

EXHIBIT I

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UNITED STATES BANKRUPTCY COURT
EASTERN DIVISION OF MISSOURI

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IN RE: PATRIOT COAL CORPORATION,

Case No: 12-51502

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DEPOSITION OF CHRISTOPHER WU
New York, New York
Friday, March 15, 2013

Reported by:
Rebecca Schaumloffel, RPR, CLR
Job No: 59152

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March 15, 2013

10:06 a.m.

Deposition of Christopher Wu, 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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A P P E A R A N C E S:

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C. WU

APPEARANCES (continued:)

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of Unsecured Creditors

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BY: PATRICK McLAUGHLIN, ESQ.

ALSO PRESENT:

Adam Schlesinger, Blackstone Group

Brian Lee, Houlihan Lokey

Daniel P. Tobin, Houlihan Lokey

* * *

1 C. WU

2 C H R I S T O P H E R W U, called as a
3 witness, having been first duly sworn by a
4 Notary Public of the State of New York, was
5 examined and testified as follows:

6 EXAMINATION BY

7 MS. STARR:

8 Q. Could you state your full name
9 for the record, please.

10 A. Christopher Wu.

11 Q. Would you state your business
12 address, please.

13 A. 900 Third Avenue, New York, New
14 York 10022.

15 Q. Mr. Wu, we met off the record.
16 But I will introduce myself again. I
17 Amy Starr from the law firm of Davis Polk.
18 We represent the debtors, Patriot Coal, and
19 its various subsidiaries, who all filed for
20 Chapter 11 action.

21 I am going to be asking, if not
22 all the questions today, the lion's share of
23 the questions today. Although, also
24 attending today are representatives of the
25 UCC, various creditors and the DIP lenders

1 C. WU

2 who also have the right to ask questions. I
3 guess my question for you is, have you been
4 deposed before?

5 A. I have.

6 Q. Okay. So you are familiar with
7 the way this works. But I will just give you
8 the very, very short version of the ground
9 rules then.

10 A. Okay.

11 Q. First, you understand your
12 testimony is under oath?

13 A. Yes.

14 Q. This is all being recorded
15 stenographically, so I would ask if you would
16 wait until I finish my question before you
17 answer and likewise I will do the same
18 for you.

19 A. Right.

20 Q. You need to answer each question
21 verbally with a yes or a no or some other
22 content of answering because a nod or shaking
23 of the head is not recordable. So if you
24 would keep that in mind.

25 A. Yes.

1 C. WU

2 MR. CARNEY: Off the record.

3 (Whereupon, a recess was held.)

4 Q. If at any point you don't
5 understand one of my questions, Mr. Wu, will
6 you let me know and I can try to clarify?

7 A. Yes.

8 Q. If you don't ask me to clarify, I
9 am going to assume that you understood my
10 question.

11 A. Okay.

12 Q. We will be taking a few breaks
13 this morning and I will call them
14 periodically, but if you require a break at
15 any point, please let me know. I'm happy
16 once the pending question and answer is done
17 to find a good time for a break.

18 Do you understand?

19 A. I do.

20 Q. Now I think you mentioned you
21 have testified before.

22 A. Yes.

23 Q. Have you testified before in the
24 capacity as an expert?

25 A. Yes.

1 C. WU

2 Q. About how many times?

3 A. At least seven, eight or nine
4 times.

5 Q. And how many times did you
6 testify in a deposition versus how many times
7 did you testify in a hearing or a trial?

8 A. I have testified in deposition
9 twice. I have testified in the witness stand
10 three times. My deposition has been offered
11 in the form of a Declaration or a proffer
12 many times.

13 Q. Okay. Were any of the expert
14 engagements that you had concern coal
15 companies, a coal company or companies?

16 A. In the capacity as an expert
17 witness?

18 Q. Yes. In your capacity as an
19 expert witness.

20 A. No.

21 Q. Have you ever been engaged on
22 behalf of an equity committee before, putting
23 aside, obviously, your engagement in this
24 matter?

25 A. I have been represented -- I have

1 C. WU

2 represented equity holders but no official
3 equity committee.

4 Q. Which matters were you engaged to
5 represent equity holders in?

6 A. I was representing the -- a group
7 known as the Hughes Heirs in the General
8 Growth Properties case. They were claimants
9 pursuant to a -- an agreement known as the
10 contingent stock agreement.

11 Q. Generally speaking, what was the
12 nature of your assignment for the Hughes
13 Heirs group?

14 A. Advocate for a value.

15 Q. What do you mean by that?

16 A. I meant a system in analyzing the
17 various plans of reorganization, bids, help
18 evaluate the reorganization process from the
19 business and financial perspective and to
20 negotiate with the debtors for a recovery
21 under the contingent stock agreement.

22 Q. And in that context, did you do
23 an equity or maybe we will call it enterprise
24 valuation of the debtor?

25 A. I am sure we did various analyses

1 C. WU

2 relating to valuations.

3 Q. Well, more specifically, did you
4 prepare an enterprise valuation of the entire
5 debtor enterprise for your clients?

6 A. I don't recall.

7 Q. And were there any other
8 instances in which you acted as an expert or
9 a consultant on behalf of either a group of
10 equity holders? I should say -- let me
11 revise that, a single equity holder or a
12 group of equity holders?

13 A. Not that I recall.

14 Q. In connection with your
15 various -- I think you said it was eight or
16 nine expert engagements that you have had?

17 A. Financial advisory with an expert
18 component where I was introduced as an expert
19 or testifying relative to my capacity as an
20 investment banker or financial advisor to the
21 debtor or what have you.

22 Q. Okay. In connection with those
23 engagements, have you ever done an enterprise
24 valuation?

25 A. I am sure I have, yes.

1 C. WU

2 Q. Can you recall for which
3 engagements you were required to do an
4 enterprise valuation?

5 A. I can't because I have done
6 numerous of them throughout my career.

7 Q. So you can't recall whether and
8 in which, among these, call it eight or nine
9 expert engagements that you did an equity
10 valuation?

11 A. Enterprise valuation.

12 Q. An enterprise valuation, that's
13 the better term?

14 A. Let me try to recall here. There
15 is certainly valuations involved in some of
16 the reorganizations that represented debtors.
17 There was a valuation in the disclosure
18 statement for Holley Performance. There was
19 a valuation for a reorganization of Northern
20 Berkshire. You know, those are probably the
21 only official valuations pursuant to plans,
22 so to speak. I have often been asked to
23 provide valuations for the purpose -- for
24 different purposes to different clients and
25 different circumstances. Both in and out of

1 C. WU

2 court.

3 Q. Were any of the valuations that
4 you did and the circumstances you just
5 described enterprise valuations of a similar
6 nature to that performed by KLR in this
7 matter?

8 MR. CARNEY: Object to form.

9 A. I mean, KLR's report is what it
10 is. There are a lot of information that's
11 not available relative to KLR's valuation.
12 Most notably, business projection or
13 management's projection. But, clearly,
14 valuations in general have similar
15 components. I have not done a valuation that
16 had a reserve analysis component to it. I
17 have done analyses and valuations which had
18 comparable trading components to it. This
19 one doesn't have a discounted cash flow. I
20 have done those analyses many times in my
21 career. Precedent transaction analyses.
22 These are all different elements of
23 valuation, which I have experience doing.

24 Q. Have you ever performed a
25 comparable companies valuation where you

1 C. WU

2 didn't use actual company data for the
3 company that you were valuing?

4 MR. CARNEY: Object to form.

5 A. I have done comparable company
6 analyses where there were a range of possible
7 baseline EBITDAs and we have applied such
8 comparable statistics relative to a range of
9 possible valuation -- possible baseline
10 statistics.

11 Q. And in that instance, were you
12 using company projections about what the
13 company believed its performance would be?

14 A. You know, actually, I have
15 performed valuations for commodity companies,
16 which assumed different price curves and,
17 therefore, they were based on company
18 projections and also price curves.

19 (Whereupon, a recess was held.)

20 BY MS. STARR:

21 Q. Mr. Wu, have you ever testified
22 as a fact witness in a bankruptcy proceeding
23 as opposed to an expert witness?

24 A. I don't actually know what that
25 means. Can you elucidate?

1 C. WU

2 Q. Sure. A fact witness is a
3 witness who is testifying as to his or her
4 personal experience in the facts, either what
5 happened or what conversations were had as
6 opposed to reviewing data and giving an
7 expert opinion as to the significance of that
8 data.

9 A. I have.

10 Q. Okay. In what cases did you
11 testify as a fact witness, in a bankruptcy
12 context?

13 A. MSR Resort Golf. I testified as
14 a fact and expert witness.

15 Q. And what was the nature of your
16 testimony in that matter?

17 A. The nature related to my role as
18 advisor to a mezzanine lender who was part of
19 an auction process for a group of resort
20 properties, and both my opinions related to
21 the auction process and disclosures thereto
22 about what a debtor disclosed and not
23 disclosed and when and both -- I testified as
24 to my experience in auctions as an expert, as
25 well as someone who was involved in the

1 C. WU

2 process.

3 Q. Have you ever provided -- well,
4 let me, before I get to that. Are there any
5 other occasions in which you testified as a
6 fact witness in the bankruptcy context?

7 A. Not that I immediately recall.

8 Q. Okay. Have you ever been asked
9 to provide an opinion in a bankruptcy
10 proceeding regarding the likelihood of
11 recovery for the equity holders?

12 A. I have not.

13 Q. So this is the first time?

14 A. Yes.

15 Q. Let me mark as Wu Exhibit 1, a
16 copy of your Declaration in this matter.

17 (Whereupon, Wu Exhibit 1, Wu
18 Declaration was marked for
19 identification as of this date by the
20 Reporter.)

21 Q. My first question for you,
22 Mr. Wu, is very simple, can you confirm for
23 me that this is the indeed the Declaration
24 that you submitted in this matter?

25 A. Yes.

1 C. WU

2 Q. And just to be fair, I understand
3 there were a number of exhibits attached to
4 your Declaration which are not actually
5 attached to Wu No. 1. Just so that we have a
6 full and accurate document, Mr. Wu, if you
7 will wait a moment, I will give you the
8 exhibits as well.

9 A. Sure.

10 MR. CARNEY: You want to
11 separately mark them?

12 MS. STARR: It might be easier
13 to separately mark them.

14 Q. We are going to mark as Wu
15 Exhibit 2. The Patriot Coal indication of
16 estimated value to existing equity holders
17 and discussion dated February 2013 by the KLR
18 Group.

19 (Whereupon, Wu Exhibit 2,
20 Patriot Coal Indication of Estimated
21 Value to Existing Equity Holders and
22 Discussion Dated February 2013 was
23 marked for identification as of this
24 date by the Reporter.)

25 MS. STARR: We will mark as Wu

1 C. WU

2 Exhibit 3, a letter from Lloyd S.
3 Foight of the Ross Companies addressed
4 to Michael R Carney, Esquire, dated
5 February 26, 2013, which is the second
6 exhibit to Mr. Wu's Declaration.

7 (Whereupon, Wu Exhibit 3, Letter
8 From Lloyd S. Foight of the Ross
9 Companies Addressed to Michael R
10 Carney, Esquire, Dated February 26,
11 2013 was marked for identification as
12 of this date by the Reporter.)

13 Q. Mr. Wu, do you recognize Wu
14 Exhibit 1, which is your Declaration as well
15 as Wu Exhibits 2 and 3, which are the
16 exhibits to your Declaration as the total of
17 your expert submission in this matter?

18 A. Yes, I do.

19 Q. Okay. If you will look at Wu
20 Exhibit 1, Paragraph 10. You will see the
21 last sentence of Paragraph 10 references you
22 have been deemed an expert witness in various
23 bankruptcy courts?

24 A. Yes.

25 Q. How many times have you

1 C. WU

2 officially qualified as an expert witness in
3 a bankruptcy court?

4 A. So, to my recollection,
5 approximately ten times.

6 Q. And you will see in Paragraph 12,
7 you have a list of various assignments in
8 which you've testified in bankruptcy cases.
9 Were you deemed to be an expert by the Court
10 in these -- in the matters that are listed
11 here in Paragraph 12 of your Declaration?

12 A. Specifically, these are the cases
13 in which, to my recollection, I submitted
14 testimony relative to specific matters or
15 testified on the stand as to qualifying me as
16 an expert witness, capital E, capital W. I
17 don't recall specifically whether that was a
18 qualification that was explicitly determined,
19 because I am not sure I appreciate the
20 distinction myself, other than I think in the
21 General Growth Properties case, I do recall
22 that that was discussed in the courtroom and
23 that I was admitted as an expert. But I
24 don't recall whether counsel or opposing
25 counsel or what have you, you know, qualified

1 C. WU

2 me officially as an expert witness.

3 Q. Has any Court ever declined to
4 qualify you as an expert witness in any
5 capacity?

6 A. No.

7 Q. Okay. Now, looking at page 6 of
8 your report. It bears the date February 27,
9 2013. Is that indeed the date on which you
10 finalized your report?

11 A. It is indeed.

12 Q. And is this your signature, also,
13 on page 6 of the report?

14 A. Yes.

15 Q. Is it your belief -- let me try
16 again.

17 Is the information set forth in
18 your report true and correct?

19 A. To the best of my knowledge, yes.

20 Q. And does this report contain an
21 accurate summary of all of your opinions in
22 this matter?

23 A. I do believe so.

24 Q. And do you have any opinions
25 regarding the Patriot matter that are not

1 C. WU

2 reflected in your report?

3 MR. CARNEY: Object to form.

4 A. I think the report is complete.

5 Q. Are there any other opinions that
6 you would tend to offer at a later stage in
7 the proceedings that are not presently
8 contained in this report?

9 A. Not that I am aware of.

10 Q. Let's look just briefly, Mr. Wu,
11 at your CV, what I believe to be your CV,
12 which is page -- it's not numbered but the
13 last page of your report.

14 A. Yes.

15 Q. Is this your CV?

16 A. I think this is off the website.

17 Q. Do you have a formal CV?

18 A. No, hasn't been updated in
19 awhile.

20 Q. Okay. Is this extract from the
21 Carl Marks website up to date?

22 A. I believe so.

23 Q. During your, both your
24 undergraduate studies at University of
25 Chicago and graduate studies at New York

1 C. WU

2 University, did you ever study the coal
3 industry?

4 A. Not that I recall.

5 Q. Do you have any other experience
6 or training dealing with the coal industry?

7 A. I have done a restructuring of a
8 private company in the coal industry based in
9 Kentucky. That was some years ago, but my
10 role was restructuring. And it was a company
11 that did not have mining operations. It was
12 a lessor.

13 Q. What was the name of the company?

14 A. I can't disclose that.

15 Q. What types of issues did you
16 advise on? You don't have to be specific
17 about the location, et cetera, but what types
18 of issues did you advise on in connection
19 with that engagement?

20 A. Debt-to-equity conversion issues.

21 Q. Did you -- I think the answer to
22 this question is no, but did you advise on
23 any issues regarding valuation of coal
24 reserves?

25 A. No.

1 C. WU

2 Q. On coal price forecasting?

3 A. No.

4 Q. On coal production?

5 A. No.

6 MR. CARNEY: Object to form.

7 Q. On the company's projected

8 EBITDA?

9 A. I don't recall.

10 Q. Okay. How long ago was that?

11 A. At least six or seven years ago.

12 Q. Okay. Since that time, have you
13 had any other assignments involving coal
14 companies?

15 A. No.

16 Q. Do you consider yourself an
17 expert in the coal industry?

18 A. The answer is no.

19 Q. I take it you do not consider
20 yourself to be an expert in forecasting coal
21 pricing?

22 A. No. That's not me.

23 Q. Or coal production?

24 A. An investment banker would never
25 be an expert in coal production.

1 C. WU

2 Q. Or in forecasting coal revenues
3 and profits and gross margins?

4 MR. CARNEY: Object to form.

5 A. No.

6 Q. Now, on page 7 of your report --
7 sorry, not page 7, Paragraph 7 of your
8 report, you have a description of your
9 educational background and you mention that
10 you have lectured at the graduate level of
11 business school on a variety of topics. Have
12 any of those lectures or the panels that you
13 participated in involve coal companies or the
14 coal industry?

15 A. I served on a panel regarding
16 energy more broadly for the AIRA and coal was
17 discussed as one of the industries that was a
18 topic of that panel in addition to other
19 alternative industries.

20 Q. Were you one of the individuals
21 discussing the coal industry on that panel?

22 A. I might have made a comment or
23 two but most of my discussion as a panelist
24 related to alternative energy.

25 Q. The coal -- the assignment that

1 C. WU

2 you did for the private coal companies
3 several years ago, did you do that while you
4 were at Carl Marks or at a prior position?

5 A. At Carl Marks.

6 Q. Prior to working at Carl Marks,
7 you worked at JPMorgan; is that right?

8 A. Yes.

9 Q. During your tenure at JPMorgan,
10 did you do any work for coal companies or
11 concerning the coal industry?

12 A. So now I am recalling, now that
13 you mention that, I did a lot of work for
14 U.S. Steel. And U.S. Steel is a large
15 consumer of metallurgical coal in the form of
16 coke. So I had exposure to the coal industry
17 but really from the perspective of integrated
18 steel producers.

19 And prior to business school,
20 actually, I had a job for a Japanese trading
21 company. The name was ITOCHU International
22 and for ITOCHU, I was responsible for
23 importing ceramic refractories, which were
24 used in the continuous casting process, which
25 related to steel. But, also, we had a

1 C. WU

2 product that dealt with specific engineered
3 doors that reduced the noxious emissions from
4 coke oven batteries. So I have been sort of
5 familiar with the steel making process and
6 some of the inputs, but, obviously that's not
7 directly coal specific.

8 Q. So, Mr. Wu, when were you, maybe
9 more properly, Carl Marks retained in
10 connection with this matter?

11 A. Late last year. Late fall.

12 Q. Late fall. So this would be in
13 the fourth quarter of 2012?

14 A. Yes.

15 Q. How did you come to be retained?

16 A. I had some relationships with
17 McKool and we had discussions about possibly
18 representing equity holders. I had also been
19 paying attention to the Patriot filing, and
20 had spent some time familiarizing myself with
21 the specifics of the case, and, therefore, I
22 saw an opportunity to potentially represent a
23 party in interest.

24 Q. And the time that you spent
25 familiarizing yourself with the Patriot

1 C. WU

2 filing, was this prior to being contacted by
3 somebody from McKool?

4 A. Yes.

5 Q. What did you do to familiarize
6 yourself with the Patriot Coal bankruptcy?

7 A. I had my staff review the
8 petitions.

9 Q. Do you -- strike that.
10 Who at McKool first
11 contacted you?

12 A. It was Hugh Ray.

13 Q. Did you have subsequent contacts
14 with other individuals from McKool?

15 A. I did. Peter Goodman,
16 Michael Carney.

17 Q. Anyone else?

18 A. Not that I recall.

19 Q. When you were first approached by
20 McKool to potentially become involved in this
21 matter, what did they describe to you at the
22 possible scope of your retention?

23 A. Scope was to provide any
24 financial restructuring advice and to
25 potentially be a financial advisor.

1 C. WU

2 Q. What compensation arrangements,
3 if any, were discussed with McKool in
4 connection with your retention?

5 A. There were no compensation
6 arrangements.

7 Q. Was there a retention letter or
8 engagement letter that was signed?

9 A. There was general terms of an
10 engagement that were signed, yes.

11 Q. So there is a document spelling
12 out the terms of your engagement?

13 A. There is a document.

14 MS. STARR: Mr. Carney, we have
15 not seen the engagement letter between
16 Carl Marks and McKool Smith. We ask
17 for a prompt production of such
18 letter.

19 MR. CARNEY: Duly noted.

20 Q. Have you been compensated for
21 your work on this engagement to date?

22 A. No.

23 Q. If the equity holders are
24 ultimately successful in convincing the Court
25 allow an equity committee to be established,

1 C. WU

2 do you have an expectation that you will be
3 engaged by the equity committee?

4 A. There is always hope.

5 Q. Do you believe that your work as
6 an expert on this matter will improve the
7 likelihood that the equity committee would
8 look to you as a financial advisor if one is
9 eventually formed?

10 A. There is always hope.

11 Q. If you believe that there was no
12 hope that you would be engaged eventually if
13 an equity committee was formed, would you
14 have done this assignment?

15 A. Probably not.

16 Q. If the equity committee is
17 ultimately unsuccessful in obtaining Court
18 approval to form an equity committee, will
19 you or Carl Marks receive any compensation
20 for this assignment?

21 A. No.

22 Q. Now, at or about the time of your
23 retention by McKool Smith, did you have a
24 discussion with McKool Smith about the need
25 for a coal expertise in connection with this

1 C. WU

2 engagement?

3 MR. CARNEY: I'm going to
4 instruct you not answer any
5 conversations you had with McKool
6 Smith outside of the terms of your
7 retention.

8 It is the same Rule 26 issue
9 that we had last time.

10 MS. STARR: I think he can
11 answer that question at least with a
12 yes or a no.

13 MR. CARNEY: My instruction
14 still stands. I instruct you not to
15 answer that.

16 MS. STARR: Mr. Carney, this is
17 not a privilege between counsel and an
18 independent expert. Certainly not
19 with respect to the scope of the
20 assignment and the nature of the
21 expertise required. Are you going to
22 maintain your objection?

23 MR. CARNEY: Yes.

24 MS. STARR: Well, please mark
25 that as we will follow-up with the

1 C. WU

2 Court's ruling on it.

3 Q. Did have you a concern that in
4 order to perform this engagement, you needed
5 assistance from someone or an entity with
6 experience in the coal industry?

7 A. Well, clearly, I did not think
8 that I had the sufficient expertise with
9 respect to coal. So I did not believe that,
10 from an industrial evaluation perspective, my
11 expertise was sufficient.

12 Q. Did you take any steps to address
13 that fact?

14 A. Yes.

15 Q. What steps did you take?

16 A. Contacted Mr. Stufsky.

17 Q. Did you know Mr. Stufsky prior to
18 contacting him in connection with this
19 assignment?

20 A. Yes.

21 Q. How did you know Mr. Stufsky?

22 A. Met him through a mutual friend.

23 Q. Who is that?

24 A. His name is Noah Burke.

25 Q. How did -- well, strike that.

1 C. WU

2 When did you reach out to
3 Mr. Stufsky?

4 A. In the fall timeframe.

5 Q. Was this before or after you
6 talked to McKool?

7 A. I had discussed Patriot with Jeff
8 prior to any discussion with McKool.

9 Q. And why did you reach out to
10 Mr. Stufsky to discuss Patriot?

11 A. Because I felt he had experience
12 in the industry.

13 Q. What did you discuss with
14 Mr. Stufsky?

15 A. His experience in the industry.

16 Q. And what was your intent in
17 connection with that conversation?

18 A. Collaboration with respect to
19 pursuing opportunities for engagements in
20 coal insolvency.

21 Q. Was your -- were you particularly
22 focused on the Patriot insolvency and
23 potential opportunities in connection with
24 that bankruptcy proceeding?

25 A. I was, but there was also broader

1 C. WU

2 discussions.

3 Q. What did you discuss, more
4 specifically about the Patriot bankruptcy?

5 A. Would he be willing to
6 collaborate with me with respect to adding
7 coal expertise to our own restructuring
8 expertise.

9 Q. And what was Mr. Stufsky's
10 response?

11 A. He was amenable.

12 Q. So just so that I am clear, by
13 the time you were contacted by Mr. Ray from
14 McKool, you had already communicated with
15 Mr. Stufsky about potentially collaborating
16 on an assignment related to the coal
17 industry?

18 A. Yes.

19 Q. After you were contacted by
20 McKool, did you contact Mr. Stufsky again?

21 A. Yes.

22 Q. What did you discuss?

23 A. Would he be willing to
24 collaborate.

25 Q. And indeed was he?

1 C. WU

2 A. Yes.

3 Q. Okay. Did Carl Marks and KLR
4 enter into a written agreement with respect
5 to this collaboration?

6 A. No.

7 Q. Did you enter into a written
8 agreement with respect to how you would share
9 any compensation, if any was ever paid?

10 A. No.

11 Q. Did you enter into any kind of
12 written agreement?

13 A. No.

14 Q. With KLR?

15 A. No.

16 Q. Did you have any informal or oral
17 agreement with KLR with respect to the
18 collaboration?

19 A. No.

20 Q. Or any oral or informal agreement
21 with respect to how you would share
22 compensation, if any was paid?

23 A. No.

24 Q. Did you approach any other coal
25 industry experts regarding potential -- a

1 C. WU

2 potential collaboration?

3 A. No.

4 Q. How was it decided that
5 Mr. Stufsky and KLR would prepare an equity
6 valuation in connection with this assignment?

7 MR. CARNEY: Object to form.

8 A. I think -- well, the roles were
9 clear in terms of Jeff's area of expertise,
10 and, therefore, the apportionment of roles
11 was predetermined that Jeff would do coal
12 valuation.

13 Q. And what would your role be?

14 A. Anything that may have a
15 bankruptcy or restructuring element to it, I
16 would opine.

17 Q. Was one of your roles to review
18 the claims or the potential claims against
19 Patriot in the bankruptcy proceeding?

20 A. That was going to be a
21 perspective role, but that's not specifically
22 a scope that we have performed.

23 Q. Is it correct that you had an
24 additional collaborator in connection with
25 this assignment, Mr. Foight?

1 C. WU

2 A. I know that Mr. Foight has
3 provided information, which is the subject of
4 my Declaration here, which I have read.

5 Q. Let me ask a better question.
6 Have you ever met Mr. Foight?

7 A. No.

8 Q. How did you -- how were you
9 first -- did you first learn about
10 Mr. Foight?

11 A. I learned of his existence from
12 McKool Smith.

13 Q. Okay. How did you learn of
14 what -- what work he was doing or intending
15 to do?

16 A. I learned that he would be -- he
17 was an expert with respect to legacy
18 obligations and that he would be providing
19 some report regarding that.

20 Q. Did you either meet in person or
21 telephonically with Mr. Foight about the work
22 that he was doing?

23 A. No.

24 Q. Did you exchange any other -- any
25 communications with Mr. Foight in writing,

1 C. WU

2 whether by E-mail or any other form of
3 writing?

4 A. No.

5 Q. When is the first time that you
6 saw Wu Exhibit 3, which is the letter from
7 Mr. Foight?

8 A. Sometime in either late January
9 or February.

10 Q. And when you saw it, was it in
11 final form or was it in draft form?

12 A. I don't recall.

13 Q. Did you provide any comments
14 regarding Mr. Foight's letter?

15 A. I don't recall.

16 Q. Did you provide any suggested
17 changes or additions from Mr. Foight's
18 letter?

19 A. No.

20 Q. Did you ask any questions about
21 the contents of Mr. Foight's letter?

22 A. I probably asked questions
23 regarding it.

24 Q. What were those questions?

25 A. I don't recall.

1 C. WU

2 Q. Do you recall the general subject
3 matter of the questions, if not the specific
4 questions?

5 A. I think, you know, questions
6 regarding discount rate. Questions regarding
7 assumptions. But those were directed to
8 McKool.

9 Q. I see. So you never actually
10 spoke with Mr. Foight?

11 A. No.

12 Q. You would ask your questions and
13 they would be conveyed to McKool?

14 A. Right.

15 Q. Did you ever get answers back
16 from McKool that were purported to be answers
17 from Mr. Foight?

18 A. I don't recall. But certainly
19 responses and descriptions relative to
20 general questions that I may have had.

21 Q. Do you have any records of the
22 questions you asked or the responses that you
23 received?

24 A. These were likely to be
25 telephonic discussions.

1 C. WU

2 Q. So you believe you don't have any
3 records of those?

4 A. No.

5 Q. Did you rely in any manner on the
6 responses that you received through McKool to
7 your questions to Mr. Foight?

8 MR. CARNEY: Objection.

9 A. I don't recall.

10 Q. Have you ever spoken to
11 Mr. Foight?

12 A. No. I thought that was clear. I
13 have not spoken to him.

14 Q. Once you received either a draft
15 or a final version of the letter, I
16 understand you're not quite sure which, what
17 did you do to analyze the Foight letter and
18 understand it?

19 A. I read it.

20 Q. Aside from reading it, did you do
21 anything further?

22 A. No.

23 Q. Do you rely on the Foight letter
24 in connection with giving the opinion in Wu
25 Exhibit 1?

1 C. WU

2 A. Clearly.

3 Q. Just to go back for a second to
4 Wu Exhibit 2, which is the KLR valuation,
5 when is the first time that you saw -- well,
6 strike that.

7 Did you discuss with Mr. Stufsky
8 the valuation methodologies that he might use
9 in the valuation?

10 A. Yes.

11 Q. Okay. What did you discuss?

12 A. He explained his approach. I
13 understood his approach and agreed with his
14 approach.

15 Q. When is the first time you saw a
16 version of the KLR equity valuation report?

17 A. Probably in the late January
18 timeframe.

19 Q. Did you review it?

20 A. Yeah.

21 Q. Did you have any comments on the
22 draft?

23 A. Not specifically.

24 Q. Did you have general comments,
25 overview type comments?

1 C. WU

2 A. I am sure we did, yes.

3 Q. What were those comments?

4 A. Questions relative to
5 comparables, questions relative to margins,
6 questions relative to assumptions.

7 Q. And what were Mr. Stufsky or
8 Mr. Stufsky's associates answers to those
9 questions?

10 MR. CARNEY: Object to form.

11 A. Just descriptions relative to
12 assumptions that they have made and basis
13 for, you know, companies that were listed as
14 comparables, and that was satisfactory.

15 Q. Did any of the questions and
16 answers that you just described, generally,
17 take place in writing?

18 A. Conference calls.

19 Q. So they were verbal discussions?

20 A. Verbal discussions.

21 Q. Were the responses verbal
22 responses?

23 A. Verbal responses.

24 Q. Did you review any of the data
25 underlying Mr. Stufsky's report?

1 C. WU

2 A. No.

3 Q. Did you do -- in any way verify
4 any of the data or assumptions used in
5 Mr. Stufsky's report?

6 MR. CARNEY: Object to form.

7 A. No.

8 Q. Did you provide Mr. Stufsky any
9 data for inclusion in his report?

10 A. No.

11 Q. Mr. Stufsky has testified that
12 Carl Marks provided him some data with
13 respect to trade claim payables. Now that I
14 say that, does that refresh your recollection
15 in any way that Carl Marks provided data to
16 Mr. Stufsky?

17 A. I think what we did, or my staff
18 did, is provide guidance to Jeff and his team
19 where to get that information in the public
20 filings.

21 Q. I see. So you or your staff may
22 have suggested that he should look at a
23 particular public document to get certain
24 types of information; is that fair?

25 A. Yes.

1 C. WU

2 Q. But you didn't necessarily give
3 him information for his report?

4 A. No.

5 Q. Specifically, do you know -- did
6 you or some member of your staff suggest to
7 Mr. Stufsky that he should review the
8 2012 10-Q?

9 A. I believe we made that
10 suggestion.

11 Q. In particular, did you suggest to
12 Mr. Stufsky that he should review the 10-Qs
13 description of claims subject to, let me get
14 the right phrase, hold on, refer him to the
15 section of the 10-Q that discusses the
16 liability subject to compromise?

17 MR. CARNEY: Object to form.

18 A. I believe my staff provided
19 specific direction to Jeff and his team as to
20 where to find that in the 10-Q.

21 Q. Have you reviewed the Patriot
22 Coal 2012 10-Q?

23 MR. CARNEY: Object to form.

24 Specify which 10-Q.

25 MS. STARR: Sorry.

1 C. WU

2 Q. The 2012 third quarter 10-Q.

3 A. I think I have read it.

4 Q. When did you read it?

5 A. I actually don't remember.

6 Q. Was it for the -- maybe I should
7 ask it a different way.

8 Was it for the purposes of
9 preparing your expert Declaration?

10 A. I believe I read it prior to the
11 expert Declaration, but I don't recall
12 specifically.

13 Q. Did you rely on any of the data
14 in the -- the third quarter 2012 10-Q in
15 preparing your expert Declaration?

16 A. I don't think so.

17 MS. STARR: Let's mark this as
18 Wu Exhibit 4.

19 (Whereupon, Wu Exhibit 4, E-mail
20 From Michael Carney to Christopher
21 Lynch and Amelia Starr and Various CCs
22 Dated March 7, 2012 was marked for
23 identification as of this date by the
24 Reporter.)

25 Q. For identification, Wu Exhibit 4

1 C. WU

2 is an E-mail from Michael Carney to
3 Christopher Lynch and Amelia Starr and
4 various CCs dated March 7, 2012. And gives a
5 list of documents relied upon by KLR and by
6 Christopher Wu.

7 MR. CARNEY: Objection. I think
8 that mischaracterizes the E-mail.
9 Actually, withdrawn.

10 Q. Mr. Wu, what I want to focus you
11 on is the second paragraph, the last
12 two lines where it says -- the author is
13 talking about various things and says
14 "Christopher K. Wu, who I understand relied
15 upon, one, the KLR report, and two, the Ross
16 letter in formulating his Declaration."

17 Do you see that?

18 A. Yes.

19 Q. Is that accurate, Mr. Wu?

20 A. Yeah, I believe so.

21 Q. Did you rely on any other
22 materials aside from the KLR report and the
23 Ross letter in connection with your
24 Declaration?

25 A. Can you repeat the question,

1 C. WU

2 please.

3 Q. Certainly. Did you rely on any
4 other materials aside from the KLR report and
5 the Ross letter in connection with your
6 Declaration?

7 A. Well, so I am just thinking
8 through this here. So some of the Patriot
9 Coal public filings I have read, and
10 certainly those public filings provide
11 reference to me as a basis for my
12 Declaration, and also, you know, with respect
13 to the KLR report. So from that perspective,
14 and there is a list here of several public
15 filings, and I can't say that I have read
16 every one of those public filings. That's
17 more of what KLR obviously relied on.

18 Q. Which of these public filings
19 have you read that are listed here in Wu
20 Exhibit 4?

21 A. I can't recall, to be frank. But
22 I have read the 12-K and some of the Qs.

23 Q. Just so that the record is clear,
24 when you say the 12-K, you mean the 2012 10-K
25 issued by Patriot?

1 C. WU

2 A. Yes.

3 Q. Fairly recently?

4 A. Yes, and by that I don't mean I
5 read every word either.

6 Q. Fair enough. If we look back at
7 your Declaration, which is Exhibit 1. If you
8 will look at the Paragraph 3 at the top of
9 page 2. You say that "All the facts that
10 form this Declaration are based on, one, my
11 personal knowledge. Two, information
12 supplied to me by a counsel for the
13 interested shareholders, and then it -- the
14 advisors retained by the interested
15 shareholders, and C, my colleagues."

16 What information, if any -- what
17 facts, I should say set forth in your
18 Declaration are based upon information
19 supplied to you by counsel to the interested
20 shareholders?

21 A. The question one more time,
22 please, what facts?

23 Q. Sure. What facts set forth in
24 your Declaration are based upon this little
25 2, information supplied to you by counsel for

1 C. WU

2 the interested shareholders?

3 A. I think the question is too
4 general for me to adequately answer. It is
5 too broad. Like I really don't know what
6 to say.

7 Q. Okay. Let me ask you a, maybe a
8 simpler question. What information was
9 supplied to you by counsel to the interested
10 shareholders?

11 A. In that, I don't recall.
12 Certainly, there has been a lot of
13 discussions with counsel during, you know,
14 the last several weeks and there has been
15 legal perspective provided to me. There has
16 been a discussion of developments in the case
17 and those are of a general nature. And some
18 may be specific. But for any professional
19 here in the room who has professional legal
20 relationships and with other professionals,
21 one could appreciate general nature of
22 discussions between professionals, and
23 therefore, I am not able to tell you
24 specifically what facts, what advice, what
25 information.

1 C. WU

2 Q. Now, you also mentioned here in
3 Paragraph 3 that information was supplied to
4 you by other advisors retained by the
5 interested shareholders. Who were the
6 advisors that you were referencing in
7 Paragraph 3?

8 A. KLR.

9 Q. There are no other advisors upon
10 which you -- from whom you received
11 information?

12 A. Well, we received information
13 from Mr. Foight.

14 Q. Okay. Anyone else aside from KLR
15 and Mr. Foight?

16 A. No.

17 Q. Did you make any factual
18 assumption in preparing your report on this
19 case?

20 MR. CARNEY: Object to form.

21 A. I think that's too broad a
22 question for me to adequately answer.

23 Q. Let me ask you a much more
24 specific question. Do me a favor, if you
25 look at Wu Exhibit 2, which is the KLR

1 C. WU

2 valuation. And if you look at page 12, and
3 it is the page entitled Note to Analysis. If
4 you will just review for yourself the second
5 paragraph for a moment and let me know when
6 you are done.

7 A. Okay.

8 Q. Mr. Wu, consistent with this
9 paragraph, is it your understanding that
10 Judge Chapman ruled that estimation of the
11 claims pool and the impact of assumption and
12 rejection of certain executory contracts
13 would not be a part of the Court's analysis
14 related to whether an official equity
15 committee should be appointed?

16 A. Yes.

17 Q. Okay. How did you come to that
18 understanding?

19 A. That was information that was
20 provided to us by counsel.

21 Q. Was it provided to you orally or
22 in writing?

23 A. Likely orally.

24 Q. Have you seen any writing from
25 the Court memorializing such ruling?

1 C. WU

2 A. I have not.

3 Q. If it were in fact -- if this --
4 let me ask you. Is your opinion based in
5 part on an assumption that indeed the ruling
6 described here is correct?

7 MR. CARNEY: Object to form.

8 A. Say that to me one more time,
9 please.

10 Q. Sure. In connection with the
11 opinion that you give in your Declaration, do
12 you assume that the ruling described here,
13 that the Court will not consider the estimate
14 of the claims pool or the impact of the
15 assumption or rejection of certain contracts
16 for the purposes of the equity committee
17 motion?

18 A. Okay. So --

19 MR. CARNEY: Same objection.

20 A. So is that a factor?

21 Q. Is that something upon which you
22 rely, the assumption that such ruling was
23 made in giving the opinion in your
24 Declaration?

25 A. For my perspective, it is a

1 C. WU

2 factor. It is an element. It is -- it's one
3 of many factors that I considered as part of
4 my Declaration.

5 Q. If it proves -- the understanding
6 recorded in this paragraph proves incorrect,
7 i.e., that in fact the Judge did not rule
8 that the equity holders could ignore
9 estimation of the claim pools or the impact
10 of various -- the rejection of various
11 executory contracts, that fact or that
12 assumption proves to be incorrect, would that
13 impact your opinion that there will be value
14 for the equity holders at the end of the
15 bankruptcy after application of the absolute
16 primary rule?

17 MR. CARNEY: Object to form.

18 A. I don't think it would affect my
19 opinion.

20 Q. Why not?

21 A. There could be a lot of different
22 outcomes of which are not known.

23 Q. Have you by any chance reviewed
24 the latest reports of the claims pool in the
25 Patriot bankruptcy?

1 C. WU

2 A. By latest?

3 Q. Within the past week or two.

4 A. I don't think I have.

5 Q. Have you -- have you reviewed the
6 amount of claims in the claims pool?

7 A. I have heard that -- I have heard
8 various references to the claims pool but
9 maybe you can refresh my memory.

10 Q. Sure. Are you aware that Patriot
11 has retained GCG to handle and process
12 claims?

13 A. I am not. But that would be one
14 of several claims agents.

15 Q. I am going to show you what we
16 will mark as Wu Exhibit 5, a printout from
17 the GCG website that has data from the last
18 week for the claims pool for Patriot.

19 (Whereupon, Wu Exhibit 5,
20 Printout From the GCG Website was
21 marked for identification as of this
22 date by the Reporter.)

23 Q. So just take a moment to review
24 this, Mr. Wu.

25 A. Okay.

1 C. WU

2 Q. If you will review the first
3 column on the horizontal access that reads
4 "Cumulative statistics for project." Do you
5 see that?

6 A. Yes.

7 Q. And you go down about halfway,
8 and you will see there is a section entitled
9 Claims Detail.

10 A. Um-hum, yes.

11 Q. And you will see then there is a
12 series of categories of claims that have been
13 submitted, characterized by amounts.

14 A. Yes.

15 Q. Looking at that briefly, would
16 you agree with me that adds up to a bit more
17 than about \$30 billion worth of claims? We
18 won't try to be too precise.

19 A. Yes.

20 Q. Have you considered the fact that
21 the Patriot claims pool currently exceeds
22 \$30 billion in reaching your opinion that
23 there is a, I will use your words, likelihood
24 of value for Patriot Coal's current equity
25 holders?

1 C. WU

2 A. It is a factor. It appears there
3 has been claims asserted of approximately
4 30 billion, as this column shows from the GCG
5 report. But, frequently, in bankruptcies,
6 claims are made several times by claimants
7 and there are many debtors here and,
8 typically, claimants will make the same claim
9 as many times as there are debtors. So the
10 question simply is, has there been a claims
11 reconciliation performed by the debtors and
12 is this the right number for the public to be
13 reviewing as to the actual number, actual
14 amount of claims. And so my guess is, it is
15 premature for that. And so I don't know
16 which is a fact. Whether this number, you
17 know, has the veracity of something that I
18 should be relying on as a total amount of
19 actual claims, and I think what this is,
20 unless I am mistaken, is asserted claims of
21 which there could be, typically is a
22 significant amount of duplications and
23 whether or not those claims would be
24 allowable or not with the information that
25 would be germane for my analysis and

1 C. WU

2 information from the debtors.

3 Q. Understanding what you have just
4 said, have you taken into account, in
5 reaching the opinion in your Declaration,
6 that there are indeed very significant claims
7 against Patriot and that those claims will
8 have an impact on the ultimate payout to both
9 the creditors and to -- if any payout is ever
10 made to the equity holders?

11 MR. CARNEY: Object to form.

12 A. It is a factor, certainly. But
13 my experience tells me that the amount of
14 asserted claims and what actually is dumped
15 into the unsecured claim pool, there is a
16 huge variance and that information, unless
17 the debtors are able to provide that, is not
18 known today, and it is significantly
19 premature for anyone to properly assess that
20 number and put it into the right context.

21 Q. So are you saying that because
22 the ultimate amount of the claims pool is
23 uncertain, you have assigned no value to the
24 claims pool with respect to your value?

25 MR. CARNEY: Objection.

1 C. WU

2 A. Sorry, I will wait for you to
3 finish.

4 I am not saying that. But
5 perhaps it is akin to a plaintiff suing
6 somebody for \$1 billion or \$30 billion, and
7 what actually is in fact becomes pursuant to
8 a judgment or liability is -- could be
9 materially different from what somebody
10 asserts is a claim. So that's the
11 perspective. Is it germane to me that the
12 number is 30 versus 1 or 100, it is a number.
13 And not disputing it is not a big number.
14 But I think what's -- what I am suggesting is
15 that that is not the final number, and I
16 don't have any basis to say what would be the
17 final number.

18 Q. So as a result of this
19 uncertainty, at least in the opinion that you
20 have given most recently, you don't assign
21 any value for the amount of claims in this --
22 in the claims pool, whether it be 30 billion
23 or a dollar?

24 A. My understanding, and my facts
25 could be wrong, but there are 99 debtors

1 C. WU

2 here. Anybody with a claim of a million
3 dollars or \$5 million will file that claim
4 99 times. I am not saying that every
5 claimant would do that. But that's not
6 uncommon. And so I am not able to truly
7 assess how real that is until we have a
8 discussion with your legal team, as well as
9 GCG and others who can then scrub this number
10 to a more realistic number as part of the
11 bankruptcy claims allowance process.

12 Q. Have you reviewed Patriot's
13 disclosures regarding its liabilities subject
14 to compromise?

15 A. I have.

16 Q. What is your understanding of
17 that category of liabilities?

18 A. There are lines related to legacy
19 obligations, unsecured debt. I mean, I am
20 sorry, unsecured trade payables and other
21 liabilities in that category. That's my
22 understanding.

23 Q. Have you considered the -- well,
24 strike that.

25 Why don't I show you an exhibit

1 C. WU

2 so we can talk about something concrete.

3 Let's mark as Wu Exhibit 6, Patriot Coal's
4 10-Q for the third quarter of 2012.

5 (Whereupon, Wu Exhibit 6,
6 Patriot Coal's 10-Q For the Third
7 Quarter of 2012 was marked for
8 identification as of this date by the
9 Reporter.)

10 Q. Mr. Wu, I am, of course, happy
11 for to you look at anything you would like,
12 but I was planning to focus on page 13.

13 A. Okay.

14 Q. Okay. Which is the section --
15 has Section 5 entitled Liabilities Subject to
16 Compromise.

17 A. Okay.

18 Q. So if you will take a quick look
19 at this and in particular, the chart that's
20 towards the bottom of the page that lays out
21 the liabilities subject to compromise and
22 figures that Patriot has specified.

23 A. Yes.

24 Q. Is this something that you recall
25 reviewing prior to today?

1 C. WU

2 A. I recall.

3 Q. In reaching the opinion that you
4 have expressed in Wu Exhibit 1, that there is
5 a likelihood of a distribution to the equity
6 holders, did you consider the liabilities
7 subject to compromise that are listed here in
8 Wu Exhibit 6?

9 A. I am aware of these items, and
10 the general magnitude of the category of
11 liabilities subject to compromise, yes.

12 Q. Did you consider these as -- in
13 connection with reaching the opinion that you
14 express in your Declaration, that there is a
15 likelihood of value for the equity holders?

16 A. Yes.

17 Q. Were these amounts or amounts of
18 a similar nature reflected in the KLR
19 valuation to take into account the company's
20 estimates, at least at that point, of its
21 liabilities subject to compromise?

22 MR. CARNEY: Object to form.

23 A. In the KLR report, I believe that
24 there are liabilities that they took into
25 account in providing a range of possible

1 C. WU

2 equity values. And some of those liabilities
3 here are a part of that analysis, I believe.

4 Q. Did -- specifically, did KLR
5 include a liability related to the retiree
6 healthcare liability that's listed here?

7 A. I believe they excluded that.

8 Q. Why?

9 A. My understanding is that it was
10 excluded because it's not yet known whether
11 those will be assumed or whether those will
12 be rejected subject to the -- subject to
13 compromise, consensually resolved, otherwise
14 restructured, and therefore, there is a lot
15 of uncertainty related to that line item.

16 Q. Did you do any empirical analysis
17 regarding the claims that are -- the
18 liabilities that are listed here?

19 A. Specify empirical, please.

20 Q. Well, maybe we can say any
21 substantive analysis to look at these
22 liabilities and make an evaluation of the
23 likelihood and amounts that are likely to
24 ultimately be charged against the estate?

25 A. From a bankruptcy perspective,

1 C. WU

2 the financial debt, the unsecured debt is
3 certainly an element that we believe was
4 factored into the KLR report, and certainly
5 the trade payables. We have not done
6 empirical analysis, as you put it, with
7 respect to the accuracy of those two items,
8 but, we believe, given the disclosure in this
9 public document, that they are accurate. So
10 those are certainly items that were likely to
11 be factored into the KLR report.

12 Q. So did you take the approach that
13 if a liability was uncertain and still
14 subject to resolution, for example, like the
15 retiree healthcare liability, that a value
16 was asserted to that liability for the
17 purposes of this analysis?

18 MR. CARNEY: Object to form.

19 A. That's not my view, that it is a
20 zero value. But I think the point is, is
21 that it is uncertain.

22 Q. Was that the approach that was
23 taken in the KLR valuation report upon which
24 you are relying?

25 MR. CARNEY: Object to form.

1 C. WU

2 A. We are not relying or I am not
3 relying on zero value ascribed to those
4 liabilities.

5 Q. So what value are you ascribing
6 to those liabilities in connection with your
7 you opinion?

8 A. Don't have a specific number, but
9 if that's information that the debtors have,
10 that would be certainly relevant to my
11 Declaration, which I don't have.

12 Q. But it is correct that at least
13 the KLR valuation report applies a zero value
14 to the retiree healthcare liabilities?

15 A. I believe KLR report concludes
16 that it is uncertain as to what those
17 values are.

18 Q. And so it records no liability
19 for those -- for the healthcare retirement
20 cost because it is uncertain; is that right?

21 MR. CARNEY: Object to form.

22 A. I don't know that that's a direct
23 inclusion.

24 Q. Why don't we look at the KLR
25 report. It is Exhibit 2. And I think the

1 C. WU

2 easiest page to look at is page 10. It is a
3 chart that says at the top Equity Value.
4 That's the page. If you will just take a
5 moment to look at page 10 and let me know
6 when you are ready.

7 A. Yes, I am ready.

8 Q. All right. Let's look at the
9 liabilities that Mr. Stufsky removes from his
10 enterprise value. First you see the DIP loan
11 of \$802 million?

12 A. Yes.

13 Q. You see the senior notes of
14 \$250 million?

15 A. Right.

16 Q. You see the converts of
17 200 million?

18 A. Yes.

19 Q. You see an unsecured trade
20 payable of 101 million?

21 A. Yes.

22 Q. Do you see any figure included
23 here for retiring healthcare liabilities?

24 A. No.

25 Q. So did Mr. Stufsky remove any

1 C. WU

2 value at all relating to the retiring
3 healthcare liabilities?

4 MR. CARNEY: Object to form.

5 A. The healthcare liabilities are
6 not included in this exhibit.

7 Q. Okay. So what -- so what did you
8 do in your Declaration different from what
9 KLR did to take into account the retiring
10 healthcare liabilities?

11 MR. CARNEY: Object to form.

12 A. Well, clearly that's kind of a
13 broad question, but there is several
14 different valuation methodologies here.

15 Q. Do any of his valuation
16 methodologies take into account Patriot's
17 healthcare liabilities?

18 MR. CARNEY: Object to form.

19 Asked and answered.

20 A. They don't but there is also a
21 line that says "current equity value."

22 Q. Yes.

23 A. And in current equity value,
24 those values are not zero.

25 Q. But that's not the answer to --

1 C. WU

2 that's not an answer to my question. My
3 question is, Mr. Stufsky does not in any way
4 recognize a liability for the healthcare
5 liabilities in this chart.

6 A. Right.

7 Q. So my question for you is, what
8 if -- you said you recognize that there could
9 be a retiring healthcare liabilities?

10 A. Yeah.

11 Q. And you understood that when
12 giving your opinion in your Declaration?

13 A. I understood that it is a
14 possibility.

15 Q. So how did you take that into
16 account when coming to the view that there
17 was going to be an equity recovery for the
18 shareholders?

19 A. Well, again, there are different
20 methodologies here that arrive at a
21 perspective equity value and those values are
22 not zero. And, therefore, to the extent that
23 there is a dollar, \$10, \$10 million,
24 \$100 million, you know, a variety of these
25 valuation methodologies, to the extent that

1 C. WU

2 there are any liabilities associated, which
3 would be subtracting from these equity
4 values, there is certainly room for that.

5 Q. By the way, did Mr. Stufsky take
6 into account any of the ARO, the company's
7 ARO liabilities?

8 MR. CARNEY: Object to form. He
9 is not a coal expert. You have to
10 specify what ARO means for him.

11 Q. It is a pretty commonly used term
12 in bankruptcy. Do you know what ARO is?

13 A. Yes, I do.

14 Q. So let me repeat my question.
15 Did Mr. Stufsky take into account any of the
16 company's ARO liabilities in connection with
17 his valuation?

18 A. The ARO liabilities are not part
19 of this chart.

20 Q. Do you know approximately how
21 money -- what Patriot's ARO liabilities are
22 as of December 31, 2012?

23 A. I would have to look at the K.

24 Q. Why don't we review the K.

25 (Whereupon, Wu Exhibit 7,

1 C. WU

2 Patriot Coal Corporation 10-K For the
3 Year Ending December 31, 2012 was
4 marked for identification as of this
5 date by the Reporter.)

6 Q. This is Wu 7 for identification,
7 this is the Patriot Coal corporation 10-K for
8 the year ending December 31, 2012, while, of
9 course, Mr. Wu, you are free to read any and
10 all of this if you wish. I was actually
11 going look at page 19.

12 A. You are good with your pages.

13 Q. I might have looked this up.

14 A. I was going to say 18.

15 Q. If, Mr. Wu, you will focus about
16 halfway the down the page, you will see a
17 header that says Asset Retirement
18 Obligations?

19 A. Yes.

20 Q. There is a second paragraph and
21 it begins "As of December 31, 2012, our asset
22 retirement obligations of \$731.6 million
23 include" and then it goes on to describe
24 them. Have you -- do you recall reviewing
25 this before?

1 C. WU

2 A. Generally.

3 Q. Do you recall generally seeing a
4 figure for Patriot's ARO obligations of
5 approximately \$730 million?

6 A. Yes.

7 Q. Are ARO obligations generally
8 dischargeable in bankruptcy?

9 MR. CARNEY: Objection to form.

10 Calls for a legal conclusion.

11 A. I don't know the answer to that.

12 Q. In your experience, have you --
13 in the many bankruptcies in which you have
14 acted as an expert, have you seen
15 environmental liabilities, which are the
16 large part of these asset retirement
17 obligations, be discharged as part of the
18 process?

19 A. I am dealing with an asset
20 retirement obligation in a matter right now
21 and it is unclear how it is going to be
22 resolved. So I don't know what you mean by
23 "discharged," but are you saying simply
24 defused, is that your --

25 Q. Maybe a better way to put it,

1 C. WU

2 are -- in this case, environmental cleanup
3 liabilities, which are the lion share in this
4 case of what the ARO obligations are, can
5 they be discharged in the course of
6 bankruptcy or do they survive the bankruptcy?

7 MR. CARNEY: Objection. Calls
8 for a legal conclusion.

9 Q. In your experience.

10 A. I believe that AROs of this type
11 generally survive.

12 Q. So it is likely that 730 million
13 or some number close to \$730 million worth of
14 liabilities are indeed going to be assessed
15 against the debtor's estate at the end of
16 the day?

17 MR. CARNEY: Objection.

18 A. I don't know what you mean by
19 "assessed." You mean assumed?

20 Q. Assumed is a better word, yes.

21 MR. CARNEY: Same objection.

22 A. Well, you know, I am not able to
23 conclude that, obviously. I think it does
24 depend on what the bankruptcy court does. So
25 I am not in a position to say it will or it

1 C. WU

2 won't.

3 Q. Have you done anything to take
4 into account, in your opinion, that you
5 rendered, Patriot's ARO liabilities and the
6 impact they would have on any potential
7 payout to the equity?

8 A. It is a factor.

9 Q. And how did you take that factor
10 into account?

11 A. It is a known liability and it's
12 a liability that may be restructured in the
13 bankruptcy court. I just don't have
14 sufficient information as to how that
15 liability would be treated.

16 Q. How will that liability result in
17 less fewer assets available to potentially be
18 paid out to the equity holders?

19 MR. CARNEY: Object to form.

20 A. It may or may not.

21 Q. By the way, where do the equity
22 holders stand in the waterfall of payments in
23 the bankruptcy, in your experience?

24 A. Equity holders are -- come after
25 liabilities.

1 C. WU

2 Q. So they are after the secured
3 creditors?

4 A. Yes.

5 Q. And after the unsecured
6 creditors?

7 A. Yes.

8 Q. So they are pretty much at the
9 bottom?

10 A. That's the way it works usually.
11 I am familiar with the absolute priority
12 rule.

13 Q. Okay. Why don't we take a short
14 break.

15 (Whereupon, a recess was held.)

16 CONTINUED EXAMINATION BY

17 MS. STARR:

18 Q. Just to clarify one or two things
19 that I -- that we talked about earlier. Who
20 contacted who first; did you contact Mr. Ray
21 first about your retention or did Mr. Ray
22 contact Carl Marks first?

23 A. I contacted Mr. Ray.

24 Q. Why did you contact Mr. Ray?

25 A. I was interested in McKool's role

1 C. WU

2 with respect to certain equity holders.

3 Q. How did you know that McKool had
4 a role with respect to equity holders?

5 A. I saw a news release regarding
6 their role publicly.

7 Q. Okay. So you contacted Mr. Ray
8 and did you offer the services of Carl Marks
9 in connection with his efforts to get an
10 equity committee?

11 A. We discussed collaborating to the
12 extent that collaboration was available and
13 there was a need.

14 Q. Did Mr. Ray indicate to you that
15 if that collaboration was ultimately
16 successful, an equity committee was appointed
17 that Carl Marks would be retained by that
18 equity committee?

19 A. Can you just repeat that again?

20 Q. Sure. Did Mr. Ray indicate to
21 you that if this, your collaboration was
22 ultimately successful and an equity committee
23 was appointed by the Court, that Carl Marks
24 would be retained by the equity committee to
25 help it with its work?

1 C. WU

2 MR. CARNEY: Asked and answered.

3 Go ahead.

4 A. I think I already addressed that.
5 So the answer is no, unfortunately.

6 Q. Would you have agreed to assist
7 McKool Smith in its representation of the
8 equity holders if you did not have some
9 reason to believe that if an equity committee
10 was appointed you would have the opportunity
11 to be retained?

12 MR. CARNEY: Same objection.

13 A. If I thought the probability was
14 zero, then the answer is no, I would not be
15 agreeing to volunteer.

16 Q. So what do you think the
17 probability is?

18 MR. CARNEY: Objection.

19 Q. If it is ultimately successful?

20 MR. CARNEY: Calls for
21 speculation.

22 A. I would love to know the answer
23 but I have no basis.

24 Q. Pretty good?

25 A. Huh?

1 C. WU

2 Q. Is it pretty good?

3 MR. CARNEY: Same objections.

4 Q. Did you approach anybody else,
5 aside from McKool Smith, to offer your
6 services in connection with the Patriot
7 bankruptcy?

8 A. Not that I recall.

9 Q. Did anybody else contact you
10 to -- seeking your services in connection
11 with the Patriot bankruptcy?

12 MR. CARNEY: Object to form.

13 A. Not that I recall.

14 Q. Okay. We were talking about
15 Mr. Stufsky's report, and if we go back to
16 page 10 of his report. And I believe we have
17 already discussed that Mr. Stufsky does not
18 include either retiree's healthcare or ARO as
19 a liability in his equity analysis. Did you
20 direct him not to include numbers for those
21 claims in his report?

22 A. Not specifically, no.

23 Q. So who decided what liabilities
24 would be considered for inclusion in the
25 equity value analysis in Mr. Stufsky's

1 C. WU

2 report?

3 A. Ultimately, everything contained
4 in this report is a conclusion of KLR.

5 Q. So that's -- you are relying on
6 KLR's conclusion; is that right, about equity
7 value?

8 A. I am relying on the report and
9 also my experience, and as I said, we
10 directed them to the Q as to certain elements
11 of liabilities. So they put these in based
12 on their review of the Q.

13 Q. But you did not direct them as to
14 which liabilities they should include and
15 which liabilities they should exclude?

16 A. No.

17 Q. Did you -- are you also relying,
18 just so we are clear, on the supplement to
19 KLR's report entitled Patriot Coal Supplement
20 Analysis and Discussion of Coal Market and
21 Forecast? Unfortunately, it is not numbered
22 so you have to keep looking until you
23 find it.

24 A. Yes, I see it.

25 Q. Hold on one second. Let me

1 C. WU

2 repeat my question for you. I think we got a
3 little bit sidetracked. Are you also relying
4 on the supplement to KLR's report entitled
5 Patriot Coal Supplement Analysis and
6 Discussion of Coal Market and Forecast?

7 A. I believe this is included with
8 the indication of estimated value
9 presentation. So I am viewing it as sort of
10 together.

11 Q. And so you are relying on this
12 as well?

13 A. Yeah.

14 Q. What did you do to analyze and
15 verify the coal forecasting -- the price
16 forecasting exercise that Mr. Stufsky does in
17 his supplement?

18 A. I didn't because my assumption is
19 that Mr. Stufsky and his team is a coal
20 expert and, therefore, I did not
21 independently verify whether these prices
22 were in fact accurate.

23 Q. Did you review Mr. Stufsky's
24 methodology that he used for price
25 forecasting to ensure it was a sound

1 C. WU

2 methodology that you agreed with?

3 A. I understand that it is forward
4 looking coal prices. So I understood -- I
5 understood his methodology.

6 Q. And in your view was that a sound
7 methodology?

8 A. Yes.

9 Q. I believe you testified earlier
10 that you are not an expert in price --
11 actually, coal price forecasting; is that
12 fair?

13 A. That's fair. Insofar as I am not
14 able to produce coal price forecasts.

15 Q. What expertise did Mr. Stufsky
16 present to you in coal price forecasting?

17 A. My understanding that Jeff's
18 expertise and background is that he has been
19 involved in coal and mining throughout his
20 career and therefore has background to
21 understand and has reviewed the frequency,
22 various forward price curves related to coal
23 and, therefore, from my perspective, his
24 inclusion of the forward pricing here as part
25 of these reports is appropriate.

1 C. WU

2 Q. Has Mr. Stufsky ever worked for a
3 coal company?

4 MR. CARNEY: Object to form.
5 You want to repeat the question?

6 Q. Sure. To your knowledge, has
7 Mr. Stufsky ever worked for a coal company?

8 A. Is that a necessary
9 qualification?

10 Q. It is just a question.

11 MR. CARNEY: Same objection.

12 A. The answer is no.

13 Q. Has Mr. Stufsky ever worked in
14 the coal industry?

15 MR. CARNEY: Object to form.

16 A. By "work in," my understanding is
17 he has worked on coal related cases, or coal
18 companies before, and so if that qualifies as
19 work in, then the answer is yes. If he was
20 look -- if you are asking if he was directly
21 employed by a coal company, the answer is
22 probably no.

23 Q. Is Mr. Stufsky's experience
24 primarily in investment banking?

25 MR. CARNEY: Objection to form.

1 C. WU

2 A. I think Mr. Coal's -- sorry,
3 Mr. Stufsky's experience is primarily in
4 financial services and has expertise is in
5 coal and mining. Those are the industries
6 that I understand he has experience in.

7 Q. And what about Mr. Foight, what's
8 your understanding of Mr. Foight's
9 qualifications?

10 A. My understanding is that he is an
11 expert in legacy obligations, pension and
12 OTAB benefits and the like.

13 Q. What information were you
14 presented about Mr. Foight's qualifications?

15 A. I don't have any information
16 other than counsel's reliance on Mr. Foight
17 as an expert.

18 Q. Your description of Mr. Foight's
19 qualifications, is that something that you
20 got from counsel?

21 A. Yes.

22 Q. So you have not independently
23 verified what Mr. Foight's
24 qualifications are?

25 A. I have not.

1 C. WU

2 Q. Have you seen Mr. Foight's CV?

3 A. Let's check here.

4 Q. I will save you the trouble.

5 Mr. Foight doesn't attach a CV to his letter.

6 So I haven't seen Mr. Foight's CV?

7 A. Then neither have I.

8 Q. Have you ever seen any other work
9 from Mr. Foight aside from this letter?

10 A. No.

11 Q. Do you have any independent
12 ability to verify his knowledge and
13 qualification other than what you were simply
14 told by counsel?

15 A. Do I have the ability, I do have
16 the ability.

17 Q. Okay. Let me ask you a better
18 question. Have you taken any steps to verify
19 Mr. Foight's qualifications and expertise,
20 aside from simply getting a representation
21 from counsel?

22 A. No.

23 Q. Until looking at the KLR report
24 as part of your work for this Declaration,
25 have you ever reviewed any of Mr. Stufsky's

1 C. WU

2 other work?

3 A. No.

4 Q. Have you ever given an opinion
5 about valuation based on another expert's
6 report without having also performed
7 valuation work yourself?

8 A. Just doing a data search in my
9 brain to see if I have -- it is likely that I
10 have relied on tax experts, accounting
11 professionals, and other professionals with
12 discreet expertise that was beyond my own in
13 rendering valuation opinions, analyses,
14 financial advice.

15 Q. You have expertise in company
16 valuation, particularly in the bankruptcy
17 context; is that right?

18 A. I do.

19 Q. Have you ever relied on another
20 firm to do the actual valuation like you have
21 here without having done valuation work
22 yourself?

23 A. I have relied on consultants who
24 are professionals to companies and those
25 consultants frequently provide projections

1 C. WU

2 based on their expertise, and I have
3 discounted cash flows that were developed by
4 other professionals that were not from my own
5 firm in deriving valuations.

6 Q. Did you ultimately, however, in
7 those instances, derive the valuation
8 yourself, albeit in reliance upon some data
9 from the various consultants?

10 MR. CARNEY: Object to form.

11 A. Yes, I have.

12 Q. In connection with the eight or
13 nine expert assignments that you have in the
14 bankruptcy context, in any of those
15 instances, have you given an opinion about
16 value based upon a valuation performed by a
17 different firm, not your own?

18 MR. CARNEY: Object to form.

19 A. Amy, one more time, please.

20 Q. Sure. Let me read it back. In
21 connection with the eight or nine expert
22 assignments that you have had in the
23 bankruptcy context, in any of those instances
24 have you given an opinion about value, based
25 upon a valuation performed by a different

1 C. WU

2 firm not your own?

3 A. I have.

4 Q. Okay. What instance is that?

5 A. In the FX Luxury Las Vegas case,
6 I gave an opinion related to the value of a
7 restructured debt obligation that was based
8 on an appraisal by a real estate expert. And
9 I relied on that real estate expert's
10 appraisal valuation and that was the basis of
11 the principal amount of the note as a
12 restructured debt obligation and my opinion
13 related to interest rates and other factors.

14 Q. Did you do additional work in,
15 aside from receiving the -- or relying upon
16 the real estate appraisal in reaching the
17 opinion you gave in the FX Luxury case?

18 A. I relied exclusively on the
19 appraisals work with respect to their
20 conclusion of value.

21 Q. Are you an expert in real estate?

22 A. I am not an expert in real estate
23 appraisals.

24 Q. And that was the reason why you
25 were relying upon the expertise of the real

1 C. WU

2 estate appraiser in that case?

3 A. That was.

4 Q. You are an expert in valuation?

5 MR. CARNEY: Object to form.

6 A. I believe I have expertise in
7 valuation. It would be specific to specific
8 instances I am sure.

9 Q. So in this situation, you had
10 another firm do a valuation, although that is
11 an area company valuation where you indeed do
12 have expertise?

13 MR. CARNEY: Objection to form.

14 A. So clearly, you know, KLR had
15 expertise in the coal industry and coal
16 valuation and we deemed that, myself and my
17 firm, did not have those areas of expertise,
18 coal valuation, coal industry and, therefore,
19 we relied on them, that's correct.

20 Q. Did you, either you or any of
21 your colleagues at Carl Marks, do a valuation
22 of Patriot?

23 A. No.

24 Q. So you have no independent view
25 as to the value of Patriot aside from that

1 C. WU

2 derived from reviewing the KLR report?

3 A. That's correct.

4 Q. So if you look at Paragraph 17 of
5 your report, the first paragraph under the
6 heading Conclusion. You state that, this is
7 about five lines down, "The anticipated
8 rebound in coal prices forecasted by KLR can
9 have a significant positive effect on value."

10 Do you see that?

11 A. Yes.

12 Q. What did you mean by that? Maybe
13 I will put it more specifically.

14 What did you mean by "a
15 significant positive effect on value"?

16 A. If coal prices increase from
17 today's prices in the future, it will likely
18 have a significant impact on the company's
19 value.

20 Q. How much would coal prices need
21 to increase to have a quote "significant
22 positive effect on value"?

23 A. I am not in a position to say.

24 Q. Did you conduct any independent
25 studies or analysis of data in reaching the

1 C. WU

2 conclusion expressed in this sentence?

3 A. I think we evaluated, without
4 being specific, impact of prices to value.

5 Q. Did you do calculations of what
6 Patriot's value would be at various prices?

7 A. I think we did. We did some
8 extrapolation in general.

9 Q. And when you say "we," do you
10 mean you or others at Carl Marks?

11 A. Others at Carl Marks.

12 Q. And what did --

13 MS. STARR: We have not seen any
14 of these analyses.

15 Q. Do you have these analyses?

16 A. I think they were general
17 analyses, not specifics.

18 Q. I don't understand what you mean
19 by "general analyses."

20 A. I think that my team has provided
21 me verbally what the impact could be in terms
22 of price increases.

23 Q. So what is the impact?

24 MR. CARNEY: Asked and answered.

25 A. I think generally.

1 C. WU

2 Q. How much are the price -- let me
3 ask you more specifically. What price
4 increases did your team test to provide you
5 with this data?

6 A. I don't recall the specific
7 prices.

8 Q. And did your team do anything to
9 analyze the likelihood of the prices
10 increasing in the course of this analysis?

11 A. By likelihood, what do you mean?
12 Probabilistic analysis?

13 Q. Yes.

14 A. So did they run some kind of
15 computer simulation based on a multitude of
16 macroeconomic factors that could have impact
17 and conclude certain levels of likelihood, is
18 that your question?

19 Q. I think my question is more
20 general. Did your team do anything to test
21 the likelihood that the various coal prices
22 they were looking at would actually be
23 achieved?

24 MR. CARNEY: Objection to form.

25 Q. Whether of the nature you just

1 C. WU

2 described or anything else.

3 A. In the forward price curve of
4 these from our non-coal industry expertise,
5 from our perspective, represents a reasonable
6 likelihood of prices increasing in the
7 future. There might be other reference
8 indexes that other coal experts may
9 reference, but at least the forward price
10 curve in our estimation represents a
11 reasonable benchmark for anticipating that
12 future price increases are likely.

13 Q. Did Mr. Stufsky in his valuation
14 analysis use prices taken from the forward
15 price curve?

16 A. I am not sure if they did.

17 Q. Did Mr. Stufsky calculate a
18 premium over the prices in the forward price
19 curve for the purposes of determining what
20 prices Patriot may get for its coal?

21 A. I do recall looking at some
22 charts that related to premiums that Patriot
23 was obtaining in the marketplace.

24 Q. And what was the basis for his
25 premium calculation, to your understanding?

1 C. WU

2 A. I don't know.

3 Q. Okay. The next sentence in
4 Paragraph 17, you say "Together the KLR
5 report and the Ross letter support, at the
6 very least, the likelihood of value for
7 Patriot Coal's current equity holders."

8 Do you see that?

9 A. Yes.

10 Q. Is it your opinion that there is
11 a likelihood of value for Patriot Coal's
12 current equity holders?

13 A. Yes.

14 Q. And what do you mean by
15 likelihood of value?

16 A. Probability.

17 Q. When you say probability, do you
18 mean it is more likely than not?

19 MR. CARNEY: Object to form.

20 A. Yes.

21 Q. So you believe it is more likely
22 than not that there will be value for Patriot
23 Coal's current equity holders at the end of
24 the Chapter 11 reorganization?

25 MR. CARNEY: Object to form.

1 C. WU

2 A. There would be a likelihood of
3 value for Patriot Coal's current equity
4 holders pursuant to the debtors
5 reorganization estimates, which many folks in
6 this room are trying so hard to achieve.

7 Q. My question is, I am trying to
8 understand what you mean by likelihood. Do
9 you mean that there is some chance, do you
10 mean there is more than a 50% chance, I am
11 trying to understand what you mean when you
12 say likelihood?

13 A. I thought I answered that when I
14 said more likely than not.

15 Q. So it is at least a 50% chance?

16 A. More likely than not.

17 Q. Is there a 60% chance?

18 A. More likely than not.

19 Q. Aside from your reliance upon the
20 KLR report and the Ross letter, have you
21 conducted, and I think you have answered
22 this, but I will just be sure, any
23 independent studies or analysis to support
24 your conclusion with respect to likelihood of
25 value for Patriot Coal's current equity

1 C. WU

2 holders?

3 MR. CARNEY: Objection to form.

4 A. I think it is really contained in
5 the Declaration that I am relying on my
6 experience and KLR report and the Ross
7 letter.

8 Q. And that's all?

9 A. Um-hum.

10 Q. And when you say "um-hum," you
11 mean yes?

12 A. Yes.

13 Q. That's all right.

14 MS. STARR: Let's take a short
15 break.

16 (Whereupon, a recess was held.)

17 BY MS. STARR:

18 Q. Just a few more questions. Just
19 looking back at your report. Let's look at
20 this Paragraph 17 again. You state "there is
21 a likelihood of value." What did you mean by
22 value?

23 A. Likelihood of equity value.

24 Q. Are you opining that the equity
25 holders are going to receive a cash

1 C. WU

2 distribution?

3 A. No.

4 Q. What is it that you are opining
5 that the equity holders will receive of
6 value?

7 MR. CARNEY: Object to form.

8 A. No, I am not -- I am opining that
9 they will receive value whether cash, equity,
10 consideration, something of value.

11 Q. And how much value is it your
12 opinion that they are likely to receive?

13 A. I am not opining on how much.

14 Q. So you have no opinion as to how
15 much value they might receive?

16 A. Not how much.

17 Q. Do you have an opinion as to
18 whether it will be a material amount?

19 MR. CARNEY: Objection to form.

20 Q. Of value as defined?

21 MR. CARNEY: Same objection.

22 A. I guess I am opining that they
23 are not going to receive one penny. So I am
24 opining that there is a likelihood of value,
25 and I am not opining on how much value

1 C. WU

2 that is.

3 Q. Okay.

4 MS. STARR: All right. Mr. Wu,
5 I don't have any further questions at
6 this time. There is some materials
7 that we have not been provided and
8 some materials we have requested.
9 Once we have received those materials,
10 we may recall you to ask some
11 additional questions. But at least at
12 this time based on the materials we do
13 have, I don't have any further
14 questions.

15 Does counsel for the UCC or the
16 creditors or the DIP lenders have
17 questions?

18 MR. O'NEILL: I do.

19 EXAMINATION BY

20 MR. O'NEILL:

21 Q. Hi, Mr. Wu. I'm Brad O'Neill. I
22 represent the unsecured creditors in this
23 case.

24 I just want to ask you a couple
25 of questions. First, I want to follow-up on

1 C. WU

2 the questions that Miss Starr just asked
3 about value. So I want to clarify. Is it
4 your opinion that there will be a
5 distribution to equity in these cases?

6 MR. CARNEY: Object to form.

7 A. It is my opinion that equity will
8 receive consideration.

9 Q. As under a plan of
10 reorganization; is that right?

11 A. Well, I think plans would need to
12 be submitted by the debtors. So I am not
13 opining that the debtors will in fact provide
14 equity in a plan for equity holders.

15 Q. But regardless of how these cases
16 end up, it is your opinion that equity
17 holders will receive a distribution or a
18 dividend from the estates; is that right?

19 A. It is my opinion that there is
20 likelihood of value, and if there is equity
21 value as I'm opining, the hope is certainly
22 that they will receive a distribution.

23 Q. But it is your opinion not that
24 they have hope of receiving it but that they
25 will receive a distribution in these cases;

1 C. WU

2 is that right?

3 MR. CARNEY: Asked and answered.

4 A. I think I answered that.

5 Q. I guess reasonable people can
6 differ?

7 MR. CARNEY: They can.

8 A. Okay.

9 Q. I want to clarify a few things
10 about last fall. You indicated in your prior
11 testimony that last fall you met Mr. Stufsky
12 through a mutual acquaintance; is that right?

13 A. Yeah.

14 Q. You discussed mutually developing
15 opportunities in coal bankruptcies; is that
16 right?

17 A. Yes.

18 Q. And after that discussion, you
19 saw press releases concerning the interested
20 shareholders' role in these cases; is that
21 right?

22 A. That's correct.

23 Q. As a result of seeing those press
24 releases, you reached out to Mr. Ray; is that
25 right?

1 C. WU

2 A. Correct.

3 Q. And his counsel to the interested
4 shareholders?

5 A. Yes.

6 Q. You and Mr. Ray discussed what
7 services you could provide in connection with
8 the interested shareholders activities in
9 this case; is that right?

10 A. Yes.

11 Q. And as a result of that
12 discussion, you entered into an engagement
13 letter with the interested shareholders; is
14 that right?

15 A. With counsel to the interested
16 shareholders.

17 Q. As a result of the entry into
18 that engagement letter, you have prepared the
19 opinion that is submitted as Exhibit 1 in
20 this deposition; is that right?

21 A. Yes.

22 Q. And it is also your testimony
23 that you haven't received any compensation to
24 date in that matter; is that right?

25 A. Yes.

1 C. WU

2 Q. And that you will not receive
3 compensation in this matter unless or --
4 unless the interested shareholders' motion to
5 appoint an equity committee is granted; is
6 that right?

7 MR. CARNEY: Objection. That
8 was not his testimony.

9 A. If your question is if an equity
10 committee is appointed I will receive
11 compensation, that's not my understanding.

12 Q. That wasn't my question. You
13 cannot receive compensation in these cases
14 unless an equity committee is appointed; is
15 that right?

16 MR. CARNEY: Objection.

17 A. I don't know whether that's true
18 or not true. You know, it is possible that
19 the equity holders could pay me, but there
20 has been no payment nor promises of payment
21 nor promises of future employment. Period.

22 Q. Okay. But if this motion is
23 granted and the equity committee is formed,
24 you hope to be retained by the equity
25 committee; is that right?

1 C. WU

2 A. There is always hope, yes.

3 Q. If you could take a look at
4 page 19 of Exhibit 2, this is page 19 of the
5 KLR report, correct?

6 A. Yes.

7 Q. And it is your opinion that the
8 KLR report is reasonable; is that right?

9 A. Yes.

10 Q. Look down to the middle of the
11 page. You see there is a definition of
12 equity value, do you see that?

13 A. Yeah.

14 Q. And it says "It is calculated as
15 EBITDA enterprise value minus outstanding
16 debt plus cash in hand." Do you see that?

17 A. Yes.

18 Q. Do you think that's a reasonable
19 definition of equity value?

20 MR. CARNEY: Objection to form.

21 A. That's a simplified definition of
22 equity value. It is different from how an
23 accountant would define equity value, which
24 would be more sort of net worth. I
25 understand what KLR did for the purposes of

1 C. WU

2 these analyses, and I think it is reasonable.

3 Q. What do you understand to be
4 included in the term debt in the definition
5 of equity value on page 19?

6 A. Debt would include
7 conventionally, secured and unsecured debt,
8 and other liabilities that have a payment
9 obligation within a reasonable term that's
10 defined, and there are other non-cash
11 liabilities that would have -- would require
12 servicing over a longer period of time
13 without defined maturities, which may be
14 assumed, may not be assumed, may be
15 restructured, and for the purposes of this
16 specific equity value, those liabilities with
17 longer term implications have been simplified
18 and probably out of this definition.

19 In other words, in a balance
20 sheet, there is going to be shareholders'
21 equity value, which has different accounts in
22 it which will include retained earnings and
23 additional paid in capital and the like, and
24 there are total assets and there are total
25 liabilities and net worth, total equity from

1 C. WU

2 the accounting perspective clearly calculates
3 the difference between total assets minus
4 total liabilities. That is more the
5 accounting definition of book equity.

6 In my experience, book equity is
7 not necessarily representative of either
8 market equity value or intrinsic value.
9 Intrinsic equity value. And, therefore,
10 there are often times obligations such as
11 that, which we have discussed, pension
12 liabilities, ARO liabilities, which may not
13 have a cash, immediate cash impact. Although
14 there are liabilities that require servicing
15 over a longer period of time. And,
16 therefore, this -- my interpretation of this
17 definition of equity value is simplified to
18 exclude those items which may -- may be
19 assumed, may not be assumed, you don't know.
20 So they have simplified it here. But I
21 understand what they mean.

22 Q. Okay. That was a long answer.
23 Let me break it down. In your view, the
24 definition of equity value here includes
25 only -- includes -- calculates enterprise

1 C. WU

2 value minus certain types of liabilities plus
3 cash; is that right?

4 A. Yes.

5 Q. And among the types of
6 liabilities that in your view are excluded
7 from the definition of equity value, which is
8 used in the KLR report, are liabilities such
9 as pension related liabilities; is that
10 right?

11 A. That's my understanding of how
12 they define it. But, you know, outstanding
13 debt, possibly could include those. May not
14 include those. I think that depends on the
15 reorganization process.

16 Q. Okay. But as it is your
17 understanding of the KLR report, which you
18 think is reasonable, is that the term
19 outstanding debt excludes pension
20 liabilities; is that right?

21 MR. CARNEY: Object to form.

22 A. Just for the purposes -- not that
23 those aren't acknowledged as liabilities, but
24 that they may not have a cash impact and they
25 may have future servicing obligations

1 C. WU

2 required, but for the purposes of this
3 simplified definition, that's my
4 understanding.

5 Q. And you think the simplified
6 definition is reasonable; is that right?

7 A. I understand their definition of
8 it within the context of this estimated
9 valuation report and the valuation report, in
10 total, is what I am opining as reasonable.

11 Q. So do you think the definition of
12 equity value used in the KLR report is not
13 reasonable?

14 A. It's a definition.

15 Q. Is it a reasonable definition?

16 A. It is a definition. I don't know
17 whether it is reasonable or unreasonable. As
18 I have discussed, there is different ways to
19 define equity value. This is a way to define
20 equity value.

21 Q. And the definition of equity
22 value used in the KLR report excludes pension
23 liabilities; is that right?

24 A. I believe they have excluded it.

25 Q. The definition of equity value

1 C. WU

2 used in the KLR report excludes asset
3 retirement obligations; is that right?

4 A. I believe they have excluded it
5 for the purposes of this definition.

6 Q. And the definition of equity
7 value used in the KLR report does not take
8 account of the total amount of secured,
9 unsecured priority and administrative claims
10 asserted against the debtor's estate; is that
11 right?

12 MR. CARNEY: Object to form.

13 A. So secured, unsecured debt is, I
14 believe, incorporated into their definition,
15 and I believe trade payables, too. As far as
16 administrative claims, I don't know if that's
17 been estimated or defined and, therefore,
18 that's likely to be an uncertain item for
19 which we don't know what the answer is. Or
20 priority claims.

21 Q. Does -- so in your view, the
22 definition of equity value contained in the
23 KLR report excludes priority claims?

24 A. I actually don't know whether it
25 includes priority claims or not.

1 C. WU

2 Q. Do you know whether the
3 definition of equity value in the KLR report
4 includes administrative claims?

5 A. I don't know whether it is
6 included or not. But I don't know that those
7 liabilities, those claims, have been
8 determined. And so they are uncertain. To
9 the extent it was certain, based on the
10 information that KLR likely has and had in
11 order to prepare this report, this is what
12 they developed. That's my understanding. To
13 the extent that those items become known in
14 the future, they may include them in
15 outstanding debt. But I don't know that.

16 Q. To your knowledge, did KLR take
17 account of priority or administrative claims
18 in computing equity value in the KLR report?

19 A. In this report, my understanding
20 is those amounts were unknown and, therefore,
21 they didn't include it in the outstanding
22 debt.

23 Q. And therefore, they did not
24 include those claims in the calculation of
25 equity value; is that right?

1 C. WU

2 A. For this simplified definition,
3 yes, I believe that's correct.

4 Q. And KLR also did not include
5 general unsecured claims in its calculation
6 of equity value in the KLR report; is that
7 right?

8 A. My understanding is that they
9 included no unsecured claims.

10 Q. By which you mean trade payables?

11 A. Trade payables.

12 Q. But you -- Miss Starr asked you a
13 series of questions about the claims register
14 in the case. Do you recall that?

15 A. Yes.

16 Q. And you have not conducted any
17 investigation of the claims registry
18 yourself, have you?

19 A. I have not.

20 Q. So you don't know what the value
21 of the overall claims base in the case is, as
22 you sit here today, do you?

23 A. I don't know but I don't think
24 the debtor has disclosed that.

25 Q. Okay. And to your knowledge, KLR

1 C. WU
2 has not conducted any investigation of the
3 claims register or the unsecured claims
4 asserted against the estate?

5 A. To my knowledge, they have not.

6 MR. O'NEILL: I have no further
7 questions.

8 MR. CARNEY: Anyone else?

9 MS. STARR: I don't have any
10 further questions at this time.

11 MR. CARNEY: I have one
12 question.

13

14 EXAMINATION BY

15 MR. CARNEY:

16 Q. For the purposes that -- what is
17 your understanding of the purpose for the --
18 that the KLR report was produced?

19 A. The purpose was based on the
20 information available to KLR, to provide an
21 indication of estimated value for equity
22 holders based on its knowledge of the
23 industry and its assessment of value.

24 Q. Given what you understand the
25 purpose to be, given that purpose in the

1 C. WU

2 context of the report, do you view the
3 definition of equity value in the report as
4 reasonable?

5 A. Yes.

6 MR. CARNEY: That's all I
7 have got.

8 MS. STARR: Got one follow-up.

9 EXAMINATION BY

10 MS. STARR:

11 Q. Is it your understanding for
12 there to be value for the equity holders, the
13 value of the claims and liabilities will have
14 to be deducted first?

15 MR. CARNEY: Object to form.

16 A. Can I hear that again, please.

17 Q. Sure. In order for there to be
18 value, ultimately distributed to the equity
19 holders, it is not simply that there is some
20 equity value prior to considering the
21 liabilities of the estate, but you will
22 actually have to deduct the liabilities and
23 claims asserted against the estate by the
24 creditors first?

25 MR. CARNEY: Calls for a legal

1 C. WU

2 conclusion.

3 Go ahead and answer to what your
4 understanding is.

5 A. I don't have a conclusion
6 regarding deducting all known liabilities
7 before distribution. I have seen it possible
8 that equity participates, equity receives
9 value in situations where debtors assume
10 liabilities. Sometimes they assume notes.
11 Sometimes they receive cash. Sometimes they
12 assume various obligations and still have the
13 presence of equity.

14 Q. Maybe my question was unclear.
15 Let me ask a better one. The KLR valuation
16 report upon which you rely to give your
17 opinion does not take into consideration
18 claims asserted in connection with healthcare
19 liabilities, in connection with asset
20 reclamation obligation, in connection with
21 administrative claim, in connection with
22 priority claims, in connection with unsecured
23 claims, whatever they are determined to be,
24 from the claims registry; isn't that right?

25 MR. CARNEY: Object.

1 C. WU

2 A. The KLR report has produced a
3 range of value factoring in liabilities that
4 it knows are fairly certain. And by that I
5 mean, certain elements are likely, they
6 conclude, and which I understand and they
7 have made assumptions, as we must necessarily
8 make assumptions here, based on the
9 information that is available to the equity
10 holders. And that that includes the
11 financial debt, secured debt, trade payables,
12 and it does not include, as you say, those
13 priority claims, administration claims,
14 pension liabilities, arrow, and other claims,
15 and my understanding is that those are yet
16 uncertain even if those claims have been in
17 fact asserted against the debtors' estates.

18 My assumption and extrapolation
19 is that those liabilities are subject to
20 compromise in deed. The at the same time,
21 the possibility of a consensual resolution
22 pursuant to a debtor's reorganization efforts
23 is possible. It happens with frequency. And
24 the conclusion of those efforts and
25 negotiations and reorganization processes is

1 C. WU

2 yet uncertain as is what the debtors and the
3 Court will ultimately conclude are allowable
4 claims, which may or may not increase the
5 unsecured pool.

6 Q. But KLR has made no effort to
7 analyze those claims, have they?

8 A. Even if they made an effort,
9 there would be information that is impossible
10 to ascertain and we believe the debtors would
11 in fact agree with that. There are many
12 claims that are yet uncertain. They haven't
13 been determined by the Court yet.

14 Q. You have made no effort to
15 estimate the amount of any of those claims?

16 A. I have not. Because the
17 reorganization is a dynamic process that's
18 ongoing. However, to the extent that the
19 debtors want to provide information
20 specifically, that might be another factor
21 that we would incorporate.

22 Q. So is it your opinion that equity
23 value or value for equity holders, to use
24 your words, is -- there is a likelihood if
25 you follow the absolute priority rule and all

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these various claims are ultimately taken into account?

MR. CARNEY: Asked and answered.

A. I think -- you did ask me that question earlier, so I did answer affirmatively.

MR. O'NEILL: You can answer the question.

A. Yes.

MR. O'NEILL: The question was not asked and answered.

Q. But your answer is yes?

A. Yes.

MR. CARNEY: He said he answered affirmatively and it was. Anything else?

(Continued on next page to include jurat.)

1 C. WU

2
3 MS. STARR: No, I don't have
4 anything further.

5 MR. CARNEY: Anyone else?

6 MS. STARR: Thank you very much
7 for your time, Mr. Wu. We appreciate
8 your efforts.

9 (Whereupon, at 12:59 p.m., the
10 Examination of this Witness was
11 concluded.)

12
13
14 _____
15 CHRISTOPHER WU

16 Subscribed and sworn to before me
17 this ____ day of _____, 2013.

18 _____
19 NOTARY PUBLIC
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E X H I B I T S

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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 15th day of March, 2013.

REBECCA SCHAUMLOFFEL

WITNESS ERRATA SHEET

Witness Name: Christopher Wu

Case Name: In re: Patriot Coal Corporation

Date Taken: March 15, 2013

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