C A N A D A
PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL

SUPERIOR COURT

(Collective Action)

No: 500-06-

ANNE MILLER
4078 ch. Gage, Montreal, Quebec, H3Y 1R5

Plaintiff/Petitioner

– and –

HEXO CORP.
490 Boul. St-Joseph, Suite 204
Gatineau, Quebec
J8Y 3Y7

SEBASTIEN ST-LOUIS
490 Boul. St-Joseph, Suite 204,
Gatineau, Quebec
J8Y 3Y7

Defendants/Respondents

MOTION FOR AUTHORIZATION TO INSTITUTE A COLLECTIVE ACTION AND TO OBTAIN REPRESENTATIVE STATUS
(Articles 571 ff., C.C.P. and Section 225.4 QSA)

DEFINED TERMS

~~1.~~ In addition to the terms defined in ss. 1(1) and 138.1 of the *Securities Act*, R.S.O. 1990, c. S. 5, (and the equivalent *Securities Act*) and elsewhere herein, the following capitalized terms used throughout this statement of claim have the meanings indicated below:

(a) "**CEO**" means Chief Executive Officer;

(b) "**CFO**" means Chief Financial Officer;

(c) "***C.C.P.*** means the Quebec *Code of Civil Procedure*;

(d) "**Class"** means all persons, other than Excluded Persons, who acquired HEXO's common shares listed on the TSX and FSE, and all Canadian-resident investors that purchased HEXO's common shares listed on the NYSE or OTC, on or after April 11, 2018, and who held some or all of those common shares until after the close of trading on: (1) June 12, 2019; (2) October 9, 2019; and/or (3) October 28, 2019.

(e) "**Class Period**" means April 11, 2018 to October 28, 2019, inclusive;

(f) "**Company**" means HEXO;

(g) "**Corrective Disclosures**" means: (1) The conference call held by HEXO prior to the start of trading on the TSX on June 13, 2019; (2) the news release disseminated by HEXO prior to the start of trading on the TSX on October 10, 2019; and (3) the MD&A disseminated by HEXO after the close of trading on the TSX on October 28, 2019, each individually being a **Corrective Disclosure**;

(h) "**DC&P**" means disclosure controls and procedures;

(i) "**Defendants**" means HEXO and St-Louis;

(j) "**Equivalent Securities Act"** means, collectively, the *Securities Act*, R.S.A. 2000, c. S-4, as amended; the *Securities Act*, R.S.B.C. 1996, c 418, as amended; *The Securities Act*, C.C.S.M. c. S50, as amended; the *Securities Act*, S.N.B. 2004, c. S-5.5, as amended; the *Securities Act*, R.S.N.L. 1990, c S-13, as amended; the *Securities Act*, S.N.W.T. 2008, c. 10, as amended; the *Securities Act*, R.S.N.S. 1989, c. 418, as amended; the *Securities Act*, S Nu 2008, c. 12, as amended; the *Securities Act*, R.S.P.E.I. 1988, c S-3.1, as amended; the *Securities Act,* C.L.R.Q. c V-1.1, as amended; *The Securities Act*, *1988*, S.S. 1988-89, c. S-42.2, as amended; and the *Securities Act*, S.Y. 2007, c. 16, as amended;

(k) "**Excluded Persons**" means HEXO and its subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns, St-Louis, and any member of St-Louis' immediate family;

(l) "**FSE**" means Frankfurt Stock Exchange;

(m) "**HEXO**" means HEXO Corp.;

(n) “**ICFR**” means internal control over financial reporting;

(o) “**Impugned Statements**” means the Prospectuses, as well as HEXO’s documents released and/or statements made by St-Louis on April 11, 2018, June 27, 2018, October 26, 2018, December 13, 2018, January 21, 2019, March 13, 2019, June 12, 2019, and June 13, 2019, each individually being an **Impugned Statement**;

(p) “**Newstrike**” means Newstrike Brands Ltd., a cannabis company which HEXO announced it was acquiring on March 13, 2019 and finalized on May 24, 2019;

(q) “**NI 51-102**” means the CSA’s National Instrument 51-102—*Continuous Disclosure Obligations*, as amended;

(r) “**NI 52-109**” means the CSA’s National Instrument 52-109—*Certification of Disclosure in Issuers’ Annual and Interim Filings,* as amended;

(s) “**NYSE**” means the New York Stock Exchange;

(t) “***OSA***” means the *Securities Act*, R.S.O. 1990 c. S.5, as amended (and equivalent *Securities Act*);

(u) “**OTC**” means the over-the-counter market for securities in the United States;

(v) “**Plaintiff**” means Anne Miller;

(w) “**Prospectuses**” means the Company’s amended and restated short form base shelf prospectus dated December 14, 2018 and corresponding prospectus supplement dated January 24, 2019, and the documents incorporated by reference thereto, pertaining to the Company’s offering of common shares that closed on January 30, 2019;

(x) “**Q1**”, “**Q2**”, “**Q3**”, and “**Q4**” means the three-month interim period ended October 31, January 31, April 30, and July 31, respectively;

(y) **“Q.S.A.”** means the Quebec *Securities Act*, C.L.R.Q. c V-1.1, as amended;

(z) “**Quebec Supply Agreement**” means the agreement between HEXO and the province of Quebec first announced by HEXO on March 13, 2019 under which it was represented that HEXO would be guaranteed to be paid for 20,000 kilograms of cannabis product by the Quebec government in the first year after cannabis legalization (i.e. by October 2019);

(aa) “**SAQ**” means the Société des alcools du Québec;

(bb) “**SEDAR**” means the Canadian Securities Administrators’ System for Electronic Document Analysis and Retrieval;

(cc) “**SQDC**” means the Société qu8iuébécoise du cannabis;

(dd) “**St-Louis**” means Sebastien St-Louis, who is HEXO’s co-founder and was the Company’s CEO at all times during the Class Period;

(ee) “**TSX**” means the Toronto Stock Exchange; and (ff) "**TSX-V**" means the TSX Venture Exchange.

CAUSES OF ACTION

~~2.~~ The causes of action asserted in this claim against the Defendants are:

(a) Section 138.3(1) and 138.3(4) of the *OSA* (and the equivalent *Securities Act*) for releasing the Impugned Statements containing misrepresentations and for failing to make timely disclosure of a material change;

(b) Common law secondary market negligent misrepresentation for releasing the Impugned Statements containing misrepresentations; and

(c) Section 130 of the *OSA* (and the equivalent *Securities Act*) for releasing the Prospectuses containing misrepresentations.

RELIEF CLAIMED

~~3.~~ The Plaintiffs claims on their own behalf and on behalf of class members:

(a) Grant of the present Collective Action for the following class:

All Quebec residents, other than Excluded Persons, who acquired Hexo's common shares, on or after on or after April 11, 2018, and who held some or all of those common shares until after the close of trading on: (1) June 12, 2019; (2) October 9, 2019; and/or (3) October 28, 2019.

(b) Grant the Plaintiff's action against the Defendants in respect of the rights of action asserted against the Defendant under Title VIII, Chapter II, Divisions I and II of the QSA and, the related provisions of the Quebec Securities Legislation, including Section 225.4 of the QSA and article 1457 of the Civil Code of Quebec.

(c) Naming her as the representative plaintiff for the Class advancing the causes of action identified herein;

(d) An order granting authorization to pursue the statutory causes of action set out in Title VIII, Chapter II, Divisions I and II of the QSA and the related provisions of the Quebec Securities Legislation;

(e) A declaration that the Impugned Statements and Prospectuses released by the Defendant contain misrepresentations related to the Company's business, operations and finances because the documents omitted material facts and misrepresented the certainty of certain supply contracts and the resultant revenues therefrom made false and negligent representations about expected synergies and revenues from the Newstrike transaction and misrepresented the efficacy of HEXO's internal controls over financial; reporting;

(f) A declaration that Defendant Hexo negligently released the aforementioned statements containing misrepresentations;

~~4.~~ (g) A declaration that the misrepresentations were publicly partially corrected on June 13, 2019, October 10, 2019 and were fully corrected on October 28, 2019;

(h) A declaration that the Defendants, as alleged herein, breached s. 73 of the QSA and the related securities legislation in Quebec;

(i) A declaration that the Defendants are liable to the Plaintiff and the Class pursuant to Title VIII, Chapter II, Divisions I of the QSA and the related provisions of the Quebec Securities Legislation;

(j) A declaration that the Defendants are liable to the Plaintiff and the Class pursuant to Title VIII, Chapter II, Divisions II of the QSA and the related provisions of the Quebec Securities Legislation;

(k) A declaration that Defendant Hexo is vicariously liable for the acts and omissions of its employees, officers and directors, including Defendant St.-Louis;

(l) Damages in a sum to be determined, or such other sum as this Court finds appropriate at the trial of the common issues or at a reference or references;

(m) An order directing a reference or giving such other directions as may be necessary to determine issues not determined in the trial of the common issues;

(n) CONDEMN the Defendants to pay to the Plaintiffs and the Class compensatory damages for all monetary losses;

(o) ORDER collective recovery in accordance with articles 595 to 598 of the Code of Civil Procedure;

(p) THE WHOLE with interest and additional indemnity provided for in the Civil Code of Quebec and with full costs, including expert fees, notice fees and fees relating to administering the plan of distribution of the recovery in this action;

(q) ORDER the publication of a notice to the class members in accordance with Article 579 of the Code of Civil Procedure, pursuant to a further order of the Court, and ORDER Defendant to pay for said publication costs;

(r) FIX the delay for a class member to opt out of the class at 60 days from the date of the publication of the notice to the members;

(s) DECLARE that all members of the class who have not requested their exclusion from the class in the prescribed delay will be bound by any judgment to be rendered on the class action to be instituted; and

(t) Such further and other relief that this Honourable Court deems just.

NATURE OF THIS ACTION

~~5.~~ HEXO is a Canadian cannabis producer which for the last few years has been positioning itself to capitalize on the lucrative business opportunities that were expected to arise from the legalization of cannabis products in Canada which occurred on October 17, 2018.

~~6.~~ To that end, HEXO began vying for cannabis supply contracts from the provinces – and in particular its home Province of Quebec where it focused its efforts – well before recreational cannabis use was legalized, so that when the legalization law took effect the provinces would have the cannabis supply they required.

~~7.~~ On April 11, 2018 at the commencement of the proposed Class Period, HEXO publicly released a statement announcing that it had reached a binding agreement with the Province of Quebec to provide the Province with over 200,000 kilograms of cannabis product for the first five-years following cannabis legalization (the "Quebec Supply Agreement").

~~8.~~ Importantly, while the announcement did specify that the amounts to be supplied to the Province in years 4 and 5 of the deal would be definitively established at a later date based on sales generated in the first three years, it was explicitly unequivocal that the agreement provided that the supply amounts for the first three years of the deal were guaranteed and that Quebec would purchase 20,000 kilograms of cannabis product in the first year of cannabis legalization. In fact, in numerous subsequent statements and documents released after this date, including in the Prospectuses pursuant to which HEXO raised tens of millions of dollars from Class Members, the Defendants repeatedly went even further and unambiguously clarified that the first year of the Quebec Supply Agreement was “take-or-pay”, meaning that even if the rollout of recreational cannabis legalization in Quebec went slower than forecast, the Province was still obligated to “pay” for the entire 20,000 kilograms even if it had no need to “take” the entire amount.

~~9.~~ Given that sales to the Province of Quebec accounted for 91% of the Company’s adult-use revenue (which in turn accounted for about 91% of the Company’s revenues), this astronomical supply contract (which the Defendants repeatedly represented as expected to generate in excess of $1 billion in revenue for the Company) was inarguably material to HEXO’s business and operations and would reasonably be expected to have a significant effect on the market price or value of its securities. The materiality of the Quebec Supply Agreement is supported by the reaction of the stock market following the Company’s April 11, 2018 announcement of it, which immediately began buying up HEXO’s shares causing its price on the TSX to increase by over 13.2% that very same day.

~~10.~~ Then, almost a year later on March 13, 2019 (and nearly all of the way through HEXO’s Q3 of 2019 which ended on April 30, 2019), HEXO announced that it was acquiring cannabis produced Newstrike Brands Ltd. (“Newstrike”), and as a result of the acquisition and the Quebec Supply Agreement, the Company would double its net revenue for Q4 2019 to approximately $26 million, and would achieve a net revenue of greater than $400 million for fiscal 2020 (i.e. August 1, 2019 to July 31, 2020). Upon the release of this materially favourable news, the Company’s stock price on the TSX shot up 24.3% in just five trading-days.

~~11.~~ The Plaintiff alleges that from April 11, 2018 the value and price of HEXO's common shares were artificially inflated because the Defendants misrepresented:

(a) that the Quebec Supply Agreement guaranteed payment for 20,000 kilograms of cannabis product by October 2019;

(b) that the Newstrike acquisition would result in millions of dollars of synergies and allow the company to achieve:

  (i) $26 million in net revenue in the three-month period ended July 31, 2019; and

  (ii) over $400 million in net revenue from August 1, 2019 to July 31, 2010); and

(c) that the Company had effective internal control over financial reporting ("ICFR") and disclosure controls and procedures ("DC&P").

~~12.~~ The Defendants repeated these representations about Quebec definitively taking-or-paying for 20,000 kilograms of cannabis by October 2019 and about the Company achieving $26 million in net revenue in May 2019 to July 2019 and over $400M in net revenue in fiscal 2020 right through the middle of June 2019 (or in other words, nearly right through to the end of HEXO's 2019 fiscal year).

~~13.~~ Then on June 13, 2019 prior to the beginning of trading for the day on the TSX, HEXO held a conference call to discuss the interim disclosure documents it had released the prior evening for Q3 2019. Although the Q3 MD&A itself released just hours prior (and publicly disseminated through SEDAR) continued to unequivocally represent that "In Quebec alone, we will supply 20,000 kg in the first year of legalized adult-use cannabis and could exceed an estimated 200,000 kg over the first five years of legalized adult-use cannabis", Defendant St-Louis for the first time revealed on this conference call (which is not publicly disseminated to shareholders through SEDAR), that although the revenue from year 1 of the Quebec Supply Agreement was guaranteed, the Company may not force Quebec to purchase the entire amount prior to October as the Agreement provided for, but may allow Quebec's purchase requirements to get pushed back into November or December of 2019.

~~14.~~ Upon the release of this first Corrective Disclosure, HEXO's common shares listed on the TSX precipitously dropped $0.72 per share in price (or 8.4%), going from $8.53 per share to $7.81 per share on abnormally high-trading volume that very same day. Within ten trading-days (June 26, 2019), the Company's shares dropped to a closing price of $6.62 per share on the TSX (equating to a loss of 22.4% from its closing price on June 12, 2019), thereby causing damage to HEXO's shareholders.

~~15.~~ Then prior to market-open on October 10, 2019, which is nearly three-months after the end of HEXO's 2019 fiscal year, HEXO issued a news release which revealed for the first time that:

(a) The Company's net revenue for Q4 2019 was only $14.5-$16.5 million, missing the $26 million number that it had represented with only weeks left in Q4 by over 40%;

(b) The fourth quarter revenue was below expectations and guidance primarily due to lower than expected product sell through to the province of Quebec;

(c) The Company was retracting its guidance that it would achieve over $400 million in net revenue in fiscal 2020.

~~16.~~ Upon the release of this second Corrective Disclosure, HEXO's common shares listed on the TSX once again significantly diminished in price, going from a closing price of $4.88 per share the day prior to $3.76 per share, a loss of 23% on abnormally-high trading volume, that very same day, once again causing further damage to HEXO's shareholders.

~~17.~~ Finally, after markets had closed for the day on October 28, 2019, HEXO issued its MD&A for the 2019 fiscal year ended July 31, 2019 and revealed that:

(a) Despite more than seven months of touting how the acquisition of Newstrike would result in HEXO realizing annual synergies of $10 million which would allow HEXO to operate more efficiently, HEXO was suspending cultivation at the Niagara facility acquired from Newstrike because this cultivation space was not required at this time given the current market conditions in Canada;

(b) Newstrike had contributed net revenues of $2.77 million, and resulted in a net loss of $13.7 million to the Company's consolidated results for the fiscal year ended since the date of the Newstrike acquisition;

(c) Net revenue for Q4 2019 was only $15.424 million, missing the approximately $26 million in net revenue that the Company had guided for Q4 2019 (with only weeks remaining in Q4 2019) by roughly 41%;

(d) HEXO had only sold and been paid for roughly half of the amount stipulated under the Quebec Supply Agreement (i.e. only 10,000 kg of the purportedly guaranteed 20,000 kg) even though it had represented that payment for the entire amount by October 2019 was a certainty;

(e) The Company would not enforce the "take or pay" feature of the Quebec Supply Agreement and require Quebec to purchase the entire 20,000 kg it was obligated to purchase because it believed that would be "short sighted" to do so, even though it had represented that the amount and corresponding revenue were guaranteed throughout the Class Period; and

(f) The Company now expected net revenue for Q1 2020 (which ended two days after this disclosure was made) to be between $14 million and $18 (meaning that even if net revenue doubled every quarter in 2020, fiscal 2020 net revenue would only be $270 million, or more than 32% lower than the projected greater than $400 million in net revenue for fiscal 2020 that the Company had maintained until only a few weeks prior.

~~18.~~ The effect of the release of this Final Corrective Disclosure on HEXO's share price on the TSX was once again immediate. The company's common shares on the TSX diminished in value another 3.0% that same day, amounting to a loss of roughly 66% from its closing price on June 12, 2019 (the last day before the first Corrective Disclosure), wiping out hundreds of millions of dollars of investment-value for Class Members.

THE PLAINTIFF

~~19.~~ Anne Miller is an individual who resides in Montreal, Quebec. On March 18, 2019, she purchased 3900 common shares of HEXO over the TSX at a total cost of $32,112.98, and suffered a loss by holding those securities until after the Corrective Disclosures. She is advancing claims: (i) under sections 138.3(1) and (4) of the *OSA* and Equivalent Securities Act for secondary market misrepresentations and failure to make timely disclosure (and the concordant provisions of the Equivalent Securities Acts); (ii) under section 130(1) of the *OSA* and Equivalent Securities Act for misrepresentations in a prospectus (and the concordant provisions of the Equivalent Securities Acts); and (iii) for common law negligent misrepresentation.

THE DEFENDANTS

~~20.~~ HEXO is a company incorporated pursuant to Ontario's *Business Corporations Act*, which maintains its headquarters in Gatineau, Quebec. HEXO a licensed producer and distributor of medical and recreational cannabis.

~~21.~~ At all times during the Class Period, HEXO's common shares, which have a CUSIP identifier number of 44903W, were listed on and publicly traded on the TSX-V (before June 22, 2018) under the ticker symbol "THXC", or on the TSX (after June 22, 2018) under the ticker symbol "HEXO". The Company's common shares also trade on the NYSE, FSE, and on the OTC market in the United States.

~~22.~~ Sebastien St-Louis, who is the Company's co-founder was at all relevant times HEXO's Chief Executive Officer ("CEO"). He made statements or caused documents to be released containing misrepresentations, and certified that HEXO had effective internal controls over financial reporting and that HEXO's Core Documents released during the Class Period were free of misrepresentations.

THE MATERIAL EVENTS

~~23.~~ On **April 11, 2018** before trading commenced for the day on the TSX, HEXO issued a news release announcing that it had entered into a five-year preferred supplier agreement with the Société des alcools du Québec ("SAQ") to be the preferred supplier or cannabis products for the Quebec market for the first five years following legalization in October of 2018. While this Impugned Document did specify that the volumes for the final two years of the agreement would be established at a later date based on the sales generated in the first three years, it represented that the amounts of 20,000kg of cannabis in the first year, 35,000kg in the second year and 45,000kg in the third year were guaranteed, unequivocally stating that "Under the agreement, [HEXO] will supply 20,000 kg of products in the first year of the agreement…".

~~24.~~ This Impugned Statement contained a misrepresentation because, as alluded to in the first Corrective Disclosure and ultimately fully-disclosed in subsequent Corrective Disclosures, although the Defendants represented that the revenue for the first year of the Quebec Supply Agreement was guaranteed, ultimately the Province of Quebec only purchased roughly half as much as was represented that it would, thereby materially reducing HEXO's revenue from what it represented it would achieve.

~~25.~~ On **June 27, 2018**, HEXO released its MD&A and financial statements for the three and nine-month interim period ended April 30, 2018 (i.e. Q3 2018) and the CEO and CFO certifications pertaining to these Core Documents. In the Q3 2018 MD&A, the Company again represented that:

> **We will supply the SQDC with 20,000 kg of products in the first year** and expect to supply 35,000 kg and 45,000 kg in years two and three respectively. Thereafter, based on an expected market growth rate of 10% we intend to supply 49,500 kg and 54,450 kg in years four and five respectively. The Company estimates the total volume to be supplied over the five-year term of the agreement to be in excess of 200,000 kg which is the largest forward supply contract ever awarded in the history of the emerging cannabis industry. **Based on the current agreements signed between the SQDC and five other licensed producers, we obtained the highest Year 1 volume, representing approximately 34% market share within the province of Quebec**, and we are aiming to remain the largest supplier in subsequent years. [emphasis added]

~~26.~~ Defendant St-Louis signed a certification on Form 52-109FV2 certifying that he had reviewed the documents for Q3 2018, and they did not contain any misrepresentations and presented in all material respects the financial condition of the Company for Q3 2018.

~~27.~~ This Impugned Statement contained a misrepresentation because although HEXO represented that the agreement to supply the Province of Quebec with 20,000kg of product in the first year post cannabis-legalisation (and hence the resulting revenue) was a guarantee and would make HEXO the number one cannabis supplier in the Province (and the second highest across Canada), in fact, ultimately the Province of Quebec only purchased roughly half as much as was represented that it would causing HEXO's net revenues to be materially lower than it represented they would be.

~~28.~~ On **October 26, 2018**, HEXO released its MD&A and audited financial statements for its 2018 fiscal year ended period ended July 31, 2018, as well as the CEO and CFO certifications corresponding to these Core Documents. In the 2018 annual MD&A, the Company once again unequivocally represented that:

> The strategic value of our SQDC relationship cannot be understated. **We hold the single largest forward contract in the history of the emerging cannabis industry with the SQDC** and are the preferred supplier for cannabis products for the Quebec market for the first five years following legalization. **We will supply the SQDC with 20,000 kg of products in the first year**, and we expect to supply 35,000 kg and 45,000 kg in years two and three, respectively. Thereafter, based on an expected market growth rate of 10%, we intend to supply 49,500 kg and 54,450 kg in years four and five, respectively. The Company estimates the total volume to be supplied over the five-year term of the agreement to be in excess of 200,000 kg**. Based on the current agreements signed between the SQDC and five other licensed producers, we have obtained the highest year one volume, representing approximately 35% market share within Quebec**, and we are aiming to remain the largest supplier in subsequent years.
>
> ….
>
> **We currently possess the single largest and longest national forward supply amount among all licensed producers, based upon the announced provincial supply agreements. In Quebec alone, we will supply 20,000 kg in the first year of legalized adult-use cannabis** and up to approximately 200,000 kg over the first five years of legalized adult-use cannabis. [emphasis added]

~~29.~~ The 2018 annual MD&A also pointed to the guaranteed volume under the first year of the Quebec Supply Agreement as justification for HEXO's rapid (and costly) expansion of its production facilities, stating that "[t]he additional facilities and associated production capacity have positioned the Company to meet the SQDC first-year demand of 20,000 kg".

~~30.~~ Defendant St-Louis signed a certification on Form 52-109F1 certifying that he had reviewed the documents fiscal 2018, and they did not contain any misrepresentations and presented in all material respects the financial condition of the Company for fiscal 2018.

~~31.~~ This Impugned Statement contained a misrepresentation because although HEXO represented that the agreement to supply the Province of Quebec with 20,000 kg of product in the first year post cannabis-legalization (and hence the resulting revenue) was a guarantee and would make HEXO the number one cannabis supplier in the Province and even explicitly emphasised how “the strategic value of our SQDC relationship cannot be understated” as it was “the single largest forward contract in the history of the emerging cannabis industry with the SQDC”, in reality, ultimately the Province of Quebec only purchased roughly half as much as HEXO represented that it would, thereby materially reducing the Company’s net revenue relative to what it represented it would achieve.

~~32.~~ On **December 13, 2018**, HEXO released its MD&A and financial statements for the three-month interim period ended October 31, 2018 (i.e. Q1 2019) and the CEO and CFO certifications pertaining to these Core Documents. In the Q1 2019 MD&A, the Company again repeated all of the representations outlined in paragraphs 28 to 29 above, as well as representing that:

> **In Quebec alone we will supply 20,000 kg in the first year of legalized adult-use cannabis** and up to approximately 200,000 kg over the first five years of legalized adult-use cannabis. **We believe all of this positions us well to become one of the top two companies in Canada serving the legal adult-use market**. [emphasis added]

~~33.~~ Defendant St-Louis signed a certification on Form 52-109F2 certifying that he had reviewed the documents for Q1 2019, and they did not contain any misrepresentations and presented in all material respects the financial condition of the Company for Q1 2019. Additionally, this certification represented that St-Louis had designed DC&P and ICFR or caused it to be designed to provide reasonable assurance regarding the reliability of financial reporting and to provide reasonable assurance that information required to be disclosed is recorded and reported in a timely manner.

~~34.~~ This Impugned Statement contained a misrepresentation because, as alluded to in the first Corrective Disclosure and ultimately fully-disclosed in the subsequent Corrective Disclosures, although the Defendants represented that the revenue for the first year of the Quebec Supply Agreement was guaranteed, ultimately the Province of Quebec only purchased roughly half as much as was represented that it would, thereby materially reducing HEXO's revenue from what it represented it would achieve.

~~35.~~ On **December 20, 2018**, HEXO filed on SEDAR an amended and restated short form base shelf prospectus dated December 14, 2018, which included by reference a number of other Core Documents released during the Class Period and identified herein. In a section of this amended and restated short form base shelf prospectus under the heading "Business of the Company", HEXO represented:

> In addition to supply contracts in certain other provinces of Canada, the Company has entered into a commercial agreement with the Société des alcools du Québéc to be the preferred supplier of cannabis products for the Québec market for the first five years post-legalization, with an option to extend the term for an additional year. **Under the agreement, the Company will supply 20,000 kg of products in the first year of the agreement** and is expected to supply 35,000 kg in the second year and 45,000 kg in the third. The volumes for the final two years of the agreement will be established at a later date based on the sales generated in the first three years. The supply arrangement covers the full range of the Company's products and brands. [emphasis added]

~~36.~~ Defendant St-Louis signed a certificate appended to this amended and restated short form prospectus certifying that it, along with the documents incorporated thereto by reference, constituted full, true and plain disclosure of all material facts relating to the securities offered by the prospectus as required by the securities legislation in each of the provinces and territories of Canada.

~~37.~~ This Impugned Statement contained a misrepresentation because although it unequivocally represented that HEXO would supply the Province of Quebec with 20,000 kg of cannabis product in the first year of the agreement, in reality HEXO would supply Quebec with roughly half of that amount, thereby materially reducing the Company's revenue for fiscal 2020 which was supposedly guaranteed.

~~38.~~ On **January 21, 2019**, HEXO released a "Corporate Presentation" with the intention of marketing its upcoming public offering of common shares to potential investors. In this Impugned Statement, the Defendants expressly represented that the first year of the Quebec Supply Agreement was subject to a "take or pay feature" whereby the Province of Quebec was obligated to "pay" for all 20,000 kg of cannabis product prior to October of 2019 even if it did not need or want to "take" the entire amount. This Impugned Statement represented in in relevant part:

> HEXO has secured the single largest forward supply contract among licensed produces in Canada Based on HEXO's 20,000 kg supply contract with Quebec for the first year post legalization
>
> ….
>
> Take or pay feature for year one on 20,000 kg with an estimated over 30% market share in Quebec for first three years.

~~39.~~ This Impugned Statement contained a misrepresentation because although it unequivocally represented that the Province of Quebec would pay for 20,000 kg worth of cannabis product prior to October 2019 even if it did not take the entire amount (hence implicitly representing that the revenue pursuant to the Quebec Supply Agreement for year one was guaranteed), in fact Quebec did not take or pay for 20,000 kg worth of cannabis product in the first year of recreational cannabis legalization.

~~40.~~ On **January 24, 2019**, HEXO released a prospectus supplement to the amended and restated short form base shelf prospectus dated December 14, 2018, for a secondary public offering of 8.855 million of its common shares (including an over-allotment option) at a price of $6.50 per share. In relevant part, this Impugned Statement represented that:

> In Québec, where HEXO was the first licensed producer and is currently the only publicly listed cannabis licensed producer headquartered in the province, **the Company has entered into a supply agreement with the SQDC to be the preferred supplier of cannabis products for the Québec market for the first five years post-legalization,** with an option to extend the term for an additional year. The supply arrangement covers the full range of the Company's products and brands. **Under the agreement, the Company will supply 20,000 kg of products in the first year of the agreement, which is subject to a take-or-pay feature for that year.** The Company estimates that this represents an approximate 35% market share of the province's adult-use sales in the first year of legalization based on the volumes disclosed by other publicly traded cannabis companies who have also entered into SQDC supply agreements. The Company expects to supply 35,000 kg in the second year of the agreement and 45,000 kg in the third year. The Company estimates that the total amount expected to be supplied in the first three years of the agreement represents an approximate 30% market share of the province's adult-use sales based on the volumes disclosed by other publicly traded cannabis companies who have also entered into SQDC supply agreements. The volumes for the final two years of the Company's agreement with the SQDC will be established at a later date based on the sales generated in the first three years. The Company estimates that the total volume of cannabis to be supplied over the five-year term of the agreement could exceed 200,000 kg which, based on the average sale prices assumed by the Company for its products, would represent approximately $1 billion in estimated potential revenue to the Company. **The Company believes this agreement is the largest forward supply agreement in the history of the cannabis industry in Canada, based on year one volume.**

~~41.~~ In another section of this prospectus entitled "Risk Factors" and expressly intended to warn investors about the risks in investing in HEXO's common shares, the Company expressly represented that payment for the entire 20,000 kg of cannabis product under the first year of the Quebec Supply Agreement was not a risk and was guaranteed:

> **Other than the agreement with the SQDC, pursuant to which the SQDC has agreed to purchase 20,000 kg of HEXO's products for the first year of the agreement**, the agreements with the SQDC, the OCRC and the BCLDB do not contain purchase commitments or otherwise obligate the purchaser to buy a minimum or fixed volume of products from HEXO. The amount of cannabis that the SQDC, the OCRC and the BCLDB may purchase under HEXO's agreements with them may therefore vary from what HEXO expects or has planned for. As a result, HEXO's revenues could fluctuate materially in the future and could be materially and disproportionately impacted by the purchasing decisions of the SQDC, the OCRC and the BCLDB. … [emphasis added]

~~42.~~ A certificate appended to the prospectus was signed by Defendant St-Louis certifying that the prospectus, along with the documents incorporated thereto by reference, constituted full, true and plain disclosure of all material facts relating to the securities offered by the prospectus as required by the securities legislation in each of the provinces and territories of Canada.

~~43.~~ This Impugned Statement contained a misrepresentation because although the Company touted that the sales of 20,000 kg of cannabis product to the Province of Quebec prior to October 2019 were guaranteed and even went so far as to say **apart from that guaranteed amount**, the possibility that provinces would buy less than the amount of cannabis was a material risk for the Company, in fact the Province of Quebec only ultimately bought about half of the amount that the Company represented it would prior to October 2019.

~~44.~~ On January 30, 2019, HEXO announced that the aforementioned public offering of 8.855 million common shares had closed for aggregate gross proceeds to the Company of $57,557,500.

~~45.~~ On **March 13, 2019**, HEXO publicly released a news release announcing that it had entered into a definitive agreement to acquire all of the issued outstanding common shares of Newstrike in an all-share transaction valued at approximately $263 million). This press release explicitly represented that the combined company resulting from the acquisition would realize annual synergies of $10 million which would allow HEXO to operate more efficiently, and as a result of the acquisition, HEXO was committing to achieving over $400 million in net revenue in the one year period ended July 31, 2020.

~~46.~~ This Impugned Statement contained misrepresentations because the acquisition of Newstrike did not result in millions of dollars of synergies (and in fact HEXO had to ultimately cease cultivation at the facility acquired from Newstrike), nor did it allow the Company to achieve even close to $400 million in net revenue in fiscal 2020. Additionally, this Impugned Document, despite talking about expected future revenue, omitted to disclose that the revenue that was purportedly guaranteed under the first year of the Quebec Supply Agreement was in fact not guaranteed and would ultimately amount to only 50% of what was represented by the Company.

~~47.~~ Also on **March 13, 2019**, HEXO released its MD&A and financial statements for the three and six-month interim period ended January 31, 2019 (i.e. Q2 2019) and the CEO and CFO certifications pertaining to these Core Documents. In the Q2 2019 MD&A, the Company represented in relevant part that:

(a) The acquisition of Newstrike was expected to result in annual synergies of $10 million, allowing HEXO to operate more efficiently; and

(b) Net revenue from adult-use sales (which accounts for 91% of total revenue) in Q2 2019 was $12.205 million and net revenues from adult-use sales for Q4 2019 were expected to approximately double those of Q2 2019 (i.e. representing that net revenue from just adult-use sales for May 1, 2019 to July 31, 2019 would be approximately $24.41 million);

~~48.~~ Defendant St-Louis signed a certification on Form 52-109F2 certifying that he had reviewed the documents for Q2 2019, and they did not contain any misrepresentations and presented in all material respects the financial condition of the Company for Q2 2019. Additionally, this certification represented that St-Louis had designed DC&P and ICFR or caused it to be designed to provide reasonable assurance regarding the reliability of financial reporting and to provide reasonable assurance that information required to be disclosed is recorded and reported in a timely manner.

~~49.~~ This Impugned Statement contained misrepresentations because, as revealed in the Corrective Disclosures:

(a) The acquisition of Newstrike did not result in annual synergies and the Company was forced to cease cultivation at the facility acquired from Newstrike;

(b) Net revenue from adult-use sales in Q4 2019 was only $14.06 million, or more than 42.4% below the $24.41 million that the Defendants represented the Company would achieve;

(c) The amount purportedly guaranteed under the first year of the Quebec Supply Agreement was not in fact guaranteed and Quebec would only ultimately purchase half that amount (materially reducing the Company’s revenue); and

(d) The Company could not achieve over $400 million in net revenue in fiscal 2020 and would ultimately retract that representation.

~~50.~~ On May 24, 2019, HEXO publicly released a news release announcing that it had completed its previously announced acquisition of Newstrike by way of a plan of arrangement.

~~51.~~ On **June 12, 2019**, HEXO released its MD&A and financial statements for the three and nine-month interim period ended April 30, 2019 (i.e. Q3 2019), a corresponding news release, and the CEO and CFO certifications pertaining to these Core Documents. In the Q3 2019 MD&A and corresponding news release, the Company represented in relevant part that:

(a) HEXO had achieved net revenue in the quarter of $12.956 million;

(b) HEXO remains on track to achieve $400 million in net revenue in fiscal 2020 and to double net revenue in Q4 fiscal 2019 (i.e. representing in mid-June that the company would achieve roughly $26 million in net revenue in May 1, 2019 to July 31, 2019);

(c) Under the Quebec Supply Agreement, HEXO "will supply 20,000 kg in the first year of legalized adult-use cannabis" and the total value of the Quebec Supply Agreement was estimated to be worth $1 billion in potential revenue to the Company; and

(d) The acquisition of Newstrike was estimated to result in annual savings of millions of dollars in operational synergies, allowing HEXO to operate efficiently.

~~52.~~ This Impugned Statement contained misrepresentations because as ultimately revealed in the Corrective Disclosures:

(a) HEXO would only achieve net revenue of $15.395 million in Q4 2019, missing the $26 million net revenue it had guided for Q4 2019, with only weeks left in Q4 2019, by more than 40%;

(b) HEXO could not achieve greater than $400 million in net revenue in fiscal 2020 and would ultimately retract that statement;

(c) The 20,000 kg of cannabis product that was supposedly guaranteed as "take or pay" under the first year of the Quebec Supply Agreement was not actually guaranteed and the Province of Quebec would ultimately only purchase about 10,000 kg of cannabis product in year 1 of the Agreement; and

(d) Not only had the acquisition of Newstrike not resulted in millions of dollars of annual synergies nor allowed HEXO to operate efficiently, in fact HEXO was ceasing cultivation at the facility acquired from Newstrike because current market conditions did not necessitate this cultivation space.

THE CORRECTIVE DISCLOSURES

~~53.~~ On **June 13, 2019** before trading commenced for the day on the TSX, HEXO conducted a conference call to discuss its results for Q3 2019 which were released the prior evening. Despite the fact that this conference call was being conducted with only a few weeks left in Q4 2019 (which ended as at July 31, 2019), Defendant St-Louis on behalf of the Company once again represented that:

(a) Q4 2019 revenues would double relative to Q3 2019 (partially due to the acquisition of Newstrike, whose financials would be consolidated into HEXO's for Q4 2019), and that St-Louis was certain **"[w]e're going to reach the target** … If you ever hear me say something and not deliver, you have to call me out. And in reverse, I would tell you today, **nobody has ever called me out on anything because HEXO has always delivered what we said we would. We're delivering a double this quarter.**"

(b) The Company was on track to achieve and remained focused on achieved net revenues in fiscal 2020 (August 1, 2019 to July 31, 2020) of over $400 million, and expected that they would increase linearly every quarter in 2020 to achieve that number; and

(c) The Quebec Supply Agreement was "take or pay" for the first year's amount of 20,000 kg [implying the revenue for the first year was guaranteed].

~~54.~~ The above statements made on the conference call were misrepresentations, as ultimately revealed in the subsequent Corrective Disclosure, because:

(a) HEXO did not double its net revenues in Q4 2019 relative to Q3 2019, even though Q4 2019 was about half complete when the Defendants made these representations;

(b) The Company was not on track to achieve over $400 million in net revenue in fiscal 2020 and would be forced to retract that statement nearly three months into fiscal 2020; and

(c) The revenue purportedly guaranteed under the first year of the Quebec Supply Agreement which was represented to be "take or pay" was not actually a guarantee and the Province of Quebec would ultimately only purchase half the amount that the Company represented that it would.

~~55.~~ However in addition to the above-noted misrepresentations made on this conference call, this conference call was also partially corrective of prior misrepresentations made by the Defendants with regards to the guaranteed-nature of the Quebec Service Agreement. Specifically, on this conference call when discussing the fact that Quebec had only purchased roughly 5,500 kg of cannabis product under the Quebec Supply Agreement but was obligated to purchase another 14,500 kg prior to October of 2019 (i.e. in the next three months), the Defendants for the very first time revealed that:

> I do think there could be some timing risk around a few of those tons -- of those 20 tons. **Now of course, as you pointed out, it is to take or pay contract**, **but we value our relationship with SQDC more than the few million dollars in revenue we could get this quarter**. So we're working very closely with them. We ramped (ph) our SKU mix to create more interesting products. We plan on launching a whole bunch of new products over the following couple quarters, which we think will help that, **but expect some timing risk whether it's an October, November, December timeline to hit the full 20 I think would be a reasonable assumption. We're confident we can completely offset that in more of course in other provinces**.

~~56.~~ This was partially corrective because it revealed for the very first time that despite the fact that for over 14-months the Defendants had been representing that the 20,000 kg of cannabis product that Quebec was obligated to purchase in the first year of the Quebec Supply Agreement (and hence the revenue resulting therefrom) was a guarantee and was subject to a "take or pay" feature, the Defendants were only now (with only 3 months left in the first year of the contract) revealing that they may not enforce the contract and require Quebec to purchase the entire amount it was obligated to. However, this partial corrective disclosure was ambiguous as to whether the Company would or would not enforce the agreement, and furthermore still represented that Quebec may still hit its entire 20,000 kg commitment by October or November and that the Company was confident that the amount would be offset by purchases made by other provinces as well.

~~57.~~ The stock market's reaction to this partial Corrective Disclosure that the Company may not require Quebec to purchase the entire 20,000 kg even though it had represented for over a year that this was a certainty, was immediate and pronounced. That very same day, the Company's stock price went from $8.53 per share to $7.81 per share on the TSX, equating to a loss of 8.64%. In ten trading days, the company lost nearly a quarter of its value, closing at $6.62 per share (or down 22.4%) on the TSX on June 26, 2019.

~~58.~~ On **October 10, 2019 (**which was roughly two-and-a-half months after the end of HEXO's 2019 fiscal year on July 31, 2019) before trading had commenced for the day on the TSX, the Company released a news release providing preliminary fourth quarter revenue results and withdrawing its fiscal 2020 revenue guidance. In this Corrective Disclosure, the Company revealed that:

(a) Net revenue for Q4 2019 would be approximately $14.5 to $16.5 million (which begs the question why the Company provided a range and could not provide a definitive number nearly three-months after the end of Q4 2019), which was more than 40% lower than the roughly $26 million in net revenue for Q4 2019 that the Company had projected as late as June 13, 2019 with only weeks remaining in Q4 2019;

(b) Q4 2019 revenue was below the Company's expectations and guidance primarily due to lower than expected product sell through to the Province of Quebec; and

(c) HEXO was withdrawing its previously issued financial outlook of more than $400 million in net revenue for fiscal 2020.

~~59.~~ The above partial correction also revealed to the market that despite HEXO's Class Period representations to the contrary, the Company did not in fact have effective ICFR and DC&P because *inter alia*:

(a) Even nearly three-months after the end of Q4 2019, the Company could not definitively provide net revenue for Q4 2019 and rather provided a range; and

(b) The Company clearly was unable to accurately account for expected future revenue, having missed Q4 revenue projections by more than 40% and having to completely eliminate guidance for fiscal 2020.

~~60.~~ Once again, the market's reaction to this partial Corrective Disclosure was swift and significant. The Company immediately lost 23.0% of its value that very day, going from a closing price of $4.88 per share to $3.76 per share on the TSX in just a few hours.

~~61.~~ Finally, on **October 28, 2019** after trading had ended on the TSX for the day, HEXO released its MD&A for its 2019 fiscal year ended period ended July 31, 2018 (the final "Corrective Disclosure"). In the 2019 annual MD&A, the Company fully disclosed that:

(a) Despite more than seven months of touting how the acquisition of Newstrike would result in HEXO realizing annual synergies of $10 million which would allow HEXO to operate more efficiently, HEXO was suspending cultivation at the Niagara facility acquired from Newstrike because this cultivation space was not required at this time given the current market conditions in Canada;

(b) The Company was additionally also suspending cultivation in 200,000 sq. ft. at the Company's main facility in Gatineau, despite repeatedly citing to the the purportedly guaranteed volume under the first year of the Quebec Supply Agreement as justification for HEXO's rapid (and costly) expansion of its production facilities in fiscal 2018;

(c) Newstrike had contributed net revenues of $2.77 million, and resulted in a net loss of $13.7 million to the Company's consolidated results for the fiscal year ended since the date of the Newstrike acquisition, despite the Company touting that the acquisition would result in the realization of synergies and increased efficiency;

(d) Net revenue for Q4 2019 was only $15.424 million, missing the approximately $26 million in net revenue that the Company had guided for Q4 2019 (with only weeks remaining in Q4 2019) by roughly 41%;

(e) HEXO had only sold and been paid for only roughly half of the amount stipulated under the Quebec Supply Agreement (i.e. 10,000 kg of the purportedly guaranteed 20,000 kg) even though it had represented that payment for the entire amount by October 2019 was a certainty;

(f) The Company would not enforce the "take or pay" feature of the Quebec Supply Agreement and require Quebec to purchase the entire 20,000 kg it was obligated to purchase because it believed that would be "short sighted" to do so, even though it had represented that the amount and corresponding revenue were a certainty for the entirety of the Class Period; and

(g) The Company now expected net revenue for Q1 2020 (which ended two days after this disclosure was made) to be between $14 million and $18 (meaning that even if net revenue doubled every quarter in 2020, fiscal 2020 net revenue would only be $270 million, or more than 32% lower than the projected more than $400 million in net revenue for fiscal 2020 that the Company had maintained until only a few weeks prior.

~~62.~~ The stock market's reaction to this final Corrective Disclosure was again immediate and pronounced. That very same day, the Company's stock price dropped a further 3.0% on the TSX. HEXO's closing price of $2.94 per share on the TSX on October 29, 2019 amounted to a loss of roughly 66% relative to its closing price of $8.53 per share on June 12, 2019, which was the last day prior to the first Corrective Disclosure. The removal of the artificial inflation in HEXO's share price that occurred upon the release of the Corrective Disclosures cumulatively eliminated hundreds of millions of dollars in investment value for HEXO's shareholders, which included the Plaintiff and the other Class Members.

NO STATUTORY DEFENCE FOR FORWARD-LOOKING INFORMATION

~~63.~~ To the extent that any of the disclosure documents or public statements addressed in this statement of claim contained forward-looking information, some or all of those forward-looking statements constituted misrepresentations because the Defendants had no reasonable basis for the underlying assumptions on which the forward-looking information was based, for the reasons particularized above.

~~64.~~ Further or in the alternative, to the extent that the statutory defences in sections 132.1 and 138.4 of the *OSA* and Equivalent Securities Act do apply to any forward-looking statements pleaded herein, the Defendants are liable for those forward-looking statements containing the alleged misrepresentations because, at the time each of those forward-looking statements was made, the Defendants knew or should have known that the particular forward-looking statements were misrepresentations for the reasons alleged herein.

THE RELATIONSHIP BETWEEN THE MISREPRESENTATION AND THE PRICE AND VALUE OF HEXO'S SECURITIES

~~65.~~ There was a duty of care placed on the Defendants based on their special relationship with investors of the Company, who were reliant on the Defendants for accurate information about the Company's business, operations, and revenue.

~~66.~~ The price and value of HEXO's securities were directly affected each time that the Defendants disclosed (or omitted to fully and timely disclose) material changes and material facts about HEXO's business, finances, and operations, including the performance and synergies of HEXO's acquisitions, accounting policies, cash on hand, revenue recognition policies, guaranteed future sales, future revenue prospects, revenue growth percentages, compensation of insiders and management, and the number of HEXO's issued and outstanding shares.

~~67.~~ The Defendants were aware at all material times of the effect of HEXO's disclosures about its business, finances, and operations, including the performance and synergies of HEXO's acquisitions, cash on hand, accounting policies, revenue recognition policies, guaranteed future sales, future revenue prospects, revenue growth percentages, compensation of insiders and management, and the number of HEXO's issued and outstanding shares, on the price of the Company's publicly-traded securities.

~~68.~~ The Defendants intended that the members of the Class, including the Plaintiff, would rely upon these disclosures, which they reasonably did to their detriment.

~~69.~~ The disclosure documents referred to herein were filed with SEDAR and/or posted to HEXO's website or other websites, and thereby became immediately available to and were reproduced for inspection for the benefit of the Plaintiff and the other members of the Class, the public, financial analysts and the financial press through the internet and financial publications.

~~70.~~ The price at which HEXO's securities traded on the TSX, FSE, NYSE and OTC market incorporated the information contained in the disclosure documents referred to herein, including information about the performance and synergies of HEXO's acquisitions, cash on hand, accounting policies, revenue recognition policies, guaranteed future sales, future revenue prospects, revenue growth percentages, and compensation of insiders and management.

THE VICARIOUS LIABILITY OF HEXO

~~71.~~ The acts particularized and alleged in this statement of claim to have been done by HEXO were authorized, ordered and done by Defendant St-Louis as well as other officers, agents, employees and representatives who were engaged in the management, direction, control and transaction of HEXO's business, finances, and operations and are, therefore, acts and omissions for which HEXO is vicariously liable.

STATUORY LIABILITY UNDER OSA AND EQUIVALENT SECURITIES ACT

~~72.~~ The Plaintiff will seek leave under s. 138.8(1) of the *OSA* and Equivalent Securities Act to assert, on behalf of himself and the members of the Class, the causes of action set out in Part XXIII.1 of the *OSA* against the Defendants.

~~73.~~ As a result of the conduct of the Defendants as alleged, the Plaintiff and each other member of the Class suffered losses and damages as a result of acquiring HEXO's securities at artificially inflated prices on or after April 11, 2018, and holding some or all of those securities until after one or more of the Corrective Disclosures.

~~74.~~ Therefore, the Defendants are liability to pay damages pursuant to ss. 130, 138.3, 138.5 and 138.7 of the *OSA* and Equivalent Securities Act to the Plaintiff and to the other members of the Class.

~~75.~~ The Plaintiff and the other members of the Class are also entitled to recover as damages, or costs in accordance with the *CCP*, costs, interest and the Special Indemnity as provided by law as well as the costs of publication and administering the plan to distribute the recovery in this action.

RELEVANT LEGISLATION

~~76.~~ The Plaintiff pleads and relies upon Art. 575 ff C.C.P., Section 225.4 QSA, Art. 1475 of the C.C.Q. and NI 51-102, NI 52-109, the *OSA*, and Equivalent Securities Acts.

November 18, 2019

Charles O'Brien
Lorax Litigation
1233 Island Street
Montreal, Quebec
H3K 2N2
Tel: 514-484-0045
Fax: 514-484-1539