

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

In re:

PATRIOT COAL CORPORATION, *et al.*,

Debtors.¹

Chapter 11

Case No. 12-51502-659

(Jointly Administered)

Hearing Date: December 17, 2013

Hearing Time: 9:00 a.m. Central

Location: Courtroom 7-N, St. Louis

**DEBTORS' MOTION FOR ENTRY OF AN ORDER AUTHORIZING ASSUMPTION
OF UNEXPIRED LEASE AND APPROVING SETTLEMENT OF CLAIMS OF
UNITED LEASING, INC.**

Patriot Coal Corporation and its affiliated debtors (the "Debtors"), pursuant to 11 U.S.C. § 365 and Fed. R. Bankr. P. 9019, respectfully file this Motion for Entry of an Order Approving Assumption of Unexpired Lease and Settlement of Claims of United Leasing, Inc. (the "Motion"). In support of this Motion, the Debtors show the Court as follows:

Relief Requested

1. By this Motion, the Debtors request that the Court enter an order, pursuant to 11 U.S.C. § 365(b) and Fed. R. Bankr. P. 9019, authorizing the Debtors to assume a certain unexpired equipment lease and lease schedules related thereto and approving the settlement of certain related pre-petition claims of United Leasing, Inc. ("United Leasing").

¹ The Debtors are the entities listed on Schedule 1 attached hereto. The employer tax identification numbers and addresses for each of the Debtors are set forth in the Debtors' chapter 11 petitions.

Jurisdiction

2. This Court has jurisdiction over this Objection under 28 U.S.C. § 1334. Venue of this proceeding is proper pursuant to 28 U.S.C. § 1409. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

3. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

4. Ninety-nine of the Debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code on July 9, 2012 (the "Petition Date") in the United States Bankruptcy Court for the Southern District of New York.

5. On December 19, 2012, these Debtors' cases were transferred to the United States Bankruptcy Court for the Eastern District of Missouri [Dkt. No. 1789].

6. The bar date for filing proofs of claim against these Debtors was December 14, 2012 [Dkt. No. 1388].

7. On March 1, 2013, the Court entered its Order Establishing Procedures for Claims Objections [Dkt. No. 3021].

8. Debtors Brody Mining, LLC and Patriot Ventures LLC filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code on September 23, 2013 in this Court. The bar date for filing proofs of claim against these Debtors is October 24, 2013.

The Agreement

9. Debtor Patriot Leasing Company LLC and United Leasing are parties to a Master Lease Agreement, dated July 15, 2011, and numerous schedules thereto (collectively, the

“Agreement”), whereby the Debtors lease certain equipment from United Leasing (the “Equipment”).

10. As of the Petition Date, the Debtors were current on their obligations to United Leasing.

11. United Leasing, Inc. and United Leasing LLC, [an affiliate of United Leasing, Inc. to which the Debtors believe United Leasing, Inc. assigned certain schedules to the Agreement,] each filed a proof of claim, E.D. Mo. Claim Nos. 1410 and 1412; GCG Claim Nos. 2155 and 2156 (the “Proofs of Claim”), against Patriot Leasing Company LLC. The Proofs of Claim assert claims of \$4,020,298.64 and \$3,582,105.09, respectively, based on rejection damages if the Agreement were rejected in its entirety and actual damages from the post-petition rejection of two leases.²

Basis for Relief

12. The Debtors and United Leasing have negotiated a settlement of United Leasing’s claims whereby the Debtors will assume the Agreement, allowing them to retain the Equipment that is essential to their operations, and reduce the rejection damages claimed by United Leasing.

13. Section 365(a) of the Bankruptcy Code permits a debtor-in-possession to assume an executory contract or unexpired lease in the exercise of its business judgment. *See Group of Institutional Investors v. Chicago, Milwaukee, St. Paul & Pacific Ry. Co.*, 318 U.S. 523, 550 (1942); *Mercantile Trust Co. v. Farmers’ Loan & Trust Co.*, 81 F. 254, 259 (8th Cir. 1897); *In re Food Barn Stores, Inc.*, 107 F.3d 558, 567 n.16 (8th Cir. 1997); *In re Crystalin, L.L.C.*, 293 B.R. 455, 463-64 (B.A.P. 8th Cir. 2003). The Debtors have exercised their business judgment

prudently in this situation, electing to assume an advantageous agreement that is beneficial to their operations and in the best interest of their estates and obtaining a discount of rejection damages in negotiations with United Leasing.

14. Pursuant to 11 U.S.C. § 365 and Fed. R. Bankr. P. 9019, the parties request that the Court approve the following settlement of United Leasing's claims and the Debtors' assumption of the Agreement (the "Settlement"):

- (a) The Debtors will assume the Agreement and all related lease schedules pursuant to 11 U.S.C. § 365.
- (b) The Debtors and United Leasing agree that no cure amount is owed and no such payment will be made pursuant to 11 U.S.C. §365(b)(1).
- (c) United Leasing, Inc.'s Proof of Claim (E.D. Mo. Claim No. 1410; GCG Claim No. 2155) will be allowed in the amount of \$673,575.00.
- (d) United Leasing LLC's Proof of Claim (E.D. Mo. Claim No. 1412; GCG Claim No. 2156) will be disallowed.

16. The Settlement is in the best interests of the Debtors and should be approved pursuant to Bankruptcy Rule 9019. A debtor-in-possession's settlement is governed by Bankruptcy Rule 9019(a), which provides, in relevant part, that "[o]n motion by the [debtor in possession] and after notice and a hearing, the court may approve a compromise or settlement." Fed. R. Bankr. P. 9019(a). This rule empowers bankruptcy courts to approve settlements "if they are in the best interests of the estate." *In re Drexel Burnham Lambert Group, Inc.*, 134 B.R. 499, 505 (Bankr. S.D.N.Y. 1991). A decision to accept a compromise or settlement is within the sound discretion of the Court. *Tri-State Financial, LLC v. Lovald*, 525 F.3d 649, 654 (8th Cir.

² One lease was rejected pursuant to an order dated August 1, 2012 [ECF No. 241]. The

2008) (*citing In re New Concept Housing, Inc.*, 951 F.2d 932, 939 (8th Cir. 1991) (“A bankruptcy court’s approval of a settlement will not be set aside unless there is plain error or abuse of discretion”)). The proposed settlement need not result in the best possible outcome for the debtor, but it must not “fall beneath the lowest point in the range of reasonableness.” *Tri-State Financial*, 525 F.3d at 654 (*citing Protective Committee for Independent Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424 (1968)); *see also Drexel Burnham Lambert Group*, 134 B.R. at 505.

17. The Settlement preserves the Debtors’ access to equipment necessary to operate their businesses and reduces the amounts claimed by United Leasing substantially. It represents a sound exercise of the Debtors’ business judgment. The Court should approve the Settlement because it is in the best interests of the Debtors, their creditors, and their estates.

WHEREFORE, the Debtors respectfully request that this Court:

- (a) authorize the Debtors to assume the Agreement;
- (b) modify United Leasing, Inc.’s Proof of Claim to be allowed in the amount of \$673,575.00;
- (c) disallow United Leasing, LLC’s Proof of Claim;
- (d) approve the Settlement; and
- (e) grant such other and further relief as is just and proper.

second lease was rejected pursuant to an order dated November 20, 2012 [ECF No. 1608].

Dated: November 25, 2013
St. Louis, Missouri

Respectfully submitted,
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SCHEDULE 1

Debtors

1. Affinity Mining Company
2. Apogee Coal Company, LLC
3. Appalachia Mine Services, LLC
4. Beaver Dam Coal Company, LLC
5. Big Eagle, LLC
6. Big Eagle Rail, LLC
7. Black Stallion Coal Company, LLC
8. Black Walnut Coal Company
9. Bluegrass Mine Services, LLC
10. Brody Mining, LLC
11. Brook Trout Coal, LLC
12. Catenary Coal Company, LLC
13. Central States Coal Reserves of Kentucky, LLC
14. Charles Coal Company, LLC
15. Cleaton Coal Company
16. Coal Clean LLC
17. Coal Properties, LLC
18. Coal Reserve Holding Limited Liability Company No. 2
19. Colony Bay Coal Company
20. Cook Mountain Coal Company, LLC
21. Corydon Resources LLC
22. Coventry Mining Services, LLC
23. Coyote Coal Company LLC
24. Cub Branch Coal Company LLC
25. Dakota LLC
26. Day LLC
27. Dixon Mining Company, LLC
28. Dodge Hill Holding JV, LLC
29. Dodge Hill Mining Company, LLC
30. Dodge Hill of Kentucky, LLC
31. EACC Camps, Inc.
32. Eastern Associated Coal, LLC
33. Eastern Coal Company, LLC
34. Eastern Royalty, LLC
35. Emerald Processing, L.L.C.
36. Gateway Eagle Coal Company, LLC
37. Grand Eagle Mining, LLC
38. Heritage Coal Company LLC
39. Highland Mining Company, LLC
40. Hillside Mining Company
41. Hobet Mining, LLC
42. Indian Hill Company LLC
43. Infinity Coal Sales, LLC
44. Interior Holdings, LLC
45. IO Coal LLC
46. Jarrell's Branch Coal Company
47. Jupiter Holdings LLC
48. Kanawha Eagle Coal, LLC
49. Kanawha River Ventures I, LLC
50. Kanawha River Ventures II, LLC
51. Kanawha River Ventures III, LLC
52. KE Ventures LLC
53. Little Creek LLC
54. Logan Fork Coal Company
55. Magnum Coal Company LLC
56. Magnum Coal Sales LLC
57. Martinka Coal Company, LLC
58. Midland Trail Energy LLC
59. Midwest Coal Resources II, LLC
60. Mountain View Coal Company, LLC
61. New Trout Coal Holdings II, LLC
62. Newtown Energy, Inc.
63. North Page Coal Corp.
64. Ohio County Coal Company, LLC
65. Panther LLC
66. Patriot Beaver Dam Holdings, LLC
67. Patriot Coal Company, L.P.
68. Patriot Coal Corporation
69. Patriot Coal Sales LLC
70. Patriot Coal Services LLC
71. Patriot Leasing Company LLC
72. Patriot Midwest Holdings, LLC
73. Patriot Reserve Holdings, LLC
74. Patriot Trading LLC
75. Patriot Ventures LLC
76. PCX Enterprises, Inc.
77. Pine Ridge Coal Company, LLC
78. Pond Creek Land Resources, LLC
79. Pond Fork Processing LLC
80. Remington Holdings LLC
81. Remington II LLC
82. Remington LLC
83. Rivers Edge Mining, Inc.
84. Robin Land Company, LLC
85. Sentry Mining, LLC
86. Snowberry Land Company
87. Speed Mining LLC
88. Sterling Smokeless Coal Company, LLC
89. TC Sales Company, LLC
90. The Presidents Energy Company LLC
91. Thunderhill Coal LLC
92. Trout Coal Holdings, LLC
93. Union County Coal Co., LLC
94. Viper LLC
95. Weatherby Processing LLC
96. Wildcat Energy LLC
97. Wildcat, LLC
98. Will Scarlet Properties LLC
99. Winchester LLC
100. Winifrede Dock Limited Liability Company
101. Yankeetown Dock, LLC