Court File No. CV-15-11238-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF the *Business Corporations Act*, R.S.O. 1990, c. B. 16, as amended, Section 182

AND IN THE MATTER OF Rule 14.05(2) of the *Rules of Civil Procedure*

AND IN THE MATTER OF a proposed arrangement involving Mid-Bowline Group Crop., its shareholders and optionholders, Shaw Communications Inc., and 1503357 Alberta Ltd.

RESPONDING MOTION RECORD OF THE RESPONDENT, THE CATALYST CAPITAL GROUP INC.

January 25, 2016

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AFFIDAVIT OF JAMES A. RILEY

I, James A. Riley, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am the Chief Operating Officer of The Catalyst Capital Group Inc. ("Catalyst"), a Respondent in this proceeding, and, as such, have knowledge of the matters contained in this affidavit. To the extent my knowledge is based on information and belief, I identify the source of such information and believe the information to be true.

2. I swear this affidavit in response to the efforts by Mid-Bowline Group Corp. ("Mid-Bowline") to seek approval of a plan of arrangement (the "Plan") pursuant to which Shaw Communications Inc. ("Shaw") will acquire all of the outstanding shares of Mid-Bowline (the "Transaction").

3. Catalyst is currently pursuing an action against West Face Capital Inc. ("West Face"), an indirect shareholder of Mid-Bowline, in relation to the manner in which a consortium of investors

led by West Face was able to acquire Wind Mobile Corp. ("Wind") in 2014 (the "Action"). A copy of Catalyst's Amended Amended Statement of Claim is attached hereto as Exhibit "A".

4. In the Action, Catalyst seeks, among other things, a constructive trust over all property, including securities and other financial instruments, acquired by West Face, its officers, directors, employees, agents or any persons acting under its direction or on its behalf, as a result of the misuse by West Face of Catalyst's confidential information. In addition or in the alternative, Catalyst seeks an accounting of all profits earned by West Face, its officers, directors, employees, agents or any persons acting under its direction or on its behalf, as a result of the misuse of Catalyst's confidential information.

5. The relief set out above was added to the Action following the unusual circumstances in Summer 2014 pursuant to which the consortium led by West Face (the "West Face Group") was able to successfully negotiate the purchase of Wind. The West Face Group's success was based on what has been described as an "unsolicited" offer to purchase Wind that was delivered to VimpelCom Ltd. ("VimpelCom"), Wind's parent company, during a period when VimpelCom and Catalyst were engaged in confidential negotiations under a contractual exclusive negotiation period.

6. Prior to the commencement of Mid-Bowline's application to approve the Plan, there had been no steps taken to being documentary or oral discoveries by any of the parties to the Action. No affidavits of documents had been exchanged, nor had the parties even agreed on the scope of documentary or oral discovery.

7. Amongst other things, the parties were waiting for the outcome of Catalyst's efforts to appeal an order of Justice Glustein dismissing a motion brought by Catalyst to authorize an

Independent Supervising Solicitor ("ISS") to review forensic images of electronic devices belonging to West Face.

8. Catalyst was formally served with Mid-Bowline's Notice of Application on December 31, 2015. The Plan as originally filed was intended to complete the Transaction such that:

(a) Shaw would acquire Mid-Bowline's shares free and clear of any claims of third parties; and

(b) all actions, causes of action, claims or proceedings (actual or contingent and whether or not previously asserted) based on or in any way relating to Mid-Bowline's shares would be deemed to be settled, compromised, released and determined without liability.

9. On January 4, 2016, the next business day after the Notice of Application was served on Lax O'Sullivan Lisus Gottlieb LLP ("LOLG"), Catalyst's counsel, LOLG, counsel from Davies Ward Phillips and Vineberg LLP ("Davies"), Mid-Bowline's and West Face's outside counsel, and counsel from Dentons Canada LLP ("Dentons"), Shaw's outside counsel, attended a 9:30 appointment at the Commercial List to discuss, among other things, a schedule for the hearing of application to approve the Plan.

10. I understand from Mr. DiPucchio that after the 9:30 appointment concluded, Matthew Milne-Smith, a lawyer at Davies, described for Catalyst's counsel the evidence that the applicant intended to adduce in support of the application. It was only following that conversation that Mr. DiPucchio fully appreciated that Mid-Bowline intended the Plan approval application to finally determine the merits of Catalyst's claim against West Face.

11. By letter dated January 6, 2016, from Mr. DiPucchio to Davies and Dentons, Catalyst expressed its concerns about the Plan. Attached hereto as Exhibit "B" is a copy of Mr. DiPucchio's January 6, 2016 letter to counsel for Mid-Bowline/West Face and Shaw.

12. In the January 6, 2016 letter, Catalyst made a with prejudice offer to withdraw its opposition to the Plan if West Face agreed to hold its share of the proceeds from the Transaction in escrow. By email dated January 6, 2016, Mr. Milne-Smith communicated West Face's and Mid-Bowline's rejection of Catalyst's offer. Attached hereto as Exhibit "C" is a copy of Mr. Milne-Smith's January 6, 2016 email to Mr. DiPucchio.

13. Catalyst scheduled a second appointment at the Commercial List to bring those concerns to the attention of the Court. That second appointment was heard on January 11, 2016. I understand from Mr. DiPucchio that at this second 9:30 appointment, Catalyst expressed its concerns regarding the process by which Mid-Bowline was seeking to have the Court determine Catalyst's claim in the Action through the Plan hearing, and in particular drew the Court's attention to the fact that there was still a potential appeal outstanding with respect to an ISS.

14. It is my understanding from a discussion with Mr. DiPucchio following the 9:30 appointment held on January 11, 2016 that the Court agreed that it would be unfair for the Plan hearing to determine the merits of the Action. The Court made arrangements with the Divisional Court to expedite Catalyst's motion for leave to appeal Justice Glustein's dismissal of Catalyst's ISS motion. Attached hereto as Exhibit "D" is a copy of an email dated January 11, 2016, from Mr. Justice Newbould to counsel for Catalyst, West Face/Mid-Bowline and Shaw confirming that the motion for leave to appeal would be heard on January 19, 2016.

15. It is my understanding from Mr. DiPucchio that the Plan hearing would not be decided on its merits as originally scheduled on January 25, 2016 pending a discussion amongst the parties as to the terms by which the Plan might be amended so that West Face's proceeds from the Transaction could be held in escrow pending an expedited trial of Catalyst's claim.

16. Mid-Bowline's application record was served on January 11, 2016. Following the outcome of the January 11, 2016 appointment, Catalyst did not file any responding evidence or a factum as it was waiting for the outcome of the motion before the Divisional Court and a further appointment with the Court to determine the basis upon which the Plan hearing was going to proceed in order to understand what position it might need to take in response the application and what evidence, if any, was required in response.

17. The motion for leave to appeal was not heard on January 19, as originally scheduled, but on January 21, 2016. The motion was dismissed with reasons delivered on January 22, 2016, one business day before the originally scheduled return date for the hearing of Mid-Bowline's application.

18. In the afternoon of January 22, 2016, counsel for West Face sent an email to Mr. DiPucchio proposing a potential amendment to the language of section 4.5 of the Plan. An amended Plan was served on counsel for Catalyst only this morning, and is attached as Exhibit "E". I have not even had an opportunity to consider the amended Plan language or what position Catalyst might take in response to the now amended Plan.

19. Counsel for West Face also served a Notice of Motion for a trial of an issue prior to the 9:30 appointment this morning. The Notice of Motion is attached hereto as Exhibit "F".

20. Catalyst has always intended to oppose the compromise of its claim via a Plan, particularly in circumstances that do not fully protect its right to trace the proceeds of the Transaction as may be appropriate. In lieu of a claim for a constructive trust and an order holding the West Face proceeds of the Transaction in escrow, Catalyst intends to seek as relief in the Action an order tracing all of the proceeds of the sale. This would involve amendments to the existing claim that would, at first glance, be precluded by the proposed Plan.

21. Catalyst also believes it deserves the opportunity to have its claim heard and determined through a process that is fair and reasonable. That includes, at minimum, the opportunity for proper documentary discovery, examinations and the ability to amend the claim to take into account information learned for the first time through the materials filed on this application.

SWORN BEFORE ME at the City of Toronto, in the on January 25, 2016

Commissioner for Taking Affidavits
(or as may be)

LAUREN P.S. EPSTEIN

JAMES A. RILEY

TAB A

This is Exhibit "A" referred to in the Affidavit of James A. Riley sworn January 25, 2016

Commissioner for Taking Affidavits (or as may be)

LAUREN P.S. EPSTEIN

Court File No. CV-14-507120

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

THE CATALYST CAPITAL GROUP INC.

Plaintiff

and

BRANDON MOYSE and WEST FACE CAPITAL INC.

Defendants

<u>AMENDED</u> <u>AMENDED</u> STATEMENT OF CLAIM

TO THE DEFENDANT(S):

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The Claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and $1,000.00 for costs, within the time for serving and filing your Statement of Defence, you may move to have this proceeding dismissed

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by the Court. If you believe the amount claimed for costs is excessive, you may pay the Plaintiff's Claim and $400.00 for costs and have the costs assessed by the Court.

Date June 25/14 ~~June 25, 2014~~ ~~October 9, 2014~~ ~~December 16, 2014~~ Issued by N. Mohammad

Local Registrar

Address of court office: 393 University Avenue
10th Floor
Toronto, Ontario
M5G 1E6

TO: Brandon Moyse
23 Brant Street, Apt. 509
Toronto ON M5V2L5

AND TO: West Face Capital Inc.
2 Bloor Street East, Suite 3000
Toronto, ON M4W 1A8

CLAIM

1. The Plaintiff claims:

(a) An interim, interlocutory and/or permanent injunction restraining the defendant Brandon Moyse ("Moyse"), his agents or any persons acting on his direction or on his behalf, and the defendant West Face Capital Inc. ("West Face"), its officers, directors, employees, agents or any persons acting under its direction or on its behalf, and any other persons affected by the Order granted, from:

(i) Soliciting or attempting to solicit equity or other forms of capital for any partnership, investment fund, pooled fund or other form of investment vehicle managed, advised or sponsored by Catalyst or the Catalyst Fund Limited Partnership IV (the "Fund") as at June 25, 2014, until June 25, 2015;

(ii) Interfering with the Plaintiff's relationships with its employees which, without limiting the generality of the foregoing, shall include any attempt to induce employees of the Plaintiff to leave their employment with the Plaintiff; and

(iii) Using or disclosing the Plaintiff's confidential and proprietary information (including, without limitation, (i) the identity or contact information of existing or prospective investors in the Fund and any such future partnership or fund, (ii) the structure of the Fund, (iii) marketing strategies for securities or investments in the capital of or owned by the Fund (iv)

investment strategies, (v) value realization strategies, (vi) negotiating positions, (vii) the portfolio of investments, (viii) prospective acquisitions to any such portfolio, (ix) prospective dispositions from any such portfolio, and (x) personal information about Catalyst and employees of Catalyst (collectively, the "Confidential Information") in any way, including in relation to any present- and future-related business;

(b) An order requiring the defendants to immediately return to Catalyst (or its counsel) all Confidential Information in their possession or control;

(c) An order prohibiting any of the defendants from, in any way, deleting, modifying or in any way interfering with any of their electronic equipment, including computers, servers and mobile devices, until further Order of this Honourable Court;

(d) An interim, interlocutory and permanent injunction prohibiting the defendant Brandon Moyse ("Moyse") from commencing or continuing employment at the defendant West Face Capital Inc. ("West Face") until December 25, 2014;

(d.1) An interim, interlocutory and permanent injunction prohibiting West Face from voting its interest in Data and Audio Visual Enterprises Wireless Inc. in any proposed transaction involving Wind Mobile;

(d.2) General damages as against West Face in an amount to be particularized prior to trial;

(d.3) A constructive trust over all property, including, but not limited to, securities, security interests, debts and other financial instruments, acquired by West Face, its officers, directors, employees, agents or any persons acting under its direction or on its behalf, as a result of its misuse of the Confidential Information;

(d.4) In addition or in the alternative to the relief sought in paragraph 1(d.3), an accounting of all profits earned by West Face, its officers, directors, employees, agents, any persons acting under its direction or on its behalf, as a result of its misuse of the Confidential Information;

(e) Punitive damages in the amount of $300,000, as against West Face, and $50,000, as against Moyse;

(f) Postjudgment interest in accordance with section 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;

(g) The plaintiff's costs of this action on a substantial indemnity basis, plus the applicable H.S.T.; and

(h) Such further and other relief as to this Honourable Court may seem just.

The Plaintiff – The Catalyst Capital Group Inc. ("Catalyst")

2. Catalyst is a corporation with its head office located in Toronto, Ontario. Catalyst is widely recognized as the leading firm in the field of investments in distressed and undervalued Canadian situations for control or influence, known as "special situations investments for control".

3. Catalyst uses a "flat" entrepreneurial staffing model whereby its analysts are given substantial training, autonomy and responsibility at a relatively early stage in their career as compared to its competitors in the special situations investments for control industry.

4. Moreover, Catalyst uses a unique compensation scheme to compensate its employees – in addition to their base salary and annual bonus, employees participate in a "60/40 Scheme" whereby the "carried interest" of each Fund is allocated sixty per cent to the deal team and forty per cent to Catalyst. The carried interest refers to the twenty per cent profit participation Catalyst may enjoy, subject to certain conditions.

5. Points in each deal that forms part of the sixty per cent are allocated on a deal-by-deal basis. At all material times, Catalyst employed only two investment analysts, and the deal teams on which Moyse participated involved only three or four Catalyst professionals. The 60/40 Scheme granted Catalyst's employees a partner-like interest in the success of the company.

The Defendants

6. West Face is a Toronto-based private equity corporation with assets under management of approximately $2.5 billion. In December 2013, West Face formed a credit fund for the purpose of competing directly with Catalyst in the special situations investments for control industry.

7. Moyse is a resident of Toronto. Pursuant to an employment agreement dated October 1, 2012 (the "Employment Agreement"), Moyse was hired as an investment analyst by Catalyst effective November 1, 2012. Moyse had substantial autonomy and responsibility at Catalyst. He was primarily responsible for analysing new investment opportunities of distressed and/or under-valued situations where Catalyst could invest for control or influence.

The Special Situation Investment Market in Canada

8. The Canadian market for special situations investing is very competitive. A small number of Canadian firms seek opportunities to invest in situations where a corporation is distressed or undervalued, or face events that can have a significant effect on the company's operations, such as proxy battles, takeovers, executive changes and board shake-ups.

9. In these special situations, an investment firm's strategic plans and investment models are crucial to successfully executing an investment plan. Confidentiality is paramount: if a competitor has access to a firm's plans and modelling for a particular special situation, the competitor can "scoop" the opportunity, or it can take an adverse investment position which make the firm's plans either too costly to execute or, depending on the timing of the adverse action, can cause the plan to incur significant losses after it is past the point of no return.

10. Depending on how advanced a firm is in executing its investment strategy, a competitor's adverse position can have disastrous, immeasurable effects on the firm's goodwill and/or will cause a firm to incur large financial losses that are difficult to accurately quantify given the unpredictable range of possible outcomes for a given investment.

11. Within the special situations investment industry, "investment for control or influence" is a sub-industry with unique characteristics. "Investment for control or influence" refers to acquiring controlling or influential equity or debt positions in distressed companies in order to add value through operational involvement in an investment target by, among other things:

(a) Appointing a representative as interim CEO and other senior management;

(b) Replacing or augmenting management;

(c) Providing strategic direction and industry contacts;

(d) Establishing and executing turnaround plans;

(e) Managing costs through a rigorous working capital approval process; and

(f) Identifying potential add-on acquisitions.

12. The "investment for control or influence" sub-industry within the distressed investment industry has unique needs, including the need to ensure that employees are unable to resign and begin working for a competitor for a reasonable period of time in order to ensure that the competitor is unable to take advantage of the former employee's knowledge of the firm's strategic plans and models.

13. In the special situations for control industry, information is critical. The ability to collect and analyze information and to prepare confidential plans for complex investment opportunities is the difference between a plan's success or failure. For this reason, it is commonplace for firms specializing in the special situations for control or influence industry to require its employees to agree to a non-competition covenant prior to commencing employment. Likewise, when a competitor hires directly from a firm within the industry, it is commonplace for the competitor to respect the other firm's non-competition covenant by not directly employing a lateral hire in the same market as they worked for the competitor during the term of the non-competition covenant.

The Employment Agreement

14. Under the Employment Agreement, Moyse was paid an initial salary of $90,000 and an annual bonus of $80,000. Moyse was also granted options on equity in Catalyst and participated

in the 60/40 Scheme. Moyse's equity compensation (options and the 60/40 Scheme) was equal to or exceeded his base salary and annual bonus.

15. The Employment Agreement also included the following non-competition, non-solicitation and confidential information covenants (together, the "Restrictive Covenants"):

> Non-Competition
>
> You agree that while you are employed by the Employer and for a period of six months thereafter, if you leave of your own volition or are dismissed for cause and three months under any other circumstances, you shall not, directly or indirectly within Ontario:
>
> (i) engage in or become a party with an economic interest in any business or undertaking of the type conducted by [Catalyst] or the Fund or any direct Associate of [Catalyst] within Canada, as the term Associate is defined in the *Ontario Business Corporations Act* (collectively the "protected entities"), or attempt to solicit any opportunities of the type for which the protected entities or any of them had a reasonable likelihood of completing an offering while you were under [Catalyst]'s employ; and
>
> (ii) render any services of the type outlined in subparagraph (i) above, unless such services are rendered as an employee of or consultant to [Catalyst];
>
> Non-Solicitation
>
> You agree that while you are employed by the Employer and for a period of one year after your employment ends, regardless of the reason, you shall not, directly or indirectly:
>
> (i) hire or attempt to hire or assist anyone else to hire employees of any of the protected entities who were so employed as at the date you cease to be an employee of [Catalyst] or persons who were so employed during the 12 months prior to your ceasing to be an employee of [Catalyst] or induce or attempt to induce any such employees of any of the protected entities to leave their employment; or
>
> (ii) solicit equity or other forms of capital for any partnership, investment fund, pooled fund or other form of investment vehicle managed, advised and/or sponsored by any of the protected entities as at the date you ceased to be an employee of [Catalyst] or during

the 12 months prior to your ceasing to be an employee of [Catalyst].

Confidential Information

You understand that, in your capacity as an equity holder and employee, you will acquire information about certain matters and things which are confidential to the protected entities, including, without limitation, (i) the identity of existing or prospective investors in the Fund and any such future partnership or fund, (ii) the structure of same, (iii) marketing strategies for securities or investments in the capital of or owned by the Fund or any such partnership of or any such partnership or fund, (iv) investment strategies, (v) value realization strategies, (vi) negotiating positions, (vii) the portfolio of investments, (viii) prospective acquisitions to any such portfolio, (ix) prospective dispositions from any such portfolio, and (x) personal information about [Catalyst] and employees of [Catalyst] and the like (collectively "Confidential Information"). Further, you understand that each of the protected entities' Confidential Information has been developed over a long period of time and at great expense to each of the protected entities. You agree that all Confidential Information is the exclusive property of each of the protected entities. For greater clarity, common knowledge or information that is in the public domain does not constitute "Confidential Information".

You also agree that you shall not, at any time during the term of your employment with us or thereafter reveal, divulge or make known to any person, other than to [Catalyst] and our duly authorized employees or representatives or use for your own or any other's benefit, any Confidential Information, which during or as a result of your employment with us, has become known to you.

After your employment has ended, and for the following one year, you will not take advantage of, derive a benefit or otherwise profit from any opportunities belonging to the Fund to invest in particular' businesses, such opportunities that you become aware of by reason of your employment with [Catalyst].

16. Moyse agreed that the Restrictive Covenants were reasonable and necessary and reflected a mutual desire of Moyse and Catalyst that the Restrictive Covenants would be upheld in their entirety and be given full force and effect. In addition, Moyse acknowledged that if he breached the terms of the Restrictive Covenants, it would cause Catalyst irreparable harm and that Catalyst

would be entitled to injunctive relief to prevent him from continuing to breach the Restrictive Covenants.

17. Under the Employment Agreement, Moyse was required to give Catalyst a minimum of thirty days' written notice of his intention to terminate his employment.

18. Moyse executed the Employment Agreement on October 3, 2012. In so doing, he acknowledged that he reviewed, understood and accepted the terms of the Employment Agreement, and that he had an adequate opportunity to seek and receive independent legal advice prior to executing the Employment Agreement.

Moyse Breaches the Employment Agreement

19. On May 26, 2014, Moyse informed Catalyst of his intention to resign from Catalyst and to begin working for West Face.

20. Through its counsel, Catalyst communicated its intention to enforce the Restrictive Covenants. Through their counsel, the Defendants responded by communicating their intention to breach the Restrictive Covenants, in particular the non-competition covenant.

21. Moreover, on our about June 18, 2014, Moyse's counsel communicated Moyse's intention to commence employment at West Face on June 23, 2014, prior to the expiry of the thirty-day notice period provided for in the Employment Agreement.

22. Catalyst continued to pay Moyse his salary until June 20, 2014, when it became clear to Catalyst that Moyse intended to breach the Employment Agreement.

The Misappropriation and Conversion of Catalyst's Confidential Information

23. As part of his deal screening/analysis responsibilities, Moyse performed valuations of companies using methodologies that are proprietary and unique to Catalyst in order to identify new investment opportunities for Catalyst.

24. Moyse received the Confidential Information in his capacity as an analyst at Catalyst, as acknowledged in the Employment Agreement.

25. In breach of his duty of confidence, Moyse forwarded the Confidential Information from his work email address – which is controlled by Catalyst – to his personal email address and to his personal Internet file storage accounts – which he alone controls – without Catalyst's knowledge or approval. The Confidential Information Moyse forwarded to his personal control includes information concerning projects Moyse was working on immediately prior to his resignation from Catalyst, including, but not limited to:

(a) Catalyst Weekly Reports – this document contains a summary of all existing investments and contemplated investment opportunities;

(b) Quarterly letters reporting on results of Catalyst's activities;

(c) Internal research reports;

(d) Internal presentations and supporting spreadsheets; and

(e) Internal discussions regarding the operations of companies in which Catalyst has made investments.

26. There was no legitimate business reason for Moyse to deal with the Confidential Information in this manner.

27. Moyse has wrongfully and unlawfully taken Catalyst's Confidential Information to advance his own business interests, and the interests of West Face, to the detriment of Catalyst. The Confidential Information was imparted to Moyse in confidence during the course of his employment with Catalyst and the unauthorized use of such information by the Defendants constitutes a breach of confidence.

West Face Induced Moyse to Breach the Employment Agreement

28. West Face and Moyse engaged in prolonged discussions regarding Moyse's resignation from Catalyst and immediate employment at West Face thereafter. During the course of these discussions, the parties discussed Moyse's contractual obligations to Catalyst.

29. Prior to Moyse's resignation from Catalyst, West Face was aware of the terms of the Employment Agreement and Moyse's duties and obligations to Catalyst, including the Restrictive Covenants. Nevertheless, West Face unlawfully induced Moyse to breach the Employment Agreement with, and his obligations owed to, Catalyst, including, but not limited to the Restrictive Covenants.

30. Moyse and West Face knew that Catalyst intended to promote Moyse to the position of "associate" in 2014. But for West Face's inducement to Moyse to resign from Catalyst and commence employment at West Face before the end of the six-month non-competition period, Moyse would still be employed at, and would continue to honour his contractual obligations to, Catalyst.

Catalyst Will Suffer Irreparable Harm

31. Catalyst will suffer irreparable harm as a result of West Face's unlawful inducement of Moyse to breach the Employment Agreement. In particular, without limiting the generality of the foregoing, Catalyst risks losing its strategic advantage with respect to distress for control investments it has been planning for several months of which Moyse, in his role as analyst at Catalyst, is aware.

32. If Moyse is permitted to commence employment at West Face, a direct competitor to Catalyst, before the expiry of the six-month non-competition period, West Face will gain an unfair advantage in the small distressed investing for control industry by learning about investment opportunities Catalyst was studying and Catalyst's plans for taking advantage of those opportunities.

33. These opportunities and strategies are unique to Catalyst and are crucial to its success – if those plans are compromised, Catalyst will suffer a loss that cannot be measured in mere damages. The damage will include damage to Catalyst's reputation as a leading distress for control investor and to its ability to solicit additional investments in its funds.

34. Moreover, by using the Confidential Information for their personal benefit and to Catalyst's detriment, Moyse and West Face will cause Catalyst to incur large financial losses that are difficult to accurately quantify given the unpredictable range of possible outcomes for a given investment.

West Face Misused Catalyst's Confidential Information Concerning the Wind Opportunity

34.1 One of the special situations that Catalyst was studying before Moyse terminated his employment with Catalyst concerned Wind Mobile ("Wind"), a Canadian wireless

telecommunications company. Moyse was a member of Catalyst's investment team studying the Wind opportunity and was privy to Catalyst's Confidential Information concerning its plans concerning Wind opportunity, which included a potential acquisition of Wind.

34.2 In June 2014, Catalyst brought a motion for interim and interlocutory relief seeking, among other things, the return of any and all Confidential Information from West Face and Moyse. In particular, Catalyst was concerned about the potential communication of its Confidential Information relating to the Wind opportunity.

34.3 Catalyst's motion for interim relief was heard on July 16, 2014 and settled on consent.

34.4 Catalyst's motion for interlocutory relief was scheduled to be heard on August 7, 2014 but was adjourned to October 10, 2014. As a result, the motion for interim relief has not yet been determined.

34.5 On or about September 16, 2014, West Face publicly announced that it was leading a consortium of investors to purchase Wind. This was the very outcome Catalyst was concerned about when it learned that Moyse, a participant on Catalyst's Wind team, was joining West Face.

34.6 West Face wrongfully used Catalyst's Confidential Information, which it solicited and obtained from Moyse, to obtain an unfair advantage over Catalyst in its negotiations with Wind. But for the transmission of Confidential Information concerning Wind from Moyse to West Face, West Face would not have successfully negotiated a purchase of Wind.

34.7 As a result of West Face's misuse of Catalyst's Confidential Information, Catalyst has suffered damages, particulars of which will be provided prior to trial.

Through Moyse, West Face has Catalyst's Confidential Information Concerning Mobilicity

34.8 On September 29, 2013, Data & Audio-Visual Enterprises Holdings Inc. ("Holdings") and its wholly owned subsidiaries, Data & Audio-Visual Enterprises Wireless Inc. ("Wireless") and 8440522 Canada Inc. (collectively with Wireless and Holdings, the "Applicants" or "Mobilicity") filed an application for an Initial Order under the *Companies' Creditors Arrangement Act* (Canada) ("CCAA") in order to restructure their business and affairs or complete a sale of their business and assets.

34.9 Catalyst owns over $60 million in First Lien Notes issued by Wireless pursuant to a First Lien Indenture dated April 20, 2011 (the "First Lien Notes").

34.10 West Face owns approximately $3 million in First Lien Notes.

34.11 For several months, both before and after Mobilicity applied for CCAA protection, Catalyst studied Mobilicity as a special situation. Moyse was a member of Catalyst's investment team in the Mobilicity situation. In that respect, Moyse was privy to Catalyst's confidential information concerning its analysis of the Mobilicity situation.

34.12 West Face has wrongfully used Catalyst's Confidential Information concerning the Mobilicity opportunity to obtain an unfair advantage over Catalyst with respect to that opportunity. If West Face is able to vote its interest in Mobilicity with the benefit of its wrongful possession of Catalyst's Confidential Information, Catalyst will suffer irreparable harm.

Unjust Enrichment

34.13 As a result of the foregoing, West Face has been enriched by its wrongful conduct. It has managed to acquire property, including, but not limited to, securities, secured debt and other

financial instruments, that it would not have been able to acquire but for its misuse of Catalyst's Confidential Information.

34.14 Catalyst suffered a deprivation that corresponds to West Face's enrichment. But for West Face's conduct, Catalyst would have acquired the property that West Face acquired through its misuse of Catalyst's Confidential Information.

34.15 There is no juristic reason for West Face's enrichment and it would be unjust for West Face to retain the property it acquired through its wrongful conduct. Catalyst is entitled to a constructive trust over all property acquired by West Face to remedy West Face's unjust enrichment resulting from its misuse of Catalyst's Confidential Information.

34.16 In addition or in the alternative, if a constructive trust is unavailable because West Face has sold the property it wrongfully acquired or for any other reason, Catalyst is entitled to an accounting of all profits earned by West Face as a result of its misuse of Catalyst's Confidential Information and payment of those profits to Catalyst.

Punitive Damages

35. Catalyst claims that the Defendants' egregious actions, as pleaded above, were so high-handed, wilful, wanton, reckless, contemptuous and contumelious of Catalyst's rights and interests so as to entitle ~~Execaire~~ Catalyst to a substantial award of punitive, aggravated and exemplary damages.

36. Accordingly, the Defendants are liable, on a joint and several basis, to the Plaintiff for punitive damages as described in subparagraph 1(e) above.

37. Catalyst proposes that this action be tried at Toronto.

25

~~June 25, 2014~~
October 9, 2014

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Counsel
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Lawyers for the Plaintiff

THE CATALYST CAPITAL GROUP INC.
Plaintiff

-and-

BRANDON MOYSE and WEST FACE CAPITAL INC.
Defendants

Court File No. CV-14-507120

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT
TORONTO

STATEMENT OF CLAIM

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Lawyers for the Plaintiff

TAB B

This is Exhibit "B" referred to in the Affidavit of James A. Riley sworn January 25, 2016

Commissioner for Taking Affidavits (or as may be)

LAUREN P.S. EPSTEIN

Rocco DiPucchio
Direct (416) 598-2268 rdipucchio@counsel-toronto.com
File No. 13552

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Lax O'Sullivan Lisus Gottlieb

January 6, 2016

BY EMAIL

WITH PREJUDICE

Matthew Milne-Smith/Andrew Carlson
Davies Ward Phillips & Vineberg LLP
Suite 400, 155 Wellington Street West
Toronto ON
M5V 3J7

Michael Schafler
Dentons
Suite 400, 77 King Street West
Toronto-Dominion Centre
Toronto Ontario M5K 0A1

Dear Counsel:

Re: Re. Mid-Bowline Group Corp.
Court File No. CV-15-11238-00CL

We write to express our concern at the manner in which your clients are attempting to mis-use the Plan of Arrangement process under the OBCA to determine and release our client's claim against West Face Capital for a constructive trust over West Face's interest in Mid-Bowline Group.

Initially, from our review of the Notice of Application you delivered last week, we understood that the purpose of hearing before Justice Newbould was to determine whether the Court has the jurisdiction to approve a Plan of Arrangement that seeks to release Catalyst's claim.

In light of our discussion on January 4 concerning the evidence Mid-Bowline expects to adduce at the hearing, we now understand that what is intended is a form of mini-trial of our client's claim for breach of confidence in the *Catalyst v. Moyse and West Face* action, notwithstanding the fact that Mid-Bowline and Shaw are not parties to that action, that the Commercial List has no authority to partially determine an action on the regular list and that the action is currently the subject of ongoing procedural motions, including our client's pursuit of the appeal against Justice Glustein's dismissal of the motion to authorize an ISS to review West Face's devices. This is to say nothing of the fact that the parties have not even begun the documentary and oral discovery phase in that proceeding.

It is now apparent to us that the only reason why Mid-Bowline and Shaw are proceeding with this transaction by way of a Plan of Arrangement is to seek to compromise and release Catalyst's claim against West Face. Your clients seek to use

the Plan of Arrangement provisions solely in an attempt to hijack the ongoing proceedings between Catalyst and West Face/Moyse, and in so doing deprive Catalyst of its procedural and discovery rights in pursuing that action.

We do not believe that the Court has the jurisdiction to grant the relief requested pursuant to the provisions of the OBCA. If you are aware of any case in Canada where a Plan of Arrangement has been used in this fashion, we invite you to share it with us at your earliest convenience. We also do not believe the Court has the jurisdiction to hear and determine the "trial" of our client's claim that Mid-Bowline has presently scheduled for the week of January 25, 2016 under the guise of its notice of application to approve the proposed Plan of Arrangement.

To be clear, Catalyst is not interested in holding up a sale of the shares of Wind to Shaw. To that end, it proposes the following compromise to resolve the situation so that the transaction can proceed in a manner that addresses the concerns of Shaw and Mid-Bowline, and removes the need for the four day hearing scheduled to commence in less than three weeks:

- West Face will agree to place the proceeds of the sale of Wind that it receives into escrow pending a final determination of Catalyst's claim;

- Catalyst will agree to amend its statement of claim to remove the claim for a constructive trust over West Face's shares in Wind and to restrict its claim to a tracing of the proceeds of the sale of Wind;

- Following this amendment, the Plan of Arrangement can proceed without objection from Catalyst;

- Catalyst and West Face will agree to the appointment of an ISS to review the electronic devices of an agreed upon set of custodians at West Face, pursuant to a document review protocol to be agreed upon or settled by the Court; and

- Catalyst and West Face will agree on an expedited discovery and trial schedule following receipt of the ISS report, with a goal of completing a trial of Catalyst's tracing claim by July 30, 2016.

We believe this proposed solution represents a fair compromise which protects Catalyst's rights in its existing action, while also acknowledging your client's and Shaw's alleged interest in proceeding with the sale transaction without delay. Under our proposed resolution, there is no need for the Plan of Arrangement to affect Catalyst's claim because Shaw will take the Wind shares free and clear of any ownership claim by Catalyst.

In light of the expedited schedule that West Face has imposed, we intend to bring our concerns and proposed solution to the attention of Justice Newbould at a 9:30 appointment at the earliest opportunity, and to raise the fairness and jurisdiction issues

as threshold matters that must be determined by the Court before it can consider what we now understand to be the true nature of your client's application.

May I please hear from you without delay so that we can, if necessary, schedule a 9:30 appointment with Justice Newbould this week or early next week?

Yours truly,

Rocco DiPucchio

RDP/AJW

TAB C

This is Exhibit "C" referred to in the Affidavit of James A. Riley sworn January 25, 2016

Commissioner for Taking Affidavits (or as may be)

LAUREN P.S. EPSTEIN

32

Lauren Epstein

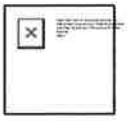
From: Milne-Smith, Matthew <MMilne-Smith@dwpv.com>
Sent: January-06-16 1:26 PM
To: Lynn Rowley; Carlson, Andrew; 'michael.schafler@dentons.com'
Cc: Rocco DiPucchio; Andrew Winton; Lauren Epstein
Subject: RE: Mid-Bowline Group Corp.

Rocco,

Your proposed offer is unacceptable to West Face, and therefore to the shareholders of Mid-Bowline. I do not agree that we were anything but explicit in our intentions before Justice Newbould, but am available for a 9:30 appointment today, tomorrow, Monday or Tuesday.

Yours very truly,

Matt



Matthew Milne-Smith | Bio

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mmilne-smith@dwpv.com

DAVIES WARD PHILLIPS & VINEBERG LLP

From: Lynn Rowley [mailto:lrowley@counsel-toronto.com]
Sent: January 6, 2016 12:56 PM
To: Milne-Smith, Matthew; Carlson, Andrew; 'michael.schafler@dentons.com'
Cc: Rocco DiPucchio; Andrew Winton; Lauren Epstein
Subject: Mid-Bowline Group Corp.

Please see the attached letter sent on behalf of Rocco DiPucchio.

Lynn Rowley
Assistant to Shaun F. Laubman
and Lauren P.S. Epstein
Direct: (416) 598-8051
lrowley@counsel-toronto.com

Lax O'Sullivan Lisus Gottlieb LLP
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TAB D

This is Exhibit "D" referred to in the Affidavit of James A. Riley sworn January 25, 2016

Commissioner for Taking Affidavits (or as may be)

LAUREN P.S. EPSTEIN

35

Andrew Winton

From: Newbould, Mr. Justice Frank (SCJ) <Frank.Newbould@scj-csj.ca>
Sent: January-11-16 12:23 PM
To: Milne-Smith, Matthew
Cc: Thomson, Kent; Carlson, Andrew; Rocco DiPucchio; Andrew Winton; Schafler, Michael (michael.schafler@dentons.com); Basmadjian, Ara (ara.basmadjian@dentons.com)
Subject: RE: Re. Mid-Bowline Group Corp., Court File No. CV-15-11238-00CL

The motion for an extension of time to file the leave application and the leave application will be dealt with together with two hours scheduled for Tuesday January 19. You are to all get your material in quickly. Please have that done by Friday at the latest.

From: Milne-Smith, Matthew [mailto:MMilne-Smith@dwpv.com]
Sent: January-10-16 9:16 PM
To: Newbould, Mr. Justice Frank (SCJ)
Cc: Thomson, Kent; Carlson, Andrew; Rocco DiPucchio (rdipucchio@counsel-toronto.com); Andrew Winton (awinton@counsel-toronto.com); Schafler, Michael (michael.schafler@dentons.com); Basmadjian, Ara (ara.basmadjian@dentons.com)
Subject: Re. Mid-Bowline Group Corp., Court File No. CV-15-11238-00CL

Dear Mr. Justice Newbould,

I apologize for the intrusion, and for the hour of this email. Attached is a very brief response to the Memorandum of Catalyst Capital Group Inc. in respect of tomorrow morning's 9:30 appointment.

Yours very truly,

Matthew Milne-Smith

cc. Kent Thomson, Andrew Carlson, *Davies Ward Phillips & Vineberg LLP*, Counsel to the Applicants
Michael Schafler, Ara Basmadjian, *Dentons LLP*, Counsel to Shaw Communications Inc.
Rocco Di Pucchio, Andrew Winton, *Lax O'Sullivan Lisus Gottlieb LLP*, Counsel to Catalyst Capital Group Inc.

Matthew Milne-Smith | Bio

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DAVIES WARD PHILLIPS & VINEBERG LLP

TAB E

This is Exhibit "E" referred to in the Affidavit of James A. Riley sworn January 25, 2016

Commissioner for Taking Affidavits (or as may be)

LAUREN P.S. EPSTEIN

Exhibit D

Plan of Arrangement

FORM OF PLAN OF ARRANGEMENT UNDER SECTION 182 OF THE BUSINESS CORPORATIONS ACT (ONTARIO)

ARTICLE 1
INTERPRETATION

1.1 Definitions.

In this Plan of Arrangement, the following words and terms shall have the meanings hereinafter set forth:

"**Arrangement**" means the arrangement of the Corporation under section 182 of the OBCA on the terms and subject to the conditions set out in this Plan of Arrangement, subject to any amendments or variations thereto made in accordance with the Arrangement Agreement and Section 5.1 hereof or made at the discretion of the Court in the Final Order (with the consent of the Corporation, the Vendors' Representatives and Purchaser, each acting reasonably).

"**Arrangement Agreement**" means the Arrangement Agreement dated effective December 16, 2015 among Guarantor, Purchaser, the Corporation and the Vendors providing for, among other things, the Arrangement, as amended by amending agreement dated January 25, 2016, and as the same may be further amended, supplemented and/or restated from time to time.

"**Arrangement Resolution**" means a special resolution of Shareholders in the form of Exhibit A to the Arrangement Agreement.

"**Articles of Arrangement**" means the articles of arrangement of the Corporation in respect of the Arrangement that are required by the OBCA to be sent to the Director after the Final Order is made, which shall be in form and substance satisfactory to the Corporation, the Vendors' Representatives and Purchaser, each acting reasonably.

"**business day**" means a day, other than a Saturday or Sunday, on which commercial banks in Toronto, Ontario and Calgary, Alberta are open for business.

"**Cash Consideration**" means an amount per Purchased Share equal to the Purchase Price.

"**Certificate**" means the certificate of arrangement giving effect to the Arrangement, issued pursuant to subsection 183(2) of the OBCA after the Articles of Arrangement have been filed.

"**Corporation**" means Mid-Bowline Group Corp., a corporation existing under the OBCA.

"**Court**" means the Superior Court of Justice (Commercial List) in Toronto, Ontario.

"**Director**" means the Director appointed pursuant to section 278 of the OBCA.

"**Director Shares**" means any Purchased Shares registered in the name of a director or former director of the Corporation as at December 16, 2015 and as at the Effective Time.

"**Effective Date**" means the date of the Certificate.

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"**Effective Time**" means 12:01 a.m. (Toronto time) on the Effective Date, or such other time as the Corporation, the Vendors' Representatives and Purchaser may agree to in writing before the Effective Date.

"**Election Deadline**" means 5:00 p.m. (Toronto time) on the business day which is five business days preceding the Effective Date.

"**Election Form**" means the election form delivered to and specified for use by holders of Eligible Option Shares and/or Director Shares, as applicable, in connection with the Arrangement.

"**Eligible Option Shares**" means Purchased Shares acquired pursuant to the exercise of Replacement Options that were issued in exchange for Management Options and Former Management Options.

"**Exchange Ratio**" means, subject to adjustment (if any) as provided in Section 3.5, the ratio of the Purchase Price to the Market Price.

"**Final Order**" means the order of the Court, in form and substance satisfactory to the Corporation, the Vendors' Representatives and Purchaser, each acting reasonably, approving the Arrangement, as such order may be amended by the Court (with the consent of the Corporation, the Vendors' Representatives and Purchaser, each acting reasonably) at any time prior to the Effective Date or, if appealed, then unless such appeal is withdrawn or denied, as affirmed or as amended (provided that any such amendment is satisfactory to the Corporation, the Vendors' Representatives and Purchaser, each acting reasonably) on appeal.

"**Former Shareholders**" means, at and following the Effective Time, the holders of Purchased Shares immediately prior to the Effective Time.

"**Former Management Options**" means the option commitments to acquire an aggregate of 300,000 shares in the capital of the Corporation at a price of $1.00 per share held by the Former Officers.

"**Former Officers**" means each of Simon Lockie and Brice Scheschuk, being the former Chief Regulatory Officer and Chief Financial Officer, respectively, of WIND Mobile Corp.

"**Globalive Options**" means the options to acquire an aggregate of 10,000,000 shares in the capital of the Corporation at a price of $1.00 per share held by Globalive Turbine Corp. 1.

"**Guarantor**" means Shaw Communications Inc., a corporation existing under the laws of the Province of Alberta.

"**Guarantor Shares**" means the Class B Non-Voting Participating Shares in the capital of Guarantor.

"**Letter of Transmittal**" means the letter of transmittal delivered to and specified for use by Shareholders in connection with the Arrangement in form and substance satisfactory to the Purchaser and the Vendors' Representatives, each acting reasonably; provided, however, that no Letter of Transmittal shall be required in respect of Purchased Shares issued pursuant to subsection 3.1(c).

"**Management Options**" means the options to acquire shares in the capital of the Corporation pursuant to the Option Plan as set out in Schedule B to the Disclosure Letter.

"**Market Price**" means a per share amount equal to the volume weighted average trading price of the Guarantor Shares on the TSX during the last 10 trading days occurring immediately prior to the Effective Date.

"**OBCA**" means the *Business Corporations Act* (Ontario).

"**Option Loan**" means the non-interest bearing loan made by the Purchaser to Globalive Turbine Corp. 1 in connection with the exercise or deemed exercise of the Globalive Options in accordance with this Plan of Arrangement, in an amount equal to the aggregate exercise price in respect of such Options as of the Effective Date.

"**Option Plan**" means the 2015 Stock Option Plan of the Corporation as adopted by the Board of Directors of the Corporation on September 24, 2015, effective as of March 23, 2015, and ratified on December 16, 2015, in the form provided to Purchaser.

"**Options**" means, collectively, the Management Options, the Globalive Options and the Former Management Options.

"**Plan of Arrangement**", "**hereof**", "**herein**", "**hereto**" and like references mean and refer to this plan of arrangement, as the same may be amended, supplemented and/or restated from time to time.

"**Purchase Price**" has the meaning set forth in the Arrangement Agreement, as such amount may be adjusted in accordance with the terms thereof.

"**Purchased Shares**" means the issued and outstanding shares in the capital of the Corporation as of the Effective Time, including any shares issued on the exercise or deemed exercise of Options in accordance with the Arrangement Agreement and this Plan of Arrangement.

"**Purchaser**" means 1503357 Alberta Ltd., a corporation existing under the laws of the Province of Alberta.

"**Replacement Option**" means an option to purchase shares in the capital of the Corporation granted in replacement of a Management Option or Former Management Option on the basis set forth in subsection 3.1(b);

"**Shareholders**" means the holders of Purchased Shares.

"**Share Consideration**" means a number (or fraction) of Guarantor Shares equal to the Exchange Ratio per Purchased Share.

"**Tax Act**" means the *Income Tax Act* (Canada).

"**TSX**" means the Toronto Stock Exchange.

"**Unvested Options**" means all Management Options and Former Management Options that are not Vested Options.

"**Vendors**" means each of the Persons listed on the execution page of the Arrangement Agreement under the heading "Vendors" and each holder of Purchased Shares who becomes a party to the Arrangement Agreement by executing (or being deemed to execute) a Joinder Agreement.

"**Vested Options**" means the Management Options and Former Management Options that have vested prior to the Effective Date in accordance with the terms of the Arrangement Agreement.

Words and phrases used herein that are defined in the Arrangement Agreement and not defined herein shall have the same meaning herein as in the Arrangement Agreement. Words and phrases used herein that are defined in the OBCA and not defined herein or in the Arrangement Agreement shall have the same meaning herein as in the OBCA, unless the context otherwise requires.

1.2 Interpretation Not Affected By Headings, etc.

The division of this Plan of Arrangement into Articles, Sections and subsections and the insertion of headings are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Plan of Arrangement.

1.3 Article References

Unless the contrary intention appears, references in this Plan of Arrangement to an Article, Section or subsection by number or letter or both refer to the Article, Section or subsection respectively, bearing that designation in this Plan of Arrangement.

1.4 Number and Gender

In this Plan of Arrangement, unless the contrary intention appears, words importing the singular include the plural and vice versa, and words importing gender shall include all genders.

1.5 Date for Any Action

If the date on which any action is required to be taken hereunder by any of the parties is not a business day in the place where the action is required to be taken, such action shall be required to be taken on the next succeeding day which is a business day in such place.

1.6 Statutory References

Unless otherwise indicated, references in this Plan of Arrangement to any statute includes all regulations made pursuant to such statute and the provisions of any statute or regulation which amends, supplements or supersedes any such statute or regulation.

1.7 Currency

Unless otherwise stated, all references in this Agreement to sums of money are expressed in lawful money of Canada.

ARTICLE 2
ARRANGEMENT AGREEMENT

2.1 Arrangement Agreement

This Plan of Arrangement is made pursuant to, and is subject to the provisions of, the Arrangement Agreement. This Plan of Arrangement shall become effective at, and be binding at and after, the Effective Time on the Corporation, Guarantor, Purchaser, the Vendors and all Persons who were immediately prior to the Effective Time holders or beneficial owners of Purchased Shares or Options.

ARTICLE 3
ARRANGEMENT

3.1 Arrangement

Commencing at the Effective Time, the following events or transactions shall occur and shall be deemed to occur in the following sequence without any further act or formality:

(a) Purchaser will make the Option Loan to Globalive Turbine Corp. 1 and Globalive Turbine Corp. 1 will direct the Purchaser to pay the proceeds of the Option Loan to the

Corporation in satisfaction of the exercise price of the Globalive Options in accordance with Section 3.1(c);

(b) each Vested Option outstanding at the Effective Time will be exchanged for a Replacement Option to acquire such number of Purchased Shares that is equal to the fraction obtained when the difference, if positive, between the Purchase Price and the exercise price of such Option is divided by the Purchase Price; provided, however, that if the difference between the Purchase Price and the exercise price of any such Option produces a negative amount, then such Option shall be terminated and of no further force and effect. All terms and conditions of a Replacement Option shall be the same as the Option for which it was exchanged, except that each Replacement Option shall be exercisable pursuant hereto at a price of $0.00001 per Purchased Share; notwithstanding the foregoing, if it is determined in good faith that the excess of the aggregate fair market value of the shares of the Corporation subject to a Replacement Option immediately after the issuance of the Replacement Option over the aggregate option exercise price for such shares pursuant to the Replacement Option (such excess referred to as the "**In the Money Amount of the Replacement Option**") would otherwise exceed the excess of the aggregate fair market value of the shares of the Corporation subject to such Vested Option immediately before the issuance of the Replacement Option over the aggregate option exercise price for such shares pursuant to the Vested Option, (such excess referred to as the "**In the Money Amount of the Vested Option**"), the previous provisions shall be modified so that the In the Money Amount of the Replacement Option does not exceed the In the Money Amount of the Vested Option, but only to the extent necessary to qualify for the provisions of subsection 7(1.4) of the Tax Act.

(c) each holder of Replacement Options will be deemed to have exercised all such Replacement Options and Globalive Turbine Corp. 1 will be deemed to have exercised the Globalive Options and (i) holders of Replacement Options will pay the exercise price in respect thereof to the Corporation in cash, (ii) the Purchaser will pay the aggregate amount loaned to Globalive Turbine Corp. 1 in Section 3.1(a) above to the Corporation in satisfaction of the exercise price thereof and each holder of Replacement Options and Globalive Turbine Corp. 1 shall be deemed to have received the number of Purchased Shares issuable in respect of each Replacement Option or Globalive Option, as applicable, exercised in accordance with this Section 3.1(c) and (iii) each holder of Options who becomes a holder of Purchased Shares pursuant to this Section 3.1(c) shall be deemed to have executed a Joinder Agreement to the Arrangement Agreement and shall be considered a Vendor thereunder;

(d) (i) each outstanding Purchased Share (other than Eligible Option Shares and Director Shares) shall be transferred by the holder thereof to Purchaser in exchange for the Cash Consideration therefor, provided that Globalive Turbine Corp. 1 will be deemed to have directed Purchaser to retain an amount equal to the amount loaned by Purchaser to it to acquire Purchased Shares on exercise of the Globalive Options pursuant to Section 3.1(a) in repayment of the Option Loan, (ii) the name of such holder shall be removed from the register of holders of Purchased Shares in respect of the Purchased Shares so transferred and (iii) Purchaser shall be recorded as the registered holder of such Purchased Shares so transferred and shall be deemed to be the legal and beneficial owner thereof, free and clear of any Encumbrances;

(e) (i) each outstanding Eligible Option Share and Director Share shall be disposed of by the holder thereof to Purchaser in accordance with the election or deemed election of such holder pursuant to Section 3.2 in exchange for the Cash Consideration or the Share Consideration therefor, (ii) the name of such holder shall be removed from the register of holders of Purchased Shares in respect of the Eligible Option Shares and/or Director Shares, as applicable, so transferred and (iii) the name of such holder shall be added to the register of holders of Guarantor Shares in respect of the Share Consideration

received by such holder, and Purchaser shall be recorded as the registered holder of such Eligible Option Shares and Director Shares so exchanged and shall be deemed to be the legal and beneficial owner thereof, free and clear of any Encumbrances; notwithstanding the foregoing, if it is determined in good faith that the aggregate fair market value of the Guarantor Shares immediately after the issuance of the Guarantor Shares would otherwise exceed the fair market value of the Purchased Share exchanged for such Guarantor Shares immediately before the issuance of the Guarantor Shares, the previous provisions shall be modified so that the aggregate fair market value of such Guarantor Shares does not exceed the fair market value of the Purchased Share exchanged for such Guarantor Shares, but only to the extent necessary to qualify for the provisions of subsection 7(1.5) of the Tax Act, if applicable; and

(f) the Option Plan and all Unvested Options shall be terminated and shall be of no further force or effect.

3.2 Election Regarding Eligible Option Shares and Director Shares

With respect to the exchange of Eligible Option Shares and Director Shares effected pursuant to subsection 3.1(e):

(a) each holder of Eligible Option Shares and/or Director Shares, as applicable, may elect to receive either:

(i) Cash Consideration in respect of all Eligible Option Shares and/or Director Shares, as applicable, held by such holder (with a requirement in the Election Form for any holder of Eligible Option Shares other than a Former Officer to undertake to apply at least 50% of the net after tax proceeds from ~~such~~the Cash Consideration in respect of such Eligible Option Shares to acquire Guarantor Shares in the market through a broker designated by Guarantor);

(ii) Cash Consideration in respect of up to 50% of the Eligible Option Shares and/or Director Shares, as applicable, held by such holder and Share Consideration in respect of the remaining Eligible Option Shares and/or Director Shares, as applicable, held by such holder; or

(iii) Share Consideration in respect of all Eligible Option Shares and/or Director Shares, as applicable, held by such holder;

(b) the election provided for in subsection 3.2(a) shall be made by each holder of Eligible Option Shares and/or Director Shares, as applicable, by delivery to Purchaser, prior to the Election Deadline, of a duly completed Election Form indicating such holder's election; ~~and~~

(c) any holder of Eligible Option Shares who does not deliver to Purchaser a duly completed Election Form prior to the Election Deadline shall be deemed to have elected to receive the Share Consideration pursuant to clause (iii) of subsection 3.2(a) in respect of such Eligible Option Shares~~.~~; and

(d) any holder of Director Shares who does not deliver to Purchaser a duly completed Election Form prior to the Election Deadline shall be deemed to have elected to receive the Cash Consideration pursuant to clause (i) of subsection 3.2(a) in respect of such Director Shares.

3.3 Letters of Transmittal and Election Forms

Any Letter of Transmittal and Election Form, once delivered to Purchaser, shall be irrevocable and may not be withdrawn by a Shareholder.

3.4 No Fractional Guarantor Shares and Rounding of Cash Consideration

(a) In no event shall any fractional Guarantor Shares be issued under this Plan of Arrangement. Where the aggregate number of Guarantor Shares to be issued to a Shareholder as consideration under this Plan of Arrangement would result in a fraction of a Guarantor Share being issuable, the number of Guarantor Shares to be issued to such Shareholder shall be rounded down to the closest whole number and no additional consideration shall be provided to such Shareholder in lieu of the issuance of a fractional Guarantor Share.

(b) If the aggregate cash amount which a Shareholder is entitled to receive under this Plan of Arrangement would otherwise include a fraction of $0.01, then the aggregate cash amount to which such Shareholder shall be entitled to receive shall be rounded down to the nearest whole $0.01.

3.5 Adjustments to Exchange Ratio

The Exchange Ratio shall be adjusted to reflect fully the effect of any stock split, stock dividend (including any dividend or distribution of securities convertible into Guarantor Shares or Purchased Shares, other than stock dividends paid in lieu of ordinary course dividends), consolidation, reorganization, amalgamation, arrangement, recapitalization or other like change with respect to Guarantor Shares or Purchased Shares occurring after the date of the Arrangement Agreement (and not in breach of the terms of the Arrangement Agreement) and prior to the Effective Time.

ARTICLE 4
DELIVERY OF CONSIDERATION

4.1 Delivery of Share Consideration and Cash Consideration

(a) At the Effective Time, upon confirmation by Purchaser that certificates representing all of the Purchased Shares (other than any certificates in respect of Purchased Shares issued pursuant to Section 3.1(c)) have been delivered to the Purchaser together with duly completed Letters of Transmittal in respect thereof, the Purchaser shall (i) pay, or cause to be paid to Davies Ward Phillips & Vineberg LLP, in trust for and on behalf of the Vendors, in cash by way of wire or electronic transfer of immediately available funds to such bank account specified in writing by the Vendors' Representatives (or such other means as may be agreed to by Purchaser and the Vendors' Representatives) an amount equal to the aggregate Cash Consideration payable pursuant to Article 3 less the amount of the Option Loan and (ii) deliver or caused to be delivered to the applicable Vendors certificates (or, at Purchaser's option, evidence of direct registration) representing the number of Guarantor Shares that each Vendor is entitled to receive under the Arrangement.

(b) Subject to Article 10 of the Arrangement Agreement, the Vendors' Representatives shall cause Davies Ward Phillips & Vineberg LLP to release to each Vendor such portion of the aggregate Cash Consideration to which such holder is entitled pursuant to Article 3. For the avoidance of doubt, Globalive Turbine Corp. 1's entitlement to the aggregate Cash Consideration shall be calculated net of the amount of the Option Loan made to Globalive Turbine Corp. 1 in accordance with Section 3.1(a).

4.2 Lost Certificates

In the event any certificate which immediately prior to the Effective Time represented one or more outstanding Purchased Shares that were exchanged pursuant to subsections 3.1(d) or 3.1(e) shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the Person claiming such certificate to be lost, stolen or destroyed, Purchaser will deliver in exchange for such lost, stolen or destroyed certificate, the cash amount or the Guarantor Shares, or any combination thereof, that such Person is entitled to receive pursuant to subsection 3.1(d) or 3.1(e). When authorizing the delivery of such consideration in exchange for any lost, stolen or destroyed certificate, the Person to whom the consideration is being delivered shall, as a condition precedent to the delivery of such consideration, give a bond satisfactory to Guarantor and Purchaser in such sum as Guarantor and Purchaser may direct, or otherwise indemnify Guarantor and Purchaser in a manner satisfactory to Guarantor and Purchaser against any claim that may be made against Guarantor or Purchaser with respect to the certificate alleged to have been lost, stolen or destroyed.

4.3 Withholding Rights

Guarantor and Purchaser shall deduct and withhold from any consideration otherwise payable to any holder of Eligible Option Shares or Director Shares such amounts as Guarantor or Purchaser are required to deduct and withhold with respect to such payment under the Tax Act, the United States *Internal Revenue Code* of 1986 or any provision of provincial, state, local or foreign tax law, in each case as amended. To the extent that amounts are so withheld, such withheld amounts shall be treated for all purposes hereof as having been paid to the holder of the Eligible Option Shares or Director Shares, as applicable, in respect of which such deduction and withholding was made, provided that such withheld amounts are actually remitted to the appropriate taxing authority. The determination of whether an amount is required to be deducted or withheld shall be at the sole discretion of Guarantor and Purchaser.

4.4 No Liens

Any exchange or transfer of securities pursuant to this Plan of Arrangement shall be free and clear of any Encumbrances, adverse claims or other claims of third parties of any kind.

4.5 Paramountcy

From and after the Effective Time: (i) this Plan of Arrangement shall take precedence and priority over any and all Purchased Shares or Options issued prior to the Effective Time; (ii) the rights and obligations of the Former Shareholders and the former holders of Options shall be solely as provided for in this Plan of Arrangement; and (iii) all actions, causes of action, claims or proceedings (actual or contingent and whether or not previously asserted) based on or in any way relating to any Purchased Shares or Options shall be deemed to have been settled, compromised, released and determined without liability except as set forth herein~~.~~; provided, however, that nothing in this section 4.5 shall be construed to extinguish the right of The Catalyst Capital Group Inc. to continue to assert its claims against West Face Capital Inc. in Ontario Superior Court of Justice Court File No.: CV-14-507120 (provided that the potential liability of West Face Capital Inc. is limited to the net profit of West Face Capital Inc. in respect of this Arrangement), with the exception of any constructive trust or equivalent remedy which shall be deemed to have been settled, compromised, released and determined without liability, along with all other claims in this section 4.5.

ARTICLE 5
AMENDMENTS

5.1 Amendments to Plan of Arrangement

(a) The Corporation, the Vendors' Representatives and Purchaser may amend, modify and/or supplement this Plan of Arrangement at any time and from time to time prior to the

Effective Time, provided that each such amendment, modification and/or supplement must: (i) be set out in writing; (ii) be approved by the Corporation, the Vendors' Representatives and Purchaser; and (iii) be filed with the Court.

(b) Any amendment, modification or supplement to this Plan of Arrangement that is directed by the Court shall be effective only if: (i) it is consented to in writing by each of the Corporation, the Vendors' Representatives and Purchaser (in each case, acting reasonably); and (ii) if required by the Court, it is consented to by Shareholders, voting in the manner directed by the Court.

(c) Any amendment, modification or supplement to this Plan of Arrangement may be made following the Effective Date unilaterally by Purchaser, provided that it concerns a matter that is solely of an administrative nature required to better give effect to the administrative implementation of this Plan of Arrangement and is not adverse to the interests of any Former Shareholder or former holders of Options.

ARTICLE 6
FURTHER ASSURANCES

6.1 Further Assurances

Notwithstanding that the transactions and events set out herein shall occur and shall be deemed to occur in the order set out in this Plan of Arrangement without any further act or formality, each of the Parties to the Arrangement Agreement shall make, do and execute, or cause to be made, done and executed, all such further acts, deeds, agreements, transfers, assurances, instruments or documents as may reasonably be required by either of them in order to further document or evidence any of the transactions or events set out herein.

Document comparison by Workshare Compare on January 24, 2016 10:53:28 PM

Input:	
Document 1 ID	file://\\dwpv.com\dfs\RProfiles\Toronto\UserData\kgreensp\Desktop\Chinook Plan of Arrangement.DOCX
Description	Chinook Plan of Arrangement
Document 2 ID	PowerDocs://TOR_DOCUMENTS/3299309/4
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Format change	
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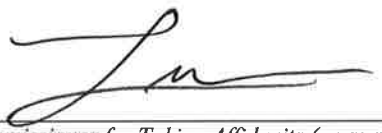
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	27
Deletions	6
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	33

TAB F

This is Exhibit "F" referred to in the Affidavit of James A. Riley sworn January 25, 2016



Commissioner for Taking Affidavits (or as may be)

LAUREN P.S. EPSTEIN

Commercial List File No.:
Superior Court File No.: CV-14-507120

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

B E T W E E N :

THE CATALYST CAPITAL GROUP INC.

Plaintiff /Responding Party

- and -

BRANDON MOYSE and WEST FACE CAPITAL INC.

Defendants/Moving Party

NOTICE OF MOTION
(Motion for Trial of an Issue)

The Plaintiffs will make a motion to the Honourable Mr. Justice Newbould, on January 25, 2016, at 330 University Avenue, Toronto, ON.

PROPOSED METHOD OF HEARING: The motion is to be heard:

- [ ] in writing under subrule 37.12.1(1) because it is on consent or unopposed or made without notice;
- [ ] in writing as an opposed motion under subrule 37.12.1(4);
- [x] orally.

THE MOTION IS FOR:

1. To the extent necessary, an Order directing the trial of an issue in this action concerning Catalyst's claims pertaining to the acquisition or sale West Face

Capital Inc. of an indirect interest in WIND Mobile Inc. (the "**WIND Claim**"), to be heard by Mr. Justice Newbould of the Commercial List on an expedited basis on a date to be fixed by Mr. Justice Newbould.

2. That the trial of an issue referred to in paragraph 1 be heard by Mr. Justice Newbould prior to, at the same time as or following the Plan of Arrangement approval hearing in Commercial List Court File No. CV-11238-00CL (the "**Arrangement Application**");

3. To the extent necessary, an Order prior to or at the same time as the trial of an issue dismissing Catalyst's claim for a constructive trust in respect of the WIND Claim and confining Catalyst's claim to an accounting of the net profits received by West Face in respect of the WIND Claim;

4. An Order permitting this motion to be heard on an expedited basis; and

5. Such further and other relief as counsel may request and this Court may deem just.

The Grounds for the Motion Are:

6. Mid-Bowline Group Corp. is the indirect owner of all of the outstanding shares of WIND Mobile Corp. West Face Capital Inc is one of the four principal owners of Mid-Bowline.

7. The shareholders of Mid-Bowline have entered into an Arrangement Agreement providing for the sale to an affiliate of Shaw Communications Inc. of Mid-Bowline and its indirect interest in WIND Mobile.

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8. Pursuant to the Arrangement Agreement, Mid-Bowline has commenced the Arrangement Application. The Arrangement Agreement has been unanimously approved by the shareholders and Directors of WIND.

9. The arrangement of Mid-Bowline was necessary because of Catalyst's claim for a constructive trust in relation to its WIND Claim in this action. Shaw requires free and clear title to the shares of WIND.

10. Catalyst has neither asserted a claim over the shares of WIND not owned by West Face, nor asserted any claim for damages in respect of its WIND Claim beyond West Face's net profits in respect of its investment in WIND.

11. To the extent that it is necessary to resolve Catalyst's claim for a constructive trust over the shares of WIND controlled by West Face, Catalyst's claim in that regard must be decided before or at the same time as the hearing of the Arrangement Application.

12. The issues raised by Catalyst's claim for a constructive trust are the same issues at stake in the Arrangement Application. There is no challenge or objection to the Arrangement Application other than by Catalyst.

THE FOLLOWING EVIDENCE WILL BE RELIED UPON at the hearing of the motion

13. The pleadings and proceedings herein;

14. Various affidavits filed by the Applicant in respect of the Arrangement Application; and

15. Such further and other evidence as counsel may advise and this Honourable Court may permit.

January 25, 2016

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West Face Capital Inc.

THE CATALYST CAPITAL GROUP INC (Plaintiff)	and	BRANDON MOYSE et al. (Defendants)	Commercial List File No.: Court File No.: CV-14-507120

ONTARIO
SUPERIOR COURT OF JUSTICE
(Divisional Court)

Proceeding commenced at Toronto

NOTICE OF MOTION
(Motion For Trial of An Issue)

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MID-BOWLINE GROUP CORP.
Applicant

-and-

THE CATALYST CAPITAL GROUP INC. et al.
Respondents

Court File No. CV-15-11238-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

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The Catalyst Capital Group Inc.

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IN THE MATTER OF the Business Corporations Act, R.S.O. 1990, c. B.16, as amended, Section 182
AND IN THE MATTER OF Rule 14.05(2) of the Rules of Civil Procedure
AND IN THE MATTER OF a proposed arrangement involving Mid-Bowline Group Corp., its shareholders and optionholders, Shaw Communications Inc., and 1503357 Alberta Ltd.

Court File No. CV-15-11238-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

RESPONDING MOTION RECORD OF THE RESPONDENT, THE CATALYST CAPITAL GROUP INC.

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