



COURT FILE NUMBER 2101-00313

COURT COURT OF QUEEN'S BENCH FOR ALBERTA

JUDICIAL CENTRE CALGARY

APPLICANT(S) PETER MATSON

GREGORY GEORGE SZABO

RESPONDENT(S) KARNALYTE RESOURCES INC.

GUJARAT STATE FERTILIZERS AND CHEMICALS LIMITED

SANJEEV VARMA

VISHVESH NANAVATY

DC ANJARIA

GERALD SCHERMAN

DANIELLE FAVREAU

PM
109305

DOCUMENT **ORIGINATING APPLICATION**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

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AFFIDAVIT OF FRANK DAVID WHEATLEY

Sworn on January 23, 2021

I, Frank David Wheatley, of the City of North Vancouver, in the Province of British Columbia, SWEAR AND SAY THAT:

1. I am a shareholder, a former President ("**President**"), and a former Chief Executive Officer ("**CEO**"), of Karnalyte Resources Inc. ("**Karnalyte**"), and I am familiar with the business operations and governance of Karnalyte. I have personal knowledge of the matters herein deposed to, except where stated to be based on information and belief, in which case I do verily believe the same to be true.

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2. I am a corporate, securities and mining lawyer, and was called to the British Columbia bar in 1984. I have more than 35 years experience working as lawyer in private practice, as general counsel, as a member of a number of executive management teams, including as President, Executive Director, and CEO, of Canadian publicly listed mining companies operating globally in gold, copper, lithium and potash. I also have extensive experience acting as an independent director of a number of Canadian publicly listed companies. Attached as **Exhibit “AAA”** to my affidavit (the “**FDW Affidavit**”), sworn on January 23, 2020, is a copy of my SEDI profile indicating the Canadian publicly listed companies for which I have been an insider since SEDI was introduced in 2001.
3. I am currently an independent director of Teranga Gold Corporation (“**Teranga**”), a mid-tier gold mining company with gold mining operations in Senegal and Burkina Faso. Teranga is listed on the Toronto Stock Exchange (“**TSX**”) and has a market capitalization of approximately \$2.5 billion. Significant shareholders of Teranga include Barrick Gold Corporation and Blackrock. Teranga is currently in the process of being acquired by Endeavour Mining Inc.
4. I was one of the original directors of Teranga when it was founded in 2010. I have been the Chairman of Teranga’s corporate governance committee for the past six years, the Chairman of Teranga’s compensation committee for the past eight years, as well as a member of the audit committee and finance committee at various times over the past 10 years.
5. My business and legal expertise is in strategic planning, major capital project development, equity and debt project financing, environmental and construction permitting in accordance with all international best practices, EPCM construction contracting, as well as governance and compensation best practices for Canadian publicly listed companies.

Reasonable Expectations

6. As a shareholder of KRN, a Canadian publicly listed company, I have a reasonable expectation that all directors and officers of KRN will:
 - fully discharge their legal and fiduciary duties to act honestly, with integrity, and in the best interests of all shareholders;
 - fully comply with KRN’s code of conduct;
 - fully comply with Canadian securities laws and TSX rules and regulations;
 - maintain the confidentiality of material, non-public information;
 - provide public disclosure that is free from misrepresentations;

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- not make misrepresentations in its public disclosure to the Canadian capital markets;
- fully comply with all other laws, rules and regulations applicable to KRN and its business;
- avoid conflicts of interest and self-dealing;
- fully comply with all contractual agreements;
- hire competent management, with the requisite skills, qualifications, background and experience relevant to the company's business;
- spend the proceeds of a public offering of securities in accordance with the stated use of proceeds;
- hold meetings of shareholders, and in particular special meetings requisitioned by shareholders, within a reasonable time frame after being called;
- when shareholder disputes arise, and settlement discussions are ongoing, not intentionally sabotage such discussions before they reach their natural conclusion; and
- conduct a Canadian business in accordance with standard Canadian business practices, rather than in accordance with the business practices of a foreign country.

Background

7. Karnalyte was incorporated in Alberta on November 16, 2007 and is a Saskatchewan-headquartered company that is focused on the development of potash operations in Saskatchewan. Karnalyte has a potash project in Wynyard, Saskatchewan (the "**Potash Project**"). Attached and marked as **Exhibit "A"** to the FDW Affidavit is a copy of a corporate registry search for Karnalyte.
8. Karnalyte is a publicly traded corporation on the Toronto Stock Exchange (the "**TSX**") , and is listed under the trading symbol "**KRN**". Attached and marked as **Exhibit "B"** to the FDW Affidavit is a copy of a screenshot of the TSX website showing Karnalyte as a TSX listed company.
9. Karnalyte's largest shareholder is Gujarat State Fertilizers & Chemicals Limited ("**GSFC**"), holding shares representing approximately 38.73% of Karnalyte's issued and outstanding common shares. Attached and marked as **Exhibit "C"** to the FDW Affidavit is a copy of the management information circular (the "**KRN Circular**") dated November 15, 2020 of Karnalyte confirming the ownership of GSFC.

10. Gujarat State Investments Limited, the investment arm of the Government of Gujarat, India (the "**Gujarat Government**"), owns 37.84% of GSFC. Attached and marked as **Exhibit "D"** to the FDW Affidavit is a copy of a report confirming the Gujarat Government ownership of GSFC.
11. I verily believe that the Government of Gujarat appoints the managing director (the "**GSFC MD**") of GSFC, typically for a two (2) year term.
12. KRN adopted a code of conduct (the "KRN Code") on April 10, 2007 and a copy of the KRN Code is filed on SEDAR. Attached and marked as **Exhibit "I"** to the FDW Affidavit is a copy of the KRN Code.
13. I was hired as the President of KRN on February 5, 2018 for a one (1) year term. I was appointed the CEO of KRN effective on or about April 9, 2019. I was terminated without cause on September 11, 2019. I was not a member of the board of directors (the "**KRN Board**") of KRN. Attached and marked as **Exhibit "X"** to the FDW Affidavit is a copy of the Karnalite press release of February 5, 2018.

Karnalite Board of Directors

14. On February 5, 2018, the KRN Board was comprised of six (6) directors, being Todd Rowan ("**Rowan**"), Peter Matson ("**Matson**"), Gregory George Szabo ("**Szabo**"), Mark Zachanowich ("**Zachanowich**"), Nanavaty, and Varma. I was advised by the KRN Board, and verily believe, that Nanavaty and Varma were nominees (the "**GSFC Nominees**") of GSFC.
15. I am advised by Rowan, and verily believe, that when Rowan, Matson, Szabo and Zachanowich were first appointed to the KRN Board on May 5, 2017 (the "**2017 AGM**"), they attended a seminar provided by MLT Aikins, counsel to KRN, that reviewed the duties and obligations of directors of a Canadian publicly listed company. Attached and marked as **Exhibit "E"** to the FDW Affidavit are the voting results of the 2017 AGM. Attached and marked as **Exhibit "H"** to the FDW Affidavit is a copy of page 12 of the MLT Presentation.
16. Rowan was appointed Interim CEO on July 20, 2017, and ceased to be an independent director at that point. Attached and marked as **Exhibit "U"** to the FDW Affidavit is a copy of the KRN press release of July 20, 2017 with respect to the appointment of Rowan as Interim CEO.

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Corporate Governance in Canada

17. I was the General Counsel for a Canadian publicly listed mining company when the Enron and WorldCom accounting and corporate scandals occurred in the early 2000's. I recall when the United States Congress enacted the Sarbanes-Oxley Act ("**SOX**") in 2002 that created the modern era of corporate governance, including the requirement to that boards of directors of a public company have a majority of independent directors.
18. As a practicing securities lawyer:
- I remember when the Canadian securities administrators and the TSX adopted similar rules in Canada;
 - I was required to become fully conversant with these rules in order to advise my clients on governance matters; and
 - I have witnessed first hand the evolution of corporate governance over the past 20 years; and
 - the requirement to have a majority of independent directors on a board of directors of a Canadian public company has been standard Canadian business practice, as well the law in Canada, for almost 20 years.
19. I verily believe that GSFC, and the GSFC Nominees, are fully aware of the laws and rules in Canada regarding the requirement for a board of directors of a Canadian publicly listed company to have a majority of independent directors, and for an audit committee and a nominating committee to be comprised of 100% of independent directors.

GSFC Subscription Agreement – Contractual Right to Appoint Directors

20. I have reviewed the subscription agreement dated January 13, 2013 (the "**Subscription Agreement**") between KRN and GSFC, pursuant to which GSFC became a 19.98% shareholder of KRN, a copy of which is filed on System for Electronic Document Analysis and Retrieval ("**SEDAR**"). Attached and marked as **Exhibit "J"** to the FDW Affidavit is a copy of Section 4.1 the Subscription Agreement. Attached and marked as **Exhibit "K"** to the FDW Affidavit is a copy of GSFC's press release of March 7, 2013.

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21. Section 4.1 of the Subscription Agreement, which reads as follows:

"4.1 - Investor Nominee to the Board of Directors

Subject to Section 4.2, from and after the Escrow Release Date, the Investor will be entitled to designate that number of nominees for election or appointment to the Board of Directors from time to time (the "Investor Nominees") that is equal to the Investor Rights Adjusted Ownership Percentage multiplied by the number of directors of the Company (including the Investor Nominees), rounded down to a whole number, but provided that there is at least one Investor Nominee."

22. In my experience:

- director nomination rights are a common provision in investment agreements between major shareholders and Canadian public companies; and
- such rights are generally honored, complied with, and not abused or breached.

23. My interpretation of Section 4.1 of the Subscription Agreement is that:

- it provides GSFC with the contractual right (the "**GSFC Nomination Right**") to nominate candidate(s) (a "**GSFC Nominee**") to the KRN Board in proportion to its shareholdings;
- as a 21.5% shareholder of GSFC, gives GSFC the right to nominate:
 - 21.5% of the members of the KRN Board, rounded down the nearest whole number;
 - one (1) director to a KRN Board consisting of six (6) directors; and
 - one (1) director to a KRN Board consisting of three (3) directors.
- as a 38.73% shareholder of KRN, gives GSFC the right to nominate:
 - 38.73% of the members of the KRN Board, rounded down the nearest whole number;
 - two (2) directors to a KRN Board consisting of six (6) directors; and
 - one (1) director to a KRN Board consisting of three (3) directors.

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24. My interpretation of the GSFC Nomination Right is that it:
- does not give GSFC the right to nominate a minimum number of GSFC Nominees, irrespective of the size of the KRN Board;
 - does not give GSFC the right to nominate a number of GSFC Nominees in excess of its entitlement; and
 - a nomination of a number of GSFC Nominees in excess of its entitlement is a breach of Section 4.1 of the Subscription Agreement.

Independence of GSFC Nominees on the KRN Board

25. I verily believe that none of the GSFC Nominees are independent, either by definition, or by conduct.

a) Independent by Definition

26. Nanavaty and Varma are employees of GSFC. Anjaria was a director of GSFC for at least 10 years before he retired in September 2020. Attached and marked as **Exhibit "L"** to the FDW Affidavit is a copy of GSFC's notice of October 1, 2020.

27. I verily believe that:

- being an employee of a major shareholder is a material relationship;
- being a director of a major shareholder is also a material relationship; and
- an employee and/or director of a major shareholder sitting on the board of directors of a public company is wearing two hats; with first hat being as the employee and/or director, and the second hat being as the director of the public company;

and in my experience, the two hats create an inherent conflict.

28. I verily believe that:

- an employee is going to do what is in the best interests of his employer, as his primary responsibility and duty is to his employer; and
- it impossible for an employee of a major shareholder to choose to act in the best interests of all shareholders, rather than in the best interests of his employer.

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29. I verily believe that a director of a major shareholder is going to be torn between his duty to the major shareholder, and his duty to the public company.
30. I verily believe that Nanavaty and Varma, as employees of GSFC, cannot be considered independent because of their material relationship as employees of GSFC, and when coupled with their duty to their employer, prevents them from exercising "*independent judgment*".
31. I verily believe that Anjaria, as a director of GSFC for 10 years before he retired in September 2020, and as one of the directors of GSFC responsible for approving the original \$45 million investment by GSFC in KRN in 2013, cannot be considered independent because of his material relationship with GSFC. I verily believe that this relationship prevents Anjaria from exercising "*independent judgement*".
32. I verily believe that each of Nanavaty's, Varma's and Anjaria's loyalty is to GSFC, and not to KRN.
33. The TSX Rules state that a director who is nominated by someone who is a 10% shareholder, is not independent. Attached and marked as **Exhibit "M"** to the FDW Affidavit is a copy of Section 311 of the TSX Company Manual.
34. GSFC owns more than 10% of the shares of KRN. I verily believe that Nanavaty, Varma and Anjaria are all nominated by GSFC; therefore, none of Nanavaty, Varma, or Anjaria are independent according to the TSX Rules.

b) Independent by Action

35. I verily believe that Varma and Nanavaty regularly sought guidance and instructions from their boss, the GSFC MD, who is not a member of the KRN Board, on matters relating to Karnalyte. I verily believe that if the GSFC Nominees:
- have to seek general guidance and instructions from their boss; and
 - have to seek specific instructions from their boss as how to vote on a matter in front of the KRN Board for approval;

then they are not exercising "*independent judgement*" and cannot be considered to be independent.



i) Varma's Actions

36. I verily believe that the following actions of Varma, as a director of KRN, prove he is not exercising independent judgement, is acting only in the best interests of GSFC, and is not acting in the best interest of all shareholders of Karnalyte:

- taking steps to ensure GSFC retains control of the KRN Board;
- rejecting out of hand four (4) qualified candidates to act as independent directors of KRN, when there were three (3) vacancies on the KRN Board;
- telling the KRN Board that he would have to seek instructions from the GSFC MD on whether he could vote to approve the granting of stock options by the KRN Board, a routine matter;
- inviting his boss, the GSFC MD, to sit in on, and be an active participant in, the meeting where the terms and condition of hiring me as the CEO of KRN were negotiated;
- having the GSFC MD ask to sign the term sheet/offer letter (the "**CEO Offer Letter**") setting out the final terms and conditions of hiring me as the CEO of KRN;
- proposing Anjaria be appointed as the third GSFC Nominee on the KRN Board, when GSFC Nominees already held two (2) of three (3) seats on the KRN Board;
- not taking the advice of KRN's Canadian management, Canadian members of the KRN Board, or other participants in the Saskatchewan agricultural industry; and
- treating KRN like his private company and trying to conduct business in Canada the way he conducts business in India.

ii) Nanavaty's Actions

37. I verily believe Nanavaty is not exercising independent judgement, and is not acting in the best interest of all shareholders, because he always follows Varma and always does whatever Varma says and does.

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iii) Anjaria's Actions

38. I verily believe that the following actions of Anjaria, as a director of KRN, prove he is not exercising independent judgement, is acting only in the best interests of GSFC, and is not acting in the best interest of all shareholders of Karnalyte:

- insisting that he is a nominee of KRN, rather than a nominee of GSFC, when he was a director of GSFC, and when the GSFC MD and Varma insisted that he be appointed to the KRN Board;
- fully supporting KRN's corporate strategy prior to becoming a director of KRN, and then immediately after becoming a director of KRN; making a complete about face and supporting whatever Varma said;
- agreeing with Varma that it is perfectly proper, and is not conflict of interest, for KRN to hire and pay GSFC to prepare an in-house technical study on the Nitrogen Project; and
- actively supporting Varma and Nanavaty in maintaining GSFC control of the KRN Board.

History of GSFC Nominees on the KRN Board

a) 2018 - GSFC Nominees on the KRN Board

39. On February 5, 2018, when I was hired as the President of KRN, the KRN Board had three (3) independent directors, Rowan, who was the Interim CEO at the time and was not independent, and two (2) GSFC Nominees, Varma and Nanavaty. I verily believe that the KRN Board had 50% independent directors, and was in compliance with Securities Laws and the TSX Rules.

b) 2018 – Annual General Meeting

40. At the annual general meeting of shareholders held on June 7, 2018 (the "**2018 AGM**"), the incumbent six (6) directors were re-elected, and I verily believe that the KRN Board had 50% independent directors, and was in compliance with Securities Laws and the TSX Rules. Attached and marked as **Exhibit "F"** to the FDW Affidavit is a copy of the voting results for the 2018 AGM.

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c) **2018 - Increase in GSFC Ownership Interest in KRN**

41. On November 14, 2018, the KRN Board authorized KRN to undertake a public offering of securities by way of rights offering (the "**Rights Offering**") to all KRN shareholders (the "**KRN Shareholders**"). Attached and marked as **Exhibit "N"** to the FDW Affidavit is a copy of the rights offering circular.
42. The Rights Offering closed on December 23, 2018 and raised approximately \$2.3 million. GSFC participated in the Rights Offering and increased its shareholdings in KRN from 21.5% to 38.73%. Attached and marked as **Exhibit "AA"** to the FDW Affidavit is a copy of the KRN press release of November 14, 2018. Attached and marked as **Exhibit "O"** to the FDW Affidavit is a copy of the KRN press release of December 24, 2018.

d) **2019 - GSFC Gains Control of KRN Board**

43. In November 2018, information came to my attention that in my opinion, as CEO of Karnalys, warranted an independent investigation. I hired MLT Aikins to undertake the investigation, and with the results of the investigation in hand, I requested the resignation of the three (3) independent directors.
44. On January 16, 2019, when the three (3) independent directors resigned from the KRN Board, their resignations created three (3) vacancies. Attached and marked as **Exhibit "G"** to the FDW Affidavit is a copy of the Karnalys press release dated January 16, 2019.
45. I verily believe that as of January 16, 2019:
- GSFC controlled the KRN Board;
 - GSFC Nominees comprised the majority of the members of the KRN Board;
 - GSFC knew that they had total and complete control of KRN and the KRN Board;
 - GSFC and the GSFC Nominees decided that they would not relinquish control of the KRN Board; and
 - began to treat KRN like their own private company.

e) **2019 - Rowan's Efforts to Attempts to Have Independent Directors Appointed Rejected**

46. Rowan knew that the KRN Board had to be brought back into compliance with Securities Laws and TSX Rules by filling the three (3) vacancies by appointing three (3) new, independent directors. I



am advised by Rowan, and verily believe, that Rowan advised Varma that he was going to identify and interview appropriate candidates.

47. From February 2019 until May 2019, Rowan identified, interviewed, and presented three (3) qualified, independent candidates to fill the three (3) vacancies. As CEO, I also attended most of these interviews.
48. After the interviews confirmed each of the three (3) candidates were qualified and independent, Rowan presented the three (3) candidates to Varma for consideration.
49. After Varma rejected the first three (3) candidates out of hand, Varma said he might consider a Canadian mining engineer as a fourth candidate.
50. I am advised by Rowan, and verily believe, that Rowan identified, interviewed, and presented an experienced Canadian mining engineer to Varma as a potential candidate, but Varma also rejected this candidate out of hand.
51. I am advised by Rowan, and verily believe, that after Varma rejected and dismissed all four (4) candidates out of hand, Varma told Rowan that no new directors would be appointed to the KRN Board. Accordingly, none of the three (3) vacancies on the KRN Board were filled and the KRN Board continued to have a majority of GSFC Nominees.
52. I verily believe that Varma:
 - had no intention of ever filling any of the three (3) vacancies;
 - rejected all candidates proposed by Rowan in order to keep control of the KRN Board;
 - was being merely paying lip service to the need to appoint independent directors to the KRN Board;
 - knowingly breached Securities Laws and TSX Rules;
 - expected that GSFC, and the GSFC Nominees, could get away with it; and
 - did everything in his power to ensure GSFC maintained control of the KRN Board.
53. Favreau had a personal relationship with Varma, and told me, on many occasions, after January 16, 2019, that "*GSFC just doesn't want to give up control of the board*". This statement was consistent with Varma's actions and I verily believe that Varma has made similar statements to Favreau.



54. I am advised by Peter Matson, and verily believe that, Favreau told Peter Matson in early 2020 that GSFC and Varma “do not want to give up control of the KRN Board”.

f) 2019 Annual General Meeting – GSFC Maintains Control of KRN Board

55. At the annual general meeting of shareholders of KRN held on May 14, 2019 (the “**2019 AGM**”), GSFC maintained the status quo and control of the KRN Board. Attached and marked as **Exhibit “P”** to the FDW Affidavit is a copy of the voting results for the 2019 AGM.

56. I verily believe that GSFC and the GSFC Nominees:

- intended to keep control of the KRN Board;
- intentionally did not nominate any independent directors;
- felt Securities Laws and TSX Rules didn’t apply to them; and
- misrepresented the independence of the GSFC Nominees to the Canadian capital markets.

g) Application to OSC for Exemption Order

57. On May 14, 2019, after the 2019 AGM, the KRN Board, led by Varma, instructed counsel to apply to the Ontario Securities Commission (the “**OSC**”) for an exemption from the provisions of NI 52-110 requiring 100% of the members of the audit committees to be independent.

58. I verily believe the only reason Varma asked counsel to apply to the OSC was to ensure GSFC and the GSFC Nominees could keep the status quo on the KRN Board, and not have to appoint any independent directors.

59. The OSC did not grant the exemption order. The OSC told KRN that the OSC had never granted such an exemption order. The OSC questioned Karnalyte as to why it was taking so long.

had not appointed independent directors, and when Karnalyte was planning on appointing independent directors.

60. Varma suggested that counsel respond to the OSC that the KRN Board was considering hiring an executive search firm to conduct a search for independent directors. The OSC responded with an as to why it had not appointed independent directors, and when Karnalyte was planning on appointing independent directors



61. I verily believe that Varma:
- was intentionally misleading the OSC in order to buy time, and to retain control of the KRN Board; and
 - had no intention of hiring an executive search firm, or identifying any independent candidates for the KRN Board.
62. During my tenure with KRN, the KRN Board never hired an executive search firm to identify independent director candidates, and no independent directors were appointed to the KRN Board.
- h) 2019 - GSFC Increases its Control of the KRN Board and Tightens Its Grip on KRN
63. In July 2019, I received an email from Varma stating that the GSFC MD wanted to appoint Anjaria to the KRN Board. GSFC already had two (2) of three (3) seats on the KRN Board.
64. Notwithstanding the OSC was questioning Karnalyte as to when it was going to appoint additional independent directors to the KRN Board, Varma insisted that Anjaria be appointed to the KRN Board. Varma insisted Anjaria was independent, even though Anjaria was a director of GSFC at the time. I had met Anjaria in Ahmedabad, India, two (2) years previously, with Rowan.
65. I knew that Anjaria was going to be appointed to the KRN Board, irrespective of any objections Rowan may have had. I insisted, from a governance perspective, that Anjaria should at least be interviewed before his appointment. I, as CEO, and Rowan as the only Canadian and non-GSFC Nominee, travelled to Paris with to meet with Anjaria.
66. Rowan and I met with Anjaria for approximately eight (8) hours in Paris, and we provided him with a full briefing on KRN, the status of the Potash Project, the strategy for KRN's nitrogen project (the "**Nitrogen Project**"), and discussions with the private agricultural company (the "**Agco**") that had expressed interest in investing in the Nitrogen Project. Anjaria was very appreciative of the briefing, as it was clear to Rowan and me, that he had not received such a briefing from Varma or Nanavaty. A significant portion of the meeting was devoted to discussions on the Nitrogen Project.
67. Anjaria stated to Rowan and me, that in his view, "*spending KRN's cash resources on investigating the Nitrogen Project was a responsible use of cash.*" Rowan and I were pleased that Anjaria appeared to be in full alignment with KRN's strategy and were hopeful that he might be able positively influence Varma and Nanavaty to bring the KRN Board back into compliance.



68. On August 8, 2019, Anjaria was appointed to the KRN Board, giving GSFC three (3) of the four (4) seats on the KRN Board. Attached and marked as **Exhibit "Q"** to the FDW Affidavit is a copy of the Karnalye press release dated August 9, 2019.
69. I verily believe that Varma was intentionally lying about Anjaria's nomination and independence in an attempt to mislead the Canadian capital markets in order to hide the expanding control of the KRN Board by GSFC.
- i) TSX Inquiry as to the Independence of the GSFC Nominees
70. Shortly after Anjaria was appointed to the KRN Board, the TSX inquired as to the independence of the KRN Board. The TSX stated in correspondence to Karnalyte that, in their view, neither Varma nor Nanavaty were independent according to TSX Rules, as they were employees of GSFC, a 38.73% shareholder of KRN. The TSX also questioned how Karnalyte could consider Anjaria to be independent, given he is a director and nominee of GSFC.
71. I am advised by Rowan, and verily believe that, after the TSX inquiries, Rowan suggested in a series of communications with Varma that one (1) of the two (2) GSFC Nominees should resign to make room for the appointment of an independent director. Alternatively, Rowan suggested that a shareholders meeting could be called to expand the size of the KRN Board to ensure it had a majority of independent directors. Varma dismissed all of Rowan's suggestions out of hand. I verily believe that Varma had no intention of considering any of Rowan's suggestions, as to do so would mean giving up control of the KRN Board.
72. I am advised by Rowan, and verily believe, that shortly thereafter, Varma demanded that Rowan resign so that one of the independent candidates Rowan had recommended, could be appointed to the KRN Board. Rowan refused to resign.
73. I verily believe that Varma, supported by Nanavaty and Anjaria, did everything in his power, from misleading the OSC and the TSX, to refusing to add a single independent director, for the sole purpose of maintaining control of the KRN Board.
- j) GSFC Nomination Right – No Right to Control KRN Board
74. I verily believe that there is no legal, contractual or other basis for GSFC to have a number of GSFC Nominees in excess of the number permitted under the GSFC Nomination Right.
75. I verily believe that GSFC:
- is fully aware of the provisions of the GSFC Nomination Right;

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- has made a conscious decision not to comply with the GSFC Nomination Right; and
- has appointed a number of GSFC Nominees in excess of its contractual entitlement;

for the sole reason of maintaining control of the KRN Board, in order to allow GSFC to treat KRN as its own private company.

76. I verily believe that if GSFC had intended to comply with the GSFC Nomination Right, then it would have:

- filled the three (3) vacancies created on the KRN Board in January 2019;
- not rejected all four (4) of the qualified, independent candidates Rowan identified and proposed to Varma;
- put a slate of at least six (6) directors up for election at the 2019 AGM;
- put a slate of at least six (6) directors up for election at the 2020 AGM; and
- not voted against the reconstitution of the KRN Board at the Special Meeting.

77. In August 2019, shortly after Anjaria was appointed to the KRN Board, Rowan and I had a conversation with him to discuss the composition of the KRN Board, the need for the size of the KRN Board to increase to six (6) directors, and the need to appoint four (4) independent directors in order for the KRN Board to have a majority of independent directors, and to have a fully independent audit committee and nominating committee.

78. Anjaria insisted to Rowan and me that he was independent, and that he was not a nominee of GSFC, and concluded that no changes were required to the KRN Board, and stated words to the effect *“we need to keep a small board at this stage of development, and the current board size and composition is just fine.”*

79. I know Anjaria had a conversation with counsel to KRN, but I was not advised as to the nature of the conversation. Given no changes were made in the KRN Board, I verily believe that counsel to KRN must have advised Anjaria that the KRN Board was in compliance with Securities Laws and TSX Rules.

80. I verily believe that once Anjaria was on the KRN Board, he actively worked with both Varma and Nanavaty to keep control of KRN and the KRN Board.

k) **2020 AGM**

81. Varma resigned as a director of KRN on May 13, 2020, approximately one month before the annual general meeting of shareholders held on June 26, 2020 (the "**2020 AGM**"). Attached and marked as **Exhibit "R"** to the FDW Affidavit is a copy of the KRN press release of May 14, 2020.

82. At the 2020 AGM, the status quo was maintained, the three (3) incumbent directors were re-elected, and GSFC retained control of the KRN Board. Attached as **Exhibit "S"** to the FDW Affidavit is a copy of the voting results for the 2020 AGM.

l) Special Meeting

83. At the special meeting of shareholders (the "**Special Meeting**") held on December 15, 2020, the resolution to reconstitute the KRN Board was not approved. Attached as **Exhibit "T"** to the FDW Affidavit is a copy of the voting results for the Special Meeting.

k) Missed Opportunities to Comply with Securities Laws and TSX Rules

84. I verily believe that Varma and the other GSFC Nominees had multiple opportunities to appoint independent directors to the KRN Board, but consciously chose not to take advantage of any such opportunity. I verily believe that these opportunities included:

- in January 2019, when three (3) vacancies were created on the KRN Board;
- at the 2019 AGM;
- in August 2019 when Anjaria was appointed as the third GSFC Nominee to the KRN Board;
- in May 2020, When Varma resigned from the KRN Board, creating a vacancy;
- at the 2020 AGM; and
- at the Special Meeting.

85. I verily believe that neither GSFC, nor the GSFC Nominees:

- had any intention to follow, or even bothered to try to follow, either the letter and spirit of Securities Laws, TSX Rules, and the GSFC Nomination Right; and
- all actions of GSFC and the GSFC Nominees was to further the agenda of GSFC, and not what was in the best interests of all shareholders of KRN.



l) Summary

86. In summary, I verily believe that the actions taken by Varma, Nanavaty and Anjaria clearly demonstrate that once the GSFC Nominees found themselves in control of the KRN Board in January 2019:

- they did everything in their power to maintain control of the KRN Board;
- they had no intention to follow Securities Laws, TSX rules or the GSFC Nomination Right;
- they were arrogant enough to think they could get away with it; and
- they thought KRN was their private company, they could pursue the agenda of GSFC without interference, and conduct the business of Karnalyte according to Indian business practices, rather than Canadian business practices.

87. I verily believe the actions of Varma, Nanavaty, and Anjaria that demonstrate their desire to maintain control of the KRN Board, include:

- not filling any vacancies on the KRN Board;
- rejecting all attempts by Rowan to add independent directors to the KRN Board;
- rejecting four (4) qualified, independent candidates for election to the KRN Board;
- ensuring GSFC Nominees continued to comprise the majority of the members of the KRN Board;
- applying to the OSC for an exemption from the requirement to have a fully independent audit committee;
- increasing the number of GSFC Nominees on the KRN Board;
- appointing and/or maintaining a number of GSFC Nominees in excess of the GSFC Nomination Right;
- not using any of the 2019 AGM, the 2020 AGM, or the Special Meeting, to elect a KRN Board with a majority of independent directors; and
- misrepresenting to the Canadian capital markets and the TSX as to the independence of the GSFC Nominees.

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Management of KRN

a) My Hiring as the President

88. On February 5, 2018, I was hired as President on a one-year contract, with a view to me becoming the permanent CEO after one year. Attached and marked as **Exhibit "V"** to the FDW Affidavit is a copy of page 25 of the SBI presentation. Attached and marked as **Exhibit "W"** to the FDW Affidavit is a copy of executive search advertisement for the CEO position of KRN.

b) Creation of Nitrogen Strategy

89. In February 2018, the Potash Project was uneconomic due to global potash prices. The Potash Project was KRN's only asset at the time.

90. The Nitrogen Project was an idea for a profitable business that KRN could pursue while it waited for the Potash Project to become economic.

91. The Nitrogen Project was Rowan's idea. I took Rowan's idea, conducted a fatal flaw analysis, created a corporate strategy, a complete development program, including work programs, milestones, and budgets, to pursue the Nitrogen Project, and presented it KRN Board for approval. Once approved, the strategy was released to the Canadian capital markets. Attached and marked as **Exhibit "DDD"** to the FDW Affidavit is a copy of the Karnalyte press release of May 14, 2018.

92. After Rowan and I met Mr. Tiwari, the GSFC MD at the time, he wrote a letter dated May 29, 2018 (the "**Tiwari Letter**") to KRN in full support of the Nitrogen Project. KRN released the Tiwari Letter to the Canadian capital markets. Attached and marked as **Exhibit "Y"** to the FDW Affidavit is a copy of the Tiwari Letter.

93. Within six (6) weeks of presenting Karnalyte's strategy for the Nitrogen Project to the Canadian capital markets, I received an unsolicited inquiry from a large, private Canadian agriculture company (the "**AgCo**") expressing a serious interest in participating in the Nitrogen Project.

c) Perfect alignment on Strategy

94. All parties, including KRN, GSFC and the AgCo were in perfect alignment with the strategy for the Nitrogen Project.



d) **First Six Months on the Job**

95. During my first six months as President, I:

- successfully defended a proxy fight from the recently fired CEO Robin Phinney;
- created a new corporate strategy for KRN that included the Nitrogen Project;
- travelled to India to get the support of GSFC MD on the new strategy;
- got the unanimous support of the KRN Board;
- released the strategy to the Canadian capital markets, together with the support of the GSFC MD for the strategy; and
- received unsolicited interest from the AgCo.

The First Shakedown of the Agco

96. In February 2019, I arranged an in-person meeting between Varma, Nanavaty, Rowan, Favreau and myself with the CEO of the AgCo.

97. The purpose of the meeting was for the GSFC Nominees to meet the CEO and management of the AgCo, and vice versa, given that both parties might be working together on the Nitrogen Project. The CEO of the AgCo had left an internal AgCo meeting and travelled to the airport in a snowstorm to attend the meeting.

98. Varma told the CEO of the AgCo that GSFC was in Canada only for potash, wasn't really interested in nitrogen fertilizer, however, asked the CEO of the AgCo "*how much money are you going to invest and when are you signing your commitment*".

99. I verily believe it was a shakedown. I spent more than a decade working with Canadian mining companies in Eastern Europe, and I am familiar with how shakedowns are conducted. I verily believe that Varma tried to shake down the CEO of the AgCo for ~\$50 million. It was a very crude and unsophisticated shakedown, but it was a shakedown nevertheless.

100. The CEO of the AgCo ended the meeting.

101. I cannot recall being in a meeting where I have been so embarrassed, and Varma's actions damaged my relationship with the AgCo that I had been developing for six (6) months.

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My Hiring as the CEO of KRN

a) Negotiation of CEO Agreement

102. In February 2019, given that none of the members of the KRN Board, nor management, had the sort of experience with executive employment agreements that I did, I prepared a set of notes (the “Notes”) with 12 items that I considered to be the essential terms and conditions of my hiring as the CEO of Karnalyte. I provided the Notes to Rowan.
103. On February 15, 2019, after a several-hour in person meeting in the Karnalyte offices, attended by the GSFC MD (who was not a member of the KRN Board), Varma, Nanavaty, Rowan and Favreau, I was called into their meeting. Of the 12 items I had asked for, 10 were accepted, one was not approved, and a negotiation on the final point regarding severance resulted in an agreement on severance being one (1) year salary for termination without cause or on a change of control.
104. I knew:
- exactly what terms and conditions had been agreed to; and
 - that all of the material terms and conditions were agreed, and there were no material terms and conditions left to be agreed.
105. I am advised by Rowan, and verily believe, that the GSFC MD asked for a term sheet/offer letter (the “CEO Offer Letter”) to be prepared so he could sign it before he left the next day to return to India. I was travelling with the GSFC MD the next day to Vancouver, prior his return to India.

b) GSFC Reneges on Agreement

106. In April 2019, when Favreau had finally finished preparing the CEO Offer Letter and presented to me, it did not match what was agreed to in February 2019. I was extremely upset and stated to both Rowan and Favreau that “GSFC had reneged on the deal we agreed to in February”.
107. Favreau told me that Varma had a different recollection of what was agreed to in February, and what Varma said was final.
108. I signed the Offer Letter “*under protest*” and made it very clear to Rowan and Favreau that GSFC and Varma had reneged on their agreement. I was extremely upset, as I had re-located from Vancouver to Saskatoon, moved my family to Saskatoon, and purchased property in Saskatoon, on the basis of what had been agreed to at that meeting on February 15, 2019.



109. I verily believe that:

- Varma was lying about what he agreed to in February;
- Favreau knew exactly what had been agreed to in February, and purposely chose not to correct Varma;
- by April 2019, Varma had changed his mind, and then intentionally and shamelessly lied and said that what he was thinking in April, was in fact what he agreed to earlier in February; and
- this was a pattern of behaviour on the part of Varma, and Favreau, that would repeat itself.

Canadian Business Practices and the Nitrogen Project

a) Canadian Business Practice

110. Based upon my 35 years experience in developing, permitting, financing and constructing mines, one of the first critical steps in project development in Canada is site selection and acquisition, due to:

- Canada having comprehensive environmental laws, rules and regulations;
- in Canada, major capital projects requiring a series of environmental approvals;
- in Canada, environmental laws generally requiring a minimum of one year of environmental baseline data to be collected on the actual project site, prior to preparation of an environmental impact assessment; and
- the requirement that an independent bankable feasibility study be prepared with estimates of capital and operating costs for the actual project site, rather than using standard costs and applying factors, in order to be acceptable to equity and debt providers.

b) Project Site for the Nitrogen Project

111. During 2018 and 2019, I developed a comprehensive set of project site selection criteria for the Nitrogen Project, visited numerous potential sites, and discussed potential sites with the AgCo.

112. I had daily discussions with Rowan regarding project site selection criteria for the Nitrogen Project, visited numerous potential sites, and discussed potential sites with the AgCo, and the AgCo's landman.

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113. In early 2019, I had identified a suitable site and proposed its acquisition to the KRN Board. The KRN Board, lead by Varma, refused to allow the acquisition to proceed. This refusal came after GSFC had obtained control of the KRN Board in January 2019.
114. By September 2019, with the help of the landman from the AgCo, I had identified and negotiated an agreement to acquire a preferred project site (the "**Nitrogen Site**"), located near Saskatoon, which the AgCo fully supported.
115. I presented the proposed agreement to acquire the Nitrogen Site to the KRN Board, and Varma refused to consider the matter.
116. I verily believe that from my own experience, as well as my discussions with Rowan, the AgCo and the AgCo's landman, Saskatoon was the ideal location for the Nitrogen Project, and the Wynyard was not even on the list of potential sites.

c) GSFC's Bias on Nitrogen Project Site

117. In January 2019, GSFC obtained control of the KRN Board.
118. In February 2019, Varma told me, in the presence of Rowan and Favreau, that in India they choose their project sites differently, so all of the potential sites identified by me and the AgCo near Saskatoon, were not appropriate for the Nitrogen Project in Varma's view, because it was not how he would select a project site in India.
119. In February 2019, prior to a meeting with Saskatchewan Government, Varma had provided me with a draft of his presentation to the Saskatchewan Government, indicating that Wynyard was the location of the Nitrogen Project. Favreau and I immediately called Varma and told him that was incorrect, and Varma acknowledged that it was a mistake and that he would change the location to Saskatoon.
120. In February 2019, at the meeting with the Saskatchewan Government, attended by the GSFC MD, Varma, Nanavaty, Rowan, Favreau and me, Varma stated to the Saskatchewan Government that the Nitrogen Project was going to be situated at Wynyard.
121. I verily believe that:
- Varma had intentionally lied to Favreau and me that he was going to change his presentation;



- Varma's presentation of Wynyard to the Saskatchewan Government clearly illustrated Varma's intention to locate the Nitrogen Project next to the Potash Project at Wynyard;
 - clearly illustrated Varma's bias towards Wynyard; and
 - demonstrated that Varma:
 - was, after GSFC obtained control of the KRN Board, was now treating KRN as his private company;
 - was not interested in taking any advice from me, Rowan, the AgCo, or the AgCo's landman, on potential project sites for the Nitrogen Project; and
 - was clearly using the Nitrogen Project as a stalking horse for the Potash Project.
122. In August 2019, Varma had his staff in India prepare a presentation for the KRN Board outlining why Wynyard, the location of the Potash Project, was the perfect, and ideal, location for the Nitrogen Project.
123. I verily believe that neither Varma, nor his staff in India, have any background or experience in how agricultural products are actually bought, sold, traded and transported in Saskatchewan.
124. I verily believe that Varma's selection of Wynyard as the "*perfect*" location for the Nitrogen Plant is the clearest evidence of his bias, and reflects a singular focus on what is in the best interest of GSFC, and not what is in the best interests of all KRN Shareholders.
125. In August 2019, after Anjaria was appointed to the KRN Board, Anjaria told Rowan and me that, based on his experience in undertaking projects in India:
- standard business practice for project development in India project, was that project site selection only comes after the project is engineered and financed, and is ready for construction; and
 - accordingly, site selection by KRN for the Nitrogen Project was not important or necessary at the early stages of project development.

d) Independent Feasibility Study

126. In August 2019, I requested a proposal (the “**Wood Proposal**”) from Wood, an independent engineering firm with vast experience in designing and constructing nitrogen chemical plants in Canada. The Wood Proposal would contemplate completion of a bankable feasibility study in a period of approximately six months, at a cost of approximately \$2.5 million. Wood promised me the Wood Proposal during the week of September 9, 2019. The KRN Board was aware of the Wood Proposal, and the estimated cost and time frames.
127. In August 2019, after Anjaria was appointed to the KRN Board, Varma suggested at a KRN Board meeting that GSFC could prepare a feasibility study on the Nitrogen Project. I objected. Anjaria thought it was entirely appropriate and that there would be no issue in GSFC undertaking an in-house feasibility study on the Nitrogen Project, as that was normal practice in India.

e) Doing Business in Canada According to Indian Practices

128. I verily believe that, based on the various comments of Varma and Anjaria regarding how business is done in India, they are trying to do business in Canada the way they do business in India, and are trying to develop the Nitrogen Project the way they would do it in India.
129. I verily believe that none of Varma, Nanavaty, nor Anjaria have:
- any experience with public companies in Canada, or the Canadian capital markets, with the exception of KRN;
 - any experience in undertaking major capital project development in Canada, whether for mining projects, or chemical manufacturing plants;
 - any experience in environmental or construction permitting in Canada;
 - any background, experience or first-hand knowledge of the agriculture or fertilizer industry in Canada; or
 - any experience in how agricultural products are actually marketed, sold, and transported in Canada.

f) Varma’s Frustration with me as CEO

130. I verily believe that Varma was frustrated with me for:
- wanting to conduct KRN’s business in accordance with Canadian practices;

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- wanting to conduct KRN's business the way Canadian public companies do;
- wanting to develop the Nitrogen Project in accordance with Canadian and international standards;
- wanting to locate the Nitrogen Project in Saskatoon, rather than at Wynyard;
- not participating in the shakedown of the AgCo;
- requesting the Wood Proposal;
- objecting to his efforts to run KRN as GSFC's private company;
- calling him out on renegeing on the CEO Offer Letter; and
- suggesting that his changes to minutes of a KRN Board meeting were incorrect.

131. I verily believe that Varma has a pattern of agreeing to a matter on one day, and then a few days, weeks or months later, changing his mind, and then insisting that his current decision is actually what he agreed to previously, including by way of example:

- the CEO Offer Letter; and
- the minutes of the May 14, 2019 KRN Board meeting. Attached as **Exhibit "XX"** to the FDW Affidavit is a copy of the draft minutes of the KRN Board meeting of May 14, 2019.

Concerned Shareholders' Letter to KRN Board

132. On September 7, 2019, Matson, Szabo and Zachanowich wrote a letter (the "**September Letter**") to the KRN Board complaining about a number of matters, including governance and lack of progress on the development of the Nitrogen Project. A copy of the letter was provided to the TSX. Attached and marked as **Exhibit "CC"** to the FDW Affidavit is a copy of the September Letter.

133. I was unaware of the September Letter.

134. I am advised by Matson and Szabo, and verily believe, that Varma telephoned both Matson and Szabo and told them that none of their concerns were legitimate or correct, and that GSFC and the GSFC Nominees were doing everything in accordance with Canadian laws, including governance and having a KRN Board with a majority of independent directors.

135. I verily believe that Varma thought I was the real author of the September Letter, and the September Letter was the final straw that precipitated my termination. I am advised by Szabo, and verily believe, that Szabo was the author of the September Letter.

My Termination by GSFC

136. On September 11, 2019, I was terminated without cause. Attached and marked as **Exhibit "DD"** to the FDW Affidavit is a copy of KRN press release of September 11, 2019.

137. A KRN Board meeting was scheduled for September 11, 2019. When the KRN Board meeting started, Favreau and I were asked to leave the meeting so the directors could go in camera.

138. Favreau asked me to go to the boardroom in KRN's offices, where she handed me a letter from the KRN Board terminating me without cause, effective immediately.

139. Favreau took my phone, my laptop, and my keys to a Karnalyte vehicle I was driving, gave me a box to pack my personal items, and walked me out the door. As I had no vehicle, Rowan gave me a ride home.

The Second Shakedown of the Potential Nitrogen Partner

140. I am advised by Rowan, and verily believe that, during the week following my termination, Varma and Favreau sent a memorandum of understanding (the "**MOU**") to the AgCo.

141. I am advised by Rowan, and verily believe, that Varma and Favreau never heard from the AgCo after sending them the MOU.

142. I had discussed the concept of a MOU with the AgCo and, given that the AgCo was not interested in entering into such a MOU or funding any of the up-front costs of the Nitrogen Project, I never pursued the discussion with the AgCo.

143. I am advised by Rowan, and verily believe, that sending the MOU to the AgCo was an attempt at a second shakedown of the AgCo by Varma and Favreau because the first shakedown didn't work.

Pre-Feasibility Study on Nitrogen Project

144. In November 2019, KRN announced that it had begun a pre-feasibility study (the "**Study**") on the Nitrogen Project. On July 21, 2020, KRN announced that the Study was complete, and that GSFC had initiated the Study, but KRN had completed the Study. Attached as **Exhibit "HH"** to the FDW Affidavit is a copy of the KRN press release of November 5, 2019. Attached as **Exhibit "II"** to the FDW Affidavit is a copy of the KRN press release of July 21, 2020.

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Lobbying Laws

145. Varma would tell me, Rowan, and Favreau on regular occasions during 2019 about the various conversations he was having with officials in the Canadian Federal Government (the “**Federal Government**”) regarding obtaining funding for the 50-kilometre natural gas pipeline (the “**Pipeline**”) that would have to be built from Jansen, Saskatchewan to the Potash Project.
146. The preamble to Lobbying Act of Canada states that lobbying is a legitimate activity in Canada, and provides for a system of registration of lobbyists. Attached and marked as **Exhibit “CCC”** to the FDW Affidavit is a copy of the preamble of the Lobbying Act.
147. During mid 2019, KRN was, at Varma’s request, investigating Canadian federal government programs to provide funding for the Pipeline.
148. A potential program was identified, and management prepared the formal application (the “**Grant Application**”). Prior to submitting the Grant Application, I requested confirmation from GSFC and Varma that GSFC was registered as a lobbyist under the Lobbying Act, in order for me to sign the certification on the Grant Application that all persons required to be registered under the Lobbying Act had done so.
149. The Grant Application provided the following certification:
- “Any person who is required to be registered pursuant to the Lobbying Act including consultant and in-house lobbyists, is registered pursuant to that Act. The failure of such person to register under the Act, or the failure of the applicant to disclose this fact to the Minister, either prior to or during the term of the proposed Agreement could result in the following:*
- a) *prior to the execution of an Agreement, precludes the offering or signing of an Agreement with Innovation, Science and Economic Development Canada and the Applicant's file will be closed;*
- b) *during the term of an approved Agreement, constitutes a material breach.it is registered under the Lobbying Act.”* Attached and marked as **Exhibit “YY** to the FDW Affidavit is a copy of the certification page of the form of Grant Application.
150. I verily believe that based on a search of the website (the “**Lobbying Website**”) of the Office of the Commissioner of Lobbying of Canada, GSFC is not registered under the Lobbying Act. Attached and marked as **Exhibit “ZZ** is a copy of the search of GSFC and KRN on the Lobbying Website.



151. At the August 8, 2019 KRN Board meeting, I asked Varma if GSFC was registered under the Lobbying Act, and if Varma could provide confirmation in order that I could certify the Grant Application. Varma stated at the KRN Board meeting that “GSFC has a corporate policy not to register as a lobbyist under the Lobbying Act.” Nanavaty and Anjaria didn’t dispute Varma’s statement.
152. I verily believe Varma was lying, as I verily believe that an Indian public company listed on the BSE Exchange in India, as GSFC is, would not have a corporate policy that provides that it will not comply with the laws of a foreign country such as Canada.
153. I did not sign the application.

Concerned Shareholders’ Actions

a) Requisition of Special Meeting

154. On July 7, 2020, Matson, Szabo and Zachanowich (the “**Concerned Shareholders**”) sent a requisition (the “**Requisition**”) to KRN for the Special Meeting to replace the entire KRN Board. On July 27, 2020, KRN issued a notice (the “**Notice of Special Meeting**”) calling the Special Meeting to be held on December 15, 2020. Attached and marked as **Exhibit “JJ”** to the FDW Affidavit is a copy of the KRN press release of July 27, 2020 calling the Special Meeting. Attached and marked as **Exhibit “KK”** to the FDW Affidavit is a copy of the Requisition. Attached and marked as **Exhibit “LL”** to the FDW Affidavit is a copy of the Notice of Special Meeting.

b) Press Releases and Letters

155. The Concerned Shareholders issued a series of press releases from July 2020 to December 2020, copies of which were filed on SEDAR. The Concerned Shareholders provided me with copies of letters they wrote to the TSX and to the GSFC MD. Attached as **Exhibit “MM”** to the FDW Affidavit are copies of the press releases issued by the Concerned Shareholders and filed on SEDAR. Attached as **Exhibit “PP”** to the FDW Affidavit are copies of the letters of the Concerned Shareholders to the TSX. Attached as **Exhibit “QQ”** to the FDW Affidavit are copies of the letters of the Concerned Shareholders to the GSFC MD.

c) Demand for an Independent Investigation

156. In September 2020, the Concerned Shareholders demanded an independent investigation into their concerns. The Concerned Shareholders provided a submission to MLT Aikins in connection with their demand. On October 26, 2020, KRN issued a press release indicating an investigation was completed, and the entire KRN Board and management were completely exonerated.



Attached as **Exhibit “NN”** to the FDW Affidavit is a copy of the Concerned Shareholders’ submission to MLT Aikins. Attached as **Exhibit “OO”** to the FDW Affidavit is a copy of the KRN press release of October 26, 2020.

d) Dissident Proxy Circular

157. On November 15, 2020, KRN issued the KRN Circular.
158. On December 4, 2020, the Concerned Shareholders issued a dissident information circular (the “**Dissident Circular**”) recommending that KRN Shareholders vote in favor of electing a KRN Board consisting of six (6) directors as set out in the Requisition. The Dissident Circular also summarized their concerns with the KRN Board’s and management’s actions and conduct, as well as their concerns with the KRN Circular. Attached and marked as **Exhibit “RR”** to the FDW Affidavit is a copy of the Dissident Circular.

Delay in Holding Special Meeting for an Improper Purpose

159. I am advised by Rowan, and verily believe that, in May 2020, when Varma was reassigned within GSFC, and was removed as a director from the KRN Board by the GSFC MD, Varma was extremely upset by this action, and both Favreau attributed some profane references to the GSFC MD.
160. I am advised by Rowan, and verily believe, that a new GSFC MD was scheduled to be appointed in November 2020.
161. I verily believe that the sole purpose for which Favreau delayed the Special Meeting until December 15, 2020, was to ensure that a new GSFC MD was appointed prior to the Special Meeting being held, in the hopes that the new GSFC MD would put Varma back on the KRN Board.
162. I verily believe that the delay of the Special Meeting was motivated by an improper purpose and constituted improper conduct by Favreau and the KRN Board, and was clearly designed to continue GSFC’s control of the KRN Board, as well as the entrenchment of the KRN Board and management

KRN Proxy Circular for Special Meeting

a) KRN Board Approval

163. The KRN Circular states that “*the contents and the sending of this Information Circular have been approved by all of the directors of the Company*”.

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b) Recommendations of KRN Board

164. I verily believe that the purpose of the recommendations of the KRN Board to vote against the reconstitution of the KRN Board:

- is consistent with the conduct of GSFC, and the GSFC Nominees, while I was President and CEO of KRN;
- is designed to maintain the status quo, and GSFC's control of, the KRN Board;
- is further evidence of the clear intention of GSFC, and the GSFC Nominees, to keep control of the KRN Board;
- is designed to continue the entrenchment of the KRN Board and management;
- continues and perpetuates the very activity the Concerned Shareholders are trying to stop; and
- sets out a series of falsehoods and misrepresentations regarding the activities of Karnalyte over the past two (2) years, including during the time I was the President and CEO of KRN.

c) Misrepresentations in the KRN Circular

165. I verily believe that, given each of the members of the KRN Board have knowingly, and willingly, approved the "*contents*" of the KRN Circular, they have each knowingly, and willingly, made the misrepresentations contained in the KRN Circular, as if they made them themselves.

166. The Concerned Shareholders issued two press releases related to the misrepresentations in the KRN Circular. Attached and marked as **Exhibit "SS"** to the FDW Affidavit is a copy of the Concerned Shareholders' press release of November 26, 2020. Attached and marked as **Exhibit "TT"** to the FDW Affidavit is a copy of the Concerned Shareholders' press release of December 4, 2020.

i) Favreau's Falsified Resume

167. I verily believe that Favreau falsified, and lied on, her resume in the KRN Circular, where she claims to have "*has significant experience in the mining and agricultural sectors, including the potash industry*" and that she has "*extensive experience with Canadian publicly listed companies*". Her profile on LinkedIn does not match that statement. Attached and marked as **Exhibit "FF"** to the FDW Affidavit is a copy of the Favreau's LinkedIn profile. Her filings on SEDI don't match that statement. Attached as **Exhibit "GG"** to the FDW Affidavit is a copy of Favreau's SEDI report.



168. I verily believe that Favreau is:

- not discharging her legal and fiduciary duties to act honestly and with integrity, as an officer of a Canadian public company;
- is in clear violation of the KRN Code, and
- is most likely in breach of the professional code of conduct for Certified Public Accountants;

when she falsifies, and lies on, her resume and claims skills, background and experience that is not supported by her own LinkedIn profile, or her SEDI filing.

169. In February 2019, Favreau stated to the CBC in an interview that: *“Generally speaking, men tend to sort of step into roles or go after roles that they maybe are uncomfortable with a little bit,”.....“They don't know everything they need to know but they just typically have the confidence to just try it and they know they'll figure it out. We're just as capable of doing that too.”* Attached and marked as **Exhibit “VV”** to the FDW Affidavit is a copy of the interview.

170. I verily believe that the ordinary interpretation of Favreau's words, and what Favreau was really trying to say, was that she didn't know how to do a CEO job, but since men take those jobs all the time without knowing how to do the job, she would *“give it a try.”*

ii) Favreau's Employment Contract

171. Section 3.4 (a) of Favreau's employment agreement dated December 15, 2017 (the **“Favreau Agreement”**) between KRN and Favreau, with respect her appointment as CFO of KRN, provides that the KRN Board is able to move her back to her original position of Controller of KRN, without it being considered constructive dismissal. Attached as **Exhibit “EE”** to the FDW Affidavit is a copy of Section 3.4 (a) of the Favreau Agreement.

172. I was advised by Rowan, and verily believe, that when the KRN Board appointed Favreau as the CFO in November 2017, the KRN Board specifically included Section 3.4 (a) in the Favreau Agreement.

ii) Scherman's Falsified Resume

173. I verily believe that in the KRN Circular, Karnalyte, the KRN Board and Favreau are intentionally misrepresenting, by way of omission, the experience of Scherman, a member of the KRN Board. The KRN Circular states that Scherman was a director of AREVA Resources Canada Inc., a private company. I verily believe that Scherman has never been a director a Canadian public company before joining the KRN Board, based upon his filings on SEDI. Attached and marked as **Exhibit “UU”** to the FDW Affidavit is a copy of Scherman's filings on SEDI.

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iii) Inflated Costs of Special Meeting

174. I verily believe that Favreau's statement and claim in the KRN Circular that the Special Meeting will cost a minimum of \$350,000 is an intentional, and a gross, misrepresentation of the costs of holding a meeting of shareholders of a Canadian publicly listed company.
175. Based on my experience as a securities lawyer in orchestrating hundreds of shareholder meetings over the past 35 years, the typical cost of shareholders meeting rarely exceeds \$50,000.
176. Other than a 7 page "*Letter to Shareholders*" attached to the KRN Circular, the KRN Circular was a relatively short, standard form of information circular for a meeting of shareholders of a Canadian public company. I verily believe that the Letter to Shareholders did not account for the additional \$300,000 in purported costs for the Special Meeting.
177. I verily believe that Favreau, as Controller and CFO of KRN since 2014, knows what the actual costs of all of the various annual general and special meetings of KRN during that time, and in the face of such facts, is intentionally misrepresenting the typical cost of the Special Meeting by more than seven (7) fold.

iv) Cash Resources of KRN

178. I was the President of KRN when the Concerned Shareholders resigned from the KRN Board.
179. The facts are:
- KRN had approximately \$9 million in cash before the Rights Offering;
 - the Rights Offering raised a total of approximately \$2.3 million in cash;
 - KRN had approximately \$11.3 million in cash after completion of the Rights Offering;
 - KRN had approximately \$11.3 million in cash when the Concerned Shareholders resigned from the KRN Board.

Attached as Exhibit "Z" to the FDW Affidavit is page 1 of the 2019 third quarter financial statements of KRN.

180. I verily believe that Favreau and the KRN Board know the facts, and are intentionally lying and misrepresenting the facts in the KRN Circular, when they state that the Concerned Shareholders left KRN with depleted cash resources when they resigned.

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v) Inflated Cost of Feasibility Study

181. I requested the Wood Proposal. I had the discussion with Wood as to the scope of the Wood Proposal, the timing and the cost, and I advised the KRN Board of such details. Favreau was fully aware of these details. I verily believe that Favreau and the KRN Board know the facts, and are intentionally lying and misrepresenting the cost of a feasibility study on the Nitrogen Project when they suggest it will cost in excess of \$5 million, when the Wood Proposal had a cost estimate of approximately \$2.5 million.

vi) Use of Proceeds of Rights Offering

182. I recommended KRN undertake the Rights Offering. The approximately \$9 million in cash KRN had on hand in September 2018 was to be used to pay the annual costs of the Potash Project and general and administrative expenses. Annual maintenance costs of the Potash Project included approximately \$350,000 in annual mining license fees, and a minimum of \$350,000 in expenditures on the Potash Project required by the TSX Rules to maintain KRN's listing on the TSX.

183. I determined the use of proceeds for the Rights Offering. The intent and purpose of the Rights Offering was to provide funding for the Nitrogen Project, so as not to have to use the existing \$9 million in cash. The purpose of the Rights Offering was not to provide additional funds for the Potash Project, or general and administrative expenses. KRN had sufficient cash resources to fund its annual costs, and did not need the proceeds from the Rights Offering to fund such costs.

184. I verily believe that Varma, Nanavaty and Favreau know the facts, and Favreau and the KRN Board are intentionally lying and misrepresenting the facts, when they state that the use of proceeds of the Rights Offering were to pay for up to \$1 million of the annual costs of the Potash Project, in priority to using such proceeds to investigate the Nitrogen Project. This is simply false.

185. In August 2019, in a Memorandum to the KRN Board, I specifically warned the KRN Board that, given it had been almost 9 months since the Rights Offering had closed, and the KRN Board had not authorized the expenditure of virtually any monies from the Rights Offering to be expended on the Nitrogen Project, there was a risk that KRN and the KRN Board could face legal action for misrepresentation.

Favreau's False Affidavit

186. I have reviewed the affidavit of Favreau sworn on October 26, 2020 (the "**Favreau Affidavit**"), and in particular, I have reviewed paragraph 3 of the Favreau Affidavit which states [emphasis added]: "*On the expiration of his fixed-term employment, Karnalyte and the Applicant **negotiated continuously** between February 2019 and April 2019 to reduce to writing the terms under which*

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Mr. Wheatley would be appointed to the position of Chief Executive Officer ("CEO"). Attached and marked as Exhibit "BBB" to the FDW Affidavit is a copy of Favreau's affidavit dated October 26, 2020.

187. I verily believe that paragraph 3 of the Favreau Affidavit is false.
188. As stated in paragraphs 102 to 105 above, all material terms and conditions of the CEO Offer Letter were agreed, and there were no material terms and conditions that were left to be negotiated.
189. I verily believe that, notwithstanding:
- Favreau took two (2) months to prepare the CEO Offer Letter; and
 - Varma decided in April to change his mind as to what he agreed to in February;
- it does not change the fact that all material terms and conditions were agreed on February 15, 2019.
190. I verily believe that Favreau knows that all material terms and conditions of the CEO Offer Letter were agreed on February 15, 2019, and that it is a shameless lie of Favreau to suggest I was "*continuously negotiating*" and it is a shameless attempt to cover up her negligence and/or incompetence.
191. I verily believe that, while the words of paragraph 4 of the Favreau Affidavit are true, Favreau's omission of relevant facts from paragraph 4 gives a false impression of the true story.
192. Paragraph 4 of the Favreau Affidavit states: "*On or about September 11, 2019, before a written employment agreement could be formally executed, Karnalyte terminated the employment of the Applicant, without cause, with statutory pay in lieu of notice.*"
193. The relevant facts that Favreau intentionally omits from paragraph 4 of the Favreau Affidavit are, that Favreau did not prepare and present a first draft of an employment agreement to me until the first week of September 2019, almost five (5) months after the CEO Offer Letter was signed in April 2019, and only a few days before I was terminated.
194. I verily believe that Favreau was either negligent, incompetent, or under instructions from Varma, to slow walk both the CEO Offer Letter, and the draft employment agreement.
195. When I was hired as the President of KRN in 2018, I negotiated both an offer letter, and a formal employment agreement, with Rowan as the Interim CEO, and executed both documents within one (1) month of starting the negotiations.



Favreau's Failure to Pay My Increase in Salary

196. Favreau did not pay me the increase in my salary as CEO, as agreed upon on February 15, 2020, and effective on or about April 5, 2019, until I finally demanded payment in the first week of September 2019, only a few days before I was terminated.
197. I verily believe that Favreau was either negligent, incompetent, or under instructions from Varma, not to pay me the increase in my salary until I demanded it.

Favreau's Failure to Pay Rowan's Final Invoice

198. I am advised by Rowan, and verily believe, that Favreau terminated his consulting contract with KRN the day after the Concerned Shareholders sent the Requisition to KRN. Attached and marked as **Exhibit "WW"** to the FDW Affidavit is a copy of the letter of termination of Rowan's contract.
199. I am advised by Rowan, and verily believe, that Favreau has not, as of the date of this Affidavit, paid Rowan's final invoice as a consultant to KRN, which invoice was rendered and due in July 2020, a period of time approaching 6 months from the date of the invoice.

Favreau's Conduct

200. I verily believe that Favreau's conduct in:

- lying on the terms and conditions of the CEO Offer Letter;
- lying on her resume;
- intentionally misrepresenting matters in the KRN Circular that she knows are incorrect; and
- adopting the same pattern as Varma of changing her mind and attempting to suggest a later decision is in fact her earlier decision;

is not:

- honest and ethical conduct;
- is a clear breach of the KRN Code; and
- is most likely a breach of code of professional conduct of the CPA Association.

Settlement Discussions

a) Good Faith Discussions

201. In early November 2020, the Concerned Shareholders began discussions (the "**Settlement Discussions**"), through a number of intermediaries (the "**Intermediaries**"), with senior members

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of the Gujarat Government, in good faith regarding reaching a settlement agreement regarding their proposal to reconstitute the KRN Board with six (6) directors.

202. Given a new GSFC MD was appointed on December 8, 2020, direct discussions with the new GSFC MD were not possible prior to the Special Meeting.
203. The Intermediaries suggested to the Gujarat Government, and the KRN Board, as a good faith gesture with respect to the Settlement Discussions, that in order to give the new GSFC MD time to familiarize himself with this matter, that:
- the Special Meeting be postponed, or adjourned, for a period of thirty (30) days for the Settlement Discussions to continue; and
 - GSFC withdraw its proxy for the Special Meeting for a period of thirty (30) days, in order to facilitate the continuation of the Settlement Discussions.
204. Notwithstanding these good faith suggestions, GSFC, the GSFC Nominees, the KRN Board and management held the Special Meeting.

b) Bad Faith

205. I am advised by one of the Intermediaries, and I verily believe that, in January 2021, the new GSFC MD admitted that GSFC has control of KRN and the KRN Board, with two (2) of the three(3) seats, and was in no hurry to do anything to change the status quo or give up control of the KRN Board.
206. I verily believe that, based on the GSFC MD's statement, the GSFC MD expects the two (2) GSFC Nominees on the KRN Board, being Nanavaty and Anjaria, to do as he says and instructs, otherwise, why would the GSFC MD make such a definitive statement regarding GSFC having control of KRN and the KRN Board.
207. I verily believe that the admission of the GSFC MD regarding GSFC having control of the KRN Board is consistent with the actions of GSFC, and the GSFC Nominees, since January 16, 2019 in maintaining control of the KRN Board and running KRN like GSFC's private company.
208. I verily believe that GSFC, and the GSFC Nominees, do not care at all about the other 62% of the shareholders of KRN, and will continue to oppress the majority of the shareholders of KRN as long as they maintain control of KRN and the KRN Board.
209. I verily believe that the conduct of GSFC, the GSFC Nominees, and the KRN Board in proceeding with the Special Meeting:



- is just the most recent evidence of:
 - bad faith on the part of GSFC and the GSFC Nominees;
 - a shameless power grab by GSFC and the GSFC Nominees;
 - GSFC's absolute control of KRN and the KRN Board for the past two (2) years;
 - GSFC's and the GSFC Nominees' continuing desire to hold on to control of KRN and the KRN Board by any means, and at any cost;
 - GSFC's and the GSFC Nominees' arrogance, bad faith and total disregard for Canadian business practice, Securities Laws and TSX; and
 - their continuing entrenchment on the KRN Board; and
- constitutes a clear breach by the GSFC Nominees of their legal and fiduciary duties to act honestly, with integrity, and in the best interests of all KRN Shareholders, rather than in the best interests of GSFC.

Special Meeting Results Illustrate Shareholders' Frustration

210. I verily believe that the voting results of the Special Meeting reveal that a vast majority of the 62% of shareholders of KRN that aren't GSFC, support the position of the Concerned Shareholders.
211. I verily believe that GSFC, and the GSFC Nominees, continue to use their 38.73% ownership of KRN, and their control of the KRN Board, to pursue what is in the best interest of GSFC, and not what is in the best interest of all shareholders of KRN.
212. I verily believe that Favreau is an active participant, and is complicit, in the activities of GSFC and the GSFC Nominees, as it allows her to keep her job.


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