

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:

Westmoreland Coal Company, et al.,¹
Debtors.

Chapter 11

Case No. 18-35672 (DRJ)

(Jointly Administered)

**SUMMARY SHEET FOR FIRST INTERIM FEE
APPLICATION OF JEFFERIES LLC, AS INVESTMENT BANKER
TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS FOR
ALLOWANCE OF COMPENSATION AND REIMBURSEMENT OF EXPENSES
FOR THE PERIOD FROM OCTOBER 22, 2018 THROUGH DECEMBER 31, 2018**

Name of Applicant:	Jefferies LLC (“Jefferies”)	
Applicant’s Role in Case:	Investment Banker to the Official Committee of Unsecured Creditors	
Date Order of Employment Signed:	12/05/18 [Docket No. 704]	
	Beginning of Period	End of Period
Time period covered by this Application:	10/22/18	12/31/18
Time period(s) covered by prior Applications:	N/A	N/A
Total amounts awarded in all prior Applications:	N/A	
Total fees requested in this Application:	\$290,322.58	
Total professional fees requested in this Application:	\$290,322.58	
Total actual professional hours covered by this Application:	1,072.5	
Average hourly rate for professionals:	N/A	
Total paraprofessional fees requested in this Application:	N/A	
Total actual paraprofessional hours covered by this Application:	N/A	

¹ Due to the large number of debtors in these chapter 11 cases, for which joint administration has been granted, a complete list of the debtors and the last four digits of their tax identification, registration, or like numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent in these chapter 11 cases at www.donlinrecano.com/westmoreland. Westmoreland Coal Company's service address for the purposes of these chapter 11 cases is 9540 South Maroon Circle, Suite 300, Englewood, Colorado 80112.

Average hourly rate for paraprofessionals:	N/A
Reimbursable expenses sought in this application:	\$53,026.75
Total to be Paid to Priority Unsecured Creditors:	N/A
Anticipated % Dividend to Priority Unsecured Creditors:	N/A
Total to be Paid to General Unsecured Creditors:	N/A
Anticipated % Dividend to General Unsecured Creditors:	N/A
Date of Confirmation Hearing:	N/A
Indicate whether plan has been confirmed:	No

ALLOCATION OF FEES AND EXPENSES²

WLB Debtors

Allocation of 70% of Monthly Fee	\$203,225.81
Allocation of 70% of Expenses	<u>\$37,118.73</u>
Total Fee and Expense for WLB Debtors	\$240,344.53

WMLP Debtors

Allocation of 30% of Monthly Fee	\$87,096.77
Allocation of 30% of Expenses	<u>\$15,908.03</u>
Total Fee and Expense for WMLP Debtors	\$103,004.80

² Pursuant to the order authorizing the retention of Jefferies, the WLB Debtors and the WMLP Debtors are responsible for 70% and 30%, respectively, of fees and expenses payable to Jefferies.

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THIS APPLICATION SEEKS ENTRY OF AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE APPLICATION, YOU SHOULD IMMEDIATELY CONTACT THE APPLICANT TO RESOLVE THE DISPUTE. IF YOU AND THE APPLICANT CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE APPLICANT. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS APPLICATION WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE APPLICATION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THIS APPLICATION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE APPLICATION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

A HEARING ON THIS APPLICATION WILL BE CONDUCTED ON A FUTURE DATE TO BE DETERMINED IN COURTROOM 404, 515 RUSK STREET, HOUSTON, TEXAS 77002.

TO THE HONORABLE DAVID R. JONES,
CHIEF UNITED STATES BANKRUPTCY JUDGE:

¹ Due to the large number of debtors in these chapter 11 cases, for which joint administration has been granted, a complete list of the debtors and the last four digits of their tax identification, registration, or like numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent in these chapter 11 cases at www.donlinrecano.com/westmoreland. Westmoreland Coal Company's service address for the purposes of these chapter 11 cases is 9540 South Maroon Circle, Suite 300, Englewood, Colorado 80112.

Jefferies LLC, (“Jefferies”), the investment banker to the Official Committee of Unsecured Creditors (the “Committee”) in the chapter 11 cases of the above-captioned debtors and debtors in possession (collectively, the “Debtors”), hereby submits its First Interim Fee Application (this “Interim Application”) for the allowance of compensation for professional services rendered to the Committee and for reimbursement of actual and necessary expenses incurred in connection with such services from October 22, 2018 to and including December 31, 2018 (the “Interim Application Period”), and in support thereof states as follows:

Jurisdiction, Venue And Statutory Predicates

1. The United States Bankruptcy Court for the Southern District of Texas (this “Court”), has jurisdiction over this Interim Application pursuant to 28 U.S.C. § 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue of this proceeding and this Interim Application in this District is proper pursuant to 28 U.S. C. §§ 1408 and 1409.

2. The statutory and legal bases for the relief requested herein are sections 327(a), 328(a), and 1107(b) of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”), rules 2014 and 2016 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and rules 2014-1 and 2016-1 of the Bankruptcy Local Rules for the Southern District of Texas (the “Bankruptcy Local Rules”).

Background

3. On October 9, 2018 (the “Petition Date”), each of the Debtors filed a voluntary petition with this Court for relief under chapter 11 of the Bankruptcy Code.

4. On October 18, 2018, the United States Trustee for the Southern and Western Districts of Texas (the “U.S. Trustee”) appointed a Committee pursuant to section 1102 of the

Bankruptcy Code [Docket No. 206].² Shortly after its appointment, the Committee selected Jefferies as its investment banker.

5. On November 19, 2018, the Committee filed an application to employ and retain Jefferies as its investment banker under sections 328(a) and 1103(a) of the Bankruptcy Code, *nunc pro tunc* to October 22, 2018, pursuant to the terms and subject to the conditions of that certain engagement letter (the “Engagement Letter”) between Jefferies and the Committee dated as of October 22, 2018 [Docket No. 519] (the “Retention Application”).³ A copy of the Engagement Letter was annexed to the Retention Application as Exhibit B.

6. On December 5, 2018, the Court entered the order granting the Retention Application [Docket No. 704] (the “Retention Order”). The Retention Order, among other things, authorized the Debtors to pay, reimburse, and indemnify Jefferies in accordance with the terms and conditions of, and at the times specified in, the Engagement Letter (with certain modifications), subject to application to the Court. Additionally, the Retention Order provides that the WLB Debtors and the WMLP Debtors shall be responsible for 70% and 30%, respectively, of fees and expenses payable to Jefferies.

7. On November 14, 2018, the Court entered the *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals* [Docket No. 495] (the “Interim Compensation Order”), which generally sets forth the procedures for interim compensation and expense reimbursement for all retained professionals in these cases. The Interim Compensation Order provides that each professional shall, on or after the 21st day of each calendar month following the month for which compensation is sought (or as soon

2 The Committee is currently comprised of the following entities: (a) Ohio Machinery Co.; (b) Wheeler Machinery Co.; (c) Nelson Brothers Mining Services, LLC; (d) Tractor & Equipment Co.; (e) Consol Mining Company LLC; (f) Pension Benefit Guaranty Corporation; and (g) United Mine Workers of America.

3 Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Retention Application.

thereafter as reasonably practicable), file and serve an application for interim allowance of compensation for services rendered and reimbursement of expenses incurred during the preceding month (each a “Monthly Fee Statement”). Parties shall have 21 days following the filing of a Monthly Fee Statement to object to such Monthly Fee Statement (the “Objection Deadline”). At the expiration of the Objection Deadline, the Debtors shall promptly pay 80% of the fees and 100% of the expenses requested in the applicable Monthly Fee Statement to which no objection has been served.

8. The Interim Compensation Order also provides that, at three-month intervals beginning with the period ending on December 31, 2018, each retained professional shall file and serve a request for interim approval and allowance of the compensation and reimbursement of expenses sought by such professional in its Monthly Fee Statements pursuant to section 331 of the Bankruptcy Code.

Compensation Request

9. Jefferies seeks the entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”), allowing and directing payment, on an interim basis, of (1) compensation for professional services rendered to the Committee during the Interim Application Period in the aggregate amount of \$290,322.58, consisting of one prorated Monthly Fee for the period from October 22, 2018 to and including October 31, 2018 in the amount of \$40,322.58 and two full Monthly Fees of \$125,000 each for the months of November and December 2018, and (2) reimbursement of expenses incurred in connection with the rendition of such services in the aggregate amount of \$53,026.75, for a total award of \$343,349.33 (the “Interim Compensation Amount”).

10. During the Interim Application Period, Jefferies filed one Consolidated Monthly Fee Statement, as shown below.

Date Submitted	Period Covered	Requested		Paid		Outstanding
		Fees	Expenses	Fees	Expenses	
3/5/19 [D.I. 1576]	10/22/18-12/31/18	\$290,322.58	\$53,026.75	<i>PENDING</i> ⁴	<i>PENDING</i>	\$343,349.33
Total		\$290,322.58	\$53,026.75	\$0.00	\$0.00	\$343,349.33

11. For the convenience of the Court and all parties in interest, attached hereto as **Exhibit B** is a summary setting forth (a) the name of each Jefferies professional who provided services to the Committee during the Interim Application Period and the number of hours worked by such professional during the Interim Application Period and (b) the hours worked by Jefferies professionals in various task categories during the Interim Application Period. Detailed time records documenting the work performed by Jefferies professionals during the Interim Application Period are attached to the Consolidated Monthly Fee Statement filed for the Compensation Period [Docket No. 1576] as Exhibit A.

Summary of Services

12. All services for which compensation is requested by Jefferies were performed during the Interim Application Period on behalf of the Committee. During the Interim Application Period, Jefferies performed significant services on behalf of the Committee, including but not limited to the following:

- (a) **Due Diligence.** In order to understand and evaluate the business, strategy, prospects and assets of the Debtors significant due diligence. As part of its due diligence, Jefferies held numerous in-person and telephonic meetings with the Debtors' management, advisors to the Debtors, and other key stakeholders. In connection with its due diligence, Jefferies requested, reviewed and analyzed materials provided by the Debtors and their professionals regarding their operations, assets, financial performance, and employees. In addition to conducting due diligence on the assets, operations and liabilities, Jefferies conducted thorough research and analyses on the industries and competitors of the Debtors. Jefferies continually updated the Committee with various presentations regarding matters related to the Debtors' restructuring and developments in the relevant industries. Jefferies also reviewed and analyzed the various motions filed by the Debtors and other parties-in-interest. Jefferies' due diligence, the findings of which were communicated to the Committee, were essential to developing the

⁴ The objection period for Jefferies First Consolidated Monthly Fee Statement will expire on March 25, 2019.

Committee's understanding of the operations, assets, and financial performance of the Debtors.

- (b) **Committee Meetings.** Jefferies participated in numerous in-person and telephonic meetings with the Committee and its other advisors regarding issues relating to the Debtors' cases. Jefferies' professionals participated in such Committee meetings, as well as email correspondence, providing recommendations and advice with respect to a number of business and financial issues, as well as updates on ongoing discussions, activities and negotiations with the Debtors and other parties-in-interest. Such meetings provided a forum for the Committee members to exchange ideas and raise questions to Jefferies regarding matters of concern to unsecured creditors. The meetings also provided a forum for Jefferies to update the Committee on case developments and communicate the findings of its various due diligence activities and analyses including regular reviews of the Debtors' financial performance and outlook and restructuring alternatives. Jefferies' professionals also attended various bankruptcy court hearings relating to this case.
- (c) **DIP Financing and DIP Budget.** Jefferies assessed the need for the debtor in possession financing (the "DIP"). Among other things, Jefferies vetted all of the terms of the financing agreement and compared various metrics to the comparable debtor in possession financings. Jefferies assessed the underlying assumptions of the Debtors' DIP budgets. Jefferies monitored and assessed the Debtors' performance against the DIP budget and required financial covenants.
- (d) **Investigation Related Analyses.** Jefferies worked with the Committee Counsel to investigate potential avoidance actions on behalf of the Committee. Jefferies conducted an in-depth analysis of the potentially challenged transactions. Jefferies has reviewed voluminous discovery documents and other publicly available documents and SEC filings related to these transactions. Jefferies performed various independent financial analyses related to these transactions in order to inform the Committee and advise the Committee on formulating a position regarding the potential litigation against the Debtors and related parties.
- (e) **Business Plan and Financial Projections.** Jefferies reviewed and analyzed versions of the business plan and financial projections prepared by the Debtors' management and professionals, as well as the projections prepared by non-debtor related entities in the case. In coordination with the Committee's other advisors, Jefferies conducted due diligence and financial analyses of the underlying assumptions of the business plans and financial projections.
- (f) **General Corporate Finance.** Jefferies, along with other Committee professionals, analyzed the Debtors' business and financial performance. Jefferies also evaluated the Debtors' monthly operating reports, cash flow reports, and other financial information relevant to the Debtors' operations. Jefferies also responded to questions by the Committee regarding issues related to the Debtors' financial operations, potential restructuring strategy and general corporate finance matters.

- (g) **General Chapter 11 Administration.** Jefferies attended to various general and administrative tasks such as billing and related communications, as well as other day-to-day engagement requirements that do not fall into other project categories.

Actual and Necessary Disbursements By Jefferies

13. As set forth in **Exhibit C** hereto, Jefferies incurred \$53,026.75 of out-of-pocket expenses relating to its professional services during the Interim Application Period. These charges were Jefferies' out-of-pocket costs paid to third parties related to this engagement, which costs are not incorporated into Jefferies' aggregate fees. Jefferies has maintained detailed records of actual and necessary expenses incurred during the Interim Application Period. It should be noted that Jefferies has absorbed certain expenses customarily charged by other professionals in bankruptcy cases. For example, Jefferies does not allocate office telephonic charges by client and thus these costs are absorbed by Jefferies in its overhead and not charged to the Debtors' estates. Jefferies respectfully submits that the expenses for which it seeks allowance during the Interim Application Period are necessary and reasonable both in scope and amount. Detailed records documenting the out-of-pocket expenses incurred by Jefferies are attached the Consolidated Monthly Fee Statement filed for the Compensation Period [Docket No. 1576] as Exhibit B.

Notice

14. In accordance with the Interim Compensation Order and the Fee Examiner Order, Jefferies will provide notice of this Interim Application to each party that has entered an appearance in these chapter 11 cases pursuant to Bankruptcy Rule 2002, including the Application Recipients (as defined in the Interim Compensation Order).

[Remainder of page intentionally left blank]

WHEREFORE, Jefferies respectfully requests entry of an order allowing and directing payment, on an interim basis, of (a) compensation for Jefferies' professional services to the Committee during the Interim Application Period in the amount of \$290,322.58 and (b) reimbursement of actual and necessary expenses incurred by Jefferies during the Interim Application Period in connection with such services in the amount of \$53,026.75, for a total award of \$343,349.33.

Dated: March 14, 2019

Respectfully submitted,

/s/ Leon Szlezinger
Leon Szlezinger
Managing Director and Joint Global Head of
Restructuring
JEFFERIES LLC

Exhibit A

Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:

Westmoreland Coal Company, et al.,¹
Debtors.

Chapter 11

Case No. 18-35672 (DRJ)

(Jointly Administered)

**ORDER APPROVING FIRST INTERIM FEE
APPLICATION OF JEFFERIES LLC, AS INVESTMENT BANKER
TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS FOR
ALLOWANCE OF COMPENSATION AND REIMBURSEMENT OF EXPENSES
FOR THE PERIOD FROM OCTOBER 22, 2018 THROUGH DECEMBER 31, 2018**

(Relates to Docket No. _____)

Upon consideration of the first interim fee application (the “Interim Application”) of Jefferies LLC (“Jefferies”) for allowance of compensation for services rendered and for reimbursement of expenses incurred as the Committee’s investment banker for the period from October 22, 2018 to and including December 31, 2018 (the “Interim Application Period”); and having reviewed the Interim Application; and finding that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334, (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b) and (c) venue is proper before this Court pursuant to 28 U.S.C. § 1408; and determining that proper and adequate notice has been given and that no other or further notice is necessary; and after due deliberation thereon; and good and sufficient notice appearing therefor, IT IS HEREBY ORDERED that:

1. The Interim Application is GRANTED.

¹ Due to the large number of debtors in these chapter 11 cases, for which joint administration has been granted, a complete list of the debtors and the last four digits of their tax identification, registration, or like numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent in these chapter 11 cases at www.donlinrecano.com/westmoreland. Westmoreland Coal Company's service address for the purposes of these chapter 11 cases is 9540 South Maroon Circle, Suite 300, Englewood, Colorado 80112.

2. All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms as set forth in the Interim Application.

3. Jefferies is allowed on an interim basis, for the Interim Application Period, (a) compensation in the amount of \$290,322.58 for professional services rendered to the Committee and (b) reimbursement of actual and necessary expenses in the amount of \$53,026.75, for a total allowed amount of \$343,349.33.

4. The Debtors are authorized and directed to pay Jefferies \$343,349.33, less any amounts already paid to Jefferies on account of fees earned and expenses incurred by Jefferies during the Interim Application Period.

5. This Court shall retain jurisdiction with respect to all matters relating to the interpretation or implementation of this Order.

6. This Order shall be effective immediately upon entry.

SIGNED this ____ day of _____.

THE HONORABLE DAVID JONES
CHIEF UNITED STATES BANKRUPTCY JUDGE

Exhibit B**Hours by Professional and Task Category*****Summary by Category*****Jefferies LLC**

Summary of Hours by Category

October 22, 2018 - December 31, 2018

Category	Category Code	Hours
Case Administration / General	1	30.5
Sale Process	2	57.0
Creditor Communication	3	3.0
Debtor Communication	4	65.0
DIP Financing	5	-
Testimony/Deposition Preparation	6	8.0
Plan of Reorganization	7	-
Travel	8	24.0
Due Diligence / Analysis	9	660.6
Business Plan	10	-
Process Update & Case Strategy	11	224.5
Total		<u>1,072.6</u>

Summary by Professional**Jefferies LLC**

Summary of Hours by Professional

October 22, 2018 - December 31, 2018

Position	Name	Hours
Co-head / Managing Director, Global Restructuring & Recapitalization	Leon Szlezinger	115.5
Global Head / Managing Director, Metals & Mining	Daniel Chu	4.0
Americas Head / Managing Director, Metals & Mining	Jerrold Freund	20.5
Senior Vice President, Restructuring & Recapitalization	Jingzhi Dai	246.0
Senior Vice President, Metals & Mining	Johnston Suter	24.0
Associate, Restructuring & Recapitalization	Patrick Topper	30.0
Associate, Metals & Mining	Ryan Campbell	41.0
Analyst, Metals & Mining	Daniel Donofrio	63.0
Analyst, Restructuring & Recapitalization	Mitchell Shinder	251.5
Analyst, Restructuring & Recapitalization	David Santoro	277.0
Total		<u>1,072.6</u>

Exhibit C

Expense Summary

Expense Category	Amount
Legal Expenses	\$ 48,232.46
Overtime Meal	667.15
Presentation Services - Create and Craft Presentation Materials	2,406.00
Printing Services	1,065.65
Transportation - Ground (Overtime)	655.49
Total	\$ 53,026.75