

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE

In re)	
)	Chapter 11
)	Case No. 13-10670
MONTREAL MAINE & ATLANTIC)	
RAILWAY, LTD.)	
)	
Debtor.)	

LIMITED OBJECTION OF THE UNITED STATES TRUSTEE TO APPLICATION FOR ORDER, PURSUANT TO SECTIONS 327 AND 328 OF THE BANKRUPTCY CODE, AUTHORIZING THE EMPLOYMENT OF DEVELOPMENT SPECIALISTS, INC., AS FINANCIAL ADVISOR FOR THE TRUSTEE NUNC PRO TUNC TO AUGUST 21, 2013

The United States Trustee, by and through his undersigned counsel, hereby submits this Limited Objection to the Application for Order, Pursuant to Sections 327 and 328 of the Bankruptcy Code, Authorizing the Employment of Development Specialists, Inc., as Financial Advisor for the Trustee *Nunc Pro Tunc* to August 21, 2013 (the "Motion"). For his Limited Objection, the United States Trustee states as follows:

1. The United States Trustee does not object to the concept of the Trustee, Robert Keach (the "Trustee"), retaining Development Specialists, Inc. ("DSI"), as Financial Advisor in connection with the above-captioned chapter 11 case of Montreal Maine & Atlantic Railway, Ltd. (the "Debtor").

2. However, the United States Trustee does object to DSI's retention under section 328 of the Code, to the extent that retention under this section could be construed to excuse DSI from submitting its fees and expenses incurred in this case for court review in accordance with 11 U.S.C. § 330.

3. In the Motion, the Trustee states that, “[t]he Trustee understands that DSI intends to apply to the Court for compensation for professional services rendered and reimbursement of expenses incurred in connection with the Case in accordance with the applicable provisions of the Bankruptcy Code, the Fed. R. Bankr. P., the Local Rules, the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330, and any applicable orders of the Court.” Motion at ¶ 14.

4. In other words, DSI and the Trustee have agreed that DSI’s fees and costs in this case will be reviewed for reasonableness in accordance with “the applicable provisions of the Bankruptcy Code, the Fed. R. Bankr. P., the Local Rules, the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330, and any applicable orders of the Court.”

5. The existing Order, however, does not include any reference to such a review of DSI’s fees and costs. In order to avoid any ambiguity relating to this issue, the United States Trustee, the Trustee, and DSI submit the agreed-to form of Order attached as **Exhibit A**, which memorializes fully DSI’s agreement to submit its invoices in this case to the Court for a reasonableness review in accordance with the applicable provisions of the Bankruptcy Code, the Fed. R. Bankr. P., the Local Rules, the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330, and any applicable orders of the Court.

WHEREFORE, the United States Trustee requests that the Motion be granted, in accordance with the terms of the proposed, consented-to Order attached hereto as **Exhibit A**.

Dated at Portland, Maine this 30th day of August, 2013.

Respectfully submitted,

William K. Harrington
United States Trustee

By: /s/ Jennifer H. Pincus
Jennifer H. Pincus Esq.
Trial Attorney
United States Department of Justice
Office of United States Trustee
537 Congress Street, Suite 303
Portland, ME 04101
PHONE: (207) 780-3564
Jennifer.H.Pincus@usdoj.gov

CERTIFICATE OF SERVICE

I, Jennifer H. Pincus, being over the age of eighteen and an employee of the United States Department of Justice, U.S. Trustee Program, hereby certify that on August 30, 2013, I electronically filed the above ***Limited Objection of the United States Trustee to Application for Order, Pursuant to Sections 327 and 328 of the Bankruptcy Code, Authorizing the Employment of Development Specialists, Inc., as Financial Advisor for the Trustee Nunc Pro Tunc to August 21, 2013*** and this ***Certificate of Service***, which were served upon each of the parties set forth on this Service List via U.S. mail, postage prepaid, on August 30, 2013.

All other parties listed on the Notice of Electronic Filing have been served electronically.

Dated at Portland, Maine this 30th day of August, 2013.

/s/ Jennifer H. Pincus

Service List:

N/A

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE

In re:

MONTREAL MAINE & ATLANTIC
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670
Chapter 11

**ORDER GRANTING APPLICATION FOR ORDER, PURSUANT TO
SECTIONS 327 AND 328 OF THE BANKRUPTCY CODE, AUTHORIZING THE
EMPLOYMENT OF DEVELOPMENT SPECIALISTS, INC., AS FINANCIAL
ADVISOR FOR THE TRUSTEE NUNC PRO TUNC TO AUGUST 21, 2013**

Upon consideration of Robert J. Keach's (the "Trustee") Application for Order, Pursuant to Sections 327 and 328 of the Bankruptcy Code, Authorizing the Employment of Development Specialists, Inc., as Financial Advisor for the Trustee *Nunc Pro Tunc* to August 21, 2013 (the "Application"), and upon consideration of the Affidavit of William A. Brandt, Jr. In Support of the Application for Order, Pursuant to Sections 327 and 328 of the Bankruptcy Code, Authorizing the Employment of Development Specialists, Inc., as Financial Advisor for the Trustee *Nunc Pro Tunc* to August 21, 2013 (the "DSI Statement"), and it satisfactorily appearing that William A. Brandt, Jr. and the firm of Development Specialists, Inc. ("DSI") are disinterested and do not represent or hold any interest adverse to the Debtor or the estate in the matters upon which DSI is to be engaged, and it satisfactorily appearing that the employment of DSI will be in the best interest of the Trustee and the Debtor's estate, it is hereby **ORDERED**, **ADJUDGED** and **DECREED** as follows:

1. The Application is granted on the terms set forth herein.
2. The Trustee be and hereby is authorized to employ DSI as his financial advisor in all matters which require the services of such financial advisor on the terms set forth in the

Application.

3. Service of the Application, the DSI Statement and proposed order was sufficient notice to parties under the circumstances of the Case.¹

4. The financial advisory services rendered or to be rendered by DSI may include the following:

- (a) Analyze and comment on operating and cash flow projections, operating results, financial statements, other documents and information provided by the Debtor, and other data pursuant to the Trustee's request;
- (b) Advise and assist the Trustee in reviewing the Debtor's supporting information relating to any historical financial information, financial projections and underlying assumptions;
- (c) Advising and assisting the Trustee with respect to evaluation of whether liabilities are pre-or post-petition;
- (d) Advising the Trustee in connection with the Debtor's preparation of various financial reports for submission to the Court, including monthly operating reports, schedules of assets and liabilities, and statements of financial affairs for the Debtor;
- (e) Assisting the Trustee with preparation of information for both the disclosure statement and plan of reorganization, including estimation of various recovery values by claims class;
- (f) Provide testimony on related matters, as appropriate; and
- (g) Provide any other reasonably related financial advisory or management consulting services that the Trustee may, from time to time, request.

5. Notwithstanding the fact that DSI's retention is hereby approved pursuant to 11 U.S.C. § 328, DSI shall apply to the Court for compensation for professional services rendered and reimbursement of expenses incurred in connection with the Case in accordance with the applicable provisions of the Bankruptcy Code, the Fed. R. Bankr. P., the Local Rules, the United States Trustee

¹ Capitalized terms not specifically defined herein shall have the meaning ascribed to such terms in the Application.

Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330, and any applicable orders of the Court.

6. In determining the amount of reasonable compensation to be awarded to DSI for the financial advisory services rendered by DSI to the trustee, the Court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors including those enumerated in 11 U.S.C. § 330.

Dated:

The Honorable Louis H. Kornreich
U. S. Bankruptcy Judge, District of Maine

SEEN AND AGREED TO:

William K. Harrington, United States Trustee

By: /s/ Stephen G. Morrell
Stephen G. Morrell, Assistant U.S. Trustee

Robert J. Keach, Trustee

By: /s/ Michael A. Fagone
Michael A. Fagone
Attorney for the Chapter 11 Trustee, Robert Keach