

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE MR. )  
JUSTICE HAWKEY )

FRIDAY, THE 15<sup>th</sup> )  
DAY OF MARCH, 2019 )

THE CATALYST CAPITAL GROUP INC. and CALLIDUS CAPITAL  
CORPORATION

Plaintiffs

- and -

WEST FACE CAPITAL INC., GREGORY BOLAND, M5V ADVISORS INC.  
C.O.B. ANSON GROUP CANADA, ADMIRALTY ADVISORS LLC,  
FRIGATE VENTURES LP, ANSON INVESTMENTS LP, ANSON CAPITAL  
LP, ANSON INVESTMENTS MASTER FUND LP, AIMF GP, ANSON  
CATALYST MASTER FUND LP, ACF GP, MOEZ KASSAM, ADAM  
SPEARS, SUNNY PURI, CLARITYSPRING INC., NATHAN ANDERSON,  
BRUCE LANGSTAFF, ROB COPELAND, KEVIN BAUMANN, JEFFREY  
MCFARLANE, DARRYL LEVITT, RICHARD MOLYNEUX AND JOHN

DOES #1-10

Defendants

- and -

CANACCORD GENUITY CORP.

Third Party

AND BETWEEN

WEST FACE CAPITAL INC. and GREGORY BOLAND

Plaintiffs by Counterclaim

- and -



THE CATALYST CAPITAL GROUP INC., CALLIDUS CAPITAL CORPORATION,  
NEWTON GLASSMAN, GABRIEL DE ALBA, JAMES RILEY, VIRGINIA JAMIESON,  
EMMANUEL ROSEN, B.C. STRATEGY LTD. D/B/A BLACK CUBE, B.C. STRATEGY UK  
LTD. D/B/A BLACK CUBE and INVOP LTD. D/B/A PSY GROUP

Defendants to the Counterclaim

**ORDER**

THIS MOTION made by the defendant Darryl Levitt, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record and the Affidavit of Darryl Levitt sworn February 20, 2019 and on hearing submissions from the moving party, the third-party respondents having been duly served with the Motion Record ~~but not appearing~~ at the hearing of the motion,



1. THIS COURT ORDERS that a copy of the video recording (the "One Recording") of the dining room, taken on October 11, 2017 at the premises of One Restaurant, 116 Yorkville Avenue, Toronto, Ontario, between the hours of 9:00 am to 11:30 am, which One Recording is in the possession and control of McEwan Enterprises Inc. shall be provided by McEwan Enterprises Inc. to the Moving Defendant, at the Moving Defendant's expense in native format preserving all metadata;
2. THIS COURT ORDERS that a copy of any records of meal payment receipts generated by McEwan Enterprises Inc. and/or its employees for One Restaurant between the times of 9:00 a.m. and 11:30 a.m. on October 11, 2017 shall be provided, using commercially reasonable efforts, by McEwan Enterprises Inc. to the Moving Defendant, at the Moving Defendant's expense;
3. THIS COURT ORDERS that a copy of any reports and/or notes, generated by McEwan Enterprises Inc. and/or its employees in connection with its meetings and consultations with the Moving Defendant shall be provided by McEwan Enterprises Inc. to the Moving Defendant, at the Moving Defendant's expense;
4. THIS COURT ORDERS that a copy of any notes and correspondence between hotel security and restaurant management in relation to the identification and preservation of the One

Recording and related material, shall be provided by McEwan Enterprises Inc. to the Moving Defendant, at the Moving Defendant's expense;

5. THIS COURT ORDERS that all disclosure and production pursuant to this Order be made by McEwan Enterprises Inc. to the Moving Defendant within twenty (20) days of this Order;

6. THIS COURT ORDERS that no party to this action may make physical or digital copies of the One Recording, except for backup and file storage purposes or make the One Recording available or accessible to the general public, except as required pursuant to the *Rules of Civil Procedure*;

7. THIS COURT ORDERS that all disclosure and production made pursuant to this Order shall be held in strict confidence by the Moving Defendant and each of the other parties to this action and shall only be used by such parties for the purposes of this action;

8. THIS COURT ORDERS that upon final resolution of the within action, whether by way of settlement or judgment, that all physical and/or digital copies of the One Recording and all other production by McEwan Enterprises Inc. pursuant to this Order shall be destroyed at each parties' expense, and such destruction will be confirmed in writing to McEwan Enterprises Inc. by the Moving Defendant.



ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

MAR 15 2019

PER / PAR: *RW*

THE CATALYST CAPITAL GROUP v. WEST FACE CAPITAL INC. et al.  
INC. et al.  
Plaintiffs Defendants

Court File No. CV-17-587463-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

Proceeding commenced at TORONTO

**ORDER**

**DARRYL LEVITT**  
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Self-Represented