

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

In Re:) Chapter 11
) Case No. 12-51502-659
Patriot Coal Corporation, et al.) (Jointly Administered)
)
Debtors.) Re: ECF No. 417
) April 23, 2013 10:00 a.m.

**ORDER DENYING
MOTION FOR ENTRY OF AN ORDER DIRECTING
THE APPOINTMENT OF AN EQUITY COMMITTEE**

Upon the Motion of Certain Interested Shareholders for Entry of an Order Directing the Appointment of an Official Committee of Equity Security Holders Pursuant to Bankruptcy Code Section 1102(a)(2) filed by CompassPoint Partners, L.P., Frank Williams, and Eric Wagoner (ECF No. 417; the “**Motion**”) with respect to Patriot Coal Corporation and its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the “**Debtors**”); and the Court having jurisdiction to consider the Motion and the relief requested pursuant to 28 U.S.C. § 1334; and consideration of the Motion and the requested relief being a core proceeding this Court can determine pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided in accordance with this Court’s Case Management and Administrative Procedures Order (ECF No. 3361), and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion and the objections filed thereto; and the Court having found and determined that the legal and factual bases set forth in the Motion and the evidence presented at the hearing do not establish just cause for the relief sought in the Motion; and upon all of the proceedings and the arguments of counsel had before the Court and after due deliberation, and

sufficient cause appearing, the Court makes the following additional specific findings and conclusions:

1. The Court has examined the factors that are to be considered when considering a motion under 11 U.S.C. §1102(a)(2). Appointment of an equity committee is the exception, and not the rule.

2. The shareholders have not shown that an official committee is necessary for their interests to be adequately represented. The Boards of Directors of the Debtors have fiduciary duties to the shareholders, even in Chapter 11 cases, and the Interested Shareholders have failed to show that the Debtors' Boards and management will not adequately represent the interests of equity holders. There is also no basis for concluding that the Unsecured Creditors Committee ("**Committee**") will not adequately represent the shareholders, because the Committee has a duty to maximize the value of the Debtors' estates, which will trickle down to the benefit of the shareholders.

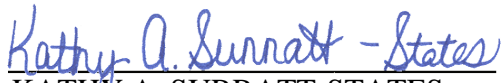
3. The Court has specifically considered *In re Pilgrim's Pride Corp.*, 407 B.R. 211 (Bankr. N.D. Tex. 2009), that was cited by the shareholders. In that case, the debtors filed a response, neither in support or opposition, to the motion to appoint a shareholders' committee. The Securities and Exchange Commission appeared in support of the motion to appoint an equity committee. And while the U.S. Trustee initially opposed the motion, it then filed no pleadings in opposition to the motion. There was also evidence through the debtor's monthly operating reports that the debtor was solvent. The debtor's chief restructuring officer testified that the debtor's position "was not even close to 'hopeless insolvency'". *Id.* at 217.

4. The Debtors' cases here are a totally different picture. There appears to be no substantial likelihood that equity will receive a meaningful distribution in these cases to justify

appointment of a committee. Mr. Christopher Wu's testimony was speculative, at best, on the most optimistic outlook imaginable.

5. **THEREFORE, IT IS ORDERED THAT:**

The Motion is denied.


KATHY A. SURRATT-STATES
Chief United States Bankruptcy Judge

DATED: May 10, 2013
St. Louis, Missouri
jjh

Order prepared by:

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