

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

THE CATALYST CAPITAL GROUP INC. and CALLIDUS CAPITAL
CORPORATION

Plaintiffs

and

WEST FACE CAPITAL INC., GREGORY BOLAND, MSV ADVISORS INC.
c.o.b. ANSON GROUP CANADA, ADMIRALTY ADVISORS LLC,
FRIGATE VENTURES LP, ANSON INVESTMENTS LP, ANSON CAPITAL
LP, ANSON INVESTMENTS MASTER FUND LP, AIMF GP, ANSON
CATALYST MASTER FUND LP, ACF GP, MOEZ KASSAM, ADAM
SPEARS, SUNNY PURI, CLARITYSPRING INC., NATHAN ANDERSON,
BRUCE LANGSTAFF, ROB COPELAND, KEVIN BAUMANN, JEFFREY
MCFARLANE, DARRYL LEVITT, RICHARD MOLYNEUX, ~~and~~, GERALD
DUHAMEL, GEORGE WESLEY VOORHEIS, BRUCE LIVESEY, AND
JOHN DOES #14-10

Defendants

AMENDED STATEMENT OF DEFENCE OF
THE CATALYST CAPITAL GROUP INC. and CALLIDUS CAPITAL CORPORATION
TO THE COUNTERCLAIM OF BRUCE LANGSTAFF

1. The Defendants by Counterclaim, The Catalyst Capital Group Inc. (“Catalyst”) and Callidus Capital Corporation (“Callidus”) (collectively referred to hereinafter as the “Defendants by Counterclaim”), admit the allegations contained in paragraphs ~~5481~~, ~~5484~~, a portion of paragraph ~~5585~~ (Newton Glassman is the indirect controlling shareholder of Catalyst, but is not the controlling shareholder of Callidus), and paragraph ~~67103~~ of the Counterclaim delivered on behalf of Bruce Langstaff (“Counterclaim”).

2. Subject to paragraph 10 below, the Defendants by Counterclaim have no knowledge of the allegations contained in paragraphs 5282, 5789, 5890, 5993, 6094, 6495, 6296, 6397, 64100, 65101, 66102, 68104 and 69105 of the Counterclaim.
3. Except as expressly admitted below, the Defendants by Counterclaim deny the balance of the allegations contained in the Counterclaim, and put Bruce Langstaff (“Langstaff”) to the strict proof thereof.
4. The Defendants by Counterclaim repeat the material facts pleaded in the Statement of Claim delivered in this Action and rely upon said facts in defence of the Counterclaim.
5. Commencing on August 9, 2017, Callidus was the subject of an unlawful short selling attack which was coordinated with the publication of a defamatory article about Callidus and Catalyst in the Wall Street Journal on the same date, as pleaded in this Action and in Action No. 17-CV-586094 (18-CV-593156-00CL).
6. Subsequently, the Defendants by Counterclaim became concerned that Langstaff was involved in the short selling attack and other inappropriate conduct related thereto. Ultimately, the Defendants by Counterclaim decided to commence legal proceedings against Langstaff and others because of his and their role in the short selling attack and the other wrongful actions pleaded in this Action. The resulting Statement of Claim was issued in the Ontario Superior Court of Justice on November 7, 2017.
7. At the time of the events referred to in paragraph 5, Catalyst and Callidus had arm’s length professional relationships with the Third Party herein, Canaccord Genuity Corp. (“Canaccord”), in which Canaccord had and was continuing to provide brokerage,

investment banking, and related services to the Defendants by Counterclaim, as part of Canaccord's normal business.

8. The Defendants by Counterclaim concluded that it was appropriate to advise Canaccord of bona fide concerns which they held regarding Langstaff, so that Canaccord could make such inquiries and take such steps as Canaccord deemed appropriate. In so doing, the Defendants by Counterclaim did not make any inducements, apply any pressure or threaten Canaccord in any way. The Defendants by Counterclaim expressly deny that they acted with malice or intent to injure, contrary to what Langstaff alleges. The Defendants by Counterclaim further plead that the concerns expressed to Canaccord were not actionable, and that to the extent the Counterclaim is based upon any allegation of defamation, such communications were and are subject to qualified privilege.
9. The Defendants by Counterclaim further state that they were not involved in, exerted no pressure over, made no threats about, and had no awareness of the subsequent decisions made and actions taken by Canaccord in relation to Langstaff's employment.
10. With respect to paragraphs ~~5890~~, ~~6094~~, ~~6195~~, ~~6296~~ and ~~69105~~ of the Counterclaim, the Defendants by Counterclaim have no knowledge of the dates, participants or statements made in any alleged meetings or conversations which supposedly took place among the individuals named in said paragraphs, but specifically deny, if any such communications took place, that any of the statements attributed to officers and employees of the Defendants by Counterclaim in said paragraphs were made by them to Canaccord.
11. The Defendants by Counterclaim further state that although they had no knowledge of or involvement in the above matters, the following material facts are evident from the contents of paragraphs 20-26 of the Third Party Statement of Defence delivered by

Canaccord in response to Langstaff's allegations against Canaccord, and the Defendants by Counterclaim rely upon such material facts in defence of the Counterclaim:

- (a) ~~(1)~~ Canaccord made its own inquiries and conducted an independent review of Langstaff's conduct;
- (b) ~~(2)~~ Canaccord concluded that Langstaff had not been guilty of any improper conduct in relation to the matters of concern expressed by the Defendants by Counterclaim;
- (c) ~~(3)~~ Canaccord did not terminate Langstaff because of any inducements, pressure or threats made by the Defendants by Counterclaim (no such inducements, pressure or threats occurred), but rather elected to terminate Langstaff for lawful and bona fide reasons, because of Canaccord's own conclusions and concerns about Langstaff and as part of a restructuring which Canaccord decided to implement;
- (d) ~~(4)~~ Canaccord advised Langstaff that he was being terminated *without cause*;
- (e) ~~(5)~~ Consequently, Canaccord paid Langstaff his statutory entitlements under the Employment Standards Act and offered to pay Langstaff reasonable compensation in lieu of common law notice, and,
- (f) ~~(6)~~ Langstaff refused to entertain Canaccord's offer of payment of reasonable compensation in lieu of notice.

12. The Defendants by Counterclaim plead that by refusing to accept reasonable compensation in lieu of notice, Langstaff has failed to mitigate any damages allegedly resulting from his termination, and further that Langstaff has failed to seek alternate employment following his termination.
13. The Defendants by Counterclaim further state that Langstaff's termination was not caused in any way by their actions and that any claim Langstaff may have for wrongful dismissal (the validity of which is expressly denied) is an independent action which lies, if at all, against Canaccord.
14. The Defendants by Counterclaim further deny that Langstaff has suffered any damages whatsoever.
15. The Defendants by Counterclaim therefore request that this Counterclaim be dismissed with costs.

~~September 19, 2018~~
November 29, 2019

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Capital Corporation

TO SERVICE LIST

THE CATALYST CAPITAL GROUP INC. et al
Plaintiffs

-and- WEST FACE CAPITAL INC. et al.
Defendants

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
PROCEEDING COMMENCED AT
TORONTO**

**DEFENCE TO COUNTERCLAIM OF BRUCE
LANGSTAFF**

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