

FILED / PRODUIT

Date: September 29, 2010
CT- 2010-006

Chantal Fortin for / pour
REGISTRAR / REGISTRARE

File No. CT-2010-006

OTTAWA, ONT.

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THE COMPETITION TRIBUNAL

IN THE MATTER OF THE *COMPETITION ACT*, R.S.C. 1985, c. C-34 as amended;

AND IN THE MATTER OF an inquiry pursuant to subparagraph 120(1)(b)(ii) of the Competition Act relating to the marketing practices of Brent Marshall (also known as Brent Marshall), also doing business in Alberta as Dynasty Spas and Games Room, Rochelle Marshall (also known as Rochelle Marshall), Dynasty Spas Inc., also doing business as Ecosmart Spas, and 1232466 Alberta Ltd., also doing business as Dynasty Spas;

AND IN THE MATTER OF an Application by the Commissioner of competition for an order pursuant to section 74.1 of the Competition Act.

BETWEEN:

THE COMMISSIONER OF COMPETITION

Applicant

-and-

BRENT MARSALL (also known as Brent Marshall), also doing business in Alberta as DYNASTY SPAS AND GAMES ROOM, ROCHELLE MARSALL (also known as Rochelle Marshall), DYNASTY SPAS INC., also doing business as ECOSMART SPAS, and 1232466 ALBERTA LTD., also doing business as DYNASTY SPAS

Respondents

RESPONSE OF ROCHELLE MARSALL

1. Except where otherwise expressly admitted herein, the Respondent, Rochelle Marsall ("Ms. Marsall") denies each and every allegation contained in the Notice of Application ("Notice") filed by the Commissioner of Competition ("Commissioner") on July 20, 2010.
2. Ms. Marsall admits the facts contained in paragraph 9 of the Notice.
3. Ms. Marsall further states that:
 - (a) she is a 20% shareholder of the respondent, 1232466 Alberta Ltd.;
 - (b) she has no ownership interest or employment relationship with the respondent, Dynasty Spas Inc.; and
 - (c) She is the sister of the respondent, Brent Marsall.

4. Ms. Marsall adopts the grounds and statement of material facts set forth in the Response of Brent Marsall, Dynasty Spas Inc. and 1232466 Alberta Ltd.

5. While the Commissioner has pleaded detailed particulars of its allegations at paragraph 18 of its Notice, no particulars of any personal involvement of Ms. Marsall have been pleaded beyond bare unparticularized assertions in paragraph 21, which are expressly denied. Further, there is no legal or factual basis for attributing personal liability to Ms. Marsall for any alleged acts or omissions of 1232466 Alberta Ltd. Accordingly, the Commissioner has no genuine basis for proceeding against Ms. Marsall and she is not a proper party to this proceeding.

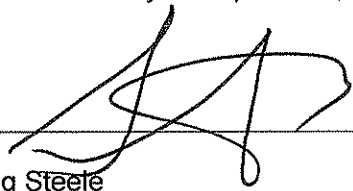
6. The Respondent further states that the Competition Bureau ("Bureau") contacted other dealers and offered them an opportunity to resolve this matter without the payment of an administrative monetary penalty. No such opportunity was provided to Ms. Marsall. Indeed, the Bureau never contacted Ms. Marsall at all.

7. Ms. Marsall states that she has been singled out by the Bureau solely because she is the sister of the respondent Brent Marsall.

8. The Respondent requests that this proceeding be conducted in the English language, and that it be heard in Calgary, Alberta.

WHEREFORE the Respondent, Rochelle Marsall, requests that the Notice of Application be dismissed with costs.

DATED at the City of Calgary, in the Province of Alberta, this 29th day of September, 2010.



Craig Steele
Counsel to for the Respondent,
Rochelle Marsall

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RESPONSE OF ROCHELLE MARSALL,

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