

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE

In re:

MONTREAL, MAINE & ATLANTIC  
RAILWAY, LTD.,

Debtor.

Case No. 13-10670  
Chapter 11

**RESPONDING PARTIES' RESPONSE IN SUPPORT OF:  
(1) TRUSTEE'S MOTION FOR ENTRY OF AN ORDER AUTHORIZING FILING  
OF SETTLEMENT AGREEMENTS UNDER SEAL, AND (2) TRUSTEE'S  
OMNIBUS REPLY TO OBJECTIONS FILED IN RESPONSE TO TRUSTEE'S  
MOTION FOR ENTRY OF AN ORDER AUTHORIZING FILING OF  
SETTLEMENT AGREEMENTS UNDER SEAL**

The Responding Parties<sup>1</sup> hereby submit this response in support of (1) the *Trustee's Motion for Entry of an Order Authorizing Filing of Settlement Agreements Under Seal* [Docket No. 1397] (the "Motion") filed by Robert J. Keach (the "Trustee"), as trustee for Montreal, Maine & Atlantic Railway, Ltd. (the "Debtor"), and (2) the *Trustee's Omnibus Reply to Objections Filed in Response to the Trustee's Motion for Entry of an Order Authorizing Filing of Settlement Agreements Under Seal* [Docket No. 1491] (the "Reply"). For the reasons set forth in the Motion and the Reply, the Responding Parties urge the Court to grant the relief requested by the Trustee in the Motion, as supplemented and modified by the Reply. In further support of the Motion and the Reply, the Responding Parties state as follows:

**RESPONSE**

As this Court is aware, since shortly after the Debtor's case was filed, this Court has closely coordinated its actions with the Quebec Superior Court of Justice (Commercial Division)

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<sup>1</sup> The Responding Parties for purposes of this Motion are: QEP Resources, Inc., Slawson Exploration Co., Inc., Devlar Energy Marketing, LLC, and Marathon Oil Company.

(the “Canadian Court”), which is overseeing bankruptcy proceedings of the Debtor’s wholly-owned Canadian subsidiary, Montreal, Maine & Atlantic Canada Co. (the “Canadian Debtor”). To ensure the orderly and efficient administration the U.S. and Canadian proceedings, this Court entered the *Order Adopting Cross-Border Insolvency Protocol* on September 4, 2014 [Docket No. 168] (the “Cross-Border Protocol”), as did the Canadian Court. The Cross-Border Protocol provides a framework for this Court to consistently address legal issues common to both cases.

The centerpiece of the coordinated plans filed by the Trustee and the Canadian Debtor is the settlement of tort claims against potential defendants allegedly liable for the derailment of the Debtor’s train on July 6, 2013 in Lac Megantic, Quebec. After extensive negotiations with the Trustee and the Canadian Debtor, dozens of potential defendants, including the Responding Parties (collectively, the “Settling Parties”), entered into settlement agreements and agreed to pay the Trustee and the Canadian Debtor more than \$400 million in exchange for a global “channeling injunction” included in the plans. A material inducement for all the signatories to the settlement agreements – including the Responding Parties, the Trustee, and the Canadian Debtor – was an agreement that the settlement terms would remain confidential until after the plans are effective. To ensure that creditors were provided adequate information to evaluate the plans, the Trustee and the Canadian Debtor agreed to disclose the aggregate amount of the settlement fund, the names of the settling parties, and a template settlement agreement entered into with the Canadian Debtor’s insurer.

To effectuate these confidentiality provisions, the Trustee, the Canadian Debtor, and the Settling Parties have taken steps to ensure that the settlement agreements remain sealed until after the plans are effective, including filing the Motion. Objections to maintaining the confidentiality of the settlement agreements were lodged in the Canadian Court and in this Court.

In an attempt to resolve these objections, the Settling Parties, the Trustee, and the Canadian Debtor agreed to (1) file the settlement agreements under seal with the Canadian Court, and (2) provide copies of the settlement agreements to counsel for Canadian Pacific Railway (“CP”), with only the settlement amounts for each agreement redacted. As described more fully in the Reply, on June 17, 2015, the Canadian Court overruled CP’s confidentiality objection, but approved and implemented the compromise described above (i.e., filing the agreements under seal and providing redacted copies to counsel for CP).

The Responding Parties submit that, consistent with the principles of comity, cooperation, and efficient administration underlying the Cross-Border Protocol, the compromise resolving the confidentiality objections about the settlement agreements in the Canadian Court should also be implemented by this Court. In the Motion and the Reply, the Trustee has provided persuasive authority and argument in support of maintaining complete confidentiality of the settlement agreements, as required by their very terms, pursuant to 11 U.S.C. § 107 and Rule 9037 of the Federal Rules of Bankruptcy Procedure. However, as they did before the Canadian Court, the Responding Parties agree to the filing of the agreements under seal and the disclosure of redacted copies of the agreements to counsel for CP, the Office of the United States Trustee, and the Official Victims Committee, subject to the terms and conditions described by the Trustee in paragraph 9 of the Reply. This resolution provides the Debtor’s creditors with adequate information to evaluate the Trustee’s plan of liquidation and, importantly, allows this Court and the Canadian Court to consistently address a key legal issue common to both cases.

**WAIVER OF REQUIREMENTS OF LOCAL RULE 9013-1(f)**

In light of the limited nature of this response to the Motion, the Responding Parties request that the Court waive the requirement of Rule 9013-1(f) of this Court's Local Bankruptcy Rules requiring that any response to a motion admit or deny each allegation of the motion.

WHEREFORE, the Responding Parties request that the Court enter an order granting the Motion, as modified by the limited disclosure agreement set forth herein.

Dated: July 13, 2015

Respectfully Submitted,

**QEP RESOURCES, INC.**

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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE**

In re:

MONTREAL, MAINE & ATLANTIC  
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Debtor.

Case No. 13-10670

Chapter 11

**CERTIFICATE OF SERVICE**

I, Jeremy R. Fischer, hereby certify that on this date a true and correct copy of the *Responding Parties' Response in Support of: (1) Trustee's Motion for Entry of an Order Authorizing Filing of Settlement Agreements Under Seal, and (2) Trustee's Omnibus Reply to Objections Filed in Response to Trustee's Motion for Entry of an Order Authorizing Filing of Settlement Agreements Under Seal* has been served via CM/ECF on all parties requesting CM/ECF notice in the above-captioned case.

Dated: July 13, 2015

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