

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

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|------------------------------|---------------------------------|
| In re: |) |
| |) Case No. 15-02741-TOM7 |
| NEW WEI, INC., et al. |) |
| |) Chapter 7 |
| Debtor(s) |) |

TRUSTEE'S CASE STATUS REPORT

COMES NOW Andre M. Toffel (the "Trustee"), Chapter 7 trustee of the bankruptcy estates of the Debtors associated with these jointly administered cases, and reports as follows:

1. These jointly administered cases were converted to cases under Chapter 7 of the Bankruptcy Code on February 21, 2017. (Doc. 2910). The Trustee was appointed shortly thereafter. (Doc. 2911).

2. Of the 23 Debtor entities at the date of conversion, 21 have been fully administered and closed. As of this filing, two cases remain open, specifically including New WEI, Inc. (15-02741) and New WEI 13, Inc. (15-02743).

3. Since his appointment, the Trustee and his approved professionals have recovered \$13,419,162.34 in assets. Included in that amount is \$1.9 million paid by Warrior Met Coal, Inc. in compliance with the court-approved settlement (the "Settlement") between the parties. (*See* Docs. 3145 and 3192). The terms of the Settlement also authorized the Trustee to create and to administer the WEI Settlement Trust.

4. In July, 2019, the Trustee paid all Chapter 11 non-professional administrative expense claims, which totaled \$2,626,836.55. (Doc. 3482). The Trustee also paid certain Chapter 11 administrative claims as to professionals.



5. As compelled by the terms of the Settlement, and in accordance with his duties under the Bankruptcy Code and in compliance with orders of this Court, the Trustee has disbursed over \$12,800,000.00 since his appointment and presently has in excess of \$500,00.00 in the liquidating trust account.

6. Several potentially significant assets of the Debtors' estates remain contingent and unliquidated. The Trustee and his hired professionals are actively pursuing those assets on behalf of the estates. More specifically, the following matters remain pending:

- a. Litigation with the Trustees of the United Mine Workers of America 1992 Benefit Plan in Adversary Proceeding 18-00066-TOM. At issue in the adversary proceeding are the proceeds of a Letter of Credit exceeding \$4 million and related damages.
- b. Claims as to illegal fuel surcharges paid by the Debtors pre-petition. The law firm of Berger Montague PC was hired and approved in November, 2020. (Doc. 3685). This claim could exceed \$5 million, less a contractual contingency fee which would require additional final court approval.
- c. Assets related to the liquidation of a captive insurance company located in Bermuda called Cardem. This asset should exceed \$3 million.
- d. Potential recovery of retiree drug subsidy payments by RDS Services, LLC, whose employment was approved by the Court on October 5, 2020 (Doc. 3659). This asset could meet or exceed \$100,000.00.
- e. Potential tax recovery through the work of Investment Recovery Services ("IRG"), whose employment was approved by an Order entered in December,

2020. IRG recently filed an amended tax return for certain tax years seeking over \$1.0 million in tax refunds.

- f. Additional funds from the settlement of litigation with the Alabama Workmen's Compensation Self-Insurers Guaranty Association. A payment of \$750,000.00 is due by December 31, 2021 and another payment in the amount of \$250,000.00 must be made by December 31, 2022.

7. Once all of the assets are liquidated and administered, the Trustee expects to make a meaningful distribution to § 503(b)(9) supplier claims, which total approximately \$2 million.

Dated: June 4, 2021

/s/ Stephen B. Porterfield

Stephen B. Porterfield
Thomas B. Humphries
Attorneys for Andre M. Toffel, Trustee

OF COUNSEL:

SIROTE & PERMUTT, P.C.

2311 Highland Avenue South

Birmingham, AL 35205

Telephone: (205) 930-5100

Facsimile: (205) 212-3862

sporterfield@sirote.com

thumphries@sirote.com

CERTIFICATE OF SERVICE

I hereby certify that on this the 4th day of June, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing all persons and entities that have filed a request for service of filings in this case pursuant to Bankruptcy Rule 2002.

Electronic notice, and via U.S. Mail where appropriate, will also be provided to the following:

Jay R. Bender
Cathleen C. Moore
James Blake Bailey
Bradley Arant Boult Cummings LLP
One Federal Place
1819 Seventh Ave North
Birmingham, AL 35203-2105
Email: jbailey@bradley.com
Email: ccmoore@bradley.com
Email: jrbender@babco.com

Akin Gump Strauss Hauer & Feld LLP
One Bryant Park
New York, NY 10036
Attn: Ira S. Dizengoff

Seminole Coal Resources, LLC ERP Compliant
COKE, LLC ERP Environmental Fund, Inc. 15
Appledore Lane
P.O. Box 87
Natural Bridge, Virginia 24578 Attn: Thomas M. Clarke

ERP Compliant Fuels LLC
c/o ENCE Co., Inc.
3694 Seaford Drive
Columbus, OH 43220
Attn: Charles A. Ebetino, Jr.

Jayna Partain Lamar
J Leland Murphree
Robert Karl Ozols
Maynard, Cooper & Gale, P.C.
1901 6th Ave N
2400 Regions Harbert Plaza
Birmingham, AL 35203
Email: jlamar@maynardcooper.com
Email: Lmurphree@maynardcooper.com
Email: rozols@maynardcooper.com

ERP Compliant Fuels LLC
PO Box 305
Madison, WV 25130
Attn: Kenneth R. McCoy

Robert N. Kravitz
Daniel J. Leffell
Allan J. Arffa
Dan Youngblut
Paul, Weiss, Rifkind, Wharton & Garrison
1285 Avenue of the Americas
New York, NY 10019-6064

J. Thomas Corbett
Jon A. Dudeck
U.S. Bankruptcy Administrator
Northern District of Alabama
1800 Seventh Avenue North, Suite 325
Thomas_Corbett@alnb.uscourts.gov
Jon_Dudeck@alnb.uscourts.gov

Andre M. Toffel, Trustee Andre M. Toffel, P.C.
450-A Century Park South, Ste. 206A
Birmingham, Alabama 35226
atoffel@toffelpc.com jcraft@toffelpc.com

Michael L. Hall
Jay Haithcock
James P. Roberts, LLP
Burr & Forman, LLP
420 20th St. N
Suite 3400
Birmingham, Alabama 35203
mhall@bumcom
jhaithcock@bumcom
jroberts@burr.com

W. Joseph Dryer
Don F. Oliver
1000 N. West Street, Suite 1200
Wilmington, DE 19801
dfr.wjd@gmail.com dfr.dfo@gmail.com

Akin Gump Strauss Hauer & Feld LLP
1333 New Hampshire Avenue, N.W.
Washington, DC 20036
Attn: James Savin

/s/ Stephen B. Porterfield
OF COUNSEL