

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.

Defendants

AFFIDAVIT OF ASSER EL SHANAWANY  
(sworn March 9, 2015)

I, Asser El Shanawany, of the City of Toronto, in the Province of Ontario,

MAKE OATH AND SAY:

1. I am the Corporate Planning & Control Officer for WIND Mobile Corp. ("WIND"). I joined WIND in January 2009 as the Vice President, Planning, Reporting & Control. As such, I have personal knowledge of the matters set out in this affidavit. Where I do not have personal knowledge, I have indicated the source of my belief.
  - A. **Background**
2. WIND is Canada's fourth largest wireless telecommunications service provider, providing mobile data and voice services in the Greater Toronto, Hamilton and

Ottawa areas, Ontario; Calgary and Edmonton, Alberta; and Vancouver, Abbotsford and Whistler, British Columbia.

3. WIND was founded in 2008, and was initially financed primarily by Orascom Telecom Holdings, an Egyptian corporation. Almost from its inception, WIND explored sources of Canadian financing as a result of well-publicized regulatory concerns arising out of Canadian ownership requirements in the telecom industry.
4. In 2011, the majority of WIND's equity was indirectly acquired by VimpelCom, a large telecommunications operator. However AAL Corp., a Canadian company controlled by Anthony Lacavera, continued to own 66.67% of WIND's voting shares. VimpelCom unsuccessfully tried to obtain regulatory approval to acquire ownership of AAL's voting shares in WIND.
5. In late 2013, VimpelCom instructed WIND's management to work with UBS Investment Bank to sell its interest in WIND. As Corporate Planning and Control Officer for WIND, I was responsible for helping UBS prepare the virtual data room and management presentations, as part of potential purchasers' due diligence on WIND.

**B. Due Diligence Process**

6. In early December 2013, I was informed by UBS that West Face had delivered an executed non-disclosure agreement ("NDA"). Having signed the NDA, West Face received access to WIND's virtual data room from VimpelCom so that West

Face could commence due diligence. On December 17, 2013, West Face received a management presentation from WIND at which I was present.

7. In total, at least five different parties, including Catalyst and West Face, obtained access to the WIND data room and received management presentations. The contents of the data room were identical for all potential purchasers, including both Catalyst and West Face. VimpelCom and UBS both made it very clear to me that the process and materials had to be the same for all interested parties. While some parties asked for additional materials and therefore received different materials than others, to the best of my recollection none of this additional information was material. Neither Catalyst nor West Face received any preferential or special access that was not given to other qualified bidders, all of whom had similarly signed confidentiality agreements.
8. The same was true with respect to management presentations. While the precise discussions and lines of inquiry during these presentations obviously could vary, and the questions and answers may have had different areas of emphasis, to the best of my recollection neither Catalyst nor West Face received any different material information during the management presentations than each other, nor than any other qualified bidder. The same basic presentation was given to all interested parties. WIND management's objective was to provide the same information to all bidders, and to the best of my recollection the presentations did so. At both the Catalyst and West Face management presentations it was made clear that regulatory approval risk was the responsibility of the bidder.

9. After the initial activity with West Face in December 2013, the due diligence process died down for several months and there was limited interaction with West Face until May 2014.
10. In early May 2014, I was informed by UBS that West Face sent VimpelCom a term sheet. While I was not privy to VimpelCom's deliberations, I was informed by UBS and believe that West Face's proposed term sheet was not acceptable. However, negotiations continued and on May 7, 2014, West Face's counsel, Davies Ward Phillips & Vineberg LLP, was given access to the virtual data room to conduct further due diligence.
11. Shortly thereafter, Catalyst first received a management presentation from WIND. To the best of my recollection, Catalyst began to engage in financial modelling around the middle of May 2014, which modelling was conducted by its financial advisor, Morgan Stanley. The modelling process continued for a number of weeks. WIND's primary interactions during this period were with Morgan Stanley.

**C. Catalyst Enters Into Exclusive Negotiations**

12. To the best of my knowledge, neither West Face nor any syndicate to which it belonged made a further offer to VimpelCom in respect of WIND in June or July, 2014. In fact, I was informed by Pietro Cordova, who at the time was the Chief Operating Officer of WIND and who acted as the VimpelCom representative on the WIND management team, that on July 23, 2014, Catalyst and VimpelCom entered into an agreement providing Catalyst with the exclusive right for six days

to negotiate for the purchase of VimpelCom's interest in WIND. That period of exclusivity was subsequently extended to August 18, 2014, but Catalyst was unable to conclude a deal.

13. I was further advised by representatives of VimpelCom, and to the best of my knowledge by either Pietro Cordova or Carsten Revsbech, the Director, Business Control and Mergers & Acquisitions at VimpelCom, that from the outset of the sales process in or around December 2013, VimpelCom had made it clear to all bidders including Catalyst that it would not assume the risk of regulatory approval of the sale of its interest in WIND. When VimpelCom asked Catalyst for a "break fee" to be paid in the event the deal could not close because of regulatory or other problems, Catalyst refused. To the best of my knowledge, Catalyst's refusal on this point is why it was unable to execute a deal for WIND.
14. I was advised by either Pietro Cordova or Carsten Revsbech that VimpelCom engaged in no further negotiations with West Face or any other member of a syndicate of which West Face was a party during Catalyst's period of exclusivity. Ultimately, Catalyst was unable to close a transaction during this period.

**D. West Face Syndicate Reaches Agreement With VimpelCom**

15. Following the expiry of Catalyst's period of exclusivity, West Face re-engaged in the due diligence process, and the parties ultimately reached an agreement. Phase I of the transaction closed on September 16, 2014.

**E. Requirement for Regulatory Approval Disclosed to All Bidders**

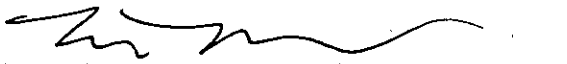
16. During the course of the due diligence process described above, to the best of my knowledge Catalyst never raised any regulatory or other material issues with WIND that were not also canvassed with West Face and other potential bidders, including around regulatory approval issues. The regulatory challenges facing any acquisition of VimpelCom's interest in WIND were well-known to all parties, based on very public disputes over foreign ownership that had surrounded WIND in the past and through the advice given by UBS and VimpelCom to potential purchasers from late 2013 on as described above.

**F. Importance of West Face to WIND**

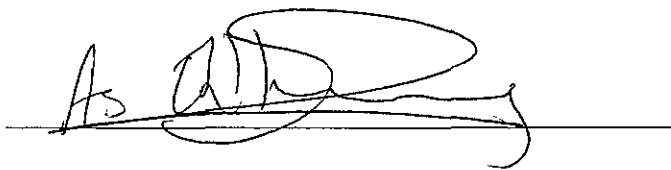
17. West Face is now WIND's largest shareholder and has the right to appoint two of the ten members of WIND's board of directors. As a result, West Face has played a significant role in providing management and strategic direction to WIND. The financial and business experience that West Face and its partners offer have been important to the recent success of WIND, particular given the capital intensive nature of the wireless industry. Access to capital is a constant concern, and West Face has played a material role in advising and supporting WIND on this and other issues.

18. I make this Affidavit in response to Catalyst's motion for an injunction against West Face and for no other purpose.

SWORN before me at the City of )  
Toronto in the Province of Ontario )  
this 9th day of March, 2015 )



Commissioner for Taking Affidavits,  
etc.



THE CATALYST CAPITAL GROUP INC.  
Plaintiff/Moving Party

and

BRANDON MOYSE and  
WEST FACE CAPITAL INC.  
Defendants/Responding Parties

Court File No. CV-14507120

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

**AFFIDAVIT OF ASSER EL SHANAWANY  
(sworn March 9, 2015)**

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