

Court File No. CV-17-587463-00CL  
Court File No. CV-17-586096

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**B E T W E E N:**

**THE CATALYST CAPITAL GROUP INC. and CALLIDUS CAPITAL  
CORPORATION**

**Plaintiffs**

**and**

**WEST FACE CAPITAL INC., GREGORY BOLAND, MSV ADVISORS  
INC. C.O.B. ANSON GROUP CANADA, ADMIRALTY ADVISORS  
LLC., FRIGATE VENTURES LP, ANSON INVESTMENTS LP, ANSON  
CAPITAL LP, ANSON INVESTMENTS MASTER FUND LP, AIMF GP,  
ANSON CATALYST MASTER FUND LP, ACF GP, MOEZ KASSAM,  
ADAM SPEARS, SUNNY PURI, CLARITYSPRING INC., NATHAN  
ANDERSON, BRUCE LANGSTAFF, ROB COPELAND, KEVIN  
BAUMANN, JEFFREY MCFARLANE, DARRYL LEVITT, RICHARD  
MOLYNEUX and JOHN DOES #1-10**

**Defendants**

**A N D B E T W E E N:**

**WEST FACE CAPITAL INC. and GREGORY BOLAND**

**Plaintiffs by Counterclaim**

**and**

**THE CATALYST CAPITAL GROUP INC., CALLIDUS CAPITAL  
CORPORATION, NEWTON GLASSMAN, GABRIEL DE ALBA, JAMES  
RILEY, VIRGINIA JAMIESON, EMMANUEL ROSEN, B.C.  
STRATEGY LTD. D/B/A BLACK CUBE, B.C. STRATEGY UK LTD.  
D/B/A BLACK CUBE and INVOP LTD. d/b/a PSY GROUP INC.**

**Defendants to the Counterclaim**

**STATEMENT OF DEFENCE TO COUNTERCLAIM**

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1. The Defendants to the Counterclaim, B.C. Strategy Ltd. d/b/a Black Cube and B.C. Strategy UK Ltd. d/b/a BLACK CUBE, deny all of the allegations contained in the Counterclaim.

#### **The Black Cube Entities**

2. B.C. Strategy Ltd. is an Israeli company that provides intelligence, litigation support, and similar services to its clients. B.C. Strategy U.K. Ltd. is a separate company that also provides the same services to its clients. The two B.C. Strategy companies occasionally provide services to one another's clients through subcontract arrangements.

3. The two B.C. Strategy companies operate under the trade name (and will be referred to herein as) "Black Cube", which is a registered trademark in approximately 50 jurisdictions including Canada. Black Cube operates in dozens of countries, has dozens of employees, and is engaged by, among others, top-tier law firms around the world to provide litigation support and similar services.

#### **The Catalyst/ West Face Litigation**

4. The Catalyst Capital Group Inc. ("Catalyst") and Callidus Capital Corporation ("Callidus") are and have for several years been involved in a series of lawsuits against West Face Capital Inc. ("West Face"). The various proceedings have expanded to involve directors, officers, and principals of the corporations, as well as related or affiliated corporations, and third parties.

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5. The proceedings all involve different groups of parties and different specific claims, but they are all related proceedings in that the principal litigants are Catalyst and Callidus on one side, and West Face on the other, and because there are some key factual issues that are common to several proceedings.

#### **Black Cube Retainer**

6. Black Cube was retained on or about September 11, 2017 for the purpose of supporting Catalyst and Callidus in their litigation against West Face, and related proceedings. The terms of and communications about Black Cube's retainer are protected by litigation privilege, upon which the Black Cube defendants rely.

#### **Black Cube's Involvement**

7. Black Cube's engagement, operations and communications with respect to the Catalyst/ West Face dispute were at all times undertaken for the sole purpose of providing litigation support, and are therefore privileged. Black Cube does not by this pleading waive any aspect of the litigation privilege or any other applicable privilege that applies to its work, files, conduct, work product, and the like.

8. Black Cube acknowledges and it is a matter of public record that its agents or employees met with various individuals in an attempt to obtain information that may be helpful to Catalyst and Callidus in their litigation with West Face. There is no legal prohibition against, or unlawful purpose behind, Black Cube's conduct in doing so.

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9. Black Cube denies that any conspiracy as alleged in the Counterclaim (or otherwise) exists between the defendants by Counterclaim.

10. Black Cube did not participate in making or approving any statement alleged in the Counterclaim to be defamatory.

11. Black Cube denies committing any unlawful act or intentional tort. Black Cube did not owe any legal duty to West Face or the persons with whom Black Cube met.

### **No Damages**

12. The Black Cube defendants in any event plead that the plaintiffs by counterclaim suffered no damages whatsoever as a result of the conduct complained of in the Counterclaim.

13. Black Cube's conduct does not meet the test for the imposition of punitive damages. There was no independent actionable wrong. While the individuals Black Cube met with are unique, the act of conducting the investigations undertaken by Black Cube in order to obtain information for use in litigation is not. Black Cube cannot be punished with an award of punitive damages simply because the persons with whom it met had previously held any particular status or position in Ontario.

14. The Defendant to the Counterclaim, B.C. Strategy Ltd. d/b/a Black Cube, B.C. Strategy UK Ltd. d/b/a BLACK CUBE, asks that the Counterclaim be dismissed, with costs.

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August 15, 2018

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RCP-E 18A (July 1, 2007)

THE CATALYST CAPITAL GROUP INC. et al.

Plaintiffs  
GREGORY BOLAND et al.  
Plaintiffs by Counterclaim

-and-

-and-

M5V ADVISORS INC. C.O.B. ANSON GROUP CANADA et al.

Defendants  
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PROCEEDING COMMENCED AT  
TORONTO

**STATEMENT OF DEFENCE TO COUNTERCLAIM**

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