

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE**

In re:

MONTREAL MAINE & ATLANTIC
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670
Chapter 11

**MOTION FOR EXPEDITED HEARING, SHORTENED OBJECTION PERIOD
AND LIMITED NOTICE WITH RESPECT TO CHAPTER 11 TRUSTEE'S MOTION
FOR ORDER APPROVING COMPROMISE AND SETTLEMENTS WITH
CERTAIN PREFERENCE RECIPIENTS**

Robert J. Keach, the chapter 11 trustee in the above-captioned case, hereby moves this Court for an expedited hearing, shortened objection period and approval of limited notice (the "Motion to Expedite") with respect to the *Chapter 11 Trustee's Motion for Order Approving Compromise and Settlements with Certain Preference Recipients* (the "Motion to Compromise").

In support of the Motion to Expedite, the Trustee states as follows:

JURISDICTION

1. The district court has original, but not exclusive, jurisdiction over this proceeding pursuant to 28 U.S.C. § 1334(b). Pursuant to 28 U.S.C. § 157 and Rule 83.6 of the district court's local rules, the district court has authority to refer and has referred this chapter 11 case to the bankruptcy court.

2. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and the Court has constitutional authority to enter final judgment in this proceeding.

3. Venue over this chapter 11 case is proper in this district pursuant to 28 U.S.C. § 1408, and venue over this proceeding is proper in this district pursuant to 28 U.S.C. § 1409.

4. The applicable rules relating to the relief sought in the Motion to Expedite and the Motion to Compromise are Rules 9013 and 9019 of the Federal Rules of Bankruptcy Procedure (hereinafter “Fed. R. Bankr. P.”) and Rules 9013-1(d)(1), (5) and (i) and 9019-1 of this Court’s local rules (the “Local Rules”).

BACKGROUND

5. On August 7, 2013 (the “Petition Date”), Montreal Maine & Atlantic Railway, Ltd., the above-captioned debtor (the “Debtor”), filed a voluntary petition for relief under chapter 11 of 11 U.S.C. § 101 et seq. On August 21, 2013, the United States Trustee appointed Robert J. Keach (the “Trustee”) to serve in the Debtor’s chapter 11 case pursuant to 11 U.S.C. § 1163.

6. The Trustee and his Financial Advisors, Development Specialists, Inc. (“DSI”), identified approximately 15 entities that may have received payments within 90-days of the Petition Date that would constitute preferential payments pursuant to § 547(b) of the Bankruptcy Code in excess of the statutory minimum (the “Preference Recipients”).

7. On April 27, 2015, the Trustee sent demand letters to the Preference Recipients, including an explanation and accounting of the preference payments. Since that time, after exchanging correspondence and analysis, the Trustee has reached settlement agreements with two Preference Recipients, MSC Industrial Supply Co. (“MSC”) and Newgistics Freight Services, n/k/a Re Trans Freight (“Newgistics” and together with MSC, the “Settling Defendants”). The Motion to Compromise seeks Court approval of the settlements.

8. The deadline for the Trustee to commence litigation to recover the preferential payments is the two-year anniversary of the Petition Date, which is August 7, 2015. Without Court approval of the settlements with the Settling Defendants in advance of the August 7, 2015

deadline, the Trustee's rights against the Settling Defendants will be uncertain if the Trustee does not commence litigation against the Settling Defendants before the deadline.

RELIEF REQUESTED

9. By this Motion to Expedite, the Trustee requests that the Court: (a) schedule a hearing on the Motion to Compromise on or around August 4, 2015; (b) set a shortened objection deadline; and (c) approve service of the Motion to Expedite and the Motion to Compromise in the manner set forth herein.¹

BASIS FOR RELIEF

10. Absent a request for an expedited hearing, a movant seeking the type of relief set forth in the Motion to Compromise must provide twenty-eight days' notice and a response date must be set more than seven calendar days prior to a hearing date. See Fed. R. Bankr. P. 2002, D. Me. LBR 9013-1(d)(5).

11. The Trustee requires immediate approval of the Motion to Compromise to ensure that the Trustee does not forfeit or lose any rights to recover from or compromise with the Settling Defendants in advance of the deadline to commence litigation to recover the preferential payments (which is August 7, 2015). The Trustee's settlement negotiations have been ongoing, which prevented the Trustee from seeking approval of the settlements at an earlier date. In the event the Motion to Compromise is not heard on an expedited basis, the Trustee will be forced to file complaints against the Settling Defendants in order to preserve the Trustee's preference claims against the Settling Defendants and initiating the litigation will be costly to the estate and will needlessly expend judicial resources.

¹ The Trustee has contacted the calendar clerk, who indicated that August 4, 2015 at 11:30 a.m. is available as a hearing date and time for the Motion to Compromise, assuming the Court grants this Motion to Expedite.

12. Accordingly, the Trustee requests that a hearing on the Motion to Compromise be scheduled on or around August 4, 2015 to allow expedited consideration of the relief sought by the Trustee.

NOTICE

13. Notice of this Motion to Expedite and the Motion to Compromise was served on the following parties on the date and in the manner set forth in the certificate of service: (1) the United States Trustee; (2) the Debtor's counsel; (3) the non-insider holders of the twenty (20) largest unsecured claims against the Debtor or, if applicable, the lawyers representing such holders; (4) applicable federal and state taxing authorities; (5) the holders of secured claims against the Debtor, or if applicable, the lawyers representing such holders; (6) others who have, as of the date of the Motion to Expedite and the Motion to Compromise, entered an appearance and requested service of papers in the Case; and (7) counsel for (or representatives of) the Settling Defendants. In light of the nature of the relief requested in the Motion to Compromise and the Motion to Expedite, the Trustee submits that such notice is adequate and appropriate.

CONCLUSION

WHEREFORE, the Trustee respectfully requests that this Court enter an Order: (a) granting the Motion to Expedite; (b) finding that service of the Motion to Expedite and the Motion to Compromise in the manner described herein was sufficient under the circumstances of the relief sought; (c) setting a hearing on the Motion to Compromise on or around August 4, 2015; (d) setting a shortened objection deadline with respect to the Motion to Compromise; and (e) granting such other and further relief as the Court deems just and equitable under the circumstances.

Dated: July 30, 2015

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

By his attorneys:

/s/ D. Sam Anderson

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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 WITH RESPECT TO MOTION FOR EXPEDITED HEARING, SHORTENED
OBJECTION PERIOD AND LIMITED NOTICE WITH RESPECT TO CHAPTER 11
TRUSTEE'S MOTION FOR ORDER APPROVING COMPROMISE AND
SETTLEMENTS WITH CERTAIN PREFERENCE RECIPIENTS**

This matter having come before the Court on the *Motion for Expedited Hearing, Shortened Objection Period and Limited Notice with Respect to Chapter 11 Trustee's Motion for Order Approving Compromise and Settlements with Certain Preference Recipients* (the "Motion to Expedite") filed by Robert J. Keach, the chapter 11 trustee in the above-captioned case, with respect to the *Chapter 11 Trustee's Motion for Order Approving Compromise and Settlements with Certain Preference Recipients* (the "Motion to Compromise"), and upon consideration of all responses to the Motion to Expedite (if any), it is hereby **ORDERED**, **ADJUDGED** and **DECREED** as follows:

1. Notice and service of the Motion to Expedite and the Motion to Compromise were sufficient in light of the nature of the relief requested.
2. The Motion to Expedite is granted.
3. An expedited hearing on the Motion to Compromise shall be held on _____, 2015 at __:__.m. in _____, Maine.
4. The deadline to object to the Motion to Compromise is _____, 2015.

Dated:

The Honorable Peter G. Cary
Chief United States Bankruptcy Judge