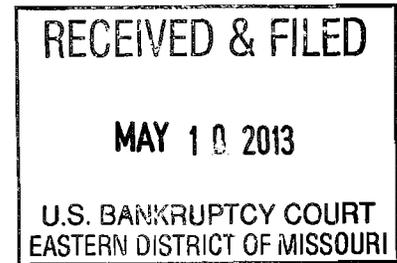


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**SOCIETY HILL
SYNAGOGUE**

May 7, 2013

The Honorable Kathy A. Surratt-States
Thomas F. Eagleton U.S. Court House
111 S. 10th St.—4th Floor
St. Louis, Missouri 63102



Re: Case No. 12-51502
Patriot Bankruptcy

Your Honor:

As an attorney and a rabbi I appeal to you concerning the Patriot bankruptcy case. It seems that the chasm between law and justice continues to widen in this country, and the case before you may be a sad example. I hope not.

If the miners' claims are liquidated in bankruptcy then Peabody will have succeeded in using and abusing a humane law designed to help those who are hopelessly in debt with no way out to devastate a completely innocent group of miners who are now utterly dependent on Peabody. Such a decision, would, in effect, though not in intention, ratify an act of bad faith of astounding proportions.

It is clear that Patriot was created by Peabody for the cynical purpose of breaking faith those very miners who gave their blood, sweat and health to Peabody on the solemn promise that Peabody would provide for the care they needed, not just when they were working, but as they grew old and frail and helpless. These miners aren't balance sheet liabilities. They and their families are flesh and blood.

It is clear that the creation of Patriot was and is a scheme to offload the solemn obligations of Peabody to take care of those miners who gave the better part of their lives to Peabody and with whom they covenanted to support for life. Both the miners and Peabody entered into their contracts knowing the terrible costs in physical health that many of these miners would face as the years went by, and knowing that the miners were relying on the good faith of Peabody's management to protect them and care for them in their old age. I have read the letters that retired miners have sent to this Court and they break my heart.

For Peabody/Patriot to argue that when Patriot was created Patriot had sufficient assets to operate and Peabody's management is not responsible for its collapse reflects a combination of cynicism and disingenuousness. Such an argument simply means that the legal team that created Patriot was creative enough to create the veneer that Patriot was a going concern. It is no coincidence that after offloading its obligations to its workers onto Patriot that Peabody continued to rake in hefty profits even as Patriot collapsed.

Peabody's actions are unconscionable. To leave these miners without a remedy speaks as much to the bankruptcy of the law, as it does to the supposed bankruptcy of Patriot. When a corporation offloads its liabilities on subsidiaries that were clearly created for that purpose, (as a reasonable person would conclude here), for the law to say in effect, "I'm sorry but there is no remedy" is elevating the letter of the law so far above the spirit of the law as to impugn the dignity of our great legal system and is a terrible stain on the law—particularly when those "liabilities" are retired, elderly and often frail human beings.

One of the great jurists of the modern era, Israeli Supreme Court Justice Haim M. Cohen (1911-2002) chillingly observed, "Every system of justice bears within itself the germ of its own perversion." A decision that essentially abandons miners who toiled for years on behalf of Peabody, and that allows Peabody to walk away clean is surely a perversion of the law.

But in response to Justice Cohen's sober observation, we might add that every system of justice has within it, its own shields against that very perversion whether it is equity as against law or natural rights or God's words through Isaiah: that you can follow the laws repentance to the letter but it will be of no avail if "on your fast day you see to your business and oppress your laborers." Rather, as Isaiah continues, one must "unlock the fetters of wickedness, and untie the cords of yoke"

Whether one speaks of "piercing the corporate veil", unconscionability, dirty hands or some other doctrine is not the issue. The issue is not what legal/equitable pigeon hole we can creatively manipulate in favor of the miners just as Peabody has attempted to manipulate the law to break faith with the miners. It's about doing justice.

When I graduated Georgetown University Law Center in 1976 my mother presented me with needlepoint that she had made that still hangs in my synagogue study with the words in Hebrew and English " *Tzedek, tzedek tirdof*/Justice, justice shalt thou pursue" Deuteronomy 16:20.

We simply cannot live in world of law in which terrible injustice to miners and their families is the outcome of this matter. Rather this matter should be about the pursuit of justice.

Respectfully submitted,



Rabbi Avi Winokur

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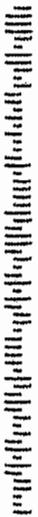
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U.S. BANKRUPTCY COURT
EASTERN DISTRICT
ST. LOUIS, MISSOURI-MA

Case No. 12-51502
Pratt & Whitney Bankruptcy

THE Honorable Kathy A. Summit Jones
Thomas F. Sprouen U.S. Court House
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