



Reference: *B-Filer Inc. v. The Bank of Nova Scotia*, 2005 Comp. Trib. 44

File No.: CT-2005-006

Registry Document No.: 0063

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 Guaranteed Payment and Npay Inc. for an order pursuant to section 103.1 for leave to make an application under sections 75 and 77 of the *Competition Act*;

AND IN THE MATTER OF an application by B-Filer Inc., B-Filer Inc. doing business as GPAY Guaranteed Payment and Npay Inc. for an interim order pursuant to section 104 of the *Competition Act*.

B E T W E E N :

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

and

**The Bank of Nova Scotia**  
(respondent)

Date of hearing by conference call: 2005-11-29

Presiding Judicial Member: Lemieux J. (Acting Chairman)

Date of Order: December 1<sup>st</sup>, 2005

Order signed by: Mr. Justice François Lemieux



**ORDER ALLOWING THE FILING *NUNC PRO TUNC* OF RESPONDENT'S  
EVIDENCE**

[1] UPON the request of the Respondent to extend the time for service and filing of the Respondent's Affidavit Material for the purposes of the Applicants' application for an interim Order under section 104 of the *Competition Act*, R.S.C. 1985, c. C-34;

[2] AND FOLLOWING the telephone conference call held on November 29, 2005;

**THE TRIBUNAL ORDERS THAT:**

[3] The filing *nunc pro tunc* of the eight affidavits sworn by affiants for the Bank of Nova Scotia is allowed.

[4] The Direction issued by the Competition Tribunal on November 16, 2005 is varied to grant an extension to the Applicants to serve and file additional evidence in reply on or before Monday, December 5, 2005, upon an undertaking by counsel for the Applicants to serve this material as early as reasonably possible.

[5] Costs thrown away because of the late filing by the Respondent are awarded to the Applicants and will be assessed by a taxing officer, unless otherwise ordered by the Tribunal.

DATED at Ottawa, this 1<sup>st</sup> day of December, 2005.

SIGNED on behalf of the Tribunal by the Acting Chairman of the Tribunal.

(s) François Lemieux

APPEARANCES:

For the Applicants B-Filer Inc., B-Filer Inc. doing business as GPAY  
GuaranteedPayment and Npay Inc.:

Mr. Adam N. Atlas

For the Respondent Bank of Nova Scotia:

Mr. F. Paul Morrison

Ms. Lisa M. Constantine