

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

BETWEEN:

*IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985,  
c. C-36, AS AMENDED*

AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF **ORIGINAL  
TRADERS ENERGY LTD. and 2496750 ONTARIO INC.**

Applicants

**FACTUM OF THE OTE GROUP  
(Mareva Injunction Motion, returnable December 21, 2023)**

December 19, 2023

**AIRD & BERLIS LLP**

Brookfield Place  
181 Bay Street, Suite 1800  
Toronto ON M5J 2T9

**Steven Graff** (LSO# 31871V)

Tel: 416.865.7726

Email: [sgraff@airdberlis.com](mailto:sgraff@airdberlis.com)

**Martin Henderson** (LSO# 24986L)

Tel: 416.865.7725

Email: [mhenderson@airdberlis.com](mailto:mhenderson@airdberlis.com)

**Samantha Hans** (LSO# 84737H)

Tel: 437.880.6105

Email: [shans@airdberlis.com](mailto:shans@airdberlis.com)

*Lawyers for the OTE Group*

**TO: THE SERVICE LIST**

## **PART I - OVERVIEW**

1. The OTE Group supports the Monitor's motion for a Mareva Order in the general form of the proposed draft order. Capitalized terms used herein have the same meaning ascribed to them in the Sixth Report of the Monitor dated November 8, 2023 unless otherwise defined.
2. The OTE Group was the moving party before Osborne J. when a Mareva Order was initially made against the Mareva Respondents in respect of the Italian Yacht.
3. OTE LP's (referred to herein as "**OTE**") creditors include the Ontario Ministry of Finance and the Canada Revenue Agency. Their assessments and proof of claims in aggregate exceed \$300 million, in respect of unpaid gasoline and fuel taxes.
4. During the tenure of Glenn Page as President and the most senior executive of OTE, those taxes were either not collected on sales of fuel to its customers (and therefore not remitted to the taxing authorities), or were collected but not remitted. Glenn Page had the responsibility to ensure that OTE met its tax obligations. However, no monies regarding those unpaid tax obligations are in the bank accounts of OTE, and are not traceable to its assets.
5. The Mareva Respondents have interests in a group of Ontario gas stations branded as "Gen7". These were customers of OTE while Glenn Page was its President. The Mareva Respondents have set up business off-shore in St. Lucia to service the operations of the Gen7 stations, through their company, Gen7 Brands International.
6. The Mareva Respondents have not disclosed, and it is unknown, whether Glenn Page caused OTE to charge and collect gasoline and fuel taxes from its Gen7 station customers. If he did not do so, those stations would have had a significant advantage, even over their other on-reserve competition, and could sell fuel at lower prices so as to drive up their sales volumes and

profits. On the other hand, if he did so, then where is that money? Clearly, there were extremely large tax remittances which were not made by OTE when Glenn Page was in charge.

7. It is beyond doubt that the Mareva Respondents have misappropriated at least \$16 million, including the cost of personal travel, assets and benefits, as well as wire transfers of funds to St. Lucia entities.

8. The last annual financial statement of OTE, prior to these proceedings, was prepared by Pettinelli Mastroluisi LLP for the year ended December 31, 2020. It is beyond doubt that the OTE financial statement in evidence for the year ended December 31, 2021, is a complete fabrication and was not prepared by that firm. Accordingly, there was no basis upon which Glenn Page could have determined his entitlement to any profit distributions from OTE in financial years 2021 or 2022. Nevertheless, the Mareva Respondents took millions of dollars from OTE over that period.

9. The OTE Group submits that the evidence easily justifies the following factual findings.

## **PART II – SUMMARY OF FACTS**

10. The Mareva Respondents, and in particular Glenn Page, have acted dishonestly and deceitfully. They have enriched themselves at the expense of OTE, and they did so secretly.

- (a) The OTE Group's statement of claim against, *inter alia*, the Mareva Respondents and the Gen7 entities was issued on October 12, 2022. On October 20 and 21, 2022, the respondents transferred ownership of the yacht from 265 to GPMC International (another Page-Cox entity) and then to CWC (yet another Page-Cox

entity), with GPMC taking a mortgage. This was not disclosed by them during the first Mareva hearing, resulting in the Order referring to an incorrect owner;<sup>1</sup>

- (b) Glenn Page caused OTE's account books to record payments for purely personal benefits as OTE business expenses for repair and maintenance;<sup>2</sup>
- (c) In response to a request from RBC to confirm the legitimacy of a wire transfer instruction to send OTE funds to St. Lucia, Page advised that it was a correct instruction, for a "facility we are building". In fact, OTE was not building a facility in St. Lucia, and the wire was to pay for outfitting his and Cox's home in St. Lucia;<sup>3</sup>
- (d) Page's position on events changes markedly over time. It is beyond dispute that he sent RBC the fabricated 2021 OTE financial statements. However, he initially claimed that he had not done so, because he was in Italy at the time. Upon seeing his own email to RBC stating that he had personally seen to scanning and sending them, he changed his story during cross-examination to say that he had not reviewed what he might have sent. Ultimately, he even tried to blame a more junior employee for the fabricated statements. It is obvious that Page is untruthful in his evidence. It is inconceivable that a junior employee would cut and paste false annual financial statements on Pettinelli Mastroluisi LLP letterhead and forge a signature. As he was President of OTE attending to an RBC requirement, it is equally inconceivable that he would not review the financial statements before

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<sup>1</sup> Sixth Report of the Monitor dated November 8, 2023 ("**Sixth Report**"), Motion Record of the Monitor dated November 8, 2023 ("**Monitor MR**"), [Tab 5, p. 61](#).

<sup>2</sup> Sixth Report, Monitor MR, [Tab 5, p. 202, Appendix K](#); Sixth Report, Monitor MR, [Tab 5, p. 150, 181, Appendix F](#); Transcript from Examination of Glenn Page ("**Page Examination**"), Brief of Transcripts, [Tab 3, p. 346-352, q. 455-487](#).

<sup>3</sup> Transcript from Examination of Mandy Cox, Brief of Transcripts, [Tab 2, p. 171-178, q. 463-465](#); Sixth Report, Monitor MR, [Tab 5, p. 83, para 69\(vii\)](#); Sixth Report, Monitor MR, [Tab 5, p. 205, Appendix L](#).

sending them. The obvious and unavoidable inference is that Page created the false statements, or directed their creation, and knew they were a fabrication;<sup>4</sup>

- (e) Another marked change of position concerns the AirSprint jets ownership interests. Glenn Page's first counsel wrote a letter to AirSprint dated October 20, 2022, copied to counsel for OTE, stating that 265 purchased the ownership interest in the aircraft with its own funds, and that the wire transfers from OTE to pay for that were distributions of profit he was entitled to receive as a limited partner. This position was echoed by his present counsel in a letter to the Monitor and its counsel dated September 29, 2023. That letter repeats the assertion that 265 had been the owner of those assets, before it transferred them to 10000267493 Ontario Inc. (another vehicle of the Mareva Respondents). The same letter disputed the Monitor's authority to obtain AirSprint aircraft flight usage information because it was not "relating to the OTE Group". Page's new position and evidence is that OTE does own those interests. Fantastically, he now claims that was always his view,<sup>5</sup> and
- (f) In fact, the Mareva Respondents took approximately \$9 million of OTE funds to have 265 purchase the interest in the aircraft. 265 treated the asset as its own on its books. Page's recent change of position in this regard is clearly motivated by

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<sup>4</sup> Affidavit of Glenn Page sworn November 24, 2023 ("**First Page Affidavit**"), Responding Record of Glenn Page and 2658658 Ontario Inc. dated November 24, 2023 ("**Page RMR**"), [Tab 1, p. 32, para 112](#); Supplementary Affidavit of Glenn Page sworn December 6, 2023, Supplementary Motion Record of Glenn Page and 2658658 Ontario Inc. dated December 6, 2023, [Tab 1, p. 9, para 28](#); Page Examination, Brief of Transcripts, [Tab 3, p. 375-376, q. 594-598, p. 367-368, q. 556-557, p. 374-375 q. 591-593, p. 363, q. 536](#).

<sup>5</sup> Page Examination, Brief of Transcripts, [Tab 3, p 455](#); Supplemental Sixth Report of the Monitor dated December 4, 2023 ("**Supplemental Sixth Report**"), Reply Motion Record of the Court-Appointed Monitor dated December 4, 2023 ("**Monitor RMR**"), [Appendix S, p. 292](#); Page Examination, Brief of Transcripts, [Tab 3, p. 262, q. 26-27](#).

his realization that in this motion the Monitor could prove the plain fact that there is no credible justification for his receipt of profit distributions in such amounts.<sup>6</sup>

11. Until July of 2022, Glenn Page was the President of OTE, and there is no doubt that he was the senior executive in charge of operating its business. His own brother, Brian Page, who was also involved in the business of the OTE Group, gave evidence that Scott Hill's business short-comings were compensated for by Glenn Page when it came to management, finance and accounting. During cross-examination, Glenn Page eventually admitted he was the person in charge of operating the business of OTE, and dealing with taxes.<sup>7</sup>

12. In his evidence filed on the first Mareva motion, Scott Hill disclosed his belief that he, his brother Miles Hill, and Glenn Page had each earned profits of over \$3,165,000 from OTE's operations, based on the last actual financial statement of OTE for the year ended December 31, 2020, dated June 11, 2021. However, between March of 2021 and June of 2022, the Mareva Respondents caused over \$10 million to be wired from OTE's accounts to AirSprint, primarily to purchase the interest in the aircraft. Moreover, the Mareva Respondents took at least \$16,583,061 from OTE's accounts. While OTE's limited partners each owned a one-third interest, Glenn Page, his spouse Mandy Cox and their related entities received at least five times more money from OTE than either of the other partners.<sup>8</sup>

13. Page and Cox frequently used AirSprint aircraft for personal trips, with over 50 flights each to places where OTE had no business connection. Even though Glenn Page ceased to be an officer, director or employer of OTE Group in July of 2022, it is telling that he and Cox continued

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<sup>6</sup> Sixth Report, Monitor MR, [Tab 5, para 32](#).

<sup>7</sup> First Page Affidavit, Page RMR, [Tab 1, p. 8, para 24](#); Page Examination, Brief of Transcripts, [Tab 3, p. 310, q. 281, p. 311-312, q. 287-290](#); Affidavit of Keely Kinley sworn November 10, 2023, Page RMR, [Tab 2, Exhibit R, p. 638, para 13, p. 644, para 30](#).

<sup>8</sup> Affidavit of Scott Hill sworn March 12, 2023, Motion Record of the Applicant dated March 13, 2023, [Tab 4, p. 16, para 48](#); Sixth Report, Monitor MR, [Tab 5, p. 79-81, paras 68, 69\(i\)](#).

thereafter to use the AirSprint aircraft as their personal assets. The summary of flight documents records many trips they took from and after August of 2022, often accompanied by others who were not OTE employees.<sup>9</sup>

14. Page also tried to cover his tracks after leaving OTE. He directed the deletion and archiving of the OTE Group's email accounts belonging to him, Cox, Brian Page and Kellie Hodgins who worked with him. The contents of those emails apparently are nowhere to be found, and are unavailable to the Monitor.<sup>10</sup>

15. The OTE Group submits that the Court should draw an adverse inference from the refusal of the Mareva Respondents, through counsel, to answer questions about their sources of income and assets, in order to assist the Monitor in determining the full extent of funds which improperly flowed out of OTE's accounts. If the Mareva Respondents have nothing to hide, they would have no reason to refuse relevant questions posed by the Monitor as a Court officer.

16. However, even without their cooperation, it has been discovered that the Mareva Respondents improperly took over \$16 million from OTE without plausible justification, and also took steps to move, obscure, dissipate or attempt to secret assets:

- (a) Page and Cox caused 265 to make about \$3.8 million in advances to related parties, including their St. Lucia company, Gen7 Brands International;<sup>11</sup>
- (b) At the hearing of the initial Mareva motion, Page's counsel had to advise the Court that the yacht was at sea en route to the Bahamas;<sup>12</sup>

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<sup>9</sup> Supplemental Sixth Report, Monitor RMR, [Tab 1, p. 20, para 37](#); Supplemental Sixth Report, Monitor RMR, [Tab 1, Appendix R, p. 287-290](#).

<sup>10</sup> Supplemental Sixth Report, Monitor RMR, [Tab 1, p. 11, para 10](#); First Page Affidavit, Page RMR, [Tab 1, p. 34, para 123](#); First Page Affidavit, Page RMR, [Tab 1, p. 364, Exhibit QQ](#); Page Examination, Brief of Transcripts, [Tab 3, p. 306-308, q. 262-272](#).

<sup>11</sup> First Page Affidavit, Page RMR, [Tab 1, p. 346, Exhibit KK](#).

<sup>12</sup> Endorsement of Osborne J. dated March 21, 2023, Monitor MR, [Tab 2, p. 29, para 15](#).



- (c) The Mareva Respondents caused the yacht to be transferred to two offshore entities they also controlled, shortly after the statement of claim was issued against them alleging fraud and misappropriation;<sup>13</sup>
- (d) The Mareva Respondents transferred the AirSprint aircraft to another company they also controlled, and sold interests in the aircraft back to AirSprint;<sup>14</sup> and
- (e) They drew against a \$1.27 million line of credit on their home in Waterdown, Ontario, which they then sold. It is clear that substantial OTE funds were used to construct that home. It was only in response to the Monitor's motion for an expanded Mareva Order that they agreed, through counsel, to place the remaining net proceeds of sale in trust.<sup>15</sup>

17. The OTE Group submits that the Mareva Respondents have engaged in a concerted plan to misappropriate funds from OTE, and to move those funds to or acquire assets into which they were converted in St. Lucia. It is admitted that Page and Cox have a residence and plan on retiring there as St. Lucia citizens. They have established business operations there with at least nine employees.

18. There is a significant risk of further off-shoring and dissipation of assets. Given the serious misconduct of the Mareva Respondents so far exposed, if it is submitted that there is an extreme risk to the OTE Group, its stakeholders and creditors, including the governments of Ontario and Canada, that their assets will be moved, dissipated, secreted, and placed beyond reach of any remedial order of this Court.

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<sup>13</sup> Sixth Report, Monitor MR, [Tab 5, p. 78, para 61](#).

<sup>14</sup> Supplemental Sixth Report, Monitor RMR, [Tab 1, p. 19, para 35](#); Page Examination, Brief of Transcripts, [Tab 3, p. 258-261, q. 8-19](#).

<sup>15</sup> First Page Affidavit, Page RMR, [Tab 1, p. 14, para 48](#); First Page Affidavit, Page RMR, [Tab 1, p. 109, 113](#), Exhibit J.

19. The balance of convenience clearly favours the granting of the injunctive relief sought by the Monitor.

### **PART III – ISSUES, LAW AND ARGUMENT**

20. The OTE Group adopts the arguments made by the Monitor in its factums dated November 9, 2023, and December 16, 2023. Without the order sought, there will be irreparable harm to the OTE Group, and its ability to recover misappropriated funds, assets and damages in its action against the Mareva Respondents, to the detriment of it and its stakeholders.

**ALL OF WHICH IS RESPECTIVELY SUBMITTED this 19<sup>th</sup> day of December, 2023.**



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**AIRD & BERLIS LLP**

Martin Henderson (LSO# 24986L)

**Steven Graff** (LSO# 31871V)

Tel: 416.865.7726

Email: [sgraff@airdberlis.com](mailto:sgraff@airdberlis.com)

**Martin Henderson** (LSO# 24986L)

Tel: 416.865.7725

Email: [mhenderson@airdberlis.com](mailto:mhenderson@airdberlis.com)

**Samantha Hans** (LSO# 84737H)

Tel: 437.880.6105

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Court File No. CV-23-00693758-00CL

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**AIRD & BERLIS LLP**

Brookfield Place  
181 Bay Street, Suite 1800  
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Email: [shans@airdberlis.com](mailto:shans@airdberlis.com)

*Lawyers for the OTE Group*