UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE

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

CONSENT MOTION FOR ORDER GRANTING TEMPORARY ALLOWANCE OF CLAIMS OF FEDERAL RAILROAD ADMINISTRATION SOLELY FOR VOTING PURPOSES, PURSUANT TO BANKRUPTCY RULE 3018(a)

Robert J. Keach, the chapter 11 trustee (the "Trustee") in the above-captioned chapter 11 case of Montreal Maine & Atlantic Railway, Ltd. ("MMA" or the "Debtor"), by and through his undersigned counsel and with the consent of the United States of America, on behalf of the Department of Transportation, Federal Railroad Administration (the "FRA"), hereby moves this Court for an order pursuant to Rule 3018(a) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") temporarily allowing the FRA's claim as set forth below, solely for purposes of voting on the Plan (as defined below). In support hereof, the Trustee respectfully states the following:

JURISDICTION AND VENUE

1. This Court has jurisdiction to entertain this Motion 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 predicate for the relief sought herein is Bankruptcy Rule 3018(a).

BACKGROUND

A. The Derailment

3. On July 6, 2013, an unmanned eastbound MMA train with 72 carloads of crude oil, a buffer car, and 5 locomotive units derailed in Lac-Mégantic, Québec (the "Derailment"). The transportation of the crude oil had begun in New Town, North Dakota by the Canadian Pacific Railway ("CP") and the Debtor's wholly owned subsidiary, Montreal Maine & Atlantic Canada Co. ("MMA Canada"), later accepted the rail cars from CP at Saint-Jean, Québec. The crude oil was to be transported via the Saint-Jean-Lac-Mégantic line through Maine to its ultimate destination in Saint John, New Brunswick.

4. The Derailment set off several massive explosions, destroyed part of downtown Lac-Mégantic, and is presumed to have killed 47 people. A large quantity of oil was released into the environment, necessitating an extensive cleanup effort. As a result of the Derailment and the related injuries, deaths, and property damage, lawsuits were filed against the Debtor in both the United States and Canada. After the Derailment, Canadian train activity was temporarily halted between Maine and Québec on the MMA Canada line, resulting in the Debtor losing much of its freight business. These effects of the Derailment caused the Debtor's aggregate gross revenues to fall drastically to approximately $1 million per month.

B. Commencement of the Chapter 11 and CCAA Cases

5. On August 7, 2013, the Debtor filed a voluntary petition for relief commencing a case (the "Case") under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Maine (the "Court"). Simultaneously, MMA Canada filed for protection under Canada's Companies' Creditors Arrangement Act (Court File No. 450-11-000167-134). On August 21, 2013, the Office of the United States Trustee (the "U.S. Trustee") appointed the Trustee to serve as trustee in the Debtor's Case pursuant to 11 U.S.C. § 1163. [D.E. No. 64].

C. The FRA Stipulation

6. In September 2013, the Trustee negotiated a stipulation with the FRA (the "FRA Stipulation") regarding a carve-out from the FRA's collateral (the "Carve-Out") with which to fund the administration of the Case without diminishing the possible return to the victims of the Derailment. The FRA Stipulation acknowledged that the Debtor and its estate were indebted to the FRA in the approximate amount of $27,999,703.22 (the "FRA Claim") and excused the FRA from filing a proof of claim. The FRA Stipulation was silent as to the extent of the FRA's Claim that constituted an unsecured deficiency claim, if any.

7. On September 16, 2013, the Trustee filed the *Motion to Approve Stipulation Concerning Carve-Out from Collateral of the Federal Railroad Administration Pursuant to 11 U.S.C. Sections 105(a), 363(b), 506(c), 1163 and 1165* [D.E. 257], and on October 18, 2013, the Court entered the *Order Granting Motion to Approve Carve-Out* [D.E. 392] (the "Carve-Out Order").

D. The Plan

8. On July 17, 2015, the Court entered the *Order (I) Approving Proposed Disclosure Statement; (II) Approving Notice, Solicitation and Voting Procedures; (III) Scheduling Confirmation Hearing; and (IV) Establishing Notice and Objection Procedures for Confirmation of the Plan* [D.E. 1544] (the "Disclosure Statement Order") which, among other things: (i) approved the adequacy of the *Revised First Amended Disclosure Statement for the Trustee's Plan of Liquidation Dated July 15, 2015* [D.E. 1535] (as the same may be amended or modified, the "Disclosure Statement") filed in support of the *Trustee's Revised First Amended Plan of Liquidation Dated July 15, 2015* [D.E. 1534] (as the same may be amended or modified, the "Plan"); and (ii) authorized the Trustee to solicit acceptances or rejections of the Plan from certain holders of claims who are entitled to vote to accept or reject the Plan.

9. The Plan provides, in pertinent part, that "Class 2 shall consist of all Allowed Secured Claims of any kind or nature held by the United States of America, Department of Transportation, acting by and through the FRA against the Debtor." Plan § 3.2. The Plan further provides that "[t]o the extent of any deficiency in the value of Collateral securing the Class 2 Claim, the Holder of the Class 2 Claim shall hold an Allowed Class 13 Claim in the amount of such deficiency." Plan § 4.2(b). Holders of claims in Class 13 are entitled to vote on the Plan; holders of claims in Class 2 are not. Plan §§ 4.2(a), 4.13(a).

10. In the wake of entry of the Disclosure Statement Order, the Trustee and the FRA engaged in good-faith discussions regarding the extent of the FRA's Claim that constituted a deficiency claim, and thus would be classified as a Class 13 Claim under the Plan entitled to vote thereon. On or around August 6, 2015, the Trustee and the FRA agreed that, solely for purposes of voting on the Plan, the FRA Claim would constitute an allowed Class 13 Claim in the amount of $10,000,000.

11. Both the Trustee and the FRA believe that the extent of the FRA's Claim that constitutes a deficiency claim is likely greater than $10,000,000. Both the Trustee and the FRA further believe that allowing the FRA Claim in the amount of $10,000,000 temporarily is reasonable in order to permit the FRA to vote the unsecured component of its Claim without completing a lengthy and expensive process for valuing the FRA's collateral, to the detriment of the Debtor's other creditors.

RELIEF REQUESTED

12. By this Motion, the Trustee respectfully requests that this Court enter an order temporarily allowing the FRA Claim in the amount of $10,000,000, solely for purposes of voting on the Plan. The Trustee and the FRA have consented to the relief requested in this Motion.

BASIS FOR RELIEF

13. Rule 3018(a) of the Federal Rules of Bankruptcy Procedure provides that "[n]otwithstanding objection to a claim or interest, the court after notice and hearing may temporarily allow the claim or interest in an amount which the court deems proper for the purpose of accepting or rejecting a plan." Fed. R. Bankr. P. 3018(a).

14. The Trustee submits that, given his reasonable estimation (as well as the reasonable FRA's belief) that the value of the collateral securing the FRA Claim is far less than the face amount of the FRA Claim, it is reasonable to temporarily allow the FRA Claim, solely for purposes of voting on the Plan, as a Class 13 Claim in the amount of $10,000,000.

NOTICE

15. Notice of this Motion was served on the following parties on the date and in the manner set forth in the certificate of service: (1) the U.S. Trustee; (2) Debtor's counsel; (3) counsel to the Official Committee of Victims; and (4) holders of claims in Class 13 (as defined in the Plan).

CONCLUSION

WHEREFORE, the Trustee respectfully requests that this Court enter an order: (i) granting the relief requested herein; and (ii) granting such other and further relief as this Court deems necessary and appropriate.

Dated: August 18, 2015

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

By his attorneys:

/s/ Lindsay K. Zahradka

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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 CONSENT MOTION FOR TEMPORARY ALLOWANCE OF CLAIMS OF FEDERAL RAILROAD ADMINISTRATION SOLELY FOR VOTING PURPOSES, PURSUANT TO BANKRUPTCY RULE 3018(a)

Upon consideration of the *Consent Motion for Order Granting Temporary Allowance of Claims of Federal Railroad Administration Solely for Voting Purposes, Pursuant to Bankruptcy Rule 3018(a)* (the "Motion")[1] filed by Robert J. Keach, the chapter 11 trustee (the "Trustee") of Montreal Maine & Atlantic Railway, Ltd. (the "Debtor"), and with the consent of the FRA, and upon consideration of any and all responses to the Motion, and after such notice and opportunity for hearing as was required by the Bankruptcy Code, the Bankruptcy Rules, and this Court's local rules, and after due deliberation and sufficient cause appearing therefore; it is hereby **ORDERED**, **ADJUDGED**, and **DECREED** as follows:

1. The Motion is granted as set forth herein.

2. The FRA Claim shall be temporarily allowed, for the sole purpose of voting on the Plan, as a Class 13 Claim in the aggregate amount of $10,000,000.

Dated: _____, 2015

_____
Honorable Peter J. Cary
Chief Judge, United States Bankruptcy Court

[1] Capitalized terms used but not defined in this Order shall have the meanings ascribed to such terms in the Motion.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE

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

NOTICE OF HEARING

Robert J. Keach, the chapter 11 trustee of Montreal Maine & Atlantic Railway, Ltd. (the "Trustee"), has filed the Consent Motion for Order Granting Temporary Allowance of Claims of Federal Railroad Administration Solely for Voting Purposes, Pursuant to Bankruptcy Rule 3018(a) (the "Consent Motion").

A hearing to consider the Consent Motion is scheduled for **September 9, 2015 at 11:30 a.m.** (the "Hearing") before the Honorable Judge Peter G. Cary, the United States Bankruptcy Court for the District of Maine (the "Court"), 537 Congress Street, 2nd Floor, Portland, Maine.

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 do not want the Court to approve the Consent Motion, then **on or before September 1, 2015**, 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
537 Congress Street
2nd Floor
Portland, ME 04101

If you do have to mail your response or objection to the Court for filing, then you must mail it early enough so that the Court will receive it **on or before September 1, 2015**.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Consent Motion and may enter an order granting the requested relief without further notice or hearing.

Dated: August 18, 2015

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

By his attorneys:

/s/ Lindsay K. Zahradka

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