

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

In re:

PATRIOT COAL CORPORATION, *et al.*,

Debtors.¹

Chapter 11

Case No. 12-51502-659

(Jointly Administered)

Hearing Date: November 19, 2013

Hearing Time: 10:00 a.m. Central

Location: Courtroom 7-N, St. Louis

**DEBTORS' MOTION FOR ENTRY OF AN ORDER AUTHORIZING ASSUMPTION
OF UNEXPIRED LEASE AND APPROVING SETTLEMENT OF CLAIMS OF
NATIONS FUND I, INC.**

Patriot Coal Corporation and its affiliated debtors (the "Debtors"), pursuant to 11 U.S.C. § 365 and Fed. R. Bankr. P. 9019, respectfully file this Motion (the "Motion") for Entry of an Order Approving Assumption of Unexpired Leases and Settlement of Claims of Nations Fund I, Inc., as assignee of First National Capital Corporation ("Nations"). In support of this Motion, the Debtors show the Court as follows:

Relief Requested

1. By this Motion, the Debtors request that the Court enter an order, pursuant to 11 U.S.C. § 365(b) and Fed. R. Bankr. P. 9019, authorizing the Debtors to assume the Agreements (as defined below) and approving the settlement of certain related claims of Nations.

¹ The Debtors are the entities listed on Schedule 1 attached hereto. The employer tax identification numbers and addresses for each of the Debtors are set forth in the Debtors' chapter 11 petitions.

Jurisdiction

2. This Court has jurisdiction over this Motion under 28 U.S.C. § 1334. Venue of this proceeding is proper pursuant to 28 U.S.C. § 1409. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

3. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

4. Ninety-nine of the Debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code on July 9, 2012 (the “Petition Date”) in the United States Bankruptcy Court for the Southern District of New York.

5. On December 19, 2012, these Debtors’ cases were transferred to the United States Bankruptcy Court for the Eastern District of Missouri [Dkt. No. 1789].

6. The bar date for filing proofs of claim against these Debtors was December 14, 2012 [Dkt. No. 1388].

7. On March 1, 2013, the Court entered its Order Establishing Procedures for Claims Objections [Dkt. No. 3021].

8. Debtors Brody Mining, LLC and Patriot Ventures LLC filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code on September 23, 2013 in this Court. The bar date for filing proofs of claim against these Debtors is October 24, 2013.

The Agreements

9. Debtor Patriot Leasing Company LLC and Nations' predecessor-in-interest are parties to a Master Equipment Lease Agreement, dated June 28, 2011, as amended, and an equipment schedule thereto (collectively, the "Lease"), whereby the Debtors lease certain equipment from Nations (the "Equipment").

10. Debtor Patriot Coal Corporation executed a guaranty (the "Guaranty" and together with the Lease, the "Agreements") of the obligations of Debtor Patriot Leasing Company, LLC under the Lease.

11. As of the Petition Date, the Debtors were current on their obligations to Nations.

12. Nations timely filed two proofs of claim, E.D. Mo. Claim Nos. 3639 and 3640; GCG Claim Nos. 3617 and 3616 (the "Proofs of Claim"), against Patriot Leasing Company LLC and Patriot Coal Corporation, respectively. Each Proof of Claim asserts an unsecured claim of \$1,816,575.14, representing damages from the Debtors' rejection of a lease of one piece of Equipment.²

Basis for Relief

13. The Debtors and Nations have negotiated a settlement of Nations' claims whereby the Debtors will assume the Agreements, allowing them to retain the Equipment that is essential to their operations, and to reduce amounts owed to Nations on the lease-rejection claim.

² The Debtors rejected the lease of one piece of the Equipment contained on the Lease pursuant to an order dated November 20, 2012 [ECF No. 1608]. Pursuant to an agreement between the Debtors and Nations, Nations agreed not to object to the rejection of the lease of the single piece of Equipment and that such rejection was without prejudice with respect to the parties' rights with regard to the remaining pieces of Equipment and was without prejudice to any assertion of a claim for rejection damages with respect to the single piece of Equipment.

14. Section 365(a) of the Bankruptcy Code permits a debtor-in-possession to assume an executory contract or unexpired lease in the exercise of its business judgment. *See Group of Institutional Investors v. Chicago, Milwaukee, St. Paul & Pacific Ry. Co.*, 318 U.S. 523, 550 (1942); *Mercantile Trust Co. v. Farmers' Loan & Trust Co.*, 81 F. 254, 259 (8th Cir. 1897); *In re Food Barn Stores, Inc.*, 107 F.3d 558, 567 n.16 (8th Cir. 1997); *In re Crystalin, L.L.C.*, 293 B.R. 455, 463-64 (B.A.P. 8th Cir. 2003). The Debtors have exercised their business judgment prudently in this situation, electing to assume certain advantageous agreements that are beneficial to their operations and in the best interest of their estates and obtaining a discount of rejection damages in negotiations with Nations.

15. Pursuant to 11 U.S.C. § 365 and Fed. R. Bankr. P. 9019, the parties request that the Court approve the following settlement of Nations' rejection damages claims and the Debtors' assumption of the Agreements (the "Settlement"):

- (a) The Debtors will assume the Agreements and all remaining related lease schedules pursuant to 11 U.S.C. § 365.
- (b) The Debtors and Nations agree that with the exception of the unsecured claim discussed below, no additional cure amount is owed with respect of the Agreements as of the date hereof, and, no such cure payment will be made pursuant to 11 U.S.C. § 365(b)(1)(A) in connection with the assumption of the Agreements.
- (c) Each Proof of Claim will be deemed allowed and amended to provide for an unsecured claim in the amount of \$1,225,000.

16. The Settlement is in the best interests of the Debtors and should be approved pursuant to Bankruptcy Rule 9019. A debtor-in-possession's settlement is governed by

Bankruptcy Rule 9019(a), which provides, in relevant part, that “[o]n motion by the [debtor in possession] and after notice and a hearing, the court may approve a compromise or settlement.” Fed. R. Bankr. P. 9019(a). This rule empowers bankruptcy courts to approve settlements “if they are in the best interests of the estate.” *In re Drexel Burnham Lambert Group, Inc.*, 134 B.R. 499, 505 (Bankr. S.D.N.Y. 1991). A decision to accept a compromise or settlement is within the sound discretion of the Court. *Tri-State Financial, LLC v. Lovald*, 525 F.3d 649, 654 (8th Cir. 2008) (citing *In re New Concept Housing, Inc.*, 951 F.2d 932, 939 (8th Cir. 1991) (“A bankruptcy court’s approval of a settlement will not be set aside unless there is plain error or abuse of discretion”)). The proposed settlement need not result in the best possible outcome for the debtor, but it must not “fall beneath the lowest point in the range of reasonableness.” *Tri-State Financial*, 525 F.3d at 654 (citing *Protective Committee for Independent Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424 (1968)); see also *Drexel Burnham Lambert Group*, 134 B.R. at 505.

17. The Settlement preserves the Debtors’ access to equipment necessary to operate their businesses and reduces the amounts claimed by Nations substantially. It represents a sound exercise of the Debtors’ business judgment. The Court should approve the Settlement because it is in the best interests of the Debtors, their creditors, and their estates.

WHEREFORE, the Debtors respectfully request that this Court:

- (a) authorize the Debtors to assume the Agreements;
- (b) allow each of the Proofs of Claim, as amended, in the amount of \$1,225,000;
- (c) approve the Settlement; and
- (d) grant such other and further relief as is just and proper.

Dated: October 28, 2013
St. Louis, Missouri

Respectfully submitted,
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SCHEDULE 1

Debtors

1. Affinity Mining Company
2. Apogee Coal Company, LLC
3. Appalachia Mine Services, LLC
4. Beaver Dam Coal Company, LLC
5. Big Eagle, LLC
6. Big Eagle Rail, LLC
7. Black Stallion Coal Company, LLC
8. Black Walnut Coal Company
9. Bluegrass Mine Services, LLC
10. Brody Mining, LLC
11. Brook Trout Coal, LLC
12. Catenary Coal Company, LLC
13. Central States Coal Reserves of Kentucky, LLC
14. Charles Coal Company, LLC
15. Cleaton Coal Company
16. Coal Clean LLC
17. Coal Properties, LLC
18. Coal Reserve Holding Limited Liability Company No. 2
19. Colony Bay Coal Company
20. Cook Mountain Coal Company, LLC
21. Corydon Resources LLC
22. Coventry Mining Services, LLC
23. Coyote Coal Company LLC
24. Cub Branch Coal Company LLC
25. Dakota LLC
26. Day LLC
27. Dixon Mining Company, LLC
28. Dodge Hill Holding JV, LLC
29. Dodge Hill Mining Company, LLC
30. Dodge Hill of Kentucky, LLC
31. EACC Camps, Inc.
32. Eastern Associated Coal, LLC
33. Eastern Coal Company, LLC
34. Eastern Royalty, LLC
35. Emerald Processing, L.L.C.
36. Gateway Eagle Coal Company, LLC
37. Grand Eagle Mining, LLC
38. Heritage Coal Company LLC
39. Highland Mining Company, LLC
40. Hillside Mining Company
41. Hobet Mining, LLC
42. Indian Hill Company LLC
43. Infinity Coal Sales, LLC
44. Interior Holdings, LLC
45. IO Coal LLC
46. Jarrell's Branch Coal Company
47. Jupiter Holdings LLC
48. Kanawha Eagle Coal, LLC
49. Kanawha River Ventures I, LLC
50. Kanawha River Ventures II, LLC
51. Kanawha River Ventures III, LLC
52. KE Ventures LLC
53. Little Creek LLC
54. Logan Fork Coal Company
55. Magnum Coal Company LLC
56. Magnum Coal Sales LLC
57. Martinka Coal Company, LLC
58. Midland Trail Energy LLC
59. Midwest Coal Resources II, LLC
60. Mountain View Coal Company, LLC
61. New Trout Coal Holdings II, LLC
62. Newtown Energy, Inc.
63. North Page Coal Corp.
64. Ohio County Coal Company, LLC
65. Panther LLC
66. Patriot Beaver Dam Holdings, LLC
67. Patriot Coal Company, L.P.
68. Patriot Coal Corporation
69. Patriot Coal Sales LLC
70. Patriot Coal Services LLC
71. Patriot Leasing Company LLC
72. Patriot Midwest Holdings, LLC
73. Patriot Reserve Holdings, LLC
74. Patriot Trading LLC
75. Patriot Ventures LLC
76. PCX Enterprises, Inc.
77. Pine Ridge Coal Company, LLC
78. Pond Creek Land Resources, LLC
79. Pond Fork Processing LLC
80. Remington Holdings LLC
81. Remington II LLC
82. Remington LLC
83. Rivers Edge Mining, Inc.
84. Robin Land Company, LLC
85. Sentry Mining, LLC
86. Snowberry Land Company
87. Speed Mining LLC
88. Sterling Smokeless Coal Company, LLC
89. TC Sales Company, LLC
90. The Presidents Energy Company LLC
91. Thunderhill Coal LLC
92. Trout Coal Holdings, LLC
93. Union County Coal Co., LLC
94. Viper LLC
95. Weatherby Processing LLC
96. Wildcat Energy LLC
97. Wildcat, LLC
98. Will Scarlet Properties LLC
99. Winchester LLC
100. Winifrede Dock Limited Liability Company
101. Yankeetown Dock, LLC