

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF KENTUCKY  
LEXINGTON DIVISION**

In re:	)	
	)	Chapter 11
Cambrian Holding Company, Inc. et al., <sup>1</sup>	)	
	)	Case No. 19-51200
Debtor.	)	
_____	)	

**OBJECTION TO MOTION OF THE  
LIQUIDATING TRUSTEE FOR AN ORDER AUTHORIZING  
THE ABANDONMENT AND DESTRUCTION OF CERTAIN RECORDS**

Deutsche Bank AG, London Branch (“DB London”), Tennenbaum Opportunities Partners, V, LP, and Tennenbaum Opportunities Funds VI, LLC (together, the “Tennenbaum Parties” and, collectively with DB London, the “Term Loan AP Defendants”), by and through counsel, hereby file this objection (the “Objection”) to the *Motion of the Liquidating Trustee for an Order Authorizing the Abandonment and Destruction of Certain Records* [Docket No. 1842] (the “Motion”) filed by Ellen Arvin Kennedy, solely in her capacity as the Liquidating Trustee (the “Liquidating Trustee”) of the Cambrian Liquidating Trust (the “Liquidating Trust”). In support of the Objection, the Term Loan AP Defendants respectfully state as follows:

1. By the Motion, the Liquidating Trustee seeks entry of an order authorizing the abandonment and destruction of certain records located in a storage unit leased by Debtor Marshall Resources, Inc., which records the Liquidating Trustee asserts are not needed in the liquidation of the remaining assets of the Trust or in the reconciliation or administration of claims.

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<sup>1</sup> The “Debtors” in these chapter 11 cases are (with the last four digits of their federal tax identification numbers in parentheses): Cambrian Holding Company, Inc. (8203), Cambrian Coal LLC (3394), Apex Energy, Inc. (3455), C.W. Auguring, Inc. (2875), Marshall Resources, Inc. (9735), PLM Holding Company LLC (7427), Bear Branch Coal LLC (0674), Clintwood Elkhorn Mining LLC (6910), Gatliff Coal LLC (5768), Perry County Coal LLC (4382), Ray Coal LLC (0981), Whitaker Coal LLC (8270), Pike-Letcher Land LLC (8952), Premier Elkhorn Coal LLC (8951), Raven Rock Development LLC (1351), Rich Mountain Coal LLC (1974), S.T. & T. Leasing, Inc. (0340), T.C. Leasing, Inc. (7705), and Shelby Resources, LLC (5085).

2. The Term Loan AP Defendants are defendants in the litigation proceeding as Adv. Pro. No. 19-05021-grs (the “Term Loan AP”) in which the Liquidating Trustee seeks to avoid certain payments, one specifically alleged to have been made by Debtor Marshall Resources, Inc., made to the Term Loan AP Defendants in connection with the Debtors’ pre-petition term credit agreement.

3. The Term Loan AP Defendants would not have an issue with abandonment and destruction of Debtor records to the extent that the subject records consist of payroll, employment, or other files unrelated to any claims or defenses in the Term Loan AP. As such, counsel for the Term Loan AP Defendants has asked counsel for the Liquidating Trustee for additional information concerning the records to be destroyed and, specifically, for confirmation that none of the records sought to be abandoned and destroyed are records which may be relevant to, or discoverable in connection with, the Term Loan AP.

4. Counsel for the Term Loan AP Defendants first asked for this clarification concerning the nature of the records on September 22, 2021, the day that the Motion was filed and twice since then asking for an agreed order or some resolution that would allow the Liquidating Trustee to proceed but confirm that these documents were not relevant to their ongoing adversary. However, at the time of this objection, the Liquidating Trustee has yet to provide additional information or confirmation that none of the records are relevant to the Term Loan AP.

5. Given the lack of response, the Term Loan AP Defendants must object to the Motion in order to avoid the potential loss and destruction of critical records relevant to ongoing litigation. The Motion should be denied unless and until the Liquidating Trustee can confirm that none of the records she seeks to abandon and destroy pertain to the claims or defenses relevant to the Term Loan AP.

**Notice**

6. Notice is hereby given that the foregoing shall be brought on for hearing before the United States Bankruptcy Court for the Eastern District of Kentucky, 100 East Vine Street, Second Floor, Lexington, Kentucky, on Thursday, October 21, 2021, at the hour of 9:00 a.m. Eastern Time (ET), or as soon thereafter as counsel may be heard.

WHEREFORE, the Term Loan AP Defendants respectfully request that the Court enter an order (i) sustaining the Objection and denying the Motion; or (ii) in the alternative, requiring that the Liquidating Trustee provide the Term Loan AP Defendants with information sufficient to confirm that any records to be destroyed are not relevant to any claims or defenses in the Term Loan AP prior to proceeding with abandonment and destruction of such records; and (iii) granting such further relief as the Court deems just and proper.

Dated: October 6, 2021

Respectfully submitted,

/s/ April A Wimberg

April A. Wimberg

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**Certificate of Service**

I hereby certify that on October 6, 2021, a copy of the foregoing was filed electronically, and notice of this filing will be sent to all parties who have filed an appearance in this Bankruptcy Case via the Court's electronic filing system.

/s/ April A. Wimberg

April A. Wimberg