

In the Matter Of:  
The Catalyst Capital Group Inc. v.  
Brandon Moyse et al

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ASSER ELSHANAWANY

May 12, 2015

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Court File No. CV-14-507120

ONTARIO  
SUPERIOR COURT OF JUSTICE

B E T W E E N :

THE CATALYST CAPITAL GROUP INC.

Plaintiff

- and -

BRANDON MOYSE and WEST FACE CAPITAL INC.

Defendant

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--- This is the Cross-Examination of ASSER ELSHANAWANY,  
on his affidavit sworn March 9, 2015, taken at the  
offices of Davies Ward Phillips & Vineberg LLP, 40th  
Floor, 155 Wellington Street West, Toronto, Ontario, on  
the 12th day of May, 2015.  
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1 A P P E A R A N C E S:

2

3 Andrew Winton, Esq. for the Plaintiff.

4

5 Kristian Borg-Olivier, Esq. for the Defendant

6

Brandon Moyses

7

8 Matthew Milne-Smith, Esq. for the Defendant

9

West Face Capital Inc.

10

11 Caitlin Sansbury, Esq. for the witness

12

Asser Elshanawany,

13

REPORTED BY: Terry Wood, RPR, CSR

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## 1 I N D E X

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3 WITNESS: ASSER ELSHANAWANY

4

Page

5 ASSER ELSHANAWANY

6 Cross-Examination by Mr. Winton 5

7 \*\*\*The following list of undertakings, advisements and  
8 refusals is meant as a guide only for the assistance of  
9 counsel and no other purpose\*\*\*

10

11

## INDEX OF REFUSALS

12 The questions/requests refused are noted by R/F and  
13 appear on the following pages/lines: None.

14

15

## INDEX OF UNDERTAKINGS

16 The questions/requests undertaken are noted by U/T and  
17 appear on the following pages/lines: None.

18

19

## INDEX OF UNDER ADVISEMENTS

20 The questions/requests taken under advisement are noted  
21 by U/A and appear on the following pages/lines: 51/25,  
22 52/5.

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## LIST OF EXHIBITS

EXHIBIT NO./DESCRIPTION	Page
1 Article titled "Wind Mobile Replaces CEO, Hands Reins to Former Public Mobile Rival", dated March 23, 2015.	56

1 --- Upon commencing at 2:03 p.m.

2 ASSER EL SHANAWANY, AFFIRMED.

3 CROSS-EXAMINATION BY MR. WINTON:

4 1 Q. Good afternoon, sir. Can you state  
5 your name for the record.

6 A. My name is Asser El Shanawany.

7 2 Q. Okay. Last name E-L, space,  
8 S-H-A-N-A-W-A-N-Y?

9 A. That's correct.

10 3 Q. Okay. Good. Thank you. And just  
11 going off paragraph 1 of your affidavit sworn  
12 March 9th, 2015, you are currently the Corporate  
13 Planning and Control Officer for Wind Mobile Corp.?

14 A. That's correct.

15 4 Q. And we will refer to the company  
16 throughout here as "Wind", okay? No problem?

17 A. Okay.

18 5 Q. And according to paragraph 1, you  
19 joined Wind in January, 2009, as Vice-President  
20 Planning, Reporting, and Control, correct?

21 A. That's correct.

22 6 Q. And is that essentially the same  
23 position as your current position, just with a title  
24 promotion, or is there some difference in role?

25 A. There is a little bit of a

1 difference. Number one, it's a promotion; number two,  
2 I now oversee some of the strategic planning aspects of  
3 the business, which I wasn't back then. I also oversee  
4 the consumer credit risk, which I wasn't doing back  
5 then.

6 7 Q. Now, I took the liberty of  
7 reviewing your LinkedIn profile before today's  
8 cross-examination, but I don't see a need to enter that  
9 as an exhibit. I think we will just go through some  
10 what I hope are uncontroversial facts about your  
11 background.

12 You describe yourself as a founding  
13 executive of Wind, correct?

14 A. Yes.

15 8 Q. And that means you were there from  
16 the start, more or less?

17 A. Yes.

18 9 Q. Prior to working at Wind, you were  
19 the Head of Financial Planning and Financial Relations  
20 at a company called Mobinil?

21 A. Yes.

22 10 Q. That's spelled M-O-B-I-N-I-L,  
23 correct?

24 A. That's correct.

25 11 Q. Now, I understand Mobinil is a

1 subsidiary of Orascom?

2 A. Yes. Was.

3 12 Q. It was a subsidiary of Orascom? At  
4 the time you worked at Mobinil, it was a subsidiary?

5 A. Yes.

6 13 Q. So is it fair to say your position  
7 at Wind was a result of your relationship with Orascom?

8 A. Yes.

9 14 Q. And is it fair to say that Orascom  
10 put you in place at Wind because it trusted you and  
11 wanted to have its representative there at the  
12 corporation?

13 A. We can -- you can say so as well as  
14 clearly due to the -- I would say the professional  
15 skills and -- that I had back then.

16 15 Q. Not to take away from your  
17 professional skills, but you were a trusted  
18 representative of Orascom. Is that your understanding?

19 A. I wouldn't call it representative  
20 of Orascom, because I am a local employee starting the  
21 day I joined Wind. Now, how I came to land this job  
22 was basically through my connections to them, but I  
23 wasn't here representing anyone, really.

24 16 Q. Got it. Thank you. And I read on  
25 your LinkedIn profile it says you led the establishment



1 of the financial infrastructure for Wind, correct?

2 A. That's correct.

3 17 Q. What does that mean?

4 A. So all the way from the start, we  
5 had to deploy ERP systems. We had to -- so Oracle  
6 financials, we had to establish billing systems, we had  
7 to establish control processes, financial control  
8 processes. So pretty much -- I mean, Wind was a  
9 startup, and accordingly, all of that had to be  
10 established from -- from scratch. So all the way from  
11 RFQs, RFPs, the design, the actual implementation --  
12 the, I would say, industry know-how. I have been in  
13 telecom for almost now 15 years or something, so the  
14 industry know-how, and that was it.

15 18 Q. Okay. So just to clarify, then,  
16 when you refer to financial infrastructure, you are not  
17 referring to the raising of financial capital for the  
18 corporation?

19 A. Oh, no. No, no.

20 19 Q. Okay. Thank you. Turning to  
21 paragraph 4 of your affidavit, you state here or you  
22 refer to the fact, in 2011, the majority of Wind's  
23 equity was indirectly acquired by -- I'll pronounce it  
24 VimpelCom. To make the reporter's job easier, it's  
25 V-I-M-P-E-L-C-O-M, all one word.

1                   Now, my understanding is VimpelCom  
2 simply bought out Orascom's interest; is that correct?

3                   A.    That's correct.

4       20           Q.    And you stayed on even after  
5 Orascom sold out?

6                   A.    Yes.  Again, I was a local  
7 employee.  I wasn't really associated with them, so ...

8       21           Q.    Okay.  Is it fair to say you didn't  
9 have the same relationship with VimpelCom you had with  
10 Orascom?

11                   A.    Yes, that's correct.

12       22           Q.    You wouldn't describe yourself as a  
13 VimpelCom representative at Wind, correct?

14                   A.    No.  We had other representatives  
15 in the management team who basically were directly  
16 VimpelCom employees.

17       23           Q.    Right.  And you weren't one of  
18 them?

19                   A.    No.

20       24           Q.    Okay.  Now, currently, your job  
21 entails financial planning and corporate finance.  Does  
22 that now include the raising or concerns regarding  
23 raising capital for the corporation?

24                   A.    I'm involved in the raising of  
25 capital.  So, for instance, if we are going for a

1 vendor financing, I am involved in -- because I lead  
2 all of the planning, so in providing all of the plans  
3 and doing the due diligence with those vendors or  
4 whomever they are and kind of -- it stops, really,  
5 there. I don't really get involved in structuring the  
6 facility or -- or kind of trying to find alternatives  
7 for the funding.

8 25 Q. Okay. So, for instance, if Wind  
9 has a need to raise a whole lot of new capital, that's  
10 not really within your purview?

11 A. It's not within my purview to  
12 decide where do we raise this capital. Once this is  
13 decided, usually at the shareholder level, I'm provided  
14 a mandate. So I speak to, I don't know, UBS or Morgan  
15 Stanley or whomever and kind of act or follow through a  
16 specific line of thoughts that they had and they have  
17 agreed upon.

18 26 Q. So you support the mandate?

19 A. Yes.

20 27 Q. Okay. Thank you.

21 Now, in swearing the affidavit we have  
22 here at tab B of West Face's motion record, you  
23 understood prior to swearing this that it was important  
24 for you to tell the truth in this affidavit?

25 A. Yes.

1       28                   Q.    And you understood that the  
2   evidence you are giving is for a court proceeding?

3                        A.    Yes.

4       29                   Q.    In paragraph 3 of your affidavit,  
5   on page 2, you refer to the fact that almost from its  
6   inception Wind explored sources of Canadian financing  
7   as a result of well-publicized regulatory concerns.

8                        Were you involved in those explorations  
9   for Canadian financing?

10                      A.    Not firsthand involvement. I was  
11   made aware of them. Clearly, from the operational side  
12   that -- the one that I was managing, we had  
13   difficulties because of the regulatory environment or  
14   I'd say the -- after the first review done by Industry  
15   Canada where -- where they deemed Wind not to operate  
16   on the licence it acquired, I was very well aware as  
17   well as publicly it was made very clear that Wind is  
18   having financial difficulties and that options are  
19   being explored to secure more Canadian funds, if you  
20   wish, to allow the operation to get off the ground.

21       30                   Q.    Right. But as one of the founding  
22   executives, you were aware of the discussions at Wind  
23   regarding the search for Canadian capital?

24                      A.    Yes.

25       31                   Q.    Were you involved in any of those

1 discussions with potential partners who were going to  
2 contribute the capital?

3 A. No, not -- no. Not firsthand --

4 32 Q. Not firsthand?

5 A. -- at all. No.

6 33 Q. So what you are recounting here in  
7 paragraph 3 is merely what you knew from secondhand  
8 information from others at Wind?

9 A. That's correct.

10 34 Q. Paragraph 6 of your affidavit  
11 begins with a sentence that states you were informed by  
12 UBS that West Face had delivered an executed  
13 nondisclosure agreement. Who at UBS gave you that  
14 information?

15 A. We have -- I mean, there was a  
16 team. I don't remember the exact person. That's why I  
17 said UBS. There was a team of five or six different  
18 representatives, and they would -- depending on  
19 availability, some of them would show up in specific  
20 meetings and others wouldn't. Just leave it there.

21 35 Q. So as of the swearing of this  
22 affidavit and today when you are being cross-examined,  
23 you don't recall who at UBS gave you that information?

24 A. Yes.

25 36 Q. Yes, I'm correct with my statement?

1                   A.    Yes, I do not recall the name of  
2 the person what gave me the exact piece of information.

3       37            Q.    And I take it, then, that you  
4 weren't directly involved in the preparation or seeking  
5 the nondisclosure agreement from Wind -- or, sorry,  
6 from West Face?

7                   A.    No, I was not.

8       38            Q.    Turning to the last sentence of  
9 paragraph 6, you refer to a management presentation  
10 that was given on December 17th, 2013, at which you  
11 were present?

12                   A.    That's correct.

13       39            Q.    Who from West Face was present at  
14 that meeting?

15                   A.    Okay.  So there was Anthony  
16 Griffin, Peter Fraser, a gentleman called Yu-Jia.  I  
17 don't remember his last name.  I just don't remember  
18 his last name.

19                   MR. MILNE-SMITH:  Capital Y-U, hyphen,  
20 capital J-I-A, last name, Z-H-U.

21                   THE WITNESS:  There was another  
22 gentleman, but I don't remember his name.  He didn't  
23 really talk much in the meeting, and I wasn't  
24 introduced to the guy.

25

1 BY MR. WINTON:

2 40 Q. Okay. So four people from West  
3 Face were there?

4 A. Yes.

5 41 Q. Paragraph 7, you are describing the  
6 general terms access to the Wind data room and  
7 management presentations, and the second-last sentence,  
8 so it's about six lines -- five lines from the bottom  
9 of that paragraph, you state:

10 "While some parties asked for  
11 additional materials and therefore  
12 received different materials than  
13 others, to the best of my recollection,  
14 none of this additional information was  
15 material."

16 Now, this phrase "to the best of my  
17 recollection" seems to be recurring throughout your  
18 affidavit, and I'm just curious. That's because we are  
19 talking here about events that happened approximately  
20 one year ago?

21 A. Right.

22 42 Q. And in some cases, longer, correct?

23 A. That's correct. As well as I  
24 wasn't in every single meeting or in every single --  
25 copied in every single exchange, so I'm --

1       43               Q.    Right.  And I was going to get to  
2   that.  So your role, I take it, at Wind was to support  
3   requests for information that were coming down from the  
4   investment bankers?

5                    A.    Yes, mostly.

6       44               Q.    And you didn't have a direct role  
7   in the discussions with potential bidders, correct?

8                    A.    Yes.  Most of the discussions  
9   with -- like, if you are talking about the -- the  
10  strategy or the shareholder-related issues, it was  
11  dealt with the shareholders, so we were handling the  
12  management side of the transaction, so ...

13       45               Q.    Right.  If people were in the  
14  process that they were going through the data room and  
15  conducting due diligence, they had a question about  
16  some document or about some state of affairs, that  
17  might go to you to answer, correct?

18                    A.    That's correct.

19       46               Q.    And that's essentially the extent  
20  of your role in the bidding process?

21                    A.    Yes.

22       47               Q.    So you are not aware of all of the  
23  additional materials or additional information that was  
24  requested from potential bidders, correct?

25                    A.    No, I was not.  Not to every single



1 one of them. I managed those -- the -- call it the due  
2 diligence list, so I would get the master due diligence  
3 list, then I would pretty much kind of coordinate  
4 internally with the different functional heads on  
5 providing the different materials back to UBS who  
6 posted in the data room and then kind of give access to  
7 the potential bidders.

8 48 Q. Right. But I think my question was  
9 intended to focus more on the parties' individual  
10 requests for additional information. Okay? So when a  
11 particular party asked for additional information, you  
12 weren't necessarily tracking which party was asking for  
13 which information and what was going to whom in  
14 response to those requests, were you?

15 A. I'd say most of those, I was,  
16 because I was managing the master due diligence list.  
17 That said, some requests sometimes would come directly  
18 from the bidder to UBS directly to the functional head,  
19 and in some cases, I wouldn't be there, but I would  
20 describe that as minimum.

21 49 Q. Okay. If there were questions  
22 directed to UBS that required a response from the  
23 current shareholders, those would bypass you?

24 A. Yes.

25 50 Q. So there may be questions of that

1 nature that you are completely unaware of?

2 A. Yes.

3 51 Q. So following that, in paragraph 8,  
4 you state, with respect to management presentations, to  
5 the best of your recollection:

6 "Neither Catalyst nor West Face  
7 received any different material  
8 information during the management  
9 presentations."

10 And by stating "to the best of your  
11 recollection", that's because you are not absolutely  
12 certain about that point, right?

13 A. No, I was -- I was there in both --  
14 in both presentations, and the story line of the  
15 presentation and the structure of it was pretty much  
16 the same, with a -- the only difference -- the only  
17 material difference I would describe is basically the  
18 timing of the presentations themselves, and,  
19 accordingly, the information updated in the deck.

20 Now, every bidder in every meeting had  
21 different questions based on their knowledge of the  
22 business and the market dynamics and whatever  
23 developments that were happening. The questions were a  
24 little bit different from one bidder to the other, but  
25 the -- pretty much, I'd say, the -- most of the

1 discussions were the same as well as the materials  
2 presented. Just how they got at it from different  
3 points of view.

4 52 Q. Right. They had different points  
5 of view about different aspects of the operations of  
6 the company, correct?

7 A. Yes.

8 53 Q. Now, in paragraph 10 on page 4 of  
9 your affidavit, you state, in early May, 2014, you were  
10 informed by UBS, and it goes on about West Face sending  
11 a term sheet. And I take it, again, as with the  
12 previous reference to just UBS as a blanket reference,  
13 you don't recall who at UBS gave you that information,  
14 correct?

15 A. Yes. And -- yes. It's usually a  
16 meeting and/or a phone call, and we have multiple  
17 representation, and people just speak over each other.

18 54 Q. Right. And as you candidly state  
19 in paragraph 10, you weren't privy to the deliberations  
20 by VimpelCom, the majority shareholder, correct?

21 A. Yeah, that's correct.

22 55 Q. There were others at Wind involved  
23 in management who were privy to those discussions?

24 A. I honestly don't know.

25 56 Q. Okay.

1                   A.    I would -- I don't want to assume,  
2 but, personally, I don't know.

3       57            Q.    Well, you refer elsewhere in your  
4 affidavit to Mr. Cordova?

5                   A.    Yes.

6       58            Q.    And he was at the time the chief  
7 operating officer at Wind?

8                   A.    That's correct.

9       59            Q.    And you refer to him in  
10 paragraph 12 as acting as the VimpelCom representative  
11 on the Wind management team?

12                   A.    That's correct, but I don't know  
13 what did he know and what he didn't know.

14       60            Q.    Can you say now that he likely knew  
15 more than you did?

16                   A.    Yes.

17       61            Q.    My understanding of the affairs of  
18 Wind is that Mr. Cordova remained at Wind until fairly  
19 recently, correct?

20                   A.    That's correct.

21       62            Q.    He was named as the either acting  
22 CEO or, in fact, the CEO of the company in September?

23                   A.    The interim CEO in December, I  
24 think. Yeah, I think it was -- you know. You know  
25 what, I -- between October and December. I don't know

1 exactly when it was. It was following the transaction  
2 close, and then until recently, in -- in March, in  
3 early March, where he was pretty much replaced with a  
4 new CEO.

5 63 Q. Right. So and my understanding is  
6 the new CEO is named in sort of mid- to late March?

7 A. That's correct.

8 64 Q. Okay. At the time that you swore  
9 this affidavit, you had access to Mr. Cordova if you  
10 needed it?

11 A. Yes.

12 65 Q. You refer in paragraph 12 to a fact  
13 that you received or information you received from  
14 Mr. Cordova, and you say -- who at the time was the  
15 chief operating officer of Wind. So I take it from  
16 that additional fact, you are referring to information  
17 you received from Mr. Cordova more or less  
18 contemporaneously with the event, meaning in  
19 July, 2014, and not information you received in  
20 preparation for swearing this affidavit; is that  
21 correct?

22 A. Yeah, that's correct.

23 66 Q. And in paragraph 12, your first  
24 sentence is that, to the best of your knowledge:

25 "Neither West Face nor any

1                   syndicate to which it belonged made an  
2                   offer to VimpelCom in respect of Wind in  
3                   June or July, 2014."

4                   That's your evidence today as well,  
5                   correct?

6                   A.     Yes.

7           67           Q.     If we can turn up Mr. Griffin's  
8           affidavit, tab A, Volume 1 of the West Face record, at  
9           paragraph 38. Just give the witness a chance to review  
10          that paragraph.

11                  A.     Okay.

12          68           Q.     Okay. So paragraph 38 of  
13          Mr. Griffin's affidavit suggests that in June, 2014, a  
14          draft share purchase agreement was delivered to UBS?

15                  A.     Okay.

16          69           Q.     Correct?

17                  A.     Yes.

18          70           Q.     You knew nothing about that?

19                  A.     No. We were actively pretty much  
20          involved in a lot of due diligence activities with  
21          different parties back then, particularly in June, and  
22          nothing -- I knew nothing to suggest that there was --  
23          there was even an active offer on the table at the  
24          shareholder level at that point in time.

25          71           Q.     Right. And not to suggest you

1 would; that's just information that wouldn't  
2 necessarily trickle down to where you were, correct?

3 A. Exactly.

4 72 Q. Paragraph 13 of your affidavit, on  
5 page 5, refers to information you state you received  
6 from representatives of VimpelCom. You qualify that by  
7 suggesting that, to the best of your knowledge, it was  
8 either Mr. Cordova or Carsten Revsbech.

9 A. Yes.

10 73 Q. R-E-V-S-B-E-C-H.

11 And Mr. Revsbech was a VimpelCom  
12 employee?

13 A. Yes. He was. He still is.

14 74 Q. Not at Wind?

15 A. Not at Wind, no.

16 75 Q. And what follows in that sentence  
17 is a statement that you were advised by either  
18 Mr. Cordova or Mr. Revsbech is that, from the outset of  
19 the sales process, VimpelCom had made it clear to all  
20 of the bidders, including Catalyst, that it would not  
21 assume the risk of regulatory approval of the sale of  
22 its interest in Wind?

23 A. That's correct.

24 76 Q. This is information that was given  
25 to you in or around December, 2013?

1                   A.    Yes.  And it was reaffirmed  
2 afterwards throughout pretty much the later part of the  
3 due diligence and the sale process, so May onward to  
4 September.

5       77            Q.    From May onward to September, this  
6 information was reaffirmed to you?

7                   A.    Was reaffirmed to me and was  
8 clearly stated in the different management  
9 presentations that we have given.  So in any management  
10 presentation, there would be the management of the  
11 company and then there would be shareholder  
12 representatives.  Carsten has always been there along  
13 with their legal counsel and sometimes others, and this  
14 particular call it affirmation would come from the  
15 VimpelCom representation, not from the management  
16 representation.

17       78            Q.    Okay.  Let me just work with that  
18 for a second.  So you are referring now to management  
19 presentations that you say took place throughout the  
20 sales process?

21                   A.    Yup.  There was different parties  
22 involved in the bidding, so there was different  
23 management presentations given.

24       79            Q.    Okay.  Was there only one  
25 presentation given to each potential bidder, meaning



1 when a potential bidder identified themselves they  
2 would show up and receive a single presentation?

3 A. They would receive what we call the  
4 management presentation that was given once. Now, if  
5 they ask for any follow-up meetings to discuss due  
6 diligence, to discuss financial modelling, to discuss  
7 any other issues on the due diligence list that they  
8 had, we could either reconvene or do a conference call  
9 or whatever it is that did suit the bidders.

10 80 Q. During these requests for follow-up  
11 information or additional questions from the potential  
12 bidders, were new presentations or revised  
13 presentations prepared?

14 A. No.

15 81 Q. So it was always the same  
16 presentation?

17 A. Yes. I mean, the presentation as a  
18 document was one presentation. Now, if anyone wants to  
19 reference something or to have a follow-up questions or  
20 they -- or they come up with their own questions  
21 following their advancement of knowledge of the  
22 company, we would answer to those questions, but there  
23 was no new materials as a management presentations  
24 being delivered to anyone or prepared at the management  
25 side.

1           82           Q.    Right.  And the presentation, as I  
2 understand your evidence today, included a shareholder  
3 portion that had been prepared by VimpelCom?

4           A.    No, not really.  Not in the  
5 management present -- the material itself was fully  
6 prepared by the management team, by the Wind management  
7 team.  Now, in the actual meeting, there would be  
8 representation from VimpelCom while the management is  
9 delivering their presentation.

10          83           Q.    Yes.

11          A.    As well as if any questions came or  
12 if any questions are raised to the management that lies  
13 pretty much outside of their control or level of  
14 involvement -- regulatory stuff, shareholder deal  
15 structures, any of that stuff -- we had no -- no  
16 knowledge and no say about any of that stuff.

17          84           Q.    Right.  So outside the purview of  
18 the management presentation would lie issues such as  
19 regulatory approval?

20          A.    Yes.

21          85           Q.    That's not something management  
22 presented on?

23          A.    That's not something management  
24 presented on with regards to the regulatory approval  
25 for the transaction.  However, there was other

1 regulatory issues, like wholesale rates, tower sharing,  
2 stuff like that, we would talk to those, because those  
3 are active files that lies within the management  
4 control.

5 86 Q. Right. But when it comes to  
6 discussing the regulatory approval of a sale of Wind to  
7 a new bidder, that lay outside the scope of  
8 management's presentation, correct?

9 A. That's correct.

10 87 Q. Any questions about regulatory  
11 approval of the sale to a potential new bidder would  
12 not be questions to be answered by management, correct?

13 A. That's correct.

14 88 Q. Now, help me understand something  
15 in this paragraph 13. You state that you were advised  
16 by either Mr. Cordova or Mr. Revsbech. Did you not  
17 take any steps prior to swearing this affidavit to  
18 figure out who had given you this information?

19 A. No, not really.

20 89 Q. No. You had access to Mr. Cordova  
21 around the office, correct?

22 A. Yes.

23 90 Q. And didn't it occur to you to ask  
24 him if he was the one who gave you this information?

25 A. No, it did not, because in, again,

1 most of the meetings and most of the discussions, both  
2 of them would be there.

3 91 Q. But you don't have firsthand  
4 knowledge of the information in this first sentence in  
5 paragraph 13; you are stating what you were advised by  
6 either one person or another, correct?

7 A. No, I do have firsthand information  
8 of that, because I would be sitting in the meeting, and  
9 then the way the management presentation starts is it  
10 get -- it gets kicked off by the VimpelCom  
11 representatives stating pretty much what we are about  
12 to discuss and stating pretty much exactly what process  
13 are they running with the UBS, and they would clearly  
14 state the whole regulatory part that any approvals --  
15 number one, any regulatory discussions have to happen  
16 outside of the management presentation with the  
17 shareholders as well as this is the responsibility of  
18 the bidder. And they would kick it off, and the  
19 management takes over, the presentation goes through,  
20 we answer all the questions to the best of our  
21 knowledge. If any questions comes back outside of our  
22 scope, the VimpelCom representative would pretty much  
23 kind of chime in, and they take it from there.

24 92 Q. And you were present at all of  
25 these management presentations?

1 A. Yes.

2 93 Q. In the next sentence, in  
3 paragraph 13, you state:

4 "When VimpelCom asked Catalyst for  
5 a break fee to be paid in the event the  
6 deal cannot close because of regulatory  
7 or other problems, Catalyst refused."

8 Now, that sentence, do you have  
9 firsthand knowledge of that?

10 A. No.

11 94 Q. So who told you that?

12 A. Pietro. Mr. Cordova.

13 95 Q. Okay. Because your affidavit  
14 doesn't state that it comes from someone else, it  
15 states it's -- right? So -- okay. Well, you're saying  
16 today that that was something you were told by  
17 Mr. Cordova?

18 A. Yes. I think this is pretty much  
19 continuation of the -- of the previous declaration that  
20 my knowledge came either from Pietro or from Carsten.

21 96 Q. Yes.

22 A. And it -- and it says -- it says  
23 clearly that I don't have firsthand information of this  
24 one.

25 97 Q. Okay. You are repeating what you

1 were told by either Mr. Cordova or Mr. Revsbech on this  
2 point?

3 A. That's correct.

4 98 Q. And then the next sentence, to the  
5 best of your knowledge:

6 "Catalyst's refusal at this point  
7 is why it was unable to execute a deal  
8 for Wind."

9 Again, that is not firsthand knowledge  
10 but secondhand knowledge?

11 A. That's correct.

12 99 Q. From either Mr. Cordova or  
13 Mr. Revsbech?

14 A. That's correct.

15 100 Q. And so, again, in paragraph 14,  
16 where you are referring to this statement from  
17 VimpelCom that it engaged in no further negotiations  
18 with West Face during the exclusivity period, that's  
19 not information you have firsthand knowledge of,  
20 correct?

21 A. That's correct.

22 101 Q. You are putting this into your  
23 affidavit because it was something you were told by  
24 either Mr. Cordova or Mr. Revsbech, correct?

25 A. That's correct.

1       102               Q.    And when were you advised of that  
2   fact?

3                    A.    Pretty much throughout the period  
4   of the exclusivity. We were actually sent a note, an  
5   official note, that pretty much states that we should  
6   not engage in any communication with any other bidder  
7   with the exception of West Face, and in a different  
8   discussion as well as pretty much there was still some  
9   questions coming in, and we were told very clearly not  
10  to -- not to entertain any of those and leave them  
11  where they were.

12       103               Q.    Okay. I think in your response  
13  there you refer to West Face. You probably intended to  
14  refer to Catalyst, right? You said you were told not  
15  to engage in any discussions with anyone other than  
16  West Face?

17                    A.    Sorry, I mean Catalyst.

18       104               Q.    You meant Catalyst --

19                    A.    Yes.

20       105               Q.    -- because Catalyst had the  
21  exclusivity agreement?

22                    A.    Yes, that's correct.

23       106               Q.    I thought so. I just wanted to  
24  make sure for the record it's clear.

25                    A.    Yeah, yeah, yeah, that's correct.

1       107           Q.    So the evidence at paragraph 14 is  
2 derived from this message that was conveyed to you not  
3 to communicate with anyone other than Catalyst?

4                   A.    Yes.

5       108           Q.    It wasn't that, in fact,  
6 Mr. Cordova or Mr. Revsbech told you that VimpelCom had  
7 engaged in no further negotiations, correct?

8                   A.    Yes, this is correct.

9       109           Q.    So it's possible they did, but you  
10 just wouldn't know about it?

11                   A.    I guess so, yes.

12       110           Q.    So, for instance, if we turn back  
13 to Mr. Griffin's affidavit, paragraph 77 on page 30.  
14 Paragraph 77 starts on page 29, but the operative part  
15 is on page 30, the last six or seven lines, beginning  
16 with "West Face's relationship with AAL". You'll see,  
17 sir, that Mr. Griffin's evidence is that a proposal was  
18 submitted to VimpelCom on August 7th, 2014. Do you see  
19 that there?

20                   A.    Yes.

21       111           Q.    And you weren't aware of that  
22 proposal being sent at that time, correct?

23                   A.    No, I wasn't aware.

24       112           Q.    So the evidence at paragraph 14 is  
25 an assumption you made based on the fact that you had



1 been told not to engage with anyone other than  
2 Catalyst; is that correct?

3 MR. MILNE-SMITH: Sorry, Counsel, that's  
4 not what it says in paragraph 14.

5 MR. WINTON: No, but that's what I  
6 understand from his evidence today, so I'm just trying  
7 to make sure I understand his evidence today.

8 BY MR. WINTON:

9 113 Q. When I asked you what the source of  
10 that information was, you referred to the message  
11 conveyed to you not to engage with anyone other than  
12 Catalyst. Do you recall that?

13 A. Yes, I recall that.

14 114 Q. And that's the basis for the facts  
15 stated in the first sentence of paragraph 14?

16 A. Yes.

17 115 Q. Paragraph 16. Again, we have a  
18 statement that's to the best of your knowledge  
19 regarding regulatory issues that Catalyst may or may  
20 not have raised with Wind, and I just want to make  
21 sure, because this is -- this -- we keep this  
22 consistent with what I understand from your evidence  
23 today. The discussions regarding regulatory issues  
24 very well may have bypassed you, correct?

25 A. That's correct.

1       116               Q.    The fact that you aren't aware of  
2 any regulatory issues that were unique to Catalyst  
3 doesn't mean that none such issues existed, correct?

4                       A.    Yeah, that's absolutely correct.  
5 And I guess what I'm saying is that those kind of  
6 discussions did not happen at the management level.  
7 They happened at the shareholder level, so ...

8       117               Q.    Right. They didn't involve you --

9                       A.    Exactly.

10      118               Q.    -- if they existed at all. And  
11 it's fair to say you weren't aware of what discussions  
12 Catalyst was having with Industry Canada around this  
13 time?

14                       A.    No.

15      119               Q.    You weren't aware of what  
16 Catalyst's regulatory concerns were, were you?

17                       A.    No.

18      120               Q.    In the second sentence of  
19 paragraph 16, in reference to regulatory challenges,  
20 you refer to the public disputes over foreign  
21 ownership, and you refer as well to advice given by UBS  
22 and VimpelCom to potential purchasers from late 2013  
23 on, as described above.

24                       Now, I want to make sure I know what  
25 that reference is to when you say "as described above".

1 So I believe it's a reference to paragraph 8, if we  
2 turn back. And the last sentence refers to mention of  
3 what was discussed at management presentations. Is  
4 that the cross-reference from paragraph 16 to the "as  
5 described above"?

6 A. Yes. This is -- this works as well  
7 as the -- what I explained about the management  
8 presentations whereby the representatives of VimpelCom  
9 would kick off the meeting by clearly stating that the  
10 regulatory risk and approvals kind of lies with the  
11 potential bidders.

12 121 Q. Right. That's at paragraph 13 of  
13 your affidavit, correct?

14 A. Yes.

15 122 Q. So paragraphs 8 and 13 are the two  
16 paragraphs that are being referred to in this  
17 paragraph 16?

18 A. Yes.

19 123 Q. Now, as well as not being aware of  
20 Catalyst's -- or whether Catalyst had any questions  
21 made directly to UBS about regulatory challenges or  
22 directly to the shareholders, likewise, you wouldn't be  
23 aware of whether West Face was asking questions  
24 directly to the shareholders about regulatory approval?

25 A. That's correct.

1       124               Q.     Just back to Mr. Cordova.  You've  
2     described him in your affidavit and explained today how  
3     he was a VimpelCom representative at Wind?

4                       A.     Yes.

5       125               Q.     To your knowledge, was he directly  
6     involved with the discussions at the VimpelCom level  
7     regarding potential bidders?

8                       A.     I don't know the level of  
9     involvement that he -- that he actually had, but to the  
10    best of my knowledge, he had some information, but he  
11    wasn't involved in all of the discussions.

12      126               Q.     Okay.  He had more information than  
13    you did?

14                      A.     Yes.

15      127               Q.     Turning to paragraph 11 of your  
16    affidavit, the second sentence, you state that, to the  
17    best of your recollection:

18                               "Catalyst began to engage in  
19                               financial modelling around the middle of  
20                               May, 2014."

21                               Is that an assumption you made based on  
22    the fact that you gave a manager presentation to  
23    Catalyst it that month?

24                      A.     No.  I was -- I was leading the  
25    financial modelling stream from Wind side.

1 128 Q. Yes.

2 A. So I know for a fact that the  
3 financial modelling started, if I remember correctly,  
4 on May the 14th at a big meeting at our counsel --  
5 actually, sorry, at UBS back then, at UBS meeting, and  
6 Morgan Stanley and different members from the Catalyst  
7 team were there.

8 129 Q. Right. And if I understand the way  
9 this works correctly, you don't just start financial  
10 modelling sort of from scratch; there's work done prior  
11 to that?

12 A. That's correct.

13 130 Q. By the potential bidder?

14 A. That's correct.

15 131 Q. So prior to May 14th, you would  
16 assume, if the financial modelling started on that  
17 date, that Catalyst had been working on its analysis of  
18 the transaction prior to May 14th?

19 A. Right. So we gave our management  
20 presentation on May the 10th, if I remember correctly,  
21 and on May the 11th, the Catalyst team sent us a very  
22 comprehensive due diligence list, which we started  
23 working on, and they asked for a meeting on May the  
24 14th as a financial modelling meeting, and pretty much  
25 we -- when they sent the due diligence list, it was --

1 it was a little bit hard to kind of get through without  
2 really knowing what they had in mind, so it was more of  
3 a working meeting that we kind of started tackling  
4 their due diligence list as well as the different  
5 aspects of the financial modelling.

6 132 Q. Right. But I guess my point is  
7 these meetings and these requests don't come out of the  
8 blue; that prior to May 10th, you would have assumed  
9 there had been some work at Catalyst internal to  
10 Catalyst on its review of the Wind situation and its  
11 studying of the potential for a Wind acquisition?

12 MR. MILNE-SMITH: I'm going to object,  
13 because I don't want you to ask him to speculate about  
14 what was going on. You're asking him to assume. If  
15 you want to ask him what he knows or what he was  
16 informed of, that's fine.

17 BY MR. WINTON:

18 133 Q. Okay. You don't know whether there  
19 had been work done prior to May 10th or not?

20 A. I don't know.

21 134 Q. And you are not suggesting in your  
22 affidavit that you think they started working on the  
23 Wind transaction on May 10th?

24 A. I'm not trying to suggest that, no.

25 135 Q. Right. Okay. That's fine.

1 Paragraph 17 of your affidavit, you  
2 mention that West Face is Wind's largest shareholder.  
3 Do you know offhand what percentage of the equity or  
4 shareholdings West Face owns?

5 A. I think a little bit over  
6 25 percent.

7 136 Q. So in any event, you are aware it  
8 is not a majority shareholder?

9 A. Do you define "majority" as more  
10 than 50 percent?

11 137 Q. That's right.

12 A. Yes, for sure, they are not the  
13 majority shareholders.

14 138 Q. And not a controlling shareholder?

15 A. Well, I don't know exactly what is  
16 the details of the shareholders agreement, but I know  
17 that they are the biggest shareholder, individual  
18 shareholder, in the current group of shareholders.

19 139 Q. Right. But you are not trying to  
20 suggest here in your affidavit they hold some kind of  
21 veto over decisions made by the board?

22 A. I wouldn't know that.

23 140 Q. Right. What you do know is that  
24 they have two of the ten seats at the board of  
25 directors?

1 A. Yes.

2 141 Q. Do you know who the West Face  
3 nominees are?

4 A. I think it's Greg Boland -- Greg  
5 Boland, Peter Fraser. I mean, because this -- yeah, I  
6 think it's Peter Fraser and Greg Boland.

7 142 Q. Okay.

8 A. Sorry, sorry. Peter Rhamey and  
9 Greg Boland.

10 143 Q. Rainey?

11 A. Rhamey, R-H-A-M-E-Y.

12 144 Q. Okay. And do you know who has the  
13 right to appoint the other eight directors?

14 A. The different shareholders group,  
15 every one of them has -- has the right to appoint board  
16 members based on their equity stake, and then -- and  
17 then they all have to vote on the independent  
18 directors.

19 145 Q. Okay. How many independent  
20 directors are there?

21 A. I think three.

22 146 Q. That leaves -- my basic math. So  
23 there are seven seats held by the equity shareholders?

24 A. Yes.

25 147 Q. That they are direct nominees?



1 A. Yes.

2 148 Q. We know two of them are controlled  
3 by -- nominated by West Face. That leaves five others.  
4 Do you know how those five others are divided amongst  
5 the other shareholders?

6 A. Again, I mean, the board structure  
7 has just been changed, so ...

8 149 Q. Well, let me just stop you there  
9 for a second, then. Are there still ten members of the  
10 board?

11 A. Yes, there is ten board members. I  
12 think this has -- I mean, we have -- it changed to be  
13 ten. I don't remember what was the number before.

14 150 Q. Okay. So that didn't change from  
15 the time you swore your affidavit?

16 A. It did not.

17 151 Q. Okay.

18 A. There is -- there is two from West  
19 Face, there's two from the Globalive Capital, there's  
20 two from the Tenenbaum Group, and there is one from  
21 the -- Larry Guffey.

22 152 Q. Okay. And Globalive Capital, that  
23 includes the Lacavera interest?

24 A. Yes.

25 153 Q. Owned by Anthony Lacavera?

1 A. That's correct.

2 154 Q. And Globalive also includes the  
3 Serruya interest?

4 A. Yes.

5 155 Q. Mr. Lacavera was the CEO of Wind  
6 for a long time?

7 A. That's correct.

8 156 Q. And I think, as I recall, during  
9 the -- prior to this transaction was the -- in fact,  
10 had the controlling vote over the affairs of Wind; is  
11 that correct?

12 A. That's correct.

13 157 Q. So very involved in management of  
14 Wind for a long time?

15 A. Yes.

16 158 Q. And brings a lot of knowledge and  
17 experience as a result of that to the board?

18 A. Yes.

19 159 Q. Does he actually sit as a director  
20 on the board?

21 A. Currently or previously?

22 160 Q. Currently.

23 A. Yes, he does.

24 161 Q. Do you know who the other Globalive  
25 nominee is?

1 A. I think it's Michael Serruya.

2 162 Q. Michael Serruya?

3 A. Yes.

4 163 Q. Tenenbaum, that's a U.S.-based  
5 investment company?

6 A. That's correct.

7 164 Q. Similar to West Face, they have  
8 investment funds and invest those funds in different  
9 opportunities?

10 A. That's correct.

11 165 Q. And Mr. Guffey, he's also a  
12 shareholder and he has his own directly held interest  
13 in the corporation, correct?

14 A. That is correct.

15 166 Q. The three independent board  
16 members, do you know who they are?

17 A. I wouldn't be able to recall all of  
18 their names right now. I know who they are, but --

19 167 Q. Okay.

20 A. I'm not sure I have their names.

21 168 Q. That's fine, that's fine.

22 Now, do you report to the CEO of Wind?

23 A. No, I report to the CFO.

24 169 Q. The CFO?

25 A. Yes.

1       170                   Q.    Okay.  And does the CFO report to  
2   the CEO?

3                           A.    Yes.

4       171                   Q.    And CEO reports to the board?

5                           A.    That's correct.

6       172                   Q.    Are you present at board meetings  
7   to give information or speak directly to the board from  
8   time to time?

9                           A.    Yes, from -- sometimes.

10      173                   Q.    Indirectly, you understand yourself  
11   to report to the board?

12                          A.    No, not really.

13      174                   Q.    No.  Okay.  Now, in paragraph 17,  
14   you refer to the recent success of Wind.  Do you see  
15   that?  It's in the third sentence.

16                          A.    Yes.

17      175                   Q.    And as of I guess March 9th when  
18   you swore this affidavit, what recent successes of Wind  
19   were you referring to?

20                          A.    Well, on the operational side as  
21   well as on the -- I call it on the Spectrum side, so on  
22   the operational side, the company defaulted on its  
23   debt, on its vendor facility, back in April of 2014,  
24   and that's pretty much what accelerated the whole sale  
25   process from VimpelCom's side, and, accordingly, when

1 the transaction took place, the vendors and the company  
2 was in default. When the -- when the transaction took  
3 place, those debt has been repaid, and the company was  
4 allowed to continue to operate under a normal standard.  
5 Before that, we operated on a very scaled-down basis  
6 for lack of funds.

7 176 Q. Right. There were financial  
8 constraints that were cured through the transaction  
9 with the West Face consortium?

10 A. That's correct.

11 177 Q. That happened simultaneously or as  
12 part of the transaction between VimpelCom and the  
13 syndicate?

14 A. I don't understand what you mean by  
15 "simultaneously".

16 178 Q. Was it part of or a linked  
17 transaction that the vendor financing was resolved at  
18 the same time as the syndicate purchased the interests  
19 from VimpelCom?

20 A. Yes.

21 179 Q. It wasn't as if it was something  
22 that happened after the transaction closed?

23 A. No, it was not.

24 180 Q. Right. Okay. So that's one recent  
25 success. Is that what you were referring to in your

1 affidavit when you described recent success of Wind?

2 A. That's one of them.

3 181 Q. Yes.

4 A. The other one was basically Wind  
5 had some shortage in the Spectrum available for its  
6 operation.

7 182 Q. Yes.

8 A. And we have tried many times to  
9 acquire Spectrum and weren't necessarily successful.  
10 The last time was in the 2014, 700 megahertz auction  
11 whereby VimpelCom pretty much pulled the financing to  
12 the auction back then.

13 We were -- after the transaction, the  
14 funds needed to secure Spectrum was availed. We have  
15 put a deposit back in January for both the WS3 and the  
16 2500 megahertz, so the funds were availed. We freely  
17 never advanced it -- advanced this particular file to  
18 that level, and then we successfully closed on the --  
19 on the AWS3 acquisition in early March.

20 183 Q. Early March?

21 A. Yes.

22 184 Q. Prior to the swearing of this  
23 affidavit?

24 A. Yes. I think it was in March  
25 the 3rd. I can check the exact date of the Spectrum

1 auction. I think it was --

2 185 Q. Your counsel or one of the counsel  
3 will give the undertaking, so that's okay.

4 MR. MILNE-SMITH: I believe it's in  
5 Mr. Griffin's affidavit.

6 MR. WINTON: Is it? Let's go off the  
7 record for a second.

8 -- RECESS AT 3:02 --

9 -- RESUMING AT 3:05 --

10 BY MR. WINTON:

11 186 Q. So while we were off the record, we  
12 managed to establish through reference to an exhibit to  
13 Mr. Griffin's affidavit that the date of the results of  
14 I believe one of the Spectrum auctions were announced  
15 March 6th, and your counsel is showing you Exhibit 29  
16 to Mr. Griffin's affidavit, which is an article from  
17 the Globe and Mail dated March 6th, 2015, regarding the  
18 Spectrum auction. Do you see that, sir?

19 A. Yes.

20 187 Q. And does that help refresh your  
21 memory that the results were announced a couple of days  
22 prior to the swearing of your affidavit?

23 A. Yes. But we had the funds pretty  
24 much -- I mean, the build-up to get to the -- to the  
25 Spectrum, I was a bidding officer for the -- for the

1 auction.

2 188 Q. Yes.

3 A. And, accordingly, the build-up for  
4 the -- for the Spectrum work has almost took, like,  
5 three months of preparation of which we had to  
6 understand and be well aware of what funds do we have  
7 to kind of -- what is the envelope that we are -- that  
8 we are pretty much going to allow to it for.

9 189 Q. Right, because you have to put in a  
10 bid. I mean, the auction results are announced  
11 March 6th, but you're putting in your bids well before  
12 then, correct?

13 A. That's correct.

14 190 Q. And you have to state in the bid  
15 how much you are willing to pay for the Spectrum?

16 A. That's correct.

17 191 Q. You needed to know you had the  
18 funds available to bid as much as you possibly could,  
19 correct?

20 A. Exactly.

21 192 Q. And it states in this article that  
22 Wind will pay a total of 56.4 million for the licences?

23 A. That's correct.

24 193 Q. And so those funds are over and  
25 above whatever was paid to VimpelCom to purchase the



1 company, correct?

2 A. That's correct.

3 194 Q. And those funds were supplied by  
4 the existing shareholders?

5 A. That's correct. If I may just --  
6 the bid amount is different from what you actually end  
7 up paying.

8 195 Q. Okay.

9 A. This information still is  
10 confidential; however, the bid amount differs from what  
11 you actually end up paying, because of the -- of the  
12 second price, revealed price, kind of consideration  
13 that Industry Canada or CRTC determines.

14 MR. MILNE-SMITH: Just to be clear here,  
15 as the witness indicated, the amount of Wind's actual  
16 sealed bid is confidential, and I will object to any  
17 question about that, but I'm happy to have him explain  
18 how the second price bid auction format works.

19 BY MR. WINTON:

20 196 Q. I'm not that interested in it, but  
21 maybe give your counsel a chance to object if this is  
22 offside. I don't mean to be. But can I assume from  
23 the way you are describing this that the second sealed  
24 confidential bid was an amount greater than  
25 56.4 million?

1 MR. MILNE-SMITH: You are fine to answer  
2 that.

3 THE WITNESS: That's correct.

4 BY MR. WINTON:

5 197 Q. Okay. That's all I need to know.

6 MR. MILNE-SMITH: And just for the  
7 record, this is largely described in the Exhibit 29.

8 MR. WINTON: Got it. It is. It  
9 actually is. Look at that. Next paragraph. Well,  
10 it's good to see you guys are consistent with your  
11 story.

12 BY MR. WINTON:

13 198 Q. In paragraph 17, you refer to West  
14 Face and its partners in terms of financial business  
15 experience. So you state -- put it in the right order:

16 "Financial business experience at  
17 West Face and at partners' offer."

18 Who are the partners you are referring  
19 to?

20 A. The other shareholders.

21 199 Q. Okay. Meaning the partners in the  
22 syndicate?

23 A. Yes. So the -- Tenenbaum, Guffey,  
24 and the other guys.

25 200 Q. Right. Thank you. The last

1 sentence, you state:

2 "Access to capital is a constant  
3 concern. West Face has played a  
4 material role in advising supporting  
5 Wind on this and other issues."

6 Are you suggesting that there are plans  
7 at Wind to raise additional capital?

8 A. Can I say? Is that all right?  
9 Because it's forward-looking stuff.

10 201 Q. I haven't heard an objection from  
11 counsel.

12 MR. MILNE-SMITH: No, I have no  
13 objection. I think this is more a matter for company  
14 counsel if there is any concern about business  
15 confidentiality. But I have no problem with you saying  
16 in the most general terms whether there is any need for  
17 capital going forward.

18 THE WITNESS: Okay.

19 MS. SAINSBURY: That's fine.

20 THE WITNESS: Yes, there is -- I mean,  
21 Wind is a growing business. We are acquiring Spectrum  
22 as well as building network. Particularly, we are  
23 deploying the LTE network, which is very capital  
24 intense, and, accordingly, it requires further  
25 financing to the business.

1 BY MR. WINTON:

2 202 Q. Is Wind looking for this further  
3 financing from the existing syndicate of shareholders  
4 or is it looking to outsiders to supply this financing?

5 A. Both.

6 203 Q. Are you aware of the approximate  
7 proportions of how much is expected to come from the  
8 inside shareholders versus how much is expected to come  
9 from outside financing?

10 A. I am aware, yes.

11 MS. SAINSBURY: I'm not sure that's  
12 relevant in terms of the scope of the evidence that has  
13 been given in paragraph 17.

14 MR. WINTON: Well, if there's a  
15 suggestion that West Face is important to Wind, I'm  
16 trying to test that by seeing just exactly what the  
17 expected contribution from West Face is.

18 MR. MILNE-SMITH: So you go ahead and  
19 ask the next question and I will take it under  
20 advisement.

21 BY MR. WINTON:

22 204 Q. So what is the proportion of  
23 financing that is going to be looked for from the  
24 inside existing shareholders?

25 U/A MR. MILNE-SMITH: Take that under

1 advisement.

2 BY MR. WINTON:

3 205 Q. And of that percentage, what  
4 percentage is expected to be contributed by West Face?

5 U/A MR. MILNE-SMITH: That take under  
6 advisement.

7 MR. WINTON: Okay. We are almost done.

8 -- OFF THE RECORD --

9 BY MR. WINTON:

10 206 Q. So, sir, I have handed you an  
11 article from the Globe and Mail dated March 23rd,  
12 2015, and it concerns the -- well, the headline states  
13 that it concerns the replacement of the CEO,  
14 Mr. Cordova as CEO, of Wind, and he is replaced with an  
15 Alec Krstajic -- that's my best guess --

16 K-R-S-T-A-J-I-C. And I think this article may help  
17 refresh your memory as to who the independent members  
18 of the board may be. Starting at the bottom of  
19 page 2 -- let's see, actually, it's --

20 A. I guess that's page 2.

21 207 Q. Yes, the second page, but there's a  
22 reference, actually, on the first page to a Mr. Robert  
23 McLellan. That's the third paragraph on the first  
24 page.

25 A. That's the first page?

1       208           Q.    Third paragraph.  Do you see the  
2   reference to Robert McLellan in the third line of  
3   that paragraph?

4                   A.    Yes.

5       209           Q.    Now, is Mr. McLellan a director  
6   on the board of directors?

7                   A.    Yes.  He was appointed.

8       210           Q.    Yes.  Is he one of the independent  
9   directors?

10                  A.    Yes, he is.

11       211           Q.    Okay.  And to your understanding,  
12   is this description of him as a former executive with  
13   Toronto-Dominion Bank accurate?

14                  A.    That's what I'd read in the paper.  
15   Never met him.

16       212           Q.    No reason to doubt the accuracy of  
17   that?

18                  A.    Absolutely not.

19       213           Q.    Great.  Turning now to the third  
20   page of this printout of the article, the first  
21   paragraph on this page refers to Wind adding two new  
22   board members, and there's a reference to a David  
23   Carey, C-A-R-E-Y, and Hamid Akhavan, A-K-H-A-V-A-N.  
24   Are those the other two independent directors whom you  
25   had in mind?

1 A. Yes, I believe that's correct.

2 214 Q. And to the best of your knowledge,  
3 the description of Mr. Carey as an executive at  
4 T-Mobile is accurate?

5 A. Yes.

6 215 Q. And, likewise, for Mr. Akhavan, the  
7 description of him as a principal at an investment firm  
8 known as Telecom Ventures LLC, that's accurate,  
9 correct?

10 A. Yes. I have --

11 216 Q. You have no reason to doubt the  
12 accuracy of this report?

13 A. I have no reason to doubt, yeah.

14 217 Q. Right. And just following through  
15 here, there is a description of Mr. Guffey in the next  
16 paragraph. He's an advisor to a private equity company  
17 known as Blackstone Group, correct?

18 A. That's correct.

19 218 Q. The current CEO of Wind is formerly  
20 the CEO of Public Mobile?

21 A. That's correct.

22 219 Q. So long-standing experience in the  
23 Canadian mobile market?

24 A. Yes.

25 220 Q. Now, the third-last paragraph here

1 refers to West Face owning or controlling 35 percent of  
2 the voting shares of Wind. Does that help or is that,  
3 to your knowledge, more accurate than the number you  
4 gave me today?

5 A. I think I said north of 25 percent,  
6 so, yes, the number is accurate.

7 221 Q. Good. And, as well, the reference  
8 to Tenenbaum owning 31 percent, to your knowledge,  
9 that's accurate?

10 A. Yes.

11 222 Q. And the Globalive Capital Group  
12 owning 25 percent, that's accurate as well?

13 A. That's correct.

14 223 Q. Finally, Mr. Guffey has the  
15 remaining 8 percent, correct?

16 A. That's correct.

17 MR. WINTON: Well, subject to the  
18 questions that were taken under advisement, that  
19 completes the cross-examination. Thank you.

20 MR. MILNE-SMITH: Thank you.

21 THE WITNESS: Thank you.

22 -- OFF THE RECORD --

23 MR. WINTON: So we are going to mark the  
24 Globe and Mail article dated March 23rd, 2015, as  
25 Exhibit 1 to this cross-examination.



1 EXHIBIT NO. 1: Article titled "Wind  
2 Mobile Replaces CEO, Hands Reins to  
3 Former Public Mobile Rival", dated  
4 March 23, 2015.

5 -- Whereupon the cross-examination concluded at  
6 3:19 p.m.

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## REPORTER'S CERTIFICATE

I, TERRY WOOD, RPR, CSR, Certified  
Shorthand Reporter, certify;

That the foregoing proceedings were  
taken before me at the time and place therein set  
forth, at which time the witness was put under oath by  
me;

That the testimony of the witness and  
all objections made at the time of the examination were  
recorded stenographically by me and were thereafter  
transcribed;

That the foregoing is a true and correct  
transcript of my shorthand notes so taken.

Dated this 15th day of May, 2015.

*Terry Wood*

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NEESONS

PER: TERRY WOOD, RPR, CSR

CERTIFIED COURT REPORTER

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