

COMPETITION TRIBUNAL

IN THE MATTER of an Application for an Interim Order pursuant to section 100 of the *Competition Act* R.S.C. 1985, c. C-34, as amended;

AND IN THE MATTER of an Inquiry pursuant to subsection 10(1)(b) of the *Competition Act* R.S.C. 1985, c. C-34, as amended, into the proposed acquisition by Labatt Brewing Company Limited of Lakeport Brewing Income Fund.

B E T W E E N :

COMPETITION TRIBUNAL TRIBUNAL DE LA CONCURRENCE	
FILED / PRODUIT	
March 23, 2007	
Jos LaRose för / pour REGISTRAR / REGISTRAIRE	
OTTAWA, ONT	# 0014

The Commissioner of Competition

Applicant

- and -

Labatt Brewing Company Limited
Lakeport Brewing Income Fund
Lakeport Brewing Limited Partnership
Roseto Inc. and
Teresa Cascioli

Respondents

, AFFIDAVIT OF MIGUEL NUNO DA MATA PATRICIO
(sworn March 23, 2007)

I, Miguel Nuno da Mata Patricio, of the City of Mississauga, in the Province of Ontario,
SWEAR THAT:

1. I am the President, North America Zone (“President”), of Labatt Brewing Company Limited (“Labatt”), and have knowledge of the matters deposed to in this affidavit except where those matters are said to be based on information and belief, in which case I state the source of the information and I verily believe it to be true. I have also reviewed the non-confidential versions of the affidavits of Philip Nelson, sworn March 20, 2007 and Stephen Peters, sworn March 21, 2007 in this matter.

2. My responsibilities as President of Labatt include oversight and management of its Canadian operations, including those in Ontario. Labatt has more than 3000 employees across Canada. I report to and take instruction from Labatt’s Board of Directors.

3. I have been authorized by resolution of the Board of Directors of Labatt and have authority to give the undertakings and commitments contained in this affidavit on behalf of and to bind Labatt.

4. On January 31, 2007, Labatt entered into a Support Agreement with Lakeport Brewing Income Fund (together with its affiliates, “Lakeport”) to acquire all units in the capital of Lakeport Brewing Income Fund or otherwise issued pursuant to the exchange of other securities convertible into or exchangeable for units of Lakeport Brewing Income Fund (the “Units”) at a purchase price of C\$28.00 per unit in cash.

5. On February 21, 2007, Labatt made an offer pursuant to an Offer to Purchase and Take-over Bid Circular (the “Offer”) to acquire all of the Units, which Offer was required to remain open until at least March 29, 2007 at 5 pm.

6. To prepare for closing of this transaction on March 29, 2007, by March 28, 2007, Labatt will deposit the maximum amount payable to Lakeport Unitholders for Units (including Units issuable upon the exercise of any exchange rights) that may be deposited under the Offer with the depositary, Computershare Investor Services Inc. (the “Depositary”), to be held in escrow until such time as Labatt instructs the Depositary to release funds from escrow to pay for Units. In addition, Labatt has coordinated the closing mechanics with the Depositary and with Clearing and Depositary Services Inc., through its nominee CDS & Co., and prepared all of the documentation to effect (i) the proposed amendments to the amended and restated declaration of

trust of Lakeport Brewing Income Fund dated June 21, 2005; (ii) the take-up and payment for the Units deposited under the Offer; and (iii) the compulsory acquisition to acquire the Units not tendered to the Offer. In addition, Labatt has coordinated the mechanics for delisting the Units from the Toronto Stock Exchange and prepared all of the documents necessary to have Lakeport delisted from the Toronto Stock Exchange and to cease to be a reporting issuer under Canadian securities legislation.

Background

7. [REDACTED]

8. According to Statistics Canada, in 2005 more than \$6.3 billion of alcoholic beverages were sold in Ontario. More than \$3.2 billion of those sales were of beer. [REDACTED]

9. Within the Ontario beer industry, products are often discussed as being in three segments: specialty, premium (also known as mainstream), and discount.

10. The discount segment has grown significantly over the past 10 years. Within the discount segment, there is a further sub-segment consisting of beer that is sold at the lowest price allowed by the Liquor Control Board of Ontario, called the Minimum Social Reference Price (the "MSRP"). This sub-segment is thus sometimes referred to as the deep discount sub-segment or the floor price sub-segment of the Ontario beer industry.

11. [REDACTED]

[REDACTED]

Rationale for This Transaction

12. [REDACTED]

13. [REDACTED]

14. [REDACTED]

15. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Labatt's principal competitor in Ontario is Molson, which has the top selling discount brand in Ontario: Carling.

16. Lakeport is a natural fit for Labatt in this regard and its acquisition would allow Labatt to better compete in this segment, given Lakeport's strong brand equity. Lakeport only sells discount beer. Lakeport has nine brands of beer and sells all of them in or around the MSRP. Contrary to the statements set out in the affidavits of Messrs Peters and Nelson, the rationale for this transaction is not to remove a competitor or to raise prices. Given current market conditions, I do not believe that is possible. As Labatt has maintained from the beginning of this transaction, Labatt's intention is for Labatt to participate and grow in the discount segment and take advantage of Lakeport's brand equity.

17. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

- [REDACTED]
[REDACTED]
- [REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]

• [REDACTED]
[REDACTED]
[REDACTED]

18. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

19. As mentioned, I have reviewed the non-confidential affidavits of Phillip Nelson and Stephen Peters filed by the Commissioner in this matter. They bear no relation to the business realities of selling beer in Ontario and the unique regulatory and competitive environment in which Labatt competes. I believe that if Labatt tried to raise Lakeport's prices or to discontinue Lakeport's brands, it would simply lose sales to Molson, Sapporo/Sleeman, Brick, Moosehead, Cool, Steelback, Niagara's Best, Wellington County, Northern, Lakes of Muskoka, and other beer competitors. [REDACTED]

[REDACTED] Importantly, this is a rapidly changing industry, where the market is now intensely competitive especially in the deep discount sub-segment. [REDACTED]
[REDACTED] as is self evident, there are now 53 brands and 10 brewers in the discount segment alone excluding Labatt and Lakeport as listed in The Beer Store ("TBS"). [REDACTED]
[REDACTED]

20. I understand that the Commissioner of Competition is now seeking an order from the Competition Tribunal delaying closing for an initial period of up to 30 days, and that it is possible for it to apply for a second order to delay closing for a further period of up to an additional 30 days. I understand from Labatt's counsel that the Tribunal has the power to prevent completion of the transaction if it appears likely that in the absence of such an order Labatt will take an action that will substantially impair the ability of the Tribunal to remedy the effect of the merger on competition because that action will be difficult to reverse.

21. However, Labatt does not intend to take any such irreversible actions should it be permitted to take up and pay for the units of Lakeport Brewing Income Fund, as currently scheduled on March 29, 2007, for the reasons set out above. [REDACTED]

[REDACTED]

Hold Separate Undertaking

22. As this is a public takeover bid in which certainty of timing is important, [REDACTED] [REDACTED] should the Bureau require more time to review this transaction, Labatt will hold the operations of Lakeport separate to allow the Bureau to complete its review of this matter, while permitting the Lakeport shareholders to be paid for their investments and providing certainty to the capital markets.

23. [REDACTED]

[REDACTED]

24. Notwithstanding that Labatt does not intend to take any action that would be difficult to reverse, I have been authorized and directed by Labatt's Board of Directors to solidify our intentions and give an undertaking by way of this affidavit to abide by the terms of the Hold Separate Arrangement, attached hereto.

25. [REDACTED]

26. [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

○ [REDACTED]

○ [REDACTED]

○ [REDACTED]

○ [REDACTED]

○ [REDACTED]

○ [REDACTED]

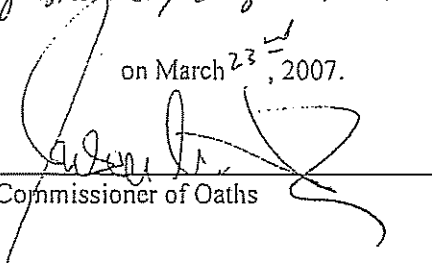
○ [REDACTED]

○ [REDACTED]

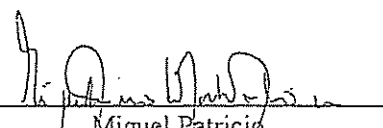
27. I swear this affidavit for the purposes of the application brought by the Commissioner of Competition under section 100 of the *Competition Act*.

SWORN BEFORE ME at the City
of Brussels, Belgium.

on March 23rd, 2007.

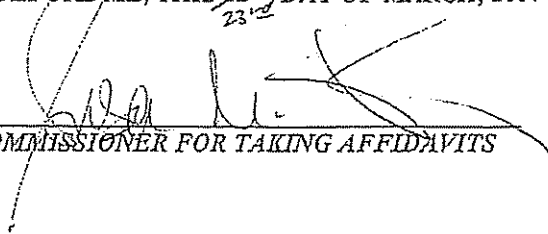


Commissioner of Oaths



Miguel Patricio

THIS IS EXHIBIT "1" REFERRED TO IN THE
AFFIDAVIT OF MIGUEL NUNO DA MATA PATRICIO
SWORN BEFORE ME, THIS 22ND DAY OF MARCH, 2007
23RD


A COMMISSIONER FOR TAKING AFFIDAVITS

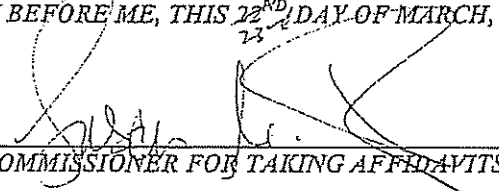
CONFIDENTIAL

THIS IS EXHIBIT "2" REFERRED TO IN THE
AFFIDAVIT OF MIGUEL NUNO DA MATA PATRICIO
SWORN BEFORE ME, THIS 22ND DAY OF MARCH, 2007


A COMMISSIONER FOR TAKING AFFIDAVITS

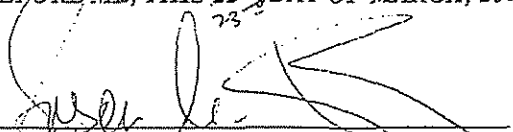
CONFIDENTIAL

THIS IS EXHIBIT "3" REFERRED TO IN THE
AFFIDAVIT OF MIGUEL NUNO DA MATA PATRICIO
SWORN BEFORE ME, THIS 22ND DAY OF MARCH, 2007


A COMMISSIONER FOR TAKING AFFIDAVITS

CONFIDENTIAL

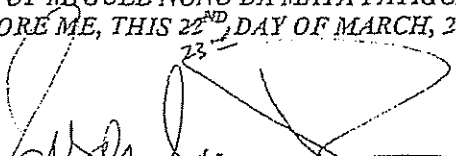
THIS IS EXHIBIT "4" REFERRED TO IN THE
AFFIDAVIT OF MIGUEL NUNO DA MATA PATRICIO
SWORN BEFORE ME, THIS 22ND DAY OF MARCH, 2007

A handwritten signature in black ink, appearing to be 'M. N. da M. P.', written over a horizontal line. The signature is stylized and somewhat cursive.

A COMMISSIONER FOR TAKING AFFIDAVITS

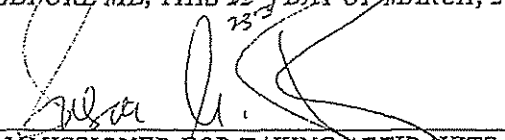
CONFIDENTIAL

*THIS IS EXHIBIT "5" REFERRED TO IN THE
AFFIDAVIT OF MIGUEL NUNO DA MATA PATRICIO
SWORN BEFORE ME, THIS 22ND DAY OF MARCH, 2007*


A COMMISSIONER FOR TAKING AFFIDAVITS

CONFIDENTIAL

THIS IS EXHIBIT "6" REFERRED TO IN THE
AFFIDAVIT OF MIGUEL NUNO DA MATA PATRICIO
SWORN BEFORE ME, THIS 22ND DAY OF MARCH, 2007


A COMMISSIONER FOR TAKING AFFIDAVITS

CONFIDENTIAL