

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE

In re:)	
)	
Montreal Maine & Atlantic Railway Ltd.,)	Case No. 13-10670
)	
Debtor.)	Related to D.E. 1432
)	

WHEELING & LAKE ERIE RAILWAY COMPANY’S OBJECTION TO THE TRUSTEE’S MOTION FOR AN ORDER (I) APPROVING PROPOSED DISCLOSURE STATEMENT; (II) ESTABLISHING NOTICE, SOLICITATION AND VOTING PROCEDURES; (III) SCHEDULING CONFIRMATION HEARING; AND (IV) ESTABLISHING NOTICE AND OBJECTION PROCEDURES FOR CONFIRMATION OF THE PLAN

NOW COMES Wheeling and Lake Eire Railway Company (“Wheeling”) and files this objection to the above-referenced motion (the “DS Motion”),¹ filed by Robert J. Keach, the chapter 11 trustee of Montreal, Maine & Atlantic Railway, Ltd (the “Trustee” and the “Debtor,” respectively).

OBJECTION

1. As the Court is aware, Wheeling holds a valid, perfected, and enforceable security interest in certain assets of the Debtor, including all payment rights arising from a variety of sources. These payment rights are known as “accounts” or “payment intangibles” under Article 9 of title 11 of the Maine Revised Statutes (the “Maine UCC”).

2. The Trustee’s Plan treats Wheeling’s secured claim as “unimpaired”. The Disclosure Statement describes the workings of the Trustee’s Plan. Without limiting the foregoing, under the Trustee’s Plan, the Court would approve the Settlement Agreements, and the payments thereunder would be distributed to tort victims.

¹ Capitalized terms not defined herein shall have the meaning set forth in the DS Motion.

3. Wheeling objects to the Disclosure Statement because it does not provide adequate information, within the meaning of § 1125 of the Bankruptcy Code, with respect to Wheeling and the treatment of its secured claims. As the Court is aware, Wheeling contends that the monies to be paid pursuant to the Settlement Agreements may constitute Wheeling's Collateral because such monies are or may be "payment intangibles" subject to Wheeling's valid, perfected and enforceable security interest. Reference is made to Wheeling's Supplemental Objection To Motion For Entry Of An Order Authorizing Filing Of Settlement Agreements Under Seal, which Objection is incorporated herein by reference.

4. Although the Trustee's Plan and Disclosure Statement purport to treat Wheeling's secured claims as "unimpaired," they do not provide for payment to be made to Wheeling from its collateral, *i.e.* the monies payable under the Settlement Agreements, up to the amount of Wheeling's total claim. Because these monies may constitute collateral for Wheeling, the treatment of the monies, as described in the Plan and the Disclosure Statement, is in derogation of Wheeling's rights, and results in Wheeling's impairment, contrary to the Plan and the Disclosure Statement.

5. Without disclosure of the content of the Settlement Agreements, it is impossible to determine whether the Trustee's Plan would cause an impairment of Wheeling's secured claim, which would render the Plan, as it is currently drafted, unconfirmable.

6. All creditors, including Wheeling, are entitled to disclosure of, and material information regarding, the risk that the Trustee's Plan cannot be confirmed because it impairs Wheeling's secured claim. In turn, this requires that the content of the Settlement Agreements be disclosed to Wheeling and other interested parties, and that the claims of Wheeling to the monies payable thereunder be assessed.

7. Thus, until such time as Wheeling is able to review the Settlement Agreements (and other materials requested in now-pending discovery), Wheeling objects to the DS Motion because the Disclosure Statement provides inadequate disclosure of the proposed disposition of Wheeling's collateral, and inadequate disclosure of the treatment of Wheeling's secured claim.

RESPONSE REQUIRED BY D. Me. LBR 9013-1(f)

1. Paragraph 1 of the DS Motion contains conclusions of law to which no response is required.

2. Paragraph 2 of the DS Motion contains conclusions of law to which no response is required.

3. Admit.

4. Admit.

5. Wheeling lacks personal knowledge or information about the allegations contained in paragraph 5 of the DS Motion.

6. Admit.

7. Wheeling lacks personal knowledge or information about the allegations contained in paragraph 7 of the DS Motion.

8. Wheeling lacks personal knowledge or information about the allegations contained in paragraph 8 of the DS Motion.

9. Wheeling lacks personal knowledge or information about the allegations contained in paragraph 9 of the DS Motion.

10. Admit.

11. Admit.

12. With a few limited exceptions, the remaining paragraphs 12 through 82 of the DS Motion contain information about which Wheeling lacks personal knowledge or information, legal conclusions to which no response is required, requests for relief to which no response is required, or refers to documents that speak for themselves.

WHEREFORE, Wheeling respectfully requests that the Court (A) enter an order denying the relief requested in the DS Motion; and (B) granting such further and additional relief as the Court deems just and proper.

Dated: June 16, 2015

/s/ George J. Marcus

George J. Marcus

David C. Johnson

Andrew C. Helman

Counsel for Wheeling & Lake Erie Railway
Company

MARCUS, CLEGG & MISTRETTE, P.A.

One Canal Plaza, Suite 600

Portland, ME 04101

207.828.8000

CERTIFICATE OF SERVICE

I, Holly C. Pelkey, hereby certify that I am over eighteen years old and that I caused a true and correct copy of the above document to be served upon the parties electronically at the addresses set forth on the Service List below on 16th day of June, 2015.

/s/ Holly C. Pelkey _____

Holly C. Pelkey
Legal Assistant

Mailing Information for Case 13-10670

Electronic Mail Notice List

The following is the list of **parties** who are currently on the list to receive email notice/service for this case.

- D. Sam Anderson sanderson@bernsteinshur.com, acummings@bernsteinshur.com;astewart@bernsteinshur.com;kquirk@bernsteinshur.com;kbigelow@bernsteinshur.com
- Darcie P.L. Beaudin dbeaudin@sta-law.com, jlhommedieu@sta-law.com;mleblond@sta-law.com
- Fred W. Bopp III, fbopp@perkinsthompson.com, lweliver@perkinsthompson.com;sdoil@perkinsthompson.com;mnelson@perkinsthompson.com
- Aaron P. Burns aburns@pearcedow.com, rpearce@pearcedow.com;katwood@pearcedow.com
- Richard Paul Campbell rpcampbell@campbell-trial-lawyers.com, mmichitson@campbell-trial-lawyers.com
- Roger A. Clement, Jr. rclement@verrilldana.com, nhull@verrilldana.com;bankr@verrilldana.com
- Daniel C. Cohn dcohn@murthalaw.com
- Steven E. Cope scope@copelegal.com, copefilings@copelegal.com;copefilings@gmail.com;copefilings@ecf.inforuptcy.com
- Maire Bridin Corcoran Ragozzine acummings@bernsteinshur.com
- Kevin J. Crosman kevin.crosman@maine.gov
- Keith J. Cunningham kcunningham@pierceatwood.com, mpottle@pierceatwood.com;rkelley@pierceatwood.com
- Debra A. Dandeneau debra.dandeneau@weil.com, elizabeth.hendee@weil.com;jessica.diab@weil.com;Blair.Cahn@weil.com
- Roma N. Desai rdesai@bernsteinshur.com, acummings@bernsteinshur.com;kquirk@bernsteinshur.com;astewart@bernsteinshur.com

- Joshua R. Dow jdow@pearcedow.com, rpearce@pearcedow.com;katwood@pearcedow.com
- John Eggum jeggum@fgppr.com, rramirez@fgppr.com
- Daniel R. Felkel dfelkel@troubhheisler.com
- Jeremy R. Fischer jfischer@dwmlaw.com, hwhite@dwmlaw.com;astead@dwmlaw.com
- Isaiah A. Fishman ifishman@krasnowsaunders.com
- Peter J. Flowers pjf@meyers-flowers.com
- Christopher Fong christopherfong@paulhastings.com
- Taruna Garg tgarg@murthalaw.com, kpatten@murthalaw.com
- Jay S. Geller jgeller@jaysgellerlaw.com
- Craig Goldblatt craig.goldblatt@wilmerhale.com
- Frank J. Guadagnino fguadagnino@clarkhillthorpreed.com, aporter@clarkhill.com
- Susan N.K. Gummow sgummow@fgppr.com, rramirez@fgppr.com
- Michael F. Hahn mhahn@eatonpeabody.com, clavertu@eatonpeabody.com;dcroizier@eatonpeabody.com;jmiller@eatonpeabody.com; dgerry@eatonpeabody.com
- Regan M. Haines rhaines@curtisthaxter.com, jwashburn@curtisthaxter.com
- Andrew Helman ahelman@mcm-law.com, bankruptcy@mcm-law.com
- Paul Joseph Hemming phemming@briggs.com, pkringen@briggs.com
- Brian T. Henebry bhenebry@carmodylaw.com
- Seth S. Holbrook holbrook_murphy@msn.com
- Nathaniel R. Hull nhull@verrilldana.com, bankr@verrilldana.com
- David C. Johnson bankruptcy@mcm-law.com, djohnson@mcm-law.com
- Elizabeth Thorne Jozefowicz ejozefowicz@clausen.com
- Jordan M. Kaplan jkaplan@zwerdning.com, mwolly@zwerdning.com
- Robert J. Keach rkeach@bernsteinshur.com, acumming@bernsteinshur.com;astewart@bernsteinshur.com;kquirk@bernsteinshur.com
- Curtis E. Kimball ckimball@rudman-winchell.com, jphair@rudman-winchell.com;cderrah@rudmanwinchell.com
- Andrew J. Kull akull@mittelasen.com, ktrogner@mittelasen.com
- George W. Kurr gwkurr@grossminsky.com, tmseymour@grossminsky.com;kclove@grossminsky.com
- Alan R. Lepene Alan.Lepene@ThompsonHine.com
- Jessica Ann Lewis Jessica@molleurlaw.com, martine@molleurlaw.com;dawn@molleurlaw.com;Tanya@molleurlaw.com;jim@molleurlaw.com;barry@molleurlaw.com;jen@molleurlaw.com;all@molleurlaw.com;kati@mollleurlaw.com;andy@molleurlaw.com
- Matthew E. Linder mlinder@sidley.com, efilingnotice@sidley.com;tlabuda@sidley.com;jsteen@sidley.com
- Edward MacColl emaccoll@thomport.com, bbowman@thomport.com;jhuot@thomport.com;eakers@thomport.com
- Benjamin E. Marcus bmarcus@dwmlaw.com, hwhite@dwmlaw.com;dsoucy@dwmlaw.com
- George J. Marcus bankruptcy@mcm-law.com

- Michael K. Martin mmartin@pmhlegal.com, bkeith@pmhlegal.com, kwatson@pmhlegal.com
- Patrick C. Maxcy patrick.maxcy@dentons.com
- John R McDonald jmcDonald@briggs.com, mJacobson@briggs.com
- Kelly McDonald kmcdonald@mpmlaw.com, kwillette@mpmlaw.com
- Paul McDonald pmcdonald@bernsteinshur.com, jsmith@bernsteinshur.com; astewart@bernsteinshur.com
- Timothy J. McKeon tmckeon@bernsteinshur.com, kquirk@bernsteinshur.com; astewart@bernsteinshur.com; kbigelow@bernsteinshur.com
- James F. Molleur jim@molleurlaw.com, all@molleurlaw.com; tanya@molleurlaw.com; jen@molleurlaw.com; barry@molleurlaw.com; kati@molleurlaw.com; martine@molleurlaw.com; Jessica@molleurlaw.com; andy@molleurlaw.com
- Ronald Stephen Louis Molteni moltenir@stb.dot.gov
- Frederick C. Moore frederick.moore@libertymutual.com, tammy.chianese@libertymutual.com
- Dennis L. Morgan dmorgan@coopercargillchant.com, hplourde@coopercargillchant.com
- Stephen G. Morrell stephen.g.morrell@usdoj.gov
- Kameron W. Murphy kmurphy@tuethkeeney.com, gcasey@tuethkeeney.com
- Timothy H. Norton tnorton@krz.com, mhansen@krz.com
- Office of U.S. Trustee ustpreRegion01.po.ecf@usdoj.gov
- Richard P. Olson rolson@perkinsolson.com, jmoran@perkinsolson.com; lkubiak@perkinsolson.com
- Adam Paul adam.paul@kirkland.com
- Jeffrey T. Piampiano jpiampiano@dwmlaw.com, hwhite@dwmlaw.com; astead@dwmlaw.com
- Jennifer H. Pincus Jennifer.H.Pincus@usdoj.gov
- William C. Price wprice@clarkhill.com, aporter@clarkhill.com
- Tracie J. Renfroe trenfroe@kslaw.com
- Adam J. Shub ashub@preti.com, lcopeland@preti.com; amanhart@preti.com
- Elizabeth L. Slaby bslaby@clarkhill.com, aporter@clarkhill.com
- F. Bruce Sleeper bankruptcy@jbgf.com
- Renee D. Smith renee.smith@kirkland.com, kimberly.davenport@kirkland.com; cassandra.milleville@kirkland.com; molly.boyd@kirkland.com; katie.trucco@kirkland.com; luke.madson@kirkland.com
- Deborah L. Thorne deborah.thorne@btlaw.com
- Timothy R. Thornton pvolk@briggs.com
- Mitchell A. Touns matouns@wgttlaw.com, jgordon@wgttlaw.com
- Matthew Jordan Troy matthew.Troy@usdoj.gov
- Jason C. Webster jwebster@thewebsterlawfirm.com, dgarcia@thewebsterlawfirm.com; hvicknair@thewebsterlawfirm.com
- William H. Welte wwelte@weltelaw.com
- Elizabeth J. Wyman liz.wyman@maine.gov, eve.fitzgerald@maine.gov
- Lindsay K. Zahradka lzahradka@bernsteinshur.com, acumming@bernsteinshur.com; astewart@bernsteinshur.com; kquirk@bernsteinshur.com