

Competition Tribunal



Tribunal de la concurrence

Reference: *Commissioner of Competition v. Gestion Lebski inc.*, 2006 Comp. Trib. 19
File No.: CT-2005-007
Registry Document No.: 0116

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c. C-34, and its amendments;

AND IN THE MATTER OF an inquiry under subparagraph 10(1)(b)(ii) of the *Competition Act* in relation to the marketing practices of Gestion Finance Tamalia et al;

AND IN THE MATTER OF an application by the Commissioner of Competition for an order under section 74.1 of the *Competition Act*;

BETWEEN

The Commissioner of Competition

(applicant)

and

Gestion Lebski inc.

La Société de Financement Vanoit inc.

Maigrissimo inc.

Gestion Finance Tamalia inc.

9083-8434 Québec inc.

Sylvain Leblanc

(respondents)



Date of teleconference: April 3, 2006

Judicial member presiding over the teleconference: Mr. Justice Edmond P. Blanchard

Date of order: April 4, 2006

Order signed by: Mr. Justice Edmond P. Blanchard

**ORDER FOLLOWING THE CASE MANAGEMENT TELECONFERENCE HELD
ON APRIL 3, 2006**

[1] WHEREAS a case management conference was held on April 3, 2006;

[2] WHEREAS the respondents filed on February 20, 2006, three motions relating respectively to the following subjects:

- [i] Raise a constitutional question;
- [ii] Have certain respondents removed; and
- [iii] Have certain documents declared confidential.

[3] WHEREAS on April 3, 2006, with the consent of the parties, a confidentiality order was issued to declare certain documents confidential;

[4] WHEREAS the first two motions mentioned above will be heard at the beginning of the hearing on the merits of which the date is May 1, 2006;

[5] WHEREAS the Commissioner undertakes to produce responses to the two motions on April 17, 2006;

[6] CONSIDERING the Commissioner's motion to allow the presentation of oral testimony and the cross-examination of the affiants in the motion to have certain respondents removed and the cross-examination of the affiant in the motion to raise a constitutional question;

[7] CONSIDERING the arguments of the parties and section 41 of the *Competition Tribunal Rules*;

[8] AND WHEREAS the parties have agreed to prepare a draft consent concerning the admission of documentary evidence;

THE TRIBUNAL ORDERS THAT:

[9] The parties will provide the Tribunal with the following information by Friday, **April 7, 2006**:

- [i] the list of witnesses for each party;
- [ii] the expected time for the examination, cross-examination and re-examination of each witness; and
- [iii] the schedule for hearing the motions.

[10] The Commissioner will respond to the motions on the constitutional question and the removal by no later than Monday **April 17, 2006**.

[11] The Commissioner will file the expert reports no later than Friday, **April 21, 2006**, and with the consent of the parties, the Tribunal will review them before the hearing begins.

[12] The parties will file their draft consent to the admission of documentary evidence with the Tribunal by no later than Monday, **April 24, 2006**. In the absence of an agreement for certain voluminous documents or exhibits, the Tribunal could hold a new case management conference in order to resolve the problem posed by the considerable number of documents and to encourage the parties to reach an agreement aimed at limiting the number of documents filed.

[13] The Tribunal authorizes oral testimony and cross-examination of affiants at the hearing of the motion to remove, as well as the cross-examination of the affiant at the hearing of the motion to raise constitutional question, in accordance with subsection 41(2) of the *Competition Tribunal Rules*. The Commissioner must serve and file the summaries of oral testimony which will be heard at the hearing of the motion to remove no later than Wednesday, **April 26, 2006**.

[14] Evidence heard during the hearing of the motion to remove is deemed to be part of the evidence for the hearing on the merits.

[15] The two motions will be heard at the beginning of the hearing beginning on Monday, May 1, 2006, in Montreal in the following order:

- [i] Motion to raise a constitutional question; and
- [ii] Motion to remove certain respondents.

DATED at Ottawa, this 4th day of April 2006.

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

(s) Edmond P. Blanchard

APPEARANCES

For the applicant, the Commissioner of Competition:

Mariève Sirois-Vaillancourt
Anne-Marie Desgens

For the respondents, Gestion Lebski et al.

Alexandre Ajami
Stéphane Teasdale