

Court File No. CV-14-500766

ONTARIO
SUPERIOR COURT OF JUSTICE

KT/lms

B E T W E E N:
UNIVERSITY OF TORONTO GRADUATE STUDENTS' UNION
Plaintiff

- and -

CANADIAN FEDERATION OF STUDENTS and
CANADIAN FEDERATION OF STUDENTS - ONTARIO
Defendants

This is the Cross-Examination of LUCY WATSON, on her
affidavit sworn the 17th day of May, 2014, taken at the
offices of VICTORY VERBATIM REPORTING SERVICES INC.,
Suite 900, Ernst & Young Tower, 222 Bay Street, Toronto,
Ontario, on the 11th day of June, 2014.

APPEARANCES :

DANIEL DEL GOBBO } -- for the Plaintiff
 NADIA ZAMAN }
 (Summer Student)
 TODD J. BURKE -- for the Defendant,
 Canadian Federation
 of Students
 TUDOR CARSTEN -- for the Defendant,
 Canadian Federation
 of Students - Ontario
 ANDREW MONKHOUSE -- for Ashleigh Ingle

ALSO PRESENT :

Walter Callaghan
 Bradley Evoy
 Ashkan Hashemi

L. Watson - 4

1 LUCY WATSON, affirmed
 2 CROSS-EXAMINATION BY MR. DEL GOBBO:
 3 1. Q. So, thank you, Ms. Watson, for
 4 making yourself available today for
 5 cross-examination.
 6 A. Of course.
 7 2. Q. You understand that you are here on
 8 behalf of CFS?
 9 A. Yes.
 10 3. Q. By CFS, I mean the Canadian
 11 Federation of Students. And, again, I will refer to
 12 the Canadian Federation of Students - Ontario
 13 provincial component as CFSSO on occasion. And
 14 similarly, with the University of Toronto Graduate
 15 Students' Union as UTGSU or the GSU.
 16 A. Okay.
 17 4. Q. If you have any questions about
 18 anything I say, just don't hesitate to interrupt me.
 19 A. I won't.
 20 5. Q. So, you understand that your answers
 21 in this examination are binding on CFS?
 22 A. Yes, I do.
 23 6. Q. Have you been examined before in a
 24 court proceeding?
 25 A. I have.

L. Watson - 3

INDEX OF PROCEEDINGS

PAGE
NUMBER

LUCY WATSON, affirmed	
Cross-Examination by MR. DEL GOBBO	4 - 148
Index of Exhibits	149
Index of Undertakings	150
Index of Under Advisements	151
Index of Refusals	152
Certificate	153

L. Watson - 5

1 7. Q. And I believe you were
 2 cross-examined in the University of Guelph Central
 3 Student Association case?
 4 MR. BURKE: How is that in any way
 5 relevant to these proceedings?
 6 8. MR. DEL GOBBO: I believe the University
 7 of Guelph Central Student Association case
 8 had to do with the verification of
 9 petitions.
 10 MR. BURKE: It may very well have dealt
 11 with an issue around petitions, but it is
 12 in no way relevant to this case. /R
 13 9. MR. DEL GOBBO: Okay. That is fine. I
 14 guess we will address it as we come to it.
 15
 16 BY MR. DEL GOBBO:
 17 10. Q. So, you understood when you swore
 18 your affidavit that you swore that its contents were
 19 true?
 20 A. Yes.
 21 11. Q. And you mentioned that you had been
 22 cross-examined before, so had you sworn affidavits
 23 in other proceedings?
 24 MR. BURKE: It's irrelevant. Let's get
 25 on to this proceeding, Mr. Del Gobbo. /R

1 BY MR. DEL GOBBO:

2 12. Q. So, as you are likely familiar, we
3 need verbal responses to all the questions, so no
4 nodding if you can help it, just "yes" or "no". And
5 we will hopefully try not to interrupt each other so
6 we have a clean transcript. So, can you tell me a
7 little bit about your involvement with CFS?

8 A. Certainly. What are you looking for
9 specifically, just so I don't go into too much
10 detail?

11 13. Q. I believe your current role is
12 director of organizing; is that right?

13 A. That is correct.

14 14. Q. So, what does that role entail?

15 A. It is a fairly general role in that
16 I help liaise with member local unions with
17 provincial organizations of the Canadian Federation
18 of Students. I also undertake some general
19 responsibilities within the organization in terms of
20 helping to organize national executive meetings and
21 resourcing those meetings, helping to organize and
22 resource general meetings. And then there is also
23 campaigns-related work, government-related work that
24 I may assist with from time to time.

25 15. Q. Okay. How long have you been in

1 assist with the organizing of national general
2 meetings, and I was also the coordinator of a
3 campaign called the On-to-Ottawa Trek. Prior to
4 that, I held elected office with the Canadian
5 Federation of Students.

6 22. Q. You mentioned that you held elected
7 office. Is that while you were a student at
8 university?

9 A. Yes.

10 23. Q. And what university was that?

11 A. Carleton University in Ottawa.

12 24. Q. Okay. So, just so I understand how
13 it works, CFS charges all of its individual student
14 members a membership fee?

15 A. I would not characterize it as a
16 charge, no. The individual members remit a
17 membership fee.

18 25. Q. Okay. That is fair. Is this
19 membership fee that students remit to CFS the same
20 for all students across Canada who are CFS members?

21 A. The national membership fee is set
22 out in the by-laws, and it is the same national
23 membership fee across the country.

24 26. Q. How much is it per student in the
25 2013-2014 academic year?

1 this role?

2 A. I believe since 2006. I have to go
3 back and double-check, but I believe since 2006.

4 16. Q. Okay. So, since 2006 in this role,
5 are you a permanent employee of CFS then?

6 A. I am.

7 17. Q. And this is a full-time position?

8 A. It is.

9 18. Q. So, you are paid a salary by CFS?

10 A. I am.

11 19. Q. Okay. So, as a permanent employee,
12 you are not a current member of the CFS national
13 executive?

14 A. No. That is correct.

15 20. Q. So, as director of organizing, you
16 are based in Ottawa?

17 A. I am.

18 21. Q. Thank you for coming to Toronto.
19 Had you held any previous roles in CFS before
20 director of organizing?

21 A. Yes. I was the internal coordinator
22 for a period of time, and prior to that, I held two
23 contract positions of short duration. One was a
24 general meeting coordinator. A number of years ago
25 there was a contract employee who was brought in to

1 A. I don't know off the top of my head.

2 27. Q. Could you give me an approximation?

3 A. Just...it is under \$5 per student
4 per semester.

5 28. Q. So, approximately...

6 MR. BURKE: She has given you an
7 approximation.

8
9 BY MR. DEL GOBBO:

10 29. Q. Okay. So, UTGSU, as I understand
11 it, is a local member association with CFS?

12 A. It is, yes.

13 30. Q. So, all UTGSU members, so all
14 graduate students at the University of Toronto,
15 remit that approximately \$5 per semester fee to CFS?

16 MR. BURKE: She said it was under \$5.

17 THE DEPONENT: I believe it is under,
18 yes.

19 MR. BURKE: She didn't say it was
20 approximately \$5.

21 31. MR. DEL GOBBO: Thank you.

22
23 BY MR. DEL GOBBO:

24 32. Q. So, just under a \$5 fee?

25 A. It is actually...just in terms of

1 the relationship, it is individual member's
2 membership decision to join the Canadian Federation
3 of Students is what triggers the students' union
4 status as a member local association. But the
5 individual members of the Canadian Federation of
6 Students who are graduate students at the University
7 of Toronto do remit a membership fee to the Canadian
8 Federation of Students, yes.

9 33. Q. Okay. And when did the UTGSU become
10 a member of CFS?

11 A. I believe...I don't know the precise
12 year, but it is one of the founding member local
13 associations of the Canadian Federation of Students,
14 so in the early 1980s.

15 34. Q. Does CFS have any other sources of
16 income, apart from membership fees?

17 MR. BURKE: Irrelevant. /R

18 35. MR. DEL GOBBO: I am just trying to
19 understand the relationship. So...

20 MR. BURKE: It is not an issue in this
21 litigation.

22 BY MR. DEL GOBBO:

23 36. Q. Ms. Watson, you mentioned that you
24 were paid a salary by CFS?
25

1 facilitates campaigns, awareness campaigns,
2 campaigns focused on post-secondary education,
3 working towards...essentially garnering public
4 support and support from students for more
5 accessible post-secondary education system. That is
6 very, very broad. There are a number of additional
7 campaigns that sort of fall within that spectrum,
8 but that is the primary focus of the Canadian
9 Federation of Students.

10 40. Q. Okay. And does CFS...presumably it
11 costs some money to implement these campaigns. CFS
12 needs to have some resources to expend in order to
13 run these campaigns?

14 A. To expend? I don't think I
15 understand that.

16 41. Q. No, to expend, I am sorry.

17 A. To expend?

18 42. Q. To run these campaigns.

19 A. Yes, there are resources required in
20 order to produce the materials and engage in a
21 number of these activities, yes.

22 43. Q. Including financial resources?

23 A. Yes.

24 44. Q. Okay. So, what is Ms. Vanessa
25 Hunt's role at CFS?

1 MR. BURKE: Put your question on the
2 record.

3 BY MR. DEL GOBBO:

4 37. Q. So, is the amount of that salary
5 derived from membership fees received from members?
6

7 MR. BURKE: Irrelevant. /R
8

9 BY MR. DEL GOBBO:

10 38. Q. I am just trying to understand how
11 the organization works. With the fees that are
12 remitted to CFS, CFS runs certain programs?

13 A. Can you describe what you mean by
14 "programs"?

15 39. Q. For example, I know that...and
16 correct me if I am wrong, you know more about this
17 than I do, but there is an ISIC card program. I
18 know that CFS also runs certain campaigns, political
19 advocacy; is that fair?

20 A. The Canadian Federation of Students
21 doesn't run any services-related programs, as it
22 were, like the international student identity card.
23 That is a separate and distinct organization,
24 Canadian Federation of Students - Services.
25 The Canadian Federation of Students

1 A. She is the former national deputy
2 chairperson.

3 45. Q. So, by "former" you mean she was the
4 national deputy chairperson during the 2013-2014
5 academic year?

6 A. Her term just ended at the end of
7 our most recent general meeting.

8 46. Q. Okay. And so, what were her
9 responsibilities in her capacity as deputy national
10 chairperson?

11 A. Well, the responsibilities of the
12 national deputy chairperson are set out in the
13 by-laws of the Canadian Federation of Students, so
14 we can refer to those if that would assist.

15 47. Q. If you would like to. I was only
16 asking in the general, just so...you know, if it
17 helps we can pull up the by-laws. Perhaps, just to
18 save us time, is it fair to say that her work
19 regularly puts her in contact with member local
20 associations?

21 A. Yes, that is fair.

22 48. Q. Okay. So, I notice that Ms. Hunt
23 seemed to be UTGSU's primary contact person during
24 the 2013-2014 academic year insofar as the petitions
25 are concerned. Would you say that is fair?

1 A. She was one of three of the
2 individuals who were assigned responsibility to
3 undertake work with regard to the petition that was
4 received by the individual member at University of
5 Toronto.

6 49. Q. Who were the other two individuals?

7 A. The other two at-large members of
8 the national executive, so the national chairperson
9 and the national treasurer.

10 50. Q. And, sorry, what are their names?

11 A. The national chairperson is Jessica
12 McCormick, and treasurer Gabe Hoogers.

13 51. Q. Okay. So, now I...and I am sure
14 that you will correct me if I am wrong, but I don't
15 see Ms. McCormick's and Mr. Hoogers' names as
16 frequently as Ms. Hunt's in the documents that are
17 attached to this correspondence. So, would you
18 agree that she is the primary, she was more in
19 contact than the other two?

20 A. By "the correspondence" you mean
21 some of the...

22 52. Q. The correspondence attached to your
23 affidavit.

24 A. Yes.

25 53. Q. Now, I might have missed it, I am

1 But I will leave that aside because I am
2 not the author of those amendments. I am merely
3 updating the document as the members decided. So, I
4 will take you to tab D, which is a letter dated
5 December 3rd, to Brad Evoy. I assisted in the
6 drafting of this letter.

7 57. Q. Sorry, but I see that this e-mail is
8 authored by Vanessa Hunt, and that is her signature
9 at the bottom, is it not?

10 MR. BURKE: Yes, but listen to her
11 answer. She said she assisted in the
12 drafting of it. Ms. Hunt may have signed
13 it, but Ms. Watson was of assistance in the
14 drafting of the letter.

15 58. MR. DEL GOBBO: Yes, I wasn't
16 challenging what she said. I simply said
17 that Ms. Hunt's signature line and the name
18 is at the bottom of the letter.

19 MR. BURKE: That is obvious on the face
20 of the record.

22 BY MR. DEL GOBBO:

23 59. Q. Okay.

24 A. Sorry, this is slightly slow going
25 because I want to be...

1 sorry, but please point them out if I am wrong.
2 Were you the author or the recipient of any
3 correspondence attached to your affidavit?

4 A. I would have to go through
5 one-by-one. I could do that to refresh...I have
6 reviewed all the documents, but I would have to go
7 through before I say yea or nay. I would certainly
8 want to double-check.

9 54. Q. I see your counsel is doing that
10 now. Maybe if you could just take two minutes to
11 check?

12 A. Sure.

13 55. Q. Thank you. Or if you were copied on
14 any e-mails, please mention that as well.

15 A. And so, can you just frame your
16 question again for me so I know what the parameters
17 are.

18 56. Q. Whether you were the author or
19 recipient or copied.

20 A. So, I will focus exclusively on the
21 correspondence, because one of my responsibilities
22 is ensuring that all of the amendments to the
23 by-laws that had been adopted by the member locals
24 of a general meeting are inputted correctly into the
25 by-laws.

1 60. Q. No problem, take your time.

2 A. ...thorough. So, just so I
3 understand, I have knowledge and was involved in the
4 drafting of some of the correspondence. Is it the
5 case that you are...

6 61. Q. I was asking whether...

7 A. ...that satisfies your question,
8 or...

9 62. Q. I was asking whether it is
10 represented anywhere on the face of the documents
11 that you are the author or the recipient or copied
12 on any of the correspondence.

13 MR. BURKE: So, you don't want to know
14 if she was involved in the drafting of any
15 of the letters?

17 BY MR. DEL GOBBO:

18 63. Q. No. To the extent you were involved
19 in drafting the letters, please let me know that as
20 well.

21 A. Okay. That is what I was wondering
22 about. So, let me just make sure.

23 MR. BURKE: And when you say "received
24 them", I take it you also mean whether she
25 would have been shown a copy of them as

- 1 well?
 2 64. MR. DEL GOBBO: No, I am not asking
 3 that. I am asking whether she received
 4 them personally. Presumably she...
 5 THE DEPONENT: From the original...
 6 65. MR. DEL GOBBO: ...was given a copy,
 7 since they are attached to her affidavit.
 8 MR. BURKE: No. I will just let you
 9 answer the question.
 10 THE DEPONENT: Okay. So, under tab L,
 11 there...on page 2 of the document, there is
 12 an e-mail that was sent from Vanessa Hunt
 13 to Brad Evoy, Friday, December 20th. I
 14 assisted in the drafting of that
 15 correspondence.
 16
 17 BY MR. DEL GOBBO:
 18 66. Q. Sorry, so is your participation in
 19 the drafting of this reflected anywhere on the
 20 document?
 21 A. No. That would be highly unusual.
 22 The letter that is found at tab U that is from
 23 Vanessa Hunt, sent January 20th, 2014, I assisted in
 24 the drafting of.
 25 67. Q. Okay. And, sorry, just to repeat my

- 1 71. Q. So, you participated in the creation
 2 of that blackline document?
 3 A. Yes. And, sorry, the final version
 4 you see at tab W.
 5 72. Q. Okay.
 6 A. And at tab Z, I assisted with the
 7 drafting of this letter that was sent to Ms. Ingle.
 8 73. Q. Okay. Sorry to ask the question
 9 again, but your name doesn't appear anywhere on the
 10 letter?
 11 A. No. It doesn't appear on any
 12 correspondence I have assisted in drafting in any
 13 number of years. That is not the practice. And
 14 the same of the letter found behind tab AA to
 15 Mr. Littley.
 16 74. Q. Okay.
 17 A. And I think that is...
 18 75. Q. And if I ask the same question, I
 19 assume that...
 20 A. It will be the same answer.
 21 76. Q. ...it will be the same?
 22 A. We have not deviated from our
 23 practice.
 24 77. MR. DEL GOBBO: Sorry, I realized it as
 25 I have asked this, I don't think that we

- 1 question, I don't see your name or any reference to
 2 your participation anywhere on the document.
 3 A. No. That would be highly unusual to
 4 make a note of who participated in the drafting of
 5 and editing of a document that is circulated
 6 publicly or within the membership. The...sorry,
 7 tab W includes the letter of engagement with
 8 Deloitte.
 9 68. Q. Yes.
 10 A. I participated in the review of the
 11 letter of engagement and some amendments to the
 12 draft letter of engagement.
 13 69. Q. I am sorry, so amendments to the
 14 draft letter of engagement. Are those amendments
 15 anywhere...
 16 A. From the draft, the draft version
 17 that was provided.
 18 MR. BURKE: You asked questions this
 19 morning of Mr. Hatherell on that document.
 20 70. MR. DEL GOBBO: So, that was the
 21 blackline document that I believe was
 22 attached to Mr. Hatherell's documents?
 23 MR. BURKE: Yes.
 24
 25 BY MR. DEL GOBBO:

- 1 entered the affidavit of...have we entered
 2 the affidavit of Ms. Watson as an exhibit?
 3 MR. BURKE: You have not.
 4 78. MR. DEL GOBBO: Please let me do that.
 5 Go off the record.
 6
 7 --- DISCUSSION OFF THE RECORD
 8
 9 79. MR. DEL GOBBO: The affidavit of
 10 Lucy Watson, sworn May 17th, 2014, will
 11 be entered as Exhibit 3.
 12
 13 --- EXHIBIT NO. 3: Affidavit of Lucy Watson,
 14 sworn May 17, 2014
 15
 16 BY MR. DEL GOBBO:
 17 80. Q. So, Ms. Watson, thank you for that.
 18 You have pointed out a number of documents that you
 19 had a hand in drafting, let me put it that way, that
 20 are attached to your affidavit. In respect of the
 21 other documents, the other correspondence that is
 22 attached to your affidavit, so you would agree with
 23 me that you didn't participate in the drafting of
 24 those documents?
 25 A. There may...I may have overlooked

1 one or two e-mails that Vanessa sent that I
2 participated in the drafting of, but I think the
3 list that I gave you is fairly comprehensive.

4 81. Q. Okay. So, you will agree with me
5 then that, in respect of those e-mails that you did
6 not have a hand in drafting, you don't have any
7 first-hand knowledge of what was actually
8 communicated in them at the time they were sent?

9 A. Can you maybe explain for me what
10 you mean by "first-hand knowledge"?

11 82. Q. Well, since you didn't have a hand
12 in drafting the correspondence at the time, I
13 presume that you reviewed the correspondence after
14 it was sent at some point, since it is now being
15 attached to your affidavit?

16 A. In some cases, I think it was likely
17 that I saw the e-mail before it was sent. In other
18 cases, I was provided after, yes.

19 83. Q. So, those e-mails which you didn't
20 review until after they were sent that you didn't
21 have a hand in drafting, you will agree with me you
22 didn't have any first-hand knowledge of the drafting
23 process?

24 A. Sorry, I am not trying to...but by
25 "first-hand knowledge" you mean involvement in; is

1 A. Not in front of me, but...now I do.
2 91. MR. DEL GOBBO: I will mark the
3 affidavit of Mr. Evoy as Exhibit 4.

4 --- EXHIBIT NO. 4 : Affidavit of Bradley Evoy

6 BY MR. DEL GOBBO:

7 92. Q. Could you turn to Exhibit B to his
8 affidavit?

9 A. Yes.

10 93. Q. Do you see that these are the
11 by-laws of CFS?

12 A. I do.

13 94. Q. And from the first page, they are as
14 amended at the 2013 national general meeting?

15 A. That is what it says.

16 95. Q. So, you agree with me that these
17 by-laws are more recent than the by-laws that you
18 attached to your affidavit?

19 A. I would have to go through them just
20 to confirm that they are in fact the by-laws from
21 the November...as amended at the November 2013
22 national general meeting, but it certainly appears
23 to be.

24 96. Q. Okay. That is fair. So, I will use

1 that how you...

2 84. Q. Sure, first-hand involvement.

3 A. ...would define that?

4 85. Q. Yes.

5 A. Yes.

6 86. Q. Okay. So, given your experience
7 with CFS, I take it that you are familiar with the
8 current by-laws of the organization?

9 A. Yes.

10 87. Q. So, as Exhibit A to your affidavit,
11 Ms. Watson, you attach a copy of the CFS by-laws;
12 is that fair?

13 A. Yes.

14 88. Q. I notice that there...just looking
15 at the first page of Exhibit A, as amended of the
16 May 2013 national general meeting.

17 A. Correct.

18 89. Q. Have they been amended since May
19 2013?

20 A. I believe so. I would have to
21 check. There was a national general meeting held
22 November 2013, and then we have since had a general
23 meeting just last week.

24 90. Q. If you could turn to the affidavit
25 of Mr. Evoy. Do you have a copy of that?

1 the by-laws that you have attached to your
2 affidavit.

3 A. Sure.

4 97. Q. I don't believe that there are many
5 material changes that will impact on the questions,
6 between the May and the November by-laws, so we will
7 use the May by-laws.

8 A. Okay. So, I can put...

9 98. Q. You can put Mr. Evoy's affidavit
10 away.

11 A. Okay.

12 99. Q. Now, if you could turn to by-law 4.
13 MR. BURKE: Relating to the national
14 executive?

15 100. MR. DEL GOBBO: Yes.

16 BY MR. DEL GOBBO:

17 101. Q. So, if I just look at section 1 of
18 by-law 4, this describes the composition of the
19 national executive; is that fair?

20 A. Yes.

21 102. Q. So, I see under 1(a) there are three
22 at-large officer positions that are members of the
23 national executive; is that correct?

24 A. I see that, yes.
25

- 1 103. Q. And then at (b) there are
2 representatives, so additional representatives that
3 are members of the national executive, and I believe
4 there are 16?
5 A. Yes.
- 6 104. Q. So, in total there are 19 members of
7 the CFS national executive?
8 A. Yes, or positions.
- 9 105. Q. And were all those positions filled
10 during the 2013-2014 academic year?
11 A. No, they were not.
- 12 106. Q. How many positions were filled?
13 A. It would be easier to tell you how
14 many positions weren't filled.
- 15 107. Q. Okay. That works too.
16 A. So, the Alberta representative, I
17 believe, was...the position was vacant for the
18 duration of the year. The Prince Edward Island
19 representative. I would have to check on the Quebec
20 representative. And I would also have to check on
21 the New Brunswick representative.
22 The students with disabilities commissioner
23 position was not filled, but I believe that was the
24 meeting at which the position was created, was at
25 the November national general meeting. I believe it

- 1 A. I believe were vacant for...
2 115. Q. So, is it fair to say that out of
3 the 19, anywhere from 15 to 17 of the positions were
4 filled during the 2013-2014 academic year?
5 A. So, there would have been about...I
6 believe 14 positions filled, 14, 15 positions
7 filled.
- 8 116. Q. So, we will say 14, 15, 16,
9 something in that range?
10 A. Something in that range, yes.
- 11 117. Q. Okay. So, as a member of CFS, is it
12 fair to say that UTGSU is bound by CFS by-laws?
13 A. As a member local association...
14 118. Q. Yes.
15 A. ...of the say Canadian Federation of
16 Students? Yes.
- 17 119. Q. Okay. And you understand that the
18 by-laws constitute a contract between UTGSU and CFS?
19 A. I do.
- 20 120. Q. And these by-laws apply equally to
21 CFS as they do to UTGSU?
22 A. Yes.
- 23 121. Q. So, in effect, if I can interpret
24 that to mean the by-laws create contractual
25 obligations that the two parties have vis-à-vis one

- 1 was created at that meeting, so there wasn't...so,
2 the election for that position had not been held
3 because the position had just been created.
- 4 108. Q. Sorry, I just want to clarify. So,
5 those are now...
6 A. This is May, sorry.
- 7 109. Q. Those are your May by-laws.
8 A. I am confused, sorry.
- 9 110. Q. No problem. So, presumably, that
10 position was...
11 A. So, it must have been created at
12 that meeting.
- 13 111. Q. ...created as of May?
14 A. Yes, yes.
- 15 112. Q. They appear in the May by-laws,
16 so...
17 A. Well...and they are as amended at
18 the May meeting, so I believe the motion was adopted
19 at that May 2013 meeting.
- 20 113. Q. So, correct me if I am wrong, I
21 think you identified Alberta and PEI as being
22 vacant?
23 A. M'hm.
- 24 114. Q. And Quebec and New Brunswick as
25 possibly being vacant?

- 1 another, in relation to one another?
2 A. Yes. And maybe just as further
3 clarification, by-law 1, section 3...
4 122. Q. One moment...yes.
5 A. ...subsection (c) sets out the
6 responsibilities of voting members.
- 7 123. Q. I see that.
8 A. And it...so it states that:
9 "...Although Federation staff and executive
10 members will handle many day-to-day
11 operations, the structures of the
12 Federation can only function if there is
13 full cooperation among Federation voting
14 members..."
15 And then it goes on to say that:
16 "...Each voting member of the Federation is
17 responsible for supporting the objectives
18 of the Federation and will abide by all
19 provisions of these by-laws..."
20 And there are additional clauses that speak to that
21 general theme.
- 22 124. Q. Sure. So, I understand that. As I
23 said, though, my question was that the by-laws also
24 create contractual obligations vis-à-vis...that the
25 CFS and UTGSU have in relation to one another. So,

1 the CFS also has contractual obligations to UTGSU
2 under the by-laws; is that fair?

3 A. Yes.

4 125. Q. Okay. Would you agree that one of
5 the implied terms of the contract is a duty of good
6 faith?

7 MR. BURKE: She is not here to give
8 legal interpretations. She is here to give
9 factual evidence, so...those are legal
10 questions that you and I can debate to our
11 hearts' content at a later time before the
12 judge on July 25th. /R

13
14 BY MR. DEL GOBBO:

15 126. Q. Would you agree that the CFS and the
16 UTGSU have an obligation to...or rather, that all
17 the procedures under the by-laws should be applied
18 fairly?

19 MR. BURKE: That is sort of the same
20 question posed in a different manner, so
21 that is a legal question. /R

22
23 BY MR. DEL GOBBO:

24 127. Q. Would you agree that the procedures
25 under the by-laws should be applied consistently to

1 sufficient.

2
3 BY MR. DEL GOBBO:

4 133. Q. So, you would agree with me that the
5 by-laws, they provide requirements for student
6 unions and...for student unions that wish to become
7 a member of CFS, a local association member?

8 A. Yes.

9 134. Q. And the relevant by-law is by-law 1
10 that we have been looking at.

11 A. Yes.

12 135. Q. Now, correct me if I am wrong, I
13 believe the relevant by-laws in respect of
14 certification are sections 2 and 4 of by-law 1?

15 A. Yes.

16 136. Q. And I believe by-law 1 also creates
17 requirements that must be met if a local member
18 association wishes to decertify from the CFS?

19 A. No. It provides provisions for the
20 individual members of the Canadian Federation of
21 Students to vote on the question of decertification,
22 and what would flow from that is the status of the
23 member local association.

24 137. Q. Thank you for that. So, the section
25 of the by-law, by-law 1, that applies to situations

1 all members?

2 A. Yes.

3 128. Q. And you would agree that CFS has an
4 obligation to deal with all matters under the
5 by-laws with transparency to its members?

6 MR. BURKE: What do you mean by
7 "transparency", Mr. Del Gobbo?

8 129. MR. DEL GOBBO: Simply that the
9 procedures that are applied as a democratic
10 organization, I presume, that they should
11 exercise all procedures with transparency.

12 MR. BURKE: What do you mean by
13 "transparency"? That is a very...

14 130. MR. DEL GOBBO: With openness.

15 MR. BURKE: ...laden word. Give an
16 example.

17 131. MR. DEL GOBBO: That a local member
18 association or individual student member
19 should be made aware of procedures or
20 developments at CFS.

21 MR. BURKE: Well, there are procedures
22 that are set out in the by-laws, and those
23 should be followed, if that is what you are
24 getting at.

25 132. MR. DEL GOBBO: Okay. That is

1 as you just described where individual members of
2 the Federation wish to initiate a vote on continued
3 membership, I believe is section 6?

4 A. Correct, by-law 1, section 6.

5 138. Q. So, in effect...you said earlier
6 that the...I am sorry, would you like to add
7 something?

8 A. Sorry, just to add, there is also a
9 reference under by-law 1, section 3(a)(iii).

10 139. Q. Yes. Thank you. So, you said
11 earlier that the CFS by-laws are a contract with CFS
12 members. So, would you agree that section 6 of
13 by-law 1 is, in effect, the mechanism by which
14 members can terminate that contract with CFS?

15 MR. BURKE: I think it is...it talks
16 about decertification. You are really
17 asking her for a legal interpretation of
18 these by-laws as to whether or not
19 decertification is equivalent to
20 termination. I don't think she is in a
21 position that she can...or should she be
22 required to provide that kind of a legal
23 opinion.

24
25 BY MR. DEL GOBBO:

1 140. Q. I will rephrase my question.
2 Section 6 of by-law 1 is the provision by which
3 members of CFS may wish to...they need to undertake
4 if they wish to end the contract with CFS?

5 MR. BURKE: Well, that is the same
6 question as to whether or not there is
7 equivalency. If your question is that this
8 the mechanism to allow individual members
9 to decertify, then you can answer that
10 question.

11 THE DEPONENT: Yes.

12
13 BY MR. DEL GOBBO:

14 141. Q. Of individual members that
15 successfully decertify from CFS, do they still owe
16 contractual obligations to CFS?

17 MR. BURKE: The question is...

18 142. MR. DEL GOBBO: Under the by-laws, I
19 should say.

20 MR. BURKE: That depends.

21 143. MR. DEL GOBBO: Can you explain your
22 answer, Mr. Burke?

23 MR. BURKE: Well, if they have ongoing
24 obligations to the CFS, there may still
25 be tailing obligations that have not been

1 in your mind as well, that it is not something that
2 takes effect immediately. It takes effect June
3 30th, and that is set out in by-law 1, section 7.

4 MR. BURKE: Now, if your question...I
5 think this is where you are trying to go,
6 Mr. Del Gobbo. If your question is, after
7 someone has properly decertified, whether
8 there are ongoing contractual obligations
9 save and except certain tailing obligations
10 that I have illustrated, I think the answer
11 would be no, there is no ongoing
12 contractual obligation, provided a
13 condition precedent of the by-laws have
14 been met in terms of decertification and
15 all of the other terms and conditions of
16 the by-laws have been satisfied.

17
18 BY MR. DEL GOBBO:

19 147. Q. And all of the conditions precedent
20 related to decertification are contained within
21 those by-laws that we spoke about. So, section 6 of
22 by-law 1, and I believe you mentioned section
23 3(a)(iii)?

24 A. Sorry, can you just repeat...I
25 didn't hear the first part of your question.

1 satisfied.

2
3 BY MR. DEL GOBBO:

4 144. Q. Can you describe what those tailing
5 obligations entail?

6 MR. BURKE: Maybe I should answer that
7 because it was my answer. I think
8 primarily of...where there are still maybe
9 outstanding fees, that would be a tailing
10 obligation. That would be a continuing
11 obligation that would continue to exist
12 after the decertification has been ratified
13 by the national executive.

14 THE DEPONENT: Yes, yes.

15
16 BY MR. DEL GOBBO:

17 145. Q. So, after decertification has been
18 ratified, if those members then pay those fees that
19 are outstanding, would their contractual
20 relationship with CFS continue beyond that point?

21 A. There may be other issues that I am
22 not thinking of, but membership does not cease until
23 June 30th following the vote to decertify.

24 146. Q. Yes.

25 A. So, it is not...just so it is clear

1 148. Q. Sorry. So, the conditions precedent
2 that were spoken about as to your requirements to
3 decertify from CFS, are those requirements all
4 encapsulated in the sections that you described
5 earlier, meaning section 6 of by-law 1 and section
6 3(a)(iii)?

7 A. Well, section 6 also sets out that
8 there shall be rules that are specific to that vote
9 that are established by the chief returning officer.
10 So, those are not included in the by-laws. They are
11 spoken to in the by-laws, that there will be these
12 rules that govern the vote, but they are not spelled
13 out in those by-laws.

14 149. Q. Yes. So...

15 A. I just want to make sure it would be
16 inclusive of those rules, obviously.

17 150. Q. Presumably, if...sorry, I didn't
18 mean to interrupt you. If you weren't finished...

19 A. No, no, that is fine.

20 151. Q. Presumably, if the CRO, the chief
21 returning officer, had set rules for the vote, and
22 the vote was successful, the requirements of section
23 6 of by-law 1 couldn't be met if the rules of the
24 CRO weren't also satisfied?

25 A. Yes. I think you and I have

1 different definitions of "successful" in this
 2 situation, but...

3 152. Q. Sorry, I might have used the wrong
 4 word. But apart from that, there is nothing else
 5 outside of section 6 and section 3(a)(iii)?

6 A. I would have to...I would have to go
 7 through the by-laws again just with an eye to that,
 8 but that is generally my understanding, yes.

9 153. Q. Sorry, so, that is everything, or
 10 you are not sure if that is everything?

11 MR. BURKE: I think the witness, just
 12 out of an abundance of caution, is wanting
 13 to be as comprehensive as possible in terms
 14 of reciting any other provisions of the
 15 by-laws. If we rely upon anything else, I
 16 will tell you. How is that? U/T

17 154. MR. DEL GOBBO: Certainly.

18

19 BY MR. DEL GOBBO:

20 155. Q. You would agree that the procedure
 21 for decertification is important...

22 A. Yes.

23 156. Q. ...to be settled, so if there is
 24 anything beyond what we enumerated, will you please
 25 let me know?

1 A. That is correct.

2 162. Q. When was the last time that the
 3 requirement to decertify, and specifically in
 4 respect of this 20 percent threshold, was amended?

5 A. When was the last time it was
 6 amended? Sorry, this is my...I am not very good
 7 with...

8 MR. BURKE: What is the relevance of
 9 that, Mr. Del Gobbo? There is no question
 10 that this was the by-law at the relevant
 11 time. It says it is 20 percent. What is
 12 the relevance of the history of that
 13 particular provision?

14 163. MR. DEL GOBBO: I would just like to
 15 understand properly the genesis to
 16 know...was this 20 percent threshold
 17 increased in recent years from a 10 percent
 18 threshold?

19 MR. BURKE: Well, how is that relevant?
 20 It is what it is.

21 164. MR. DEL GOBBO: It is just relevant
 22 insofar as the decertification procedure,
 23 it lends context to the procedures that
 24 need to be followed and to local members'
 25 rights.

1 MR. BURKE: Yes.

2 THE DEPONENT: Yes.

3

4 BY MR. DEL GOBBO:

5 157. Q. So, do the same procedures apply if
 6 a couple of students wish to certify with CFS versus
 7 whether they wish to decertify from CFS?

8 A. Well, those procedures are also set
 9 out in by-law 1, and those are set out in article 4,
 10 "Vote to Certify".

11 158. Q. Okay.

12 A. And so, there are certainly some
 13 similarities between the processes.

14 159. Q. And are there differences?

15 A. Yes.

16 160. Q. So, for example, I believe that a
 17 petition calling for a vote on decertification must
 18 be signed by no less than 20 percent of the
 19 students, individual members of a member local
 20 association?

21 A. Yes, that is correct.

22 161. Q. And the requirement to certify under
 23 the by-laws is a petition, I believe, with the
 24 signatures of 10 percent of the individual members
 25 of the member local association?

1 MR. BURKE: How does it impact the
 2 procedures that are to be followed? I am
 3 just trying to understand your...I don't
 4 see it as being relevant, so I am giving
 5 you an opportunity to convince me.

6 165. MR. DEL GOBBO: Yes. The process by
 7 which the genesis of this provision...you
 8 know what, I think it is fine.

9

10 BY MR. DEL GOBBO:

11 166. Q. Can you turn to paragraph 17 of your
 12 affidavit for a moment?

13 A. Yes, I see it.

14 167. Q. So, the last couple of sentences...

15 MR. BURKE: So, you mean the last two?

16 168. MR. DEL GOBBO: Yes. Thank you.

17 MR. BURKE: Beginning with:
 18 "...This process protects..."

19 169. MR. DEL GOBBO: Yes.

20 MR. BURKE: Okay.

21

22 BY MR. DEL GOBBO:

23 170. Q. So, you are describing, I believe,
 24 that the decertification process protects the
 25 interests of individual members of CFS, in that:

1 "...The process is designed to ensure that
2 a material cohort of individual members
3 wish to schedule a referendum on
4 decertification..."

5 Do you see that?

6 A. I see that.

7 171. Q. Then you say:

8 "...This mechanism ensures that individual
9 members are not disenfranchised on a whim
10 of a voting member..."

11 A. I see that.

12 172. Q. Sorry, what do you mean by
13 "mechanism"?

14 A. The...I guess the process.

15 173. Q. So, the process by which you have to
16 collect 20 percent of...or rather, that is
17 20 percent of students must sign a petition to vote
18 on continued membership?

19 A. Yes.

20 174. Q. That is the material cohort of
21 individual members you are referring to?

22 MR. BURKE: If you look at that
23 paragraph...I don't want you to
24 mischaracterize the paragraph,
25 Mr. Del Gobbo.

1 wish to schedule a referendum..."

2 What do you mean by "material cohort", as opposed to
3 just "a cohort"?

4 A. That a certain threshold, that a
5 specific threshold.

6 178. Q. And what threshold is that?

7 A. Well, as it sets out in the...as set
8 out in by-law 1, section 6, and by-law 1, section 3.

9 179. Q. So, that is the 20 percent
10 threshold?

11 A. Yes, not less than.

12 180. Q. Yes.

13 MR. BURKE: Can we just go off the
14 record for a second?

15 --- DISCUSSION OFF THE RECORD

16 BY MR. DEL GOBBO:

17 181. Q. I believe we were at paragraph 17 of
18 your affidavit.

19 A. Yes.

20 182. Q. The last sentence:

21 "...This mechanism ensures that individual
22 members are not disenfranchised on a whim
23 of a voting member..."
24
25

1 175. MR. DEL GOBBO: Sorry, I have no
2 intention to.

3 MR. BURKE: And I am not suggesting any
4 malfeasance or ill will on your part in
5 this, but if you look at the sentence
6 before, it says:

7 "...The process as set out in by-law 1,
8 sections 6 and 7 outlines the various steps
9 that the member association and the CFS
10 must take individually and together in
11 order to make a determination regarding
12 certification..."

13 So, when you said it is just the
14 20 percent, the evidence is broader than
15 that. It's the mechanism...the process as
16 set out in by-law 1, sections 6 and 7 on
17 the basis of this evidence. I just want to
18 be clear and fair to the witness.

19 THE DEPONENT: Yes.

20 176. MR. DEL GOBBO: I appreciate that.

21 BY MR. DEL GOBBO:

22 177. Q. So, you state:

23 "...The process is designed to ensure that
24 a material cohort of individual members
25

1 By a "voting member", I believe you are referring to
2 local member associations. Those are voting members
3 under the CFS by-laws, are they not?

4 A. They are.

5 183. Q. Just so that I understand the way
6 the process works, sections 6 and 7 of the by-law,
7 it doesn't provide for a voting member to have
8 an automatic right to trigger a vote on
9 decertification. My understanding is that there
10 is a petition that is circulated by individual
11 members, and then if that petition meets the
12 requirements of the by-laws, then, in that case,
13 they may proceed to a vote on decertification; is
14 that correct?

15 A. Sorry, I felt like there were two
16 questions in there.

17 184. Q. Sure, I will break it down.

18 A. Yes, do you mind just...yes.

19 185. Q. I am just trying to understand here
20 when you talk about the whim of a voting member; "a
21 voting member" being a student...a local member
22 association, is what you said. So, as I understand
23 the process in sections 6 and 7, a vote of
24 membership of CFS is initiated by a group of
25 individual students who circulate a petition and

1 they collect signatures on the petition. Assuming
2 that petition meets...that petition is submitted to
3 CFS. Assuming the petition is then found to be in
4 order, that may then lead to a referendum, a vote on
5 continued membership; is that fair?

6 A. Yes.

7 186. Q. So, in that decertification process,
8 at any stage does a local association member have a
9 vote on continued membership?

10 A. Within the process on
11 decertification amongst the group of individual
12 members? No, it does not have a vote in that
13 context. There is a vote to ratify the results that
14 happens at a general meeting, at which the voting
15 member local associations vote in favour, against or
16 abstain.

17 187. Q. And that is all the local member
18 associations that are members of...I shouldn't say
19 members of CFS, but by virtue of their individual
20 members being members of CFS?

21 A. The member local associations that
22 comprise the Federation, yes.

23 188. Q. Okay. Thank you. So, if we could
24 just turn back to by-law 1...this is again Exhibit A
25 to your affidavit...and section 6. So, actually, if

1 were speaking about requests coming from the
2 individual to have names removed from the petition.
3 Were any requests received from other parties, not
4 individual members, to have names removed from the
5 petition?

6 A. Well, I am not sure that...I am not
7 sure other parties could request on behalf of a
8 student. I just wanted to be clear that this was
9 the language that you were speaking to, that you are
10 referring to...and not to my knowledge.

11 195. Q. That is fine. Before you received
12 the Deloitte reports on March 11th, 2014, I believe,
13 were any names removed from the UTGSU petition for
14 any reason?

15 A. Can you further...can you expand on
16 that question? By whom?

17 196. Q. By CFS.

18 A. Did the Canadian...

19 197. Q. Was there any decision made, or
20 was there any process by which any names that were
21 originally on the petition submitted by Ms. Ingle in
22 the early fall term, 2013, were any removed from the
23 petition or discounted from CFS's analysis before
24 the Deloitte reports were received on March 11th,
25 2014?

1 you could look at the last paragraph under section
2 6(a). It's at the top of...sorry, my pages aren't
3 numbered, but...

4 A. It starts:
5 "...The individual member..."

6 189. Q. "...The individual member may
7 request that her name be removed from a
8 petition..."

9 A. I see that.

10 190. Q. Did the CFS national executive
11 receive any requests from students in the UTGSU
12 matter that their names be removed from the petition
13 in this case?

14 A. And you are speaking specifically to
15 this language here, in which it's a request from the
16 individual?

17 191. Q. Yes.

18 A. Not to my knowledge.

19 192. Q. Were any other requests received?
20 MR. BURKE: What type of request?

21 193. MR. DEL GOBBO: Like what type of
22 request?

23 BY MR. DEL GOBBO:

24 194. Q. Well, in your answer you said...you
25

1 A. Not to my knowledge, no.

2 198. Q. Okay. So, if we continue to section
3 6(b), this is again by-law 1.

4 MR. BURKE: Under "Schedule"?

5 199. MR. DEL GOBBO: Under "Schedule", yes.
6 THE DEPONENT: Okay.

7 BY MR. DEL GOBBO:

8 200. Q. And I believe the first sentence,
9 just paraphrasing, it states that the national
10 executive has sole authority to determine whether
11 the petition is in order; is that fair?

12 MR. BURKE: That is a paraphrase.

13 THE DEPONENT: Yes.

14 MR. BURKE: The provisions will speak
15 for themselves.

16 201. MR. DEL GOBBO: Yes.

17 BY MR. DEL GOBBO:

18 202. Q. If we could turn to paragraph 17 of
19 your affidavit, please, and I am looking now at the
20 third sentence beginning:

21 "...The process as set out in by-law 1,
22 sections 6 and 7, outlines the various
23 steps that the member association and the
24
25

- 1 CFS must take individually and together in
2 order to make a determination regarding
3 decertification..."
- 4 Do you see that?
- 5 A. I see that.
- 6 203. Q. Now, I was confused by something
7 here. I would just like to confirm that, while I
8 understand there were steps that UTGSU and CFS had
9 to take in this context, that the sole authority to
10 determine whether the UTGSU petition was in order
11 lies with CFS national executive?
- 12 A. Yes.
- 13 204. Q. Okay. And UTGSU has no input in the
14 decision as to whether the petition is in order?
- 15 A. Correct.
- 16 205. Q. And you will agree with me that, for
17 the national executive to determine that a petition
18 is in order...
- 19 A. Sorry, can I just add something?
- 20 206. Q. Sure.
- 21 A. Nor do any of the other member local
22 unions of the Canadian Federation of Students,
23 because I think it's important that it be understood
24 in that context, that this...the Canadian Federation
25 of Students is a framework through which member

- 1 but 6(a), the fifth paragraph, which
2 begins:
3 "...In order to be considered valid..."
4 I take it you are speaking about that
5 criteria broadly as being important, versus
6 somebody's signature?
- 7 210. MR. DEL GOBBO: Yes.
8 MR. BURKE: All right. I thought that
9 is where you were going, so...
- 10 211. MR. DEL GOBBO: Yes.
11 THE DEPONENT: Can you ask your question
12 again, sorry?
- 13
- 14 BY MR. DEL GOBBO:
- 15 212. Q. Sure. So, for the national
16 executive to determine whether a petition is in
17 order, in accordance with section 6(a), they need to
18 confirm that the entries on a petition are valid?
- 19 A. Yes.
- 20 213. Q. All right. Now, I see what section
21 6(a) says. Is there a policy within CFS that
22 outlines the criteria that must be met in order for
23 a petition to be found in order?
- 24 MR. BURKE: Other than what is...
- 25 THE DEPONENT: Other than what...

- 1 local unions work together. So, no one member local
2 union has any more rights or special status than any
3 other. So, UTGSU in this process or any number of
4 other member locals would not have a role.
- 5 207. Q. Thank you. So then, for a national
6 executive to determine that a petition is in order,
7 your position is that it must confirm that the
8 signatures in the petition are valid?
- 9 A. Well, the national executive...
10 sorry, just to back up. So, by-law 1, section 6(a),
11 "Petition", sets out the criteria that must be met
12 that the national executive considers.
- 13 208. Q. Okay. And you will agree that an
14 important part of that is assessing the validity of
15 the signatures on a petition?
- 16 A. Are you talking about the
17 signature...you are talking very specifically about
18 the signature?
- 19 209. Q. I am sorry, the names, the entries
20 on a petition.
- 21 A. Okay.
- 22 MR. BURKE: So, just so we are clear,
23 Mr. Del Gobbo, 6(a) on the bottom of the
24 page...6(a) goes up to the...it's
25 unfortunate that these are not numbered,

- 1 MR. BURKE: ...at 6(a)?
2 THE DEPONENT: ...is here?
- 3
- 4 BY MR. DEL GOBBO:
- 5 214. Q. Yes.
6 A. And by "policy" you mean anything
7 else in these documents that would speak to the
8 issue?
- 9 215. Q. I am saying if there is any policy,
10 whether there is any other guidance that CFS
11 national executive can rely on or has relied on in
12 this case in order to assist it in making a
13 determination as to whether a petition is in order.
- 14 A. Well, I think if the national
15 executive became aware of a situation around the
16 circulation of the petition whereby people were
17 being paid to sign a petition or they were
18 intoxicated, some sort of highly unusual,
19 unorthodox/unethical behaviour that was associated
20 with securing signatures on a petition, the national
21 executive would consider that.
- 22 216. Q. Okay. Now, that behaviour that you
23 were just describing, bribes, I believe, and you
24 were describing if people were intoxicated when they
25 signed the petitions, are those factors, if I can

- 1 call them that, are they written into the by-law
2 anywhere?
- 3 A. No.
- 4 217. Q. So, are there any other factors that
5 CFS national executive may consider in determine
6 whether a petition is valid, apart from those two
7 that you have named and what is contained in the
8 by-law?
- 9 A. None that I can think of.
- 10 218. Q. Okay.
- 11 A. And, sorry, just to be clear, that
12 would also...I just want to see if there is a
13 duplication of language here. It also includes the
14 terms set out under by-law 1, section 3(a)(iii).
- 15 219. Q. Yes.
- 16 A. So, I just want to make sure that
17 is...
- 18 220. Q. No, that is great. If we could turn
19 to section 6(b)(i) now. So, it states:
20 "...Within 90 days of receipt of the
21 petition, the national executive will
22 review the petition to determine if it is
23 in order, and if it is, in consultation
24 with the member local, will schedule a
25 vote..."

- 1 national executive will review the petition to
2 determine if it is in order, so to initiate, to
3 commence that process within the 90 days of receipt.
- 4 224. Q. But it doesn't need to make a
5 decision as whether or not it is in order within
6 that 90 days?
- 7 A. If it has all of the information
8 that it requires in order to make that determination
9 within the 90 days, it shall do so.
- 10 225. Q. All the information in CFS's
11 discretion that it requires to make that
12 determination?
- 13 A. To determine whether or not it is
14 in order.
- 15 226. Q. And in CFS's discretion, if it
16 doesn't have all the information that it requires,
17 then it is not under an obligation to decide whether
18 the petition is in order within 90 days?
- 19 A. Whether it is in order or not in
20 order within the 90 days, but that it must commence
21 the process within that 90 days.
- 22 227. Q. Okay. So, if the CFS doesn't have
23 all the information that it requires to make a
24 decision as to whether a petition is in order within
25 90 days, how long does CFS have to make the

- 1 Do you see that?
- 2 A. I do.
- 3 221. Q. So, I understand from this that the
4 national executive must review a petition and make a
5 decision about whether or not it is in order within
6 90 days of receiving it.
- 7 MR. BURKE: That is not what it says.
8 THE DEPONENT: That is not how I
9 understand it.
- 10 222. MR. DEL GOBBO: So, I wasn't asking what
11 it says. I was asking what her
12 understanding of the by-law was.
- 13 MR. BURKE: I thought you said that was
14 your understanding from reading it. That
15 is what you said.
- 16 THE DEPONENT: Yes.
- 17 MR. BURKE: Just rephrase your question.
- 18
- 19 BY MR. DEL GOBBO:
- 20 223. Q. Sure. So, is it your understanding
21 that the national executive must review a
22 decertification petition and make a decision about
23 whether or not it is in order within 90 days of
24 receiving it?
- 25 A. It is my understanding that the

- 1 decision?
- 2 A. Well, there is no absolute time
3 frame that is set out in the by-laws, so, you know,
4 the national executive understands and is
5 responsible for upholding the by-laws, including the
6 rights of the individual members, so works as
7 quickly and as efficiently as possible to ensure
8 that it has undertaken all the work that is required
9 to determine whether or not a petition is in order,
10 but there is no absolute timeline.
- 11 228. Q. Okay. So, in this case, you have a
12 petition called...certainly on the face of the CFSO
13 petition, a call for a referendum to be held on
14 March 24th, do you recall that, from March 24th to
15 March 28th?
- 16 A. That was the petition to the
17 Canadian Federation of Students - Ontario.
- 18 229. Q. Yes. And I believe there are
19 communications in the affidavit where CFS states
20 that, subject to its review, that the referendum
21 move forward on those dates. Do you agree?
- 22 A. Yes.
- 23 230. Q. So, as you know, in this case, the
24 CFS petition is given to a third party, Deloitte, to
25 conduct a review of the petition; is that fair?

- 1 A. Yes.
 2 231. Q. So...
 3 A. Sorry, just to be precise, a review
 4 of the names...
 5 232. Q. Yes.
 6 A. ...student numbers, the information
 7 contained on the petitions, yes.
 8 233. Q. So, if Deloitte had told CFS that it
 9 couldn't complete its review until April 2014, would
 10 CFS have had discretion to potentially hold off on
 11 making a decision as to whether the petition is in
 12 order, until April 2014?
 13 MR. BURKE: Well, that is a hypothetical
 14 question. It did not occur.
 15 234. MR. DEL GOBBO: I mean, the scope of
 16 CFS's discretion is clearly at issue in
 17 this matter. And the issue of delay and
 18 the time that CFS has to make a decision is
 19 squarely at issue in this matter.
 20 MR. BURKE: Yes. So, what is your
 21 question, though, beyond a hypothetical?
 22 She has no obligation to respond to a
 23 hypothetical. She is here to give the
 24 facts.
 25

- 1 240. Q. Yes. But you would agree with me
 2 that he did testify...or that he did state in
 3 cross-examination that that was an estimate; it
 4 could be more or less than that time period?
 5 A. Yes.
 6 241. Q. If Deloitte required more time, as
 7 was made known to CFS throughout the process, would
 8 CFS have had discretion to hold off until Deloitte
 9 had made a decision...or completed its review before
 10 CFS made a decision about the petition?
 11 MR. BURKE: Again, that is a
 12 hypothetical. So, is there a factual
 13 question there?
 14 242. MR. DEL GOBBO: I am just trying to
 15 understand the by-laws, because Ms. Watson
 16 has stated that CFS will endeavour within
 17 90 days of receipt of the petition to make
 18 a determination as to whether it is in
 19 order. And she stated that CFS is...please
 20 correct me if I am wrong, but CFS isn't
 21 limited to those 90 days if they don't have
 22 all the information that they require to
 23 make a determination. Is that fair?
 24 THE DEPONENT: Yes.
 25 243. MR. DEL GOBBO: So, I am just trying to

- 1 BY MR. DEL GOBBO:
 2 235. Q. So, Mr. Hatherell testified earlier
 3 today that he estimated a four-week time frame is
 4 what Deloitte required to complete his review of the
 5 petition; is that fair?
 6 A. That is...yes. That is my
 7 recollection.
 8 236. Q. And I believe he testified that it
 9 was an estimate, that it could be shorter than four
 10 weeks or more than four weeks.
 11 A. Yes.
 12 MR. BURKE: It was three to four weeks,
 13 is it not...
 14 237. MR. DEL GOBBO: I believe...
 15 MR. BURKE: ...in the letter? Just to
 16 be fair...
 17 238. MR. DEL GOBBO: In the letter it was
 18 three to four weeks. I believe in his
 19 affidavit he said four weeks.
 20 MR. BURKE: I think he said more or
 21 less...
 22 239. MR. DEL GOBBO: Yes.
 23 MR. BURKE: ...three to four weeks.
 24
 25 BY MR. DEL GOBBO:

- 1 understand whether there is any upper
 2 limit, the amount of time that CFS can take
 3 to make a decision as to whether a petition
 4 is in order.
 5 MR. BURKE: So, your question is?
 6
 7 BY MR. DEL GOBBO:
 8 244. Q. So, is there any upper limit under
 9 the by-laws and in the scope of CFS's discretion
 10 under by-law 6(b)(i) to make a decision as to
 11 whether a petition is in order?
 12 A. There is no absolute timeline, no.
 13 245. Q. Okay. You mentioned that CFS, if
 14 they don't have all the information they require,
 15 that may be a reason for which they cannot make a
 16 decision within the 90 days. Are there any other
 17 reasons for which CFS may not make a decision about
 18 a petition received within 90 days of receipt?
 19 A. Sorry, can you repeat the first part
 20 of your question?
 21 246. Q. I believe that you stated earlier
 22 that if CFS isn't in possession of all the
 23 information they require to make a decision about a
 24 petition, that they aren't bound by this 90-day
 25 period, and they could potentially take longer if

1 they don't have all the information they require to
2 make a decision; is that fair?

3 A. The national executive, yes.

4 247. Q. Yes. Are there any other reasons,
5 apart from not having sufficient information,
6 that CFS may take the position or feel in its
7 discretion that it cannot make a decision within
8 the 90 days?

9 MR. BURKE: So, anything else, other
10 than not having all of the information?

11 248. MR. DEL GOBBO: Yes.

12 THE DEPONENT: To make a decision
13 whether or not a petition is in order or
14 not in order?

15
16 BY MR. DEL GOBBO:

17 249. Q. Yes.

18 A. Not that I can think of at this
19 instant.

20 250. Q. Okay. What if CFS or the national
21 executive are short-staffed and they simply don't
22 have the resources to review the petition?

23 MR. BURKE: She has given you the
24 answer. She says there is no other that
25 she can think of.

1 Mr. Littley?

2 257. Q. Yes.

3 A. I don't recall off the top of my
4 head.

5 258. Q. Okay. You state in your affidavit
6 at paragraph 80 that it was sent on or about March
7 11th, 2014. I would just like to confirm that.
8 It's an important document. Could you just perhaps
9 check your records to confirm when that...if you can
10 give an undertaking to check your records as to when
11 that document was sent?

12 MR. BURKE: I will advise you if it is
13 different. U/T

14 259. MR. DEL GOBBO: Okay.

15 THE DEPONENT: Okay.

16 MR. BURKE: Are we finished with that
17 document?

18 260. MR. DEL GOBBO: Yes, we are. Thank you.

19
20 BY MR. DEL GOBBO:

21 261. Q. Now, if we return to CFS by-law 1
22 and section 6(b)(i) in particular. So, we were just
23 looking at this, but I would like to look at the
24 sentence just after. So, we discussed the sentence
25 beginning:

1 251. MR. DEL GOBBO: Okay.

2 MR. BURKE: So, you have your answer.

3
4 BY MR. DEL GOBBO:

5 252. Q. So, if we turn to paragraph 19 of
6 your affidavit, you state that...you confirm that on
7 October 7th, 2013, the national executive received a
8 petition from Ms. Ingle.

9 A. Yes.

10 253. Q. Did you personally receive the
11 petition?

12 A. No.

13 254. Q. Could you turn to Exhibit JJ of
14 Mr. Evoy's affidavit?

15 MR. BURKE: Isn't this also in
16 Ms. Watson's affidavit, LL...AA, sorry?

17 THE DEPONENT: Yes.

18 255. MR. DEL GOBBO: Sorry for having you
19 pull up something you might not have needed
20 to. Just give me one moment, please.

21 THE DEPONENT: Sure.

22
23 BY MR. DEL GOBBO:

24 256. Q. When was this letter sent?

25 A. When was this letter sent to

1 "...Within 90 days of receipt..."

2 I would like to ask you about this next sentence:

3 "...The national executive..."

4 MR. BURKE: Where are you?

5 262. MR. DEL GOBBO: I am sorry, by-law 1,
6 section 6(b)(i).

7 MR. BURKE: (b)(i), yes.

8
9 BY MR. DEL GOBBO:

10 263. Q. So, as I was saying, we were just
11 looking at this section. I would like to ask you
12 about the sentence beginning:

13 "...The national executive will
14 endeavour..."

15 MR. BURKE: Yes.

16
17 BY MR. DEL GOBBO:

18 264. Q. "...The national executive will
19 endeavour to schedule the referendum
20 between 60 and 90 days following its
21 determination that the petition is in
22 order..."

23 A. I see that.

24 265. Q. So, the word "endeavour" here, is it
25 fair to say that the national executive will try to

1 schedule the referendum between 60 and 90 days?

2 A. Well, it says "endeavour", yes.

3 266. Q. So, there is no obligation under the
4 by-laws that the national executive will schedule
5 the referendum between 60 and 90 days following its
6 determination that the petition is in order?

7 MR. BURKE: Your question is there is
8 no...

9 267. MR. DEL GOBBO: Obligation.

10 MR. BURKE: ...obligation? That is a
11 legal question, but the words speak for
12 themselves, "will endeavour".

13
14 BY MR. DEL GOBBO:

15 268. Q. Well, as you understand the...so, is
16 the decision as to whether the national executive
17 will endeavour to schedule the referendum between 60
18 and 90 days a discretionary decision of the national
19 executive?

20 A. Can you rephrase that for me,
21 please, just so...

22 269. Q. Is the decision of the national
23 executive, whether to endeavour to schedule the
24 referendum between 60 and 90 days following its
25 determination that the petition is in order, a

1 there will be the exercise of some
2 discretion in that process. But
3 "endeavour" has its own meaning and those
4 are the words of the by-law, so...

5
6 BY MR. DEL GOBBO:

7 272. Q. I will say, if the national
8 executive, they endeavour to schedule a referendum
9 between 60 and 90 days but, for whatever reason,
10 they aren't able to do so within 90 days, do they
11 have the discretion to schedule a referendum beyond
12 that 90 days?

13 A. If the petition is in order, yes.

14 273. Q. And what factors does the national
15 executive have the discretion to take into account
16 in making that determination?

17 MR. BURKE: Beyond the 90 days?

18 274. MR. DEL GOBBO: Well, I believe
19 Ms. Watson stated that they had the
20 discretion to...if they aren't able to
21 hold a referendum within the 60 or 90 days,
22 to hold one afterward. So, I would just
23 like to know what factors can go into that
24 determination if they aren't able to hold
25 it within the 90 days.

1 discretionary decision?

2 MR. CARSTEN: Sorry, you are asking if
3 they have the discretion whether or not to
4 try to schedule it within that time; is
5 that what you are asking?

6 270. MR. DEL GOBBO: Yes.

7 MR. BURKE: So, let's just rephrase the
8 question again. You may be using...

9
10 BY MR. DEL GOBBO:

11 271. Q. Sure. Actually, let me clear up the
12 record so my question is absolutely clear. Does the
13 national executive have the discretion whether or
14 not to schedule the referendum between 60 and 90
15 days following the determination that the petition
16 is in order?

17 A. Does the national executive have the
18 discretion...sorry, I feel I am not understanding
19 the question. I am sorry, I am not trying to be
20 difficult.

21 MR. BURKE: I think the witness is
22 having difficulty because the word
23 "endeavour" has a meaning, which we can
24 argue about at a later date. And
25 "endeavouring", I suppose implicit in that,

1 MR. BURKE: So, circumstances that would
2 lead to such an eventuality?

3 275. MR. DEL GOBBO: Sure.

4 THE DEPONENT: To it being held outside
5 of the 90 days?

6 MR. BURKE: Yes.

7 THE DEPONENT: There could be...well, I
8 don't know, I would have to...

9
10 BY MR. DEL GOBBO:

11 276. Q. I will give you...

12 A. It could be any number of things,
13 really.

14 277. Q. Perhaps convenience to CFS staffers
15 to get to a university location?

16 A. No.

17 278. Q. No? Financial cost?

18 A. No.

19 279. Q. Are there any factors that you can
20 think of?

21 A. There might be...there might be
22 activities that are happening on campus at that time
23 that would make it very difficult to facilitate a
24 referendum during that period, yes. I am having a
25 hard time coming up with examples, but let's say a

- 1 fire broke out in a national office that destroyed
2 everything, maybe then.
- 3 280. Q. Sure.
- 4 MR. BURKE: And there are also, as you
5 are aware from your materials, Mr.
6 Del Gobbo, provisions of the by-laws that
7 dictate when a referendum can be held...
- 8 THE DEPONENT: Yes.
- 9 MR. BURKE: ...or referenda can be held.
- 10 THE DEPONENT: Yes.
- 11 281. MR. DEL GOBBO: For example, if we...
- 12 THE DEPONENT: Sorry, I was going to
13 speak to that.
- 14 MR. BURKE: But I assumed your question
15 was not inclusive of those...
- 16 282. MR. DEL GOBBO: No.
- 17 MR. BURKE: ...eventualities. All
18 right.
- 19
- 20 BY MR. DEL GOBBO:
- 21 283. Q. That is section 6(b)(ii), I believe?
- 22 A. That is right, yes, the April 15th,
23 September 15th.
- 24 284. Q. Yes. If you look at subsection
25 6(b)(iii) it states that:

- 1 national executive who determines the dates. But,
2 yes, if there were two petitions that were
3 determined to be in order, and referenda were
4 scheduled for a three-month period, say between
5 January, March, early April, those two votes
6 presumably, assuming everything is in order, would
7 proceed. And if there is a third petition that was
8 declared to be in order, it would follow.
- 9 286. Q. Okay. Sorry, I am not understanding
10 something. Does a petition need to be declared in
11 order and a referendum scheduled before it triggers
12 this provision that you were describing, where there
13 are two votes in a three-month period?
- 14 A. Well, the first step in the process
15 is determining if the petition is in order,
16 otherwise there is...there is no referendum process
17 until the first step is completed, which is a
18 petition that is in order.
- 19 287. Q. Yes.
- 20 A. And the scheduling flows from that.
- 21 288. Q. So, I am sorry, I am still not quite
22 understanding. So, I believe CFS received four
23 petitions in the early fall 2013, at least four,
24 calling on those for decertification on their
25 membership; is that right?

- 1 "...There shall be no more than two votes
2 on decertification in the 3-month
3 period..."
- 4 Now, does this mean that there may be no more than
5 two votes across the country at any local member
6 association campuses, or more than two votes at any
7 one campus?
- 8 A. No more than two votes on
9 decertification at any member local...at any campus
10 across Canada in that period.
- 11 285. Q. Okay. Just so I understand how this
12 works, so CFS receives two votes on decertification
13 to be held in the winter term of 2014, if they
14 received one from the University of Toronto Graduate
15 Students' Union, if they received another that was
16 also during that period, then those would be
17 permitted because it is two within a three-month
18 period, but if there was a third that CFS was made
19 aware of during that same period, that that vote
20 would then get pushed to a later period; is that
21 fair?
- 22 A. Well, that...the way that you have
23 phrased that presupposes that there are dates that
24 are associated specifically with...just the language
25 you are using, in terms of pushing it back, it's the

- 1 A. Yes, I believe so.
- 2 289. Q. I believe there was the University
3 of Toronto Graduate Students' Union, there was
4 Capilano; is that correct?
- 5 A. Yes.
- 6 290. Q. And there was Dawson; is that right?
- 7 A. Yes.
- 8 291. Q. And there was PGSS, so the
9 Post-Graduate Students' Society of McGill
10 University?
- 11 A. The individual members of, yes.
- 12 292. Q. So, in those four cases, if we
13 work through them, University of Toronto Graduate
14 Students' Union, we know. Capilano, was that
15 petition determined to be in order...has been
16 determined to be in order by the national executive?
- 17 A. It was.
- 18 293. Q. And when was that?
- 19 A. When was that determination made?
- 20 294. Q. Yes.
- 21 A. I believe...you know what, I don't
22 recall. I would have to go back and check.DATE
- 23 295. Q. Was it during the academic year
24 2013-2014?
- 25 A. During that academic year, yes.

- 1 296. Q. And was the referendum scheduled?
 2 A. Yes.
 3 297. Q. Was the referendum held and a vote
 4 conducted?
 5 A. Yes.
 6 298. Q. And when was that conducted?
 7 A. That was conducted in March.
 8 299. Q. Of 2014?
 9 A. Of 2014, yes, sorry.
 10 300. Q. Okay. And if we proceed to Dawson
 11 then, Dawson, do you know when the petition...was
 12 the petition determined to be in order at Dawson?
 13 A. My understanding, the national
 14 executive has not yet met since receiving all of the
 15 information it has requested and required in order
 16 to make that determination.
 17 301. Q. Okay. So, that determination is
 18 outstanding?
 19 A. Yes.
 20 302. Q. And with regard to PGSS,
 21 Post-Graduate Students' Society of McGill, has a
 22 determination been made as to whether that petition
 23 was in order?
 24 A. I believe so, yes.
 25 303. Q. Okay. And when was that decision

- 1 BY MR. DEL GOBBO:
 2 310. Q. So, as I read this letter, would you
 3 agree with me that, by this point, November 22nd,
 4 2013, a decision had not been made by the national
 5 executive as to whether the PGSS petition is in
 6 order?
 7 A. That the...sorry, can you repeat
 8 your question, that the PGSS...
 9 MR. BURKE: Sorry, PGSS?
 10 311. MR. DEL GOBBO: Post-Graduate Students'
 11 Society.
 12 MR. BURKE: Let's just stop there, how
 13 is this relevant to the proceeding that we
 14 are now engaged in?
 15 312. MR. DEL GOBBO: Because we have made it
 16 clear in the notice of application that
 17 there are certain issues with regard to our
 18 place in the queue, as we have called it,
 19 in terms of, if we couldn't hold a
 20 referendum on the date that we were
 21 scheduled, then we are not sure when those
 22 dates would be, given how many other
 23 schools are ahead of us in the queue, if I
 24 may put it that way.
 25 And there are comments in this

- 1 made?
 2 A. I don't recall off the top of my
 3 head.
 4 304. Q. And what was the decision? Was it
 5 found to be in order or not?
 6 A. The petition was in order.
 7 305. Q. It was in order. Was a vote
 8 scheduled?
 9 A. No, a vote has not...well, voting
 10 days have not been selected, no.
 11 306. Q. Okay. Could you turn to Exhibit SS
 12 of Mr. Evoy's affidavit, please?
 13 A. M'hmm.
 14 307. Q. This is a letter drafted by your
 15 counsel, Mr. Burke, to counsel for the individual
 16 petitioner in the PGSS case, the McGill Students'
 17 Society
 18 case; is that right?
 19 A. Yes.
 20 308. Q. And could I direct you to the last
 21 paragraph of the first page...or rather, I will take
 22 you to the paragraph just before that.
 23 MR. BURKE: The last page or the first
 24 page?
 25 309. MR. DEL GOBBO: The first page.
 THE DEPONENT: The first page, sorry.

- 1 letter in respect of how not only that
 2 queue operates, but what other schools may
 3 be ahead of us in the queue. And it is
 4 relevant to understanding our legal
 5 position in that regard.
 6 MR. BURKE: So, why don't you just ask
 7 that question.
 8 313. MR. DEL GOBBO: Well, I was trying to
 9 get to it.
 10 MR. BURKE: Okay.
 11 THE DEPONENT: So, sorry, what was your
 12 question again?
 13
 14 BY MR. DEL GOBBO:
 15 314. Q. I am just trying to understand how
 16 that by-law requirement that there may be no more
 17 than two votes in any three-month period works.
 18 A. M'hmm.
 19 315. Q. So, again, this letter was sent
 20 November 22nd by...and my question is whether, in
 21 this case, it relates to the PGSS McGill petition,
 22 whether the CFS had determined that it was in order
 23 when it sent this letter.
 24 A. As of November 22nd, 2013...
 25 316. Q. Yes.

- 1 A. ...no, it had not made that
2 determination.
- 3 317. Q. Okay. If you could just now look at
4 the last paragraph on the first page, if you could
5 read that paragraph, please?
- 6 A. "...As I indicated..."
7 Starting there?
- 8 318. Q. Yes, please.
- 9 A. "...As I indicated to Ms. Pomeroy,
10 the CFS has received decertification
11 petitions from the University of Toronto
12 Graduate Students' Union and the Capilano
13 Students' Union. Those petitions are
14 currently being reviewed to determine
15 whether they are in order. Assuming they
16 are in order, these referendums will be
17 held in the spring of 2014.
- 18 By-law 1, section 6(b)(iii) of the
19 CFS by-laws indicates there shall be no
20 more than two votes on decertification in
21 any three-month period. This by-law,
22 combined with the timing of your client's
23 petition, necessarily puts any referendum
24 involving graduate student members of the
25 Canadian Federation of Students at McGill

- 1 THE DEPONENT: If they are in order,
2 yes.
- 3
- 4 BY MR. DEL GOBBO:
- 5 323. Q. And despite the fact that that
6 determination hadn't been made, PGSS had been told
7 that, because UTGSU and Capilano were in winter
8 2014, that PGSS must then have the referendum
9 scheduled...or rather, potentially scheduled in the
10 fall of 2014?
- 11 MR. BURKE: Although my letter does say
12 that the process of verification was in
13 process, so to speak.
- 14 324. MR. DEL GOBBO: Yes.
15 THE DEPONENT: Right.
- 16
- 17 BY MR. DEL GOBBO:
- 18 325. Q. But I am just understanding the way
19 that this by-law requirement works. So that a
20 petition doesn't need to be found in order and a
21 referendum scheduled before it is assigned a
22 three-month period, if I may call it that, under the
23 by-law 6(b)(iii).
- 24 A. Well, the national executive, what
25 they are intending to do is apply some order in

- 1 University to the fall term of 2014..."
- 2 319. Q. Thank you. I actually hadn't
3 intended for you to read it all, but I appreciate
4 it. I didn't want to interrupt you once you had
5 started. Thank you. But I just simply wanted to
6 understand that. So, in this case, a decision
7 hadn't been made as to whether a petition was in
8 order or not. And by this date, the petition at the
9 University of Toronto Graduate Students' Union
10 hadn't been found to be in order; is that correct?
- 11 A. Correct.
- 12 320. Q. But on this account, in the case of
13 PGSS McGill, your counsel's letter indicates that
14 this necessarily puts any referendum at McGill to
15 the fall term of 2014; that is correct?
- 16 A. That is what it says.
- 17 321. Q. So, in effect, and you can correct
18 me if this is wrong, University of Toronto Graduate
19 Students' Union and Capilano were considered by CFS
20 to have had places in the queue of schools to have
21 referendums held in the fall term...in the winter
22 term of 2014?
- 23 MR. BURKE: If their petitions were in
24 order.
- 25 322. MR. DEL GOBBO: Yes.

- 1 terms of how petitions are dealt with, and to
2 anticipate that a petition...assuming a petition is
3 found to be in order, what the schedule would be.
4 And that is in part to, you know, relay to the
5 individual student who submitted the petition in the
6 event they are asking about when a potential
7 referendum may be held, and it is...you know, it is
8 just sort of a fairly practical approach to
9 scheduling, really.
- 10 But it is all, obviously, conditional. It
11 is dependent on whether or not the petition is found
12 to be in order, and the other by-laws that are
13 related to these matters are met in terms of the
14 by-laws, so including the remittance of outstanding
15 membership fees, for example.
- 16 326. Q. Sure. So, you stated earlier that,
17 in the fall of 2013, CFS had received petitions from
18 UTGSU, Capilano, Dawson and PGSS, correct?
- 19 A. From individual members...
- 20 327. Q. Yes.
21 A. ...of the Canadian Federation of
22 Students who are members of those students' unions,
23 yes.
- 24 328. Q. Yes. And you hadn't received...CFS
25 had not received any petitions from individual

1 members of any other student unions in that academic
2 term, meaning fall of 2013?

3 A. That is my recollection.

4 329. Q. Has CFS received any petitions in
5 the winter term 2014 calling for a vote to
6 decertify?

7 A. Not to my knowledge, no.

8 330. Q. Are there any petitions received
9 before fall of 2013 which decertification processes,
10 if I may call it that, are not yet resolved and
11 where there may still be open issues with regard to
12 whether the petitions are in order and referenda
13 will be held?

14 A. I think that was two questions,
15 because they are two separate...there are petitions
16 that have not been found...that have not yet been
17 found to be in order or out of order, and there is
18 the other issue of a potential referendum that had
19 not been scheduled.

20 331. Q. Okay.

21 A. Yes.

22 332. Q. And from which student unions are
23 those?

24 A. Well, there was a petition received
25 by the national executive from the individual

1 339. Q. Okay. But there is a chance?

2 A. No, I don't believe so.

3 340. Q. So, there is no chance that it will
4 be in that year?

5 A. I don't believe so, no.

6 341. Q. Okay. So, you mentioned Concordia
7 at the undergraduate level and at the graduate
8 student level. Are there any other student unions
9 that predate fall 2013, if I may call it that?

10 A. Nothing that comes to mind right
11 now.

12 MR. BURKE: If there is anything else,
13 we can advise you.

14 342. MR. DEL GOBBO: Could you give an
15 undertaking that, in respect of these
16 issues, as we have framed it in the notice
17 of application as schools in the queue in
18 respect of this by-law requirement, whether
19 there are any other student unions that
20 have ongoing...whether it be petition
21 verification processes or referendum
22 scheduling processes which may have an
23 impact on the scheduling of UTGSU's
24 referendum.

25 MR. BURKE: We will advise you if it is

1 members at Concordia University, the undergraduate
2 students. The national executive has not...

3 333. Q. Sorry, when was that petition
4 received?

5 A. 2008, I believe.

6 334. Q. Okay.

7 A. And the same with the graduate
8 student members at Concordia.

9 335. Q. Sorry, so in respect of those two
10 student unions, at the state of the process that we
11 are in now is that they are...that CFS has not yet
12 made a determination as to whether the petitions are
13 in order?

14 A. No. The national executive made a
15 determination the petitions were in order.

16 336. Q. They were in order. Okay. But
17 referenda have not been scheduled at those schools?

18 A. Correct.

19 337. Q. And this is still an ongoing process
20 with those two student unions?

21 A. Yes.

22 338. Q. So, is there a possibility that the
23 referendum will be scheduled in the next academic
24 year, 2014-2015?

25 A. It is highly unlikely.

1 any different than that which the witness
2 has described; is that fair? U/T
3 THE DEPONENT: Yes.

4
5 BY MR. DEL GOBBO:

6 343. Q. Have student unions already been
7 slated to have referenda held in the fall of 2014?

8 A. In fall 2014, no dates have been
9 set.

10 344. MR. DEL GOBBO: Okay. Let's take a
11 break.

12 --- A BRIEF RECESS

13
14 LUCY WATSON, resumed

15 CONTINUED CROSS-EXAMINATION BY MR. DEL GOBBO :

16 345. Q. Ms. Watson, I would like to request
17 an undertaking, and it is limited, it is to provide
18 copies of the national executive meeting minutes
19 from the academic year 2013-2014 in which this issue
20 of the UTGSU referendum vote on decertification
21 petitions was discussed.

22 MR. BURKE: I will take that under
23 advisement. U/A
24
25

- 1 BY MR. DEL GOBBO:
 2 346. Q. Can we turn to your affidavit now?
 3 So, I believe you stated earlier that the national
 4 executive received Ms. Ingle's petition on October
 5 7th, 2013?
 6 A. Yes.
 7 347. Q. And you state in paragraph 26 of
 8 your affidavit that the national executive commenced
 9 its review of that petition at the national
 10 executive meeting held on October 25th to 27th,
 11 2013?
 12 A. Yes.
 13 348. Q. So, the national executive commenced
 14 its review on October 25th. So, you will agree that
 15 there was no view of the petition conducted before
 16 October 25th?
 17 A. Yes.
 18 349. Q. Were you present at the national
 19 executive meeting on October 25th to 27th?
 20 A. I was. There were some portions
 21 when I was not present, but I was present for most
 22 of it.
 23 350. Q. In what capacity were you present?
 24 A. As a staff member.
 25 351. Q. So, the national executive meetings,

- 1 So, yes.
 2
 3 BY MR. DEL GOBBO:
 4 356. Q. Okay. That would have been Mr.
 5 Monkhouse's correspondence?
 6 A. Yes.
 7 357. Q. Could you give an undertaking to
 8 produce that correspondence?
 9 MR. BURKE: Well, Mr. Monkhouse is
 10 sitting here.
 11 THE DEPONENT: Wait a second...but you
 12 asked about the GSU, correct?
 13
 14 BY MR. DEL GOBBO:
 15 358. Q. Yes. It wasn't communication with
 16 Ms. Ingle...
 17 A. Ms. Ingle.
 18 359. Q. ...communication with UTGSU...
 19 A. Got you.
 20 360. Q. ...and CFS.
 21 MR. BURKE: Let's go off the record.
 22
 23 --- DISCUSSION OFF THE RECORD
 24
 25 THE DEPONENT: So, correspondence

- 1 they aren't just national executive members that
 2 attend, but there may be CFS staff members that
 3 attend as well?
 4 A. Yes, yes.
 5 352. Q. Okay. So, in paragraph 27, you
 6 state that, on November 11th, 2013, the CFS
 7 acknowledged receipt of the petition of UTGSU by way
 8 of a letter dated November 11th, 2013; is that fair?
 9 A. Yes.
 10 353. Q. Was there any communication between
 11 CFS and UTGSU regarding the petition between October
 12 7th when the national executive received it, and
 13 October 11th when Mr. Burke's letter was sent?
 14 MR. BURKE: So, communication between
 15 CFS and UTGSU, between Oct 27th and
 16 November 11th?
 17 354. MR. DEL GOBBO: No, between October 7th,
 18 2013 when the petition was received.
 19 MR. BURKE: October 7th and November
 20 11th?
 21 355. MR. DEL GOBBO: And November 11th.
 22 THE DEPONENT: Well, the letter behind
 23 tab C dated November 11th starts:
 24 "...This is in response to your recent
 25 correspondence to my client..."

- 1 between October 7th and November 11th,
 2 between the national executive and the
 3 GSU...
 4
 5 BY MR. DEL GOBBO:
 6 361. Q. Yes.
 7 A. ...I don't have an immediate
 8 recollection of any correspondence in that period of
 9 time.
 10 362. MR. DEL GOBBO: Can I ask your counsel
 11 to advise otherwise if there is?
 12 MR. BURKE: Well, we will tell you if we
 13 come across any communication in that
 14 period of time, but at the moment we don't
 15 have any knowledge of any communication. U/T
 16
 17 BY MR. DEL GOBBO:
 18 363. Q. Okay. Was there any communication
 19 between CFS and the university between those dates?
 20 A. Between October 7th and November
 21 11th?
 22 364. Q. Yes.
 23 A. Not to my knowledge, no. Sorry, I
 24 should clarify, with regard to this matter
 25 specifically?

- 1 365. Q. With regard to the UTGSU petition.
 2 A. Not to my knowledge.
 3 366. Q. So, that is still a no?
 4 A. Yes.
 5 367. Q. Okay. Paragraph 28 of your
 6 affidavit, you state that:
 7 "...In order for the national executive to
 8 verify the petition is in compliance with
 9 the by-laws, it had to compare the list of
 10 individual members of UTGSU to those who
 11 had signed the petition..."
 12 Do you see that?
 13 A. I see that.
 14 368. Q. Was CFS aware of this when they
 15 received the petition on October 7th?
 16 MR. BURKE: Was CFS aware of what?
 17
 18 BY MR. DEL GOBBO:
 19 369. Q. That in order to verify the
 20 petition's compliance, they had to compare the list
 21 of individual members of UTGSU to those who had
 22 signed the petition.
 23 A. Was the national executive aware of
 24 that?
 25 370. Q. Yes.

- 1 first opportunity after receiving a petition,
 2 assigned responsibility to the three at-large
 3 members of the national executive to undertake a
 4 review. So, those three individuals had initiated
 5 the process of ensuring that the petition met
 6 the terms set out in by-law 1, section 6(a)
 7 specifically.
 8 376. Q. Okay.
 9 A. So, reviewing it to ensure that it
 10 was unaltered, that the question that was on the
 11 petition was identical to the question that is
 12 required as per the by-laws, et cetera.
 13 377. Q. But there was no review conducted of
 14 the actual names on the petition to determine
 15 whether they were compliant with the by-law, meaning
 16 whether there was a unique signature, or whether
 17 they were members of UTGSU, whether there was a
 18 valid student number?
 19 A. I don't know specifically if that
 20 process had been undertaken to determine if there
 21 were names that were clearly fabricated or missing
 22 signatures. I don't know if that work had been
 23 initiated.
 24 378. Q. You will agree with me, though, that
 25 there were no...CFS didn't have possession of the

- 1 A. I would imagine so. The members of
 2 the national executive are familiar with the
 3 by-laws.
 4 371. Q. Okay.
 5 A. But the first opportunity for the
 6 national executive to actually receive and consider
 7 the petition was at its meeting, October 25th.
 8 372. Q. Yes. I believe you stated that
 9 earlier.
 10 A. Okay.
 11 373. Q. So, if you could just turn to
 12 Exhibit C, this is the letter from your counsel,
 13 Mr. Burke, dated November 11th, 2013.
 14 A. Yes, I see that.
 15 374. Q. I would just like to direct your
 16 attention to the second sentence of the paragraph.
 17 Mr. Burke states:
 18 "...My client [meaning CFS, I presume] is
 19 in the process of reviewing the petition as
 20 tendered by your client..."
 21 A. I see that.
 22 375. Q. What was the review process that was
 23 underway as of this date?
 24 A. The national executive at its first
 25 opportunity, which was its meeting October 25th,

- 1 University of Toronto student lists at that time?
 2 A. We did not have the membership list,
 3 correct.
 4 379. Q. Okay. So, you state at paragraph 29
 5 of your affidavit that:
 6 "...In the past, CFS has obtained this type
 7 of list..."
 8 And the list we are talking about, individual
 9 members of the local association member of CFS.
 10 "...from the association's university
 11 administration, or, in some cases, the
 12 association itself..."
 13 Is that fair?
 14 A. Yes.
 15 380. Q. Can you provide a few examples of
 16 instances in which CFS has obtained a student list
 17 in this manner?
 18 A. From either source?
 19 381. Q. Yes.
 20 A. Just let me think. There is...I
 21 would have to go through...I would have to put some
 22 thought into it. Rather than try to go off the top
 23 of my head, I would have to put some thought into
 24 that.
 25 382. Q. Okay. In any case, CFS had never

- 1 obtained this type of list from UTGSU before?
 2 A. The Canadian Federation of Students?
 3 383. Q. The national executive, rather, or
 4 Canadian Federation of Students. Your paragraph
 5 says CFS.
 6 A. Yes. So, the national
 7 executive...sorry, can you repeat your question?
 8 The national executive had not received...
 9 384. Q. Sorry. So, in paragraph 29 you
 10 state that CFS has obtained this type of list from
 11 student unions in the past; is that fair?
 12 A. In some cases, yes.
 13 385. Q. So, am I correct to say that he CFS
 14 had never obtained this type of list from UTGSU in
 15 the past?
 16 A. I don't think I could say yes or no
 17 to that.
 18 386. Q. Could you just provide an
 19 undertaking to confirm as to whether they have
 20 received that information from UTGSU in the past?
 21 MR. BURKE: We will use our best
 22 efforts. U/T
 23 THE DEPONENT: Yes.
 24 MR. BURKE: As to whether or not we have
 25 received the information from UTGSU in the

- 1 392. Q. Was that discussion with regard to
 2 coordination of efforts to verify the petitions?
 3 A. No, not necessarily coordination,
 4 but efforts that were being undertaken by both
 5 organizations in order to secure the information
 6 that both organizations required.
 7 393. Q. So, CFS and CFSSO were speaking about
 8 the efforts that needed to be taken to secure the
 9 student lists from the University of Toronto in
 10 order to verify the petitions in respect of both
 11 organizations?
 12 A. Yes. So, Vanessa, for example,
 13 saying that...advising or just informing a
 14 representative of CFS Ontario that a letter had been
 15 sent seeking certain information, yes.
 16 394. Q. Okay. So, communications by...that
 17 is fine. So, if I look at the letter that is
 18 attached to Exhibit D, that is the December 3rd
 19 letter.
 20 A. Yes.
 21 395. Q. And in this letter, Ms. Hunt, I
 22 believe, is asking Mr. Evoy for a copy of the
 23 student lists; is that fair?
 24 A. Asking to request assistance in
 25 procuring a current membership list, yes.

- 1 past?
 2 387. MR. DEL GOBBO: Yes. And just to add
 3 to the undertaking, or the University of
 4 Toronto in the past.
 5 MR. BURKE: Yes. U/T
 6
 7 BY MR. DEL GOBBO:
 8 388. Q. So, the next document I see attached
 9 to your affidavit is at Exhibit D, a letter from Ms.
 10 Hunt dated December 3rd. So, this letter is dated
 11 December 3rd, 2013?
 12 A. I see that.
 13 389. Q. Now, we were just looking at a
 14 letter from your counsel, Mr. Burke, dated November
 15 11th. That was at Exhibit C. Was there any
 16 communication between CFS and UTGSU between November
 17 11th, 2013 and December 3rd, 2013?
 18 A. About this matter specifically?
 19 390. Q. About this matter, yes.
 20 A. Not to my knowledge.
 21 391. Q. So, around this time, November,
 22 December 2013, were CFS and CFSSO communicating about
 23 the petition verification process at UTGSU?
 24 A. Yes. I think there was some
 25 discussion.

- 1 396. Q. Yes. And so, by this time, December
 2 3rd, I take it that no analysis had been conducted
 3 by CFS to determine whether the names on the
 4 petition matched the lists of the university because
 5 they didn't possess a list; is that fair?
 6 A. It was...it didn't have the ability
 7 to do so.
 8 397. Q. Okay. So, you would agree that the
 9 validation of the signatures on the UTGSU petition
 10 was an important task to CFS?
 11 A. The validation of the names?
 12 398. Q. Yes.
 13 A. Yes, to determine the veracity of
 14 those names, yes.
 15 399. Q. And you will agree that CFS had an
 16 obligation to do so in a timely manner?
 17 A. Well, I agree that the national
 18 executive had an obligation...has an obligation to
 19 fulfil the terms of the by-laws, which is to
 20 undertake this review and to ensure that the
 21 petition is in order, in light of the requirements
 22 set out in the by-laws. And I can, you know, say
 23 that the national executive was undertaking this
 24 process as efficiently as it could, because it
 25 understands its obligations to the individual

- 1 members.
 2 400. Q. Okay. So, I will note the date of
 3 this letter is December 3rd. So, nearly two months
 4 had passed since this letter was sent and when CFS
 5 first received the petitions on October 7th, is that
 6 fair...four days short of two months?
 7 A. Well, the national executive itself
 8 didn't receive the petition until its first meeting,
 9 October 25th. So, while the mail was received, as
 10 it were, it's the national executive who has the
 11 obligation to undertake the review, so that first
 12 opportunity to sort of initiate that process was
 13 October 25th.
 14 401. Q. Yes, I am sorry, but I believe you
 15 stated earlier, and I can take you back to paragraph
 16 19 of your affidavit...you state that on October
 17 7th, 2013, the national executive received a
 18 petition from Ms. Ingle.
 19 A. Yes. It was delivered, yes.
 20 402. Q. And do you recall that under the CFS
 21 by-law, there is a requirement that CFS national
 22 executive receive a petition from an individual
 23 petitioner at a student union wishing to initiate a
 24 process to decertify?
 25 A. Right.

- 1 the petition on that date?
 2 A. Well, it was received...yes, sorry,
 3 I am not meaning to split hairs. There was...my
 4 understanding is one member of the national
 5 executive received the petition. It was presented
 6 to the national executive as a whole at the first
 7 available opportunity, which was its meeting, its
 8 duly constituted meeting, October 25th.
 9 407. Q. And when the individual member
 10 received the petition on October 7th, 2013, was that
 11 person acting in the capacity of a national
 12 executive representative?
 13 A. Yes.
 14 408. Q. So, as you said in your affidavit,
 15 on October 7th, the national executive received the
 16 petition?
 17 A. Yes.
 18 409. Q. So, if I go back to my first
 19 question then, on October 7th, 2013, the national
 20 executive received the petition. By the date of
 21 Ms. Hunt's letter, December 3rd, 2013...this is
 22 again at Exhibit D...you will agree with me that
 23 nearly two months had passed since the national
 24 executive had received the petition, and just shy
 25 of four days?

- 1 403. Q. So, do you accept that October 7th,
 2 2013 is the date from which that obligation was
 3 triggered under the by-law?
 4 A. Sorry, which obligation, the
 5 obligation to review the petition to determine
 6 whether or not it was in order?
 7 404. Q. Yes.
 8 A. Well, the national executive wasn't
 9 in a position to do that until its first meeting of
 10 the national executive.
 11 405. Q. So, if the national executive
 12 meeting in October had been cancelled and they
 13 hadn't been able to attend a meeting until November,
 14 is your position that the 90-day period wouldn't
 15 have started counting until the national executive
 16 had met?
 17 A. Well, I think it is...it is my
 18 position that the national executive...that one
 19 individual of the national executive does not
 20 constitute the body which is responsible for
 21 undertaking that review.
 22 406. Q. I am sorry, so on October 7th, you
 23 stated that the national executive received the
 24 petition. Do you mean to say that only an
 25 individual member of the national executive received

- 1 A. Yes. And I am not trying to be
 2 difficult, but the assignment of responsibility in
 3 terms of how to proceed in determining whether or
 4 not the petition was in order happened at the first
 5 meeting of the national executive, which was October
 6 25th, which was...
 7 410. Q. Yes.
 8 A. ...just the point I was trying to
 9 make earlier, but, yes.
 10 411. Q. I understand it might have been less
 11 time since national executive had made that
 12 assignment of responsibility...
 13 A. Right.
 14 412. Q. ...that they had received it four
 15 days short of two months?
 16 A. Okay. Yes.
 17 413. Q. So, was the national executive
 18 concerned, as of the date of December 3rd when this
 19 letter was sent, that the process of comparing the
 20 signatures on the petition to the university lists
 21 had not yet commenced?
 22 A. Was the national executive
 23 concerned?
 24 414. Q. Yes.
 25 A. Not to my knowledge. I am not aware

1 of that concern being expressed by members of the
2 national executive.

3 415. Q. Was it concerned as of this date
4 that the process to commence the review of the
5 petition might not take place within the 90-day
6 prescribed in the by-laws?

7 A. Well, the process to initiate that
8 review had commenced as of October 25th, when the
9 three members were assigned responsibility for
10 undertaking that work. So, the process of reviewing
11 it had been commenced.

12 416. Q. Sorry, I am confused about
13 something. If you look at the third paragraph of
14 this letter on December 3rd, you see how it begins:
15 "...As a first step..."

16 A. I see.

17 417. Q. "...the national executive needs to
18 verify the petition has been signed..."
19 And then you go on to ask for assistance in
20 procuring a current membership list.

21 A. I see that.

22 418. Q. So, you will agree with me that, as
23 a first step in verifying the petition has been
24 signed by the required minimum number of individual
25 Federation members, that a current membership list

1 of your affidavit...if you can turn to that...in the
2 first sentence that CFS has never delegated its
3 responsibility to verify a petition to a university.

4 A. Yes.

5 423. Q. So, if the CFS...I recognize that
6 the CFS has sole discretion to determine that a
7 petition is in order. And I understand your
8 position to be that CFS has never delegated that
9 authority to a university; is that fair?

10 A. Yes.

11 424. Q. Has CFS ever engaged a university to
12 conduct a preliminary review of a petition to see if
13 the names match their student records?

14 A. I think that is speaking...yes, yes.
15 But just to be clear, the national executive has
16 never authorized a university to verify a petition
17 in its totality.

18 425. Q. Yes.

19 A. The individual names perhaps, and to
20 confirm that certain student numbers lined up with
21 certain names, and that those were current members,
22 yes.

23 426. Q. Okay. Could you just provide more
24 detail surrounding that process, any examples of
25 when the CFS has permitted the university to conduct

1 was needed?

2 A. I actually read this differently.
3 It's a first...the first step in the process of
4 decertification, of voting on the question of
5 decertification. So, it is not necessarily the
6 first step in determining whether or not the
7 petition is in order, because my understanding is,
8 you know, that the petition had been reviewed to
9 determine...to verify that the correct question was
10 included, that it was unaltered, that it was
11 original. So, my understanding is that work had
12 already been undertaken.

13 419. Q. Okay. So, those...

14 A. So, it is not necessarily the first
15 step.

16 420. Q. So, those were the first steps, and
17 then the process of comparing the names and the
18 signatures to...

19 A. Is part of that process.

20 421. Q. ...the names on the university list
21 is the next step?

22 A. Is part of that process, yes. So,
23 the first step actually refers to the...proceeding
24 to a referendum.

25 422. Q. Okay. So, you state at paragraph 30

1 that kind of review?

2 A. Well, it has been very much on a
3 case-by-case basis, depending on the institution,
4 quite frankly, and the relationship that the
5 Federation and/or the students' union has had with
6 that university/administration. So, that is the
7 first sort of consideration, as it were. And the
8 national executive has...just as an example, has set
9 out the parameters...has, as a first step, asked the
10 students' union for assistance in procuring a
11 membership list.

12 There have been instances where the
13 students' union is not able to provide that list, or
14 it doesn't have access to that list. The national
15 executive then may go to the administration,
16 depending on the relationship, the administration or
17 the institution, and ask for assistance setting out
18 the parameters that the institution should use in
19 reviewing a name and a student number on the
20 petition against a membership list.

21 427. Q. Okay. Does CFS have a standard set
22 of parameters that it applies in those situations
23 that it would provide to a university if it engaged
24 a university to conduct that kind of review?

25 A. Well, the parameters that are set

1 out...some of the parameters that are set out in the
2 by-laws.

3 428. Q. So, by-law 1, section 6?

4 A. Yes. So that its membership list
5 that is...reasonably legible name and...full name,
6 corresponding student number. I am paraphrasing,
7 but...

8 429. Q. Okay. Has that process ever been
9 undertaken at the University of Toronto? Has CFS
10 ever permitted the University of Toronto to...

11 A. For the Canadian Federation of
12 Students?

13 430. Q. Yes.

14 A. Not to my knowledge, no.

15 431. Q. What are some of the factors that
16 CFS considers in determining whether to engage a
17 university to conduct that review?

18 MR. BURKE: I think she just gave you
19 that answer.

20 THE DEPONENT: M'hmm.

21 432. MR. DEL GOBBO: No, I am sorry, not the
22 factors that the university would consider
23 during the process of its review.

24 MR. BURKE: You asked her that question
25 and she said it is a case-by-case basis,

1 but you understand what I am trying to say by that,
2 I hope. Would those statements have to have been
3 made recently in order for CFS to give them any
4 weight in deciding whether to engage a university?

5 A. I think it would have to be...I
6 think the issue...as I said, the issue has to be
7 considered...is considered on a case-by-case basis.
8 So, the totality of it would be considered by the
9 national executive.

10 435. Q. So, in this case, CFS did not engage
11 the University of Toronto in that process?

12 MR. BURKE: Did not engage them in the
13 process of...

14 436. MR. DEL GOBBO: Of conducting a review
15 of the petition...I am sorry, I will just
16 let you finish.

17 MR. BURKE: Did not engage them in the
18 process of carrying out the verification?

19 437. MR. DEL GOBBO: Well, not that the...

20 MR. BURKE: Is that the process you are
21 talking about?

22 438. MR. DEL GOBBO: Well, Ms. Watson has
23 stated, I believe, that CFS would never
24 delegate the authority to conduct that
25 process to a university.

1 depending...one of the factors is the
2 relationship between the CFS, the voting
3 member and the institution.

4 BY MR. DEL GOBBO:

5 433. Q. I think I wasn't specific enough.

6 What are some of the factors that informs CFS's
7 assessment of the relationship with the university
8 that may impact whether CFS will agree to have a
9 university conduct that review?

10 A. If there has been any challenges or
11 difficulties with respect to fee collection and
12 remittance, if the institution has been known to
13 interfere in the local union's affairs or
14 potentially the affairs of the Canadian Federation
15 of Students, if there has been, you know, a dispute
16 or...about membership. There have been instances
17 where senior members of an administration have
18 spoken out about membership in the Canadian
19 Federation of Students and/or the local students'
20 union. So, those are some of the considerations.

21 434. Q. Okay. Do those statements...for
22 example, your last example of statements by a
23 university that were made publicly that were...if I
24 could say "adverse in interest", interest to CFS,
25

1 BY MR. DEL GOBBO:

2 439. Q. Simply, we were talking about, I
3 believe, a preliminary review, if I can call it
4 that, of the names on a petition as against the
5 by-law requirements; is that fair, Ms. Watson?

6 A. Yes.

7 440. Q. Now, as I understand your affidavit
8 at paragraph 33, you describe why CFS feels that the
9 university is not a neutral third party; is
10 that fair?

11 A. Yes.

12 441. Q. And you explain that the university
13 has taken the position...or rather, took a position
14 in 2002 in respect of votes that were not valid in
15 respect of the CFS certification effort; is that
16 fair?

17 A. The university took an initial
18 position, yes.

19 442. Q. Yes. And was this what CFS based
20 its decision in this case on, not to engage the
21 university to conduct any review of the petitions?

22 A. In part, yes.

23 443. Q. You stated "in part". Are there
24 other factors that CFS considered?

25 A. Well, the Canadian Federation of

1 Students doesn't necessarily enjoy a warm
2 relationship with the senior administrators within
3 the University of Toronto, in part because of the
4 work...or solely because of the work in which the
5 Canadian Federation of Students engages, and the
6 positions that it has taken with regard to tuition
7 fees, funding, various other issues. So, that was
8 also...that is also a factor.

9 444. Q. Okay. A few questions about the
10 next two paragraphs of your affidavit, 34 and 35.
11 So, you state in paragraph 34 that:
12 "...The first time the notion of a third
13 party firm assisting in the verification of
14 the CFS petition that was put to CFS was on
15 January 15th, 2014..."

16 Do you see that?

17 A. I see that.

18 445. Q. And I believe a similar statement is
19 made in the next paragraph, where you state in the
20 last sentence:

21 "...This proposal..."

22 And if you look at the first sentence, the proposal
23 being that an external auditing firm be used to
24 verify the petition.

25 "...was not put to CFS until January 15th,

1 an external auditing firm.

2
3 BY MR. DEL GOBBO:

4 450. Q. Well, Mr. Evoy then says:
5 "...such as an auditing firm..."

6 So, you will agree that on December 9th, it was
7 proposed to CFS that a neutral mutually agreed upon
8 third party, such as an auditing firm, was proposed
9 to CFS?

10 A. I am actually...I am not sure...I am
11 not sure I would consider that a proposal to the
12 Canadian Federation of Students. This is Brad Evoy
13 summarizing, as he says, where things are at, and
14 relaying what the university has relayed to the
15 University of Toronto Graduate Students' Union, but
16 that is not the university necessarily relaying that
17 to the Canadian Federation of Students, unless...

18 451. Q. Sorry, I will just return to
19 paragraph 34...

20 A. Yes.

21 452. Q. ...the last sentence, you see:
22 "...The first time that the notion of a
23 third party firm assisting in the
24 verification of the CFS petition that was
25 put to CFS was on January 15th..."

1 2014..."

2 A. I see that.

3 446. Q. So, I am just confused by those
4 statements in light of paragraph 37, if you read
5 that, where you state that Mr. Evoy sent an e-mail
6 to the CFS on December 6th, 2013. And just for the
7 record, I believe there is a typo in your affidavit
8 in this respect. I think you mean December 9th, if
9 you look at the e-mail that is behind Exhibit E.

10 A. So, yes, the e-mail in Exhibit E is
11 dated December 9th.

12 447. Q. Yes. So...

13 A. Yes. So, that could well be a typo,
14 yes.

15 448. Q. And in this e-mail, it's an e-mail
16 from Mr. Evoy to Ms. Hunt of CFS, dated December
17 9th, 2013. Do you see that?

18 A. I see it.

19 449. Q. You will see in the second paragraph
20 that Mr. Evoy states that:

21 "...The university has indicated that it
22 is willing to have student information
23 provided to a neutral mutually agreed upon
24 third party..."

25 MR. BURKE: I think the nuance would be

1 So, would you agree that the first time that the
2 notion of a third party firm, such as an auditing
3 firm, was put to CFS was on December 9th, 2013,
4 given Exhibit E?

5 A. The notion...I guess...I don't know
6 if it is semantics or...but the...it was...Mr. Evoy
7 refers to...certainly refers to it in this e-mail of
8 December 9th, but I think the first time there was
9 consideration or an actual proposal that was put
10 forward was January 15th.

11 453. Q. You mean a proposal put forward by
12 the university in person? I believe there was...

13 A. Yes.

14 454. Q. And were you in communication with
15 the university before January 15th?

16 A. Was I personally?

17 455. Q. Was the CFS, or were they dealing
18 mostly with UTGSU as an intermediary?

19 A. I don't recall if Vanessa was in
20 "regular" contact with the university. I don't know
21 that that direct contact...sorry, I am just trying
22 to think about the various exchanges of e-mails,
23 because there were exchanges about meetings and
24 such, but I can't recall precisely who was on those
25 e-mails, so I don't think I can answer to it any

1 more than the documents do.
 2 456. Q. So, I don't...you will agree with me
 3 that the idea that a third party auditing firm might
 4 be considered to conduct a review of the petitions
 5 at the University of Toronto was presented to CFS on
 6 December 9th, 2013?

7 A. The concept, or this potential, yes,
 8 but I don't know...you know, Mr. Evoy isn't in a
 9 position to put forward that proposal, so maybe it's
 10 just the language isn't quite as precise as it
 11 should be, but...

12 457. Q. Do you have any reason to believe
 13 that Mr. Evoy was misrepresenting the university
 14 communications in this e-mail?

15 A. Do I...I am sorry, I was just
 16 reading the language.

17 458. Q. Mr. Evoy stated the university has
 18 indicated to UTGSU that it was willing to engage a
 19 neutral mutually agreed upon third party.

20 A. M'hm.

21 459. Q. Would CFS have had any reason on
 22 December 9th not to take that statement credibly?

23 A. No, but it is not clear to me that
 24 this notion was actually being put to us for
 25 consideration. That is not necessarily clear. The

1 university's position on the third party auditor to
 2 be a fair representation of the university's
 3 position?

4 A. What it says is:
 5 "...The university has indicated to us that
 6 it is willing to have the student
 7 information provided to a neutral mutually
 8 agreed upon third party that can serve the
 9 intermediary role that the university has
 10 previously proposed to fill..."

11 So, that is that language that I will come back to,
 12 and he also sets out at the very beginning:

13 "...I will summarize where things are
 14 at..."

15 Rather than re-open discussions with CFS Ontario,
 16 but I don't...you know, I don't think that it says
 17 anywhere that the university is putting forward this
 18 as a proposal at this time to the Canadian
 19 Federation of Students specifically.

20 463. Q. Okay. When you received this e-mail
 21 from Mr. Evoy on December 9th, did you give the idea
 22 of retaining a third party any consideration, until
 23 January 15th, the intervening month and six days?

24 A. Did I personally?

25 464. Q. Did CFS?

1 way this is presented is information that is being
 2 provided based on discussions with Canadian
 3 Federation of Students - Ontario, and I guess...I
 4 don't know what the acronym is, OVPS, Office of the
 5 Vice-Provost.

6 So, maybe I am just sort of taking issue
 7 with the language put to the CFS that it
 8 wasn't...Mr. Evoy is not in a position to put any
 9 proposal forward to the Canadian Federation of
 10 Students, nor do I understand him to have been
 11 delegated that responsibility or authority by the
 12 institution. We were being informed.

13 460. Q. If you could just turn to the
 14 second-to-last paragraph of this e-mail beginning:

15 "...Finally..."

16 A. Yes.

17 461. Q. He states:

18 "...As has been made clear to the Ontario
 19 office, and I make clear now for
 20 expediency, the university wishes us to
 21 remain as the central contact between
 22 yourself and said office..."

23 A. I see that.

24 462. Q. So, in light of his statement, would
 25 you have considered Mr. Evoy's representation of the

1 A. Yes.
 2 465. Q. So, CFS had interpreted Mr. Evoy's
 3 comment on December 9th as something worthy of
 4 consideration?

5 A. It was one of many issues that was
 6 in consideration, yes.

7 466. Q. Were there any conclusions made
 8 between December 9th and January 15th in respect of
 9 whether a third party firm may be engaged in this
 10 capacity?

11 A. My recollection is at the meeting of
 12 the national executive in January, early January,
 13 there was some consideration of the various ways to
 14 proceed with regard to verifying the names on the
 15 petition. This was one of the possibilities that
 16 was presented to the national executive for their
 17 consideration.

18 467. Q. Okay.

19 A. But just to put a finer point on
 20 that, it was pending the meeting that was to be held
 21 in January in further exploration and consideration
 22 on the part of the at-large members who had been
 23 delegated responsibility.

24 468. Q. Sure. Thank you. Did anyone at the
 25 CFSO during this period, December 3rd to January

1 15th, inform the CFS of the progress of its
2 communications regarding the possibility of
3 retaining a third party auditor?

4 A. Yes, I believe so.

5 469. Q. So, you were also receiving
6 communications from CFSO in respect of the third
7 party?

8 A. An update or summary, essentially,
9 of what had transpired at the meeting held in
10 December. I can't remember what that date was,
11 December 20th maybe.

12 MR. BURKE: Paragraph 40.

13 THE DEPONENT: Yes.

14
15 BY MR. DEL GOBBO:

16 470. Q. So, if I can just take you to
17 paragraph 36 for a moment in your affidavit. You
18 describe the CFS national annual general meeting
19 that took place from November 21st to 24th, 2013.
20 Do you see that?

21 A. I see that.

22 471. Q. Were you in attendance at the
23 meeting?

24 A. I was. I was not present in the
25 opening plenary session.

1 December 20th.

2 THE DEPONENT: I believe three, but I
3 could be wrong. I believe three...two.

4
5 BY MR. DEL GOBBO:

6 479. Q. And one of those was the Ontario
7 representative, I believe?

8 A. Yes, definitely in Toronto...or out
9 of an office in...works out of an office in Toronto,
10 yes.

11 480. Q. And I believe that that was Ms. Anna
12 Goldfinch?

13 A. Yes. Now, I don't...I...yes.

14 481. Q. Okay. So, if you turn to Exhibit G
15 to your affidavit, this is a copy of some
16 correspondence surrounding the scheduling of a
17 meeting in December with CFS and CFSO.

18 A. G, yes, I see that.

19 482. Q. Now, I won't take you through all of
20 the e-mails, but if you look at the last in the
21 exhibit, it's an e-mail to Mr. Evoy on December
22 12th, 2013 at 2:18 p.m., and he is writing the
23 e-mail to Alastair Woods, who I believe is
24 the...sorry, I forget the title, but the chairperson
25 of CFSO?

1 472. Q. Okay. Did you have any
2 communications with Mr. Evoy at this meeting?

3 A. I don't believe so, no direct
4 interaction.

5 473. Q. So, as I understand it, CFS's
6 national office is in Ottawa, is it not?

7 A. It is.

8 474. Q. So, you are based in Ottawa; that
9 is where you exercise your role as director of
10 organizing?

11 A. Yes.

12 475. Q. How many CFS national executive
13 members are based in Toronto?

14 A. At that time, or at which...

15 476. Q. In the 2013-2014 academic year. You
16 can give me an approximation if you know.

17 A. Okay.

18 477. Q. I believe you gave me a range of
19 14 to 16...there were 14 to 16 members on the
20 national executive at that time?

21 MR. BURKE: What is the relevance of
22 that?

23 478. MR. DEL GOBBO: It will be made clear
24 shortly, but we are going to be discussing
25 a meeting that took place in Toronto on

1 A. M'hmm.

2 483. Q. And Ms. Hunt, who is with CFS as we
3 discussed earlier...

4 A. Yes.

5 484. Q. ...and he is proposing a meeting
6 with representatives from the Office of Vice-Provost
7 Students and UTGSU. Do you see that?

8 A. I do.

9 485. Q. Now, you will agree with me that,
10 given the timelines in this matter, that scheduling
11 a meeting to discuss these issues was important to
12 CFS?

13 A. Yes.

14 486. Q. And that it was important to UTGSU
15 to see this matter resolved expediently?

16 A. I think it was important to the
17 individual members of the University of Toronto
18 Graduate Students' Union, but the University of
19 Toronto Graduate Students' Union, as an entity,
20 doesn't have a...wouldn't have a position on that
21 necessarily.

22 487. Q. So, I won't take you through all the
23 correspondence, but I think you will probably agree
24 with me that there was eventually a meeting held on
25 December 20th, 2013, at which CFSO, UTGSU and

- 1 members of the university were present?
 2 A. Yes.
 3 488. Q. And as I understand it, for example,
 4 some people attended that meeting in person and
 5 other people attended by teleconference?
 6 A. I couldn't speak to that.
 7 489. Q. I will just direct you to...it's the
 8 second page, page 3 at the bottom of the exhibit,
 9 Exhibit G. It's an e-mail from Mr. Evoy, sent on
 10 December 16th, 2013...
 11 A. I see.
 12 490. Q. ...where he states that he will be
 13 teleconferencing in from Newfoundland.
 14 MR. BURKE: She wasn't there, so...the
 15 records are the records.
 16
 17 BY MR. DEL GOBBO:
 18 491. Q. You have no first-hand knowledge of
 19 that meeting?
 20 A. I see he wrote that, yes.
 21 492. Q. Okay. But you have no reason to
 22 doubt that he would have been able to...or that
 23 members of...attendees at the meeting could have
 24 teleconferenced in?
 25 MR. BURKE: She wasn't there. The

- 1 A. She was not in the country.
 2 498. Q. Was she conducting CFS business on
 3 December 20th?
 4 A. Was Vanessa conducting CFS business?
 5 499. Q. Yes.
 6 A. She was out of the country. I don't
 7 think I had any communications with her on December
 8 20th that I can recall.
 9 500. Q. But you are advised by Ms. Hunt that
 10 she couldn't participate in this meeting because of
 11 preplanned Christmas vacations?
 12 A. Yes.
 13 501. Q. Okay. And were any other members of
 14 the national executive able to attend or call in to
 15 this meeting?
 16 A. I can't speak to that. I didn't
 17 canvass members of the national executive as to
 18 their availability around this time, and it was a
 19 task, frankly, that had been assigned to the three
 20 at-large members of the national executive, so they
 21 were the three who were primarily responsible for
 22 undertaking this work.
 23 502. Q. And all three of those had
 24 preplanned Christmas vacations on December 20th?
 25 A. That is my understanding.

- 1 records speak for themselves.
 2
 3 BY MR. DEL GOBBO:
 4 493. Q. So, if you turn to paragraph 40 of
 5 your affidavit, you state that you were advised by
 6 Ms. Hunt that, due to preplanned Christmas
 7 vacations, no one from CFS was able to attend the
 8 meeting, and CFS proposed alternate dates; is that
 9 fair?
 10 A. Yes.
 11 494. Q. And those dates were in early
 12 January?
 13 A. Yes, that is my recollection.
 14 495. Q. What were Ms. Hunt's preplanned
 15 Christmas vacations on December 20th?
 16 A. She...her family...she is originally
 17 from...not Canada. I don't remember where she is
 18 from, but it required...she booked a plane flight
 19 and was leaving the country, I think a week prior,
 20 and so was in a different country.
 21 496. Q. Okay. Was she doing...
 22 A. And just to clarify, had booked her
 23 ticket in the fall.
 24 497. Q. I understand. So, she wasn't in
 25 Toronto?

- 1 Most...just to explain, the members...the at-large
 2 members of the national executive are not
 3 necessarily from the Ottawa area, they are from
 4 elsewhere. So, as I said, Ms. Hunt, her
 5 family...she is originally from outside of Canada.
 6 The national treasurer is from the Maritimes. The
 7 national chairperson is from Newfoundland.
 8 So, very often, in the week or week and a
 9 half leading up to the holidays, those at-large
 10 members of the national executive are gone to spend
 11 time with their family. That is one of those sort
 12 of "quieter" times in the office when people can
 13 actually spend a bit more time with their family.
 14 503. Q. Okay. But, in any event, on
 15 December 20th, due to preplanned vacations, no one
 16 on the national executive was able to attend or to
 17 teleconference in to this meeting?
 18 A. Yes, that is...
 19 504. Q. Okay. Can you just turn to
 20 Exhibit I, please, of your affidavit, and the second
 21 page?
 22 A. Yes, I see that.
 23 505. Q. You see there is an e-mail from
 24 Ms. Hunt there?
 25 A. I do.

- 1 506. Q. And that the e-mail is dated
2 December 20th, 2013?
3 A. I do.
- 4 507. Q. So, you will agree that on December
5 20th, 2013, Ms. Hunt had the time to write this
6 e-mail to Mr. Evoy regarding the UTGSU petition?
7 A. She had the time to send it. She
8 had an opportunity to send it. Yes, I see that.
- 9 508. Q. So, Ms. Hunt was conducting CFS
10 business on December 20th?
11 A. It would appear she sent an e-mail
12 on December 20th, yes. But I should also note,
13 Ms. Hunt...she is from St. Maarten, is where she is
14 from. I just remembered that. And so, I know that
15 there were...I was not able to speak with her on a
16 telephone while she was away. It is not the easiest
17 method of communication, from what I understand.
- 18 509. Q. In St. Maarten?
19 A. Or her personal circumstances. I
20 don't know if it's a home phone issue, or a cell
21 phone reception issue, or what the issue is,
22 but...yes.
- 23 510. Q. So, Ms. Hunt could send e-mails from
24 St. Maarten but she couldn't make phone calls from
25 St. Maarten during her Christmas vacation?

- 1 BY MR. DEL GOBBO:
2 514. Q. So, I see that the meeting took
3 place on January 15th, if you go to paragraph 45 of
4 your affidavit.
5 A. Yes.
- 6 515. Q. And this was a meeting with CFS
7 representatives and the university and UTGSU; is
8 that right?
9 A. Yes.
- 10 516. Q. And who is Mr. Brent Farrington?
11 A. He is the internal coordinator for
12 the Canadian Federation of Students.
- 13 517. Q. So, he was a permanent employee
14 as well?
15 A. Yes.
- 16 518. Q. Did he also have preplanned
17 Christmas vacations on December 20th?
18 A. Yes. He is from Maine, and so...
- 19 519. Q. I hope the telephones weren't also
20 down in Maine.
21 A. No, I think they are more reliable,
22 but he had not been assigned this responsibility by
23 the national executive.
- 24 520. Q. But he had been assigned the
25 responsibility to attend on January 15th?

- 1 A. I can't speak to that. I can't...I
2 don't know.
- 3 511. Q. I am sorry, you said that she had
4 telephone connectivity issues. So, if she
5 didn't...and because of those issues, that she
6 couldn't attend this meeting, I would like to know
7 whether that is your evidence.
8 A. I could certainly confirm that with
9 her. But I guess my point is that I don't think
10 there is necessarily a correlation between being
11 able to fire off an e-mail and being able to sit on
12 a teleconference call with people for an hour or two
13 hours from a remote location, is my point.
- 14 512. Q. That is a legal argument that I
15 suppose we will make at trial.
16 A. Is it? Okay.
- 17 513. Q. Thank you.
18 MR. BURKE: I don't think that is a
19 legal argument.
20 THE DEPONENT: It is sort of a
21 logistical, technical...
22 MR. BURKE: If that is, then I went to
23 the wrong law school, but that is besides
24 the point.
25

- 1 A. He was asked to attend, yes, but he
2 wasn't the primary...Ms. Hunt was the primary
3 representative.
- 4 521. Q. Okay. Sorry to jump ahead, but in
5 paragraph 41 of your affidavit you state that you
6 were advised by Mr. Hashemi about the results of the
7 December 20th meeting; is that fair?
8 A. Yes.
- 9 522. Q. When did Mr. Hashemi advise you of
10 this?
11 A. I don't recall.
- 12 523. Q. Was it after this litigation
13 commenced, or was it contemporaneous with the
14 meeting?
15 A. It was around that time, but I don't
16 recall if it was immediately after or following the
17 holidays.
- 18 524. Q. Okay. So, if we could just proceed
19 to paragraph 45 once more, the meeting on January
20 15th. You were not present at this meeting?
21 A. I was not.
- 22 525. Q. So, by the date of this meeting, had
23 CFS and CFSO discussed coordinating their efforts to
24 review the UTGSU petitions?
25 A. Yes, there had been discussions,

- 1 yes.
 2 526. Q. When did those discussions first
 3 take place?
 4 A. I don't recall.
 5 527. Q. But they would have been in the fall
 6 term or...
 7 A. I don't...I have no recollection of
 8 when that happened, pre New Year or post New Year.
 9 528. Q. So, if you could turn to Exhibit K
 10 of your affidavit, this is an e-mail from Ms. Hunt
 11 to...there appear to be university representatives
 12 and CFSO representatives and Mr. Evoy of UTGSU,
 13 dated February 6th.
 14 A. I see that.
 15 529. Q. So, just looking at the first
 16 sentence it states that:
 17 "...Following your meeting on January 15th,
 18 the national executive has approved the use
 19 of an auditing firm to perform the
 20 verification of names..."
 21 Do you see that?
 22 A. I do.
 23 530. Q. When did the national executive
 24 approve the use of an auditing firm?
 25 A. I believe that the three...my

- 1 select an auditing firm as soon as CFS had made the
 2 decision to approve the use of an auditing firm?
 3 A. I don't recall when this work
 4 commenced.
 5 534. Q. Okay. So, this e-mail was sent on
 6 February 6th, 2014. Was CFS national executive
 7 concerned as of this date that they might not have
 8 enough time to engage an auditing firm and determine
 9 whether the petition was in order before March 24th,
 10 2014?
 11 A. Well, the March...just to maybe back
 12 up a step, but the March 24th date that was
 13 communicated to, I believe, Ms. Ingle and the
 14 Graduate Students' Union was done so on the
 15 condition that the petition was found to be in
 16 order. So, it wasn't an issue of, you know, the
 17 cart coming before the horse. The date that had
 18 been tentatively set wasn't driving the national
 19 executive in the way that you suggest.
 20 The national executive wanted to be
 21 efficient and work in a timely fashion, but there is
 22 no March 24th date if the petition isn't in order.
 23 So, the first priority is determining whether or not
 24 the petition is in order, and to do so as
 25 effectively and as efficiently as possible, which is

- 1 understanding is that the three at-large members of
 2 the national executive who had been authorized or
 3 delegated the responsibility for this work..."this
 4 work" being the review of the petition...made that
 5 decision after the meeting on January 15th, but I
 6 couldn't give you a date, a specific date.
 7 531. Q. But it was made informally by the
 8 three of them? The decision was made informally by
 9 the three of them? It wasn't at a meeting or that
 10 kind of thing?
 11 A. Well, as I said, this was one of
 12 the...this one was one of the options that was
 13 considered by the national executive as a whole in
 14 January, but the ultimate decision had been
 15 delegated, essentially, to these three at-large
 16 members.
 17 532. Q. Okay. If you look at the second
 18 sentence of this e-mail it states:
 19 "...In order to expedite the process, we
 20 [meaning CFS] have been working with the
 21 Canadian Federation of Students - Ontario
 22 to select an auditing firm..."
 23 A. I see that.
 24 533. Q. So, again, your answer to this might
 25 be the same, but did CFS begin working with CFSO to

- 1 what the national executive was doing.
 2 So, timing is, you know...working, you
 3 know, effectively and efficiently is always a
 4 concern, but...and the national executive is
 5 obviously aware that it had provided this tentative
 6 date of March 24th...you know, and had done so as a
 7 courtesy in recognition that the petition...CFS
 8 Ontario had set out this date, but...
 9 535. Q. Thank you. So, this process that
 10 was undertaken to select a third party firm, could
 11 you describe...I guess I can save time...you
 12 describe this process somewhat in paragraph 53 of
 13 your affidavit. You state that Ms. Hunt and
 14 representatives from CFSO interviewed potential
 15 third party verifiers?
 16 A. Yes.
 17 536. Q. How many firms did CFS interview?
 18 A. At least two.
 19 537. Q. And which firms are those?
 20 A. I don't recall...Deloitte being one
 21 of them.
 22 538. Q. Okay. Were you personally involved
 23 in this interview process?
 24 A. I was not.
 25 539. Q. Did CFS and CFSO have the same

1 criteria for selecting a third party firm?

2 A. I don't think I could speak to that,
3 in that there was a discussion that was held between
4 the individuals who conducted these interviews, and
5 I wasn't a party to that discussion.

6 540. Q. Okay.

7 A. I think there was some
8 over-arching...some broader parameters that I could
9 speak to, but...

10 541. Q. Sorry, I am confused. If I look at
11 paragraph 54, it states that:

12 "...On January 31st, Deloitte provided us
13 with a preliminary proposal that we
14 reviewed and agreed to..."

15 So, by "we" you mean you personally, or do you mean
16 other representatives of CFS?

17 A. The Canadian Federation of Students.

18 542. Q. Okay. So, you didn't personally
19 review this proposal?

20 A. I did.

21 543. Q. You did?

22 A. Yes.

23 544. Q. So, you were one of the people that
24 ultimately agreed to it?

25 A. No. I was one of the people who

1 could do this work effectively, efficiently,
2 thoroughly, you know, within three to four weeks.

3 549. Q. And the other firms that you had
4 engaged suggested the process might take longer than
5 three to four weeks?

6 A. I don't recall. I don't recall
7 those specifics, just around Deloitte.

8 550. Q. Okay. If we could turn to Exhibit P
9 to your affidavit. So, this is an e-mail from
10 Mr. Hashemi to Mr. Youssef of Deloitte.

11 A. I see that.

12 551. Q. He states in the second sentence of
13 the e-mail...this e-mail is dated February 19th,
14 2014. He states in the second sentence that:
15 "...[He has] prepared the CFSO and CFS
16 by-laws and the petitions, and will be
17 couriering them to Deloitte this
18 morning..."

19 Do you see that?

20 A. I see that.

21 552. Q. So, who at CFS delegated this
22 responsibility to Mr. Hashemi?

23 A. I believe Vanessa. And by
24 "prepared", I think it is just photocopying and
25 collating the document.

1 reviewed it and had comments on it.

2 545. Q. And then you gave input to the
3 people who had been delegated the responsibility...

4 A. Right.

5 546. Q. ...of choosing the third party firm?

6 A. Yes.

7 547. Q. Okay. So, what criteria did you
8 apply during your review of the proposal that
9 Deloitte had provided?

10 A. What criteria? That it was...that
11 it was an...that they had an understanding of the
12 work that needed to be undertaken, driven by the
13 language that is set out in the by-laws, and that it
14 could be done in an efficient, timely manner.
15 Deloitte has a good reputation, is, you know, a very
16 reputable company, and certainly seemed to have the
17 resources required to undertake this type of review,
18 had, you know, familiarity with this type of
19 procedure.

20 548. Q. Okay. So, what was it about
21 Deloitte's proposal that CFS preferred over the
22 other proposals they had received?

23 A. Deloitte...my recollection is that
24 Deloitte seemed to have the greatest capacity to
25 undertake the work within certain timelines, that it

1 553. Q. Okay. And, similarly, if you look
2 at the last paragraph where he states:

3 "...I will be preparing a brief summary of
4 the applicable by-laws that I will send
5 your way later this afternoon..."

6 Do you see that?

7 A. I do.

8 554. Q. And, similarly, was it Ms. Hunt who
9 delegated the responsibility to Mr. Hashemi to
10 prepare a brief summary of the CFS by-laws?

11 A. I can't speak to that specifically,
12 whether she did or not, if he was doing this on
13 behalf of the Canadian Federation of Students, or
14 the Canadian Federation of Students - Ontario only.

15 555. Q. Do you know if CFS assisted
16 Mr. Hashemi with preparing that summary?

17 A. Not to my knowledge.

18 556. Q. Did anyone at CFS review the summary
19 before Mr. Hashemi sent it?

20 A. Can you just...can you point me to
21 it again so I can just refresh my memory? I
22 don't...it is not in my documents.

23 557. Q. Sure.

24 A. This is going to be a lot of work
25 for me to say, "I don't think so."

- 1 558. Q. I believe it is Exhibit F to
2 Mr. Hatherell's affidavit.
3 A. Okay.
4 559. Q. And I will ask Mr. Hashemi questions
5 about this document as well, but insofar as CFS's
6 knowledge...
7 A. I don't believe so.
8 560. Q. Okay. Thank you. Paragraph 61, I
9 would just like to clarify something in the first
10 sentence.
11 A. Just give me a second.
12 561. Q. You state that:
13 "...CFS attempted to keep the referendum
14 process moving forward for the benefit of
15 all the individual CFS members of the
16 UTGSU..."
17 A. I see that.
18 562. Q. Just to be absolutely clear, that
19 all individual members of the UTGSU are also members
20 of the CFS?
21 A. Yes.
22 563. Q. And may individual UTGSU members opt
23 out of CFS membership fees?
24 A. Individual members?
25 564. Q. Individual student members of UTGSU

- 1 the CFS?
2 A. Yes.
3 570. Q. Could you describe the national
4 executive selection process of finding a suitable
5 CRO? Or rather, I will make it more specific, the
6 process that CFS undertook in the case of the fall
7 2013-2014 academic year to appoint a CRO, their
8 selection process to find a person.
9 MR. BURKE: In relation to whom?
10 571. MR. DEL GOBBO: Well, I could ask first
11 about Ms. Giroux-Bougard, and then if I
12 have subsequent questions about Mr.
13 Littley, I can ask about that process. But
14 first I will ask about...
15 MR. BURKE: You have been here a long
16 time on this, but Ms. Giroux-Bougard never
17 occupied the position, so, you know, I am
18 not sure how that sort of advances what the
19 court is going to be interested in.
20 572. MR. DEL GOBBO: Ms. Watson makes
21 statements in her affidavit...
22 MR. BURKE: She does.
23 573. MR. DEL GOBBO: ...with respect to...I
24 mean, there are several paragraphs about...
25 MR. BURKE: Just responding to...

- 1 that are members of CFS, may they opt out of paying
2 the CFS membership fees?
3 A. Separate and distinct from a vote on
4 the question of continued membership...
5 565. Q. Yes.
6 A. ...or decertification?
7 566. Q. Yes.
8 A. No.
9 567. Q. So, if I turn to paragraph 64 of
10 your affidavit, you spend the next section, until
11 paragraph 73, discussing the appointment of the
12 chief returning officer of CFS, or the CRO as I will
13 refer to them; is that fair?
14 A. That is correct.
15 568. Q. So, as I read CFS by-law 1...I won't
16 ask you to pull it up, I am just asking very
17 generally...the national executive is authorized to
18 recommend an individual to serve as CRO for any vote
19 to certify or decertify?
20 A. I am going to look. Yes.
21 "...shall recommend an individual to serve
22 as the chief returning officer..."
23 Yes.
24 569. Q. Yes. And the CRO's appointment is
25 then subject to ratification by a general meeting of

- 1 574. MR. DEL GOBBO: ...Ms. Giroux-Bougard.
2 MR. BURKE: ...because to Mr. Evoy, I
3 believe, had raised the issue...
4 THE DEPONENT: M'hmm.
5 MR. BURKE: ...in the affidavit. But,
6 you know, I am just trying to winnow this
7 down so that we can all get to what is
8 important.
9 575. MR. DEL GOBBO: Sure. There are a few
10 specific questions that are important that
11 I believe are relevant that I would like to
12 ask, unless you have an objection.
13 MR. BURKE: Depending on the question.
14
15 BY MR. DEL GOBBO:
16 576. Q. So, are there any criteria that the
17 national executive uses in order to determine
18 whether to recommend a certain individual as a CRO?
19 A. This is a very new process. I
20 should start by saying that, that it's a process
21 that is...has only just been introduced in the last
22 year or so. So...but the national executive had a
23 discussion about criteria...generally about criteria
24 it would look for in a chief returning officer.
25 And just off the top of my head, that

1 criteria included, you know, familiarity in working
2 with by-laws, preferably the Canadian Federation of
3 Students by-laws, an understanding of the importance
4 of upholding and applying those by-laws, experience
5 in overseeing or playing some sort of key role in
6 facilitating elections or referenda, an
7 understanding of the organizational structure of the
8 Canadian Federation of Students, someone who was
9 removed...who was at some...remove from the
10 organization, so had not been actively involved in
11 the organization in recent years.

12 You know, there were a number of other
13 criteria. You know, someone who was approachable,
14 could make decisions, those types of sort of...I
15 don't know if those are softer qualities, but those
16 were discussed as well.

17 577. Q. Sure. That is fair. So, you
18 mentioned as one of those criteria, I believe, some
19 familiarity with CFS by-laws, familiarity with CFS's
20 organizational structure. So, I take it then that
21 you consider an individual's history and experience
22 with CFS as one of those criteria, or a factor that
23 you would consider in deciding whether to recommend
24 someone?

25 A. A factor that was considered, yes,

1 can apply the by-laws in a fair and impartial
2 manner?

3 A. Well, the individuals that were
4 considered and recommended to the membership for
5 ratification had not necessarily been in a position
6 to administer a referendum on membership in the
7 Canadian Federation of Students, because that
8 position just simply didn't exist during their
9 period of involvement in the organization, but...so,
10 it was a more general...it was a more general
11 approach to the matter.

12 582. Q. If...

13 A. Somebody...sorry to interrupt, but,
14 you know, somebody like Katherine Giroux-Bougard,
15 her involvement in the organization had included...
16 you know, she understood the importance of upholding
17 the integrity of the by-laws and applying them in a
18 manner that was consistent and was...was consistent.

19 583. Q. Okay. So, my understanding is that
20 Ms. Giroux-Bougard was...she served as the national
21 chairperson of CFS from May 2009 to May 2010...

22 A. She did.

23 584. Q. ...is that correct? And will you
24 agree that, while she was engaged in that capacity,
25 she was involved in campaigns by individual members

1 but not exclusively.

2 578. Q. And would you agree with me that an
3 important criteria for a CRO under the by-laws is
4 that they be impartial and unbiased vis-à-vis CFS
5 and its members?

6 A. Well, the CFS is its members.

7 579. Q. I am sorry, the CFS and local
8 association members, or individual student members.

9 A. I am not sure I totally...just in
10 terms of how I conceptualize the Federation and its
11 structure that I can necessarily speak to the second
12 part of that, but impartial, yes.

13 580. Q. Okay. If the national executive had
14 an apprehension that a person, if they were
15 appointed as a CRO, would make decisions in a manner
16 that was partial, you would not recommend...would
17 you agree the national executive would not recommend
18 appointing that person very likely?

19 A. The...I can't...I don't know that I
20 can speculate, but the ability to apply...to
21 understand and apply the by-laws in a fair,
22 impartial manner was a criteria. I don't know if
23 that answers the question, but...

24 581. Q. Sure. So, what does the national
25 executive look at to determine that an individual

1 of student unions to decertify from CFS?

2 A. She was involved in votes, yes, in
3 campaigns around votes on membership, yes.

4 585. Q. And specifically, though, are you
5 aware that she made public statements on behalf of
6 CFS in those campaigns against the effort to
7 decertify from CFS?

8 A. I am aware. At the time, that was
9 her role to play. She had been elected by the
10 members to represent the Canadian Federation of
11 Students. So, it was specific to her role at that
12 time.

13 586. Q. But you would take the position that
14 those statements were in the past; they were, I
15 believe, 2009, 2010, and that that should not impact
16 CFS's determination of whether she could exercise
17 her responsibilities as CRO impartially or
18 partially?

19 A. Nothing that...well, Katherine was,
20 as national chairperson, as I said, and a member of
21 the board of directors was very, very much aware of
22 the importance of upholding the by-laws and ensuring
23 that they were applied consistently. And that is an
24 issue that, you know, as national chairperson, she
25 was very much alive to.

1 She was very much sensitive to the fact
 2 that the by-laws had been developed democratically
 3 by the member local unions of the Canadian
 4 Federation of Students, and as such had to be
 5 upheld. So, that is something the national
 6 executive considered, her familiarity. There is
 7 nothing that Katherine had done since her time as
 8 national chairperson...she had been completely
 9 disengaged from the Canadian Federation of Students
 10 after her term finished, and was actually out of the
 11 country, had been out of the country for a period of
 12 time.

13 There is nothing that she had done that
 14 would suggest that she would not be capable of
 15 applying the by-laws in a fair and consistent
 16 manner.

17 587. Q. So, it is fair to say that
 18 sufficient time had passed, from 2010 in her role...
 19 to the fall of 2013 when this process began,
 20 nothing...you know, her lack of statements or her
 21 not having done anything in that time was sufficient
 22 to satisfy CFS that she could be an impartial
 23 appointee?

24 A. Well, there are other factors as
 25 well, her familiarity with the by-laws, her

1 making this recommendation, felt that she could
 2 conduct herself in an impartial manner, and
 3 administer a referendum in a fair manner consistent
 4 with the by-laws.

5 590. Q. Okay.

6 A. The national executive's
 7 recommendation is a recommendation. It was ratified
 8 by the member local unions at a general meeting.
 9 They were aware of Katherine's prior involvement.

10 591. Q. Thank you. Could I ask you to turn
 11 to Exhibit U, please, to your affidavit?

12 A. Yes.

13 592. Q. Is this an e-mail...

14 MR. BURKE: Mr. Del Gobbo, I apologize
 15 for interrupting but I am going to have to
 16 go for my 4:30 meeting. Off the record.

1 understanding of how important it was to uphold the
 2 by-laws, but she had not been...she had been at some
 3 distance from the organization, so was not at all
 4 familiar with the current landscape. She was
 5 not...when she was chairperson, in the position of
 6 chief returning officer, if I am recalling the
 7 timelines correctly, it didn't exist.

8 So, it was a combination of things. She is
 9 a person of, you know, great integrity, she is
 10 incredibly fair. People knew that from having had
 11 dealings with her. Nothing in her term as national
 12 chairperson or since that time would indicate
 13 otherwise.

14 588. Q. Okay. But just so that I am clear,
 15 specifically nothing during her term or since her
 16 term had suggested to you that she would enact her
 17 responsibilities as CRO in an impartial manner?

18 A. Sorry, that was a double-negative.

19 589. Q. So, CFS national executive, in
 20 recommending the appointment of Ms. Giroux-Bougard,
 21 had no reason to question her impartiality, given
 22 her conduct in the years since her...or rather,
 23 during her term as national chairperson and the
 24 years following?

25 A. Yes. The national executive, in

INDEX OF EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	PAGE NUMBER
3	Affidavit of Lucy Watson, sworn May 17, 2014	21
4	Affidavit of Bradley Evoy	24

