

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE

In re:

MONTREAL MAINE & ATLANTIC  
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670  
Chapter 11

**FOURTH AND FINAL APPLICATION FOR COMPENSATION  
FOR BAKER NEWMAN & NOYES, LLC, AS ACCOUNTANT TO  
THE TRUSTEE, ROBERT J. KEACH, FOR THE PERIOD FROM  
AUGUST 7, 2013 THROUGH OCTOBER 9, 2015**

Name of Applicant:

Baker Newman & Noyes, LLC

Authorized to Provide Professional Services as:

Accountant to Robert J. Keach, the duly  
appointed Chapter 11 trustee of the  
bankruptcy estate of the Debtor

Petition Date:

August 7, 2013

Date of Retention:

January 9, 2014, nunc pro tunc to  
August 7, 2013

Period for Which Compensation and  
Reimbursement is Sought:

August 7, 2013 through October 9, 2015

Final Amount of Compensation sought as actual,  
reasonable and necessary:

\$48,758.00

Final Amount of Expenses sought as actual,  
reasonable and necessary:

\$6,289.35

This is a(n):  monthly  interim  final application.

Prior Fee Applications:

Date Filed	Period Covered	Requested		Approved	
		Fees	Expenses	Fees	Expenses
5/27/14	August 7, 2013 – April 30, 2014	\$14,578.00	\$468.67	\$14,578.00	\$468.67
11/7/14	May 1, 2014 – September 30, 2014	\$15,705.50	\$0.00	\$15,705.50	\$0.00
11/10/15	October 1, 2014 – October 9, 2015	\$18,474.50	\$5,820.68	\$18,474.50	\$5,820.68

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE

In re:

MONTREAL MAINE & ATLANTIC  
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670  
Chapter 11

**FOURTH AND FINAL APPLICATION FOR COMPENSATION  
FOR BAKER NEWMAN & NOYES, LLC, AS ACCOUNTANT TO  
THE TRUSTEE, ROBERT J. KEACH, FOR THE PERIOD FROM  
AUGUST 7, 2013 THROUGH OCTOBER 9, 2015**

Baker Newman & Noyes, LLC ("BNN"), accountant to Robert J. Keach, the duly appointed chapter 11 trustee (the "Trustee") in the above-captioned chapter 11 case of Montreal Maine & Atlantic Railway, Ltd. (the "Debtor"), submits this Fourth and Final Application for Compensation for Banker Newman & Noyes, LLC, as Accountant to the Trustee, Robert J. Keach for the Period from August 7, 2013 through October 9, 2015 (the "Final Fee Application"). By this Final Fee Application, BNN seeks final allowance of all compensation and reimbursement of expenses for the period of August 7, 2013 through and including October 9, 2015 (the "Compensation Period"), which fees and expenses have already been approved by this Court on an interim basis and have been paid. In support of the Final Fee Application, BNN 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(b). Pursuant to 28 U.S.C. § 157 and Rule 83.6 of the District Court's local rules, the District Court has authority to refer and has referred this proceeding to this Court.

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 statutory predicates for the relief sought herein are sections 327(a) and 330 of title 11 of the United States Code (the “Bankruptcy Code”), Rule 2016(a) of Federal Rule of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 2016-1 of the local rules of this Court (the “Local Rules”).

### **BACKGROUND**

5. On August 7, 2013, the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. On August 21, 2013, the United States Trustee appointed the Trustee to serve in the Debtor’s chapter 11 case (the “Case”) pursuant to section 1163 of the Bankruptcy Code.

6. 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”). Thereafter, on January 9, 2014, the Court entered an order authorizing the employment of BNN as accountant to the Trustee pursuant to sections 327 and 328 of the Bankruptcy Code [Docket No. 564] (the “Retention Order”).

7. As set forth in the Retention Order, BNN is authorized to, inter alia, “provide year-end audit services, to prepare corporate state and federal income tax filings of the Debtor, to prepare and/or coordinate the tax filings of Montreal Maine & Atlantic Canada, Co., and to provide additional and necessary accounting, tax, and advisory services, to the extent requested by the

Trustee . . . .” See Retention Order, at 2. BNN is also authorized to work with Collins Barrow National Cooperative Inc. (“Collins Barrow”) to prepare the Canadian tax filings of Montreal Maine & Atlantic Canada, Co. (“MMA Canada”). See Retention Order, ¶ 13; see also Retention Order, at 1.

8. BNN is authorized to receive compensation “in accordance with its standard hourly rates” and “in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, 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.” Retention Application, ¶¶ 12, 13; see also Retention Order, at 1. Additionally, BNN may “seek reimbursement from the Debtor for the fees and expenses charged by Collins Barrow in relation to preparing the Canadian tax filings.” Retention Application, ¶¶ 13, 15; see also Retention Order, at 1.

9. 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 “First Interim Fee Application”). The First Interim Fee Application sought allowance of compensation for professional services in the amount of \$14,578.00 and reimbursement of expenses incurred in connection with rendering such services in the amount of \$468.67. By order of this Court entered on June 11, 2014 [Docket No. 968], the Court awarded BNN \$14,578.00 in fees and \$468.67 in expenses in relation to the First Interim Fee Application. As of the date of this Final Fee Application, all fees and expenses requested in the First Interim Fee Application have been paid.

10. On November 7, 2014, BNN filed the Second 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 May 1, 2014 Through September 30, 2014 [Docket No. 1202] (the "Second Interim Fee Application"). The Second Interim Fee Application sought allowance of compensation for professional services in the amount of \$15,705.50. By order of this Court entered on June 11, 2014 [Docket No. 1255], the Court awarded BNN \$15,705.50 in fees in relation to the Second Interim Fee Application. As of the date of this Final Fee Application, all fees requested in the Second Interim Fee Application have been paid.

11. On November 10, 2015, BNN filed the Third 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 October 1, 2014 Through October 9, 2015 [Docket No. 1847] (the "Third Interim Fee Application"). The Third Interim Fee Application sought allowance of compensation for professional services in the amount of \$18,474.50 and reimbursement of expenses incurred in connection with rendering such services in the amount of \$5,820.68. By order of this Court entered on December 7, 2015 [Docket No. 1898], the Court awarded BNN \$18,474.50 in fees and \$5,820.68 in expenses in relation to the Third Interim Fee Application. As of the date of this Final Fee Application, all fees and expenses requested in the Third Interim Fee Application have been paid.

12. On December 22, 2015, the Trustee filed the Notice of (A) Occurrence of Effective Date of Trustee's Revised First Amended Plan of Liquidation Dated July 15, 2015 (as Amended on October 8, 2015) and (B) Deadline for Professionals to file Final Fee Application [Docket No. 1927] (the "Notice of Effective Date"). The Notice of Effective Date provides that the "Effective

Date” occurred on December 22, 2015 and that all final fee applications shall be filed no later than February 19, 2016. Notice of Effective Date, p.2.

13. Since entry of the Retention Order, and throughout the Case, BNN has worked with the Trustee to meet the challenges presented by this Case in a manner beneficial to the Debtor and the creditors of the Debtor’s estate.

### **COMPENSATION AND REIMBURSEMENT REQUEST**

14. BNN seeks final allowance of all compensation for professional services rendered and reimbursement of all expenses incurred during the entirety of its retention in the Case from August 7, 2013 through December 22, 2015 in the amount of \$48,758.00 for professional services and \$6,289.35 for expenses.

15. Pursuant to Rule 2016(a) of the Federal Rules of Bankruptcy Procedure and Local Rules 2016-1(a)(3)(i), 2016-1(a)(3)(iv), and 2016-1(a)(3)(v), detailed statements of professional services provided by BNN to the Trustee during the Compensation Period, detailed statements setting forth billing rates, total hours billed, and total amounts billed for each professional at BNN during the Compensation Period, and brief biographies of each BNN professional who has rendered services in connection with the Case during the Compensation Period were provided in conjunction with BNN’s prior fee applications and are incorporated herein by reference. No agreement or understanding exists between BNN and any other entity for the sharing of compensation sought by this Final Fee Application. In addition, no payments have been made or promised to BNN for services rendered or to be rendered in connection with the Case, except as set forth in the Retention Application and detailed in this Final Fee Application.

16. As discussed in the Retention Application and the Declaration of Gregory Sanborn in Support of the 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 (the "Sanborn Declaration"), BNN is an accounting and advisory firm with offices in Portland, Maine, Manchester and Portsmouth, New Hampshire, and Boston, Massachusetts. During the course of its retention, BNN prepared the Debtor's federal, Maine, and Vermont corporate tax returns for 2012, 2013, and 2014, worked with Collins Barrow to prepare MMA Canada's Canadian tax filings, and provided services in connection with an audit of the Debtor's 401(k) plan.

17. This Final Fee Application is BNN's fourth application to this Court for compensation for professional services pursuant to sections 327, 328 and 331 of the Bankruptcy Code, Bankruptcy Rule 2016, and Local Rule 2016-1. As required by paragraph (b)(v) of the UST Guidelines, the Trustee has been given the opportunity to review this Final Fee Application and has approved the requested amount.

#### **SUMMARY OF SERVICES**

18. BNN serves as accountant to the Trustee with respect to all financial, accounting, and tax matters that arise in or relate to this Case. In rendering professional services to the Trustee, BNN's team includes professionals with extensive experience in accounting services related to preparing the corporate state and federal income tax filings, and providing audit, tax, and advisory services. BNN professionals have worked closely with the Trustee and his other professionals to coordinate assignments in order to maximize efficiency and avoid any duplication of effort.

19. All of the services for which BNN requests final allowance of compensation herein were rendered on behalf of the Trustee in connection with this Case, and all the time described in the billing statements attached to the prior fee applications represents the actual amount of time



spent by BNN professionals who rendered the described services. The major services provided by BNN (by category) during the Compensation Period are summarized below:

(a) **2013 Tax Returns**

Professional services in connection with the preparation of the Debtor's 2013 Federal, Maine, and Vermont corporate tax returns, 2013 foreign tax returns and initial planning of services.

(b) **2014 Tax Returns**

Professional services in connection with the preparation and review of the Debtor's 2014 Federal, Maine, and Vermont corporate tax returns.

(c) **401(k) Audit**

Professional services rendered in connection with the audit of the Debtor's 401(k) Plan.

**ACTUAL AND NECESSARY DISBURSEMENTS**

20. Local Rule 2016-1(a)(5)(i) establishes a Standard Maine Expense Level List (the "SMELL"), which identifies standard levels of reimbursement for commonly occurring expenses, "subject to an applicant requesting reimbursement at other levels upon proof that the reimbursement levels set forth by in the SMELL are inadequate in view of the applicant's actual costs." D. Me. LBR 2016-1(a)(5)(i). A detailed itemization of all of the out-of-pocket expenses incurred by BNN in the course of providing services to the Debtor during the Compensation Period was included with BNN's prior fee applications. The expenses, which total \$6,289.35, are in compliance with the SMELL or are based on BNN's actual costs, as required by Local Rule 2016-1(a)(5). The expenses incurred arise from the engagement of Collins Barrow and processing and delivery fees for tax returns. These expenses represent the out-of-pocket disbursements incurred during the regular course of the provision of services.

**THE REQUESTED COMPENSATION AND REIMBURSEMENT OF**

**EXPENSES SHOULD BE ALLOWED**

21. Pursuant to section 330 of the Bankruptcy Code, the Court may award professionals “reasonable compensation for actual, necessary services.” 11 U.S.C. § 330(a)(1)(A). The Court may, on its own motion or an objection filed by a party in interest, “award compensation that is less than the amount of compensation that is requested.” 11 U.S.C. § 330(a)(2). In evaluating the amount of reasonable compensation to be awarded, the Court should consider:

the nature, the extent, and the value of such services, taking into account all relevant factors including:

- (A) the time spent on such services;
- (B) the rates charged for such services;
- (C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;
- (D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;
- (E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and
- (F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

22. BNN submits that the services for which it seeks compensation in this Final Fee Application were necessary for and beneficial to the Trustee and the Debtor’s estate. The services rendered by BNN were performed economically, effectively, and efficiently. Accordingly, the compensation requested herein is reasonable in light of the nature, extent, and value of such services to the Trustee and the Debtor’s estate.

23. The work conducted was carefully assigned to appropriate professionals according to the experience and level of expertise required for each particular task. Whenever possible and where appropriate, BNN sought to minimize the cost of its services by utilizing talented professionals with lower billing rates.

24. In sum, the services rendered by BNN were necessary and beneficial to the Debtor's estate and such services were consistently performed in a timely manner, commensurate with the complexity and nature of the issues involved. Accordingly, final approval of compensation sought herein is warranted.

#### **NOTICE**

25. In accordance with this Court's Order Granting Motion to Limit Notice for Final Fee Applications [Docket No. 1962], notice of this Final Fee Application was served on (a) Debtor's counsel; (b) counsel to the Trustee; (c) the Office of the United States Trustee; (d) counsel to the Official Committee of Victims; and (e) those parties-in-interest receiving CM-ECF notifications in the Case.

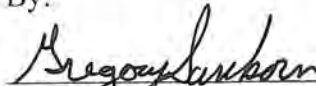
#### **CONCLUSION**

WHEREFORE, BNN respectfully requests that the Court enter an order: (a) approving on a final basis, compensation for services rendered in the amount of \$48,758.00 and reimbursement of expenses in the amount of \$6,289.35 for the period from August 7, 2013 through and including October 9, 2015; and (b) granting such other and further relief as the Court deems just and proper.

Dated: February 17, 2016

**BAKER NEWMAN & NOYES, LLC**

By:

  
\_\_\_\_\_  
Gregory Sanborn

Baker Newman & Noyes, LLC  
280 Fore Street  
Portland, ME 04101  
Telephone: (207) 879-2100  
Facsimile: (207) 774-1793  
E-mail: gsanborn@bnn CPA.com

*Accountant for Robert J. Keach, Chapter 11  
Trustee of Montreal Maine & Atlantic  
Railway, Ltd.*

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE

In re:

MONTREAL MAINE & ATLANTIC  
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670  
Chapter 11

**ORDER GRANTING FOURTH AND FINAL APPLICATION FOR  
COMPENSATION FOR BAKER NEWMAN & NOYES, LLC, AS  
ACCOUNTANT TO THE TRUSTEE, ROBERT J. KEACH, FOR THE  
PERIOD FROM AUGUST 7, 2013 THROUGH OCTOBER 9, 2015**

This matter having come before the Court on the Fourth and Final Application for Compensation for Baker Newman & Noyes, LLC, as Accountant to the Trustee, Robert J. Keach, for the Period from August 7, 2013 through October 9, 2015 (the "Final Fee Application"),<sup>1</sup> for final approval and allowance of fees and expenses of Baker Newman & Noyes, LLC ("BNN") during the period of August 7, 2013 through and including October 9, 2015 (the "Compensation Period"); and after proper notice to all parties-in-interest, the Court having independently reviewed the Final Fee Application, it is hereby **ORDERED**, **ADJUDGED**, and **DECREED** as follows:

1. The Final Fee Application is granted.
2. BNN is allowed final compensation and reimbursement of expenses for the Compensation Period in the amount of \$48,758.00 for services rendered and \$6,289.35 for expenses incurred as set forth in the Final Fee Application.
3. The fees and expenses requested in the Final Fee Application are hereby awarded on a final basis in accordance with the applicable sections of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.

---

<sup>1</sup> Capitalized terms not otherwise defined herein have the meanings ascribed to them in the Final Fee Application.

Dated:

---

The Honorable Peter G. Cary  
Chief Judge, United States Bankruptcy Court for the  
District of Maine