

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:

PATRIOT COAL CORPORATION, *et al.*

Debtors.

Chapter 11

**Case No. 12-51502
Jointly Administered**

Hon. Kathy Surrat-States

**OBJECTION OF J.H. FLETCHER & CO. TO THE DEBTORS' 503(b)(9)
REPORT AND NOTICE OF OBJECTION PROCEDURES**

J.H. Fletcher & Co. ("JHF"), through its undersigned counsel, hereby submits this Objection to the Debtors' 503(b)(9) Report and Notice of Objection Procedures [Docket Number 3006] (the "**Report**"). In support of its Objection, JHF respectfully submits the following:

1. JHF provides machinery, equipment, and replacement parts to the Debtors.
2. As required by the Court's Order Approving Procedures for Assertion, Resolution and Treatment of Reclamation Claims and Claims Asserted Pursuant to 11 U.S.C. § 503(b)(9) [Docket Number 261], on October 19, 2012, JHF timely filed Section 503(b)(9) administrative expense claims in the following bankruptcy cases based on goods provided by JHF that were received by certain of the Debtors within 20 days before the date of the commencement of the bankruptcy case: Eastern Associated Coal, LLC (Case No. 12-12934, Claim No. 317), Hillside Mining Company (Case No. 12-12942, Claim No. 313), Kanawha Eagle Coal LLC (Case No. 12-12950, Claim No. 311), Midland Trail Energy LLC (Case No. 12-12960, Claim No. 309), Panther LLC (Case No. 12-12967, Claim No. 307), Remington LLC (Case No. 12-12980, Claim No. 305), and

Black Stallion Coal Company LLC (Case No. 12-12908, Claim No. 319) (collectively, the “503(b)(9) Claims”).

3. On October 19, 2012, JHF also timely filed general unsecured proofs of claim in the following cases: Eastern Associated Coal, LLC (Case No. 12-12934, Claim No. 316), Hillside Mining Company (Case No. 12-12942, Claim No. 312), Kanawha Eagle Coal LLC (Case No. 12-12950, Claim No. 310), Midland Trail Energy LLC (Case No. 12-12960, Claim No. 308), Panther LLC (Case No. 12-12967, Claim No. 306), Remington LLC (Case No. 12-12980, Claim No. 304), and Black Stallion Coal Company LLC (Case No. 12-12908, Claim No. 318) (collectively, the “General Claims”). Out of an abundance of caution, the General Claims also include amounts entitled to administrative priority under Section 503(b)(9) in respect of goods received by the Debtors from JHF within twenty days before the date of the filing of the bankruptcy.

4. The Report identifies a basis for the Debtors’ disallowance of the 503(b)(9) claims as “Non-Debtor/Disputed Claim,” and defines that terms as “claims that should be asserted against a non-debtor entity or that the Debtors are otherwise not liable for such 503(b)(9) Demand. In addition, for certain 503(b)(9) Demands, the Debtors (i) did not receive an invoice; (ii) received invoices(s) that differ from the actual goods received or (iii) received duplicative invoices.” Report at p. 3.

5. To the extent that the Debtors object to the 503(b)(9) Claims because they are duplicates of amounts included in the General Claims, JHF has no objection to the Report.

6. As to the General Claims, the Debtors outline the legal bases for the reduction or disallowance of amounts JHF claimed for goods received by the Debtors

twenty days before the date of the filing of the bankruptcy in the following cases: *Kanawha Eagle Coal LLC* (Case No. 12-12950, Claim No. 310); *Hillside Mining Company* (Case No. 12-12942, Claim No. 312); and *Eastern Associated Coal, LLC* (Case No. 12-12934, Claim No. 316).

7. JHF does not object to the Report as it pertains to the Section 503(b)(9) portion of the General Claims filed by JHF in the *Hillside Mining Company* (Case No. 12-12942, Claim No. 312) and *Eastern Associated Coal, LLC* (Case No. 12-12934, Claim No. 316) bankruptcy cases.

8. As to the Section 503(b)(9) portion of the General Claim filed by JHF in the *Kanawha Eagle Coal LLC* (Case No. 12-12950, Claim No. 310) (the "Kanawha Eagle Claim") bankruptcy case, the Debtors object to \$3,687 that JHF claimed for amounts owed for goods received by Kanawha Eagle Coal LLC within twenty days before the date of the bankruptcy filing. The objection is based on the claim being "Non-Debtor/Disputed Claim;" the Debtor proposes to pay \$0. Aside from the definition of the general term mentioned above, the Debtor has provided no additional information or evidence as to the reason that this claim should be disallowed.

9. Attached to the Kanawha Eagle Claim are two invoices, Invoice Numbers 201219762-01 and 201219784-01, which identify goods that were shipped from JHF to Kanawha Eagle Coal LLC on June 26, 2012 and June 27, respectively. This shipment date would put the receipt of these goods squarely within the twenty-day period prior to bankruptcy filing¹. JHF has received no payments on these invoices.

¹ The bankruptcy was filed on July 9, 2012. To be eligible for 503(b)(9) treatment, the debtor must have received the goods between June 19, 2012 and July 9, 2012.

ARGUMENT

JHF objects to the Report to the extent that the Debtor is requesting to disallow JHF's otherwise valid and properly filed Section 503(b)(9) Kanawha Eagle Claim as it relates to goods received by the Debtor twenty days before the date of the filing of the bankruptcy.

10. A properly filed proof of claim constitutes prima facie evidence of the validity and amount of the claim. Fed. R. Bankr. 3001(f). The objecting party must produce evidence to rebut the claim. *In re Vantage Investment, Inc.*, 385 B.R. 670, 679 (Bankr. W.D. Mo. 2008). If the objecting party does not produce any evidence to rebut the prima facie evidence of the validity and amount of the claim, then the claimant will prevail. *Id.*

11. The Kanawha Eagle Claim is a properly filed proof of claim containing evidence of the prima facie validity of the Section 503(b)(9) claims asserted therein. JHF has attached to the claim copies of invoices evidencing that Kanawha Eagle received goods shipped by JHF within twenty days before the date of the filing of the bankruptcy.

12. The Debtor has provided no evidence to rebut the presumption of the prima facie validity and amount of JHF's Kanawha Eagle Claim.

CONCLUSION

The Debtors have not provided any evidence to rebut the presumption of the prima facie validity of JHF's Kanawha Eagle Claim and this claim should not be reduced as requested in the Report.

WHEREFORE, J.H. Fletcher & Co, respectfully requests that the Court sustain this Objection and allow the Kanawha Eagle Claim in full.

Dated: March 19, 2013

By: /s/ Matthew S. Layfield

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CERTIFICATE OF SERVICE

I hereby certify that on March 19, 2013, a true copy of the foregoing was served electronically through the Court's ECF system on all registered users and by regular U.S. mail, postage prepaid, or via facsimile as allowed by the Report, upon the following

Notice

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