

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ALABAMA – SOUTHERN DIVISION

In re:

BIRMINGHAM COAL & COKE  
COMPANY, INC.,

Debtor.

CASE NO. 15-02075

(Jointly administered with Case Nos. 15-02077  
and 15-02078)<sup>1</sup>

CHAPTER 11

JUDGE TAMARA O. MITCHELL

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**AMENDMENT TO  
MOTION FOR ENTRY OF ORDER AUTHORIZING AND APPROVING THE SALE  
OF DEBTORS' EQUIPMENT, FREE AND CLEAR OF ALL LIENS, CLAIMS, AND  
ENCUMBRANCES OUTSIDE THE ORDINARY COURSE OF BUSINESS**

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COME NOW, through undersigned counsel, Birmingham Coal & Coke Company, Inc., Cahaba Contracting & Reclamation, and RAC Mining, LLC (collectively, the “**Debtors**”) as Debtors and Debtor-in-Possession, who file this *Amendment to Motion For Entry Of Order Authorizing And Approving The Sale Of Debtors' Equipment Free And Clear Of All Liens, Claims, And Encumbrances Outside The Ordinary Course Of Business* (this “**Amendment to Sale Motion**”), which amends the original Sale Motion [Doc. 802]. In support of the Amendment to Sale Motion, the Debtors respectfully show the Court as follows:

**I. JURISDICTION AND VENUE**

1. The Court has jurisdiction to consider the Amendment to Sale Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue of this proceeding and this Amendment to Sale Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

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<sup>1</sup> The Debtor in Case No. 15-02077 is CAHABA CONTRACTING AND RECLAMATION, LLC and the Debtor in Case No. 15-02078 is RAC MINING, LLC.

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2. The statutory predicate for the relief requested herein is section 363 of title 11 of the United States Code (the “**Bankruptcy Code**”).

## II. FACTUAL BACKGROUND

3. On May 27, 2015, (the “**Petition Date**”), Birmingham Coal & Coke Company, Inc., (“**BCC**”), Cahaba Contracting and Reclamation, LLC (“**CCR**”), and RAC Mining, LLC (“**RAC**”), the debtors and debtors in possession (collectively, the “**Debtors**”) filed their voluntary petitions for relief under Chapter 11 of the Bankruptcy Code (collectively referred to as the “**Chapter 11 Case**”). The Debtors continue to operate their business and manage their property as debtors-in-possession pursuant to 11 U.S.C. §§ 1107 and 1108. An Official Committee of Unsecured Creditors has been appointed in this Chapter 11 Case.

4. The Debtors are coal mining companies which formerly operated in northwest Alabama.

5. The Debtors have determined that it is in the best interest of the creditors and the Estate to sell a 2010 Chevrolet Avalanche to Eric Hallmark, an insider, for \$18,000.00 (the “**Sale**”).

6. The 2010 Chevrolet Avalanche has 95,120 miles and the VIN is GNVKFE08AG225234 (the “**Equipment**”).

7. The Sale is in the best interest of all the creditors and all other parties-in-interest.

## III. AMENDMENT

8. At the hearing on the Sale Motion on November 14, 2016, this Court inquired whether the Debtors had marketed the Equipment.

9. The Court suggested that the Equipment could satisfy the marketing requirement by obtaining an appraisal from an outside party such as CarMax.

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10. Upon returning to their offices, counsel for the Unsecured Creditors' Committee and counsel for the Debtors recalled that Mr. Hallmark had obtained an appraisal from Driver's Way which is attached. The appraised value is \$17,500.00.

11. Accordingly, the Debtors submit that they have properly supported their request to sell the Equipment to Mr. Hallmark.

WHEREFORE, PREMISES CONSIDERED, the Debtors request approval to sell the Equipment to Mr. Hallmark for \$18,000.00.

Dated this 14<sup>th</sup> day of November, 2016.

Respectfully Submitted,

/s/ C. Ellis Brazeal III

C. Ellis Brazeal III

**OF COUNSEL:**

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**ATTORNEYS FOR DEBTORS**

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 14<sup>th</sup> day of November, 2016, the foregoing was filed and served via the Court's electronic case filing and noticing system to all parties registered to receive electronic notice in this matter.

*/s/ C. Ellis Brazeal III*

\_\_\_\_\_  
OF COUNSEL

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**Customer Information**

You may drive and appraise my vehicle \_\_\_\_\_  
 \_\_\_\_\_ Initials  
 \_\_\_\_\_  
 Customer signature  
 \_\_\_\_\_  
 Manager signature

Name: James Hallmark  
 Address: 6044 Rosemont Rd  
 \_\_\_\_\_  
 City: Birmingham  
 State/Region: Alabama Postal Code: 35242  
 Email: edhallmark@mail.com  
 Phone (Home): (205) 288-0012  
 Phone (Work): \_\_\_\_\_  
 Phone (Mobile): (205) 306-9640

**Vehicle Information**

VIN: 3GNVKFE08AG225234 Odometer: 95,215  
 Year: 2010 Interior Color: \_\_\_\_\_  
 Make: Chevrolet Exterior Color: Black  
 Model: Avalanche 1500 Transmission: Automatic  
 Series: LT Condition: \_\_\_\_\_

**Additional Information**

Comments: Trade offer \$18000...Purchase offer \$17500 less \$99 fee. Paintwork on driver's...Paint peeling on driver's door handle...Driver's side mirror broken...Several paint chips on hood 02/13/2014 Alabama Damage Report Accident reported Vehicle involved in a rear-end collision Involving front impact with another motor vehicle Damage reported to: Front Left front Minor damage reported Airbags did not deploy

Extended Warranty: \_\_\_\_\_ Good Until: \_\_\_\_\_  
 Factory Certification: \_\_\_\_\_ Time: \_\_\_\_\_ Odometer: \_\_\_\_\_  
 Vehicle Salvaged: \_\_\_\_\_ Flood Damage: \_\_\_\_\_  
 Factory Buyback: \_\_\_\_\_ Odometer Replaced: \_\_\_\_\_  
 Improvements: \_\_\_\_\_

Tag or Plate: \_\_\_\_\_ Tag State/Region: \_\_\_\_\_ Exp: \_\_\_\_\_  
 Lien Holder: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Lien Account #: \_\_\_\_\_  
 Lien Address: \_\_\_\_\_  
 Lien Payoff: \_\_\_\_\_ Good Until: \_\_\_\_\_ Per Diem: \_\_\_\_\_  
 DMV Fee: \_\_\_\_\_  
 Title in Name of: \_\_\_\_\_  
 Title in State/Region of: \_\_\_\_\_

Salesperson: Matt Veitch Appraisal Date: 5/25/2016 Est. Recond./Certif.: - / \$1,400

Appraiser: Kevin Walker Good Until: 6/1/2016 Appraisal Amount: \$17,500.00  
 \_\_\_\_\_  
 Signature