

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In Re:) Chapter 11
) Case No. 12-51502-659
PATRIOT COAL CORPORATION,) Jointly Administered
et al.,) Honorable Kathy Surratt-States
)
Debtors.) Hearing Date: September 24, 2013
) Hearing Time: 10:00 a.m.
) Claims: EDMO/GCG Claim Nos. 3980-1/3976,
) 3966-1/3983, 3968-1/3980, 3970-1/3984,
) 3979-1/3981, 3982-1/3985, 3983-1/3982

**RESPONSE OF INDUSTRIAL CONTRACTING OF FAIRMONT, INC.,
INDUSTRIAL RESOURCES, INC., SALEM ELECTRIC COMPANY AND WEST
VIRGINIA ELECTRIC INDUSTRIES, INC TO THE FOURTEENTH AND
FIFTEENTH OMNIBUS OBJECTIONS TO CLAIMS DATED AUGUST 23, 2013**

COME NOW Industrial Contracting of Fairmont, Inc. (“Fairmont”), Industrial Resources, Inc., (“Resources”), Salem Electric Company (“Salem”), and West Virginia Electric Industries (“West Virginia”) (sometimes collectively referred to as the “Victory Group”), by their counsel, and for their Response state to the Court as follows:

BACKGROUND

1. The Victory Group are affiliated entities that have provided pre-petition goods and services to various account debtors, which are affiliated Debtors, which goods and services also improved the real property owned by other affiliated Debtors. As a result of these goods and services, the constituent members of the Victory Group invoiced one Debtor and asserted a mechanic’s lien with regard to another Debtor. The proofs of claim filed by the Victory Group are consistent with and reflect these transactions. A summary of the outstanding obligations and the related mechanic’s liens are set forth in the following ledger attached hereto as Exhibit A. This Exhibit A sets forth the name of the creditor, the name of the account Debtor, the name of

the Debtor whose real property was improved, the amount owed, its status as a secured or unsecured debt, the corresponding claim number (both the EDMO and GCG numbers) and the Omnibus Objection number as to those claims subject to an objection.

FIFTEENTH OMNIBUS OBJECTION

2. In the Fifteenth Omnibus Objection to Claims, Debtors objected to certain claims, asserting, in essence, that the unsecured claims are redundant and should be disallowed, leaving only the secured claims as remaining extant claims.

3. In response, the Victory Group asserts that its constituent members have both an unsecured and secured mechanic's lien claim against the Debtors as listed on Exhibit A. Specifically, at this stage, the Victory Group members do not know how, and to what extent, the Debtors intend to treat and pay the secured and unsecured claimants in these cases.¹ For example, if the Debtors do not pay the secured claims in full, together with interest, then the Victory Group should be entitled to assert the remaining balance owed on their unsecured claims. The Victory Group therefore suggests that it will provide credit for any recovery it receives on the relevant unsecured claims against any recovery received on the secured claims. If, however, the secured claims are paid in full on the Effective Date, then the unsecured claims will be moot and will then be withdrawn. But, if, however, the secured claims are not paid in full on the Effective Date, then a mechanism needs to be devised to provide a credit to the Debtors on any secured claim with regard to amounts actually received by the pertinent creditor on its unsecured claim. Consequently, the Victory Group asserts that the Claims Objections are premature and should be tabled, continued and addressed at the appropriate time as matters develop in these cases. Alternatively, if the Claims Objections are not continued generally to a

¹ The recently filed Plan does not provide sufficient detail regarding payment and plan treatment.

later date, then this Court should allow the Claims, with the caveat that appropriate credits will be given to the Debtors so that there is not any double recovery.

FOURTEENTH OMNIBUS OBJECTION

4. In the Fourteenth Omnibus Objection to Claims, Debtors objected to EDMO/GCG Claim No. 3980/3976 on the basis that the claim of West Virginia against Debtor Robin Land Company, LLC in the amount of \$3,001.02 should be allowed as an unsecured claim, not a secured claim.

5. In response, Debtors are in error that the claim is unsecured. Rather, the claimant, West Virginia, filed its mechanic's lien against Debtor Robin Land in the amount of the modest sum of \$3,001.02. Consequently, West Virginia should be allowed a fully secured claim against Robin Land. Interestingly, in the Fifteenth Omnibus Objection to Claims, Debtors objected to West Virginia's unsecured claim against Hobet Mining, the account debtor with regard to this modest \$3,001.02 claim (EDMO Claim No. 3983/GCG Claim No. 3982). As stated above, West Virginia should be allowed an unsecured claim for this sum against Hobet Mining.

DOCUMENTATION AND CONTACT PERSONS

6. The documentation to support the Victory Group's claims is voluminous and has already been supplied to Debtors' counsel in connection with the filing of the claims and also another earlier contested matter. These documents include the various invoices and also the filings relating to the timely assertion of the various mechanic's liens.

7. In accordance with the claims procedures established in the case and also to assist in the resolution of these claims, Debtors' representatives could contact the undersigned or James Harris, 701 Goff Building, P.O. Box 1716, Clarksburg, West Virginia, 26302-1716, to reconcile, settle or otherwise resolve the respective claim objections.

Respectfully Submitted,

SUMMERS COMPTON WELLS LLC

Date: September 16, 2013 By: /s/ David A. Sosne
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via electronic filing in the CM/ECF system of the United States Bankruptcy Court for the Eastern District of Missouri to the parties requesting service by electronic filing. I hereby also certify that a copy of the foregoing was served via United States Mail, first class postage prepaid, on the date of the electronic filing of this document to those individuals and entities not requesting service by electronic filing. The individuals and entities being served electronically or by mail are:

Office of the United States Trustee
Thomas F. Eagleton Building
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St. Louis, MO 63102

Date: September 16, 2013

/s/ Christina Hauck

EDMO/GCG Claim #	Creditor Company	Claim Asserted Against Account Debtor	Claim Asserted Against Debtor Owner	Amount Owed	Secured/Unsecured	Omnibus Objection #
3966-1/3983	Industrial Contracting of Fairmont, Inc.	Eastern Associated Coal, LLC		118,000.00	Unsecured	15th
3967-1/3977	Industrial Contracting of Fairmont, Inc.		Eastern Royalty, LLC	118,000.00	Secured	None
3968-1/3980	Industrial Contracting of Fairmont, Inc.	Hobet Mining, LLC		223,709.00	Unsecured	15th
3969-1/3975	Industrial Contracting of Fairmont, Inc.		Robin Land Company, LLC	223,709.00	Secured	None
3970-1/3984	Industrial Resources, Inc.	Eastern Associated Coal, LLC		34,734.00	Unsecured	15th
3971-1/3978	Industrial Resources, Inc.		Eastern Royalty, LLC	34,734.00	Secured	None
3978-1/3974	Salem Electric Company		Eastern Royalty, LLC	7,280.00	Secured	None
3979-1/3981	Salem Electric Company	Eastern Associated Coal, LLC		7,280.00	Unsecured	15th
3980-1/3976	West Virginia Electric Industries, Inc.		Robin Land Company, LLC	3,001.02	Secured	14th
3983-1/3982	West Virginia Electric Industries, Inc.	Hobet Mining, LLC		3,001.02	Unsecured	15th
3981-1/3979	West Virginia Electric Industries, Inc.		Eastern Royalty, LLC	106,809.00	Secured	None
3982-1/3985	West Virginia Electric Industries, Inc.	Eastern Associated Coal, LLC		106,809.00	Unsecured	15th