

Court File No. CV-14-507120

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

THE CATALYST CAPITAL GROUP INC.

Plaintiff

- and -

BRANDON MOYSE and WEST FACE CAPITAL INC.

Defendants

**AFFIDAVIT OF BRANDON MOYSE  
SWORN OCTOBER 26, 2014**

I, **BRANDON MOYSE**, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a Defendant in this action and as such have knowledge of the matters set out in this affidavit.
  
2. I swear this affidavit in support of a motion for:
  - (i) an Order staying the Statement of Claim as against myself pursuant to section 7(i) of the Ontario *Arbitration Act*; and
  
  - (ii) an Order striking paragraph 1(e) of the Statement of Claim as it relates to myself.

3. Pursuant to a written employment agreement dated October 1, 2012 (the "Employment Agreement") I was hired as an Investment Analyst by the Plaintiff effective November 1, 2012.

*Attached as Exhibit 'A' is a true copy of the Employment Agreement.*

4. On May 26, 2014 I provided 30 days' notice of resignation pursuant to the Employment Agreement.

5. By Statement of Claim issued June 25, 2014, the Plaintiff commenced legal proceedings against me and my new employer West Face Capital Inc. ("West Face"), and claimed an interim interlocutory and / or permanent injunction against me with respect to sections 8 (non-competition), 9 (non-solicitation) and 10 (confidentiality) of the Employment Agreement..

*Attached as Exhibit 'B' is a true copy of the Statement of Claim.*

6. The Plaintiff also claimed punitive damages against me in the amount of \$50,000.00.

7. The Parties are scheduled to argue the Plaintiff's motion for injunctive relief on October 10, 2014. I have been advised by my legal counsel, Jeff Hopkins, and I verily believe, that the punitive damage aspect of the Plaintiff's claim will not be heard on October 10<sup>th</sup>, but instead will be heard and adjudicated by the trial judge.

8. However, the Employment Agreement contains an arbitration clause at Section 15, which states that any dispute arising out of the Employment Agreement save and except the Plaintiff seeking injunctive relief pursuant to sections 8, 9 and 10 shall be settled by arbitration.

9. Specifically Section 15 states:

*"Any controversy or claim arising out or relating to this Agreement shall be settled by arbitration which shall proceed in accordance with the Rules for the conduct of arbitrations of the Arbitrators' Institute of Canada Inc...."*

*The arbitrator shall have the right to determine all questions of law and jurisdiction including questions as to whether a claim is arbitral and shall have the right to grant final and interim damages awards and shall have the discretion toward costs...*

*The Parties agree that nothing in this arbitration provision precludes CCGI from seeking injunctive relief in the courts of any jurisdiction for a breach of Articles 8, 9 or 10 of this Agreement as set out in Article 11". [emphasis added]*

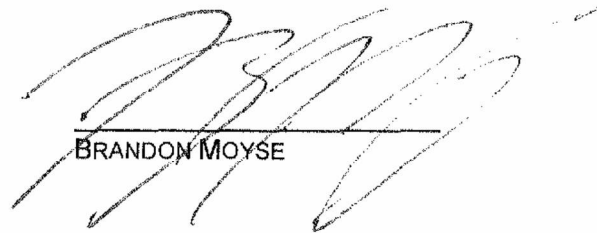
10. I believe that section 15 is very clear: all disputes arising out of the Employment Agreement shall be subject to arbitration, with the only exception being the Plaintiff having the right to seek injunctive relief through the court under sections 8, 9 or 10. Accordingly, the Plaintiff's punitive damage claim, to be heard and adjudicated by the trial judge, must be resolved pursuant to the arbitration clause.

11. I swear this affidavit in support of this motion for no other or improper purpose.

SWORN before me at the

City of Toronto  
this 26<sup>th</sup> day of September, 2014

)  
)  
)  
)  
)

  
\_\_\_\_\_  
BRANDON MOYSE  
\_\_\_\_\_  
Commissioner for Taking Affidavits, etc.