

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

In re:

PATRIOT COAL CORPORATION, *et al.*,

Debtors.

Chapter 11

Case No. 12-51502-659

(Jointly Administered)

Hearing Date: January 28, 2014

Hearing Time: 10:00 a.m. Central

Location: Courtroom 7-N, St. Louis

REORGANIZED DEBTORS' TWENTY-THIRD OMNIBUS OBJECTION TO CLAIMS
(Subordinated Investor Claims)

Patriot Coal Corporation and its affiliated debtors (the "Reorganized Debtors"), pursuant to 11 U.S.C. § 502 and Fed. R. Bankr. P. 3007, respectfully file this Twenty-Third Omnibus Objection to Claims (the "Objection"). In support of this Objection, the Reorganized Debtors show the Court as follows:

Relief Requested

1. By this Objection, the Reorganized Debtors object to certain claims listed on Exhibit A attached hereto (the "Claims") because the Claims relate to securities issued by Patriot Coal Corporation as described in Section 510(b) of the Bankruptcy Code, and such Claims should be reclassified to the Class designated "Section 510(b) Claims" under the Fourth Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code [Dkt. No. 5169] (the "Plan"). The Reorganized Debtors request entry of an order, pursuant to Section 502 of the Bankruptcy Code and Fed. R. Bankr. P. 3007, reclassifying the Claims.

2. **Parties receiving this Objection should locate their names on the attached exhibit.** Any response to this Objection should include, among other things, (i) an appropriate

caption, including the title and date of this Objection; (ii) the name of the claimant, both the EDMO and GCG claim numbers of the claim that the Reorganized Debtors are seeking to disallow, and a description of the basis for the amount claimed; (iii) a concise statement setting forth the reasons why the Court should not sustain this Objection, including, but not limited to, the specific factual and legal bases upon which the claimant relies in opposing this Objection; (iv) copies of any documentation and other evidence which the claimant will rely upon in opposing this Objection at a hearing; and (v) the name, address, telephone number and facsimile number of a person authorized to reconcile, settle or otherwise resolve the claim on the claimant's behalf. A claimant that cannot timely provide such documentation and other evidence should provide a detailed explanation as to why it is not possible to timely provide such documentation and other evidence.

Jurisdiction

3. This Court has jurisdiction over this Objection 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).

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

Background

5. Ninety-nine of the Reorganized Debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code on July 9, 2012 in the United States Bankruptcy Court for the Southern District of New York.

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

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

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

9. Reorganized 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 was October 24, 2013.

10. On December 17, 2013, the Court confirmed the Plan. The Effective Date occurred on December 18, 2013.

Objection and Argument

11. The Reorganized Debtors object to the Claims identified on Exhibit A, incorporated herein by reference, because they relate to pre-petition securities issued by Patriot Coal Corporation as described in Section 510(b) of the Bankruptcy Code.¹ That section provides that "a claim arising from rescission of a purchase or sale of a security of the debtor . . . , for damages arising from the purchase or sale of such security, or for reimbursement or contribution allowed under section 502 on account of such a claim, shall be subordinated to all claims or interests that are senior or equal to the claim or interest represented by such security, except that

¹ Certain creditors listed on the exhibits hereto may be clients of one or more of the law firms representing the Reorganized Debtors. Any dispute regarding this Objection will be handled by attorneys for the Reorganized Debtors from a law firm that does not represent the applicable creditor.

if such security is common stock, such claims has the same priority as common stock.” 11 U.S.C. §510(b).

12. In crafting Section 510(b), Congress sought to resolve a “difficult policy question”: whether a security holder who seeks to rescind a purchase should “be subordinated to, share *pari passu* with, or have priority over, unsecured creditors. . . .” H.R. Rep. No. 595, 95th Cong., 2d Sess. 194-196. In deciding on subordination of equity security holders, Congress noted, “The general creditors have not had the potential benefit of the proceeds of the enterprise deriving from ownership of the securities and it is inequitable to permit shareholders that have had this potential benefit to shift the loss to general creditors.” *Id.* at 195, *see also In re Flight Transp. Corp. Sec. Litig.*, 730 F.2d 1128, 1137 (8th Cir. 1984). Once it is determined that a claim is related to the purchase and sale of a security, application of Section 510(b) is mandatory and the claim must be subordinated. *In re Lenco, Inc.*, 116 B.R. 141, 144 (Bankr. E.D. Mo. 1990) (Schermer, J.).

13. The Claims on Exhibit A were filed as general unsecured claims, but they arise from purchases or sales of equity securities prior to the filing of the bankruptcy cases.² They are, as provided in Section 510(b), claims “for damages arising from the purchase” of a “security of the debtor.” As such, they should be re-classified to the class designated for such Claims under the Plan. *See* Plan, § 3.2(g).

WHEREFORE, the Reorganized Debtors respectfully request that this Court:

- (a) reclassify the Claims; and
- (b) grant such other and further relief as is just and proper.

² In addition, Claims 2 through 7 on Exhibit A were not timely filed.

Dated: December 30, 2013
St. Louis, Missouri

Respectfully submitted,
BRYAN CAVE LLP

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Exhibit A - Equity Interest Claims

Omnibus Objection to Claims

**Patriot Coal Corporation
 12-51502 (KSS)**

Note: Claims on the exhibit are sorted in alphabetical order based on the creditor name as listed on proof of claim form.

SEQ NO.	CLAIM(S) TO BE DISALLOWED			CLAIM AMOUNT
	NAME	GCG CLAIM NO.	ED MO CLAIM NO.	
1	BRUCE D. AITKEN 10949 STATE ROUTE 4 SPARTA, IL 62286 Date Filed: 12/07/12 ED MO Date Filed: 02/25/13 Debtor: PATRIOT COAL CORPORATION	1223	1263-1	Unsecured: \$25,922.75
2	DENNIS DOUCET C/O BROWER PIVEN, PC ATTN DAVID A P BROWER 475 PARK AVENUE SOUTH, 33RD FLOOR NEW YORK, NY 10016 Date Filed: 01/26/13 ED MO Date Filed: 02/28/13 Debtor: PATRIOT COAL CORPORATION	3936	3774-1	Unsecured: Unliquidated
3	DOUGLAS KEEHN C/O BROWER PIVEN, PC ATTN DAVID A P BROWER 475 PARK AVENUE SOUTH, 33RD FLOOR NEW YORK, NY 10016 Date Filed: 01/26/13 ED MO Date Filed: 02/28/13 Debtor: PATRIOT COAL CORPORATION	3931	3773-1	Unsecured: Unliquidated
4	JAN ARNETT C/O BROWER PIVEN, PC ATTN DAVID A P BROWER 475 PARK AVENUE SOUTH, 33RD FLOOR NEW YORK, NY 10016 Date Filed: 01/26/13 ED MO Date Filed: 02/28/13 Debtor: PATRIOT COAL CORPORATION	3935	3772-1	Unsecured: Unliquidated
5	JAN ARNETT ET AL ON BEHALF OF CLASS C/O BROWER PIVEN, PC ATTN DAVID A P BROWER 475 PARK AVENUE SOUTH, 33RD FLOOR NEW YORK, NY 10016 Date Filed: 01/26/13 ED MO Date Filed: 02/28/13 Debtor: PATRIOT COAL CORPORATION	3932	3771-1	Unsecured: Unliquidated

Exhibit A - Equity Interest Claims

Omnibus Objection to Claims

**Patriot Coal Corporation
 12-51502 (KSS)**

Note: Claims on the exhibit are sorted in alphabetical order based on the creditor name as listed on proof of claim form.

SEQ NO.	CLAIM(S) TO BE DISALLOWED			CLAIM AMOUNT
	NAME	GCG CLAIM NO.	ED MO CLAIM NO.	
6	KEVIN LOWERY C/O BROWER PIVEN, PC ATTN DAVID A P BROWER 475 PARK AVENUE SOUTH, 33RD FLOOR NEW YORK, NY 10016 Date Filed: 01/26/13 ED MO Date Filed: 02/28/13 Debtor: PATRIOT COAL CORPORATION	3933	3775-1	Unsecured: Unliquidated
7	THOMAS J. PODRAZA C/O BROWER PIVEN, PC ATTN DAVID A P BROWER 475 PARK AVENUE SOUTH, 33RD FLOOR NEW YORK, NY 10016 Date Filed: 01/26/13 ED MO Date Filed: 02/28/13 Debtor: PATRIOT COAL CORPORATION	3934	3776-1	Unsecured: Unliquidated

* Denotes an unliquidated component.