

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE

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| In re: |) | |
| |) | |
| Montreal Maine & Atlantic Railway Ltd., |) | Case No. 13-10670 |
| |) | |
| Debtor. |) | Related to Docket No. 490 |
| <hr/> |) | |

**WHEELING & LAKE ERIE RAILWAY COMPANY’S OBJECTION TO MOTION FOR
AUTHORITY TO SELL SUBSTANTIALLY ALL OF THE DEBTOR’S ASSETS AND
TO ASSUME AND ASSIGN CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED
LEASES**

NOW COMES the Wheeling & Lake Erie Railway Company (“Wheeling”) and objects to the above-referenced motion (the “Sale Motion”) [D.E. 490] filed by Robert J. Keach, the Chapter 11 Trustee in this case (the “Trustee”), for the reasons set forth herein.

OBJECTION

1. The Trustee filed the Sale Motion on December 12, 2013. Subsequently, on December 20, he filed a notice of hearing with respect to the Sale Motion and set the objection deadline as January 22, 2014—the day after he planned to and eventually did conduct an auction sale of the assets of Montreal, Maine & Atlantic Railway, Ltd. (the “Debtor”), and its Canadian affiliate, Montreal, Maine & Atlantic Canada Corp. (“MMA Canada”).

2. The original Sale Motion attached an asset purchase agreement (the “APA”) between the Trustee, MMA Canada, and the eventual successful bidder, Railroad Acquisition Holdings LLC (“Purchaser”). The APA as originally filed did not include the relevant schedules, including schedules identifying many of the specific assets to be sold and the allocation of the purchase price among the assets to be sold. This is a matter of great significance to Wheeling,

because Wheeling claims a valid, perfected and first priority security interest in many categories of assets to be sold, such as inventory, and certain contract rights.

3. At 2 p.m. on January 22, 2014, the objection deadline, the Trustee filed his Declaration of Chapter 11 Trustee Concerning Auction, which attached as Exhibit B thereto what appears to be near final documentation with respect to the sale (the “Sale Documents”). [D.E. 579]. The Sale Documents total about 286 pages and appear to include the missing schedules from the APA, although even as to those schedules, they are noted to be “subject to change”.

4. Until 2 p.m. today, Wheeling had no detail about the many of the specific assets to be sold (for example, the identity of contracts and agreements that are to be assumed and assigned—contracts and agreements in which Wheeling may hold a valid, perfected and first priority security interest), or the allocation of the purchase price among assets in which Wheeling holds a valid, perfected and first priority security interest, such as inventory and the contracts and agreements described above. Needless to say, Wheeling has not had adequate time to review the Sale Documents and notes that many of the Schedules included in the Sale Documents state that they are subject to further change. In point of fact, at about 4:30 p.m. on the date of this Objection, the Trustee filed his Supplemental Notice Pursuant to Assumption and Assignment Procedures of Removal of Contracts From the Contract and Cure Schedule [D.E. 585], which purports to attach as Exhibit A thereto revisions to the schedules of contracts to be assumed. Wheeling has not yet had an opportunity to review these new filings (nor the filings made earlier in the afternoon).

5. Of particular note is Schedule 2.7, filed on January 22, 2014. This schedule purports to contain the agreed upon allocation of the purchase price. A copy of Schedule 2.7 is attached hereto as **Exhibit A**. Schedule 2.7 is decidedly uninformative. It simply provides a gross allocation of the purchase price between real property and personal property without any way allocating the purchase price among various categories of real or personal property, or

permitting anyone to assess the fairness or reasonableness of the proposed allocations. Wheeling objects to being bound by this proposed, which has been received only now, and without any meaningful opportunity for inquiry or challenge.

WHEREFORE, Wheeling respectfully requests that the Sale Motion be denied, or that consideration of it be deferred, pending the finalization of all material schedules and other contracts and agreements, the distribution of the same to Wheeling and other parties in interest, and the provision of a reasonable opportunity to inquire and to assess the fairness and reasonableness of the same.

Dated: January 22, 2014

/s/ George J. Marcus

George J. Marcus

David C. Johnson

Andrew C. Helman

Counsel for Wheeling & Lake Erie Railway
Company

MARCUS, CLEGG & MISTRETТА, P.A.

One Canal Plaza, Suite 600

Portland, ME 04101

207.828.8000



Schedule 2.7

Allocation of Purchase Price¹

¹ The Purchaser reserves the right to supplement and/or modify this Schedule 2.7 pursuant to Section 5.5 of the Agreement.

Montreal Maine & Atlantic

Purchase Price Allocation

| <i>USD</i> | | <i>% of total</i> |
|---------------|---------------------|-------------------|
| Real Property | \$11,710,102 | 82.2% |
| Other Assets | 2,539,898 | 17.8% |
| Total | \$14,250,000 | 100.0% |