

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

In re:	)	
	)	Chapter 11
Patriot Coal Corporation, et al.	)	
	)	Case No. 12-51502
Debtors.	)	

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**OBJECTION TO DEBTORS' MOTION FOR AUTHORIZATION TO (I) ASSUME OR  
(II) REJECT UNEXPIRED LEASES OF NONRESIDENTIAL REAL PROPERTY**

STB Ventures, Inc. for its Objections to Debtors' Motion for Authorization to (i) Assume or (ii) Reject Unexpired Leases of Nonresidential Real Property, states as follows:

1. STB Ventures, Inc., a Virginia corporation, ("STB"), is a party via assignment to various agreements with debtor Robin Land Company ("RLC"), including that certain Overriding Royalty Agreement dated October 31, 1994 (the "STB Override Agreement").
2. The STB Override Agreement is integrated with and not severable from certain agreements, including, but not limited to, certain nonresidential real property leases that RLC intends to assume by that certain Debtors' Motion For Authorization To (i) Assume or (ii) Reject Unexpired Leases of Nonresidential Real Property [ECF No. 1995] filed on January 15, 2013 (the "Motion").
3. On that general basis, STB asserts the following objections to the Motion.

**Treatment of STB Overriding Agreement**

4. The Motion lists the STB Override Agreement (Debtor ID# LMS2624) in Exhibit C as an excluded contract not being assumed or rejected at this time. STB objects to this portion of the Motion on the grounds that the STB Override Agreement is integrated with and not severable from that certain Combined, Amended and Restated Coal Lease between Lawson

Heirs and Ark Land Company dated October 31, 1994 (Debtor ID# LMS1723) (the “Lawson Heirs Lease”) and that certain Combined, Amended and Restated Coal Lease between Kelly-Hatfield Land Company (“KHLC”) and Ark Land Company (“Ark”) dated October 31, 1994 (Debtor ID# LMS0138) (the “Kelly-Hatfield Lease”) (the Lawson Heirs Lease and the Kelly-Hatfield Lease are hereinafter referred to collectively as the “1994 Leases”); and, as such, should be treated in an identical fashion.

5. RLC came into possession of the 1994 Leases through a series of transactions. First, an Asset Purchase Agreement was executed between STB, Eagle Minerals Company (“EMC”), Guyan Mining Company, Guyan Equipment Company, Apogee Coal Company, and Ark on October 31, 1994 (the “Purchase Agreement”). In the Purchase Agreement, STB and EMC agreed to transfer the 1994 Leases to Ark in exchange for the payment of a certain lump sum amount, the assumption of certain liabilities, and the payment of an overriding royalty on the coal mined from the premises of the 1994 Leases pursuant to the STB Override Agreement.

6. Second, on December 30, 2005, Ark and RLC executed an Assignment and Assumption Agreement, pursuant to which Ark assigned the Lawson Heirs Lease, the Purchase Agreement, and the STB Override Agreement to RLC, and RLC assumed the obligations identified under each of those agreements.

7. In connection with that same transaction, on December 31, 2005, Ark and RLC executed a Partial Assignment and Assumption of Lease whereby Ark partially assigned its rights under the Kelly-Hatfield Lease to RLC, and RLC, in addition to partially assuming the obligations of the Kelly-Hatfield Lease, assumed the obligation to pay the STB Override Agreement “to the extent that the STB Override applies to coal mined from the Assigned Lease Portion of the Premises (the “2005 Partial Assignment”).”

8. Third, after Ark acquired the stock of KHLC, Ark assigned an additional portion of the Kelly-Hatfield Lease to RLC (the “2007 Partial Assignment”), and in connection with said assignment and to acknowledge that Ark Land KH, Inc. had become the lessor with respect to the Kelly-Hatfield premises as successor by merger with Kelly-Hatfield, Ark, Ark Land KH, Inc. (“ALKH”) and RLC executed that certain Amended and Restated Partial Assignment and Assumption of Lease dated May 22, 2007, which contained RLC’s agreement to pay the STB Override Agreement with respect to the 2005 Partial Assignment and the 2007 Partial Assignment.

9. The three described transactions make clear that the parties, from the time that the STB Override Agreement was created until RLC came into possession of the 1994 Leases, intended RLC’s obligation to pay under the STB Override Agreement to be integrated with the 1994 Leases. As a result RLC cannot assume the 1994 Leases without also assuming the STB Override Agreement.

10. Finally, with respect to this objection, it is noted that the Debtors list in Exhibit C as excluded contracts not being assumed or rejected at this time certain other contracts which STB believes are also integrated into and not severable from the 1994 Leases. These agreements include that certain Assignment and Assumption Agreement between Ark and RLC dated December 30, 2005, that certain Partial Assignment and Assumption of Lease between Ark Land Company and RLC dated December 31, 2005, and that certain Amended and Restated Partial Assignment and Assumption of Lease dated May 22, 2007. STB believes that Debtors cannot assume the 1994 Leases without also assuming these other integrated agreements because the Debtors would not have come into possession of the 1994 Leases but for entering into these agreements.

### Cure Amount Under 1994 Leases

11. Debtors list the cure amount of the Kelly-Hatfield Lease as \$1,134,388.49, and the cure amount of the Lawson Heirs Lease as \$130,944.53. Those amounts are incorrect because they do not include the amounts RLC owes under the integrated STB Override Agreement for coal mined on the premises of the Kelly-Hatfield Lease or for coal mined on the premises of the Lawson Heirs Lease. Pursuant to the aforementioned agreements, RLC's obligation to pay the STB Override Agreement was not severable from the 1994 Leases and, accordingly, any payment to cure defaults under the 1994 Leases must include payment of past due amounts owed to STB under the STB Override Agreement. Therefore, STB objects to the cure amounts proposed by the Debtors in connection with the 1994 Leases.

12. The agreements referenced in this objection and other documents supporting this objection are voluminous and, thus, are not attached hereto, but can be made available upon request by appropriate parties, subject to confidentiality and other protections.

WHEREFORE, STB Ventures, Inc. respectfully requests that the Court deny the Motion to the extent that it applies to the 1994 Leases on the grounds stated herein, and to grant such other relief as the Court deems just and appropriate.

Dated: January 22, 2013

SHOOK, HARDY & BACON L.L.P.

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COUNSEL FOR STB VENTURES, INC.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 22nd day of January, 2013, a true and correct copy of the above and foregoing was served via CM/ECF notification on all parties receiving such notification, and a true and correct copy of the above and foregoing was served via electronic mail to the following parties:

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*Counsel to the Official Committee  
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/s/ Todd W. Ruskamp  
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