

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI, EASTERN DIVISION**

**In Re: PATRIOT COAL)
CORPORATION, et al.) Case No. 12-51502-659
Debtors.) Chapter 11
)**

**RESPONSE OF CREDITOR WEST VIRGINIA STATE TAX DEPARTMENT
TO "DEBTOR'S SECOND OMNIBUS OBJECTION TO CLAIMS" (AMENDED AND
SUPERSEDED CLAIMS) DATED APRIL 19, 2013**

1. Claimant West Virginia State Tax Department ("WVSTD") filed initial proof of claim EDMO 353/GCG 3999 on or about March 7, 2013, against **Jupiter Holdings, LLC**. ("Exhibits A, B")
2. The claim consists of coal severance and direct pay taxes owed the State of West Virginia in the amount of **Sixty-Four Thousand Five Hundred Seventy-four Dollars and Twenty-one Cents (\$64,574.21)**.
3. Claimant WVSTD disagrees with Debtor's Objection as said taxes are due and owing and Debtor has demonstrated no evidence to the contrary.

WHEREFORE, THE West Virginia State Tax Department **OBJECTS** with Debtor's Objection and prays this Court permit the claims of the West Virginia State Tax Department against Jupiter Holdings, LLC, be **DEEMED ALLOWED**.

West Virginia State Tax Department
By Counsel

/s/ Eric M. Wilson
Eric M. Wilson, Esquire
WV Bar No. 9755
State of West Virginia
Department of Tax and Revenue
1001 Lee Street, East
Charleston, WV 25301
(304) 558-5330

UNITED STATES BANKRUPTCY COURT Eastern District of Missouri PROOF OF CLAIM

Name of Debtor: JUPITER HOLDINGS, LLC.
 Case Number: 12-52076 CH. 11



NOTE: Do not use this form to make a claim for an administrative expense that arises after the bankruptcy filing. You may file a request for payment of an administrative expense according to 11 U.S.C. § 503.

Name of Creditor (the person or other entity to whom the debtor owes money or property): WEST VIRGINIA STATE TAX DEPARTMENT

COURT USE ONLY

Name and address where notices should be sent: WEST VIRGINIA STATE TAX DEPARTMENT P.O. BOX 766 CHARLESTON, WV 25323-0766
 Telephone number: (304) 558-0738 email: chrissy.e.evans@wv.gov

Check this box if this claim amends a previously filed claim.
 Court Claim Number: 369 (if known)
 Filed on: 11/03/2012

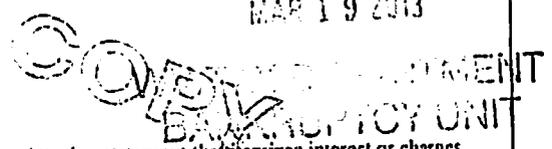
Name and address where payment should be sent (if different from above):
 Telephone number: email:

Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars.

1. Amount of Claim as of Date Case Filed: \$ 64,574.21

MAR 19 2013

If all or part of the claim is secured, complete item 4.
 If all or part of the claim is entitled to priority, complete item 5.
 Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.



2. Basis for Claim: Taxes-See Attachment (See instruction #2)

3. Last four digits of any number by which creditor identifies debtor: 8 6 7 0

3a. Debtor may have scheduled account as: (See instruction #3a)

3b. Uniform Claim Identifier (optional): (See instruction #3b)

4. Secured Claim (See instruction #4)
 Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information.
 Nature of property or right of setoff: Real Estate Motor Vehicle Other Describe:
 Value of Property: \$
 Annual Interest Rate % Fixed or Variable (when case was filed)

Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any: \$
 Basis for perfection:
 Amount of Secured Claim: \$
 Amount Unsecured: \$

5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507 (a). If any part of the claim falls into one of the following categories, check the box specifying the priority and state the amount.

Domestic support obligations under 11 U.S.C. § 507 (a)(1)(A) or (a)(1)(B).
 Wages, salaries, or commissions (up to \$11,725*) earned within 180 days before the case was filed or the debtor's business ceased, whichever is earlier - 11 U.S.C. § 507 (a)(4).
 Contributions to an employee benefit plan - 11 U.S.C. § 507 (a)(5).
 Up to \$2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507 (a)(7).
 Taxes or penalties owed to governmental units - 11 U.S.C. § 507 (a)(8).
 Other - Specify applicable paragraph of 507 (a)().
 Amount entitled to priority: \$ 57,199.39
 STATE'S EXHIBIT "A"
 *Amounts are subject to adjustment on 4/1/13. r the date of adjustment.

6. Credits. The amount of all payments on this claim has been applied to this proof of claim. (See instruction #6)
 Claim # 353

7. Documents: Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. If the claim is secured, box 4 has been completed, and redacted copies of documents providing evidence of perfection of a security interest are attached. (See instruction #7, and the definition of "redacted".)

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain:

8. Signature: (See instruction #8)

Check the appropriate box.

- I am the creditor. I am the creditor's authorized agent. (Attach copy of power of attorney, if any.)
- I am the trustee, or the debtor, or their authorized agent. (See Bankruptcy Rule 3004.)
- I am a guarantor, surety, indorser, or other codebtor. (See Bankruptcy Rule 3005.)

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

Print Name: Chrissy E. Evans
 Title: Paralegal
 Company: West Virginia State Tax Department
 Address and telephone number (if different from notice address above):



(Signature)

03/07/2013

(Date)

Telephone number: _____ email: _____

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

INSTRUCTIONS FOR PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases not filed voluntarily by the debtor, exceptions to these general rules may apply.

Items to be completed in Proof of Claim form

Court, Name of Debtor, and Case Number:
Fill in the federal judicial district in which the bankruptcy case was filed (for example, Central District of California), the debtor's full name, and the case number. If the creditor received a notice of the case from the bankruptcy court, all of this information is at the top of the notice.

Creditor's Name and Address:
Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

1. Amount of Claim as of Date Case Filed:
State the total amount owed to the creditor on the date of the bankruptcy filing. Follow the instructions concerning whether to complete items 4 and 5. Check the box if interest or other charges are included in the claim.

2. Basis for Claim:
State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card. If the claim is based on delivering health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information. You may be required to provide additional disclosure if an interested party objects to the claim.

3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:
State only the last four digits of the debtor's account or other number used by the creditor to identify the debtor.

3a. Debtor May Have Scheduled Account As:
Report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the debtor.

3b. Uniform Claim Identifier:
If you use a uniform claim identifier, you may report it here. A uniform claim identifier is an optional 24-character identifier that certain large creditors use to facilitate electronic payment in chapter 13 cases.

4. Secured Claims:
Check whether the claim is fully or partially secured. Skip this section if the claim is entirely unsecured. (See Definitions.) If the claim is secured, check the box for the nature and value of property that secures the claim, attach copies of lien documentation, and state, as of the date of the bankruptcy filing, the annual interest rate (and whether it is fixed or variable), and the amount past due on the claim.

5. Amount of Claim Entitled to Priority Under 11 U.S.C. § 507 (a):
If any portion of the claim falls into any category shown, check the appropriate box(es) and state the amount entitled to priority. (See Definitions.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

6. Credits:
An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

7. Documents:
Attach redacted copies of any documents that show the debt exists and a lien secures the debt. You must also attach copies of documents that evidence perfection of any security interest. You may also attach a summary in addition to the documents themselves. FRBP 3001(c) and (d). If the claim is based on delivering health care goods or services, limit disclosing confidential health care information. Do not send original documents, as attachments may be destroyed after scanning.

8. Date and Signature:
The individual completing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what constitutes a signature. If you sign this form, you declare under penalty of perjury that the information provided is true and correct to the best of your knowledge, information, and reasonable belief. Your signature is also a certification that the claim meets the requirements of FRBP 9011(b). Whether the claim is filed electronically or in person, if your name is on the signature line, you are responsible for the declaration. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. If the claim is filed by an authorized agent, attach a complete copy of any power of attorney, and provide both the name of the individual filing the claim and the name of the agent. If the authorized agent is a servicer, identify the corporate servicer as the company. Criminal penalties apply for making a false statement on a proof of claim.

UNITED STATES BANKRUPTCY COURT Eastern District of Missouri		PROOF OF CLAIM
Name of Debtor: JUPITER HOLDINGS, LLC.		Case Number: 12-52076 CH.11
		
NOTE: Do not use this form to make a claim for an administrative expense that arises after the bankruptcy filing. You may file a request for payment of an administrative expense according to 11 U.S.C. § 503.		
Name of Creditor (the person or other entity to whom the debtor owes money or property): WEST VIRGINIA STATE TAX DEPARTMENT		COURT USE ONLY
Name and address where notices should be sent: WEST VIRGINIA STATE TAX DEPARTMENT P.O. BOX 766 CHARLESTON, WV 25323-0766		<input checked="" type="checkbox"/> Check this box if this claim amends a previously filed claim. Court Claim Number: <u>369</u> (If known) Filed on: <u>11/03/2012</u>
Telephone number: (304) 558-0738 email: chrissy.e.evans@wv.gov		
Name and address where payment should be sent (if different from above):		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars.
FILED - 03111 U.S. BANKRUPTCY COURT - EASTERN DISTRICT OF MISSOURI PATRIOT COAL CORPORATION 12-51502 (KES)		
Telephone number: email:		
1. Amount of Claim as of Date Case Filed: \$ <u>64,574.21</u>		
If all or part of the claim is secured, complete item 4.		
If all or part of the claim is entitled to priority, complete item 5.		
<input type="checkbox"/> Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.		
2. Basis for Claim: <u>Taxes-See Attachment</u> (See instruction #2)		
3. Last four digits of any number by which creditor identifies debtor: 8 6 7 0	3a. Debtor may have scheduled account as: (See instruction #3a)	3b. Uniform Claim Identifier (optional): (See instruction #3b)
4. Secured Claim (See instruction #4) Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information.		Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any: \$ _____
Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe:		Basis for perfection: _____
Value of Property: \$ _____		Amount of Secured Claim: \$ _____
Annual Interest Rate _____ % <input type="checkbox"/> Fixed or <input type="checkbox"/> Variable (when case was filed)		Amount Unsecured: \$ _____
5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507 (a). If any part of the claim falls into one of the following categories, check the box specifying the priority and state the amount.		
<input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507 (a)(1)(A) or (a)(1)(B).	<input type="checkbox"/> Wages, salaries, or commissions (up to \$11,725*) earned within 180 days before the case was filed or the debtor's business ceased, whichever is earlier - 11 U.S.C. § 507 (a)(4).	<input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507 (a)(5).
<input type="checkbox"/> Up to \$2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507 (a)(7).	<input checked="" type="checkbox"/> STATES EXHIBIT "B"	Amount entitled to priority: \$ <u>57,199.39</u>
*Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter on or after the date of adjustment.		
6. Credits. The amount of all payments on this claim has been credited		of of claim. (See instruction #6)

Claim 3999

7. Documents: Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. If the claim is secured, box 4 has been completed, and redacted copies of documents providing evidence of perfection of a security interest are attached. (See Instruction #7, and the definition of "redacted".)

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If the documents are not available, please explain:

8. Signature: (See instruction #8)

Check the appropriate box.

- I am the creditor.
- I am the creditor's authorized agent. (Attach copy of power of attorney, if any.)
- I am the trustee, or the debtor, or their authorized agent. (See Bankruptcy Rule 3004.)
- I am a guarantor, surety, indorser, or other codebtor. (See Bankruptcy Rule 3005.)

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

Print Name: Chrissy E. Evans
 Title: Paralegal
 Company: West Virginia State Tax Department
 Address and telephone number (if different from notice address above):



03/07/2013

(Signature)

(Date)

Telephone number: _____ email: _____

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

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4. Secured Claim:
 Check whether the claim is fully or partially secured. Skip this section if the claim is entirely unsecured. (See Definitions.) If the claim is secured, check the box for the nature and value of property that secures the claim, attach copies of lien documentation, and state, as of the date of the bankruptcy filing, the annual interest rate (and whether it is fixed or variable), and the amount past due on the claim.

5. Amount of Claim Entitled to Priority Under 11 U.S.C. § 507 (a):
 If any portion of the claim falls into any category shown, check the appropriate box(es) and state the amount entitled to priority: (See Definitions.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

6. Credits:
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7. Documents:
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8. Date and Signature:
 The individual completing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what constitutes a signature. If you sign this form, you declare under penalty of perjury that the information provided is true and correct to the best of your knowledge, information, and reasonable belief. Your signature is also a certification that the claim meets the requirements of FRBP 9011(b). Whether the claim is filed electronically or in person, if your name is on the signature line, you are responsible for the declaration. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. If the claim is filed by an authorized agent, attach a complete copy of any power of attorney, and provide both the name of the individual filing the claim and the name of the agent. If the authorized agent is a servicer, identify the corporate servicer as the company. Criminal penalties apply for making a false statement on a proof of claim.

PROOF OF CLAIM FOR WEST VIRGINIA STATE TAXES -AMENDED						
In matter of: Jupiter Holdings, LLC. xx-xxx-8670				Case Number: 12-52076 CH. 11		
1. The creditor is the West Virginia State Tax Division, whose address is P. O. Box 766, Charleston, WV 25323-0766						
2. The amount of all payments, credit and setoffs on this claim has been credited and deducted for the purpose of making this proof of claim.						
3. The basis for the claim is taxes, interest, additions to tax and penalties due and owing to the State of West Virginia under Chapter 11 of the West Virginia Code.						
4. The TOTAL AMOUNT of the claim is \$54,574.21						
A. SECURED CLAIM (NOTICE OF STATE TAX LIEN FILED)					TOTAL: \$	
Type of Tax	Period	Tax Due	Interest	Additions	Date Recorded	County Location
B. PRIORITY CLAIMS (UNDER BANKRUPTCY CODE 507 (a)(8))					TOTAL: \$57,199.39	
Type of Tax	Period	Tax Due	Interest			
*Coal Severance	12/31/08	27,421.73	8,904.93			
*Coal Severance	12/31/07	2,077.55	873.45			
*Direct Pay	1/1/07-12/31/10	12,237.30	5,684.43			
*Audit		E=Estimated(no returns filed)				
C. UNSECURED NON-PRIORITY					TOTAL: \$7,374.82	
Type of Tax	Period	Tax Due	Interest	Additions		
*Coal Severance	12/31/08	-	-	6,855.43		
*Coal Severance	12/31/07	-	-	519.39		
5. The classification of the claim is: (A) Taxes, interest, and additions to tax secured by statutory tax lien perfected prior to petition date, (B) Taxes and interest entitled to priority under 11 U.S.C. 507 (a)(8) and not secured by a lien, (C) Taxes, interest, additions to tax and penalties not entitled to priority under 11 U.S.C. 507 (a)(8) and not secured by a lien.						
6. This claim consists of taxes due, interest at statutory rate, and additions to tax and/or penalties not in compensation for actual pecuniary loss, all computed to the petition date. This claim is based upon tax returns filed by the debtor or an audit of the debtor's records, unless estimated in the absence of returns or audit. This claim supersedes any prior claims filed by the State Tax Division.						
7. No judgment has been rendered on this claim.						
Dated: March 7, 2013						
West Virginia State Tax Division, P.O. Box 766, Charleston, WV 25323-0766 Phone (304) 558-0738						

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI, EASTERN DIVISION

In Re: PATRIOT COAL)
CORPORATION, et al.) Case No. 12-51502-659
Debtors.) Chapter 11
)

CERTIFICATE OF SERVICE

I hereby certify that on this date the foregoing *Response of Creditor West Virginia State Tax Department to "Debtor's Second Omnibus Objection to Claims" (Amended and Superseded Claims)* dated April 19, 2013 was served upon all parties of record via ECMF this 19th date of May, 2013.

/s/ Eric M. Wilson
Eric M. Wilson, Esquire
WV Bar No. 9755
State of West Virginia
Department of Tax and Revenue
1001 Lee Street, East
Charleston, WV 25301
(304) 558-5330