

In the Matter Of:
The Catalyst Capital Group Inc. v.
Brandon Moyse, et al.

VOL 1
June 06, 2016

neesons

141 Adelaide Street West | 11th Floor
Toronto, Ontario M5H 3L5
1.888.525.6666 | 416.413.7755

Court File No. CV-14-507120

ONTARIO

SUPERIOR COURT OF JUSTICE

B E T W E E N:

THE CATALYST CAPITAL GROUP INC.

Plaintiff

- and -

BRANDON MOYSE and WEST FACE CAPITAL INC.

Defendants

--- This is Day 1/Volume 1 of the transcript of
proceedings in the above matter held at the
Superior Court of Ontario, Courtroom 8-1, 330
University Avenue, Toronto, Ontario, on the 6th day
of June, 2016, commencing at 9:00 a.m.

B E F O R E: The Honourable Justice F. Newbould

1 REPORTED BY: Kimberley A. Neeson

2 RPR, CRR, CSR, CCP, CBC

3 Realtime Systems Administrator

4
5 A P P E A R A N C E S :

6
7 Rocco DiPucchio, Esq.,

8 & Andrew Winton, Esq.,

9 & Brad Vermeersch, Esq. for the Plaintiff.

10
11 Robert A. Centa, Esq.,

12 & Kris Borg-Olivier, Esq.,

13 & Denise Cooney, Esq. for the Defendant,

14 Brandon Moyse

15 Kent Thomson, Esq.,

16 & Matthew Milne-Smith, Esq.,

17 & Andrew Carlson, Esq., for the Defendant,

18 West Face Capital Inc.

19
20 Also Present:

21 Tanya Barbiero (Law Clerk, Davies)

I N D E X

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PAGE

Opening Statement by Mr. DiPucchio.....	4
Opening Statement by Mr. Thomson.....	48
Opening Statement by Mr. Centa.....	111
WITNESS:	
GABRIEL DE ALBA	
Examination In-Chief by Mr. DiPucchio....	133
Cross-Examination by Mr. Centa.....	170
Cross-Examination by Mr. Milne-Smith....	236

1 -- Upon commencing at 9:00 a.m.

2 THE COURT: If I look buggy, it's
3 because I was at the eye doctor at eight o'clock
4 this morning and got drops. My pupils are still
5 coming down to earth. Thank you.

6 MR. DIPUCCHIO: Good morning, Your
7 Honour. How are you?

8 Your Honour, I'll take you through a
9 relatively brief opening statement. Obviously you
10 know that in this trial the court is going to be
11 asked to determine whether certain highly
12 confidential information belonging to The Catalyst
13 Capital Group was shared by Brandon Moyse, a former
14 employee, with his prospective and eventual
15 employer, West Face Capital.

16 The confidential information was
17 obtained by Moyse through the course of his
18 employment with Catalyst, and Catalyst alleges that
19 West Face was the recipient of and misused the
20 confidential information that it received in order
21 to become the successful bidder ultimately for
22 VimpelCom's stake in Wind Mobile.

23 At the end of the day, as a result of
24 the alleged misuse of the highly confidential
25 information, West Face earned a profit of \$500

1 million at Catalyst's expense and Catalyst is
2 obviously asking at the conclusion of the trial
3 that that profit be disgorged by West Face and paid
4 to Catalyst.

5 The case and the evidence that you're
6 going to be hearing over the next week and a half
7 deals with two intersecting narratives really. The
8 first narrative is Catalyst's and West Face's
9 pursuit of the acquisition of Wind from a company
10 called VimpelCom, as you know, and you'll hear
11 evidence that both Catalyst and West Face were
12 pursuing that opportunity throughout 2014 and it's
13 really the 2014 timeframe that's relevant here.

14 Meanwhile, as that was happening, the
15 intersecting narrative that you're going to hear
16 about relates to Brandon Moyse's work on behalf of
17 Catalyst as part of what was called the
18 telecommunications deal team at Catalyst and the
19 work that Mr. Moyse specifically did in relation to
20 Wind on behalf of Catalyst at a very critical time
21 in early 2014, and then his contemporaneous efforts
22 while he was doing that work on behalf of Catalyst
23 to find a new job and to land a position at West
24 Face, which he was ultimately successful in doing
25 in May of 2014.

1 It's really through that second
2 narrative that you're going to hear evidence about
3 Moyse and West Face's cavalier attitude towards
4 Catalyst confidential information.

5 The case, though it's evolved, started,
6 obviously, quite innocuously as an action to
7 enforce the restrictive covenant and the
8 confidentiality undertaking of Moyse's employment
9 with Catalyst.

10 Moyse informed Catalyst on May 24th,
11 2016 that he was resigning and then two days later
12 he informed Catalyst that he was going to be
13 commencing employment at West Face and Moyse's
14 employment agreement prohibited him from working
15 with a competitor in Toronto for a period of six
16 months, and both defendants, West Face and Moyse,
17 initially took the position that West Face was not
18 a competitor to Catalyst and therefore the
19 injunction proceeding was brought on.

20 THE COURT: Can I just ask, is someone
21 going to provide a chronology in neutral form? It
22 might be helpful.

23 MR. DIPUCCHIO: We can do that. We
24 also have a cast of characters I think that we can
25 probably circulate to Your Honour. That may assist

1 as we work our way through it. But the events I'm
2 talking about now in relation to Moyse finding new
3 employment --

4 THE COURT: Sorry.

5 MR. DIPUCCHIO: The events that I'm
6 describing now with respect to Mr. Moyse taking up
7 his new employment and the correspondence that went
8 back and forth between counsel was the May/June
9 2014 timeframe. That's where we are.

10 You're going to hear evidence about the
11 kind of knowledge and information that Mr. Moyse
12 had through his work on the telecommunications deal
13 team throughout 2014 and how that knowledge, and
14 this is the important point, how that knowledge and
15 information in the hands of West Face could be used
16 to essentially close a deal to purchase Wind as
17 part of a consortium of investors.

18 Because of the positions taken by Moyse
19 specifically, you're going to hear a lot of
20 evidence in this trial about the Catalyst
21 organizational structure and the flat
22 organizational structure of Catalyst, and the
23 purpose of that evidence is obviously going to be
24 to demonstrate to you that Moyse did have
25 significant responsibility and that he did form

1 part of a very critical team at Catalyst that was
2 working on the telecommunications opportunities.

3 Because of Catalyst's relatively small
4 size and its culture, analysts like Moyse, and the
5 defendants continually refer to him as a junior
6 analyst, the fact of the matter is that analysts
7 like Moyse are expected to and do participate and
8 contribute to all elements of a deal including the
9 strategic decision-making and negotiations and that
10 becomes very important as we progress through the
11 narrative.

12 You're going to hear evidence from
13 Mr. de Alba who is here today and then Mr. Glassman
14 tomorrow about the fact that they regularly shared
15 their strategic thoughts and the status of the
16 negotiations with all of the members of the deal
17 team including Mr. Moyse throughout 2014.

18 With respect to Mr. Moyse specifically,
19 Your Honour, he joined Catalyst on November 1st,
20 2012. As I said, his employment agreement included
21 the non-competition and non-solicitation clause and
22 confidentiality obligations. None of that I think
23 is controversial at this point.

24 The agreement clearly states that Moyse
25 would acquire and in fact he did acquire

1 confidential information about certain matters,
2 including, for example, investment strategies,
3 negotiating positions, prospective acquisitions,
4 all of the stuff that we would consider to be
5 confidential and that Catalyst considered to be
6 confidential.

7 Moyse himself has a background in the
8 industry, having worked at RBC and Credit Suisse in
9 New York. He has an undergraduate math degree. He
10 came to Catalyst with excellent credentials and was
11 given broad responsibility.

12 The court is going to hear evidence
13 that Moyse really started searching for a new
14 position in December of 2013 and that he didn't
15 enjoy at the end working at Catalyst, so much so
16 that you're going to see evidence that he developed
17 quite a strong animus towards Catalyst and in
18 particular towards the principals of Catalyst,
19 including Mr. de Alba and Mr. Glassman, and the
20 animus towards Catalyst continued to exhibit itself
21 while he was interviewing with potential employers
22 and even long after, even long after he departed
23 Catalyst.

24 Throughout early 2014, as I say, Moyse
25 had a significant and growing role on Catalyst's

1 telecommunications deal team and what he did
2 initially was he prepared a pro forma statement
3 showing the combined asset values of Wind and
4 Mobilicity in the spectrum of those two companies,
5 and that analysis that he did was actually a very
6 significant part of Catalyst's decision, formed a
7 very significant part of Catalyst's decision to
8 pursue the opportunity ultimately.

9 At the time, when he was preparing that
10 analysis, Catalyst was in discussions with
11 VimpelCom about a potential purchase. And
12 VimpelCom, Your Honour, at that time, early 2014,
13 had announced that it basically had written off its
14 entire investment in Wind and was looking for an
15 exit from Canada.

16 Despite commencing his employment
17 search in December of 2013, Moyse was unable to
18 land a job during the first quarter of 2014 but in
19 March of 2014 you're going to hear that Moyse
20 reached out to a gentleman by the name of Tom Dea
21 who was one of the partners at West Face Capital
22 and Moyse had interviewed with West Face in 2012
23 and he remained in contact with Dea and he renewed
24 that contact when it was publicly announced that
25 West Face was launching a special situations fund,

1 which is a fund that is -- makes the same kind of
2 specialized investments that Catalyst makes,
3 basically.

4 So the two agreed to meet for coffee,
5 i.e. Moyse and Dea, on March 26 of 2014, and that's
6 a critical date in the chronology, and the reason
7 it's critical is because on March 26, 2014 Moyse
8 was being tasked by Catalyst to build a critical
9 PowerPoint presentation and the PowerPoint
10 presentation was in regards to a meeting that
11 Catalyst was going to be having with
12 representatives of the federal government and
13 Industry Canada the following day, March 27.

14 You might remember, Your Honour, that
15 Catalyst had a lead position in Mobilicity's debt
16 and Mobilicity was under CCAA protection at the
17 time, as Your Honour is aware. Catalyst, at the
18 same time that it was dealing with the Mobilicity
19 CCAA, was also pursuing VimpelCom about a potential
20 purchase, and Catalyst's vision at that point in
21 time, March of 2014, was that it would hopefully
22 acquire VimpelCom's interest in Wind and then
23 combine the assets of Wind and Mobilicity so as to
24 deliver to the government really what was the
25 government's dream scenario of a viable fourth

1 wireless carrier in the Canadian telecommunications
2 landscape.

3 You're going to hear from Mr. Glassman
4 in particular that before that strategy could be
5 executed on behalf of Catalyst, i.e. combining Wind
6 and Mobilicity and forming the fourth wireless
7 carrier, Catalyst required certain concessions from
8 the federal government with respect to spectrum
9 licenses, and the spectrum licenses, as Your Honour
10 knows, are the licenses really that allow the
11 telecommunications company to operate and provide
12 services.

13 Catalyst wanted the government and
14 needed the government to confirm that Catalyst
15 would be able to exit from its investment in a
16 merged Wind/Mobilicity entity within five years
17 based on certain concessions, and that's why these
18 key discussions were occurring on March 27th with
19 Industry Canada and the Prime Minister's Office and
20 the Privy Council.

21 If I could ask that CCG0011565 be
22 brought up. Your Honour, this --

23 THE COURT: Just wait a second.

24 MR. DIPUCCHIO: 11565, Your Honour.

25 THE COURT: Just a second, I've got it.

1 Which number was it?

2 MR. DIPUCCHIO: It was CCG0011565.

3 THE COURT: Is this in the exhibits of
4 Mr. de Alba?

5 MR. DIPUCCHIO: It should be one of the
6 exhibits to Mr. de Alba. Exhibit 20 to Mr. de
7 Alba.

8 THE COURT: Exhibit what?

9 MR. DIPUCCHIO: 20. What you should be
10 looking at, Your Honour, if you've got it, is a
11 presentation entitled "Canada Wireless
12 Presentation."

13 THE COURT: I've got an email, it's a
14 one-page.

15 MR. DIPUCCHIO: The next page would be
16 the cover page.

17 THE COURT: Oh, I see.

18 MR. DIPUCCHIO: Do you see that?

19 THE COURT: Yes, okay.

20 MR. DIPUCCHIO: So that presentation,
21 Your Honour, you're going to be hearing a lot of
22 evidence about that presentation and another
23 presentation that's made subsequently, but that is
24 the presentation that was prepared by Mr. Moyse,
25 taking the lead, on March 26th.

1 And what it does, Your Honour, and why
2 it's so significant is that that presentation
3 outlines Catalyst's regulatory strategy with
4 respect to a fourth carrier, and it also sets out
5 Catalyst's negotiating positions with the federal
6 government and it proposes three possible outcomes
7 depending on the various concessions that the
8 government would be willing to grant with respect
9 to spectrum licenses.

10 So if you go to, Your Honour, the
11 seventh slide, I believe it is, of that
12 presentation, you're going to see "Strategic
13 Options: Option 1."

14 THE COURT: Um-hmm.

15 MR. DIPUCCHIO: That's the first
16 scenario that Catalyst was proposing and it really
17 deals with the merger or combination, as it's
18 described, of Wind and Mobilicity to create a
19 fourth national carrier focused on the retail
20 market. So this is focusing on capturing market,
21 retail market away from the incumbent three
22 carriers.

23 In order to accomplish this, you'll
24 see, Your Honour, at the third bullet point,
25 Catalyst was going to require a number of things.

1 Amongst other things, the ability to transfer
2 spectrum to an incumbent within five years, and
3 that was in order to ensure that Catalyst would
4 have an exit strategy.

5 THE COURT: Sorry, which part of it?

6 MR. DIPUCCHIO: So if you see in the
7 "Requires," bullet point 3.

8 THE COURT: Yes.

9 MR. DIPUCCHIO: There is a bunch of
10 requirements.

11 THE COURT: Yes.

12 MR. DIPUCCHIO: And then it says
13 ability to exit the investment with no restrictions
14 in five years.

15 THE COURT: I see, in five years.

16 MR. DIPUCCHIO: The ability to operate
17 as a retail only business using incumbent's
18 networks outside license areas to accelerate
19 subscriber growth, and then potential to partner,
20 exchange or rent spectrum from and to incumbents.
21 In other words, the ability to essentially transfer
22 spectrum to the incumbents if required.

23 Then if you go to the following slide,
24 you're going to see strategic option number 2 and
25 that's where Catalyst would operate a combination

1 of Wind and Mobilicity as a wholesaler, so this is
2 what we call a wholesale option, where essentially
3 it would be auctioning off spectrum to the
4 incumbents in a competitive process.

5 Again, there were a number of
6 requirements, less so in this particular case, but
7 there were still a number of requirements that
8 Catalyst was going to need from the federal
9 government in order to have that option be a viable
10 option.

11 Then if you go to the next slide,
12 you're going to see strategic option number 3, and
13 that was an option that Catalyst had spent a lot of
14 time analyzing, you're going to hear, and basically
15 what Catalyst was warning the government of in this
16 particular scenario is that the government had
17 significant litigation risk, Your Honour, with
18 respect to the unilateral and retroactive
19 restrictions that had been imposed on spectrum
20 licenses in 2008.

21 And Catalyst, what Catalyst was doing
22 here was warning the government that it would face
23 litigation from any buyer of Wind or Mobilicity as
24 a result of the retroactive and unilateral
25 restrictions on spectrum licenses. But critically,

1 and this is the critical point, that Catalyst could
2 not lead that litigation because of its involvement
3 in other regulated industries.

4 You're going to hear evidence, Your
5 Honour, that Catalyst knew internally that the
6 litigation would likely be successful but it needed
7 concessions, which you've seen in this document,
8 because it couldn't afford to litigate with the
9 government and put its other businesses at risk.

10 So that was a critical part of the
11 puzzle and you're going to hear a lot about that
12 from Mr. de Alba and Mr. Glassman.

13 And you'll note, Your Honour, in
14 passing, that this document at the bottom
15 right-hand corner --

16 THE COURT: Let me ask you a question.
17 This litigation against the government --

18 MR. DIPUCCHIO: Essentially challenging
19 the retroactive restrictions.

20 THE COURT: I understand that. To some
21 extent that would be a matter of speculation,
22 wouldn't it?

23 MR. DIPUCCHIO: Well, there was a lot
24 of analysis as to whether or not that litigation
25 ultimately would be brought and would be

1 successful, and that's what you're going to hear,
2 you're going to hear that a central part of the
3 strategy here was trying to essentially convince
4 the federal government that it was at risk of
5 litigation, embarrassing litigation, and as a
6 result of that litigation risk, essentially getting
7 the federal government to soften -- to soften its
8 stance and grant concessions to Catalyst.

9 But the key point, Your Honour, and
10 again I'll repeat it again, you're going to hear
11 evidence on this, is internally Catalyst knew that
12 it couldn't litigate with the federal government
13 because of its involvement in other regulated
14 industries.

15 So I was just saying, Your Honour,
16 you'll note obviously in passing on the bottom
17 right-hand side of each page that the document is
18 marked confidential. There is absolutely no
19 question that this document contains highly
20 sensitive and confidential information, and that
21 Moyse, as the primary author of this document or
22 the lead preparer of this document, was privy and
23 well understood, or privy to and well understood
24 all of this information and all of the strategy
25 that it represented.

1 Now, on that very same --

2 THE COURT: Let me ask you about this
3 litigation again. Catalyst, you say Catalyst
4 couldn't do it. This statement must have been with
5 respect to the possibility of Mobilicity or the
6 shareholders of Mobilicity suing --

7 MR. DIPUCCHIO: The estate of
8 Mobilicity, exactly, or any potential purchaser of
9 Wind, other than Catalyst, i.e. if the government
10 didn't soften its stance and maintained its
11 position with respect to the concessions that
12 Catalyst was requesting that there would likely be
13 litigation and that that litigation would likely be
14 successful against the federal government.

15 THE COURT: Is it your case that the
16 possibility of litigation was confidential to
17 Catalyst?

18 MR. DIPUCCHIO: No. We'll come to
19 exactly what the theory of the case is, Your
20 Honour. For the moment let's just say that this
21 was the strategy, this was Catalyst's strategy, and
22 it was known by Mr. Moyse and we'll get to exactly
23 how that plays out in the actual process.

24 THE COURT: Thank you.

25 MR. DIPUCCHIO: Now, on the very same

1 day that that presentation is being frantically
2 prepared by Mr. Moyse for the meetings on March 27,
3 Mr. Moyse meets with Tom Dea at West Face to
4 discuss the possibility of finding new work at West
5 Face, and you're going to hear evidence about that
6 meeting, obviously.

7 Then what happens on the evening of
8 March 26th is two important emails are sent by
9 Mr. Moyse. The first email is obviously attaching
10 that presentation, Your Honour just looked at it,
11 and that's a critical email. The second critical
12 email that goes out on March --

13 THE COURT: That was sent to whom?

14 MR. DIPUCCHIO: That was sent to the
15 partners, basically. You'll see the recipients,
16 Mr. Glassman, Mr. de Alba, Mr. Riley, and then of
17 course a gentleman by the name of Zach Michaud who
18 is one of the vice-presidents at Catalyst.

19 THE COURT: So it was internal?

20 MR. DIPUCCHIO: It was internal, purely
21 internal. This was the presentation that was going
22 to be used with the federal government the
23 following day. And in fact you're going to hear
24 evidence, Your Honour, that it was so confidential
25 and so sensitive that after the presentation is

1 made to the government officials, Mr. Riley gives
2 instructions to everybody on the deal team to
3 destroy any copies of the presentation. Ultimately
4 that doesn't happen --

5 THE COURT: No, I understand.

6 MR. DIPUCCHIO: -- because we still
7 have a copy of it, but those are the instructions.
8 As I say, that's the first email that's sent on the
9 26th.

10 The second email that gets sent on the
11 26th by Mr. Moyse is an email that's sent to
12 Mr. Dea hours later and this email, which is at
13 WFC0075126 --

14 THE COURT: Which exhibit number?

15 MR. DIPUCCHIO: That is not an exhibit
16 in Mr. de Alba's affidavit. That should be on your
17 iPad as the opening statement documents, I hope.

18 THE COURT: Let me see. Where do I get
19 to the opening statement? I see it, okay, Catalyst
20 opening. Which number?

21 MR. DIPUCCHIO: So the document is
22 WFC0075126.

23 THE COURT: Document 5.

24 MR. DIPUCCHIO: What you should be
25 looking at, Your Honour, hopefully, is an email

1 chain that starts with -- I guess at the very top
2 it's an email from Mr. Dea to his partners --

3 THE COURT: Yes.

4 MR. DIPUCCHIO: -- on March 27th. So
5 if you look at the email, Your Honour, from
6 Mr. Moyse to Mr. Dea, that's the second email in
7 the chain there, that is an email sent on March
8 27th at 1:47 a.m. where Mr. Moyse is attaching his
9 CV and deal sheet and a few investment write-ups
10 he's done at Catalyst.

11 Attached to that email, Your Honour,
12 were four investment memos, they're laid out there,
13 Homburg, NSI, Rona and Arcan Resources, four
14 confidential investment memos that Mr. Moyse and
15 others had prepared at Catalyst.

16 Now, you're going to hear a lot of
17 evidence about these investment memos and in fact I
18 believe Mr. Moyse and West Face will acknowledge
19 that they shouldn't have been sent at this point.
20 There is no question they are confidential, there
21 is no question those investment memos contained
22 confidential information.

23 THE COURT: Will there be evidence that
24 the memos contained confidential information
25 regarding this initiative to acquire Mobilicity?

1 MR. DIPUCCHIO: No, no, no, they're not
2 connected in any way to ultimately what's at issue
3 here. There will be some evidence given in respect
4 of Arcan and what happened in relation to Arcan,
5 but it ultimately will form no part of what you're
6 going to have to decide, Your Honour, in terms of
7 whether confidential information relating to Wind
8 was transferred.

9 But the point about this email that
10 makes it so important, Your Honour, number one is
11 that Mr. Moyse had no -- apparently had no issue in
12 sending confidential memos and -- are the memos
13 attached? If you flip through just very briefly to
14 the actual memos that are attached, Your Honour,
15 the only thing I want you to look at is at the top
16 of each page of these memos is a clear header that
17 says "For internal discussion purposes only,
18 confidential." And that appears in all of the
19 memos.

20 There just can be no question that
21 these were internal and confidential to Catalyst
22 and yet Mr. Moyse sees fit to transfer these memos
23 to West Face, and then West Face internally
24 distributes the memos. Mr. Dea distributes them on
25 to his partners so he doesn't -- he doesn't delete

1 the memo or immediately take issue with what
2 Mr. Moyse sends him. He actually, the evidence is,
3 quickly reviews some of the information and sends
4 it on to his partners who also do the same.

5 Moyse, interestingly enough, once he
6 sends this email, Your Honour, deletes it, and he
7 did so to cover his tracks because he knew,
8 immediately knew, that what he had done was wrong.
9 So it wasn't an innocent mistake, I'm going to
10 suggest to you, he sends it and then takes the
11 active step of deleting the email so that he covers
12 his tracks.

13 And Mr. Moyse's deletion of potentially
14 incriminating evidence like this email is something
15 that's going to feature prominently in this case
16 and you're going to hear some evidence -- you know
17 that the claim involves spoliation as well, and
18 you're going to hear more evidence about deletion
19 of potentially incriminating evidence and I'll come
20 to that in a moment.

21 Two days after sending Mr. Dea these
22 confidential memos, so now we're on March 28th,
23 2014 in the chronology, Your Honour, Mr. Moyse
24 accesses a series of files from a directory called
25 Investor Letters in the Catalyst system, and you're

1 going to hear evidence about the fact that Moyse
2 had absolutely zero reason to be accessing that
3 folder.

4 Moyse then attends additional
5 interviews with West Face on April 16th. He meets
6 with the other partners, a gentleman by the name of
7 Tony Griffin who you're going to be hearing from in
8 this trial, a gentleman by the name of Peter
9 Fraser, and then another West Face representative,
10 Yu-jai Zhu who you'll also be hearing from.

11 On April 24th, Moyse is invited back to
12 West Face to meet with Greg Boland and you'll hear
13 evidence that on the 25th, the day after he
14 schedules his further interview with Mr. Boland,
15 Moyse starts looking through a folder in the
16 Catalyst system that contains Stelco files.

17 And Stelco, Your Honour, was an
18 opportunity where Catalyst was involved and West
19 Face was involved as well, and Moyse had no
20 legitimate business reason to be looking in the
21 Stelco folder, and nonetheless he was doing so a
22 day after he schedules his interview with
23 Mr. Boland.

24 Moyse admits and has admitted earlier
25 in this proceeding that he transferred these files

1 to his personal DropBox account.

2 So while this is all going on around
3 the same time that Moyse is interviewing with West
4 Face in late April, Catalyst is in active
5 discussions to acquire VimpelCom's interest in
6 Wind. On May 6th of 2014 Catalyst proposes terms
7 for a deal, and essentially the proposal was to --

8 THE COURT: There is a proposal to
9 VimpelCom?

10 MR. DIPUCCHIO: Yes. And essentially
11 the proposal was to pay an enterprise value of 300
12 million, the transaction would close by May 23rd.
13 All of this was somewhat important because Wind was
14 going to be defaulting on significant vendor debt
15 on April 30th and it had until May 30th to cure the
16 default, so it was important to try and keep the
17 timelines tight, and that the transaction would
18 ultimately pay off a portion of the vendor debt and
19 leave some cash left over for VimpelCom.

20 And that, those deal terms were largely
21 based on the financial analysis that had been
22 performed by Mr. Moyse back in March in which he
23 was analyzing the value of the spectrum, the
24 Mobilicity and Wind spectrum.

25 The court is going to hear that

1 Mr. Moyse, after May 6th, particularly after May
2 6th, was asked to do a significant amount of work
3 on the Wind file. In addition to his typical deal
4 duties, Moyse was aware of and participated, as I
5 say, in all of these internal strategic discussions
6 and in particular the discussions about the
7 regulatory approach.

8 And just to give you a sense of the
9 kind of things that Mr. Moyse was privy to, if you
10 can turn up in that folder of documents, Your
11 Honour, CCG0009482, here you'll see --

12 THE COURT: Just hang on a second.

13 MR. DIPUCCHIO: Sure. 9482.

14 THE COURT: I've got your opening
15 documents. I don't see it. It would be helpful if
16 you would put in there where I find it and what the
17 number is, not the long number but the number.
18 What is the document number?

19 MR. DIPUCCHIO: So CCG0009482. Is it
20 not there, Your Honour?

21 THE COURT: Oh, I see, it's number 6.

22 MR. DIPUCCHIO: So here what you're
23 looking at, Your Honour, just by way of example,
24 and we're obviously going to take you through many
25 more of these documents, but this is the kind of

1 sophisticated email chain that Mr. Moyse was copied
2 on, routinely copied on in this timeframe, in May,
3 as the Wind opportunity heats up.

4 And you'll see here there is
5 discussions first from Mr. de Alba about the
6 position with the government and how things could
7 be positioned with the government in order to
8 extract the kind of concessions that Catalyst
9 wanted, and then you'll see Mr. Glassman's response
10 which again adds another layer of strategy in terms
11 of the approach that Catalyst would be taking, and
12 all of that Mr. Moyse was privy to and was part of.

13 The reason I'm making such a big deal
14 about this, Your Honour, and we will be making such
15 a big deal about this throughout the course of the
16 trial, is because you're going to see evidence that
17 Mr. Moyse initially gave when the injunction motion
18 was brought way back when, where Mr. Moyse's
19 position was that he had little to no involvement
20 in Wind.

21 That was his initial position on the
22 record, sworn evidence, that he had little to no
23 involvement in Wind, and we're going to show you
24 how untrue that statement is and how his evidence,
25 quite frankly, has morphed as the years have gone

1 on and we find ourselves here today to finally
2 acknowledge, quite frankly, in the face of
3 overwhelming documentary evidence, what his role
4 actually was.

5 So on May 12th, the next critical date,
6 Your Honour, is May 12th and that's when Mr. Moyse
7 again prepares a presentation to the Government of
8 Canada and that one can be found at CCG0009517.
9 It's number 7 on your list, Your Honour.

10 THE COURT: I don't know how to get out
11 of these documents to get back to the opening.

12 MR. DIPUCCHIO: Your Honour, it's
13 really -- at the end of the day, the presentation I
14 was going to take you to is largely similar to the
15 one that we looked at earlier and it repeated the
16 same message.

17 However, it was made clear to the
18 government, as you can see if you go through
19 options 1 and 2 in this particular presentation,
20 and you see right there option 1 is described as
21 now severely hindered, and option 2, the wholesale
22 option, was fast becoming the most viable option,
23 and that's what Catalyst was -- the message that
24 Catalyst was delivering to the government on May
25 12th.

1 You're going to hear evidence from
2 Mr. Glassman and from Mr. Riley who attended the
3 meetings in Ottawa with the presentation that Moyse
4 created in hand that during the meetings Catalyst
5 did make its pitch for the regulatory concessions
6 that you'll see in those documents, and that
7 Mr. Glassman in particular was of the view that
8 despite the government's tough talk in terms of not
9 granting any regulatory concessions, that
10 ultimately the government would have to bend and
11 grant the concessions, and that if Catalyst did
12 conclude a deal with VimpelCom the government would
13 be faced with a bit of a predicament in that you
14 had a purchaser who was prepared to deliver the
15 dream scenario of a fourth wireless carrier but it
16 still needed regulatory concessions from the
17 government in order to do so and the government was
18 going to be put in a position of having to
19 essentially nix the fourth carrier unless it agreed
20 to regulatory concessions, thereby facing immense
21 public backlash.

22 So the outcome of that meeting and the
23 views that had been formed during that meeting were
24 immediately reported back to Moyse and the rest of
25 the deal team at Catalyst and the implications of

1 the meeting were discussed.

2 And the message, the very important
3 message that comes out of that meeting and is
4 understood by everybody, Your Honour, including
5 Moyse, is that Catalyst would need a condition of
6 regulatory approval and that it simply could not
7 waive that condition under any circumstances.

8 However, Catalyst also knew that the
9 government faced significant litigation risk if it
10 didn't grant the concessions outlined in the
11 presentations. So while it needed a regulatory
12 approval condition, it felt that the government
13 would, in effect, be put in a position of having to
14 grant those regulatory concessions.

15 Now, on May 16th Mr. Moyse goes away on
16 a vacation to Southeast Asia and he tells a
17 colleague that it's possible that West Face will
18 make him an offer while he was on vacation and he
19 might not be returning to Catalyst.

20 Notwithstanding, the evidence is going
21 to show that Moyse did continue while he was on
22 vacation to work, actively work on the Wind file on
23 behalf of Catalyst, that he gives comments to his
24 colleagues about a financial model prepared by
25 Morgan Stanley.

1 I'm not going to take you to the emails
2 because Your Honour is having problems with the
3 iPad, you'll see them in the evidence, but between
4 May 21st and May 23rd, while Moyse is on vacation
5 and actively working on the Wind transaction, he
6 has communications with a colleague at Catalyst and
7 he's asking pointed questions about Wind, i.e.
8 whether Catalyst has made an offer for Wind, and at
9 the same time he's having conversations with
10 Mr. Dea on the phone, we know.

11 At midnight on May 24th, while he's
12 still on vacation, Moyse gives his notice to Mr. de
13 Alba that he would be resigning. He doesn't tell
14 Mr. de Alba where he's going to be going to, and he
15 tells another one of his colleagues at the same
16 time that that was intentional, i.e. he was
17 intentionally not telling Mr. de Alba at that time
18 where he was going to.

19 On May 26th, Moyse returns to Catalyst
20 and you're going to hear evidence that at that
21 point he tells Mr. de Alba that he's going to be
22 going to West Face and Mr. de Alba immediately
23 expresses concern about that, and certain events
24 follow.

25 You're going to hear that on May 30th,

1 a few days after being advised that Moyse is going
2 over to West Face, Catalyst writes to Moyse and to
3 West Face basically warning them that the actions
4 amount to a breach of the employment -- the terms
5 of the employment agreement that Moyse had signed
6 and in particular the non-competition provision,
7 and also expressing concerns about potential
8 confidential information that could flow to West
9 Face.

10 On June 3rd, West Face's counsel writes
11 back to Catalyst and says essentially that the
12 non-competition and non-solicitation clauses are
13 unenforceable and basically brushes off the concern
14 about any confidential information, and this
15 notwithstanding, Your Honour, that obviously by
16 this point in time Moyse has already transmitted
17 what everybody now acknowledges was confidential
18 information to West Face in the form of the four
19 research memos.

20 Now, significantly, Your Honour, the
21 very next day, June 4th, and I don't know if you
22 can turn up this document but we can bring it up
23 and you can look at it on the monitor.

24 THE COURT: Where is it?

25 MR. DIPUCCHIO: WFC --

1 THE COURT: Whereabouts is it?

2 MR. DIPUCCHIO: It's in the opening
3 statement brief, Your Honour.

4 THE COURT: What number?

5 MR. DIPUCCHIO: 16.

6 THE COURT: 16? Thank you.

7 MR. DIPUCCHIO: It's WFC0068142. So
8 what you're looking at here, Your Honour, is --
9 there's going to be a lot of submissions made at
10 the end of the trial about this particular email.
11 The significant one is the one from Mr. Griffin
12 who, as you will recall, is one of the partners at
13 West Face, to Mr. Lacavera, at the bottom of the
14 page. Mr. Lacavera was one of the management team
15 at Wind, as you know, and also had an interest in
16 it.

17 The email is significant, Your Honour,
18 because at this time there was a non-disclosure
19 agreement in place with VimpelCom and the
20 non-disclosure agreement with VimpelCom obviously
21 prevented either party from --

22 THE COURT: Sorry, a non-disclosure
23 agreement between?

24 MR. DIPUCCHIO: VimpelCom and Catalyst.
25 In fact, between, one would imagine, VimpelCom and

1 any of the potential purchasers. And the
2 non-disclosure agreement prevented either party
3 from revealing, obviously, that they were in
4 negotiations, and yet Mr. Griffin is saying a
5 number of things in the email at the bottom of the
6 page, including talking about Catalyst's proposal.
7 You'll see the line:

8 "Catalyst seems to be a lot of
9 air."

10 It's right at bottom of the page:
11 "Catalyst seems to be a lot of air."

12 And we're going to ask you at the
13 conclusion of the trial, after you've heard all of
14 the evidence, we're going to ask you to draw
15 certain inferences about how Mr. Griffin could be
16 making these kinds of comments about Catalyst in
17 this particular environment.

18 THE COURT: What's the inference you'll
19 ask me to draw?

20 MR. DIPUCCHIO: Sorry, Your Honour?

21 THE COURT: What's the inference you'll
22 ask me to draw?

23 MR. DIPUCCHIO: I'm going to ask you to
24 draw an inference that he knew exactly what
25 Catalyst was bidding and what its negotiating

1 strategy was and that it was for that reason that
2 he's able to say Catalyst seems to be a lot of air.

3 THE COURT: Are you going to ask for an
4 inference that he got this, knew this from
5 Mr. Moyse?

6 MR. DIPUCCHIO: Yes, indeed. So you're
7 going to hear that Moyse -- Moyse's counsel
8 replies to the May 30th letter on June 5th and the
9 response you hear from Moyse's counsel essentially
10 is that --

11 THE COURT: Where do I find it?

12 MR. DIPUCCHIO: You're going to see it.
13 It's not in my brief. I don't intend to take you
14 to it now, Your Honour, but essentially what the
15 response is is that Mr. Moyse wasn't in possession
16 of any confidential information and what he was
17 doing at Catalyst wasn't proprietary and it was all
18 based on well-known methodologies.

19 So on June 13th, Catalyst writes to
20 West Face and Moyse to again try to come to terms
21 on Mr. Moyse's non-competition clause, and again
22 Catalyst is rebuffed. And West Face in particular
23 on June 19th writes to Catalyst and says that it
24 hasn't provided any evidence that Moyse has
25 breached any of his confidentiality obligations,

1 that letter having been sent knowing full well that
2 Moyse had breached his confidentiality obligations
3 at the very least by sending the four investment
4 memos. And all of this was subject to comment,
5 obviously, by Justice Lederer in his decision
6 granting the injunction.

7 On June 23rd, Your Honour, that's the
8 date Moyse commences his employment at West Face,
9 there is a motion for interim relief that's heard
10 on July 16th of 2014, and you're going to hear
11 evidence, Your Honour, particularly through the --
12 essentially through our forensic expert about the
13 fact that Moyse was accessing various Catalyst
14 files before his departure and sending many
15 Catalyst files to himself through his personal
16 email and through a personal internet-based sharing
17 tool known as DropBox. Your Honour may be familiar
18 with it.

19 Ultimately on July 16, 2014 there is a
20 consent order made by Justice Firestone and
21 essentially the consent order is that Moyse would
22 not continue to work at West Face pending the
23 motion for interlocutory relief and, importantly,
24 that Moyse would have his personal devices turned
25 over to his counsel to be forensically imaged and

1 then there would be a further motion to determine
2 what to do with those forensic images, but there
3 was a preservation order made by Justice Firestone.

4 Justice Firestone also ordered in that
5 consent order that Moyse produce an Affidavit of
6 Documents outlining the documents, Catalyst
7 documents he had in his possession, power or
8 control. And what we get back, Your Honour, this
9 having come after being assured that there was no
10 confidential information that Moyse was in
11 possession of, we get back an affidavit that shows
12 that he has 830 Catalyst documents in his
13 possession.

14 The other key piece of evidence that
15 you're going to hear with respect to that, the
16 sequence of events around the consent order, Your
17 Honour, is that on July 16th, the very same day
18 that the parties appeared in court in order to
19 obtain the preservation order, Mr. Moyse had
20 installed a military grade scrubber designed to
21 delete files to even prevent a forensic analysis
22 from recovering, and that forensic -- that military
23 grade scrubber was purchased by Mr. Moyse the
24 morning of the motion. And we only come to know
25 that obviously because the ISS reports it in its

1 report subsequently.

2 The evidence is also going to show that
3 Mr. Moyse admitted to intentionally deleting his
4 internet browsing history at some stage after the
5 preservation order was made, and that the day
6 before, the very day before Moyse hands over his
7 computer in order for the forensic image to be
8 taken, I believe it was July 20th, the very day
9 before he hands over the computer he accesses the
10 military grade scrubber that he purchased the
11 morning of July 16th.

12 And we're going to be asking the court
13 at the conclusion of the trial to obviously draw
14 certain inferences from all of that conduct that
15 occurred which --

16 THE COURT: When you say he accesses
17 the scrubber, what do you mean by accesses?

18 MR. DIPUCCHIO: It means essentially he
19 opens the scrubbing program and you're going to
20 hear --

21 THE COURT: Is there evidence that he
22 then deleted files?

23 MR. DIPUCCHIO: You're going to hear
24 evidence from the experts about what that means,
25 Your Honour, and what steps can be taken to even

1 cover your tracks in that regard. So obviously
2 we're going to be asking you to draw inferences
3 from all of that conduct on the part of Mr. Moyse
4 and ultimately we're going to suggest to you that
5 that amounts to spoliation on a balance of
6 probabilities.

7 The story continues, Your Honour. On
8 July 23rd, shortly after we appear in court,
9 Catalyst and VimpelCom enter into an exclusive
10 arrangement, exclusive negotiating arrangement,
11 which operated for a period of time. Catalyst
12 during this period was convinced that a deal would
13 be concluded.

14 On August 3rd, you're going to see
15 evidence that the parties -- and you're going to
16 hear evidence that the parties had agreed that the
17 share purchase agreement was virtually settled
18 between Catalyst and VimpelCom and there were only
19 a small handful of issues that were left to be
20 resolved, and the final step in the process was for
21 VimpelCom to sort of go through the rubber-stamping
22 of having its Board of Directors approve the share
23 purchase agreement.

24 During all of this, Your Honour, during
25 all of this negotiating, Catalyst always maintains

1 its stance, obviously, that it needs the regulatory
2 approval condition and that it needs the regulatory
3 concessions from the federal government. And that
4 in Catalyst's mind had all been resolved.

5 On August 11th --

6 THE COURT: All been resolved with
7 whom?

8 MR. DIPUCCHIO: That there be a
9 regulatory approval condition. On August 11th --

10 THE COURT: I just want to make sure I
11 understand what you're saying. In Catalyst's mind
12 it had been resolved. Was there some resolution
13 with the government on this?

14 MR. DIPUCCHIO: No, what I meant to
15 say, Your Honour, sorry, I was a bit unclear on
16 that, what I meant to say was that the parties had
17 agreed that VimpelCom would bear the regulatory
18 risk, i.e. there would be a regulatory approval
19 condition and the transaction would ultimately be
20 subject to working things out with the federal
21 government and obtaining those concessions, and
22 VimpelCom had agreed to bear that risk, which was
23 critical, as you've seen from all the
24 presentations.

25 On August 11th matters are so advanced

1 that VimpelCom and Catalyst have a call with
2 Industry Canada in which they tell the regulator
3 that the deal was done, so August 11th there is a
4 public -- not a public announcement but an
5 announcement to Industry Canada in effect that the
6 deal is done.

7 By August 15th, Your Honour, things had
8 changed. VimpelCom comes back, after some delay in
9 obtaining this sort of rubber-stamp board approval,
10 VimpelCom comes back with a variety of eleventh
11 hour demands, including demands with respect to
12 obtaining regulatory approvals within two months,
13 which was an impossibly short period of time, and
14 also a break fee, a substantial break fee if
15 Catalyst couldn't obtain the regulatory approval
16 that it was seeking. And that was obviously a
17 significant, significant issue because it had been
18 the subject of all sorts of negotiation in advance
19 and it was being reintroduced at the eleventh hour,
20 inexplicably.

21 As it now turns out, Your Honour, we
22 know that there was a reason for this late-breaking
23 development, and the reason is that in late July
24 West Face had joined a consortium of investors that
25 were also interested in acquiring VimpelCom's

1 interest in Wind, and the consortium included
2 Tennenbaum Capital, a firm known as LG, and others
3 which you'll hear about.

4 On August 6th the consortium sends over
5 an offer, and this is in the middle of the
6 exclusive negotiation period with Catalyst, the
7 consortium sends over an offer. It's on your
8 device, Your Honour, it's WFC0075054, number 17 in
9 the opening statement brief.

10 THE COURT: Thank you.

11 MR. DIPUCCHIO: And the key, the key
12 point about this offer, Your Honour, is that it
13 doesn't contain any regulatory approval condition,
14 and you're going to hear evidence that no diligent
15 fund manager could take that risk or would take
16 that risk; that is, of course, unless the
17 consortium had knowledge that that particular piece
18 of information would be critical to its winning the
19 deal over Catalyst, i.e. that if it waived the
20 regulatory approval condition that that would give
21 it a leg-up on the Catalyst offer that was being
22 negotiated right at that time.

23 And the deal, the offer that's
24 submitted, Your Honour, significantly, is for the
25 same value. It's for the same value, so it's not

1 as if they're trying to top the offer by bidding,
2 you know, \$20 million more or \$30 million more.

3 The distinguishing feature is the
4 regulatory approval condition and the inference
5 obviously we're going to ask Your Honour to draw is
6 that the consortium knew and could only know by
7 receipt of confidential information from Moyse that
8 Catalyst couldn't waive that condition and wouldn't
9 waive that condition and that therefore that would
10 distinguish its offer or its bid from the Catalyst
11 bid.

12 So Catalyst's exclusivity lapses
13 ultimately on August 18th, Your Honour, and then
14 less than a month later the consortium announces
15 that it's concluded a deal with VimpelCom to
16 purchase Wind, and, as you know from the Plan of
17 Arrangement that you approved earlier this year,
18 ultimately Wind is sold to Shaw for well over a
19 billion dollars and Catalyst -- and that's what
20 gives rise to Catalyst's damages that are being
21 sought here.

22 At the end of the day, Your Honour,
23 there's three issues, obviously, that have to be
24 determined.

25 Number one, did Moyse transmit

1 Catalyst's confidential information to West Face.

2 THE COURT: Um-hmm.

3 MR. DIPUCCHIO: Is there direct
4 evidence from which you can draw reasonable and
5 fair inferences that allow you to conclude so? We
6 say yes.

7 Did West Face misuse that confidential
8 information in submitting its bid? Again we say
9 the inescapable conclusion is yes, it did.

10 And the third issue is did Moyse commit
11 the tort of spoliation which we talked about
12 already in relation to his activities around the
13 preservation.

14 You're going to hear from many
15 witnesses. I will give you a rundown of who is
16 going to be testifying from the Catalyst side.

17 You are going to hear from Mr. de Alba
18 first. He was the lead partner on the Wind
19 transaction, Your Honour, so he's the one that's
20 going to testify about the activities of the
21 investment and the deal team at Catalyst, what
22 exactly was happening in that regard and,
23 importantly, to Moyse's extensive involvement
24 obviously in all aspects of the deal and the
25 transaction.

1 You're going to hear from Mr. Glassman,
2 the managing partner of Catalyst, and
3 Mr. Glassman's evidence will focus primarily on,
4 because Mr. Glassman was leading this aspect of the
5 deal, the discussions with Industry Canada and the
6 federal government and the importance of the
7 regulatory strategy and how Mr. Moyse was aware of
8 that strategy and why it was so important for
9 Catalyst to have a regulatory approval condition in
10 the offing.

11 And you'll hear from Jim Riley, the COO
12 of Catalyst. He has sworn a number of affidavits
13 in this proceeding already and his evidence is
14 going to focus primarily on the events after Moyse
15 departs and the efforts that were made to ensure
16 that Moyse wasn't misusing Catalyst confidential
17 information.

18 Then finally you're going to hear from
19 our expert, a gentleman by the name of Marty
20 Musters, and Mr. Musters is going to give evidence
21 just in relation to the electronic activity and the
22 activity in relation to the military grade scrub.

23 You're going to hear from many
24 witnesses on behalf of West Face and obviously from
25 Mr. Moyse himself.

1 The key issue, Your Honour, at the end
2 of the day for the court to consider is obviously
3 credibility of the various witnesses that appear
4 before you, and we're going to ask you to pay
5 particular attention to Mr. Moyse's and West Face's
6 story and how it's morphed throughout the course of
7 these proceedings. And you're going to have to
8 carefully consider why and on what basis the
9 defendants would have taken certain actions at
10 certain points in time but for the inferences that
11 we're going to ask you to draw.

12 What the defendants are going to ask
13 you to do, Your Honour, is accept a number of very
14 unfortunate coincidences in this story, and we say
15 obviously that, far from being coincidences, the
16 established facts that are going to emerge from the
17 evidence are going to allow you to draw some very
18 reasonable and fair inferences as to why people
19 behaved in the way they did over this period of
20 time and it was nothing -- nothing like a
21 coincidence.

22 At the conclusion of the trial, Your
23 Honour, we're going to ask for, obviously, an order
24 disgorging profits.

25 And that's my closing, Your Honour. Or

1 my opening, rather. I wish it was my closing. A
2 lot of work still to do.

3 THE COURT: Thank you. Will there be
4 any other openings right now or are we just going
5 to start with the plaintiff's case?

6 MR. THOMSON: I intend to open.

7 THE COURT: Very well. Just before you
8 start...

9 We'll take five minutes.

10 -- RECESS AT 10:33 --

11 -- UPON RESUMING AT 10:40 --

12 THE COURT: Mr. Thomson?

13 MR. THOMSON: Thank you, Your Honour.

14 So we have a PowerPoint that I intend to follow on
15 my opening and there are several documents that
16 have been produced along the way that are embedded
17 in the PowerPoint, there will be no need to turn up
18 separate documents.

19 THE COURT: All right.

20 MR. THOMSON: We say by way of overview
21 that this action arises really from two unrelated
22 events, the first being the hiring of Moyse by West
23 Face in May of 2014, and the second, of course, is
24 the acquisition of Wind Mobile that took place in
25 mid-September of 2014 but significantly was

1 commenced, if you will, the process was commenced
2 by West Face well before they heard of Brandon
3 Moyse. So this isn't a case where Moyse arrives at
4 West Face, West Face then begins to pursue the
5 acquisition of Wind Mobile. In fact, steps were
6 taken to pursue the acquisition going back to
7 November of 2013, and you'll see in a moment that
8 West Face was actually substantially more advanced
9 than Catalyst was in pursuing Wind Mobile at the
10 time they hire Brandon Moyse.

11 So what do we say by way of a central
12 theme of our case? What's really going on here?
13 It's very simple. Catalyst is the ultimate bitter
14 bidder, and there is a level, I say this with
15 respect, but there is a level of almost untrammelled
16 arrogance running through the Newton Glassman view
17 of the world that only he knew how things would
18 play out with Wind; only he had a proper assessment
19 of the future and prospects of Wind; only he knew
20 how the Government of Canada would react when asked
21 for regulatory concessions. As it turns out, he
22 got it all wrong. He got it all wrong.

23 His business judgment did not coincide
24 with that not just of West Face, but of all of the
25 partners that West Face ultimately teamed up with

1 to form the consortium in the summer of 2014 and
2 make the successful offer for Wind, including
3 Tannenbaum, Guppy and others.

4 So a whole bunch of sophisticated
5 people took a look at Wind and the business of Wind
6 and had a very, very different view than Glassman
7 had and that Riley had. It turns out their view
8 was correct. Glassman and Riley got it wrong and
9 now they want to complain by seeking to fault West
10 Face for conduct that it simply never engaged in.
11 Never engaged in.

12 There is no substance whatsoever, we
13 say with respect, to the claim that West Face
14 misused the confidential information of Catalyst
15 concerning Wind because there was no such
16 information ever conveyed to West Face by
17 Mr. Moyse.

18 So, this is one of those cases where
19 Catalyst comes along with the benefit of hindsight
20 to throw stones in the direction of West Face where
21 there is no basis for the stones being thrown.

22 To be clear, in the next slide, there
23 is simply no evidence to support the allegation
24 that Mr. Moyse transferred any confidential
25 information to West Face about Wind. I go beyond

1 that to say that there is no evidence that
2 Mr. Moyse conveyed any information whatsoever to
3 West Face about Wind, let alone confidential
4 information of Catalyst.

5 Now, what has Catalyst filed at the
6 trial? What evidence do they rely upon in terms of
7 witnesses from Catalyst to try to prove this case?
8 They filed two affidavits of Mr. Glassman and
9 Mr. de Alba. There is no statement in either of
10 those affidavits that Mr. Moyse conveyed
11 confidential information of Catalyst about Wind to
12 West Face, they give no evidence that West Face has
13 misused any such information, and they concede in
14 their affidavits that Catalyst in fact could have
15 reached an agreement with VimpelCom in August of
16 2014 if Catalyst had chosen to do so but Catalyst
17 refused to meet the conditions of VimpelCom.

18 It's as simple as that. Catalyst made
19 the business decision on August 15th of 2014 not to
20 meet the VimpelCom conditions, not to meet the
21 requirements of the chairman of the board of
22 VimpelCom, not to protect VimpelCom concerning
23 regulatory issues with the Government of Canada,
24 and instead to let the Catalyst period of
25 exclusivity expire, let VimpelCom consider other

1 offers, and I'm going to take you to the documents
2 in a moment saying that, so let VimpelCom consider
3 its offers from others, let's see what happens.

4 And guess what happened? Exclusivity
5 ended on August 18th of 2014, West Face made an
6 offer, the offer of West Face basically negated
7 regulatory risk to VimpelCom, it was simple, it was
8 clean, it gave VimpelCom the exit they were looking
9 for from Canada.

10 As a result, West Face succeeded even
11 though Catalyst did not, and now Catalyst complains
12 about the business choice it made in mid-August of
13 2014 with its eyes wide open based on the advice it
14 received from Morgan Stanley, its financial
15 advisors, and from the Faskens firm, its legal
16 advisors. That's not the basis for a claim against
17 West Face.

18 Now, what about Riley? So three
19 witnesses have given evidence in respect of the
20 trial on behalf of Catalyst, so de Alba, Glassman
21 and Riley. Now, unlike Mr. Riley, Mr. Glassman and
22 Mr. de Alba prepared affidavits for use at trial.

23 What did Mr. Riley do? Mr. Riley,
24 instead of preparing a proper and properly
25 admissible affidavit for use at trial, simply

1 re-filed five interlocutory affidavits that he has
2 filed along the way in the Moyse case starting as
3 early as, I think it is, June 26th or so of 2014,
4 all of which were filed in relation to matters such
5 as injunction applications, complaints against
6 Moyse and so on.

7 And I'm going to ask Your Honour, when
8 Mr. Riley sets foot in the witness box, to take a
9 very careful look at the affidavits he has filed in
10 this case, because rather than prepare a proper
11 affidavit that would contain admissible evidence
12 for use at trial, he simply re-filed the other
13 affidavits that are remarkable by any measure.

14 I've done this for a long time; I'm not
15 sure I've ever seen affidavits quite like these
16 ones. They are rife with speculation, conjecture,
17 hearsay, double hearsay, numerous factual errors.
18 And yet Mr. Riley saw fit to file those affidavits
19 for use at trial.

20 So, much of the evidence is simply not
21 admissible at all, it's objectionable, he has
22 almost no relevant evidence to give in this
23 proceeding, with the result that Catalyst's claim
24 will fail based on its own evidence.

25 Now, you may recall that early on, when

1 I first became involved in this case, which was
2 January of this year, that was at a point in time
3 when there were appeals pending to the Divisional
4 Court concerning Catalyst's request to have a
5 so-called ISS, an independent solicitor appointed
6 to look at the documents of West Face.

7 The position taken by Catalyst at that
8 point in time was that if an ISS was appointed in
9 respect of West Face, the ISS might uncover actual
10 evidence to support its claim. Might uncover
11 evidence that Mr. Moyse had in fact conveyed
12 information to West Face about Wind Mobile.

13 As it turns out, as you know, Catalyst
14 lost those appeal proceedings in the Divisional
15 Court, there was no ISS appointed. West Face has
16 honoured its production obligations and there is
17 simply no evidence whatsoever, based on a
18 completely comprehensive reading of every single
19 document exchanged between Moyse and West Face and
20 every document that Moyse generated, received or
21 was copied on while he was at West Face, simply no
22 evidence whatsoever that he ever conveyed a single
23 piece of information to West Face about Wind
24 Mobile. In fact, all of the evidence is directly
25 to the contrary both from Moyse and from all the

1 people at West Face who dealt with him.

2 Now, you heard Mr. DiPucchio, he is a
3 very skilled lawyer, you heard Mr. DiPucchio say in
4 his opening over and over again "Your Honour, I'm
5 going to ask for findings against West Face that it
6 did in fact receive information from Mr. Moyse
7 about Wind Mobile."

8 Every time he made this submission he
9 said the same thing, "I'm going to ask you to draw
10 an inference, I'm going to ask you to draw an
11 inference." Now, the reason he's asking you to
12 draw an inference, of course, is because he has no
13 evidence to support the allegation. The request to
14 draw an inference is the last refuge of someone
15 with no evidence.

16 So absent evidence to support the
17 findings that you have been asked to make, my
18 friend has been forced to resort to the drawing of
19 an inference, and of course there's all sorts of
20 law as to the limits on the court's ability to draw
21 inferences in cases of this nature.

22 At a minimum, there has to be a strong
23 evidentiary foundation to support the drawing of
24 the inference. In this case, all Catalyst has done
25 is attempted over and over and over again to cast

1 perfectly innocuous events in a sinister light and
2 that is not the basis on which a court can draw an
3 inference.

4 Now, what are the facts that pertain to
5 the underlying issues in the case? You start with
6 what we call the prosaic hiring of Mr. Moyse.
7 That's a Milne-Smith word, not a Thomson word - in
8 North Bay we don't use words like "prosaic."

9 So what happened? In the simplest
10 possible terms, Moyse begins to work at Catalyst
11 November of 2012. He becomes unhappy with working
12 at Catalyst, for reasons that he will presumably
13 explain when he gives evidence. The reasons really
14 don't matter to West Face, but the bottom line is
15 he begins to look for jobs elsewhere at a whole
16 variety of places but including West Face.

17 He contacts West Face on March 14th of
18 2014. West Face has recently launched a new fund
19 called the Alternative Credit Fund and they need
20 help running that fund. Moyse expresses an
21 interest in working at West Face on this new
22 venture, the new fund. West Face needs an analyst.
23 And so they begin now to look at Moyse and they
24 begin to look at his credentials.

25 And here at slide 7 is the email that

1 Moyse sends to Mr. Dea at West Face on March 14th
2 of 2014 where he refers to the launch of this new
3 fund. He says he's starting to look at exploring
4 other opportunities, this seems something that
5 would definitely be of interest to him, and he
6 explains reasons why he might be interested in
7 joining West Face.

8 That leads to a total of three meetings
9 that take place between Mr. Moyse and
10 representatives of West Face before he is
11 ultimately hired.

12 So first a brief meeting with Mr. Dea
13 on March 26th of 2014; they meet for coffee at a
14 local coffee shop called Aroma. They have a
15 high-level chat concerning Mr. Moyse's background,
16 his work at Catalyst, and discuss why he might want
17 to join West Face.

18 April 15, he comes back to West Face
19 and he meets briefly with three people, so two of
20 them are partners, so Peter Fraser and Tony
21 Griffin, both partners of West Face, and I'm going
22 to mispronounce the next name, Yu-jai Zhu is a
23 vice-president I believe of West Face and basically
24 an analyst. They interview Mr. Moyse briefly,
25 again about his background, about his credentials,

1 about the kind of work he had been doing at a high
2 level and about the work he would like to do at
3 West Face.

4 And then finally on April 28th
5 Mr. Boland, who was the CEO of West Face, has a
6 very brief interview with Mr. Moyse, just to check
7 him out and make sure he was a good guy.

8 What is significant is that Wind is not
9 discussed at any point along the way in any of
10 these interviews. Never referred to. And you'll
11 hear evidence from a number of these people who
12 will deal with that very point.

13 I'm going to take you in a moment to
14 Mr. Zhu's notes of his interview with Mr. Moyse to
15 explain what we were told by counsel for Catalyst
16 as recently as Friday of last week about the
17 inference they intend to draw from that interview.
18 We had no intention of calling Mr. Zhu as a witness
19 until Friday afternoon when we were told about the
20 inference they seek to draw based on his interview
21 notes, so he will now be a witness to dispel the
22 inference that Catalyst would like to hang its hat
23 on.

24 In any event, Moyse is not discussed at
25 any point along the way before he is hired. He

1 becomes frustrated by the pace of the hiring
2 practices, but West Face is proceeding carefully in
3 a very different way.

4 What does West Face do? They go out
5 and they check his references. They ask for
6 references, so they check the references. And what
7 do they discover? They discover that Moyse has, as
8 we say in slide 9, excellent qualifications, so he
9 is a graduate of one of the leading universities in
10 the US, the University of Pennsylvania, with a
11 degree in mathematics, he has a strong work
12 background both at RBC, at Credit Suisse in New
13 York and with Catalyst. Significantly, has
14 experience both in debt capital markets and in
15 private equity, and his references are quite
16 outstanding. The next documents will show you
17 that.

18 So here on slide 10 is an email sent by
19 Mr. Mercein, Thomas Mercein of Credit Suisse, to
20 Mr. Dea at West Face on May 15 of 2014. He
21 describes Moyse as:

22 "Great kid, very smart and hard
23 working.

24 He was the guy that did all my
25 stuff when he was in my group. I

1 was consistently impressed with his
2 work.

3 You are the man.

4 Tommy."

5 And then the next one from Rich Myers
6 of Credit Suisse to Mr. Dea a day or two later, May
7 16th:

8 "Sounds good. Nothing negative
9 at all to say about Brandon - quite
10 the opposite. He was among the very
11 best analysts we've had and was
12 given the lead on several high
13 profile internal projects with
14 senior management focus."

15 So he comes in with tremendous
16 credentials and strong references. Again, nothing
17 whatsoever to do with the fact that he had worked
18 on Wind because no one at West Face knew he had
19 worked on Wind, the subject never came up.

20 Now, I referred to this a moment ago,
21 the Catalyst approach to mischaracterize these
22 innocuous events typified by its intention to
23 allege that Mr. Moyse discussed Wind during his
24 interview with Mr. Zhu on April 15, 2014 based on
25 his handwritten notes.

1 So what do the notes say? Mr. Zhu's
2 handwritten notes are on the left side of the next
3 slide and a typed transcription is on the right
4 side. So these are his notes of his interview with
5 Moyse on April 15th of 2014. And you'll see, if
6 you look at the note, there is no reference
7 whatsoever to Wind, none.

8 So what are we told last Friday? We
9 are told by Catalyst counsel that because of the
10 reference about five lines down under the heading
11 "Catalyst live deals," they intend to ask the court
12 to draw an inference that the reference to "live
13 deals" must mean that he discussed Wind Mobile with
14 Mr. Zhu, even though Wind is not referred to at all
15 in the note.

16 What does Mr. Zhu say when we asked him
17 about that on Friday? Here is his affidavit sworn
18 last Friday afternoon, June 3. You'll see him
19 testify, vice-president of West Face:

20 On the afternoon of Friday,
21 June 3, 2016, I was informed by
22 Mr. Panet, general counsel to West
23 Face, that Catalyst intends to rely
24 on a note I took of my interview
25 with Mr. Moyse on April 15, 2014 to

1 suggest that Mr. Moyse and I
2 discussed Wind Mobile during his
3 interview. For the reasons set out
4 below, I can state categorically
5 that that suggestion is simply
6 false."

7 He goes on to explain the note, what
8 they did discuss and why they would never have
9 discussed Wind Mobile.

10 Now, what is the sequence of events
11 surrounding the actual hiring of Moyse? They are
12 very simply these.

13 On May 16, after checking his
14 references, West Face makes a verbal offer of
15 employment to Moyse. I believe he was travelling
16 in Southeast Asia at the time. They eventually
17 follow up with a written offer of employment on May
18 22nd. They again decide to hire Mr. Moyse for
19 completely innocuous reasons, so a strong academic
20 background, his skills as an analyst, and excellent
21 references, again nothing whatever to do with Wind.

22 He was hired to fill an immediate need,
23 and you'll see on this slide several emails that
24 deal with that immediate need and why they hired
25 him. And the key email is in the middle of the

1 slide, it's an email from Mr. Dea to Mr. Boland,
2 Mr. Fraser, Mr. Griffin, the three other partners
3 of West Face, where you see the highlighted part of
4 it saying:

5 "I think the immediate need is
6 to have someone mostly dedicated to
7 grinding out possible debt deals.
8 Anyone else?"

9 And Mr. Boland writes back and says:
10 Agreed, reach out to another person, put him off
11 for a bit, and so on and so on.

12 Now, what's important about that, Your Honour, that
13 particular slide, is of course the Wind Mobile
14 transaction couldn't be further away from a debt
15 deal. Debt deals were the Alternative Credit Fund
16 and the reason for hiring Moyse again had nothing
17 whatsoever to do with the sort of transaction that
18 West Face, independent of Mr. Moyse, ultimately
19 proceeded with in the summer of 2014.

20 Now, let me pause here and address a
21 submission made by Mr. DiPucchio in his opening.
22 He said the evidence will show -- I took a note of
23 it, he said the evidence will show that West Face
24 took a cavalier approach, to use his phrase, a
25 cavalier approach to dealing with the confidential
information of Catalyst. And I say by way of
opening, with respect, nothing could be further
from the truth.

In fact, it is remarkable to see the

1 number of precautions that West Face took to
2 protect the confidential information of Catalyst
3 before they ever let Moyse set foot in the door.

4 So what were the precautions? Here we
5 are on May 22nd of 2014, this is the same day that
6 they send a written offer of employment, Your
7 Honour, and this is a month before Moyse ever
8 darkens the door of West Face. You'll see here an
9 extract from Mr. Singh's affidavit. Mr. Singh was
10 the general counsel of West Face at the time.
11 Mr. Singh says that:

12 "On or about May 22, 2014, the
13 same day that West Face provided a
14 written offer of employment to
15 Brandon, I spoke with Brandon and
16 advised him that West Face takes
17 matters of confidentiality very
18 seriously and that he was not to
19 disclose any information belonging
20 to Catalyst. I pointed out to
21 Brandon that this obligation was
22 also included as part of his
23 employment contract with West Face,
24 which states that he must not use
25 any property in the course of his

1 employment with West Face which is
2 confidential or proprietary
3 information of any other person,
4 company, group or organization,
5 which I told him would include
6 Catalyst."

7 He was given a specific admonition by
8 the general counsel a month before he sets foot in
9 the door that he cannot disclose and he must not
10 disclose to West Face any information of Catalyst,
11 which of course would include Wind.

12 Now, what is - this is important, Your
13 Honour - what is quite literally the only evidence,
14 the only evidence Catalyst has of Mr. Moyse
15 conveying any information to West Face that it
16 perceives to be confidential? It is the email of
17 March 27, 2014. So let me pause here and just tell
18 you why this was sent.

19 When Mr. Dea met with Mr. Moyse I
20 believe the day before for a coffee at Aroma and
21 Moyse was now looking for a job at West Face, Mr.
22 Dea said to Moyse, we're going to need to see some
23 of your writing samples to be able to evaluate how
24 you write, but, he said, do not include in the
25 writing samples any information confidential to

1 Catalyst. So he specifically told him do not give
2 us anything that will be confidential to Catalyst
3 but we want to look at your writing.

4 So what does Moyse send on March 27?
5 He sends him his CV, he sends him something called
6 a deal sheet which is just a list of deals he had
7 worked on, and then, as you'll see, he says in the
8 first sentence of the email:

9 "...and a few investment
10 write-ups I've done at Catalyst."

11 And look what he says in the
12 highlighted part below that in the email, so an ex
13 post facto investment write-up about a company
14 called Homburg, reference to NSI, only public
15 information was used for the write-up. Rona,
16 prepared this with only public info. Arcan
17 Resources:

18 "The memo represents a couple
19 weeks' work off completely public
20 info."

21 So West Face is assured by Mr. Moyse
22 that the writing samples that are attached are
23 based on purely public information, that's the
24 basis on which -- and the reason he's saying that
25 is because he was given that specific admonition by

1 West Face when Mr. Dea asked for writing samples
2 when they met at Aroma the day before, on March
3 26th.

4 Now, you will see that for dramatic
5 effect we have called this a red herring and we
6 even put it in red on the slide.

7 THE COURT: Was that your input?

8 MR. THOMSON: Mr. Milne-Smith claims
9 credit for that.

10 MR. MILNE-SMITH: No, Mr. Thomson
11 wanted to put a fish in.

12 THE COURT: You are responsible for the
13 word "prosaic"?

14 MR. MILNE-SMITH: If credit is going to
15 be given where it is due, someone much smarter than
16 myself, Mr. Carlson.

17 MR. THOMSON: I am surrounded by a
18 bunch of smarty-pants.

19 Your Honour, the reason this is a red
20 herring is because none of these writing samples
21 have anything whatsoever to do with Wind Mobile.
22 With respect to the companies in question, it turns
23 out to be a complete red herring because West Face
24 did not invest in Homburg, did not invest in NSI,
25 did not invest in Rona.

1 It only made one investment in Arcan
2 Resources and did so based on a Plan of Arrangement
3 that only took place on June 23 of 2014, well after
4 these writing samples were generated several months
5 before, or years before, and well before they were
6 communicated to West Face on March 27. That Plan
7 of Arrangement clearly was not part of Moyse's
8 analysis while at Catalyst. Moreover, Catalyst
9 passed on investing in all of NSI, Rona and Arcan.

10 This couldn't be a bigger red herring.
11 This does not support in any way, shape or form the
12 contention that West Face was somehow cavalier
13 about receiving from Moyse confidential information
14 at all from Catalyst, and doesn't support the
15 contention in any way that Mr. Moyse conveyed
16 information to West Face about Wind Mobile.

17 THE COURT: Let's take the morning
18 break, 20 minutes.

19 -- RECESS AT 11:06 --

20 -- UPON RESUMING AT 11:26.

21 MR. THOMSON: Your Honour, the next
22 phase of the story from West Face's perspective
23 deals with its response to the concerns of
24 Catalyst. So of course up until May 24th or so,
25 when West Face is making offers to Moyse, it

1 doesn't know that it's going to be met with the
2 complaints that it eventually receives, but it does
3 become aware shortly thereafter of the concerns of
4 Catalyst.

5 So what happens? Here's the basic
6 sequence of events on slide 21. So May 24th of
7 2014, Moyse tells Catalyst that he is resigning.
8 May 26th, which is a Monday, Moyse returns to
9 Catalyst from his vacation in Southeast Asia, he
10 tells Riley that he has accepted a position at West
11 Face. What happens? Riley immediately sends Moyse
12 home and cuts off all access to the Catalyst
13 servers.

14 So that's important, Your Honour, for
15 this reason, just to make a mental note of this,
16 that in the entire period from May 26th onwards
17 Moyse is not kept apprised by Catalyst of anything.
18 He is not told by Catalyst about its negotiations
19 with VimpelCom, he is not told by Catalyst about
20 its discussions with the Government of Canada. He
21 has no idea what positions Catalyst may or may not
22 have taken, what positions VimpelCom may or may not
23 have taken, how the position of Catalyst may have
24 morphed, changed, been revised over time.

25 He simply is not there and believe me

1 when I tell you the evidence will be that
2 Mr. Glassman is not picking up the phone and
3 calling Mr. Moyse sitting at home about to join
4 West Face to say, guess what just happened in my
5 last discussion with the government, or with anyone
6 else for that matter.

7 So what happens? May 30th, 2014, this
8 is of course before Moyse joins West Face,
9 Catalyst's counsel sends a letter to West Face
10 expressing concerns over the hiring. Now, as of
11 that point in time West Face has no idea that Moyse
12 has been part of the deal team, the Wind deal team
13 at Catalyst.

14 June 18 of 2014, my good friend
15 Mr. DiPucchio writes a note or calls someone on the
16 West Face side, this is before we became involved,
17 but to say that Catalyst was particularly concerned
18 that Moyse had been involved while he was at
19 Catalyst on a telecom file. West Face simply makes
20 the informed assumption, it's a guess basically,
21 but makes the assumption that the telecom file was
22 Wind because that was the telecom file that West
23 Face was involved in.

24 So what do they do? This is where they
25 are to be commended, not faulted. They take a

1 series of steps to protect Catalyst and they do
2 so -- all of this is before Moyse joins West Face.

3 What do they do? June 19 of 2014, West
4 Face implements an impenetrable confidentiality
5 wall. They forbid Moyse from communicating with
6 anyone at West Face about Wind, vice versa and
7 that's announced within the firm. Memos are sent
8 within the firm. A meeting is held to tell people
9 stay away from Moyse, he has nothing to do with
10 Wind and we're not going to be discussing this
11 transaction in his presence, and that's exactly
12 what they ended up doing.

13 The IT group at West Face restricts his
14 access to Wind files and we've been through it and
15 there is no evidence whatsoever that Moyse ever
16 gained access to a Wind file in the brief period he
17 was employed by West Face.

18 June 19 of 2014, the chief compliance
19 officer of West Face calls Moyse, tells him that
20 he's not to talk about Wind with anyone at West
21 Face, he is not to disclose to anyone at West Face
22 any information about Wind, he is not to attempt to
23 access any West Face files regarding Wind.

24 And she will testify, Your Honour, at
25 the trial of this action to tell you what happened

1 during that discussion with Mr. Moyse, this is not
2 the subject of any debate, this was a matter of
3 admonishment. Her name is Supriya Kapoor, for your
4 notes, and she will testify during the course of
5 the trial.

6 Don't forget, just before the break we
7 established he had received a similar warning,
8 similar admonitions from the general counsel of
9 West Face a month before on May 22nd, 2014. So
10 multiple warnings coupled with a confidentiality
11 wall, all before he ever sets foot in the door at
12 West Face.

13 He begins working at West Face on June
14 23 of 2014. Two days later Catalyst sues him and
15 sues West Face and takes steps to pursue an
16 interlocutory injunction to enforce these
17 restrictive covenants that Mr. DiPucchio referred
18 to in the employment contract which West Face
19 believed were not enforceable.

20 You will see that he is only employed
21 by West Face for three weeks, so he is there
22 between June 23 and July 16. On July 16 the
23 parties agree to a consent interim order and he is
24 placed on indefinite leave. As it turns out, Your
25 Honour, he never comes back to West Face.

1 So he was there for a total of about 15
2 days and that's it. There is no further
3 substantive communications between Moyse and West
4 Face. To the extent there was any communication,
5 it was about benefits and matters of that sort
6 after July 16.

7 What do we know about the forensic
8 review of Moyse's involvement in these sorts of
9 matters while he was at West Face?

10 Well, West Face retains an independent
11 computer consultant, Mr. Burt-Gerrans, to take a
12 very careful look at Moyse's use of facilities at
13 West Face, including his desktop computer which was
14 still intact, it had not been reused by anyone else
15 at West Face so we have a complete record of what
16 Moyse did while he was at West Face. There was no
17 deletion of data so we have it all. With respect
18 to the data on the personal computer, no copying of
19 data from or to external storage devices, no record
20 that Moyse accessed his external DropBox account.

21 All of his emails were preserved.
22 They've all been gone through. There were hundreds
23 and hundreds of emails, even though he was only
24 there for three weeks, and suffice to say they are
25 all perfectly innocuous and none pertained to Wind

1 Mobile.

2 So the evidence of Mr. Burt-Gerrans is
3 not challenged, he will not be cross-examined at
4 trial because his evidence has been accepted.

5 Now, Catalyst has had all those emails,
6 by the way, since March of 2015, so for well over a
7 year.

8 So what about the Wind allegation,
9 slide 26? There is simply no evidence to
10 substantiate these allegations about Wind. So no
11 evidence that Moyse said anything to Dea or anybody
12 else at West Face about Wind before he was hired
13 either at the March 26th interview or the ones on
14 April 15 or 28; no evidence that he said anything
15 to anyone at West Face about Wind after he was
16 hired or in the period before they made him an
17 offer and before he joined West Face; no evidence
18 that the confidentiality wall was ever breached
19 prior to, during or after his three weeks of
20 employment at West Face. There is just simply no
21 evidence that Moyse communicated anything to anyone
22 at West Face ever about Wind Mobile by any mode of
23 communication, written or oral.

24 Now, that's really the beginning and
25 the end of Catalyst's case against West Face.

1 There is just no substance to it.

2 To fill in a few of the facts and to
3 respond to some of Mr. DiPucchio's comments and
4 allegations made in his opening, if you then roll
5 back and fill in some of the gaps.

6 So slide 29, the efforts to acquire
7 Wind begin November 14th of 2014 when Lacavera, who
8 is the CEO of Wind, calls Tony Griffin of West Face
9 and advises that VimpelCom wants to sell its
10 interest.

11 The next slide is the November 8, 2013
12 expression of interest that is provided by West
13 Face to Catalyst. And no reason to go through it
14 in detail but you'll see if you read it that they
15 are looking at proceeding on the basis of a
16 so-called enterprise value, toward the end of that
17 document, an enterprise value between 450 to 550
18 million dollars, comprised of \$150 million of third
19 party debt and an equity value of between 300 and
20 400 million dollars.

21 Now, let me pause there, Your Honour,
22 and say this. At that point in time, November of
23 2013 into the spring of 2014, Wind had a big
24 problem. The big problem Wind had was that
25 VimpelCom had effectively tired of being in Canada.

1 VimpelCom had been trying to obtain approval from
2 the Government of Canada to acquire majority
3 control of Wind. The government said no. In the
4 media it was reported the government said no
5 because VimpelCom is backed by Russians, the chair
6 of the board is a Russian, there were national
7 security concerns and the government said with
8 these national security concerns we're not going to
9 authorize VimpelCom to become the de jure control
10 owner of Wind Mobile.

11 So VimpelCom became quite frustrated
12 with those efforts. VimpelCom, by the time you get
13 to the spring of 2014, has accumulated shareholder
14 debt owed to it of about 1.5 billion dollars for
15 funding the operations of Wind. It can't get
16 approval from the government.

17 It has another problem which is that
18 there is debt owed by Wind Mobile to the vendors of
19 equipment to Wind, so companies like Alcatel-Lucent
20 and so on that had sold equipment, wireless
21 equipment and so on, they were owed about \$150
22 million in debt and that debt was nearing the stage
23 of default. In fact, that debt went into default
24 after VimpelCom effectively cut off support for
25 Wind Mobile in the spring of 2014. And so part of

1 the transaction had to do with either taking that
2 debt out or at least renegotiating or dealing with
3 it in some way that would deal with the vendor
4 debt.

5 Now, I said at the start of my opening
6 that West Face actually had an early lead over
7 Catalyst on negotiations to acquire Wind and these
8 are the relevant dates.

9 With respect to the initial expression
10 of interest, you will see West Face's was sent in
11 November 8, 2013, we just looked at that;
12 Catalyst's not until January 2nd, 2014. With
13 respect to non-disclosure agreements, West Face
14 executed its on December 7, 2013; Catalyst not
15 until March 21, 2014. In terms of gaining access
16 to the Wind data room, West Face obtained access
17 December 10, 2013; Catalyst not until May 2014.
18 And with respect to a first presentation from the
19 management of Wind, West Face December 18, 2013;
20 Catalyst not until May 2014.

21 Your Honour, this is important because
22 it puts the lie to any suggestion that West Face
23 pursued Wind because of Moyse. West Face's pursuit
24 of Wind had nothing whatsoever to do with Moyse.
25 They were completely unrelated events.

1 Now, by June 18, 2014, which is the
2 first time that West Face is told that Moyse had
3 worked on a telecom file at Catalyst, what had West
4 Face done? They made any number of proposals to
5 acquire Wind to VimpelCom; they had been in contact
6 on any number of occasions with Mr. Lacavera of
7 Globalive and Mr. Leitner of Tannenbaum. They both
8 eventually were part of the syndicate that was
9 formed to acquire Wind in September 2014. They had
10 accepted VimpelCom's demand for an enterprise value
11 of \$300 million.

12 Let me pause there. In Mr. DiPucchio's
13 submissions this morning he talked about how
14 coincidental it was that West Face ended up with
15 the same effective purchase price, if you will, as
16 Catalyst using an enterprise value of \$300 million.

17 It's a very simple explanation.
18 VimpelCom made that demand known to all bidders.
19 That's what they wanted and they made that demand
20 known in May of 2014. It was actually publicized.
21 It was sitting in the Globe and Mail. There was no
22 secret whatsoever as to what VimpelCom wanted to
23 get out of Canada and for its interest in Wind, so
24 all bidders were proceeding on the same basis.

25 What did West Face know about

1 VimpelCom? They knew that VimpelCom, because it
2 was selling Wind at a bargain basement price,
3 wanted a quick, clean exit with minimal regulatory
4 risk. That was a central facet of VimpelCom's
5 demands to West Face right from the get-go.

6 What then happens? April, May, June,
7 early July, West Face receives feedback from
8 VimpelCom again and again, this is in Mr. Griffin's
9 affidavit, it's a competitive sales process,
10 business priced to sell, this is an as-is/where-is
11 sale, and because of difficulties they had
12 experienced with the Government of Canada, they
13 wanted this clean, quick exit with no regulatory
14 risk.

15 And the contemporaneous documents
16 support all of this. So here is an email from Mr.
17 Griffin of West Face to Mr. Boland and a variety of
18 others about VimpelCom as of May 2nd, 2014 about
19 their feedback and proposal West Face had made.

20 Q. They do not wish to have any
21 rollover equity participation in the
22 business."

23 The next document, which is June 10th
24 of 2014 from Francois Turgeon at UBS, UBS acted as
25 the financial advisors for VimpelCom throughout

1 these transactions. What does UBS say on behalf of
2 VimpelCom?

3 "The delayed settlement feature
4 you proposed does not work for
5 VimpelCom. VimpelCom has the
6 objective of a clean exit at a \$300
7 million enterprise value.

8 [VimpelCom] is not prepared to have
9 any portion of the proceeds
10 contingent on a future event."

11 So the position being taken by
12 VimpelCom both directly and through UBS is
13 consistent all the way through.

14 Several weeks later, June 23, 2014,
15 Mr. Turgeon of UBS to Mr. Griffin of West Face
16 talking about a markup of a draft of a share
17 purchase agreement that had been provided by UBS to
18 West Face where he says to Mr. Griffin that your
19 markup is not really helpful, it seems to be
20 completely redoing the share purchase agreement,
21 and so on and so on.

22 "As discussed on Friday, our
23 client is looking for a clean exit
24 on 'as-is basis' with a share
25 purchase agreement very close to

1 what we have sent you."

2 So basically stop screwing around, give
3 us the money, give us a clean agreement and we're
4 out, and that was the message that West Face
5 received from VimpelCom directly all the way
6 through.

7 Now, what happened when Moyse was at
8 West Face? West Face was pursuing Wind with
9 another strategic party that eventually declined to
10 participate.

11 And, Your Honour, you met with Mr.
12 Tenai on Friday of last week about the other party,
13 so during the very brief period of three weeks
14 while Moyse was at West Face, West Face was
15 pursuing what proved to be a dead end, a completely
16 different transaction than the one they did pursue
17 after he left. So even if someone had been
18 discussing Wind with Moyse, which they didn't,
19 nothing would have turned on it.

20 In any event, Moyse has no involvement
21 whatsoever in that transaction or any other
22 transaction while he's at West Face because of the
23 confidentiality wall.

24 And, Your Honour, as you've said in a
25 number of previous cases, sometimes the best

1 evidence as to what people actually knew, what they
2 thought, what they did at the time are the
3 contemporaneous documents. So let's look at one
4 contemporaneous document of Moyse to see what he
5 knew when he was at West Face about the Wind
6 transaction.

7 You'll see here at the top of the next
8 page an email from Moyse sent on September 16 of
9 2014 to one of his friends. And September 16, Your
10 Honour, is the very day that the West Face
11 acquisition of Wind was signed, it was completed on
12 the very day it was signed and publicly announced
13 all on the same day.

14 So this is an email from Moyse when he
15 becomes aware for the first time of the West Face
16 acquisition of Wind. Of course at this point he's
17 in the penalty box, he's been gone from West Face
18 since mid-July, but let's see what he says.

19 Saying to his friend, who says this is
20 a pretty big acquisition, they need more people.
21 And Moyse says:

22 "Haha - think they're just
23 backing them financially (my guess
24 is they are lenders to the new
25 company and maybe have some equity

1 or warrants). Sounds like Lacavera
2 will probably be the largest equity
3 holder and majority owner. Don't
4 know for sure since I couldn't work
5 on it! I'm sure Catalyst is pissed
6 especially now since they had wanted
7 to buy it."

8 What's significant about that email is
9 that Mr. Moyse gets literally everything wrong. He
10 gets literally everything wrong. That's not
11 remotely close to a fair description of the West
12 Face transaction. I'm not faulting him. It's all
13 wrong because he simply didn't know because he had
14 no involvement.

15 Now, what about, why did the Catalyst
16 transaction actually fail? Why didn't they close
17 the deal with VimpelCom?

18 The next slide, slide 40. Catalyst
19 takes the position repeatedly in its dealings with
20 the Government of Canada that it could not and
21 would not proceed with an acquisition of Wind
22 unless it obtained regulatory concessions from the
23 Government of Canada. And the problem with
24 Catalyst's position, Your Honour, was that the
25 Government of Canada confirmed repeatedly that it

1 was not willing to grant Catalyst those
2 concessions.

3 And can I pause here and draw a
4 dividing line between regulatory approval on the
5 one side and regulatory concessions on the other,
6 because they're two very different things.

7 The Catalyst transaction in question
8 would have involved a change of control of Wind
9 Mobile. Because it's a change of control of the
10 licensee, you had to obtain government approval for
11 that change of control, otherwise you can't
12 proceed. So government approval is baked into the
13 Catalyst transaction from day one. It simply could
14 never proceed to acquire Wind without obtaining
15 government approval.

16 Government concessions were a
17 completely different animal. The government can
18 approve the transaction, say go ahead and acquire
19 Wind, without ever giving you a single concession.
20 So requests for a concession really had nothing
21 whatsoever to do with government approval unless
22 you link the two together. And that distinction is
23 very important in terms of looking at what Catalyst
24 eventually did with the government.

25 Here is an email - this is important,

1 Your Honour - from Bruce Drysdale. This is now the
2 next slide. Drysdale is Catalyst's government
3 relations consultant and the evidence will show
4 that Drysdale had significant experience with
5 government, he worked in government, he worked for
6 and on behalf of three cabinet ministers, formed
7 his own consulting firm a number of years ago, and
8 he's retained by Catalyst to give them advice on
9 dealing with the government.

10 Let's look at what Drysdale says to
11 Catalyst on July 25 of 2014 where he says -- you
12 have to read these from the bottom up, so at the
13 bottom of the page he is referring to a discussion
14 he's had with a fellow named James Nicholson and
15 James Nicholson is one of the most senior people at
16 Industry Canada who is responsible for the Wind
17 transaction. He says in the highlighted part:

18 "Lastly, Nicholson implied that
19 Catalyst seeking any concessions was
20 a dead end as we have gone down that
21 road twice before with them and they
22 are unlikely to be flexible."

23 At the top of the page, same day, two
24 hours later, he says to Mr. de Alba, copied to
25 Mr. Riley:

1 "I worry we end up with a
2 stranded asset where Ottawa allows
3 us to buy Wind and approves transfer
4 of spectrum," that's the transfer of
5 spectrum to the new Wind company
6 owned by Catalyst, "but won't
7 license operation to be a
8 re-seller," which I'll explain in a
9 moment, "or won't give us
10 concessions to build it out. Then
11 they limit who we can sell it to."

12 What he's saying is they will approve
13 the transaction but not give you concessions; if
14 they don't give you the concessions, you will end
15 up with a stranded asset. So this is a high risk
16 proposition to Catalyst and you have to proceed
17 with this with your eyes wide open to be careful.

18 What does he say shortly thereafter?
19 This is now Sunday, August 3 of 2014, he writes a
20 very important email to Glassman and de Alba,
21 copied to Riley, so the three partners of Catalyst.
22 He says he was in Ottawa last week, he met with
23 Nicholson from Industry Canada, he also has coffee
24 with a senior official from the Privy Council
25 Office, he says he was able to have frank

1 conversations with both, also pursuing the Catalyst
2 position.

3 "Below please see some of the
4 feedback and insights from Nicholson
5 and the Privy Council Office."

6 And look at the highlighted part below:

7 "Both Industry Canada and the
8 Privy Council Office and the Prime
9 Minister's Office are adamant that
10 the current federal policy will not
11 change."

12 Pause there, Your Honour. The current
13 federal policy prohibited the transfer of spectrum
14 from new entrants to incumbents. He goes on to
15 say:

16 "Nicholson clarified the
17 federal position saying Minister
18 Moore and Industry Canada officials
19 would not be opposed to Catalyst
20 buying Wind but Ottawa would not
21 provide concessions Catalyst
22 outlined in its May presentation for
23 building out a fourth carrier nor
24 would Ottawa allow Catalyst or
25 anyone else to become a re-seller."

1 This is one of the options
2 Mr. DiPucchio explained in his opening.

3 "Nicholson said that if
4 Catalyst signs a sale and purchase
5 agreement with Wind it should do so
6 with a clear understanding it would
7 have to build out a fourth carrier
8 without concessions and without
9 ability to sell to an incumbent
10 after 5 years."

11 So Catalyst's exit strategy is down the
12 drain. And then at the very bottom of the page:

13 "Nicholson said that if nobody
14 steps forward to build out a fourth
15 carrier as a straight-up proposition
16 (no concessions, no ability to sell
17 incumbents after 5 years, etc.) then
18 the Harper government has
19 'mitigating strategies' in place to
20 deal with that scenario."

21 So, Your Honour, why is all that
22 important? Because Mr. Glassman has filed an
23 affidavit in these proceedings in which he has said
24 for trial purposes: In the absence of the
25 concessions we weren't prepared to proceed with an

1 acquisition of Wind, the Government of Canada has
2 now stated and the Minister has said very clearly
3 there will be no concessions.

4 It's as simple as that. That's why
5 this whole effort to somehow fault, of all people,
6 fault West Face for the failure of the Catalyst
7 transaction is a complete non-starter. It's a
8 complete non-starter. The whole strategy of
9 Catalyst, as it turns out, was stillborn right from
10 the beginning for reasons that have nothing
11 whatsoever to do with Moyse and nothing that has
12 anything to do with West Face.

13 So how does Catalyst try to link all of
14 this now back to West Face? They say that Moyse
15 knew Catalyst's regulatory strategy. Why? Because
16 he transcribed notes for a PowerPoint presentation
17 that Glassman or Riley used in a presentation to
18 Industry Canada on March 27 of 2014. The key
19 concession that they were seeking was this exit
20 strategy of allowing Catalyst to exit its
21 investment in Wind without restrictions in five
22 years, including by selling wireless spectrum of
23 Wind to an incumbent.

24 And you'll see here a copy of the next
25 slide, part of the presentation delivered by

1 Catalyst to the Government of Canada on March 27 -
2 Mr. DiPucchio showed you, I think, part of this -
3 and Catalyst again presents three strategic options
4 for consideration by the government in that
5 meeting.

6 So the first option is a combination of
7 Wind Canada and Mobilicity to create a fourth
8 national carrier focused on the retail market. So
9 this is now a retail operation, which of course had
10 been the government's focus from day one.

11 You'll see the next sentence is
12 actually quite important, so negotiations with
13 VimpelCom are well advanced but no deal - no deal -
14 can be completed without establishing a viable
15 regulatory and economic framework so we can't
16 proceed unless you give us the concessions.

17 Then under the heading "Requires," one
18 of the changes that would be necessary to create
19 that viable regulatory and economic framework,
20 among others, the very last bullet, the ability to
21 exit the investment with no restrictions in five
22 years. So that was one of the key concessions
23 Catalyst sought.

24 Option 2 was the so-called reseller
25 option, which we just discussed a moment ago, so a

1 combination of Wind and Mobilicity to create a
2 fourth national carrier focused on the wholesale
3 market. What they were contemplating was that they
4 would combine these two companies to create a
5 fourth national carrier but not focused on the
6 retail market, rather focused on renting its
7 spectrum to incumbents in a competitive bidding
8 situation. That's the reseller option.

9 The problem with that is of course that
10 that required government approval because that
11 involves, under the Government of Canada rules, a
12 transfer of wireless spectrum. Again, what did
13 that option require? The last bullet, the ability
14 to exit the investment with no restrictions in five
15 years, and so on.

16 So that was the Catalyst exit strategy.
17 And the end of the story is the government just
18 says no, we're simply not prepared to allow this.

19 Now, what was the threat that was made?
20 What was the threat that was made in meetings on
21 March 27 and on May 12 as to why the government
22 should choose option 1 or option 2? The threat was
23 option 3.

24 In this case option 3 dealt with
25 Mobilicity rather than Wind Mobile, so CCAA

1 Mobilicity court process sale to Telus with or
2 without the government support, so the threat was
3 that if the government will not agree to the sale
4 of Mobilicity to Telus, litigation is going to
5 arise; in that litigation, everyone will be lined
6 up on one side with the government on the other, so
7 Mobilicity estate, the court-appointed monitor, the
8 Ontario court which would mean you, actually, Your
9 Honour, industry incumbents on one side versus the
10 federal government on the other.

11 And then the threat is really on the
12 last part of the page, VimpelCom deal will be off
13 the table, reluctantly the government will be
14 facing a long and inconvenient front-page battle
15 that will be characterized as a policy failure and
16 Catalyst will have to support the Mobilicity
17 estate.

18 So Catalyst would jump into the
19 litigation, if you will, to support the people
20 suing the government, it will be embarrassing for
21 the government, it will be front-page news and it
22 will be perceived as a policy failure. And that
23 was the stick, if you will, to try to get the
24 government to agree to options 1 or 2. As it turns
25 out, that message fell on completely deaf ears and

1 the government simply said no. It said no in July
2 and said no again in early August.

3 Now, this whole issue - Mr. DiPucchio
4 made a submission on this a moment ago that I'm
5 going to come back to in a second - this notion
6 that the Catalyst VimpelCom deal was somehow
7 conditional on Catalyst obtaining these regulatory
8 concessions from Industry Canada.

9 Here is an affidavit filed by Mr. Riley
10 February 18th of 2015 where he says the only point
11 over which the parties, that's VimpelCom and
12 Catalyst, could not agree was regulatory approval
13 risk. Catalyst wanted to ensure that its purchase
14 was conditional on receiving certain regulatory
15 concessions from Industry Canada.

16 And then the next affidavit, sworn May
17 1 of 2015, where he says at the time the
18 anticipated deal with VimpelCom was conditional on
19 Industry Canada approval and the granting of
20 certain regulatory concessions to a Catalyst-owned
21 Wind that in Catalyst's mind would make it easier
22 for a fourth national carrier to succeed. These
23 concessions were essentially the same regulatory
24 concessions summarized in the PowerPoint
25 presentation Moyse helped create in early 2014.

1 And that's the PowerPoint I just took
2 you to.

3 The problem with that evidence, Your
4 Honour, is, based on Catalyst's own admission, it's
5 simply wrong. It's simply wrong. The
6 VimpelCom/Catalyst transaction was never
7 conditional upon Catalyst receiving these
8 regulatory concessions.

9 Why do we say that? Because of the
10 following answering to undertaking. So the answer
11 to undertaking was to advise if any drafts of the
12 share purchase agreement being negotiated between
13 Catalyst and VimpelCom contained a condition that
14 the deal could not close unless Catalyst obtained
15 certain regulatory concessions from the government.
16 The answer to undertaking is: The drafts of the
17 share purchase agreement exchanged by Catalyst and
18 VimpelCom contained certain regulatory conditions.
19 None were expressly predicated on Catalyst
20 obtaining regulatory concessions.

21 So, there is just simply no doubt. If
22 you look at the share purchase agreement, Your
23 Honour, there is no condition to that effect in any
24 draft that we've seen, and we've seen, we believe,
25 every single draft. It never existed.

1 Moreover, if you look at the actual
2 condition that was agreed to in the share purchase
3 agreement before the Catalyst/VimpelCom transaction
4 came to an end, you'll see in section 6.3(d) of the
5 share purchase agreement that specifically
6 precluded Catalyst from seeking the very
7 concessions it had sought in the meetings in March
8 and in May.

9 So section 6.4:

10 "The purchaser," that's
11 Catalyst, "shall not knowingly take
12 or cause to be taken any action
13 which would be expected to prevent
14 or delay the obtaining of any
15 consent or approval required
16 hereunder, including (a) ...seeking
17 an approval from any governmental
18 authority for a transaction other
19 than the transactions contemplated
20 hereby," which of course did not
21 include the sort of things Catalyst
22 had in mind.

23 And to make that clear, skipping down a
24 sentence:

25 "For greater certainty, for the

1 duration of the interim period,"
2 that's before closing, "[Catalyst]
3 shall not develop, evaluate or
4 analyze any studies, analyses,
5 reports or plans relating to the
6 sale of the business, or any of its
7 assets, by the purchaser to an
8 incumbent, or discuss with any
9 governmental authority the sale or
10 transfer of the business, or any of
11 its assets, by the purchaser to an
12 incumbent."

13 So what did the agreement contemplate,
14 Your Honour? It expressly precluded Catalyst from
15 even studying its exit strategy, let alone
16 discussing the exit strategy with representatives
17 of the Government of Canada, a very, very, very key
18 provision in this case.

19 Now, notwithstanding that they were
20 prepared to agree and sign that agreement, it's
21 clear from the evidence of Glassman that Catalyst
22 had no intention of abiding by that requirement
23 whatsoever.

24 What does Glassman say?

25 "I was involved in Catalyst's

1 negotiations with VimpelCom but de
2 Alba was Catalyst's lead
3 negotiator... I was primarily
4 responsible for Catalyst's
5 negotiations with Industry Canada
6 and the Federal Government
7 concerning critical regulatory
8 issues that I had decided needed to
9 be resolved before Catalyst
10 purchased Wind."

11 He had said that these concessions had
12 to be obtained before he purchased Wind, not after.
13 Then he says the same thing, Your Honour, I'm not
14 going to take you through it, but paragraph 10 of
15 his affidavit and indeed in any number of other
16 paragraphs in the affidavit he says the very same
17 thing, which is we will not proceed unless and
18 until we obtain the concessions and they have to be
19 obtained before we acquire Wind because they
20 weren't prepared to be saddled with the burden of
21 having Wind in circumstances where the concessions
22 could not or would not be granted.

23 Now, at the next slide, the one that's
24 on the screen now, this is part of the discovery
25 transcript of Mr. de Alba taken on May 11 of this

1 year, so three weeks ago or so, where he's asked
2 the question: What would Catalyst have done if
3 they did not obtain any of these regulatory
4 concessions? His answer was:

5 "Answer: We would not have
6 proceeded.

7 Question: You would not have
8 proceeded?

9 Answer: We have not obtained any
10 of those concessions?

11 Question: Right.

12 Answer: No."

13 So the position of Catalyst was they
14 would not have proceeded to acquire Wind if they
15 had not obtained the concessions and the Government
16 of Canada had said clearly, as I showed you a
17 moment ago, that they were not prepared to grant
18 Catalyst the concessions it had sought.

19 Now, what happened at the end of the
20 Catalyst deal? They entered into exclusive
21 negotiations with VimpelCom on July 23 of 2014.
22 They have exclusivity between July 23 and August
23 18. Moyse of course knows none of this because
24 he's been gone from Catalyst since May, he's been
25 gone from West Face since July, so he has no idea,

1 none of this is coming through Moyse.

2 August 7 of 2014, this consortium of
3 Tannenbaum, LG Capital, West Face makes an
4 unsolicited offer for Wind. There is no evidence
5 that that offer played any role in the failure of
6 Catalyst to reach an agreement with VimpelCom, but
7 in any event, even if that weren't the case,
8 Catalyst has made the deliberate, tactical choice
9 not to assert inducing breach claims in this case
10 even though Catalyst first learned of that
11 consortium offer in August or September of 2014,
12 and that's from the discovery transcript of de
13 Alba.

14 VimpelCom agrees on August 8 of 2014 to
15 extend the negotiation rights exclusively to August
16 18.

17 What happens to the offer made by West
18 Face? The answer is VimpelCom ignores it. And
19 you'll see some of the emails on the West Face side
20 of the table from the timeframe where that's
21 effectively what they're saying, and I'll skip to
22 one or two that show this.

23 And here is the first response on the
24 next slide from a gentleman named Felix Saratovsky
25 about a week after the West Face consortium

1 unsolicited offer is made, so August 15th of 2014.
2 Saratovsky who is leading the negotiations on
3 behalf of VimpelCom writes to Mr. Boland of West
4 Face to say:

5 "Greg, thank you for your
6 email. We continue to be in an
7 exclusivity period. We will
8 certainly contact you if exclusivity
9 expires early next week."

10 Mr. Boland writes back at the top of
11 the page to say:

12 "First time he has responded so
13 not a bad sign."

14 So this is the first response they get
15 from Saratovsky a week later, August 15th, and all
16 it is is to say we are not going to contact you, we
17 will only contact you if things fall apart with the
18 people at Catalyst.

19 Now, how did Catalyst end up falling
20 off the rails on its own negotiations with
21 VimpelCom? It's very simple. Catalyst assumes
22 incorrectly that the VimpelCom board approval which
23 was required right from the outset will simply be a
24 rubber stamp, that the board of VimpelCom will not
25 insist on changes, whatever they had negotiated up

1 to that point in time.

2 The chairman of VimpelCom, a Russian
3 fellow named Aleksey Reznikovich, it turns out when
4 he takes a look at this he is concerned about the
5 risk to VimpelCom of not receiving regulatory
6 approval. He never asked Catalyst to draw up the
7 general condition for obtaining regulatory
8 approval. Of course he couldn't because it was
9 required under the Industry Canada rules. Instead,
10 what he asked Catalyst to do was to agree to a 5 to
11 20 million dollar break fee if the approval was not
12 granted within 60 days.

13 Effectively he's seeking an additional
14 condition, if you will, Your Honour, an additional
15 term of the arrangement that will protect VimpelCom
16 against the downside risk of not getting regulatory
17 approval. It's that term that Catalyst refuses to
18 agree to.

19 Glassman and de Alba, we say, now
20 essentially concede that Catalyst could have closed
21 a deal with VimpelCom but chose not to because they
22 felt that that position of VimpelCom taken by its
23 chairman was unreasonable in mid-August of 2014.
24 There is of course no evidence, we say, that
25 Catalyst ever attempted to solve that problem,

1 didn't negotiate for a lower break fee, didn't
2 negotiate for a different solution to address the
3 chairman's concerns. Instead, they effectively
4 agreed, or decided, rather, to walk away from the
5 transaction.

6 By August 15th of 2014 they decided not
7 to accept VimpelCom's terms coming from the
8 chairman. They decided instead to allow their
9 period of exclusivity to expire and to allow
10 VimpelCom to consider its options.

11 And here is a very significant email
12 exchange on the next page containing emails from
13 the professional advisors of Catalyst, legal and
14 financial and investment bankers, all on August 15
15 of 2014.

16 Your Honour, Ben Babcock of Morgan
17 Stanley is the lead investment banker on this
18 transaction for Catalyst. You see at the bottom of
19 that page, August 15th he writes to de Alba and
20 John Levin of Faskens to say: I agree, I think
21 Jon, I guess John Levin should go back --

22 THE COURT: Short for Jonathan.

23 MR. THOMSON: I guess that's right.

24 I agree. I think Jon should go
25 back and make these points to

1 Felix," that's Felix Saratovsky at
2 VimpelCom, "and leave it. Our
3 proposal deals with their
4 issues/concerns. Reznikovich," who
5 is the chairman of VimpelCom, "is
6 being very unreasonable and
7 unrealistic. No one will ever do
8 what he is asking."

9 So that's the bet they are making,
10 nobody will give the chairman of VimpelCom what
11 he's asking. Levin writes back:

12 "They are out to lunch and I
13 think we should tell them."

14 Mr. de Alba writes back moments later
15 to say: "Absolutely!" In capital letters and with
16 an exclamation point.

17 And then look at the advice from
18 Babcock of Morgan Stanley, August 15th, the same
19 day, he says:

20 "Tell them and then shut down
21 communication. This needs to go
22 past the exclusivity time and
23 Aleksey," that's the chairman,
24 "needs to see his alternatives and
25 their terms.

1 If we keep talking, we look
2 anxious to [the chairman]."

3 So the advice from Morgan Stanley is go
4 back and tell them that they're out to lunch, we're
5 not going to agree to the term demanded by the
6 chairman of VimpelCom, let's tell them that, shut
7 down communications, let our period of exclusivity
8 expire, let VimpelCom look at its options and see
9 what happens.

10 And what they are were banking on, Your
11 Honour, they simply made a bad bet, they made a bad
12 bet that nobody else would come along and make an
13 offer that might be acceptable to VimpelCom and
14 that is a bet that Catalyst lost.

15 Now, again, this has nothing to do with
16 Moyse, nothing whatsoever to do with Moyse. He is
17 not involved with this in any way, shape or form.

18 So at the end of the day where does
19 that take you? That Catalyst's failure to buy Wind
20 has nothing to do with the non-existent conveyance
21 of confidential information by Mr. Moyse to West
22 Face. Catalyst had its own reasons for not wanting
23 to agree to that additional term. They didn't
24 believe that Wind was viable on a stand-alone
25 basis; that was not the view of West Face.

1 Catalyst was not going to buy Wind without these
2 concessions, while the concessions were never
3 sought by West Face. Catalyst knew that the
4 government staunchly opposed granting such
5 concessions. The concessions were irrelevant to
6 West Face.

7 Moreover, Catalyst was free to pursue
8 the deal that West Face offered after August 18 and
9 indeed, as it turns out, based on the answers to
10 undertakings, did exactly that. But of course
11 whatever its efforts were, they came to nothing.

12 And Catalyst has refused to produce any
13 evidence of its post August 18 negotiations with
14 VimpelCom so we have no productions from Catalyst
15 in this case that postdate the end of the
16 exclusivity period on August 18th so we don't know
17 what they did, we don't know how they did it, we
18 don't know what approaches they made to VimpelCom
19 except that they clearly did so and they did so
20 during the period of August 25th to September 16 of
21 2014, which was the period in which West Face was
22 in exclusivity with VimpelCom.

23 Now, who are the witnesses that we
24 intend to call at trial? That's in the next slide.

25 THE COURT: Just before you do that,

1 just reading this slide --

2 MR. THOMSON: Yes.

3 THE COURT: -- is there any evidence
4 that Catalyst at this stage knew what the West Face
5 offer was?

6 MR. THOMSON: Well, they refused to
7 produce any documents after August 18 so we don't
8 know. We were met with a blanket refusal. Now,
9 we're going to ask you to draw an inference from
10 that refusal but we don't have a single document
11 from Catalyst that postdates August 18 of 2014 in
12 this case and you can draw your own inferences and
13 we'll ask you to do that at the end of the case.

14 THE COURT: Is there evidence that
15 Catalyst was dealing with VimpelCom?

16 MR. THOMSON: Yes, the two answers to
17 undertaking. So undertaking number 50, to advise
18 whether Catalyst undertook further efforts after
19 exclusivity expired to acquire Wind subject to Rule
20 30.4.12; the answer is yes. The next answer, to
21 advise whether Catalyst had any communications with
22 VimpelCom between August 25th and September 16th,
23 that's the period of exclusivity that West Face
24 had; the answer is yes.

25 THE COURT: I see.

1 MR. THOMSON: So we know that they
2 were; we just don't know what they were doing and
3 they won't produce the documents and they won't
4 disclose the evidence, so they suffer the
5 consequences of that choice at trial in the
6 Commercial List.

7 So, who are the witnesses that West
8 Face intends to call? There are 11 witnesses in
9 total. We only intend to call seven, I believe it
10 is, because Catalyst has decided not to
11 cross-examine four of them.

12 So you'll hear from Tony Griffin, a
13 partner of West Face. He is the person who had
14 primary responsibility for the whole Wind
15 transaction. He'll talk about how West Face
16 proceeded with the efforts to acquire Wind and he
17 will testify that this was simply a sound
18 investment worth the business risk, no need for the
19 concessions from the government and, most
20 importantly, Your Honour, given the only claim
21 asserted here, that Moyse had no involvement
22 whatsoever and conveyed no information whatsoever
23 with respect to Wind to anyone at West Face.

24 He will also testify that now that he
25 knows a bit more about what Catalyst actually did

1 at the time through the productions in the case,
2 that their strategy would have been completely
3 irrelevant to West Face given the very different
4 views these two enterprises had on the viability of
5 the Wind business. West Face believed the business
6 was viable, strong and could succeed, indeed
7 flourish, without the concessions. It turns out
8 West Face was exactly right and it turns out
9 Catalyst was exactly wrong.

10 Hamish Burt, who was a member of the
11 consortium that acquired Wind in September of 2014,
12 will testify that his firm had no knowledge of
13 Catalyst's regulatory strategy or any other
14 information about Wind Mobile.

15 Leitner from Tennenbaum Capital
16 Partners. Tennenbaum was involved in Wind Mobile,
17 I believe, before West Face was and they acquired a
18 bunch of the vendor debt of West Face. He will
19 testify that Tennenbaum had no knowledge of
20 Catalyst's regulatory strategy or information and
21 had a very different view of the Wind business than
22 Glassman and Catalyst apparently did.

23 Simon Lockie, who you may know, Lockie
24 is the chief legal officer of Globalive. He will
25 talk about the reasons why Catalyst ultimately

1 failed to acquire Wind, because he was on the other
2 side of the transaction to an extent, and their
3 refusal to meet the demands of the chairman of
4 VimpelCom in August of 2014.

5 Mr. Dea is the partner of West Face who
6 actually hired Moyse and he'll testify about what
7 happened during the hiring process for Moyse, why
8 Moyse was hired, and again talk about the efforts
9 taken by West Face to make sure that no information
10 was conveyed by Moyse to West Face that was
11 confidential to Catalyst.

12 Ms. Kapoor, chief compliance officer of
13 West Face, she will be a brief witness but she will
14 testify about the creation of the confidentiality
15 wall and about her discussions with Moyse before he
16 joined West Face about the importance of abiding by
17 that wall.

18 Mr. Zhu, a person I referred to briefly
19 before, he will testify again very briefly in the
20 case about his job interview with Mr. Moyse that
21 took place in April of 2014 to confirm for the
22 court that there was no discussion about Wind
23 during that interview and he'll testify why he's so
24 sure that that did not happen.

25 Mr. Singh will not testify but his

1 evidence has already been given in advance of the
2 trial. He testified about the precautions that
3 West Face took when they hired Moyse, about his
4 explanation to Moyse, his insistence that Moyse
5 abide by his confidentiality obligations to
6 Catalyst. Again, Catalyst has not asked to
7 cross-examine him at trial.

8 Mr. Burt-Gerrans again will not testify
9 at trial, simply file his evidence and the
10 transcript of his cross-examination, about his
11 review of the electronic files of West Face,
12 including Moyse's computer and about how there is
13 simply no evidence of any deletion of information
14 and no evidence that would suggest that Moyse
15 misconducted himself in any way, shape or form
16 during the course of his employment at West Face.

17 Chap Chow again will not testify at
18 trial but did give evidence before the trial
19 concerning his efforts to preserve Mr. Moyse's
20 computer. Why did he give evidence? Because
21 during the cross-examination of another witness in
22 a period just before an injunction application was
23 argued, there was a suggestion made of some issue
24 of spoliation of documents by West Face, so he
25 jumped into the fray to say there was no spoliation

1 whatsoever, every single document was preserved and
2 preserved in a timely and appropriate fashion.

3 And then Asser ElShanawany, an officer
4 of Wind who again will not testify at the trial but
5 gave evidence before the trial about the
6 acquisition of Wind and his involvement in the due
7 diligence process.

8 That takes me, Your Honour, finally to
9 the findings of fact that we will ask you to make
10 at the end of the trial and there are nine findings
11 that we will ask you to make.

12 And they are these: First --

13 THE COURT: I've read them.

14 MR. THOMSON: Okay. Then I can skip
15 past them.

16 Subject to any questions Your Honour
17 may have, those are my opening submissions.

18 THE COURT: Thank you. Mr. Centa?

19 MR. CENTA: Good morning, Justice
20 Newbould. My name is Rob Centa, I am here on
21 behalf of the defendant Brandon Moyse who is in
22 court this morning. Joining me at the counsel
23 table is my partner Kris Borg-Olivier and my
24 colleague Denise Cooney. We are ably assisted on
25 the tech side by Virginia Fletcher.

1 Justice Newbould, in this litigation
2 Catalyst alleges Mr. Brandon Moyse gave
3 confidential Catalyst information about Wind to
4 West Face which was critical to West Face's ability
5 to succeed in its quest to purchase Wind Mobile in
6 August and September 2014 and that Mr. Moyse
7 committed the tort of spoliation, that is he
8 intentionally destroyed relevant evidence with the
9 intention of hindering Catalyst's ability to
10 prosecute this action; he did so when he deleted
11 his internet browser history from his computer
12 before it was turned over to be imaged pursuant in
13 the early stages of this litigation.

14 In our submission, the evidence you
15 will hear during this trial will not support or
16 make out either of those allegations.

17 We will expect to call two witnesses,
18 Mr. Moyse and Kevin Lo of Froese Forensic Partners.
19 Mr. Lo will provide expert evidence with respect to
20 the spoliation and computer forensic matters that
21 are at issue in this trial.

22 Now, you've heard a lot about
23 allegations of what Mr. Moyse did or didn't do so
24 far this morning in my friends' opening. Let me
25 tell you a little bit about the evidence you're

1 going to hear about Mr. Moyse himself.

2 He is a 28-year-old man with a BA in
3 mathematics from the University of Pennsylvania.
4 He started his career at Credit Suisse and then
5 moved to RBC Capital Markets and finally on to
6 Catalyst where he worked as an investment analyst
7 for only about a year and a half.

8 And it's sometimes important to step
9 back, Your Honour, in this case and remember the
10 very short periods of time that are at issue in
11 this case.

12 Mr. Moyse was not a long-term employee
13 at Catalyst. Mr. Moyse, the evidence will show,
14 was not involved in the telecommunications file for
15 a long period of time. The evidence will show that
16 Mr. Moyse was not involved in the Wind file for a
17 very long period of time. And while there were
18 some periods of intense activity, we will ask you
19 to step back and perhaps use the very handy
20 calendar that my friends have prepared because
21 we're going to see that a lot of this activity is
22 taking place in compressed timeframes.

23 It wasn't long after he started work on
24 the Wind file doing due diligence that he departed
25 West Face -- departed Catalyst for West Face, and

1 it is the circumstances of his departure that in
2 part give rise to this litigation.

3 As a result of this litigation,
4 Brandon's only work at West Face was for
5 approximately three and a half weeks before he was
6 ordered off active duty, ultimately never to
7 return. As a result of this litigation, he
8 remained on the shelf until late August 2015 when
9 he departed West Face on mutually agreeable terms
10 and he remained unemployed until December 2015 when
11 he obtained alternate employment as an investment
12 analyst at Stornoway Private Management in Toronto.

13 I want to make some things very clear
14 and put them right up front. Mr. Moyse made some
15 mistakes. You'll hear from Brandon that he made a
16 number of mistakes in connection with his move from
17 Catalyst to West Face between March and July 2014.
18 He has openly acknowledged these errors in
19 judgment. In particular, he made four significant
20 errors.

21 First, the evidence will show that
22 during the course of his recruitment to West Face,
23 West Face asked Brandon to send in some writing
24 samples and they were very careful and deliberately
25 asked him not to include any confidential

1 information, and Brandon sent West Face four memos
2 he created during the course of his time at
3 Catalyst and each of them was marked confidential.

4 And it's important to note that none of
5 these four memos related to Wind and none of them
6 related to any telecom file, and three of them were
7 simply analysis of publicly available information.
8 But that doesn't matter; it was a mistake for him
9 to have sent them and he admits that.

10 Then he made a second mistake. When he
11 quickly realized that he should not have sent West
12 Face an email containing four unredacted investment
13 memos, rather than immediately disclosing to
14 Catalyst that he had done so in pursuit of another
15 job, which admittedly would have been the best
16 practice, it may have led to a pretty short tenure
17 at Catalyst but that would have been the right
18 thing to do, or instead of raising it with West
19 Face, which he should have done, he simply deleted
20 the email from his "sent" folder and that was a
21 mistake.

22 Following his resignation from Catalyst
23 and prior to starting his employment at West Face,
24 Brandon returned his company-issued BlackBerry to
25 Catalyst and before doing so he "wiped" his

1 BlackBerry. And you will hear evidence from
2 Brandon that he did so because he wanted to delete
3 his personal text messages and pictures that he had
4 used his company-issued device to send and to take,
5 and because he understood and knew that any
6 Catalyst related emails that he had sent or
7 received through his Catalyst email account would
8 be independently preserved on Catalyst's servers.
9 Nevertheless, it was a mistake for him to do so.
10 He should have sought permission before he deleted
11 his personal items from his company device before
12 returning it.

13 And fourth, prior to turning over his
14 home computer and his personal devices to be imaged
15 pursuant to a consent order issued in this
16 litigation, Brandon deleted his internet browsing
17 history from that computer. You will hear from
18 Brandon that he did so because he was embarrassed
19 that a search of his internet browser history would
20 reveal his personal browsing habits which included
21 visits to adult entertainment websites and he did
22 not want Catalyst to have access to this
23 information or for his personal information to come
24 out. That was a mistake. And if he thought it was
25 going to keep that from public view, he was wrong.

1 There have now been at least two court decisions
2 reporting on his personal browsing habits.

3 But you will hear his evidence that he
4 did not delete any material relevant to this
5 litigation, that he did not intend to delete any
6 information relevant to this litigation, and while
7 there were better ways to address his concern, he
8 did not, in the act of deleting that browser
9 history, interfere in any way with Catalyst's
10 ability to prove its case. It was a mistake but
11 did not amount to the tort of spoliation.

12 Brandon has paid a very steep price for
13 these mistakes. He's been involved in this
14 litigation since 2014. This litigation has had an
15 extremely deleterious effect on a promising young
16 career. He's been kept on the shelf and out of the
17 workforce. He has suffered a period of
18 unemployment and for over a year he had to live
19 with the prospect of Catalyst trying to send him to
20 jail for a contempt proceeding that was ultimately
21 unsuccessful.

22 And now from those four mistakes and
23 scant additional evidence, Catalyst will ask this
24 court to draw the inference that Brandon passed on
25 confidential information relating to Wind to West

1 Face, confidential information with respect to its
2 telecommunications strategy, confidential
3 information with respect to its regulatory
4 approach, and then intentionally destroyed evidence
5 that he did so in order to frustrate Catalyst's
6 ability to prove its case.

7 At the end of the case we will be
8 asking you to find it is neither reasonable nor
9 logical to draw any of the inferences that Catalyst
10 wishes upon you. And it will be unreasonable
11 because you will hear uncontradicted evidence, both
12 from Mr. Moyse and from the West Face witnesses
13 that they never discussed Wind or the
14 telecommunications industry at all during the
15 recruiting process. You will hear uncontradicted
16 evidence from Mr. Moyse and the West Face witnesses
17 that he never sent them any emails containing
18 confidential information from Catalyst with respect
19 to Wind or the telecommunications industry.

20 You will hear and you have heard from
21 my friends that West Face put up a confidentiality
22 wall on June 19th, 2014 before Mr. Moyse started
23 work to prevent the sharing of any information
24 between Brandon and West Face and there is no
25 evidence that this wall was in any way or at any

1 time ineffective.

2 You will hear evidence that not a
3 single document containing Catalyst's confidential
4 information regarding Wind has been found at West
5 Face. You will hear evidence that not a single
6 email has been produced between Brandon and West
7 Face that contains any of Catalyst's confidential
8 information about Wind, not from Brandon's end, not
9 from West Face's end.

10 Catalyst has already unsuccessfully
11 argued that Brandon deleted relevant evidence
12 before Justice Glustein when it attempted to have
13 Brandon found in contempt of the court order.
14 Catalyst's evidence on this issue has not improved
15 since the record before Justice Glustein.

16 Brandon will give you extensive
17 evidence about his involvement in the Wind file
18 while he was at Catalyst. We expect that much of
19 the evidence led by the parties will focus on the
20 extent of his role at Catalyst and in the
21 telecommunications files in particular. You will
22 hear from Brandon that he had time-limited
23 involvement in the file and that, critically, his
24 understanding of Catalyst's regulatory strategy was
25 limited. However, regardless of whether Brandon

1 could, based on his level of knowledge and
2 involvement in Catalyst's telecommunications file,
3 whether he could have passed on the information to
4 West Face, his uncontradicted evidence will be that
5 he did not do so.

6 Catalyst will attempt to persuade you
7 that Brandon was an integral part of the telecom
8 team, had intimate knowledge of its regulatory
9 strategy in the telecommunications sector, but we
10 expect you will hear from Brandon that as an
11 investment analyst he was the most junior person on
12 the Catalyst deal team, that the culture at
13 Catalyst was hierarchal with much of the key
14 decision-making being done behind closed doors at
15 the partner level with little or no input from the
16 analysts, that he was first assigned to the
17 telecommunications team in March of 2014 and that
18 his work on the Wind file was quite insignificant
19 in March and in April while he worked on various
20 other Catalyst files and was out of the office
21 working on those projects approximately half his
22 time.

23 He will tell you that his involvement
24 with Catalyst's regulatory strategy for the
25 creation of the fourth national wireless carrier

1 was limited essentially to the administrative task
2 of creating the PowerPoint presentation that you
3 saw earlier this morning.

4 His evidence will be that yes, he was
5 involved in the creation of that PowerPoint slide,
6 but it was essentially transcribing notes given to
7 him by the partners and the vice-presidents at
8 Catalyst who, the evidence will show, were
9 intimately more familiar with the regulatory
10 strategy, and he turned those handwritten
11 scratchings into the PowerPoint presentation. A
12 very different role than that is suggested upon him
13 by Catalyst.

14 He was involved in the Wind file in an
15 active and significant way for approximately 10
16 days in May of 2014 before he started his vacation,
17 and, as you heard earlier, the evidence will show
18 that he resigned before he returned from that
19 vacation. And during those 10 days his involvement
20 primarily consisted of business due diligence and
21 work supporting the drafting, the initial drafting
22 of an investment memorandum that was not complete
23 by the time he resigned.

24 His work on the investment memo did not
25 focus on regulatory and strategic issues that

1 Catalyst now says that he's passed on to West Face.

2 To the extent there is a dispute as to
3 how much knowledge and how much access to
4 information Mr. Moyse had during his time at
5 Catalyst, we'll ask you to look at the objective
6 contemporaneous evidence of his involvement, the
7 emails, the documents, the work product that has
8 been produced in this litigation.

9 We expect you will find that that
10 objective evidence confirms Brandon's limited
11 involvement and his knowledge of -- his limited
12 knowledge of the regulatory concerns.

13 We expect you will hear Mr. Moyse's
14 output on the Wind file consisted principally of
15 contribution to four different pieces of work
16 product: A highly simplistic pro forma modelling a
17 combination of Wind and Mobilicity businesses, two
18 versions of the PowerPoint presentation to Industry
19 Canada, and an investment memorandum.

20 Now, the investment memorandum,
21 Mr. Moyse's evidence will be that he assisted his
22 colleague Mr. Lorne Creighton in putting together
23 the memorandum based on information from the data
24 room and public sources but that his work did not
25 touch on the regulatory issues.

1 Catalyst will try and has tried in its
2 affidavits very hard to make Brandon seem like the
3 critical player on the Wind team with extensive
4 experience and inside knowledge. Mr. de Alba
5 described Brandon as an integral member of the
6 Catalyst team but the evidence will establish
7 otherwise.

8 Undoubtedly Mr. Moyse is a highly
9 intelligent and engaged analyst and of course he
10 worked hard and picked up information during the
11 time he worked on the Wind deal. However, the
12 evidence will show that by the time he went on
13 vacation and then resigned his employment at
14 Catalyst in May 2014, Brandon had only 10 days of
15 real involvement in the Wind file at the early
16 stage of the deal with no real knowledge or
17 understanding of the regulatory concessions that
18 Catalyst says was so crucial to its position on
19 this transaction.

20 The second part of Catalyst's case
21 against Mr. Moyse is he then passed on this
22 knowledge to West Face. You will hear throughout
23 the early months of 2014 that Brandon was trying to
24 find another job. He was unhappy at Catalyst, he
25 was unhappy with the work he was doing, he was

1 unhappy with the work environment and he hoped to
2 move elsewhere.

3 And we expect you will hear from
4 Brandon that although he interviewed at a number of
5 different firms, West Face was his first choice of
6 places to move. The recruitment exercise with West
7 Face between March and May of 2014 consisted
8 primarily of a series of meetings and interviews
9 with West Face partners to discuss his interests,
10 why he was considering leaving Catalyst, and to
11 determine from their perspective whether or not he
12 would be a good fit with their group.

13 When Brandon was meeting with West
14 Face's partners between March and April of 2014,
15 his evidence will be that he had no idea that West
16 Face was actively pursuing Wind at the same time
17 that Catalyst was. Brandon's evidence will be that
18 he did not discuss any active opportunity, any
19 particular active opportunities he was working on
20 with West Face, including Wind, during the West
21 Face recruitment period.

22 And you will hear from Brandon's
23 perspective his discomfort with the West Face
24 recruitment process. It was too slow. It was
25 taking too long. He wanted it to work out but he

1 wasn't sure if it was going to and he felt
2 frustrated when West Face delayed in following up
3 after the interviews in responding to his emails.
4 At the same time he was increasingly unhappy at
5 Catalyst and this expression -- this frustration
6 was expressed in a number of emails to his
7 girlfriend, now his fiancée.

8 Brandon will testify that the first
9 time he learned that West Face may be involved in
10 pursuing a Wind transaction is when he spoke to
11 Mr. de Alba on May 26th, two days after he resigned
12 from West Face in his exit interview with Mr. de
13 Alba. He only had confirmation that West Face was
14 pursuing Wind on June 19th, 2014 when he received a
15 confidentiality screen from West Face screening him
16 off of all work on a potential Wind transaction.

17 The evidence of both Mr. Moyse and West
18 Face will be crystal clear: West Face was very
19 concerned about preserving confidentiality, they
20 said it, they meant it. Brandon and West Face
21 respected the confidentiality wall that was put up
22 and they followed it assiduously and we do not
23 anticipate there will be any evidence to suggest
24 that that confidentiality wall was breached.

25 THE COURT: You said something a minute

1 ago, I think you made a mistake. You said he had
2 an exit interview with Mr. de Alba two days after
3 he resigned from West Face. I think you meant to
4 say Catalyst.

5 MR. CENTA: I meant to say Catalyst, I
6 apologize.

7 Mr. DiPucchio in his opening this
8 morning took you to a number of documents but what
9 documents -- what he didn't take you to or what he
10 didn't show you was any direct evidence of
11 communications between Wind -- about Wind between
12 Brandon and anyone at West Face that disclosed any
13 confidential information belonging to Catalyst.
14 There is no direct evidence of that point.

15 And this confirms the findings you will
16 read in the ISS report who reviewed Brandon's
17 devices in early 2015 and found no evidence upon
18 the forensic review that Mr. Moyse ever transmitted
19 any Catalyst confidential information about Wind to
20 West Face.

21 Now, you heard this morning in Mr.
22 DiPucchio's opening about the abuse of the secure
23 delete function and I want to tell you a little bit
24 about what the evidence is going to be in response
25 to that.

1 Catalyst has pleaded spoliation against
2 Mr. Moyse as an independent cause of action even
3 though no Canadian court has ever held that such a
4 cause of action exists. As Your Honour knows well,
5 spoliation is more frequently referred to as an
6 evidentiary principle rather than a cause of
7 action, but in order to establish spoliation in
8 this proceeding against Mr. Moyse he will have to
9 establish that the missing evidence was relevant,
10 that it must have been destroyed intentionally,
11 that at the time of the destruction litigation must
12 have been ongoing or contemplated and must be
13 reasonable to infer the evidence was destroyed in
14 order to affect the outcome of the litigation.

15 And it's worth pausing to note that
16 Catalyst has not alleged spoliation against West
17 Face, though to the extent there is an allegation
18 that Brandon deleted evidence that he communicated
19 Catalyst's confidential information to West Face,
20 West Face would have been the recipient of that
21 confidential information and would also have had to
22 delete this information lest it be produced in the
23 litigation, and there is of course no evidence that
24 West Face destroyed any such evidence and West
25 Face's productions in this litigation are

1 unchallenged.

2 As Your Honour noted in your January
3 26th endorsement approving the Plan of Arrangement,
4 there is a full and complete history of West Face's
5 productions in this matter and there are no
6 outstanding production issues.

7 Setting aside whether or not spoliation
8 exists as a cause of action in Canadian law, we
9 will anticipate arguing that whether it does or it
10 doesn't, spoliation is not made out in this case.

11 Critically, in order to establish
12 spoliation, there must be evidence that a
13 particular piece of evidence has been destroyed and
14 that particular piece of evidence must be relevant
15 to the outcome of the litigation. It is not
16 sufficient for a plaintiff to speculate that some
17 evidence may have been destroyed that may have been
18 relevant to the case.

19 And we anticipate at the close of the
20 case, Catalyst will not have led any evidence to
21 suggest that Brandon possessed a specific piece of
22 relevant evidence that he destroyed with a view to
23 affecting the litigation in this case.

24 We expect you will hear uncontradicted
25 evidence from Mr. Moyse that he deleted his

1 internet browser history in the following
2 circumstances.

3 Following a court attendance in which
4 he consented to an order requiring him to preserve
5 relevant documents, Mr. Moyse understood he would
6 be handing over his electronic devices to his
7 counsel so that an image of them could be made and
8 that Catalyst would then be seeking to establish a
9 process for the review of his images.

10 Mr. Moyse was concerned that the images
11 on his computer hard drive would disclose his
12 personal browsing history which was not relevant to
13 the matters in dispute in this litigation but would
14 be personally embarrassing to have reviewed.

15 He did not understand how an ISS
16 protocol which would prevent Catalyst from
17 reviewing his personal information may have worked
18 and he therefore decided to delete his internet
19 browser history from his computer to remove his
20 personally embarrassing material before delivering
21 the computer to his counsel to be imaged.

22 Critically, we expect there will be no
23 basis on which this court can infer that Brandon's
24 internet browser history contained any relevant
25 information to this action. Justice Glustein has

1 already held, based on the same record as the one
2 before this court, that the evidence could not
3 support such a conclusion.

4 Now, in connection with its claim for
5 spoliation, Catalyst also alludes to a program
6 called Secure Delete or a scrubber. I think four
7 times this morning I've already heard of it being
8 referred to as a military grade, perhaps the most
9 impressive feat of marketing ever committed by a
10 piece of software.

11 And there is no doubt that the ISS
12 found a folder called Secure Delete on Brandon's
13 computer shortly before he turned the computer over
14 for imaging. You will hear competing testimony
15 from the parties' expert witnesses, Mr. Musters
16 from Catalyst and Mr. Lo on behalf of Mr. Moyse,
17 concerning the presence of that Secure Delete
18 folder.

19 As you will hear, Secure Delete is one
20 of a number of programs contained in a package of
21 software products that Brandon purchased prior to
22 turning the computer over for forensic imaging.
23 Catalyst will make much of the presence of this
24 folder on Mr. Moyse's computer and of the Secure
25 Delete program.

1 Mr. Moyse's evidence is that he never
2 ran the Secure Delete program on his computer but
3 may have clicked on it when he was investigating
4 the different features in the package of software
5 products.

6 You will hear from Mr. Lo that there is
7 no evidence on Mr. Moyse's computer that the Secure
8 Delete program was ever run to delete a file, and
9 that when the Secure Delete program is run, a log
10 is created that records the deletion of the data.
11 Mr. Lo's analysis of Brandon's computer determined
12 that no such log existed on Mr. Moyse's computer.

13 Mr. Moyse will argue at the end of the
14 day that the weight of the expert evidence points
15 to the conclusion that Brandon never ran the Secure
16 Delete program to delete any files from his
17 computer.

18 There is no evidence before you that
19 any emails were sent by Mr. Moyse or received by
20 West Face that contained any of Catalyst's
21 confidential information regarding Wind.

22 We expect you will find and urge you to
23 find, regardless of whether or not the tort of
24 spoliation exists in Canadian law, there is a
25 complete and utter lack of evidence to ground such

1 a claim against Mr. Moyse in the circumstances of
2 this case. At the end of the case we will be
3 asking for the similar range of findings of fact as
4 set out by our friends at West Face, and in
5 addition ask you to dismiss the claim against
6 Mr. Moyse for the tort of spoliation.

7 Unless you have any questions, that
8 concludes our opening statement. And the only
9 thing that I think we would need to address is
10 whether or not we need an order excluding witnesses
11 from the proceeding.

12 MR. THOMSON: We think that order
13 should be made.

14 MR. DIPUCCHIO: We agree.

15 THE COURT: All right. Who will be the
16 witnesses for the parties that will remain? I
17 assume the experts will be excluded.

18 MR. THOMSON: No witnesses will remain.
19 West Face is represented by Mr. Panet who is the
20 general counsel of West Face.

21 MR. DIPUCCHIO: We simply request, Your
22 Honour, that Mr. Riley be allowed to remain in
23 order to instruct us.

24 MR. CENTA: And we request Mr. Moyse.

25 THE COURT: He is entitled, he is a

1 party. So read the order then.

2 THE REGISTRAR: By order of His Honour,
3 the Honourable Mr. Justice Newbould, all witnesses
4 in this case with the exception of the parties to
5 the action will leave this court and remain outside
6 until their name is called. You will not discuss
7 any matters concerning the case with any witness or
8 party who has previously testified in this case,
9 and any witness who has testified in this case will
10 not communicate with any witness or party who has
11 yet to testify. Will any such witnesses please
12 leave the courtroom at this time.

13 THE COURT: Why don't we stop for the
14 lunch break now and come back at 2:00. I would
15 like to see Mr. DiPucchio, Mr. Thomson, Mr. Centa,
16 just the three of you.

17 -- LUNCHEON RECESS AT 12:40 --

18 -- UPON RESUMING AT 2:00 --

19 THE COURT: Yes, Mr. DiPucchio.

20 MR. DIPUCCHIO: Good afternoon, Your
21 Honour. We'll call Mr. de Alba to the stand.

22 GABRIEL DE ALBA: SWORN.

23 EXAMINATION IN-CHIEF BY MR. DIPUCCHIO:

24 Q. Mr. de Alba, I'm just going to
25 remind you to keep your voice up when you testify

1 because the room is obviously large and the
2 acoustics aren't all that great.

3 A. Is there a microphone?

4 Q. Mr. de Alba, do you recall
5 swearing an affidavit on May 27, 2016 in this
6 matter?

7 A. Yes, I do.

8 Q. And you understand that that
9 affidavit constitutes your evidence in-chief --

10 A. Yes, I do.

11 Q. -- in this trial, and you adopt
12 the contents of that affidavit as your evidence
13 in-chief?

14 A. Yes, I do.

15 Q. All right. I'm going to take you
16 just through some highlights of your evidence.
17 First of all, can you describe for the court your
18 position at Catalyst?

19 A. Sure. I am a managing director
20 and partner at the Catalyst Capital Group.

21 Q. Okay. And what are your
22 responsibilities?

23 A. It goes from looking at investment
24 positions, analyzing investment opportunities,
25 negotiating those investment opportunities, once --

1 also coordinating the team, the investment team,
2 and also once we make investments, also reviewing
3 the performance of those investments and the
4 execution and operational turn-arounds of those
5 investments.

6 Q. And to whom does Brandon Moyse
7 report, or did Brandon Moyse report while he was at
8 Catalyst?

9 A. To me, I was leading the
10 investment professional team.

11 Q. How long have you been employed at
12 Catalyst?

13 A. Basically since its inception in
14 2002.

15 Q. Can you very briefly describe your
16 educational background for the court?

17 A. Sure. I have studies from the
18 University of New York as an undergrad, I have an
19 MBA from Columbia Business School, also have
20 graduate studies in mathematics and computer
21 science from Harvard University which I did not
22 finish.

23 And I started my career in the, after
24 basically completing university in New York, at a
25 bank called Bankers Trust, focusing on that side,

1 on merchant banking and international investment
2 opportunities. I left Bankers Trust and joined
3 what was then basically Bank of America's
4 international investment merchant banking efforts
5 as well, which I was one of the founding members.
6 I continued and became the head of the capital
7 markets group working also not only on investments
8 of the bank but also on a number of performing
9 situations for the bank.

10 I wanted to have operational expertise.
11 I left the bank to work on the restructuring of
12 AT&T Latin America. Subsequently sold that company
13 and joined Catalyst basically at its inception in
14 2002.

15 Q. And can you describe for us again
16 from a very general perspective what kinds of
17 investments Catalyst invests in?

18 A. Yeah, the focus of the fund is to
19 invest in distressed and turn-around opportunities
20 which means situations where there could be capital
21 structure -- capital structure opportunities to
22 restructure the business, as well as operational
23 turn-arounds. Looking to do both, improve the
24 balance sheet of a company as well as being able to
25 then improve the execution and the performance of

1 the company in its future, certainly looking to
2 monetize those investments once we execute on a
3 strategy.

4 Q. In your affidavit you have
5 described the investment team and culture at
6 Catalyst. Can you tell us a little bit about the
7 work culture at Catalyst for the investment
8 professionals that work there?

9 A. It is a very close team. It is a
10 small team. We have purposely kept it small. We
11 think that the work that we do requires direct
12 involvement from all members of the team. We don't
13 believe that, you know, people should be
14 compartmentalized in various situations but
15 actually that they should have a good understanding
16 of what's happening across the firm. The aim again
17 is that they would have the direct communication
18 and analysis of all the investment opportunities by
19 all members of the investment team, so we purposely
20 kept it flat.

21 We looked also to have alignment with
22 investors. So, for example, on every single
23 investment that the funds do, also the investment
24 professionals need to participate with their own
25 capital to have also exposure to the same deals and

1 basically have alignment with investors in that
2 respect as well.

3 Q. Is that what you have described in
4 your affidavit as the 60/40 plan?

5 A. No, that's an additional
6 component. The compensation allows for
7 participation on the gains and those gains are --
8 60 percent of those gains are basically shared
9 amongst the members of the deal team while 40
10 percent get distributed across the firm in the form
11 of shareholder ownership.

12 So the 60 percent goes to the deal team
13 specifically, but what I'm also referring to is
14 they co-invest which is basically all investment
15 professionals writing our own cheques in alignment
16 to when we're investing our limited partners'
17 capital.

18 Q. Between the period of March 1 and
19 May 26 of 2014, how many analysts did Catalyst have
20 on staff?

21 A. I think only one or two at that
22 time.

23 Q. And who were they?

24 A. Brandon Moyse was one and for a
25 period of time, Andrew Yeh had left the firm,

1 Andrew Yeh, Y-E-H, and another analyst joined
2 later, his name is Lorne Creighton. After Andrew
3 Yeh left, Lorne Creighton joined.

4 Q. And tell us what kind of role does
5 an analyst have on the deal team?

6 A. Well, one of the -- it is not
7 only, as I mentioned to you before, in terms of
8 getting high quality people that can be willing to
9 integrate into the deals and have alignment with
10 the economics and basically participate in the
11 process of reviewing the opportunities, we have a
12 very close team in which there is great
13 responsibility and this is one of our, I want to
14 say, recruitment selling approaches, that people
15 will be given responsibility beyond what they would
16 have in other firms.

17 We look for empowerment. We also offer
18 basically our younger members of the team, we
19 pursue for them to have a career path to evolve not
20 only promotions from analyst to associate or VP,
21 but most likely to be able to build a career and
22 become partners at Catalyst.

23 So it's again a small team, very
24 cohesive, very transparent. We do this in multiple
25 ways. It is part of the culture. We have Monday

1 meetings and also Thursday meetings in which we
2 review all of the investment positions, we also
3 review the pipeline of deals.

4 In order to have empowerment and be
5 able to get the best out of each team member, we
6 are very transparent of how the opportunities are
7 negotiated, analyzed, discussed, and again also
8 execution on the turn-around.

9 Q. You mentioned the Monday morning
10 meetings both just a second ago and in your
11 affidavit as well. Is that the only time that the
12 investment professionals at Catalyst meet to
13 discuss matters?

14 A. No, they -- again the deal contact
15 continues. What happens in those meetings is that
16 we usually spend two to three hours reviewing our
17 current investments, discussing how we're seeing
18 it. We review the opportunity set. We also look
19 at some macro economic situations that could affect
20 our opportunity set.

21 But as we leave those meetings, we
22 continue to have a very close dialogue again within
23 this small team about all aspects of the deals. We
24 never compartmentalize the approach of saying well,
25 now you only do one task and never find out what's

1 going on. That's not something that we do. That's
2 something, again, that we believe is against the
3 growth and the potential of, you know, all members
4 of the team.

5 Q. And you also outlined in your
6 affidavit the kinds of information that Catalyst
7 considers confidential. Can you describe for us
8 why confidentiality plays such an important role at
9 Catalyst?

10 A. Yeah. I mean, just -- just the
11 knowledge of Catalyst could be interested in making
12 an investment on a certain company can move the
13 value of that potential investment. We had
14 experienced problems in the past for example when
15 we would even go to, let's call it, brokers or
16 agents which should be helping us find the paper,
17 and instead of finding the paper, they might decide
18 that that should be a good investment for
19 themselves and do what is called front running,
20 which they put a position on themselves and then
21 decide if they even show it to us or if they show
22 it to us at a later time at a higher price.

23 So just the fact that Catalyst might be
24 interested in making an investment is something
25 that we understand has had and will continue to

1 have potential economic repercussions, so we
2 conceal certainly our interest on the deal, the
3 analysis that we put on the deal, our interaction
4 with potential parties in relation to that deal.
5 Not to say all the work product that goes with it
6 is highly confidential.

7 Q. Let's turn to a discussion of Wind
8 specifically which forms the bulk of your affidavit
9 in-chief. Can you tell us how Catalyst became
10 involved in a potential transaction involving Wind?

11 A. Wind was part of a Catalyst
12 analysis and review of the opportunity set in the
13 wireless telecom market in Canada. It is important
14 to note, as I mentioned before, that even before I
15 joined Catalyst I had led the restructuring of AT&T
16 Latin America, had done multiple restructurings in
17 the telecom sector even before joining Catalyst.

18 On our initial fund, which was in 2002,
19 we made large investments in the telecom space
20 which were highly successful. So for us it was
21 only a natural as the wireless market had evolved
22 in the potential troubled dynamics for the new
23 players. It had become, you know, top priority for
24 us, not only because of our industry background, it
25 certainly was a very relevant distress opportunity

1 that fed our profile, and in the context of the
2 Canadian market, probably was the largest
3 restructuring at the time that was taking place.

4 So it certainly was, you know, very
5 important for us.

6 Q. And by 2013 what was Catalyst's
7 involvement in the telecommunications industry?

8 A. So the ability to invest in the
9 telecommunications industry and especially in the
10 wireless space was focused on two components. One
11 was Mobilicity which had public bonds so therefore
12 we can access the market and buy those bonds, as
13 well as doing the analysis and the work in
14 preparation to what we believed would be the
15 opportunity to consolidate the fourth and the fifth
16 largest wireless carriers into a single company.

17 So since Wind was private, we could not
18 purchase public securities, but we always intended
19 to review the opportunity of combining Mobilicity
20 with Wind.

21 Q. And in your affidavit you have
22 referred to the telecom deal team at Catalyst on a
23 number of occasions. Can you tell us who the
24 telecom deal team was, initially at least?

25 A. Yeah. So initially the deal team

1 certainly had Newton Glassman, the involvement of
2 Jim Riley as well, Zach Michaud was also involved,
3 Andrew Yeh was also involved. But, you know, being
4 also a small team, I was also involved. Being a
5 small team, we also had, you know, participants
6 from other members of the Catalyst team.

7 So what you might call it, you know,
8 the specific deal team, it was not fenced out or
9 bordered out from the involvement of other members
10 of the team which were encouraged to provide ideas,
11 to provide feedback, and again they were part of
12 the discussion and the strategies and the analysis
13 not only as we looked to develop their skill set,
14 but since they were also co-investing, that was an
15 important component of alignment.

16 There have been situations also in the
17 past, including when an analyst will -- in a Monday
18 meeting will raise concerns about a certain
19 investment and that will result in, you know, that
20 investment not being made.

21 So I just want to tell you that the
22 definition was, you know, much more open than just
23 a narrow deal team and the information was
24 basically transparent across all investment
25 professionals at Catalyst.

1 Q. And you mentioned Andrew Yeh who
2 was on the telecom deal team specifically. Did he
3 remain on the deal team throughout 2014?

4 A. I think he left in early 2014.

5 Q. And who replaced him?

6 A. Directly Brandon Moyse who had
7 also had some previous participation in the
8 communications and discussions related to the
9 telecom opportunities.

10 Q. All right. Mr. de Alba, I'd like
11 to ask you, how would you respond to the suggestion
12 that Brandon Moyse was unaware of discussions
13 between Catalyst and Wind before he joined the deal
14 team?

15 A. I think it's impossible. I think
16 it's inconsistent with the approach that I have
17 personally pursued, which is again transparency
18 with all team members across the key elements of
19 the deals which not only goes to the opportunity
20 set, but certainly how to execute and get that
21 opportunity.

22 In this case, West Face is a clear
23 competitor. We understood that they also had made
24 an investment in the Mobilicity bonds. We had even
25 pursued ways to acquire those bonds, so the

1 interaction of West Face within the opportunity set
2 in the wireless sector was something that was
3 widely known at Catalyst, and certainly when the
4 discussions, you know, took place at Catalyst, that
5 would be something that would certainly be
6 discussed.

7 Q. If I can ask you to turn up
8 Exhibit 13 to your affidavit. This is CCG0011536.
9 Do you have that, Your Honour?

10 This is a document sent by Mr. Moyse to
11 you and copied to Mr. Michaud and Mr. Yeh on March
12 8, 2014. Mr. de Alba, can you tell us what this
13 document shows and what it is?

14 A. Yeah. This is an analysis
15 conducted by Brandon Moyse which is circulated to
16 me as well as Zach Michaud and Andrew Yeh. The
17 analysis provides two -- or basically three key
18 valuation metrics related to the spectrum value
19 which is what Mobilicity and Wind paid to acquire
20 the spectrum. The network value, which is the
21 amount invested to build the network, and the total
22 drivers, those are the three key metrics on the
23 valuation of these two companies.

24 On the spectrum value that will give
25 you a reference again of what another party had

1 paid on an asset, like in this case spectrum which
2 goes up and becomes more valuable, so that became a
3 good reference in the context of what we would be
4 prepared to pay.

5 This was further enhanced by the
6 network value which includes only the hard
7 investment on equipment that had been made, so it's
8 another very important reference of the value of
9 the assets that had put around the spectrum, and
10 then the subscribers which is another key metric on
11 how you value a wireless company as per the number
12 of subscribers that they had.

13 What is important to note again is that
14 this is consistent with the Catalyst approach in
15 which we look to invest below the values which
16 other parties had paid or we understand would be
17 prepared to pay, and this clearly showed that, you
18 know, there will be certain value parameters which
19 will provide a cushion to Catalyst making an
20 investment for Wind and Mobilicity.

21 Q. And ultimately what was the
22 purpose for preparing this document? What did
23 Catalyst use it for?

24 A. Well, from my perspective again it
25 gave us reference of value that allowed us to make

1 submissions of bids and have discussions with
2 VimpelCom. It was also used with the Canadian
3 government to show the amount that had been
4 invested and how as a matter of respect to the
5 capital markets they should not let the
6 opportunities, or the investments, just go to the
7 wayside as that would be a bad dynamic for the
8 future ability to attract capital into Canada.

9 So it was very critical and did not
10 move in the context of Catalyst's valuation,
11 including its valuation and offer for Wind, as well
12 as the discussions with the Canadian government.

13 Q. And how would you respond then to
14 the suggestion that the analysis was not critical
15 to Catalyst's internal analysis of Wind?

16 A. That's not correct because again
17 it gave reference to the most important assets and
18 especially the most important asset which was the
19 spectrum value.

20 Q. And how would you respond to the
21 suggestion that Brandon Moyse was merely performing
22 basic acts of addition and subtraction, or
23 division, rather, in this analysis?

24 A. I don't think that's a correct
25 characterization. I think, as mentioned before,

1 Brandon was highly qualified, a highly respected
2 individual which was part of the empowerment team
3 of Catalyst. We had looked to continue to give him
4 not only more responsibility but certainly also
5 improve his career prospective. We had said that
6 to him multiple times. And we liked the way he,
7 you know, he would analyze situations and we were
8 basically giving him empowerment to do so.

9 Q. If we could have you turn up
10 Exhibit 10 of your affidavit, which is CCG0023893.
11 This is an email from you, Mr. de Alba, on March
12 22nd, 2014 to Carsten Revsbech at VimpelCom and
13 Francois Turgeon at UBS attaching an NDA.

14 Can you tell us what this email is all
15 about?

16 A. This email I believe includes the
17 signed non-disclosure agreement that was entered
18 between VimpelCom and Catalyst and someone at
19 VimpelCom related entities. The next component is
20 the request to get the business plan as well as
21 some of the value metrics from VimpelCom.

22 Q. And at the time that this
23 non-disclosure agreement or confidentiality
24 agreement is executed between Catalyst and
25 VimpelCom, was Mr. Moyse on the deal team?

1 A. I believe he was.

2 Q. And how would you respond to the
3 suggestion that Mr. Moyse was unaware that there
4 was even a confidentiality agreement that had been
5 signed?

6 A. That would have been impossible
7 because again he would have been an integral part
8 of the communications, discussions and strategy.

9 Q. Can we have you turn up Exhibit 20
10 to your affidavit, which is CCG0011564. Now, we
11 have seen this email earlier today and we know from
12 your affidavit that in March of 2014 Catalyst and
13 Mr. Moyse had prepared a PowerPoint presentation
14 for meetings in Ottawa.

15 Can you tell us what you remember about
16 the preparations at Catalyst for that meeting in
17 March?

18 A. Yes. The preparations were
19 substantial at the firm. The thinking was that
20 this was a critical meeting as to establish a
21 dialogue with the government in the context of the
22 options and the framework of the wireless market as
23 it existed in Canada at the time.

24 Q. And who led the preparation and
25 the presentation?

1 A. The presentation in this case was
2 led by Brandon. As you can see, he was also the
3 last person to basically provide the presentation
4 directly to the parties.

5 Q. And how would you respond, then,
6 to the suggestion that Mr. Moyse was merely acting
7 as an administrative assistant in putting changes
8 that were suggested by you and others to this
9 presentation?

10 A. Again, that's inaccurate, because
11 that's not the way we interact. We interact in a
12 way in which empowerment, the thinking process and
13 the skill-set from all professionals at the firm is
14 respected, requested and required. That allows us
15 to be efficient and in this case it will have been
16 important, again, for Brandon to fully bring his
17 thinking into it.

18 Q. And did he do so?

19 A. Yes.

20 Q. And if we turn to page 2 of the
21 presentation itself, Mr. de Alba, you look down at
22 the bottom right-hand corner and it's marked
23 confidential, as it is on each page. Why was that?

24 A. Because it set out Catalyst's
25 regulatory strategy and it was the precise dialogue

1 that was going to be had with the Canadian
2 government and it outlined the key strategic
3 options Catalyst was going to pursue.

4 Q. And what was the concern
5 specifically about maintaining confidentiality over
6 those?

7 A. Well again, if this goes into the
8 hands of a competitor, they will be able to
9 understand the critical points that were part of
10 Catalyst's strategy and that would put us in an
11 extraordinary disadvantage.

12 Q. If you turn to slide 2, the slide
13 entitled "Overview," here we see in the first
14 bullet point, the third comment is that: "Catalyst
15 is in advanced discussions with VimpelCom..." Do
16 you see that?

17 A. Yes.

18 Q. What was the basis for that
19 statement?

20 A. Throughout 2013 there had been --
21 and certainly throughout 2014, but since 2013 there
22 have been multiple discussions with VimpelCom
23 representatives as to their willingness to discuss
24 a merger with Mobilicity or a sale of Wind to
25 Catalyst.

1 Q. And how would you respond to the
2 suggestion that Mr. Moyse was unaware of whether
3 that statement was even true at the time that he
4 was putting together this presentation?

5 A. Again, I find it impossible.

6 Q. And why do you say that?

7 A. Because in order to -- well, it
8 goes to the essential parts of being a member of
9 the Catalyst team, that implies full transparency.
10 That full transparency would have been giving
11 updates to all investment professionals about the
12 status of the discussions with VimpelCom. That
13 would happen at the minimum, as mentioned before,
14 two times a week in the weekly meetings, but as we
15 were doing the work and analysis, we would also
16 continue to be having updates for all members of
17 the team.

18 Q. And if you turn to slide 7 of this
19 presentation, you'll see reference to a strategic
20 option 1. Can you explain to us briefly what that
21 strategic option refers to?

22 A. Yeah, as it can be read from the
23 slide, it mentioned that there have been advanced
24 -- or there have been discussions with VimpelCom
25 that were now advanced in the context of merging

1 Wind Canada with Mobilicity to create the scale for
2 the fourth national carrier, which was the
3 solution, as it says here, the solution that the
4 government's policy wanted to achieve.

5 Q. And at the very bottom of that
6 slide you see the reference to an ability to exit
7 the investment with no restriction in five years?

8 A. Yes.

9 Q. Why did Catalyst need an ability
10 to exit the investment in five years?

11 A. When an investment is made, one of
12 the key attributes that needs to be understood is
13 how that investment is going to be exited, so you
14 will look at the various alternatives to monetize
15 the value.

16 In this case, as it says, Catalyst was
17 going to prepare the pursuit of other strategic
18 alternatives such as an IPO, or to a sale to
19 another strategic, but if that was not successful,
20 we were requesting the ability to sell after five
21 years without restrictions.

22 Q. And if you just flip back one
23 slide to slide 6 for a moment, you see there at the
24 bottom of the page the pro forma analysis?

25 A. Yes.

1 Q. Who prepared that?

2 A. Again, Moyse. Brandon Moyse.

3 Q. And then if you flip forward to
4 page 8, which is the second strategic option, can
5 you tell us very briefly what this option referred
6 to?

7 A. Yes, this option was focused on if
8 the Canadian government was not comfortable with
9 basically providing certain regulatory concessions,
10 what Catalyst had done in the past, and even in
11 this case prior to my life at Catalyst, I had
12 bought a telecom, which in this case was dark
13 fibre, which is the fibre that could be utilized to
14 transfer data and voice, and that fibre will be
15 leased to other players in the market.

16 So what we were looking in this case is
17 to have the ability to lease, rent or even exchange
18 fibre with some of the industry players.

19 Q. And to the best of your knowledge,
20 was this particular option, option number 2, ever
21 discussed publicly by Catalyst or in the media?

22 A. No.

23 Q. Did you actually attend the
24 meeting with representatives of Industry Canada and
25 the federal government on March 27th?

1 A. I did not.

2 Q. And did you come to find out what
3 was discussed at those meetings?

4 A. Well, we knew from the preparation
5 of the materials what was going to be discussed,
6 and after the meeting took place, both Newton
7 Glassman and Jim Riley gave the full team a debrief
8 of what had happened at that meeting.

9 Q. And when you say they gave the
10 full team a debrief, who was it that they were
11 debriefing?

12 A. Including, you know, Zach Michaud,
13 Brandon Moyse and myself.

14 Q. If we can turn to Exhibit 23 of
15 your affidavit, which is CCG0009482, this is a
16 chain of emails that were exchanged between May 6th
17 and 7th, 2014 internally at Catalyst.

18 If you go to the -- I guess the email
19 at the bottom of the page is from Mr. Glassman
20 talking about deal structure. Can you tell us what
21 his email refers to?

22 A. Just one second to read it,
23 please.

24 Q. Yes.

25 A. (Witness reads document). Yes, if

1 you start in the lower part of the page, it is the
2 statement from Newton Glassman which talks about
3 the value. It says the 300 can be taken not in
4 cash because we could be also absorbing some of the
5 liabilities, like it says here, current vendor
6 financing, so it might not be that the full payment
7 is in cash, but it could be in cash, as it says,
8 but it could be also Catalyst absorbing some of the
9 liabilities that existed.

10 What it's also important is on the
11 second line, it clarifies that now we are just
12 confirming, as mentioned before, the valuation
13 analysis and the regulatory analysis had been done,
14 so what we were confirming was the spectrum
15 ownership and, you know, certainly the opinions,
16 et cetera, as well as it clarifies the need to have
17 a condition related to government approval.

18 So the two main fundamental parameters,
19 or actually the three main parameters are here,
20 \$300 million in value, the fact that we are
21 basically just confirming the work that had been
22 done before, and the confirmation as well that
23 there is -- they need to have a condition of
24 government approval. Those are the three main
25 metrics of how Catalyst looked at this deal.

1 Q. Okay. And then you respond to
2 that email in the email that's at the middle of the
3 page. First of all, you copy, I see, amongst other
4 people, Brandon Moyse on that email. Why was
5 Mr. Moyse being copied on this particular email
6 chain?

7 A. Again, to be repetitive, my
8 approach to deal teams is that everybody needs to
9 be fully informed at all times in order to be able
10 to think about what is execution and strategies
11 related to that deal, and also to continue to
12 develop, you know, professionally. So that's just
13 an approach to the deal to strengthen the team and
14 an approach to the team to strengthen the
15 development and transparency at Catalyst.

16 Q. In the second paragraph of your
17 email, the one that begins "This can be positioned
18 to our advantage," and I think you're referring
19 there to the fact that the vendor financing is in
20 the default notice period, what did you mean by
21 "This can be positioned to our advantage with the
22 government"?

23 A. That connects to the point that
24 Newton Glassman was making about Catalyst absorbing
25 some of the liabilities that existed. In this case

1 my response is we might not be able to just absorb
2 those liabilities, and the thinking was if the
3 vendors wanted to just remain, they could have
4 rollover for a longer period of time.

5 Since now there was pressure from the
6 vendors because of the default and the acceleration
7 that that will entail, that this could be
8 positioned, you know, for our advantage with the
9 government as there would be a greater urgency to
10 find a solution to what was unraveling as a
11 creditor problem for Wind.

12 Q. And then there is a response from
13 Mr. Glassman at the top of the page. Can you tell
14 us what you took from Mr. Glassman's response?

15 A. He says government has told us
16 that they will not give us in writing the right to
17 sell the spectrum in five years. So first he says
18 in writing, but it continued to be part of the
19 dialogue that the government was also open to have
20 discussions with us about that and what we were
21 going to require to acquire Wind and pursue the
22 fourth network strategy in combination with
23 Mobilicity.

24 His response, as it says, is that that
25 takes option 1 and that's part of the negotiation

1 with the government in which it is well, you're
2 basically taking us on the ability to focus on the
3 retail network and are taking us to the wholesale
4 leasing strategy.

5 Q. And then Mr. Glassman refers to a
6 meeting in Ottawa early next week. Do you know
7 what meeting he was referring to?

8 A. I believe there was going to be a
9 follow-up in-person meeting in which the government
10 was looking to get further clarity about basically
11 the capital markets and the negotiating framework
12 around Wind, and since they on a follow-up basis
13 were dealing with Mobilicity which was already
14 insolvent, that there were going to be discussions
15 about, you know, how to -- how to resolve for the
16 positive benefit of the government these
17 four-carrier strategy.

18 As noted in the last word about
19 mediation, what had happened in the Mobilicity case
20 was that there was a mediation trying to bring the
21 government as well to understand the difficult
22 position that Mobilicity was experiencing, and also
23 for them to -- you know, in that case for the
24 mediator to bring the parties to try to find some
25 openings about how the government would be more

1 open to what had been their public language.

2 Q. Now, just before we leave this
3 document, Mr. de Alba, how would you respond to the
4 suggestion that Mr. Moyse did not understand what
5 you and Mr. Glassman were discussing in this email
6 chain?

7 A. I find it impossible. The key
8 metrics are here. You have the metric of
9 valuation, you have the metric of how we are now
10 just confirming the spectrum ownership issues, and
11 the condition of government approval. I mean, it's
12 plain fact right there.

13 It also lays out the negotiating
14 discussions that are happening amongst the team
15 members about how to react to the government and
16 how to position various events with the government.

17 So you have the government strategy,
18 you have the valuation strategy, you have the final
19 confirmation that was required and this is being
20 played out.

21 Q. Would this email chain have been
22 the first time that Mr. Moyse was ever involved or
23 kept abreast of those discussions and negotiations?

24 A. Absolutely not. This does not
25 spring out of the blue. This again is part of a

1 framework of communication and discussions among
2 the Catalyst team members.

3 Q. If I could ask you to turn up
4 Exhibit 37 of your affidavit, which is CCG0009516.
5 This again is something we saw earlier this
6 morning. It's an email from Mr. Moyse to you
7 initially at 11:40 a.m. and Zach Michaud.

8 Can you tell us why Brandon Moyse was
9 sending you a soft copy of the attached
10 presentation which was again a copy of a
11 presentation to be made to Industry Canada?

12 A. Well, because he was basically
13 leading the putting together of that presentation.

14 Q. And how would you respond to the
15 suggestion that Mr. Moyse did not contribute to the
16 content of this presentation, that he was only
17 inputting changes from others at Catalyst?

18 A. Again, that's impossible. He has
19 been part of the strategic discussions, he has been
20 part of the valuation strategy, he has been part of
21 the update from the first meeting, the evolution
22 from that first meeting with the government. He's
23 certainly involved in the discussions that are
24 happening in relation to Wind. He's an overall
25 fully transparent member that has overall and full

1 transparency of what's occurring at Catalyst on the
2 Wind deal.

3 Q. And you have testified in your
4 affidavit about the content of this particular
5 presentation so I'm not going to take you through
6 that again, but I am going to ask you how would you
7 respond to the suggestion that Mr. Moyse didn't
8 know which statements in the presentation were
9 statements of fact and which were negotiating
10 positions?

11 A. I think it's impossible. As noted
12 even from the prior emails, you have clarity on the
13 main terms, economically, regulatory and what was
14 needed from Catalyst in order to complete the
15 acquisition of Wind as to what the process that was
16 going to take place with Wind's management.

17 Q. Now, we know from your affidavit
18 that Mr. Moyse left for a vacation on May 16th,
19 2014. Did you express any concern about him going
20 away for a vacation in the middle of the Wind deal?

21 A. Yes, I had concerns but what I was
22 told and made understood by Brandon was that that
23 trip has been planned well ahead and that he was
24 going to propose to his fiancée on the trip. So
25 that was the reason why we ultimately said okay, go

1 and take the trip.

2 However, he continues to be involved in
3 the communications that are taking place, also with
4 the expectation that, you know, he continues to be
5 familiar with what is happening with the deal, and
6 certainly while we will try not to bother, he will
7 need to be updated and when required be able to
8 participate as if he had been at the office.
9 That's just the approach of the work that we do.

10 Q. And to your knowledge did
11 Mr. Moyse continue to be available and participate?

12 A. Yes.

13 Q. Now, we know that Mr. Moyse gave
14 notice of his resignation to you on May 24th. What
15 do you say to Mr. Moyse's suggestion that he had no
16 knowledge that Catalyst believed that West Face was
17 also a bidder on Wind at that time?

18 A. Again, I think that's totally
19 inaccurate. That discussions in relationship to
20 West Face being a competitor on the Wind
21 transaction had happened before. We also
22 understood that West Face had made an investment on
23 the Mobilicity bonds which we also saw as a direct
24 connection to the fourth-carrier strategy. We
25 actually thought that the bonds that West Face had

1 were very relevant for us and we were even pursuing
2 to acquire those bonds actively, so we had
3 continuous discussions about West Face's
4 involvement in Wind and in Mobilicity.

5 Q. Mr. de Alba, you have given
6 evidence in your affidavit in-chief with respect to
7 a conversation that took place in June with Greg
8 Boland.

9 THE COURT: Let me just ask a question,
10 Mr. DiPucchio, just on that last subject matter. I
11 just want to understand. I understand what you're
12 doing, you're asking this witness what he thinks
13 about something that Mr. Moyse knew or didn't know.

14 Just with respect to knowing whether or
15 having a belief that West Face was involved in --
16 Catalyst believed that West Face was also a bidder
17 on Wind, were you party to any discussion with
18 Mr. Moyse about Catalyst believing that West Face
19 was a bidder on Wind?

20 THE WITNESS: Yes, sir. As we
21 discussed, it started with our holdings in
22 Mobilicity and Mobilicity was part of the
23 four-carrier strategy together with Wind. What we
24 understood were the holdings that West Face had in
25 Mobilicity were the amount in terms of dollars that

1 Catalyst required to have a blocking position on
2 Mobilicity and at the same time we understood that
3 they were --

4 THE COURT: My question, Mr. de Alba,
5 is not what you understood. Were you party to a
6 conversation with Mr. Moyse about this?

7 THE WITNESS: Yes, sir. The reason I'm
8 telling you what I understood is because what I
9 understood would be something I would transfer in
10 terms of knowledge to the team. So being a
11 tight-knit team which communicates the status of
12 the strategies, whatever I knew I would have
13 transferred to the full deal team.

14 BY MR. DIPUCCHIO:

15 Q. And in what context would that
16 have occurred, Mr. de Alba?

17 A. Both the weekly meetings, as well
18 as the conversations in relationship to people's
19 co-investment, as well as the full approach to the
20 deals, Wind and Mobilicity.

21 Q. All right. So I was asking you
22 before we got into that exchange about the
23 conversation that you testified about with
24 Mr. Boland in June. Do you recall that?

25 A. Yes.

1 Q. And tell us why you called
2 Mr. Boland on June 20th?

3 A. I actually called trying to pursue
4 an arrangement, a constructive arrangement in the
5 context of Moyse. It was an invitation to have an
6 in-person meeting, to have a framework about what
7 had happened in the context of Moyse and that we
8 were concerned, and, you know, we also thought that
9 potentially there could be some open dialogue
10 about, you know, how they will be pursuing other
11 things.

12 Remember, we understood that they held
13 also some bonds in Mobilicity and were potentially
14 pursuing Wind. So it was pursuing a constructive
15 dialogue. It was done respectfully and politely,
16 but it was very shocking that when I mentioned the
17 concerns that we had in relationship to Moyse,
18 Mr. Boland's reaction was extraordinarily
19 aggressive, as if he resented that I was making the
20 request, as if I was trying to impose something on
21 his will, and basically told me to fuck off.

22 Q. Okay. And what was it that you
23 were proposing to Mr. Boland?

24 A. A discussion in person.

25 Q. Now, if you would fast-forward to

1 the period when you learned finally that West Face
2 and the consortium had successfully made a bid for
3 VimpelCom's interest in Wind, can you tell us when
4 did you first become aware of the deal terms that
5 the consortium proposed of VimpelCom?

6 A. Just when we learned that West
7 Face had lobbed a letter or a proposal at the time
8 of this trial.

9 Q. So the question, when did you
10 first learn that they had actually made a proposal?

11 A. In the past couple of months.

12 Q. And what was your reaction to
13 seeing the proposed deal terms that had been lobbed
14 over in August when you first saw them in the first
15 couple of months?

16 A. Well, it was very surprising and
17 shocking that they had basically waived the
18 regulatory condition, in particular since they were
19 pursuing together with a consortium, which raises
20 the complexity of a deal because you need to deal
21 with multiple parties on how you deal with the
22 government, that they were proposing to do it
23 without government approval.

24 That is shocking again because without
25 clarity about that happening, they could have been

1 left with a stranded investment without having
2 control of the main drivers of why you invest,
3 which are the economic components and the
4 governance components, and left at the mercy of
5 what was then the controlling shareholder who could
6 unilaterally determine the corporate and business
7 behaviour of the business.

8 So I find it, you know, very surprising
9 to the point of reckless allocation of investors'
10 capital to invest without certainty that you will
11 even be approved.

12 You will also have a franchise damaging
13 approach because if the government was to decide
14 no, that would lead to a confrontation with the
15 Canadian government which would be detrimental for
16 the franchise of that business going forward.

17 THE COURT: Can I just ask a question.
18 Did you say you just learned of these terms a
19 couple of months ago from now, just going back a
20 couple of months?

21 THE WITNESS: Yes, the detailed terms,
22 yes, sir.

23 THE COURT: Part of the discovery
24 process in this lawsuit?

25 THE WITNESS: Correct, sir.

1 MR. DIPUCCHIO: Those are my questions,
2 Your Honour.

3 THE COURT: Thank you, Mr. DiPucchio.
4 Any cross-examination? Mr. Centa?

5 MR. CENTA: Yes, thank you, Justice
6 Newbould.

7 Justice Newbould, in Mr. de Alba's
8 examination folder there should be a folder of
9 documents that relate to my cross-examination of
10 Mr. de Alba, probably under the Moyse defendant
11 folder. No luck?

12 THE COURT: I can't find it.

13 MR. BORG-OLIVIER: Under de Alba, under
14 evidence and submissions during trial, open the de
15 Alba file folder, go to cross-examination, then go
16 to the Moyse defendants.

17 THE COURT: Oh, I see it. Yes, I have
18 it. Thank you.

19 CROSS-EXAMINATION BY MR. CENTA:

20 Q. Good afternoon, Mr. de Alba.

21 A. Good afternoon.

22 Q. Just so I can understand, how many
23 partners are there at Catalyst?

24 A. Three partners.

25 Q. And I understood your evidence

1 earlier this afternoon to be that at Catalyst it is
2 extremely important to you to have a non-hierarchal
3 structure, correct?

4 A. It is important to have
5 transparency and the communication of the
6 strategies of the deal team. If you characterize
7 that as non-hierarchical, I would agree.

8 Q. And to empower your deal team
9 members?

10 A. Absolutely.

11 Q. I think what you said was you look
12 to empower the younger members of the team because
13 you hope for them to have a career path to evolve
14 not only promotions from associates to
15 vice-president, but most likely to build a career
16 path and become partner at Catalyst. That was your
17 evidence?

18 A. Correct.

19 Q. Sir, in 14 years at Catalyst, how
20 many of your associates have become partners?

21 A. We usually have associates that --
22 well, they have more experience that they will have
23 when they receive the title. We basically build
24 them up to gain that expertise to what is the
25 Catalyst process. So at the moment we have made no

1 promotion to partners. The two partners are
2 basically from the firm from the get-go and
3 Mr. Riley joined later.

4 But we have made multiple promotions
5 from analyst to associates, I will tell you
6 probably more than half a dozen, and we have also
7 made several promotions from associates to VP on
8 the path to partnership. The path to partnership
9 is also discussed every year on the year end
10 reviews.

11 Q. Your evidence was most likely to
12 build a career path and become partners at
13 Catalyst. And in the 14 years that Catalyst has
14 been in operation, not a single associate has been
15 promoted to become a partner, correct?

16 A. Not yet.

17 Q. Not ever?

18 A. Not in the past. It doesn't mean
19 that's not the path in the future, sir.

20 Q. This isn't a hard question. From
21 the day Catalyst opened until today, you have not
22 made a single associate a partner, correct?

23 A. Not yet.

24 Q. And can you estimate how many
25 associates have left Catalyst since it started 14

1 years ago?

2 A. Five or so.

3 Q. Five?

4 A. Yes.

5 Q. Mr. de Alba, you gave some
6 evidence about the Monday meetings, Monday morning
7 meetings, and this is referred to also in paragraph
8 11 of your affidavit. Do you recall that?

9 A. Yes.

10 Q. And you said that each
11 professional is required to attend the Monday
12 morning meeting?

13 A. Correct.

14 Q. When the professionals are
15 required to be out of the office on travel and miss
16 a Monday meeting, they do not dial in, correct?

17 A. No, sir. The policy -- sorry.
18 The policy is that people should not travel on
19 Mondays. Such is the importance of the weekly
20 Monday meetings that the policy is not to travel on
21 Monday. It will be exceptional for somebody not to
22 attend a Monday meeting. If somebody does not
23 attend, it is going to be extraordinary
24 circumstance and most likely they will dial in.

25 Q. And no one at Catalyst prepares a

1 formal written agenda for a Monday morning meeting,
2 correct?

3 A. No, there are agendas that get
4 prepared.

5 Q. No, sir, because we have not seen
6 a single agenda for a Monday morning meeting
7 produced in this litigation that refers to Wind.
8 Not one. So I put it to you again, no one prepares
9 formal written agendas for Monday morning meetings
10 at Catalyst, correct?

11 A. No, there are agendas that get
12 circulated so there are agendas.

13 Q. And these agendas would refer to
14 the transactions under discussion?

15 A. Yes.

16 Q. Specifically like Wind?

17 A. Yes.

18 Q. And we would be able to see on
19 those documents how many times and how often Wind
20 was discussed?

21 A. Through the sequence of events,
22 yes.

23 Q. And that would probably go back as
24 far as your earliest discussions about Wind with
25 VimpelCom through 2012, through 2013, through 2014?

1 A. In some form, yes.

2 Q. And do you have any explanation
3 for how we have not seen a single agenda produced
4 in this litigation that mentions Wind?

5 A. I do not know why.

6 Q. And I take it that no one prepares
7 any materials to be reviewed in a Monday morning
8 meeting, do they?

9 A. Other than agendas?

10 Q. Any written materials, leave aside
11 the agendas. Well, what is on an agenda?

12 A. You should have the opportunities
13 that are being looked at.

14 Q. Um-hmm.

15 A. You should have -- it has the
16 status of existing investments.

17 Q. Um-hmm.

18 A. And it will have, you know, the
19 focus of disparity of those and a brief note to
20 them.

21 Q. It would have a brief description
22 of Catalyst strategy about that deal at that point
23 in time?

24 A. Not that detailed, no. It will be
25 brief.

1 Q. A brief description?

2 A. Just a one-pager, right?

3 Q. Yes. And that would describe the
4 strategy of Wind at a particular time?

5 A. Not in the agendas. The strategy
6 would be discussed verbally. That's why the
7 meeting lasts three hours.

8 Q. Beyond the one-page agenda that we
9 discussed, no one prepared any other written
10 material to be reviewed at Monday morning meetings?

11 A. Usually not. The discussions are
12 verbal. I mean, people might prepare for those
13 meetings with their own notes, but there is no
14 formal materials.

15 Q. And no one at Catalyst prepares
16 formal minutes of what is discussed at those
17 meetings?

18 A. That's correct.

19 Q. No one at Catalyst prepares a
20 to-do list following those meetings?

21 A. That's a -- responsibilities are
22 assigned.

23 Q. But there's no formal "here's what
24 we discussed at today's Monday morning meeting,
25 here are the assignments coming out of the Monday

1 meeting"?

2 A. A verbal discussion and assignment
3 of task, I would consider that formal.

4 Q. But not in writing?

5 A. Correct.

6 Q. And no one at Catalyst ever took
7 and retained any notes from a Monday morning
8 meeting that relate to Wind?

9 A. Not that I'm aware of.

10 Q. And no one at Catalyst prepared
11 any presentations regarding Wind for use at a
12 Monday morning meeting as a Word document or a
13 PowerPoint or an Excel spreadsheet?

14 A. That would not be the practice.

15 Q. So other than these agendas that
16 we have heard about but have not seen a single one
17 of, there is no contemporaneous objective evidence
18 about what was discussed at a Monday morning
19 meeting about Wind, nothing in writing?

20 A. Can you repeat the question?

21 Q. There is no contemporaneous
22 written objective evidence about what was discussed
23 at a Monday morning meeting about Wind?

24 A. The communications that you see
25 happening around the Wind deal amongst the members

1 of the deal team again would be consistent with
2 what was discussed at the Monday meetings.

3 Q. I'm not asking about documents
4 that are consistent with it. I am asking that
5 there is no contemporaneous written objective
6 evidence about what was discussed at a Monday
7 morning meeting about Wind?

8 A. I believe the work product that is
9 happening on those deals is contemporary with the
10 discussions that are happening on the weekly
11 meetings. They are in part of the same context.
12 What is discussed is part of what is being
13 negotiated so they are contemporaneous and they are
14 consistent.

15 Q. The documents around it are
16 evidence of the work that is being done. I am
17 asking if you can point to a single piece of
18 written contemporaneous objective evidence that
19 describes what was discussed at a Monday morning
20 meeting, at any of them, about Wind?

21 A. I have to check what is on the
22 record.

23 Q. We have. There is nothing. Can
24 you point to anything?

25 A. I don't have all -- all the

1 documents available.

2 Q. You said that Catalyst has had a
3 long-standing interest in the telecom industry.

4 A. Yes, sir.

5 Q. And that goes back at least to
6 April of 2011 when you took a \$60 million first
7 lien debt issued in Mobilicity?

8 A. The Catalyst interest on telecom
9 goes since phone number one. I think what you
10 might be asking relates to the wireless.

11 Q. Thank you for clarifying. Is that
12 the first wireless transaction?

13 A. Yes, at Catalyst.

14 Q. And were you involved in that
15 transaction?

16 A. Yes.

17 Q. And then we have in 2012 Globalive
18 approached Catalyst about supporting the purchase
19 of VimpelCom's interest in Wind as described in
20 your affidavit in paragraph 24?

21 A. Can you repeat the question?

22 Q. In 2012 Globalive approached
23 Catalyst about supporting a purchase of VimpelCom's
24 interest in Wind? That's your affidavit, paragraph
25 24.

1 A. Yes.

2 Q. You were involved in that?

3 A. Correct.

4 Q. And in early 2013 VimpelCom
5 approached you about possibly selling its stake in
6 Wind?

7 A. It was more than that. It was
8 potentially selling the stake in Wind and our
9 merger with Mobilicity.

10 Q. Right. In December of 2013 the
11 Catalyst team with responsibility for the
12 Mobilicity file consisted of Mr. Glassman, correct?

13 A. Correct.

14 Q. Mr. de Alba, you?

15 A. Correct.

16 Q. Mr. Riley?

17 A. Correct.

18 Q. Mr. Michaud?

19 A. Correct.

20 Q. And Mr. Yeh?

21 A. Correct.

22 THE COURT: Can I just ask another
23 question. Mr. Glassman's position at Catalyst, is
24 he a partner or what's his position?

25 THE WITNESS: He is managing partner of

1 the firm.

2 THE COURT: So when you said there are
3 three partners, is he one of the partners?

4 THE WITNESS: Correct, sir.

5 THE COURT: You're the second partner?

6 THE WITNESS: Yes.

7 THE COURT: Mr. Riley is the third
8 partner?

9 THE WITNESS: Yes.

10 THE COURT: Thank you.

11 THE WITNESS: Thank you.

12 BY MR. CENTA:

13 Q. And in your view, Mr. de Alba,
14 each of those individuals on the Catalyst deal team
15 with Mobilicity in December of 2013, each of those
16 individuals was an integral member of the team?

17 A. Yes.

18 Q. There were no non-integral members
19 of the team?

20 A. No.

21 Q. Would you agree that Mr. Yeh, the
22 analyst, was less integral to the team than you
23 were?

24 A. People play different roles but
25 everybody is part of the same information flow and

1 discussion of strategy.

2 Q. Would you agree with me that
3 Mr. Yeh was less integral to the Catalyst deal team
4 on the Mobilicity file than you were?

5 A. Yes.

6 Q. And Mr. Moyse was not a part of
7 the Mobilicity team in December 2013?

8 A. He -- I don't recall -- I don't
9 think he was. However, he had made a co-investment
10 utilizing his own cash as part of Catalyst initial
11 investment in Mobilicity. So he would have been
12 familiar that Catalyst was pursuing the fourth
13 strategy as he had invested money in it.

14 Q. Mr. de Alba, would you agree with
15 me that Mr. Moyse was not a member of the
16 Mobilicity deal team at Catalyst in December of
17 2013?

18 A. The problem with being a small
19 firm, there is not a clear separation of the deal
20 team, but he was not part of the core team but he
21 was still part of the team.

22 Q. I don't think it's too hard for
23 Catalyst to answer that question because Catalyst's
24 answer to undertaking number 5 on your examination
25 for discovery was, when the question was asked to

1 advise who on Catalyst core deal team -- who was on
2 Catalyst core deal team for Mobilicity as at the
3 end of 2013, and the answer was: The team that was
4 responsible for the Mobilicity file as at the end
5 of 2013 was Newton Glassman, Gabriel de Alba, James
6 Riley, Zach Michaud, Andrew Yeh.

7 Does that refresh your memory?

8 A. No, it actually is consistent with
9 my last answer which I said he was not part of the
10 core team. I clarified the core team. But he was
11 still part of the team and had connection with
12 Mobilicity.

13 Q. So there's the core deal team and
14 then there is another concentric circle that is
15 another deal team?

16 A. No, there's a whole Catalyst team.
17 The team, we are, as mentioned before, five or six
18 investment professionals.

19 Q. And Mr. Moyse was not part of the
20 core deal team for Mobilicity at the end of
21 December 2013?

22 A. Correct.

23 Q. Great. Now, in your affidavit you
24 say that beginning in March 2014 Moyse was an
25 integral member of Catalyst's telecommunications

1 deal team. Should we stop and clarify, we need to
2 insert the word "core" there?

3 A. Could you repeat your question
4 again?

5 Q. Your affidavit says beginning in
6 March 2014 Moyse was an integral member of
7 Catalyst's telecommunications deal team. Should we
8 insert the word "core" in front of "deal"?

9 A. Correct. Correct.

10 Q. So my misunderstanding perhaps
11 arose from your language in the affidavit, sir,
12 when I suggested to you he was not a member of the
13 deal team in December 2013, correct?

14 A. Correct.

15 Q. Now, you affirmed that in the
16 beginning of 2014 Mr. Moyse was an integral member
17 of Catalyst's telecommunications core deal team and
18 a keen and proactive member of the Catalyst
19 telecommunications team and you affirmed in
20 paragraph 47 that as early as January 13, 2014
21 Mr. Moyse was demonstrating his involvement in the
22 telecommunications deal team. Correct?

23 A. Correct.

24 Q. In response to an undertaking to
25 your examination for discovery, Catalyst identified

1 and produced every document suggesting Mr. Moyse's
2 participation in analyzing the wireless market at
3 Catalyst prior to May 6th, 2014.

4 So Catalyst identified for us the
5 constellation of documents that demonstrated
6 Mr. Moyse's participation in analyzing the wireless
7 market at Catalyst prior to May 6th, 2014.

8 Catalyst identified 32 documents and
9 I'm going to take you through them one at a time,
10 there is some duplication, so just taking out some
11 of the duplicates in an email chain.

12 Justice Newbould, I am hoping you are
13 going to find the first document I am going to take
14 you to at tab 5.

15 THE COURT: I hope we're not going to
16 spend a whole lot of time on 32 documents.

17 MR. CENTA: Well --

18 THE COURT: Is this part of the
19 argument or is it cross-examination?

20 MR. CENTA: This is part of the
21 cross-examination.

22 THE COURT: All right.

23 BY MR. CENTA:

24 Q. Now, this is a document, an email
25 from Mr. Moyse to Zach Michaud and Andrew Yeh on

1 January 13th, 2014 forwarding a newspaper article
2 from the Financial Post. And this is the document
3 you identify as Mr. Moyse demonstrating his
4 involvement in the telecommunications deal team on
5 that date, correct?

6 A. It is.

7 Q. If you turn to tab 6, you'll see
8 what happens the next -- what happens next is that
9 Mr. Michaud flips this article to Mr. Glassman,
10 Mr. de Alba, Mr. Riley, Bruce Drysdale with copies
11 to Jon Levin, David Moore litigation counsel and
12 Mr. Yeh. Do you see that?

13 A. Yes.

14 Q. And Mr. Michaud does not include
15 Mr. Moyse in that list, correct?

16 A. Correct.

17 Q. And there is no follow-up
18 communications we have identified between
19 Mr. Michaud and Mr. Moyse about this article,
20 correct?

21 A. Correct.

22 Q. And you'll agree with me, sir,
23 that the act of flipping a newspaper article does
24 not mean that Mr. Moyse was then analyzing the
25 wireless market?

1 A. No, that does not mean that.

2 Q. Even the act of reading that
3 newspaper article wouldn't mean that he was
4 analyzing the wireless --

5 A. No, it does mean that -- I cannot
6 speculate what he was analyzing or not, but it's
7 very clear that he understands that Catalyst is
8 interested in Wind and he is providing something
9 that he understands is important to the analysis of
10 Catalyst.

11 Q. By flipping a newspaper article
12 about Wind to Mr. Michaud?

13 A. Correct.

14 Q. And to the extent that this
15 article spawned any analysis at Catalyst, Mr. Moyse
16 was not involved in that analysis because at that
17 time Mr. Moyse was not working with Mr. Michaud on
18 the Wind/Mobilicity combination model, correct?

19 A. You cannot say that. Being a
20 small team, it would be natural that they also
21 would discuss it, otherwise how could Mr. Moyse
22 decide that that could be a relevant article. He
23 needed to have a background and that's part of the
24 approach.

25 Q. So I can't say that Mr. Moyse was

1 not working with Mr. Michaud on the combination
2 model?

3 A. No, you cannot say that.

4 Q. Please turn to tab 8. This is an
5 email from Zach Michaud to you dated January -- or,
6 sorry, March the 1st, I think, 2014. No, January
7 3rd, 2014. Second paragraph:

8 "Brandon and I are working on
9 the cash flow request for NMFG."

10 What does NMFG stand for?

11 A. Natural Markets Food Group.

12 Q. "And Andrew and I are refining
13 the Wind/Mobilicity combination
14 model as well."

15 Mr. Michaud doesn't say Mr. Moyse is
16 working on the Wind/Mobilicity combination model,
17 does he?

18 A. No, not on this email.

19 Q. We agree then that Mr. Moyse was
20 not working on the Wind/Mobilicity combination
21 model at this time?

22 A. Not from these -- not from this
23 email but you could not determine if he will have
24 been in discussions with Andrew and having a
25 dialogue about it.

1 Q. Sir, we have not been able to
2 identify any emails where Mr. Michaud assigned on
3 this date any work to Mr. Moyse on the
4 Wind/Mobilicity combination model, and this is an
5 email from Mr. Michaud informing you before he goes
6 on vacation who is working on what.

7 And I take it you would take
8 Mr. Michaud's email at face value as correctly
9 describing who was working on what at that time?

10 A. No, I would take it as who has
11 direct responsibility on the task. It doesn't mean
12 that other members of the team cannot interact and
13 work together.

14 Q. But there is no evidence of that
15 in Mr. Michaud's email?

16 A. Correct.

17 Q. On February the 21st, 2014, as set
18 out in paragraph 31 of your affidavit, you had a
19 long telephone conversation with Mr. Turgeon of UBS
20 during which you discussed a possible merger
21 between Wind and Mobilicity, correct?

22 A. Sorry, I was looking at the
23 screen. Are you going to pull up a document or is
24 that a question?

25 Q. I'll get there.

1 A. Okay.

2 Q. For now, February 21st, 2014 you
3 affirmed in paragraph 31 of your affidavit you had
4 a long telephone conversation with Francois Turgeon
5 of UBS during which you discussed a possible merger
6 between Wind and Mobilicity?

7 A. Yes.

8 Q. And you created an email
9 summarizing that conversation?

10 A. I believe so.

11 Q. And we'll find that email at tab
12 9, in the middle of the page, an email from you
13 dated Friday, February 21st, 2014?

14 A. Yes, I have it.

15 Q. You see it?

16 A. Yes.

17 Q. And you sent that email to
18 Mr. Glassman, Mr. Levin, Mr. Riley, Mr. Yeh, Mr.
19 Mione and Mr. Michaud, correct?

20 A. Correct.

21 Q. But not to Mr. Moyse?

22 A. No.

23 Q. And that's because by February the
24 21st, 2014 Mr. Moyse was still not a member of the
25 core deal team and you did not provide him with any

1 information on that date about your long
2 conversation with Wind's VimpelCom?

3 A. I did not provide it in that email
4 but -- on that day, but that doesn't mean that we
5 did not have subsequent discussions as it would be
6 common for me to go to the analysts and associates
7 and say this is what's going on in relationship to
8 the deals.

9 Q. But you could have included him in
10 that email chain and you chose not to?

11 A. Correct.

12 Q. On February the 21st, if you'll
13 turn to tab 10, you'll see here is Mr. Michaud
14 flipping to Mr. Moyse on February 21st the 2013 and
15 2022 Wind strategy document and that attachment is
16 found at tab 57. I'm not going to turn it up.

17 And at this time -- in this email there
18 is no request from Zach -- sorry, Mr. Michaud that
19 Mr. Moyse conduct any analysis of this document, it
20 is just an email attaching a document so that
21 Mr. Moyse has it in his possession?

22 A. The email is just a forwarding of
23 a file.

24 Q. Correct, just forwarding a file.
25 Another document that Catalyst identified as

1 demonstrating Mr. Moyse's involvement in the
2 telecommunications sector is found at tab 11.
3 February 27th, 2014 Mr. Michaud sends an email to
4 Mr. Moyse and Mr. Yeh asking -- saying "Can someone
5 grab this and send to G."

6 And in Catalyst shorthand, if someone
7 is saying "to G," are they referring to you?

8 A. Yes.

9 Q. And then if you turn to the next
10 tab, tab 12, you'll see that Mr. Yeh finds the
11 document and sends it to Mr. Glassman, you,
12 Mr. Riley, Mr. Michaud, Mr. Moore, Mr. Levin, and
13 not Mr. Moyse. That's at tab 12.

14 A. Correct.

15 Q. You'll agree with me that
16 Mr. Michaud's original email at tab 11 does not --
17 is not a document suggesting Mr. Moyse's
18 participation in analyzing the wireless market at
19 Catalyst, correct?

20 A. No. I disagree with that. He is
21 being kept appraised [sic] on a follow-up basis so
22 he's familiar with what's going on.

23 Q. No, sir, I think you
24 misunderstood. Mr. Michaud makes a request and
25 then Mr. Yeh appraises everyone by forwarding the

1 article and does not include Mr. Moyse in the email
2 distribution list?

3 A. Yes, but that doesn't mean that
4 Mr. Moyse is not aware about why that email is
5 important and he has been, on a follow-up basis,
6 kept appraised of developments.

7 Q. Mr. Yeh didn't keep him appraised
8 by including him on the email distribution list,
9 did he?

10 A. Mr. Michaud kept him appraised by
11 requesting the article, which meant it's important.

12 Q. And is that the level of appraisal
13 and involvement and transparency that Catalyst
14 prides itself on?

15 A. No, that was just an action
16 consistent with somebody to have familiarity. If
17 this was just a request from an article, it could
18 be requested from an assistant. It is being
19 requested from a professional or from the
20 professionals so they understand what is important.

21 Q. The next document identified by
22 Catalyst is found at tab 13. March 6th, 2014,
23 Mr. Moyse identifies an article and sends it to
24 Mr. de Alba, Mr. Michaud, Mr. Yeh and this is an
25 article about Wind -- about VimpelCom writing down

1 its investment in Wind.

2 Now, this was an important development,
3 correct?

4 A. Yes.

5 Q. This news was big news?

6 A. Yes, it was.

7 Q. This would have a serious effect
8 on any negotiations that Catalyst was undertaking
9 with VimpelCom?

10 A. This help us cement value because
11 when somebody writes investment to zero, it means
12 that basically money above that will be better than
13 zero.

14 Q. All bets are off, the sky is the
15 limit, the deal parameters are now much wider, more
16 accessible?

17 A. More accessible.

18 Q. And this told you -- led you to
19 believe that Catalyst could potentially purchase
20 Wind for a price at or less than the value of its
21 spectrum assets?

22 A. Correct.

23 Q. And Catalyst relies on this
24 document also to suggest Mr. Moyse's participation
25 in analyzing the wireless market?

1 A. It's one of the elements, indeed.

2 Q. Because this was an important
3 decision and this was going to produce work to be
4 done to best position Catalyst to seize on this
5 advantage?

6 A. What do you refer to by "this"?

7 Q. This news that VimpelCom had
8 written down its investment in Wind, this was going
9 to produce work and analysis to be done in order to
10 position Catalyst to take advantage of this
11 opportunity?

12 A. I believe that work had been
13 already progressing at that point in time.

14 Q. Right. But this was a new
15 development. This was a new fact, a big new fact?

16 A. Yes, the basic -- the basic fact
17 is that, as mentioned, you have now a party that is
18 a willing seller that has recognized to the public
19 markets that for them the value in Wind Canada is
20 worth nothing.

21 Q. Right.

22 A. So that gives you a parameter of
23 the seller's expectations as to what their asset is
24 worth.

25 Q. And this was an important

1 development as Catalyst was positioning itself to
2 negotiate with VimpelCom for a potential purchase?

3 A. Yes.

4 Q. So if you turn to tab 14, let's
5 see what happens after Mr. Moyse sends this article
6 to the group. If you turn to page 3 of tab 14, at
7 the top of the page you will see this is the
8 original email from Mr. Moyse to Mr. de Alba,
9 Mr. Michaud and Mr. Yeh. See that? Turn back one
10 page. Sorry, back towards the front, thank you.

11 And scroll down to the 9:56 email.
12 Here's what happens. You take Mr. Moyse's email
13 and you forward it to Mr. Yeh and ask him to answer
14 a question for you. Correct?

15 A. Correct.

16 Q. You don't "reply all." You
17 forward to Mr. Yeh, correct?

18 A. Correct.

19 Q. When you forward to Mr. Yeh, you
20 delete Mr. Moyse from the distribution list,
21 correct?

22 A. Could you go back? I mean, if
23 this is part of the same chain, then yes.

24 Q. Yes, it is. So you see the
25 original email from 5:51 a.m. is from Mr. Moyse to

1 you, Mr. Michaud, Mr. Yeh, you turn around and
2 forward that email to Mr. Yeh and Mr. Michaud but
3 do not include Mr. Moyse in that distribution?

4 A. Correct.

5 Q. Correct?

6 A. Correct.

7 Q. And above that there is another
8 four or five emails, a further exchange on this
9 point, none of which involve Mr. Moyse, correct?

10 A. Correct.

11 Q. So you don't ask Mr. Moyse to
12 assess the amount to which they wrote the
13 investment down, correct?

14 A. Correct.

15 Q. You don't ask Mr. Moyse to
16 investigate the precise metrics reported related to
17 Wind Canada's subscribers? Correct?

18 A. Correct.

19 Q. You didn't ask him to analyze the
20 wireless market on this occasion, correct?

21 A. As per this email, yes.

22 Q. In fact, by forwarding this
23 message rather than choosing "reply all" you made
24 sure that Mr. Moyse did not see any of the
25 additional information that would be contained in

1 that email chain, correct?

2 A. At that point in time.

3 Q. At that point in time, which is
4 March 6th, 2014, you did not see Mr. Moyse as an
5 integral member of Catalyst's core deal team on
6 telecommunications, correct?

7 A. Not necessarily, because while
8 these specific tasks were given to Andrew, the
9 outcome is likely to have shared amongst all team
10 members verbally.

11 Q. But in the interests of
12 transparency and having full access to information
13 you talked about at Catalyst, forwarding the email
14 to Mr. Yeh and dropping Mr. Moyse from the
15 communications chain is not the way to foster fully
16 transparent communications on the core deal team,
17 is it?

18 A. No, I disagree. Because if you
19 are doing what is the task of going to a public
20 document to extract or in this case an article to
21 extract information, it not necessarily has the
22 same impact or magnitude of the discussion of the
23 strategy which are critical for everybody to
24 understand.

25 Q. So let me understand that. So

1 going to a public document and extracting the
2 information doesn't have the same sort of
3 analytical dimensions as the negotiations and
4 discussions around it?

5 A. The task of putting it together,
6 the task of putting it together can be given to a
7 person to -- for that person to conduct the
8 analysis, expecting that analysis to be done
9 correctly, and then when that analysis is complete
10 or advanced, it can be discussed with the totality
11 of the team.

12 Q. And it's the discussion and the
13 analysis that is more important than just the
14 extracting of the information from the public
15 document and that's why --

16 A. It depends, right? It depends
17 what document and the context. It depends.

18 Q. At tab 7 -- sorry, at tab 15,
19 Mr. Yeh forwards a later version of the article we
20 just looked at to a long list including Mr. Moyse.
21 You see that?

22 A. Yes, I do.

23 Q. And that brings us to March 7 when
24 Mr. Moyse and Mr. Michaud begin to work on the
25 combined pro forma for Mobilicity and Wind. And

1 your evidence is that this combined pro forma for
2 Mobilicity and Wind was a critical document in your
3 assessment of the potential transactions available
4 to you?

5 A. Correct.

6 Q. It informed Catalyst's strategy
7 going forward?

8 A. As to value, yes.

9 Q. It was important enough to include
10 in the presentation to the Canadian government,
11 correct?

12 A. Correct.

13 Q. This was a central document in
14 Catalyst's work on this file?

15 A. Correct.

16 Q. At paragraph 50 of your affidavit
17 you say:

18 "Moyse's pro forma analysis was
19 critical to our internal analysis of
20 Wind's value. We were very
21 interested in the value of Wind's
22 spectrum which we viewed as a
23 critical asset and the main value
24 driver in relation to proposed
25 VimpelCom. We never deviated from

1 this analysis."

2 Correct?

3 A. Correct.

4 Q. At tab 16 Mr. Moyse sends his
5 first draft to Mr. Michaud on March 7th at 7:27 in
6 the evening. He writes:

7 "Checked with Andrew - he
8 doesn't seem to think there is
9 anything more recent than June 30,
10 2013, for Mobilicity. I grabbed the
11 subs..."

12 I think that means subscribers; do you
13 agree with me?

14 A. Correct.

15 Q. "...from the factum in the
16 initial filing on September 29.
17 Also, they didn't break out net
18 network value in the June
19 financials, but in the December ones
20 it was 99 percent plus of total
21 PP&E, so I just took the full PP&E
22 number from June 30. Let me know
23 your comments."

24 And then the chart is set out. Do you
25 see that?

1 A. Yes, I do.

2 Q. Turn to tab 17. Mr. Michaud does
3 not respond to Mr. Moyse until the next morning at
4 11:41 a.m. Mr. Michaud says:

5 "They did report for September
6 30. Please get access to the data
7 room."

8 That's the entirety of his response.
9 See that?

10 A. Correct.

11 Q. And then the work continues. We
12 turn to tab 18, about 12 minutes later Mr. Moyse
13 responds:

14 "I was in the data room. The
15 most recent folders for Q2 2013 was
16 uploaded August 20."
17 He then provides the log-in
18 credentials.

19 "I've also looked through the
20 docket and motions/monitor reports
21 and don't see anything updated."

22 Turn to the next tab, tab 19.

23 Mr. Michaud responds three minutes later and says:

24 "Also, there is updated filings
25 on the monitor's website that should

1 give you subscriber numbers. I
2 believe it is closer to 180,000
3 now."

4 A. I see that.

5 Q. Then at tab 20 Mr. Moyse responds
6 five minutes later:

7 "Yes, you're right. The
8 February report says 166 but 190 'if
9 inactive subscribers were included'.
10 Not sure what that means for a
11 prepaid company (seems meaningless
12 to me) so please see below for the
13 updated table."

14 And you'll see he's then updated the
15 report to drop in 166,000 prepaid subscribers for
16 Mobilicity. See that?

17 A. Yes. I see that, yes.

18 Q. Tab 21, Mr. Michaud responds to
19 that draft 15 minutes later, and says:

20 "Go off the latest VimpelCom
21 filings for Wind subscribers and
22 financials where possible. Put in
23 the 190,000 to help the division of
24 economics."

25 Do you understand what the phrase "the

1 division of economics" means there?

2 A. Yes.

3 Q. What does that mean?

4 A. When discussing the potential
5 merger between Mobilicity and Wind, this will mean
6 that a higher number of subscribers, if subscribers
7 is used as a parameter of allocation of value
8 between Wind and Mobilicity, a higher number will
9 give larger allocation of economics to Mobilicity.

10 Q. And so then if we turn to tab 22,
11 Mr. Moyse responds 11 minutes later and says:

12 "Sure."

13 And the "sure" is responding to
14 Mr. Michaud telling him to put in 190 instead of
15 166 in the subscriber numbers. So you will see now
16 we have total subscribers under Mobilicity of
17 190,000. So you agree with me that the decision to
18 put 190,000 in as the subscriber number is
19 Mr. Michaud's decision, not Mr. Moyse's decision?

20 A. I think that they both discuss it
21 and they ultimately came up with the agreement,
22 right?

23 Q. Well, Mr. Michaud's language is
24 "put in 190 to help the division of economics" and
25 Mr. Moyse says "sure." That, I would put it to

1 you, is Mr. Michaud telling Mr. Moyse to put in 190
2 and Mr. Moyse agreeing with Mr. Michaud's
3 instructions to put in 190. Do you agree with me?

4 A. No. I don't see it as an
5 instruction. I see it as a communication amongst
6 two of the investment professionals discussing
7 again the valuation of an allocation of the
8 economics to be used in the case of a potential
9 merger, and ultimately it becomes obvious that a
10 higher number of subscribers for Mobilicity in the
11 case of a merger will be higher economics. So it's
12 not an instruction, it's a rational discussion that
13 results in a better positioning of value for
14 Mobilicity.

15 THE COURT: How much longer do you
16 think you're going to be, Mr. Centa?

17 MR. CENTA: In cross-examination?

18 THE COURT: Yes.

19 MR. CENTA: I suspect at least a half
20 an hour.

21 THE COURT: Let's take 15 minutes now.

22 -- RECESS AT 3:35 --

23 -- UPON RESUMING AT 3:50 --

24 BY MR. CENTA:

25 Q. Thank you, Mr. de Alba. We were

1 talking about the back and forth exchange between
2 Mr. Moyse and Mr. Michaud that led to the delivery
3 of the Mobilicity and Wind combined pro forma to
4 you.

5 And just to close off that, I believe
6 that Mr. Michaud sends an email to Mr. Moyse at
7 12:35 p.m., that's found at tab 23, in which
8 Mr. Michaud signs off and says "Okay, let's send
9 this to G." That's at 12:35.

10 And then at 12:38, Mr. Moyse at tab 24
11 provides a couple of small editorial changes to
12 Mr. Michaud. At tab 25 Mr. Michaud signs off again
13 at 1:13 and at tab 26 Mr. Moyse sends the final
14 product to you, March 8, 1:21 p.m.

15 So all of the edits that you and I just
16 looked at took place between Mr. Michaud's response
17 to Mr. Moyse at 11:41 a.m. on March 8th and the
18 final version goes to you at 1:21 p.m. that same
19 day, okay?

20 A. Okay.

21 Q. And Mr. Moyse writes to you at tab
22 26:

23 "As discussed with Zach, please
24 see below for Mobilicity and Wind
25 spectrum value, network value and

1 total subscribers both individually
2 and on a pro forma combined basis as
3 well as the percentage share of each
4 company in the combined total. Let
5 us know if you have any questions."

6 Now, we've been able to identify in the
7 database some of the source documents that
8 Mr. Moyse and Mr. Michaud referred to in their
9 emails back and forth that provide the information
10 that Mr. Moyse then includes in the table.

11 So first, the spectrum value for
12 Mobilicity, if you turn to tab 27, and this is an
13 excerpt of a record -- court record of proceedings.
14 If you'll turn to page 23 of the PDF which is
15 labelled page 718 of the record in the top right
16 corner, or page 16 in the bottom right corner,
17 depending on your preference, these are the
18 consolidated financial statements ended December
19 31st, 2012 for Data and Auto Visual Enterprises
20 Holdings Inc.

21 And you'll see in Note 11, intangible
22 assets. Down in the bottom, the big paragraph
23 below Note 11, three lines from the bottom there is
24 a sentence that says payments made to Industry
25 Canada for the spectrum totalled \$243,159,000. Do

1 you see that?

2 A. Yes, I do.

3 Q. And that is the number that
4 Mr. Moyse included in the table that was sent to
5 you on March the 8th, the Mobilicity spectrum
6 value, 243,159,000?

7 A. Yes, I do.

8 Q. And the spectrum value for Wind,
9 if you turn to tab 28, page 2 of the document, it
10 has 680 written in the top right corner, you will
11 see under -- this is the unaudited consolidated
12 statements of financial position for the same
13 entity, under non-current assets you'll see
14 property and equipment with a value of \$97,417,634,
15 and that is the source of the spectrum value for
16 Wind that Mr. Moyse included in the chart, correct?

17 A. Correct.

18 Q. And the network value --

19 THE COURT: Where is that?

20 MR. CENTA: This is under non-current
21 assets, property and equipment as at June 30th,
22 2013.

23 THE COURT: Yes.

24 MR. CENTA: Property and equipment
25 \$97,417,634. And that's listed as network value of

1 Mobilicity on the chart that was sent to Mr. de
2 Alba.

3 THE COURT: Well, you just said it was
4 a value for Wind. This is Mobilicity.

5 THE WITNESS: It is.

6 MR. CENTA: I'm sorry, I misspoke. Let
7 me roll that back. That was for Mobilicity. You
8 see the second line under Mobilicity --

9 THE COURT: No, I understand that, but
10 when you said Wind --

11 MR. CENTA: I'm sorry, I misspoke
12 myself.

13 THE COURT: All right.

14 BY MR. CENTA:

15 Q. That's the network value for
16 Mobilicity. The entry for Mobilicity for the total
17 number of subscribers is found in tab 29, which is
18 an affidavit sworn by William Aziz, and if you'll
19 turn to page 2 of the document, paragraph 9,
20 sentence 1, tab 29, page 2, paragraph 9, first
21 sentence: The applicants currently have over
22 166,000 customers. And then Footnote No. 2: This
23 would exceed 190,000 if inactive subscribers were
24 included.

25 And that's the source of the total

1 subscribers count for Mobilicity that Mr. Moyse
2 included in the pro forma that he sent to you,
3 correct?

4 A. Correct.

5 Q. And actually those two sentences
6 reflect the debate that Mr. Michaud and Mr. Moyse
7 were having that we described around which
8 subscriber number to include?

9 A. Correct.

10 Q. And the total number of
11 subscribers for Wind included in the pro forma is
12 found at tab 30. If you turn to page 28 of the
13 document at tab 30, this is the VimpelCom reports
14 for Q4 2013 and fiscal year 2013 results.

15 Under Canada country detail, you'll see
16 customers denominated in hundred thousands, 4th
17 Quarter 2013, 649,000, and that is the number that
18 appears in the Wind column for total subscribers in
19 the chart that Mr. Moyse sent to you, correct?

20 A. Correct.

21 Q. And the other numbers for Wind are
22 described as arising from Wind's -- in Footnote 2
23 to Mr. Moyse's pro forma, Wind's spectrum value,
24 network value as of September 30th, 2012,
25 subscribers from Q4 2013 results announcement on

1 March 6th.

2 We weren't able to locate those
3 documents in the database but it's fair to say
4 those would have been found in the Wind data room?

5 A. I do not know.

6 Q. But they would have been the
7 financial results that are as described by
8 Mr. Moyse in his footnotes to you?

9 A. Yes.

10 Q. And again, the same activity you
11 would have gone through to identify the numbers,
12 taken them from those statements and put them in
13 the pro forma chart, correct?

14 A. Yes.

15 Q. Now, once he'd taken the numbers
16 from the publicly-available information, if you
17 turn back to tab 26, what he does is if Mobilicity,
18 if I can call Mobilicity column A and Wind column
19 B, he just adds column A and column B to come up
20 with a total, correct?

21 A. Correct.

22 Q. And so he adds spectrum value to
23 spectrum value and comes up with a total, the same
24 with network value and the same with total
25 subscribers, correct?

1 A. Correct.

2 Q. And then in the next column he
3 simply divides first Mobilicity into the total to
4 come up with a percentage; is that correct?

5 A. Correct.

6 Q. And then Wind into the total to
7 come up with a percentage, correct?

8 A. Correct.

9 Q. And would you agree with me, sir,
10 that no knowledge of the telecommunications
11 industry was required to prepare this particular
12 pro forma?

13 A. I would disagree. Even again the
14 debate related to what subscriber number to use is
15 important and Brandon went through the exercise of
16 even looking at the fact to bring that point even
17 though that was a footnote. In addition to that,
18 the three main metrics again are the key valuation
19 metrics for the companies.

20 Q. And no knowledge of Catalyst
21 strategy or plans was required to complete this
22 assignment?

23 A. That's not correct. The fact that
24 again the discussion happened about which number to
25 utilize as the subscribers implied that there was a

1 negotiation going on in which Catalyst was talking
2 to Wind and wanted to present a value allocation of
3 a combined company to Wind.

4 Q. Sir, the exchange between
5 Mr. Michaud and Mr. Moyse says nothing of that
6 sort, does it?

7 A. It does. When you -- in the
8 question when you asked me about 190 and what was
9 the composition of value, if I recall correctly,
10 that was the set-up for a negotiation with Wind.

11 If you own, for example, 31 percent of
12 the spectrum value versus 68.9 percent or that's
13 the allocation of spectrum value, one versus the
14 other one, when you are sitting down with Wind you
15 will tell them, listen the spectrum value at the
16 time when the option took place, ours is worth
17 31.1, yours is 68.9, a fair allocation of a
18 combined business would be 31.1 to 68.9. There
19 were implicit discussions about valuation in
20 relationship to the combination.

21 Q. And these numbers are all
22 calculated at different points in time, correct?

23 A. They are a frame of negotiation,
24 indeed, at different points in time, yeah.

25 Q. And this is the only piece of

1 analysis that we've seen produced by Catalyst
2 prepared by Mr. Moyse in relation to Wind prior to
3 the March 26th, 2014 PowerPoint, correct?

4 A. The analysis that was taking
5 place, for you to have the context, included these,
6 and also, as you noted, a very important event
7 which was the write-off of the investment --

8 THE COURT: It would be better if you
9 just listened to the question, sir.

10 THE WITNESS: Well, my answer is no.
11 There was more analysis involved.

12 BY MR. CENTA:

13 Q. Well, I've taken you through all
14 of the documents that Catalyst identified as
15 representing Mr. Moyse's -- evidence of Mr. Moyse's
16 analysis of the wireless market at Catalyst, and we
17 got to the pro forma, and I said to you that this
18 is the first document that demonstrates Mr. Moyse
19 conducting any analysis - any analysis - of the
20 wireless market before this date. Do you agree
21 with me?

22 A. My response is no.

23 Q. Okay. On March the 11th, Mr. Yeh
24 sends Mr. Glassman, Mr. Michaud, Mr. Moyse,
25 Mr. Levin, an article about the industry. And

1 that's at tab 31. You see that?

2 A. Yes, I do.

3 Q. And acknowledge Mr. Moyse is
4 included in that distribution list?

5 A. Yes.

6 Q. So that takes us now to March the
7 26th and I've looked at all the -- taken you
8 through all the documents Catalyst identified that
9 evidenced Mr. Moyse's involvement in the
10 telecommunications sector and now we're at March
11 26, which is the day that the PowerPoint
12 presentation is created by Catalyst with
13 Mr. Moyse's involvement, correct?

14 A. Correct.

15 Q. And you'll find that email, we
16 looked at it many times, but at tab 34, the email
17 from Mr. Moyse to you. And Mr. Glassman and
18 Mr. Riley attended the meeting for Catalyst along
19 with Catalyst government relations representatives
20 in Ottawa on the 27th?

21 A. Yes.

22 Q. And that was a very important
23 meeting?

24 A. Yes.

25 Q. Catalyst sent two of the three

1 partners?

2 A. Correct.

3 Q. You did not attend?

4 A. Correct.

5 Q. Mr. Michaud did not attend?

6 A. Correct.

7 Q. And Mr. Moyse did not attend?

8 A. Correct.

9 Q. Mr. Moyse did not attend despite
10 the fact that, on your telling, he led the creation
11 of this PowerPoint presentation?

12 A. Correct.

13 Q. And we know that the pro forma
14 analysis is incorporated into the PowerPoint
15 presentation, correct?

16 A. Yes.

17 Q. Other than that, there are no
18 emails assigning Mr. Moyse any research tasks to be
19 folded into this PowerPoint presentation, correct?

20 A. Not from the record.

21 Q. There aren't any emails, correct?

22 A. No.

23 Q. Except for the combined pro forma,
24 there are no documents reflecting any work
25 performed by Mr. Moyse before March 26th that gets

1 incorporated into the PowerPoint presentation,
2 correct?

3 A. I will need to check the
4 presentation to see if there is -- also includes
5 the language related to the fact that VimpelCom had
6 written up the investment to zero because those --
7 those were the two boundaries, the zero from
8 VimpelCom and the metrics from the table from
9 Moyse.

10 Q. And we looked at Mr. Moyse's
11 involvement in the zero to VimpelCom and that was
12 to send an email, flip a newspaper article to you
13 and then you forward it on and removed him from the
14 distribution list, correct?

15 A. Yeah, I believe that was the case.

16 Q. Okay. Now, Mr. de Alba and
17 Mr. Riley and Mr. Michaud were all members of the
18 Mobilicity team, the Mobilicity core deal team,
19 correct?

20 A. Correct.

21 Q. They had all been involved in the
22 telecommunications industry for some time?

23 A. Correct.

24 Q. For many years?

25 A. I believe so, yes.

1 Q. All three men had much greater
2 experience in the telecommunications file than did
3 Brandon Moyse?

4 A. I believe so.

5 Q. All three men had much more
6 exposure to the complex regulatory and government
7 relations issues posed by this file than did
8 Mr. Moyse?

9 A. I'm not sure.

10 Q. Let's talk about you then. Did
11 you have much more exposure to the complex
12 regulatory and government relations issues posed by
13 this particular wireless telecommunications file
14 than Mr. Moyse did?

15 A. I have more experience but not
16 necessarily more exposure.

17 Q. How many years had you been
18 involved in the wireless telecommunications
19 regulatory issues by March of 2014?

20 A. A year and a half. Two years.

21 Q. I thought you told me you were
22 involved with the first acquisition of Mobilicity's
23 debt in 2011?

24 A. Yes, that's correct.

25 Q. So that's at least three years?

1 A. Yeah, that's right.

2 Q. And were you involved at all in
3 the wireless industry before that?

4 A. Yes. Not in Canada.

5 Q. So you had international wireless
6 experience?

7 A. Yes.

8 Q. You were also involved in the
9 Mobilicity CCAA proceedings?

10 A. Correct.

11 Q. And Mr. Riley, was he involved in
12 the Mobilicity CCAA proceedings?

13 A. Correct.

14 Q. And was he involved in the
15 acquisition back in 2011 of the first lien debt
16 issue of Mobilicity?

17 A. I don't recall.

18 Q. Mr. Michaud was a member of the
19 core Mobilicity deal team at least no later than
20 December of 2013 and from before that as well?

21 A. Correct.

22 Q. And he had more experience in the
23 telecommunications industry than did Mr. Moyse?

24 A. Only from having spent more time
25 at Catalyst but I don't think from prior work.

1 Q. Mr. de Alba, I put it to you that
2 Mr. Moyse did not lead the preparation of the
3 PowerPoint presentation?

4 A. Can you --

5 Q. That he did not lead the
6 preparation of the PowerPoint presentation, did he?

7 A. Yes, he did.

8 Q. All of the ideas and the
9 negotiating positions contained in this
10 presentation came from Mr. de Alba, Mr. Riley, and
11 Mr. Michaud, correct?

12 A. No.

13 Q. He was simply a scribe preparing
14 the slide at the direction of senior members of
15 Catalyst?

16 A. I don't agree.

17 Q. They put the information on pieces
18 of paper, walked them into him, he laid them out,
19 he designed them, he inserted the pro forma
20 preparation he had done, but that was the extent of
21 his involvement, correct?

22 A. I don't agree.

23 Q. Mr. de Alba, there are no
24 documents that I've taken you to that suggest that
25 Mr. Moyse would have been remotely qualified or

1 prepared to create this presentation in 24 hours in
2 advance of this crucial meeting with Industry
3 Canada. Do you agree with me?

4 A. He did not create it. He led it.

5 Q. He inputted information into
6 PowerPoint at the direction of the partners and
7 vice-president of Catalyst he was working with,
8 correct?

9 A. No.

10 Q. They came up with option 1, 2 and
11 3 and told them to him, correct?

12 A. No.

13 Q. Mr. Moyse came up with option 1, 2
14 and 3?

15 A. The team together came up with the
16 options, the team together came up with the
17 presentation, and he was the person responsible for
18 putting it together into a single presentation.

19 Q. Mr. de Alba, are you suggesting
20 that the documents we've looked at that show
21 Mr. Moyse's involvement from January 2014 to March
22 26th, 2014 that he was involved in the creation of
23 options 1, 2 and 3?

24 A. Yes.

25 Q. You state in your affidavit at

1 paragraph 59 that Catalyst believed that the
2 federal government faced a lawsuit over retroactive
3 changes made to spectrum licenses it had issued in
4 2008?

5 A. Sorry, can you repeat the
6 question?

7 Q. In paragraph 59 of your affidavit
8 you state that Catalyst believed that the federal
9 government faced a lawsuit over retroactive changes
10 made to spectrum licenses that it had issued in
11 2008?

12 A. Correct.

13 Q. And you believed that that
14 litigation would likely be successful?

15 A. Correct.

16 Q. And you stated that Catalyst had
17 performed extensive analysis of that?

18 A. Correct.

19 Q. There are no documents to suggest
20 that Mr. Moyse contributed to that extensive
21 analysis, are there?

22 A. No.

23 Q. There are no documents suggesting
24 that Mr. Moyse ever reviewed this extensive
25 analysis or that it was ever provided to him?

1 A. Not in writing.

2 Q. On April 18th there is an email
3 chain on which Mr. Moyse is a member, and I'm not
4 going to turn them all up, they run from tabs 36 to
5 47. I think we had part of this conversation
6 already. It was a discussion among Mr. Glassman,
7 Mr. Michaud, Mr. de Alba, Mr. Riley, Mr. Levin,
8 Mr. Moore about the Mobilicity transaction with
9 Telus, and Mr. Moyse is copied in all of those, so
10 he does see that email conversation so I'm not
11 going to turn them up, but he is present and does
12 see those.

13 And then there are no other documents
14 until May 6th when Mr. Moyse found out that
15 Catalyst would be bidding on a deal.

16 We also talked about the second
17 presentation -- second PowerPoint presentation that
18 is used at the meeting with the government on May
19 the 12th. Do you recall that?

20 A. Yes.

21 Q. And you said that Mr. Moyse led
22 the preparation of that PowerPoint presentation as
23 well?

24 A. Correct.

25 Q. And you also said that Mr. Moyse,

1 when he's emailed you the document the last time,
2 he was the last person to touch it and that was
3 evidence of his important role in completing the --
4 in creating the PowerPoint presentation?

5 A. Correct, part of it.

6 Q. So turn to tab 48, please.

7 Mr. Glassman -- page 2 of tab 48, on May the 12th
8 at 9:41 a.m. Mr. Glassman sends an email to you and
9 Mr. Michaud, copy to Mr. Riley, copy to Mr. Levin,
10 subject Mobilicity and Wind:

11 "Any analysis/documents
12 available for today's meetings?
13 Comments? Leaving airport in an
14 hour. Let's go."

15 He's referring there to the PowerPoint
16 presentation, correct?

17 THE COURT: You're going pretty fast.
18 Where are you referring to?

19 MR. CENTA: I'm sorry, page 48.

20 THE COURT: I've got page 48.

21 MR. CENTA: Page 2.

22 THE COURT: If you want me to follow
23 it, you'd better take a look at me once in a while.

24 MR. CENTA: My apologies.

25 THE COURT: Now, where are you reading

1 from?

2 MR. CENTA: I'm reading from the email
3 below the line from Mr. Glassman, the email dated
4 May 12th at 9:41 to Mr. de Alba, Mr. Michaud,
5 Mr. Riley, Mr. Levin.

6 THE COURT: Yes.

7 BY MR. CENTA:

8 Q. It says:

9 "Any analysis/documents
10 available for today's meetings?
11 Comments? Leaving airport in an
12 hour plus. Let's go."

13 He is asking there about the PowerPoint
14 presentation; correct?

15 A. Would it be possible to see the
16 response that is above?

17 Q. Absolutely. You respond at 9:56
18 and then you respond again at 10:56. The 10:56
19 response says:

20 "Fasken will give you
21 presentation in Ottawa. We're
22 finishing it now."

23 A. Correct.

24 Q. So that's a reference to the
25 PowerPoint presentation, correct?

1 A. Correct.

2 Q. Now, Mr. Glassman did not send
3 that email to Mr. Moyse who was leading the
4 creation of the PowerPoint presentation, on your
5 view, correct?

6 A. I believe Mr. Moyse was finalizing
7 the presentation and was under pressure to finish
8 it up to send to Fasken for Fasken to print at
9 their Ottawa offices.

10 Q. And Mr. Glassman, when he was
11 wondering whether there was a presentation, did not
12 send his email to Mr. Moyse, did he?

13 A. He did not.

14 Q. He did not. He sent it to you and
15 Mr. Michaud?

16 A. Correct.

17 Q. Wondering where the presentation
18 was?

19 A. Correct.

20 Q. I put it to you that's because you
21 and Mr. Michaud and Mr. Riley were copied on that
22 email, had much more responsibility for the
23 creation of the second PowerPoint presentation than
24 did Mr. Moyse?

25 A. He might have not -- Mr. Glassman

1 might not have wanted to overwhelm Mr. Moyse with
2 more pressure at that point in time.

3 Q. Was Mr. Glassman often that
4 considerate of his analysts' time?

5 A. Absolutely.

6 Q. He wanted to make sure they
7 weren't put under too much pressure?

8 A. Absolutely.

9 Q. He wanted to make sure they had
10 sufficient time to do their jobs?

11 A. Absolutely.

12 Q. And he would not have wanted to
13 burden Mr. Moyse by sending him an email asking him
14 where the presentation was?

15 A. Yes.

16 Q. And that's consistent with your
17 non-hierarchical approach at Catalyst?

18 A. When somebody is meeting a
19 deadline, the last thing you want to do is
20 overwhelm that person with more pressure.

21 Q. You testified earlier that
22 everybody on a deal team needs to be fully informed
23 at all times in order to be able to think about and
24 execute strategies related to the deal, correct?

25 A. Yes.

1 Q. And you also testified that
2 analysts like Mr. Moyse are expected to contribute
3 to all elements of the deal including strategy,
4 deal making and negotiations?

5 A. Correct.

6 Q. And that analysts are expected to
7 be able to present the status of a deal at all
8 times, correct?

9 A. Correct.

10 Q. And Mr. Creighton was also the
11 analyst on the Wind deal?

12 A. He had just joined, I believe.

13 Q. He had just joined. But he was
14 working on the Wind deal particularly during the
15 time that Mr. Moyse was on vacation?

16 A. Yes.

17 Q. And in fact I believe
18 Mr. Creighton was involved in the very early
19 diligence sessions as early as May the 6th when the
20 diligence process started, correct?

21 A. Yes.

22 Q. And at paragraph 108 of your
23 affidavit you explain that by May 15th, Catalyst
24 hadn't received certainty from Industry Canada
25 regarding exit conditions and you talk about a

1 potential slowdown strategy with VimpelCom. Do you
2 recall that evidence?

3 A. Can you pull it up?

4 Q. It's in the affidavit, paragraphs
5 108 and 109. If I can just give this to you. I
6 think I'm violating a rule of a paperless trial
7 here. It describes that you may not be able --

8 A. Can you point me out the section,
9 please?

10 Q. Sorry, paragraphs 108 and 109.
11 Take your time.

12 A. (Witness reads document). Yes,
13 sir.

14 Q. So that's the state of play at May
15 15th, a deal is potentially slowing down because
16 you haven't yet received Industry Canada approval,
17 correct?

18 A. Certainty from Industry Canada,
19 yes.

20 Q. And --

21 A. I don't think approval could be
22 obtained at that point in time. Application had
23 been made.

24 Q. That's fair. I misspoke. I think
25 you phrased it better than I did.

1 Over to paragraph 116 in your
2 affidavit, you write on May 23rd, 2014 Catalyst
3 intended to send a draft of the SPA to VimpelCom.
4 Correct?

5 A. Let me --

6 Q. Absolutely. Take your time.

7 A. Can you point again, please?

8 Q. Paragraph 116, first sentence.

9 A. Yes.

10 Q. Okay. To remind you, you said
11 that at all times everyone needs to be informed,
12 everyone on the deal team needs to be fully
13 informed at all times in order to be able to think
14 about the execution and strategies for a deal,
15 correct?

16 A. Correct.

17 Q. If you can turn to tab 59. This
18 is an email from Mr. Creighton, the analyst who is
19 working in Toronto, to Mr. Moyse, the analyst on
20 vacation in Southeast Asia on May 21st.

21 Mr. Creighton writes: On Wind --

22 THE COURT: You know, I'm completely
23 lost here.

24 MR. CENTA: Sorry, Your Honour. I'm
25 confused. It comes up on my screen.

1 THE COURT: Well, you are going so
2 quickly.

3 MR. CENTA: This is tab 59.

4 THE COURT: I have to go back to the
5 affidavit. I'm trying to find out where you are in
6 your cross-examination now. I can't find it.

7 MR. BORG-OLIVIER: Go under de Alba,
8 cross-examination, and then Moyse defendants.

9 THE COURT: Where do I find that?

10 MR. BORG-OLIVIER: Go under evidence
11 and submissions during trial, then under tab 1, de
12 Alba.

13 THE COURT: Just a second. Okay,
14 thanks. Which number?

15 MR. CENTA: 59, Your Honour.

16 THE COURT: Okay.

17 BY MR. CENTA:

18 Q. And on May 21st, Mr. Creighton,
19 who is the analyst working in Toronto, says to
20 Mr. Moyse, the analyst who is in Southeast Asia on
21 vacation:

22 "On Wind, Zach said as far as
23 he knows the plan is to submit an
24 offer Friday... I'm continuing to
25 work on the memo, and Zach asked for

1 more diligence questions that we can
2 bombard them with... No real idea
3 what's going on or if we are
4 actually going to do the deal."

5 Mr. de Alba, you'll agree with me that
6 in this email, Mr. Creighton, the analyst on the
7 ground, says he has no real idea what's going on.
8 Correct?

9 A. That was his writing.

10 Q. And he has no idea whether
11 Catalyst is going to do the deal?

12 A. First of all, he doesn't say he
13 has no idea what's going on. He says that there is
14 going to be -- he believes, he said as far as he
15 knows the plan is to submit an offer on Friday. So
16 he is aware about an offer coming. He certainly
17 continues to work on the memo and he continues to
18 be involved in the due diligence process with, I
19 think, the comment "bombard them," that means to
20 make the process -- add more questions to the
21 process to slow it down.

22 So he's giving you pointers from those
23 first two sentences. What he says is that he has
24 no idea if we are actually going to do the deal but
25 that doesn't mean that he is not familiar of what

1 is happening on the ground.

2 Q. What he says is "No real idea
3 what's going on or if we are actually going to do
4 the deal." Correct?

5 A. He's describing about what's going
6 on. Submit an offer on Friday, continue to work on
7 the memo, more due diligence questions that we can
8 bombard them with, so, you know, he's giving you
9 specifics.

10 Q. And he says that from those
11 specifics he has no real idea what's going on?

12 THE COURT: We can all see that. Maybe
13 you should move on.

14 BY MR. CENTA:

15 Q. Mr. de Alba, from time to time you
16 use your personal email account to send and receive
17 messages that relate to Catalyst business?

18 A. Only in extraordinary
19 circumstances.

20 Q. If you turn to tab 56, this is an
21 example of you sending a message and copying your
22 "@AOL" account. Do you see that in the "to" line,
23 GdeAlba@AOL.com?

24 A. Correct.

25 Q. And Catalyst produced 18 different

1 documents that were sent to your "@AOL.com" email
2 address between July 31st and August 3rd, 2014?

3 A. Yeah.

4 Q. And you're not suggesting that by
5 copying your AOL account that you were breaching
6 any duty of confidence you owed to Catalyst,
7 correct?

8 A. Correct.

9 Q. Mr. de Alba, after all of the
10 extensive productions in this case, you cannot
11 identify a single confidential Catalyst document
12 relating to Wind that ended up in the possession of
13 West Face, can you?

14 A. I can't.

15 Q. Mr. de Alba, you cannot identify a
16 single email received by West Face from Mr. Moyse
17 that contained any confidential Catalyst
18 information about Wind, can you?

19 A. No, I can't.

20 Q. Mr. De Alba, you cannot identify a
21 single email sent by Mr. Moyse to West Face that
22 contained any confidential Catalyst information
23 about Wind?

24 A. Correct.

25 Q. Mr. Moyse never told you that he

1 had provided confidential Catalyst information
2 about Wind to West Face, did he?

3 A. I never asked.

4 Q. No one at West Face has ever told
5 you that Mr. Moyse provided confidential Catalyst
6 information about Wind to West Face?

7 A. No, I have not asked.

8 Q. Not that you didn't ask; no one
9 has told you that either, correct?

10 A. Correct.

11 Q. No one in the entire world has
12 ever told you that Mr. Moyse provided confidential
13 Catalyst information about Wind to West Face, have
14 they?

15 THE COURT: I don't think that would be
16 very helpful anyway, would it? To me? Wouldn't it
17 be hearsay?

18 MR. CENTA: We would take it --

19 THE WITNESS: No.

20 MR. CENTA: -- for a non-hearsay
21 purpose.

22 BY MR. CENTA:

23 Q. You have no direct evidence - I'm
24 not asking about inference drawing - you have no
25 direct evidence that Mr. Moyse provided any

1 confidential Catalyst information about Wind to
2 West Face, do you?

3 A. No, I don't.

4 MR. CENTA: Those are my questions.
5 Thank you very much.

6 THE WITNESS: Thanks.

7 THE COURT: Mr. Milne-Smith?

8 CROSS-EXAMINATION BY MR. MILNE-SMITH:

9 Q. Good afternoon, Mr. de Alba. Your
10 evidence this afternoon, as I understand it, was
11 that mere knowledge of Catalyst's involvement in a
12 deal could move the value of the company. Do you
13 recall that?

14 A. Correct.

15 Q. But you would, of course, agree
16 with me that by 2013 at the latest, there was in
17 fact public discussion of Catalyst's interest in
18 merging Mobilicity and Wind?

19 A. Correct.

20 Q. So this is not the kind of case
21 where the mere knowledge of your involvement was
22 going to move the value or allow someone to take a
23 blocking position?

24 A. It actually did.

25 Q. Mr. de Alba, in 2013, knowledge of

1 Catalyst's interest was already public, correct?

2 A. Correct.

3 Q. Okay. Thank you. Now, you gave
4 evidence that West Face had a position in
5 Mobilicity as of 2014?

6 A. Yes.

7 Q. Were you aware that in fact West
8 Face sold its position in Mobilicity's debentures
9 or bonds in February of 2013?

10 A. Not aware.

11 Q. Am I correct that during the
12 course of your negotiations with VimpelCom, you had
13 an idea about the identity of some of the competing
14 bidders for Wind, correct?

15 A. Correct.

16 Q. For example, you knew, and you've
17 already given evidence that you knew about West
18 Face?

19 A. Yes.

20 Q. And you also knew that Tennenbaum
21 Capital Partners, Blackstone, Oak Tree, and a
22 strategic party whose name we're not going to
23 identify were also potentially involved?

24 A. Correct.

25 Q. And you gave evidence this

1 afternoon, Mr. de Alba, that you only learned the
2 terms of West Face's offer in the last two months.
3 Do you recall that?

4 A. Correct.

5 Q. Were you aware that in his March
6 7th, 2015 affidavit Tony Griffin actually attached
7 the West Face offer?

8 A. Yes.

9 Q. Did you review that affidavit at
10 the time?

11 A. I don't recall seeing the offer
12 then.

13 Q. Okay. So you'd certainly accept
14 my proposition to you that those terms were known
15 to Catalyst, whether or not you actually were aware
16 of them?

17 A. If they were there, yes.

18 Q. And you certainly knew in August
19 or September of 2014 that the West Face consortium
20 had made a proposal to VimpelCom?

21 A. I don't recall if I knew that they
22 -- the consortium had made a proposal.

23 Q. You were informed by Chris
24 Gauthier at the time that they had made a proposal,
25 correct?

1 A. That there was another party
2 making a proposal. I don't recall if it was all
3 the consortium or who it was.

4 Q. You were aware in August or
5 September from Mr. Gauthier that Bennett Jones --
6 sorry, let me just make sure we're all on common
7 ground. Mr. Gauthier was at Bennett Jones who were
8 counsel to VimpelCom, correct?

9 A. Correct.

10 Q. And Mr. Gauthier informed you in
11 August or September of 2014 that the West Face
12 consortium, the consortium that included West Face,
13 had made a proposal during the period of
14 exclusivity?

15 A. I don't recall if he informed that
16 there was another proposal or who precisely had
17 made the proposal.

18 Q. You learned from Mr. Gauthier that
19 the approach that had been pursued by the West Face
20 consortium and by VimpelCom was to continue to
21 receive proposals in order to have a potential
22 alternative. You were aware of that in
23 September/August of 2014, correct?

24 A. No, I learned that the proposal
25 was submitted from this trial.

1 Q. Mr. de Alba, do you recall being
2 examined for discovery by me on May the 11th of
3 2016?

4 THE COURT: Do you have a copy of that
5 for me?

6 MR. MILNE-SMITH: Yes, sorry. The
7 transcript is at tab 2, is it?

8 THE COURT: Tab 2 of what?

9 MR. MILNE-SMITH: Tab 2 of the
10 cross-examination brief. Since this is the first
11 time we're going to it, let me just help Your
12 Honour make sure you get there.

13 So if you go into the Catalyst --
14 Catalyst, in the main folder, if you then go into
15 transcripts and undertakings.

16 THE COURT: Okay.

17 MR. MILNE-SMITH: Then there are
18 discovery transcripts.

19 THE COURT: Sorry. Just a minute.
20 Under discovery transcripts?

21 MR. MILNE-SMITH: Yes, discovery
22 transcripts.

23 THE COURT: Yes.

24 MR. MILNE-SMITH: And then de Alba.

25 THE COURT: Yes.

1 MR. MILNE-SMITH: And then there will
2 be --

3 MS. BARBIERO: It's also tab 2 of our
4 cross-examination brief.

5 MR. MILNE-SMITH: The folder I've taken
6 you to is the very first --

7 THE COURT: 000?

8 MR. MILNE-SMITH: Correct. That will
9 bring up the transcript.

10 THE COURT: Yes.

11 MR. MILNE-SMITH: So, Your Honour,
12 we're on page 191 of the transcript.

13 THE COURT: Page what?

14 MR. MILNE-SMITH: 191.

15 THE COURT: Yes.

16 MR. MILNE-SMITH: Starting at question
17 709, about half-way down the page.

18 BY MR. MILNE-SMITH:

19 Q. "Question: You believe that
20 Mr. Saratovsky and the VimpelCom
21 board breached their exclusivity
22 obligations to Catalyst?

23 Answer: I do believe that.

24 Question: Okay. When did you form
25 that belief?

1 Answer: After, I need to remember
2 precisely, but after we lost the
3 exclusivity --

4 Question: Yes.

5 Answer: -- I learned from
6 Mr. Gauthier that the approach that
7 had been pursued by the West Face
8 consortium and by VimpelCom was to
9 continue to receive proposals in
10 order to have a potential
11 alternative. And he invited and
12 noted that the exclusivity did not
13 have a notification clause if other
14 proposals would have been received,
15 and he further, you know, mentioned
16 that that's, you know, something
17 that had been happening.

18 Question: And this you found out
19 back in August 2014 after your
20 exclusivity expired?

21 Answer: I don't remember precisely
22 when.

23 Question: But in that
24 August/September timeframe?

25 Answer: I don't remember precisely

1 when.

2 Question: It wasn't, like, this
3 year, it was back at the time the
4 events in question were happening?

5 Answer: Yeah, but I don't remember
6 if -- yes."

7 Were you asked those questions and did
8 you give those answers?

9 A. Yes.

10 Q. Thank you.

11 THE COURT: The next question, "And
12 were they true."

13 BY MR. MILNE-SMITH:

14 Q. And were they true?

15 A. Yes.

16 Q. Were they true when given?

17 A. Yes.

18 Q. You gave evidence this afternoon,
19 Mr. de Alba, about a conversation that you had with
20 Mr. Boland on June 20th. Do you recall that?

21 A. Yes.

22 Q. Is it also true that the day
23 before that conversation, in other words on June
24 19th, your counsel had written to counsel for West
25 Face and threatened to commence litigation if the

1 non-compete covenant was not respected. Were you
2 aware of that?

3 A. I believe, yes.

4 Q. The non-compete was for six
5 months, correct?

6 A. Correct.

7 Q. So Catalyst's position was that
8 Mr. Moyse couldn't work for six months?

9 A. Correct.

10 Q. And you communicated that position
11 again in your conversation with Mr. Boland,
12 correct?

13 A. Correct.

14 Q. So it was in the context of that
15 indication of Catalyst's intention that you
16 received the response from Mr. Boland that you
17 described, correct?

18 A. Correct.

19 Q. Mr. de Alba, given your history
20 and awareness and Catalyst's involvement in the
21 telecom industry, is it fair to say that at the
22 beginning of 2014 you were aware that regulatory
23 approvals were a key concern for VimpelCom?

24 A. Correct.

25 Q. They had experienced numerous

1 regulatory difficulties with the Government of
2 Canada in the past?

3 A. Correct.

4 Q. And they wanted to be sure that
5 any deal they entered into for the sale of Wind
6 would obtain the necessary regulatory approvals?

7 A. Could you repeat the question,
8 please?

9 Q. VimpelCom wanted to be sure that
10 any deal they entered into for the sale of Wind
11 would obtain the necessary regulatory approvals?

12 A. They wanted the deal that would
13 give the most certainty to obtain those approvals
14 according to the options available.

15 Q. Mr. de Alba, you'll recall that on
16 March 27th a presentation was made to Industry
17 Canada?

18 A. Correct.

19 Q. You've talked about that at some
20 length.

21 A. Yes.

22 Q. And am I correct that the
23 non-disclosure agreement between Catalyst and
24 VimpelCom had been executed only five days earlier?

25 A. Correct.

1 Q. And at that point you had not
2 received or exchanged a draft share purchase
3 agreement?

4 A. I believe so.

5 Q. And you had not received a
6 management presentation from Wind?

7 A. I don't recall but I think the
8 records...

9 Q. In fact, the management
10 presentation occurred at the due diligence kickoff
11 meeting on May 9th, correct?

12 A. Correct.

13 Q. So you hadn't yet received the
14 management presentation?

15 A. I don't believe so.

16 Q. And you hadn't gained access to
17 the data room yet?

18 A. Correct.

19 Q. But is it nonetheless your
20 position that you were in advanced negotiations
21 with VimpelCom at that stage?

22 A. Correct.

23 Q. Wouldn't it be more fair to say,
24 Mr. de Alba, that negotiations hadn't yet even
25 commenced in any substance as of March 27th?

1 A. That's not correct. There had
2 been multiple discussions in 2013 and proposals
3 were made before that.

4 Q. And you have, of course,
5 instructed your counsel to produce all records of
6 those negotiations, correct?

7 A. Yes.

8 Q. And to the best of your knowledge,
9 your counsel would have done so?

10 A. Yes.

11 Q. So if there is anything out there
12 evidencing your advanced discussions, they would be
13 in the records of this case, correct?

14 A. That dealt with the timeframe,
15 yes. There might be some discussions that happened
16 earlier.

17 Q. Let's pull up tab 22 of the
18 cross-examination binder. This is CCG00--

19 THE COURT: Wait, wait.

20 MR. MILNE-SMITH: Do you have the right
21 folder, Your Honour?

22 THE COURT: Pardon?

23 MR. MILNE-SMITH: Do you have the right
24 folder?

25 THE COURT: I'm looking for it.

1 MR. MILNE-SMITH: This is the way I
2 have to do it. If you go back to the root, and
3 then we go Catalyst evidence in-chief -- sorry,
4 sorry, I am incorrect. I am still getting the hang
5 of it. Evidence and submissions during trial,
6 that's where we need to start. Evidence and
7 submissions during trial.

8 THE COURT: Um-hmm.

9 MR. MILNE-SMITH: And then you go into
10 01 --

11 THE COURT: I've got it.

12 MR. MILNE-SMITH: -- de Alba,
13 cross-examination, West Face defendants, de Alba
14 cross and then tab 22. So if I've led you through
15 that correctly, you should now have CCG0028351.

16 BY MR. MILNE-SMITH:

17 Q. So this is, if you go down on that
18 page, sorry, still on page 1, you can see there is
19 an email from Francois Turgeon at UBS?

20 A. Yes.

21 Q. And UBS were the investment
22 bankers for VimpelCom?

23 A. Yes.

24 Q. And if we just then go up to your
25 response to Mr. Turgeon's email, you say:

1 "Thank you. Agree to the
2 concepts below. Due diligence can
3 start on Monday or Friday, please
4 tell me when Wind team will be
5 ready."

6 That was your response?

7 A. Yes.

8 Q. And then if we go to the next tab,
9 tab 23, this is CCG0028356, and we can just scroll
10 down a little bit to see your email of 3:34 p.m. on
11 Tuesday, May the 6th, you're writing to Mr. Babcock
12 at Morgan Stanley, correct?

13 A. Correct.

14 Q. And you say:

15 "Would like to engage MS on the
16 acquisition of Wind Canada. As you
17 might be aware, and as per our
18 discussions, process is moving fast
19 and due diligence can start this
20 week."

21 You wrote that to Mr. Babcock?

22 A. Correct.

23 Q. But your position, as I understand
24 it, notwithstanding what you said in those two
25 emails we just looked at, your position is what you

1 meant was the due diligence in fact was already
2 underway; is that right?

3 A. The work had been done to
4 determine the valuation metrics and the regulatory
5 requirements in the majority.

6 Q. Mr. de Alba, do you agree with me
7 that as of the date of these two emails we just
8 looked at, May 6th, due diligence in fact had not
9 yet started?

10 A. Due diligence with the company,
11 but that doesn't mean that Catalyst had not done
12 internal due diligence or internal analytical work.

13 Q. I'm going to suggest to you,
14 Mr. de Alba, as a very sophisticated investor, you
15 understand that due diligence for a private company
16 means signing a non-disclosure agreement and
17 gaining access to the company's non-public
18 information via a data room; would you agree with
19 me?

20 A. Correct.

21 Q. And you hadn't done that as of May
22 6th?

23 A. Correct.

24 Q. Let's just make sure, by way of
25 setting some more ground work, let's make sure we

1 understand the structure of the transaction. Can
2 we go to tab 21, please.

3 So this is a Wind Canada management
4 presentation. It's dated March 2014, but I
5 understand, Mr. de Alba, that you received this
6 pursuant to the email we just looked at from
7 Mr. Turgeon on May the 6th, correct?

8 A. Correct.

9 Q. If we could go to page 9, this
10 sets out the corporate structure.

11 Do you have that, Your Honour?

12 THE COURT: Yes.

13 BY MR. MILNE-SMITH:

14 Q. So you see at the bottom right
15 there is Globalive Wireless Management Corp.? You
16 see that?

17 A. Yes, I do.

18 Q. Then there is a footnote 1 that
19 says Globalive Wireless Management Corp. is also
20 known as Wind Canada?

21 A. Yes.

22 Q. So when we talk about Wind Canada
23 colloquially or Wind Mobile, what we really are
24 talking about in terms of a corporate game is GWMC,
25 correct?

1 A. Yes.

2 Q. And GWMC is 100 percent owned by
3 Globalive Investment Holdings Corp.?

4 A. Correct.

5 Q. And we'll sometimes see that
6 referred to as GIHC?

7 A. Okay.

8 Q. And it is GIHC that is owned
9 roughly one-third voting equity, two-thirds total
10 equity by VimpelCom. You see that on the
11 right-hand side?

12 A. Yes.

13 Q. And then the two-thirds voting,
14 one-third total equity by a combination of AAL
15 Holdings and Mojo Investments, correct?

16 A. Correct.

17 Q. Could we then turn to tab 25. I
18 think we just -- this just shows the covering
19 email?

20 THE COURT: Which one?

21 MR. MILNE-SMITH: Go to 25.2, please.

22 BY MR. MILNE-SMITH:

23 Q. So this is, as I understand it,
24 Mr. de Alba, CC -- sorry, it's CCG0009527, and as I
25 understand it, this is the first draft of the share

1 purchase agreement received by Catalyst from
2 VimpelCom, correct?

3 A. Correct.

4 Q. And if we go to page 5 of this
5 document, using the numbering at the top right-hand
6 corner, you'll see that the seller is defined with
7 the heading as Globalive Investment Holdings Corp.?

8 A. Yes.

9 Q. You remember the share -- the
10 management chart we looked at or the corporate
11 chart we looked at, that's the company that owns
12 Wind, correct?

13 A. Correct.

14 Q. And you'll see in the first
15 recital it says that the seller owns all of the
16 issued and outstanding shares of Globalive Wireless
17 Management Corp.; see that?

18 A. Right.

19 Q. And that's Wind Mobile
20 effectively?

21 A. Yes.

22 Q. And the purchase price is actually
23 not set out in this draft, it comes a little bit
24 later, but I take it we're on common ground that at
25 a relatively early stage, the purchase price was

1 agreed to be \$300 million, correct?

2 A. Correct.

3 Q. Subject to some working capital
4 adjustments?

5 A. Correct.

6 Q. And that 300 million then
7 obviously covered the interests of both VimpelCom
8 and AAL?

9 A. Correct.

10 Q. Right? So you weren't just buying
11 VimpelCom's interest for 300 million, or an
12 enterprise value of 300 million, you were buying
13 the whole shebang, AAL, VimpelCom, everything, for
14 an enterprise value of 300 million --

15 THE COURT: A hundred percent, that's
16 what you're talking about?

17 BY MR. MILNE-SMITH:

18 Q. Yes.

19 A. Yes.

20 Q. And were you aware of the terms by
21 which AAL was to receive payment for its shares
22 from VimpelCom?

23 A. No.

24 Q. Could you turn to paragraph 6.3(d)
25 on page 27. So, if we look down about two-thirds

1 of the way through that clause, there is a sentence
2 starting "In addition." Do you see that?

3 A. Yes, I see it.

4 Q. It says:

5 "In addition, subject to
6 section 6.4, the purchaser shall not
7 knowingly take or cause to be taken
8 any action which would be expected
9 to prevent or delay the obtaining of
10 any consent or approval required
11 hereunder, including entering into
12 any timing or other agreements with
13 any governmental authority without
14 the express written consent of the
15 seller, for the consummation of the
16 transaction contemplated hereby."

17 Do you see that provision, Mr. de Alba?

18 A. Yes.

19 Q. And you understood, of course,
20 that seeking regulatory concessions like the ones
21 set out in the presentation of March 27 could
22 potentially prevent or delay approval, correct?

23 A. Potentially.

24 Q. And VimpelCom, putting in a clause
25 like this that prohibited without their express

1 written consent taking any action that could
2 prevent or delay obtaining approval, was consistent
3 with VimpelCom's known desire to minimize the risk
4 of obtaining regulatory approval, correct?

5 A. Correct.

6 Q. And if we could just flip forward
7 to page 32, you'll see under section 7.3, General
8 Conditions...

9 Do you have that, Your Honour?

10 THE COURT: No, I'm making a note.

11 MR. MILNE-SMITH: I will wait then.

12 THE COURT: Which page?

13 MR. MILNE-SMITH: Page 32. This again
14 is, just for the record, CCG0009527. Page 32,
15 looking at section 7.3.

16 THE COURT: You're talking about the
17 page at the top?

18 MR. MILNE-SMITH: Yes. I always refer
19 to the page number at the top and I would ask
20 Mr. Carlson to kick me if I refer to anything else.

21 THE COURT: Okay.

22 BY MR. MILNE-SMITH:

23 Q. So the section 7.3, feel free to
24 read it, it's very short, Mr. de Alba, but am I
25 correct in reading this that in the very first

1 draft provided by VimpelCom, it was a condition of
2 closing that the parties obtained approval for the
3 transaction under the Competition Act and from
4 Industry Canada, correct?

5 A. Correct.

6 Q. And this, of course, was never a
7 matter of controversy, correct?

8 A. Which part was never a matter of
9 controversy?

10 Q. Requiring these conditions. Both
11 sides always agreed that for the contemplated
12 transaction you needed the approval of the
13 Competition Bureau and Industry Canada, correct?

14 A. Correct.

15 Q. And if we could go then to tab 28,
16 28.1 to start -- oh, I'm sorry, there's only one
17 tab 28 here.

18 THE COURT: I've got 28.1 and 28.2.

19 MR. MILNE-SMITH: Let's go to 28.1.

20 BY MR. MILNE-SMITH:

21 Q. So this is just the covering
22 email. I'm sorry we have to do it this way, Your
23 Honour, they come up as separate documents in the
24 database so we unfortunately have to flip through
25 them.

1 This is an email from Daniel Battista
2 at Faskens. He was one of the lawyers working for
3 Jon Levin on behalf of Catalyst, correct?

4 A. Correct.

5 Q. Mr. Batista says:

6 "Attached, in clean and
7 blackline against the original draft
8 provided to us, is the revised draft
9 of the SPA."

10 So this is enclosing Catalyst's
11 proposed changes to the SPA?

12 A. It's internal circulation of the
13 comments from Faskens and I don't recall if these
14 are the terms sent back.

15 Q. Okay. But at least it's on behalf
16 of Catalyst?

17 A. Correct.

18 Q. And we do see that Brandon Moyse
19 is in the list of cc's?

20 A. Correct.

21 Q. And am I correct in understanding
22 that this May 24th draft would have been the last
23 version that was copied or sent to Mr. Moyse?

24 A. I don't recall.

25 Q. But you're not aware of anything

1 after this?

2 A. Correct.

3 Q. So if we then go to tab 28.2,
4 which is the draft itself, and this is CCG0011364,
5 if we go to page 37 of the document -- sorry, we're
6 going to go over to page 38. You'll see the change
7 that Fasken Martineau have proposed on page 38 to
8 subsection (d), it's effectively deleting the
9 entire clause as drafted by VimpelCom that we just
10 looked at. Do you see that, Mr. de Alba?

11 A. Yes, I do.

12 Q. And they have put in a provision
13 in its place with a limitation on VimpelCom's
14 ability to receive Catalyst's confidential
15 information, correct?

16 A. Yes.

17 Q. And the reason Catalyst proposed
18 deleting VimpelCom's section 6.3(d) is that
19 Catalyst wanted to reserve the right to seek
20 government concessions during the interim period
21 between signing and closing, correct?

22 A. We were in discussions with those
23 concessions.

24 Q. But that was the motivation for
25 why you made this proposal?

1 A. To discuss with the government,
2 approval and the regulatory framework.

3 Q. Catalyst wanted to reserve the
4 right to seek government concessions during the
5 interim period between signing and closing,
6 correct?

7 A. Correct.

8 Q. And the concessions in question
9 specifically that you wanted to be able to pursue
10 were those that you had raised with the Government
11 of Canada on March 27th and May 12th, correct?

12 A. Correct. Those are the main
13 concessions.

14 Q. Right. And if we go to page 43,
15 so you see 7.1 is purchaser's conditions. The
16 purchaser obviously is Catalyst in this draft?

17 A. Yes.

18 Q. And if you just flip from page 43
19 and then over to page 44, there are a number of
20 additions, but please satisfy yourself. Nowhere
21 does Catalyst try to add a condition of obtaining
22 regulatory concessions from the Government of
23 Canada; am I correct?

24 A. Give me just one second to read
25 it.

1 Q. Of course.

2 A. Can you go over to see the
3 section, please?

4 Q. Yes, can you just make it smaller
5 so he can see the whole page. So you can look at
6 all those lists in 7.1 which are your conditions.

7 A. (Witness reads document). Yes.

8 Q. There is no condition there of
9 obtaining regulatory concessions, correct?

10 A. I don't recall if the transition
11 service agreement included regulatory concessions.

12 Q. Well, I'm going to put to you,
13 Mr. de Alba, that in fact not in the transition
14 services agreement and not anywhere else was there
15 a condition of obtaining regulatory concessions.
16 Do you agree with that? Do you accept that?

17 A. I don't recall.

18 Q. Okay. And if we can then go to
19 the next page, and you see the general conditions
20 there, so these are ones that are in favour of both
21 the purchaser and the seller?

22 A. Yes.

23 Q. And again, you'd agree with me
24 that there is no condition added there of obtaining
25 regulatory concessions?

1 A. (Witness reads document). Okay.

2 Q. Mr. de Alba, is it fair to
3 describe you as the lead negotiator for Catalyst
4 throughout the piece right from May through to
5 August of 2014?

6 A. Yes.

7 Q. And am I, in fact, correct, I've
8 looked through all of the agreements and I didn't
9 see it but maybe you can point me to something
10 else, am I correct that in no draft exchanged
11 between Catalyst and VimpelCom was there ever a
12 condition of obtaining regulatory concessions in
13 favour of a Catalyst-owned Wind?

14 A. It was the right to Catalyst to
15 pursue those concessions.

16 Q. We're going to come to that
17 tomorrow but that actually wasn't my question. My
18 question is, in no draft was there a condition that
19 the deal wouldn't proceed -- let's understand
20 that's what a condition means, a deal doesn't
21 proceed unless it happens?

22 A. Right.

23 Q. There was never in any draft a
24 condition of obtaining regulatory concessions in
25 favour of a Catalyst-owned Wind, correct?

1 A. There were regulatory approvals
2 and there were discussions about concessions.

3 Q. That's not my question, Mr. de
4 Alba. We looked at the regulatory approvals,
5 they're right on the page in front of you. Those
6 are the general conditions. Those are Competition
7 Act and Industry Canada approvals. We talked about
8 those, remember that?

9 A. Yes.

10 Q. That is not the same thing as
11 saying that it's a condition precedent that
12 Catalyst obtains concessions from the government;
13 you'd agree with me? You understand the
14 distinction I am drawing?

15 A. Yeah, the part that I'm having
16 trouble with is in the dialogue with Industry
17 Canada and with the government, we were requesting
18 concessions.

19 Q. I know you were, Mr. de Alba, but
20 that's an entirely separate question. I'm not
21 asking you about your dialogue with Industry
22 Canada. I'm talking about the drafts of the share
23 purchase agreement exchanged with VimpelCom; do you
24 understand that?

25 A. Yes.

1 Q. And in those drafts, there never
2 appeared a condition that the deal couldn't proceed
3 unless Catalyst obtained regulatory concessions in
4 favour of a Catalyst-owned Wind?

5 A. Correct.

6 MR. MILNE-SMITH: Thank you. Your
7 Honour, if that's convenient, we've just hit five
8 o'clock and that's a convenient time from my
9 perspective.

10 THE COURT: Very well, we'll start at
11 nine o'clock tomorrow morning.

12 MR. DIPUCCHIO: Your Honour, just on
13 that point, we're not even 24 hours into this --

14 THE COURT: Sorry?

15 MR. DIPUCCHIO: We're not even 24 hours
16 into this and I have one little indulgence to ask
17 of the court. I was just informed that I have a
18 medical appointment that I've been waiting on and
19 it's just been booked tomorrow morning for 7:30 or
20 something like that.

21 I'm going to try to get myself in here
22 but I'm just asking the court if we can start at
23 9:30 instead of 9:00, just to give me a little bit
24 of a cushion, because it's in the west end.

25 THE COURT: That's fine.

1 MR. MILNE-SMITH: I apologize, Your
2 Honour, just so I don't have to come back to this
3 document, can I ask a couple of clean-up questions
4 just on this one document?

5 THE COURT: Sure.

6 BY MR. MILNE-SMITH:

7 Q. Mr. de Alba, I take it you'd agree
8 with me there is no evidence that anyone at
9 Catalyst discussed this draft that we're looking at
10 right now, no one discussed this with Mr. Moyse,
11 correct?

12 A. He was copied on it. I suspect he
13 was part of the discussions.

14 Q. Okay. I know he was copied on it.
15 I'm talking about discussions in the actual email
16 exchange where the subject is discussed or phone
17 conversations. There were no phone conversations
18 with Mr. Moyse about this document?

19 A. There could have been. I don't
20 know why you claim that there were not.

21 Q. Okay. If you could go to tab 3.
22 Can we bring up tab 3, and if we go -- so these are
23 just the answers to undertakings, Your Honour.

24 THE COURT: I'm sure you've done this.
25 What's the date of this draft? When was it --

1 MR. MILNE-SMITH: It was May 24th.

2 THE COURT: That's when Faskens sent it
3 out?

4 MR. MILNE-SMITH: That's right. That's
5 what we looked at, the Daniel Batista email was on
6 May 24th which, as Your Honour knows from the
7 evidence already gone in in the trial, that was the
8 date that Mr. Moyse gave notice of his departure.

9 BY MR. MILNE-SMITH:

10 Q. So this is tab 3 which is the
11 undertakings brief, and if we go to page 5 of this
12 document --

13 THE COURT: Hang on. Tab 3 or 3A?

14 MR. MILNE-SMITH: 3. This is, for the
15 record, WFC0111298.

16 THE COURT: All right.

17 BY MR. MILNE-SMITH:

18 Q. So on page 5 there is undertaking
19 number 19, and the question was to confirm that
20 there is no evidence that anyone at Catalyst
21 discussed any of the revisions set forth in
22 CCG0011325 with Mr. Moyse, and the answer is:

23 "There is no evidence that
24 anyone at Catalyst discussed the
25 revisions in CCG0011325 with

1 Mr. Moyse."

2 Do you accept that?

3 A. It's missing the point that there
4 could have been a conference call or some
5 discussion with counsel. That would become --

6 Q. Mr. de Alba, I'm not asking about
7 what could have happened. I am asking about what
8 your evidence is about what did happen. Can you
9 sit here in the box today and give evidence under
10 oath that Mr. Moyse participated in a conference
11 call about the May 24th draft of the SPA? Can you
12 give that evidence?

13 A. No.

14 Q. And of course you have no evidence
15 that he actually read it?

16 A. No.

17 Q. You can't say whether he read it?

18 A. No.

19 MR. MILNE-SMITH: I apologize for the
20 false hope, Your Honour, but that really is where
21 I'm done for the day.

22 THE COURT: So you're saying it was
23 sent out on May 24th by Faskens?

24 MR. MILNE-SMITH: Correct. Could we
25 just bring up, just for His Honour, tab 28.

1 THE COURT: I'll take your word for it.
2 May 24 of 2014. You're saying that's the day that
3 he told Mr. de Alba, was it email or telephone or
4 something?

5 MR. MILNE-SMITH: Email. So we've
6 brought that covering email back up, Your Honour.
7 It's CCG0011362, May 24th.

8 THE COURT: Okay.

9 MR. MILNE-SMITH: Now, the only
10 complication there, Your Honour, I just want to be
11 completely transparent about this, I think this is
12 something that we agree on between us, there was
13 some issue with the timing of Catalyst emails, that
14 they were appearing with date stamps five hours
15 after they should have been.

16 So I can't sit here and swear to you
17 that this is 12:23 a.m. on the 24th as opposed to
18 8:00 p.m. on the 23rd but this is the best I've
19 got.

20 THE COURT: Okay. That's it?

21 MR. MILNE-SMITH: Yes. For today.

22 THE COURT: All right. I don't know if
23 you've been a witness before, Mr. de Alba, but the
24 ground rules are that now that you're under
25 cross-examination, you're not entitled to talk

1 about this case at all with anyone until you're
2 back in the box tomorrow.

3 THE WITNESS: Yes, sir.

4 THE COURT: Thank you.

5 -- Whereupon court adjourned at 5:08 p.m.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REPORTER'S CERTIFICATE

I, KIMBERLEY A. NEESON, RPR, CRR,
CSR, CCP, CBC, Certified Shorthand Reporter,
Realtime Systems Administrator, certify;

That the foregoing proceedings were
taken before me at the time and place therein set
forth, at which time the witness was put under oath
by me;

That the testimony of the witness
and all objections made at the time of the
examination were recorded stenographically by me
and were thereafter transcribed;

That the foregoing is a true and
correct transcript of my shorthand notes so taken.

Dated this 3rd day of October, 2016.

A handwritten signature in blue ink, reading "Kim Neeson", is written over a horizontal line.

NEESON COURT REPORTING INC.

PER: KIMBERLEY NEESON, RPR, CRR, CSR,
CCP, CBC, RSA

CERTIFIED REAL-TIME REPORTER

\$	10:40 48:11	166 203:8 204:15	2008 16:20	188:6,7 189:17
	10:56 225:18	166,000 203:15	222:4,11	190:2,13,24 192:3
\$150 75:18 76:21	10th 79:23	209:22	2011 179:6	193:22 198:4
\$20 44:2	11 97:25 107:8	16th 25:5 31:15	218:23 219:15	214:3 218:19
\$243,159,000	173:8 192:2,16	37:10 38:17 39:11	2012 8:20 10:22	221:21,22 230:2
207:25	204:11 207:21,23	60:7 106:22	56:11 174:25	234:2 237:5
\$30 44:2	11565 12:24	163:18	179:17,22 207:19	238:19 239:11,23
\$300 78:11,16	116 230:1,8	17 43:8 202:2	210:24	242:19 244:22
80:6 157:20 254:1	11:06 68:19	18 70:14 77:19	2013 9:14 10:17	251:4 262:5 268:2
\$500 4:25	11:26 68:20	78:1 98:23 99:16	49:7 75:11,23	2015 74:6 93:10,
\$60 179:6	11:40 162:7	105:8,13 106:7,11	77:11,14,17,19	17 114:8,10
\$97,417,634	11:41 202:4	202:12 233:25	143:6 152:20,21	126:17 238:6
208:14,25	206:17	180,000 203:2	174:25 180:4,10	2016 6:11 61:21
	11th 41:5,9,25	18th 44:13 52:5	181:15 182:7,17	134:5 240:3
(42:3 214:23 240:2	93:10 105:16	183:3,5,21 184:13	2022 191:15
	12 91:21 192:10,	223:2	191:14 201:10	20th 39:8 167:2
(a) 95:16	13 202:12	19 71:3,18 202:22	202:15 208:22	243:20
(d) 259:8	12:23 268:17	266:19	210:14,17,25	21 69:6 77:15
0	12:35 206:7,9	190 203:8 204:14,	219:20 236:16,25	203:18 251:2
	12:38 206:10	24 205:1,3 213:8	237:9 247:2	21st 32:4 189:17
000 241:7	12:40 133:17	190,000 203:23	2014 5:12,13,21,	190:2,13,24
01 248:10	12th 29:5,6,25	204:17,18 209:23	25 7:9,13 8:17	191:12,14 230:20
1	223:19 224:7	191 241:12,14	9:24 10:12,18,19	231:18
	225:4 260:11	19th 36:23	11:5,7,21 24:23	22 64:12 204:10
1 14:13 29:19,20	13 146:8 184:20	118:22 125:14	26:6 37:10,19	247:17 248:14
91:22 92:24 93:17	193:22	243:24	48:23,25 50:1	22nd 62:18 64:5
138:18 153:20	13th 36:19 186:1	1:13 206:13	51:16,19 52:5,13	72:9 149:12
159:25 209:20	14 171:19 172:13,	1:21 206:14,18	53:3 56:18 57:2,	23 68:3 72:14,22
221:10,13,23	25 196:4,6	1:47 22:8	13 59:20 60:24	80:14 98:21,22
231:11 248:18	14th 56:17 57:1	1st 8:19 188:6	61:5,25 63:15	156:14 206:7
251:18	75:7	2	64:5,12 65:17	207:14 249:9
1.5 76:14	15 57:18 59:20	2 15:24 29:19,21	68:3 69:7 70:7,14	23rd 26:12 32:4
10 59:18 77:17	60:24 61:25 73:1	90:24 91:22 92:24	71:3,18 72:9,14	37:7 40:8 230:2
97:14 121:15,19	74:14 102:14	151:20 152:12	75:7,23 76:13,25	268:18
123:14 149:10	199:18 203:19	155:20 208:9	77:12,15,17,20	24 179:20,25
191:13	205:21	209:19,20,22	78:1,9,20 79:18,	206:10 221:1
100 252:2	15th 42:7 51:19	210:22 221:10,13,	24 80:14 82:9	264:13,15 268:2
108 228:22 229:5,	61:5 100:1,15	23 224:7,21	85:11 86:19 89:18	243,159,000
10	102:6,19 103:18	240:7,8,9 241:3	93:25 98:21 99:2,	208:6
109 229:5,10	228:23 229:15	20 13:6,9 68:18	11,14 100:1	24th 6:10 25:11
10:33 48:10	16 34:5,6 37:19	101:11 150:9	101:23 102:6,15	32:11 68:24 69:6
	62:13 72:22 73:6	202:16 203:5	105:21 106:11	164:14 258:22
	82:8,9 105:20	2002 135:14	108:11 109:4,21	266:1,6 267:11,23
	201:4 207:16	136:14 142:18	112:6 114:17	268:7,17
			117:14 118:22	25 85:11 206:12
			120:17 121:16	252:17
			123:14,23 124:7,	25.2 252:21
			14 125:14 138:19	
			145:3,4 146:12	
			149:12 150:12	
			152:21 156:17	
			163:19 174:25	
			183:24 184:6,16,	
			20 185:3,7 186:1	

<p>25th 25:13 105:20 106:22</p> <p>26 11:5,7 74:9 138:19 206:13,22 211:17 215:11</p> <p>26th 13:25 20:8 21:9,11 32:19 53:3 57:13 67:3 69:8,16 74:13 125:11 128:3 214:3 215:7 216:25 221:22</p> <p>27 11:13 20:2 65:17 66:4 68:6 89:18 90:1 91:21 134:5 207:12 254:25 255:21</p> <p>27th 12:18 22:4,8 155:25 192:3 215:20 245:16 246:25 260:11</p> <p>28 74:14 208:9 210:12 257:15,17 267:25</p> <p>28-year-old 113:2</p> <p>28.1 257:16,18, 19</p> <p>28.2 257:18 259:3</p> <p>28th 24:22 58:4</p> <p>29 75:6 201:16 209:17,20</p> <p>2:00 133:14,18</p> <p>2nd 77:12 79:18</p> <hr/> <p>3</p> <hr/> <p>3 15:7 16:12 61:18,21 86:19 91:23,24 196:6 221:11,14,23 265:21,22 266:10, 13,14</p> <p>30 201:9,22 202:6 210:12,13</p> <p>30.4.12 106:20</p>	<p>300 26:11 75:19 157:3 254:6,11, 12,14</p> <p>30th 26:15 32:25 36:8 70:7 208:21 210:24</p> <p>31 189:18 190:3 213:11 215:1</p> <p>31.1 213:17,18</p> <p>31st 207:19 234:2</p> <p>32 185:8,16 256:7,13,14</p> <p>34 215:16</p> <p>36 223:4</p> <p>37 162:4 259:5</p> <p>38 259:6,7</p> <p>3:34 249:10</p> <p>3:35 205:22</p> <p>3:50 205:23</p> <p>3A 266:13</p> <p>3rd 33:10 40:14 188:7 234:2</p> <hr/> <p>4</p> <hr/> <p>40 83:18 138:9</p> <p>400 75:20</p> <p>43 260:14,18</p> <p>44 260:19</p> <p>450 75:17</p> <p>47 184:20 223:5</p> <p>48 224:6,7,19,20</p> <p>4th 33:21 210:16</p> <hr/> <p>5</p> <hr/> <p>5 21:23 88:10,17 101:10 182:24 185:14 253:4 266:11,18</p> <p>50 106:17 200:16</p>	<p>550 75:17</p> <p>56 233:20</p> <p>57 191:16</p> <p>59 222:1,7 230:17 231:3,15</p> <p>5:08 269:5</p> <p>5:51 196:25</p> <p>5th 36:8</p> <hr/> <p>6</p> <hr/> <p>6 27:21 154:23 186:7</p> <p>6.3(d) 95:4 254:24 259:18</p> <p>6.4 95:9 255:6</p> <p>60 101:12 138:8, 12</p> <p>60/40 138:4</p> <p>649,000 210:17</p> <p>68.9 213:12,17, 18</p> <p>680 208:10</p> <p>6th 26:6 27:1,2 43:4 156:16 185:3,7 193:22 198:4 211:1 223:14 228:19 249:11 250:8,22 251:7</p> <hr/> <p>7</p> <hr/> <p>7 29:9 56:25 77:14 99:2 153:18 199:18,23</p> <p>7.1 260:15 261:6</p> <p>7.3 256:7,15,23</p> <p>709 241:17</p> <p>718 207:15</p> <p>7:27 201:5</p> <p>7:30 264:19</p>	<p>7th 156:17 201:5 238:6</p> <hr/> <p>8</p> <hr/> <p>8 75:11 77:11 99:14 146:12 155:4 188:4 206:14</p> <p>830 38:12</p> <p>8:00 268:18</p> <p>8th 206:17 208:5</p> <hr/> <p>9</p> <hr/> <p>9 59:8 190:12 209:19,20 251:9</p> <p>9482 27:13</p> <p>99 201:20</p> <p>9:00 4:1 264:23</p> <p>9:30 264:23</p> <p>9:41 224:8 225:4</p> <p>9:56 196:11 225:17</p> <p>9th 246:11</p> <hr/> <p>@</p> <hr/> <p>@AOL 233:22</p> <p>@aol.com 234:1</p> <hr/> <p>A</p> <hr/> <p>a.m. 4:1 22:8 162:7 196:25 202:4 206:17 224:8 268:17</p> <p>AAL 252:14 254:8,13,21</p> <p>abide 110:5</p> <p>abiding 96:22 109:16</p> <p>ability 15:1,13,</p>	<p>16,21 55:20 88:9, 16 90:20 91:13 112:4,9 117:10 118:6 143:8 148:8 154:6,9,20 155:17 160:2 259:14</p> <p>ably 111:24</p> <p>abreast 161:23</p> <p>absence 88:24</p> <p>absent 55:16</p> <p>absolutely 18:18 25:2 103:15 161:24 171:10 225:17 227:5,8,11 230:6</p> <p>absorb 159:1</p> <p>absorbing 157:4,8 158:24</p> <p>abuse 126:22</p> <p>academic 62:19</p> <p>accelerate 15:18</p> <p>acceleration 159:6</p> <p>accept 47:13 102:7 238:13 261:16 267:2</p> <p>acceptable 104:13</p> <p>accepted 69:10 74:4 78:10</p> <p>access 69:12 71:14,16,23 77:15,16 116:22 122:3 143:12 198:12 202:6 246:16 250:17</p> <p>accessed 73:20</p> <p>accesses 24:24 39:9,16,17</p> <p>accessible 194:16,17</p> <p>accessing 25:2 37:13</p> <p>accomplish 14:23</p>
---	--	---	--	--

account 26:1 73:20 116:7 233:16,22 234:5	124:18,19	admonishment 72:3	238:6,9	88:5 94:12,17,22 95:3,5 96:13,20 99:6 149:17,23,24 150:4 204:21 245:23 246:3 250:16 253:1 261:11,14 263:23
accumulated 76:13	actively 31:22 32:5 124:16 165:2	admonition 65:7 66:25	affidavits 46:12 51:8,10,14 52:22 53:1,9,13,15,18 123:2	agreements 77:13 255:12 262:8
achieve 154:4	activities 45:12, 20	admonitions 72:8	affirmed 184:15, 19 190:3	agrees 99:14
acknowledge 22:18 29:2 215:3	activity 46:21,22 113:18,21 211:10	adopt 134:11	afford 17:8	ahead 84:18 163:23
acknowledged 114:18	acts 148:22	adult 116:21	afternoon 58:19 61:18,20 133:20 170:20,21 171:1 236:9,10 238:1 243:18	aim 137:16
acknowledges 33:17	actual 19:23 23:14 54:9 62:11 95:1 265:15	advance 42:18 110:1 221:2	agenda 174:1,6 175:3,11 176:8	air 35:9,11 36:2
acoustics 134:2	adamant 87:9	advanced 41:25 49:8 90:13 152:15 153:23,25 199:10 246:20 247:12	agendas 174:3, 9,11,12,13 175:9, 11 176:5 177:15	airport 224:13 225:11
acquire 8:25 11:22 22:25 26:5 75:6 76:2 77:7 78:5,9 84:14,18 97:19 98:14 106:19 107:16 109:1 145:25 146:19 159:21 165:2	add 232:20 260:21	advantage 158:18,21 159:8 195:5,10	agents 141:16	Alba 8:13 9:19 13:4,6,7 17:12 20:16 28:5 32:13, 14,17,21,22 45:17 51:9 52:20,22 85:24 86:20 97:2, 25 99:13 101:19 102:19 103:14 123:4 125:11,13 126:2 133:21,22, 24 134:4 145:10 146:12 149:11 151:21 161:3 165:5 166:4,16 170:10,13,15,20 173:5 180:14 181:13 182:14 183:5 186:10 193:24 196:8 205:25 209:2 217:16 220:1,10, 23 221:19 223:7 225:4 231:7,12 232:5 233:15 234:9,15,20 236:9,25 238:1 240:1,24 243:19 244:19 245:15 246:24 248:12,13 250:6,14 251:5 252:24 255:17 256:24 259:10 261:13 262:2 263:4,19 265:7 267:6 268:3,23
acquired 108:11,17	added 261:24	advice 52:13 85:8 103:17 104:3	aggressive 167:19	
acquiring 42:25	addition 27:3 132:5 148:22 212:17 255:2,5	advise 94:11 106:17,21 183:1	agree 72:23 92:3,24 93:12 96:20 101:10,18 102:20,24 104:5, 23 132:14 171:7 181:21 182:2,14 186:22 188:19 192:15 201:13 204:17 205:3 212:9 214:20 220:16,22 221:3 232:5 236:15 249:1 250:6,18 261:16,23 263:13 265:7 268:12	
acquisition 5:9 48:24 49:5,6 82:11,16,20 83:21 89:1 111:6 163:15 218:22 219:15 249:16	additional 25:4 101:13,14 104:23 117:23 138:5 197:25	advised 33:1 64:16	agreeable 114:9	
acquisitions 9:3	additions 260:20	advises 75:9	agreed 11:4 30:19 40:16 41:17,22 63:10 95:2 102:4 254:1 257:11	
act 117:8 186:23 187:2 257:3 263:7	address 63:16 102:2 117:7 132:9 234:2	advisors 52:15, 16 79:25 102:13	agreeing 205:2	
acted 79:24	adds 28:10 211:19,22	affect 127:14 140:19	agreement 6:14 8:20,24 33:5 34:19,20,23 35:2 40:17,23 51:15 80:17,20,25 81:3	
acting 151:6	adjourned 269:5	affecting 128:23		
action 6:6 48:21 71:25 95:12 112:10 127:2,4,7 128:8 129:25 133:5 193:15 255:8 256:1	adjustments 254:4	affidavit 21:16 38:5,11 52:25 53:11 61:17 64:9 79:9 88:23 93:9, 16 97:15,16 134:5,9,12 137:4 138:4 140:11 141:6 142:8 143:21 146:8 149:10 150:10,12 156:15 162:4 163:4,17 165:6 173:8 179:20,24 183:23 184:5,11 189:18 190:3 200:16 209:18 221:25 222:7 228:23 229:4 230:2 231:5		
actions 33:3 47:9	administrative 121:1 151:7			
active 24:11 26:4 114:6 121:15	admissible 52:25 53:11,21			
	admission 94:4			
	admits 25:24 115:9			
	admitted 25:24 39:3			
	admittedly 115:15			

Alba's 21:16 170:7	68:8 115:7 131:11 137:18 142:3,12 143:13 144:12 146:14,17 148:14, 15,23 153:15 154:24 157:13 187:9,15,16 191:19 195:9 199:8,9,13 200:18,19 201:1 214:1,4,11,16,19 216:14 222:17,21, 25	announcement 42:4,5 210:25	appraises 192:25	Arcan 22:13 23:4 66:16 68:1,9
Alcatel-lucent 76:19		announces 44:14	apprised 69:17	areas 15:18
Aleksey 101:3 103:23		answering 94:10	approach 27:7 28:11 60:21 63:20,21 118:4 140:24 145:16 147:14 158:8,13, 14 164:9 166:19 169:13 187:24 227:17 239:19 242:6	argue 131:13
alignment 137:21 138:1,15 139:9 144:15		answers 105:9 106:16 243:8 265:23		argued 110:23 119:11
allegation 50:23 55:13 74:8 127:17		anticipate 125:23 128:9,19		arguing 128:9
allegations 74:10 75:4 112:16,23	analysis/ documents 224:11 225:9	anticipated 93:18	approached 179:18,22 180:5	argument 185:19
allege 60:23	analyst 8:6 56:22 57:24 62:20 113:6 114:12 120:11 123:9 139:1,5,20 144:17 172:5 181:22 228:11 230:18,19 231:19,20 232:6	anxious 104:2	approaches 105:18 139:14	arise 92:5
alleged 4:24 127:16		AOL 234:5	approval 31:6, 12 41:2,9,18 42:9, 15 43:13,20 44:4 46:9 76:1,16 84:4, 10,12,15,21 91:10 93:12,19 95:15,17 100:22 101:6,8, 11,17 157:17,24 161:11 168:23 229:16,21 255:10, 22 256:2,4 257:2, 12 260:2	arises 48:21
alleges 4:18 112:2		apologies 224:24		arising 210:22
allocation 169:9 204:7,9 205:7 213:2,13,17		apologize 126:6 265:1 267:19		Aroma 57:14 65:20 67:2
allowed 132:22 147:25	analysts 8:4,6 60:11 120:16 138:19 191:6 228:2,6	apparently 23:11 108:22		arose 184:11
allowing 89:20	analysts' 227:4	appeal 54:14	approvals 42:12 244:23 245:6,11,13 263:1,4,7	arrangement 40:10 44:17 68:2, 7 101:15 128:3 167:4
alludes 130:5	analytical 199:3 250:12	appeals 54:3		arrives 49:3
alternate 114:11	analyze 96:4 149:7 197:19	appeared 38:18 264:2		arrogance 49:16
alternative 56:19 63:13 239:22 242:11	analyzed 140:7	appearing 268:14	approve 40:22 84:18 86:12	article 186:1,9, 19,23 187:3,11, 15,22 193:1,11, 17,23,25 196:5 198:20 199:19 214:25 217:12
alternatives 103:24 154:14,18	analyzing 16:14 26:23 134:24 185:2,6 186:24 187:4,6 192:18 194:25	appears 23:18 210:18	approved 44:17 169:11	as-is 80:24
America 136:12 142:16	Andrew 138:25 139:1,2 144:3 145:1 146:16 183:6 185:25 188:12,24 198:8 201:7	applicants 209:21	approves 86:3	as-is/where-is 79:10
America's 136:3		applications 53:5	approving 128:3	Asia 31:16 62:16 69:9 230:20 231:20
amount 27:2 33:4 117:11 146:21 148:3 165:25 197:12		appointed 54:5, 8,15	approximately 114:5 120:21 121:15	aspect 46:4
amounts 40:5	animal 84:17	appointment 264:18	April 25:5,11 26:4,15 57:18 58:4 60:24 61:5, 25 74:14 79:6 109:21 120:19 124:14 179:6 223:2	aspects 45:24 140:23
analyses 96:4	animus 9:17,20	appraisal 193:12		Asser 111:3
analysis 10:5,10 17:24 26:21 38:21	announced 10:13,24 71:7 82:12	appraised 192:21 193:6,7,10		assert 99:9
				asserted 107:21
				assess 197:12
				assessment 49:18 200:3

asset 10:3 86:2, 15 147:1 148:18 195:23 200:23	attempt 71:22 120:6	249:17 254:20 258:25	banking 104:10 136:1,4	158:17
assets 11:23 96:7,11 147:9 148:17 194:21 207:22 208:13,21	attempted 55:25 101:25 119:12	awareness 244:20	BARBIERO 241:3	behalf 5:16,20, 22 12:5 31:23 46:24 52:20 80:1 85:6 100:3 111:21 130:16 258:3,15
assiduously 125:22	attend 155:23 173:11,22,23 216:3,5,7,9	Aziz 209:18	bargain 79:2	behaved 47:19
assigned 120:16 176:22 189:2	attendance 129:3	B	based 12:17 26:21 36:18 52:13 53:24 54:17 58:20 60:24 66:23 68:2 94:4 105:9 120:1 122:23 130:1	behaviour 169:7
assigning 216:18	attended 30:2 215:18	BA 113:2	basement 79:2	belief 165:15 241:25
assignment 177:2 212:22	attends 25:4	Babcock 102:16 103:18 249:11,21	basic 69:5 148:22 195:16	believed 72:19 108:5 143:14 164:16 165:16 222:1,8,13
assignments 176:25	attention 47:5	back 7:8 25:11 26:22 28:18 29:11 30:24 33:11 38:8, 11 42:8,10 49:6 57:18 63:9 72:25 75:5 89:14 93:5 100:10 102:21,25 103:11,14 104:4 113:9,19 133:14 154:22 169:19 174:23 179:5 196:9,10,22 206:1 207:9 209:7 211:17 219:15 231:4 242:19 243:3 248:2 258:14 265:2 268:6 269:2	basically 10:13 11:3 16:14 20:15 33:3,13 52:6 57:23 70:20 81:2 135:13,24 136:3, 13 138:1,8,14 139:10,18 144:24 146:17 149:8 151:3 155:9 157:21 160:2,10 162:12 167:21 168:17 171:23 172:2 194:12	believes 232:14
assist 6:25	attitude 6:3	backed 76:5	basis 47:8 50:21 52:16 56:2 66:24 75:15 78:24 80:24 104:25 129:23 152:18 160:12 192:21 193:5 207:2	believing 165:18
assistant 151:7 193:18	attract 148:8	background 9:7 57:15,25 59:12 62:20 135:16 142:24 187:23	Batista 258:5 266:5	belonging 4:12 64:19 126:13
assisted 111:24 122:21	attributes 154:12	backing 82:23	Battista 258:1	Ben 102:16
associate 139:20 172:14,22	auctioning 16:3	backlash 30:21	battle 92:14	bend 30:10
associates 171:14,20,21 172:5,7,25 191:6	August 40:14 41:5,9,25 42:3,7 43:4 44:13 51:15, 19 52:5 86:19 93:2 98:22 99:2, 11,14,15 100:1,15 102:6,14,19 103:18 105:8,13, 16,20 106:7,11,22 109:4 112:6 114:8 168:14 202:16 234:2 238:18 239:4,11 242:19 262:5	bad 100:13 104:11 148:7	Bay 56:8	benefit 50:19 160:16
assume 132:17	August/ september 242:24	baked 84:12	bear 41:17,22	benefits 73:5
assumes 100:21	author 18:21	balance 40:5 136:24	begin 56:23,24 75:7 199:24	Bennett 239:5,7
assumption 70:20,21	authority 95:18 96:9 255:13	bank 135:25 136:3,8,9,11	beginning 74:24 89:10 183:24 184:5,16 244:22	bet 103:9 104:11, 12,14
assured 38:9 66:21	authorize 76:9	banker 102:17	begins 49:4 56:10,15 72:13	bets 194:14
AT&T 136:12 142:15	Auto 207:19	bankers 102:14 135:25 136:2 248:22		bid 44:10,11 45:8 168:2
attached 22:11 23:13,14 66:22 162:9 238:6 258:6	aware 11:17 27:4 46:7 69:3 82:15 168:4 177:9 193:4 232:16 237:7,10 238:5,15 239:4,22 244:2,22			bidder 4:21 49:14 164:17 165:16,19
attaching 20:9 22:8 149:13 191:20				bidders 78:18, 24 237:14
attachment 191:15				bidding 35:25 44:1 91:7 223:15
				bids 148:1
				big 28:13,15 75:23,24 82:20 194:5 195:15 207:22
				bigger 68:10

billion 44:19 76:14	156:19 207:16,22, 23 251:14	265:22 267:25	buy 83:7 86:3 104:19 105:1 143:12	260:11,23 263:7, 17,22
binder 247:18	bought 155:12	brings 199:23	buyer 16:23	Canada's 197:17
bit 30:13 41:15 63:11 107:25 112:25 126:23 137:6 249:10 253:23 264:23	boundaries 217:7	broad 9:11	buying 87:20 254:10,12	Canadian 12:1 127:3 128:8 131:24 143:2 148:2,12 152:1 155:8 169:15 200:10
bitter 49:13	box 53:8 82:17 267:9 269:2	brokers 141:15	<hr/> C <hr/>	
Blackberry 115:24 116:1	Brandon 4:13 5:16 49:2,10 60:9 64:15,21 111:21 112:2 114:15,23 115:1,24 116:2, 16,18 117:12,24 118:24 119:6,11, 13,16,22,25 120:7,10 123:2,5, 14,23 124:4,13 125:8,20 126:12 127:18 128:21 130:21 131:15 135:6,7 138:24 145:6,12 146:15 148:21 149:1 151:2,16 155:2 156:13 158:4 162:8 163:22 188:8 212:15 218:3 258:18	brought 6:19 12:22 17:25 28:18 268:6	cabinet 85:6	capital 4:13,15 10:21 43:2 59:14 99:3 103:15 108:15 113:5 134:20 136:6,20, 21 137:25 138:17 148:5,8 160:11 169:10 237:21 254:3
blackline 258:7		browser 112:11 116:19 117:8 129:1,19,24	calculated 213:22	capturing 14:20
Blackstone 237:21		browsing 39:4 116:16,20 117:2 129:12	calendar 113:20	career 113:4 117:16 135:23 139:19,21 149:5 171:13,15 172:12
blanket 106:8		Bruce 85:1 186:10	call 16:2 42:1 56:6 105:24 107:8,9 112:17 133:21 141:15 144:7 211:18 267:4,11	careful 53:9 73:12 86:17 114:24
blocking 166:1 236:23		brushes 33:13	called 5:10,17 24:24 56:19 57:14 66:5,14 67:5 130:6,12 133:6 135:25 141:19 167:1,3	carefully 47:8 59:2
blue 161:25		buggy 4:2	calling 58:18 70:3	Carlson 67:16 256:20
board 40:22 42:9 51:21 76:6 100:22,24 241:21		build 11:8 86:10 88:7,14 139:21 146:21 171:15,23 172:12	calls 70:15 71:19 75:8	carrier 12:1,7 14:4,19 30:15,19 87:23 88:7,15 90:8 91:2,5 93:22 120:25 154:2
Boland 25:12, 14,23 58:5 63:1,9 79:17 100:3,10 165:8 166:24 167:2,23 243:20 244:11,16	Brandon's 114:4 119:8 122:10 124:17,22 126:16 129:23 130:12 131:11	building 87:23	Canada 10:15 11:13 12:19 13:11 29:8 42:2,5 46:5 49:20 51:23 52:9 69:20 75:25 76:2 78:23 79:12 83:20,23,25 85:16 86:23 87:7,18 89:1,18 90:1,7 91:11 93:8,15,19 96:17 97:5 98:16 101:9 122:19 142:13 148:8 150:23 154:1 155:24 162:11 195:19 207:25 210:15 219:4 221:3 228:24 229:16,18 245:2, 17 249:16 251:3, 20,22 257:4,13	careful 53:9 73:12 86:17 114:24
Boland's 167:18		bulk 142:8		carefully 47:8 59:2
bombard 232:2, 19 233:8	breach 33:4 99:9	bullet 14:24 15:7 90:20 91:13 152:14		Carsten 149:12
bonds 143:11,12 145:24,25 164:23, 25 165:2 167:13 237:9	breached 36:25 37:2 74:18 125:24 241:21	bunch 15:9 50:4 67:18 108:18		case 5:5 6:5 16:6 19:15,19 24:15 48:5 49:3,12 51:7 53:2,10 54:1 55:24 56:5 74:25 91:24 96:18 99:7, 9 105:15 106:12, 13 108:1 109:20 113:9,11 117:10 118:6,7 123:20 128:10,18,20,23
booked 264:19	breaching 234:5	burden 97:20 227:13		
bordered 144:9	break 42:14 68:18 72:6 101:11 102:1 133:14 201:17	Bureau 257:13		
Borg-olivier 111:23 170:13 231:7,10	briefly 23:13 57:19,24 109:18, 19 135:15 153:20 155:5	Burt 108:10		
bother 164:6		Burt-gerrans 73:11 74:2 110:8		
bottom 17:14 18:16 34:13 35:5, 10 56:14 85:12,13 88:12 102:18 151:22 154:5,24	bring 33:22 151:16 160:20,24 212:16 241:9	business 15:17 25:20 49:23 50:5 51:19 52:12 79:10,22 96:6,10 107:18 108:5,21 121:20 135:19 136:22 149:20 169:6,7,16 213:18 233:17		
		businesses 17:9 122:17		

132:2 133:4,7,8,9 145:22 147:1 151:1,15 154:16 155:11,12,16 158:25 160:19,23 198:20 205:8,11 217:15 234:10 236:20 247:13 269:1 cases 50:18 55:21 81:25 cash 26:19 157:4,7 182:10 188:9 cast 6:24 55:25 Catalyst 4:12,18 5:1,4,11,17,18,20, 22 6:4,9,10,12,18 7:20,22 8:1,19 9:5,10,15,17,18, 20,23 10:10 11:2, 8,11,15,17 12:5,7, 13,14 14:16,25 15:3,25 16:8,13, 15,21 17:1,5 18:8, 11 19:3,9,12,17 20:18 21:19 22:10,15 23:21 24:25 25:16,18 26:4,6 28:8,11 29:23,24 30:4,11, 25 31:5,8,19,23 32:6,8,19 33:2,11 34:24 35:8,11,16, 25 36:2,17,19,22, 23 37:13,15 38:6, 12 40:9,11,18,25 42:1,15 43:6,19, 21 44:8,10,19 45:16,21 46:2,9, 12,16 49:9,13 50:14,19 51:4,5,7, 11,14,16,18,24 52:11,20 54:7,13 55:24 56:10,12 57:16 58:15,22 59:13 60:21 61:9, 11,23 63:22 64:2, 20 65:6,10,14 66:1,2,10 68:8,14, 24 69:4,7,9,12,17, 18,19,21,23 70:13,17,19 71:1 72:14 74:5 75:13	77:7,14,17,20 78:3,16 83:5,15, 18 84:1,7,13,23 85:8,11,19 86:6, 16,21 87:1,19,21, 24 88:4 89:6,9,13, 20 90:1,3,23 91:16 92:16,18 93:6,7,12,13 94:7, 13,14,17,19 95:6, 11,21 96:2,14,21 97:9 98:2,13,18, 20,24 99:6,8,10 100:18,19,21 101:6,10,17,20,25 102:13,18 104:14, 22 105:1,3,7,12, 14 106:4,11,15, 18,21 107:10,25 108:9,22,25 109:11 110:6 112:2,3 113:6,13, 25 114:17 115:3, 14,17,22,25 116:6,7,22 117:19,23 118:9, 18 119:10,18,20 120:6,12,13,20 121:8,13 122:1,5 123:1,6,14,18,24 124:10,17 125:5 126:4,5,13,19 127:1,16 128:20 129:8,16 130:5, 16,23 134:18,20 135:8,12 136:13, 17 137:6,7 138:19 139:22 140:12 141:6,9,11,23 142:9,11,15,17 143:22 144:6,25 145:13 146:3,4 147:14,19,23 149:3,18,24 150:12,16 152:3, 14,25 153:9 154:9,16 155:10, 11,21 156:17 157:8,25 158:15, 24 162:2,17 163:1,14 164:16 165:16,18 166:1 170:23 171:1,16, 19,25 172:13,21, 25 173:25 174:10 175:22 176:15,19	177:6,10 179:2,8, 13,18,23 180:11, 23 181:14 182:3, 10,12,16,23 183:1,2,16 184:18,25 185:3, 4,7,8 187:7,10,15 191:25 192:6,19 193:13,22 194:8, 19,23 195:4,10 196:1 198:13 212:20 213:1 214:1,14,16 215:8,12,18,19,25 219:25 220:15 221:7 222:1,8,16 223:15 227:17 228:23 230:2 232:11 233:17,25 234:6,11,17,22 235:1,5,13 236:1 238:15 240:13,14 241:22 245:23 248:3 250:11 253:1 258:3,16 259:17,19 260:3, 16,21 262:3,11,14 263:12 264:3 265:9 266:20,24 268:13 Catalyst's 5:1,8 8:3 9:25 10:6,7 11:20 14:3,5 19:21 35:6 41:4, 11 44:12,20 45:1 53:23 54:4 70:9 74:25 77:12 83:24 85:2 88:11 89:15 93:21 94:4 96:25 97:2,4 104:19 108:13,20 112:9 116:8 117:9 118:5 119:3,7,14,24 120:2,24 123:20 127:19 131:20 143:6 148:10,15 151:24 152:10 182:23 183:25 184:7,17 198:5 200:6,14 236:11, 17 237:1 244:7, 15,20 258:10 259:14	Catalyst- owned 93:20 262:13,25 264:4 Catalyst/ vimpelcom 95:3 categorically 62:4 cavalier 6:3 63:20,21 68:12 cc's 258:19 CCAA 11:16,19 91:25 219:9,12 CCG00-- 247:18 CCG0009482 27:11,19 156:15 CCG0009516 162:4 CCG0009517 29:8 CCG0009527 252:24 256:14 CCG0011325 266:22,25 CCG0011362 268:7 CCG0011364 259:4 CCG0011536 146:8 CCG0011564 150:10 CCG0011565 12:21 13:2 CCG0023893 149:10 CCG0028351 248:15 CCG0028356 249:9 cement 194:10 Centa 111:18,19, 20 126:5 132:24 133:15 170:4,5,19 181:12 185:17,20, 23 205:16,17,19, 24 208:20,24 209:6,11,14 214:12 224:19,21, 24 225:2,7 230:24 231:3,15,17 233:14 235:18,20, 22 236:4 central 18:2 49:11 79:4 200:13 CEO 58:5 75:8 certainty 95:25 169:10 228:24 229:18 245:13 cetera 157:16 chain 22:1,7 28:1 156:16 158:6 161:6,21 185:11 191:10 196:23 198:1,15 223:3 chair 76:5 chairman 51:21 101:2,23 102:8 103:5,10,23 104:6 109:3 chairman's 102:3 chairman] 104:2 challenged 74:3 challenging 17:18 change 84:8,9, 11 87:11 259:6 changed 42:8 69:24 Chap 110:17 characterizatio n 148:25 characterize 171:6 characterized 92:15 characters 6:24
--	---	---	---

chart 201:24 208:16 209:1 210:19 211:13 253:10,11 chat 57:15 check 58:6 59:5, 6 178:21 217:3 Checked 201:7 checking 62:13 cheques 138:15 chief 71:18 108:24 109:12 choice 52:12 99:8 107:5 124:5 choose 91:22 choosing 197:23 chose 101:21 191:10 chosen 51:16 Chow 110:17 Chris 238:23 chronology 6:21 11:6 24:23 circle 183:14 circulate 6:25 circulated 146:15 174:12 circulation 258:12 circumstance 173:24 circumstances 31:7 97:21 114:1 129:2 132:1 233:19 claim 24:17 50:13 52:16 53:23 54:10 107:20 130:4 132:1,5 265:20 claims 67:8 99:9 clarified 87:16 183:10	clarifies 157:11, 16 clarify 184:1 clarifying 179:11 clarity 160:10 163:12 168:25 clause 8:21 36:21 242:13 255:1,24 259:9 clauses 33:12 clean 52:8 79:3, 13 80:6,23 81:3 258:6 clean-up 265:3 clear 23:16 29:17 50:22 88:6 95:23 96:21 114:13 125:18 145:22 182:19 187:7 clicked 131:3 client 80:23 close 7:16 26:12 80:25 83:11,16 94:14 128:19 137:9 139:12 140:22 206:5 closed 101:20 120:14 closer 203:2 closing 47:25 48:1 96:2 257:2 259:21 260:5 co-invest 138:14 co-investing 144:14 co-investment 166:19 182:9 coffee 11:4 57:13,14 65:20 86:23 cohesive 139:24 coincide 49:23	coincidence 47:21 coincidences 47:14,15 coincidental 78:14 colleague 31:17 32:6 111:24 122:22 colleagues 31:24 32:15 colloquially 251:23 Columbia 135:19 column 210:18 211:18,19 212:2 combination 14:17 15:25 90:6 91:1 122:17 159:22 187:18 188:1,13,16,20 189:4 213:20 252:14 combine 11:23 91:4 combined 10:3 199:25 200:1 206:3 207:2,4 213:3,18 216:23 combining 12:5 143:19 comfortable 155:8 commence 243:25 commenced 49:1 246:25 commences 37:8 commencing 4:1 6:13 10:16 commended 70:25 comment 37:4 152:14 232:19	comments 31:23 35:16 75:3 201:23 224:13 225:11 258:13 Commercial 107:6 commit 45:10 committed 112:7 130:9 common 191:6 239:6 253:24 communicate 133:10 communicated 68:6 74:21 127:18 244:10 communicates 166:11 communicatin g 71:5 communicatio n 73:4 74:23 103:21 137:17 162:1 171:5 205:5 communicatio ns 32:6 73:3 104:7 106:21 126:11 145:8 150:8 164:3 177:24 186:18 198:15,16 companies 10:4 67:22 76:19 91:4 146:23 212:19 company 5:9 12:11 65:4 66:13 82:25 86:5 116:11 136:12,24 137:1 141:12 143:16 147:11 203:11 207:4 213:3 236:12 250:10,15 253:11 company's 250:17	company- issued 115:24 116:4 compartmental ize 140:24 compartmental ized 137:14 compensation 138:6 competing 130:14 237:13 Competition 257:3,13 263:6 competitive 16:4 79:9 91:7 competitor 6:15,18 145:23 152:8 164:20 complain 50:9 complains 52:11 complaints 53:5 69:2 complete 67:23 73:15 89:7,8 121:22 128:4 131:25 163:14 199:9 212:21 completed 82:11 90:14 completely 54:18 62:19 66:19 77:25 80:20 81:15 84:17 92:25 108:2 230:22 268:11 completing 135:24 224:3 complex 218:6, 11 complexity 168:20 compliance 71:18 109:12 complication 268:10
--	--	--	--	---

component 138:6 144:15 149:19	13,14 87:21 88:8, 16,25 89:3 90:16, 22 93:8,15,20,23, 24 94:8,15,20 95:7 97:11,18,21 98:4,10,15,18 105:2,5 107:19 108:7 123:17 155:9 255:20 259:20,23 260:4, 8,13,22 261:9,11, 15,25 262:12,15, 24 263:2,12,18 264:3	confidence 234:6	connected 23:2	constructive 167:4,14
components 143:10 169:3,4		confidential 4:12,16,20,24 6:4 9:1,5,6 18:18,20 19:16 20:24 22:14,20,22,24 23:7,12,18,21 24:22 33:8,14,17 36:16 38:10 44:7 45:1,7 46:16 50:14,24 51:3,11 63:21 64:2 65:2, 16,25 66:2 68:13 104:21 109:11 112:3 114:25 115:3 117:25 118:1,2,18 119:3, 7 126:13,19 127:19,21 131:21 141:7 142:6 151:23 234:11,17, 22 235:1,5,12 236:1 259:14	connection 114:16 130:4 164:24 183:11	consultant 73:11 85:3
composition 213:9			connects 158:23	consulting 85:7
comprehensiv e 54:18			consent 37:20, 21 38:5,16 72:23 95:15 116:15 255:10,14 256:1	consummation 255:15
compressed 113:22			consented 129:4	contact 10:23, 24 78:5 100:8,16, 17 140:14
comprised 75:18	conclude 30:12 45:5		consequences 107:5	contacts 56:17
computer 39:7, 9 73:11,13,18 110:12,20 112:11, 20 116:14,17 129:11,19,21 130:13,22,24 131:2,7,11,12,17 135:20	concluded 40:13 44:15		considerate 227:4	contained 22:21,24 94:13,18 129:24 130:20 131:20 197:25 220:9 234:17,22
conceal 142:2	concludes 132:8		consideration 90:4	contemplate 96:13
concede 51:13 101:20	conclusion 5:2 35:13 39:13 45:9 47:22 130:3 131:15		considered 9:5	contemplated 95:19 127:12 255:16 257:11
concentric 183:14	condition 31:5, 7,12 41:2,9,19 43:13,20 44:4,8,9 46:9 94:13,23 95:2 101:7,14 157:17,23 161:11 168:18 257:1 260:21 261:8,15, 24 262:12,18,20, 24 263:11 264:2	confidentiality 6:8 8:22 36:25 37:2 64:17 71:4 72:10 74:18 81:23 109:14 110:5 118:21 125:15,19, 21,24 141:8 149:23 150:4 152:5	considers 141:7	contemplating 91:3
concepts 249:2		confirm 12:14 109:21 266:19	consisted 121:20 122:14 124:7 180:12	contemporane ous 5:21 79:15 82:3,4 122:6 177:17,21 178:5, 13,18
concern 32:23 33:13 117:7 152:4 163:19 244:23	conditional 93:7,14,18 94:7	confirmation 125:13 157:22 161:19	consistent 80:13 147:14 178:1,4,14 183:8 193:16 227:16 256:2	contemporary 178:9
concerned 70:17 101:4 125:19 129:10 167:8	conditions 51:17,20 94:18 228:25 256:8 257:10 260:15 261:6,19 263:6	confirmed 83:25	consistently 60:1	contempt 117:20 119:13
concerns 33:7 68:23 69:3 70:10 76:7,8 102:3 122:12 144:18 163:21 167:17	conduct 39:14 40:3 50:10 191:19 199:7	confirming 157:12,14,21 161:10	consolidate 143:15	content 162:16 163:4
concession 84:19,20 89:19	conducted 146:15	confirms 122:10 126:15	consolidated 207:18 208:11	contention 68:12,15
concessions 12:7,17 14:7 17:7 18:8 19:11 28:8 30:5,9,11,16,20 31:10,14 41:3,21 49:21 83:22 84:2, 5,16 85:19 86:10,	conducting 214:19	confrontation 169:14	consortium 7:17 42:24 43:1,4, 7,17 44:6,14 50:1 99:2,11,25 108:11 168:2,5,19 238:19,22 239:3, 12,20 242:8	contents 134:12
	conference 267:4,10	confused 230:25	constellation 185:5	context 143:1 147:3 148:10 150:21 153:25 166:15 167:5,7 178:11 199:17 214:5 244:14
		conjecture 53:16	constitutes 134:9	contingent 80:10
				continually 8:5

continue 31:21 37:22 100:6 140:22 141:25 149:3 153:16 158:11 164:11 233:6 239:20 242:9	conveyed 50:16 51:2,10 54:11,22 68:15 107:22 109:10	21 190:19,20 191:11,24 192:14, 19 194:3,22 196:14,15,17,18, 21 197:4,5,6,9,10, 13,14,17,18,20 198:1,6 200:5,11, 12,15 201:2,3,14 202:10 208:16,17 210:3,4,9,19,20 211:13,20,21,25 212:1,4,5,7,8,23 213:22 214:3 215:13,14 216:2, 4,6,8,12,15,19,21 217:2,14,19,20,23 218:24 219:10,13, 21 220:11,21 221:8,11 222:12, 15,18 223:24 224:5,16 225:14, 23,25 226:1,5,16, 19 227:24 228:5, 8,9,20 229:17 230:4,15,16 232:8 233:4,24 234:7,8, 24 235:9,10 236:14,19 237:1, 2,11,14,15,24 238:4,25 239:8,9, 23 241:8 244:5,6, 9,12,13,17,18,24 245:3,18,22,25 246:11,12,18,22 247:1,6,13 249:12,13,22 250:20,23 251:7, 8,25 252:4,15,16 253:2,3,12,13 254:1,2,5,9 255:22 256:4,5,25 257:4,5,7,13,14 258:3,4,17,20,21 259:2,15,21 260:6,7,11,12,23 261:9 262:7,10,25 264:5 265:11 267:24	86:24 87:5,8 counsel 7:8 33:10 36:7,9 37:25 58:15 61:9, 22 64:10 65:8 70:9 72:8 111:22 129:7,21 132:20 186:11 239:8 243:24 247:5,9 267:5 count 210:1 country 210:15 couple 66:18 168:11,15 169:19, 20 206:11 265:3 coupled 72:10 court 4:2,10 6:20 7:4 9:12 12:23,25 13:3,8,13,17,19 14:14 15:5,8,11, 15 17:16,20 19:2, 15,24 20:13,19 21:5,14,18,23 22:3,23 26:8,25 27:12,14,21 29:10 33:24 34:1,4,6,22 35:18,21 36:3,11 38:18 39:12,16,21 40:8 41:6,10 43:10 45:2 47:2 48:3,7,12,19 54:4, 15 56:2 61:11 67:7,12 68:17 92:1,8 102:22 105:25 106:3,14, 25 109:22 111:13, 18,22 117:1,24 119:13 125:25 127:3 129:3,23 130:2 132:15,25 133:5,13,19 134:17 135:16 165:9 166:4 169:17,23 170:3, 12,17 180:22 181:2,5,7,10 185:15,18,22 205:15,18,21 207:13 208:19,23 209:3,9,13 214:8 224:17,20,22,25 225:6 230:22 231:1,4,9,13,16	233:12 235:15 236:7 240:4,8,16, 19,23,25 241:7, 10,13,15 243:11 247:19,22,25 248:8,11 251:12 252:20 254:15 256:10,12,16,21 257:18 264:10,14, 17,22,25 265:5,24 266:2,13,16 267:22 268:1,8, 20,22 269:4,5 court's 55:20 court- appointed 92:7 courtroom 133:12 covenant 6:7 244:1 covenants 72:17 cover 13:16 24:7 40:1 covered 254:7 covering 252:18 257:21 268:6 covers 24:11 create 14:18 90:7,18 91:1,4 93:25 154:1 221:1,4 created 30:4 115:2 131:10 190:8 215:12 creating 121:2 224:4 creation 109:14 120:25 121:5 216:10 221:22 226:4,23 credentials 9:10 56:24 57:25 60:16 202:18 credibility 47:3 credit 9:8 56:19 59:12,19 60:6
continued 9:20 136:6 159:18	convince 18:3			
continues 40:7 140:15 164:2,4 202:11 232:17	convinced 40:12			
continuing 231:24	COO 46:11			
continuous 165:3	Cooney 111:24			
contract 64:23 72:18	coordinating 135:1			
contrary 54:25	copied 28:1,2 54:21 85:24 86:21 146:11 158:5 223:9 226:21 258:23 265:12,14			
contribute 8:8 162:15 228:2	copies 21:3 186:10			
contributed 222:20	copy 21:7 89:24 158:3 162:9,10 224:9 240:4			
contribution 122:15	copying 73:18 233:21 234:5			
control 38:8 76:3,9 84:8,9,11 169:2	core 182:20 183:1,2,10,13,20 184:2,8,17 190:25 198:5,16 217:18 219:19			
controlling 169:5	corner 17:15 151:22 207:16 208:10 253:6			
controversial 8:23	Corp 251:15,19 252:3 253:7,17			
controversy 257:7,9	corporate 169:6 251:10,24 253:10			
convenient 264:7,8	correct 50:8 148:16,24 169:25 171:3,18 172:15, 22 173:13,16 174:2,10 176:18 177:5 180:3,12, 13,15,17,19,21 181:4 183:22 184:9,13,14,22,23 186:5,15,16,20,21 187:13,18 189:16,			
conversation 165:7 166:6,23 189:19 190:4,9 191:2 223:5,10 243:19,23 244:11				
conversations 32:9 87:1 166:18 265:17				
conveyance 104:20				
	correctly 189:8 199:9 213:9 248:15			
	correspon ce 7:7			
	Council 12:20			

63:13 67:9,14 113:4 creditor 159:11 Creighton 122:22 139:2,3 228:10,18 230:18, 21 231:18 232:6 critical 5:20 8:1 11:6,7,8 17:1,10 20:11 29:5 41:23 43:18 97:7 112:4 123:3 148:9,14 150:20 152:9 198:23 200:2,19, 23 critically 16:25 119:23 128:11 129:22 cross 248:14 cross- examination 110:10,21 170:4, 9,15,19 185:19,21 205:17 231:6,8 236:8 240:10 241:4 247:18 248:13 268:25 cross-examine 107:11 110:7 cross- examined 74:3 crucial 123:18 221:2 crystal 125:18 culture 8:4 120:12 137:5,7 139:25 cure 26:15 current 87:10,12 140:17 157:5 cushion 147:19 264:24 customers 209:22 210:16 cut 76:24 cuts 69:12	CV 22:9 66:5 <hr/> D <hr/> damages 44:20 damaging 169:12 Daniel 258:1 266:5 dark 155:12 darkens 64:8 data 73:17,18,19 77:16 122:23 131:10 155:14 202:6,14 207:19 211:4 246:17 250:18 database 207:7 211:3 257:24 date 11:6 29:5 37:8 186:5 189:3 191:1 214:20 250:7 265:25 266:8 268:14 dated 188:5 190:13 225:3 251:4 dates 77:8 David 186:11 day 4:23 11:13 20:1,23 25:13,22 29:13 33:21 38:17 39:5,6,8 44:22 47:2 60:6 64:5,13 65:20 67:2 82:10, 12,13 84:13 85:23 90:10 103:19 104:18 131:14 172:21 191:4 206:19 215:11 243:22 267:21 268:2 days 6:11 24:21 33:1 72:14 73:2 101:12 121:16,19 123:14 125:11 126:2 245:24 de 8:13 9:19 13:4,	6 17:12 20:16 21:16 28:5 32:12, 14,17,21,22 45:17 51:9 52:20,22 76:9 85:24 86:20 97:1,25 99:12 101:19 102:19 103:14 123:4 125:11,12 126:2 133:21,22,24 134:4 145:10 146:12 149:11 151:21 161:3 165:5 166:4,16 170:7,10,13,14,20 173:5 180:14 181:13 182:14 183:5 186:10 193:24 196:8 205:25 209:1 217:16 220:1,10, 23 221:19 223:7 225:4 231:7,11 232:5 233:15 234:9,15,20 236:9,25 238:1 240:1,24 243:19 244:19 245:15 246:24 248:12,13 250:6,14 251:5 252:24 255:17 256:24 259:10 261:13 262:2 263:3,19 265:7 267:6 268:3,23 Dea 10:20,23 11:5 20:3 21:12 22:2,6 23:24 24:21 32:10 57:1, 12 59:20 60:6 63:1 65:19,22 67:1 74:11 109:5 dead 81:15 85:20 deadline 227:19 deaf 92:25 deal 5:18 7:12,16 8:8,16 10:1 21:2 22:9 26:7,20 27:3 28:13,15 30:12,25 40:12 42:3,6 43:19,23 44:15 45:21,24 46:5 58:12 62:24 63:13	66:6 70:12 77:3 83:17 88:20 90:13 92:12 93:6,18 94:14 98:20 101:21 105:8 120:12 123:11,16 138:9,12 139:5 140:14 142:2,3,4 143:22,24,25 144:8,23 145:2,3, 13 149:25 156:20 157:25 158:8,11, 13 163:2,20 164:5 166:13 168:4,13, 20,21 171:6,8 175:22 177:25 178:1 181:14 182:3,16,19 183:1,2,13,15,20 184:1,7,8,13,17, 22 186:4 190:25 194:15 198:5,16 217:18 219:19 223:15 227:22,24 228:3,4,7,11,14 229:15 230:12,14 232:4,11,24 233:4 236:12 245:5,10, 12 262:19,20 264:2 dealing 11:18 63:21 77:2 85:9 106:15 160:13 dealings 83:19 deals 5:7 14:17 61:11,13 63:7,13 66:6 68:23 103:3 137:25 139:9 140:3,23 145:19 166:20 178:9 191:8 dealt 55:1 91:24 247:14 debate 72:2 210:6 212:14 debentures 237:8 debrief 156:7,10 debriefing 156:11 debt 11:15 26:14,	18 59:14 63:7,13 75:19 76:14,18, 22,23 77:2,4 108:18 179:7 218:23 219:15 December 9:14 10:17 77:14,17,19 114:10 180:10 181:15 182:7,16 183:21 184:13 201:19 207:18 219:20 decide 23:6 62:18 141:17,21 169:13 187:22 decided 97:8 102:4,6,8 107:10 129:18 decision 10:6,7 37:5 51:19 195:3 204:17,19 decision- making 8:9 120:14 decisions 117:1 declined 81:9 dedicated 63:6 default 26:16 76:23 158:20 159:6 defaulting 26:14 defendant 111:21 170:10 defendants 6:16 8:5 47:9,12 170:16 231:8 248:13 defined 253:6 definition 144:22 degree 9:9 59:11 delay 42:8 95:14 255:9,22 256:2 delayed 80:3 125:2
---	--	---	---	---

delete 23:25 38:21 116:2 117:4,5 126:23 127:22 129:18 130:6,12,17,19,25 131:2,8,9,16 196:20 deleted 39:22 112:10 115:19 116:10,16 119:11 127:18 128:25 deleterious 117:15 deletes 24:6 deleting 24:11 39:3 117:8 259:8, 18 deletion 24:13, 18 73:17 110:13 131:10 deliberate 99:8 deliberately 114:24 deliver 11:24 30:14 delivered 89:25 delivering 29:24 129:20 delivery 206:2 demand 78:10, 18,19 demanded 104:5 demands 42:11 79:5 109:3 demonstrate 7:24 demonstrated 185:5 demonstrates 214:18 demonstrating 184:21 186:3 192:1 Denise 111:24	denominated 210:16 departed 9:22 113:24,25 114:9 departs 46:15 departure 37:14 114:1 266:8 depending 14:7 207:17 depends 199:16,17 describe 134:17 135:15 136:15 141:7 176:3 262:3 describes 59:21 178:19 229:7 describing 7:6 189:9 233:5 description 83:11 175:21 176:1 designed 38:20 220:19 desire 256:3 desktop 73:13 destroy 21:3 destroyed 112:8 118:4 127:10,13,24 128:13,17,22 destruction 127:11 detail 75:14 210:15 detailed 169:21 175:24 determine 4:11 38:1 124:11 169:6 188:23 250:4 determined 44:24 131:11 detrimental 169:15	develop 96:3 144:13 158:12 developed 9:16 development 42:23 158:15 194:2 195:15 196:1 developments 193:6 deviated 200:25 device 43:8 116:4,11 devices 37:24 73:19 116:14 126:17 129:6 dial 173:16,24 dialogue 140:22 150:21 151:25 159:19 167:9,15 188:25 263:16,21 difficult 160:21 difficulties 79:11 245:1 diligence 111:7 113:24 121:20 228:19,20 232:1, 18 233:7 246:10 249:2,19 250:1,8, 10,12,15 diligent 43:14 dimensions 199:3 Dipucchio 4:6 6:23 7:5 12:24 13:2,5,9,15,18,20 14:15 15:6,9,12, 16 17:18,23 19:7, 18,25 20:14,20 21:6,15,21,24 22:4 23:1 26:10 27:13,19,22 29:12 33:25 34:2,5,7,24 35:20,23 36:6,12 39:18,23 41:8,14 43:11 45:3 55:2,3 63:17 70:15 72:17 88:2 90:2 93:3 126:7 132:14,21 133:15,19,20,23	165:10 166:14 170:1,3 264:12,15 Dipucchio's 75:3 78:12 126:22 direct 45:3 126:10,14 137:11, 17 164:23 189:11 235:23,25 direction 50:20 220:14 221:6 directly 54:24 80:12 81:5 145:6 151:4 director 134:19 Directors 40:22 directory 24:24 disadvantage 152:11 disagree 192:20 198:18 212:13 disclose 64:19 65:9,10 71:21 107:4 129:11 disclosed 126:12 disclosing 115:13 discomfort 124:23 discover 59:7 discovery 97:24 99:12 169:23 182:25 184:25 240:2,18, 20,21 discuss 20:4 57:16 62:8 96:8 124:9,18 133:6 140:13 152:23 187:21 204:20 260:1 discussed 31:1 58:9,24 60:23 61:13 62:2,9 80:22 90:25 118:13 140:7 146:6 155:21	156:3,5 165:21 172:9 174:20 176:6,9,16,24 177:18,22 178:2, 6,12,19 189:20 190:5 199:10 206:23 265:9,10, 16 266:21,24 discussing 71:10 81:18 96:16 140:17 161:5 204:4 205:6 discussion 23:17 70:5 72:1 85:13 109:22 142:7 144:12 165:17 167:24 174:14 177:2 182:1 198:22 199:12 205:12 212:24 223:6 236:17 267:5 discussions 10:10 12:18 26:5 27:5,6 28:5 46:5 69:20 109:15 145:8,12 146:4 148:1,12 150:8 152:15,22 153:12, 24 159:20 160:14 161:14,23 162:1, 19,23 164:19 165:3 174:24 176:11 178:10 188:24 191:5 199:4 213:19 247:2,12,15 249:18 259:22 263:2 265:13,15 disgorged 5:3 disgorging 47:24 dismiss 132:5 disparity 175:19 dispel 58:21 dispute 122:2 129:13 distinction 84:22 263:14 distinguish
---	--	--	--	---

44:10 distinguishing 44:3 distress 142:25 distressed 136:19 distributed 138:10 distributes 23:24 distribution 193:2,8 196:20 197:3 215:4 217:14 divides 212:3 dividing 84:4 division 148:23 203:23 204:1,24 Divisional 54:3, 14 docket 202:20 doctor 4:3 document 17:7, 14 18:17,19,21,22 21:21,23 27:18 33:22 54:19,20 75:17 79:23 82:4 106:10 111:1 119:3 146:10,13 147:22 156:25 161:3 177:12 185:1,13,24 186:2 189:23 191:15,19, 20,25 192:11,17 193:21 194:24 198:20 199:1,15, 17 200:2,13 208:9 209:19 210:13 214:18 224:1 229:12 234:11 253:5 259:5 261:7 262:1 265:3,4,18 266:12 documentary 29:3 documents 21:17 27:10,15,25 29:11 30:6 38:6,7,	12 48:15,18 52:1 54:6 59:16 79:15 82:3 106:7 107:3 110:24 122:7 126:8,9 129:5 170:9 174:19 178:3,15 179:1 185:5,8,16 207:7 211:3 214:14 215:8 216:24 220:24 221:20 222:19,23 223:13 234:1 257:23 dollar 101:11 dollars 44:19 75:18,20 76:14 165:25 door 64:3,8 65:9 72:11 doors 120:14 double 53:17 doubt 94:21 130:11 downside 101:16 dozen 172:6 draft 80:16 94:24,25 201:5 203:19 230:3 246:2 252:25 253:23 257:1 258:7,8,22 259:4 260:16 262:10,18, 23 265:9,25 267:11 drafted 259:9 drafting 121:21 drafts 94:11,16 263:22 264:1 drain 88:12 dramatic 67:4 draw 35:14,19, 22,24 39:13 40:2 44:5 45:4 47:11, 17 55:9,10,12,14, 20 56:2 58:17,20 61:12 84:3 101:6 106:9,12 117:24	118:9 drawing 55:18, 23 235:24 263:14 dream 11:25 30:15 drive 129:11 driver 200:24 drivers 146:22 169:2 drop 203:15 Dropbox 26:1 37:17 73:20 dropping 198:14 drops 4:4 Drysdale 85:1, 2,4,10 186:10 due 67:15 111:6 113:24 121:20 232:18 233:7 246:10 249:2,19 250:1,8,10,12,15 uplicates 185:11 duplication 185:10 duration 96:1 duties 27:4 duty 114:6 234:6 dynamic 148:7 dynamics 142:22 <hr/> E <hr/> earlier 25:24 29:15 44:17 121:3,17 150:11 162:5 171:1 227:21 245:24 247:16 earliest 174:24 early 5:21 9:24 10:12 53:3,25 77:6 79:7 93:2,25	100:9 112:13 123:15,23 126:17 145:4 160:6 180:4 184:20 228:18,19 253:25 earned 4:25 ears 92:25 earth 4:5 easier 93:21 economic 90:15,19 140:19 142:1 169:3 economically 163:13 economics 139:10 203:24 204:1,9,24 205:8, 11 editorial 206:11 edits 206:15 educational 135:16 effect 31:13 42:5 67:5 94:23 117:15 194:7 effective 78:15 effectively 75:25 76:24 99:21 101:13 102:3 253:20 259:8 efficient 151:15 effort 89:5 efforts 5:21 46:15 75:6 76:12 105:11 106:18 107:16 109:8 110:19 136:4 electronic 46:21 110:11 129:6 elements 8:8 145:18 195:1 228:3 eleventh 42:10, 19	Elshanawany 111:3 email 13:13 20:9, 11,12 21:8,10,11, 12,25 22:2,5,6,7, 11 23:9 24:6,11, 14 28:1 34:10,17 35:5 37:16 56:25 59:18 62:25 63:1 65:16 66:8,12 79:16 82:8,14 83:8 84:25 86:20 100:6 102:11 115:12,20 116:7 119:6 149:11,14, 16 150:11 156:18, 21 158:2,4,5,17 161:5,21 162:6 185:11,24 188:5, 18,23 189:5,8,15 190:8,11,12,17 191:3,10,17,20,22 192:3,16 193:1,4, 8 196:8,11,12,25 197:2,21 198:1,13 206:6 215:15,16 217:12 223:2,10 224:8 225:2,3 226:3,12,22 227:13 230:18 232:6 233:16 234:1,16,21 248:19,25 249:10 251:6 252:19 257:22 258:1 265:15 266:5 268:3,5,6 emailed 224:1 emails 20:8 32:1 62:23 73:21,23 74:5 99:19 102:12 116:6 118:17 122:7 125:3,6 131:19 156:16 163:12 189:2 197:8 207:9 216:18,21 249:25 250:7 268:13 embarrassed 116:18 embarrassing 18:5 92:20 129:14,20
--	--	---	---	---

embedded 48:16	engage 249:15	essential 153:8	51:1,6,12 52:19 53:11,20,22,24 54:10,11,17,22,24 55:13,15,16 56:13 58:11 63:18,19 65:13,14 70:1 71:15 74:2,4,9,11, 14,17,21 82:1 85:3 94:3 96:21 99:4 101:24 105:13 106:3,14 107:4 110:1,9,13, 14,18,20 111:5 112:8,14,19,25 113:13,15 114:21 116:1 117:3,23 118:4,11,16,25 119:2,5,11,14,17, 19 120:4 121:4,8, 17 122:6,10,21 123:6,12 124:15, 17 125:17,23 126:10,14,17,24 127:9,13,18,23,24 128:12,13,14,17, 20,22,25 130:2 131:1,7,14,18,25 134:9,12,16 165:6 170:14,25 171:17 172:11 173:6 177:17,22 178:6, 16,18 189:14 200:1 214:15 224:3 229:2 231:10 235:23,25 236:10 237:4,17, 25 243:18 248:3, 5,6 265:8 266:7, 20,23 267:8,9,12, 14	examination 133:23 170:8 182:24 184:25
emerge 47:16	engaged 50:10, 11 123:9	essentially 7:16 15:21 16:2 17:18 18:3,6 26:7, 10 30:19 33:11 36:9,14 37:12,21 39:18 93:23 101:20 121:1,6	examined 240:2	
employed 71:17 72:20 135:11	enhanced 147:5	establish 123:6 127:7,9 128:11 129:8 150:20	exceed 209:23	
employee 4:14 113:12	enjoy 9:15	established 47:16 72:7	Excel 177:13	
employer 4:15	ensure 15:3 46:15 93:13	establishing 90:14	excellent 9:10 59:8 62:20	
employers 9:21	entail 159:7	estate 19:7 92:7, 17	exception 133:4	
employment 4:18 6:8,13,14 7:3,7 8:20 10:16 33:4,5 37:8 62:15, 17 64:6,14,23 65:1 72:18 74:20 110:16 114:11 115:23 123:13	enter 40:9	estimate 172:24	exceptional 173:21	
empower 171:8, 12	entered 98:20 149:17 245:5,10	evaluate 65:23 96:3	excerpt 207:13	
empowerment 139:17 140:4 149:2,8 151:12	entering 255:11	evening 20:7 201:6	exchange 15:20 102:12 155:17 166:22 197:8 206:1 213:4 265:16	
enclosing 258:10	enterprise 26:11 75:16,17 78:10,16 80:7 254:12,14	event 58:24 80:10 81:20 99:7 214:6	exchanged 54:19 94:17 156:16 246:2 262:10 263:23	
encouraged 144:10	enterprises 108:4 207:19	events 7:1,5 32:23 38:16 46:14 48:22 56:1 60:22 62:10 69:6 77:25 161:16 174:21 243:4	exclamation 103:16	
end 4:23 9:15 29:13 34:10 44:22 47:1 74:25 75:16 81:15 85:20 86:1, 14 91:17 95:4 98:19 100:19 104:18 105:15 106:13 111:10 118:7 119:8,9 131:13 132:2 172:9 183:3,4,20 264:24	entertainment 116:21	eventual 4:14	excluded 132:17	
enclosing 258:10	entire 10:14 69:16 235:11 259:9	eventually 62:16 69:2 78:8 81:9 84:24	excluding 132:10	
encouraged 144:10	entirety 202:8	evidence 5:5,11 6:2 7:10,20,23 8:12 9:12,16 13:22 17:4 18:11 20:5,24 22:17,23 23:3 24:2,14,16, 18,19 25:1,13 28:16,22,24 29:3 30:1 31:20 32:3, 20 35:14 36:24 37:11 38:14 39:2, 21,24 40:15,16 43:14 45:4 46:3, 13,20 47:17 50:23	exclusive 40:9, 10 43:6 98:20	
end 4:23 9:15 29:13 34:10 44:22 47:1 74:25 75:16 81:15 85:20 86:1, 14 91:17 95:4 98:19 100:19 104:18 105:15 106:13 111:10 118:7 119:8,9 131:13 132:2 172:9 183:3,4,20 264:24	entities 149:19		exclusively 99:15	
entitled 13:11 132:25 152:13 268:25	entirety 202:8		exclusivity 44:12 51:25 52:4 98:22 100:7,8 102:9 103:22 104:7 105:16,22 106:19,23 239:14 241:21 242:3,12, 20	
entity 12:16 208:13	entitled 13:11 132:25 152:13 268:25		execute 137:2 145:20 227:24	
entrants 87:14	entity 12:16 208:13		executed 12:5 77:14 149:24 245:24	
entry 209:16	entirety 202:8		execution 135:4 136:25	
environment 35:17 124:1	entirety 202:8			
equipment 76:19,20,21 147:7 208:14,21,24	entirety 202:8			
equity 59:15 75:19 79:21 82:25 83:2 252:9,10,14	entirety 202:8			
errors 53:17 114:18,20	entirety 202:8			

140:8 158:10 230:14 exercise 124:6 212:15 exhibit 9:20 13:6,8 21:14,15 146:8 149:10 150:9 156:14 162:4 exhibits 13:3,6 existed 94:25 131:12 150:23 157:9 158:25 existing 175:16 exists 127:4 128:8 131:24 exit 10:15 12:15 15:4,13 52:8 79:3, 13 80:6,23 88:11 89:19,20 90:21 91:14,16 96:15,16 125:12 126:2 154:6,10 228:25 exited 154:13 expect 112:17 119:18 120:10 122:9,13 124:3 128:24 129:22 131:22 expectation 164:4 expectations 195:23 expected 8:7 95:13 228:2,6 255:8 expecting 199:8 expense 5:1 experience 59:14 85:4 123:4 171:22 218:2,15 219:6,22 experienced 79:12 141:14 244:25	experiencing 160:22 expert 37:12 46:19 112:19 130:15 131:14 expertise 136:10 171:24 experts 39:24 132:17 expire 51:25 102:9 104:8 expired 106:19 242:20 expires 100:9 explain 56:13 58:15 62:7 86:8 153:20 228:23 explained 88:2 explains 57:6 explanation 78:17 110:4 175:2 exploring 57:3 exposure 137:25 218:6,11, 16 express 163:19 255:14,25 expressed 125:6 expresses 32:23 56:20 expressing 33:7 70:10 expression 75:12 77:9 125:5 expressly 94:19 96:14 extend 99:15 extensive 45:23 119:16 123:3 222:17,20,24 234:10 extent 17:21 73:4 109:2 119:20 122:2 127:17	187:14 220:20 external 73:19, 20 extract 28:8 64:9 198:20,21 extracting 199:1,14 extraordinarily 167:18 extraordinary 152:11 173:23 233:18 extremely 117:15 171:2 eye 4:3 eyes 52:13 86:17 <hr/> F <hr/> face 4:15,19,25 5:3,11,24 6:13,16, 17 7:15 10:21,22, 25 16:22 20:3,5 22:18 23:23 25:5, 9,12,19 26:4 29:2 31:17 32:22 33:2, 3,9,18 34:13 36:20,22 37:8,22 42:24 45:1,7 46:24 48:23 49:2, 4,8,24,25 50:10, 13,16,20,25 51:3, 12 52:5,6,10,17 54:6,9,12,15,19, 21,23 55:1,5 56:14,16,17,18, 21,22 57:1,7,10, 17,18,21,23 58:3, 5 59:2,4,20 60:18 61:19,23 62:14 63:3,15,19 64:1,8, 10,13,16,23 65:1, 10,15,21 66:21 67:1,23 68:6,12, 16,25 69:11 70:4, 8,9,11,16,19,23 71:2,4,6,13,17,19, 21,23 72:9,12,13, 15,18,21,25 73:4, 9,10,13,15,16 74:12,15,17,20,	22,25 75:8,13 77:6,13,16,19,22 78:2,4,14,25 79:5, 7,17,19 80:15,18 81:4,8,14,22 82:5, 10,15,17 83:12 89:6,12,14 98:25 99:3,18,19,25 100:4 104:22,25 105:3,6,8,21 106:4,23 107:8, 13,15,23 108:3,5, 8,17,18 109:5,9, 10,13,16 110:3, 11,16,24 112:4 113:25 114:4,9, 17,22,23 115:1, 12,19,23 118:1, 12,16,21,24 119:5,7 120:4 122:1 123:22 124:5,7,9,16,20, 21,23 125:2,9,12, 13,15,18,20 126:3,12,20 127:17,19,20,24 131:20 132:4,19, 20 145:22 146:1 164:16,20,22,25 165:15,16,18,24 168:1,7 189:8 234:13,16,21 235:2,4,6,13 236:2 237:4,8,18 238:7,19 239:11, 12,19 242:7 243:25 248:13 Face's 5:8 6:3 33:10 47:5 68:22 77:10,23 112:4 119:9 124:14 127:25 128:4 165:3 238:2 faced 30:13 31:9 222:2,9 facet 79:4 facilities 73:12 facing 30:20 92:14 fact 8:6,14,25 20:23 22:17 25:1 34:25 37:13 49:5 51:14 54:11,24	55:6 60:17 63:25 76:23 111:9 132:3 141:23 157:20 158:19 161:12 163:9 195:15,16 197:22 212:16,23 216:10 217:5 228:17 236:17 237:7 246:9 250:1,8 261:13 262:7 facto 66:13 facts 47:16 56:4 75:2 factual 53:17 factum 201:15 fail 53:24 83:16 failed 109:1 failure 89:6 92:15,22 99:5 104:19 fair 45:5 47:18 83:11 211:3 213:17 229:24 244:21 246:23 262:2 fall 100:17 falling 100:19 false 62:6 267:20 familiar 37:17 121:9 164:5 182:12 192:22 232:25 familiarity 193:16 fashion 111:2 Fasken 225:20 226:8 259:7 Faskens 52:15 102:20 258:2,13 266:2 267:23 fast 29:22 224:17 249:18 fast-forward 167:25
---	---	--	--	---

fault 50:9 89:5,6	183:4 191:23,24 200:14 218:2,7,13	fine 264:25	170:8,11,15 240:14 241:5 247:21,24	forward 88:14 155:3 169:16 196:13,17,19 197:2 200:7 217:13 256:6
faulted 70:25		finish 135:22 226:7		
faulting 83:12	filed 51:5,8 53:2, 4,9 88:22 93:9	finishing 225:22	folders 202:15	
favour 261:20 262:13,25 264:4	files 24:24 25:16, 25 37:14,15 38:21 39:22 71:14,23 110:11 119:21 120:20 131:16	Firestone 37:20 38:3,4	follow 32:24 48:14 62:17 224:22	forwarding 186:1 191:22,24 192:25 197:22 198:13
feat 130:9		firm 43:2 52:15 71:7,8 85:7 108:12 137:16 138:10,25 150:19 151:13 172:2 181:1 182:19	follow-up 160:9,12 186:17 192:21 193:5	
feature 24:15 44:3 80:3	filing 201:16		Food 188:11	forwards 199:19
features 131:4	filings 202:24 203:21	firms 124:5 139:16	foot 53:8 64:3 65:8 72:11	foster 198:15
February 93:10 189:17 190:2,13, 23 191:12,14 192:3 203:8 237:9	fill 62:22 75:2,5	fiscal 210:14	footnote 209:22 210:22 212:17 251:18	found 29:8 119:4,13 126:17 130:12 191:16 192:2 193:22 206:7 209:17 210:12 211:4 223:14 242:18
fed 143:1	final 40:20 161:18 206:13,18	fish 67:11	footnotes 211:8	foundation 55:23
federal 11:12 12:8 14:5 16:8 18:4,7,12 19:14 20:22 41:3,20 46:6 87:10,13,17 92:10 97:6 155:25 222:2,8	finalizing 226:6	fit 23:22 53:18 124:12	forbid 71:5	founding 136:5
fee 42:14 101:11 102:1	financial 26:21 31:24 52:14 79:25 102:14 186:2 207:18 208:12 211:7	flat 7:21 137:20	forced 55:18	four-carrier 160:17 165:23
feedback 79:7, 19 87:4 144:11	financially 82:23	Fletcher 111:25	forensic 37:12 38:2,21,22 39:7 73:7 112:18,20 126:18 130:22	fourth 11:25 12:6 14:4,19 30:15,19 87:23 88:7,14 90:7 91:2, 5 93:22 116:13 120:25 143:15 154:2 159:22 182:12
feel 256:23	financials 201:19 203:22	flexible 85:22	forensically 37:25	fourth-carrier 164:24
Felix 99:24 103:1	financing 157:6 158:19	flip 23:13 154:22 155:3 217:12 256:6 257:24 260:18	forget 72:6	framework 90:15,19 150:22 160:11 162:1 167:6 260:2
fell 92:25	find 5:23 27:16 29:1 36:11 118:8 122:9 123:24 131:22,23 140:25 141:16 153:5 156:2 159:10 160:24 161:7 169:8 170:12 185:13 190:11 215:15 231:5,6,9	flipping 186:23 187:11 191:14	form 6:21 7:25 23:5 33:18 50:1 68:11 104:17 110:15 138:10 175:1 241:24	
fellow 85:14 101:3	financing 157:6 158:19	flips 186:9	forma 10:2 122:16 154:24 199:25 200:1,18 206:3 207:2 210:2,11,23 211:13 212:12 214:17 216:13,23 220:19	
felt 31:12 101:22 125:1	find 5:23 27:16 29:1 36:11 118:8 122:9 123:24 131:22,23 140:25 141:16 153:5 156:2 159:10 160:24 161:7 169:8 170:12 185:13 190:11 215:15 231:5,6,9	flourish 108:7	formal 174:1,9 176:14,16,23 177:3	
fenced 144:8	finding 7:2 20:4 141:17	flow 33:8 181:25 188:9	formed 10:6 30:23 78:9 85:6	franchise 169:12,16
fiancee 125:7 163:24	findings 55:5,17 111:9,10 126:15 132:3	focus 46:3,14 60:14 90:10 119:19 121:25 136:18 160:2 175:19	forming 12:6	frank 86:25
fibre 155:13,14, 18	finds 192:10	focused 14:19 90:8 91:2,5,6 143:10 155:7	forms 142:8	frankly 28:25 29:2
file 27:3 31:22 53:18 70:19,21,22 71:16 78:3 110:9 113:14,16,24 115:6 119:17,23 120:2,18 121:14 122:14 123:15 131:8 170:15 180:12 182:4		focusing 14:20 135:25		
		folded 216:19		
		folder 25:3,15,21 27:10 115:20 130:12,18,24		

frantically 20:1 Fraser 25:9 57:20 63:2 fray 110:25 free 105:7 256:23 frequently 127:5 Friday 58:16,19 61:8,17,18,20 80:22 81:12 190:13 231:24 232:15 233:6 249:3 friend 55:18 70:14 82:19 friends 82:9 113:20 118:21 132:4 friends' 112:24 Froese 112:18 front 114:14 141:19 184:8 196:10 263:5 front-page 92:14,21 frustrate 118:5 frustrated 59:1 76:11 125:2 frustration 125:5 fuck 167:21 full 37:1 128:4 153:9,10 156:7,10 157:6 162:25 166:13,19 198:12 201:21 fully 151:16 158:9 162:25 198:15 227:22 230:12 function 126:23 fund 10:25 11:1 43:15 56:18,19, 20,22 57:3 63:13 136:18 142:18	fundamental 157:18 funding 76:15 funds 137:23 future 49:19 80:10 137:1 148:8 172:19 <hr/> G <hr/> Gabriel 133:22 183:5 gain 171:24 gained 71:16 246:16 gaining 77:15 250:17 gains 138:7,8 game 251:24 gaps 75:5 Gauthier 238:24 239:5,7,10,18 242:6 gave 28:17 52:8 111:5 112:2 147:25 148:17 156:7,9 164:13 173:5 237:3,25 243:18 266:8 Gdealba@aol.com 233:23 general 61:22 64:10 65:8 72:8 101:7 132:20 136:16 256:7 261:19 263:6 generated 54:20 68:4 gentleman 10:20 20:17 25:6, 8 46:19 99:24 get-go 79:5 172:2 GIHC 252:6,8 girlfriend 125:7	give 27:8 43:20 45:15 46:20 51:12 53:22 66:1 81:2,3 85:8 86:9,13,14 90:16 103:10 110:18,20 114:2 119:16 146:24 149:3 159:16 203:1 204:9 225:20 229:5 243:8 245:13 260:24 264:23 267:9,12 giving 84:19 149:8 153:10 232:22 233:8 Glassman 8:13 9:19 12:3 17:12 20:16 30:2,7 46:1, 4 49:16 50:6,8 51:8 52:20,21 70:2 86:20 88:22 89:17 96:21,24 101:19 108:22 144:1 156:7,19 157:2 158:24 159:13 160:5 161:5 180:12 183:5 186:9 190:18 192:11 214:24 215:17 223:6 224:7,8 225:3 226:2,10,25 227:3 Glassman's 28:9 46:3 159:14 180:23 Globalive 78:7 108:24 179:17,22 251:15,19 252:3 253:7,16 Globe 78:21 Glustein 119:12,15 129:25 good 4:6 58:7 60:8 70:14 111:19 124:12 133:20 137:15 141:18 147:3 170:20,21 236:9 governance 169:4	government 11:12,24 12:8,13, 14 14:6,8 16:9,15, 16,22 17:9,17 18:4,7,12 19:9,14 20:22 21:1 28:6,7 29:7,18,24 30:10, 12,17 31:9,12 41:3,13,21 46:6 49:20 51:23 69:20 70:5 76:2,3,4,7,16 79:12 83:20,23,25 84:10,12,15,16, 17,21,24 85:2,5,9 88:18 89:1 90:1,4 91:10,11,17,21 92:2,3,6,10,13,20, 21,24 93:1 94:15 96:17 97:6 98:15 105:4 107:19 148:3,12 150:21 152:2 155:8,25 157:17,24 158:22 159:9,15,19 160:1,9,16,21,25 161:11,15,16,17 162:22 168:22,23 169:13,15 200:10 215:19 218:6,12 222:2,9 223:18 245:1 259:20 260:1,4,10,22 263:12,17 government's 11:25 30:8 90:10 154:4 governmental 95:17 96:9 255:13 grab 192:5 grabbed 201:10 grade 38:20,23 39:10 46:22 130:8 graduate 59:9 135:20 grant 14:8 18:8 30:11 31:10,14 84:1 98:17 granted 97:22 101:12 granting 30:9 37:6 93:19 105:4	great 59:22 134:2 139:12 183:23 greater 95:25 159:9 218:1 Greg 25:12 100:5 165:7 Griffin 25:7 34:11 35:4,15 57:21 63:2 75:8 79:17 80:15,18 107:12 238:6 Griffin's 79:8 grinding 63:7 ground 131:25 232:7 233:1 239:7 250:25 253:24 268:24 group 4:13 59:25 65:4 71:13 124:12 134:20 136:7 188:11 196:6 growing 9:25 growth 15:19 141:3 guess 22:1 52:4 70:4,20 82:23 102:21,23 156:18 Guppy 50:3 guy 58:7 59:24 GWMC 251:24 252:2 <hr/> H <hr/> habits 116:20 117:2 Haha 82:22 half 5:6 113:7 114:5 120:21 172:6 205:19 218:20 half-way 241:17 Hamish 108:10
---	---	--	---	--

<p>hand 30:4</p> <p>handful 40:19</p> <p>handing 129:6</p> <p>hands 7:15 39:6, 9 152:8</p> <p>handwritten 60:25 61:2 121:10</p> <p>handy 113:19</p> <p>hang 27:12 58:22 248:4 266:13</p> <p>happen 21:4 109:24 153:13 267:8</p> <p>happened 23:4 52:4 56:9 70:4 71:25 81:7 98:19 109:7 156:8 160:19 164:21 167:7 212:24 247:15 267:7</p> <p>happening 5:14 45:22 137:16 161:14 162:24 164:5 168:25 177:25 178:9,10 233:1 242:17 243:4</p> <p>hard 59:22 123:2,10 129:11 147:6 172:20 182:22</p> <p>Harper 88:18</p> <p>Harvard 135:21</p> <p>hat 58:22</p> <p>he'll 107:15 109:6,23</p> <p>head 136:6</p> <p>header 23:16</p> <p>heading 61:10 90:17 253:7</p> <p>hear 5:10,15 6:2 7:10,19 8:12 9:12 10:19 12:3 16:14 17:4,11 18:1,2,10 20:5,23 22:16 24:16,18 25:1,12</p>	<p>26:25 30:1 32:20, 25 36:7,9 37:10 38:15 39:20,23 40:16 43:3,14 45:14,17 46:1,11, 18,23 58:11 107:12 112:15 113:1 114:15 116:1,17 117:3 118:11,15,20 119:2,5,22 120:10 122:13 123:22 124:3,22 128:24 130:14,19 131:6</p> <p>heard 35:13 37:9 49:2 55:2,3 112:22 118:20 121:17 126:21 130:7 177:16</p> <p>hearing 5:6 13:21 25:7,10</p> <p>hearsay 53:17 235:17</p> <p>heats 28:3</p> <p>held 71:8 127:3 130:1 167:12</p> <p>helped 93:25</p> <p>helpful 6:22 27:15 80:19 235:16</p> <p>helping 141:16</p> <p>hereunder 95:16 255:11</p> <p>herring 67:5,20, 23 68:10</p> <p>hierarchal 120:13</p> <p>high 58:1 60:12 86:15 139:8</p> <p>high-level 57:15</p> <p>higher 141:22 204:6,8 205:10,11</p> <p>highlighted 63:3 66:12 85:17 87:6</p> <p>highlights 134:16</p>	<p>highly 4:11,24 18:19 122:16 123:8 142:6,20 149:1</p> <p>hindered 29:21</p> <p>hindering 112:9</p> <p>hindsight 50:19</p> <p>hire 49:10 62:18</p> <p>hired 57:11 58:25 62:22,24 74:12,16 109:6,8 110:3</p> <p>hiring 48:22 56:6 59:1 62:11 63:14 70:10 109:7</p> <p>history 39:4 112:11 116:17,19 117:9 128:4 129:1,12,19,24 244:19</p> <p>hit 264:7</p> <p>holder 83:3</p> <p>holdings 165:21,24 207:20 252:3,15 253:7</p> <p>Homburg 22:13 66:14 67:24</p> <p>home 69:12 70:3 116:14</p> <p>Honour 4:7,8 6:25 8:19 10:12 11:14,17 12:9,22, 24 13:10,21 14:1, 10,24 16:17 17:5, 13 18:9,15 19:20 20:10,24 21:25 22:5,11 23:6,10, 14 24:6,23 25:17 27:11,20,23 28:14 29:6,9,12 31:4 32:2 33:15,20 34:3,8,17 35:20 36:14 37:7,11,17 38:8,17 39:25 40:7,24 41:15 42:7,21 43:8,12, 24 44:5,13,22 45:19 47:1,13,23, 25 48:13 53:7</p>	<p>55:4 63:12 64:7 65:13 67:19 68:21 69:14 71:24 72:25 75:21 77:21 81:11,24 82:10 83:24 85:1 87:12 88:21 92:9 94:4, 23 96:14 97:13 101:14 102:16 104:11 107:20 111:8,16 113:9 127:4 128:2 132:22 133:2,21 146:9 170:2 230:24 231:15 240:12 241:11 247:21 251:11 256:9 257:23 264:7,12 265:2,23 266:6 267:20,25 268:6,10</p> <p>Honourable 133:3</p> <p>honoured 54:16</p> <p>hope 21:17 171:13 185:15 267:20</p> <p>hoped 124:1</p> <p>hoping 185:12</p> <p>hour 42:11,19 205:20 224:14 225:12</p> <p>hours 21:12 85:24 140:16 176:7 221:1 264:13,15 268:14</p> <p>hundred 210:16 254:15</p> <p>hundreds 73:22,23</p> <hr/> <p>I</p> <hr/> <p>i.e. 11:5 12:5 19:9 32:7,16 41:18 43:19</p> <p>idea 69:21 70:11 98:25 124:15 232:2,7,10,13,24 233:2,11 237:13</p>	<p>ideas 144:10 220:8</p> <p>identified 184:25 185:4,8 186:18 191:25 193:21 214:14 215:8</p> <p>identifies 193:23</p> <p>identify 186:3 189:2 207:6 211:11 234:11,15, 20 237:23</p> <p>identity 237:13</p> <p>ignores 99:18</p> <p>image 39:7 129:7</p> <p>imaged 37:25 112:12 116:14 129:21</p> <p>images 38:2 129:9,10</p> <p>imagine 34:25</p> <p>imaging 130:14, 22</p> <p>immediately 24:1,8 30:24 32:22 69:11 115:13</p> <p>immense 30:20</p> <p>impact 198:22</p> <p>impenetrable 71:4</p> <p>implements 71:4</p> <p>implications 30:25</p> <p>implicit 213:19</p> <p>implied 85:18 212:25</p> <p>implies 153:9</p> <p>importance 46:6 109:16 173:19</p>
---	---	---	---	--

important 7:14 8:10 20:8 23:10 26:13,16 31:2 46:8 63:12 65:12 69:14 77:21 84:23,25 86:20 88:22 90:12 113:8 115:4 141:8 142:13 143:5 144:15 147:8,13 148:17,18 151:16 157:10 171:2,4 187:9 193:5,11,20 194:2 195:2,25 199:13 200:9 212:15 214:6 215:22 224:3	186:14 193:1 197:3 200:9 210:8	independently 116:8	55:21 106:12 118:9	innocent 24:9
impose 167:20	included 8:20 43:1 64:22 116:20 191:9 208:4,16 209:24 210:2,11 214:5 215:4 239:12 261:11	indication 244:15	info 66:16,20	innocuous 56:1 60:22 62:19 73:25
imposed 16:19	included' 203:9	individual 149:2	information 4:12,16,20,25 6:4 7:11,15 9:1 18:20, 24 22:22,24 23:7 24:3 33:8,14,18 36:16 38:10 43:18 44:7 45:1,8 46:17 50:14,16,25 51:2, 4,11,13 54:12,23 55:6 63:22 64:2, 19 65:3,10,15,25 66:15,23 68:13,16 71:22 104:21 107:22 108:14,20 109:9 110:13 112:3 115:1,7 116:23 117:6,25 118:1,3,18,23 119:4,8 120:3 122:4,23 123:10 126:13,19 127:19, 21,22 129:17,25 131:21 141:6 144:23 181:25 191:1 197:25 198:12,21 199:2, 14 207:9 211:16 220:17 221:5 234:18,22 235:1, 6,13 236:1 250:18 259:15	innocuously 6:6
impossible 145:15 150:6 153:5 161:7 162:18 163:11	includes 147:6 149:16 207:10 217:4	individually 207:1	input 67:7 120:15	inputted 221:5
impossibly 42:13	including 8:8, 17 9:2,19 31:4 35:6 42:11 50:2 56:16 73:13 89:22 95:16 110:12 124:20 144:17 148:11 156:12 193:8 199:20 228:3 255:11	individuals 181:14,16	insert 184:2,8	inputting 162:17
impressed 60:1	inconsistent 145:16	inducement 264:16	inserted 220:19	inside 123:4
impressive 130:9	inconvenient 92:14	industries 17:3 18:14	insights 87:4	insignificant 120:18
improve 136:23, 25 149:5	incorporated 216:14 217:1	industry 9:8 11:13 12:19 42:2, 5 46:5 85:16 86:23 87:7,18 89:18 92:9 93:8, 15,19 97:5 101:9 118:14,19 122:18 142:24 143:7,9 155:18,24 162:11 179:3 207:24 212:11 214:25 217:22 219:3,23 221:2 228:24 229:16,18 244:21 245:16 257:4,13 263:7,16,21	insist 100:25	insistence 110:4
improved 119:14	incorrect 248:4	ineffective 119:1	insolvent 160:14	installed 38:20
in-chief 133:23 134:9,13 142:9 165:6 248:3	incorrectly 100:22	inescapable 45:9	instruct 132:23	instructed 247:5
in-person 160:9 167:6	increasingly 125:4	inexplicably 42:20	instruction 205:5,12	instruction 205:5,12
inaccurate 151:10 164:19	incriminating 24:14,19	infer 127:13 129:23	informed 6:10, 12 61:21 70:20 158:9 200:6 227:22 230:11,13 238:23 239:10,15 264:17	instructions 21:2,7 205:3
inactive 203:9 209:23	incumbent 14:21 15:2 88:9 89:23 96:8,12	inference 35:18,21,24 36:4 44:4 55:10,11,12, 14,19,24 56:3 58:17,20,22 61:12 106:9 117:24 235:24	informing 189:5	intact 73:14
inception 135:13 136:13	incumbent's 15:17	inferences 35:15 39:14 40:2 45:5 47:10,18	initial 28:21 77:9 121:21 142:18 182:10 201:16	intangible 207:21
include 65:5,11, 24 95:21 114:25	incumbents 15:20,22 16:4 87:14 88:17 91:7 92:9		initially 6:17 10:2 28:17 143:24,25 162:7	integral 120:7 123:5 150:7 181:16,22 182:3 183:25 184:6,16 198:5
	indefinite 72:24		initiative 22:25	integrate 139:9
	independent 54:5 63:15 73:10 127:2		injunction 6:19 28:17 37:6 53:5 72:16 110:22	intelligent 123:9
				intend 36:13 48:6,14 58:17 61:11 105:24

107:9 117:5 intended 143:18 230:3 intends 61:23 107:8 intense 113:18 intention 58:18 60:22 96:22 112:9 244:15 intentional 32:16 intentionally 32:17 39:3 112:8 118:4 127:10 interact 151:11 189:12 interaction 142:3 146:1 interest 11:22 26:5 34:15 43:1 56:21 57:5 75:10, 12 77:10 78:23 142:2 168:3 179:3,8,19,24 236:17 237:1 254:11 interested 42:25 57:6 141:11,24 187:8 200:21 interestingly 24:5 interests 124:9 198:11 254:7 interfere 117:9 interim 37:9 72:23 96:1 259:20 260:5 interlocutory 37:23 53:1 72:16 internal 20:19, 20,21 23:17,21 27:5 60:13 148:15 200:19 250:12 258:12 internally 17:5 18:11 23:23	156:17 international 136:1,4 219:5 internet 39:4 112:11 116:16,19 129:1,18,24 internet-based 37:16 intersecting 5:7,15 interview 25:14, 22 57:24 58:6,14, 17,20 60:24 61:4, 24 62:3 74:13 109:20,23 125:12 126:2 interviewed 10:22 124:4 interviewing 9:21 26:3 interviews 25:5 58:10 124:8 125:3 intimate 120:8 intimately 121:9 invest 67:24,25 136:19 143:8 147:15 169:2,10 invested 146:21 148:4 182:13 investigate 197:16 investigating 131:3 investing 68:9 138:16 investment 9:2 10:14 12:15 15:13 22:9,12,14,17,21 37:3 45:21 66:9, 13 68:1 89:21 90:21 91:14 102:14,17 107:18 113:6 114:11 115:12 120:11 121:22,24 122:19, 20 134:23,24,25 135:1,10 136:1,4	137:5,7,18,19,23 138:14 140:2,12 141:12,13,18,24 144:19,20,24 145:24 147:7,20 153:11 154:7,10, 11,13 164:22 169:1 182:11 183:18 194:1,11 195:8 197:13 205:6 214:7 217:6 248:21 252:3 253:7 investments 11:2 135:2,3,5 136:7,17 137:2 140:17 142:19 148:6 175:16 252:15 investor 24:25 250:14 investors 7:17 42:24 137:22 138:1 investors' 169:9 invests 136:17 invitation 167:5 invited 25:11 242:11 involve 197:9 involved 25:18, 19 54:1 70:16,18, 23 84:8 96:25 104:17 108:16 113:14,16 117:13 121:5,14 125:9 142:10 144:2,3,4 161:22 162:23 164:2 165:15 179:14 180:2 187:16 214:11 217:21 218:18,22 219:2,8,11,14 221:22 228:18 232:18 237:23 involvement 17:2 18:13 28:19, 23 45:23 73:8 81:20 83:14 107:21 111:6	119:17,23 120:2, 23 121:19 122:6, 11 123:15 137:12 143:7 144:1,9 165:4 184:21 186:4 192:1 193:13 215:9,13 217:11 220:21 221:21 236:11,21 244:20 involves 24:17 91:11 involving 142:10 ipad 21:17 32:3 IPO 154:18 irrelevant 105:5 108:3 ISS 38:25 54:5,8, 9,15 126:16 129:15 130:11 issue 23:2,11 24:1 42:17 45:10 47:1 93:3 110:23 112:21 113:10 119:14 219:16 268:13 issued 116:15 179:7 222:3,10 253:16 issues 40:19 44:23 51:23 56:5 97:8 121:25 122:25 128:6 161:10 218:7,12, 19 issues/ concerns 103:4 items 116:11 <hr/> J <hr/> jail 117:20 James 85:14,15 183:5 January 54:2 77:12 128:2 184:20 186:1	188:5,6 221:21 Jim 46:11 144:2 156:7 job 5:23 10:18 65:21 109:20 115:15 123:24 jobs 56:15 227:10 John 102:20,21 join 57:17 70:3 joined 8:19 42:24 74:17 109:16 136:2,13 139:1,3 142:15 145:13 172:3 228:12,13 joining 57:7 111:22 142:17 joins 70:8 71:2 Jon 102:21,24 186:11 258:3 Jonathan 102:22 Jones 239:5,7 judgment 49:23 114:19 July 37:10,19 38:17 39:8,11 40:8 42:23 72:22 73:6 79:7 85:11 93:1 98:21,22,25 114:17 234:2 jump 92:18 jumped 110:25 June 33:10,21 36:8,19,23 37:7 53:3 61:18,21 68:3 70:14 71:3, 18 72:13,22 78:1 79:6,23 80:14 118:22 125:14 165:7 166:24 167:2 201:9,18,22 208:21 243:20,23 junior 8:5 120:11 jure 76:9
--	---	---	--	--

Justice 37:5,20 38:3,4 111:19 112:1 119:12,15 129:25 133:3 170:5,7 185:12	21,25 247:8 Kris 111:23	lawyers 258:2	lenders 82:24	196:20 199:20 215:4 217:14 258:19
<hr/> K <hr/>	<hr/> L <hr/>	layer 28:10	length 245:20	
Kapoor 72:3 109:12	labelled 207:15	lays 161:13	let alone 51:3 96:15	listed 208:25
keen 184:18	Lacavera 34:13, 14 75:7 78:6 83:1	lead 11:15 13:25 17:2 18:22 45:18 60:12 77:6 97:2 102:17 169:14 220:2,5 262:3	letter 36:8 37:1 70:9 168:7	listen 213:15
Kevin 112:18	lack 131:25	leading 46:4 59:9 100:2 135:9 162:13 226:3	letters 24:25 103:15	listened 214:9
key 12:18 18:9 38:14 43:11 47:1 62:25 89:18 90:22 96:17 120:13 145:18 146:17,22 147:10 152:2 154:12 161:7 212:18 244:23	laid 22:12 220:18	leads 57:8	level 49:14,15 58:2 120:1,15 193:12	lists 261:6
kick 256:20	land 5:23 10:18	learn 168:10	Levin 102:20,21 103:11 186:11 190:18 192:12 214:25 223:7 224:9 225:5 258:3	literally 65:13 83:9,10
kickoff 246:10	landscape 12:2	learned 99:10 125:9 168:1,6 169:18 238:1 239:18,24 242:5	liabilities 157:5, 9 158:25 159:2	litigate 17:8 18:12
kid 59:22	language 161:1 184:11 204:23 217:5	lease 155:17	LG 43:2 99:3	litigation 16:17, 23 17:2,6,17,24 18:5,6 19:3,13,16 31:9 92:4,5,19 112:1,13 114:2,3, 7 116:16 117:5,6, 14 122:8 127:11, 14,23,25 128:15, 23 129:13 174:7 175:4 186:11 222:14 243:25
kind 7:11 11:1 27:9,25 28:8 58:1 139:4 236:20	laps 44:12	leased 155:15	license 15:18 86:7	live 61:11,12 117:18
kinds 35:16 136:16 141:6	large 134:1 142:19	leasing 160:4	licensee 84:10	Lo 112:18,19 130:16 131:6
knew 17:5 18:11 24:7,8 31:8 35:24 36:4 44:6 49:17, 19 60:18 79:1 82:1,5 89:15 105:3 106:4 116:5 156:4 165:13 166:12 237:16,17, 20 238:18,21	largely 26:20 29:14	leave 26:19 72:24 103:2 133:5,12 140:21 161:2 175:10	licenses 12:9,10 14:9 16:20,25 222:3,10	Lo's 131:11
knowing 37:1 165:14	larger 204:9	leaving 124:10 224:13 225:11	lie 77:22	lobbed 168:7,13
knowingly 95:11 255:7	largest 83:2 143:2,16	led 115:16 119:19 128:20 142:15 150:24 151:2 194:18 206:2 216:10 221:4 223:21 248:14	lien 179:7 219:15	local 57:14
knowledge 7:11,13,14 43:17 108:12,19 120:1,8 122:3,11,12 123:4,16,22 141:11 155:19 164:10,16 166:10 212:10,20 236:11,	Lastly 85:18	Lederer 37:5	life 155:11	locate 211:2
	lasts 176:7	left 26:19 40:19 61:2 81:17 136:2, 11 138:25 139:3 145:4 163:18 169:1,4 172:25	light 56:1	Lockie 108:23
	late 26:4 42:23 114:8	leg-up 43:21	limit 86:11 194:15	log 131:9,12
	late-breaking 42:22	legal 52:15 102:13 108:24	limitation 259:13	log-in 202:17
	latest 203:20 236:16	legitimate 25:20	limited 119:25 121:1 122:10,11 138:16	logical 118:9
	Latin 136:12 142:16	Leitner 78:7 108:15	limits 55:20	long 9:22 27:17 53:14 92:14 113:15,17,23 124:25 135:11 189:19 190:4 191:1 199:20
	launch 57:2		lined 92:5	long-standing 179:3
	launched 56:18		lines 61:10 207:23	long-term 113:12
	launching 10:25		link 84:22 89:13	
	law 55:20 128:8 131:24		list 29:9 66:6 107:6 176:20 186:15 193:2,8	
	lawsuit 169:24 222:2,9			
	lawyer 55:3			

longer 159:4 205:15	162:11 163:22 164:22 168:2,10 171:25 172:4,7,22 182:9 197:23 207:24 222:3,10 229:23 238:20,22, 24 239:13,17 245:16 247:3 259:25	246:6,9,14 251:3, 15,19 253:10,17	materials 156:5 175:7,10 176:14	175:8 176:7,24 177:1,8,12,19,23 178:7,20 215:18, 23 221:2 223:18 227:18 246:11
looked 20:10 29:15 77:11 137:21 144:13 149:3 157:25 175:13 199:20 202:19 206:16 215:7,16 217:10 221:20 249:25 250:8 251:6 253:10,11 259:10 262:8 263:4 266:5	magnitude 198:22	manager 43:15	math 9:9	meetings 20:2 30:3,4 57:8 91:20 95:7 124:8 140:1, 10,15,21 150:14 153:14 156:3 166:17 173:6,7,20 174:9 176:10,13, 17,20 178:2,11 224:12 225:10
Lorne 122:22 139:2,3	main 157:18,19, 24 163:13 169:2 200:23 212:18 240:14 260:12	managing 46:2 134:19 180:25	mathematics 59:11 113:3 135:20	meets 20:3 25:5 57:19
lost 54:14 104:14 230:23 242:2	Mail 78:21	March 10:19 11:5,7,13,21 12:18 13:25 20:2, 8,12 22:4,7 24:22 26:22 56:17 57:1, 13 65:17 66:4 67:2 68:6 74:6,13 77:15 89:18 90:1 91:21 95:7 114:17 120:17,19 124:7, 14 138:18 146:11 149:11 150:12,17 155:25 183:24 184:6 188:6 193:22 198:4 199:23 201:5 206:14,17 208:5 211:1 214:3,23 215:6,10 216:25 218:19 221:21 238:5 245:16 246:25 251:4 255:21 260:11	matter 8:6 17:21 56:14 70:6 72:2 115:8 128:5 134:6 148:4 165:10 257:7,8	member 108:10 123:5 140:5 153:8 162:25 181:16 182:15 183:25 184:6,12,16,18 190:24 198:5 219:18 223:3
lot 7:19 13:21 16:13 17:11,23 22:16 34:9 35:8, 11 36:2 48:2 112:22 113:21 185:16	maintained 19:10	marked 18:18 115:3 151:22	matters 9:1 41:25 53:4 64:17 73:5,9 112:20 129:13 133:7 140:13	members 8:16 136:5 137:12,19 138:9 139:18 141:3 144:6,9 145:18 153:16 161:15 162:2 171:9,12 177:25 181:18 189:12 198:10 217:17 220:14
lower 102:1 157:1	maintaining 152:5	market 14:20,21 90:8 91:3,6 142:13,21 143:2, 12 150:22 155:15 185:2,7 186:25 192:18 194:25 197:20 214:16,20	May/june 7:8	memo 24:1 66:18 121:24 231:25 232:17 233:7
luck 170:11	maintains 40:25	marketing 130:9	MBA 135:19	memorandum 121:22 122:19,20, 23
lunch 103:12 104:4 133:14	majority 76:2 83:3 250:5	markets 59:14 113:5 136:7 148:5 160:11 188:11 195:19	meaningless 203:11	memory 183:7
LUNCHEON 133:17	make 30:5 31:18 41:10 50:2 55:17 58:7 69:15 93:21 95:23 102:25 104:12 109:9 111:9,11 112:16 114:13 123:2 130:23 135:2 147:25 227:6,9 232:20 239:6 240:12 250:24,25 261:4	markup 80:16, 19	means 39:18,24 136:20 194:11 201:12 203:10 204:1 232:19 250:16 262:20	memos 22:12, 14,17,21,24 23:12,14,16,19, 22,24 24:22 33:19 37:4 71:7 115:1,5, 13
M	majority 76:2 83:3 250:5	Martineau 259:7	meant 41:14,16 125:20 126:3,5 193:11 250:1	men 218:1,5
macro 140:19	make 30:5 31:18 41:10 50:2 55:17 58:7 69:15 93:21 95:23 102:25 104:12 109:9 111:9,11 112:16 114:13 123:2 130:23 135:2 147:25 227:6,9 232:20 239:6 240:12 250:24,25 261:4	Marty 46:19	measure 53:13	mentioned
made 13:23 21:1 29:17 32:8 34:9 37:20 38:3 39:5 46:15 51:18 52:5, 12 55:8 63:17 68:1 74:16 75:4 78:4,18,19 79:19 91:19,20 93:4 99:8,17 100:1 104:11 105:18 110:23 114:14,15, 19 115:10 126:1 128:10 129:7 132:13 142:19 144:20 145:23 147:7 154:11	makes 11:1,2 23:10 62:14 70:19,21 99:3 192:24	material 117:4 129:20 176:10	media 76:4 155:21	
	making 28:13,14 35:16 68:25 103:9 141:11,24 147:19 158:24 167:19 228:4 239:2 256:10		mediation 160:19,20	
	man 60:3 113:2		mediator 160:24	
	management 34:14 60:14 77:19 114:12 163:16		medical 264:18	
			meet 11:4 25:12 51:17,20 57:13 109:3 140:12	
			meeting 11:10 20:6 30:22,23 31:1,3 57:12 71:8 90:5 124:13 144:18 150:16,20 155:24 156:6,8 160:6,7,9 162:21, 22 167:6 173:12, 16,22 174:1,6	

139:7 140:9 142:14 145:1 148:25 153:13,23 157:12 167:16 183:17 195:17 242:15 mentions 175:4 Mercein 59:19 merchant 136:1,4 mercy 169:4 mere 236:11,21 merged 12:16 merger 14:17 152:24 180:9 189:20 190:5 204:5 205:9,11 merging 153:25 236:18 message 29:16, 23 31:2,3 81:4 92:25 197:23 233:21 messages 116:3 233:17 met 65:19 67:2 69:1 81:11 86:22 106:8 methodologies 36:18 metric 147:10 161:8,9 metrics 146:18, 22 149:21 157:25 161:8 197:16 212:18,19 217:8 250:4 Michaud 20:17 144:2 146:11,16 156:12 162:7 180:18 183:6 185:25 186:9,14, 19 187:12,17 188:1,5,15 189:2, 5 190:19 191:13, 18 192:3,12,24 193:10,24 196:9 197:1,2 199:24	201:5 202:2,4,23 203:18 204:14 205:1 206:2,6,8, 12 207:8 210:6 213:5 214:24 216:5 217:17 219:18 220:11 223:7 224:9 225:4 226:15,21 Michaud's 189:8,15 192:16 204:19,23 205:2 206:16 microphone 134:3 mid-august 52:12 101:23 mid-july 82:18 mid-september 48:25 middle 43:5 62:25 158:2 163:20 190:12 midnight 32:11 military 38:20, 22 39:10 46:22 130:8 million 5:1 26:12 44:2 75:18,20 76:22 78:11,16 80:7 101:11 157:20 179:6 254:1,6,11,12,14 Milne-smith 56:7 67:8,10,14 236:7,8 240:6,9, 17,21,24 241:1,5, 8,11,14,16,18 243:13 247:20,23 248:1,9,12,16 251:13 252:21,22 254:17 256:11,13, 18,22 257:19,20 264:6 265:1,6 266:1,4,9,14,17 267:19,24 268:5, 9,21 mind 41:4,11 93:21 95:22	minimal 79:3 minimize 256:3 minimum 55:22 153:13 Minister 87:17 89:2 Minister's 12:19 87:9 ministers 85:6 minute 125:25 240:19 minutes 48:9 68:18 176:16 202:12,23 203:6, 19 204:11 205:21 Mione 190:19 mischaracteriz e 60:21 misconducted 110:15 mispronounce 57:22 missing 127:9 267:3 misspoke 209:6,11 229:24 mistake 24:9 115:8,10,21 116:9,24 117:10 126:1 mistakes 114:15,16 117:13, 22 misunderstand ing 184:10 misunderstoo d 192:24 misuse 4:24 45:7 misused 4:19 50:14 51:13 misusing 46:16 mitigating 88:19	Mobile 4:22 48:24 49:5,9 54:12,24 55:7 61:13 62:2,9 63:12 67:21 68:16 74:1,22 76:10,18, 25 84:9 91:25 108:14,16 112:5 251:23 253:19 Mobilicity 10:4 11:16,18,23 12:6 14:18 16:1,23 19:5,6,8 22:25 26:24 90:7 91:1, 25 92:1,4,7,16 122:17 143:11,19 145:24 146:19 147:20 152:24 154:1 159:23 160:13,19,22 164:23 165:4,22, 25 166:2,20 167:13 179:7 180:9,12 181:15 182:4,7,11,16 183:2,4,12,20 189:21 190:6 199:25 200:2 201:10 203:16 204:5,8,9,16 205:10,14 206:3, 24 207:12 208:5 209:1,4,7,8,16 210:1 211:17,18 212:3 217:18 219:9,12,16,19 223:8 224:10 236:18 237:5 Mobilicity's 11:15 218:22 237:8 mode 74:22 model 31:24 187:18 188:2,14, 16,21 189:4 modelling 122:16 Mojo 252:15 moment 19:20 24:20 49:7 52:2 58:13 60:20 86:9 90:25 93:4 98:17	154:23 171:25 moments 103:14 Monday 69:8 139:25 140:9 144:17 173:6,11, 16,20,21,22 174:1,6,9 175:7 176:10,24,25 177:7,12,18,23 178:2,6,19 249:3 Mondays 173:19 monetize 137:2 154:14 money 81:3 182:13 194:12 monitor 33:23 92:7 monitor's 202:25 month 44:14 64:7 65:8 72:9 months 6:16 42:12 68:4 123:23 168:11,15 169:19, 20 238:2 244:5,8 Moore 87:18 186:11 192:12 223:8 Morgan 31:25 52:14 102:16 103:18 104:3 249:12 morning 4:4,6 38:24 39:11 68:17 78:13 111:19,22 112:24 121:3 126:8,21 130:7 140:9 162:6 173:6,12 174:1,6, 9 175:7 176:10,24 177:7,12,18,23 178:7,19 202:3 264:11,19 morphed 28:25 47:6 69:24 motion 28:17 37:9,23 38:1,24
---	---	--	--	---

motions/ monitor 202:20 motivation 259:24 move 114:16 124:2,6 141:12 148:10 233:13 236:12,22 moved 113:5 moving 249:18 Moyse 4:13,17 5:19 6:3,10,16 7:2,6,11,18,24 8:4,7,17,18,24 9:7,13,24 10:17, 19,22 11:5,7 13:24 18:21 19:22 20:2,3,9 21:11 22:6,8,14,18 23:11,22 24:2,5, 23 25:1,4,11,15, 19,24 26:3,22 27:1,4,9 28:1,12, 17 29:6 30:3,24 31:5,15,21 32:4, 12,19 33:1,2,5,16 36:5,7,15,20,24 37:2,8,13,21,24 38:5,10,19,23 39:3,6 40:3 44:7, 25 45:10 46:7,14, 16,25 48:22 49:3, 10 50:17,24 51:2, 10 53:2,6 54:11, 19,20,25 55:6 56:6,10,20,23 57:1,9,24 58:6,14, 24 59:7,21 60:23 61:5,25 62:1,11, 15,18 63:14,15 64:3,7 65:14,19, 21,22 66:4,21 68:13,15,25 69:7, 8,11,17 70:3,8,11, 18 71:2,5,9,15,19 72:1 73:3,16,20 74:11,21 77:23,24 78:2 81:7,14,18, 20 82:4,8,14,21 83:9 89:11,14 93:25 98:23 99:1 104:16,21 107:21 109:6,7,8,10,15,	20 110:3,4,14 111:21 112:2,6, 18,23 113:1,12, 13,16 114:14 118:12,16,22 122:4 123:8,21 125:17 126:18 127:2,8 128:25 129:5,10 130:16 131:13,19 132:1, 6,24 135:6,7 138:24 145:6,12 146:10,15 148:21 149:25 150:3,13 151:6 153:2 155:2 156:13 158:4,5 161:4,22 162:6,8, 15 163:7,18 164:11,13 165:13, 18 166:6 167:5,7, 17 170:10,16 182:6,15 183:19, 24 184:6,16,21 185:25 186:3,15, 19,24 187:15,17, 21,25 188:15,19 189:3 190:21,24 191:14,19,21 192:4,13 193:1,4, 23 196:5,8,20,25 197:3,9,11,15,24 198:4,14 199:20, 24 201:4 202:3,12 203:5 204:11,25 205:1,2 206:2,6, 10,13,17,21 207:8,10 208:4,16 210:1,6,19 211:8 213:5 214:2,18,24 215:3,17 216:7,9, 18,25 217:9 218:3,8,14 219:23 220:2,25 221:13 222:20,24 223:3, 9,14,21,25 226:3, 6,12,24 227:1,13 228:2,15 230:19 231:8,20 234:16, 21,25 235:5,12,25 244:8 258:18,23 265:10,18 266:8, 22 267:1,10 Moyse's 5:16 6:8,13 24:13 28:18 36:7,9,21 45:23 47:5 57:15	68:7 73:8,12 110:12,19 122:13, 21 130:24 131:1, 7,12 164:15 185:1,6 192:1,17 194:24 196:12 200:18 204:19 210:23 214:15 215:9,13 217:10 221:21 multiple 72:10 139:24 142:16 149:6 152:22 168:21 172:4 247:2 Musters 46:20 130:15 mutually 114:9 Myers 60:5 <hr/> N <hr/> named 85:14 99:24 101:3 narrative 5:8,15 6:2 8:11 narratives 5:7 narrow 144:23 national 14:19 76:6,8 90:8 91:2,5 93:22 120:25 154:2 natural 142:21 187:20 188:11 nature 55:21 NDA 149:13 nearing 76:22 necessarily 198:7,21 218:16 needed 12:14 17:6 30:16 31:11 97:8 163:14 187:23 257:12 negated 52:6 negative 60:8	negotiate 102:1,2 196:2 negotiated 43:22 94:12 100:25 140:7 178:13 negotiating 9:3 14:5 35:25 40:10, 25 134:25 160:11 161:13 163:9 220:9 negotiation 42:18 43:6 99:15 159:25 213:1,10, 23 negotiations 8:9,16 35:4 69:18 77:7 90:12 97:1,5 98:21 100:2,20 105:13 161:23 194:8 199:3 228:4 237:12 246:20,24 247:6 negotiator 97:3 262:3 net 201:17 network 146:20, 21 147:6 159:22 160:3 201:18 206:25 208:18,25 209:15 210:24 211:24 networks 15:18 neutral 6:21 Newbould 111:20 112:1 133:3 170:6,7 185:12 news 92:21 194:5 195:7 newspaper 186:1,23 187:3,11 217:12 Newton 49:16 144:1 156:6 157:2 158:24 183:5 Nicholson 85:14,15,18 86:23 87:4,16 88:3,13	nix 30:19 NMFG 188:9,10 non-compete 244:1,4 non- competition 8:21 33:6,12 36:21 non-current 208:13,20 non-disclosure 34:18,20,22 35:2 77:13 149:17,23 245:23 250:16 non-existent 104:20 non-hearsay 235:20 non-hierarchal 171:2 non- hierarchical 171:7 227:17 non-integral 181:18 non-public 250:17 non- solicitation 8:21 33:12 non-starter 89:7,8 nonetheless 25:21 246:19 North 56:8 note 17:13 18:16 61:6,15,24 62:7 63:18 69:15 70:15 115:4 127:15 142:14 147:13 175:19 207:21,23 256:10 noted 128:2 160:18 163:11 214:6 242:12
--	---	---	--	--

notes 58:14,21 60:25 61:1,2,4 72:4 89:16 121:6 176:13 177:7 notice 32:12 158:20 164:14 266:8 notification 242:13 notion 93:5 notwithstanding g 31:20 33:15 96:19 249:24 November 8:19 49:7 56:11 75:7, 11,22 77:11 NSI 22:13 66:14 67:24 68:9 number 13:1 14:25 15:24 16:5, 7,12 21:14,20 23:10 27:17,18,21 29:9 34:4 35:5 43:8 44:25 46:12 47:13 58:11 64:1 78:4,6 81:25 85:7 97:15 106:17 114:16 124:4 125:6 126:8 130:20 136:8 143:23 147:11 155:20 179:9 182:24 201:22 204:6,8,18 205:10 208:3 209:17 210:8,10,17 212:14,24 231:14 256:19 260:19 266:19 numbering 253:5 numbers 203:1 204:15 210:21 211:11,15 213:21 numerous 53:17 244:25	<hr/> <p style="text-align: center;">O</p> <hr/> Oak 237:21 oath 267:10 objectionable 53:21 objective 80:6 122:5,10 177:17, 22 178:5,18 obligation 64:21 obligations 8:22 36:25 37:2 54:16 110:5 241:22 obtain 38:19 42:15 76:1 84:10 97:18 98:3 245:6, 11,13 obtained 4:17 77:16 83:22 94:14 97:12,19 98:9,15 114:11 229:22 257:2 264:3 obtaining 41:21 42:9,12 84:14 93:7 94:20 95:14 101:7 255:9 256:2,4 260:21 261:9,15,24 262:12,24 obtains 263:12 obvious 205:9 occasion 197:20 occasions 78:6 143:23 occurred 39:15 166:16 246:10 occurring 12:18 163:1 offer 31:18 32:8 43:5,7,12,21,23 44:1,10 50:2 52:6 62:14,17 64:6,14 74:17 99:4,5,11, 17 100:1 104:13	106:5 139:17 148:11 231:24 232:15,16 233:6 238:2,7,11 offered 105:8 offers 52:1,3 68:25 office 12:19 86:25 87:5,8,9 120:20 164:8 173:15 officer 71:19 108:24 109:12 111:3 offices 226:9 official 86:24 officials 21:1 87:18 offing 46:10 one-page 13:14 176:8 one-pager 176:2 one-third 252:9, 14 ongoing 127:12 Ontario 92:8 onwards 69:16 open 48:6 52:13 86:17 144:22 159:19 161:1 167:9 170:14 opened 172:21 opening 4:9 21:17,19,20 27:14 29:11 34:2 43:9 48:1,15 55:4 63:17,23 75:4 77:5 88:2 111:17 112:24 126:7,22 132:8 openings 48:4 160:25 openly 114:18 opens 39:19	operate 12:11 15:16,25 operated 40:11 operation 86:7 90:9 172:14 operational 135:4 136:10,22 operations 76:15 opinions 157:15 opportunities 8:2 57:4 124:19 134:24,25 136:2, 19,21 137:18 139:11 140:6 145:9 148:6 175:12 opportunity 5:12 10:8 25:18 28:3 124:18 140:18,20 142:12, 25 143:15,19 145:19,21 146:1 195:11 opposed 87:19 105:4 268:17 opposite 60:10 option 14:13 15:24 16:2,9,10, 12,13 29:20,21,22 90:6,24,25 91:8, 13,22,23,24 153:20,21 155:4, 5,7,20 159:25 213:16 221:10,13 options 14:13 29:19 88:1 90:3 92:24 102:10 104:8 150:22 152:3 221:16,23 245:14 oral 74:23 order 4:20 14:23 15:3 16:9 28:7 30:17 37:20,21 38:3,5,16,18,19 39:5,7 47:23 72:23 116:15 118:5 119:13	127:7,14 128:11 129:4 132:10,12, 23 133:1,2 140:4 153:7 158:9 163:14 195:9 227:23 230:13 239:21 242:10 ordered 38:4 114:6 organization 65:4 organizational 7:21,22 original 192:16 196:8,25 258:7 Ottawa 30:3 86:2,22 87:20,24 150:14 160:6 215:20 225:21 226:9 outcome 30:22 127:14 128:15 198:9 outcomes 14:6 outlined 31:10 87:22 141:5 152:2 outlines 14:3 outlining 38:6 output 122:14 outset 100:23 outstanding 59:16 128:6 253:16 overview 48:20 152:13 overwhelm 227:1,20 overwhelming 29:3 owed 76:14,18, 21 234:6 owned 86:6 252:2,8 owner 76:10 83:3
---	---	---	--	--

ownership 138:11 157:15 161:10 owns 253:11,15	144:11 149:2 150:7 152:9 157:1 159:18,25 161:25 162:19,20 165:22 169:23 178:11,12 181:25 182:6,10, 20,21 183:9,11,19 185:18,20 187:23 196:23 223:5 224:5 257:8 263:15 265:13	partnership 172:8 parts 153:8 party 34:21 35:2 75:19 81:9,12 133:1,8,10 146:25 165:17 166:5 195:17 237:22 239:1 passed 68:9 117:24 120:3 122:1 123:21 passing 17:14 18:16 past 103:22 111:15 141:14 144:17 155:10 168:11 172:18 245:2 path 139:19 171:13,16 172:8, 12,19 pause 63:16 65:17 75:21 78:12 84:3 87:12 pausing 127:15 pay 26:11,18 47:4 147:4,17 payment 157:6 254:21 payments 207:24 PDF 207:14 penalty 82:17 pending 37:22 54:3 Pennsylvania 59:10 113:3 people 47:18 50:5 55:1 57:19 58:11 71:8 82:1, 20 85:15 89:5 92:19 100:18 137:13 139:8,14 158:4 173:18 176:12 181:24	people's 166:18 perceived 92:22 perceives 65:16 percent 138:8, 10,12 201:20 213:11,12 252:2 254:15 percentage 207:3 212:4,7 perfectly 56:1 73:25 performance 135:3 136:25 performed 26:22 216:25 222:17 performing 136:8 148:21 period 6:15 40:11,12 42:13 43:6 47:19 51:24 69:16 71:16 74:16 81:13 96:1 100:7 102:9 104:7 105:16,20,21 106:23 110:22 113:15,17 117:17 124:21 138:18,25 158:20 159:4 168:1 239:13 259:20 260:5 periods 113:10, 18 permission 116:10 person 63:10 65:3 107:13 109:18 120:11 151:3 167:24 199:7 221:17 224:2 227:20 personal 26:1 37:15,16,24 73:18 116:3,11,14,20,23 117:2 129:12,17 233:16 personally 129:14,20 145:17	perspective 68:22 124:11,23 136:16 147:24 264:9 persuade 120:6 pertain 56:4 pertained 73:25 Peter 25:8 57:20 phase 68:22 phone 32:10 70:2 179:9 265:16,17 phrase 63:20 203:25 phrased 229:25 picked 123:10 picking 70:2 pictures 116:3 piece 38:14 43:17 54:23 128:13,14,21 130:10 178:17 213:25 262:4 pieces 122:15 220:17 pipeline 140:3 pissed 83:5 pitch 30:5 place 34:19 48:24 57:9 68:3 88:19 109:21 113:22 143:3 146:4 156:6 163:16 164:3 165:7 206:16 213:16 214:5 259:13 places 56:16 124:6 plain 161:12 plaintiff 128:16 plaintiff's 48:5 plan 44:16 68:2,6 128:3 138:4
P	participants 144:5 participate 8:7 81:10 137:24 139:10 164:8,11 participated 27:4 267:10 participation 79:21 138:7 145:7 185:2,6 192:18 194:24 parties 38:18 40:15,16 41:16 72:23 93:11 119:19 132:16 133:4 142:4 147:16 151:4 160:24 168:21 257:2 parties' 130:15 partner 15:19 45:18 46:2 107:13 109:5 111:23 120:15 134:20 171:16 172:15,22 180:24,25 181:5,8 partners 10:21 20:15 22:2 23:25 24:4 25:6 34:12 49:25 57:20,21 63:2 86:21 108:16 112:18 121:7 124:9,14 139:22 170:23,24 171:20 172:1,12 181:3 216:1 221:6 237:21 partners' 138:16			

<p>149:20 231:23 232:15</p> <p>planned 163:23</p> <p>plans 96:5 212:21</p> <p>play 49:18 181:24 229:14</p> <p>played 99:5 161:20</p> <p>player 123:3</p> <p>players 142:23 155:15,18</p> <p>plays 19:23 141:8</p> <p>pleaded 127:1</p> <p>point 7:14 8:23 11:20 14:24 15:7 17:1 18:9 22:19 23:9 32:21 33:16 43:12 54:2,8 58:9, 12,25 70:11 75:22 82:16 93:10 101:1 103:16 126:14 152:14 158:23 169:9 175:22 178:17,24 195:13 197:9 198:2,3 212:16 227:2 229:8,22 230:7 246:1 262:9 264:13 267:3</p> <p>pointed 32:7 64:20</p> <p>pointers 232:22</p> <p>points 47:10 102:25 131:14 152:9 213:22,24</p> <p>policy 87:10,13 92:15,22 154:4 173:17,18,20</p> <p>politely 167:15</p> <p>portion 26:18 80:9</p> <p>posed 218:7,12</p> <p>position 5:23 6:17 9:14 11:15 19:11 28:6,19,21</p>	<p>30:18 31:13 54:7 69:10,23 80:11 83:19,24 87:2,17 98:13 101:22 123:18 134:18 141:20 160:22 161:16 166:1 180:23,24 195:4, 10 208:12 236:23 237:4,8 244:7,10 246:20 249:23,25</p> <p>positioned 28:7 158:17,21 159:8</p> <p>positioning 196:1 205:13</p> <p>positions 7:18 9:3 14:5 69:21,22 134:24 140:2 163:10 220:9</p> <p>positive 160:16</p> <p>possessed 128:21</p> <p>possession 36:15 38:7,11,13 191:21 234:12</p> <p>possibility 19:5,16 20:4</p> <p>possibly 180:5</p> <p>post 66:13 105:13 186:2</p> <p>postdate 105:15</p> <p>postdates 106:11</p> <p>potential 9:21 10:11 11:19 15:19 19:8 33:7 35:1 125:16 141:3,13 142:1,4,10,22 196:2 200:3 204:4 205:8 229:1 239:21 242:10</p> <p>potentially 24:13,19 167:9,13 180:8 194:19 229:15 237:23 255:22,23</p> <p>power 38:7</p>	<p>Powerpoint 11:9 48:14,17 89:16 93:24 94:1 121:2,5,11 122:18 150:13 177:13 214:3 215:11 216:11,14,19 217:1 220:3,6 221:6 223:17,22 224:4,15 225:13, 25 226:4,23</p> <p>PP&E 201:21</p> <p>practice 115:16 177:14</p> <p>practices 59:2</p> <p>precautions 64:1,4 110:2</p> <p>precedent 263:11</p> <p>precise 151:25 197:16</p> <p>precisely 239:16 242:2,21, 25</p> <p>precluded 95:6 96:14</p> <p>predicament 30:13</p> <p>predicated 94:19</p> <p>preference 207:17</p> <p>prepaid 203:11, 15</p> <p>preparation 143:14 150:24 156:4 220:2,6,20 223:22</p> <p>preparations 150:16,18</p> <p>prepare 53:10 154:17 176:12 212:11</p> <p>prepared 10:2 13:24 20:2 22:15 30:14 31:24 52:22 66:16 80:8 88:25 91:18 96:20 97:20</p>	<p>98:17 113:20 147:4,17 150:13 155:1 174:4 176:9 177:10 214:2 221:1</p> <p>preparer 18:22</p> <p>prepares 29:7 173:25 174:8 175:6 176:15,19</p> <p>preparing 10:9 52:24 147:22 220:13</p> <p>presence 71:11 130:17,23</p> <p>present 213:2 223:11 228:7</p> <p>presentation 11:9,10 13:11,12, 20,22,23,24 14:2, 12 20:1,10,21,25 21:3 29:7,13,19 30:3 77:18 87:22 89:16,17,25 93:25 121:2,11 122:18 150:13,25 151:1, 3,9,21 153:4,19 162:10,11,13,16 163:5,8 200:10 215:12 216:11,15, 19 217:1,4 220:3, 6,10 221:1,17,18 223:17,22 224:4, 16 225:14,21,25 226:4,7,11,17,23 227:14 245:16 246:6,10,14 251:4 255:21</p> <p>presentations 31:11 41:24 177:11</p> <p>presents 90:3</p> <p>preservation 38:3,19 39:5 45:13</p> <p>preserve 110:19 129:4</p> <p>preserved 73:21 111:1,2 116:8</p>	<p>preserving 125:19</p> <p>pressure 159:5 226:7 227:2,7,20 221:1</p> <p>pretty 82:20 115:16 224:17</p> <p>prevent 38:21 95:13 118:23 129:16 255:9,22 256:2</p> <p>prevented 34:21 35:2</p> <p>previous 81:25 145:7</p> <p>previously 133:8</p> <p>price 78:15 79:2 117:12 141:22 194:20 253:22,25</p> <p>priced 79:10</p> <p>prides 193:14</p> <p>primarily 46:3, 14 97:3 121:20 124:8</p> <p>primary 18:21 107:14</p> <p>Prime 12:19 87:8</p> <p>principally 122:14</p> <p>principals 9:18</p> <p>principle 127:6</p> <p>print 226:8</p> <p>prior 74:19 115:23 116:13 130:21 155:11 163:12 185:3,7 214:2 219:25</p> <p>priority 142:23</p> <p>private 59:15 114:12 143:17 250:15</p> <p>privy 12:20 18:22,23 27:9 28:12 86:24 87:5, 8</p>
---	---	---	---	--

<p>pro 10:2 122:16 154:24 199:25 200:1,18 206:3 207:2 210:2,11,23 211:13 212:12 214:17 216:13,23 220:19</p> <p>proactive 184:18</p> <p>probabilities 40:6</p> <p>problem 75:24 76:17 83:23 91:9 94:3 101:25 159:11 182:18</p> <p>problems 32:2 141:14</p> <p>proceed 83:21 84:12,14 86:16 88:25 90:16 97:17 262:19,21 264:2</p> <p>proceeded 63:15 98:6,8,14 107:16</p> <p>proceeding 6:19 25:25 46:13 53:23 59:2 75:15 78:24 117:20 127:8 132:11</p> <p>proceedings 47:7 54:14 88:23 207:13 219:9,12</p> <p>proceeds 80:9</p> <p>process 16:4 19:23 40:20 49:1 79:9 92:1 109:7 111:7 118:15 124:24 129:9 139:11 151:12 163:15 169:24 171:25 228:20 232:18,20,21 249:18</p> <p>produce 38:5 105:12 106:7 107:3 195:3,9 247:5</p> <p>produced 48:16 119:6 122:8 127:22 174:7</p>	<p>175:3 185:1 214:1 233:25</p> <p>product 122:7, 16 142:5 178:8 206:14</p> <p>production 54:16 128:6</p> <p>productions 105:14 108:1 127:25 128:5 234:10</p> <p>products 130:21 131:5</p> <p>professional 102:13 135:10 173:11 193:19</p> <p>professionally 158:12</p> <p>professionals 137:8,24 138:15 140:12 144:25 151:13 153:11 173:14 183:18 193:20 205:6</p> <p>profile 60:13 143:1</p> <p>profit 4:25 5:3</p> <p>profits 47:24</p> <p>program 39:19 130:5,25 131:2,8, 9,16</p> <p>programs 130:20</p> <p>progress 8:10</p> <p>progressing 195:13</p> <p>prohibited 6:14 87:13 255:25</p> <p>projects 60:13 120:21</p> <p>prominently 24:15</p> <p>promising 117:15</p> <p>promoted 172:15</p>	<p>promotion 172:1</p> <p>promotions 139:20 171:14 172:4,7</p> <p>proper 49:18 52:24 53:10</p> <p>properly 52:24</p> <p>property 64:25 208:14,21,24</p> <p>proposal 26:7, 8,11 35:6 79:19 103:3 168:7,10 238:20,22,24 239:2,13,16,17,24 259:25</p> <p>proposals 78:4 239:21 242:9,14 247:2</p> <p>propose 163:24</p> <p>proposed 80:4 168:5,13 200:24 258:11 259:7,17</p> <p>proposes 14:6 26:6</p> <p>proposing 14:16 167:23 168:22</p> <p>proposition 86:16 88:15 238:14</p> <p>proprietary 36:17 65:2</p> <p>prosaic 56:6,8 67:13</p> <p>prosecute 112:10</p> <p>prospect 117:19</p> <p>prospective 4:14 9:3 149:5</p> <p>prospects 49:19</p> <p>protect 51:22 64:2 71:1 101:15</p>	<p>protection 11:16</p> <p>protocol 129:16</p> <p>prove 51:7 117:10 118:6</p> <p>proved 81:15</p> <p>provide 6:21 12:11 87:21 112:19 144:10,11 147:19 151:3 190:25 191:3 207:9</p> <p>provided 36:24 64:13 75:12 80:17 222:25 235:1,5, 12,25 257:1 258:8</p> <p>providing 155:9 187:8</p> <p>provision 33:6 96:18 255:17 259:12</p> <p>public 30:21 42:4 66:14,16,19, 23 116:25 122:24 143:11,18 161:1 195:18 198:19 199:1,14 236:17 237:1</p> <p>publicized 78:20</p> <p>publicly 10:24 82:12 115:7 155:21</p> <p>publicly- available 211:16</p> <p>pull 189:23 229:3 247:17</p> <p>pupils 4:4</p> <p>purchase 7:16 10:11 11:20 40:17,23 44:16 78:15 80:17,20,25 88:4 93:13 94:12, 17,22 95:2,5 112:5 143:18 179:18,23 194:19 196:2 246:2 253:1,22,25</p>	<p>263:23</p> <p>purchased 38:23 39:10 97:10,12 130:21</p> <p>purchaser 19:8 30:14 95:10 96:7, 11 255:6 260:16 261:21</p> <p>purchaser's 260:15</p> <p>purchasers 35:1</p> <p>purely 20:20 66:23</p> <p>purpose 7:23 147:22 235:21</p> <p>purposely 137:10,19</p> <p>purposes 23:17 88:24</p> <p>pursuant 112:12 116:15 251:6</p> <p>pursue 10:8 49:4,6 72:15 81:16 105:7 139:19 152:3 159:21 167:3 260:9 262:15</p> <p>pursued 77:23 145:17,25 239:19 242:7</p> <p>pursuing 5:12 11:19 49:9 81:8, 15 87:1 124:16 125:10,14 165:1 167:10,14 168:19 182:12</p> <p>pursuit 5:9 77:23 115:14 154:17</p> <p>put 17:9 27:16 30:18 31:13 63:10 67:6,11 114:14 118:21 125:21 141:20 142:3 147:9 152:10 174:8 203:22 204:14,18,24,25</p>
---	--	---	--	--

205:1,3 211:12 220:1,17 226:20 227:7 259:12 261:12 puts 77:22 putting 122:22 151:7 153:4 162:13 199:5,6 221:18 255:24 puzzle 17:11	<hr/> R <hr/> rails 100:20 raise 144:18 raised 260:10 raises 168:19 raising 115:18 ran 131:2,15 range 132:3 rational 205:12 RBC 9:8 59:12 113:5 re-filed 53:1,12 re-seller 86:8 87:25 reach 63:10 99:6 reached 10:20 51:15 react 49:20 161:15 reaction 167:18 168:12 read 75:14 85:12 111:13 126:16 133:1 153:22 156:22 256:24 260:24 267:15,17 reading 54:18 106:1 187:2 224:25 225:2 256:25 reads 156:25 229:12 261:7 262:1 ready 249:5 real 123:15,16 232:2,7 233:2,11 realized 115:11 reason 11:6 25:2,20 28:13 36:1 42:22,23 55:11 63:14 66:24 67:19 69:15 75:13 163:25 166:7	259:17 reasonable 45:4 47:18 118:8 127:13 reasons 56:12, 13 57:6 62:3,19 89:10 104:22 108:25 rebuffed 36:22 recall 34:12 53:25 134:4 166:24 173:8 182:8 213:9 219:17 223:19 229:2 236:13 238:3,11,21 239:2,15 240:1 243:20 245:15 246:7 258:13,24 261:10,17 receipt 44:7 receive 55:6 171:23 233:16 239:21 242:9 254:21 259:14 received 4:20 52:14 54:20 72:7 81:5 116:7 125:14 131:19 228:24 229:16 234:16 242:14 244:16 246:2,5,13 251:5 253:1 receives 69:2 79:7 receiving 68:13 93:14 94:7 101:5 recent 201:9 202:15 recently 56:18 58:16 RECESS 48:10 68:19 133:17 205:22 recipient 4:19 127:20 recipients 20:15	recital 253:15 reckless 169:9 recognized 195:18 record 28:22 73:15,19 119:15 130:1 178:22 207:13,15 216:20 256:14 266:15 records 131:10 246:8 247:5,13 recovering 38:22 recruiting 118:15 recruitment 114:22 124:6,21, 24 139:14 red 67:5,6,19,23 68:10 redoing 80:20 refer 8:5 174:13 195:6 256:18,20 reference 61:6, 10,12 66:14 146:25 147:3,8,25 148:17 153:19 154:6 225:24 references 59:5,6,15 60:16 62:14,21 referred 58:10 60:20 61:14 72:17 109:18 127:5 130:8 143:22 155:5 173:7 207:8 252:6 referring 85:13 138:13 158:18 160:7 192:7 224:15,18 refers 57:2 153:21 156:21 160:5 174:7 refining 188:12 reflect 210:6	reflecting 216:24 refresh 183:7 refuge 55:14 refusal 106:8,10 109:3 refused 51:17 105:12 106:6 refuses 101:17 regard 40:1 45:22 REGISTRAR 133:2 regularly 8:14 regulated 17:3 18:13 regulator 42:2 regulatory 14:3 27:7 30:5,9,16,20 31:6,11,14 41:1,2, 9,17,18 42:12,15 43:13,20 44:4 46:7,9 49:21 51:23 52:7 79:3, 13 83:22 84:4,5 89:15 90:15,19 93:7,12,14,20,23 94:8,15,18,20 97:7 98:3 101:5,7, 16 108:13,20 118:3 119:24 120:8,24 121:9,25 122:12,25 123:17 151:25 155:9 157:13 163:13 168:18 218:6,12, 19 244:22 245:1, 6,11 250:4 255:20 256:4 260:2,22 261:9,11,15,25 262:12,24 263:1,4 264:3 reintroduced 42:19 relate 170:9 177:8 233:17 related 115:5,6 116:6 145:8 146:18 149:19
--	---	--	---	---

157:17 158:11 197:16 212:14 217:5 227:24 relates 5:16 179:10 relating 23:7 96:5 117:25 234:12 relation 5:19 7:2 23:4 45:12 46:21, 22 53:4 142:4 162:24 200:24 214:2 relations 85:3 215:19 218:7,12 relationship 164:19 166:18 167:17 191:7 213:20 relevant 5:13 53:22 77:8 112:8 117:4,6 119:11 127:9 128:14,18, 22 129:5,12,24 142:25 165:1 187:22 relief 37:9,23 relies 194:23 reluctantly 92:13 rely 51:6 61:23 remain 132:16, 18,22 133:5 145:3 159:3 remained 10:23 114:8,10 remarkable 53:13 63:25 remember 11:14 113:9 150:15 167:12 242:1,21,25 243:5 253:9 263:8 remind 133:25 230:10 remotely 83:11 220:25	remove 129:19 removed 217:13 renegotiating 77:2 renewed 10:23 rent 15:20 155:17 renting 91:6 repeat 18:10 177:20 179:21 184:3 222:5 245:7 repeated 29:15 repeatedly 83:19,25 repercussions 142:1 repetitive 158:7 replaced 145:5 replies 36:8 reply 196:16 197:23 report 39:1 126:16 135:7 202:5 203:8,15 reported 30:24 76:4 197:16 reporting 117:2 reports 38:25 96:5 202:20 210:13 representative 25:9 representative s 11:12 57:10 96:16 152:23 155:24 215:19 represented 18:25 132:19 representing 214:15 represents 66:18 request 54:4 55:13 132:21,24 149:20 167:20	188:9 191:18 192:24 193:17 requested 151:14 193:18,19 requesting 19:12 154:20 193:11 263:17 requests 84:20 require 14:25 91:13 159:21 required 12:7 15:22 91:10 95:15 100:23 101:9 151:14 161:19 164:7 166:1 173:11,15 212:11, 21 255:10 requirement 96:22 requirements 15:10 16:6,7 51:21 250:5 requires 15:7 90:17 137:11 requiring 129:4 257:10 research 33:19 216:18 reseller 90:24 91:8 resented 167:19 reserve 259:19 260:3 resignation 115:22 164:14 resigned 121:18,23 123:13 125:11 126:3 resigning 6:11 32:13 69:7 resolution 41:12 resolve 160:15 resolved 40:20 41:4,6,12 97:9	resort 55:18 Resources 22:13 66:17 68:2 respect 7:6 8:18 12:8 14:4,8 16:18 19:5,11 23:3 38:15 42:11 49:15 50:13 52:19 54:9 63:23 67:22 73:17 77:9,13,18 107:23 112:19 118:1,3,18 138:2 148:4 165:6,14 respected 125:21 149:1 151:14 244:1 respectfully 167:15 respond 75:3 145:11 148:13,20 150:2 151:5 153:1 158:1 161:3 162:14 163:7 202:3 225:17,18 responded 100:12 responding 125:3 204:13 responds 202:13,23 203:5, 18 204:11 response 28:9 36:9,15 68:23 99:23 100:14 126:24 159:1,12, 14,24 184:24 202:8 206:16 214:22 225:16,19 244:16 248:25 249:6 responsibilitie s 134:22 176:21 responsibility 7:25 9:11 107:14 139:13,15 149:4 180:11 189:11 226:22 responsible 67:12 85:16 97:4 183:4 221:17	rest 30:24 restriction 154:7 restrictions 15:13 16:19,25 17:19 89:21 90:21 91:14 154:21 restrictive 6:7 72:17 restricts 71:13 restructure 136:22 restructuring 136:11 142:15 143:3 restructurings 142:16 result 4:23 16:24 18:6 52:10 53:23 114:3,7 144:19 results 205:13 210:14,25 211:7 RESUMING 48:11 68:20 133:18 205:23 retail 14:19,21 15:17 90:8,9 91:6 160:3 retained 85:8 177:7 retains 73:10 retroactive 16:18,24 17:19 222:2,9 return 114:7 returned 115:24 121:18 returning 31:19 116:12 returns 32:19 69:8 reused 73:14 reveal 116:20 revealing 35:3
--	--	---	--	--

review 73:8 110:11 126:18 129:9 140:2,3,18 142:12 143:19 238:9 reviewed 126:16 129:14 175:7 176:10 222:24 reviewing 129:17 135:2 139:11 140:16 reviews 24:3 172:10 revised 69:24 258:8 revisions 266:21,25 Revsbech 149:12 Reznikovich 101:3 103:4 Rich 60:5 rife 53:16 right-hand 17:15 18:17 151:22 252:11 253:5 rights 99:15 Riley 20:16 21:1 30:2 46:11 50:7,8 52:18,21,23 53:8, 18 69:10,11 85:25 86:21 89:17 93:9 132:22 144:2 156:7 172:3 180:16 181:7 183:6 186:10 190:18 192:12 215:18 217:17 219:11 220:10 223:7 224:9 225:5 226:21 rise 44:20 114:2 risk 16:17 17:9 18:4,6 31:9 41:18, 22 43:15,16 52:7 79:4,14 86:15 93:13 101:5,16	107:18 256:3 road 85:21 Rob 111:20 role 9:25 29:3 99:5 119:20 121:12 139:4 141:8 224:3 roles 181:24 roll 75:4 209:7 rollover 79:21 159:4 Rona 22:13 66:15 67:25 68:9 room 77:16 122:24 134:1 202:7,14 211:4 246:17 250:18 root 248:2 roughly 252:9 routinely 28:2 rubber 100:24 rubber-stamp 42:9 rubber- stamping 40:21 rule 106:19 229:6 rules 91:11 101:9 268:24 run 131:8,9 223:4 rundown 45:15 running 49:16 56:20 141:19 Russian 76:6 101:2 Russians 76:5 <hr/> <p style="text-align: center;">S</p> <hr/> saddled 97:20 sale 79:11 88:4 92:1,3 96:6,9 152:24 154:18 245:5,10	sales 79:9 samples 65:23, 25 66:22 67:1,20 68:4 114:24 Saratovsky 99:24 100:2,15 103:1 241:20 satisfy 260:20 scale 154:1 scant 117:23 scenario 11:25 14:16 16:16 30:15 88:20 schedules 25:14,22 School 135:19 science 135:21 scratchings 121:11 screen 97:24 125:15 189:23 230:25 screening 125:15 screwing 81:2 scribe 220:13 scroll 196:11 249:9 scrub 46:22 scrubber 38:20, 23 39:10,17 130:6 scrubbing 39:19 search 10:17 116:19 searching 9:13 secret 78:22 section 95:4,9 229:8 255:6 256:7,15,23 259:18 261:3 sector 120:9 142:17 146:2 192:2 215:10	secure 126:22 130:6,12,17,19,24 131:2,7,9,15 securities 143:18 security 76:7,8 seek 58:20 259:19 260:4 seeking 42:16 50:9 85:19 89:19 95:6,16 101:13 129:8 255:20 sees 23:22 seize 195:4 sell 75:9 79:10 86:11 88:9,16 154:20 159:17 seller 195:18 253:6,15 255:15 261:21 seller's 195:23 selling 79:2 89:22 139:14 180:5,8 send 64:6 66:4 114:23 116:4 117:19 192:5 206:8 217:12 226:2,8,12 230:3 233:16 sending 23:12 24:21 37:3,14 162:9 227:13 233:21 sends 24:2,3,6, 10 43:4,7 57:1 66:5 69:11 70:9 192:3,11 193:23 196:5 201:4 206:6,13 214:24 224:8 senior 60:14 85:15 86:24 220:14 sense 27:8 sensitive 18:20 20:25	sentence 66:8 90:11 95:24 207:24 209:20,21 230:8 255:1 sentences 210:5 232:23 separate 48:18 257:23 263:20 separation 182:19 September 78:9 82:8,9 99:11 105:20 106:22 108:11 112:6 201:16 202:5 210:24 238:19 239:5,11 September/ august 239:23 sequence 38:16 62:10 69:6 174:21 series 24:24 71:1 124:8 servers 69:13 116:8 service 261:11 services 12:12 261:14 sessions 228:19 set 62:3 64:3 132:4 140:18,20 142:12 144:13 145:20 146:1 151:24 189:17 201:24 253:23 255:21 266:21 set-up 213:10 sets 14:4 53:8 65:8 72:11 251:10 setting 128:7 250:25 settled 40:17 settlement 80:3 seventh 14:11
--	---	--	--	--

severely 29:21	showing 10:3	100:23 104:11	75:6,11 83:18	sound 107:17
shape 68:11	shows 38:11	107:17 110:9,13	85:2 89:25 97:23	Sounds 60:8
104:17 110:15	146:13 252:18	115:7,19 132:21	99:24 105:24	83:1
share 40:17,22	shut 103:20	212:3 220:13	106:1 121:5	source 207:7
80:16,20,24	104:6	Singh 64:9,11	152:12 153:18,23	208:15 209:25
94:12,17,22 95:2,	sic 192:21	109:25	154:6,23 220:14	sources 122:24
5 207:3 246:2	side 18:17 45:16	Singh's 64:9	slow 124:24	Southeast
252:25 253:9	61:2,4 70:16 84:5	single 54:18,22	232:21	31:16 62:16 69:9
263:22	92:6,9 99:19	84:19 94:25	slowdown	230:20 231:20
shared 4:13 8:14	109:2 111:25	106:10 111:1	229:1	SPA 230:3 258:9,
138:8 198:9	135:25 252:11	119:3,5 137:22	slowing 229:15	11 267:11
shareholder	sides 257:11	143:16 172:14,22	small 8:3 40:19	space 142:19
76:13 138:11	sign 96:20	174:6 175:3	137:10 139:23	143:10
169:5	100:13	177:16 178:17	140:23 144:4,5	spawned
shareholders	signed 33:5	221:18 234:11,16,	182:18 187:20	187:15
19:6	82:11,12 149:17	21	206:11	special 10:25
shares 253:16	150:5	sinister 56:1	smaller 261:4	specialized
254:21	significant 7:25	sir 165:20 166:7	smart 59:22	11:2
sharing 37:16	9:25 10:6,7 14:2	169:22,25 171:19	smarter 67:15	specific 65:7
118:23	16:17 26:14 27:2	172:19 173:17	smarty-pants	66:25 128:21
Shaw 44:18	31:9 34:11,17	174:5 179:4 181:4	67:18	144:8 198:8
shebang 254:13	42:17 58:8 83:8	184:11 186:22	so-called 54:5	specifically
sheet 22:9 66:6	85:4 102:11	189:1 192:23	75:16 90:24	5:19 7:19 8:18
136:24	114:19 121:15	212:9 213:4 214:9	soft 162:9	66:1 95:5 138:13
shelf 114:8	significantly	229:13 269:3	soften 18:7	142:8 145:2 152:5
117:16	33:20 43:24 48:25	sit 267:9 268:16	19:10	174:16 260:9
shocking	59:13	sitting 70:3	software	specifics 233:9,
167:16 168:17,24	signing 250:16	78:21 213:14	130:10,21 131:4	11
shop 57:14	259:21 260:5	situation 91:8	sold 44:18 76:20	spectrum 10:4
short 42:13	signs 88:4	situations	136:12 237:8	12:8,9 14:9 15:2,
102:22 113:10	206:8,12	10:25 136:9,20	solicitor 54:5	20,22 16:3,19,25
115:16 256:24	similar 29:14	137:14 140:19	solution 102:2	26:23,24 86:4,5
shorthand	72:7,8 132:3	144:16 149:7	154:3 159:10	87:13 89:22 91:7,
192:6	Simon 108:23	size 8:4	solve 101:25	12 146:18,20,24
shortly 40:8	simple 49:13	skill 144:13	sophisticated	147:1,9 148:19
69:3 86:18 130:13	51:18 52:7 78:17	skill-set 151:13	28:1 50:4 250:14	157:14 159:17
show 28:23	89:4 100:21	skilled 55:3	sort 40:21 42:9	161:10 194:21
31:21 39:2 59:16	simplest 56:9	skills 62:20	63:14 73:5 95:21	200:22 206:25
63:18,19 85:3	simplistic	skip 99:21	199:2 213:6	207:11,25 208:5,
99:22 113:13,15	122:16	111:14	sorts 42:18	8,15 210:23
114:21 121:8,17	simply 31:6	skipping 95:23	55:19 73:8	211:22,23 213:12,
123:12 126:10	50:10,23 52:25	sky 194:14	sought 44:21	13,15 222:3,10
141:21 148:3	53:12,20 54:17,21	slide 14:11 15:23	90:23 95:7 98:18	speculate
221:20	62:5,12 69:25	16:11 50:22 56:25	105:3 116:10	128:16 187:6
showed 90:2	70:19 74:9,20	59:8,18 61:3	speculation	17:21 53:16
98:16 147:17	83:13 84:13 91:18	62:23 63:1,12	spend 140:16	185:16
	93:1 94:5,21	67:6 69:6 74:9		

spent 16:13 219:24	starts 22:1 25:15	14:12 15:24 16:12 27:5 81:9 90:3 121:25 152:2 153:19,21 154:17, 19 155:4 162:19 237:22	submissions 34:9 78:13 111:17 148:1 170:14 231:11 248:5,7	18:1 19:14 50:2 142:20 154:19 222:14
spoke 64:15 125:10	state 62:4 221:25 222:8 229:14	stated 89:2 222:16	submit 231:23 232:15 233:6	successfully 168:2
spoliation 24:17 40:5 45:11 110:24,25 112:7, 20 117:11 127:1, 5,7,16 128:7,10, 12 130:5 131:24 132:6	statement 4:9 10:2 19:4 21:17, 19 28:24 34:3 43:9 51:9 132:8 152:19 153:3 157:2	strategies 9:2 88:19 144:12 158:10 166:12 171:6 227:24 230:14	submitted 43:24 239:25	sues 72:14,15
spreadsheet 177:13	statements 163:8,9 207:18 208:12 211:12	strategy 12:4 14:3 15:4 18:3,24 19:21 28:10 36:1 46:7,8 88:11 89:8, 15,20 91:16 96:15,16 108:2, 13,20 118:2 119:24 120:9,24 121:10 137:3 150:8 151:25 152:10 159:22 160:4,17 161:17, 18 162:20 164:24 165:23 175:22 176:4,5 182:1,13 191:15 198:23 200:6 212:21 228:3 229:1	submitting 45:8	suffer 107:4
spring 75:23 76:13,25 161:25	states 8:24 64:24		subs 201:11	suffered 117:17
staff 138:20	status 8:15 153:12 166:11 175:16 228:7		subscriber 15:19 203:1 204:15,18 210:8 212:14	suffice 73:24
stage 39:4 76:22 106:4 123:16 246:21 253:25	staunchly 105:4		subscribers 147:10,12 197:17 201:12 203:9,15, 21 204:6,16 205:10 207:1 209:17,23 210:1, 11,18,25 211:25 212:25	sufficient 128:16 227:10
stages 112:13	stay 71:9		subsection 259:8	suggest 24:10 40:4 62:1 110:14 125:23 128:21 194:24 220:24 222:19 250:13
stake 4:22 180:5, 8	steep 117:12		subsequent 191:5	suggested 121:12 151:8 184:12
stamp 100:24	Stelco 25:16,17, 21		subsequently 13:23 39:1 136:12	suggesting 185:1 192:17 221:19 222:23 234:4
stamps 268:14	step 24:11 40:20 113:8,19	strengthen 158:13,14	substance 50:12 75:1 246:25	suggestion 62:5 77:22 110:23 145:11 148:14,21 150:3 151:6 153:2 161:4 162:15 163:7 164:15
stance 18:8 19:10 41:1	steps 39:25 49:5 71:1 72:15 88:14	strong 9:17 55:22 59:11 60:16 62:19 108:6	substantial 42:14 150:19	suining 19:6 92:20
stand 133:21 188:10	stick 92:23	structure 7:21, 22 136:21 156:20 171:3 251:1,10	substantially 49:8	Suisse 9:8 59:12,19 60:6 113:4
stand-alone 104:24	stop 81:2 133:13 184:1	studies 96:4 135:17,20	substantiate 74:10	summarized 93:24
Stanley 31:25 52:14 102:17 103:18 104:3 249:12	storage 73:19	studying 96:15	substantive 73:3	summarizing 190:9
start 48:5,8 56:5 77:5 157:1 248:6 249:3,19 257:16 264:10,22	Stornoway 114:12	stuff 9:4 59:25	subtraction 148:22	summer 50:1 63:15
started 6:5 9:13 113:4,23 118:22 121:16 135:23 165:21 172:25 228:20 250:9	story 40:7 47:6, 14 68:22 91:17	subject 37:4 41:20 42:18 60:19 72:2 106:19 111:16 165:10 224:10 254:3 255:5 265:16	succeed 93:22 108:6 112:5	Sunday 86:19
starting 53:2 57:3 115:23 241:16 255:2	straight-up 88:15	submission 55:8 63:17 93:4 112:14	succeeded 52:10	support 50:23 54:10 55:13,16,23 68:11,14 76:24 79:16 92:2,16,19 112:15 130:3
	stranded 86:2, 15 169:1		successful 4:21 5:24 17:6	supporting 121:21 179:18,23
	strategic 8:9,15			

Supriya 72:3	159:25 215:6	10,11,13,15,16, 17,20 184:1,7,13, 17,19,22 186:4 187:20 189:12 190:25 198:5,9,16 199:11 217:18 219:19 221:15,16 227:22 230:12 249:4	33:4 36:20 51:6 56:10 77:15 84:23 102:7 103:25 114:9 139:7 163:13 165:25 166:10 168:4,13 169:18,21 238:2, 14 251:24 254:20 258:14	thoughts 8:15
surprising 168:16 169:8	taking 7:6 13:25 28:11 77:1 113:22 124:25 143:3 160:2,3 164:3 185:10 214:4 256:1	teamed 49:25	testified 110:2 133:8,9 163:3 166:23 227:21 228:1	thousands 210:16
surrounded 67:17	talk 30:8 71:20 107:15 108:25 109:8 218:10 228:25 251:22 268:25	teams 158:8	testify 45:20 61:19 71:24 72:4 107:17,24 108:12, 19 109:6,14,19, 23,25 110:8,17 111:4 125:8 133:11,25	threat 91:19,20, 22 92:2,11
surrounding 62:11	talked 45:11 78:13 198:13 223:16 245:19 263:7	tech 111:25	testifying 45:16	threatened 243:25
suspect 205:19 265:12	talking 7:2 35:6 80:16 104:1 156:20 206:1 213:1 251:24 254:16 256:16 263:22 265:15	telecom 70:19, 21,22 78:3 115:6 120:7 142:13,17, 19 143:22,24 145:2,9 155:12 179:3,8 244:21	testimony 130:14	throw 50:20
swear 268:16	talks 157:2	telecommunic ations 5:18 7:12 8:2 10:1 12:1,11 113:14 118:2,14, 19 119:21 120:2, 9,17 143:7,9 183:25 184:7,17, 19,22 186:4 192:2 198:6 212:10 215:10 217:22 218:2,13,18 219:23	text 116:3	thrown 50:21
swearing 134:5	Tannenbaum 50:3 78:7 99:3	telephone 189:19 190:4 268:3	theme 49:12	Thursday 140:1
sworn 28:22 46:12 61:17 93:16 133:22 209:18	task 121:1 140:25 177:3 189:11 198:19 199:5,6	telling 32:17 166:8 204:14 205:1 216:10	theory 19:19	tight 26:17
syndicate 78:8	tasked 11:8	tells 31:16 32:15, 21 69:7,10 71:19	thing 23:15 55:9 97:13,17 115:18 132:9 227:19 263:10	tight-knit 166:11
system 24:25 25:16	tasks 198:8 216:18	Telus 92:1,4 223:9	things 14:25 15:1 27:9 28:6 35:5 41:20 42:7 49:17 84:6 95:21 100:17 114:13 167:11	time 5:20 10:9,12 11:17,18,21 16:14 26:3 32:9,16,17 33:16 34:18 40:11 42:13 43:22 47:10,20 49:10 53:14 54:2,8 55:8 62:16 64:10 69:24 70:11 75:22 76:12 78:2 82:2,15 93:17 100:12 101:1 103:22 108:1 113:10,15, 17 115:2 119:1 120:22 121:23 122:4 123:11,12 124:16 125:4,9 127:11 133:12 138:22,25 140:11 141:22 143:3 149:22 150:23 153:3 159:4 161:22 164:17 166:2 168:7 175:23 176:4 185:9,16 187:17 188:21 189:9 191:17 195:13 198:2,3 213:16, 22,24 217:22 219:24 224:1 227:2,4,10 228:15 229:11,22 230:6 233:15 238:10,24 240:11 243:3 264:8
T	team 5:18 7:13 8:1,17 10:1 21:2 30:25 34:14 45:21 70:12 120:8,12,17 123:3,6 135:1,10 137:5,9,10,12,19 138:9,12 139:5, 12,18,23 140:5,23 141:4 143:22,24, 25 144:4,5,6,8,10, 23 145:2,3,14,18 149:2,25 153:9,17 156:7,10 158:13, 14 161:14 162:2 166:10,11,13 171:6,8,12 178:1 180:11 181:14,16, 19,22 182:3,7,16, 20,21 183:1,2,3,	Tenai 81:12	thinking 150:19 151:12,17 159:2	time-limited 119:22
tab 185:14 186:7 188:4 190:11 191:13,16 192:2, 10,13,16 193:22 196:4,6 199:18 201:4 202:2,12,22 203:5,18 204:10 206:7,10,12,13,21 207:12 208:9 209:17,20 210:12, 13 211:17 215:1, 16 224:6,7 230:17 231:3,11 233:20 240:7,8,9 241:3 247:17 248:14 249:8,9 251:2 252:17 257:15,17 259:3 265:21,22 266:10,13 267:25	table 92:13 99:20 111:23 203:13 207:10 208:4 217:8	Tennenbaum 43:2 108:15,16,19 237:20	thinks 165:12	
tabs 223:4	tactical 99:8	tenure 115:16	Thomas 59:19	
takes 24:10 64:16 72:15 83:19 101:4 111:8		term 101:15,17 104:5,23	Thomson 48:6, 12,13,20 56:7 67:8,10,17 68:21 102:23 106:2,6,16 107:1 111:14 132:12,18 133:15	
		terms 23:6 26:6, 20 28:10 30:8	thought 82:2 116:24 164:25 167:8 218:21	

timeframe 5:13 7:9 28:2 99:20 242:24 247:14 timeframes 113:22 timelines 26:17 timely 111:2 times 130:7 149:6 153:14 158:9 174:19 215:16 227:23 228:8 230:11,13 timing 255:12 268:13 tired 75:25 title 171:23 to-do 176:20 today 8:13 29:1 150:11 172:21 267:9 268:21 today's 176:24 224:12 225:10 told 58:15,19 61:8,9 65:5 66:1 69:18,19 78:2 159:15 163:22 167:21 194:18 218:21 221:11 234:25 235:4,9,12 268:3 Tom 10:20 20:3 Tommy 60:4 tomorrow 8:14 262:17 264:11,19 269:2 Tony 25:7 57:20 75:8 107:12 238:6 tool 37:17 top 22:1 23:15 44:1 82:7 85:23 100:10 142:23 159:13 196:7 207:15 208:10 253:5 256:17,19 Toronto 6:15 114:12 230:19 231:19	tort 45:11 112:7 117:11 131:23 132:6 total 57:8 73:1 107:9 146:21 201:20 204:16 207:1,4 209:16,25 210:10,18 211:20, 23,24 212:3,6 252:9,14 totality 199:10 totalled 207:25 totally 164:18 touch 122:25 224:2 tough 30:8 tracks 24:7,12 40:1 transaction 26:12,17 32:5 41:19 45:19,25 63:13,14 71:11 77:1 81:16,21,22 82:6 83:12,16 84:7,13,18 85:17 86:13 89:7 94:6 95:3,18 102:5,18 107:15 109:2 123:19 125:10,16 142:10 164:21 179:12,15 223:8 251:1 255:16 257:3,12 transactions 80:1 95:19 174:14 200:3 transcribed 89:16 transcribing 121:6 transcript 97:25 99:12 110:10 240:7 241:9,12 transcription 61:3 transcripts 240:15,18,20,22	transfer 15:1,21 23:22 86:3,4 87:13 91:12 96:10 155:14 166:9 transferred 23:8 25:25 50:24 166:13 transition 261:10,13 transmit 44:25 transmitted 33:16 126:18 transparency 145:17 153:9,10 158:15 163:1 171:5 193:13 198:12 transparent 139:24 140:6 144:24 162:25 198:16 268:11 travel 173:15,18, 20 travelling 62:15 Tree 237:21 tremendous 60:15 trial 4:10 5:2 7:20 25:8 28:16 34:10 35:13 39:13 47:22 51:6 52:20,22,25 53:12,19 71:25 72:5 74:4 88:24 105:24 107:5 110:2,7,9,18 111:4,5,10 112:15,21 134:11 168:8 170:14 229:6 231:11 239:25 248:5,7 266:7 trip 163:23,24 164:1 trouble 263:16 troubled 142:22 true 153:3 243:12,14,16,22	Trust 135:25 136:2 truth 63:24 Tuesday 249:11 Turgeon 79:24 80:15 149:13 189:19 190:4 248:19 251:7 Turgeon's 248:25 turn 27:10 33:22 48:17 142:7 146:7 149:9 150:9 151:20 152:12 153:18 156:14 162:3 186:7 188:4 191:13,16 192:9 196:4,6,9 197:1 202:2,12,22 204:10 207:12,14 208:9 209:19 210:12 211:17 223:4,11 224:6 230:17 233:20 252:17 254:24 turn-around 136:19 140:8 turn-arounds 135:4 136:23 turned 37:24 81:19 112:12 121:10 130:13 turning 116:13 130:22 turns 42:21 49:21 50:7 54:13 67:22 72:24 89:9 92:24 101:3 105:9 108:7,8 two-thirds 252:9,13 254:25 typed 61:3 typical 27:3 typified 60:22	U UBS 79:24 80:1, 12,15,17 149:13 189:19 190:5 248:19,21 ultimate 49:13 ultimately 4:21 5:24 10:8 17:25 21:3 23:2,5 26:18 30:10 37:19 40:4 41:19 44:13,18 49:25 57:11 63:15 108:25 114:6 117:20 147:21 163:25 204:21 205:9 Um-hmm 14:14 45:2 175:14,17 248:8 unable 10:17 unaudited 208:11 unaware 145:12 150:3 153:2 unchallenged 128:1 unclear 41:15 uncontradicted 118:11,15 120:4 128:24 uncover 54:9,10 undergrad 135:18 undergraduate 9:9 underlying 56:5 understand 17:20 21:5 41:11 129:15 134:8 141:25 147:16 152:9 160:21 161:4 165:11 170:22 193:20 198:24,25 203:25 209:9 236:10
---	---	--	--	---

249:23 250:15 251:1,5 252:23,25 262:19 263:13,24	university 59:10 113:3 135:18,21,24	123:13 163:18,20 189:6 228:15 230:20 231:21	viewed 200:22	Virginia 111:25
understanding 88:6 119:24 123:17 137:15 258:21	unlike 52:21	valuable 147:2	views 30:23 108:4	virtually 40:17
understands 187:7,9	unraveling 159:10	valuation 146:18,23 148:10, 11 157:12 161:9, 18 162:20 205:7 212:18 213:19 250:4	Vimpelcom 5:10 10:11,12 11:19 26:9,19 30:12 34:19,20, 24,25 40:9,18,21 41:17,22 42:1,8, 10 44:15 51:15, 17,20,22,25 52:2, 7,8 69:19,22 75:9, 25 76:1,5,9,11,12, 24 78:5,18,22 79:1,8,18,25 80:2, 5,8,12 81:5 83:17 90:13 92:12 93:6, 11,18 94:13,18 97:1 98:21 99:6, 14,18 100:3,21, 22,24 101:2,5,15, 21,22 102:10 103:2,5,10 104:6, 8,13 105:14,18,22 106:15,22 109:4 148:2 149:12,18, 19,21,25 152:15, 22 153:12,24 168:5 174:25 180:4 191:2 193:25 194:9 195:7 196:2 200:25 203:20 210:13 217:5,8,11 229:1 230:3 237:12 238:20 239:8,20 241:20 242:8 244:23 245:9,24 246:21 248:22 252:10 253:2 254:7,13,22 255:24 257:1 259:9 262:11 263:23	vision 11:20
understood 18:23 31:4 116:5 129:5 145:23 154:12 163:22 164:22 165:24 166:2,5,8,9 167:12 170:25 255:19	unrealistic 103:7	values 10:3 147:15	Vimpelcom's 4:22 11:22 26:5 42:25 78:10 79:4 102:7 168:3 179:19,23 254:11 256:3 259:13,18	visits 116:21
undertaking 6:8 94:10,11,16 106:17 182:24 184:24 194:8 266:18	unreasonable 101:23 103:6 118:10	variety 42:10 56:16 79:17	violating 229:6	Visual 207:19
undertakings 105:10 240:15 265:23 266:11	unredacted 115:12	vendor 26:14,18 77:3 108:18 157:5 158:19		voice 133:25 155:14
undertook 106:18	unrelated 48:21 77:25	vendors 76:18 159:3,6		voting 252:9,13
underway 250:2	unsolicited 99:4 100:1	venture 56:22		VP 139:20 172:7
Undoubtedly 123:8	unsuccessful 117:21	verbal 62:14 176:12 177:2		<hr/> W <hr/>
unemployed 114:10	unsuccessfull y 119:10	verbally 176:6 198:10		wait 12:23 247:19 256:11
unemployment 117:18	untrammeled 49:15	versa 71:6		waiting 264:18
unenforceable 33:13	untrue 28:24	version 199:19 206:18 258:23		waive 31:7 44:8, 9
unfortunate 47:14	update 162:21	versions 122:18		waived 43:19 168:17
unhappy 56:11 123:24,25 124:1 125:4	updated 164:7 202:21,24 203:13, 14	versus 92:9 213:12,13		walk 102:4
unilateral 16:18,24	updates 153:11, 16	viability 108:4		walked 220:18
unilaterally 169:6	uploaded 202:16	viable 11:25 16:9 29:22 90:14, 19 104:24 108:6		wall 71:5 72:11 74:18 81:23 109:15,17 118:22, 25 125:21,24
universities 59:9	urge 131:22	vice 71:6		wanted 12:13 28:9 67:11 78:19, 22 79:3,13 83:6 93:13 116:2 124:25 136:10 154:4 159:3 213:2 227:1,6,9,12 245:4,9,12 259:19 260:3,9
	urgency 159:9	vice-president 57:23 61:19 171:15 221:7		wanting 104:22
	utilize 212:25	view 30:7 49:16 50:6,7 104:25 108:21 116:25 128:22 181:13 226:5		warning 16:15, 22 33:3 72:7
	utilized 155:13			warnings 72:10
	utilizing 182:10			warrants 83:1
	utter 131:25			ways 117:7 139:25 145:25
	<hr/> V <hr/>			wayside 148:7
	vacation 31:16, 18,22 32:4,12 69:9 121:16,19			website 202:25

websites 116:21 week 5:6 58:16 81:12 86:22 99:25 100:9,15 153:14 160:6 249:20 weekly 153:14 166:17 173:19 178:10 weeks 72:21 73:24 74:19 80:14 81:13 98:1 114:5 weeks' 66:19 weight 131:14 well-known 36:18 west 4:15,19,25 5:3,8,11,23 6:3, 13,16,17 7:15 10:21,22,25 20:3, 4 22:18 23:23 25:5,9,12,18 26:3 31:17 32:22 33:2, 3,8,10,18 34:13 36:20,22 37:8,22 42:24 45:1,7 46:24 47:5 48:22 49:2,4,8,24,25 50:9,13,16,20,25 51:3,12 52:5,6,10, 17 54:6,9,12,15, 19,21,23 55:1,5 56:14,16,17,18, 21,22 57:1,7,10, 17,18,21,23 58:3, 5 59:2,4,20 60:18 61:19,22 62:14 63:3,15,19 64:1,8, 10,13,16,23 65:1, 10,15,21 66:21 67:1,23 68:6,12, 16,22,25 69:10 70:4,8,9,11,16,19, 22 71:2,3,6,13,17, 19,20,21,23 72:9, 12,13,15,18,21,25 73:3,9,10,13,15, 16 74:12,15,17, 20,22,25 75:8,12 77:6,10,13,16,19, 22,23 78:2,3,14, 25 79:5,7,17,19	80:15,18 81:4,8, 14,22 82:5,10,15, 17 83:11 89:6,12, 14 98:25 99:3,17, 19,25 100:3 104:21,25 105:3, 6,8,21 106:4,23 107:7,13,15,23 108:3,5,8,17,18 109:5,9,10,13,16 110:3,11,16,24 112:4 113:25 114:4,9,17,22,23 115:1,11,18,23 117:25 118:12,16, 21,24 119:4,6,9 120:4 122:1 123:22 124:5,6,9, 13,15,20,23 125:2,9,12,13,15, 17,18,20 126:3, 12,20 127:16,19, 20,24 128:4 131:20 132:4,19, 20 145:22 146:1 164:16,20,22,25 165:3,15,16,18,24 168:1,6 234:13, 16,21 235:2,4,6, 13 236:2 237:4,7, 17 238:2,7,19 239:11,12,19 242:7 243:24 248:13 264:24 WFC 33:25 WFC0068142 34:7 WFC0075054 43:8 WFC0075126 21:13,22 WFC0111298 266:15 whatsoever 50:12 51:2 54:17, 22 60:17 61:7 63:14 67:21 71:15 77:24 78:22 81:21 84:21 89:11 96:23 104:16 107:22 111:1 Whereabouts	34:1 wholesale 16:2 29:21 91:2 160:3 wholesaler 16:1 wide 52:13 86:17 widely 146:3 wider 194:15 William 209:18 willingness 152:23 Wind 4:22 5:9,20 7:16 10:3,14 11:22,23 12:5 14:18 16:1,23 19:9 23:7 26:6,13, 24 27:3 28:3,20, 23 31:22 32:5,7,8 34:15 43:1 44:16, 18 45:18 48:24 49:5,9,18,19 50:2, 5,15,25 51:3,11 54:12,23 55:7 58:8 60:18,19,23 61:7,13,14 62:2,9, 21 63:12 65:11 67:21 68:16 70:12,22 71:6,10, 14,16,20,22,23 73:25 74:8,10,12, 15,22 75:7,8,23, 24 76:3,10,15,18, 19,25 77:7,16,19, 23,24 78:5,9,23 79:2 81:8,18 82:5, 11,16 83:21 84:8, 14,19 85:16 86:3, 5 87:20 88:5 89:1, 21,23 90:7 91:1, 25 93:21 97:10, 12,19,21 98:14 99:4 104:19,24 105:1 106:19 107:14,16,23 108:5,11,14,16,21 109:1,22 111:4,6 112:3,5 113:16,24 115:5 117:25 118:13,19 119:4, 8,17 120:18 121:14 122:14,17 123:3,11,15	124:16,20 125:10, 14,16 126:11,19 131:21 142:7,10, 11 143:17,20 145:13 146:19 147:20 148:11,15 152:24 154:1 159:11,21 160:12 162:24 163:2,15, 20 164:17,20 165:4,17,19,23 166:20 167:14 168:3 174:7,16, 19,24 175:4 176:4 177:8,11,19,23,25 178:7,20 179:19, 24 180:6,8 187:8, 12 189:21 190:6 191:15 193:25 194:1,20 195:8,19 197:17 199:25 200:2 203:21 204:5,8 206:3,24 208:8,16 209:4,10 210:11,18,21 211:4,18 212:6 213:2,3,10,14 214:2 224:10 228:11,14 230:21 231:22 234:12,18, 23 235:2,6,13 236:1,18 237:14 245:5,10 246:6 249:4,16 251:3, 20,22,23 253:12, 19 262:13,25 264:4 Wind's 163:16 191:2 200:20,21 210:22,23 Wind/ mobility 12:16 187:18 188:13,16,20 189:4 winning 43:18 wiped 115:25 wireless 12:1,6 13:11 30:15 76:20 89:22 91:12 120:25 142:13,21 143:10,16 146:2 147:11 150:22	179:10,12 185:2,6 186:25 187:4 192:18 194:25 197:20 214:16,20 218:13,18 219:3,5 251:15,19 253:16 wishes 118:10 witnesses 45:15 46:24 47:3 51:7 52:19 105:23 107:7,8 112:17 118:12,16 130:15 132:10,16,18 133:3,11 wondering 226:11,17 word 56:7 67:13 160:18 177:12 184:2,8 268:1 words 15:21 56:8 243:23 work 5:16,19,22 7:1,12 20:4 27:2 31:22 37:22 48:2 56:10 57:16 58:1, 2 59:11 60:2 66:19 80:4 83:4 113:23 114:4 118:23 120:18 121:21,24 122:7, 15,24 123:25 124:1,25 125:16 136:11 137:7,8,11 142:5 143:13 153:15 157:21 164:9 178:8,16 189:3,13 195:3,9, 12 199:24 200:14 202:11 216:24 219:25 231:25 232:17 233:6 244:8 250:3,12,25 worked 9:8 60:17,19 66:7 78:3 85:5 113:6 120:19 123:10,11 129:17 workforce 117:17 working 6:14 8:2 9:15 32:5
---	---	--	---	---

41:20 56:11,21 59:23 72:13 120:21 124:19 136:7 187:17 188:1,8,16,20 189:6,9 221:7 228:14 230:19 231:19 254:3 258:2 world 49:17 235:11 worry 86:1 worth 107:18 127:15 195:20,24 213:16 write 65:24 230:2 write-off 214:7 write-up 66:13, 15 write-ups 22:9 66:10 writes 33:2,10 36:19,23 63:9 70:15 86:19 100:3,10 102:19 103:11,14 194:11 201:6 206:21 230:21 writing 65:23,25 66:3,22 67:1,20 68:4 114:23 138:15 159:16,18 177:4,19 193:25 223:1 232:9 249:11 written 10:13 62:17 64:6,14 74:23 174:1,9 175:10 176:9 177:22 178:5,18 195:8 208:10 217:6 243:24 255:14 256:1 wrong 24:8 49:22 50:8 83:9, 10,13 94:5 108:9 116:25 wrote 197:12 249:21	<hr/> Y <hr/> Y-e-h 139:1 year 44:17 54:2 74:7 98:1 113:7 117:18 172:9 210:14 218:20 243:3 years 12:16 15:2,14,15 28:25 68:5 85:7 88:10, 17 89:22 90:22 91:15 154:7,10,21 159:17 171:19 172:13 173:1 217:24 218:17,20, 25 Yeh 138:25 139:1,3 144:3 145:1 146:11,16 180:20 181:21 182:3 183:6 185:25 186:12 190:18 192:4,10, 25 193:7,24 196:9,13,17,19 197:1,2 198:14 199:19 214:23 York 9:9 59:13 135:18,24 young 117:15 younger 139:18 171:12 Yu-jai 25:10 57:22 <hr/> Z <hr/> Zach 20:17 144:2 146:16 156:12 162:7 183:6 185:25 188:5 191:18 206:23 231:22,25 Zhu 25:10 57:22 58:18 60:24 61:14,16 109:18 Zhu's 58:14 61:1	
--	---	--