

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE**

In re:

MONTREAL MAINE & ATLANTIC
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670

Chapter 11

**SECOND CONSENT MOTION TO EXTEND TIME FOR ESTATE
REPRESENTATIVE OF POST-EFFECTIVE DATE ESTATE OF MONTREAL MAINE
& ATLANTIC RAILWAY, LTD. TO FILE FINAL ACCOUNT AND APPLICATION
FOR FINAL DECREE NUNC PRO TUNC TO AUGUST 8, 2016**

Robert J. Keach, the estate representative (the “Estate Representative”) for the post-effective date estate of Montreal Maine & Atlantic Railway, Ltd. (“MMA” or the “Debtor”), with the consent of the United States Trustee (the “U.S. Trustee”), requests that this Court enter an order (the “Consent Motion”) extending the deadline for the Estate Representative to file a final account and an application for a final decree (collectively, the “Application for Final Decree”). In support of the Consent Motion, the Estate Representative states as follows:

1. On October 9, 2015, the Court entered the *Order Confirming the Trustee’s Revised First Amended Plan of Liquidation, dated July 15, 2015 (As Amended on October 8, 2015)* [D.E. 1801] (the “Confirmation Order”).

2. Pursuant to D. Me. LBR 3022-1, the Estate Representative was to file an Application for Final Decree within one hundred and twenty (120) days of confirmation of the *Trustee’s Revised First Amended Plan of Liquidation, dated July 15, 2015 (As Amended on October 8, 2015)* [D.E. 1822] (the “Plan”). 120 days after October 9, 2015 was February 8, 2016 (the “Initial Deadline”).¹

¹ 120 days after October 9, 2015 was February 6, 2016, but as that date fell on a Saturday, Bankruptcy Rule 9006(a)(1) prescribes that the deadline be reset for the next business day. See Fed. R. Bankr. P. 9006(a)(1).

3. On April 11, 2016, the Estate Representative filed an initial motion [D.E. 2141] (the “Initial Motion to Extend”) to extend the Initial Deadline to August 8, 2016 (the “First Extended Deadline”). The Court granted the Initial Motion to Extend on April 13, 2016 [D.E. 2143] (the “Initial Order to Extend”). The Initial Order to Extend was entered without prejudice to the Estate Representative’s ability to seek additional extensions of the First Extended Deadline.

4. The Estate Representative is currently party to, among other things, an appeal to the United States Bankruptcy Appellate Panel for the First Circuit (the “Appeal”), which Appeal determines whether certain claims are entitled to priority status or, alternatively, to share in the general unsecured claims pool. The Appeal is *sub judice*. Additionally, the Estate Representative is currently facilitating prosecution of the Assigned Carmack Claims (as defined in paragraph 77 of the Confirmation Order) and prosecuting his right to surcharge the collateral of a certain secured creditor, as well as pursuing estate causes of action against various defendants and analyzing certain other issues that will impact the size of the general unsecured claims pool and the amount of assets available to satisfy those claims. Accordingly, the Estate Representative requires additional time to consummate the Plan prior to filing the Application for Final Decree.

5. The Estate Representative submits that *nunc pro tunc* relief is appropriate in this case because he has continued diligently and efficiently to administer the estate and consummate the Plan since the Confirmation Order was entered, and no party will be prejudiced by extension of his deadline to file the Application for Final Decree retroactive to the First Extended Deadline—the date hereof.

6. The Estate Representative contacted the U.S. Trustee about an extension of the Deadline, and the U.S. Trustee has consented to an extension of the Deadline, with any order granting the Consent Motion to be effective *nunc pro tunc* to the date hereof.

7. For these reasons, and pursuant to Fed. R. Bankr. P. 9006(b) and D. Me. LBR 9006(a), the Estate Representative requests that the Court extend the Deadline by 182 days to February 6, 2017, without prejudice to the Estate Representative's ability to seek additional extensions in the future should they be necessary and in the best interests of the estate. The Estate Representative further requests that this Court grant the relief requested in this Consent Motion without hearing pursuant to D. Me. LBR 9013-1(d)(1) and Fed. R. Bankr. P. 9006(b)(1).

WHEREFORE, the Estate Representative requests that this Court enter an Order granting the Consent Motion *nunc pro tunc* to August 8, 2016, extending the Deadline for the Estate Representative to file the Application for Final Decree to February 6, 2017, along with such other and further relief as this Court deems just and appropriate.

Dated: August 8, 2016

**ROBERT J. KEACH,
ESTATE REPRESENTATIVE OF POST-
EFFECTIVE DATE ESTATE OF MONTREAL
MAINE & ATLANTIC RAILWAY, LTD.**

By his attorneys:

/s/ Sam Anderson

Sam Anderson, Esq.
Lindsay K. Zahradka, Esq. (admitted *pro hac vice*)
BERNSTEIN, SHUR, SAWYER & NELSON, P.A.
100 Middle Street
P.O. Box 9729
Portland, ME 04104
Telephone: (207) 774-1200

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE**

In re:

MONTREAL MAINE & ATLANTIC
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670
Chapter 11

**ORDER GRANTING SECOND CONSENT MOTION TO EXTEND TIME FOR
ESTATE REPRESENTATIVE OF POST-EFFECTIVE DATE ESTATE OF
MONTREAL MAINE & ATLANTIC RAILWAY, LTD. TO FILE
FINAL ACCOUNT AND APPLICATION FOR FINAL DECREE**

Upon the motion (the “Consent Motion”) of Robert J. Keach, the estate representative (the “Estate Representative”) for the post-effective date estate of Montreal Maine & Atlantic Railway, Ltd., for entry of an order extending the deadline by which the Estate Representative must file a final account and an application for a final decree (the “Application for Final Decree”), and the United States Trustee having consented to such relief, and without hearing pursuant to D. Me. LBR 9013-1(d)(1) and Fed. R. Bankr. P. 9006(b)(1), it is hereby **ORDERED, ADJUDGED** and **DECREEED** as follows:

1. The Consent Motion is granted.
2. The deadline for the Estate Representative to file the Application for Final Decree is hereby extended to February 6, 2017. This extension is without prejudice to the ability of the Estate Representative to seek further extensions of such deadline.
3. This Order shall become final in fourteen (14) days unless a party in interest sooner objects, in which case the matter shall be set for hearing and considered by the Court as if this Order had not been entered.

Dated: _____, 2016

The Honorable Peter G. Cary
United States Bankruptcy Judge