

Competition Tribunal



Tribunal de la Concurrence

Citation: *Goshen Professional Care Inc v The Saskatchewan Health Authority and the Ministry of Health*, 2024 Comp Trib 7

File No.: CT-2024-007

Registry Document No.: 15

IN THE MATTER OF the *Competition Act*, RSC 1985, c C-34, as amended;

IN THE MATTER OF an application by Goshen Professional Care Inc for an order under section 103.1 granting leave to make an application under sections 75 and 79 of the *Competition Act*.

BETWEEN:

Goshen Professional Care Inc
(applicant)

and

The Saskatchewan Health Authority
The Ministry of Health
(respondents)



Decided on the basis of the written record.

Before: Justice Andrew D. Little (Chairperson)

Date of order: November 5th, 2024

ORDER PAUSING THE APPLICATION UNDER SECTION 103.1 UNTIL AFTER A HEARING IN THE SASKATEWAN COURT OF KING'S BENCH

[1] **FURTHER TO** an application filed by Goshen Professional Care Inc (“**Goshen**”) dated October 2, 2024, against The Saskatchewan Health Authority (the “**SHA**”) and The Ministry of Health (collectively, the “**Parties**”) for an order under section 103.1 of the *Competition Act*, RSC 1985, c C-34;

[2] **AND FURTHER TO** the Commissioner of Competition’s (“**Commissioner**”) certification pursuant to subsection 103.1(3) of the *Competition Act*, filed with the Tribunal on October 11, 2024, that this matter is not currently the subject of an inquiry nor was it the subject of an inquiry that has been discontinued because of a settlement between the Commissioner and the persons against whom an order is sought;

[3] **AND FURTHER TO** the Tribunal’s notice under to subsection 103.1(5) of the *Competition Act* dated October 17, 2024, confirming that it can hear this application for leave;

[4] **AND UPON** an informal motion filed by counsel to the SHA dated October 23, 2024, seeking leave to file affidavit evidence as part of the SHA’s responding representations to the leave application and an extension of the deadline to deliver the SHA’s responding materials, including the affidavit evidence, until November 15, 2024;

[5] **AND UPON** reading a letter dated October 25, 2024 filed by counsel to a receiver (the “**Receiver**”) appointed by order of the Court of King’s Bench for Saskatchewan in Bankruptcy and Insolvency (the “**Bankruptcy Court**”) dated November 23, 2023, in KGB-RG-01228 of 2023, over all assets, undertakings and properties of Goshen, which letter informed the Tribunal of the receivership and informally requested that the present matter be adjourned until a hearing before the Bankruptcy Court that could impact Goshen’s standing and ability to bring the present matter before the Tribunal;

[6] **AND UPON** the Tribunal’s receipt of email communications on October 30, 2024 from counsel to the SHA and counsel to the Receiver, confirming that the Bankruptcy Court’s hearing has been scheduled for November 22, 2024;

[7] **AND UPON** a direction from the Tribunal dated October 31, 2024, requesting that the Parties attend a case management conference to discuss, among other things, (1) a possible stay of the application under section 103.1 of the *Competition Act*, pending a determination of the Bankruptcy Court concerning whether Goshen has authority to commence the application in light of the order of that court dated November 23, 2023, in KGB-RG-01228 of 2023 and any other relevant circumstances; and (2) the SHA’s pending informal motion, dates for delivery of materials in this proceeding and other procedural issues; **AND** which direction advised the Parties that the Tribunal extended the time for delivery of materials under subsection 103.1(6) of the *Competition Act* to a date to be determined at or following the case management conference;

[8] **AND UPON** reading email communications to the Registry dated November 4, 2024, informing the Tribunal that the Parties had agreed to adjourn the case management conference *sine die* and until after the Bankruptcy Court hearing scheduled for November 22, 2024;

[9] **AND HAVING ADVISED** the Parties by email from the Registry on November 4, 2024, that the Tribunal agreed to the proposed adjournment and that the time for delivery of materials under subsection 103.1(6) of the *Competition Act* will be extended accordingly;

THE TRIBUNAL ORDERS AND DIRECTS THAT:

[10] A case management conference will occur in this matter on a date to be scheduled after November 22, 2024.

[11] The Parties are directed to report to the Tribunal on the outcome of the hearing in the Saskatchewan Court of King's Bench, no later than three (3) days after that hearing and, if possible, to propose a date and time, and an agenda, for a case management conference when all counsel are available.

[12] The time for the delivery of materials under subsection 103.1(6) of the *Competition Act* is extended from November 1, 2024, until a date that is at least 14 days after November 22, 2024.

DATED at Ottawa, this 5th day of November 2024.

SIGNED on behalf of the Tribunal by the Chairperson.

(s) Andrew D. Little

COUNSEL OF RECORD:

For the applicant:

Goshen Professional Care Inc

Tavengwa Runyowa
Brandon Cain

For the respondent:

The Saskatchewan Health Authority

Devin Perseaud
Carter Bezugly

The Ministry of Health

Brian Whitwham