

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE

In re:

MONTREAL MAINE & ATLANTIC  
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670  
Chapter 11

**OBJECTION TO MOTION FOR EXPEDITED HEARING ON MOTION OF THE  
WHEELING & LAKE ERIE RAILWAY COMPANY FOR ORDER AUTHORIZING  
RULE 2004 EXAMINATION OF THE TRUSTEE AND FOR ORDER REQUIRING THE  
TRUSTEE TO PRODUCE CERTAIN DOCUMENTS AND TANGIBLE THINGS IN  
ACCORDANCE WITH FED. R. BANKR. P. RULE 2004**

Robert J. Keach, the chapter 11 trustee (the “Trustee”) appointed in the above-captioned case of Montreal, Maine & Atlantic Railway, Ltd. (the “Debtor”), hereby objects (the “Objection”) to the *Motion for Expedited Hearing on Motion of the Wheeling & Lake Erie Railway Company for Order Authorizing Rule 2004 Examination of the Trustee and for Order Requiring the Trustee to Produce Certain Documents and Tangible Things in Accordance with Fed. R. Bankr. P. Rule 2004, with Incorporated Memorandum of Law* [Docket No. 276] (the “Motion to Expedite”), filed by the Wheeling & Lake Erie Railway Company (“Wheeling”). The Motion to Expedite seeks an expedited hearing on the *Motion of the Wheeling & Lake Erie Railway Company for Order Authorizing Rule 2004 Examination of the Trustee and for Order Requiring the Trustee to Produce Certain Documents and Tangible Things in Accordance with Fed. R. Bankr. P. Rule 2004, with Incorporated Memorandum of Law* [Docket No. 275] (the “2004 Exam Motion”). In support of this Objection, the Trustee states as follows:<sup>1</sup>

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<sup>1</sup> In light of the nature of the relief requested in the Motion to Expedite, and the summary nature of this Objection, the Trustee requests that the requirements of D. Me. LBR 9013-1(f) be waived.

1. Wheeling has alleged no basis on which expedited relief with respect to the 2004 Exam Motion is warranted. By the 2004 Exam Motion, Wheeling seeks information related to the Debtor's director and officer liability insurance policies (the "D&O policies"), information regarding obligations held by the Debtor or its affiliates to Wheeling, and information related to the Trustee's, and the Debtor's, continued use of its cash collateral.

2. With respect to information regarding the use of cash collateral, Wheeling is already entitled to, and may obtain, such information under the orders authorizing continued use of cash collateral entered by this Court, all of which were entered with Wheeling's consent. More importantly, the Trustee or his professionals have sent information regarding the Debtor's cash flow, budget, and assets and liabilities, among other things, to Wheeling's attorneys, each week since commencement of the Debtor's bankruptcy case. Accordingly, Wheeling is already in possession of the information it seeks in the 2004 Exam Motion.

3. Further, Wheeling has alleged no basis on which it needs to obtain information regarding the D&O policies within an expedited timeframe, or even a basis on which Wheeling is entitled to such information. D&O policies are not Wheeling's collateral, and Wheeling is not an insured under the D&O policies. For this and other reasons, the Trustee anticipates objecting to the 2004 Exam Motion. In any event, Wheeling is not entitled to expedited relief with respect to the 2004 Exam Motion simply because it claims it needs to review the Debtor's D&O policies.

4. Because Wheeling does not have a sufficient, or any, basis for requesting expedited relief with respect to the 2004 Exam Motion, the Motion to Expedite should be denied.

5. The Trustee reserves all of his rights under Rule 26(c) of the Federal Rules of Civil Procedure and D. Me. LBR 2004-1(b) to object to the relief requested in the Rule 2004 Exam Motion.

Dated: September 30, 2013

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

By his attorneys:

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