

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE

In re:

MONTREAL MAINE & ATLANTIC  
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670

Chapter 11

**TRUSTEE'S MOTION PURSUANT TO 11 U.S.C. §§ 105(a) AND 105(d) AND D. ME.  
LBR 9045-1 TO CONTINUE AND RESCHEDULE STATUS CONFERENCE ON  
MOTION TO ESTABLISH A MORATORIUM ON PLAN PROCEEDINGS**

Now comes Robert J. Keach, the trustee (the "Trustee") of the Montreal Maine & Atlantic, Ltd. (the "Debtor"), and requests that the Court continue and reschedule the status conference to be held on May 22, 2014 at 1:00 p.m. in Bangor, Maine (the "Status Conference"), related to the *Trustee's (A) Proposed Agenda for Status Conference and (B) In the Alternative, Motion Pursuant to 11 U.S.C. § 105(d) and the Cross-Border Insolvency Protocol to Establish (I) a Moratorium on Plan Proceedings; (II) A Settlement Process; and (III) a Plan Process in the Event of Multiple Plans* [D.E. 658] filed on February 14, 2014 (the "Moratorium Motion"), and the Court's *Order Regarding Trustee's (A) Proposed Agenda for Status Conference and (B) In the Alternative, Motion Pursuant to 11 U.S.C. § 105(d) and the Cross-Border Insolvency Protocol to Establish (I) a Moratorium on Plan Proceedings; (II) A Settlement Process; and (III) a Plan Process in the Event of Multiple Plans* [D.E. 825] entered on April 11, 2014 (the "Moratorium Order"). Specifically, the Trustee requests that the Status Conference be continued and rescheduled to be held on **June 10, 2014 at 10:00 a.m.** in Bangor, Maine. In support of this motion (the "Motion"), the Trustee states as follows:

## **JURISDICTION AND VENUE**

1. This Court has jurisdiction to entertain the Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The relief sought in this Motion is predicated upon 11 U.S.C. §§ 105(a) and 105(d), D. Me. LBR 9045-1, and the Court's inherent authority to control its docket.

## **BACKGROUND**

3. On August 7, 2013 (the "Petition Date"), the Debtor filed a voluntary petition for relief under 11 U.S.C. § 101 et seq. (the "Bankruptcy Code"). The Debtor's bankruptcy filing was precipitated by the train derailment in Lac-Mégantic, Québec on July 6, 2013 (the "Derailment") and the business interruption and litigation that subsequently ensued. The Derailment set off several massive fires and explosions, which destroyed part of downtown Lac-Mégantic and killed 47 people.

4. The same factors precipitated the filing by MMA Canada (together with MMA, the "Debtors"), MMA's subsidiary, under Canada's *Companies' Creditors Arrangement Act* (the "Canadian Case") in Québec Superior Court in Canada (the "Canadian Court"). Richter Advisory Group Inc. has been appointed as the monitor (the "Monitor") in the Canadian Case.

5. On August 21, 2013, the U.S. Trustee appointed the Trustee in this chapter 11 case. As a consequence of the Trustee's appointment, mandatory in a railroad reorganization case, the Debtor's exclusive right to file a plan terminated. *See* 11 U.S.C. §§ 1163, 1121(c)(1).

6. On February 14, 2014, the Trustee filed the Moratorium Motion, requesting that this Court enter an order establishing: (a) a bar date and cross-border claims process; (b) certain procedures with respect to the plan and confirmation process, including establishment of a 120-

day moratorium on further plan activity; and (c) a settlement process and mandatory good faith negotiation of resolution of claims in and to the proceeds of the XL Policy, as well as a global resolution of all claims arising out of or related to the Derailment, including claims by or against third parties asserting contribution and indemnity claims against the Debtor and MMA Canada.

7. The Trustee thereafter withdrew, without prejudice, all aspects of the Moratorium Motion except for the request for a 120-day moratorium on further plan activity. On April 11, 2014, the Court entered the Moratorium Order, granting the requested moratorium through and including June 30, 2014, and, at the request of counsel for the Official Committee of Victims, scheduled the Status Conference for May 22, 2014 to review the status of settlement talks and any further plan proceedings.

#### **REQUESTED RELIEF**

8. Pursuant to sections 105(a) and 105(d) of the Bankruptcy Code, Rule 9045-1 of the Local Bankruptcy Rules of Procedure (the "Local Rules"), and the Court's inherent authority to control its docket, the Trustee hereby requests that the Status Conference be continued and rescheduled to be held on **June 10, 2014 at 10:00 a.m.** in Bangor, Maine.

9. A proposed form of order granting the relief requested herein is attached as **Exhibit A** hereto.

#### **BASIS FOR REQUESTED RELIEF**

10. Section 105(d) of the Bankruptcy Code provides this Court with discretion to hold status conferences in order to "further the expeditious and economical resolution of the case." 11 U.S.C. § 105(d). Local Rule of Bankruptcy Procedure 9045-1(c) allows for continuances by written motion, which motions "will be acted upon without hearing, unless the movant or an affected party expressly requests a hearing." D. Me. LBR 9045-1.

11. In an attempt to properly allocate the resources of the Court and the parties as efficiently as possible, the Trustee and counsel for the Official Committee of Victims have discussed moving the status conference on the Moratorium matter from the currently scheduled date of May 22, 2014 to June 10, 2014, the date of the next general hearing in this case. Other than the change of date of the Status Conference, the terms of the Moratorium Order shall remain unaltered by the relief requested in this Motion.

12. Counsel for the Trustee contacted the Bankruptcy Court Clerk to suggest that the Court consider rescheduling the Status Conference, and at the Bankruptcy Court's request, and pursuant to Local Rule 9045-1, the Trustee is filing this Motion seeking approval of this rescheduling. The Trustee believes that this rescheduling will ensure that the parties have sufficient time to make progress on the issues set to be discussed at the Status Conference, and that the Court's valuable time will be used in the most efficient and productive way possible.

13. Counsel for the Official Committee of Victims, who requested the Status Conference in the first instance, joins in this Motion and agrees that the continuance and rescheduling of the Status Conference is in the best interests of the parties involved.

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**CONCLUSION**

WHEREFORE, the Trustee respectfully requests that the Bankruptcy Court enter an order: (i) rescheduling the Status Conference to Tuesday, June 10, 2014 at 10:00 a.m. in Bangor, Maine; and (ii) granting such other relief as Court deems just and appropriate.

Dated: May 19, 2014

ROBERT J. KEACH, CHAPTER 11 TRUSTEE  
OF MONTREAL MAINE & ATLANTIC  
RAILWAY, LTD.

By his attorneys:

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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE**

In re:

MONTREAL MAINE & ATLANTIC  
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670

Chapter 11

**ORDER GRANTING TRUSTEE'S MOTION PURSUANT TO 11 U.S.C. §§ 105(a) AND  
105(d), AND D. ME. LBR 9045-1 TO CONTINUE AND RESCHEDULE  
STATUS CONFERENCE ON MOTION TO ESTABLISH A  
MORATORIUM ON PLAN PROCEEDINGS**

This matter having come before the Court on the *Trustee's Motion Pursuant to 11 U.S.C. §§ 105(a) and 105(d), and D. Me. LBR 9045-1 to Continue and Reschedule Status Conference on Motion to Establish a Moratorium on Plan Proceedings* (the "Motion")<sup>1</sup> of Robert J. Keach, as Chapter 11 Trustee (the "Trustee") for the estate of Montreal Maine & Atlantic Railway, Ltd. ("the "Debtor") for an order pursuant to 11 U.S.C. §§ 105(a) and 105(d), and D. Me. LBR 9045-1 requesting a continuance and rescheduling of the status conference on the moratorium on plan proceedings, currently scheduled for May 22, 2014 at 10:00 a.m. in Bangor, Maine, all as more fully described in the Motion; and the Court having reviewed the Motion and any objections thereto; and due and proper notice of the hearing on the Motion having been provided; and all parties in interest having been afforded an opportunity to be heard with respect to the Motion and all of the relief related thereto; and it appearing, based upon the record before the Court (if any), that the relief requested by the Motion is in the best interests of the Debtor, its estate, its creditors, and other parties in interest, and is in the public interest; and after due deliberation

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<sup>1</sup> Unless otherwise indicated, capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion.

thereon and sufficient cause appearing therefor, it is hereby **ORDERED**, **ADJUDGED**, and **DECREED** that:

1. The Motion is granted, and the relief requested therein is granted and approved in its entirety.

2. The Status Conference is continued and rescheduled to be heard on **Tuesday, June 10, 2014 at 10:00 a.m.** in Bangor, Maine.

3. Other than the change of date of the Status Conference effected by this order, the terms of this Court's *Order Regarding Trustee's (A) Proposed Agenda for Status Conference and (B) In the Alternative, Motion Pursuant to 11 U.S.C. § 105(d) and the Cross-Border Insolvency Protocol to Establish (I) a Moratorium on Plan Proceedings; (II) A Settlement Process; and (III) a Plan Process in the Event of Multiple Plans* [D.E. 825] entered on April 11, 2014 shall remain in full force and effect.

Dated: \_\_\_\_\_, 2014

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The Honorable Louis H. Kornreich  
Chief United States Bankruptcy Judge for the  
District of Maine