

Court File No. CV-20-00653410-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

B E T W E E N:

ANSON ADVISORS INC., ANSON FUNDS MANAGEMENT LP,
ANSON INVESTMENTS MASTER FUND LP and MOEZ KASSAM

Plaintiffs/Responding Parties

- and -

JAMES STAFFORD, ANDREW RUDENSKY, ROBERT LEE DOXTATOR,
JACOB DOXTATOR, AND JOHN DOE 1, JOHN DOE 2, JOHN DOE 3, JOHN
DOE 4 AND OTHER PERSONS UNKNOWN

Defendants/Moving Party

RESPONDING MOTION RECORD OF THE PLAINTIFFS
(Motion to Set Aside Default Judgment, Returnable January 15, 2024)

VOLUME 1 OF 4

December 4, 2023

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TAB 1

CITATION: Anson Advisors Inc. et al. v. James Stafford et al., 2023 ONSC 5537
COURT FILE NO.: CV-20-00653410-00CL
DATE: 20231003

ONTARIO - SUPERIOR COURT OF JUSTICE – COMMERCIAL LIST

RE: Anson Advisors Inc. et al., Plaintiffs

AND:

James Stafford and Jacob Doxtator et al., Defendants

BEFORE: Peter J. Osborne J.

COUNSEL: *Robert William Staley, Doug Fenton, Dylan Yegendorf, Andrew Carlson and Maura O'Sullivan*, for the Plaintiffs

Megan B. McPhee and Nicole J. Kelly, for the Defendants James Stafford and Robert Lee Doxtator (also Plaintiff by Counterclaim)

Andrew Rudensky, on his own behalf

HEARD: January 25, 2023

REASONS FOR DECISION

1. Anson Advisors Inc., Anson Funds Management LP, Anson Investments Master Fund LP (together, “Anson”) and Moez Kassam (“Kassam”) (collectively, the “Plaintiffs”), move for default judgment against the Defendant, Andrew Rudensky (“Rudensky”), including:
 - a. judgment for \$500,000 representing general damages for defamation;
 - b. a permanent injunction restraining Rudensky from republishing the publications complained of in this action or the Unlawful Statements (defined below), or publishing further unlawful and defamatory statements about the Plaintiffs Kassam or Anson, including Anson’s current or past personnel;
 - c. an order that default judgment, if granted, is without prejudice to the right of Anson and/or Kassam to seek further relief against Rudensky in respect of defamation and other tort claims asserted in the action;
 - d. pre and post-judgment interest; and
 - e. costs of this motion.¹

¹ Notice of Motion, para. (a).

2. The other named Defendants have defended the action. Rudensky has not defended the action, moved to set aside his noting in default, or responded to this motion for judgment. Indeed, he has not responded at all, until the day before the hearing of this motion. He contacted counsel for the plaintiffs the afternoon before, and then appeared on this motion to request an adjournment.
3. This continuing action has a long and challenging history. Some background and context for this motion is in order.

Background and Context

4. Anson is an alternative asset management firm. Kassam is a principal of Anson and is its founder.
5. The Plaintiffs allege in this action that they are the targets of a sophisticated, coordinated and ongoing conspiracy to damage their reputations and business through the publication of unlawful and defamatory statements (the “Unlawful Statements”), as a result of which they have suffered and continue to suffer significant harm.
6. The Statement of Claim was issued on December 18, 2020. Rudensky was not, initially, a named defendant. The ongoing investigation of the plaintiffs following commencement of the action revealed the names of two additional alleged co-conspirators, one of whom is Rudensky. The Plaintiff therefore proposed to add both as defendants.
7. The Plaintiffs prepared a proposed Fresh as Amended Statement of Claim (the “Amended Claim”), which added Rudensky as a party and set out the particulars of the allegations of his involvement in the conspiracy. Claims against him include defamation and conspiracy.
8. On October 6, 2021, the Plaintiffs sent the Amended Claim to two email addresses that, to their knowledge, had been used by Rudensky. (As discussed further below, one of these email addresses had been used by Rudensky as recently as the month preceding delivery of the Amended Claim). The cover email under which the Amended Claim was sent specifically referenced the fact that it named Rudensky as a defendant. He was asked to confirm receipt and that he would accept service as well as consent to the amendments including his addition as a party.²
9. The Plaintiffs also sent the Amended Claim to the Defendants (directly or, in respect of those that had by that time retained counsel, through their counsel) and requested consent to amend the pleading.
10. That consent was not forthcoming, with the result that the Plaintiffs brought a motion for leave to issue the Amended Claim. Those motion materials were delivered to Rudensky (as well as to counsel for the other Defendants) via email on November 23, 2021.³ Rudensky did not respond, and the other Defendants (as well as the other proposed new Defendant, Stafford) declined to consent.

² Plaintiffs’ Supplementary Motion Record, Tab 1

³ Plaintiffs’ Supplementary Motion record, Tab 2

11. The Plaintiffs then requested a case conference to schedule their motion for leave. That case conference was conducted by Conway, J. on January 19, 2022. The Endorsement from that case conference reflects that counsel for one of the existing Defendants attended and advised that his client opposed the motion. However, that counsel also advised that he anticipated being retained shortly by Rudensky, although as of the date of the case conference did not have instructions as to whether Rudensky would oppose the motion to add him as a defendant or not. Conway, J. scheduled the motion to be heard approximately four months later on May 3, 2022.
12. The motion for leave then proceeded before Conway, J. as scheduled on May 3, 2022. As reflected in the Endorsement of that date, Rudensky did not appear (in person or represented by counsel) to oppose the motion. Leave was granted by Conway, J. the same day.
13. The Amended Claim was issued and filed on May 27, 2022.
14. After multiple attempts, service of the Amended Claim was finally effected on Rudensky pursuant to Rule 16.03(5) on July 22, 2022.
15. Rudensky was noted in default on August 23, 2022.
16. The Noting of Default has not been set aside pursuant to Rule 19.03, nor has any effort or attempt by or on behalf of Rudensky to do so been made.
17. Accordingly, Rudensky has failed to:
 - a. deliver a Notice of Intent to Defend, within the prescribed time or at all;
 - b. deliver a Statement of Defence within the prescribed time or at all;
 - c. make any effort to set aside the noting in default; or
 - d. respond in any way, either directly or through counsel, formally or even informally by communicating with counsel for the Plaintiffs, to the Amended Claim against him.
18. The Plaintiffs therefore seek judgment against him.

Adjournment Request

19. As stated at the outset of this Endorsement, Rudensky appeared at the hearing of this motion to seek an adjournment. He and counsel for the Plaintiffs are agreed that he contacted them for the first time the day before the hearing at approximately 12:20 PM to request an adjournment of the hearing scheduled for the next day, and when that request was denied, he attended at the hearing to make the same request of the Court.
20. The Plaintiffs opposed the adjournment request. They submitted that the last-minute request for an adjournment amounted to a waste of judicial resources and court time as well as costs to the parties, and an abuse of process since Rudensky demonstrably had no regard for this proceeding unless and until it suited him.

21. Most fundamentally, however, the Plaintiffs submitted that, having been noted in default, Rudensky had no right to participate in or make submissions on this motion pursuant to Rule 19.02(b), which provides that a defendant who has been noted in default shall not deliver a statement of defence or take any step in the action, other than a motion to set aside the noting of default or any judgment obtained by reason of the default, except with leave of the court or consent of the plaintiffs.
22. The Plaintiffs submit that the test that ought to be applied when considering the request for an adjournment is substantially the same as the test to be applied on a motion for setting aside a noting in default. They submit that Rudensky was properly served with the Amended Claim well over one year prior to this motion, and has chosen to simply ignore this action in its entirety, and it would be unjust and inequitable to allow him to simply elect until literally the day before the hearing of a motion for judgment to decide to participate.
23. Counsel for the Defendants, James Stafford and Robert Doxtator, were present but took no position on the request for an adjournment of the motion. Counsel for remaining named Defendant, Jacob Doxtator, did not appear. That is the counsel who had appeared at the case conference before Justice Conway referred to above to advise that he anticipated that he might be retained by Rudensky. To be clear, that counsel did not appear on this motion for Rudensky either.
24. In the circumstances, and notwithstanding Rule 19.02(b), I agreed to hear Mr. Rudensky on his adjournment request. I note for clarity that Mr. Rudensky did not file any materials.
25. Rudensky submitted that, while the Amended Claim and the motion materials may have been served on him via email, he has not used the email addresses to which the materials were sent for “some time”. He submitted that one of the email addresses, ar@delavaco.com, was used by him during his employment at a previous job that he had not held since early 2020.
26. Rudensky submitted that he has been in the United States since early 2022 and underwent shoulder surgery last year. He did not return to Canada, he submitted, until December, 2022, and he became aware of the hearing of this motion over the weekend prior to this hearing.
27. The evidence in the record, including the Affidavit of Kassam sworn November 17, 2022 and Exhibits thereto, reflects that the Plaintiffs sent a copy of the (then draft) Amended Claim to Rudensky on October 6, 2021 at two email addresses: andrew.rudensky@gmail.com and ar@delavaco.com. The evidence of Kassam is that he is aware of Rudensky using both of those email addresses, including because of prior correspondence with Rudensky at those email addresses (copies of which are attached as exhibits to Kassam’s affidavit) as recently as September, 2021.⁴
28. September, 2021 is more than a year after the date at which Rudensky submitted in his adjournment request that that email address no longer worked.

⁴ Kassam Affidavit, para. 46 and Ex. “M”

29. Kassam states that it is in part because he corresponded with Rudensky at that email address as recently as September, 2021 that he is confident that Rudensky received the Amended Claim at that time. It was only after the Amended Claim was emailed to Rudensky in October, 2021 that he ceased correspondence with Kassam.
30. Kassam's Affidavit attaches as exhibits numerous electronic mail messages between his (Kassam's) counsel and Rudensky sent to the two email addresses noted above through which Rudensky has communicated in the past. Kassam's counsel received neither any replies nor any "undeliverable" or "bounce back" messages to suggest that the emails had not been received or were undeliverable.
31. Those emails advised the Defendants (including Rudensky) of various matters, including the case conference before Conway, J. on January 19, 2022 and the fact that the Amended Claim would be accepted for filing on the basis that it was unopposed, unless the Defendants sought to oppose the Amended Claim. One of those emails (dated November 15, 2021) requested the self-represented parties to advise if they had retained counsel.
32. The January 19, 2022 case conference proceeded before Conway, J. Also as stated above, counsel for one of the other Defendants (Doxtator) advised the Court at that case conference that not only did he anticipate being retained by Rudensky, but that he did not then have instructions as to whether Rudensky would oppose the Amended Claim. I pause to observe that that same counsel had previously represented Rudensky in proceedings before securities regulators, as reflected in the record before me.
33. While there is of course nothing improper about that counsel subsequently not being retained and not appearing on this motion, there is no doubt that Rudensky was well aware of the Amended Claim and the fact that it proposed to add him as a Defendant. Conway, J. granted leave and thereafter the Amended Claim was issued and served.
34. However, the Plaintiffs were unsuccessful in numerous attempts to personally serve Rudensky. The Kassam Affidavit states that after these failed attempts, the Plaintiffs hired a licenced private investigator in July, 2022 to locate Rudensky. The report of that investigator is attached to the Kassam Affidavit as an Exhibit.⁵
35. The report of the investigator reflects the efforts undertaken to locate Rudensky, including:
 - a. through his registered address in Canada used with vehicle insurance information, being 4328 Clubview Dr., Burlington, ON, L7M 4R3;
 - b. title searches related to that registered address;
 - c. efforts to locate Rudensky at previous residential addresses and related title searches;
 - d. investigations involving a residential property located in Naples, Florida owned (currently) by Rudensky together with his spouse (and where Rudensky advised the Court today he lives);

⁵ Ex. "Q".

- e. U.S. corporate searches listing Rudensky as a corporate director for certain companies, one of which has a mailing address in Toronto which address is a property owned by Rudensky's mother; and
 - f. extensive social media searches for Rudensky.⁶
36. The report of the investigator states that the registered address referred to above of 4328 Clubview Drive, Burlington, Ontario was purchased by Karen Ann Clahane and subsequently transferred to joint ownership between that individual and Bruce Chapman. The report states that Rudensky and his spouse are believed to be renting at that location.
37. An Oakville Ontario property previously owned by Rudensky and his spouse was sold on March 16, 2022. The documentation filed in connection with the sale of that property reflects Rudensky's address for service as the 4328 Clubview Drive, Burlington, Ontario address.
38. Following receipt of the investigator's report, the Plaintiffs renewed efforts to serve Rudensky with the Amended Claim which, as stated above, was ultimately effected on July 22, 2022 at the 4328 Clubview Dr., Burlington, ON address referred to above. The Affidavit of Service of the process server reflects that service was effected by leaving a copy of the Amended Claim with Bruce Chapman, an adult member of the same household in which Rudensky was residing, which information was confirmed by means of verbal admission.⁷
39. I am satisfied for the purposes of this motion that the email addresses referred to above and to which materials for Rudensky were delivered were valid and functioning. They were used by Rudensky in correspondence with the Plaintiffs. The Amended Claim was delivered to Rudensky through those email addresses. He was clearly aware of the Amended Claim which is illustrated both by the fact of potential counsel having appeared at the case conference before Conway, J. and the fact that Rudensky did not deny it at the hearing of this motion.
40. However, as noted above, Rudensky took no steps to defend the action nor to set aside the noting in default which occurred in July of last year. The Plaintiffs then served all parties including Rudensky with the Motion Record for this motion for default judgment via the two email addresses referred to above. Further attempts at service are discussed below. There was still no response from Rudensky.
41. The Plaintiffs then sought a case conference on December 8, 2022 for the purpose of scheduling this motion. Notice of the case conference was given to all counsel and to Rudensky. Counsel for the other parties appeared; he did not.
42. I conducted that case conference and scheduled this motion for hearing. I specifically directed that the Plaintiffs provide a copy of my case conference Endorsement to Rudensky and I further stated in my Endorsement that he had already been served with the motion materials, but that I would have otherwise directed that he be served with the motion

⁶ Ex. "Q".

⁷ Affidavit of Service of David Morrison sworn July 27, 2022, Motion Record, Kassam Affidavit, Exhibit "R".

materials in any event and notwithstanding Rule 19.02(3), all to ensure that he was aware of the steps being taken that affected him, particularly given the fundamental effect of the relief sought today. Such is consistent with the best practice of giving notice of motion for default judgment to the defendant noted in default: *Canada Mortgage and Housing Corporation v. CMC Medical Centre Inc.*, 2017 ONSC 7551, 2017 CarswellOnt 20149, 37 C.P.C. (8th) 219 (S.C.J).

43. The record before me today also includes an affidavit of attempted service confirming the attempts to again serve Rudensky with both the motion materials and my Endorsement following the case conference, including at the 4328 Clubview Drive, Burlington, Ontario address. When the process server attended at that address, for the third time and not having received any response on the first two attempts, he spoke to an adult female who advised that “there is no Andrew living here and that she has lived here for 23 years”.⁸
44. The process server thereafter conducted subsequent Ministry of Transportation vehicle searches which reflected the last known address for Rudensky as being 1107 Melvin Avenue, Oakville Ontario. When the process server attended at that address, he was advised by an adult woman that no one named Rudensky resided there.⁹
45. The Plaintiffs thereafter attempted again to effect personal service on Rudensky by locating him through requests to counsel as officers of the Court. The evidence in the record today includes an electronic mail message dated January 5, 2023 from counsel for the Plaintiffs to, among other individuals, the counsel who had appeared at the case conference before Conway, J. and counsel for the other Defendants.
46. Plaintiffs’ counsel described how they had attempted a number of times to serve Rudensky with my Endorsement of December 8, 2022 as I had directed, and their inability to do so. The electronic mail message to the other counsel stated that, given both the contact with Rudensky through the counsel who had anticipated being retained, and contact with Rudensky through counsel for other Defendants - who had confirmed to counsel for the Plaintiffs their own contact with Rudensky - assistance with forwarding my Endorsement to Rudensky was requested “through whatever means you have used to contact him in the past”.¹⁰
47. The counsel who had previously appeared at the case conference conducted by Conway, J. replied to this electronic mail message the following day to advise that: “I believe you have sent everything to andrew.rudensky@gmail.com already. This is the address we had for Mr. Rudensky and we have had no contact with him for more than eight months.”¹¹
48. As stated above, there was absolutely no response from or on behalf of Rudensky until the day before the motion. Even in his submissions requesting an adjournment at the hearing of the motion, Rudensky:

⁸ Affidavit of Leo Pereira sworn January 9, 2023, Supplementary Motion Record, Tab 7.

⁹ Affidavit of Leo Pereira sworn January 9, 2023, Supplementary Motion Record, Tab 7.

¹⁰ Plaintiffs’ Supplementary Motion Record, Tab 3

¹¹ Plaintiffs’ Supplementary Motion Record, Tab 3

- a. had no explanation as to why he did not receive the motion materials through the email addresses previously used by him in correspondence with the Plaintiffs and through which he had become aware of the Amended Claim in the first place;
 - b. had no explanation as to why his email address ar@delavaco.com was clearly working in September, 2021, over one year after the date at which, he submitted to the Court, it was not working because he had left his employment with which that email address was associated; and
 - c. had no explanation as to why the andrew.rudenski@gmail.com email address that both he had previously used to communicate with the Plaintiffs, and that his potential counsel had used to contact him, was still not functional even today.
49. Moreover, in his submissions requesting an adjournment, Rudensky confirmed to the Court that the 4328 Clubview, Drive, Burlington Ontario address was the residence of his parents-in-law, and that Bruce Chapman, who had accepted service of the documents, was his wife's stepfather.
50. In addition, Rudensky submitted that, as noted above, he had only returned to Canada from the United States in December, 2022, and that he had "expected to be served" with the motion for judgment but that he had not become aware of this hearing date until the previous weekend.
51. He had no explanation as to the basis for his expectation that he was going to be served. I find that expectation completely incongruent with both the failure to take any steps to set aside the noting in default and with the submission that he was not aware of this motion.
52. When asked specifically by the Court to explain how, through whom, or through what means, he had become aware of this motion date only over the course of the preceding weekend as he submitted he had, Rudensky responded that he "preferred not to say here". That is not a satisfactory response.
53. In my view, it would not be appropriate or just to adjourn this motion. The Plaintiffs commenced this action in December, 2020. They delivered the proposed Amended Claim adding Rudensky in October, 2021. Leave to issue and file the Amended Claim was granted in May, 2022, months after potential counsel for Rudensky appeared at the case conference scheduling that motion for leave. Rudensky was noted in default in August, 2023. Rudensky took no steps to set it aside. The Plaintiffs can hardly be said to have acted precipitously or immediately upon the expiry of the technical deadline at every step of the way. Significant time has passed. They are entitled to get on with this action.
54. Rudensky has either simply ignored this action and its consequences completely, made service of all court documents exceedingly challenging and expensive, and then elected to attend fleetingly and sporadically to participate if at all, and even then only when it suited him. The result is that there have been multiple court appearances, significant expense occurred, and over two years wasted. As against that, Rudensky surfaces again, less than 24 hours before this hearing, without any credible explanation as to why he did not respond to the motion earlier, and seeks an adjournment of the motion for judgment.

55. In all the circumstances and for all of the above reasons, I declined the request for an adjournment.

The Position of the Plaintiffs on the Motion for Judgment

56. Based on the chronology set out above, the Plaintiffs seek a finding of joint and several liability against Rudensky for defamation, on the basis that, pursuant to Rule 19.02, he is deemed to admit the truth of all allegations of fact made in the Amended Claim.
57. The Plaintiffs are not pursuing default judgment at this time against Rudensky in respect of the other torts pleaded against him in the Amended Claim, and nor do they seek default judgment in respect of special, aggravated or punitive damages also pleaded, although reserve the right to do so pursuant to Rule 19.07.
58. The position of the Plaintiffs with respect to damages is that successful plaintiffs in defamation actions are entitled to general damages *per se*, since damages are presumed from the very publication of the false statements and are awarded “at large”.
59. Their position on this motion is that a significant damages award of \$500,000 is justified on the basis of, among other things:
- a. the extensive and frequent publication of the Unlawful Statements;
 - b. the targeting of Anson and Kassam, in the circumstances where they operate professionally (the asset management industry) within which a positive professional reputation is critical;
 - c. the targeting of Anson and Kassam with the intention of degrading their capacity, character and professional practice;
 - d. the use of the Internet to perpetrate and carry out the defamation, which is a more pervasive medium than print and which has a significant power to harm reputation;
 - e. the reference to threats of personal harm to Kassam and other Anson personnel;
 - f. the Internet-based mediums used to convey the Unlawful Statements, including purpose built webpages and popular online investor forums which were employed to ensure that the Unlawful Statements were both widely disseminated to the relevant target audience, and afforded a false air of credibility; and
 - g. Rudensky’s coordination with a large number of perpetrators to facilitate and disseminate the defamation of the Plaintiffs.
60. The Plaintiffs submit that there is no prejudice to the other Defendants, principally since they are not deemed to admit the allegations in the Amended Claim, and will be able to fully defend the Action. Moreover, even if the other Defendants are ultimately found liable following a trial, the principle against double recovery would operate so as to reduce the liability of the other Defendants to the extent that the Plaintiffs have then recovered damages from Rudensky.

61. Counsel for the Defendants James Stafford and Robert Doxtator appeared, as stated above. While acknowledging the issues with respect to their standing on this motion at all, as well as the fact that they had taken no position on this motion until the day of the hearing, they made brief submissions.
62. They submitted that default judgment against Rudensky ought not to be granted since it would create a risk of inconsistent findings even though deemed admissions by him were not admissions as against the remaining Defendants, given the allegations of collusion and conspiracy. They argued that such findings would operate to the prejudice of the other Defendants.
63. To be clear, counsel for the Plaintiffs confirmed that judgment was being sought in respect of defamation and not conspiracy, at this time. I am not persuaded by this submission about the risk of inconsistent findings. It is well settled that default judgement can issue as against some but not all defendants and in respect of some but not all claims. Such risks can be addressed at trial.
64. In my view, the deemed admission of a defendant who has been noted in default of the truth of the allegations of fact made in the statement of claim is a deemed admission by him only, and not any other party: per Lauwers, J. (as he then was) in *Van, et al v. Qureshi, et al*, 2011 ONSC 5746, at paras. 13 – 15, quoting with approval from *Coldmatic Refrigeration of Canada Ltd. v. Atlantic Aluminum Inc.*, 1998 CarswellOnt 1587, [1998] O.J. 1613, 79 A.C.W.S. (3d) 6, at para. 18.
65. Pursuant to Rule 19.05(2), a motion for judgment shall be supported by evidence given by affidavit if the claim is for unliquidated damages. This motion is supported by the Kassam Affidavit referred to above.
66. Pursuant to Rule 19.06, at plaintiff is not entitled to judgment merely because the facts alleged in the statement of claim are deemed to be admitted (as they are, pursuant to Rule 19.02(1)(a) and the noting in default), unless the facts entitle the plaintiff to judgment.
67. The issue therefore, is whether the Plaintiffs here are entitled to judgment (to the limited extent it is sought on this motion) on the facts.
68. In my view, they are, for the reasons set out below.
69. As noted at the outset of these Reasons, the Plaintiffs seek default judgment for defamation, a permanent injunction restraining Rudensky from publishing the Unlawful Statements, and a term of the judgment that if granted it is without prejudice to their right to seek further relief in respect of defamation in the form of punitive exemplary or aggravated damages, and costs. Judgment is not sought in respect of the claim for conspiracy.
70. The deemed facts need only withstand a rudimentary level of scrutiny in order to be accepted. The court should accept the alleged facts as true so long as they are not “manifestly unsustainable”, “gibberish”, “lacking an “air of reality””, or are otherwise contradicted by evidence: *Salimijazi v. Pakjou*, 2009 CarswellOnt 2013 (Sup. Ct. J.), at paras. 24-36.

71. I pause to observe that, while perhaps not determinative of this motion, the Amended Claim was already found by Conway, J. to have been sufficient to meet the test for leave to amend. The facts pleaded should be accepted as true.
72. The inquiry to be undertaken by the court on a motion for default judgment has three elements:
 - a. What deemed admissions of fact flow from the facts pleaded in the claim?;
 - b. Do those deemed admissions of fact entitle the plaintiffs, as a matter of law, to judgment on the claim?; and
 - c. If they do not, has the plaintiff adduced admissible evidence which, when combined with the deemed admissions, entitles it to judgment on the pleaded claim?

See: *Elekta Ltd. v Rodkin*, 2012 ONSC 2062 at paras. 13 and 14.

73. I will address these in order.

What Deemed Admissions of Fact Flow from the Facts as Plead?

74. The Amended Claim is some 158 pages in length, not including voluminous Appendices. While the length of the pleading is obviously irrelevant to the analysis, it is instructive here as to the particulars pleaded and the complexity and sophistication of the alleged conduct of the Defendants to defame Anson and Kassam. Allegations of defamation must be particularized with precision.
75. As stated at the outset of these reasons, Anson is a privately held alternative asset management firm. Kassam is its founder, a principal and a director and the Chief Executive Officer and Chief Investment Officer of the Plaintiff, Anson Advisors Inc.
76. Rudensky is (or was, if his submissions on the adjournment request are accepted) a partner of The Delavaco Group, a small merchant investment bank. He was previously an advisor at Richardson GMP before being disciplined by the Investment Industry Regulatory Organization of Canada (“IIROC”) for his personal financial dealings with clients.
77. Attached to the factum of the Plaintiffs as Appendix “A” is a Summary of Key Admissions (i.e., deemed admissions) relied upon on this motion. For convenience, I have appended that Summary to these reasons as Schedule “A” and incorporate it by reference into these Reasons.
78. In short, the allegations include the following:
 - a. Rudensky has engaged in a scheme (with his co-conspirators) to damage the business and reputations of Anson and Kassam, by falsely and repeatedly claiming that Kassam is a criminal and his businesses are engaged in conduct that is illegal, unethical, and contrary to Canadian and United States securities regulations (Amended Claim, paras. 2, 3);

- b. in order to further the scheme, Rudensky published thousands of defamatory posts on the popular investor website www.stockhouse.com (“Stockhouse”); created the Defamatory Manifesto (and its sequels) and repeatedly published those documents on purpose-built websites, intended only to host the defamatory content; hired freelance web developers in Bosnia and Herzegovina to register the purpose-built websites in order to conceal his involvement in the scheme; and took a variety of other steps to obscure his identity (as well as the identities of the other Defendants) (Amended Claim, paras. 26-29); and
- c. to promote the reach of the Unlawful Statements, Rudensky (and the other Defendants) developed a mailing list of journalists, news editors, and others in the business community, and emailed copies of the Defamatory Manifesto (or links to it) to the entire mailing list (Amended Claim, para. 28(l)).

79. Examples of the Unlawful Statements set out in the Amended Claim include the following:

- a. “Moez Kassam and his Anson Funds systematically engaged in capital markets crimes, including insider trading and fraud, to rob North American shareholders of countless millions”;
- b. Anson Funds and Kassam have been destroying companies through illegal means”;
- c. Kassam is a “corrupt and criminal CIO at Anson Funds”; and
- d. Kassam pursued “questionable and illegal activities” in “an attempt to make money by destroying small companies and the lives of anyone who happened to get in his way: even those who helped him and ended up being disposable”.¹²

80. The Unlawful Statements also include descriptions of Kassam personally as “corrupt”, a “criminal”, “dirty”, a “scourge”, a “high functioning sociopath” and as the symbol of “everything that is wrong with the capital markets”.¹³

81. The “Defamatory Manifesto” referred to above is described in the Amended Claim as a lengthy Internet post containing Unlawful Statements about the Plaintiffs, anonymously written, published and disseminated by the Defendants on a series of websites. The Amended Claim alleges that the Defendants hired freelance web developers based in Bosnia and Herzegovina to register the websites on which they published the Defamatory Manifesto, in order to obscure the origins of the websites and conceal the involvement of the defendants in the publication.¹⁴

82. After the Plaintiffs were forced to take steps to have websites publishing the Defamatory Manifesto taken down, the Defendants republished it on new websites, again created in a manner to conceal their involvement. The Defendants used alter egos, false email

¹² Amended Claim, para. 2

¹³ Amended Claim, paras. 48 - 58

¹⁴ Amended Claim, para. 28(c)

addresses, Twitter accounts and VPNs, and provided links to the Defamatory Manifesto on various Internet message boards and chat rooms.¹⁵

Do the Deemed Admissions and/or the Adduced Admissible Evidence entitle the Plaintiffs to Judgment?

83. Do these deemed admissions of fact clearly entitle the Plaintiffs to judgment for the tort of defamation?
84. The elements of the tort are well settled. The plaintiff in a defamation action is required to prove three things to obtain judgment in an award of damages:
- a. that the impugned words were defamatory, in the sense that they would tend to lower the plaintiff's reputation in the eyes of a reasonable person;
 - b. that the words in fact referred to the plaintiff; and
 - c. that the words were published, meaning that they were communicated to at least one person other than the plaintiff. The tort is thus one of strict liability.
- See: *Grant v. Torstar Corp.*, 2009 SCC 61, at para. 28; *Magno v. Balita*, 2018 ONSC 3230 ("*Magno*"), at paras. 34-36; and *Sommer v. Goldi*, 2022 ONSC 3830, at para. 28.
85. I am satisfied that all three elements of the cause of action are met on the face of the Amended Claim.
86. The Unlawful Statements clearly targeted Anson and Kassam. They were published openly, and repeatedly, on the Internet. In short, this is not one of those cases where there is uncertainty as to the individuals to whom the defamatory words referred, or as to whether they were uttered at all.
87. It is not a close call, in my view, as to whether the Unlawful Statements are clearly defamatory in their plain and ordinary sense. Each of them accuses Anson and Kassam of unlawful, unethical and other dishonourable conduct, in a variety of ways. As submitted by the Plaintiffs, they allege that Anson and Kassam have engaged in serious capital markets crimes including insider trading, fraud and market manipulation. They allege that Anson and Kassam are corrupt, dishonest and deceptive, inept and incompetent, as is illustrated by the summaries excerpted above and in Schedule "A" hereto.
88. Statements of this very nature have been held to be harmful to the reputation of the plaintiff (and particularly a professional plaintiff) in that they would tend to lower the reputation of that plaintiff in the mind of a right-minded person: *Mirzadegan v. Mahdizadeh*, 2022 ONSC 6082 ("*Mirzadegan*"), at para. 11; *3 Pizzas 3 Wings Ltd. v. Iran Star Publishing*, 2003 CarswellOnt 6703 (Sup. Ct. J.), at para. 1; and *Magno*, at para. 39.
89. To be clear, I find that the Unlawful Statements would tend to lower the reputations of the Plaintiffs in the eyes of a reasonable person, the impugned words refer to the Plaintiffs and

¹⁵ Amended Claim, paras. 28 (g),(h) and (i)

the words were published. They were defamatory: *Grant v. Torstar Corp.*, [2009] 3 S.C.R. 640 at para. 28.

90. Default judgment for defamation has been granted by the courts in many cases. See, for example, *Barrick Gold Corp. v. Lopehandia*, 2004 CarswellOnt 2258 (C.A.) (“*Barrick Gold*”); *Emeny v. Tomaszewski*, 2019 ONSC 3298 (“*Emeny*”), *Mirzadegan*; *Manson v. John Doe*, 2013 ONSC 628; and *Sommer v. Goldi*, 2022 ONSC 3830 (“*Sommer*”).
91. Clearly, the Unlawful Statements state and imply that the Plaintiffs are guilty of criminal and professional misconduct. Great harm is suffered by the subject of such unproven posts: *Post v. Hillier*, 2022 ONSC 3793 (“*Post*”) at para. 18; *Emeny*, at paras. 30 to 36; *Seymour v. Nole*, 2022 BCSC 867, at para. 112; *Palen v. Dagenais*, 2013 SKQB 39, 413 Sask R 10, at para. 8; *Pinsent v Sandstrom*, 2014 ABQB 269, at para. 19.

Damages

92. The Plaintiffs submit, and I agree, that it is well-established that damages for defamation are presumed from the very publication of the false statement and are awarded at large: *Hill v. Church of Scientology of Toronto*, [1995] 2 S.C.R. 1130 (“*Hill*”) at para. 164.
93. Once the defamation is proven or admitted, a plaintiff is entitled to an award of general damages, without independent evidence of specific damages such as economic harm: *Hill* and *Post* at para. 24. General damages for defamation compensate plaintiffs for the distress suffered, repair the harm to their personal and professional reputation, and vindicate the reputation: *Post*, at para. 24.
94. In determining the appropriate amount of general damages, the court should consider a number of factors:
 - a. the conduct of the plaintiff;
 - b. the plaintiff’s position and standing;
 - c. the nature of the libel;
 - d. the mode and extent of publication;
 - e. the absence or refusal of any retraction or apology; and
 - f. the whole conduct of the defendant from the time when the libel was published to the moment of judgment.

See: *Hill*, at para. 182 and *Mirzadegan*, at para. 12.

95. A higher damages award can be justified where social media was used to spread the defamatory statements: *Barrick Gold*, at paras. 31 and 34.
96. The courts have recognized that the injurious effects of defamatory statements regarding a professional are particularly acute: *Rutman v. Rabinowitz*, 2018 ONCA 80 at para. 62, quoting with approval from *Hill* at paras. 180-181; *Sommer*, at para. 32; and *Theralese Technologies Inc. v. Lanter*, 2020 ONSC 205 at para. 39.

97. This is certainly so for professionals in the investment management sphere, where honesty and integrity, as well as competence, are critical.
98. The reputations of Anson and Kassam are well-established in the record. They are intertwined, and are well-known in the North American business and philanthropic community, as well as in the financial markets and investment industry. Kassam was named to Canada's Top 40 Under 40.
99. I am satisfied that the mode and extent of publication is broad and in fact extraordinary. The defamation began in the summer of 2019, if not earlier, and continues to the present. The Unlawful Statements include over 1,000 individual defamatory postings on Stockhouse and other online investor forums.
100. As observed by the Court of Appeal in *Barrick Gold*, the "mode and extent of publication" factor plays a particularly important role in cases of "cyber libel" such as this one, given that the Internet provides "absolute and immediate worldwide ubiquity and accessibility", and the interactive yet anonymous nature of Internet publication creates an even greater potential for being taken at face value: *Barrick Gold*, at paras. 12, 28 – 34. See also *Sommer* at para. 35; *Rutman* at paras. 68 – 70; and *Theralese* at paras. 14 at paras. 32 – 38.
101. There is no evidence in the record of any retraction or apology from Rudensky, nor in fact of any effort to undo or account for the harm he has caused. In fact, the Amended Claim and the deemed facts are to the contrary: the Unlawful Statements have been published repeatedly, and when they are taken down they are republished on a new website. They remain available on the Internet today. The Court of Appeal observed in *Barrick Gold* the "dogged pursuit of the libelous campaign even after the commencement of the proceedings" as a seriously aggravating factor: *Barrick Gold* at para. 51.
102. In my view, this conduct is exacerbated by the use, as here, of "burner" email accounts, VPNs, and the use of websites and servers in foreign jurisdictions such as Bosnia and Herzegovina, all done with an effort to conceal the identity of those publishing the statements and make them difficult to track and account for their actions.
103. What, then, is an appropriate amount of general damages? The courts have cautioned that defamation actions are particularly fact-sensitive with the result that a detailed comparison of libel awards may be of only marginal assistance: *Rutman*, at para. 14. This is obviously accurate, but in my view damages awards in comparable cases do provide some guidance and assistance for this Court.
104. Examples of some comparable matters in which damages for defamation have been awarded include the following:
 - a. *3 Pizzas 3 Wings Ltd. v. Iran Publishing*, 2003 CarswellOnt 6703 (Sup. Ct. J.), where damages of \$750,000 were awarded to the corporate plaintiff in addition to \$75,000 for the individual plaintiff in respect of a single defamatory article published in a GTA community newspaper;
 - b. *Magno*, where, on a motion for summary judgment, general and aggravated damages of \$300,000 were awarded in addition to punitive damages of \$110,000,

in respect of 35 defamatory articles published online and in print over a 14 month period on multiple media platforms, referred to by the motions judge as an “all-out cyber attack”;

- c. *Sommer*, where the plaintiff (a professional plaintiff - a lawyer) was awarded \$300,000 in general damages plus an additional \$150,000 and aggravated and punitive damages in respect of the prolonged Internet campaign against him by the defendants against whom default judgment was granted;
- d. *Mirzadegan*, where, on a motion for default judgment as here, the plaintiff (an immigration consultant and his small business) was awarded \$200,000 in general damages and \$50,000 in aggravated damages, in respect of a series of negative reviews and complaints about the plaintiffs posted online and on social media by the defendants; and
- e. *Emeny*, where, on a motion for default judgment as here, the plaintiff, a touring stand-up comedian, was awarded general damages of \$250,000, special damages of \$100,000 and punitive damages of an additional \$100,000, in respect of a series online postings of defamatory statements through tweets, on a comedy forum and on Facebook.

- 105. In the present case, I must also bear in mind the limited scope of the relief sought on this motion. The plaintiffs are not seeking today, but reserve the right to seek in the future, aggravated and punitive damages, as well as special damages, for defamation, in addition to damages that may be proven in respect of the other torts pleaded in the Amended Claim.
- 106. In the result, and having considered all of the factors as against the particular circumstances of this case, in my view an appropriate award of general damages for defamation is \$450,000.

Injunctive Relief

- 107. Finally, Anson and Kassam seek a permanent injunction restraining Rudensky from publishing further defamatory statements about them and including a ban on republishing the Unlawful Statements.
- 108. The courts will grant injunctive relief to prevent a defendant from continuing to disseminate defamatory material that affects the plaintiff's reputation: *Astley v. Verdun*, 2011 ONSC 3651, at para. 20.
- 109. In that case, as here, the court observed that permanent injunctions have “consistently been ordered” where either:
 - a. there is a likelihood that the defendant will continue to publish defamatory statements despite the finding that he is liable to the plaintiff for defamation; or
 - b. there is a real possibility that the plaintiff will not receive any compensation, given that enforcement against the defendant of any damage award may not be possible.

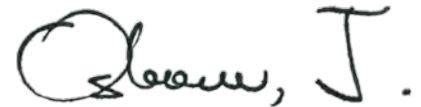
See *Astley*, at para. 21. See also *Barrick*, at paras. 68 – 78; *Emeny*, at para. 60; and *Paramount v. Kevin J. Johnston*, 2019 ONSC 2910 at para. 66.

110. All of the same factors apply to the present case. I am satisfied that a permanent injunction should be granted on the basis of either of the two disjunctive factors.
111. Indeed, both factors are satisfied here. Given Rudensky's failure to respond to this action, his efforts to evade service of documents, and the fact that the Unlawful Statements continue to be published without contrition or apology, I am satisfied that there is a likelihood that Rudensky will continue to publish defamatory statements despite any finding of liability.
112. I am also satisfied that there is a real possibility that the plaintiff will not receive any compensation given that enforcement against Rudensky of any damage award may not be possible. Rudensky advised the Court in his submissions on the adjournment request that he does not reside in this jurisdiction.
113. In addition, the report of the licensed private investigator retained by the Plaintiffs in connection with their efforts to serve Rudensky reflects that he sold his house in Oakville, Ontario and bought a residential property in Naples Florida, in March 2022. That was the very time period in which the Plaintiffs' motion for leave to file the Amended Claim adding Rudensky as a Defendant to this proceeding was pending.

Result and Disposition

114. The Plaintiffs' motion for default judgment against Rudensky is granted. The sum of \$450,000 is awarded for general damages for defamation. Judgment is without prejudice to the right of the Plaintiffs to seek further relief against Rudensky.
115. A permanent injunction is granted restraining Rudensky from republishing the Unlawful Statements or publishing further defamatory statements about Anson and/or Kassam, including Anson's current or past personnel.
116. The Plaintiffs seek costs of \$50,233.59 on a substantial indemnity scale in respect of this motion. That amount is inclusive of fees, disbursements and HST. The Plaintiffs have filed a costs outline and bill of costs.
117. Substantial indemnity costs will be awarded against libelous defendants who refused to account for their actions: *Manson*, at paras. 32 -33; and *Theralese*, at para. 80.
118. Pursuant to s. 131 of the *Courts of Justice Act*, R.S.O. 1990, c.C.43, costs are in the discretion of the court, and the court may determine by whom and to what extent the costs shall be paid.
119. Rule 57.01 provides that in exercising its discretion under s. 131, the court may consider, in addition to the result in the proceeding (and any offer to settle or contribute), the factors set out in that Rule.

120. The overarching objective is to fix an amount that is fair, reasonable, proportionate and within the reasonable expectations of the parties in the circumstances: *Boucher v. Public Accountants Council for the Province of Ontario*, (2004) 71 O.R. (3d) 291 (C.A.), 2004 CanLII 14579 (Ont. C.A.).
121. There was significant work involved in preparing the motion materials, written and oral argument, and attending at the hearing of the motion. The amount claimed in the overall proceeding exceeds \$100 million. Default judgment was sought for \$500,000. In short, the sums at stake merit significant time and attention. The issues on this motion are of high importance for the reasons set out above.
122. As reflected in the bill of costs, the Plaintiffs have not sought recovery for costs of senior counsel, articling students or law clerks, disbursements for the private investigator referred to above, and other costs as set out in the bill of costs.
123. In my view, and having considered all of the circumstances of this case as against the factors set out in Rule 57.01, an appropriate award of costs is \$45,000, inclusive of fees, disbursements and HST. Rudensky is to pay this amount to the Plaintiffs within 30 days.
124. Order to go to give effect to these reasons.

A handwritten signature in black ink, appearing to read "Osborne, J.", with a stylized flourish at the end.

Osborne J.

Schedule “A”

Summary of Key Admissions

Key Admissions	Examples of Pleading in Amended Claim
Rudensky has participated in a coordinated scheme to defame Kassam and Anson, and was directly involved in writing and publishing the Unlawful Statements.	<p>Amended Claim, at para. 2:</p> <p>Since at least the summer of 2019 and intensifying to the present, the Defendants James Stafford, Andrew Rudensky, Robert Lee Doxtator and Jacob Doxtator have engaged in a scheme with each other and other unknown persons to damage the business and reputations of a successful securities business, Anson, and its founder, Moez Kassam. Specifically, the Defendants conspired to falsely and repeatedly claim that Kassam is a criminal and that he and his businesses are engaged in conduct that is illegal, unethical, and contrary to Canadian and United States securities regulations. The Defendants have, for example, published or encouraged the publication of the following false and defamatory statements...</p> <p>Amended Claim, at paras. 25-27:</p> <p>25. Stafford, Rudensky, Robert, Jacob (Robert and Jacob together are referred to as the “Doxtators”) and the Unknown Defendants are parties to a sophisticated, coordinated scheme to damage the Plaintiffs’ business and reputations (the “Conspiracy”).</p> <p>26. In particular, and as described further below, in furtherance of this Conspiracy, the Defendants maliciously and intentionally entered into an agreement to conspire with one another and committed acts with the predominant purpose of injuring the Plaintiffs by damaging their business and reputations. In addition, or in the alternative, in furtherance of this Conspiracy, the Defendants have acted in a concerted and coordinated effort while using unlawful means aimed at the Plaintiffs, including but not limited to acts that amount to</p>

	<p>defamation at law, when they knew, or ought to have known, that significant harm to the Plaintiffs would result. In fact, the Defendants have caused significant damage to the Plaintiffs' business and reputations through their unlawful, improper conduct. Furthermore, the Defendants took sophisticated steps to conceal their identities and advance the Conspiracy anonymously (using, among other things and as described further below, offshore web developers based in Bosnia and Herzegovina, temporary "burner" email addresses, virtual private networks ("VPNs"), fake identities, anonymous Twitter profiles, and more) because they knew that they were engaged in unlawful conduct. The Defendants are savvy about capital markets and deliberately fabricated allegations about the Plaintiffs – or at best were reckless as to whether the allegations were false – in order to sabotage their business. In addition, some or all of the Defendants are routinely engaged in pump and dump schemes and publicly blame the Plaintiffs when the artificially inflated share prices of the companies at issue ultimately return to their lower, intrinsic levels.</p> <p>27. In the Conspiracy, Stafford, Rudensky and the Doxtators coordinated and agreed with one another and with the Unknown Defendants to harm the Plaintiffs through a carefully planned and executed plot. This plot has included fabricating, spreading and publicizing a series of unlawful, abusive, false, malicious, harassing and defamatory statements about Anson, Kassam and other individuals connected with Anson (the "Unlawful Statements"), including by first publishing defamatory comments on the website Stockhouse, and then on a series of websites generated by the Defendants, as set out below, in an attempt to manufacture a narrative to harm Anson and Kassam;</p>
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Hiring freelance web developers based in Bosnia and Herzegovina to register the websites on which Unlawful Statements were posted, for the purpose of concealing the Defendants' identities; taking other sophisticated steps to obscure their identities while disseminating Unlawful Statements, including hiring Bosnian developers, using VPNs, burner email addresses and false identities; sending targeted communications containing the Unlawful Statements via email, including to reporters, as well as disseminating the Unlawful Statements on Twitter, Reddit and other platforms; and attempting to improperly attract media attention to the Unlawful Statements. Moreover, the Defendants have sought to disseminate the Unlawful Statements internationally to individuals in (at least) the United States (where the Plaintiffs do business) as well as in Canada, with the intention of causing maximum, widespread harm to the Plaintiffs.

Amended Claim, at para. 66-69:

66. In or around summer or early fall 2020, Stafford, Rudensky and/or Robert met or spoke and agreed to concoct defamatory allegations against the Plaintiffs and coordinate the content of the Defamatory Manifesto. They were motivated by their respective animus against the Plaintiffs, as described herein. Stafford was aware of Robert's animus against the Plaintiffs because he had publicly documented it via Twitter.

67. Stafford, Rudensky and/or Robert met or spoke on at least four occasions to plan the Defamatory Manifesto. At those meetings,

	<p>some of which were recorded and/or transcribed, Stafford solicited Robert and Rudensky for material to include in the Defamatory Manifesto. Robert and Rudensky – purportedly acting as “sources” for Stafford as a “journalist” – made false and defamatory allegations against the Plaintiffs that they knew and intended that Stafford or others would use in the Defamatory Manifesto. Stafford, Robert and Rudensky planned to publish the Defamatory Manifesto anonymously because they knew the allegations it contained were defamatory. When Robert later spoke to Kassam about the Defamatory Manifesto, he falsely told Kassam that, although he knew about the Defamatory Manifesto, he was not involved in its drafting or publication, and instead blamed only Stafford and Rudensky (as described in paragraphs 98-99 below).</p> <p>68. Excerpts from transcripts of meetings and/or conversations between Stafford, Rudensky and/or Robert to plan the Defamatory Manifesto are included in Appendix “E” at section A. As set out in Appendix “E” at section A, the excerpts from the transcripts establish that: Rudensky was involved in preparing the Defamatory Manifesto; Stafford and Robert discussed drafting the Defamatory Manifesto, with Stafford asking Robert to draft false and defamatory allegations against the Plaintiffs; Stafford, Rudensky and Robert intended to harm the Plaintiffs by targeting their relationships with brokers and regulators; Stafford was paid to promote Facedrive; Stafford and Robert discussed Rudensky’s employer, Andy DeFrancesco; and Robert was involved in critical research findings published about public companies, including Aphria.</p> <p>69. Stafford, Rudensky, Robert, Jacob and the other Unknown Defendants then wrote or contributed to the Defamatory Manifesto –</p>
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	using the material provided by Robert and Rudensky as well as material from other Defendants and other sources – and/or published, disseminated or publicized the Defamatory Manifesto, as set out below.
The Unlawful Statements are defamatory.	<p>Amended Claim, at para. 127:</p> <p>127. Finally, the Defendants are liable for defamation for the false and highly defamatory statements made in the Unlawful Statements, including the Unlawful Stockhouse Statements, the Further Unlawful Stockhouse Statements, the Unsolicited Emails, and, ultimately, the Defamatory Manifesto (which was published multiple times, using various domain names), the Second Defamatory Manifesto, the Stafford Unlawful Stockhouse Statements and the Additional Unlawful Posts. The Doxtators are further liable for the false and defamatory statements they published about the Plaintiffs on Twitter...</p> <p>See also paragraphs 127-134, 141-442, which describe the defamatory meaning of the Unlawful Statements Rudensky is deemed to have admitted to having participated in publishing.</p>
Rudensky (and the other Defendants) have taken steps to promote the dissemination of the Unlawful Statements, and to counteract the Plaintiffs' attempts to have the Unlawful Statements removed.	<p>Amended Claim, at para. 28:</p> <p>28. Steps taken by the Defendants pursuant to the Conspiracy include the following:</p> <p>...</p> <p>(c) beginning on or around September 27, 2020, after the Plaintiffs took steps to have the Unlawful Statements on Stockhouse removed, the Defendants conspired to anonymously write, publish and disseminate a lengthy Internet post containing Unlawful Statements</p>

	<p>about the Plaintiffs (the “Defamatory Manifesto”) on a series of websites. The Plaintiffs believe that Stafford led the effort to draft and publish the Defamatory Manifesto, including because Stafford styles himself a “journalist” and is often hired as a promoter of stocks – including those mentioned in the Defamatory Manifesto – in pump and dump schemes, with the aim of creating publicity in order to artificially and often temporarily inflate the share price of companies in which his clients have a financial interest. The Defamatory Manifesto also mimics Stafford’s sensationalist writing style. The Plaintiffs further believe that Robert and Rudensky directly participated in the preparation and/or drafting of the Defamatory Manifesto, including (but not limited to) supplying Stafford with many of the false and defamatory allegations against the Plaintiffs, which Stafford then incorporated into the Defamatory Manifesto. However, the precise roles of the Defendants in crafting and disseminating the Defamatory Manifesto are known to them alone, and not yet known to the Plaintiffs;</p> <p>(d) and often temporarily inflate the share price of companies in which his clients have a financial interest. The Defamatory Manifesto also mimics Stafford’s sensationalist writing style. The Plaintiffs further believe that Robert and Rudensky directly participated in the preparation and/or drafting of the Defamatory Manifesto, including (but not limited to) supplying Stafford with many of the false and defamatory allegations against the Plaintiffs, which Stafford then incorporated into the Defamatory Manifesto. However, the precise roles of the Defendants in crafting and disseminating the Defamatory Manifesto are known to them alone, and not yet known to the Plaintiffs;</p>
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	<p>(e) as part of the Defamatory Manifesto, the Defendants set up a “tipline” operated by Stafford to collect further false and defamatory allegations against the Plaintiffs;</p> <p>...</p> <p>(g) after the Plaintiffs were forced to take steps to have websites publishing the Defamatory Manifesto taken down, the Defendants again re-published it on new websites, which were once again created in a manner to conceal the Defendants’ involvement. A version of the Defamatory Manifesto remains available on the Internet;</p> <p>(l) the Defendants generated an Excel spreadsheet titled “Journalists.xlsx” that was made up of a list of journalists, news editors and others in the business community to whom the Defamatory Manifesto would be sent, with the goal of maximizing its distribution (the file was created on September 30, 2020 and listed 2,854 names). In the metadata, James Stafford (who purports to be a “journalist” with access to such contacts) is indicated as the “author” of this spreadsheet. The Defendants sent the Defamatory Manifesto to the media in a concerted but unsuccessful attempt to use the media to further publicize the Unlawful Statements and lend them a false and unwarranted air of credibility;</p>
Rudensky has taken steps to conceal his identify, and that of his co- conspirators.	<p>Amended Claim, at para. 28.</p> <p>28. Steps taken by the Defendants pursuant to the Conspiracy include the following:</p> <p>...</p> <p>(f) The Defendants hired freelance web developers based in Bosnia and Herzegovina to register the websites on which they published the Defamatory Manifesto, to obscure the websites’ origins and conceal the</p>

	<p>Defendants' involvement in the publication, something that would only be part of a sophisticated plot;</p> <p>....</p> <p>(h) the Defendants used alter-ego Twitter accounts, and/or hired or otherwise procured or involved additional conspirators, to further disseminate and publish links to the Defamatory Manifesto;</p> <p>(i) the Defendants, similarly concealing their identities through alter-egos, using fake email addresses and Twitter accounts and VPNs, and/or by hiring or otherwise procuring or involving additional conspirators for this purpose, publicized and provided links to the Defamatory Manifesto on various Internet message boards and chat rooms. These message boards and chat rooms related to the Canadian and U.S. securities markets and are frequented by investors;</p> <p>(j) the Defendants also used alter-ego Twitter accounts to publish further false, defamatory, harassing, and malicious Unlawful Statements against the Plaintiffs, including wishing harm to come to Kassam, and inciting or encouraging others to harm him;</p> <p>(k) the Defendants published further false, defamatory, harassing, and malicious Unlawful Statements against the Plaintiffs through targeted emails sent from an anonymized email address;</p> <p>(m) from fall 2020 through at least spring 2021, the Defendants continued their coordinated defamation campaign by publishing false and defamatory Unlawful Statements in over 1,000 posts on the website Stockhouse. The Defendants took steps to conceal their identities and obscure</p>
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	the origin of these additional Stockhouse posts by using VPNs, and temporary email addresses;
Rudensky has acted with malice.	Amended Claim, at para. 33: 33. The Defendant Rudensky has an animus against Anson and Kassam tracing back to at least December 2018, when an independent forensic financial research firm, Hindenburg Research, posted critical findings about Aphria Inc. (“Aphria”), a publicly traded cannabis start-up. During this period, Aphria’s stock price fell over 40%. The critical research findings related to a key promoter of Aphria who is one of its founders, Andy DeFrancesco. DeFrancesco is the CEO of The Delavaco Group, a merchant bank of which Rudensky is a partner. Rudensky wrongfully blamed the Plaintiffs for Hindenberg’s critical research findings regarding Aphria.
Rudensky (and the other Defendants) have encouraged republication of the Unlawful Statements	Amended Claim, at para. 145: 145. The Defendants are also liable for republication of all of the Unlawful Statements, which was a natural and probable result of the Unlawful Statements given, among other things, the volume of Unlawful Statements published and publicized by the Defendants. In fact, the Defendants actively encouraged republication of the Defamatory Manifesto and Second Defamatory Manifesto, both in the text of the Defamatory Manifesto and Second Defamatory Manifesto themselves, and in Robert’s and Jacob’s tweets sharing the Defamatory Manifesto. Many of the nearly 1,000 Further Unlawful Stockhouse Statements also actively encouraged the republication of the Defamatory Manifesto and/or other Unlawful Statements. Republications of the Defamatory Manifesto and Second Defamatory Manifesto currently remain online.

Rudensky conduct has caused substantial damage to Kassam and Anson's reputation.

Amended Claim, at paras. 146-148

146. The Defendants' conduct has caused substantial damage to the Plaintiffs' business and reputations. The Unlawful Statements have been widely distributed and publicized and have been viewed by thousands of people to date. Versions of the Defamatory Manifesto and the Second Defamatory Manifesto remains widely available on the Internet. The Unlawful Statements have significantly interfered with and disrupted the Plaintiffs' business and affairs and their relationship with clients, counterparties, and potential investors, leading to a loss of business opportunities.

147. Moreover, the Plaintiffs have incurred significant costs and spent a significant amount of time investigating who is behind the Conspiracy and in seeking to have the Unlawful Statements removed from various websites.

148. As mentioned above, Anson has also received threatening telephone calls to its offices because of the Unlawful Statements.

Amended Claim, at paras. 150-151

151. Finally, the Defendants are liable for aggravated and punitive or exemplary damages. The Defendants maliciously and intentionally caused harm to the Plaintiffs through the repeated and coordinated and continuing publication, and broad online dissemination, of the Unlawful Statements. Further, Robert attempted to obtain significant payments and other benefits to purportedly assist Anson, which Anson refused. The Defendants knew, and in fact intended, that serious harm would result from their unlawful conduct.

152. The Defendants executed a coordinated, malicious campaign to spread lies about the Plaintiffs and damage their business, including

	<p>attempting to reach the attention of securities regulators such as the OSC, the SEC, and IIROC. The Plaintiffs believe that the Defendants intended to cause them to become the subject of regulatory inquiries or investigations on the basis of these false and misleading allegations. Such inquiries or investigations would result in serious and irreparable reputational harm, and in addition would force the Plaintiffs to divert significant time, financial and other resources, and management attention, towards addressing any such inquiries or investigations. The Defendants also took steps to attract media attention to the Unlawful Statements in an attempt to further publicize them. The Defendants acted in a high-handed, malicious, arbitrary and/or highly reprehensible manner, as set above, which constitutes a marked departure from ordinary standards of decent behaviour. The Defendants' conduct requires the sanction of the Court.</p>
<p>Rudensky (and the other Defendants) have persisted in publishing the Unlawful Statements despite Kassam and Anson's efforts to have the Unlawful Statements removed, and have threatened to publish further defamatory statements about Anson and Kassam.</p>	<p>Amended Claim, at para. 79:</p> <p>79. The earliest published version of the Defamatory Manifesto purported to be a standalone document. The Defamatory Manifesto was later amended to allege that it was the first of a three-part series (similar to the "Part 1" concept used in the title of the July 23 Stockhouse Post). "Part 2", the Second Defamatory Manifesto, has been published, as set out below. To Anson's knowledge, the third part has not yet been published. If it is, and it contains false, malicious and defamatory content similar to the Unlawful Statements already contained in the Defamatory Manifesto and the Second Defamatory Manifesto, it will cause further, irreparable damage to the Plaintiffs' business and reputations.</p>

	<p>Amended Claim, at para. 150:</p> <p>150. The Plaintiffs also seek an interim, interlocutory and permanent injunction restraining the Defendants from publishing further unlawful and defamatory statements about the Plaintiffs. As noted above, despite Anson’s diligent attempts to have the Defamatory Manifesto and Unlawful Stockhouse Statements removed from the Internet, the Defendants persist in acquiring new websites to publish and disseminate the Defamatory Manifesto, the Second Defamatory Manifesto and Additional Unlawful Posts; in repeating the Unlawful Statements and publicizing the Defamatory Manifesto and Second Defamatory Manifesto through social media, including Twitter; and in publishing the Further Unlawful Stockhouse Statements, which publicized and disseminated the Defamatory Manifesto, Second Defamatory Manifesto and other Unlawful Statements. In addition, the Defendants threatened the release of two additional “Parts” to the Defamatory Manifesto. They have released one additional “Part”, the Second Defamatory Manifesto, as well as the Additional Unlawful Posts about the Plaintiffs. This conduct has caused, is causing, and will continue to cause irreparable harm to the Plaintiffs’ business and their reputations. This nonstop game of “whack-a-mole” cries out for a remedy.</p>
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TAB 2

Court File No. CV-20-00653410-00CL

SUPERIOR COURT OF JUSTICE

B E T W E E N :

ANSON ADVISORS INC., ANSON FUNDS MANAGERMENTS LP,
ANSON INVESTMENTS MASTER FUND, and MOEZ KASSAM

Plaintiffs

- and -

JAMES STAFFORD, ANDREW RUDENSKY, ROBERT LEE DOXTATOR,
JACOB DOXTATOR, JOHN DOE 1, JOHN DOE 2, JOE DOE 3,
JOHN DOE 4, and OTHER PERSONS UNKNOWN

Defendants

P R O C E E D I N G S

BEFORE THE HONOURABLE JUSTICE P. OSBORNE
on January 25, 2023, at TORONTO, Ontario

APPEARANCES:

R. Staley	Counsel for the Plaintiff
A. Carlson	Counsel for the Plaintiff
D. Fenton	Counsel for the Plaintiff
M. O'Sullivan	Counsel for the Plaintiff
M. McPhee	Counsel for J. Stafford and R. Doxtator
A. Rudensky	In Person

SUPERIOR COURT OF JUSTICE

T A B L E O F C O N T E N T S

Legend
[sic] - Indicates preceding word has been reproduced verbatim and is not a transcription error.
(ph) - Indicates preceding word has been spelled phonetically.

Transcript Ordered:	November 8, 2023
Transcript Completed:	November 8, 2023
Ordering Party Notified:	November 8, 2023

WEDNESDAY, JANUARY 25, 2023

CLERK REGISTRAR: Kindly ensure your electronic devices and notifications, other than the one you're using for Zoom, are off and on silent. This prevents feedback. If you are not addressing the court, kindly click the mute option.

Under s. 136 of the *Courts of Justice Act*, it's an offence for anyone to copy, record, publish, broadcast or disseminate a court hearing, or any portion of it, including a hearing conducted over video conference or teleconference, without the leave of the court. This prohibition includes screenshots. Furthermore, members of the public and other persons in the courtroom must comply with the terms of the court's protocol on the use of electronic devices in the courtroom which is available on the Superior Court of Justice website. Court is now in session. Please be seated. You may now proceed.

THE COURT: Thank you, Madam Registrar. Just give me a moment here if you would, counsel. I'm sorry, my and among others is not muted.

COURT REPORTER: *[Indiscernible]*.

THE COURT: And it says it's muted. So hold on. There. That did not fix it. Have a seat, counsel. Just give me one second here. Is that better? Good. Thank you.

COURT REPORTER: Is anyone in this room joining with audio? No. Okay. Because this creates a technical issue. We all should be connected without audio and *[indiscernible]* in order to

[indiscernible].

THE COURT: All right. Mr. Reporter, are you good to go there or no?

COURT REPORTER: We're just trying to make sure that it's not possible to record. I'm not able to [indiscernible] the recording. [Indiscernible].

Okay. It looks like we have [indiscernible] microphone here that creates the feedback situation. I'm not sure what will happen.

THE COURT: Let me just understand, as you're - as you're getting set there, where we're at. We have the applicants, the moving parties today, Mr. Carlson, Mr. Fenton, Mr. Yegendorf (ph)? Ms. Yegendorf? Mr. Yegendorf. Thank you. Ms.

O'Sullivan and Mr. Staley. Ms. McPhee, Ms. Kelly. You are here for the other defendants, is that right, Mr. Stafford, Mr. Doxtator?

MS. MCPHEE: Yes, that's correct.

THE COURT: Are you taking a position on this motion?

MS. MCPHEE: We don't anticipate taking a position.

THE COURT: All right. And then on Zoom here I see a number of people. And maybe, Mr. Carlson, too, you can give me the landscape as to where we're at. I see - I see Mr. Rudensky, can you hear me, sir?

ANDREW RUDENSKY: I can.

THE COURT: All right. Do you have Zoom capability on your laptops there on the monitors on the tables? Can you...

MR. CARLSON: We do.

THE COURT: ...see the participants on Zoom?

MR. CARLSON: Thank you, Your Honour.

THE COURT: All right. Mr. Rudensky, you're representing yourself this morning, sir?

ANDREW RUDENSKY: This morning, I am.

THE COURT: I see. All right. And are you taking a position on this motion, sir?

ANDREW RUDENSKY: I found out about this several days ago, so I really haven't had time to engage counsel for this. So, I wanted to surface and try to, you know, answer questions the best I could at the moment.

THE COURT: I see. All right. Is anyone else on the screen attending by Zoom today taking a position on this motion?

MR. CARLSON: No, Your Honour. I believe the only other attendees are our clients who are observing.

THE COURT: All right. Very well. Thank you. So, Mr. Reporter, how are you making out there?

R E C E S S

U P O N R E S U M I N G:

COURT REPORTER: Sorry, Your Honour, I had to [indiscernible]. I can see that is recording [indiscernible]. Sorry, my indulgence. [Indiscernible].

R E C E S S

U P O N R E S U M I N G:

... Transcription Note: Recording cuts in

THE COURT: ...Rudensky at all.

MR. CARLSON: No.

THE COURT: In the materials, he hadn't responded, I took it, at all to the action, right?

MR. CARLSON: That's right. So, Mr. Rudensky reached out to us for the first time yesterday

5 afternoon to advise that his position is he wasn't properly served with the claim. We would like to proceed with today's motion on an unopposed basis and Mr. Rudensky is free to bring a motion to set aside his noting in default and his - and any default judgment we obtain today.

10 Upon receiving Mr. Rudensky's email, we forwarded it to the court, ensured that he had today's motion materials, ensured that we set - had the court set up the link so he could observe. But, in fairness to him, I think it makes more sense to not proceed as though today is opposed, as he says he hasn't had a chance to prepare materials, and just allow us to proceed unopposed. And then he can bring the motion that he would have to bring, in any event, to move to set his noting in default aside.

15 THE COURT: Mr. Rudensky, what's your position today, sir, with respect to what you think should happen? Mr. Rudensky, can you hear me, sir?

20 ANDREW RUDENSKY: I can't - I couldn't hear you guys speaking there if you guys were...

 THE COURT: All right.

25 ANDREW RUDENSKY: ...engaging.

 THE COURT: What --

 ANDREW RUDENSKY: I can now.

30 THE COURT: All right. The moving parties are of the view that we should proceed today as if it were unopposed and you can move to set judgment aside in the event that judgment is granted following today's motion. What's your position as to what should happen today, sir?

5
ANDREW RUDENSKY: Well, I discovered that, you know, there was this default hearing several days ago. I understand through an email that the plaintiff claims that I was personally served in Canada, which is inaccurate. I've been in the United States since early 2022. I believe they cited July as when I was personally served at an address which I've never lived at. I --

10
THE COURT: So, what are you asking for today, sir? What --

15
ANDREW RUDENSKY: I'd like to have time to retain counsel and form a defence. I had nothing to do with any of - any of the claims as I understand have been made. I plan to defend myself. And, you know, the position that, you know, I was served is inaccurate, and I'd like the opportunity to defend myself.

20
THE COURT: All right. Are you functional here, Mr. Reporter, or it's still no?

COURT REPORTER: Yes. Yes, we're [indiscernible].

25
THE COURT: Okay. All right. Very well. So, just so we're clear for the purposes of the record today on this motion, counsel for the moving parties, plaintiffs are here; counsel for the defendants, Mr. Stafford and Mr. Doxtator are here in person.

On Zoom is the defendant, Mr. Rudensky, as well as a number of observers. Am I forgetting anybody?

30
MR. CARLSON: There - Mr. Greenspoon is attending from the Groia firm on behalf of Mr. Jacob Doxtator.

THE COURT: Very well. And I take it, sir, are you here monitoring? Do you intend to make any

submissions?

MR. GREENSPOON: Yeah, I'm not authorized to speak.
I'm just monitoring.

THE COURT: Very well. All right. So, as I
understand it, just so we're clear on what we're
doing here, Mr. Carlson, Mr. Rudensky is seeking an
adjournment of this motion. Just before we think
about submissions on the merits, can you just
remind me of the chronology in terms of when he was
served with the claim, the originating process,
which I take it for him is the fresh as amended
statement of claim?

MR. CARLSON: That's correct.

THE COURT: Is that right? Because he was added in
the spring, earlier this year, is that right?

MR. CARLSON: That's right, Your Honour. And I
have - I have ample submissions on this point and
can walk you through the complete procedural
history including with,...

THE COURT: Would you? Thank you.

MR. CARLSON: ...including with evidence in the
record that should demonstrate to you that you can
proceed today.

THE COURT: All right.

MR. CARLSON: And I also have other submissions on
why we shouldn't adjourn. So, I'm happy to do
those in whatever order you like, Your Honour.

THE COURT: Well, I suppose I need to hear both of
those, just so I'm clear, given the nature of the
relief you're seeking today. So, why don't we do
the second one first, though? The - Mr. Rudensky
says he just became aware of this recently and

wants an adjournment. You're opposing that adjournment, I appreciate. What's your view on that?

MR. CARLSON: Okay, great. So, we submit that there's at least five reasons to not make an adjournment today. First, adjourning today's hearing will simply result in wasted resources for the parties and for the court. We began preparing these motion materials in early November, and we filed a two volume motion record, a further brief supplemental record, a 25 page factum and a book of authorities. The motion materials are fully baked and briefed from our perspective. And, importantly, Mr. Fenton and I have just spent the last few days preparing oral submissions. So, we're fully ready to go and all of this work will be wasted if we simply adjourn today's hearing, particularly the efforts we've spent preparing for oral arguments.

Second, this court's time would be wasted. We're here for three hours this morning. The motion has been booked since December 8th. And while I'm sure Your Honour and counsel would find other things to do, no other motion will take this motion's place. It's simply a waste of the court's already strained resources.

Third, in our submission there's no prejudice to Mr. Rudensky from us proceeding with the motion today. And, in fact, I would submit he's precluded from participating. One of the consequences, as

5 you know, Your Honour, of being noted in default is
that Mr. Rudensky is precluded from taking any step
in the proceeding other than to bring a motion to
set aside the noting in default or any default
judgment obtained. That's explicitly set out in
Rule 19.02(1)(b). Attending this hearing to ask
the court to adjourn this hearing is a step in the
proceeding. It's a step he's precluded from
taking.

10 In any event, as I mentioned earlier, he's fully at
liberty to bring a motion to set aside his noting
in default and any default judgment obtained today
as contemplated by the rules.

15 THE COURT: Is it your position that the test is
different on setting that aside than if he had not
been noted in default and were opposing the relief
today on the merits?

20 MR. CARLSON: So, that's an excellent question,
Your Honour, because the test is not different. It
is the - it is - the test is based on what's - what
are called the *Mountainview* factors based on the
2014 decision of the Ontario Court of Appeal of the
same name. And so, Mr. Rudensky - Rudensky is
25 going to be obliged to bring that motion in any
event, because of he was noted in default. And so,
put simply, if this motion proceeds, even if
default judgment is granted today, it does
virtually nothing to expand the scope of the motion
30 he already must bring in order to participate in
this proceeding and file a statement of defence.
So, there's no prejudice to him.

If Mr. Rudensky brings his motion to set aside and wins then fine, he can file a statement of defence and we'll proceed. Although we may seek wasted costs in any event. If he brings those motions and loses, then at least we won't have to repeat today's motion. We won't have to reschedule it and come back and re-argue.

Fourth, as I mentioned, I have about 10 minutes of submissions to take you through regarding the procedural history of this case, and I'll get to that shortly, and they establish that Mr. Rudensky was properly served in accordance with the *Rules of Civil Procedure*. We certainly don't accept his allegations coming as they are on an unsworn basis.

THE COURT: Properly served both with originating process and with these motion materials?

MR. CARLSON: We have attempted to properly serve him in accordance with these motion materials. We couldn't find him at the same address at which we had previously served him with the statement of claim.

THE COURT: Okay. You'll take me through that. All right.

MR. CARLSON: I will take you through that. Thank you, Your Honour. Finally, in our submission, Your Honour, if all a defaulted defendant had to do to avoid default judgment is wait until the day before the hearing of the default judgment to advise that he intends to deliver a defence, then defendants would be incentivized to engage in that conduct, including to achieve maximum possible delay. Our

courts do not allow that to happen.

To give credit to my friend and colleague, Mr. Fenton, after we received Mr. Rudensky's email of yesterday at 12:20, he quickly found a precedent of the court refusing to grant an adjournment in the very same circumstances. And so, Your Honour, I will hand up this morning a decision of Justice Dunphy in *Ying v. Lemine Investments*, and I have a copy for counsel for Mr. Stafford if she would like. Perhaps I can hand this up to the registrar. And it's a very brief decision of only five pages in length, Your Honour, but you really need only read paragraph 1 for the purposes of my point.

In that case the plaintiff moved for judgment against an individual and two corporate defendants, all three of which had been noted in default. Prior to the day of the hearing none of the defendants had participated in the proceeding. They had not taken any steps to set aside the noting in default or otherwise place sworn evidence before the court. And at the hearing, the individual default defendant appeared in person without counsel and asked for an adjournment, a 30 day adjournment so that he could present evidence. And Justice Dunphy declined that request and proceeded with the motion. And in fact he ended up granting default judgment against certain of the defendants. And so, that's what we submit should happen today. So, those are my direct submissions on the issue of why we say there should be no

adjournment, and I'm happy now to turn to the procedural history of this case so that you can see the efforts we've made to bring this to Mr. Rudensky's attention.

THE COURT: Please.

MR. CARLSON: So, by way of background, Your Honour, the claim was served on - or, sorry, the initial statement of claim was issued in December of 2020. Mr. Rudensky was not named as a defendant at that time, as you've already - as you've already noted. However, by the fall of 2021 the plaintiffs had determined Rudensky's involvement and sought to amend the claim to make allegations against him and add him as a party. And so, that evidence is in Mr. Kassam's affidavit at paragraph 45. And, Your Honour, you should have a supplemental motion record.

THE COURT: I do.

MR. CARLSON: That's the skinny one. If you could just please turn to tab 1 of that record. So, I'll just be taking you through the chronology here, Your Honour.

THE COURT: So, this is an email from Mr. DiMatteo, is that right?

MR. CARLSON: That's right. That's right. So, you may - you may recall, Your Honour, that the plaintiffs were formerly represented by counsel at the Blakes firm. Mr. DiMatteo is a lawyer at Blakes. On October 6th, he emailed a draft copy of the fresh as amended statement of claim to Mr. Rudensky at two email addresses: andrew.rudensky@gmail.com and A-R - which is his

personal email address, and ar@delavaco.com, which is work email address at the Delavaco Merchant Bank. Both of these emails, as I will explain, are known active email addresses belonging to Mr. Rudensky. In paragraph 46 of Mr. Kassam's affidavit, he deposes that he was aware of Mr. Rudensky using these email addresses, including because Anson has had prior dealings with Mr. Rudensky at the Delavaco bank. And I'll get to emails of him using that email in a moment.

Mr. Rudensky never responded to Mr. DiMatteo's email and otherwise never granted his consent to the proposed amendments. Counsel for Mr. Stafford, who was also proposed to be added, advised that he would not consent to the proposed amendments, and so the plaintiffs proceeded with an opposed motion for leave to amend the statement of claim.

If I could ask you to turn to tab 2 of the supplemental brief. And this is simply an email from me, Your Honour, November 23rd, 2021, attaching the plaintiff's notice of motion, commencing our motion to amend the statement of claim. And, again, we sent it to Mr. Rudensky at his Gmail address and his Delavaco email address.

THE COURT: So, your firm replaced Blakes in that month, is that right?

MR. CARLSON: That's right.

THE COURT: October, November? Okay.

MR. CARLSON: That's right. We replaced Blakes on November 12th because Mr. Stafford had made

allegations of conflict against the Blakes firm.

THE COURT: Okay.

MR. CARLSON: So, in order to just render that issue moot, plaintiffs retained new counsel.

THE COURT: So, this is sent to the same two email addresses?

MR. CARLSON: Same two email addresses of which we were aware. And these are not the only two emails in the record, Your Honour. These are just two that I'm going to take you to. So, Mr. Rudensky was also copied on numerous other emails relating to this matter since the fall of 2021, and some of those emails are at tab 0 of the plaintiff's original motion record, for your notes. I won't take you there.

THE COURT: No response to this either, I assume.

MR. CARLSON: No response to any of them. And as noted by Mr. Kassam in paragraph 49 of his affidavit, we have never received any bounce backs, message delivery notification failures, anything along those lines that would indicate that the email addresses were - did not exist or were not active.

THE COURT: Were there any attempts at personal service made of the claim initially?

MR. CARLSON: Not at this time period, Your Honour. But I'd like to show you - I'd like to take you to a crucial piece of evidence we have. And, again, this is all before the claim had actually been amended, right? So, Rudensky is - Mr. Rudensky is not a party to the proceeding. He's, you know,...

THE COURT: A proposed party.

MR. CARLSON: ...potentially a responding party to a motion. But I'm going to ask you to turn to volume 2 of the plaintiff's original motion record, tab P. And, Your Honour, would you - would you like the CaseLines pagination or the motion record pagination?

THE COURT: I can work with either. I find master easier just to keep it consistent...

MR. CARLSON: Okay.

THE COURT: ...but whatever works for you.

MR. CARLSON: Okay. I'll just use the motion record pagination if that's okay.

THE COURT: Yeah.

MR. CARLSON: And the - and the tab numbers should be bookmarked in the PDF.

THE COURT: Okay.

MR. CARLSON: All right. So, tab P of our - of our initial motion record at page 449-450. So, as I showed you, our motion for leave to amend had commenced - we commenced it in November 2021 because by that time we knew we weren't going to get the defendant's consents.

THE COURT: So, this is Justice Conway's endorsement is where you're at?

MR. CARLSON: This is Justice Conway's email endorsement of January 19th. And so, there was a case conference that day. By that time she was case managing these proceeding. And so there were multiple case conferences with Madam Justice Conway over the winter of 2022, but there was one on the 19th. And so, this is her email endorsement reflecting what was discussed at that day's case

conference. She says, "This CC," this case
conference, "proceeded before me today by Zoom.
Ms. McPhee's firm has now been retained by Mr.
Stafford. Mr. Richard," that's Mr. Kevin Richard
of the Groia firm, "anticipates being retained by
Mr. Rudensky shortly. Mr. Richard advised us and
the court that he had been in contact with Mr.
Rudensky and anticipated being retained." And as
an officer of the court, I expect Mr. Richard was
telling the truth.

He advised us, as reflected in Madam Justice
Conway's endorsement, "Mr. Richard does not have
firm instructions on whether Mr. Rudensky will or
will not be opposing the motion to add him as a
defendant." We were going to wait and see what was
going to happen there, but there's no doubt that
Mr. Rudensky by this time, over a year ago, was
aware we were seeking to add him as a defendant to
the claim.

And just for your notes, Your Honour, Mr. Rudensky
and Mr. Richard are not strangers. Mr. Kevin
Richard had represented Mr. Rudensky in
disciplinary proceedings that proceeded before the
Investment Industry regulation - Regulatory
Organization of Canada and the OSC. And so, the
decisions regarding those proceedings are at tab 13
of the plaintiff's book of authorities. And so,
Your Honour, if you - if you turn to tab 13,
there's actually three decisions behind this time.
THE COURT: This is in your authorities brief?

MR. CARLSON: This is in the authorities brief.
And if you just look at the first page of the first
decision, this was the merits - there's a merits
decision of the - of IIROC, a sanction decision,
then an OSC decision, and all three of them show
Kevin Richard for Andrew Paul Rudensky. So, this
was his lawyer. He was talking to his - or at
least his former lawyer. He was talking to his
former lawyer last January about potentially
retaining him to defend him on this action or
otherwise respond to the plaintiff's motion to add
him.

Furthermore, Mr. Rudensky, at the two email
addresses that were known for him, is CC'd on this
email.

THE COURT: That's on Justice Conway's endorsement.

MR. CARLSON: Justice Conway's email...

THE COURT: Yeah.

MR. CARLSON: ...at his Rudensky at Gmail and his
Delavaco address. And, of course, at no point does
anyone, including Mr. Richard object to say those
aren't valid email addresses or - nor does of
course he object to say that Madam Justice Conway's
email was inaccurate or that she had misinterpreted
what he said at the case conference. And that's,
of course, because Justice Conway's email
accurately represented what Mr. Richard had
conveyed at that case conference to us and to the
court.

THE COURT: Where did Justice Conway get those
email addresses? Do you know? Was there a

counsellor slip as is typical for those? I mean,...

MR. CARLSON: I do --

THE COURT: ...was he there? Was Mr. Rudensky present at that case conference?

MR. CARLSON: no, no, he was not present.

THE COURT: Right. Mr. Richard was.

MR. CARLSON: We had been - because Mr. Rudensky had not been represented and wasn't formerly retained by Mr. Richard up until that time, we had been CCing Mr. Rudensky on virtually all communications...

THE COURT: I just wonder...

MR. CARLSON: ...with other counsel and with the court.

THE COURT: ...who gave those email addresses to the court that day.

MR. CARLSON: That's right.

THE COURT: Who, do you know?

MR. CARLSON: At some - at some point she had them.

THE COURT: But who gave them to her, do you know?

MR. CARLSON: I don't recall,...

THE COURT: Okay.

MR. CARLSON: ...Your Honour. I apologize.

THE COURT: All right.

MR. CARLSON: As I - I believe Mr. Rudensky had been CC'd on emails with the court, including Justice McEwen earlier when we were initially scheduling matters and seeking to obtain Justice Conway as our case management judge and so on.

THE COURT: Okay.

MR. CARLSON: So he'd - he'd been copied for some

time by that point. Mr. Rudensky never ended up formally retaining Mr. Richard or any other lawyer to represent him on the plaintiff's motion to add him as a defendant.

5 THE COURT: What's the next you hear from Mr. Richard? Is there an email or something to the effect that he's not retained and won't be acting in the matter?

10 MR. CARLSON: At some point over the winter they advised us that they wouldn't be acting for him.

15 THE COURT: All right. So, we repeatedly - as I recall, and this is not in the record, Your Honour, so I apologize if - I apologize for this. But my - I'm not eager to proceed, I don't like giving evidence from counsel's table, Your Honour, but my recollection is that we followed up with them repeatedly to ask whether he was going to be retained and whether they could agree to a schedule, and ultimately he was never retained.
20 And so, we just proceeded as though Mr. Rudensky was not opposing the motion, although Mr. Stafford was. And Mr. Stafford was retained of course by Ms. McPhee's firm. Sorry, had engaged Ms. McPhee's firm.

25
30 So, the motion proceeded on a contested basis and was heard by Justice Conway on May 3rd, and she granted - she granted our motion allowing us to file the amended claim. Her endorsement is at tab 2N of our motion record. And we formally issued the amended claim on May 27th, and that's at - the claim is at tab 2A of the motion record.

So, if we can now turn, Your Honour, to Mr. Kassam's affidavit, which is at tab 2 of our initial motion record. Because Mr. Kassam explains what happens next after we obtained the issued version of the amended claim. And I will turn to -

THE COURT: So, just so I'm clear, Mr. Carlson, with the - Mr. Richard advised at some point over the winter he's not retained. You don't hear further from him or Mr. Rudensky. The claim - fresh as amended claim is issued in May.

MR. CARLSON: Correct.

THE COURT: All right.

MR. CARLSON: Correct. And just to be clear, Your Honour, the first time we've ever received contact from Mr. Rudensky directly was yesterday.

THE COURT: Have you heard from him or on his behalf at all since the events we just talked about? Since the case conference of Justice Conway and Mr. Richard...

MR. CARLSON: No, Your Honour.

THE COURT: ...potentially but ultimately not retained?

MR. CARLSON: There were other conversations where counsel to the defendants mentioned that they were in touch with Mr. Rudensky, but we have never heard from him or by a lawyer purporting to act on his behalf since that case conference.

THE COURT: All right. So, I interrupted there. You want to be in the affidavit of Mr. Kassam.

MR. CARLSON: That's correct. And in paragraph 51, please, which is at page 27.

THE COURT: Okay. Just give me one second, if you would. All right. Thank you. Paragraph 51.

MR. CARLSON: Fifty-one. So, Mr. Kassam explains what happens after we obtained the issued copy of the amended claim. He deposes:

In July of 2022, following numerous attempts to personally serve the amended claim on Rudensky, we hired a licensed private investigator to locate Rudensky. A copy of the investigator's report is attached hereto as Exhibit Q. We then attempted service again based on the information provided by the investigator. I am informed by our counsel and verily believe that service of the amended claim on Rudensky was successful and effective as of July 31st of 2022. A copy of an affidavit sworn by the process service who carried out the service is attached hereto as Exhibit R.

So, we can please turn to the first of those two exhibits referenced by Mr. Kassam in that paragraph, Exhibit Q.

THE COURT: Okay. Just before you even get there, with respect to the first sentence, is there any evidence in the record with respect to the numerous attempts to personally serve the claim?

MR. CARLSON: No. Just this, Your Honour. But we'll get - we'll get to the - I mean, we were attempting to locate him. We served him by email, but we don't have any --

THE COURT: I mean, in a motor vehicle search, a process server at a home or --

MR. CARLSON: Well, we'll get to the - we'll get to the...

THE COURT: You're going to get that. All right.

MR. CARLSON: ...investigator's report, Your Honour. So, yeah, I won't take you through our unsuccessful attempts, and we didn't - we didn't put all of those in the record, but I'll take you to the successful attempts. So, the investigator's report is - starts at, sorry, page 453, tab Q of our motion record. So, this was - this was the report that we received from Integra Investigation Services. It's addressed to my colleague, Ms. O'Sullivan, regarding Mr. Rudensky. The report is dated July 21st, 2022:

As requested, an investigation was conducted to locate Mr. Rudensky. Our investigator advised that he uses 4328 Clubview Drive, Burlington, Ontario as his registered address in Canada. The address is associated with his vehicle insurance information.

The rest of the page goes on to note that in March - so earlier - earlier last year, during the very time period that we were proceeding with our motion to add him as a defendant, and after of course Mr. Richard had made those representations at the January 19th case conference, Mr. Rudensky sold his home in Oakville at 1107 Melvin Avenue for over \$4 million and bought a property in Florida for over \$5 million. But upon the sale of the property - and so this is - this is the penultimate paragraph on the page, the last sentence of the - of the

second last paragraph: "Upon the sale of the property, Andrew Rudensky's address for service was 4328 Clubview Drive, Burlington, Ontario. Supporting documentation is attached." So, it's associated with his vehicle insurance information as set out in the second paragraph.

And now I'll just take you to what the supporting documentation is that our process - that our investigators gave us. If you turn to page 465 of the record. It's kind of midway through the supporting documentation package. Let me know when you're there, Your Honour.

THE COURT: Sorry, I'm just catching up with you here. I just want to understand this. The Clubview property.

MR. CARLSON: So, we --

THE COURT: You don't - you don't have an affidavit from Integra, right? You've got this --

MR. CARLSON: We don't have an affidavit. We received this report. But I'll get to an affidavit of service.

THE COURT: And then this report says Mr. Rudensky and his spouse, Caitlin Plunkett, are believed to be renting at this location.

MR. CARLSON: Correct.

THE COURT: Is - are you going to take me to any basis for that?

MR. CARLSON: I'm going to show you a document showing that they've used that address for service. And then I'm going to take you to an affidavit of service...

THE COURT: Okay.

MR. CARLSON: ...where an adult member of that same household confirmed that Mr. Rudensky lives there.

THE COURT: Okay. All right. So, sorry, I interrupted you.

MR. CARLSON: No --

THE COURT: I have that paragraph.

MR. CARLSON: No problem. So, if we turn to - let me - you were going to let me know when you were at...

THE COURT: Yeah.

MR. CARLSON: ...page 465. Excellent. Okay. So, this is the - this is the transfer instrument that was made by Mr. Rudensky and his partner when they sold their property in Oakville in March. So, this is the transfer of the 1107 Melvin Avenue property. And that's shown at the top. And then under transfers, it shows the names of the two transfers, Mr. Rudensky and Caitlin Plunkett. Address for service, 4328 Clubview Drive, Burlington, Ontario. And so we have so many --

THE COURT: And where is that? Sorry.

MR. CARLSON: It's under the transfers section.

THE COURT: I'm at 465 of your motion record.

MR. CARLSON: Yes, Your Honour. Under the - do you see the - kind of the transfer instrument?

THE COURT: Yeah.

MR. CARLSON: With the transferors...

THE COURT: Oh, I see.

MR. CARLSON: ...heading.

THE COURT: Behind the abstract. I got you.

MR. CARLSON: Address. And it says name and then

address for service. So, when Mr. Rudensky ultimately brings his motion to set aside the default, we're going to cross-examine on why he would use that address for service if he never lived there. We're going to cross-examine him on all of these things. But this - so this is the report that our investigators came back with. So, obviously we attempted to serve him at the Clubview Drive address where he was believed to be living. And if you turn to the next tab, Your Honour, tab R, this is the affidavit of service. And the affiant explains that on Friday, July 22nd - sorry, I'm just getting ahead of myself, Your Honour:

On Friday, 22nd [sic], the affidavit served the defendant, Andrew Rudensky, with a true copy of the fresh as amended statement of claim by leaving a true copy of same in a sealed envelope addressed to the said defendant with Bruce Chapman. He's the registered owner of the property. An adult male who appeared to be a member of the same household in which Andrew Rudensky resides at 4328 Clubview, Burlington, and by sending a copy of the above-mentioned document to the said defendant by mail.

Paragraph 2, this is all important:

I ascertained that the person served was an adult member of the same household in which the defendant is residing by means of verbal admission. Mr. Chapman confirmed that Mr. Rudensky resided there.

And so, serving in that manner, where you leave a copy of the claim in a sealed envelope addressed to the person you're serving at the place of residence with an adult member of the same household and then mailing it that day or the following day is

effective service pursuant to Rule 16.03(5). So, because Mr. Rudensky wasn't responding to any of our emails, that's what we had to do. It is effective. There are multiple ways to --

THE COURT: Without an order for alternative - for personal service in respect of originating process?

MR. CARLSON: That's right.

THE COURT: Okay.

MR. CARLSON: So, that was formal service. It's effective under the rules. Mr. Rudensky is free to bring his motion to set aside the default. But for today's purposes, it's effective and you can proceed.

THE COURT: All right. This is...

MR. CARLSON: We then noted --

THE COURT: ...July?

MR. CARLSON: We then noted him in default after he failed to deliver the statement of defence. And, Your Honour, I have - I have more of events that have happened since then. And you'll recall, Your Honour, that you asked us - we had a case conference on December 8th, and despite the fact that defendants who have been noted in default are not entitled to notice of any step in the proceeding, and are in fact not entitled to participate, it is best practice to attempt to give them notice of any motions for default judgment.

And so, you followed that best practice and you -
and you told us to do so. We could not effect
service on him at the Clubview Drive address
because no one would answer the door. And so, by
January 5th - if we can turn tab 3 of the
supplemental motion record?

THE COURT: Did you send it to those two email
addresses as well?

MR. CARLSON: We did, Your Honour. We attempt - we
attempted to do that. And I'll just take you first
to tab 3. And this go - this goes directly to the
validity of those email addresses. So, tab 3 of
the supplemental record. By January 5th, we knew
this motion date was approaching and we had not yet
made effective service in accordance with your
endorsement. But we knew that counsel to the
defendants had been in touch with Mr. Rudensky
because they had told us so. So, my partner, Mr.
Milne-Smith, emailed counsel to the defendants,
reminded them that you had directed us to serve Mr.
Rudensky with the endorsement, directing that the
motion proceed today. Mr. Milne-Smith advised them
that we had made a number of attempts to do so but
that Mr. Rudensky had eluded us.

We pointed out that as noted by the previous
endorsement of Justice Conway we knew that Mr.
Richard had been previously in contact with Mr.
Rudensky. We also understood that Mr. Kim had been
in touch with him. And so, we asked:

In the spirit of giving effect to Justice
Osborne's direction, I would ask that you both

5 please forward Justice Osborne's endorsement in
our letter to Mr. Rudensky through whatever
means you have used to contact him in the past.
Please also feel free to use the link below to
our motion record for default judgment which
has already been served on Mr. Rudensky. I
thank you in advance for your assistance as
court officers in giving effect to Justice
Osborne's directions.

10 And Mr. Richard responded that same day, shortly
thereafter, saying:

15 Thank you. From your correspondence, I believe
you have sent everything to
andrew.rudensky@gmail.com already. This is the
address we had for Mr. Rudensky and we have had
no contact with him for more than eight months.
But it's a valid email address that he used to
communicate with someone who was actually his
20 former counsel.

25 If you could just flip, please, two more tabs over
to tab 5. And I had mentioned that Anson had had
previous dealings with Mr. Rudensky because they
had previously had dealings with the Delavaco Group
where he works. And so this is just one example of
an email that Mr. Rudensky sent to Ms. Salvatori,
who is general counsel at Anson, from his Delavaco
email address, "Hi Laura. Could you please give me
30 a call?" And we have no reason to believe that
this email has ever become, you know, deactivated,
not in use. The plaintiffs have emailed with Mr.

Rudensky at that address and Mr. Richard confirmed the Gmail address. So, we intend to test him on all of those allegations that he had no knowledge of this case.

And to be clear, Your Honour, that is not how I understood his email of yesterday to say. His email of yesterday doesn't indicate that he had no notice. It just claims that he wasn't properly served, but he was in accordance with Rule 16.05.

So, those, Your Honour, are my submissions. There's certainly no sworn evidence with a plausible explanation as to how the claim could possibly have failed to come to his attention. He was properly served with the amended claim in accordance with the *Rules of Civil Procedure*. He was properly noted in default. He's fully entitled to bring a motion to set aside if he can meet the test. But for all of those reasons, Your Honour, we say we should proceed today.

THE COURT: All right. Thank you, Mr. Carlson. I know you've got other submissions obviously on the merits. But Mr. Rudensky, can I hear from you, sir, in response to Mr. Carlson's submissions. I'm not asking about the merits of the motion, to be clear. I want - I want to understand the basis upon which you're seeking, as I understood what you said earlier, an adjournment of the motion today.

ANDREW RUDENSKY: Yes. Thank you. I guess I'll probably begin with - excuse me - the email addresses. I stopped working at Delavaco in

5 early/mid-2020. I had requested early that year,
sometime in January, that the account be
deactivated. As I understood, that email account
was deactivated. [Indiscernible] I certainly
stopped using it from January 2020 going forward.
So, I no longer work with that firm and I haven't
for many years now. As I understand, you know,
that plays into, you know, the overall picture of -
10 I guess what, you know, I'm potentially accused of
is working with that group, but I stopped working
with them in that time period.

15 The Gmail account was an old legacy Gmail account.
So, I wouldn't have been receiving, you know,
emails that they said that they were sending. You
know, particularly, you know, the employment which,
you know, I think is probably - even the statements
made today that, you know, everyone's under the
impression I still work there. That ended a very
20 long time ago.

THE COURT: Sorry. What do you mean, sir, the
Gmail account was a legacy account? You still use
that account, do you?

25 ANDREW RUDENSKY: No. It was an old personal
account that I did use, you know, I want to say a
time period of maybe 2017 to, you know, maybe
sometime in 2021. And so, the email service -
again, they're sending to one account that, you
know, I had requested in January 2020 to be
30 cancelled. My employment shortly thereafter - or
working relationship ended before any of, you know,
this stuff, you know, came about, and my other

email address wasn't one that I used.

You know, to touch upon some of the service comments, as I sold my house I was transitioning, moving to Florida immediately. I think probably I used that address - it was, you know, my wife's mother's house - until I could transfer all my car insurance and so on to the United States which, you know, I bought my vehicles down south.

THE COURT: Sorry. Just to be clear, what was the address of your wife's mother's house?

ANDREW RUDENSKY: It was the Clubview Drive asset.

THE COURT: All right.

ANDREW RUDENSKY: House.

THE COURT: Are the - are the Chapmans your wife's parents?

ANDREW RUDENSKY: No. Bruce is my wife's stepfather.

THE COURT: All right.

ANDREW RUDENSKY: But Bruce used to be the head of the police union. He would - he would never have said I lived there. I never have. If the investigator said that so that he made service, you know - you know, that's, you know, I think kind of on him. There was a second encounter which the gentleman who was speaking said when they tried to deliver, you know, some document to the house, had an encounter with my wife's mother where she engaged in a conversation and said, "He doesn't live here any - doesn't live here; you know, stop coming, hanging outside the front of my house. I've been watching you for days." And he said,

5 "I'm not harassing you." She said, "I'm going to
call the police on you." And then she called Bruce
with his, you know, policing background and
supposedly he calmed down, but that conversation,
as I understood it, said, "Stop showing up to my
house, he doesn't - he doesn't live here." And,
you know, that that was that encounter which I
don't think was - or the conversation was relayed
to the court. But I've been in the United States
10 since early in 2022. I have a son who was born
down here in May. I had major shoulder surgery in
July, actually days before the delivery in Oakville
or Burlington. I got married here in August and I
didn't come back to Canada till - December 23rd I
15 believe is when I came back. So, the whole window
of delivery to that house, I wasn't in the country.
THE COURT: Where are you staying now, sir, in
Canada?

ANDREW RUDENSKY: I'm in the United States.

20 THE COURT: I see.

ANDREW RUDENSKY: I'm not in Canada.

THE COURT: I see. So, if I understood Mr.
Carlson, the claim was left with Mr. Chapman at the
Clubview Drive address and Mr. Chapman indicated
25 you lived there. You just told me you object to
the fact that you lived there, but did he not bring
the claim to your attention?

ANDREW RUDENSKY: I - my wife's mother contacted
her and said someone tried to deliver a package to
Andrew, and that was kind of, you know, the extent
30 of it. You know, my understanding is that I - I
was waiting for them to serve me in Florida. They

5 knew that I moved in Florida, clearly, by the
statements that the gentleman referenced that I
bought a house in Florida. I was expecting that I
was going to be, you know, properly served. Not --
THE COURT: So, you were aware of the claim, sir?
Right?

10 ANDREW RUDENSKY: I was aware that, you know, I was
trying to be served to be added, and, you know, on
the media - social media, you know, as I was told,
people were talking that I was, you know, being
added or trying to be added, but I expected to be
served and not just, you know, have it go to my
wife's relative which is - and, you know, family
members. They knew where my parents were. They
15 had my address. They could have given it easily,
severed me in Florida.

20 THE COURT: Just to be very clear, Mr. Rudensky, if
I understand what you're saying, you had a copy of
the claim, right? Your position today is you were
not properly served in Florida, right?

ANDREW RUDENSKY: I don't - I don't have a copy of
it. I --

THE COURT: You've seen it, though, sir, right?

25 ANDREW RUDENSKY: I - online, I've seen bits and
pieces of it. I haven't, you know, gone through
the entire document.

THE COURT: But --

ANDREW RUDENSKY: But, yeah, I haven't been served
properly. I...

30 THE COURT: But --

ANDREW RUDENSKY: ...know there - yeah.

THE COURT: But I understand your position that you

weren't served properly but, Mr. Chapman, did he
give you a copy of it, the package that was left...

ANDREW RUDENSKY: No.

THE COURT: ...at the house? I see. All right.

And what about Mr. Richard, Mr. Kevin Richard, I
don't want - I don't want to ask you about - about
advice you sought or received,...

ANDREW RUDENSKY: So I --

THE COURT: ...but did you receive the claim is all
I want to know.

ANDREW RUDENSKY: I don't recall if they ever sent
it to me, but...

THE COURT: I see.

ANDREW RUDENSKY: ...the conversation with him was
- predates me being added, because I was given a
phone call by Mr. Kassam prior to being added, and
at that point, you know, "I took it as somewhat of
a threatening email, that I don't really need to
have you in this but I will. Tell me everything
and who was all - I know Andy was in this." And,
you know, I was pretty shocked. And then he said,
"Oh, by the way, you know, you'll fit really well
into a nice Globe and Mail story and, you know,
they like to follow our stuff closely." So, he
gave me, I think, several days to think about it
and tell him what I knew about whatever was going
on, and then I reached out to the Groia group as I
just got this phone call, like, what do you make of
that? And then, you know, we kind of had
discussions and said, "Well, you know - you know,
let's see if anything comes of it." But that's
kind of how - and the original discussions with the

Groia started was on that phone call before I was
[indiscernible] for some of the dates that were
outlined....

THE COURT: All right.

ANDREW RUDENSKY: You know, be added or --

THE COURT: When did you first - when did you first
become aware of the claim, then, sir? I take it it
was in the spring of last year? Is that right? I
don't want to put words in your mouth, but is that
right? May or June, shortly after the amended
claim adding you was issued?

ANDREW RUDENSKY: I actually never knew when it was
actually - outside of the conversation with my wife
saying a document was being - you know, trying to
be delivered to the house, I made the assumption
that, you know, they were trying to serve me with
something at that address, and I hadn't been in the
country. So, I said, okay, any day it's going to
show up here. And I would - hadn't been back in
the country, as I said, in that window at all but,
you know, I assumed that they were trying to serve
me in that window.

THE COURT: All right. And today, you have the
claim, right, sir? You know what the allegations
are against you?

ANDREW RUDENSKY: I have - I have a rough idea of
what - what it is.

THE COURT: Do you - have you - I thought - just to
be clear, I thought you said you'd seen a copy of
the claim?

ANDREW RUDENSKY: I believe people were forwarding
me stuff online saying this was posted. I think it

was excerpts from it and...

THE COURT: I see.

ANDREW RUDENSKY: ...I don't know if it posted -
and I kind of was waiting for - you know, when I
was told by my wife that, you know, an investigator
was at the house and trying to get - give a
document, I said, "Okay, well I imagine I'll be
seeing that shortly here in Florida." And, you
know, they - as the plaintiff's lawyer outlined,
they knew I bought a house in Florida, they likely
knew my exact address because they put
investigators on my parents and, you know, my mom
thought people were outside her house, and these
people are 70 years old and, you know, being
followed around by people with cameras.

THE COURT: Mr. Rudensky, what do you say, sir,
with respect to Mr. Carlson's submission that the
address for service on the property transfer
indicates the - your in-laws' address in Oakville?

ANDREW RUDENSKY: I don't know if during the sales
process, you know, if, you know, the lawyer who was
handling the transfer said, "Oh, we need an
address." You know, did - I don't know if that was
the back story on it. You know, the house was sold
and, you know, I was down - all our furniture was
shipped before our house sold down south and, you
know, it was basically an immediate transfer down.
I had - but particularly the window where they
claim they made service, you know, I hadn't been in
the country, you know, since this recent Christmas.

THE COURT: I see. And since you became aware of
the claim, however that was, have you taken any

steps to contact the plaintiffs or retain counsel
or do anything in response to this action, sir?

ANDREW RUDENSKY: Well, I was made aware over the
weekend that there was a default hearing, you know,
this - today, and basically I thought, like, well I
need to, you know, appear; you know, start looking
for representation. Still, you know, the service
element, you know, handing it to, you know, my
wife's mother's father or my wife's mother's
husband, like I never got it. You're giving it to
someone and I haven't - I wasn't anywhere in the
country during that window.

THE COURT: All right. Mr. Rudensky, how did you
become over the weekend, sir, of this hearing
today?

ANDREW RUDENSKY: I received a call from a person
saying, like, there's a hearing on the 25th, you
should - probably should do something, you know,
immediately.

THE COURT: All right. I don't want to - I want to
be very clear that I don't want to ask you about
legal advice, but was it - was it a counsel you
heard from or was it someone else?

ANDREW RUDENSKY: It was - it was someone else.

THE COURT: All right. And I take it - I'm
inviting you to tell me how you became aware of
this. I take it you don't wish to identify that
person or tell me when or how you became aware of
this hearing today, is that right?

ANDREW RUDENSKY: I would prefer to - that I have
proper representation to cover any of those
details.

THE COURT: I see. All right. And - all right, that's fine. Any other submissions, sir? I didn't mean to cut you off. That you want to make in respect of the request for an adjournment. Mr. Rudensky, is there anything else you want to say, sir? I didn't mean to cut you off.

ANDREW RUDENSKY: Oh, I - okay. Sorry. No, I think, you know, ultimately I was anticipating to be served. You know, I did think it was strange that they were going to, you know, particularly my wife's family, you know, trying to bring legal documents to them when, you know, they likely knew exactly where I was. They, you know, likely - they knew where my parents lived and they chose to go that way and, you know, harass her mother at that second encounter, I was told. You know, I was expecting that I would have been served here in the United States. I hadn't been in the country any time in that window. As I told you some of the major events: my son's birth in May, major surgery July 25th, major rehab, got married down here sometime in August. So, all of those main events which, you know, I have documentation showing that I was not in the country during those attempted - attempts to try and provide any of those documents to me.

I no long - no longer work at Delavaco. I know everyone was under the impression that I still acted there; as counsel said, that's my place of employment. Hasn't been since 2020. So, I think that's a big issue. You know, I had requested that

email be disconnected, January, and the other email just wasn't an email that I used. And...

THE COURT: All right.

ANDREW RUDENSKY: ...previously I - going forward, I didn't.

THE COURT: Anything else, sir, on that?

ANDREW RUDENSKY: I think that - you know, were kind of the main points that - you know, that I wanted to address. I intend to, you know, defend myself. I think I - I really don't understand how I fit into this outside of just being a small person thrown in, you know, and as I kind of got the sense with that first phone call from one of the partners at the fund at - "Tell me what you know and I'll - you know, essentially I can leave you out of this," and threatening me with, you know, media stories about me and, you know, whoever else in the lawsuit. You know, I plan to, you know, defend myself and try to move on.

THE COURT: Very well. All right. Thank you. In the circumstances, I'm not going to adjourn this matter. We're going to proceed today on the matter. I appreciate your position, Mr. Rudensky. I urge you in the strongest possible terms to get counsel in respect to this matter to assist you with your - with your rights, but I'm satisfied that the court has jurisdiction to proceed today. We're going to proceed.

Madam Registrar, Mr. Reporter, are you all right to carry on for a bit? I know we were late starting today. Are you okay? All right. Thank you. You

good to go? I'm just conscious of time. We have until one o'clock, and that may be more than you need in any event, but are you okay to proceed now on the - on the motion?

MR. CARLSON: Yes, sir. Yes, Your Honour.

THE COURT: All right. I will hear from you, obviously. And I want to hear on the way through, as I suspect may be part of your submissions anyway, just about why judgment should be granted now in these circumstances where it's in respect of one but not other defendants, and in respect of one but not other causes of action against this defendant. So, it's neither all defendants nor all claims. And I just want to understand why we're doing this now as opposed to later on the way through. I just wanted to flag that for you as one of the things that occurred to me when I reviewed the materials, but I realize the test on default judgment is not the same as the test for partial summary judgment for example. You know, as opposed to whether or not it finally disposes of some or all of the claims but, particularly here where you're moving on the defamation claims only, as I understand it,...

MR. CARLSON: Yes.

THE COURT: ...which is fine, but if I understood the claim, the claims against Mr. Rudensky also include claims of conspiracy which relate to what I think is referred to as the manifesto but the allegedly defamatory statements, and postings, and communications. So, I just want to understand what we're doing and what effect judgment today, as

5 you're seeking, would have on those remaining
 claims since it's getting pretty close there in
 terms of the claims of conspiracy and what claims
 you're going to advance at trial in any event to
 this.

 MR. CARLSON: Understood.

 THE COURT: All right.

 MR. CARLSON: We will certainly address those
 questions today, Your Honour.

10 THE COURT: Okay.

 MR. CARLSON: So - and I'll proceed actually with
 an overview of the law of default judgment
 proceedings generally, and then I'll get into why a
 default judgment for defamation is appropriate.

15 And Mr. Fenton and I have divided up this morning's
 submissions in a way that we believe makes good
 sense. So, I will - I will address the rules
 governing default judgment motions and the
 principles applying to them, which will provide a
20 kind of a partial answer to --

 THE COURT: Sure. I'm familiar with the rules, I'm
 familiar with 19.07. I understand that. I just
 want to understand in the context of this claim,
 given the conspiracy claims and others.

25 MR. CARLSON: Right. Okay, okay. Thank you. So,
 I'll address that and then I will go through the
 deemed allegations of fact flowing from the
 plaintiffs' fresh as amended statement of claim,
 and then the elements of the tort of defamation.
30 And then by the end of my submissions I hope to
 have established that the plaintiffs are factually
 and legally entitled to default judgment at this

time on the tort of defamation against Rudensky.
And then I will be seated and Mr. Fenton will
address the appropriate quantum of the general
damages award, as well as our request for a
permanent injunction.

THE COURT: Okay.

MR. CARLSON: And so with that, I will begin. And,
Your Honour, it may be helpful to pull up - I know
you said you were familiar with the Rules, I'm
going to pull them up. In the factum at Schedule B
we have the entirety of Rule 19, which governs
default proceedings. And so, as you know, Rule
19.02(1)(a) is the most important in this context.
That's the rule that provides that a defendant who
has been noted in default is deemed to admit the
truth of the allegations of fact made in the
statement of claim. So, that's Rule 19.02(1)(a).

Rule 19.05 provides that where the defendant has
been noted in default, the plaintiff may bring a
motion for default judgment, including supporting
by evidence.

Rule 19.06 provides that a plaintiff is not
entitled to judgment merely because the facts
alleged in the statement of claim are deemed to be
admitted, unless the facts entitle the plaintiff to
judgment.

And so, read together, I want to make three points
about these rules. First, the deemed admissions
apply only to the defendant noted in default and

not to any other party. We fully accept - the plaintiffs fully accept that the deemed admissions do not apply to Mr. Stafford, they do not apply to Mr. Robert Doxtator or Mr. Jacob Doxtator. And so that principle is confirmed in two decisions found in the plaintiffs' book of authorities. There's Justice Ganz's decision in the *Coldmatic* case at tab 4. And he makes that point at paragraph 18. And his decision was upheld at the Divisional Court. And then the second decision is Justice Lauwers' decision in the *Van v. Qureshi* case at tab 18, and he cites *Coldmatic* and upholds the principle at paragraphs 13 to 15.

And so, in essence what this means is that when this case goes to trial as against the participating defendants, the plaintiffs will have to prove the allegations of fact made against them on a balance of probabilities as in the normal course. And so, we fully accept this limitation, and so submit that there's no prejudice whatsoever to any other party in our - in us proceeding against Mr. Rudensky in this fashion today.

And just as a - as a policy rationale, Your Honour, the policy rationale behind the default judgment proceedings is less about the fact-finding process and more about upholding the integrity of the administration of justice. It's about causing defendants to actually participate in the court process, and it needs to impose kind of draconian consequences on those defendants otherwise

defendants would just shirk their obligations as citizens and as tortfeasors and wrongdoers.

5 So - but the plaintiffs fully accept that, you know, we can't - down the road you will not hear us cry out, oh, this was deemed, therefore it can't be litigated or, therefore, you know, the court - the trial judge is in any way - you know, hands are tied. And so, we say there's nothing - there's nothing abnormal about proceeding or nothing unusual about proceeding against one defendant who has defaulted. And particularly in a conspiracy case, Your Honour.

10 THE COURT: Are findings against one co-conspirators or admissions by one co-conspirator - what effect, if any, do they have on other co-conspirators?

15 MR. CARLSON: So, the only - the only - the only effect, Your Honour, is that, you know, even in this case, even if Mr. Rudensky never seeks or never sought to move to set aside his default, he would still be entitled to participate in trial as a witness. Either side could call him. The defendants could --

20 THE COURT: Well, he's still going to be a defendant, isn't he, because of the other causes of action?

25 MR. CARLSON: He - well, he's - he would be a defaulted defendant. And, again, we could move at trial, or could seek at trial a judgment against him.

30 THE COURT: He'd be a default defendant. You're

seeking judgment, though, only in respect of
defamation.

MR. CARLSON: Today we're only - only seeking it in
respect to defamation. But vis-à-vis - vis-à-vis
the other defendants, Your Honour --

THE COURT: That's what I mean, I just don't want
to inadvertently walk into a situation where you
say there was an admitted fact by Mr. Rudensky and
that has some effect on others in respect to the
conspiracy claim.

MR. CARLSON: The only effect it has, and this is -
this is set out in the *Coldmatic* and *Van v. Qureshi*
decisions, is it might impact, you know, a
witness's credibility at trial, but that's a matter
for the trial judge, right? So, if Mr. Rudensky
shows up at trial as a witness, whether called by
us or called by the other parties, and starts
testifying to facts that are contrary to the
allegations in the claim, he's fully capable and
entitled to do so. He will be a witness at trial.
Either party can seek to elicit evidence from him
that is contrary to the deemed admissions, and the
court can take that into account in deciding, you
know, what the facts are as the trier of fact on
the balance of probabilities.

THE COURT: And before then...

MR. CARLSON: The court may have cred--

THE COURT: ...he may or may not seek to set aside
default judgment if it were granted today, and he
may seek to set aside the noting in default in
respect to the other claims, right?

MR. CARLSON: Pardon me? Can you ask the question

again, Your Honour? I missed it.

THE COURT: He may or may not, before trial, seek to set aside default judgment if that were granted.

MR. CARLSON: Correct.

THE COURT: And then he's noted in default but there's no judgment in respect of the other claims against him, right? For example, conspiracy. So, he could theoretically seek to set aside the noting in default and whatever happens with that happens, right?

MR. CARLSON: Yes.

THE COURT: I'm just saying we don't know what, if any, capacity he'll be in at trial, if he's there as a - as a defendant, as a defaulted defendant, or as a witness as you say.

MR. CARLSON: That's right, Your Honour. I mean, I would submit there's no - you know, assuming, as he's said he intends to do today, that he seeks to set aside the noting in default and default judgment, that if he's successful then he's just like any other defendant.

THE COURT: Right.

MR. CARLSON: If he's not successful, then he's just like any other defaulted defendant. There's not - there's not a world where, you know, he's kind of in default with respect to some torts and not in others. We're only seeking judgment today with respect to defamation but...

THE COURT: Understood.

MR. CARLSON: ...we're not going to have this - an odd kind of split fact scenario. And in - and in either case, whether as a party or not, he can

attend at trial, give evidence. His evidence can be inconsistent with the deemed allegations, and that will - and the trier of fact will have to determine what the facts are, and then pronounce judgment vis-à-vis the other defendants or not.

The second thing I was going to say about the - about Rule 19, or the rules in Rule 19, are that the deemed facts need only withstand a very rudimentary level of scrutiny in order to be accepted by the court. So, this is a very low bar. One colourful example given in the case law was that if the plaintiff pleaded he'd suffered the growth of a second head, then the court would not be obliged to accept it. Justice Strathy gives that example in the *Salimijazi* case at paragraph 26. But basically any other factual allegation that has any kind of air of reality is to be accepted as true for the purposes of today's motion. And so, in our submission, Your Honour, there's not a single allegation of fact in the plaintiff's fresh as amended claim that you should not accept. They're all deemed to be admitted by Rudensky.

And so, the third - the third deemed admission - or, sorry, the third point I wanted to make is that the deemed admissions apply only to allegations of fact, not to conclusions of law or mixed fact in law. There was formally uncertainty in this area but it was clarified last year. So, for example, in a medical malpractice case, a pleading that the

defendant was negligent need not be automatically accepted as true. What would be accepted are the pleaded facts relating to the plaintiff's injury and the medical care that was given to the police. The court would still have to determine at the motion, you know, whether - whether a duty of care was owed and whether that breached the standard of care. But every allegation of fact is deemed to be admitted.

So, in light of these principles, the relevant inquiry on this motion is what deemed admissions of fact flow from the plaintiffs' fresh as amended statement of claim, and do those deemed admissions of fact, whether alone or combined with the evidence, entitle the plaintiffs to judgment for defamation? And so, for the remainder of my submissions I'm going to focus on that two step inquiry.

And so, Your Honour, I'd ask you to turn to the plaintiffs' fresh as amended statement of claim. And actually, Your Honour, maybe before I move on, did you have any other questions arising from - I mean, your point about a conspiracy case is a good one, but I think that works in our favour, because imagine the situation where there is a conspiracy and there's a whole bunch of co-conspirators. They can achieve a huge tactical advantage by just having one of the conspirators default, and then that conspirator's, you know, documents aren't available on documentary discovery, maybe they're

difficult to track down to get oral discovery from them, and you'd lose - you lose the co-conspirator's participation in the case and it ends up protecting all of the co-conspirators. And in the meantime the plaintiffs can do nothing about it because they - you know, if they were precluded from moving for a default judgment. In every case involving a bunch of conspirators, if the court declined to grant default judgment, it would be to their advantage to have some of them default. And so, we say that would be kind of a perverse outcome.

So, with that, Your Honour, I will - I will turned to the deemed allegations of fact in the fresh as amended - fresh as amended claim. And so, we attach the claim to our motion record at tab 2A. And, Your Honour, we could - we could spend all morning reading this, but we won't. It's 158 pages in length. We cannot cover all the allegations of fact contained in the pleading.

THE COURT: Or the appendices.

MR. CARLSON: Or the appendices. And, Your Honour, you'll know that, you know, we understand this is lengthy, defamation claims, along with conspiracy claims in some of the other torts that we've alleged are required to be pled with particularity. For defamation claims, you are supposed to plead the alleged defamatory words, hence the length of the pleading. The length of the pleading, we say, is a result of all of the tortious conduct, as opposed to us being overly verbose.

If we can turn to paragraph 2, Your Honour. This of course is just in the very - the very outset of the claim after we've claimed the relief. This is an overview of the factual allegations that are spread out over the remaining 186 - or 158 pages. These are all pleaded facts. Paragraph 2, since at least the summer of 2019, and intensifying to the present - to the present - and I'll - Your Honour, when I'm reading this today, I'll skip over the other defendants and I'll focus on Rudensky because I acknowledge that these aren't deemed to be admitted by them, but otherwise these are facts applicable to Rudensky. Since at least the summer of 2019, and intensifying to the present, the defendant, Andrew Rudensky, engaged in a scheme with other persons to damage the business and reputations of the successful securities business, Anson and its founder, Moez Kassam. Specifically, Andrew Rudensky conspired to falsely and repeatedly claim that Kassam is a criminal and that he and his businesses are engaged in conduct that is illegal, unethical, and contrary to Canadian and United States securities regulations.

This next part is key to the defamation tort. The defendant, you can read Andrew Rudensky in there, has, for example, published or encouraged the publication of the following false and defamatory statements. And then they go on for paragraphs (a) to (k). Moez Kassam and his Anson funds have systematically engaged in capital markets crimes, including insider trading and fraud, to rob North

American shareholders of countless millions. Anson Funds and Moez Kassam have been destroying companies through illegal means. Kassam is a corrupted and criminal chief investment officer at Anson. If you are an Anson fund investor - so now they're targeting their actual clients - be prepared to have your funds locked up because there's a lot of information floating out there that paints a picture of scams to benefit none other than Moez Kassam. In his attempt to destroy small cap Canadian companies through nefarious means, a string of feeder funds and untraceable payments to elude regulators, Moez Kassam has betrayed even his closest friends. Kassam has pursued questionable and illegal activities in an attempt to make money by destroying small companies and the lives of anyone who happened to get in his way, even those who've helped him and ended up being disposable. Moez Kassam and Sunny Puri of Anson put out the report to manipulate the market - that's a serious securities law crime, Your Honour, market manipulation - so they could cover an already short position.

Dirty Moez hurt his business partner and lied to the founders of the - that's the tagline for the Aphria company, a cannabis company. Kassam and Anson just used people and don't pay anyone but themselves. Moez has even threatened all Anson employees with lawsuits and installed draconian measures to stop leaks. The OSC and SSC have begun a full investigation into Anson Funds' practices.

That's in the overview, Your Honour. Paragraphs 4 to 6 of the claim, and I'll just flip through these --

THE COURT: So, do you say that (a) to (k), though, are all allegations made specifically against Mr. Rudensky, right?

MR. CARLSON: It is - for the purpose of today's hearing, it is a deemed fact that Rudensky published these statements.

THE COURT: All right. Each of the ones you just took me to?

MR. CARLSON: Each of the ones we just took you through. And --

THE COURT: So, for example, (h) --

MR. CARLSON: And thousands more, which I'll get to but --

THE COURT: Yeah, thousands more, but (h) in particular Mr. Rudensky, you say?

MR. CARLSON: That's correct.

THE COURT: Okay.

MR. CARLSON: He's lumped in with the definition of defendants. For today's motion, that definition doesn't capture any other defendant, but it certainly captures him. So, whenever there's a pleading that says the defendants did something, for today's purposes Andrew Rudensky is deemed to have admitted that.

THE COURT: Even if, for example, he didn't send or post the statement at (h)? Is that what you're telling me?

MR. CARLSON: Well, what he's deemed to have done is - well, you have to read the opening line of...

THE COURT: Yeah.

MR. CARLSON: ...paragraph 2, but he's deemed to have admitted that he published or encouraged the publication of every statement I read out. So, that's - I can't -

THE COURT: I understand your submission.

MR. CARLSON: I can't now change the amended claim, but that's the deemed fact.

THE COURT: I understand your submission.

MR. CARLSON: So, paragraphs 4 to 6, these all allege facts. They plead facts regarding the corporate plaintiff's identity, so those are all true for today's purposes. Paragraphs 7 to 12 plead facts regarding the nature of Anson's business and the capital markets within which it operates. Paragraphs 13 and 14 plead facts about Mr. Kassam, Anson's founder and CEO and chief investment officer. Many of these facts in paragraph 13 and 14 are also in Mr. Kassam's affidavit. So they're both in evidence and they're deemed admissions about, you know, who Mr. Kassam is, that he's an extremely successful businessman, has a very good reputation in the - in the Canadian financial markets and in the charitable community. He serves on a number of charitable boards. He won Canada's top 40 under 40 for extraordinary achievement in business and philanthropy. All of these are deemed to be admitted, which of course goes to the defamation claim because it's the plaintiff's existing standing and reputation.

Paragraph 15 pleads that Kassam is the face of

Anson and is well known in the industry as such.
That's a deemed fact.

Moving on. So, the next section of the claim
discusses the defendants. Paragraphs 16 to 24
plead facts about the defendants. Rudensky is
deemed to admit all of those facts. In particular,
the facts pleaded about himself. That he resides
in Toronto; that he's a partner of the Delavaco
Group, a small merchant bank with a historical
working relationship with James Stafford, and that
he previously worked as an advisor at Richardson
GMP, and that he was disciplined in proceedings
before IIROC. All of those are deemed facts, and
of course we have the disciplinary proceedings in
the book of authorities.

If we turn to paragraph 27, Your Honour. For the
purposes of the defamation claim, the deemed facts
in this paragraph that are most important are that
the conspiracy plot - but, again, we're not seeking
conspiracy - damages for conspiracy today, or
seeking to prove it today. That's - we accept
that. But for the purposes of the defamation tort,
it's a deemed fact that they entered a plot that
included fabricating, spreading, and publicizing a
series of unlawful, abusive, false, malicious,
harassing, and defamatory statements about Anson,
Kassam, and other individuals connected with Anson,
and those are defined as the unlawful statements.
The unlawful statements definition captures
everything. And these are all deemed to be

admitted facts.

Including by first publishing defamatory comments on the web house [sic] Stockhouse, and then on a series of websites generated by the defendants, as set out below, in an attempt to manufacture a narrative to harm Anson and Kassam, hiring freelance web developers based in Bosnia and Herzegovina to register the websites on which unlawful statements were posted for the purpose of concealing their identities. Taking other sophisticated steps to obscure their identities while disseminating the unlawful statements, including hiring Bosnian developers, using VPNs, burner email addresses, and false identities, sending targeted communications containing the unlawful statements via email, including to reporters, as well as disseminating the unlawful statements on Twitter, Reddit, and other platforms, and attempting to improperly attract media attention to the unlawful statements.

Moreover, Andrew Rudensky has sought to disseminate the unlawful statements internationally to individuals in at least the United States, where the plaintiffs do business, as well as in Canada with the intention of causing maximum widespread harm to the defendants.

And then paragraph 28, including its subparagraphs, sets out - pleads a number of facts of the steps taken by the defendants including Mr. Rudensky,

including, if you go to paragraph 28(b), that in July and August, 2020, in a further concerted and coordinated effort, the defendants increased their efforts to conspire to post unlawful statements on message boards on the website Stockhouse. These unlawful statements were viewed by many thousands. That's a deemed fact.

Beginning on or around September 27th, after the plaintiffs took steps to have the unlawful statements on Stockhouse removed, the defendants conspired to anonymously write, publish, and disseminate a lengthy internet post containing unlawful statements about the plaintiffs, called the defamatory manifesto, on a series of websites. Those are all deemed facts. And a copy of the first defamatory manifesto, Your Honour, is in evidence in our motion record at tab B, I believe. Yes. And then a copy of the second defamatory manifesto is tab C, and part three of the defamatory manifesto is tab D.

I'd like to skip ahead to paragraph 53 of the claim. That was all during the overview. Paragraph 28 is all kind of part of the overview. And the claim goes on to further particularize all of the defamatory statements. So, around paragraph 53 there's more particularization of certain posts made on the Stockhouse website in 2020. And, again, those posts call Kassam a criminal, they accuse him of engaging in illegal, unethical, and corrupt business practices, as well as egregious

personal attacks. They call him - they say he - his practices including treading on people, lying, and using every trick in the book to bring companies down that he bet against. Those are at paragraphs 58 and 59. And these are all pleaded facts.

Paragraphs 63 to 70 of the claim plead facts surrounding the publication of the defamatory manifesto. Those are all deemed to be true.

Paragraph 73 is the beginning of a section of - a whole section on the defamatory manifesto.

Let's turn to paragraph 80. The heading above paragraph 80 is titled the defendant procured at least eight internet domains to facilitate widespread publication of their defamatory manifesto. So, these are all pleaded allegations of fact. None of this is - this is an allegation of law.

The following communications with the third party host of www.moezkassam.com domain, that was the first website on which the defamatory manifesto was published. The plaintiffs were able to have the defamatory manifesto removed from that website. Since that time, the defendants acquired multiple internet domain names to publish the defamatory manifesto online. To date, the websites acquired and used by the defendants to publish the defamatory manifesto include the following, and

then there's a list.

Paragraph 82, whenever the plaintiffs have taken steps to have a website containing the defamatory manifesto taken down, the defendants have republished the defamatory manifesto on a new website forcing the plaintiffs to seek to have that new post of the defamatory manifesto taken down.

So, Your Honour, I'm not even halfway through the claim. The claim goes on for pages. Beginning at paragraph 127 for your notes, the claim pleads why the various Stockhouse statements and defamatory manifestos are defamatory.

And then ultimately at paragraph 146, which I will read, it is pleaded that the unlawful statements have been widely distributed and publicized and have been viewed by thousands of people to date. Versions of the defamatory manifesto and the second defamatory manifesto remain widely available on the internet. The unlawful statements have significantly interfered with and disrupted the plaintiff's business and affairs and their relationship with clients, counterparties and potential investors, leading to a loss of business opportunities. And those are all facts for the purposes of today's motion.

So, we've now covered at a high level what deemed allegations or admissions of fact flow from the amended claim in the operation of the rules

relating to default.

5 So, the next question, the next step of the inquiry is whether these admissions of fact entitled the plaintiff to judgment for defamation. And the answer is yes. The tort of defamation is very well suited for default judgment. And that's why this motion is so carefully tailored. The tort of - the elements of the tort of defamation are fairly straightforward to establish. And I would submit that in most defended defamation lawsuits the key battleground is whether the defendant can make out one of the various defences. As Your Honour is aware, there's a number of highly technical, you know, historic defences to defamation, many of which have been developed over hundreds of years, including truth and justification, fair comment, responsible communication, reportage. There can be privileged, you know, circumstances defences. And, of course, in recent years defendants also have the availability of the anti-SLAPP regime.

25 But for the purposes of today's motion, none of those are - defences are at play. And as a result, the plaintiffs are entitled to judgment upon satisfaction of the elements of the tort. And the elements of the tort are well-settled. They are that the words were published, that the words referred to the plaintiff, and that the words were defamatory in the sense that they would tend to lower the plaintiff's reputation in the eyes of a reasonable person.

5 All three elements of the cause of action are easily met on the face of the amended claim. The unlawful statements were widely published online and many of them remain available on the internet to this day. There's no doubt that publication occurred. They specifically target Anson and Kassam. They name them. This isn't a case where, you know, someone makes a comment and doesn't name the target of the comment and then - and then the defence is about, you know, whether the comment referred to them or whether the impugned statement referred to them. There's no doubt that the defamatory statements, the unlawful statements in this case referred to Anson and Kassam. And they're unquestionably defamatory in nature.

20 And, Your Honour, I - one does not need to look back more than a few months to find a reasonable precedent for this case. And so I'd like to take you to - briefly to the *Mirzadegan* decision.

THE COURT: Justice Centa.

25 MR. CARLSON: That's right, Your Honour. So, this was a motion for default judgment that was heard in October in writing by Justice Centa. The plaintiffs were an immigration consultant and his business. After a falling out between the plaintiffs and the defendants, a series of negative reviews and complaints appeared about the plaintiff and his company online on multiple sites on the internet. There were apparently over 60 such posts. In our case there's thousands.

At paragraphs 11 and 12 Justice Centa notes that the posts in question accuse the plaintiffs of being guilty of criminal misconduct. He notes that, "The subjects of such unproven posts suffer great harm," and he cites a number of cases. And actually, if you look at the previous paragraph, Your Honour, which we - which we hadn't highlighted, he specifically says, "I find that the posts would tend to lower the plaintiffs' reputation in the eyes of a reasonable person".

And so, statements like the unlawful statements that accuse people of criminal behaviour, market manipulation, securities law crimes, regulatory breaches, general allegations of dishonesty, deceit, you know, betraying friends, all of those are obviously defamatory. And judges - and there's numerous decisions, you know, quickly finding that.

And so, all three elements of the tort of defamation in this case are met. The impugned words were published, they were about the plaintiffs, and are defamatory in nature.

And notably, Your Honour, damages are - is not an element of the tort of defamation. That's another reason why it's so well-suited for default judgment proceedings. Once the three elements of the tort of defamation are established, general damages are presumed from the fact of publication and awarded at large. And so, of course that principle was set out in a very famous decision of the Supreme Court

of Canada in *Hill v. Scientology* and is now considered trite law, which is that - those were the words used by the Ontario Court of Appeal in the *Rutman* case just a few years ago.

Where the defendant chooses not to put any of the potentially applicable defences in play, it's very straightforward for a plaintiff to establish the elements of the claim. Any - frankly any properly pleaded claim would plead all of the elements of the tort and, of course, we just went through a contested motion to amend the claim. So there's no question that our claim is properly pleaded. It pleads all the facts necessary to make out the tort. In a sense, we've been through this.

And so, in hindsight, it's unsurprising that, you know, while preparing for this motion we were able to identify numerous cases where the plaintiff obtained default judgment for defamation. And so, we have given you in our book of authorities the *Barrick Gold v. Lopehandia* decision of the Ontario Court of Appeal from 2004. And that was an early case of internet defamation. There's Justice Centa's decision which we just looked at in *Mirzadegan*, that's at tab 11. There's the *Manson v. John Doe* case at tab 10. And there's the *Sommer v. Goldi* decision at tab 16. And these are all cases where the court had little hesitation in finding that - in granting default judgment.

So, unless you have further questions for me, Your

Honour, I was going to, you know, go into the issue of liability. I was going to sit down and allow Mr. Fenton to address the factors that you need to consider in determining the appropriate quantum of the general damages award, and also the plaintiffs' request for an injunction.

THE COURT: All right. Do any of those other cases where default judgment was granted for defamation and internet defamation - or many obviously include circumstances where the defamatory statements were made in concert or further to a conspiracy as is alleged here? Do you know? Or can you give that some thought for a minute maybe?

MR. CARLSON: In *Sommer v. Goldi* there were multiple defendants. I believe they were all defaulted. Let me just quickly look at the *John Doe* --

THE COURT: That's fine.

MR. CARLSON: At the *Manson v. Doe* case, Your Honour.

THE COURT: No, that's fine. Why don't we - and I appreciate, subject to that, you're done and your colleague will be up. Why don't we take 10 minutes if we could? I'm conscious of time, but can we do that? Just take a quick break. Is that enough for everybody? And we'll be back at 10 past 12:00.

MR. CARLSON: Thank you, Your Honour.

THE COURT: All right. Thank you.

R E C E S S

U P O N R E S U M I N G:

COURT OFFICER: Order. All rise.

THE COURT: Thank you. All right.

MR. CARLSON: Thank you, Your Honour. So, you can see I'm still standing up here, not Mr. Fenton, but it's because I think I can better answer the question that you asked just before the break.

THE COURT: Okay.

MR. CARLSON: So, you were asking about a case that was similar to this case - is there a case similar to this case where a motion - or, sorry, where default judgment was granted against some defendants and not all, and the answer is yes. It's the *Theralase* decision of Justice Myers at tab 17 of our book of authorities. It's quite an interesting case and it has - certainly has some similarities to this one, so it might be beneficial for you to actually turn to the - to the decision, Your Honour.

The facts of this case were that the plaintiff was a pharmaceutical company and its principal. So, Theralase was a pharmaceutical company involved in research and development, and its shares were listed for trading on the TSX Venture. And the other plaintiff, Roger Dumoulin-White was a professional engineer and a founder and initial president and CEO Theralase. And there was another plaintiff as well who was a certified general accountant, and she had served as the CFO of Theralase. So, similar plaintiffs to our - to our situation in the sense that you've got kind of the principals of the company and the company itself.

The defendants were alleged to have posted a large

number of defamatory postings on the Stockhouse website, as in our case. And if you turn to the front cover of the decision, you can see the style of cause is interesting, because you've got the names of the plaintiffs and then the defendants are actually identified by the pseudonyms that they were using on Stockhouse. This was - this was an anonymous defamation campaign where a number of, you know, users of Stockhouse had Stockhouse usernames such as Cashflow, Pinkocapitalist2, Lazerr00, Pennyoilking, Bluebomber, et cetera. And so, they were - they were - under these aliases they were posting defamatory statements about the plaintiffs on Stockhouse. The plaintiffs got orders enabling them to serve the - couldn't identify the defendants, so we did better, I guess - I suppose than the plaintiffs in this case. We believe we've identified some of them. We still may find some John Does. In this case the plaintiffs couldn't identify them, but got orders entitling them to serve the materials on the defendants at their emails associated with the Stockhouse website and also through the direct message system on the Stockhouse website. And so that is how they ended up serving the defendants with the claim.

Only one of the defendants responded, a fellow named Mr. Lanter. And that's why at the - on the style of cause it says Charles Lanter also known as Cashflow. There was another - there was another defendant that they knew, a guy named Michael

Borovec, but the rest of the defendants they did not know. All of the defendants other than Mr. Lanter were noted in default and didn't file defences. Their strategy was run and hide. And so, this was a motion for default judgment against everyone who had defaulted other than Mr. Lanter.

Paragraph 1:

The plaintiffs move for default judgment against all of the defendants other than Mr. Lanter. All of the defendants other than Mr. Lanter have been noted in default. The action is proceeding against Mr. Lanter.

And Justice Myers proceeds to grant default judgment for defamation against all of the defendants.

And there's three other reasons why we say default judgment against one defendant for one tort is perfectly appropriate. First of all, I don't think the plaintiffs should be, you know, criticized for not bringing our full case against Mr. Rudensky at this time. We took a proportionate tailored approach for an easy to establish tort and are seeking the damages flowing from that tort. We reserve the right, as contemplated by the rules, to bring the rest of our claims against him and the other defendants at a later date, including after discoveries when we have more information, when we've fleshed out our damages, and so on. But it would seem odd to, in a sense, penalize the plaintiffs for taking a well-tailored approach.

Two is another reason why this type of motion should be allowed is it - you know, we have to remember this is a case of ongoing defamation. Defamatory posts continue to be made. These purpose-built smear sites haven't been taken down off the internet. And so, we hope that by some measure today's judgment will help curb the conduct between now and trial. And if motions like this are dismissed, then defendants know they can get away with it for years until a trial comes. This motion would also allow us to recoup some of the costs of proceeding with an expensive case against multiple people.

And finally, Your Honour, at the outset of today's motion you asked my friends, counsel to the other defendants, whether they intended on making any submissions, and their answer is no. They don't oppose this motion. They have never filed responding materials. And so, if they had serious concerns, I would have expected them to oppose, and then we would have had notice of their arguments and could have addressed them.

THE COURT: All right. I see Ms. McPhee rising.

MS. MCPHEE: I don't intend to make them now, but based on what I've heard today I believe we will have brief submissions we'll need to make, Your Honour.

THE COURT: Very well.

MR. CARLSON: But those, Your Honour, are our submissions, or my submissions, and I will leave it to Mr. Fenton to address the appropriate quantum of

the general damages award.

THE COURT: All right. Thank you very much, Mr. Carlson. Mr. Fenton.

MS. O'SULLIVAN: If I may just while Mr. Fenton's getting set up, I believe the court is on mute and the Zoom participants are not currently able to hear us.

THE COURT: Thank you. Let me know when we're good to go there, Mr. Reporter.

COURT REPORTER: Yes, we're good to go, Your Honour.

THE COURT: All right. Thank you so much.

MR. FENTON: Ready to go?

THE COURT: Mr. Fenton.

MR. FENTON: Excellent. So, thank you very much, Justice Osborne, and good afternoon. As Mr. Carlson noted, I'm going to speak to the issue of the remedy that we say should flow from granting default judgment, and the ask that we're making of you today is that you order general damages in the amount of \$500,000 and that you issue an injunction enjoining Mr. Rudensky from making further defamatory comments about Mr. Kassam, Anson, and its employees.

And I'm going to try to be efficient given the time that we have left and the little delay in getting going this morning, but as a - as a preview to where I hope to go, I'm going to have two broad submissions that I'll develop with you over the next few minutes. And, first, building on the submissions that Mr. Carlson's made, I say that the

evidence filed and the deemed admissions that flow from the statement of claim indicate, and when considered alongside the governing legal principles, that a significant damages award is necessary here to vindicate the plaintiffs' reputation.

As you've heard from Mr. Carlson, Mr. Rudensky is deemed to have participated in a sophisticated plan to impugn Mr. Kassam and Anson's reputations and cause significant harm to their business. I'm going to take you to some of the allegations that have been made and contained in the defamatory manifesto, and, in my submission, when you look at that document, which is - which contains allegations that have been repeated in thousands of different forms in other forums, it's really a form of targeted character assassination, and it's quite remarkable in the scope and scale.

Again, as you heard from Mr. Carlson, Mr. Rudensky is deemed to have published thousands of defamatory statements across platforms such as Stockhouse, Reddit, and Yahoo Finance, all of which are popular with investors and participants in the business community, and he is also deemed to have participated in publishing similar defamatory statements on purpose-built websites that have proved very resistant to the plaintiffs' attempts to have them taken down. Some of the statements, I'll suggest to you, when I take you to the defamatory manifesto in particular, are designed to

imitate somewhat of a style of investigative journalism and also to give the false impression of somewhat of a grassroots uprising against Anson. And I'll show you how they use the statements that they posted to Reddit, Stockhouse and other forums and refer to those in the defamatory manifesto. It creates a bit of a - what you might think of an ecosystem of defamation where everything's self-referential and gives the impression of being well-founded and legitimate.

And finally, the themes advanced and repeated in the unlawful statements are incredibly damaging. As you have heard, and as I'll develop with you, Mr. Kassam and Anson are depicted as criminals engaged in systematic market fraud; they are accused of destroying companies and ruining retail investors' livelihoods and savings. It's suggested that they cheat and defraud their own client. And notably, the unlawful statements repeatedly invite increased regulatory scrutiny and suggest that Anson and Mr. Kassam in particular are emblematic of everything that is wrong in the capital markets.

In short, these are defamatory statements of the most damaging variety for an individual such as Mr. Kassam and a hedge fund such as Anson. They strike at the very heart of Mr. Kassam and Anson's professional reputations and, in our submission, Mr. Rudensky's admitted conduct, his conduct that's deemed to be admitted on this motion, necessitates a significant damages award.

And then finally, after I have covered that I'll be a little bit more brief in dealing with the permanent injunction issue, and our submission there is that an injunction enjoining Mr. Rudensky from making further defamatory statements is necessary and appropriate relief. And, most critically, Mr. Rudensky is deemed for the purposes of this motion to have continued in publishing these defamatory statements after he was aware of these proceedings, after we say he was properly served with the statement of claim, and indeed I'll take you to some evidence that suggests that the defamatory statements have continued up until very recently. So, in that context, a permanent injunction is an appropriate remedy and consistent with the approach that other courts have taken on similar default judgment motions.

So, that's the overview in a brief compass. And I want, then, to turn to our request for a general damages award of \$500,000. And I'll - and I'll be very brief in my initial submissions about the general principles that apply here because I know you'll be well familiar with them, but crucially general damages in defamation are awarded at large. There's no need to prove specific harm. And the case law really directs that you have to evaluate each case on its own merits, on its own facts.

We have excerpted in our factum at paragraph 29 a really nice passage from the *Mirzadegan* case which Mr. Carlson and you had an exchange about earlier.

5 It's the case from Justice Centa dealing with
internet defamation. And I think he quite
helpfully distils there some of the principles that
you should have in mind when you're fixing a
general damages award. And what I hope to do in
the course of my submissions for the next little
while is develop some of the factors that are
identified in that passage and explain to you why
those militate in favour of the damages award we're
10 asking for. And in particular, if I could just
read to you the one sentence in particular Justice
Centa says summarizing from *Hill v. Church of
Scientology*, that's Court of Appeal case law:

15 In determining the appropriate amount of
general damages, the court should consider the
conduct of the plaintiff, the plaintiff's
position and standing, the nature of the libel,
the mode and extent of publication...

20 And I'm going to pause there because I'm sure you
won't be surprised to hear that we say that's a
factor in particular that militates in favour of a
very significant damage award here, continuing:

25 ...the absence or refusal of any retraction or
apology, and the whole conduct of the defendant
from the time when the libel was published to
the moment of judgment.

30 And then the passage goes on to note that the use
of social media to disseminate defamatory
statements also is a factor that favours a more
significant award.

So, with that, I want to pick up, then, with the

factors and develop the factors that are set out in our factum that we say mandate a significant damages award here. And I want to start logically with Mr. Kassam and Anson's pre-existing reputations, which the evidence in front of you today, which of course is uncontradicted, establishes was pristine prior to this wave of defamatory attacks that have been perpetrated by Mr. Rudensky and others.

You have before you an affidavit from Mr. Kassam, and I'm going to suggest to you that Mr. Kassam is somewhat of a remarkable individual. He explains to you in his affidavit, which is at tab 2 of our motion record, that he founded Anson when he was 26 years old, and has since built the firm into a multi-billion dollar investment firm with a national and international reputation, which is far more than I had accomplished by the time I was 26. Beginning at paragraph 21 of his affidavit, and I - and I might just have you turn it up. I won't read the entirety of it to you. It's at page 18 in our motion record, and the CaseLines reference is A1736.

THE COURT: Thank you.

MR. FENTON: And beginning at that paragraph, Mr. Kassam explains the importance of a reputation for integrity in the investment community. And I'm sure this evidence won't be surprising to the court, but he says at paragraph 21:

Like most investment managers, the foundation of Anson's business is its reputation, not just

for investment acumen but also integrity. We ask our investors to entrust us with their capital and, in my experience, investors will not entrust their funds to someone who may have engaged in illegal, unethical, or immoral conduct. Personal and professional integrity is therefore essential to the business of Anson.

He goes in paragraph 22 to describe how his business, or Anson's business, relies upon relationships with other financial institutions, brokerages, banks that are willing to give credit and financing. And, again, the last sentence of that paragraph says, "A reputation for personal and professional integrity is critical to maintaining these relationships."

And then in paragraph 23 he explains that Anson operates in a regulatory environment. And, again, towards the end of that paragraph makes the I think somewhat obvious observation that a reputation for professional integrity is an important component of maintain productive relationships with securities regulators.

Now, Mr. Kassam's personal reputation, while intertwined with that of Anson, was also pristine prior to the publication of the unlawful statements. And, in particular, he's developed a reputation not only for his business acumen but for his philanthropy and charitable work. And he

describes his work to build his personal reputation beginning at paragraph 24 of his affidavit, and he explains that he has received awards, he sits on boards of a number of charities, has established a foundation that does charitable work. And then in paragraph 26 explains that his personal ability to engage in these philanthropic endeavours depends on maintaining a strong reputation as an honest, trustworthy, and capable businessperson.

And, in my submission, this evidence is - which is uncontroversial, I would think, confirms what the case law already recognizes, which is that professionals, such as lawyers, investments managers, are particularly susceptible to attacks on their integrity and reputation. And so, in my submission, the nature of Anson and Mr. Kassam's business and individual reputations makes these attacks all the more pernicious. Investors are not going to want to entrust their funds to a criminal enterprise. Other participants in the capital markets are not going to work with Anson if it's believed to have been working to "destroy small cap Canadian companies," et cetera.

So, taking that as the starting point for your analysis, I want to briefly take you to some of the defamatory statements that have been made. And as Mr. Carlson has said on a number of occasions, it would be impossible to do that in their entirety. There are quite literally thousands and thousands of statements posted to a variety of different

forums. Mr. Carlson took you to an overview section in the amended statement of claim which provides a nice summary of some of the themes that are developed across those thousands of defamatory statements, but you also heard from Mr. Carlson that Mr. Rudensky is deemed to have participated in this three-part defamatory manifesto which had been published to a variety of purpose-built websites, which in some cases imitate Mr. Kassam's name, for example www.moezkassam.com, or by themselves have titles that are defamatory by implication in and of themselves. You know, for example, stockmanipulators.com, marketfrauds.to. And I would commend to you in the course of your deliberations taking a read through each of the defamatory manifestos, even at a high level. They're again at tabs B through D.

I do, if I could, and I'll be brief because I'm mindful of the time, want to take you just to one or two of the - one or two excerpts, pardon me, of the first defamatory manifesto, and this is at tab 2(b) of our motion record. It's CaseLines number A1907. And just to give you some context before I go into it, this defamatory manifesto was first published in September 2020 and - on a particular website, and it was then subsequently reposted to the website I'm taking you to now, which remains available today. This is an example of one of the websites that our clients have been able to, you know, contact websites hosts and have taken down. So, this still - if you went back to your office

and typed in marketfraud.to [sic], you could find this. And I want to just start with the opening thrust because I think it nicely gives you a sense of what is set out in the more than 20 pages that follow. It says:

Never has there been a bigger scourge of the Canadian capital markets. Moez Kassam and his Anson Funds have systematically engaged in capital market crimes, including insider trading and fraud, to rob North American shareholders of countless millions. In his attempt to destroy small-cap Canadian companies through nefarious means, a string of feeder funds and untraceable payments to elude regulators, Moez Kassam has betrayed even his closest friends. Now, the other shoe is about to drop as Kassam's funds run out and a string of failed attempts at illegal destruction leave this naked short seller truly naked.

That's the opening thrust and it continues in that vein for some 20 pages.

I'd note at the bottom of that same page that you're on there's a - well, first there's an unflattering picture of a toad, and later in the document Mr. Kassam is repeatedly referred to as the "Toad of Bay Street," which is an allegation you would have seen in the overview of the statement of claim that Mr. Carlson took you to. But underneath that photo there is a note to readers that encourages them to share and copy the report, encourages its dissemination by other

means. It also, in the second sentence of that paragraph, invites readers if they have information on Mr. Kassam and Anson to send that info to an email address that's been created for that purpose.

And if you were to go to the second defamatory manifesto, which I likely won't have time to take you to but I'd ask you to look at, you'll see that they then purport to - in advancing defamatory and false statements, rely upon evidence or information that other people have sent to them on these tip lines. Of course we say that's entirely false, but they're giving it the trappings of legitimacy and the trappings of, you know, ordinary people, ordinary participants in the capital markets coming forward to address, in their words, Mr. Kassam and Anson's significant market crimes.

If you turned over the page, so now I'm on 190 in the motion record, A1908 in the CaseLines reference, there's a paragraph where they describe the information received to date and thank people for giving information to date. And they say:

We will ensure it all ends up in the right hands. Please keep on sending. The more we present to the authorities, the quicker we can get this toad out of the markets and into a cell where he belongs.

Underneath again another picture of Mr. Kassam that they've sourced from somewhere, they say, for example:

He's lost all his friends, too - almost all of whom he betrayed in underhanded and illegal short-selling schemes, including the best man at his wedding whom he threw [under the bus] - under a speeding short-selling bus.

It continues down the page, "In the meantime, Moez Kassam has become the symbol of everything that is wrong with capital markets."

It goes on later in the document, and I'll just summarize for now, to accuse him of engaging in insider trading. It describes him as a sociopath. It invites regulatory attention and it purports to identify practices that they falsely say are illegal and violate securities law. And then it again ends on the final thrust of the document, which just for your notes is in motion record 208, A1926, by describing everything that I've explained to you as "disgusting stuff." They again implore people to "please do share and re-publish wherever you can - always good to get news out far and wide." And then again encourage people to send in information to this hotline.

And as I said, if you were to turn over the next tab in the motion record, which is the second defamatory manifesto, you would see if you went through that document - and, again, I'll just summarize now. I don't - I don't want to belabour the point. But they claim to have received information from people through their tip line. They purport to rely on sources close to Mr. Kassam

5 and close to Anson. Most notably, and this I will
just flag for you, if you were to go to page 212
and 213 of our motion record, they have linked to
just some of the thousands of defamatory statements
that were posted on Stockhouse, and Reddit, and
other forums. So, they're directing readers to go
to those sources, those other sources of defamatory
material, to read them, and they're also purporting
to rely upon it as somewhat of a source for the
10 statements they're setting out. So, again, this
gives an entirely false impression of a grassroots
sort of uprising against Anson and Mr. Kassam when,
in fact, Mr. Rudensky is deemed to have published
all of these and is deemed to have done so knowing
15 they were false.

With that, I'm going to move on to the next factor
and perhaps the most important factor that we say
justifies the award we're seeking here, and that's
20 the mode and extent of publication. And, in my
submission, it's staggering.

The unlawful statements began, as is set out in the
statement of claim, in the summer of 2019 and, as
25 you heard from Mr. Carlson, they continue to today.
You know, for example, I took you to the first
defamatory manifesto and briefly referred you to
the second defamatory manifesto, but the third
defamatory manifesto was published on March 8th,
30 2022, which is more than a year and a half after
the action had been commenced, and of course after
we say Mr. Rudensky was first on notice that

proceedings were outstanding. Mr. Kassam also describes in his affidavit that a further defamatory article was published on the marketfrauds.to website, which is one of the websites that our clients haven't been able to take down as recently as November 2022. So, it's continuing to today.

We have included in an exhibit to Mr. Kassam's affidavit an index of some of the articles that are available on the marketfrauds.to website, and I won't take you through them but if you were to look at them, and look at the dates that each article is published, you'll see a steady drip of articles released, many of which come after the statement of claim and the action is commenced, and in some cases refer to developments in this litigation. And you would have heard Mr. Rudensky, although unsworn, suggest to you that he had been forwarded from unidentified people some of the allegations, and it may very well be that that's the source of at least that suggestion.

So, in short, this campaign, which Mr. Rudensky has now admitted to have participated in, has been ongoing in some form for the better part of three and a half years. And again - and I don't want to belabour the point but important to emphasize the scale of this attack. Like, literally thousands upon thousands of defamatory statements published to different forums, and that's just what our clients can put their hands around and identify as

being out there in the internet ether.

We've referenced for you in our factum the *Barrick* case which deals with internet defamation, and it says, you know, quite clearly that the mode and extent of publication is a particularly significant consideration in assessing damages in internet defamation cases. And, you know, Justice Blair in that case was writing in 2004, and I think it would be fair to say that our case demonstrates sort of the natural evolution of what he was concerned about at that time, right? You have instantaneous dissemination of thousands of statements to an undeterminable readership, with very little practical ability to have these statements taken down and eliminated from the internet, and our clients have tried very hard. It's described in this affidavit that they've gone to significant lengths to get in contact with website hosts, to encourage them to take it down, and they have succeeded in some instances but not in others. So, these statements, again, are out there until today.

Briefly, another factor that's identified in the case law as an - as an aggravating factor going to general damages awards is whether the defendant acts with malice or fails to issue any sort of apology or retraction. I won't take you to it but I'll give you the reference. The plaintiffs have pled, and Mr. Rudensky is deemed to accept for these purposes, that he acted with malice in publishing these defamatory statements. At

paragraph 33 of the amended claim, we describe the factual basis for that allegation, and, in short, it's that Mr. Rudensky wrongly blames Anson and Kassam - Mr. Kassam for a report that was released by Hindenburg Research about Aphria Inc. This is a publicly traded cannabis company. And Mr. Rudensky mentioned to you that he was formerly at the Delavaco Group. It's pled that he's still there. And the critical research findings that were in issue in the Hindenburg case related to, in effect, Mr. Rudensky's boss, Andy DeFrancesco, who had a significant personal stake in the company. The stock dropped by 40 percent and Mr. Rudensky blames the plaintiffs for that conduct.

I'm mindful of my time so I won't belabour this because I think Mr. Carlson's addressed it in his submissions, but another factor identified in the case law is anonymous internet posting. Right? Making defamatory statements under a pseudonym or hiding behind false emails, false accounts. And as Mr. Carlson developed with you, Mr. Rudensky's deemed to have taken pretty elaborate steps to conceal his identity and make the posts more resistant to being taken down by Anson and Mr. Kassam. You know, going so far, right? As to engage web developers in Bosnia and Herzegovina to create a maximum degree of separation. You know, using specially created email accounts to create anonymous accounts on the platforms to publish these statements. And all of that increases the sting of the defamation and makes it far more

difficult to get the defamatory content taken down.

5 So, those, in brief, are the factors that I say
would support a significant damages award. The
case law indicates that there's no precise formula
or methodology in fixing a general damages award,
and instead you have to have regard to all of the
relevant facts which are deemed to be admitted
here, and the aggravating factors that I took you
10 to. And, in my submission, you know, the award of
\$500,000 for general damages is entirely defensible
when measured against those principles.

15 We set out in our factum at paragraph 46 a number
of cases that might serve as rough proxies, rough
guidelines for an award. Again, each case turns on
its facts. And I won't take you through those
cases unless you have questions about them, but the
- and, again, at the expense of repeating myself,
20 the single distinguishing factor in our case is the
mode and extent of publication and the reach, and
the fact that it remains ongoing. So, when you see
in the case law, for example the *Mirzadegan* case
where Justice Centa granted \$200,000 in general
25 damages to what I understand to be - from the case
to be, you know, an individual that owned an
immigration consulting business, it looks like a
sort one-man immigration consulting business,
Justice Centa granted \$200,000 on that case when we
30 were dealing with in the neighbourhood of 60
defamatory reviews. You know, here we have a
billion dollar hedge fund and its principal, so two

plaintiffs, with pristine reputations who have been subject to thousands upon thousands of defamatory posts.

And, again, I say to you that when you look at the content of what's being alleged against Mr. Kassam and Anson, which really targets every possible that they might have business dealings with, and you look at the scale and the mode, the anonymity, the efforts to defeat having these taken down, it justifies award of \$500,000.

So, unless you have any questions, Justice Osborne, I might just briefly address the issue of the injunction. And --

THE COURT: Thank you, Mr. Fenton.

MR. FENTON: And again I'll be brief. We say that this follows from the deemed admissions and is entirely defensible in light of other default judgment cases which have granted similar relief. The applicable test is at paragraph 49 of our factum, and that says it's appropriate to order a permanent injunction where there is a likelihood the defendant will continue to publish defamatory statements, or - and these are disjunctive, or there is a real possibility that a damages award will not be satisfied. And we would satisfy both, but I'll focus on the first for the moment.

In my submission, there's a clear basis upon which to conclude that Mr. Rudensky continued to defame Anson and Mr. Kassam. You know, until recently he

has refused to engage with this court's process, despite, in our submission, being on notice of the claim and having been properly served. And, instead, despite having notice of the claim, is deemed, based on the deemed admissions in the statement of claim, to have continued to post defamatory content. As Mr. Carlson said to you, our clients want this to end, and they want to be in a position to enforce against Mr. Rudensky if it's determined that he continues to participate in this defamatory conduct after a judgment is entered against him. And we've given you reference in our factum to a few other cases in which permanent injunction has been granted in the default judgment setting and, again, Justice Centa granted that very same relief in the case I referred you to earlier.

And, finally, Mr. Carlson took you to the evidence about Mr. Rudensky selling his home, and you've heard that he now resides in Florida. That gives rise, at the very least, to the possibility that he's attempting to move his assets out of the jurisdiction, and it could be much more difficult for our clients to enforce a monetary judgment against him in that context. It would very likely require us to commence separate proceedings in the - in another jurisdiction in order to do so. So, that too favours the granting of a permanent injunction. Subject to any questions, Justice Osborne, those were my submissions, and I don't believe Mr. Carlson has any concluding submissions, unless there are questions from the court.

THE COURT: Thank you, Mr. Fenton.

MR. FENTON: Thank you very much.

THE COURT: Appreciate that. Ms. McPhee, brief submissions.

MS. MCPHEE: So, I - Your Honour, we were reluctant to make submissions. Obviously we are not a party on the motion. Relief was not being sought against our clients. I had been inclined to seek an adjournment until after the lunch break, but I can address briefly why we would oppose it now.

In listening to my friends this morning and in looking at their materials, they represented - or they indicated in their submissions that relief was being sought on a limited so as not to cause any prejudice to the other defendants, and so that would include our clients, Mr. Robert Doxtator and Mr. Stafford. And so we had anticipated that we would not be participating or opposing on that basis. However, listening to my friends' submissions today, in particular to Mr. Carlson who, in reference to some of his answers to you and the effect that it would have on our clients, has given us cause for concern, as well as listening to the submissions you just heard now about the appropriate damages and the actions that were taken. Throughout that time, Mr. Fulton *[sic]* referenced "they" and that gives us a real cause for concern regarding the allegations before you.

As you noted, Your Honour, this motion before you involves defamation in the context of a conspiracy

claim. Our clients have filed defences. They deny all allegations against them. I'd note that the claim that Mr. Carlson took you to insofar as - most of the actions are not particularized. So, the defendants are referred to collection as "the defendants." So, my clients, Mr. Stafford and Mr. Doxtator, as well as Mr. Rudensky and Mr. Jacob Doxtator, collectively are referred to as "the defendants."

THE COURT: I understood them to say, though, notwithstanding those - and they may have referred to defendants in submissions as well as the factum, but they were seeking the default judgment only on the facts as against Mr. Rudensky, right? Even though they're pleaded as against "they," referring to the defendants and your - including your clients.

MS. MCPHEE: That's correct, Your Honour. However, my friend took the position this morning that if default judgment was granted that could cause - at trial that could mean our client could be facing credibility issues. So, if those facts are deemed as against Mr. Rudensky that he participated in a conspiracy with my clients to engage in defamation with my clients, my clients are potentially starting a trial already behind the eight ball. There are findings against them that may affect their credibility. If these statements are deemed defamatory, we also risk inconsistent results at trial where our clients are going to be trying to argue that that the plaintiffs have not met their burden that those statements have been proved to be

defamatory. So, we'd be facing - already starting behind the eight ball in an uphill battle on credibility in the context of having filed defences, denying everything.

We have seen documentary productions. I can - I'm concerned that we don't have any productions that would implicate our clients individually. The - Mr. Carlson this morning I believe took you to the *Theralase* action in support of granting default judgment in this context. I would note that in that case the court noted at paragraph 3 that the pleadings were made on defamatory statements as against each of the defendants, and then starting at paragraph 51 the particularized statements are indicated. So, each defendant is said to have made certain statements, those were viewed, and then defend - damages were allocated accordingly.

In this case it's done on a collective basis. Our clients are concerned about what the implications of that would be for them in defending this case if default judgment is granted.

We're similarly concerned, given the collective nature of this, about the effects of any - if there is some sort of an injunction that my friends may somehow seek to enforce anything against our clients that might prejudice their rights. Obviously they deny any kind of participation, but we simply raise that concern because, again, this is said to have been done on a collective basis, we

deny the existence of everything, but our clients are concerned given the collective non-particularized allegations as to what that was going to mean for them when they believe they have a strong defence on the merits and moving forward this action.

THE COURT: All right. Just to deal with that second part first, though, they are seeking an injunction against further publication of the statements as against Mr. Rudensky.

MS. MCPHEE: Yes.

THE COURT: That doesn't - that doesn't - tell me again how that affects your clients?

MS. MCPHEE: It shouldn't affect our clients. Our clients deny making any of those statements.

THE COURT: Right.

MS. MCPHEE: We're only concerned - I don't know what then they're going to try to do in terms of presumptions that have made - or, again, with these collective, particularized statements. So, really our focus is on the default judgment. There's the lack of particularization, and our clients, we say, have a strong defence.

THE COURT: All right. And on that, just help me with that. If facts are deemed to have been found as against Mr. Rudensky, you're obviously free to fully defend and deny all elements of the tort against your clients, as I'm sure you will. Tell me again how you are prejudiced by the deemed admissions by him.

MS. MCPHEE: Well, he's deemed to have participated in a conspiracy to publish certain documents, to

collect information, essentially to be colluding with our clients. Everything - the allegations are not particularized. It's collective "the defendants" did this. And my friend said this morning that those presumptions can then present - and they acknowledged this, that that can present a credibility hurdle for my clients at trial, because those findings have been made. Our clients deny that they participated in any of this. And so, there's a real risk that our clients, in having a meritorious defence, are starting - potentially starting behind the eight ball before the court from a credibility perspective.

There's also a risk, if there's a denial or a risk of findings that - sorry, that these defamatory - that these statements are found to be defamatory. If somehow it is found that our clients are - participated at trial, which of course we'd strongly deny, it then goes on to the burden of proof on whether the statements are defamatory. So, again, there's a lot of risk for inconsistent statements. But I think our clients are most concerned about the implications that this is an allegation of a defamation within the context of a conspiracy and that in accepting that Mr. Rudensky participated with our clients, that that implicates our clients. These are not particularized allegations.

THE COURT: But are --

MS. MCPHEE: And you heard that again from --

THE COURT: But are those admissions admissible

against your client at trial?

MS. MCPHEE: You heard from Mr. Carlson this morning that they would take the position that it would - could affect credibility at trial.

THE COURT: Of your client as well as Mr. Rudensky in the event he testified at trial?

MS. MCPHEE: We would argue that it wouldn't and shouldn't, but given the collective nature of the allegations, we say that he simply can't be separated out.

THE COURT: Okay. All right. Fair enough. Thank you, Ms. McPhee. I understand your point. Very briefly.

MR. CARLSON: Yes, Your Honour. Thank you. So, I think I can address my friend's submissions very quickly, and I think - I think part of it may just be based on a misunderstanding. You know, maybe I'll just say, we commenced this motion three months ago. We served our motion materials in November. We scheduled the hearing in early December. We never received any responding affidavits or even a responding factum. There wasn't one peep from the defendants that they viewed this - what we were trying to achieve today, the result that we're trying to achieve today as inappropriate. And even this morning, you know, my friend advised that she did not anticipate making submissions. So, I view this as kind of a late breaking and, frankly, opportunistic submission made in reaction to some of the court's questions, but I don't - I don't think you need to give much weight for it because, like I said, I think it is

based on a misunderstanding.

5 The case law that I referred to you in the
Coldmatic and *Van v. Qureshi* decisions, when they
talk about the credibility issues, they're saying
it may affect - may - it's always up to the trial
judge to determine credibility - may affect the
credibility of the defendant who defaulted. So, if
10 Rudensky shows up to trial as a witness and starts
- assuming he's still in default by then. If he
shows up to trial and testifies in a manner
contrary to the deemed admissions, it may affect
his credibility. It's up to the trial judge. Will
the trial judge put much weight on that? I mean,
15 the trial judge will know what happened here, that
they're deemed allegations. And also - so that I
think should address that concern.

THE COURT: So, that goes to the credibility of Mr.
Rudensky, which may or may not be an issue, but I
20 took your friend's concern to be they didn't want
to face an argument at trial that there should be a
finding that a conspiracy took place because one of
the other co-conspirators admitted it.

MR. CARLSON: Right. But I - so, they're fully -
25 they're fully entitled to combat that allegation at
trial with all of the evidence that they may lead.
I mean, they haven't admitted that. We recognize
that. And, again, even if Mr. Rudensky is deemed
to be - deemed to have admitted it, that's all it
30 is. It's a deemed admission. The trial judge
isn't going to let the deemed admission of one
defaulted defendant, you know, outweigh all of the

evidence that my friends are going to put forward that they didn't participate in the conspiracy. It's a totally theoretical concern.

THE COURT: Right.

MR. CARLSON: And, Your Honour, it's not --

THE COURT: Well, it's not - it's not completely theoretical, though, is it?

MR. CARLSON: Well --

THE COURT: You're alleging a conspiracy which is, you know, an agreement to act in concert, right?

MR. CARLSON: Yeah.

THE COURT: By one of the two branches. So, they don't want to say - as I understand it, they don't want to face an argument at trial that, aside from what other evidence there may or may not be, that there should be a finding that a conspiracy - I'm repeating myself, a conspiracy in fact existed because one of the other participants, a co-conspirator, has admitted it.

MR. CARLSON: Yeah. I understand. For today, well --

THE COURT: But that's not an admission...

MR. CARLSON: For --

THE COURT: ...that can an admission as such against them, right?

MR. CARLSON: That's correct. It's not - it's not an admission that applies against them. And, also, for today's purposes, we don't need to rely on any of the allegations, and we haven't, of conspiracy. What we want to rely on for the purpose of today's motion are the pleaded facts that Rudensky published the unlawful statements.

THE COURT: Okay.

MR. CARLSON: And so there's --

THE COURT: All right.

MR. CARLSON: I'm sure you'll carefully craft your
decision, Your Honour, to make it clear what your
decision is based on, in a - in a manner that won't
unduly prejudice my friends or prejudice them at
all. And the idea that, you know, they only -
again, as I said, we had no notice that there was
any concerns about this. I....

THE COURT: I understand.

MR. CARLSON: I find it hard to believe that, you
know, it's only now they - it's up to me to tell
them the possible effect of the order we're seeing,
and then for them to oppose.

THE COURT: All right.

MR. CARLSON: So, there's no reason that my friends
have raised that I would say prevents you from
making the award that we've asked for.

THE COURT: Okay.

MR. CARLSON: And as for the issue about the
judgment on the - on the injunction, that's a
drafting issue. Your Honour pointed that out. We
can draft the order we receive today so that it
doesn't impact my friends. Those are my reply
submissions. Thank you, Your Honour.

THE COURT: All right. Thank you. What do you
have to say about costs today?

MR. CARLSON: Your Honour, in our - in our factum
we asked for substantial indemnity costs of
\$50,000. We have a costs outline setting out that
number. And, in fact, in creating this costs

outline we only used and only relied on costs incurred by myself and Ms. O'Sullivan at the Davies firm. We didn't include any of Mr. Fenton's costs, any of Mr. Staley's costs, Mr. Yegendorf's costs, my partner Mr. Milne-Smith, articling students who have - who assisted us, clerks who helped put the records together. We've been extremely fair and reasonable, and...

THE COURT: All right.

MR. CARLSON: ...I have grossly underestimated it, and we get to substantial costs of \$50,000. So, I'm happy to hand this up, Your Honour.

THE COURT: Please.

MR. CARLSON: And I'll ask Mr. Fenton to do so.

THE COURT: Ms. McPhee, I take it you don't have a position on costs? You're neither - so long as costs are not sought against you, obviously, which they're not. You have no position, fair?

MS. MCPHEE: Yes. I assume costs are not being sought against my client.

MR. CARLSON: That's correct.

THE COURT: Yeah.

MR. CARLSON: Yeah.

THE COURT: Yeah.

MR. CARLSON: That's right.

THE COURT: Thank you. All right. Thank you.

Thank you, Mr. Carlson.

MR. CARLSON: Thank you.

THE COURT: It probably won't surprise you I want to reflect on this. I want to go back and read a couple of cases you've given me and think about the facts of this case. It's a little unusual, as

5 we've talked about this morning, just in terms of
the application which it arises. There are lots of
authorities, as you've drawn many to my attention
in terms of default judgment, and particularly
default judgment for defamation. It's a little
unusual circumstance here. I just want to reflect
on this. But I appreciate your submissions this
morning.

10 Mr. Rudensky, just for the purposes, sir, of the
record today, can the registrar send you a copy of
my decision at that email address, sir, the Gmail
address?

ANDREW RUDENSKY: The rudensky.arr@gmail?

15 THE COURT: So, rudensky.ar@gmail.com?

ANDREW RUDENSKY: Double R. I think there was
communication on that the other day.

THE COURT: I just - I just want to be clear so the
registrar has it. You may have talked to others.

20 Sorry. Just do you have it, Mr. Carl--

MR. CARLSON: I do have it, Your Honour. I can be
of - I can be of assistance. I have Mr. Rudensky's
email to us of yesterday which has his email
address on it. So, I can hand that up.

25 THE COURT: Please. All right. Thank you all very
much. As I say, I want to give this some thought.

I understand in terms of the balance of this
action, just so I know - thank you, Madam
Registrar. Where - are there any other steps or
30 next steps pending in that, or a timetable? Just
to orient me as to where that's at.

MR. CARLSON: Yes, Your Honour. So, pursuant to a

5 previous endorsement, oral examinations for
discovery are to be completed by March 15th of this
year. And so, we and the other participating
parties have exchanged affidavits of documents and
we're coordinating regarding dates for examinations
of witnesses.

THE COURT: All right. Fair enough.

10 MR. CARLSON: And, Your Honour, to that point, if
Mr. Rudensky intends to bring a motion to set aside
the default, and any default judgment obtained
today, you know, it's actually his duty to bring it
promptly, and we would - we would ask that he be
directed to bring it promptly. We would - we would
litigate that on as quick a timetable as the - as
15 the court will allow and the court has time for.
But that may allow discoveries to proceed against
him around the same time, or at least to not hold
up the action unduly. Thank you.

20 THE COURT: I understand the position. All right.
Thank you. Thank you all very much. I appreciate
this this morning.

COURT OFFICER: All rise.

FORM 3

ELECTRONIC CERTIFICATE OF TRANSCRIPT (SUBSECTION 5(2))

Evidence Act

I, Cale Harper, certify that this document is a true and accurate transcript of the recording of Anson Advisors Inc., et al v. Andrew Rudensky, et al in the Superior Court of Justice held at 330 University Avenue, taken from Recording 4899 8-1 20230125 091721 10 OSBORNPE.dcr, which has been certified in Form 1.

November 8, 2023
(Date)



(Electronic Signature of Authorized Person)

1704361580

(Authorized court transcriptionist's ID number)

Ontario, Canada.

(Province of signing)

TAB 3

X
X
C
Justice Conway

Court File No. CV-20-00653410-00CL

May 3, 2022

Christina
Irwin

Digitally signed by Christina Irwin
DN: cn=Christina Irwin, o=Ministry of the
Attorney General, ou=Superior Court of
Justice, email=christina.irwin@ontario.ca,
c=CA
Date: 2022.05.27 13:50:25 -0400

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N:

(Court Seal)

ANSON ADVISORS INC., ANSON FUNDS MANAGEMENT LP,
ANSON INVESTMENTS MASTER FUND LP AND MOEZ KASSAM

Plaintiffs

- and -

JAMES STAFFORD, ANDREW RUDENSKY, ROBERT LEE DOXTATOR,
JACOB DOXTATOR, AND JOHN DOE 1, JOHN DOE 2, JOHN DOE 3,
JOHN DOE 4 AND OTHER PERSONS UNKNOWN

Defendants

FRESH AS AMENDED STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The Claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date _____ Issued by _____
Local Registrar

Address of court office: Superior Court of Justice
330 University Avenue, 9th Floor
Toronto ON M5G 1R7

TO: Robert Lee Doxtator
184 Albert Street
Belleville, ON
K8N 3N4

Jacob Doxtator
1150 Salem Road
Prince Edward, ON
K0K 1T0

James Stafford
Address Unknown

Andrew Rudensky
1107 Melvin Ave
Oakville, ON L6J 2V8

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CLAIM

1. The Plaintiffs, Anson Advisors Inc. (“**AAI**”), Anson Funds Management LP (“**AFM**”), Anson Investments Master Fund LP (“**AIMF**” and, together with AAI and AFM, “**Anson**”) and Moez Kassam (“**Kassam**”), claim against the Defendants, James Stafford, Andrew Rudensky, Robert Lee Doxtator, Jacob Doxtator, John Doe 1, John Doe 2, John Doe 3, John Doe 4 and other persons unknown (the “**Defendants**”), jointly and severally, for:

- (a) general damages in the amount of \$100,000,000 for conspiracy, publicity that places the plaintiffs in a false light, intentional interference with economic relations, appropriation of personality, internet harassment, and defamation;
- (b) aggravated damages of \$1,000,000;
- (c) punitive or exemplary damages of \$10,000,000;
- (d) special damages to be proven at trial;
- (e) fees and costs incurred by the Plaintiffs in investigating the persons involved in the Conspiracy (as defined below), and removing the Unlawful Statements (as defined below), in amounts to be proven at trial;
- (f) a mandatory order compelling the Defendants to remove the publications complained of in this action from all Internet websites, online message boards and social media platforms within their control;
- (g) an interim, interlocutory and permanent injunction restraining the Defendants or anyone with notice of the order from republishing the

publications complained of in this action or the Unlawful Statements (as defined below), or publishing further unlawful and defamatory statements about Anson and its current and past personnel;

- (h) pre-judgment interest in accordance with section 128 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (i) post-judgment interest in accordance with section 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (j) the costs of this proceeding on the highest allowable basis, plus all applicable taxes; and
- (k) such further and other relief as to this Honourable Court may seem just.

2. Since at least the summer of 2019 and intensifying to the present, the Defendants James Stafford, Andrew Rudensky, Robert Lee Doxtator and Jacob Doxtator have engaged in a scheme with each other and other unknown persons to damage the business and reputations of a successful securities business, Anson, and its founder, Moez Kassam. Specifically, the Defendants conspired to falsely and repeatedly claim that Kassam is a criminal and that he and his businesses are engaged in conduct that is illegal, unethical, and contrary to Canadian and United States securities regulations. The Defendants have, for example, published or encouraged the publication of the following false and defamatory statements:

- (a) “Moez Kassam and his Anson Funds have systematically engaged in capital market crimes, including insider trading and fraud, to rob North American shareholders of countless millions”;
- (b) “Anson Funds and Moez Kassam have been destroying companies through illegal means...”;
- (c) Kassam is a “corrupted and criminal CIO [Chief Investment Officer] at Anson funds”;
- (d) “If you r [sic] an Anson Fund investor ... be prepared to have your funds locked up b/c there is a lot information floating out there that paints a picture of scams to benefit none other then Moez Kassam”;
- (e) “In his attempt to destroy small-cap Canadian companies through nefarious means, a string of feeder funds and untraceable payments to elude regulators, Moez Kassam has betrayed even his closest friends”;
- (f) Kassam pursued “questionable and illegal activities” in “an attempt to make money by destroying small companies and the lives of anyone who happened to get in his way: even those who helped him and ended up being disposable”;
- (g) “Moez Kassam & Sunny Puri of Anson . . . put out the report to manipulate the market so they could cover an already short position”;

- (h) "... dirty moez [sic] hurt his business parnter [sic] and lied to the founders of \$apha [Aphria Inc.]";
- (i) Kassam and Anson "just use people and don't pay anyone but themselves";
- (j) "Moez has even threatened all Anson employees with lawsuits and installed draconian measures in the office to stop leaks from employees. The fear level is rising—fast. At this point, it is becoming clearer that employees will either sink with this ship or be fired, and now the latter is starting to look more attractive than the former"; and
- (k) the OSC and SEC have "[begun] a full investigation into Anson Funds business practices (according to sources inside Anson)".

3. Statements accusing the Plaintiffs of illegal and unethical conduct, including market manipulation, fraud, insider trading, breaches of applicable securities law and regulations, and cyber crimes, are false and defamatory. This lawsuit seeks to hold the Defendants accountable for the economic, reputational, and emotional harm their lies have caused.

A. THE PLAINTIFFS

4. AAI is a corporation incorporated under the laws of Ontario. It is a private asset management firm that serves as the co-investment adviser, exempt market dealer, and portfolio manager to several investment funds in which private investors may invest their capital (collectively, the "**Anson Funds**"). It is regulated by the United States Securities

and Exchange Commission (“**SEC**”) and the Ontario Securities Commission (“**OSC**”), among other regulatory bodies.

5. AFM is a Texas limited partnership that serves as the investment fund manager for the Anson Funds. It is regulated by the SEC and the OSC.

6. AIMF is a Cayman Islands exempted limited partnership. It is Anson Funds’ flagship investment fund. The Anson investments that are the subject of the Unlawful Statements (as defined below) were undertaken by AIMF.

7. Anson uses multiple strategies to execute its investment program, including both long and short investment strategies and opportunistic investments. One subset of Anson’s short investment strategies includes short selling securities that have been overvalued by the public markets. One way in which securities can become overvalued is through fraudulent “pump and dump” schemes. In a pump and dump scheme, the perpetrators attempt to inflate the value of a stock that they own by making and/or publicizing false or misleading positive statements about the company whose stock is being traded, and then enrich themselves at the cost of other shareholders, including but not limited to by way of selling stock, paying inflated salaries, or paying parties related to the perpetrators inflated amounts without proper disclosure.

8. Short selling is a legitimate investment strategy that involves borrowing shares from a dealer and selling them in anticipation that the share price will decline. The borrower must later repurchase the shares in order to return them to the lender. If the share price has fallen by the time the borrower repurchases the shares for return, the borrower will earn a profit. By contrast, if the shares increase in value while the borrower

holds a short position, the borrower will be required to repurchase the shares at the increased price, causing a loss.

9. Short selling, as a trading activity, is subject to a well-developed regulatory regime in Canada.

10. Anson conducts and reviews research and due diligence on the market and relevant companies to inform its trades, all based on publicly available information. When Anson determines that the stock of a public company may be overvalued and/or conducts short sales, its scrutiny may threaten individuals who perpetrate pump-and-dump and other fraudulent securities schemes, or who otherwise benefit from inflated securities. Anson complies with all applicable investment rules and regulations in all trading transactions it undertakes.

11. A “naked” short sale is a colloquial term that is generally understood to refer to when an investor sells shares in anticipation that their price will decline without first having a reasonable belief that it can borrow the shares that it sold. Anson does not engage in naked short selling, and as described above complies with all applicable investment rules and regulations.

12. The capital markets rely on the free flow of public information about publicly traded companies. Further, publication of analyses of public companies is a routine feature of the capital markets, including where the entity publishing the analysis has made an investment (either short or long) in the securities of the company in question. In the ordinary course of its business, Anson from time to time discusses its research and investment analyses and theses with others in the industry. This is done to conduct

research, stress test due diligence and investment theories, learn potentially variant points of view and solicit other independent analyses. To the extent analyses that are published by others align with Anson's – or other investment funds' – views, this is simply the result of various individuals involved in the capital markets independently reaching the same conclusions based on the same publicly available information.

13. Moez Kassam is a founder of Anson, and a director and the principal, Chief Executive Officer and Chief Investment Officer of AAI. Kassam is 41 years old. He founded Saunders Capital Master Fund LP, the predecessor to AIMF, in July 2007 at the age of 26, and has since built Anson into a billion-dollar investment firm. In 2018, Kassam was named to Canada's Top 40 Under 40 for extraordinary achievement in business and philanthropy. He is an executive member of the Young Presidents Organization's Maple Leaf Chapter, and previously served on its board as Education Officer. He sits on the boards of directors of the Canadian Olympic Foundation, Toronto Public Library Foundation, Friends of Aseema, and Kids Cook to Care. He also serves as a line of credit guarantor for Windmill Microlending, which supports immigrants and refugees who come to Canada with education, skills and experience but struggle to resume their careers here.

14. Through the Moez & Marissa Kassam Foundation, Kassam has donated millions of dollars to Canadian charitable causes, including the Sunnybrook Foundation, the SickKids Foundation, Community Food Centres Canada, the Michael Garron Hospital Foundation, the Canadian Foundation for AIDS Research (CANFAR), Together We Stand Foundation, the Institute for Canadian Citizenship, the South Asian Legal Clinic of Ontario and many others. In fiscal year 2021 alone, the Moez & Marissa Kassam Foundation donated over one million dollars to various Canadian charitable entities.

15. Kassam provides advice with respect to AIMF and all of Anson's other funds under management and is ultimately responsible for Anson's investment strategy, trading, and overall investment performance. Kassam is the face of Anson and is well known in the industry as such.

B. THE DEFENDANTS

16. The Defendant James Stafford ("**Stafford**") is the principal of A Media Solutions Limited, a private company that was incorporated in 2012 and is registered in England and Wales, which operates the website www.OilPrice.com. He is also the principal of Advanced Media Solutions, a company incorporated in the British Virgin Islands, which owns www.OilPrice.com. Although Stafford styles himself as a "journalist", "publisher" and "editor" of www.OilPrice.com, he is, in fact, a stock promoter. Stafford has made millions of dollars as a stock promoter by writing sensationalist yet glowing articles about companies that advertise with him. Despite extensive efforts to attempt to identify Stafford's residential address, the Plaintiffs do not know Stafford's address and do not know where he resides. Stafford appears to have connections to numerous jurisdictions and it is unknown to the Plaintiffs whether Stafford's residential address is in Mexico, England, the Bahamas, or elsewhere. He maintains operations in Mexico and has a business registered there; at least four employees of www.OilPrice.com are based in Mexico; several of the Unlawful Statements (as defined below) were published from Mexico on the website Stockhouse (which provides market news and analysis regarding companies with small market capitalizations, as well as message boards for users to discuss securities issuers) as discussed in paragraphs 53 to 61 below and in **Appendix "C"** at section C; and Stafford himself, using the Stockhouse account "ToffRaffles" (which

is linked to one of his email addresses) published Unlawful Statements on Stockhouse from an IP address originating in Mexico (as discussed in paragraph 106 below). For further information on Stafford's background, companies and possible location, see **Appendix "C"** at sections A and C.

17. The Defendant Andrew Rudensky ("**Rudensky**") resides in Toronto, Ontario. Rudensky is a partner of The Delavaco Group, a small merchant bank with a historical working relationship with Stafford. Rudensky previously worked as an advisor at Richardson GMP Limited from November 2009 until September 2015.

18. In July 2018, the Investment Industry Regulatory Organization of Canada ("**IIROC**") found that Rudensky had violated IIROC Dealer Member Rules by engaging in personal financial dealings with one of his clients and by making false and misleading representations to his firm. Rudensky had borrowed \$3 million from a client to finance a trade and misrepresented the source of the funds to Richardson GMP Limited. IIROC found that Rudensky's "misconduct and lack of honesty harmed market integrity and the reputation of the marketplace. He breached the fundamental principle of trust in the business." IIROC ultimately suspended Rudensky from his IIROC registration for two years, ordered him to pay fines and disgorgement totalling \$55,923, and ordered him to pay IIROC's costs of \$24,500. The Ontario Securities Commission upheld that decision upon review.

19. The Defendant Robert Lee Doxtator ("**Robert**") resides in Belleville, Ontario. He is a founder of Harvest Moon Cannabis Company (a company providing research and due diligence services) and is a business development consultant in the cannabis industry. In

the past, Robert has shared due diligence with Anson. Robert operates a Twitter account under the username @BettingBruiser. It has over 14,000 followers. The “Betting Bruiser” Twitter profile states: “@HarvestMoon420 Founder -#Potstocks Legal & Business Development Consultant Inquiries: HarvestMoonCannabisCo@gmail.com.” It is well known in the Canadian investment industry that “Betting Bruiser” is Robert.

20. Robert, as “Betting Bruiser”, is a prolific Twitter user and has repeatedly used his Twitter account to publish offensive content, including content disparaging of immigrants, women and members of the LGBT community.

21. While Robert holds himself out to be a lawyer, including in posts on the “Betting Bruiser” Twitter account, there is no record of his being admitted to practice law in any province or territory of Canada.

22. The Defendant Jacob Doxtator (“**Jacob**”) is the cousin of Robert. He also resides in Belleville, Ontario. He operates, in coordination with Robert, a Twitter account through an alter-ego named “John Murphy” under the username @JohnMur67039142. Unlike with “Betting Bruiser”, it is not commonly known that Jacob operates the “John Murphy” Twitter account. The Defendants went out of their way to use this account to conceal their identities as part of their scheme against Anson. Although Jacob lives in Belleville, the Twitter account states that “John Murphy” lives in the state of Georgia in the United States. The John Murphy account was removed from Twitter in or around March 2021, after this claim was brought and Jacob was served.

23. The Defendants John Doe 1, John Doe 2, John Doe 3, John Doe 4 and other persons unknown (the “**Unknown Defendants**”) are individuals whose identities are

presently unknown, but who are believed to have the means and business motivation to seek to harm the Plaintiffs. The Unknown Defendants may reside in the United States or elsewhere outside of Canada. The Plaintiffs will substitute the actual names of these Defendants after they have been discovered.

24. More generally, the Plaintiffs reserve their right to make, or seek to make, amendments to this pleading to incorporate additional material facts and information that they discover.

C. OVERVIEW OF CLAIM

25. Stafford, Rudensky, Robert, Jacob (Robert and Jacob together are referred to as the “**Doxtators**”) and the Unknown Defendants are parties to a sophisticated, coordinated scheme to damage the Plaintiffs’ business and reputations (the “**Conspiracy**”).

26. In particular, and as described further below, in furtherance of this Conspiracy, the Defendants maliciously and intentionally entered into an agreement to conspire with one another and committed acts with the predominant purpose of injuring the Plaintiffs by damaging their business and reputations. In addition, or in the alternative, in furtherance of this Conspiracy, the Defendants have acted in a concerted and coordinated effort while using unlawful means aimed at the Plaintiffs, including but not limited to acts that amount to defamation at law, when they knew, or ought to have known, that significant harm to the Plaintiffs would result. In fact, the Defendants have caused significant damage to the Plaintiffs’ business and reputations through their unlawful, improper conduct. Furthermore, the Defendants took sophisticated steps to conceal their identities and advance the Conspiracy anonymously (using, among other things and as described

further below, offshore web developers based in Bosnia and Herzegovina, temporary “burner” email addresses, virtual private networks (“**VPNs**”), fake identities, anonymous Twitter profiles, and more) because they knew that they were engaged in unlawful conduct. The Defendants are savvy about capital markets and deliberately fabricated allegations about the Plaintiffs – or at best were reckless as to whether the allegations were false – in order to sabotage their business. In addition, some or all of the Defendants are routinely engaged in pump and dump schemes and publicly blame the Plaintiffs when the artificially inflated share prices of the companies at issue ultimately return to their lower, intrinsic levels.

27. In the Conspiracy, Stafford, Rudensky and the Doxtators coordinated and agreed with one another and with the Unknown Defendants to harm the Plaintiffs through a carefully planned and executed plot. This plot has included fabricating, spreading and publicizing a series of unlawful, abusive, false, malicious, harassing and defamatory statements about Anson, Kassam and other individuals connected with Anson (the “**Unlawful Statements**”), including by first publishing defamatory comments on the website Stockhouse, and then on a series of websites generated by the Defendants, as set out below, in an attempt to manufacture a narrative to harm Anson and Kassam; hiring freelance web developers based in Bosnia and Herzegovina to register the websites on which Unlawful Statements were posted, for the purpose of concealing the Defendants’ identities; taking other sophisticated steps to obscure their identities while disseminating Unlawful Statements, including hiring Bosnian developers, using VPNs, burner email addresses and false identities; sending targeted communications containing the Unlawful Statements via email, including to reporters, as well as disseminating the Unlawful

Statements on Twitter, Reddit and other platforms; and attempting to improperly attract media attention to the Unlawful Statements. Moreover, the Defendants have sought to disseminate the Unlawful Statements internationally to individuals in (at least) the United States (where the Plaintiffs do business) as well as in Canada, with the intention of causing maximum, widespread harm to the Plaintiffs.

28. Steps taken by the Defendants pursuant to the Conspiracy include the following:

- (a) in summer 2019, some or all of the Defendants, and in particular Robert, began a campaign to spread Unlawful Statements about the Plaintiffs on Twitter through Robert's "Betting Bruiser" Twitter account;
- (b) in July and August 2020, in a further concerted and coordinated effort, the Defendants increased their efforts and conspired to post Unlawful Statements on message boards on the website Stockhouse. These Unlawful Statements were viewed by many thousands;
- (c) beginning on or around September 27, 2020, after the Plaintiffs took steps to have the Unlawful Statements on Stockhouse removed, the Defendants conspired to anonymously write, publish and disseminate a lengthy Internet post containing Unlawful Statements about the Plaintiffs (the "**Defamatory Manifesto**") on a series of websites. The Plaintiffs believe that Stafford led the effort to draft and publish the Defamatory Manifesto, including because Stafford styles himself a "journalist" and is often hired as a promoter of stocks – including those mentioned in the Defamatory Manifesto – in pump and dump schemes, with the aim of creating publicity in order to artificially

and often temporarily inflate the share price of companies in which his clients have a financial interest. The Defamatory Manifesto also mimics Stafford's sensationalist writing style. The Plaintiffs further believe that Robert and Rudensky directly participated in the preparation and/or drafting of the Defamatory Manifesto, including (but not limited to) supplying Stafford with many of the false and defamatory allegations against the Plaintiffs, which Stafford then incorporated into the Defamatory Manifesto. However, the precise roles of the Defendants in crafting and disseminating the Defamatory Manifesto are known to them alone, and not yet known to the Plaintiffs;

- (d) The Defendants knew that the allegations in the Defamatory Manifesto were false and defamatory, and intended to make and widely distribute these false, defamatory and misleading allegations. They sought to imbue the Defamatory Manifesto with credibility by falsely calling it an "investigation". It was viewed by tens of thousands of people, and counting;
- (e) as part of the Defamatory Manifesto, the Defendants set up a "tipline" operated by Stafford to collect further false and defamatory allegations against the Plaintiffs;
- (f) the Defendants hired freelance web developers based in Bosnia and Herzegovina to register the websites on which they published the Defamatory Manifesto, to obscure the websites' origins and conceal the

Defendants' involvement in the publication, something that would only be part of a sophisticated plot;

- (g) after the Plaintiffs were forced to take steps to have websites publishing the Defamatory Manifesto taken down, the Defendants again re-published it on new websites, which were once again created in a manner to conceal the Defendants' involvement. A version of the Defamatory Manifesto remains available on the Internet;
- (h) the Defendants used alter-ego Twitter accounts, and/or hired or otherwise procured or involved additional conspirators, to further disseminate and publish links to the Defamatory Manifesto;
- (i) the Defendants, similarly concealing their identities through alter-egos, using fake email addresses and Twitter accounts and VPNs, and/or by hiring or otherwise procuring or involving additional conspirators for this purpose, publicized and provided links to the Defamatory Manifesto on various Internet message boards and chat rooms. These message boards and chat rooms related to the Canadian and U.S. securities markets and are frequented by investors;
- (j) the Defendants also used alter-ego Twitter accounts to publish further false, defamatory, harassing, and malicious Unlawful Statements against the Plaintiffs, including wishing harm to come to Kassam, and inciting or encouraging others to harm him;

- (k) the Defendants published further false, defamatory, harassing, and malicious Unlawful Statements against the Plaintiffs through targeted emails sent from an anonymized email address;
- (l) the Defendants generated an Excel spreadsheet titled "Journalists.xlsx" that was made up of a list of journalists, news editors and others in the business community to whom the Defamatory Manifesto would be sent, with the goal of maximizing its distribution (the file was created on September 30, 2020 and listed 2,854 names). In the metadata, James Stafford (who purports to be a "journalist" with access to such contacts) is indicated as the "author" of this spreadsheet. The Defendants sent the Defamatory Manifesto to the media in a concerted but unsuccessful attempt to use the media to further publicize the Unlawful Statements and lend them a false and unwarranted air of credibility;
- (m) from fall 2020 through at least spring 2021, the Defendants continued their coordinated defamation campaign by publishing false and defamatory Unlawful Statements in over 1,000 posts on the website Stockhouse. The Defendants took steps to conceal their identities and obscure the origin of these additional Stockhouse posts by using VPNs, and temporary email addresses;
- (n) on June 28, 2021, after the initial Statement of Claim in this matter was issued, the Defendants published a sequel to the Defamatory Manifesto on the website www.marketfrauds.to, titled "Moez Kassam & Anson Funds Part

II: Rotten to the Core” (the “**Second Defamatory Manifesto**”). The Defendants published several other false and defamatory posts about the Plaintiffs on this website, including audio recordings provided by Robert, demonstrating his involvement in the preparation and/or drafting of the Second Defamatory Manifesto, as described further below. The Second Defamatory Manifesto was released on June 28, 2021, days after critical commentary regarding Reconnaissance Energy Africa Ltd. (“**RECO**”), a stock that Stafford was hired to promote, as set out below, was published: *The Globe and Mail* published an article questioning the legitimacy of RECO on June 20, 2021. Viceroy Research, another forensic research firm, published analysis also questioning the quality of RECO assets and stock value on June 24, 2021. Stafford used the Plaintiffs as a scapegoat to distract attention from adverse developments involving companies in which he had an interest.

29. As a result of the Defendants’ conduct, the Unlawful Statements have been publicized broadly on the Internet, on various websites and online message boards, including Reddit and Stockhouse, and on Twitter. They have been disseminated widely, causing unwarranted adverse publicity for Anson that has significantly disrupted and damaged its business. In fact, as of the date of this Fresh as Amended Statement of Claim, the Secondary Defamatory Manifesto is on the “first page” of Google search results for Moez Kassam.

30. The Defendants have the means to attack the Plaintiffs through the Conspiracy and are motivated by an animus against Anson because of its scrutiny of overvalued

stocks and pump-and-dump schemes, some of which Stafford or the other Defendants stood to benefit from. Stafford is paid significant sums of money (millions of dollars) as a stock promoter and has been involved in several pump and dump schemes. In particular, the Plaintiffs believe that the Defendants have targeted them in their malicious and illicit Conspiracy because part of Anson's investment strategy involves scrutinizing overvalued companies, including, in the past, those in the cannabis industry, and including overvalued companies which Stafford promoted and/or invested in.

31. As was the case with other investment firms in 2018, one of Anson's investment strategies involved short-selling securities of several Canadian-operated publicly listed cannabis companies that it believed to be overvalued. Many investment firms, in the ordinary course of business, established short positions against Canadian cannabis companies whose stock prices they believed to be overvalued based on their business fundamentals. Some of these cannabis companies were referred to in the Unlawful Statements.

32. The Unlawful Statements falsely attribute to the Plaintiffs an almost preternatural power to choose securities where they can cause the share price of a company to decline. The Plaintiffs did not cause the share prices of the companies mentioned in the Unlawful Statements to decline. Market fundamentals – alongside overall waning investor sentiment and the actual performance of these companies, among other factors – did. In most cases, the valuations of such companies had at one point fallen 70% or more from their peak price.

33. The Defendant Rudensky has an animus against Anson and Kassam tracing back to at least December 2018, when an independent forensic financial research firm, Hindenburg Research, posted critical findings about Aphria Inc. (“**Aphria**”), a publicly traded cannabis start-up. During this period, Aphria’s stock price fell over 40%. The critical research findings related to a key promoter of Aphria who is one of its founders, Andy DeFrancesco. DeFrancesco is the CEO of The Delavaco Group, a merchant bank of which Rudensky is a partner. Rudensky wrongfully blamed the Plaintiffs for Hindenberg’s critical research findings regarding Aphria.

34. The Defendant Stafford has an animus against Anson and Kassam tracing back to at least mid-2020, including but not limited to in connection with the companies Facedrive Inc. (“**Facedrive**”) and RECO. Stafford has a significant financial interest and exposure to Facedrive and RECO, which gave him an incentive to diminish and disparage critical commentary about those companies. As a result, Stafford publicly and wrongfully used the Plaintiffs as scapegoats to blame for Facedrive and RECO’s share prices declining, and in particular he blamed the Plaintiffs for the critical research findings about Facedrive and RECO published by Hindenburg Research and Viceroy Research respectively. In fact, the share prices of overvalued companies like FaceDrive and RECO decline not because of the Plaintiffs’ influence, but rather because of market fundamentals.

35. Stafford is a stock promoter and was hired, directly and/or indirectly, to promote, and artificially inflate the volume and/or price of, Facedrive shares using his website, www.OilPrice.com. The public disclosure on www.OilPrice.com stated in part that the purported articles about Facedrive “**should be viewed as a commercial advertisement**

only. We have not investigated the background of the featured company. Frequently companies profiled in our alerts experience a large increase in volume and share price during the course of investor awareness marketing, which often end as soon as the investor awareness marketing ceases” (emphasis added).

36. In total, Stafford directly and indirectly, at one point in time, owned up to approximately 1.5 million shares in Facedrive (worth roughly \$8 million at the time the agreement was press released by Facedrive), some of which he received as compensation for stock promotion, and some of which he purchased on the open market. As a result, Stafford had a significant incentive to inflate Facedrive’s share price.

37. These incentives gave Stafford the impetus to engage in the Conspiracy and spread Unlawful Statements about the Plaintiffs. Given Stafford’s financial interest in Facedrive, he has an incentive to undermine and disparage critical commentary about Facedrive, published by market participants or other observers, which questions its intrinsic value. On July 23, 2020, Hindenburg Research published research findings that were critical about Facedrive. That same night, the first Unlawful Statements about the Plaintiffs were published on Stockhouse.

38. Stafford was also hired to promote, and artificially inflate the volume and/or price of, RECO’s shares. Since January 2020, Stafford and/or his companies have published over twenty false and misleading articles promoting RECO on www.OilPrice.com. The disclosure on these articles indicates that Stafford was paid US\$280,000 for a series of four articles in January 2021. All of the articles consistently disclosed that Stafford and/or

his companies own shares in RECO and accordingly have a substantial incentive to see the share price perform well.

39. Stafford's financial interest in RECO once again motivated him to spread Unlawful Statements about the Plaintiffs as part of the Conspiracy. On June 20, 2021, *The Globe and Mail* published a critical article about RECO. On June 24, 2021, Viceroy Research, another forensic research firm, expanded on *The Globe and Mail's* reporting and posted further critical findings about RECO. The critical findings included allegations that RECO had engaged in stock promotion and had other fundamental issues. The Second Defamatory Manifesto was published on June 28, 2021, a few days after Viceroy Research released its first report regarding RECO.

40. For further information on Facedrive, RECO and Stafford's animus towards the Plaintiffs, see **Appendix "C"** at section B.

41. With respect to the Defendant Robert, he has an animus against Anson and Kassam, which is in part based on his claims that he has not been paid for due diligence that he shared with Anson. In October 2020, he aggressively attempted to obtain a significant and unwarranted amount of money from Anson, plus an indemnity and immunity, in exchange for certain due diligence he shared with Anson, and for information on the identity of the Unknown Defendants, which he confirmed he knew. Robert utilized the circumstances – the publication of the Defamatory Manifesto and other Unlawful Statements – to attempt to pressure Kassam and Anson to pay him significant amounts, giving his demands the air of extortion. While not all aspects of Robert's animus against Anson and Kassam are known to the Plaintiffs, the animus is consistent with past racist

tweets by Doxtator, and in light of the fact that Kassam, other senior employees at Anson, and their spouses are not Caucasian.

42. Though all of the parties behind the Conspiracy to damage the Plaintiffs' business and reputation are not known at this time, the damage wrought by their illegal conduct is clear.

D. THE DEFENDANTS' CONSPIRACY AGAINST THE PLAINTIFFS

(i) Beginning in late 2018, Robert develops animus towards Plaintiffs

43. Beginning in late 2018, Robert developed a malevolent animus towards the Plaintiffs, and in particular towards Sunny Puri ("**Puri**"), a Principal and Portfolio Manager at Anson. Indeed, as set out below, Robert's animosity towards Puri has included threatening violence.

44. Anson and Kassam first met Robert in late August 2018, when they discussed the prospect of him providing consulting services to Anson via the company he had founded, Harvest Moon Cannabis Company. Over a series of messages exchanged between Kassam, on behalf of Anson, and Robert, Anson and Robert agreed that Robert would provide Anson with due diligence, and that if Anson chose to trade on any due diligence provided by Robert, it would pay Robert 15% of any profits it made on the trade. Anson could and did independently decide, based on its own process, if it would trade any securities discussed with Robert.

45. In the months after August 2018, Robert shared limited due diligence with Anson regarding certain public companies, but Anson did not trade on any of that information at that time. Robert became irrationally angry with Anson, and with Puri in particular,

because Robert thought – incorrectly – that Anson had traded profitably on the limited due diligence he had provided and that Anson had shared this information with others. In November 2018, Robert told Allen Spektor (the person who introduced Robert to Anson) that he wanted Puri fired. On November 8, 2018, Robert wrote to Spektor via a messaging app that “I’m never moving on...And if I see sunny [sic] I might kick him in the teeth[.] Straight up[.] Your friend is a SHYSTER”.

46. In or around August 2019, Robert provided Anson with diligence concerning General Electric (the “**GE Diligence**”), which Anson did use in respect of a trade. Specifically, on or around August 15, 2019, Anson purchased approximately 5,000 put options in GE, which allow for the right to short sell the equivalent of 500,000 shares. Anson also sold short approximately 430,000 common shares of GE. Anson subsequently closed both positions. Kassam informed Robert about Anson’s trades in GE in real time in order to be completely transparent about how Anson was using the GE Diligence. In the aggregate, Anson’s GE trade yielded a profit of US\$121,073.70. Anson was prepared to pay Robert 15% of its profit, or US\$18,161.06, for the GE Diligence in accordance with its arrangement with Robert.

47. Despite this transparency, Robert refused to accept the amount he was owed for the GE Diligence because he falsely claimed, without any basis, that Anson had “made millions” using it. Instead, Robert began to threaten legal action, as well as physical violence and other retribution.

48. On August 21 and 22, 2019, Robert sent Kassam the following messages (emphasis added):

I'm working on a report

It's called the biggest predatory fund in Potstocks...

I'm going to talk to my lawyer also cause I'm sick [of] people like trying [to] fuck me over...

I'm going to talk to my lawyer sorry Moez sick of this...

So tomorrow I reveal your friendly bear

Just getting started

Reports ready to go...

You fucked over wrong person for last time Moez

Tweets pretty popular

Media already texting me for the story

49. In September 2019, while Puri was in a meeting at a professional conference at the Shangri-La Hotel in Toronto, Robert threatened to physically assault him in front of other conference attendees.

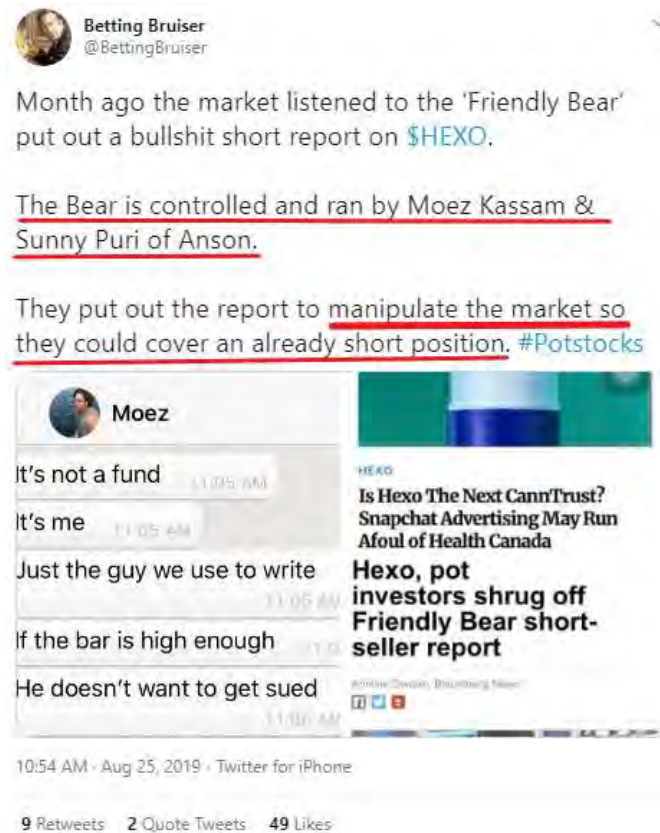
50. After August 2019, Anson never again worked with Robert.

(ii) In Summer 2019, Robert launches a Campaign to spread Unlawful Statements about the Plaintiffs

51. In late August 2019 – a few days after threatening to begin to publicly “reveal” purported content about Anson – Robert unleashed a series of tweets through his Betting Bruiser account making false and defamatory Unlawful Statements about the Plaintiffs. Just as Robert had threatened Kassam, “Betting Bruiser” tweeted false allegations that

Anson and Kassam had commissioned a report that the Friendly Bear, an independent research outfit, had published regarding Hexo Corp., a cannabis company. In particular:

- (a) on August 25, 2019, “Betting Bruiser” tweeted false allegations about Anson’s purported involvement in the Friendly Bear report. He falsely alleged that Anson “controls” the Friendly Bear – which allegations also appeared in the Defamatory Manifesto over a year later. He included in the tweet a screen shot of text messages from Kassam, which he presented out of context and in a misleading manner (emphasis added below):



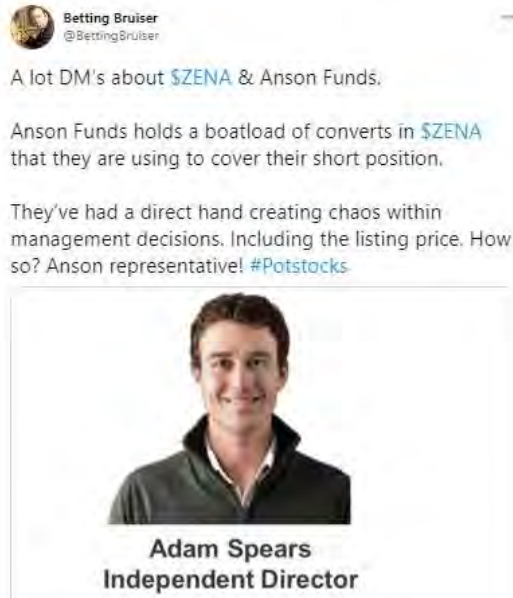
To be clear, neither Anson nor Kassam owns or controls (or owned or controlled at the time) the Friendly Bear. As described above, publication of

public company analysis is a routine feature of the capital markets. Anson and other market participants routinely share investment theses (based on publicly available information) with others in the industry for the purpose of stress testing such theses. To the extent individuals publish reports on public companies, these may or may not accord with the views of Anson and other investment firms. Anson does not “control” such analysts, who independently form their own views regarding companies and independently choose if and when to publish reports;

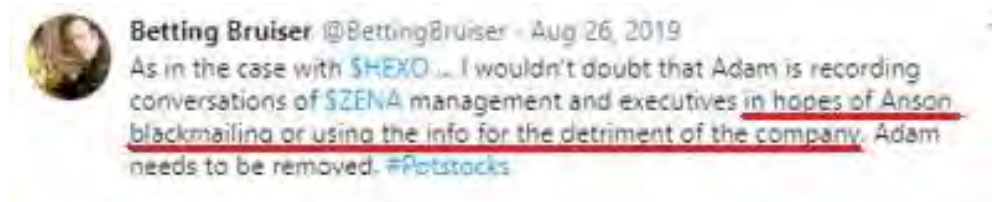
- (b) later the same day, he tweeted about his plan to “expose” Anson. This tweet falsely stated that Anson had connections to market manipulators, and that the Anson funds had “created” a “death spiral” in public companies in order to “cash out their short positions”:



- (c) on August 26, 2019, “Betting Bruiser” published several tweets falsely alleging that Anson used a representative, Adam Spears, on the Board of Directors of a cannabis company named Zenabis Inc. (“**Zenabis**” or “**\$ZENA**”) to intentionally and negatively influence the company’s business decisions and artificially reduce its share price:



- (d) later that same day, he tweeted false allegations that Spears was recording conversations among Zenabis management so that Anson could blackmail the company or use the information to its detriment (emphasis added below):



52. On March 11, 2020, "Betting Bruiser" tweeted a photo of Puri, commenting: "The biggest chicken hawk that I've ever met in my life. Every time I see him we have words. Sunny Puri from Anson Funds. If you've ever crossed paths with him then your stock is likely -95% from its high and he holds your [fate] in his hands via convertible debt. #PotStocks". This demonstrates the personal animus that Robert holds towards Puri.

(iii) In Summer 2020, the Conspiracy spreading Unlawful Statements about the Plaintiffs expands

53. In July and August 2020, the Defendants conspired to spread the publication of the Unlawful Statements on the Internet, including via posts published on the website Stockhouse. They published posts on Stockhouse on:

- (a) July 23 (the “**July 23 Stockhouse Post**”),
- (b) August 14 (the “**August 14 Stockhouse Post**”),
- (c) August 17 (the “**August 17 Stockhouse Post**”), and
- (d) August 28, 2020 (the “**August 28 Stockhouse Post**” and collectively, the “**Unlawful Stockhouse Statements**”).

54. The August 14, 17 and 28 Stockhouse Posts were published from Mexico.

55. The Defendants have also continued to publish further and additional Unlawful Statements on Stockhouse through at least spring 2021 (collectively, the “**Further Unlawful Stockhouse Statements**”). Many of the Unlawful Stockhouse Statements and Further Unlawful Stockhouse Statements were published using IP addresses originating in Mexico, predominantly Mexico City, the surrounding area, and the nearby city of Toluca. At least four employees of www.OilPrice.com are based in Mexico.

56. For example, as set out above, on July 23, 2020, Hindenburg Research published a critical report about Facedrive, a company whose stock Stafford was hired to promote.

57. Stafford and the other Defendants conspired to anonymously publish a post titled “The Real Story on Moez Kassam and Anson Funds – Part 1” on Stockhouse on July 23, 2020, under the pseudonym “JusinTime”:



58. The July 23 Stockhouse Post called Kassam a “criminal” and included statements accusing him of engaging in illegal, unethical, and “corrupt” business practices as well as egregious personal attacks, which were intended to damage his reputation and turn investors away from him. The accusations are false and defamatory.

59. The July 23 Stockhouse Post accused Kassam of being “corrupt and criminal” and asserted that his practices included “treading on people, lying and using every trick in the book to bring companies down that he bet against” (emphasis added below):

So here is the beginning part of the tale about the corrupt and criminal CIO at Anson funds?
A few short years ago Moez Kassam was a high flying star in the hedge fund space. He had \$1 billion under management (now down to \$250 million and falling) and was the praise of the financial community. But what people don't know is that his media praise was paid for (like when Toronto Life covered his wedding – paid for and made to look like an editorial - shame). But even worse he made his money the dirty way, treading on people, lying and using every trick in the book to bring companies down that he bet against. Whatever it took, whoever he ruined financially or reputation wise he would do it to turn a profit.

60. For more detail on the July 23 Stockhouse Post and information regarding the Unlawful Stockhouse Statements that followed, see **Appendix “D”**.

61. Other posts containing Unlawful Statements against the Plaintiffs, in addition to those described in **Appendix “D”**, were published on Stockhouse throughout July and

August 2020 via Mexican IP addresses. Stockhouse users located in Mexico City and surrounding areas were some of the most active and frequent posters of Unlawful Statements on Stockhouse. Later, as set out further below, a Stockhouse account named “ToffRaffles”, which is controlled by Stafford, published several Unlawful Statements on Stockhouse via a Mexican IP address associated with Mexico City.

62. Following communications with Stockhouse and in light of its website terms and conditions of use, which prohibit unlawful or defamatory content, the Plaintiffs were able to have the Unlawful Stockhouse Statements removed from the Stockhouse website.

63. Almost immediately after the removal of the Unlawful Stockhouse Statements, the Defendants conspired to curate a lengthier publication adding to the false and defamatory statements they previously published via the Unlawful Stockhouse Statements. Then they took to other means to broadly disseminate the Unlawful Statements as part of their concerted and coordinated effort to defame the Plaintiffs.

64. On September 10, 2020, “John Murphy” tweeted that Anson and Kassam were engaged in unlawful market manipulation, and that regulators should scrutinize Anson and Kassam, tagging the Twitter accounts of Robert (“Betting Bruiser”); Jeff Kehoe, head of enforcement of the OSC; and Daniel Dale, a reporter with CNN who formerly reported for The Toronto Star:

these reverse pump and dumps must be watched more closely by the regulators. moez and his band fund these trades every week @ClarityToast finds the next fraud that he is paid to profile. @BettingBruiser @ddale8 @JeffKehoeOSC \$apha \$fd \$gfl \$nkla

65. A few days later, on September 12, 2020, “John Murphy” tweeted (emphasis added):

anson is a very corrupt cad fund nake [sic] shorting many small cap co's and when they get in trouble / want to cover ***they pay groups like @HindenburgRes to say the co is a fraud and going to zero***. how many zeros have they called, the bottom is normally around when the piece comes out

66. In or around summer or early fall 2020, Stafford, Rudensky and/or Robert met or spoke and agreed to concoct defamatory allegations against the Plaintiffs and coordinate the content of the Defamatory Manifesto. They were motivated by their respective animus against the Plaintiffs, as described herein. Stafford was aware of Robert's animus against the Plaintiffs because he had publicly documented it via Twitter. Stafford and Rudensky had previously met given that Rudensky's employer, the Delavaco Group, worked with Stafford on several occasions to promote stocks through www.OilPrice.com.

67. Stafford, Rudensky and/or Robert met or spoke on at least four occasions to plan the Defamatory Manifesto. At those meetings, some of which were recorded and/or transcribed, Stafford solicited Robert and Rudensky for material to include in the Defamatory Manifesto. Robert and Rudensky – purportedly acting as “sources” for Stafford as a “journalist” – made false and defamatory allegations against the Plaintiffs that they knew and intended that Stafford or others would use in the Defamatory Manifesto. Stafford, Robert and Rudensky planned to publish the Defamatory Manifesto anonymously because they knew the allegations it contained were defamatory. When Robert later spoke to Kassam about the Defamatory Manifesto, he falsely told Kassam that, although he knew about the Defamatory Manifesto, he was not involved in its drafting

or publication, and instead blamed only Stafford and Rudensky (as described in paragraphs 98-99 below).

68. Excerpts from transcripts of meetings and/or conversations between Stafford, Rudensky and/or Robert to plan the Defamatory Manifesto are included in **Appendix “E”** at section A. As set out in **Appendix “E”** at section A, the excerpts from the transcripts establish that: Rudensky was involved in preparing the Defamatory Manifesto; Stafford and Robert discussed drafting the Defamatory Manifesto, with Stafford asking Robert to draft false and defamatory allegations against the Plaintiffs; Stafford, Rudensky and Robert intended to harm the Plaintiffs by targeting their relationships with brokers and regulators; Stafford was paid to promote Facedrive; Stafford and Robert discussed Rudensky’s employer, Andy DeFrancesco; and Robert was involved in critical research findings published about public companies, including Aphria.

69. Stafford, Rudensky, Robert, Jacob and the other Unknown Defendants then wrote or contributed to the Defamatory Manifesto – using the material provided by Robert and Rudensky as well as material from other Defendants and other sources – and/or published, disseminated or publicized the Defamatory Manifesto, as set out below.

70. On or around September 27, 2020, the Defamatory Manifesto – a 20-page screed titled “Moez Kassam and Anson Funds: A Tale of Corruption, Greed and Failure” – appeared on the website www.MoezKassam.com. It was published anonymously under the pseudonym “The Match Man”.

71. www.MoezKassam.com is a website created or established by the Defendants for the principal purpose of publishing the Defamatory Manifesto in furtherance of the conspiracy.

72. In the weeks after the Defamatory Manifesto was published, Anson received two anonymous telephone calls at its offices threatening harm to Anson and physical harm to Kassam personally.

(iv) *The Defamatory Manifesto expands on previously published false statements and falsely states and implies that the Plaintiffs' behaviour was illegal, unethical, and/or in violation of securities laws*

73. The Defamatory Manifesto contains many serious and inflammatory allegations regarding the Plaintiffs that are entirely false and that the Defendants knew or ought to have known were false. It repeats and expands on the baseless claims made in Robert's August 2019 tweets and the Unlawful Stockhouse Statements. It falsely and maliciously accuses Anson, Kassam, and other Anson personnel, including Puri, of dishonest and illegal activities that included the following: short-selling schemes, which the Defamatory Manifesto alleges were illegal, even though short selling is a legal trading strategy; insider trading; fraud; and other breaches of securities laws and regulatory rules and policies, among other things.

74. Although the Defamatory Manifesto was published anonymously, it references many precise topics that the Doxtators had previously tweeted false claims about. Robert provided this material to Stafford in their meetings to plan the Defamatory Manifesto.

75. By way of example, from its first paragraph, the Defamatory Manifesto accuses the Plaintiffs of engaging in criminal and unethical conduct (emphasis added):

Never has there been a bigger scourge of the Canadian capital markets. Moez Kassam and his Anson Funds have systematically engaged in capital market crimes, including insider trading and fraud, to rob North American shareholders of countless millions. In his attempt to destroy small-cap Canadian companies through nefarious means, a string of feeder funds and untraceable payments to elude regulators, Moez Kassam has betrayed even his closest friends. Now, the other shoe is about to drop as Kassam's funds run out and a string of failed attempts at illegal destruction leave this naked short seller truly naked.

76. The Defamatory Manifesto labels Kassam the “Toad of Bay Street”, with a large photograph of a toad, and advises readers to “steer clear” from Kassam’s ***“illegal activities.”***

77. A detailed summary of the entire Defamatory Manifesto can be found in **Appendix “E”** at section B.

78. The Defamatory Manifesto encourages readers to share and re-publish it. It also solicits readers to provide additional defamatory material regarding Anson and Kassam for future posts, including by use of the email “hotline” accounts, such as info@moezkassam.com.

79. The earliest published version of the Defamatory Manifesto purported to be a standalone document. The Defamatory Manifesto was later amended to allege that it was the first of a three-part series (similar to the “Part 1” concept used in the title of the July 23 Stockhouse Post). “Part 2”, the Second Defamatory Manifesto, has been published, as set out below. To Anson’s knowledge, the third part has not yet been published. If it is, and it contains false, malicious and defamatory content similar to the Unlawful Statements

already contained in the Defamatory Manifesto and the Second Defamatory Manifesto, it will cause further, irreparable damage to the Plaintiffs' business and reputations.

(v) *The Defendants procured at least eight internet domains to facilitate widespread publication of their Defamatory Manifesto*

80. Following communications with the third party host of the www.MoezKassam.com domain, the Plaintiffs were able to have Defamatory Manifesto removed from that website.

81. Since that time, the Defendants acquired multiple Internet domain names to republish the Defamatory Manifesto online. To date, the websites acquired and used by the Defendants to publish the Defamatory Manifesto include the following:

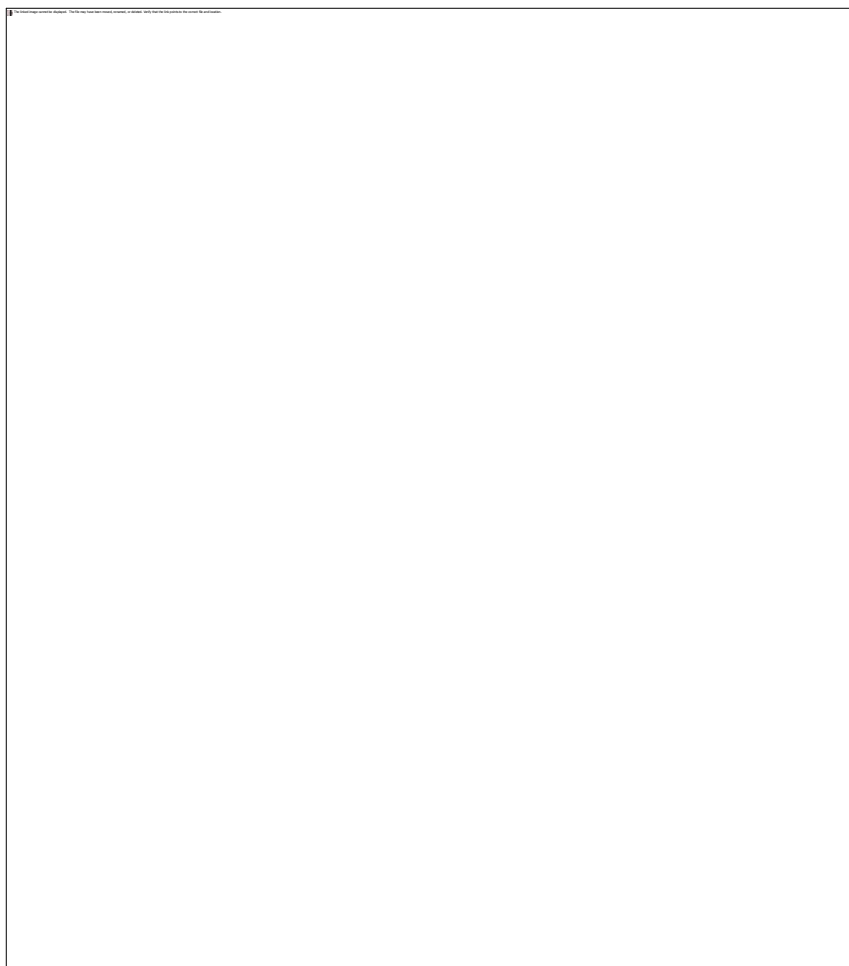
- (a) www.MoezKassam.com;
- (b) www.StockManipulators.com;
- (c) www.CapitalMarketCrimes.com;
- (d) www.StockManipulators.org;
- (e) www.CapitalMarketCrimes.org;
- (f) www.MarketCrimes.ws;
- (g) www.MarketCrimes.to;
- (h) www.CapitalMarketCrimes.to; and
- (i) www.MarketFrauds.to.

82. Whenever the Plaintiffs have taken steps to have a website containing the Defamatory Manifesto taken down, the Defendants have republished the Defamatory

Manifesto on a new website, forcing the Plaintiffs to seek to have that new post of the Defamatory Manifesto taken down. Each time the Defamatory Manifesto is republished online, it increases the harm and damage to the Plaintiffs. The Plaintiffs' claim against the Defendants is in relation to all versions of the Defamatory Manifesto that any of the Defendants published on the Internet, regardless of any differences between published versions of the Defamatory Manifesto.

83. The Defendants did not acquire the domain names directly. Rather, in order to cover their tracks and frustrate the Plaintiffs' efforts to determine who was behind the Defamatory Manifesto, the Defendants hired freelance web developers based in Sarajevo, Bosnia and Herzegovina, and potentially other developers based in other jurisdictions, to create the websites and register the websites on their behalf. This was a sophisticated attempt to obfuscate who was behind the Defamatory Manifesto and shield members of the Conspiracy from liability for their misconduct.

84. The Defendants or their proxies communicated with the Bosnian developers using anonymous email addresses to conceal their identities, including from the developers themselves. The email addresses used by the Defendants were editormarketinvestigations@protonmail.ch and anesalic@protonmail.com. "Anes Alic", the name used in one of these email addresses, is a "journalist" for Stafford's website www.OilPrice.com (as shown below), and the emails sent by anesalic@protonmail.com to the developers were sent either by Stafford or at his behest:



85. Stafford and the other Defendants compiled a spreadsheet containing the names and email addresses of 2,854 journalists, news editors, and others in the business community to whom they planned to disseminate the Defamatory Manifesto. Stafford had many of these names and contact information in his purported capacity as a “journalist”. He and the other Defendants – seeking to imbue the Defamatory Manifesto with a false sense of credibility – intended that these journalists and news editors would re-publish the allegations against the Plaintiffs in their respective news outlets. The spreadsheet’s metadata (pictured below) indicates that the spreadsheet’s author was “James Stafford”, and that the spreadsheet was created on September 30, 2020 and last edited October 1,

2020 — just days after the Defamatory Manifesto was first published. Further details of the Defendants’ actions in regard to anonymously hiring the Bosnian web developers, and anonymously disseminating the Defamatory Manifesto, can be found in **Appendix “E”** at section C.



86. Stafford and/or the other Defendants, using the email address “anesalic@protonmail.com”, sent this spreadsheet to the developers hired to assist with disseminating the Defamatory Manifesto:



Sent from ProtonMail mobile

----- Original Message -----

On 4. okt 2020. 23:17, anesalic <anesalic@protonmail.com> wrote:

Sent with [ProtonMail](#) Secure Email.

----- Original Message -----

On Sunday, October 4, 2020 10:44 AM, editormarketinvestigations <editormarketinvestigations@protonmail.ch> wrote:

Sent with [ProtonMail](#) Secure Email.

87. Despite Anson's requests, the current web host of the Defamatory Manifesto on www.MarketFrauds.to has refused to remove it. This website remains accessible on the Internet as of the date of this Amended Statement of Claim.

88. The Plaintiffs expended considerable resources in response to the Defendants' online attack, including but not limited to hiring investigators in North America and overseas, and contacting web registrars, hosts, message boards to mitigate the harm.

89. After the Plaintiffs worked with website registrars to have the Defamatory Manifesto removed from the websites described in paragraphs 81(a) through 81(i), the Defendants falsely alleged that Anson had undertaken a "Distributed Denial-of-Service" or "DDoS" attack – a type of illegal cyber attack – in order to have the Defamatory Manifesto removed, further defaming Anson. This is false: the websites were voluntarily taken down by the website hosts or registrars after Anson and/or its legal advisors advised

that the content was false and defamatory and in breach of these hosts/registrar's policies.

(vi) *The Defendants conspire to lead widespread dissemination of the Defamatory Manifesto*

90. **On the day the Defamatory Manifesto was initially published**, September 27, 2020, “John Murphy” tweeted the first link to the Defamatory Manifesto on www.MoezKassam.com – again demonstrating the involvement of the Doxtators in the Defamatory Manifesto and its proliferation. He included in his tweet the Twitter accounts of *The Globe and Mail* newspaper and BNN Bloomberg, with the aim of drawing the Unlawful Statements in the Defamatory Manifesto to their attention. From that initial tweet, the Defamatory Manifesto was reposted, shared and publicized widely around the Internet, including through social media.

91. On the same day, the Defendants anonymously sent an unsolicited email containing a link to the Defamatory Manifesto to a reporter at *The Globe and Mail* in an attempt to have the Unlawful Statements further publicized in the media. The Defendants used the email address “capitalmarketsinvestigation@protonmail.com”. To further defame the Plaintiffs and in furtherance of the Conspiracy, the Defendants anonymously sent links to the Defamatory Manifesto to other journalists, news editors, and others in the business community as well.

92. The Defendants also anonymously sent unsolicited emails containing a link to the Defamatory Manifesto (along with the false and defamatory content set out below) to individuals in the financial industry (the “**Unsolicited Emails**”). One version of the Unsolicited Emails was sent from the address “info@stockmanipulators.org” with the

subject line “Hedge Fund Scandal in Canada and the U.S.: Moez Kassam and Anson Funds accused of Stealing Billions.” Another version of the Unsolicited Emails had the title “Urgent News Tip – Huge Hedge Fund Fraud in America and Canada’s Stock Markets”. These Unsolicited Emails were designed and intended to further harm the Plaintiffs and damage their reputation in the financial industry.

93. On September 28, 2020 – the day after the Defamatory Manifesto was first published – Robert texted Spektor (the contact who introduced him to Anson) the following in reference to the Defamatory Manifesto (emphasis added):

I knew it was coming...

I know who wrote...

Moez likely going [to] sue

94. On September 29, 2020, “Betting Bruiser” tweeted a link to the Defamatory Manifesto, supporting the content of the post as follows:



95. Further examples of the Unsolicited Emails sharing the Defamatory Manifesto and the Defendants' concerted effort to disseminate the Defamatory Manifesto and publish it on Twitter can be found in **Appendix "E"** at sections D and E.

(vii) Shortly after its publication, Robert attempts to leverage the Defamatory Manifesto to extract money from the Plaintiffs and magnify his attacks

96. In early October 2020, Kassam approached Robert for information about who was behind the Defamatory Manifesto. In those conversations, Robert sought \$75,000 from Anson in relation to the due diligence he had provided, referenced in his September 30 tweet, and aggressively suggested that far more would be needed for information regarding the Unknown Defendants. He also sought blanket immunity, indemnification and a release from Anson before he would provide assistance, clearly attempting to use purported leverage against Kassam and Anson. In particular, Robert alleged that the Unknown Defendants had promised to pay him \$250,000 to assist them, insinuating that a similar or greater amount would be needed from Anson in order for Robert to forego assisting the conspirators and/or to provide assistance to Anson.

97. In a Whatsapp chat on October 1, 2020, Robert, using the username "Betting Bruiser", sent Kassam the following messages (emphasis added):

I sent invoice for what I think you owe me ... if you don't pay it

I can make 250k going to the other side

And that's not owed to me ... ***that's just to help bury you. Choice is yours.***

[...]

Again ... I sent invoice for \$75k [which] I think is fair for what you owe me ... I wanna sign indemnification... then we go from there. I'll try my best to get you what you need. That's all.

98. In their Whatsapp chat on October 1, 2020, Robert also told Kassam that Stafford had procured the drafting of the Defamatory Manifesto and was paying individuals for their involvement, including Rudensky. Robert also stated that Stafford was involved in running the “hotline” or tipline to which readers of the Defamatory Manifesto could send information. Robert texted Kassam the following:

[Attachment]

That's what Stafford sent me today

That's the general game plan for part 2 [of the Defamatory Manifesto]

Rudensky for sure wrote part 1 ... Stafford was paying him to do it ... he tried to get me to talk to him ... I assume he's one running the hotline

99. By telling Kassam that Stafford “tried to get me to talk to him” for the Defamatory Manifesto, Robert falsely implied that he was not a source of the defamatory allegations, which he was. He placed blame solely on Rudensky and Stafford.

100. On October 9, 2020, Kassam informed Robert via Whatsapp chat that Anson would no longer negotiate with him given his involvement in the Conspiracy. Anson was not prepared to provide Robert with payments or a release/indemnity. In response, Robert told Kassam that he had recorded a telephone conversation between them.

101. Shortly after the message exchange on October 9, “Betting Bruiser” published a series of tweets making false, defamatory, malicious and harassing allegations against

Anson, Kassam and other individuals associated with Anson. Among other things, these tweets were in retaliation for Anson and Kassam refusing to accede to Robert's aggressive demands. "Betting Bruiser" also threatened to release the recordings that Robert purportedly made of his private conversations with Kassam. These tweets included "Betting Bruiser" wishing death on Kassam on October 9, 2020 – the Friday before Thanksgiving weekend:



102. Further examples of these tweets can be found in **Appendix "E"** at section F.

(viii) *The Defamatory Manifesto was disseminated widely online in fall 2020 and beyond*

103. The Defendants have discussed, shared and published links to the Defamatory Manifesto, and/or hired others to discuss, share and publish links to the Defamatory Manifesto on their behalf, on several other websites and Internet message boards, including but not limited to Reddit, Stockhouse, Yahoo Finance and on social media. The Defendants or their proxies shared the Defamatory Manifesto in these industry forums using anonymous accounts, many of which were created using VPNs and "burner" email accounts, for the purpose of concealing the Defendants' identities. The Defendants also made further Unlawful Statements against the Plaintiffs while publicizing links to the

Defamatory Manifesto on these specialized message boards – all designed to cause the Plaintiffs maximum harm.

104. The messages publicizing the Defamatory Manifesto on blogs or chat forums often used similar or the exact same wording as one another (but were published by different usernames), reflecting the Defendants' sophisticated and coordinated effort to anonymously disseminate the Defamatory Manifesto as widely as possible to maximize the damage caused to the Plaintiffs. Examples of messages publicizing the Defamatory Manifesto can be found in **Appendix "E"** at section G.

105. The Defendants published the Further Unlawful Stockhouse Statements – a litany of posts on Stockhouse from September 2020 and onwards – to disseminate the Defamatory Manifesto and other Unlawful Statements against the Plaintiffs. In total, over 1,000 such posts appeared on Stockhouse after September 27, 2020 (and the number of posts continues to increase as the Defendants perpetuate the Conspiracy). Many of the Further Unlawful Stockhouse Statements were published using single-purpose Stockhouse accounts, created and used predominantly or exclusively for the purpose of disseminating Unlawful Statements. To register these accounts, the Defendants often used email addresses created using www.SharkLasers.com, a website that provides temporary and untraceable email addresses. The Defendants also used VPNs to publish these Stockhouse posts. All of this covert behaviour was for the purpose of concealing the Defendants' identities and obscuring the scope of the Conspiracy. Further details on the Further Unlawful Stockhouse Statements can be found in **Appendix "E"** at section G.

106. Between November 2020 and March 2021, Stafford also personally published Unlawful Statements on Stockhouse using the username “ToffRaffles”, a Stockhouse account registered to james@floatingmix.com, an email address Stafford owned and uses (the “**Stafford Unlawful Stockhouse Statements**”). The Stafford Unlawful Stockhouse Statements were published in a series of Stockhouse posts via a Mexican IP address. Stafford’s website, www.OilPrice.com, has offices and/or employees in or around Mexico City. Many of the Stafford Unlawful Stockhouse Statements referred to Facedrive, one of the companies that Stafford was hired to promote and of which he owned a significant number of shares. The Stafford Unlawful Stockhouse Statements can be found in **Appendix “E”** at section H.

107. The Defendants continued to publish Further Unlawful Stockhouse Statements in March and April 2021 and beyond. Many of these were published using the “Tor” browser (which conceals a user’s Internet activity) and Stockhouse accounts registered to temporary email addresses. Since March 2021, Stockhouse accounts using the Tor browser have published nearly 600 defamatory posts about the Plaintiffs, showing the continuing effort to defame the Plaintiffs and the sophistication of the Conspiracy. Further Unlawful Stockhouse Statements published in spring 2021 had headline tags including the following:

- (a) “How Embarrassing: Another Scandal For This Hedge Fund?”;
- (b) “Looks Like These Guys Are In Trouble Again”;
- (c) “Notorious Short Selling Fund In Trouble”;

- (d) “Sunny Puri wants to know the truth – here it is Sunny Puri”;
- (e) “Canadian Hedge Fund under SEC Investigation”;
- (f) “Anson Funds under SEC Investigation – Do Unitholders know”; and
- (g) “100K Reward for info leading to conviction of Anson Funds”.

(ix) *The Second Defamatory Manifesto and other defamatory articles*

108. On or around June 28, 2021, Stafford, Robert, Jacob and the other Unknown Defendants published the Second Defamatory Manifesto, titled “Moez Kassam & Anson Funds Part II: Rotten To The Core”, on the website www.marketfrauds.to. The Second Defamatory Manifesto continued the malicious attack against the Plaintiffs contained in the Defamatory Manifesto and the other Unlawful Statements, using many of the same themes. By way of example, the Second Defamatory Manifesto:

- (a) falsely alleged that the Plaintiffs were being investigated by the OSC and SEC and solicited readers to send “tips” to regulators;
- (b) claimed that Anson’s “bumper year in 2020” was due to its “destroying a fair number of companies and causing thousands of regular shareholders to lose their savings”;
- (c) called Kassam “a naked short seller whose activities are criminal and whose modus operandi is to manipulate the market and infiltrate companies to destroy them from the inside, while violating all short selling laws. He deliberately goes out of his way to ensure that companies fail”;

- (d) alleged that the Plaintiffs and *The Globe and Mail* conspired so that the newspaper “publish[es] a hit piece” on companies in which Anson has a short position; and
- (e) falsely claimed that the Plaintiffs commissioned and paid for critical media articles and critical analysis from industry analysts regarding, among other things, RECO (Reconnaissance Energy Africa Ltd.) and Facedrive.

109. As set out in **Appendix “C”**, Stafford was hired to promote and increase RECO’s stock price. *The Globe and Mail* published an article questioning the stock promotion activities and public disclosure of RECO on June 20, 2021. Viceroy Research, another investment firm, published analysis also questioning the quality of RECO assets and stock value on June 24, 2021. The Second Defamatory Manifesto was released on June 28, 2021, days after *The Globe and Mail* reporting and Viceroy Research analysis. As set out above, it is in the normal course that market participants and media look at facts and objective sources to analyse and report on different companies. Where those companies turn out to be grossly overvalued, market participants and media may publish their findings in that regard. This is part of properly functioning capital markets.

110. The Second Defamatory Manifesto included snippets of audio recordings of conversations Kassam had with Robert several years ago, which only included one side of the conversation when Kassam was speaking. Robert took these recordings without Kassam’s consent and gave them to Stafford and/or the other Defendants. The recordings were presented in the Second Defamatory Manifesto without context and in a

deliberately misleading manner in order to promote the defamatory meanings pleaded above.

111. The Second Defamatory Manifesto made numerous other defamatory allegations against the Plaintiffs, including that they manipulated stocks through social media, engaged in bribery and insider trading, commissioned DDOS attacks, filed false financial reporting, and “utilize Water boarding style trading tactics”. The Second Defamatory Manifesto accused Anson of “attacking” several companies, including Zoom, Facedrive, GSX Techedu, Genius Brands International, Gamestop, Valorem Resources, Starr Peak Mining, Whole Earth Brands, United Lithium, Mountain Valley MD Holdings, SOL Global, Clean Power Capital Corp, Red White & Bloom, Moderna, Medivolve, AMM Power, Value Line, Champignon Brands, “and many others.”

112. Several other defamatory posts were published on www.marketfrauds.to in addition to the Second Defamatory Manifesto (the “**Additional Unlawful Posts**”), including posts with the following titles:

- (a) “Moez Kassam has moved over \$20 million into offshore accounts in UAE and Dubai”, on May 15 and reposted on May 19, 2021.
- (b) “Reconnaissance Energy Africa is Anson Funds next target – Illegal tactics being employed by Anson”, on May 23, 2021;
- (c) “Anson Funds short and distort campaign against Recon Africa (and Globe & Mail corruption)”, on May 31, 2021;

- (d) “Corruption at Globe and Mail – Mail sent to their staff and regulators”, on June 18, 2021; and
- (e) “Hurt by Anson Funds – the SEC wants to hear from you ASAP”, on July 21, 2021.

E. THE DEFENDANTS ARE LIABLE

113. The Defendants are liable to the Plaintiffs for conspiracy, publicity that inaccurately places the plaintiff in a false light, intentional interference with economic relations, misappropriation of personality, internet harassment, and defamation.

(i) The Defendants’ Tortious Conspiracy Against Anson

114. Robert, Jacob and the Unknown Defendants conspired with one another to make and publicize the Unlawful Statements against the Plaintiffs. They formed an agreement with one another to injure the Plaintiffs, and in making the Unlawful Statements, their predominant purpose was to injure the Plaintiffs – namely, by damaging their business and reputation.

115. Moreover, the Defendants carried out the conspiracy by the unlawful means of defamation and other tortious misconduct pleaded herein.

116. The Defendants knew, or should have known, that the Unlawful Statements about the Plaintiffs and the publicity attached to them would be extremely harmful to the Plaintiffs, damaging their reputation and business.

117. The Defendants acted in furtherance of the Conspiracy by making, assisting with, participating in, and/or publicizing the Unlawful Statements, causing damage to the Plaintiffs.

(ii) False light

118. In addition, the Defendants are liable for placing Anson and Kassam in a false light.

119. By making, assisting with, participating in and/or publicizing the Unlawful Statements, the Defendants gave publicity to very serious false allegations against Anson and Kassam that placed them in a false light. The Defendants have publicly, falsely accused Anson and Kassam of serious crimes – including fraud, insider trading and other significant breaches of applicable securities laws and regulations, as well as cyber crimes. These allegations would be highly offensive to a reasonable person.

120. In making, assisting with, participating in and/or publicizing the Unlawful Statements, the Defendants knew or recklessly disregarded the falsity of the Unlawful Statements against Anson and Kassam and the false light in which they would thereby be placed.

(iii) Intentional interference with economic relations

121. By making, assisting with, contributing to and/or publicizing the Unlawful Statements, including through the Unlawful Stockhouse Statements, the Further Unlawful Stockhouse Statements, the Defamatory Manifesto, the Second Defamatory Manifesto, and the Additional Unlawful Posts, Robert and Jacob's Twitter accounts, and other websites, the Defendants are liable for intentional interference with Anson's economic relations.

122. The Defendants, with the intention of harming Anson's business and damaging its reputation, made a series of false, malicious, defamatory and unlawful public statements about Anson's principal, Kassam, as well as other Anson personnel, including Puri and Anson's General Counsel, Laura Salvatori. The Unlawful Statements falsely accused Kassam, and by extension Anson, of unlawful, dishonest and criminal conduct. The Unlawful Statements were published to countless market participants, including current and potential Anson investors. As a result of the Unlawful Statements, these third parties were deceived about the subject matter of the Unlawful Statements. The purpose and result of the Defendants' deceit was to harm Anson and Kassam.

(iv) Appropriation of personality

123. The Defendants are liable for wrongfully appropriating Kassam's personality by purchasing the domain name "www.MoezKassam.com" and using it to publicize the Unlawful Statements regarding Anson and Kassam. The Defendants also acquired the email address "info@moezkassam.com" in furtherance of the Conspiracy.

124. By using the domain name in this manner, they violated Kassam's exclusive right to use his own identity, particularly his name, causing damage.

(v) Internet harassment

125. The Defendants are liable for internet harassment of the Plaintiffs by writing, publishing, disseminating, and publicizing all of the Unlawful Statements – including the Unlawful Stockhouse Statements, the Further Unlawful Stockhouse Statements, the Unsolicited Emails, the Defamatory Manifesto, the Second Defamatory Manifesto, the Additional Unlawful Posts, and countless communications via social media. The

Defendants' defamation campaign against the Plaintiffs has lasted over a year to date and is ongoing, with no end in sight. They have publicized the Unlawful Statements in a wide range of Internet forums with the intent of maximizing the spread of their false and defamatory allegations.

126. In writing, publishing, disseminating and publicizing the Unlawful Statements, the Defendants maliciously or recklessly engaged in outrageous, extreme conduct that is beyond all possible bounds of decency or tolerance, causing the Plaintiffs damage. The Defendants intended to impugn the Plaintiffs' dignity and cause fear, anxiety or emotional upset in the Plaintiffs.

(vi) Defamation

127. Finally, the Defendants are liable for defamation for the false and highly defamatory statements made in the Unlawful Statements, including the Unlawful Stockhouse Statements, the Further Unlawful Stockhouse Statements, the Unsolicited Emails, and, ultimately, the Defamatory Manifesto (which was published multiple times, using various domain names), the Second Defamatory Manifesto, the Stafford Unlawful Stockhouse Statements and the Additional Unlawful Posts. The Doxtators are further liable for the false and defamatory statements they published about the Plaintiffs on Twitter.

The Unlawful Stockhouse Statements are Defamatory

128. The Unlawful Stockhouse Statements (discussed above at paragraphs 53 to 60 and in **Appendix "D"**) in their entirety, in their natural and ordinary meaning, including their express and implied meaning in their full context, and/or by innuendo, are false and

defamatory of the Plaintiffs. In addition to the natural and ordinary meanings of the Unlawful Statements contained in the Unlawful Stockhouse Statements, and without limiting the generality of the foregoing, the Unlawful Stockhouse Statements would lead a reasonable reader to conclude, or would mean or would be understood to mean, the following regarding Anson and its principals:

- (a) they are corrupt, dishonest, deceptive, duplicitous and cannot be trusted;
- (b) they destroy and/or devalue companies and their shareholders through nefarious means in order to benefit financially;
- (c) they get in over their heads and are unable to control their investments/trading strategies, and/or are inept, incompetent and reckless in their investment/trading practices;
- (d) they engage in unlawful and illegal activities, including market manipulation, abusive trading practices, and securities law and/or criminal law violations;
- (e) they published or participated in the creation of false research reports for the purpose of manipulating the market; and
- (f) they ought to be investigated, including by regulators.

129. In addition to the meanings set out in paragraph 128, and in addition to its plain and ordinary meaning, the July 23 Stockhouse Post would lead a reasonable reader to conclude, or would mean or would be understood to mean, the following regarding Anson and its principals:

- (a) they are criminals;
- (b) they bribe and/or induce regulators through other means to ignore their unlawful and/or illegal activities;
- (c) they do not exercise proper judgment and they make poor business decisions;
- (d) they cannot be trusted with investors' funds;
- (e) they have not legitimately earned their success and goodwill;
- (f) the Anson Funds lost millions of dollars due to their reckless conduct; and
- (g) they were humiliated and desperate as a result of the losses they incurred.

130. In addition to the meanings set out in paragraph 128, and in addition to its plain and ordinary meaning, the August 14 Stockhouse Post would lead a reasonable reader to conclude, or would mean or would be understood to mean, the following regarding Anson and its principals:

- (a) they caused Anson Funds to lose hundreds of millions of dollars due to their reckless conduct or ineptitude;
- (b) they were humiliated and desperate as a result of their business losses;
- (c) they ought to be avoided, as associating with them will result in harm;
- (d) they encourage or induce others to become corrupt;

- (e) they caused or contributed to the publication of misleading, false, and/or fraudulent information regarding a legitimate company;
- (f) they will be investigated and punished by regulators; and
- (g) with respect to Kassam, in particular, that he is unscrupulous, immoral and unethical.

131. In addition to the meanings set out in paragraph 128, and in addition to its plain and ordinary meaning, the August 17 Stockhouse Post would lead a reasonable reader to conclude, or would mean or would be understood to mean, the following regarding Anson and its principals:

- (a) they have significantly harmed the capital markets through their unethical, unlawful, duplicitous and/or illegal conduct;
- (b) they engaged in malicious, unlawful, and targeted attacks and/or trading and other conduct to harm Aphria and its shareholders in order to increase their own wealth;
- (c) they engage in predatory, opportunistic, dishonest and unethical conduct for financial gain;
- (d) they corrupt and/or induce others to engage in or assist in improper conduct;
- (e) they unlawfully and/or improperly obtained and misused confidential/insider/material non-public information;

- (f) they provided false, fraudulent, or misleading information about Aphria for publication and dissemination to harm Aphria, and for their own gain;
- (g) they profit off the hardship and damage they cause to others;
- (h) they will be investigated and punished; and
- (i) with respect to Kassam in particular, that:
 - i. he is two-faced, a fake and a fraud; and
 - ii. he is amoral, lacks a conscience, and engages in reprehensible and antisocial conduct.

132. In addition to the meanings set out in paragraph 128, and in addition to its plain and ordinary meaning, the August 28 Stockhouse Post would lead a reasonable reader to conclude, or would mean or would be understood to mean, the following regarding Anson and its principals:

- (a) they used illegal, unethical, and/or nefarious means to destroy and/or devalue the Canadian company, Zenabis, for financial gain;
- (b) they covertly or otherwise inserted a “stooge” to influence Zenabis’ decisions and/or cause the company to act against its own interests for Anson’s gain;
- (c) they exploit, induce and/or corrupt others to engage in dishonest, illegal, unlawful, and/or unethical activities on their behalf;

- (d) they coerce, deceive, or trick companies into acting against those companies own interests and/or into making poor decisions for the Plaintiffs' financial gain;
- (e) they knowingly, intentionally or recklessly encourage and/or engage in conflicts of interests for ulterior purposes;
- (f) the Anson Funds lost millions of dollars due to the reckless conduct of its principals;
- (g) they engaged in illegal and unlawful activity including securities law violations, such as insider trading and failing to disclose information as required by law; and
- (h) they will target, attack, harm and/or destroy more companies.

The Defamatory Manifesto

133. The Defamatory Manifesto (discussed above at paragraphs 62 to 79 and in **Appendix “E”** at paragraphs 42 to 65) in its entirety, in its natural and ordinary meaning, including its express and implied meaning in its full context, and/or by innuendo, including in conjunction with the images contained in the Defamatory Manifesto, is false and defamatory of the Plaintiffs. In addition to the natural and ordinary meanings of the statements contained in the Defamatory Manifesto, and without limiting the generality of the foregoing, the Defamatory Manifesto would lead a reasonable reader to conclude, or would mean or would be understood to mean, that Anson and its principals, including Kassam, repeatedly, intentionally and maliciously engaged in unlawful and illegal

business practices to destroy, and did destroy or cause harm to, legitimate companies and businesses, including Aphria, Zenabis and Genius Brands International (as defined in **Appendix “E”**), to increase their financial wealth. In addition, and more particularly, the Defamatory Manifesto means or would be understood to mean that Anson and its principals:

- (a) are deceptive, dishonest, deceitful, sneaky, duplicitous, immoral, unscrupulous and cannot be trusted;
- (b) lack integrity, are unethical, predatory, and corrupt;
- (c) are liars, cheats, thieves and crooks;
- (d) have not legitimately earned their success and goodwill;
- (e) are incompetent and/or inept in business;
- (f) they attempted to harm and/or destroy legitimate companies, including Tilray (as defined in **Appendix “D”**) and Facedrive, but failed due to their incompetence and/or ineptitude;
- (g) are desperate, and engage in rash, reckless and/or extreme behaviour;
- (h) engage in predatory, surreptitious and unethical business practices;
- (i) engaged in, and continue to engage in, unlawful and/or illegal activities, including securities law and/or criminal law violations, and including fraud, illegal short-selling schemes, market manipulation, abusive trading practices and insider trading;

- (j) involved other entities in their unlawful, illegal, and/or fraudulent activities;
- (k) engaged in conspiracies with other entities, including by paying for short reports and long/buy reports, in order to benefit financially;
- (l) committed, and continue to commit, crimes and/or are criminals;
- (m) are part of a criminal enterprise and/or criminal alliance;
- (n) operate their business in a manner that is contrary to applicable law and regulations;
- (o) breached, and continue to breach, securities laws and regulatory rules and policies;
- (p) unlawfully and/or illegally obtained and misused confidential/insider/material non-public information;
- (q) exploit information or resources that they have been trusted to protect;
- (r) published or participated in the creation of false research reports for the purpose of manipulating the market;
- (s) use unlawful and/or illegal means to silence critics because they have something nefarious to hide;
- (t) robbed and/or defrauded North American shareholders of millions of dollars;
- (u) harmed investors in Canada and the United States;

- (v) targeted and destroyed legitimate companies through nefarious means to increase their wealth;
- (w) made false reports to regulators and engaged in fraudulent social media campaigns to manipulate the capital markets;
- (x) inflict serious harm on the Canadian capital markets and on investors;
- (y) are involved in fraudulent activity of the kind that ought to concern authorities and regulators;
- (z) ought to be investigated, including by regulators in Canada and the United States;
- (aa) are being, have been, and/or will be investigated by regulators;
- (bb) ought to be and/or will be penalized and/or imprisoned;
- (cc) have caused, are causing, and will cause financial ruin to their partners, investors, and other capital market participants; and
- (dd) with respect to Kassam, in particular:
 - i. that he is a sociopath, engages in reprehensible and repulsive conduct, is amoral, lacks a conscience, and engages in antisocial behaviour; and
 - ii. does not exercise judgment and cannot be trusted with investors' funds.

The Second Defamatory Manifesto

134. The Second Defamatory Manifesto (discussed above at paragraphs 108 to 112) in its entirety, in its natural and ordinary meaning, including its express and implied meaning in its full context, and/or by innuendo, including in conjunction with the images contained in the Second Defamatory Manifesto, is false and defamatory of the Plaintiffs. In addition to the natural and ordinary meanings of the statements contained in the Second Defamatory Manifesto, and without limiting the generality of the foregoing, the Second Defamatory Manifesto would lead a reasonable reader to conclude, or would mean or would be understood to mean, that Anson and its principals, including Kassam, repeatedly, intentionally and maliciously engaged in unlawful and illegal business practices to destroy, and did destroy or cause harm to, legitimate companies and businesses in order to increase their financial wealth, including Zoom, Facedrive, GSX Techedu, Genius Brands International, Gamestop, RECO, Valorem Resources, Starr Peak Mining, Whole Earth Brands, United Lithium, Mountain Valley MD Holdings, SOL Global, Clean Power Capital Corp, Red White & Bloom, Moderna, Medivolve, AMM Power, Value Line, Champignon Brands, Madmen, and Zenabis. In addition, and more particularly, the Defamatory Manifesto means or would be understood to mean that Anson and its principals:

- (a) engaged in, and continue to engage in, unlawful and/or illegal activities, including securities law and/or criminal law violations, and including fraud, illegal short-selling schemes, market manipulation, abusive trading practices, insider trading, filing false financial reporting, and bribery;

- (b) manipulate the stock market, including through social media;
- (c) deliberately try to destroy, and in fact destroy, legitimate companies;
- (d) deliberately cause harm to ordinary shareholders, including loss of savings or investments;
- (e) conspired with media outlets to disseminate false reporting regarding legitimate companies;
- (f) ought to be investigated, including by regulators in Canada and the United States;
- (g) are being, have been, and/or will be investigated by regulators; and
- (h) ought to be and/or will be penalized and/or imprisoned.

Stafford Unlawful Stockhouse Statements

135. The Stafford Unlawful Stockhouse Statements (discussed above at paragraph 106 and in **Appendix “E”** at paragraph 93) in their entirety, in their natural and ordinary meaning, including their express and implied meaning in their full context, and/or by innuendo, are false and defamatory of the Plaintiffs. In addition to the natural and ordinary meanings of the Unlawful Statements contained in the Stafford Unlawful Stockhouse Statements, and without limiting the generality of the foregoing, the Stafford Unlawful Stockhouse Statements would lead a reasonable reader to conclude, or would mean or would be understood to mean, the following regarding Anson and its principals:

- (a) they are corrupt, dishonest, deceptive, duplicitous and cannot be trusted;

- (b) they destroy and/or devalue companies and their shareholders through nefarious means in order to benefit financially;
- (c) they engage in unlawful and illegal activities, including market manipulation, abusive trading practices, and securities law and/or criminal law violations, and conspire with others, including financial institutions, in these unlawful and illegal activities;
- (d) their unlawful and illegal conduct has ruined the market;
- (e) they published or participated in the creation of false research reports for the purpose of manipulating the market;
- (f) they are unable to control their investments/trading strategies, and/or are inept, incompetent and reckless in their investment/trading practices; and
- (g) they should be investigated, including by regulators.

Robert Lee Doxtator's Defamatory Tweets

136. In addition to the foregoing and as set out below, the Defendant Robert is liable to the Plaintiffs for defamation in relation to a number of tweets he published under the username "Betting Bruiser". The defamatory tweets of which the Plaintiffs are currently aware are included as **Appendix "A"**. They include, but are not limited to, the following:

- (a) as discussed above at paragraph 51(a) an August 25, 2019 tweet from "Betting Bruiser" falsely alleged that the Plaintiffs put out a false report "to manipulate the market so they could cover an already short position";

- (b) as discussed above at paragraph 51(b) another August 25, 2019 tweet from “Betting Bruiser” falsely alleged that the Plaintiffs had “connections to other short sellers and market manipulators” and “historically invested [in] and the death spiral the fund created to cash out their short positions”;
- (c) as discussed above at paragraph 51(c) on August 26, 2019, “Betting Bruiser” published several tweets falsely alleging that the Plaintiffs used a representative on Zenabis’ Board of Directors, Adam Spears, to negatively influence the company’s business decisions, reduce its share price and provide them with inside information/material non-public information;
- (d) as discussed above at paragraph 51(d), a subsequent tweet on August 26, 2019 alleged that Spears was “recording conversations of [Zenabis] management and executives in hopes of Anson blackmailing or using the info for the detriment of the company”;
- (e) as discussed above at paragraph 94, a September 29, 2020 tweet from “Betting Bruiser” falsely alleged that the Plaintiffs use “tactics” that “are simply sleight of hand with the gift of gab”;
- (f) as discussed in **Appendix “E”** at paragraph 80, in a subsequent tweet on September 30, Robert alleged that the Plaintiffs “use people and don’t pay anyone but themselves”;
- (g) as discussed above at paragraph 101 and in **Appendix “E”** at paragraph 83, on October 9 Robert published a series of tweets, falsely alleging a

“toxic financing deal” involving Anson’s legal counsel, that Anson Funds investors ought to “be prepared to have [their] funds locked up” given the information indicating “scams to benefit...Kassam” and allegations “he broke the law”, threatening to “speak to regulators about Anson Funds” to collect a reward, and falsely alleging that the Plaintiffs pay Ben Axler;

- (h) as discussed in **Appendix “E”** at paragraph 87, on October 30, Robert published tweets alleging that Kassam is “running scared from recent reports about his tactics” and “the scum of the earth”, and that he has others do “his dirty work for him”.

137. These tweets, in their natural and ordinary meaning, including their express and implied meaning, and/or by innuendo, are false and defamatory of the Plaintiffs. In addition to the plain and ordinary meaning of each of the tweets, they would lead a reasonable reader to conclude, or would mean or would be understood to mean, that Anson and its principals, including Kassam:

- (a) are liars, are dishonest, duplicitous, immoral, deceptive, unscrupulous, unethical, sneaky, and cannot be trusted;
- (b) engage in unlawful and illegal conduct, including securities law and/or criminal law violations, and including insider trading, market manipulation, abusive trading practices and fraud; and
- (c) destroy legitimate businesses through nefarious means for their financial gain.

138. Additionally, the October 9 series of Tweets, in addition to their plain and ordinary meaning, would lead readers to conclude, or would mean or would be understood to mean, that Anson and its principals, including Kassam:

- (a) ought to be and will be investigated, including by regulators; and
- (b) will cause harm to their investors.

Jacob Doxtator's Defamatory Tweets

139. In addition to the foregoing and as set out below, the Defendant Jacob is liable to the Plaintiffs for defamation in relation to a number of tweets he published using the alter-ego named "John Murphy" with the username @JohnMur67039142, which are, in their natural and ordinary meaning, including their express and implied meaning, and/or by innuendo, are false and defamatory of the Plaintiffs. The defamatory tweets of which the Plaintiffs are currently aware are included as **Appendix "B"**, and include, but are not limited to, the following:

- (a) as discussed in **Appendix "E"** at paragraph 28, an August 14, 2020 retweet falsely claimed that Anson was behind the Hindenburg Research report regarding Aphria, included a picture of Kassam, and stated "how dirty moez hurt his business partner [sic] and lied to the founders of \$apha [Aphria]. On the same day Jacob also tweeted that Kassam had "paid for negative promotions" regarding Facedrve, Aphria, Tilray "and many more". In addition to the plain and ordinary meaning of these tweets, the tweets

would lead a reasonable reader to conclude that Anson and its principals, including Kassam:

- i. are corrupt, dishonest, deceitful, deceptive, duplicitous, and cannot be trusted;
 - ii. engaged in malicious, unlawful, and targeted attacks to harm legitimate companies and their shareholders; and
 - iii. provided false, fraudulent, or misleading information about legitimate companies (including Aphria, Facedrive and Tilray) for publication and dissemination to harm them;
- (b) as discussed above at paragraph 64, a September 10, 2020 tweet stated that regulators should scrutinize Anson and Kassam: “these reverse pump and dumps must be watched more closely by the regulators. moez [sic] and his band fund these trades every week...” In addition to the plain and ordinary meaning of the tweet, the tweet would lead a reasonable reader to conclude that Anson and its principals, including Kassam:
- i. engage in unlawful and illegal activities, including securities law violations; and
 - ii. ought to be investigated, including by regulators;
- (c) as discussed above at paragraph 65 and in **Appendix “E”** at paragraph 79, a September 12, 2020 tweet alleged “anson [sic] is a very corrupt cad fund

nake [sic] shorting many small cap co's and when they get in trouble / want to cover they pay groups like @HindenburgRes to say the co is a fraud and going to zero. how many zeros have they called. the bottom is normally around when the piece comes out". On September 29, he added, "big difference from shorting a fraud and paying for a short report calling a company a fraud to try and fix your trade. bad companies need to be taken down. big difference between the two. anson does both! [sic]". In addition to the plain and ordinary meaning of these tweets, the tweets would lead a reasonable reader to conclude that Anson and its principals, including Kassam:

- i. are corrupt, reckless and dishonest; and
 - ii. provide false, fraudulent, or misleading information about legitimate companies to harm those companies and benefit themselves; and
- (d) as discussed in **Appendix "E"** at paragraphs 78 and 82, two September 29, 2020 tweets included a link to the Defamatory Manifesto, and stated: "stockmanipulators.com. Cyber crimes added to the list of wrongdoings by @AnsonGroupFunds ? who funded this defense? Unit holders?", and "sounds like #moez attacked the site where the @AnsonGroupFunds report was profiled. a very expensive DDOS attack to prevent the public from seeing the piece. Investors in the fund probably have plenty of questions for @MunchingMoez @davidmilstead \$apha \$fd \$shrm many more". In addition to the plain and ordinary meaning of these tweets, these tweets

would lead a reasonable reader to conclude that Anson and its principals, including Kassam:

- i. engage in illegal and unlawful activities, including criminal law violations and are criminals;
- ii. are dishonest and deceptive; and
- iii. misuse investor funds, including for their personal benefit.

140. Jacob is also liable for using the “John Murphy” Twitter account to re-tweet other Twitter users’ false and defamatory statements about the Plaintiffs.

The Unsolicited Emails are Defamatory

141. As discussed above at paragraph 92 and in **Appendix “E”** at paragraphs 73 to 75, the Defendants anonymously sent Unsolicited Emails regarding the Plaintiffs. The Unsolicited Emails, in their entirety, in their natural and ordinary meaning, including their express and implied meaning in their full context, and/or by innuendo, are false and defamatory of the Plaintiffs. In addition to the natural and ordinary meanings of the Unlawful Statements contained in the Unsolicited Emails, and without limiting the generality of the foregoing, the Unsolicited Emails would lead a reasonable reader to conclude, or would mean or would be understood to mean, the following regarding Anson and its principals, including Kassam:

- (a) they engage in wrongdoing, unlawful, illegal, and unethical conduct, including securities law and/or criminal law violations, insider trading, market manipulation, abusive trading practices, fraud and cybercrimes;

- (b) they destroy legitimate businesses through nefarious means;
- (c) they have robbed shareholders of billions of dollars;
- (d) they are dishonest and cannot be trusted; and
- (e) they are criminals.

142. The Plaintiffs have not seen all of the Unsolicited Emails or any of the emails in their entirety and reserve their right to amend this pleading to add additional meanings and/or claims once they are discovered.

The Defendants were Malicious

143. The Defendants acted with malice: they made, assisted with, participated in and/or publicized the Unlawful Statements, knowing that the Unlawful Statements were false or misleading and/or while intentionally, recklessly or callously disregarding their falsity and the harm that the allegations would do to the Plaintiffs. They acted for the predominant purposes of harming the Plaintiffs, including in pursuit of their animus and vendetta against the Plaintiffs. Examples of the Defendants' malicious conduct include the following:

- (a) the Defamatory Manifesto, the Second Defamatory Manifesto, the Additional Unlawful Posts and other Unlawful Statements solicited readers to confidentially provide additional material for future Defamatory Manifestos;
- (b) the Second Defamatory Manifesto is nearly 10,000 words – even longer than the original Defamatory Manifesto – and repeated and/or amplified

many false and defamatory allegations contained in the Defamatory Manifesto and other Unlawful Statements, and/or elaborated on those allegations and made new and additional false and defamatory allegations against the Plaintiffs;

- (c) Stafford, Rudensky and Robert specifically targeted and maliciously intended to cause harm to the Plaintiffs by writing, publishing, disseminating, and/or procuring the writing, publishing and dissemination of the Defamatory Manifesto and the Second Defamatory Manifesto, including, for Stafford, because of his financial interest in Facedrive and/or RECO. Stafford was directly or indirectly hired to promote these companies and owned a significant number of their shares, and he publicly falsely accused Anson of hiring market participants and media to publish critical commentary on these companies using fabricated material. In fact, market participants and media analysed these companies, using publicly available information, because the companies' inflated share prices were grossly disproportionate to their fundamental value. In well functioning capital markets, it is in the normal course for market participants to comment critically on overvalued companies, and to discuss, share and comment on research, due diligence and investment theses with one another;
- (d) the Defendants' continuous and ongoing efforts to draw the Unlawful Statements to the attention of regulators and the media; and

- (e) in addition to publishing the Unlawful Stockhouse Statements in summer 2020, from fall 2020 and continuing to at least spring 2021, the Defendants published, hired others to publish or otherwise procured the publishing of, over 1,000 Further Unlawful Stockhouse Statements, which repeated, amplified and/or elaborated on the false and defamatory allegations contained in the Unlawful Stockhouse Statements, the Defamatory Manifesto, and other Unlawful Statements, and significantly increased the likelihood that such allegations would be re-published by others, as set out below. Stafford also published the Stafford Unlawful Stockhouse Statements using the username “ToffRaffles” between November 2020 and March 2021.

144. The Defendants repeatedly published the Unlawful Statements on various websites and through various means, including through the Unlawful Stockhouse Statements, the Further Unlawful Stockhouse Statements, the Unsolicited Emails, the Defamatory Manifesto, the Second Defamatory Manifesto, the Additional Unlawful Posts, and the tweets described above, in an attempt to publish them to the widest audience possible and cause the greatest possible commercial and emotional harm to the Plaintiffs.

The Defendants are liable for republication of the Unlawful Statements

145. The Defendants are also liable for republication of all of the Unlawful Statements, which was a natural and probable result of the Unlawful Statements given, among other things, the volume of Unlawful Statements published and publicized by the Defendants. In fact, the Defendants actively encouraged republication of the Defamatory Manifesto

and Second Defamatory Manifesto, both in the text of the Defamatory Manifesto and Second Defamatory Manifesto themselves, and in Robert's and Jacob's tweets sharing the Defamatory Manifesto. Many of the nearly 1,000 Further Unlawful Stockhouse Statements also actively encouraged the republication of the Defamatory Manifesto and/or other Unlawful Statements. Republications of the Defamatory Manifesto and Second Defamatory Manifesto currently remain online.

F. DAMAGES

146. The Defendants' conduct has caused substantial damage to the Plaintiffs' business and reputations. The Unlawful Statements have been widely distributed and publicized and have been viewed by thousands of people to date. Versions of the Defamatory Manifesto and the Second Defamatory Manifesto remains widely available on the Internet. The Unlawful Statements have significantly interfered with and disrupted the Plaintiffs' business and affairs and their relationship with clients, counterparties, and potential investors, leading to a loss of business opportunities.

147. Moreover, the Plaintiffs have incurred significant costs and spent a significant amount of time investigating who is behind the Conspiracy and in seeking to have the Unlawful Statements removed from various websites.

148. As mentioned above, Anson has also received threatening telephone calls to its offices because of the Unlawful Statements.

149. Particulars regarding damages will be provided in advance of trial.

150. The Plaintiffs also seek an interim, interlocutory and permanent injunction restraining the Defendants from publishing further unlawful and defamatory statements about the Plaintiffs. As noted above, despite Anson's diligent attempts to have the Defamatory Manifesto and Unlawful Stockhouse Statements removed from the Internet, the Defendants persist in acquiring new websites to publish and disseminate the Defamatory Manifesto, the Second Defamatory Manifesto and Additional Unlawful Posts; in repeating the Unlawful Statements and publicizing the Defamatory Manifesto and Second Defamatory Manifesto through social media, including Twitter; and in publishing the Further Unlawful Stockhouse Statements, which publicized and disseminated the Defamatory Manifesto, Second Defamatory Manifesto and other Unlawful Statements. In addition, the Defendants threatened the release of two additional "Parts" to the Defamatory Manifesto. They have released one additional "Part", the Second Defamatory Manifesto, as well as the Additional Unlawful Posts about the Plaintiffs. This conduct has caused, is causing, and will continue to cause irreparable harm to the Plaintiffs' business and their reputations. This nonstop game of "whack-a-mole" cries out for a remedy.

151. Finally, the Defendants are liable for aggravated and punitive or exemplary damages. The Defendants maliciously and intentionally caused harm to the Plaintiffs through the repeated and coordinated and continuing publication, and broad online dissemination, of the Unlawful Statements. Further, Robert attempted to obtain significant payments and other benefits to purportedly assist Anson, which Anson refused. The Defendants knew, and in fact intended, that serious harm would result from their unlawful conduct.

152. The Defendants executed a coordinated, malicious campaign to spread lies about the Plaintiffs and damage their business, including attempting to reach the attention of securities regulators such as the OSC, the SEC, and IIROC. The Plaintiffs believe that the Defendants intended to cause them to become the subject of regulatory inquiries or investigations on the basis of these false and misleading allegations. Such inquiries or investigations would result in serious and irreparable reputational harm, and in addition would force the Plaintiffs to divert significant time, financial and other resources, and management attention, towards addressing any such inquiries or investigations. The Defendants also took steps to attract media attention to the Unlawful Statements in an attempt to further publicize them. The Defendants acted in a high-handed, malicious, arbitrary and/or highly reprehensible manner, as set above, which constitutes a marked departure from ordinary standards of decent behaviour. The Defendants' conduct requires the sanction of the Court.

153. The Plaintiffs propose that this action be tried at Toronto.

154. The Plaintiffs rely on the *Libel and Slander Act*, R.S.O. 1990, c. L.12 and the *Courts of Justice Act*, R.S.O. 1990, c. C.43, s. 101.

155. This pleading may be served outside of Ontario without a court order pursuant to Rules 17.02(g), (i) and (p) of the *Rules of Civil Procedure* because this proceeding relates to a claim or claims in respect of one or more torts committed in Ontario, seeks an injunction ordering a party to do or refrain from doing anything in Ontario, and is against one or more persons ordinarily resident or carrying on business in Ontario.

December 17, 2020

Amended on November 22, 2021

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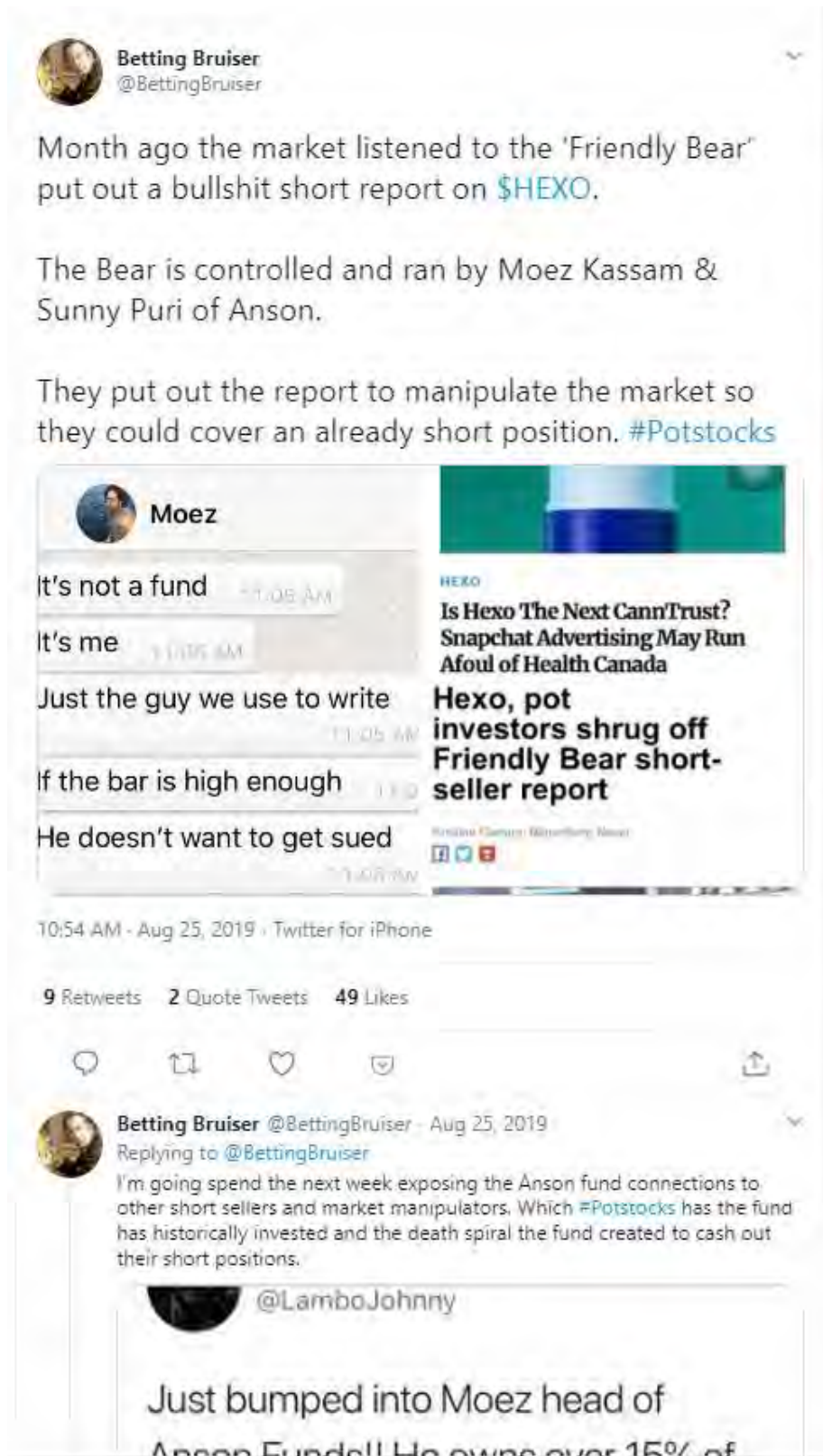
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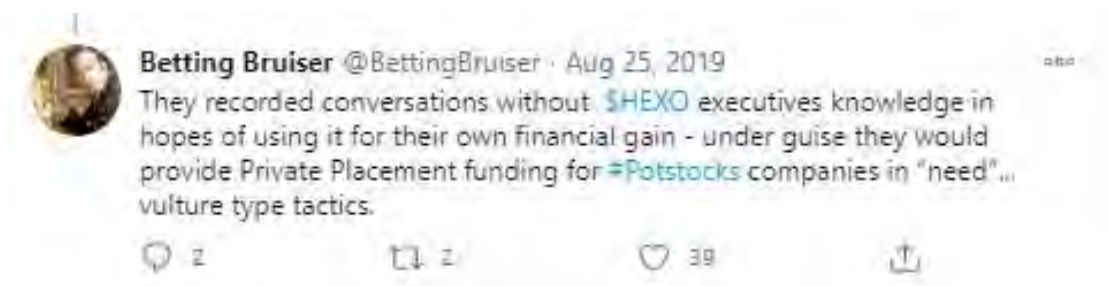
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Lawyers for the Plaintiffs

APPENDIX "A" – "Betting Bruiser" Tweets









Betting Bruiser
@BettingBruiser

Replying to @LamboJohnny and @LaurenceLauness

Right about what? That's Anson doesn't appear on Sedi as insider. No they don't and that's part of the problem. In cases were they have former managers as "independent" directors how are they not insiders?

4:52 PM · Aug 25, 2019 · Twitter for iPhone



Betting Bruiser @BettingBruiser · Aug 25, 2019

Hey @LamboJohnny if this is true ... why don't we see Anson Funds name come up as being escrowed on Sedi for owning more than 10%? I don't see Moez name either ... Anson not on any SEDI filing since 2016 for [SSOL](#) #Potstocks [twitter.com/LamboJohnny/st...](https://twitter.com/LamboJohnny/status...)

This Tweet is unavailable.



6



14



Betting Bruiser @BettingBruiser · Aug 25, 2019

Oh they have converts ... that they use to cover their short positions without suspecting retail investors ... creating any visible cover or tripping any insider trading reports... why not listed on Sedi? Cause they using the same convert scheme they use with everyone else!



1



4





Betting Bruiser
@BettingBruiser

A lot DM's about \$ZENA & Anson Funds.

Anson Funds holds a boatload of converts in \$ZENA that they are using to cover their short position.

They've had a direct hand creating chaos within management decisions. Including the listing price. How so? Anson representative! #Potstocks



Adam Spears
Independent Director

- Founder of ace148, an investment company
- Was a Principal and Portfolio Manager at Anson Funds where he managed multiple long-short equity hedge funds
- Also worked in private equity at ONCAP Management Partners, and in the investment banking group of Citigroup Global Markets

9:09 AM · Aug 26, 2019 · Twitter for iPhone

4 Retweets · 4 Quote Tweets · 35 Likes



Betting Bruiser @BettingBruiser · Aug 26, 2019

Replying to @BettingBruiser

The entire problems relating to the former CEO leaving, taking the \$TLRY deal and now death spiral financing. Was in relation to \$ZENA attempting to limit Anson's ability to cover and manipulate the share price down further. The current \$ZENA CEO is out of league. #Potstocks



Betting Bruiser @BettingBruiser · Aug 26, 2019

\$TLRY themselves wanted to offer a helping hand. As that company is the only successful #Potstocks to date to squeeze Anson Funds for a loss to my knowledge. Despite Anson Funds getting @CitronResearch to pump out as many \$TLRY short pieces it possibly could. #Potstocks



Betting Bruiser @BettingBruiser · Aug 26, 2019

I'd love to talk to the @CEO_Zenabis to try to help... but it may be a case of to little to late ... CEO wants to convert all debts to a bank loan... that's a start but expect Anson Funds to fight tooth and nail against that. Their independent director acts for Anson. #Potstocks



Betting Bruiser @BettingBruiser · Aug 26, 2019

As in the case with \$HEXO ... I wouldn't doubt that Adam is recording conversations of \$ZENA management and executives in hopes of Anson blackmailing or using the info for the detriment of the company. Adam needs to be removed. #Potstocks



Chris Rutherford @RutherfordCG · Aug 26, 2019

Replying to @BettingBruiser

How is it legal for Adam to be on the board and do what this guy is doing? It's not in the best interests of @Zenabis obviously. @CEO_Zenabis



Betting Bruiser @BettingBruiser · Aug 26, 2019

No it's not ... like \$AEF Anson will argue that they acting in best interest of the shareholder ... all a guise



Betting Bruiser
@BettingBruiser

Journalist Virtue Signalling about #PotStocks while journalist are the worse Bay Street litter bugs... all they do is put trash on the street they receive directly from Anson, MMCap, K2 & Scamaccord.



All dried up: How Bay Street cashed in on the cannabis frenzy before the carnage
The smart money got out before the cannabis bubble burst. Now, retail investors are suffering and pot companies face a financing drought
theglobeandmail.com

11:35 AM · Nov 2, 2019 · Twitter for iPhone



Betting Bruiser
@BettingBruiser

Replying to @WolfOfWeedST @ChrisParry and @issatraprunhide

Before Chris' article ... before your tweet ... at a cannabis conference when the \$MMEN executives revealed their evaluation I called it "the most overvalued cannabis stock to come to market to date"... they were being advised by Anson Funds long ago ...

2:59 PM · Nov 28, 2019 · Twitter for iPhone



Betting Bruiser @BettingBruiser · Dec 19, 2019

Replying to @BCobblaw

30%+ seems like they got that position from shorting it down & not from buying it ... rather not have Anson as shareholder? ... we all know Moez was renting Andy's house over the summer months ... they are besties!



1



1



3







Betting Bruiser
@BettingBruiser

...

The biggest chicken hawk that I've ever met in my life.
Every time I see him we have words.

Sunny Puri from Anson Funds.

If you've ever crossed paths with him then your stock is
likely -95% from its high and he holds your faint in his
hands via convertible debt. [#PotStocks](#)



11:11 AM · Mar 11, 2020 · Twitter for iPhone

4 Retweets 39 Likes



Betting Bruiser
@BettingBruiser

Watch "Moez Kassam" from Anson Funds on [#Vimeo](#) give short sellers a bad name. Cringe worthy. I think that's filmed at [@DeFrancesco_A](#) house in the Muskoka? vimeo.com/140274640 [#PotStocks](#)



Moez Kassam

This is "Moez Kassam" by Charles Chan on Vimeo, the home for high quality videos and the people who love them.
vimeo.com

1:54 PM · Jul 2, 2020 · Twitter for iPhone



Betting Bruiser
@BettingBruiser

Replying to [@BettingBruiser](#)

Director: Rick Brar former CEO & Co-Founder of [@Zenabis](#) [\\$ZENA](#)

Secretly gave Anson Funds a share loan agreement so they could short [\\$ZENA](#) to the dismay of retail investors. Upon finalizing that he aggressively dumped all his shares. [\\$ZENA](#) -98%. \$2.25 to \$0.08 [#PotStocks](#)
2/9

9:50 AM · Jul 6, 2020 · Twitter for iPhone



Betting Bruiser
@BettingBruiser

Replying to @BettingBruiser

Director, President and Co-Chief Executive Officer, Chief Financial Officer: Eli Dusenbury

A rent a CFO whoms main gig was a CFO of #PotStocks Company \$ISOL @isodiol. Ankther company directly involving Anson Funds. Another company which has seen a 98% fall in share price. 8/9

9:50 AM · Jul 6, 2020 · Twitter for iPhone



Betting Bruiser
@BettingBruiser

I have been a early voice of concern re: Moez Kassam, Sunni Puri & Anson Funds. Their tactics are simply sleight of hand with the gift of gab. I know their strategies very well this article shed some light on them. #PotStocks



Moez Kassam and Anson Funds: A Tale of Corruption, Greed, and Failure
moezkassam.com

9:43 AM · Sep 29, 2020 · Twitter for iPhone

8 Retweets 2 Quote Tweets 63 Likes



Betting Bruiser
@BettingBruiser

one

Something that was wrong about the Anson and Moez article circulating was the allegation that Moez/Anson compensates people to write reports. They just use people and don't pay anyone but themselves. [\\$ZENA](#) [\\$APHA](#) [#PotStocks](#)

11:08 AM · Sep 30, 2020 · Twitter for iPhone

2 Retweets · 28 Likes



Betting Bruiser
@BettingBruiser

One thing that was left out of the [\\$ZENA](#) and Anson Funds report was fact that Anson's funds legal counsel (Laura Salvatori) husband (Muneeb Yusuf) via Brownstone Advisors facilitated the toxic financing deal between [\\$ZENA](#) & [\\$TLRY](#) ... conflict of interest much? [#PotStocks](#)



Brownstone Advisors Inc. ("Brownstone") acted as strategic advisors to Zenabis in connection with the Supply Agreement. Zenabis will pay a strategic advisory fee to Brownstone, which fee will include (subject to receipt of all required regulatory approvals) 319,148 common shares of Zenabis.



Corporate Director
Brownstone Capital
2018 - Present • 2 y
Toronto, Canada Area

1:50 PM • Oct 9, 2020 • Twitter for iPhone



Betting Bruiser @BettingBruiser • Oct 9

Replying to @BettingBruiser

Hi Laura 🙌 ... cause I know you follow every tweet I speak about Anson ... I thought I'd give you a shoutout! [\\$ZENA](#) [\\$TLRY](#) [#PotStocks](#)



4



38



Betting Bruiser @BettingBruiser • Oct 9

If you r an Anson Fund investor ... be prepared to have your funds locked up b/c there is a lot information floating out there that paints a picture of scams to benefit none other then Moez Kassam. [\\$ZENA](#) story is just one of hundreds were its alleged he broke the law. [#PotStocks](#)



4



32





Betting Bruiser
@BettingBruiser

Maybe I should speak to regulators about Anson Funds
and collect the reward in 50 years

Or should I just leak snippets of recorded conversations
with Moez Kassam?

Thoughts? [#PotStocks](#)



2:17 PM · Oct 9, 2020 · Twitter for iPhone

6 Retweets 1 Quote Tweet 83 Likes



Betting Bruiser
@BettingBruiser

I think I'm going release some of the recordings about Moez Kassam ... just interested how much money Anson pays Ben Axler from @sprucepointcap ... you care to comment Ben?

"You know what's gonna happen"

14:47

"A lot of times if I'm working with Ben (Axler) or doing this kind of stuff (shorts) than **we can create our own catalysts right because we're putting out a report**"

"So I know when stuffs gonna go down and I'll buy puts"

3:19 PM · Oct 9, 2020 · Twitter for iPhone

3 Retweets 2 Quote Tweets 64 Likes



Betting Bruiser
@BettingBruiser

Everyone have a good long weekend expect for Anson Funds Moez Kassam he can choke on a wishbone!
[#PotStocks](#)

4:55 PM · Oct 9, 2020 · Twitter for iPhone

4 Retweets 1 Quote Tweet 105 Likes



Betting Bruiser
@BettingBruiser

...

Has Anson Funds and/or MMCAP name all over it
\$VIVO #PotStocks



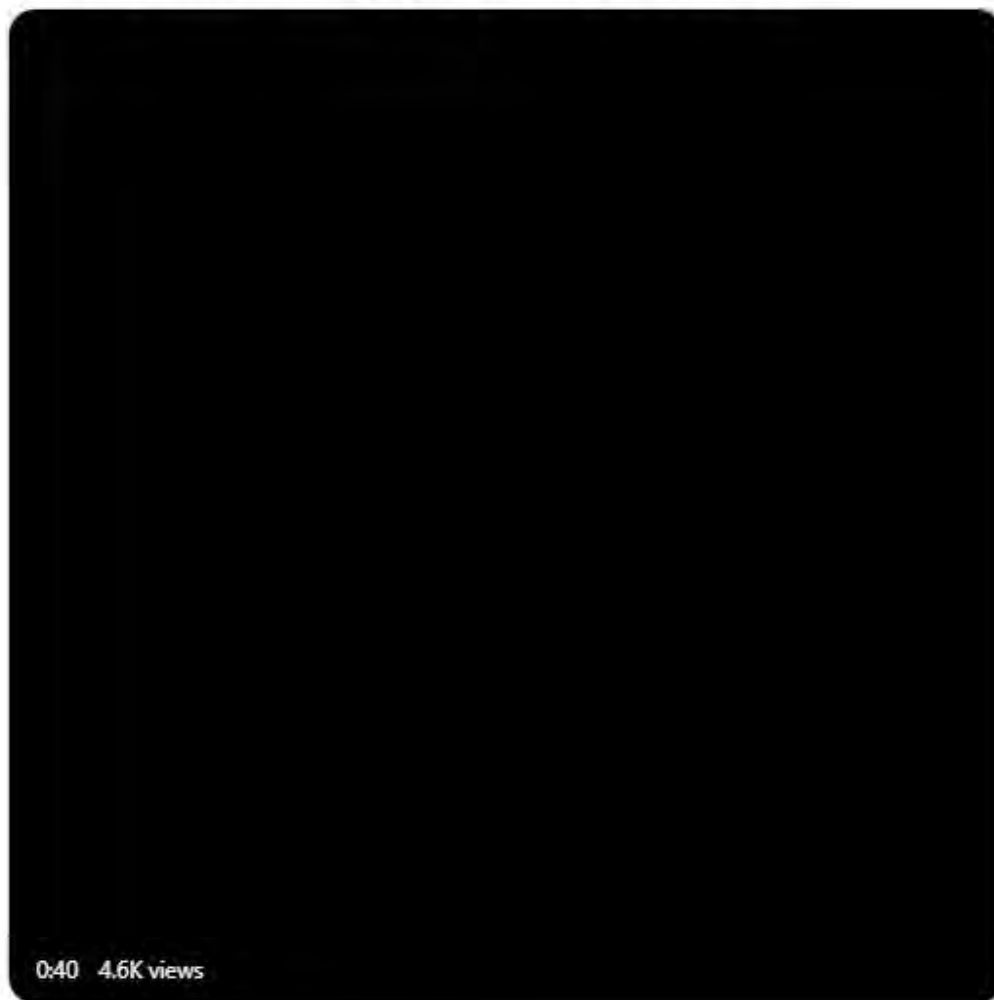
VIVO Cannabis™ Withdraws \$5 Million Offering and Provides Business Update
TORONTO, Oct. 16, 2020 /CNW/ - VIVO Cannabis Inc.
ca.finance.yahoo.com

8:33 AM · Oct 16, 2020 · Twitter for iPhone



Betting Bruiser
@BettingBruiser

This is Moez Kassam from Anson Funds in the flesh running scared from recent reports about his tactics. Worth a listen. This guy is scum of the earth.



10:50 AM · Oct 30, 2020 · Twitter for iPhone



Betting Bruiser
@BettingBruiser

999

Replying to @BettingBruiser

He doesn't have anyone but the scum Sunny Puri, the Globe & Mail and other short sellers doing his dirty work for him. Including paying @sprucepointcap @CitronResearch @FriendlyBearSA and others ... why did you block me Ben Axler ... is it the fact your Moez Kassam lapdog?



10:55 AM · Oct 30, 2020 · Twitter for iPhone



Betting Bruiser
@BettingBruiser

0 0 0

Happy Halloween to the #PotStocks community!

Trick or Treat:

Who is going to toilet paper Moez Kassams house tonight? \$ZENA executives should just throw stock as it's cheaper then toilet paper!



12:48 PM · Oct 31, 2020 · Twitter for iPhone

APPENDIX “B” – “John Murphy” Tweets





John Murphy @JohnMur67039142 · Jul 24

@MunchingMoez #ansonfunds, paid for the report as they were caught offside. rumours off 900k in the single digits. called in a favor and doubled down @HindenburgRes moez was telling ppl it was going to 6.00. even called prop desks wanting them to short



John Murphy

@JohnMur67039142



it seems moez and sunny from @AnsonGroupFunds @MunchingMoez @HindenburgRes @globeandmail @davidmilstead quickly blocked me by suggesting they were short 1mm \$FD. i think much more will come out on this trade. @business @BNNBloomberg



John Murphy @JohnMur67039142 · Jul 28

Looks like @facedrivecanada \$FD is going higher @HindenburgRes @AnsonGroupFunds finance.yahoo.com/news/400-tesla...

7:41 PM · Jul 30, 2020 · Twitter for iPhone



John Murphy @JohnMur67039142 · Aug 14

@HindenburgRes @BNNBloomberg @AnsonGroupFunds this story will be all over the street within months. how dirty **moez** hurt his business parnter and lied to the founders of Sapha. @LamboJohnny @BettingBruiser



MDeCicco @MDeCicco_ · Aug 14

Hey @MunchingMoez. Can you confirm/deny? The word around is that you were the source of the @HindenburgRes Short Attack on @aphrianc, to cover HUGE losses on \$TLRY

[Show this thread](#)



John Murphy @JohnMur67039142 · Aug 14

SFD #moezkassam paid for negative promotions on **SFD** Sapha \$tlry and many more. was this disclosed by publisher? @AnsonGroupFunds @HindenburgRes @BNNBloomberg @BettingBruiser \$tlry Sapha #shortsellers @IIROCInfo



Stockhouse.

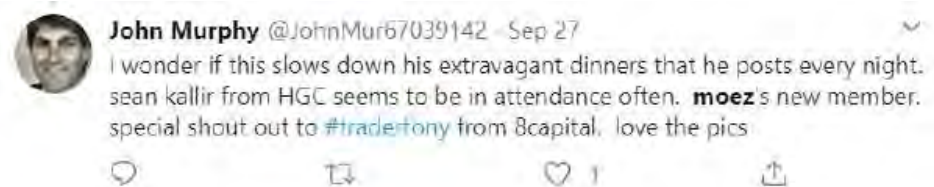
Just read this on Yahoo: short seller Moez Kassam go...
Just read this on Yahoo: short seller Moez Kassam got BURNED

stockhouse.com











John Murphy @JohnMur67039142 · Sep 29

big difference from shorting a fraud and paying for a short report calling a company a fraud to try and fix your trade. bad companies need to be taken down. big difference between the two. **anson** does both!



John Murphy
@JohnMur67039142

Home stockmanipulators.com. Cyber crimes added to the list of wrongdoings by @AnsonGroupFunds ? who funded this defense? unit holders? @davidmilstead @globeandmail @thomasg_grizzle

7:52 AM · Sep 29, 2020 · Twitter for iPhone



John Murphy @JohnMur67039142 · Sep 30

chatter is \$300k-400 for that report. a deep audit of **anson's** books might help.



John Murphy @JohnMur67039142 · Sep 30

Anson and Moez put out this response, it fails to address the allegations outlined. when they question a company they ask for a line by line response. we are waiting @MunchingMoez ansonfunds.com/wp-content/upl... @QTRResearch @BettingBruiser @LamboJohnny @weedstreet420 @davidmilstead





John Murphy @JohnMur67039142 · Oct 28

[\\$FD Facedrive](#) target of an ongoing short attack by [@AnsonGroupFunds](#)
how will this play out? [@QTRResearch](#) [@BettingBruiser](#) [@weedstreet420](#)
[@ddale8](#) [@BNNBloomberg](#) [@DisruptorsBNN](#)



Blackrock, Bezos And Musk Charging Ahead in this \$30 Trillion Mega-Tr...
In the last two years there has been a 733% increase in ESG investments
while tech companies have soared, now there is one new industry playe...
[finance.yahoo.com](#)



John Murphy
@JohnMur67039142

Moez Kassam and Anson Funds: A Tale of Corruption,
Greed, and Failure – Capital Market Crimes

[@BettingBruiser](#) [@weedstreet420](#) [@QTRResearch](#)
[@BNNBloomberg](#) [@JeffKehoeOSC](#) #moez



Moez Kassam and Anson Funds: A Tale of Corruption, Greed, and Failure
IMPORTANT UPDATE: OSC and IIROC are now aware of Anson's illegal market
activities and are asking the public for information.
[marketcrimes.to](#)

2:08 PM · Oct 29, 2020 · Twitter for iPhone





APPENDIX “C” – James Stafford

A. Stafford’s Background

1. In his capacity as a stock promoter, Stafford has been involved in numerous pump and dump securities schemes, including several of the companies mentioned in the Unlawful Statements. Stafford’s role in such schemes is to disseminate via the Internet sensationalist and misleading information regarding his clients (usually publicly traded issuers) with the intention of increasing – artificially and often temporarily – the trading volume and price of securities of the company. Those who sell shares in the company while the stock price is inflated – including proponents of the pump and dump scheme – enjoy significant profits, whereas unsophisticated investors (often retail investors) are habitually faced with significant losses when the share price declines back to its intrinsic value. This is also known as the “pump and dump”.

2. While Stafford’s articles on www.OilPrice.com purport to be – and are intentionally designed to appear as – objective news reports, they are promotional materials. Stafford is often directly paid for his articles on www.OilPrice.com in cash or shares by the companies whose securities he is promoting. As such, he often owns securities in the company at issue and is incentivized to increase both their trading price and volume. The disclaimers attached to the bottom of Stafford’s articles on www.OilPrice.com acknowledge this and specifically acknowledge the temporary effects of his pump and dump scheme.

3. The following is a typical example of the disclaimers attached to Stafford’s articles. It appeared at the bottom of an article titled “Is This The Hottest Oil Play Of The Year”,

published January 14, 2021 regarding RECO. It acknowledges that Stafford and/or his companies were paid \$70,000 to write a single article, and that they own shares in RECO:

ADVERTISEMENT: This communication is not a recommendation to buy or sell securities. OilPrice.com, Advanced Media Solutions Ltd., and their owners, managers, employees, and assigns (collectively the “Company”) **have been paid by [RECO] seventy thousand U.S. dollars to write and disseminate this article. As the Company has been paid for this article, there is a major conflict with our ability to be unbiased, more specifically:**

This communication is for entertainment purposes only. Never invest purely based on our communication. We have not been compensated but may in the future be compensated to conduct investor awareness advertising and marketing for [RECO]. Therefore, this communication should be viewed as a commercial advertisement only. We have not investigated the background of the company. **Frequently companies profiled in our alerts experience a large increase in volume and share price during the course of investor awareness marketing, which often end as soon as the investor awareness marketing ceases.** The information in our communications and on our website has not been independently verified and is not guaranteed to be correct.

SHARE OWNERSHIP: **The owner of Oilprice.com owns shares of this featured company and therefore has an additional incentive to see the featured company’s stock perform well.** The owner of Oilprice.com will not notify the market when it decides to buy more or sell shares of the issuer in the market. The owner of Oilprice.com will be buying and selling shares of the issuer for its own profit. This is why we stress that you conduct extensive due diligence as well as seek the advice of your financial advisor or a registered broker-dealer before investing in any securities. [Bolded emphasis added.]

B. Stafford’s Animus Towards the Plaintiffs

4. Stafford was hired, directly and/or indirectly, to promote, and artificially inflate the volume and/or price of, Facedrive shares using his website, www.OilPrice.com. Since March 2020, Stafford and/or his companies have published over seventy sensationalist posts about Facedrive (a full list is set out in Section D of this Appendix), with titles including “Could This Be One Of The Best Ways To Play The EV Boom This Summer?”

and “The \$110 Trillion Trend That Bezos, Buffett And Musk Are Betting On”. The public disclosure on www.OilPrice.com stated that:

- (a) Stafford and/or his companies “signed an agreement [with Facedrive] to be paid in shares to provide services to expand ridership and attract drivers in certain jurisdictions outside Canada and the United States” – although, in fact, Stafford and/or his companies was hired for stock promotion purposes;
- (b) Stafford “has acquired additional shares of FaceDrive...for personal investment” and that, as a result, Stafford and/or his companies have “a substantial incentive to see the featured company’s stock perform well”; and
- (c) www.OilPrice.com’s purported articles about Facedrive “**should be viewed as a commercial advertisement only. We have not investigated the background of the featured company. Frequently companies profiled in our alerts experience a large increase in volume and share price during the course of investor awareness marketing, which often end as soon as the investor awareness marketing ceases**” (emphasis added).

5. The www.OilPrice.com disclosure does not, on its own, identify how much Stafford was paid. Many readers of www.OilPrice.com, particularly unsophisticated ones, would not have realized that the website was hired to promote Facedrive stock, and was not providing objective news and analysis about the company.

6. In total, Stafford directly and indirectly, at one point in time, owned up to approximately 1.5 million shares in Facedrive, some of which he received as compensation for stock promotion, and some of which he purchased on the open market. As a result, Stafford had a significant incentive to ensure that Facedrive's share price appreciated and remained artificially inflated. One and a half million shares of Facedrive would have been worth approximately \$90 million at Facedrive's all-time high share price of \$60 and are worth approximately \$3 million at the current share price of approximately \$2 (assuming Stafford held his shares).

7. These incentives gave Stafford the impetus to engage in the Conspiracy and spread Unlawful Statements about the Plaintiffs. Given Stafford's financial interest in Facedrive, he has an incentive to diminish and disparage critical commentary about Facedrive, published by market participants or other observers, which questions the intrinsic value of the company. On July 23, 2020, Hindenburg Research published critical research findings about Facedrive. Later that evening, the first Unlawful Statements about the Plaintiffs were published on Stockhouse.

8. Part of Hindenburg Research's critical findings about Facedrive related to a firm named Medtronics Online Solutions Ltd. ("**Medtronics**"). Facedrive, a ride-share start-up, publicly claimed that it had hired Medtronics for the purpose of broadening its ridership. Hindenburg Research's critical findings included that Medtronics was controlled by Stafford; that Medtronics was in fact a shell company that obfuscated its true purpose; and that Stafford, via Medtronics, had actually been hired to promote Facedrive's stock, not broaden ridership. Pursuant to a consulting services agreement, Facedrive was to pay Medtronics 800,000 in shares for the alleged services through a monthly fee (worth

roughly \$8 million at the time the agreement was press released by Facedrive; see also **Appendix “E”**, paragraph 45 below, where Robert indicated that Stafford was paid \$8 million to promote Facedrive). On September 9, 2020, Facedrive terminated the consulting services agreement and was of the opinion that the obligations under the agreement had been fulfilled. On November 27, 2020, the company disclosed a signed settlement agreement deeming its obligations fulfilled as of October 19, 2020. This all occurred a few months after the release of Hindenburg Research’s report regarding Facedrive, when a disagreement ended the relationship between Facedrive and Medtronics, although Medtronics still received all of its shares under the agreement. Had the consulting engagement continued, Stafford may have stood to receive more shares in Facedrive, increasing his compensation.

9. Stafford was also hired to promote, and artificially inflate the volume and/or price of, RECO’s shares. Since January 2020, Stafford and/or his companies have published over twenty sensationalist articles promoting RECO on www.OilPrice.com (a full list is set out in Section E of this Appendix), with titles including “Is This The Most Exciting Oil Stock For 2021?” and “Recon Africa: The Truth About The World’s Most Exciting Oil Play”. The disclosure on these articles indicates that Stafford was paid US\$280,000 for a series of four articles in January 2021. All of the articles consistently disclosed that Stafford and/or his companies own shares in RECO and accordingly have a substantial incentive to see the share price perform well.

10. Stafford’s financial interest in RECO once again motivated him to spread Unlawful Statements about the Plaintiffs through the Conspiracy. On June 20, 2021, The Globe and Mail published a critical article about RECO. On June 24, 2021, Viceroy Research,

another forensic research firm, expanded on The Globe and Mail's reporting and posted further critical findings about RECO. The critical findings included allegations that RECO had engaged in stock promotion and had other fundamental issues. The Second Defamatory Manifesto was published on June 28, 2021, a few days after Viceroy Research released its first report regarding RECO.

11. Given Stafford's significant financial interest and exposure to Facedrive and RECO, he publicly wrongfully used the Plaintiffs as scapegoats for their share prices declining, and in particular he blamed the Plaintiffs for the critical research findings about Facedrive and RECO. In fact, the share prices of overvalued companies decline not because of the Plaintiffs' influence, but rather because of market fundamentals, including poor performance, failures to meet the business plan, shareholder infighting, and/or corporate governance issues. Consistent with Stafford's incentives, the Unlawful Statements allege, among other things, that the Plaintiffs commissioned and paid for critical analyst and/or news reports about Facedrive and RECO based on fabricated information – both stocks that Stafford has a significant interest in inflating the value of and/or was hired to promote.

C. Stafford's Possible Location

12. Stafford's company, A Media Solutions Limited is connected with the address 4TA Priv Piedra Del Comal 21, Casa 2 col. Valle De Tepepan Tlalpan Distrito Federal Mexico, 14 646, which is near Mexico City. Stafford appears to have connections to numerous jurisdictions and it is unknown to the Plaintiffs whether Stafford's residential address is in Mexico, England, the Bahamas, or elsewhere. Some of the Unlawful Statements described in the statement of claim were published from the area surrounding Mexico City

(many from the city of Toluca) and multiple employees of www.OilPrice.com appear to be based in Mexico City or the surrounding areas.

D. List of www.OilPrice.com articles regarding Facedrive

- 1- Mar 19, 2020- The Most Exciting Green Startups To Watch In 2020
- 2- April 14, 2020- Coronavirus And The Coming Financial Revolution
- 3- May 5, 2020- The \$30 Trillion Trend That's Bigger Than The Entire U.S. Stock Market
- 4- May 28, 2020- Buffett, Bezos And Blackrock Are Betting Big On This \$30 Trillion Mega-Trend
- 5- June 8, 2020- Tech Giants Battle It Out In Billion Dollar Food Delivery War
- 6- June 15, 2020- World's Largest Hedge Fund Goes All In On This \$30 Trillion Mega-Trend
- 7- July 22, 2020- How COVID Transformed The \$70 Trillion Stock Market
- 8- July 23, 2020- Google, Apple And Amazon Are Leading A \$30 Trillion Assault On Wall Street
- 9- August 5, 2020- 1 Million Downloads In 5 Weeks – The Tech Company Fighting COVID In Canada
- 10- August 17, 2020- Bezos And Blackrock Are Pouring Billions Into This \$30.7 Trillion Trend
- 11- October 28, 2020- Blackrock, Bezos And Musk Charging Ahead in this \$30 Trillion Mega-Trend
- 12- November 4, 2020- The \$110 Trillion Trend That Bezos, Buffet And Musk Are Betting On
- 13- November 4, 2020- The Biggest Ever Transfer Of Wealth Is Happening Right Now
- 14- November 9, 2020- The Death Of Car Ownership: How Tech Is Killing The \$3 Trillion Auto Industry
- 15- November 11, 2020- The 6 Hottest Energy Tech Stocks For 2021
- 16- November 17, 2020- Blackrock and Fidelity Are Betting Big On This \$130 Trillion Mega-Trendy
- 17- November 20, 2020- The 3 Hottest Electric Vehicle Stocks Of The Year
- 18- November 24, 2020- The Investment Trend That Could Send Tesla To \$2 Trillion
- 19- November 26, 2020- Here's Why Electric Vehicle Stocks Have Exploded This Year

- 20- December 3, 2020- The Real Reason Why Tesla Is Heading Towards A Trillion-Dollar Valuation
- 21- December 6, 2020- The 3 Hottest Electric Car Stocks For 2021
- 22- December 8, 2020- How To Profit From The Death Of Car Ownership
- 23- December 9, 2020- The Electric Car Boom Is About To Get Even Hotter
- 24- December 13, 2020- Do Not Buy An Electric Car For Christmas Until You Have Read This
- 25- December 15, 2020- How An Obscure 400 Year Old Law Sparked A \$5 Trillion Transportation Revolution
- 26- December 16, 2020- 2 Electric Car Stocks To Watch In 2021
- 27- December 17, 2020- Tesla's 1,000% Stock Price Explosion Isn't About Electric Cars
- 28- December 22, 2020- How Electric Vehicle Hype Created A Brand New Trillion Dollar Market
- 29- December 22, 2020- Why DoorDash Was The Hottest IPO Of The Year
- 30- December 28, 2020- 3 Ways to Play the \$30 Trillion ESG Boom in 2021
- 31- December 28, 2020- The Great Reset: BlackRock Is Fueling A \$120 Trillion Transformation On Wall St.
- 32- December 29, 2020- The Real Reason Big Tech Dominated The Market In 2020
- 33- January 4, 2021- How 400 Year Old Blood Taxis Created A \$5.7 Trillion Industry
- 34- January 12, 2021- BlackRock Is Leading A \$120 Trillion Investment Boom That Is Upending Wall St
- 35- 06 January 2021- BlackRock Is Leading A \$120 Trillion Investment Boom That Is Upending Wall St.
- 36- 08 January 2021-3 Electric Vehicle Stocks That Could Boom In 2021
- 37- 13 January 2021-Biden's Boom: The \$30 Trillion ESG Sector Is Set To Explode In 2021
- 38- 18 January 2021-Is This The Most Exciting ESG Play Of 2021?
- 39- 20 January 2021-The Biden Boom Is Coming And These Stocks Could Soar

- 40- 22 January 2021-Biden's Green Energy Boom Could Send These Electric Vehicle Stocks Soaring
- 41- 28 January 2021-The Real Reason Tesla's Stock Exploded In 2020
- 42- 29 January 2021-Biden's Green Energy Boom Could Send The Electric Car Sector Into Overdrive
- 43- 03 February 2021-These Stocks Could Soar As The U.S.-China Electric Vehicle War Heats Up
- 44- 05 February 2021-Green Tech Could Create The First Trillionaire
- 45- 09 February 2021-2 Under The Radar Electric Vehicle Stocks That Could Soar In 2021
- 46- 11 February 2021-Biden's Clean Energy Revolution Could Send These Stocks Soaring
- 47- 15 February 2021-The Single Biggest Threat To The Electric Vehicle Boom
- 48- 17 February 2021-Biden's \$2 Trillion Green Plan Could Send This Stock Soaring
- 49- 23 February 2021-Biden Is About To Send The Electric Vehicle Revolution Into Overdrive
- 50- 26 February 2021-The Real Reason Elon Musk Could Become The World's First Trillionaire
- 51- 03 March 2021-The \$1 Trillion Electric Vehicle Boom Is Just Getting Started
- 52- 05 March 2021-The Single Biggest Threat To The Electric Vehicle Revolution
- 53- 15 March 2021-Two Tech Stocks To Watch As Biden Pours Trillions Into The Green Economy
- 54- 04 April 2021-The Future is Electric: Why EV Stocks Could Continue To Soar In 2021
- 55- 14 April 2021-Could This Be One Of The Best Ways To Play The Electric Vehicle Boom?
- 56- 16 April 2021-How To Play The \$2.6 Trillion Clean Energy Investment Boom
- 57- 11 May 2021-3 Stocks That Could Win Big From Biden's \$2 Trillion Infrastructure Plan
- 58- 13 May 2021-Biden's \$2.5 Trillion Infrastructure Plan Could Send These EV Stocks Soaring

- 59- 14 May 2021-Is This One Of The Best Ways To Play The Electric Vehicle Boom?
- 60- 17 May 2021-2 Under The Radar EV Stocks Set To Explode This Summer
- 61- 19 May 2021-One Company To Watch As Electric Vehicle Stocks Get Ready To Fly This Summer
- 62- 24 May 2021-America's Gas Crisis Could Send These EV Stocks Even Higher
- 63- 27 May 2021-Could This Be The No.1 EV Stock Of 2021?
- 64- 01 June 2021-Why EV Stocks Are Poised To Explode This Summer
- 65- 09 June 2021-These EV Stocks Could Explode Higher This Summer
- 66- 11 June 2021-America's \$2 Trillion Infrastructure Boom Could Send ESG Stocks Soaring
- 67- 20 June 2021-The Death Of Car Ownership: This \$30 Trillion Trend Could Kill The Auto Industry
- 68- 24 June 2021-The 3 Hottest Electric Vehicle Stocks For 2021
- 69- 28 June 2021-Could This Be One Of The Best Ways To Play The EV Boom This Summer?
- 70- 06 July 2021-Is This The Hottest ESG Stock Of 2021?
- 71- 09 July 2021-Biden's \$2.5 Trillion Plan Could Send These 3 EV Stocks Soaring
- 72- 14 July 2021-The Future Of Transportation: EV Stocks Could Fly This Summer
- 73- 16 July 2021-One Man Just Sent The \$30 Trillion ESG Revolution Into Overdrive

E. List of www.OilPrice.com articles regarding RECO

1. 5 Things You Need To Know About The World's Hottest Oil Play - 16 August, 2021
2. Update On The World's Most Exciting Oil Play: Interview With Scot Evans - 09 August 2021
3. Recon Africa De-Risks The World's Most Exciting Oil Find-05 August 2021
4. Is The World's Hottest Oil Play About To Surprise Markets Again?-02 August 2021
5. Why Short Sellers Are Desperately Trying (And Failing) To Sink Recon Africa-25 July 2021
6. Could This Be The Most Promising Oil Play Of The Decade?-20 July 2021
7. The Best 2 Stocks To Hold As Oil Prices Explode-15 July 2021
8. The Small Exploration Company That Shocked The Oil Industry-08 July 2021
9. Recon Africa: The Truth About The World's Most Exciting Oil Play-29 June 2021
10. Why Namibia Could Become The Biggest Oil Story of the Decade-25 June 2021
11. Is This The Most Exciting Oil Play Of The Last 20 Years?-10 June 2021
12. Is There A Huge Undisclosed Short In Oil Explorer Reconnaissance Energy Africa?-27 May 2021
13. The Best Is Yet To Come For The World's Hottest Oil Play-19 April 2021
14. Two Oil Stocks To Watch In 2021-29 January 2021
15. Could This Be The Best Way To Play The Oil Rebound?-21 January 2021
16. Is This The Hottest Oil Play Of The Year?-14 January 2021
17. The Most Important Oil Find Of The Next Decade Could Be Here-13 January 2021
18. Is This The Most Exciting Oil Play Of The Decade?-08 January 2021
19. How To Play The Oil Price Rebound In 2021-05 January 2021
20. Could This Be The Top Oil Play For 2021?-21 December 2020
21. 2 Ways To Win Big On The Oil Price Rebound-16 December 2020
22. Is This The Most Exciting Oil Stock For 2021?-18 November 2020

23. The World's Last Major Onshore Oil Play?-06 October 2020
24. Two Ways To Win Big On The Oil Price Rebound-23 September 2020
25. The Biggest Oil Discovery Of The Year Could Happen Here-24 August 2020
26. 3 Ways To Play The Coming Oil Boom-18 August 2020
27. Supermajors Are Flocking To This Booming Oil Frontier-30 June 2020

APPENDIX “D” – Unlawful Stockhouse Statements

A. The July 23, 2020 Stockhouse Post

13. On July 23, 2020, Hindenburg Research published a critical report about Facedrive, a company whose stock Stafford was hired to promote.

14. Later that evening, Stafford and the other Defendants conspired to anonymously publish a post titled “The Real Story on Moez Kassam and Anson Funds – Part 1” on Stockhouse on July 23, 2020, under the pseudonym “JusinTime”:



15. The July 23 Stockhouse Post called Kassam a “criminal” and included statements accusing him of engaging in illegal, unethical, and “corrupt” business practices as well as egregious personal attacks, which were intended to damage his reputation and turn investors away from him. The accusations are false and defamatory.

16. The July 23 Stockhouse Post accused Kassam of being “corrupt and criminal” and asserted that his practices included “treading on people, lying and using every trick in the book to bring companies down that he bet against” (emphasis added below):

So here is the beginning part of the tale about the corrupt and criminal CIO at Anson funds?
A few short years ago Moez Kassam was a high flying star in the hedge fund space. He had \$1 billion under management (now down to \$250 million and falling) and was the praise of the financial community. But what people don't know is that his media praise was paid for (like when Toronto Life covered his wedding – paid for and made to look like an editorial - shame). But even worse he made his money the dirty way, treading on people, lying and using every trick in the book to bring companies down that he bet against. Whatever it took, whoever he ruined financially or reputation wise he would do it to turn a profit.

17. In particular, the July 23 Stockhouse Post discussed Anson's investment in the cannabis company Tilray Inc. ("**Tilray**"). The post falsely asserted that, during this period, Anson had "a large naked short position" which posed a "significant credit risk" to its creditors, and that Anson committed "numerous securit[ies] violations [in] ever f[l]avour imaginable" in order to protect its solvency.

18. The July 23 Stockhouse Post also falsely stated that Anson was "again caught naked" in relation to Facedrive, falsely implying that Anson's conduct was abusive or illegal and asking IIROC if it would be investigating "how Moez creates paper". Anson does not engage in naked short selling.

19. The July 23 Stockhouse Post stated that the Plaintiffs were "bad actors" who are "getting away with" "huge regulatory infringements", and that there were "zero repercussions for their illegal behaviour."

20. The July 23 Stockhouse Post claimed that further allegations of "corruption, lies and foul play" against the Plaintiffs were forthcoming, and concluded with, "Stay tuned especially IIROC, juicy bits coming for you folks."

21. Jacob, who maintains a Twitter account through an alter-ego named "John Murphy" with the username @JohnMur67039142, tweeted a link to the Stockhouse July Post ***on the day it was published:***



The timing demonstrates insider knowledge that the July 23 Stockhouse Post was being published.

22. Shortly after the publication of the July 23 Stockhouse Post, “John Murphy” issued tweets alleging that the Plaintiffs had a short position in Facedrive and predicting that “much more will come out on this trade”. For example:



23. “John Murphy” included the Twitter accounts of The Globe and Mail and its reporter David Milstead, as well as BNN Bloomberg, in this tweet in order to draw these allegations to the media’s attention.

B. The August 14, 2020 Stockhouse Post

24. The Defendants conspired to publish a further defamatory and anonymous post on Stockhouse on August 14, 2020 titled “Moez Kassam and Anson Funds – Short \$500 M and Lose It All” under the pseudonym “evtrader”:



25. This post was published using an IP address originating in Mexico City, where multiple www.OilPrice.com employees are located. It made similar allegations to the July 23 Stockhouse Post.

26. The August 14 Stockhouse Post continued the egregious and baseless personal attacks against Kassam, referring to him disparagingly as an “awful little grot” and falsely stating that the Plaintiffs “lost \$500 million on a Tilray short”.

27. The August 14 Stockhouse Post also stated that “regulatory fire...will be coming [Kassam’s] way soon.” This was one of several attempts to draw regulatory attention to Anson, and falsely imply that the Plaintiffs were engaged in behavior that violated securities regulations.

28. Also on August 14, 2020, “John Murphy” retweeted the false claim that Anson was behind the report produced by Hindenburg Research (“**Aphria Hindenburg Report**”) regarding Aphria, a cannabis company, and predicted that the “story will be all over the streets within months”. This tweet included a photo of Kassam that later appeared in the

Defamatory Manifesto, and also included the Twitter account of BNN Bloomberg to draw the allegations to its attention. The tweet read as follows:



29. The same day, “John Murphy” tweeted additional allegations that Kassam paid for critical reports regarding Facedrive, Aphria, Tilray and other stocks:

\$FD #moezkassam paid for negative promotions on \$FD [Facedrive Inc.] \$apha [Aphria] \$tlry [Tilray] and many more. Was this disclosed by publisher? @AnsonGroupFunds @HindenburgRes @BNN Bloomberg @BettingBruiser \$tlry \$apha \$shortsellers @IIROCinfo

C. The August 17, 2020 Stockhouse Post

30. The Defendants conspired to continue their scheme to harm the Plaintiffs by anonymously publishing a post on Stockhouse on August 17, 2020 titled “The Real Story on what happened with Moez Kassam and Aphria”, under the pseudonym “Bundjy”. This

post was published using an IP address originating in Toluca, a suburb of Mexico City, where www.OilPrice.com has multiple employees:



31. The August 17 Stockhouse Post alleged that Kassam is “a **corporate sociopath** of the worst kind...He talks the talk and **worms his way into friendships that he fully plans to betray** for a dollar at the first opportunity.”

32. The August 17 Stockhouse Post alleged that Anson had invested in Aphria, but that following Anson’s “failed short campaign against Tilray”, the Plaintiffs “became desperate” and “**decided to betray [Kassam’s] friends and colleagues at Aphria.**”

33. The August 17 Stockhouse Post falsely stated that the Plaintiffs commissioned the Aphria Hindenburg Report to publish negative material regarding Aphria, and that the Plaintiffs provided Anderson with “sensitive, insider information that [Kassam] obtained from his friendships with Aphria management and founders”.

34. The August 17 Stockhouse Post also falsely claimed that, shortly before the Aphria Hindenburg Report was released, the Plaintiffs took a short position in Aphria so that they could profit from the diminution of its stock price. Aphria’s stock fell following the release of the report, and the post claimed that, “to the outside world Kassam feigned shock...to avoid suspicion even though he had orchestrated the entire scheme and illegally fed Nate insider information.”

35. The August 17 Stockhouse Post implied Anson's conduct violated securities regulations by encouraging regulators to investigate the allegations it contained. It concluded by encouraging readers to "[c]opy and share as I'm sure Moez will try to have this post removed."

36. Shortly after the August 17 Stockhouse Post was published, Anson received an anonymous telephone call at its offices threatening harm to Anson and Kassam.

37. On August 21, 2020, Robert texted Spektor about Puri, commenting: "When I see Sunny...I'm punching his ticket...I've chased sunny now twice now...Ran like a bitch". In the same conversation, he implied that he could have physical harm done to Kassam: "I'm well connected also ... ***if I wanted someone to visit Moez I could [have] had it done already*** but just moved past it and it's his loss now".

D. The August 28, 2020 Stockhouse Post

38. The Defendants conspired to anonymously publish a post on Stockhouse on August 28, 2020 titled "Moez Kassam and Anson at it again – you guys got off lightly", under the pseudonym "stocknsyrup". This post was published using an IP address originating in Mexico City, where www.OilPrice.com has multiple employees (and in fact, the IP address that published this post is the same as the one that published the August 14 Stockhouse Post):

**Moez Kassam and Anson at it again – you guys got off lightly
(/companies/bullboard/v.fd/facedrive-inc?postid=31470222)**



stocknsyrup (/members/stocknsyrup) (1) | August 28, 2020 12:43 pm

39. The August 28 Stockhouse Post alleged that Anson invested in Zenabis and appointed a “**stooge**”, Adam Spears, to Zenabis’ board. Among other things, it falsely and maliciously asserted that Anson used Spears to “convince...Zenabis to do all sorts of things that were hugely detrimental to the company and geared towards its destruction”.

40. The August 28 Stockhouse Post falsely stated that Spears was “feeding Kassam insider information so Kassam could better time the short sells and make even more money. YES, THIS IS ILLEGAL!”.

41. The August 28 Stockhouse Post asserted that the “coup de grace” for Zenabis was Kassam and Spears convincing it to pursue an initial public offering at an overvalued valuation so that, due to Anson’s short position, Kassam would have “a massive win” when Zenabis’ share price fell. It claimed that the Plaintiffs “made a fortune on this” scheme. The post falsely asserted that the Plaintiffs’ conduct “**completely destroyed Zenabis and its shareholders, and it was illegal every step of the way**”, and encouraged regulators to investigate.

APPENDIX “E” - The Defamatory Manifesto

A. Planning the Defamatory Manifesto

42. During meetings and/or conversations to plan the Defamatory Manifesto, Rudensky told Stafford and Robert the following, among other things, establishing that he was involved with the Defamatory Manifesto:

[Rudensky, Transcript #3]: ...But I've been on the street for 15 years and Moez seems like a guy who would have dinner with you and shake your hand and then screw you over and I don't get how he survives...

[...]

[Rudensky, Transcript #3]: ...I was a broker and G&P [i.e. Richardson GMP] for over 10 years [Rudensky worked at Richardson GMP from November 2009 until September 2015 when he left, as described in the statement of claim at paragraphs 17-18]...

[...]

[Rudensky, Transcript #3]: ...In 2018? I left in 2015 and he [Adam Spears] had come in and said his goodbyes a year earlier [Rudensky left Richardson GMP in 2015] ...

[...]

[Rudensky, Transcript #3]: ...Nothing else from me right now. I think we are on the same page, this is reinforcing some of the stuff I've heard.

43. During other meetings and/or conversations to plan the Defamatory Manifesto, Robert and Stafford had, among other things, the following discussions as Stafford asked Robert to draft false and defamatory allegations against the Plaintiffs:

[Stafford, Transcript #4]: OK – so do you have any paper or anything? Everything you've given me is great for a story but it won't take [Kassam] down. So I need something...

[...]

[Stafford, Transcript #4]: ...Interesting, I like that, it's interesting. You know this better than me? Can you write out that whole process start to finish?

[Robert replies, Transcript #4]: Sure – I'll do that example. I can do it on Sunday but that is just one case in the US. ...

[...]

[Stafford, Transcript #4]: ...Ok – can you write something out....

44. During other meetings and/or conversations to plan the Defamatory Manifesto, including several of the meetings described herein, Stafford, Rudensky and/or Robert made, among others, the following statements as they sought to conspire against the Plaintiffs:

[Robert, Transcript #1]: ...The regulators are on to [Kassam] and I know the dirt but you'd have to offer something substantial for me to start digging into Moez. I hate the guy, but I'd have to go out of my way....

[...]

[Robert, Transcript #1]: ...We can hurt him [Kassam] with the regulators and definitely find more info on his funds and who he works with? I ran into Sunny Puri twice and nearly punched him out...

[...]

[Robert, Transcript #2]: ...I'll go through all of this with your investigator...

[...]

[Stafford, Transcript #3]: ...What if we were to put pressure on the banks and brokerages? Credit compliance etc. Then they would take a closer look at their [Anson's] operations...

[...]

[Stafford, Transcript #3]: ...If you were to do surveillance on him [Kassam], where would you look?...

[...]

[Stafford, Transcript #3]: ...We need to make him [Kassam] toxic to force the regulators...

[...]

[Rudensky, Transcript #3]: ...What we need to do is up the pressure on the brokers...

[...]

[Robert, Transcript #3]: ...I'm going to keep talking, but with COVID it's hard to bump into people. But the way we hurt this guy [Kassam] is by doing a report and getting the regulators to look at it...

45. During other meetings and/or conversations to plan the Defamatory Manifesto, including several of the meetings described herein, Robert implied that Stafford was paid by Facedrive and that Stafford had an animus against the Plaintiffs:

[Robert, Transcript #1]: ...So Moez was panicking and bringing up your name [Stafford] and oilprice and the fact you got \$8 million to promote [Facedrive]. Which is a number I heard a long time ago...

[...]

[Robert, Transcript #2]: ...You're [Stafford] not the first person he's [Moez] pissed off...

[...]

[Robert, Transcript #3]: ...You have that with Facedrive, it hit 500 million and [Kassam] shorted it and you guys [Stafford and www.OilPrice.com] ran it to 1-2 billion...

46. During other meetings and/or conversations to plan the Defamatory Manifesto, including several of the meetings described herein, Robert and Stafford made, among other things, the following statements about Rudensky's employer Andy Defrancesco:

[Stafford, Transcript #2]: ...Has [Kassam] screwed other people over apart from Andy?...

[...]

[Stafford, Transcript #3]: ...Is there anything we can do to help Andy or is he just screwed?...

[...]

[Robert, Transcript #3]: ...Everybody got mad and nobody wanted to touch Andy and it was all Moez...

47. During other meetings and/or conversations to plan the Defamatory Manifesto, including several of the meetings described herein, Robert claimed to have involvement behind critical research findings that were published about publicly traded companies:

[Robert, Transcript #1]: So here's my conundrum here. I do hate Moez but I am friends with Nate [Hindenburg Research] and I gave feedback on his [Facedrive] report and helped with it. I didn't know you at this time or who was on the other side of this trade...And I've helped Nate [Nathan Anderson of Hindenburg Research] on these reports before. So Andy called me last night and I couldn't say much because I didn't want to burn my relationship with Nate either...

[...]

[Robert, Transcript #1]: ...We [referring to Robert and Nathan Anderson of Hindenburg Research] did a short called Aphria with Andy...

B. Summary of the Defamatory Manifesto

48. From its first paragraph, the Defamatory Manifesto accuses the Plaintiffs of engaging in criminal and unethical conduct (emphasis added):

Never has there been a bigger scourge of the Canadian capital markets. Moez Kassam and his Anson Funds have systematically engaged in capital market crimes, including insider trading and fraud, to rob North American shareholders of countless millions. In his attempt to destroy small-cap Canadian companies through nefarious means, a string of feeder funds and untraceable payments to elude regulators, Moez Kassam has betrayed even his closest friends. Now, the other shoe is about to drop as Kassam's funds run out and a string of failed attempts at illegal destruction leave this naked short seller truly naked.

49. The Defamatory Manifesto labels Kassam the “Toad of Bay Street”, with a large photograph of a toad, and advises readers to “steer clear” from Kassam’s ***“illegal activities.”***

50. The Defamatory Manifesto makes clear that its purpose is to paint Kassam as “the symbol of everything that is wrong with capital markets” and that with the “help” of “Kassam’s acquaintances [who] have flipped amid all the betrayal,” a “team of investigators is following all the threads of the ***questionable and illegal activities Kassam has pursued in an attempt to make money by destroying small companies and the lives of anyone who happened to get in his way***: even those who helped him and ended up being disposable.”

51. The Defamatory Manifesto falsely implies that the Plaintiffs have violated securities regulations. It improperly and maliciously encourages regulators, such as the OSC, SEC and IIROC, to investigate the Plaintiffs and implores them to “Pay Close Attention” to ***“high-functioning sociopath”*** Kassam. It claims that Kassam is “pinging [the] regulatory radar quite loudly” and that, in addition to Canadian regulatory scrutiny, the Plaintiffs’

“[d]irty deals in the U.S. are going to haunt [Kassam] as well—and the SEC has razor-sharp teeth.”

52. The Defamatory Manifesto gives the false impression that the Plaintiffs were already under regulatory investigation. Later modified versions of the Defamatory Manifesto state at the outset: “IMPORTANT UPDATE: **OSC and IIROC are now aware of Anson’s illegal market activities** and are asking the public for information. The regulators need your help. If you have information for them or have been hurt because of their actions please get in touch... Do not be silent – help them clean up the capital markets”. This part of the Defamatory Manifesto includes a link to an OSC media release that has no known connection to Anson, in an attempt to lend further credibility to the false notion that the Plaintiffs are under investigation.

53. The Defamatory Manifesto implies falsely that the Plaintiffs engaged in “naked short selling” by stating that they were the “primary inspiration” of a forthcoming bill to prohibit “naked short selling in Canada.”

54. The Defamatory Manifesto calls the Plaintiffs’ fully legal short-selling strategy “**illegal**” and claims that Kassam has “**lost friends...almost all of whom he betrayed in underhanded and illegal short-selling schemes**, including the best man at his wedding whom he threw under a speeding short-selling bus”.

55. While this allegation is false, Robert is one of the few individuals who has information about the relationship between Kassam and his best man, Allen Spektor, who introduced Kassam to Robert. During meetings and/or conversations to plan the

Defamatory Manifesto, Robert told Stafford and Rudensky the following, among other things:

[Robert, transcript #3]: [Kassam] is a piece of shit. He befriends people, uses people. I just spoke to the best man [Allen Spektor] at his wedding and they don't talk about shorting anymore because he just feeds everyone shit. This is his best friend. They don't talk about short selling because it ruins the friendship...

[...]

[Robert, transcript #3]: He's a big guy, he [Allen Spektor] was his best man. And he [Spektor] introduced me to Moez a long time ago and promised me the world if I helped this guy, and none of them came true. This Alan [Spektor] guy has recommended so many people that Moez fucked over that he doesn't involve himself in the circle anymore. I gave him a hard time.

56. The Defamatory Manifesto claims that “Moez Kassam’s MO” and the Plaintiffs’ general investment strategy is to invest in small companies in need of cash to “buy influence”; purposefully place the company “into a vulnerable position” in order to drive down its share price; and then short-sell the company’s shares “by a far greater amount” than their initial investment. It falsely asserts that “[p]rivate placement money coming from Moez Kassam is toxic money that comes with self-destructing strings attached.”

57. Under the heading “**How Moez Kassam Cheated Zenabis**”, the Defamatory Manifesto falsely accuses Kassam of engaging in a “game” in which he took a “visible long position” in Zenabis and a “much larger (10x) secret short position” to cause Zenabis’ share price to go down. It falsely states that Kassam effectuated his scheme by placing “a figurehead as the director of [the] company” – Adam Spears – and convincing him to go public at “the highest possible valuation” to “set up a massive downside potential for Kassam to make a killing shorting” its shares. The Defamatory Manifesto also alleges

falsely that Spears “fed” Kassam material non-public information that the Plaintiffs then leaked to the public, and which the Plaintiffs also used to time short sales advantageously. The Defamatory Manifesto claims that the Plaintiffs replaced Zenabis’ CEO after he discovered the “scheme”, and installed a new CEO whom they convinced “to dig his own grave” because they “were in control” of Zenabis “through their **stooge, Adam Spears**”. The Defamatory Manifesto asserts that the Plaintiffs’ “dirty short selling strategies” had “completely destroyed Zenabis, taking it from a \$950-million market cap company all the way down to around \$50 million over dinner and drinks.”

58. These are false allegations that Robert had previously made using the “Betting Bruiser” Twitter account, prior to the Defamatory Manifesto being published. These allegations were also included in the Unlawful Stockhouse Statements.

59. The Defamatory Manifesto continues with respect to Aphria. It falsely accuses Kassam of being “the mastermind” behind the Aphria Hindenburg Report by using Puri – who it says “makes bottom feeders look appealing” and did all the “dirty legwork” – to “illegally feed” its author Nate Anderson “sensitive, insider information that he obtained from his friendships with Aphria management and founders – sprinkled with exaggerated lies”. The Defamatory Manifesto asserts that the Plaintiffs were “a large holder of Aphria stock” and short sold shares immediately before release of the Aphria Hindenburg Report, which “irreparably damaged” and “crashed Aphria stock”. The Defamatory Manifesto claims that Kassam “**betrayed**” his “friends” and then “feigned shock...to avoid suspicion even though he had **orchestrated the entire scheme and illegally fed Nate [Anderson of Hindenburg Research] insider information.**”

60. The Unlawful Stockhouse Statements contained the same allegations regarding the Plaintiffs and Aphria, as did the “John Murphy” tweets from before the Defamatory Manifesto was published.

61. The Defamatory Manifesto falsely alleges that the Plaintiffs engaged in a similar scheme with Genius Brands International, Inc. (“**Genius**”), a children’s entertainment company. It falsely states that Plaintiffs engineered a “pump and dump” scheme whereby they raised Genius’ share price by commissioning favourable reports from “pumpers” on social media, and then took “significant short positions” immediately prior to the release of a negative report that they commissioned Nate Anderson of Hindenburg Research to write. The Defamatory Manifesto also falsely claims that Kassam had provided vetted “insider” information to Anderson to assist with writing that report. The Defamatory Manifesto’s allegations regarding Genius maliciously conclude by implying the Plaintiffs violated securities regulations: “The Toad of Bay Street—dipping his webbed feet precariously into SEC waters—rode [Genius] all the way up and then shorted it all the way down—disgusting.”

62. The Defamatory Manifesto falsely accuses the Plaintiffs of engaging in a similar illegal scheme with Facedrive, a company Stafford was paid to promote and of which he owned a significant number of shares. It falsely states that Plaintiffs took “a huge naked short” position in Facedrive, “panicked,” and in order to drive down its share price, commissioned Anderson of Hindenburg Research to publish a negative report regarding Facedrive. The Defamatory Manifesto claims, falsely, that Kassam told others about the report “days before it went out”, which it characterized as “insider trading”. The Defamatory Manifesto claims that the report “failed to generate the negative action

[Kassam] needed to avoid losing what remains of his fund” and that he “lied to the banks” regarding his Facedrive investment. It warns that Facedrive should “be prepared for another assault out of desperation” because the Plaintiffs are “desperately trying to drive this stock lower”. It states that Plaintiffs would publish a further negative report from researcher “The Friendly Bear”, which the Defamatory Manifesto falsely states was a pseudonym for Kassam and Puri. It also alleges that the Plaintiffs’ banks were helping them with this “illegal” scheme. The Defamatory Manifesto alleges that Anson and Kassam were behind “The Friendly Bear” research report regarding Facedrive – an allegation that is clearly false since no such report exists.

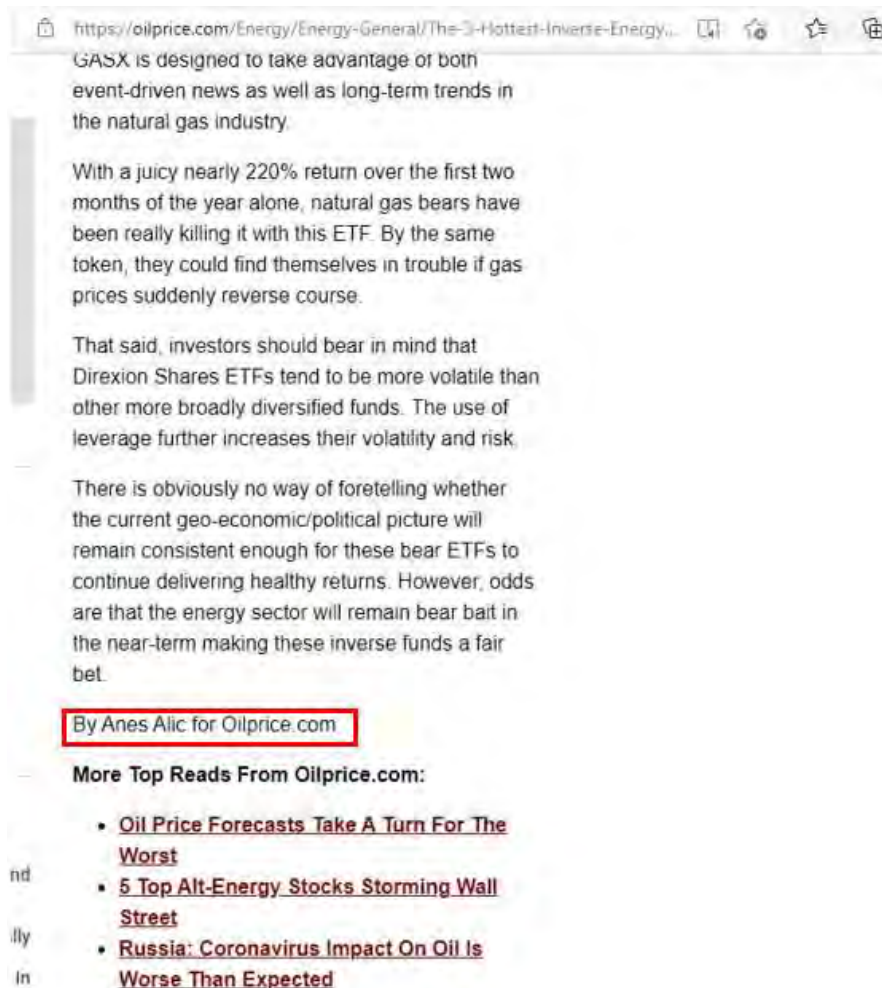
63. As referenced herein, “John Murphy” had previously made similar false assertions about the Plaintiffs and Facedrive. “Betting Bruiser” had also previously tweeted the allegation that the Plaintiffs controlled the Friendly Bear, before the Defamatory Manifesto was published.

64. The Defamatory Manifesto falsely alleges that Tilray had “been the victim of an Anson Funds scheme (which failed)”, and that Anson’s “disastrous attempt to short much larger Tilray” caused “a liquidity crisis” for Anson, which lost hundreds of millions of dollars “in the scheme”. The Defamatory Manifesto further alleges that, having “lost around \$80 million on this dodgy short strategy”, Kassam “nearly lost everything” and had to “grovel” to raise capital for Anson.

65. The Defamatory Manifesto falsely alleges that Anson underpays or “stiffs” people. Robert has made similar allegations that he was not compensated for past due diligence he shared with Anson using the “Betting Bruiser” Twitter account.

C. The Defendants' Attempt to Conceal their Identities and Disseminate the Defamatory Manifesto

66. The Defendants or their proxies communicated with the Bosnian developers using anonymous email addresses to conceal their identities, including from the developers themselves. The email addresses used by the Defendants were editormarketinvestigations@protonmail.ch and anesalic@protonmail.com. "Anes Alic", the name used in one of these email addresses, is a "journalist" for Stafford's website www.OilPrice.com, and the emails sent by anesalic@protonmail.com to the developers were sent either by Stafford or at his behest:



67. The Defendants provided the developers with the text of the Defamatory Manifesto, and the developers created the websites on which it was posted using WordPress. The Defendants paid the developers US\$100 for this work. The Defendants instructed the developers to delete all of their email correspondence following the completion of this work in an attempt to conceal their identities (although the developers did not, in fact, delete all such emails).

68. Stafford and the other Defendants compiled a spreadsheet containing the names and email addresses of 2,854 journalists, news editors, and others in the business community to whom they planned to disseminate the Defamatory Manifesto. Stafford had these names and contact information in his purported capacity as a “journalist”. He and the other Defendants – seeking to imbue the Defamatory Manifesto with a false sense of credibility – intended that these journalists and news editors would re-publish the allegations against the Plaintiffs in their respective news outlets. The spreadsheet’s metadata indicates that the spreadsheet’s author was “James Stafford”, and that the spreadsheet was created on September 30, 2020 and last edited October 1, 2020 — just days after the Defamatory Manifesto was first published:



69. The first four entries on the spreadsheet are pictured below. The first entry is for “James”, with the email “admin@oilprice.com”. Stafford operates the stock promotion website www.OilPrice.com. The second entry is for “Jim”, with the email address “james@floatingmix.com”, another email address associated with Stafford (and the domain “floatingmix.com” is registered to Advanced Media Solutions, the parent of www.OilPrice.com). The third and fourth entries are for “Jimbo” and “JS” at “capitalmarketsinvestigation@protonmail.com” and “info@stockmanipulators.com”. Both email addresses were used as “tiplines” for different versions of the Defamatory Manifesto:

	A	B
1	James	admin@oilprice.com
2	Jim	james@floatingmix.com
3	Jimbo	capitalmarketsinvestigation@protonmail.com
4	JS	info@stockmanipulators.com

70. Stafford and/or the other Defendants, using the email address “anesalic@protonmail.com”, sent this spreadsheet to the developers hired to assist with disseminating the Defamatory Manifesto:



Sent from ProtonMail mobile

----- Original Message -----

On 4. okt 2020, 23:17, anesalic <anesalic@protonmail.com> wrote:

Sent with [ProtonMail](#) Secure Email.

----- Original Message -----

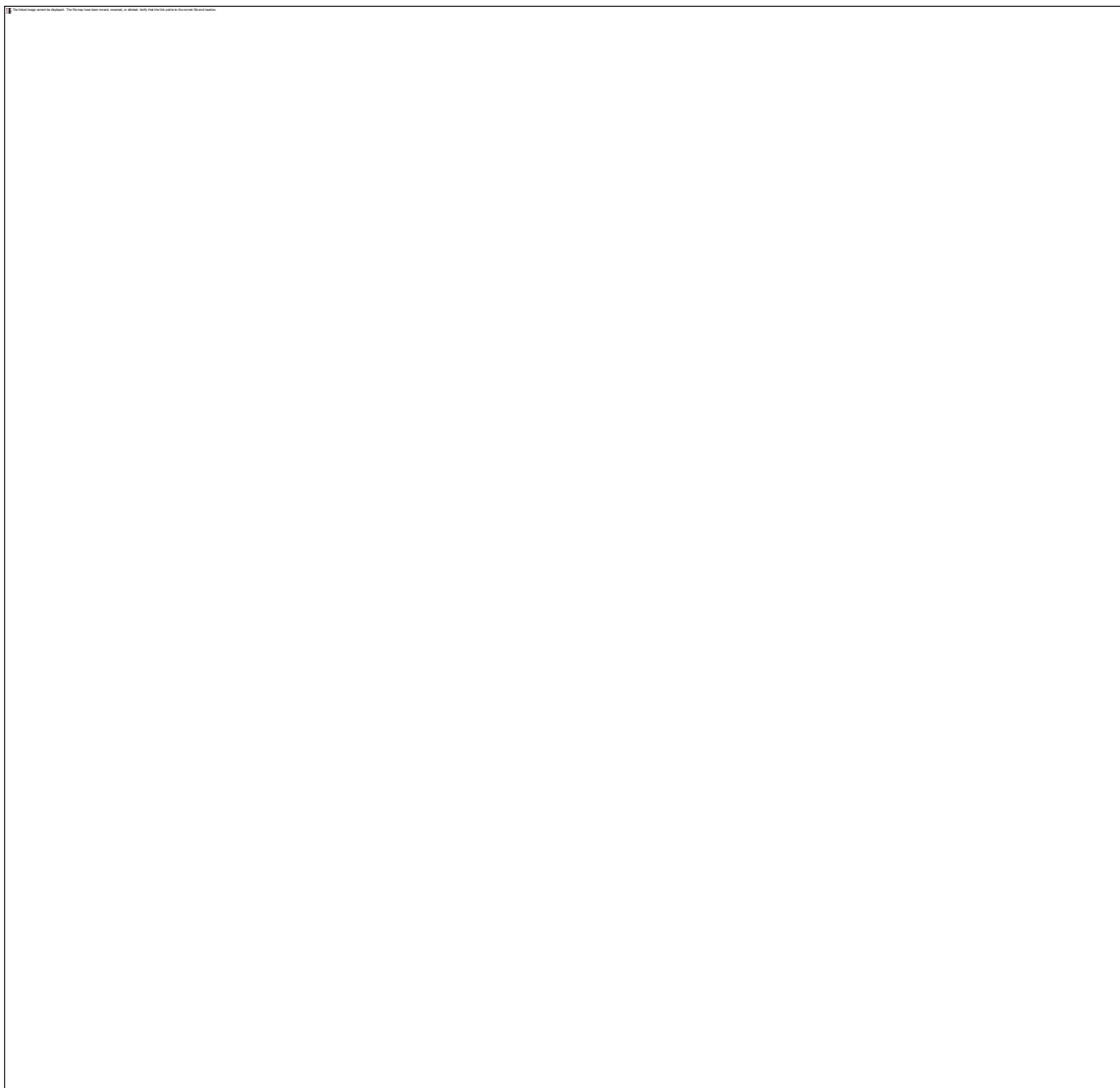
On Sunday, October 4, 2020 10:44 AM, editormarketinvestigations <editormarketinvestigations@protonmail.ch> wrote:

Sent with [ProtonMail](#) Secure Email.

71. One version of the Defamatory Manifesto used the email address cokiga@protonmail.com as the “tipline”:



72. One of the “journalists” at www.OilPrice.com is named “Cokiga” Damke:



D. The Unsolicited Emails

73. The Unsolicited Emails sharing the Defamatory Manifesto contained further Unlawful Statements against the Plaintiffs. One version of the email included the following (emphasis added):

This is a huge developing story on insider trading, market manipulation and fraud within America and Canada's capital markets that I thought you might be interested in.

Anson Funds and Moez Kassam have been destroying companies through illegal means and their partners are some of the largest banks in the world.

The below investigative report looks at which banks are involved and how the fraud has taken place. A lot of very powerful people are going to find themselves under fire....

From what I have been led to believe Anson Funds have sponsored a huge DDOS attack against the various sites that hosted the article and they have all gone down now.

The report obviously has these crooks very concerned and they are desperate no one reads the report. So we can now add cyber crimes to Anson's list of wrongs as well.

74. Another version of the Unsolicited Emails stated the following:

We have a new tip for you that involves the almost unbelievable activities of a hedge fund based in the U.S. and Canada that has broken countless laws and because of their actions have taken billions from ordinary investors and destroyed a huge number of companies.

Please take a moment to read this piece: [link to "MarketCrimes.to".]

You might have heard rumours about it – but it has been going up and down due to huge DDOS attacks from the hedge fund in question who do not want this information getting out.

A second part will be coming soon but this really is a story that needs to see the light of day and I'm hoping you can share this piece with as many people as possible.

75. These Unsolicited Emails were designed and intended to further harm the Plaintiffs and damage their reputation in the financial industry.

E. Further Attempts to Disseminate the Defamatory Manifesto on Twitter

76. On September 28, 2020 – the day after the Defamatory Manifesto was first published – Robert texted Spektor (the contact who introduced him to Anson) the following in reference to the Defamatory Manifesto (emphasis added):

I knew it was coming...

I know who wrote...

Moez likely going [to] sue

77. On September 29, 2020, “Betting Bruiser” tweeted a link to the Defamatory Manifesto, commenting:



78. On September 29, 2020, shortly after Anson was able to have the Defamatory Manifesto taken down from www.MoezKassam.com, Jacob quickly tweeted a new link to the Defamatory Manifesto on a different website, www.StockManipulators.com – again showing the Doxtators’ involvement in the Defamatory Manifesto. He again included the Twitter accounts of the Globe and Mail, and reporter David Milstead, in his tweet:



79. On September 29, 2020 “John Murphy” also tweeted:

big difference from shorting a fraud and paying for a short report calling a company a fraud to try and fix your trade. bad companies need to be taken down. big difference between the two. anson does both! [sic]

80. On September 30, 2020, Robert referenced the Defamatory Manifesto in a “Betting Bruiser” tweet to advance his allegation that he was unpaid for certain due diligence:

Something that was wrong about the Anson and Moez article circulating was the allegation that Moez/Anson compensates people to write reports. They just use people and don't pay anyone but themselves. \$ZENA \$APHA #PotStocks

81. On September 30, 2020, in response to an Anson press release denouncing the Unlawful Statements, “John Murphy” commented:

Anson and Moez put out this response. it fails to address the allegations outlined. when they question a company they ask for a line by line response. we are waiting @MunchingMoez ansonfunds.com/wp-content/upl... @QTRResearch @BettingBruiser @LamboJohnny @weedstreet420 @davidmilstead

82. During this time, “John Murphy” re-tweeted several tweets publishing links to the Defamatory Manifesto. He also re-tweeted several of Robert’s tweets about the Plaintiffs, as well as those of other Twitter users sharing and discussing the Defamatory Manifesto,

reflecting the Defendants' concerted and coordinated effort to defame the Plaintiffs. He also repeated false allegations of a DDOS attack by Anson, in replying to a tweet by "Betting Bruiser" that contained a link to the Defamatory Manifesto with the following false allegation:

sounds like #moez attacked the site where the @AnsonGroupFunds report was profiled. a very expensive DDOS attack to prevent the public from seeing the piece. Investors in the fund probably have plenty of questions for @MunchingMoez @davidmilstead \$apha \$fd \$gfl \$shrm many more

F. "Betting Bruiser" Tweets

83. The tweets published by "Betting Bruiser" shortly after the Whatsapp exchange between Kassam and Robert included the following:

- (a) "One thing that was left out of the \$ZENA [Zenabis] and Anson Funds report was [the] fact that Anson's funds legal counsel (Laura Salvatori) husband (Muneeb Yusuf) via Brownstone Advisors facilitated the toxic financing deal between \$ZENA & \$TLRY [Tilray] ... conflict of interest much? #Potstocks";
- (b) "Hi Laura [Salvatori, Anson's legal counsel] [Hand waving emoji] ... cause I know you follow every tweet I speak about Anson ... I thought I'd give you a shoutout! \$ZENA \$TLRY #PotStocks";
- (c) "If you r an Anson Funds investor ... be prepared to have your funds locked up b/c there is a lot [of] information floating out there that paints a picture of scams to benefit none other then [sic] Moez Kassam. \$ZENA story is just one of hundreds were its [sic] alleged he broke the law. #PotStocks";

- (d) “Maybe I should speak to regulators about Anson Funds and collect the reward in 50 years Or should I just leak snippets of recorded conversations with Moez Kassam? Thoughts? #PotStocks”; and
- (e) “I think I’m going [to] release some of the recordings about Moez Kassam ... just interested how much money Anson pays Ben Axler from @sprucepointcap ... you care to comment Ben?”

84. The tweet described immediately above was accompanied by a purported transcript of a recent conversation between Kassam and Robert. In fact, the conversation that was transcribed occurred several years ago and the tweet was misleading. This was another attempt by Robert to deceive his Twitter followers and defame the Plaintiffs.

85. On October 9, 2020 — the Friday before Thanksgiving weekend — “Betting Bruiser” wished death on Kassam:



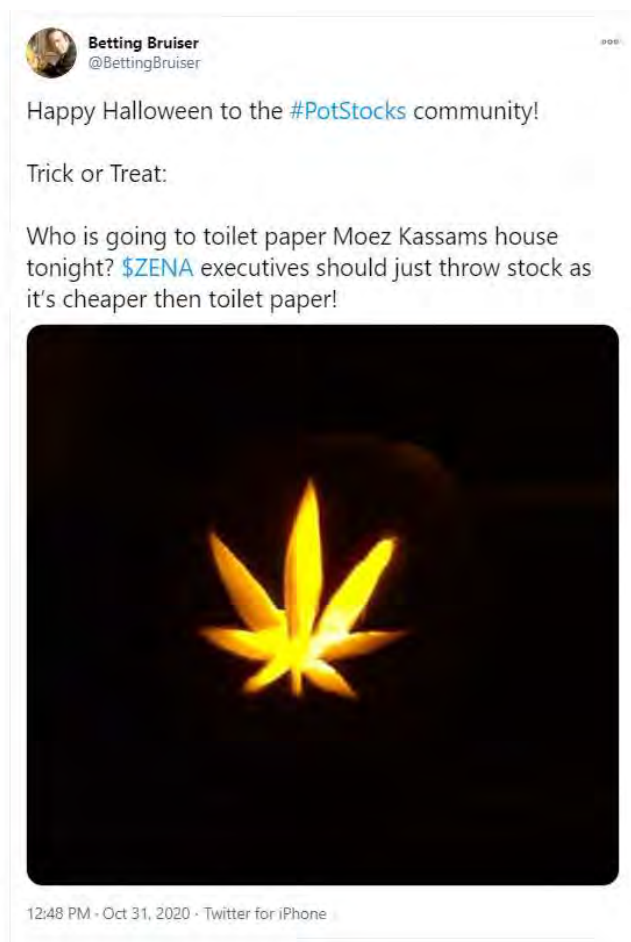
86. On October 29, 2020, shortly after the Defamatory Manifesto was republished on www.MarketCrimes.to, “John Murphy” tweeted a link to the new website, and included in the tweet the Twitter accounts of BNN Bloomberg and Jeff Kehoe, the Director of

Enforcement for the OSC, to bring the Defamatory Manifesto to their attention and attempt to cause the maximum harm to the Plaintiffs.

87. On October 30, 2020, “Betting Bruiser” posted further Unlawful Statements regarding Anson and Kassam:

- (a) he posted a recording of part of a recent conversation between Robert and Kassam regarding the Conspiracy, with the following comment: “This is Moez Kassam from Anson Funds in the flesh running scared from recent reports about his tactics. Worth a listen. This guy is the scum of the earth”; and
- (b) “He doesn’t have anyone but the scum Sunny Puri, the Globe & Mail and other short sellers doing his dirty work for him. Including paying @sprucepointcap @CitronResearch @FriendlyBearSA and others ... why did you block me Ben Adler ... is it the fact your Moez Kassam lapdog?”

88. On October 31, 2020, “Betting Bruiser” posted a tweet encouraging vandalism of Kassam’s house:



G. Messages Publicizing the Defamatory Manifesto

89. The Defendants and/or their proxies shared links to the Defamatory Manifesto on Yahoo Finance with the comments including the following:

- (a) a user named “America” commented, “Will the Canadian regulators do something? I cannot believe someone has been able to get away with this for so long”;

- (b) a user named “Antti” commented, “Canadian hedge fund under fire for illegal practices[.] Looks like Anson have managed to take those sites down – they don’t want the world to know about their crimes”;
- (c) a user named “Alissa” published several messages sharing the Defamatory Manifesto, commenting, “This is everything that’s wrong with the stock market... Looks like a big scandal might be unfolding”, “Have anyone else seen this??? Bomb report on Moez Kassam and Anson Funds. About time ... Clean up what’s truly dirty and rotten to the core” and “Interesting investigative piece looking at a short selling group that have scammed investors out of billions. It’s a must read”; and
- (d) a user named “Daniela” commented, “Seems like a scandal might be starting in the Canadian markets[.] Take a look at this article I found on another community about this hedge fund guy that has been running amok in the Canadian markets – crazy...”.

90. Posts published on Stockhouse in September and October 2020 included the following:

- (a) on September 29, 2020, a user named “KhalidZ” shared a link to the Defamatory Manifesto with comments almost identical to those of “Daniela”, described above: “A scandal might be starting to unfold in the Canadian market[.] Take a look at this article I found on another community about this hedge fund guy that has been running amok in the Canadian markets –

crazy...”. This post published using the VPN “Digital Ocean”, a provider of personal VPN services; and

- (b) on October 1, 2020, a user named “HannaJensen” shared a link to the Defamatory Manifesto with comments identical to those published by “Alissa”, described above: “Interesting investigative piece looking at short selling group that have scammed investors out of billions”.

91. The Defendants or their proxies published Further Unlawful Stockhouse Statements in fall 2020, with headline tags including the following:

- (a) “Time’s Up”;
- (b) “Expose on Moez Kassam”;
- (c) “Tale of Corruption”;
- (d) “These short sellers soured the entire cannabis market”;
- (e) “Check out this piece on short selling bandits in Canada”; and
- (f) “A big scandal might be unfolding in Canadian markets.”

92. Many of these posts included links to the Defamatory Manifesto, and many of the Further Unlawful Stockhouse Statements posted in fall 2020 were published using the Digital Ocean VPN.

H. The Stafford Unlawful Stockhouse Statements

93. The Stafford Unlawful Stockhouse Statements, all published under the username “toffraffles”, were as follows. Many of them referred to Facedrive, one of the companies that Stafford was hired to promote and of which he owned a significant number of shares, as set out herein:

Date	Subject	Post
November 18, 2020	Edward is Upset Because Moez Kassam is Losing Money on FD	Poor Edwardoboo – he gets paid per post from Anson Funds and now his paymaster is losing money hand over fist with his Facedrive short. You referenced the Hindenberg report. This as everyone online knows was a paid for hit piece by Anson. Why don't you look at the report on Moez Kassam and Anson Funds that is going around the internet. Find out just who you are working for. Pure scum. Here's the link just in case you haven't read it: [link to Defamatory Manifesto]
November 19, 2020	RE: Watch the basher rhetoric increase....	Edwardoboo will be coming in hard with the bashing. Probably just got off the phone with Sunny and Moez. They will be upping his salary to \$15 per post if he can create multiple bashing profiles. No sweeter taste than short sellers tears.
November 19, 2020	RE:RE:RE: Watch the basher rhetoric increase....	Here he is – Edward's back – yay. More half witted twaddle from the man who couldn't even get a job in a convenience store and instead has to try and pull down companies for the pennies Moez and Anson tosses him. This company is going places my old mucker. Does Microsoft partner with anyone on the street? No – they know what's happening here and so does the market. Your boss is on the wrong side of this one and is going to lose BIG

Date	Subject	Post
February 25, 2021	What an investigation into Facedrive and Shorts would find	<p>Good post on Yahoo Finance – must read for all Facedrive investors: [link]</p> <p>As someone who has been in since the \$10 range I love the shorts here saying they hope for an investigation. What they do not want is an investigation and neither do their partners in crime, TD Bank, CIBC, RBC. They have been facilitating Anson Funds illegal behaviour with spoofing, downticking and wash trading. They have been miss-marking tickets and hiding the true extent of the naked short position Anson Funds has in Facedrive.</p> <p>They have ruined the market through their illegal actions and any investigation WILL expose this. The banks will sweep this under the rug, cut Anson Funds off and try to get the regulators to move on to mask their continuous illegal behavior.</p> <p>Should the stock be here on fundamentals? No of course not – but Anson and the banks have broken the market and this is why we are seeing the big jumps in share price and I imagine we will see even bigger ones in future when they are forced to cover the bulk of their naked short.</p> <p>This will end very badly for the shorts and I for one welcome an investigation into this whole drama. the banks who will be exposed as Anson Funds are just a grubby little predator who spotted an opportunity and got caught. Now they can't get out of it and when the real buy ins happen this could be a textbook case for making naked short selling in Canada illegal with severe penalties</p>

Date	Subject	Post
February 25, 2021	RE:RE:What an investigation into Facedrive and Shorts would find	you have probably it the right way and gotten the borrow. Anson absolutely have not. TD alone are north of 2 million shares naked short and RCB, TD Bank and others aren't far behind. If you play the game fairly like you have then that's all good – but these guys don't plair [sic] fairly which is the real problem. The real naked short is rumoured to be around 8 million shares which is utterly insane and proves the market or regulatory regime in Canada is utterly broken. I can see this being in textbooks in the future for what can happen when hedge funds are allowed to go naked short and it all goes horribly wrong. Another poster on here said that Anson are waiting for a huge lockup to come free trading in March and that insiders will be dumping their stock. What happens if insiders don't dump and instead hold their shares? Anson have been promising the banks they will. We will see but if Anson are wrong this could explode as the banks will not put up with their lies and stalling any longer as the numbers no longer make sense and force them to cover
February 25, 2021	RE:RE:RE:RE:RE: What an investigation into Facedrive and Shorts would find	you are cleay [sic] a paid Anson Funds stooge. Moez only courts press and comes out when he is desperate and he is VERY desperate. Anson had a diabolical January and i have heard Frbruary [sic] is atrocious as well. He needs funds so Bloomberg put out that puff piece. They are going down
March 10, 2021	RE:RE:RE:RE:RE: Medtronic locking up Facedrive stock for another year	Very little short interest. Don't try and play us for mugs. Everyone on the street knows about the HUGE naked short Anson Funds and their syndicate have against Facedrive. It's the talk of Baystreet [sic]. This trade is going to go very badly for the naked shorts.

ANSON ADVISORS INC., ANSON FUNDS MANAGEMENT
LP, ANSON INVESTMENTS MASTER FUND LP AND
MOEZ KASSAM
Plaintiffs

-and-
ROBERT LEE DOXTATOR, JACOB DOXTATOR
JOHN DOE 1, JOHN DOE 2, JOHN DOE 3, JOHN DOE 4
AND OTHER PERSONS UNKNOWN
Defendants

Court File No. CV-20-00653410-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

FRESH AS AMENDED STATEMENT OF CLAIM

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Anson Advisors Inc., Anson Funds Management LP, Anson
Investments Master Fund LP and Moez Kassam

TAB 4

Court File No. CV-20-00653410-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

ANSON ADVISORS INC., ANSON FUNDS MANAGEMENT LP, ANSON
INVESTMENTS MASTER FUND LP and MOEZ KASSAM

Plaintiffs

and

JAMES STAFFORD, ANDREW RUDENSKY, ROBERT LEE DOXTATOR,
JACOB DOXTATOR, AND JOHN DOE 1, JOHN DOE 2, JOHN DOE 3,
JOHN DOE 4 AND OTHER PERSONS UNKNOWN

Defendants

**NOTICE OF MOTION
(Default Judgment Against Rudensky)**

The Plaintiffs Anson Advisors Inc., Anson Funds Management LP, Anson Investments Master Fund LP (collectively, “**Anson**”) and Moez Kassam (“**Kassam**”), will make a motion to a Judge presiding over the Commercial List on a date to be set by the Court.

PROPOSED METHOD OF HEARING: The motion is to be heard:

☒ [X] By videoconference

at the following location:

330 University Avenue, 8th Floor, Toronto ON M5G 1R7

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THE MOTION IS FOR

- (a) An Order for default judgement as against the defaulting Defendant, Andrew Rudensky (“**Rudensky**”), for:
 - (i) the sum of \$500,000, representing the general damages suffered by the Plaintiffs for defamation and
 - (ii) a permanent injunction restraining Rudensky from republishing the publications complained of in the action or the Unlawful Statements (as defined below), or publishing further unlawful and defamatory statements about Kassam and/or Anson, including Anson’s current or past personnel;
- (b) An Order that any default judgment granted pursuant to paragraph (a), above, is without prejudice to Anson and Kassam's right to seek further relief against Rudensky, in respect of the defamation and other tort claims asserted in the action;
- (c) Pre and post-judgment interest in accordance with the *Courts of Justice Act*;
- (d) The costs of this motion; and,
- (e) Such further and other relief as this Honourable Court may deem just.

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THE GROUNDS FOR THE MOTION ARE:

A. Background

- (a) The Plaintiffs Anson and Kassam are, respectively, a successful alternative asset management firm, and its founder. The Plaintiffs are the targets of a sophisticated, coordinated and ongoing conspiracy to damage their reputations and business through the publication of unlawful and defamatory statements (the “**Conspiracy**”).
- (b) The Plaintiffs have suffered, and continue to suffer, significant harm as a result of the Conspiracy and in particular as a result of the publication of literally thousands of malicious, false and defamatory statements about them on the internet and social media (the “**Unlawful Statements**”).
- (c) The Plaintiffs began this Action by way of Statement of Claim issued December 18, 2020.
- (d) After issuing the initial Claim in December 2020, the Plaintiffs continued to investigate the underlying facts, including by seeking to identify additional parties who were responsible for the publication of the Unlawful Statements. As a result of those efforts, the Plaintiffs discovered additional material facts, including the identities of two further co-conspirators, one of whom is Rudensky.

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- (e) On October 6, 2021 the Plaintiffs sent a proposed Fresh as Amended Statement of Claim (the “**Amended Claim**”) to an email address that had been used by Rudensky. Among other things, the Amended Claim added Rudensky as a party and particularized his involvement in the Conspiracy. The Plaintiffs received no response from Rudensky, and pleaded various causes of action against him, including defamation and conspiracy.
- (f) Absent consent of the existing and proposed Defendants, the Plaintiffs were forced to bring a motion for leave to issue the Amended Claim. Justice Conway granted the Plaintiffs’ motion on May 3, 2022. The Amended Claim was subsequently issued and filed.

B. Default Judgement

Rudensky Has Refused to Participate in this Action

- (g) On July 22, 2022, following multiple attempts at service, the Plaintiffs successfully caused Rudensky to be properly served with the Amended Claim in accordance with Rules 16.01(1), 16.03(1), and 16.03(5) and 26.04(3)(b) of the *Rules of Civil Procedure*.
- (h) In accordance with Rule 16.03(5), service on Rudensky was effective as of July 31, 2022.

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- (i) Rudensky failed to deliver a Statement of Defence or Notice of Intent to Defend within the prescribed time under the *Rules of Civil Procedure*, or indeed at all.
- (j) Rudensky has been unresponsive to all efforts by the Plaintiffs or their counsel to engage him in this proceeding despite being repeatedly made aware of the Claims against him.
- (k) A Requisition to the Registrar to note Rudensky in default was submitted by the Plaintiffs on August 23, 2022 and accepted by the Court the same day.
- (l) To the knowledge of the Plaintiffs, Rudensky has made no attempt to participate in this Action prior to or since being noted in default.

Plaintiffs are Entitled to a Judgement

- (m) In accordance with Rule 19.02, Rudensky is deemed to admit the truth of all allegations of fact made in the Amended Claim.
- (n) The facts pleaded in the Amended Claim support a finding of joint and several liability against Rudensky for defamation.
- (o) At this time the Plaintiffs are not pursuing default judgment against Rudensky in respect of the other torts pleaded in the Amended Claim, but reserve the right to do so in accordance with Rule 19.07.

Damages

- (p) Successful plaintiffs in defamation actions are entitled to general damages *per se*. Damages are presumed from the very publication of the false statement and are awarded “at large”.
- (q) A number of factors exist in this case to justify a large damages award, including:
 - (i) the extensive and frequent publication of the Unlawful Statements;
 - (ii) the targeting of Kassam and Anson, members of the asset management industry in which a pristine professional reputation is vital, with the intention of degrading their capacities, character and practices as professionals;
 - (iii) the use of the internet to perpetrate the defamation, which is a more pervasive medium than print, and which has a tremendous power to harm reputation;
 - (iv) the reference to threats of personal harm to Kassam and other Anson personnel;
 - (v) the internet-based mediums used to convey the Unlawful Statements, including purpose-built web pages and popular online investor forums, were employed to ensure that the Unlawful

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Statements were both widely disseminated to the relevant target audience, and afforded a false air of credibility; and

- (vi) Rudensky's coordination with a large number of perpetrators to facilitate and disseminate the defamation of the Plaintiffs.
- (r) In this case, the facts pleaded support an award of general damages against Rudensky in the amount of \$500,000;
- (s) At this time, the Plaintiffs do not seek default judgment in respect of the special, aggravated or punitive damages pleaded, but reserve the right to do so at a later time in accordance with Rule 19.07.
- (t) As the Plaintiffs have not yet had the benefit of discovery against Rudensky or the other Defendants, and given the secretive nature of the Conspiracy, it is possible that facts will emerge that demonstrate a basis for the Plaintiffs to recover additional general, special, aggravated, and/or punitive damages against Rudensky. As provided under Rule 19.07, the Plaintiffs reserve their right to pursue such further damages against Rudensky as appropriate.
- (u) There is no prejudice to the other Defendants. They are not deemed to admit the allegations in the Amended Claim, and will be able to fully defend the Action following discovery from the Plaintiffs and each other, including both liability and the appropriate quantum of general, special, aggravated and/or punitive damages arising from the defamation and any other torts that are proven.

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- (v) Furthermore, even if the other Defendants are ultimately held liable following a trial, to the extent that the Plaintiffs will have been able to recover damages from Rudensky, that will reduce the other Defendants' liability to the Plaintiffs under the principle against double recovery.
- (w) Rules 16.01(1), 16.03(1), 16.03(5), 18.01, 19.01, 19.02, 19.05, 19.07 and 26.04(3)(b) of the *Rules of Civil Procedure*; and
- (x) Such further and other grounds as the lawyers may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) Affidavit of Moez Kassam, sworn November 17, 2022;
- (b) Such further and other evidence as counsel may advise and this Honourable Court may permit.

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November 17, 2022

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-10-

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Defendant to the Counterclaim

AND TO: **ANDREW RUDENSKY**

Defendant to the Counterclaim

AND TO: **JOHN DOE 1**

Defendant

AND TO: **JOHN DOE 2**

Defendant

AND TO: **JOHN DOE 3**

Defendant

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AND TO: **JOHN DOE 4**

Defendant

AND TO: **OTHER PERSONS UNKNOWN**

Defendant

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**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

NOTICE OF MOTION

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Lawyers for the Plaintiffs (Defendants to the
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Management LP, Anson Investments Master Fund LP
and Moez Kassam

TAB 5

Court File No. CV-20-00653410-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

ANSON ADVISORS INC., ANSON FUNDS MANAGEMENT LP,
ANSON INVESTMENTS MASTER FUND LP and MOEZ KASSAM

Plaintiffs

and

JAMES STAFFORD, ANDREW RUDENSKY, ROBERT LEE DOXTATOR,
JACOB DOXTATOR, AND JOHN DOE 1, JOHN DOE 2, JOHN DOE 3,
JOHN DOE 4 AND OTHER PERSONS UNKNOWN

Defendants

**AFFIDAVIT OF MOEZ KASSAM
(Sworn November 17, 2022)**

I, MOEZ KASSAM, of the City of Toronto, in the Province of Ontario, MAKE OATH
AND SAY:

1. I am the founder of the Plaintiffs, Anson Advisors Inc. ("**AAI**"), Anson Funds Management LP ("**AFM**"), and Anson Investments Master Fund LP ("**AIMF**," and together with AAI and AFM, "**Anson**"). Additionally, I serve as a director and the principal, Chief Executive Officer and Chief Investment Officer of AAI. I am also a Plaintiff in this litigation in my personal capacity.

2. As such, I have personal knowledge of the matters contained in this Affidavit, except where I state such knowledge to be based on information and belief, in which cases I have identified the source of my information and believe the information to be true.

3. I am swearing this Affidavit in support of a motion by the Plaintiffs for default judgment against one of the Defendants, Andrew Rudensky.

4. When I use the words “**we**” or “**us**” in this Affidavit, I am referring to the Plaintiffs (or at least more than one of us).

A. Overview and Background

5. Anson is a privately held alternative asset management firm founded in 2003, with offices in Toronto, Canada and Dallas, Texas. Anson invests primarily in publicly-traded equity and debt securities on a global basis.

6. I provide advice with respect to all of Anson’s funds under management and am ultimately responsible for Anson’s investment strategy, trading, and overall investment performance. I serve as the public face of Anson and am well known in the investment industry. My personal reputation and the reputation of Anson are inextricably linked. A reputation for integrity and trustworthiness is absolutely essential in the asset management industry.

7. The Plaintiffs began this action by way of Statement of Claim issued December 18, 2020. Following a contested motion and pursuant to an Order of Justice Conway dated May 3, 2022, the Plaintiffs were granted leave to amend that Claim. A copy of the Plaintiffs’ Fresh as Amended Statement of Claim issued May 27, 2022 (the “**Amended Claim**”) is attached as **Exhibit A**.

8. The Amended Claim explains that Anson and I are the targets of a sophisticated and coordinated conspiracy to irreparably damage my reputation and the reputation of the Anson businesses (the **“Conspiracy”**).

9. The Amended Claim details the conduct of Andrew Rudensky (**“Rudensky”**), who together with other named Defendants and unnamed individuals worked to publish and broadly disseminate egregiously false and defamatory information (the **“Unlawful Statements”**) about me Anson, and Anson employees.¹ In addition to targeting me in my capacity as the principal of Anson, as described below, the Unlawful Statements have also attacked my integrity in my personal capacity. The Unlawful Statements have also been accompanied by threatening messages and conduct directed towards me and other Anson employees.

10. These Unlawful Statements have included targeted Twitter postings and at least three iterations of a lengthy **“Defamatory Manifesto.”** Copies of all three iterations of the Defamatory Manifesto are attached hereto as **Exhibits B-D**. As described below, as of the date of this Affidavit the Defamatory Manifesto is still being hosted online by the Defendants and made available to the public despite our efforts to have it removed.

11. The defamatory materials published by the Defendants, including Rudensky, have painted me and Anson in an extremely harmful light. Through the Unlawful Statements, the Defendants have alleged that Anson and I have engaged in fraud, the manipulation of financial markets, regulatory non-compliance, and unspecified “questionable and illegal

¹ While the Unlawful Statements were so voluminous and widely disseminated across the internet, including via purpose-built websites and social media, that I doubt we will ever be able to identify every instance of their publication, a collection of the Unlawful Statements are appended to the Amended Claim in Appendices A-E.

activities” that I have “pursued in an attempt to make money by destroying small companies and the lives of anyone who happened to get in [my] way”, among other things. These are serious (and false) allegations that go to the core of Anson's business and my professional standing.

12. The Unlawful Statements have primarily been distributed across the internet and through social media, often using anonymous and/or pseudonymous usernames, email accounts, and/or other online accounts and platforms such as the investment website Stockhouse or Yahoo Finance.

13. As I describe below, as a consequence of the Defendants' efforts, the popularity of the forums through which the Unlawful Statements have been disseminated, and Anson's notoriety in the investment industry, the Unlawful Statements have been widely viewed by the members of the public. I am aware that the Unlawful Statements have been viewed by Anson's investors, potential targets for investment by Anson, competitors of Anson, and financial journalists, among other members of the investment community. I have personally fielded numerous questions about the Unlawful Statements.

14. As detailed below, the Plaintiffs have expended significant time and resources investigating the sources of the Unlawful Statements, including obtaining a Norwich Order in order to determine the persons behind the Stockhouse.com accounts responsible for disseminating certain of the Unlawful Statements.

15. The Plaintiffs have also expended considerable time and resources trying to have the Unlawful Statements removed from the websites where they are hosted. These efforts are indicative of how seriously the Plaintiffs take the Defendants' false allegations, and

the extent to which Unlawful Statements have already impacted the Plaintiffs' reputation and standing.

16. Despite the Plaintiffs' significant efforts, the Unlawful Statements continue to be available online, in various forums.

17. In light of the seriousness and pervasiveness of the Conspiracy and the reputational and financial harm that I and Anson have suffered, the Amended Claim seeks damages of \$100 million, plus aggravated and punitive damages for a number of torts, including defamation, conspiracy, portraying the Plaintiffs in a false light, intentional interference with economic relations, appropriation of personality, internet harassment, and defamation.

18. As described below, Rudensky has been noted in default in respect of this Action. I swear this Affidavit in support of the instant Motion for default judgment against Rudensky.

B. The Plaintiffs' Reputations Prior to the Unlawful Statements

19. As mentioned above, I am a principal and a founder of Anson, as well as a director and the Chief Executive Officer and Chief Investment Officer of AAI.

20. I have been in the investment industry with Anson for almost the entirety of my professional career – I am currently 42 years old, and founded Saunders Capital Master Fund LP, the predecessor to the Anson Investment Master Fund, in July 2007 when I was 26. Since then, I have worked to build Anson into a billion-dollar investment firm which is respected across Canada and internationally.

21. Like most investment managers, the foundation of Anson's business is its reputation for not just investment acumen, but also integrity. We ask our investors to entrust us with their capital, and in my experience, investors will not entrust their funds to someone who may have engaged in illegal, unethical or immoral conduct. Personal and professional integrity is therefore essential to the business of Anson.

22. Anson relies on the services of other members of the investment community, including prime brokerages, to execute its investment strategies. A reputation for personal and professional integrity is critical to maintaining these relationships.

23. Anson operates in a highly regulated environment. AAI is registered with the Ontario Securities Commission ("**OSC**") as a Portfolio Manager and Exempt Market Dealer and is an Exempt Reporting Adviser with US Securities and Exchange Commission ("**SEC**"). AFM is registered with the OSC as an Investment Fund Manager and is a Registered Investment Adviser with the SEC. Quite obviously, a reputation for professional integrity is an important component of maintaining a productive relationship with securities regulators.

24. In addition to building a name for Anson, I have also worked to give back to Canadian society and have developed a positive reputation in the Toronto business and philanthropic community as a result. For example, in 2018 I was named to Canada's Top 40 Under 40 for extraordinary achievement in business and philanthropy.

25. I am actively involved in a number of philanthropic endeavours. For example: I serve as an executive member of the Young Presidents Organization's Maple Leaf Chapter and serve as Education Officer; I sit on the boards of directors of the Canadian

Olympic Foundation, Toronto Public Library Foundation, and Friends of Aseema; and I serve as a line of credit guarantor for Windmill Microlending, which supports immigrants and refugees who come to Canada. Through the Moez & Marissa Kassam Foundation, I financially support a number of Canadian charitable causes, including the Sunnybrook Foundation, the SickKids Foundation, Community Food Centres Canada, the Michael Garron Hospital Foundation, the Canadian Foundation for AIDS Research (CANFAR), Together We Stand Foundation, the Institute for Canadian Citizenship, the South Asian Legal Clinic of Ontario, Mount Sinai, and many others.

26. My personal ability to engage in these philanthropic endeavours depends on maintaining a strong reputation as an honest, trustworthy and capable businessperson. Moreover, I am the face of Anson and well known in the industry in this role. As a result, defamatory statements about Anson as well as about me personally cause direct harm to my personal reputation. Reputable charities do not wish to have as directors individuals who are alleged to be engaged in illegal, unethical or immoral conduct.

C. Ongoing Harm Suffered as a Result of Rudensky's Conduct

27. As I have detailed above, my and Anson's reputations are inextricably intertwined. Despite, or perhaps because of, the importance of a pristine reputation in the investment industry, we have been targeted relentlessly by the Defendants with false and defamatory allegations of serious wrongdoing, including accusations that Anson and I have committed financial crimes, fraud, insider trading and market manipulation.

28. I have also been targeted in my personal capacity and described as untrustworthy and conniving. For example, the Defamatory Manifesto stated baselessly that "Moez

Kassam has betrayed even his closest friends”. The Unlawful Statements have been widely spread and have caused significant harm to my and Anson’s reputations.

29. The Unlawful Statements were deliberately disseminated across the internet on a variety of forums. In addition to social media, the Unlawful Statements were posted on various forums hosted on Stockhouse and Yahoo Finance. These websites are very popular with members of the investment community.

30. The Unlawful Statements have also been spread via a series of purpose-built websites which appear designed to give the allegations an air of credibility and increase their visibility to the public. The Defendants would then use social media or email to attempt to widely disseminate links to the purpose-built websites, which ensured the websites would be broadly accessed and viewed.

31. For example, the first iteration of the Defamatory Manifesto, attached above as Exhibit B, was published in multiple locations, including a purpose-built website which misappropriated the use of my name, called www.moezkassam.com under the heading “Investigations”, to lend falsely an air of credibility and independence. That iteration implored readers to increase the reach of the defamation, stating: “Please do copy and share this report”.

32. Ultimately, the various iterations of the Defamatory Manifesto were spread across at least nine different domains purchased and maintained by the Defendants to ensure the wide reach of the unlawful statements. The websites we have identified to date are:

- (a) www.MoezKassam.com;

- (b) www.StockManipulators.com;
- (c) www.CapitalMarketCrimes.com;
- (d) www.StockManipulators.org;
- (e) www.CapitalMarketCrimes.org;
- (f) www.MarketCrimes.ws;
- (g) www.MarketCrimes.to;
- (h) www.CapitalMarketCrimes.to; and
- (i) www.MarketFrauds.to.

33. The Defendants have also sent unsolicited emails containing links to the Defamatory Manifesto (as hosted on the websites listed above). In order maximize the impact on the Plaintiffs, the Defendants prepared a spreadsheet containing the names and email addresses of approximately 2,800 journalists, news editors and others in the business community, to be targeted with the unsolicited emails. I expect that many of the individuals listed in the spreadsheet have received an email making allegations of misconduct and linking to the Defamatory Manifestos. A copy of the spreadsheet is attached as **Exhibit E**. Two examples of unsolicited emails are attached as **Exhibit F**.

34. While we and our investigators have been successful in having some of the above websites taken offline, the MarketFrauds.to website, which has published all three

iterations of the Defamatory Manifesto and other Unlawful Statements, remains active and continues to publish false and defamatory statements about the Plaintiffs.

35. The third iteration of the Defamatory Manifesto was posted on the MarketFrauds.to site on March 8, 2022, almost a year and a half after the Statement of Claim was issued in this Action. That iteration refers to itself as “part 3 of a 4 part investigative series looking into the illegal activities of Anson Funds & Moez Kassam”, and contains links to the first two iterations of the Defamatory Manifesto. I have been and remain extremely concerned that this means a fourth iteration of the Defamatory Manifesto may soon be published. This would cause renewed public interest in the false and defamatory allegations against me and inflicting further irreparable harm to my and Anson’s reputations.

36. In fact, as recently as November 1, 2022, the MarketFrauds.to website published an article which claims that “Anson Funds have been at it again with their underhand [*sic*] and illegal tactics to destroy companies and investors whilst walking away with huge profits”. A copy of the November 1, 2022 Article, and the index of the MarketFrauds.to site showing other articles posted since this litigation was commenced, are attached hereto as **Exhibit G**.

D. Discovery of Rudensky’s Involvement in Pleaded Conduct

37. As described above, the Defamatory Manifesto and many of the Unlawful Statements were published online through various anonymous and pseudonymous accounts. We therefore have taken significant efforts to uncover the identity of the individuals behind the Unlawful Statements, including Rudensky.

38. In this section of my Affidavit, I detail the major steps that have been taken in this proceeding to date, with an emphasis on those relating to Rudensky's involvement in this Action.

39. When this action was first commenced, we did not know that Rudensky was involved. Below is a timeline of the initial pleadings in this litigation, which occurred prior to Rudensky being added as a party:

- (a) An initial Statement of Claim was issued on December 18, 2020.
- (b) On January 20, 2021, the Plaintiffs initiated a motion for validated and/or substituted service of the Original Claim on Robert Doxtator.
- (c) On January 21, 2021, Jacob Doxtator delivered a Statement of Defence.
- (d) On February 23, 2021, this Court made an Order granting the Plaintiffs' Service Motion, validating service of the Original Claim on Robert, and permitting him to be served with further materials by email.
- (e) Between March and April 2021, we exchanged pleadings with Robert Doxtator, who commenced a Counterclaim in this Action on March 26, 2021.

40. After issuing the initial Claim in December 2020, we continued to investigate the underlying facts and the identity of the "John Doe" Defendants responsible for the Unlawful Statements, including through investigators in North America and overseas. This investigative process has included, among other efforts: (i) seeking and obtaining a Norwich Order that required the website Stockhouse to produce information regarding the

identities of the parties behind those Unlawful Statements; and (ii) seeking and obtaining Letters of Request to courts in the United States and Switzerland in an effort to procure information about the identities behind Proton Mail, Reddit and Yahoo! Mail accounts that have published and promoted Unlawful Statements. Copies of the Norwich Order and issued Letters of Request are attached hereto as **Exhibit H**. While we have not yet received productions from Proton AG, Reddit, Inc. and Yahoo Inc. as a result of the Letters of Request, we have retained counsel in Switzerland and the United States in order to facilitate that process at considerable expense.

41. As a result of our investigative efforts to date, we have discovered additional material facts demonstrating the involvement of Rudensky in the development and dissemination of the Defamatory Manifesto.

42. First, in or about October 1, 2020, the Defendant Robert Doxtator, through a Whatsapp message, advised me that Rudensky was involved in creating the Defamatory Manifesto. Robert Doxtator also advised, and I believe, that Rudensky was running a hotline soliciting “tips” about me and Anson to further the Conspiracy. A copy of those Whatsapp messages is attached hereto as **Exhibit I**.

43. Second, I have received a transcript of a call in which the Defendants were discussing the basis for the Defamatory Manifesto. This transcript (“**Transcript Three**”) was provided to me along with three other transcripts and an early draft of the Defamatory Manifesto by an anonymous ProtonMail user theheavensabove@protonmail.com, following an exchange between me and Twitter user @PresumablyPaul in which “Paul” indicated that they had information regarding the conspiracy against me and Anson. This

exchange arose following a public tweet about Anson made by the @PresumablyPaul account. A copy of this public tweet is attached hereto as **Exhibit J**.

44. The details disclosed by speaker “TM” in Transcript Three regarding his work history as a broker at Richardson GMP (now Richardson Wealth) and his departure from that firm in 2015, match precisely with the work history of Rudensky. A copy of Transcript Three is attached hereto as **Exhibit K**.² A copy of the email sent by theheavensabove@protonmail.com is attached hereto as **Exhibit L**.

45. In the Fall of 2021, based on all the new information we had uncovered as a result of our investigations, we began preparing an Amended Statement of Claim that pleaded these new facts and added new Defendants, including Rudensky.

46. On October 6, 2021 we sent a copy of the draft Amended Claim to andrew.rudensky@gmail.com and ar@delavaco.com. I am aware of Rudensky using both of those email addresses, including because of prior correspondence with Rudensky, copies of which are attached hereto as **Exhibit M**. Indeed, I corresponded with Rudensky at the ar@delavaco.com email address as recently as in September, 2021, and so am confident he received the Amended Claim at that time. After the Amended Claim was emailed to Rudensky in October 2021, he ceased correspondence with me.

47. The Amended Claim added Rudensky as a party and particularized his involvement in the Conspiracy, including the dissemination of the Unlawful Statements

² This is also detailed in Appendix E to the Amended Claim.



and various iterations of the Defamatory Manifesto. As is explained in the Amended Claim, I believe that Rudensky was motivated by animus against me and Anson which dates back to at least December 2018, when an independent research firm, Hindenburg Research, posted critical findings about a publicly traded cannabis start-up, Aphria Inc. Hindenburg Research's findings related to a key promoter and founder of Aphria Inc., Andy DeFrancesco. DeFrancesco is the CEO of The Delavaco Group, a merchant bank of which Rudensky is a partner. I believe Rudensky wrongfully blamed us for Hindenburg Research's negative findings, and the stock decline which Aphria Inc. suffered at the time the research was released.

48. As our counsel was not able to obtain consent to the amendments from the proposed or existing parties, including because Rudensky declined to respond to our attempts to contact him, the Plaintiffs were forced to bring a motion for leave to issue the Amended Claim. Justice Conway granted the Plaintiffs' motion on May 3, 2022. The Amended Claim was subsequently issued and filed. A copy of Justice Conway's order is attached as **Exhibit N**.

49. Rudensky never responded to Amended Claim. I am informed by our counsel that he has not responded to any of the correspondence sent to him on our behalf as a result of the Amended Claim. Attached as **Exhibit O** are a selection of emails sent by Anson's counsel to Rudensky at andrew.rudensky@gmail.com and ar@delavaco.com, which as described above are emails through which Rudensky has communicated in the past. I am informed by counsel and believe that they did not receive any "undeliverable" messages from Rudensky's email accounts.

50. I am further informed by our counsel that although Rudensky has not responded to our correspondence nor filed any materials in this Action, he has at times been in contact with counsel to the Defendants in this Action, particularly Mr. Kevin Richard, counsel to Defendant Jacob Doxtator (and previously counsel to Robert Doxtator). An email sent by Justice Conway in this matter, referencing Rudensky's discussions with Mr. Richard about possibly representing him in this Action, is attached hereto as **Exhibit P**. To the best of my knowledge, he is aware of the claims against him, and has deliberately declined to participate in this Action.

51. In July 2022, following numerous attempts to personally serve the Amended Claim on Rudensky, we hired a licensed private investigator to locate Rudensky. A copy of the investigator's report is attached hereto as **Exhibit Q**. We then attempted service again based on the information provided by the investigator. I am informed by our counsel, and verily believe, that service of the Amended Claim on Rudensky was successful and effective as of July 31, 2022. A copy of an Affidavit sworn by the process server who carried out the service is attached hereto as **Exhibit R**.

52. Rudensky never delivered a Statement of Defence or Notice of Intent to Defend. As a result, we submitted a Requisition to the Registrar to note Rudensky in default on August 23, 2022. I am informed by counsel and verily believe that it was accepted by the Court the same day. A copy of the Requisition is attached hereto as **Exhibit S**, accompanied by a confirmation of receipt from the Ontario Superior Court's electronic filing service. I am not aware of Rudensky making any attempt to participate in this Action prior to or since being noted in default.



SWORN BEFORE ME at the City of Toronto,
in the Province of Ontario this 17th day of
November, 2022 in accordance with O. Reg.
431/20, Administering Oath or Declaration
Remotely.

DocuSigned by:

Douglas Fenton

92D8F24C2FAF4D6

Commissioner for Taking Affidavits

DocuSigned by:

Moez Kassam

11914BE40C70434

MOEZ KASSAM

This is Exhibit “A” referred to in the Affidavit of Moez Kassam sworn November 17, 2022.

Douglas Fenton

Commissioner for Taking Affidavits (or as may be)

DOUGLAS A. FENTON

☒ RULE/LA RÈGLE 26.02 (c)

Court File No. CV-20-00653410-00CL

☒ THE ORDER OF Justice Conway

L'ORDONNANCE DU

DATED/FAIT LE May 3, 2022

ONTARIO**SUPERIOR COURT OF JUSTICE****(COMMERCIAL LIST)**

Christina

Irwin

REGISTRAR

SUPERIOR COURT OF JUSTICE

Digitally signed by Christina Irwin
DN: cn=Christina Irwin, o=Ministry of the
Attorney General, ou=Superior Court of
Justice, email=christina.irwin@ontario.ca,
c=CA
Date: 2022.05.27 13:50:25 -0400

GREFFIER

COUR SUPÉRIEURE DE JUSTICE

BETWEEN:

(Court Seal)

ANSON ADVISORS INC., ANSON FUNDS MANAGEMENT LP,
ANSON INVESTMENTS MASTER FUND LP AND MOEZ KASSAM

Plaintiffs

- and -

JAMES STAFFORD, ANDREW RUDENSKY, ROBERT LEE DOXTATOR,
JACOB DOXTATOR, AND JOHN DOE 1, JOHN DOE 2, JOHN DOE 3,
JOHN DOE 4 AND OTHER PERSONS UNKNOWN

Defendants

FRESH AS AMENDED STATEMENT OF CLAIM**TO THE DEFENDANTS**

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The Claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date _____ Issued by _____
Local Registrar

Address of court office: Superior Court of Justice
330 University Avenue, 9th Floor
Toronto ON M5G 1R7

TO: Robert Lee Doxtator
184 Albert Street
Belleville, ON
K8N 3N4

Jacob Doxtator
1150 Salem Road
Prince Edward, ON
K0K 1T0

James Stafford
Address Unknown

Andrew Rudensky
1107 Melvin Ave
Oakville, ON L6J 2V8

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CLAIM

1. The Plaintiffs, Anson Advisors Inc. (“**AAI**”), Anson Funds Management LP (“**AFM**”), Anson Investments Master Fund LP (“**AIMF**” and, together with AAI and AFM, “**Anson**”) and Moez Kassam (“**Kassam**”), claim against the Defendants, James Stafford, Andrew Rudensky, Robert Lee Doxtator, Jacob Doxtator, John Doe 1, John Doe 2, John Doe 3, John Doe 4 and other persons unknown (the “**Defendants**”), jointly and severally, for:

- (a) general damages in the amount of \$100,000,000 for conspiracy, publicity that places the plaintiffs in a false light, intentional interference with economic relations, appropriation of personality, internet harassment, and defamation;
- (b) aggravated damages of \$1,000,000;
- (c) punitive or exemplary damages of \$10,000,000;
- (d) special damages to be proven at trial;
- (e) fees and costs incurred by the Plaintiffs in investigating the persons involved in the Conspiracy (as defined below), and removing the Unlawful Statements (as defined below), in amounts to be proven at trial;
- (f) a mandatory order compelling the Defendants to remove the publications complained of in this action from all Internet websites, online message boards and social media platforms within their control;
- (g) an interim, interlocutory and permanent injunction restraining the Defendants or anyone with notice of the order from republishing the

publications complained of in this action or the Unlawful Statements (as defined below), or publishing further unlawful and defamatory statements about Anson and its current and past personnel;

- (h) pre-judgment interest in accordance with section 128 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (i) post-judgment interest in accordance with section 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (j) the costs of this proceeding on the highest allowable basis, plus all applicable taxes; and
- (k) such further and other relief as to this Honourable Court may seem just.

2. Since at least the summer of 2019 and intensifying to the present, the Defendants James Stafford, Andrew Rudensky, Robert Lee Doxtator and Jacob Doxtator have engaged in a scheme with each other and other unknown persons to damage the business and reputations of a successful securities business, Anson, and its founder, Moez Kassam. Specifically, the Defendants conspired to falsely and repeatedly claim that Kassam is a criminal and that he and his businesses are engaged in conduct that is illegal, unethical, and contrary to Canadian and United States securities regulations. The Defendants have, for example, published or encouraged the publication of the following false and defamatory statements:

- (a) “Moez Kassam and his Anson Funds have systematically engaged in capital market crimes, including insider trading and fraud, to rob North American shareholders of countless millions”;
- (b) “Anson Funds and Moez Kassam have been destroying companies through illegal means...”;
- (c) Kassam is a “corrupted and criminal CIO [Chief Investment Officer] at Anson funds”;
- (d) “If you r [sic] an Anson Fund investor ... be prepared to have your funds locked up b/c there is a lot information floating out there that paints a picture of scams to benefit none other then Moez Kassam”;
- (e) “In his attempt to destroy small-cap Canadian companies through nefarious means, a string of feeder funds and untraceable payments to elude regulators, Moez Kassam has betrayed even his closest friends”;
- (f) Kassam pursued “questionable and illegal activities” in “an attempt to make money by destroying small companies and the lives of anyone who happened to get in his way: even those who helped him and ended up being disposable”;
- (g) “Moez Kassam & Sunny Puri of Anson . . . put out the report to manipulate the market so they could cover an already short position”;

- (h) "... dirty moez [sic] hurt his business parnter [sic] and lied to the founders of \$apha [Aphria Inc.]";
- (i) Kassam and Anson "just use people and don't pay anyone but themselves";
- (j) "Moez has even threatened all Anson employees with lawsuits and installed draconian measures in the office to stop leaks from employees. The fear level is rising—fast. At this point, it is becoming clearer that employees will either sink with this ship or be fired, and now the latter is starting to look more attractive than the former"; and
- (k) the OSC and SEC have "[begun] a full investigation into Anson Funds business practices (according to sources inside Anson)".

3. Statements accusing the Plaintiffs of illegal and unethical conduct, including market manipulation, fraud, insider trading, breaches of applicable securities law and regulations, and cyber crimes, are false and defamatory. This lawsuit seeks to hold the Defendants accountable for the economic, reputational, and emotional harm their lies have caused.

A. THE PLAINTIFFS

4. AAI is a corporation incorporated under the laws of Ontario. It is a private asset management firm that serves as the co-investment adviser, exempt market dealer, and portfolio manager to several investment funds in which private investors may invest their capital (collectively, the "**Anson Funds**"). It is regulated by the United States Securities

and Exchange Commission (“**SEC**”) and the Ontario Securities Commission (“**OSC**”), among other regulatory bodies.

5. AFM is a Texas limited partnership that serves as the investment fund manager for the Anson Funds. It is regulated by the SEC and the OSC.

6. AIMF is a Cayman Islands exempted limited partnership. It is Anson Funds’ flagship investment fund. The Anson investments that are the subject of the Unlawful Statements (as defined below) were undertaken by AIMF.

7. Anson uses multiple strategies to execute its investment program, including both long and short investment strategies and opportunistic investments. One subset of Anson’s short investment strategies includes short selling securities that have been overvalued by the public markets. One way in which securities can become overvalued is through fraudulent “pump and dump” schemes. In a pump and dump scheme, the perpetrators attempt to inflate the value of a stock that they own by making and/or publicizing false or misleading positive statements about the company whose stock is being traded, and then enrich themselves at the cost of other shareholders, including but not limited to by way of selling stock, paying inflated salaries, or paying parties related to the perpetrators inflated amounts without proper disclosure.

8. Short selling is a legitimate investment strategy that involves borrowing shares from a dealer and selling them in anticipation that the share price will decline. The borrower must later repurchase the shares in order to return them to the lender. If the share price has fallen by the time the borrower repurchases the shares for return, the borrower will earn a profit. By contrast, if the shares increase in value while the borrower

holds a short position, the borrower will be required to repurchase the shares at the increased price, causing a loss.

9. Short selling, as a trading activity, is subject to a well-developed regulatory regime in Canada.

10. Anson conducts and reviews research and due diligence on the market and relevant companies to inform its trades, all based on publicly available information. When Anson determines that the stock of a public company may be overvalued and/or conducts short sales, its scrutiny may threaten individuals who perpetrate pump-and-dump and other fraudulent securities schemes, or who otherwise benefit from inflated securities. Anson complies with all applicable investment rules and regulations in all trading transactions it undertakes.

11. A “naked” short sale is a colloquial term that is generally understood to refer to when an investor sells shares in anticipation that their price will decline without first having a reasonable belief that it can borrow the shares that it sold. Anson does not engage in naked short selling, and as described above complies with all applicable investment rules and regulations.

12. The capital markets rely on the free flow of public information about publicly traded companies. Further, publication of analyses of public companies is a routine feature of the capital markets, including where the entity publishing the analysis has made an investment (either short or long) in the securities of the company in question. In the ordinary course of its business, Anson from time to time discusses its research and investment analyses and theses with others in the industry. This is done to conduct

research, stress test due diligence and investment theories, learn potentially variant points of view and solicit other independent analyses. To the extent analyses that are published by others align with Anson's – or other investment funds' – views, this is simply the result of various individuals involved in the capital markets independently reaching the same conclusions based on the same publicly available information.

13. Moez Kassam is a founder of Anson, and a director and the principal, Chief Executive Officer and Chief Investment Officer of AAI. Kassam is 41 years old. He founded Saunders Capital Master Fund LP, the predecessor to AIMF, in July 2007 at the age of 26, and has since built Anson into a billion-dollar investment firm. In 2018, Kassam was named to Canada's Top 40 Under 40 for extraordinary achievement in business and philanthropy. He is an executive member of the Young Presidents Organization's Maple Leaf Chapter, and previously served on its board as Education Officer. He sits on the boards of directors of the Canadian Olympic Foundation, Toronto Public Library Foundation, Friends of Aseema, and Kids Cook to Care. He also serves as a line of credit guarantor for Windmill Microlending, which supports immigrants and refugees who come to Canada with education, skills and experience but struggle to resume their careers here.

14. Through the Moez & Marissa Kassam Foundation, Kassam has donated millions of dollars to Canadian charitable causes, including the Sunnybrook Foundation, the SickKids Foundation, Community Food Centres Canada, the Michael Garron Hospital Foundation, the Canadian Foundation for AIDS Research (CANFAR), Together We Stand Foundation, the Institute for Canadian Citizenship, the South Asian Legal Clinic of Ontario and many others. In fiscal year 2021 alone, the Moez & Marissa Kassam Foundation donated over one million dollars to various Canadian charitable entities.

15. Kassam provides advice with respect to AIMF and all of Anson's other funds under management and is ultimately responsible for Anson's investment strategy, trading, and overall investment performance. Kassam is the face of Anson and is well known in the industry as such.

B. THE DEFENDANTS

16. The Defendant James Stafford ("**Stafford**") is the principal of A Media Solutions Limited, a private company that was incorporated in 2012 and is registered in England and Wales, which operates the website www.OilPrice.com. He is also the principal of Advanced Media Solutions, a company incorporated in the British Virgin Islands, which owns www.OilPrice.com. Although Stafford styles himself as a "journalist", "publisher" and "editor" of www.OilPrice.com, he is, in fact, a stock promoter. Stafford has made millions of dollars as a stock promoter by writing sensationalist yet glowing articles about companies that advertise with him. Despite extensive efforts to attempt to identify Stafford's residential address, the Plaintiffs do not know Stafford's address and do not know where he resides. Stafford appears to have connections to numerous jurisdictions and it is unknown to the Plaintiffs whether Stafford's residential address is in Mexico, England, the Bahamas, or elsewhere. He maintains operations in Mexico and has a business registered there; at least four employees of www.OilPrice.com are based in Mexico; several of the Unlawful Statements (as defined below) were published from Mexico on the website Stockhouse (which provides market news and analysis regarding companies with small market capitalizations, as well as message boards for users to discuss securities issuers) as discussed in paragraphs 53 to 61 below and in **Appendix "C"** at section C; and Stafford himself, using the Stockhouse account "ToffRaffles" (which

is linked to one of his email addresses) published Unlawful Statements on Stockhouse from an IP address originating in Mexico (as discussed in paragraph 106 below). For further information on Stafford's background, companies and possible location, see **Appendix "C"** at sections A and C.

17. The Defendant Andrew Rudensky ("**Rudensky**") resides in Toronto, Ontario. Rudensky is a partner of The Delavaco Group, a small merchant bank with a historical working relationship with Stafford. Rudensky previously worked as an advisor at Richardson GMP Limited from November 2009 until September 2015.

18. In July 2018, the Investment Industry Regulatory Organization of Canada ("**IIROC**") found that Rudensky had violated IIROC Dealer Member Rules by engaging in personal financial dealings with one of his clients and by making false and misleading representations to his firm. Rudensky had borrowed \$3 million from a client to finance a trade and misrepresented the source of the funds to Richardson GMP Limited. IIROC found that Rudensky's "misconduct and lack of honesty harmed market integrity and the reputation of the marketplace. He breached the fundamental principle of trust in the business." IIROC ultimately suspended Rudensky from his IIROC registration for two years, ordered him to pay fines and disgorgement totalling \$55,923, and ordered him to pay IIROC's costs of \$24,500. The Ontario Securities Commission upheld that decision upon review.

19. The Defendant Robert Lee Doxtator ("**Robert**") resides in Belleville, Ontario. He is a founder of Harvest Moon Cannabis Company (a company providing research and due diligence services) and is a business development consultant in the cannabis industry. In

the past, Robert has shared due diligence with Anson. Robert operates a Twitter account under the username @BettingBruiser. It has over 14,000 followers. The “Betting Bruiser” Twitter profile states: “@HarvestMoon420 Founder -#Potstocks Legal & Business Development Consultant Inquiries: HarvestMoonCannabisCo@gmail.com.” It is well known in the Canadian investment industry that “Betting Bruiser” is Robert.

20. Robert, as “Betting Bruiser”, is a prolific Twitter user and has repeatedly used his Twitter account to publish offensive content, including content disparaging of immigrants, women and members of the LGBT community.

21. While Robert holds himself out to be a lawyer, including in posts on the “Betting Bruiser” Twitter account, there is no record of his being admitted to practice law in any province or territory of Canada.

22. The Defendant Jacob Doxtator (“**Jacob**”) is the cousin of Robert. He also resides in Belleville, Ontario. He operates, in coordination with Robert, a Twitter account through an alter-ego named “John Murphy” under the username @JohnMur67039142. Unlike with “Betting Bruiser”, it is not commonly known that Jacob operates the “John Murphy” Twitter account. The Defendants went out of their way to use this account to conceal their identities as part of their scheme against Anson. Although Jacob lives in Belleville, the Twitter account states that “John Murphy” lives in the state of Georgia in the United States. The John Murphy account was removed from Twitter in or around March 2021, after this claim was brought and Jacob was served.

23. The Defendants John Doe 1, John Doe 2, John Doe 3, John Doe 4 and other persons unknown (the “**Unknown Defendants**”) are individuals whose identities are

presently unknown, but who are believed to have the means and business motivation to seek to harm the Plaintiffs. The Unknown Defendants may reside in the United States or elsewhere outside of Canada. The Plaintiffs will substitute the actual names of these Defendants after they have been discovered.

24. More generally, the Plaintiffs reserve their right to make, or seek to make, amendments to this pleading to incorporate additional material facts and information that they discover.

C. OVERVIEW OF CLAIM

25. Stafford, Rudensky, Robert, Jacob (Robert and Jacob together are referred to as the “**Doxtators**”) and the Unknown Defendants are parties to a sophisticated, coordinated scheme to damage the Plaintiffs’ business and reputations (the “**Conspiracy**”).

26. In particular, and as described further below, in furtherance of this Conspiracy, the Defendants maliciously and intentionally entered into an agreement to conspire with one another and committed acts with the predominant purpose of injuring the Plaintiffs by damaging their business and reputations. In addition, or in the alternative, in furtherance of this Conspiracy, the Defendants have acted in a concerted and coordinated effort while using unlawful means aimed at the Plaintiffs, including but not limited to acts that amount to defamation at law, when they knew, or ought to have known, that significant harm to the Plaintiffs would result. In fact, the Defendants have caused significant damage to the Plaintiffs’ business and reputations through their unlawful, improper conduct. Furthermore, the Defendants took sophisticated steps to conceal their identities and advance the Conspiracy anonymously (using, among other things and as described

further below, offshore web developers based in Bosnia and Herzegovina, temporary “burner” email addresses, virtual private networks (“**VPNs**”), fake identities, anonymous Twitter profiles, and more) because they knew that they were engaged in unlawful conduct. The Defendants are savvy about capital markets and deliberately fabricated allegations about the Plaintiffs – or at best were reckless as to whether the allegations were false – in order to sabotage their business. In addition, some or all of the Defendants are routinely engaged in pump and dump schemes and publicly blame the Plaintiffs when the artificially inflated share prices of the companies at issue ultimately return to their lower, intrinsic levels.

27. In the Conspiracy, Stafford, Rudensky and the Doxtators coordinated and agreed with one another and with the Unknown Defendants to harm the Plaintiffs through a carefully planned and executed plot. This plot has included fabricating, spreading and publicizing a series of unlawful, abusive, false, malicious, harassing and defamatory statements about Anson, Kassam and other individuals connected with Anson (the “**Unlawful Statements**”), including by first publishing defamatory comments on the website Stockhouse, and then on a series of websites generated by the Defendants, as set out below, in an attempt to manufacture a narrative to harm Anson and Kassam; hiring freelance web developers based in Bosnia and Herzegovina to register the websites on which Unlawful Statements were posted, for the purpose of concealing the Defendants’ identities; taking other sophisticated steps to obscure their identities while disseminating Unlawful Statements, including hiring Bosnian developers, using VPNs, burner email addresses and false identities; sending targeted communications containing the Unlawful Statements via email, including to reporters, as well as disseminating the Unlawful

Statements on Twitter, Reddit and other platforms; and attempting to improperly attract media attention to the Unlawful Statements. Moreover, the Defendants have sought to disseminate the Unlawful Statements internationally to individuals in (at least) the United States (where the Plaintiffs do business) as well as in Canada, with the intention of causing maximum, widespread harm to the Plaintiffs.

28. Steps taken by the Defendants pursuant to the Conspiracy include the following:

- (a) in summer 2019, some or all of the Defendants, and in particular Robert, began a campaign to spread Unlawful Statements about the Plaintiffs on Twitter through Robert's "Betting Bruiser" Twitter account;
- (b) in July and August 2020, in a further concerted and coordinated effort, the Defendants increased their efforts and conspired to post Unlawful Statements on message boards on the website Stockhouse. These Unlawful Statements were viewed by many thousands;
- (c) beginning on or around September 27, 2020, after the Plaintiffs took steps to have the Unlawful Statements on Stockhouse removed, the Defendants conspired to anonymously write, publish and disseminate a lengthy Internet post containing Unlawful Statements about the Plaintiffs (the "**Defamatory Manifesto**") on a series of websites. The Plaintiffs believe that Stafford led the effort to draft and publish the Defamatory Manifesto, including because Stafford styles himself a "journalist" and is often hired as a promoter of stocks – including those mentioned in the Defamatory Manifesto – in pump and dump schemes, with the aim of creating publicity in order to artificially

and often temporarily inflate the share price of companies in which his clients have a financial interest. The Defamatory Manifesto also mimics Stafford's sensationalist writing style. The Plaintiffs further believe that Robert and Rudensky directly participated in the preparation and/or drafting of the Defamatory Manifesto, including (but not limited to) supplying Stafford with many of the false and defamatory allegations against the Plaintiffs, which Stafford then incorporated into the Defamatory Manifesto. However, the precise roles of the Defendants in crafting and disseminating the Defamatory Manifesto are known to them alone, and not yet known to the Plaintiffs;

- (d) The Defendants knew that the allegations in the Defamatory Manifesto were false and defamatory, and intended to make and widely distribute these false, defamatory and misleading allegations. They sought to imbue the Defamatory Manifesto with credibility by falsely calling it an "investigation". It was viewed by tens of thousands of people, and counting;
- (e) as part of the Defamatory Manifesto, the Defendants set up a "tipline" operated by Stafford to collect further false and defamatory allegations against the Plaintiffs;
- (f) the Defendants hired freelance web developers based in Bosnia and Herzegovina to register the websites on which they published the Defamatory Manifesto, to obscure the websites' origins and conceal the

Defendants' involvement in the publication, something that would only be part of a sophisticated plot;

- (g) after the Plaintiffs were forced to take steps to have websites publishing the Defamatory Manifesto taken down, the Defendants again re-published it on new websites, which were once again created in a manner to conceal the Defendants' involvement. A version of the Defamatory Manifesto remains available on the Internet;
- (h) the Defendants used alter-ego Twitter accounts, and/or hired or otherwise procured or involved additional conspirators, to further disseminate and publish links to the Defamatory Manifesto;
- (i) the Defendants, similarly concealing their identities through alter-egos, using fake email addresses and Twitter accounts and VPNs, and/or by hiring or otherwise procuring or involving additional conspirators for this purpose, publicized and provided links to the Defamatory Manifesto on various Internet message boards and chat rooms. These message boards and chat rooms related to the Canadian and U.S. securities markets and are frequented by investors;
- (j) the Defendants also used alter-ego Twitter accounts to publish further false, defamatory, harassing, and malicious Unlawful Statements against the Plaintiffs, including wishing harm to come to Kassam, and inciting or encouraging others to harm him;

- (k) the Defendants published further false, defamatory, harassing, and malicious Unlawful Statements against the Plaintiffs through targeted emails sent from an anonymized email address;
- (l) the Defendants generated an Excel spreadsheet titled "Journalists.xlsx" that was made up of a list of journalists, news editors and others in the business community to whom the Defamatory Manifesto would be sent, with the goal of maximizing its distribution (the file was created on September 30, 2020 and listed 2,854 names). In the metadata, James Stafford (who purports to be a "journalist" with access to such contacts) is indicated as the "author" of this spreadsheet. The Defendants sent the Defamatory Manifesto to the media in a concerted but unsuccessful attempt to use the media to further publicize the Unlawful Statements and lend them a false and unwarranted air of credibility;
- (m) from fall 2020 through at least spring 2021, the Defendants continued their coordinated defamation campaign by publishing false and defamatory Unlawful Statements in over 1,000 posts on the website Stockhouse. The Defendants took steps to conceal their identities and obscure the origin of these additional Stockhouse posts by using VPNs, and temporary email addresses;
- (n) on June 28, 2021, after the initial Statement of Claim in this matter was issued, the Defendants published a sequel to the Defamatory Manifesto on the website www.marketfrauds.to, titled "Moez Kassam & Anson Funds Part

II: Rotten to the Core” (the “**Second Defamatory Manifesto**”). The Defendants published several other false and defamatory posts about the Plaintiffs on this website, including audio recordings provided by Robert, demonstrating his involvement in the preparation and/or drafting of the Second Defamatory Manifesto, as described further below. The Second Defamatory Manifesto was released on June 28, 2021, days after critical commentary regarding Reconnaissance Energy Africa Ltd. (“**RECO**”), a stock that Stafford was hired to promote, as set out below, was published: *The Globe and Mail* published an article questioning the legitimacy of RECO on June 20, 2021. Viceroy Research, another forensic research firm, published analysis also questioning the quality of RECO assets and stock value on June 24, 2021. Stafford used the Plaintiffs as a scapegoat to distract attention from adverse developments involving companies in which he had an interest.

29. As a result of the Defendants’ conduct, the Unlawful Statements have been publicized broadly on the Internet, on various websites and online message boards, including Reddit and Stockhouse, and on Twitter. They have been disseminated widely, causing unwarranted adverse publicity for Anson that has significantly disrupted and damaged its business. In fact, as of the date of this Fresh as Amended Statement of Claim, the Secondary Defamatory Manifesto is on the “first page” of Google search results for Moez Kassam.

30. The Defendants have the means to attack the Plaintiffs through the Conspiracy and are motivated by an animus against Anson because of its scrutiny of overvalued

stocks and pump-and-dump schemes, some of which Stafford or the other Defendants stood to benefit from. Stafford is paid significant sums of money (millions of dollars) as a stock promoter and has been involved in several pump and dump schemes. In particular, the Plaintiffs believe that the Defendants have targeted them in their malicious and illicit Conspiracy because part of Anson's investment strategy involves scrutinizing overvalued companies, including, in the past, those in the cannabis industry, and including overvalued companies which Stafford promoted and/or invested in.

31. As was the case with other investment firms in 2018, one of Anson's investment strategies involved short-selling securities of several Canadian-operated publicly listed cannabis companies that it believed to be overvalued. Many investment firms, in the ordinary course of business, established short positions against Canadian cannabis companies whose stock prices they believed to be overvalued based on their business fundamentals. Some of these cannabis companies were referred to in the Unlawful Statements.

32. The Unlawful Statements falsely attribute to the Plaintiffs an almost preternatural power to choose securities where they can cause the share price of a company to decline. The Plaintiffs did not cause the share prices of the companies mentioned in the Unlawful Statements to decline. Market fundamentals – alongside overall waning investor sentiment and the actual performance of these companies, among other factors – did. In most cases, the valuations of such companies had at one point fallen 70% or more from their peak price.

33. The Defendant Rudensky has an animus against Anson and Kassam tracing back to at least December 2018, when an independent forensic financial research firm, Hindenburg Research, posted critical findings about Aphria Inc. ("**Aphria**"), a publicly traded cannabis start-up. During this period, Aphria's stock price fell over 40%. The critical research findings related to a key promoter of Aphria who is one of its founders, Andy DeFrancesco. DeFrancesco is the CEO of The Delavaco Group, a merchant bank of which Rudensky is a partner. Rudensky wrongfully blamed the Plaintiffs for Hindenberg's critical research findings regarding Aphria.

34. The Defendant Stafford has an animus against Anson and Kassam tracing back to at least mid-2020, including but not limited to in connection with the companies Facedrive Inc. ("**Facedrive**") and RECO. Stafford has a significant financial interest and exposure to Facedrive and RECO, which gave him an incentive to diminish and disparage critical commentary about those companies. As a result, Stafford publicly and wrongfully used the Plaintiffs as scapegoats to blame for Facedrive and RECO's share prices declining, and in particular he blamed the Plaintiffs for the critical research findings about Facedrive and RECO published by Hindenburg Research and Viceroy Research respectively. In fact, the share prices of overvalued companies like FaceDrive and RECO decline not because of the Plaintiffs' influence, but rather because of market fundamentals.

35. Stafford is a stock promoter and was hired, directly and/or indirectly, to promote, and artificially inflate the volume and/or price of, Facedrive shares using his website, www.OilPrice.com. The public disclosure on www.OilPrice.com stated in part that the purported articles about Facedrive "**should be viewed as a commercial advertisement**

only. We have not investigated the background of the featured company. Frequently companies profiled in our alerts experience a large increase in volume and share price during the course of investor awareness marketing, which often end as soon as the investor awareness marketing ceases” (emphasis added).

36. In total, Stafford directly and indirectly, at one point in time, owned up to approximately 1.5 million shares in Facedrive (worth roughly \$8 million at the time the agreement was press released by Facedrive), some of which he received as compensation for stock promotion, and some of which he purchased on the open market. As a result, Stafford had a significant incentive to inflate Facedrive's share price.

37. These incentives gave Stafford the impetus to engage in the Conspiracy and spread Unlawful Statements about the Plaintiffs. Given Stafford's financial interest in Facedrive, he has an incentive to undermine and disparage critical commentary about Facedrive, published by market participants or other observers, which questions its intrinsic value. On July 23, 2020, Hindenburg Research published research findings that were critical about Facedrive. That same night, the first Unlawful Statements about the Plaintiffs were published on Stockhouse.

38. Stafford was also hired to promote, and artificially inflate the volume and/or price of, RECO's shares. Since January 2020, Stafford and/or his companies have published over twenty false and misleading articles promoting RECO on www.OilPrice.com. The disclosure on these articles indicates that Stafford was paid US\$280,000 for a series of four articles in January 2021. All of the articles consistently disclosed that Stafford and/or

his companies own shares in RECO and accordingly have a substantial incentive to see the share price perform well.

39. Stafford's financial interest in RECO once again motivated him to spread Unlawful Statements about the Plaintiffs as part of the Conspiracy. On June 20, 2021, *The Globe and Mail* published a critical article about RECO. On June 24, 2021, Viceroy Research, another forensic research firm, expanded on *The Globe and Mail's* reporting and posted further critical findings about RECO. The critical findings included allegations that RECO had engaged in stock promotion and had other fundamental issues. The Second Defamatory Manifesto was published on June 28, 2021, a few days after Viceroy Research released its first report regarding RECO.

40. For further information on Facedrive, RECO and Stafford's animus towards the Plaintiffs, see **Appendix "C"** at section B.

41. With respect to the Defendant Robert, he has an animus against Anson and Kassam, which is in part based on his claims that he has not been paid for due diligence that he shared with Anson. In October 2020, he aggressively attempted to obtain a significant and unwarranted amount of money from Anson, plus an indemnity and immunity, in exchange for certain due diligence he shared with Anson, and for information on the identity of the Unknown Defendants, which he confirmed he knew. Robert utilized the circumstances – the publication of the Defamatory Manifesto and other Unlawful Statements – to attempt to pressure Kassam and Anson to pay him significant amounts, giving his demands the air of extortion. While not all aspects of Robert's animus against Anson and Kassam are known to the Plaintiffs, the animus is consistent with past racist

tweets by Doxtator, and in light of the fact that Kassam, other senior employees at Anson, and their spouses are not Caucasian.

42. Though all of the parties behind the Conspiracy to damage the Plaintiffs' business and reputation are not known at this time, the damage wrought by their illegal conduct is clear.

D. THE DEFENDANTS' CONSPIRACY AGAINST THE PLAINTIFFS

(i) Beginning in late 2018, Robert develops animus towards Plaintiffs

43. Beginning in late 2018, Robert developed a malevolent animus towards the Plaintiffs, and in particular towards Sunny Puri ("**Puri**"), a Principal and Portfolio Manager at Anson. Indeed, as set out below, Robert's animosity towards Puri has included threatening violence.

44. Anson and Kassam first met Robert in late August 2018, when they discussed the prospect of him providing consulting services to Anson via the company he had founded, Harvest Moon Cannabis Company. Over a series of messages exchanged between Kassam, on behalf of Anson, and Robert, Anson and Robert agreed that Robert would provide Anson with due diligence, and that if Anson chose to trade on any due diligence provided by Robert, it would pay Robert 15% of any profits it made on the trade. Anson could and did independently decide, based on its own process, if it would trade any securities discussed with Robert.

45. In the months after August 2018, Robert shared limited due diligence with Anson regarding certain public companies, but Anson did not trade on any of that information at that time. Robert became irrationally angry with Anson, and with Puri in particular,

because Robert thought – incorrectly – that Anson had traded profitably on the limited due diligence he had provided and that Anson had shared this information with others. In November 2018, Robert told Allen Spektor (the person who introduced Robert to Anson) that he wanted Puri fired. On November 8, 2018, Robert wrote to Spektor via a messaging app that “I’m never moving on...And if I see sunny [sic] I might kick him in the teeth[.] Straight up[.] Your friend is a SHYSTER”.

46. In or around August 2019, Robert provided Anson with diligence concerning General Electric (the “**GE Diligence**”), which Anson did use in respect of a trade. Specifically, on or around August 15, 2019, Anson purchased approximately 5,000 put options in GE, which allow for the right to short sell the equivalent of 500,000 shares. Anson also sold short approximately 430,000 common shares of GE. Anson subsequently closed both positions. Kassam informed Robert about Anson’s trades in GE in real time in order to be completely transparent about how Anson was using the GE Diligence. In the aggregate, Anson’s GE trade yielded a profit of US\$121,073.70. Anson was prepared to pay Robert 15% of its profit, or US\$18,161.06, for the GE Diligence in accordance with its arrangement with Robert.

47. Despite this transparency, Robert refused to accept the amount he was owed for the GE Diligence because he falsely claimed, without any basis, that Anson had “made millions” using it. Instead, Robert began to threaten legal action, as well as physical violence and other retribution.

48. On August 21 and 22, 2019, Robert sent Kassam the following messages (emphasis added):

I'm working on a report

It's called the biggest predatory fund in Potstocks...

I'm going to talk to my lawyer also cause I'm sick [of] people like trying [to] fuck me over...

I'm going to talk to my lawyer sorry Moez sick of this...

So tomorrow I reveal your friendly bear

Just getting started

Reports ready to go...

You fucked over wrong person for last time Moez

Tweets pretty popular

Media already texting me for the story

49. In September 2019, while Puri was in a meeting at a professional conference at the Shangri-La Hotel in Toronto, Robert threatened to physically assault him in front of other conference attendees.

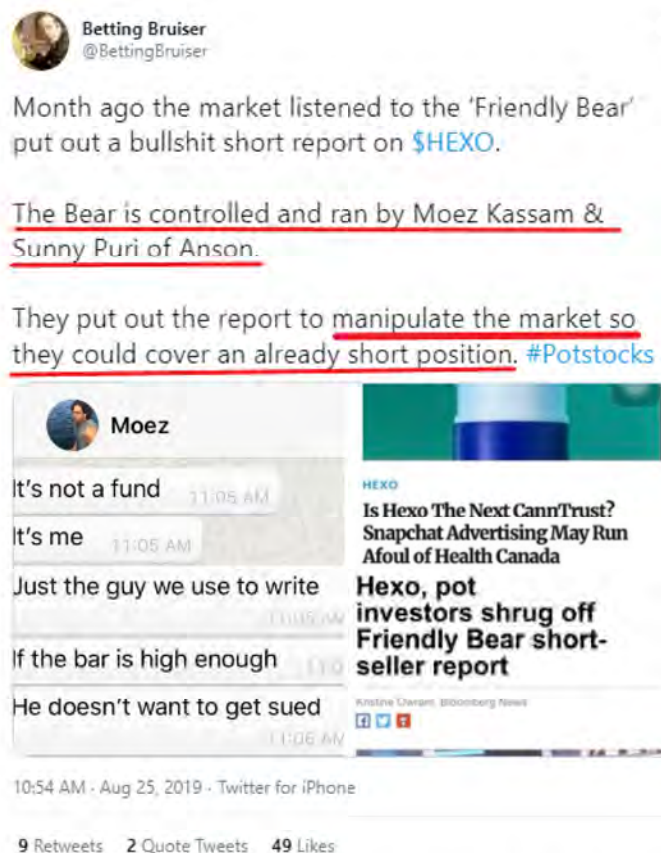
50. After August 2019, Anson never again worked with Robert.

(ii) In Summer 2019, Robert launches a Campaign to spread Unlawful Statements about the Plaintiffs

51. In late August 2019 – a few days after threatening to begin to publicly “reveal” purported content about Anson – Robert unleashed a series of tweets through his Betting Bruiser account making false and defamatory Unlawful Statements about the Plaintiffs. Just as Robert had threatened Kassam, “Betting Bruiser” tweeted false allegations that

Anson and Kassam had commissioned a report that the Friendly Bear, an independent research outfit, had published regarding Hexo Corp., a cannabis company. In particular:

- (a) on August 25, 2019, “Betting Bruiser” tweeted false allegations about Anson’s purported involvement in the Friendly Bear report. He falsely alleged that Anson “controls” the Friendly Bear – which allegations also appeared in the Defamatory Manifesto over a year later. He included in the tweet a screen shot of text messages from Kassam, which he presented out of context and in a misleading manner (emphasis added below):



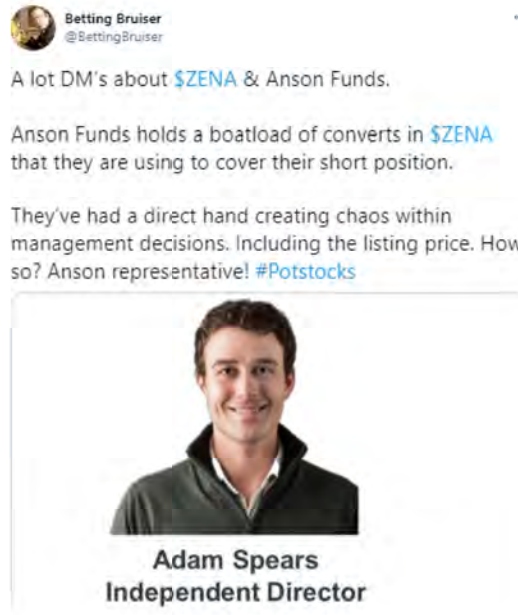
To be clear, neither Anson nor Kassam owns or controls (or owned or controlled at the time) the Friendly Bear. As described above, publication of

public company analysis is a routine feature of the capital markets. Anson and other market participants routinely share investment theses (based on publicly available information) with others in the industry for the purpose of stress testing such theses. To the extent individuals publish reports on public companies, these may or may not accord with the views of Anson and other investment firms. Anson does not “control” such analysts, who independently form their own views regarding companies and independently choose if and when to publish reports;

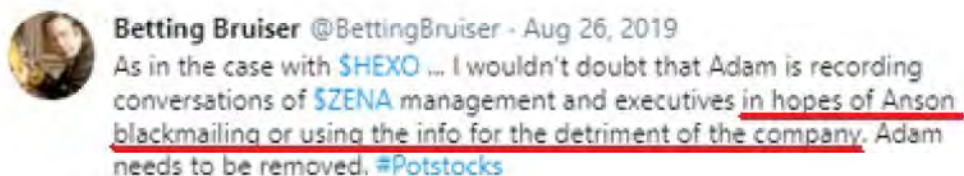
- (b) later the same day, he tweeted about his plan to “expose” Anson. This tweet falsely stated that Anson had connections to market manipulators, and that the Anson funds had “created” a “death spiral” in public companies in order to “cash out their short positions”:



- (c) on August 26, 2019, “Betting Bruiser” published several tweets falsely alleging that Anson used a representative, Adam Spears, on the Board of Directors of a cannabis company named Zenabis Inc. (“**Zenabis**” or “**\$ZENA**”) to intentionally and negatively influence the company’s business decisions and artificially reduce its share price:



- (d) later that same day, he tweeted false allegations that Spears was recording conversations among Zenabis management so that Anson could blackmail the company or use the information to its detriment (emphasis added below):



52. On March 11, 2020, "Betting Bruiser" tweeted a photo of Puri, commenting: "The biggest chicken hawk that I've ever met in my life. Every time I see him we have words. Sunny Puri from Anson Funds. If you've ever crossed paths with him then your stock is likely -95% from its high and he holds your [fate] in his hands via convertible debt. #PotStocks". This demonstrates the personal animus that Robert holds towards Puri.

(iii) In Summer 2020, the Conspiracy spreading Unlawful Statements about the Plaintiffs expands

53. In July and August 2020, the Defendants conspired to spread the publication of the Unlawful Statements on the Internet, including via posts published on the website Stockhouse. They published posts on Stockhouse on:

- (a) July 23 (the “**July 23 Stockhouse Post**”),
- (b) August 14 (the “**August 14 Stockhouse Post**”),
- (c) August 17 (the “**August 17 Stockhouse Post**”), and
- (d) August 28, 2020 (the “**August 28 Stockhouse Post**” and collectively, the “**Unlawful Stockhouse Statements**”).

54. The August 14, 17 and 28 Stockhouse Posts were published from Mexico.

55. The Defendants have also continued to publish further and additional Unlawful Statements on Stockhouse through at least spring 2021 (collectively, the “**Further Unlawful Stockhouse Statements**”). Many of the Unlawful Stockhouse Statements and Further Unlawful Stockhouse Statements were published using IP addresses originating in Mexico, predominantly Mexico City, the surrounding area, and the nearby city of Toluca. At least four employees of www.OilPrice.com are based in Mexico.

56. For example, as set out above, on July 23, 2020, Hindenburg Research published a critical report about Facedrive, a company whose stock Stafford was hired to promote.

57. Stafford and the other Defendants conspired to anonymously publish a post titled “The Real Story on Moez Kassam and Anson Funds – Part 1” on Stockhouse on July 23, 2020, under the pseudonym “JusinTime”:



The Real Story on Moez Kassam and Anson Funds – Part 1

58. The July 23 Stockhouse Post called Kassam a “criminal” and included statements accusing him of engaging in illegal, unethical, and “corrupt” business practices as well as egregious personal attacks, which were intended to damage his reputation and turn investors away from him. The accusations are false and defamatory.

59. The July 23 Stockhouse Post accused Kassam of being “corrupt and criminal” and asserted that his practices included “treading on people, lying and using every trick in the book to bring companies down that he bet against” (emphasis added below):

So here is the beginning part of the tale about the corrupt and criminal CIO at Anson funds?
A few short years ago Moez Kassam was a high flying star in the hedge fund space. He had \$1 billion under management (now down to \$250 million and falling) and was the praise of the financial community. But what people don't know is that his media praise was paid for (like when Toronto Life covered his wedding – paid for and made to look like an editorial - shame), But even worse he made his money the dirty way, treading on people, lying and using every trick in the book to bring companies down that he bet against. Whatever it took, whoever he ruined financially or reputation wise he would do it to turn a profit.

60. For more detail on the July 23 Stockhouse Post and information regarding the Unlawful Stockhouse Statements that followed, see **Appendix “D”**.

61. Other posts containing Unlawful Statements against the Plaintiffs, in addition to those described in **Appendix “D”**, were published on Stockhouse throughout July and

August 2020 via Mexican IP addresses. Stockhouse users located in Mexico City and surrounding areas were some of the most active and frequent posters of Unlawful Statements on Stockhouse. Later, as set out further below, a Stockhouse account named “ToffRaffles”, which is controlled by Stafford, published several Unlawful Statements on Stockhouse via a Mexican IP address associated with Mexico City.

62. Following communications with Stockhouse and in light of its website terms and conditions of use, which prohibit unlawful or defamatory content, the Plaintiffs were able to have the Unlawful Stockhouse Statements removed from the Stockhouse website.

63. Almost immediately after the removal of the Unlawful Stockhouse Statements, the Defendants conspired to curate a lengthier publication adding to the false and defamatory statements they previously published via the Unlawful Stockhouse Statements. Then they took to other means to broadly disseminate the Unlawful Statements as part of their concerted and coordinated effort to defame the Plaintiffs.

64. On September 10, 2020, “John Murphy” tweeted that Anson and Kassam were engaged in unlawful market manipulation, and that regulators should scrutinize Anson and Kassam, tagging the Twitter accounts of Robert (“Betting Bruiser”); Jeff Kehoe, head of enforcement of the OSC; and Daniel Dale, a reporter with CNN who formerly reported for The Toronto Star:

these reverse pump and dumps must be watched more closely by the regulators. moez and his band fund these trades every week @ClarityToast finds the next fraud that he is paid to profile. @BettingBruiser @ddale8 @JeffKehoeOSC \$apha \$fd \$gfl \$nkla

65. A few days later, on September 12, 2020, “John Murphy” tweeted (emphasis added):

anson is a very corrupt cad fund nake [sic] shorting many small cap co's and when they get in trouble / want to cover ***they pay groups like @HindenburgRes to say the co is a fraud and going to zero.*** how many zeros have they called, the bottom is normally around when the piece comes out

66. In or around summer or early fall 2020, Stafford, Rudensky and/or Robert met or spoke and agreed to concoct defamatory allegations against the Plaintiffs and coordinate the content of the Defamatory Manifesto. They were motivated by their respective animus against the Plaintiffs, as described herein. Stafford was aware of Robert's animus against the Plaintiffs because he had publicly documented it via Twitter. Stafford and Rudensky had previously met given that Rudensky's employer, the Delavaco Group, worked with Stafford on several occasions to promote stocks through www.OilPrice.com.

67. Stafford, Rudensky and/or Robert met or spoke on at least four occasions to plan the Defamatory Manifesto. At those meetings, some of which were recorded and/or transcribed, Stafford solicited Robert and Rudensky for material to include in the Defamatory Manifesto. Robert and Rudensky – purportedly acting as “sources” for Stafford as a “journalist” – made false and defamatory allegations against the Plaintiffs that they knew and intended that Stafford or others would use in the Defamatory Manifesto. Stafford, Robert and Rudensky planned to publish the Defamatory Manifesto anonymously because they knew the allegations it contained were defamatory. When Robert later spoke to Kassam about the Defamatory Manifesto, he falsely told Kassam that, although he knew about the Defamatory Manifesto, he was not involved in its drafting

or publication, and instead blamed only Stafford and Rudensky (as described in paragraphs 98-99 below).

68. Excerpts from transcripts of meetings and/or conversations between Stafford, Rudensky and/or Robert to plan the Defamatory Manifesto are included in **Appendix “E”** at section A. As set out in **Appendix “E”** at section A, the excerpts from the transcripts establish that: Rudensky was involved in preparing the Defamatory Manifesto; Stafford and Robert discussed drafting the Defamatory Manifesto, with Stafford asking Robert to draft false and defamatory allegations against the Plaintiffs; Stafford, Rudensky and Robert intended to harm the Plaintiffs by targeting their relationships with brokers and regulators; Stafford was paid to promote Facedrive; Stafford and Robert discussed Rudensky's employer, Andy DeFrancesco; and Robert was involved in critical research findings published about public companies, including Aphria.

69. Stafford, Rudensky, Robert, Jacob and the other Unknown Defendants then wrote or contributed to the Defamatory Manifesto – using the material provided by Robert and Rudensky as well as material from other Defendants and other sources – and/or published, disseminated or publicized the Defamatory Manifesto, as set out below.

70. On or around September 27, 2020, the Defamatory Manifesto – a 20-page screed titled “Moez Kassam and Anson Funds: A Tale of Corruption, Greed and Failure” – appeared on the website www.MoezKassam.com. It was published anonymously under the pseudonym “The Match Man”.

71. www.MoezKassam.com is a website created or established by the Defendants for the principal purpose of publishing the Defamatory Manifesto in furtherance of the conspiracy.

72. In the weeks after the Defamatory Manifesto was published, Anson received two anonymous telephone calls at its offices threatening harm to Anson and physical harm to Kassam personally.

(iv) The Defamatory Manifesto expands on previously published false statements and falsely states and implies that the Plaintiffs' behaviour was illegal, unethical, and/or in violation of securities laws

73. The Defamatory Manifesto contains many serious and inflammatory allegations regarding the Plaintiffs that are entirely false and that the Defendants knew or ought to have known were false. It repeats and expands on the baseless claims made in Robert's August 2019 tweets and the Unlawful Stockhouse Statements. It falsely and maliciously accuses Anson, Kassam, and other Anson personnel, including Puri, of dishonest and illegal activities that included the following: short-selling schemes, which the Defamatory Manifesto alleges were illegal, even though short selling is a legal trading strategy; insider trading; fraud; and other breaches of securities laws and regulatory rules and policies, among other things.

74. Although the Defamatory Manifesto was published anonymously, it references many precise topics that the Doxtators had previously tweeted false claims about. Robert provided this material to Stafford in their meetings to plan the Defamatory Manifesto.

75. By way of example, from its first paragraph, the Defamatory Manifesto accuses the Plaintiffs of engaging in criminal and unethical conduct (emphasis added):

Never has there been a bigger scourge of the Canadian capital markets. Moez Kassam and his Anson Funds have systematically engaged in capital market crimes, including insider trading and fraud, to rob North American shareholders of countless millions. In his attempt to destroy small-cap Canadian companies through nefarious means, a string of feeder funds and untraceable payments to elude regulators, Moez Kassam has betrayed even his closest friends. Now, the other shoe is about to drop as Kassam's funds run out and a string of failed attempts at illegal destruction leave this naked short seller truly naked.

76. The Defamatory Manifesto labels Kassam the "Toad of Bay Street", with a large photograph of a toad, and advises readers to "steer clear" from Kassam's ***"illegal activities."***

77. A detailed summary of the entire Defamatory Manifesto can be found in **Appendix "E"** at section B.

78. The Defamatory Manifesto encourages readers to share and re-publish it. It also solicits readers to provide additional defamatory material regarding Anson and Kassam for future posts, including by use of the email "hotline" accounts, such as info@moezkassam.com.

79. The earliest published version of the Defamatory Manifesto purported to be a standalone document. The Defamatory Manifesto was later amended to allege that it was the first of a three-part series (similar to the "Part 1" concept used in the title of the July 23 Stockhouse Post). "Part 2", the Second Defamatory Manifesto, has been published, as set out below. To Anson's knowledge, the third part has not yet been published. If it is, and it contains false, malicious and defamatory content similar to the Unlawful Statements

already contained in the Defamatory Manifesto and the Second Defamatory Manifesto, it will cause further, irreparable damage to the Plaintiffs' business and reputations.

(v) *The Defendants procured at least eight internet domains to facilitate widespread publication of their Defamatory Manifesto*

80. Following communications with the third party host of the www.MoezKassam.com domain, the Plaintiffs were able to have Defamatory Manifesto removed from that website.

81. Since that time, the Defendants acquired multiple Internet domain names to republish the Defamatory Manifesto online. To date, the websites acquired and used by the Defendants to publish the Defamatory Manifesto include the following:

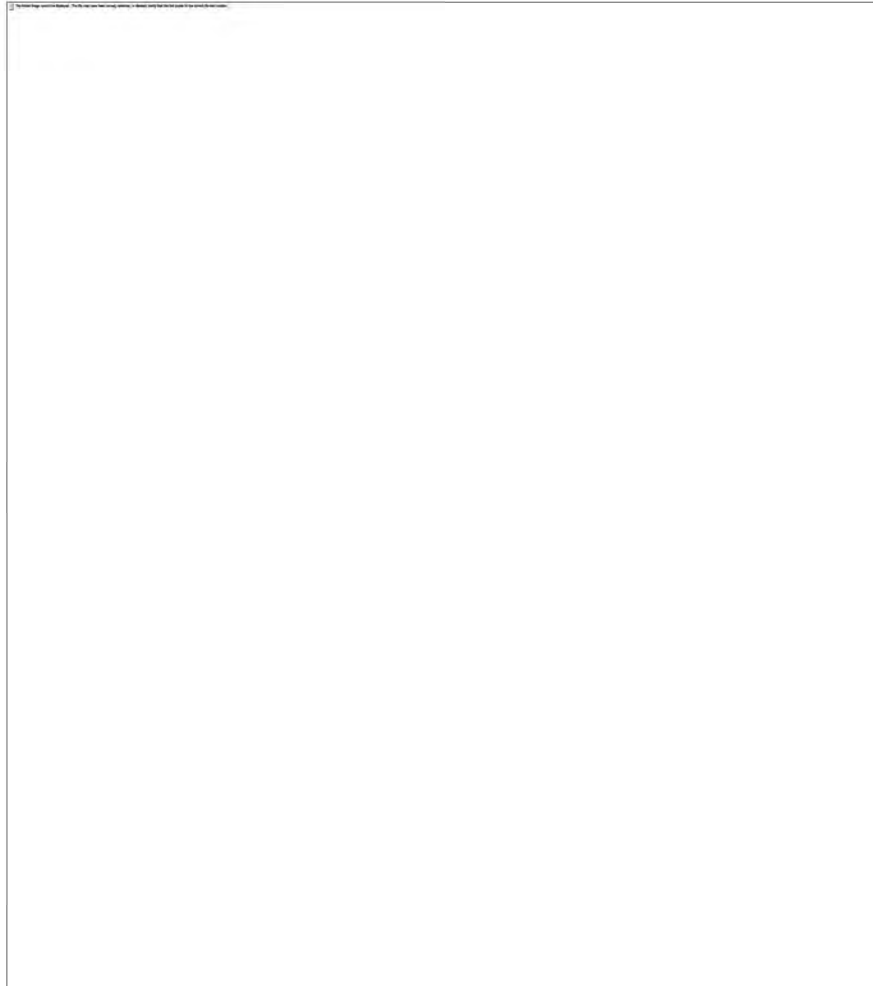
- (a) www.MoezKassam.com;
- (b) www.StockManipulators.com;
- (c) www.CapitalMarketCrimes.com;
- (d) www.StockManipulators.org;
- (e) www.CapitalMarketCrimes.org;
- (f) www.MarketCrimes.ws;
- (g) www.MarketCrimes.to;
- (h) www.CapitalMarketCrimes.to; and
- (i) www.MarketFrauds.to.

82. Whenever the Plaintiffs have taken steps to have a website containing the Defamatory Manifesto taken down, the Defendants have republished the Defamatory

Manifesto on a new website, forcing the Plaintiffs to seek to have that new post of the Defamatory Manifesto taken down. Each time the Defamatory Manifesto is republished online, it increases the harm and damage to the Plaintiffs. The Plaintiffs' claim against the Defendants is in relation to all versions of the Defamatory Manifesto that any of the Defendants published on the Internet, regardless of any differences between published versions of the Defamatory Manifesto.



83. The Defendants did not acquire the domain names directly. Rather, in order to cover their tracks and frustrate the Plaintiffs' efforts to determine who was behind the Defamatory Manifesto, the Defendants hired freelance web developers based in Sarajevo, Bosnia and Herzegovina, and potentially other developers based in other jurisdictions, to create the websites and register the websites on their behalf. This was a sophisticated attempt to obfuscate who was behind the Defamatory Manifesto and shield members of the Conspiracy from liability for their misconduct.

84. The Defendants or their proxies communicated with the Bosnian developers using anonymous email addresses to conceal their identities, including from the developers themselves. The email addresses used by the Defendants were editormarketinvestigations@protonmail.ch and anesalic@protonmail.com. "Anes Alic", the name used in one of these email addresses, is a "journalist" for Stafford's website www.OilPrice.com (as shown below), and the emails sent by anesalic@protonmail.com to the developers were sent either by Stafford or at his behest:



85. Stafford and the other Defendants compiled a spreadsheet containing the names and email addresses of 2,854 journalists, news editors, and others in the business community to whom they planned to disseminate the Defamatory Manifesto. Stafford had many of these names and contact information in his purported capacity as a “journalist”. He and the other Defendants – seeking to imbue the Defamatory Manifesto with a false sense of credibility – intended that these journalists and news editors would re-publish the allegations against the Plaintiffs in their respective news outlets. The spreadsheet’s metadata (pictured below) indicates that the spreadsheet’s author was “James Stafford”, and that the spreadsheet was created on September 30, 2020 and last edited October 1,

2020 — just days after the Defamatory Manifesto was first published. Further details of the Defendants’ actions in regard to anonymously hiring the Bosnian web developers, and anonymously disseminating the Defamatory Manifesto, can be found in **Appendix “E”** at section C.

Related Dates	
Last Modified	10/1/2020 4:29 PM
Created	9/30/2020 6:36 PM
Last Printed	
Related People	
Manager	None
Author	 JS James Stafford
Last Modified By	 JS James Stafford

86. Stafford and/or the other Defendants, using the email address “anesalic@protonmail.com”, sent this spreadsheet to the developers hired to assist with disseminating the Defamatory Manifesto:



Sent from ProtonMail mobile

----- Original Message -----

On 4. okt 2020. 23:17, anesalic <anesalic@protonmail.com> wrote:

Sent with [ProtonMail](#) Secure Email.

----- Original Message -----

On Sunday, October 4, 2020 10:44 AM, editormarketinvestigations <editormarketinvestigations@protonmail.ch> wrote:

Sent with [ProtonMail](#) Secure Email.

87. Despite Anson's requests, the current web host of the Defamatory Manifesto on www.MarketFrauds.to has refused to remove it. This website remains accessible on the Internet as of the date of this Amended Statement of Claim.

88. The Plaintiffs expended considerable resources in response to the Defendants' online attack, including but not limited to hiring investigators in North America and overseas, and contacting web registrars, hosts, message boards to mitigate the harm.

89. After the Plaintiffs worked with website registrars to have the Defamatory Manifesto removed from the websites described in paragraphs 81(a) through 81(i), the Defendants falsely alleged that Anson had undertaken a "Distributed Denial-of-Service" or "DDoS" attack – a type of illegal cyber attack – in order to have the Defamatory Manifesto removed, further defaming Anson. This is false: the websites were voluntarily taken down by the website hosts or registrars after Anson and/or its legal advisors advised

that the content was false and defamatory and in breach of these hosts/registrar's policies.

(vi) *The Defendants conspire to lead widespread dissemination of the Defamatory Manifesto*

90. **On the day the Defamatory Manifesto was initially published**, September 27, 2020, “John Murphy” tweeted the first link to the Defamatory Manifesto on www.MoezKassam.com – again demonstrating the involvement of the Doxtators in the Defamatory Manifesto and its proliferation. He included in his tweet the Twitter accounts of *The Globe and Mail* newspaper and BNN Bloomberg, with the aim of drawing the Unlawful Statements in the Defamatory Manifesto to their attention. From that initial tweet, the Defamatory Manifesto was reposted, shared and publicized widely around the Internet, including through social media.

91. On the same day, the Defendants anonymously sent an unsolicited email containing a link to the Defamatory Manifesto to a reporter at *The Globe and Mail* in an attempt to have the Unlawful Statements further publicized in the media. The Defendants used the email address “capitalmarketsinvestigation@protonmail.com”. To further defame the Plaintiffs and in furtherance of the Conspiracy, the Defendants anonymously sent links to the Defamatory Manifesto to other journalists, news editors, and others in the business community as well.

92. The Defendants also anonymously sent unsolicited emails containing a link to the Defamatory Manifesto (along with the false and defamatory content set out below) to individuals in the financial industry (the “**Unsolicited Emails**”). One version of the Unsolicited Emails was sent from the address “info@stockmanipulators.org” with the

subject line “Hedge Fund Scandal in Canada and the U.S.: Moez Kassam and Anson Funds accused of Stealing Billions.” Another version of the Unsolicited Emails had the title “Urgent News Tip – Huge Hedge Fund Fraud in America and Canada’s Stock Markets”. These Unsolicited Emails were designed and intended to further harm the Plaintiffs and damage their reputation in the financial industry.

93. On September 28, 2020 – the day after the Defamatory Manifesto was first published – Robert texted Spektor (the contact who introduced him to Anson) the following in reference to the Defamatory Manifesto (emphasis added):

I knew it was coming...

I know who wrote...

Moez likely going [to] sue

94. On September 29, 2020, “Betting Bruiser” tweeted a link to the Defamatory Manifesto, supporting the content of the post as follows:



95. Further examples of the Unsolicited Emails sharing the Defamatory Manifesto and the Defendants' concerted effort to disseminate the Defamatory Manifesto and publish it on Twitter can be found in **Appendix "E"** at sections D and E.

(vii) *Shortly after its publication, Robert attempts to leverage the Defamatory Manifesto to extract money from the Plaintiffs and magnify his attacks*

96. In early October 2020, Kassam approached Robert for information about who was behind the Defamatory Manifesto. In those conversations, Robert sought \$75,000 from Anson in relation to the due diligence he had provided, referenced in his September 30 tweet, and aggressively suggested that far more would be needed for information regarding the Unknown Defendants. He also sought blanket immunity, indemnification and a release from Anson before he would provide assistance, clearly attempting to use purported leverage against Kassam and Anson. In particular, Robert alleged that the Unknown Defendants had promised to pay him \$250,000 to assist them, insinuating that a similar or greater amount would be needed from Anson in order for Robert to forego assisting the conspirators and/or to provide assistance to Anson.

97. In a Whatsapp chat on October 1, 2020, Robert, using the username "Betting Bruiser", sent Kassam the following messages (emphasis added):

I sent invoice for what I think you owe me ... if you don't pay it

I can make 250k going to the other side

And that's not owed to me ... ***that's just to help bury you. Choice is yours.***

[...]

Again ... I sent invoice for \$75k [which] I think is fair for what you owe me ... I wanna sign indemnification... then we go from there. I'll try my best to get you what you need. That's all.

98. In their Whatsapp chat on October 1, 2020, Robert also told Kassam that Stafford had procured the drafting of the Defamatory Manifesto and was paying individuals for their involvement, including Rudensky. Robert also stated that Stafford was involved in running the "hotline" or tipline to which readers of the Defamatory Manifesto could send information. Robert texted Kassam the following:

[Attachment]

That's what Stafford sent me today

That's the general game plan for part 2 [of the Defamatory Manifesto]

Rudensky for sure wrote part 1 ... Stafford was paying him to do it ... he tried to get me to talk to him ... I assume he's one running the hotline

99. By telling Kassam that Stafford "tried to get me to talk to him" for the Defamatory Manifesto, Robert falsely implied that he was not a source of the defamatory allegations, which he was. He placed blame solely on Rudensky and Stafford.

100. On October 9, 2020, Kassam informed Robert via Whatsapp chat that Anson would no longer negotiate with him given his involvement in the Conspiracy. Anson was not prepared to provide Robert with payments or a release/indemnity. In response, Robert told Kassam that he had recorded a telephone conversation between them.

101. Shortly after the message exchange on October 9, "Betting Bruiser" published a series of tweets making false, defamatory, malicious and harassing allegations against

Anson, Kassam and other individuals associated with Anson. Among other things, these tweets were in retaliation for Anson and Kassam refusing to accede to Robert's aggressive demands. "Betting Bruiser" also threatened to release the recordings that Robert purportedly made of his private conversations with Kassam. These tweets included "Betting Bruiser" wishing death on Kassam on October 9, 2020 – the Friday before Thanksgiving weekend:



102. Further examples of these tweets can be found in **Appendix "E"** at section F.

(viii) *The Defamatory Manifesto was disseminated widely online in fall 2020 and beyond*

103. The Defendants have discussed, shared and published links to the Defamatory Manifesto, and/or hired others to discuss, share and publish links to the Defamatory Manifesto on their behalf, on several other websites and Internet message boards, including but not limited to Reddit, Stockhouse, Yahoo Finance and on social media. The Defendants or their proxies shared the Defamatory Manifesto in these industry forums using anonymous accounts, many of which were created using VPNs and "burner" email accounts, for the purpose of concealing the Defendants' identities. The Defendants also made further Unlawful Statements against the Plaintiffs while publicizing links to the

Defamatory Manifesto on these specialized message boards – all designed to cause the Plaintiffs maximum harm.

104. The messages publicizing the Defamatory Manifesto on blogs or chat forums often used similar or the exact same wording as one another (but were published by different usernames), reflecting the Defendants' sophisticated and coordinated effort to anonymously disseminate the Defamatory Manifesto as widely as possible to maximize the damage caused to the Plaintiffs. Examples of messages publicizing the Defamatory Manifesto can be found in **Appendix "E"** at section G.

105. The Defendants published the Further Unlawful Stockhouse Statements – a litany of posts on Stockhouse from September 2020 and onwards – to disseminate the Defamatory Manifesto and other Unlawful Statements against the Plaintiffs. In total, over 1,000 such posts appeared on Stockhouse after September 27, 2020 (and the number of posts continues to increase as the Defendants perpetuate the Conspiracy). Many of the Further Unlawful Stockhouse Statements were published using single-purpose Stockhouse accounts, created and used predominantly or exclusively for the purpose of disseminating Unlawful Statements. To register these accounts, the Defendants often used email addresses created using www.SharkLasers.com, a website that provides temporary and untraceable email addresses. The Defendants also used VPNs to publish these Stockhouse posts. All of this covert behaviour was for the purpose of concealing the Defendants' identities and obscuring the scope of the Conspiracy. Further details on the Further Unlawful Stockhouse Statements can be found in **Appendix "E"** at section G.

106. Between November 2020 and March 2021, Stafford also personally published Unlawful Statements on Stockhouse using the username “ToffRaffles”, a Stockhouse account registered to james@floatingmix.com, an email address Stafford owned and uses (the “**Stafford Unlawful Stockhouse Statements**”). The Stafford Unlawful Stockhouse Statements were published in a series of Stockhouse posts via a Mexican IP address. Stafford’s website, www.OilPrice.com, has offices and/or employees in or around Mexico City. Many of the Stafford Unlawful Stockhouse Statements referred to Facedrive, one of the companies that Stafford was hired to promote and of which he owned a significant number of shares. The Stafford Unlawful Stockhouse Statements can be found in **Appendix “E”** at section H.

107. The Defendants continued to publish Further Unlawful Stockhouse Statements in March and April 2021 and beyond. Many of these were published using the “Tor” browser (which conceals a user’s Internet activity) and Stockhouse accounts registered to temporary email addresses. Since March 2021, Stockhouse accounts using the Tor browser have published nearly 600 defamatory posts about the Plaintiffs, showing the continuing effort to defame the Plaintiffs and the sophistication of the Conspiracy. Further Unlawful Stockhouse Statements published in spring 2021 had headline tags including the following:

- (a) “How Embarrassing: Another Scandal For This Hedge Fund?”;
- (b) “Looks Like These Guys Are In Trouble Again”;
- (c) “Notorious Short Selling Fund In Trouble”;

- (d) “Sunny Puri wants to know the truth – here it is Sunny Puri”;
- (e) “Canadian Hedge Fund under SEC Investigation”;
- (f) “Anson Funds under SEC Investigation – Do Unitholders know”; and
- (g) “100K Reward for info leading to conviction of Anson Funds”.

(ix) *The Second Defamatory Manifesto and other defamatory articles*

108. On or around June 28, 2021, Stafford, Robert, Jacob and the other Unknown Defendants published the Second Defamatory Manifesto, titled “Moez Kassam & Anson Funds Part II: Rotten To The Core”, on the website www.marketfrauds.to. The Second Defamatory Manifesto continued the malicious attack against the Plaintiffs contained in the Defamatory Manifesto and the other Unlawful Statements, using many of the same themes. By way of example, the Second Defamatory Manifesto:

- (a) falsely alleged that the Plaintiffs were being investigated by the OSC and SEC and solicited readers to send “tips” to regulators;
- (b) claimed that Anson’s “bumper year in 2020” was due to its “destroying a fair number of companies and causing thousands of regular shareholders to lose their savings”;
- (c) called Kassam “a naked short seller whose activities are criminal and whose modus operandi is to manipulate the market and infiltrate companies to destroy them from the inside, while violating all short selling laws. He deliberately goes out of his way to ensure that companies fail”;

- (d) alleged that the Plaintiffs and *The Globe and Mail* conspired so that the newspaper “publish[es] a hit piece” on companies in which Anson has a short position; and
- (e) falsely claimed that the Plaintiffs commissioned and paid for critical media articles and critical analysis from industry analysts regarding, among other things, RECO (Reconnaissance Energy Africa Ltd.) and Facedrive.

109. As set out in **Appendix “C”**, Stafford was hired to promote and increase RECO’s stock price. *The Globe and Mail* published an article questioning the stock promotion activities and public disclosure of RECO on June 20, 2021. Viceroy Research, another investment firm, published analysis also questioning the quality of RECO assets and stock value on June 24, 2021. The Second Defamatory Manifesto was released on June 28, 2021, days after *The Globe and Mail* reporting and Viceroy Research analysis. As set out above, it is in the normal course that market participants and media look at facts and objective sources to analyse and report on different companies. Where those companies turn out to be grossly overvalued, market participants and media may publish their findings in that regard. This is part of properly functioning capital markets.

110. The Second Defamatory Manifesto included snippets of audio recordings of conversations Kassam had with Robert several years ago, which only included one side of the conversation when Kassam was speaking. Robert took these recordings without Kassam’s consent and gave them to Stafford and/or the other Defendants. The recordings were presented in the Second Defamatory Manifesto without context and in a

deliberately misleading manner in order to promote the defamatory meanings pleaded above.

111. The Second Defamatory Manifesto made numerous other defamatory allegations against the Plaintiffs, including that they manipulated stocks through social media, engaged in bribery and insider trading, commissioned DDOS attacks, filed false financial reporting, and “utilize Water boarding style trading tactics”. The Second Defamatory Manifesto accused Anson of “attacking” several companies, including Zoom, Facedrive, GSX Techedu, Genius Brands International, Gamestop, Valorem Resources, Starr Peak Mining, Whole Earth Brands, United Lithium, Mountain Valley MD Holdings, SOL Global, Clean Power Capital Corp, Red White & Bloom, Moderna, Medivolve, AMM Power, Value Line, Champignon Brands, “and many others.”

112. Several other defamatory posts were published on www.marketfrauds.to in addition to the Second Defamatory Manifesto (the “**Additional Unlawful Posts**”), including posts with the following titles:

- (a) “Moez Kassam has moved over \$20 million into offshore accounts in UAE and Dubai”, on May 15 and reposted on May 19, 2021.
- (b) “Reconnaissance Energy Africa is Anson Funds next target – Illegal tactics being employed by Anson”, on May 23, 2021;
- (c) “Anson Funds short and distort campaign against Recon Africa (and Globe & Mail corruption)”, on May 31, 2021;

- (d) “Corruption at Globe and Mail – Mail sent to their staff and regulators”, on June 18, 2021; and
- (e) “Hurt by Anson Funds – the SEC wants to hear from you ASAP”, on July 21, 2021.

E. THE DEFENDANTS ARE LIABLE

113. The Defendants are liable to the Plaintiffs for conspiracy, publicity that inaccurately places the plaintiff in a false light, intentional interference with economic relations, misappropriation of personality, internet harassment, and defamation.

(i) *The Defendants’ Tortious Conspiracy Against Anson*

114. Robert, Jacob and the Unknown Defendants conspired with one another to make and publicize the Unlawful Statements against the Plaintiffs. They formed an agreement with one another to injure the Plaintiffs, and in making the Unlawful Statements, their predominant purpose was to injure the Plaintiffs – namely, by damaging their business and reputation.

115. Moreover, the Defendants carried out the conspiracy by the unlawful means of defamation and other tortious misconduct pleaded herein.

116. The Defendants knew, or should have known, that the Unlawful Statements about the Plaintiffs and the publicity attached to them would be extremely harmful to the Plaintiffs, damaging their reputation and business.

117. The Defendants acted in furtherance of the Conspiracy by making, assisting with, participating in, and/or publicizing the Unlawful Statements, causing damage to the Plaintiffs.

(ii) False light

118. In addition, the Defendants are liable for placing Anson and Kassam in a false light.

119. By making, assisting with, participating in and/or publicizing the Unlawful Statements, the Defendants gave publicity to very serious false allegations against Anson and Kassam that placed them in a false light. The Defendants have publicly, falsely accused Anson and Kassam of serious crimes – including fraud, insider trading and other significant breaches of applicable securities laws and regulations, as well as cyber crimes. These allegations would be highly offensive to a reasonable person.

120. In making, assisting with, participating in and/or publicizing the Unlawful Statements, the Defendants knew or recklessly disregarded the falsity of the Unlawful Statements against Anson and Kassam and the false light in which they would thereby be placed.

(iii) Intentional interference with economic relations

121. By making, assisting with, contributing to and/or publicizing the Unlawful Statements, including through the Unlawful Stockhouse Statements, the Further Unlawful Stockhouse Statements, the Defamatory Manifesto, the Second Defamatory Manifesto, and the Additional Unlawful Posts, Robert and Jacob's Twitter accounts, and other websites, the Defendants are liable for intentional interference with Anson's economic relations.

122. The Defendants, with the intention of harming Anson's business and damaging its reputation, made a series of false, malicious, defamatory and unlawful public statements about Anson's principal, Kassam, as well as other Anson personnel, including Puri and Anson's General Counsel, Laura Salvatori. The Unlawful Statements falsely accused Kassam, and by extension Anson, of unlawful, dishonest and criminal conduct. The Unlawful Statements were published to countless market participants, including current and potential Anson investors. As a result of the Unlawful Statements, these third parties were deceived about the subject matter of the Unlawful Statements. The purpose and result of the Defendants' deceit was to harm Anson and Kassam.

(iv) Appropriation of personality

123. The Defendants are liable for wrongfully appropriating Kassam's personality by purchasing the domain name "www.MoezKassam.com" and using it to publicize the Unlawful Statements regarding Anson and Kassam. The Defendants also acquired the email address "info@moezkassam.com" in furtherance of the Conspiracy.

124. By using the domain name in this manner, they violated Kassam's exclusive right to use his own identity, particularly his name, causing damage.

(v) Internet harassment

125. The Defendants are liable for internet harassment of the Plaintiffs by writing, publishing, disseminating, and publicizing all of the Unlawful Statements – including the Unlawful Stockhouse Statements, the Further Unlawful Stockhouse Statements, the Unsolicited Emails, the Defamatory Manifesto, the Second Defamatory Manifesto, the Additional Unlawful Posts, and countless communications via social media. The

Defendants' defamation campaign against the Plaintiffs has lasted over a year to date and is ongoing, with no end in sight. They have publicized the Unlawful Statements in a wide range of Internet forums with the intent of maximizing the spread of their false and defamatory allegations.

126. In writing, publishing, disseminating and publicizing the Unlawful Statements, the Defendants maliciously or recklessly engaged in outrageous, extreme conduct that is beyond all possible bounds of decency or tolerance, causing the Plaintiffs damage. The Defendants intended to impugn the Plaintiffs' dignity and cause fear, anxiety or emotional upset in the Plaintiffs.

(vi) Defamation

127. Finally, the Defendants are liable for defamation for the false and highly defamatory statements made in the Unlawful Statements, including the Unlawful Stockhouse Statements, the Further Unlawful Stockhouse Statements, the Unsolicited Emails, and, ultimately, the Defamatory Manifesto (which was published multiple times, using various domain names), the Second Defamatory Manifesto, the Stafford Unlawful Stockhouse Statements and the Additional Unlawful Posts. The Doxtators are further liable for the false and defamatory statements they published about the Plaintiffs on Twitter.

The Unlawful Stockhouse Statements are Defamatory

128. The Unlawful Stockhouse Statements (discussed above at paragraphs 53 to 60 and in **Appendix "D"**) in their entirety, in their natural and ordinary meaning, including their express and implied meaning in their full context, and/or by innuendo, are false and

defamatory of the Plaintiffs. In addition to the natural and ordinary meanings of the Unlawful Statements contained in the Unlawful Stockhouse Statements, and without limiting the generality of the foregoing, the Unlawful Stockhouse Statements would lead a reasonable reader to conclude, or would mean or would be understood to mean, the following regarding Anson and its principals:

- (a) they are corrupt, dishonest, deceptive, duplicitous and cannot be trusted;
- (b) they destroy and/or devalue companies and their shareholders through nefarious means in order to benefit financially;
- (c) they get in over their heads and are unable to control their investments/trading strategies, and/or are inept, incompetent and reckless in their investment/trading practices;
- (d) they engage in unlawful and illegal activities, including market manipulation, abusive trading practices, and securities law and/or criminal law violations;
- (e) they published or participated in the creation of false research reports for the purpose of manipulating the market; and
- (f) they ought to be investigated, including by regulators.

129. In addition to the meanings set out in paragraph 128, and in addition to its plain and ordinary meaning, the July 23 Stockhouse Post would lead a reasonable reader to conclude, or would mean or would be understood to mean, the following regarding Anson and its principals:

Electronically filed / Déposé par voie électronique : 14-Dec-2023
Toronto Superior Court of Justice / Cour supérieure de justice
ANSON ADVISORS INC. et al.
Plaintiffs

-and-

Court File No./N° du dossier du greffe : CV-20-00653410-00CL

JAMES STAFFORD et al.
Defendants

Court File No. CV-20-00653410-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

**RESPONDING MOTION RECORD
(Motion to Set Aside Default Judgment)**

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