UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MAINE

In re	)	
MONTREAL MAINE & ATLANTIC RAILWAY, LTD.	)	CHAPTER 11 CASE NO. 13-10670-LHK
Debtor	)	

DISCLOSURE STATEMENT FOR AMENDED CHAPTER 11 PLAN DATED JANUARY 29, 2014 PROPOSED BY THE UNOFFICIAL COMMITTEE OF WRONGFUL DEATH CLAIMANTS

This Disclosure Statement has been submitted to the United States Bankruptcy Court for approval, but has not been approved. Unless and until approved by the Court, at which time this legend will be removed, this Disclosure Statement may not be used to solicit acceptances of the Plan, or used or relied upon for any other purpose. **[THIS LEGEND TO BE REMOVED WHEN DISCLOSURE STATEMENT IS APPROVED BY THE COURT.]**

I. INTRODUCTION

The Unofficial Committee of Wrongful Death Claimants (the "Victims' Committee") in the chapter 11 bankruptcy case of Montreal Maine & Atlantic Railway, Ltd. (the "Debtor"), a Delaware corporation, provides this Disclosure Statement to all of the Debtor's known creditors in order to supply the information you will need in exercising your right to vote upon the Amended Chapter 11 Plan dated January 29, 2014 (the "Plan") proposed by the Victims' Committee.[1] A copy of the Plan is attached to this Disclosure Statement as Exhibit 1. All terms defined in the Plan have the same meaning in this Disclosure Statement unless otherwise noted.

In the early morning hours of July 6, 2013, the Debtor's unmanned train with 72 tank cars carrying combustible petroleum products hurtled down a hill toward the small Quebec town of Lac-Mégantic, where it derailed, causing a massive explosion that killed 47 people and caused millions of dollars of environmental and property damage (the "Derailment"). The track was closed, the Debtor's revenues plummeted, and lawsuits were filed against the Debtor, its affiliates and other firms believed to have caused the disaster. With cash running low, the Debtor filed a petition under chapter 11 of the United States Bankruptcy Code on August 7, 2013 (the "Petition Date"). On the same day, the Debtor's wholly-owned Canadian subsidiary, Montreal Maine & Atlantic Canada Co. (the "Canadian Debtor") commenced a proceeding (the "Canadian Proceeding") under Canada's *Companies' Creditors Arrangement Act*, R.S.C. 1985,

[1] This Disclosure Statement is also being supplied, as a matter of information, to creditors not entitled to vote, and to all persons that have requested notices in this Chapter 11 case.

c-36, as amended (the "CCAA"). The Debtor's chapter 11 estate is being administered by Robert J. Keach (the "Trustee"), a trustee nominated by the U.S. Department of Transportation and appointed by the U.S. Trustee, a federal official with administrative responsibilities in bankruptcy cases. Richter Advisory Group, Inc. acts as the court-appointed monitor (the "Monitor") in the Canadian Proceeding.

One of the first acts of the Trustee was to put the railroad up for sale. In order to get the highest possible price consistent with the public interest in continued operation of the railroad, the Trustee engaged Gordian Group LLC, a well-respected investment banking firm specializing in distressed situations. On January 24, 2014, the courts in the chapter 11 case and the Canadian Proceeding approved sale of the railroad (the "Sale"). The Sale is scheduled to close in March. Despite the best efforts of the investment bankers, the Sale price was only $14.25 million, while there are approximately $40 million of claims secured by liens against the assets. Since the Sale will dispose of substantially all assets of the Debtor and Canadian Debtor and the proceeds will be insufficient to satisfy even the secured creditors, nothing will be left over for unsecured creditors, including victims of the Derailment.

The Victims' Committee comprises the families of the 47 people who were killed in the Derailment.[2] These families have what are called wrongful death claims. They asked former U.S. Senator George J. Mitchell to help achieve a fair resolution of the chapter 11 case. He has agreed to do so, including serving as Plan Fiduciary under the Plan proposed by the Victims' Committee.

Although liability insurance of the Debtor and the Canadian Debtor will cover only a small fraction of the injury and damage caused by the Derailment, it appears that $25 million of indemnity coverage, and possibly more, is available under policies of the two companies. As more specifically described below, the Plan attempts to promote – with Senator Mitchell's help – a consensual resolution of issues such as how much the insurance companies will pay, which amounts will be distributed through the chapter 11 case and which amounts will be otherwise distributed (for example, through the Canadian Proceeding or by the Province of Quebec), and which creditors will receive distributions through the chapter 11 case and which otherwise. The Plan also attempts to wrap up the chapter 11 case (including any remaining distribution of Sale proceeds to the secured creditors) as speedily and inexpensively as possible, and to assure that creditors, including victims of the Derailment, who remain unpaid can pursue whatever rights they have against non-Debtor parties.

A ballot for your use in voting to accept or reject the Plan is enclosed. Instructions for completing and returning the ballot are printed on the ballot itself. ***In order for your vote to count, the original signed ballot must be received by the Debtor's counsel at the address stated on the ballot no later than 4:00 p.m., Eastern Standard Time, on April __, 2014.***

[TO BE ADDED WHEN DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE COURT] THIS DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE COURT. HOWEVER, EXCEPT WHERE SPECIFICALLY STATED OTHERWISE, THE

[2] There is also a separate official creditors' committee appointed by the U.S. Trustee, discussed below.

INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS BASED ON INFORMATION PUBLICLY AVAILABLE TO THE VICTIMS' COMMITTEE FROM FILINGS IN THE CHAPTER 11 CASE OR OTHER PUBLIC SOURCES. WHILE THE VICTIMS' COMMITTEE HAS DONE ITS BEST TO ASSURE THAT THE INFORMATION IS CORRECT AND COMPLETE, IT IS IMPOSSIBLE TO REPRESENT THAT THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS WITHOUT ERROR.

No representations concerning the Plan are authorized other than as set forth in this Disclosure Statement. Although this Disclosure Statement describes the Plan in summary and in detail, it is recommended that you review the Plan itself for a definitive understanding of its terms.

THE VICTIMS' COMMITTEE RECOMMENDS THAT ALL CREDITORS VOTE TO ACCEPT THE PLAN.

II. SUMMARY OF THE PLAN

The Plan provides that subject to paying the expenses of the chapter 11 case, all funds of the Debtor will be paid to its creditors. These funds are almost entirely attributable to proceeds from the Sale and proceeds available under liability insurance policies for which the Debtor is a named insured. It appears that proceeds from the Sale are encumbered by liens and must be paid to the holders of such liens. The Debtor's liability insurance policies, however, are not encumbered. Therefore, proceeds recovered under those policies through the chapter 11 case will be available for victims of the Derailment in accordance with the priorities established under the Bankruptcy Code.

The Plan provides that:

- In his role as Plan Fiduciary, Senator Mitchell will administer the chapter 11 bankruptcy estate, including the Compensation Fund for wrongful death claims arising from the Derailment (referred to as "Derailment WD Claims") and such personal injury claims arising from the Derailment as are filed against the U.S. estate (referred to as "Derailment PI Claims"). Even before the Plan takes effect, Senator Mitchell will be trying to bring various parties together to reach agreement on issues that might otherwise be the subject of litigation.

- Since wrongful death and personal injury claims have priority under the U.S. bankruptcy law, the Compensation Fund will be used solely to satisfy Derailment WD Claims and Derailment PI Claims. However, the Plan provides for these claimants to give up their right to assert claims in the Canadian Proceeding, so that insurance proceeds in the Canadian Proceeding will be available for other Derailment claims, such as personal injury claims *not* asserted in the chapter 11 case, property damage and business interruption. The Plan is consistent with the public commitment of the Province of Quebec, which is expending substantial funds to repair environmental damage resulting from the Derailment, to permit the

individuals, families and businesses victimized by the Derailment to have whatever insurance proceeds are available.

- If there is an Omnibus Insurance Settlement whereby all insurance issues are resolved in both the chapter 11 case and the Canadian Proceeding, 67% of the money will go to the Compensation Fund, and 33% will be distributed through the Canadian Proceeding. However, the Plan permits the Monitor in the Canadian proceeding to negotiate a different percentage split with the Plan Proponent (before the Effective Date) or Senator Mitchell (thereafter), or else to seek judicial determination of a split of insurance proceeds between the U.S. and Canadian bankruptcy estates based on estimated amounts of Derailment Claims to be paid by each estate. The Plan also contemplates the possibility of a settlement solely of the rights of the U.S. bankruptcy estate.

- The Plan provides for all creditors – whether Derailment victims asserting claims against the tank car manufacturer or trade creditors seeking recovery under guarantees, bonds or credit insurance – to be free to pursue in any forum they choose whatever rights they may have against any non-Debtor.

- Because all of the Debtor's assets except insurance policies and certain litigation rights appear to be encumbered by liens in favor of certain creditors (the "Secured Claimants"), the proceeds from the Sale will go to Secured Claimants under the Plan. To the extent that the Sale proceeds have not already been distributed by the Effective Date, the Trustee will complete this task as well as any other post-closing matters related to the Sale. No funds from the Sale are expected to remain for unsecured creditors.

The Victims' Committee believes that the Plan provides the best way for creditors to achieve what recoveries they can in this unfortunate situation. The Victims' Committee urges all creditors to vote to accept the Plan.

III. SUMMARY OF CLAIM FILING REQUIREMENTS

[To be inserted based on Court's determination of bar date motions at March 12 hearing, and also with reference to Sections 1.54 and 5.5(d) of the Plan, which excuses from the claim-filing requirement all claims that will receive no distribution under the Plan (Class 6 and Class 8 Claims); in the very unlikely event that there are surplus assets available for distribution, the Plan Fiduciary will seek a bar date applicable to such claims.]

IV. DESCRIPTION OF THE COMPANY

A. Debtor's Business and Corporate Structure

The Debtor is a privately held Delaware corporation formed in 2002 for the purpose of acquiring the assets from the bankruptcy estate of Bangor & Aroostook Railroad Debtor in 2003. The Debtor and its wholly owned Canadian subsidiary, Canadian Debtor, operate an integrated,

international shortline freight railroad system (the "MMA System") consisting of 510 route miles of track in Maine, Vermont and Quebec. According to the Debtor's initial filings in the Chapter 11 case, the Debtor and Canadian Debtor, although separate companies, have fully integrated business operations and accounting, with the Debtor collecting most of the revenue generated by the MMA System and transferring to Canadian Debtor the funds required to pay its expenses.

B. The Debtor's Liabilities

1. Camden National Bank

After the filing of the Debtor's chapter 11 case, the Debtor sought and received approval from the Court to obtain a commercial line of credit loan from Camden National Bank (the "Lender") in the maximum amount of $3 million at a fixed rate of interest of 5.00% per annum to support the Debtor's working capital needs (the "Postpetition Loan"). The Postpetition Loan is secured by a first mortgage and security interest on all assets in the United States that secure the debt administered by the Federal Railroad Administration (the "FRA"), as described more fully in the next paragraph. The Debtor also granted the Lender an assignment of leases and rents with respect to the real property located in the United States.

Last month the Trustee sought approval to increase the Postpetition Loan by up to $1.8 million to fund the working capital needs of the Debtor and the Canadian Debtor through the closing of the Sale. [This borrowing was approved in full on March 12, 2014.] In order to obtain the FRA's consent, the Trustee granted the FRA a first priority lien, subject to any interest asserted by Wheeling, in the Travelers Settlement and the 45G Tax Credits (each further described herein at Section V(G) below) as "adequate protection" against diminution of its recovery by reason of the increased borrowing. With the estate having already drawn $1.5 million of the increased financing, a diminution in that amount has already been incurred. The Trustee also agreed to reduce the FRA Carve-Out from $5 million to $4 million, with up to $500,000 to be restored to the extent that the total sum paid to FRA from the Travelers' Settlement proceeds and the 45G Tax Credits is at least $1.8 million.[3]

2. The Federal Railroad Administration

The Debtor is indebted to the United States of America, represented by the Secretary of Transportation acting through the Administrator of the Federal Railroad Administration (the "FRA") under a $34,000,000 Loan and Security Agreement dated March 24, 2005, as amended (the "FRA Loan"), which was issued pursuant to Title V of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, 45 U.S.C. § 821 *et seq*. According to a stipulation

[3] Although the FRA, which strongly advocated the Sale as part of its policy mandate to promote continued operation of rail lines and to serve its financial interest as holder of the fulcrum secured position in this case, is the primary beneficiary of the increased funding and could almost certainly be surcharged for the cost of the loan under Code Section 506(c) if the estate had retained its rights thereunder, the Trustee gave up the estate's rights under Code Section 506(c) as part of the deal under which he obtained the Carve-Out for the benefit of himself and his professionals. This left the FRA in a position to block the increased borrowing by withholding its consent. It appears to the Victims' Committee that the concessions made to the FRA in order to obtain its consent will deprive the Estate of between $1.5 and $2.3 million that would otherwise have been available free and clear of liens.

entered into between the Trustee and the FRA in the chapter 11 case, the Debtor's obligations under the FRA Loan are secured by, among other things, a first priority lien against: (a) substantially all of the Debtor's real property, including, without limitation, the U.S. rail corridor; (b) all of the Debtor's real property located in Québec, Canada; (c) all of the Debtor's shares in Canadian Debtor; (d) all of the real property owned by Canadian Debtor and located in Québec, Canada; and (e) all of Canadian Debtor's personal property. Schedule D to the Debtor's chapter 11 petition indicates that the outstanding balance as of the Petition Date under the FRA Loan was approximately $28 million. The FRA Loan is by far the largest of the Debtor's liabilities.

3. Equipment Lenders

The Debtor's locomotives and railcars (collectively "Rolling Stock") may be subject to first priority liens held by certain equipment lenders who financed the Debtor's purchase of such Rolling Stock. The equipment lenders include Canadian Pacific Railway Co., The CIT Group / Equipment Financing, Inc., Flex Leasing Corporation, GATX Corporation and Rail World Locomotive Leasing, LLC.

4. Wheeling & Lake Erie Railway Debtor

The Debtor is indebted to Wheeling & Lake Erie Railway Company ("Wheeling") pursuant to a line of credit in the amount of $6 million (the "Wheeling Loan") obtained in June 2009. To secure the Wheeling Loan, the Debtor executed a security agreement granting a security interest in favor of Wheeling in the Debtor's accounts receivable and inventory. According to Schedule D to the Debtor's Chapter 11 petition, the Debtor had fully drawn on the Wheeling Loan as of the Petition Date.

5. Wrongful Death and Personal Injury Claims Arising from the Derailment

The Derailment caused the death of 47 victims. Certain personal injury claims, not resulting in death, may be asserted as well. The families of those who died have what are called "wrongful death claims" for damages suffered from loss of their loved ones. These claims may be asserted against any person or entity that had a hand in causing the Derailment. Indeed, some of the families have already brought suit in Illinois against various defendants residing in Illinois, along with other large U.S. companies that the families and their lawyers believe had a significant role in the Derailment disaster (the "Illinois Actions"). As noted above, Wrongful death claims *against the Debtor* resulting from the Derailment are referred to in this Disclosure Statement as "Derailment WD Claims."

Similarly, some individuals have asserted claims for their own injuries suffered as a result of the Derailment. Any such claim *against the Debtor* for which a proof of claim is filed in the chapter 11 case is referred to in this Disclosure Statement as a "Derailment PI Claim."

Derailment WD Claimants and Derailment PI Claimants have the right to a jury trial to determine their claims – a process that could take years. It is typical, however, in chapter 11 cases such as this for the plan to provide an agreed basis for payment, so as to avoid the delay,

expense and waste of judges' time to determine the precise amount of claims that are going to be paid at a rate of far less than 100% under the chapter 11 plan. The Plan provides that each Derailment WD Claimant and Derailment PI Claimant shall negotiate in good faith with the Plan Fiduciary on an agreed amount for the claim to be allowed, based on an estimate of the jury verdict likely to be returned in respect of the claim. However, there has been no judicial determination of the legal amount of any of the Derailment WD Claims or the Derailment PI Claims.

Under Section 1171(a) of the Bankruptcy Code, claims of wrong death and personal injury victims are provided a special priority at the same level as administrative expenses of the estate. Administrative expenses are the highest priority of unsecured claims in a business bankruptcy – the same level as fees of the Trustee and his lawyers. Under the Bankruptcy Code, other prepetition unsecured creditors are not entitled to a distribution until all wrongful death and personal injury claims have been paid in full.

6. Other Derailment Claims

In addition to the wrongful death and personal injury claims described in the preceding paragraph, the Debtor is liable for all other claims arising from the Derailment. These include claims for environmental damage, property damage and business interruption. The amount of damages associated with these claims has not yet been determined, but will likely be significant. Unlike wrongful death and personal injury claims, these claims are not afforded priority for payment under the Bankruptcy Code.

The Province of Quebec has stated that it has already expended tens of millions of dollars to repair environmental damage. The expense will be ongoing. However, the Province has publicly committed to let other victims of the Derailment have the entirety of whatever insurance proceeds might be available. While the Province may, nevertheless, file a legal claim in the Canadian Proceeding, it is unlikely for various legal reasons to file a claim in the U.S. bankruptcy.

7. Troester Claim

Sarah Troester, as Administratrix of the Estate of Jefferson Troester, is a creditor of the Debtor on account of an accident resulting in the death of her husband. Ms. Troester asserts that her spouse was killed by a falling bulk paper roll upon opening the door of a boxcar owned by Debtor. Although a lawsuit has been commenced against the Debtor and others, the damages associated with Mr. Troester's claim have not yet been determined. Damages recovered by Mr. Troester have the same priority as Derailment WD Claims and Derailment PI Claims under Section 1171(a) of the Bankruptcy Code. However, it appears that this claim is fully covered by insurance coverage separate and apart from any coverage available for Derailment-related claims.

8. Tax Claims

At the time the Debtor filed its Chapter 11 petition, the Debtor owed sales and use tax

and excise tax to the State of Maine. Schedule D to the Debtor's Chapter 11 petition reflects that the Debtor owes approximately $115,000 for such taxes. The Debtor also owes property taxes to various towns in Maine through which the Debtor's railroad runs. Total tax claims owed by the Debtor to state and town authorities, according to Schedule D, are approximately $145,000.

9. Contract Damage Claims

Other contingent claims against the Debtor consist of damage claims that could be asserted by counterparties to executory contracts with the Debtor, if the Debtor were to reject such contracts. Such contracts include equipment lease agreements for the Debtor's Rolling Stock, non-residential lease agreements granting the Debtor easements for railroad crossings and communication towers, utility licenses, and retention agreements with certain employees. Although many contracts were assumed as part of the Sale, few of the lease agreements of Rolling Stock were assumed. While the Victims' Committee is unable to determine the total approximate damage claims that will result from the Debtor's rejection of contracts, the list of cure amounts set forth in the Trustee's Notice of Sale suggests that total damages will likely exceed $1 million.

10. Goods and Services

According to Schedule F to the Debtor's Chapter 11 petition, the Debtor owes approximately $15,896,875.88 to creditors who provided goods and services to the Debtor. A majority of these claims, approximately $9.3 million, are liabilities of the Canadian Debtor arising from the Derailment.

C. Events Leading to Chapter 11

According to an affidavit filed on behalf of the Debtor in support of its Chapter 11 petition, the Derailment was the precipitating cause for the Debtor's bankruptcy. The blasts set off by the Derailment destroyed part of downtown Lac-Mégantic, Quebec, killed 47 people and released a large quantity of oil and other harmful products into the environment, thus necessitating an extensive and costly cleanup effort. In addition, the Debtor faced lawsuits in the U.S. (by Derailment WD Claimants) and in Canada (a purported class action on behalf of various victims of the Derailment).

As a result of the Derailment, Canadian authorities prohibited trains from traveling between Maine and Quebec on the Canadian Debtor line, thus causing a dramatic decline in the Debtor's freight business. According to the Debtor, its aggregate gross revenues plummeted from $3 million per month before the Derailment to $1 million per month thereafter. The significant reduction in cash flow and substantial increase in liabilities forced the Debtor to seek bankruptcy protection.

V. THE CHAPTER 11 CASE

The Debtor filed its chapter 11 petition on August 7, 2013, for the announced purpose of preserving its value as a going concern and conducting a sale of its assets.

A. The Automatic Stay

Under the Bankruptcy Code, the filing of the Debtor's petition under Chapter 11 triggered what is known as the "automatic stay" – essentially an injunction against collection activity by creditors, interference with the Debtor's possession of its assets, and similar activities. At the same time that creditors are barred from collecting prepetition claims, the Debtor is barred from paying them. The purpose of the automatic stay is to assure an orderly bankruptcy process centralized in the bankruptcy court. Instead of pursuing collection lawsuits, creditors file proofs of claim with the bankruptcy court. Instead of dismembering the Debtor through foreclosures and sheriffs' sales, disposition of the Debtor's assets is determined through bankruptcy court orders entered after notice and an opportunity for all parties to be heard, or through a Chapter 11 plan voted on by impaired creditors.

B. Cash Collateral Orders

Although the automatic stay suspended demands on the Debtor's cash flow to pay prepetition claims, the Debtor still needed to meet its postpetition obligations, including operating expenses and the professional charges necessary to pursue the Chapter 11 case. The Bankruptcy Code, however, permits a debtor to use cash, deposit accounts and other liquid assets that are subject to a creditor's lien only with the secured creditor's permission or an order of the bankruptcy court. Typically such agreement or order can be obtained only by providing the secured creditor with what is called "adequate protection" – essentially, reasonable assurance that the value of its collateral position will not decline because the debtor's use of cash collateral.

Seeking funds to meet postpetition obligations, the Debtor reached agreement with Wheeling on the terms of an order permitting use of cash collateral. The Court on August 12, 2013 entered an interim order authorizing the Debtor's use of cash collateral until August 23, 2013 (the "First Interim Order"). Thereafter, the Debtor and its successor, the Trustee, sought and received further extensions of its use of cash collateral on an interim basis. As of the date of this Disclosure Statement, the Debtor is authorized, pursuant to the Sixth Interim Order Authorizing the Debtor to Use Cash Collateral entered on October 11, 2013 [Docket No. 376], to use cash collateral until January 31, 2014. Among the terms of the Interim Cash Collateral Orders are:

- The Estate may use cash collateral in accordance with an agreed Budget, subject to a 10% cumulative permitted variance.

- Adequate protection is supplied to Wheeling primarily through a replacement lien on postpetition assets and a "super-priority claim" – that is, an unsecured claim payable ahead of all other such claims, even those with statutory priority – to the extent of any diminution in the value of the Wheeling's cash collateral resulting from the Debtor's use thereof.

C. Appointment of Trustee

In a non-railroad chapter 11 case, appointment of a trustee is not automatic, and in practice is rare. However, under the railroad provisions (subdivision 4) of chapter 11,

appointment of a trustee is mandatory. Trustee candidates are nominated by the U.S. Department of Transportation and the selection is made by another federal official, the U.S. Trustee. This process resulted in appointment of a Portland lawyer, Robert Keach, as Trustee. With the Bankruptcy Court's approval, he engaged his own law firm (which has one of the most capable bankruptcy groups in the State of Maine) to serve as his counsel.

D. Postpetition Financing and FRA Carve-Out

The Trustee faced an immediate difficulty: There were no funds available to pay his or his law firm's fees. The Estate's cash was subject to Wheeling's lien, and the hard assets comprising the railroad itself were subject to a lien in favor of the FRA. Without consulting with affected creditors, the Trustee negotiated a stipulation with the FRA whereby the FRA agreed to "carve out" $5 million from the proceeds of the Sale payable to the FRA for payment of fees and expenses incurred by the Trustee, Professional Persons employed by the Trustee and quarterly fees payable to the Office of the U.S. Trustee (the "Carve-Out"). The stipulation made no provision whatsoever for other claims entitled to the same priority as the Trustee's personal and legal fees, such as wrongful death and personal injury claims. The Derailment WD Claimants objected to the Carve-Out, which was nevertheless approved by the Bankruptcy Court. The matter is now on appeal to the U.S. District Court. After the filing of the appeal, the Carve-Out was modified to reduce the maximum amount of the Carve-Out by $500,000 to $1.0 million.

The Trustee soon faced a further difficulty: Railroad operations were losing money, so the Estate needed further funding in order to continue operations pending closing of the Sale. This led to the financing with Camden National Bank, described above at Section IV(B)(1).

E. Disposition of the Debtor's Raiload Assets and Operations

On January 24, 2014, the Court approved the Sale of substantially all of the assets of the Debtor and Canadian Debtor to Railroad Acquisition Holdings LLC for a purchase price of $14,250,000. Among the assets included in the Sale were all real and personal property, rolling stock, operating agreements, executory contracts and leases of the Debtor and Canadian Debtor. Assets excluded from the sale were certain locomotives, cash and accounts receivable, claims and causes of actions, rights under the Debtor's insurance policies, claims and causes of actions arising out of the Derailment, deposits and certain executory contracts and leases, including many leases involving the Debtor's Rolling Stock. [A closing for the sale is expected to occur not later than March 14, 2014.]

F. Negotiations Concerning XL Policies

Following the consummation of the Sale, the only significant remaining assets of the Debtor will be two companion insurance policies issued by XL Insurance Company Limited (the "XLIC Policy") and Indian Harbor Insurance Company (the "Indian Harbor Policy"), each with a limit of $25 million of coverage for Derailment-related claims (collectively, the "XL Policies"). The Debtor is a named insured under both XL Policies, as is MMA Canada. Issues affecting disposition of the XL Policies and their proceeds include:

1. Non-Debtor Insureds: In addition to the Debtor and MMA Canada, other named insureds under the XL Policies include affiliates of the Debtor such as LMS Acquisition Corporation; Logistics Management Systems; Montreal, Maine and Atlantic Corporation and Rail World. Additional insureds under the XL Policies include certain lessors of rolling stock, among others, with respect to the "Railroad Operations" conducted by such entities on behalf of the Debtor and MMA Canada. The XL Policies also provide coverage to any entity to which any named insured is obligated to provide insurance under a contract in connection with "Railroad Operations" conducted by or "Railroad Facilities" owned or used by the named insureds. The CIT Group, which leased locomotives and cars to the Debtor some of which were involved in the Derailment, invokes this clause to assert the rights of an insured under the XL Policies. Entities excluding the Debtor and MMA insured under the XL Policies are referred to herein as "Non-Debtor Insureds."

2. Amount of Coverage. The Insurer acknowledges that $25 million of indemnity coverage is available under the XLIC Policy, plus defense costs. The Insurer denies that any coverage is available under the Indian Harbor Policy. However, the language of the Indian Harbor Policy affords a basis to assert that $25 million of indemnity coverage is also available under that policy.

3. Right to the Proceeds. Absent a settlement whereby the XL Policies and their proceeds are disposed of in a different manner, it is likely that the Insurer will pay the first $25 million of covered Derailment Claims that are reduced to judgment and presented to the Insurer for payment, and will pay defense costs to the Non-Debtor Insureds until its obligation to do so is exhausted under the terms of the XLIC Policy and applicable law. Holders of covered Derailment Claims above $25 million will likely sue the Insurer to collect under the Indian Harbor Policy. Holders of Derailment Claims can sue and collect judgments from Non-Debtor Insureds even if insurance coverage is exhausted, although it is possible (the Victims' Committee, however, has seen no evidence of this) that certain Non-Debtor Insureds may have insufficient assets to satisfy all future judgments.

4. Settlement Structure. All major constituencies acknowledge the benefit of a reasonable settlement whereby the Insurer pays an agreed amount to be distributed in a fair and orderly manner among victims of the Derailment. Toward this end, the Province of Quebec has publicly committed that, despite its own covered claims for millions of dollars of environmental clean-up costs, it will permit all insurance proceeds to be paid to Derailment victims. The Trustee has initiated negotiations with certain parties – excluding the Derailment WD Victims – for a settlement to resolve the Insurer's obligations under the XL Policies, and distribute proceeds to Derailment victims. No such settlement has been concluded.

Based on the limited details of the negotiations that the Trustee has publicly disclosed, it appears to the Victims' Committee that any such settlement would be stillborn by reason of being contrary to law and unacceptable to the Derailment WD Claimants. The Plan contemplates that the Plan Fiduciary will attempt to reach a settlement for the benefit of *all* Derailment victims. Issues to be addressed under any settlement include the amounts to be paid by the Insurer, the victims to whom and/or the bankruptcy estates or other party through which the amounts are to be paid, and the legal protection that the Insurer will receive in return. If the Non-Debtor Insureds are included in a settlement, they will require some form of consideration as well. If the settlement entails release of claims by Derailment victims against the Non-Debtor Insureds, the Derailment victims will need to receive what they consider acceptable value in exchange for those releases. If the settlement entails an involuntary bar against assertion of claims against Non-Debtor Insureds by Derailment victims, then the settlement will either need to satisfy the prerequisites of U.S. bankruptcy law (among others, overwhelming support for the settlement by those whose claims are to be barred) and of the CCAA (among others, that the settlement be contained in a plan of arrangement approved by voting creditors and by the Canadian Court).

5. Impact of the Plan. The Plan expressly authorizes the Plan Fiduciary to conclude a settlement of the XL Policies. The Plan provides for proceeds of any settlement of the XL Policies to be allocated between the U.S. bankruptcy estate and the Canadian bankruptcy estate proportionally to the Derailment victims' claims that each estate will be responsible for paying. Because the Plan expressly preserves the Derailment victims' rights to pursue claims against non-debtors wherever and however they choose, the settlement will not entail an involuntary bar against victims' claims against Non-Debtor Insureds. Provisions of the Plan governing settlement of the XL Policies are described in more detail in Section VI(C) below.

G. Additional Assets of the Estate

1. Travelers Settlement: In December 2013, the Debtor and MMA Canada reached settlement with Travelers Property Casualty Company of America for a dispute concerning the coverage under a commercial property insurance policy which the Debtor claimed provided, among certain other coverage, business interruption coverage to the Debtor and MMA Canada. Under the settlement, Travelers agreed to pay a total amount of $3.8 million to the Debtor and MMA Canada (the "Travelers Settlement"). The Travelers Settlement was allocated 35% to the Debtor and 65% to MMA Canada.

Wheeling has objected to the Travelers Settlement and the proposed allocation, arguing that all the proceeds of the Travelers Settlement are payments of an "account" or "payment intangible" subject to Wheeling's

security interest. The Trustee disputes Wheeling's position on the grounds that Wheeling's security interest did not extend to the insurance policy with Travelers or to the proceeds thereof. The Trustee further argues that to the extent Wheeling's security interest applies over the Travelers Settlement, Wheeling was unperfected as to the portion of the proceeds allocated to the Canadian Debtor and therefore Wheeling's security interest would apply solely to the portion allocated to the Debtor. [A hearing on the matter took place on March 13, 2014. The Court has taken the matter under advisement.]

2. 45G Tax Credits: The Debtor asserts an interest in $490,513.62 of tax credits created by the assignment by the Debtor of eligible railroad track miles to KM Strategic Investments, LLC for tax purposes pursuant to 26 U.S.C. § 45G. Wheeling asserts a security interest in such tax credits. An evidentiary hearing was held on January 23, 2014. The Court has not yet issued a decision regarding the dispute.

H. Litigation. On January 30, 2014, the Trustee commenced an adversary proceeding against World Fuel Services Corporation purportedly seeking to recover damages sustained by the Debtor as a result of the Derailment. Although the Trustee has asserted that the Debtor has no blame for the Derailment and that the Trustee stands to recover substantial sums as a result of these claims, the Victims' Committee is concerned that the Trustee may recover nothing because of the Debtor's own role in the Derailment disaster and that the adversary proceeding is a *sub rosa* attempt to assert in an unfavorable context the claims of the Derailment victims rather than any independent claims of the Debtor's estate. The Victims' Committee has moved to bar the Trustee from asserting victims' claims. [The Court heard oral argument of the motion on March 12, 2013, and took the motion under advisement.] The Plan provides for the Plan Fiduciary to assess all pending and potential legal actions of the Debtor's estate, and to pursue them only to the extent likely to augment the victims' recoveries, considering not only distributions in the U.S. bankruptcy case and Canadian CCAA case but also victims' direct lawsuits against non-debtor parties (for example, the Illinois Actions on behalf of Derailment WD Claimants and the Canadian class action on behalf of other Derailment victims).

VI. CLASSIFICATION OF CLAIMS AND THEIR TREATMENT UNDER THE PLAN

The Debtor's liabilities and member interests, and their treatment under the Plan, are described below in the following order:

A. Secured Claim of the FRA (Class 1);

B. Secured Claims of Equipment Lenders (Classes 2A-2F)

C. Secured Claim of Wheeling (Class 3);

D. Priority Non-Tax Claims (Class 4)

E. Derailment Wrongful Death Claims (Class 5)

F. Derailment Personal Injury Claims (Class 6)

G. Other Derailment Claims, other than those Filed and Allowed as entitled to Priority under Code Section 507(a)(2) (Class 7)

H. Troester Claim (Class 8)

I. General Unsecured Claims (Class 9)

J. Claims of the Canadian Debtor (Class 10)

K. Equity Interests (Class 11)

A. <u>Secured Claims</u> (Classes 1, 2A-2F and 3)

A secured claim is a claim secured by property of the debtor (referred to as "collateral"), such that if the debtor defaults, the holder of the claim (the secured creditor) has the right under non-bankruptcy law to sell the collateral in order to pay the claim. In bankruptcy parlance, a secured claim is not necessarily the entire amount owed to the secured creditor. If a creditor is under-secured – that is, the value of the collateral falls short of the amount of the claim – the claim is considered a secured claim only to the extent of the value of the collateral. The remaining balance will in most instances be treated as a general unsecured claim.

Secured Claims against the Debtor include: (1) the Claim of the FRA for approximately $28 million secured by all of the real property owned by the Debtor and Canadian Debtor, personal property owned by Canadian Debtor and the Debtor's shares in the Canadian Debtor; (2) Claims of Equipment Lenders in amounts to be determined secured by the equipment for which financing was provided; and (3) the Claim of Wheeling for at least $6,000,000 secured by the Debtor's accounts receivable and inventory. Since the Sale is expected to close in March, it is possible that some or all of these Secured Claims will already be paid by the time the Effective Date occurs under the Plan. To the extent they have not been, the Plan leaves the Trustee in charge of proper handling of sale proceeds as well as any other post-Closing tasks related to the Sale.

The Plan provides that the Secured Claims of the FRA, Equipment Lenders and Wheeling will be paid from the proceeds of the Sale pursuant to agreement among the Secured Claimants and the Trustee concerning how the proceeds should be divided. If no agreement is reached, then the Plan provides for the Trustee to disburse the proceeds (taking account of any distributions from the Canadian Estate) as follows: a) first, to satisfy in full any remaining balance of the Postpetition Loan, b) second, to satisfy amounts owed to each Equipment Lender to the extent it holds a first priority lien on any Sale asset, to the extent of the value of such asset, or, if less, the full Allowed Amount of the Claim of such Equipment Lender, c) third, to satisfy

amounts owed to Wheeling to the extent Wheeling has a first priority lien on any Sale asset, to the extent of the value of such asset or, if less, the full Allowed Amount of Wheeling's Claim, and d) finally, to satisfy the Claim of the FRA, less funding of the Carve-Out.

B. Claims Arising During the Chapter 11 Case

Administrative Claims are liabilities incurred during the Chapter 11 cases, including operating expenses, professional fees, and quarterly fees payable to the Office of the United States Trustee. Under the Bankruptcy Code, with exceptions not pertinent here, Administrative Claims are entitled to priority payment over all unsecured claims arising before the Petition Date and must be paid in full as a condition of confirming the Plan. Accordingly, the Plan provides that Allowed Administrative Claims will be paid in full, in Cash on the Effective Date.

Any claim entitled to priority under Section 507(a)(2) of the Bankruptcy Code, arising before the Effective Date and still outstanding as of the Effective Date, shall be forever barred unless it is the subject of a proof of claim or request for payment (or, in the case of a professional person, a fee application) filed with the Court on or before the Postpetition Bar Date, which is the first Business Day following the 30th day after the Effective Date.

C. Wrongful Death and Personal Injury Claims from Derailment

Derailment WD Claims and Derailment PI Claims are placed in Class 5. Each such claim is entitled to receive a Pro Rata Share of the Compensation Fund administered by Senator Mitchell as Plan Fiduciary. The Compensation Fund will include whatever assets are available to pay prepetition claims, including any insurance proceeds administered by the Plan Fiduciary.

Recognizing that the funds available to Derailment victims through the Plan and the CCAA case will almost certainly fall far short of full compensation, a key provision of the Plan is the express preservation of the legal rights of all claimants against non-debtor parties. Thus, the Plan (among other things) provides for Derailment claimants, in whatever forum they might choose under non-bankruptcy law, to commence or continue litigation against Non-Debtor Entities, and the Plan prevents any defendant from changing the forum of such litigation based on the bankruptcy case. The Trustee, who joined with World Fuel and other defendants in moving to transfer the Illinois Actions to the District of Maine, asserts that if this motion is granted, the Plan cannot be confirmed. The Victims' Committee disagrees, since it is well-established that Plan-imposed limits on the retained jurisdiction of the federal courts are enforceable. Regardless, the Plan has now been amended so that if the bankruptcy court concludes (whether agreeing with the Trustee's position or on the basis of comity with the District Court) that the Victims' Committee must obtain an order from the Maine District Court in order for the Plan to take effect, the Victims' Committee shall do so, and entry of such order shall be a condition for the Effective Date to occur.

There appears to be a total of at least $25 million in insurance coverage for Derailment-related claims under the XL Policies. The insurance policies are intertwined because each expressly states that amounts paid under the other policy will reduce the available amount under both policies. The Indian Harbor Policy is a "wasting policy," meaning that defense costs paid

by the insurer reduce the amount of the policy. Under Canadian law, defense costs paid under the XLIC Policy do not reduce the balance of the policy available to pay claims. The Insurer, the Canadian Estate and the U.S. Estate agree that the XLIC Policy was triggered by the Derailment and, accordingly, amounts due for the insureds' defense costs will be paid from the XLIC Policy.

The Plan makes provision for the possibility of a settlement with the Insurer, and indeed the Plan Fiduciary is chartered to work with the Canadian Debtor and court-appointed Monitor to try to bring this about. The Plan addresses division of any settlement proceeds between the U.S. and Canadian estates, and the related issue of allocating responsibility between the two estates to distribute proceeds to the Derailment claims covered by the XL Policies. The Plan provides that the U.S. estate will be responsible for distributing to Derailment WD Claimants and Derailment PI Claimants, with the Canadian Estate taking responsibility for Other Derailment Claims (such as personal injury claims that are not Filed in the chapter 11 case, and property-related claims). If there is a settlement of the Canadian Debtor's and the U.S. Debtor's coverage, the proceeds will be divided in one of three ways. If the Canadian Estate does not object, proceeds will be paid 67% to the Estate and 33% to the Canadian Estate, which has the effect of allocating 67% of the insurance proceeds to the Derailment WD Claims and Derailment PI Claims, with the 33% balance being distributed on account of Other Derailment Claims. If the Canadian Estate does object to the 67-33 split, then agreement on a different allocation between the between the two estates may be reached by the Plan Fiduciary and the Monitor. If such agreement is not reached, then the Plan provides for the Plan Fiduciary to seek a joint order of the U.S. and Canadian courts allocating proceeds between the two estates proportionally to the amount of Derailment-related claims that will be allowed in the Canadian Proceeding and the U.S. chapter 11 case.

Regarding the rights of Non-Debtor Insureds to assert claims for payment of defense costs arising from litigation in connection with their role in the Derailment, the Plan expressly provides that no settlement shall adversely affect the rights of the Non-Debtor Insureds without their consent, except as permitted by applicable law. The Plan lays out a variety of alternatives to address such rights. The Plan authorizes a settlement that (i) includes a provision for a portion of the settlement proceeds to be reserved for payment of defense costs of Non-Debtor Insureds, (ii) provides for voluntary releases of some or all Non-Debtor Insureds to be executed by holders of Class 5 Claims, with any such holder who declines to supply such release barred from receiving such portion of the settlement proceeds as the Plan Fiduciary, in his discretion, determines to be attributable to the Non-Debtor Insureds, (iii) conditions the obligation of Non-Debtor Insureds to consummate the settlement or the amount of consideration payable by Non-Debtor Insureds upon their receipt of such releases or a certain minimum number of such releases, (iv) provides for entry of a Joint Order determining that upon payment of the amount required by the insurance settlement, the XL Policies and the obligations of the Insurer thereunder shall be exhausted, provided that such determination is permissible under applicable law, and/or (v) provides for entry of any Joint Order, any Order in the U.S. Case, or any order in the Canadian Case not inconsistent with the foregoing.

Whether or not there are proceeds of an insurance settlement or any other assets for distribution to (Class 5), this class by accepting the Plan agrees that the only distributions on account of Derailment WD Claims and Derailment PI Claims will be through the Estate; Derailment WD Claimants and Derailment PI Claimants waive the right to assert claims in the

Canadian Proceeding. This waiver is intended to make it possible for other Derailment claimants, who will receive nothing in the chapter 11 case because of the Derailment WD Claimants' and Derailment PI Claimants' priority, to have the possibility of a recovery through the Canadian Proceeding.

The Plan makes provision for Non-Debtor Entities that pay judgments or settlements to Derailment WD Claimants or Derailment PI Claimants to assert against the estate whatever claims for contribution, indemnity and subrogation under applicable law. Each such claimant is required to file a claim (likely contingent in nature) by the Bar Date deadline, but would permit such claims (unlike others) to be amended to reflect payments actually made by the Non-Debtor Entity. In accordance with provisions of the Bankruptcy Code contemplating that this type of claim (defined in the Plan as a "Secondary Claim") receive distributions once the victim's claim (in this context, a "Primary Claim") has been paid in full, the Plan provides for all Plan distributions to be paid to the victim until the Primary Claim has been paid in full (including from payments from such Non-Debtor Entity as well as under the Plan), at which point any remaining distributions on account of the Primary Claim will be paid instead to the holder of the Secondary Claim.

If the Province files a Derailment Claim against the Estate, then each holder of a Class 5 Claim will be deemed to have assigned to the Estate all claims such holder may have against the Province arising from the Derailment. The Province's potential Derailment Claim is further discussed two paragraphs below.

D. Other Derailment Claims

The Plan defines "Other Derailment Claims" as claims arising from the Derailment other than Derailment WD Claims and Derailment PI Claims. Other Derailment Claims are expected to consist of personal injury claims not Filed in the U.S. Case (the Victims' Committee is informed that the claimed injuries consist largely if not entirely of post-traumatic stress disorder, including physical as well as mental symptoms), and property-related claims such as damage to real estate, damage to personal property, environmental damage and business interruption. Holders of Other Derailment Claims will receive no distribution under the Plan. However, they will receive the benefit of the waiver by Derailment WD Claimants and Derailment PI Claimants of their right to file claims in the Canadian Proceeding. For a more complete discussion of the allocation of proceeds and claims responsibility between the U.S. and Canadian estates, please refer to the immediately preceding section.

As discussed elsewhere, the Province of Quebec is expending millions of dollars in environmental clean-up costs resulting from the Derailment. The Province has the right to file a claim for those costs in the U.S. Case. Such claim might be asserted as entitled to priority under Section 507(a)(2) of the Bankruptcy Code – the same level of priority as Derailment WD Claims and Derailment PI Claims – although the Victims' Committee does not agree that such claim may properly be allowed as anything other than a General Unsecured Claim. When a governmental unit such as the Province files a claim in a chapter 11 case, it consents to the bankruptcy court's jurisdiction to determine not only that claim but any counterclaims of the bankruptcy estate against the governmental unit arising from the same facts and circumstances

(in this instance, the Derailment) even though the doctrine of "sovereign immunity" ordinarily protects governmental units from suit. Under the Plan, the counterclaims that could be asserted by the estate would include not only its own but also those of any Class 5 creditors, which the Plan provides are assigned to the Estate. Finally, by way of implementing the Province's commitment to permit Derailment victims to have any and all insurance proceeds resulting from the Derailment, the Plan provides for any claim allowed in favor of the Province to be subordinated to the Derailment WD Claims and Derailment PI Claims.

The Victims' Committee expects that the Province will elect not to file a claim in the chapter 11 case. The Victims' Committee expects the Province to conclude that the Plan faithfully implements the Province's commitment relating to insurance proceeds, the U.S. bankruptcy estate will almost certainly have no significant funds other than insurance proceeds, and the Province can recover all or a substantial portion of its clean-up expenditures from non-debtors. Accordingly, although the legal complications triggered by the Province's filing of a claim could jeopardize Plan distributions and entail much time and expense to resolve, the Victims' Committee expects that this will not come to pass.

E. Troester Claim

The Plan provides that as of the Effective Date, the holder of the Troester Claim may pursue recovery from insurance policies of the Debtor that cover such Claim and do not cover Claims resulting from the Derailment. To the extent permitted by applicable non-bankruptcy law, the Troester Claim may continue to be litigated against the Debtor in name only, provided that any recovery for the Troester Claim is waived against any asset of the Estate or under the Plan. No funds of the Estate will be expended to defend against the Troester Claim and if any discovery is sought from the Estate, reasonable limits may be established by the Court to limit such discovery.

F. General Unsecured Claims

Unsecured Claims not entitled to priority under the Bankruptcy Code are called "general unsecured claims." If you supplied goods or services to the Debtor before the Petition Date and you have not been paid, then you probably hold a General Unsecured Claim. (The Petition Date, when the Debtor filed the petition commencing its Chapter 11 case, was August 7, 2013.) The Plan places General Unsecured Claims in Class 8, except that any claim of the Canadian Debtor is placed in Class 9.

Because of the Estate will be left with few assets once the Sale closes and Secured Claims are paid, and because the administrative expense priority of wrongful death and personal injury claims described above, there will be nothing of value left in the Estate for payment of General Unsecured Claims. Accordingly, the Plan provides that holders of such claims will not receive any payment under the Plan.

Because Classes 8 and 9 will not receive or retain any property under the Plan, they are deemed to reject the Plan. The Victims' Committee believes that the Plan can be confirmed by

the Bankruptcy Court anyway, because no junior class is receiving or retaining any property either.

F. Equity Interests (Stockholders)

According to the Debtor's Statement of Financial Affairs, Montreal Maine & Atlantic Corporation owns 100% of the Debtor's stock. The Plan provides for the Debtor's stock to be cancelled on the Effective Date. The Debtor's sole shareholder will receive no payment or other consideration for the shares. Class 10, in which equity interests are placed, is deemed to reject the Plan. However, the Victims' Committee believes that the Plan can be confirmed by the Bankruptcy Court anyway, because no junior class is receiving or retaining any property either.

VI. MEANS OF IMPLEMENTATION

A. Effective Date

The day that the Plan will take effect is defined in the Plan as the "Effective Date." If the Bankruptcy Court enters the Confirmation Order on the date scheduled for the hearing on confirmation of the Plan and no court enters a stay of the Confirmation Order, the Effective Date will occur on April __, 2014 if the Court grants the request of the Victims' Committee to override the automatic 14-day stay provided by court rules. If the Bankruptcy Court denies the request, then the Effective Date will occur or on April __, 2014 provided that the Confirmation Order has not been stayed.

B. Plan Fiduciary

Senator George J. Mitchell will serve as Plan Fiduciary. The Plan provides for the Plan Fiduciary to administer the Debtor's bankruptcy estate after the Effective Date. Even before the Effective Date, Senator Mitchell has agreed to work with key parties to try to forge agreements that will maximize the benefit to all parties (more accurately, to minimize the harm) wrought by the Derailment.

The Plan provides for the Estate to continue after the Effective Date, protected by the automatic stay, until the estate is fully administered and the Chapter 11 case is closed. The Plan Fiduciary will evaluate the Residual Assets of the Estate (those remaining after the Sale) and determine the best approach to maximizing value. In the case of claims of the Estate against non-Debtor parties arising from the Derailment, the Plan Fiduciary will consider the costs and benefits to the Estate and to creditors of a decision to pursue such claims. The Plan Fiduciary also has the responsibility to make distributions to holders of Allowed Claims as provided under the Plan.

To assist in discharging his duties, the Plan Fiduciary will have the authority to engage professionals, such as lawyers or accountants. In his discretion, these professional persons may include those who have previously served the Debtor or the Trustee. The Plan Fiduciary and professional persons he employs will be entitled to reasonable compensation and reimbursement of customary expenses as provided in the Plan. These charges, along with the Plan Fiduciary's

own compensation, are expected to be the primary expenses of administering the Plan ("Plan Expenses"). The Victims' Committee will remain in place as representative of the Derailment WD Claimants; its responsibilities will include being available for consultation by the Plan Fiduciary as to matters where the Plan requires him to consult with or obtain the consent of the Victims' Committee. The fees and reimbursable expenses of the Victims' Committee's bankruptcy counsel (but not personal injury counsel) will be paid by the Plan Fiduciary as a Plan Expense.

To protect the bankruptcy estate as well as the Plan Fiduciary, the Plan Fiduciary will have no liability for his acts or omissions except in the event of gross negligence or willful misconduct. The Plan provides that no bond will be required of Senator Mitchell. The Plan provides for the Trustee to extend his cooperation to the Plan Fiduciary in order to promote a smooth transition, including (once the Confirmation Order is entered) not to initiate or pursue without the Plan Fiduciary's permission any action that would, after the Effective Date, fall within the duties and powers of the Plan Fiduciary.

C. Borrowing. If the Victims' Committee determines before confirmation of the Plan that the Estate will need additional funds to satisfy its obligations under the Plan or if the Plan Fiduciary determines that the estate will needs additional funds to pay Plan Expenses, they may seek the Court's authorization for the estate to borrow funds. Any such loans will be repaid in full before any distribution to Derailment WD Claimants or Derailment PI Claimants.

VII. ASSERTION AND ALLOWANCE OF CLAIMS

A. How to Assert a Prepetition Claim

No Claim will be paid unless it is Allowed. In order to be Allowed, a Claim must first be asserted.

A Claim arising before the Petition Date, or for damages under a contract with the Debtor made before the Petition Date, is asserted in either of two ways. First, your claim has been deemed asserted if it was listed in the Schedules that the Debtor filed with the Court as an obligation that is not disputed, unliquidated or contingent. If your Claim was so listed and you agreed with the amount listed in the Schedules, then you needed to do nothing further to assert your Claim.

The second way of asserting a Claim was to file a proof of claim with the Bankruptcy Court before the deadline for filing proofs of claim, known as the Bar Date. The Trustee sought an Order setting a Bar Date. [Disposition of this motion to be described.] The Plan provides a Bar Date of [to be harmonized with disposition of Trustee's bar motion, and with Plan provisions.] If you fail to file a proof of claim with the Bankruptcy Court on or before the Bar Date, your Claim is forever barred as a Claim against the Debtor except under very special circumstances prescribed by the courts.

If you are a party to a contract with the Debtor that has not been rejected and you will have legally recoverable damages by reason of rejection by the Debtor's estate of your contract,

then you will have the opportunity to file a proof of claim for those damages. If your contract is rejected under the Plan (see Section IX below), the deadline for filing your damage claim (if any) will be the first Business Day after the 30th day following the Effective Date. Notice of the occurrence of the Effective Date will be sent to all parties to whom this Disclosure Statement was sent.

B. Allowance of Prepetition Claims

No Claim will be entitled to payment under the Plan unless it is Allowed. The Debtor reserves the right to object to any Claim on any legal basis. On the Effective Date, this duty and authority to object to Claims will pass to the Plan Fiduciary.

If an objection is filed to your Claim, you will be sent a notice explaining the grounds for the objection and what you must do if you wish to contest the objection. Any Claim to which no objection is filed will be Allowed. Accordingly, you are safe in assuming that if you do not receive notice of an objection, your Claim has been or will be Allowed, and will be paid in accordance with the Plan, ***provided that the Schedules or your proof of claim, as applicable, contain your correct current mailing address***. It is your responsibility to assure that the Debtor or, from and after the Effective Date, the Plan Fiduciary has your correct, current mailing address.

The Allowed Amount of any Claim to which an objection and a timely response thereto are filed will be determined by the Court.

C. Postpetition Claims

A Claim arising on or after the Petition Date through and including the Effective Date is an Administrative Claim. Any Claim arising after the Effective Date is a Plan Expense.

1. Administrative Claims

Administrative Claims for goods and services supplied to the Estate during the Chapter 11 case are being paid by the Trustee (or were earlier paid by the Debtor) in the ordinary course of their business. If you have received payment of such a Claim, there is nothing you need to do in order to retain the payment. However, the Plan provides that any Administrative Claim still outstanding on the Postpetition Bar Date will not be Allowed or eligible for payment unless it is the subject of a proof of claim or request for payment (or in the case of professional fees and reimbursement of professionals' expenses, an application) filed with the Court on or before the Postpetition Bar Date. ***The Postpetition Bar Date will be the first Business Day following the 30th day after the Effective Date.*** Once the Effective Date occurs, the Plan Fiduciary will send a notice to all of the Debtor's creditors and postpetition vendors stating that the Effective Date has occurred and specifying the actual calendar date of the Postpetition Bar Date.

A properly filed Administrative Claim will automatically be Allowed (except for professional fees and expenses, which always require Court approval) unless it is objected to within 30 days after the Postpetition Bar Date.

2. Plan Expenses

After the Effective Date, the Plan Fiduciary will take over responsibility for wrapping up the Debtor's affairs. If you supply goods or services to the Plan Fiduciary, you will be paid by the Plan Fiduciary in the ordinary course. ***Please note, however, that in order to be a Plan Expense, the liability must actually be incurred by the Plan Fiduciary. The Plan Fiduciary must receive an invoice not later than 60 days after incurrence of any Plan Expense in order for it to be entitled to payment.***

D. Late-Filed Claims and Amendments

Effective administration of the Plan requires that the Plan Fiduciary have certainty concerning the obligations of the bankruptcy estate. Accordingly, the Plan provides that:

- Each Claim as to which a proof of claim was required to be filed on or before the Bar Date and as to which a proof of claim was not filed on or before Bar Date shall not become an Allowed Claim except as may be determined by Final Order. A proof of claim that has not been timely filed shall be of no force or effect whatsoever, including for purposes of any distribution made by the Plan Fiduciary; nor shall any action (including giving notice to the Debtor or otherwise making an "informal" proof of claim) serve for purposes of the Plan and distributions required of the Plan Fiduciary as a substitute for timely filing a proof of claim in accordance with the Bar Order except as otherwise determined by Order prior to entry of the order confirming the Plan.

- In no event shall the Allowed Amount of any Claim exceed the amount set forth in a required proof of claim therefor filed on or before the Bar Date except to the extent that (i) the claimant, not later than one Business Day before the Effective Date, files with the Court and serves on the Debtor so as to be received by Debtor's counsel on the same day, an amended proof of claim, and (ii) such amendment is not otherwise barred by law or by Order.

- No order allowing or disallowing a Claim may be reconsidered, pursuant to Section 502(j) of the Bankruptcy Code or otherwise, so as to increase the Allowed Amount thereof after the Effective Date.

E. Unknown Claims

Notwithstanding anything to the contrary contained in the Plan, if a Claim is filed with the Court by the Bar Date or the Postpetition Bar Date, as applicable, but the proof of claim is not correctly maintained in the Court's records or otherwise does not come to the Plan Fiduciary's attention in reviewing or making payment on account of Claims, or if the Court for any reason determines the Bar Date or Postpetition Bar Date to be inapplicable to a particular Claim filed or asserted thereafter, payment thereon shall be made as required by the Plan only to the extent possible without (a) impairing payment of Plan Expenses, or (b) requiring disgorgement of any payment or distribution previously made by the Debtor or the Plan Fiduciary.

VIII. DISTRIBUTIONS TO CREDITORS

If your Claim is Allowed, you will be entitled to receive a distribution on account of your Allowed Claim as provided by the Plan. No distribution will be made on account of any Claim unless and until it is Allowed as described above. Distributions to creditors will be made by check (or wire transfer, if advance arrangements acceptable to the Plan Fiduciary are made) issued by the Plan Fiduciary.

A. Address for Distributions

If you filed a proof of claim, your distribution check will be sent to the address stated in the proof of claim. If you did not file a proof of claim, your check will be sent to the address listed in the Schedules, which the Debtor prepared based on its books and records. *If a distribution to a particular creditor is returned as undeliverable or if a distribution check remains uncashed ninety (90) days after the date of the check, the distribution will be cancelled. If the creditor does not provide a correct address prior to the completion of distributions to other creditors, the creditor will lose the right to any future distributions*. For this reason, it is critical for you to make sure the Plan Fiduciary has your correct current address.

B. Change of Address

If your address has changed since you filed your proof of claim, or if it changes in the future, please notify the Plan Fiduciary of your new address. Similarly, if you did not file a proof of claim and have any reason to believe that the Plan Fiduciary does not have your correct current address, please notify the Plan Fiduciary of your address. In addition, if you are the transferee of a Claim, you are required to comply with Fed. R. Bankr. P. 3001(e), and serve a copy of the transfer on the Plan Fiduciary, so that he may make distributions in accordance with the transfer.

The Plan Fiduciary's contact information is as follows:

George J. Mitchell
DLA Piper LLP
500 Eighth Street, NW
Washington, DC 20004
T: 212 335 4600
F: 212 335 4605
george.mitchell@dlapiper.com

Please note that while you are welcome to call the office of the Plan Fiduciary, *written notice sent to the Plan Fiduciary by mail is required to notify the Plan Fiduciary of your address.*

IX. EXECUTORY CONTRACTS AND UNEXPIRED LEASES

A. Assumption and Rejection

The Bankruptcy Code provides the Debtor's estate with two options concerning each executory contract and unexpired lease. The Estate has the right to assume and assign contracts or leases, or else to reject the contract or lease.

B. Assumed Contracts and Leases

Under the Sale Order, the Debtor's estate assumed certain contracts and assigned them to the Buyer. Otherwise, the Estate has not assumed any contracts or leases and is unlikely to. If, however, you are a party to a contract or lease that the Estate wishes to assume, you will be supplied advance written notice and an opportunity to object.

C. Rejection of All Remaining Contracts

The Trustee has already rejected certain contracts. The Trustee may reject other contracts between now and the Effective Date. The Plan provides that all executory contracts or unexpired leases not disposed of before the Effective Date shall be deemed rejected by the Estate on the Effective Date. Thus, unless you receive notice to the contrary, your contract will be rejected.

D. Damage Claims

If your executory contract or unexpired lease is rejected pursuant to the Plan as of the Effective Date, you may assert a claim for any resulting damages by filing a proof of claim with the Court. The Plan establishes a deadline for filing any such claim: The first Business Day following the 30th day after the Effective Date. Notice of the occurrence of the Effective Date will be sent to all parties to whom this Disclosure Statement was sent.

X. OTHER PROVISIONS OF THE PLAN

A. Binding and Immediate Effect of Confirmation Order

Once the Plan is confirmed, the provisions of the Plan will bind all holders of Claims and interests, whether or not they accept the Plan, and any successors or assigns of such holders. Provisions of the Plan are not severable, and all parties are conclusively presumed to have relied on each and every provision of the Plan. Accordingly, *if you have any objection to any provision of the Plan, you must object to confirmation in the manner and within the time described in the notice included with this Disclosure Statement*.

In the belief that no major party will oppose the Plan and that it is in the interest of creditors for the Plan, *the Victims' Committee intends to request the Bankruptcy Court to specify that its order confirming the Plan (the "Confirmation Order") take effect immediately*. Under the Federal Rules of Bankruptcy Procedure, a confirmation order will ordinarily be subject to a stay of 14 days before it takes effect. If you object to the Confirmation Order becoming immediately effective, you should be sure to say so in a timely-filed written objection to the Plan.

The Victims' Committee will file a proposed form of the Confirmation Order not later than _____, 2014 [10 Business Days before the deadline for voting and objections]. The Confirmation Order will bind all holders of Claims and interests, and any successors or assigns of such holders. *If you object to any provision of the Confirmation Order, you must file an objection to confirmation of the Plan in the manner and within the time described in the notice included with this Disclosure Statement*.

B. Causes of Action

Senator Mitchell will investigate whether the Debtor's bankruptcy estate has viable avoidance actions for preferences, fraudulent transfers, unauthorized post-petition transfers and setoffs under Sections 544, 547, 548 and 549 and 553 of Chapter 5 of the Bankruptcy Code. The Plan provides for him to pursue those actions he determines to be in the Estate's interest to assert. The existence and value of any such causes of action are unknown at this time. Accordingly, creditors are largely dependent on the Plan Fiduciary's judgment and good faith in determining which avoidance actions, if any, to pursue. If you are concerned about Senator Mitchell's willingness or ability to perform these duties, you should not accept the Plan. The Plan fully expressly reserves the right of the Plan Fiduciary to bring any and all causes of action under Chapter 5 of the Bankruptcy Code, as well as any and all other causes of action and grounds for objection to Claims. This reservation of rights applies notwithstanding any action or omission of the Debtor, the Trustee or the Victims' Committee, or any statements made or not made in connection with the Plan or this Disclosure Statement. Accordingly, all parties must assume that the rights of the Plan Fiduciary to prosecute an action or objection to any Claim by or on behalf of the Debtor will not be limited by reason of *res judicata*, collateral estoppel or any other legal doctrine.

C. Discharge

Under the Bankruptcy Code, a corporate debtor that will not conduct business after the effective date of its plan may not receive a discharge of its debts. Accordingly, the Plan provides that the Debtor will not receive a discharge. In order to protect against disruption of the distribution and wind-down process, the automatic stay under Section 362 of the Bankruptcy Code will remain in effect until the chapter 11 case is closed.

D. RELEASES

1. Release of FRA

The Plan provides for an exchange of releases between the FRA and the bankruptcy estate if the FRA Settlement is in effect. The terms of the releases, contained in Section 8.1 of the Plan, are as follows:

> **Effective upon the occurrence of the Effective Date and provided that the FRA Settlement is in effect, the U.S. Debtor, the Estate, the Trustee and the Plan Fiduciary shall be deemed to forever release and discharge the FRA, and all officials, agents, counsel and other professional persons thereof, of and from any and all claims, demands, causes of action and the like, whether direct or derivative, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, known or unknown, foreseen or unforeseen, at law, in equity or otherwise, arising from any act, omission, event, or other occurrence on or before the Effective Date, in connection with the U.S. Debtor, the U.S. Case, the Canadian Debtor or the Canadian Case, *provided, however,* that such release excludes unperformed obligations of the FRA under the FRA Settlement; and**
>
> **The FRA shall be deemed to forever release and discharge the U.S. Debtor, the Estate, the Trustee and the Plan Fiduciary, and all current or former directors, officers, employees, agents, attorneys, advisors, investment bankers, other professionals, lenders, investors, members, owners, shareholders, subsidiaries and other affiliates (but excluding the Canadian Debtor and the Canadian Estate), heirs, successors and assigns thereof, of and from any and all claims, demands, causes of action and the like, whether direct or derivative, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, known or unknown, foreseen or unforeseen, at law, in equity or otherwise, arising from any act, omission, event, or other occurrence on or before the Effective Date, in connection with the U.S. Debtor, the U.S. Case, the Canadian Debtor or the Canadian Case, *provided, however,* that such release excludes unperformed obligations of the Estate under the FRA Settlement.**

2. Release of Canadian Parties.

The Plan provides for an exchange of releases with the Canadian Parties if none of them object to the Plan. The terms of the releases, contained in Section 8.2 of the Plan, are as follows:

Effective upon the occurrence of the Effective Date, the U.S. Debtor, the Estate, the Trustee and the Plan Fiduciary shall be deemed to forever release and discharge the Canadian Parties of and from any and all claims, demands, causes of action and the like, whether direct or derivative, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, known or unknown, foreseen or unforeseen, at law, in equity or otherwise, arising from any act, omission, event, or other occurrence on or prior to the Effective Date, in connection with the U.S. Debtor, the U.S. Case, the Canadian Debtor or the Canadian Case, *provided, however,* that such release excludes unperformed obligations of any Canadian Party under any written agreement of any Canadian Party with the Plan Fiduciary or the Plan Proponent; and

The Canadian Parties shall be deemed to forever release and discharge the U.S. Debtor, the Estate, the Trustee and the Plan Fiduciary, and all current or former directors, officers, employees, agents, attorneys, advisors, investment bankers, other professionals, lenders, investors, members, owners, shareholders, subsidiaries and other affiliates (but excluding the Canadian Debtor and the Canadian Estate), heirs, successors and assigns thereof, of and from any and all claims, demands, causes of action and the like, whether direct or derivative, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, known or unknown, foreseen or unforeseen, at law, in equity or otherwise, arising from any act, omission, event, or other occurrence on or prior to the Effective Date, in connection with the U.S. Debtor, the U.S. Case, the Canadian Debtor or the Canadian Case, *provided, however,* that such release excludes unperformed obligations of the Plan Fiduciary and/or the Plan Proponent under any written agreement of any Canadian Party with the Plan Fiduciary or the Plan Proponent.

XI. ALTERNATIVES TO THE PLAN; LIQUIDATION ANALYSIS

The Victims' Committee believes that there is no viable alternative to the Plan. However, in theory there are two such alternatives:

Trustee Plan. The Trustee has indicated his intention to develop a plan providing a framework for a comprehensive settlement of the liability not only of the Debtor and the Canadian Debtor but also various third parties. No such settlement has in fact been offered, and the Derailment WD Claimants have explained to the Trustee the reasons why it is inconceivable that such a settlement would be acceptable to them. The Derailment victims themselves are in a far better position to maximize their own recoveries from non-Debtor parties that share responsibility for the Derailment disaster. In order to obtain a comprehensive settlement, the Trustee would need to supply non-bankrupt defendants with a release of, or an injunction against, not only the Debtor's own claims but also the claims of individual victims of the Derailment. The Victims' Committee believes that the Bankruptcy Code does not permit that to be done over the victims' objection. The Trustee has stated his intention to proceed regardless of the Derailment WD Claimants' objection. Against this backdrop, the non-Debtor defendants will

not have to, and therefore will not, offer fair value to settle the victims' claims. Whether naively or deliberately, the Trustee is playing into the defendants' hands by joining with them to delay the day of reckoning when they must face the Derailment victims in court, whether in the Illinois Actions, the class action pending in Quebec, or some other forum. The Plan will bring these delays to an end by permitting all Derailment victims to pursue their legal rights through the non-bankruptcy court system.

The Trustee's persistence in pursuing a scheme that cannot succeed over the objection of his most important constituency, the Wrongful Death Victims who suffered the devastating loss of loved ones in the Derailment disaster is morally bankrupt. Any attempt by the Trustee to proceed according to his stated intentions would lead to years of litigation with the potential to delay creditors' recoveries, to result in a huge accumulation of fees to the Trustee and his professionals (which the Bankruptcy Code requires be paid prior to all types of claims other than wrongful death and personal injury claims), and to result in smaller creditor recoveries even if the Trustee ultimately prevails in the litigation. In the course of the litigation, the Trustee would inevitably take positions that would tend to depress the value of victims' claims against financially healthy defendants who (in the view of the Victims' Committee) bear heavy responsibility for the Derailment disaster just like the Debtor. If the Trustee were truly concerned about the victims' welfare, the Victims' Committee believes he would work cooperatively with the Derailment WD Claimants rather than against them.

The Plan represents a superior approach to the Trustee's scheme. Under the Plan, former Senator George Mitchell will try to achieve a settlement of the proceeds of the XL Insurance Policies, with the proceeds to be divided pro rata among the Derailment victims. But since these proceeds will inevitably fall far short of full compensation for the victims and the debtors themselves have no assets with which to pay claims, the Plan makes it clear that bankruptcy will no longer stand in the way of legal actions by the victims against others who share responsibility for the Derailment disaster.

Chapter 7 Type of Liquidation. The Bankruptcy Code does not permit the chapter 11 case of a railroad to be converted to chapter 7 of the Bankruptcy Code, under which liquidation would be accomplished by an appointed bankruptcy trustee rather than pursuant to a plan voted upon by claimants. Upon motion of a party in interest, however, the Court may under Code Section 1174 accomplish the equivalent by directing "the trustee . . . to collect and reduce to money all of the property of the estate in the same manner as if the case were a case under chapter 7 . . . ." In the view of the Victims' Committee, liquidation under Section 1174 would entail significant additional costs and/or significant additional litigation. In an ordinary chapter 7 case, creditors have the right to elect the trustee. Section 1174 appears to assume that the Trustee will conduct the liquidation and that the railroad will still be operating at the time the liquidation is ordered. Those assumptions may be intertwined such that in this case, once the Debtor's operations have ceased upon completion of the Sale, creditors may elect a different trustee to wrap up the case. Most likely the Trustee would contest any such motion, thus adding to the already substantial litigation expenses for which the Trustee will seek payment, and if he is successful, leave creditors in the same disadvantageous (from the perspective of the Victims' Committee) position as would a Trustee's plan. Accordingly, confirmation of the Plan is the only incontestable means to install a fiduciary chosen by creditors and who will likely have the

trust of all major constituencies.

The foregoing estate liquidation analysis has focused on the person conducting the liquidation rather than on a financial forecast of its outcome for two reasons. First, the future cash intake (if any) of the estate relies wholly on the outcome of litigation or the settlement of potential litigation, which cannot be predicted with sufficient accuracy to be meaningful. Second, certain settlement scenarios entail attempted disposition by the Trustee not only of property of the bankruptcy estate but also property of the Derailment victims, namely, their own claims against Non-Debtor Entities. Putting aside the semantic issue (such financial forecast would not be an estimation of proceeds from liquidating the *estate*), it would be impossible to compare any such forecast on an apples-to-apples basis with a forecast of an estate-only liquidation

For the foregoing reasons, the Victims' Committee has determined, and urges creditors to conclude, that the Plan is superior to any available alternative.

XII. RISK FACTORS

Now that disposition of the Debtor's assets is almost entirely complete, the Victims' Committee regards the risk factors concerning the Plan as negligible.

XIII. TAX CONSEQUENCES

By reason of substantial net operating loss carry-forwards and other tax attributes, the Debtor is not expected to be subject to any adverse tax consequences as a result of the Plan. Implementation of the Plan may result in federal, state or local tax consequences to creditors. Such consequences are beyond the scope of this Disclosure Statement, in that each creditor's situation is different. Creditors are urged to consult with their own tax advisors as to specific tax consequences to them resulting from the Plan.

XIV. ACCEPTANCE AND CONFIRMATION OF PLAN

A. Acceptance of the Plan

The Bankruptcy Code provides that any class of creditors whose rights are "impaired" (that is, not fully honored) under a proposed chapter 11 plan has the right, as a class, to accept or reject the plan. Each member of the class may vote on this decision. A class of creditors accepts the plan if more than one-half of the ballots that are timely received from members of the class, representing at least two-thirds of the dollar amount of claims for which ballots are timely received, are voted in favor of the plan. However, if a class receives nothing under the plan, then it is deemed to reject the plan without casting ballots.

Classes 1, 2A, 2B, 2C, 2D, 2E, 2F, 2G, 3, 5, 6 and 7 are impaired and may therefore vote to accept or reject the Plan. Class 4 is unimpaired and thus deemed to accept the Plan without voting. Classes 8, 9 and 10 will not receive or retain any property under the Plan, and are deemed to have rejected the Plan, without needing to cast ballots.

If the Plan is accepted by one of the impaired classes of creditors, disregarding the votes of any insiders included in such class, then the Bankruptcy Code permits the Victims' Committee to request confirmation of the Plan notwithstanding rejection of the Plan by one or more classes. Colloquially this is known as "cramdown." The Victims' Committee intends to seek confirmation of the Plan despite its deemed rejection by Classes 8, 9 and 10, and intends to seek confirmation by means of cramdown if one or more voting classes of creditors should reject the Plan. Accordingly, any creditor voting against the Plan who wishes to assert that the Plan may not be confirmed if such creditor's class does not accept the Plan is hereby placed on notice of the need to file an objection to the Plan specifically asserting why the standards of Code Section 1129(b) have not been met (as well as any other ground for objection to confirmation of the Plan), and to appear at the Confirmation Hearing as required of any objector to the Plan (see Section XIV(C) below).

B. Voting Procedures

Included in the same envelope containing this Disclosure Statement is a ballot by which holders of [Class 1, 2A, 2B, 2C, 2D, 2E, 2F, 2G, 3, 5, 6 and 7 Claims] may vote to accept or reject the Plan. You should first review this Disclosure Statement and the Plan, and then complete the ballot. Instructions for completing and returning the ballot are found on the ballot itself but are summarized here.

The Voting Deadline is 4:00 p.m. on April __, 2014.

Senator Mitchell's law firm will serve as Ballot Agent for purposes of receiving ballots and reporting to the Court on the voting results. In order for your vote to count, it must be received by the Ballot Agent not later than the Voting Deadline. Submission of ballots by electronic mail, telefacsimile, or by any means not including an authorized signature in ink, is prohibited.

All votes to accept or reject the Plan must be cast by using the ballot provided, or a copy of the ballot provided. The ballot must be signed by the creditor, or an officer, partner or authorized agent of the creditor. Ballots signed by trustees, executors, administrators, guardians, attorneys-in-fact, officers of corporations or others acting in a fiduciary or representative capacity should indicate such capacity and be accompanied by proper evidence satisfactory to the Ballot Agent of their authority to so act. Please be sure to fill in the name of the creditor on whose behalf the ballot is being filed.

On each ballot there is a space in which to write the Class in which your claim belongs and the amount you believe is the amount of your claim. These figures are important in promoting an efficient tabulation of votes, but they are solely for reference. If the Class or amount you fill in differs from the correct Class or actual Allowed Amount of your Claim, then the correct Class and actual Allowed Amount will be used in tabulating your vote. Also, please be aware that **the amount of the Claim specified on your ballot will not constitute, supersede or amend any proof of claim for your Claim.**

If an objection to your Claim is pending, your vote will not count unless you file, and the Court grants, a motion under Fed. R. Bankr. P. 3018 for your Claim to be temporarily allowed for voting purposes. Any such motion must be filed not later than the Voting Deadline, unless the Court determines otherwise.

C. Confirmation of the Plan

The Bankruptcy Court must hold a confirmation hearing before deciding whether to confirm the Plan. Once confirmed, the Plan will become effective on the date the Confirmation Order is entered (the "Effective Date"), provided that the Closing has occurred, the Confirmation Order has not been stayed, and the District Court order described in Section VI(C) above, if required, has been entered and not stayed. The Victims' Committee intends to request that the Confirmation Order take effect immediately, such that the otherwise-applicable 14-day stay supplied by Fed. R. Bankr. P. 3020(e) will not apply.

The hearing on confirmation of the Plan, and on any objections to the Plan, will be held on April __, 2014 at __:__ _.m., before the Honorable Louis H. Kornreich, at the United States Bankruptcy Court, 202 Harlow Street, Bangor, Maine (the "Confirmation Hearing"). The Confirmation Hearing may be adjourned from time to time by the Court without further notice except for an announcement made at the Confirmation Hearing or any adjournment of that hearing.

Section 1128(b) of the Bankruptcy Code provides that any party in interest may object to confirmation of a plan. Objections to confirmation of the Plan are governed by Fed. R. Bankr. P. 9014. Any objection to confirmation of the Plan must be in writing, and filed with

Alec Leddy, Clerk
United States Bankruptcy Court
202 Harlow Street
Bangor, ME 04401

The objection must also be served on the parties below ***so that they actually receive it*** not later than the time it is filed with the Court:

Counsel to the Victims' Committee:	Daniel C. Cohn, Esq. Murtha Cullina LLP 99 High Street Boston, MA 02110

United States Trustee:	Stephen G. Morrell, Esq. Office of the U.S. Trustee 537 Congress Street Portland, ME 04101
Chapter 11 Trustee	Robert J. Keach, Esq. Bernstein Shur Sawyer & Nelson 100 Middle Street P.O. Box 9729 Portland, ME 04104
Counsel to the Official Committee of Victims	Luc A. Despins, Esq. Christopher Fong, Esq. PAUL HASTINGS LLP Park Avenue Tower 75 East 55th Street, First Floor New York, New York 10022

Objections must be filed and served by not later than **4:00 p.m. on April __, 2014** (same as the Voting Deadline).

UNLESS AN OBJECTION TO CONFIRMATION IS TIMELY SERVED AND FILED, IT WILL NOT BE CONSIDERED BY THE BANKRUPTCY COURT. Furthermore, in order to pursue an objection, ***the objector must also attend the Confirmation Hearing***, either in person or through counsel, except that certain entities such as corporations may appear only through counsel. Otherwise, the objection will be deemed to have been waived even if it was timely filed and served.

The Victims' Committee reserves the right, in order to resolve any objection to confirmation of the Plan or otherwise, to modify the Plan without further notice or disclosure, so long as the modification does not adversely change the treatment of any creditor who has not accepted the modification.

The Plan will be confirmed if it meets the requirements set forth in the bankruptcy law. Among these requirements are:

- *Assenting Impaired Class.* The Plan must have been accepted by at least one impaired class of Claims, disregarding votes of insiders.

- *Acceptance and Cramdown.* All impaired classes must have accepted the Plan, except that if any class does not accept the Plan and any member of the class objects on the basis that the Plan does not meet the requirements for cramdown (which are that the Plan must be fair and equitable to, and not unfairly discriminates against, the objector's class), then the Victims' Committee must persuade the Court to find that the Plan does meet the cramdown requirements.

- *Classification.* If the holder of a Claim objects to classification of such Claim, including that the Claim was placed in an impermissible class or that another Claim was impermissibly placed in the same class as such Claim, the Court must find that such Claim was permissibly classified.

- *Best Interests of Creditors.* If any creditor does not accept the Plan and objects on the basis that the Plan does not provide such creditor with at least as great a distribution as the creditor would receive in a Chapter 7 liquidation, the Court must find that the Plan does supply such creditor with at least as great a distribution as the creditor would receive in a Chapter 7 liquidation. Because of an apparent drafting error in the way Code Section 1129(a)(7) relates to Code Section 1171, there is the possibility that if such an objection were made by a creditor with standing, the Court might determine that such creditor had a valid objection and find that such creditor's distribution in a Chapter 7 liquidation would exceed such creditor's distribution under the Plan. If this were to occur, the Plan provides that such creditor shall be paid such excess amount "off the top" from the Compensation Fund (together with interest from the Effective Date to the date of payment) provided that the aggregate of such "off the top" distributions will not exceed $200,000. This provision is designed to assure that creditors as a whole can realize the benefits of the Plan notwithstanding attempts by certain creditors to exploit a technicality. If a "best interests" objection were to be made, the Victims' Committee intends to respond by citing authority that the Court may override the literal words of the Bankruptcy Code when they lead to an absurd result. Accordingly, the Victims' Committee is hopeful that a "best interests" objection would not succeed.

- *Feasibility.* If any creditor objects on the basis that confirmation of the Plan is likely to be followed by the need for liquidation or further reorganization, then the Court must find that the Plan is not likely to be followed by the need for liquidation or for further reorganization except as contemplated by the Plan.

The Victims' Committee believes that the foregoing requirements are or will be met. If the Court determines that all confirmation requirements are satisfied, it will enter an order confirming the Plan. The form of Confirmation Order proposed by the Victims' Committee will be on file with the Court not less than ten days before the Voting Deadline. You may obtain a copy by contacting counsel to the Victims' Committee; the best way is by email to *tgarg@murthalaw.com*.

XV. CONCLUSION

The Victims' Committee urges all creditors to vote for and support the Plan, on the basis that the Plan provides the greatest benefit to creditors that is achievable under the unfortunate circumstances of this chapter 11 case. For holders of Secured Claims, the Plan provides for an orderly resolution of disputes concerning the extent, amount and priority of liens, and for the most expeditious possible distribution once those disputes are resolved. For Priority Claims, the Plan provides what is most likely the quickest route to being paid in full. For victims of the Derailment, the Plan provides the best opportunity for near-term receipt of insurance

proceeds and eventually for substantial recoveries from third parties whose conduct, along with the Debtor's, caused their injuries and damages.

Respectfully submitted,

UNOFFICIAL COMMITTEE OF WRONGFUL DEATH VICTIMS

Dated: March [10], 2014

By _____

EXHIBIT 1

Debtor's Amended Chapter 11 Plan Dated January 29, 2014

[*To be inserted*]