

ONTARIO  
SUPERIOR COURT OF JUSTICE

BETWEEN:

MARKO STAJIC

Plaintiff

– and –

SCOTT LANGILLE, GERHARD MULLER,  
PAUL PATHAK, ERIC SILVER, MICHAEL STEIN, and JOHN DOES 1-3

Defendants



Proceeding under the *Class Proceedings Act, 1992*

**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 lawyers 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.

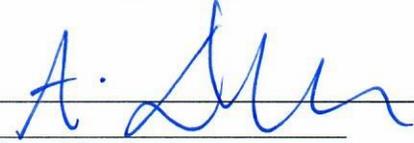
If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

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.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$5,000.00 for costs, within the time for serving and filing your statement of defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400.00 for costs and have the costs assessed by the court.

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: <i>Sept 20, 2022 .</i>	Issued by:  Local Registrar
	Address of Court Office: 330 University Avenue Toronto, Ontario M5G 1R7

**TO:** **OSLER, HOSKIN, & HARCOURT LLP**  
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*Lawyers for the Individual Defendants  
Scott Langille, Gerhard Muller, Paul Pathak, and Michael Stein*

**AND TO:** Eric Silver  
146 Sandringham Drive  
Toronto, ON M3H 1E3

## DEFINED TERMS

1. In addition to the terms defined in ss. 1(1) and 138.1 of the *Securities Act*, R.S.O. 1990, c. S. 5, and elsewhere herein, the following capitalized terms used throughout this Second Fresh as Amended Statement of Claim have the meanings indicated below:

- (a) “**AIF**” means Annual Information Form;
- (b) “**Audit Committee**” means Wayland’s Audit Committee, Messrs. Gerhard Muller, Paul Pathak, and Michael Stein, which reported that it was responsible for monitoring the Company’s systems and procedures for financial reporting and internal control, reviewing disclosure documents and accuracy of the Company’s regulatory filings;
- (c) “**CEO**” means Chief Executive Officer;
- (d) “**CFO**” means Chief Financial Officer;
- (e) “**Class**” means all persons, other than Excluded Persons, who acquired Wayland’s common shares during the Class Period and who held some or all of those common shares until after the release of at least one of the Public Corrective Disclosures;
- (f) “**Class Period**” means December 13, 2017 through April 23, 2019, inclusive;
- (g) “**Company**” means Wayland;
- (h) “**CCAA**” means the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36;
- (i) “**CPA**” means the *Class Proceedings Act, 1992*, S.O. 1992, c. 6, as amended;
- (j) “**Equivalent Securities Acts**” means, collectively, the *Securities Act*, R.S.A. 2000, c. S-4, as amended; the *Securities Act*, R.S.B.C. 1996, c 418, as amended; *The Securities Act*, C.C.S.M. c. S50, as amended; the *Securities Act*, S.N.B. 2004, c. S-5.5, as amended; the *Securities Act*, R.S.N.L. 1990, c S-13, as amended; the *Securities Act*, S.N.W.T. 2008, c. 10, as amended; the *Securities Act*, R.S.N.S. 1989, c. 418, as amended; the *Securities Act*, S Nu 2008, c. 12, as amended; the *Securities Act*, R.S.P.E.I. 1988, c S-3.1, as amended; the *Securities Act*, R.S.Q. c V-1.1, as amended; *The Securities Act, 1988*, S.S. 1988-89, c. S-42.2, as amended; and the *Securities Act*, S.Y. 2007, c. 16, as amended;
- (k) “**Excluded Persons**” means any of the Defendants, their business partners during the Class Period, and any family member or business entity in which the

Defendants or any family member of any Individual Defendant had a financial interest during the Class Period;

- (l) “**Individual Defendants**” means Pathak, Langille, Muller, Stein, and Silver;
- (m) “**Impugned Statements**” means the documents or statements containing alleged misrepresentations released on December 13, 2017, January 9, 2018, January 11, 2018, January 24, 2018, February 28, 2018, March 28, 2018, April 27, 2018, May 29, 2018, June 29, 2018, August 24, 2018, October 1, 2018, October 24, 2018, November 28, 2018, and February 21-22, 2019, all concerning how the Company was going to use the proceeds of each of the offerings it made during the Class Period, how much each phase of the expansion of the Langton Facility would cost and when it would be completed, that the expansion of the Langton Facility was fully-funded, and how much cannabis the Company would produce beginning in 2019;
- (n) “**John Does 1-3**” means the individuals that comprised of Wayland’s Special Committee of the Board of Directors;
- (o) “**Langille**” means Scott Langille who served as Wayland’s CFO during the Class Period;
- (p) “**Langton Facility**” means Wayland’s main production facility located in Langton, Ontario, which at all times during the Class Period was undergoing a multi-phase expansion that began in November 2016.
- (q) “**MD&A**” means Management’s Discussion and Analysis;
- (r) “**Muller**” means Gerhard Muller, the Chair of Wayland’s Audit Committee and Board of Directors during the Class Period, who resigned on July 8, 2019;
- (s) “**NI 51-102**” means the CSA’s National Instrument 51-102—*Continuous Disclosure Obligations*, as amended;
- (t) “**NI 52-109**” means the CSA’s National Instrument 52-109—*Certification of Disclosure in Issuers’ Annual and Interim Filings*, as amended;
- (u) “**OSA**” means the *Securities Act*, R.S.O. 1990 c. S.5, as amended;
- (v) “**OSC**” means the Ontario Securities Commission;
- (w) “**Pathak**” means Paul Pathak, a member of Wayland’s Audit Committee and Board of Directors during the Class Period, who resigned on April 23, 2020;
- (x) “**Primary Market Claim**” means the common law and statutory claims being advanced by the Plaintiff, on behalf of himself and on behalf of all similarly situated investors, that purchased Wayland’s securities in an offering arising from

the January 9, October 1 and October 24, 2018 offerings, including the distribution period, against the Individual Defendants;

- (y) “**Prospectuses**” means the offering document for the January 9, 2018 raise, plus the final short form Prospectus released October 1, 2018 and the corresponding final short form Prospectus released October 24, 2018 (and each individually being a “**Prospectus**”), pertaining to the Company’s Prospectus Offerings;
- (z) “**Public Corrective Disclosures**” means the material facts released to the market on October 1, 2018, November 28, 2018, February 21-22, 2019, and April 23, 2019. concerning when the various phases of expansion of the Langton Facility would be completed, how much each phase would cost, whether the expansion was fully funded, and how the funds raised in each Prospectus conducted during the Class Period were distributed;
- (aa) “**Secondary Market Claim**” means the common law and statutory claims being advanced by the Plaintiff, on behalf of himself and on behalf of all similarly situated investors, that purchased Wayland’s securities in the secondary market, against the Individual Defendants;
- (bb) “**SEDAR**” means the Canadian Securities Administrators’ System for Electronic Document Analysis and Retrieval;
- (cc) “**Stein**” means Michael Stein, a member of Wayland’s Audit Committee and Board of Directors during the Class Period, who resigned February 21, 2019;
- (dd) “**SW Offering**” means Wayland’s offering of special warrants that closed on January 9, 2018, and subsequently had a corresponding prospectus filed on March 28, 2018 qualifying those securities;
- (ee) “**Ward**” means Benjamin Allan Ward, the former CEO of Wayland until August 2, 2019; and
- (ff) “**Wayland**” means Wayland Group Corp. (formerly known as Maricann Group, Inc. prior to January 7, 2019).

## **OVERVIEW OF THE CAUSES OF ACTION**

2. Wayland (formerly known as Maricann) was a company incorporated pursuant to Ontario’s *Business Corporations Act*, which maintained its headquarters in Burlington, Ontario (it has since been liquidated and sold-off into various pieces).

3. Wayland was a federally licensed producer and distributor of cannabis with facilities in Canada, Europe, and South America. Its main production facility was in Langton, Ontario, Canada.

4. During the Class Period, Wayland's common shares were listed on the Canadian Securities Exchange ("CSE"), the Frankfurt Stock Exchange, and the U.S. OTC Market; and it was a Reporting Issuer in Ontario and subject to the *OSA*.

5. The focus of the Plaintiff's causes of action concern the cost and timing of Wayland's Langton Facility expansion, which was a cannabis production facility located at 150 8th Concession Road, Langton, Ontario (a/k/a, "Site 150") with its expansion phases at "Site 138" ("Expansion"): Phase 1 (217,000 sq. ft.), Phase 2 (635,000 sq. ft.), and Phase 3 (90,000 sq. ft.).

6. During the Class Period Wayland, through its directors and officers, represented to investors in the Impugned Documents, *infra.*, that the Langton Facility was on-schedule, on-budget and fully-funded, and would commence generating revenues during the Class Period when it was none of those things. Wayland represented to investors that the monies raised in its securities-offerings would be applied to certain uses, including the Langton Facility expansion and acquisitions of smaller cannabis companies, and they were not.

7. The truth of Wayland's business situation, capital, and operations came in increments beginning on October 1, 2018, when Wayland raised \$35 million of new capital from investors and disclosed that it was allocating \$15 million of this capital-raising to Phase One of the Langton Facility expansion, which Wayland had previously represented was fully-funded; moreover, Wayland disclosed that Phase One production would not be completed during 2018 but, rather, during 2019 (which Wayland ultimately disclosed that by December 2019, it was

only 65% completed). It also disclosed that Phase Two would not be completed until the second half of 2019, opposed to early 2019.

8. The final public corrective disclosure was released on April 23, 2019, when Wayland issued a statement that it would be forced to delay the release of its annual 2018 financial statements and MD&A and, implicitly, its Q1 2019 financial statements and MD&A, indicating to investors that Wayland was unable to comply with the most essential continuous disclosure obligation, without which Wayland could not ascertain such things as “on-schedule”, “on-budget”, “fully-funded”, and no additional revenues would be earned from the cannabis grown and sold within Site 138 (Phase One or Phase Two).

9. Within 8 trading days, on May 6, 2019, Wayland’s securities listed on the CSE were halted by the OSC; and trading never resumed. By December 2, 2019, Wayland filed for bankruptcy protection under the *CCAA*.

10. On December 2, 2019, pursuant to an application by Wayland and its related entities under the *CCAA*, the Ontario Superior Court of Justice (Commercial List) granted a stay of proceedings in favour of Wayland and all former directors and officers of Wayland (the “*CCAA Court*”).

11. On July 9, 2020, the *CCAA Court* issued an order entitled *Lift Stay & Fee Approval* whereby the *CCAA Court* affirmed that the litigation period for all claims against Wayland and its officers and directors shall be tolled until the termination of the *CCAA Proceeding*.

12. On July 15, 2020, the *CCAA Court* clarified that after the termination of the *CCAA Proceeding* that causes of action could still proceed against the Individual Defendants for (i) fraud, wilful misconduct, or criminal acts or criminal omissions as determined by the final,

non-appealable judgment of a court of competent jurisdiction, or any claim that is not permitted to be released pursuant to s. 5.1(2) of the CCAA; (ii) Securities Act Claim; etc.

13. On February 24, 2022, the stay of proceedings in favour of the Individual Defendants expired because the CCAA Proceeding had terminated.

### **CAUSES OF ACTION**

14. Certain constituent elements of the fraud-based causes of action were only discovered during May through August 2022, when the Plaintiff obtained discovery from Wayland's estate.

15. The causes of action asserted by the Plaintiff in this proceeding are:

- (a) Primary Market common law negligence or fraud, pending discovery, against Individual Defendants Messrs. Langille, Pathak, Silver, and Stein, who certified the accuracy of the Prospectuses;
- (b) Primary Market statutory law pursuant to ss. 130(1) and 130.1(1), of the *OSA* and the Equivalent Securities Acts against Individual Defendants Messrs. Langille, Pathak, Silver, and Stein, who certified the accuracy of the Prospectuses;
- (c) Secondary Market common law negligence or fraud, pending discovery, against the Individual Defendants and John Does 1-3; and
- (d) Secondary Market statutory law pursuant to s. 138.3 of the *OSA* and the Equivalent Securities Acts with s. 138.7(2), pending discovery, against the Individual Defendants and John Does 1-3, as influential persons.

16. The Plaintiff alleges that the quantum of the primary market damages exceed \$50 million and will be particularized prior to trial.

17. The Plaintiff alleges that the quantum of the secondary market damages exceed \$50 million and will be particularized prior to trial.

**RELIEF CLAIMED**

18. The Plaintiff claims on his own behalf and on behalf of the members of the Class, subject to further disclosures, discovery and due diligence:

- (a) an order pursuant to s. 5 of the *CPA* certifying this action as a class proceeding and appointing him as the representative plaintiff for the Class advancing the causes of action identified herein;
- (b) an order granting leave to pursue the statutory causes of action as set out in Part XXIII.1 of the *OSA* and comparable provisions in the Equivalent Securities Acts;
- (c) a declaration that the Impugned Statements released by the Defendants contained misrepresentations related to the Company's business, operations and finances because the documents omitted material facts regarding the cost and timing of the expansion of the Langton Facility, misrepresented that the expansion of the Langton Facility was allegedly fully funded from prior public offerings, misrepresented how proceeds from each public offering conducted during the Class Period would be used, and misrepresented the amount of production the Company would be able to achieve in 2019;
- (d) damages in a sum to be determined, or such other sum as this Court finds appropriate at the trial of the common issues or at a reference or references;
- (e) an order directing a reference or giving such other directions as may be necessary to determine issues not determined in the trial of the common issues;

- (f) prejudgment and post-judgment interest, compounded, or pursuant to ss. 128 and 129 of the *CJA*;
- (g) costs of this action on a full indemnity scale, or in an amount that provides substantial indemnity, plus, pursuant to s. 26(9) of the *CPA*, the costs of administering the plan of distribution of the recovery in this action; and
- (h) such further and other relief that this Honourable Court deems just.

### **NATURE OF THIS ACTION**

19. Wayland is a Canadian cannabis producer which at all times relevant to this action was in the process of expanding its main production facility in Langton, Ontario (i.e., the Langton Facility).

20. Wayland conducted multiple public offerings and issued Prospectuses that contained misrepresentations:

- (a) about how the proceeds from those public offerings would be used, i.e., such as on acquisitions and financing marketing firms and the expansion of the Langton Facility;
- (b) regarding when each phase of the expansion of the Langton Facility would be completed and how much each phase would cost;
- (c) that the expansion of Phase One to the Langton Facility was fully-funded and on-budget from prior public offerings;
- (d) that the *pro forma* output and revenues from the additional cannabis that would be produced beginning in 2019, as a result of the expansion of the Langton Facility, was not reasonable when released; and,

- (e) that the core documents incorporated by reference did not contain misrepresentations concerning Wayland's acquisitions.

21. Despite the Company's repeated misrepresentations of material fact, Wayland through the representations of the Individual Defendants, Wayland's former CEO, and other directors and officers subsequently released a series of public corrective disclosure statements that revealed:

- (a) the expansion of the Langton Facility was not fully funded;
- (b) the expansion would not be completed when the Company had represented it would be and would cost more than the Company had represented;
- (c) the Company would not achieve the production or revenue targets it had represented it would achieve in 2019; and
- (d) the Company would not be able to release its annual 2018, Q1 2019, and Q2 2019 financial statements and MD&A.

22. The Public Corrective Disclosures had the foreseeable effect of removing the artificial inflation in the Company's stock price that had resulted from the aforementioned misrepresentations:

- (a) **October 1, 2018:** Wayland released the Prospectus qualifying the securities for a public offering which had previously closed on August 10, 2018. In this core document, Wayland disclosed, in contradiction to its prior statements, that its Phase One expansion would now be completed in Q1 2019, rather than during 2018, and that Phase One was not in fact fully-funded and required at least \$15 million of additional investment. This corrective statement caused the price of

Wayland's shares on the CSE to diminish from \$1.80 down to \$1.58, or a drop of 12.2%;

- (b) **November 28, 2018:** Wayland released its Q3 2018 financial statements and MD&A and disclosed, in contradiction to its prior statements, that its Phase One and Two expansions no longer had completion dates. This corrective statement caused the price of Wayland's shares on the CSE to diminish from \$1.44 down to \$1.32, or a drop of 8.3%;
- (c) **February 21 and 22, 2019:** Wayland released statements that its Board members Stein, who was a member of Wayland's Audit Committee, and Eric Silver, who was a member of Wayland's Corporate Governance and Compensation Committee, were resigning effective immediately without explanation. This corrective statement caused the price of Wayland's shares on the CSE to diminish from \$1.17 down to \$0.98, or a drop of 16.2%; and,
- (d) **April 23, 2019:** Wayland released a statement announcing that it would delay the release of its annual 2018 financial statements and MD&A and that trading in its shares might be halted. This corrective statement caused the price of Wayland's shares on the CSE to diminish from \$0.88 down to \$0.71, or a drop of 19.3%.

#### **THE PLAINTIFF**

23. Plaintiff Marko Stajic is a resident of Windsor, Ontario. During 2018 and 2019, he purchased shares of Wayland listed on the CSE. In making his decision to purchase shares of Wayland, he reviewed Wayland 2017 Annual Information Form and 2Q and 3Q MD&A. At

Wayland's annual meeting, he relied upon Wayland's 3Q 2018 MD&A material facts to vote his shares.

24. He held 172,750 of those shares, with a cost basis of approximately \$373,362, at the close of the proposed Class Period, and continued to hold those shares until after April 23, 2019. He suffered a total loss on those shares when the trading of Wayland shares was halted on May 6, 2019 and never resumed.

### **THE DEFENDANTS**

25. All of the Individual Defendants were members of Wayland's Board of Directors. Wayland was a company incorporated pursuant to Ontario's *Business Corporations Act*, which maintained its headquarters in Oakville, Ontario. Wayland is a federally licensed producer and distributor of cannabis with production facilities in Canada and in Europe.

26. During the Class Period, Wayland's common shares, which have a CUSIP identifier number of 944204, were listed under the ticker symbol "WAYL" on the CSE, "75M" on the FSE, and "MRRCF" on the OTC Market.

27. Paul Pathak was a Director of Wayland between December 15, 2017 and April 23, 2020. Mr. Pathak was a member of the Company's Audit Committee during the Class Period. On November 6, 2018, Mr. Pathak became the Chairman of the Board of Wayland.

28. Mr. Pathak authorized the making of the misrepresentations that were released during the Class Period, and certified that the core documents released during the Class Period did not contain any untrue statements of material fact or omit to state any material facts, or he knowingly authorized, permitted or acquiesced in the release of the following documents:

- (a) Impugned Documents identified as Wayland's quarterly MD&A, as a member of the Audit Committee of the Board of Directors;

- (b) Impugned Documents identified as Wayland's F/2017 MD&A and F/2017 AIF, as a member of the Audit Committee of the Board of Directors;
  - (c) Impugned Documents released on January 9, 2018, and February 21/22, 2019; and
  - (d) Impugned Documents identified as the Prospectuses released on March 28, 2018, October 1, 2018, and October 24, 2018.
29. Gerhard Muller was a Director of Wayland between August 1, 2017 and July 8, 2019. Muller was a member of the Company's Audit Committee during the Class Period.
30. Mr. Muller was an influential person of Wayland and authorized the making of the misrepresentations that were released during the Class Period, and certified that the core documents released during the Class Period did not contain any untrue statements of material fact, omit to state any material facts, or he knowingly authorized, permitted or acquiesced in the release of the following documents:
- (a) Impugned Documents identified as Wayland's quarterly MD&A, as a member of the Audit Committee of the Board of Directors;
  - (b) Impugned Documents identified as Wayland's F/2017 MD&A and F/2017 AIF, as a member of the Audit Committee of the Board of Directors; and
  - (c) Impugned Documents released on December 13, 2017, January 9, 2018, and February 21/22, 2019.
31. **Michael Stein** was a Director of Wayland between April 20, 2017 and resigned on February 21, 2019. He was a member of its Audit Committee during the Class Period.
32. Mr. Stein authorized the making of the misrepresentations that were released during the Class Period, and certified that the core documents released during the Class Period did not

contain any untrue statements of material fact, omit to state any material facts, or he knowingly authorized, permitted or acquiesced in the release of the following documents:

- (a) Impugned Documents identified as the prospectuses released on March 28, 2018, October 1, 2018, and October 24, 2018; and
- (b) Impugned Documents identified as Wayland's F/2017 MD&A and F/2017 AIF, as a member of the Audit Committee of the Board of Directors; and
- (c) Impugned Documents released on December 13, 2017, and January 9, 2018.

33. Eric Silver was a Director of Wayland between April 20, 2017 and resigned on February 22, 2019. He was a member of its Audit Committee during the Class Period.

34. Mr. Silver was an influential person, authorized the making of the misrepresentations that were released during the Class Period, and certified that the core documents released during the Class Period did not contain any untrue statements of material fact, omit to state any material facts, or he knowingly authorized, permitted or acquiesced in the release of the following documents:

- (a) Impugned Documents identified as Wayland's quarterly MD&A, as a member of the Audit Committee of the Board of Directors;
- (b) Impugned Documents identified as Wayland's F/2017 MD&A and F/2017 AIF, as a member of the Audit Committee of the Board of Directors; and
- (c) Impugned Documents released on December 13, 2017, and January 9, 2018.

35. Scott Langille was appointed as CFO of Wayland on October 2, 2017 and resigned from his position on December 31, 2019.

36. Mr. Langille authorized the making of the misrepresentations that were released during the Class Period, and certified that the core documents released during the Class Period did not

contain any untrue statements of material fact or omit to state any material facts, omit to state any material facts, or he knowingly authorized, permitted or acquiesced in the release of the following documents:

(a) Impugned Documents identified as the prospectuses released on March 28, 2018, October 1, 2018, and October 24, 2018; and

(b) Impugned Documents identified as Wayland's F/2017 MD&A, 1Q 2018 MD&A, and F/2017 AIF, 2Q 2018 MD&A, and 3Q 2018 MD&A.

37. John Does 1 - 3 are the currently unknown members of the Special Committee to the Board of Directors, in addition to Defendant Mr. Pathak, that on February 28, 2018, reported to the market based upon their investigation of Benjamin Ward that they could not identify any facts that could reasonably lead them to conclude that Mr. Ward was unfit or otherwise could not effectively carry out his duties as the CEO and director of Wayland.

38. Defendants John Does 1 - 3 authorized the making of the misrepresentations that were released during the Class Period, and certified that the core documents released during the Class Period did not contain any untrue statements of material fact or omit to state any material facts, omit to state any material facts, or he knowingly authorized, permitted or acquiesced in the release of the following documents:

(a) Impugned Documents identified as the statement released on February 28, 2018; and

(b) Impugned Documents identified as Wayland's F/2017 MD&A, 1Q 2018 MD&A, and F/2017 AIF, 2Q 2018 MD&A, and 3Q 2018 MD&A.

## **DISCLOSURES AND THE TOTAL MIX OF INFORMATION**

39. On December 13, 2017, Wayland released a News Release for a pending public offering of special warrants priced at \$2.00 each and therein represented that Phase One (217,000 sq. ft.) was already fully funded. This statement of material fact was inaccurate when made and never corrected by the Individual Defendants. This Impugned Document appears to have been authorized for the release by Benjamin Ward, Wayland's former CEO, who is not a party to this Proceeding.

40. On January 9, 2018, Wayland released a News Release about its public offering of special warrants priced at \$2.00 each, raising over \$40 million. This Impugned Document, once again, represented that Phase One (217,000 sq. ft.) was already fully funded. This statement of material fact was inaccurate when made and never corrected by the Individual Defendants. This Impugned Document appears to have been authorized for the release by Graham Farrell, Wayland's former Director of Investor Relationships, who is not a party to this Proceeding but reported to the Board of Directors.

41. On January 24, 2018, Wayland released its AIF for the year ended December 31, 2016, as well as the Mr. Langille's certification on Form 52-109F1 attesting that the 2016 AIF did not contain any misrepresentations.

42. This AIF added to the total mix of information about Wayland's business, capital structure, and the expansion of the Langton Facility, stating in relevant part that:

- (a) Phase One of the expansion of 217,000 sq. ft., of the three phase expansion for an overall 942,000 sq. ft., which had commenced in November 2016, was progressing on schedule and within 2% of budget, with an initial production capacity to be 22,500kg annually, and was expected to be completed in Q2 2018;

(b) Phase Two of the expansion of 635,000 sq. ft., which had commenced in January 2018, and was expected to be completed by the end of 2018, was expected to bring an additional 70,000kg of annual production on line by the end of 2018, thus representing that Phases One and Two would add an additional 92,500kg of production to the company's existing 2,000kg/year production capability by the end of 2018;

(c) Phase Three of the expansion of 90,000 sq. ft., had commenced and was expected to add additional processing capacity; and

(d) The Audit Committee Charter represented that the members of the Audit Committee would fulfill its oversight responsibilities following expressly writing standards and guidelines.

43. This document contained misrepresentations because the Defendants' statements that they expected either of the purported completion dates to be achieved were not reasonable when made. Additionally, the members of the Audit Committee did not fulfill their oversight responsibilities following expressly written standards and guidelines.

44. On March 28, 2018, Wayland released its Code of Business Conduct affirming that its officers and directors were (i) promoting honest and ethical conduct, including the handling of conflicts of interest; and (ii) promoting full, fair, and accurate timely disclosure in reports provided to securities regulators, and fostering a culture of honesty and accountability. The Code of Business was approved by Wayland's full Board of Directors.

45. On April 27, 2018, Wayland released its annual 2017 financial statements and MD&A, as well as Mr. Langille's certification on Form 52-109FV1 attesting that these core documents did not contain any misrepresentations.

46. This MD&A represented that Phase One of the Langton Facility was expected to be completed in Q2 2018 (at pp. 4 and 16). On a separate page, the MD&A stated that Phase One would be “fully completed” in Q4 2018 (at p. 9). Wayland and the members of the Audit Committee, including Pathak, Muller, and Stein, authorized the content of this core document.

47. This document contained misrepresentations because it omitted the material facts that Phase One was not fully funded, as well as the reasons why it would not be completed during Q2 2018, or fully completed by Q4 2018.

48. The Defendants’ statements that either purported completion date could be achieved were not reasonable when made.

49. On May 29, 2018, Wayland released its Q1 2018 financial statements and MD&A, as well as the CEO and CFO certifications on Form 52-109FV2 attesting that these core documents did not contain any misrepresentations. The MD&A represented that Phase One of the Langton Facility was expected to be completed in Q4 2018 (at pp. 4, 7 and 14). Wayland and the members of the Audit Committee authorized the content of this core document.

50. This core document contained misrepresentations because it omitted the material facts that Phase One was not fully funded, as well as the reasons why it would not be completed during Q2 2018.

51. The Defendants’ statements that either purported completion date could be achieved were not reasonable when made.

52. On June 29, 2018, Wayland released its AIF for the year ended December 31, 2017, as well as the CEO and CFO certifications on Form 52-109F1 attesting that the 2017 AIF did not contain any misrepresentations. The 2017 AIF represented that Phase One of the Langton Facility expansion was expected to be fully completed in Q4 2018, and that Phase Two was

expected to bring additional cannabis production capacity online in Q1 2019 (at pp. 12). Wayland and the members of the Audit Committee authorized the content of this core document.

53. This core document contained misrepresentations because it omitted the material fact that Phase One was not fully funded, as well as the reasons why Phase One was not completed during Q2 2018, and why Phase Two would not be completed in Q4 2018, as previously represented.

54. Further, the Defendants' statements that they expected Phase One to be finished in Q4 2018 and Phase Two in Q1 2019 were not reasonable when made.

55. On August 24, 2018, Wayland released its Q2 2018 financial statements and MD&A, as well as the CEO and CFO certifications on Form 52-109FV2 attesting that these core documents did not contain any misrepresentations. The MD&A represented that Phase One of the Langton Facility was expected to be fully completed in Q4 2018 (at pp. 4 and 8). Wayland and the members of the Audit Committee, including the Individual Defendants Pathak, Muller, and Stein, authorized the content of this core document.

56. This core document contained misrepresentations because it omitted the material facts that Phase One was not fully funded and the reasons as to why it was not completed during Q2 2018. The Defendants' statements that they expected either purported completion date to be achieved were not reasonable when made at this time.

57. On October 1, 2018, Wayland released the final short form Prospectus qualifying the exempt distribution of units distributed pursuant to the Prospectus Offering that had closed on August 10, 2018, along with the corresponding CEO and CFO certifications, attesting that this core document did not contain any misrepresentations.

58. This core document represented that approximately \$15.1 million of the net proceeds raised from the offering would be allocated to the Phase One expansion of the Langton Facility, which was now expected to be completed on January 30, 2019 (at pp. 19-20), and the first part of the Phase Two expansion was now not expected to be completed until Q3 2019.

59. Individual Defendant Langille provided a certification that this core document, together with all the incorporated documents, constituted full, true, and plain disclosure of all the material facts relating to the offering.

60. This core document also served as a partial public corrective disclosure as it revealed to the market that Phase One of the expansion was not in fact fully-funded, would not be completed in Q4 2018 and Phase Two would not be bringing additional cannabis production online in Q1 2019, as previously represented. This disclosure sent Wayland's share price down 12.2%.

61. On October 24, 2018, Wayland released the final short form prospectus for its Prospectus Offering, which would close on October 31, 2018, offering 30,350,000 units at \$1.65 per unit, for a total of \$50,077,500. This core document repeated the representations that roughly \$22.5 million of the expected \$47.6 million in net proceeds from the Prospectus Offering would be used for Phase One of the Langton Facility expansion and that amount was all the remaining cost required to complete Phase One, that Phase One would be completed on January 30, 2019, and part one of Phase Two completed in Q3 2019, and that upon the completion of Phase One and the first part of Phase Two the Company would have an annual production capacity of approximately 95,000 kg of cannabis per year.

62. Individual Defendant Langille provided a certification that this core document, together with all the incorporated documents, constituted full, true and plain disclosure of all the material facts relating to the offering.

63. This core document contained misrepresentations because it omitted material facts as to:

- (a) the fact that Phase One was not fully funded, as previously represented;
- (b) why Phase One was not completed during Q2 2018, and instead was being delayed to Q1 2019;
- (c) why Phase Two was now being described as a two-part process; and
- (d) why the first part of the Phase Two expansion would not be completed until Q3 2019.

64. This core document also misrepresented that as of 2019 the Company would be able to produce 95,000 kg of cannabis per year.

65. On November 26, 2018, Wayland released its management information circular, dated November 9, 2018, for its annual and special meeting of shareholders to be held on December 20, 2018. It appears to have been prepared and approved by the full board of directors. This core document reported that:

- (a) to the knowledge of the Company, which is the full board of directors, no proposed director has been subject to any other penalties or sanctions that would likely be considered important in deciding whether to vote for a proposed Director;

- (b) as of November 9, 2018, there were a total of 201,002,592 common shares issued and outstanding and there would be a 3 to 1 consolidation so that there would be 67,000,864 common shares; and,
- (c) the Board recognizes the importance of corporate governance to protect its shareholders and the board fulfills its mandate through the Audit Committee (Messrs. Muller (Chair), Pathak, and Stein), which included the Audit Committee Charter at Schedule C.

66. This core document contained misrepresentations.

67. On November 28, 2018, Wayland released its Q3 2018 financial statements and MD&A (when it increased its fully diluted number of shares to 300 million), as well as the CEO and CFO certifications on Form 52-109FV2 attesting that these core documents did not contain any misrepresentations within the meaning of the *OSA*.

68. With respect to Phases One and Two of the expansion, this MD&A omitted the status of and completion date of both Phases, and also omitted material facts as to whether Phase One was fully funded. This, following the Prospectus Offering where it was represented that the Company had raised well in excess of the funding requirements for Phase One, was misleading. Wayland and the members of the Audit Committee authorized the content of this core document.

69. This core document contained misrepresentations, and also served as a partial public corrective disclosure, because it:

- (a) revealed that its Phase One and Two expansions no longer had completion dates;
- (b) omitted the material facts that Phase One was not fully funded; and

- (c) omitted material facts as to why Phase One was not completed during Q2 2018, and whether it was going to be completed in Q4 2018 as previously represented.

70. This disclosure sent Wayland's share price down 8.3%.

71. On February 21 and 22, 2019, Wayland released statements that its directors Michael Stein, who was also a member of the Company's Audit Committee, and Eric Silver, who was also a member of the Company's Corporate Governance and Compensation Committee, were resigning effective immediately. Wayland and the members of the Audit Committee, including the Individual Defendants Pathak and Muller, authorized the content of this impugned document and had to have intentionally known that they omitted the material facts as to why Stein and Stone were resigning effective immediately.

72. This non-core document served as a partial public corrective disclosure because the rapid exodus of Directors revealed that there were problems with Wayland's corporate governance, as well as containing a misrepresentation by omitting the material fact that there were material problems with Wayland's books and records. This disclosure sent Wayland's share price down 16%.

### **THE PUBLIC CORRECTIVE STATEMENTS**

73. On October 1, 2018, Wayland released a prospectus qualifying the securities for a public offering which had previously closed on August 10, 2018. In this core document, Wayland disclosed, in contradiction to prior statements, that its Phase One expansion would be completed in Q1 2019. This corrective statement caused the price of Wayland's shares on the CSE to diminish from \$1.80 down to \$1.58, or a drop of 12.2%.

74. On November 28, 2018, Wayland released its Q3 2018 financial statements and MD&A and disclosed, in contradiction to prior statements, that its Phase One and Two

expansions no longer had completion dates. This corrective statement caused the price of Wayland's shares on the CSE to diminish from \$1.44 down to \$1.32, or a drop of 8.3%.

75. On February 21 and 22, 2019, Wayland released statements that its board members Michael Stein, who was a member of the Company's Audit Committee, and Eric Silver, who was a member of the Company's Corporate Governance and Compensation Committee, were resigning effective immediately. This corrective statement caused the price of Wayland's shares on the CSE to diminish from \$1.17 down to \$0.98, or a drop of 16.2%.

76. On April 23, 2019, Wayland released a statement that it would be forced to delay the release of its annual 2018 financial statements and MD&A and, implicitly, its Q1 2019 financial statements and MD&A. Wayland and the members of the Audit Committee, including the Individual Defendants Muller and Pathak, authorized the content of this document. This corrective statement caused the price of Wayland's shares on the CSE to diminish from \$0.88 down to \$0.71, or a drop of 19.3%.

77. Soon after, the above-detailed conduct caused Wayland to liquidate under the *CCAA*.

#### **MATERIAL EVENTS AND DISCLOSURES FOLLOWING THE CLASS PERIOD**

78. On July 8, 2019, Muller resigned from Wayland's Board of Directors.

79. On August 2, 2019, Wayland released a statement that its auditor, MNP LLP, had resigned because of the conduct of Ward in respect of the audit of Wayland's annual 2018 financial statements. It was reported that auditor NVS Chartered Accountants would become the successor auditor.

80. On August 2, 2019, Wayland released a statement that Ward was resigning effective immediately. Wayland has not released any further information about the resignation of its former CEO and Director, such as a material change report explaining why he resigned or any type of severance package provided to him.

81. On December 2, 2019, Wayland applied for and received protection pursuant to the *CCAA* and was granted a stay of proceedings.

82. During and subsequent to April 2020, Wayland assets were sold-off in pieces through the *CCAA* Proceeding.

83. During October 2020, Wayland's securities were delisted from the CSE.

#### **REAL AND SUBSTANTIAL CONNECTION WITH ONTARIO**

84. The Plaintiff pleads that this action has a real and substantial connection with Ontario for the application of Ontario substantive and procedural laws to this claim on behalf of all Class Members because, among other connecting factors, Wayland was a reporting issuer in Ontario and is headquartered in the province of Ontario.

#### **RELEVANT LEGISLATION, PLACE OF TRIAL AND JURY TRIAL**

85. The Plaintiff pleads and relies upon the *CJA*, the *CPA*, the *OSA* and the Equivalent Securities Acts.

86. The Plaintiff proposes that this action be tried in the City of Toronto, in the Province of Ontario, as a proceeding under the *CPA*.

87. The Plaintiff may serve a jury notice.

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*Lawyers for the Plaintiff*

Court File No.: CV-

**MARKO STAJIC**  
Plaintiff

and

**SCOTT LANGILLE et al.**  
Defendants

*CV-22-00687490-004P.*

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
PROCEEDINGS COMMENCED AT **TORONTO**

**STATEMENT OF CLAIM**

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