



Reference: *Commissioner of Competition v. Gestion Lebski inc.*, 2012 Comp. Trib.
25

File No.: CT-2005-007

Registry Document No.: 119

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c. C-34, and its amendments;

AND IN THE MATTER OF an inquiry under subparagraph 10(1)(b)(ii) of the *Competition Act* in relation to the marketing practices of Gestion Finance Tamalia inc. et al;

AND IN THE MATTER OF an application by the Commissioner of Competition for an order under section 74.1 of the *Competition Act*;

BETWEEN

The Commissioner of Competition
(applicant/judgment creditor)

and

Gestion Finance Tamalia inc.
(respondent/judgment debtor)

and

the Attorney General of Quebec for the Registrar of the Quebec Court of Appeal
(garnishee)

and

Dr. Dominique Garrel
Option consommateurs
(opponents)

Date of hearing: 20121108

Judicial member: Mr. Justice André Scott

Date of order: November 13, 2012

Order signed by: Mr. Justice André Scott



ORDER

[1] WHEREAS the judgment rendered on January 20, 2010, by the Quebec Superior Court allowed the case of Dr. Dominique Garrel (“Dr. Garrel”) and Option consommateurs as respondents against Gestion Finance Tamalia inc., Gestion Lebski inc. and Sylvain Leblanc, and ordered them to pay the costs in this proceeding;

[2] AND WHEREAS the judgment rendered on September 11, 2012, by the Quebec Court of Appeal in 500-09-020433-108 (500-05-066320-019), upheld the award of costs in the first proceeding against Gestion Finance Tamalia inc.;

[3] AND WHEREAS the provisional garnishment order by this Tribunal dated September 27, 2012, ordered that any amount owing or which might become owing by the garnishee to the judgment debtor, more particularly, but not limited to, the amounts held at the registry of the Quebec Superior Court as security for costs in case 500-09-020433-108 of the Quebec Court of Appeal held by the garnishee in the name and on behalf of the judgment debtor, Gestion Finance Tamalia Inc., be garnished in order to respond to the order made on September 8, 2006, by this Tribunal against Gestion Finance Tamalia inc., the whole, as appears in the Tribunal record;

[4] AND WHEREAS on October 12, 2012, as also appears in the file for this Tribunal and in application of the Order made on September 27, 2012, the garnishee, through Catherine Dufour, assistant registrar of the Quebec Court of Appeal, produced the declaration of the duly sworn garnishee stating that:

On the date of service of this garnishment, the garnishee had in its possession amounts which it owes or might owe to the respondent Gestion Finance Tamalia inc.;

The respondent Gestion Finance Tamalia inc. is one of the appellants in case 500-09-020433-108 of the Quebec Court of Appeal;

The appellants entered this record on appeal on February 19, 2010;

On June 14, 2010, the Quebec Court of Appeal dismissed two motions to dismiss an appeal presented by the respondents in the file and ordered the appellants to provide two securities of \$100,000 to guarantee the payment of the costs of the appeal and of the respondents’ costs;

On July 14, 2010, the appellants filed on the Court record the amount of \$200,000 as security;

On September 11, 2012, the Court allowed the appeal in part, without costs on appeal given the mixed result; and

To date, the amount of \$200,000 is still held by the financial services of the Ministère de la Justice;

[5] AND WHEREAS the content of rule 449 of the *Federal Courts Rules*, SOR/98-106, allowing this Tribunal to order, on an *ex parte* motion of a judgment creditor, that a debt owing or accruing from a person in Canada to a judgment debtor, be attached to answer the judgment debt;

[6] AND WHEREAS, under the Quebec Court of Appeal judgment dated September 11, 2012, the amounts posted as security by Gestion Tamalia inc. became due to Dr. Garrel and Option consommateurs;

[7] AND WHEREAS the garnishment by Her Majesty the Queen on September 27, 2012, relates to sums regarding which the debtor Gestion Tamalia inc. no longer has any rights pursuant to the judgment rendered by the Court of Appeal on September 11, 2012;

CONSEQUENTLY:

[8] The Tribunal quashes the garnishment practiced by Her Majesty the Queen, with costs.

DATED at Ottawa, this 13th day of November, 2012.

SIGNED on behalf of the Tribunal by the presiding judicial member.

(s) André F. Scott

APPEARANCES

For the judgment creditor

Her Majesty the Queen in Right of Canada

Mariève Sirois-Vaillancourt

For the garnishee

The Attorney General of Quebec, for the Registrar of the Court of Appeal of

Quebec

Isabelle Brunet

For the respondents

Dr. Dominique Garrel

Bogdan Catanu
Vanessa Arviset

Option Consommateur

Jean-Pierre Fafard