

SO ORDERED

Mar 08, 2013
Kathy A. Surratt - States
KATHY A. SURRATT-STATES
Chief United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:)
)
)
PATRIOT COAL CORPORATION, *et al.*,) Chapter 11
) Case No. 12-51502-659
) (Jointly Administered)
)
Debtors.)
)
)

**MOTION OF THE UNITED MINE WORKERS OF AMERICA 1974 PENSION TRUST
AND THE UNITED MINE WORKERS OF AMERICA 1993 BENEFIT PLAN TO FILE
UNDER SEAL THEIR OBJECTIONS TO THE DEBTORS'
MOTION FOR AUTHORITY TO IMPLEMENT COMPENSATION PLANS**

The United Mine Workers of America 1974 Pension Trust (the “1974 Plan”) and the United Mine Workers of America 1993 Benefit Plan (the “1993 Plan”, and together with the 1974 Plan, the “UMWA Plans”), by and through their undersigned attorneys, hereby move the Court to enter its Order granting them leave to file their Objections to Debtors’ Motion for Authority to Implement Compensation Plans under seal. In support of their motion the UMWA Plans state as follows:

1. On February 12, 2013, the Debtors filed a Motion for Authority to Implement Compensation Plans. *See* Doc. 2819 (the “AIP/CERP Motion”).
2. This Court subsequently granted the Emergency Motion of the UMWA Plans to extend the time in which any parties in interest, including the UMWA Plans were permitted to file objections to the AIP/CERP Motion. *See* Doc. 2854 (Emergency Motion); *see also* Doc. 3071 (Order granting Motion).
3. The objections of the UMWA Plans to the AIP/CERP Motion are due to be filed by 11:59 p.m. prevailing central time on March 8, 2013. *See* Doc. 3071 at 2.

4. The UMWA Plans seek leave of Court to file their objections to the AIP/CERP Motion under seal. One of the UMWA Plans, the 1974 Plan, and is a member of the Official Committee of Unsecured Creditors (the “UCC”). As a member of the UCC, the 1974 Plan has been authorized by Debtors to receive information designated by Debtors as Confidential pursuant to an August 15, 2012 Confidentiality and Nondisclosure Agreement entered into between Debtors and the UCC. Debtors have further allowed that in connection with the AIP/CERP Motion, the UMWA Plans may make use of information provided to the 1974 Plan in its capacity as a member of the UCC.¹ Debtors have also granted the 1993 Plan permission to use this information in connection with AIP/CERP Motion.

5. The objections of the UMWA Plans and the declaration in support of those objections will refer to and exhibit both: (1) materials that have been provided to the 1974 Plan in its capacity as a member of the UCC, and (2) materials that were separately produced by Debtors in discovery related to the AIP/CERP Motion and which Debtors designated as for “Professionals’ Eyes Only” and “Highly Confidential.”

6. In order for the UMWA Plans to fully respond to the AIP/CERP Motion, its objections will refer to and exhibit information drawn from both categories of those materials.

7. The UMWA Plans will prepare a redacted version of their written objections and supporting materials that may be filed in the public record, understanding that the exhibits to those objections, that consist of either of the two categories of information will also be appropriately redacted.

8. Pursuant to the Procedures Manual for the Bankruptcy Court for the Eastern District of Missouri (the “Procedures Manual”), documents may be filed under seal on motion to

¹ In connection with the AIP/CERP Motion, the 1974 Plan is acting on its own behalf and not as a representative of the UCC.

the Court. Procedures Manual at 22. Moreover, the Court has the authority, with or without notice, to make an order “to protect the estate or any entity in respect of ... confidential ... commercial information.” Bankruptcy Rule 9018. In light of the confidentiality and Professionals’ Eyes Only designations Debtors have placed upon materials that the UMWA Plans will rely upon in their Objections to the AIP/CERP Motion, sealing of those Objections is warranted.

WHEREFORE, for the foregoing reasons, the UMWA Plans respectfully request that the Court enter its Order: (i) granting them leave to file their Objections to the AIP/CERP Motion under seal, and (ii) providing such other and further relief as the Court deems just and appropriate.

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Dated: March 8, 2013

Respectfully submitted,

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America 1993 Benefit Plan*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was filed on March 8, 2013 using the Court's CM/ECF system and that service will be accomplished upon all counsel of record by operation of that system.

/s/ James E. Crowe, III