

SO ORDERED

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI

Apr 17, 2013

*Kathy A. Surratt - States*  
KATHY A. SURRATT-STATES  
Chief United States Bankruptcy Judge

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In re: )  
 ) Case No. 12-51502  
 )  
PATRIOT COAL CORPORATION, *et al.*, ) Chapter 11  
 )  
 )  
Debtors. ) Jointly Administered  
 )  
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**MOTION OF CERTAIN INTERESTED  
SHAREHOLDERS FOR LEAVE TO FILE DECLARATIONS OF  
CHRISTOPHER K. WU AND JEFFERY R. STUFISKY UNDER SEAL**

Pursuant to Bankruptcy Code § 107(b), certain interested shareholders (collectively, the “Interested Shareholders”) hereby move this Court for leave to file under seal (the “Seal Motion”) the declarations of (i) Christopher K. Wu (the “Wu Declaration”) and (ii) Jeffrey R. Stufsky (the “Stufsky Declaration”) in support of *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 § 1102(a)(2)* [ECF. No. 417] (the “Motion to Appoint”).

**JURISDICTION**

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

**BACKGROUND**

2. On July 9, 2012, each of the above-captioned debtors and debtors-in-possession (collectively, the “Debtors”) commenced a voluntary case under Chapter 11 of the Bankruptcy Code.

3. On August 24, 2013, the Interested Shareholders filed the Motion to Appoint. A corrected version of the Motion to Appoint was filed on August 27, 2013.

4. In connection with the Motion to Appoint, the Interested Shareholders' professionals have received from the Debtors certain non-public, confidential information. As a condition of receiving such information, the Interested Shareholders' professionals executed a confidentiality agreement a dated September 24, 2012 (the "Confidentiality Agreement"), with the Debtors (or have acknowledged to be bound thereby). Pursuant to the terms of the Confidentiality Agreement, the Interested Shareholders' professionals and have agree to keep certain documents and other information provided to them by the Debtors confidential (the "Confidential Information").

5. On November 28, 2012, the United States Bankruptcy Court for the Southern District of New York (the "SDNY Bankruptcy Court") issued a memorandum decision transferring venue of these cases and the associated adversary proceedings to the United States Bankruptcy Court for the Eastern District of Missouri. On December 19, 2012, the SDNY Bankruptcy Court entered an order transferring these cases, effective as of that date.<sup>1</sup>

6. On March 22, 2013, this Court entered an agreed scheduling order [ECF No 3363] (the "Scheduling Order") fixing April 19, 2013, as the deadline for the Interested Shareholders to respond to objections to the Motion to Appoint (the "Response"). The Scheduling Order also fixed April 23, 2013, as the hearing date on the Motion to Appoint.

7. On April 2, 2013, this Court entered an order requiring that all direct testimony to be offered at the hearing on the Motion to Appoint be submitted by declaration and that any such declarations be submitted by April 16, 2013 [ECF No. 3489].

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<sup>1</sup> Pursuant to the Transfer Order, all orders previously entered in the Cases remain in full force and effect in accordance with their terms notwithstanding the transfer of venue.

**RELIEF REQUESTED AND BASIS THEREFOR**

8. The Debtors have previously shared Confidential Information with the Interested Shareholders, which, in part, is referenced directly or indirectly in the Wu Declaration and the Stufsky Declaration. Pursuant to the Confidentiality Agreement, the parties specifically assented to filing documents containing Confidential Information under seal.

9. On account of their agreement with the Debtors as set forth in the Confidentiality Agreement, the Interested Shareholders request that this Court grant leave for the Interested Shareholders to file the Wu Declaration and the Stufsky Declaration under seal.

10. In connection with this filing, the Interested Shareholders will undertake to:

- contemporaneously with the filing of this Seal Motion, provide unredacted versions of the Wu Declaration and the Stufsky Declaration to (i) the Court; (ii) the office of the U.S. Trustee; (iii) counsel to the administrative agents for the Debtors' postpetition lenders; and (iv) counsel for the official committee of unsecured creditors (collectively, the "Service Parties"); and
- provide unredacted versions of the Wu Declaration and the Stufsky Declaration to the Court for filing under seal within two business days of filing this Sealing Motion.

11. This Court has authority to grant this Seal Motion pursuant to Bankruptcy Code § 107(b)(1) and Bankruptcy Rule 9018(1).

**NOTICE**

12. Consistent with the Case Management Order in effect in these cases, the Interested Shareholders will serve notice of this Sealing Motion on the Core Parties (as defined in the Case Management Order). All parties who have requested electronic notice of filings in these cases through the Court's ECF system will automatically receive notice of this Sealing Motion through the ECF system no later than the day after its filing with the Court.

13. **WHEREFORE**, the Interested Shareholders respectfully request that the Court grant (i) the Seal Motion and (ii) such other and further relief that may be just and proper under the circumstances.

Dated: April 16, 2013  
New York, New York

**MCKOOL SMITH, P.C.**

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