

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF KENTUCKY  
LEXINGTON DIVISION  
CASE NO. 19-51200  
(Jointly Administered)

IN RE: CAMBRIAN HOLDING COMPANY, INC., et al.  
DEBTORS

CHAPTER 11

**REPLY TO RESPONSE TO MOTION FOR ORDER COMPELLING AMERICAN  
RESOURCES CORPORATION TO PAY POST PETITION TRADE PAYABLES TO  
KEY-WAY, LLC**

\*\*\* \*\*

Comes now Key-Way, LLC (“Key-Way”), a creditor and critical vendor in these proceedings, by and through counsel, and for its Reply to the Response of American Resources Corporation (“ARC”) to Key Way’s Motion to Compel payment of post petition trade payables, herewith states as follows:

ARC contends Key Way is barred because it failed to file an administrative claim by the bar date of September 30, 2019. The debtor in possession (“DIP”) stopped paying Key Way on September 27, 2019. See Exhibit 2 to the Key Way Motion. The DIP stopped paying Key Way because within this Court’s Order entered September 25, 2019 (ECF doc. 534), ARC assumed the ongoing liability and responsibility to pay Key Way as a trade vendor for any Key Way trade payables. Indeed if Key Way had so much as tried to file an administrative claim after September 25, 2019, most assuredly, the DIP would have vehemently objected as would the Unsecured Creditors Committee.

The Court’s Order approving sale of substantially all of the debtors’ assets (ECF doc. 534) provided at page 21, paragraph 32 that, *“This Order and the APAs shall inure to the benefit of the Debtors, their estates, their creditors, the Buyers and its respective successors and*

*assigns.”* Thus, Key Way, as a creditor of one of the debtors, Perry County Coal, was clearly a third party beneficiary under the Order and the corresponding APAs. The same Order also provides that this Court is the exclusive venue for enforcing any breach of the APAs.

ARC’s position is not well taken and should be rejected. Accordingly, it is respectfully prayed that this Court enter an Order compelling American Resources Corporation to immediately issue payment to Key-Way, LLC in the principal sum of One Hundred Fourteen Thousand Seven Hundred Fourteen Dollars and Forty-Six Cents (\$114,714.46) as of October 11, 2019 with interest accruing thereon at 8% per annum, the Kentucky state legal rate of pre-Judgment interest, until paid.

Respectfully submitted,

HAMM, MILBY & RIDINGS, PLLC  
120 NORTH MAIN STREET  
LONDON, KY 40741  
EMAIL: [aaron@hmrkylaw.com](mailto:aaron@hmrkylaw.com)  
PHONE: 606-864-4126  
FAX: 606-878-8144  
*Counsel for Key-Way, LLC*

BY:     /s/ R. Aaron Hostettler      
R. AARON HOSTETTLER

CERTIFICATE OF SERVICE:

The undersigned does hereby certify that a true copy of the foregoing Motion was served this the 29th day of November 2021 electronically in accordance with the method established under this Court’s CM/ECF administrative procedures upon all parties in the electronic filing system in this case including the United States Trustee and debtors’ counsel and counsel for the unsecured creditors committee.

    /s/ R. Aaron Hostettler      
OF COUNSEL FOR KEY-WAY, LLC