UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE

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

DECLARATION OF D. JACKSON LOUGHHEAD IN SUPPORT OF CONFIRMATION OF THE TRUSTEE'S PLAN OF LIQUIDATION

D. JACKSON LOUGHHEAD, under penalty of perjury and pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am a Senior Vice President and officer of XL Insurance America, Inc. and am authorized to submit this declaration (the "Declaration") on behalf of XL Insurance Company Ltd. ("XL Insurance") and Indian Harbor Insurance Company ("Indian Harbor" and together with XL Insurance, the "XL Companies"). I am personally familiar with certain business and financial affairs of the XL Companies.

2. I submit this Declaration in support of confirmation of the Trustee's Revised First Amended Plan of Liquidation Dated July 15, 2015 [D.E. 1534] (the "Plan"). If called upon, I would testify competently to the facts in this Declaration.

3. Montreal Maine & Atlantic Railway, Ltd. (the "Debtor") is an insured under a Railroad Liability Insurance Policy, bearing number RRL003723801 and in effect from April 1, 2013 to April 1, 2014, issued by Indian Harbor (the "U.S. Policy"). The U.S. Policy, subject to conditions, exclusions, and limitations, provides insurance coverage for certain "covered

injuries" arising from an "accident." The U.S. Policy is subject to a $25 million (USD) per occurrence limit and a $50 million (USD) policy aggregate limit.

4. Montreal, Maine & Atlantic Canada Co. ("MMA Canada") is an insured under a Railroad Liability Insurance Policy, bearing the number RLC003808301 and in effect from April 1, 2013 to April 1, 2014, issued by XL Insurance (the "Canadian Policy" and together with the U.S. Policy, the "XL Policies"). The Canadian Policy, subject to conditions, exclusions, and limitations, provides insurance coverage for certain "covered injuries" arising from an "accident." The Canadian Policy is subject to a $25 million (CAN) per occurrence limit and a $50 million (CAN) policy aggregate limit. Under the terms of the Québec Civil Code, the terms of which have been incorporated into the Canadian Policy, payments made to satisfy the obligation to defend an insured against covered claims arising in Québec do not erode policy limits.

5. Each of the XL Policies contains a "Mutual Policy Exclusion." Endorsement #007 to the U.S. Policy provides that the U.S. Policy "shall not apply to any loss, cost, or expense for which coverage is applicable under" the Canadian Policy. Endorsement #009 to the Canadian Policy provides that the Canadian Policy "shall not apply to any loss, cost, or expense for which coverage is applicable under" the U.S. Policy. As a result, with respect to any particular accident, only one of the policies may be deemed the "applicable" policy.

6. In August 2013, MMA Canada filed a petition for the issuance of an initial order with the Québec Superior Court (the "Canadian Court") under the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36 (the "CCAA," and the case commenced under the CCAA by MMA Canada, the "CCAA Proceedings"). Richter Advisory Group, Inc. (the "Monitor") was appointed as Monitor in connection with the CCAA Proceedings.

7. In March 2015, MMA Canada, Robert J. Keach, as chapter 11 trustee (the "Trustee") for the estate of the Debtor, MMA Canada, and the XL Companies entered into a settlement agreement (the "XL Settlement Agreement"). The XL Settlement Agreement provides, among other things, for the XL Companies to purchase from the Debtor and MMA Canada "MMA's and the MMAC's remaining interests, if any and to the extent permitted by law, in each of the XL Policies" (the "Buy Back") "free and clear of any and all Interests of any and all Persons" for the "Settlement Amount." The "Settlement Amount" is comprised of an "Indemnity Payment" of $25 million (CAN) and an "Additional Payment" of $5 million (USD). By its terms, unless such conditions are waived by the XL Companies, the XL Settlement Agreement is effective only upon the date on which orders of this Court and of the Canadian Court—approving, respectively, a chapter 11 plan and CCAA plan, approving the sale of the XL Policies to the XL Companies "free and clear of all claims and interest," and providing for an injunction "permanently releasing and enjoining the enforcement, prosecution, continuation or commencement of any (a) Claim that any Person or Claimant holds or asserts or may in the future hold or assert against the XL Companies arising out of, in connection with and/or in any way related to any of the Policies and (b) Claim against any Released Party and/or Settling Defendant arising out of, in connection with and/or in any way related to the Policies or the Derailment"—become final and not subject to appeal.

8. The XL Settlement Agreement, Plan, Plan of Compromise and Agreement in the CCAA Proceedings (the "CCAA Plan"), and all related documents were negotiated and entered into by the XL Companies in good faith and as a result of arm's-length negotiations. The XL Companies, the Trustee, MMA Canada, and the Monitor were each represented by sophisticated

counsel. The negotiations between the XL Companies and the Trustee took place over several months and involved many in-person or telephonic meetings.

9. Neither of the XL Companies is an "insider" or an "affiliate" (as such terms are defined in the Bankruptcy Code) of the Trustee, the Debtor, MMA Canada, or the Monitor.

10. The XL Companies have not had any discussions with any other prospective purchasers of the XL Policies. The XL Companies have not engaged in any collusive behavior with respect to the Buy Back or any potential purchase of the XL Policies from the Debtor and MMA Canada. The XL Companies have not, directly or indirectly, sought by agreement, collusion, communication, or conference with any other potential purchaser of the XL Policies, or to secure through collusion, conspiracy, connivance, or unlawful agreement, any advantage against the Trustee, MMA Canada, the Monitor, or any party interested in the Buy Back.

11. The XL Companies have, at all relevant times, acted in good faith with respect to the XL Settlement Agreement; the transactions contemplated thereby; the Plan; the disclosure statement for the Plan; and the CCAA Plan.

12. The XL Companies would not have entered into the XL Settlement Agreement, and would not consummate the Buy Back for an amount nearly as substantial as the amount provided in the XL Settlement Agreement, if the Buy Back of the XL Policies was not free and clear of any and all Interests of any and all Persons in the XL Policies pursuant to the terms of the XL Settlement Agreement. In addition, the XL Companies would not have entered into the XL Settlement Agreement, and would not consummate the Buy Back for an amount nearly as substantial as the amount provided in the XL Settlement Agreement, if the effectiveness of the XL Settlement Agreement and the XL Companies' obligation to consummate the Buy Back were not conditioned on the entry of final and non-appealable orders by this Court and the Canadian

Court approving the sale of the XL Policies to the XL Companies free and clear of all claims and interest and enjoining the enforcement, prosecution, continuation or commencement of any (a) Claim that any Person or Claimant holds or asserts or may in the future hold or assert against the XL Companies arising out of, in connection with and/or in any way related to any of the Policies and (b) Claim against any Released Party and/or Settling Defendant arising out of, in connection with and/or in any way related to the Policies or the Derailment (as those terms are used in the XL Settlement Agreement).

13. The XL Companies have the financial wherewithal and capability to fully perform their obligations under the XL Settlement Agreement, including, without limitation, the payment of the Settlement Amount.

14. The XL Companies did not enter into the XL Settlement Agreement, and is not consummating the Buy Back, for the purpose of hindering, delaying, or defrauding any creditors of the Debtor or MMA Canada under the Bankruptcy Code or the laws of the United States, Canada, any state, province, territory or possession thereof, or the District of Columbia, or any other applicable law. The XL Companies have not entered into the XL Settlement Agreement, or any agreement contemplated thereby, and is not consummating the Buy Back, with any fraudulent or otherwise improper purposes.

15. The XL Companies are not aware of any claim against the XL Policies other than those addressed by the Plan.

I declare under penalty of perjury that the foregoing is true and correct. Executed this **18**th day of September 2015.

D. Jackson Loughhead