

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE**

In re:

MONTREAL MAINE & ATLANTIC  
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670

Chapter 11

**CHAPTER 11 TRUSTEE'S MOTION FOR ORDER: (A) AUTHORIZING DEBTOR TO OBTAIN POST-PETITION FINANCING; AND (B) GRANTING TO CAMDEN NATIONAL BANK POST-PETITION SECURITY INTERESTS**

Robert J. Keach, the chapter 11 trustee (the "Trustee") appointed in the above-captioned chapter 11 bankruptcy case of Montreal Maine & Atlantic Railway, Ltd. (the "Debtor"), moves (the "Motion") this Court for an order approving certain post-petition borrowing (the "Loan"), pursuant to sections 105 and 364 of the United States Bankruptcy Code (the "Bankruptcy Code"), Rules 4001 and 9013 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and D. Me. LBR 4001-4, between Camden National Bank (the "Bank") and the Debtor, upon the terms set forth in the Commitment Letter (the "Commitment Letter"), a copy of which is attached hereto as **Exhibit A**. In support of this Motion, the Trustee states as follows:

**I. Introduction with Summary of Loan Terms Pursuant to Bankruptcy Rule 4001(d)(1)(B)**

1. By this Motion, the Trustee seeks authority for the Debtor to obtain financing from the Bank on the terms set forth in the Commitment Letter and summarized below:

- a. The Loan is structured as a revolving line of credit in the maximum amount of **\$3,000,000.00**. [Commitment Letter, ¶ 2].
- b. The interest rate is fixed at **5.00%** per annum on any amounts advanced under the Loan. The default rate shall be 18.00% per annum. [Commitment Letter, ¶ 6].

- c. The proceeds of the Loan shall be used for working capital needs of the Debtor. The proceeds shall not be used for payment of prepetition debt, except prepetition debt required to be paid under the Bankruptcy Code or authorized to be paid by the Bankruptcy Court, provided, however, that such amounts of prepetition debt shall not exceed \$250,000.00 absent the Bank's written consent. The proceeds shall not be used to pay the costs of administration of the Debtor's chapter 11 case, other than ordinary and necessary costs of operating the Debtor's business, absent the Bank's written consent. [Commitment Letter, ¶ 3].
- d. The maturity date is **August 30, 2014**; interest is payable monthly. [Commitment Letter, ¶ 5].
- e. The Loan shall be secured by a first mortgage and security interest on all assets, located in the United States, that secure the debt administered by the Federal Railroad Administration (the "FRA"), as described more fully below, including an assignment of leases and rents with respect to the real property located in the United States. [Commitment Letter, ¶ 4]. In the event that the Loan is not paid in full on or before August 30, 2014, the Trustee shall, and shall be authorized by the Order approving the Loan to, liquidate, under section 1174 of the Bankruptcy Code, the Loan Collateral or such portion thereof as is required to pay the Loan in full.
- f. Closing of the Loan is contingent on certain conditions being satisfied, including, but not limited to: (i) entry of a final order by this Court approving the Loan; (ii) entry of an order by this Court, or entry into debt subordination/standstill agreements with all necessary creditors, providing for subordination to the Bank; (iii) satisfactory completion of due diligence by the Bank; (iv) maintenance of adequate insurance by the Debtor; and (v) preparation of loan documents as specified in the Commitment Letter. [Commitment Letter, ¶ 14].
- g. The Debtor shall indemnify the Bank from and against any loss to the Bank as a result of past, present, or future transportation of hazardous or toxic materials, or disposal of such materials and/or noncompliance with environmental laws or orders. [Commitment Letter, ¶ 17].
- h. Upon the occurrence and during the continuance of any default, and following the giving of ten (10) business days' notice to the Debtor, the Bank shall have relief from the automatic stay. [Commitment Letter, ¶ 11].

- i. The terms of the Loan do not contain any of the provisions listed in Bankruptcy Rule 4001(c)(1)(B)(ii), (iii), (v), (vi), (vii), (viii), (x), or (xi).
- j. The Loan shall be used to finance ongoing operations of the Debtor and, MMA Canada, its Canadian affiliate in substantially in accordance with the budget and projections attached hereto as **Exhibit B.**

2. Under 11 U.S.C. § 364(d), in order to obtain a priming lien, the Debtor is required to adequately protect the interests of the FRA. The Trustee anticipates that the United States, on behalf of the FRA will not object to the terms of the Loan, and, specifically, subordination of its interest in the FRA Collateral (as defined below) located in the United States to permit the Bank to have a first priority interest in such collateral.<sup>1</sup> The position of the United States in this regard is premised on the condition that the proceeds of the Loan shall be used, among other things, to provide for a minimum of two-person crews on all trains operated by the Debtor, and the Trustee hereby commits to the satisfaction of that condition. Additionally, after a diligent search and exploration of alternatives, the Debtor is unable to obtain financing without granting a first lien on its property, and is unable to obtain financing on terms as favorable as those offered by the Bank. Accordingly, the Trustee submits that the requirements of section 364(d), to the extent applicable, have been met.

## **II. Jurisdiction, Venue and Statutory Basis for Relief**

3. The United States District Court for the District of Maine (the “District Court”) has original but not exclusive jurisdiction over this proceeding pursuant to 28 U.S.C. § 1334(b).

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<sup>1</sup> The Trustee is also in the process of obtaining the consent of the Maine Department of Transportation (“MDOT”), which has a security interest in all rail, related cross ties, and related track materials incorporated or installed in, attached to, or located on certain rail corridors owned by the Debtor and located in Maine, the purchase of which rail and related materials was funded by funds advanced under certain Rail Funding Agreements entered into with the Debtor, to the extent MDOT’s collateral is affected by the terms of the Loan. The Debtor anticipates that MDOT will consent.

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 this Court.

4. 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.

5. 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.

6. The relief sought in this Motion is predicated upon sections 105(a) and 364(d) of the Bankruptcy Code, Bankruptcy Rules 4001(d)(1)(B) and 9013, and D. Me. LBR 4001-4.

### **III. Background**

#### **A. General Background**

7. On August 7, 2013 (the "Petition Date"), the Debtor filed a voluntary petition for relief under 11 U.S.C. § 101 et seq. (the "Case"). The Debtor's bankruptcy filing was precipitated by the train derailment in Lac-Mégantic, Québec on July 6, 2013 (the "Derailement"). The Derailement set off several massive explosions, destroyed part of downtown Lac-Mégantic, and is presumed to have killed 47 people. The Derailement also precipitated the filing by Montreal Maine & Atlantic Canada Co. ("MMA Canada"), MMA's subsidiary, under Canada's Companies' Creditors Arrangement Act.

8. On August 21, 2013, the United States Trustee appointed the Trustee pursuant to 11 U.S.C. § 1163.

#### **B. Pre-Petition FRA Financing**

9. Prior to the Petition Date, the Debtor entered into a \$34,000,000.00 loan facility with FRA, pursuant to that certain Loan and Security Agreement dated March 24, 2005, as such agreement may have been amended, modified, renewed or extended from time to time (the "FRA

Credit Facility”). The FRA Credit Facility was issued pursuant to Title V of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, 45 U.S.C. § 821 et seq. The outstanding balance on the FRA Credit Facility, as of the Petition Date, was approximately \$28,000,000.00.

10. The Debtor’s obligations to FRA under the FRA Credit Facility are secured by the following:

- a. A first-priority mortgage on substantially all of the Debtor’s real property located in Maine and Vermont, including the U.S. rail corridor consisting of approximately 220.73 miles of track located in Maine and an estimated 23.47 miles of track located in Vermont, as well as various land and buildings owned by the Debtor in fee simple (the “U.S. Real Property”);
- b. A first-priority security interest in all rail lines and related tracks and improvements located within the United States, including all rail ties, bridges, and related assets (the “U.S. Personal Property”);
- c. All of the Debtor’s real property located in Québec, Canada;
- d. All of the Debtor’s shares in MMA Canada;
- e. All of the real property owned by MMA Canada and located in Québec, Canada; and
- f. All of MMA Canada’s personal property (collectively, the “FRA Collateral”).

11. All mortgages and security agreements securing the FRA Credit Facility were timely and properly perfected by recordings in the United States and Canada.

### **C. The Pending Financing Transaction**

12. After the Petition Date, and subsequent to the appointment of the Trustee, the Trustee began negotiations with the Bank about the Bank providing post-petition financing needed to fund the Debtor’s operating costs and working capital needs pending a sale of the

Debtor's assets. As a result of these negotiations, the Debtor received the Commitment Letter, which outlines the terms of the Loan in the principal amount of up to \$3,000,000.00.

13. The Loan will be secured by first priority positions on the U.S. Real Property and the U.S. Personal Property (collectively, the "Loan Collateral"). As stated above, the Loan Collateral is subject to the first-priority interest of the FRA in connection with the FRA Credit Facility. The Trustee anticipates that the United States on behalf of the FRA will not object to subordination of its interest in the Loan Collateral to the Bank, thereby permitting the Bank to have a priming lien on the Loan Collateral.

14. The Loan will ensure that the Debtor and MMA Canada have adequate working capital to continue operating pending a sale of their assets.

#### **IV. Relief Requested**

15. By this Motion, the Trustee seeks entry of an order: (i) approving the terms of the Loan upon the terms set forth herein, in the Commitment Letter, and in the related loan documents, which loan documents shall substantially reflect the terms of the Commitment Letter and shall be filed with this Court as soon as they are finalized; (ii) granting the Bank a first priority mortgage on the U.S. Real Property; (iii) granting the Bank a first priority security interest in the U.S. Personal Property; (iv) authorizing the Debtor to provide the Bank with an assignment of leases and rents relating to the U.S. Real Property; (v) determining that, to the extent applicable, the requirements of section 364(d)(1)(B) have been satisfied; and (vi) finding that the Bank acted in good faith in relation to the Loan under section 364(e) of the Bankruptcy Code.

**V. Basis for Relief**

16. Pursuant to section 364(d) of the Bankruptcy Code, a debtor may only incur debt secured by a senior lien on property of the estate that is already subject to a lien if, after notice and a hearing, the debtor is able to show that (a) despite the post-petition borrowing, “there is adequate protection of the interest of the holder of the lien on the property of the estate on which such senior or equal lien is proposed to be granted,” and (b) that the debtor was unable to obtain a loan by offering the protections afforded under any other subsection of section 364 of the Bankruptcy Code. 11 U.S.C. § 364(d)(1). Courts generally defer to a debtor’s business judgment in granting post-petition financing under section 364(d). See In re DB Capital Holdings, LLC, 454 B.R. 804, 822 (Bankr. D. Colo. 2011) (citing cases).

17. In this case, the Trustee anticipates that the United States on behalf of the FRA will not object to the terms of the Loan, and, specifically, to subordination of its interest in the Loan Collateral to the Bank. The position of the United States in this regard is premised on the condition that the proceeds of the Loan shall be used, among other things, to provide for a minimum of two-person crews on all trains operated by the Debtor, and the Trustee hereby commits to the satisfaction of that condition. Additionally, to the extent that MDOT’s collateral is affected by the Loan, the Trustee anticipates that MDOT will consent to the terms of the Loan. In any event, even absent such consent, the interests of both FRA and MDOT are adequately protected. Accordingly, the Trustee submits that, to the extent required, section 364(d)(1)(B) is satisfied.

18. With respect to whether the debtor or trustee is unable to obtain a loan by any method other than having such credit secured by a senior lien on previously encumbered

property, the debtor or trustee has “no duty to seek credit from every possible lender.” Snowshoe, 789 F.2d 1085.

19. The Trustee approached other potential lenders, including existing lenders, in an attempt to obtain post-petition financing; ultimately, however, the Trustee was unable to obtain financing on more favorable, or expeditious, terms, than the Loan.

20. Additionally, in light of the number, and extent, of priority and general unsecured claimants in this Case, the Trustee was only able to obtain financing on a secured basis. Further, the Trustee submits that the Loan will not prejudice any creditors or parties in interest because it will ensure that the Debtor is able to continue operating, pending a sale, which sale will maximize the value of the Debtor’s assets and its estate for the benefit of those creditors. The Loan is essential to maximize the value of the distributions to creditors, including priority and general unsecured creditors.

21. Finally, although the Debtor owns some assets that are not otherwise encumbered, such assets are insufficient to secure the financing necessary to continue operations pending a sale.

22. The Loan is also within the sound business judgment of the Trustee. The proceeds of the Loan will fund the Debtor’s working capital and operational needs pending a sale of its assets. The terms of the Loan are favorable to the Debtor and the Loan is secured by collateral that was already pledged by the Debtor to FRA, prepetition. In the absence of approval of the Loan, the Debtor may run out of sufficient cash before the end of October, 2013 and be forced to wind-down or abandon its operations. In addition, uncertainty over the state of the Debtor’s liquidity and financing is resulting in a substantial loss of business, as shippers need to know that their cargo will reach its destination rather than being stranded by a suspension of



operations. Moreover, financing of the operations of the Debtor and MMA Canada is a critical aspect to the extension of MMA Canada's certificate of fitness by the CTA, the current extension for which expires on October 18, 2013. The Trustee believes that the Loan is in the best interests of the Debtor's estate and its creditors, as well as in the public interest under section 1165 of the Bankruptcy Code, as it will ensure that the Debtor has sufficient funds to continue operating pending a sale of its assets, and is secured by collateral that has already been pledged to the FRA.

23. Accordingly, the Trustee submits that the requirements of section 364(d) are satisfied with respect to the Loan.

WHEREFORE, the Trustee requests that the Court enter an Order: (i) approving the terms of the Loan upon the terms set forth herein and in the Commitment Letter; (ii) granting the Bank a first priority mortgage on the U.S. Real Property; (iii) granting the Bank a first priority security interest in the U.S. Personal Property; (iv) authorizing the Debtor to provide the Bank with an assignment of leases and rents relating to the U.S. Real Property; (v) determining that, to the extent applicable, the requirements of section 364(d)(1)(B) have been satisfied; and (vi) finding that the Bank acted in good faith in relation to the Loan under section 364(e) of the Bankruptcy Code.

Dated: October 4, 2013

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

By his attorneys:

/s/ Sam Anderson

Michael A. Fagone, Esq.

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October 2, 2013

Robert Keach, Esq.  
Trustee for Montreal, Maine & Atlantic, Ltd.  
Bernstein Shur  
100 Middle Street  
P.O. Box 9729  
Portland, ME 04104-5029

Dear Attorney Keach:

We are pleased to advise you that Camden National Bank ("Bank") has approved your request for a commercial line of credit loan to you in your capacity as Trustee for Montreal, Maine & Atlantic, Ltd. ("Borrower") in the amount of Three Million and 00/100 Dollars (\$3,000,000.00) (the "Line" or "Loan"). **This letter, when properly signed and accepted, is intended to constitute an agreement between Bank, which agrees to lend, and Borrower, which agrees to borrow, subject to the following terms and conditions and such additional terms and conditions as may be set forth in the definitive loan documents.** The terms and conditions of our approval are as follows:

## 1. BORROWER:

Borrower will be Montreal, Maine & Atlantic Ltd., a Delaware corporation.

## 2. AMOUNT:

The amount of the Line shall be Three Million and 00/100 U.S. Dollars (\$3,000,000.00). Such amount may be borrowed, repaid and re-borrowed, subject to the outstanding limit of \$3,000,000.00.

## 3. USE OF PROCEEDS:

The Loan proceeds shall be used for working capital needs of Borrower. The Loan proceeds may not be used for any other purpose, including A) payments of pre-petition debt, except for amounts of pre-petition debt required to be paid under the Bankruptcy Code or authorized to be paid by order of the Bankruptcy Court, provided, however, that in no event shall such amounts of pre-petition debts exceed \$250,000.00 absent written consent of the Bank, or B) payment of the costs of administration of Borrower's pending Chapter 11 case, except for ordinary and necessary costs of operating the business of Borrower, without written consent of the Bank.

## 4. COLLATERAL:

All obligations of Borrower to Bank will be secured by the following (collectively, the "Collateral"):

A. First mortgage on all assets located in the United States that currently secure a mortgage held by the Federal Railroad Administration, including the Direct Loan Financing Agreement under the Railroad Rehabilitation and Improvement Financing Program (RRIF). This agreement is predicated on the understanding that these assets include substantially all of the real estate located in the United States owned by Borrower (the "Real Estate"), including substantially all properties included in an appraisal dated July 23, 2010 performed by Main Line Rail Management, Inc.. The first priority of the mortgage shall be established by appropriate subordination agreements and by the terms of the Court Order (defined below), the sufficiency of which will be determined by the Bank in its sole discretion.

B. An assignment of leases and rentals relating to the Real Estate.

October 2, 2013  
Term Loan

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The Loan will be cross-defaulted and cross-collateralized with any existing or future extensions of credit to Borrower by Bank or its affiliates.

Borrower hereby authorizes the Bank to file, in advance of closing, financing statements evidencing any security interests described above.

5. LOAN TERM:

The Line shall be payable on demand, with interest payable monthly. Subject to the continued favorable financial condition of Borrower (as determined in its sole discretion by Bank), this line of credit is available for Borrower's use through August 30, 2014 (the "Termination Date") or upon the date of the sale of all or a portion of the assets of Borrower, whichever comes first.

6. INTEREST RATE:

Except in the event that the Borrower shall default, the Loan shall bear interest at fixed rate of five percent (5.0%) per annum.

Overdue principal and (to the extent permitted by applicable law) interest on the Loan and all other amounts payable by Borrower to Bank shall bear interest payable on demand at an annual rate equal to eighteen percent (18.0%) per annum. In addition, Borrower shall pay to Bank a late charge equal to four percent (4%) of the total amount due to the Bank (including principal, interest, and other charges) for every month or fraction thereof during which any amount of principal and/or interest is not paid within ten days of the date when due or remains unpaid thereafter.

7. PAYMENTS OF PRINCIPAL AND INTEREST:

Borrower may prepay all or any portion of the Loan without penalty or premium therefor. Upon maturity or upon the sale of any part of the Collateral, or upon loss of priority for any reason, whichever occurs first, any and all principal, interest, and fees outstanding will be due in full.

8. COMMITMENT FEE:

A non-refundable Commitment Fee of Sixty Thousand and 00/100 Dollars (\$60,000.00) (the "Commitment Fee") shall be paid by Borrower to Bank upon closing of the Loan.

9. CLOSING DATE:

The Loan shall be closed and all conditions shall be satisfied on a date and time mutually satisfactory to Bank and Borrower, but no later than October 25, 2013, which time is of the essence.

If closing does not occur on or before October 25, 2013, or as otherwise set forth in a writing approving by Bank an extension, Bank shall have no further obligations hereunder.

10. BANK'S COUNSEL:

Bank counsel for this transaction will be:

Kelly McDonald, Esq.  
Murray, Plumb & Murray  
P.O Box 9853  
75 Pearl Street  
Portland, ME 04101  
Telephone: 207-773-5651  
Email: kmcdonald@mpmlaw.com

11. EVENTS OF DEFAULT

In addition to all usual and customary events of default for loans of this type and size, an event of default shall also include: failure to pay interest, principal or fees when due; any representation or warranty found to be materially incorrect; breach of any affirmative, negative or financial covenant; Borrower denies or contests the validity or enforceability of any Loan Documents or obligations of Borrower in respect of the Loan, or the perfection or priority of any lien granted to the Bank; or any Loan Document ceases to be in full force or effect for any reason (other than a waiver or release by the Bank); any post-petition judgment in excess of an amount to be agreed or which would operate to divest Borrower of any material assets; Borrower being enjoined from conducting business; material damage to or loss of material assets other than as contemplated in a winding down of operations; the dismissal of the Chapter 11 Case; the grant of any lien which is pari passu with or senior to those of the Bank; any payment of pre-petition debt (other than as provided herein and other than payments as may be approved by the Court that are acceptable to the Bank); the Bankruptcy Court's entry of an order granting relief from the automatic stay to permit foreclosure of security interests in assets of the Borrower upon which the Bank holds an interest; an order terminating exclusivity having been entered; any reversal, revocation or modification without the consent of the Bank of any order of the Bankruptcy Court with respect to the Chapter 11 Case and affecting the Loan; or the failure of the Bank and the Borrower to agree on and enter into mutually acceptable Documentation with respect to the Loan on or before the date that the Loan closes.

12. REMEDIES

In addition to all customary remedies, as provided for in the documentation of the Loan, upon the occurrence and during the continuance of any default, and following the giving of ten (10) business days' notice to Borrower, the Bank shall have relief from the automatic stay and may foreclose on all or any portion of the Collateral and exercise any other remedies against the Collateral permitted by applicable nonbankruptcy law. Unless during such ten (10) business-day notice period, the Bankruptcy Court determines that a default has not occurred and/or is not continuing, the automatic stay as to the Bank shall be automatically terminated at the end of such notice period and without further notice or order and Borrower waives any right to seek a reinstatement of the stay under Section 105 or otherwise. The loan documentation will provide for a remedy or remedies satisfactory to the Bank in its sole discretion that will permit the Bank to exercise foreclosure remedies upon the event of default.

13. REPRESENTATIONS AND WARRANTIES:

Borrower hereby represents and warrants that: (i) there is no litigation or similar proceeding threatened or pending against Borrower which may materially affect the value of the Collateral or the ability of Borrower to perform its obligation hereunder, other than the currently pending bankruptcy of Borrower; (ii) there exists no event or circumstance which, with notice of lapse of time, or both, would constitute grounds for termination of this Commitment; (iii) the Borrower is fully authorized to execute this Commitment; (iv) Borrower has, or prior to closing will have, a valid fee simple interest in and to the Real Estate, free and clear of all liens, charges, claims, options and other encumbrances, subject only to such liens, charges, claims, options and encumbrances as are reflected in the title insurance policy accepted by Bank; (v) all federal and state tax assessments of fees imposed upon the Real Estate have either been paid or the Bank has been granted a mortgage or lien on the Real Estate in priority to any existing or potential tax liens; (vi) no consent, approval or other authorization is required with respect to this transaction from any person or under any document by which Borrower is obligated or bound, excepting authorization from the Bankruptcy Court in relation to this Loan; (vii) Borrower has all permits, licenses and approvals required in connection with the Real Estate; and (viii) the financial condition of the Borrower has not changed since the date of its loan application and all financial information provided is true and correct. Borrower shall update the above representations and warranties and furnish at closing such additional information, representations and warranties for it or any other relevant party as Bank may request in connection with the Loan. Borrower shall provide the Bank with reasonable access to its financial records and reasonably cooperate with the Bank in providing any financial record reasonably requested.

14. CLOSING CONDITIONS:

Prior to closing of the Loan, Bank shall receive at Borrower's expense such items as Bank may reasonably require in order to demonstrate feasibility of repayment of the Loan and in order to provide security for the Loan, including without limitation, the following items, all satisfactory in form and content to Bank and its counsel in their sole discretion:

- A. Court Order. A final order (the "Court Order") entered by the United States Bankruptcy Court for the District of Maine in form and substance acceptable to the Bank approving the Loan on the conditions set forth herein including, without limitation, the approval of adequate protection for the Bank for the amount of the unpaid balance of the Loan, including principal, interest, and other charges, including attorney's fees.
- B. Due Diligence. Satisfactory completion of the due diligence review of the assets and liabilities of Borrower.
- C. Value of Collateral. Bank may obtain a current report or industry expert to opine that the value and marketability of the Collateral are satisfactory to the Bank, in its sole discretion.
- D. Insurance. Borrower shall obtain and maintain such insurance as Bank may reasonably require, including:
  - 1. Flood insurance, if the property is located in any federally designated special hazard area;
  - 2. General Liability insurance;
  - 3. Workers' Compensation Insurance, as applicable;
  - 4. Hazard insurance on the Property, the Equipment and all other tangible assets of Borrower.

These insurance policies shall name Bank as loss payee. For purposes of insurance, Bank shall be named as Camden National Bank, its successors and/or assigns, PO Box 310, Camden, ME 04843. All insurance shall be in such amounts and form and shall be issued by such insurers as shall be approved by Bank and shall require written notice to Bank at least thirty (30) days prior to cancellation, nonrenewable, modification or expiration. Proof of such insurance coverage and payment of premiums shall be delivered prior to closing of the Loan.

- E. Documentation. A loan agreement, containing such representations, warranties, covenants, conditions and requirements as Bank may require, together with a promissory note, mortgage, assignment of leases and rentals, and such other agreements and documents as Bank may require to evidence and secure the Loan, all in form and content satisfactory to Bank and its counsel. Without limiting the foregoing, the Loan documents shall: (i) prohibit any sale, assignment, pledge, transfer, mortgage or other encumbrance, or any contract to do any of the foregoing, of all or any portion of the Property without the prior written consent of Bank, and (ii) prohibit any change in the ownership or management of Borrower or in the management of the Property without prior written consent of Bank. In addition, the Loan documents shall include an agreement by Borrower to indemnify and hold the Bank and its shareholders, directors, agents, officers, subsidiaries and affiliates harmless from and against any and all damages, losses, settlement payments, obligations, liabilities, claims, actions or causes of action, and reasonable costs and expenses incurred, suffered, sustained or required to be paid by an indemnified party by reason of or resulting from the Loan, this Commitment Letter, the Documentation, the transactions contemplated hereby or any claim, litigation, investigation or proceeding relating to any of the foregoing, whether or not any of such indemnified persons is a party thereto, except to the extent resulting from the gross negligence or willful misconduct of the indemnified party as finally determined by a final non-appealable order of a court of competent jurisdiction. Such indemnity would include indemnification for the Bank exercising discretionary rights granted under the Loan. In all such litigation, or the preparation therefor, the Bank shall be entitled to select its own counsel and, in addition to the foregoing indemnity, the Borrower agrees to pay promptly the reasonable fees and expenses of such counsel.
- F. Title Insurance. An ALTA mortgagee title insurance policy covering the real estate constituting the Collateral issued by a title insurance company acceptable to Bank in the amount of the Loan containing only such liens, encumbrances and exceptions as are approved by Bank and containing such endorsements as Bank may require. Standard exceptions relating to mechanic's liens, persons in possession, and survey matters shall be deleted. A commitment dated no more than five days prior shall be delivered to Bank prior to loan closing and the final policy shall be delivered to Bank within fifteen (15) days of closing. Borrower shall pay all costs related to the issuance of the title insurance commitment, policy, and endorsements.
- G. Opinions of Counsel. Opinions of counsel for Borrower addressing such legal issues concerning the Loan in relation to the organizational documents of Borrower, due authorization for the execution and delivery of the loan documents, and compliance with zoning, land use and environmental laws.
- H. Debt subordination. Bank shall have entered into debt subordination/standstill agreements with all necessary creditors on terms satisfactory to Bank or the Court Order shall provide for such subordination.
- I. Other Matters. Such other matters or items as Bank or its counsel may reasonably require including, without limitation, any conditions set forth herein. Bank will have the option of withholding Loan disbursements until all conditions of the Commitment Letter or special conditions which Bank counsel deems necessary have been complied with to Bank's satisfaction.

15. ADVANCES AND PAYMENTS:

Advances under the Line will be subject to a minimum advance of \$25,000.00 per request.

Accrued interest on the outstanding principal balance shall be payable monthly. Unless sooner demanded, the principal balance, together with all interest and other charges, will be due and payable in full on the Termination Date.

16. FINANCIAL COVENANTS

1. Financial Statements. Bank may require interim financial statements as Bank deems appropriate.
2. Negative Pledge. Borrower will not, during the term of the Loan, create, incur, assume or suffer to exist, any mortgage, deed of trust, pledge, lien, security interest, charge or encumbrance on any of its property, nor will it file, or permit to be filed, any financing statement naming it as a debtor, other than documents filed in Borrower's pending bankruptcy case.

17. ENVIRONMENTAL ISSUES:

Borrower shall be required to demonstrate prior to closing compliance with all environmental regulations and/or requirements of local, state or federal government. Evidence of said compliance in such form as Bank may request shall be submitted to Bank not less than five (5) business days prior to closing, including any Voluntary Response Action plans and related certifications, orders and/or letters of the Maine Department of Environmental Protection or any other regulatory authority. Bank reserves the right to disapprove the loan if Bank is not satisfied with evidence of compliance with environmental laws.

Borrower agrees to indemnify, defend, and hold Bank harmless from and against any loss to Bank as a result of past, present or future transportation of hazardous or toxic materials, or disposal of hazardous or toxic materials and/or noncompliance with environmental laws or orders of any environmental regulatory authority.

18. NONASSIGNABILITY; NO THIRD PARTY BENEFICIARY:

This Commitment is issued solely for the benefit of Borrower and only for the purposes described herein. This Commitment may not be assigned without permission of Bank, and no other person(s) or party(ies) shall be a beneficiary hereof or have any rights hereunder, and no rights are conferred by this Commitment upon any other person(s) or party(ies), whether or not their name may be used or otherwise identified in this Commitment.

19. BANK NOT A JOINT VENTURER:

Bank shall not be deemed to be a partner or joint venturer with Borrower or any other parties. Borrower will indemnify and hold Bank harmless from and against any and all liabilities, damages, claims, demands, costs, expenses and attorneys' fees resulting from such a construction of the relationship of the parties.

20. COSTS AND EXPENSES:

Borrower agrees to pay all of Bank's out-of-pocket costs relating to this transaction whether or not any disbursements are made under the Loan. Such costs include, but are not limited to, the fees and costs of Bank's attorneys, consultants, and appraisers, title insurance premiums and charges, recording fees and taxes, and all other reasonable expenses in connection with the preparation, closing and disbursement of the Loan.



21. GOVERNING LAW; INTERPRETATION:

This Commitment and loan documents to be delivered pursuant thereto shall be governed by the laws of the State of Maine without reference to the choice of law rules or conflicts of law rules of that state. The headings of sections and paragraphs in this Commitment are for convenience only and shall not be construed in any way to limit or define the content, scope, or intent of the provisions hereof. As used in this Commitment, the singular shall include the plural and masculine, feminine, and neuter pronouns shall be fully interchangeable, where the context so requires. If any provision of this Commitment, or any paragraph, sentence, clause, phrase or word, or the application thereof, in any circumstances, is adjudicated to be invalid, the validity of the remainder of this Commitment shall be construed as if such invalid part were never included herein. Time is of the essence of the Commitment. All exhibits to this Commitment shall be incorporated into and made a part of this Commitment.

22. MODIFICATION:

This Commitment may not be modified or amended in any manner except by a written instrument executed by Bank and Borrower.

**Borrower may not maintain any action against Bank on any agreement to lend money, extend credit, or forebear from collection of a debt, or make any other accommodation for repayment of a debt for more than \$250,000 unless the promise, contract or agreement is in writing and is signed by a duly authorized representative of Bank.**

23. JURY TRIAL:

**BORROWER HEREBY KNOWINGLY, EXPRESSLY, AND VOLUNTARILY WAIVES ANY AND ALL RIGHTS, WHETHER ARISING UNDER THE FEDERAL CONSTITUTION, THE MAINE CONSTITUTION, ANY RULES OF CIVIL PROCEDURE, COMMON LAW, OR ANY OTHER RULES OR LAW, TO DEMAND A TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING, COUNTERCLAIM, CROSS-CLAIM, THIRD-PARTY CLAIM, OR LITIGATION OF ANY TYPE INVOLVING THE BANK AS TO ANY MATTER, CLAIM, OR CAUSE OF ACTION WHATSOEVER ARISING OUT OF OR IN ANY WAY RELATED TO THIS COMMITMENT, ANY AGREEMENT WITH THE BANK, ANY GUARANTEE, LOAN, OR MORTGAGE WITH THE BANK, OR ANY TRANSACTION BETWEEN THE PARTIES OR CONTEMPLATED BETWEEN THE PARTIES AND AGREE NOT TO SEEK TO CONSOLIDATE ANY SUCH ACTION WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. BORROWER UNDERSTANDS THAT THE FOREGOING WAIVER IS NOT SUBJECT TO ANY EXCEPTIONS AND THAT THE BANK HAS NOT REPRESENTED THAT THE PROVISIONS OF THE WAIVER WILL NOT BE ENFORCED.**

24. VENUE:

In the event any litigation shall arise out of this Commitment, the prevailing party shall be entitled to recover all costs incurred in connection with such litigation, including reasonable attorneys' fees at both the trial and appellate levels. The parties agree that the exclusive venue for any such action that is not within the jurisdiction of the Bankruptcy Court shall be the courts of the State of Maine.

25. ATTORNEYS' FEES:

All legal fees and other hard costs incurred by Bank relating to the Loan including, without limitation, fees relating to preparation of loan documents shall be paid by Borrower, regardless of whether or not the Loan closes.

26. TERMINATION:

This Commitment may be terminated at Bank's option by written notice to Borrower at the address set forth above upon the occurrence of any of the following events:

- A. Any change in the financial condition of Borrower, subsequent to the above date of this commitment which is, in the sole discretion of Bank, material and adverse.
- B. If any statement or representation made by Borrower in this Commitment or in support of the Loan shall prove untrue or Borrower shall be unable to fulfill any conditions to closing set forth herein.
- C. Default by Borrower under any other loan or extension of credit by Bank to Borrower. Any termination of this Commitment shall not affect Bank's rights to enforce the provisions of this commitment relating to payment of its commitment fee or payment or reimbursement of its costs and expenses, including attorneys' fees, which rights shall survive any such termination.
- C. Any of the Closing Conditions set forth in Section 14 of this Commitment are not met.

This Commitment shall survive the loan closing, and each of the obligations and undertakings of Borrower hereunder shall be continuing and shall not cease until the Loan, together with all accrued interest and charges, has been paid in full.

27. ACCEPTANCE:

If the terms and conditions contained herein meet with your approval, please indicate your acceptance by signing and returning this original Commitment letter by the close of business on October 11, 2013. This Commitment shall be null and void if not accepted by the above-referenced date.

By your acceptance of this letter, Borrower acknowledges that this commitment is an outline of the principal understandings which are anticipated to be the basis for the terms of the final Loan. It has been issued before Bank has undertaken a full business, credit and legal analysis of Borrower and the transaction contemplated hereby. As a result of further investigation, information may come to Bank's attention of which it is not now aware which could preclude a closing or as a result of which Bank may require that the Loan and the terms contemplated hereby be restructured or otherwise modified.

Very truly yours,

CAMDEN NATIONAL BANK

By: [Signature]  
Its: SVP

Accepted this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**BORROWER:**

By: \_\_\_\_\_  
Its \_\_\_\_\_, duly authorized



Footnote	Montreal, Maine & Atlantic Railway				FORECAST																	
	Revised Budget 9/20/2013				W/E	W/E	W/E	W/E	W/E	W/E	W/E	W/E	W/E	W/E	W/E	W/E	W/E	W/E	W/E	W/E		
	ACTUAL	ACTUAL	ACTUAL	ACTUAL	10/4/2013	10/11/2013	10/18/2013	10/25/2013	11/1/2013	11/8/2013	11/15/2013	11/22/2013	11/29/2013	12/6/2013	12/13/2013	12/20/2013	12/27/2013	12/6/2013	12/13/2013	12/20/2013	12/27/2013	
Net Freight Revenue	159,917	140,838	169,338	185,162	160,000	160,000	160,000	175,000	175,000	175,000	175,000	175,000	175,000	125,000	175,000	175,000	175,000	175,000	175,000	175,000	125,000	
Switching					40,000				40,000						40,000							
Total Frt/Switch Revenue					200,000	160,000	160,000	175,000	215,000	175,000	175,000	175,000	175,000	125,000	215,000	175,000	175,000	175,000	175,000	175,000	125,000	
<b>Receipts:</b>																						
<b>Transportation Revenue</b>																						
1 Freight Revenue and Zone Switching	\$ 171,524	\$ 398,111	\$ 233,278	\$ 41,312	\$ 173,559	\$ 70,000	\$ -	\$ -	\$ -	\$ -	\$ 125,000	\$ 125,000	\$ 125,000	\$ 130,000	\$ 130,000	\$ 130,000	\$ 120,000					
2 ISS Settlement	(27,431)				151,494												75,000					
3 Customer Settlements					50,000		150,000			50,000					25,000							
Other Operating Revenue																						
Sub Total - Transportation Revenue	144,093	398,111	233,278	41,312	375,053	70,000	150,000	-	-	50,000	125,000	125,000	125,000	230,000	130,000	130,000	120,000					
<b>Other Operating Revenue</b>																						
Switching & Miscellaneous																						
4 Railcar Storage	85,000																					
Contract Shop & Car Repairs		156											16,000								20,000	
5 Equipment Rental					37,000										18,500							
Car Hire Revenue (Payable)				26,491																		
Sub Total - Other Operating Revenue	85,000	156	-	26,491	37,000	-	-	-	-	-	-	-	16,000	-	18,500	-	20,000					
<b>Non-Operating Revenue</b>																						
Scrap Sales																						
Private & Gov't Re-imbursements		90,500																				
6 Travelers - Ins Settlement				240,706																		
Sub Total - Non-Operating Revenue		90,500	-	240,706																		
Total Cash Receipts	229,093	488,767	233,278	308,509	412,053	70,000	150,000	-	-	50,000	125,000	141,000	125,000	248,500	130,000	130,000	140,000					
<b>Disbursements:</b>																						
<b>Transportation Revenue Offsets</b>																						
7 NBSR, MNR, SLQ, CN					85,623																	
Sub Total - Transportation Revenue Offsets					85,623																	
<b>Payroll &amp; Related</b>																						
8 Salaries, Wages & Commissions US	66,071	142,760	6,498	86,663	63,415	157,500			194,599		194,599		194,599		194,599		194,599				194,599	
Employee Benefits & Claims - US	5,562	49,730	36,174	22,276	31,500	31,500	31,500		31,500	31,500	31,500	31,500	31,500	31,500	31,500	31,500	31,500				31,500	
8 Salaries, Wages & Commissions CDN	88,933		78,527		84,000		103,426		118,201		118,201		118,201		118,201		98,501				98,501	
Group Health, pension and union dues- CDN	21,588	27,919		8,545	31,400		14,400		39,400		14,400		14,400		25,000		14,400				14,400	
9 Aetna Past Dues								100,000														
10 Vacation pay arrears - CDN								50,000														
Sub Total - Payroll & Related	182,154	220,409	121,199	117,484	210,315	31,500	306,826	181,500	383,700	31,500	358,700	31,500	358,700	56,500	339,000	31,500	339,000					
<b>Materials &amp; Supplies</b>																						
Diesel Fuel							25,200	31,500	31,500	31,500	31,500	31,500	31,500	35,000	35,000	35,000	35,000				35,000	
Material/Repair Costs US	5,297			772	13,000	10,000	10,000	45,000	20,000	10,000	10,000	10,000	10,000	5,000	5,000	5,000	5,000				5,000	
Material/Repair Costs CDN	5,668	37,853	54,158	0	25,000	10,000	35,000	10,000	10,000	10,000	10,000	10,000	10,000	5,000	5,000	5,000	5,000				5,000	
Sub Total - Material & Supplies	10,965	37,853	54,158	772	38,000	20,000	70,200	86,500	61,500	51,500	51,500	51,500	51,500	45,000	45,000	45,000	45,000				45,000	
<b>Freight Car &amp; Locomotive Expense</b>																						
Leases - Car					20,000				10,000					10,000								
Leases - Locomotive					15,000				15,000					15,000								
Car Hire																						
Car Repair Net				512																		
Sub Total - Freight Car & Locomotive				512	35,000				25,000					25,000								
<b>Other Operating Costs</b>																						
Rent	15,770				20,000				20,000					20,000								
Electricity	1,749		2,804		9,000				9,000					9,000								
Heat at Derby maintenance facility									2,700	2,700	2,700	2,700	2,700	5,400	5,400	5,400	5,400					
Utility Deposits	11,780				22,500																	
Insurance Payments	43,284	8,421		8,560	73,406				29,906	43,500				29,906	43,500							
11 Bank Chges /Interest Exp/Points		46,255	836						1,000	933			1,000	7,172			1,000					
2% Points for New Financing							60,000															
Rail Testing								88,000														
Brush Cutting in Canada									70,000													
Favorable Purchase Option for 14 CK cars									34,027					36,036								
12 Post-Petition A/P (9/13)				3,206		110,000																
Phone, Internet, Radio, Other expenses	4,441	47,715	1,717	18,277	44,399	16,500	16,500	25,000	34,500	25,000	25,000	25,000	25,000	25,000	36,500	25,000	25,000	25,000				25,000
Sub Total - Rent, Heat & Utilities	77,024	102,391	2,553	32,847	169,305	16,500	186,500	114,000	201,066	71,200	27,700	27,700	27,700	64,736	107,978	73,900	30,400	31,400				
Total Operating Disbursements	270,143	360,653	177,910	151,615	538,243	68,000	563,526	382,000	671,267	154,200	437,900	110,700	474,936	234,478	457,900	106,900	415,400					
13 Net Cash Inc(Dec) From Ops	(41,050)	128,114	55,368	156,894	(126,190)	2,000	(413,526)	(382,000)	(671,267)	(104,200)	(312,900)	30,300	(349,936)	14,022	(327,900)	23,100	(275,400)					

Footnote

Montreal, Maine & Atlantic Railway  
Revised Budget 9/20/2013

	ACTUAL				FORECAST												
	W/E 9/6/2013	W/E 9/13/2013	W/E 9/20/2013	W/E 9/27/2013	W/E 10/4/2013	W/E 10/11/2013	W/E 10/18/2013	W/E 10/25/2013	W/E 11/1/2013	W/E 11/8/2013	W/E 11/15/2013	W/E 11/22/2013	W/E 11/29/2013	W/E 12/6/2013	W/E 12/13/2013	W/E 12/20/2013	W/E 12/27/2013
SUMMARY																	
Cash Beginning	281467 \$	240,417	368,531	423,899	580,793	454,603	456,603	300,000	300,000	300,000	300,000	300,000	300,000	300,000	300,000	300,000	300,000
Net Weekly Cash Flow	(41,050)	128,114	55,368	156,894	(126,190)	2,000	(413,526)	(382,000)	(671,267)	(104,200)	(312,900)	30,300	(349,936)	14,022	(327,900)	23,100	(275,400)
Financing Advance(Paydowns)	-	-	-	-	-	-	256,923	382,000	671,267	104,200	312,900	(30,300)	349,936	(14,022)	327,900	(23,100)	275,400
14 Cash Ending	\$ 240,417 \$	\$ 368,531 \$	\$ 423,899 \$	\$ 580,793 \$	\$ 454,603 \$	\$ 456,603 \$	\$ 300,000 \$	\$ 300,000 \$	\$ 300,000 \$	\$ 300,000 \$	\$ 300,000 \$	\$ 300,000 \$	\$ 300,000 \$	\$ 300,000 \$	\$ 300,000 \$	\$ 300,000 \$	\$ 300,000 \$
Principal Bal New Financing							-	256,923	638,923	1,310,190	1,414,390	1,727,290	1,696,990	2,046,926	2,032,905	2,360,805	2,337,705
Net Weekly Cash Advance(Paydown)							256,923	382,000	671,267	104,200	312,900	(30,300)	349,936	(14,022)	327,900	(23,100)	275,400
End of Period Principal Balance							256,923	638,923	1,310,190	1,414,390	1,727,290	1,696,990	2,046,926	2,032,905	2,360,805	2,337,705	2,613,105

Montreal, Maine & Atlantic Railway		Revised Budget 9/20/2013					
		W/E	W/E	W/E	W/E	W/E	Total
		1/3/2014	1/10/2014	1/17/2014	1/24/2014	1/31/2014	
Net Freight Revenue		125,000	175,000	175,000	175,000	175,000	3,309,500
Switching		40,000					160,000
<b>Total Frt/Switch Revenue</b>		<b>165,000</b>	<b>175,000</b>	<b>175,000</b>	<b>175,000</b>	<b>175,000</b>	<b>3,469,500</b>
<b>Receipts:</b>							
<b>Transportation Revenue</b>							
1	Freight Revenue and Zone Switching	\$ 100,000	\$ 200,000	\$ 160,000	\$ 160,000	\$ 160,000	\$ 1,908,559
2	ISS Settlement	150,000					376,494
3	Customer Settlements						275,000
	Other Operating Revenue						-
	Sub Total - Transportation Revenue	250,000	200,000	160,000	160,000	160,000	2,560,053
<b>Other Operating Revenue</b>							
	Switching & Miscellaneous						-
4	Railcar Storage						-
	Contract Shop & Car Repairs					20,000	56,000
5	Equipment Rental						55,500
	Car Hire Revenue (Payable)						-
	Sub Total - Other Operating Revenue	-	-	-	-	20,000	111,500
<b>Non-Operating Revenue</b>							
	Scrap Sales						-
	Private & Gov't Re-imbursements						-
6	Travelers - Ins Settlement						-
	Sub Total - Non-Operating Revenue						-
<b>Total Cash Receipts</b>		<b>250,000</b>	<b>200,000</b>	<b>160,000</b>	<b>160,000</b>	<b>180,000</b>	<b>2,671,553</b>
<b>Disbursements:</b>							
<b>Transportation Revenue Offsets</b>							
7	NBSR, MNR, SLQ, CN						85,623
	Sub Total - Transportation Revenue Offsets						85,623
<b>Payroll &amp; Related</b>							
8	Salaries, Wages & Commissions US			194,599		194,599	1,583,108
	Employee Benefits & Claims - US			31,500		31,500	472,500
8	Salaries, Wages & Commissions CDN		98,501		98,501		936,035
	Group Health, pension and union dues- CDN	25,000	14,400		14,400		221,600
9	Aetna Past Dues						100,000
10	Vacation pay arrears - CDN						50,000
	Sub Total - Payroll & Related	25,000	112,901	226,099	112,901	226,099	3,363,243
<b>Materials &amp; Supplies</b>							
	Diesel Fuel	35,000	35,000	35,000	35,000	35,000	529,200
	Material/Repair Costs US	5,000	5,000	5,000	5,000	5,000	183,000
	Material/Repair Costs CDN	5,000	5,000	5,000	5,000	5,000	175,000
	Sub Total - Material & Supplies	45,000	45,000	45,000	45,000	45,000	887,200
<b>Freight Car &amp; Locomotive Expense</b>							
	Leases - Car	10,000					50,000
	Leases - Locomotive	15,000					60,000
	Car Hire						-
	Car Repair Net						512
	Sub Total - Freight Car & Locomotive	25,000	-	-	-	-	110,512
<b>Other Operating Costs</b>							
	Rent	20,000					80,000
	Electricity	9,000					36,000
	Heat at Derby maintenance facility	5,400	5,400	5,400	5,400	5,400	62,100
	Utility Deposits						22,500
	Insurance Payments	29,906	43,500				293,624
11	Bank Chges /Interest Exp/Points		11,534			1,000	23,640
	2% Points for New Financing						60,000
	Rail Testing						88,000
	Brush Cutting in Canada						70,000
	Favorable Purchase Option for 14 CK cars						70,063
12	Post-Petition A/P (9/13)						110,000
	Phone, Internet, Radio, Other expenses	36,500	25,000	25,000	25,000	25,000	484,899
	Sub Total - Rent, Heat & Utilities	100,806	85,434	30,400	30,400	31,400	1,400,826
<b>Total Operating Disbursements</b>		<b>195,806</b>	<b>243,335</b>	<b>301,499</b>	<b>188,301</b>	<b>302,499</b>	<b>5,847,404</b>
13	<b>Net Cash Inc/(Dec) From Ops</b>	<b>54,194</b>	<b>(43,335)</b>	<b>(141,499)</b>	<b>(28,301)</b>	<b>(122,499)</b>	<b>(3,175,851)</b>

Footnote

Montreal, Maine & Atlantic Railway  
Revised Budget 9/20/2013

SUMMARY

	W/E 1/3/2014	W/E 1/10/2014	W/E 1/17/2014	W/E 1/24/2014	W/E 1/31/2014	Total
Cash Beginning	300,000	300,000	300,000	300,000	300,000	580,793
Net Weekly Cash Flow	54,194	(43,335)	(141,499)	(28,301)	(122,499)	(3,175,339)
Financing Advance(Paydowns)	(54,194)	43,335	141,499	28,301	122,499	2,894,546
14 Cash Ending	\$ 300,000	\$ 300,000	\$ 300,000	\$ 300,000	\$ 300,000	\$ 300,000

Principal Bal New Financing	2,613,105	2,558,911	2,602,247	2,743,746	2,772,047
Net Weekly Cash Advance(Paydown)	(54,194)	43,335	141,499	28,301	122,499
End of Period Principal Balance	2,558,911	2,602,247	2,743,746	2,772,047	2,894,546

**Montreal, Maine & Atlantic Railway**

**FOOTNOTES:**

- 1 It is assume new financing begins for w/e 10/18 and all collections of AR for Sales and Misc Income existing at 10/11 are remitted to Wheeling and not available to fund the operations of MMA. AR for Sales created post w/e 10/11 begin to collect in w/e 11/15.
- 2 The 75k ISS settlement in w/e 12/6 represents MMA's 2 weeks share of net revenue for October.
- 3 Represents confirmed contractual settlements with customers; these proceeds are not subject to Wheeling's liens.
- 4 Only remaining significant railcar lessor that stores cars at MMA is First Union Railcar, who prepaid storage thru end of Jan '13 in w/e 9/6/13.
- 5 Represents maintenance equipment owned by MMA and leased on a monthly basis to MNR. It is assumed equipment is returned to MMA at end of October
- 6 Represents partial damage claim settlement with Travelers for the Megantic incident.
- 7 85k payable in w/e is claim from MNR haulage reimbursement due for Aug '13 and early Sept haulage before implementation of Rule 11 by MNR.
- 8 Assumes 16 and 7 employee rehires to provide two person road crews on all trains and add'l maintenance employees for US & Canada, respectively; these employees are scheduled to begin on Monday in w/e 10/18, which increases the payroll to be paid for w/e 11/1.

Canadian payroll includes a 20% increase for expected over time hours for track maintenance from mid Oct thru mid Nov.

- 9 100k represents unpaid US employee pre-petition health claims, which were approved for payment by US Bk Court.
- 10 50k represents payment of vacation claims for Canadian employees that were laid off in July and Aug '13.
- 11 Interest rate is assumed to be 5%
- 12 110k represents 50k in estimated total unpaid post-petition payables as of 9/13 and 60k in unpaid pre-petition Maine Use Taxes; the latter will not be paid without first receiving US Bk Court approval.
- 13 Net Cash Inc(Dec) is BEFORE payment of professional fees and the following capital improvement projects:

Canadian:	
Megantic reconnect	1,523,000
Repair Farnham yard tracks	1,000,000
Repair line betw Sherbrooke & Megantic	200,000
Repair Sherbrooke yard	250,000
	<u>2,973,000</u>
US:	
Frankfort bridge repair	<u>250,000</u>

- 14 For illustration purposes, it is assumed that MMA maintains a cash balance of approx 300k for operating liquidity.

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE**

In re:

MONTREAL MAINE & ATLANTIC  
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670  
Chapter 11

**ORDER GRANTING CHAPTER 11 TRUSTEE'S MOTION FOR ORDER: (A)  
AUTHORIZING DEBTOR TO OBTAIN POST-PETITION FINANCING;  
AND (B) GRANTING TO CAMDEN NATIONAL BANK  
POST-PETITION LIENS**

This matter having come before the Court on the *Chapter 11 Trustee's Motion for Order: (A) Authorizing Debtor to Obtain Post-Petition Financing; and (B) Granting to Camden National Bank Post-Petition Liens* (the "Motion"), filed by Robert J. Keach, the chapter 11 trustee (the "Trustee") in the above-captioned chapter 11 case of Montreal Maine & Atlantic Railway, Ltd. ("MMA"), pursuant to sections 105 and 364 of the United States Bankruptcy Code (the "Bankruptcy Code"), Rules 4001 and 9013 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and D. Me. LBR 4001-4, and upon consideration of all responses to the Motion, if any, and this Court having held a hearing on the Motion, and after due deliberation and just cause appearing therefor,

**THE COURT HEREBY FINDS:**

A. 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.

B. 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.



C. The relief sought in the Motion is predicated upon sections 105(a) and 364(d) of the Bankruptcy Code, Bankruptcy Rules 4001(d)(1)(B) and 9013, and D. Me. LBR 4001-4.

D. On August 7, 2013, MMA filed a voluntary petition for relief under 11 U.S.C. § 101 et seq. (the “Case”).

E. On August 21, 2013, the United States Trustee appointed the Trustee pursuant to 11 U.S.C. § 1163.

F. MMA requires post-petition financing and additional working capital pending the sale of its assets. MMA is unable to obtain financing on terms more favorable than the terms offered by Camden National Bank (the “Bank”) as set forth in detail in the Motion.

G. The Trustee has requested that the Bank extend credit to be used for working capital and to fund its operations, and the Bank is willing to provide such credit upon the terms and conditions set forth in the commitment letter (the “Commitment Letter”) attached to the Motion as **Exhibit A**.

H. Based on the record before the Court, all loans and extensions of credit made by the Bank to the Debtor pursuant to this Order shall be deemed to have been made in good faith within the meaning of section 364(e) of the Bankruptcy Code.

I. The Trustee represents, and it appears, that the post-petition financing and security arrangements authorized hereunder have been negotiated in good faith and at arm’s length, and the terms of such financing and security arrangements are fair and reasonable under the circumstances and reflect the Trustee’s exercise of prudent business judgment consistent with his fiduciary duties.

J. The Court concludes that entry of this Order is in the best interests of MMA, its estate, and its creditors, as its implementation will, among other things, allow for the preservation of the value of the assets of MMA's estate.

K. All creditors holding an interest in the collateral to be pledged by the Debtor to the Bank as security, including the United States on behalf of the Federal Railroad Administration ("FRA") and the Maine Department of Transportation, have either not objected to the relief sought in the Motion, or are otherwise adequately protected, and the requirements of section 364(d)(1)(B) are deemed satisfied.

**THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that:

1. The Motion is granted.
2. MMA is hereby authorized to enter into the Loan, as such term is defined in the Motion, upon the terms set forth in the Motion and in the Commitment Letter, and upon the terms set forth in the loan documents relating to the Loan, which loan documents shall substantially reflect the terms of the Commitment Letter.
3. MMA shall concurrently herewith or thereafter, as requested by the Bank, execute and deliver to the Bank all such documents as the Bank may request to effectuate, evidence, confirm, validate or perfect the Bank's liens on and security interests in the Loan Collateral (as such term is defined in the Motion).
4. The Bank shall be entitled to, and MMA's obligations under the Loan shall be secured by, a first priority mortgage and a first priority security interest in the Loan Collateral, and all necessary creditors, including, without limitation, the FRA, shall be deemed to have subordinated their interests in and to the Loan Collateral to the Bank. No lien shall be granted

by this Court, or shall arise by operation of law or otherwise, that shall have priority over the first liens granted to the Bank in the Loan Collateral.

5. If the Loan is not paid in full on or before August 30, 2014, pursuant to the terms set forth in the Commitment Letter, and subject to any extensions, waivers, modifications, or amendments granted by the Bank in its sole discretion, then the Trustee shall, and is hereby authorized under 11 U.S.C. § 1174 and without further order of this Court, to liquidate the Loan Collateral or such portion thereof as is necessary to pay the Loan in full.

6. The Bank acted in good faith in relation to the Loan under section 364(e) of the Bankruptcy Code, and is entitled to the protections of section 364(e) of the Bankruptcy Code.

Dated:

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