

Competition Tribunal



Tribunal de la Concurrence

Reference: *B-Filer Inc. et al. v. The Bank of Nova Scotia*, 2006 Comp. Trib. 34
File No.: CT-2005-006
Registry Document No.: 0148

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)



Decided on the basis of the written record
Presiding Judicial Member: Dawson J.
Date of Order: September 22, 2006
Order signed by: Madam Justice E. Dawson

**ORDER REGARDING APPLICANTS' MOTION TO DECLARE THE AFFIDAVIT OF
STANLEY SADINSKY INADMISSIBLE**

[1] FURTHER TO the amended notice of application filed by the Applicants pursuant to section 75 of the *Competition Act*, R.S.C. 1985, c. C-34;

[2] AND FURTHER TO the affidavit of Mr. Stanley Sadinsky served by the Respondent on the Applicants;

[3] AND FURTHER TO the motion of the Applicants for an order declaring that the affidavit of Mr. Sadinsky is inadmissible;

[4] AND FURTHER TO the correspondence of counsel for the Applicants and the Respondent indicating that they do not wish to make oral submissions on the motion;

[5] AND UPON reading the written submissions filed on behalf of the Applicants and the Respondent and the affidavit of Mr. Sadinsky;

[6] AND UPON determining, for reasons to be delivered with the final reasons, that the Applicants' motion should be allowed;

THE TRIBUNAL ORDERS THAT :

[7] The affidavit of Mr. Stanley Sadinsky, sworn on November 22, 2005, shall not be admitted in evidence at the hearing as evidence of an expert witness;

[8] The decision as to costs is reserved until the Tribunal generally addresses the issue of costs.

DATED at Ottawa, this 22nd day of September, 2006.

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

(s) Eleanor R. Dawson

COUNSEL:

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

F. Paul Morrison
Lisa M. Constantine