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June 19, 2009

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Our File No. 07/5264

VIA EMAIL

Competition Tribunal
Thomas D'Arcy McGee Building
#600- 90 Sparks Street
Ottawa, Ontario
K1P 5B4

Attention: Joseph LaRose

COMPETITION TRIBUNAL TRIBUNAL DE LA CONCURRENCE FILED / PRODUIT June 19, 2009 Jos LaRose for / pour REGISTRAR / REGISTRAIRE	
OTTAWA, ONT	# 473

Dear Sir:

**Re: Nadeau Ferme Avicole Limitée/Nadeau Poultry Farm Limited ("Nadeau")
CT-2008-004**

Pursuant to the Order Regarding Disclosure by the Applicant in the Contempt Proceeding dated June 4th, 2009, enclosed herewith please find the following to be filed with the Tribunal:

1. List of Witnesses to be called by the Applicant (Public);
2. Witness Statement of Ms. Denise Boucher (Confidential Level A and Public);
3. Witness Statement of Mr. Yves Landry (Public);
4. Witness Statement of Dr. Rachel Oukama (Confidential Level A and Public);
5. List of Relevant Documents (Confidential Level A);
6. Copies of all documents listed in the List of Relevant Documents which are not in the Tribunal Record (confidentiality level for each noted in the List of Relevant Documents); and
7. Affidavit of Service in respect of same.

Please note that no Witness Statement has been prepared for Mr. Patrick Noël, as the Applicant does not intend to rely on the evidence of this witness for any matters which he has not already covered in his evidence. Additionally, please note that although we believe that some documents enumerated in the List of Relevant Documents are, in fact, irrelevant, they have been listed and provided (where necessary) out of an abundance of caution to ensure full compliance with the Order.

At this juncture, we believe it is prudent to raise the issue of expert testimony at the Show Cause Hearing. Westco has asked that the nature of disclosure in this proceeding be akin to that in a criminal prosecution. Having considered the submissions of counsel in this regard, this Tribunal has Ordered that although the disclosure requirement in this quasi-criminal proceeding is less than those in criminal proceedings, significant disclosure obligations were nonetheless appropriate.

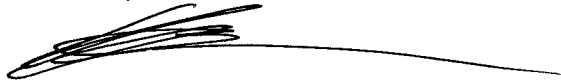
In tribunal, civil and criminal proceedings alike, parties are required to provide to each other notice of the evidence to be given by any experts called in support of their cases. Rule 77 of the *Competition Tribunal Rules* requires parties to provide advanced notice of expert witness testimony by filing experts' reports 60 days prior to the hearing. The *Criminal Code* requires that a party, including the accused, who intends to call a person as an expert witness shall both: (i) give notice of its intention in respect of same to the other party (inclusive of the expert witness' name, description of witness' area of expertise, and statement of qualifications as an expert); and (ii) provide to the other party a copy of the expert's report or witness statement prior to calling its expert. The case law suggests that these requirements were intended to produce more fairness for the Crown by avoiding surprises in expert evidence. They also seek to avoid unnecessary delay caused by adjournments to allow the prosecution to retain and consult with its own experts required for the preparation of the cross-examination of the accused's witness and/or to respond with its own expert evidence.

As Dr. Ouckama has not and likely will not prepare a report, a Witness Statement has been provided in place of same, and pursuant to the Tribunal's Order. It is our expectation that Westco will call an expert of its own and we therefore ask that they be subjected to this same disclosure obligation. For the foregoing reasons, the Applicant requests that the Respondent Westco be required to produce witness statements for experts it intends to call in its defence, if any, prior to the conference call of July 13, 2009. This will allow the Applicant to adequately prepare its case and, if necessary, to add additional witnesses to its List of Witnesses, which may affect the scheduling of the Show Cause Hearing and/or the pre-hearing procedures associated with same.

We thank you kindly in advance for your consideration of this issue.

Yours truly,

FOGLER, RUBINOFF LLP



Joshua R. Freeman

JRF/jp

Encl.

cc Leah Price, *Fogler, Rubinoff LLP*
Éric Lefebvre, *Ogilvy Renault LLP*