

Competition Tribunal



Tribunal de la concurrence

Reference: *Commissioner of Competition v. Gestion Lebski inc.*, 2006 Comp. Trib. 14
File No.: CT-2005/007
Registry Document No.: 0114

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: February 23, 2006

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

Date of order: February 27, 2006

Order signed by the judicial member presiding over the proceeding: Mr. Justice Edmond Blanchard

**ORDER RESPECTING THE SCHEDULE OF THE THREE MOTIONS FILED BY
THE RESPONDENTS ON FEBRUARY 20, 2006**

[1] WHEREAS the Commissioner of Competition filed an application against the respondents on June 27, 2005;

[2] WHEREAS the Commissioner of Competition served a disclosure statement on the respondents on June 27, 28 and 30, 2005, under section 4.1 of the *Competition Tribunal Rules*;

[3] 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 files declared confidential.

[4] WHEREAS the next case management conference has been scheduled since several weeks for April 3, 2006;

[5] WHEREAS the date of commencement of the hearing on the merits is scheduled for May 1, 2006;

[6] CONSIDERING the parties' and the Tribunal's time and availability constraints;

[7] CONSIDERING the parties' arguments at the teleconference;

[8] WHEREAS the respondents are all represented by the same counsel, and the same natural persons are associated with the legal persons that the respondents wish to have removed;

[9] WHEREAS the evidence on the removal of certain respondents is linked to the evidence concerning the liability of the various respondents, which, in the Tribunal's opinion, is a substantive issue;

[10] CONSIDERING the interests of justice, the schedule that has already been fixed, the nature of the questions raised and the lack of prejudice to the respondents if the motion to remove certain respondents is heard at the hearing on the merits;

[11] WHEREAS the Tribunal considers that it is preferable to wait for the hearing on the merits to deal with the constitutional question, given its scope;

[12] AND WHEREAS the applicant considers that it is able to come to an agreement with the respondents regarding the motion to have certain documents declared confidential;

THE TRIBUNAL ORDERS THAT:

[13] The motion raising a constitutional issue will be heard early in the hearing beginning May 1, 2006, in Montréal.

[14] The motion to remove certain respondents will also be heard at the hearing beginning on May 1, 2006.

[15] The parties must submit a draft confidentiality order to the Tribunal no later than March 27, 2006, in preparation for the next case management conference call scheduled for April 3, 2006. Failing an agreement, the parties will file in writing by March 27, 2006, their arguments on the issue of confidentiality, which will be dealt with at the conference call on April 3, 2006.

[16] During the conference call on April 3, 2006, the parties will also have to address the following points, identified in the order dated October 28, 2005:

- [i] the list of witnesses for each party;
- [ii] the expected time for the examination, cross-examination and re-examination of each witness;
- [iii] the preparation of an agreed statement of facts;
- [iv] the preparation of joint documents; and
- [v] any other measure likely to facilitate the hearing of the proceeding.

DATED at Ottawa, this 27th day of February 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
Chantal Sauriol

For the respondents, Gestion Lebski et al.:

Alexandre Ajami
Stéphane Teasdale