

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE**

In re:

MONTREAL MAINE & ATLANTIC
RAILWAY, LTD.,

Debtor.

Chapter 11
Case No. 13-10670

**SUPPLEMENTAL RESPONSE OF CHAPTER 11 TRUSTEE TO CASH
MANAGEMENT MOTION FILED BY MONTREAL MAINE & ATLANTIC
RAILWAY, LTD.**

Robert J. Keach, the chapter 11 trustee (the “Trustee”) appointed pursuant to 11 U.S.C. § 1163 in the above-captioned chapter 11 case of Montreal Maine & Atlantic Railway, Ltd. (the “Debtor”), hereby files this supplemental response to the Debtor’s Motion for Authorization to Use Pre-Petition Bank Accounts and Business Forms [D.E. 7] (the “Cash Management Motion”), which Cash Management Motion is adopted herein as the motion of the Trustee, as modified below. In support of this supplemental response, the Trustee states as follows:

1. On August 7, 2013 (the “Petition Date”), the Debtor filed a voluntary chapter 11 petition for relief. The Cash Management Motion was set for an emergency hearing on August 8, 2013 (the “Hearing”). At the Hearing, the Court entered an order granting the Cash Management Motion on an interim basis, and scheduled a continued hearing for August 22, 2013 (the “August 22 Hearing”).

2. On the day before the August 22 Hearing, the Trustee was appointed. The Trustee filed an initial response to several of the Debtor’s “first day” motions, including the Cash Management Motion (the “Response”). As noted in the Response and on the record during the August 22 Hearing, the Trustee adopted the relief sought in the Cash Management Motion.

3. At the August 22 Hearing, the Court continued the Cash Management Motion for a further hearing on September 4, 2013, and entered a second interim order on the motion. The second interim order directed specific control by the Trustee over the accounts that were the subject of the motion.

4. In the United States, the Debtor maintains accounts at TD Bank, Bank of America, and Bangor Savings Bank, and in Canada, the Debtor maintains two accounts at the Canadian Imperial Bank of Commerce ("CIBC") (collectively, the "Bank Accounts"). Since his appointment, the Trustee has imposed several safeguards to ensure that the Trustee has control over the Bank Accounts.

5. The Debtor's existing financial management is working closely with the Trustee and Development Specialists, Inc. ("DSI"), the Trustee's financial advisor. The Trustee and DSI have been added as signatories on the Bank Accounts. The Trustee and DSI receive daily reports with respect to key financial information, including necessary disbursements. Further, all disbursements must be approved by either the Trustee or DSI; checks drawn on the Bank Accounts for amounts below \$25,000 must be approved by the Trustee or DSI, while checks drawn on the Bank Accounts for amounts of \$25,000 and above require the Trustee's prior approval. The Trustee and/or DSI are reviewing and approving check runs on a daily basis.

6. With these protections in place, the Trustee can adequately manage the Debtor's finances and properly administer the estate using the Bank Accounts. Moreover, both the Trustee and DSI believe that closing the Bank Accounts and opening new accounts will not add additional security over funds and will be unnecessarily disruptive to operations, especially the payment and receipt of interline obligations and/or payments.

7. Two of the Bank Accounts, those at CIBC, are located in Canada (the “Canadian Accounts”). Canadian counsel has advised the Trustee that the Canadian Accounts are insured pursuant to Section 12 of the Canada Deposit Insurance Corporation Act (R.S.C., 1985, c. C-3) for up to \$100,000 per account. Moreover, CIBC is one of Canada’s larger banks and is, on any measure, very solvent. The Canadian Accounts generally contain smaller amounts for short periods of time, primarily to permit the funding of the Canadian payroll and the funding of Canadian operating expenses via the US-based cash management system. Using all US-based accounts for these expenditures would be inconvenient and needlessly cumbersome. Given that the Canadian Accounts are insured and the Trustee has imposed additional controls over the Bank Accounts, the Trustee requests an exception from compliance with 11 U.S.C. § 345(b) as to the Canadian Accounts for cause shown.

WHEREFORE, the Trustee respectfully requests that the Court: (i) grant the relief requested in the Cash Management Motion by entering an order substantially in accordance with the form of order attached hereto as Exhibit A; (ii) without limitation, allow use of the Canadian Accounts for cause shown; and (iii) grant such other and further relief as may be necessary.

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

By his attorneys:

Dated: September 3, 2013

/s/ Michael A. Fagone
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In re:

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RAILWAY, LTD.,

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Chapter 11
Case No. 13-10670

**ORDER AUTHORIZING THE CONTINUED
USE OF PRE-PETITION BANK ACCOUNTS AND BUSINESS FORMS**

Upon consideration of the Motion for Authorization to Use Pre-Petition Bank Accounts and Business Forms [D.E. 7] (the "Cash Management Motion"), Montreal Maine & Atlantic Railway Ltd., the debtor in the above-captioned case (the "Debtor" or "MMA"), the United States Trustee having appointed Robert J. Keach as the chapter 11 trustee (the "Trustee") in the above-captioned chapter 11 case of the Debtor, and it appearing that due and proper notice of the Cash Management Motion has been given, and that no other further notice need be given; the Court having conducted an initial hearing on the Cash Management Motion on August 8, 2013 and having entered an order granting the Cash Management Motion on an interim basis [D.E. 42], the Court having conducted a further hearing on the Cash Management Motion on August 22, 2013 and having entered a second order granting the Cash Management Motion on an interim basis [D.E. 97], the Court having held a further hearing on the Cash Management Motion on September 4, 2013 and the Trustee having adopted the request for relief set forth in the Cash Management Motion; and the Court finding sufficient cause for the relief sought by the Cash Management Motion; it is hereby **ORDERED, ADJUDGED, and DECREED** as follows:

1. The Cash Management Motion is granted on the terms set forth herein;
2. The Trustee is authorized, but not directed, in the reasonable exercise of his business judgment, to: (a) designate, maintain and continue to use, with the same account numbers, the bank accounts in existence at TD Bank, Bank of America, Bangor Savings Bank, and the Canadian Imperial Bank of Commerce (“CIBC”) on the date of the filing of the Debtor’s chapter 11 petition (collectively, the “Bank Accounts”). No officer, director, employee, or agent of the Debtor may cause any disbursement from the Bank Accounts (or any of them) without consent of the Trustee or his designee;
3. For cause shown, the Trustee is excepted from compliance with 11 U.S.C. § 345(b) and allowed to use the accounts at CIBC consistent with the pre-petition practices of the Debtor but subject to the internal controls described in the Trustee’s Supplemental Response to the Cash Management Motion;
4. The Trustee is authorized to continue use of the Debtor’s existing checks and business forms provided that he affixes a stamp designating the Trustee’s status as “Chapter 11 Trustee for MMA, as the Debtor, Chapter 11 Case No. 13-10670 (D. Me.)” on such checks and business forms;
5. TD Bank, Bank of America, Bangor Savings Bank, and the CIBC are hereby authorized to continue to service and administer all such accounts as accounts, without interruption and in the usual and ordinary course, and to receive, process, honor and pay any and all checks and drafts drawn on, or electronic transfer requests made on, said account by the holders or makers thereof, as the case may be;

6. Nothing contained herein shall prevent the Trustee from opening any new bank accounts or closing and of the Bank Accounts as he may deem necessary and appropriate; *provided, however*, that (i) any new account shall be with a bank that is on the U.S. Trustee's Authorized Depository list for the District of Maine; (ii) any new account will be opened and maintained in accordance with the U.S. Trustee's guidelines; and (iii) the Trustee shall disclose any new accounts to the U.S. Trustee in writing within forty-eight (48) hours of opening any new account; and

7. This Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

Dated:

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