

THE COMPETITION TRIBUNAL

**IN THE MATTER OF the *Competition Act*, R.S. 1985, c. C-34,
as amended;**

**IN THE MATTER OF an application by the Commissioner of
Competition pursuant to section 79 of the *Competition Act*;**

**AND IN THE MATTER OF certain policies and procedures of
Reliance Comfort Limited Partnership.**

B E T W E E N:

COMPETITION TRIBUNAL TRIBUNAL DE LA CONCURRENCE	
FILED / PRODUIT May 26, 2014 CT-2012-002 Jos LaRose for / pour REGISTRAR / REGISTRAIRE	
OTTAWA, ONT	# 105

THE COMMISSIONER OF COMPETITION

Applicant

- and -

RELIANCE COMFORT LIMITED PARTNERSHIP

Respondent

- and -

NATIONAL ENERGY CORPORATION

Intervenor

SUPPLEMENTARY MOTION RECORD

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SUPPLEMENTARY MOTION RECORD INDEX

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1 .	Affidavit of Celso Mello Sworn May 26, 2014	1-5
2 .	Supplemental Affidavit of Patrick Johnston Affirmed May 26, 2014	5-20
	Exhibit "A" Folder A: Sound recordings with file identification numbers: NAT000125646 and NAT000167801 Folder B: Sound recordings with file identification numbers: NAT000009859, NAT000009946, NAT000022025, NAT000029809 and NAT000037410	21-22 and electronic files

TAB 1

THE COMPETITION TRIBUNAL

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AFFIDAVIT OF CELSO MELLO

(Sworn May 26, 2014)

I, Celso Mello, of the Town of Oakville, in the Province of Ontario, **MAKE OATH
AND SAY AS FOLLOWS:**

1. I am a Chief Information Officer with the Reliance Comfort Limited Partnership (“**Reliance**”), the Respondent in this application. I have worked for Reliance for almost six years, and have 28 years of experience in the Information Technology field. As such, I have

knowledge of the matters to which I hereinafter depose. Where the information I have set out is based on knowledge I have acquired from others, I have identified the source of that information and believe that information to be true.

2. I have read the affidavit of Patrick Johnston affirmed May 9, 2014 (the "Johnston Affidavit"), the affidavit of Ash Rajendra sworn May 22, 2014 (the "Rajendra Affidavit"), and the affidavit of Jeffrey Chamberlain sworn May 23, 2014 (the "Chamberlain Affidavit").

3. The Rajendra Affidavit describes National's customer call database and suggests that the inability to search the database necessitates the expenditure of at least 92,000 hours to review it. However, it appears (as described further below) that Reliance's database of call recordings is much larger than National's, and yet a review was conducted through a filtering and targeted review process. In this regard, National's customer call database is described at paragraph 16 of the Rajendra Affidavit as comprising 55 million minutes of telephone conversations. By comparison, Reliance's customer call database comprises approximately 48 million unique call recordings. The average call received by Reliance is about 6 minutes. Based on this, Reliance's customer call database comprises roughly 288 million minutes of calls.


4. Similar to National's database, as described at paragraph 6 of the Rajendra Affidavit, Reliance's call recordings database maintains data associated with each call, including the duration, date and queue of each call recording. Like with National's database, as described at paragraphs 7 and 10 of the Rajendra Affidavit, Reliance cannot readily conduct searches of its customer call database based on relevancy to particular issues in this application, nor can it identify calls by location. Like National, Reliance does not transcribe its customer call recordings.

5. However, Reliance was able to greatly reduce the data which needed to be reviewed by preparing short programs known as "scripts", using SQL (Structured Query Language) programming language, which filtered Reliance's customer call database by the duration, date and queue (being defined as the collection of employees of who took a certain kind or kinds of calls), all of which are records associated with each call available to National, as indicated in paragraph 6 of the Rajendra Affidavit. The use of the SQL language is standard for database

programs, such as call recording databases, and I believe all current database programs are compatible with SQL. The scripts prepared by Reliance were fairly simple and I believe most database administrators with at least two or three years of experience would be able to program them, once they become familiar with the structure of the database in question, which can be done through deductive analysis, the method employed by Reliance.

6. The filtering described above was used to create the Recordings Subset of approximately 360,000 calls referred to at paragraph 24 of the Johnston Affidavit. Based on an average call time of 6 minutes, this resulted in the Recordings Subset being roughly 2.16 million minutes, or 0.75% of the total call recordings database of 288 million minutes. I understand from Mr. Johnston that a small portion of the Recording Subset was actually reviewed through the use of phonetic search software, as described in the Johnston Affidavit.

SWORN BEFORE ME at the City)
of Toronto, in the Province of Ontario)
this 26th day of May, 2014)



A Commissioner, etc.)
JOHN B. COOK
SOLICITOR)



Celso Mello

**THE COMMISSIONER OF
COMPETITION**
Applicant

- and -

**RELIANCE COMFORT
LIMITED PARTNERSHIP**
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AFFIDAVIT OF CELSO MELLO

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Reliance Comfort Limited Partnership

TOR01: 5601315: v1

TAB 2

THE COMPETITION TRIBUNAL

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**SUPPLEMENTAL AFFIDAVIT OF
PATRICK JOHNSTON**

(Affirmed May 26, 2014)

I, Patrick Johnston, of the City of Toronto, in the Province of Ontario, **AFFIRM AND SAY AS FOLLOWS:**

1. I am a paralegal with the firm Borden Ladner Gervais LLP (“**BLG**”), the lawyers acting for the Respondent, Reliance Comfort Limited Partnership (“**Reliance**”), and previously

affirmed an affidavit on May 9, 2014 filed in this proceeding. I am involved in the assembly of the productions of Reliance in this matter. As such I have knowledge of the matters to which I hereinafter depose. Where the information I have set out is based on knowledge I have acquired from others, I have identified the source of that information and believe that information to be true.

2. I have read the affidavit of Ash Rajendra sworn May 22, 2014 (the "Rajendra Affidavit"), and the affidavit of Jeffrey Chamberlain sworn May 23, 2014 (the "Chamberlain Affidavit").

3. At paragraph 18 of the Rajendra Affidavit, Mr. Rajendra states that document review service providers charge approximately \$100 per hour. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

4. At paragraph 13 of the Rajendra Affidavit, Mr. Rajendra states that "National has already provided to Reliance approximately 17,000 records relevant to complaints", following which Mr. Rajendra lists a variety of different documents relating to complaints – half of which relate to complaints against Reliance. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

5. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(a)

[REDACTED]

(b)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]


[REDACTED]

6. At paragraphs 14 and 15 of the Rajendra Affidavit, Mr. Rajendra states that “National has already provided Reliance with approximately 1,400 recorded telephone conversation with customers or prospective customers”, and that “National has already produced a significant volume of such recordings, including what it believes to be the most relevant of such recordings”. However, as noted in my prior affidavit, this is actually 1,140 sound recordings, and the vast majority of these do not relate to customer complaints – most being simply recordings of

National's verification process. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

7. At paragraph 3 of the Chamberlain Affidavit, Mr. Chamberlain states that the Commissioner has produced "approximately 144,000 records" to Reliance. The productions received by Reliance from the Commissioner number 75,502 documents, not 144,000. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

AFFIRMED BEFORE ME at the City)
of Toronto, in the Province of Ontario)
this 26th day of May, 2014)
)
)
)
)
)
)
)



A Commissioner, etc.)
JONATHAN ASSELSTINE

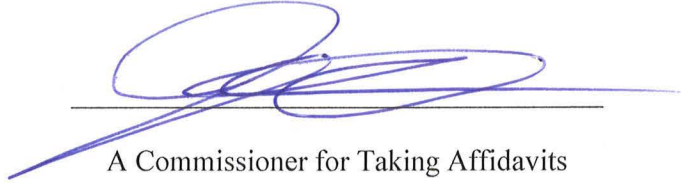


Patrick Johnston

Schedule "A"

[CONFIDENTIAL]

This is **Exhibit "A"** mentioned and referred
to in the Affidavit of Patrick Johnston
affirmed before me on May 26, 2014



A Commissioner for Taking Affidavits

[CONFIDENTIAL]

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TOR01: 5601343: v1

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CT-2012-002

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