

**IN THE MATTER OF A HEARING AND REVIEW UNDER  
SECTIONS 21.7 AND**

**127 OF THE SECURITIES ACT, R.S.O. 1990, c. S.5**

**AND**

**IN THE MATTER OF AIMIA Inc.**

**File No. 2023-28**

**MOTION OF EAGLE 1250 INVESTMENT GROUP LLC  
(For Leave to Intervene)**

**Under Rule 21 of the *Capital Markets Tribunal Rules of Procedure and Forms***

**A. ORDER SOUGHT**

The moving party, Eagle 1250 Investment Group LLC (“Eagle”) requests with notice that the Tribunal make the following order:

- (a) an Order granting Eagle leave to intervene with full standing, including the right to adduce evidence and make submissions, in the application (the “Application”) by Mithaq Canada Inc. (the “Applicant”) with a hearing currently scheduled for December 12 and 13, 2023; and
- (b) such further and other relief as the Commissions may deem appropriate.

**B. GROUNDS**

The grounds for the motion are:

- (a) Eagle is the lead investor in a private placement for 10,475,000 common shares of Aimia Inc. (“Aimia”) together with 10,475,000 common share purchase warrants with an issue price of \$3.10 per common share and accompanying warrant (together, a “unit”) and a warrant exercise price of \$3.70 per common share (the “Private Placement”);
- (b) Eagle acquired 5,905,980 units under the Private Placement at a cost of approximately \$18.3 million;

- (c) The Private Placement raised gross proceeds of \$32.5 million and the number of common shares issued under the Private Placement represents 24.89% of the currently issued and outstanding common shares on an undiluted basis. Eagle holds 6.24% of the shares of Aimia following the Private Placement;
- (d) Eagle is an investment vehicle formed for the purpose of investing in the Private Placement that is owned by Roger Crandall, the chairman, president and CEO of Mass Mutual and Mark Hauser, a private equity investor and fund manager with Hauser Private Equity, who frequently co-invest together;
- (e) Mr. Crandall and Mr. Hauser engaged in extensive negotiations with Aimia over several months relating to the Private Placement including director nomination rights, information rights, registration rights, and pre-emptive rights relating to future issuance of common shares;
- (f) Prior to the Private Placement, Eagle did not hold any common shares of Aimia, however, Mr. Crandall held 68,550 common shares;
- (g) The Applicant seeks to set aside any decision of the Toronto Stock Exchange ("TSX") that does not require Aimia to obtain shareholder approval of the Private Placement pursuant to section 21.7 of the Securities Act, R.S.O. 1990, c.S.5 (the "Act") and seeks various orders in the public interest under s. 127 of the Act which would be extremely prejudicial to Eagle if granted;
- (h) The Applicant seeks orders, including: (i) requiring Aimia to obtain shareholder approval of the Private Placement with certain conditions; (ii) permanently cease trading the Private Placement; and (iii) a temporary cease trade order effective immediately, cease trading the Private Placement and restraining the exercise of any voting rights acquired thereunder;

- (i) On October 19, 2023, the Capital Markets Tribunal made an order recognizing an undertaking by Aimia that if the Applicant is successful, Aimia shall rescind the Private Placement and also ordered, among other things, that until the application is heard that the common shares issued may not be traded or voted;
- (j) The Commission has consistently granted full participation rights in bid-related proceedings where it determines that the proposed intervenor has a direct financial or other substantial interest in the outcome of the application and that the proposed intervenor would make a useful or unique contribution without prejudicing the parties or impairing the efficiency of the proceedings: *ESW Capital, LLC (Re)*, 2021 ONSEC 7 at para. 62; *Eco Oro Minerals Corp (Re)*, 2017 ONSEC 23, (2017) 40 OSCB 5321 (“**Eco Oro**”) at para. 71;
- (k) The relief sought would directly affect Eagle’s contractually negotiated rights in connection with the Private Placement;
- (l) Eagle will make useful submissions and submit evidence focused on the involvement of Eagle relating to the Private Placement. The submissions will address the effect of the orders sought on Eagle;
- (m) Eagle will comply with any timetable ordered relating to this matter. Eagle has agreed to the current draft timetable, which contemplates the involvement of intervenors;
- (n) No party will be prejudiced by Eagle as the hearing can complete in the time allotted with Eagle as intervenor pursuant to the timetable submitted;
- (o) There is no basis to distinguish the proposed intervenor in this Application from the intervenors in *Eco Oro* who were granted intervenor status with full standing, including the right to adduce evidence and make submissions: *Eco Oro* at paras. 70-71.
- (p) Rules 21, 23 and 28 of the *Capital Markets Tribunal Rules of Procedure and Forms*, (as of March 15, 2023), as amended; and

- (q) such further and other grounds as counsel may advise and the Commission may permit.

### **C. EVIDENCE**

The moving party intends to rely on the following evidence for the motion:

- (r) the Application dated October 17, 2023;
- (s) Affidavit of Roger Crandall sworn November 6, 2023;
- (t) such further and other evidence as the counsel may advise and the Commission may permit.

November 7, 2023

**Osler, Hoskin & Harcourt LLP**

100 King Street West  
1 First Canadian Place  
Suite 6200  
Toronto, Ontario

Teresa M. Tomchak LSO#: 69291R  
Tel: 778.785.3000  
E-mail: [tтомchak@osler.com](mailto:tтомchak@osler.com)

Lauren Harper LSO#: 70606L  
Tel: 416.862.4288  
E-mail: [lharper@osler.com](mailto:lharper@osler.com)

Lawyers for Eagle 1250 Investment Group LLC

TO:

**TORYS LLP**

79 Wellington St. W., 30<sup>th</sup>  
Floor  
270, TD South Tower  
Toronto, ON M5K 1N2

**Andrew Gray** (LSO# 46626V)

Tel: 416.865.7630  
Email: agray@torys.com

**Sarah Whitmore** (LSO#  
61104E)

Tel: 416.865.7315  
Email: swhitmore@torys.com

**Hanna Singer** (LSO# 81994W)

Tel: 416.601.7689  
Email: hsinger@torys.com

Lawyers for the Applicant, Mithaq Capital  
SPC

AND TO:

**NORTON ROSE LLP**

Royal Bank South Tower, Suite 3800  
200 Bay Street  
Toronto, ON M5J 2Z4

**Orestes Pasparakis** (LSO# 36851T)

Tel: 416.216.4815  
Email:  
orestes.pasparakis@nortonrosefulbright.com

**James Renihan** (LSO# 57553U)

Tel : 416.216.1944  
James.renihan@nortonrosefullbright.com

Lawyers for Aimia Inc.

AND TO: **STIKEMAN ELLIOT LLP**  
5300 Commerce Court West  
199 Bay Street  
Toronto, ON M5L 1B9

**Eliot Kolers** (LSO# 38304R)  
Tel: 416.869.5637  
Email: ekolers@stikeman.com

Lawyers for TSX

AND TO: **ONTARIO SECURITIES COMMISSION**  
20 Queen St. W.  
Toronto, ON M5H 3S8

**Jason Koskola** (LSO# 48317G)  
Tel: 416.595.8922  
Email: jkoskela@osc.gov.on.ca

**Cullen Price** (LSO# 47902H)  
Tel: 416.204.8959  
Email: cprice@osc.gov.on.ca

**Anna Huculak** (LSO# 51952K)  
Tel: 416.593.8291  
Email: ahuculak@osc.gov.on.ca

**Jordan Lavi** (LSO# 67832N)  
Tel: 416.593.2354  
Email: jlavi@osc.gov.on.ca

Lawyers for the Ontario Securities  
Commission

AND TO:

**Goodmans LLP**

Bay Adelaide Centre - West Tower  
333 Bay Street, Suite 3400  
Toronto, ON  
M5H 2S7

**David Conklin** (LSO# 34621M)

Tel: 416.597.5164

Email: [dconklin@goodmans.ca](mailto:dconklin@goodmans.ca)

Lawyers for the Special Committee of the  
Board of Directors of Aimia Inc.