

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

IN RE:)	
)	
MISSISSIPPI PHOSPHATES)	CASE NO. 14-51667-KMS
CORPORATION, <i>et al.</i> ¹)	Chapter 11
)	
Debtors)	Jointly Administered
)	

NOTICE

NOTICE IS HEREBY GIVEN that the Debtor herein has filed its *Motion for Authority to Settle and Compromise a Disputed Claim* (the "Motion") [DK #1838], a copy of which is attached hereto as Exhibit "A".

PLEASE TAKE FURTHER NOTICE that all creditors and parties-in-interest wishing to object to the Application must file a written objection or other responsive pleading within twenty-one (21) days from and after the date of this Notice, with the Clerk of the Court, Mr. Danny L. Miller, the Clerk of the U. S. Bankruptcy Court, Southern District of Mississippi, 2012 15th Street, Suite 244, Gulfport, MS 39501, and a copy of any objection must be served upon Craig M. Geno, Esq., Law Offices of Craig M. Geno, PLLC, counsel for the Debtor, at 587 Highland Colony Parkway, Ridgeland, MS 39157. In the event an objection to this Application is filed, it will be scheduled for hearing in due course.

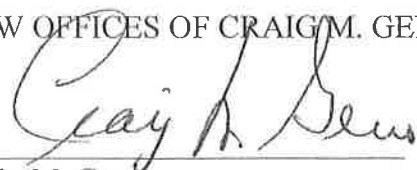
DATED, this the 20th day of January, 2017.

Respectfully submitted,

MISSISSIPPI PHOSPHATES CORPORATION, *et al*

By Its Attorneys,

LAW OFFICES OF CRAIG M. GENO, PLLC



Craig M. Geno

¹ The chapter 11 cases of the following affiliated Debtors have been administratively consolidated for joint administration pursuant to that certain Order Granting Motion of the Debtor for Order Direction Joint Administration of Affiliated Cases Pursuant to Bankruptcy Rule 1015(b), dated October 29, 2014 [Dkt. #62]: Mississippi Phosphates Corporation, Case No. 14-51667, Ammonia Tank Subsidiary, Inc., Case No. 14-51668 and Sulfuric Acid Tanks Subsidiary, Inc., Case No. 14-51671. These chapter 11 cases are sometimes referred to herein as the "Bankruptcy Cases."

OF COUNSEL:

Craig M. Geno; MSB No. 4793
Jarret P. Nichols; MSB No. 99426
LAW OFFICES OF CRAIG M. GENO, PLLC
587 Highland Colony Parkway
Ridgeland, MS 39157
601-427-0048 - Telephone
601-427-0050 - Facsimile
cmgeno@cmgenolaw.com
jnichols@cmgenolaw.com

N:\Firm Data\Users\Bankrupt\Miss. Phosphate Corp (14-51667)\Pleadings\Notice - Mot for Auth to Settle 1-24-17.wpd

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

Preliminary Statement

IN RE:)
)
MISSISSIPPI PHOSPHATES)
CORPORATION, et al.¹)
)
Debtors)

CASE NO. 14-51667-KMS
Chapter 11

Jointly Administered

MOTION FOR AUTHORITY TO SETTLE
AND COMPROMISE A DISPUTED CLAIM

COME NOW, Mississippi Phosphates Corporation, et al. ("Movants" or "Debtors") and file this their *Motion for Authority to Settle and Compromise a Disputed Claim* (the "Motion") and in support thereof would respectfully show as follows, to-wit:

1. This Honorable Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, related statutes, related rules and various orders of reference. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(A), (B), (K), and O).
2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The statutory bases for the relief requested herein are §§ 105, 505 and 506 of Title 11 of the United States Code (the "Bankruptcy Code").

¹ The chapter 11 cases of the following affiliated Debtors have been administratively consolidated for joint administration pursuant to that certain Order Granting Motion of the Debtor for Order Direction Joint Administration of Affiliated Cases Pursuant to Bankruptcy Rule 1015(b), dated October 29, 2014 [Dkt. #62]: Mississippi Phosphates Corporation, Case No. 14-51667, Ammonia Tank Subsidiary, Inc., Case No. 14-51668 and Sulfuric Acid Tanks Subsidiary, Inc., Case No. 14-51671. These chapter 11 cases are sometimes referred to herein as the "Bankruptcy Cases."

the property to be assessed for the purpose of calculating the Movants' tax liability. However, in order to avoid expensive litigation, the uncertainties and delays inherent in litigation where factual issues are involved, and to avoid appeals, the parties have reached a business solution to their disputes and disagreements as set forth hereinafter.

Background

6. On October 27, 2014 (the "Petition Date") Movants each filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code with this Court. Debtors previously engaged professionals to assist it with a possible sale of its assets.

7. As previously noted, pending before the Court were motions and proposals for the sale of substantially all of the Debtors' assets. The bid procedures previously approved by this Honorable Court required that qualified bids must be submitted by 5:00 p.m. on July 24, 2015. Again, as previously noted, no qualified bids were submitted. There was one expression of interest (which was not a qualified bid) which was received by the Debtor that placed a nominal value upon the Debtor's assets. Previous expressions of interest/inquiries were also received by the Debtor but none of them resulted in a consummated asset sale.

8. As a result, the Court, parties-in-interest and the creditors of the Debtors, including the City of Moss Point, now have evidence of the value (or lack thereof) of substantially all of the Debtors' assets after the results of the Debtors' extensive marketing of those assets by its retained investment banker.

Relief Requested

9. As noted, the Debtors and the City of Moss Point have resolved their dispute

4. The real and personal property assets owned by the Movants that are located in the City of Moss Point, Mississippi ("the City of Moss Point") are subject to local ad valorem taxation, under Mississippi law. From time to time, the City of Moss Point "assesses" ad valorem taxes upon the real and personal property of the Debtors based upon valuations obtained by the City of Moss Point. These valuations are then used by the City of Moss Point in calculating the resulting ad valorem property tax assessments for real and personal property owned by the Movants. The Movants, theoretically, have the ability (and certainly the statutory right) to contest these valuations from time to time. Movants' professionals have reviewed, and assert that property valuations upon which those priority tax claims of the City of Moss Point are based, are excessive, in light of the asset sale or sales in this Chapter 11 case which did not produce a qualified bidder as of the deadline for submitting bids on July 24, 2015. From these initial reviews, and based upon the actual experience of preliminary inquiries by interested bidders combined with the fact that there were no qualified bids submitted by the bid deadline on July 24, 2015, the valuations used and relied upon in the past (and to be relied upon within the future) by the City of Moss Point are not truly reflective of the fair market value or the "assessed" value of the Debtors' real and personal property. Accordingly, the Debtors and the City of Moss Point engaged in settlement negotiations with respect to settling and compromising the disputed claims of the City of Moss Point. Those negotiations have produced an agreement and a settlement with respect to the amount of tax liability the City of Moss Point is willing to accept and the Debtors are willing to pay.

5. The Debtors are authorized, pursuant to §505 of the Bankruptcy Code to move this Court for a determination of the Movants' property tax liability by, in part, determining the value of

-2-

10. A basic policy in bankruptcy cases is that settlement is favored. 10 Collier on Bankruptcy ¶ 9019.01 at 9019-2 (15th ed. Revised 1997). Courts have built on this policy by adopting the standards set forth in the U.S. Supreme Court decision *Protective Comm. For Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414 (1968). In *TMT*, the Supreme Court held that:

A compromise would be approved by the bankruptcy court only after it apprise[s] itself of all facts necessary for an intelligent and objective opinion of the probabilities of ultimate success should the claim be litigated. Further, the judge should form an educated estimate of the complexity, expense and likely duration of such litigation, the possible difficulties in collecting on any judgment which might be obtained, and all other factors relevant to a full and fair assessment of the wisdom of the proposed compromise.

Id. at 424.

11. The Fifth Circuit standard was stated in *Official Comm. Of Unsecured Creditors v. Cajun Electric Power Coop., Inc.*:

- (1) [t]he probability of success in the litigation, with due consideration for the uncertainty in fact and law;
- (2) [t]he complexity and likely duration of the litigation and any attendant expense, inconvenience and delay, and
- (3) [a]ll other factors bearing on the wisdom of the compromise.

119 F.3d 349, 356 (5th Cir. 1997). These factors have been summarized as requiring the compromise to be "fair and equitable" and "in the best interests of the estate." *TMT*, 390 U.S. at 424; *Cajun Elec*

at 355.

The terms of the settlement are: The MPC Liquidation Trust will pay the sum of



