

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

UNITED STATES OF AMERICA,

CASE NO.: 7:19-CV-00354

February 25, 2025

Roanoke, Virginia

Plaintiff,

Evidentiary Hearing

vs.

SOUTHERN COAL CORPORATION,
et al,

Before:

HONORABLE MICHAEL F. URBANSKI

UNITED STATES DISTRICT JUDGE

WESTERN DISTRICT OF VIRGINIA

Defendants.

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1 (Proceedings commenced 9:41 a.m.)

2 THE COURT: Good morning. Ask the clerk to call the
3 case.

4 THE CLERK: This is the *United States of America v.*
5 *Southern Coal Corporation* and others. Civil Action Number
6 7:19-cv-00354.

7 THE COURT: Okay. This case was set down -- the
8 government filed a motion for civil contempt, and the
9 defendants defended the motion at a hearing we had on Zoom by
10 contending they should not be held in civil contempt because
11 they don't have any money. And I determined that we needed to
12 have an evidentiary hearing on that issue, and that's what
13 we're here for.

14 Let's hear from the government first.

15 MS. FRITH: Good morning, Your Honor. A few
16 housekeeping issues. The first is that we had previously
17 understood that the defendants were going to put on two
18 witnesses, and so myself and Ms. Taylor had allocated our
19 preparation accordingly, but now we understand they only have
20 one witness. So we would like to split up the
21 cross-examination of that witness based on the topics that we
22 prepared for.

23 We understand that Mr. Houchens does not have any
24 objection to that, so we're asking the Court for permission to
25 do that.

1 THE COURT: All right. Mr. Houchens, is that right?

2 MR. HOUCHENS: No objection, Judge.

3 THE COURT: Okay, that's fine. All right.

4 MS. FRITH: And then, Your Honor, there are a couple
5 of exhibits that may be offered in cross-examination from the
6 government that Mr. Houchens has also agreed would be admitted
7 without objection.

8 THE COURT: All right.

9 MS. FRITH: All right. And then the last thing that
10 we wanted to raise before we turn it over to Mr. Houchens is
11 that the defendants have the burden of proof today, as the
12 Court knows, and we are asking the Court to find the defendants
13 in civil contempt. And as sanctions for that civil contempt,
14 we are asking for a few things.

15 We are asking that the Court order the defendants to
16 pay the 10 percent FDCPA surcharge that we forewent by entering
17 into the consent order, that the Court award the government
18 reasonable attorney's fees associated with this contempt
19 motion, and that the Court put the defendants in receivership
20 to incentivize compliance with the Court's consent order.

21 And on that, we will turn it over to Mr. Houchens to
22 put on his evidence since it's his burden of proof.

23 THE COURT: Okay. Mr. Houchens, you filed a motion
24 for a protective order. I haven't entered it. Would you like
25 to be heard on it?

1 MR. HOUCHENS: Judge, based on the -- good morning,
2 Your Honor.

3 THE COURT: Good morning.

4 MR. HOUCHENS: Based on the Zoom call that we had, we
5 produced these documents subject to the understanding that they
6 would be protected, Judge. I understand that we've been
7 operating under that with the notion that the protective order
8 would be entered at some point. We ask the Court enter it.
9 Although I understand --

10 THE COURT: You haven't filed anything yet, right?

11 MR. HOUCHENS: We haven't filed it on the -- just
12 producing them between the parties.

13 THE COURT: Right. Right.

14 MR. HOUCHENS: We anticipate that the government
15 today, based on their statements here moments ago, will make
16 some of these financials exhibits. The Court dealt with that
17 issue at the Zoom conference and said if they are made exhibits
18 they are public record.

19 THE COURT: Right.

20 MR. HOUCHENS: We don't have any problem with that.
21 So -- and, you know, to our knowledge, the government has
22 abided by the understanding that the documents that we produced
23 would be confidential. I trust Ms. Taylor and Ms. Frith and
24 their team not to disclose them outside of purposes of this
25 litigation. So I'll leave it at that.

1 THE COURT: That's the point of the proposed motion
2 for protective order. Obviously, anything submitted to the
3 Court for its decision, those matters become public.

4 MR. HOUCHENS: Absolutely. And the testimony today,
5 obviously, is public record, Judge.

6 THE COURT: Right, okay. What's the government's
7 position with regard to this motion for protective order
8 regarding documents exchanged between each other?

9 MS. FRITH: Your Honor, I think it's going to become
10 a moot point today, because everything that's been produced to
11 us is going to become an exhibit to today's hearing.

12 THE COURT: Well, I'll enter the motion for
13 protective order just in case there's some information that
14 is -- was exchanged between the parties that might need to be
15 protected. But anything that's submitted to the Court, either
16 attached to a brief or in evidence today, will be as a matter
17 of public record. So I'll enter that order.

18 Mr. Houchens, let's hear from you. What evidence
19 would you like to put on, sir?

20 MR. HOUCHENS: Judge, I'd like to call the vice
21 president of the company and general counsel, Mr. Stephen
22 Ball.

23 THE COURT: Okay. Come on up and be sworn, sir.

24 MR. BALL: Okay.

25 THE CLERK: If you will raise your right hand,

1 please.

2 STEPHEN BALL, CALLED BY DEFENDANT, SWORN

3 THE WITNESS: I do.

4 THE CLERK: If you will have a seat right there.

5 THE COURT: Good morning.

6 THE WITNESS: Good morning.

7 DIRECT EXAMINATION

8 BY MR. HOUCHENS:

9 Q Good morning, sir. Would you please state your name for
10 the record.

11 A Stephen Ball.

12 Q And Mr. Ball, how are you currently employed?

13 A Executive vice president and general counsel for several
14 of the entities involved in this matter.

15 Q Okay. Can you just briefly tell the Court about your
16 educational background?

17 A I have a finance degree from Marshall University; a law
18 degree from West Virginia University.

19 Q Are you -- are you currently barred as a practicing
20 attorney in the State of West Virginia?

21 A I am.

22 Q And is that license current?

23 A It is.

24 Q And active?

25 A It is.

1 Q Okay. And in your capacity as executive vice president
2 and general counsel, are you familiar with the financial
3 records for the defendants listed here that are before the
4 Court today?

5 A I am.

6 Q And are you also familiar with the tax returns?

7 A Generally. I mean, they are voluminous, but, yes, I'm
8 generally familiar with them.

9 Q And further, sir, are you familiar with their
10 operations?

11 A Yes.

12 Q How long have you worked in the coal industry?

13 A Since 2001.

14 Q All right. And can you just briefly kind of walk the
15 Court through the roles that you have had in the industry and
16 kind of the general work that you've performed.

17 A Sure. My first job in the coal industry was as assistant
18 CFO for Bluestone Industries, Inc., which is a subsidiary of
19 Bluestone Resources that has had some involvement in this
20 matter. At that same time I was also general counsel. From
21 that, from that point, I was in those roles for approximately
22 five or six years. Then I became solely general counsel.

23 Beginning in approximately 2010, I took on a vice
24 president of operations role for Southern Coal Corporation and
25 several of its subsidiaries and affiliates.

1 Beginning in 2017 became executive vice president for
2 Southern Coal and all of their subsidiaries. Also for
3 Bluestone Resources, Inc., and all of their subsidiaries.

4 Q And in that capacity as -- especially in capacity for
5 Southern Coal, are you familiar generally with the coal
6 industry pricing and how the industry operates?

7 A Yes.

8 Q Okay. I want to start by talking about Southern Coal.
9 That's the lead defendant in this matter. Are you familiar
10 with its operations and finances, sir?

11 A I am.

12 Q All right. And you mentioned subsidiaries. I want to
13 sort of talk about how that company is structured and what you
14 mean by that.

15 MR. HOUCHENS: And Ms. Ayersman, if I may have the
16 monitor just to show a quick breakdown here.

17 It's still green.

18 It changed, but it's still green. We tested this.

19 THE CLERK: Yes.

20 MR. HOUCHENS: Well, Judge, we got here early and
21 worked on this. And now --

22 THE COURT: Well, Mr. Houchens, I appreciate you-all
23 doing that. Let's just see if we can't get this to work. The
24 Court understands that sometimes things don't work with
25 technology. It's a source of constant frustration to me, but

1 stuff happens.

2 Kristin, can you get some help?

3 THE CLERK: That's what I'm doing right now.

4 BY MR. HOUCHENS:

5 Q Mr. Ball, in a moment I'll show you an organizational
6 chart. But while we're waiting for that to work and to come
7 through, I understand that Southern Coal is sort of a parent,
8 for lack of a better term, for several other corporations.

9 A Correct.

10 Q First of all, is Southern Coal -- what type of corporation
11 is Southern Coal?

12 A It's an S Corporation.

13 Q Okay. And do you know its subsidiaries?

14 A Generally.

15 Q Okay. Can you just kind of go through those, and then
16 we'll try to get this org chart in front of the Court.

17 A Premium Coal, Incorporated; S and H Mining, Inc.; National
18 Coal, LLC. Those three entities previously conducted
19 operations in Tennessee.

20 Infinity Energy, Inc.; Four Star Resources, LLC; Sequoia
21 Energy, LLC. Those -- those entities conducted operations in
22 Kentucky.

23 Q And what was the general business of Southern Coal?

24 A Southern Coal conducted thermal coal operations used for
25 utility companies.

1 Q All right. Are there different types of coal that are
2 mined by these different entities that are defendants here
3 today?

4 A By the defendants, yes. Within Southern Coal, it was
5 exclusively a thermal coal producer. But there are other
6 defendants that produce metallurgical coal.

7 Q And can you explain the difference to the Court.

8 A Just generally speaking, metallurgical coal is used for
9 steel making, and thermal coal is used for power generation.

10 Q Okay. Has Southern Coal ever operated within the met coal
11 industry?

12 A No.

13 Q Have any of its subsidiaries ever operated within the met
14 coal industry?

15 A No.

16 Q Can you just explain to the Court sort of the history
17 going back -- let's start maybe in 2018 to present -- the
18 market conditions that relate to what we'll call steam coal?

19 A Yeah. So during that entire time period, except for one
20 brief window, the thermal coal market has been what I would
21 describe as depressed. I mean, it's certainly been lower, but
22 it's -- it's not been conducive to being able to conduct
23 operations that can make money.

24 There was a brief period shortly after the beginning of
25 the Ukrainian conflict where there were concerns over global

1 availability of thermal coal. So there was a spike in the
2 market. It lasted for, you know, six or eight months, but
3 since that time it's gone back down to what I would describe as
4 depressed levels.

5 Q Okay. And so how much -- when I say thermal and steam, I
6 use those terms interchangeably. Do you understand those to
7 mean the same thing?

8 A Yes.

9 Q Okay. And in the thermal or steam coal market, how --
10 what is the -- what is the price per ton of coal?

11 A Today if -- I mean, a good price today would be in the low
12 \$70 per ton.

13 Q Okay. And how has that fluctuated from 2018 to present,
14 just generally?

15 A It mostly has stayed around that level. Sometimes
16 slightly above that. Sometimes, you know, below it. And, you
17 know, in each isolated instance it does depend on the coal
18 quality, but that's kind of a benchmark price. And better
19 quality coal could do a little better price-wise, and lesser
20 quality coal would do worse price-wise. But then that spike I
21 talked about, you know, it was a very short window, but it --
22 you know, it went above \$200 a ton for that six- to eight-month
23 period. But other than that, it has remained what I would
24 describe as in the low 70s.

25 Q When you started your employment in the coal industry in

1 early 2000, do you recall the price of steam coal?

2 A Generally. I mean, it was like in the 30s. It was very
3 low.

4 Q Okay. So it has not gone up very much in -- during that
5 period of time.

6 MS. TAYLOR: Objection, leading.

7 THE COURT: Sustained.

8 BY MR. HOUCHENS:

9 Q So the price today is --

10 THE COURT: Why don't you ask him how he would
11 characterize the difference in price.

12 BY MR. HOUCHENS:

13 Q How would you characterize the difference in price over
14 those 20 years?

15 A For -- it's one of the reasons that thermal coal
16 operations are rare in Central Appalachia. Today, mining costs
17 in Central Appalachia are high due to thin coal seams and
18 somewhat a difficult mining conditions. And so with the price
19 not really increasing that drastically over 20 years, but costs
20 and mining conditions certainly have had a deteriorating effect
21 on the ability to efficiently produce thermal coal.

22 Q When you of talk mining costs, can you generally describe
23 those costs and then tell us how much it costs, basically, per
24 ton to get coal out of the ground?

25 A So the majority of -- there is two different types of

1 mining. There's surface mining and there's underground mining.
2 The majority of Southern Coal's operations were surface mine
3 operations, and surface mining costs are pretty much directly
4 related to the amount of overburden you have to remove to be
5 able to expose the coal seam.

6 One of the things that has made thermal coal production
7 more difficult in recent years is the thicker coal seams were
8 previously mined. They were easier to mine, you know, more
9 cost effective to mine; so historically those seams were mined
10 first, and so what's left today are thinner coal seams. When
11 you combine with the amount of overburden that has to be
12 removed to expose them, it results in expensive mining price.

13 Southern Coal's surface mining operations, the really good
14 ones, per-ton mining costs would be in the mid 80s, 85 to 87
15 dollars a ton. The less attractive mines, it's well over a
16 hundred dollars a ton. So it's a pretty tough proposition when
17 you have a \$70 coal market.

18 Q Is Southern Coal currently mining thermal coal?

19 A No.

20 Q When was the last time Southern Coal had active mining
21 operations?

22 A True mining operations were idled in the 2017 time range.
23 There have been isolated instances of incidental coal removal
24 related to reclamation jobs. We still have to conduct
25 reclamation on the existing mining permits. So it's not to say

1 there hasn't been any production since 2017, but what I would
2 call planned commercial production of coal, nothing since
3 2017.

4 Q Okay. And is that true for its subsidiaries as well?

5 A Yes.

6 Q All right. So for Sequoia Energy, which is a subsidiary,
7 does that have active mining operations?

8 A No.

9 Q Infinity Energy?

10 A No.

11 Q Four Star Resources?

12 A No.

13 Q Premium Coal?

14 A No.

15 Q S and H Mining?

16 A No.

17 Q And National Coal, LLC?

18 A No.

19 Q When was the last time that any of the subsidiaries had
20 active mining operations, planned mining operations?

21 A That would be consistent with what I said a second ago,
22 2017.

23 Q Okay. You mentioned that there is -- are reclamation
24 obligations. Can you describe those to the Court for me,
25 please.

1 A Yes. Generally, anytime you're conducting mining
2 operations, there are associated reclamation liabilities that
3 go along with that to restore the -- the land, the mined area,
4 to its premining, or close to its premining, status. And until
5 that work is done, the mining permit remains in place. And
6 while that remains in place, you have to maintain drainage;
7 sediment control with ditches and ponds and things like that.
8 You have to continue to conduct water monitoring for water
9 discharges.

10 So you have to continue to do all of that until you can
11 achieve final reclamation and a release of the permit.

12 Q Does -- has Southern Coal achieved final reclamation on
13 any of its permits?

14 A I mean, over time there certainly have been, but there
15 still remains several permits that have outstanding reclamation
16 obligations.

17 Q Are these obligations free of charge, or do you have to
18 pay someone to perform reclamation work?

19 A No, they certainly cost money. I mean, you either have to
20 figure out a way to do it yourself in-house or hire a
21 contractor to do it.

22 Q All right. Does Southern Coal Corporation have active
23 bank accounts?

24 A No.

25 Q Does Southern Coal Corporation have income streams?

1 A No.

2 Q Do its subsidiaries?

3 A No.

4 Q How is Southern Coal paying for reclamation?

5 A Affiliate companies that are in the mining industry that
6 do have active operations, essentially, loan the money on an
7 intercompany basis to Southern Coal or its subsidiaries to
8 conduct the reclamation.

9 Q Okay. In a moment I want to show you some financials, but
10 my monitor is still I think down.

11 THE CLERK: I can see your tool bar on the right
12 side.

13 MR. HOUCHENS: Okay. I can see that, too, but I
14 can't see my screen.

15 THE COURT: Do you have paper copies?

16 MR. HOUCHENS: I do, Judge. It may be more
17 burdensome. And I don't know why it's not working.

18 THE COURT: Kristin, do we have any IT people
19 helping?

20 THE CLERK: I'm getting Scott back.

21 BY MR. HOUCHENS:

22 Q While we go through that, let me just go through some of
23 the other defendants, generally, before we get there.

24 A&G Coal Corporation, is that a met or steam coal
25 operation?

1 A It's one of the few that is both.

2 Q Justice Coal of Alabama, LLC, met or steam?

3 A Metallurgical.

4 Q Is it actively mining?

5 A No.

6 Q Do you know the last time that it did conduct active
7 mining operations?

8 A Approximately 2018.

9 Q Okay. Does it have bank accounts?

10 A No.

11 Q Does it have income?

12 A No.

13 Q Let's talk about Black River Coal, LLC. Is that met or
14 steam coal?

15 A It was met coal.

16 Q Okay. Is that an active operations? Does it have active
17 operations?

18 A No, it was a single site underground mine that has been
19 reclaimed.

20 Q Does it have permits?

21 A It's a single permit, yes.

22 Q Does it have income streams?

23 A No.

24 Q Does it have bank accounts?

25 A No.

1 Q Chestnut Land Holdings, LLC, is that met or steam?

2 A It's actually a preparation plant.

3 Q And can you tell the Court what a prep plant is?

4 A It's -- sometimes coal, when it's mined, is not
5 market-ready and it requires cleaning or processing, so it goes
6 through what's generally referred to as a preparation plant to
7 process the coal to make it market-ready. And so this facility
8 does that.

9 Q Okay. Is there coal that is be washed or prepared at the
10 preparation plant as we speak?

11 A Yes.

12 Q Okay. And does the prep plant -- besides that, does
13 Chestnut Land Holdings, LLC, own any other assets?

14 A No.

15 Q Just the prep plant. Where is the prep plant located?

16 A Bishop, Virginia.

17 Q Okay. Double Bonus Coal Company?

18 A It's idled met- --

19 THE COURT: Well, does Chestnut Ridge have -- does it
20 have an income stream, or does it have bank accounts? He asked
21 about those other companies. What about Chestnut Ridge?

22 THE WITNESS: Does not have bank accounts.

23 THE COURT: Okay. Does it have an income stream?

24 THE WITNESS: No.

25 THE COURT: Well, I mean, if it's washing coal, who

1 is paying -- whose coal was it that's being washed?

2 THE WITNESS: A company called Justice Low Seam
3 Mining.

4 THE COURT: Okay, and is Justice Low Seam Mining
5 paying Chestnut Ridge to wash the coal?

6 THE WITNESS: So they do pay for all of the operating
7 costs. Chestnut -- and if I may, Judge, it's Chestnut Land.

8 THE COURT: Excuse me. I said Chestnut Ridge, and I
9 misspoke, I'm sorry.

10 THE WITNESS: No, I -- I apologize.

11 THE COURT: You're familiar with these entities, I'm
12 not. So I appreciate you helping me with that.

13 THE WITNESS: Thank you.

14 THE COURT: So you said Justice Low Seam pays the
15 operating costs?

16 THE WITNESS: So Chestnut Land owns the facility, but
17 its operating costs are paid by Justice Low Seam Mining.

18 THE COURT: Okay.

19 THE WITNESS: Justice Low Seam operates an adjacent
20 surface mine.

21 THE COURT: All right. Go ahead, Mr. Houchens.

22 Hey, look, we've got an exhibit. Thank you, Scott.

23 MR. HARLESS: I think it's come and go.

24 MR. HOUCHENS: It's coming in and out, Judge.

25 THE COURT: Well, I didn't -- that's not my fault.

1 MR. HOUCHENS: No, it is certainly not.

2 THE COURT: It's the only thing that's not my fault.

3 MR. HOUCHENS: But I don't know why it's doing that,
4 but... We'll try and hold it like that.

5 BY MR. HOUCHENS:

6 Q Well, as we're playing around with that -- and hopefully
7 this will stick here in a second and we can start looking at
8 some exhibits, but -- but I don't know if that's going to work.

9 But anyways, let's keep going. Double Bonus Coal Company.

10 A It's an idled underground metallurgical mine. It actually
11 is currently flooded. There was an incident where a well
12 drilling company drilled through the coal seam and the coal
13 seam was flooded, so the coal mine is essentially abandoned at
14 this point.

15 Q Okay. Does it have any -- does it own any other assets?

16 A No.

17 Q Does it have any other -- does it have bank accounts?

18 A No.

19 Q Does it actively mine in the flood?

20 A No.

21 Q Okay. And does it have income streams?

22 A No.

23 Q All right. May we talk about Dynamic Energy, LLC? Met or
24 steam?

25 A Previously metallurgical. Currently no operations.

1 Q Okay. And does it have bank accounts or income streams?

2 A No.

3 Q All right. Four Star Resources, LLC, that was a
4 subsidiary of Southern Coal; was it not?

5 A Correct. It was a thermal coal surface, actually
6 something referred to as a contour and high wall miner
7 operation. But it has been idled since approximately 2015.

8 Q All right. So I think you said all of Southern Coal's
9 subsidiaries don't have active income streams or mining, if I
10 remember; is that accurate?

11 A That's correct, yes.

12 Q Infinity Energy is a subsidiary. Is that my
13 understanding? Is that your understanding of Southern Coal?

14 A Correct. It's a former thermal coal surface mine.

15 Q Okay. Can you tell me about Justice Energy Company, Inc.,
16 Defendant Justice Energy Company, Inc. Met or steam, or does
17 it have bank accounts or active operations?

18 A It's a metallurgical operation, generally known as Red
19 Fox. The work force there is represented by the United Mine
20 Workers, and currently some of their employees work at -- at
21 the base of the Red Fox mine. They are screening coal that
22 goes through the Chestnut Land preparation plant that we just
23 talked about. That coal is not marketable by itself. It's old
24 refuse slag-type coal, but it can be blended in very small
25 quantities with some of the coal that goes through the

1 preparation plant.

2 Q And does that have active bank accounts or mining
3 operations?

4 A No.

5 Q Does it have any income streams?

6 A No. The employees are part of the operating cost for
7 Justice Low Seam, but the entity itself does not have any
8 production.

9 Q All right. Justice Highwall Mining, Inc., same questions.

10 A No operations, no bank accounts, no income stream.

11 Q Does it have any assets?

12 A No.

13 Q Kentucky Fuel Corporation?

14 A Kentucky Fuel Corporation is a former thermal coal
15 producer, operated several surface mines in Kentucky. They --
16 they fall in the category of being idled since, you know, that
17 2017/18 timeframe. There has been some incidental removal with
18 regard to reclamation since that time, but no large scale
19 production. No income.

20 Q Does it have assets?

21 A No.

22 Q Okay. Keystone Service Industries, Inc.

23 A It's -- it's just a -- a old preparation plant that's been
24 idled since the early 2000s located in Keystone, West Virginia.
25 That was part of the Bluestone operations.

1 Q Okay. Does it have any assets besides the prep plant?

2 A No.

3 Q Does it have any income or bank accounts?

4 A No.

5 Q M&P Services, Inc.

6 A No -- no operations, no assets. M&P Services was just a
7 services company. It provided mechanic services to the
8 different Bluestone operations, so it was never a traditional
9 coal mine operator or had any mining operations. It was more
10 of a services provider.

11 Q Okay. Nine Mile Mining Company, Inc.?

12 A No operations, no bank accounts. It operated underground
13 coal mines in the general vicinity of Wise, Virginia.

14 Q Does it still own those mines?

15 A It still has permits. The coal was leased from a land
16 company, so it -- but it still has permits in its name.

17 Q Okay. Nufac Mining Company, Inc.?

18 A It operates -- well, it's idled currently, but the K2
19 preparation plant associated with the Bluestone operations,
20 it -- it was the operator of that preparation plant, but that
21 plant is currently down.

22 Q Pay Car Mining?

23 A No current operations, no income. It's an underground
24 mine operator that's part of Bluestone.

25 Q Okay. And I believe Premium Coal Company was a subsidiary

1 of Southern Coal?

2 A Correct. It's one of the Tennessee subsidiaries. No --
3 no operations, no bank accounts.

4 Q All right. And same for S and H Mining and Sequoia
5 Energy?

6 A Correct.

7 Q And then Virginia Fuel Corporation?

8 A Former thermal coal producer in Virginia. No current
9 operations, no assets.

10 Q All right. Now we left out two, and I want to talk about
11 two companies that exist here, which are Frontier Coal Company
12 and Tams Management, Inc., okay?

13 A Okay.

14 Q And I'm just going to pause for one moment, because our
15 colleague and friend here I think has solved our issue with the
16 exhibits.

17 So okay.

18 MR. HOUCHENS: Thank you. Thank you very much. I
19 really appreciate it.

20 BY MR. HOUCHENS:

21 Q Okay. So you see what's before you, Mr. Ball.

22 A I do.

23 Q All right. And is this the organizational chart for --
24 basically for Bluestone Coal Corporation? Are these the
25 subsidiaries that we've been talking about?

1 A Southern Coal Corporation.

2 THE COURT: You said Bluestone.

3 MR. HOUCHENS: I did, Judge. I'm looking at
4 Bluestone's financials and asking questions about Southern
5 Coal.

6 BY MR. HOUCHENS:

7 Q But are these the subsidiaries of Southern Coal, or SCC?

8 A Yes.

9 Q Do any of these have active bank accounts or mining
10 operations?

11 A No.

12 Q All right. Now, sir, you're familiar with all of the
13 defendants in this case; are you not?

14 A Yes.

15 Q You've -- you're familiar with their operations,
16 everything. Which two companies are operating out of the
17 defendants listed here?

18 A Frontier Coal Company and Tams Management, Inc.

19 Q When I say operating, I mean planned operations.

20 A Yes.

21 THE COURT: When you say listed here, they are not on
22 this chart.

23 MR. HOUCHENS: I meant listed as defendants in the
24 case, Judge.

25 THE COURT: Well, do you want to make this chart an

1 exhibit just so the record is clear?

2 MR. HOUCHENS: No, I just wanted to make this just
3 for ease of reference so everybody could kind of see that these
4 defendants are directly under Southern Coal. Unless the Court
5 wants me to make it an exhibit.

6 THE COURT: I want you to make it an exhibit so I
7 understand it.

8 MR. HOUCHENS: I will, Judge. I'll tender this as an
9 exhibit.

10 THE COURT: Let's just make it Defendant's Exhibit
11 1.

12 MR. HOUCHENS: All right. Mark this as Defendant's
13 Exhibit 1.

14 THE COURT: That's the organizational chart with
15 those six blue boxes under Southern Coal.

16 Thank you, Mr. Houchens. Go ahead.

17 (Defendant's Exhibit 1 admitted)

18 BY MR. HOUCHENS:

19 Q Out of the defendants listed here before the Court today,
20 which ones have planned operations?

21 MS. TAYLOR: Objection, Your Honor. Not all of the
22 individuals listed as subsidiary corporations here are
23 defendants in this matter.

24 MR. HOUCHENS: I understand.

25 BY MR. HOUCHENS:

1 Q You are familiar with who are defendants in this case,
2 Mr. Ball?

3 A Yes.

4 Q And out of those, which companies have planned active
5 operations currently ongoing?

6 A The two that I mentioned earlier. They are not on this
7 exhibit in front of us, but Tams Management, Inc., and Frontier
8 Coal Company.

9 THE COURT: How do you spell Tams Management, Inc.?

10 THE WITNESS: T-A-M-S.

11 THE COURT: Okay. You said Tams Management, Inc.,
12 and Frontier Coal Company?

13 THE WITNESS: Yes, Your Honor.

14 THE COURT: Okay, thank you.

15 BY MR. HOUCHENS:

16 Q Mr. Ball, I want to talk about debt for a minute. I want
17 to go through some financials, and I want to come back to those
18 two companies, okay?

19 A Okay.

20 Q So I understand that these companies have some what I'll
21 call legacy creditors. Can you tell the Court who the major
22 creditors -- how they are secured and how they -- how they
23 operate with regard to the defendants before the Court today?

24 A So --

25 THE COURT: You said -- I'm sorry. Your question is

1 unclear. You said, "These companies have legacy creditors."
2 Are you referring to the defendants or are you referring to
3 Tams and Frontier?

4 MR. HOUCHENS: I'm referring to all of them, Judge.

5 THE COURT: Okay. Let's just be clear.

6 MR. HOUCHENS: Let's talk about all the defendants
7 and their legacy creditors, okay?

8 THE COURT: Thank you, Mr. Houchens.

9 MR. HOUCHENS: Thank you, Judge.

10 BY MR. HOUCHENS:

11 Q I'm not talking about the organizational chart. I'll move
12 on from that. I'm going to close that down so we're not
13 confused by it.

14 The defendants before the Court, there are -- I understand
15 there are legacy creditors there --

16 A Correct.

17 Q -- that have security interest in all assets. Can you
18 tell the Court, describe who those creditors are and tell the
19 Court how they are secured and with how much and by how much?

20 A There are two primary creditors. One, it has changed
21 names because of circumstances relating to the creditor, but
22 all of the Bluestone assets serve as collateral for a credit
23 facility that began under the name of Greensill Capital. It's
24 a London-based private equity group. Greensill Capital filed
25 bankruptcy, and ultimately Credit Suisse stepped into their

1 shoes taking over that debt. All of their security interests
2 remained in place, and then as part of the Credit Suisse
3 acquisition by UBS, today UBS is the creditor that holds all of
4 the Bluestone debt in collateral. The face value of that debt
5 was \$860 million. It's been reduced by roughly \$70 million.
6 It started in 2018. It's still in place today.

7 So all of the Bluestone Resources and subsidiaries assets
8 served as collateral for that debt.

9 Q Okay. And we'll talk about who those are in a moment. So
10 that's approximately \$800 million in a -- owed to UBS?

11 A Yes.

12 Q Rough numbers.

13 A Yes.

14 Q All right. And is there another primary, or what I'll
15 call legacy creditor?

16 A And so the other one relates to Tams Management that we've
17 talked about just a minute ago, and Justice Low Seam Mining
18 which I -- is not a defendant but I mentioned, those -- those
19 two entities are borrowers under a credit -- multiple credit
20 facilities with Carter Bank & Trust. And so all of their
21 assets serve as collateral for the Carter Bank debt.

22 Q Okay. And how much is that debt?

23 A Approximately \$300 million.

24 Q Okay. So across all of these defendants, they are in some
25 way obligated on either 800 -- approximately \$800 million in

1 debt or \$300 million in debt.

2 A There are some of the Southern Coal entities that as an
3 entity are not obligated. But as part of the Greensill/UBS
4 financing, their assets were pledged to Blackstone, or
5 transferred to Blackstone Energy, which in turn pledged those
6 assets to Credit Suisse. So while they may not be a direct
7 borrower, the assets that underpinned their prior operations
8 are pledged to UBS.

9 Q Okay. Sir, I'm going to ask you about the Bluestone --
10 you mentioned there was a Bluestone Resources constellation of
11 entities. Which ones of those are before the Court today, if
12 you know?

13 A Pay Car Mining, Frontier Coal, Double Bonus Coal Company,
14 Nufac Mining, Keystone Services, M&P Services, Justice Energy
15 Company, Justice Highwall Mining, Dynamic Energy.

16 Q And those are the companies that are obligated under the
17 approximately \$800 million debt that's owed to UBS.

18 A Yes.

19 Q I want to talk a little bit about Greensill. You
20 mentioned Greensill. Can you walk the Court through the
21 Greensill relationship?

22 THE COURT: How do you spell Greensill?

23 MR. HOUCHENS: G-R-E-E-N-S-I-L-L.

24 THE WITNESS: That's correct.

25 THE COURT: That's the way I spelled it. Excellent,

1 thank you.

2 BY MR. HOUCHENS:

3 Q Can you walk the Court through the Greensill, what I'll
4 call, meltdown and the impact that that had on the Bluestone
5 Resources Company. And start by telling us a little bit about
6 how the relationship began, what the purpose of the
7 relationship was, and walk us through that.

8 A Sure. The impact of it has been catastrophic on
9 Bluestone. But the beginning of that relationship started in
10 2018. The Justice family had reacquired Bluestone in 2015 from
11 a Russian steel company that's called Mechel OAO. And as part
12 of that reacquisition, the -- all of the Bluestone assets had
13 been idled for quite some time. They had been cannibalized.
14 And the Russian company still owed the Justice family money.
15 And so as part of that resolution of that transaction, there
16 was a reacquisition of those entities.

17 Well, those entities and operations required a tremendous
18 amount of capital to get them back into operating condition.
19 And the first couple years of that, '15, '16, '17, it was done
20 basically with the Carter Bank facility that we've talked
21 about. So for a period of time, Bluestone was also a borrower
22 with Carter Bank.

23 In 2018 Greensill Capital was introduced to Bluestone and
24 basically refinanced all of the Bluestone debt that was at
25 Carter Bank at that time. That -- that Bluestone debt was

1 cross-collateralized with Southern Coal's debt, and so that's
2 how the Southern Coal assets became also part of the Greensill
3 debt. So to -- to refinance all of that, Greensill needed, you
4 know, all of the collateral to be where they could have a first
5 lien on it.

6 So the financing grew over time. The original financing
7 was not the \$850 million. But what -- what Greensill had
8 approached the Justice family about, and Bluestone, was to
9 really grow the assets in a big way, in like a really big way,
10 multiple millions of tons a year, and then take the company
11 public through, like, an IPO or try to sell the company.

12 Well, that -- that process continued for a couple years.
13 The business was growing. You know, as with any growing or
14 trying to grow a business, sometimes it doesn't go quite as you
15 would expect. But then while the business was probably 60 to
16 70 percent of where it would need to be to do that initial
17 public offering or to try to sell it, in March of '21 Greensill
18 filed bankruptcy. And when they filed bankruptcy, it -- they
19 have all the collateral on Bluestone, including bank accounts,
20 receivables, things like that. So instantly Bluestone had no
21 liquidity and had no ability to go out and obtain new financing
22 because the assets were pledged to Greensill.

23 Their bankruptcy was international. It was in several
24 different venues. It was in Australia. There were some
25 actions filed in Germany. There were some in London, some

1 filed in New York. You know, very messy, very cumbersome.

2 That's when Bluestone started dealing with Credit Suisse.

3 Credit Suisse had no desire and would not advance any
4 additional money under the facility. So since 2021, Bluestone
5 has essentially had no ability to obtain replacement financing.
6 The assets are still pledged today. And so it's been -- from a
7 liquidity standpoint, it's been catastrophic to Bluestone.

8 Q Is Bluestone or any of its affiliated or related entities
9 able to obtain financing?

10 A No. No, they are -- there are no assets to pledge,
11 because in -- in the mining industry, as I would imagine any
12 industry, but typically there needs to be collateral to obtain
13 financing, and currently Bluestone has nothing to offer.

14 Q Thank you. I'd like to look at some financials for
15 Southern Coal that are on the screen in front of you for the
16 12-month period ending in December 31 of 2018.

17 Do you see this?

18 A Yes.

19 Q Are you familiar with these?

20 A Yes.

21 Q All right. It looks -- it looks like it lists some
22 assets. It has the total assets listed there at \$221 million.
23 Does that appear to be accurate, approximately, at the
24 bottom?

25 A Yes, that's what it says.

1 Q Okay. And then the total liabilities. Can you explain
2 this balance sheet to His Honor, to the Court?

3 A Yeah. So the substantial majority of the assets are -- so
4 that the line item that says Investments, that is Southern
5 Coal -- that's the money that Southern Coal has put into its
6 subsidiaries. So the entities that were on that chart that we
7 looked at, that's -- that's investments in those entities. So
8 it's not -- it's not like -- you know, sometimes when we see
9 investments as a line item, we think of like stock portfolio
10 and things like that. It's not that. That's the money that it
11 has put into its subsidiaries.

12 And then the other large line item you see is Related
13 Party Receivables. And that is -- when I mentioned earlier
14 sometimes an affiliate entity would advance money to one of its
15 affiliates on an intercompany basis, this is a recordation of
16 that.

17 Q Okay. So does -- so is there \$221 million in assets
18 existing in the Southern Coal as of 2018, as reflected on
19 here?

20 A I mean, those are the book values as carried. The -- I
21 guess what I'd call the fair market value of those would be
22 negligible at this point. The subsidiaries, as we sent through
23 earlier, they have no income, no assets. And so the
24 investments in the subsidiaries is, you know, de minimis at
25 this point.

1 And the related party receivables are connected to
2 entities that are in that same category. So when Southern Coal
3 was operating through its subsidiaries, it would advance money
4 to affiliates. And unfortunately, those affiliates are not in
5 a position --

6 THE COURT: Right. They can't pay it back.

7 THE WITNESS: They can't pay it back. So it's still
8 carried, but it's --

9 THE COURT: So that \$120 million is money due
10 Southern Coal from affiliates who have no money.

11 THE WITNESS: Correct.

12 THE COURT: Okay.

13 BY MR. HOUCHENS:

14 Q In 2018, was Southern Coal operational; have plant
15 operations?

16 A That would have been the very back end of the -- so the --
17 when the operations are idled, it's not as simple as turning a
18 switch, so it is over a period of time. And 2018 would have
19 been at the back end of the slowdown.

20 Q And it looks like here it has that Southern Coal has some
21 cash on hand of about \$420,000, thereabout, in cash and cash on
22 deposit. Can you explain that balance sheet, how it's
23 reflected here, to the Court, or that item on the balance
24 sheet?

25 A Yeah. So it -- at that point that would have been a

1 snapshot of the -- the Cash line item would be basically bank
2 account cash. And the cash on deposit on our financial
3 statement, sometimes it will also be listed as restricted cash,
4 but it's -- it's usually a deposit of some kind.

5 This is a small amount, so this wouldn't be that. But
6 like for a surety bond we have to post cash collateral
7 sometimes. This could be for a utility account, but so that's
8 why there's a distinction between the two.

9 Q I want to go to 2019, which is the next -- right here. We
10 see similar amounts of total cash. We see similar amounts of
11 total assets and related party receivables.

12 Fair to say?

13 A Yes.

14 Q Okay. And then we also see that there's liabilities,
15 significant liabilities on page 2. Are these liabilities, are
16 these reflective of the debts that we have been discussing or
17 are these other liabilities?

18 A These are other liabilities.

19 Q Okay. So are the -- what I'll call the legacy debts for
20 UBS or Carter Bank reflected on these balance sheets?

21 A Not on Southern Coal.

22 Q All right. Let's look at 2020. We see a similar sort of
23 picture as -- as 2019; do we not?

24 A We do.

25 Q And let's go to July of '22.

1 So in July of '22 it looks as though Southern Coal's
2 balance sheet is markedly different, especially as it relates
3 to cash.

4 A Yes.

5 Q Okay. So in the -- at the end of 2022 to the beginning --
6 or excuse me. The end of 2020 to the beginning of 2022 looks
7 to be another \$400,000 drop in cash for Southern Coal. Does
8 that appear to be accurate?

9 A It does.

10 Q And do you know or can you just explain sort of generally
11 why that occurred?

12 A No revenue at that point. And so if you notice, too,
13 below, the related party receivable had gone down some. So
14 Southern Coal by this time is not carrying any cash. And as
15 obligations come up, related party affiliates were advancing
16 them or repaying prior advances to fund those obligations.

17 Q Okay.

18 A But from this point forward, Southern Coal would not have
19 any significant cash available to it.

20 Q Okay. And then I'm going to show you 2024's -- December
21 of 2024. The balance sheet here shows, I guess, some cash of
22 about \$12,000 at the year end of last year?

23 A Correct.

24 Q And is this cash that's sitting in a bank account? I
25 thought you said Southern Coal doesn't have bank accounts.

1 A It doesn't. So I can't tell by looking at this, but it --
2 it also has not changed --

3 Q Right.

4 A -- since the prior statement we saw. So I think it
5 probably should be in the lower item. I mean, it's not -- it's
6 strange that it hasn't changed, and they do not have a bank
7 account currently. So I think that's --

8 Q So what does that lead you to believe?

9 A That that is either not available at all or it's a deposit
10 on some account.

11 Q Okay. But it's not cash that -- does Southern Coal have
12 access to the \$12,497.91 reflected on the year end balance
13 sheet?

14 A No.

15 Q Okay. I want to talk about --

16 THE COURT: Do you want to put any of these balance
17 sheets into the record?

18 MR. HOUCHENS: No.

19 THE COURT: Well, I do.

20 MR. HOUCHENS: Okay.

21 THE COURT: Because if you're asking me to be looking
22 at them and thinking about them, I want them in the record so
23 that I can have it. So do you want to mark them collectively
24 or do you want to mark them individually?

25 MR. HOUCHENS: I'll mark them collectively, Judge.

1 There are four.

2 THE COURT: Defendant's Exhibit 2 will be the four
3 balance sheets.

4 MR. HOUCHENS: There's five, Judge.

5 THE COURT: Five balance sheets.

6 MR. HOUCHENS: Five balance sheets. 12/31/2018,
7 12/31/2019, 12/31/2020, 7/31/2022, 12/21/2024.

8 THE COURT: Okay.

9 MR. HOUCHENS: Collectively as Defendant's 2.

10 THE COURT: Thank you.

11 MR. HOUCHENS: Thank you, Judge.

12 (Defendant's Exhibit 2 admitted)

13 BY MR. HOUCHENS:

14 Q The companies that are -- have active mining operations, I
15 believe you said those were Tams and Frontier.

16 A Correct.

17 Q Can you tell me when Tams began active mining operations
18 and what month?

19 A It was in the fall of 2024.

20 Q Okay.

21 A So again, like I said a second ago, it's not quite like
22 flipping a switch, but starting around October/November
23 preparations began at Tams.

24 Q All right. And does -- and does it cost money to get coal
25 mines up and running?

1 A It does.

2 Q Okay. And so did Tams have to make a significant outlay
3 of an investment to bring this mine active in the fall of
4 2024?

5 A It did.

6 Q And do you know the approximate cost?

7 A I mean, it's hundreds of thousands of dollars. I mean,
8 you have equipment transportation costs to bring the equipment
9 in, and then you have periods of time -- prior to mining all of
10 your drainage control has to be reestablished, which means
11 recertifying ditches, ponds, things of that nature. Access to
12 the mine has to be reestablished, haul road -- you know,
13 ingress and egress, for lack of a better --

14 THE COURT: Is this a strip mine or is this a surface
15 mine or is this an underground mine?

16 THE WITNESS: This is a surface mine.

17 THE COURT: Where is it located?

18 THE WITNESS: Raleigh County, West Virginia.

19 BY MR. HOUCHENS:

20 Q And how did Tams pay for those costs?

21 A Through one of the intercompany advances we've talked
22 about.

23 Q Okay. And is Tams actively mining?

24 A It's in the very beginning stages of it, but yes. I would
25 describe it as active.

1 Q Okay. And how many employees does Tams currently employ
2 in these mining operations?

3 A You know, it can fluctuate a little bit, but in the 25 to
4 30 range.

5 Q And if Tams is not mining, do those workers have
6 employment?

7 A No. Certainly not there.

8 Q Right. That's what I'm asking, okay.

9 I want to look at Tams's year-end 2024 balance sheet here.
10 It looks like that Tams has total assets of 40 million,
11 approximately \$40 million?

12 MS. TAYLOR: Excuse me, Your Honor. Is he showing
13 the witness something? We don't see it on the screen.

14 MR. HOUCHENS: Oh, I'm sorry, it didn't come through.
15 Let's try this again.

16 Thank you.

17 BY MR. HOUCHENS:

18 Q All right. This is -- I'm showing you the Tams
19 Management, Inc., balance sheet as of December 31, 2024.

20 Do you see this, Mr. Ball?

21 A I do.

22 Q It looks like it has total assets of \$40 million?

23 A Correct.

24 Q All right. Are those assets pledged to Carter Bank or
25 UBS?

1 A To Carter Bank.

2 Q And how much do you owe Carter Bank? Remind me?

3 A It's approximately 300 million.

4 Q So even if you sold them, could you use those assets to
5 pay the debt that's owed here?

6 A No.

7 Q Who would get that money?

8 A Carter Bank.

9 Q All right. It looks like that there's some cash on
10 deposit and cash on -- listed in the first section of the
11 balance sheet of \$161,721.45. Do -- do you know what the cash
12 on deposit is there, sir?

13 A It relates to the reclamation bonding associated with the
14 permit.

15 Q So did Tams have to -- to get the surface mine up and
16 running, did they have to post the bond?

17 A So there was already a significant bond posted, but to
18 activate they -- bonds are -- permits have increments. And to
19 be able to mine on the next increment, it requires additional
20 bond. So not the entire bond amount, but it does require a new
21 incremental bonding.

22 Q And the \$11,000 in cash there, would that be cash in a
23 bank account?

24 A Yes.

25 Q Are you aware of any other cash assets that Tams has

1 currently?

2 A No.

3 Q Or as of December 31, 2024?

4 A No.

5 Q Okay. All right. And then I believe Frontier Coal
6 Corporation was the other company that had --

7 THE COURT: Do you want to make Tams Exhibit 3?

8 MR. HOUCHENS: Yes, Judge.

9 THE COURT: Okay, let's do that.

10 (Defendant's Exhibit 3 admitted)

11 THE COURT: And the next one is Frontier. If you're
12 going to talk about it, let's make it Exhibit 4.

13 MR. HOUCHENS: Yes, sir.

14 (Defendant's Exhibit 4 admitted)

15 BY MR. HOUCHENS:

16 Q Frontier Coal Corporation, where are those active mining
17 and what type of mine?

18 A It's an underground mine located near Pineville and
19 Wyoming County, West Virginia.

20 Q How long -- when did it become active?

21 A Like 2021/'22.

22 Q Okay. And has Frontier been the company that's made the
23 large bulk of the payments to the government?

24 A They've certainly made many of the payments to the
25 government, yes. Off the top of my head, I don't know on a

1 percentage basis, but they've made several of the payments.

2 Q All right. And are they mining met coal?

3 A They are.

4 Q And I'm showing you this balance sheet here which will be
5 number 4. Looks like that they have no cash on deposit, but
6 they are actually running a deficit. Is Frontier Coal Company
7 making money?

8 A Not today. It -- it -- about 14 months ago it started
9 experiencing adverse geological conditions in the mine. The
10 coal seam became very thin. It required having to mine through
11 a lot of sandstone. And then as part of that, there were also
12 some situations with the roof conditions that required a change
13 in the mining plan with MSHA, and so now there are a lot of
14 enhanced safety precautions relating to the roof control. And
15 as a result, the mining is much slower. And so it's -- it's
16 not been profitable; combined with the market is far softer
17 today than it was, you know, a year and a half ago when it was
18 making a majority of the payments. But it's -- it's not making
19 money today.

20 Q Okay. And the total assets, it's \$76 million. Which
21 creditor are those pledged to?

22 A UBS.

23 Q Okay. So if Frontier liquidated all of its assets and
24 sold all of its assets, would that money be available to be
25 paid to the government?

1 A No.

2 Q If any of the defendants in this case sold their assets,
3 would they have cash to pay this debt?

4 A No.

5 Q Where would that cash go?

6 A On all of the Bluestone entities, it would go to
7 UBS/Greensill. On Tams Management, it would go to Carter Bank.
8 And on the Southern Coal entities, as we described earlier,
9 their -- their coal reserves that they had in other, like,
10 preparation plants and stuff like that, they are pledged to
11 UBS/Greensill.

12 Q All right. You've mentioned Bluestone Resources, Inc.

13 Can you tell the Court, they are part of the -- they are
14 not a party to this, but they are part of the settlement
15 agreement under paragraph -- the joint stipulation for consent
16 judgment under paragraph 9; are they not?

17 A That's my understanding, yes.

18 Q Okay. And Bluestone Coal Corporation and Bluestone
19 Resources -- I'm going to show you the balance sheet for
20 Bluestone Resources year end for 2024, and I want to focus on a
21 couple of things here. Again, this "cash on hand" column that
22 we see here, it looks like -- the \$3.3 million of that appears
23 to be cash on deposit?

24 A Yes, that's cash in a surety bond collateral account
25 that's controlled by the bonding company.

1 Q Which bonding company is that?

2 A Lexon. I think today they go by Sampo. They were
3 acquired by Sampo.

4 Q And the cash available year end there was approximately
5 \$11,000?

6 A Yes.

7 Q And then looks like there's \$555 million in book valued
8 assets on the books at BRI?

9 A Yes.

10 Q And are all of those pledged to UBS and liened, against
11 the UBS lien of 800 million?

12 A They are.

13 MR. HOUCHENS: Okay. We'll make this Exhibit 5.

14 THE COURT: Yes.

15 (Defendant's Exhibit 5 admitted)

16 BY MR. HOUCHENS:

17 Q Mr. Ball, how are these companies with this financial
18 picture making any payments at all?

19 A The -- the recent payments have been by two entities that
20 are not parties to the action, related parties, that would fall
21 in that related party receivable category we've seen on the
22 balance sheet. Beech Creek Coal Corporation, which operated a
23 surface mine in Pike County, Kentucky, it's idle today, but,
24 you know, it was still operating up until 10 or 12 months ago.
25 And so while it was operating, it was making money, or at least

1 making a little bit of money where it could assist with the
2 payments made here.

3 And then more recently, Justice Low Seam Mining, the
4 mining operation near Bishop, Virginia, it -- it has some cash
5 flow that is being used.

6 Q So these entities are borrowing money from affiliates to
7 pay this debt?

8 A Yes.

9 Q Okay. And when that occurs, that shows up as an
10 intercompany loan or intercompany receivable on the balance
11 sheet; does it not?

12 A It does.

13 Q You mentioned Beech Creek. How many employees does Beech
14 Creek have?

15 A Zero. It's idle today.

16 Q Justice Low Seam?

17 A In the 35 to 40 range.

18 Q And does Justice Low Seam have \$409,000 sitting in a bank
19 account of which to just pay this?

20 A No.

21 Q Does it have to pay its employees?

22 A It does, yes.

23 Q Do all of these entities have to service the Carter Bank
24 debt in some way?

25 A Justice Low Seam certainly does and Tams does.

1 Q Okay. Are some of the -- does Tams have \$409,000 sitting
2 in a bank account to pay this debt currently?

3 A No.

4 Q Okay. If Tams were to stop paying its employees and stop
5 paying its -- you know, and stop operations and all of those
6 things, would it have have any other assets of which to pay?

7 A No.

8 Q Do these -- do Tams and Frontier have to mine some amount
9 of coal to pay this debt?

10 A I mean, so Tams -- just to go back to something we touched
11 on earlier, the only way to perform the reclamation that we've
12 talked about is to have a mining operation that's generating
13 cash flow that allows for the reclamation to be funded.

14 Tams had been idle for several years, and there's
15 outstanding reclamation that we have been addressing through
16 abatement agreements with the West Virginia DEP. But the
17 reclamation that still remains to be done, there's no way to do
18 it without additional mining. You have to generate the
19 material, the overburden, to be able to reclaim existing high
20 wall areas. And so that's what really led to the Tams restart,
21 was the necessity to have material to reclaim prior high walls.

22 At some point Tams will hopefully be cash flow positive.
23 It's just on the very beginning of starting up, so today it
24 doesn't have any free cash flow. But, you know, hopefully in
25 the next 60 days, it's our expectation that it will start

1 producing coal and -- and should be able to generate cash
2 flow.

3 Q Okay. And you mentioned Frontier's situation where the --
4 those operations have sort of declined due to the coal seams.
5 Does Frontier Coal Corporation control the geological makeup of
6 the coal seam?

7 MS. TAYLOR: Objection, assumes facts not in
8 evidence.

9 THE COURT: Overruled. I'll allow him to testify
10 based on what he knows.

11 THE WITNESS: No. I mean, those are -- that's
12 human -- it's -- you know, the geology, I mean, you try to do
13 advanced drilling as much as you can so you don't get
14 surprises, but, you know, that mine certainly has drill holes
15 to where we could see what the coal seam looks like. But
16 things like that still happen.

17 BY MR. HOUCHENS:

18 Q In April of 2020, was -- did the -- had the Greensill
19 catastrophe happened?

20 A No.

21 Q Were these -- some of these companies receiving -- were
22 they using the credit facility operated by Greensill in April
23 of 2020?

24 A I mean, that's -- that's the very front end of COVID, and
25 COVID had a very detrimental impact on the coal industry. And

1 certainly the Greensill facility was utilized to get through
2 those months in 2020.

3 Q Okay. Did -- did these companies have any advanced notice
4 of the Greensill insolvency and bankruptcy?

5 A No.

6 Q And have they had any ability since that time to obtain
7 additional financing?

8 A Not successfully.

9 Q Okay.

10 A We have tried tirelessly, but we have not been
11 successful.

12 Q Now, in looking at this, are you generally familiar with
13 the payments that have been made to MSHA?

14 A Yeah, generally.

15 Q It looks like that there's been approximately \$4.6 million
16 paid.

17 A That sounds right to me.

18 Q It looks like that there was a payment of \$25,000 made
19 last week.

20 A Correct.

21 Q So as cash flow comes available and there's excess, are
22 these companies making payments to the government under the
23 joint stipulation for consent judgment?

24 A Yes.

25 Q Okay. Do any of these companies have \$409,000 of which to

1 pay this?

2 A No.

3 Q Do they have the ability to borrow it of which to pay
4 this?

5 A No.

6 Q Besides the two that have -- and are the active operations
7 of Frontier and Tams generating enough cash in which to pay
8 this debt immediately?

9 A No.

10 Q Did the Carter Bank and UBS -- Carter Bank and Greensill
11 debts, these legacy debts, exist before April of 2020?

12 A Yes.

13 Q And as of that time -- or since that time -- since April
14 of 2020, what have been the conditions of the coal market?
15 Have they improved or declined?

16 A I mean, as a whole they have declined. There was that
17 short period in '22 that I talked about earlier where the
18 thermal market skyrocketed. There was also a brief period in
19 '21 and '22 where the metallurgical market was really good.
20 But today it's -- it's not good. So as a whole over that
21 period of time, I would say the market has declined.

22 Q How many employees, generally, did these defendants employ
23 in 2020?

24 A I -- it's an estimate, but 200-ish.

25 Q And how many do you employ today?

1 A 75.

2 Q What's the -- what's the reason that you have had to
3 reduce the work force by more than half?

4 A It's a combination of the decline in the coal market in
5 general, and then just the general lack of liquidity within the
6 companies have -- have really prevented, you know, trying to
7 take advantage of opportunities.

8 Like when the market was -- was good in 2022, we were
9 severely hampered from trying to take advantage of those
10 opportunities just because we didn't have the cash flow to do
11 it, and we didn't have the ability or access to the -- the loan
12 markets because all of our collateral was secured by UBS. You
13 know, so it's -- it's been cash flow, lack of liquidity, and
14 the depressed coal market.

15 Q Are you current -- do you have other payment obligations
16 and arrangements with MSHA outside of this litigation?

17 A We do.

18 Q Are you current?

19 A Yes.

20 MR. HOUCHENS: All right. With a moment, Judge, may
21 I confer with --

22 THE COURT: Uh-huh.

23 MR. HOUCHENS: Ask one or two more questions, and
24 then I'll turn it over to the government.

25 BY MR. HOUCHENS:

1 Q I note on these financial statements that there are
2 significant shareholder loans that are reflected on -- on
3 these.

4 For instance, on Exhibit 5, it looks to be a shareholder
5 loan of almost \$2 million. Are you familiar with the basis of
6 those loans?

7 A Yes.

8 Q And what -- what is it?

9 A It's money that the shareholders have loaned to the
10 business.

11 Q And those individuals are the Justice family?

12 A Yes.

13 Q And it looks like for Bluestone Resources it's 1.8
14 million. For Frontier Coal, it's a negative amount. For Tams,
15 it's negative. For Southern Coal, it's 16 million. Is that
16 accurate?

17 A Yes, that's what it says.

18 MR. HOUCHENS: Sir, I don't have any further
19 questions. Please answer any questions that the government or
20 the Court may have.

21 THE COURT: All right. Any cross-examination?

22 MS. TAYLOR: Yes, Your Honor. The government expects
23 extensive cross-examination of this witness. Would it be
24 possible to take a five-minute rest room break?

25 THE COURT: Certainly.

1 MS. TAYLOR: Thank you.

2 THE COURT: We'll stand in recess until 11:15.

3 Mr. Ball, while we're in recess, since you're on the
4 stand and between direct and cross-examination, I'd ask that
5 you not have any discussions with anyone about your testimony,
6 including your counsel, okay?

7 THE WITNESS: Okay.

8 THE COURT: Thank you. We'll stand in recess for ten
9 minutes.

10 (A recess was taken at 11:03 a.m. to 11:18 a.m.)

11 THE COURT: All right. Mr. Ball, you're still under
12 oath. Any cross-examination?

13 MS. TAYLOR: Yes, Your Honor. Before we begin,
14 Mr. Houchens and I had a housekeeping matter to bring up.

15 THE COURT: All right.

16 MR. HOUCHENS: Judge, we set this -- my direct took
17 longer than I anticipated because I'm longwinded, and that's my
18 fault. But I know the Court has set this at 12:30 as a hard
19 stop.

20 THE COURT: No. I think you have a hearing with
21 Judge Ballou at 1 o'clock.

22 MR. HOUCHENS: I do, yes. When we set this, I
23 thought the Court told us we had a hard out at 12:30. I just
24 wanted to make sure that wasn't going to cause any issues.

25 THE COURT: No, no, you just need to be -- if we can

1 get done by 1 o'clock, that's fine with me.

2 MR. HOUCHENS: Yes, sir. Thank you.

3 THE COURT: Just means I can't run today, but that's
4 okay. I don't need to.

5 MS. TAYLOR: Thank you, Your Honor.

6 THE COURT: Please, not to worry. Seriously. Take
7 whatever time you need.

8 MS. TAYLOR: I appreciate that, Your Honor.

9 CROSS-EXAMINATION

10 BY MS. TAYLOR:

11 Q Good morning, Mr. Ball.

12 A Good morning.

13 Q My name is Laura Taylor. I'm an Assistant United States
14 Attorney. It's nice to meet you.

15 A Nice to meet you.

16 Q You testified earlier today that you are an executive vice
17 president and general counsel for both Southern Coal and
18 Bluestone Resources; is that correct?

19 A Yes.

20 Q Are you employed by any other Justice entity?

21 A I serve the -- those same two positions for like all of
22 Southern Coal subsidiaries that we've talked about today and
23 for all of Bluestone Resources subsidiaries that we talked
24 about today. And then the nonparties that we've referenced,
25 Justice Low Seam Mining and Beech Creek Coal Corporation, I

1 serve those same two roles for those entities as well.

2 Q Do you work in any capacity for any other Justice-owned
3 entity?

4 A Yes. There's -- they own businesses outside of coal
5 mining and farming and hospitality; and I don't necessarily
6 have the same two roles, but I generally serve as a corporate
7 secretary for those entities, and also general counsel.

8 Q Do these entities include the Greenbrier?

9 A It does.

10 Q Are you general counsel to the Greenbrier?

11 A Yes.

12 Q Are you general counsel for the Justice farming
13 operations?

14 A Yes.

15 Q In your role as executive vice president and general
16 counsel of Southern Coal and its subsidiaries, as well as
17 Bluestone Resources and its subsidiaries, what are your job
18 responsibilities?

19 A On the executive vice president side, it's more
20 operational in the sense that I generally work with our
21 engineering department on environmental matters. I work on
22 the -- with our accounting department on finance and tax
23 matters. Generally, if we have any internal HR matters, I will
24 work on those as well.

25 On the general counsel side, it's primarily contract

1 review. Although I oversee some litigation, I'm not a
2 litigator, so I don't really get involved in litigation that
3 much, other than just general oversight.

4 Q You testified on direct about Southern Coal and its
5 subsidiaries. And you also testified about Bluestone Resources
6 and its subsidiaries. But if I remember correctly, your
7 counsel only asked you about an exhibit for Southern Coal, not
8 Bluestone; is that right?

9 A That's correct.

10 Q Would you please list for the Court all of the
11 subsidiaries of Bluestone Resources.

12 A The -- so the ones that I listed earlier are all the ones
13 that are defendants in this matter.

14 Q I understand. My question is if you could please list all
15 of the Bluestone Resources subsidiaries.

16 A I'll do the best I can. Bluestone Mineral, Inc.;
17 Bluestone Industries, Inc.; Bluestone Coal Corporation;
18 Keystone Service Industries; Second Sterling Corporation;
19 Bluestone Oil Corp.; Ranger Fuel Coal Corporation.

20 Q Excuse me. Could you please repeat that last one?

21 A Ranger Fuel Coal Corporation.

22 Q Thank you.

23 A Double Bonus Coal Company, we mentioned earlier; Dynamic
24 Energy, we mentioned earlier; JCJ Coal Group, LLC; Frontier
25 Coal Company; and Pay Car Mining; Justice Energy Company,

1 Bluestone Coal Sales Corporation; James C. Justice Companies,
2 LLC; M&P Services; Bluestone Equipment Management.

3 That's all that's coming to mind.

4 Q I'd like to go through the defendants in this action and
5 have you confirm whether they are a subsidiary of either
6 Southern Coal or Bluestone, just so that the record is clear.

7 A Okay.

8 Q A&G Coal Corporation?

9 A It is not a subsidiary of either.

10 Q Not a subsidiary of either one.

11 A Correct.

12 Q Black River Coal, LLC?

13 A It is not a subsidiary of either one.

14 Q Chestnut Land Holdings, LLC?

15 A Not a subsidiary of either one.

16 Q Double Bonus Coal?

17 A Subsidiary of Bluestone Resources.

18 Q Dynamic Energy, Inc.

19 A Subsidiary of Bluestone Resources.

20 Q Four Star Resources?

21 A Subsidiary of Southern Coal.

22 Q Frontier Coal?

23 A Subsidiary of Bluestone Resources.

24 Q Infinity Coal Corporation?

25 A I think it's actually Infinity Energy, if we're -- but

1 Infinity Energy is a subsidiary of Southern Coal. I'm not
2 familiar with an entity called Infinity Coal.

3 Q Justice Coal of Alabama, LLC?

4 A Not a subsidiary of either one.

5 Q Justice Energy, Inc.?

6 A Subsidiary of Bluestone Resources.

7 Q Justice Highwall Mining?

8 A Subsidiary of Bluestone Resources.

9 Q Kentucky Fuel Corporation?

10 A Not a subsidiary of either one.

11 Q Keystone Service Industries, Inc.?

12 A Subsidiary of Bluestone Resources.

13 Q M&P Services, Inc.?

14 A Subsidiary of Bluestone Resources.

15 Q Nine Mine Mining? Oh, excuse me, I think it's supposed to
16 be Nine Mile Mining.

17 A Not a subsidiary of either one.

18 Q Nufac Mining Company?

19 A Subsidiary of Bluestone Resources.

20 Q Pay Car Mining, Inc.?

21 A Subsidiary of Bluestone Resources.

22 Q Premium Coal Company, Inc.?

23 A Subsidiary of Southern Coal.

24 Q S and H Mining, Inc.?

25 A Subsidiary of Southern Coal.

1 Q Sequoia Energy, Inc.?

2 A Subsidiary of Southern Coal.

3 Q Tams Management, Inc.?

4 A Not a subsidiary of either one.

5 Q Virginia Fuel Corporation?

6 A Not a subsidiary of either one.

7 Q By my count, I think that was eight of the 23 defendant
8 companies are not subsidiaries of either Southern Coal or
9 Bluestone, and I'd like to go back through those, please, and
10 ask you some questions.

11 With respect to A&G Coal Corporation, are they a
12 subsidiary of anyone?

13 A No.

14 Q Are they a parent company of anyone?

15 A Yes.

16 Q Of who?

17 A There's three or four entities. One is Airway Resources;
18 one is Maglin Land Company; Nine Mile Mining that you mentioned
19 is actually a subsidiary of A&G; Baden Reclamation. That's all
20 I can think of.

21 Q Do Airway Resource, Maglin --

22 A I think it's "Meg" like short for Megan. I don't know,
23 M-E-G -- it's M-E-G hyphen L-Y-N-N.

24 Q Yes, sir, thank you.

25 Airway Resource, Meg-Lynn, and Baden Reclamation, do they

1 keep their own sets of books?

2 A Definitely no on Airway and Meg-Lynn. When Baden was
3 operating, it did keep a separate set of books.

4 Q Where were the financials for Airway Resource and Meg-Lynn
5 recorded?

6 A Those two entities only held permits. They didn't
7 actually conduct operations, so there were no -- there were
8 no -- there's no income, no assets, nothing like that.

9 Q Are permits considered an asset?

10 A They can be.

11 Q Were the permits of Airway Resources and Meg-Lynn
12 considered assets?

13 A I mean, not -- not in a balance sheet sense, but, I mean,
14 I -- would somebody pay something for them, it just depends.
15 Not -- not today due to reclamation associated with them, but,
16 you know, at different times, possibly.

17 Q The asset value of the permits for A&G Coal Corporation
18 subsidiaries were not reflected on A&G Coal Corporation's
19 balance sheet?

20 A There's not a separate line item for the permit itself.

21 Q So those are unrecorded assets of the subsidiary
22 corporations.

23 A But today they are liabilities.

24 Q At the time they were unrecorded assets of the
25 subsidiaries.

1 A At what time?

2 Q At the time that they were an asset. At the time the
3 permit had --

4 A I mean, I guess the only way I know how to answer that is
5 the permits themselves are not reflected as a separate asset or
6 liability on the balance sheet.

7 Q Black River Coal, you also said, was not a subsidiary of
8 either Bluestone or Southern Coal. Is it a subsidiary of
9 something else?

10 A Yes, Justice Low Seam Mining.

11 Q Justice Low Seam Mining is the parent company of defendant
12 company Black River Coal?

13 A Yes, and Chestnut Land Company when you come to it.

14 Q Do either Black River or Chestnut have any other parent
15 corporations?

16 A No.

17 Q Do they have -- do either Black River or Chestnut have
18 subsidiaries?

19 A No.

20 Q I'll come back to Justice Low Seam Mining in a little bit.
21 Let's move on to --

22 THE COURT: Do you have a organizational chart which
23 would indicate for each of the defendants who owns the -- those
24 entities or whether those entities own other subsidiaries? I
25 mean, does your company have such an organizational chart?

1 THE WITNESS: Not a single chart, but I -- like the
2 chart that Mr. Houchens introduced for Southern Coal, there
3 typically would be a chart like that for each parent company.

4 THE COURT: Okay. All right.

5 THE WITNESS: But not on a single --

6 THE COURT: Not on a single piece of paper, but there
7 would be one like there was for Southern Coal that we saw,
8 which was Exhibit 1.

9 THE WITNESS: Correct.

10 THE COURT: Okay. Fair enough, thank you.

11 BY MS. TAYLOR:

12 Q For Justice Coal of Alabama, LLC, does it have a parent?

13 A No.

14 Q Does it have any other subsidiaries?

15 A No.

16 Q Kentucky Fuel Corporation, does it have a parent?

17 A No.

18 Q Does it have any subsidiaries?

19 A Yes, one. Greenthorn, LLC.

20 Q What does that do?

21 A It holds a mining permit in Logan County, West Virginia.

22 Q Does Greenthorn keep its own financial statements?

23 A No, it's part of Kentucky Fuel's financial statements.

24 Q Would Kentucky Fuel Corporation's balance sheet reflect
25 the permit as an asset?

1 A No.

2 Q Nine Mile Mining, Inc., I think you previously said, was a
3 subsidiary of A&G Coal Corporation; is that right?

4 A Correct.

5 Q And does it have any additional subsidiaries of its own?

6 A No.

7 Q And no other parent companies --

8 A No.

9 Q -- I assume, okay.

10 Tams Management, Inc., you also said, was not a subsidiary
11 of either Bluestone or Southern Coal. Does it have a parent
12 corporation?

13 A No.

14 Q Does it have any subsidiaries?

15 A One. Caldwell Trailblazer, LLC.

16 Q What does that company do?

17 A It -- it's a property or land holding company. It holds
18 coal reserves.

19 Q Does it have its own financial statements?

20 A No, it's part of Tams Management's financial statements.

21 Q Does Caldwell Trailblazer have any assets?

22 A Just the land that I just described.

23 Q How much is that land worth?

24 A I'm not aware of an appraisal on it. It's part of the
25 collateral that's pledged to Carter Bank for the Tams debt to

1 Carter Bank, but I don't know a current value.

2 Q What did Caldwell Trailblazer, LLC, purchase it for?

3 A I don't know.

4 Q It's your testimony, however, that the value of that land
5 is reflected on Tams Management's balance sheet?

6 A Yes.

7 Q As what type of assets?

8 A Mineral reserves.

9 Q Virginia Fuel Corporation, does it have a parent company?

10 A No.

11 Q Does it have any subsidiaries?

12 A No.

13 Q You also previously mentioned a Beech Creek entity. Is
14 that a standalone entity?

15 A It is.

16 Q When was Beech Creek formed?

17 A I believe 2015.

18 Q When was Justice Low Seam Mining formed?

19 A I think 2010.

20 Q Does Beech Creek have any subsidiaries? You said it was a
21 standalone entity. I just wanted to make sure.

22 A No subsidiaries.

23 Q Okay. For all of the defendant companies, who is
24 responsible for preparing the balance sheets?

25 A Today there's only two accountants. One is Will Morisset,

1 and the other one is John Precker. But predominantly Will
2 Morisset would be responsible for that.

3 Q Are you an accountant?

4 A No.

5 Q Do you have any formal degree in accounting?

6 A No.

7 Q Did you personally prepare any of the balance sheets for
8 any of the defendant companies?

9 A No.

10 Q Have you reviewed the balance sheets for the defendant
11 companies at issue here today?

12 A Yes.

13 Q Who prepared those specific balance sheets?

14 A I believe Will Morisset.

15 Q Do you know whether or not the balance sheets comply with
16 generally accepted accounting principles?

17 A I do not.

18 Q Were the balance sheets for the defendant companies
19 prepared for the purpose of this hearing today?

20 A They were not prepared, per se, for the purpose of today's
21 hearing, but they were generated, in the sense that they are --
22 it's part of an accounting software. And so it -- Will
23 generated -- asked the software to generate those reports for
24 today.

25 Q So you -- sorry, go ahead.

1 A I was going to say, we do not maintain like paper copy
2 financial statements. Just to make an example, there wasn't a
3 binder on a bookshelf we could go grab those. So when
4 Mr. Houchens asked us to produce them, Will generated them from
5 our accounting system.

6 Q To make sure I understand, the balance sheets didn't
7 previously exist, just the underlying data?

8 A I think that's fair.

9 Q Did you play any role in generating the balance sheets?

10 A No.

11 Q I asked you those questions for the defendant companies.
12 Are your answers any different for Bluestone Resources?

13 A Answers will be the same.

14 Q Okay. I'm trying to streamline some of this, so please
15 bear with me when I group my questions together.

16 For the 23 defendant companies, do they all have the same
17 shareholders?

18 A No.

19 Q Are the shareholders of the companies anyone other than
20 United States Senator Jim Justice, Mr. Jay Justice, and
21 Mrs. Justice?

22 A For all of the companies, it's some combination of those
23 three, but it's not the same for all of the companies.

24 Q Who are the shareholders of Southern Coal?

25 A Those three individuals.

1 Q Who are the shareholders of Bluestone Resources?

2 A James C. Justice II and James C. Justice III.

3 Q Who are the shareholders of Justice Low Seam Mining?

4 A All three of them.

5 Q Who are the shareholders of Beech Creek?

6 A James C. Justice III.

7 Q Alone?

8 A Alone.

9 Q Who are the shareholders of Tams Management?

10 A James C. Justice IV and Jill Justice.

11 Q And who are the shareholders of Virginia Fuel Corp?

12 A All three of them.

13 Q Have the balance sheets that were produced for purposes of
14 today's hearing been audited?

15 A No.

16 Q Were you aware back in 2020 that the defendant companies
17 entered into a settlement agreement with the United States to
18 pay approximately \$5.1 million pursuant to a court-ordered
19 settlement?

20 A Yes.

21 Q Were you part of those negotiations?

22 A Not the negotiations, no.

23 Q Were you aware that the debt of these companies, which I'm
24 going to collectively refer to for the sake of ease for the
25 rest of this morning as the Justice companies, were they --

1 that the debt was to be paid in full by March of 2024?

2 A Yes.

3 Q Were you aware that the debt was to be paid in monthly
4 installments of \$102,442?

5 A I'm -- I'm going to take your word on the dollar amount,
6 but I do know it was due in monthly installments of
7 approximately a hundred thousand dollars, but I -- I don't have
8 a recollection of the specific amount.

9 Q Back in 2020 when the settlement was reached, what was
10 your understanding of who was going to pay those monthly
11 installments?

12 A I think it was primarily going to come from the Bluestone
13 group of companies.

14 Q Why did you believe Bluestone would have sufficient
15 liquidity to pay the debt?

16 A Because at that time Bluestone had multiple operating
17 mines. There was no reason to believe that the continued
18 growth with the use of the Greensill facility would not
19 continue progressing like it had. So there was a reasonable
20 expectation that Bluestone would be in a position to do that.

21 THE COURT: Hold on a second. Go ahead.

22 BY MS. TAYLOR:

23 Q I believe you testified on direct examination that
24 Bluestone was indebted approximately \$800 million starting in
25 2018; is that right?

1 A Not the entire amount.

2 Q In 2018, how much was Bluestone Resources indebted?

3 A The initial facility was for \$60 million, and then there
4 were several additions to it throughout up until through 2020
5 that resulted in the 850 million.

6 Q Okay. By April of 2020, how much was Bluestone
7 indebted?

8 A I don't know the exact number off the top of my head, but
9 it would have been -- I mean, it would have been a significant
10 portion of the 850.

11 Q So at the time that the Justice companies entered into the
12 settlement agreement with the United States, it knew that
13 Bluestone Resources was indebted a significant portion of \$800
14 million.

15 A Yes.

16 Q And nonetheless, believed that Bluestone Resources was
17 going to be able to pay the monthly installments.

18 A Yes.

19 Q Was the \$800 million collateralized by Bluestone's assets
20 at that time?

21 A Yes.

22 Q Do you have any proof of the collateralization here today
23 in court?

24 A Not with me, no.

25 Q Was there a contract drawn up?

1 A Yes.

2 Q Does the bank have any right over the income stream of
3 Bluestone Resources?

4 A Yes.

5 Q And that's part of the collateral that has been pledged to
6 the creditor?

7 A It is.

8 Q So when you signed the settlement agreement with the
9 United States, the Justice companies knew that the income
10 stream from Bluestone Resources had been pledged to the
11 creditor to whom Bluestone owed almost \$800 million.

12 A Yes.

13 Q And yet, you, nonetheless, believed you'd be able to make
14 the monthly payments.

15 A Yes. At that time we believed the operations of Bluestone
16 would be sufficient to not only service the debt, but also pay
17 additional obligations such as this one. And typically, the
18 way security agreements work on things like that, is it's --
19 it's more of a springing right that comes into play if you're
20 in default under the loan. So while you're performing on the
21 loan, which we did all the way up through 2021, we made all of
22 our debt payments to Greensill. They -- they did not attach
23 the receivables or the cash flow while you were in good
24 standing.

25 Again, let me make sure that I understand that. So

1 you're saying that, so long as you were current on your debt to
2 the \$800 million creditor, then the cash flow was not pledged
3 to the creditor.

4 A They have a right, but that right comes into existence
5 upon a default. So the security agreement was already in
6 place, and they have things called deposit account control
7 agreements over your bank accounts that give them the right, if
8 certain events happen, that they can attach your cash in the
9 bank accounts or your receivables that come into those bank
10 accounts. But it's -- it's what I refer to as a springing
11 right. It springs into play once you are in default.

12 Q When did Bluestone become in default of its debt service
13 obligations?

14 A It did not prior to Greensill filing bankruptcy.

15 Q Which was when?

16 A April of -- or I'm sorry, March of 2021.

17 Q Okay. So let me ask the question again: When did
18 Bluestone Resources become in default on its debt service
19 obligations?

20 A So never under the credit facility prior to Greensill
21 filing bankruptcy. Coming out of bankruptcy -- coming out of
22 the Greensill bankruptcy, when they stopped providing funds
23 under the facility, Bluestone entered into a standstill
24 agreement with Credit Suisse where, essentially, it was a
25 forbearance agreement that restated the terms of the loan, kept

1 all of the security and collateral in place, and Bluestone --
2 that was entered into in May of '22, and Bluestone fully
3 performed on that up until November of 2023.

4 Q Then what happened?

5 A It stopped being able to make the payments. That would be
6 the first time it became in default under the credit
7 facility.

8 Q Is Bluestone Resources currently in default on the debt?

9 A Yes.

10 Q Has the creditor elected to restrict any of Bluestone
11 Resources assets?

12 A Yes.

13 Q Which ones?

14 A All of them.

15 Q How have they done that?

16 A They have a -- they've maintained their deed of trust on
17 all of the real property for the whole time. This goes to when
18 I talked about our inability to get other credit facilities or
19 loans. They will not release any of the collateral for
20 Bluestone to use to obtain a loan, so they -- they exercised
21 all of their control over the real property under the deeds of
22 trust. And then under the security agreements they still have
23 their deposit account control agreements in place, and they
24 exercise their control over the bank accounts through those.

25 Q Do you have here in court any of those contracts?

1 A No.

2 Q So for purposes of today, we're just taking your word for
3 it what the terms of the contract are with the creditor?

4 A I mean, they are all public record. The deeds of trust
5 are recorded in, I mean, several -- Wyoming County, McDowell
6 County, West Virginia; Raleigh County, West Virginia; Knott,
7 Magoffin, Floyd County, Kentucky; Anderson, Scott, Campbell
8 Counties, Tennessee.

9 Q For purposes of any restrictions on Bluestone Resources'
10 cash flow, is that memorialized or recorded anywhere?

11 A Yes. That would be in the UCC statement that they filed
12 online.

13 Q That Bluestone Resources filed.

14 A That Credit Suisse/UBS filed.

15 Q Okay.

16 A I think they filed it in the State of Delaware and the
17 State of West Virginia.

18 Q So the Justice companies have owed the federal government
19 over \$5 million since 2020. On which of the Justice Companies'
20 balance sheets was that liability listed?

21 A I think the majority of the note is on Bluestone
22 Resources' balance sheet. I vaguely recall discussing an
23 allocation at some point, but I believe we put the majority of
24 it on Bluestone's balance sheet given that they were going to
25 be making the payments.

1 Q Where is the balance of the liability posted?

2 A Off the top of my head, I don't know. I mean, it may all
3 have ended up on Bluestone's balance sheet, but I just don't
4 recall.

5 Q So even though 23 defendant companies are jointly and
6 severally liable, it's your testimony that only one company
7 booked the liability on its balance sheet.

8 A For internal purposes, because that's -- that's where
9 trying to match up the payments with the debt. So when
10 Bluestone Resources was making the payments as it did early on,
11 there was a counteracting loan balance account that those
12 payments could be offset against.

13 Q But the answer is yes. Even though all 23 companies are
14 jointly and severally liable for the debt, the debt was only
15 booked on one company's balance sheet.

16 A As I said, it's possible there's a small amount on other
17 balance sheets. I just can't recall off the top of my head. I
18 think the vast majority of it is on Bluestone Resources'
19 balance sheet.

20 Q Whose responsibility was it for making the monthly
21 payments?

22 A I -- can you ask me that again?

23 Q Whose responsibility was it to make the monthly payments
24 owed to the government pursuant to the settlement at issue in
25 this case?

1 A We had intended for Bluestone Resources to make the
2 payments.

3 Q What individual employee was responsible for sending the
4 money each month?

5 A I mean, physically sending the money would have been
6 Summer Harrison.

7 Q What's her title?

8 A Vice President of Treasury.

9 Q Did anyone other than Ms. Harrison initiate the wire
10 transfers for the monthly payments?

11 A It would be very rare if they did. I mean, it's -- it's
12 possible, like, if she were on vacation or something, but she
13 would -- she would do the substantial majority of that.

14 Q Did Ms. Harrison need anyone's approval to send the
15 monthly payment?

16 A Yes.

17 Q Whose approval did she need?

18 A Jay Justice.

19 Q Mr. Jay Justice is the CEO of Southern Coal, correct?

20 A Correct.

21 Q And if I remember correctly, he's a shareholder and owner
22 of both Southern Coal and Bluestone?

23 A Correct.

24 Q He is also, if I remember correctly, the sole shareholder
25 of Justice Low Seam Mining?

1 A No, sole shareholder of Beech Creek.

2 Q Thank you. And he's a joint owner of Justice Low Seam
3 Mining.

4 A Correct.

5 Q Thank you. Does Mr. Jay Justice handle the day-to-day
6 operations of Southern Coal?

7 A I mean, there certainly are a lot of people that have to
8 do things out in the field, but he -- he ultimately runs
9 Southern Coal, yes.

10 Q Was Ms. Harrison ever permitted to transfer money to the
11 federal government without Mr. Justice's approval?

12 A No.

13 Q Were there months where Mr. Justice did not give approval
14 to send the money to the federal government?

15 A I mean, there have been months that we have missed
16 payments, but it's been due to lack of liquidity, lack of
17 funds, not a -- not a desire to not pay the government.

18 Q Were there months where Mr. Justice did not give
19 Ms. Harrison approval to send money to the federal government,
20 even though there was liquidity to do so?

21 A Not that I am aware of.

22 Q If we wanted to know the answer to that question, would we
23 need to speak with Ms. Harrison?

24 A I guess so, yes.

25 Q How did the defendant companies keep track of their

1 debts?

2 A On the balance sheets?

3 Q Is that the answer or a question?

4 A That was my answer.

5 Q Oh, okay. I thought I understood you to testify
6 previously that the balance sheets don't exist until they are
7 generated.

8 A The accounting software.

9 Q What is the name of the accounting software?

10 A MAS.

11 Q M-A-S-S?

12 A I think it's just M-A-S.

13 Q And that's a system that keeps track of each company's
14 debts?

15 A Keeps track of all the accounting entries for that
16 company.

17 Q Is there a master spreadsheet that Ms. Harrison maintains
18 that keeps track of the company's debts?

19 A Not that I am aware of.

20 Q Does Ms. Harrison keep a master spreadsheet of any kind
21 that you are aware of?

22 A No.

23 Q How is it documented for the defendant companies which
24 creditor has to get paid first if there's not enough money to
25 service all debt?

1 A I mean, there's just daily conversations about what --
2 what obligations are due. Unfortunately, because there is not
3 enough cash to pay all of them, you have to prioritize. Things
4 like payroll, obviously, go very high on the list, but it's
5 a -- it's a daily conversation.

6 Q Who has that conversation?

7 A It would primarily be between Ms. Harrison and Jay
8 Justice.

9 Q Is anybody else involved in making the decision as to
10 which creditor gets paid?

11 A Ultimately, Mr. Justice would make that call.

12 Q And just for the sake of the record because there are
13 multiple people involved with the same last name, are you
14 referring to Senator Justice?

15 A No.

16 Q You're referring to Mr. Justice III?

17 A Yes.

18 Q Okay. And we'll just try to differentiate as we go so
19 that the record is clear.

20 A Okay.

21 Q It may help, actually: How do you refer to Mr. Jay
22 Justice casually at the office?

23 A Jay.

24 Q How do you refer to his father?

25 A I hate to say it, but Jim.

1 Q Well, I feel a little uncomfortable calling him Jim, so
2 I'm going to stick with Senator Justice, and when I say
3 Mr. Justice I'm referring to his son.

4 A I agree.

5 Q Okay. Is there something documented on the company's
6 books that explains which creditor gets paid first?

7 A No.

8 Q So it's just an internal discussion with Mr. Justice
9 making the ultimate decision.

10 A Yes.

11 Q You've mentioned before on direct examination intercompany
12 transactions. Is there a difference between an intercompany
13 transaction and a related party transaction?

14 A Yes.

15 Q Can you explain the difference, please.

16 A Typically, intercompany transactions are between two
17 entities that are part of the same group. So like two Southern
18 Coal subsidiaries would be intercompany. Southern Coal to a
19 subsidiary could be intercompany. And then a Southern Coal
20 entity and a Bluestone entity would be a related party
21 transaction.

22 They -- to be totally transparent, though, those two get
23 confused in recording sometimes, but that is the intended
24 distinction.

25 Q If I were to look at a balance sheet, and we're going to

1 look at some here in just a second, where it says "related
2 party receivable," would that sometimes include intercompany
3 transactions?

4 A It's very possible, yes.

5 Q Okay. And same for related party payables?

6 A Yes.

7 Q Okay. I think you spoke to this briefly on direct
8 examination, but just so I understand, what happened when one
9 of the Justice companies owes a debt that it cannot pay?

10 A Just so I'm clear, are you speaking to like a third party
11 or like an intercompany?

12 Q To a third party. In other words, does one Justice
13 company ever pay the debts of another Justice company?

14 A It happens, yes. I mean, it -- it can happen one of two
15 ways: Either through an intercompany transaction to the entity
16 that actually owes the debt, and then that entity will take
17 those advanced funds and make the payment; or in some
18 instances, like we have had in this situation, where Beech
19 Creek has made payments directly on behalf of the defendants,
20 even though it's not a party.

21 Q And so sometimes parents will pay debts for its
22 subsidiaries?

23 A Yes.

24 Q And sometimes subsidiaries pay debts of other
25 subsidiaries.

1 A Depending on availability of cash, yes.

2 Q Is it accurate to say that, essentially, the Justice
3 companies will get one big bucket of cash and figure out how to
4 pay its collective debts from that bucket?

5 A I -- I don't think that's a fair characterization.

6 Q Are there parts of the Justice Coal companies where the
7 cash flow is not used to pay the debts of other coal
8 companies?

9 A So with the credit facilities that we talked about
10 earlier, there are certain loan covenants that restrict what
11 the borrowers on those credit facilities can do. So like Tams
12 Management, for example, has a set of loan covenants with
13 Carter Bank that restricts what its cash can be used for as it
14 relates to third parties. The Bluestone entities have similar
15 covenants and restrictions as it relates to their Credit
16 Suisse/UBS documents. So they have -- they have those
17 limitations that they -- they have to deal with even when they
18 possibly would have cash available.

19 Q Does Mr. Justice make the decision of when a parent
20 company should pay the debts of its subsidiaries?

21 A I mean, even when that happens, it's still done through
22 the intercompany transactions we're talking about. So -- so
23 even if a decision is made for a parent company to do that,
24 it's recorded on the books as an intercompany transaction. And
25 if that subsidiary is ever in a position to repay it, it

1 does.

2 Q I understand, and I was just wanting to confirm that it's
3 Mr. Justice who makes that decision?

4 A Yes.

5 Q Do I understand correctly that your intercompany
6 transactions, these transactions from related parties, are kept
7 on a net basis on the balance sheet?

8 A I think that's fair, yes.

9 Q And just make sure we're saying the same thing. What I
10 mean by net basis on the balance sheet is that, if a company
11 were to both give money and receive money within the same year,
12 that the balance sheet is only going to reflect the net
13 position at year end.

14 A Correct.

15 Q So a company could move money in and out of itself all
16 year long, but it would not show on the balance sheet, right?

17 A I don't understand the question.

18 Q A company could move money in and out of the company
19 throughout the year, but only the final net position at the end
20 of the year would show on the balance sheet, right?

21 A As of the 12/31 balance sheet? Just so I'm
22 understanding.

23 Q Yes, of the 12/31.

24 A Yes, that would be a snapshot as of 12/31.

25 Q I am going to hand you Government Exhibit 4.

1 MS. TAYLOR: And with permission, Your Honor, I'm
2 going to go out of numerical order and start with number 4
3 because they are prelabeled.

4 THE COURT: Sure.

5 MS. TAYLOR: Thank you. Permission to approach, Your
6 Honor?

7 THE COURT: Sure.

8 BY MS. TAYLOR:

9 Q Here you go, Mr. Ball.

10 A Thank you.

11 MS. TAYLOR: And one for the Court as well.

12 THE COURT: Thank you.

13 MS. TAYLOR: Aaron, I have one for you.

14 MR. HOUCHENS: Are these the payments?

15 MS. TAYLOR: Yes.

16 MR. HOUCHENS: I have a copy. Ms. Frith provided it
17 to me yesterday.

18 MS. TAYLOR: Okay, thank you. I understand these
19 have been stipulated to by Mr. Houchens.

20 MR. HOUCHENS: That's correct, Judge.

21 (Government Exhibits 3 and 4 admitted)

22 BY MS. TAYLOR:

23 Q Mr. Ball, this is a lengthy exhibit. It is a compilation
24 exhibit documenting all of the wire confirmations that the
25 Justice companies have made to date, and they are separated by

1 tabs with letters on them.

2 Do you see that?

3 A I do.

4 Q Okay. I'm just going to use a few as an example, and then
5 I have some questions to ask of you later. If you could look
6 at, for example, Exhibit 4, Tab DDD. The very back of your
7 binder.

8 A Okay.

9 Q Do you see that this is a wire transaction to make a
10 monthly payment to the federal government, and the bank account
11 sending the money is from Bluestone Resources?

12 A Yes, I see that.

13 Q What was the date of this payment?

14 A It looks like April 1, 2020.

15 Q Is it accurate to say that Bluestone made many payments in
16 this case to the federal government?

17 A Yes, I think that's fair.

18 Q Do you recall how many?

19 A Not specifically.

20 Q Do you recall the total?

21 A No.

22 Q If I represent to you that in this exhibit, for the sake
23 of time, Bluestone made approximately 20 payments to the
24 federal government totaling \$2.2 million, does that sound about
25 right to you, or would you like me to go through each one?

1 A No, I think that number sounds fair.

2 Q And for the sake of the record, I will represent that
3 Exhibits 4DDD, 4CCC, 4BBB, 4AAA, 4ZZ, 4YY, 4XX, 4WW, 4BB, 4UU,
4 4TT, 4SS, 4RR, 4OO, 4NN, 4MM, 4LL, 4KK, 4JJ, and 4FF, document
5 the payments that Bluestone Resources has made to the
6 government from 2002 through -- excuse me, from 2020 to 2022.

7 Now if you could turn to Exhibit 4, tab QQ. This is
8 another monthly payment to the government. It's dated April
9 15, 2021. Can you tell which bank account made this payment,
10 or which company?

11 A Blackstone Energy.

12 Q Is Blackstone Energy a defendant company?

13 A No.

14 Q Blackstone Energy is not a subsidiary of Southern Coal,
15 right?

16 A No.

17 Q And it's not a subsidiary of Bluestone Resources, right?

18 A It was up until May of 2022.

19 Q Okay. So at the time this payment was made, it was a
20 subsidiary of Bluestone Resources?

21 A Yes.

22 Q Would Mr. Justice have made the decision for Bluestone and
23 its subsidiaries to make these debt payments?

24 A Yes.

25 Q This wire transfer states that the money came from an

1 account at BB&T bank. Does that bank account still exist?

2 A I don't know. We -- we do not use BB&T regularly, but I
3 don't know if that account has been closed or not.

4 Q What is the balance of that bank account, do you know?

5 A I do not.

6 Q If you could turn to Exhibit 4, Tab OO. You'll see this
7 is a June 25, 2021, payment. And if I could direct your
8 attention to the originator of the payment, if you could share
9 for the record, what company made this payment?

10 A Bluestone Resources, Inc.

11 Q And do you see here that instead of a BB&T bank account
12 the money came from a PNC bank account?

13 A I do.

14 Q Does that bank account still exist today?

15 A Yes.

16 Q What is the balance of that bank account today?

17 A I don't know.

18 Q If you could please turn to Tab 4EE.

19 You'll see this is a May 3, 2022, payment. Which Justice
20 company made this payment?

21 A Frontier Coal Company.

22 Q And you'll see that Frontier Coal made the payment from a
23 PNC bank account as well. Do you know whether that bank
24 account still exists?

25 A It does, yes.

1 Q Do you know what the balance of that account is?

2 A I don't.

3 Q And if you could please turn to Tab 4G, single G.

4 This is a very relatively recent payment from about a year
5 ago of April 2, 2024. Which Justice company made this
6 payment?

7 A Justice Low Seam Mining.

8 Q A nondefendant company?

9 A Correct.

10 Q Just to confirm, Justice Low Seam Mining is the parent of
11 two of the defendant companies. Black River and Chestnut Land
12 Holdings?

13 A Correct.

14 Q And the payment came from a PNC bank account?

15 A It did.

16 Q Does that bank account still exist?

17 A Yes.

18 Q How much money is in that bank account today?

19 A I don't know.

20 Q If you could turn to Tab 4E, please.

21 This is a September 23, 2024, payment. What Justice
22 company made this payment?

23 A Beech Creek Coal Corporation.

24 Q And if you look up, you'll see that the account that wired
25 the money on behalf of Beech Creek is again a PNC bank

1 account?

2 A Correct.

3 Q Do you know whether or not that account still exists?

4 A It does.

5 Q Do you know how much money is in that account?

6 A I don't.

7 Q If you could turn to Tab 4A, the very first part of your
8 exhibit.

9 This is the most recent payment made to the United States
10 Government. It was made on February 19, 2025. It also came
11 from Beech Creek, and also, again, came from a PNC bank
12 account. Do you know if this is the same bank account that
13 made the prior payment we just looked at?

14 A I believe it is, yes.

15 Q So this is the account for which you don't know what the
16 balance is.

17 A Correct.

18 Q Do multiple different of the Justice companies use the
19 same bank account?

20 A No, not the same account.

21 Q All right. We've talked about as, sort of, exemplars
22 payments coming from six different bank accounts. I think we
23 looked at examples for Bluestone Resources, at BB&T, Blackstone
24 Energy at BB&T, Bluestone Resources at PNC, Frontier Coal at
25 PNC, Justice Low Seam Mining at PNC, and Beech Creek Coal Corp.

1 at PNC. How was it decided which of the bank accounts would
2 make each of these payments?

3 A It typically is driven by availability of cash flow.

4 Q The last two payments to the United States have been for
5 only \$25,000, not the required monthly amount. Who made the
6 decision to pay \$25,000?

7 A I mean, I think that's what we have proposed that we can
8 pay on a monthly basis based on what's available.

9 Q Who made that decision?

10 A I mean, I think it was originally made back in September,
11 and we -- maybe even a little earlier, but I think around
12 September of 2024 in conversations with counsel, myself,
13 Mr. Justice, that was our best expectation of what we could
14 reasonably do for the foreseeable future.

15 Q How did you determine to pay \$25,000 versus any other
16 amount?

17 A That's what we originally set at our target, what we
18 thought we could reasonably do. And so as we've been able to
19 do that, that's why we've relied on that dollar amount.

20 Q Did you do any research or make any proposals based on
21 financial statements to Mr. Justice?

22 A No.

23 Q All right. I'm going to now show you Government's Exhibit
24 3.

25 A Thank you.

1 Q Mr. Ball, this is Government's Exhibit 3. It has separate
2 tabs to reflect Exhibits 3A through 3X, and I will represent to
3 you that these are the balance sheets that were produced by the
4 Justice companies in advance of this hearing today. And you
5 will see that on the front page is a list of the balance sheets
6 and, in some cases, income statements for the companies listed.
7 I'm going to ask you questions about these balance sheets in
8 particular.

9 Before I do, in preparation for today's hearing, we
10 requested that the balance sheets for all defendant companies
11 be produced. But as you will see in your exhibit, there are
12 some that are empty.

13 We'll start with the ones for which no financials were
14 produced. We'll, start with Chestnut Land Holdings, which you
15 will see is listed as Tab C of Exhibit 3. Do you know why no
16 balance sheet or financial statements were produced for
17 Chestnut Land Holdings?

18 A Chestnut Land Holdings doesn't have stand-alone
19 financials. It's part of Justice Low Seam Mining's
20 financials.

21 Q Do you know why Justice Low Seam Mining's financial were
22 not produced to the government?

23 A It's not a defendant in this matter.

24 Q But if I understand you correctly, that Chestnut Land
25 Holdings assets are rolled up into Justice Low Steam

1 mining's?

2 A Yes.

3 Q Next --

4 THE COURT: Well, if that's the case, why didn't you
5 produce those? I mean, if -- if they asked for the financials
6 for the defendant companies, and one of the defendant companies
7 has its financials rolled into another company, but doesn't
8 have separate financials, why didn't you produce those?

9 THE WITNESS: I don't -- I'd have to defer to counsel
10 on that.

11 THE COURT: All right. Well, I mean, you're the
12 general counsel. Did you weigh in on that?

13 THE WITNESS: I did not.

14 THE COURT: All right. Well, we'll see how that
15 shakes out.

16 BY MS. TAYLOR:

17 Q Tab F has a placeholder for Four Star Resources. Do you
18 know why financial statements for that company were not
19 produced?

20 A They are part of the Sequoia Energy financials.

21 Q Which were produced. Just so the record is clear, those
22 were produced.

23 And Tab R, Premium Coal Company, Inc. Why were no
24 financial statements produced for that company?

25 A I don't know.

1 Q And Tab S is S and H Mining, Inc. Why were no financial
2 statements produced for that company?

3 A I don't know.

4 Q And then Lastly, Tab H, Infinity Energy Corporation, why
5 were --

6 THE COURT: Well, who at the company was tasked with
7 pulling together the financial statements that were requested
8 by the government?

9 THE WITNESS: I don't know. Mr. Houchens did not do
10 that through me, so I don't know.

11 THE COURT: Okay. Thank you.

12 BY MS. TAYLOR:

13 Q Why were the financial statements for Infinity Energy
14 Corporation not produced?

15 A I don't know.

16 Q For the Justice companies for which balance sheets were
17 produced, did you review each one of them?

18 A Yes.

19 Q Are each of the balance sheets that were produced to the
20 government true and accurate?

21 A To the best of my knowledge.

22 Q What did you do to confirm their accuracy?

23 A There was no -- nothing independent.

24 Q Do any of the Justice companies keep a separate set of
25 financial statements other than those produced to the Court

1 today in this litigation?

2 A No.

3 Q Do any of the Justice companies have a balance sheet
4 different than the one produced for this contempt hearing?

5 A No.

6 Q Do these balance sheets for the Justice companies reflect
7 all of the cash owned by these companies as of December 31,
8 2024?

9 A I -- I would expect that they do, yes.

10 Q Are you aware of any of the defendant companies having any
11 cash today, other than what is listed on the 12/31/24 balance
12 sheet?

13 A I don't know.

14 Q Okay.

15 A I mean, I would imagine it's different given that it's 50
16 days later, but I don't know specifically.

17 Q I'd like to start by asking some questions about Chestnut
18 Land Holdings, which is one of the companies for which there
19 are no financial statements. I think you testified on direct
20 that Justice Low Seam Mining pays the costs of Chestnut Land
21 Holdings; is that correct?

22 A Justice Low Seam actually operates the preparation plant,
23 and so it covers all the operating costs.

24 Q And does it -- does Justice Low Seam Mining also then keep
25 all of the income stream from Chestnut Land Holdings?

1 A Chestnut Land Holdings has no income stream. It's Justice
2 Low Seam's coal that is mined at an adjacent surface mine, and
3 it processes the coal through the preparation plant.

4 Q And it doesn't pay Chestnut Land Holdings for that
5 service?

6 A No.

7 Q So Justice Low Seam Mining is just getting it for free
8 because they own the subsidiary?

9 A Well, no, I mean, they are paying all of the operating
10 costs of the facility.

11 Q Okay. So they pay for it to operate, and then they get
12 the product that they are paying for.

13 A Yeah, I mean, well, they cover all the costs associated
14 with it. Like so security, utilities, property taxes, they --
15 they cover all of those.

16 Q Roughly, what are the monthly expenses for Chestnut Land
17 Holdings to operate?

18 A Again, Chestnut Land Holdings doesn't do anything.

19 Q Well, how much does it cost Justice Land Seam Mining to
20 operate Chestnut Land Holdings?

21 A It operates the preparation plant, which is 100 percent
22 dependent on how much coal goes through.

23 THE COURT: Well, I think what she wants to know is
24 what is Justice -- what are the operating costs of the prep
25 plant at Chestnut Land Holdings, if you know?

1 THE WITNESS: Well, and it totally depends on how
2 much coal goes through.

3 THE COURT: Okay. Well, do you know recently what it
4 was?

5 THE WITNESS: So, I mean, it -- it can vary, and,
6 obviously, this number comes down on a per-ton basis the higher
7 the volume goes. But roughly \$30 per raw ton that's processed
8 through the plant. And I think recently it's been processing
9 anywhere from 10 to 15,000 tons a month.

10 THE COURT: Okay. So can you do the math for that?

11 THE WITNESS: So it's somewhere between 3 to 450,000
12 dollars a month.

13 THE COURT: A month, okay.

14 THE WITNESS: A month.

15 THE COURT: Okay, thank you for that estimate. And
16 understanding that's an estimate.

17 THE WITNESS: It's an estimate.

18 THE COURT: I understand.

19 BY MS. TAYLOR:

20 Q Do you know how much cash Justice Land Seam Mining has
21 right now?

22 A I don't know.

23 Q Does it have enough to pay its bills?

24 A I mean, it is operating at a -- at a -- it's making money
25 today, but not -- it's not making a lot of money. It is

1 similar to Tams Management in the sense that its operations
2 just restarted last fall as well, but it's a couple months
3 ahead of where Tams is. But I don't know -- I don't know the
4 exact dollar amount.

5 Q I think you testified on direct that Justice Low Seam
6 Mining also pays the operational costs of Justice Energy; is
7 that right?

8 A There are some Justice Energy employees that are screening
9 coal that goes to the preparation plant we're just talking
10 about. And it -- on a contract labor basis, it pays for those
11 labor costs.

12 Q What are the monthly costs that Justice Low Seam Mining is
13 paying for that in dollars?

14 A I don't know the exact amount, but it's -- it's like a
15 half dozen employees.

16 Q You can ballpark an estimate.

17 A \$20,000 a month.

18 Q Okay. Do you know what the shareholder's equity is in
19 Justice Low Seam Mining?

20 A I don't.

21 Q Do you know what the net assets of are Justice Low Seam
22 Mining?

23 A I don't.

24 Q Do you know what the current balance is for the Justice
25 Low Seam Mining bank account?

1 A No.

2 Q I think you mentioned that Tams Management had gotten up
3 and running just this past fall; is that right?

4 A Yes.

5 Q What does Tams Management do again?

6 A It operates a surface mine in Raleigh County, West
7 Virginia.

8 Q Were there startup costs?

9 A Yes.

10 Q Who paid for the startup costs?

11 A The best I can recall, it was a combination of
12 intercompany advances from Justice Low Seam and Beech Creek.

13 Q How much money did Justice Low Seam give to Tams
14 Management this past fall?

15 A I don't know the exact amount.

16 Q Can you ballpark it, please?

17 A Can I look at the Tams income statement?

18 Q Yes. If you turn to Tab V, you will see the 2024 balance
19 sheet and income statement.

20 A So I think it would have been roughly \$700,000.

21 Just so you know, I think the majority of that would be
22 the equipment mobilization cost, and then -- actually, my math
23 was off a little bit. It's closer to a million. And then the
24 maintenance and repair that is basically the year-to-date
25 number minus the maintenance and repair for December. I think

1 those would all be startup costs.

2 Q So I'm just looking at the income statement now for Tams
3 Management, which is Government's Exhibit Tab 3V. And I just
4 want to make sure I'm following what you're looking at. I'm
5 looking in the year-to-date column. On the income statement I
6 see a line item for Maintenance and Repair of 1.1 million. Is
7 that what you are referring to?

8 A Yes, but I think a lot of the December number may have
9 been for actual operations. So I -- in my head I was backing
10 some of that out.

11 Q Okay.

12 A Because I was focused on true startup costs.

13 Q Okay. Do you believe that that \$1.1 million in the
14 Maintenance and Repair line for year-to-date 2024 was paid by
15 Justice Low Seam Mining to Tams Management?

16 A I don't know the exact percentage, but I think it was a
17 combination of Justice Low Seam and Beech Creek.

18 Q Okay. And was there another line item on Tams Management
19 income statement that you believe was funded by either Beech
20 Creek or Justice Low Seam Mining?

21 A The Equipment Mobilization Cost --

22 Q Okay.

23 A -- that would be a startup cost.

24 Q And that's \$262,988?

25 A Yes.

1 Q Do you know whether Justice Low Seam Mining or Beech Creek
2 paid for that?

3 A I don't. I believe it would be a combination of the two,
4 but I don't know the specific allocation between them.

5 Q Do you know whether Low Seam Mining paid Tams Management
6 in a lump sum payment or in monthly payments over the course of
7 2024?

8 A I don't think there would have been a monthly payment, per
9 se. I think it would have been in instances where Justice Low
10 Seam had cash available and Tams had a need for cash, they
11 would have made an intercompany advance, but I don't think it
12 would have been a scheduled monthly payment or -- I don't
13 really know how to think about a lump sum payment, because, I
14 mean, I think there were various installments made.

15 Q Do you know who made the decision to have Justice Low Seam
16 Mining give that money to Tams Management?

17 A I mean, it would have followed the same procedure we
18 talked about earlier where Jay Justice would have made the
19 decision.

20 Q Do you know why Mr. Justice made the decision to have
21 Justice Low Seam Mining pay for Tams Management's upstart costs
22 rather than paying the government debt?

23 A I don't know.

24 Q If Justice Low Seam Mining had paid the government debt
25 for its subsidiaries, Black River Coal and Chestnut Land

1 Holdings, would that be reflected in the balance sheet?

2 A It would show up on the intercompany --

3 Q Transaction?

4 A -- line item.

5 Q Okay. So for Tams Management, when I look at the
6 long-term liabilities on the balance sheet, there is a line
7 item for Related Party Payables. It says it's \$45 million.

8 Do you see that?

9 A I lost my spot. What tab is it?

10 Q V as in violet.

11 A That's correct.

12 Q Would the money that Mr. Justice authorized Justice Low
13 Seam to pay Tams Management in 2024 be reflected in that
14 Related Party Payable line?

15 A Yes, it should be.

16 Q So this is money that Tams now owes back to Justice Low
17 Seam Mining, correct?

18 A Correct.

19 Q Sitting here today, can you ballpark how much cash Justice
20 Low Seam Mining has in its bank accounts?

21 A I can't.

22 Q Justice Low Seam made some of the government's monthly
23 payments, correct?

24 A Yes.

25 Q Do you know how many monthly payments Justice Low Seam

1 Mining made to the government?

2 A Not off the top of my head.

3 Q Do you know if Justice Low Seam Mining made payments to
4 the government in 2024?

5 A Not -- I don't know the dates off the top of my head.

6 Q Okay. Well, I will -- I can direct you to the first
7 exhibit, Exhibit 4, but I will represent for the record and the
8 sake of time that on April 2, 2024, Justice Low Seam Mining
9 made a \$25,000 payment; on July 11, 2024, Justice Low Seam
10 Mining made a \$10,000 payment; and on January 13, 2025, Justice
11 Low Seam Mining made a \$25,000 payment.

12 Do you have any reason to disagree with any of that?

13 A I don't.

14 Q I'd like you to, please, turn to Tab B of Exhibit 3, which
15 is financial statements produced for Black River.

16 Just to reorient, Black River is a subsidiary of Justice
17 Low Seam Mining, right?

18 A Yes.

19 Q If I look at the first line on the balance sheet, it is --
20 that's filled in, it's a line for fixed assets. And
21 specifically, there's a line item for Depreciation and
22 Amortization. Do you see that?

23 A I do.

24 Q And do you see how that number is a negative? In
25 parentheses, it's negative \$331,900?

1 A Yes.

2 Q What is that depreciation on?

3 A I can't tell by looking at this. I mean, typically, there
4 would be a fixed asset line above it and the two numbers would
5 offset. But I haven't seen it on a single line item like this
6 by itself, so I don't know.

7 Q Do we agree that there are -- it's nothing listed under
8 fixed assets other than depreciation?

9 A Yes, that's what it says.

10 Q And do you agree that depreciation of an asset would need
11 to be an asset that's listed on the balance sheet?

12 A I do.

13 Q So does this appear to be inaccurate to you?

14 A Yes. I -- I -- I have not seen a depreciation -- I guess
15 it could be amortization. So if it's amortization, it's -- it
16 wouldn't be depreciation, but I -- I have not seen it as a
17 single line item like this before.

18 Q And even if it's amortization, it should be an
19 amortization of an asset, right?

20 A Of something above it, yes.

21 Q Right, okay. So we don't know what the assets are of
22 Black River that the accounting department is either
23 depreciating or amortizing.

24 A I can't tell from this, no.

25 Q If you go a little bit further down the balance sheet, you

1 see there's a line item for Note Receivable. I assume "NR"
2 stands for note receivable; is that correct?

3 A Yes.

4 Q And it say Bandy Coal, LLC?

5 A Yes.

6 Q What is Bandy Coal, LLC?

7 A I'm not familiar with that.

8 Q Okay. What is a note receivable?

9 A When a third-party owes you money.

10 Q So Bandy Coal, LLC, owed Black River \$244,000,
11 approximately?

12 A That's what this says, yes.

13 Q Do you know whether Black River Coal made any efforts to
14 collect the \$244,000 it was owed in 2024?

15 A I don't know.

16 Q If you look at the income statement now, you'll see that
17 there is an entry, says a cost of revenue of \$221,000 for
18 maintenance and repair. What was Black River maintaining and
19 repairing if it had no fixed assets?

20 A The only thing that has gone on at Black River is
21 reclamation of the mine face-up, and so the -- it would have
22 been some costs associated with that. But I'm -- I'm not sure
23 what it's maintenance and repair of.

24 Q There's also a line item Income Statement for Royalty
25 Expense. What does that mean?

1 A Typically, that's the payment of a royalty to a lessor,
2 like -- and it's not uncommon in the mining industry that a
3 land company owns the coal and you enter into a coal lease
4 where you pay them a royalty on a per-ton basis.

5 Q Is the -- is the royalty itself an asset?

6 A No, it would be -- it would be a liability.

7 Q It's something you're paying.

8 A It's something -- yes, it's something that you as the
9 operator are paying.

10 Q Can you show me where on the balance sheet it's included
11 as a liability?

12 A You're -- you only incur it as you mine. So it -- there's
13 no prestated amount, so you only incur it as you mine.

14 Q Okay. I -- okay, I understand.

15 Okay. I would like you to please turn to Tab Exhibit 3E,
16 which is Dynamic Energy.

17 It looks here on the balance sheet that Dynamic Energy has
18 total assets of \$411.6 million. Do you see that?

19 A Yes.

20 Q And if I understand correctly, \$275.7 million of those
21 assets are mineral rights; is that right?

22 A And reserves, yes.

23 Q Excuse me, mineral rights and reserves. Yes, thank you.

24 And \$135.78 million are in related party receivables,
25 right?

1 A Yes.

2 Q Do you know whether any efforts were made by Dynamic
3 Energy to collect on the \$135.7 million in receivables owed to
4 them in 2024?

5 A So these are all either intercompany or related party, and
6 it comes down to whether or not those other parties have any
7 money or not.

8 Q I'm just wondering whether or not any efforts were made to
9 collect that \$135.78 million in 2024. Was any assessment done,
10 evaluation, negotiations, anything like that?

11 A I mean, it would be the same person on each side of the
12 negotiation or what other phrases you used, so I -- I mean,
13 there would be a general understanding already as to whether
14 that party had any -- had any money or not to pay.

15 Q And do you know whether or not there was any evaluation of
16 whether any party that owed money to Dynamic Energy could pay
17 it in 2024?

18 A Yeah, I mean, it -- that's the daily process we talk about
19 when figuring out what money is owed, what money is available.
20 I mean, so that goes on every day.

21 Q I understand that every day the Justice companies are
22 looking to see what moneys are owed and which companies can pay
23 it. That's what you're saying, right?

24 A Seeing if there's any cash available, yes.

25 Q From one of the other companies.

1 A Yes.

2 Q And what I'm asking is: In 2024 when the debt was owed to
3 the federal government, did Dynamic Energy go and look to see
4 whether any other Justice company could help pay its debt?

5 A Just like -- it would have been the same evaluation for
6 all the defendants.

7 Q It's just a yes-or-no on Dynamic Energy. Did you-all do
8 it?

9 A Yes.

10 Q And what was your determination?

11 A There was no money available to make the payments.

12 Q So it's your representation today that there was no
13 Justice company that could help pay Dynamic Energy's debt.

14 A No. That's why we proposed the reduced amount starting in
15 September, because that's -- that's what we reasonably thought
16 we could do.

17 Q I want to make sure my record is clear. When I say any
18 Justice company, I don't just mean the defendant companies. I
19 mean any of these companies for which you're engaging
20 intercompany transactions.

21 A I don't know how to answer that.

22 Q Okay. I'll rephrase my question.

23 At any point in 2024, did Dynamic Energy determine whether
24 there was any Justice-owned company, whether a defendant or
25 not, that could pay Dynamic Energy's debt to the government?

1 A Same answer as before. There was no -- no money available
2 to do that.

3 Q From any Justice-owned company.

4 A From the ones I'm familiar with.

5 Q Okay. That includes all your farming companies, the
6 Greenbrier, Beech Creek, Justice Low Seam Mining. Your
7 testimony today is that none of those companies could pay
8 Dynamic Energy's debt to the federal government that's at issue
9 in this litigation.

10 A I'm not familiar with the -- that's why I was trying to
11 get you to make sure I understood your question. I'm not
12 familiar with the finances of the Greenbrier. I don't have a
13 similar operational role at the Greenbrier.

14 The farming operations do not have any cash. So I -- I
15 know that. There was no cash available from the farming
16 operations to contribute to the payments.

17 But I'm not familiar with the finances, for lack of a
18 better description, of any of the hospitality business.

19 Q Even though you're the general counsel for them?

20 A Yeah, I don't get involved in the finances.

21 Q Do you go to board meetings?

22 A No.

23 Q Okay. How about Justice Low Seam Mining? Did you do an
24 assessment as to whether Justice Low Seam Mining could pay
25 Dynamic Energy's debt to the federal government in 2024?

1 A I -- I don't know for sure if -- if it's the same
2 question, if Justice Low Seam owes Dynamic Energy money. So
3 I -- I can't tell that from looking at this. But it would be
4 the same analysis that we just talked about.

5 Q I'm not trying to be difficult. I'm just trying to
6 understand whether or not Justice Low Seam Mining, who was
7 giving lots of money to Tams and lots of money to pay the
8 operational costs of its subsidiaries, whether or not you
9 looked to see whether Justice Low Seam Mining could pay Dynamic
10 Energy's debt to the United States Government.

11 A Not specifically. Like I said, I'm not -- I don't know
12 off the top of my head if Justice Low Seam owes money to
13 Dynamic Energy.

14 Q But even if they didn't owe money to Dynamic Energy, my
15 understanding is you look at the Justice companies and see who
16 can help pay each other's debts. So I'm just asking -- I guess
17 I should ask it more globally. At any point did you consider
18 whether Justice Low Seam Mining could pay off the balance of
19 the debt owed to the federal government?

20 A Yes. It could not pay the balance, but it has made
21 several of the monthly payments.

22 Q Is it your testimony today that at no point during 2024
23 could Justice Low Seam Mining pay the balance of the debt to
24 the United States Government, even though it was paying a
25 million dollars, roughly, to start up Tams Management?

1 A I think within the constraints of their covenants with
2 Carter Bank & Trust, I think that's accurate.

3 What I don't want you to do is look at a -- you know, look
4 at a bank statement and say, oh, on this date they had X
5 dollars. But those dollars are still subject to their loan
6 covenants of which they are a co-borrower with Tams
7 Management.

8 Q Carter Bank is a co-borrower?

9 A Tams Management and Justice Low Seam are co-borrowers on
10 the same facility with Carter Bank.

11 Q Okay. And that's your guess based on what you think the
12 covenants are?

13 A It's not a guess. I -- I mean, Justice Low Seam and Tams
14 Management can do -- they can advance money to each other
15 because they are both borrowers on the Carter Bank credit
16 facility. But when you start dealing with intercompany
17 transactions with entities that are not borrowers under the
18 Carter Bank facility, those covenants are different.

19 Q The covenants allow Justice Low Seam Mining, though, to
20 pay three payments to the federal government in 2024 and 2025,
21 right?

22 A Yes, they -- they had enough excess cash in those months
23 to make the payments.

24 Q I just want to make sure we're crystal clear. It's your
25 sworn testimony today that Justice Low Seam Mining did not have

1 sufficient cash to make any more payments to the federal
2 government than the three it made.

3 A Yes.

4 Q Turn to Exhibit 1G, Frontier Coal.

5 All right. We'll start with the balance sheet of Frontier
6 Coal for the period ending 12/31/2024. It says that Frontier
7 Coal has a negative amount of cash. What does that mean? It
8 says in parentheses, negative \$14,320.

9 A Typically when that happens there's some type of
10 garnishment has come in on the account, and until that is
11 flushed out it shows as a negative.

12 Q Who was garnishing Frontier Coal cash?

13 A I -- I mean, I -- I can't say, specifically. I'm just
14 saying that's generally when you see a negative on cash, that's
15 what's happened.

16 Q Okay. You'll see that Frontier had related party
17 receivables of over \$70 million. These are receivables that
18 other Justice companies owe Frontier Coal Company; is that
19 right?

20 A Yes.

21 Q Do you know which Justice companies owed Frontier Coal
22 \$70.3 million?

23 A I don't.

24 Q Do you know whether or not any evaluation was undertaken
25 to determine whether or not any of that could be collected in

1 2024 to pay the government's debt?

2 A It's the same answer as we went through on Dynamic
3 Energy.

4 Q Which is what?

5 A Just what you and I went through. I mean, like that's
6 what goes on every day.

7 Q I hear you saying that you have general conversations
8 every day about whether Justice companies can pay other Justice
9 companies debts, right?

10 A Right.

11 Q And what I'm asking is: Did you, knowing that the Justice
12 companies owed the federal government money, determine whether
13 or not another Justice company could help pay that debt given
14 the party receivable on this balance sheet?

15 A And like you said earlier, you're not trying to be
16 difficult. I'm not, either, but I don't know how else to
17 answer that. Like if -- was there a -- like was there a
18 stand-alone evaluation on the receivables of Frontier Coal
19 Company, I'm not aware of, like, a specific meeting that took
20 place to solely discuss the receivables of Frontier Coal
21 Company.

22 I'm just saying like if Frontier Coal Company had an
23 obligation -- and obviously, this obligation to the government
24 is something that we're well aware of. I mean, it's why we've
25 been making -- even though they are smaller payments, it's why

1 we've been making the payments when we could each month. So
2 there would be an understanding that there's a debt owed to the
3 government, and -- and then we just go through and figure out
4 what cash is available.

5 I mean, like I said earlier, obviously things like
6 payroll, you know, there wouldn't be any cash available without
7 mining operations, so payroll obviously takes precedent.
8 Benefits for the employees, things like that. So they always
9 go to the top of the list.

10 Q Who determines what takes precedent?

11 A Jay Justice, as we've discussed.

12 Q Do you know whether or not any of the related party
13 receivables are moneys owed by the Greenbrier?

14 A I don't know.

15 Q Do you know whether or not related party receivables are
16 any moneys owed by the shareholders?

17 A It would be on the loan -- Shareholder Loan line item that
18 Mr. Houchens brought up earlier. If there are any other
19 shareholder loans, they would be reflected on the balance
20 sheet.

21 Q And I'm talking about loans that the shareholders are
22 making both to and from. They would be reflected on different
23 places on the balance sheet, right?

24 Like a loan to the shareholder would be an asset. A loan
25 from a shareholder would be a liability.

1 A Yes. I'm not aware of the companies making loans to the
2 shareholders, but I think in theory I agree with what you
3 said.

4 Q You're not aware of any of the Justice companies making
5 loans to the shareholders?

6 A I'm aware of loans getting repaid, but I'm not aware of
7 the company making a loan to the shareholder.

8 Q Okay. Well, let's turn to the liabilities then for
9 Frontier Coal, and then we can look at the liability for loan
10 shareholders and note payable.

11 You'll see there both the Loan Shareholder line and the
12 Note Payable line are in parentheses. That connotes a negative
13 amount, right?

14 A Yes.

15 Q So if a shareholder had made a loan to Frontier Coal that
16 it had to pay back, then that would be a positive amount,
17 correct?

18 A Yes.

19 Q But this is a negative amount, which means that the
20 shareholder actually owes money back to Frontier Coal, right?

21 A I -- I don't agree that that would be the case, because
22 the Justices have put hundreds of millions of dollars in the
23 companies. But I agree with how you're describing this balance
24 sheet.

25 Q This balance sheet reflects for the Loan Shareholder line

1 that the shareholders have \$392,000 that they need to pay back
2 to Frontier Coal, correct?

3 A I agree that's what this says.

4 Q Okay.

5 A I --

6 Q Do you know whether or not Frontier Coal made any effort
7 to collect the \$392,000 that its shareholders, including
8 Mr. Justice, owe the company?

9 A No, because I think the Bluestone Resources companies as a
10 whole owe a tremendous amount of money to the Justices.

11 Q But here Frontier, which is a defendant in our case, had
12 \$392,000 that it could collect from a shareholder, Mr. Justice;
13 and you're saying nobody made any effort to go get that from
14 Mr. Justice.

15 A I'm saying that's not how we look at it.

16 Q Okay.

17 A I mean, we look at the Bluestone Resources group of
18 companies actually owe money in the form of a shareholder loan
19 to the Justices.

20 Q Similarly, under the Loan Shareholders line, there's a
21 line for Notes Payable, which is also in parentheses in the
22 amount of \$300,000. Do you see that?

23 A Yes.

24 Q Do you know who the owner of the note is?

25 A I can't tell from this. I mean, I -- yeah, I can't tell

1 from this.

2 Q Do you know whether it's one of the shareholders?

3 A It should not be. If it were one of the shareholders, it
4 should be in the line item above.

5 Q Okay.

6 A But I can't tell for sure from this.

7 Q And so the negative \$300,000 under Note Payable reflects
8 \$300,000 that some individual owes Frontier, correct?

9 A Or entity.

10 Q Okay, excuse me. An individual or entity owes Frontier
11 \$300,000, yes?

12 A I mean, that's the way I read that, yes.

13 Q Okay. And do you know whether Frontier tried to collect
14 that \$300,000 from the entity who owed it to them?

15 A No, I can't tell from this what that \$300,000 is.

16 Q Do you agree that Frontier has a total stockholders equity
17 of positive \$73.3 million?

18 A Yes.

19 Q Stockholders equity is commonly referred to as a company's
20 book value, right?

21 A I think so, yes.

22 Q All right. If we could turn now to Exhibit J.

23 THE COURT: All right. Counsel approach.

24 (Conference between Court and Counsel off the
25 record.)

1 THE COURT: Okay. I've conferred with -- back on the
2 record.

3 I've conferred with my colleague, Judge Ballou, who
4 is waiting upstairs in his chambers with about six people on
5 Zoom for a hearing with Mr. Houchens, and what I'd like to do,
6 then, is take a break at this proceeding right now, okay, and
7 we'll reconvene at -- what did I say, 9 o'clock Friday morning,
8 okay?

9 And if something happens in the meantime that causes
10 us not to be here at 9 o'clock Friday morning, just let me
11 know, okay? But 9 o'clock Friday morning right here.

12 Now, if one of the lawyers came down from D.C. and
13 would like to appear at that hearing by Zoom instead of being
14 here in person, I leave that to you.

15 MR. GROVER: I appreciate it, Your Honor, but I'll be
16 here.

17 THE COURT: Okay. I would allow it.

18 MR. GROVER: I appreciate the Court's courtesy, but
19 I'll be here.

20 THE COURT: And I would like to do it tomorrow, but I
21 can't because I have a jury trial in Abingdon that might hold
22 over until Thursday. I just don't know, right? So I do know
23 I've got Friday morning available. I'd rather do it Thursday,
24 but I just don't know if that case is going to be -- do
25 you-all have -- and are you going back to D.C. or are you going

1 to stay here?

2 MR. GROVER: I will probably go back to D.C., but I
3 don't mind driving, sir. It's part of my job.

4 THE COURT: Well, I don't -- okay. We know we have
5 time Friday morning. Let's do it Friday morning, okay? Friday
6 morning, 9 o'clock.

7 So we're going to stop cross right now, okay? So I
8 have to tell you -- thank you, Mr. Ball. I have to tell you
9 that between now and Friday morning you may not discuss your
10 testimony -- your testimony -- with anyone, all right?

11 THE WITNESS: Okay.

12 THE COURT: That doesn't mean you can't talk to
13 counsel, but you can't discuss your testimony with anyone
14 because you're right in the middle of cross-examination, okay?

15 THE WITNESS: Okay.

16 THE COURT: Understood, Mr. Houchens?

17 MR. HOUCHENS: Yes, sir.

18 THE COURT: Okay. We'll stand in recess until Friday
19 morning at 9 o'clock. Thank you all.

20 (A recess was taken at 1:06 p.m.)

21 **CERTIFICATE**

22 I, Mary J. Butenschoen, certify that the foregoing
23 is a correct transcript from the record of proceedings in the
24 above-entitled matter.

25 /S/ Mary J. Butenschoen, RPR, CRR

5/30/2025