

AMENDED THIS July 19/19 PURSUANT TO  
MODIFIÉ CE CONFORMÉMENT À

RULE/LA RÈGLE 26.02 (\_\_\_\_\_)  
 THE ORDER OF Justice Hainey  
L'ORDONNANCE DU  
DATED / FAIT LE July 18, 2019

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

C. Irwin  
REGISTRAR / GREFFIER  
SUPERIOR COURT OF JUSTICE / COUR SUPÉRIEURE DE JUSTICE

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

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, GERALD DUHAMEL,  
GEORGE WESLEY VOORHEIS, BRUCE LIVESEY AND JOHN DOES #4-10

Defendants

**FRESH AS AMENDED STATEMENT OF CLAIM**

TO THE DEFENDANT(S):

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

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

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

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

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

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$1,000.00 for costs, within the time for serving and filing your Statement of Defence, you may move to have this proceeding dismissed by the Court. If you believe the amount claimed for costs is excessive, you may pay the Plaintiff's Claim and \$400.00 for costs and have the costs assessed by the Court.

Date November 7, 2017 Issued by "S. Slaunwhite"  
Local Registrar

Address of Court office:  
330 UNIVERSITY AVE. 330 AVE. UNIVERSITY  
9TH FLOOR 9E ÉTAGE  
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TO: WEST FACE CAPITAL INC.  
2 Bloor Street E.  
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Toronto, Ontario  
M4W 1A8

AND TO: GREGORY BOLAND  
c/o West Face Capital Inc.  
2 Bloor Street E.  
Suite 3000  
Toronto, Ontario  
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AND TO: M5V ADVISORS INC. c.o.b. ANSON GROUP CANADA  
111 Peter Street  
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Toronto, Ontario  
M5V 2H1

AND TO: ADMIRALTY ADVISORS LLC  
5950 Berkshire Lane  
Suite 210  
Dallas, Texas, U.S.  
75225

AND TO: FRIGATE VENTURES LP  
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AND TO: ANSON INVESTMENTS LP  
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AND TO: ANSON CAPITAL LP  
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75240

AND TO: ANSON INVESTMENTS MASTER FUND LP  
5950 Berkshire Lane  
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AND TO: AIMF GP,  
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AND TO: ANSON CATALYST MASTER FUND LP  
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AND TO: ADAM SPEARS  
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AND TO: SUNNY PURI  
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AND TO: BRUCE LANGSTAFF  
158 St. Leonard's Ave  
North York, Ontario  
M4N 1K7

AND TO: ROB COPELAND  
63 N. 3<sup>rd</sup> St.  
Apt. 207  
Brooklyn, New York  
11249

AND TO: CLARITYSPRING INC.  
545 5th Avenue  
8th Floor  
New York, New York, U.S.  
10017

AND TO: NATHAN ANDERSON  
c/o ClaritySpring Inc.  
545 5th Avenue  
8th Floor  
New York, New York, U.S.  
10017

AND TO: KEVIN BAUMANN

AND TO: JEFFREY MCFARLANE

AND TO: DARRYL LEVITT

AND TO: RICHARD MOLYNEUX

AND TO: GERALD DUHAMEL

AND TO: GEORGE WESLEY VOORHEIS

AND TO: BRUCE LIVESEY

AND TO: AND JOHN DOES #4-10

CLAIM

1. The Plaintiffs claim against the Defendants, on a joint and several basis, for the following:
  - (a) General and aggravated damages in the amount of \$450,000,000 for defamation, injurious falsehood, the tort of causing loss by unlawful means (intentional interference with economic relations), and civil conspiracy; and, in addition, for breach of the duty of loyalty, duty of honesty and fair dealing, and fiduciary duty as against the defendant, Bruce Langstaff;
  - (b) In the alternative, an accounting of any and all gains from transactions in Callidus Shares (defined *infra*) and the derivative securities thereof on or after August 9, 2017, including without limitation gains from short positions covered on or after that date; and, to the extent that such amounts are greater than any amount of general damages awarded, disgorgement or such other equitable remedy in relation to such gains;
  - (c) A Declaration that the Defendants defamed the Plaintiffs;
  - (d) An order requiring the Defendants to:
    - (i) disclose in writing the means by which they obtained and/or the persons who provided them with any confidential documents of the Plaintiffs, including the documents referred to in paragraph 84 herein;

- (ii) deliver to counsel for the Plaintiffs any and all such confidential documents, and any and all copies thereof, in their possession, power or control and to permanently destroy any electronic copies thereof; and
- (iii) deliver a written declaration setting out the details of any and all circulation by them to any third parties of any of the confidential documents of the Plaintiffs, including any information derived therefrom, and warranting that they have delivered up any and all such confidential documents, in accordance with sub-paragraph 1(d)(ii) above;
- (e) A Declaration that the Defendants breached s. 126.1 and s. 126.2 of the *Securities Act* (Ontario), RSO 1990, c. S.5 (the "*Securities Act*");
- (f) A Declaration that the Individuals Defendants (defined *infra*) are personally liable for the unlawful actions carried out by or through the corporations and/or other entities that are named as Defendants;
- (g) Special damages for costs associated with the "investigation" of the willful misconduct of the Defendants, or some of them;
- (h) Punitive and/or aggravated damages as against all of the Defendants in the amount of \$5,000,000.00;
- (i) Prejudgment and postjudgment interest in accordance with sections 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (j) The costs of this action, plus the applicable taxes; and

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

**(A) THE PLAINTIFFS**

2. The Plaintiff, The Catalyst Capital Group Inc. (“Catalyst”), is a corporation with its head office located in Toronto, Ontario. Catalyst is widely recognized as the leading firm in the field of investments in distressed and undervalued Canadian situations for control or influence, known as “special situations investments for control”.
3. The Plaintiff, Callidus Capital Corporation (“Callidus”), is a corporation with its head office located in Toronto, Ontario. Callidus is a publicly traded asset-based lender that provides capital on a bridge basis to meet the financing requirements of companies that cannot access traditional lending sources.
4. Callidus engages in asset-based lending by lending to corporate businesses and taking security against the assessed or appraised value of working capital and an identifiable portfolio of assets, which may include accounts receivable, inventory, equipment, real estate, and other assets.
5. In April 2014, Callidus made an initial public offering (“IPO”) of approximately forty per cent of its issued and outstanding shares. Prior to the IPO, Callidus was wholly owned by Catalyst. Investment funds managed by Catalyst continue to own or control approximately 2/3rds of the issued and outstanding shares of Callidus.
6. The shares of Callidus trade on the Toronto Stock Exchange under trade symbol CBL.TO (the “Callidus Shares”).



**(B) THE DEFENDANTS**

7. The Defendant West Face Capital Inc. (“West Face”) is a Toronto-based private equity corporation with assets under management of approximately \$2.5 billion. West Face competes with Catalyst in the special situations for control investment industry. One of the principals of West Face is the Defendant Gregory Boland (“Boland”).
8. West Face and Boland are vicariously liable for the acts or omissions of one another. In the alternative, West Face and Boland acted as agent for each other.
9. The Defendant M5V Advisors Inc. carrying on business as Anson Group Canada (“Anson Canada”), is a hedge fund incorporated in Ontario. At all relevant times, Anson Canada has entered into securities transactions on public markets, including short sales. Anson Canada is vicariously liable for the acts and omissions of its employees.
10. The Defendant Admiralty Advisors LLC (“Admiralty”) is a limited liability company organized pursuant to the laws of Texas. At all relevant times, Admiralty has engaged in securities transactions, including short sales.
11. The Defendant Frigate Ventures LP (“Frigate”) is a limited partnership organized pursuant to the laws of Texas. At all relevant time, Frigate was a registered investment fund manager with the Ontario Securities Commission that engaged in securities transactions, including short sales. Admiralty is the general partner of Frigate.
12. The Defendant Anson Investments LP is a limited partnership organized under the laws of Texas. At all relevant times, it has engaged in securities transactions, including short sales.

13. The Defendant Anson Capital LP is a limited partnership organized under the laws of Texas. At all relevant times, it has engaged in securities transactions, including short sales.
14. The Defendant Anson Investment Master Fund LP is a limited partnership organized under the laws of Texas. At all relevant times, it has engaged in securities transactions, including short sales.
15. The Defendant AIMF GP is the general partner to Anson Investment Master Fund LP. At all relevant times, AIMF GP has engaged in securities transactions, including short sales.
16. The Defendant Anson Catalyst Master Fund LP is a limited partnership organized under the laws of Texas. At all relevant times, it has engaged in securities transactions, including short sales.
17. The Defendant ACF GP is the general partner to Anson Catalyst Master Fund LP. At all relevant times, it has engaged in securities transactions, including short shares.
18. The parties described in paragraphs 9-17 above are a family of hedge funds that carry on business as the Anson Group (“the “Corporate Anson Defendants”). Those funds claim to be focussed on long-short, market-neutral and opportunistic investment strategies.
19. The Defendants Moez Kassam (“Kassam”) and Adam Spears (“Spears”) are principals of the Corporate Anson Defendants. The Defendant Sunny Puri (“Puri”) is an analyst at Anson (Kassam, Spears and Puri are together, the “Individual Anson Defendants”). At all material times, under Kassam’s active direction and control, the Corporate Anson Defendants’ principal investment strategy has been to engage in short selling activities of

publicly listed stocks. The resulting trading activity includes the illicit short selling of the publicly traded stock of Callidus pleaded in this Action.

20. The Individual Anson Defendants and the entities that comprise the Corporate Anson Defendants (collectively, the “Anson Defendants”) at all material times operated, acted and marketed themselves as a single entity. The Individual Anson Defendants and the Corporate Anson Defendants are vicariously liable for the acts or omissions of one another. In the alternative, each of the Individual Anson Defendants and the Corporate Anson Defendants acted as agent for the others.
21. The Defendant ClaritySpring Inc. (“Clarity”) is a Delaware incorporated company that is based in New York. Clarity's principal is the Defendant Nathan Anderson (“Anderson”).
22. Clarity and Anderson are vicariously liable for the acts or omissions of one another. In the alternative, Clarity and Anderson acted as agent for each other.
23. The Defendant George Wesley Voorheis (“Voorheis”) is an individual residing in Toronto, Ontario. He is a lawyer and activist investor, and was the person named as John Doe #1.
24. The Defendant Bruce Livesey (“Livesey”) is an individual residing in Toronto, Ontario. He is a freelance journalist and was the person named as John Doe #2.
25. West Face, Boland, Voorheis, Livesey, the Anson Defendants, Clarity and Anderson are hereinafter referred to collectively as the “Wolfpack Conspirators”.
26. The Defendant Bruce Langstaff (“Langstaff”) is a former employee of Canaccord Genuity Corp. (“Canaccord Genuity”). Langstaff was a Managing Director, Canadian Equity Sales,

from November 18, 2013 until he was terminated by Canaccord Genuity effective September 26, 2017. While employed Canaccord Genuity, the Plaintiffs were clients of Langstaff. Canaccord Genuity owed ongoing fiduciary, statutory and contractual duties to act honestly, in good faith and in the best interests of the Plaintiffs and not to engage in any activity harmful to the Plaintiffs. While employed by Canaccord Genuity, Langstaff owed the same duties to the Plaintiffs.

27. The Defendant Rob Copeland (“Copeland”) is a reporter with the Wall Street Journal (the “WSJ”) and resides in New York, New York. Copeland is a Defendant to a separate proceeding, *The Catalyst Capital Group Inc. v. Dow Jones and Co. et. al.* Court File No. CV-17-586094 (the “Dow Jones Action”) in which damages for defamation are claimed in relation to, among other things, the publication of the Article (defined *infra*).
28. The Defendants Boland, Kassam, Spears, Puri, and Anderson, are hereinafter referred to collectively as the “Individual Defendants”.
29. The Defendant Kevin Baumann (“Baumann”) is an individual residing in Red Deer, Alberta. Baumann was the President of Alken Basin Drilling Ltd. (“Alken Basin”), a borrower of Callidus.
30. The Defendant Jeffrey McFarlane (“McFarlane”) is an individual residing in North Carolina, in the United States of America. McFarlane was the CEO of Exchange Technology Group LLC (“XTG”), a borrower of Callidus.
31. The Defendant Darryl Levitt (“Levitt”) is an individual residing in Toronto, Ontario. Levitt was an officer of Fortress Resources LLC (“Fortress”), a borrower of Callidus.

32. The Defendant Richard Molyneux (“Molyneux”) is an individual residing in Toronto, Ontario. Molyneux held an indirect interest in Fortress.
33. Defendant Gerald Duhamel (“Duhamel”) is an individual residing in Drummondville, Quebec. Duhamel was the President of Bluberi Gaming Technologies Inc. (“Bluberi”), a borrower of Callidus, and was the person named as John Doe #3.
34. Baumann, McFarlane, Levitt, Duhamel and Molyneux are hereinafter referred to collectively as the “Guarantor Conspirators”.
35. John Doe 4-10 are parties that participated in the Conspiracy (defined *infra*) and whose identities are presently unknown to the Plaintiffs. The Plaintiffs will substitute the actual names of these parties after they are discovered.

**(C) WOLFPACK CONSPIRATORS TARGET CALLIDUS FOR A SHORT-SELLING STRATEGY**

36. Short-selling is an investment strategy whereby an investor borrows shares in a publicly traded corporation and then sells the borrowed shares to third parties. A short sale strategy anticipates that the shares will decline in value, at which point the investor will buy back shares at the lower price and return them to the party from which it originally borrowed shares. Selling borrowed shares in this fashion is known as “selling short”. This activity may also be undertaken on what is known as a “naked short” basis, in which a party bets that the stock will go down in price without actually borrowing the stock or finding out if there is available stock to borrow in order to short it. Without an inventory of stocks to borrow, naked shorting can leave a stock open to market manipulation.

37. If the shares ultimately decline in value as anticipated, the difference between the higher price at which the investor sold the shares and the lower price at which the investor bought them back represents a profit to the short-selling investor.
38. If, instead of declining in value as anticipated by the investor, the shares appreciate in value, then the short-selling investor loses money on the investment. At some point, in order to cap its losses, the investor will buy back the shares at a higher price and return them to the lender. Because, in theory, the potential price of any stock is unlimited, the potential loss on a short-selling strategy is infinite.
39. The acts of the Defendants described herein amount to an unlawful conspiracy in that, at some point prior to the publication of the Article (defined *infra*) on August 9, 2017, the Defendants, with or without the John Doe Defendants: i) maliciously and intentionally or otherwise, entered into an agreement to injure the Plaintiffs or, alternatively, the predominant purpose of their acts as a whole was to cause injury to the Plaintiffs; ii) the Defendants used unlawful means — specifically, acts or a combination of acts that amount in law to actionable defamation, injurious falsehood, breaches of subsections 126.1 and 126.2 of the *Securities Act* and related regulations, including, but not limited to National Instrument 81-102 and unjust enrichment (each set out more specifically below) — with the knowledge that their actions were directly aimed at the Plaintiffs for the purpose of causing injury to the Plaintiffs and destroying their business; iii) caused the stock price of Callidus to drop; and (iv) in fact has caused significant damages to the Plaintiffs' business and caused the Plaintiffs to suffer damages as a result of their conduct.

40. The amendments now being made to the Plaintiffs' claim herein set out the additional material facts regarding the Conspiracy that the Plaintiffs have become aware of as of the date of the amendments. The Plaintiffs expressly reserve their right to make or seek to make additional amendments with respect to other material facts and information ascertained by them, when appropriate to do so. These amendments respond to the decision of the Honourable Justice Wilton-Siegel dated January 9, 2019, with respect to certain motions brought by some of the Defendants, as the scope of such amendments remains in dispute between the Plaintiffs and the Moving Parties on those motions.

**(D) GUARANTORS COORDINATE EFFORTS TO HARM CALLIDUS AND CATALYST**

41. Several of the parties that received loans from Callidus were required to have their principals execute personal guarantees as a term and condition of the loan. When several of the borrowers subsequently defaulted on their loans, Callidus took steps to enforce the personal guarantees.

42. In particular, Callidus commenced actions to enforce personal guarantees against the following persons (together, the "Guarantors"):

- (a) Baumann in respect of a loan to Alken Basin;
- (b) Andrew Levy ("Levy") and Richard Jaross ("Jaross") in respect of a loan to Esco Marine;
- (c) Levitt in respect of a loan to Fortress;

- (d) Gary Smith (“Smith”) in respect of a loan to Fortress;
- (e) Molyneux in respect of a loan to Fortress; and
- (f) McFarlane in respect of a loan to XTG.

(the “Guarantee Actions”)

- 43. In or around mid-2015, the Guarantors, and especially Baumann and Levy, started contacting each other to discuss and coordinate their responses to the Guarantee Actions.
- 44. Baumann also offered some of the Guarantors, including Levy and Jaross, substantial funding to fight the Guarantee Actions. The funding offered by Baumann was not, in fact, coming from Baumann himself, but from the Wolfpack Conspirators.
- 45. In addition, in or about November 2015, another borrower of Callidus, Bluberi Gaming Technologies Inc. (“Bluberi”) filed for protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985 c. C-36 (the “CCAA Proceeding”). At or around this time, Bluberi’s President, Gerald Duhamel, became connected with the other Guarantors and agreed to join the Conspiracy and otherwise provide his support, information, and advice to them in their concerted action against the Plaintiffs.
- 46. The Guarantors started to collectively discuss coordinating their defences to the Guarantee Actions and the CCAA Proceeding and to do so in substantially the same fashion and/or with defences worded in substantially the same way.
- 47. In 2016, the Guarantors, except for Baumann, met in Albany, New York. During this meeting, the Guarantors discussed commencing a “RICO” action against Callidus.



48. The Guarantors had difficulty retaining counsel to represent them in a RICO action against Callidus. Boland and West Face, through their external legal counsel, attempted to assist the Guarantor Conspirators by referring them to legal counsel in the United States to enable them to commence a RICO action against Callidus which would attract significant adverse publicity.
49. Due to difficulties they faced retaining counsel to commence a RICO action, the Guarantors decided instead to defend the Guarantee Actions on the spurious basis of “fraudulent inducement” (or its equivalent) and to file specious counterclaims against Callidus.
50. The Guarantors thought that by defending each of the Guarantee Actions in a coordinated manner, they would have an opportunity to make it difficult for Callidus and Catalyst to succeed or embarrass Callidus and Catalyst with allegations of “fraudulent inducement” or its equivalent. The Guarantors also believed their coordinated attacks would force Callidus and Catalyst into discussing some alternative resolution.
51. The plea of fraudulent inducement is a defence typically seen in the United States pursuant to which a borrower will claim that it was induced to change its economic position in return for a promise by the lender that it will do something that the lender has no actual intention to do.
52. Such a plea was made by Smith, Levy and Jaross in connection with the Guarantee Actions against them in the United States courts. Smith was unsuccessful and his subsequent appeal was withdrawn in settlement of his case by payment of US\$10,000 to Callidus. Levy and Jaross were unsuccessful in all of the defences they asserted in the proceeding against them

with the exception that the judge hearing the summary proceeding ordered a factual hearing into the fraudulent inducement issue. Before this happened, Levy and Jaross settled with Callidus and they acknowledged in the settlement that they would likely not have succeeded in their remaining plea of fraudulent inducement.

53. Similarly, Levitt and Molyneux made an exaggerated claim for \$150,000,000 against Callidus, essentially on the basis of purported fraud. When confronted with the fact that they had no such claim, they reduced the damages being sought from \$150,000,000 to \$1,000,000.
54. Baumann has made similar claims implying fraud against Callidus.
55. The actions of the Guarantors demonstrate a significant degree of coordination of their activities with a view to causing economic harm to Callidus and Catalyst.
56. The Guarantors that were primarily responsible for the coordination efforts were Levitt and to a lesser, but still important, degree, Baumann and McFarlane. While Levitt served as the overall “puppet master” of the Guarantors, Baumann also reached out to the other Guarantors and, as noted above, made the offer to fund the Levy and Jaross litigation in the amount of at least US\$250,000.
57. Catalyst and Callidus allege that funding did occur to support the Guarantors in the Guarantee Actions through several undisclosed “angels”, including the Wolfpack Conspirators. In many cases, the funders sought to keep their involvement secret through the use of non-disclosure agreements.

58. In addition to these coordinated activities, Levitt, Langstaff or McFarlane created an alter ego on Twitter known as “William Struth @Glasgow Skeptic”. William Struth was a former manager of the Glasgow Rangers football club who passed away in 1956. His image appears on the Twitter feed created by Levitt, Langstaff or McFarlane in order to mask his identity.
59. Through this alter ego, Levitt, Langstaff or McFarlane published false statements intended to impugn Callidus and Catalyst. Essentially all of the tweets made through these aliases by Levitt, Langstaff or McFarlane are about Callidus and Catalyst and indicate a high degree of information that is not generally available to the public. These tweets were re-tweeted by the other Defendants through other aliases including “@stopthescandal”; “@LRenard3”; “@AlderLaneeggs”; “@ReganFCU”; “@DKellyFCU”; “@LexLexlucifer2”; “@KevinBa15422460”; “@DumpsterFire69”; and @ClarityToast”. The false statements spread through these tweets included:
- (a) Catalyst investors are “going to lose a lot of their money ... Chatter already in the industry (February 3, 2017);
  - (b) Callidus’ financial statements are “sublime works of fiction” (February 8, 2017);
  - (c) Catalyst is “another likely fraud that Canadians should watch out for” (March 4, 2017);
  - (d) Glassman is “Canada’s Madoff” (March 4, 2017);
  - (e) Catalyst is the “Mozart of misleading disclosure” (April 20, 2017);

- (f) “Fallout” from Callidus “will be painful” for Callidus’ auditors, valuers and other service providers (May 1, 2017);
- (g) Callidus is a “dying business” (May 4, 2017);
- (h) “If you work for Catalyst Capital, you’re not going to see a penny of carry for all your heartache. Don’t wait for the endgame” (May 7, 2017);
- (i) “If you work at [Callidus], you still need to plan an exit. If you’re an officer or director, you really need a lawyer” (May 9, 2017);
- (j) “... one wonders if Hilco Appraisal Services and [Callidus] operate at arm’s length” (May 15, 2017);
- (k) “The word is out – take [Callidus’] money and your business is gone” (May 15, 2017)”
- (l) “Do you still work at Catalyst? Do you still think your carry is worth one thin dime? You still need to leave. You still need a lawyer” (June 15, 2017);
- (m) “It would be easier for a camel to pass through the eye of a needle than for [Callidus] to attract a third party buyer” (June 20, 2017);
- (n) “There’s life after Callidus. First get out. Then, blow the whistle” (July, 26, 2017);
- (o) “McNish again proving her chops with [Callidus] fraud story in WSJ” (August 9, 2017);

(p) “Temperature rising at [Callidus] ... - do you know who your whistleblowers are?”

(August 14, 2017); and

(q) A photograph of a pack of wolves with the caption “The scariest beasts are the ones that roam your mind” (September 28, 2017).

60. The use of an alias to publish false statements about a target company is a frequent tool used by short sellers and other miscreants seeking to spread false news and manipulate market participants, including those third parties identified in paragraph 193 below, or other events.

61. Among the initial followers of the “William Struth @Glasgow Skeptic” Twitter feed were Brandon Moyse, a former employee of Catalyst and the subject of litigation with Catalyst, Anderson and Spears. Subsequent followers included McFarlane and Baumann.

**(E) THE WOLFPACK CONSPIRES TO HARM CALLIDUS AND CATALYST**

62. By September 2016, Boland and West Face had a strong animus against Catalyst and Callidus, and against Newton Glassman (“Glassman”), Catalyst’s principal, because of prior and ongoing litigation between Catalyst and Callidus against West Face and Boland. Specifically, Boland and West Face took great exception to the fact that Catalyst and Callidus had instituted and was continuing to prosecute claims against them to assert the rights and protect the interests of Catalyst and Callidus. Specifically, Boland and West Face were aggravated by the fact that Catalyst instituted and was continuing a lawsuit against West Face and Brandon Moyse (former Catalyst employee that joined West Face), for the misuse of Catalyst’s confidential information to acquire “Wind Mobile”. They were

also very upset and aggravated by the fact that Catalyst had instituted and was continuing a lawsuit against VimpelCom, West Face, and several other defendants alleging (among other things) breaches of Catalyst's contractual rights in relation to VimpelCom's sale of WIND Mobile in July-September 2014. Boland and West Face knew that if this lawsuit proceeded to full productions, discovery, and a trial on the merits of Catalyst's allegations, serious improprieties by them and the other defendants in connection with the sale of WIND would be exposed. Boland and West Face were also strongly hostile to Catalyst and Callidus for having commenced a lawsuit against West Face and Veritas Investment Research Corporation for damages for defamation, conspiracy and intentional interference of economic relations associated with a prior wrongful short selling attack on Callidus Shares from fall 2014 to mid-2015 (the "Veritas Action"). As a result of these ongoing lawsuits, Boland and West Face had come to despise Catalyst, Callidus and Glassman and resulted in a very intense personal animus against them that has continued ever since.

63. Initially, in or about late 2015, West Face and/or Boland retained Livesey, an investigative journalist, to write a false and disparaging article regarding Catalyst's principal, Newton Glassman, and Callidus/Catalyst. West Face intended to use the article to cause damage to Catalyst and Callidus and to launch a short attack.
64. As pleaded below, Livesey's efforts failed. However, during the course of Livesey's "investigation", he was directed by Boland and West Face to speak to several of the Guarantors and learned that the Guarantors were coordinating their activities in response to the Guarantee Actions.

65. As described below, in or about mid to late 2016, after learning of the Guarantor's coordination from Livesey, West Face contacted the Guarantors to induce their participation in a wave of short attacks against Callidus. By this time, West Face and Boland had decided to do whatever they could to harm Catalyst, Callidus and Glassman. They devised and implemented a plan to harm them, after their efforts to engage Livesey to publish a disparaging article about Catalyst, Callidus and Glassman had not succeeded at that time in attracting any mainstream media publication interest.
66. As a result, Boland and West Face contacted:
- (a) The Guarantor Conspirators, namely Baumann, McFarlane, Levitt and Molyneux, who were facing personal guarantee collection actions by Callidus in Canada;
  - (b) Levy and Jaross, who were facing collection proceedings by Callidus in Texas based on a guarantee Levy and Jaross had signed to support a loan from Callidus to a U.S. company operating in Brownsville Texas, known as Esco Marine; and
  - (c) Duhamel, the President of Bluberi, a borrower of Callidus that had filed for CCAA protection in November 2015, and who subsequently began communicating with the other Guarantors and agreed to conspire to harm the Plaintiffs and otherwise provide his support, information, and advice to the Guarantors in their concerted action against them.
67. In or about mid to late 2016, Boland and West Face also identified and contacted the following additional persons who also had an animus against Catalyst, Callidus and Glassman to induce them to conspire to injure them:

- (a) Anderson and Anderson's company Clarity;
  - (b) Kassam and the other Anson Defendants (as defined herein); and
  - (c) Voorheis, a lawyer and activist investor.
68. Boland and West Face engaged in a series of meetings, telephone conversations and written communications with the above persons for the purpose of inducing and securing their agreement to conspire to harm the Plaintiffs and to implement the Conspiracy.
69. For example, in September 2016, Boland contacted Levy to describe his and West Face's plan and to induce Levy and the Guarantor Conspirators to conspire to injure the Plaintiffs. On or about September 26, 2016, Boland had a lengthy conversation with Levy, during which Boland related his animosity towards Catalyst, Callidus and Glassman, impugned their integrity and their business practices, and accused them of fraud. Boland also advised Levy that the largest investors in the Catalyst managed funds included two significant institutions based in the United States, and that Callidus had marketed and sold part of its Initial Public Offering in the United States. Boland communicated these specific facts to Levy to make sure that Levy and the Guarantor Conspirators believed that Catalyst and Callidus were subject to the oversight of the U.S. Securities and Exchange Commission ("SEC"). Boland did so because part of the plan he had devised included making complaints about Catalyst and Callidus to the SEC as further described below.
70. Boland knew that neither he nor West Face could make complaints directly to the SEC (or to the OSC) because their involvement in litigation with Catalyst and Callidus would



undermine the credibility of any complaints authored by them, and would confirm their plan to harm Catalyst, Callidus and Glassman in any way possible.

71. In fact, as Boland and West Face had anticipated and intended, Levy immediately spread the information he had received on September 26, 2016 from Boland to, among others, Levitt, Molyneux, Baumann, McFarlane, Jaross, Duhamel and his partner/associate, Marie-Claude Lapierre.
72. As a result of the above-noted conversation with Levy, and additional communications shortly thereafter, Boland and West Face were able to confirm that Baumann, McFarlane, Levitt and Molyneux, Jaross and Levy were still working together against Callidus. Boland and West Face also became aware that the above named individuals were personally very antagonistic to Catalyst, Callidus and Glassman, that they were desperate to avoid and deflect the guarantee claims against them, that they had coordinated their defences to the Guarantee Actions, and that they were willing to conspire with Boland and West Face to injure the Plaintiffs and implement the Conspiracy.
73. Boland also knew that Voorheis held a very strong personal animus towards Catalyst, Callidus and Glassman because of a bitter dispute which had arisen between Glassman and Voorheis in the Hollinger – Conrad Black legal proceedings over 10 years previously.
74. Boland contacted Voorheis to induce him to conspire to harm Glassman, Catalyst and Callidus. Voorheis readily agreed. Boland then introduced Voorheis to Levitt, McFarlane, Molyneux, Baumann, Jaross, Levy and/or Duhamel. From that time onwards, Voorheis remained in close contact with these individuals to assist and be part of the plans to harm Catalyst, Callidus and Glassman.

75. Indeed, following his discussion with Boland, Levy reported to the Guarantor Conspirators that he intended to call Voorheis, who he was told was apparently “closer to striking”.
76. The following day, on or about September 27, 2016, Levy did contact Voorheis and advised Voorheis of the allegations and information from Boland about the potential jurisdiction of the SEC over Catalyst and Callidus. Voorheis advised Levy that he had decided that he too intended to strike out at Glassman, Catalyst and Callidus.
77. During October-November 2016, with encouragement and additional assistance from Boland and West Face, the Defendants Levitt, McFarlane, Molyneux and Baumann, as well as Levy, Jaross, Duhamel and Voorheis, remained in close communications with each other regarding the Conspiracy. As a result, they agreed and decided to make allegations and file false complaints with the OSC and SEC alleging fraud and similar criminal and quasi-criminal misconduct against Catalyst, Callidus and Glassman, and to harm them by disparaging them in whatever way they could. This included making false allegations, including that under Catalyst’s direction, Callidus had and was continuing to operate a criminal “loan to own” business, that Callidus’ business practices were to trick and mislead its borrowers and prospective borrowers, that Callidus frequently made fraudulent misrepresentations to its borrowers, that Callidus often failed or refused to live up to its legal obligations, and that Catalyst, Callidus and Glassman were dishonest and untrustworthy. These false allegations were repeatedly made in furtherance of the Conspiracy to whoever would listen, and enabled the Defendants to achieve their intended purpose of causing economic harm to the Plaintiffs and illicit unlawful gains through the short attack of Callidus Shares. The Defendants knew or ought to have known that these

allegations were false as many of the very same allegations had already been advanced by some of the Guarantor Conspirators in litigation with Callidus and rejected by the Courts.

78. Around the same time, West Face, Boland and/or Voorheis also encouraged the Anson Defendants to support its planned short attack. Amongst other things, West Face, Boland and/or Voorheis disclosed to Kassam, Puri and Spears the identity of the Guarantors and their knowledge of coordination between the Guarantors.
79. Kassam held an animus against Glassman because of a business dispute between Catalyst and the Corporate Anson Defendants regarding the Corporate Anson Defendants' use of the name "Catalyst". In addition, Kassam was and is a business colleague and personal friend of Boland and from time to time the Corporate Anson Defendants and the West Face have collaborated in making joint investments in businesses and corporate entities, including engaging in coordinated short selling and other investments in such enterprises.
80. At the inducement of Boland and West Face and Voorheis, Kassam caused and directed the Corporate Anson Defendants, Puri, and Spears to participate in the conspiracy to harm Catalyst and Callidus, and subsequently directed, controlled and participated in the decisions by the Corporate Anson Defendants, Spears, Puri, and himself to be part of the Conspiracy, to approve, assist and participate in the acts in furtherance of the Conspiracy, and ultimately engage in the illicit and wrongful short selling in Callidus Shares pleaded herein.
81. In late 2016, West Face, Boland and Voorheis also made contact with Anderson and Clarity, a firm that specializes in providing information to hedge funds, wealth managers

and others in the financial services industry, and encouraged Anderson and Clarity to participate in the Conspiracy and in the upcoming wave of short attacks against Callidus.

82. As a result, Anderson and his company Clarity were induced to and agreed to conspire with the others to harm Catalyst and Callidus. In or about November 2016, Anderson was introduced to Levitt, Molyneux, McFarlane, Baumann, Levy and Duhamel.

83. To facilitate the preparation, sharing and dissemination of false information and allegations accusing Catalyst, Callidus and Glassman of serious misconduct, fraud and other criminal or quasi-criminal wrongdoing, the Wolfpack Conspirators and the Guarantor Conspirators, among other things:

(a) Established a data room where such false information were shared and allegations were repeated; and

(b) Provided Anderson and Clarity with access to a Dropbox facility containing the false information and allegations to facilitate their continuing participation in the Conspiracy.

84. In addition, to further discredit and cause harm to the Plaintiff, in the latter part of 2016, Baumann wrongfully procured a highly confidential list of all of Callidus' borrowers and loan accounts and other private and confidential Callidus documents. This information constitutes material non-public information concerning Callidus, a public issuer. These confidential documents containing material non-public information were then openly shared on or about December 2, 2016 amongst the Defendants, either directly or through

the use of the Dropbox facility referred to above, and/or other means known to the Defendants but not to the Plaintiffs.

85. Instead of immediately returning this material non-public information to Callidus when they knew or ought to have known that it was wrongfully obtained by Baumann, the Defendants used the material non-public information contained therein in furtherance of the Conspiracy, including the short attack which occurred in August 2017, in violation of applicable securities laws.
86. Throughout this period, Boland kept Livesey informed of the plan and progress of the Conspiracy to harm the Plaintiffs. At the direction of and with financial incentives from West Face and/or Boland, Livesey frequently communicated with the Guarantor Conspirators and the other Wolfpack Conspirators to provide his support, assistance, encouragement and advice to them in their concerted actions against the Plaintiffs, spread false and disparaging statements about the Plaintiffs, and continued his efforts to have disparaging articles about Catalyst, Callidus and Glassman published in the media.
87. Thus, by December 2016, the Wolfpack Conspirators and the Guarantor Conspirators entered into a conspiracy with the intention to cause economic harm to Callidus and Catalyst (the "Conspiracy").
88. For the Wolfpack Conspirators, the Conspiracy presented an opportunity to continue their short attacks against Callidus, which would allow them to make risk-free profits and, in the process, damage Catalyst and Callidus.

89. For the Guarantor Conspirators, the Conspiracy presented an opportunity to cause serious economic harm to Callidus and Catalyst through trying to frustrate the enforcement of substantial personal guarantees against each of them. Additionally, the Wolfpack Conspirators and others, the identity of whom the Plaintiffs are currently unaware, offered to (and did) fund the Guarantors' defences in the Guarantee Actions.
  
90. The Wolfpack Conspirators and Guarantor Conspirators agreed that, in furtherance of the Conspiracy, they would execute the following plan of action: first, they would spread false information through the Bay Street rumour mill. Second, certain of the Guarantor Conspirators and Anderson/Clarity would file false "whistleblower" complaints against Callidus through the Ontario Securities Commission ("OSC") and/or the SEC to "confirm" the rumours (the "Complaints"). Third, once the false whistleblower Complaints were filed, the Wolfpack Conspirators and the Guarantor Conspirators would work together to leak the existence and the substance of the allegations contained in the Complaints to the media and to the police in order to generate media interest. Fourth, the Wolfpack Conspirators, either directly or indirectly, would take short positions in Callidus Shares, through the co-conspirator, Langstaff at Canaccord and others. Fifth, the Wolfpack Conspirators, the Guarantor Conspirators, Langstaff and Anderson would cause a false and defamatory media report about the Complaints to be released near the end of a trading day, which would cause the price of Callidus Shares to rapidly decline. Finally, the Wolfpack Conspirators would close out their naked or other short positions at a substantial profit, all at the expense of Callidus' market value and its shareholders. This plan was in fact executed.

91. In furtherance of the Conspiracy, the Defendants frequently communicated with each other and met in person to discuss and implement the Conspiracy. These communications included discussions about and agreements to make allegations about Catalyst and Callidus that included the following:
- (a) Callidus had falsely overstated the credit worthiness of its loan portfolio and had issued false statements about its loans to the public at large;
  - (b) Catalyst had entered into numerous fraudulent related party transactions;
  - (c) Catalyst and Callidus had engaged in money-laundering schemes; and
  - (d) Catalyst and Callidus were guilty of fraudulent lending practices

The full particular of the places, dates, times, content of these communications and meetings to implement and carryout the Conspiracy are not known to the Plaintiffs. The Defendants were keenly conscious of the need for secrecy around their activities. For example, on December 31, 2016, Levitt cautioned Levy that “we have to be discrete about what we are doing”.

92. The Conspiracy required very sophisticated coordination and perfect timing under the hand of the Wolfpack Conspirators. This pattern has been honed through repetition in other situations.
93. The Wolfpack Conspirators, the Guarantor Conspirators, Langstaff, and Copeland took steps to hide details of the Conspiracy in order to avoid detection and make it difficult to learn about the Conspiracy after the harm was done to the Plaintiffs. In particular, some of

the Wolfpack Conspirators and Guarantor Conspirators compelled at least some of the Guarantors to sign nondisclosure agreements to prevent them from disclosing information relating to the Conspiracy.

94. Some or all of the Defendants also used encrypted and self-destructing messaging applications, such as “Confide”, to communicate in an effort to avoid leaving any trace of their activities. “Confide” is reputed to be an application, available online, which serves as a “confidential messenger” to enable users to communicate with each other “with the same level of privacy and security as the spoken word” and gives its users the “comfort” of sending “encrypted, self-destructing and screenshot-proof messages” with the knowledge that their “private communications will now truly stay that way.”
95. The full particulars of the details of the Defendants’ use of “Confide” to communicate with each other are currently unknown to the Plaintiffs. The Plaintiffs have knowledge however that on April 12, 2017, Levitt suggested to Langstaff that they should continue their communications about the Plaintiffs using “Confide” so that they could “chat [about the Plaintiffs] confidentially with encrypted and disappearing messages”. While employed by Canaccord Genuity, Langstaff agreed to do so and he and Levitt communicated about the Plaintiffs using Confide on dates and times known to them, and not currently known to the Plaintiffs.
96. As a registrant with the OSC and the SEC and as an employee of Canaccord Genuity (a registrant with the OSC and the SEC), Langstaff’s use of “Confide” to conceal his communications with Levitt was in violation of (i) the applicable rules, regulations, and policies of the securities regulators; (ii) the standards and practices of the investment dealer



and brokerage industry; and (iii) Canaccord Genuity's own rules, policies and code of conduct.

**(F) CONSPIRATORS ABUSE WHISTLEBLOWER PROGRAMS**

97. The next step of this very sophisticated attack required use of the OSC's "whistleblower" program. The "whistleblower" program, started in July 2016, permits persons with information about an alleged securities-related violation to report it to the OSC. The program offers anonymity to complainants and a financial reward in the event the complaint results in a penalty. The intent of the program is to encourage persons with information of alleged unfair, improper or other abusive practices in relation to Ontario securities laws to come forward and make anonymous complaints about such matters without fear of reprisal.
98. In furtherance of the Conspiracy, and with information from and at the direction of the Wolfpack Conspirators, the Guarantor Conspirators, Baumann, McFarlane, Levitt (or Molyneux) as well as Anderson, with the assistance of the Wolfpack Conspirators agreed to file false whistleblower Complaints with the OSC and/or the SEC relating to Callidus and Catalyst. These four "Complainants" coordinated their complaints in order to portray different alleged issues with Callidus' continuous disclosure and matters relating to Catalyst to the OSC and the SEC.
99. Prior to making false "whistleblower" complaints with the OSC and the SEC, in the third week of November 2016, Levitt (with the knowledge, approval and direct involvement of West Face, Boland, Voorheis, Duhamel, Anderson, Clarity, the Anson Defendants, and the

Guarantors) contacted Cameron Watson, Senior Litigation Counsel in the Enforcement Branch of the OSC.

100. Levitt told Watson that Catalyst, Callidus and Glassman had been guilty of serious offences, including but not limited to fraudulent business and lending practices, penal offences in respect of Callidus's financial affairs, and other criminal or quasi-criminal misconduct. These allegations were wholly false.
101. These communications were made with the intention that the false allegations would be conveyed by Watson to other counsel within the OSC's Enforcement Branch and with the law enforcement authority known as the Joint Serious Offences Team ("JSOT"), and that the OSC and JSOT would immediately institute an investigation and commence proceedings against the Plaintiffs.
102. Plaintiffs plead that the above communications and allegations made to Watson and JSOT are separate and outside the scope of the OSC whistleblower program. Indeed, Watson declined to attend the December 7, 2016 meeting with OSC personnel regarding the whistleblower complaint, referred to below, as he knew that his participation in that process would taint the entire "whistleblower" process.
103. In furtherance of the Conspiracy, in late 2016, Boland had further discussions with the Guarantor Conspirators in which he supplied them with false information that they could use in fabricating their allegations to the OSC and the SEC. For example, Boland and West Face provided Levy with copies of their Statement of Defence in the Veritas Action. They did so with the intention that Levy would pass on the allegations of misconduct and impropriety made in their Statement of Defence to Levitt, Molyneux, McFarlane,

Baumann, Anderson and Duhamel, and that they would use those allegations to disparage Callidus, including in the intended communications to the OSC and JSOT which formed part of the Conspiracy. In fact, Levy did so, and the false allegations were used for the very purposes as planned by Boland and West Face, and agreed to by Levitt, Molyneux, McFarlane, Baumann and Anderson.

104. Boland and West Face provided additional assistance the Guarantor Conspirators, Duhamel and Levy in the plan to harm Catalyst. This included:

- (a) On or about November 30, 2016, Boland and West Face authorized and directed their external counsel, Matthew Milne-Smith of Davies (“Milne-Smith”), to introduce Levitt to a class action litigator in the United States for the purpose of filing a RICO action against Catalyst and Callidus. Milne-Smith had discussions and exchanged correspondence with Levitt on this subject. In so doing, Boland and West Face knew there was no basis for any such action. However, they hoped and intended that the corrupt practices which would be alleged in such an action would become public knowledge and that this would advance their plan to harm Catalyst, Callidus and Glassman by whatever means possible;
- (b) On or about December 3, 2016, Boland and West Face authorized and directed West Face’s internal counsel, Philip Panet (“Panet”), to advise Levitt of a specific section of Callidus’s 2015 MD&A referring to a loan with McFarlane’s company, XTG. This was done to set the stage for false allegations conveyed by Boland to Levy, referred to below, about this loan. Panet had discussions and exchanged correspondence with the Guarantor Conspirators as instructed;

- (c) On or about December 3, 2016, Boland personally contacted Levy and falsely told Levy that Catalyst had improperly and fraudulently moved the XTG loan onto unsuspecting investors who held units in the latest limited partnership fund managed by Catalyst;
- (d) On a date unknown to the Plaintiffs, Boland also authorized and directed Milne-Smith to assist the Guarantor Conspirators by providing them with, amongst others, a West Face “research report” which West Face used in the illicit short selling attack on Callidus Shares in 2015-2016 which is the subject of the Veritas Action. Milne-Smith, in turn, was in contact with the Guarantor Conspirators to provide this and other information to them; and
- (e) On January 20, 2017, Panet provided Levitt with a copy of a document which contained details about one of Callidus’ borrowers which was then promptly provided (to Panet’s knowledge) to the other Guarantor Conspirators and Anderson/Clarity.

105. The above steps and communications were undertaken by Boland and West Face in furtherance of the Conspiracy and with the knowledge and intention that the false allegations and the assistance provided would be:

- (a) Shared among Livesey, Voorheis, Duhamel, Anderson, Clarity, the Anson Defendants, and the Guarantors; and

- (b) Used by the Guarantor Conspirators and Anderson in their communications with the SEC, OSC Enforcement Staff, JSOT, and in the planned meeting with the OSC Staff to file their whistleblower complaint.
- 106. In fact, the false information and allegations made by Boland and West Face were used in furtherance of the Conspiracy.
- 107. To the knowledge of and with the agreement, assistance and support of the Wolfpack Conspirators and the Guarantor Conspirators, on or about December 7, 2016, Levitt met with OSC personnel. Among other things, he followed a carefully scripted “playbook” and showed them a powerpoint presentation which falsely alleged that Catalyst, Callidus, and Glassman had been guilty of serious misconduct, fraud and other criminal and quasi-criminal wrongdoing.
- 108. The false Complaints were reviewed, commented on and approved by each of the Wolfpack Conspirators and Guarantor Conspirators prior to submission to the OSC.
- 109. All of the above steps were taken with the knowledge, participation and consent of the Wolfpack Conspirators and the Guarantor Conspirators for the purpose of (i) persuading the OSC (and JSOT) to commence criminal or quasi-criminal proceedings against Catalyst, Callidus and Glassman, and (ii) to enable them to leak the contents of their false complaints to the media and to the police in furtherance of their purpose to harm the Plaintiffs and to enable the illicit short selling gains to be realized as part of the Conspiracy.
- 110. In addition, as described below, the Guarantor Conspirators, acting in concert with and at the direction of each of the Wolfpack Conspirators, supplied information relating to the

existence and the substance of the Complaints, to WSJ reporters in New York and Toronto to encourage and induce them to publish false media articles, as described below.

111. The Wolfpack Conspirators and the Guarantor Conspirators did so knowing and intending that: (i) the Complaints were false; (ii) the fact and nature of the Complaints alleging fraud by Callidus and Catalyst would immediately be published and given widespread publicity; (iii) the publication of the existence and substance of the Complaints (falsely) alleging fraud would injure Callidus and Catalyst; (iv) the effect of such widespread publicity would immediately cause a significant drop in the price of Callidus Shares and cause third parties, including those identified in paragraph 193 below, to believe that Callidus and Catalyst were engaged in fraudulent activity, carried out unethical accounting and business practices, took unfair advantage of investors and borrowers, misled investors and were the subject of to “investigation” by the securities regulators and the police; and (v) these steps, events and consequences would give them or their co-conspirators an opportunity to engage in profitable short selling of Callidus Shares, all which was in furtherance of the Conspiracy.
112. Catalyst pleads and the fact is that the Complaints, which were filed in or around late 2016 and early 2017, also falsely alleged that Callidus and Catalyst were in the same line of business, which allegedly created a conflict of interest. In addition, the Complaints falsely alleged that Callidus and Catalyst had engaged in illegal accounting practices with respect to loans that related to the Guarantors.
113. The Complaints falsely and maliciously state or imply that:
  - (i) Callidus misled its shareholders;

- (ii) Callidus and Catalyst conduct business for nefarious purposes and do not have integrity in their business dealings; and
- (iii) Callidus and Catalyst are not reputable and do not conduct business in an ethical manner.

114. The sole motivation for filing the Complaints was in furtherance of the Conspiracy.
115. The intention and purpose of the Complaints was to enable the Wolfpack Conspirators, the Guarantor Conspirators and Langstaff to spread rumours within the financial industry that Callidus and Catalyst were the subject of *bona fide* OSC whistleblower complaints and subject to “investigations” by the OSC and the Toronto Police in order to undermine the public confidence in both firms. They were designed to feed the Bay Street rumour mill.
116. In fact, as pleaded herein, the Complaints were not *bona fide*. Rather, the Complaints were part of the Conspiracy to harm Callidus and Catalyst and to enable the Wolfpack Conspirators, the John Does, and Langstaff to profit by an illegal and manipulative “short and distort” campaign against the Callidus Shares.
117. In 2017, the Wolfpack Conspirators and the Guarantor Conspirators continued to intensify their overt acts against the Plaintiffs to cause economic harm to them.
118. Between December 2016 and February 2017, Anderson continued to receive and exchange information with the Wolfpack Conspirators and the Guarantor Conspirators about the Plaintiffs. Anderson also communicated with them about their allegations and the “next steps” in the Conspiracy. The purpose was to enable the Wolfpack Conspirators and the Guarantor Conspirators to coordinate their continuing implementation of the Conspiracy

and to facilitate the filing of false complaints with the SEC, which was something that Anderson, Voorheis and Boland had been tasked with accomplishing. Particulars of some of these communications include the following:

- (a) On December 20, 2016, Voorheis, McFarlane, Levitt and Anderson had a conference call to discuss their shared interest in “seeing [Newton Glassman] face justice”;
- (b) On January 20, 2017, the Guarantor Conspirators and Levy/Molyneux had a conference call with Anderson to receive an update from him, and to receive his instructions on “next steps”;
- (c) On February 15, 2017, Levitt and Duhamel arranged for a conference call with Anderson so that Anderson could answer “some questions”;
- (d) On February 16, 2017, McFarlane reached out to Anderson and Levitt and provided website links to two media reporters. This was done further to Anderson’s instructions to the Guarantor Conspirators to come up with names of reporters who would be interested in publishing a story based on the submission of the false complaints to the authorities and regulators that the Conspirators had prepared or were preparing;
- (e) On February 24, 2017, McFarlane again reached out to Anderson and Levitt and identified another Catalyst portfolio company as one that “would be very vulnerable to some of the concerns that may form an SEC complaint”; and



- (f) On February 28, 2017, McFarlane provided Anderson with contact information for management of two of Callidus' borrowers so that Anderson could reach out to them directly.
119. In addition, on February 13, 2017, Levitt was directed by one or more of the Wolfpack Conspirators and the Guarantor Conspirators to contact Marc Cohodes ("Cohodes"), a known short seller based in the United States. This contact was made to obtain assistance in formulating false allegations against Callidus, and to facilitate the implementation of the Conspiracy. The Wolfpack Conspirators and the Guarantor Conspirators remained in contact with Cohodes throughout 2017 and up to and including 2019 for the purposes of causing economic harm to the Plaintiffs. Cohodes was and is closely associated with the Anson Defendants and invests money with them, and therefore stood to benefit financially from the participation of the Anson Defendants in the Conspiracy.
120. On February 27, 2017, Boland and Levy had another telephone call, this time to discuss Callidus' claim against its former employee, Craig Boyer ("Boyer"). Levy reported on this call to the Guarantor Conspirators and Duhamel.
121. By early March 2017, Voorheis was also still actively assisting the Wolfpack Conspirators and the Guarantor Conspirators, including by (a) making attempts to elicit information helpful to their false allegations from and related to Boyer, and (b) assisting in the coordination of the Conspiracy and the filing of the complaint to the SEC. Particulars of some of these steps include the following:
- (a) On March 2, 2017, McFarlane spoke with Voorheis and reported on the conversation to Levy. McFarlane reported that Voorheis said that he "made contact

with Boyer's lawyer". Voorheis provided Boyer's lawyer with false information about the XTG loan. In that same report, McFarlane advised Levy that Anderson had "been in Toronto for the last 2 days" and that McFarlane had asked Anderson to call him with an update. While in Toronto, Anderson met with Boland and Voorheis, amongst others;

- (b) On March 3, 2017, in response to a request for any news or development from Levitt, McFarlane responded that he would "stay in close contact with Wes so all our efforts are coordinated. Their stock is down about a dollar for the week-high of \$19.12 and around \$18.20 right now." The need for close co-ordination expressed by McFarlane was because the planned public disclosure to the media of the false whistleblower complaints had to coincide with the short selling being implemented by Anderson, Boland, West Face, Voorheis, Langstaff, the Anson Defendants, and others. McFarlane had previously warned the Guarantor Conspirators against personally taking a short position in Callidus in order to keep the activities of the group as covert as possible; and
- (c) On March 22, 2017, McFarlane travelled to Toronto to meet in person with Voorheis to discuss the precise implementation of the Conspiracy. McFarlane's trip to Toronto also included meetings with Langstaff, who through his employment as a broker-dealer at Canaccord was assisting the Defendants with their short-selling attack, and with John Tilak, a Toronto based reporter with Thomson Reuters.

122. Throughout this period, the Anson Defendants were also involved in numerous discussions with Cohodes, Langstaff and other third parties known to the Defendants regarding the

Conspiracy against the Plaintiffs. These communications and meetings were attended by senior executives of the Corporate Anson Defendants, including Kassam, Spears and Puri, during which discussions were held and meetings were conducted with Cohodes and other persons known to the Anson Defendants, including the following:

- (a) An exchange of messages in May 2016 between Kassam and Langstaff whereby Langstaff, while employed by Canaccord Genuity, asked Kassam to provide him with the email address of Cohodes; declared that “[Callidus] must be stopped”; and instructed Kassam to “short” Callidus;
- (b) In the same message exchange, Kassam provided Langstaff with Cohodes’ email address told Langstaff to “Call ADAM [Spears] tmrw” as it would be “Best he [Spears] make the intro” to Cohodes. Langstaff in reply said “No problem. Hat tip to [S]pears on this one – wouldn’t have happened without him”;
- (c) A meeting in December 2016, between the Anson Defendants and others in which plans were discussed to file a number of whistleblower complaints against several Canadian companies in order to legitimize short-selling activities that were to be undertaken by the Anson Defendants in conjunction with the Wolfpack Conspirators and the other John Does;
- (d) A meeting by Kassam and Cohodes on or shortly before January 9, 2017, which Cohodes referred to as being “a perfect meal after a great day with members of the conspiracy”;

- (e) A meeting at the Corporate Anson Defendants' offices at 155 University Avenue in Toronto, in or about February 2017 during which Spears stated that "Glassman had made himself a target", that Anson had received disparaging allegations about Catalyst and Callidus from Langstaff at Canaccord, and discussed "working up a fraud complaint" against the Plaintiffs. Langstaff and Canaccord were described by Spears to be friends of Boland;
- (f) A meeting on or about March 5, 2017, at an unknown place, when Spears alleged that according to Langstaff, Catalyst and Callidus had circulated false valuations about their assets and were guilty of fraud by selling assets at inflated prices. Spears also alleged that Langstaff and possibly one other person was a source for this "intel";
- (g) An exchange of messages on March 23, 2017 whereby Kassam asked Langstaff, a day after Langstaff had met with McFarlane who had spoken to Anderson and was advised that Anderson was 2-3 weeks away from filing an SEC complaint, whether "[Langstaff]" had any draft for [Kassam]";
- (h) In the same message exchange, Langstaff advised Kassam that "I don't have [a draft] yet" but went on to state he did "have something new though", namely Langstaff alleged that there was "an undisclosed related party transaction that hides a loss". Langstaff was referring to certain previously disclosed transactions relating to XTG which were later the subject of widespread false allegations made by the conspirators;
- (i) A follow up meeting between Kassam and Langstaff arranged in June 2017;

- (j) A dinner meeting at Barbarians restaurant in Toronto on or about July 14, 2017, attended by Kassam, Spears, Puri , Cohodes and approximately 10 other people whose identities are known to the Anson Defendants, during which the allegations referred to above were discussed as well as the SEC complaint that had been recently filed against Catalyst and Callidus by Anderson and other members of the Conspiracy, the attempts to cause Reuters to publish false articles about the Plaintiffs, and the next steps that would be taken in furtherance of the Conspiracy.
123. While employed by Canaccord Genuity, Langstaff also engaged in numerous acts and communications with the Wolfpack Conspirators, the Guarantor Conspirators and Cohodes in furtherance of the Conspiracy. Particulars of these acts and communications include the following:
- (a) On March 24, 2017 Langstaff told Levitt that a loan in Callidus' portfolio known as the "Leader [Energy] loan" was a "dismembered corpse" and that Callidus was getting ready to "stuff" this loan into another borrower with whom Callidus had a business relationship, in order to "hide the loss";
  - (b) On March 28, 2017, Langstaff and Levitt discussed how best to make and substantiate fraud allegations against Catalyst and Callidus which they and their co-conspirators were and were intending to disseminate;
  - (c) On March 29, 2017, Langstaff told Levitt that Callidus was probably about to take steps to "tap the guarantee on Bluberi" and of his conversation with the principal of Blueberi, "Gerrard" (Duhamel), about steps that Duhamel had taken or was about to take to disparage Catalyst and Callidus;

- (d) On March 30, 2017, Langstaff told Levitt that according to a “friend” of Langstaff (referring to Boland), an internal Callidus loan officer could be contacted to obtain allegations and or information thought to be harmful to the Plaintiff;
- (e) On April 12, 2017, Langstaff told Levitt that Callidus’ growth was “severely negative”;
- (f) On April 21, 2017, Langstaff was told by Levitt that a District Court Judge in Texas had “found instances of fraud” by Callidus in relation to Esco Marine and the guarantor actions against Levy and Jaross;
- (g) On April 25, 2017, Langstaff contacted Levy of Esco Marine and advised that “Greg Boland is a friend of mine”; he was “helping West Face” and was looking for “details”;
- (h) On April 30, 2017, Langstaff was told by Levitt that he was “Dropping off evidence binders tonight to police HQ. We can supplement with other new info” and that Nathan [Anderson] is coming tomorrow and Tuesday”;
- (i) On May 2, 2017, Langstaff and Levitt shared copies of questions which they and their co-conspirators had provided to the media and to analysts including a supposedly independent analyst at Canaccord Genuity covering Callidus, for the purpose of eliciting answers from Callidus which they hoped would be used to generate disparaging reports harmful to the Plaintiffs;
- (j) On May 3, 2017, Langstaff told Levitt that Callidus’ numbers were “horrific” and that “now is the time to go after Glassman”;

- (k) On May 3, 2017, Langstaff represented to Levitt that “Glassman had violated TSX rules”; that with “one good swat at [Glassman]” the conspirators “might get [Glassman] to lose control and that he was “trying” to make this happen;
  - (l) On May 12, 2017, Langstaff received from Levitt numerous documents including materials which the Guarantor Conspirators delivered to JSOT, to be used and distributed by Langstaff to “get some media traction” in furtherance of the Conspiracy;
  - (m) On May 15, 2017, Langstaff told Levitt that he suspects that Hilco, a well-known and independent appraiser retained by Callidus to value Esco Marine and Bluberi, was “on the take from Callidus” to enable Callidus to “call in the loan[s]”; and
  - (n) On June 3, 2017, Langstaff was told by Levitt that he supposedly had “evidence of ... money laundering” by Callidus and that “Reuters [was] working hard now”.
124. The communications between Langstaff and the Wolfpack Conspirators, the Guarantor Conspirators and Cohodes also included material information which was not publicly known at the time of their communications, but which was being shared to assist in the circulation of disparaging allegations about the Plaintiffs, in furtherance of the Conspiracy. The sharing and circulation of such non-public material information for the above purposes occurred through and as a result of numerous communications among Levitt, Langstaff, and the other Defendants. Particulars of these communications include the following:
- (a) On March 28, 2017, communications by Levitt to Langstaff regarding (i) a PwC valuation of Bluberi obtained by Callidus, and (ii) future legal proceedings which

had been described by Gerry Duhamel to Levitt, in which the PwC valuation was going to be disclosed by him; and

- (b) On May 3, 2017, communications by Levitt to Langstaff regarding evidence that was sealed and subject to a protective order, which had supposedly been considered by a District Court Judge in Texas, and who Levitt falsely alleged had found that Callidus had been guilty of fraud in its dealings with one of its borrowers, Esco Marine.

125. During the course of the numerous acts and communications by Langstaff with the Wolfpack Conspirators and the Guarantor Conspirators, Langstaff:

- (a) Shared information with Boland, who he referred to as his “friend” with the other participants in the Conspiracy;
- (b) Received documents and communications from and made by, or prepared at the direction of, his fellow participants in the Conspiracy, which disparaged the Plaintiffs;
- (c) Circulated materials which he believed would further help the Conspiracy to succeed; and
- (d) Encouraged the other participants in the Conspiracy by praising them for their efforts and by inciting their continued participation in the Conspiracy.

126. In furtherance of the Conspiracy, Langstaff breached his duties of loyalty, honesty and fair dealing, fiduciary and other duties owed to the Plaintiffs as particularized in paragraph 191



below, and also engaged in improper activity with the predominate purpose of harming the Plaintiffs. Langstaff was reprimanded by Canaccord Genuity on August 9, 2017 for divulging information to a short seller of a stock of another client in breach of Canaccord Genuity's Confidentiality & Non-Disclosure Policy. Langstaff was terminated by Canaccord Genuity the following month on September 26, 2017.

127. In addition, as a result of these meetings and other communications among them, by the third week in April 2017, the Wolfpack Conspirators and the Guarantor Conspirators had prepared and distributed further written materials falsely accusing Catalyst, Callidus and Glassman of criminal wrongdoing, which the Conspirators intended to provide to the SEC, JSOT, and the Toronto Police Service. Like the allegations contained in the other materials which had previously been prepared, circulated and utilized by the Complainants when they met with the OSC in December 2016, the allegations in this documentation were false.
128. In or about mid-April 2017, some or all of the Wolfpack Conspirators and Guarantor Conspirators had also contacted the Toronto Police Service for the purpose of making false allegations of criminal offences against Catalyst, Callidus and Glassman. These contacts were made by the Wolfpack Conspirators and Guarantor Conspirators to Gail Regan and Dianne Kelly of the Toronto Police Service. The purpose was to harm Catalyst, Callidus and Glassman and to make it possible to allege to the media that an active criminal investigation into frauds allegedly committed by Catalyst, Callidus and Glassman was underway by the responsible authorities. In furtherance of this element of the Conspiracy, the Wolfpack Conspirators and Guarantor Conspirators remained in contact with Regan and Kelly throughout April – May 2017, including but not limited to direct contacts on or about June 5, May 30, June 14-15 and July 6, 2017. These contacts and communications

included the preparation and delivery to the Toronto Police Service of a document entitled “Callidus Fraud” and a request in early July 2017 that a formal fraud investigation be commenced.

129. The Toronto Police Service cautioned the Defendants about making any public reference to any “investigation” by the Toronto Police Service and ultimately, the Toronto Police Service confirmed to them that no investigation of Callidus or Catalyst would be commenced. However, none of this stopped the Wolfpack Conspirators and Guarantor Conspirators from relaying that false information to the media, as described below.

130. By this time, the Wolfpack Conspirators and Guarantor Conspirators had also filed, with the direct assistance and participation of Anderson, a false complaint with the SEC and OSC alleging that Catalyst, Callidus and Glassman were guilty of serious criminal misconduct.

131. The above acts were all in furtherance of the Conspiracy, including the plan by the Conspirators to persuade the financial media to publish false stories alleging that Catalyst, Catalyst and Glassman were the subject of active fraud investigation by the Toronto Police Service and by JSOT.

**(G) CONSPIRATORS ENDEAVOUR TO PUBLISH EXISTENCE OF THE COMPLAINTS AND OTHER ARTICLES CRITICAL OF CALLIDUS AND CATALYST**

132. In or about spring 2017, the Wolfpack Conspirators and the Guarantor Conspirators undertook the initial steps of contacting newly identified journalists in an effort to leak the existence of the Complaints and other false allegations about Callidus and Catalyst.

133. As pleaded above, initially, Boland and West Face had engaged Livesey, who had a prior relationship with West Face, to write a negative story targeting Callidus, Catalyst and their principals. West Face and Boland agreed to compensate Livesey for his drafting a negative story regarding Callidus, Catalyst and their principals.
134. As a result, Livesey drafted a story based on information fed to him by one or more of the Wolfpack Conspirators and the Guarantor Conspirators. The information that was provided to Livesey included information that formed the basis for the Complaints.
135. West Face and Boland worked with Livesey to contact different news outlets including, Bloomberg, BuzzFeed, Canadian Business Magazine and the Globe and Mail newspaper, with the goal of convincing these organizations to print Livesey's freelance negative story about Callidus, Catalyst and their principals. However, these outlets chose not to publish the Livesey freelance story.
136. Having been frustrated by the failure of the above failed attempts, the Wolfpack Conspirators and the Guarantor Conspirators then sought to create another "story" that Callidus was under "investigation" by the authorities based on the submission of the false Complaints. In order to interest news outlets with this "story", they disclosed the substance of the Complaints. The Wolfpack Conspirators and the Guarantor Conspirators intended to create the appearance of a credible news story about alleged nefarious practices and fraudulent practices at Callidus and Catalyst.
137. Callidus and Catalyst have positively denied any such "investigation", and no such investigation was ever commenced.

138. The Wolfpack Conspirators and the Guarantor Conspirators approached Reuters in June 2017 and advised, with the existence of the Complaints, and encouraged Tilak and a New York based Reuters reporter, Lawrence Delevigne, to publish a negative story about Callidus and Catalyst, including falsehoods that active criminal investigations about the Plaintiffs and their businesses were actively underway by regulatory authorities, JSOT and the Toronto Police Services.
  
139. In this regard, Livesey offered to be a source for the story and provided false information for the negative story that the Wolfpack Conspirators and the Guarantor Conspirators had encouraged Tilak and Delevigne to write. Livesey also provided Tilak and Delevigne questions to be asked of Catalyst, Callidus and Glassman that were based on patently false information from the Wolfpack Conspirators and Guarantor Conspirators designed to push a disparaging story about Catalyst, Callidus and Glassman.
  
140. Reuters decided not to publish this false story. Reuters did not publish the story despite the Wolfpack Conspirators' and the Guarantor Conspirators' best efforts to entice it to do so by alleging, among other things, that:
  - (a) Catalyst had misled its investors about the valuation of assets held in Catalyst's investment portfolios;
  - (b) Callidus had misled its borrowers about loans extended to them by Callidus;
  - (c) Callidus' misconduct included criminal fraud in relation to its borrowing practices;
  - (d) Both Catalyst and Callidus had engaged in false and deceptive accounting practices in relation to a loan which had been extended to XTG;

- (e) Catalyst was under active investigation for fraud and other criminal misconduct in connection with the above matters by the OSC, JSOT and by the Toronto Police Service; and
  - (f) Callidus was also under active investigation for fraud and other criminal misconduct in connection with the above matters by JSOT and the Toronto Police Service.
141. In addition, in or about late June or early July, 2017, one or more of the Wolfpack Conspirators and the Guarantor Conspirators also alleged that:
- (a) At least three separate “whistleblower” complaints had been filed with the OSC;
  - (b) One of the whistleblower complaints had been filed by the defendant Baumann and stated that Catalyst and Callidus had engaged in false and deceptive accounting practices with respect to XTG;
  - (c) Another whistleblower complainant stated that Callidus had misled its borrowers about their loans and had misled its shareholders about the value of Callidus’ assets, and,
  - (d) Another whistleblower complainant stated that Catalyst had misled its investors about the value of the investments in its portfolios.
142. At times known to the Defendants but not to the Plaintiffs, one or more of the Wolfpack Conspirators and the Guarantor Conspirators continued to communicate with Reuters and to make allegations about Catalyst and Callidus, including the following:

- (a) Catalyst's valuation procedures were flawed and improper and had been used to create an appearance of high but inaccurate returns in the Funds managed by Catalyst;
  - (b) Catalyst's practices of using aggressive, inflated valuations had the effect of generating elevated fees for the benefit of Catalyst and Newton Glassman;
  - (c) Glassman had been unfairly and improperly enriched by such practices and fees;
  - (d) Catalyst's loan guarantees to Callidus had not been properly disclosed and created improper conflicts of interest; and
  - (e) Catalyst and Callidus continued to be under active criminal investigation by JSOT and the Toronto Police Service.
143. Prior to approaching Reuters, the Wolfpack Conspirators and the Guarantor Conspirators had also sought to approach other reputable news organizations, whose identities are known only to them, in 2017, with the existence of the Complaints and encouraged those organizations to publish negative stories about Callidus and Catalyst. Those organizations also decided not to publish their stories.
144. After being rejected by these credible media outlets, the Wolfpack Conspirators and the Guarantor Conspirators decided that they required a different approach to accomplish their goal of having a negative and false story published about Callidus and Catalyst.
145. As a result of these continuing failures, in late July or early August 2017, the Wolfpack Conspirators and the Guarantor Conspirators contacted a different reporter, the Defendant

Copeland of the WSJ, with the intention of having Copeland write a story that would insinuate that Callidus and Catalyst were under “investigation” by both the OSC and the Toronto Police for fraud.

146. Copeland had a prior relationship with Anderson. Anderson recruited Copeland to join the Conspiracy and to write the story, which would assist the Wolfpack Conspirators and the Guarantor Conspirators to further the Conspiracy.
147. The Wolfpack Conspirators and Guarantor Conspirators agreed that the Guarantor Conspirators and Anderson would disclose information relating to the fact and substance of the Complaints to Copeland, knowing and/or intending that: (i) the Complaints were false; (ii) the fact and nature of the Complaints alleging fraud and other improprieties by Catalyst and Callidus would immediately be published and given widespread publicity; (iii) the publication of the existence and substance of the Complaints would injure Callidus and Catalyst; (iv) the effect of such widespread publicity would immediately cause a significant drop in the price of Callidus Shares; and (v) these steps, events and consequences would give them or some number of them an opportunity to engage in profitable short selling of Callidus Shares, all of which was in furtherance of the Conspiracy.
148. Copeland was directed by the Wolfpack Conspirators and the Guarantor Conspirators to “interview” McFarlane, who provided Copeland with details of his Complaint fully expecting that Copeland would publish those statements in the WSJ. Specifically, McFarlane detailed to Copeland that Callidus and Catalyst engaged in allegedly nefarious accounting practices concerning a loan that Callidus extended to XTG. McFarlane had

filed a Complaint regarding these accounting practices but, in doing so, maliciously made false allegations that Callidus and Catalyst had engaged in false or illegal accounting practices with respect to XTG. The words uttered by McFarlane meant and were understood to mean that Callidus and Catalyst conducted business in an unethical manner, engaged in improper accounting practices, were dishonest, lacked integrity, and ought not to be trusted.

149. Similar conversations occurred with Baumann, Molyneux, Levitt, Duhamel and Anderson during which, or as a result of which the following false and defamatory statements were made to Copeland on the direction, encouragement, inducement of and in consultation with the Wolfpack Conspirators and the other Guarantor Conspirators:

- (a) Catalyst and Callidus are under active investigation by the Toronto police department and various regulators, including the OSC and the Alberta Securities Commission, regarding accounting irregularities, securities fraud and other criminal misconduct.

These words meant and were understood to mean that the Plaintiffs,

- (i) operate their businesses in a manner that is contrary to applicable law and regulation;
- (ii) are involved in fraudulent activity of the type public authorities ought to be concerned with; and
- (iii) conduct business in a dishonest and unethical manner.



- (b) Callidus and Catalyst failed to decrease the valuations of their loan collateral when companies in the Callidus portfolio ceased making interest payments or only made partial payments.

The words meant and were understood to mean that Callidus and Catalyst engaged in unethical accounting and other business practices so as to apply economic pressure on borrowers, for the unfair advantage of Callidus and Catalyst.

- (c) Callidus and Catalyst engaged in fraud by misleading borrowers about deal terms in order to withhold funds from borrowers at critical times and to allow the debt to balloon in order to assume control and ultimately ownership of borrowers.

These words meant and were understood to mean that Callidus and Catalyst illegitimately exercised their control over the cash flow of borrowers to artificially create a situation of economic distress enabling them to wipe out equity holders.

- (d) Catalyst misled its investors about the valuation of assets held in Catalyst's investment portfolios to collect fees and other payments to which it was not entitled and that Callidus had misled its borrowers about loans extended to them by Callidus.

These words meant and were understood to mean that,

- (i) Catalyst misled investors in the funds it managed in order to collect management and other fees to which it was not lawfully entitled; and

- (ii) Callidus misled its borrowers about the terms of the loan agreements they were entering into and how Callidus' rights under those loans would be exercised.
- (e) Callidus and Catalyst falsely certified that their financial statements were prepared in accordance with IFRS and, in particular, that they failed to conduct an appropriate impairment analysis on the assets of the Callidus borrowers and Catalyst funds despite disclosures in their financial statements that such analysis had been done.

These words meant and were understood to mean that Catalyst and Callidus made material misrepresentations in their financial statements and that their financial disclosure ought not to be trusted.

- 150. During the course of writing the article requested by the Wolfpack Conspirators and the Guarantor Conspirators, Copeland contacted Callidus and Catalyst. Initially, Copeland refused to disclose to Callidus and Catalyst the subject of the article.
- 151. Despite Copeland's refusal to disclose the subject of the article, Callidus and Catalyst agreed to meet with Copeland and his colleague, Jacquie McNish ("McNish"), to clarify the information and facts that Copeland indicated he would be relying on for the article.
- 152. The meeting between Copeland, McNish and representatives of Callidus and Catalyst took place on August 8, 2017. During that meeting, Callidus and Catalyst provided detailed information of the accounting surrounding XTG and confirmed that all of this information was available on the public record. This information flatly contradicted information that

had been provided to Copeland and McNish by the Wolfpack Conspirators and the Guarantor Conspirators. Copeland disclosed that there had been four different whistleblower complaints to the OSC concerning Callidus and Catalyst, three of which had been filed by Guarantors.

153. During the meeting with Callidus and Catalyst, Copeland did not take any notes about any of the responses provided by Callidus and Catalyst including detailed explanations provided regarding the accounting practices surrounding XTG.
154. In fact, Callidus' and Catalyst's accounting for XTG was correct and properly disclosed on the public record.
155. Despite receiving information that refuted the basis for their story, and without making any further inquiries or conducting appropriate diligence, Copeland and McNish decided to publish it anyway. Copeland and McNish drafted the story in a manner that strongly implied and suggested that Catalyst and Callidus had engaged in fraudulent behavior concerning XTG, and that they were under "investigation" by the authorities for that and other matters. They also falsely reported that company representatives had declined to offer a comment. Copeland and McNish acted maliciously.
156. On August 9, 2017, in furtherance of the Conspiracy, Copeland, the Wolfpack Conspirators, the Guarantor Conspirators and Langstaff were in communication about the timing of the story. They encouraged Copeland to release the article near the end of the trading day on August 9. Copeland advised them that he would do so and he did. Copeland did so with the knowledge, intention and purpose of harming the Plaintiffs and benefitting himself, the Wolfpack Conspirators, the Guarantor Conspirators and Langstaff.

**(H) WEST FACE, ANSON AND JOHN DOES EXECUTE WAVE OF SHORT ATTACKS**

157. On or about August 9, 2017, in furtherance of the Conspiracy, the Wolfpack Conspirators and one or more of the John Doe Defendants took short positions in Callidus Shares, either directly or indirectly.
158. The Wolfpack Conspirators and one or more of the John Doe Defendants took the short positions through Langstaff at Canaccord Genuity and others, who are known to the Defendants but unknown to the Plaintiffs.
159. Langstaff and others, who are known to the Defendants but unknown to the Plaintiffs, had been previously recruited by the Wolfpack Conspirators in the Conspiracy. While employed by Canaccord Genuity, Langstaff, in furtherance of the Conspiracy, assisted the Wolfpack Conspirators and the John Doe Defendants to take short positions in Callidus Shares, either directly or indirectly.
160. In a typical “short”, the investor borrows a company's stock from another investor, on the theory that the company's share value will decline over a period of time as described in paragraphs above.
161. On or about August 9, the Wolfpack Conspirators took “naked short” positions. This means that the Wolfpack Conspirators took a short position, betting that Callidus' stock price would decline, without actually borrowing the stock from another investor. In other words, in addition to betting that Callidus' stock price would decline, the Wolfpack Conspirators bet that they could purchase Callidus Shares to cover their short positions from the market directly without having to first borrow them.

162. This type of short is extremely risky because it requires the short selling investor to purchase the stock to cover his or her short position. The investor bets that he or she can purchase the stock for a lower price at the end of the day than it could have at the open of the market. This bet is very risky when shorting a stock that has a low trading volume, like Callidus, because the investor may not be able to purchase the stock to cover its short position, which leaves it exposed to serious losses if the share price increases. In the case of Callidus, the strategy is even more risky because Catalyst and its related funds own more than 2/3rds of Callidus Shares and they are not made available for borrowing.
163. In addition to naked shorts, the Wolfpack Conspirators and the John Doe Defendants took other positions, the particulars of which are only known to them, to simulate a short position and profit from the damaging effects of the Article.
164. As at August 8, 2017, the average daily trading volume of Callidus's stock was (a) for the preceding 60 day period, 64,737 shares, (b) for the preceding 30 day period, 63,999 shares, and (c) for the preceding 10 day period, 48,224 shares.
165. The Wolfpack Conspirators, however, knew as a result of their activities that, at the end of the day on August 9, there would be sufficient trading volume to cover their short position.
166. At 3:29 pm EDT on August 9, 2017, Copeland's article was posted on thewallstreetjournal.com (the "Article"). The headline of the Article was "*Canadian Private-Equity Giant Accused by Whistleblowers of Fraud*". The Article was hidden behind a "pay wall", meaning that only those people who subscribe to the WSJ could see the full text of the Article. Those who were not subscribers only saw the headline and first paragraph of the Article, which read as follows:

TORONTO -- At least four individuals have filed whistleblower complaints with Canadian securities regulators alleging fraud at a multibillion-dollar investment firm and its publicly traded lending arm, according to people familiar with the matter and documents reviewed by The Wall Street Journal.

167. The headline and first paragraph of the Article contained the word “fraud” two separate times. The thrust of the Article was exactly what the Wolfpack Conspirators, the Guarantor Conspirators and Langstaff intended — it impressed upon the general public, including the third parties identified in paragraph 193 below, that Callidus and Catalyst were under “investigation” by the authorities and that the “investigation” concerned fraudulent accounting transactions recorded by Callidus and Catalyst.
168. In addition to publication online on thewallstreetjournal.com, a revised version of the Article was published in the August 10, 2017 print edition of the Wall Street Journal under the headline “Top Buyout Firm Scrutinized on Loans”.
169. The Article was also published on the Dow Jones Newswire and other means that caused immediate dissemination of the Article in its entirety, including the references to Catalyst and Callidus, to other market participants.
170. Just prior to the publication of the Article on August 9, 2017 and the close of market at 4:00 pm EDT the same day, the trading in Callidus stock revealed that the Article had the exact effect intended by the Wolfpack Conspirators. A significant number of those persons holding Callidus Shares divested them after 3:30 pm EDT which, in turn, led to a sharp decline in Callidus' stock price. Due to stock market rules that prohibit Callidus from being in the market after 3:30pm through its Normal Course Issuer Bid, the broker administering

that bid could not provide support for the stock price. These rules were known to the Defendants.

171. Simultaneous with the publication of the Article at 3:29 p.m. and within the span of a single minute (3:29:00 – 3:29:59), the volume spiked with 13,000 shares traded, dropping the price from \$14.92 to \$14.73 on multiple individual trades. Significantly, in the preceding 30 minutes prior to 3:29 p.m., only 3,100 shares had traded in total.
172. Over the next 30 minutes (3:30 p.m. – 4:00 p.m., the close of the trading day), over 157,400 shares traded, dropping the price by the end of the trading day to \$13.41.
173. The timing of the sell-side trading activity reflected at 3:29 p.m. was designed to cause the share price to begin to decline to exaggerate the negative pressure anticipated to be caused by the Article. The timing was part of the scheme of the Wolfpack Conspirators and the John Doe Defendants to ensure that the share price was dramatically reduced in the last 30 minutes of the trading day and to ensure a disorderly sell-off by panicked investors.
174. During the chaotic sell-off, the Wolfpack Conspirators and the John Doe Defendants were able to purchase Callidus Shares to cover their naked (and other) short positions. Because of the decline in Callidus' share price, they were able to significantly profit. The short paid out because the share price was lower when they eventually purchased the Callidus shares than it was when they earlier secured the naked short (and other simulated short positions). Langstaff profited from the short selling trading that was executed directly or indirectly through him, or in the alternative, assisted other members of the Conspiracy to profit as pleaded.

175. The Defendants' short and distort attack was successful — beginning on August 9, 2017 through August 14, 2017, Callidus' share priced declined from \$15.36 to \$10.48 (reflecting a market capitalization loss of \$246,440,000 in less than 4 trading days).
176. Shortly after the above short-attack, the Anson Defendants including Kassam retweeted on September 27, 2017, Cohodes' tweet that included the following: "This is One of the Greatest Things I have ever Seen; ... Happy to be a member of such fine Wolves".
177. In addition, following the short-attack, Livesey continued his efforts to have false and disparaging articles about Catalyst, Callidus and Glassman published in the media. These include an article entitled "A private equity star's picks shine... until cash-out time" by Tilak and Delevigne on March 23, 2018 that contained a distorted photograph of Glassman taken by one of the Guarantor Conspirators at a Callidus shareholders meeting and shared with Tilak and Delevigne; a follow-up article entitled "Callidus shares tumble after Reuters report on Catalyst valuations" on March 26, 2018. Livesey himself wrote disparaging articles published by Southern Investigative Reporting Foundation on April 11, 2018 and November 27, 2018 entitled "Newton Glassman's Legacy of Ashes" and "Newton Glassman and Other People's Money". Livesey has continued his efforts to have disparaging articles published about Catalyst, Callidus and Glassman, including with Institutional Investors and Bloomberg.

**(I) ARTICLE IS FALSE AND DEFAMATORY**

178. The Article contains the following false and defamatory statements of and concerning the Plaintiffs:
  - (a) The Article's headline and first and second paragraphs state:



### **“Canadian Private-Equity Giant Catalyst Accused of Fraud by Whistleblowers**

Authorities looking into complaints that Catalyst inflated value of assets, deceived borrowers

...

TORONTO—At least four individuals have filed whistleblower complaints with Canadian securities regulators alleging fraud at a multibillion-dollar investment firm and its publicly traded lending arm, according to people familiar with the matter and documents reviewed by The Wall Street Journal.”

...

Catalyst Capital Group Inc., one of Canada’s largest private-equity firms, is accused in the complaints of artificially inflating the value of some of its assets and deceiving borrowers about the terms of loans it made. The complaints have prompted officials at the Ontario Securities Commission, the country’s leading securities regulator, to make inquiries and question people familiar with Catalyst, according to the people and documents.”

These words meant and were understood to mean that:

- (i) Callidus and Catalyst improperly “seize” companies to whom loans have been made;
- (ii) Callidus and Catalyst are engaged in illegal or improper accounting in relation to Callidus's loan portfolio;
- (iii) Callidus and Catalyst are engaged in criminal wrongdoing
- (iv) Callidus and Catalyst are engaged in fraudulent activities in relation to Callidus's loan portfolios;
- (v) Callidus and Catalyst have violated Ontario Securities law; and

- (vi) Callidus and Catalyst have made false and misleading representations to investors;
  
- (b) A photograph of a Toronto Police car is published immediately after the headline of the Article along with a photo caption that states: “A unit of the Toronto Police Service has begun its own inquiries into Catalyst”. The third paragraph of the Article states: “A unit of the Toronto Police Service that specializes in financial crimes has separately begun its own inquiries, a departmental spokeswoman said”.

These words meant and were understood to mean that:

- (i) Catalyst and Callidus are engaged in criminal conduct;
  
  - (ii) Catalyst and Callidus defrauded investors; and
  
  - (iii) Callidus and Catalyst are under “investigation” for fraud or other illegal activity by the OSC and/or the Toronto Police Service;
- (c) The six, ninth, twelfth, and twenty-sixth to twenty-seventh paragraphs of the Article state:

“...Catalyst mostly invests in high-interest loans to financially distressed firms such as casino game makers of biopharmaceutical companies, and sometimes takes control of the businesses if the loans aren’t paid

...

Some but not all of the filers of Catalyst whistleblower complaints have worked at companies that borrowed money from Mr. Glassman’s firms, and later had their businesses seized, said people familiar with the matter.

...

...Callidus’s lending practices are also a subject of the whistleblower complaints, according to the people and documents.

....

One of those borrowers is Jeff McFarlane.

Mr. McFarlane is the former chief executive of computer distributor Xchange Technology Group, known as XTG. He said his company began borrowing from Callidus in late 2012 after the lender purchased its \$11.6 million loan from a U.S. bank.

Within a year, Xchange was in insolvency proceedings. Callidus purchased the company for about \$34 million, according to court documents.

When Callidus went public in 2014, Catalyst, its majority shareholder, agreed to cover future losses on loans including Xchange.

In September 2015, Callidus recorded the Xchange investment as an asset for sale at C\$66.9 million in a quarterly earnings report.

Then in March 2016, Catalyst transferred C\$101 million to Callidus for Xchange, "an amount equal to the total outstanding principal plus accrued and unpaid interest," filings show.

In December 2016, Catalyst told its investors that the Xchange stake was only worth a fraction of what it had paid that March, triggering losses on two of its funds, according to one of the whistleblower complaints and documents reviewed by the Journal.

McFarlane confirmed he filed one of the whistleblower complaints. His complaint, and one other, alleges that Catalyst funds overpaid Callidus to acquire the Xchange investment, and Catalyst delayed and underreported potential losses. 'I have serious concerns about the integrity of Callidus's accounting around XTG,' Mr. McFarlane said.'

These words meant and were understood to mean that:

- (i) Callidus and Catalyst are treating McFarlane unfairly or unjustly by pursuing him in a Guarantee Action;
- (ii) Callidus and Catalyst improperly file "multiple lawsuits" against borrowers;

- (iii) Callidus and Catalyst improperly “seize” companies to whom loans have been made;
  - (iv) Callidus and Catalyst dealt improperly or illegally in relation to the XTG loan;
  - (v) Callidus and Catalyst improperly caused XTG to go into insolvency proceedings shortly after it purchased a loan from a US bank;
  - (vi) Callidus and Catalyst intentionally caused Callidus to be “overpaid” for the XTG investment;
  - (vii) Callidus and Catalyst delayed or underreported potential losses in respect of the XTG investment;
  - (viii) Callidus and Catalyst overvalued XTG, to the detriment of the funds managed by Catalyst;
  - (ix) Callidus and Catalyst caused Callidus to mislead its shareholders or investors;
  - (x) Callidus and Catalyst conduct business for nefarious purposes and do not have integrity in their business dealings; and
  - (xi) Callidus and Catalyst are not reputable and do not conduct business in an ethical manner.
- (d) The nineteenth and twenty-eight paragraphs of the Article state that the Plaintiffs:

“...sometimes file multiple lawsuits against borrowers believed to have violated the terms of their loans.

...

Last month, the Court of Appeal for Ontario found Mr. McFarlane responsible for a personal guarantee on Xchange’s debts that was far less than Callidus was seeking in a civil suit.

These words meant and were understood to mean that:

- (i) Callidus and Catalyst improperly file “multiple lawsuits” against borrowers; and
- (ii) Callidus and Catalyst dealt with McFarlane unfairly or unjustly by pursuing him in a Guarantee Action.

179. The impact of the Article was exactly what the Defendants intended — it impressed upon the general public that Callidus and Catalyst were under “investigation” by the authorities and that the “investigation” concerned fraudulent activities by Callidus and Catalyst.

180. The statement made in the Article particularized in paragraph 178 above, and the statements made to Copeland by the Guarantor Conspirators and Anderson particularized in paragraphs 148-149 above are, collectively, the “Defamatory Words”. The plain meaning of the Defamatory Words taken together is that the Plaintiffs act fraudulently with misstated financial statements, carry on nefarious business practices, and lack integrity in their business dealings. This is spurious, false, malicious, and damaging to the Plaintiffs' reputation and good will.

181. The Wolfpack Conspirators acted in concert with the Guarantor Conspirators and Copeland to publish the Defamatory Words.

182. Each of the Wolfpack Conspirators, Guarantor Conspirators, and Copeland participated in a common design to publish the Defamatory Words including but not limited to:
- (a) Agreeing to the Conspiracy as particularized in paragraph 90 above,
  - (b) Discussing and agreeing to the words to be used in the Complaints and ultimately the Article as particularized in paragraphs 92, 100-103, and 107-109 above;
  - (c) Sharing of information, advice, and strategies for the purpose of and in furtherance of the conspiracy as particularized in paragraphs 86, 98-100, and 103-109 above;
  - (d) Approving of and directing the disclosure of the existence and substance of the Complaints to Copeland for the purposes of republication in the Article as particularized in paragraph 143-147 above; and
  - (e) Making false and defamatory statements to Copeland, either directly in the case of the Guarantor Conspirators or indirectly in the case of the other Conspirators, as outlined in paragraphs 148-149 above.
183. The full extent of the Defendants' individual knowledge and participation in the Conspiracy and in the publication of the Defamatory Words is known to them and not known to the Plaintiffs.
184. The Wolfpack Conspirators, Guarantor Conspirators, and Copeland published the Defamatory Words complained in pursuit of their vendetta and vengeance against the Plaintiffs and to profit from short selling stocks in Callidus. Participating in the publication

of defamatory statements about the Plaintiffs with the internationally renowned WSJ was clearly designed to embarrass the Plaintiffs and seriously injure their reputations.

185. The Defendants' publication of the Defamatory Words have and will continue to cause serious damage, loss and injury to the Plaintiffs, who relies on their good reputation to carry on business.

**(I) LIABILITY AND DAMAGES RELATED TO THE SHORT ATTACKS**

**Breaches of the *Securities Act***

186. The Defendants' unlawful short attack was intended to, and did, drive down the price of Callidus Shares to artificially low levels. Although the full details of the Defendants' conduct in this regard are known only to them, such conduct includes, without limitation:

- (a) Providing tip-offs and previews to selected investors of the Defendants' intention to disseminate false negative information into the market concerning Callidus, and of the planned timing of such dissemination;
- (b) The concerted accumulation of open short positions in advance of the publication of the Article so as to take advantage of market price declines when the Article was published;
- (c) Encouraging selected investors to do the same;
- (d) The Defendants' participation in and preparation of the Article with its false and misleading negative content concerning Callidus;
- (e) The Defendants' efforts to ensure publication of the Article; and

- (f) The Defendants' actions after the Article was published to continue the downward pressure on the price of Callidus Shares.
187. By participating in the short attack, each Defendant, directly or indirectly, engaged or participated in a course of conduct relating to the Callidus Shares that they knew and intended, or reasonably ought to have known, would result in or contribute to an artificially low price for the Callidus Shares, in violation of section 126.1 of the *Securities Act*.
188. Additionally, each Defendant, directly or indirectly, made a statement or statements that they knew or reasonably ought to have known was misleading or untrue, or that failed to state a fact that was necessary to make the statement not misleading, and that would reasonably be expected to have a significant effect on the market price or value of the Callidus Shares, in violation of section 126.2 of the *Securities Act*.
189. The Defendants' breaches of the *Securities Act* are “unlawful acts” that, in part, form the basis of the civil conspiracy claim, as pleaded above.

#### **Breaches of Duties by Langstaff**

190. The Plaintiffs were clients of Langstaff since late 2013.
191. In the course of delivering advice and providing services to the Plaintiffs, Langstaff gained intimate knowledge of and was entrusted with the Plaintiffs' business and financial information and affairs. Langstaff a duty of loyalty, duty of honesty and fair dealing, and fiduciary duties and obligations to the Plaintiffs, including the following duties to:
- (a) Act honestly, in good faith and in the best interests of the Plaintiffs;



- (b) Avoid any conflict of interest between the Plaintiffs and Canaccord Genuity or between the Plaintiffs and other clients of Canaccord Genuity;
- (c) Comply with Canaccord's policies including its Code of Business Conduct and Ethics, Conflicts Policy, Group and Operating Policies and Confidentiality & Non-Disclosure Policy, and to comply with regulatory and accepted standards of practice recognized by the securities and investment community in Canada;
- (d) Refrain from engaging in or agreeing, assisting or encouraging others to engage in activities that were intended to harm the Plaintiffs;
- (e) Refrain from disparaging the business and affairs of the Plaintiffs;
- (f) Refrain from falsely accusing or expressing opinions that the Plaintiffs or their personnel were guilty of dishonest conduct;
- (g) Not to falsely allege that Callidus business was a fraud and to advise that short-selling of Callidus shares should be undertaken on the strength of this allegation;
- (h) Not to engage in the conspiracy against Catalyst and Callidus pleaded in this Action;

192. Langstaff repeatedly breached these duties by engaging in a course of conduct as pleaded herein, in concert with the other Defendants, with the specific purpose of causing harm to the Plaintiffs for his and the other Defendants' benefit. As pleaded above, Langstaff, among other things:

- (a) Gave advice to Kassam, another client of Canaccord Genuity, to “short” Callidus;
- (b) Disparaged Callidus by describing it as a “fraud” to Kassam;
- (c) Falsely alleged to the conspirators that Catalyst and Callidus had circulated false valuations about their assets and were guilty of fraud by selling assets at inflated prices;
- (d) Falsely alleged that Callidus engaged in an undisclosed related party transaction to hide losses;
- (e) Discussed with Levitt how best to make and substantiate fraud allegations against Catalyst and Callidus which they and the other conspirators were intending to disseminate;
- (f) Falsely alleged that independent appraisers of Callidus were “on the take”;
- (g) Met with members of the conspiracy including West Face and Boland, a friend and clients of Langstaff, to “help” and further advance the conspiracy to harm the Plaintiffs;
- (h) Received material non-public information about steps to be taken by the conspirators against Callidus and Catalyst including future lawsuits to be commenced against them and the planned short-attack;
- (i) Facilitated and executed the short selling trading to the harm of the Plaintiffs; and
- (j) Concealed his activities by using encrypted self-destructing messaging apps to communicate with the conspirators.

**Causing loss by unlawful means/ intentional interference**

193. By participating in the Conspiracy and the publication of the Defamatory Words, the Defendants deceived third parties into believing that Callidus and Catalyst were engaged in fraudulent activity, carried out unethical accounting and business practices, took unfair advantage of investors and borrowers, misled investors and were subject to “investigation” by the OSC and the Toronto Police. These third parties had actionable claims against the Defendants by reason of their conduct pleaded herein, and include but are not limited to the following persons: (i) investors in funds managed by Catalyst that held Callidus shares whose stock depreciated as a result of the Defendants’ conduct; (ii) investors that sold shares in Callidus as a result of reading the Defamatory Words or in response to the resulting sell-off of Callidus shares due to the Defendants’ implementation of the Conspiracy; (iii) service providers such as appraisers engaged to appraise and alleged to have falsely valued borrowers’ assets for the benefit of Callidus and Catalyst; and (iv) auditors, audit committee members and the independent directors of Callidus and Catalyst that are responsible for and allegedly failed to detect the supposed fraudulent activities carried out by the Plaintiffs.
194. In so doing, the Defendants interfered with Callidus's and Catalyst's economic relations with its investors, directors and auditors and caused harm to Callidus and Catalyst in the form of a lower price for the Callidus Shares, lost revenues, loss of goodwill, as well as impairment of their ability to conduct and grow their business, implement strategic plans, and secure capital. In addition, the market manipulation of the Defendants caused significant harm to Callidus in the form of a loss in market capitalization.

195. The conduct of the Defendants in implementing the Conspiracy as described above, was directed at and intended to harm, punish and discredit the Plaintiffs. As described above, the purpose and effect of the Defendants' activities were to damage the reputations, and undermine and destroy the business of, and otherwise cause harm to the Plaintiffs. The Defendants knew that harm would come to the Plaintiffs as a result of their conduct. By deceiving market participants and investors into believing that the Plaintiffs are dishonest, fraudulent and untrustworthy, and by engaging in an improper short attack, the Defendants deliberately tarnished and harmed their reputations in the financial, investing and business communities.
196. As a result of the Defendants' implementation of the Conspiracy as described above, the Plaintiffs have suffered significant damages. Among other things, the Defendants have impaired Callidus' ability to raise and retain invested capital, attract and keep employees, attract and grow its loan portfolio and make investments in other companies. This has led directly to the significant erosion of the equity value of Callidus from 2017. This is because the Defendants' conduct has:
- (i) deterred potential borrowers from doing any business with Callidus in light of the false allegations that Callidus engaged in fraudulent transactions, unethical accounting and unfair business practices with a view to wiping out equity ownership and taking control of borrowers;
  - (ii) scared away potential employees who could have helped grow and develop the Callidus' business; and

- (iii) made it extremely difficult for Callidus to access third party capital necessary for the growth of its business.

197. In the alternative to damages to compensate Callidus and Catalyst for having caused them loss by unlawful means, the Defendants are liable to pay restitution, disgorgement or to otherwise account for any and all ill-gotten gains obtained as a result of their conduct.

#### **Personal Liability of the Individual Defendants**

198. The Individual Defendants completely dominated and controlled the corporate entities among the Defendants and caused them to engage in the tortious and unlawful conduct described above. The role of the Individual Defendants in this regard extended beyond the nature and scope of their roles as officers and directors of the corporate Defendants and include direct personal involvement, improper intentions, and wrongful acts. In addition, the conduct alleged involved malice and dishonesty in which the Individual Defendants sought to use the corporate entities among the Defendants to obtain significant personal financial benefits. As the Individual Defendants caused the corporate entities within the Defendants to direct wrongful things to be done, this is an appropriate case to pierce the corporate veil and impose personal liability on the Individual Defendants. In the alternative, the corporate entities among the Defendants acted as agents for the Individual Defendants, who ultimately profited from the unlawful conduct.

199. In addition, or in the further alternative, the defamatory and otherwise unlawful conduct that was carried out by the Individual Defendants constituted independent wrongful acts that were contrary to the best interests of the corporate entities among the Defendants. In

these circumstances, they are personally liable for the damages they caused, separate and apart from the liability of the corporate entities.

### **Liability of the John Doe Defendants**

200. John Doe Defendants 4-10 are persons or entities whose names are not known to the Plaintiffs, but who:

- (i) participated in the Conspiracy;
- (ii) were aware of the contents of the Article prior to its publication and broadcast;
- (iii) knew or ought to have known that the Article contained false and defamatory assertions about Callidus and Catalyst that would cause the market price of Callidus Shares to decline and otherwise cause damage to Callidus and Catalyst;
- (iv) decided thereby to take short positions in Callidus's Shares, and did so; and
- (v) thereby stood to gain by covering their short positions after the Article was broadcast and the market price of Callidus's Shares had declined.

201. John Doe Defendants 4-10 are jointly and severally liable for the wrongs committed by the Defendants.

### **Punitive Damages**

202. The Plaintiffs claim that an award of punitive damages is appropriate, having regard to the high-handed, wilful, wanton, reckless, contemptuous and contumelious conduct of the

Defendants. Accordingly, the Defendants are liable, on a joint and several basis, to the Plaintiffs for punitive damages.

203. The Plaintiffs are entitled to damages equal to the cost of the “investigation” of the Defendants' misconduct undertaken by Callidus and Catalyst which resulted in sworn statements, discovery of emails and other facts and evidence which form the basis on which this Action is based.

**(J) SERVICE EX JURIS**

204. The Defendants' actions include torts committed in Ontario. At all material times, the Defendants carried on business in Ontario.

205. The Plaintiffs plead and rely upon Rule 17.02 (g) and (p) of the *Rules of Civil Procedure*, RRO 1990, Reg. 194.

206. The Plaintiffs propose that this action be tried at Toronto.

*November 07, 2017<sup>m</sup>*  
DATE: ~~July 18, 2019~~<sup>m</sup>

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and

WEST FACE CAPITAL INC. et al.  
Defendants

Court File No. CV-587463-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT TORONTO

**FRESH AS AMENDED STATEMENT OF CLAIM**

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