EXHIBIT H

UNITED STATES BANKRUPTCY COURT
EASTERN DIVISION OF MISSOURI

--------------------------------------X
IN RE: PATRIOT COAL CORPORATION,
Case No: 12-51502
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DEPOSITION OF JEFFREY STUFSKY
New York, New York
Wednesday, March 13, 2013

Reported by:
Rebecca Schaumloffel, RPR, CLR
Job No: 59151

March 13, 2013
10:12 a.m.

Deposition of JEFFREY STUFSKY, held at the offices of McKool Smith, One Bryant Park, New York, New York, before Rebecca Schaumloffel, a Registered Professional Reporter, Certified Livenote Reporter and Notary Public of the State of New York.

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ALSO PRESENT:

Adam Schlesinger, Blackstone Group
Zach Mitschrich, Blackstone Group
Daniel P. Tobin, Houlihan Lokey
Evan Alper, KLR Group
* * *

J. STUFSKY

J E F F R E Y S T U F S K Y, called as a witness, having been first duly sworn by a Notary Public of the State of New York, was examined and testified as follows:

EXAMINATION BY

MS. STARR:

Q. Good morning, Mr. Stufsky. I introduced myself on the record, but let me do it for the record. My name is Amelia Starr. I represent Patriot Coal in this litigation. I am from the firm of Davis Polk & Wardell, and I am going to be the primary person asking you the questions today. There are other parties to the Patriot bankruptcy who are represented here today, including counsel for the UCC and the DIP lenders and various creditors. They also have the right to ask you questions. But I will be going first. And I expect I will be the lion share of the questions today.

A. Okay. Thank you.

Q. Have you ever -- first, let me have you state your name for the record?

A. Jeffrey Stufsky.

J. STUFSKY

Q. Can you give me your business address, please?

A. Yes. It is 510 Madison Avenue, New York.

Q. Okay. Have you ever been deposed before, Mr. Stufsky?

A. I have in the past, a while ago.

Q. Okay. Let me perhaps just refresh your recollection on the way the rules work for the deposition. I am going to be asking you questions today. I would appreciate it if you would wait until I finish my question before you begin your answer since this is all being recorded by our reporter.

It is very hard to get an accurate transcript when we talk over each other. It is possible that Mr. Goodman may be making objections today. If, again, if Mr. Goodman is making an objection, let's all try to let him finish his objection before we talk. I am going to be asking you a number of questions today using plenty of jargon. If at any time you don't understand my

J. STUFSKY

question, please let me know and I will be happy to rephrase it so it makes more sense. If you don't ask me to rephrase it, I will assume that you understand the question.

A. Okay.

Q. If you need a break at some point, I will be calling regular breaks, but if you need a break at some point, just let me know and we will try to find pretty prompt place to take a break. We will take a break every, you know, hour and half or two hours or so, but if you need something sooner than that, let me know. This is not intended to be a marathon.

A. Okay, good.

Q. Finally, is there any reason today that you -- that would prevent you from testifying truthfully and accurately?

A. No.

Q. Okay. All right. So let's start, is it correct that you are testifying today as an expert on behalf of the equity holders that have appeared in the -- in the Patriot Coal bankruptcy?

J. STUFSKY

A. Correct.

Q. Let me mark as Exhibit 1, what has been entitled Patriot Coal Indication of Estimated Value to Existing Equity Holders and Discussion by KLR Group.

(Whereupon, Stufsky Exhibit 1, Document Entitled Indication of Estimated Value to Existing Equity Holders and Discussion by KLR Group was marked for identification as of this date by the Reporter.)

Q. Mr. Stufsky, could you take a brief look at and just confirm for me that this is the report that you prepared?

A. It looks like it.

Q. Okay. On what date did you prepare this report or finalize this report, Mr. Stufsky?

A. I don't recall the precise date. It was probably about a week and a half ago, two weeks ago, approximately.

Q. Does this report represent a full and comprehensive set of your opinions in this matter?

J. STUFSKY

A. It does for the purposes intended, correct.

Q. Aside from the opinions that you express in this report, do you have any other opinions that you intend to offer in connection with the equity holders' motion?

A. Not at this point. If I am answering questions, I might.

Q. But sitting here, at least at this moment, you have no other opinions you intend to offer in connection with the equity holders' motion, aside from those reflected in your report?

A. No, at this point, the presentation is intended to reflect the principals involved in the analysis.

Q. Did you prepare a Declaration to accompany the valuation report that's represented here in Stufsky Exhibit 1?

A. I don't recall preparing a Declaration.

Q. Were you asked to prepare a Declaration?

A. I don't believe I was.

J. STUFSKY

Q. Now, I believe you testified just a moment ago that you have been deposed before?

A. Correct.

Q. Have you ever been deposed before in a capacity as an expert?

A. As somebody who is expert in a sector, yes. I don't know what definition of expert is, but somebody who is considered to have deep knowledge of the sector in which they are asked to comment on.

Q. Let me clear up my question. Have you ever been -- have you ever deposed as a retained expert in a litigation in the capacity that you are being deposed today?

A. Not precisely, no.

Q. Okay. In what capacity have you testified as an expert?

A. Someone just to comment on -- in most often it was a trading oriented cases, three times. And I was asked to comment on, you know, my expertise on how trades were executed in the commodity space, specifically in the metal space.

J. STUFSKY

Q. I believe you said "in the metal space"?

A. Metals, yes, gold, silver, platinum.

Q. Were you ever asked to -- I will use your phrase comment on your expertise in other areas including with respect to coal companies and their operations?

A. Not specifically, no.

Q. Have you done so in a general sense?

A. I have commented to people who have asked my opinion but not in this forum.

Q. So not in the context of a deposition, in other words?

A. Correct.

Q. Aside from testifying with respect to metals trading, have you ever testified in a deposition at any other capacity?

A. No.

Q. How many times did you testify -- have you testified?

A. Three, to my recollection.

J. STUFSKY

Q. Were they in connection with ongoing litigations?

A. They were preambles to potential litigation.

Q. Can you give me an approximate timeframe of the three times you testified?

A. They were fairly sequential and they went back -- gee whiz, about 18 years. 16 years ago.

Q. So they were about 16 years ago?

A. About 16 years ago.

Q. Aside from actually testifying as an expert, have you ever given a report as an expert but not actually testify?

A. No.

Q. So is it fair to say this is the first expert report you have ever submitted?

A. It would be the first of this type. I have provided information to people who have requested it and discussed it, but again, questions in this forum, correct.

Q. My question is in this type of forum.

A. Correct.

J. STUFSKY

Q. Now, if you look, Mr. Stufsky, at your report, the very last page, which is your CV. Just let me know when you have got it.

A. Yes, I have it.

Q. Is this an up-to-date description of your background profile?

A. I believe it is.

Q. You don't mention any educational background in the CV. Can you briefly describe your educational background for me?

A. Yes, Brooklyn College undergraduate, Pace University graduate.

Q. And what was your graduate degree in?

A. MBA in finance.

Q. In the course of your studies at Brooklyn and Pace, did you ever study the coal industry or coal companies?

A. Specifically, no.

Q. Did you ever take any classes in bankruptcy?

A. No.

Q. Aside from your BA and, I guess,

J. STUFSKY

your MBA from Pace, have you had any other initial training in valuation of companies?

A. Specifically, I had a variety of institutions for which I worked, yes, training programs at Lloyds Bank and various ones even at Deutsche Bank and ongoing, other various types at BNP Paribas.

Q. So these would be internal training classes at the various companies you worked for?

A. They would be. At major financial institutions who did this regularly to ensure, you know, updatedness.

Q. Aside from the training that you received internally, did you receive any external training?

A. No.

Q. Okay. Focusing first on your current employment at KLR. Can you just describe for me briefly your duties and responsibilities at KLR?

A. Yes. Part of special practice is mining at KLR, which is a boutique investment bank focused on oil and investment and

J. STUFSKY

mining, and we provide very specifically advisory services to junior and midsized companies, principally. In my case oils and mining leading to the financing for them, raising financing. That can be public or private debt, public or private equity.

Q. Have you, in your admittedly brief tenure at KLR, had any assignments with respect to coal companies?

A. Yes. We have analyzed three particular companies, respective advisory. We have passed on two. We're actually retained by one as we speak.

Q. What were the three coal companies?

A. I can't --

MR. GOODMAN: Are you at liberty to say?

A. No, I am not.

Q. Are you able to identify the one that has actually retained you?

A. No.

Q. Can you tell us at least whether the coal companies you spoke with are among

J. STUFSKY

the comparables that are identified in your report?

A. No, they are not.

Q. Do you, at KLR, have any assignments that involve valuing companies which are in bankruptcy?

A. No.

Q. Do others at KLR have assignments involving valuing companies that are in bankruptcy?

A. I am not sure I can fully address that. We are about 35 or 38 large, but no, I don't think so.

Q. Okay. Prior to being at KLR, you spent six or seven months at JRS Financial, I take it that was --

A. That was me.

Q. Your -- a start-up company, shall I say?

A. In a manner of speaking. That was me taking a little bit of a break after ten somewhat years of bear intensity at BNP Paribas.

Q. Generally speaking, what were you

J. STUFSKY

doing in your consulting?

A. I was actually advising a few clients. Small companies with projects looking to develop them on retainer on a couple of cases for some pay.

Q. Were any of them coal companies?

A. Again, one was a coal company and one was a gold company.

Q. Was the coal company among the comparables that you have used in your report?

A. No, it was a smaller company with a fairly substantial project that it was intended to seek financing for.

Q. BNP Paribas, you had several different positions at BNP Paribas?

A. Correct.

Q. Just give me a general overview of what you did there.

A. I started -- I started there project finance practice dedicated to metals and mining upon joining. I subsequently took over their structured finance in mining. I also was responsible for client relationships

J. STUFSKY

in the junior through the mid space. I was responsible for managing the intraface between the debt component of our business and the equity component of our business, and I ultimately took over global responsibility for the entire practice.

Q. Did you have a particular area of concentration in terms of industry at your time at BNP Paribas?

A. Well, I would consider metals and mining the industry in this sector, in fact.

Q. Between metals and mining, how would you divide your time, 50/50, 60/40, if you have an estimate?

A. It is fairly variable to be frank. It is hard to say what you spend your time on precisely between chasing business, speaking to clients, executing mandates. So it is variable. I am not sure I can actually calculate that.

Q. During the time that you were at BNP Paribas, did you do enterprise valuations for companies?

A. Yeah, I worked with our corporate

J. STUFSKY

finance people, and we did it in our own, you know, practice as well, when I was just looking after various debt components of the business. And it is fairly normal, typically in leveraged finance situations to do these sorts of analyses. So they were fairly common place.

Q. What metrics did you normally use when you were valuing companies in the mining space?

A. A lot of the ones that are used here, others, you know, that were turn on equity and turn on asset and you would even look at performance-to-equity share price, price-to-equity share price; price to earnings, debt cash flow, discounted cash flow analyses. Very, very particularly important at least for ongoing concerns.

Q. Did you do any valuations during this timeframe on companies that were in bankruptcy?

A. For -- well, actually, we ended up with one in my portfolio, very specifically in metal space that went into

J. STUFSKY

bankruptcy.

Q. Once the company went into bankruptcy, did you or your group under your supervision do valuations of that company taking into account the effects of bankruptcy?

A. We did analyses and it ended up as a former prepack. So we did the analyses to make assessments about how hard creditors might wish to push and then assessments were made based on different negotiations. That was probably the advisable way to go.

Q. Did you use, for example, as one of your valuation metrics, the valuation of -- the calculation of an equity value for the company using reserves times a multiple?

A. Yeah, we would look at reserves very actively. It is a common denominator in metals and mining space. You add any metal or be that coal or iron or, anything that's extractable that has a reserve.

Q. But, I think to be more specific, did you calculate -- did you calculate an equity value for any of these companies using

J. STUFSKY

the companies reserves times a multiple?

A. We would use that as a metric, one metric. Certainly not as a decisive one, but a mild post to see how it compares to other companies.

Q. When you did that using the companies reserves and a multiple based on presumably comparable companies, did you have to make adjustments to account for differences between the comparables and whatever the company is that you were valuing?

A. No, not necessarily. Again, that's a metric. And you assess comparable companies and apply it to your company and then you move on to other metrics and you try to triangulate a value.

Q. My question was really a little bit more specific. It was, when you use that particular metric, did you make adjustments to take into account differences between the company you were valuing and the comparables?

A. Not actually understanding the question, I am sorry.

J. STUFSKY

Q. Sure. When you were doing this valuation -- well, well, let me ask you this.

Is the reserve profile of one company likely to be identical to the reserve profile of the other companies that are in your comparable group?

A. Depends. It is possible. One metal versus another metal. You know, there is a certain commonality but certainly not absolute precision. In coal, you might get a bit more commonality, you know, based on a more quarry like operation and based on originality factor. So it is variable.

Again, it is not a single -- doesn't give you the answer. It gives you an analysis for comparison sake. But it doesn't spit out the authoritative answer.

Q. At the time that you were at BNP Paribas, did you do any valuations of coal companies?

A. Yes.

Q. How many?

A. Hard to say actual valuations. We lent to a substantial number of coal

J. STUFSKY

companies in my portfolio, what I was responsible for. The last valuation we did, a few we did, in this case, I can name the name for Essar.

Q. SR?

A. E-S-S-A-R.

Q. Okay. Thank you.

A. An Indian coal company, we were a fair sized lender and a house bank to them. I ended up as a consequence with a strong relationship working on a number of assignments for them. Some that actually happened and many which did not.

Q. What valuation methods did you use when you were doing it for valuation for Essar?

A. Again, very similar ones to the ones we discussed in our analysis here, and it was noted before there is not a lot of rocket science to the metrics you apply, to be honest. You look at comparables. You look at discounted cash flow and the suite of metrics within each of those are effectively, you know, the ones you would use. The key to

J. STUFSKY

these are other assumptions that you make about future prices and discount rates and effectiveness of operation and quality of coal and so on and so forth. Often demanding significant information about a project and the company's assets.

Q. For Essar, did you have a projection to use in order to make these -- do these valuations?

A. In some cases we did.

Q. In some cases you didn't?

A. In some cases, no.

Q. Aside from Essar, are there any other coal companies that you can identify for me that you worked for?

A. Well, we worked on and lent to and did significant project company analysis on a handful of smaller companies. Again, in these cases, the primary was usually a discounted cash flow analysis and we would back stop that with some of the more equity oriented ratios. Again, discounted cash flow is very popular when you are looking to assess debt. And some of the other ones are

J. STUFSKY

a little more popular when you were looking to assess, you know, broader based companies that have sustained operations across different areas.

Q. Were any of the these smaller companies that you, coal companies that you worked for, among the comparables in your report?

A. No.

Q. Continuing to work back, Deutsche Bank, can you just describe for me generally what you did at Deutsche Bank?

A. Well, at Deutsche Bank, yes, I was bought when they purchased the company that I had previously worked for and was a board of director of. And I effectively started there, again, project finance and corporate coverage practice dedicated to mining and metals. And then I, in a similar sense, took over a broader corporate coverage responsibilities and structured finance and then I gave up my coverage responsibilities to focus solely on project construction which is finance for automatic and then I spent a

J. STUFSKY

bit of time specifically in the capital markets area.

Q. Did you do any work for coal companies in the time at Deutsche Bank?

A. I did indeed.

Q. Describe for me generally what you did in connection with your coal company clients?

A. Again, valuations working with my corporate finance team, working at potential staple debt opportunities. I had the good fortune and the for education sake of working on an interesting coal bankruptcy case. In this case, it was AEI Resources Horizon. DIP financing, exit financing provided.

Q. What sorts of work did you do for AEI Resources?

A. I worked with our DIP financing team, and as a mining and coal specialist assessed at capacity and various other metrics looking for -- to support the DIP or the exit in this case and to assess the likelihood that they would be able to raise additional monies in the equity market.

J. STUFSKY

Q. Did you perform a valuation?

A. Yes.

Q. Somewhat similar in nature to what we are talking about in your expert report?

A. Yes, yeah, I would say fairly similar.

Q. What were the similar -- how was it similar?

A. The metrics are very common again. That was probably based more heavily from recollection on more detailed projections from the company. Assessing how they were intended to operate in the future with a very sequential mine plan involving a significant amount of technical diligence done to validate those plans.

Q. Now, Sharps Pixley from which you were purchased, was it primarily a metals trader?

A. Well, we were owned by Claymore Benson, which is fairly notable -- was a fairly notable English merchant bank. At Sharps, it was a gold and silver fixing member of principal market maker in trading, and it had designs on expanding its business into the finance arena. So I came on board as somebody who had crossover experience and effectively startup a practice for them. And the reason it was sold is, well, two things happened. Capital became abundantly important in the space. Banks were really larger. This merchant decided after 200 years, as healthy as it was, it couldn't compete the way it wished to. So it sold Sharps to Deutsche Bank and sold itself to Dresdner Bank.

Q. Did you do any work for coal companies while you were at Sharps Pixley?

A. Gee whiz, looked at one. That was a more principally oriented metals practice and it really dovetailed more actively with the aging capacity on the other side of the fence. Coal didn't lend itself to that quite so much.

Q. By the way, you mentioned you worked on the AEI bankruptcy while you were at Deutsche. Do you know what year or

J. STUFSKY

approximately what year that was?

A. Goodness, I guess it was somewhere around 2000, 2001.

Q. Because AEI filed for bankruptcy twice. Do you know if it was the first filing or second filing?

A. We went into the DIP and exit at Deutsche Bank when it was AEI first time and then it went bankrupt again as Horizon, I think merely nine or ten months later.

Q. So you were involved in both?

A. I was involved only in the first.

Q. Only in the first, okay. Your CV doesn't mention any articles that you have authored in the past ten years. Have you authored any articles in the past ten years?

A. I have run a number of conferences. I have spoken at a number of conferences as a requested speaker for Society of Mining Engineers, SME and CIM up in Canada and at a host of financial conferences, you know, around the world, some along some mining, at the big event here in PDAC in Toronto a number of times on the

J. STUFSKY

request from people who run these conferences or these important societies that set the rules for our sector.

Q. Understood. But have you actually produced any articles?

A. Articles, no.

Q. Articles?

A. No. As a conscious choice, regulated by how much time I spent doing that. Wasn't always advisable to spend too much time when you were in investment banking environment trying to make money as opposed to doing academic work.

Q. Okay. When were you, perhaps I -- let me rephrase that.

When was KLR retained by the equity holders?

MR. GOODMAN: Objection.

You can go ahead and answer if you know who you were retained by.

A. I thought we were working with the workout firm.

Q. The workout firm? Who do you mean by that?

J. STUFSKY

A. Carl Marks.
Q. So were you retained by Carl Marks?
A. Retained?
Q. Yes, retained.
A. No, we had an agreement that, you know, we would work on this together. Me as a mining specialist and him as a workout specialist and, you know, for no pay.
Q. When did you make this agreement with Carl Marks?
A. Oh, boy, I guess it was probably back in October or November of 2012. It was about October. May have been later.
Q. Did you approach Carl Marks?
A. No, Carl Marks actually approached me.
Q. Who at Carl Marks approach you?
A. Chris Wu.
Q. What did he say to you?
A. Well, we were introduced by a mutual friend and we had been speaking for awhile prior, and he had been speaking to a number of potential people, with whom he

J. STUFSKY

wished to work, I suppose is my understanding. And our conversations progressed, but we had a mutual interest in coal and this situation.

Q. And when you say "this situation," do you mean the Patriot bankruptcy?

A. The Patriot bankruptcy specifically.

Q. Did Carl Marks approach you in connection with acting as an expert or acting as a consultant for the equity holders?

A. No. It was more to guide Carl Marks, you know, in their view to start.

Q. Did that change over time?

A. Yes, it actually did.

Q. How did it change?

A. We were introduced to, myself, KLR, McKool Smith.

Q. And what discussions did you have with McKool Smith about retention?

MR. GOODMAN: Objection. About what?

MS. STARR: Retention.

J. STUFSKY

MR. GOODMAN: You can answer.

A. No discussions about retention.

Q. What discussions did you have with McKool Smith?

MR. GOODMAN: Objection.

I direct you not to answer any discussions that you had with us involving this project.

THE WITNESS: Okay.

MS. STARR: Well, the fact of his retention to act as an expert in this matter isn't a privileged matter and he is an independent expert.

MR. GOODMAN: That wasn't your question. Your question was what discussions did you have with McKool Smith generally.

MS. STARR: Are you representing Mr. Stufsky as a client?

MR. GOODMAN: Under Rule 26, I have a work product privilege. He is our expert. And he is not going to divulge any of his work product and discussions with counsel involving

J. STUFSKY

work product.

MS. STARR: If Mr. Stufsky isn't going to divulge his work product in support of his expert opinion, how will he be able to testify? I disagree with your assertion of the work product privilege and I certainly disagree with the notion that Mr. Stufsky's work product is protected by the privilege. Mr. Stufsky is an independent expert, who is my understanding, you are going to put on the stand to testify in support of your motion.

MR. GOODMAN: That is correct.

MS. STARR: If he is going to do that, you can't assert a privilege with respect to his materials. He has to be able to testify about them.

MR. GOODMAN: He can testify about his report. He has his report. You have his work papers and he will testify about that.

MS. STARR: There is -- are you

J. STUFSKY

claiming there is an attorney/client relationship between McKool and Mr. Stufsky?

MR. GOODMAN: I am claiming that he is an independent expert that we have retained and his, you know, our discussions with him are privileged.

MS. STARR: I disagree with that. Let's mark the record.

MR. GOODMAN: Fine.

MS. STARR: And we will seek a clarification of that. Let's keep going.

BY MS. STARR:

Q. Let's go back to your conversations with Mr. Wu back in, I guess, beginning in September.

A. Okay. Yes, probably around, as I say, near October. Maybe we started talking a little earlier.

Q. October?

A. I can't recall the precise month. In the vicinity of the fall.

Q. Just to be clear, we are talking

J. STUFSKY

about September or October of 2012?

A. Correct.

Q. What did Mr. Wu want you to do to help him in connection with Patriot?

A. The original discussion was commenting on the coal space and, you know, very generally whether coal was dead and whether it was a viable sector and as a consequence, you know, potentially Patriot's value. That was the pretense.

Q. Did Mr. Wu offer to pay you for your time?

A. No. Expressly not.

Q. Why not?

A. Don't know.

Q. Did you ask Mr. Wu whether you would be paid for the time and expenses that you incurred in connection with providing him with information and commentary?

A. No, it was understood, I think he was interested in space and the possibility of working on this sort of assignment, and we were comparing notes at that point and it was clear, you know, it was exploratory in

J. STUFSKY

discussion.

Q. Did there come a time when Mr. Wu asked you whether you would provide him information in support of an expert Declaration?

A. Sometime thereafter. I can't remember exactly when.

Q. Do you believe it was during 2012?

A. Yeah, probably. Yes.

Q. What discussions with Mr. Wu did you have in connection with that request?

A. Very simple. Are you interested in continuing, you know, your view of coal and specifically to consider valuing Patriot? There, again, is no money involved. It might become an assignment in the future associated with equity claimant's view of value. Is that something you might be interested in doing?

Q. Did Mr. Wu tell you that if an assignment developed out of the result of this consultation, that KLR would be retained as a paid consultant or expert?

J. STUFSKY

A. Well, I think there are two questions in there. Very, very clearly, no certainty of absolute retention. No certainty that anybody would be retained and no certainty of pay.

Q. If an equity committee is formed as a result of the equity holders' motion, do you expect that KLR will be retained by the equity committee in some capacity?

MR. GOODMAN: Objection. Speculation.

MS. STARR: No, it is not speculation. Does he have an expectation?

A. I wouldn't say I have an expectation. I would imagine for work put in, if it advanced, people were satisfied with the work, that there would be an opportunity.

Q. If the equity committee holders' motion is ultimately successful and they are able to form an equity committee, would you expect to be reimbursed for all the time and effort that you have put in to this to date

J. STUFSKY

for which you haven't been compensated?

MR. GOODMAN: Objection. Calls for speculation. Calls for a legal conclusion.

MS. STARR: No. It asks him whether he expects to get paid if your motion is successful.

MR. GOODMAN: My objection stands.

Q. You can answer.

A. I am not sure that I have that answer. You know, at this point, I like the space a lot. I think it is intellectually challenging. It keeps you fresh, and I am not sure what the outcome will be.

Q. Are you in the habit of doing expert valuations with no expectation that you will ever be paid for the work?

A. As I said, I haven't done specifically expert evaluations but I have spent probably the majority of my career chasing things for no pay in our sector. Sometimes in the hope of making money and sometimes, again, because it is valuable

J. STUFSKY

insight to have as you progress elsewhere in your practice.

Q. I understand here though that you do have a hope of being retained if the equity holders are ultimately successful in their motion?

A. I would imagine that there might be an opportunity, and I will assess it at that point.

Q. And if the equity holders are ultimately unsuccessful in their motion and no equity holder is appointed, then you have no possibility of getting paid for this work; is that right?

A. None whatsoever.

Q. Aside from the opinions that you document in Stufsky 1, were you asked to offer any additional opinions in this matter?

A. I am not following you.

Q. Sure. You've offered -- you have already testified that your opinions in this matter are reflected in Stufsky 1?

A. Correct.

Q. Aside from those opinions, were

J. STUFSKY

you asked to provide opinions on additional matters in this case?

MR. GOODMAN: Objection. If it calls for discussions with counsel on other opinions.

MS. STARR: I think the first question may be just answered yes or no.

A. No, not specific to this valuation, no.

Q. Now, I believe you testified at some point you were introduced to McKool Smith?

A. Correct.

Q. Who introduced you?

A. It was an introduction made by Carl Marks. Again, Chris Wu.

Q. When did that first conversation take place?

A. Actually, no, I don't recall when the first conversation took place. It was probably in later 2012. But I actually don't recall.

Q. Who did you speak with?

J. STUFSKY

A. I think -- well, there were a group of people on the phone in the first call. I think Peter Goodman was one and I think Michael Carney was another, and I think from recollection, it may have been Hugh Ray. But I don't recall. There were a few people on the telephone at that time.

Q. Did a representative of McKool Smith ask you whether you would be willing to give an opinion on the valuation of Patriot Coal in this connection with the matter?

A. Not in the first set of conversations to my recollection, no.

Q. Did that happen eventually?

A. I don't recall when, but yes.

Q. Did that happen sometime in 2013?

A. It may have happened in late 2012 or early 2013 over the cusp. Again, frankly, I wasn't paying too much attention to the specific inflection points, if that's your question.

Q. In the course of this assignment -- let me strike that and start again.

J. STUFSKY

In the course of your conversations with Carl Marks beginning in September or October of 2012 through today, have you exchanged information with Carl Marks?

A. Yes.

Q. Have you exchanged written materials with Carl Marks?

A. Yes.

Q. What written materials have you shared with Carl Marks?

A. Ostensively been versions of this to prompt discussions about valuation mechanisms.

Q. Just so the record is clear, when you say "versions of this," you mean versions of Stufsky 1?

A. Stufsky 1 as you call it, correct.

Q. In addition to versions of your expert report, did you share any other written materials or any other backup materials with Carl Wu -- Carl Marks -- Chris Wu at Carl Marks? Let's try again.

J. STUFSKY

A. No, we discussed a significant amount of what went into it and why.

Q. But did you actually provide Mr. Wu with the backup materials to your report?

A. It wasn't just Mr. Wu. Sorry, can I ask my colleague?

I don't recall if he passed, you know, underlying work product to them. I don't believe we did. Significant discussions about it.

Q. Did you have discussions with Carl Marks regarding the likelihood that the equity holders of Patriot would get a recovery at the end of the bankruptcy?

MR. GOODMAN: Objection.

I direct the witness not to answer the question because of attorney/client privilege.

MS. STARR: Attorney/client privilege between Carl Marks and KLR?

MR. GOODMAN: Two experts that we have retained.

MS. STARR: There is no

J. STUFSKY

privilege between the two experts who are supposedly operating.

MR. GOODMAN: They just told you, he testified they were working jointly. I have retained them both and they are working under my direction.

MS. STARR: Well, again, I object. There is no privilege with respect to an independent expert.

MR. GOODMAN: Okay.

MS. STARR: He is not a client. He is not your -- he is not representing --

MR. GOODMAN: I understand your position, counsel.

Q. Did you rely on any information provided to you by Carl Marks in connection with reaching Stufsky 1?

A. No.

Q. So the information you rely upon is information generated by KLR or your own expertise?

A. My expertise are expertise, you

J. STUFSKY

know, from the market.

Q. Okay. Have you ever been involved in a situation where your valuation analysis, whether at KLR or Deutsche or BMP was the basis of an opinion by another investment bank about valuation?

A. Yes.

Q. Describe that situation for me.

A. Well, on a couple of transactions where we were teaming up with other institutions, you know, whether it was involving an M&A transaction or a staple debt transaction, we would compare valuations and debt capacities and, you know, potential equity raising capabilities.

Q. In those situations, did you do your own work in addition to looking at the work of the other investment bank?

A. Well, we were always -- we always have to do our own work.

Q. Okay.

A. Because when you work for an institution, you either do your own work or you perish.

J. STUFSKY

Q. Fair enough. Did -- have you ever seen or have you seen a letter with exhibits prepared by an individual named Mr. Foight from Ross Companies?

A. Mr. Foight, no, doesn't ring a bell.

MS. STARR: Let me just mark Stufsky 2.

(Whereupon, Stufsky Exhibit 2, Letter From Mr. Foight on the Letterhead of Ross Companies Dated February 26, 2013 was marked for identification as of this date by the Reporter.)

(Whereupon, a recess was held.)

CONTINUED EXAMINATION BY
MS. STARR:

Q. Mr. Stufsky, if you would take a brief look at Stufsky number two. For identification this is a letter from Mr. Foight on the letterhead of Ross Companies dated February 26, 2013, addressed to a Michael Carney. My question for you is just have you ever seen this letter and the

J. STUFSKY

accompanying exhibits before?

A. No.

Q. Then you can just put that to the side.

Let me mark as Stufsky 3.

(Whereupon, Stufsky Exhibit 3, Declaration of Christopher K Wu Dated February 27, 2013 was marked for identification as of this date by the Reporter.)

Q. Mr. Stufsky, if you would take a moment to look at Stufsky 3, which for the record, is the Declaration of Christopher K Wu dated February 27, 2013, with an attached CV, and if you can just let me know if you have seen this document before?

A. No.

Q. Okay. You can put that to the side as well.

Did you record the time you spent on this engagement?

A. No.

Q. Did you have any of your -- did any of your colleagues at KLR who worked with

J. STUFSKY

you on this engagement record their time?
A. No. We don't bill by the hour, so we don't record in that way.
Q. How do you bill typically for assignments of this nature?
A. Bill. We don't bill.
Q. Then let me try again. How are you compensated, typically, for assignments of this nature?
MR. GOODMAN: Objection to form.
Q. You can answer.
A. On an engagement letter on occasion with work fees. On occasion on a pure success fee. Sometimes on a hybrid.
Q. Do you have a written engagement letter for this assignment?
A. No. I think we do have something with Carl Marks.
Q. We have not seen the engagement letter with Carl Marks. We ask that that be produced promptly. Do you have an engagement letter with McKool Smith?
A. No.
Q. Do you have an engagement letter

J. STUFSKY

with anybody else with respect to this assignment?

A. No. As I understand it, no.

Q. Okay. What did you do to prepare for your deposition today?

A. Thought about the analysis and asked some questions about process to McKool Smith.

Q. Did you meet with McKool Smith?

A. Yes, we had a meeting and a discussion.

Q. When did that take place?

A. A couple of days ago.

Q. How long ago --

A. Yesterday.

Q. Sorry?

A. We actually had two conversations. Probably lasted, I don't know, an hour, an hour and a half. Half an hour on one day and an then an hour, hour and a half on another.

Q. Were these in-person meetings or on the telephone?

A. These were in-person meetings.

J. STUFSKY

Q. Did they take place here?
A. In our office once and here, yesterday, in fact.
Q. Did -- who attended, obviously aside from you?
A. Myself and in this case, it was Evan and once it was Michael Carney and the other occasions it was both Peter and Michael.
Q. Just so the record is clear, Evan is one of your colleagues at KLR?
A. Yes. That's correct.
Q. Did counsel for McKool Smith show you any documents in the course of these meetings?
A. No.
Q. Did they describe to you any other expert reports submitted in this matter?
A. No.
MS. STARR: Let me mark as Stufsky 4.
(Whereupon, Stufsky Exhibit 4, E-mail From Michael Carney to

J. STUFSKY

Christopher Lynch and Amelia Starr and Others Dated March 7, 2013 was marked for identification as of this date by the Reporter.)

Q. Mr. Stufsky, for the record, this is Stufsky 4 is an E-mail from Michael Carney to Christopher Lynch and Amelia Starr and others dated March 7, 2013. This was received from McKool Smith representing that these are the documents and other materials that you relied upon in formulating the KLR report.

Can you please take a look at Stufsky 4 and let me know whether you indeed relied on the items that are listed in this E-mail?

A. They look about right.

Q. Based upon your review of this E-mail, are there any other materials, either written or electronic, that KLR relied upon in formulating your expert report?

A. I would say particularly in light of my particular knowledge I get a lot of information. I receive a lot of information about mining metals and coal. So I know I have come into contact with a significant amount of information, yes.

Q. Did you rely upon that information when you formulated your expert report?

A. What do you mean by "rely on"?

Q. I am trying to make a distinction between your general industry knowledge that you have accumulated over a lifetime and those particular materials that you relied upon in putting together your expert report.

A. I wouldn't say I relied on other information. Although, it is quite significant. Definitely served to guide me about whether I believe this was a realistic approach and whether the benchmarks were reflecting what I might anticipate reflecting, you know, for a coal company in today's environment.

Q. The list that was provided to us by your counsel doesn't include any, you know, research analyst reports on either particular coal companies or the coal

J. STUFSKY

industry in general. Did you consult any materials of that nature in connection with the formulating of this report?

MR. GOODMAN: Objection to form.

You can answer.

A. As I said, I read an awful lot, obviously to be current. Whether I believe what I am reading doesn't matter, it is important to read. So yes, I have seen reports by certain analysts. Some colleagues of mine have availability to it. Others that I pick up in the general course.

Q. What analysts reports did you read?

A. Well, most recent one was a JPMorgan set of analyst reports.

Q. Were these analyst reports about a particular company or about the coal industry more generally?

A. It was probably a hybrid of both. Different reports, sector generic companies. Generic company analysis.

Q. Oh, generic company analysis?

A. Yes.

J. STUFSKY

Q. Do you remember any specific company analyses that you read?
A. No, not specifically.
Q. Do you remember reading any analyst reports about Patriot?
A. No, there is not very much written about Patriot.
Q. Now that they are in bankruptcy?
A. Correct. There wasn't all that much written prior.
Q. Did you read their analyst or research reports forecasting coal prices?
A. Again, I read an awful lot and I have seen Credit Suisse reports and other investment bank reports, and I actively follow the space by reading a lot of other public information, government EIA, which does a tremendous amount of work in the energy space, and, yes, you know, a lot of these groups or organizations, you know, forecast coal prices.
Q. You mentioned -- you have mentioned previously JPMorgan and you just mentioned Credit Suisse.

J. STUFSKY

A. Right.

Q. Any other authors of these reports that you recall?

A. There might be. I mean, we have an energy practice and there is a lot of information, that, you know, occasionally passes through. People share, you know -- not particularly notable but JP and Credit Suisse are very active in the space and reasonably well followed. So it is often a good read.

Q. So there might be others but you just can't recall specific names?

A. Correct.

Q. Did you look at any research reports forecasting natural gas prices?

A. Yes.

Q. In connection with this assignment?

A. Again, it is not so much in connection with this assignment. This is a very natural way of conducting one's business. So as I said, I am a fairly avid reader across a variety of metals, including

coal, just to see what the pulse of the market is suggesting. And that would include gas because of its potential effect on coal.
Q. Okay. If you look back at Stufsky 1, your report. Look at page 11 and this is page 11 of your report, not the supplement. It is the page that begins "summary and conclusions."
A. Um-hum. Yes. I see it.
Q. Is this an accurate summary of the opinions you have reached based on your -- based on the work in your report?
A. I would hope it is.
Q. Is it accurate to say that the opinions that you express in this report concern either the equity value or the enterprise value of Patriot?
A. Correct.
Q. Do you express any opinion in this report about the likelihood of a recovery by the equity holders in connection with the chapter -- the Patriot Chapter 11 proceeding?
A. No. Different purpose.

J. STUFSKY

Q. Do you have an opinion on that subject?

A. Do I have an opinion, I haven't actually formulated my own personal authoritative opinion.

Q. Okay.

A. I haven't seen enough information just yet to do that.

Q. If you look at the next page, page 12. This is the one that's entitled Note to Analysis.

A. Correct.

Q. If you look at the second paragraph, second sentence -- actually, first sentence, second line beginning "it is our understanding." Do you see --

A. The second paragraph, how many lines down?

Q. The second line down.

A. Oh, I see, yes, "It is our understanding that Judge Chapman," correct.

Q. Right. If you will read the rest of that paragraph to yourself for a moment and then I am going to ask you a question

J. STUFSKY

about it.

A. Yes.

Q. Okay. Is it correct that this paragraph states that, at least your understanding, that Judge Chapman ruled that estimation of the claimed pool in the impact of the assumption and rejection of certain executory contracts would not be considered as part of the determination as to whether to appoint an equity committee?

A. That's my understanding.

Q. Where did you get that understanding?

A. I understood that in two ways. I think I heard that from -- three ways probably. Carl Marks, McKool Smith, and there is a variety of public information about the Court's were anticipated they would accept or not as it related to change of venue as well. But principally, Carl Marks and McKool Smith.

Q. Did they show you something in writing or was this a verbal communication?

A. It was oral representations.

J. STUFSKY

Q. You said you saw something also in the public record. What is it that you saw in the public record that stated that Judge Chapman ruled that estimations of the claims pool and the impact --

A. Not specific to that. Different. Scratch that.

Q. So you did not see that in the public record?

A. Correct. Correct.

Q. So then you just heard it verbally --

A. Oral representation from Carl Marks and McKool Smith.

Q. We need to get out of the habit of interrupting each other, Mr. Stufsky, and I am just as guilty as you. So let's try to remember that. I will let you finish.

A. Sorry. I didn't realize I was. Apologies.

Q. Did you consider the impact of the claims pool in this matter in doing your -- doing the valuation in Stufsky 1?

A. No. No.

J. STUFSKY

Q. And did you consider the impact of the assumption or rejection of these executory contracts in connection with doing the analysis in Stufsky 1?

A. No, I did not.

Q. Generally speaking, when you do valuations, do you consider the claims against the company as part of your valuation analysis?

A. I think they are very, very important, but it is very hard to value a company in the abstract until you know outcomes. So my analysis was above that line, so to speak, to determine whether this was a potentially viable coal operating company that could generate potential value.

Q. Well, I guess my question is, in your assignments to do valuation for companies, which you have done many, many over the course of the years, do you consider the valuation -- the value of claims against the company in trying to reach an accurate equity value?

A. I think, again, claims are

J. STUFSKY

important to assess. But in the abstract and until determinations are made, very, very challenging. So this analysis was intended to assess this coal company as a coal operating oriented company with values it might have related thereto.

Q. So is it fair to say that if you wanted to reach an exiting value for Patriot, it would be important to assess the claims pool in doing an equity valuation?

A. In some cases, it would be. In others, not. It depends on what might be on the balance sheet and off the balance sheet and what might be an actual cash out cost today, what might be an actuarial charge tomorrow. So I can't actually answer that question as precisely as you may be attempting to ask it.

Q. I am not asking -- sort of in theory, I am actually asking for Patriot. Is it important in order to determine an equity value for Patriot, which obviously has a bearing as to whether the equity holders will ever receive a recovery at the end of

J. STUFSKY

the day?

A. Correct.

Q. After the application of the absolute priority rule, is it important to consider the claims pool?

MR. GOODMAN: Objection to form.

A. At some point when the abstraction turns into concrete information, want to make sure what the impact is going to be on balance sheet and on perspective cash flow and on operational efficiencies, I would think, yes, it is -- it becomes important to do so.

Q. Are there some significant potential claims out there against Patriot or let's call it categories of claims, that are yet to be finalized that you would think would be important to consider in the course of reaching a final equity value?

A. I think there are quite a few that are important. Pension, various legacy liabilities, for one, are potentially tolerable in the context of an operating company or absolutely considered possibly to

J. STUFSKY

dwarf the ability of a company to actually generate cash revenues, cash flow and revenue.

Q. And have you considered, at least in connection with Stufsky 1, the impact of the potential pension, and I will call them the PMO type liabilities?

MR. GOODMAN: Objection. Asked and answered.

A. Again, as I noted, I think it is an abstraction with an extraordinarily wide range of perspective outcomes and potential treatments after a dollar outcome might actually be determined.

Q. Have you also considered the impact of other major categories of liabilities, for example, the ARO liabilities?

A. Any and all of these particular liabilities at this point were not necessarily part of the analysis that I undertook by agreement and purposely based on what I noted before. Formal determinations need to be made individually and in context

J. STUFSKY

before one can turn this potential abstraction into something that is concrete by amount and concrete to some degree by annual impact on a company's cash flow making capabilities.

Q. Are ARO liabilities generally dischargeable in the bankruptcy context?

A. I am not entirely a bankrupt expert, as I noted before. So I am going to avoid answering that.

Q. Is the answer you don't know?

A. I don't know.

Q. Are all of the PMO liabilities necessarily dischargeable in bankruptcy?

A. Again, I wouldn't comment to the history of outcomes in these types of agreements, contracts or liabilities.

Q. My question is little more specific. The question is with inspect to PMO liabilities, are they necessarily dischargeable in bankruptcy?

A. I am not --

MR. GOODMAN: Objection. Calls for a legal conclusion.

J. STUFSKY

Q. Sorry, did you say you don't know?

A. I said it is not my field of expertise, so I would not know the answer to that. I am not sure anybody does.

Q. By the way, have -- are you aware that Patriot has a claims registry in this matter?

A. I am.

Q. Have the -- you reviewed the claims registry?

A. I have seen it. I do -- have not paid much attention to it for the reasons discussed. The agreement here was to look at the viability of the coal company as an operating enterprise.

MS. STARR: This is Stufsky 5.

(Whereupon, Stufsky Exhibit 5, Printout From the GCG Website was marked for identification as of this date by the Reporter.)

Q. Stufsky 5 for identification is a printout from the GCG website made this morning --

J. STUFSKY

A. Okay.

Q. -- by Davis Polk showing details of the claims pool as it currently exists.

If you look in the -- sorry, this was printed out for the 11, my apologies. This is as of Tuesday. Monday. Anyway, from this week, let's just say that.

A. Okay.

Q. If you look in the column entitled Cumulative Statistics For Project. Do you see that?

A. No. Where would I find that, please?

Q. If you look on the horizontal axis, the first column says Cumulative Statistics.

A. Sorry, I see.

Q. Okay. And then you go down a couple of lines, you will see a section called Claim Details and it lists the amount of various claims that have been asserted and included in the claims pool as of March 11th.

A. Yes, I see that.

Q. And you see that it is

J. STUFSKY

approximately 30-plus billion dollars?
A. I do. Is that the 25.9 number that you are discussing?
Q. Yes. Well, I think there is sort of a group of claims. You have got the priority claims, you see those about 4.4 billion?
A. Yes, apologies.
Q. So if we --
A. You are totalling these together.
Q. Approximately 30 billion, give or take.
A. Yes.
Q. If you incorporate the impact of the claims, at least the claims as asserted right now against Patriot, does that wipe out any equity value for the equity holders even under your analysis?
MR. GOODMAN: Objection. Objection to form. Calls for a legal conclusion. And calls for speculation.
MS. STARR: No, it calls for a math opinion.

J. STUFSKY

MR. GOODMAN: Same objection.

Q. It is currently equity -- current equity value as listed on page 10, the report minus $30 billion?

MR. GOODMAN: Same objection.

Q. You can answer.

A. I think it apples to oranges at this point as I largely expressed before.

Q. Do you have a view as to how much of these $30 billion worth of claims are ultimately going to be approved and paid out of the Patriot estate?

MR. GOODMAN: Same objection.

A. No, I don't. I wish somebody would tell me.

Q. So you have done no analysis to determine what the claims pool eventually will be?

A. I believe others are looking at that and in my experience it can have, again, a wide range of possible outcomes and even wider range of respective impact on an annual and subsequent basis.

Q. In your experience, is it going

J. STUFSKY

to be zero?

MR. GOODMAN: Same objection.

A. Again, in my experience, I have seen cases have wide ranges of outcomes and I wouldn't know the precise answer to that.

Q. Is it your view -- it certainly is the view of this, the equity value report that you prepared that you are assigning a value for the claims pool of zero because you're not accounting for any of these claims; is that right?

A. At this point, as I noted previously, I have worked above the line for reasons expressed. I don't know how to assess that on any reasonable basis as a single point number, as a risk weighted potential outcome. I am also not privy to these discussions, so I wouldn't be able to articulate how well they are going at this point.

Q. By the way, you said others are considering what the actual value of the claims pool is. Who did you mean by that?

A. I think Carl Marks may be, you

J. STUFSKY

know, considering it, but I think they haven't reached any conclusions either.

Q. Have they told you what the results of those considerations are?

A. No, they have not.

Q. In connection with looking at the operating value of the company, which is, I think how you described what your equity analysis is?

A. Correct.

Q. Can an operating company operate without incurring and paying expenses related to ARO?

MR. GOODMAN: Same objection.

A. Again, I can't express it differently at this point. I don't know what the impact will be as a total number and I don't know what the impact will be on an annual basis, and I, therefore, don't know for how long, on what actuarial basis they might be paying. So at this juncture, I could not hope to make that sort of assessment.

Q. What about obligations? Again,

J. STUFSKY

on an operating basis, can a company operate without making payments both in terms of its retirees and its current employees in order to function?

MR. GOODMAN: Same objection.

A. I don't know what the Courts in this case are going to decide or what will be negotiated. So I honestly don't know how to address, you know, and answer with specificity for outcome. Don't know.

Q. If you were doing a valuation of a coal company outside of bankruptcy, so we in an ordinary core situation, would you consider the company's ARO liabilities as part of your valuation?

MR. GOODMAN: Same objection.

A. I will answer it specifically. I would consider anything that had a history and certainty, certainty emphasis of impact on annual results and therefore, liquidity and ultimately on the equity value of a company in this sort of analysis we undertook.

So the short answer, again, is I

J. STUFSKY

honestly don't know what these numbers will amount to and therefore, mean at this point. So I have looked above the line, not below the line.

Q. And, again, in terms of valuing the company that's not in bankruptcy, so we don't have this, the bankruptcy overlaying the question of dischargeability to consider, do you consider the company's PMO cost in calculating its equity value?

MR. GOODMAN: Same objection.

A. Out of bankruptcy the same as in bankruptcy, one will look at the potential impact, as I described, and hopefully, out of bankruptcy, have a degree of certainty or reasonable confidence. So the answer is, we probably would analyze it as an ongoing concern. More holistically at this point than in bankruptcy because I really don't know how to assess that sort of potential outcome.

Q. In that situation, if you have a liability that you know exists, like an ARO liability or a PMO liability, although you

J. STUFSKY

are perhaps uncertain about the amount, how do you take into account the likelihood there will be a liability but the uncertainty?

MR. GOODMAN: Objection to form.

A. Again, as I noted, when you have an ongoing concern normalized, you have a bit of a history and a bit of a greater ability to assess future likelihoods and the view possibly that they won't all be drawn to spot markets so to speak, and in this case, there is no reasonable way of doing that.

Q. So you are saying, for example, out of -- if you were outside the bankruptcy context, you might look at the company's history of ARO liabilities to help you analyze what the ARO liability should be?

A. I would look at many scenarios and different types of liabilities to see if any one of them might buy enough to be brought to a spot.

Again, so to speak.

Q. Did you look at Patriot's history of ARO liabilities here?

A. Again, as a bankrupt -- as a

J. STUFSKY

company in bankruptcy at this point, we've deferred that analysis to Carl Marks specifically and to McKool Smith, unknown outcomes, and we have assessed the company as a potential ongoing coal operating company.

Q. But I believe you said you haven't gotten the result of any such analysis?

A. As I noted, no.

Q. If you had or were supplied with the relevant ARO and PMO liabilities, would you include those in your analysis?

MR. GOODMAN: Objection to form.
Calls for speculation.

A. Again, we would take into account all liabilities and their potential impact on an annual and ongoing cumulative basis and assess whether those liabilities were payable annually and over time, whether they had a reasonable potential outcome to be drawn to spot.

Q. So you would have to consider those liabilities in reaching an equity valuation?

J. STUFSKY

A. We always have to consider everything when you do a valuation analysis for equity or for debt capacity.

Q. In general, for coal companies, in particularly, the comparables that you focused on in your report, are ARO liabilities a significant liability for those companies?

A. When you look at valuations of the coal companies, they are sort of theoretically imbedded with a variety of other expenses and liabilities in various analyses. So it is hard to basically tell you precisely that answer.

Q. What about PMO liabilities?

A. I don't think I can answer the questions any differently than I have, to be frank with you. So I have to apologize, but you are asking, I think the same question in a variety of different ways. And at this point, I can't address it differently than I have.

Q. I am asking are PMO liabilities a significant liability for the comparables

J. STUFSKY

that you have looked at, so not for trader companies but companies you focused on your for your --

A. All my liabilities are factored in and you think you have a sense of what they are annually and ongoing impact is. At this point I cannot make that sort of an assessment for Patriot.

Q. So --

A. I am not sure anybody can.

Q. So for the comparables, they factor in, whatever way they do, their PMO liabilities and their ARO liabilities; is that correct?

MR. GOODMAN: Objection to form.

A. All liabilities, again, will be attempting to be taken into account for their impact in two ways. On what sort of annual cash flow impact they will have for liquidity and related valuation analyses and for long-term potential impact, if they are ever brought to spot and, again, on different types of analysis.

Q. But for Patriot, unlike for the

J. STUFSKY

comparables, you haven't attempted to take into account ARO liabilities or PMO liabilities at this time?

A. As previously noted, no.

Q. Okay. Just to circle back for a second to AEI, which we talked about briefly.

A. Correct.

Q. Prior to the break. Do you recall what happened to AEI in its second bankruptcy?

A. No, not specifically.

Q. Did AEI reorganize successfully?

A. I think -- you know what, I don't recall exactly what it did. It did reorganize. I don't know what successfully means.

Q. Did AEI -- or I think it was -- by the time the second bankruptcy referred to as Horizon, go into liquidation?

A. It had issues related to it. And, again, I dismissed paying attention to it for a variety of different reasons. So I am not an expert on Horizon, the whys and wheres for Horizon, posted their second

J. STUFSKY

filing.

Q. So you don't know whether they went into liquidation or not?

A. I don't recall.

Q. So I take it you don't know what the treatment of PMO and IRO liabilities were for Horizon in the second bankruptcy?

A. Specifically to Horizon, no.

Q. Yes.

A. No, I had quite a bit with AEI preHorizon and I chose not to pay attention. I no longer had a vested interest in the outcome.

Q. Why is that? You said you chose no longer to pay attention because you didn't have a vested interest?

A. Right. I worked on it because I was part of Deutsche Bank and part of the team that wished to do, and I was aligning specialist and expert and I worked hand in glove with our DIP team. And I had, to be frank, reservations about that particular entity and they bore out and after that, I had no particular interest so I stopped looking.

Q. What were your reservations about that entity?

A. A number that played out. I thought they had extraordinarily weak management bordering on something worse and it turned out to be the case and a variety of operational issues related to that extra ordinarily poor management, which bore out, and I therefore had grave reservations about whether this company can manage its affairs even before getting to a more detailed analysis and that bore out. So my recommendation was different than others chose to take.

Q. I believe you stated earlier that you have not formulated at this time an opinion as to the likelihood of a payout for the equity holders --

A. Correct.

MR. GOODMAN: Objection to form.

Q. -- in this matter?

What information would you need in order to be able to formulate such an

J. STUFSKY

opinion?

A. Information to formulate a more precise view. Again, let me paraphrase. This was intended to discuss the prospect or potential based on market knowledge and Patriot specific information in the public domain. What we would need is more intimate information about the company to make a firmer assessment that might take it more from a prospect to belief.

Q. What types of information would that be?

A. Standard for mining companies, a better understanding -- well, I will roll that back. You wish to understand what we were discussing before about the different long-term and related liabilities. We wish to understand outcomes of efficiency oriented changes that the company will probably take the time to make in bankruptcy and that might be contractual affairs and workers, unions, equipment, where they mine, what equipment they use or stopped using, whether they moved to a different mining area or not, what their

J. STUFSKY

mine plan looks like from a geological to an actual mine plan basis. So there are more factors, frankly, in the mining perspective than we probably have time to discuss.

But it would be very, very granular and it would be, you know, any number of ratios applied to market standards would be very specific information applied to this particular company.

Q. Okay. Now, I know that you excluded the consideration of the claims pool because you were instructed to do so.

MR. GOODMAN: Objection to form.

Q. Based on the -- your understanding of Judge Chapman's ruling?

A. Wasn't so much instructed as it is not feasible to do so at this point, and Carl Marks, in any event, was taking greater attention to it, at least tracking it. Again, ours was a different agreement.

Q. So if it were -- if it were the case that no such ruling was made by Judge Chapman, and we won't debate the accuracy of the representation now, but just

J. STUFSKY

assume for the purposes of this question that there was no ruling from Judge Chapman, would you take those elements into account in your valuation?

A. Again, I think that's highly hypothetical. I don't know what the outcome is or not. If somebody were to tell me to answer you bluntly, that the face value is the ongoing liability, you would have to take a very heavy assessment and then I would ask clearly what the annual impact would be, you know, on this potentially ongoing concern. And why, to just close the loop from a mining perspective, because if a company might have the ability to operate for 50, 60 or 70 years based on its accomplished resources and reserves that also has to be taken into account. So it is a very three dimensional sort of analysis that ultimately gets undertaken in this case.

Q. And while at this point it is your view that the liabilities are too uncertain to assign a number to, is it fair to say that once those liabilities are

J. STUFSKY

established, that they are going to decrease whatever equity value you calculate here?

MR. GOODMAN: Objection to form.

A. I think to answer your question generically, it probably could. To answer it more specifically, it matters to what degree and what degree of frequency on an annual basis. So I can't really answer your question on a quantitative basis at this point. I think the quantitative basis is the essence of a sort of ultimate range of value.

Q. Well, let me ask a more specific question. If the Court were ultimately to grant Patriot relief on its labor obligations and in return grant the union a claim against the estate, would the value of that claim granted by the Court reduce the equity value --

MR. GOODMAN: Objection.

Q. -- of the company?

MR. GOODMAN: Objection to foundation and form. Calls for speculation.

A. I honestly don't know how to

J. STUFSKY

answer that question for the reasons previously articulated.

Q. If the Court grants labor, to pick a number out of the air, $500 million claim against the estate, you don't think -- you don't know whether that would decrease the equity value of the company?

MR. GOODMAN: Same objection.

A. Equity value impact, again, is based on one's perception of the amount of the claim and when that -- and for how long it takes to pay that claim out or how long the company might have to pay that claim out.

And there is a third element. The uncertainty about whether that claim is going to be contested or not that creates enough uncertainty for me not to wish to attribute full equity value. So again, there are three dimensions to it, frankly, that I can't answer in a hypothetical way.

Q. Well, if in my hypothetical, admittedly, there is a final claim that's been granted and approved by the Court. So we are not talking about, there's no

J. STUFSKY

uncertainty about amount?

A. You said payable to date?

Q. So you would consider that to bear on the -- how you would analyze this impact on equity value?

A. I think any creditor, potential creditor, investor, investor analyst would contemplate all of that.

Q. Do you adjust for the time of various payables, various liability, sorry, that you list in your equity value chart?

A. Which ones in particular?

Q. I am looking at, this is page 10, it is the one that is entitled Equity Value. This is sort of -- you see the summary chart?

A. Yes. We took a very simplified view of ones that, you know, to be blunt, may or may not change here as well. So we left behind, you know, the very, very big legacy and related pension associated liabilities and we took, you know, very basic debt and maybe precariously trade payables and the like that may also be modified, you know, in this process.

J. STUFSKY

Q. If you will look -- by the way, did you adjust for the timing of the liabilities in the comps?

A. It depends on the analysis. Here, it is just a static number that you are subtracting.

Q. No, I understood. I meant in the comparables that you are using in Stufsky 1, did you adjust for the timing of their PMO and ARO liabilities?

A. No, we did not. Ongoing concerns, basic metrics, standard set of assumptions.

Q. Okay. If you can turn to page 7 of Stufsky 1. It is entitled Patriot Valuation - Coal Reserves. Describe for me, generally, what the valuation approach is that you took here on page 7 in connection with coal reserves?

A. Mining companies are built first on reserves and resources and one assesses, to a degree, you know, their value, their longevity. Assumptions about potential value sort of imbedded in the analysis like this.

J. STUFSKY

So you look at reserves and you look at comparable companies and you see how comparable companies are being valued based on their reserve profile, which is what we did. And we distinctly looked at companies large and small, you know, surrounding to a degree Patriot, and we tried, in reason, to assess their, you know, regional impact. What we did in all cases with our pool of eight companies was take the lowest half of the metrics in each particular case that we applied as a matter of conservatism.

Some people also used EV or reserves as a sort of theoretical EV to sales, they're fairly comparable reserves or immediately turned into some pop line revenue number. So fairly similar but not precisely.

In any event, mining companies and reserves go together and it is one metric that's imported as such.

Q. Have you used this approach in prior valuations of coal companies?

A. I have, yes, I have.

Q. How many times?

J. STUFSKY

A. I don't know.

Q. More than once?

A. Probably.

Q. More than five times?

A. I would assume over the course of 33 years and looking at hundreds of opportunities, yes.

Q. On page 7, it indicates that Patriot as of December 31, 2011, had 1.9 billion tons of proven and probable reserves. Did -- in connection with your work, did you review the level of reserves that Patriot over the historical period, the last three years, I think --

A. I believe we have taken a look at it and it's been fairly consistent, sort of, as you would expect, lump of reserves they have carried on the books. When you are producing 25 to 30 million ounces and you start with 1.8 billion something, you wouldn't expect to see material changes, unless, of course, you know, the company felt obligated to write those reserves or resources off as uneconomic.

J. STUFSKY

Q. Did -- do you know what Patriot's proven and probable reserves are for December 31st -- through December 31, 2012?

A. I believe they are right around that effective number.

Q. Did you review the Patriot 10-K in connection with your work on this report?

A. Yes, we did.

Q. When I say -- let me be more specific. Did you review the Patriot 10-K for the year ending December 31, 2012?

A. Yes, I read it fairly thoroughly.

MS. STARR: Let's mark as Stufsky 6 Patriot's 10-K for the year ending December 31, 2012.

(Whereupon, Stufsky Exhibit 6, Patriot's 10-K For the Year Ending December 31, 2012 was marked for identification as of this date by the Reporter.)

Q. Mr. Stufsky, I am not going to, obviously, ask you to read this whole document.

A. Thank you.

J. STUFSKY

Q. Just to confirm, this is copy of the Patriot 10-K for 2012?

A. It looks like it.

Q. And you reviewed either a hard copy or electronic version of this document in the course of preparing your report?

A. Electronically.

Q. I am going to ask you to look at page 50. Unfortunately, this document is not Bates stamped, if you will see, there is a page number at the bottom right above the black line.

A. Geographic region, yes.

Q. You will see there is a little chart?

A. 1.844 billion at the end.

Q. That is indeed the chart I was looking at. Does this refresh your recollection that Patriot's proven and probable coal reserves as of December 31, 2012, was approximately $1.84 billion?

A. I think it does.

Q. Okay. In your review of Patriot's coal reserves, have you -- has

J. STUFSKY

Patriot ever reported reserve levels of 2 million -- sorry, 2 billion tons?

A. I believe in past they did and what we we're doing here wasn't to suggest that Patriot will or won't have 2 billion or 1.9 or 1.8. What we were basically doing was just surrounding their approximate position, with regard, for the sake of analysis and to see how it looks. They might indeed end up with 2 billion or more or they might indeed end up with significantly less depending on outcomes of the bankruptcy case.

Q. Do you recall the, I won't call it testimony, but the interview with Mr. Day?

A. I do.

Q. And you attended that interview, didn't you?

A. Correct.

Q. Mr. Day stated during that interview that Patriot's coal reserves have remained reasonably constant over an extended period of time. Do you recall that?

A. I do. I think I do.

Q. Is there any reason to believe,

J. STUFSKY

based on either Patriot's historical coal reserves or Mr. Day's testimony, to think that there will -- there is likely to be in the near future 2 billion metric tons of coal available in terms of proven and probable reserves?

A. Well, I have, you know, every belief that it can be higher or lower, absolutely.

Q. What's the basis of your belief it is going to be higher?

A. I didn't say it would be. You asked if it could be. I believe it could be. It could be higher. It could be lower.

Q. What is the basis of your belief that it could be higher?

A. Mining companies, extractive companies including coal companies are constantly or regularly drilling and that's exploration and it's definition drilling to upgrade the classification of their resource, and along the way, they make determinations that might increase or decrease the gross amount on top of other exploration, which the

J. STUFSKY

company might undertake in the future, which I am assuming to date they are not for liquidity reasons.

Q. So at least at present, based on the information from Mr. Day and the obvious liquidity challenges that bankruptcy posts, there is not a likelihood, at least in the near term, they are going to increase their proven or probable coal reserves to the level of 2 million -- 2 billion tons?

A. Again, they may or they may not, depending on how much definition drilling they do. When they go to mine year over year, companies often add drilling ahead of their actual extraction program and sometimes that changes the profile and sometimes it does not. To really answer your question, I imagine that they are not going to be investing much money or paying a lot of attention to adding rather than seeing how efficiently they can operate with what they have. But the purpose of this, again, was merely to surround potential outcomes rather than to serve as a projection of likelihood.

J. STUFSKY

Q. Now, in connection with this first valuation, which you took in your report, what was the source of the data that you used to calculate the EV to reserve multiple from the comparables?

A. Information regarding the comparable companies themselves.

Q. Where did you obtain that information?

A. It was obtained from reports, public reports, filings of those companies.

Q. When you say "public reports," I assume you mean 10-Ks?

A. Qs, correct.

Q. So you extracted data from those public reports and then calculated this EV reserve number, is that how you did it?

A. Correct.

Q. Did you use any online services, data service to help you gather the underlying information for this EV reserve calculation?

A. I believe we used Capital IQ, possibly a couple of other services,

J. STUFSKY

Bloomberg and so forth to sort of compare and contrast information.

Q. What is Capital IQ?

A. Capital IQ is a service that a simulates all filings about virtually all public companies. It serves on occasion, depending on the screening you use, to allow you to break down the company's reporting into different segmentation so that makes your analysis a bit easier.

Q. So did you pull some of the numbers that you needed for the purposes of this calculation from the Capital IQ database?

A. I think Capital IQ is a principal source, but, again, you know, any source you use is just a warehouse, assimilating information that the companies themselves publish, so it is not as if somebody has made these numbers up because they thought they were different from that which the company itself was reporting.

Q. So you mostly pulled them from Cap IQ, which was then accumulating in --

J. STUFSKY

information from the Ks and Qs?
A. It is a number of information warehouses where filings are summarized -- are collected.
Q. So when you were pulling numbers from Cap IQ, did you then check the source documents to make sure that Cap IQ got it right, for lack of a better word?
A. These are public filings. So I am assuming that Ks and Qs and press releases are simply accurate because that's all they did. They are not offered for analysts. They are information warehouses in effect.
Q. I think let me rephrase my question. I may not have asked it clearly. What I am asking is, when you pulled numbers from Cap IQ, did you go back to the underlying Ks and Qs to check that Cap IQ got, you know, accurately reflected the data?
A. I think Evan can answer that. I think we used it to get the information, and when we extracted the information, in some cases from the actual data they collected themselves and in other cases I think we may

J. STUFSKY

have used some screens to do this. I don't recall.

MR. EVAN: Combination.

A. Combination I think.

Q. Just so I that understand it, you pulled information from Cap IQ, in some instances you might have gone from the Ks and Qs to gather information?

A. We are ostensively accepting, within reason, the integrity of the information that Cap IQ has on.

Q. Okay. So you relied on it, to be accurate?

A. Correct. I am not exclusively. Just for the record. There was a lot of information gone directly to 10-Ks and 10-Qs and a hybrid. So that we're reasonably comfortable these are accurate depictions.

Q. What percentage of the data did you pull off of Cap IQ versus off of the Ks and the Qs?

A. I can't say I could know that.

Q. If you look at page 5 of your report.

J. STUFSKY

A. So going backwards?

Q. Yes, go backwards two pages. They are not numbered. So -- unfortunately, they are not numbered, but the one entitled Methodology.

A. Correct.

Q. And if you look on, it says under Roman 2A, Reserves Application of Comparable Companies EV Reserve Multiples?

A. Yes.

Q. That's the section that describes the valuation methodology we have just been discussing; is that right?

A. Correct. And two checkmarks there.

Q. Correct. Did you -- you note in there that there are, this is in the, I believe, the second checkmark, you say "They're solid, although not perfectly correlated benchmark due to differences in each company's reserve profile." What differences in the companies' reserve -- the company's reserve profile did you note which have an impact on the comparability?

J. STUFSKY

A. More or less as noted here. Again, to be clear, it is one mile post on the road of many that one might choose to use to triangulate a potential value for a company. Reserves is just one. And for the sake of accuracy, it notes clearly it's not perfectly correlated to, you know -- this doesn't provide you with a single-point valuation. Why not? Because reserves have profiles even when they're in a similar region as owner operators, as we've attempted to do and compare cap to cap, and why is that?

Because every mine, even if they are in the same region and on the same trend and very comparable, are not precisely the same and every company doesn't extract them in the same way and doesn't use the same equipment and/or labor and/or anything else. So that it is just a mile post and not intended to be, you know, the answer to a valuation question.

Q. So it is fair to say that the items you have identified, the labor, the

J. STUFSKY

method of extraction, the equipment, the location of the mine, et cetera, all can have a bearing on the value of the reserves?

A. I would say that's right, correct.

Q. And your analysis doesn't attempt to adjust for those differences?

A. It is an adjustable. There are other methodologies that one employs, a variety of which we used to start to triangulate values of companies.

Q. Well, understood, you have got other approaches and we will talk about those for valuation. I am talking about in this particular approach that we are focused on, you didn't attempt to adjust for any of those differences?

A. No, there would be no reason to. Just a single mile post.

Q. Another difference between reserves, which I guess we didn't talk about, but it is probably worth mentioning is different types of coal have different types of valuation?

J. STUFSKY

A. Correct.

Q. So, for example, thermal coal sells at a discount to metallurgical coal; is that right?

A. They have different prices.

Q. Okay. That's a better way to put it.

A. Different costs and valuations. They can be different styles of operation and in some cases they can being extracted in the same place and out of the same complex and somewhat homogenized in an effort to sort of use that as a mile post. So no single point answer to that question.

Q. In general, does metallurgical coal sell at a higher price per ton than thermal coal?

A. It's varied. There is a long history of different arbitrages. Lately in the last few years, to be clear, met coal has run higher on average. I think thermal ran as high at one point as in the low mid 100's and meta coal at one point was, you know, depending on where you were looking, might

J. STUFSKY

have been even as high as 300.

Q. What point was that, point in time I should say?

A. Probably about a year and a half or two years ago, rough top, at a high. Maybe a little -- surrounding that area.

Q. But in general, met coal sold for a higher price per ton than thermal coal while the difference may vary over time?

A. Again, I think you have to -- depends on what timeline you are looking at, so if we are talking more present, met coal sells for a higher price.

Q. Do you expect that difference -- strike that.

Do you expect met coal will sell for a higher price than thermal coal over the next say three years?

A. I don't know.

Q. Are coal prices, say, through your period, very hard to predict?

A. Commodity prices usually are always difficult to predict.

Q. They can be very volatile?

J. STUFSKY

A. Most commodity prices are volatile and some can be more volatile than others.

Q. Is coal more volatile than others?

A. No pun intended, it is kind of high volatility.

Q. I ran into that one. Just a little bit of a detour. Let's see if I can find it. Can you look at Appendix B to your report, says Appendix B Coal Prices - Forward Curve?

A. This the forward curve?

Q. Yes.

A. Yes.

Q. Are forward curves accurate predictors of where coal prices are going to be, let's say, in this case, three years?

A. I will answer your question bluntly. There is no single accurate predictor of the future.

Q. And indeed given the volatility of coal prices, it is hard to know where coal is going to be in three years?

J. STUFSKY

A. It is hard to know where it might be in six months or five years or three years or two. As with any commodity.

Q. The forward curve that you used here in Appendix B, what type of coal does this forward curve represent?

A. Evan, correct me if I am wrong, I think this was off of NYMEX account specifically the cap coal forward curve.

Q. Is there any difference between barge coal and rail coal?

A. No. I mean, there is a difference in how they are shipped but not a difference in the coal.

Q. In terms of the curve I mean?

A. No, not really. Because the price, coal operates around the price either a premium or a discount, you know, for quality and location of the burner that's taking it and to some degree, you know, the means of transportation that they employ.

Q. And is it fair to say this is the curve you used in connection with your analysis of where future coal prices are

J. STUFSKY

going to go in this report?

A. Correct. We have also looked at other, you know, sort of forecasts from other houses, just as a means of seeing, checking accuracy, and you might not be surprised to hear that most people end up in the industry very close to the same sort of projections.

Q. Did you look at curves for Illinois mason coal?

A. Well, it is very hard to see curves. The advantage that cap has, there is these little nicks and dings based on it, the cap is an actually benchmark price traded and quoted for liquidity purposes, and people use that as an arbitrage against other coals on occasion to hedge.

Q. Does Illinois basin coal sell at the same set of prices as cap coal?

A. No, Illinois basin tends to sell a little bit less in price. Somewhat less on average in price. Again, the dynamic is also it is cash cost of production. It is cash cost to production and, you know, where that coal might typically be delivered to.

J. STUFSKY

Q. And I assume what about -- strike that.

What about the prices of nap coal?

A. Nap and cap tend to be somewhat similar. The aborigine, and again, there are differences on a mine-by-mine and company-by-company basis, depending on a variety of factors.

Q. What does the forward curve look like, let's say, if this was met coal?

A. Intriguingly it would be at a higher level and probably about the same shape, these days.

Q. So if we were to draw in curve for met coal and for let's say Illinois basin coal and nap coal, met coal might be higher, Illinois basin would be lower, nap would be somewhere reasonably close to the cap coal line?

A. If you made your lines pretty thick, you might say nap and cap are not too dissimilar and there is a clearly a distinctively different animal.

J. STUFSKY

Q. Illinois basin?

A. Illinois basin is different, you know, because of the basin specifically, and you know, again it has got thicker seams and different cash flow of production profile and it's got a different delivery profile.

Q. Did -- if you look back -- by the way, just before we go to the next page, do you have an understanding of what types of coal Patriot mines?

A. I do.

Q. What sort is your understanding?

A. They mine in Illinois and they mine in West Virginia, principally, cap Illinois basin, and they are mining standard thermal and some quantum of met coal that varies between, I don't know, 20 to 25%, I believe of their approximate total of production.

Q. And just so I am clear, the forward curve that we were just looking at, that's a forward curve for cap thermal coal, right?

A. It is representative of the cap

J. STUFSKY

thermal coal, correct.

Q. So if you look at page -- I think it is page 8 of your report. Flip back now. The one entitled Patriot Valuation - Operating Results.

A. There we go.

Q. And we look at the first chart on the left-hand side that says Operating Revenue. The coal prices that we see here, these are built off of that cap thermal coal -- cap thermal curve that we just looked at?

A. Based on an average and a very homogenized view of the company overall.

Q. What do you mean by that?

A. Just overages of what they have effectively received in their prices, you know, and the production lines are, you know, just assumptions.

Q. But you would agree that a cap thermal curve, while a good predictor, or at least the predictor that we have?

A. Right.

Q. For cap thermal coal is not

J. STUFSKY

necessarily going to predict Illinois basin prices, or for that matter, met coal prices?

A. It doesn't exactly predict. So, again, it is an approximation. The met coal would be higher and their margins would likely be higher. So I probably submit that this is more conservative maybe than it needs to be.

Q. If you look at page -- this is Appendix A, actually, Coal Prices - Patriot's Premium.

A. What page are you on, sorry?

Q. It doesn't have a page number. It says Appendix A at the top?

A. Okay.

Q. You will see a chart with the red line and blue line.

A. Right.

Q. We are in the same place?

A. Yes, we are.

Q. Now, this is actually, this is not a forward curve. These are historical prices; is that right?

A. Yes. This is intended to reflect

J. STUFSKY

the cap portion to a degree of their production. You know, and so effectively what they have received in their cap basin versus what the spot prices were, you know, during the same period more or less to take a view of whether they were selling par, premium, you know, or discount coal.

Q. Maybe I am a little confused. Let's just take one line at a time.

A. Sure.

Q. The blue line, what does the blue line represent?

A. What were spot prices for cap coal during the period referenced on the bottom horizontal line.

Q. Okay. Just so we are clear, again, talking about thermal coal here?

A. We are indeed.

Q. Where did these historical numbers come from? Can't really tell from this chart.

A. I believe this was also NYMEX, you know, off of one of the exchanges that actually tracks the information.

J. STUFSKY

Q. Okay. Now, so this is the historical price for cap thermal coal for the period September 2009 to September 2012?

A. Right.

Q. Okay. The red line, what does the red line represent?

A. The red line is the prices that the company received for that coal, i.e., the sales of their cap component of their production.

Q. So this is the price they received for a cap?

A. Right.

Q. Coal. Is this purely thermal coal or does this include both thermal and met coal?

A. This, to my knowledge, and Evan, correct me, is their -- this is their cap.

MR. EVAN: Cap sales, average sales.

THE WITNESS: Just average sales.

A. So it's somewhat imperfect, if that's your question.

J. STUFSKY

Q. So, in other words, this includes both cap coal?

A. Anything from the cap region.

Q. So thermal coal and met coal?

A. Met.

Q. And anything else they might have mined from cap?

A. Well, there is nothing else, to my knowledge, they are mining from cap.

Q. That's probably right. Okay.

Now, I think you testified earlier that -- sorry, met coal sells at higher prices, at least during this 2009 to 2012 period?

A. For a good portion of it, correct.

Q. Than thermal coal?

A. Correct.

Q. So if the red line is taking an average price, which includes both thermal coal and also higher price met coal, then how is this really an apples-to-apples comparison?

A. It is an imperfect comparison.

J. STUFSKY

Q. This isn't actually telling us what premium Patriot was getting for its cap thermal coal in the market; is that right?

A. Well, it is discussing -- it would be an imperfect correlation. Not inappropriate one. Just imperfect correlation.

Q. And I think you said earlier you call it 20 to 25% of Patriot's cap coal is met?

A. I think that's approximately right.

Q. So 20 to 25% of the tons here are actually being sold at prices that are not comparable to the cap spot and are thus distorting the average price if you are talking about an apples-to-apples comparison?

A. It may be distorting the individual coal prices between thermal and met, but not distorting the overall picture of the company, which was really the intent of doing this.

Q. Are you of the opinion that Patriot coal received a 26.75% premium on

J. STUFSKY

every ton of cap thermal coal that it sold during this period?

A. As an approximation, we believe that's possible. I can't tell you with authority if that's exactly the premium that they received. We posed that as a question, frankly, early on.

Q. But by including met coal in this average Patriot price, you have increased the average Patriot price presumably well and above what prices that are received purely for their thermal coal, so it's inflating the difference between the two lines?

A. Well, it might be inflating the difference, but as they are mining in the same region, with the same equipment, at the same complex, it becomes sort of really get below the surface here, it becomes more of a challenge to separate. So we would like to better understand what they actually do receive. Although I think it was my understanding that that sharing of information was not available at the time they requested it.

J. STUFSKY

Q. Is it correct that you are using this difference between cap thermal coal and Patriot's average price, which includes both thermal and met coal, to calculate the price that Patriot might get in the future over the course of this three years for all of its coal, whether it is cap coal, met coal, Illinois basin coal?

A. We are assuming that since the company has, for quite awhile, been producing on an approximate mix of give or take 75/25, give or take how coal prices behave, that it is not an unreasonable proxy, subject to more information from the company.

Q. And are you assuming that the coal relationship between -- sorry, the price relationship between met and thermal is constant during that entire period?

A. Nothing is ever constant. As I said, it is a reasonable potential proxy. As you can see from the chart, the company by virtue of its production mix is fairly consistently received some premium.

Q. Well, this doesn't reflect they

J. STUFSKY

got a premium of a cap for their cap tons?

A. Well, again --

Q. It reflects they got a premium over cap for some combination of thermal and met tons?

MR. GOODMAN: Objection to form.

Q. At most that's what that demonstrates?

A. Well, that's what it does demonstrate.

Q. And is it accurate that in this report, you are taking this premium between cap thermal and cap thermal plus met and applying it also to the ILB tons?

A. What we have done for simplicity is assume that the company's makes of production, on average, until told otherwise with more information, basically, looks the same. Anticipated today going forward. That can very, very radically change. That's Point 1.

Point 2, we have just taken this as a general proxy based on that sort of fairly constant mix including reserves

J. STUFSKY

through the production and taken very rough averages. Now, very clearly, the different systems can breathe as between thermal and met, and they can both go in the same direction. One can go down quicker than another. And it can change this profile, possibly fairly significantly, as it always could.

Q. My question actually was much simpler. It was just are you, in your valuation calculation using this premium that you derive solely based on cap coal pricing and applied it to ILB tons?

A. For now, we have done -- for simplicity, to answer the question, simply, simple question, simple answer, yes. We have done it because we think that's as good a homogenous proxy as any today.

Q. Okay.

MS. STARR: Let's take a short break or maybe it is a good time to take a lunch break.

(Whereupon, a recess was held.)

J. STUFSKY

AFTERNOON SESSION

CONTINUED EXAMINATION BY
MS. STARR:

Q. Mr. Stufsky, let's pick up where we left off. Can you look back at Stufsky 1, Exhibit A, this is the chart we were reviewing before lunch that has the caps spot prices versus the -- okay, good. I just want to be sure I am clear.

You've taken the premium between the cap spot price and the average price that Patriot sold all of its Appalachian coal and that's the premium you are using to apply to the forward curve to calculate -- to come up with your range of prices in this valuation; is that right?

A. Correct.

Q. You have applied that premium to cap thermal coal at times; is that right?

A. Correct.

Q. And you have applied that premium to --

THE WITNESS: Evan, that is correct, it is to the cap?

J. STUFSKY

MR. ALPER: If you reviewed the source information.

A. I believe that's the case.

Q. Okay. And you applied the premium that you derived from this chart to the met tons that Patriot mines and sells?

A. In this instance, I believe that's correct.

Q. And you apply that premium to -- this is, again, against the forward, this is for purposes of calculating forward prices?

A. Looking forward, correct.

Q. And you apply that premium to the ILB tons for the purposes of calculating a price for the forward curve?

A. We have homogenized everything in this instance, correct.

Q. Let's go to page 8. This is the one that's entitled Patriot Valuation Type - Operating Results.

A. We are going backwards?

Q. Yes.

Are you ready?

A. Yep.

J. STUFSKY

Q. So if we look at this page and we look at the chart that's on the upper left-hand corner, the coal prices that are listed on the vertical access, these are the prices that you calculated by applying the premium to the forward curve for cap coal?

A. Correct.

Q. Then on the horizontal access, you have got a variety of -- you have got tons sold and have a range of tons sold?

A. Produced and sold, correct.

Q. How many tons did Patriot sell, to your understanding, in 2012?

A. A this is the reason we have done this. Nominally, just shy of, my recollection, of 25 million tons. What we have done here just to fill in the potential gap is assume their current level of production seems to be relatively sustainable for a little while now and assume in certain coal price scenarios, you know, they might choose to do an oddball or recommission other operations. So we have just examined the possibility of a company that's typically

J. STUFSKY

operated between this range to that range, possibly doing that again.

Q. Did you consider the possibility that the number of tons sold by Patriot over the next several years could decrease from the approximate 24 million that was sold in 2012?

A. We did contemplate it. We didn't mark it because for two reasons. The company seems to be at a reasonably sustainable level, and we are hard pressed, again, without some information to contemplate how much lower the company can go given the link between its mining extrapolation operations and its complex operations. The two seem to be somewhat calibrated to make them financially viable. You have fixed costs and processing capability on the one end, and you have extraction on the other. If you're not feeding the back end, then it becomes exceedingly more expensive to operate. So we thought probably unlikely, but I guess anything is possible.

Q. So is it your view that the

J. STUFSKY

number of tons that Patriot will sell over the next couple of years is uncertain and so you are trying to account for that by looking at a range of tons sold that goes up from the prior year's production but not down?

A. We anticipated it was less like likely to go much, if any, lower for reasons stated as opposed to possibly it is typical or frequent trying to, you know, restore some of the capacity. Depending on the coal prices.

Q. If you were provided with forecasts from Patriot that estimated the coal production will indeed go down over the next several years, would that cause you to adjust the number of tons sold that you would use for the purposes of this valuation?

A. Yes. That's a very interesting question. It would in context, by definition, for us to lower the production level because we wouldn't argue with the company. What it equally might cause us to do, however, is examine their cash cost of production further, because presumably they'd

J. STUFSKY

be shrinking to become more cost effective.

And two, if they are shrinking and others are shrinking, that might have a fairly direct impact on the price curve itself. Because these price curves are just a point in time anticipated by market views. If you start to fairly importantly change the production profile of a region in a sector, you might equally start to change the price curve expectations as well.

Q. But where we are in a situation where we are not changing the publicly available information about the comps and about the forward curve, all of which you and your colleagues have pulled, but simply what Patriot's work forecasts had for its particular outlook in terms of tons mind.

A. Sorry.

Q. Why would you change all the other inputs?

MR. GOODMAN: Objection to form. Foundation.

You can answer.

A. If your question is

J. STUFSKY

hypothetically, I think you are saying we share information with KLR that's not made public, maybe is never made public or anticipated by anybody in the marketplace, i.e., we are operating in a vacuum, I guess for some small period of time, that can change, you know, a valuation in one way and theoretically not in another.

Q. In your view, if one coal company changes its outlook on how many tons are going to be sold, you think that's going to shift the entire market dynamics?

A. It is very, very interesting. I am not sure how much you have studied price forecasts.

Q. I am sure not as much as you.

A. And outcomes. It is a very unsophisticated and relatively historical view and it only emanates out of a couple of few places statistically, and everybody draws on the same information pool and the same basic GDP estimates and the same basic information of the day. So you tend to start having people read into what happens at

J. STUFSKY

one company could conceivably happen to other companies that are not dissimilar, and the answer is, yes, you could have changes impacted by one company across a sector to what degree, it is all hypothetical. I couldn't tell you.

Q. In any event, if we focus back on operating revenue, this chart that we are looking at, the inputs into your calculation are a series of -- well, what are they, a series of estimates, just a series of possibilities of the number of tons sold?

A. I would say these are -- everything in here at a specific question are possibilities to some degree based on past history and market projection available, not just to us but to others.

Q. So in essence, all of the inputs here, both the tons sold and the coal prices, they are theoretical, they are not -- these are not actually based on actual Patriot data about how many tons they have actually sold or what their average price actually was?

A. Oh, no, to the contrary. They

J. STUFSKY

are actually just producing north of 24 to 25, that's real. They have actually been producing that number for awhile now. They have actually produced, you know, 33 and 34 million tons for a consequential period prior and produced in between that was per, you know, some of the adjustments I suppose they are trying to make prior -- just prior to and during the bankruptcy.

Q. When you looked at -- let me ask you. I assume you have looked at Patriot's historical data in terms of historical data?

A. Sorry.

Q. I will repeat it.

A. Sorry.

Q. Have you reviewed Patriot's historical data in terms of the tons sold and the prices its received?

A. As I said, you know, we did that. Which is why we have this framework. The framework is in actual range, currently representative of their operations, whether it is an accurate range going forward, obviously remains to be determined.

J. STUFSKY

Q. Has Patriot ever, in its -- in the last five years of its existence, approximately, ever received an average $77 a ton for its coal?

A. Well, that's what I was saying before. What we tried to establish a range. From recollection, they were sort of in a range but don't hold me exactly to that. This is a homogenous view of the sort of premium on average that they were receiving for those sorts of gross tunnages.

Q. My question is different. Just historically now. Not talking about forecasts. Has Patriot ever gotten in a calendar year $77 a ton ever?

A. Well, these are -- I don't know if it is precisely 77 or higher. But yeah, I am sure they have. I believe they have.

Q. Okay. If I were able to show you the data historically that demonstrates they have never gotten as high at $77 a ton, would this impact your estimation of the appropriate coal prices to use in this chart?

MR. GOODMAN: Objection to form.

J. STUFSKY

Q. In other words, your lowest number is higher than the best number they have ever achieved in their entire existence?

MR. GOODMAN: Same objection.

A. I do not believe that's the case. Obviously, if that were the case, one would start to argue where coal prices might go in the future. Or discuss where they might go if the future. So this is intended to reflect the current forecast prices as per the curve applying their homogenous premium to that. If coal prices are different than that curve, i.e., higher or lower, we would expect the results to be different and higher or lower.

Q. My point is, your forecasting a performance better than they have ever achieved in their entire existence, is that a reasonable assumption to make in a valuation, that they're suddenly going to do better than they have ever done?

MR. GOODMAN: Objection to form.

A. Again, I do not believe what you are saying to be the case given where coal

J. STUFSKY

prices have been on average for the -- where do we find the number?

THE WITNESS: Evan, we don't have their average revenues and average price. The only thing we are going to be able to surmise is, you know, the five-year quote prices.

MR. ALPER: Three-year.

THE WITNESS: Well, five-year coal price history on page 5 of our supplement.

Q. Well --

A. So again, I think, you know, you can check the five-year and the three-year numbers.

Q. We will circle back to that.

A. Okay. Thank you.

Q. Okay. Let's go to the second box. This is the one on the right entitled Operating Costs. So here you are using the same numbers for the tons sold and then you have got --

A. I am on the wrong page.

Q. We are on the same page.

J. STUFSKY

A. Oh, sorry.

Q. Okay. Let me start again. So we are focusing on the box entitled Operating Costs.

A. Yep.

Q. How did you arrive at the range of operating costs that you have used for your valuation purposes?

A. We have looked at their average operating costs. Again, homogenously for the tons produced based on their operating costs, specifically. To run a series of averages to date this was prepared and in the recent quarter, I believe, they were on average a bit higher than this, and that's the answer.

Q. What costs do you take into account in your term, I guess, this is average operating cost, so we understand what number we are talking about.

A. Right. This is really intended to be the direct operating costs, which we're not entirely sure, you know, what's in them, but the direct operating costs of extracting and producing their coal.

J. STUFSKY

Q. So what kinds of costs would you include in that?

A. Everything from consumables to labor to equipment costs, so on and so forth. Processing down the line.

Q. Now, does the average operating cost incorporate an allocation for the company's PMO costs? And this is at least on an historical basis.

A. I am not sure precisely what's in there.

THE WITNESS: Evan, do you recall what's exactly?

MR. ALPER: I don't think it is broken down.

A. It is not.

Q. What did you look at to get this number?

A. Their historical 10-Q, 10-K information.

Q. You let's look back at Stufsky -- the 10-K for 2012. I don't remember the number of the exhibit exactly.

THE WITNESS: Evan.

J. STUFSKY

Q. So the 2010 -- 2012 10-K is Exhibit 6, so this the Patriot 10-K for 2012?

A. What page are you on?

Q. I am going to ask you a question.

A. Sorry.

Q. You said you got the data to help you calculate the operating cost from the 10-K. So show me where?

THE WITNESS: Evan, do you remember the page where we will find --

Q. I am telling you we are having a great deal of difficulty to understand what you meant by operating cost and what is included and what is not.

MR. ALPER: 66.

THE WITNESS: What page are you on?

MR. GOODMAN: 66.

THE WITNESS: So correct me if I am wrong, we are just taking the blunt numbers called operating cost and expenses.

MR. ALPER: Segment operating

J. STUFSKY

cost and expenses.

THE WITNESS: Right.

Q. So just so we are all clear on page 66, I am looking at a chart entitled Segment Results of Operations?

A. Correct.

Q. And if we look at this chart, and it is about a little more than halfway down, there is a line that says "Segment operating cost and expenses" and then below it, there is a series of -- there is "Costs that are allocated between Appalachia and Illinois basin"?

A. Yes.

Q. This is where you got your number for what Patriot's operating cost, presumably you looked at this; the 10-K for several years so you would have gotten from a variety of different 10-Ks?

A. Correct.

Q. This is the data you used?

A. Right. We were running these numbers to, basically reflect the gross margin that the company can generate from its

J. STUFSKY

direct mining operations.

Q. Okay. So if you look, you will see where it says "Segment operating cost and expenses" and there is a little footnote, little 1? Take a look at the footnote. It is just below the chart. And I will read it into the record. "Segment operating costs and expenses results represent consolidated operating costs and expenses of 1.779.9 million and 2.213.1 million less income from equity affiliates of .1 million and 4.7 million and past mining obligation expense of 186.9 million and 180.1 million"?

A. Right.

Q. "For the years ending December 31, 2012, and 2011."

So based on your review of the 10-Ks definition of what segment operating cost and expenses is, do those costs include past mining obligations?

A. Yes.

Q. PMOs?

A. Yes, in this case, they do. Or should say less, apologies.

J. STUFSKY

Q. They don't?

A. That's what we were saying before.

Q. So they don't include the PMO basically?

A. Correct.

Q. All right. So if we go back to your chart on page 8, the operating cost that you calculated, this average operating cost doesn't include PMO?

A. Would not.

Q. And which for, at least 2012 and 2011, was in the range of $180 million plus?

A. Right.

Q. If you included PMO in the operating costs, is it correct that that would substantially increase the operating cost per tons sold?

A. It would indeed change it, of course. It is -- that would be mathematical.

Q. Why didn't you include that in your calculations?

A. We were looking at the direct operating costs to determine, again, whether

J. STUFSKY

this company can produce, extract, process short of sale because transportation is different, generate a gross profit margin operationally without having an abstraction, you know, what may or may not be included away from operations in the future.

Q. So since you chose not to include PMO in your calculation of operating costs, where did you include the cost of PMO in your valuation?

A. As before, at this point we have not incorporated that into the valuation exercise.

Q. If you look at page 10, which is your equity value chart.

A. Right.

Q. One more page over. That's the one.

A. Okay.

Q. Once you have an understanding of what the PMO liability is going to be, would that PMO liability be reflected as a liability in this chart --

A. Well, again --

J. STUFSKY

Q. -- that would reduce the enterprise value?

A. In certain calculations it could be representative of a liability and others it will, excuse me, also reflect, you know, an annual cost. So in some cases it might impact your gross margin and net valuation and in other cases it can be a liability and impact that separate calculation.

Q. But in your calculation, it is neither cost nor liability?

A. At this time, no.

THE WITNESS: Evan, I believe that's the case.

MR. ALPER: I am not 100% sure.

Q. Anyway, let's just go back to page 8 again. And let's look at gross profit. This is 2B.

A. Here we go.

Q. How did you calculate gross profit?

A. This is just a mathematical exercise effectively taking different coal prices and subtracting from them different

J. STUFSKY

operating costs to come up with what constitutes a gross margin. So we did this just effectively to create a range from -- in this case, low to high. So the low would be 77 minus cash operating cost of 65 and a high, you know, might be the coal price of 96 subtracting 53 and then add another 20.

Q. Now, have you looked at Patriot's historical gross margins?

A. We have and they varied.

Q. To your recollection, what was the best gross margin Patriot has ever demonstrated over the --

A. I don't recall.

Q. -- the period of its existence?

A. I don't recall a numerical demonstration. I think they were running between -- highly variable, single digits percent and double digits, teens percent. I would actually have to take a look at that.

Q. Okay. Can you -- the transcript is a little bit unclear here, so let me just ask you to clarify your answer. And you may have already said this.

J. STUFSKY

But in your understanding, is the gross margin on historical basis varied between single digits and then you said --

A. Double digits percent. Teens. I should have said teens.

Q. In the teens?

A. I am just doing that from recollection. I would have to take a look. Could have been a bit higher. In fact, I am pretty sure it was during peaks of coal prices.

Q. So if we look back, now, at your gross profit range, the gross profit margins historically were, to your recollection, never better than somewhere in the teens?

A. No, I think they were. We were talking averages, and I am pretty sure rolling coal prices were significantly higher and the cost was about the same. This isn't intended to harmonize an average range. We haven't taken full extremes for one reason. Because we haven't accepted the high coal prices either that we have seen in the past as likely to repeat even though it is

J. STUFSKY

probably a correct assumption to.

Q. I think you and I may have just been talking past each other, so let me ask the question again and make sure we are talking about the same thing. I am focused on the gross margin number here.

A. Right.

Q. So this is the gross margin for the per ton of coal. My question to you, have you looked at the historical gross margin, not the percentage margin? So I want to be sure that you and I were talking about the same thing.

A. I don't recall the absolute numbers. I recall percentages. I tend to think that way.

Q. So when you were talking single digits to the teens, you were talking about gross margin percentages not actually dollars per ton?

A. Right. Obviously, the higher the coal price on a percentage basis, the higher the gross margin would be in dollars. Again, assuming costs.

J. STUFSKY

Q. If we were to present you with calculations, based again on Patriot's historical results, that gross margin percentage, just so we are talking apples and oranges now, was never higher than about 17%, would that suggest to you that the gross margin numbers here are -- should be adjusted because they are not realistic and in line with Patriot's past results?

MR. GOODMAN: Objection to form and foundation.

You can answer.

A. Right. So, you know, just taking round numbers, let's just say it was 20%, because it is easy to calculate, let's say you were taking a coal price of 77, you know, that would be 15 or $16, you know, that would be in the gross profit range. Again, this is not intended to be absolutely predictive. It is intended to encompass what was and, you know, what might be equally is this company and others start to adjust their operating cost base downward.

Q. Did you calculate -- let's just

J. STUFSKY

use dollars per ton so we stay consistent with your chart. Did you calculate the gross margin per ton for 2012?

A. Gross margin per ton for 2012?

Q. Yes.

A. Yes, I believe we did and equally for the last quarter of 2013.

Q. We haven't finished the quarter of 2013?

A. Both. The answer is yes.

Q. What was the gross margin for 2012?

A. Well --

Q. Per ton?

A. I don't remember 2012. It was probably pretty near flat, zero. Marginally above. Marginally below. I don't recall the precise number because they were not generating very much cash around this period as they were producing on a declining basis without adjusting -- being able to adjust their costs.

Q. What about maybe let's try 2011, the number before --

J. STUFSKY

A. I don't know. I would have to look back at the precise percentages.

Q. I'm talking about dollars. Gross margin.

A. Same basis. I have to go back.

Q. Do you recall if it was anywhere within this range of gross margin that you used between 12 and 43?

A. Again, I have to look back at the numbers to be sure. Again, our analysis wasn't intended to look at one year or two, but a history of coal prices and operating costs. And a range not representative of one year specifically or another.

Q. Or representative of Patriot's historical prices either?

A. No, it is representative.

MR. GOODMAN: Objection.

A. It is representative of Patriot's prices. As well as its costs.

Q. Well, if I can -- let's move on. Let's look at the last chart, Enterprise Value. How did you calculate enterprise value?

J. STUFSKY

A. Again, what we have done is we have taken, effectively, the gross profit -- I believe here, Evan, we have subtracted their SG&A on average from it, so one more line down. We have taken the whole weight of how they need to run the company at headquarters, and we have subtracted that approximate 50, you know, from their higher level gross margin thus reducing it. And we have applied the EBITDA multiple of the comp group, effectively choosing the lower four companies in that classification.

Q. So just so that I have the, can follow math, if we look at the gross profit chart, let's take the first gross profit margin of $288 million.

A. Um-hum.

Q. If we go to the next chart where it says -- 237 million this is basically 288 minus approximately $50 million in SG&A?

A. Correct.

Q. Okay. At various points in this report, almost interchangeably, use the term enterprise value, which I understand how you

J. STUFSKY

define it based on what's here and the term equity value.

A. We don't use them interchangeably. Enterprise value and equity value could theoretically be the same, but technically they are usually not.

Q. Okay. What is your understanding -- what's your use of the term of equity value?

A. Well, I think we can go to -- equity value.

Q. Appendix G is where you got the glossary of terms, that might be helpful.

A. And it is faces the chart that you were looking at just before?

Q. Um-hum.

A. And ostensively it is a standard calculation. More or less reserving the enterprise calculation. It is a very standard calculation.

Q. So enterprise value, in this case, the number that's represented here that we just discussed?

A. Right.

J. STUFSKY

Q. According to this -- we are looking at page 19, minus outstanding debt plus cash in hand?

A. More or less adding back capital structure.

Q. And when you say "outstanding debt," what do you mean by that?

A. You need to go to the debt numbers that we assumed, and Evan, these are the debt numbers on page 10, correct?

Q. We are talking about the chart that says equity value?

A. We are subtracting debt from enterprise value.

Q. So when you say "outstanding debt," by that you mean the DIP loan, the senior notes, the convertibles and convertible senior notes?

A. Whatever happens to be here on this page.

Q. That's what is here on this page?

A. That's what is here on this page.

Q. You have another entry there that you subtract out that's called unsecured

J. STUFSKY

trade payables.

A. Yes.

Q. What is that?

THE WITNESS: I don't recall, Evan, what the trade, actual trade payables were, but we had just anticipated that on Legacy pension and a variety of other costs, these are just operating oriented costs that probably are going to be due, actually we're not certain. Normal course street payables.

Q. How did you -- so these are --

A. This would be off the financial statements.

Q. So this would be a category of claims related to trade payables that you estimate at a $101 million that you believe will be asserted against the estate?

A. Could be. Might be.

Q. How did you estimate this -- withdrawn.

How did you estimate the unsecured trade payable that you include in

J. STUFSKY

this equity value chart?

A. Well, I don't think we estimate any of these numbers. These were from the financial statements. We weren't estimating numbers. We were using the numbers here.

Q. So then where did this unsecured trade payable number come from?

A. This would have had to have come off the financial statements of the company.

Q. I would ask during the next break --

A. We will take a break.

Q. -- if you could consult and identify for me where this came from in the financials?

A. Sure.

Q. Let's go back to enterprise value on page 8.

A. Am I on the right page? 2B?

Q. Yes, 2B again.

Are you ready?

A. Yes.

Q. Let's focus now on the vertical access EBITDA multiple. Can you explain to

J. STUFSKY

me where the EBITDA multiple came from that you are using for the purposes of the enterprise value?

A. It came from page 18, lower right marked EBITDA multiple.

Q. How did you calculate the EBITDA multiples that appear on this page?

A. Using the financial statements of the companies on this list.

Q. Did you pull any of these numbers from Cap IQ, the database that you mentioned earlier?

A. I imagine we pulled them from Cap IQ or the financial directly.

THE WITNESS: Evan?

MR. ALPER: Both.

A. Both.

Q. Can you distinguish for me which ones you pulled from Cap IQ versus which ones you pulled from the financial statements?

A. I am not sure I could from sitting here, no.

Q. Now, the EBITDA multiple -- well, rather than guess, let me ask you, what is

J. STUFSKY

the EBITDA multiple?

A. We can go to enterprise value divided by your EBITDA for comparable companies. So it is a very standard corporate finance calculation, again.

Q. So we take enterprise value, which is this box on --

A. Add up the lines for each of the companies. And divide it effectively by their EBITDA to come up with a range of multiples for each of these companies and then apply them on the averages suggested.

Q. So in theory, there could be another box that says EBITDA, which is the EBITDA for each of these companies and you would have divided the enterprise value by the EBITDA and this would have given you this EBITDA multiple?

A. It should. As long as you have calculated your enterprise value appropriately and gotten your right line for the EBITDA, it should be fairly basic.

Q. Okay. And the bigger the EBITDA for each of these comparables, the smaller

J. STUFSKY

the multiple because you would be increasing the denominator?

A. Well, again, you can be flexing either side. It is not a necessity that one change or the other. Or vice-versa. Theoretically, if a company is enjoying substantially higher EBITDA multiples, the stock market shareholders ought to be happy, and you will start to change the equity value of the company, too. You know, which starts to go into the numerator. There is a lot of three dimensional potential answers to your question. If your answer is, gee, if I hypothetically just change one side, it is just a function of math, correct.

Q. In this case, because the comparables are based on ongoing concerns, as you put it earlier, they include additional costs in their EBITDA calculation that you haven't been able to include in the Patriot calculation because Patriot is in bankruptcy?

MR. GOODMAN: Objection to form. Foundation.

A. I would say that's a possibility,

J. STUFSKY

correct.

Q. Including the PRO cost that we have talked about before that your view is its presence is too uncertain to calculate?

A. Yes. Of course, it is a mathematical sort of paradox. If I included significantly more liabilities, you know, in the form of debt into this calculation, depending how other liabilities were classified and what the company looks like coming out of bankruptcy, I could end up with a much higher enterprise value. So again, the point of this exercise is not to be, you know, pinpoint precise, but to show a prospective range rooted in past and present and to a degree future because of a price curve.

Q. Have -- in the past, when you did valuations of coal companies, have you used a similar approach to what we have here, where you estimate future prices and estimate what costs might be and then come up with a theoretical gross profit number and then apply a multiple from comparables?

J. STUFSKY

A. I think it is fairly common. These are standard calculations. Analysts around the community will have used them in past and present.

Q. In the instances where you have done it, where you were using forecasts from the company or theoreticals, sort of more in the nature of what you used here?

A. Well, I would say a combination of both. It is far easier, obviously, to analyze a healthy ongoing concern. And you take more things for granted as a definition.

Q. And the valuations, I believe you testified earlier, that the valuations you have done were on coal companies as going concern?

A. Right. They are coal companies and margins and ranges that Patriot has to some degree seen in the past. Might see in the future if it becomes an ongoing concern, equivalent company again.

Q. Now, just to, let's look at page 18 for a minute. If we look at the enterprise value of CONSOL, which you see is

J. STUFSKY

one of your comparables.

A. Right.

Q. Does CONSOL produce, in addition to coal, natural gas?

A. CONSOL was starting to produce natural gas, not yet producing much. So it has a very mixed set of metrics. So, yes, it is gone into the Marcellus and Barnett shale, and it is trying to become a major frat gas player.

Q. And it also has now reserves, which include natural gas reserves, in addition to coal reserves?

A. It does indeed.

Q. That's different from Patriot, which doesn't have any natural gas reserves; is that right?

A. Precisely. There are no perfect matches.

Q. So CONSOL, the equity value for CONSOL is reflected here, reflects not only its coal business but its natural gas business and its natural gas reserves?

A. I think at the current time if

J. STUFSKY

you sort of looked around the market, CONSOL may have a valuation on some metrics. Not necessarily on a cash flow but on some metrics like this of 15 to 20% of its value can conceivably be attributed to gas and that's a very hypothetical because they haven't arrived yet so to speak.

Q. But that's certainly an element of their valuation that's not present in Patriot?

A. Indeed. Again, it is very, very hard, almost impossible to find absolutely positively precise matches. There's no two companies that look alike, and all of these companies have somewhat different profiles, you know, by international versus national or regional versus not or slightly different net to thermal or in CONSOL's case, trying to do, you know, more domestic frat gas.

Q. So if you look, then at the -- the next chart over, the equity -- sorry, enterprise value of a reserve multiple, you will see CONSOL has a multiple of 2.4. Is

J. STUFSKY

that a multiple that --

A. Sorry, okay.

Q. Does that multiple reflect both their coal and their natural gas reserves?

A. You know, Evan, I don't recall --

MR. GOODMAN: Of --

MR. ALPER: It doesn't.

A. We were just looking at coal.

Q. Okay. You also noticed the reserve, the EV of a reserve multiple for Walter Energy is about 12.2. You notice that's much higher than the multiple for all the others?

A. Yes.

Q. Why is that?

A. I'd have to take a look again. Because some companies have higher debt levels and lower quantums of reserves. In this case, Walter, I believe, fits that classification.

Q. Sorry, has a lower quantum?

A. Lower amount of resources and a higher relative debt level on the books. So you have identified precisely why we don't

J. STUFSKY

look at one company or two and why we don't look at one metric on a stand-alone basis.

Q. But you included the Walter Energy multiple in calculating your multiple ranges?

A. Well --

MR. GOODMAN: Objection to form. Foundation.

A. What we have done is, we have included them on the chart as a visual, but we haven't applied their multiple as a consequence of using lower half averages for the companies on the left-hand column of each of those charts. So we thought it is interesting information as you set out to do an analysis to have this sort of visual.

Q. Okay.

A. But you are right, it could be quite the skew if we did apply it.

Q. So basically you took the means in this instance?

MR. GOODMAN: Objection to form and foundation.

A. If by mean you mean average and

J. STUFSKY

if you mean by average, of the four in the lower half, correct.

Q. If you will flip to page -- actually, I guess Appendix D, PV Reserve - Regional Breakdown, the pretty chart.

You will notice that a number of the comparables include powder river basin coal. How does powder river basin coal compare in terms of its pricing to cap coal?

A. On a pricing basis, it would be much different.

Q. In general, does it trade above or below cap coal?

A. Probably trades on average lower, although, it is a deception. Its cash cost is significantly lower and its spot price is significantly lower, but it doesn't necessarily trade lower because some of these commodities become equalized, trades lower on average but they become equalized by factors like transportation.

Q. Let me ask it a different way. In general, is powder river basin coal more profitable to mine than let's say cap coal?

J. STUFSKY

A. No, not necessarily.

Q. What about the past year?

A. It is lower. Boy, I would have to take a look, but I think they are producing much higher volumes of coal, you know, than cap. In fact, probably two mines in the powder river basin produces as much as the entire cap region. I think that their cash cost of production from memory is in the 8 or 9, 8 and half or $9 range. Obviously much different than 50 to 65 or 70.

But, you know, on a spot basis, you know, it tends to sell for, you know, 10, 11 bucks. So percentage of gross margin may not look terribly different. When it gets delivered often further away, and when it does, it gives the illusion of having a higher delivered price depending on how you look at it, the spot versus delivered price.

So the margins I think are probably much more relevant here than necessarily the costs or the prices independent of one another.

It is not as if somebody figured

J. STUFSKY

out a way to produce coal from region to region that necessarily permits them to generate, 20, 30, 50% margins in one place and 2% margins in another.

Q. How are the margins on powder river basin coal compared to, let's say, ILB coal?

A. Again, I'd have to take a look at the time scale and so forth. I think the ILB is obviously a smaller basin by amount of production. It is producing a lower mid cost, too. I think it is -- again, I would have to really take a look at the margins recently. Probably comparable, might even be a bit higher. I have to actually go and take a quantifying look again with precision.

Q. Did you adjust for the differences in the types of coal produced between Patriot coal and let's say Cloud Peak, which is a 100% powder river basin coal or arch coal, which is, according to your chart, 74% powder river basin coal and Patriot, which has no powder basin coal at all?

J. STUFSKY

MR. GOODMAN: Objection to form.

A. No. Well, what we have done is we have taken a snapshot in the most meaningful way we can think of, which is to take large coal companies and segment them as best we could and then use averages that were most appropriate in profile to the company we are studying. And one might then surmise that, gee, why have them on the page at all.

Well, coal mining has a lot of similarities regardless of where you mine, and coal is, to a very large degree, interlinked as well. If the PRB radically started to produce more cheaper coal, possibly it would incur in the cap region, if you can figure out a way to do that. Or if PRB starts to produce a little less coal and continues to export, that might leave the door a little bit more open to other basin producers to extract a slightly higher price.

So what we thought was relevant to take primary size companies with overlaps of region and apply the sorts of averages that the industry does and see how those

J. STUFSKY

averages basically looked using the lowest sort of half of the averages of each case we have applied that average to a different calculation.

Q. But the answer to my question, which is, have you done anything to account to adjust for the differences between comparables that included large percentages or 100% powder river basin coal versus Patriot coal. The answer is no, you haven't done anything?

MR. GOODMAN: Objection to form and foundation and asked and answered.

A. The answer is the averages basically accomplish that task. It is very, very hard for anybody to actually assess equity and enterprise values attributable to coal because now you are starting to make a lot of underlying assumption about price and future costs. So we've basically taken a very standard and reasonably homogenous look and applied the lower end ratios to Patriot. And we felt that was reasoned, a reasonable approach.

J. STUFSKY

Q. If you will take a look back at the 10-K for a moment, Stufsky 6; and look at page 62. You will find a chart of the Patriot's operating results for the years 2008 through 2012?

A. Yes, I see it.

Q. If you look at the very last line, there is a line that reads "Total stockholders equity (deficit)."

Do you see that?

A. Yes, I do.

Q. What is your understanding of what total stockholders equity or deficit is?

A. Losses incurred and write-offs against stockholders equity.

Q. When you do valuations of companies like Patriot, do you look at the stockholders equity as a way of determining what the value of the company is?

A. Well, you will look at it, absolutely. And typically, you will look at it as, again, another mile post and much easier to assess for a company that's not in bankruptcy than one that is.

J. STUFSKY

Q. If you look at the total stockholders equity for Patriot for 2012, you will note that it is negative?

A. Yes.

Q. 233 million and change. Did you consider that factor when you were considering what the equity value of Patriot is?

A. Yes. It rolls back precisely to the nature of the examination that we have conducted. Can this company at the top line generate positive cash flow and therefore use that cash flow to pay future liabilities, whether they are near term or long-term, and if they can't generate positive cash flow, that can be a problem. If they don't have positive metrics above that EBITDA line, that would suggest a problem. If they can, that theoretically puts them in the game against liabilities that are going to be assessed in the future.

Q. So do you consider the fact that Patriot has a negative stockholders equity to be an indicator of an issue that there is not

J. STUFSKY

value for the shareholders in this company as of 2012?

A. I would have to say that, you know, one would question what's going on. But I don't have to question it too deeply at this point because they are in bankruptcy. So I sort of know what's going on. That doesn't necessarily mean that company that's in bankruptcy and has negative shareholders value can't end up with positive shareholders value fairly quickly if it can right its operations. And if it has strong positive operations, then a lot can be done. And if it has absolutely abysmal operations, that are non-redeemable, then nothing can be done.

Q. So if I understand you correctly, what you are saying is although Patriot has negative stockholders equity through the year ending 2012, your view is based on the analysis they have done, that they can turn that around through the bankruptcy process and through other steps to generate equity in the future for equity holders?

A. Correct.

J. STUFSKY

MR. GOODMAN: Objection.

A. Correct. I have seen a lot of mining companies with negative shareholders value, particularly, when they are young and sometimes when they are older and more mature.

Until companies start to generate significant cash flow on a steady state basis, it would not be necessarily atypical. The thing about mining in particular is how subject you are to the commodity price, how subject you are to your cash cost of production. Both things related, when people curtail their production, commodity prices tend to be a little bit higher. Oddly not lower and the question comes can this company actually revert to lower cost of production in the future. We are anticipating that it is working on that and that it's possible.

Q. Is shareholders equity a proxy for fair market value?

A. Not necessarily.

Q. Indeed it is a book value?

A. It is a book value of sorts,

J. STUFSKY

depending on what you want.

Q. And book value is very different, in your experience, from fair market value?

A. It can be all over the map in different directions at different moments in time, if that's your question.

Q. In your view, is the shareholders equity value for Patriot representative of its fair market value?

A. I don't know. That's part of, I think, what we are trying to ascertain.

MS. STARR: Let's take a short break.

MR. GOODMAN: Sure.

(Whereupon, a recess was held.)

CONTINUED EXAMINATION BY
MS. STARR:

Q. Mr. Stufsky, you were going to do some homework during the break. Did you have a chance to look at the estimate that you used for trade payables and determine where that came from in Patriot's public files?

A. Yes, I was reminded that we took that number from Carl Marks, given to us by

Carl Marks, as what I understood to be their best view of, I think, possible outcome based on, I don't know whether it was a conversation with debtors or something related thereto. Carl Marks gave us that number as best estimate.

Q. Has Carl Marks given you any other numbers?

A. Not to my recollection.

Q. What did you do to vet that number and determine that you were comfortable with it to use it as an estimate in your equity value?

A. I think it is probably as good as anything else that we have left out, i.e., an estimate, it is there as a courtesy for conservatism. It may be a higher number. It may be a lower number. We don't know.

Q. In your equity balance table -- also, you use another number for cash?

A. It was as of when we executed it.

Q. So this was your estimate of cash as of sometime in February of 2012, cash on hand?

J. STUFSKY

A. Was this at the end of September? I don't recall.

MR. ALPER: 2011.

A. '12.

Q. Sorry. If you can testify for me?

A. I am testifying. I don't recall the date.

MR. GOODMAN: It is not a memory test.

A. I don't keep everything in my mind.

MR. GOODMAN: He is trying to be accurate.

Q. Let's -- I only have one copy of this. But I would like to mark it as Stufsky 7, a copy of Patriot Coal's 10-Q for the quarter ending February (sic) 30, 2012. This is my only copy and I will represent that on page 13, there is some handwritten notations. Those are mine. They are not part of the original document. But this is the only copy I have, so we are going to use it.

J. STUFSKY

(Whereupon, Stufsky Exhibit 7, Patriot Coal's 10-Q for the quarter ending September 30, 2012 was marked for identification as of this date by the Reporter.)

Q. My first question for you, did you review the Patriot 10-Q for the quarter ending September 2012 in the course of your work?

A. I believe we did.

Q. So if we look at page 13 of this document, you will see there is a number 5 and underneath that, there is a chart that lists liabilities subject to compromise. If you can just maybe take a look at that for a moment?

A. I did.

Q. If you will look at the fourth line down, you will see it says Trade Payables?

A. Yes.

Q. And if you go over to the right, you will see it says 101,850,000?

A. I do.

J. STUFSKY

Q. Is that the source of the trade payable liability that is included in this equity value?

MR. GOODMAN: Objection to form. Asked and answered.

A. I would have to ask Carl Marks.

Q. So are you in the habit of relying upon numbers that you have not independently verified but that are simply handed to you by another party?

MR. GOODMAN: Objection to form. Argumentative.

A. I wouldn't say I am in the habit of accepting from strangers, professionals in estimated basis, yes, I might.

Q. And you and your team didn't do anything to verify these numbers; is that right?

MR. GOODMAN: Objection to form. Asked and answered.

A. As noted, all of these numbers are subject to a further determination by people other than ourselves. This was the closest one in concept, you know, to an

J. STUFSKY

operationally oriented prospective liability, and we believe Carl Marks has a stronger view, based on their greater experience in this space. So no, not in the habit of accepting numbers from strangers.

Q. The liabilities that are reflected on your equity value table, why don't you pull that up in front of you, that's page 10.

A. Yeah.

Q. You will see they are the same all the way across. What is the source of the liabilities that you list here?

THE WITNESS: Evan, I believe this was September of '12? I can't remember where we used, took these particular numbers from.

MR. ALPER: I have to review it, may have been Carl Marks as well. I have to review.

A. Okay. I actually thought they came out of the -- may well have been Carl Marks.

Q. So your best understanding,

J. STUFSKY

sitting here at the moment, is that you actually got the numbers for the DIP loan, the senior notes, convertible senior notes and the unsecured trade payables from Carl Marks?

A. Right. On expectation. If we wanted to be more than less conservative. You know, some of these liabilities are smaller, more likely to be paid, for instance, to DIP by requirement. So we might be able to assess them. And we left that, I assume, to Carl Marks. Otherwise we would have to leave all liabilities out and make a different set of broader assumptions, which makes less sense.

Q. Now, looking back at Stufsky 7, page 13 this is the 10-Q.

A. Oh, sorry.

Q. On page 13, the company lists a whole series of liabilities subject to compromise, retiree healthcare liability, unsecured debt, interest payables, rejected executory contracts, sales related, and employee claims. All totalling up to about

J. STUFSKY

$2 billion. Why didn't you include any of these other items aside from the trade payables in your list of liabilities in your value chart?

A.   I would assume --

MR. GOODMAN: Objection to form and foundation.

A.   I would assume that both by size and by impact on future obligations that we chose ones that we were both more comfortable with and more impactful on -- more likely to be impactful on our operating value.

Q.   Who made the decision which ones to include in the list and which ones not to?

A.   Well, we did have, as I noted, certain conversations with Carl Marks. So my expertise is mining. Mining valuation, and I would rely on others for estimates of longer term and non-operating liabilities.

Q.   So are saying you are relying on Carl Marks for that?

A.   In this case, well, rough estimates, we were really relying on the outcome of the court system.

J. STUFSKY

Q. You got -- you made your decisions on what liabilities to include in this equity chart and which ones not to based on the advice from Carl Marks; is that correct?

A. Well, again, partially as a consequence of that and partially as a consequence of liabilities that are likely to end up being paid and ones that may not be ones which are more impactful on operations and ones which may be less impactful on operations. Trade payables are often quite important if you want to continue producing new coal and dealing with your vendors who have supplied you on an ongoing basis with services or equipment.

Q. What about sales related liabilities? Isn't it critical to pay your liabilities related to your sales so you can continue to make money on them?

A. It could be, depends on with whom, and we would probably have to say that in a little more detail. It is possible.

Q. Why did -- if we are talking at

J. STUFSKY

least about those related operations, why not the $68 million?

A. I really would have to review that with Carl Marks.

Q. You testified earlier that the chart that I showed you, and I think that was Stufsky Exhibit 2, the E-mail from Mr. Carney, that listed the documents that you relied upon. Sorry, that's Stufsky 4, represented the materials that you relied upon. You did not mention that you got numbers from Carl Marks that you used in the report.

Do you want to revise your testimony?

A. Well, I guess the numbers -- we have seen the numbers in this report. So, yes, I didn't recall we had taken information from Carl Marks specifically in that component of the analysis.

Q. "Mr. Carney, we request all the documents from Carl Marks providing Mr. Stufsky stuff with information that he relied upon in his report, including but not

J. STUFSKY

limited to the numbers here that are included as liabilities in this equity value chart."

MR. CARNEY: I will, after this, I will check with Carl Marks and see what they have.

MS. STARR: Okay.

Q. If you look at your equity value chart value again, you included a number for cash on hand of 386 -- sorry, $383 million. Is it your testimony that that's a number as of September 30, 2012, I believe that's what you said?

A. I should -- I thought it was.

THE WITNESS: Evan, can you check that cash number as of which date?

Q. Here I will help you.

A. If you can.

Q. Look at the 10-Q, please, again.

A. You obviously have it in front of you.

Q. Look at page 10. And if you look at the -- are you there?

A. I am.

J. STUFSKY

Q. Great. Look at the second line down, cash and cash equivalents?

A. I see it.

Q. It is $382,784,000?

A. Um-hum.

Q. Round numbers about 383 million?

A. About 383.

Q. So do you believe that's the source of the cash on hand?

A. I would anticipate that.

Q. Did you review the year end 10-Q to determine whether that number is consistent with what the year end amount of cash on hand was? 10-K, I apologize.

A. We did at a point in time, so I don't recall what the number at the end of the year is. I believe it is considerably smaller.

Q. Okay.

A. Which will obviously impact the enterprise value upwards.

Q. Let's look at the 10-K, page -- 10-K for the year ending 2012, which you have in front of you. And why don't you look --

J. STUFSKY

it is two-thirds of the way through -- at the notes for the financial statements are F2?

A. About what page would that be?

Q. Well, once you get past the page numbers --

A. Oh, I see.

MR. GOODMAN: F2.

Q. And the page will be entitled Patriot Coal Corporation Debtor in Possession Consolidated Statements of Operation?

A. Right. I am looking at some sort of -- good.

Q. So you know what, I apologize, look at F4.

A. I thought you were looking for a balance sheet.

Q. I was. My apologies. If you look at F4, here is the consolidated balance sheet. And if you look at the second line cash and cash equivalents?

A. I see it.

Q. You will see it is $333,929,000? Is that approximately $50 million less?

A. It is.

J. STUFSKY

Q. If we were to go back -- sorry -- by the way, have you reviewed the monthly operating reports, that Patriot has been issuing since it's been in bankruptcy? I didn't see it on your list.

A. I believe I saw a couple of operating reports. I don't remember when. I think they were given to us at the meeting?

MR. ALPER: After.

A. Or after. I don't recall. I don't recall which meetings. But I do recall seeing some, yes.

Q. Have you seen the most recent monthly operating report for Patriot, which is from January of 2012?

A. I am not sure if I did, and if -- I wouldn't recall, you know, one from the other over months.

Q. So if we go back to your equity chart -- here we go. Let me just ask you, do you have an understanding if the amount of cash on hand at Patriot has decreased since December 31, 2012?

A. Well, as I said prior, I think it

J. STUFSKY

is on the record that I anticipated and saw that it did. I would imagine it is continuing to decrease as we speak.

Q. So if we go back to your equity value chart, Stufsky 1, and we correct the cash on hand value to be about $330 million, which is the number for -- at the end of 2012?

A. Yes. It will adjust the equity value.

Q. It will adjust the equity value down?

A. It will adjust it downwards, correct.

Q. Aside from the various methodologies that you used in the report, your report that we discussed, did you ever consider analyzing Patriot's market value, I should say equity value, by looking at the market value of Patriot's securities?

A. Yeah, and they are deeply discounted, which is fairly typical in situations like this. And not necessarily a proxy. It is another milestone for sure.

J. STUFSKY

Q. Are you aware that Patriot's senior debt is trading at a discount of about 50%?

A. I think certain bonds are trading at $0.20 or $0.22, you know, 15 to $0.25 on the dollar.

Q. Do you agree with me that the discount on the Patriot, both senior debt and its convertible notes, trading at a discount indicates that the market considers it probable that they will receive less than 100 cents on the dollar?

A. I would suggest that might be a point in time common wisdom, but as I have a lot of friends that trade distressed debt, I don't myself, but I talk to them frequently, not about this, that's what makes it interesting. So yes, it is a clear milestone and I wouldn't get into the mindset of the holders. I suspect if you use a point in time price I would suspect that those who are holding it right now have a piece of paper that's valued at that level.

Q. And they have an expectation they

J. STUFSKY

are going to receive something less than 100 cents on the dollar?

A. I don't know what their expectation is. I don't know what they have been offered to sell it at, if they were offered anything at all. Quite possibly they're holding it at this discount because they expect it to increase in value over time.

Q. It's quite possible they bought it at some substantial discount after the bankruptcy in the first place?

A. It is any and all of the above. Frankly, and I don't know the register, you know, nor the basis.

Q. How did you take into account in your valuations the fact that Patriot's debt, the senior debt is trading at about a 50% discount and its converts are trading at about 10% or a 90% discount when performing a your equity valuation?

A. I take a slightly different view given my 33 years in the industry. I tend not to place as much stock in faith in other

J. STUFSKY

people's estimated values per se, including shareholders which tend to invest for any number of different reasons, quite effused, usually not expert, often part of a portfolio approach if they even know the company they are investing in. So I think it is clearly a milestone, as you are pointing out, but not necessarily indicative of outcomes and not dissimilar to bondholders.

What is much more important in my estimation, based on my experience, to the value of a mining company is whether that mining company has reserves and can convert those reserves to something it can akin to positive cash flow.

Q. But isn't your whole report premised on reliance on public data about the comparables and what they are worth and what their costs are?

A. It is.

Q. And you then applying that to Patriot?

A. Well, again, it is a much different analysis when a company goes into

J. STUFSKY

hibernation in a bankruptcy process by definition. So all you can do on one set of analyses is use market comps and look at the past history of the company, which we have done, and then ideally, a very important milestone that might be added to that, is significant information about the company's prospects for ongoing operations, which we touched on lightly before. Which was the substance of a lot of questions that we have posed looking forward.

What's going to change in its cost structure. What's going to change in its operations related to its cost structure. Might even change the places where it mines to wider seam, higher quality reserves even if requires more capital. So my point in answering your question is, yes, we do the best with what we can. But it is very, very hard to surmise as well without that information for the bankrupt company, and truth be told, if you assume what I think you are implying, maybe I am wrong, but I will change that. Because a company is in

J. STUFSKY

bankruptcy doesn't mean it will stay in bankruptcy and doesn't mean it is permanently debt.

Q. Isn't the question that you were answering, or at least attempting to answer in your report, what is the equity value of this company to the equity holders that currently exist at the end of the bankruptcy, not to the equity holders of the new company --

A. No, I agree.

Q. -- who will come in but to the equity holders who currently exist?

A. Today. Yes, currently.

Q. Who are going to have -- you know, live with the results of the various adjustments made in bankruptcy as well as all the liabilities that are imposed on the estate as a result of bankruptcy?

MR. GOODMAN: Objection to form. Foundation.

A. We have, again, only a couple of few ways, as I think I articulated it at the beginning in assessing a company. One of the

J. STUFSKY

very key ways we would assess the company is on a pure operating discounted cash flow equivalent, net present value, multiple basis. For that, you need to clearly look forward. Why not look back and use that as a straight proxy, well, the company is in bankruptcy and it is going to change. So we would want to have significantly more information that we anticipate the company is developing in order to come out of Chapter 11 as opposed to Chapter 7.

What's the next best proxy or methodology to employ. The next best methodology is to do things that we have done. Value them by their reserves based on similar types of companies. Look at their past production history and look at their arrange of certain gross profit margins that they have achieved. Hypothesize what happens in different price scenarios based on different cash cost to production which they are seeking to achieve and in some case have not achieved in different times in the past, and make average assumptions about the what

J. STUFSKY

the possibilities might be. This is what we are able to do at this point in time. That's what we have done at this point in time.

Q. If you have any information, would you prefer to do a DCF?

A. I don't think that I would have preferred. I would like to have that as a very important milestone, I think I have articulated that. And for a company coming out of bankruptcy, I had this experience before, forward looking timelines often times look radically different even in the past mining plants. Because companies use this, one, as a wake up call, clearly that we better do something if we are going stay alive and they do things regardless of the Court. A lot of things change as a consequence of the Court, including sales contracts that might be underwater. And agreements with laborers and so on and so forth. So you anticipate for two reasons the company might take a different view, and we think maybe for a third reason that they will even start mining in different areas that are

J. STUFSKY

potentially more profitable by seam. And maybe they will even try to up emphasize, if possible, and I don't know, met coal, depending on their view of where met coal prices are going to go, and maybe they will think more harder about the Illinois basin. You know, which has some wider seams. They might offer a slightly higher margin.

I don't know the answers to these questions, but I have seen it before in mining quite often, and that's the rationale for our analysis and what I think a DCF could be very meaningful in making determinations.

Q. You mentioned you had experience with this, with a coal company that came out of bankruptcy or perhaps was in the process of coming out of bankruptcy. What coal company is that?

A. Well, one was another that we had difficulty with, Western Coal.

Q. Did Western Coal go into bankruptcy?

A. Western Coal ended up being taken over by a large shareholder and it hit a home

J. STUFSKY

run because met coal prices did fantastically well at a fantastic time in their growth cycle. Slightly different animal and in that they were laboring to get a production, a major project up to state. Slightly different animal. So -- and then --

Q. So Western didn't go into bankruptcy?

A. It came short.

Q. A company in distress and then got bought by somebody else?

A. Yes. Again, the only difference is by degree. My point is that mining companies frequently do this and then they have to reevaluate.

Q. Do you have experience with a coal company that did go into bankruptcy?

A. Thankfully, just ADI and I was involved equally in SR Trinity as a creditor, but I wasn't involved at the time SR Trinity, I believe, declared bankruptcy, so I saw things coming, but no, I didn't live through the actual experience.

Q. Now I know you worked on the

J. STUFSKY

prepack bankruptcy for AEI?

A. Correct.

Q. Did the prepack result in any payment to the equity holders?

A. No. Not to my recollection.

Q. What about in SR Trinity, did that bankruptcy -- withdrawn.

What about with respect to SR Trinity, did that bankruptcy result in a payment to equity holders?

A. I don't know. As I said, I wasn't involved in that, when it went into bankruptcy. I was really commenting to your point about how mining companies see problems occurring, very commonly and make radical adjustments both before and then to avoid and then in bankruptcy as well.

Q. Are you aware of any bankruptcy -- coal company that went into bankruptcy that ultimately paid a return to equity? Or made a distribution to equity, to be more accurate?

A. As a non-bankruptcy expert, I would -- I will just answer the question

J. STUFSKY

as no.

Q. Okay. If you look on -- back on your report, please, on page 6, this is the continuation of your methodology?

A. Sorry, I can cast this aside?

Q. Yes.

A. It is called Methodology Continued?

Q. Actually, before we get to that. Just so I am perfectly clear, you are opining on the value that may be recovered by the existing equity in Patriot, that's what you are addressing in this report?

A. I am opining on perspective equity values.

Q. That would be payable to the existing shareholders of Patriot?

A. Well, I don't know what you mean by payable as in there might be an equity value and then it is still negotiated as to what percentage of the company equity holders end up with? Slightly different -- I am not sure exactly what you are asking.

Q. Sure. Well, let me ask a better

J. STUFSKY

question. Is your opinion -- is it your opinion that Patriot's enterprise value for its existing equity shareholders, Mr. Goodman's clients --

A. You are looking at a particular page?

Q. I am looking at your summary and conclusions on page 11.

A. Okay.

Q. That you believe based on your analysis that there is an equity value for those existing equity holders?

A. Is that the question?

Q. Yes.

A. I'm not suggesting that there is or there is not. I am not suggesting there is a pinpoint value. You have taken some pains to analyze ranges as described and the methodology of various companies and the limitations related thereto. So in doing all of that, the numbers are self-explanatory, I suppose. You know, we can see a zero value and we can see considerably higher values. High, low, mid, depending on which

J. STUFSKY

methodology of a valuation one employs. I think this is -- I know, this is fairly typical, particularly for a bankruptcy case, usually you will see a slightly narrower view and consensus when you have ongoing concerns.

Q. My apologies, let's go back to page 6 now. The Methodology Continued.

A. Okay.

Q. And I just want to -- you have testified to this before, so I think I am just confirming your prior testimony, but if you look at C and then the first checkmark.

A. Yes.

Q. This reads "This ignores Patriot's actual operating costs and liabilities since Patriot has not yet rationalized or optimized its operation to resemble or exceed comparable companies"?

A. Correct.

Q. And among the operating costs that this does not include are the -- are among the costs, let's put it more generally, this does not include the costs, for example, of PMO or ARO?

J. STUFSKY

A. Correct.

Q. Okay. By the way, what is your understanding of the components of PMO for Patriot?

A. I don't know what's imbedded in it. That's why I am not touching it. I am not sure, per my conversations with Carl Marks, they know either. Again, we have attempted, as I think I have noted before, to do something of intrinsic value, which is assess whether this company can produce coal, extract and produce coal at a positive cash flow generation below the SG&A line pending decisions about the liabilities you discussed and longer term and possibly more actuarial loans as well, and I don't have the answer to those outcomes and I know they are highly variable and probably not close to being decided just yet.

Q. Now, I understand your view on the difficulty of predicting what the PMO cost will ultimately be. My question is, do you know what the elements are?

A. In this case, I don't know what

J. STUFSKY

the elements are.

Q. You don't. Have you --

A. Precisely, no, I don't.

Q. Have you reviewed the 10-K, the Patriot 10-K?

A. I have read it, yes. And I have dismissed it out of uncertainty and focused on the remit of this particular analysis. I have expressed that, I believe, before.

Q. Okay. Look at page 8. This is 2B, page 8 of your valuation. I just want to clarify one thing. Is it your opinion that Patriot will be able to sell as much as 33 million tons of coal in any given calendar year?

A. Well, it is not my opinion that they will or they won't. It is a range that they have achieved in the past. It is part of a range they have achieved in the past and it may not be surprising in certain circumstances to see them, you know, reopen or expand certain operations to that level, possibly in calibration with their processing capacity and possibly not.

J. STUFSKY

Q. So it is not actually your opinion that they are going to achieve these levels, this is simply just a range?

MR. GOODMAN: Objection to form.

A. It is probably in between. It is not my opinion. My opinion doesn't really count. As a professional, I have seen companies produce back up to their range, that's typically what they aspire to. Depending on coal prices that may become a reality. So we are highlighting possibilities here, not unreasoned ones, but no, not necessarily my opinion one way or the other.

Q. Okay. With respect to coal prices on the Y axis, is the same approach, it is not your opinion that these are going to be coal prices in the future, this is range of possibilities?

A. Again, yes. I am not the investor here.

Q. Okay. The same would be true indeed for your list of operating costs and your calculations for gross profit EBITDA,

J. STUFSKY

sorry, yeah, EBITDA?

A. Correct.

MR. GOODMAN: Objection to form.

A. All of this is intended to discuss the sorts of calculations that one use in this sector and used very clearly potential peer companies in order to do that. Further taking stock of some of the similarities that Patriot has and further, frankly, looking at a company that's generated some of these sort of high level production numbers and to a degree margins as well in the past. So you don't want to be silly and create a simulation that can never resemble. But it is really a range of possibilities.

Q. Okay. Now we have been through your CV, so I think I know the answer to this but let me be sure. Have you ever worked for a coal company?

A. No.

Q. Have you ever, you know, been retained by a coal company to analyze their reserves?

J. STUFSKY

A. I am not a technical person. I am a 33-year old veteran who has by osmosis picked up an awful lot of acuity in the space. I have walked a lot of mines. I have worked with a lot of technical firms. I have advised companies bridging the gap between the technical and the financial to raise money, so no.

Q. Do you or KLR issue coal pricing forecasts?

A. We do not issue. We do a little bit of oil and gas research, and we do not issue coal price forecasts.

Q. Okay. And have you issued and sold coal price forecasts in any of your other positions at Deutsche or BNP or Sharps Pixley?

MR. GOODMAN: Objection to form.

A. I have bought them. I have obtained them in public. I have discussed them with friends at other institutions. I have even sat on management committees to determine the price that our institutions might apply globally from period to period in

J. STUFSKY

our practices.

Q. But you have not professionally created coal forecasts and sold them to the market in the same way JPMorgan or Credit Suisse, some of the other entities we discussed earlier do?

MR. GOODMAN: Objection to form.

A. I am not sure they actually sell them as much as demonstrate what they are using, no, that is not a part of practice I have ever been associated with.

Q. Clearly Mr. Alper has assisted you in the preparation of this report?

A. Yes.

Q. What was Mr. Alper's role?

A. Evan was working to collect and assess and run calculations according to the sort of corporate finance formula that we apply in the sector and that we specifically applied here.

Q. Did Mr. Alper do any of the drafting of the report?

A. Some.

Q. In addition to Mr. Alper, did

J. STUFSKY

anyone else assist in the preparation of this report?

A. No. In this case, it was Evan and I at KLR. We did indeed share this with Carl Marks more for witness test of English and does it make sense and is it understandable as a second and third and fourth pair of eyes.

Q. Was there anything in your report that Carl Marks disagreed with?

A. Not to my recollection.

Q. Was there anything in your report that Carl Marks asked you to add?

A. Not to my recollection. Add in, you know, they did supply some of these, you know, the information, but in terms of please adjust your valuation, no.

Q. Was there anything in your report that Carl Marks asked you to change?

A. I believe, you know, one would say, you know, words for clarity, possibly. But, no, mathematically, you know, change that formula and why not use different ranges of things, no, absolutely not.

J. STUFSKY

MS. STARR: I suggest we take a break. I think I am getting near the end, so let me get my notes together and we will try to come back in a few minutes and wrap this up.

(Whereupon, a recess was held.)

MS. STARR: Mr. Stufsky, I have no further questions at this time. I thank you for your time and attention. I have asked for some additional documents from Mr. Carney, and I reserve my right to you recalled to discuss those documents. But based on what I have today, I don't have any further questions.

Does anybody around the table have any questions for Mr. Stufsky?

MR. O'NEILL: Brad O'Neill for the Debtors Committee. I have no questions at this time, but I have the same reservations as Miss Starr put on the record.

THE WITNESS: Sorry, I didn't here a reservation?

J. STUFSKY

MR. GOODMAN: It is the reservation to recall you.

THE WITNESS: Sorry.

MS. STARR: Mr. Goodman, I hand the microphone over to you.

MR. GOODMAN: I have no question of the witness at this time. And we believe that the deposition is concluded.

(Whereupon, at 3:50 p.m., the Examination of this Witness was concluded.)

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JEFFREY STUFSKY

Subscribed and sworn to before me
this _____ day of ________, 2013.

____

NOTARY PUBLIC

E X H I B I T S

EXHIBIT NUMBER	EXHIBIT DESCRIPTION	PAGE
Exhibit 1	Document Entitled Indication of Estimated Value to Existing Equity Holders and Discussion by KLR Group	8
Exhibit 2	Letter From Mr. Foight on the Letterhead of Ross Companies Dated February 26, 2013	47
Exhibit 3	Declaration of Christopher K Wu Dated February 27, 2013	48
Exhibit 4	E-mail From Michael Carney to Christopher Lynch and Amelia Starr and Others Dated March 7, 2013	51

I N D E X

INFORMATION AND/OR DOCUMENTS REQUESTED

C E R T I F I C A T E

STATE OF NEW YORK)
: SS.:
COUNTY OF NASSAU)

I, REBECCA SCHAUMLOFFEL, a Notary Public for and within the State of New York, do hereby certify:

That the witness whose examination is hereinbefore set forth was duly sworn and that such examination is a true record of the testimony given by that witness.

I further certify that I am not related to any of the parties to this action by blood or by marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of March, 2013.

____

REBECCA SCHAUMLOFFEL

WITNESS ERRATA SHEET

Witness Name: Jeffrey Stufsky

Case Name: In Re: Patriot Coal Corporation

Date Taken: March 13, 2013

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