

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:

**PATRIOT COAL CORPORATION, *et al.*,
Debtors.**

ROBIN LAND COMPANY, LLC,

Plaintiff,

v.

**STB VENTURES, INC.,
Defendant,**

**ARCH COAL, INC., ARK LAND COMPANY,
and ARK LAND KH, INC.,
Intervenor-Defendants.**

Chapter 11

Case No. 12-51502-659

(Jointly Administered)

Adv. Pro. No. 12-04355-659

**ANSWER TO DEFENDANT'S
COUNTERCLAIMS**

Re: ECF No. 32

Plaintiff and Counterclaim-Defendant Robin Land Company, LLC (“**Robin Land**”), one of the affiliated debtor entities in the above-captioned chapter 11 case, by and through its undersigned attorneys, submits this answer (the “**Answer**”) to the Counterclaims dated February 19, 2013 (the “**STB Counterclaims**”) of Defendant STB Ventures, Inc. (“**STB**”).

NATURE OF COUNTERCLAIMS

1. Paragraph 1 of the STB Counterclaims is a characterization of STB’s claims and purports to state legal conclusions as to which no response is required. To the extent that a

response is required, Robin Land denies the allegations set forth in paragraph 1 of the STB Counterclaims.

JURISDICTION AND VENUE

2. Paragraph 2 of the STB Counterclaims purports to state a legal conclusion to which no response is required.

3. Paragraph 3 of the STB Counterclaims purports to state a legal conclusion to which no response is required.

PARTIES

4. Robin Land lacks knowledge or information sufficient to admit or deny the allegations set forth in paragraph 4 of the STB Counterclaims.

5. Robin Land lacks knowledge or information sufficient to admit or deny the allegations set forth in paragraph 5 of the STB Counterclaims.

6. Robin Land lacks knowledge or information sufficient to admit or deny the allegations set forth in the first sentence of paragraph 6 of the STB Counterclaims. Robin Land denies the allegations set forth in the second sentence of paragraph 6 of the STB Counterclaims, except admits that a Combined, Amended and Restated Coal Lease dated October 31, 1994 (the “**Lawson Heirs Lease**”) was executed by and among Lawson Heirs, Inc. (“**Lawson Heirs**”) and Ark Land Company (“**Ark Land**”); that a Combined, Amended and Restated Coal Lease dated October 31, 1994 (the “**Kelly-Hatfield Lease**,” and together with the Lawson Heirs Lease, the “**Leases**”) was executed by and among Kelly-Hatfield Land Company (“**Kelly-Hatfield**”) and Ark Land; that an Assignment and Assumption Agreement dated December 30, 2005 (the “**Ark Assignment Agreement**”) was executed by and among Ark Land and Robin Land; that a Partial Assignment and Assumption of Lease dated December 31, 2005 (though executed December 30,

2005) (the “**Initial Partial Assignment**”) was executed by and among Ark Land and Robin Land; and that an Amended and Restated Partial Assignment and Assumption of Lease dated May 22, 2007 (the “**Amended Partial Assignment**”) was executed by and among Ark Land, Robin Land and Ark Land KH, Inc. (“**Ark Land KH**”) and refers to the agreements for their terms.

7. Robin Land lacks knowledge or information sufficient to admit or deny the allegations set forth in the first sentence of paragraph 7 of the STB Counterclaims. Robin Land denies the allegations set forth in the second sentence of paragraph 7, except admits that Ark Land KH is the current lessor under the Kelly-Hatfield Lease and refers to the Amended Partial Assignment and the Kelly-Hatfield Lease for their terms.

8. Robin Land denies the allegations set forth in paragraph 8 of the STB Counterclaims, except admits that it is a Delaware limited liability company and that Robin Land and its affiliated debtor entities commenced voluntary cases under chapter 11 of the Bankruptcy Code that are being jointly administered in this Court under case no. 12-51502-659, and refers to the terms of the Ark Assignment Agreement, the Initial Partial Assignment, the Amended Partial Assignment, and the Leases for their terms.

FACTUAL BACKGROUND

9. Robin Land denies the allegations set forth in paragraph 9 of the STB Counterclaims.

10. Robin Land denies the allegations set forth in paragraph 10 of the STB Counterclaims, except admits that an Asset Purchase Agreement dated October 31, 1994 (the “**Asset Purchase Agreement**”) was executed by and among STB, Eagle Minerals Company (“**Eagle**”), Guyan Mining Company, and Guyan Equipment Company (collectively, the

“**Sellers**”), and Apogee Coal Company, LLC (“**Apogee**”) and Ark Land (together with Apogee, the “**Purchasers**”), and that a copy of the Asset Purchase Agreement was filed under seal as Exhibit B to Robin Land’s Complaint in this adversary proceeding, and refers to that agreement for its terms.

11. Robin Land denies the allegations set forth in paragraph 11 of the STB Counterclaims, except admits that copies of the Lawson Heirs Lease and Kelly-Hatfield Lease were filed under seal as Exhibits D and E, respectively, to Robin Land’s Complaint in this adversary proceeding, and refers to those agreements for their terms.

12. Robin Land denies the allegations set forth in paragraph 12 of the STB Counterclaims, except admits that an Overriding Royalty Agreement dated October 31, 1994 (“**STB Override**”) was executed by and among Ark Land and STB and refers to that agreement for its terms.

13. Paragraph 13 of the STB Counterclaims purports to state legal conclusions to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 13 of the STB Counterclaims and refers to the STB Override for its terms.

14. Paragraph 14 of the STB Counterclaims purports to state legal conclusions to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 14 of the STB Counterclaims and refers to the STB Override and the Asset Purchase Agreement for their terms.

15. Paragraph 15 of the STB Counterclaims purports to state legal conclusions to which no response is required. To the extent that a response is required, Robin Land denies the

allegations set forth in paragraph 15 of the STB Counterclaims and refers to the STB Override and the Asset Purchase Agreement for their terms.

16. Paragraph 16 of the STB Counterclaims purports to state legal conclusions to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 16 of the STB Counterclaims and refers to the STB Override for its terms.

17. Paragraph 17 of the STB Counterclaims purports to state legal conclusions to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 17 of the STB Counterclaims and refers to the Asset Purchase Agreement for its terms.

18. Robin Land lacks knowledge or information sufficient to admit or deny the allegations set forth in paragraph 18 of the STB Counterclaims.

19. Robin Land denies the allegations set forth in paragraph 19 of the STB Counterclaims, except admits that a Purchase and Sale Agreement dated December 31, 2005 (the “**Magnum PSA**”) was executed by and among Arch Coal, Inc., and Magnum Coal Company, and refers to that agreement for its terms.

20. Robin Land denies the allegations set forth in paragraph 20 of the STB Counterclaims and refers to the Magnum PSA and the Ark Assignment Agreement for their terms.

21. Robin Land denies the allegations set forth in paragraph 21 of the STB Counterclaims and refers to the Initial Partial Assignment for its terms.

22. Paragraph 22 of the STB Counterclaims purports to state a legal conclusion to which no response is required. Robin Land denies the allegations set forth in paragraph 22 of the

STB Counterclaims and refers to the Ark Assignment Agreement and the Initial Partial Assignment for their terms.

23. Robin Land denies the allegations set forth in paragraph 23 of the STB Counterclaims and refers to the Amended Partial Assignment for its terms.

24. Paragraph 24 of the STB Counterclaims purports to state legal conclusions to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 24 of the STB Counterclaims and refers to the Amended Partial Assignment for its terms.

25. Robin Land denies the allegations set forth in paragraph 25 of the STB Counterclaims.

26. Paragraph 26 of the STB Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 26 of the STB Counterclaims.

27. Robin Land denies the allegations set forth in paragraph 27 of the STB Counterclaims, except admits that it complied with the terms of the STB Override prior to the filing of its bankruptcy petition.

28. Robin Land denies the allegations set forth in paragraph 28 of the STB Counterclaims, except admits that it complied with the terms of the STB Override prior to the filing of its bankruptcy petition.

29. Robin Land denies the allegations set forth in paragraph 29 of the STB Counterclaims, except admits that it is in compliance with the terms of the Kelly-Hatfield Lease and the Lawson Heirs Lease and that the STB Override Agreement is not an executory contract under 11 U.S.C. § 365 and that it would be unlawful for Robin Land to pay the STB Override.

30. Paragraph 30 of the STB Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 30 of the STB Counterclaims.

31. Robin Land denies the allegations set forth in paragraph 31 of the STB Counterclaims, except admits that on January 15, 2013, Robin Land and its affiliated debtors filed a Motion for Authorization to (i) Assume or (ii) Reject Unexpired Leases of Nonresidential Real Property (the “**Motion for Authorization**”) and refers to the Motion for Authorization for its terms.

32. Paragraph 32 of the STB Counterclaims purports to characterize the nature of objections asserted and the relief sought, and accordingly no response is required. To the extent a response is required, Robin Land denies the allegations set forth in paragraph 32 of the STB Counterclaims, except admits that Objections to the Motion for Authorization were filed on January 22, 2013 both by STB and by Arch Coal, Inc., Ark Land, Ark Land KH, and Allegheny Land Company, and refers to those objections for statements of the relief they purport to seek.

33. Robin Land denies the allegations set forth in paragraph 33 of the STB Counterclaims.

COUNT I

(Declaratory Judgment)

34. Robin Land repeats and re-alleges its responses to paragraphs 1 through 33 of the STB Counterclaims as if fully set forth in this paragraph.

35. Paragraph 35 of the STB Counterclaims purports to state a legal conclusion to which no response is required.

36. Paragraph 36 of the STB Counterclaims purports to characterize the nature of the claim asserted and the relief sought, and accordingly no response is required.

COUNT II

(Declaratory Judgment)

37. Robin Land repeats and re-alleges its responses to paragraphs 1 through 36 of the STB Counterclaims as if fully set forth in this paragraph.

38. Paragraph 38 of the STB Counterclaims purports to state a legal conclusion to which no response is required. To the extent a response is required, Robin Land denies the allegations set forth in paragraph 38 of the STB Counterclaims.

39. Paragraph 39 of the STB Counterclaims purports to state a legal conclusion to which no response is required.

40. Paragraph 40 of the STB Counterclaims purports to characterize the nature of the claim asserted and the relief sought, and accordingly no response is required.

COUNT III

(Alleged Post-Petition Breach of Contract)

41. Robin Land repeats and re-alleges its responses to paragraphs 1 through 40 of the STB Counterclaims as if fully set forth in this paragraph.

42. Paragraph 42 of the STB Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 42 of the STB Counterclaims and refers to the relevant agreements for their terms.

43. Paragraph 43 of the STB Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 43 of the STB Counterclaims.

44. Paragraph 44 of the STB Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 44 of the STB Counterclaims and refers to the relevant agreements for their terms.

45. Paragraph 45 of the STB Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 45 of the STB Counterclaims.

46. Robin Land denies the allegations in the first sentence of paragraph 46 of the STB Counterclaims, except admits that the STB Override is not an executory contract under 11 U.S.C. § 365 and that Robin Land is not authorized to pay it. The second sentence of the paragraph purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in the second sentence of paragraph 46 of the STB Counterclaims.

47. Paragraph 47 of the STB Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 47 of the STB Counterclaims.

COUNT IV

(Alleged Unjust Enrichment / Constructive Trust)

48. Robin Land repeats and re-alleges its responses to paragraphs 1 through 47 of the STB Counterclaims as if fully set forth in this paragraph.

49. Paragraph 49 of the STB Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 49 of the STB Counterclaims and refers to the relevant agreements for their terms.

50. Robin Land denies the allegations set forth in paragraph 50 of the STB Counterclaims and refers to the relevant agreements for their terms.

51. Paragraph 51 of the STB Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 51 of the STB Counterclaims.

52. Paragraph 52 of the STB Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 52 of the STB Counterclaims and refers to the relevant agreements for their terms.

53. Paragraph 53 of the STB Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 53 of the STB Counterclaims.

54. Paragraph 54 of the STB Counterclaims purports to characterize the nature of claims asserted and relief sought, and accordingly no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 54 of the STB Counterclaims and refers to Robin Land's Complaint and to the Motion for Authorization for a description of the relief requested therein.

55. Robin Land denies the allegations set forth in paragraph 55 of the STB Counterclaims.

56. Paragraph 56 of the STB Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 56 of the STB Counterclaims.

57. Paragraph 57 of the STB Counterclaims purports to characterize the nature of the claims asserted and the relief sought, and accordingly no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 57 of the STB Counterclaims.

GENERAL DENIAL

58. Except as otherwise expressly admitted above, Robin Land denies every allegation contained in paragraphs 1 through 57 of the STB Counterclaims, including without limitation, the headings, subheadings, and footnotes contained in the STB Counterclaims. Robin Land expressly reserves the right to amend and/or supplement its Answer.

AFFIRMATIVE DEFENSES

59. Robin Land asserts the following affirmative defenses without waiving any requirement that STB meet its burden of proof with respect to each and every element of its claims.

First Affirmative Defense

60. The STB Counterclaims, and each and every claim stated therein, fail to state a claim upon which relief, either legal or equitable, can be granted.

Second Affirmative Defense

61. The STB Counterclaims are barred by the doctrines of estoppel, laches, ratification and acquiescence.

Third Affirmative Defense

62. The STB Counterclaims are barred by waiver.

Fourth Affirmative Defense

63. The STB Counterclaims are barred by the terms of the agreements.

Fifth Affirmative Defense

64. The STB Counterclaims are barred because the STB Override is not an executory contract for purposes of 11 U.S.C. § 365.

Sixth Affirmative Defense

65. The STB Counterclaims are barred because of an absence of damages.

Seventh Affirmative Defense

66. The STB Counterclaims are barred for failure to mitigate damages.

Eighth Affirmative Defense

67. The STB Counterclaims are barred by the doctrine of unclean hands.

Ninth Affirmative Defense

68. The STB Counterclaims are barred because of lack of standing.

Reservation of Rights

69. Robin Land reserves the right to assert additional affirmative defenses that may become available or apparent upon further investigation and reserves the right to amend its Answer to the STB Counterclaims as appropriate.

Prayer for Relief

WHEREFORE, Robin Land respectfully requests that judgment be entered in its favor as follows:

- (i) Dismissing the STB Counterclaims;
- (ii) Entering a declaratory judgment (a) that the STB Override is a non-executory contract for purposes of section 365 of the Bankruptcy Code, and (b) that the STB Override is not integrated with, or is severable from, any other agreement;
- (iii) Awarding costs, expenses, and attorneys' fees to Robin Land; and
- (iv) Granting to Robin Land such other relief as the Court deems just and proper.

Dated: New York, New York
April 2, 2013

ROBIN LAND COMPANY, LLC

By: /s/ Jonathan D. Martin

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