

IN THE UNITED STATES BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF TENNESSEE

IN RE:)
)
JAMES RIVER COAL COMPANY, et al.,) Case No. 303-04095
) Chapter 11
) Jointly Administered
Debtors.) Judge Harrison

THE DEADLINE FOR FILING A TIMELY RESPONSE IS: December 6, 2004
IF A RESPONSE IS TIMELY FILED, THE INITIAL SETTLEMENT AND PRETRIAL CONFERENCE WILL BE HELD ON:
JANUARY 24, 2005, AT 1:30 P.M. IN COURTROOM THREE, CUSTOM HOUSE, 701 BROADWAY, 2ND FLOOR,
NASHVILLE, TENNESSEE

AMENDED NOTICE OF OBJECTION OF THE TRUSTEE FOR THE JRCC UNSECURED
CREDITOR LIQUIDATING TRUST TO CERTAIN SCHEDULED LIABILITIES

Anthony H.N. Schnellling, Trustee of the JRCC Unsecured Creditor Liquidating Trust (the "Liquidating Trust"), the duly appointed and authorized representative of the Liquidating Trust, has objected to certain scheduled liabilities.

YOUR RIGHTS MAY BE AFFECTED. If you do not want the Court to sustain the Objection and enter an order granting the relief requested by the Liquidating Trustee, or if you want the Court to consider your views on the Objection, then on or before December 6, 2004, you or your attorney must file with the Court your written Response to the Objection explaining your position at:

Electronic Filing: <https://ecf.tmb.uscourts.gov/>

Your Response must state that the deadline for filing responses is December 6, 2004, the date of the scheduled Initial Settlement and Pretrial Conference is January 24, 2005, and that you are responding to the Objection of the Trustee for the JRCC Unsecured Creditor Liquidating Trust to Certain Scheduled Liabilities.

YOU MUST ALSO mail, fax, or e-mail a copy of your response to:

David M. Anthony
Smythe & Puryear
144 Second Avenue North
The Pilcher Building, Suite 333
Nashville, Tennessee 37201
(615) 255-4855 (Fax)
danthony@smythepuryear.com

Sean D. Malloy
Jean R. Robertson
Sherri L. Dahl
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600 Superior Avenue, East, Suite 2100
Cleveland, Ohio 44114
(216) 348-5474 (Fax)
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If a timely response is filed, the hearing will be held at the time and place indicated above. **THERE WILL BE NO FURTHER NOTICE OF THE HEARING DATE.** You may check whether a timely response has been filed by calling the Clerk's office at (615) 736-5584, or viewing the case on the Court's CM/ECF website at <https://ecf.tmb.uscourts.gov/>. If you received this notice by mail, you may have three additional days in which to file a timely response under Rule 9006(f) of the Federal Rules of Bankruptcy Procedure.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Objection and may enter an order granting the relief sought.

Date: November 4, 2004

/s/ David M. Anthony
David M. Anthony
144 Second Avenue North
The Pilcher Building, Suite 333
Nashville, TN 37201

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

In re:) Case No. J 03-04095
JAMES RIVER COAL COMPANY, et al.,)
Debtors.) Chapter 11
Judge Harrison

**OMNIBUS OBJECTION OF THE TRUSTEE FOR THE JRCC UNSECURED
CREDITOR LIQUIDATING TRUST TO CERTAIN SCHEDULED LIABILITIES**

Anthony H.N. Schnellling (the "Trustee"), Trustee of The JRCC Unsecured Creditor Liquidating Trust (the "Liquidating Trust"), the duly appointed and authorized representative of the Liquidating Trust, objects to certain of the Debtors' scheduled liabilities, pursuant to section 502(a) and (b)(1) of Title 11 of the United States Code, 11 U.S.C. §§ 101-1330 (the "Bankruptcy Code"), and pursuant to Section 6.2 of the Plan (defined below).

In support of this Objection, the Trustee respectfully represents as follows:

Jurisdiction and Venue

1. This Court has jurisdiction to consider this Objection because: (a) this is a core proceeding, pursuant to section 157(b) of Title 28 of the United States Code (the "Judicial Code"); and (b) pursuant to Section 6.2 of the Plan (defined below), this Court retained jurisdiction over the resolution of disputed claims. Venue is proper before this Court pursuant to sections 1408 and 1409 of the Judicial Code.

Background

2. On March 25, 2003, James River Coal Company and 19 affiliated entities filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. On March 21, 2003, another affiliate, Johns Creek Coal Company, also filed a chapter 11 petition (collectively, these 21 entities are referred to herein as the "Debtors").

3. On April 22, 2004, the Court entered an order, Docket No. 726 (the "Confirmation Order"), confirming the Debtors' Second Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code (the "Plan"). Section 5.5(c) of the Plan and Paragraph 33 of the Confirmation Order provide for the establishment of the Liquidating Trust for the benefit of unsecured creditors. The Liquidating Trust became effective on May 6, 2004, the Effective Date (as defined by the Plan) of the Plan. Section 6.2(b)(i) of the Plan authorizes the Liquidating Trust to "make and file objections" to general unsecured claims.

Relief Requested

4. On May 9, 2003, the Debtors filed their Schedules of Assets and Liabilities (the "Schedules"). The Trustee objects to certain of the Debtors' scheduled liabilities listed on the Schedules because the amounts shown on the Schedules do not match the Debtors' current books and records.

5. Section 5.7(a)(ii) of the Plan provides that the Trustee shall distribute funds to creditors with allowed general unsecured claims. Pursuant to section 1111 of the Bankruptcy Code, a proof of claim is deemed filed for any claim that appears in the Debtors' Schedules, unless the claim is scheduled as disputed, contingent, or unliquidated. In the process of investigating potential distributions on general unsecured claims, the Trustee has learned that certain liabilities originally scheduled by the Debtors do not reflect the Debtors' current books and records.

6. As the Court is aware, the Debtors have filed a number of omnibus objections to claims in these cases. The Debtors have not, however, objected to any claims that are deemed filed as a result of being scheduled, including scheduled claims that no longer match the Debtors'

books and records. In addition, the Debtors have not amended their Schedules to reflect their current books and records.

7. It is important that claims based upon the Debtors' Schedules be reduced to the amounts actually owed by the Debtors to the relevant creditors. If the erroneous scheduled liabilities are not reduced, certain creditors will receive distributions from the Liquidating Trust that are either too large or totally inappropriate. This will, of course, dilute the recoveries of creditors with valid claims.

8. The Trustee has the authority pursuant to the Plan to prosecute this Objection. Section 6.2(b)(i) of the Plan provides that "the Trustee shall also have the right and authority to make and file objections to Claims that involve or could reasonably be expected to involve General Unsecured Claims." The term "Claim" is defined in Section 1.1(12) of the Plan as "a claim against a Debtor arising prior to the Commencement Date." The term "claim" as used in that sentence refers to the term claim as defined in the Bankruptcy Code, pursuant to the Application of Definitions provision of the Plan, which is set forth in Section 1.2 of the Plan. As the Court is aware, the term "claim" as used in the Bankruptcy Code means any "right to payment" and clearly includes scheduled liabilities. 11 U.S.C. §101(5). Further, pursuant to section 1111 of the Bankruptcy Code, "[a] proof of claim or interest is deemed filed . . . for any claim or interest that appears in the schedules . . . except a claim or interest that is scheduled as disputed, contingent, or unliquidated." Accordingly, it is appropriate for the Trustee to object to scheduled liabilities, provided that there is a valid substantive basis for the objection.

9. There are a number of substantive reasons for the Trustee's Objection. Pursuant to the Debtors' current books and records, certain of the scheduled liabilities being objected to herein have been satisfied in whole or in part. Many of the scheduled liabilities were satisfied

when the Trustee disbursed funds to holders of Convenience Class Claims (as defined by the Plan). Section 1.1(25) of the Plan provides that a Convenience Class Claim is a general unsecured claim (a) in the amount of \$600 or less, or (b) in an amount greater than \$600, but voluntarily reduced to \$600. On or about July 2, 2004, the Trustee disbursed funds to holders of Convenience Class Claims. Other scheduled liabilities were satisfied when certain executory contracts were assumed and assigned by the Debtors. After curing defaults associated with the assumed contracts, the estates are no longer responsible for these scheduled liabilities. In addition, the Debtors have refined their books and records since the time that the Schedules were originally filed to more accurately reflect their prepetition liabilities. Accordingly, certain claims that were originally scheduled in one amount are not valid in that amount or, in some cases, are not valid at all. Exhibit A attached hereto describes the claims subject to this Objection and states the amount, if any, that each claim should be reduced to, subject to any other objection by the Trustee or the Debtors.¹ Exhibit A also describes the reason for the objection to each scheduled liability listed thereon.

10. The Trustee also notes that certain "lump sum" liabilities were listed on the Schedules without reference to any particular person or entity to which such amounts were owed. These liabilities are also listed on Exhibit A. Because these liabilities were not scheduled to any person or entity, the Trustee does not believe any person or entity has a "deemed filed" claim on this basis. In an abundance of caution, however, the Trustee objects to the allowance of any claim based on the fact that the Schedules reflect certain lump sum liabilities.

¹ The Trustee's objection to scheduled liabilities is based upon data submitted to the Trustee by the Debtors. The Trustee reserves the right to further object to scheduled liabilities if the Debtors' data is incorrect or incomplete.

11. The Trustee has not objected herein to any scheduled liability for which a corresponding proof of claim was filed, as such proofs of claim supersede the scheduled liabilities, pursuant to Rule 3003(C)(4) of the Federal Rules of Bankruptcy Procedure.

Conclusion

WHEREFORE, for the foregoing reasons, the Trustee respectfully requests that the Court enter an Order, in substantially the form attached hereto as Exhibit B, disallowing or reducing the scheduled liabilities identified on Exhibit A, as stated thereon.

November 2, 2004

Respectfully Submitted,

/s/David M. Anthony
Daniel H. Puryear, Esq.
David Anthony, Esq.
144 Second Avenue, North
The Pilcher Building, Suite 333
Nashville, TN 37201

and

Jean R. Robertson, Esq.
Sean D. Malloy, Esq.
Sherri L. Dahl, Esq.
McDonald Hopkins Co., LPA
2100 Bank One Center
600 Superior Ave., East
Cleveland, OH 44114

CO-COUNSEL FOR THE TRUSTEE OF THE JRCC
UNSECURED CREDITORS LIQUIDATING TRUST

EXHIBIT A¹

¹ Individuals listed on Exhibit A may be listed alphabetically by either first or last names.

EXHIBIT A				
JRC'S CONSOLIDATED UNRECORDED LIABILITIES				
WITHOUT CORRESPONDING PROOFS OF CLAIM				
PREPARED 11/27/2001				
ACCOUNTS	ORIGINAL SCHEDULE AMOUNT	CURRENT BOOKS & RECORDS AMOUNT	REASON FOR RE-SECTION	REVALUATE AMOUNT
10TH STREET SERVICE STATION	207.00	0.00	CONV PAID	0.00
A & M AUTO REPAIR	566.87	0.00	CONV PAID	0.00
A & M AUTO REPAIR	143.00	0.00	CONV PAID	0.00
A DAYMAN AUTO CARE INC	9,990.00	1,350.00	REVISED	1,350.00
ACCO CORP	567.88	0.00	CONV PAID	0.00
ACCURATE INTEREST	6,364,927.00	0.00	PART OF SECD AMT	0.00
ADAMS ENTERPRISE	235.20	0.00	CONV PAID	0.00
ASC COMPUTERS	384.40	0.00	CONV PAID	0.00
ATMACHINE EXPRESS	194.18	0.00	CONV PAID	0.00
AMICAS LTD AMERICA	638.44	0.00	CONV PAID	0.00
ALHENDY ENGINEERING ASSOCIATES	85.20	0.00	CONV PAID	0.00
ALLYRI	10.00	0.00	CONV PAID	0.00
ALPHA INDUSTRIES INC	338.32	0.00	CONV PAID	0.00
AMERICAN SPEEDY PAISHING CENTERS	214.12	0.00	CONV PAID	0.00
ANDREWS BROTHERS BOOK EXCHANGES	616,525.00	0.00	UNR SEC'D LIABILITY	0.00
ANDY FIELD	338.48	0.00	CONV PAID	0.00
ANNY REALTY	687.87	0.00	HOVAILTY PAID	0.00
ARNOLD YOUNG (STATE)	333.33	0.00	CONV PAID	0.00
ANTHONY E BARR	224.61	0.00	CONV PAID	0.00
ARLBERG ALBERGARD	28.00	0.00	CONV PAID	0.00
ARTISTIC BIKES	255.48	0.00	CONV PAID	0.00
ARCONI TABLE MARKING SYSTEM	177.55	0.00	CONV PAID	0.00
ASSOC BAG CO	88.83	0.00	CONV PAID	0.00
AUDREY TONNEN & WAYNE BARDU	142.89	0.00	CONV PAID	0.00
B & B REPAIR	600.00	0.00	CONV PAID	0.00
B&B AUTO PARTS	607.00	0.00	CONV PAID	0.00
B&X COURIERS	12.50	0.00	CONV PAID	0.00
BANK OF AMERICA NA	169.00	0.00	CONV PAID	0.00
BELT COUNTY SHERIFF	4,338.75	0.00	PROPERTY TAX PAID	0.00
BELLSOUTH	20.41	0.00	CONV PAID	0.00
BENEFIT RESTRICTION PLAN	6,748,837.00	0.00	UNR SEC'D LIABILITY	0.00
BENJAMIN R BAKER TRUSTY TIMOTHY BAKER	6,829.78	3,328.68	REVISED	3,328.68
BETTY KINDER RIFE	50.00	0.00	CONV PAID	0.00
BIG SANDY MANAGEMENT CO INC	11,387.00	0.00	UNR SEC'D GENERAL TAX PAID	0.00
BLACK LUNG ANTI TRUST INC CLAIMS	4,242,511.00	0.00	ASSUMED-CURE CLAIM	0.00
BLOOMINGDALE WRECKER	93.98	0.00	CONV PAID	0.00
BONDS	228,000.00	0.00	ASSUMED-CURE CLAIM	0.00
BONDS	1,086,605.00	0.00	ASSUMED-CURE CLAIM	0.00
BOSTON PROPERTY INVESTORS	29,343.73	2,864.21	OFFICE HENT PAID	2,864.21
BUNTON & TROY EXTENSION	167.80	0.00	CONV PAID	0.00
BROOKS TINES	572.07	0.00	CONV PAID	0.00
BUDHAH TO RUMPH	283.60	0.00	CONV PAID	0.00
BUSINESS FORMS SPECIALTY, INC	606.00	0.00	CONV PAID	0.00
CACIE H ROBERTSON	234.26	0.00	CONV PAID	0.00
CALEDWAY ELECTRIC	146.36	0.00	CONV PAID	0.00
CAPITAL CLOE	285.60	0.00	PAID BY EMPLOYEES	0.00
CAROLINE ELECTRIC HOWARD	46.37	0.00	CONV PAID	0.00
CAROL WAPEN	315.00	0.00	CONV PAID	0.00
CAR CREDIT OFFICE	352.17	0.00	CONV PAID	0.00
CARLOTAR ONE	1,884.00	0.00	UTILITY PAID	0.00
CENTRAL BUSINESS LEASING LLC	291.63	0.00	CONV PAID	0.00
CENTRAL BUSINESS LEASING LLC	290.24	0.00	CONV PAID	0.00
CENTURY LUBRICANTS	170,236.21	187,093.71	REVISED	187,093.71
CENTURY LUBRICANTS	96,843.19	84,321.18	REVISED	84,321.18
CENTURY LUBRICANTS	17,282.94	10,280.89	REVISED	10,280.89
CHAPTER D FROST	98.43	0.00	CONV PAID	0.00
CHARLES GARRON	147.24	0.00	CONV PAID	0.00
CHERRY L SERVICES	46.82	0.00	CONV PAID	0.00
CHILLARD'S VENTURES INC	25.78	0.00	CONV PAID	0.00
CHLOE HUNT	484.28	0.00	CONV PAID	0.00
CHLOE HUNT	132.98	0.00	CONV PAID	0.00
CLAY COUNTY MILLERS SUPPLY INC	43.91	0.00	CONV PAID	0.00
CLAY VERNON ARCHER	127.64	0.00	CONV PAID	0.00
CLAYTON URBAN	142.89	0.00	CONV PAID	0.00
CLEAN GAS INC	9.30	0.00	CONV PAID	0.00
CIBELLA BEB & HEDDERY RAIER	361.87	0.00	CONV PAID	0.00
COASTAL COAL COMPANY, LLC	581,146.25	0.00	ASSUMED-CURE CLAIM	0.00
COASTAL COAL COMPANY, LLC	1,111.29	0.00	ASSUMED-CURE CLAIM	0.00
COASTAL COAL COMPANY, LLC	2,186.72	0.00	ASSUMED-CURE CLAIM	0.00
COBURN TONNER	147.15	0.00	CONV PAID	0.00
COE OR COPY EXCHANGE	160.00	0.00	CONV PAID	0.00
CONROY SAFETY PRODUCTS	198.80	0.00	CONV PAID	0.00
CONWAY CENTRAL	348.36	0.00	CONV PAID	0.00
CONWAY CENTRAL	319.00	0.00	CONV PAID	0.00
CONWAY EQUIPMENT CO, INC	285.85	0.00	CONV PAID	0.00
CONWAY VALLEY	568.31	0.00	CONV PAID	0.00
CUMBERLAND VALLEY	24.80	0.00	CONV PAID	0.00

