

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 July 16, 2014)

Oct 10/14. BM

I, BRANDON MOYSE, of the City of Toronto, MAKE OATH AND SAY:

1. I am a Defendant in this action and a respondent in this motion, and, as such, have knowledge of the matters set out in this affidavit. To the extent that my knowledge is based on information and belief, I identify the source of such information and believe the information to be true.

2. I swear this affidavit in response to the Affidavit of James A. Riley ("Mr. Riley") sworn on July 14, 2014 and in opposition to the motion by The Catalyst Capital Group Inc. ("Catalyst"). Where I do not respond to every allegation set out in the Affidavit of Mr. Riley, my failure to respond to a specific allegation should not be construed as an agreement with the statement made. I have, instead, tried to cover the most salient points in his affidavit, as I see them.

MY CATALYST BLACKBERRY

3. As an employee of Catalyst, I was issued a BlackBerry device. In response to paragraphs 14 and 15 of Mr. Riley's Affidavit, while I used my BlackBerry to send work emails using my Catalyst email account, I also used it to take personal photographs and send personal text messages. I did not connect my personal email accounts to the device.

4. I "wiped" the data from the BlackBerry prior to returning it to Catalyst, not to "destroy evidence", but to remove my personal information from the device. While I deleted all of the contents from my BlackBerry device, it was my understanding that all information belonging to Catalyst (such as emails) would still exist on Catalyst's server. The fact that Catalyst has produced numerous emails from my Catalyst email account as part of this motion shows my emails have not been destroyed and are still available to Catalyst. In any event, I did not use my BlackBerry device or my Catalyst email account to communicate with West Face so this information was not deleted when I wiped the device prior to returning it to Catalyst.

CATALYST INVESTMENT LETTERS

5. Contrary to paragraph 19 of Mr. Riley's Affidavit, it is my recollection that there were negative statements made about a former partner, Mike Weinczok, in one of the investment letters. However, even if there were no denigrating statements towards former Catalyst employees in the investment letters, which I deny, it does not change the fact that I was suspicious that there may have been such statements (since I had previously witnessed Mr. Glassman make negative statements about former Catalyst employees to investors as outlined at paragraph 45 of my original Affidavit) and that was the reason that I reviewed them.

EMAILS SENT TO MY PERSONAL ACCOUNTS

6. In his Affidavit, Mr. Riley has attached four emails that I sent to my personal email accounts over the course of my employment. These emails span from November 2013 to March 2014, which, I note, is before I began speaking with West Face about potential employment.

7. All of these emails were sent for work related purposes. I sent the information to my personal email account in order to work on the documents at home. A review of the times the emails were sent supports this explanation (4:58 PM, 5:36 PM, 8:23 PM, and 5:31 PM). As I explained in my original Affidavit, Catalyst's remote access system was notoriously slow and unreliable and it was common practice amongst Catalyst partners and employees to send Catalyst documents to their various personal accounts to work more efficiently from home. It is unsurprising that Catalyst found evidence that I forwarded documents that I was working on to my personal email account, as I am sure they would find similar evidence from many other Catalyst employees.

8. I swear this affidavit in opposition to Catalyst's motion for an injunction and for no other purpose.

SWORN before me at the City of Toronto)
on the 16th day of July, 2014)

10th of Oct. BSM)

A Commissioner for Taking Affidavits etc.

BRANDON MOYSE