

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE

In re:

MONTREAL MAINE & ATLANTIC
RAILWAY, LTD.,

Debtor.

Chapter 11

Case No. 13-10670-LHK

**ORDER ON DEBTOR'S MOTION FOR ENTRY OF AN ORDER APPROVING
THE DEBTOR'S REJECTION OF CERTAIN LEASES**

This matter having come before the Court on the Debtor's (the "Debtor") Motion for Entry of an Order Approving the Debtor's Rejection of Certain Leases (the "Motion"), filed by the above-captioned debtor (prior to the appointment of Robert J. Keach, Esquire as Trustee (the "Trustee")), after such notice and opportunity for hearing as was required under the Bankruptcy Code, 11 U.S.C. § 101 et seq. and the Federal Rules of Bankruptcy Procedure, this Court having conducted a hearing on the Motion on October 31, 2013, after due deliberation and sufficient cause appearing therefore, it is hereby **ORDERED**, **ADJUDGED**, and **DECREED** that:

1. The Motion is granted in relation to the agreement by and between the Debtor and Midwest Railcar Corporation and/or Allfirst Bank (as applicable) and identified on **Exhibit A** to the Motion.

2. The Motion is granted in relation to the agreement by and between the Debtor and Center Beam Flat Car Company, Inc. ("Center Beam") and identified on **Exhibit A** to the Motion (the "Center Beam Agreement"), **provided, however**, that all rights and remedies in relation to determining the amount, extent and priority of any claim of Center Beam against the Debtor arising under the Center Beam Agreement, including claims arising out of any alleged use of any rolling stock that is the subject of the Center Beam Agreement after the date of the


filing of the Debtor's chapter 11 case (the "Petition Date") are hereby reserved and, **provided further**, that the Trustee hereby reserves any and all rights, claims and defenses in relation to any claim of the Trustee against Center Beam and in relation to claims asserted by Center Beam under the terms hereof.

3. The Motion is withdrawn in relation to the agreements by and between the Debtor and The CIT Group/Equipment Financing, Inc. (the "CIT Group") and identified on **Exhibit A** to the Motion (the "CIT Group Agreements"). In the event authorization is needed, the Debtor is hereby authorized to enter into that certain amendment to one of the CIT Group Agreements, which amendment is attached hereto as **Exhibit 1** (the "CIT Amendment"). CIT Group reserves all of its rights and remedies in relation to determining the amount, extent and priority of any claim of CIT Group against the Debtor arising under the CIT Group Agreements, whether arising prior to or after the Petition Date and, **provided further**, that the Trustee hereby reserves any and all rights, claims and defenses in relation to any claim of the Trustee against CIT Group and in relation to claims asserted by CIT Group against the Debtor. Nothing set forth herein shall be deemed to constitute an assumption or rejection of the CIT Group Agreements by the Debtor.

4. The Motion is granted in relation to the agreement by and between the Debtor and GATX Financial Corporation ("GATX") and identified on **Exhibit A** to the Motion (the "GATX Agreement"), **provided, however**, that all rights and remedies in relation to determining the amount of the prepetition, unsecured claim of GATX against the Debtor arising under the GATX Agreement are hereby reserved and, **provided further**, that the Trustee hereby reserves any and all rights, claims and defenses in relation to any claim of the Trustee against GATX and in relation to claims asserted by GATX under the terms hereof.

5. The Motion is granted in relation to the agreement by and between the Debtor and The Andersons, Inc., as successor to NARCAT, LLC (“NARCAT”) and identified on Exhibit A to the Motion (the “NARCAT Agreement”), **provided, however**, that all rights and remedies in relation to determining the amount of the prepetition, unsecured claim of NARCAT against the Debtor arising under the NARCAT Agreement are hereby reserved; **provided further**, that NARCAT will have until the general bar date established in this chapter 11 case for the filing of any general unsecured prepetition claims arising under the NARCAT Agreement, and, **provided further**, that the Trustee hereby reserves any and all rights, claims and defenses in relation to any claim of the Trustee against NARCAT and in relation to claims asserted by NARCAT under the terms hereof.

Dated: October 31, 2013



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

AMENDMENT NO. 01 TO SCHEDULE NO. 01

This Amendment No. 01 to Schedule No. 01 (this "Amendment") is entered into as of October __, 2013, between **THE CIT GROUP/EQUIPMENT FINANCING, INC.** ("Lessor") and **MONTREAL, MAINE & ATLANTIC RAILWAY, LTD.** ("Lessee").

Recitals

Lessor and Lessee previously entered into a Master Net Locomotive Lease dated as of March 18, 2013 (the "Master Lease"). Pursuant to the Master Lease, Lessor and Lessee entered into Schedule No. 01 dated as of March 18, 2013 (the "Schedule"). The Schedule and the Master Lease insofar as it is incorporated in or relates to the Schedule are collectively referred to as the "Lease". Lessor and Lessee wish to amend the Schedule as set forth herein to provide for a temporary modification to the Rent provision in the Schedule.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee hereto agree as follows:

1. The Recitals are made a part of this Amendment.
2. All capitalized terms not defined herein shall have the meanings ascribed to them in the Lease.
3. **Amendment to the Schedule.** Effective as of November 1, 2013 and for a period of six (6) months thereafter (the "Modification Period"), the following modifications to Section 7 (Rent) of the Schedule shall apply:
 - (a) Lessee shall pay Lessor a fixed rent payment of \$125.00 per Unit per day, payable monthly in arrears.
 - (b) During the Modification Period, the Lessee may at its discretion and at its sole expense, store some or all of the Units. Rent shall abate while the Units are in storage and out of revenue and/or operating service. On the first day of each month, Lessee shall provide Lessor with documentation reflecting the total number of days in which each Unit is not utilized during the preceding month. Lessor shall then provide Lessee with an invoice reflecting such usage. Lessee shall store the Units in the same way and by the same standards as Lessee stores locomotives it owns or leases. In the event the Units are stored for more than thirty (30) days, Lessor has the option to pull any or all of the Units upon thirty (30) days prior notice to Lessee.

Upon the expiration of the Modification Period, the foregoing modifications to Section 7 shall automatically terminate without further action by Lessee or Lessor.

4. **Miscellaneous.** Except as expressly modified by this Amendment, all of the terms and conditions of the Lease shall remain in full force and effect. From and after the date of this Amendment, all references in the Lease or in any other documents related thereto, to "the Schedule" or to "this Schedule" shall be deemed to refer to the Schedule as amended pursuant to this Amendment.

[Signature Page Follows]

IN WITNESS WHEREOF, Lessor and Lessee have each caused this Amendment to be duly executed as of the date first above written.

LESSOR:

LESSEE:

**THE CIT GROUP/EQUIPMENT
FINANCING, INC.**

**MONTREAL, MAINE & ATLANTIC
RAILWAY, LTD.**

By: _____

By: _____

Title: _____

Title: _____

District/Off: 0100-1

User: kford

Date Created: 11/1/2013

Case: 13-10670

Form ID: pdf901

Total: 93

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TOTAL: 1

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