

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

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

TRUSTEE’S APPLICATION TO EMPLOY
ASSET RECOVERY COMPANY

COMES NOW Andre M. Toffel (the “Trustee”), duly appointed interim Chapter 7 trustee of the bankruptcy estates of the Debtors associated with this jointly administered case and as the liquidating trustee of the liquidating trust (the “Liquidating Trust”) created in connection with the October 13, 2017 settlement agreement with Warrior Met Coal, Inc., and, pursuant to 11 U.S.C. 327(a) and Bankruptcy Rule 2014(a), files his Application to employ an asset recovery company, as follows:

I. SUMMARY

1. Included in these bankruptcy estates (the “Bankruptcy Estates”) are potential claims for monies held by third parties (the “Unclaimed Funds”). Pursuant to 11 U.S.C. § 327(a), Rule 2014(a) of the Federal Rules of Bankruptcy Procedure, the Trustee requests entry of an order authorizing him to retain Hidden Assets, LLC (“Hidden Assets”) to serve as his professionals with respect to locating and asserting rights to the Unclaimed Funds.

II. BACKGROUND

2. The applicant is Andre Toffel, Chapter 7 Trustee in these cases, which were originally filed under Chapter 11 of the United States Bankruptcy Code on July 15, 2015, and later converted to Chapter 7 on February 2, 2017.



3. Among the assets of the estate are potential claims for monies held by third parties (the “Unclaimed Funds”). These include, but are not necessarily limited to, funds held by state agencies.

III. RELIEF REQUESTED

4. The Trustee seeks to employ Hidden Assets as his professionals with respect to locating and asserting rights to the Unclaimed Funds. Hidden Assets believes it has located substantial Unclaimed Funds.

5. 11 U.S.C. § 327(a) provides that a trustee may, with the court’s approval, employ a professional that does not hold or represent an interest adverse to the estate.

6. It is in the best interest of the estate that Hidden Assets be employed to represent the Trustee as his professionals with respect to the Unclaimed Funds under the terms and conditions set forth in the engagement agreement (the “Engagement Agreement”) attached hereto as **Exhibit A**. Hidden Assets will receive a flat 25% commission for funds it recovers. No final compensation will be paid until a fee application has been filed and approved by the court, pursuant to 11 U.S.C. §330 and the requirements of any other applicable law.

7. Hidden Assets maintains an office at 1008 Ross St., Terrell, Texas 75160. Hidden Assets may be reached by phone at 214.543.1336 or by email: kelly@hiddenassets.biz.

8. The employment of Hidden Assets will not result in duplication of efforts by the Trustee’s other retained professionals.

9. Similar contracts with Hidden Assets have been approved in other cases, including the following:

- (a) *In re Little River Healthcare Holdings, LLC, et al.*, Case No. 18-60526-RBK (Bankr. W.D. Tex. 2018), at Doc. 1254.

(b) *In re 1960 Family Practice PA*, Case No. 20-35493 (Bankr. S.D. Tex. 2020), at Doc. 62.

(c) *In re Excel Resources, Inc.*, Case No. 97-44808 (Bankr. S.D. Tex 1997), at Doc. 236.

9. Hidden Assets does not currently hold a retainer balance on behalf of the Trustee, nor does it have a pre-petition or pre-conversion claim against the Bankruptcy Estates.

10. Except as set forth in this Application and in the Declaration of Kelly Thompson, attached hereto, Hidden Assets has not received any other payment in connection with these Bankruptcy Cases, nor has it executed any other agreement for payment of its fees or expenses in these cases, nor has it agreed to share any compensation in this case with any other person.

11. To the best of the Trustee's knowledge, on information and belief, other than in connection with these cases and as described above and in the Declaration, Hidden Assets has no connection with the Debtors, their creditors, parties-in-interest or affiliates. Hidden Assets has not researched the tens of thousands of creditors in these bankruptcy cases, but it is not aware of any representation of any creditor or parties of interest in these cases.

THEREFORE, Andre Toffel, Chapter 7 Trustee, prays that he be authorized to retain Hidden Assets, as his professionals to pursue the Unclaimed Funds, and for other just relief.

Dated: March 23, 2023.

/s/ Stephen B. Porterfield
Stephen B. Porterfield
Attorney for Andre M. Toffel, Trustee

OF COUNSEL:

SIROTE & PERMUTT, P.C.

2311 Highland Avenue South

Birmingham, AL 35205

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sporterfield@sirate.com

VERIFIED STATEMENT OF PERSON TO BE EMPLOYED

I have read the above and foregoing Application. As required by Bankruptcy Rule 2014(e), and in accordance with Bankruptcy Rule 9011(b) and 28 U.S.C. §1746, I declare under penalty of perjury that the statements there made with reference to me and my professional associates are true and correct.

This the 21 day of March, 2023.


Kelly Thompson
Owner and Managing Member of
Hidden Assets LLC

CERTIFICATE OF SERVICE

I hereby certify that on this the 23rd day of March, 2023, 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:

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Cathleen C. Moore
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/s/ Stephen B. Porterfield

OF COUNSEL

EXHIBIT A

Hidden Assets, LLC Research and Service Fee Agreement

With

Bankruptcy Estate of New WEI, Inc. f/k/a Walter Energy, Inc.

To: Andre' M Toffel, Trustee of the Bankruptcy Estate of New WEI, Inc. f/k/a Walter Energy, Inc.

From: Kelly Thompson, Asset Recovery Specialist, Hidden Assets, LLC

Main Case Number: 15-02741 (Jointly Administered)

Debtors: New WEI, Inc. f/k/a Walter Energy, Inc.

1. This is a research and service fee agreement between Hidden Assets, LLC (hereinafter "HA") and the Trustee, Andre' M Toffel (hereinafter "Trustee") of the Bankruptcy Estate of New WEI, Inc. f/k/a Walter Energy, Inc. (hereinafter "Estate"). The Trustee enlists the help of HA for the recovery of monies due to the Estate.

2. HA believes the amount of assets held by third parties, is approximately \$1,200,000. These include, but are not necessarily limited to, funds held by state agencies. HA shall conduct all necessary actions to recover the monies or assets on behalf of the Estate from such third parties, including but not limited to, all various states and governmental agencies, and the U.S. Courts Unclaimed Funds Locator (collectively, the "Agencies"), including the filing of all forms and documents as required by the respective state and governmental agency to collect said recovery. The Trustee will provide any necessary information required by HA, as well as execute all necessary documents to expedite the recovery process if needed.

3. All monies recovered by HA on behalf of the Estate shall be directly disbursed and made payable to the Trustee. HA shall receive 25% of the net sums recovered by HA on behalf of the Estate from the Agencies. HA agrees that its 25% recovery fee shall be calculated on net sums recovered and actually disbursed to the Estate. HA agrees to pay all of its own expenses. The Trustee shall be responsible for all wire transfer and similar costs, if any, associated with the distribution of the monies or assets recovered by HA. Upon the Trustee's confirmation and receipt of all Funds from the Agencies, HA shall receive payment of its 25% fee by the Trustee after approval by the Bankruptcy Court. The Trustee will file the necessary application and pleadings to employ HA and for approval to pay HA its fee.

4. Upon receipt of the Trustee's signature, the source of funds, how to collect these assets and all research information done by HA will be provided.

5. This Agreement is subject to the approval of the Bankruptcy Court.

6. This Agreement does not transfer ownership or title to any asset.

Signed 

Kelly Thompson, Owner and Managing Member of Hidden Assets, LLC

1008 Ross St.

Terrell, Tx. 75160

Dated: 3-21-2023

Printed name of Trustee, Andre' M Toffel: _____

Signed: Trustee, _____

Dated: _____

6. This Agreement does not transfer ownership or title to any asset.

Signed _____

Kelly Thompson, Owner and Managing Member of Hidden Assets, LLC

1008 Ross St.

Terrell, Tx. 75160

Dated: _____

Printed name of Trustee, Andre' M Toffel: Andre M. Toffel, as Trustee

Signed: Trustee, Andre M. Toffel, as Trustee

Dated: March 22, 2023