

Court File No. CV-14-507120

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E H:

THE CATALYST CAPITAL GROUP INC.

Plaintiff/Moving Party

- and -

BRANDON MOYSE and WEST FACE CAPITAL INC.

Defendants/Responding Parties

**AFFIDAVIT OF ANTHONY GRIFFIN
(Sworn, May 6, 2015)**

I, Anthony Griffin, of the City of Toronto, in the Province of Ontario, **MAKE**

OATH AND SAY:

1. I have previously sworn an affidavit in this proceeding dated March 7, 2015 in response to the motion of the Plaintiff/Moving Party The Catalyst Capital Group Inc., seeking various forms of relief against the Defendant/Responding Party, West Face Capital Inc. Capitalized terms used in this affidavit have the same meaning as in my March 7 affidavit.

2. In its original motion materials, Catalyst filed the affidavit of James Riley sworn February 18, 2015, which alleged (at para. 47) that Mr. Moyse "may have communicated Catalyst's Confidential Information concerning its negotiation plans and

concerns to West Face” regarding the acquisition of WIND. Mr. Riley’s affidavit, however, provided no particulars of just what confidential information was supposedly conveyed.

3. In a reply affidavit sworn May 1, 2015, at paragraph 45, Mr. Riley speculates that “West Face may have obtained confidential information from Moyse relating to Catalyst’s confidential regulatory concerns and used that information to develop its Wind strategy”. Mr. Riley attaches a draft share purchase agreement which he states was circulated inside Catalyst in May 2014, including to Mr. Moyse, as Exhibit E to his reply affidavit, and asserts that it was somehow related to the Catalyst “confidential regulatory concerns”.

4. Exhibit E includes clean and blacklined copies of what appear to be a Catalyst mark-up of a draft Share Purchase Agreement provided by VimpelCom. At no time prior to the delivery of the Riley reply affidavit had I or anyone on the West Face Wind deal team seen or been informed of the contents of Catalyst’s mark up of the agreement.

5. I do note that West Face itself received the same draft Share Purchase Agreement from VimpelCom that Catalyst also appears to have received. Catalyst’s mark-up made no material changes to the provisions about regulatory approval at sections 6.3 and 7.3.

6. This allegation that West Face received confidential information about Catalyst’s regulatory strategy is false. As explained in my previous affidavit, West Face received no information from Mr. Moyse about Catalyst’s WIND strategy. However, given the late-breaking, specific allegation that the supposed breach of confidentiality related to

"regulatory concerns", I can provide additional information that refutes this specific allegation.

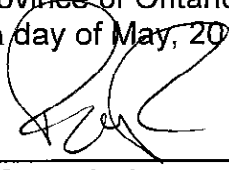
7. In particular, the various share purchase agreements sent by West Face to VimpelCom demonstrate that no confidential information regarding regulatory concerns did or even could have come from Brandon Moyse.


- (a) Attached as Exhibit A to this affidavit is a May 9, 2014 draft Share Purchase Agreement sent by VimpelCom to West Face. Exhibit E to Mr. Riley's affidavit is blacklined against this document. Section 7.3(b), requiring Industry Canada approval of the transaction, was in the original VimpelCom draft and was not modified by Catalyst in its May 24, 2014 draft. Section 6.3 contains details on the parties' obligations in respect of regulatory approvals and contains no material amendments relating to regulatory conditions.
- (b) Attached as Exhibit B to this affidavit is a June 22, 2014 draft Share Purchase Agreement sent by West Face to VimpelCom. This draft agreement was not based on the VimpelCom form but was prepared by West Face's corporate counsel, Davies Ward Phillips & Vineberg LLP. At s. 3.4(a), the draft requires Industry Canada approval of the transaction, just as the VimpelCom draft had. Section 7.4 re-writes the parties' obligations in respect of obtaining regulatory approval.
- (c) Attached as Exhibit C to this affidavit is a July 1, 2014 blacklined draft Share Purchase Agreement sent by West Face to VimpelCom. This draft agreement, at VimpelCom's request, was blacklined against their form and includes similar provisions regarding regulatory approvals at ss. 6.3 and 7.3(b). The changes bear no relation to the changes in Catalyst's May 24, 2014 draft provided at Exhibit E to Mr. Riley's reply affidavit.
- (d) Attached as Exhibit D to this affidavit is an August 7, 2014 draft Purchase Agreement sent by the New Syndicate to VimpelCom. This draft agreement,

for the first time, removed any condition requiring Industry Canada approval of the transaction as a condition of closing. Mr. Moyse had stopped working at West Face three weeks before this offer was delivered.

- (e) Attached as Exhibit E to this affidavit is the final Purchase Agreement dated September 16, 2014 between the New Syndicate and VimpelCom. Once again, this agreement contains no condition requiring Industry Canada approval of the transaction as a condition of closing.

8. Contrary to Mr. Riley's assertion in his reply affidavit, West Face did not receive any confidential information regarding Catalyst's regulatory strategy. In fact, it was the New Syndicate's willingness to drop a regulatory condition—which apparently never formed any part of Catalyst's strategy—that enabled it to successfully acquire WIND.

SWORN BEFORE ME at)
 the City of Toronto, in the)
 Province of Ontario, this)
 6th day of May, 2015.)
)
 _____)
 A Commissioner, etc.
 PHILIP PANET



 ANTHONY GRIFFIN

THE CATALYST CAPITAL GROUP INC. and BRANDON MOYSE and WEST FACE CAPITAL INC.

Court of Appeal File No. CV-14-507120

Plaintiff/Moving Party Defendants/Responding Parties

SUPERIOR COURT OF JUSTICE
Proceeding commenced at Toronto

**SUPPLEMENTARY MOTION RECORD OF THE
DEFENDANT WEST FACE CAPITAL INC.**

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