

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:

PATRIOT COAL CORPORATION, *et al.*,

Debtors.

**Chapter 11
Case No. 12-51502-659
(Jointly Administered)**

Re: ECF No. 2821

**STIPULATION BETWEEN DEBTORS AND
B.D. GREENWELL REGARDING PROOF OF CLAIM**

Patriot Coal Corporation and its affiliates in these proceedings (collectively, the “**Debtors**” or the “**Reorganized Debtors**”) respectfully represent:

Background and Jurisdiction

1. On July 9, 2012 (the “**Petition Date**”), each Debtor other than Brody Mining, LLC and Patriot Ventures LLC (collectively, the “**Initial Debtors**”) commenced with the United States Bankruptcy Court for the Southern District of New York (the “**SDNY Bankruptcy Court**”) a voluntary case under Chapter 11 of the Bankruptcy Code. On December 19, 2012, the SDNY Bankruptcy Court entered an order transferring the Initial Debtors’ Chapter 11 cases to this Court [ECF No. 1789] (the “**Transfer Order**”).¹ Subsequently, Brody Mining, LLC and Patriot Ventures LLC (together, the “**New Debtors**”) each commenced its Chapter 11 case by filing a petition for voluntary relief with this Court on September 23, 2013 (the “**Subsequent Petition Date**”). The Initial Debtors’ cases are being jointly administered pursuant to

¹ Pursuant to the Transfer Order, all orders previously entered in these Chapter 11 cases remain in full force and effect in accordance with their terms notwithstanding the transfer of venue.

Bankruptcy Rule 1015(b) and the Joint Administration Order entered on July 10, 2012 [ECF No. 30], and the New Debtors' cases are being jointly administered with the Initial Debtors' cases pursuant to Bankruptcy Rule 1015(b) and the Order Directing Joint Administration of Chapter 11 Cases entered by this Court on September 27, 2013 in each of the New Debtors' Chapter 11 cases.

2. The Fourth Amended Joint Plan of Reorganization of the Reorganized Debtors (the "**Plan**") [ECF No. 5139] was confirmed on December 17, 2013 and became effective on December 18, 2013.

3. The Court has subject matter jurisdiction to consider this matter pursuant to 28 U.S.C. § 1334. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b) and may be determined by the Bankruptcy Court.

Claimant's Claim

4. B.D. Greenwell (the "**Claimant**") filed a proof of claim on November 26, 2012 against Heritage Coal Company LLC (the "**Debtor**"), claiming an unliquidated amount in damages from alleged subsidence and harm to the Claimant's land, residence, and crops (E.D. Mo. Claim No. 3291-1; GCG Claim No. 865) (the "**Claim**").

5. Under the Plan and 11 U.S.C. §§ 524(a)(2) and 1141(d)(1) (the "**Discharge Injunction**"), the Claimant is enjoined from commencing or continuing an action to seek recovery of the Claim as a personal liability of the Debtor.

6. The parties wish to provide for an efficient mechanism for the liquidation and payment of the Claim, to the extent that the Debtor is determined to be liable therefor, without unduly delaying the administration of the Reorganized Debtors' Chapter 11 cases.

7. The Debtors are authorized under the Order Authorizing and Approving Procedures for Compromise and Settlement of Certain Claims, Litigations and Causes of Action entered in these Chapter 11 cases on February 13, 2013 [ECF No. 2821] (the “**Settlement Procedures Order**”) and Section 8.2 of the Plan to enter into and submit this Stipulation to the Court.

It is hereby stipulated and agreed, subject to and in accordance with the Settlement Procedures Order, by and among the parties to this Stipulation, as follows:

9. The Claim shall be deemed withdrawn, without prejudice to the rights of the Claimant, if any, arising from the facts and circumstances underlying the Claim.

10. The Discharge Injunction is hereby modified solely to the extent necessary to permit the Claimant to pursue the Claim in any tribunal of competent jurisdiction and to enforce any resulting judgment or award.

11. All of the Debtor’s defenses to the Claim, other than discharge in bankruptcy, are reserved.

12. To the extent that the Debtor is finally adjudicated to be liable to the Claimant on account of the Claim, the Claimant shall be entitled to payment in full of the Claim, notwithstanding the terms of the Plan.

13. The Clerk of the Court and the Debtors’ claims and noticing agent are each authorized and directed to reflect the withdrawal of the Claim in the Debtors’ claims register; *provided, however*, that the withdrawal of the Claim shall not prejudice Claimant’s rights described in this Stipulation.

14. Nothing contained herein shall be deemed an admission of liability or otherwise on the part of the Debtor or the Reorganized Debtors with respect to the Claim.

15. The modification of the Discharge Injunction as set forth herein shall have no effect as to parties that are not a party to this Stipulation, and the Discharge Injunction shall remain in full force and effect with respect to such parties and their claims or causes of action, if any, against the Debtors and their estates.

16. Neither this Stipulation, nor any terms contained herein, shall be offered or received in evidence or in any way referred to in any legal action or administrative proceeding among or between the parties hereto, other than as may be necessary: (a) to obtain approval of and to enforce this Stipulation, (b) to seek damages or injunctive relief in connection therewith or (c) to prove that the Discharge Injunction has been modified to allow prosecution of the Claim in accordance with the terms hereof.


17. The United States Bankruptcy Court for the Eastern District of Missouri shall retain jurisdiction (and the parties consent to such retention of jurisdiction) with respect to any disputes arising from or other actions to interpret, administer or enforce the terms and provisions of this Stipulation.

18. This Stipulation may be signed in counterpart originals and delivered by facsimile, which, when fully executed, shall constitute a single original.

19. This Stipulation constitutes the entire agreement and understanding of the parties regarding the Stipulation and the subject matter thereof. The terms set forth in this Stipulation are part of a comprehensive compromise and each element is an integral aspect of the agreed settlement and is non-severable.

20. Each of the undersigned counsel represents that he/she is authorized to execute this Stipulation on behalf of his/her respective client.

21. This Stipulation is effective upon submission to the Court without further order of Court and shall not be modified, altered, amended or vacated without written consent of all parties hereto, subject to Court approval.


KATHY A. SURRETT-STATES
Chief United States Bankruptcy Judge

DATED: March 28, 2014
St. Louis, Missouri
jjh

/s/ Craig C. Dilger

For the Claimant, B.D. Greenwell

/s/ Brian C. Walsh

For the Debtor, Heritage Coal Company LLC