

COUR SUPÉRIEURE

CANADA
PROVINCE DE QUÉBEC
DISTRICT DE MONTRÉAL

N°: 500-06-000744-157

DATE : 11 JUILLET 2017

SOUS LA PRÉSIDENCE DE : L'HONORABLE KIRKLAND CASGRAIN, J.C.S.

ROBERT LAMONTAGNE

Demandeur

c.

AIMIA CANADA INC.

-et-

AIMIA INC.

Défenderesses

JUGEMENT

500-00-010681-178

[1] **Le tribunal**, après avoir pris connaissance des notes et autorités soumises de part et d'autre par les parties et après avoir entendu les arguments avancés par les défenderesses à l'audition au mérite de la demande pour autorisation d'intenter une action collective et être nommé représentant du groupe (ci-après nommée la « Demande »);

[2] **Considérant** que la Demande requiert l'autorisation d'intenter une action collective au nom du groupe suivant:

«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 (collectively the «**Foreign 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 (the airports mentioned in paragraphs a. to f. being hereinafter collectively referred to as the «**European Airports**»);
- g. the Narita airport in Tokyo, Japan;
- h. the Haneda airport in Tokyo, Japan (the airports mentioned in paragraphs g. and h. being hereinafter collectively referred to as the «**Japanese Airports**»). »

[3] **Considérant** le jugement de cette cour en date du 18 octobre 2016 accueillant la demande en exception déclinatoire des défenderesses, et par le fait même, limitant la définition du groupe aux consommateurs domiciliés et résidant dans la province de Québec;

[4] **Considérant** que les critères d'autorisations de l'article 575 C.p.c. sont rencontrés;

[5] **Considérant** par ailleurs que le tribunal est d'accord avec les conclusions identifiées à la Demande, sauf quant à la modification du groupe qui devra refléter son jugement précité du 18 octobre 2016 et qu'en conséquence, il les reproduira dans le présent jugement dans leurs formes originales anglaises (sauf quant à certains ajustements de forme);

[6] **PAR CES MOTIFS, LE TRIBUNAL :**

[7] **GRANTS** the present Motion;

[8] **ORDERS** Defendants to provide Plaintiff's attorneys, in an electronic format, a list of (i) all Class members who purchased flight tickets through the Aeroplan Program during the Class period and who were required to pay Passenger Charges, (ii) the details of all such flights taken during the Class period by such Aeroplan members, (iii) the amounts of Passenger Charges charged to such Aeroplan members for such flights.

[9] **AUTHORIZES** the institution of a class action as follows:

“An action in restitution and punitive damages against Defendants.”

[10] **ASCRIBES** to Plaintiff Robert Lamontagne the status of representative for the purpose of instituting the said class action for the benefit of the following group of persons, namely:

« All consumers domiciled and residing in Québec 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 (collectively the “Foreign 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.»

[11] **IDENTIFIES** the principal questions of law and of fact to be dealt with collectively as follows:

1. Were the Passenger Charges imposed by Defendants on the Class members charged illegally and contrary to the Aeroplan Terms and Conditions?

2. If so, are the Class members entitled to the full restitution of the Passenger Charges, plus applicable taxes, that they were required to pay?
3. Are the Class members entitled to punitive damages under the CPA?
4. If so, what is the amount of punitive damages that each Class member should obtain?

[12] **IDENTIFIES** the conclusions sought by the Plaintiff in relation to such questions as follows:

1. **GRANTS** Plaintiff's class action on behalf of every Class member he represents;
2. **CONDEMNS** Defendants, solidarily, to reimburse the totality of the Passenger Charges, plus applicable taxes paid by the Class members, together with interest at the legal rate and the additional indemnity provided by law, as of the date of service of the Motion for authorization to institute a class action;
3. **CONDEMNS** Defendants, solidarily, to pay punitive damages to the Class members in the amount of \$100 each, together with interest at the legal rate and the additional indemnity provided by law, as of the date of service of the Motion for authorization to institute a class action;
4. **ORDERS** the collective recovery of the Class members' claims;
5. **THE WHOLE**, with costs, including expert costs and the cost of notices;

[13] **DECLARES** that any member of the Class who has not requested his/her exclusion from the Class be bound by any judgment to be rendered on the class action, in accordance with law;

[14] **FIXES** the delay for exclusion from the Class at sixty (60) days from the date of notice to the members, and **DECLARES** that at the expiry of such delay, the members of the Class who have not requested exclusion be bound by any such judgment;

[15] **ORDERS** that a notice to the members of the Class be drafted in accordance with the terms and conditions determined by the undersigned, the whole pursuant to articles 576 and 579 *CCP* and that it be made public in the following manner:

1. By publication of a notice to members of the Class in newspapers, the details of which to be decided at a date to be fixed between the Tribunal and the Parties' attorneys;
2. By publication of the notice to members of the Class on the internet site of the Defendants and the internet site of the attorneys for Plaintiff with a hypertext entitled "Avis aux membres de recours collectif, Notice to all Class Action Members" prominently displayed on Defendants' internet site and to be maintained thereon until the Court orders publication of another notice to members by final judgment in this instance or otherwise;

[16] **THE WHOLE** with legal costs against Defendants, including the costs of all publications of notices.



KIRKLAND CASGRAIN, J.C.S.

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