

Reorganized Alpha Overstated Cash Flow By \$100 Million; WVDEP Sues For Fraud

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The West Virginia Department of Environmental Protection is suing Alpha Natural Resources, Contura Energy (the entity formed out of Alpha's core resources following its bankruptcy) and others over a \$100 million shortfall in projected cash flow.

"In knowingly making or allowing to be made, false and misleading projections to obtain confirmation of (Alpha's) chapter 11 plan, each of the named individual defendants committed a fraud upon this court," DEP said in the lawsuit. Kevin Barrett of Bailey Glasser's Charleston, West Virginia, office, represents DEP.

In an earlier court filing, DEP said it would not challenge a settlement between Alpha Natural Resources and Contura Energy, but called the \$100 million shortfall "devastating," considering the estimated cash total flow for the entire four and one-half year projection period was only \$146 million.

The lawsuit says that the shortfall threatens Alpha's viability, and that the failure to properly account for the newly disclosed liabilities "cannot reasonably be characterized as an error or mistake."

The shortfall could lead DEP to have to assume Alpha's massive environmental cleanup liabilities, the lawsuit warned. The lawsuit asks the court to undo the bankruptcy settlement agreement releasing Alpha's management from liability for its activities.

In light of DEP's lawsuit, U.S. Bankruptcy Judge Kevin Huennekens postponed a decision on an agreement between Alpha and Contura to split up their obligations.

SNL Financial: W.Va. DEP: 'Almost inescapable' Alpha execs knew of \$100M uncounted liabilities

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Practice Areas

Bankruptcy & Business Reorganization