHEREAS the University of Sudbury, the United Church of Canada and The Incorporated Synod of the Diocese of Algoma by their petition have represented that they are

desirous of establishing [...]."

This university.

So you were aware that the three Federated Universities are actually the three institutions that got together in order to effectively ensure the creation of Laurentian University?

A. Yes.

206 Q. And if we go to paragraph 4 on the second page, are you with me? Under "Powers"?

A. Oh, yes.

207 Q. It says:

"The University has university powers, including the power,"

It says:

"Establish courses."

It says:

"to establish and maintain, in either or both of the French and English languages, such faculties, schools, institutes, departments and chairs as determined by the Board, other than those already established by the University of Sudbury, which

faculties, schools, institutes, departments and chairs are continued in the University under authority of the Board and Senate."

So you were aware that all of those courses, the faculties, the schools, everything that existed at the University of Sudbury, this piece of legislation continued their existence at Laurentian University, with Laurentian University, correct?

A. That's what the paragraph says.

208 Q. And you were aware of that when you swore your affidavit?

A. Yes.

209 Q. If we go to the next page, page 3 at the top of the page. We have "Federation of church-related colleges". And then when it looks at the power, because we're under the power section, it says:

"to admit church-related universities or colleges into federation as colleges of the Faculty of Arts and Sciences, which church-related universities or colleges have the right to give

instruction [...]."

So you were aware that you had the power to basically federate other universities and colleges, correct?

A. That is correct.

210 Q. Now, if I go to -- under the -- under "Federation", it goes under e):

"to permit federation or affiliation of other colleges or universities with the University and to make agreements for federation or affiliation with other colleges or universities [...]."

It says:

"[...] provided that Hearst College and Prince Albert College, presently affiliated with The University of Sudbury, may enter into agreements to affiliate with the University."

Now, presently you do have an affiliation with Université de Hearst, correct?

A. That is correct.

211 Q. Yeah. What other affiliations do you have?

A. Of a federated nature?
212 Q. Yes.
A. That I'm aware of, well, I guess the other one would be the Northern Ontario School of Medicine.
213 Q. Right.
A. It's not strictly a federated relationship, but there is a relationship there that in terms of utilizing the Laurentian Senate for the approval of courses and programs. Unless I'm forgetting any, I believe that's it.
214 Q. Well, that's two. So there's the Université de Hearst and NOSM, right, those are the two, correct?
A. To my understanding, yes.
215 Q. Now, recently, and I think it was like last week, there was legislation passed. You're familiar with that legislation?
A. Yes.
216 Q. Okay. And what was the impact of that legislation on your relationship with these two -- with NOSM and Université de Hearst?
A. It signaled the likelihood of a change in that relationship.
217 Q. Has that change occurred yet?

A. No, it has not.

218 Q. Have discussions started with respect to that change?

A. Not with the university.

219 Q. Now, if go to paragraph -- on page 4, paragraph 2, so it's under the title "Enrolment of students". Do you see that?

A. Yes.

220 Q. It says:

"Every undergraduate student in the Faculty of Arts and Science shall enroll either in University College or in one of the church-related colleges of the Faculty. "

So that's provided for in the Act, correct, and you were aware of that at the time you swore your affidavit?

A. Yes, I was aware of the Act.

221 Q. And aware of this section pertaining to undergraduate students and how they're able to enroll, correct?

A. Yes.

222 Q. Are you familiar -- are you aware as to whether or not this Act has ever been amended or changed?

A. I'm not either, I must say. Unless there's something written at the end of it saying it was updated at some point, I am not aware.

223 Q. So if we go to page 6. We've got at the bottom of the page, it says:

"Management of University vested in Board."

Except -- and then it goes on 18(1):

"Except as to such matters as are by this Act specifically assigned to the President, the Senate, federated universities and federated colleges."

And then it goes on to say, basically all the powers that the university has. So you understood that those powers are subject to any powers resting with the Federated Universities, correct?

A. It says -- it says:

"[...] and the Board has all powers necessary or convenient to perform its duties and achieve the objects and purposes of the University and, without limiting the generality of the foregoing, has power."

So I believe it refers to the Board.

224 Q. Right. And the powers of the Board are -- they go to such matters unless they've been specifically assigned to, among other entities, the Federated Universities, correct?

A. You'd have to show me where it says that.

225 Q. Yeah, just go to the top of -- in fact, bottom of page 6, top of page 7.

A. Yes.

"[...] to such matters as are by this Act specifically assigned to the Present, the Senate, federated universities [...] all powers."

Yes.

226 Q. Now, if we go to page 8. And at page 8, we have "Composition of Senate". Are you with me?

A. Yes.

227 Q. So the Senate, as per this Act, the legislation, shall be composed, so:

"There shall be a Senate of the University composed of,"

And if we look at c), it's the

principal and head of each federated university or college, correct?

A. That is correct.

228 Q. That's in the Act, correct?

A. That is correct.

229 Q. And then h) says:

"one full-time professor elected annually by each federated university [...]."

Do you see that?

A. That is correct, yes.

230 Q. So I'm just trying to understand here. So just so I'm clear, you're attempting, you're seeking to bring the agreement between Laurentian University and the Federated Universities to an end. Just so that I'm clear, even though you're bringing that to an end, is it your understanding that they're still going to sit on your Senate?

A. No, that would not be correct.

231 Q. So maybe you can assist me because the Act actually says they sit on your Senate. So explain to me where I'm wrong.

A. We expect -- we understand that the Act may need to be amended.

232 Q. I'm sorry. So just so I'm clear, so for the -- your understanding is that for the agreements to be set aside, we're going to need to amend this Act? Is this your understanding?

A. No. My understanding is that should the agreements be set aside, the Act will need to be amended.

233 Q. Okay. But you don't have any control as to amending this Act. This would need to be the legislature, correct?

A. This would be -- need to be the legislature, that is correct.

234 Q. Now, if we can go to page 9.

A. Yes.

235 Q. Sorry, wrong page number. See at to the bottom of page 10, there's a title called "Suspension of degree-granting rights of federated colleges." Do you see that?

A. Yes.

236 Q. Paragraph 27, it says:

"If any university or college is federated or affiliated with the University and has the right to grant degrees, such right, except for degrees in Theology, shall remain

dormant during the time that such university or college remains federated or affiliated with the University."

So just so we're clear here, when the federated colleges entered into -- and I'm talking Thorneloe and the Université de Sudbury, when they entered into the agreement or if I'm looking at this Act, when they joined the university as per this Act, they were in a position to grant degrees, and that right was rendered or it had to remain dormant, which is what the present situation is, correct?

A. That is what that paragraph says.

237 Q. So the Université de Sudbury and Thorneloe presently cannot grant degrees, correct?

A. Except for theology.

238 Q. Except for theology. Do you know what they would need to do in order to be in a position to award degrees and no longer be dormant? Do you have any idea what would need to be done?

A. I do not.

239 Q. Now, if we go to -- back to your

affidavit. So I'm at paragraph 25 of your affidavit at page 10. So it states at page 10, I'm just going to read you what we've got here. It says at paragraph 25:

> "As further discussed below, Laurentian University has a federated school structure whereby it has formal affiliations with several independent universities under the overall Laurentian University umbrella."

Now, can you explain to me what's -- what is a federated school structure? What does that mean?

A. It means that each of the universities listed there are independently incorporated entities that participate in a federal structure.

240 Q. Now, so, Mr. Haché, just so I'm clear, and I will use for the example Université de Sudbury, the same with Thorneloe, they offer courses and those courses are offered by their -- sort of their -- courses of their institution, their university, correct?

A. They offer courses and programs approved through the Senate of Laurentian

University, but the delivery of those courses and programs happens at the federated institution.

241 Q. So when we're looking at courses offered by the Université de Sudbury or Universitie de Sudbury, they are courses that are actually offered by Université de Sudbury, correct?

A. They are delivered by faculty members who are employed by the University of Sudbury, yes.

242 Q. And the courses are courses offered by Université de Sudbury. If we look at what are the courses and programs offered by Université de Sudbury, we will find those courses. They're not offered by Laurentian University?

A. They are -- they are offered by Laurentian University in the sense that they are courses that qualify for Laurentian degrees. So they -- maybe it's best to say they are offered through Laurentian University by the federated institution. Trying to be correct, not trying to be misleading.

243 Q. No, no. In fact, my

understanding is that the courses are offered by Université de Sudbury, other courses are offered by University of Thorneloe, and those courses are recognized by Laurentian University for giving or providing diplomas or allowing your students to graduate, correct?

A. I believe that is the correct way to say it, yes.

244 Q. So we have -- if I'm a student, I'm a student of Laurentian University. If I sign up for a course at Université de Sudbury, I'm actually taking a course that is offered by an independent university, but there's an agreement that that course will be recognized when I am to obtain my diploma at Laurentian University?

A. That is correct.

245 Q. Can you explain to me how -- what is the administrative arrangement? I'm trying to understand the details of administrative arrangement between Laurentian University and its federated -- and the Federated Universities. More specifically, I want to understand costs, revenues, explain to me how that works, just practically speaking so the court can

understand?

A. Can you be more specific?

246 Q. Sure. So I guess if -- so I'm trying to see -- remember how you were saying a while ago or we looked at -- so I'm looking at a course -- so let's say there's a course offered at Université de Sudbury, and we'll just say a certain course in philosophy, we'll call it Introduction a la Philosophie. Now, that course is offered at Université de Sudbury. Now, does Laurentian University make any money or get -- receive any revenue from the fact that Université de Sudbury is offering this course?

A. It depends.

247 Q. So explain.

A. Can you be more specific?

248 Q. Well, I mean, I think I'm being very specific. Explain to me, does Laurentian University -- how does Laurentian University, if at all, make any money or generate any revenue for itself when students sign up for a course at one of the Federated Universities?

A. So I believe the funding formula is included in the documents.

249 Q. What's your understanding of the

funding formula?

A. So the -- you know, I think, if we want to get precise, we can go to the actual page in the document, but my understanding, without going to that, and, you know, subject to correction of what's specifically written when I'm looking at the document, is that the student who is registered in a program at the university -- the program that is delivered by the University of Sudbury, grant and tuition revenue attribute to the University of Sudbury, minus an administration fee that is collected for all the things that Laurentian University does in a centralized manner.

250 Q. And since when has that been the case?

A. Early 2019. I believe before my arrival at the university.

251 Q. Okay. So I am a student. I sign up for a course at Université de Sudbury Introduction de la Philosophie, so where does the money come from that you're taking the 15 percent cut? That's coming from where?

A. That comes from the combination of grant and tuition revenues that attribute to

that registration.

252 Q. So there's grant and tuition revenue for this course offered at Université de Sudbury and that money does not come directly to them, it goes through you?

A. Yes. Funding flows through Laurentian.

253 Q. So all of that money is generated because -- or is generated as a result of a student signing up to take a course at either a formal university or Université de Sudbury, that's what's generating that money, the tuition and the grants, but they're not getting that money directly. It's actually going through Laurentian University and they end up getting or being transferred or Laurentian ends up transferring 85 percent of that amount, correct?

A. If the student is registered in a program at the federated institution, correct.

254 Q. Now, so all of the courses -- all of the students that are registered presently at Thorneloe or at Université de Sudbury, Laurentian University makes 15 percent of the revenue generated by that student taking that course, right?

A. Laurentian doesn't make 15 percent. Laurentian -- in order to administer to allow the student to apply to the university, come to the university, use student services, library facilities, recreational facilities, everything that is associated with the university, and there is a cost to that and that is reflected in the administration charge that is retained by the university.

And these are all, you know, things that students need to have access to and, of course, they are all things that do cost to deliver the service, and the service is delivered centrally by Laurentian University.

255 Q. And Laurentian, for what you've described, keeps 15 percent of the revenue generated, either through grants or tuition fees, as a result of a student taking a course in one of the Federated Universities, correct?

A. That is correct.

256 Q. Now, just so that I'm clear, so for example, if I'm only taking four courses, and I'm only taking courses at Université de Sudbury, four courses that are offered by Université de Sudbury, those are the only

courses I'm taking, that doesn't change anything in what you said. That amount of money -- the money will still be sent to Laurentian University for --

A. The student has still applied through Laurentian, the student is still taking -- getting all the administration of their progress and their degree through Laurentian, they're using the libraries, the various facilities at Laurentian, all that is centrally provided in the federated model.

257 Q. So the answer is yes, right?

A. The answer is they have -- the answer really is that, you know, a student at the university takes courses, but there is a lot of infrastructure, support, advising, et cetera, many things are needed in order to enable the student to successfully take and complete those courses and complete their degree that go beyond the course itself.

258 Q. I wasn't asking you to justify. I didn't ask you to justify.

A. I was merely explaining the cost.

MR. CAZA: Rob, just make sure you let Mr. Caza finish before you speak.

BY MR. CAZA:

259 Q. My question was simply in the situation I described to you, you would still end up keeping 15 percent of the amount. And I think the answer was yes and you explained why you thought that was okay.

Now, so that I'm clear, if I have a situation where a number of students are signed up, and I'll give you, for example, the last school year. So it would be -- why don't we take the last one. So why don't we take from September 2019, okay, through to June 2020. Would that be the year -- what would the year be for the university if you look at numbers? What's your fiscal year?

A. The fiscal year runs from May 1st. The academic year runs from July 1st.

260 Q. So let's use the May 1st year. So May 1st, 2019, till April 30th, 2020, okay? A certain amount of revenue was generated by -- at Laurentian University that you were able to use, and if you want in your general account, from courses that students had signed up for in Federated Universities, correct?

A. That is correct, yes.

261 Q. And what's that amount of money? Where would I find how much money that represents?

A. I believe there is a -- one of the exhibits has that breakdown. I'm not sure exactly where it is, but there is one in the exhibits.

262 Q. What would the document be? What would it be called? Is it the financial statement?

A. Well, it's broken out of the -- it would not be in the consolidated financial statement, I don't believe, but it would be broken out within the financial statements, yes.

263 Q. Do you know -- would you have an idea -- would you have any knowledge as to approximately how much money would be generated from courses offered by Université de Sudbury and Thorneloe?

A. The total amount of revenues that go to --

264 Q. Yes.

A. I believe the total amount of revenues, and I would have to say to all three of the federated institutions for the past

fiscal year, '19/'20, I believe that amount is 9.1 million. And I also believe it's in one of the exhibits in this document, if that's not the exact figure.

265 Q. Let's say it's 9.1 million. Could be another number. That's your recollection, correct?

A. That is my recollection. I'm trying to figure out where within the 750 pages the exact number is.

266 Q. That's fine, but your recollection is it's approximately that number, right?

A. The total amount of revenue that's generated is approximately that number.

267 Q. So if I go 9,100,000 and multiply that by 15 percent, you would be retaining $1,365,000, correct?

A. I believe that's about -- that is approximately correct, yes.

268 Q. Now, just so I'm clear, and if I sign up for a course at Université de Sudbury or Thorneloe, or -- and at one point it was Huntington, but we're now talking about Thorneloe and Université de Sudbury, if I sign

up, you get that. But if I decide I'm not going to take a course at Université de Sudbury, but instead I'm going to go take a course at Lakehead or I'm going to take a course elsewhere, or I'm not going to take a course, well, obviously you're not making that revenue, correct?

A. Yeah, if the student doesn't register to take a course, there is no revenue to anyone within the federation.

269 Q. Just so I'm clear, Mr. Haché, the agreement you have that your evidence is you have an agreement and you're getting 15 percent, correct?

MS. MILLER: Mr. Caza, I'm loathe to interrupt, but I think you're recharacterizing what he's referring to when you say you're getting 15 percent. I think Mr. Haché's evidence is they're getting 100 percent and they are delivering a portion.

BY MR. CAZA:

270 Q. Actually, well, actually I find that -- I don't actually think that's a fair correction, but you've heard what your counsel has said.

Mr. Haché, you're getting the money because you're the channel through which the money from the ministry or whatever the tuition fees and the grants, wherever they're coming from, they're going through you as a channel to the federated university?

A. One of the services that we provide is collecting tuition and, yes, the ministry flows money to a single entity in the federation and that is Laurentian and it is passed on thereafter.

271 Q. You do not consider that money that you're receiving as revenue. It's not revenue. It's money that's going through you that needs to be remitted at 85 percent to the federated university. That's not your revenue.

A. It is revenue that is generated as a result of students registered in programs leading to Laurentian degrees.

272 Q. Well, it's interesting that you describe it that way because actually what we have -- you'll agree with me, Mr. Haché, is what you have are people that are signing up for courses at an independent university, a university that is independent from Laurentian,

and that money -- those tuition and grants that are being provided for that course are being provided for a course that's offered to the students by a federated university.

The only reason you're getting that money that is going through you is because that's the agreement you have with the Federated University.

A. And the government.

273 Q. And the government. Now, just so that I'm clear, if I look at the actual agreement that you have, and we'll be going through that agreement, because you've referred to it's been there since 2019, if that agreement was negotiated and you would get a higher percentage, so instead of 15 percent you'd get a higher percentage, you'd get say 20 percent, if you would have negotiated that kind of an agreement, you would have increased the revenue that would be made by Laurentian as a result of its relationship with the Federated Universities, correct?

A. That is correct.

274 Q. But you never discussed that option with the Federated Universities, is that

fair.

A. I have not, no.

-- RECESSED AT 9:43 A.M. --

-- RESUMED AT 10:01 A.M. --

BY MR. CAZA:

275 Q. If we go to page 10 of your affidavit, and I'm always referring to your affidavit of January 30th, 2020 for now.

A. Okay.

276 Q. And if I go to paragraph 27.

A. Uhm-hmm.

277 Q. It says:

"[Laurentian University] is considered an 'access university,' [it says] over 50% of the student population is comprised of first-generation postsecondary students (those whose parents did not attend university) and over 12% of the student population self-identifies as Indigenous."

That is 12 percent of the student body of Laurentian University excluding the federations, correct?

A. I would believe that would be

including the federation in this case, but let me say I'm not -- I can't confirm one way or the other, but that would be my suspicion.

278 Q. Well, one of the reasons you have that suspicion is that there are significant courses offered in Indigenous studies at Université de Sudbury, so you would assume that that would contribute to increasing that percentage, is that fair?

A. So I think -- yeah, there is an undergraduate program in Indigenous studies that is offered through the University of Sudbury, yes.

279 Q. Now, if we go to page -- I just have to convert these pages, give me a second here, page 12, paragraph 36.

And you -- it says here, 36:

"Within these faculties, students can choose from approximately 132 undergraduate programs to enroll in. Each faculty offers English and French programs and the Faculty of Science, Engineering and Architecture offers a bilingual Bachelor of Engineering program designed to be responsive to

the Francophone population at [Laurentian University]."

Can you explain how a bilingual program can be responsive to the Francophone population? Like, I don't understand that.

A. I think bilingual program can be responsive to the needs of all populations. I think it is one of the value-add that we have at Laurentian University that one has the ability to study in their language of choice, in their first language and also to benefit from courses in the other official language of the country.

280 Q. What you say there -- sorry, go ahead.

A. We offer programs that are completely Francophone; we offer programs that are completely Anglophone; and we offer the ability for students to study between the two languages in many cases.

281 Q. Well, to study between the two languages, just so that I'm clear, I think we can agree that if you are a Francophone student at Laurentian University, you can take all your courses in French, like you're able to take all your courses in French. You would not need to

take courses in English because of any impediment to take it in French. So that is why I'm a little confused when you say --

A. We are a suite of programs, Francophone programs where students can complete their degrees entirely in French, yes.

282 Q. Okay, that's correct. And that would be designed to be responsive to the Francophone population where you can actually take all of your courses in French. You will agree with me on that one?

A. Absolutely.

283 Q. You are not responding to the Francophone population where some of the courses you take, you have to take them in English. You will agree with me on that?

A. I think we are providing, you know, the broadest spectrum of courses and programs available in French that students are looking for, yes.

284 Q. Well, I guess my question is -- and I don't want to belabour the point -- I find it odd to be quite honest that you say in your affidavit that you have -- you speak of Faculty of Science, Engineering and Architecture

offering a bilingual Bachelor of Engineering as opposed to one in French, and you're saying it's designed to be responsive to the Francophone population.

A. Yes.

285 Q. So am I missing something or --

A. You might be. The -- the bilingual Bachelor of Engineering program, there is no Francophone engineering program in the Province of Ontario, but Laurentian is trying to meet the desires and needs of the Francophone population and, therefore, we offered in Science, Engineering and Architecture, Bachelor of Engineering program that was, in fact, bilingual in which the earlier courses were offered to be taken in French, but not all courses leading to the degree could be taken in French. So it is, in the way that you have -- yeah.

286 Q. Now if I go to -- and that paragraph, it says here in paragraph 43, it starts with:

"Through agreement between [Laurentian University] and Lakehead University (located in Thunder Bay

...), the Northern Ontario School of Medicine opened in 2005."

Can you explain to me, does that agreement end up generating any source of income for Laurentian University? Your relationship -- sorry?

A. There is no net income for Laurentian University through that relationship.

287 Q. Okay. So as opposed to your relationship with the Federated Universities where you're getting 15 percent of the moneys that are paid in tuition and grants, you're actually telling me you're getting no money as a result --

A. No, no. I'm saying there is no net income. As per the federations, there is no profit being made as a result of the relationship. Maybe I should say it that way. We don't make a profit for NOSM. We do provide certain services, and so forth, and students, you know, their programs go through Laurentian Senate. But there is a flow -- but there is a flow-through of tuition and so forth.

288 Q. But you keep --

A. And we have a relationship

agreement -- I expect there is an administrative charge, yes.

289 Q. Okay.

A. It may be in the document. I don't know exactly what the charge is --

290 Q. I saw somewhere --

A. -- at this point.

291 Q. I saw somewhere where you are charging $250 or something per application. But I'm trying to understand, first of all you say there is no profit. My understanding is that Laurentian is a not-for-profit organization, correct?

A. That's right. We are not generating revenue in excess of our expenses with relation to our relationship with NOSM. We're a federated institution.

292 Q. Well, this is what I'm trying to understand. Are you generating revenue as a result of your relationship with NOSM?

A. Yes, but not in -- not in excess of expenses.

293 Q. Okay. Well, I guess I'm a little at a loss there. So when you say not in excess of expenses, so have the expenses specifically

attributable to NOSM been identified?

A. I believe so, yes.

294 Q. Okay. So just so that I'm clear, so as opposed to your situation with the Federated Universities where you've told us all the services you're offering, but none of the costs have been specifically identified or attributed to the students, correct? Like for example, some students may use your facilities, some may not. That is what I'm trying to understand. I'm trying to understand the difference --

A. I don't think materially there is that much difference.

295 Q. This is what I'm trying to understand here. First of all, I guess, if a student registers at NOSM, okay, so they decide they're going to -- just like a student can register for courses at Federated University, students register for courses at NOSM to follow the program at NOSM?

A. No, it's not --

MR. HANRAHAN: Sorry, Rob, just wait until the question to finished.

THE WITNESS: Sorry, yeah.

BY MR. CAZA:

296 Q. Sorry, I was going to say, is -- the students that attend NOSM, do they register through Laurentian University?

A. That's a good question. So students that are in the medical program at NOSM, which is -- it's an entirely self-contained program, so they, at the end of that program, receive a degree from Laurentian University, so the program is -- and courses goes through the Laurentian University Senate and Lakehead Senate, in fact. It has to go through both.

But there is a degree of separation that is greater for NOSM students in the sense that it is entirely a self-contained program. There is no free flow of students between courses and programs, as far as I understand.

297 Q. Now so, but just so I'm clear, so when students pay tuition, are they paying a tuition to Laurentian University?

A. Laurentian University collects the tuition and flows it through to NOSM. That is one of the services that we presently provide.

298 Q. And instead of retaining 15 percent, you're actually retaining a specific amount per student, correct?

A. That seems to be correct, and the difference, of course, is the much more substantial tuition for medical education than for programs. I mean, one could -- I presume could do a percentage as well, but I can't comment on how this historic relationship was set up.

299 Q. Now I guess the -- and do you know the impact of the legislation that was passed last week? In fact, maybe you can just explain to us. How does the legislation that was passed, how does it change the nature of the NOSM? How does it change it?

A. So the -- the legislation that was introduced, if it achieves royal assent, will provide NOSM as a stand-alone institution so degrees will no longer be granted by Laurentian or Lakehead University; they will be granted by NOSM themselves. So it would be, in essence, the same as if a student who applied to any other university in Ontario compared to Laurentian University.

They would be, you know, completely separate. There would no longer be a relationship agreement, and, you know, what -- and I can't really comment beyond that because I don't know what form it will take going forward.

300 Q. So you don't know what the financial impact will be if they get royal assent, but I think we can assume that it's not going to be good for Laurentian University?

A. It will be --

MS. MILLER: I'm sorry to interrupt, but you're asking him a question without referring to his affidavit. There is a specific section of his affidavit addressing that very point and the question you've asked.

MR. CAZA: Sorry, which question?

MS. MILLER: The question you've asked in terms of any financial impact of the -- any changes at NOSM, and that is specifically addressed in his affidavit.

MR. CAZA: That would be specifically addressed in your second affidavit, correct?

MS. MILLER: Correct.

BY MR. CAZA:

301 Q. I don't want to jump around too

much here. So you have provided evidence to that effect. Do you remember what that evidence is?

A. Yeah, there is -- there is not expected to be -- you know, there would be no negative -- no impact on Laurentian financially.

302 Q. Okay, which means that --

A. No net impact at the end of the day because NOSM is completely a flow-through relationship.

303 Q. Just so that I'm clear, so what you're saying whatever revenue you're getting and it could be a -- stipend per student, it is actually costing you that much money. So at the end of the day, if they separate, you're even because you don't have the expense but you don't have the revenue; that's what you're telling me, right?

A. That's my understanding, yes.

304 Q. Okay. Now, if I go to paragraph 45, so what is the arrangement with the buildings? Does NOSM -- just so I'm clear, and I see there is a copy of the lease here. But they are actually leasing those buildings from you? You own those buildings, correct?

A. Yeah, Laurentian owns the primary NOSM building, and NOSM leases space from Laurentian in an adjacent building as well.

305 Q. And you don't know -- you don't know what is going to happen? Like, has there been discussion yet that they would end up purchasing those buildings from you now that they would be sort of independent? Or that hadn't been discussed?

A. There has been no discussion yet.

306 Q. So if I go to paragraph 48 it says here:

"[...] Laurentian and Lakehead each agreed to provide certain support services and faculty to NOSM."

So, and I see here the facilities are support services, student registration and student fee collection, scholarship receipt and disbursements.

That's the work you're doing, and both universities are doing this with NOSM?

A. Yeah. We each do it on our separate campuses for students that are located on one or the other campus.

307 Q. Now here's 49. This is what I

was referring to earlier. It says that:

"NOSM and [Laurentian] entered into a subsequent agreement as a schedule to the Relationship Agreement which governs the collection and accounting of tuition and incidental fees for 2020/2021 academic year. As part of this agreement, Laurentian University provides collection and accounting services for NOSM at a fee of $250 per NOSM student enrolled at the Sudbury campus."

Now, do you know how much money -- do you know how many students there are at NOSM?

A. I believe it's --

MR. HANRAHAN: I think that is referred to in paragraph 46.

THE WITNESS: Oh, yeah there is more than I thought. But I think that's across both campuses. 461 students.

BY MR. CAZA:

308 Q. How many?

A. 461 students it says in paragraph 46, and I believe that would be across -- okay, the MD residency. You have the complete list

there of what it comprises.

309 Q. And what are you looking at now? Paragraph 47?

A. Paragraph 46 --

310 Q. 46. Okay.

A. -- the answer to that question.

311 Q. And how many of those students would you estimate would be at Laurentian? What percentage?

A. Either -- it would either be 100 or 50 percent, I'm not sure.

312 Q. It says:

"The medical school has approximately 461 students enrolled in the 2020-21 academic year across the medical doctor program, residency [...]"?

A. Yes.

313 Q. So is that only in Sudbury at Laurentian?

A. If it refers to the medical school in its entirety, that would be split between Sudbury and Lakehead -- Sudbury and Thunder Bay, sorry.

314 Q. Do you know? Do you know how

many students there are on the -- the $250, you're only getting paid 250 for the students that are at the Sudbury campus, correct?

A. That is correct.

315 Q. So, okay. That's fine. And that is an amount that is paid to you every year, correct?

A. That is an amount that is collected every year, yes, for the services that are provided. And if the services would change, I would imagine that that amount would change as well.

316 Q. And just so I understand what your evidence is, your evidence is that if you no longer collect the $250 from all of the students, you are not losing any money because your evidence is that it's costing you that much money to be able to offer the services that have been described in your affidavit, right?

MS. MILLER: Mr. Caza, can you please look at and direct the deponent to the evidence that you're referring to which is paragraph 49, which refers to the $250, and which is what it relates to, the collection and accounting services? Can you please direct the deponent to

the question that you're referring to?

MR. CAZA: No. I'm asking him questions. I'm not going to tell him, look, this is what you said in your affidavit. I've actually read that section to him. I just read it.

317 Q. And I just want to be clear and I just want to understand, your evidence is that if you lose that $250 because NOSM no longer will use your collection and accounting services, your evidence to me is, you're not losing, and if I'm not -- if that's incorrect let me know, but I understood that you would not be losing any money because your evidence is that's how much it costs you to actually carry or offer those services?

A. Yeah. The expenses balance the revenues that are received, yes. That's my understanding. That reflects the cost of the services that we provided, and if we no longer provide those services we no longer have that cost.

318 Q. And it's the same thing with the Federated Universities?

MR. HANRAHAN: When you say the same

thing, what do you mean?

THE WITNESS: What do you mean by that?

BY MR. CAZA:

319 Q. If they were no longer -- if you were no longer needing to provide the services you're providing to students that are at Université de Sudbury, so, for example if for some reason the services you were offering were no -- you no longer needed to offer them, you would not be losing any money. That's my understanding of your evidence because it's costing you 15 percent to do that work, right?

A. Yeah, but they're -- these are all Laurentian students so presumably we still need to do the work for the students that remain at Laurentian.

320 Q. Well, actually I'm going to want to talk to you about that later because that's -- you're making quite a few presumptions when you arrive at that conclusion, and I want to discuss that with you later.

But just so I'm clear, I had -- when there is a student that takes a course at Université de Sudbury, they take that course and

they -- there is a thousand dollars paid in grants and tuition -- I'm just giving you that as an example -- for that course taken at a university that is independent from Laurentian. It's Université de Sudbury.

The grants and the tuition comes to Laurentian University; they keep $150 and they send $850 to Université de Sudbury, correct?

A. Yeah, I think for every student that comes to Laurentian University and registers in a course and takes a program, it costs a certain amount of money to provide those services. And so, yes, I mean the answer to your question is that for every student, be they at the University of Sudbury or be they at Laurentian proper, there is a cost for those services that are provided that are attributed directly to, you know, the revenues that the student brings in.

321 Q. Mr. Haché, no, your evidence -- this is my understanding of your evidence. The 15 percent that you're keeping, actually it's costing you that amount of money to offer that service. So if the student is not signed up at Laurentian -- at Université de Sudbury, you are

not getting the 15 percent but it doesn't matter because even if you got it, you're incurring that amount of expenses so you'd be -- you'd end up net in any event, right?

A. I don't believe that's what I said, if I followed you correctly, and I'm not sure I did, but what I'm saying is for any student that comes to Laurentian there is -- there are administrative costs. And if the students at the University of Sudbury, it's approximately 15 percent and if it's at Laurentian -- if they're in a Laurentian program, it's approximately 15 percent.

And so if a student, if you had -- add or subtract a student here or there, the impact in terms of the cost is the same. It's not -- it's not a profit-making exercise.

322 Q. You know there is a difference between profit and having activities that are generating more income than they are incurring costs. That is not profit. You have to have that.

Because there is other activities that generate no income but have costs. And if you are going to balance the budget, you actually

need to be generating revenue. You have to generate revenue.

What you're telling me -- and this is why, and if I'm not understanding you correctly, I want you to correct me. All of the revenue that is generated as a result of you keeping 15 percent for the tuition and grants that are paid to -- for students that are taking courses at Federated Universities, that 15 percent is actually not a source of revenue for you because the cost to offer it is the same.

So for you to end that -- this is what I understand your evidence to be -- for you to bring an end to that issue would generate no loss and no income to you. That's your evidence.

A. Assuming that the student is no longer at the university, that would be the case; however, much of the revenue that flows to the University of Sudbury is from students that are registered in Laurentian programs or taking courses at the University of Sudbury, and those students would be expected to remain at Laurentian University.

323 Q. Listen, now hold on. You're

making an assumption there, and I -- this has got to be really important --

MS. MILLER: Mr. Caza, he is answering the question. He's not making an assumption there.

THE WITNESS: No assumption there.

BY MR. CAZA:

324 Q. Mr. Haché, Mr. Haché, no, there is an assumption. Mr. Haché, you have a significant amount of students -- we've looked at the numbers -- that are taking courses in the Federated Universities. They are taking courses in the Federated Universities, okay.

And, just so that I'm clear, if you terminate -- if you terminate the agreement, which is what you're trying to do, with the Federated Universities, the reason you're doing that is that you're hoping that the students that are taking the courses, the courses that are being taken at these Federated Universities, instead of taking those courses they are going to take courses at Laurentian University because those courses are no longer available?

A. Well, they will take courses at Laurentian University because they're registered

in Laurentian University programs, and they will have a selection of courses to choose from, yes.

325 Q. So what you're doing is you're incapacitating the Federated Universities. You're stopping them -- by bringing this agreement to an end, you're stopping them from being able to offer these courses that they are actually offering to their students, and the only reason you're doing that is because what you're hoping is that those students will, therefore, have to take courses at Laurentian and that will provide you with an additional source of income. That's the only reason you're doing it, right?

A. So I think the first correction is that our students, we have -- you know, when you do the analysis of the financial situation of the university, we have -- and looked at where there are outflows of money, where there are capacities to deliver the activities inside the university and yet we are spending money to deliver the activities outside the university, that is one of the things that we need to correct to arrive at a university structure that is financially sustainable.

And so Laurentian students registered in Laurentian programs need to be taking their courses at Laurentian University where we have capacity and courses that they can take in order for the university to be financially viable going forward.

326 Q. So what you want is you want students -- they are not your students. They are students that are taking courses at Laurentian University, and they are taking courses at other universities that are independent of Laurentian.

And what you're doing is you are trying to create a situation where the other universities are basically killed off, because you are bringing them -- your attempt is to stop them from being able to offer the courses so that the students will then need to or you are hoping will end up taking courses at your university, at Laurentian University.

A. I disagree with what you said. Go ahead.

327 Q. Will you explain to me why you disagree? Explain to me why you disagree that that is exactly what Laurentian is trying to do

by bringing -- by terminating this agreement.

A. I disagree with your characterization of the students. These are Laurentian students that we are talking about, students that are registered in Laurentian programs that need to -- need to -- for Laurentian's programs to be viable take their courses at Laurentian University.

328 Q. Just so that I'm clear, presently you have an agreement with universities, two that I'm talking about, Thorneloe and Laurentian, and you've had that for what? Almost over 50 years now that you've had the agreement, right?

A. It's over 50 years, yes.

329 Q. It's over 50 years and what happens is students -- because, and that's the agreement you have. People can sign up for courses in those universities, but they go through you. That's the agreement you have, correct?

A. Students can register for programs -- they go through us and they register for programs that are offered direct -- at Laurentian directly or at one of the Federated

institutions. And they can register for courses across those boundaries, outside of their program.

330 Q. A student cannot presently register directly with one of the Federated Universities to take a course, correct?

A. I believe that is correct. The registration happens through the Laurentian system.

331 Q. So there is a pipe -- there's a pipe that gets money to those Federated Universities. And the pipe goes from the government, or whoever else -- the student, the tuition and the grants and that pipe goes through the university. Part of it -- part of the money flows through the university, and then the pipe keeps going to these -- to the two federated colleges that we're discussing.

And what you want to do is you want that pipe to stop at your university and no longer continue onto the Federated Universities. That's exactly what you're doing, correct?

By saying -- by having a situation where those courses, since they are no longer available, because you're bringing an end to the

Federated agreement, the students will then -- and you're hoping -- take courses at Laurentian so that all of that money that is presently going to the federation -- Federated Universities, will come to Laurentian University, correct?

A. Laurentian University is currently not financially sustainable under the model that we operate.

332 Q. And part of your solution is to stop students from being able to go, to sign up for courses at University of Sudbury, Université de Sudbury and Thorneloe. You're trying -- you're stopping them by bringing that agreement to an end.

And the only reason you're doing that, and it's the only reason is because you want those students, instead of taking courses at those Federated Universities, to take courses at Laurentian University, correct?

A. We have both the capacity and the need to provide those courses to our students, yes.

333 Q. So the answer to my question is yes, correct?

A. I believe I said yes.

334 Q. All right. So we can move on. If we can now go to page 21, paragraph 66.

A. Indeed.

335 Q. So paragraph 66 refers to Exhibit G. There are notes of a meeting, et cetera. You have an understanding as to how that funding model works? What does -- how did that funding model work?

A. Historically I don't have a good understanding of that 1993 model, no. Well before my time.

336 Q. But I think it is your understanding that the present model is more generous, if you want. It leaves more money to Laurentian University than the '93 funding model, is that fair?

A. The present model reflects the way in which funding is received by the university.

337 Q. So I've asked you a question. Either you agree with me, disagree or you have no knowledge. My question to you was, the amount of money you're receiving -- okay, it's the 15 percent -- is a higher amount of money

than what university -- the university was receiving under the 1993 funding model. Do you agree with that?

A. I suspect --

MR. HANRAHAN: I believe he answered that.

THE WITNESS: I believe I answered that to the best of my knowledge.

BY MR. CAZA:

338 Q. So you suspect that that's true. That is what you were going to say before you were interrupted, correct?

A. No, I believe I answered that.

339 Q. And your answer, just so that I'm clear, because there's -- your answer is you suspect that it's more money now, right?

A. My answer is that I have no detailed knowledge of the 1993 funding agreement. I do understand the current funding agreement.

340 Q. So you have no knowledge, so I'm just going to ask you this. My question is, is the university -- please let me ask my question.

Is the Laurentian University keeping a bigger share of the income generated by courses

offered by the Federated Universities presently with your 15 percent arrangement than they were under the 1993 funding model? Do you know that or you don't know that?

A. I have no specific knowledge of that, but I suspect that might be correct.

341 Q. So in fact -- okay, when you say might be correct, you suspect that that is correct, right?

MR. HANRAHAN: He has told you he doesn't have a detailed knowledge. That means --

MR. CAZA: I'm sorry, that's -- are you -- you can object. Don't repeat his answers, please. If you're objecting, you can object. I am cross-examining this witness. He has answered. I can come back with another question.

342 Q. My question is --

MR. HANRAHAN: Your question is misstating what he said.

MR. CAZA: My question is another question that I'm asking him. I'm not telling him that is what he said. I'm cross-examining him. I can put words in his mouth all day long.

That is part of what a cross-examination is.

343 Q. Mr. Haché, you'll agree with me --

MR. OSBORNE: Mr. Caza, with respect, there was nothing wrong with Mr. Hanrahan's objection there whatsoever. You can put whatever questions, propositions or suggestions you wish to the witness, but you cannot misstate the evidence he has already given. Thank you.

MR. CAZA: Well actually, when he says "may" and I come back and I say, it's not "may", it actually is, that's not putting his evidence to him; that's asking him another question.

MR. OSBORNE: You may do that. You just can't misstate what he has put to you.

MR. CAZA: That is exactly what I did. I didn't say you said this to me. I asked him a subsequent question.

344 Q. In any event, Mr. Haché, I am putting to you that your understanding, your general understanding is that the present arrangement whereby you keep 15 percent is more generous to the university than the previous 1993 model, is that fair?

A. My present understanding is that

the present arrangement more appropriately balances the revenues and the costs, and if -- right. So that we have a -- we have a distribution of funding at the present time since 2019 that more correctly reflects the costs that are incurred by the university. That much -- that I understand, and if it was out of whack previously, I don't -- I don't have a recollection or detailed knowledge of the 1993 agreement on which to base any firm conclusions.

345 Q. Okay. That's fine. So what you're telling me, and this is my understanding, is you don't know if you were making more money or less money; what you know, your information is the money you are making now reflects what the costs are? That's a little --

A. And when -- upon, you know, from the time I have arrived at the university and looked at the funding model that we have, upon my arrival, it more accurately reflects the costs that are incurred by the university. And it explicitly reflects the mechanism under which the government flows funding to the university for all programs and courses, a funding formula that was adapted by the government many years

ago, actually.

346 Q. So if we can now go to -- I'm looking at your -- paragraph 67 of your affidavit, okay?

A. Okay.

347 Q. And it refers to Exhibits H, I and J, so if we could go to Exhibit I to your affidavit? And that, Mr. Haché, is your agreement, the agreement between Laurentian University and Thorneloe.

A. It's going to take me -- all right. "I", Laurentian University Financial Distribution to Thorneloe, is that --

348 Q. That's the way it works, right? So that's the agreement you are referring to. It is signed by Dr. Pierre Zundel. That is the agreement you're referring to that is now in place, correct?

A. That is the -- that is the schedule that is now in place, yes. I believe. Is it -- I don't see a signature, but maybe.

349 Q. Yeah, I think there is a signature if you go to page 3, Dr. Zundel.

A. Oh yes. Page 3 there is a signature by my predecessor. Yes.

350 Q. Yes, he signed that. Now, I'm trying to understand -- if you go to page 5, I'm trying to understand these numbers. Do you understand, sir, it says "Core, Performance, Northern, Total Grant Distributed." Do you understand how that works? Can you explain that, so that the Court can understand what that is?

A. There is a core grant attached to each student registered in a program, and then there are other grants that can be called special purpose grants, if you will. So, the Northern grant we get a premium from the government because of additional costs of working in the environment that we're in. We also receive a premium for offering programs that are bilingual, which costs, there are additional costs associated with offering those programs in both official languages.

351 Q. Okay. So I see here, so I'm at page 5. So if I look at Thorneloe, for example, all of the students that are signed up to take courses at Thorneloe, courses that are offered by that university, the core grant provided to those students is $322,523?

A. That seems to be correct.
352 Q. And then if we look at those courses, the performance generates $46,805?
A. From those programs, correct.
353 Q. From those programs. And the Northern amount is $80,462, correct?
A. Yeah, those are distributed proportionally.
354 Q. Right. I'm sorry -- yeah, proportionately to the students that are there.
A. Yeah, yeah, right.
355 Q. So the total grant distributed is $449,790, correct?
A. That is correct.
356 Q. Now, and this is what I'm trying to understand. So the total of University of Sudbury, Université de Sudbury, Huntington and Thorneloe is -- the total grant distributed is $2,651,354, right?
A. That is correct.
357 Q. Now, is that the number -- okay.
A. It's what it says there, so I'm assuming that's correct.
358 Q. But is that the number -- I'm trying to -- is that the number from which the

university takes 15 percent?

A. That is part of the number from which the university takes 15 percent I believe. If that is not net, that would be gross. That would be part of the number, yes.

359 Q. And then the other missing part is the tuition, right?

A. Is from the tuition, yes.

360 Q. And if I go to page 6, we have here a chart and it breaks down the capital grants. We see here the total for the province, right? How much the Laurentian University and the Feds, the total obtained by them. And then it's broken down how much is Laurentian University, University of Sudbury, Huntington and Thorneloe, right?

A. That is correct.

361 Q. What is FRP funding?

A. Facilities Renewal Program I believe it refers to.

362 Q. So this is the sharing --

A. Sorry, Facilities Renewal Grants, so, yeah. Facilities Renewal Program it says at the top of page 5; FRP is the abbreviation thereof.

363 Q. And that is the amount of monies. Just so I'm clear, so these are the amounts that are remitted from that envelope, and it's all based on a pro rata calculation as far as what courses are being offered by which university, is that correct?

A. Yeah, by where the students are located, in terms of their programmatic homes.

364 Q. So that --

A. And that money varies from year to year. The money we receive from the province varies from year to year. It is distributed according to a formula of where students -- where the home program of the student is delivered.

365 Q. And if go to tab J, which is the next tab --

A. Okay.

366 Q. Okay. And we have here at page 2, if you -- let me know when you're there.

A. Yeah.

367 Q. So it's got "Revenue Sharing" at the top. It says:

"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."

And then you talk about the 1993 funding model.

Now, if we look at the fourth paragraph, this is all under "Revenue Sharing" it starts, "The purpose of this notice [...]."

Are you with me?

A. Yes.

368 Q. "[...] is to ensure that all funding transferred by Laurentian University to any of the Federated Universities from and after the Effective Date --"

And the effective date would be the date, I guess, of this agreement, correct? May 1st, 2019, correct?

A. That would seem to be the case, yes.

369 Q. "[...] is consistent with the New

Funding Model, and that the financial effects of 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."

And it goes on:

"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."

And that's what the purpose of this agreement is, correct?

A. From providing provision of services, yes.

370 Q. Well, not just provision of services. It says:

"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."

That's what the goal and that is what this agreement that you have advised us has been entered into between Laurentian University and the Université de Sudbury, also with Thorneloe, that is what it accomplishes, correct?

A. That is what the document says, yes.

371 Q. And it not only says that, but you agree with me that -- sorry -- we're -- so do you --

A. I agree with what it says, yes.

372 Q. And you agree that it does accomplish this? Your understanding is that that has been accomplished, correct?

A. My agreement -- my understanding is that that was the intent of the agreement, yes.

373 Q. And your evidence is that that was accomplished? You'll agree with me that you did accomplish that --

A. From the provision of services,

yes.

374 Q. Well, from the provision -- not only that, but also on the issue of the operations of the --

A. Well, that is the -- yeah, services that are required for the operations, yes.

375 Q. Yes. Sorry, about that. Maybe I'll just -- so I guess we're both saying the same thing. I guess the issue is when you look at all the costs that are incurred to offer a cost, the administration that needs to be done, this formula actually attributes the revenue to where the cost is actually occurring, is that fair?

A. On a per student basis.

376 Q. Okay. Thank you so much. We can now go back to your affidavit, and we're looking at page 22.

A. Okay.

377 Q. And it's a little bit of what we were talking about here at paragraph 70:

"The underlying principle behind Laurentian University adopting the New Funding Model was to ensure that

neither [Laurentian University] or any of the Federated Universities would subsidize the operations or services of the other, and each organization would be responsible for covering its own expenses. It was intended to align the financial relationship of [Laurentian University] and the Federated Universities with the New Funding Model introduced by the Province, to which [Laurentian University] was subject."

That's what you did and that's what this agreement accomplished, correct?

A. That's what -- that was the intent of the agreement, for sure, yes.

378 Q. And your understanding is that that was accomplished, right?

A. My understanding is the agreement has been in effect with -- and that's the goal, yes.

379 Q. And that goal has been attained, right?

MR. HANRAHAN: Sorry, when you're talking about accomplished and goals, are you

saying the entering into and this agreement taking effect was accomplished or that the goal of balancing the financial relationship was accomplished?

BY MR. CAZA:

380 Q. Okay. So that -- so I'll clarify the question.

I guess what I'm saying is what the purpose -- what you wanted to ensure was that the model would ensure that neither Laurentian University or any of the Federated Universities would subsidize the operations or services of the other. And all I'm saying is that you're satisfied that the application and the agreement has attained that goal?

A. I believe it has, yes.

381 Q. Okay. If we can now go to paragraph 71. It says:

"The Financial Distribution Notices also provide that, in exchange for the provision of nonacademic administrative services by [Laurentian University] to the Federated Universities, each of the Federated Universities would be assessed a

charge by [Laurentian University] in the amount of 15% of shared revenues, being grant revenue and tuition [fee] as defined in the Financial Distribution [...]."

And it's called -- it's been identified as -- it's called the "Administrative Service Fee", correct?

A. That's what it says, yes.

382 Q. When we're talking about the Administrative Service Fee, we're talking about what we discussed earlier, right?

A. Yes.

383 Q. And these -- just so I'm clear, these are revenues that -- this 15 percent is provided to Laurentian University from revenue generated by courses that are offered by the Federated Universities, right?

A. Yes.

384 Q. Can I go -- take you now to Exhibit K? Let me know when you're there.

A. I have "K".

385 Q. So you've had a chance to review this document. It is the September 10th, 1960 -- in fact, it's almost -- it's over -- I

guess now it's over 60 years --

A. Yes.

386 Q. -- between Laurentian University and the University of Sudbury. You've had a chance to read the document?

A. I've had a chance to the read, yes.

387 Q. So in the agreement, looking at the second paragraph, are you with me on the -- my copy is -- yes, it is paginated. It would be the first page. It is not paginated, but the first page of the document, correct?

A. Yeah.

388 Q. So the agreement actually repeats what we found -- what we read earlier in the Act that it says:

"[...] pursuant to the petition of the University of Sudbury, the United Church of Canada and The Incorporated Synod of the Diocese of Algoma."

That Laurentian University was incorporated, correct?

A. That is correct, that is what it says.

389 Q. And page 2. And you understood this, that paragraph 2 on page 2 it says:

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

And that has been suspended for the past 60 years, correct?

A. That is correct.

390 Q. And Laurentian, if we go to -- turn to page 3. Are you with me? At paragraph 5, it reads as follows:

"All students, including those enrolled in federated universities or colleges [...]."

And you're enrolled in a federated university or college if that's where you're taking -- you're taking a course from one of those universities, correct?

A. If you're registered for a program in one of those universities.

391 Q. Then it goes on to say, "who intend" -- well, in fact:

"[...] 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."

So those that are enrolled in Federated Universities or colleges, that is where they are taking their courses, they still need to meet all of these conditions in order to get their diploma from Laurentian University, right?

A. If they are enrolled at a program at the Federated University, yes. At a program that is delivered by the Federated University, yes.

392 Q. Well, hold on. So which programs

would we be talking -- would you be referring to when you're talking about the University of Sudbury --

A. It's talking about students enrolled in Federated University or college that -- they are referring to students enrolled in a program that is delivered through the Federated University or college as opposed to a student that is simply taking an individual course.

393 Q. Actually, if you keep reading, it says:

"[...] who intend to proceed towards degrees or to obtain diplomas, certificates or other academic qualifications at Laurentian University [...]."

So they are actually referring to courses that are being taken. They are not referring to programs. They are saying it's courses taken to obtain diplomas, certificates, and academic qualifications from Laurentian.

A. The reference to diploma -- go ahead.

MR. HANRAHAN: We can obviously have a legal argument about that, but what Mr. Haché

has said it is not inconsistent with what you just read. Students that are enrolled in programs through the Federated Universities do proceed to Laurentian degrees.

BY MR. CAZA:

394 Q. I think that is a good comment that in fact it is a legal document, and I should not be asking you for your legal opinion on that and I accept that objection.

So it goes on to say, the next sentence:

"In the case of students enrolled in Federated Universities or colleges [...]."

And you're saying that is when they are enrolled in a program, right?

A. That's -- that's where they are enrolled, yes.

395 Q. It says:

"[...] 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 [...]."

While, actually, if somebody is enrolled for one course you are sharing the fees, correct? There is a sharing of fees?

A. There is a sharing of tuition, yes.

396 Q. And grants, not just tuition but grants also, correct?

A. At the present time it's simply tuition.

397 Q. Okay. Sorry, what do you mean by the present time it's only tuition?

A. We were talking about the 2019 agreement.

398 Q. I'm sorry, yes.

A. Right, so that the agreement that's in force when a student registered in a Laurentian program takes a course at the University of Sudbury, let's say, the tuition from that course flows through to the University of Sudbury. When a student at -- registered in a program at the University of Sudbury takes a course at Laurentian University, the tuition is retained by Laurentian and the grant is retained by the University of Sudbury.

So when a student registered in a

program at the University of Sudbury takes a course at the University of Sudbury, both the grant and the tuition flow through to the University of Sudbury. That is the current funding model.

399 Q. Okay. That's correct, okay. And if we go to paragraph 9, it goes on to say:

"Laurentian University agrees to assume the contracts of employment [...]" et cetera.

If we go to page 5, paragraph 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."

And that's presently the case?

A. I believe that is correct, yes.

400 Q. And if go to paragraph 12:

"Laurentian University shall allocate and reserve land within its campus [...]."

Okay, that we know has been done.

If we now go to page 6?

A. Yes.

401 Q. Paragraph 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 agreement."

And then we go to 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 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 together in Laurentian University, than upon any formal agreement."

And the question I have for you is,, I want you to tell me what the university did before imposing its condition, and effectively its hope, to bring to an end the agreement, this present agreement? What it did to show mutual understanding, goodwill and co-operation?

A. I initiated conversations with the presidents of the three federated institutions in June, I believe it was June of

last year, to see whether we could -- how we could go forward. It was clear, I mean it talks about a firm hope in the first part and a permanent relationship. That assumes that all parties continue, including Laurentian University.

And the current financial situation of Laurentian is that it will not be able to continue under the present relationship. So there were conversations that were initiated on the basis of needing to talk about reciprocity and everything being on the table to develop that relationship going forward that would work for all parties. And that was initiated in June.

402 Q. Oh, sorry. Go ahead. I didn't want to interrupt you.

A. No, that was the end of my answer.

403 Q. Mr. Haché, you can agree with me that at no point did you ever have a discussion, from June 2020 right through to February 1st, 2021, at no point did you ever advise anyone at the Federation, at any of the federations, Federated Universities, that what you intended

to do was to terminate the agreement, that's fair?

A. That is not correct. What I -- when we started the conversation, I explicitly indicated that all options needed to be on the table.

404 Q. Sorry, that's not my question. I'm asking you very specifically, is it your evidence that you told -- you -- that you or anyone at Laurentian University actually told or advised -- I'm not talking about all options -- actually advised and said that you intended, that you were actually looking at bringing to an end the agreement between Laurentian University and the Federated Universities?

I'm not -- I'm not -- this is not -- I'm not asking you, you know, you're doing this under CCAA? What's your opinion? Can you do that? I'm not asking you that.

All I'm saying, there was never that discussion where you told them, Laurentian told the Federated Universities this is what we're looking at and that there was a discussion. I mean basically what happens is, my understanding and from what you told me is, Laurentian got

its -- has now -- has got its back up against the wall and your position is that you have no choice but to proceed in this fashion, is that correct?

A. That is correct. We have no choice but to proceed in this fashion.

MS. MILLER: You've asked about four questions without giving him an opportunity to answer those questions. You asked whether there were any discussions with respect specifically to a termination. Can you please allow him to answer that question?

BY MR. CAZA:

405 Q. So why don't I ask that question again, just so we're clear when you're answering it.

There was no specific meeting and there was no specific correspondence, and there was never any specific discussion where a representative of Laurentian University advised -- and I'm talking any time before February 1st, 2021, advised of Laurentian University's either interest or intent to bring to an end its agreement with the Federated Universities, that's fair?

A. So you're asking the question in a very specific way.

406 Q. Yes.

A. So let me be specific in my answer.

407 Q. Can you answer --

A. In the conversations -- I'm trying to answer the question as accurately as I can.

In the conversations that happened between myself and the presidents of the three federated institutions, discussing potential pathways forward for the Federation, I explicitly indicated that all options needed to be on the table including ending the current federated structure.

Now did I notify them that that was the intention of the university? Which is the other part of the question. What I explicitly said that all options needed to be on the table, so that is not expressing an intent to immediately go to that conclusion, but that is saying that this needs to be included in the conversation.

408 Q. Who was -- how many meetings are

you talking about, where you specifically said ending the current structure, basically terminating the Federation Agreements, that you put that on the table to be discussed? What meeting was that? How many meetings?

A. We met regularly from June through the end of the year once or twice a month, and that was --

409 Q. And --

A. -- that was part of the conversation. You know, did that statement explicitly come up at every meeting? I can't say. Was it part of the -- was it part -- was it something that was on the -- that I put on the table and did not take off the table? Yes. Was it something that was responded to in a positive fashion? No.

410 Q. Who was at the meeting where you -- first of all, I want to be clear to you. Your evidence is that you specifically said at a meeting -- I just want it to be clear -- that you advised everyone present that one of the options Laurentian University was considering is ending the agreements it had with the Federated Universities? You have a recollection of having

said that at a meeting?

A. I -- you know, I will be -- I will correct the way in which it is being said. So my recollection is that we needed to -- in looking at how we might be able to move forward, we needed to look at all options, all options, including ending the existing or substantially changing the existing federation structure.

411 Q. Okay. And when you -- just so I'm clear, when you're giving your evidence and you say "all options" and then you continue giving sort of examples of an option, are you saying that those were understood when you said "all options" or did you specifically provide those details during the meeting?

A. I provided the details in the way in which I recounted it. That's -- that's my recollection of what I said during those meetings.

412 Q. And to whom did you say that that was a representative of the Université de Sudbury?

A. John Meehan.

413 Q. So you told that to John Meehan? And who did you tell that to who was a

representative of Thorneloe University?

A. John Gibaut and Kevin McCormick from Huntington.

414 Q. So let's -- and then I think it's -- in fairness, so you had discussions. I think we can both agree that the issue of terminating the agreement was never actually discussed. You advised that that was one of the options but there was never any discussion, is that fair?

A. Yeah, there was no conclusion, but that was the -- that what needed to be done. There might have been another way to -- you know, we were having conversations to see how we could work through the issues that existed.

415 Q. But you never had a discussion, for example, of what the consequences would be if that ended? Like, it never got to that in your discussions? Is that fair?

A. No, there was not an interest to entertain that discussion.

416 Q. Now, if we can now go back to your affidavit? One second, please.

Mr. Haché, if I can ask you, when you talked about and you mentioned one of the

possibilities was ending the current structure, the suggestion wasn't that there would no longer be any relationship between the university and the federated -- Laurentian University and the Federated Universities; what you're saying is the actual structure that existed would need to be changed dramatically, is that fair?

MS. MILLER: Mr. Caza, I think he's given that answer.

MR. CAZA: Actually no, he hasn't given that answer because I haven't asked that question.

MS. MILLER: You have asked and it has been answered and I think the record will reflect that.

MR. CAZA: Well, I'm asking you now -- no, actually I have not asked this question. I'm going to ask it again and if you object, object, and Mr. Haché, you may want to wait until I finish my question before answering. Ms. Miller may be objecting, just so you know.

417 Q. My question is, you've spoken and told us that one of the options that you said that was part of the package or was on the table is ending the current structure. You're saying

-- I wrote in my notes that that is what you said.

So my question to you is, when you -- when that -- when you talked about and you said that was one of the options being considered was ending the current structure, I think we can both agree that that didn't necessarily mean that there would no longer be a relationship between the Laurentian University and the federated colleges?

A. It didn't presume that there would be zero relationship, but it didn't presume as to what form a relationship there might be.

418 Q. If we can go now to page 24, paragraph 78. Let me know when you're there?

A. Yes.

419 Q. So we've got here, it says:

"Pursuant to an Indenture between [Laurentian University] and [Sudbury] dated April 9, 1965 [Laurentian University] leased certain land for a term of 99 years to allow [Sudbury] to construct buildings and student housing for [Sudbury]. Provided that

[Sudbury] performs all of the covenants during the term of the [Sudbury] Indenture, [Laurentian University] is required to renew the lease for a further 99 years on substantially the same terms."

You're not alleging that up until now there's been any failure to perform any covenant?

A. No.

420 Q. Okay. And if we look at paragraph 79, it lists -- it's a list that you provided from the SU Indenture as to when Laurentian University may terminate the indenture, and I think we agree that none of those conditions are met in the present case?

A. I believe that's correct.

421 Q. We can now go to page 27. And if -- I'm at paragraph 88, and there's a reference to Exhibit P. And if we can -- if I can just draw your attention, if you can pull up Exhibit P? So basically they are the same question -- it's the same wording as the last so we'll just move on.

-- RECESSED AT 11:10 A.M. --

-- RESUMED AT 11:18 A.M. --

BY MR. CAZA:

422 Q. So Mr. Haché, can we go to page 88? If we go to page 88 and I'm looking at paragraph 292. Let me know when you're there.

A. I'm there.

423 Q. So this is the section under your affidavit that's titled "Objective of the CCAA Filing", and we see the -- your evidence goes from page 292, and it keeps going until section 9.

So what I would like to do is if you have got 229, it says here -- and I'm just looking at it -- "Proposed Restructuring of [Laurentian University]" paragraph 292:

"Leading up to this application for protection under the CCAA, I have worked with Internal Team to plan for 'Laurentian 2.0.'"

Just so that I'm clear, is that how you're referring -- I guess 2.0 is what the Laurentian -- what you're hoping it will look like after the CCAA process has been completed; is that what we're talking about?

A. Yeah, the new Laurentian going

forward.

424 Q. And it says:

"Externally, Laurentian 2.0 will not look or feel much different than [Laurentian University] today because a vast majority of [Laurentian University] students take the most popular courses and the delivery of those courses should not materially change. However, [Laurentian University] will be internally overhauled from an operational and financial standpoint to focus on its strengths and shed areas of relative weakness or unnecessary costs."

And that, as I was saying, is under a section that's called "A. Proposed Restructuring of [Laurentian University]."

Now, it says at 293:

"Today, the future of [Laurentian University] could be in jeopardy due to, among others, the following factors:"

And it goes A, B, C, D, E. Can you -- I just want to make sure that everything we find

in section 293 refers only to Laurentian University and not the Federated Universities.

A. Paragraph (b) says:

"[...] the annual cost to educate each student at [Laurentian University] and the Federated Universities [...]."

So I guess that one refers to both.

425 Q. How about the other -- the five other ones, (a) (c), (d) and (e)? Just confirm that that is all with respect to Laurentian University?

A. That is correct, I believe.

426 Q. Now, if go to next page, paragraph 294?

A. Yes.

427 Q. If you could just confirm that you're looking at the implementation -- in implementing Laurentian 2.0 you're going to be addressing these four operational and financial issues.

And can you confirm that the four of them are with respect to Laurentian University and have nothing to do with the Federated Universities?

A. Yeah, that is correct.

428 Q. If we go to 295 we see that -- it seeks to accomplish the foregoing, everything you've said by:

"(a) Restructuring the Academic Model by streamlining academic programming and delivery through the reduction of number of programs, restructuring academic supports and terminating the agreements and relationship with the Federated Universities."

Can you explain to me how by accomplishing what we've just read, terminating the agreements and relationships with the Federated Universities is going to assist you to accomplishing this?

A. It will -- it will reduce the outflows of revenue for teaching activities that can be accomplished readily within Laurentian University.

429 Q. So if I could just break that down, it will reduce the outflow of revenues, and the outflow of revenues are monies that are paid in tuition and grants for courses offered

by the Federated Universities? That's what you're talk be about, right?

A. Tuition specifically, yes.

430 Q. So tuition that's paid to the Federated Universities for courses that are taken at the Federated Universities. And what you're saying is, if that's no longer available we're going to be able to offer those courses ourselves and keep the tuition fee, is that fair?

A. Not quite. What I'm saying is that we already offer courses that are available that are not -- which have capacity to take in those students, so we're not offering additional courses but simply to fill the courses that we do have on offer.

431 Q. Let me rephrase my question, Mr. Haché. So what you have is -- what you're looking at is, by terminating the agreements and the relationship with the Federated Universities they will no longer be able to offer the courses that they're presently offering at their universities, and for which students, through Laurentian, are paying tuition fees?

A. Students at Laurentian would no

longer have the ability to take courses at the Federated Universities as credit towards their Laurentian degrees, yes.

432 Q. And just so I'm clear, so then the way you get money is then what you're looking is you have courses that you're already offering, and those students would then take those courses instead of taking the courses at the Federated Universities?

A. Yeah, those courses would have higher numbers of registrants.

433 Q. Now, if University of Sudbury was to awaken its degree-discerning ability to be able to get degrees, and they started, in fact, offering courses, if they did would you recognize those courses? Have you thought about whether you're recognize those courses toward a Laurentian University diploma?

A. There is a mechanism in the -- provincially, and may even be nationally, but certainly there is a mechanism provincially for students to request to take a course at another institution and have credit granted back at the home institution. That's an existing mechanism. I imagine that that mechanism would have to be

followed and utilized, assuming that --

434 Q. If it was followed and utilized then it wouldn't work any more because if people -- if your students wanted to take the courses at the University of Sudbury then you wouldn't be getting the income you had hoped to get, right? The only way that works is if the University of Sudbury doesn't offer courses, right?

A. Not correct. It's called the "Letter of Permission". So the student has to demonstrate that the course that they are wishing to take is both necessary for their degree and not offered at the -- at their home institution.

435 Q. Okay. So just so we're clear. So the only way -- and so that's important that I understand that, so if I -- if I am a student at Laurentian and I want to take a course at the University of Ottawa, for example, or a couple of courses at the University of Ottawa, I then need you to recognize those courses if I'm going to get a diploma from Laurentian University.

And you're saying one of the criteria that's used is whether or not a course or

similar course was offered and could have been obtained at Laurentian, and if it has or is you're not going to recognize the course from another university?

A. A Letter of Permission is required for the student to take the course at an external university and have it registered as credit at the home university. That is for Laurentian, that's for every university in Ontario.

436 Q. Okay. That's fine.

So we've had Thorneloe that have provided that evidence if the agreement is terminated they will not be in a position to continue and to offer courses, et cetera.

So you would be accomplishing your goal, definitely, with respect to terminating your agreement with Thorneloe if you know they won't be able to continue, correct?

A. Well, our goal is for Laurentian students to register more fully in Laurentian courses, yes.

437 Q. Your goal is to stop students from being able to take courses at the Federated Universities that count towards their

university -- Laurentian University diploma; that's your goal, right?

A. I believe that was the answer I gave. It says essentially the same thing.

438 Q. So what I've said and what you're saying, we can agree, is essentially the same thing, right?

A. I think there is a difference in emphasis, but yes.

439 Q. Now, if I can now go to 297. So paragraph 90:

"[Laurentian University] intends to use this CCAA proceeding to commence an intensive mediation with certain of its stakeholders that can be conducted within a relatively short time frame [...]."

That intensive mediation that you're referring to, did that also apply to your discussions with the Federated Universities?

A. Yes, it did.

440 Q. Now, and it says at paragraph 298:

"More particularly, during this 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

three federated institutions. There is a legacy there. And to me certainly history is important.

And having -- finding a way to recognize that legacy, as we go forward, through whatever means we could come together on, I think was -- is something, you know, it's -- that is certainly important I think to me personally, recognizing the importance of history.

And I think providing that legacy factor I think is simply something that I -- we thought would be a positive development.

441 Q. Now, I'm assuming you didn't write this affidavit? It was written by someone else and you reviewed it to satisfy yourself of its contents, is that fair?

A. Yes, I reviewed it and edited it and suggested this and that along the way, absolutely.

442 Q. But the initial draft was written by someone else?

A. Working with my counsel, yes.

443 Q. I'll tell you why. I think you will agree with me, in light of everything

you've told me about what the situation was at the time you signed your affidavit, what the situation was, where you were looking at what your actual options were, I think you'll agree that the word "reevaluate", "reevaluate" is a little disingenuous.

That's really -- that is not the word you wanted to put there. I mean, you should have been putting there, "bring to an end" the Federated University model in such a way that you weren't reevaluating anything.

You had made a decision. You were bringing it to an end. You'll agree with me that is the wrong word to put?

A. Well, I think practically speaking at that time, as we got to the 30th of January, it became obvious that there were not -- there were not a lot of practical alternatives to what you just said.

444 Q. There were none?

A. I won't say there were none, but I would say there didn't seem to be any practical call alternatives.

445 Q. Okay.

A. And so if you think we should

have used a word that was stronger then "reevaluate", maybe we should have.

446 Q. And just so that I'm clear, now I see what you're saying. You're saying, there was really no practical alternative --

A. There seemed to be. To me, to us, we were open to practical alternatives but there didn't seem to be --

447 Q. Well --

A. There were none that we seemed to be able to identify at the time.

448 Q. Well, we'll talk about how open you are there. But when you say the practical reality is, you are in desperate need of cash and need to restructure. So practically speaking you need to find a way to keep the monies that are flowing through you at the university, I think that's fair?

A. That's fair.

I know the court reporter was going to tell us to not speak at the same time.

449 Q. That's fair.

If we go to paragraph 299.

"In 2019, [Laurentian University] provided notice of a change in the

funding agreement between [Laurentian University] and each of the Federated Universities."

We've already talked about that:

"While this amendment was necessary to make the funding arrangements consistent with metrics in respect of tuition and grants from the Province, further work is required."

So what you're saying is that your amendment was not sufficient to meet your dire financial needs, is that fair?

A. That is correct.

450 Q. And you go on to say:

"[Laurentian University] estimates that the Federated Universities model costs [Laurentian University] approximately $5 million each year."

So, I just want to understand here. The $5 million a year is the amount of money that is flowing through you, basically being the source of revenue, the full source of revenue of both of your Federated Universities, correct?

That is the $5 million?

A. You said -- can you repeat that please? I'm not sure I understood it correctly.

451 Q. When you say the model costs Laurentian University approximately $5 million a year, what you're referring to is there is $5 million flowing through you, which is the revenue to the Federated Universities for teaching their courses. And that revenue, when you say it's costing you, is that you are giving it to them, giving them the revenue instead of keeping it by having students take your own courses?

A. Yes, substantially that the revenue that flows for the teaching of Laurentian students in courses at the Federated Universities exceeds the revenue that is retained at Laurentian for teaching courses at Laurentian for students that are registered in programs at the Federated Universities.

452 Q. But the $5 million is the total revenue that is paid for grants and tuition to the Federated Colleges for the courses that they are offering, that is the $5 million, right?

A. No.

453 Q. So what's the 5 million --
A. That is the $9.1 million we were talking about earlier, minus the administration fee.
454 Q. So what's the 5 million? Where do you get the 5 million figure. Where is that?
MS. MILLER: Mr. Caza, if you direct him to the sentence it refers to estimates.
BY MR. CAZA:
455 Q. I actually read this:
"[Laurentian University] Estimates that the Federated Universities model costs [Laurentian] approximately $5 million each year."
That 5 million, when you say "costs", that is the amount of money flowing through Laurentian going to the Federated Universities to pay for the courses, right?
A. That is correct.
456 Q. All right. Let's move on. That's what I understood.
-- OFF-THE-RECORD DISCUSSION --
BY MR. CAZA:
457 Q. So if we go to paragraph 301 at page 91? It says:

"This Court-supervised proceeding will assist [Laurentian University] in focusing its discussions and negotiations with leadership of the Federated Universities to arrive at a compromise and solution that is acceptable and, more importantly, ensures the long-term sustainability of [Laurentian University]."

Then you go on:

"If necessary, [Laurentian University] may utilize the proposed mediation [...]."

When you talk about "arrive at a compromise and solution", that compromise and solution would need to include Laurentian University being able to deep basically the monies that are flowing to the Federated Universities for the courses that the students are taking there, is that fair?

A. It would need to balance the teaching that happens at the Federated Universities and at Laurentian, yes.

458 Q. But actually it's more than that, or are you saying balance that could work? I

thought what you were saying is no, that couldn't work.

The compromise and solution needs to have -- needs to result in all of the revenue that is presently flowing through to be stopping at Laurentian, that's fair?

A. That would be the balance, yes.

459 Q. So that's the balance, okay. Thank you.

If I can now go to page 114? Sorry -- paragraph 302 at page 92. Can you just confirm that paragraphs 302 through to 306 have nothing do with the Federated Universities? That is all internal matters to Laurentian University?

A. Give me a moment to read them.

MR. HANRAHAN: Take a moment to read them.

BY MR. CAZA:

460 Q. Take your time and take a look at them. That's my understanding. Like I said going through them if you can just confirm.

A. (Witness reading the document.)

So to 30 what? What is the end paragraph.

461 Q. 06.

A. Yes, I believe that is correct. It refers entirely to Laurentian courses programs and faculty.

462 Q. And it's the same with paragraph 307?

A. (Witness reading the document.) Essentially, yes, although when you look at:

"[...] focusing on student success leading to strong employment outcomes [...]."

That speaks to activities and experiences that go beyond the classroom and would be available to all Laurentian students, including those registered in the federated programs, but substantially all related to Laurentian, yes.

463 Q. Can I now draw your attention to -- it's the last tab in your last volume and it's tab HHH. It's A -- its the Firm Capital Corporation DIP Financing Agreement.

A. I believe you were saying HHH which starts "Firm Capital Corporation [...]." Okay.

464 Q. Have you got a copy of that.

Yes, I do. So it's a seven-page letter, and attached to the letter is a schedule A, schedule B. Okay.

So I'm going to look at the letter. So that letter was sent to your attention, correct? On January 29, 2021?

A. That is the date.

465 Q. So we can assume that you would have received it on that date?

A. Fair assumption.

466 Q. Now, that's a fair assumption?

A. Yes, it's affair assumption. I would expect that's the date I received it. Unless I've been cutting out?

467 Q. No, that's fine.

So then we look at the purpose of the financing, a loan of $25 million secured by super priority charge.

Then if I turn the page and we look at the interest rate, I just want do make sure I'm understanding this correctly. So the interest rate that will be paid on the $25 million, okay, that was advanced, the interest rate is floating at the greater of 8.5 percent per annum, or the TD Canada Trust posted bank prime rate plus

6.05 percent.

So it's a minimum interest, it's a minimum interest rate of 8.5 percent, right?

A. That is what it says.

468 Q. Now, the term, it says:

"To mature May 1, 2021.

Provided the DIP Financing is not in default, the DIP Lender shall agree to extend the Maturity Date to a date to be determined by further agreement between the Borrower and the DIP Lender, but in any event, such extension shall be for a minimum period of 90 additional days (July 30, 2021) and a maximum of 5 months (October 1, 2021), subject to the Borrower achieving the following milestones [...]."

So just to that I'm clear, your understanding -- I mean, this is written to you, is as long as DIP Lender is not in default, and my understanding is they are not in default, if you meet these conditions then there shall be an extension for a minimum of 90 additional days. Was that your understanding?

A. To the satisfaction of the lender in to its sole and unfettered discretion. So my understanding and that they have discretion.

469 Q. But there's three -- but there's three factors that you had to meet, right? One is, you had to enter into a negotiated settlement with LUFA, and you did that, right?

A. That is correct.

470 Q. The second one was you had to reach consensus among the stakeholders on academic restructuring of the program offerings, and we'll look at that later, that's the academic restructuring. And is it your understanding that you've done that?

A. The Senate has approved an academic restructuring.

471 Q. And the third one is:

"The Borrower provides a revised cash flow forecast and multi-year budget to the DIP Lender, taking into consideration the implementation of the Faculty Settlement and the Academic Restructuring, demonstrating to the Lender, in its sole and unfettered discretion that the

Borrower is financially sustainable."
Have you provided that cash flow forecast?
A. Yes, we have, I believe. The Monitor can confirm that.
472 Q. Is that part of what's already been produced?
A. What do you mean? Is it in the documents.
473 Q. Yes.
MS. MILLER: Mr. Caza, the cash flow forecast was in fact filed with the court, it's referenced in the court's endorsement and it's attached to the Monitor's report.
BY MR. CAZA:
474 Q. Okay so, we find it in the exhibit of the Monitor's report?
MS. MILLER: Correct.
BY MR. CAZA:
475 Q. Thank you. Now, if go to page 3 -- just so we're clear, there was no condition that you had to bring to an end the federated -- your agreement with the Federated Universities, is that correct?
A. It's not mentioned explicitly,

no.

476 Q. Well, it's not even implicitly. That was not a condition when you received this document on January 29th, 2021, there was no condition of bringing to an end the federated -- your agreement with the Federated Universities?

MS. MILLER: Mr. Caza, I think he's answered it was not explicitly mentioned. You have also read to him condition 3 and referred him to that.

BY MR. CAZA:

477 Q. I'm sorry, just so we're clear, so you're saying it was implicitly included, Mr. Haché?

A. I'm saying that condition 3, the borrower provide as revised cash flow, et cetera, et cetera, to the lender in its sole and unfettered discretion that the borrower is financially sustainable.

So what that says to me is that the lender has the sole and unfettered discretion to determine whether the borrower is financially sustainable, above and beyond what is mentioned in 1 and 2.

478 Q. So the revised cash flow forecast

that you provided, okay, does it include $5 million for having brought to an end the existing and federation operating agreements -- the agreements with the federated --

A. Yeah.

479 Q. Where is the cash flow? Where would that be? Is that in one of the -- we'll just go off the record for a second, just to go find that document.

-- OFF-THE-RECORD DISCUSSION --

MS. MILLER: This is referring to what has to occur in order for that maturity date to be pushed out, right? Which is, these are conditions in favour of the DIP Lender, and condition 3 is referring to it having received, prior to May 1, a revised cash flow forecast and a multiyear budget, taking into account those demonstrating -- so the revised cash flow forecast, which is the cash flow forecast in support of the extension of the DIP, and the extension of the stay period, which is being filed, that's referenced in Mr. Haché's affidavit at the -- towards the end. I have pointed you to that provision previously. I can find you the paragraph.

That is the revised cash flow forecast that is being attached to the Monitor's report.

MR. CAZA: Sorry, where would I find that?

MS. MILLER: So that's -- the Monitor's report for the April 29th motion has not yet been filed.

MR. CAZA: Okay, so --

MS. MILLER: But I think you're -- we're talking cash flow forecast, right, which is for a period of time, right? You're talking about apples and oranges here. The cash flow forecast is just showing the ins and outs of cash for a specific period of time.

The cash flow for first attendance on February 1 was for the period February 1 to April 30. The cash flow forecast for the next period is for May 1 to August 31.

MR. CAZA: Now, that May 1 revised cash flow forecast, do we have a copy of that?

MS. MILLER: No, because that is being filed as part of the Monitor's court report.

MR. CAZA: Okay. So we --

MS. MILLER: And are we on the record or off the record?

MR. CAZA: We're on the record.

BY MR. CAZA:

480 Q. What about the multiyear budget to the DIP, has that been filed yet?

MS. MILLER: That is not something that I believe is being filed.

BY MR. CAZA:

481 Q. So what's being filed --

MS. MILLER: And I don't mean to be answering these questions. I'm just trying to be of assistance.

BY MR. CAZA:

482 Q. No, while here -- this is something that you would know, and I'm just trying to understand here and it is of assistance. So the revised cash flow forecast that the borrower is to provide as the third condition to being able to get the extension has not yet -- we have not yet seen it. It is going to be filed, I guess, on May 1st or whatever, right?

MS. MILLER: It is going to be filed whenever the Monitor files its report to the court in respect of the April 29 motion.

BY MR. CAZA:

483 Q. I guess what I'm trying to understand is -- because I think the evidence -- and now I'm back to you Mr. Haché, you were saying that indirectly this point, point number 3, this term, may or does take into consideration the need or -- yeah, the need by Laurentian University, that's your argument, to bring to an end its agreements with the Federated Universities. Did I understand that correctly?

A. Yes. The go-forward budget does require -- for the university to be sustainable does require that.

484 Q. But we -- but we haven't seen that budget?

MS. MILLER: Again, I'm sorry to interrupt but you are a little bit mixing apples and oranges, but we'll leave it at that. I'm sorry to interrupt.

BY MR. CAZA:

485 Q. I guess what I want to know is, I want the judge to understand your -- I'm reading this. I don't see in paragraph 3 where your position that you need to end or terminate your

agreement with the Federated Universities is relevant unless you tell me that the revised cash flow forecast, for example, includes income that you're anticipating receiving as a result of bringing to an end your agreement with the Federated Universities?

MS. MILLER: What I'm saying, Mr. Caza, is that that number 3 that you've referred to refers to three things: One is the revised cash flow forecast, which is for the period of the stay extension; it also refers to a multiyear budget.

And you're referring to a revised cash flow forecast which is the point in time showing the ins and outs of cash for the period of the stay extension. And my point was simply to clarify for your benefit that point number 3 is referring to two different things.

BY MR. CAZA:

486 Q. Can we agree, Mr. Haché, and if we can't I want you to let me know -- can we agree that we're not in a position to question you on, to what extent your request to terminate the agreement with the Federated Universities is relevant to term number 3 until we actually see

the Monitor's Report?

A. So that wouldn't -- wouldn't be for me to say definitively, but from listening to the conversation, I understand that that information will be provided in the Monitor's Report.

487 Q. So have you seen a draft yet of the Monitor's Report?

A. No.

488 Q. So you're not aware if, in the Monitor's Report, the Monitor has assumed or is assuming getting revenue or additional revenue, additional income as a result of the termination of your agreement with the Federated Universities?

A. Right. So I have not seen the Monitor's Report. I have seen the cash flow forecast and the multiyear budget forecast for the university going forward.

And that multiyear budget forecast includes capturing all of the tuition for students that are registered in Laurentian programs to be taking Laurentian courses.

489 Q. Can you show me that document? Where is that document?

A. I do not have it before me.

490 Q. Can you get it during the lunch break?

A. No.

MS. MILLER: That is a draft. It is a draft.

THE WITNESS: It is a draft. It is a draft. It is not a completed document but it is a draft.

BY MR. CAZA:

491 Q. So I guess I'm -- so I'm at a bit of a loss. I would like to cross-examine you on that, even if it is a draft. So I guess my question is, am I able to do that or you're not going to be providing the draft?

R/F MS. MILLER: No, we would object to providing a draft.

BY MR. CAZA:

492 Q. Now, just so I'm clear, so what you have is you have a DIP Lender that needs to be satisfied of your financial sustainability and that DIP Lender -- that is all the DIP Lender is looking at. What you're telling us is you've decided -- Laurentian University, you've decided to include in the document that will

hopefully convince the borrower of your financial sustainability, revenues that you anticipate receiving if you bring an end to the -- to the agreement between Laurentian University and the Federated Universities?

A. We're -- we're developing a budget that reflects the revenues and expenses of the university under the new structure going forward.

493 Q. Okay. And is it your evidence that you will not be able to demonstrate that you are financially sustainable unless the court brings to an end the agreement between Laurentian University and the Federated Universities?

A. Yeah. So -- and we've talked a little bit about this during the course of this -- this examination this morning. There are a number of components, right, a number of components both on the revenue and on the cost-saving side that need to come together to formulate the budget.

And so this is -- this is an overall how do you get to a budget that is sustainable for the university? And in order to achieve

that, yes, at this point this does include termination of the relationship with the Federated Universities to -- to allow for Laurentian -- to provide a budget that provides for the prospect of a sustainable Laurentian University going forward.

494 Q. So Mr. Haché, has the decision already been made? Has the decision already been made that your revised cash flow forecast, okay, will definitely include getting cash flow from bringing to an end the agreement between Laurentian University and the Federated Universities?

A. So, you know, we have served the disclaimer --

495 Q. Yes.

A. -- indicating the desire to terminate by the end of April, and so our budgeting reflects that.

496 Q. And that's definite? Like, the budget you have reflects revenues that you're anticipating receiving as a result of this -- that agreement being terminated?

A. Yeah, that the draft budget that is being developed is based on the expectations

for how we'll be able to go forward past May 1st.

497 Q. Okay. Now, and obviously the Court will be relying on that information because that is going to be quite relevant to the determination -- not only to the Court but also the borrower will very likely be relying on that information, correct?

A. I would expect so.

498 Q. I think it's crucial evidence and I want to see it. I want to see it, and I want the opportunity to cross-examine you on it because we don't accept that evidence.

And we have to have the opportunity to challenge it, and right now we don't because everything is being forced at a hundred miles an hour. So I'm putting this on the record. Whenever that cash flow forecast comes out, I want to have the opportunity to cross-examine you before the hearing, so if you want to use a draft, whatever it is. Because we're not accepting that evidence and that is evidence that is going to be key, I'm assuming, in the present -- in the upcoming motions. I'm putting that on the record.

I do have one question for you.

MR. YIOKARIS: Sorry to interrupt, Mr. Caza. We reiterate that concern that was just expressed. Thank you.

U/T MS. MILLER: And when the cash flow forecast -- to be clear, when that cash flow forecast is filed in support of the stay extension, absolutely, if there is any questions arising from that cash flow forecast, we will certainly either, you know, you can provide the answers in writing and we'll provide them or we'll make Mr. Haché available for a further brief cross-examination addressing the cash flow forecast.

BY MR. CAZA:

499 Q. Well, we also want the same undertaking for the budget, okay. The multiyear budget we need the same undertaking.

U/A MS. MILLER: We are only providing him for cross-examination if -- on any evidence that's filed with the Court on which the Court will be provided and the stakeholders are to be provided as part of this motion. If that multiyear forecast is filed, then that would be an option. If it is not, because it is still in

draft and it's not part of the evidence or the record for the April 29th motion, then we will not be.

MR. CAZA: Can we go off the record for a second? And we'll be back in a second.

-- OFF-THE-RECORD DISCUSSION --

BY MR. CAZA:

500 Q. We're back on the record. Ms. Miller, just so we're clear, our understanding, and if I'm incorrect just let me know, is that if -- you say if the evidence you filed is before the Court, but that includes also if it's evidence you're providing to the DIP Lender, is that fair? Like, if you are not providing to the DIP Lender a multiyear budget, then I think it's -- it does become irrelevant. But if he is being provided or it is being provided, we then need to see it. Because if he -- it's relying on that, we want to have the opportunity to challenge any -- any numbers that are being put forward?

U/A MS. MILLER: We will take that under advisement.

BY MR. CAZA:

501 Q. Can you at least, just so we're

clear -- and I understand you're taking it under advisement. Can you at least let me know if you've done it so that I can then take the measures to attempt, and you can -- and I understand you may be disagreeing -- to attempt to at least challenge that evidence? I won't know if you don't let me know that you've actually provided it to him. Can I have that undertaking?

U/A MS. MILLER: No, we'll take that under advisement.

BY MR. CAZA:

502 Q. So if you are taking everything under advisement, how do I know if -- how am I able to protect my client's best interest here? You take it under advisement whether or not very relevant evidence is going to be provided? I'm not going to know unless you decide --

MS. MILLER: Well, we haven't accepted the "very relevant evidence" aspect of it, but I take that that's your position.

BY MR. CAZA:

503 Q. Well, I think it will be.

So when will the decision be made or when will you have that information as to

whether or not you will be filing those documents?

MS. MILLER: I don't expect we will be.

MR. CAZA: That's the fine. If you are, I'm asking you to let me know if you are. And we may have to take our own measures. I'm a little at a loss here where I can't see how I'm going to protect my client if I don't have an undertaking from you, not to accept my position, but to put me in a position where I'm able to challenge the information. That's all I want. And I can't do that.

So now what I need is I've got to get a court order, and I think that is what we are going to have to do -- we're going to have to get a court order that you are to advise me if you are giving that information and it's relevant to the decision being made by the DIP Lender, you going to have to let me know. And if you don't, well, we'll have to protect ourselves accordingly.

504 Q. Mr. Haché, if I may, so I want to be clear here. I want to know what your evidence is. We are challenging both Thorneloe

and Université de Sudbury, we are challenging your right to disclaim both of these agreements.

So your evidence is that if we're successful, Laurentian University is going bankrupt, right?

A. My evidence is that if that is successful, Laurentian University will not be able to continue into the month of May.

505 Q. And it will go bankrupt?

A. If that's the technical term. I know we will cease operations.

506 Q. I'll tell you why, because I'll tell you -- and maybe I can ask you one more question. You have no evidence and there is no contingency plan -- and there's been no discussion about how you're going to go about satisfying the DIP Lender if, indeed, your disclaimer is refused and that the agreement with the Federated Universities is maintained. You have not even discussed the possibility of convincing the DIP Lender to proceed with advancing you 10 more million dollars.

A. My understanding is that that is one of the conditions of the DIP Lender advancing us $10 million.

507 Q. Just so I'm clear, and that's the only reason why you're saying that it is -- that if the -- if the Federation Agreements don't come -- are not terminated with the Laurentian University's agreements with the Federated Universities is not terminated, that it's over because that is a condition that has been put into -- that's been put up by the DIP Lender?

MS. MILLER: Objection. That's not what he said. He did not say that was the only reason.

BY MR. CAZA:

508 Q. Well, what other reason is there, aside from the fact that the DIP Lender has put it in as a condition?

MR. HANRAHAN: I think we discussed that quite extensively, right, the fact that it was tuition money and those changes that are necessary. So to say that the DIP Lender is the only condition or the only reason, that's just not something that Dr. Haché said.

BY MR. CAZA:

509 Q. So let's start with the DIP Lender as a condition, and in fact we know there is condition because he's told you, right?

Mr. Haché, has he --

A. It is --

510 Q. You have spoken to the DIP Lender?

A. It is in the terms for the renewal of the DIP loan.

511 Q. And did you speak to the DIP Lender on that issue?

A. I did not speak directly with the DIP Lender but through counsel.

512 Q. I'm a little confused here. So you have never had a conversation with the DIP Lender?

A. I have not spoken in Zoom with the DIP Lender, no, or on the telephone.

513 Q. And you've never -- so there has been no direct communication between the DIP Lender and yourself?

A. That is correct.

514 Q. So anything you know about what the DIP Lender is saying is basically hearsay evidence that you're getting from your lawyer, is that correct?

A. Well, it's written -- there is written.

MS. MILLER: Objection.
THE WITNESS: Yeah, okay, sorry.
MS. MILLER: Finish your answer which is --
THE WITNESS: There is written communication from them. All of my communication with the DIP Lender has been in writing.
BY MR. CAZA:
515 Q. And you produced all of that communication?
MS. MILLER: We're referring to a written term sheet, Mr. Caza, that is contained in the court record which --
BY MR. CAZA:
516 Q. Actually, if I may, you may want to let Mr. Haché answer this. Do you have any exchange of emails with the DIP Lender? Mr. Haché --
A. I don't believe --
517 Q. -- have you seen any emails?
A. Direct emails, I don't believe so.
518 Q. Well how about indirect? Have you seen emails exchanged between your lawyers

and the DIP Lender?

A. Not that I recall.

519 Q. I am asking to be produced all emails and all correspondence exchanged with the DIP Lender.

Okay, Ms. Miller I'm asking for that. All of the emails you sent to him or received, anybody on your team, including the Monitor, either sent to the DIP Lender or any of its representatives or received, I'm asking you to produce all of that correspondence.

R/F MS. MILLER: And we will not produce that. So you have a refusal.

BY MR. CAZA:

520 Q. Well, I will tell you, so what we have, okay, and I'm asking that -- my understanding -- what about examining for discovery the DIP Lender? Has the DIP Lender been made aware that we want to examine him? Does he know that?

MS. MILLER: His counsel was attending the case conference when that request was made, and His Honour specifically directed, pursuant to an endorsement following that case conference that questions of the DIP Lender were to be put

in writing to the Monitor.

BY MR. CAZA:

521 Q. Now, so if I -- if I now go to the -- I'm now in another document. It's your second -- it's your motion record. We were looking at your application record. Now I'm in your motion record.

MR. YIOKARIS: Mr. Caza, sorry to interrupt. Ms. Miller, I just wanted to confirm all undertakings, under advisements, and refusals --

MS. MILLER: You were cutting out a bit. I didn't hear what you just said, I'm sorry.

MR. YIOKARIS: Yes, sorry. I just wanted to make sure that all undertakings, under advisements and refusals for Mr. Caza are also made to our client as well?

MR. HANRAHAN: I think you're just saying you don't want to have to repeat all the same ...

MR. YIOKARIS: Correct.

MR. HANRAHAN: Yes.

BY MR. CAZA:

522 Q. So go to your Notice of Motion.

A. Yes.

523 Q. Have you got a copy?

A. Yes.

524 Q. So this one here, is it the same thing? You have the actual document? You don't have the record?

A. That is correct.

525 Q. So can we go to the first page of the Motion Record -- sorry, the Notice of Motion.

A. So page 3?

526 Q. Actually I think it's page 1. It would be -- it says on top "Ontario Superior Court, Commercial List" and then it has got "Notice of Motion"?

A. I only have a page 3. I may have it electronically.

527 Q. You've got the grounds for the motion. It's dated April 21 -- there it is, April 21st on page 9.

A. Oh, yes, here it is. I found it. I'd just taken the table of contents out of the document so I could follow it easier, I guess.

528 Q. So we can agree on looking at what the motion is for, and I think we can agree that nowhere in the motion does it seek as one of the orders that the agreement between the university and the -- Laurentian University and the Federated Universities be terminated. It is not one of the orders that you are seeking in your motion, is that fair?

MS. MILLER: Mr. Caza, let him --

MR. HANRAHAN: Just to be clear, first of all it's a legal question, but second of all the motions are motions brought by University of Sudbury and Thorneloe, which is why it is not reflected as a motion we're bringing here.

MR. CAZA: Now, if you look at -- just stop for a second.

-- OFF-THE-RECORD DISCUSSION --

MR. CAZA: Sorry, Ms. Miller, I got taken aback a little bit. The Notice of Motion I'm looking is your motion; it is not our motion.

MS. MILLER: Correct. But what Mr. Hanrahan was trying to point out is that under the CCAA, the motion that is to be brought if a party opposes the disclaimer is the motion

brought by that party. Laurentian is not required to bring a motion for an order confirming the disclaimers. The disclaimers were issued and the CCAA provides what the process is thereafter.

BY MR. CAZA:

529 Q. Okay, I understand what you're saying.

So if we now go to page 3, which I think is the original page you had, Mr. Haché, are you with me?

A. I hope so. We'll see.

530 Q. It says:

"The grounds for this motion are [...]." Do you see that?

A. No, I don't have the right document. I'm looking at my affidavit.

531 Q. If you can just pull up the Notice of Motion? Or maybe -- maybe Ms. Miller can send it to you. I have an objection.

MS. MILLER: It should be in the bound, printed motion record called "Motion Record, returnable April 29". It was printed.

THE WITNESS: I don't believe I have that. I only have January 30th and April 21st.

BY MR. CAZA:

532 Q. I think we have 15 minutes before we are going to break. Are we breaking at 12:30 or at 1:00?

A. 12:30.

-- OFF-THE-RECORD DISCUSSION --

BY MR. CAZA:

533 Q. Maybe during the break if you can -- if someone from your team, Ms. Miller, can provide Mr. Haché with a copy of the Notice of Motion I'd like to --- just if we can continue.

If we go to now your affidavit, and more specifically I would like to go to page 3.

A. I have it.

534 Q. Okay. So this is your affidavit. Are you with me at page 3?

A. Yes.

535 Q. And you say as follows "Introduction", and then you say at paragraph 3:

"This affidavit is sworn in support of [Laurentian University's] motion pursuant to the [CCAA], for an order substantially in the form of the draft order attached as Tab 3 of the

Motion Record [...]."

And then you have a list of everything you're seeking. So if I now go to page 5?

A. Yes.

536 Q. So page 5 and we're at paragraph 10. It says:

"Although [Laurentian University's] overall enrollment numbers for full-time equivalent undergraduate students has decreased over the past several years [...]."

You talk about Laurentian's track record in attracting French-speaking -- can I just ask you, do you know how many full-time equivalent undergraduate students, like the total number you had in fall 2016?

A. Off the top of my head, no.

537 Q. How about 2020? Would you know what it was -- the total was for fall term 2020?

A. It's listed in the documents somewhere.

538 Q. Okay. I don't recall seeing it.

A. I believe it's -- it's in the order of 6,000.

MR. HANRAHAN: I think that might have

been in the initial affidavit.

THE WITNESS: It may have been in the initial affidavit.

BY MR. CAZA:

539 Q. So 2020 would be about 6,000. Okay, I remember seeing that.

And what about 2016? I don't remember seeing the fall term 2016. Do you recall what the fall term was for that?

A. It would have been more than that.

540 Q. It would have been more than 6,000?

A. Yes, it would have.

541 Q. Okay. That's fine. So we can keep going. So then if I go to page 8. So at page 8 we have, under paragraph 24, you say in the middle of the paragraph:

"In addition, [Laurentian University] has acquired Huntington University's rights to the Gerontology program, subject to the Order sought on this motion being granted;"

So, just so that I'm clear, so that is part of your agreement that you've reached with

Huntington's, correct?

A. That is correct, yes.

542 Q. And then you mention that Laurentian has entered into an agreement with the University of Sudbury to teach six Indigenous study courses in the spring term.

So when you say it's entered into an agreement, I think it's fair to say that this was an agreement that was entered into in order to ensure short-term relief to those students so that they -- we, both institutions were working together to minimize any and all inconvenience and problems with the individuals taking those courses, right?

A. Yeah, it was to allow the courses that would have been the normal course been offered in the spring term to continued to be offered so that students would not be impacted.

543 Q. So if we now go to page 15, so -- and I'm trying to understand this. You see under "A. Program and Course Closures," do you see that, Mr. Haché?

A. I see that.

544 Q. Okay. Now, so it goes:

"Laurentian University's approach

to academic restructuring was guided by four foundational principles:"

The second one is:

"[Laurentian University] must continue to meet its mandate of being a bilingual and tri-cultural postsecondary organization in Northern Ontario providing access to post-secondary education in Northern Ontario and in the [greater] -- in the City of Greater Sudbury."

Now, I didn't read (a) but I think we can agree that (a) has nothing to do with actual programs in French, is that fair? 46(a)?

A. I think it's -- it's relevant to all our programs, that there must be financial sustainability for the University for all programs.

545 Q. Okay, so this is what I'm trying to get my mind around, and when we see (b), so when you talk about your mandate of "being bilingual and tri-cultural post-secondary organization," you're talking about -- where do we find that mandate?

A. Where do we find it? It's in

the -- in the vision -- in the mission and the vision of the university. It's also found in the partial designation of the university as a French language institution.

546 Q. And I want to get back to that. See in paragraph (c):

> "[Laurentian University] must focus on programs and courses that are in higher demand today and are expected to be in the future, with appropriate levels of academic staffing across categories, with a process to re-evaluate student demands in the future;"

And the last one:

"post-restructuring" -- thanks for telling me, I apologize.

> "(d) post-restructuring, [Laurentian University] must continue to pursue its vision of being a leading comprehensive research-engaged university [...]."

I just want to make -- just something so I'm clear, (c) and (d) are not specifically addressing French programs; they are addressing

all the programs of the university.

A. Including the French programs, yes.

547 Q. Including the French programs. And the same with (a). It's applying in the same way to French and English programs, (a), (c) and (d), correct?

A. Yes.

548 Q. And (b), when you say:

"[...] must continue to meet its mandate of being a bilingual and tri-cultural post-secondary education [...]"

I'm trying to understand how the cuts that you made to the French programs, how does that work into you continuing to meet your mandate of being a bilingual post-secondary organization?

A. We are -- we are providing the French programming that is of interest and need to the students.

549 Q. So what you're doing, I'm just so I'm clear, is you're applying the same criteria that you applied to determining which programs you would cut in English to the French programs,

except that the French programs, because you're getting additional grants to provide them, the threshold was higher before you would cut one of those courses, correct?

A. Yeah. The threshold for sustainability requires students -- fewer students registered in a French language program than an English language program because we do receive specific additional funds for that -- for that French language mandate. And so we are not preferencing -- we are directing the funds for which we receive them in determining the sustainability of programs.

550 Q. And your decisions as to which programs in French that you eliminated, which programs in English you eliminated, was a purely objective accounting exercise, correct?

A. It was an objective exercise that looked at the sustainability, but also took into account the French Language Services Act and the overall mandate of the institution.

551 Q. Actually, I don't understand why you're saying that, because the decision as to -- that was made to determine which programs you would be cutting, both in French and in

English, was purely an accounting exercise and the French programs, because you're getting extra grants, there was more leeway in that you were able to continue offering some courses, even though there were fewer students, because of the fact that you had these subsidies which is something that wasn't -- that was sort of -- it was an advantage that the French programs had that the English ones did not.

MS. MILLER: Objection, Mr. Caza you're trying to put words in his mouth and you're attempting to say what he is not saying. In his evidence, as reflected in --

MR. CAZA: Don't repeat his evidence.

MS. MILLER: Okay. Well, he has answered the question and given the answer, and his answer to you was that it was not purely economic.

BY MR. CAZA:

552 Q. Well, then, can you please explain to me --

MS. MILLER: Please restate the question, if you like.

BY MR. CAZA:

553 Q. Yeah, well, can you explain to me

how -- I'll tell you my understanding and I want you to explain to me how I'm wrong.

My understanding is that somebody sat down and you had a formula worked out and the formula was, we need so many students in order to be able to offer a certain course, and that was calculated and taken into consideration the cost of offering the course and new revenue, and how you needed to get a teacher, you did a whole analysis.

And then you sat down and you applied it to all your courses. When you applied it to the French courses, you took it into consideration that it would cost you less to offer that course because you actually got specific grants, but the rest of your exercise was purely objective, it was purely objective.

And so that you would be able to say, and you have said, that's my understanding, that the programs that were cut you were fair to both French and English programs, but the French programs less of them were cut because of the fact that they were grants. That is my understanding.

Where do you disagree with that?

MS. MILLER: Mr. Caza, I have directed you to paragraph 50. You are trying to paraphrase Mr. Haché's evidence incorrectly, and he has answered the question and told you that there were other factors.

MR. CAZA: I didn't --

MS. MILLER: He's told --

MR. CAZA: I told him my understanding of the evidence. I can put that to him and say, where do you disagree with me? I need to know where he disagrees with me, because I don't understand how the French Language Services Act ever came into the calculation.

554 Q. Maybe that's what I need for you to explain to me.

My understanding, it was a purely accounting exercise. It was irrelevant that you had the French Language Services Act. What am I missing?

MS. MILLER: And I have directed you to Mr. Haché's evidence, and you can ask him if you'd like on that point in paragraph 50 of his affidavit. But please don't --

BY MR. CAZA:

555 Q. You know what, I don't know to

what extent -- I don't know to what extent you should be telling the witness, that, you know, go look at this paragraph. Let's look at paragraph 50.

> "Ideally, programs would be positive economic drivers for [Laurentian University]. However, [Laurentian University] also took into account that, for a certain subset of programs with a direct link to [Laurentian University]'s mission, such programs should operate despite not satisfying the self-funding threshold."

Give me an example of where you did that with a French program or a French course. Give me one example.

A. I would have to get back to you on the specifics of that. I will say that the list of courses and programs on the Francophone side that were discussed in mediation were explicitly -- explicitly considered the implications under the French Language Services Act and the partial designation of the university to ensure that we were, to the best

of our ability, maintaining our compliance with the -- with the expectations of the university under that Act.

And so what you're saying is that there was a financial exercise done at the front end, yes, but there was also other things that were entered -- that entered into the equation before the final decisions were made. And ultimately at the end of that, you needed to end up with a suite that overall was sustainable.

556 Q. So here's my question.

A. And I believe that's reflected in the record.

557 Q. So here is my question to you. I want you to advise me of any courses that were not cancelled, okay, any courses in French that you did not cancel that when you apply the threshold in the self-funding threshold that you developed for French courses, you would have cancelled. I want you to provide me with that evidence.

Because my understanding is that you're saying that although you don't say that in paragraph 50, my understanding is you're suggesting at the very least that some courses

in French fell under that statement in paragraph 50, and if you can provide us with that evidence.

And I think it's 12:31. You had to leave at 12:30 to take a break. We'll see you back at two o'clock.

-- RECESSED AT 12:31 P.M. --

-- RESUMED AT 2:01 P.M. --

BY MR. CAZA:

558 Q. Mr. Haché, you're still there. So if we can go to your second affidavit. If we can go to tab 16, paragraph 49.

A. Okay.

559 Q. The title is "Viability Analysis of LU's Programs". I think you'll agree with me that these three paragraphs deal with the actual programs offered by Laurentian University and not by the Federated Universities?

A. That is correct.

560 Q. Now, when we're looking at the -- page 17, the next page, we started talking -- we were speaking a while ago, and if I'm looking here, we've got 54 and it talks about the ratio. Mr. Haché, we talked about that before the break.

Then there was the -- in addition to the ratio, there was other issues we looked at at 55 and 56, talks about the partial designation.

So the partial designation, if you could just remind me, was it -- if it was taken into consideration, what was the relevance of -- or what impact did it have on the actual decision you made as to the courses that you did eliminate?

A. So it was -- you know, first of all, you need to understand that this was the -- a negotiation with the Senate group that was nominated to conduct a discussion on behalf of the Senate. But in that conversation, they were very, very cognizant of the expectations of the partial French designation for the university. They had the list of degrees and programs and that was actively considered in the discussions and in the conversations.

Now, I was not in the room for those conversations, but I do know that they were highlighted, and in all of the feedback that I received that that was absolutely a consideration in the decision making.

So you had data in the first instance and then you had the other parameters that needed to be considered.

561 Q. What I'm asking you, and that's what I asked you before the break. I said, you've used data. I said, was there a decision made that the data was not basically the deciding factor? Like, an actual decision. Not did we talk about it. And I think you don't know, right?

MS. MILLER: We answered that question prior to the break I believe, Mr. Caza, and now you're going back on a question that's been asked and answered.

BY MR. CAZA:

562 Q. I can do that all day. I can ask the same question 10 times. Like, I can do that in cross-examination.

So, Mr. Haché, my question to you, and if I've asked you the question, I'm asking again. You have no evidence that the -- that anything but the mathematical formula, the accounting formula, was applied in determining which French courses were to be -- were to be eliminated.

A. That is -- okay.

MS. MILLER: Objection, because he has answered that question, Mr. Caza, to say that is not correct.

BY MR. CAZA:

563 Q. Well, you know, I think he was just going to say that it is correct before you interrupted him.

A. No. I was going to say that is not correct. That is absolutely incorrect.

564 Q. Give me your evidence of any course that was not cancelled that would have been cancelled if you'd only applied the mathematical formula.

MS. MILLER: You have asked for an undertaking on that and we have given that undertaking.

BY MR. CAZA:

565 Q. Sorry about that. In fact, Mr. Claude told me he thought we had an undertaking. Let's move on. I'm fine with that.

Now, the six-person Senate Committee, did they deal with any of the courses offered by the federations, Mr. Haché?

A. That was not their mandate.

566 Q. Now here's a question I have, I think you've told us that the French Language Services Act, and your obligations pursuant to that, were an important criteria that you took into consideration in proceeding to make the determination of courses that would be cut, right?

A. That is correct.

567 Q. Why is it that you didn't even mention the French Language Services Act in your first affidavit?

A. Look, I think it's very clear that in the academic considerations that were conducted that the French Language Services Act was front and centre in the consideration of all Francophone programs that were evaluated.

568 Q. I think it became front and centre when the University of -- Université de Sudbury took the position that they were not going to allow you and let you sacrifice, and end up with a situation where the Francophone community would suffer irreparable harm and they wanted to basically have you transfer all those programs. And then all of a sudden, Mr. Haché,

all of a sudden you started talking about the French Language Services Act. You didn't talk about it once in your first affidavit.

MS. MILLER: Objection. You're asking him for information with respect to what might have gone on in the confidential mediation and that is not an appropriate question to ask him.

THE WITNESS: I was going to also say I didn't hear a question there.

BY MR. CAZA:

569 Q. No, in fact I'm talking about his affidavit. His affidavit outlines all kinds of -- I'm talking about your first affidavit, which I believe is 110 pages long. It outlines all kinds of relevant factors, things you need to take into consideration. The impact that the decision will have. The words "French Language Services Act", those words, are nowhere in your affidavit because Laurentian University does not consider that to be one of its priorities.

How could you be facing dissemination as an institution and not bring that up in your affidavit if in fact it is an important criteria to the university?

MR. OSBORNE: Dr. Haché, just a

moment.

Mr. Caza, you put another statement as a premise to your question, which is simply not this witness' evidence at all, as you know.

If you want to break it down and remove that statement and ask Mr. Haché -- Dr. Haché, excuse me, about his statements or other propositions you wish to put to him, that's fine.

But stop premising with your questions, if you would, sir, with improper and inaccurate statements. Put to him suggestions if you wish, but not as statements.

BY MR. CAZA:

570 Q. You know what? I am not limited in my cross-examination to putting whatever statement he may have said.

MR. OSBORNE: You're not. My point is, sir, if you put to him a statement as evidence, it has to be accurate or we're not going to proceed. That's my point. You can put any proposition to him you like.

BY MR. CAZA:

571 Q. Mr. Haché -- okay, I gotta tell you, I don't agree with Mr. Osborne's position

on this, but I will rephrase my question.

Mr. Haché, do you agree with me that you did not mention the French Language Services Act in your affidavit? Your first affidavit it is nowhere mentioned. Do you agree with that?

A. I agree that it was -- nor were the criteria for evaluating the academic programs mentioned, which is where it all ties together.

572 Q. So I guess the answer to my question is you agree with me that you didn't mention the French Language Services Act, is that fair?

A. I said I agree that we did not mention the French Language Services Act, nor did we mention any of the criteria that would be used for the evaluation of the academic programming.

573 Q. I didn't ask you that question. I didn't ask --

A. But they're intimately linked.

574 Q. Well, let's move on. I think it's important that you answer the questions because we'll need more than finishing at 4 o'clock.

You'll agree with me that when you prepared that affidavit --

MR. HANRAHAN: Hold on, just before we move on, he's entitled to answer the questions in the way he thinks is appropriate and accurate, and I think that's what he's doing. So I don't think the commentary after the answer is not --

BY MR. CAZA:

575 Q. The transcript will speak for itself, Mr. Haché.

MR. HANRAHAN: It will.

BY MR. CAZA:

576 Q. When you prepared the affidavit, when you prepared that affidavit, it was clear that this was an affidavit that, to a great extent, you were at least under the impression that the survival of the university depended on you being successful in seeking protection under the CCAA, is that fair?

A. Yes, it was important for the survival of the university.

577 Q. And it was important that all of the information that would be relevant to be taken into consideration in making that

determination be included in the affidavit, is that fair?

A. In making the determination to grant the stay of proceedings, yes.

578 Q. In making the determination of issues that needed to be taking into consideration in making the -- in ensuring that the survival of the university, the conditions that would encompass its survival were set out in the court proceedings, correct?

A. For the initial stay, yes.

579 Q. And now, when you told us, and I -- this is what I understood you to say, that there was a meeting, I guess would it be a meeting at the Senate where the Senate had a meeting in order to make a determination on the whole issue of approving the cuts to the -- both the English and French programs. Was it the Senate that made that decision?

A. It is the academic Senate of the university that has the authority to close academic programs and it is done through Senate meetings.

580 Q. And you were at that meeting, correct?

A. That is correct.

581 Q. Okay. And at that meeting, my understanding is -- because -- I did just math, so this is only a mathematical calculation, that there are 101 programs in English and 38 percent or 38 of the programs, so a little less than 38 percent, were cut?

A. So, yeah, approximately 40 percent of the programs in the English stream were cut and approximately 40 percent of the programs in the Francophone stream were cut.

582 Q. That's the numbers I got.

MS. MILLER: Just to be clear, you're talking undergraduate programs?

BY MR. CAZA:

583 Q. That's correct.

A. Undergraduate.

584 Q. And my understanding is at that meeting, that student Senate Academic -- or the academic -- Senate Academic Committee meeting, that a motion was made by one of the members of the committee that all of the courses that you were -- that you were cancelling, all the courses that you were no longer going to offer, a motion was made that you should transfer those

courses to -- or those programs to Université de Sudbury, do you recall that?

A. I don't believe I can comment on that as that Senate meeting was done in camera under the confidentiality order of the court.

585 Q. I'm speaking of the next meeting, the one that was -- there was a subsequent meeting, a Senate meeting, where the whole issue was discussed, and my understanding is that that meeting was not confidential, correct?

A. That is correct. If you're referring to the more recent meeting, yes.

586 Q. And at that meeting, you were in attendance?

A. At that meeting, I was in attendance.

587 Q. And one of the members of the Senate Committee or one of the members of your Senate made a motion that the courses that you were no longer offering that you'd made the decision the courses in French that you were not going to offer, that the motion was that those courses be transferred to the Université de Sudbury to give them an opportunity to offer those courses. Do you recall that?

A. That is not correct.

588 Q. What's your recollection?

A. The motion was made that the university consider whether the Francophone courses at the university be transferred to the University of Sudbury.

589 Q. The Francophone courses that had been cancelled?

A. Yes.

590 Q. And so, okay, so the -- my mistake. So I'm going on information that I've been told. So you're telling me actually it was a motion to have that considered -- to consider --

A. To consider.

591 Q. -- having that transferred. And my understanding is you voted against that motion, correct?

A. That is correct.

592 Q. And can you explain why you voted against that motion?

A. Because it's -- it was not a -- it was not a motion that could be practically acted on.

593 Q. So you're saying it's not a

motion that could have been practically acted on and that you could have transferred the courses or had those courses -- offer the opportunity to -- a little bit to see how the Indigenous studies university that Sudbury and Laurentian had a discussion where you ended up offering those courses. You having decided not to offer many courses in French you're saying, practically speaking, you don't know how you could have spoken to Université de Sudbury to see how they could be prepared to offer those courses? Because you were aware that there was an interest -- they had expressed an interest to teach all of the -- or to offer all of the French courses?

A. The assumption you're making there is that the -- that Laurentian University has ownership of the materials needed to transfer, which is not correct.

594 Q. Okay. In any event, you've explained what the motion -- the motion that was made and how you voted on it.

One of the things I'm looking at if I go back to your affidavit, if I go to page 21 of 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

that you're offering in French in order to be able to offer them at Université de Sudbury?

MS. MILLER: Mr. Caza, can you direct him to the letter to which you are referring and give him an opportunity to read it?

BY MR. CAZA:

596 Q. Well, I can surely do that, give me a sec here. While we're getting that, I have to pull it out, it's in a part of our materials.

If we can go to page -- paragraph 69 of your affidavit. Are you with me?

A. Yes.

597 Q. At page 23, it says:

"Continuing to offer some French-language programs with consistent very low enrollment or virtually no enrollment is not financially feasible and is not consistent with the funding that Laurentian University receives for French-language programs."

Okay. On that issue, did you turn your mind to seeing or trying to understand why you had very low enrollment in some of those programs?

A. Because the programs were not of interest to students.

598 Q. So that's the conclusion you came to? If you have low enrollment it's because the students -- did you look into whether or not it was sufficiently promoted, marketed, if you -- in the various Francophone high schools, et cetera?

A. All of those things are considered and we have programs that are highly subscribed in which students demonstrate consistent and growing interest and programs that have waning interest. It is a natural cycle in universities that programs are popular and, with time, priorities change and programs become less popular.

599 Q. Okay.

A. It's a natural cycle at universities and it just happens that Laurentian has been particularly poor at sunsetting programs with low interest.

600 Q. You'll agree with me that you did not look into what would be the impact on the Francophone community if such a program was no longer available?

A. Minimal impact because there're no students in the program.

601 Q. But the fact that you were no longer offering the program or were offering it to some students, and just so that I'm clear, nobody was provided with any warning outside of the university that those courses were going to be cancelled, is that fair?

A. That the programs were going to be ending? No. But we are providing the opportunity for students that are in the program to complete the program if at all possible.

602 Q. All I'm saying is, but there's no new students after. It's like a sunset. Once those students go through, it's over.

A. That is correct. There are no new student, but understand, there are very few students anyway. So we're not impacting a large number of prospective students. It's a very small number of students that are in these programs.

603 Q. And it's been a small number of students for the last little while, correct?

A. Years.

604 Q. Years. Now, and if I can now go

to tab R, page -- well, you don't have the page numbers, tab R to your second affidavit.

A. Is there a paragraph number to that or?

605 Q. Actually, it's at tab R. It's attached to your affidavit.

A. Schedule? Are you referring to a schedule?

606 Q. Yes, schedule. I think it's exhibit -- I think it's called Exhibit R.

A. I've got schedule R, "Thesis Supervision", is that what you're referring to?

607 Q. No. It's a letter from Sheppard & Claude to Ms. Miller.

A. Let me see if I can find it in my table of contents.

608 Q. Exhibit R, as in Robert.

A. I've got Exhibit F here. I've got exhibits and I have schedules and it's all mixed together.

I have Exhibit H and then I go to schedule A.

609 Q. Okay. Well, I don't know why. I assumed you'd have a copy of the materials when I'm cross-examining you.

A. I assume I do. Just let me look somewhere else.

610 Q. We'll get back to that, okay. We'll get back to that. We're actually time limited here.

A. There is a -- in another place. Okay, Exhibit R, okay, I have it.

611 Q. Do you remember reading this letter?

MS. MILLER: Exhibit R, for reference, contains a French and an English version in the record.

BY MR. CAZA:

612 Q. Actually it contains a French letter and an English translation.

Do you remember reading that letter, Mr. Haché?

A. I remember seeing the letter. Let me just refresh my memory.

613 Q. Well, maybe I can just ask you this, look at tab -- can you see tab S?

MS. MILLER: Mr. Caza, you've just directed him to an exhibit. He's trying to read the letter. Can you give him --

BY MR. CAZA:

614 Q. He's taken five minutes. I don't know how much time. We're limited. If he doesn't have access to documents, I'm going to move on.

MR. HANRAHAN: He says he has the document.

THE WITNESS: I have the document.

BY MR. CAZA:

615 Q. So you've got the document at tab R. What I'd like you to do is look at the document at tab S, as in Susan, and my question is, were you involved in drafting this response? That's my question, which is a response to the letter at tab R.

MR. HANRAHAN: And, Dr. Haché, to the extent you need to minute to look at each of these exhibits, you should feel free to do that.

THE WITNESS: (Witness reading the document.)

So the question was, was I implicated in the response that was written?

BY MR. CAZA:

616 Q. That's correct, that was my question.

A. Yes.

617 Q. Now, can you advise me of what consultations you carried out with any organization or members of the Franco Ontarian community outside of the university, outside of Laurentian University? Who did you consult with before preparing -- before participating and preparing the response found at tab S, which is the letter from -- I guess it's from Ms. Miller dated April 12, 2021?

MR. HANRAHAN: Counsel, is there a suggestion in the letter he has made those consultations that you're referring to?

BY MR. CAZA:

618 Q. There is not. I'm asking, who did you consult with before providing this response, if you consulted with anyone?

A. There was no specific consultation around this letter.

619 Q. Was there any consultation at all outside of the university with any organization or members of the Franco Ontario community before you proceeded to cancel all of the classes and courses and programs that you ended up cancelling? Was there any consultation?

MS. MILLER: Pardon my interruption but you've referred to the cancellation of classes and I don't believe there's any evidence anywhere of cancellation of classes.

BY MR. CAZA:

620 Q. I misspoke, I apologize. I misspoke. With respect to the cancellation of courses and programs.

A. So that was -- I believe that was covered by the court ordered confidentiality order preventing us from doing that. So we did not breach the confidentiality of the court.

621 Q. I want to get this straight. So you're telling me that because of the CCAA and the process that imposed confidentiality, you're saying that because of that, all these decisions were made and were basically in the process of implementing them and you never consulted the Franco Ontario community, is that correct?

MS. MILLER: Mr. Caza, the objection is that there is a court ordered confidentiality in place with respect to the mediation and the academic restructuring formed part of that mediation.

So you can ask him -- you've asked him

a question about the letter in consultation, that's fine, that lettered was delivered. But with respect to things in the confidential mediation relating to the academic restructuring, he will answer to the best of his ability, but not with respect to breaching confidentiality of the court order.

BY MR. CAZA:

622 Q. What I can tell you is what you're telling me that the CCAA, this is what my understanding is, Ms. Miller, and I'm asking you, Mr. Haché, the CCAA is a process by which decisions are made that can have a serious impact on the Franco Ontario community because, according to your own evidence, Laurentian University has an important role to play and the decisions are made behind closed doors without the Franco Ontario community being involved. Is my understanding correct, Mr. Haché? That's what happened, right?

A. That is actually not correct. Inasmuch as the Senate group had absolute -- had representation from all of the communities at Laurentian University. So the group of senators that was elected to represent the Senate in the

mediation included members of the Francophone community.

623 Q. Members of the Francophone community that sit -- that are members of the Senate of Laurentian University, correct?

A. That is correct. That was the process. And within -- we ensured that not only the Francophone community, but Indigenous perspectives and all communities that the university had were represented in -- the Senate ensured really, but in the conversation with the Senate, we ensured collectively that the various communities were appropriately represented, according to the ways that were permitted through the court.

624 Q. I'm only asking you about the Francophone community and I just want to know -- what you've told me is the only consultations that were carried out were internally at the university, correct?

A. I'm saying that the consultation that was had with communities was the same with the Francophone community, as the Indigenous community, as other communities, and it was based on what was the conditions that were

mandated by the court and that we were very conscious to include those communities to the extent possible in a fair and proportional representation.

625 Q. So I'm just trying to understand because my question was quite straightforward and you gave me a lot more information and that's fine. I just don't want the answer to the question to be lost in the answer you provided.

My question was, do you agree with me that the decisions that were made and eventually implemented on the issue of cancelling courses and programs, French courses and programs at Laurentian University, were all made without any consultation carried out outside of the university itself?

A. That was not permitted by the court order.

626 Q. Okay. That's fine. So let's keep going.

Remember when I asked you earlier about the motion at the Senate Committee and how there was a vote as to whether or not you should consider transferring the courses that were

cancelled or the programs that were cancelled, the French ones, to the Université de Sudbury, and you advised me that you voted against that motion. Do you remember how Marie Josie Berge [ph] voted?

A. No, I do not.

627 Q. You don't recall that she voted against the motion also?

A. There were 200 people on the call. I don't remember how everybody voted.

628 Q. Thank you. If I now go to paragraph 98, which is at page 30.

A. Yes.

629 Q. Okay. I just want to -- this is what I'm seeing as -- it says, page 98, I'm not going to read it all, but the last sentence in the first paragraph reads:

"The Sub-Committee Report made the following recommendations."

Correct? And that's the recommendations that were made -- that was made and that's the recommendations -- is that the recommendation that was accepted by the Senate, the academic Senate Committee?

A. That is correct.

630 Q. Now, if we can go to paragraph 102, it's "Midwifery", do you see that?

A. Yes.

631 Q. Paragraph 102 through to 107, I believe. So I just want to look at this. So 102 says:

"Laurentian University made the decision to close the Midwifery program due to the financial costs associated with running that program that could not adequately be met by funding received from the [ministry at AMCU] and Ministry of Health pursuant to a transfer payment agreement."

So I'm trying to understand. MCU funds the academic university component of the midwifery program while the Ministry of Health and Long-Term Care funds the clinical components of the midwifery program. I'm just trying to understand. So are you saying that it costs more money to offer the program than the revenue, the tuition and the grants or whatever you were receiving?

A. That is the correct. Given the 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

their third year and fourth year will be able to complete the program, but those that are in the first and second year will not. And you're going to assist them to transfer to other places and I think you mentioned McMaster and Ryerson that also offer those programs, right?

A. Yes. That is all students that are registered in midwifery will have the opportunity to complete a midwifery program. Third and fourth year students with a Laurentian degree and earlier students with a degree from Ryerson or McMaster. And in any event, Ryerson and McMaster will be facilitating the completion of all students' degrees.

634 Q. My understanding is this program is offered in French?

A. That is correct.

635 Q. And it's only offered in English at McMaster and Ryerson?

A. That is correct.

636 Q. So I just want to be clear. So anyone that is in the process of completing their first or second year, you're prepared to assist them to go complete that program in English at another university, correct?

MS. MILLER: Mr. Caza -- go ahead.

THE WITNESS: It's not completely correct. The conversation with Ryerson has been to how to accommodate students in the Francophone program. And Ryerson has been very, very co-operative in providing a mechanism which students currently registered in the Francophone program will also be able to proceed to completion of their degree.

BY MR. CAZA:

637 Q. Did you have any discussions with any members of the Francophone community, outside of Laurentian University, before proceeding to cancel this specific program, midwifery program?

A. Still covered by the same confidentiality order as before.

638 Q. Off the record for a second.

-- OFF-THE-RECORD DISCUSSION --

BY MR. CAZA:

639 Q. Now, if I go to -- if we can go to paragraph 113, which is at page 34. The term sheets with the labour partners.

A. Yes.

640 Q. Mr. Haché, you know, you talk in

one -- paragraph 113, you talk about LUFA. And paragraph 114, we talk -- or, I should say, 124, it's LUSU and then there is LUFA. Are you able to tell me approximately how much money was saved as a result of these negotiations you had, successful negotiations, from what we understand, with the unions? How much money were you able to save?

A. So going forward, there are approximately 115 position reductions in the faculty association. Overall there are about 170 position reductions at the university as a result of that. One would have to do the math with the average salaries of each of those categories. I don't believe I have those figures immediately in front of me, but you have the numbers of people. You know, suffice to say that it is substantial.

It's 115 out of 355 or 65, don't quote me on the exact number, total faculty. So almost a third of the total faculty and about 20 to 25 percent of the other labour groups. And so I would say, from a salary savings perspective, you would be proportional there.

641 Q. And there's been -- you have seen

no number calculating approximately what the value was --

A. I have no number in front of me.

642 Q. What about do you recall reading any approximate calculations --

A. Yeah, I don't have --

MR. HANRAHAN: Just wait till the question is finished.

THE WITNESS: Sorry.

BY MR. CAZA:

643 Q. My question is, would you be aware of information that would provide us with some range of what the savings have been as a result of these successful term sheets that you've negotiated with the labour partners?

MS. MILLER: He's not going to guess on that.

THE WITNESS: As I say, I would not want to guess on something. I would not want to guess on that and I don't have the information immediately in front.

BY MR. CAZA:

644 Q. What was the -- do you remember what was the target? How much were you hoping to save? When you were doing these

negotiations, what was your target as to how much you wanted to save?

MS. MILLER: Mr. Caza, you're starting from a premise that you can put to him, Did you start with a target and go from there. But you have put to him a premise and he has not accepted that premise.

BY MR. CAZA:

645 Q. Did you have a -- had you set a target that you were hoping to attain in order to meet the needs of the DIP Lender when you set off to start negotiating with your labour partners?

MS. MILLER: Again, Mr. Caza, I have to interrupt. You are starting with a premise that it's a target set by a DIP Lender or that it's a target at all. Please don't start with an assumption that you are attributing to the witness that is not an assumption that he has given evidence on.

BY MR. CAZA:

646 Q. Well, actually he has given significant evidence on that. He's given significant evidence that the DIP Lender needs to be satisfied with the amount of monies

basically that have been saved as a result of renegotiating with the unions. He's told me that more than three times.

MS. MILLER: His evidence, Mr. Caza, is financial sustainability. He has not given evidence of targets or anything like that. You are attributing evidence to him that he has not given.

BY MR. CAZA:

647 Q. So how did you go about calculating what you needed to save as a result of your discussions with your labour partners to attain financial sustainability?

A. Okay. So everything --

MS. MILLER: Again, just to preface --

BY MR. CAZA:

648 Q. He was answering the question --

MS. MILLER: Mr. Caza, the objection is -- listen, the objection is he can answer the question to the extent that you are not asking him to breach the confidentiality of discussions that occurred in the mediation. If the question is, what are the considerations that you gave, you're perfectly fine to ask him that. If you're asking him to breach the to and fro

confidential discussions in a mediation subject to court order, he will not get into that.

BY MR. CAZA:

649 Q. Okay. Maybe just to start off with, Mr. Haché, is it confidential the amount of monies that you ended up saving as a result of negotiating the term sheets with the labour partners? Is that confidential?

A. I actually don't know.

650 Q. So when you told me that there were 115, that's my understanding, at one point you used the number of 115 out of 355, and then you used the number of 170. Why don't we just go back to that? There was no objection, so I'm assuming because, you know what? That may be the best way for me to do this.

So 115 of what? You said out of 355 or 365. What staff is that? Which union would that be?

A. That would be faculty association.

MR. HANRAHAN: This evidence is in his affidavit, so why don't we give him the actual numbers that are in there. Paragraph 121.

BY MR. CAZA:

651 Q. We can go back through the affidavit after. I'm just trying to understand the process.

So then when you were speaking of 170, what employees were you talking about there?

A. So that was the faculty association or LUFA members. That was LUSU members or staff association. That was nonunionized management employees and senior leaders.

652 Q. There's 170 of those positions, correct?

A. In total, yes.

653 Q. And faculty is approximately 115?

A. That is correct.

654 Q. Now, were there any other cuts or were there any other financial concessions that you were able to obtain other than the elimination of those positions?

A. Yes, there were.

655 Q. What were they?

A. There are salary rollbacks, FRO [ph] days, other changes to work rules that involve some economic -- that are of some

economic value to the university.

656 Q. Would there exist a document that would have a calculation made of the value of the savings that you were able to obtain? I mean, someone must have, I'm assuming, done a calculation. Where would I find such a document so that I'm able to determine how much was actually saved?

MS. MILLER: Dr. Haché, first of all, the question is, does a document exist? And I think he's asking if it does, where does he find it? So let's break that down if you don't mind.

THE WITNESS: Does a consolidated document exist? I think there are drafts of various parts that exist and the consolidation of it in draft potentially, but it is a continuing and evolving situation.

BY MR. CAZA:

657 Q. So I guess I'm -- I want to get that information. I think it's very relevant for the court to know how much you've succeeded in -- how much money you've succeeded in saving as a result of your negotiation with your labour partners.

So I guess my question to you is, how

would you recommend we go about obtaining that information? Because I'm not sure if you have that information. For example, 115 faculty, you said we multiply that by the average salary. Can you give us an idea of what the average salary would be approximately?

A. Unfortunately I don't have that figure before me.

658 Q. But is that a number you can obtain?

A. Yeah, if it's not already somewhere in the affidavit. It is a number that is obtainable, yes.

659 Q. Is it the same thing for the 170 positions, giving an average salary for those positions?

A. Well, for LUSU, probably for sure. By four categories, potentially. Certainly LUSU nonunionized management. I don't know if for the senior leaders there is an average.

660 Q. So can I have an undertaking because I think the court would want to know that. Could I have an undertaking for you to provide us with basically a document that would

outline the financial value of the savings you were able to obtain that you've described to me that flow from your successful negotiation with your labour partners?

U/A MS. MILLER: We'll take that under advisement and we will do, to the extent possible, Mr. Caza, to the extent that things are actually quantifiable. And certainly with respect to salaries and that type of thing, I expect that's quantifiable. There may be aspects that are not, but we will take that under advisement and, on a best efforts basis, get you something that is responsive to the question.

BY MR. CAZA:

661 Q. So although you're using the word "under advisement" you are giving me the undertaking that you described, correct?

MS. MILLER: As I've described it.

BY MR. CAZA:

662 Q. Okay, thank you.

So the only thing that I may ask in addition to the undertaking that you've given, for which I thank you, is that if you are not able to provide me with the information, if you

could just give me a short explanation as to why you can't obtain that information. Is that fine?

U/T MS. MILLER: That's fine. We'll give an explanation.

BY MR. CAZA:

663 Q. Now, if I go to paragraph 131, that's the whole issue with the grievances, outstanding grievances. Can you tell me what that's about? Because it seems there's like 102 outstanding grievances and there was an extension given. Can you explain to me what that's all about?

MR. HANRAHAN: Can you clarify when you say "what that's all about"?

BY MR. CAZA:

664 Q. I'm trying to understand. What are these outstanding grievances and why is that something that had to be settled? And I'm trying to understand by reading what exactly, what was negotiated with respect to resolving those grievances?

MR. HANRAHAN: Sorry, I'm still a little unclear. Is the question what is the substance of the grievances or how was the

resolution of those negotiated?

BY MR. CAZA:

665 Q. Well, maybe tell me a little bit. What are -- these outstanding grievances, how long have they been outstanding? Like why do you have 102 outstanding grievances?

A. Because that is the number of grievances that have been filed by the faculty association under the Collective Agreement.

666 Q. And that is how long -- for a period of how long?

A. I can't say specifically. I mean, they regularly get filed and regularly get resolved. There were currently at that time 102 that were filed but not yet resolved and it covers a period of time.

667 Q. And these grievances, if they -- if the union is successful, could you end up having to pay monies?

MS. MILLER: I think that's a legal question with respect to the CCAA and I'm happy to answer that, if you'd like.

BY MR. CAZA:

668 Q. I'd like to hear your answer, but actually my question, I didn't pose it

correctly. What I meant was, are you -- do the grievances themselves, could they end up with a result being that a payment is owed by the university? Not whether or not you would have to pay it and that was my question. Or are they all grievances that do not involve the payment of money?

MS. MILLER: Because I think it is a legal answer, Mr. Caza, because we're in a proceeding, would you like me to answer the question?

BY MR. CAZA:

669 Q. I would, I would, please, thank you.

MS. MILLER: So any grievance that relates to the payment of money, to the extent it is determined to be accepted and includes the payment of money, would be a claim as part of the claims process. It would not be paid in cash.

BY MR. CAZA:

670 Q. And I guess the idea is we're trying to have all of the grievances completed, is it by May 31st, 2021, so that anyone who's successful can be in a position, if need be, to

make a claim, correct?

MS. MILLER: Correct.

BY MR. CAZA:

671 Q. Now, I'm trying to understand, so I guess somebody negotiated with the DIP Lender to extend that date, correct? Because it actually says:

"{...] the DIP Lender has agreed to extend the date by which the Existing Grievances must be resolved [...]."

Previously it was April 30th, 2021, correct?

A. Yeah, it was part of the original conditions of the DIP financing. It was one of the milestones that needed to be achieved to extend the financing.

672 Q. And then discussions were had with the DIP Lender. And were you involved in those discussions that led to a one-month extension?

A. In the same way I've been involved in all the discussions with the DIP Lender.

673 Q. Which is through your counsel --

through legal counsel, correct?

A. Through my counsel.

-- OFF-THE-RECORD DISCUSSION --

BY MR. CAZA:

674 Q. Sorry for that brief interlude there.

Can we go to page 44? I'm at your second affidavit.

A. Yes.

675 Q. Okay. So at the bottom of the page, section B says:

"Negative Financial Impact of the Federated University Model on LU."

And I'm at paragraph 150 on the next page:

"Arising out of its solvency and these CCAA Proceedings, LU has undertaken a full review of its operational model. That review has also necessitated a review and reconsideration of the future viability of the relationship between LU and the Federated Universities."

Now, when you say -- okay, "Arising out of its solvency", I'm just trying to

understand.

MR. HANRAHAN: I believe -- I'll just jump in, Mr. Caza. I think that's a typo and it should say "Arising out of its insolvency in these CCAA proceedings."

BY MR. CAZA:

676 Q. And then you go on, that review has also necessitated, the second sentence on 150:

"[...] a review and reconsideration of the future viability of the relationship between LU and the Federated Universities."

I'm just trying to understand. When you say "the future viability", I'm just saying that is to continue the relationship as it exists at the moment, correct? That's -- the future viability of doing that, correct?

A. The viability for Laurentian University, yes.

677 Q. For Laurentian University to continue in a relationship by which it is withholding 15 percent and transferring all other grants and tuition fees received to the Federated University offering the course,

correct?

A. With the current relationship, correct.

678 Q. What I've described, correct? Which is what I've described, the current relationship?

A. You've described a portion of it, yes.

679 Q. Which parts am I missing?

A. The students taking -- students in one program or another taking courses at different institutions.

680 Q. I'll tell you something, the -- sorry, go ahead. I thought you were finished.

A. I was.

681 Q. Sorry. I'll tell you something I don't understand, it's statement you've made about six times. My understanding is presently there's a federation that exists. It's Laurentian University with three other Federated Universities and together you form a federation. How do you get to say that these students somehow belong to Laurentian University when they're in fact students of the federation?

A. Actually all students are

Laurentian University students. And with -- from the students that are -- all of the students are Laurentian University students. And Laurentian University students may be registered in programs that are seeded at Laurentian University or they may be registered in programs that are delivered through one of the Federated Universities. That is the actuality of our situation.

682 Q. So you're telling me the Université de Sudbury and Thorneloe actually have no students, correct? Those are two federated universities that have no students. That's what you're telling me, right?

A. Except for theology, all of the students are Laurentian students.

683 Q. So even -- I just want to be clear here because the way you're discussing this, and I just want to make sure I'm clear here, when you say "all of those students are Laurentian University students", the reason you're able to say that is because that's the agreement you have that was -- that's basically in the Act that we've read and the agreement you have with both of the Federated Universities

that all the students would sign up and be students of Laurentian University, correct?

A. That is correct. All those students receive Laurentian University degrees.

684 Q. Because that's how the federation has been set up, correct?

A. That is correct.

685 Q. Okay. Now, if I go to paragraph 151:

"While there is strong affinity within the Laurentian University community for the Federated Universities, LU's review of the federated model demonstrated that it comes at significant financial cost [...]."

Actually, Mr. Haché, there is no cost. What it comes at is it comes at a -- it provides a possibility of Laurentian increasing its revenue, correct, by obtaining the revenue that is presently going to the Federated Universities. Would you agree with that?

A. Absolutely not.

686 Q. Where is the cost when what you're looking at is the legal entity offering

the actual course is getting the money? How do you get a cost? How is that a cost to your university --

A. It is a loss of revenue to Laurentian University not to have students in Laurentian classrooms that are there offering courses that are there, so that students can take courses elsewhere instead of taking courses at Laurentian University.

687 Q. And elsewhere, just so I'm clear, it's elsewhere in the federation that was basically created by the Federated Universities and agreements that flow from that creation. And what you're telling me is you're describing that arrangement as being one that comes at a cost to Laurentian because Laurentian is not keeping the revenues that are being provided to the Federated Universities offering the course, correct?

A. Not quite. Laurentian is not able to -- Laurentian is not teaching all of the courses that it should be or could be for -- I say could be rather than should be, for students registered in Laurentian programs.

688 Q. What prevents you -- is there an

agreement between the Federated Universities and Laurentian that you're not going to teach the same courses?

A. I believe we do not -- we collaborate more than compete, yes.

689 Q. All I'm saying is there's nothing that prevents Laurentian University from offering any of the courses that are presently being offered at Université de Sudbury, correct?

A. The same courses, I would think there would be prohibition on that. Related courses, no -- I mean, related programming -- inasmuch as it can be approved by the Senate.

690 Q. And also if you wanted to teach some of the courses that are presently being offered at the Université de Sudbury, you could actually call up the President, Mr. Meehan, and say, Look, I'd like to talk to you and we'd like to teach some of the courses you're offering. You could do that, correct?

A. Inasmuch as the University of Sudbury owns the intellectual property associated with the course, they could. That does not work in the opposite direction as Laurentian University professors own the

intellectual property associated with courses that they deliver at Laurentian University.

691 Q. So I guess just so that I'm clear on that -- I just want to make sure I've got a clear picture and the evidence is clear.

When you -- when the -- when the agreement -- when you bring to an end and you're attempting and if you're successful in bringing to an end the agreement between the Federated Universities and Laurentian, what you're hoping is that since those courses will no longer be offered by the Federated Universities, the students that are taking those courses are going to take some of the courses that you have available and some of the classes where you actually have room in order to be able to complete their degree at Laurentian University, correct?

A. That is correct.

-- OFF-THE-RECORD DISCUSSION --

-- RECESSED AT 2:59 P.M. --

-- RESUMED AT 3:05 P.M. --

BY MR. CAZA:

692 Q. If we can go to page 45, paragraph 152.

A. Yes.

693 Q. "I am advised by Normand Lavallee, the Associate Vice-President, Financial Services at LU and do verily believe, that LU transferred approximately $7.7 million in Fiscal Year 2020 as a result of LU students taking programs and courses through the Federated Universities, when those students could be taking all programs and courses through LU directly."

I just want to make one thing clear. First of all, you've been mentioning 5 million, but I guess it's 7.7 million. Is that what it is?

A. I think it's -- it says all programs.

694 Q. Okay.

A. And then I think if you break that into LU programs and programs delivered by the federation.

695 Q. Okay.

A. Right.

696 Q. So my question is, all of the

programs -- all of the courses that you are hoping the students will -- the programs and courses that are now -- right now they're taking programs and courses through the Federated Universities. If that door is shut, you're hoping they're going to take programs and courses that you already offer, correct?

A. Certainly students that are in Laurentian programs already will take Laurentian courses, yes.

697 Q. I guess what I'm saying is you're not going to be developing new programs or new courses. They're going to take programs and courses that you already have, right?

A. Yeah. We've just rationalized our programs so, yes, those are the programs that we'll have for the next year. Going forward, of course, for university, programs come and go.

698 Q. But you don't have any new programs. The rationalization is not -- you've got the same programs as you had previously, but you have less of them, right?

A. Yeah. 98 percent, yes. I think there was one new program in business that was

created at the last Senate meeting, which is a -- it's a conversion of an old program into a new program. So there's constant evolution in programming, but our suite of programs for the fall is fixed.

699 Q. So the students that are taking programs and courses through the Federated Universities, they decided they were going to take those courses. It's a decision they've already made, instead of the ones you want them to take now because now what you're saying is they'll have no choice because the federated university courses are not available, right?

A. Well, they would not be available, yes.

700 Q. If we go to paragraph 153, it says:

> "Specifically, in Fiscal Year 2020, LU transferred to the Federated Universities approximately $3.5 million in total grants, $5.3 million in net tuition, and $0.3 million in material fees. In some, in Fiscal Year 2020, LU transferred approximately $9.1 million

in tuition, grants, and fees to the Federated Universities, which was offset by a 15 % service fee of approximately 1.4 million [...]."

Okay. So now what we see here --

MR. HANRAHAN: Just to clarify, I think you said 3.5 million in tuition and it's 5.3.

BY MR. CAZA:

701 Q. Thanks for clarifying that. So the total becomes 9.1 million, I think I have that number right, and you presently are getting 15 percent of that. And what you want is, instead of getting 15 percent, you'd end up getting a hundred because what you're hoping is all of the courses that are being taken at the Federated Universities by students are now going to be taken within the programs and courses you're presently offering, correct?

MS. MILLER: Objection. You started the question by saying you're currently getting 15 percent, and that is not the evidence. The evidence is that Laurentian is currently getting 100 percent and retaining 15 percent and delivering the balance.

BY MR. CAZA:

702 Q. I want to make sure that correction is clear on the record. I want to be sure that it's clear on the record. I said that they're getting 15 percent of the monies that are coming in and you said, no, no, no, they're getting a hundred and they're keeping 15 percent, is that correct?

MS. MILLER: That's correct.

BY MR. CAZA:

703 Q. Okay. And I just want this to be clear on the record. Your correction's going to be very important. I'm actually going to refer to it probably in the hearing.

You consider monies going through university as a pipeline as being monies that are paid to Laurentian University. That's what you've just told us in correcting me. That's the position you're taking, right? It's a pipeline.

MS. MILLER: Well, that's your word, not mine. I've described it as 100 percent of the funds that come in are funds that are received by Laurentian.

BY MR. CAZA:

704 Q. Well, I guess, Ms. Miller, you'd be saying, you know the bank? At the bank, somebody goes and deposits money, and it's my money that's deposited into my account. But I guess somebody could say, Well, no, the money's being paid to the bank. I mean, that's the logic.

MS. MILLER: That's not an analogy that we agree with, just to be clear, but I just wanted --

BY MR. CAZA:

705 Q. That's argument, you're correct.

Can we go now the paragraph 162? Now, 162 refers to two exhibits, Exhibit O and Exhibit P. And if you could pull those up and have a look at them, Mr. Haché. If you see it, it just says -- Mr. Claude is writing to Ms. Miller and it says:

"This request is made on behalf of my client, University of Sudbury, under subsection 32(8) of the Companies' Creditors Arrangements Act, for Laurentian University of Sudbury's reasons, in writing, for the

above-described proposed disclaimer or resiliation."

And the reply, do you have a copy of the reply, Mr. Haché?

A. That would be Exhibit P?

706 Q. That's correct. Do you have a copy?

A. Yes.

707 Q. Were you involved in the preparation of this reply?

A. I reviewed it, yes.

708 Q. So you didn't prepare the initial draft?

A. No.

709 Q. Okay. So I'm looking at this letter dated April 19, 2021. And I go to the second paragraph:

"By email exchange you advised that we did not need to respond to the request within the time referenced under the CCAA, if our client’s motion record for the motion returnable [...]"

And then it goes on to talk about the evidence. Now, at the bottom of that page, it

says:

"These brief reasons will be supplemented by the motion record in respect of the April 29 motion, once served."

Now, I just want it to be clear that you've read this letter and you agree with all of the contents of this letter?

A. (Witness reading the document.)

Yes, I believe the letter is accurate.

710 Q. So I want to go to the second paragraph in the second page. It says:

"The facts giving rise to Laurentian’s insolvency are outlined in the Affidavit of Dr. Robert Haché filed in support of the CCAA application. Laurentian’s insolvency has resulted in profound operational, academic and other changes having to be made in order to re-establish financial sustainability. That includes:"

And we have 1, 2, 3, 4, 5, 6, 7, 8, there is eight bullet points of what needs to be done, correct?

A. (Witness reading the document.)
That's eight bullet points that include the things that need to be done.

711 Q. That's right. That include the things --

A. It's not an exhaustive list.

712 Q. It's not an exhaustive list, but it is a list and it's basically an answer to the question that was provided in the letter dated April 11th that was sent by -- the letter dated April 11th, that's correct, that was provided by Mr. Claude, correct?

A. That's what it says.

713 Q. Now, I'm -- so -- that's fine.
You've read it and it's clear that you've agreed that you are adopting the comments in this letter.

-- OFF-THE-RECORD DISCUSSION --

BY MR. CAZA:

714 Q. Mr. Haché, when looking at what you have explained to me what you are hoping will happen, the consequences or the likelihood that the students were -- who are presently taking courses at one of the Federated Universities, if those Federated Universities

are no longer able to offer courses as a result of Laurentian ending the agreement.

Have you actually prepared a document that provides what you anticipate will be the number of students that will be taking those courses at Laurentian University?

A. Expressly outlining numbers of students, no, I don't believe we have.

715 Q. Did you do any studies as to -- is there any document that exists where someone has sat down and said, Okay, here are the students taking these courses and we're anticipating that they're going to take these other courses that we're offering at Laurentian University? Has that exercise been done?

A. A transition plan has been prepared. You'd have to ask the provost and the deans about that for the specifics.

716 Q. Sorry, what's -- what did you call the plan?

A. Transition plan.

717 Q. Okay. So you don't have a copy of the transition plan?

A. No, I do not before me, no.

718 Q. Have you read the transition

plan?

A. I have been in discussions about it, yes.

719 Q. What about are there any projected enrollments?

A. We do have and we do maintain modelling over enrollments at the university and that includes going forward. It is -- it is our -- part of our enrollment management capacity and system.

720 Q. I'm just going to go off the record.

-- OFF-THE-RECORD DISCUSSION --

BY MR. CAZA:

721 Q. The only thing I need to confirm is this modelling, which is current modelling, that modelling would include what is anticipated as a result of the Federation Agreements coming to an end, correct?

A. As a result of the program closures, all of the things that are happening in the context of the CCAA that impacts on programs and students, yes.

722 Q. Including cancelling the Federation Agreement?

A. Including ending the Federation Agreement, the transfer of gerontology from Huntington, all of those things.

723 Q. And that modelling, that's a document that actually exists? Like, it's been completed, correct?

A. No. It is a living draft.

724 Q. So there's a living -- there's an up-to-date version that exists now and you are changing it as new information comes up?

A. Yeah. It is constantly updated, tracking applications, confirmations, and so forth, and projections. It includes demographics. It's quite comprehensive and it has a modelling -- has a modelling tool and it sort of guides us through the annual cycle of recruitment and registration.

725 Q. And that -- that modelling would include all the Francophone students too, right? All the French programs and the French courses?

A. Absolutely.

726 Q. Okay. Thank you. Just go off the record a sec.

-- OFF-THE-RECORD DISCUSSION --

BY MR. CAZA:

727 Q. If we can now go to paragraph 164 of your second affidavit?

A. Yes.

728 Q. It says, I'm just going through it:

"As discussed further below, each of Thorneloe and Université de Sudbury have brought motions opposing the Notices of Disclaimer. Since it is a condition of the DIP Amendment (defined below) and the availability of a further $10 million in DIP financing that the Disclaimers become effective on May 1, 2021, it will be necessary to determine the motions brought by Thorneloe and Université de Sudbury at the return of the Applicant's motion April 29, 2021. In addition, steps taken following the implementation of the academic restructuring of Laurentian University and the necessity to finalize the program and course offerings for Fall 2021 within the timeline of the

academic calendar year, as outlined in the Initial Haché Affidavit, require that the issue be determined by April 30th, 2021."

You go on to say:

"The Spring term commences on May 3, 2021, which necessitates the removal of courses from the available online catalogue for Thorneloe."

Then you go on to say:

"Each of Huntington and SU have already requested that Laurentian University remove the courses on offer in the program catalogue for the Spring term that they would have otherwise taught."

and I guess what I'm trying to understand here is, are you aware of the discussions that went on with the DIP Lender that resulted in the conditions that the DIP Lender has included in the term sheet?

A. As I've answered with other questions, I've not been in direct conversation the DIP Lender, but have been tracking the conversation that has been had through counsel.

729 Q. So the term sheet and the conditions that have been imposed by the DIP Lender are as a result of discussions between the DIP Lender and your counsel, correct?

A. They are conditions that are imposed by the DIP Lender. Exactly how they got to that, I'm not fully aware.

730 Q. But you're not -- it didn't involve you, Mr. Haché, in those discussions?

A. It didn't -- I -- no, it did not involve me directly in those discussions.

731 Q. In fact, you're not aware of anyone that was involved -- that would have been involved other than your legal counsel, correct?

A. That is to my knowledge, yes.

732 Q. Okay. Just go off the record.

-- OFF-THE-RECORD DISCUSSION -

BY MR. CAZA:

733 Q. If I can now go to page 54 of -- yeah, 54 of your affidavit, at paragraph 182.

A. Yes.

734 Q. You state:

"While LU is cognizant that the Notices of Disclaimer will have financial consequences for the

Federation Universities, the unfortunate reality is that the termination of federated relationships, and the revenue will remain with LU as a result, is a necessary component of a successful restructuring of Laurentian University."

So it's not an issue of costs. It's actually an issue of revenue, correct?

A. As is stated there, yes, but the revenue is needed by Laurentian.

735 Q. And presently you've got 15 percent of that revenue without needing to offer the course, and what you're looking at is basically getting the other 85 percent while actually needing to offer the course, correct?

MS. MILLER: Objection. That's mischaracterizing the evidence that's been given.

BY MR. CAZA:

736 Q. You are not offering the course and you get to keep 15 percent of the tuition and the grants that are being provided to the Federated Universities for offering the course.

Is that misexplaining the evidence --

MS. MILLER: Yes.

BY MR. CAZA:

737 Q. -- Mr. Haché? If it is, correct me. Mr. Haché, correct me if that's wrong.

MS. MILLER: I stated an objection because his evidence on the record, which we can read back, if we find the reference, is that the 15 percent is in respect of all of the services and everything that is provided by Laurentian. That's what the 15 percent is retained in respect of. His evidence was that 100 percent of the revenue currently is received by Laurentian and 85 percent is paid.

BY MR. CAZA:

738 Q. Okay. And I guess the -- my understanding is you're not going to be -- the work that you're doing for which you're getting 15 percent, you're still going to need to do that work and offer those services for these courses if you end up -- if these students end up taking your courses, correct?

A. Yeah. The services still need to be provided. I think the important correction is that we are not offering additional courses.

The students will take existing courses and so there's no additional cost to the course delivery for Laurentian.

739 Q. You are hoping the students will take the existing courses, is that fair? You have not done any -- you have not approached any of the students; you've done no -- any kind of polling; you are just assuming; you're hoping that, is that fair?

A. No. The courses that are available as electives and for the programs exist at Laurentian. They are courses that are offered. Students will have the opportunity to choose and take those courses as they complete their program. And --

740 Q. What are the courses?

A. They're already on the books. They're already offered.

741 Q. And those are courses --

A. And they have capacity.

742 Q. -- that were offered when those students decided to take the course at the Federated Universities and they preferred or wanted to take a course at the Federated Universities, correct?

A. I can't comment on their specific motivation, but they're courses that were offered.

743 Q. Now, if I go to paragraph -- okay, one second please, just go off the record.

-- OFF-THE-RECORD DISCUSSION --

BY MR. CAZA:

744 Q. Mr. Haché, if we can go to paragraph 189, you say:

"I am advised by Jonathan Mair of the DIP Lender, and do verily believe, that the DIP Lender has made clear that the satisfaction of this Condition to Funding is essential to the DIP Lender's willingness to advance further funds under the Amended DIP Facility."

I understood you to say that you had never contacted anyone from the DIP Lender directly. So is this -- did you misspoke here?

A. No, I said I had never had a conversation. I didn't say there wasn't electronic communication. That was communicated to me by the DIP Lender through counsel.

745 Q. So you didn't say through

counsel. You say, "I am advised by Jonathan Mair". You didn't say through counsel.

A. Well, it's a letter that was communicated to me through -- I believe it came through counsel, yes.

746 Q. So have you got that letter?

A. I would assume that we do.

747 Q. The letter was sent to you. I just want to understand. You're saying you were advised by Jonathan Mair, so he wrote the letter to you?

A. He wrote the letter to me and it came to me through counsel, I believe.

MS. MILLER: Just to correct so that we're not going down a rabbit hole here, Mr. Caza. I believe what Mr. Haché -- Dr. Haché is referring to is an email confirmation of the fact in 189, but we will confirm that, and if it's different than as I have described, then we will certainly produce it.

BY MR. CAZA:

748 Q. Actually if you can just send me a copy of the email so we can see the email. I'm a little concerned. Is the email addressed to you or is it addressed to Mr. Haché?

MS. MILLER: I believe -- again, I don't want to assume, but I believe it is addressed to both of us, but I will verify that.

BY MR. CAZA:

749 Q. Well, why don't you go take a look. We don't have a lot of time left. How long -- can you undertake to give me a copy of that email?

U/A MS. MILLER: I will take that under advisement. I'm happy to take a break and speak to it after, if you like.

BY MR. CAZA:

750 Q. I don't have a lot of time left, so I would just like to continue here.

Jonathan Mair, Mr. Haché, do you know who that is? What is that person's role at the DIP Lender? Do you know? Is he legal counsel or is he the actual DIP Lender?

A. I don't have a specific recollection of his title. I'm sure that would be in the email communication.

751 Q. And is that the only email that you -- that you're describing here that you received that was sent to you? Is that the only email that was sent to you from the DIP Lender?

A. Over the course of the past several months. Most certainly there are other communications with the DIP Lender that we have had that have come through counsel to me, yes.

752 Q. So I think I made this request already and if I have, I apologize. I want to be provided, Ms. Miller, I want all of the correspondence, emails, exchanges that you, anyone on your team, or anyone at Laurentian University has had, either to or from the -- anyone working either working for the DIP Lender or his legal counsel.

R/F MS. MILLER: Yes. And I believe we've refused that and I've referred you to the request that was made at the case conference before Justice Morawetz for an examination of the DIP Lender. And the endorsement that was made was to make all requests in respect of that through the Monitor.

BY MR. CAZA:

753 Q. Okay, thank you.

Are we to understand, Ms. Miller, that if we make that request, the Monitor will provide the documentation?

MS. MILLER: No, that's not what I've

said. I've said that the written requests for information are to go through the Monitor. The Monitor will consider them, I'm sure, and ask us, as applicant's counsel, what our position is and we'll deal with it accordingly.

BY MR. CAZA:

754 Q. And what will be your position?

MS. MILLER: I don't know because I haven't seen the questions, but let's follow what the endorsement was that was issued by Chief Justice Morawetz and we'll go from there.

BY MR. CAZA:

755 Q. That was quite the confidential process. All I'm asking is to be provided -- you are relying on what the DIP Lender is saying in order to force the hand of the court to accept to bring to an end the agreement between Laurentian University and the Federated Universities, and you're taking the position that you don't even know if you're going to consent or agree?

And, in fact, you don't need the permission of the court. The applicant could send us all that information. I'm asking you to send it to me. I'm asking you to send me that

information.

MS. MILLER: And I disagree with the characterization of forcing the court's hand and I disagree with everything that you've said. And you have our position on that request.

BY MR. CAZA:

756 Q. So you don't consider it forcing the court's hand when you say, Hey, look, this DIP Lender -- this DIP Lender has a condition here that we have to bring to an end all of the agreements between Laurentian University and the Federated Universities? A DIP Lender that I have -- we have no doubt has very little, if any, knowledge of how Federated Universities work. And all of a sudden he's got this condition and we've got an affidavit where he's spoken to the Rector saying, Oh, if I don't get that, we're not going ahead.

MS. MILLER: We are getting into legal argument.

MR. CAZA: And I apologize for that.

BY MR. CAZA:

757 Q. If we can go to paragraph 192, Mr. Haché?

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

done nothing.

MS. MILLER: Mr. Caza.

BY MR. CAZA:

759 Q. You've made no effort.

MS. MILLER: Please, if you have a question, allow him to answer. And he has given evidence on that point, so allow him to answer your question.

BY MR. CAZA:

760 Q. You've asked me to let him answer the question and I agree. So if he can answer the question.

A. I would ask to restate the question just so I can be sure what's being asked here. There's been a lot that's gone on.

761 Q. The question is pretty simple. You've sworn under oath that LU has made every effort within its financial constraints to smooth the transition for the Federated Universities. I want you to tell me everything, every effort you've made to do that.

A. So I have had, since last June, an open-door conversation with the presidents of the Federated Universities about how we can go forward. And I have said I am available to them

at any time. Sometimes they've chosen to engage, other times they have not.

We have also, as demonstrated with Huntington University, come to agreeable terms for Huntington to move forward and for Laurentian University to move forward in a manner that is mutually acceptable.

I would say that's a tangible demonstration of the willingness of Laurentian University to work with the federated partners.

762 Q. I don't know, somebody could say that's a tangible example of intimidation that has been successful, but we can argue that one later.

I do want to ask you, because I don't think you've answered my question, we're talking about efforts to smooth the transition. The transition is you having made the decision that you want to end the relationship. What have you done to smooth the transition of you ending that relationship? Tell me what you've done?

A. We have made an offer on how to facilitate the continuation of services and so forth. I think it is outlined in our materials in terms of should -- in going forward, how can

we make this transition from a federation to no longer a federation as smooth as possible, recognizing that we are intertwined in a locational sense and have certain shared services and so forth and how can we go forward on that?

And as recently as earlier this week, Father Meehan contacted me on how to continue IT services and I referred him to our IT department to look at what could be done with respect to a service level agreement around IT, as an example.

763 Q. Are you telling me, because I haven't heard this at all, are you telling me that you were contacted by John Meehan? I'm just trying to understand what you're saying.

A. That's correct.

764 Q. Who was telling you that one of the things he presently needs is continuation or he needs IT services, correct?

A. Yeah, email and so forth. And he would be interested in negotiating an arrangement with Laurentian post May 1st. And I very rapidly responded and indicated that we would be happy to engage in that conversation

and work out a solution that would be amenable.

765 Q. And just so I understand, so presently, does everybody use the same email system?

A. Yeah. Presently Laurentian administers the email system and student learning system and so forth, and we have that as part of our -- I believe our service level agreement with Huntington University going forward. And we would look to use the same model with other federated institutions.

766 Q. Mr. Haché, I just want to know, today, nevermind -- today, Laurentian is -- basically there's a one-email system for all of the Federated Universities and Laurentian. It's one email system, correct?

A. I believe that is true and it is, you know, part and parcel of the administration charge that we've been talking about frequently.

767 Q. So that's part of the -- for example, the 15 percent that you're keeping, that's part of the services you're offering?

A. That is correct, part of the services provided.

768 Q. I'm just going to go off the

record for a second.

MR. CAZA: Mr. Haché and everyone, we're going to take a few minutes to review our notes to see if we have any more questions. And my friends from Thorneloe may have some questions, so we'll be back -- it will just take a few minutes.

-- RECESSED AT 3:40 P.M. --

-- RESUMED AT 3:43 P.M. --

BY MR. CAZA:

769 Q. I can tell you that I have further questions and they deal with the DIP Lender, and we're not looking for information, which is what the order basically says we get information from the Monitor, we're actually looking -- we need evidence. There is actual evidence.

Mr. Haché has confirmed there's been emails that have been exchanged. We want full disclosure. I think it's important in light of the position being taken by the applicant. So we are reserving our right.

We will have to decide what is the best way of proceeding to get access to all that information, which is essential, and we are

reserving our rights to obviously return to cross-examine once we get that information or that documentation, as well as once we get the answers to the undertakings and the under advisements that have been provided and we're, of course, reserving all our rights with respect to those.

Now, what I'd like to do, there is 15 minutes left. I don't know if my friends at Thorneloe may have some questions for you. Thank you very much, Mr. Haché.

A. Thank you.

MS. MILLER: I just wanted to respond. You had asked for an undertaking with respect to -- an undertaking given with respect to paragraph 50 of Dr. Haché's affidavit and we would like to provide the answer to that undertaking now and on the record.

Paragraph 50 of his affidavit related to:

> "Ideally, programs would be positive economic drivers for LU. However, LU also took into account that, for a certain subset of programs with a direct link to LU's mission,

such programs should operate despite not satisfying the self-funding threshold."

You had asked for an undertaking to advise if there was any single program that remained, notwithstanding that it fell below the economic or financial threshold, and I'd like to provide the answer to that undertaking as follows. And I'll provide this list of programs so that the reporter has it for the transcript.

There is one French language undergraduate program that was not cancelled, notwithstanding that it fell below the determined threshold. That program is Service Social, which has a total of 37 students across all four years of the program.

In addition, there are 12 other French language undergraduate programs where a financial ratio could not be calculated because the programs don't have a specific number of credits that are required to complete the program, which is one of the key inputs in determining the financial thresholds.

Twelve of these programs have very low enrollment and would not comply with the

thresholds if the programs required a dedicated number of credits. The French language programs in that category that continue to be offered with a direct link to Laurentian's mission, pursuant to paragraph 15 of Dr. Haché's affidavit, are and I'll read those other 12 programs in addition to the Service Social. The 4-year BA which has one student registered across all four years. The BA intro which has one student registered across all of the years. The Équité, diversité et droit de la personne which has one person registered across all four years. The Pré Service Social Ste-Anne which has one student registered across all four years. The Bachelor of Science four-year degree intro has two students registered across all four years. The BA three-year degree has three students registered across all three years. Biology has four students registered across all years. The Études interdisciplinaires has four students registered across all years. And the Online BA, the three-year degree, has four students registered across all three years. And the Éducation option two hybride has nine students registered across all years. And the

Service social Ste- Anne has 15 students registered across all years. And the Biochimie has 19 students registered across all years.

So that's the answer to the undertaking with respect to paragraph 50.

BY MR. CAZA:

770 Q. So I have two points. So that's -- I believe that's 13 courses in all, correct?

MS. MILLER: Programs. These are programs.

BY MR. CAZA:

771 Q. Programs. So how many programs are left at Laurentian University? I had the number. Was it 37 in French? Are you able to just confirm that?

MS. MILLER: We're just going to check.

MR. HANRAHAN: It's in the affidavit.

THE WITNESS: Yes, it's in the affidavit.

MR. HANRAHAN: Paragraph 57 of the affidavit.

MS. MILLER: So there are 38 remaining French language programs, but what I've

described, these are all undergraduate programs, and so let's just confirm if the 38 is all undergrad.

BY MR. CAZA:

772 Q. Mr. Haché, are you able to confirm?

MS. MILLER: We will get back to you on that.

THE WITNESS: We'll have to. If it's not 38, I think it's 35 because -- I don't know, we'll have to check whether it includes grad or not. They're stated in different ways in different places.

BY MR. CAZA:

773 Q. So what I understand from that is that you are not able to get some of the information you would have needed to do the calculation, but that the numbers, from what you've told me, are such that you may have not allowed those 13, which means that you would have cut -- instead of cutting I guess 27, you would have cut 40. And there would only be -- whatever, 25 courses left.

Could I have the documentation supporting the evidence that you've just

provided, Ms. Miller? All the documentation you Have that we could look at and study confirming all the information you've just provided to us?

U/T MS. MILLER: What I've just provided to you is the number of enrollments across all years and, yes, we will provide that. It was going to be provided to the reporter, in any event, and that lists the number enrollments across all years.

And so the answer to your question is these are ones that would have fallen below the financial sustainability threshold, but are nonetheless being retained because of the specific link to the mission, the bilingual nature of the university.

BY MR. CAZA:

774 Q. Could you -- what I want you to provide is the necessary criteria, just so I can understand. All you've done is given us information. I'd like to see the written criteria and any documentation to support basically any assessment or analysis that was carried out with respect to these 13 courses.

MS. MILLER: The affidavit covers that and the relief does not include an assessment of

the academic -- the information that you're asking for. So I think the process that was followed is set out in the affidavit. If there's something specific that you're looking for, then perhaps you could advise us and we'll take it under advisement --

BY MR. CAZA:

775 Q. I'm asking you now. All this information that you're giving me, where did you get that. That comes from where?

MS. MILLER: From the Registrar.

BY MR. CAZA:

776 Q. Okay. So the Registrar is looking at what? His notes? Documents? What is he looking at? He doesn't remember that by heart. I want all the documents.

MS. MILLER: These are enrollment numbers, Mr. Caza, that I've just provided to you for those courses.

BY MR. CAZA:

777 Q. So those are enrollment numbers that you obtained from the Registrar for those courses. And if we look at the formula that was provided in the affidavit of Mr. Haché, all of those courses don't meet the criteria, which is

basically for French courses, all of the -- basically the costs not outweighing the revenue, with the revenue including any special grants, is that correct?

MS. MILLER: If you were looking at it as a purely financial analysis, then based on the enrollment numbers in those courses, that's what the undertaking was, that's what the question was, and that's the information that's been provided.

THE WITNESS: Could I correct that we're talking about programs and not courses.

BY MR. CAZA:

778 Q. Thank you, Mr. Haché.

If I can ask you a question that flows from that? Don't you get any money from the federal government? I didn't see -- maybe I'm missing something, but don't you get a substantial amount of money through government Canada departments and agencies for the offering courses and programs in French?

MS. MILLER: That's addressed in paragraph 54 of Mr. Haché's affidavit.

BY MR. CAZA:

779 Q. And that's the extent of it?

There's no more than what you've set out in paragraph 54?

MS. MILLER: If there's something specific that you want to ask Mr. Haché that's in his affidavit, then I'm just trying to be helpful and show you that there's a reference there in paragraph 54.

THE WITNESS: We also discussed it earlier in one of the exhibits where you went through the different grants and how they were allocated to the various institutions that included a bilingualism grant. And, yes, in the financial calculation, I believe we stated this earlier as well, that in the financial calculation for the sustainability of programs, the grant funding is included in the calculations such that it's understood that French language programs require fewer students to be sustainable because there are additional special purpose grants for those programs. And that is all included in the calculation and it's detailed in the affidavit.

BY MR. CAZA:

780 Q. Mr. Haché, you have provided in your affidavit all of the information pertaining

to all of the grants that you're obtaining for offering services or programs and courses in French. It's all in your affidavit, correct?

A. I believe that is true.

MR. CAZA: Okay. So subject to what I've already advised you, that's the end of my cross-examination. I invite Mr. Yiokaris, if he has any further questions.

MR. YIOKARIS: Thank you, Mr. Caza.

CROSS-EXAMINATION BY MR. YIOKARIS:

781 Q. Good afternoon, Mr. Haché, I'm counsel for Thorneloe. I will be asking you some questions. Mr. Caza has been very thorough, so I don't anticipate to be very long, maybe 20 minutes or so. And I'm not going to go over the same areas that he went over, but I do have some targeted questions in some of those areas, thank you.

How is my voice?

A. I can distinguish what you're saying, yes.

782 Q. As I read your evidence and hearing in your evidence today, loosely I understand part of the motivation for terminating the Federation Agreements is to --

those students who were enrolled in the Federated Universities, then Thorneloe, would then now be taking those courses -- would now be taking other courses at Laurentian, and Laurentian has the capacity and courses to take those students.

Now, what I'm curious about is in the future. A couple of years from now, 5 years from now, 10 years from now, do you have any studies or surveys to confirm that Laurentian will retain those total enrollment levels in the future if you terminate the Federated Universities?

A. So certainly the Laurentian programming that we offer, the programs that are cited at Laurentian University, there is both historical information in terms of the attraction of students, there is demographic information in terms of the demographics in our region and what that will mean for student applications going forward. And there is other modeling in terms of how do we continuously improve our offerings and make it attractive to students? So there's a lot of work that's done in terms of, you know, for the future, how do we

ensure that we maintain and even -- against demographics grow our enrollments.

783 Q. My question was much more specific than that. My question is terminating the federations. Have you done studies and modelling to ensure or to see whether you'll be able to retain those enrollment levels in the future?

A. So the studies and modelling that we have done focus specifically on Laurentian programs and students that are registered in Laurentian programs and, yes, project the, you know, the healthy maintenance of these programs going forward. We're not -- you know, there's a substantial academic reorganization that has just gone on. We are not intent on redoing that every few years.

784 Q. Right. But do those projections include and those studies include if you terminate the Federated Universities?

A. So we have not specifically looked at the programming that is offered by the Federated Universities that would be closed as a result of the termination of the federation.

Whether we retain the students that

have come for those programs, whether students that have come for those programs would come to other Laurentian programs, you know, that's a very small number of students, first of all, and it's not included nor is it -- not included in the calculations.

785 Q. I'm talking about those students who are taking these elective courses at the Federated Universities as well.

A. We anticipated --

786 Q. Also future students. Have you done any modelling to say now that you've terminated them, what the retention levels will be given these terminations?

A. We don't believe the retention levels of students in Laurentian programs will be materially affected by eliminating the opportunity for electives at the Federated Universities.

787 Q. But that's what I'm getting at. On what basis do you believe that? Have you done studies? Have you done student interviews? Have you gone into the high schools to ask students if this will affect them and affect their decisions?

A. Based on overall enrollment planning and based on what we're hearing from students, yes, in terms of students interacting with program directors and deans.

788 Q. So prospective students, you've gone out and sampled them and surveyed them? Do you have that reported anywhere?

A. We have not done a formal survey of prospective students until we know that -- what is happening.

789 Q. So you haven't done any formal surveys or studies to see whether the retention in total enrollment levels will stay the same if the Federated Universities are terminated, correct?

A. That is correct. What we do know is the majority of students do not make any distinction between Laurentian and a federated institution. Most are not even aware of whether they're taking a course that is offered by Laurentian or a course that is offered by a federated institution. They see the whole thing as Laurentian, and so my expectation is they will continue to see it all as Laurentian.

790 Q. Which students have said that?

Do you have a name or a survey or a data base of that?

A. No, it is anecdotal for the most part. But it is heard broadly from students when you talk to them. And if you wish -- I would ask -- if I were you, I would ask the leaders of the student associations who will confirm that.

791 Q. Well, sir, you are the one who are making that statement and I don't see anywhere where you've listed the students that have actually been canvassed.

In contrast, I'm sure you've seen at Exhibit, I believe it's C or D, of Mr. Gibaut's affidavit, he's spoken to dozens and dozens and dozens of students who say it is material to them, of the termination.

And what I'm looking for is not anecdotal double, triple hearsay that you've heard. I'm asking if you've got any studies or reports. And as I understand your evidence, no, you don't. You've just got some double or triple anecdotal hearsay evidence, correct?

A. We do not have any formal reports to that effect, yes.

792 Q. Thank you.

MR. HANRAHAN: The evidence you're referring to in that affidavit and the statements are similarly anecdotal and hearsay.

MR. YIOKARIS: Counsel, unless it's an objection, please don't interrupt, thank you.

BY MR. YIOKARIS:

793 Q. In terms of the list of courses, now, I'm sure you're aware that Thorneloe offers courses in gender studies, ancient studies, and religious studies?

A. Yes, I'm aware of that.

794 Q. And does Laurentian have equivalent courses?

A. I don't believe that we do.

795 Q. So, for instance, and I'm just going to list off a few courses. For instance, 1006, Greek Civilization, is there an equivalent one being offered at Laurentian?

A. I don't know, but -- I don't know. I would imagine not.

796 Q. 1007, Roman Civilizations?

A. Again, the same answer. I don't have the full course list, but I imagine that we don't duplicate.

797 Q. 2016, Classical Mythology, same answer?

A. Same answer.

798 Q. 2036, the Ancient World in Film, same answer?

A. Yes.

MR. HANRAHAN: You're obviously free to conduct this how ever you like, but I suspect if you ask Dr. Haché his answer is going to be the same for every course you're listing because he doesn't have the information in front of him.

BY MR. YIOKARIS:

799 Q. Thank you, counsel, I appreciate that and I will continue on.

2046, Sport and the Ancient World, same answer?

A. I believe so.

800 Q. 2136, Greek and Latin Roots of English, same answer?

A. I believe so.

801 Q. 4416, Greek History, Athens and Sparta, same answer?

A. I believe so.

802 Q. 2116, Introduction to Classical Greek, same answer?

A. Yes.
803 Q. 2115, Introductory Latin, same answer?
A. Yes.
804 Q. 2216, Religion and Violence, same answer?
A. Yes.
805 Q. 2246, Women, Religion and Spirituality, same answer?
A. Yes.
806 Q. 3107, The Pauline Letters and the New Testament, same answer?
A. I believe so.
807 Q. 3166, Mark's Gospel, same answer?
A. Yes.
808 Q. 3306, Issues in Religion and Time, same answer?
A. Yes.
809 Q. 1005, Introduction to Women and Gender Studies, same answer?
A. Yes.
810 Q. 2006, Women as Visual Artists, A Women's Art History, same answer?
A. Yes.
811 Q. 2036, Gender, Work and Families,

same answer?

A. I believe so, yes.

812 Q. 3046, Gender, Race and Racism, same answer?

A. Yes.

813 Q. 2296, Gender Issues and Education?

A. Yes.

814 Q. 2406, Violence Against Women?

A. As best I know with the information I have in front of me, yes.

815 Q. Okay, thank you.

You've read the Farber Report, correct?

A. The Farber Report?

816 Q. Yes, it's part of our material. I believe you indicated in your affidavit that you had read that report?

A. If I said I have, I have. I'm just not recognizing the name at the moment.

817 Q. It's by Allan Nackan. You say at paragraph 180 of your second affidavit:

"I have reviewed the Disclaimer Motions including [...] the Nackan Affidavit."

A. Yes, if it says I verified it, that was correct. Do I remember the particulars of that affidavit at this present time, I'm afraid it's escaping me.

818 Q. It was just served, I believe on Monday, and you just swore this affidavit on Wednesday. So if you've forgotten, you've forgotten, but --

A. There have been, you know, thousands of pages of materials in the last week. So I don't have --

819 Q. Okay.

A. I've looked at everything, but I don't have a specific recollection of this one, I'm sorry.

820 Q. Okay. I'm going to bring it up on the screen. I just want to go over a few sections quickly.

A. Thank you.

821 Q. Is that appearing on your screen, Mr. Haché?

A. It is.

822 Q. Mr. Nackan, in his report, goes through a number of financial numbers and I just wanted to review some of them with you, because

even though you can't remember reviewing his report, specifically in your affidavit, you say he's misguided..

So at section 6.22 you say, Mr. Nackan says that Thorneloe received about 568,770 in grants, which is .66 percent of the total grants of approximately 86 million received by Laurentian. Are those numbers probably about right, as far as you know?

MS. MILLER: Objection. You're asking him to verify someone else's evidence?

BY MR. CAZA:

823 Q. Well, he's in charge of this university and I'm understanding he should know these numbers. He's given a lot of these numbers out in his affidavit. I want to know if he's contesting these numbers or if he's got any different information.

MS. MILLER: Well, first of all, these are not his numbers and he's just mentioned to you that he's read thousands of pages of information and now you've put a number to him and asked him if it's correct. It's found in someone else's affidavit. It does not appear to me to be something he would know off the top of

his head, in fairness.

BY MR. YIOKARIS:

824 Q. Well, I would suggest he does. He's the one in charge of Laurentian and these are figures about his university and about the federation. I would submit to you, he should. I mean, if he doesn't know, that's fine, but it's a proper question.

So if you're going to object, I will take that refusal, but I would like to pose it. If he doesn't know, he doesn't know.

A. I cannot verify whether that's correct or not with the information I have in front of me.

825 Q. And similarly at 6.23, Mr. Nackan says that in 2020, Thorneloe's revenues from tuition were only 1.5 million whereas Laurentian received 50.5 million in tuition. Do you know if those numbers are about right?

A. Again, I can't verify the numbers, but they are what is written there.

826 Q. First of all, do you know if Laurentian received about 50.5 million in tuition into 2020? Do you know that?

A. Yeah, I think within 10 million

that's about -- that's -- it's ballpark, yes.

827 Q. Okay. And then in the first one that I went over before, how about the 86 million received in total grants in 2020, is that ballpark right?

A. Yeah, I think that is, you know, within -- it's within the area, I would believe, yes. I can't -- I don't have at the end of a long day specific recollection of those exact lines, but, yes.

828 Q. Okay. And then finally at section 6.24, Mr. Nackan says that Thorneloe employs only 7 full-time faculty, whereas Laurentian employs 355 full-time faculty. And that the salary and benefits paid by Thorneloe to its faculty members was approximately 2.4 million, whereas Laurentian paid 134 million to its faculty members during that same period. Is that in the ballpark?

A. Oh, I can verify that we employed 355 full-time faculty members. That's in the affidavit, we went over it today. I can't verify any of the other three figures.

829 Q. So you don't know how much Laurentian paid its faculty members?

A. Off the top of my head, I don't have that figure in front of me. I mean, it's probably in the affidavit somewhere, but asking me off the top of my head, no, I can't verify. I simply -- I would be guessing.

830 Q. Okay. But even a ballpark, you don't know within 10 million if that's right or not?

A. I think I've answered the question. I don't know.

831 Q. Okay. Now, as I read your affidavit, I understand you to state that the revenue gained by terminating the federated agreement and the Thorneloe agreement is crucial to Laurentian's successful restructuring.

Now, you'd agree with me that you don't have degree in accounting, correct?

A. That is correct. I have a degree in biochemistry.

832 Q. And you're not a financial analyst, correct?

A. I am not a certified financial analyst, no.

833 Q. And has Laurentian done financial models to see how Laurentian would operate in

the future if it kept the Federated Universities post the LUFA and LUSU concessions that were recently reached?

A. So I think all of our financial modelling is comprised of a complex series of inputs. We've talked about LUFA. We've talked about LUSU. You've got the management employees. You've got the federated institutions plus, plus, plus a number of things that I haven't mentioned. And what one needs to understand is that building a sustainable university going forward requires the sum of all of those inputs. And, you know, it is like, you know, building blocks, and if there's a block missing then the whole thing doesn't work.

And that's what we were saying in this affidavit that the sum of all the different things, and we talked about it earlier as well, there were questions on it, but the sum of all of the different things are needed in order for the university to move forward.

And, you know, they will have greater or lesser contributions, but all are necessary.

834 Q. With respect, sir, that wasn't responsive to my question. I asked, does

Laurentian have financial models to see how Laurentian operated in the future if it kept the Federated Universities post the LUFA and LUSU concessions? Has it done that to see whether it could be financially viable, given all these other concessions to keep the Federated Universities? Has somebody sat down to do that modeling to see what that would look like?

A. It is not financially -- the point is, it is not financially viable to keep the Federated Universities in the context of all of the modeling that we have done. And I think I've answered the question.

835 Q. No, you haven't answered my question. I'm asking is there modelling done to see what Laurentian finances would look like, how it would operate in the future if it kept the Federated University?

A. I think the modelling that has been done indicates that Laurentian is only financially viable with the totality of the changes that are needed. And that is an answer to your question, I believe.

836 Q. Well, no, no, it's not.

I'm asking if somebody sat down and

plugged in saying, keeping the Federated Universities post these concessions, what would the financial picture look like?

A. People have sat down with the sliding scale around all the different components and moved the sliders this way and that way to try to understand what a financially viable institution is. And what you have at the end of the day is the position that we've put forward.

837 Q. Okay. Can I have a copy of the financial modelling of what the finances would look like if the Federated Universities were kept in post the LUFA and LUSU concessions? Can I have a copy of that?

MS. MILLER: We've already gone over that. The objection was already previously noted and I think what you've heard is that it is a matrix. First of all, it's a draft. It's a matrix of all of the component parts. And I think we previously have registered an objection on the record in terms of the draft work that's been done.

BY MR. YIOKARIS:

838 Q. Fair enough. And those

objections also carry on to me. But I just wanted to make sure that no one actually sat down and did one specifically that would include the Federated Universities. I kind of understood his testimony, it wasn't clear to me whether there was one or not, but if you're objecting to it, that's fine, I will take the refusal and move on?

MS. MILLER: Yeah, I think it was previously answered.

BY MR. YIOKARIS:

839 Q. So I will take that refusal.

At paragraph 55 of your second affidavit, Mr. Haché, if you can turn to that?

A. Okay.

840 Q. There you talk about that:

"Although the Federation Agreements express a 'hope' that the federated relationships will be permanent --"

A. I'm sorry, you're saying paragraph 55?

841 Q. Sorry, paragraph 155.

A. I'm sorry, I was at -- I was at paragraph 55. Okay, I have 155 now.

842 Q. The second sentence there, you write:

"[...] relationships will be permanent, the parties always recognized that the Federation Agreements might be ended at some point."

And then you talk about it as being an aspirational goal later on in that paragraph, right?

A. That is the way I interpret the word "hope".

843 Q. Okay. So let's go to Exhibit P of your first affidavit.

A. Exhibit P, that will take a minute.

844 Q. This is the actual Federation Agreement from back in 1962. And Mr. Caza already went over the Federation Agreement, but I just have one or two points here.

A. I'm just going to try and find that. That would be Exhibit P, yes, I have it. Thank you.

845 Q. And if you can turn to clause 12, please?

A. Going down to number 12. There we are.

846 Q. And that agreement provides:

"Both Laurentian University and Thorneloe 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 a conviction, as you know, means a firmly held belief, correct?

A. Yes, and I understand what hope means as well. And we have -- the federation has lasted for 60 years. That's a very long time.

847 Q. But this is not just a hope. It's a firm hope and a conviction, right?

A. It is. But it is a hope and a conviction, yes. It is an aspirational goal, as we've described.

848 Q. Okay.

A. And the aspiration was maintained for 60 years.

849 Q. Okay. Well, let's see how you described it in your first affidavit, so if you

can go back to your actual first affidavit at paragraph 88, please?

A. Yes.

850 Q. Here you write:

"Laurentian and Thorneloe entered into a Federation Agreement in 1962 [...]."

A. Sorry, I had the page 88, not the paragraph. Apologies, it's getting late. Taking me a little longer to react to these things. Okay, here we are.

851 Q. Okay:

"Laurentian and Thorneloe entered into a Federation Agreement in 1962 [...] a copy of which is attached hereto as Exhibit 'P'. The LU-Thorneloe Federation Agreement contains a provision stipulating that the relationship between Laurentian and Thorneloe will be permanent, and the success of the relationship is to be predominantly fostered through 'mutual cooperation and goodwill', rather than any formal agreements."

So here you don't mention anything

about hope or aspirational. You come right out and say, just like the document does, that it'll be permanent, correct?

A. I think we've just clarified by looking at the original document about the firm hope and conviction. I think, you know, those are the -- that's very correct if the word hope is missing from paragraph 88, I apologize.

852 Q. Okay. Well, we can agree to disagree.

Now, back at paragraph 155 of your second affidavit that we were looking at before, you gave an example about why you thought it may be ended one day. And one of the things that you said in there was because the indentures support your belief:

> "Indentures also include specific provisions for what happens to the Federated Universities' Land and buildings in the event that a party 'withdraws' from the Federation Agreement."

Correct?

A. That's what is written there, yes.

853 Q. And now if we are at Exhibit Q of your first affidavit again, and here's a copy of the indenture or the lease, as I'll call it, with Thorneloe.

A. Exhibit Q, which I have.

854 Q. Right. Dated October 1964. If you can go to clause 2. And clause 2, you'd agree with me that this is a 99-year lease?

A. Yes. Let me say in response to the lead up to this question that you said -- you first talked about should the withdrawal from the federation occur. So I think that inherently reinforces my point that while there is a hope of a long-term federation, there are provisions for should the federation fall apart by one party or another wanting to discontinue.

855 Q. Sir, I haven't asked you -- that's not the question I asked. The question I asked is with respect to the lease. You agree with me that there is a 99-year lease?

A. I agree that there's a 99-year lease and there is a provision to end the lease in advance of 99 years as well.

856 Q. And you'd agree with me that clause 5 also provides the right of renewal for

another 99 years, taking it to about the year 2161, correct?

A. Yes, I think it's 60, but, yes. Or 63 to 61, yes. But as I said, there's also clause in terms of should one want to get out of the lease or should Thorneloe want to get out of the lease.

857 Q. I'll get -- right, thank you. So it's not the parties who can withdraw, but it's that Laurentian may withdraw, right? That's what clause 6 talks about? Your affidavit was a little vague and talked about the parties withdrawing, but I don't see anything in this agreement referencing Laurentian being able to withdraw. It just mentions Thorneloe being able to withdraw, correct?

A. Well, it said -- it explicitly indicates that while the relationship, there is a hope for it to be permanent, there are mechanisms in place, in this case specifically should Thorneloe wish to withdraw.

858 Q. I'm talking about the lease.

A. In the lease, that's what I'm saying.

859 Q. I'm talking about the lease right

now. In the -- in your affidavit, you had mentioned that the lease contemplates that the parties may withdraw from the federation.

A. It does. And I don't believe we are disclaiming the lease.

860 Q. No, no, no, I know, but I'm asking specifically about the lease. Where does it say there -- where does it contemplate that Laurentian may withdraw from the federation in this lease document?

A. Okay. So I believe somewhere in the lease it indicates that the lease may be terminated should Thorneloe cease to meet certain expectations within the lease.

861 Q. And none of those terminations -- issues of default have occurred here, right?

A. I didn't hear the last part, sorry.

862 Q. That Thorneloe isn't in breach of this lease, correct?

A. Yeah, if Thorneloe becomes in breach of the lease, it may be terminated, yes.

863 Q. But it doesn't talk about Laurentian withdrawing from the federation, correct?

A. Well, it doesn't talk about Laurentian disclaiming the federation, which is what we're doing.

864 Q. Okay. Thank you.

Now, as I understand it, four DIP Lenders were initially approached regarding the DIP. Is that your understanding --

A. I think four DIP Lenders originally approached us.

865 Q. Four DIP Lenders originally approached you?

A. Four DIP Lenders expressed an interest in potentially providing a DIP to Laurentian University.

MS. MILLER: So that's not confusing on the record, just to correct so there's no confusion and you're not going down a road of operating on an incorrect fact. You're talking about the prefiling period in which case DIP Lenders were approached by us on behalf of Laurentian, not the other way around. The DIP Lenders would not have known about the pending CCAA filing obviously.

BY MR. YIOKARIS:

866 Q. Thank you, counsel. I'll take

the evidence from Mr. Haché. Unless you're objecting, please -- please don't interrupt. Mr. Haché said he was kept informed of all of these DIP negotiations and I don't want to put you in a position of being an advocate and giving evidence, thank you.

A. Counsel is expressing it correctly. And if I misstate it, then it should be corrected.

867 Q. As far as you know, what was the extent of the approach?

A. Well, again, I was not directly involved, and so we followed advice of counsel and worked through counsel.

MS. MILLER: I'd like to direct him to his affidavit where he addresses that.

BY MR. YIOKARIS:

868 Q. That's directed at paragraph 29 of the first Monitor's report.

MS. MILLER: Well, he also swore evidence on it, so perhaps you could direct him to his affidavit?

BY MR. YIOKARIS:

869 Q. I don't know if he actually swore evidence on that point, but I know it is in the

first Monitor's report.

A. I believe it does as well. I couldn't say exactly where, but I believe it does.

870 Q. So let's talk about what you do know about this, okay? Why was this -- do you know why this particular DIP Lender was selected over the other three?

A. Because they offered the most favourable terms.

871 Q. Okay. And, counsel, I'm assuming that the objections you made before also include -- because I'd like to ask for undertaking to provide a copy of draft term sheets and correspondence or documents relating to the negotiation of the DIP and these other potential DIP Lenders?

MS. MILLER: I think if you refer to his affidavit evidence on the exact points you're addressing, which are in his first affidavit, paragraphs 339 to 352.

BY MR. YIOKARIS:

872 Q. I'm happy to take a break or I should be done in about five minutes.

Counsel, I've asked for an undertaking

to provide a copy of any draft term sheets and any correspondence or documents relating to the negotiation of the DIP and these other potential DIP Lenders. May I have that undertaking?

R/F MS. MILLER: No, that's refused.

BY MR. YIOKARIS:

873 Q. Did any of the other DIP Lenders, Mr. Haché, as far as you know, expressly require the termination of the federated agreement?

A. I have no knowledge that allows me to answer that question.

874 Q. Okay. So at Exhibit Z, and we don't have to turn to it, but at Exhibit Z of your second affidavit is a loan amendment agreement with the DIP Lender, dated April 19th, 2021.

Now, for the DIP extension, were the three other potential lenders, referenced in your first affidavit, approached or consulted? Do you know if that's the case?

A. I believe it says -- in the first affidavit it indicates that the DIP Lender has a priority on additional DIP lending and counsel can probably elaborate on that further.

875 Q. Sir, I'm saying that whenever you

went to get additional funding, right, because Laurentian got the 25 million and you needed 10 million more. To get that 10 million more, do you know if you ever went back to the other three potential DIP Lenders?

A. What I'm saying is that the conditions of the original DIP loan indicated that the DIP had a priority on any future DIP loans.

876 Q. Right. But --

A. That's what I know of the situation.

877 Q. Right. But what I'm asking is, if any other DIP Lenders, including these three potential DIP Lenders, were consulted about this additional 10 million funding? Like, were they canvassed? Do you know that?

A. As I said, the DIP Lender that we have had a priority and so I believe we went to that DIP Lender first, as we were expected to do.

878 Q. I'm not asking if you went to them first. I'm asking if you consulted any of the other three DIP Lenders?

A. I don't believe that we did. I don't know the answer to the question, no. To be specific, I'm not sure what the answer. I don't know. I suspect not, but I don't know. I'm not the person to ask that question.

879 Q. And when was the term mentioned by the DIP Lender about the Federated Universities having to be terminated? When was that term first mentioned by the DIP Lender? As far as you know, is that in the April 19th letter?

A. It was -- as far as I can recall, it was in the draft term sheet that I saw.

880 Q. And when did you see that draft term sheet?

A. Oh, you know, it's somewhere in the last two weeks. Again, specific date and time, so many documents, I couldn't say for sure.

881 Q. Okay. So somewhere in the last two weeks. They certainly said it on April 2019, so sometime maybe in the week before that?

A. Well, sometime around April 19th. I couldn't be more specific honestly, I'm sorry.

882 Q. And, counsel, just to confirm that that was also covered as part of the refusal, correct, the draft term sheet, as I recall?

MS. MILLER: Is the question that you want an answer to whether the first draft of the term sheet for the amendment that was provided by the DIP Lender included a term that related to the disclaimer of the Federated University?

BY MR. YIOKARIS:

883 Q. No. My question was going to be if I can have an undertaking to have a copy of that draft term sheet provided about the $10 million extension. And as I understood it, that was already refused. I just wanted to make sure that that was encompassed by the refusal that was given earlier.

MS. MILLER: Yes, that the refusal relates to providing copies of drafts, but if the question that you want to ask is whether the -- you know, whether from the outset in respect of the negotiation of the amendment, the condition relating to the disclaimers of the federated agreements was contained in there, then that's a separate question.

BY MR. YIOKARIS:

884 Q. Yeah, I've already asked for all the negotiations and documents with respect to any DIP Lenders and that you've already told me about 10 minutes ago is already refused. So I'm going to continue on.

MS. MILLER: Well, that is refused. I'm just trying to assist you by saying if your question is narrower and you want to know the answer to that question, then I'm -- that's a different question.

BY MR. YIOKARIS:

885 Q. I've asked Mr. Haché the questions I need to ask him and he's given me his evidence. Thank you.

Did Firm Capital ever provide you, as far as you know, Mr. Haché, any modelling of detailed financial analysis as to why the termination of the three Federated Universities was essential to the extension?

A. I have not seen anything to that effect from Firm Capital, no.

886 Q. Thank you. Now, paragraph -- and again, this you don't have to turn to, but I can tell you that paragraph 161 of your second

affidavit, you state Laurentian is not extinguishing the right of Thorneloe and the other Federated Universities to exist.

You would agree with me though that if the agreements are terminated with Thorneloe, that Thorneloe would suffer financial consequences?

A. I imagine they would, yes.

887 Q. And would you also agree with me that this would likely cause the bankruptcy of Thorneloe?

A. I can't say that. I don't know the inner details of the finances of Thorneloe or any other plans they may have.

888 Q. So you wouldn't -- you don't know that they would likely become bankrupt, is what you're saying?

A. I'm saying I don't have access to the information that would allow me to draw a conclusion there.

889 Q. All right. Okay. Now, when was Ernst & Young first engaged even before the Monitor?

A. So we engaged Ernst & Young, my recollection is, in September of 2020 to assist

us in some financial analysis of our financial issues because I felt it necessary to go externally.

890 Q. And when was the decision made to file for CCAA protection?

A. The day before we filed.

891 Q. The day before you filed. So you're telling me all that motion material that probably took somebody weeks to prepare was done in 24 hours?

A. No. I'm saying you asked me when the decision was made and I believe we had a Board meeting the day before and the Board of Governors of Laurentian University, which has the authority to make that decision, made the decision to proceed on the eve of when we filed.

892 Q. Okay. And when was the decision made that Laurentian would likely be pursuing a CCAA? Not when it was approved by the Board, but when you thought and believed that it looks like we're going to have to go the route of the CCAA. Like when did you have that term in your head where you thought, forget about what the Board approved, but where you thought, yes, we're going to have to file for CCAA protection?

A. I would say pretty much at the same time. We were investigating all possibilities for a resolution. CCAA was not a decision of no choice or no other choice.

893 Q. So you're saying that in your head that you didn't make up the decision to file for CCAA, but that was likely what was going to happen, until the day before the filing happened? That you prepared all this detailed material and in your head it was still, I'm not sure if we're going to file until the day before?

A. Well, it was, you know, one has to do one's preparations, but as I said, we were investigating all possible ways not to go down this pathway. And, you know, it is the sort of thing that at the 11th hour you realize there is no other way.

894 Q. So you instructed counsel and you instructed Ernst & Young to do all this preparatory work, which cost a substantial amount of money, and you still weren't sure up until the day before filing?

A. I mean, the -- we're always hoping and trying to -- we were trying to avoid

this right up until the end, yes, but that doesn't say, you know, you don't prepare. You do prepare, but you also try and find any other eventuality that -- any other path forward that you can because this is not a desirable path. This is a path of no choice.

895 Q. Okay. Well, let me the phrase it this way, when did you think the CCAA was probable? Not --

MS. MILLER: I think he's answered the question a couple of times.

BY MR. YIOKARIS:

896 Q. Okay. If that's his answer to the question, that's his answer. Okay. Those are my questions, subject to answers to undertakings and refusals.

I just want to be clear that the number of objections that Mr. Caza had said particularly with respect to the DIP documentation and refusal to produce documents, we reiterate and support full, whole, all of those. Thank you.

MS. MILLER: And I want to ask the reporter if we could impose on you, I know it's going to take some time even on an expedited

basis to turn around the transcript, would it be possible to get a list of the under advisements and undertakings and refusals so that counsel for the parties could review those as quickly as possible and see if we can't advance those as quickly as possible.

--- Whereupon the examination was 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.

PER: HELEN MARTINEAU
CERTIFIED SHORTHAND REPORTER

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TAB 1(B)

Cross-Examination of Dr. Robert Haché Held Virtually via Neesons on April 23, 2021

Item	Pg./Q.	Type UT/UA/R	Description	Answer
1	189-190 Q. 498	UT	To respond to any questions regarding the Cash Flow Forecast, once filed.	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. 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.
2	190 Q. 499	UA	To respond to any questions regarding the multi-year forecast, if filed in respect of the motion.	Laurentian is not filing any multi-year forecast on this motion, and to date only a draft of same exists. 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.

Item	Pg./Q.	Type UT/UA/R	Description	Answer
3	191 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 draft 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. The document referenced above which will be attached as an Appendix to the Monitor's Report will address this point.
4	254-255 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 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 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.

TAB 1(C)

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

REFUSALS AND UNDERTAKINGS CHART
CROSS-EXAMINATION FOR DISCOVERY OF ROBERT HACHÉ, HELD APRIL 23, 2021

(ONLY LISTS THOSE REFUSALS NOT RESPONDED TO BY LAURENTIAN)

ONLY LISTS THOSE REFUSALS NOT RESPONDED TO BY LAURENTIAN AFTER THE CROSS-EXAMINATIONS

	Refusals					
	Refusals to answer questions on the cross-examination of Robert Haché ("Haché") dated April 23, 2021					
	Issue & relationship to pleadings or affidavit *(Group the questions by issues.)*	**Q. No.**	**Page No.**	**Specific question**	**Answer or precise basis for refusal**	**Disposition by the Court**
1.		115	38	To allow Haché to access the information as to how much was spent on professional fees, and to produce same. Despite going to court asking for $10 million more in DIP funds, Haché, the Rector of LU, did not know how much had been spent on professional fees, or how much of the $25 million DIP loan previously advanced was drawn to pay for professional service fees. He expects it would be more than a million dollars. When it was put to him that the amount spent is actually in excess of $5 million or more than 20% of the $25 million, he could not confirm same. Haché believed he had access to the amount spent in professional fees (as he received an email with an update from last week and downloaded same). Despite that, Laurentian refused to allow Haché to access that information. (see generally, pg. 33-45, q. 95-125)	[No response provided by Laurentian after cross-examinations.]	

2.		519	198	To produce all correspondence between Laurentian and its lawyers (or the Monitor) that were exchanged with the DIP Lender or any of its representatives. Other than the written term sheet produced, there has been no direct communication between Haché and the DIP Lender. Communications have all gone through counsel. He has not spoken to the DIP Lender via zoom or the telephone, does not believe he has exchanged emails directly with the DIP Lender, and does not believe he has seen emails exchanged between Laurentian's lawyer and the DIP Lender. Despite this, Laurentian refused to produce any correspondence between Laurentian's lawyers (or the Monitor) exchanged with the DIP Lender or any of its representatives. (see generally, p. 196-199, q 510-519, and p 289, q 752)	[Not provided. See also "Laurentian's Position on Responses to Thorneloe's Questions for the DIP"]	
3.		749	288	To produce a copy of the correspondence from Jonathan Mair of the DIP Lender supporting Haché's evidence at paragraph 189 of his second affidavit that Jonathan Mair made clear to him that the Agreements with the Federated Universities must be terminated by May 1, 2021. At paragraph 189 of his second affidavit, Haché writes "I am advised by Jonathan Mair of the DIP Lender, and do verily believe, that the DIP Lender has made clear that the satisfaction of this Condition to Funding is essential to the DIP Lender's willingness to advance further funds under the Amended DIP Facility." At his cross-examination, Haché confirmed that there has been no direct communication between himself and the DIP Lender. Communications have all gone through counsel. He has not spoken to the DIP Lender via zoom or the telephone, does not believe he has exchanged emails directly with the DIP Lender.	[See April 21, 2021 email sent at 10:40 a.m.]	

				Further, at pages 197-198, question 518, Haché indicated that he does not believe he has seen emails exchanged between Laurentian's lawyer and the DIP Lender. Despite that evidence, Haché later on in his cross-examination indicated that he also believes that Jonathan Mair of the DIP Lender wrote a letter to him through counsel confirming the evidence at paragraph 189 of his second affidavit. (see generally, p 286-288, q 744 to 749; and p. 196-199, q 510-519; and p 289, q 752)		
4.		871-873	335-336	To produce a copy of any and all draft term sheets and correspondence and documents relating to the negotiation of the original DIP, including the conditions, and the new conditions for the amended DIP. As indicated in Haché's First Affidavit and the Monitor's First Report, Laurentian's counsel approached four potential DIP Lenders regarding providing a DIP Loan. Haché did not know if the other DIP Lenders expressly required the termination of the Federated Agreements.	[Not provided. See also "Laurentian's Position on Responses to Thorneloe's Questions for the DIP"]	
5.		871-873	335-336	To produce a copy of any and all draft term sheets and correspondence and documents relating to the negotiation of the DIP, with any other potential DIP Lenders, including the three referenced in the material. As indicated in Haché's First Affidavit and the Monitor's First Report, Laurentian's counsel approached four potential DIP Lenders regarding providing a DIP Loan. Haché did not know if the other DIP Lenders expressly required the termination of the Federated Agreements.	[Not provided. See also "Laurentian's Position on Responses to Thorneloe's Questions for the DIP"]	

April 28, 2021

KOSKIE MINSKY LLP
900-20 Queen St W
PO Box 52
Toronto ON M5H 3R3

Andrew J. Hatnay - LS#: 31885W
ahatnay@kmlaw.ca
Tel: 416-595-2083 / Fax: 416-204-2872
Sydney Edmonds - LS#: 79946K
sedmonds@kmlaw.ca
Tel: (416) 595-2260 / Fax: (416) 204-4936

SUPREME ADCOVACY LLP

Eugene Meehan, Q.C. - LS#: 29046T emeehan@supremeadvocacy.ca
Tel: (613) 695-8855 / Fax: 613-695-8580

Lawyers for Thorneloe University

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

Court File No.: CV-21-656040-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

REFUSALS AND UNDERTAKINGS CHART

KOSKIE MINSKY LLP
20 Queen Street West, Suite 900, Box 52
Toronto, ON M5H 3R3

Andrew J. Hatnay - LS#: 31885W
ahatnay@kmlaw.ca
Tel: 416-595-2083 / Fax: 416-204-2872
Sydney Edmonds - LS#: 79946K
sedmonds@kmlaw.ca
Tel: (416) 595-2260 / Fax: (416) 204-4936

SUPREME ADCOVACY LLP

Eugene Meehan, Q.C. - LS#: 29046T
emeehan@supremeadvocacy.ca
Tel: (613) 695-8855 / Fax: 613-695-8580

Lawyers for Thorneloe University

TAB 2(A)

Laurentian CCAA

John Gibaut
on Friday, April 23, 2021

77 King Street West, Suite 2020
Toronto, Ontario M5K 1A1

neesonsreporting.com | 416.413.7755

Court 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

--- This is the Cross-examination of JOHN GIBAUT taken by Neesons, a Veritext Company, via Zoom virtual platform, on the 23rd day of April, 2021.

REPORTED BY: Helen Martineau, CSR

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

D.J. MILLER, Esq., & ANDREW HANRAHAN, Esq., & FRASER HUGHES, Esq.	for the Applicant
ANDRÉ CLAUDE, Esq. & RON CAZA, Esq.	for University of Sudbury
PETER J. OSBORNE, Esq.	for the Board of Governors of Laurentian University of Sudbury
EUGENE MEEHAN, Q.C. & DEMETRIOS YIOKARIS, Esq. & ANDREW J. HATNAY, Esq.	for Thornloe University
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: JOHN GIBAUT
Cross-examination by Mr. Hanrahan.....6

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:
NONE.

INDEX OF ADVISEMENTS

The questions/requests taken under advisement are noted by a U/A and appear on the following page/line: 6/10; 63/3.

INDEX OF REFUSALS

The questions/requests refused are noted by R/F and appear on the following page/line: 14/17; 27/6; 55/25.

INDEX OF EXHIBITS

NO./	DESCRIPTION	PAGE
1	Article entitled "Despite senate rulings, there's no money to restart cancelled Thorneloe programs, president says", published by Sudbury.com, May 26. 2020.	67

--- Upon commencing at 7:24 p.m.

MS. MILLER: My objection on the record is to having Pierre Riopel, the president of the University of Sudbury who is being deposed at 9:00 a.m. tomorrow, sitting in and attending on this cross-examination of Mr. Gibaut, the president of Thorneloe. I have put that objection on the record, and I maintain that objection.

And my objection includes, you know, relaying to the deponent, who is being cross-examined tomorrow at 9, the evidence that's given in this cross-examination of Mr. Gibaut this evening.

MR. CLAUDE: I'm not going to dwell on this all evening. I certainly will sit in on this cross-examination. To the extent where Mr. Yiokaris, it may prejudice your cross-examination -- well, not your cross-examination but the cross-examination of your witness, we don't want to create unnecessary conflict.

I certainly don't see what you're talking about. I hear your point, but anyway on that basis, unless somebody insists otherwise,

Pierre Riopel.

[Speaking French]

I just told the witness -- not the witness but Pierre Riopel, that he should disconnect from this call.

MS. MILLER: Thank you. And I assume that the second part of my request is also respected in terms of the relaying of information from the examination this evening?

U/A MR. CLAUDE: I'll take that under advisement.

MS. MILLER: Thank you.

JOHN GIBAUT: AFFIRMED.

CROSS-EXAMINATION BY ANDREW HANRAHAN:

1 Q. Evening, Mr. Gibaut.

A. Good evening Mr. Hanrahan.

2 Q. Is it mister or doctor?

A. Doctor.

3 Q. Dr. Gibaut, thank you for joining us at 7:30 on a Friday night.

So you understand that you're here to answer questions regarding affidavits that you swore on April 19th in support of Thorneloe's motion opposing the disclaimers that were -- or opposing the disclaimer that was delivered by

Laurentian University?

A. Yes, I do.

Q. And do you have a copy of your affidavit in front of you today?

A. Yes, I do.

Q. And did you have a chance to review the affidavit again before you appeared here today?

A. Yes, I did.

Q. And were there any changes or corrections that you wanted to make to the affidavit?

A. No, I don't think so. No.

Q. You stand by the contents of your affidavit today?

A. I do.

Q. And you've been sworn to tell the truth today?

A. Yes.

Q. Okay. If we could just turn to page 23 of your affidavit, and that's your signature on that page?

A. It is.

Q. Thank you. And did your lawyer draft your affidavit?

A. In collaboration with me, yes.

Q. So your lawyered drafted it and you reviewed it and provided comments?

A. Correct.

Q. Do you also have a copy of Thorneloe's Motion Record in front of you?

A. Yes.

Q. And do you have both the original Motion Record from April 15th and the Supplemental Motion Record from April 19th?

A. Supplemental is my affidavit, I believe.

Q. Correct.

A. Yes.

Q. Actually it's your affidavit and the affidavit of Mr. Nackan although we won't be referring to that today, I don't think.

Dr. Gibaut, you're a priest in the Anglican Diocese of Ottawa, is that right?

A. That's correct, and I serve currently under the license of the Archbishop of Algoma where Sudbury is.

Q. And you have a directorate in theology from the University of Trinity College?

A. Correct.

17 Q. And what year did you obtain that?
A. I graduated in 1994.
18 Q. And do you have any other post-secondary degrees?
A. Yes, I have a Master's degree and I have a Bachelor's Degree, all -- both from the University of Toronto a well.
19 Q. And what are those degrees in?
A. My undergraduate was a degree in history with an area of medieval, and my master was a Master of Divinity from Trinity College in the University of Toronto.
20 Q. You are currently the president of Thorneloe University?
A. Correct.
21 Q. And you were appointed to that position by the Thorneloe Board of Governors?
A. Correct.
22 Q. And how did you come to be appointed president of Thorneloe?
A. I was approached in the summer of 2018 by the chair of the selection committee, so I was approached directly by Thorneloe to consider my candidacy.

23 Q. Did you know the chair of the selection committee?
A. No, I didn't.
24 Q. And how was it that they came to approach you?
A. I have no idea.
25 Q. They reached out out of the blue?
A. Well, they probably reached out people who knew people who would have the experience for this kind of position.
26 Q. Okay. And was that June 2019 that you were appointed president of Thorneloe?
A. First of June 2019, correct.
27 Q. And you weren't employed by Thorneloe in any capacity before that?
A. No.
28 Q. So, Dr. Gibaut, it's accurate to say Laurentian and Thorneloe have been in a federation since 1962, correct?
A. Correct.
29 Q. And that arrangement is pursuant to a Federation Agreement that was signed between Laurentian and Thorneloe?
A. Correct.
30 Q. And that agreement was signed in

1962?

A. Yes, it was.

31 Q. And you told me a few minutes ago that you joined Thorneloe for the first time in 2019, correct?

A. Correct.

32 Q. So obviously you weren't at Thorneloe when that agreement was signed?

A. In 1962?

33 Q. Correct.

A. No, I was four years old.

34 Q. Fair enough. So you'd agree with me that other than reading the words of the agreement, you don't have any personal knowledge as to what the parties intended in the Federation Agreement?

A. There is a very good history that I have right in front of me done ten years about the history of Laurentian. That book was given to me long before I started. That was a very important -- that was an important source for me to know.

I am a historian, as I mentioned earlier, and one of the things I certainly had done since I have been there is gone through all

sorts of documents and talked to people; talked to people in the community, talked to people who are graduates, listened to my colleagues.

35 Q. And the book you referred to, what book is that?

A. This is a book for the 50th anniversary of Laurentian University, called "Laurentian University: A History".

36 Q. And does that book talk about the Federation Agreement?

A. It does indeed. It talks about -- yes, it does.

37 Q. I would like to turn to your affidavit, turn to paragraph 17. Paragraph 17 -- sorry, are you there?

A. Yes.

38 Q. In paragraph 17 you say:

"Thorneloe's Federation Agreement, entered into in 1962, states the intention to be bounded into a permanent federation arrangement:"

Do you see that?

A. I do.

39 Q. And then you quote -- in that

same paragraph you quote from paragraph 12 of the Federation Agreement, and that quote includes the language:

"Both Laurentian University and Thorneloe University declare and express the firm hope and conviction that the relationship between the Universities established in this agreement will be a permanent one [...]."

Do you see that?

A. Yes, I do.

40 Q. You'd agree with me that expressing a hope to do something is not the same as expressing an agreement to do something, correct?

A. I'm not sure. This was a signed agreement, so it's more than just aspirational if it's signed.

41 Q. Well, they -- when they signed the agreement you're agreeing to the words on the page, right?

A. Hmm.

MR. YIOKARIS: And, counsel, in fairness to the witness, it says "firm hope and

conviction". It just doesn't say a hope.

MR. HANRAHAN: Right. I'm just asking about the word "hope" right now.

MR. YIOKARIS: Sorry, I thought you were quoting the section.

BY MR. HANRAHAN:

42 Q. So "hope" and "agreeing" are two different concepts, right?

A. I think "hope" is about intention. It's not the same as the word "wish".

43 Q. If I asked two friends to dinner and one of them says, I hope to be there and one of them says, I agree I'll be there, my expectations about what those two friends are going to do would be different right?

R/F MR. YIOKARIS: I'm not going to let him answer questions about hypotheticals or about friends you had over for dinner.

MR. HANRAHAN: Well, I don't think it's a hypothetical in the sense of putting it to an expert. I am asking him for his understanding of these terms.

MR. YIOKARIS: Yes, and you can ask him what he understands those words to mean, and

he has answered that so you can ask him again if you like.

MS. MILLER: This is a cross-examination. He doesn't have to ask him open-ended questions. He can ask whatever he likes.

MR. MEEHAN: That's not the case. He cannot ask whatever he likes. That is absolutely not true.

MS. MILLER: Maybe you can refer to Mr. Caza's statements on the record earlier today.

MR. MEEHAN: We're dealing with this witness.

MR. YIOKARIS: You have our position on the question about Mr. Hanrahan's two friends at dinner that we're not going to be answering that question. But you are free to ask other questions about his understanding of the word "hope" in this context.

BY MR. HANRAHAN:

44 Q. Let's do that. Why don't we pull up the Federation Agreement, which is Exhibit A to the Edmond's affidavit which is in the April 15th Motion Record.

Just let me know when you have it in front of you.

A. I do.

45 Q. Talking generally for a second, this is the Federation Agreement between Laurentian and Thorneloe. Are you familiar with this agreement?

A. I am.

46 Q. You've reviewed it before?

A. Yes.

47 Q. And you reference it in your affidavit, correct?

A. Yes.

48 Q. Okay. Now, why don't we turn to paragraph 3 of the Agreement.

MR. YIOKARIS: What tab is that agreement at again?

MR. HANRAHAN: That is tab -- Exhibit A to the Edmond's affidavit.

MR. YIOKARIS: Thank you.

BY MR. HANRAHAN:

49 Q. So looking at paragraph 3, we start at the beginning of the paragraph there, it says:

"Laurentian agrees to continue

all its faculties, schools, institutes, departments and chairs now established in accordance with the provisions of the Act of Incorporation of Laurentian University, and Thorneloe University shall be entitled to give instruction in Theology and Philosophy in accordance with the Acts of Incorporation of Laurentian University and Thorneloe University."

Do you see that?

A. I do.

50 Q. And you'd agree with me that this paragraph is an important component of the Federation Agreement, right?

A. Yes.

51 Q. And in this case, in this important provision in the Agreement, the parties used language "agree", didn't they?

A. They do.

52 Q. They say, "Laurentian University agrees to do this", and "Thorneloe University shall be entitled to give instruction."

Do you see that?

A. Yes.

53 Q. And that's different than the language we looked at in paragraph 12, correct?

A. It is.

54 Q. Why don't we look at paragraph 8? Paragraph 8 says:

"Laurentian University shall allocate and reserve land within its campus that Thorneloe university may acquire and upon which Thorneloe 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 Thorneloe University and Laurentian University."

And you agree with me that this is also an important provision of the Federation Agreement?

A. Yes.

55 Q. And here the parties have used

the language "Laurentian University shall", right?

A. Uhm-hmm.

56 Q. And again that's different than the language that they've used in paragraph 12, which refers to expressing a hope and conviction, correct?

A. I think the language is "firm hope and conviction".

57 Q. Fair enough.

A. And they declared it and express it.

58 Q. But that's different than someone saying that you shall do something, correct?

A. It's a different kind of a paragraph. It's function within the document is very different than the preceding paragraphs.

59 Q. When you say it's functionally different, what do you mean by that?

A. It's the final paragraph leading to the signatures.

60 Q. And why would that affect the words that are chosen in the agreement?

A. I don't understand your question.

61 Q. Well, I was just trying to

understand the distinction that you were making between the language used in paragraph 8 and paragraph 12.

A. The previous paragraphs you're looking at specific issues. The 12 -- that final paragraph is looking at a relationship and the quality of the relationship.

62 Q. Do you agree with me that the language "shall do something" is more definitive than expressing a hope and conviction?

A. No.

63 Q. Well, "shall" indicates that someone will do something and is required to do something, right?

A. Not necessarily. They would have used the word "require" or "will". "Shall" is also another form of future tense.

64 Q. The implication of "shall" is that something will be done, right?

A. I would say the same thing is the true about when one declares and expresses firm hope and conviction. I don't see the difference in language.

65 Q. Okay. Well, we may have to agree to disagree on that concept, but I will move on.

You'd agree with me that when the parties wrote this we can assume that they chose the words that they used in the agreement with purpose, right?

A. I'm sorry, I missed your last words.

66 Q. You would agree with me that when the parties wrote this agreement they would have chosen their words with purpose, right?

A. I would expect they would have, yes.

67 Q. Now, in addition to the Federation Agreement, Laurentian and Thorneloe also have an Indenture Agreement, right?

A. Yes.

68 Q. And pursuant to that indenture agreement, Thorneloe leases land to -- leases land from Laurentian, correct?

A. Correct.

69 Q. Let's pull that up. I don't know if the witness has that available to him.

A. I don't have it available. I've seen it. I don't have it available.

70 Q. Counsel, if you can pop it up on the screen?

-- OFF-THE-RECORD DISCUSSION --

BY MR. HANRAHAN:

71 Q. Do you have it open?

A. I do.

72 Q. Okay, so Dr. Gibaut you now have the document in front of you?

A. Yes, 26th of October, 1964.

73 Q. And do you recognize the document?

A. I do. It's been a while since I've seen it, but I recognize it.

74 Q. You have seen it before though?

A. Yes.

75 Q. So this is the indenture we were referring to earlier between Laurentian and Thorneloe?

A. Uhm-hmm.

76 Q. Sorry, just for the reporter's benefit, you just have to use yes or no so she can get it on the transcript.

A. Yes, yes. Thank you for that. Yes.

77 Q. So this indenture sets out the terms by which Thorneloe leases land from Laurentian, correct?

A. Correct.

78 Q. And similar to the Federation Agreement, this document being from the 1960s, as we discussed earlier you were not at Thorneloe when the document was signed, correct?

A. Yes, I was not there.

79 Q. So I'd like to just take you to paragraph 6 in the agreement, which is on the second page. And if you look at paragraph 6 it says:

"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 the federation with the lessor."

Do you see that?

A. Uhm-hmm.

80 Q. So you would agree with me that this provision says that the lease can be void if Thorneloe withdraws from the federation, correct?

MR. YIOKARIS: Counsel, I'm not going to let him opine on the interpretation of documents. These are legal interpretations.

He hasn't attached it as an exhibit to his affidavit, nor do I believe he has, in his affidavit, put an interpretation of this document. So unless you can pinpoint me in the affidavit where he has given an interpretation of this document, I'm not going to allow him to opine on a legal interpretation.

MR. HANRAHAN: Sorry, I'm not asking for his legal interpretation of the document. I'm just asking him to tell me how he reads this document, and it doesn't have to be something that is referenced in his affidavit. I can put this to him. He said he is familiar with the agreement and he's seen it before. I can ask questions of him.

MR. YIOKARIS: I just don't want him to be giving any interpretations about this particular document. But, sorry, please, what was your question?

BY MR. HANRAHAN:

81 Q. My question was just, would you agree that this provision says that the lease can be void if Thorneloe withdraws from the federation? Which I think is what the words on the page say.

MR. YIOKARIS: Well, it says what it says.

BY MR. HANRAHAN:

82 Q. Right. So I'm asking him if he sees that provision and he reads that provision?

MR. MEEHAN: But the provision says a lot more than that, with respect. It doesn't just say that.

MR. HANRAHAN: I'm not sure what you mean by that.

MR. MEEHAN: Well, read the provision out and you'll see that it says more than what you say it says. Just as before, you were quoting to him the word "hope" and omitting the word "firm" and "conviction", please quote the whole part that is here. Please be fair to this witness.

MR. HANRAHAN: I'm happy to have the witness read the whole paragraph. I don't think it's relevant to my question, but if he'd like to read it he can do that. I didn't read it because it's not relevant to what I'm asking him about.

83 Q. Dr. Gibaut, would you agree with me that this provision refers to the lease being

voided if Thorneloe withdraws from the federation?

A. That's what it says, yes.

84 Q. So in other words, this agreement is explicitly contemplating that there might be a scenario where the Federation Agreement between Laurentian and Thorneloe comes to an end, correct?

A. I don't know. I would have to compare it to other forms of legal contracts like a marriage, which is intended, but there are also other things that stipulate if such a marriage contract should dissolve. There is this permanency and there is a clause like this.

85 Q. I'm not sure that you would have to consult any other documents. This document talks about a scenario where the lease could be voided if Thorneloe withdraws from the federation. We disagreed on that proposition, and if --

MR. YIOKARIS: No. Hold on. He agreed that the document says what it says. Again, I'm not going to allow him to be interpreting and giving what is tantamount to a legal interpretation of a document. It says

what it says.

BY MR. HANRAHAN:

86 Q. Well, I disagree that it requires a legal interpretation. I mean, are you refusing the question?

R/F MR. YIOKARIS: Yes.

BY MR. HANRAHAN:

87 Q. Dr. Gibaut, there is a Financial Distribution Notice that is in effect between Laurentian and Thorneloe, correct?

A. Correct.

88 Q. And you may or may not want to have it in front of you when I ask the questions, but you're welcome to. It is Exhibit C to the Edmond's affidavit.

And the Financial Distribution Notice sets out the terms for the distribution of operating grants and tuition from Laurentian to Thorneloe, correct?

A. Wrong document.

89 Q. Sure, take your time if you need a minute.

A. I have the document.

90 Q. Have you seen it before?

A. Yes, I have.

91 Q. You're familiar with it?
A. Yes, I am.
92 Q. And so my question from a moment ago was, this notice sets out the terms for the distribution of operating grants and tuition from Laurentian to Thorneloe, correct?
A. Yes, it does.
93 Q. And so this agreement has been in effect since May 1st, 2019?
A. Can I ask a question?
94 Q. Sure.
A. This is not an agreement. There's only one signature on this -- on this funding formula.
95 Q. Well, that may be getting into the legal questions that your counsel wanted to avoid earlier so I can rephrase it, if you like.
This document has been in effect since May 1st, 2019, correct?
A. Correct.
96 Q. And I think we discussed earlier that you had become president of Thorneloe in June, June 1st, 2019?
A. That's correct.
97 Q. So when you became president of

Thorneloe, this Financial Distribution Notice was already in effect?

A. Yes, it was.

98 Q. And I would like to just turn to paragraph 20 of your affidavit. Just let me know as soon as you're there.

A. I'm there. What paragraph?

99 Q. Paragraph 20.

A. On page 20, yeah.

100 Q. No, I'm sorry, paragraph number 20, page 9. Paragraph 20.

A. (Witness reading the document.) Yes.

101 Q. So in paragraph 20 of your affidavit you say:

"[...] Laurentian unilaterally revised the terms of the agreements but the Federated Universities without proper re-negotiation by all parties."

A. Yes.

102 Q. And this is referring to the Financial Distribution Notice replacing the previous funding agreement from 1993, correct?

A. Correct.

103 Q. Now, since we just established a

moment ago that you weren't at Thorneloe when the Financial Distribution Notice went into effect, what is your basis for that statement?

A. Well, I arrived a month after it was in place. It was the major topic on the table of the Board of Governors, of the Executive Committee. It was -- our Board of Governors had been -- had been in discussion with Laurentian trying to stop this.

So this is very much listening to the members of our governance bodies, senior administrators. It was very fresh in people's minds and memories.

104 Q. So when you say in paragraph 20 that this was done:

"[...] without proper renegotiation by all parties."

That's based on what other people have told you because you weren't actually at Thorneloe when this happened?

A. Correct.

105 Q. And who specifically did you speak to about it?

A. I spoke to our chair of the Board of Governors. I spoke with other federated

leaders, senior staff within -- within Thorneloe.

My principal sources of information though would have been from the Executive Committee of Thorneloe and the Board of Governors.

106 Q. And what specifically do you recall from those conversations?

A. I recall the frustration of not being able to negotiate something together. I recall the frustration of the Laurentian not dealing with the three federated partners together but separately.

I remember there being no transition from the earlier formula to the present formula, that it was a decision of the Laurentian Board of Governors. It was made in-camera after some hours of conversation.

107 Q. Anything else you remember?

A. Like what sort of thing are you looking for?

108 Q. Just any details they might have told you about this notice and its coming into effect?

A. I think it marked for our

governance bodies a low point in the relationship with Laurentian. It was something imposed upon us, not discussed with us.

109 Q. So when you had these conversations, of all the people that you spoke to, none of them mentioned that there were meetings between senior leaders at Laurentian and Thorneloe to discuss the changes being made before this went into effect?

A. There were conversations about that. I don't recall anyone talking about any changes that were to be made.

110 Q. What do you understand those conversations were about?

A. I don't know.

111 Q. You just know that there were discussion about something between Thorneloe and Laurentian?

A. Yes. What I do know -- well, I remember members of the Board trying to object to the formula that was proposed. I remember that as being topics of meetings but those were hardly negotiations.

112 Q. And it's fair to say that both Laurentian and Thorneloe have been operating

under the terms of this agreement since May 2019, right?

A. We have indeed, yes.

113 Q. If we just look for a second back to the Financial Distribution Notice, if you could just turn to schedule B, if we look at the second paragraph it says:

"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."

Do you see that?

A. Yes.

114 Q. And so that's referring to the transfer of tuition funds from Laurentian to Thorneloe, correct?

A. Correct.

115 Q. Dr. Gibaut, is it fair to say students taking programs offered through the Federated Universities are Laurentian University students?

A. They are all Laurentian University students.

116 Q. So when students are looking to take a program at Thorneloe, they actually apply to Laurentian, correct?

A. Correct.

117 Q. Not to Thorneloe?

A. Correct.

118 Q. And all admission decisions on Thorneloe's programs are made by Laurentian?

A. Correct.

119 Q. Thorneloe itself doesn't admit any students?

A. Not in any courses through the faculty of -- through the Faculty of Arts. It does through its own School of Theology, but that is under its own charter and granted by its own authority.

120 Q. Fair enough. Okay.

Thorneloe doesn't actually have any oversight of admissions at all, does it?

A. Not at all.

121 Q. And Thorneloe doesn't register students?

A. No.

122 Q. Thorneloe doesn't have a Registrar?

A. No.

123 Q. And at the end of their program students who have taken a program through Thorneloe have a Laurentian degree not a Thorneloe degree, correct?

A. Correct.

124 Q. And I want to turn to paragraph 22 of your affidavit. And in paragraph 22 you are referring to the grant money that is transfer from Laurentian to Thorneloe and you say:

"The flow of funds to Thorneloe through Laurentian is intended and the funds do not belong to Laurentian."

Do you see that?

A. Yes, I do.

125 Q. But isn't it true, sir, that there are no provincial funding grants provided by the province to the Federated Universities?

A. Federated Universities are reimbursed through Laurentian for the teaching it does, so it goes through Laurentian. That's what a federated university is.

126 Q. So the grants go to Laurentian. All provincial grant money goes to Laurentian

and none is directly sent to any federated university, correct?

A. For the courses that it teaches and the students that it teaches.

127 Q. And the province doesn't allocate money specifically for the Federated Universities?

A. No, it doesn't.

128 Q. And Laurentian only transfers the grant funds to Thorneloe and the other Federated Universities because of the Financial Distribution Notice, correct?

A. Correct.

129 Q. So when you say that the funds don't belong the Laurentian, that's not really correct, is it? The province allocates those funds to Laurentian.

A. To be passed on to Thorneloe, or the other Federated Universities for the teaching that they do for Laurentian students.

130 Q. That's not required by the province though, right?

A. I don't know.

131 Q. I would like to talk about Thorneloe's operations for a minute. So in

paragraph 24 of your affidavit you refer to the fact that Laurentian -- or you describe Laurentian and Thorneloe as "highly integrated"?

A. Correct.

132 Q. And then in paragraph 16 you mention the fact that they were intended to operate as a single university. Do you see that?

A. Yes.

133 Q. But Thorneloe actually operates independently in a lot of ways, isn't that right?

A. For example?

134 Q. It's managed by its own independent Board of Governors?

A. It is, yeah. Yes, it is.

135 Q. It operates some buildings?

A. It does.

136 Q. It has its own student residence?

A. It does.

137 Q. It has its own administrative staff?

A. It does.

138 Q. It's own faculty?

A. Yes and no.

139 Q. What do you mean by that?

A. They are employees of Laurentian University. They are deployed by the Faculty of Arts. They teach courses that are approved by the Faculty of Arts and the Senate.

140 Q. My understanding is that faculty are employed by Thorneloe, is that not correct?

A. Yes, they are employed by Thorneloe. "Deployed" was the word I used.

141 Q. In the sense that -- is what you're saying Laurentian directs where those employees are to teach courses? Is that what you mean by "deployed"?

A. Deployed would be the scheduling of courses is done through the Faculty of Arts. Courses that are offered or not offered are done through the Faculty of Arts. Thorneloe can't offer a course unless it's been through Faculty of Arts Council, the Senate and its subcommittees such as ACAPLAN, and approved by the Senate itself.

So the courses that our professors teach are, in effect -- we may offer them but they are Laurentian courses.

142 Q. And so that's why you say that

they are deployed by Laurentian?

A. Yes.

143 Q. But going back to my question, they are employed by Thorneloe?

A. That's correct.

144 Q. And they have their own labour union, LUFA, that is separate from Laurentian's?

A. It's -- it's LUFA, but it's a separate bargaining unit.

145 Q. And Thorneloe's staff and faculty are paid by Thorneloe?

A. They are.

146 Q. And Thorneloe has its own bank accounts?

A. It does.

147 Q. You manage your own money?

A. We do.

148 Q. You have your own financial statement?

A. Yes.

149 Q. Madam Court, Reporter what is a good schedule for you here?

-- RECESSED AT 8:14 P.M. --

-- RESUMED AT 8:26 P.M. --

BY MR. HANRAHAN:

150 Q. Dr. Gibaut, Thorneloe has three academic departments, is that correct?

A. That is correct.

151 Q. And those are Ancient Studies, Religious Studies and Women's Gender and Sexuality Studies?

A. That's correct.

152 Q. And separate from that there's also the School of Theology?

A. I beg your pardon?

153 Q. Separate from that there is the School of Theology?

A. Yes.

154 Q. And could we just turn to paragraph 4 of your affidavit. And I'm just looking at 4(a), and do you have that in front of you?

A. Yeah.

155 Q. And if we look at 4(a) that sentence refers to Thorneloe having approximately 140 programs and courses --

A. That's an error. It should say 140 courses.

156 Q. Okay. That was going to be my

question.

A. Yeah, yeah. I don't know how I missed that.

157 Q. So that reference should just be courses and that's 140 courses across all of the three --

A. That's right.

158 Q. -- academic departments? Or does that also include courses from the School of Theology?

A. No. The School of Theology has nothing to do with Laurentian University. We reference it here, but it's not part of the Federation Agreement.

159 Q. In terms of student head count at Thorneloe, is it fair to say for the last three years that the total number of full and part-time students enrolled in programs offered by Thorneloe has been slightly less than 100 students?

A. It depends on how you count students. How are you counting them?

160 Q. Well, there's I believe -- I can pull it up and it will take me a second -- an Exhibit to Dr. Haché's affidavit.

A. 96 is what he says in his affidavit.

161 Q. Okay. And do you count it differently than that?

A. Yes.

162 Q. In what way?

A. 96 refers to those students who are in our courses who are majoring. It doesn't take into account FTEs, which is full time equivalents which is also calculated by the number of elective students. I can't remember exactly what the number is, but when you hit six or seven students that gets -- that becomes an FTE. And it doesn't take into account the students that are -- we actually teach in our courses.

So that 96 doesn't take into account all the students who take us -- who do electives.

163 Q. So it's 96 students enrolled as majors who will have degrees in the programs that you offer?

A. That's correct.

164 Q. And I think -- I was just trying to find it. There is another number where I

think you refer to FTEs. Paragraph 31 refers to there being 297 FTEs?

A. Uhm-hmm.

165 Q. Is that what you were just referring to a moment ago?

A. Yeah.

166 Q. And that would encompass students who -- who are taking programs at Laurentian but take electives through courses offered through Thorneloe?

A. That's correct.

167 Q. Okay. And actually just sticking on paragraph 31 for a minute, that paragraph also refers to there being -- or refers to Thorneloe teaching 2,861 Laurentian students?

A. 2019-2020, correct.

168 Q. Right. And how was that 2,861 number calculated?

A. That was calculated looking at student enrollments through Ellucien which is the Laurentian program that monitors that sort of thing.

169 Q. And does the number represent every student who took at least one elective, either an elective or they're taking a degree in

courses offered by Thorneloe?

A. That number refers to the number of registrations in all of our courses in total. Now there may be some students who are taking two courses with us or three courses or ten courses or just one, but when you add up all the students enrolled in our courses, that's the number.

170 Q. So I just want to make sure I understand that. So if I'm taking a program at Laurentian but I take one elective course through Thorneloe, I'm included in this 2,816?

A. You are. Yes.

171 Q. If I am a student at Laurentian and I take three elective courses through Thorneloe, am I represented three times in this number or one time?

A. Yes, you are.

172 Q. Three times?

A. Yes, because you are in three courses.

173 Q. Okay. And if I took eight courses through Thorneloe's electives, I would be represented eight times, right?

A. Yes, and you would probably be

counted as an FTE.

174 Q. And so given that we just talked a moment ago about how there's I think it was 96 students enrolled in the programs offered by Thorneloe as -- for their degree, it's safe to say that the overwhelming majority of the 2,816 students in this number are enrolled in programs offered by Laurentian rather than Thorneloe, right?

A. That's correct.

175 Q. Okay. As we're discussing earlier about the Financial Distribution Notice, if a student is enrolled in a Laurentian program and they take a course as an elective through Thorneloe, the tuition revenue for that course is paid from Laurentian to Thorneloe, correct?

A. No, a portion of it is.

176 Q. So you're referring to the 15 percent --

A. Service fee, scholarship fee and other material fees.

177 Q. Understood. Okay.

Sorry, can we just go off the record for one second?

-- OFF-THE-RECORD DISCUSSION --

BY MR. HANRAHAN:

178 Q. So Dr. Gibaut before we took a break for a moment there, we were discussing the fact that if a student enrolled in -- in a Laurentian program takes an elective course that's offered by Thorneloe, the tuition revenue for that course is paid from Laurentian to Thorneloe. And you had clarified that to say that a portion of it was and there's a portion deducted as a result of fees, is that right?

A. Correct.

179 Q. Is it fair to say that if that same Laurentian -- that same student is taking a program through Laurentian did not take any courses through Thorneloe and took all of their electives through Laurentian, then all tuition revenue for that student would stay within Laurentian?

A. I have no idea.

180 Q. Well, it wouldn't go to Thorneloe and it wouldn't go to any of the other Federated Universities, is that fair?

A. Well, just remember that those 96 students who are majors, identifiable majors, those are Laurentian students. They're all

Laurentian students.

The comparison would be doing a major in Women Gender and Sexuality Studies in the Faculty of Arts and doing an English degree in the Faculty of Arts, in the same faculty.

181 Q. So maybe I'll clarify my question. So if I'm a student who's taking a program that is offered by Laurentian rather than Thorneloe, or a program offered by any of the other Federated Universities, and I take all of my electives through Laurentian rather than any electives through the Federated Universities, all the tuition revenue would stay within Laurentian; no tuition revenue from that student would go to any of the Federated Universities. Right?

A. I would think that is a fair assumption, yes.

182 Q. So every time one of the 2861 students we're talking about a minute ago, every time one of those students who is a student that is enrolled in a program that's offered through Laurentian, takes an elective course through Thorneloe, that is lost tuition revenue for Laurentian, correct?

A. I don't think so. Why would it be lost tuition?

183 Q. Well, I think we just discussed that tuition for those courses gets transferred over to Thorneloe when a Laurentian student --

A. Right, but earlier we talked about how provincial funding flows through Laurentian to Thorneloe.

184 Q. Let me put it this way. So if a student takes all of -- as I was saying a minute ago, if they take all of their electives through Laurentian, I think we agree that their tuition money would stay within Laurentian; it wouldn't go to any of the Federated Universities. Right?

A. Yes.

185 Q. But if that same student took several electives through Thorneloe, I think we have also discussed that tuition revenue for those courses also goes to Thorneloe?

A. Yes.

186 Q. So that represents -- in the first scenario I gave you, Laurentian gets X tuition dollars and keeps X tuition dollars; in the second scenario I gave you where they take classes through Thorneloe, there's now a portion

of X that's being transferred to Thorneloe?

A. Yes.

187 Q. And so that's lost tuition revenue for Laurentian, right?

A. That's a hypothetical question. A preceding question would be, would they have come to Laurentian without those elective options, first question.

Second question is that all of those students, no matter where they take their courses, are counted by Laurentian and that's part of the metrics that they share with the Ministry of Colleges and Universities, that they are all part of that corridor that Laurentian is trying so desperately to keep within.

188 Q. Well, respectfully I don't think it's a hypothetical. This is something that actually happens with these students, right? So there are probably, I'm sure, students that take all of their electives within Laurentian and there will be students that take some electives within Laurentian and some at Thorneloe.

And in the first case, Laurentian keeps all of their tuition revenue, and in the second case, a portion of their tuition revenue

goes to Thorneloe, right?

A. A portion is returned to Thorneloe for doing the teaching. This is not charity or a gift. You make it sound like something else.

189 Q. I'm not suggesting that it's charity, but it's -- it is a fact that if that student had taken courses taught by Laurentian then the money would have stayed within Laurentian, right?

A. Possibly. Possibly if those courses were offered at the Federated Universities, they might not have come to them in the first place or stayed. It's a hypothetical question.

190 Q. So Dr. Gibaut, are you aware that in fiscal year 2020 Laurentian transferred approximately 5.3 million?

A. You broke up there. I missed the first part of your question.

191 Q. Sorry, can you hear me okay now?

A. I can now.

192 Q. Are you aware that in fiscal year 2020 Laurentian transferred approximately $5.3 million in net tuition fees to the

Federated Universities?

A. That's the first time I've heard that. Recently Dr. Haché said it was 7.7. In his affidavit he talks about approximately an estimate of 5 million, and in his May -- his April 1st press release he spoke of millions. So I have heard a lot of different figures. I haven't seen anything substantiated.

193 Q. So maybe I'll clarify. I think I know probably the source of confusion. So I'm referring just to tuition fees with that number I just gave you, 5.3 million. The 7.7 that I believe that you're referring to from Dr. Haché includes grants and fees, plus the tuition number. That is how you get to the 7.7 I was talking about.

A. It's not that -- you have made that much more specific than he has.

194 Q. Okay. But you say you haven't seen anything -- this is the first time you're hearing that number?

A. This is the first time I've heard that number, and specified not grants just simply tuition.

195 Q. Why don't we talk about Thorneloe

specifically then? Could you turn to paragraph 54 of your affidavit.

A. Got it.

196 Q. And in paragraph 54 you've included a table here. Do you see that?

A. Yes, from Farber.

197 Q. You have anticipated my first question. So this a table that was prepared by Farber, who is your financial advisor, is that right?

A. Correct.

198 Q. And the numbers we're referring to here are for fiscal year 2020?

A. Yes.

199 Q. And it's your understanding that these numbers are accurate?

A. They are part of our financial statements that have been -- yup.

200 Q. And so if we look at the second line of the table, it reflects Thorneloe receiving tuition fees of 1,570,964. Do you see that?

A. Uhm-hmm.

201 Q. And so that represents the amount of tuition fees that were transferred from

Laurentian to Thorneloe in fiscal year 2020, correct?

A. Yup.

202 Q. And so in addition to that 1.5 million we were just looking at that's transferred, there's similarly grant -- amounts of grant money that are transferred from Laurentian to the other Federated Universities as well, right?

A. Correct.

203 Q. And just looking at the table again, the amount of grants transferred to Thorneloe in fiscal year 2020 is 568,771, right?

A. Uhm-hmm.

204 Q. And then in addition to that there are certain fees that are transferred from Laurentian to Thorneloe, is that right?

A. I think they're transferred the other way.

205 Q. Sorry, I'm looking at the -- I think you're thinking of the service fee line. I'm looking at the material fees line.

A. Oh right, yes.

206 Q. And so material fees transferred in fiscal year 2020 are 65,623, right?

A. Correct.

207 Q. And so if we add up those amounts that I was just taking you through for the tuition, the grants and the material fees in fiscal year 2020, that gives us approximately 2.2 million, is that right? I think that's reflected in the line that says "total".

A. That's what the report says.

208 Q. And then this is what we were discussing a few minutes ago. There's a service fee that Thorneloe pays to Laurentian, right?

And so if you net out the service fee, which is reflected here as $358,086, the total amount transferred from Laurentian to Thorneloe in fiscal year 2020 was $1,847,272, right?

A. Correct.

209 Q. And like we were discussing earlier, most of the 2,861 students that took Thorneloe courses last year were students that are actually enrolled in programs offered by Laurentian, right?

A. Yes.

210 Q. So if we look at -- go down a couple of paragraphs to paragraph 57 in your affidavit, where you say:

"Thorneloe does not cost Laurentian money."

That's not quite accurate, is it?

A. I don't see that. I don't see a paragraph 67 in my --

211 Q. Paragraph 57.

A. 57, thank you. What is your question?

212 Q. You say that Thorneloe does not cost Laurentian money and that is not quite accurate, is it?

A. Show me why.

213 Q. Well, because of the numbers we just looked at that reflect approximately 1.8 million being sent from Laurentian to Thorneloe as a result largely of Laurentian students taking electives at Thorneloe.

A. So they represent student choice and student satisfaction. Students at Laurentian, their choice, their satisfaction.

214 Q. So if we imagined a world where there wasn't any federated relationships and students could only have their choices to take --

R/F MR. MEEHAN: Hypothetical question.

We're not imagining anything. We're dealing with the facts here please where no imagination is needed.

MR. HANRAHAN: I disagree that these type of hypotheticals are improper questions, but if you're going to refuse it we'll take that refusal.

215 Q. Could you turn to page 15 of your affidavit?

A. Yes.

216 Q. And you'll see about mid-way down the page there is a heading the "CCAA DIP Loan and Related Milestones"?

A. Yes.

217 Q. And I'm happy for you to read the section again if you like, but just generally speaking, these paragraphs are talking about the fact that Laurentian obtained a $25 million DIP loan in February, is that correct?

A. That's correct.

218 Q. And in paragraph 45 you have a quote from the first report of the Monitor, starting right near the bottom of page 15.

A. I see it.

219 Q. And I'm looking at the last

sentence that's quoted on this page that starts "The maturity date". It says:

"The maturity date may be extended for an additional 90 days if Laurentian achieves the following milestones, to the satisfaction of the DIP Lender, in its sole and unfettered discretion."

Do you see that?

A. I do.

220 Q. And then below that it lists three conditions that are conditions to the extension of the maturity date, one of which is Laurentian reaching an agreement with LUFA. Do you see that?

A. I do.

221 Q. And then you go on to say in paragraph 47 that Laurentian has, in fact, reached an agreement with LUFA that was publically announced, correct?

A. It says that.

222 Q. And then in paragraph 49 you say:

"The new Collective Agreements and associated faculty and program reductions satisfy the terms of the

DIP Agreement allowing Laurentian to obtain a further advance on the DIP loan [...]."

Do you see that?

A. I do.

223 Q. That's not actually correct, is it?

A. I think it was correct on the date of this -- the date the affidavit was sworn.

224 Q. Well, the terms we were looking at were referring to an extension of the maturity date on the loan, right?

MR. YIOKARIS: What's your question, counsel? Was that a question or were you just reviewing stuff?

MR. HANRAHAN: No, that was a question.

MR. YIOKARIS: What was the question?

BY MR. HANRAHAN:

225 Q. Well, first I had asked whether his statement in paragraph 49 is correct, and he said he thought it was. And I said the conditions that he's referring to going back to paragraph 45 talk about conditions for an

extension of maturity date, correct?

MS. MILLER: I don't think we got an answer yet.

THE WITNESS: I'm not sure what the question is.

BY MR. HANRAHAN:

226 Q. The question is, if we go back to paragraph 45 of your affidavit, and what we were just talking about a minute ago, the conditions that you quote here including reaching a deal with LUFA, those are conditions for an extension of the maturity date of the DIP, correct?

A. This is a quote from the Monitor's first report.

227 Q. Right. And I'm asking about the content of that quote.

A. That's what the quote says.

228 Q. And an extension of a maturity date is not the same as obtaining further advances on a DIP loan, right?

A. I don't know.

229 Q. Well, you swore to it in your affidavit. Did you not understand what it meant?

A. Well, I understood what I see

there. You're asking me another kind of a question.

230 Q. Well your affidavit suggests that the satisfaction of these conditions, you say in paragraph 49, allows Laurentian to obtain a further advance on the DIP loan. And I'm suggesting to you that that is not correct. These are conditions for the extension of the maturity date; they don't provide for obtaining a further advance. Would you agree with that?

A. If you're suggesting I'm misleading you, I disagree with that. This is the best of my understanding.

231 Q. Was it your understanding that the satisfaction of these conditions would allow Laurentian to obtain further funds from the DIP?

A. Yes, it was -- that was my understanding.

232 Q. And why was that your understanding?

A. Because that seemed to be what was in the first report of the Monitor.

233 Q. I think if we look at it in paragraph 45, the quote from the first report of the Monitor says that the maturity date may be

extended for an additional 90 days if these milestones are achieved. Did you understand the extension of the maturity date to be the same thing as a further advance?

A. I did.

234 Q. Okay. Are you aware that Laurentian has now agreed on an amendment to the DIP loan for further DIP financing that includes conditions beyond what is described in your affidavit?

A. I understand there have been changes, yes. I do understand there have been changes.

235 Q. Okay. So I think I'm nearly finished. Could we take a short break so I can take a look at my notes?

-- RECESSED AT 8:58 P.M. --

-- RESUMED AT 9:09 P.M. --

BY MR. HANRAHAN:

236 Q. Dr. Gibaut, just referring back to paragraph 54 of your affidavit -- and that's the paragraph that includes the table that we went through earlier. Do you see that?

A. Uhm-hmm, yes.

237 Q. The numbers I think you mentioned

in here earlier are based on Thorneloe's financial statements, is that right?

A. Yes.

238 Q. And that's what --

A. Anything to 2019-2020 are from audited statements. Anything after that is from our own use of Ellucien and other reporting.

239 Q. Sorry, I missed the first part of what you said. Is it 2020 is the last set of the audited statements that you have?

A. That's right.

240 Q. And what's your -- what's the financial year end for Thorneloe?

A. End of April.

241 Q. Okay. And the numbers in here are based on the financial statements, but you haven't actually delivered with any of your materials any financial statements from Thorneloe, have you?

A. They're part of the basis of Farber report.

242 Q. But the actual statements themselves are not included, correct?

A. Correct.

243 Q. Can I have an undertaking for the

last set of audited financial statements for Thorneloe?

U/A MR. YIOKARIS: I'll take that under advisement, counsel. I want to take a look at them first and let you know.

MS. MILLER: And to be clear, they will referenced in paragraph 54 of his affidavit, right? The source of the information in the table is the financial statements?

MR. YIOKARIS: Yes, thank you.

MS. MILLER: Is that still under advisement or is that an undertaking?

MR. YIOKARIS: No, it's still under advisement.

MR. HANRAHAN: And I just point out for the record, they are also included in the list of documents relied on in the Farber report. So I think we're entitled to see those.

244 Q. Dr. Gibaut, you'd agree with me that it's important for a university to be well managed and fiscally responsible, right?

A. Yes.

245 Q. And it's appropriate for a university to review its course and program offerings to make changes where it's fiscally

responsible to do so?

A. Yes.

246 Q. And in fact that's what Thorneloe did recently, actually less than a year ago with its theatre arts and motion picture arts program, isn't that right?

A. That's correct.

247 Q. You did review and determine that the program wasn't profitable to the university and made a decision to terminate it, right?

A. That's correct.

248 Q. And you did that because you saw it as the fiscally responsible thing to do?

A. Correct.

249 Q. And for the students that were affected by that closure, isn't it true that 47 of the 49 students that were in that program were successfully accommodated in other programs that are offered by Laurentian?

A. They were accommodated. I'm not sure I would agree with the word "successfully".

250 Q. Why do you disagree with that?

A. Anecdotal comments that they have made to other colleagues of mine, and certainly at the time last spring when they were trying to

find the courses that corresponded to their own, and also working hard with the Dean of Arts that to find courses that would correspond and it wasn't always possible. So they were accommodated. "Successfully" is the word I would question.

251 Q. And did you do anything to try and help to accommodate those students?

A. We worked very closely with the Faculty of Arts. The professors that lost their jobs also worked very closely be the dean of arts and the vice dean who was looking after those particular students.

252 Q. Isn't it true that most of the accommodation efforts or all of the accommodation efforts were done by Laurentian rather than Thorneloe?

A. That is why I said the Faculty of Arts, but in consultation with us so that they would know what the students were expecting, what courses they had taken.

253 Q. And it's also true, isn't it, that the Laurentian Senate tried to overrule that decision to close the program?

A. It did. It tried, yes.

254 Q. And you effectively ignored or didn't -- didn't accept the Laurentian Senate's decision on that?

A. Well, the Laurentian Senate did actually close them. There was a long debate, and they were formally closed last autumn by the Senate.

255 Q. Do you recall if this got a lot of press coverage at the time in Sudbury?

A. It created a lot of press coverage.

256 Q. And you were speaking to a Sudbury.com reporter about this?

A. Uhm-hmm.

257 Q. And I just would like to show you an article which I'll can share on the screen and mark as an exhibit and counsel, I'm happy to email this to you as well.

MR. YIOKARIS: Just let the record show that this is the first time I've seen this article or being advised about this article.

BY MR. HANRAHAN:

258 Q. Sorry, just give me one second. can you see it?

A. Yes.

MR. YIOKARIS: If you can give us a few minutes to read it.

MR. HANRAHAN: Take your time.

MR. YIOKARIS: And Mr. Hanrahan, do you intend to rely on any other documents you haven't shown us?

MR. HANRAHAN: This will be the last document. Let's mark it as an exhibit.

EXHIBIT NO. 1: Article entitled "Despite senate rulings, there's no money to restart cancelled Thorneloe programs, president says", published by Sudbury.com, May 26. 2020.

BY MR. HANRAHAN:

259 Q. Doctor, so this article is describing the closure that we were just discussing in the Senate. The Laurentian Senate attempted to overrule that, correct?

A. Yes and no. The issue that is not reported here, Thorneloe's Board of Governors used the language of "suspend courses". The Laurentian Senate, quite rightly, said that the language of suspend needs to come from ACAPLAN to the Senate. What Thorneloe should have said was "we closed our programs",

that is the language we used here. But the actual language in the motion was "suspend" within our Board of Governors.

In fact the Senate last autumn did suspend all of the programs within theatre arts and motion picture arts.

260 Q. And as we were discussing a few minutes ago, ultimately you determined it was necessarily because of the financial realities facing Thorneloe, right?

A. Because of the 30 percent decrease in funding from Laurentian without any transition time, we had no choice but to close -- to do hard cuts.

261 Q. And that's reflected -- you will see there is a couple of quotes in here from you. Do you recall giving these quotes that are in the article?

A. Yes.

262 Q. And they are accurate quotes?

A. As far as I can remember.

263 Q. And you reflected that rationale in here in the quote, in the third paragraph, where you say:

"While Thorneloe acknowledges the

jurisdictional parameters of the Laurentian University Senate to close an academic program for academic reasons, the Senate decision did not take into account the financial reality that Thorneloe University faces, resulting in part due to a significant change in the way Laurentian University funds the federated universities."

A. That's correct.

264 Q. And then there is another quote just below that from you as well where you say:

"Thorneloe University, as an independent institution with its own autonomy, is solely responsible for the financial costs and operation of the programs which fall under the department of Theatre Arts and Motion Picture Arts. For that reason, the April 23, 2020 decision of the Thorneloe Board of Governors will stand, and programs and resources under the department of Theatre Arts and Motion Picture Arts will no longer

operate at Thorneloe, effective June 30, 2020."

That's correct?

A. It's from a press release.

265 Q. That was from a press release that Thorneloe issued?

A. Yes.

266 Q. So that was drafted by you?

A. It was drafted by a lot of people. I don't think this was -- this was drafted by somebody else I think.

267 Q. And you had input into it?

A. I can't remember what paragraphs I had put in. That's over a year ago. But I do recognize this as from a press release.

268 Q. And you would have reviewed it before it was made public?

A. I would have.

269 Q. And that's -- that's a different message than what you had in your affidavit in paragraph 16 where you say that Laurentian and the Federated Universities are intended to operate as a single university, isn't it?

A. The intention of the parties with that -- I stand by that. The intention among

the parties was that the federated would operate as a single university. Last year Thorneloe was put in a very difficult position. The Board of Governors of Laurentian University reduced its funding and the Senate, apparently, would let us close a program that the other part bicameral government had forced us to do.

The intention is what is important in 16.

270 Q. Well, the intention in what you did with the theatre arts and motion picture arts was to go it alone, effectively, right? You said Thorneloe made this decision independently.

A. Yes, it made the decision independently. Laurentian leadership at the most senior levels and within the Faculty of Arts knew that this was happening, so it was in consultation with Laurentian.

271 Q. But the Laurentian Senate was not in agreement with it, at least as of the time of this article?

A. No, the Laurentian Senate was not in agreement for it. LUFA was not in agreement for it. The technical reason that the Senate

was going to block it was because our motion used the word "suspend". We were ill advised to use that particular word.

At the end of the day, as I said, last I think it was November or -- probably likely November, the Laurentian Senate did, through the recommendation of ACAPLAN, suspend all of the courses and programs of theatre and motion picture arts.

272 Q. And you mentioned a minute ago that LUFA was also not in favour of it. Is that because you were terminating all of the faculty associated with this program?

A. Yes, we did that according to their -- according to the Collective Bargaining Agreement to the letter.

273 Q. Okay. Subject to undertakings, under advisement and refusals, those are my questions. Thank you, Mr. Gibaut.

MR. YIOKARIS: Thank you.

THE WITNESS: May I say one thing in conclusion? In the break I looked up the Oxford dictionary, the meaning of the word "hope". It is defined as "expectation with desire". I would say that's where Thorneloe University is

right now with Laurentian, expectation and desire to remain federated.

MR. HANRAHAN: I would just say it's funny you mention that, because I also looked up the definition of "conviction". Perhaps there is different definitions, different dictionaries but it referenced a strong belief or opinion. And I think, counsel, one of the other parties may have mentioned that same definition at some point in the examinations earlier today as well.

MR. YIOKARIS: Counsel, your questioning is finished, and I'm not sure where you're going with that.

MR. HANRAHAN: Well, I wasn't going go anywhere with it but Dr. Gibaut raised it. maybe we'll just leave it at that.

--- Whereupon the cross-examination concluded at 9:29 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 day of 2020.

PER: HELEN MARTINEAU
CERTIFIED SHORTHAND REPORTER

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TAB 2(B)

+Members taste buds could travel the globe!

Gibaut
April 23 2021
1
exhibitsticker.com

Despite senate rulings, there's no money to restart cancelled Thorneloe programs, president says

May 26, 2020 11:00 AM By: Sudbury.com Staff

Thorneloe University president John Gibaut. (Supplied)

Rulings by the Laurentian University senate on two programs cancelled by Thorneloe University don't change the fact the school has no money to continue offering them, the institution's president, John Gibaut, said last week.

On April 23, Thorneloe University announced it was closing its theatre arts and motion picture arts programs over a lack of funding, and because the programs are the least attended of the programs offered by the school.

Like Huntington University and the University of Sudbury, Thorneloe is a federated university of Laurentian University. Students who attend Thorneloe earn Laurentian degrees.

Meeting May 19 on the decision, the Laurentian University Senate voted in favour of a resolution that in essence seeks to overturn Thorneloe's decision to close the programs. The first resolution will have the senate reiterate that Thorneloe University's theatre and motion picture arts programs be

+Members taste buds could travel the globe!

to enter into negotiations with Laurentian to have the programs and staff at all federated universities brought into its Faculty of Arts and Faculty of Health, with an immediate freeze on the closing of the theatre and motion picture arts programs.

That’s all well and good, but there is still no money, Thorneloe said in a news release.

“While Thorneloe acknowledges the jurisdictional parameters of the Laurentian University Senate to close an academic program for academic reasons, the Senate decision did not take into account the financial reality that Thorneloe University faces, resulting in part due to a significant change in the way Laurentian University funds the federated universities.”

Gibaut explained the funding changes to Sudbury.com reporter Heidi Ulrichsen on May 1. You can read that story here.

“Thorneloe University, as an independent institution with its own autonomy, is solely responsible for the financial costs and operation of the programs which fall under the department of Theatre Arts and Motion Picture Arts. For that reason, the April 23, 2020 decision of the Thorneloe Board of Governors will stand, and programs and resources under the department of Theatre Arts and Motion Picture Arts will no longer operate at Thorneloe, effective June 30, 2020.”

After the LU senate met and in spite of the motions it passed, Thorneloe’s board met and unanimously reaffirmed the motion to close the department of Theatre Arts and Motion Picture Arts.

“Closure, in this sense, means closure in the human resources sense of the word,” said Brian Koivu, chair of the Thorneloe University board. “We are not able to staff these programs because of financial constraints.”

Comments (4)

TAB 2(C)

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

REFUSALS AND UNDERTAKINGS CHART
CROSS-EXAMINATION FOR DISCOVERY OF JOHN GIBAUT, HELD APRIL 23, 2021

	UNDER ADVISEMENTS					
	Under Advisements to questions made at the cross-examination of John Gibaut , dated April 23, 2021					
	Issue & relationship to pleadings or affidavit *(Group the questions by issues.)*	**Q. No.**	**Page No.**	**Specific question**	**Answer or precise basis for refusal**	**Disposition by the Court**
1.		243	63	To provide the last set of audited financial statements for Thorneloe.	Refused. All relevant information from them has been produced in Mr. Nackan's report. They are otherwise publicly available as Thorneloe is a publicly funded University. We also note that this question was not asked of Thorneloe's expert, Allan Nackan of Farber at his cross-examination on his April 19, 2021 report; nor was Mr. Nackan's review of that document or any reliance on same challenged or questioned at his cross-examination (certainly not in any material way). This question was asked at the very end of Mr. Gibaut's cross-examination, as an afterthought in your final clean up. Further, at his cross-examination, when asked, Mr. Hache did not dispute the financial data from Mr. Nackan's report.	

	Refusals					
	Refusals to answer questions on the cross-examination of John Gibaut , dated April 23, 2021					
	Issue & relationship to pleadings or affidavit *(Group the questions by issues.)*	**Q. No.**	**Page No.**	**Specific question**	**Answer or precise basis for refusal**	**Disposition by the Court**
2.		43	14	To assume that Mr. Hanrahan (counsel cross-examining) had two friends to dinner. To assume that one of them says "I hope to be there". To assume that one of them says "I agree I'll be there". To advise whether Mr. Hanrahan's expectations about what those two friends would do is different.	Refused. The question is not relevant, vague and overly broad. Issues with respect to friends coming for dinner is not relevant, hypothetical and speculative. Counsel asked questions with respect to the Federation Agreement and those questions were answered.	
3.		86	27	To provide what is in substance a legal interpretation of the Indenture/Lease agreement.	Refused. This is not a proper question for a non-lawyer and a fact witness. Regardless, Mr. Gibaut's opinion on the interpretation of the nuances of the wording in a lease signed in the 1960s by others is not relevant. Further, the affiant did not provide an opinion on the interpretation of this Indenture/Lease. In fact, it was attached to another affidavit. See pages 22 to 27 and questions 74 to 86.	

4.		214	55-56	To imagine a world where there was not any federated relationships and students could only have their choices to take. To answer questions regarding this hypothetical.	Refused. The question is not relevant, vague and overly broad. Issues with respect to imagining a world without federated relationships and where students could only have their choices to take is not relevant, hypothetical and speculative to the issues on the motion. Counsel asked questions with respect to actual student choice and satisfaction at Laurentian and Thorneloe, and those were answered.	

April 26, 2021

KOSKIE MINSKY LLP
900-20 Queen St W
PO Box 52
Toronto ON M5H 3R3

Andrew J. Hatnay - LS#: 31885W
ahatnay@kmlaw.ca
Tel: 416-595-2083 / Fax: 416-204-2872
Sydney Edmonds - LS#: 79946K
sedmonds@kmlaw.ca
Tel: (416) 595-2260 / Fax: (416) 204-4936

SUPREME ADCOVACY LLP

Eugene Meehan, Q.C. - LS#: 29046T emeehan@supremeadvocacy.ca
Tel: (613) 695-8855 / Fax: 613-695-8580

Lawyers for Thorneloe University

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

Court File No.: CV-21-656040-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

REFUSALS AND UNDERTAKINGS CHART

KOSKIE MINSKY LLP
20 Queen Street West, Suite 900, Box 52
Toronto, ON M5H 3R3

Andrew J. Hatnay - LS#: 31885W
ahatnay@kmlaw.ca
Tel: 416-595-2083 / Fax: 416-204-2872
Sydney Edmonds - LS#: 79946K
sedmonds@kmlaw.ca
Tel: (416) 595-2260 / Fax: (416) 204-4936

SUPREME ADCOVACY LLP

Eugene Meehan, Q.C. - LS#: 29046T
emeehan@supremeadvocacy.ca
Tel: (613) 695-8855 / Fax: 613-695-8580

Lawyers for Thorneloe University

TAB 3(A)

Laurentian CCAA

Allan Nackan
on Friday, April 23, 2021

77 King Street West, Suite 2020
Toronto, Ontario M5K 1A1

neesonsreporting.com | 416.413.7755

Court 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

--- This is the Cross-examination of ALLAN NAKCAN, taken by Neesons, a Veritext Company, via Zoom virtual platform, on the 23rd day of April, 2021.

REPORTED BY: Helen Martineau, CSR

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

D.J. MILLER, Esq., & ANDREW HANRAHAN, Esq., & FRASER HUGHES, Esq.	for the Applicant
ANDRÉ CLAUDE, Esq. & RON CAZA, Esq.	for University of Sudbury
PETER J. OSBORNE, Esq.	for the Board of Governors of Laurentian University of Sudbury
EUGENE MEEHAN, Q.C. & DEMETRIOS YIOKARIS, Esq. & ANDREW J. HATNAY, Esq.	for Thornloe University
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: ALLAN NACKAN
Cross-examination by Mr. Hughes.....5

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: NONE.

INDEX OF ADVISEMENTS

The questions/requests taken under advisement are noted by a U/A and appear on the following page/line: NONE.

INDEX OF REFUSALS

The questions/requests refused are noted by R/F and appear on the following page/line: 12/3; 15/8; 16/12; 29/12; 51/9.

INDEX OF EXHIBITS

NO./ DESCRIPTION PAGE

A Marked for identification: 23
Exhibit K to the Affidavit of Dr. Robert Haché sworn April 21, 2021.

--- Upon commencing at 5:10 p.m.

ALLAN NACKAN: AFFIRMED.

CROSS-EXAMINATION BY MR. HUGHES:

1 Q. Mr. Nackan, I'd like to just sort of briefly go through your qualifications. At paragraph 3.3 of your report and at Appendix 2, you state that you are capable of taking on appointments as a Monitor and that you have acted as a Monitor in the past, is that correct?

A. Correct. Yeah, we have -- we act in a broad range of insolvency engagements, correct.

2 Q. And you're familiar with the duties of a Monitor generally?

A. I am.

3 Q. And you'll agree with me that one of those duties is to ensure that the goals of the CCAA are advanced?

A. Yes.

4 Q. And to generally assist stakeholders in attempting to develop a plan of arrangement to potentially avoid bankruptcy, you'll agree with that?

A. The Monitor's role is essentially to facilitate the process and help the parties

hopefully arrive at a successful plan.

Q. And that involvement includes providing recommendations on plans of arrangement, is that correct?

A. Yes.

Q. And part of that duty is typically to compare -- involves comparing potential recovery scenarios for the benefit of stakeholders, you know, recovery scenarios in the sense that one compares what a creditor might receive with a successful plan of arrangement versus what a creditor might receive in bankruptcy or liquidation. Is that typically one of the things that a Monitor does?

A. It is one of the things that the Monitor would do, more typically at the plan evaluation stage, but yes.

Q. So in terms of your expertise, you're not an expert in terms of government funding of universities?

A. No.

Q. Or the criteria that governments employ in determining university funding?

A. No. This is my first experience with a university of this nature.

9 Q. One of the subject matters of your expert opinion involved the prospects of making a viable CCAA plan. And I'd like to just sort of look briefly at some of the elements that typically go into determining those prospects.

You'll agree with me that one of those elements is that comparison that we just discussed, that, you know, stakeholders and creditors need to determine their likely recovery in the liquidation bankruptcy versus their likely recovery in a successful plan of arrangement. That is one of the elements that one considers, is that correct?

A. Yes.

MR. YIOKARIS: Counsel, I've given a lot of leeway here. I'm just concerned about the relevancy. He's giving an expert report about the Notice of Disclaimer and the relative financial hardship on Thorneloe versus Laurentian.

I've given you a lot of leeway. I'm not sure where this comes in.

MR. HUGHES: Well, I mean, the expert is opining as to the prospects of making a

viable CCAA arrangement in his report. So what I'm doing is I'm questioning him as to what elements go into that determination.

MR. YIOKARIS: Yeah, and he's answered that in a general sense.

MR. HUGHES: Yes. He's answered one of the questions in a general sense, yes.

BY MR. HUGHES:

10 Q. So that's one of the elements that typically, you know, one would consider in determining that.

The second, I would suggest, is the cooperation and the views of stakeholders and creditors in terms of their trust in the applicant, their risk appetite.

You'd agree with me that that would come into play in a determination as to the viability of a plan of arrangement?

A. I'm not sure I understand your question.

11 Q. Certainly. I apologize.

A. Can you restate that? Yeah.

12 Q. I'll restate that.

So one of the elements in determining -- in trying to determine the

viability of a plan of arrangement, we've discussed the one, and that is the relative recovery under a plan versus under a liquidation.

And the second is the views of stakeholders generally. If the stakeholders don't support it, then it doesn't have a high chance of succeeding. If the stakeholders do support it, then it does. Would you agree with that?

A. Yes.

Q. And I would suggest that the third element that typically comes into play is the ability and the access of a company to interim cash.

If a company is not able to buy itself enough time to even come up with a plan, then there's very little chance of succeeding, whereas if it does have access to cash to be able to continue to propose a plan, then it would have a prospect of succeeding. Would you agree with that?

A. Yes.

MR. YIOKARIS: Counsel, hold on, hold on. Again, I'm going to have to start refusing

this questioning about what all goes into the theoretical or hypothetical viability of a plan, especially -- that's not what his expertise is gearing towards here. That's not what this report is gearing towards.

MR. HUGHES: Well, it seems to me that's exactly what his expertise is. It's exactly what he's opined upon. I'll quote --

MR. YIOKARIS: He's saying it's going to have -- he's saying it's going to:

> "[...] have an immaterial impact on overall costs reduction in Laurentian's restructuring process and is unlikely to enhance prospects of Laurentian making a viable Plan in the CCAA [...]"

BY MR. HUGHES:

14 Q. "[...] is unlikely to enhance prospects of Laurentian making a viable Plan in the CCAA [...]"

To make that conclusion, one needs to know what are the aspects that enhance or don't enhance the prospect of a company making a plan in the CCAA. And that is what I'm asking him about.

MR. YIOKARIS: Well, he's already stated that given the size and operations of Thorneloe as compared to Laurentian that he believes it will have an immaterial impact.

Like, that's where his expert report is going into. It's not going into a treatise as to what's likely or unlikely to enhance ^ in a broad sense. He's saying, this isn't going to enhance the prospects of Laurentian making a viable plan, given the size and operations of Thorneloe as compared to Laurentian.

MR. HUGHES: I --

MR. YIOKARIS: I'm just confused.

MR. HUGHES: I'm confused. I don't understand your objection. I mean, if he is making a determination as to what does and does not enhance the viable prospects of a company making a plan in the CCAA, then, you know, one would need to know what goes into that kind of determination.

MR. YIOKARIS: Yeah. And --

MR. HUGHES: It's not simply -- it's not simply that Mr. Nackan raises one issue, and as a result, you know, all other issues that go into making that determination, you know, are

not considered and are not relevant. I don't understand your objection.

R/F MR. YIOKARIS: Well, he's not giving an expert report as to everything that's going to be making a viable plan in the CCAA proceedings, and that's pretty overly broad. His report is focused on --

MR. HUGHES: Well, he is. Well, he is.

MR. YIOKARIS: -- ^termination of the Federation Agreement --

MR. HUGHES: He's making a -- he's actually making --

MR. YIOKARIS: ^-- serious financial hardships to Thorneloe, and in comparison ^(ZOOM AUDIO CUT OUT). Please continue, Mr. Hughes, and I'll let you know if I've got another refusal.

BY MR. HUGHES:

15 Q. Mr. Nackan, I'd like to take you to your Appendix 3 at page 362.

A. Sorry, give me a moment. I'm just calling it up. Okay. This is the list of documents?

16 Q. Yes. So here you cite the

sources of your information. You have three different columns. There's "Documents and Information", "Websites", and "Legal Statutes".

And that is the totality of your sources of information, is that correct?

A. These are the documents that I relied on in drafting this report.

17 Q. So other than -- I mean, you refer to:

"Information received pursuant to discussion with Thorneloe management and staff".

So other than your discussions with Thorneloe, you've not been engaged in any discussions with Laurentian's creditors or stakeholders, have you?

A. Throughout -- we were engaged as financial advisor at the beginning of the proceeding. I've had interaction with the Monitor.

I've had interaction with the other stakeholders through the mediation process, but I'm not sure that that's pertinent to what we're discussing on this report.

18 Q. Okay.

MR. YIOKARIS: And, of course, anything discussed at mediation I don't want Mr. Nackan to be divulging, and I'm sure that you probably don't want that either, Mr. Hughes.

BY MR. HUGHES:

19 Q. No.

So you've not been engaged in discussions with Laurentian's DIP Lender?

A. We've had no contact with the DIP Lender, nor has any other stakeholder that I'm aware of.

20 Q. So, Mr. Nackan, as an insolvency practitioner, I'd like to just take you through a hypothetical scenario, and it's a scenario where you've been appointed Monitor over a company.

Let's call the company Acme Widgets. And, you know, Acme Widgets produces a million widgets a year at the cost of $1 a widget. It contracts out some of its widget production to, let's call it, ABC Widgets. ABC Widgets makes 100,000 widgets a year also at a cost of a dollar a widget.

You determine that Acme has additional production capacity, and it could make those

100,000 widgets itself at no additional cost or at a small additional cost.

Now, all other things being equal, you'll agree with me that it would be commercially sensible for Acme to disclaim its contract with ABC and produce those widgets itself?

R/F MR. YIOKARIS: And that's a refusal, Counsel. I'm not going to have him answer hypothetical questions. If you want to ask questions about this file, his expert report, that's fine, but I'm not going to have him answer hypothetical questions.

MR. HUGHES: But he's an expert witness.

MR. YIOKARIS: Correct, and you can ask him about his expert report, or you can ask him about actual fact experiences that have happened in this file, but I'm not going to allow him to answer hypothetical questions.

MR. HUGHES: That's typically what experts -- I mean, facts are put to experts hypothetically, and experts answer those questions based on their expertise. I mean, that's how experts --

MR. YIOKARIS: You have my position, Counsel. Thank you.

BY MR. HUGHES:

21 Q. If you are a Monitor acting for a company and you determine that the company ought to disclaim a contract for, say, $100,000, and the company had expenses of a million dollars and it did that to save $100,000, would you not agree that whether that $100,000 contract is in one contract or ten contracts for $10,000, the result ought to be the same?

R/F MR. YIOKARIS: Again, the same refusal, Counsel. If you want to ask him about the fact scenario in this case, I'm happy to let him answer, but I'm not going to let him answer random hypotheticals.

BY MR. HUGHES:

22 Q. All right. Mr. Nackan, I'd like to go to your conclusions first regarding Laurentian at page 347 of your report.

A. Sorry, I'm not looking at the Motion Record, so can you give me the page in my report?

23 Q. Certainly. Paragraph 2.1, really, at page 347.

A. So the summary conclusions?

24 Q. Yes.

A. Sure.

25 Q. So in respect of Thorneloe, you make, really, two conclusions in respect of a disclaimer. You conclude that the termination of the Federation Agreements will have an immaterial impact on the overall cost reduction in Laurentian's restructuring process. That's one conclusion, is that correct?

A. Correct.

26 Q. And then you make a second conclusion: The termination of the Federation Agreement is unlikely to enhance the prospects of Laurentian making a viable plan in the CCAA proceeding, is that correct?

A. Correct.

27 Q. So let's turn to each of those conclusions first starting with the immateriality of the overall cost reduction.

I'd like to turn you to page 356, and then we'll get you the equivalent in your report. It is page 11.

A. Okay. I have it.

28 Q. So there you have a chart, and it

charts out, among other things, the grants and tuition fees received and compares Thorneloe to Laurentian. The Thorneloe number is the, you know, 1,847,272, and then the Laurentian number is next to that?

A. Correct.

29 Q. And your report shows that it represents -- that the Thorneloe amount represents 1.35 percent of the total grants and tuitions received?

A. Yes.

30 Q. And that, among the others, are the amounts that you state are immaterial?

A. That is correct.

31 Q. So I'd like to refer you to, and I sent this to your counsel earlier today, to Mr. Haché's exhibit in his affidavit, Exhibit K, which is at page 340 of the Motion Record.

A. 340. Okay. Got it.

32 Q. And those are -- those are Mr. Haché's numbers that set out ^Thorneloe, Huntington, and University of Sudbury comparing the grants and the tuitions?

A. Right.

33 Q. Tuition amounts. I'd like you to

look at the Huntington number, which shows a cost saving of $2.1 million.

In your -- I mean, you have concluded that the $1.8 million and change, which is 1.35 percent, you've concluded that that is immaterial in terms of cost reductions for Laurentian University. Would you take the same position on the Huntington number of $2.1 million?

A. Most of my focus has been on the Thorneloe number, but in comparable numbers, it's on the same scale of materiality.

I just would like to correct your question though. You said the costs of Huntington. This schedule doesn't technically represent the costs. These are funds that were flowed through Laurentian to the Federated Universities, not technically costs.

34 Q. Well, if they flow through Laurentian to the Federated Universities, then they are costs to Laurentian. But --

A. Well, they are grants and tuition that was earned in respect of courses delivered by the feds. The mechanism is that it passes through Laurentian, that it's technically not --

it's not technically Laurentian's revenue stream.

35 Q. Well, I mean, we will get to that aspect of your evidence shortly, but okay.

So the amount paid by Laurentian to Huntington, so you're -- so in terms of the University of Sudbury, then that is approximately $3.7 million paid to University of Sudbury from Laurentian. Would your view be that that amount is immaterial?

A. Yeah, I mean, all of this needs to be judged in the context of the whole. And I -- you know, I'm not sure where they're -- you know, how close they are or not to their target.

It's in the same range of materiality as the other two.

36 Q. So you say, "judged in the context" --

A. Yeah.

37 Q. -- "of the whole" because what's, in fact, being disclaimed --

A. Yeah, you're talking 2, $3 million of revenue, you know, in the context of $136 million total revenue. So those are small numbers.

38 Q. Yeah. So when we're talking 1 to 8 in terms of -- 1.8 approximately for Thorneloe, 2.1 for Huntington, 3.7 or more for University of Sudbury, and the total is over 7.7 million?

A. Yes.

39 Q. And you say we need to discuss them in the whole, and, you know, we would agree with that because what we are dealing with is a disclaimer of the Federation Agreement and the financial distribution notices for all three?

A. It's not my understanding that it's necessarily all three. I'm focused on Thorneloe, and, you know, my understanding of the facts on the ground is that the University of Sudbury and Huntington have both indicated that they're -- that they're probably terminating here. So all that really remains is the Thorneloe piece.

40 Q. So would your view be that in terms of all three, the $7.7 million, would your view be that that is an immaterial cost reduction?

A. I mean, I didn't -- I haven't turned my mind specifically to that. Obviously

you can say in absolute terms it's a bigger number, but it's still relatively small in the big picture of Laurentian.

41 Q. So, I mean, what level of cost reduction would you say is material?

A. It's -- I mean, there's -- I can't give you a scientific number. I mean, you can say -- I mean, you know, in total they are, what -- I don't have my calculator with me, but, you know, they're well under 10 percent. That's -- you know, in -- I can't give you a specific answer to that.

42 Q. So your evidence is that a 10 percent cost reduction would also be immaterial?

A. I'm not saying -- I'm saying that, you know, if -- I mean, I just picked 10 percent for illustrative purposes, but probably if it's in -- if it's below 10 percent, it is -- it may be immaterial.

But I can't put that out as a benchmark and say that's the number, that's the threshold.

MR. YIOKARIS: Yeah, Counsel, in fairness to the witness, he's already said that

he hasn't turned his mind to what that number would be, that -- once it starts to turn to materiality.

He's saying the Thorneloe numbers certainly aren't material, but he hasn't -- he's already answered that he hasn't said what that actual threshold would be.

MS. MILLER: Has that document been marked as an exhibit in this exam?

MR. HUGHES: Could we mark -- it's in evidence in Mr. Haché affidavit. Could we mark that as an Exhibit for identification purposes? It's Exhibit K to Mr. Haché's April 21st affidavit.

THE WITNESS: I'm not sure if you're asking me or the lawyers, but --

EXHIBIT NO. A: Marked for identification: Exhibit K to the Affidavit of Dr. Robert Haché sworn April 21, 2021.

BY MR. HUGHES:

43 Q. So your evidence -- yes. So if we're talking not simply about -- so your evidence is that Thorneloe's amount here, the 1.8 percent is immaterial.

What if there were two Thorneloes? What if there were two elements of cost reductions that would be 1.8 and 1.8? Would that also be immaterial?

A. Maybe. I mean, I haven't seen -- I haven't seen the business plan going forward. I haven't seen forecast, cash flows going forward, so, you know, I'm -- you know, I can't -- I can't -- I can't say without seeing the complete plan.

I do know that Laurentian has been successful in implementing some significant restructuring steps over the last couple of months. They have reduced their faculty costs substantially.

I don't have the numbers, and I don't know how close they are to the line and then whether adding a second university is going to push it over the line and make it not viable. I can't imagine it's that close, but...

44 Q. But my question is, I mean, you're saying that the 1.8 million here for Thorneloe, for example, is immaterial?

A. That's what I'm saying.

45 Q. But if we were talking about more

than just Thorneloe being disclaimed, if it were a larger number, certainly there must be a point at which, in your expert opinion, it moves from being immaterial to being material?

A. As I said, I didn't specifically turn my mind to that point when I drafted the report.

46 Q. So you turned your mind to this being immaterial, but you did not turn your mind to what would be material, is that correct?

A. I looked at the impact on Thorneloe and Thorneloe's contribution or -- and how it fits in within the Laurentian infrastructure. I didn't consider specifically the -- all three of the feds.

As I said, knowing the direction the other two are going, I would suggest that it's -- it's less relevant because, you know, they -- as I said, they have indicated that they are terminating or considering terminating.

47 Q. But surely if a company has multiple contracts with a counterparty --

A. Uhm-hmm.

48 Q. -- and each of those contracts seen in isolation is a small number, surely

there's a point at which the multiple contracts, the numbers add up, and they move from being immaterial to being material. Would you agree with that?

A. Potentially.

49 Q. So one can't simply look at one of those contracts in isolation when there are multiple contracts and conclude that that one contract ought not to be terminated, ought not to be disclaimed because it, viewed entirely in isolation, is immaterial?

A. The question I was asked is the impact on Thorneloe, you know, the impact on Thorneloe and, as I said, the impact of that on the Laurentian restructuring.

MR. YIOKARIS: Yeah, Counsel, he's answered this question a few times in a number of different ways.

MR. HUGHES: I don't think he has. I mean, the first time I tried to ask it with a hypothetical I was interrupted, so I don't think he really has.

BY MR. HUGHES:

50 Q. I mean, the question is, you know, we can't take one contract in isolation

and say that seen on its own, it is immaterial, because if one had ten contracts that were $2 million each and then looked at each one individually and said, well this is immaterial, this is immaterial, this is immaterial, surely the collective effect of those at some point moves from being immaterial to being material.

So my question is, at what point does this become material?

MR. YIOKARIS: And, Counsel, you've asked that several times, and he's given the answer several times.

BY MR. HUGHES:

51 Q. What is the answer?

MR. YIOKARIS: You can go back to the record, but what I understood his answer to be is that his report was on the Thorneloe number, and he never specifically did the analysis to let you know what the precise number is the second it turns material.

And he also commented that he doesn't have a number of the reports or modelling. And he also commented, from what I recall, I don't want to be putting words in his mouth, that the University of Sudbury will not be -- going

forward, is looking, as I understand it, to be running themselves, and Huntington, it appears, won't be going forward. He's addressed these a number of times.

Now, again, his answer is what his answer is. Don't take my paraphrasing. Go back to what his answers are. But he's answered this a number of different ways.

MR. HUGHES: So you're not prepared to commit to a position as to what would be material, what number would be material?

MR. YIOKARIS: That's correct. He's -- you've asked him, and he's answered that a few times, so please move along.

BY MR. HUGHES:

52 Q. So, Mr. Nackan, you know what is immaterial but not what would be material, is that your evidence?

A. I'm not saying that. There comes a point, as you say, if you cumulatively -- there is a point that it may be material. That's not what I was charged to look at in this report.

And as I said, I don't -- the university has not shared any financial

projections going forward of what the restructured university looks like. We are still waiting for that.

53 Q. Well, I guess it's the old expression of watch the pennies and the dollars take care of themselves. I mean, to say that a number -- an item of cost savings is small and incremental, if those small and incremental amounts add up, it can move from being immaterial to being material. Would you agree with that?

R/F MR. YIOKARIS: Counsel, again, you've asked that question a number of times. Please move on.

BY MR. HUGHES:

54 Q. So, Mr. Nackan, your next conclusion is that the cost savings associated with disclaiming the Thorneloe Federation Agreement and financial distribution notices, that those cost savings are unlikely to enhance the prospects of making a viable plan.

Above, we -- you know, earlier on we discussed the typical factors that go into a determination of, you know, what can make a plan viable, and we discussed that one of those is a

comparison of recovery scenarios.

And you'll agree with me that in considering recovery scenarios, that those numbers can be incremental, that a creditor -- it could be that in the liquidation scenario, the bankruptcy scenario, a creditor might have a potential recovery of a million dollars, and in a planned scenario, it might be $1,000,001.

That's possible, isn't it? Those are two possible recovery scenarios?

A. It's a very theoretical position, but yes, it is.

55 Q. And it might well be that these small numbers, that as it turns out, when one gets to the stage of determining the recovery scenarios, it might well be that the numbers turn on small numbers, isn't that correct?

A. I think it's all highly speculative at the moment. I mean, I have no idea what a plan might look like.

You know, based on the financial position that Laurentian is presenting, I'm not hopeful that there's going to be a significant pool of funds available so -- and, you know, nor have we studied the relative plans of every

other creditor.

So I can't -- it's difficult to evaluate without seeing the claims pool, understanding what's at stake in the plan. You know, it's hard to imagine how Thorneloe's claim will move the needle.

56 Q. Well, I mean, you said some important things there, and one is that it is speculative, and you are speculating, are you not?

A. I'm -- I mean, what I'm saying is that, you know, Laurentian -- that the net benefit that Laurentian gets from terminating Thorneloe is not -- does not appear to be material in the big picture, and I don't think it will move the needle on whether they can put forward a viable plan.

57 Q. But, I mean, your evidence is effectively, we don't know where that needle is or will be?

A. No. I mean, if our client -- if -- not our client, but, you know, if Thorneloe was a -- had $100 million claim, you know, I think it's -- it may be different. But we're talking about a claim -- a much smaller claim.

58 Q. But you'll agree with me that it's different in increments. It might not be -- it might not be different in quality. It's different in quantity.

I mean, we are speculating. We don't know how ultimately, you know, the numbers are going to shake down. And clearly, the larger the cost savings the more difference it will make; the smaller the cost savings the less difference it will make.

But to say that at some point it becomes material or immaterial, that's difficult to say at this point, isn't it?

MR. YIOKARIS: ^Counsel, he's already answered the immaterial versus material question a number of times. And I've asked you, I think, now three or four times to move on from that.

BY MR. HUGHES:

59 Q. And this is a different question. I mean, what we're going through is, you know, we had discussed and your client had agreed that in one of the elements that goes into determining whether a plan is viable or not viable is the potential recovery scenarios for creditors and stakeholders.

So my question is that, you know, we're talking about an annual reduction, cost reduction of, according to your client's numbers, over $4.6 million a year.

So, you know, my question is -- and we are speculating, but I have to speculate because your client's report speculates -- that when it comes to looking at that comparison, a cost savings of over $4.6 million a year might well be the cost savings that turns the dial, is that not correct?

MR. YIOKARIS: Well, he has already disputed the premise -- a few issues with the premise of that question about whether this is cost savings or not.

And he's already said in terms of the dial, he's already expressed what he's talked about is immaterial and that he can't tell you when that point of materiality, that precise point of materiality happens.

So I'm not sure what you're getting at if you're not getting at that question again.

BY MR. HUGHES:

60 Q. Well, I think I'm getting at just that. He can't determine the point of

materiality. That is his evidence?

MR. YIOKARIS: ^No. He can tell you what -- he can tell you that Thorneloe's numbers are not material. He can certainly tell you that, and he has told you that a number of times. But he can't tell you when materiality triggers into effect, when that line is.

At least that's how I understood his evidence, and certainly he's answered that a number of times, and I'm not going to allow him to answer it again.

BY MR. HUGHES:

61 Q. But, Mr. Nackan, I think your evidence is that -- I mean, it's premature to determine that, those recovery scenarios, is it not?

A. We're not at the plan stage yet. You know, based on where we are right now and my understanding of what Laurentian is trying to achieve, the small amount of money that gets -- you know, that Thorneloe earns for the services that they provide don't appear to be material in the big picture. And I -- you know, I don't -- it's my considered opinion that it won't move the needle.

Now, of course, if at some point I -- you know, when there's a plan and there's something tangible for me to look at, I can look at it, but that's my view today.

62 Q. That it's entirely speculative?

A. I didn't say "speculative".

63 Q. That you're unable to say the extent to which --

A. No. I said based on where Laurentian finds itself in the restructuring process today and the cost savings they seem to be wanting to achieve, you know, this is a small number.

64 Q. But your evidence isn't simply that it's a small number. Your evidence is that it's an immaterial number in the sense that it won't make any difference?

A. That's -- yes, correct.

65 Q. But it's premature to determine whether it will make any difference, is it not?

A. I'm -- I'm not -- it's -- if the question is regarding the cost savings to Laurentian or the revenue that Laurentian wishes to scoop from this university, I think it's immaterial as we look at it right now.

The impact of the plan I will assess when we have a plan and more facts.

66 Q. But ultimately, as we discussed earlier in determining the viability of a plan and the prospects, that that weight of recovery in a liquidation scenario versus a plan scenario is one of the factors.

And the other is the decisions of creditors and the appetites of creditors and the will of creditors. And determining that is also premature, is it not?

A. We're not at the plan stage yet.

67 Q. And you haven't had discussions with any of the creditors, and you don't know what their appetite is?

A. I don't.

68 Q. But at a certain -- it might well be that at a certain number the views of creditors are influenced, the views are tipped?

MR. MEEHAN: Mr. Meehan here speaking for Thorneloe. That question is also -- "it might well be", the word "might" is hypothetical.

If you could please direct your questions to Mr. Nackan's report, not

hypotheticals, as to whether this might be or that might be. We're not talking about that. We're talking about this, this report, not what might be.

MR. HUGHES: Well, this report is speculation, and it is hypothetical.

MR. MEEHAN: That's not his evidence. That's your supposition. Please ask questions that do not have the word "might" in it.

BY MR. HUGHES:

69 Q. So saying that a certain number is immaterial in the sense that it will not impact the viability of a plan in the future, that's not speculative?

MR. YIOKARIS: Well, Counsel, regardless of that, he's -- has been asked and answered these questions for the past 20, 25 minutes.

MR. MEEHAN: Mr. Hughes, the evidence from the expert is that -- to give an analogy, he's telling you this pile of wood is a small pile of wood, and you're asking him to define what a pile of wood is. That's a hypothetical.

MR. HUGHES: No --

MR. MEEHAN: And he's simply telling

you -- I haven't finished. He's simply telling you that this is a small pile of wood, and you are pushing him to define what a pile of wood is. That's a hypothetical question here.

MR. HUGHES: Well, no, it's --

MR. MEEHAN: He's telling you this is a small pile of wood. That's his evidence.

MR. HUGHES: Well, his evidence is not that it's a small pile of wood.

MR. MEEHAN: Yes, it is.

MR. YIOKARIS: ^It is. It is.

BY MR. HUGHES:

70 Q. Okay. So it's not --

MR. MEEHAN: You just haven't -- you just haven't ^^ say so.

BY MR. HUGHES:

71 Q. So your evidence is not that this is an immaterial amount. Your evidence is that this is simply a small amount?

A. This is a small amount and is immaterial in the greater picture of Laurentian.

72 Q. So it's not simply a small pile of wood. It's not a pile of wood?

A. Sorry?

73 Q. I mean, Mr. Nackan, if your

evidence is that, you know, these numbers are what they are, and they're small, and they might -- because they are so small, they are likely to have a lesser impact on, you know, the likelihood or success or failure of a plan compared to a big number. That's one thing.

It's quite another to jump from that and to say that this is a small number, this is a big number, and the small number is immaterial because it's small?

MR. YIOKARIS: Well, no, no, no, he's saying it's small and immaterial.

MR. HUGHES: Exactly.

MR. YIOKARIS: He's been very -- it's immaterial.

BY MR. HUGHES:

74 Q. Exactly. They're two different things. It's not simply a small pile of wood. It's not simply a small -- I mean, the number is what it is. The numbers are what they are, and that's not the point.

A. I mean --

75 Q. The point is that Mr. Nackan -- the point is Mr. Nackan is saying this will not make any difference. That's the point.

A. The truth is that the -- people will probably evaluate the plan more on what is proposed by Laurentian than by the claims pool.

76 Q. But what is proposed by Laurentian is influenced by the numbers, is it not?

A. Not necessarily. They may only have X to give towards the creditors regardless of the size of the claims pool.

77 Q. Yes, but that amount is relevant to creditors, is it not?

A. The amount that they're proposing to the creditors is relevant, of course.

78 Q. And the bigger the number the more likely it is that creditors will accept it, is that not correct?

A. That's a motherhood statement. Yes. I mean, obviously the more that you offer the more likely it is that creditors will find it acceptable.

It comes back to -- my central point is, you know, is the $1.8 million of revenue that's earned by Thorneloe going to substantially change people's views?

I mean, it's a -- you've got to look

at it in a broader, more balanced way. You can't -- you know, it's -- we're oversimplifying the discussion here.

79 Q. So, I mean, you're not in the heads of creditors, and neither am I, and neither of us know, you know, what the creditors will not accept. Do you agree with that?

A. Correct.

80 Q. And neither of us know how the recovery scenarios will play out?

A. Correct.

81 Q. So, I mean, because of that, because we don't know, you know, we don't know what numbers will influence the creditors, you know, we don't know how these numbers will all play out, how can you be in a position to say that a $4.6 million annual cost reduction will not influence the prospects of a viable plan?

A. Sorry, where are you getting the $4.6 million from?

82 Q. That is your numbers added up, page 11 of your report, your chart. That's the net grants and tuition fees, ancillary revenue, salaries and benefits.

Obviously I didn't add the 7 because

that's people, not dollars.

A. No, no, the annual recurring impact is $2.5 million of revenue that we would be -- that Thorneloe would be losing.

Included in the 4.6 is -- are these one-time impact that they would suffer as a result of termination.

83 Q. Okay.

A. So it's the 2.5.

84 Q. The 2.5. Okay. So, I mean, that doesn't change the question.

A. Sorry, can you repeat the question?

85 Q. Sure. The question is, without being in the heads of the creditors and knowing their preferences and without knowing how the recovery scenarios will play out, I mean, we're not in a position to know if this amount -- or any amount of cost savings will tip the balance in favour of creditor approval or creditor rejection?

A. You know, I'm not speculating on that. I'm just -- it's my opinion that this -- that the -- that the Thorneloe impact will not move the needle in a material way.

86 Q. But that's inconsistent with your conclusion in your report, what you just said?

A. No, it's not.

87 Q. So your conclusion in your report is that:

"[...] termination of the Federation Agreement [...] is unlikely to enhance prospects of Laurentian making a viable Plan in the CCAA Proceedings."

And my question was if we don't know what's in the heads of the creditors and we don't know how the recovery scenarios will play out, we are not in a position to know whether or not this amount or that amount and that swing will change the -- will enhance the prospects of Laurentian making a viable plan of arrangement?

MR. MEEHAN: Mr. Hughes, you've indicated in the question that we do not know. If you do not know, then why are you asking such an obviously hypothetical question? You've said yourself we do not know. If you do not know, then why ask a question that --

MR. HUGHES: I'm not giving evidence. I'm not saying that I do know. Mr. Nackan is.

MR. MEEHAN: But you're asking hypothetical questions.

BY MR. HUGHES:

88 Q. No, I'm not. Mr. Nackan is -- Mr. Nackan is making a statement that the:

"[...] termination of the Federation Agreement will have an immaterial impact on overall costs reduction in Laurentian's restructuring process [...]"

That's conclusion 1, that the:

"[...] termination of the Federation Agreement [...] is unlikely to enhance prospects of Laurentian making a viable Plan in the CCAA Proceedings."

I'm not saying that I know that it will not. I'm not giving evidence.

MR. MEEHAN: Then why are you saying, we do not know? Why are you prefacing the question by saying, we do not know?

BY MR. HUGHES:

89 Q. Let me ask the question again. We are not in the heads of the creditors. We don't know what they will accept

or reject. Mr. Nackan has agreed with me with that proposition.

We don't know how the recovery scenarios will ultimately play out. Mr. Nackan has agreed with that proposition.

Since we don't know ^one or two, my question is, we are -- how are we in a position to say whether or not X amount of savings or Y amount of savings could tip the balance in favour or against the prospects of a successful CCAA plan? We're not in a position to know that yet, are we, Mr. Nackan?

MR. MEEHAN: Mr. Hughes, again, you have -- you have prefaced -- you have given three hypotheticals, one after the other. You've said, we do not know A, we do not know B; therefore, we do not know C.

MR. HUGHES: Those were -- those were not hypotheticals. Those were questions. And Mr. Nackan agreed with those statements of fact.

MR. MEEHAN: Those are not questions of fact. How can it be a question of fact when you just said in two prefaced questions, where we do not know?

That's an inherent contradiction. If

you do not know, then do not transpose that into a question of fact. It is clearly not a question of fact.

MR. HUGHES: It is. The fact is that we are not in the minds of the creditors, and we don't know what positions they will take. That is a fact. It's a fact with which Mr. Nackan has agreed.

MR. MEEHAN: You being in somebody else's mind is not a fact, with respect.

MR. HUGHES: But we are not in their minds. We do not know what their preferences are. Mr. Nackan has conceded that he has not had discussions with any of them, so he does not know what their preferences are or will be. That is a fact. It is a fact that's been admitted.

MR. YIOKARIS: Right. But he has told you that given the amounts, and at this point in time, it's clearly immaterial, and he doesn't see it shifting the dial, and he said that over and over and over and over again.

MR. HUGHES: That's not what he has said. That's not his conclusion. Shall we go back and repeat his conclusion again?

MR. YIOKARIS: Please go ahead and ask your next question.

MR. HUGHES: Well, I didn't get an answer or an objection to that question.

MR. YIOKARIS: Sorry, what exactly is your question?

THE WITNESS: ^What is the question? Yeah.

BY MR. HUGHES:

90 Q. Mr. Nackan, you concluded that Laurentian disclaiming the Thorneloe agreements is unlikely to enhance the prospects of Laurentian making a viable plan in the CCAA proceedings?

A. Yes.

91 Q. That is your conclusion?

A. Yes.

92 Q. And you've conceded that you've not had discussion with creditors?

A. Yes.

93 Q. And you do not know what the creditors' preferences are or will be at this point?

A. I don't know at this stage.

94 Q. And you do not know how

ultimately the recovery scenarios will play out?

A. I don't know that, but it's still my opinion that the -- that the relative quantum of what we're dealing with in Thorneloe is not -- is not likely to change the outcome of any plan.

95 Q. But without knowing the views of creditors and without knowing how the scenarios, the financial scenarios will play out, you do not know that, though, do you?

A. I can't --

MR. MEEHAN: Mr. Hughes, not knowing A, not knowing B clearly is a hypothetical.

MR. HUGHES: That's not my question, Mr. Meehan. That wasn't my question.

MR. MEEHAN: But your question was prefaced by two hypotheticals.

MR. HUGHES: No, it was not.

MR. MEEHAN: Not knowing A and not knowing B.

BY MR. HUGHES:

96 Q. It was prefaced by two facts with which Mr. Nackan agreed. Those are two premises. They're two premises and two facts, and Mr. Nackan agreed with both of those facts.

A. If this was a $200 million claim, we're speaking about a whole different situation. We're talking about a small claim, a tiny claim in a large claims pool.

97 Q. It's a bigger pile of wood.

A. That's...

98 Q. But it's still wood.

A. Okay. It's still wood.

99 Q. So we don't know, standing here, whether or not -- we're not in a position to say whether --

A. None of us know definitively, but I can tell you based on my experience that I don't think this will have a -- you know, I don't think this will significantly enhance the prospect of Laurentian making a viable plan.

100 Q. But that's slightly different from your conclusion, though, in your report?

A. No, that's exactly my conclusion. If anything, I was --

101 Q. But your conclusion is that it's -- first of all that it's immaterial?

A. Correct. I -- that's still my conclusion.

102 Q. Isn't that different from saying

it's not -- it won't -- it won't make a significant difference? An immaterial --

A. I think you're just parsing words. It's -- I'm saying the same thing, and I if I'm being imprecise, I'm sorry.

103 Q. So in terms of the three things that we discussed that go into influencing whether or not a plan of arrangement is viable, I mean, the first one was that financial comparison, and we don't know how that's going to play out?

A. Okay.

104 Q. The second one is the cooperation of stakeholders. And your evidence is that you've not spoken to Laurentian's creditors or stakeholders other than Thorneloe and other than your participation --

A. Yeah, I mean, I've had some interaction with the other creditors within the mediation, but that's it.

105 Q. So for all that you know, there might be no plan that the creditors accept?

A. Correct.

106 Q. And for all that you know, they might accept any plan? I mean, it might well be

they don't want to be seen as bankrupting a university, and they will accept a plan notwithstanding their financial interest. That might well be the case too, correct?

A. Unlikely, but possible.

107 Q. And it might well be that a small difference in cost in recovery scenarios is what changes their views?

R/F MR. YIOKARIS: Counsel, you've asked that question now about a dozen times, and he keeps giving you the same answer, so I'm not going to allow him to answer the question again.

BY MR. HUGHES:

108 Q. And your evidence is that you've not had discussions with Laurentian's DIP Lender?

A. Correct.

109 Q. So the same principle applies in the sense that you don't know what numbers Laurentian's DIP Lender is prepared or not prepared to agree with?

A. I don't know other than the statement that I've seen in Haché's affidavit. But nothing has been -- has entered so far in these proceedings. I haven't seen a DIP budget.

I -- you know, I just know what's on the record.

110 Q. So I'd like to turn to your conclusions, some of your evidence regarding Thorneloe at page 347, and let me find the equivalent.

A. Which page is that?

111 Q. Page 2.

A. Okay.

112 Q. So these are just some of the conclusions, and one conclusion is:

"[...] Thorneloe will no longer be eligible to receive government grants [...]"

That's one of your conclusions?

A. Yes.

113 Q. Thorneloe --

MR. YIOKARIS: Sorry, Counsel, what section are you at?

MR. HUGHES: This is the introduction, so top of the page at 347.

MR. YIOKARIS: In Section 1.2 or something? 1.1?

THE WITNESS: 2.1, I think.

MR. HUGHES: Yes, that's correct. 2.1.

MR. YIOKARIS: 2.1, thank you.

BY MR. HUGHES:

114 Q. And one of the other conclusions you make is Thorneloe will have to resort to a formal insolvency process if these agreements are disclaimed?

A. Yes.

115 Q. So starting with the first, that Thorneloe will no longer be eligible to receive government grants, you know, we've gone through your area of expertise, and it's not in government funding.

A. Correct.

116 Q. At paragraph 5.4 of your report, you state that:

"The federation arrangement allowed Thorneloe to access provincial grant funding that would be paid to Thorneloe through Laurentian [...]"?

A. Right.

117 Q. And then referencing Appendix 5 of your report, Appendix 5 you attach -- this is the Financial Distribution Notice?

A. Yes.

118 Q. And at page 372, the first full

paragraph at the top --

A. Sorry, which page on my report?

119 Q. Oh, sorry, this is page 2 of Appendix 5 to your report.

A. Page 2 of Appendix 5. I don't have the appendix in front of me, but this is the distribution agreement, right?

120 Q. It is, yes.

A. Distribution Notice.

121 Q. Would you like a moment to --

A. Yeah, I can pull it up. Hold on. I have to go to the EY website.

122 Q. Well, I don't think it's -- I'm just trying to think if any of these are particularly controversial, and I don't think they are, but if at any point you would like a moment to pull them up, I'm happy to --

A. Okay.

MR. YIOKARIS: Yeah, Counsel, if you're going to be asking him about a document, I'd rather him be able to pull it up if he wants to pull it up.

MR. HUGHES: That's fine. That's fine.

MR. YIOKARIS: So take a minute,

Mr. Nackan, and pull it up.

THE WITNESS: Yeah. Just trying to go. Give me a moment. Sorry, what page was it of the Motion Record?

BY MR. HUGHES:

123 Q. Page 372 of the Motion Record.

A. Right. Got it. 371. Okay.

124 Q. So at the top of page 372 it states that:

"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."

So turning to your paragraph 5.4, there's a slight inconsistency in saying that it would be paid to Thorneloe through Laurentian. In fact, according to the Revenue Sharing Agreement, it is paid to Laurentian, and Laurentian pays it to Thorneloe?

A. I mean, as I understand it, and

as you said, I'm not an expert on government funding, but these Federated Universities, Thorneloe in particular, would not be eligible to receive these grants directly.

And that is structurally the very reason for the federation, and that has been the mechanism throughout the history whereby funds are -- you know, are paid over to them, subject to this formula or that formula.

125 Q. So you say that would be paid. On what basis would it be paid?

A. The current arrangement would be this financial distribution notice that we -- that we're looking at at the moment.

126 Q. Okay. So it's not that they would be paid. It's that, in fact, Laurentian is paid the money, and Laurentian pays the money to Thorneloe, correct?

A. Laurentian is paid the money in respect of courses that are being delivered by Thorneloe. So, again, it's -- my understanding, it's the channel whereby the payment is made.

But it's not like Laurentian is dipping into their own pockets to pay Thorneloe.

127 Q. Well, you agree with the

statement set out at page 372 that it is Laurentian that pays Thorneloe?

A. That's how the funding flows, yes.

128 Q. Yes. Okay. And then at paragraph 5.4, you refer to this relationship -- sorry, 5.4 of your report, page 3.

A. Uhm-hmm.

129 Q. Sorry, that's where you said that it would be paid. Paragraph 6.6, rather.

A. Yeah.

130 Q. You state that:

"Thorneloe does not qualify for government grants and without receipt of income from government grants and tuition fees for programs/courses offered to Laurentian students, Thorneloe cannot sustain its operations or continue paying its ongoing costs and liabilities."

Again there you're referring to this funding model where Laurentian receives the money, and then Laurentian pays the money to Thorneloe, correct?

A. Yes, I mean, the grants and

tuition are their primary source of income that sustains them and allows them to pay their expenses, and it flows through Laurentian.

MR. YIOKARIS: Counsel, is this maybe a good time to take a five-minute break? We've been going for a good hour and 15 minutes.

MR. HUGHES: Actually, I think I could finish this point, I think, fairly quickly in probably under five minutes.

BY MR. HUGHES:

131 Q. Paragraph 6.5, you state:

"Thorneloe will also no longer be eligible to receive government grants [...]"

And having regard to what we just discussed, that's not exactly correct, is it? It's not that they will no longer be eligible --

A. But they won't because --

132 Q. They won't, and they are not currently eligible?

A. As I understand it, the current status is they are not eligible to receive it directly.

133 Q. Okay. So it's -- so it's a -- we're perhaps nitpicking a little bit here, but

it's incorrect to say they're no longer eligible because they are not now eligible?

A. Yeah, I mean, I think the point I'm trying to make is termination will cut off their grant funding, ^as said in my English.

134 Q. But you agree with me that they are not currently eligible to receive government funding?

A. They do not -- my understanding is that they're not -- that they cannot independently receive the funding. That's the reason for the federation.

135 Q. Right. And you make a similar statement at paragraph 2.1 where, you know, you use the language:

"If terminated, Thorneloe will no longer be eligible [...]"?

A. That's how I understand the facts to be. Are you picking apart my wording, "no longer"?

136 Q. Yes, because "no longer" implies that they are eligible now, and termination will result in them no longer being eligible. But in fact, they are not eligible now, correct?

A. What I'm saying is termination

will result in a cessation of them receiving grants.

And, you know, you're asking me a slightly different question I think. I mean, these grants are being earned in respect of -- or paid by the government in respect of Thorneloe services, courses. Yeah, I'm not sure what -- "no longer be eligible".

137 Q. Meaning that they are currently eligible, which is incorrect?

A. Well, they are -- they're eligible because of the structure that exists.

138 Q. They're -- well, they're receiving it -- they're receiving it via Laurentian. They are not eligible to receive government grants directly, correct?

A. That's my understanding.

139 Q. I think that was probably -- there's one more point, I think, on this. Just turning back to Appendix 5.

A. That's the --

140 Q. That's page 370 of the Motion Record.

A. The Federation Agreement, right? No --

141 Q. That is the notice. That is the Federation Distribution Notice.

A. Got it.

142 Q. Page 3. There there's a reference made to any modifications by the province in the grant structure --

A. Sorry, where -- oh, right, at the last paragraph.

143 Q. Last paragraph starting around the middle:

"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."

I take it you have not -- it's not listed in your documents reviewed. I take it you have not reviewed the strategic mandate agreements?

A. I don't think I have. That

doesn't ring any bells with me. So if it's not appended to this agreement, then no.

MR. HUGHES: Okay. I think that's probably a good time to take a break.

MR. YIOKARIS: Counsel, in fairness to the witness, have those documents been produced in any of the Motion Records?

MR. HUGHES: I mean, I believe that's publicly available. I wasn't making any judgments. I was simply asking if Mr. Nackan had reviewed it or had not reviewed it.

MR. YIOKARIS: Yeah, no, and that's why I'm asking because if it's part -- if it's part of one of the Motion Records, he probably has then.

MR. HUGHES: Okay.

MS. MILLER: No, it's publicly available through the, you know, Ministry website, that type of thing.

THE WITNESS: If that's the only source, I haven't seen it.

MR. HUGHES: All right. Thank you.

-- RECESSED AT 6:42 P.M. --

-- RESUMED AT 6:49 P.M. --

BY MR. HUGHES:

144 Q. Just a few more points to go over, Mr. Nackan.

A. Sure.

145 Q. I'd like to refer you to page 347 of your report.

A. Okay. Can you --

146 Q. Page -- it's your -- sorry, which is your page 2.

A. Okay.

147 Q. You state the following:

"Termination of the Federation Agreement will cause serious financial hardship to Thorneloe as a consequence of which Thorneloe itself will have to resort to a formal insolvency process."

So I take it you're referring to either the BIA or the CCAA?

A. Correct.

148 Q. And you'll agree that they would apply to Thorneloe if Thorneloe were to do that?

A. That's my working assumption.

149 Q. Okay. And I take it you make this conclusion absent any intervening events,

is that correct?

A. What do you mean specifically by "intervening events"?

150 Q. Well, for example, Thorneloe might agree to some type of arrangement with Laurentian as Huntington has, for example?

A. It's a bilateral -- it would have to be an agreement that made sense to both parties because termination essentially is a terminal event for Thorneloe, you know, unlike Huntington who seem to have another plan.

The agreement that has been proposed to Huntington is not going to work for Thorneloe. It's not going to be their salvation, you know.

151 Q. I think -- what I'm getting is I think your implication, as all other -- as the economists would say, ceteris paribus, all other things being equal, this is -- you conclude that, is that correct?

A. Yeah. My conclusion is if there's -- you know, if this -- if this agreement is terminated, the effect will be that essentially, that their -- that their business will no longer be viable.

And there will be a -- a number of consequences that flow from that. They're going to have to terminate their employees. There's potential large exposure under the pension liability, even though that hasn't been quantified, but it's a big number.

And there are other costs that flow from that that -- you know, I've set it out in my table, so there was a Table 1 on -- Table 1 at 6.18 of our report.

152 Q. Okay. And not to get too far off topic, because it's not -- it wasn't intended to be a controversial question.

A. Yeah.

153 Q. But simply to say, you know, absent any other intervening events, such as some sort of acceptable deal being reached, private funding from another party, government funding, that kind of thing, absent any changes from your current knowledge, that's your conclusion --

A. Yes. I'm not aware of any such white knight or -- there is nothing like that at the moment. So of course, yes, you know, absent anything changing, this looks like the reality

they're staring down.

154 Q. All right. That's fine. I have no further questions.

--- Whereupon the examination was completed at 6:54 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 day of 2020.

PER: HELEN MARTINEAU
CERTIFIED SHORTHAND REPORTER

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TAB 3(B)

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

REFUSALS AND UNDERTAKINGS CHART
CROSS-EXAMINATION FOR DISCOVERY OF ALLAN NACKAN, HELD APRIL 23, 2021

	Refusals					
	Refusals to answer questions on the cross-examination of Allan Nackan , dated April 23, 2021					
	Issue & relationship to pleadings or affidavit *(Group the questions by issues.)*	**Q. No.**	**Page No.**	**Specific question**	**Answer or precise basis for refusal**	**Disposition by the Court**
1.		9-14	7-12	To advise and comment on all of the factors that may go into making a viable plan in a hypothetical CCAA.	Refused. The question is not relevant and/or overly broad and vague. The expert is retained by Thorneloe and provided a report concluding that the termination of the Federation Agreement will have an immaterial impact on overall costs reduction in Laurentian's restructuring process, and that the termination of the Federation Agreement will cause serious financial hardship to Thorneloe. The expert did not opine on all the factors that may make a viable plan in a hypothetical CCAA. Further, questions about certain factors were asked and answered repeatedly.	
2.		20	15	To assume that Mr. Nackan acts as a Monitor over Acme Widgets. To assume that Acme Widgets produces a million widgets a year at the cost of $1 a widget. To assume Acme Widgets contracts out some of its widget production to ABC Widgets. To assume ABC Widgets makes 100,000 widgets a year also at a cost of a dollar a widget. To assume that Mr. Nackan determines that Acme has additional production capacity and could make those	Refused. The question is not relevant and/or overly broad and vague. Further, Mr. Nackan is retained by Thorneloe and his conduct is not in question. As such, this question is not appropriate. Farber's expert report was based on actual financial data. The questions put to Farber seeks answers to hypothetical questions involving hypothetical facts. These are not alternate facts being argued by Laurentian in these proceedings. Laurentian is a public university and is not akin to a generic company making widgets. The financial data allowed Mr. Nackan to arrive at the opinion that the termination of the Federation Agreement will have an immaterial impact on overall costs reduction in Laurentian's restructuring process, and that the termination	

				100,000 widgets itself at no additional cost or at a small additional cost. To advise whether Mr. Nackan would agree that it would be commercially sensible for Acme to disclaim its widget contract with ABC and produce those widgets itself.	of the Federation Agreement will cause significant financial hardship to Thorneloe. Further, Farber is retained by Thorneloe and is not the actual Monitor appointed under the CCAA in Laurentian's restructuring, but an independent expert retained to provide an opinion.	
3.		21	16	To assume that Mr. Nackan acts as Monitor for a company. To assume Mr. Nackan determines that the company out to disclaim a contract for $100,000. To assume the company had expenses of a million dollars. To assume it did that to save $100,000. To advise if Mr. Nackan agrees that whether the $100,000 contract is in one contract or ten contracts for $10,000, the result ought to be the same.	Same as above.	
4.		53	29	To advise at what point does the impact become material.	The question was repeatedly asked and answered. See questions 25 to 53.	
5.		51	107	To advise whether a small difference in cost in recovery scenarios may change the views of creditors when they vote on a plan in the CCAA.	The question was repeatedly asked and answered. Further, it is highly speculative. See for example pages 30-51. For example: 55 Q. And it might well be that these small numbers, that as it turns out, when one gets to the stage of determining the recovery scenarios, it might well be that the numbers turn on small numbers, isn't that correct? A. I think it's all highly speculative at the	

					moment. I mean, I have no idea what a plan might look like. You know, based on the financial position that Laurentian is presenting, I'm not hopeful that there's going to be a significant pool of funds available so -- and, you know, nor have we studied the relative plans [claims] of every other creditor. So I can't -- it's difficult to evaluate without seeing the claims pool, understanding what's at stake in the plan. You know, it's hard to imagine how Thorneloe's claim will move the needle. … 56 A. I'm -- I mean, what I'm saying is that, you know, Laurentian -- that the net benefit that Laurentian gets from terminating Thorneloe is not -- does not appear to be material in the big picture, and I don't think it will move the needle on whether they can put forward a viable plan. … 61 A. We're not at the plan stage yet. You know, based on where we are right now and my understanding of what Laurentian is trying to achieve, the small amount of money that gets -- you know, that Thorneloe earns for the services that they provide don't appear to be material in the big picture. And I -- you know, I don't -- it's my considered opinion that it won't move the needle. Now, of course, if at some point I -- you know, when there's a plan and there's something tangible for me to look at, I can look at it, but that's my view today. …	

					65. A. I'm -- I'm not -- it's -- if the question is regarding the cost savings to Laurentian or the revenue that Laurentian wishes to scoop from this university, I think it's immaterial as we look at it right now. The impact of the plan I will assess when we have a plan and more facts. … 67 Q. And you haven't had discussions with any of the creditors, and you don't know what their appetite is? A. I don't.	

April 26, 2021

KOSKIE MINSKY LLP
900-20 Queen St W
PO Box 52
Toronto ON M5H 3R3

Andrew J. Hatnay - LS#: 31885W
ahatnay@kmlaw.ca
Tel: 416-595-2083 / Fax: 416-204-2872
Sydney Edmonds - LS#: 79946K
sedmonds@kmlaw.ca
Tel: (416) 595-2260 / Fax: (416) 204-4936

SUPREME ADCOVACY LLP

Eugene Meehan, Q.C. - LS#: 29046T emeehan@supremeadvocacy.ca
Tel: (613) 695-8855 / Fax: 613-695-8580

Lawyers for Thorneloe University

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

Court File No.: CV-21-656040-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

REFUSALS AND UNDERTAKINGS CHART

KOSKIE MINSKY LLP
20 Queen Street West, Suite 900, Box 52
Toronto, ON M5H 3R3

Andrew J. Hatnay - LS#: 31885W
ahatnay@kmlaw.ca
Tel: 416-595-2083 / Fax: 416-204-2872
Sydney Edmonds - LS#: 79946K
sedmonds@kmlaw.ca
Tel: (416) 595-2260 / Fax: (416) 204-4936

SUPREME ADCOVACY LLP

Eugene Meehan, Q.C. - LS#: 29046T
emeehan@supremeadvocacy.ca
Tel: (613) 695-8855 / Fax: 613-695-8580

Lawyers for Thorneloe University

TAB 4(A)

Laurentian CCAA

Pierre Riopel
on Saturday, April 24, 2021

77 King Street West, Suite 2020
Toronto, Ontario M5K 1A1

neesonsreporting.com | 416.413.7755

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

--- 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.

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., & ANDREW HANRAHAN, Esq., & FRASER HUGHES, Esq.	for the Applicant
ANDRÉ CLAUDE, Esq. & RON CAZA, Esq.	for University of Sudbury
EUGENE MEEHAN, Q.C. & DEMETRIOS YIOKARIS, Esq. & ANDREW J. HATNAY, Esq.	for Thornloe University
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.

INDEX OF EXHIBITS

NO./ DESCRIPTION PAGE

NONE MARKED.

--- Upon commencing at 9:16 a.m.

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

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

THE INTERPRETER: Okay.

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

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

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

MS. MILLER: Thank you.

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

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

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

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

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

PIERRE RIOPEL: AFFIRMED.

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

CROSS-EXAMINATION BY MR. HANRAHAN.

1 Q. Good morning, Mr. Riopel.

A. Bonjour. Good morning.

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

A. Oui.

[Yes].

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

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

A. Oui, c'est ça.

[Yes, that's correct.]

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

A. Oui, devant moi.

[Yes, before me.]

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

A. Oui.

[Yes].

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

A. Pas à ma connaissance, non.

[Not that I'm aware of, no.]

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

A. Oui.

[Yes.]

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

A. Oui, tout à fait.
[Yes, exactly.]
9 Q. And if we turn to your April 14th affidavit the signature on page 14 is yours, correct?
A. Oui, c'est ma signature.
[Yes, that's my signature.]
10 Q. And your April 18th affidavit, on page 4, that's your signature?
A. C'est également ma signature, oui.
[Yes, that's my signature.]
11 Q. And on page 5 of your April 23rd affidavit, that's your signature?
A. Oui.
[Yes.]
12 Q. Okay. And just before we get going, I'll just clarify for the record, so your first affidavit was submitted in English, your second affidavit of April 18th was submitted in French, and we received, from your counsel, a rough translation of that document, which is where I'll be working from today.
And your April 23rd affidavit, that we received yesterday, was also in French and I'm

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

A. Je ferai de mon mieux.

[I'll do my best.]

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

A. Oui.

[Yes.]

14 Q. And then you reviewed them before signing?

A. Absolument.

[Absolutely.]

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

A. Je crois que oui.

[I believe so.]

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

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

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

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

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

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

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

[No translation provided.]

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

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

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

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

BY MR. HANRAHAN:

17 Q. You mentioned the "application

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

A. Je pense que oui.

[I believe so.]

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

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

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

BY MR. HANRAHAN:

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

A. Non, je n'ai pas ce document-là.

[No, I do not have that document. Oh attends une minute.]

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

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

Le 21 avril 2021.

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

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

A. Non.

[No.]

Q. Do you have access to those exhibits electronically?

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

Or if you have specific documents or

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

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

BY MR. HANRAHAN:

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

A. Oui.

[Yes.]

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

A. Non.

[No.]

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

A. Je détiens un baccalauréat spécialisé en histoire, concentration en sciences politiques de l'Université d'Ottawa.

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

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

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

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

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

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

... en 1996.

[... in 1996.]

BY MR. HANRAHAN:

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

A. Oui, je le suis.

[Yes, I am.]

25 Q. And when did you assume that role?
A. Au mois d'octobre 2017.
[Month of October 2007.]
2017.
[2017.]
26 Q. And were you appointed to that position?
A. J'ai été élu par mes pairs.
[I was elected.]
27 Q. And by whom were you elected?
A. Par les membres du conseil.
[By the committee members.]
28 Q. Which committee is that?
A. Le conseil des régents de l'Université de Sudbury.
THE INTERPRETER: Pouvez-vous répéter s'il vous plait pour l'interprète? Il y a des problèmes de son. Can you repeat that for the interpreter please? The sound is not great.
THE WITNESS: Le conseil des régents de l'Université de Sudbury.
[The members of the council of the University of Sudbury.]
BY MR. HANRAHAN:

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

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

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

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

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

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

C'est un poste bénévole.

It's a volunteer position.

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

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

[I've been a member of the council

starting in the month of February 2012.]

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

A. Oui.

[I am.]

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

A. C'est ce que je comprends.

[That's what I understood.]

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

A. À ma connaissance.

[That I am aware of, yes.]

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

A. Hum, hum. Oui.

[Yes.]

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

A. Je n'étais pas au monde, monsieur

Hanrahan.

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

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

A. Des circonstances de signature, non.

[The situation surrounding its signature? No.]

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

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

[Are you speaking of the agreement of 1960?]

39 Q. Correct. September 1960, September 10.

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

THE WITNESS: J'ai le document devant

moi.

[I have the document in front of me.]

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

BY MR. HANRAHAN:

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

A. Oui.

[Yes.]

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

"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."

Do you see that?

A. Oui.

[Yes.]

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

A. Je n'étais pas présent, non.

[No, I wasn't present.]

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

A. De l'entente de 1960? Non.

[To the agreement of 1960? No.]

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

A. Oui.

[Yes.]

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

A. C'est beau.

All right.

46 Q. And if we look at paragraph 17 it 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

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

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

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

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

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

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

MR. CAZA: Okay, that's fine.

BY MR. HANRAHAN:

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

[Question read back.]

A. C'est ce que je comprends.

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

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

"Laurentian University agrees to continue all faculties, schools, institutes, departments and chairs now established in Sudbury University, except these in theology and philosophy, in accordance with the provisions of the Act and Corporation of Laurentian University."

Do you see that?

A. Oui.

[Yes.]

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

A. Je dirais que oui.

[I would say so, yes.]

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

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

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

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

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

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

A. Shall » exprime un engagement, pour moi.

[For me "shall" expresses a commitment.]

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

A. Oui.

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

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

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

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

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

A. C'est la fin de ma réponse.

[That's the end of my answer.]

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

A. C'est ce que je comprends, oui.

[That's what I have understood, yes.]

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

A. J'ai le document devant moi.

[I have the document in front of me.]

60 Q. And so this document sets out the

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

A. C'est ce que je comprends.

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

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

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

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

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

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

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

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

BY MR. HANRAHAN:

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

A. J'étais au monde.

[I was in the world.]

64 Q. In the world, I get it.

THE INTERPRETER: Sorry, the sound is not great.

BY MR. HANRAHAN:

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

A. Je crois que oui, je n'ai pas le paragraphe numéroté, par contre.

[I believe I do but I don't have the paragraph number.]

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

A. Est-ce qu'on parle du 6, ici?

[Are you speaking about paragraph 6 here?]

67 Q. Yes.

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

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

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

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

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

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

A. C'est ce que je pense.

[That's what I believe.]

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

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

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

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

MR. CAZA: That's sound familiar.

Can we take a minute just to send it over? Send a copy?

MS. MILLER: Well do that.

THE WITNESS: Ah je l'ai.

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

BY MR. HANRAHAN:

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

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

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

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

"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 lesee shall withdraw from federation with the lessor."

Do you see that?

A. Oui.

[Yes.]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. Oui.

[Yes.]

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

Sudbury, correct?

A. C'est ce que je comprends.

[According to what I understand.]

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

A. 1er mai 2019, oui

[April 2019, yes.]

Le 1er mai.

[The 1st of May.]

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

A. Oui, paragraphe 26.

[Yes, paragraph 26.]

80 Q. And you say in that paragraph:

"USudbury was not asked to and did not consent to Laurential unilaterally revising or replacing 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."

Do you see that?

A. Oui.

[Yes.]

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

A. Oui.

[Yes.]

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

A. Oui, c'était le 30 avril.

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

Merci.

Thank you.

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

A. Non, c'est juste.

[No, that's correct.]

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

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

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

85 Q. Well, there was a meeting right?

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

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

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

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

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

Il n'y a pas eu de discussion. Nous

n'avons signé aucun document.

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

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

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

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

A. Pas du tout.

[Not at all.]

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

A. Oui.

[Yes.]

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

A. Hum, hum.

[Uhm-hmm.]

90 Q. Schedule B provides that:

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

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

A. À quelle page?

[On which page?]

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

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

[Yes. That's what I understand.]

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

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

[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

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

A. C'est ce que je comprends.

[That's what I've understood.]

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

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

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

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

Il y a une mention dans le programme...

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

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

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

student to the university.]

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

A. C'est ce que je comprends.

[That's what I've understood.]

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

"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."

Do you see that?

A. Oui.

[Yes.]

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

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

pour les étudiants inscrits à nos programmes.

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

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

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

Voilà.

[There you are.]

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

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

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

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

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

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

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

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

102 Q. And Laurentian only transfers

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

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

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

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

A. Je dirais que oui.

[I would say, yes.]

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

A. Oui.

[Yes.]

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

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

THE INTERPRETER: Can you repeat that? Répétez, s'il vous plait.

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

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

BY MR. HANRAHAN:

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

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

[Yes. We have administrative and residence.]

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

[In fact the administer part is the classrooms.]

106 Q. And you have your own administrative staff?

A. Oui.

[Yes.

107 Q. And your own faculty?

A. Oui.

[Yes.]

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

A. En fait, l'unité syndicale avec

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

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

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

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

109 Q. Right, it has its own chapter?

A. C'est ça. C'est ce que je pense.

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

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

A. Exact.

[Exactly.]

111 Q. And paid by the University of Sudbury?

A. Exact.

[Exactly.]

112 Q. And the University of Sudbury has its own bank account?
A. Oui.
[Yes.]
113 Q. It's own financial statements?
A. Oui.
[Yes.]
114 Q. So the University of Sudbury currently offers five different programs, is that correct?
A. Je crois que oui.
[I believe so, yes.]
115 Q. And those are Indigenous Studies, Philosophy, Religious Studies, études journalistiques, and Folklore and Ethnology, correct?
A. Oui. Quelques précisions, ethnologie et folklore, c'est en français.
[Yes. Some precisions, Folklore and Ethnology is in French...]
Études journalistiques, exclusivement en français aussi.
[... and journalistic studies exclusively in French as well.]
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

if you do know the answer please provide the answer.

THE WITNESS: I don't know the answer.

Je ne sais pas la réponse

[I don't know the answer.]

BY MR. HANRAHAN:

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

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

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

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

A. Oui.

[Yes.]

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

A. Oui.

[Yes.]

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

A. Oui.

[Yes.]

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

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

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

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

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

[I trust the other team on that.]

124 Q. Did you have any questions about that before you signed this affidavit?

A. Je n'ai pas demandé de précisions. Je me fie à cette équipe.

[I did not ask for specification. I trust that team.]

125 Q. You didn't indicate in the affidavit that you were relying on information from someone else for those numbers, did you?

A. Je pensais que oui, au tout début. Au paragraphe 1.

[I believe so, at the very beginning. Paragraph 1.]

126 Q. Let's take a look at paragraph 1. Paragraph 1 says:

"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."

Now, if you look at -- back at paragraph 32 again, there's no reference to another source for that information that you're relying on, is there?

A. Moi, ce que je peux vous

partager, c'est qu'on m'a toujours indiqué que nous desservions approximativement, au grand total, 2 000 étudiants, peu importe l'année.

[What I can indicate to you is that we would offer services to students at a very maximum of around 2,000 students.]

Donc c'est peut-être pour cette raison-là que je n'ai pas questionné ce paragraphe-là.

[So it's perhaps for that reason I hadn't questioned that paragraph.]

127 Q. Did you not think it would be necessary to check on the figures you're citing in our affidavit? You've sworn them to be true, right?

A. Oui. Et on m'avait déjà indiqué que nous desservions approximativement 2 000 étudiants.

[Yes. And I had already indicated that we serve approximately 2,000 students.]

128 Q. So what you're saying is that there's approximately 2,000 students who take courses as the University of Sudbury, is that your evidence?

A. J'ai déjà entendu ça, oui.

[We've already heard that, yes.]

129 Q. But you're not sure exactly what that number refers to?

A. Non.

[No.]

130 Q. And the next number in that paragraph, individual registrations in all courses of 4,080 students. Do you see that?

A. Oui.

[Yes.]

131 Q. Do you know what that number refers to?

A. Encore, je fais confiance à l'équipe administrative qui me fournit ces données-là.

[Again, I'm confident in the team that provides me these informations.]

132 Q. And do you understand what the distinction between the two numbers is, 2,228 versus 4,080?

A. Je comprends les mots, mais je ne comprends pas nécessairement toutes les implications à l'intérieur de l'organisation.

[I understand the words but I perhaps don't understand all the details within the

organization structure.]

133 Q. Counsel, can we have an undertaking for an explanation of how these numbers were calculated and what they represent?

U/T MR. CAZA: Yes, we will provide you with that undertaking.

MR. HANRAHAN: Thank you.

BY MR. HANRAHAN:

134 Q. Now, I think you said a moment ago that your understanding was there was about 2,000 students who take courses through the University of Sudbury, is that right?

A. C'est l'information que j'ai eue la dernière fois qu'on m'a fourni quelque chose, très informellement.

[That's the information I received the last time someone provided me information very formally.]

135 Q. And we just talked a few minutes ago about the fact that there's roughly 69 full-time equivalent students at the University of Sudbury?

A. Bien, c'est vous qui le dites, oui.

[You're the one saying that, yes.]

136 Q. Well, and I thought that you told me that was within -- that was the number that you thought was within the range of reasonableness without committing to that figure?

A. Bien moi, je n'ai pas ces informations-là pour confirmer ou infirmer.

[I don't have this information in front of me to either confirm or not confirm.]

137 Q. Okay. Is it fair to say that most of the 2,000 or so students who are taking the courses at University of Sudbury are enrolled in Laurentian University programs?

A. Je dirais que oui.

[I would say that, yes.]

138 Q. And so when we were discussing earlier about the Financial Distribution Notice, if a student is enrolled in a program through Laurentian but they take an elective course through the University of Sudbury, the tuition revenue for that course is then paid from Laurentian to the University of Sudbury, correct?

A. C'est ce que j'ai toujours compris.

[That's how I've always understood it.]

139 Q. And did you review Dr. Haché's April 21st affidavit?

A. Rapidement, oui.

[Quickly, yes.]

140 Q. And you submitted an affidavit in response that Dr. Haché affidavit, right?

A. Par la suite, oui.

[Just afterwards, yes.]

141 Q. And do you recall in Dr. Haché's affidavit that he provided the amount, specific amounts of money transferred from Laurentian to the Federated Universities?

A. Pas comme ça, mais c'est à quel paragraphe?

[What paragraph is that in again?]

142 Q. That is paragraph 152 and 153.

A. J'ai le paragraphe devant moi.

[I have the paragraph in front of me.]

143 Q. And Dr. Haché in those paragraphs refers to:

"In fiscal year 2020 the amount of tuition and grants and fee transferred to the Federated

Universities, net of the service fee paid to Laurentian, was 7.7 million." Do you see that?

A. Oui.

[Yes.]

144 Q. . Now, if the same roughly 2,000 students we were talking about earlier, who take courses through the University of Sudbury, took all of their electives solely through Laurentian University, all the tuition revenue for those students would stay within Laurentian, correct?

[I'm far from being an expert in the financial affairs of the university so it's hard for me to answer you on that.]

145 Q. Well, if a student doesn't take any courses through the University of Sudbury is there any reason that tuition money would be transferred to the University of Sudbury for that student?

A. Bien, si on offre un programme et si on offre des cours, ça veut dire qu'il faut payer nos professeurs. Donc c'est notre source de financement, là

[Yes. If a course is offered then we have to pay a professor to teach that course, so

that's our funding for that.]

Ça m'apparaît logique, hein.

[It's logical.]

146 Q. I'm asking a slightly different question, which is, if there's a student who doesn't take any courses at the University of Sudbury, he only takes courses through Laurentian, is there any reason that any tuition money in respect of that student would be transferred to the University of Sudbury?

A. Encore une fois, je ne suis pas un expert, là, puis je ne connais pas toutes les subtilités du financement, mais ce que vous dites me semble logique. Mais je ne suis pas sûr, là.

[Again, I'm not an expert on the financial -- the subtleties of financial affairs but, again, what you say seems to be correct. Seems to be logical.]

Et ce que je comprends, c'est que l'Université de Sudbury et les deux autres universités fédérées reçoivent du financement, justement, pour les cours au choix, hein. C'est ce que je comprends, ainsi que pour nos 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?

A. Parce qu'implicitement, il n'y a pas d'achat de service, hein. On n'offre pas, l'étudiant a choisi de ne pas suivre de cours à Thorneloe, Huntington, ou l'Université de Sudbury, donc il n'y a pas de raison d'avoir à ce moment-là, selon...

[Because implicitly if a student doesn't take the courses then they are not offering courses at Huntington, Thorneloe...]

149 Q. Did our interpreter freeze?

MR. CAZA: No, I don't think there was a question.

BY MR. HANRAHAN:

150 Q. Well, there was a question. He was giving the interpretation.

Mr. Riopel, can you turn to tab -- your April 23rd affidavit. So if we can look at paragraph 5 of your April 23rd affidavit?

A. Oui.

[Yes.]

151 Q. And in this paragraph you say that:

"Because the University of Sudbury pays all of its teachers, support staff, and the maintenance of

its buildings, I question the assertion that there will be a real benefit of 7.7 million for Laurentian if it succeeds in terminating the federation."

Do you see that?

A. Oui.

[Yes.]

152 Q. Can you just explain what you meant by that?

A. Je reviens au concept de l'achat de services.

[I'm going return to the concept of purchasing services.]

Les étudiants vont suivre des cours d'une façon ou d'une autre. Quand on les suit à l'Université de Sudbury, il y a un coût, il y a un coût d'entretien de l'édifice. Il y a un coût de payer notre personnel, de payer nos profs. Ça, c'est clair. Mais ces mêmes étudiants, s'ils étaient inscrits ailleurs, il y aurait des dépenses semblables, alors j'ai du mal à comprendre l'idée d'un gain véritable de 7.7 pour l'Université Laurentienne.

[If students are following a course

they're going to be following one way or another. If these students and -- at the University of Sudbury is going to have a cost we have to pay our person, our staff, we have to pay our teachers. And if those students were to enroll elsewhere there would not really be a benefit for them anywhere.]

153 Q. So is your suggestion that the 7.7 million that that just represents all of your costs for teacher, support staff and maintenance of the building?

A. Je dirais que c'est principalement ça.

[I would say it's mainly that.]

Mais il faut pas oublier, je pense que le chiffre de 7.7, on parle des trois universités fédérées.

[But don't forget when we're talking about this amount we're speaking of the three Federated Universities.]

154 Q. This would be a good time for a break.

-- RECESSED AT 10:35 A.M. --

-- RESUMED AT 10:50 A.M. --

BY MR. HANRAHAN:

155 Q. Mr. Riopel, can you turn to your April 18th affidavit?

A. Oui.

[Yes.]

156 Q. And just looking at paragraph 3. In paragraph 3 you say:

"I could never have imagined a time when the urgency was as great as it is now for the University of Sudbury to make the shift toward becoming a homogenous Francophone university."

Do you see that?

A. Oui.

[Yes.]

157 Q. And then you go on to say in paragraph 11:

"As Chair of the Board of Regents, I can say we are working with great diligence to build the University of Sudbury by and for Francophone, with the support of the Francophone community in the Sudbury area."

Do you see that?

MR. CAZA: Just for the purposes of the transcript, he actually doesn't see that because you are reading a translation. He's actually looking at the French, the original affidavit.

BY MR. HANRAHAN:

158 Q. Fair enough. And is what I read to you -- it captures what you're saying in that paragraphs?

A. Je m'en souviens pas, et je suis loin d'être un traducteur.

[I don't remember exactly and I'm far from being a translator.]

159 Q. Would you prefer that we have the translator translate what I'm saying to you in French.

MR. CAZA: I can tell you that just for the purposes of what you're reading I'll let you know if I have any disagreements with what you're reading in English.

The translation you prepared, as compared to the original, from what you've told me today it's quite close to what -- it's exactly quite accurate as to what was in French.

I am not doing that with anything, and

André and I, and Pierre better not be doing that, with respect to any of the interpretation that's going on at this hearing. I'm not even listening to it.

So I will be doing that for your document so there's no need to have that translated.

BY MR. HANRAHAN:

160 Q. And from the paragraph I just read you're fine with --

MR. CAZA: I am fine. From what you've read I'm fine. It's accurate.

BY MR. HANRAHAN:

161 Q. Is it fair to say, in the two paragraphs we just looked at, you're expressing the goal for the University of Sudbury to be an independent, French-language university?

A. Le 11 mars, au moment de l'adoption de la résolution à cet effet, nous avons mandaté le recteur de l'Université de Sudbury de faire toutes les démarches avec cet objectif en tête.

[On the 11th of March, the date of the adoption of this resolution, we mandated the Rector, a principal of the University of

Sudbury, to apply this.]

162 Q. Sorry, to "apply" this? Maybe it's a translation issue. When you say "to apply this" what do you mean?

A. Ce que je veux dire, c'est de faire en tout en son autorité pour la mise en oeuvre d'une université de langue française.

[When I say that it's to put everything in its power to implement a French university.]

163 Q. And you mentioned that there was a resolution passed by the Board of Regents to that effect?

A. Oui.

[Yes.]

164 Q. And you may have said this, what was the date of that resolution?

A. Adoptée le 11 mars 2021.

[Adopted on the 11th of March 2021.]

165 Q. Counsel, can we have an undertaking for production of that resolution?

U/T MR. CAZA: Yes, we will undertake to provide you with a copy of that resolution.

BY MR. HANRAHAN:

166 Q. Thank you.

Mr. Riopel, when did the University of Sudbury start having serious discussions about transitioning to a unilingual French school?

A. Moi je vais vous dire que ça ne date pas d'hier. On en parle comme ça depuis des années, en fait, où l'Université de Sudbury a été, la suggestion a été faite que l'Université de Sudbury pourrait devenir un établissement de langue française, un établissement autonome de langue française.

[I can say that that's not -- you know, it didn't come up. It wasn't just yesterday. We've been hearing this kind of suggestion, the idea that the University of Sudbury suggests becoming its own independent, autonomous, French-language university for years.]

Maintenant, pour votre bénéfice, je veux vous expliquer que l'Université de Sudbury a existé en tant qu'établissement autonome de langue française de 1957 à 1960.

[And now, for your benefit I would like to explain that the University of Sudbury has existed as an independent institution of French language learning between the years of

1957 and 1960.]

J'ai devant moi le grade, le baccalauréat en arts de mon père reçu au mois de juin 1960

[I have before me the degree, my father's degree, received on the date of June 1960.]

Et c'est par la suite, avec la création de la Fédération Laurentienne, avec la création de l'Université Laurentienne qu'on a établi cette entente de la Fédération, en 1960.

[And it's after the creation of the Laurentian University that this accord or agreement was established.]

Et je peux vous dire que la communauté franco-ontarienne parle d'un établissement, d'une université autonome de langue française depuis des années.

[And I can tell you the Franco-Ontarian people are speaking about an autonomous, French-language university since quite some time.]

167 Q. But since the Federation Agreement has been in effect the University of Sudbury has been a bilingual institution,

correct?

A. Oui.

[Yes.]

168 Q. And you said that it's been under discussion for years converting to a unilingual, French university?

A. La discussion est revenue à maintes reprises.

[The discussion's come back several times.]

169 Q. And who are those discussion amongst?

A. Les individus, formellement, au conseil. Informellement, il y a eu plusieurs discussions. Écoutez, la question d'une université de langue française à Sudbury remonte à des générations. Alors c'est difficile de cerner et d'identifier spécifiquement des moments où on a eu cette discussion-là.

[Formally there have been with individuals at the council, in conversations informally, with -- there have been several discussions. Listen, the question about Sudbury having a Francophone-language university dates back generations.]

Ça résume à peu près, oui

[That's it. Yes.]

170 Q. It's fair to say that more recently those discussion became more serious?

A. Face à tout ce qui se passe à l'Université Laurentienne, oui.

[That's everything that happens at Laurentian University, yes.]

171 Q. And is it fair to say that you decided recently that this transition was necessary because you don't think that Francophone interests can be met in a bilingual university like Laurentian?

A. Maître Hanrahan, j'ai vécu et j'ai obtenu des grades dans deux de ces universités bilingues. Moi, ce que je peux vous dire, ça, c'est mon expérience personnelle, c'est que ça ne se vit pas bien sa francophonie dans un établissement bilingue, O.K.?

[Mr. Hanrahan, I can tell you that from my personal experience I've obtained -- I lived both things. I've received degrees in bilingual universities. I can speak of my personal experience that one's Francophone culture is not lived well in a bilingual

institution.]

Et je peux vous assurer, encore une fois, de façon anecdotique, les gens à qui je parle dans la communauté franco-ontarienne m'indiquent exactement la même chose.

[And I can assure you in an anecdotal way that the people with whom I've spoken in Franco-Ontarian communities feel the same way.]

Pour votre bénéfice, la communauté franco-ontarienne, de façon générale, désigne maintenant l'établissement en question de « Laurentian University ». Les francophones ont arrêté de l'appeler « l'Université Laurentienne », tellement on a perdu confiance.

[Or -- and for your benefit, the Franco-Ontarians -- generally Franco-Ontarians designate this institution as Laurentian University not as the University of Laurentian. So much the Francophone community has lost faith.]

Mais je veux faire la distinction, et je veux que ce soit très très clair...

MR. CAZA: Excusez, Pierre, je veux juste corriger la traduction.

I just need to, if I may,

Mr. Hanrahan, can I make a comment on the interpretation?

MR. HANRAHAN: Sure.

MR. CAZA: Okay. Just so -- in fact what Mr. Riopel said is that the Francophone community no longer -- refers to the institution as "Laurentian University" and does not refer to it as "Université Laurentienne". So what he's saying is they don't refer to it by its Francophone denomination. And it's hard to translate that and keep -- because if you're translating it you're taking it away. I just wanted to that to be clear on the record.

THE INTERPRETER: Thank you.

BY MR. HANRAHAN:

172 Q. Thank you for the clarification.

Now, Mr. Riopel, the announcement and resolution of Sudbury's intention to become an independent Francophone university, that was made several weeks before the Notice of Disclaimer was issued by Laurentian, right?

A. La résolution a été adoptée le 11 mars, et puis l'avis, nous l'avons reçu le 1er avril.

[The resolution was adopted

11th March...]

THE INTERPRETER: Pouvez-vous répéter la dernière partie?

THE WITNESS :

Et l'avis de dissolution de la Fédération, nous l'avons reçu le 1er avril.

[And the life of the dissolution was the 1st of April.]

THE INTERPRETER: Sorry. That's a lot of information. C'est beaucoup d'informations.

THE WITNESS: Voilà, O.K.

[There you go.]

BY MR. HANRAHAN:

173 Q. Sorry, I wasn't sure if there was more in the translation or that was it?

So, in other words, Sudbury's plan to leave the federation and become an independent French university was already in motion before Laurentian issued the disclaimer, correct?

R/F MR. CAZA: I'm sorry, objection. The premise you've given has not in any way been the evidence that was provided by Mr. Riopel.

BY MR. HANRAHAN:

174 Q. Which part is not in evidence?

MR. CAZA: Can I ask Ms. Martineau to

read back or repeat the question you just gave to the witness?

THE COURT REPORTER: Yes:

"So, in other words, Sudbury's plan to leave the federation and become an independent French university was already in motion before Laurentian issued the disclaimer, correct?"

MR. CAZA: Can you repeat that?

THE COURT REPORTER: Ye:

""So, in other words, Sudbury's plan --"

MR. CAZA: Where did you get that? That is grossly misinterpreting the evidence provided by the witness.

BY MR. HANRAHAN:

175 Q. Why don't we clarify that with the witness?

MR. CAZA: I want to -- where did you get -- did you hear that evidence to date? I'm just wondering because if you have I need to know. I'm taking notes and I need to know if Mr. Riopel said that.

MS. MILLER: Mr. Caza, I'm taking note

as well and we've just heard the witness say that that has been in discussion for years. And he's just given evidence that there was a resolution passed by the Board of Regents on March 11th.

MR. CAZA: To leave the federation?

MS. MILLER: Is that the nature of the objection? Because the reference to the leaving the federation was part of the objection?

MR. CAZA: So if you did rephrase your question we can maybe take it from there?

BY MR. HANRAHAN:

176 Q. I will rephrase the question.

Mr. Riopel, is it fair to say that Sudbury's plan to become an independent French language university was already set in motion long before Laurentian issued its Notice of Disclaimer?

A. Je répondrais non, dans la mesure que le conseil des régents, ce n'est pas une planification depuis des années. C'est que la communauté en parle depuis des années. Je pense qu'il y a une nuance excessivement importante ici. Et puis j'ajouterais que la résolution du 11 mars mandate le recteur de faire ses devoirs

en vue de cette possible éventualité.

[I answer very no, in the measure that the Board of Regents does not have a formal plan, but that the community has been speaking about this for quite a while. It's something that is very important here.

And that the dissolution, dated 11th March, mandates or directs the principal to do their duty before this eventuality, in front of this eventuality.]

177 Q. So I think you've told me that this conversion to a French-language university has been under discussion for years. You issued this resolution and made an announcement on March 11th, and the Notice of Disclaimer was issued on April 1st.

So given that timeline isn't it a fact that your decision was already made and in motion long before Laurentian issued the Notice of Disclaimer?

A. Je n'irai pas à ce point-là. Très honnêtement, je n'irai pas à ce point-là.

[I would not go as far as to say that. Honestly, I would not go so far as to say that.]

Maintenant, l'autre élément aussi,

nous avons reçu ce avis-là le 1er avril, oui.

[Now the other element we have on April 1st, yes.]

Moi, j'ai lu l'affidavit du docteur Haché, qui a été déposé le 1er février.

[I've read Dr. Haché's affidavit that was disposed on February 1st.]

Et maintenant, je sais lire entre les lignes, par contre, et puis le docteur Haché semblait signaler, et ça, c'est mon interprétation, semblait signaler son intention de dissoudre la Fédération.

[And I can now -- now I can read between the lines, and I'll signal that that's my interpretation of this affidavit, that the Dr. Haché had in his intention to dissolve.]

178 Q. So you understood Dr. Haché's January 30th affidavit to be saying that the federation would be dissolved?

A. Bien disons qu'il y avait des signaux assez clairs.

[Let's say that there was some signals were clear enough.]

179 Q. But ultimately your decision, and when I say "your" the University of Sudbury's

decision, to announce that it would become an independent, French-language university was made before Laurentian officially issued a Notice of Disclaimer?

A. Nous avons mandaté le recteur de l'Université de Sudbury de faire tout ce qui était requis pour que l'Université de Sudbury devienne une université gérée par la francophonie ontarienne. C'est le texte. Maintenant, c'est ce que je peux partager avec toi, c'est ce que j'ai, c'est ce que j'ai comme information.

[The university -- we mandated the director of the University of Sudbury to do - inaudible (sic) - so that the university will become an Franco-Ontarian. That's what the text says. Now that's what I'm able to share with you. That's the information I have.]

180 Q. And that was done before there was a Notice of Disclaimer from Laurentian, right?

A. Je répète, nous avons adopté le 11 mars et puis nous avons reçu l'avis le 1er avril.

[I repeat, we adopted it the 11th of

March and received the hmm (sic) the 1st of April.]

181 Q. So I would like to take a look at a letter that your counsel sent to my firm on April 12th, it was attached to Dr. Haché's most recent affidavit, April 21st, affidavit. Is that something you have available or should we get a copy of that to you?

A. J'ai la réponse.

[I have the response...]

Mais je n'ai pas la lettre originale.

[... but I don't have my original letter.]

182 Q. I ask if your counsel has access it's Exhibit R to the Haché affidavit from April, is that something we can provide the witness?

MR. CAZA: Sir, are you okay if we -- Mr. Claude sends a copy to Mr. Riopel?

MS. MILLER: Yes, I understood Mr. Riopel saying that he had all of the exhibits to Mr. Haché's affidavit?

MR. CLAUDE: I don't recall that he said he had exhibits, definitely the affidavit. But the letter in question is that dated

April 12th?

MS. MILLER: Yes.

THE WITNESS: Oui, je l'ai.

[I have it. Yes.]

MR. CLAUDE: Because I believe that same exhibit is part of one of the -- possibly the April 18th affidavit of Mr. Riopel.

BY MR. HANRAHAN:

183 Q. Okay.

A. J'ai les copies des deux lettres.

[I have a copy of -- copies of both those.]

MR. CLAUDE: And Mr. Hanrahan, the original letter written from my office is in French but I believe you have a translation of the letter. Once again, I guess to the extent where you're reading from an English version and he's looking at a French version we just want to be sure we're clear that the translation is necessarily appropriate.

MS. MILLER: Just to be clear, the translation of the English version of the letter from your office was provided by your office. That's not a translation we did. You provided us with both a French and an English version of

that letter.

MR. CLAUDE: Yes, but I'm not sure that the witness has the English version of the letter before him.

MS. MILLER: That's fine. As long as you can assure your client that the English version that you provided to us is consistent with the French version that you prepared or provided to him then I think we're good.

BY MR. HANRAHAN:

184 Q. Mr. Riopel, do you have a copy of the letter in front of you?

A. J'ai une copie des deux lettres, oui.

[I have a copy of both letters, yes.]

185 Q. And when you say "both letters" you're referring to the April 12th letter from Mr. Claude and the response from Ms. Miller?

A. Oui.

[Yes.]

186 Q. Now, this letter that was sent from Mr. Claude, was this letter sent at your request?

A. J'en ai discuté avec maître Claude, et puis il a été convenu d'en envoyer.

Je suis en CC à la lettre.

[I spoke with Mr. Claude about the letter.]

187 Q. And did you review the letter before it was sent?

A. Ça, je me souviens pas.

[I don't recall that.]

188 Q. Did you discuss the contents of the letter with him before it was sent?

A. Oui.

[Yes.]

189 Q. And you agreed with the content?

A. De façon générale, oui.

[In a general way, yes.]

190 Q. Can we just turn to the second paragraph of the letter? And again, I'm reading from a translated copy provide by Mr. Claude, which says:

"As you know, the University of Sudbury announced on Friday, March 12th that it was becoming a Francophone university. It has already begun its transition to achieve this new mission quickly."

Do you see that?

A. Oui.

[Yes.]

191 Q. What has the University of Sudbury already done to begin the transition?

A. Le conseil des régents de l'Université de Sudbury a créé un groupe ad hoc en vertu de la résolution adoptée le 11 mars, en vue de l'établissement d'une université de langue française.

[The regional committee of the University of Sudbury has created an ad hoc committee with the vision of the 11th March resolution, with the vision of creating a French language university.]

A également été créé un comité ad hoc avec les mêmes objectifs pour la communauté autochtone.

[And they also equally made an ad hoc committee for the indigenous community.]

Maintenant, le comité ad hoc...

[Technical issues.]

THE COURT REPORTER: I dropped off there, I did not get that.

BY MR. HANRAHAN:

192 Q. Mr. Riopel, maybe if you can repeat your answer for the court reporter?

A. Le conseil des régents a procédé à la création d'un comité ad hoc pour piloter le dossier de l'université de langue française.

[The regional (sic) committee of the University of Sudbury proceeded with the creation of an ad hoc committee to pilot the creation of a French-language university.]

Simultanément, nous avons créé un comité ad hoc pour le dossier des indigenous studies

[Simultaneously we created an ad hoc committee for the case of Indigenous studies.]

Maintenant, le groupe francophone s'est entouré d'un comité de travail et ce comité s'est rencontré au début avril.

[Now, the French group is surrounded by a work committee, a work team and this committee met the beginning of April.]

Et nous sommes à élaborer un plan d'affaires en...

[And we drafted a business -- we drafted a business plan - inaudible.]

THE COURT REPORTER: Pardon M. Riopel, je n'ai pas entendu la dernière partie de votre réponse, après « plan d'affaires ».

THE INTERPRETER: I didn't understand the last sentence after business plan.

THE WITNESS: Bien, je crois, « en vue de l'établissement de l'université de langue française ».

[With an eye toward creating a French-language university.]

BY MR. HANRAHAN:

193 Q. Mr. Riopel, I think you just mentioned, and I just want to clarify, that there is an ad hoc committee and then a work committee. Are those two separate committees?

A. Oui, parce que le comité ad hoc, c'est le comité du conseil des régents.

[Yes, because to ad hoc committee is a part of the Federation of Regents.]

194 Q. And who is on the work committee?

A. Je fais partie du comité.

[I'm part of the committee.]

Le vice-président du conseil des régents. Donald Dennie, professeur émérite de l'Université Laurentienne. Johanne Gervais, de

l'ACFO du Grand Sudbury. Gisèle Chrétien, l'ancienne présidente du Collège Boréal. Parmi d'autres.

[The vice-president of the regional. Donald Dennie, emeritus professor at the university of hmm (sic). Joanne hmm (sic) Sudbury. Gisèle Chrétien. And the previous president of Collège Boréal. Among others.]

195 Q. There are others? How many people are on the committee?

A. On est huit ou dix, je me souviens pas.

[Eight or ten, I can't say exactly.]

BY MS. MILLER:

196 Q. For the record, Mr. Caza is on the committee?

A. Oui, je crois que oui.

[Yes, I believe so.]

BY MR. HANRAHAN:

197 Q. And what is the difference in responsibility between the work committee and the ad hoc committee?

A. Le comité ad hoc relève du conseil des régents.

[The ad hoc committee lifts up the

regent committee.]

N'ayant pas toutes les expertises nécessaires au dossier, nous avons pensé bon de créer un comité de travail.

[Not having all the necessary expertise we thought it was a good idea to create a work team.]

198 Q. And do both the ad hoc committee and the work committee report to the Board of Regents?

A. Le comité ad hoc se rapporte au conseil des régents, le comité de travail se rapporte au comité ad hoc. Les membres du comité ad hoc sont membres du comité de travail.

[The ad hoc reports to the regents -- to the ad hoc they are a member.]

Le comité de travail se rapporte au comité ad hoc.

[The work committee reports to the ad hoc committee.]

199 Q. I think you mentioned a moment ago that the work committee had drafted a business plan as part of the --

A. Nous sommes dans ce processus-là.

[We're in this process of that.]

200 Q. So it's currently being drafted?
A. C'est ça.
[That's right.]
201 Q. Is there a draft at the moment?
A. Oui, mais un document de travail.
[Yes, but a working document.]
202 Q. Counsel, can I have an undertaking for the draft business plan?
MR. CAZA: Sorry, an undertaking to obtain what?
BY MR. HANRAHAN:
203 Q. The draft business plan that we were just discussing.
U/A MR. CAZA: I will take that under advisement. Can you explain the relevance of that? It will just assist me in determining whether we will provide it. What would be the relevance of that to the motion?
MR. HANRAHAN: Well, he's told us that the business plan is in relation to the University of Sudbury becoming an independent, French-language institution.
MR. CAZA: Right. And what's the relevance of that to the motion?
MR. HANRAHAN: Well, you're opposing a

disclaimer that we've issued in relation to the Federation Agreement.

The University of Sudbury has indicated it intends to become an independent, French-language university and we'd like to understand the planning around that.

MR. CAZA: Sorry, I never understood that they would become independent of the federation. I'm sorry, is that what you've understood?

MR. HANRAHAN: Yes, and I've asked several questions to that effect.

MR. CAZA: Yes, but nowhere has there been any evidence that they were looking to become independent of the federation.

U/A Anyway, I'll take under advisement the business plan. I can tell you that all the under advisements or the undertakings we want to get the answers to you today. I'm just telling you we're getting those as we speak and we'll get those to you before the end of the day.

And this under advisement, if we accept to provide it, we will provide it to you before the end of the day, to both you and Ms. Miller.

MR. HANRAHAN: Appreciate that, thank you.

BY MR. HANRAHAN:

204 Q. Coming back to the work committee we were discussing, have there been meetings of the work committee?

A. Nous avons eu une rencontre.

[We've had one meeting.]

205 Q. And when was that meeting?

A. Le 7 ou le 8 avril.

[The 7th or 8th of April.]

206 Q. And how about the ad hoc committee? Have there been meetings of that committee?

A. La journée précédente pour préparer le travail, le travail du groupe de travail.

[The day prior to talk about the work of the work team.]

207 Q. Sorry, when you say "the day prior" you mean the day prior to the work committee meeting?

A. C'est ça, c'est ça, exact.

[That's exactly, yeah.]

208 Q. And are there minutes from those

meetings?

A. Non.

[No.]

209 Q. Do you take notes from the meetings?

A. Pas copieuses, non.

[Not copious, no.]

210 Q. But you have some notes of the meeting?

A. J'ai probablement la date, les gens qui étaient présents, les grandes lignes de la discussion.

[I would probably have the date, the people present and the overarching subjects.]

211 Q. And the ad hoc committee meeting that you mentioned, is that the only meeting of that committee that's taken place?

A. À date, oui.

[To date? Yes.]

212 Q. Is there another meeting planned?

A. Je crois, nous essayons pour mardi de la semaine prochaine.

[I believe we're trying for Tuesday of next week.]

213 Q. What's on the agenda, what are

the next steps for the ad hoc committee?

A. Pour le comité ad hoc et le comité de travail, c'est le plan d'affaires.

[For the ad hoc committee and the work committee it's the business plan.]

214 Q. You want to be discussing comments to the business plan, is that what you mean?

A. C'est ce que j'ai compris, oui.

[According to what I've understood, yes.]

215 Q. Can we just turn back to the letter we were looking at a few minutes ago? The April 12th, letter? We looked at the third paragraph of the letter.

And in the English translation I'm looking at it says --

MR. CAZA: Sorry, the third paragraph on the second page? It would be of the letter? That's fine I'm there. Sorry.

BY MR. HANRAHAN:

216 Q. Yes, the paragraph starting, "To this end".

So in that paragraph it says:

"[...] the University of Sudbury is calling for all programs, courses and services offered in French at Laurentian University as well as facilities and related resources."

Do you see that?

A. Oui.

[Yes.]

217 Q. So in this letter you're requesting that Laurentian transfer to the University of Sudbury all of its French language programming?

A. C'est clair.

[That's clear.]

218 Q. What consideration was the University of Sudbury intending to pay in exchange for those programs?

A. Je ne me souviens pas que la discussion se soit rendue là.

[I don't recall the discussion getting to that.]

219 Q. Do you expect that there would be consideration paid if this type of transaction were to happen?

A. On m'a déjà, on m'a parlé de

l'exemple de Cambrian College et le Collège Boréal où il y avait eu un transfert d'argent, semblable à ce que vous suggérez.

[I've heard speak about the example of Cambrian College and Collège Boréal where transfer of money was made, something similar to that effect.]

Maintenant, dans la phrase qu'on est en train de lire, on parle du transfert des programmes, des cours et des services, ainsi que des installations et des ressources afférentes. Ça, ça veut dire des subventions gouvernementales aussi, là.

[Now, the sentence that we're reading refers to the transfer of programs, installations, all related things, and that would also refer to governments -- money given by the government subventions (sic).]

220 Q. Sorry, government what?

A. Des subventions gouvernementales.

[Money given by the government.]

MR. CLAUDE: I think it's government grants.

THE WITNESS: C'est ça.

[Great.]

MR. CAZA: There's other parts of the letter that actually answer that question. I'm sorry, let me know if you want me otherwise I'll wait.

BY MR. HANRAHAN:

221 Q. And you mentioned it would also include transfer of government grants. Is it your understanding that the University of Sudbury is eligible to receive those grants?

A. Ce que j'ai compris, il y a une annonce faite par le ministre des Collèges et des Universités.

[According to what I have understood there is an announcement made by the Ministry of Colleges and Universities.]

Monsieur Romano, qui aurait dit que l'Université de Sudbury pourrait recevoir du financement, possiblement, si elle devenait francophone, il y avait aussi l'aspect de confessionnalité, alors confessionnel ou pas confessionnel.

[Mr. Hmm (sic) also spoke about the University of Sudbury being able to receive funding with the possibility of becoming a Francophone institution, with a confessional

aspect.]

222 Q. But that's not possible under the current legislation, is it?

A. Pas à ma connaissance.

[Not that I'm aware of.]

223 Q. Now, we talked a little bit earlier about the headcount of students at the University of Sudbury, and I think I suggested to you that there were 69 full-time equivalent student. You said you weren't sure if that number is correct.

And we also talked about the fact that the University of Sudbury has five academic programs that it offers right now, is that fair?

A. C'est ça.

[Yes.]

224 Q. Now, are you aware that as of fall 2020 Laurentian had 1,256 full-time equivalent, French-language students?

A. J'ai entendu le chiffre 1 300, mais vos chiffres sont peut-être plus précis.

[I had heard the number 1,300 but perhaps your numbers are more precise.]

225 Q. So my numbers are taken from Dr. Haché's affidavit, but it sounds like we're

talking in the same ballpark number.

Now, are you also aware that following the recent academic restructuring at Laurentian, Laurentian will have 38 French-language programs?

A. Je n'ai pas fait le calcul.

[I haven't calculated it exactly.]

226 Q. Well, that is also referenced in Dr. Haché's affidavit where he references the restructuring.

So for the University of Sudbury to assume all of Laurentian's French-language programs, as your letter is suggesting, by my math that would mean a 1700 percent increase in the full-time equivalent students at the University of Sudbury, and a 600 percent increase in the number of programs. How is that in any way realistic for the University of Sudbury to do?

A. La communauté franco-ontarienne a relevé des défis équivalents, sinon supérieurs dans notre histoire. Tout est possible à mon avis. Si j'ai bien compris, l'Université Laurentienne risque, je ne sais pas, c'est ce que j'entends, risque d'avoir des pieds carrés

de disponibles.

[The Franco-Ontarian community has raised itself to many challenges either equivalent to or beyond so anything is possible.

I don't know but I heard there is a risk that there might be some square footage available.]

227 Q. But you don't currently have the facilities to undertake this plan, do you?

A. Nous avons quand même un édifice administratif, et des salles de classe et une résidence, mais au moment où on se parle, non. Mais tel que j'ai mentionné, Laurentian University risque d'avoir beaucoup d'édifices ou beaucoup de pieds carrés de disponibles.

[Presently we have an administrative board, we have classrooms, we have a residence. We don't have it now at present but, as I mentioned, Laurentian University risks having available square footage available.]

228 Q. The facilities you currently have would not be able to accommodate more than a thousand full-time equivalent students, French-language students at Laurentian?

A. Ça, je n'ai pas cette

expertise-là pour savoir combien de pieds carrés j'ai besoin pour 1 000 élèves, ou 1 000 étudiants. Mais ne pourrait-il pas, et je pose la question, ne pourrait-il pas y avoir des ententes entre cette nouvelle université de langue française et Laurentian University en ce qui a trait à la location de pieds carrés, si c'était nécessaire?

[I don't have the expertise to say what the square footage required would be to have a thousand students but, again, I would say it could be possible that there would be a rental agreement between the university and Laurentian University to rent the facilities.]

Écoutez, on l'a fait avant dans les écoles secondaires, au collégial. Donc ce n'est pas impossible. Et puis moi, je suis convaincu que la communauté franco-ontarienne saura relever le défi s'il lui est présenté.

[We did it before with the secondary schools and college school. So I think it's a possibility and the Franco-Ontarian community is able to meet the challenge.]

229 Q. But that type of rental arrangement has never been proposed or suggested

as a possibility by Laurentian, right?

A. C'est moi qui l'envisage comme possibilité. C'est moi qui avance ça comme suggestion.

[It's me that has mentioned that as a possibility, it's me that is putting that forward as a suggestion.]

MR. CAZA: Sorry, did you want -- did you want an undertaking for us to provide you with a document to explain how this could be done.

MS. MILLER: No. We're not looking for your evidence, Mr. Caza, we're looking for your clients.

MR. CAZA: I'm just asking if you wanted an undertaking my client would could have prepared that.

BY MR. HANRAHAN:

230 Q. And in fact Laurentian has explicitly told you they're not interested in an arrangement that would transfer their French-language programming to the University of Sudbury, right?

A. C'est ce que je comprends par la réponse.

That's what I've understood, yes, by their answer.

231 Q. So while you may imagine a scenario where this could be workable, there's nothing to suggest that that's a realistic possibility, is there?

A. C'est toujours une possibilité réelle.

[It's always a real possibility.]

232 Q. A realistic possibility?

A. Oui.

[Yes.]

233 Q. Well, how can you say it's a realistic possibility when Laurentian's never made an offer along the lines of what you're talking about, and has never even indicated that it would be amenable to discussing that type of arrangement?

A. On n'a jamais eu la discussion. On a eu des échanges de lettres.

[We've never had any discussion, we've had letter exchange.]

234 Q. And the letter was quite clear that Laurentian was not interested in that type of arrangement, right?

A. C'est ce que j'ai compris. Maintenant... well, now I'm gonna stop there.

[That's what I understood. But -- well, now I'm going stop there.]

235 Q. If the University of Sudbury did proceed with the type of plan you're talking about with the transfer of French language programs from Laurentian, would the University of Sudbury be intending to employ all the faculty that currently teach those courses at Laurentian?

A. On n'est pas rendu là dans nos réflexions. Ça, c'est vraiment dans du détail.

[That would depend on our reflection. You're going into great detail there.]

236 Q. Well, you would need to go into great detail if you were going to do this, wouldn't you?

A. Mais au moment où on se parle, l'idée, ou le projet d'une université de langue française, c'est vraiment un projet. Je vous dirais qu'on a à en discuter et préciser nos pensées sur ces questions-là.

[But I'm saying, at the time of speaking the idea of French Laurentian

university we're speaking about...]

237 Q. Sorry, I'm afraid I didn't understand that answer.

[TECHNICAL ISSUES]

238 Q. Mr. Riopel, just before we had technical difficulties, we were talking about your plans about the transfer of French language programming to the University of Sudbury, and whether the University of Sudbury would then be taking on the faculty that teaches those programs currently at Laurentian.

And I think you told me you hadn't fully thought that through and didn't have a decision, is that right?

A. Oui.

[Yes.]

239 Q. So it's possible you may not take on all those faculty, is that fair?

A. C'est vraiment prématuré pour répondre à cette question-là.

[It's actually very premature to pose that question.]

240 Q. Well, is it premature? Because

you have made an announcement that you intend to become a French-language university. You've asked Laurentian to transfer all of its programming to you. Have you not thought about what faculty would teach that programming?

A. On est encore devant une situation vraiment de projet et une situation hypothétique. Alors on n'est pas rendu là dans notre réflexion, tout simplement.

[We are actually just in front of a project or a situation that's hypothetical and so we haven't gone into that much detail.]

L'autre chose que j'ajouterais aussi, c'est que le regroupement des Professeurs francophones, le RPF, a fait une sortie publique comme quoi ils appuyaient le projet de l'Université de Sudbury, mais il n'y a eu aucune discussion concernant la question que vous soulevez.

[I'd like to add that the French teaching staff made a public statement supporting the University of Sudbury's decision, but there was no discussion about that.]

241 Q. I'm not sure that that answered my question, but you've made an announcement and

requested programs from Laurentian University. And that -- what you're proposing would potentially impact more than 1200 full-time equivalent French-language students. Don't you think it's important to have thought through how this would work and who would teach the programs and how that transition would go?

A. Nous sommes dans ce processus-là.

[We're in that process. We're in that very process.]

242 Q. And if you assume the faculty from Laurentian to teach these programs, would you also be assuming obligations related to those faculty? Vacation pay, pension plan obligations, those type of things?

A. On n'est vraiment pas rendu là dans notre analyse de la situation.

[We haven't really gone into the detail and analysis of that.]

243 Q. It's fair to say you haven't really fully thought this plan through?

A. Le plan est en processus d'élaboration. On n'a pas abordé la question que vous posez.

[The plan is in the process of being

drafted. We have not addressed your -- those kinds of questions you're putting forth.]

244 Q. Do you think it would have been a good idea to think through these types of things in the plan before making a public announcement about your plan?

A. Le plan d'affaires est en processus d'élaboration, tout simplement, et on n'a pas abordé cette question-là. C'est tout.

[The business plan is in the process of being drafted, we haven't addressed those questions there, that's all.]

Il ne veut pas dire que dans les jours ou dans les semaines qui viennent, qu'on n'abordera pas cette question-là.

[That does not mean that in the coming weeks we won't address those questions.]

245 Q. I think we talked earlier about the programs that are currently offered at the University of Sudbury, and we said there's three of those programs are either English language or bilingual programs and two of the them are fully Francophone, correct?

A. Oui.

[Yes.]

246 Q. And so in terms of the programs that are English-language programs your announcement that you're going to become a French-language university effectively means you're telling the students in the English language programs that their programs are being terminated, correct?

A. Ce n'est pas ma compréhension.

[That's not my understanding - inaudible.]

Puisque la résolution du 11 mars aborde également la question, la question du programme autochtone, le indigenous studies.

[Since my resolution of 11 March also addresses questions around Indigenous studies programs.]

247 Q. And in what ways does it address Indigenous studies programs?

A. Nous avons mandaté le recteur avec le même mandat, pour ce qui est de la création éventuelle et possible d'un établissement d'enseignement supérieur pour la communauté autochtone.

[We have mandated in that same mandate the eventual creation of a secondary school for

the Indigenous.]

MS. MILLER: Can I ask, Mr. Caza, that you turn your video off because when you shake your had "no", in answer to a question that Mr. Hanrahan asks, it is a signal to your client.

MR. CAZA: I will do that. Sorry about that.

MS. MILLER: Thank you.

BY MR. HANRAHAN:

248 Q. Okay. I want to come back to the Indigenous studies program in a minute. But before we get there, let's just talk about the other two programs that I think you said are bilingual, Philosophy and Religious Studies.

Students taking those programs in English, based on your announcement, that would mean those students have their programs terminated, right?

A. Je n'ai pas les détails à ce niveau-là, c'est une question beaucoup plus... beaucoup plus administrative, à mon avis.

[I don't have the exact information at that level. In my opinion it is a question at a more administrative level.]

Je pense que c'est important aussi de préciser et de répéter qu'on a mandaté le recteur d'entrevoir ces deux possibilités-là, une université de langue française et un établissement équivalent pour la communauté autochtone.

[But I think that it would be -- I think it's necessary to specify and repeat that we've mandated the director to undertake the creation of two programs, a French program and an Indigenous Studies.]

249 Q. But I'm speaking right now about Philosophy and Religious Studies. And I don't think it's an administrative question, I think it's a question of you've announced that you're going to become a unilingual, French-language university. So how would it be the case -- how would it not be the case that students taking their programs in English would be having their programs terminated? You won't continue to offer courses in English, right?

A. Moi, ce que j'ai compris de l'entente qui met fin à la Fédération, c'est qu'à partir du 1er mai, il n'y a aucun programme qui sera offert à l'Université de Sudbury, parce

que l'Université Laurentienne...

[Once -- what I have understood from the agreement is that starting at the 1st of May there will be no programs offered by the University of Sudbury.]

Parce que l'Université Laurentienne ne reconnaîtrait pas les cours et les programmes offerts à l'Université de Sudbury. Donc il y aura comme techniquement, le 1er mai, ce que je comprends de la situation, c'est qu'on ne pourrait même pas offrir, qu'ils soient en français ou en anglais, des cours. C'est ce que je comprends.

[So because the Laurentian University would no longer recognize courses or programs offered by the University of Sudbury, technically starting from the 1st of May, that's how I've understood that. We couldn't even offer language -- courses either in French or English.]

250 Q. But you're speaking in respect of the effect of the Notice of Disclaimer that was issued April 1st, right?

A. C'est ce que je comprends.

[That's what I understood.]

251 Q. And I'm talking about a decision that was made several weeks earlier, with your announcement on March the 11th, that you would be becoming a unilingual, French-language university.

That decision was made first, and the effect of that decision would mean that English language students in Philosophy and Religious Studies would have their programs terminated, right?

A. À la lumière de l'annonce de Laurentian University du 1er avril.

[At the announcement of the Laurentian University on the 1st of April.]

Maintenant, la résolution du 11 mars, c'est que nous exprimons notre intention de le devenir. Nous ne pouvons pas nous autoproclamer une université de langue française, donc on a mandaté le recteur de mettre la machine en branle pour arriver à ça, mais on ne pouvait pas s'autoproclamer.

[No, that's for the 1st of April. The resolution of the 11th of March is that we were expressing our intention to be a self-proclaimed French-language university. And we're mandating

the Rector, the director, to undertake the actions toward that goal.]

252 Q. And if you achieve that goal that was expressed in the resolution of March 11th, the goal is to become a unilingual, French-language university that would no longer offer courses in English, in Philosophy or Religious Study, right?

A. C'est ce que je comprends.

[That's what I understood.]

253 Q. And the effect of that is that students enrolled in those programs are having their program terminated.

A. Au même titre que l'université, que la Laurentian University a annulé, question de financement j'imagine, a annulé son programme de philosophie. Le programme de philosophie est un programme conjoint.

[In the same way I imagine Laurentian University cancelled its funding for the Philosophy program.]

Le programme de philosophie, c'est un programme conjoint. Il faut pas l'oublier, ça.

[The Philosophy program is a shared program.]

Et si ma mémoire est bonne, le programme d'études religieuses est également un programme conjoint avec nos deux partenaires fédérés.

[And if memory serves me right, the hmm (sic) class is also a shared program.

Le programme en question, c'était études religieuses, religious studies.]

[The Religious Study is the one in question, Religious Studies.]

254 Q. And so those programs would no longer be available?

A. C'est une possibilité existante, oui.

[That's a possibility that exists, yes.]

255 Q. And have you communicated that possibility to any of the students currently enrolled in those programs?

A. Je ne sais pas, parce que ça, c'est une question administrative de communiquer avec les étudiants.

[I don't know because that is administrative question of -inaudible (sic).]

256 Q. Let me just repeat. It's an

administrative question of what, Mr. Riopel?

A. La communication avec les étudiants, pour moi, c'est l'administration de l'université qui fait ça.

[Communication with these students, it's administrative task.]

257 Q. That's not something that you would be concerned with?

A. Je me fie à mes administrateurs, c'est pour ça qu'on a un recteur.

[I trust my administrators, it's for that reason I'm a director.]

258 Q. And have you spoken with any of them about whether this was communicated to students?

A. Je sais... non, pas précisément à ce point-là.

[No, not precisely to that point, no.]

259 Q. Well, it's probably fair to say that a student in Philosophy or Religions Studies might be concerns about the possibility of their program being cancelled, wouldn't they?

A. Je dirais que oui. Et si je me fie à nos étudiants, ils ont probablement communiqué avec le bureau du secrétaire-général

pour avoir plus d'informations. Ça aussi, c'est une possibilité.

[I would say yes. And if I trust my students will probably say I have made their concerns known to the General Secretary.]

260 Q. And wouldn't you think it would be important to communicate with students to explain to them how this will impact them and what plans there might be for how they can move forward?

A. Absolument. Et encore une fois, je me fie au secrétaire-général et au recteur de faire ces démarches-là.

[Absolutely, and I trust my General Secretary and the director to do the necessary thing in that regard.]

261 Q. But as far as you know that hasn't happened yet?

A. Je ne le sais vraiment pas.

[I really don't know.]

Et encore une fois, je fais confiance à cette équipe administrative pour faire ce genre de démarches.

[But I trust this administrative team to realize those administrative processes.]

262 Q. So that being the case, if your administration -- administrators hadn't had these communications with students you would think they were not sufficiently doing their job?

A. Répétez la question? C'est vraiment pas clair, là.

[Can you repeat the question? It's really not clear.]

263 Q. Sure. If your administrators hadn't communicated with students, who might be having their programs terminated, like we were just discussing, you would consider that to not be fulfilling the responsibilities of their job?

A. Je ne m'imagine pas tirer cette conclusion. Il m'apparaît très très très improbable que l'équipe administrative n'ait pas communiqué avec les étudiants.

[I don't believe that. It seems to me, very, very, very improbable that the administrative team did not communicate that to students.]

264 Q. Well my question though was, if they hadn't would you consider that they had missed an obligation of their job?

A. Situation hypothétique, à mon avis.

[In my opinion that's a hypothetical situation.]

265 Q. Well, it's not hypothetical, it's a possibility, right? Because you told us you don't know whether they've had those communications.

A. C'est une question hypothétique parce que vous avez commencé votre question avec « si ».

[It's a hypothetical question because you begun your question with the word "if".]

266 Q. Well, I had to begin my question because you told us you don't know what has happened.

MR. CLAUDE: I have to object, Mr. Hanrahan, to this question. It hasn't been established that communications did not take place, therefore, the whole discussion about is there some legal implication or consequence that results from that, is entirely hypothetical.

So perhaps we can establish, if you wish, whether or not communications have been made with the students, and then from there,

which the witness is not able to answer today, and from there we'll be able to answer your hypothetical question. Because perhaps it's not hypothetical we just don't have the basis for it.

BY MR. HANRAHAN:

267 Q. Well, I'm not the one who can establish whether those communications have happened. I've asked the witness if they did, he's told me he doesn't know. So I'm asking him -- there's two possibilities, based on what he's told me: The communication happened or it didn't.

And I'm asking him in the scenario where it didn't would he consider that to be a failure to comply with an obligation of his administrative employee's job? That's not a legal question.

R/F MR. CLAUDE: No. We do object and so please duly note the objection and move on to your next question.

MS. MILLER: So will you give an undertaking to make inquiries, since he's not informed on that issue today, make inquiries and determine if communications have been issued to

students and if so provide us with copies of them.

MR. CLAUDE: Could you make your request more clear? Inquiries of what exactly?

MS. MILLER: To students with respect to the effect of the announcement of March 11th to become a Francophone university, on the existing English language programs and bilingual programs that are offered through the University of Sudbury.

U/A MR. CAZA: I think we can take that under advisement.

MS. MILLER: Thank you.

BY MR. HANRAHAN:

268 Q. Mr. Riopel, how many of the existing University of Sudbury faculty teach in the English language program?

A. Je sais que nous avons treize professeurs, mais je ne pourrais pas préciser qui enseigne dans quel département, et qui a quelles compétences linguistiques. Ça, j'ai vraiment pas ces détails-là.

[I know we have thirteen professors, but I couldn't specify who works in what department and who possesses specific linguistic

skills or not. I don't have those details.]

269 Q. But it's fair to say that several of them teach in the English language?

A. Bien, ça dépend de ce qu'on veut dire par « several », mais je compterais probablement cinq ou six de ces profs-là, mais je ne sais vraiment pas.

[It depends on what you mean to say by "several", but I would say five or six.]

270 Q. And will those faculty be terminated when the University of Sudbury becomes exclusively Francophone?

A. Ce que je comprends, maître Hanrahan, c'est que nous sommes en négociation présentement avec LUFA à partir du 1er mai à cause de l'avis de résiliation de la Fédération. Pratiquement tous nos employés seront mis à pied puisque nous n'avons plus de revenus.

[From what I understand, Mr. Hanrahan, is that we are in negotiations with LUFA now, starting from the 1st of May, because of the federation's resolution, and that practically all of our staff will be laid off because there's no funding.]

Et j'ajouterais que ce n'est pas

l'effet de la déclaration du 11 mars qui nous amène à ce point-là.

[And I would like to add and specify that it is not the announcement of the 11th of March that brought us to that situation.]

271 Q. Well, I'm speaking in respect of the impacts of your March 11th announcement. Setting aside the disclaimer from Laurentian University, as we have discussed, you made this announcement that you would be converting to a unilingual, French-language institution. You wouldn't have any need for professors that teach in the English language if that were to go forward, right?

A. Le 11 mars, nous avons déclaré notre intention d'aller vers ça. Les effets sur, parce qu'on est vraiment en phase exploratoire, on n'a peut-être pas procédé à cette analyse-là.

[Our 11th March -- on the 11th of March we expressed our intention to move towards that, but the effect on -- because we're really in an exploratory phase of that we haven't gone into the details.]

Maintenant, l'effet de l'annonce, si vous me permettez de poursuivre, c'est que

l'effet de l'annonce du 1er avril de Laurentian University fait en sorte que le 1er mai, et je parle à titre de président de conseil et membre de ce conseil-là, on n'a plus de revenus, là. Et puis on va se retrouver dans une situation financière excessivement difficile. Donc c'est pour cette raison-là qu'on est en train de négocier avec nos syndicats, une situation qui est vraiment, vraiment très difficile et très urgente.

[And so now the effect, if you allow me to continue what I was saying, the announcement of Laurentian on the 1st of April makes it so that many -- as of the 1st of May we will no longer have any -- we are not receiving any money, which puts us in a financial situation which is too difficult, and that's why we're in negotiations with the unions, because we're in an urgent and difficult situation.]

Donc les mises à pied qui s'en viennent, là, il n'y a aucun, à ma connaissance, il n'y a aucun lien avec la résolution du 11 mars, mais c'est tout en lien avec l'annonce de la résiliation de la Fédération qui nous a été présentée par Laurentian University.

[So all of the layoffs that -- all of the coming layoffs have no link with the resolutions of the 11th of March but they all have to do with the -- Laurentian's announcement.]

272 Q. Again, I'm speaking in respect of the effects of your March 11th announcement. And if -- without there being a disclaimer from Laurentian University, you had announced that you would become a unilingual French-language university, that necessarily means once that happens you would no longer have a need for English language professors, right?

A. J'imagine que oui.

[I imagine, yes.]

273 Q. And so they would be terminated?

A. Je peux pas me prononcer là-dessus parce qu'on est encore dans une phase de planification.

[I can't answer that because we're still in a planning stage, in the planning stages.]

274 Q. Well, is there a scenario that you would continue to employ faculty who don't teach courses?

A. On ne s'est pas rendu là dans nos discussions.

[We haven't got into that in our solution.]

MR. CAZA: Sorry, I think it was discussions.

BY MR. HANRAHAN:

275 Q. Can you think of a reason that you would want to continue employing five or six faculty members who teach in English when you offer courses exclusively in French?

A. Encore, je n'ai vraiment aucune idée, mais j'imagine que les profs anglophones ne pourraient pas continuer à enseigner en français dans un établissement autonome de langue française.

[I have no idea, again, but I would imagine that an English professor could not teach a French class in a French school.]

276 Q. Madam Court Reporter, I don't know if this is a good time for a break. We've been going for a little while.

-- RECESSED AT 12:25 P.M. --

-- RESUMED AT 12:38 P.M. --

BY MR. HANRAHAN:

277 Q. So Mr. Riopel, we've been discussing a fair bit today the University of Sudbury's intention to convert to a unilingual French language institution, right?

A. Oui.

[Yes.]

278 Q. So I wonder if I could ask you to turn back to the Federation Agreement that we were looking at earlier? And if you could turn to paragraph 17? And if you look about half way through paragraph 17 it's speaking about Laurentian and Sudbury University. And it says:

"[...] they and the other universities and colleges, which become federated or affiliated with Laurentian University, will work together to fulfill the objects of the active incorporation of Laurentian University, and to build a great institution of learning which shall forever be bilingual and nondenominational in its character."

Do you see that?

A. Oui.

[Yes.]

279 Q. And you agree with me that the plan that the University of Sudbury has announced is not consistent with that plan of the Federation Agreement, right?

A. À la lumière du fait que Laurentian University a très mal rempli le mandat de bilinguisme, moi je ne suis pas inconfortable avec ce qu'on a fait.

[Right. In light of the fact that Laurentian University has very badly fulfilled their bilingual obligation I'm completely comfortable with what I've done.]

280 Q. Let's set aside what Laurentian University has done for a moment, and I'm just speaking about your announcement, it's not consistent with that provision of the Federation Agreement, is it?

R/F MR. CAZA: That's a legal question and item objecting and directing the client, the witness not to answer.

BY MS. MILLER:

281 Q. Can we ask the question this way, Mr. Riopel. That is, if Laurentian complied with the letter that Mr. Claude sent requesting that all French language programs and courses be

transferred to the University of Sudbury, would that be consistent with the language of paragraph 17 of the Federation Agreement, which says that Laurentian shall forever be bilingual?

R/F MR. CAZA: Same objection. I can provide, just for the purposes of the transcript, because I believe when I give an objection to provide a reason.

What I can tell you is, the bilingual aspect, when it says "bilingual", our position is what they really mean is there definitely has to be French being offered. In no way is that any protection to ensure that courses are offered in English.

MS. MILLER: And to be clear, the context for the question that's just been asked is in the context of Laurentian University being recognized under the French Language Services Act as a specifically bilingual university.

And so I'll just put that on the record and we don't need to debate it, but we have your objection.

BY MR. HANRAHAN:

282 Q. Mr. Riopel, can I ask you to turn to paragraph 39 of your April 14th affidavit?

A. C'est beau.

[I'm good.]

283 Q. And this paragraph 39, you're talking about what you say are -- is the likely significant financial hardship to the University of Sudbury that would result from the disclaimer of the Federation Agreement, correct?

A. C'est ça.

[Yes.]

284 Q. And if we look at paragraph 2, specific items that you break out. And I'd like to look at the first one, which is under numeral (a) which says:

"[...] the layoff costs for its employees, which could amount to $4 million."

Do you see that?

A. Oui.

[Yes.]

285 Q. Is that a figure that you calculated?

A. Non, ça, c'est le personnel administratif de l'université qui l'a fait.

[No, that's the university's administrative staff that did that.]

286 Q. And how did they go about calculating that $4 million figure?

A. Je n'ai aucune idée. C'est en collaboration avec une avocate des ressources humaines et puis notre personnel au sein de l'université.

[I really have no idea. Again that's a collaboration with a lawyer, human resources and the university staff.]

287 Q. Do you have an understanding of what -- what the costs are that are included in that $4 million?

A. J'ai une petite idée, à la lumière de mon expérience personnelle dans ce genre de dossier.

[I have a small idea due to my personal information in this kind of case.]

288 Q. And what's your understanding of what's included in that number?

A. Bien, c'est des mises à pied. Donc on doit, s comprends bien, là, c'est qu'on doit aux employés un certain montant d'argent en fonction de lois et de règlements, et puis d'avis, aussi, là-dedans. C'est ce que j'en connais.

[Well, I know that there will be certainly layoffs and we are required to pay a certain amount, in accordance with laws and regulations and notice.]

289 Q. Counsel, can we have an undertaking for an explanation of how this number was calculated, and the numbers that went into it?

U/T MR. CAZA: Yeah. What we will do is we will give you an undertaking to provide you with the analysis, okay, Mr. Hanrahan, that led to this number.

MS. MILLER: I think we're looking for the calculation not the analysis.

U/T MR. CAZA: And the -- I guess what I meant by the analysis, so that you can understand, what was taken into consideration to arrive at that number. So that's the undertaking we'll provide.

BY MR. HANRAHAN:

290 Q. Thank you.

And then if we move on to number (b), you refer to the annual upkeep of its buildings on the leased lands of approximately $400,000. Do you see that?

A. Oui.
[I do.]
291 Q. Those upkeep costs on the buildings that you're referring to, those are costs that Sudbury is already responsible for, right?
A. À ce que je sache, oui.
[To my knowledge, yes.]
292 Q. And are those costs that you pay every year and have paid for every year for a number of years?
A. Ça, je pourrais pas me prononcer.
[I couldn't give you an answer to that.]
293 Q. So who calculated the annual upkeep amount of $400,000?
A. Le personnel d'administration d'université.
[The university's administrative staff.]
294 Q. And could we have an undertaking from the same explanation of those costs?
U/T MR. CAZA: Yes, we'll provide you with that undertaking.
BY MR. HANRAHAN:

295 Q. Now, these upkeep costs in the buildings, you said those are costs already -- those are already something that the University of Sudbury is responsible for. So it's fair to say that those are not costs that are a result of the disclaimer, right?

A. Ce que je comprends, c'est que c'est des coûts actuels de l'entretien de ces édifices-là.

[From what I understand those are the actual costs of the - inaudible (sic).]

296 Q. Sorry, you broke up there, Mr. Riopel at the end of your answer.

A. C'est les coûts, à ce que je sache, de l'entretien de ces édifices-là, de façon annuelle.

[To my knowledge that's the cost that the maintenance and upkeep of these buildings cost annually.]

297 Q. And that's not a result of the disclaimer, those are costs that you've been paying to date?

A. À ce que je sache.

[That I'm aware of, yes.]

298 Q. Can we turn to paragraph 22 of

your April 14th affidavit?

A. Oui.

[Yes.]

299 Q. And you will see there's a heading just above paragraph 22 that says "Lack of Good Faith", do you see that?

A. Oui.

[Yes.]

300 Q. And then in paragraph 22, it says:

"The proposed disclaimer is unfortunately not the first time Laurentian has attempted to unilaterally terminate or materially alter the Federation Agreement."

Do you see that?

A. Oui.

[Yes.]

301 Q. Other than the disclaimer that was issued on April 1st, when has Laurentian attempted to unilaterally terminate the Federation Agreement?

A. À ce que je sache, il y a eu des échanges de lettres, même avant que j'arrive au conseil, possiblement après 2012, où la

Laurentienne voulait mettre fin à la Fédération.

[To my knowledge that was an exchange of letters before my arrival on the committee after 2012, wherein Laurentian wanted to put an end to the federation.]

Et nous avions, à ce moment-là, répondu, je ne me souviens pas si c'était par l'entremise d'un avocat ou non, nous avions répondu que nous avions une entente qui était signée en 1960, renouvelée en 1993, qui faisait en sorte qu'on ne pouvait pas dissoudre la Fédération.

[And we responded at that time, I can't remember whether it was through the -- with the help of a lawyer, but we responded that there was a signed agreement dating -- signed in 1960 and renewed in 1993 that did not allow for a dissolution?]

302 Q. So the letters you're referring to you're saying that they discuss the possibility of ending the federation?

A. C'est très vague dans mon esprit, mais il me semble que c'était l'essentiel des échanges à ce moment-là.

[It's very vague, in my mind, but the

essential of it seemed -- it's in that vein.]

303 Q. But there wasn't actually an attempt to terminate the Federation Agreement, right?

A. Ce que j'ai compris, c'est que la correspondance qu'on a reçue de la part de Laurentian University, c'était justement de mettre fin à la Fédération, et nous avons répondu que nous croyions, à ce moment-là, être sur du terrain solide légalement en ce qui a trait à la Fédération.

[What I understand that that was the concept. It was Laurentian's -- sorry.

What I understand is that it was in this correspondence from Laurentian that it was their intent to put an end to the relation. And our response at that time was to -- that we believed we were -- to be on legal solid ground.]

304 Q. Could we turn to paragraph --

MS. MILLER: Just before we leave that, can we please have an undertaking to produce the correspondence that you're referring to, in respect of paragraph 22, that you have just given evidence on?

R/F MR. CAZA: Actually, we won't give you that undertaking.

But may I just ask Mr. Riopel questions about how we could get a hold of that letter, if he can?

MS. MILLER: No, he's just given evidence about communications and correspondence that he's saying support the statement in his affidavit that this is not the first time that Laurentian has attempted to terminate the Federation Agreement.

So he's referred to correspondence that he's received, he's given evidence on that. And he's indicated there's been responses to that. And he's purported to give evidence on what the contents of that are. And we're asking for him to produce the communications and correspondence that he has no personal knowledge of but that he's giving evidence on.

MR. CAZA: I have to tell you that his evidence is that he recalls having read a letter in the past, after 2012. We can't give you an undertaking now to go through all that correspondence to find the letter.

That's why I was going to ask

Mr. Riopel, and I mean you can object. I'm asking him now, object if you want to.

Mr. Riopel, is this correspondence that you could find quite easily.

BY MS. MILLER:

305 Q. But before you answer that, Mr. Riopel, you've just sworn an affidavit, and you've clearly had information to swear an affidavit under oath, and you've put in a reference in an affidavit to this exchange, that Mr. Caza refers to as being impossible or difficult to put your hands on.

And I'm just asking, how did you inform yourself, other an anecdotal hearsay, you know, exchange of correspondence at a time that doesn't sound like it involved you, in order to inform yourself to be able to swear this affidavit.

MR. CAZA: I'm sorry, where does it say in the affidavit that he had an exchange of correspondence?

MS. MILLER: He's just given evidence on that.

MR. CAZA: You just said in his affidavit. He didn't say that in his

affidavit.

MS. MILLER: His affidavit says -- he makes an assertion, under oath, that it's not -- unfortunately it's not the first time that Laurentian has attempted to do it.

He's referenced correspondence.

MR. CAZA: Right.

MS. MILLER: And we'd like to see what correspondence he's relying on in making that assertion?

MR. CAZA: He's referenced correspondence in the evidence he's given now. He didn't reference it in his affidavit.

You have asked to have that documentation produced. I've asked him, is that something you can easily obtained? That's why I've asked him. Because if he says "yes", then we'll be able to give you the undertaking. If he says "no", we can't give you the undertaking.

And if you don't want him to answer the question, I've attempted to see if I can answer the undertaking and we can move on.

BY MS. MILLER:

306 Q. Mr. Riopel, what's the answer to that question?

A. Je ne saurais pas par où commencer.

[I wouldn't know where to begin.]

U/T MR. CAZA: Why don't we do this: We will undertake for Mr. Riopel to take a look, just to take a look, if he's able to, and usually we use the word "reasonable efforts".

Mr. Riopel, I guess -- how much time -- do you think if you spent like an hour you think you might be able to find it? Or that wouldn't help?

THE WITNESS: Je peux vérifier, voir ce que j'ai dans le dossier, mais je peux rien garantir.

[I have to check and see what I have in my files, but I can't guarantee anything on that regard.]

MR. CAZA: Do you have your files with you? Est-ce que vous les avez avec vous?

THE WITNESS: Oui.

[Yes.]

MR. CAZA: Are we in a position to give an undertaking that you will review your files to see if those letters are there?

THE WITNESS: Sure.

MS. MILLER: I think we've established that he wasn't a party to the letters. He's seen them, in some source, through University of Sudbury.

So he's swearing an affidavit on behalf of the University of Sudbury so it's not limited to his files, he's swearing it on behalf of the University of Sudbury so it includes their files.

MR. CAZA: You know, we're going through COVID, and getting files and having access to documentation and everything is a nightmare so I'm looking at the undertaking.

I'm going to say this in English just to save work for Mr. Wright.

U/T So the -- what he's told us is he might have that in his files. So he's got his files with him. We're ready to give you an undertaking. He'll look at the files.

We will make inquiries and give you that undertaking. We will make some inquiries to see if we are able to locate those letters. We'll make a couple -- we'll make some phone calls and if we are able to get those letters we'll provide them to you.

BY MS. MILLER:

307 Q. Including to the President of University of Sudbury and to the administrative staff to see if they have it.

MR. CAZA: Well, I don't know to what extent we can communicate with all of the administrative staff but we will do -- now, the president -- he's president now but he wasn't president at the relevant time.

But we will inquire of the president if he's aware of those letters; and if he is and he can find them without sort of -- acting reasonably, we will obtain those and provide them to you.

I don't know who else, Mr. Riopel, we could ask. Is there anybody else we can inquire of?

THE WITNESS: Je peux pas penser à personne d'autre. Ça serait dans les dossiers dans le bureau du recteur.

[I can't think of anybody else. That would be in the Director's files.]

U/T MR. CAZA: So we're prepared to give you the undertaking.

BY MS. MILLER:

308 Q. Did you say you are or you are not?

MR. CAZA: Yes, I am.

MS. MILLER: Thank you.

U/T MR. CAZA: Just so it's clear on the record, Mr. Riopel will verify his files at his office or where he's at. If he's got them we will produce them.

We will communicate with the president of the university, or the present Rector, at the present. We will ask him if he has access? If he's able to find those? Has he heard of these? Can he get them?

And if he says he can, with exercising reasonable efforts in all of the circumstances, we will ask him to do so. And if we obtains those letters we'll provide them to you. That's the undertaking.

BY MS. MILLER:

309 Q. Thank you. And the one thing I would ask you to add to that is to include the administrative assistance to the president as part of that.

MR. CAZA: I don't know who the

Executive Assistant is. Is that somebody, Pierre, that we can write to.

THE WITNESS: Yes. She's not on campus though.

U/T MR. CAZA: Okay. But we will make the inquiry of her also.

MS. MILLER: Thank you.

BY MR. HANRAHAN:

310 Q. Okay. So if we could turn to paragraph 29 of your affidavit?

A. Oui.

[Yes.]

311 Q. And I'm looking at the last sentence of the paragraph. And you say:

"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."

Do you see that?

A. Oui.

[Yes.]

312 Q. You're aware that Laurentian and the Federated Universities just concluded an intensive, two-month mediation process?

A. C'est ce que je comprends.

[That's -- from what I understand, yes.]

313 Q. So it's not the case, as you say here, that Laurentian is terminating the agreement rather than attempting to negotiate, there was just a two-month long negotiation with intensive mediation sessions, right?

R/F MR. CAZA: I'm objecting. We have no evidence and there is no evidence as to what went on at those mediations, what was said.

We tried to discuss that issue in the cross-examination and it was clearly said none of that can be brought forward. We don't see how that can be referred to or even considered by Mr. Riopel.

MR. HANRAHAN: I'm not getting into any of the substance of the mediation and I don't want anyone to discuss. I'm simply referring to the existence of the mediation and the fact that it happened. I don't think that's confidential. It's in the court materials that

the mediation happened. That's all I'm referring to.

MR. CAZA: My objection is it's irrelevant. Because that mediation we don't' know, maybe nothing happened. Maybe nothing was said. Maybe Laurentian University showed up and said, We don't want to even talk to you. How can it be relevant, the fact that there was actual mediation, that nobody can discuss what, if anything, was discussed in the context of that mediation? So we're objecting to that question.

BY MS. MILLER:

314 Q. Well, that's clearly argument, but you can reserve that argument and make that argument.

You're suggesting you don't want your client to answer the question as to whether University of Sudbury participated in the court mediation process pursuant the February 5th court order?

MR. CAZA: Sorry, is that the question? That's not the question. Is the question only, was the University of Sudbury a participant in that mediation? Yes, Mr. Riopel,

you can answer that.

THE WITNESS: C'est ce que j'ai compris. Oui.

[Yes, according to what I've up understand.]

BY MS. MILLER:

315 Q. And did the University of Sudbury deliver a mediation brief in the context of that mediation?

A. Je n'ai aucune idée.

[I have no idea.]

MR. CLAUDE: And entering into that area is to, I believe, cross the line in terms of the breach of the confidentiality agreement. What was said, what documents were filed, are sealed, as far as the mediation order is concerned.

MS. MILLER: Yeah, and there's no intention to get into the documents. And if you prefer I'm happy to strike that and have it not appear as part of the transcript.

MR. CAZA: Actually you can't strike. We're not in the United States, we don't strike anything from the record.

I think you may have waived,

presently, the confidentiality pertaining to those mediation briefs, because I guess now we need to look at everybody's mediation briefs since you've raised that as an issue, the fact that -- I wasn't present, from what you've advised mediation briefs were filed.

MS. MILLER: Clearly we're not waiving, and unless you are, we are not waiving. And the reference to the fact that, you know, that the mediation took place, in accordance with and as set out in a February 5th court order, is a matter of public knowledge.

So we're not getting into anything to do with the mediation other than stating that it happened. So to be clear we are not getting into the details of anything relating to mediation. We are not waiving anything relating to the confidentiality of the mediation, and we're not asking the witness to speak to any aspect of the mediation.

MR. CLAUDE: But you just did, Ms. Miller. You just did. You asked the witness if the University of Sudbury had filed a mediation brief. If you've opened that door, and we believe that you have, then it should be

opened for us to then file the documentation that went -- that went forth during the mediation. You've opened this door.

MR. HANRAHAN: Just to be clear, the confidentiality is not something that can be waived, the confidentiality is by court order so it's not for a party to waive.

MR. CAZA: This is what's going on, you're actually relying, and you've done this, and you did this yesterday, on this mediation process and that confidentiality to say, Well, no, because of things that nobody can discuss that happened we've done everything we have to do.

And now you've actually opened the can of worms by -- you're the ones that have basically, I would argue, waived -- they will need to speak to the court and advise the court that in all of these circumstances, and the position you're taking, and how you've made the mediation briefs relevant to the issues discussed, that the court needs to overrule, or whatever, waive the confidentiality so that it can obtain these briefs.

Unless, and I guess the only thing is

you're telling us that it is totally irrelevant. And the university cannot and does not rely on the mediation process for any of the issues that are being discussed at the -- at your motion, at the motion we brought to --

MS. MILLER: To be clear that is the case. We are not relying on anything to do with the mediation, or anything that was dealt with in the mediation for the motion, that is absolutely clear.

But let me just finish, Mr. Caza, because I allowed you to finish.

Through the cross-examination of our client yesterday you went into details, including whether he participated in the mediation? Who he was discussing with? And which ones he attended? Did he attend this one? So we didn't object to that. We let you ask those questions and we didn't raise objections to it on the basis that, you know, nobody is getting into discussions about what took place and all the rest of it.

But we showed leeway in terms of establishing whether he was there or not. The concept of the participation of the parties in

the mediation, in and of itself, is not confidential. The participation of the parties is not confidential.

So I think we've established, and we can confirm on the record if that's what you would like to hear, there's no aspect of the -- anything that occurred in that mediation that forms part of, or will be discussed, or addressed, or relied upon in respect of the motions that are proceeding on the 29th and the 30th, I can confirm that unequivocally.

MR. CAZA: I can advise you that yesterday during the cross-examination of Mr. Haché when I asked him to give me any evidence he had that basically there had been discussions, he said it was at the mediation.

So he's basically -- so if what you're telling me, and this is what I want to be clear, at the motion later next week, Laurentian University is not at all going to be saying, any obligation we had to enter into discussion before attempting to bring this contract to an end, that we met those obligations in the mediation. If you're saying that then we are entitled to the mediation brief.

And if you're not saying that, and basically any -- that that had nothing to do -- it's irrelevant to meeting the obligations. If Laurentian met those obligations it would have had to have been elsewhere and not in the process or in participating in this mediation. Well then I may, and I'll have to seek instructions, I think we may need to -- it may be a situation where the mediation briefs may not be relevant.

MS. MILLER: I don't understand what you just said, but I appreciate that you were not involved, and I don't want to get into this on the record more than we have.

But you know, you're co-counsel here were. So I don't want to talk about what -- I don't want to talk about materials, and so on, that you may not have, your co-counsel does.

So let's please not delve into an issue. You've raised an issue of concern. You're inviting a discussion on the record to delve further into an issue that we think is not appropriate to get into. So I'd suggest that we just park this whole discussion right here. Leave it where it is.

I've been clear, we are not waiving any confidentiality. We are not asking your client to waive any confidentiality. And, as Mr. Hanrahan points out, that confidentiality is pursuant a court order, it's not a contractual agreement of the parties it's pursuant to a court order.

I think we should just move on from that. I think we understand each other's positions, let's move on.

MR. CAZA: Actually, no, you've told me you do not understand my position so I just want to be clear. And I'm not going to refer at all to the mediation. So this is what I want to be clear.

Laurentian University, our position is, before proceeding to file that disclaimer had an obligation to enter into discussions, let's leave it at that. That's going to be our position.

Now, my understanding of the answers yesterday was, part of the response of Laurentian University is that the answer or proof that they did exercise that obligation, or they respected that obligation was the

mediation, okay? I don't want do get into it I'm just saying that's what we were told.

What I'm hearing now is, no, the whole mediation is irrelevant to all the issues that are going to be discussed later this week. That's what I'm hearing.

So I will not hear you, counsel for Laurentian university, in answering allegations we will bring forward, that Laurentian University did not meet the conditions, or its obligations, its legal obligations in bringing this -- in attempting to end this disclaimer, that their participation in the mediation was part of it. If I'm hearing that from you that that's the clarification I want.

MS. MILLER: We're speaking at cross-purposes Mr. Caza. The existence of the mediation, all of the evidence of Laurentian University and what Laurentian intends to rely on is clearly set out in Dr. Haché's affidavit. I am not going to paraphrase it, I'm not going to restate it. You cross-examined him on it yesterday.

That affidavit sets out Laurentian's position and that is the evidence that we're

going to be using for the motion. I'm not going to add to it, I'm not going to try and explain it. It is what it is.

And you've stated a position. You know, we're not agreeing or disagreeing with your position. We understand you'll make whatever arguments you want to make. The Laurentian University's position is set out in Dr. Haché's affidavit.

I don't think we're going to do any good in continuing to go back and forth and debating this. We have are our positions on the record and let's leave it at that.

MR. CAZA: I agree. What I can tell you is, once we get the transcripts we'll review the transcripts and we'll bring any motions or take any -- anything we need to do we'll do it once we receive the transcript. I agree we can move on.

BY MR. HANRAHAN:

316 Q. Mr. Riopel, you're aware that in fact Laurentian made an open offer of settlement to the University of Sudbury on April 14th seeking a resolution of the issues between Laurentian and the University of Sudbury,

correct?

A. Hum, non. Dans quel document?

[No, in which document?]

317 Q. It was attached as Exhibit T to Dr. Haché's most recent affidavit. It was provided to the University of Sudbury's counsel on April 14th.

MR. CLAUDE: Mr. Hanrahan, did you want to point to where we can find that document? If it's only contained in Dr. Haché's affidavit it may take a moment.

BY MR. HANRAHAN:

318 Q. It's Exhibit T to that affidavit. I'm happy to have him pull it up if he wants, I'm just asking him if he's aware of that offer?

A. Honnêtement, je m'en souviens pas.

[I don't remember.]

319 Q. Did you counsel provide you the offer at the time it was made?

A. Probablement, là, mais j'ai beaucoup de textes ici et je ne le retrouve pas.

[Probably, but I have a lot of papers there - inaudible (sic).]

Et je ne le trouve pas.

[And I don't find it.]

320 Q. Do you remember receiving it?

A. Je ne me souviens pas.

[I don't remember.]

MR. CLAUDE: So either, Mr. Hanrahan, it's important to get the document or it's not. If we're going to take a moment or you want to send it by email, or whatnot, then we go on.

BY MR. HANRAHAN:

321 Q. That's fine, I don't think it's necessary.

Mr. Riopel, the University of Sudbury hadn't responded to that offer, has it?

A. Je ne sais même pas de quelle offre il s'agit, là.

[I don't know. I don't know about that.]

MR. CAZA: In fairness to the witness, Mr. Hanrahan, you've referred to a document; it's before -- it's in the motion materials. He doesn't have a copy. We must -- I'm insisting that he be provided with a copy and be able to review it so he can answer your question.

BY MR. HANRAHAN:

322 Q. Well, I just said a minute ago

I'm happy to have him pull it up if he'd like to see it.

MR. CAZA: Sorry, I thought you were saying forget it. I thought Mr. Claude asked and you said no.

BY MR. HANRAHAN:

323 Q. Mr. Claude asked and I said I didn't think it was necessary but if he'd like to see it before answering the questions I'm happy to have him pull it up.

MR. CAZA: Yeah, I think I would.

I just want to make sure with Mr. Claude. You have no objection that we send a copy to Pierre Riopel?

BY MR. HANRAHAN:

324 Q. Is that question for me or Mr. Claude?

MR. CAZA: For you, Mr. Hanrahan. Are you okay with that?

MS. MILLER: I thought he had all the exhibits to Mr. Haché's affidavit?

MR. CAZA: You've said that earlier and we answered that that wasn't the case. Mr. Claude, can you send Exhibit T to Mr. Haché's second affidavit.

MS. MILLER: I can send it, if you like. I'll send it to you, André, as a separate stand-alone.

MR. CLAUDE: Yes, please, because otherwise the only copy I would have is within the huge file, the PDF file, the motion record.

MS. MILLER: That's what I was concerned about.

MR. CLAUDE: Did you receive the mail, Mr. Riopel?

THE WITNESS: Oui, je viens de le recevoir.

[Yes, I did.]

MR. CLAUDE: Tu peux l'imprimer, ça serait peut-être utile, c'est neuf pages seulement.

You may want to print it, it's useful, it's just nine pages.

THE WITNESS: O.K., donnez-moi deux secondes, je vais... J'ai le document.

[I have the document.]

BY MR. HANRAHAN:

325 Q. So Mr. Riopel, you now have in front of you the open offer from Laurentian University that was attached as Exhibit T to

Dr. Haché's April 21st, affidavit, correct?

A. Bien, j'ai le document qu'on vient de m'envoyer, là. Je sais pas à quoi il était joint.

[I have the document that you just sent me. I don't know what it was attached to.]

326 Q. Well, I will represent to you that that's the document that we provided to you.

Do you remember -- now that you have it in front of you do you remember seeing this document before?

A. Possiblement, mais... assurément, non.

[It's possible but not with certainty.]

327 Q. And this document is what Dr. Haché describes in his affidavit as:

"[...] an effort to consensually resolve determination of Laurentian's Federation Agreements".

And if we look at the document under the heading "Purpose" it says:

"This document constitutes a transition agreement between USudbury

and Laurentian following Laurentian's disclaimer of the Federation Agreement between USudbury and Laurentian, dated November 10th, 1960, and the Financial Distribution Notice between USudbury and Laurentian dated May 1st, 2019."

And it goes on to say:

"The terms set out herein represent an offer by Laurentian to USudbury which are open for acceptance until the commencement of the motion brought by Laurentian, which is returnable on April 29th, 2021."

Do you see that?

A. Oui.

[Yes.]

328 Q. And you're not aware, and to the best of your knowledge, the University of Sudbury has not responded to this offer, right?

A. Pas à ma connaissance.

[Not to my knowledge.]

329 Q. I think I'm just about done. Can we take five minutes so I can look at my notes?

-- RECESSED AT 1:25 P.M. --

-- RESUMED AT 1:31 P.M. --

BY MR. HANRAHAN:

330 Q. So subject to any undertaking, under advisements and refusals, those are my questions. Thank you, Mr. Riopel.

MR. CAZA: Thank you, Mr. Hanrahan.

Mr. Riopel, and counsel, we need another five minutes, okay, to review our notes. We don't think there's going to be a re-examination; if there is it's going to be one question. We are just reviewing our notes to see if we need to do that. So if we can come back at 13:36.

-- RECESSED AT 1:31 P.M. --

-- RESUMED AT 1:36 P.M. --

MR. CAZA: Mr. Hanrahan, two points. First, we had taken under advisement your request that we provide you with the most recent draft of the business plan. So we are withdrawing the under advisement, we are -- it's going to be an undertaking. We are going to provide it to you.

So we do not have any re-examination of Mr. Riopel.

I would like to take the opportunity, Mr. Wright Mr. Garad, thank you so much for

being here on a Saturday, it's much, much appreciated. Same to you, Madam Martineau, much appreciated that you are here to assist us to get this done during the weekend. It's over and the call of duty. We have no further questions.

MR. HANRAHAN: I just echo that as well. Thank you to all of you. I appreciate it. I know we've gone longer than we told you this week so many, many thanks.

--- Whereupon the examination was 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

tel, certifie sous mon serment d'office que les pages qui précèdent sont et contiennent en langue française la transcription exacte et fidèle de mes notes recueillies au moyen de la sténotypie, le tout conformément à la Loi.

Et j'ai signé,

Manuel Garand, s.o.

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TAB 4(B)

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

SHEPPARD & CLAUDE
Law Offices
202-1173 Cyrville Road
Ottawa ON K1J 7S6
T. : 613- 748-3333
F. : 613- 748-1599

André Claude (LSO No. 27596J)
Tel: 613-748-3333, ext. 7
aclaude@sheppardclaude.ca
Lawyers for University of Sudbury

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 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 See Tab B	B
3.	203	87-88	Provide the University of Sudbury's draft business plan.	Voir Onglet C 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 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 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. 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 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/ 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 11th 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. 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? 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.		Per USudbury Registrar, Paul Laverdure: 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). 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. Per USudbury President, John Meehan, he says the equivalent number of full-time students is close to 140.
4.		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.
5.		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.
6.		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 *per se*." The President, John Meehan, could find no correspondence. 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

		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.

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

PGF consultants

202-291, RUE DALHOUSIE
OTTAWA (ONTARIO) K1N 7E5
BENOÎT HUBERT, PRÉSIDENT
TÉL. : (613) 241-2251 POSTE 237
TÉLÉC. : (613) 241-2252
COURRIEL : BHUBERT@PGF.CA

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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 démontrerait 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 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 [1]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

[1] 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:

<u>Programme :</u>

- 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 inclues 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 [2]:

Facultés - Université Laurentienne	**Programmes**
Faculté de la santé	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
Faculté des arts	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
Faculté de l'éducation	Éducation (B.Ed), Éducation (concomitante)
Faculté des sciences, de génie et d'architecture	Bachelor of Engineering – génie chimique (bilingue)[3], 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
Faculté de gestion	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, servies acquis par un fournisseur tiers, etc.)

[2] Cette liste est une liste initiale. Elle pourrait être modifiée selon la viabilité des programmes
[3] 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 accroitre 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[4]

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

[4] 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 ontarienne 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 autre 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 [5]

Par exemple :

- Hearst
- Brock
- UOF
- Collège Boréal

- Université Ste Anne (Nouvelle-Écosse)
- Université de St Boniface (Manitoba)

[5] Le benchmarking pourrait se retrouver sous forme d'annexe ou encore dans le cœur du document, selon les thèmes couverts

TAB 5(A)

From: André Claude <aclaude@sheppardclaude.ca>
Sent: April 26, 2021 8:24 AM
To: Ashley Taylor
Cc: sharon.s.hamilton@ca.ey.com; Andrew J. Hatnay; Demetrios Yiokaris; Sydney Edmonds; Eugene Meehan Q.C.; D. J. Miller; Andrew Hanrahan; Ben Muller; Fraser Hughes; Ronald Caza; Elizabeth Pillon
Subject: RE: In the Matter of the CCAA Proceedings of Laurentian University of Sudbury - Court File No. CV-21-656040-00CL

Request to Court Monitor

Dear Ashley:

Further to the scheduling Endorsement made by Chief Justice Morawetz last week (Apr. 21), we submit to you the following requests:

1. We ask the DIP Lender whether it will consider extending from April 30 until May 31, 2021 as the effective date for the disclaimer of the Federated Agreements between Laurentian and University of Sudbury. If it will not grant such an extension, we require the DIP Lender's detailed reasons and explanation for its refusal. In particular, we seek to understand what prejudice the DIP Lender sees to its position in this matter if it were to grant the requested extension especially given that University of Sudbury has cancelled delivery of its courses to Laurentian students for the upcoming Spring session.

2. We understand the DIP Lender has approved that Laurentian be allowed until May 31, 2021 to dispose of numerous union grievances. Assuming our first request for an extension is denied, we ask for the DIP Lender's reasons and explanation for approving an extension to Laurention to deal with its grievances, while denying the same extension to the University of Sudbury on account of the Federated Agreements.

We require these answers on or before 4 p.m. today.

These requests are independent of undertakings, advisements and refusals given during Robert Haché's cross-examination pertaining to the DIP Loan.

Regards,

André Claude
Sheppard & Claude
202 – 1173, chemin Cyrville Road
OTTAWA ON K1J 7S6
Tél./Tel. 613-748-3333, x7
Fax 613-748-1599
www.sheppardclaude.ca

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TAB 5(B)

Veronica De Leoz

From: DaRe, Vern W. <vdare@foglers.com>
Sent: April 26, 2021 3:49 PM
To: Ashley Taylor
Cc: sharon.s.hamilton@ca.ey.com; Andrew J. Hatnay; Demetrios Yiokaris; Sydney Edmonds; Eugene Meehan Q.C.; André Claude; D. J. Miller; Andrew Hanrahan; Ben Muller; Fraser Hughes; Ronald Caza; Elizabeth Pillon
Subject: RE: In the Matter of the CCAA Proceedings of Laurentian University of Sudbury - Court File No. CV-21-656040-00CL

Dear Mr. Taylor,

We are counsel for Firm Capital Mortgage Fund Inc. (the "**DIP Lender**") in this matter. We acknowledge receipt of your email below, in which you forward certain inquiries made by Mr. Andre Claude, as counsel for the University of Sudbury ("**U of S**"). As you know, following a case conference in this matter on April 20, 2021, Chief Justice Morawetz issued a written Endorsement on April 21, 2021 that provided, among other things, if Thorneloe University ("**Thorneloe**") or U of S had questions in respect of the DIP Loan that they could be directed to the Monitor. Further to the Court's direction, we are responding to the inquiries.

Regarding the first question, the DIP Lender will not consider extending from April 30, 2021 until May 31, 2021 as the effective date for the disclaimers of the Federation Agreements for several reasons. Firstly, the DIP Lender has already advanced $25M to Laurentian University ("**LU**") to be used within a timeline that required immediate cost-savings to be achieved by April 30, 2021. The April 30, 2021 date was not random or arbitrary, and the reasons for that time period were outlined in the materials filed by LU in support of the Initial Order. It was a critical date tied to the need to obtain immediate cost savings; was based on the academic calendar year of LU, the end of Winter term and the commencement of the Spring term of classes; took into account the decisions that first year applicants to LU would need to make for acceptance of offers based on the prospect of continued operations beyond the current Winter term; reflected the setting of the academic program and course calendar for Fall 2021 and faculty allocations for such courses; and other similar factors. In short, it was based on the nature of what LU does and the time period within which those things would have to be achieved. Those remain equally relevant.

Secondly, in making its decision as to whether to advance further funds to LU, the DIP Lender does not view this one disclaimer with U of S in isolation or alone; it is tied together with the disclaimer of the other Federation Agreements to be effective as of May 1, 2021. While U of S may have cancelled its Spring courses, Thorneloe has not. LU has deferred the collection of tuition for the Spring term pending satisfaction of the Conditions to Funding under the Amended DIP, and the Disclaimers becoming effective. LU has entered into an Agreement with Huntington (subject to court approval on April 29) which provides for certain things to occur, and is based on the Disclaimers becoming effective as of May 1, 2021. Subject to that occurring, LU is scheduled to teach the Gerontology courses starting on May 3 that it purchased from Huntington. If the Disclaimers were not effective as of May 1, 2021, the Huntington Agreement would also be affected. Thirdly, the DIP Lender has made a business decision that these disclaimers are a necessary component to LU's financial sustainability. It therefore requires that this Condition to Funding be satisfied by May 1, 2021.

As to the second question, the DIP Lender does not view the resolution of the union grievances as having a potential significant financial impact on LU and therefore the DIP Lender was willing to extend the resolution of the grievances to May 30, 2021. Any pre-filing grievances with a monetary component will be treated as claims in the CCAA process.

Regards,

Vern

Vern W. DaRe
Partner
Fogler, Rubinoff LLP
Lawyers
77 King Street West
Suite 3000, P.O. Box 95
TD Centre North Tower
Toronto, ON M5K 1G8
Direct: 416.941.8842
Main: 416.864.9700
Toll Free: 1.866.861.9700
Fax: 416.941.8852
Email: vdare@foglers.com
foglers.com

From: Ashley Taylor [mailto:ATAYLOR@stikeman.com]
Sent: Monday, April 26, 2021 8:39 AM
To: DaRe, Vern W. <vdare@foglers.com>
Cc: sharon.s.hamilton@ca.ey.com; Andrew J. Hatnay <ahatnay@kmlaw.ca>; Demetrios Yiokaris <dyiokaris@kmlaw.ca>; Sydney Edmonds <sedmonds@kmlaw.ca>; Eugene Meehan Q.C. <emeehan@supremeadvocacy.ca>; André Claude <aclaude@sheppardclaude.ca>; D. J. Miller <DJMiller@tgf.ca>; Andrew Hanrahan <AHanrahan@tgf.ca>; Ben Muller <BMuller@stikeman.com>; Fraser Hughes <FHughes@tgf.ca>; Ronald Caza <rcaza@plaideurs.ca>; Elizabeth Pillon <LPillon@stikeman.com>
Subject: RE: In the Matter of the CCAA Proceedings of Laurentian University of Sudbury - Court File No. CV-21-656040-00CL

Vern,

Please see the inquiries below from M. Claude, counsel to University of Sudbury.

Ash.

Ashley Taylor

Mobile: +1 416 450 6627
Email: ataylor@stikeman.com

From: André Claude <aclaude@sheppardclaude.ca>
Sent: Monday, April 26, 2021 8:24 AM
To: Ashley Taylor <ATAYLOR@stikeman.com>
Cc: sharon.s.hamilton@ca.ey.com; Andrew J. Hatnay <ahatnay@kmlaw.ca>; Demetrios Yiokaris <dyiokaris@kmlaw.ca>; Sydney Edmonds <sedmonds@kmlaw.ca>; Eugene Meehan Q.C. <emeehan@supremeadvocacy.ca>; D. J. Miller <DJMiller@tgf.ca>; Andrew Hanrahan <AHanrahan@tgf.ca>; Ben Muller <BMuller@stikeman.com>; Fraser Hughes <FHughes@tgf.ca>; Ronald Caza <rcaza@plaideurs.ca>; Elizabeth Pillon <LPillon@stikeman.com>
Subject: RE: In the Matter of the CCAA Proceedings of Laurentian University of Sudbury - Court File No. CV-21-656040-00CL

Request to Court Monitor

Dear Ashley:

Further to the scheduling Endorsement made by Chief Justice Morawetz last week (Apr. 21), we submit to you the following requests:

1. We ask the DIP Lender whether it will consider extending from April 30 until May 31, 2021 as the effective date for the disclaimer of the Federated Agreements between Laurentian and University of Sudbury. If it will not grant such an extension, we require the DIP Lender's detailed reasons and explanation for its refusal. In particular, we seek to understand what prejudice the DIP Lender sees to its position in this matter if it were to grant the requested extension especially given that University of Sudbury has cancelled delivery of its courses to Laurentian students for the upcoming Spring session.

2. We understand the DIP Lender has approved that Laurentian be allowed until May 31, 2021 to dispose of numerous union grievances. Assuming our first request for an extension is denied, we ask for the DIP Lender's reasons and explanation for approving an extension to Laurention to deal with its grievances, while denying the same extension to the University of Sudbury on account of the Federated Agreements.

We require these answers on or before 4 p.m. today.

These requests are independent of undertakings, advisements and refusals given during Robert Haché's cross-examination pertaining to the DIP Loan.

Regards,

André Claude
Sheppard & Claude
202 – 1173, chemin Cyrville Road
OTTAWA ON K1J 7S6
Tél./Tel. 613-748-3333, x7
Fax 613-748-1599
www.sheppardclaude.ca

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Stikeman Elliott LLP Barristers & Solicitors

5300 Commerce Court West, 199 Bay Street, Toronto, ON M5L 1B9 Canada

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Before printing, please consider the environment.

TAB 5(C)

KOSKIE MINSKY

JUSTICE MATTERS

April 27, 2021

Andrew J. Hatnay
Direct Dial: 416-595-2083
Direct Fax: 416-204-2819
ahatnay@kmlaw.ca

Via E-Mail

Stikeman Elliott LLP
5300 Commerce Court West
199 Bay Street
Toronto, ON M5L 1A9

Attention: Ashley Taylor

Dear Mr. Taylor:

Re: Laurentian University CCAA
Questions for DIP Lender
Motions to oppose disclaimers under s. 32(2) of the CCAA
Court File No.: CV-21-656040-00CL

We are writing further to the email sent today from counsel to DIP Lender Firm Capital Corporation (the "**DIP Lender**"), who we have copied.

As you know, we wrote to counsel to the DIP lender yesterday asking for his client to consensually attend an oral examination given the shortness of time before the motion hearings this week. He has not agreed to do so. A copy of the email exchange is attached.

In the circumstances, at this time, we are sending questions to the DIP Lender via the Monitor.

We ask for responses as soon as possible, including the requested productions, which were initially made at the cross-examination of Robert Haché ("**Haché**") on Friday April 23, 2021 of Laurentian, and which were refused.

Our questions in respect of the DIP loan, directed to both the Monitor and DIP Lender are as follows:

1. **For the Monitor and the DIP Lender: To produce all correspondence between Laurentian and its lawyers (or the Monitor) that were exchanged with the DIP Lender or any of its representatives.**

   Brief Background: Other than the written term sheet produced in the Laurentian Motion Record according to Haché at his cross-examination, there has been no direct communication between Haché and the DIP Lender. Communications have all gone

through counsel. Haché has not spoken to the DIP Lender via zoom or the telephone, does not believe he has exchanged emails directly with the DIP Lender, and does not believe he has seen emails exchanged between Laurentian's lawyer and the DIP Lender. Despite this, Laurentian refused at cross-examinations to produce any correspondence between Laurentian's lawyers (or the Monitor) exchanged with the DIP Lender or any of its representatives. See **Refusal – Page 198, question 519 (see generally, p. 196-199, q 510-519, and p. 289, q. 752)**

2. **For the DIP Lender: To produce a copy of the correspondence from Jonathan Mair of the DIP Lender supporting Haché's evidence at paragraph 189 of his second affidavit that Jonathan Mair made clear to him that the Agreements with the Federated Universities must be terminated by May 1, 2021.**

   Brief Background: At paragraph 189 of his second affidavit, Haché writes "I am advised by Jonathan Mair of the DIP Lender, and do verily believe, that the DIP Lender has made clear that the satisfaction of this Condition to Funding is essential to the DIP Lender's willingness to advance further funds under the Amended DIP Facility."

   At his cross-examination, Haché stated that there has been no direct communication between himself and the DIP Lender. Communications have all gone through counsel. He has not spoken to the DIP Lender via zoom or the telephone, does not believe he has exchanged emails directly with the DIP Lender. Further, at pages 197-198, question 518, Haché indicated that he does not believe he has seen emails exchanged between Laurentian's lawyer and the DIP Lender. Despite that evidence, Haché later on in his cross-examination indicated that also believes that Jonathan Mair of the DIP Lender wrote a letter to him through counsel confirming the evidence at paragraph 189 of his second affidavit. See **Refusal (originally a U/A) – page 288, question 749 (see generally, p. 286-288, q. 744 to 749; and p. 196-199, q 510-519; and p. 289, q. 752)**

3. **For the Monitor and the DIP Lender: To produce a copy of any and all draft term sheets and correspondence and documents relating to the negotiation of the original DIP, including the conditions, and the new conditions for the amended DIP.**

4. **For the Monitor: To produce a copy of any and all draft term sheets and correspondence and documents relating to the negotiation of the DIP with any other potential DIP Lenders, including the three referenced in the material.**

   a) **For the Monitor: To advise if the other potential DIP Lenders that were approached expressly required the termination of the Federated Universities;**

and if so, to provide a copy of any and all documents memorializing and related to same.

Brief Background: As indicated in Haché's Affidavit and the Monitor's First Report, Laurentian's counsel approached four potential DIP Lenders regarding providing a DIP Loan. At cross-examination Haché did not know if the other DIP Lenders expressly required the termination of the Federated Agreements. See **Refusal - Pages 335-336, questions 871-873**

5. **For the Monitor: To provide any information, particulars, documents and/or correspondence you have regarding any attempts by Laurentian or the Monitor to consult or canvass other potential DIP Lenders with respect to replacing the present DIP Lender, and/or securing the additional $10M financing.**

6. **For the DIP Lender: To produce any modelling of detailed financial analysis prepared by the DIP Lender as to why the termination of the Federated Agreements was now essential to the DIP extension and increase.**

   Brief Background: At his cross-examination, Haché did not see any modelling of detailed financial analysis from the DIP Lender as to why the termination was suddenly now essential to the extensions. See **pg. 340, q. 885**.

7. **For the DIP Lender: To advise exactly how the new condition now imposed by the DIP Lender was arrived at with respect to termination of the Federated Universities. To produce all financial analysis and/or modelling (including drafts), data, correspondence and documents relating to same. To also advise of any discussions between the DIP Lender, the Monitor and or Laurentian concerning these new conditions.**

   Brief Background: At his cross-examination, Haché indicated that he had no knowledge as to how the conditions imposed by the DIP Lender were arrived to "They are conditions that are imposed by the DIP Lender. Exactly how they got to that, I'm not fully aware". See **p. 282, q. 729-732.**

8. **For the DIP Lender and Monitor: The DIP Agreement required a revised cash flow forecast and multiyear budget to be provided to the DIP Lender demonstrating that Laurentian is financially sustainable. When did the DIP Lender receive a copy of the revised cash flow forecast and a multiyear budget, and any drafts? To produce a copy of any and all drafts and communications regarding same.**

Brief Background: In his responses to refusals, Laurentian refused to produce a multi-year forecast. Worse yet, even though admitting a draft was prepared and provided to the DIP Lender Laurentian refused to provide the draft to the Federated Universities. See **pp. 190-192, q. 499-501 and Laurentian's Responses to Under Advisements and Refusals, #2 and #3.**

We look forward to your timely response. Thank you for your consideration of this matter.

Yours truly,

KOSKIE MINSKY LLP

Andrew J. Hatnay

SUPREME ADVOCACY LLP

Eugene Meehan, Q.C.

c. D.J. Miller, *Thornton Grout Finnigan LLP,* counsel to Laurentian
Ashley Taylor, *Stikeman Elliot LLP*, counsel to the Monitor
Sharon Hamilton, *Ernst & Young LLP*, the Monitor
André Claude, *Sheppard & Claude*, counsel to University of Sudbury
Demetrios Yiokaris, Sydney Edmonds, *Koskie Minsky LLP*
Allan Nackan, *Farber Group*
Vern DaRe, *Foglers*

From: DaRe, Vern W. [mailto:vdare@foglers.com]
Sent: April-27-21 10:09 AM
To: Ashley Taylor
Cc: sharon.s.hamilton@ca.ey.com; Demetrios Yiokaris; Sydney Edmonds; Eugene Meehan Q.C.; André Claude; D. J. Miller; Andrew Hanrahan; Ben Muller; Fraser Hughes; Ronald Caza; Elizabeth Pillon; Andrew J. Hatnay
Subject: RE: In the Matter of the CCAA Proceedings of Laurentian University of Sudbury - Court File No. CV-21-656040-00CL

Mr. Taylor,

I received the email below on behalf of counsel for Thorneloe University and the University of Sudbury yesterday evening at 9:32 p.m. requesting that I make my client, the DIP Lender, or more specifically, Mr. Jonathan Mair of Firm Capital Mortgage Fund Inc., available for cross-examination at 2 p.m. today.

During the Case Conference before Chief Justice Morawetz on April 20, 2021, counsel for Thorneloe University and/or counsel for the University of Sudbury requested, among other things, to cross-examine the DIP Lender. In my submissions, I refused or rejected such an examination on the grounds that the DIP Lender had not sworn or filed any affidavits in the proceedings and was akin or similar to an accommodation party to Laurentian University in providing DIP financing. In his written Endorsement on April 21, 2021, Chief Justice Morawetz held that if Thorneloe University or University of Sudbury have questions in respect of the DIP Loan, they can be directed to the Monitor. His Honour also approved the litigation timetable proposed by Laurentian. It specifically allows for cross-examinations by Thorneloe University and University of Sudbury of Laurentian's affiant. There is no express authorization or direction by the Court to cross-examine the DIP Lender. Instead, questions in respect of the DIP Loan can be directed to the Monitor pursuant to the Endorsement of Chief Justice Morawetz. Accordingly, any questions regarding the DIP Loan should be directed to the Monitor or its counsel.

Regards,

Vern

fogler rubinoff

Vern W. DaRe
Partner
Fogler, Rubinoff LLP
Lawyers
77 King Street West
Suite 3000, P.O. Box 95
TD Centre North Tower
Toronto, ON M5K 1G8
Direct: 416.941.8842
Main: 416.864.9700
Toll Free: 1.866.861.9700
Fax: 416.941.8852
Email: vdare@foglers.com
foglers.com

From: Andrew J. Hatnay [mailto:ahatnay@kmlaw.ca]
Sent: Monday, April 26, 2021 9:32 PM
To: DaRe, Vern W. <vdare@foglers.com>
Cc: sharon.s.hamilton@ca.ey.com; Demetrios Yiokaris <dyiokaris@kmlaw.ca>; Sydney Edmonds <sedmonds@kmlaw.ca>; Eugene Meehan Q.C. <emeehan@supremeadvocacy.ca>; André Claude <aclaude@sheppardclaude.ca>; D. J. Miller <DJMiller@tgf.ca>; Andrew Hanrahan <AHanrahan@tgf.ca>; Ben Muller <BMuller@stikeman.com>; Fraser Hughes <FHughes@tgf.ca>; Ronald Caza <rcaza@plaideurs.ca>; Elizabeth Pillon <LPillon@stikeman.com>; Ashley Taylor <ATAYLOR@stikeman.com>
Subject: RE: In the Matter of the CCAA Proceedings of Laurentian University of Sudbury - Court File No. CV-21-656040-00CL

Vern, this note is being sent jointly by counsel to the University of Sudbury and counsel to Thorneloe University.

The statements in your note below raise many more questions and do not cover other areas that we need to ask a representative of the DIP lender under oral examination. It appears that Jonathan Mair of Firm Capital Mortgage Fund Inc. would be a suitable person to examine as he is identified in the affidavit of Robert Hache as a person Dr. Hache spoke with, or at least was "advised by", although under cross-examination last Friday Dr. Hache said that he has not spoken with anyone with Firm Capital. Also, counsel to Laurentian has refused to produce copies of the correspondence with Firm Capital about the DIP, which we also require to have a proper record before the court on the motions.

Given the shortness of time in the schedule and the hearings this week, there is insufficient time to engage in submitting additional written questions and awaiting prepared answers, especially in relation to the DIP loan and the new condition(s) recently inserted that are central to Laurentian's argument to uphold the disclaimers against our clients.

We ask that you make Mr. Mair available for an oral examination tomorrow at 2:00 pm ET. We will make the arrangements for the examination.

Please let us know.

Regards,
AJH

KOSKIE MINSKY
JUSTICE MATTERS

Andrew J. Hatnay
Partner
T: +1 416-595-2083 | M: +1 416-557-3633 | F: +1 416-204-2872 | E: ahatnay@kmlaw.ca
Koskie Minsky LLP, 20 Queen Street West, Suite 900, Toronto, ON. M5H 3R3
kmlaw.ca

From: DaRe, Vern W. [mailto:vdare@foglers.com]
Sent: April-26-21 3:49 PM
To: Ashley Taylor
Cc: sharon.s.hamilton@ca.ey.com; Andrew J. Hatnay; Demetrios Yiokaris; Sydney Edmonds; Eugene Meehan Q.C.; André Claude; D. J. Miller; Andrew Hanrahan; Ben Muller; Fraser Hughes; Ronald Caza; Elizabeth Pillon

Subject: RE: In the Matter of the CCAA Proceedings of Laurentian University of Sudbury - Court File No. CV-21-656040-00CL

Dear Mr. Taylor,

We are counsel for Firm Capital Mortgage Fund Inc. (the "**DIP Lender**") in this matter. We acknowledge receipt of your email below, in which you forward certain inquiries made by Mr. Andre Claude, as counsel for the University of Sudbury ("**U of S**"). As you know, following a case conference in this matter on April 20, 2021, Chief Justice Morawetz issued a written Endorsement on April 21, 2021 that provided, among other things, if Thorneloe University ("**Thorneloe**") or U of S had questions in respect of the DIP Loan that they could be directed to the Monitor. Further to the Court's direction, we are responding to the inquiries.

Regarding the first question, the DIP Lender will not consider extending from April 30, 2021 until May 31, 2021 as the effective date for the disclaimers of the Federation Agreements for several reasons. Firstly, the DIP Lender has already advanced $25M to Laurentian University ("**LU**") to be used within a timeline that required immediate cost-savings to be achieved by April 30, 2021. The April 30, 2021 date was not random or arbitrary, and the reasons for that time period were outlined in the materials filed by LU in support of the Initial Order. It was a critical date tied to the need to obtain immediate cost savings; was based on the academic calendar year of LU, the end of Winter term and the commencement of the Spring term of classes; took into account the decisions that first year applicants to LU would need to make for acceptance of offers based on the prospect of continued operations beyond the current Winter term; reflected the setting of the academic program and course calendar for Fall 2021 and faculty allocations for such courses; and other similar factors. In short, it was based on the nature of what LU does and the time period within which those things would have to be achieved. Those remain equally relevant.

Secondly, in making its decision as to whether to advance further funds to LU, the DIP Lender does not view this one disclaimer with U of S in isolation or alone; it is tied together with the disclaimer of the other Federation Agreements to be effective as of May 1, 2021. While U of S may have cancelled its Spring courses, Thorneloe has not. LU has deferred the collection of tuition for the Spring term pending satisfaction of the Conditions to Funding under the Amended DIP, and the Disclaimers becoming effective. LU has entered into an Agreement with Huntington (subject to court approval on April 29) which provides for certain things to occur, and is based on the Disclaimers becoming effective as of May 1, 2021. Subject to that occurring, LU is scheduled to teach the Gerontology courses starting on May 3 that it purchased from Huntington. If the Disclaimers were not effective as of May 1, 2021, the Huntington Agreement would also be affected. Thirdly, the DIP Lender has made a business decision that these disclaimers are a necessary component to LU's financial sustainability. It therefore requires that this Condition to Funding be satisfied by May 1, 2021.

As to the second question, the DIP Lender does not view the resolution of the union grievances as having a potential significant financial impact on LU and therefore the DIP Lender was willing to extend the resolution of the grievances to May 30, 2021. Any pre-filing grievances with a monetary component will be treated as claims in the CCAA process.

Regards,

Vern

fogler rubinoff

Vern W. DaRe
Partner
Fogler, Rubinoff LLP
Lawyers
77 King Street West
Suite 3000, P.O. Box 95
TD Centre North Tower
Toronto, ON M5K 1G8
Direct: 416.941.8842
Main: 416.864.9700
Toll Free: 1.866.861.9700
Fax: 416.941.8852

Email: vdare@foglers.com
foglers.com

From: Ashley Taylor [mailto:ATAYLOR@stikeman.com]
Sent: Monday, April 26, 2021 8:39 AM
To: DaRe, Vern W. <vdare@foglers.com>
Cc: sharon.s.hamilton@ca.ey.com; Andrew J. Hatnay <ahatnay@kmlaw.ca>; Demetrios Yiokaris <dyiokaris@kmlaw.ca>; Sydney Edmonds <sedmonds@kmlaw.ca>; Eugene Meehan Q.C. <emeehan@supremeadvocacy.ca>; André Claude <aclaude@sheppardclaude.ca>; D. J. Miller <DJMiller@tgf.ca>; Andrew Hanrahan <AHanrahan@tgf.ca>; Ben Muller <BMuller@stikeman.com>; Fraser Hughes <FHughes@tgf.ca>; Ronald Caza <rcaza@plaideurs.ca>; Elizabeth Pillon <LPillon@stikeman.com>
Subject: RE: In the Matter of the CCAA Proceedings of Laurentian University of Sudbury - Court File No. CV-21-656040-00CL

Vern,

Please see the inquiries below from M. Claude, counsel to University of Sudbury.

Ash.

Ashley Taylor

Mobile: +1 416 450 6627
Email: ataylor@stikeman.com

From: André Claude <aclaude@sheppardclaude.ca>
Sent: Monday, April 26, 2021 8:24 AM
To: Ashley Taylor <ATAYLOR@stikeman.com>
Cc: sharon.s.hamilton@ca.ey.com; Andrew J. Hatnay <ahatnay@kmlaw.ca>; Demetrios Yiokaris <dyiokaris@kmlaw.ca>; Sydney Edmonds <sedmonds@kmlaw.ca>; Eugene Meehan Q.C. <emeehan@supremeadvocacy.ca>; D. J. Miller <DJMiller@tgf.ca>; Andrew Hanrahan <AHanrahan@tgf.ca>; Ben Muller <BMuller@stikeman.com>; Fraser Hughes <FHughes@tgf.ca>; Ronald Caza <rcaza@plaideurs.ca>; Elizabeth Pillon <LPillon@stikeman.com>
Subject: RE: In the Matter of the CCAA Proceedings of Laurentian University of Sudbury - Court File No. CV-21-656040-00CL

Request to Court Monitor

Dear Ashley:

Further to the scheduling Endorsement made by Chief Justice Morawetz last week (Apr. 21), we submit to you the following requests:

1. We ask the DIP Lender whether it will consider extending from April 30 until May 31, 2021 as the effective date for the disclaimer of the Federated Agreements between Laurentian and University of Sudbury. If it will not grant such an extension, we require the DIP Lender's detailed reasons and explanation for its refusal. In particular, we seek to understand what prejudice the DIP Lender sees to its position in this matter if it were to grant the requested extension especially given that University of Sudbury has cancelled delivery of its courses to Laurentian students for the upcoming Spring session.

2. We understand the DIP Lender has approved that Laurentian be allowed until May 31, 2021 to dispose of numerous union grievances. Assuming our first request for an extension is denied, we ask for the DIP Lender's

reasons and explanation for approving an extension to Laurention to deal with its grievances, while denying the same extension to the University of Sudbury on account of the Federated Agreements.

We require these answers on or before 4 p.m. today.

These requests are independent of undertakings, advisements and refusals given during Robert Haché's cross-examination pertaining to the DIP Loan.

Regards,

André Claude
Sheppard & Claude
202 – 1173, chemin Cyrville Road
OTTAWA ON K1J 7S6
Tél./Tel. 613-748-3333, x7
Fax 613-748-1599
www.sheppardclaude.ca

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Stikeman Elliott LLP Barristers & Solicitors

5300 Commerce Court West, 199 Bay Street, Toronto, ON M5L 1B9 Canada

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TAB 5(D)

(Applicant's Position on) Responses to Thorneloe University's Questions for the DIP Lender

1. **For the Monitor and the DIP Lender: To produce all correspondence between Laurentian and its lawyers (or the Monitor) that were exchanged with the DIP Lender or any of its representatives.**

Response: The Applicant relies on para 34 of the Amended & Restated Initial Order (the "**Confidentiality Provision**") in claiming confidentiality over most of what is being requested by counsel for Thorneloe as it relates to negotiations, correspondence and drafts of documents leading to a final, signed Agreement. The Applicant objects to the Monitor producing correspondence that it may have had with the Applicant or the DIP Lender (with a similar objection to the DIP Lender producing same), including with respect to any drafts or negotiations leading to the DIP Amendment. Without waiving the Confidentiality Provision referenced above, and in an effort to be responsive to the specific issue raised, the Applicant does not object to the DIP Lender disclosing that a condition relating to the Disclaimers becoming effective has been included since the first draft of the DIP Amendment was sent to the Applicant's counsel on April 12, 2021. That condition was: "The termination of the Borrower's affiliation with the federated universities (Huntington, Thorneloe and University of Sudbury) is to be completed."

2. **For the DIP Lender: To produce a copy of the correspondence from Jonathan Mair of the DIP Lender supporting Haché's evidence at paragraph 189 of his second affidavit that Jonathan Mair made clear to him that the Agreements with the Federated Universities must be terminated by May 1, 2021.**

Response: The Applicant relies on the Confidentiality Provision and does not waive it in any respect. Expressly subject to that, the Applicant does not object to the DIP Lender producing the email in question. Attached is the Applicant counsel's side of the email sent by counsel to the Applicant to the DIP Lender, wherein Jonathan Mair of the DIP Lender is asked on April 20, 2021 if he is able to confirm whether language reflecting the DIP Lender's position that was drafted for inclusion in Dr. Hache's second affidavit [being para 189 in the sworn Affidavit] is accurate. By email confirmation sent April 21, 2021 at 10:40 am, such confirmation is provided by Mr. Mair. Dr. Hache's affidavit was then served at 3:32 pm on April 21, 2021. The Applicant is agreeable to the Monitor providing a copy of this email exchange, and to the DIP Lender similarly producing its copy of the email exchange.

3. **For the Monitor and the DIP Lender: To produce a copy of any and all draft term sheets and correspondence and documents relating to the negotiation of the original DIP, including the conditions, and the new conditions for the amended DIP.**

Response: The Applicant relies on the Confidentiality Provision in objecting to the Monitor or DIP Lender producing "any and all draft term sheets and correspondence and documents" as requested above, relating to the negotiation of the original DIP, or in respect of the amended DIP.

4. **For the Monitor: To produce a copy of any and all draft term sheets and correspondence and documents relating to the negotiation of the DIP with any other potential DIP Lenders, including the three referenced in the material.**

   (a) For the Monitor: To advise if the other potential DIP Lenders that were approached expressly required the termination of the Federated Universities and if so, to provide a copy of any and all documents memorializing and related to same.

Response: The Applicant relies on the Confidentiality Provision in objecting to the Monitor or DIP Lender providing disclosure of details, negotiations or communications with the existing DIP Lender or any other prospective DIP Lenders prior to the CCAA filing. Information in that regard is included in the Initial Application Record filed by the Applicant, the Monitor's Pre-Filing Report and its First Report to the Court leading to the approval of the DIP pursuant to the Amended and Restated Initial Order.

5. **For the Monitor: To provide any information, particulars, documents and/or correspondence you have regarding any attempts by Laurentian or the Monitor to consult or canvass other potential DIP Lenders with respect to replacing the present DIP Lender, and/or securing the additional $10M financing.**

Response: The Applicant advises that the DIP Agreement includes a right of first refusal in favour of the DIP Lender for any additional funding. Subject to the Confidentiality Provision, the Applicant's position is that the pre-filing process of finding a DIP Lender and having them undertake the due diligence with respect to this unique lending situation and the special purpose nature of the myriad of real estate parcels involved, is set out in the Monitor's Reports and the Initial Hache Affidavit. Given the time required by prospective DIP lenders during that process and the work involved in satisfying inquiries as part of the due diligence, and that any replacement DIP would involve a repayment of the existing $25 million DIP loan in order to enjoy first priority, it was not possible or practical to undertake that process at this time in connection with a further $10 million DIP advance.

6. **For the DIP Lender: To produce any modelling of detailed financial analysis prepared by the DIP Lender as to why the termination of the Federated Agreements was now essential to the DIP extension and increase.**

Response: The Applicant has not received any financial analysis or modeling done by the DIP Lender and would request same in advance in order to review it and confirm if the Applicant asserts confidentiality, prior to it being provided to other parties.

7. **For the DIP Lender: To advise exactly how the new condition now imposed by the DIP Lender was arrived at with respect to termination of the Federated Universities. To produce all financial analysis and/or modelling (including drafts), data, correspondence and documents relating to same. To also advise of any discussions between the DIP Lender, the Monitor and or Laurentian concerning these new conditions.**

Response: The Applicant relies on the Confidentiality Provision in objecting to the Monitor or DIP Lender providing disclosure of details or discussions, negotiations, documents or communications with the Applicant leading to the execution of the DIP Amendment, other than the information provided in #1 above.

8. **For the DIP Lender and Monitor: The DIP Agreement required a revised cash flow forecast and multiyear budget to be provided to the DIP Lender demonstrating that Laurentian is financially sustainable. When did the DIP Lender receive a copy of the revised cash flow forecast and a multiyear budget, and any drafts? To produce a copy of any and all drafts and communications regarding same.**

Response: The Applicant relies on the Confidentiality Provision in objecting to the Monitor or DIP Lender providing disclosure of details or discussions or drafts of any documents that were prepared or provided on that basis. The Applicant does not object to the Monitor and DIP Lender confirming the date on which the DIP Lender received a first draft of the cash flow forecast in support of the requested additional DIP advance, and confirming whether it is substantially similar to the cash flow forecast attached to the Monitor's Third Report to the Court.

TAB 5(E)

Derek Harland

From: Jonathan Mair <JMair@firmcapital.com>
Sent: Wednesday, April 21, 2021 10:40 AM
To: Derek Harland
Cc: D. J. Miller; DaRe, Vern W.; Robert Hache
Subject: Re: LU - Information to Advise Dr. Hache

Hi. Confirmed.

Sent from my iPhone

On Apr 20, 2021, at 9:28 PM, Derek Harland <DHarland@tgf.ca> wrote:

Hello Jonathan,

We are finalizing the Affidavit for Rob Haché to swear. For those things that are not within his own direct knowledge, we have to identify in the Affidavit that he is being advised by someone who has that information. For the following information in the Affidavit, that would be you. Can you please confirm for Rob (by way of "reply all" on this email with a response that says "I can advise you of this") that the following information is accurate:

The DIP Amendment contains a number of Conditions to Funding that must be satisfied before additional funds will be made available under the Amended DIP Facility. One of those Conditions to Funding is that each of the Notices of Disclaimer with respect to the Federated Universities become effective, binding, and final on May 1, 2021 (30 days after they were issued in accordance with the relevant time period under the CCAA). The satisfaction of this Condition to Funding is essential to the DIP Lender's willingness to advance further funds under the Amended DIP Facility.

As we are finalizing the Affidavit tonight, we would appreciate it if you could respond by email as soon as possible. Thank you.

Best,
Derek

Derek Harland | | DHarland@tgf.ca | Direct Line +1 416 304-1127 | Suite 3200, TD West Tower, 100 Wellington Street West, P.O. Box 329, Toronto-Dominion Centre, Toronto, Ontario M5K 1K7 | 416-304-1616 | Fax: 416-304-1313 | www.tgf.ca

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TAB 5(F)

Fogler, Rubinoff LLP
Lawyers

77 King Street West
Suite 3000, PO Box 95
TD Centre North Tower
Toronto, ON M5K 1G8
t: 416.864.9700 | f: 416.941.8852
foglers.com

Reply To: Vern W. DaRe
Direct Dial: 416.941.8842
E-mail: vdare@foglers.com
Our File No. 210476

April 28, 2021

VIA EMAIL

Stikeman Elliott LLP
5300 Commerce Court West
199 Bay Street
Toronto, ON M5L 1B9

Attention: Ashley Taylor

Dear Mr. Taylor:

Re: Laurentian University of Sudbury ("LU") CCAA Proceedings
Questions for Firm Capital Mortgage Fund Inc. (the "DIP Lender")
Motions to oppose disclaimers under s.32(2) of the CCAA
Court File No. CV-21-626040-00CL

We are lawyers for the DIP Lender in the above-noted matter. The DIP Lender is not a litigant in the above motions. Counsel for the DIP Lender did not attend the cross-examinations of the relevant parties regarding these motions. The DIP Lender has not filed affidavit evidence in these CCAA proceedings. Notwithstanding, counsel for Thorneloe University and the University of Sudbury have now made two attempts to cross-examine the DIP Lender or a representative of the DIP Lender. The first was before Chief Justice Morawetz at a Case Conference on April 20, 2021, in which His Honour generally held "no" on April 21, 2021; and directed the parties if they have any questions regarding the DIP loan to ask them via the Monitor or its lawyer; and the second time, notwithstanding the Chief Justice's direction, was in an email to DIP Lender's counsel on April 26, 2021 asking him to make the DIP Lender available for cross-examination the next day, in which DIP Lender's counsel generally replied "no", and confirmed that questions regarding the DIP loan should be asked via Monitor's counsel. This gave rise to the first round of questions from counsel for the University of Sudbury, in which the DIP Lender answered (as set out below). The DIP Lender is now being presented with a second round of questions from counsel for Thorneloe University, which it will attempt to answer below. The DIP Lender does not know how many more rounds of questions it has to provide answers too regarding these two opposition to disclaimer motions but please note that as a non-litigant that has not filed affidavit evidence in these motions, the DIP Lender questions why it is being drawn into this litigation. It has already advanced $25M to LU and the bigger, more timely and important question from the DIP Lender's perspective, is whether or not it will advance another $10M, which LU desperately needs on a going forward basis.

As to the first round of questions from counsel for the University of Sudbury to the DIP Lender, here were the answers provided by the DIP Lender or its counsel in an email dated April 26, 2021:

"Dear Mr. Taylor,

We are counsel for Firm Capital Mortgage Fund Inc. (the "**DIP Lender**") in this matter. We acknowledge receipt of your email below, in which you forward certain inquiries made by Mr. Andre Claude, as counsel for the University of Sudbury ("**U of S**"). As you know, following a case conference in this matter on April 20, 2021, Chief Justice Morawetz issued a written Endorsement on April 21, 2021 that provided, among other things, if Thorneloe University ("**Thorneloe**") or U of S had questions in respect of the DIP Loan that they could be directed to the Monitor. Further to the Court's direction, we are responding to the inquiries.

Regarding the first question, the DIP Lender will not consider extending from April 30, 2021 until May 31, 2021 as the effective date for the disclaimers of the Federation Agreements for several reasons. Firstly, the DIP Lender has already advanced $25M to Laurentian University ("**LU**") to be used within a timeline that required immediate cost-savings to be achieved by April 30, 2021. The April 30, 2021 date was not random or arbitrary, and the reasons for that time period were outlined in the materials filed by LU in support of the Initial Order. It was a critical date tied to the need to obtain immediate cost savings; was based on the academic calendar year of LU, the end of Winter term and the commencement of the Spring term of classes; took into account the decisions that first year applicants to LU would need to make for acceptance of offers based on the prospect of continued operations beyond the current Winter term; reflected the setting of the academic program and course calendar for Fall 2021 and faculty allocations for such courses; and other similar factors. In short, it was based on the nature of what LU does and the time period within which those things would have to be achieved. Those remain equally relevant.

Secondly, in making its decision as to whether to advance further funds to LU, the DIP Lender does not view this one disclaimer with U of S in isolation or alone; it is tied together with the disclaimer of the other Federation Agreements to be effective as of May 1, 2021. While U of S may have cancelled its Spring courses, Thorneloe has not. LU has deferred the collection of tuition for the Spring term pending satisfaction of the Conditions to Funding under the Amended DIP, and the Disclaimers becoming effective. LU has entered into an Agreement with Huntington (subject to court approval on April 29) which provides for certain things to occur, and is based on the Disclaimers becoming effective as of May 1, 2021. Subject to that occurring, LU is scheduled to teach the Gerontology courses starting on May 3 that it purchased from Huntington. If the Disclaimers were not effective as of May 1, 2021, the Huntington Agreement would also be affected. Thirdly, the DIP Lender has made a business decision that these disclaimers are a necessary component to LU's financial sustainability. It therefore requires that this Condition to Funding be satisfied by May 1, 2021.

As to the second question, the DIP Lender does not view the resolution of the union grievances as having a potential significant financial impact on LU and therefore the DIP Lender was willing to extend the resolution of the grievances to May 30, 2021. Any pre-filing grievances with a monetary component will be treated as claims in the CCAA process.

Regards,

Vern "

As to the second round of questions, from counsel of Thorneloe University to the DIP Lender, the answers are provided below by the DIP Lender. The DIP Lender has reviewed the responses that were provided by LU yesterday to the same questions and incorporated most of them below as part of its answers, adding its own answers or responses as underlined and highlighted comments :

1. **For the Monitor and the DIP Lender: To produce all correspondence between Laurentian and its lawyers (or the Monitor) that were exchanged with the DIP Lender or any of its representatives.**

Response: LU relies on para 34 of the Amended & Restated Initial Order (the "**Confidentiality Provision**") in claiming confidentiality over most of what is being requested by counsel for Thorneloe as it relates to negotiations, correspondence and drafts of documents leading to a final, signed Agreement. LU objects to the Monitor producing correspondence that it may have had with LU or the DIP Lender (with a similar objection to the DIP Lender producing same), including with respect to any drafts or negotiations leading to the DIP Amendment. Without waiving the Confidentiality Provision referenced above, and in an effort to be responsive to the specific issue raised, LU does not object to the DIP Lender disclosing, **and the DIP Lender so discloses**, that a condition relating to the Disclaimers becoming effective has been included since the first draft of the DIP Amendment was sent to LU's counsel on April 12, 2021. That condition was: "The termination of the Borrower's affiliation with the federated universities (Huntington, Thorneloe and University of Sudbury) is to be completed."

2. **For the DIP Lender: To produce a copy of the correspondence from Jonathan Mair of the DIP Lender supporting Haché's evidence at paragraph 189 of his second affidavit that Jonathan Mair made clear to him that the Agreements with the Federated Universities must be terminated by May 1, 2021.**

Response: LU relies on the Confidentiality Provision and does not waive it in any respect. Expressly subject to that, LU does not object to the DIP Lender producing the email in question **and the DIP Lender has so produced it**. Attached is LU counsel's side of the email sent by counsel to LU to the DIP Lender, wherein Jonathan Mair of the DIP Lender is asked on April 20, 2021 if he is able to confirm whether language reflecting the DIP Lender's position that was drafted for inclusion in Dr. Hache's second affidavit [being para 189 in the sworn Affidavit] is accurate. By email confirmation sent April 21, 2021 at 10:40 am, such confirmation is provided by Mr. Mair. Dr. Hache's affidavit was then served at 3:32 pm on April 21, 2021.

3. **For the Monitor and the DIP Lender: To produce a copy of any and all draft term sheets and correspondence and documents relating to the negotiation of the original DIP, including the conditions, and the new conditions for the amended DIP.**

Response: LU relies on the Confidentiality Provision in objecting to the Monitor or DIP Lender producing "any and all draft term sheets and correspondence and documents" as requested above, relating to the negotiation of the original DIP, or in respect of the amended DIP.

4. **For the Monitor: To produce a copy of any and all draft term sheets and correspondence and documents relating to the negotiation of the DIP with any other potential DIP Lenders, including the three referenced in the material.**

    a. **For the Monitor: To advise if the other potential DIP Lenders that were approached expressly required the termination of the Federated Universities and if so, to provide a copy of any and all documents memorializing and related to same.**

Response: LU relies on the Confidentiality Provision in objecting to the Monitor or DIP Lender providing disclosure of details, negotiations or communications with the existing DIP Lender or any other prospective DIP Lenders prior to the CCAA filing.

5. **For the Monitor: To provide any information, particulars, documents and/or correspondence you have regarding any attempts by Laurentian or the Monitor to consult or canvass other potential DIP Lenders with respect to replacing the present DIP Lender, and/or securing the additional $10M financing.**

Response: N/A

6. **For the DIP Lender: To produce any modelling of detailed financial analysis prepared by the DIP Lender as to why the termination of the Federated Agreements was now essential to the DIP extension and increase.**

Response: The DIP Lender did not do its own modelling and reviewed information provided by LU and by reviewing that information was able to ascertain or determine that the termination of the Federated Agreements would save costs in the millions of dollars.

7. **For the DIP Lender: To advise exactly how the new condition now imposed by the DIP Lender was arrived at with respect to termination of the Federated Universities. To produce all financial analysis and/or modelling (including drafts), data, correspondence and documents relating to same. To also advise of any discussions between the DIP Lender, the Monitor and or Laurentian concerning these new conditions.**

Response: LU relies on the Confidentiality Provision in objecting to the Monitor or DIP Lender providing disclosure of details or discussions, negotiations, documents or communications with LU leading to the execution of the DIP Amendment, other than the information provided in #1 above.

8. For the DIP Lender and Monitor: The DIP Agreement required a revised cash flow forecast and multiyear budget to be provided to the DIP Lender demonstrating that Laurentian is financially sustainable. When did the DIP Lender receive a copy of the revised cash flow forecast and a multiyear budget, and any drafts? To produce a copy of any and all drafts and communications regarding same.

Response: LU relies on the Confidentiality Provision in objecting to the Monitor or DIP Lender providing disclosure of details or discussions or drafts of any documents that were prepared or provided on that basis. LU does not object to the Monitor and DIP Lender confirming the date on which the DIP Lender received a first draft of the cash flow forecast in support of the requested additional DIP advance, and confirming whether it is substantially similar to the cash flow forecast attached to the Monitor's Third Report to the Court. **Subject to LU's rights and protections under the Confidentiality Provision, the DIP Lender received a first draft of the cash flow forecast in support of the requested additional DIP advance on April 8, 2021, in which the forecast showed an amount of $12M needed as additional funding for LU with a maturity date to August 31, 2021. Upon reviewing the cash flow forecast, the DIP Lender agreed to advance $10M as additional funding subject to several conditions. That is, LU asked for an additional $12M and the DIP Lender only agreed to advance $10M subject to several conditions.**

Yours truly,

FOGLER, RUBINOFF LLP

Vern W. DaRe

(electronically-generated signature)

Vern W. DaRe
VWD/mp

» **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

Court File No.: CV-21-656040-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE - COMMERCIAL LIST

Proceeding commenced at Toronto

COMPENDIUM OF TRANSCRIPTS, EXHIBITS, RESPONSES TO UNDERTAKINGS, UNDER ADVISEMENTS AND REFUSALS OF THORNELOE UNIVERSITY

KOSKIE MINSKY LLP
900-20 Queen Street West, Toronto, ON M5H 3R3
Andrew J. Hatnay LS#: 31885W
ahatnay@kmlaw.ca
Tel: 416-595-2083 / Fax: 416-204-2872
Sydney Edmonds - LS#: 79946K
sedmonds@kmlaw.ca
Tel: (416) 595-2260 / Fax: (416) 204-4936

SUPREME ADVOCACY LLP
100-340 Gilmour St., Ottawa, ON K2P 0R3
Eugene Meehan, Q.C. - LS#: 29046T
emeehan@supremeadvocacy.ca
Tel: (613) 695-8855 / Fax: 613-695-8580

Lawyers for Thorneloe University