

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, SHORTENED OBJECTION PERIOD AND LIMITED NOTICE WITH RESPECT TO THE SECOND INTERIM APPLICATIONS FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES OF KUGLER KANDESTIN, LLP AND BAKER NEWMAN & NOYES, LLC**

Robert J. Keach, the chapter 11 trustee (the “Trustee”) in the above-captioned chapter 11 case of Montreal Maine & Atlantic Railway, Ltd. (the “Debtor”), by and through his undersigned counsel, hereby moves this Court for an expedited hearing, shortened objection period and limited notice (the “Motion to Expedite”) with respect to the (i) Second Interim Application for Compensation and Reimbursement of Expenses for Kugler Kandestin, LLP, as Special Counsel to the Trustee, for the Period from May 23, 2014 Through September 30, 2014 (the “Kugler Fee Application”) and (ii) the Second Interim Application for Compensation and Reimbursement of Expense for Baker Newman & Noyes, LLC, as Accountant to the Trustee, Robert J. Keach for the Period from May 1, 2014 Through September 30, 2014 (the “BNN Fee Application”) (together with the Kugler Fee Application, the “Applications”). In support of this Motion to Expedite, the Trustee states as follows:

**JURISDICTION AND VENUE**

1. This Court has jurisdiction to entertain the Motion to Expedite pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The relief requested in this Motion to Expedite is predicated upon 11 U.S.C. §§ 105(a) and 105(d), Rule 9013-1(i) of the Local Bankruptcy Rules for the United States Bankruptcy Court for the District of Maine (the “Local Rules”), and the Court’s inherent authority to control its docket.

### **BACKGROUND**

3. On August 7, 2013, the Debtor filed a voluntary petition for relief under chapter 11 of 11 U.S.C. § 101 et seq. (the “Bankruptcy Code”), in the United States Bankruptcy Court for the District of Maine. On August 21, 2013, the United States Trustee appointed the Trustee to serve in the Debtor’s chapter 11 case (the “Case”) pursuant to 11 U.S.C. § 1163.

4. On August 27, 2013, the Trustee filed his Application for Order, Pursuant to Sections 327 and 328 of the Bankruptcy Code, Authorizing the Employment of Kugler Kandestin, LLP as Special Counsel for the Trustee [Docket No. 103] (the “Retention Application”). On August 28, 2013, the Trustee filed his Amended Application for Order, Pursuant to Sections 327 and 328 of the Bankruptcy Code, Authorizing the Employment of Kugler Kandestin, LLP as Special Counsel for the Trustee [Docket No. 108] (the “Amended Retention Application”).

5. On August 29, 2013, the Court entered an order granting the relief sought in the Amended Retention Application [Docket No. 122]. On September 3, 2013, the Court entered the amended order authorizing the employment of Kugler Kandestin, LLP (“Kugler Kandestin”) as special counsel to the Trustee pursuant to sections 327 and 328 of the Bankruptcy Code [Docket No. 143] (the “Amended Retention Order”).

6. In that capacity, Kugler Kandestin has provided essential services to the Trustee for the benefit of the Debtor and the creditors of the Debtor’s estate. As described more fully in the Kugler Fee Application, Kugler Kandestin now interim seeks allowance of compensation for

professional services in the amount of CAD 18,895.00 and reimbursement of expenses incurred in rendering such services in the amount of CAD 338.80.

7. On December 4, 2013, the Trustee filed his Application for Order, Pursuant to Sections 327 and 328 of the Bankruptcy Code, Authorizing the Employment of Baker Newman & Noyes, LLC as Accountant for the Trustee Nunc Pro Tunc to August 7, 2013 [Docket No. 466] (the “Retention Application”). On January 9, 2014, the Court entered an order authorizing the employment of Baker Newman & Noyes LLC (“BNN”) as accountant to the Trustee pursuant to sections 327 and 328 of the Bankruptcy Code [Docket No. 564] (the “Retention Order”).

8. As accountant to the Trustee, BNN has provided essential services to the Trustee for the benefit of the Debtor and the creditors of the Debtor’s estate. As described more fully in the BNN Fee Application, BNN now interim seeks allowance of compensation for professional services in the amount of \$15,705.50.

9. The Court has already scheduled hearings for November 18, 2014 at 10:00 a.m. with respect to several matters in the Case. In light of this scheduling and the interim nature of the Applications, the Trustee seeks a hearing on the Applications on an expedited basis.

**RELIEF REQUESTED**

10. By this Motion to Expedite, the Trustee requests that the Court: (a) schedule a hearing on the Applications for November 18, 2014 at 10:00 a.m.; (b) set a shortened objection deadline for November 17, 2014; and (c) approve service of the Motion to Expedite and the Applications in a manner set forth herein.

**BASIS FOR RELIEF**

11. Absent a request for an expedited hearing, a movant seeking the type of relief set forth in the Applications must provide twenty-one days’ notice of, and a response date must be

set more than seven calendar days prior to, a final hearing date. See Fed. R. Bankr. P. 2002, and D. Me. LBR 9013-1(i).

12. The Court is currently scheduled to hear several applications for interim compensation from, among others, the Trustee, Trustee's counsel, and the Trustee's financial advisor [Docket Nos. 1170, 1169, 1168] on November 18, 2014 at 10:00 a.m. In light of this scheduling and the interim nature of the Applications, the Trustee requests that a hearing on the Applications be scheduled for the same date and time to allow expedited consideration of the relief sought by the Trustee while minimizing cost and inconvenience to interested parties who might already be in attendance on that date.

#### **NOTICE**

13. A copy of this Motion to Expedite, notice of hearing on this Motion to Expedite, and notice of the Applications were served on the following parties on the date and in the manner set forth in the certificate of service: (i) the Trustee; (ii) counsel to the Trustee; (iii) the United States Trustee; (iv) the Debtor's counsel; (v) the non-insider holders of the twenty (20) largest unsecured claims against the Debtor or, if applicable, the lawyers representing such holders; (vi) applicable federal and state taxing authorities; and (vii) the holders of secured claims against the Debtor or, if applicable, the lawyers representing such holders. Notice of hearing on this Motion to Expedite and notice of the Applications were served on the date and in the manner set forth in the certificate of service to all others who have entered an appearance and requested service of papers in the Case or filed proof of claims against the Debtor's estate.

#### **CONCLUSION**

WHEREFORE, the Trustee requests that this Court enter an Order: (a) finding that service of the Motion to Expedite and the Applications 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 Applications for November 18, 2014 at 10:00 a.m. and a shortened objection deadline for November 17, 2014; and (d) granting such other and further relief as the Court deems just and equitable under the circumstances.

Dated: November 7, 2014

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

By his attorneys:

/s/ Sam Anderson  
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**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, SHORTENED  
OBJECTION PERIOD AND LIMITED NOTICE WITH RESPECT TO THE SECOND  
INTERIM APPLICATIONS FOR COMPENSATION AND REIMBURSEMENT OF  
EXPENSES OF KUGLER KANDESTIN, LLP AND BAKER NEWMAN & NOYES, LLC**

This matter having come before the Court on the Motion for Expedited Hearing, Shortened Objection Period and Limited Notice with Respect to the Second Interim Fee Applications for Compensation and Reimbursement of Expenses of Kugler Kandestin, LLP and Baker Newman & Noyes, LLC (the "Motion to Expedite"), filed by Robert J. Keach, the chapter 11 trustee in the above-captioned chapter 11 case of Montreal Maine & Atlantic Railway, Ltd., with respect to the following:

- Second Interim Application for Compensation for Baker Newman & Noyes, LLC, as Accountant to the Trustee, Robert J. Keach, for the Period from May 1, 2014 Through September 30, 2014; and
- Second Interim Application for Compensation and Reimbursement of Expenses for Kugler Kandestin, LLP, as Special Counsel to the Trustee, Robert J. Keach, for the Period from May 23, 2014 Through September 30, 2014;

(collectively, the "Applications"), 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 Applications were sufficient in light of the nature of the relief requested.
3. An expedited hearing on the Applications shall be held on November 18, 2014 at

10:00 a.m. in Bangor, Maine.

4. The deadline to object to the Applications is November 17, 2014.

Dated:

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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 (the "Trustee") in the above-captioned chapter 11 case of Montreal Maine & Atlantic Railway, Ltd. (the "Debtor"), has filed a Motion for Expedited Hearing, Shortened Objection Period and Limited Notice (the "Motion to Expedite") with respect to the following fee applications (the "Applications"):

- Second Interim Application for Compensation for Baker Newman & Noyes, LLC, as Accountant to the Trustee, Robert J. Keach, for the Period from May 1, 2014 Through September 30, 2014 [Docket No. 1202] (the "BNN Application"); and
- Second Interim Application for Compensation and Reimbursement of Expenses for Kugler Kandestin, LLP, as Special Counsel to the Trustee, Robert J. Keach, for the Period from May 23, 2014 Through September 30, 2014 [Docket No. 1203] (the "Kugler Application").

By the BNN Application, Baker Newman & Noyes, LLC ("BNN") seeks a total amount of **\$15,705.50**, consisting of \$15,705.50 for compensation of professional fees incurred with respect to services rendered on behalf of the Trustee during the period May 1, 2014 through September 30, 2014. BNN seeks an order authorizing and approving this compensation for fees incurred during the period covered by the BNN Application on an interim basis. The Application is an interim fee application. A hearing on the BNN Application is set to take place at the United States Bankruptcy Court, 202 Harlow Street, 3rd Floor, Bangor, Maine on **November 18, 2014 at 10:00 a.m.**

On May 27, 2014, BNN filed the First Interim Application for Compensation and Reimbursement of Expenses for Baker Newman & Noyes, LLC, as Accountant to the Trustee, Robert J. Keach, for the Period of August 7, 2013 Through April 30, 2014 [Docket No. 909] (the "BNN First Fee Application"). With respect to the BNN First Fee Application, the court awarded BNN fees in the amount of \$14,578.00 and expenses in the amount of \$468.67.

By the Kugler Application, Kugler Kandestin LLP ("Kugler Kandestin") seeks a total amount of **CAD 19,233.80**, which includes CAD 18,895.00 for compensation of professional fees and CAD 338.80 for reimbursement of expenses incurred with respect to services rendered



on behalf of the Trustee during the period May 23, 2014 through September 30, 2014. Kugler Kandestin seeks an order authorizing and approving this compensation for fees and expenses incurred during the period covered by the Kugler Application on an interim basis. The Kugler Application is an interim fee application. A hearing on the Kugler Application is set to take place at the United States Bankruptcy Court, 202 Harlow Street, 3rd Floor, Bangor, Maine on **November 18, 2014 at 10:00 a.m.**

On July 10, 2014, Kugler Kandestin filed the First Interim Application for Compensation and Reimbursement of Expenses for Kugler Kandestin, LLP, as Special Counsel to the Trustee, Robert J. Keach, for the Period from August 26, 2013 Through May 22, 2014 [Docket No. 1015] (the "Kugler First Fee Application"). With respect to the Kugler First Fee Application, the court awarded Kugler Kandestin fees in the amount of CAD 256,982.50 and expenses in the amount of CAD 2,392.27.

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

If you do not want the court to approve the Motion to Expedite or the Applications, or if you want the court to consider your views on the Motion to Expedite or the Applications, then **on or before November 17, 2014**, you or your attorney must file with the court a written response explaining your position. If you are not able to access the CM/ECF Filing System, your response should be served upon the Court at:

Alec Leddy, Clerk  
United States Bankruptcy Court  
202 Harlow Street  
Bangor, Maine 04401

-and-

Robert J. Keach, Esq.  
Bernstein, Shur, Sawyer & Nelson, P.A.  
100 Middle St., PO Box 9729  
Portland, Maine 04104-5029

If you have to mail your response to the Court for filing, you must mail it early enough so that the Court will receive it on or before the date stated above.

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 **November 18, 2014 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 Applications.

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 Applications and may enter an order granting that relief.

Dated: November 7, 2014

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

By his attorneys:

/s/ Sam Anderson

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