

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT
(Class action)

N°: 500-06-000744-157

ROBERT LAMONTAGNE

Petitioner

v.

AIMIA CANADA INC.

and

AIMIA INC.

Respondents

MOTION BY RESPONDENTS FOR LEAVE TO SUBMIT RELEVANT EVIDENCE
(Article 1002 CCP)

I. INTRODUCTION

1. Respondents Aimia Canada Inc. and Aimia Inc. (collectively, "**Aimia**"), seek leave from this Court to submit relevant evidence, which consists of an affidavit of Pierre-Jean Mayol, Director – Travel Products at Aimia Canada Inc., and the exhibits referred to therein (the "**Affidavit**"), in order to establish that the criteria under Article 1003 *CCP* have not been met.
2. The Affidavit, copy of which is disclosed herewith as **Exhibit R-1**, covers the following topics:
 - (a) An overview of the Aeroplan program, including:
 - (i) How persons can adhere to the program; and,
 - (ii) How persons can use Aeroplan miles to book flight rewards;
 - (b) How the amount of taxes, fees & surcharges that are payable to redeem an Aeroplan flight reward are determined; and
 - (c) The Charges at issue in these proceedings, including:
 - (i) Petitioner's payment of a Germany International Passenger Service Charge for an Air Canada flights departing from the Frankfurt airport;

- (ii) Petitioner's payment of a France International Passenger Service Charge for a Lufthansa flight departing from the Lyon airport;
- (iii) The payment by an Aeroplan member of Passenger Charges for Air Canada flights departing one of the other European airports at issue in these proceedings; and,
- (iv) The payment by an Aeroplan member of Passenger Charges for Air Canada flights departing from the Narita and Haneda airports in Tokyo, Japan.

II. BACKGROUND

3. On December 15, 2014, the Petitioner filed a *Motion for authorization to institute a class action and to obtain the status of representative* (the "**Motion**").

4. As appears from paragraph 1 of the Motion, the proposed group is defined as follows:

"All natural persons in Canada who, since June 9, 2012, redeemed Aeroplan Miles, through the Aeroplan Program owned and/or operated by Aimia Canada inc. and Aimia inc., to purchase Air Canada flight tickets and who paid, with respect to such flights, Passenger Charges, and applicable taxes, as a result of departing from or transiting through the following airports :

- a. *The Heathrow airport in London, UK;*
- b. *The Charles de Gaulle airport in Paris, France;*
- c. *The Lyon airport in Lyon, France;*
- d. *The Frankfurt airport in Frankfurt, Germany;*
- e. *The Munich airport in Munich, Germany;*
- f. *The Copenhagen airport in Copenhagen, Denmark;*
- g. *The Narita airport in Tokyo, Japan;*
- h. *The Haneda airport in Tokyo, Japan."*

5. The Motion seeks the restitution of passenger charges paid by class members when redeeming Aeroplan miles for Air Canada flights (and, with respect to Petitioner, a Lufthansa flight) departing from one of the above-listed airports, along with punitive damages due to Aimia's allegedly false and misleading representations regarding the passenger charges and the fact that Petitioner alleges that, by requiring Aeroplan members to pay such passenger charges when redeeming Aeroplan miles for an Air Canada flight departing from one of the airports listed above, Aimia was allegedly charging passenger charges that it was not allowed to impose.

III. GROUNDS IN SUPPORT OF THE PRESENT MOTION

6. It appears from the Motion that the Court does not have sufficient information to render judgment in light of the criteria set forth by Article 1003 *CCP*, and therefore Aimia should be authorized to submit the additional evidence referred to above.
7. Aimia recognizes that, at the authorization stage, the allegations contained in the Motion must, in principle, be deemed true. However, in accordance with the jurisprudence, it is desirable to allow a Respondent to submit evidence which contradicts allegations contained in such a motion, or demonstrates that such allegations are "*invraisemblables, mensongères ou non plausibles*".
8. Aimia submits that the Motion contains allegations of this nature which can easily be contradicted or shown to be "*mensongères*" by allowing Aimia to submit evidence for this purpose, the most significant of which are the allegations to the effect:
 - (a) that it is Aimia, and not Air Canada and Lufthansa, that imposed the charges paid by the Petitioner for which restitution is sought;
 - (b) that Aimia, rather than Air Canada, collected such charges from class members;
 - (c) that the passenger charges relate to the use by airlines of airport facilities, rather than the use by individual passengers of said facilities;
 - (d) that the passenger charges are not imposed by airports with the authority of a government or governmental authority; and,
 - (e) that the Narita airport is operated by an airport authority that is a private corporation.
9. In addition, the Motion contains general allegations which are prejudicial to Aimia, namely that Aimia made false and misleading representations to class members, such that Aimia should be afforded the opportunity to submit evidence which would bring more precision to the allegations made by the Petitioner.
10. This Court should allow the proposed evidence to be adduced, for the purpose of evaluating whether the Petitioner has demonstrated a strong appearance of right and that the proposed class action has a reasonable chance of succeeding, as required by Article 1003 (b) *CCP*.
11. In fact, it has been held that equity and the principles of fundamental justice require, even at the authorization stage, that the Court consider allegations and evidence proffered by both the Petitioner and the Respondent(s) in determining if the Petitioner has met the requirements of Article 1003 (b) *CCP*.
12. The evidence which Aimia seeks to adduce will also assist the Court in gaining:

- (a) a general understanding of the Aeroplan program and how it functions, particularly as concerns the redemption of flight rewards;
- (b) a general understanding of how the amount of taxes, fees & surcharges for a flight reward booking are determined, and how they are collected; and,
- (c) a general understanding of the passenger charges imposed by the airports at issue in these proceedings, and the regulatory frameworks applicable to said airports, including with respect to passenger charges;

all of which will certainly be of assistance to the Court in assessing whether the conditions set forth in paragraphs (a) and (b) of Article 1003 *CCP* are met.

- 13. In sum, the evidence which Aimia seeks to adduce would enable this Court to proceed with an efficient review of the criteria contained at Article 1003 *CCP*, and would result in a more efficient hearing of the Motion.
- 14. This Court should not prevent itself from having the benefit of evidence which could assist it in its analysis of the threshold criteria set forth in Article 1003 *CCP*.
- 15. By granting leave to submit the evidence described above, this Court would be ensuring that, as required by the jurisprudence, the authorization hearing will not be a simple formality devoid of any real meaning in which the Court would be bound by allegations and evidence founded solely on editorial choices made to support the sole perspective of the Petitioner.

WHEREFORE MAY IT PLEASE THIS COURT TO:

GRANT the present Motion;

ALLOW Respondents Aimia Canada Inc. and Aimia Inc. to submit an affidavit of Pierre-Jean Mayol, and the exhibits referred to therein, the contents of which shall be limited to the following topics:

- (a) An overview of the Aeroplan program, including:
 - (i) How persons can adhere to the program; and,
 - (ii) How persons can use Aeroplan miles to book flight rewards;
- (b) How the amount of taxes, fees & surcharges that are payable to redeem an Aeroplan flight reward are determined; and
- (c) The Charges at issue in these proceedings, including:
 - (i) Petitioner's payment of a Germany International Passenger Service Charge for an Air Canada flights departing from the Frankfurt airport;

- (ii) Petitioner's payment of a France International Passenger Service Charge for a Lufthansa flight departing from the Lyon airport;
- (iii) The payment by an Aeroplan member of Passenger Charges for Air Canada flights departing one of the other European airports at issue in these proceedings; and,
- (iv) The payment by an Aeroplan member of Passenger Charges for Air Canada flights departing from the Narita and Haneda airports in Tokyo, Japan.

THE WHOLE without costs, save in the event of contestation.

Montreal, August 28, 2015



OSLER, HOSKIN & HARCOURT LLP
Attorneys for Respondents
AIMIA CANADA INC. and AIMIA INC.

TRUE COPY



Osler, Hoskin & Harcourt LLP

AFFIDAVIT

I, the undersigned, **ALEXANDRE FALLON**, attorney, exercising my profession at the offices of Osler, Hoskin & Harcourt LLP, situated at 1000 De La Gauchetière West, Suite 2100, in the City and District of Montréal, Province of Québec, do hereby solemnly affirm as follows:

1. I am one of the attorneys representing the Respondents Aimia Canada Inc. and Aimia Inc. herein;
2. I have read the attached motion and all the facts alleged therein are true.

AND I HAVE SIGNED :

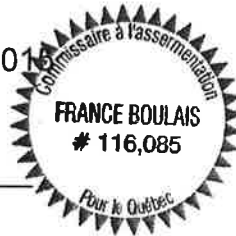


ALEXANDRE FALLON

Solemnly affirmed before me,
in Montreal, this 28th day of August 2016



**Commissioner of oaths for the
Province of Québec**



TRUE COPY


Osler, Hoskin & Harcourt LLP

NOTICE OF PRESENTATION

TO: SAVONITTO LLP
c/o **Me Michel Savonitto**
Me Emmanuel Laurin-Légaré
468 St-Jean Street
Suite 400
Montreal (Québec) H2Y 2S1

Attorneys for Petitioner Robert Lamontagne

TAKE NOTICE that the present *Motion by Respondents Aimia Canada Inc. and Aimia Inc. for leave to submit relevant evidence* will be presented for hearing and allowance on a date and time and place to be determined by the Honourable Kirkland Casgrain of the Superior Court of Québec, given the case management.

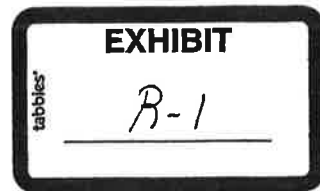
Montreal, August 28, 2015

Osler, Hoskin & Harcourt

OSLER, HOSKIN & HARCOURT LLP
Attorneys for Respondents
AIMIA CANADA INC. and AIMIA INC.

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Respondents

AFFIDAVIT OF PIERRE-JEAN MAYOL

I, Pierre-Jean Mayol, exercising my occupation at 1000-525 Viger Avenue West, in the City of Montréal, in the Province of Québec, SOLEMNLY AFFIRM AS FOLLOWS:

I. INTRODUCTION

1. I am the Director – Travel Products at the Respondent Aimia Canada Inc since March 25, 2013. I swear this affidavit on behalf of the Respondents Aimia Canada Inc. and Aimia Inc. (hereinafter collectively referred to as “**Aimia**”).
2. I have reviewed the *Motion for Authorization to Institute a Class Action and to Obtain the Status of Representative* (the “**Motion**”) filed by the Petitioner, which was provided to me by counsel for Aimia.

II. THE AEROPLAN PROGRAM

A. Adhering to the program

3. A natural person may become a member of Aeroplan by enrolling on the “*Get started with Aeroplan*” section of the www.aeroplan.com website, copy of which is attached hereto as **Exhibit PJM-1**.
4. As appears from Exhibit PJM-1, a prospective Aeroplan member is required to accept Aeroplan’s Terms and Conditions (the “**Aeroplan T&Cs**”) before being able to complete the enrolment process, and the prospective member is provided with

a hyperlink to Aeroplan T&Cs, copy of which is attached hereto as **Exhibit PJM-2**, at the time where their consent to the Aeroplan T&Cs is sought.

5. In accepting the Aeroplan T&Cs, an Aeroplan member acknowledges, "as a *condition of continued membership*", a number of conditions, including the following:
- (a) "*Aeroplan Miles have no monetary value whatsoever and cannot under any circumstances form the basis of a monetary claim against Aeroplan*" (section 1);
 - (b) "*Members shall be responsible for any taxes, departure fees, security charges, levies or other charges imposed by or with the authority of any government or governmental authority in respect to any rewards or reward travel or benefit; any surcharge imposed by an airline; and any service fee imposed by Aeroplan.*" (section 9);
 - (c) "*The Aeroplan Program shall be governed by the laws of Ontario and the laws of Canada applicable therein, without giving effect to their conflict of laws principles. You expressly consent to the exclusive forum, jurisdiction, and venue of the courts of Ontario and/or the Federal Court of Canada in Ontario, or any other judicial district or jurisdiction as Aeroplan may determine in any and all actions, disputes, or controversies relating hereto. Any disputes regarding Aeroplan Program or in any way arising out of Aeroplan membership, including Aeroplan Miles accumulated or rewards claimed or received shall be submitted to the courts of Ontario whose courts shall have exclusive jurisdiction to hear such disputes*" (section 25);
 - (d) "*In addition to other terms and conditions on aeroplan.com, you will find Aeroplan booking terms and conditions and product specific terms and conditions on the left hand side. Please click on the links to see the associated booking and product specific terms and conditions*" (concluding paragraph).

6. The "*Aeroplan booking terms and conditions*" referred to in the concluding paragraph of the Aeroplan T&Cs are the Flight Rewards Terms and Conditions (the "**Flight Rewards T&Cs**"), which stipulate at section 11 that "*Flight reward bookings are subject to applicable airport taxes, fees, and surcharges imposed by the airline and any government authority. Additional taxes and fees may be collected at the airport.*" A copy of the Flight Rewards T&Cs is attached hereto as **Exhibit PJM-3**.

B. Using Aeroplan miles to book flight rewards

7. While there are over 800 ways in which an Aeroplan member can use their miles, at issue in these proceedings is the booking of flight reward tickets for Air Canada flights departing from one of the following airports:

- (a) The Heathrow airport in London, UK;

- (b) The Charles de Gaulle airport in Paris, France;
 - (c) The Lyon Saint-Exupéry airport in Lyon, France;
 - (d) The Frankfurt airport in Frankfurt, Germany;
 - (e) The Munich airport in Munich, Germany;
 - (f) The Copenhagen airport in Copenhagen, Denmark;
 - (g) The Narita airport in Tokyo, Japan;
 - (h) The Haneda airport in Tokyo, Japan.
8. I note at the outset that there has been no Air Canada flights departing from the Lyon airport from the beginning of the proposed class period, namely June 9, 2012, to this day. As appears from an Air Canada news release dated June 25, 2015, copy of which is attached hereto as **Exhibit PJM-4**, Air Canada will commence a new service between Montréal and Lyon for the first time on June 16, 2016.
 9. Moreover, as appears from an Air Canada news release dated December 6, 2013, copy of which is attached hereto as **Exhibit PJM-5**, Air Canada only began operating flights departing from the Haneda airport in Tokyo as of July 1, 2014, such that there were no Air Canada flights departing from the Haneda airport from the beginning of the proposed class period until that date.
 10. Once an Aeroplan member has completed the travel reward search form on the Aeroplan website by entering the desired itinerary, travel dates, number of passengers and preferred cabin, a search result page such as the one attached hereto as **Exhibit PJM-6** appears, displaying the flights available.
 11. Once an Aeroplan member selects the flights on which he or she wishes to travel, a new search result page will appear such as the one attached hereto as **Exhibit PJM-7**.
 12. This page displays the details of the selected itinerary and, in the summary box on the upper left hand corner, the total amount of miles that will be redeemed for all passengers along with the total amount of taxes, fees & surcharges that must be paid to complete the booking.
 13. The member has the option of clicking on the "*Taxes, Fees & Surcharges*" line item in the summary box, which will cause an information box to appear with a detailed breakdown of said taxes, fees & surcharges, as appears from **Exhibit PJM-8** attached hereto.
 14. After having reviewed the information provided for in Exhibits PJM-7 and PJM-8, the Aeroplan member can chose to proceed with the booking by clicking on the "*BOOK*" button in the bottom right hand corner of the summary box.
 15. This will bring the member to another page entitled "*Review*", a copy of which is

- (b) The Charles de Gaulle airport in Paris, France;
 - (c) The Lyon Saint-Exupéry airport in Lyon, France;
 - (d) The Frankfurt airport in Frankfurt, Germany;
 - (e) The Munich airport in Munich, Germany;
 - (f) The Copenhagen airport in Copenhagen, Denmark;
 - (g) The Narita airport in Tokyo, Japan;
 - (h) The Haneda airport in Tokyo, Japan.
8. I note at the outset that there has been no Air Canada flights departing from the Lyon airport from the beginning of the proposed class period, namely June 9, 2012, to this day. As appears from an Air Canada news release dated June 25, 2015, copy of which is attached hereto as **Exhibit PJM-4**, Air Canada will commence a new service between Montréal and Lyon for the first time on June 16, 2016.
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 10. Once an Aeroplan member has completed the travel reward search form on the Aeroplan website by entering the desired itinerary, travel dates, number of passengers and preferred cabin, a search result page such as the one attached hereto as **Exhibit PJM-6** appears, displaying the flights available.
 11. Once an Aeroplan member selects the flights on which he or she wishes to travel, a new search result page will appear such as the one attached hereto as **Exhibit PJM-7**.
 12. This page displays the details of the selected itinerary and, in the summary box on the upper left hand corner, the total amount of miles that will be redeemed for all passengers along with the total amount of taxes, fees & surcharges that must be paid to complete the booking.
 13. The member has the option of clicking on the "*Taxes, Fees & Surcharges*" line item in the summary box, which will cause an information box to appear with a detailed breakdown of said taxes, fees & surcharges, as appears from **Exhibit PJM-8** attached hereto.
 14. After having reviewed the information provided for in Exhibits PJM-7 and PJM-8, the Aeroplan member can chose to proceed with the booking by clicking on the "*BOOK*" button in the bottom right hand corner of the summary box.
 15. This will bring the member to another page entitled "*Review*", a copy of which is

attached hereto as **Exhibit PJM-9**, where the travel details, mile redemption details and the total amount of "*Airport Taxes, Fees & Surcharges*" is displayed, along with the mention that "*Airport taxes, fees and surcharges will appear on your credit card statement as an Air Canada charge and will display your ticket number*".

16. The Aeroplan member has the opportunity to click on the "*View Details*" link next to the "*Airport Taxes, Fees & Surcharges*" title to obtain a detailed breakdown of same in the same manner as clicking on the "*Taxes, Fees & Surcharges*" link in the summary box of Exhibit PJM-7, as appears from **Exhibit PJM-10** attached hereto.
17. Some of the key terms & conditions applicable to the booking are displayed directly at the bottom of the review page, as appears from Exhibit PJM-9, and the Aeroplan member is invited to click on a link to the Flight Reward T&Cs and required to check a box pursuant to which the member declares that "*I accept the Terms & Conditions*".
18. Once the Aeroplan member accepts the mile redemption amounts, the applicable airport taxes, fees & surcharges and the Flight Reward T&Cs, he or she can then proceed to complete the booking by inputting the passenger information, selecting extra services and finally providing payment information.
19. As appears from Mr. Lamontagne's credit card statement for the charges at issue in these proceedings, copy of which is attached hereto as **Exhibit PJM-11**, Air Canada directly collects the total amount of taxes, fees & surcharges that the member has agreed to pay upon booking an Aeroplan flight reward.

III. TAXES, FEES & SURCHARGES ON AEROPLAN FLIGHT REWARDS ARE IMPOSED BY OPERATING CARRIERS

20. The taxes, fees & surcharges that are payable by an Aeroplan member to redeem an Aeroplan flight reward are imposed by the carriers operating said flights, and Air Canada collects these amounts directly from the Aeroplan member.

IV. THE CHARGES AT ISSUE IN THESE PROCEEDINGS

21. Petitioner's personal claim is based on charges imposed by Air Canada and Lufthansa, and collected by Air Canada, for the booking of an Aeroplan Multi-City Flight Reward, with a first trip leg between Montréal and Frankfurt, on April 11, 2014, and the second trip leg between Lyon and Montréal, via Frankfurt, on May 4, 2014. The itinerary-receipt for this booking has been filed by the Petitioner as Exhibit P-3.
22. The charges at issue in these proceedings relate only to the second trip leg, as it is on this leg that the passenger charges described at paragraphs 2.7 to 2.9 of the Motion were imposed by Air Canada and Lufthansa, and collected by Air Canada.

A. Petitioner's payment of a Germany International Passenger Service Charge for an Air Canada flight departing from the Frankfurt airport

23. The first charge impugned by Petitioner is a CDN\$31.80 Germany International Passenger Service Charge imposed and charged by Air Canada as a result of Petitioner emplaning Air Canada flight 875 (offering service between Frankfurt and Montréal) as a transfer passenger at the Frankfurt airport on May 4, 2014.

24. As appears from the "Airport charges at Frankfurt Airport" document published by Fraport AG, the operator of the Frankfurt airport, copy of which is attached hereto *en liasse* along with document detailing said charges as **Exhibit PJM-12**, airlines using the Frankfurt airport must pay a variety of charges, some of which are calculated and charged to the airline, in whole or in part, on a "per departing passenger" basis ("**Passenger Charges**").

25. As it also appears from Exhibit PJM-12:

"airport charges are set out in paragraph 19b of the German Air Traffic Act and are subject to approval by the regional Aviation Authority. The government authority responsible for Frankfurt Airport is the Ministry of Economics, Energy, Transport and Regional Development, State of Hesse"

26. Passenger Charges for international flights total between €32.07 and €41.81 for local boarding passengers and between €19.84 and €29.58 for transfer passengers.

27. As appears from the Visa Exchange Rate calculator, copy of which is attached hereto as **Exhibit PJM-13**, the effective conversion rate as of August 1, 2015 for a Euro transaction converted to Canadian dollars, inclusive of the standard 2.5% bank foreign transaction fee, is 1 Euro = 1.481734 Canadian dollars (the "**Euro Exchange Rate**").

28. The following table illustrates the Passenger Charges paid by airlines to Fraport AG in Canadian dollars at the Euro Exchange Rate for international flights departing from the Frankfurt airport:

	Local Boarding	Transfer
Paid to Fraport AG:	\$47.52 to \$61.95	\$29.40 to \$43.83

B. Petitioner's payment of a France International Passenger Service Charge for a Lufthansa flight departing from the Lyon airport

29. The second charge impugned by Petitioner is a CDN\$14.70 France International Passenger Service Charge imposed by Lufthansa and charged by Air Canada as a result of Petitioner emplaning Lufthansa flight 1083 (offering service between

Lyon and Frankfurt) at the Lyon airport on May 4, 2014.

30. As appears from the *Barème des tarifs H.T. des services public aéroportuaires au 1er avril 2013 Lyon-Saint Excupéry*, copy of which is attached hereto as **Exhibit PJM-14**, Passenger Charges for international flights are €13.77 for local boarding passengers and €7.58 for transfer passengers.

31. While the Air Canada flight to Montréal that will begin operating from the Lyon airport as of June 16, 2016 will be considered an international flight, the Lufthansa flight on which the Petitioner travelled was not, and the Passenger Charges paid by Lufthansa to Aéroports de Lyon to enplane the Petitioner totalled €8.62 (CDN\$12.77 at the Euro Exchange Rate).

C. The payment by an Aeroplan member of Passenger Charges for Air Canada flights departing one of the other European airports at issue in these proceedings

32. All Member States of the European Union are bound by *Directive 2009/12/EC of the European Parliament and of the Council of 11 March 2009 on airport charges* (the "**Directive**"), copy of which is attached hereto as **Exhibit PJM-15**.

33. In its Article 11, the Directive requires Member States of the European Union to "*nominate or establish an independent authority as their national independent supervisory authority*" that is tasked with intervening to determine whether airport charges can be modified, or new charges introduced, in the event such charges are disputed by airport users under Article 6 of the Directive.

34. The Passenger Charges levied by the other European airports at issue in these proceedings are set out in their respective airport charge documents, copies of which are attached hereto *en liasse* as **Exhibit PJM-16**.

35. In each case, Air Canada imposes on Aeroplan members redeeming miles for Air Canada flights departing from these airports passenger charges in Canadian dollars that closely mirror the Passenger Charges levied by the airports at the exchange rates in effect at the time of booking.

D. The payment by an Aeroplan member of Passenger Charges for Air Canada flights departing from the Narita and Haneda airports in Tokyo, Japan

36. On January 31, 2012, the International Civil Aviation Organization, a specialized United Nations Agency, published a *Case Study on Commercialization, Privatization and Economic Oversight of Airports and Air Navigation Services Provides – Japan* (the "**ICAO Study**"), copy of which is attached hereto as **Exhibit PJM-17**.

37. As appears from the ICAO Study, Japanese airports are regulated by the *Airport Development Law* of Japan, in which airports are divided in three categories. The Narita airport is in the first category. Moreover, pursuant to the ICAO Study:

“Airports in the first category follow a corporation management model, through which airports are publicly owned but are operated and managed on a commercial basis.

The Airport Development Law does not allow private companies to own and operate airports in the first, second and third categories, but exceptions were made for some airports in the first category. The exceptions are Osaka-Kansai International Airport and Chūbu-Centrair International Airport, which are subject to different laws.

[...]

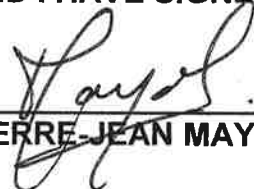
One airport of the first class category is owned by a public corporation. Tokyo-Narita International Airport first terminal building was built by Takenaka Corporation, a private company, and was completed in 1972. The airport was owned and managed by a public corporation, the New Tokyo International Airport Authority. The Narita International Corporation Act (Law No. 124 of 18 July 2003) was adopted to prepare the privatization of the airport and a new authority, the Narita International Airport Corporation (NAA) took over the responsibility of owning and managing the airport in 2004. Despite several privatization projects, NAA is still a 100 per cent government-owned public corporation.”

38. The fact that, as mentioned in the above citation, the Narita International Airport Corporation is still government owned is confirmed in the “*Stock Information*” section of the *Narita International Airport 2013/2014* report, copy of which is attached hereto as **Exhibit PJM-18**, in which it is stated that the Japanese Minister of Land, Infrastructure, Transport and Tourism holds 90.01% of the shares of the corporation, with the other 9.99% being held by the Japanese Minister of Finance.
39. With respect to the Haneda airport, the ICAO Study (Exhibit PJM-17) states the following:

“Two of the five first class airports are owned by the MLIT [Civil Aviation Bureau of the Japanese Ministry of Land, Infrastructure, Transport and Tourism]. First, Tokyo-Haneda International Airport was established in 1952 to operate the airport basic facilities (runways, taxiways, apron), which has remained owned by the MLIT. The MLIT has operated the airside of the airport, while the landside has been managed by private companies. For instance, the Japan Airport Terminal Company Limited was established in 1953 to develop the passenger terminals, and it has owned and operated them since (its major shareholders are Japan Airlines International, All Nippon Airways, Japan Trustee Services Bank, Bank of Tokyo-Mitsubishi UFJ, and Mitsubishi Estate). The new international terminal built in 2006 is owned and managed by Tokyo International Air Terminal Corporation, whose main stakeholder is Japan Airport Terminal Company Limited.”

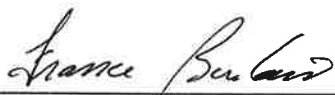
40. As appears from the "Company Profile" section of the Tokyo International Air Terminal Corporation ("TIAT") and an extract of a Japan Airport Terminal Co., Ltd. PowerPoint presentation on the "Founding and present state of the Tokyo International Air Terminal Corporation", copies of which are attached hereto *en liasse* as **Exhibit PJM-19**, the Narita International Airport Corporation, which, as discussed above, is wholly owned by the Japanese government, is the fourth biggest shareholder of TIAT, the manager and owner of the international terminal at Haneda airport.
41. The Passenger Charges levied by the Narita and Haneda airports are set out in their respective airport charge documents, copies of which are attached hereto *en liasse* as **Exhibit PJM-20**.
42. In each case, Air Canada imposes on Aeroplan members redeeming miles for Air Canada flights departing from these airports passenger charges in Canadian dollars that closely mirror the Passenger Charges levied by the airports at the exchange rates in effect at the time of booking.
43. All of the facts alleged herein are true.

AND I HAVE SIGNED:



PIERRE-JEAN MAYOL

SOLEMNLY DECLARED BEFORE ME
in Montréal, Québec, on August 28, 2015



Commissioner of Oaths for the Province of Québec



TRUE COPY



Osler, Hoskin & Harcourt LLP