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May 2023

VIA E-MAIL– isi.minister-ministre.isi@canada.ca

The Honourable François-Philippe Champagne
Minister of Innovation, Science and Industry
C.D. Howe Building
235 Queen Street
Ottawa, ON K1A 0H5

Dear Honourable François-Philippe Champagne:

Re: Consultation Concerning the Insolvency and Restructuring of Publicly Funded Post-Secondary Educational Institutions

I write this as President of the Nipissing University Faculty Association (NUFA), and on behalf of the NUFA Executive. Nipissing University is located in North Bay, an hour's drive from Sudbury, and began its existence as an institution of higher learning as a satellite of Laurentian University. Partly because of this close relationship, the reaction of the Nipissing University community to the CCAA process at Laurentian was one of shock, fury, and acute fear that we would be next.

The news about Laurentian broke on February 1, 2021, when I was Grievance Officer for my Association. With some other NUFA Members, I started attending the Save Our Sudbury community meetings over Zoom. I listened to the testimony of faculty, students, and community members at those meetings, and noted the similarities between Laurentian's situation and ours: both Northern institutions serving Indigenous communities, both major employers in our cities, both places with a high proportion of first-generation students. I was able to imagine the likely effects of a CCAA process at Nipissing University, and understand that those effects would be catastrophic in terms of the human cost. I attended the meeting on April 12, the day the terminations and cuts were announced, and I had to turn my camera off so that I could cry while listening to students, parents, alumni, staff, and faculty as they cried.

At the same time, Nipissing University was in the process of hiring a new President. I was a member of faculty attending one of the small group interviews of the candidates, and my question for them was what they would do if our Board of Governors suggested using the CCAA. Since the answer I would find acceptable would be "I would resign in protest," I hope

this story illustrates the pressure CCAA puts not only on faculty, staff, and students, but also on administration, and especially on the President who is the only employee of the Board of Governors. When NUFA agreed that year a one-year rollover of the Full-Time Academic Staff Bargaining Unit Collective Agreement for 2022-23 because of the University's precarious financial situation, one thing we asked for was a commitment from the Employer not to use CCAA. The Employer refused, thus leaving the university's administrators unprotected from a temptation to use something that they know would destroy their own reputation as servants of public education, and as betraying the Collective Agreements that they signed in good faith.

Our faculty and staff are afraid. We keep hearing the contrasting messages from the administration of "We are not Laurentian," and "We are a whisper away from being Laurentian," the latter statement carrying with it the threat of the CCAA being used. This fear manifests itself in several ways. For example, currently the entrance signs to our campus are being renovated; a faculty member driving into campus told me he saw the old signs taken down and thought "Is this how I find out?" As another example, last semester I attended a departmental social for new students and was chatting to one who told me he was from Sudbury but couldn't risk going to Laurentian "after what happened" and so came to Nipissing instead—my welcoming smile froze on my face and I felt ashamed about not saying "Well, you're not safe here, either." This is no way to build a thriving and cooperative community of trust and optimism: we need to rely on the procedures in our Collective Agreements for financial exigency, we need trust between the Board of Governors and every stakeholder in the university, we need to strengthen our public institutions and protect them from the brutal, non-academic, inhuman practices of the CCAA.

NUFA agrees with the statement in the "Special Report on Laurentian University," released by Ontario's Auditor General in November 2022, that

There is a strong argument that CCAA is an inappropriate, and perhaps damaging, remedy for public entities. (p. 6)

NUFA also agrees with the Canadian Association of University Teachers' point that

The public mission of universities and colleges cannot be achieved without academic freedom. That is why virtually every collective agreement in the country between institutions and their academic staff associations contains language on "financial exigency" --- a detailed process by which the university administration and its academic staff association work together to find solutions that do not jeopardize the academic priorities of the PSEI or impinge upon the academic freedom and tenure rights of professors. It's a proven way of handling financial challenges with the least harm to students, staff, and the community. Employing the CCAA process runs contrary to this collegial and mission-driven way of handling financial challenges.

NUFA furthermore agrees with the following arguments by the Ontario Confederation of University Faculty Associations (OCUFA):

Canadian public universities have never relied upon private sector insolvency legislation when they have been in financial distress. In the few instances in which some form of

financial assistance has been required, it has been provided administratively by Provincial governments. They have treated universities as public institutions, built with public monies for public purposes. Although they operate with autonomy, they do so in fulfillment of their public purposes. In effect, they are part of our social fabric, in much the same way as school boards and hospitals, and, when faced with financial distress, they have been treated as public institutions rather than as private business concerns. In this way, the public interest can be protected in good times and in bad.

and

In brief, the CCAA is a private sector insolvency statute, that is not designed to reflect or protect public purposes. It is simply designed to balance financial books, and to ensure that a post-restructuring company can pay its debt service and other expenses. In the private sector, an insolvency filing is typically a remedy of last resort, as it generally disenfranchises equity holders and compromises the claims of the insolvent debtor's creditors. In a PSEI setting, however, as is well illustrated by Laurentian, the CCAA filing was a matter of choice. Laurentian's choice, in this case, was to restructure Laurentian quite apart from its public policy purposes, and to use the process to achieve management's goals by threatening the University's employees with liquidation. The result of applying the CCAA was extraordinarily damaging and ought never to be repeated.

OCUFA has filed a detailed brief in respect of the application of federal insolvency laws to the post-secondary sector, and the Nipissing University Faculty Association fully endorses OCUFA's submission.

Thank you for opening a consultation into this process, and for reading this letter.

Yours truly,



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