

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**In Re:**

**STOLLINGS TRUCKING COMPANY, INC.**

**Case No. 2:15-BK-20624**

**Debtor in Possession**

**Chapter 11**

**OBJECTION TO DISCLOSURE STATEMENT  
BY OFFICIAL COMMITTEE OF UNSECURED CREDITORS**

The Official Committee of Unsecured Creditors of Stollings Trucking Company, Inc. (“Committee”) objects to approval of the Disclosure Statement [Doc 346] filed by the Debtor, and states that:

1. Section 1125(b) of the Bankruptcy Code provides that a Chapter 11 plan may not be submitted to creditors for acceptance or rejection unless they receive an accompanying disclosure statement that provides “adequate information.” Adequate information means “information of a kind, and in sufficient detail...that would enable...a hypothetical investor...to make an informed judgment about the plan...” 11 U.S.C. § 1125(a)(1).

**Liquidation Analysis**

2. The Debtor has been in a liquidation mode since it filed its Chapter 11 petition, and its Plan is a liquidating plan. A disclosure statement must include a liquidation analysis to show projected distributions to all classes of creditors and equity interest holders under various outcomes, i.e. Chapter 11 Liquidation Trust, Chapter 11 liquidation by the Debtor, and a Chapter 7 liquidation. Without a meaningful liquidation analysis, the unsecured creditors will be unable to compare the liquidation options and unable to determine whether the proposed plan is in the best interest of unsecured creditors.

**Information Regarding Equipment**

3. A disclosure statement should include the identity and fair market value of all the debtor’s assets. The debtor’s schedules provided a list of 47 items of equipment and vehicles.

The Disclosure Statement contains a list of the 43 items of equipment and vehicles that it intends to liquidate. The Court has approved the sale of 8 items of equipment, but the Debtor has only filed 1 report of sale during the case. This cause of this discrepancy is not apparent from the record. The Debtor also has motions to sell another 6 items that are pending before the Court. The Disclosure Statement should provide more information regarding (1) the items owned by the debtor on the petition date, (2) an accounting of the items that have been sold or approved for sale, and (3) the equipment that remains to be sold. The identity and value of assets sold and assets remaining to be sold is necessary for creditors and the Court to understand the debtor's financial condition and evaluate the liquidation analysis.

#### Information Regarding Liquidating Trust

4. The Plan provides for a Liquidating Trust, but the Disclosure Statement does not provide adequate information regarding the terms of the Trust agreement. It does not contain a summary of the Trust, it does not describe the specific assets to be included in the Trust liquidated pursuant to the trust agreement. It does not state what assets (if any) will be retained by the debtor and the proposed disposition of those assets. In addition, there is no information regarding the costs of administering the Trust, including the cost of the Trustee and professionals that the trustee may employ, which expenses are necessary for a meaningful liquidation analysis.

#### Information Regarding Litigation

5. The Disclosure Statement mentions three causes of action that the Debtor is currently pursuing and which may generate recoveries for the estate, involving XL Insurance and Continuum Coal/GS Energy. But there is inadequate information regarding the status of the litigation, the optimal and likely outcomes for the Debtor, which is necessary for creditors to evaluate the potential outcomes of the litigation and the potential distribution to creditors.

6. The Disclosure Statement mentions pending litigation before the WV Surface Mine Board regarding an over-bonded haul road permit and anticipates a ruling favorable to the Debtor. However, there is not adequate information regarding the ultimate benefit to the Debtor

in the event of a favorable ruling, or and the ultimate disadvantage to the Debtor in the event of an unfavorable ruling. In particular, the Disclosure Statement does not provide information as to how whether a favorable ruling will affect the distribution to creditors.

#### Information Regarding Coal Lease(s)

7. The Debtor's assets include a coal lease with "Pioneer/Blackhawk/Robin Land Company" that was listed in Schedule A/B. However, the Disclosure Statement contains no information regarding this leasehold interest, its value, or its disposition in this case. In addition, the Disclosure Statement and Plan do not state whether the debtor intends to assume or reject the lease.

#### Information Regarding Reclamation Obligations, Bonds, and Cash Security

8. The Debtor has on deposit \$1,800,000 in CDs that secure the mining reclamation bonds posted by the Debtor, which is a significant asset of the estate. The Disclosure Statement does not describe the conditions necessary for the release of the bonds and recovery of the cash deposits, and more importantly, who will be responsible for meeting those conditions, performing reclamation, and securing the release of these funds. Moreover, the Disclosure Statement does not provide any information whether the Debtor is currently in compliance with ongoing environmental and reclamation requirements. In fact, the DS indicates the Debtor will continue reclamation work so the permits will enable the bond releases, but the debtor has indicated it is liquidating all of its equipment since it is not needed for reclamation.

#### Conclusion

9. The Committee understands that several of the matters contained in the Disclosure Statement, and addressed in this objection, are subject to litigation that is not complete and cannot be valued at the present time. The Committee does not support approval of the Disclosure Statement in its present form, until those matters can be quantified and a complete and accurate liquidation analysis is provided.

THEREFORE, the Official Committee of Unsecured Creditors requests the Court not approve the Disclosure Statement, until it contains adequate information.

Dated: September 6, 2017

Respectfully submitted,

OFFICIAL COMMITTEE  
OF UNSECURED CREDITORS OF  
STOLLINGS TRUCKING COMPANY, INC.

By Counsel

/s/ Douglas A. Kilmer

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**CERTIFICATE OF SERVICE**

I hereby certify that on this day I electronically filed the Objection to Disclosure Statement By Official Committee of Unsecured Creditors with the Clerk of the Court using the CM/ECF System, which will send notice of such filing to all CM/ECF participants in this case.

Date: September 6, 2017

/s/ Douglas A. Kilmer

Counsel for  
OFFICIAL COMMITTEE  
OF UNSECURED CREDITORS OF  
STOLLINGS TRUCKING COMPANY, INC.