



Reference: *B-Filer Inc. et al. v. The Bank of Nova Scotia*, 2007 Comp. Trib. 5
File No.: CT-2005-006
Registry Document No.: 0168

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

AND IN THE MATTER OF an application by B-Filer Inc., B-Filer Inc. doing business as GPAY GuaranteedPayment and Npay Inc. for an order pursuant to section 75 of the *Competition Act*.

B E T W E E N :

**B-Filer Inc.,
B-Filer Inc. doing business as
GPAY GuaranteedPayment and
Npay Inc.**
(applicants)

and

The Bank of Nova Scotia
(respondent)



Date of conference call: 20070319
Presiding Judicial Member: Dawson J.
Date of Order: March 23, 2007
Order signed by: Madam Justice E. Dawson

**ORDER DISMISSING THE APPLICATION AND SETTING OUT A SCHEDULE
FOR THE FILING OF WRITTEN SUBMISSIONS ON COSTS**

[1] FURTHER TO the Tribunal's Confidential Reasons for an Order dated December 20, 2006, in which it held that the Applicants had failed to meet the constituent elements of subsection 75(1) of the *Competition Act*, R.S.C. 1985, c. C-34, and in which it stated that an order dismissing the application would issue once the issue of costs has been dealt with;

[2] AND WHEREAS the parties have advised the Tribunal that, notwithstanding three extensions of time, they have been unable to agree on the issue of costs and have requested the right to make submissions to the Tribunal;

[3] AND FURTHER TO the discussion held with counsel during the teleconference of March 19, 2007;

THE TRIBUNAL ORDERS THAT:

[4] The Applicants' application for an order pursuant to section 75 of the *Competition Act* is dismissed.

[5] The issue of costs is reserved, to be dealt with by the Tribunal on the basis of written submissions.

[6] The Respondent shall serve and file its written submissions as to costs within 30 days of the date of this order.

[7] The Applicants shall serve and file its responding written submissions within 30 days after the service of the Respondent's submissions.

[8] Any reply submissions on behalf of the Respondent shall be served and filed within 15 days after the service of the Applicants' submissions.

DATED at Ottawa, this 23th day of March, 2007.

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

(s) Eleanor R. Dawson

APPEARANCES:

For the applicants:

B-Filer Inc., B-Filer Inc. doing business as GPAY GuaranteedPayment and
Npay Inc.

Michael Osborne
Sharon Dalton
Jennifer Cantwell

For the respondent:

The Bank of Nova Scotia

Lisa Constantine
Tanya Pagliaroli