



Reference: *B-Filer Inc. v. The Bank of Nova Scotia*, 2005 Comp. Trib. 37
File No. CT-2005-006
Registry Document No.: 0035

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)

Decided on the basis of the written record.
Presiding Judicial Member: Simpson J. (Chairperson)
Date of Order: November 4, 2005
Order signed by: Madam Justice Sandra J. Simpson



ORDER GRANTING LEAVE TO APPLY ONLY UNDER SECTION 75

[1] **UPON** application by B-Filer Inc., B-Filer Inc. doing business as GPAY GuaranteedPayment and Npay Inc. (the "Applicants") to the Competition Tribunal (the "Tribunal") pursuant to section 103.1 of the *Competition Act*, R.S.C. 1985, c. C-34, as amended (the "Act"), for leave to make an application under sections 75 and 77 of the Act for an order directing that the Bank of Nova Scotia ("BNS") accept the Applicants as customers on usual trade terms, and an order prohibiting BNS from engaging in exclusive dealing.

[2] **AND UPON** determining, for Reasons which will follow shortly, that leave should be granted under section 75 but not under section 77.

NOW THEREFORE THE TRIBUNAL ORDERS THAT:

[1] The application for leave to apply under section 75 is granted.

[2] The application for leave to apply under section 77 is dismissed.

DATED at Ottawa, this 4th day of November, 2005.

SIGNED on behalf of the Tribunal by the Chairperson of the Tribunal.

(s) Sandra J. Simpson

COUNSEL

For the Applicants:

Mr. Adam Atlas

For the Respondent:

Mr. F. Paul Morrison

Mr. Glen G. MacArthur

Ms. Lisa M. Constantine