

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

**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 MOVING PARTY, THE MONITOR  
(Mareva Injunction Motion, returnable December 21, 2023)**

December 16, 2023

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## PART I: OVERVIEW

1. KPMG Inc. in its capacity as the Court-appointed monitor (the “**Monitor**”) of the Applicants, Original Traders Energy LP (“**OTE**”), and OTE Logistics LP (collectively, the “**OTE Group**”) in this CCAA<sup>1</sup> proceeding, seeks an interim or interlocutory Mareva Order in the general form of the proposed draft Order in the motion record and uploaded to Caselines.<sup>2</sup>
2. There is overwhelming evidence that the responding parties Glenn Page (“**Page**”), Mandy Cox (“**Cox**”), and their jointly-owned personal company 2658658 Ontario Inc. (“**265**”, and together, “**Mareva Respondents**”) have engaged in wide-scale fraud against their former employer, OTE, misappropriating over \$16 million – much of which the Page and Cox have now been forced to admit was applied for personal benefits. The victims of the Mareva Respondents’ fraud not only include OTE, its creditors and stakeholders (including many employees in First Nations communities), but also Canadian taxpayers.<sup>3</sup> There are tax authority claims for over \$300 million of unpaid taxes during Page’s time as OTE’s senior executive.
3. This Court (Osborne J.) has already granted a Mareva injunction against the Mareva Respondents in relation to one aspect of their fraud involving a yacht. His Honour found that the evidentiary record before him established a strong *prima facie* case of fraud on the part of Page, Cox and 265, including that they misappropriated funds from the OTE Group to purchase the yacht, and fraudulently prepared and executed documents to do so.
4. Justice Osborne rejected outright Page’s and Cox’s assertion that the misappropriated funds were part of 265’s distributions from the OTE. His Honour found that there was no

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<sup>1</sup> *Companies’ Creditors Arrangement Act*, [RSC 1985, c C-36](#).

<sup>2</sup> Capital terms not otherwise defined herein have the meanings ascribed to them in the Sixth Report of the Monitor.

<sup>3</sup> As detailed below, Proofs of claims filed and tax assessments provided to the Monitor claim **well over \$300 million of unpaid taxes** owed to the Canada Revenue Agency and the Ontario Ministry of Finance as a result of the Mareva Respondents’ actions.

documentary support that OTE authorized distributions, and it fully remains the case that there are no resolutions or other documents authorizing this misappropriation of OTE funds as distributions. Equally, there is no support for the proposition (especially in the face of the \$300 million in tax claims) that OTE was solvent or sufficiently profitable to pay distributions at all. Page admitted that as senior executive it was his responsibility to ensure OTE's tax payment compliance.

5. On the record before this Court, the more recent evidence regarding the fraud by Page, Cox and 265 has gotten much stronger, and exposes a much more wide-scale pattern of fraudulent, deceitful, and dishonest conduct.

6. Despite this, the Mareva Respondents largely advance the *very same* defence they did before Justice Osborne. There is still no documentary support or authorization (nor credible justification) for the Mareva Respondents' position. That position should be rejected on the very same basis that it was rejected by Osborne J., fortified by the new evidence of the scope and detail of the Respondents' fraud and deceit not known to Osborne J.

7. The Mareva Respondents (especially Page) have been shown to be deceitful and dishonest. Their positions shift out of convenience, including by advancing demonstrably blatant and inconsistent untruths. For example, and without cataloguing all of the examples:

- In the earlier Mareva hearing concerning the yacht purchased with OTE funds by the Mareva Respondents and held by 265, the Mareva Respondents did not disclose to the Court that they had transferred the yacht *twice* to two different offshore companies owned by Page *five*

*months* before the hearing.<sup>4</sup> Accordingly, the Order did not even name the correct company holding the yacht. The Mareva Respondents did not disclose the offshore transfers until months later.

- Page’s own emails and testimony irrefutably show that he falsified OTE’s accounting books to cloak *OTE payments* to build and equip Page’s and Cox’s Waterdown home (including for a pool, wine cellar, and custom closets) as supposed OTE “repair and maintenance” expenses. This is a fraud on the CRA and Ministry of Finance, as well as OTE and its creditors and stakeholders. These expenses are then embedded in OTE’s expenses reflected in its financial statements used to provide a snapshot of the company to creditors, including the bank, and other stakeholders. Knowing he had done this, Page then signed OTE’s management representation letter certifying the accuracy of the financial statements.
- When RBC, a secured creditor of the OTE Group, explicitly asked Page and Cox to confirm whether a US\$40,000 wire from OTE’s bank account to St. Lucia for “Hotel Supplies” was legitimate, Page answered “Yes it is correct and it is for a facility we are building”. The OTE Group has no facility in St. Lucia, nor did it ever plan to build one. Incredibly, Page testified that by his words “facility we are building”, he meant the funds were being used to purchase kitchen appliances for his and Cox’s new home in St. Lucia (which was purchased as a completed home in a gated community). Page professed on cross-examination that he could not see how his email would be misleading to RBC.

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<sup>4</sup> Both transfers took place in the span of 24 hours, and involved a \$2.7 million charge and lien on the yacht by on of the wholly owned companies, despite no evidence of any funds actually being transferred.

- After RBC demanded of Page to receive OTE's 2021 financial statements, Page sent irrefutably fabricated OTE financial statements purporting to be from OTE's external accountant to RBC (and then sent them to a supplier). Page first claimed that he hadn't sent the fabricated statements because he had been in Italy at the time, but he then retreated from that when confronted with his own email sending the fabricated statements to the Bank (including a sentence saying that he personally had just scanned them). Nonetheless, Page on cross-examination refused to concede his obvious deceit on the Bank, claiming variously that: (i) he may not have personally scanned the statements (despite his email saying he had); (ii) incredibly, that he never actually looked at the fabricated statements before he sent them to the Bank; (iii) that he did not even know which accounting firm was preparing OTE's 2021 financial statements, despite being the senior executive of OTE; and (iv) in the complete absence of documentary evidence, he tried to blame a mid-level accounting employee, for no explicable reason that he could think of, as having gone to great lengths to cut, paste and fabricate an entire year's OTE financial statements and then putting them on an external accounting firm's altered but signed letterhead. Page's evidence is not worthy of the slightest credit, and Page is beyond doubt responsible for the creation of OTE's fabricated financial statements – a plainer fraud on a creditor there could not be. This incident speaks volumes about Page's utter lack of credibility and honesty.
- The Mareva Respondents used \$9 million of OTE funds to purchase ownership interests in private jets put into Page and Cox's company 265. 265 purported to own the jets under its purchase agreements with AirSprint, the jets are recorded on 265's asset balance sheet, and 265 has claimed (for tax and other purposes) the benefit of amortization deductions on the jet. Realizing they could not possibly justify the quantum misappropriated for the jets (as

distributions or otherwise), only in response to this motion (and again without documentary support), Page changed his position entirely and now asserts that although 265 and a previously undisclosed successor Page and Cox company “held” the jets, that OTE would be the ultimate owner (which Page says was “always” his position). Page’s plain dishonesty on this issue is revealed by a letter sent by counsel to Page and 265 to AirSprint in October 2022, categorically (and entirely falsely) saying the jets were purchased with 265’s “own funds” as part of distributions to 265 and were owned by 265. Given that this letter is diametrically inconsistent with Page’s brand new position that OTE paid for and is the owner of the jet interests or their proceeds, Page when confronted with the letter on cross-examination remarkably asserted that he had never seen his own counsel’s letter before and that he did not recall approving it.

8. Given their fraud, deceit and dishonesty, the Mareva Respondents’ various positions to dispute this motion are not credible, and consistent with that lack of credibility, largely lack any documentary support.

9. The Mareva Respondents have orchestrated a plan of moving ill-gotten gains and assets, as well as their residence, to St. Lucia (becoming dual citizens of St. Lucia), and have recently sold their only remaining home in Ontario. They have at least two separate companies and businesses in St. Lucia, one of which has nine employees. Cox confirmed St. Lucia is part of their retirement plans, and Page has already said his retirement is imminent. After committing fraud on OTE and its creditors, and with massive CRA and Ministry of Finance claims and an OPP investigation underway (Canada does not have an extradition treaty with St. Lucia), the Court should conclude that there is a very significant risk of further dissipation of their assets.

Indeed, the Mareva Respondents have facilitated millions of dollars out of 265 in loans to “related parties” – including to their St. Lucia company.

10. Given the Mareva Respondents’ fraudulent and deceitful conduct, the serious risk of harm to the OTE Group and its creditors and stakeholders in this CCAA proceeding that the Mareva Respondents’ assets will be moved, dissipated or secreted, and therefore put beyond the reach of any ultimate remedy, order, or judgment of the court, the balance of convenience strongly favour injunctive relief.

## **PART II: SUMMARY OF FACTS**

### **A. Background to CCAA Proceeding**

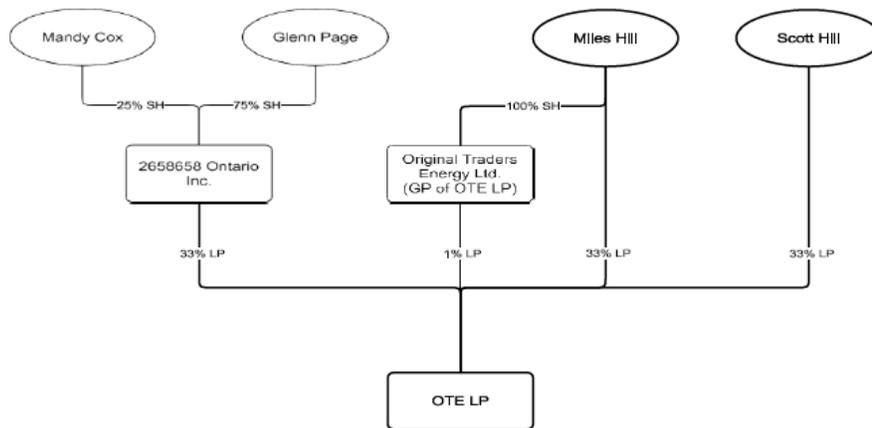
11. OTE functions as a wholesale fuel supplier which services mainly First Nations’ petroleum stations and First Nations’ communities across Ontario. OTE has serviced or currently services many gas stations throughout Southern Ontario – most of which are across nine different First Nations reserves in Southern Ontario.<sup>5</sup>

12. OTE has a partnership structure, in which the Mareva Respondents hold a direct or indirect 33% interest. In particular, 265 – a company in which Page and Cox are the only shareholders – is one of three limited partners of OTE LP.<sup>6</sup>

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<sup>5</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, ¶4-5.

<sup>6</sup> Affidavit of Glenn Page sworn November 24, 2023 (“**First Page Affidavit**”), Responding Motion Record of the Respondents, Page and 265 (“**Page RMR**”), Tab 1, p. 7, ¶18.



13. The OTE Group faced serious financial difficulties, leading to Osborne J. granting an initial order under the CCAA (“**Initial Order**”).<sup>7</sup> The serious financial difficulties facing the OTE Group, and the need for the Initial Order, were triggered in part by significant executive misconduct by Page. Page is the former President of OTE GP and “senior executive in charge of operating the business of OTE LP” – a characterization which Page denied on cross-examination until confronted with those precise words from his own affidavit.”<sup>8</sup> Page’s misconduct involved misappropriating company funds to bankroll benefits for himself, Cox and 265, and companies owned by them. Most of Page’s and Cox’s known important assets are jointly held by them – although both steadfastly refused to disclose their assets in Ontario or elsewhere.<sup>9</sup>

#### **B. OTE had Significant Tax Liabilities and was Unable to Pay Distributions**

14. Despite that the Mareva Respondents claim that misappropriated funds were for distributions to 265, based on the Monitor’s investigation, it is unlikely that OTE was solvent to

<sup>7</sup> Amended Endorsement of Justice Osborne dated March 21, 2023 (“**Osborne J Endorsement**”), Monitor MR, Tab 2, p. 27, ¶3.

<sup>8</sup> First Page Affidavit, Page RMR, Tab 1, p. 8, ¶24; Page Examination, Brief of Transcripts, Tab 3, p. 310, 312, Q. 281, 288-290.

<sup>9</sup> Cox Chart of Refusals, Brief of Transcripts, Tab 4, p. 501; Page Chart of Refusals, Brief of Transcripts, Tab 5, p. 508.

pay any distributions at all – particularly when considering its tens or hundreds of millions of dollars in tax liabilities owed to the Ontario and federal governments.

15. Page swore that he was the “the senior executive in charge of operating the business of OTE”.<sup>10</sup> The other partners, Miles and Scott Hill, status Indians, had little to no involvement in the financial and operational aspects of OTE. According to Page’s brother Brian Page, Page had to “cover for [Scott’s] shortcomings” when it came to management, finance, and accounting,<sup>11</sup> and Miles had little involvement at all. Consistent with this, Page was apparently at the helm for determining distributions, and the quantum of those distributions.<sup>12</sup> It was also Page’s responsibility, by his own admission, to ensure OTE met its tax remittance obligations for the Ontario and federal governments, including those involving taxes payable under the *Gasoline Tax Act*, *Fuel Tax Act*, and *Excise Tax Act*.<sup>13</sup>

16. To comply with requirements of Ontario’s *Limited Partnership Act*, OTE, with Page at the helm, would have to meet statutory tests for solvency.<sup>14</sup> It did not. As Page admits, there is

<sup>10</sup> First Page Affidavit, Page RMR, Tab 1, p. 8, ¶24. Despite his affidavit and similar statements in his brother’s affidavit, Page opportunistically tried to downplay role during his cross examination before being shown the very same statement in his affidavit. See eg, Transcript from Examination of Glenn Page (“**Page Examination**”), Brief of Transcripts, p. 310-312, Q. 281, 287-290.

<sup>11</sup> Affidavit of Brian Page, Page RMR, Tab 2, Exhibit R, p. 638, ¶13. Page’s brother, Brian Page, similarly swore that:

- Scott Hill had “no experience running a business, however, and my observations led me to conclude that he lacked the training in management, finance and accounting to do so, and my impression is that Glenn had to cover for these shortcomings.” (P. 638, ¶13).
- “Miles [Hill] was an owner of OTE GP but without any day-to-day operational responsibility.” (P. 652, ¶30).
- “Glenn was OTE GP’s most senior executive and had overall operational control of OTE LP and its business, and Scott had nominal responsibility for the sales and marketing activities of OTE LP.” (P. 652, ¶30).

<sup>12</sup> First Page Affidavit, Page RMR, Tab 1, p. 25, ¶92.

<sup>13</sup> Page Examination, Brief of Transcripts, p. 380, Q. 617-620. Brian Page similarly swore that “OTE LP had various tax remittance obligations, including obligations to Ontario’s Ministry of Finance pursuant to the Gasoline Tax Act and the Fuel Tax Act, customs duties pursuant to the Excise Tax Act in respect of imports of fuel, and a federal carbon tax.” See Affidavit of Brian Page, Page RMR, Tab 2, Exhibit R, p. 655, ¶59

<sup>14</sup> According to [Section 11\(2\)](#) of Ontario *Limited Partnerships Act*, [R.S.O. 1990, c. L.16](#):

No payment of a share of the profits or other compensation by way of income shall be made to a limited partner from the assets of the limited partnership or of a general partner if the payment would reduce the assets of the limited partnership to an amount insufficient to discharge the liabilities of the limited partnership to persons who are not general or limited partners.

no evidence that any solvency analysis (considering tax arrears or any other relevant factors) was undertaken at any time with respect distributions by OTE.<sup>15</sup>

17. It appears that Page and others would simply determine distribution amounts in a vacuum with no apparent documented analysis or justification. Page as the former senior executive of OTE testified that he was not aware any corporate or board resolutions or minutes authorizing distributions. In fact, Page was unaware of OTE having a minute book at all, and did not implement one as the senior executive.<sup>16</sup> There is no evidence to confirm that OTE had sufficient profits and cashflows to make *any* distributions (or that Page or anyone else even tried to undertake the requisite analysis). Rather, the evidence leads to the opposite conclusion.

18. According the Monitor's investigation, as asserted by the taxing authorities the total tax arrears (which Page admits were his responsibility) for the OTE are about \$20,630,068 in 2019, \$47,615,974 in 2020, \$107,497,231 in 2021, and \$134,103,437 in 2022.<sup>17</sup> As a result, OTE would not remotely have been in a solvent position to pay distributions in any year, let alone the amount of distributions the Mareva Respondents claim their company 265 was entitled to.

19. Even more importantly, the amount of money and benefits Page, Cox and 265 took out of OTE was grossly higher than any amounts to which the Mareva Respondents claim 265 should have been entitled as a partner. Page's own quantification of what 265 *should have* received as an OTE partner is a moving target. In his affidavit, Page swears the total figure is about \$4.2 million between 2019 and 2022.<sup>18</sup> An analysis Page's counsel provided to the Monitor suggests

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<sup>15</sup> Supplemental Sixth Report, Monitor RMR, Tab 1, p. 17, ¶32. Page similarly testified that he is not aware of any documents that reflect he or others considered the solvency of OTE LP. See Page Examination, Brief of Transcripts, p. 316-317, Q. 306-307.

<sup>16</sup> Page Examination, Brief of Transcripts, p. 315, Q. 299-301.

<sup>17</sup> Supplement to Sixth Report of the Monitor ("**Supplemental Sixth Report**"), Reply Motion Record of the Monitor ("**Monitor RMR**"), Tab 1, p. 17, ¶30-31.

<sup>18</sup> First Page Affidavit, Page RMR, Tab 1, p. 30, ¶105.

it is around \$3.8 million.<sup>19</sup> According to 265’s tax return (and as confirmed by Page), 265 has only ever declared for income tax purposes \$3.2 million in OTE distributions,<sup>20</sup> and that should be treated as the official figure. Regardless of the figure used, they are all significantly less than the amount of OTE funds that Page, Cox and 265 actually took out of OTE, based on their own admissions and the Monitor’s investigation – **over \$16.3 million.**<sup>21</sup>

### C. The Yacht

20. Part of the \$16.3 million in OTE funds used for the Mareva Respondents’ benefit went to purchase a luxury yacht bought by the Mareva Respondents using OTE funds and put in 265 — the subject of a separate Mareva hearing before this Court in March 2023.<sup>22</sup>

21. Page and Cox purchased, through 265, a 70-foot Italian yacht (which Page named “Cuz We Can”) (“**Yacht**”), using funds wire transferred from OTE’s account, and caused OTE Logistics to guarantee a chattel mortgage secured by the Yacht. 265 also caused OTE Logistics to authorize its guarantee of a chattel mortgage in respect of the purchase of the Yacht.<sup>23</sup>

22. Osborne J. heard the motion and granted a Mareva Order as against the Mareva Respondents in respect of the Yacht.<sup>24</sup> Justice Osborne found that the OTE Group had established a strong *prima facie* case that the Mareva Respondents fraudulently misappropriated OTE funds to purchase the Yacht.

<sup>19</sup> Page Examination, Brief of Transcripts, p. 322-323, Q. 327-329; Exhibit 2, p. 445.

<sup>20</sup> See eg, 265 2021 Tax Slip, Affidavit of Glenn Page sworn December 4, 2023 (“**Second Page Affidavit**”), Supplementary Responding Motion Record of Page and 265 (“**Page SRMR**”), Tab 1, Exhibit V, p. 346, line 349; Page Examination, Brief of Transcripts, p. 332, Q. 386-387.

<sup>21</sup> Sixth Report, Monitor MR, p. 80, ¶68.

<sup>22</sup> Osborne J Endorsement, Monitor MR, Tab 2, p. 27.

<sup>23</sup> Osborne J Endorsement, Monitor MR, Tab 2, p. 28, ¶10

<sup>24</sup> Osborne J Endorsement, Monitor MR, Tab 2, p. 27, ¶1. The Monitor supported the OTE Group’s application for a Mareva injunction in respect of the Yacht. See Osborne J Endorsement, Monitor MR, Tab 2, p. 36, ¶53.

23. In granting the Mareva Order, Osborne J. accepted the Applicants' position and evidence, including that OTE funds were misappropriated to purchase the yacht for 265,<sup>25</sup> that the Mareva Respondents listed the yacht for sale and acted to remove it from the reach of OTE (including deregistering it from Canada),<sup>26</sup> that the Yacht was at sea and being sailed from Florida to the Bahamas at the time of the hearing,<sup>27</sup> and that the Mareva Respondents forged certain documents to fund the purchase of the Yacht.<sup>28</sup> Based on this evidence, Osborne J. held that a strong *prima facie* case of fraud was made out against the Mareva Respondents.<sup>29</sup>

24. Osborne J. also rejected outright the Mareva Respondents' argument that the transfers of funds did not constitute evidence of fraud, since, according to the Respondents, "they could be said to be distributions of profits to which the Respondents were entitled" – the very same argument the Mareva Respondents advance on this motion.<sup>30</sup>

I cannot accept the submission, however, in the complete absence of any evidence to corroborate the suggestion. The books and records of the OTE Group are incomplete and lacking. There is no evidence before me of resolutions, meeting minutes, correspondence or any documents demonstrating or even suggesting that these transfers were in fact, or were even intended to be, distributions of profit or income. There is also no evidence of any corresponding distributions, at the same time or in the same amount, to the other partners who presumably would have been entitled to the same distribution.

Finally, there is no evidence that the partnership had, at the time of the impugned transfers, sufficient profits to fund such distributions in any event.

Even if the Respondents were entitled to distributions of profit that the relevant time, it does not follow that they are somehow entitled to simply take funds and apply them for their own uses.

In short, I am satisfied that the moving parties have established, with sufficient particulars, a strong *prima facie* case.<sup>31</sup>

<sup>25</sup> Osborne J Endorsement, Monitor MR, Tab 2, p. 28, ¶12.

<sup>26</sup> Osborne J Endorsement, Monitor MR, Tab 2, p. 28, ¶13-16.

<sup>27</sup> Osborne J Endorsement, Monitor MR, Tab 2, p. 28, ¶17.

<sup>28</sup> Osborne J Endorsement, Monitor MR, Tab 2, p. 28, ¶17.

<sup>29</sup> Osborne J Endorsement, Monitor MR, Tab 2, p. 31, ¶32.

<sup>30</sup> Osborne J Endorsement, Monitor MR, Tab 2, p. 31, ¶34.

<sup>31</sup> Osborne J Endorsement, Monitor MR, Tab 2, p. 31-32, ¶35-37.

25. After the Initial Mareva Order, the Mareva Respondents were forced to disclose additional evidence of fraud in relation to the Yacht, which they had not disclosed to the Court.<sup>32</sup> In particular, in October 2022 Page and Cox used their related companies (including 265) to obtain the Yacht, and then transfer it twice within 24 hours to two different offshore companies (incorporated in St. Lucia and Cayman) owned and/or directed by Page and Cox and encumber the Yacht with a significant non-arm's-length mortgage and lien (see footnote below).<sup>33</sup> The decision of Osborne J. repeatedly refers to the Yacht as being owned by 265, which as known to Page and Cox had not been the case for several months.<sup>34</sup>

26. Those failed defences advanced before Osborne J. are again advanced on the present motion, and continue to be entirely untenable. That is, there remains no evidence of OTE resolutions, approvals or minutes authorizing supposed distributions to 265, no evidence that OTE had sufficient profits to fund any distributions (and given its tax arrears, quite the opposite), and no credible justification for the Mareva Respondents' direct application of OTE funds (and in grossly disproportionate amounts) for their own personal benefit – including for the Yacht, lavish vacations, home renovations, and ownership interests in private jets.

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<sup>32</sup> Page and Cox testified they were “not aware” of whether this information was disclosed at the hearing, despite their lawyers attending the hearing. Osborne J made no references regarding the transfers in his endorsement. See Examination of Mandy Cox (“**Cox Examination**”), Brief of Transcripts, Tab 2, p. 152-153, Q. 356-360; Page Examination, Brief of Transcripts, Tab 3, p. 290-291, Q. 184-189.

<sup>33</sup> According to Page and Cox, Page caused 265 to transfer title and mortgage to the Yacht to his related entities, GPMC Holdings International Inc. (“**GPMC International**”) and CWC International, Inc. (“**CWC**”). In particular, Page caused 265 to transfer title to the Yacht on October 20, 2022 to GPMC International for US\$3,150,000. The very next day, GPMC International transferred the Yacht to CWC for US\$3,000,000, pursuant to a transaction in which GPMC International purportedly loaned CWC the amount of USD\$2,700,000 to facilitate the purchase of the Yacht and placed a mortgage against the Yacht in November 2022. The loan agreement is executed by Page as director of GPMC International and by Cox as director of CWC. See Sixth Report, Monitor MR, Tab 5, p. 78, ¶61. See also, Appendix A, p. 92 and Appendix B, including p. 113. Page and Cox confirmed these transactions on their examinations. See Cox Examination, Brief of Transcripts, Tab 2, p. 147-151, Q. 336-353; Page Examination, Brief of Transcripts, Tab 3, p. 273-289, Q. 93-178. Page’s evidence on the transactions was another example of his incredible testimony, where he noted that the transaction was consummated by “lawyers and accountants” without his input on key points. He said he did not know where the companies he owned and controlled even got the money to consummate the transactions.

<sup>34</sup> Cox Examination, Brief of Transcripts, Tab 2, p. 152-153, Q. 356-360; Page Examination, Brief of Transcripts, Tab 3, p. 290-291, Q. 184-189. The Monitor was first made aware of the transfers by the Mareva Respondents by way of a letter from Page’s counsel in July 2022. See Letter from M. Jilisen, Sixth Report, Monitor MR, Tab 5, Appendix A, p. 92.

## D. The Mareva Respondents' Broader Impropriety Involving OTE Group Funds

27. The details of the Mareva Respondents misappropriation of OTE funds is detailed in the Monitor's Sixth Report and Supplemental Sixth Report. A summary of relevant transactions is excerpted from the Sixth Report below:<sup>35</sup>

Beneficiary Category	Amount	
<b>Suspected fraudulent, improper, or suspicious payments or transfers</b>		
<b>G.Page and related entities</b>		
AirSprint	9,032,298	
Direct Cheques and Bank Wires	1,281,426	
Pride Marine	4,227,335	
Marine related transactions	207,930	
Custom home builders	500,306	
Furnishing / pool / decking / fence / contracting companies	325,627	
St. Lucia resorts	638,579	
Italian wedding	147,692	
RV camping / cottage resorts	142,868	
Receiver General/CRA	79,000	
<b>G.Page and related entities total</b>		<b>16,583,061</b>
<b>Mr Scott Hill</b>		<b>3,160,752</b>
<b>Mr Miles Hill</b>		<b>2,976,335</b>
<b>Other disbursements to known beneficiaries under review</b>		
[...]		
<b>M.Cox and related entities</b>		
Ms Mandy Cox	13,157	
Picassofish (Mandy Cox)	77,401	
<b>M.Cox and related entities total</b>		<b>90,558</b>
<b>Other disbursements to unknown beneficiaries</b>		
Airsprint - Estimated operating costs	1,437,196	
Other related party disbursements	1,506,738	
Custom home builders	425,581	
Furnishing / contracting companies	377,791	
Italian venues / vendors / restaurants	313,392	
Cigarette manufacturers	233,494	
<b>Total other disbursements</b>		<b>4,294,192</b>

### 1. Air Sprint Proceeds

AirSprint	9,032,298	
Airsprint - Estimated operating costs	1,437,196	

<sup>35</sup> As noted in the Supplemental Sixth Report, the Monitor subsequently corrected approximately \$300,000 in the chart attributable to Page's related entities. Amounts improperly received by or for the benefit of Page between February 22, 2019 and June 24, 2022 continue to amount to over \$16.3 million. Supplemental Sixth Report, Monitor RMR, Tab 1, p. 12, ¶14.

28. Between March 2021 and June 2022, about US\$6,864,425 and CA\$1,057,681 was wired by OTE Group entities to AirSprint Inc. (about CA\$10,469,495 total) – a private jet company based in Toronto – largely for fractional ownership interests in private jets (“**Jets**”).<sup>36</sup>

29. Despite the money coming from OTE, 265 purported to own the Jets under its purchase agreements with AirSprint,<sup>37</sup> the Jets sat on 265’s balance sheet,<sup>38</sup> and 265 claimed (for tax and other purposes) the benefit of amortization deductions on the Jet.<sup>39</sup> 265 without disclosure to OTE sold the Jets to another company wholly owned and controlled by Cox and Page *after* Page resigned from the OTE Group.<sup>40</sup>

30. The Mareva Respondent’s position on the Jets shifted when they realized that continuing to argue that 265 owned the Jets was simply not tenable as it increased the amount they were accused of misappropriating by over \$9 million.

31. In particular, on October 20, 2022, Page’s lawyer sent AirSprint a letter claiming ownership of the Jets (“**AirSprint Letter**”).<sup>41</sup> In the AirSprint Letter, counsel to Page and 265 wrote “to confirm that [265] purchased its fractional ownership interests in the Jets with its own funds”. Page and 265’s explanation at the time was that the funds paid to AirSprint were “comprised of distributions due to be paid from OTE LP to [265]”, and OTE effectively applied the funds to AirSprint in lieu of distribution payments.<sup>42</sup> Of course, the over \$9 million paid to

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<sup>36</sup> Sixth Report, Monitor MR, p. 81, ¶69(i).

<sup>37</sup> Sixth Report, Monitor MR, p. 81, ¶69(i).

<sup>38</sup> See eg, 265 Tax Slip for 2021, Second Page Affidavit, Page SMR, Tab 1, Exhibit U, p. 200, 218; Page Examination, Brief of Transcripts, Tab 3, p. 327-331, Q. 355-357, 377-378.

<sup>39</sup> See eg, 265 Tax Slip for 2021, Second Page Affidavit, Page SMR, Tab 1, Exhibit U, p. 200, line 1767.

<sup>40</sup> Page Examination, Brief of Transcripts, Tab 3, p. 291-293, Q. 191-199.

<sup>41</sup> Exhibit 4 to Page Examination, Brief of Transcripts, Tab 3.4, p. 455.

<sup>42</sup> Exhibit 4 to Page Examination, Brief of Transcripts, Tab 3.4, p. 455. Emphasis added.

AirSprint far exceeds the \$4.2 million in distributions the Mareva Respondents now say they were entitled to (or the \$3.2 million in distributions claimed).

32. To address the inescapable discrepancy, Page only now asserts (only in response to the Monitor's motion) that while 265 (and its successor) hold the Jets, OTE ultimately owns them. Page has a non-credible story, inconsistent with his own counsel's letter, about the Jets simply being held in 265 so that Miles Hill would not use them.

33. Remarkably, Page still swears in his affidavit on this motion (perhaps prepared before he settled on his cross-examination position or considered its ramifications) that funds from sale of the Jets have been and will be remitted to the Monitor and held in trust "until there is a judicial determination over those amounts". According to Page, "until there is a determination *and I am successful*, I will not have access to any of these funds."<sup>43</sup> In other words, Page in his affidavit claims he or 265 are still entitled to the proceeds of the Jets, paid for by OTE, which Jets he now admits OTE ultimately owns.

34. Page testified to his new position that the Jets were not paid for through his distributions, and OTE ultimately owned the Jets.<sup>44</sup> In fact, Page doubled down on his new position and categorically said it has "always" been his view that OTE owned the Jets.<sup>45</sup> Of course, the view Page says he "always" had is irreconcilable with his own counsel's AirSprint Letter.

35. When presented with the AirSprint Letter, Page said he did not recall the letter or giving direction to send the letter, which on its face was expressly sent on his and 265's behalf by his

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<sup>43</sup> First Page Affidavit, Page RMR, Tab 1, p. 45, ¶159.

<sup>44</sup> Page Examination, Brief of Transcripts, Tab 3, p. 260-262, Q. 18-27.

<sup>45</sup> Page Examination, Brief of Transcripts, Tab 3, p. 262, Q. 26-27.

lawyers, Stockwoods.<sup>46</sup> Page confirmed the letter conflicts with his current position.<sup>47</sup> After additional prodding, despite saying his current position was the one he “always” held, Page again changed tack with the incredible and vague answer that he only learned which of the two companies he was running paid over \$9 million for Jets after receiving unspecified “data” following the AirSprint Letter.<sup>48</sup>

36. Page and Cox frequently use the Jets for personal trips. Based on the Monitor’s investigation and the Mareva Respondents’ admissions, Page and Cox each took over 100 flights on the Jets between April 2021 and February 2023, including over 50 flights each to non-business destinations (including St. Lucia, Florida, Hawaii, Spain, and France).<sup>49</sup>

## 2. BodyHoliday Spa

St. Lucia resorts	638,579	
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37. Cox conceded that in August 2021, she authorized a wire transfer of US\$1,000,000 from OTE’s bank account to BodyHoliday Spa – a luxury wellness resort in St. Lucia. Cox claimed that this was a mistake and she should have only sent US\$100,000.<sup>50</sup> BodyHoliday Spa has returned only US\$575,408 and kept US\$424,592.<sup>51</sup> It turns out that Cox’s false claim of a “mistake” in the wire amount is a intended to cover her and Page’s tracks – BodyHoliday retained close to C\$560,000 of the wired amount because Page and Cox spent close to C\$560,000 (US\$420,000) staying at BodyHoliday in St. Lucia for about two months, with multiple invited family, friends and customers of their other business, all paid for by OTE.

<sup>46</sup> Page Examination, Brief of Transcripts, Tab 3, p. 334-342, Q. 398-430.

<sup>47</sup> Page Examination, Brief of Transcripts, Tab 3, p. 337-338, Q. 413.

<sup>48</sup> Page Examination, Brief of Transcripts, Tab 3, p. 339-340, Q. 422-424.

<sup>49</sup> Supplemental Sixth Report, Monitor SMR, Tab 1, p. 20, ¶37; Appendix R, p. 287.

<sup>50</sup> Cox Affidavit, Cox RMR, Tab 1, p. 11, ¶41; Cox Examination, Brief of Transcripts, Tab 2, p. 139-140, Q. 295-304.

<sup>51</sup> Sixth Report, Monitor MR, p. 78-79, ¶62-66.

38. Page and Cox booked the “Villa Calypso” room on the resort for 56 days, and primarily stayed there the whole time.<sup>52</sup> During that period, a revolving door of Page and Cox’s family, friends, and colleagues joined them on the resort for various stints.<sup>53</sup>

39. According to Page, the funds and his 56-day stay with Cox were for an OTE Group employee and client retreat in St. Lucia, but because of COVID, Scott, Miles, and Nick could not attend and there was therefore “relatively late cancellation”.<sup>54</sup> However, the evidence only shows that Cox and Page (and their friends, family, and colleagues) vacationed in St. Lucia for several weeks with OTE funds, and over US\$420,000 in OTE funds were used to pay for their stay (a fact they failed to inform the Monitor of, instead claiming only that \$1 million had accidentally been transferred to BodyHoliday).<sup>55</sup>

#### 1. Other OTE Payments Page and Cox call Distributions

AirSprint	9,032,298	
Direct Cheques and Bank Wires	1,281,426	
Pride Marine	4,227,335	
Marine related transactions	207,930	
Custom home builders	500,306	
Furnishing / pool / decking / fence / contracting companies	325,627	
St. Lucia resorts	638,579	
Italian wedding	147,692	
RV camping / cottage resorts	142,868	

40. For many of the improvident transactions identified by the Monitor, Page, Cox, and 265 do not dispute that the transactions involved OTE funds being applied for their personal benefit. Rather, the Mareva Respondents assert these transactions were made in lieu of distributions that 265 was entitled to. Such transactions include:

<sup>52</sup> Exhibit 4 to Cox Examination, Brief of Transcripts, Tab 2.4, p. 244-245; Tab 2, p. 107-108, Q. 550-551.

<sup>53</sup> Cox Examination, Brief of Transcripts, Tab 2, p. 178-185, Q. 497-551.

<sup>54</sup> First Page Affidavit, Page RMR, Tab 1, p. 44, ¶156; Page Examination, Brief of Transcripts, Tab 3, p. 378-380, Q. 608-615; Cox Examination, Brief of Transcripts, Tab 2, p. 178-185, Q. 497-551.

<sup>55</sup> Exhibit 5 to Cox Examination, Brief of Transcripts, Tab 2.5, p. 247.

- (a) Most of the \$4.2 million for the Yacht, and over \$60,000 for other “marine-related transactions”.<sup>56</sup> Page says \$1.3 million of this figure was provided through a chattel mortgage formerly held by Essex Lease Financial Corporation. Osborne J held that the Essex loan documents had fraudulently executed and forged signatures.<sup>57</sup> In response, Page now baldly says: “I do not know who signed these documents.”<sup>58</sup> Of course, other than Page, Cox, and 265, there is no apparent benefactor who would have gained from forging and/or fraudulently executing the Essex documents.
- (b) Part of the \$1.3 million for direct transfers to Page. Without documentary support, Page asserts the payments are for “management fees and expenses...expenses, distributions, or tax payments”. He does not elaborate on why OTE would send funds directly to Page for expenses or tax payments.<sup>59</sup>
- (c) Over \$500,000 used to construct Page’s and Cox’s previous home in Waterdown, Ontario, and over \$320,000 more in related renovations (such as the installation of a pool, wine cellar, luxury appliances, and closets).<sup>60</sup>
- (d) Over \$145,000 for expenses for Cox’s and Page’s July 2022 wedding ceremony in Portofino, Italy.<sup>61</sup>

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<sup>56</sup> First Page Affidavit, Page RMR, Tab 1, p. 42-43, ¶149-152.

<sup>57</sup> Osborne J Endorsement, Monitor MR, Tab 2, p. 28, 31, ¶17, 33.

<sup>58</sup> First Page Affidavit, Page RMR, Tab 1, p. 40, ¶138.

<sup>59</sup> First Page Affidavit, Page RMR, Tab 1, p. 45, ¶164-165.

<sup>60</sup> First Page Affidavit, Page RMR, Tab 1, p. 45-46, ¶166-167.

<sup>61</sup> First Page Affidavit, Page RMR, Tab 1, p. 47, ¶168.

- (e) Over \$140,000 for an RV/cottage that Page and Cox held title to.<sup>62</sup> Page and Cox sold the RV in Spring 2022 for about \$250,000, and claim to have spent all the proceeds on “day-to-day expenses and bills”.<sup>63</sup>

41. There also remains \$59 million in other transactions, largely during the time that Page was the senior executive of OTE (separate from the summary above and in the Sixth Report), for which no supporting documentation has been located by the OTE Group or the Monitor.

42. The Mareva Respondents seek to rely on the fact that other partners may have received distributions (some portion of which Page improperly directed be booked as OTE expenses) and co-signed on some of the earlier (pre-March 2020) expenses paid by cheque. The fact that other partners may have received questionably booked and much smaller distributions (which the Monitor will continue to investigate as part of its ongoing confidential investigation) in no way absolves the Mareva Respondents for misappropriating funds.

#### **E. The Mareva Respondents’ Take Steps to Cover Their Tracks**

43. After misappropriating OTE funds, the Mareva Respondents appear to have taken many steps to cover their tracks, including by compromising the quality of the OTE Group’s books and records and making blatant misrepresentations to creditors and other stakeholders.

##### **1. Books and Records**

44. Based on the Monitor’s investigation, the OTE Group’s books and records are severely lacking for the time that Page was the senior executive in charge of operating the business of

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<sup>62</sup> First Page Affidavit, Page RMR, Tab 1, p. 47, ¶169.

<sup>63</sup> Cox Examination, Brief of Transcripts, Tab 2, p. 169-170, Q.445-451.

OTE.<sup>64</sup> The lack of reliable books and records created challenges for the Monitor (presumably by design) in determining the true historical finances of OTE.

45. There is evidence that Page took active steps to compromise OTE's books and records to cover the Mareva Respondents' tracks. For example, just weeks after resigning from the OTE Group, Page directed the deletion and archiving of the OTE Group email boxes belonging to him, Cox, his brother Brian Page, and an employee Kellie Hodgins.<sup>65</sup> The supposedly archived emails have never been found and are not available to the Monitor.<sup>66</sup> When asked on cross-examination why he directed the deletion of the email accounts (rather than, for example, placing a simply bounce notice), Page responded: "I have no idea".<sup>67</sup>

## **2. The Mareva Respondents Mask Misappropriations under Company Expenses**

46. Further compromising the OTE Group's books and records, the Mareva Respondents took steps to record the money they took from OTE as company expenses.

47. Page expressly directed an OTE staff member to code transactions by OTE LP to pay for Page's and Cox's home contractors (including those that installed his pool, wine cellar, and closets) as "repairs and maintenance".<sup>68</sup> According to Page, the expenses "would then be reclass[ifi]ed at the end of the year". When pushed on whether this reclassification ever happened, Page did not deny that he was "just making that up" – he simply said "I honestly have no idea".<sup>69</sup> Based on the Monitor's investigation, there was no reclassification.

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<sup>64</sup> First Page Affidavit, Page RMR, Tab 1, p. 8, ¶24; Supplemental Sixth Report, Monitor RMR, Tab 1, p. 9, 11, ¶2, 10.

<sup>65</sup> First Page Affidavit, Page RMR, Tab 1, p. 34, ¶123; Exhibit QQ, p. 364; FPA, Exhibit QQ; Page Examination, Brief of Transcripts, Tab 3, p. 306-308, Q. 262-272.

<sup>66</sup> Supplemental Sixth Report, Monitor RMR, Tab 1, p. 11, ¶10.

<sup>67</sup> Page Examination, Brief of Transcripts, Tab 3, p. 308-309, Q. 273-274.

<sup>68</sup> Page Examination, Brief of Transcripts, Tab 3, p. 346-352, Q. 455-487; Sixth Report, Monitor MR, Appendix K, p. 202; Appendix F, p. 170, 181.

<sup>69</sup> Page Examination, Brief of Transcripts, Tab 3, p. 348-349, Q. 467-469.

48. Rather, as Page confirmed, the home contractor expenses were categorized as “Repairs and Maintenance” in a list of OTE’s expense entries in its bookkeeping software.<sup>70</sup> The net “Repairs and Maintenance” from the bookkeeping entries of \$1,152,211 was exactly the same figure reported as OTE expenses for “Repairs and Maintenance” on OTE’s 2020 financial statements.<sup>71</sup> Page essentially confirmed this through a mathematical exercise on cross-examination. In other words, Page’s supposed “distributions” were not reclassified – they were intentionally misreported, at Page’s direction, as an OTE expenses in the very financial statements used to provide a snapshot of the company’s state to creditors and other stakeholders.

49. These transactions were misreported in the very financial statements that Page would have signed a management representation letter on as OTE’s President, noting that OTE’s 2020 financial statements “present fairly, in all material respects, the financial position of the company”; and that “there are no material transactions that have not been properly recorded in the accounting records underlying the financial statements.”<sup>72</sup>

50. Misreporting distributions as corporate expenses also constitutes fraud on the CRA and Ministry of Finance, by over-reporting expenses which reduce taxes.

### **3. Page Provides Fabricated Financial Statements to RBC and Marathon**

51. Not only did Page internally compromise records, but he made misrepresentations about OTE’s financial affairs to external parties as well. For example, Page provided RBC and

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<sup>70</sup> Page Examination, Brief of Transcripts, Tab 3, p. 354-356, Q. 500-510; Exhibit 3, Tab 3.3, p. 447. The entries were pulled in as pulled in December 2023.

<sup>71</sup> Page Examination, Brief of Transcripts, Tab 3, p. 356, Q. 512-513; OTE LP 2020 Financial Statements, First Page Affidavit, Page RMR, Tab 1, Exhibit KK, p. 328.

<sup>72</sup> Page confirmed his signature on his representation letter for the year end 2018 and 2019 OTE LP financial statements. He did not recognize the e-signature under his name for the year end 2020 OTE LP financial statement. Page nonetheless did not dispute that it was a letter he would typically sign, and as President of OTE LP, fairly standard practice that he would provide the letter to OTE LP accountants. See Page Examination, Brief of Transcripts, Tab 3, p. 356, Q. 517-524, p. 358-359; Exhibit 5, p. 458.

Marathon Petroleum Corporation (an OTE supplier) fabricated OTE LP financial statements for the year ended December 31, 2021 (“**Fabricated Financial Statements**”).

52. On June 6, 2022, Page sent RBC an email attaching Fabricated Financial Statements that he scanned, which “got dropped off”. Below in the chain is an email from 265’s copier to Page, which Page then forwarded to RBC.<sup>73</sup> Similarly, on the same day, in response to a request from Marathon, Page sent them the Fabricated Financial Statements.

53. The Fabricated Financial Statements are on the letterhead of Pettinelli Mastroluisi LLP (“**Pettinelli**”) – the accountants that assisted with OTE’s financial statements for the years ended 2018 to 2020.<sup>74</sup> However, Tony De Luca – a Pettinelli Partner and the responsible Partner for the OTE engagement – confirmed that Pettinelli did *not* prepare the Fabricated Financial Statements.<sup>75</sup> In fact, Mr. De Luca testified that Pettinelli did not assist with OTE’s 2021 financial statements at all.<sup>76</sup>

54. Mr. De Luca also testified at length about the various aspects of the Fabricated Financial Statements that demonstrated they were fabricated. Among other things:

- (a) The Fabricated Financial Statements uses various formatting that Pettinelli’s internal software would not allow.<sup>77</sup>

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<sup>73</sup> Email from Page to RBC, Supplemental Sixth Report, Monitor RMR, Tab 1, Appendix C, p. 76; Page Examination, Brief of Transcripts, Tab 3, p. 365-367, Q. 544-555.

<sup>74</sup> Supplemental Sixth Report, Monitor RMR, Tab 1, Appendix E, p. 87.

<sup>75</sup> Examination of Anthony De Luca (“**De Luca Examination**”), Brief of Transcripts, Tab 1, p. 13, Q. 20-22.

<sup>76</sup> De Luca Examination, Brief of Transcripts, Tab 1, p. 24-26, Q. 51-55.

<sup>77</sup> De Luca Examination, Brief of Transcripts, Tab 1, p. 26-32, Q. 58, 62-72, 79; Supplemental Sixth Report, Monitor RMR, Tab 1, Appendix E, p. 87.

- (b) There is an incorrect sum in the Fabricated Financial Statements, which Pettinelli's internal software would not allow.<sup>78</sup>
- (c) Certain notes in the Fabricated Financial Statements are omitted, and others are copied word-for-word from OTE's 2020 Financial Statements (and even mistakenly reference 2019 as the prior year).<sup>79</sup> Similarly, the statement of cash flows is missing.<sup>80</sup>
- (d) The Fabricated Financial Statements apply Mr. De Luca's unique signature (which he says he would personally sign) to the covering letter, even though he did not sign.<sup>81</sup>

55. Consistent with Mr. De Luca's evidence, even Page did not recall asking Pettinelli to prepare financial statements for the year ended 2021.<sup>82</sup> In the face of the evidentiary record, Page agreed that Fabricated Financial Statements are indeed fictitious.<sup>83</sup> He does not challenge that the covering letter was altered, nor that Mr. De Luca did not sign it.<sup>84</sup>

56. Rather, Page's explanation is that despite sending the June 6 emails, where he expressly says he scanned the Fabricated Financial Statements, he never reviewed the financial statements or even actually scanned them. According to Page, despite the June 6 emails, he received the financial statements from a midlevel GPMC2 (another Page and Cox controlled company) accounting employee named Kerri, and then forwarded them to RBC and Marathon.<sup>85</sup> Page has no documentary support for his position (including any correspondence from Kerri regarding the

<sup>78</sup> De Luca Examination, Brief of Transcripts, Tab 1, p. 33, Q. 58, 74-76; Supplemental Sixth Report, Monitor RMR, Tab 1, Appendix E, p. 94.

<sup>79</sup> De Luca Examination, Brief of Transcripts, Tab 1, p. 33-37, Q. 77-91; Supplemental Sixth Report, Monitor RMR, Tab 1, Appendix E, p. 94-95.

<sup>80</sup> De Luca Examination, Brief of Transcripts, Tab 1, p. 37-41, Q. 92-95.

<sup>81</sup> De Luca Examination, Brief of Transcripts, Tab 1, p. 41-42, Q. 96-98.

<sup>82</sup> Page Examination, Brief of Transcripts, Tab 3, p. 360-361, Q. 526, 530.

<sup>83</sup> Page Examination, Brief of Transcripts, Tab 3, p. 369, Q. 562.

<sup>84</sup> Page Examination, Brief of Transcripts, Tab 3, p. 369, Q. 563.

<sup>85</sup> First Page Affidavit, Page RMR, Tab 1, p. 32, ¶112; Second Page Affidavit, Page SMR, Tab 1, p. 9, ¶28; Page Examination, Brief of Transcripts, Tab 3, p. 375-376, Q. 594-598..

Fabricated Financial Statements) despite having access to his relevant email inbox.<sup>86</sup>

Remarkably, Page now posits that Kerri, a midlevel accounting employee who has no horse in the race, went to the lengths of preparing the Fabricated Financial Statements herself and handing them to Page. Page says he does not know what Kerri's motives were.<sup>87</sup>

57. Page also testified that he did not know what accounting firm was preparing the 2021 year-end OTE LP financial statements as the President and a director of the company.<sup>88</sup> Despite using Kerri and his own feigned ignorance as a scapegoat (a recurring theme in the Mareva Respondents' defence of this motion), Page nevertheless admits to providing Fabricated Financial Statements to RBC and Marathon.

#### **4. Page Obfuscates OTE Expenses to RBC**

58. In May 2022, Mr. Casselli of RBC emailed Page and Cox to confirm the legitimacy of a \$40,000USD wire transfer from OTE's account to RJB Hotel Supplies to Gros Islet, St Lucia. Mr. Casselli was emailing about a transfer from OTE, and Page responded on behalf of OTE LP as President and representative in charge of company finances. Page replied simply: "Yes it is correct and it is for a facility we are building".<sup>89</sup> Obvious to most, Mr. Casselli would take this to mean OTE was building a facility in St. Lucia, and the funds were for that facility.

59. OTE has no operations in St. Lucia, nor did it plan operations in St. Lucia.<sup>90</sup> Page's explanation of his email to Mr. Casselli is necessarily absurd. He claims that the "facility" OTE "was building" was the house in St. Lucia that Page and Cox had bought as-built, and that the

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<sup>86</sup> Page Examination, Brief of Transcripts, Tab 3, p. 367-368, Q. 556-557.

<sup>87</sup> Page Examination, Brief of Transcripts, Tab 3, p. 374-375, Q. 591-593. Page also says Kerri left the company soon after.

<sup>88</sup> Page Examination, Brief of Transcripts, Tab 3, p. 363, Q. 536.

<sup>89</sup> Email Correspondence between Page, Cox, and RBC, Sixth Report, Monitor MR, Appendix L, p. 205.

<sup>90</sup> Cox Examination, Brief of Transcripts, Tab 2, p. 171-178, Q. 463-465; Sixth Report, Monitor MR, p. 83, ¶69(vii).

expense amounts were for kitchen appliances.<sup>91</sup> He claimed on cross-examination that he did not see that RBC would be misled by his response (this exchange is at Schedule C of this factum (see item 9), along with other select excerpts of Page’s examination).<sup>92</sup>

60. Page has repeatedly gone to lengths to shift positions and create a story for this Court, justifying his and Cox’s misconduct by cloaking the truth. He is simply not credible.

#### **F. The Mareva Respondents Have Set up in St. Lucia**

61. Based on the evidence, the Page and Cox have spent years setting up in St. Lucia (where they are fully set up) and are at great risk of further moving, dissipating or secreting assets (including by moving them to St. Lucia). As for their setup in St. Lucia:

- (a) Page and Cox admitted they obtained St. Lucia citizenship in July 2022, including by posting a US\$250,000 bond.<sup>93</sup> Cox says they did so to start up a business in St. Lucia around the same time they applied for citizenship (Fall 2021).<sup>94</sup>
- (b) Page’s and Cox’s St. Lucia business is a remote servicing operation for Gen7 gas stations called Gen7 Brands International. It now has 9 employees (other than Page and Cox) based in St. Lucia.<sup>95</sup>
- (c) Page and Cox purchased and renovated a home in St. Lucia – the only home they currently own.<sup>96</sup> Cox confirmed “the idea” would be for her and Page to retire there.<sup>97</sup>

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<sup>91</sup> First Page Affidavit, Page RMR, Tab 1, p. 44, ¶157.

<sup>92</sup> Page Examination, Brief of Transcripts, Tab 3, p. 387-370, Q. 642-659. See also Cox Examination, Brief of Transcripts, Tab 2, p. 121-122, 171-172, Q. 205, 461-468;

<sup>93</sup> Page Examination, Brief of Transcripts, Tab 3, p. 390, Q. 660-661; Cox Examination, Brief of Transcripts, Tab 2, p. 118-119, Q. 183-184.

<sup>94</sup> Cox Examination, Brief of Transcripts, Tab 2, p. 119-121, Q. 188-192, 199-204.

<sup>95</sup> Cox Examination, Brief of Transcripts, Tab 2, p. 115-116, Q. 163-170.

<sup>96</sup> Page Examination, Brief of Transcripts, Tab 3, p. 381-382, Q. 622-625; Cox Examination, Brief of Transcripts, Tab 2, p. 124-125, Q. 217-219.

<sup>97</sup> Cox Examination, Brief of Transcripts, Tab 2, p. 124, Q. 214.

Despite Cox saying she has no plans of retiring, Page confirmed his impending “retirement plans” in email correspondence, with the subject line “My Retirement”.<sup>98</sup>

62. After committing wide-scale fraud on OTE and its creditors, and with an OPP investigation underway and the CRA and Ministry of Finance advancing significant claims,<sup>99</sup> Page and Cox are poised to make a getaway to a country they are citizens of with no extradition treaty, where they already have a home and a nine-employee business.<sup>100</sup>

63. The Monitor attempted to determine how much the Mareva Respondents have been dissipating funds on examination, including to St. Lucia. However, the Monitor was stonewalled. Counsel for Mareva Respondents refused virtually all questions related to the Mareva Respondents assets and the nature of their holdings and income, both personally and in related companies – the very questions that would help the Monitor determine the flow of funds misappropriated from OTE, and which would further demonstrate offshore movement and dissipation.<sup>101</sup> The Mareva Respondents, if they had nothing to hide, would have no reason to refuse such relevant questions. This Court should draw an adverse inference from these refusals.

64. Nevertheless, the evidence that is on the record still demonstrate that the Mareva Respondents have moved, dissipated or attempted to secret assets.

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<sup>98</sup> First Page Affidavit, Page RMR, Tab 1, Exhibit MM, p. 354-355. The OTE Group similarly alleges in a statement of claim that Page informed Scott of his imminent plans to retire in St. Lucia. Affidavit of Keely Kinley sworn November 10, 2023, Page RMR, Tab 2, Exhibit R, p. 737-739, ¶52, 56.

<sup>99</sup> Sixth Report, Monitor MR, Tab 5, p. 70, ¶31.

<sup>100</sup> Supplemental Sixth Report, Monitor RMR, Tab 1, p. 11, ¶8.

<sup>101</sup> Cox Chart of Refusals, Brief of Transcripts, Tab 4, p. 501; Page Chart of Refusals, Brief of Transcripts, Tab 5, p. 508.

- (a) According to 265's trial balance for 2022, Page and Cox caused 265 to make nearly \$3.8M in advances out of the company to "related parties", including their St. Lucia business Gen7 Brands International.<sup>102</sup>
- (b) During the Initial Mareva Motion regarding the Yacht, Page's lawyers told the Court that the Yacht was at sea between Florida and the Bahamas.<sup>103</sup>
- (c) Without informing the Court, Page and Cox caused the Yacht to be transferred to two different wholly owned offshore entities in 24 hours, just a few days after a statement of claim was filed against them alleging fraud.<sup>104</sup>
- (d) Without informing the Monitor, the Mareva Respondents transferred the Jets to another wholly owned company, and sold the interests in the Jets from that wholly owned company back to AirSprint.<sup>105</sup>
- (e) Without informing the Monitor, the Mareva Respondents nearly maxed out a \$1.27 million line of credit on their previous home in Waterdown, Ontario (which they admit was mostly constructed with OTE funds), before selling the home. Only in response to this motion (and pending its outcome), the Mareva Respondents have placed the remaining proceeds of sale (after paying out the line of credit) in trust.<sup>106</sup>

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<sup>102</sup> First Page Affidavit, Page RMR, Tab 1, Exhibit KK, p. 346.

<sup>103</sup> Osborne J Endorsement, Monitor MR, Tab 2, p. 29, ¶15.

<sup>104</sup> Sixth Report, Monitor MR, Tab 5, p. 78, ¶61.

<sup>105</sup> Supplemental Sixth Report, Monitor RMR, Tab 1, p. 19, ¶35; Page Examination, Brief of Transcripts, Tab 3, p. 7-10, Q. 8-19.

<sup>106</sup> First Page Affidavit, Page RMR, Tab 1, p. 15, ¶48; Exhibit J, p. 109, 113.

65. This Court can also infer a great risk of offshore movement, dissipation or asset-secreting by the Mareva Respondents given the fraud on the part of the Page and Cox in respect of OTE.<sup>107</sup>

### **PART III: ISSUES, LAW & ARGUMENT**

66. The issues to be decided in this motion are:

- (a) Whether the Court should grant an interim Mareva injunction against the Mareva Respondents pending the return of the interlocutory Mareva hearing.
- (b) Whether the requirements of Rule 40.03 ought to be dispensed with given the circumstances of this case – particularly given the Monitor’s status as a court-appointed officer.

67. The Monitor addressed the law on these issues in its factum filed November 9, 2023, and relies on that factum in relation to the law. Summarily, the Monitor satisfies the test for a Mareva injunction here. There is overwhelming evidence (and a strong prima facie case) of fraud, breach of fiduciary duty, and knowing assistance on the part of the Mareva Respondents, who:

- (a) Concealed their relationships with other related, non-arm’s length parties.
- (b) Directed, caused and/or facilitated prohibited payments and transfers to be made by the OTE Group to such related, non-arm’s length parties, including payments and transfers for lavish personal expenses, for which no goods or services, or no good or service of any material value, were provided to the OTE Group.
- (c) Diverted funds from OTE, including to obtain improper benefits for themselves.
- (d) Knowingly received, retained and used funds, which belonged to OTE.
- (e) Compromised OTE’s internal books and records to conceal their fraudulent activity.

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<sup>107</sup> See eg, *663309 Ontario Inc v Bauman*, [2000 CanLII 22640 \(ONSC\)](#), ¶41; *Sibley & Associates LP v Ross*, [2011 ONSC 2951](#), ¶39-40.

68. The Mareva Respondents' assertion that other OTE partners co-signed certain cheques pre-March 2020, or had certain distributions expensed, is of no moment. This in no way absolves the Page, Cox and 265 of liability. The Monitor's investigation is ongoing, and it will seek relief against any other parties for misconduct if appropriate and/or directed by this Court.

69. Cox's attempted "Sgt. Schultz" defence does not absolve her of liability. She authorized several improper wire transfers, signed documents for the transfer of the Yacht and sale of certain Jets, and was the director, officer, and/or shareholder of several entities tied to Page and Cox that are tied in to misconduct as against the OTE Group – including Cox and Page's company 265. Cox admitted she and Page could, and did, together direct outgoing wires from OTE Group bank accounts (including for some (if not all) of the improper payments to their benefit) – all the way to the point that Page left the company.<sup>108</sup> Cox's and Page's financial affairs are inextricably tied.<sup>109</sup> Moreover, Cox has directly engaged in and knowingly assisted the fraudulent conduct, and knowingly received considerable fruits of the fraudulent conduct.

70. There is also high risk of dissipation, movement or secreting of their assets. Among other things, the Mareva Respondents face an OPP investigation and are now citizens of St. Lucia, where they have two businesses, the only home they own, and no extradition treaty. The 265 tax returns also show that the Mareva Respondents have already been moving millions of dollars and assets out of 265 into related companies (including the Yacht, Jets, and purported "loans").

71. If the Mareva injunction is refused, the Monitor believes that there is a significant risk that assets that either belong to the OTE Group, that are traceable to the OTE Group, or that

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<sup>108</sup> Cox Examination, Brief of Transcripts, Tab 2, p. 137-138, Q. 284-289; Page Examination, Brief of Transcripts, Tab 3, p. 303-304, Q. 246-250.

<sup>109</sup> For example, they jointly own their home in St. Lucia, jointly owned their recently-sold home in Waterdown, jointly own 265 (which was the most significant beneficiary of the impropriety) and certain other companies, and have several joint bank account (although they refused to specifically identify them or provide any statements).

might be exigible by the OTE Group will be moved, dissipated or hidden, and that the OTE Group will therefore be unable to satisfy any remedy, order, or judgment against the Mareva Respondents, and irreparable harm will be suffered. Refusal of the Mareva injunction would be extremely harmful to the OTE Group and its chance of recovery.

72. On the other hand, provision can be made for interim funds for living and legal expenses during the period of an Order for the Mareva Respondents.

73. The Mareva respondents seek to impugn the Monitor's timing in bringing a motion. However, much new evidence has been turned up by the Monitor since it obtained enhanced powers in October 2023, and in any event, this is not an *ex parte* motion where urgency is a relevant factor.<sup>110</sup> There was no unreasonable delay by the Monitor in bringing this motion, and in any event, such delay is more than offset by the merits of the case and prejudice to the OTE Group and its stakeholders if an order is not granted.<sup>111</sup>

#### **PART IV: ORDER REQUESTED**

74. Accordingly, the Monitor seeks an interim Mareva Order in the general form of the proposed draft Order in the motion record and as uploaded into Caselines.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED** this 16<sup>th</sup> day of December, 2023.

  
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**BENNETT JONES LLP**

<sup>110</sup> See eg, *Equustek Solutions Inc v Jack*, [2013 BCSC 304](#), ¶71. Consistent with this, Mareva injunctions are available post-judgment.

<sup>111</sup> *SLMsoft.Com Inc v Rampart Securities Inc (Bankruptcy)*, [2004 CanLII 6329 \(ON SC\)](#), ¶26.

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Lawyers for The Monitor

**SCHEDULE “A”**  
**LIST OF AUTHORITIES**

1. *663309 Ontario Inc v Bauman*, [2000 CanLII 22640 \(ONSC\)](#)
2. *Sibley & Associates LP v Ross*, [2011 ONSC 2951](#)
3. *Equustek Solutions Inc v Jack*, [2013 BCSC 304](#)
4. *SLMsoft.Com Inc v Rampart Securities Inc (Bankruptcy)*, [2004 CanLII 6329 \(ON SC\)](#)

**SCHEDULE “B”  
RELEVANT STATUTES, REGULATIONS AND BY-LAWS**

***Courts of Justice Act, R.S.O. 1990, c C.43, subsection 101(1) and (2)***

**Injunctions and receivers**

**101 (1)** In the Superior Court of Justice, an interlocutory injunction or mandatory order may be granted or a receiver or receiver and manager may be appointed by an interlocutory order, where it appears to a judge of the court to be just or convenient to do so. R.S.O. 1990, c. C.43, s. 101 (1); 1994, c. 12, s. 40; 1996, c. 25, s. 9 (17).

**Terms**

**(2)** An order under subsection (1) may include such terms as are considered just.

***Limited Partnerships Act, RSO 1990, c L.16***

**Share of profits**

**11 (1)** A limited partner has, subject to this Act, the right,

- (a) to a share of the profits or other compensation by way of income; and
- (b) to have the limited partner’s contribution to the limited partnership returned. R.S.O. 1990, c. L.16, s. 11 (1).

**When profit may not be paid**

**(2)** No payment of a share of the profits or other compensation by way of income shall be made to a limited partner from the assets of the limited partnership or of a general partner if the payment would reduce the assets of the limited partnership to an amount insufficient to discharge the liabilities of the limited partnership to persons who are not general or limited partners. R.S.O. 1990, c. L.16, s. 11 (2).

**SCHEDULE "C"**  
**SELECT EXCERPTS FROM EXAMINATION OF G. PAGE**

No.	Topic	Excerpt
1	AirSprint	<p>14 Q. And I don't think there is any disagreement that these -- the fractional interests in the three jets were initially held in the company 2658658 Ontario? Is that agreed?</p> <p>A. Agreed.</p> <p>15 Q. And in 2022, these fractional ownership interests were transferred from 265 to another Ontario company, which we have referred to as 493 Ontario Inc.? The full number is 1000867493 Ontario Inc.?</p> <p>A. Yes, I believe that to be correct. I do not recall the date or the timing.</p> <p>16 Q. Right. But 265 transferred those fractional interests to 493.</p> <p>A. That is correct. They were transferred to separate them from the Gen 7 retail gas station holdco under the advisement of MNP. They were done at the end of one of the years, tax years. So that's why I'm trying to recall the date, but I do not remember it, to the best of my abilities.</p> <p>17 Q. A transfer happened in August of 21 2022? Does that sound right?</p> <p>A. That would be consistent with the year end of 2658658.</p>
2	AirSprint	<p>18 Q. And, sir, do we agree that these fractional ownership interests in these three jets ere all paid for out of OTE LP funds?</p> <p>A. The capital of the fractional aircraft and the fixed overhead were paid for out of OTE. That is correct.</p> <p>19 Q. And were these payments to AirSprint by OTE to purchase these fractional interests in these three aircrafts, was that part of your distribution from OTE to 265 or not?</p> <p>A. Sir, it was not. It was a board decision.</p> <p>20 Q. So it was not part of your distribution.</p> <p>A. Correct.</p> <p>21 Q. And was it intended that OTE would be the ultimate owner or that 265 would be the ultimate owner?</p> <p>A. The management board that reviewed the decision and made the decision to procure the fractional ownership were -- had requested that they be held at arm's length, away from OTE. CCD did not wish to do it, so 265 was selected.</p>

		<p>Q. Do you have any documents that reflect that that was the management decision, sir? A. We had a board meeting. It was discussed at a board meeting face to face, at which Scott Hill, Nick Capretta, Brian de Nobriga and myself attended, and it was agreed by the team to procure the fractional ownership. They felt it was justified.</p> <p>23 Q. My question was do you have any documents reflecting this.</p> <p>A. Not to the best of my knowledge.</p> <p>24 Q. And so to come back to my question, sir, was it intended that OTE would be the ultimate owner of these fractional interests or that 265 would be?</p> <p>A. OTE paid for the assets. 265 was managing the assets.</p> <p>25 Q. So who was the ultimate owner?</p> <p>A. OTE.</p> <p>26 Q. So OTE is the ultimate owner of these fractional interests?</p> <p>A. With a capital interest in the fractional aircraft.</p> <p>27 Q. That's always been your view?</p> <p>A. Always been the -- my view.</p>
3	AirSprint	<p>196 Q. And 493 was the company into which you transferred the fractional AirSprint interests.</p> <p>A. Correct. In late July, I believe it was. 658658's year end was coming due, and MNP had suggested splitting the capital assets because the planes would -- should not be in the same holding company that was making investments in the gas station, et cetera.</p> <p>197 Q. And did you tell OTE this, that you were transferring the planes into 493?</p> <p>A. I believe I communicated that with Nick Capretta, who was responsible for financial oversight, according to his role --</p> <p>198 Q. Do you have a record of that communication?</p> <p>A. Not that I recall.</p> <p>199 Q. Does 493 have any other assets other than a claimed interest in the airplanes?</p> <p>A. None. It was specifically done for that purpose.</p>
4	AirSprint	<p>398 Q. Let us look at another document, which is this. Showing you a letter from Fred Schumann at Stockwoods to James Ilian at</p>

	<p>AirSprint. And Mr. Ilian was the person you were dealing with at AirSprint, was it?</p> <p>A. I don't recall if it was always James. There are other individuals that we dealt with. I remember a gentleman by the name of Scott. And I forget the initial person that we dealt with, but Mr. Ilian is their president.</p> <p>399 Q. Right. And at times, you dealt with him, didn't you?</p> <p>A. Correct, yes.</p> <p>400 Q. All right. And you would have asked your lawyer, Mr. Schumann, at Stockwoods to write to Mr. Ilian; right?</p> <p>A. I don't recall asking him to write. I do recall discussing the AirSprint with my counsel.</p> <p>401 Q. Well, your counsel wouldn't have sent this letter without your approval; correct? Sir?</p> <p>A. I -- I do not recall this letter.</p> <p>402 Q. You don't recall this letter?</p> <p>A. Do not recall this letter, no.</p> <p>403 Q. You're saying --</p> <p>A. I --</p> <p>404 Q. -- counsel wrote a letter without your approval?</p> <p>MS. JILESEN: He said he doesn't recall a letter.</p> <p>THE WITNESS: Yeah.</p> <p>2 BY MR. SWAN:</p> <p>405 Q. You're not saying he wrote it without your approval, are you? Mr. Page? A. No, I'm not saying that, but I do not recall it.</p> <p>406 Q. I see. And Mr. -- Mr. Schumann says that he's counsel to you and 265. Do you see that in the first sentence? You're on the wrong page.</p> <p>A. I see that.</p> <p>407 Q. And Mr. Schumann then says in the next sentence: (as read)</p>
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	<p>“As you know, GPMC” -- which is 265 -- “is the fractional owner of various private jets through the fractional ownership program of AirSprint Private Aviation.”</p> <p>A. M-hm.</p> <p>408 Q. Do you see that?</p> <p>A. I see that.</p> <p>409 Q. And you now say that OTE is the ultimate owner; is that right? Sir?</p> <p>A. In my -- in my mind --</p> <p>410 Q. Yes.</p> <p>A. -- OTE was the beneficial – the beneficial owner. 265 held the ownership.</p> <p>411 Q. And Mr. Schumann then says in the next sentence: (as read)</p> <p>“We write to confirm that GPMC” -- that’s 265 -- “purchased its fractional ownership interests in the jets with its own funds.”</p> <p>Do you see that?</p> <p>A. I see that.</p> <p>412 Q. That’s not true, is it? Sir, that’s not true, is it?</p> <p>MS. JILESEN: He’s entitled to read the letter.</p> <p>THE WITNESS: Trying to understand context. Sorry. I’m attempting to understand the context of the letter, but I believe I’ve been forthright in saying that OTE’s beneficial, and the purpose of 265 holding it was for management purposes only.</p> <p>BY MR. SWAN:</p> <p>413 Q. So you haven’t actually answered my question. My question was, in Mr. Schumann’s letter, he writes: (as read)</p> <p>“We write to confirm that GPMC purchased its fractional ownership interest in the jets with its own funds.” That is a false statement, isn’t it?</p> <p>A. That is inconsistent with what I had stated.</p>
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	<p>414 Q. And in fact, sir, this is the position that you directed be taken in this letter, isn't it?</p> <p>A. I do not recall giving that direction.</p> <p>415 Q. And if you go down a paragraph, it begins "among other things," and it refers to the Statement of Claim?</p> <p>MS. JILESEN: On the first page.</p> <p>BY MR. SWAN:</p> <p>416 Q. First page.</p> <p>A. Yeah.</p> <p>417 Q. "Among other things." Just read that, and it refers to a number of -- the Statement of Claim --</p> <p>A. M-hm.</p> <p>418 Q. -- referring to misappropriations through the issuance of the following wire transfers to AirSprint.</p> <p>A. M-hm.</p> <p>419 Q. And then it says: (as read)</p> <p>"These allegations are false and are strongly denied by Mr. Page and GPMC." Do you see that?</p> <p>A. I see that.</p> <p>420 Q. And, in fact, you accept that OTE did make these wire transfers.</p> <p>A. At the time, I had no data or no backup or support. We have been requesting backup and data for a significant amount of time in order to ascertain, defend our position, or answer the questions appropriately.</p> <p>421 Q. Sir, you knew all along that the entirety of the funds to purchase the AirSprint jets, the fractional interests in the AirSprint jets, came from OTE. You knew that all along.</p> <p>A. 2658658 has been sending money to AirSprint as well for activity as well as other variable expenses, et cetera. So to define payments without</p>
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	<p>any support documentation, I'm not in a position to comment. And that's literally days after a lawsuit.</p> <p>Q. Let's just be clear about something. You knew that the entirety of the money that went to purchase fractional interests in these AirSprint jets came from OTE.</p> <p>A. I know that now.</p> <p>423 Q. Well, you knew it at the time, sir. You -- there -- you were running OTE, and you were running 265, and you knew that 265 had paid no amount for a fractional ownership interest in the jets. You knew that, didn't you? A. I know that now, based on all of the data that's been provided. 424 Q. And you knew it then, didn't you? A. I did not know it at that time. I know it now, based on the data that's been provided.</p> <p>425 Q. So just to be clear, sir, your evidence is you didn't know one way or the other whether 265, the company of which you are a shareholder and director, you did not know whether it was paying for fractional interests. Is that your evidence?</p> <p>A. Based on the data that I --</p> <p>426 Q. Is that your evidence, sir?</p> <p>A. Based on the data that I have been provided, at the time of this letter, it was unaware to me as to what these numbers were reflecting.</p> <p>427 Q. You're saying at the time of this letter.</p> <p>A. Correct.</p> <p>428 Q. So do you now acknowledge that you did see this letter?</p> <p>A. Well, I'm looking at the date of this letter, and you just showed it to me now.</p> <p>429 Q. And, sir, you were running both of these companies. I'm going to put it to you there isn't a chance that you didn't know that all of these monies came from OTE. You knew that, didn't you?</p> <p>A. No, I did not.</p> <p>430 Q. And what's actually happened, sir, is that you were initially taking the position that these fractional aircraft assets did belong to 265, and you've come to realize that that's simply impossible based on the</p>
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		<p>amount of money that went out the door from OTE as fitting within your distributions. Isn't that what happened?</p> <p>A. No, sir. As I explained earlier, in November, I directed that all of the funds -- first and foremost, most importantly, directed that the aircraft be sold and the funds be put in escrow. Aircraft don't sell overnight. It's a long gestation period, and the longer you take, the less value there is in an aircraft. My first and immediate thing was to protect OTE's funds by selling the aircraft.</p> <p>431 Q. And you –</p> <p>A. And putting it in escrow once we had time to review the documentation.</p>
5	Yacht	<p>93 Q. All right. So GPMC Holdings International Inc. has a lien on the yacht. Does it have any other assets?</p> <p>A. Not to my knowledge.</p> <p>94 Q. And where did GPMC Holdings International get \$3.15 million to purchase the yacht from 265?</p> <p>A. That I'm unable to answer. I will have to refer that to accountants.</p> <p>95 Q. Well, that's a lot of money. Did GPMC Holdings International have \$3 million to buy a yacht in 2022?</p> <p>A. I'm not sure how the assets were handled between the different corporations. The accountants handled all that for me.</p> <p>96 Q. Well, the accountants help you prepare documents, but getting money into a company to make a purchase isn't the job of the accountants. It's the job of the owner or the director of the company; right?</p> <p>A. For that I will have to defer to the accountants.</p> <p>97 Q. So you don't know how GPMC Holdings International got 3 and a half million dollars to buy the yacht.</p> <p>A. The lawyers and the accountants worked on the paper transfer. That was done to facilitate the charter business that was being set up in 2021 for the use of the boat. It was better that it be placed and registered in the Cayman Islands with a lien registered to St. Lucia and our corporation in St. Lucia for tax purposes. That's why I would have to defer to the accountants and the lawyers.</p> <p>98 Q. But sitting here today, you don't know how GPMC Holdings International came up with the money to buy the yacht.</p> <p>A. That is correct. The accountants.</p>

		<p>99 Q. And which accountants are those?</p> <p>A. That I would have to look up in the records between the three -- between CWC's legal team in the Caymans, our lawyers in St. Lucia, MNP in Canada, and our lawyers in Canada, which I don't know which lawyer transacted it.</p> <p>100 Q. So you're not even sure which accountant recommended that.</p> <p>A. It was a discussion, I'm sure, between all the accountants.</p> <p>101 Q. Well, you say "I'm sure," but I'm not interested in speculation. You don't know.</p> <p>A. No, I do not know.</p> <p>102 Q. And is it possible that GPMC Holdings International didn't pay anything to 265 for the yacht?</p> <p>17 A. That I have no idea.</p>
6	Yacht	<p>123 Q. On October 21, 2022, GPMC Holdings International sold the yacht to CWC International; right?</p> <p>A. I don't know the exact date; however, based upon listening to your discussions prior with Ms. Cox, I would suggest yes.</p> <p>124 Q. And it was sold for \$3 million?</p> <p>A. That sounds about correct.</p> <p>125 Q. \$150,000 less than it was purchased the day before?</p> <p>A. Quite possible.</p> <p>126 Q. And why was that?</p> <p>A. I am not sure, and I have no knowledge of why.</p> <p>127 Q. Well, you're the owner of the two companies. If you don't know, who does?</p> <p>A. Once again, it was a transaction that was handled by the lawyers and accountants in three countries.</p> <p>128 Q. Well, lawyers and accountants effect transactions, but businesspeople direct transactions, sir. You owned both companies. You were a director of both companies. You gave instructions to the lawyers and accountants, didn't you?</p> <p>MS. JILESEN: Sorry. Just so -- that was a big long lead-up. The question, as I understand it, so it's clear what the question that's being answered is, is you gave instructions to the lawyers and accountants, didn't you? I think we can ignore the speech that came before.</p>

	<p>BY MR. SWAN:</p> <p>129 Q. But the speech, you were the director of both companies; right?</p> <p>A. I was a director of both --</p> <p>130 Q. A director of both companies. You are the sole owner of both companies; right?</p> <p>A. That is correct.</p> <p>131 Q. And you were the person who gave the instructions to the lawyers and the accountants to effect this transaction.</p> <p>A. The instructions that I gave to the lawyers and accountants was here is what we wish to do. In early 2021, they were given instructions that this is what we wish to do with the boat. We wish to charter it. They transacted it where they felt it was appropriate based on the transaction moving to (indiscernible). I have no idea as to the difference, was not consulted.</p> <p>132 Q. You were not consulted.</p> <p>A. No. However, I did transact it based on their guidance and direction, the lawyers.</p> <p>133 Q. Well, who set the prices? Who set the price of \$3.15 million from 265 to the St. Lucian company?</p> <p>A. I am not aware of who set the price.</p> <p>134 Q. And who set the price from the St. Lucian company to CWC.</p> <p>A. I also am not aware of.</p> <p>135 Q. And there was a loan from the St. Lucian company, GPMC Holdings International Inc., to CWC, wasn't there?</p> <p>A. Yes, there was.</p> <p>136 Q. Of \$2.7 million.</p> <p>A. That's correct.</p> <p>137 Q. And where did GPMC Holdings International get \$2.7 million to loan the Cayman company?</p> <p>A. I would have to surmise - however, it is -- it is an assumption - that the 2.7 million was a holdback from the 3 million. Does that not seem logical?</p> <p>[...]</p> <p>147 Q. So what actually happened?</p>
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		<p>A. A lawyer produced these documents based on discussions with accountants, and I signed them.</p> <p>148 Q. Sir, is it your evidence that you gave no instructions on this transaction, that the lawyers and the accountants decided what the terms would be?</p> <p>A. I believe I've answered that already.</p> <p>149 Q. Is that your evidence?</p> <p>A. That is my evidence.</p> <p>150 Q. And the lawyers and accountants set the purchase price. Is that your evidence?</p> <p>A. That is my evidence.</p> <p>151 Q. And set up this loan. Is that your evidence?</p> <p>A. That's correct.</p> <p>152 Q. And did -- as this document says, did GPMC St. Lucia loan CWC \$2.7 million?</p> <p>A. I do not have any knowledge of how the transaction was booked in terms of the transition and transfer of the funds and how it is booked in the accounting system for GPMC Holdings.</p> <p>153 Q. That's not --</p> <p>A. CWC never received the yacht.</p> <p>154 Q. That's not the question that I asked you. Did GPMC Holdings St. Lucia loan CWC \$2.7 million? You're the owner of both of those companies.</p> <p>A. According to this document, yes.</p> <p>155 Q. And did that happen?</p> <p>A. I would assume yes.</p>
7	Yacht	<p>179 Q. And you recall the Mareva injunction motion before Justice Osborne in March of 2023?</p> <p>A. Yes, I do.</p> <p>180 Q. And you were represented by Mr. Schumann from the Stockwoods firm?</p> <p>A. Correct.</p> <p>181 Q. And at the time of that hearing, who owned the boat?</p> <p>A. Would have been owned by GPMC Holdings. I would need to go back and recall that because the boat still had not arrived in St.</p>

	<p>Lucia. So there were -- the assertion (sic) of who owned it is very cloudy and unclear to me.</p> <p>182 Q. Well, the boat was transferred from 265 to GPMC St. Lucia in October of 2022, wasn't it?</p> <p>A. Correct.</p> <p>183 Q. And we've just looked at the document. And the boat was then transferred the next day, October 21, 2022, to CWC International; wasn't it?</p> <p>A. Correct.</p> <p>184 Q. So in -- that's in 2022. In March of 2023, presumably, the boat was held by CWC.</p> <p>A. Presumably, yes.</p> <p>185 Q. And did you -- why did you not have Mr. Schumann, your counsel, tell the Court that the boat was no longer held by 265?</p> <p>MS. JILESEN: Can you just repeat that question.</p> <p>BY MR. SWAN:</p> <p>186 Q. Why did you not have your counsel, Mr. Schumann, tell the Court that 265 no longer held the boat?</p> <p>MS. JILESEN: So I understand the question, Mr. Swan, but I don't want to get involved in conversations between the witness and his counsel, for reasons of privilege. I don't know if there's another way we can address it, but that's --</p> <p>BY MR. SWAN:</p> <p>187 Q. Your counsel did not tell the Court that 265 no longer owned the boat, did he?</p> <p>A. I am not aware of whether he did or didn't, and I would ask that perhaps --</p> <p>MS. JILESEN: No, no, no, just answer the question.</p> <p>THE WITNESS: I am not aware. I am not aware. You're asking me to answer on behalf of someone else, and I am not aware of -- that he did or did not.</p> <p>BY MR. SWAN:</p> <p>188 Q. Did you watch the hearing?</p> <p>A. No, sir.</p> <p>189 Q. You didn't? Where were you?</p> <p>A. I don't recall --</p>
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		<p>Q. Hmm.</p> <p>A. -- which day.</p>
8	St. Lucia	<p>103 Q. Does GPMC Holdings International have a bank account?</p> <p>A. Yes.</p> <p>104 Q. Where is the bank account?</p> <p>A. Resident in St. Lucia.</p> <p>105 Q. At what bank?</p> <p>A. That's a good question because its accounts had to be transferred, so I will need to check into that. It was handled by the lawyers. It's a good question.</p> <p>106 Q. Well, your -- you and Ms. Cox are the only directors of the company.</p> <p>A. We haven't transacted anything in GPMC, so I've never had to access the banking.</p> <p>107 Q. Is there any money in this bank account?</p> <p>R/F MS. JILESEN: We're going to refuse questions about underlying assets of the company at this stage, given the motion that's been brought. If you get the relief, you may be entitled to that information.</p> <p>BY MR. SWAN:</p> <p>108 Q. So sitting here today, you don't know what -- where it has -- it has a bank account, but you don't know at what bank. That's your evidence?</p> <p>A. That's my current knowledge.</p>
9	St. Lucia	<p>641 Q. And this was an email exchange that you had with the RBC, Mr. Caselli of the RBC, in May of 2022, and a wire transfer has been sent to RJB Hotel Supplies, and Mr. Caselli is asking you to confirm that wire payment coming out of OTE. You see that?</p> <p>A. Okay, yes.</p> <p>642 Q. And you tell Mr. Caselli that this wire is for a facility that OTE is building, don't you?</p> <p>A. No, I tell him it is for a facility we are building. He sent the email to Mandy and Glenn.</p> <p>643 Q. What facility -- well, the money came out of OTE, didn't it?</p> <p>A. Yes, it would appear that way, yes. Yes.</p>

	<p>644 Q. And he asked what it's for, and you say "it's for a facility we are building"; right?</p> <p>A. Yeah, like the house. That's --</p> <p>645 Q. It doesn't say a house, does it? It says a facility.</p> <p>A. It's a term that I use.</p> <p>646 Q. You call a house a facility?</p> <p>A. I call most things that I'm building a facility, yes.</p> <p>647 Q. Including a house.</p> <p>A. Yes.</p> <p>648 Q. Now, the fact of the matter is, though, you weren't building a house because it already existed.</p> <p>A. There was a lot of renovations done on that house - a lot.</p> <p>649 Q. How much?</p> <p>A. Probably about 100,000.</p> <p>650 Q. How much did you pay for it?</p> <p>A. Around 700. I don't know the exact number.</p> <p>651 Q. And this wire transfer to RJB Hotel Supplies was for appliances, wasn't it?</p> <p>A. Yes, it was.</p> <p>652 Q. For your house.</p> <p>A. Correct.</p> <p>653 Q. And, sir, do you agree with me to say to the bank that "it is for a facility we are building" was misleading?</p> <p>A. I -- it is not misleading to me, and that -- you're asking me to make an assumption, so --</p> <p>654 Q. Well, in fact --</p> <p>A. In my -- my reference, you asked, is it was for the facility. So "facility" is a building. It's a house, it's a facility.</p> <p>655 Q. Sir, the reason that you said that is you didn't want to raise the suspicion of Mr. Caselli.</p> <p>A. I -- it's agreed.</p> <p>656 Q. What it was actually for was appliances for your new house, and you could very easily have written this is appliances for my and Mandy's new house; right?</p> <p>A. I could have just confirmed it as well. I could have said a number of things, but I just chose to do that, and I notice I sent it</p>
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		<p>from my iPhone, but that's -- which means I was likely texting in a hurry on my phone.</p> <p>657 Q. Texting in a hurry.</p> <p>A. Well, emailing.</p> <p>658 Q. So I'm going to give you one last chance on this, sir. Do you agree with me that it was misleading for you to tell Mr. Caselli that this wire transfer was, quote, "for a facility we are building"?</p> <p>A. You're asking me to comment on Mr. Caselli's view of this, and I can't.</p> <p>659 Q. I'm asking you to comment on your own email, sir.</p>
10	OTE Group Business	<p>246 Q. And if you gave instructions to Mandy Cox, she could effect a wire transfer from OTE LP's bank account. She told us that. A. Let me clarify, because everything is in the detail, the clarification. What she could do is enter it, but she couldn't approve. She could approve if she didn't enter. There was a one-step approval process. The person that entered could not approve and submit.</p> <p>247 Q. And you were a person who could approve?</p> <p>A. I could approve; Nick Capretta could approve; Scott Hill could approve.</p> <p>248 Q. So if she submitted, you could approve; right?</p> <p>A. That's correct, yes.</p> <p>249 Q. So as between the two of you, you could effect the process of wiring funds out of OTE LP's bank account; right?</p> <p>A. That's correct.</p> <p>250 Q. And that continued right up to the time that you left in July of 2022; right?</p> <p>A. Correct.</p>
11	OTE Group Business	<p>Q. And during the time that you were at OTE LP, you were the most senior executive there?</p> <p>A. I would disagree with that. We ran the company through a management board: Scott Hill, Nick Capretta, myself in the beginning. Then when Nick Capretta resigned as director and moved into a consulting role with a background control of the financials, it was still managed in the same manner that it started. I focussed on strategy, operations. Nick would review finances, would look on a daily basis; he had access to Bookworks as well as the RBC account, and Scott would focus on the administration,</p>

		<p>community, and sales - community being how we presented ourselves to the community.</p> <p>[...]</p> <p>288 Q. Okay. Let's look at your own affidavit, sir, your first affidavit dated November 24, 2023.</p> <p>A. I'd have to look at...</p> <p>289 Q. In paragraph 24 of your own affidavit, you say "I am the former president of OTE GP" --</p> <p>A. M-hm.</p> <p>290 Q. -- "and the senior executive in charge of operating the business of OTE LP." Is that true?</p> <p>A. That's true. Thank you for clarifying.</p>
12	Books and Records	<p>260 Q. And in August of 2022, you say that you asked Mark Dailey to archive your emails and delete the Microsoft accounts relating to you, Mandy, Brian Page, and another employee named Kellie.</p> <p>A. Sorry, where do I say this?</p> <p>261 Q. You say this at paragraph 123 of your affidavit.</p> <p>MS. JILESEN: The supplementary?</p> <p>MR. SWAN: The original.</p> <p>MS. JILESEN: The original?</p> <p>THE WITNESS: Okay. I've read it.</p> <p>BY MR. SWAN:</p> <p>262 Q. And so is it the case that you asked Mark Dailey to archive your emails and delete the Microsoft accounts relating to you, Mandy Cox, Brian -- is Brian Brian Page?</p> <p>A. I would assume so, yes.</p> <p>263 Q. And Kellie.</p> <p>A. Correct. That's what it says, yes. 264</p> <p>Q. And indeed he did delete those email accounts.</p> <p>A. If I could for a moment --</p> <p>265 Q. Yes.</p> <p>A. -- I'd like to see what Exhibit QQ is. Is that okay?</p> <p>266 Q. Yes.</p>

		<p>A. Just so I understand it in context. Yes, so he emailed him asking him to -- as none of us were employed by OTE anymore, to archive everything and then close the accounts so that people would know we were no longer there, no longer working there, so emails would bounce.</p> <p>267 Q. And he did delete these email accounts.</p> <p>A. I don't know that to be a fact. I'm not sure what Mark did.</p> <p>268 Q. You told him to delete them.</p> <p>A. Correct.</p> <p>269 Q. And did you ask him --</p> <p>A. However, that doesn't mean he did.</p> <p>I told him. I have no idea what Mark did.</p> <p>270 Q. Did he -- well, if you don't know what he did, did you -- did he send those emails to anyone? I assume you don't know. A. No, I don't know.</p> <p>271 Q. So what became of the emails after he deleted the accounts?</p> <p>A. I believe we had discussions with -- or we've had an exchange with counsel in regards to providing all the documentation.</p> <p>272 Q. Well, where are these emails? Where are these email accounts and the emails that were contained in them?</p> <p>A. I'm not sure. As I said, I don't even know if he got to the email accounts. I recall seeing something somewhere about access. However, I can't --</p> <p>273 Q. So why delete the accounts? Why did you direct him to delete the accounts? You could have just put a bounce notice on them.</p> <p>MS. JILESEN: Sorry, Mr. Swan, I'm just looking at the exhibit, QQ, and I just want to be sure you're being fair to the witness about what he told Mr. Dailey. I don't think you're being fair to the record (sic).</p> <p>BY MR. SWAN:</p> <p>274 Q. Why did you tell Mr. Dailey to delete the accounts?</p> <p>A. I have no idea. At this point, my only assumption would be that we aren't working there anymore.</p>
13	Books and Records	<p>299 Q. You make reference to distributions from OTE to 265 in various forms. Are there any directors or corporate resolutions authorizing those distributions?</p>

		<p>A. None that I'm aware of.</p> <p>300 Q. Is there a minute book for this company, or for this partnership?</p> <p>A. Not that I'm aware of.</p> <p>301 Q. And that's not something that you, as president and executive in charge, put in place, keeping minutes?</p> <p>A. Not that I'm aware of. I issued minutes a few times. I recall seem some somewhere. I don't recall where I recall seeing them, but... That is not how OTE operated. It was not how the Hills or the organization aligned.</p> <p>302 Q. So there's no minute book.</p> <p>A. That I don't know. I'm not aware.</p> <p>303 Q. You're not aware of one.</p> <p>A. Not that I'm aware of.</p> <p>304 Q. And you never asked to see one when you were president.</p> <p>A. No.</p>
14	Distributions	<p>305 Q. And did you have any formal process to determine whether OTE LP was solvent for the purpose of potentially making distributions?</p> <p>A. There would be a review discussion. Typically, in the beginning, it involved all parties: Miles Hill, Lou Cerutti, Nick Capretta, Brian de Nobriga, Scott Hill, and myself. With the onset of COVID, it became phone calls between Nick Capretta, myself, and typically Scott Hill - although Scott infrequently wouldn't make it - where we'd review the position of the company primarily based on what we understood in cash positioning, and Nick would agree, we would agree, and then Nick would approve the distributions.</p> <p>306 Q. Do you have a document that reflects any consideration of the solvency of the company?</p> <p>A. I don't believe any of us ever thought that there was any insolvency in the company, to the best of my recollection.</p> <p>307 Q. That's not my question. Are there any documents that reflect you or others considering the solvency of OTE LP?</p> <p>A. Not that I'm aware of.</p> <p>308 Q. Are there any documents reflecting board meetings taking place?</p> <p>A. Not that I can immediately recall.</p>

15	Distributions	<p>324 Q. And -- but you say the trial balance reflects income of 2.117 million, and for 2022, you say it is 1.036 million, and the total of all of these figures, you say, is 4,233,000. Do you see that in your affidavit?</p> <p>A. I see that in my affidavit, yes.</p> <p>325 Q. And that is -- is that what you say are the total distributions that you were entitled to out of the company?</p> <p>19 A. I believe that to be the case.</p>
16	Distributions	<p>348 Q. So keep that open --</p> <p>A. Yeah.</p> <p>349 Q. -- with the 2021 return and turn to page 71 -- paragraph 71 of your original affidavit.</p> <p>MS. JILESEN: Starting with "separately"?</p> <p>MR. SWAN: Starting with "separately."</p> <p>BY MR. SWAN:</p> <p>350 Q. Second sentence reads: (as read)</p> <p>"As I discuss below, OTE LP limited partners began to receive distributions in or around April of 2019."</p> <p>A. Correct.</p> <p>351 Q. So why is there no partnership income listed on the 2019 tax return for 265?</p> <p>A. I'm not sure. I would need to talk to the accountants that prepared the documents. Otherwise, it would be complete assumption and speculation.</p>
17	Distributions	<p>361 Q. And Item 8235 is income from partnerships.</p> <p>A. Yes.</p> <p>361 Q. And it shows in 2021 that 265 received income from partnerships of 2.162 million. Do you see that?</p> <p>A. Yes, I see that.</p> <p>362 Q. And do you see what it shows for 2020?</p> <p>A. No. Where's 2020?</p> <p>363 Q. Right beside it.</p> <p>A. Oh, previous year. M-hm.</p> <p>364 Q. Zero. So are you able to explain why 265 lists no partnership income in either 2019 or 2020?</p>

		A. No, I am not able to. You would need the accountants to do that.
18	Distributions	<p>386 Q. And now let's turn ahead to page 346, and go again to line 349. And the entirety of the partnership income that 265 ever listed as having received is about \$3,198,000. Do you see that? Between the beginning and the – and July 31, 2022.</p> <p>A. M-hm.</p> <p>387 Q. That's quite a different figure than you listed in paragraph 105 of your affidavit, isn't it?</p> <p>A. It is a different figure, yes.</p>
19	Distributions	<p>Q. So at page 202, at the monitor's initial motion record, there is an email exchange that you have with Paula Anderson, and she was in the accounting group at that time at OTE?</p> <p>A. Correct.</p> <p>456 Q. And you tell Ms. Anderson that there are a number of expenses or other items that need to be addressed, and you'll see in the middle of that August 19, 2020, email, there are five items that are highlighted - one for Closet Envy, one for Rosehill Cellars, one for Eden Tile, one for Ontario Screen Systems, and one for Oasis Pools. Do you see that?</p> <p>A. Yes, I do.</p> <p>457 Q. And those were all contractors or suppliers who were working on your home on Main Street in Waterdown; right?</p> <p>A. Correct.</p> <p>458 Q. And later, on August 19, at 2:29 p.m., Ms. Anderson asks you, "Where do you want the yellow highlighted ones coded to?" Those are the four that we just -- the five that we just identified.</p> <p>A. M-hm.</p> <p>459 Q. And you respond, also later on August 19, "code to Six Nations blending as maintenance." Do you see that?</p> <p>A. Yes, I see that.</p> <p>460 Q. And what you're telling to do is have OTE treat those items as expense items, aren't you?</p> <p>A. Coding it, telling her where to place them, yes.</p> <p>Q. Under maintenance, not as a distribution to you.</p> <p>A. "Paula, the board approved a distribution yesterday, so"... accounts, Miles and Scott's went to wages, professional fees, Claybar equipment... Yes, we had slots that we would</p>

	<p>accumulate, and then the distributions would be classified at the end of the year.</p> <p>462 Q. But you've told her to include this as an OTE LP expense under the heading of maintenance, haven't you?</p> <p>A. For those, yes. Wages for the others, professional fees for the others.</p> <p>463 Q. Well, I'm only interested in those five at the moment. And --</p> <p>A. Oh, okay.</p> <p>464 Q. -- by classifying it as an OTE expense -- it was not an OTE expense, was it? A. It was distributions, according to this, the board approved distributions.</p> <p>Q. And --</p> <p>A. All of those expenses were distributions.</p> <p>466 Q. And this was not -- Closet Envy, Rosehill Cellars, Oasis Pools, those were not OTE expenses, were they, sir?</p> <p>A. No, they were my distributions.</p> <p>467 Q. And yet you've told her to code them under the expense heading "maintenance," haven't you?</p> <p>A. As I stated, they would then be reclassified at year end was the understanding. That would have been at the time Nick Capretta was still or was active within the company.</p> <p>468 Q. Oh, sir, you're just making that up. Come on. The -- these were not ever reclassified, were they?</p> <p>4 A. I honestly have no idea.</p> <p>[...]</p> <p>498 Q. So turn to the page that comes from Bookworks, which looks different than the first two pages. So go to page 3.</p> <p>A. Page 3 is the --</p> <p>MS. JILESEN: Original Traders Energy detailed transactions, page --</p> <p>BY MR. SWAN:</p> <p>499 Q. Correct.</p> <p>A. Yeah.</p> <p>500 Q. This is from -- you recognize this is from Bookworks, sir?</p> <p>A. M-hm.</p>
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	<p>501 Q. And you will see on that first page, just over halfway down, there is a payment to Oasis for \$5,000?</p> <p>MS. JILESEN: Yes.</p> <p>THE WITNESS: Yes.</p> <p>BY MR. SWAN:</p> <p>502 Q. And that is categorized under repairs and maintenance for OTE? Do you see that?</p> <p>A. M-hm.</p> <p>503 Q. Then if you turn ahead two pages. About a third of the way down, you will see there are a series of entries classified under repairs and maintenance, including for Oasis Pools, \$10,000; Ontario Screen, 6,600; Rosehill Cellars, 8,900. You see all of those?</p> <p>A. M-hm.</p> <p>504 Q. And they've all been categorized under OTE expense category repairs and maintenance? Correct?</p> <p>A. That's what it states, yes.</p> <p>505 Q. And then turn over to the next page, page 4. And at the bottom, you'll see there are two entries under -- or opposite grand totals?</p> <p>A. Opposite grand totals.</p> <p>506 Q. Right at the bottom, it says grand totals, debit --</p> <p>A. Yeah.</p> <p>507 Q. -- 1,833,120? Do you see that?</p> <p>A. Yeah.</p> <p>508 Q. And credit is 680,909?</p> <p>A. M-hm.</p> <p>509 Q. Going to have you do a little bit of math.</p> <p>MS. JILESEN: What would you like us to do on the math?</p> <p>MR. SWAN: I'd like to you subtract \$680,909.40 from the 1.833 million number.</p> <p>MS. JILESEN: Yeah.</p> <p>THE WITNESS: 1.833 minus... yeah, 1,152,211.35.</p> <p>BY MR. SWAN:</p> <p>510 Q. Right. So the result you get by subtracting the credits from the debits is 1,152,211?</p>
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		<p>A. M-hm.</p> <p>Q. And \$0.35? Let's then look in the 2020 financial statements for OTE.</p> <p>15 A. If I might ask a question, what does the credits represent?</p> <p>512 Q. Well, let's come back to that. Let's not lose our train of thought. Let's look in the OTE financial statements. They're at Exhibit KK of your motion record, page 328.</p> <p>A. 328.</p> <p>513 Q. In the statement of operations for the year ending December 31, 2020, can you tell me what the repairs and maintenance number is?</p> <p>A. 1,152,211.</p> <p>514 Q. Same figure we just derived.</p> <p>A. M-hm.</p> <p>515 Q. And you get to that because those expenses if your home construction and your pool were included within OTE's expenses as ultimately brought forward into its financial statements; correct?</p> <p>A. I don't know that to be true. But math would -- the math that you just did matches.</p>
20	Fictitious Financial Statements	<p>535 Q. And you knew, as the president of OTE LP, that in fact Pettinelli wasn't preparing financial statements for that year; right?</p> <p>A. No, I did not know that. I had not signed any letter, but I did not know that.</p> <p>536 Q. Sir, let's just be clear about this. Your evidence is you did not know what accounting firm was preparing the OTE LP financial statements for the 2021 year as the president and a director of the company? Is that your evidence?</p> <p>A. That's correct.</p>
21	Fictitious Financial Statements	<p>Q. So let's look at documents in the monitor's reply motion record at page 76.</p> <p>A. M-hm.</p> <p>545 Q. This is an email from you to Silvio Caselli, and he was the person who you dealt with at the RBC, wasn't he?</p> <p>A. Yes.</p>

546 Q. And at the bottom of this email chain, there is an email from copier@gpmcholdings to Glenn Page at GPMC holdings re: OTE 2021. Do you see that?

A. I see that.

547 Q. And you say to Mr. Caselli, "Well, guess what got dropped off? I scanned them." You see that? A. I'm reading that, yes.

548 Q. And you said that because you scanned those 2021 financial statements, didn't you?

A. I do not recall scanning them, and as a general practice, I'm not someone who scans their own stuff. It's highly possible or probable that I inferred that, but they actually came from the individual who put them in the scanner, as I would not know how to program my own email and to send it to myself.

549 Q. Well -- A. I did not scan on a regular basis, so I -- I do acknowledge what it states. It is not in my normal profile to do that. 550 Q. Right. But you just told me that you do scan from time to time.

A. I'm sorry, if you could clarify.

551 Q. You just said you scan --

A. I said I am a person who does not scan material.

552 Q. You --

A. I'm not technologically -- I'm 61 years old. I'm not --

553 Q. Sir, you know how to scan a document.

A. That would depend upon the scanner and the type of scanner that it is.

554 Q. So with certain scanners, you know how to scan a document.

A. Yes. Especially the old ones with the -- where you put one page down at a time.

555 Q. And you acknowledge that in this email, you do say that you scanned them; right?

	<p>A. I acknowledge what it states there. The context of it is what I am trying to explain to you.</p> <p>556 Q. And in your affidavit, you refer to an employee named Kerri, K-E-R-R-I; right?</p> <p>A. Correct.</p> <p>557 Q. And you don't have a single piece of correspondence or email or anything of that nature where Kerri sends you these 2021 financial statements, do you?</p> <p>A. No, I do not.</p> <p>558 Q. And the only email exchange we have is you sending them to Mr. Caselli, saying that you scanned them; right?</p> <p>A. To my knowledge, I am not aware of any other emails.</p> <p>559 Q. So let's see if we can draw a few conclusions from what we've looked at. You were not aware in June of 2022 that -- whether the Pettinelli firm had even prepared financial statements for OTE LP, were you?</p> <p>A. I was not aware at the time.</p> <p>560 Q. And you never signed a management representation letter to the Pettinelli firm in 2022, did you?</p> <p>A. I do not know if I did or did not. I do not recall. It was a very chaotic time prior to departing.</p> <p>561 Q. And, sir, you knew that these financial statements purporting to be for 2021, you knew they were a fiction, didn't you? You knew they were not prepared by the Pettinelli firm.</p> <p>A. I had not seen any documentation until these proceedings. So I'm not in a position to agree with you. I had not seen them up until this proceeding.</p> <p>562 Q. And do you now agree that the document you sent to the bank is a fictitious financial statement?</p> <p>A. Looking at the documents in this proceeding, I would come to that conclusion.</p>
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	<p>563 Q. And Mr. De Luca says he never signed that letter and that it was altered, and you don't challenge that conclusion, do you?</p> <p>A. I don't challenge that conclusion.</p> <p>564 Q. And, sir, what in fact happened was that you well knew that those were fictitious financial statements when you sent them to the bank.</p> <p>A. Is that -- can you clarify? Is that a question or a statement?</p> <p>565 Q. It's a question. You knew that you were sending the bank fictitious financial statements, didn't you?</p> <p>A. No, I did not.</p> <p>566 Q. And, in fact, you were the person that either prepared them or had them prepared, weren't you?</p> <p>A. No, I was not.</p> <p>567 Q. And did you look at them before you sent them to the bank?</p> <p>A. No, I did not.</p> <p>568 Q. You didn't look at them. This is as you were -- at a time when you were the president and the director of the company. And the bank had asked for financial statements for the purpose of increasing your credit capacity, and you didn't even look at the statements. Is that your evidence?</p> <p>A. That's correct.</p> <p>569 Q. And you still have access to your GPMC 2 email account, right?</p> <p>A. GPMC 2. No.</p> <p>570 Q. GPMC 2. You have an email account there?</p> <p>A. Not that I -- sorry. You'd need to clarify because I didn't know that GPMC 2 --</p> <p>571 Q. GPMC Holdings.</p> <p>A. Yes.</p>
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	<p>572 Q. Do you have an email account --</p> <p>A. Yes, thank you. Thank you, sir, for clarifying.</p> <p>573 Q. And you have access to that email account.</p> <p>A. Yes.</p> <p>574 Q. Even today.</p> <p>A. Yes.</p> <p>575 Q. And therefore if you had received an email from Kerri in or about this time, you would have access to that, wouldn't you?</p> <p>A. I don't know. I don't remember emailing with Kerri. Typically, Kerri was a passing in the office. She was part of the team. The work was assigned to a team of people – Nick Capretta, Frank Jasek, Brian Page, and Kerri – to execute, given the short timeline I had prior to a 5-week departure and all of the exercises and activities I had to attend to.</p> <p>[...]</p> <p>587 Q. And you had never heard in 2022 that Pettinelli and Mastroluisi was preparing the OTE statements, had you? You'd never heard that.</p> <p>A. Correct. I had never heard either.</p> <p>588 Q. And you had never signed a representation letter; right?</p> <p>A. Correct.</p> <p>589 Q. And you had never received from Pettinelli and Mastroluisi 2021 financial statements.</p> <p>A. Correct.</p> <p>590 Q. And you say that without even looking at them, you sent Pettinelli and Mastroluisi-prepared financial statements to the bank.</p> <p>A. As stated, I tasked the group of very capable people, to my mind, to get the exercise done. My assumption is that they completed that task, and I forwarded it on to Silvio.</p>
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		<p>591 Q. So who prepared these fictitious statements with the cut and paste job?</p> <p>A. Our belief is that it was done by Kerri. We're not sure why. We don't understand why. And a -- shortly thereafter, she left the -- she left GPMC.</p> <p>592 Q. So you say your belief is that a midlevel accounting employee went to the extent of preparing fictitious financial statements and handing them to you. Is that your evidence?</p> <p>A. That is my assumption based upon the information that we've been looking at through this proceeding. 593 Q. And there is no reason why such an employee would create fictitious financial statements, is there?</p> <p>A. Kerri -- I cannot make an assumption. Sorry. I cannot make an assumption. I do not know.</p>
22	BodyHoliday	<p>605 Q. And, sir, do you accept in respect of BodyHoliday that you and Ms. Cox stayed at the resort for several weeks, from December into February?</p> <p>A. My recollection of the events, we came and went. I do know that Ms. Cox, in early February, returned to Canada; however, there was stays for both of us through that period.</p> <p>606 Q. And you had friends and family down and stayed with you as well.</p> <p>A. That's correct.</p> <p>607 Q. And OTE LP paid for all of that.</p> <p>A. That's incorrect.</p> <p>608 Q. What part didn't OTE pay for?</p> <p>A. The -- the intent from the -- from the word go was that there would be portions of it paid through my distributions, and there would be portions paid through OTE. If I had to throw -- throw darts at it, probably -- assuming -- knowing the \$100,000 deposit that was lost, there was OTE-related activities, perhaps one quarter of the total amount, and then the balance of it I had expected would come out of my distributions.</p>

	<p>609 Q. Well, you said you had expected. Do you have any document that reflects that that happened?</p> <p>A. Not to my knowledge, no.</p> <p>610 Q. And none of the friends or family who came down paid for their accommodations, did they?</p> <p>A. I don't know that to be a fact.</p> <p>611 Q. Well, you don't know it. Exactly. You don't know whether any of them paid for their accommodations, do you; right?</p> <p>A. I said I don't know that for a fact, sir.</p> <p>612 Q. You didn't ask any of them to pay, did you?</p> <p>A. I don't know if my wife asked them to pay. I did not ask them to pay directly.</p> <p>613 Q. And you've never seen any documents reflecting any of these people being asked to pay, did you?</p> <p>A. That likely would have been a verbal message, a verbal conversation between my wife and her friend. I'm not aware --</p> <p>614 Q. You didn't --</p> <p>A. I'm not aware of the discussions.</p> <p>615 Q. Right. You didn't hear or see any such discussions where your wife asked anyone to pay.</p> <p>A. I was not part of any of those discussions.</p>
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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.  
Court File No. CV-23-00693758-00CL

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*ONTARIO*  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

Proceeding commenced at Toronto

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**Factum of the Monitor  
(Mareva Injunction)**

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