

**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, APPROVAL OF SHORTENED OBJECTION PERIOD, AND APPROVAL OF NOTICE PROCEDURES WITH RESPECT TO BID PROCEDURES MOTION

Robert J. Keach, the chapter 11 trustee (the “Trustee”) in the above-captioned chapter 11 case of Montreal Maine & Atlantic Railway, Ltd. (the “Debtor”), files this motion (the “Motion for Expedited Hearing”) seeking an order scheduling an expedited hearing on, approving a shortened objection period with respect to, and approving certain notice procedures with respect to: *Motion for Order: (A) Approving Bid Procedures for the Sale of the Debtor’s Assets; (B) Scheduling an Auction; (C) Approving Assumption and Assignment Procedures for Certain Executory Contracts and Unexpired Leases; (D) Approving a Break-Up Fee, Expense Reimbursement, and Overbid Protections; and (E) Approving a Form of Notice of Sale* (the “Bid Procedures Motion”).¹ In support of the relief requested herein, the Trustee states as follows:

JURISDICTION AND VENUE

1. The United States District Court for the District of Maine (the “District Court”) has original but not exclusive jurisdiction over this chapter 11 case pursuant to 28 U.S.C. § 1334(a) and over this Motion to Expedite pursuant to 28 U.S.C. § 1334(b). Pursuant to 28 U.S.C. § 157(a) 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 and this Motion to Expedite to this Court.

¹ Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Bid Procedures Motion.

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 relief sought in this Motion to Expedite is predicated upon Rule 2002 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and D. Me. LBR 9013-1(i).

BACKGROUND

5. On August 7, 2013 (the “Petition Date”), 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 the Trustee to serve in the Debtor’s chapter 11 case pursuant to 11 U.S.C. § 1163.

6. The Debtor’s bankruptcy filing was precipitated by the train derailment in Lac-Mégantic, Québec on July 6, 2013 (the “Derailment”). The Derailment set off explosions, destroyed part of downtown Lac-Mégantic, and is presumed to have killed 47 people. The Derailment also precipitated the filing by Montreal Maine & Atlantic Canada Co. (“MMA Canada” and, together with the Debtor, the “Debtors”), the Debtor’s subsidiary, under Canada’s *Companies’ Creditors Arrangement Act* (the “Canadian Case”) in Superior Court in Canada (the “Canadian Court”).

7. Shortly after being appointed, the Trustee sought Court approval to retain Gordian Group (“Gordian”) as investment banker. *See* Docket No. 342. The Trustee and Gordian, in coordination with MMA Canada and the monitor appointed in the Canadian Case (the “Monitor”), aggressively marketed substantially all of the assets of the Debtors (the “Assets”).

8. As a result of these marketing efforts, the Trustee and MMA Canada entered into an asset purchase agreement (the “APA”) with Railroad Acquisition Holdings LLC (the

“Stalking Horse”). The APA contemplates that the Stalking Horse will acquire all of the Assets, including certain unexpired leases and executory contracts (the “Assigned Leases and Contracts”), subject to higher and better offers.

9. By the Bid Procedures Motion, the Trustee requests, among other things, that the Court approve the bid procedures (the “Bid Procedures”) by which the Trustee may sell the Assets to the Stalking Horse or to another Qualified Bidder, schedule an auction for all of the Assets or certain Lots thereof, and approve the Break-Up Fee, Expense Reimbursement, and overbid protections provided for in the Bid Procedures. The Bid Procedures Motion also seeks approval of certain proposed cure procedures with respect to the Assigned Leases and Contracts, as well as approval of certain notice procedures.

10. The Trustee filed the Bid Procedures Motion as soon as possible after finalizing the terms of the APA, including negotiation of the Break-Up Fee and Expense Reimbursement, with the Stalking Horse, MMA Canada, and the Monitor. Concurrently with the hearings before this Court on the Bid Procedures Motion, MMA Canada and the Monitor are seeking authority from the Canadian Court to approve bid procedures identical to those set forth in the Bid Procedures Motion.

11. As stated by the Trustee numerous times on the record since his appointment, the sale of the Assets is in the best interests of the Debtors and their creditors. The Trustee and his professionals have made substantial efforts to aggressively and expeditiously market the Assets to ensure that the highest and best value for the Assets may be obtained for the benefit of creditors. The Debtor has obtained financing sufficient to maintain its operations only through the next few months. A sale of the Assets as a going concern will maximize the value of the

estate for the benefit of all stakeholders. In contrast, the delay attendant in confirming and selling under a plan would almost certainly result in a material loss of value.

12. The Bid Procedures ensure that a sale of the Assets is accomplished as efficiently and expeditiously as possible, while also fostering bidding to maximize a return on the Assets. Approval of the Bid Procedures on an expedited basis is necessary to ensure that the sale process can go forward in the timeframe necessary to obtain the highest and best offers for the Assets.

13. Further, the APA requires that an order approving the Bid Procedures be entered by both this Court and the Canadian Court on or before December 23, 2013. Failure to obtain approval of the Bid Procedures on an expedited timeframe would potentially cause loss of the Stalking Horse or otherwise delay the sale process.

RELIEF REQUESTED

14. By this Motion to Expedite, the Trustee requests that the Court: (a) schedule a hearing on the Bid Procedures Motion for **December 18, 2013 at 10:00 a.m.**; (b) set a shortened objection deadline for that same date and time; and (c) approve service of the Motion to Expedite and the Bid Procedures Motion in the manner set forth herein.

BASIS FOR RELIEF

15. Absent a request for an expedited hearing, a movant seeking the type of relief set forth in the Bid Procedures Motion must provide twenty-one days' notice of, and a response date must be set more than seven calendar days prior to, a hearing date. *See* Local Rule 9013-1(d)(5).

16. The Court has indicated that it has availability on December 18, 2013 at 10:00 a.m., and there are currently other hearings scheduled in this case for that same date and time.

17. The Trustee requests that a hearing on the Bid Procedures Motion be scheduled for the same date and time to allow expedited consideration of the relief sought by the Trustee.

For the reasons set forth above, and set forth in the Bid Procedures Motion, approval of the Bid Procedures on an expedited basis will ensure that value is maximized for the benefit of all creditors and will allow for the approval of the bid procedures within the time requirements set forth in the APA.

NOTICE

18. Notice of the hearing on the Motion to Expedite and the Bid Procedures Motion was served, via first-class United States mail, on all creditors and parties in interest in this case. Copies of the Motion to Expedite and the Bid Procedures Motion were served, via CM/ECF, e-mail, facsimile, courier, or overnight mail, on the following: (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) counsel to MMA Canada; (7) the Monitor; (8) counsel to the Monitor; (9) counsel to the Stalking Horse; (10) counsel to the Official Committee of Derailment Victims; and (11) others who have, as of the date of the Motion to Expedite, entered an appearance and requested service of papers in this case.

WHEREFORE, the Trustee respectfully requests that this Court enter an Order: (a) finding that service of the Motion to Expedite and the Bid Procedures Motion in the manner described herein was sufficient to all parties in interest under the circumstances of this case; (b) granting the Motion to Expedite; (c) setting a hearing on the Bid Procedures Motion for December 18, 2013 at 10:00 a.m. and a shortened objection deadline for that same date and time; and (d) granting such other and further relief as the Court deems just and equitable under the circumstances.

Dated: December 12, 2013

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

By his attorneys:

/s/ Sam Anderson
Michael A. Fagone, Esq.
D. Sam Anderson, Esq.
BERNSTEIN, SHUR, SAWYER & NELSON
100 Middle Street
P.O. Box 9729
Portland, ME 04104-5029
Tel: (207) 774-1200
Fax: (207) 774-1127

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE**

In re:

MONTREAL MAINE & ATLANTIC
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670
Chapter 11

**ORDER GRANTING MOTION FOR EXPEDITED HEARING, APPROVAL OF
SHORTENED OBJECTION PERIOD, AND APPROVAL OF NOTICE PROCEDURES
WITH RESPECT TO BID PROCEDURES MOTION**

This matter having come before the Court on the *Motion for Expedited Hearing, Shortened Objection Period, and Approval of Notice Procedures with Respect to Bid Procedures Motion* (the "Motion to Expedite") filed by Robert J. Keach, the chapter 11 trustee in the above-captioned case, and upon consideration of all responses to the Motion to Expedite (if any), it is hereby **ORDERED**, **ADJUDGED** and **DECREED** as follows:

1. The Motion to Expedite is granted.
2. Notice and service of the Motion to Expedite and the *Motion for Order: (A) Approving Bid Procedures for the Sale of the Debtor's Assets; (B) Scheduling an Auction; (C) Approving Assumption and Assignment Procedures for Certain Executory Contracts and Unexpired Leases; (D) Approving a Break-Up Fee, Expense Reimbursement, and Overbid Protections; and (E) Approving a Form of Notice of Sale* (the "Bid Procedures Motion") was sufficient in light of the nature of the relief requested.
3. An expedited hearing on the Bid Procedures Motion is set for **December 18, 2013 at 10:00 a.m.** and the deadline to object to the same is **December 18, 2013 at 10:00 a.m.**

Dated:

The Honorable Louis H. Kornreich
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE**

In re:

MONTREAL MAINE & ATLANTIC
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670

Chapter 11

NOTICE OF EXPEDITED HEARING

Robert J. Keach, the chapter 11 trustee in the above-captioned case (the “Trustee”), has filed a *Motion for Expedited Hearing, Shortened Objection Period, and Approval of Notice Procedures with Respect to Bid Procedures Motion* (the “Motion to Expedite”), seeking an expedited hearing on the *Motion for Order: (A) Approving Bid Procedures for the Sale of the Debtor’s Assets; (B) Scheduling an Auction; (C) Approving Assumption and Assignment Procedures for Certain Executory Contracts and Unexpired Leases; (D) Approving a Break-Up Fee, Expense Reimbursement, and Overbid Protections; and (E) Approving a Form of Notice of Sale* (the “Bid Procedures Motion”).

If you do not want the Court to approve the Motion to Expedite or the Bid Procedures Motion, then on or before **December 18, 2013 at 10:00 a.m.**, you or your attorney must file with the Court a response or objection explaining your position. If you are not able to access the CM/ECF Filing System, then your response should be served upon the Court at:

Alec Leddy, Clerk
United States Bankruptcy Court for the District of Maine
202 Harlow Street
Bangor, Maine 04401

If you do have to mail your response to the Court for filing, then you must mail it early enough so that the Court will receive it **on or before December 18, 2013 at 10:00 a.m.**

You may attend the hearing with respect to the Motion to Expedite scheduled to be held at the Bankruptcy Court, 202 Harlow Street, Bangor, Maine on **December 18, 2013 at 10:00 a.m.** If the Motion to Expedite is granted at that time, the Court may immediately thereafter conduct hearings to consider, and may grant some or all of the relief sought by the Bid Procedures Motion.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one. If you do not have an attorney, you may wish to consult one.

If you or your attorney do not take these steps, the Court may decide that you do not

oppose the relief sought in the Motion to Expedite or the Bid Procedures Motion, and may enter an order granting the requested relief without further notice or hearing.

Dated: December 12, 2013

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

By his attorneys:

/s/ Sam Anderson

Michael A. Fagone, Esq.

D. Sam Anderson, Esq.

BERNSTEIN, SHUR, SAWYER & NELSON

100 Middle Street

P.O. Box 9729

Portland, ME 04104-5029

Tel: (207) 774-1200

Fax: (207) 774-1127