

COMPETITION TRIBUNAL  
TRIBUNAL DE LA CONCURRENCE

**FILED / PRODUIT**

January 8, 2009

Jos LaRose for / pour  
REGISTRAR / REGISTRAIRE

**PUBLIC VERSION**

File No.: CT-2008-004

Registry Document No: \_\_\_\_\_

OTTAWA, ONT

# 380

**COMPETITION TRIBUNAL**

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

**AND IN THE MATTER** of an application by Nadeau Ferme Avicole Limitée/Nadeau Poultry Farm Limited pursuant to section 75 of the *Competition Act*

**AND IN THE MATTER** of an application by Nadeau Ferme Avicole Limitée/Nadeau Poultry Farm Limited pursuant to section 104 of the *Competition Act*

**BETWEEN:**

**NADEAU FERME AVICOLE LIMITÉE/  
NADEAU POULTRY FARM LIMITED**

Applicant

- and -

**GROUPE WESTCO INC. AND GROUPE DYNACO, COOPÉRATIVE AGROALIMENTAIRE  
AND VOLAILLES ACADIA S.E.C. AND  
VOLAILLES ACADIA INC./ACADIA POULTRY INC.**

Respondents

## **NOTICE OF MOTION**

**TAKE NOTICE THAT** the Respondent, Groupe Westco Inc. (“Westco”), will make a Motion to this Honourable Tribunal on a date fixed by the Tribunal for the Motion to be heard, in Ottawa, Ontario.

## PUBLIC VERSION

### THE MOTION IS FOR:

1. An Order requiring Nadeau Poultry Farm Limited (“Nadeau”) to provide written answers (including providing materials and documents where applicable) to the questions refused during the Cross-Examinations on Affidavit of Yves Landry and Denise Boucher, as set out in Schedule “A”, within 15 days from the date of the Order;
2. An Order establishing the formal process through which Mr. Yves Landry and Ms. Denise Boucher will answer any questions arising from the answers provided pursuant to paragraphs 1 and 2 above;
3. Westco’s costs of this motion; and
4. Such further and other relief as this Court may seem just.

### THE GROUNDS FOR THE MOTION ARE:

5. By Notice of Application dated March 17, 2008, Nadeau commenced an application pursuant to Section 75 of the *Competition Act* (the “**Section 75 Application**”), by which it seeks an order requiring Westco and the Respondents to supply Nadeau with live chicken.
6. By a further Notice of Application dated March 17, 2008, Nadeau also commenced a within application pursuant to Section 104 of the *Competition Act*, by which it sought to obtain an interim order requiring Westco and the Respondents to supply Nadeau with live chicken until a final decision was rendered in the Section 75 Application.
7. By order dated June 26, 2008, the Competition Tribunal allowed Nadeau’s application for interim relief under section 104 of the Competition Act (the “**Interim Order**”).
8. By Notice of Motion dated November 4, 2008, Nadeau seeks an order pursuant to section 8 of the Competition Tribunal Act requiring the Respondents to show cause why they should not be held in contempt of the Interim Order (the “**Show Cause Motion**”).

**PUBLIC VERSION**

9. By Notice of Motion dated November 5, 2008, Westco, for its part, seeks an order or direction regarding the interpretation of the Interim Order (the "**Motion for Interpretation**").
10. By order dated November 28, 2008 the Competition Tribunal set dates for the conduct of the Show Cause Motion and the Motion for Interpretation. Examinations on affidavits filed in support of either the Show Cause Motion or the Motion for Interpretation were to be completed on or before December 23, 2008 and motions relating to issues arising in connection with such examinations were to be filed on or before January 7, 2009.
11. In the context of the Show Cause Motion and the Motion for Interpretation, two (2) representatives from Nadeau, Mr. Yves Landry and Ms. Denise Boucher, were cross-examined on December 22, 2008 on affidavits sworn respectively in support of the Show Cause Motion and in response to the Motion for Interpretation. At these examinations, various objections were made to questions asked by Westco's counsel.
12. Certain of the questions were improperly refused. The questions to which the refusals relate are directly relevant to the issues raised in this proceeding. The answers may, moreover, lead to a train of inquiry which could either directly or indirectly impact the Show Cause Motion, Westco's response thereto, or the Motion for Interpretation.
13. Attached to this Notice of Motion is Schedule "A" containing the questions which Nadeau refused to answer and to which Westco seeks answers.
14. Such further and other grounds as counsel may advise and this Court may permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be relied on at the hearing of the motion:

1. The Affidavit of Nathalie Angers sworn January 7, 2009;
2. The transcripts of the Cross-Examinations on Affidavit of Mr. Yves Landry and Ms. Denise Boucher;

**PUBLIC VERSION**

3. Schedule A, attached, which summarizes the context and specific wording of the question in dispute, the objection as formulated by opposing counsel and Westco's reasons for the question; and
4. Such further and other material as counsel may advise and this Honourable Court may permit.

**DATED AT MONTREAL**, this 7<sup>th</sup> day of January, 2009.

***(S) Ogilvy Renault LLP***

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Applicant

- and -

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AND VOLAILLES ACADIA S.E.C. AND  
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Respondents

**AFFIDAVIT OF NATHALIE ANGERS**

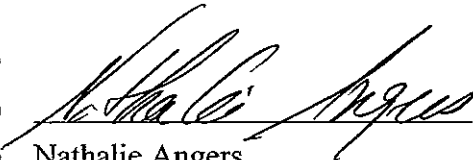
I, Nathalie Angers, of the city of Montreal, in the province of Quebec, SWEAR THAT:


1. I am a legal assistant with Ogilvy Renault LLP, counsel to Groupe Westco Inc. in this proceeding;

2. I swear this affidavit in support of Groupe Westco Inc.'s motion to compel the Applicant to answer certain questions objected to during the cross-examinations on affidavit of Mr. Yves Landry and Ms. Denise Boucher, on December 22, 2008;
3. I am advised by Eric C. Lefebvre, of Ogilvy Renault LLP, and verily believe that :
4. Two (2) representatives from the Applicant, Mr. Yves Landry and Ms. Denise Boucher, were cross-examined on affidavit on December 22, 2008, as appears from the transcripts attached as Exhibit A to this Affidavit.
5. At these examinations, objections were made to certain questions posed to Mr. Yves Landry and Ms. Denise Boucher. Groupe Westco Inc. seeks to have certain of these questions answered.

SWORN before me at the City of Montreal )

on the 7<sup>th</sup> day of January, 2009 )

)   
 ) Nathalie Angers

  
 Commissioner of Oaths



**PUBLIC VERSION**

**SCHEDULE "A"  
REFUSALS**

**CONFIDENTIAL**