IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CLIFFS NATURAL RESOURCES INC., *et al.*	)	
Plaintiffs,	)	C.A. No. 17-567-GAM
v.	)	**REDACTED -- PUBLIC VERSION**
SENECA COAL RESOURCES, LLC, *et al.*	)	
Defendants	)	

THIRD AMENDED COMPLAINT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CLIFFS NATURAL RESOURCES INC.
200 Public Square, 33rd Floor
Cleveland, OH 44114

CLF PINNOAK LLC
200 Public Square, 33rd Floor
Cleveland, OH 44114

Plaintiffs,

v.

SENECA COAL RESOURCES, LLC,
15 Appledore Lane
P.O. Box 87
Natural Bridge, Virginia 24578

THOMAS M. CLARKE
16620 Lee Highway
Buchanan, VA 24066

ANA M. CLARKE
16620 Lee Highway
Buchanan, VA 24066

KENNETH R. MCCOY
7608 Trail Blazer Trail
Wake Forest, NC 27587

JASON R. MCCOY
9113 Linslade Way
Wake Forest, NC 27587

LARA NATURAL RESOURCES, LLC
5228 Valleypointe Parkway
Suite 1, Building B
Roanoke, VA 24019

also serve

LARA NATURAL RESOURCES, LLC

C.A. No. 17-567-GAM

THIRD AMENDED COMPLAINT

REDACTED -- PUBLIC VERSION

c/o Corporation Service Company)
Bank of America Center, 16th Floor)
Richmond, VA 23219)
)
IRON MANAGEMENT II, LLC)
6801 Falls of Neuse Rd., Suite 100)
Raleigh, NC 27615)
)
Defendants.)

Plaintiffs Cleveland-Cliffs, Inc. f/k/a Cliffs Natural Resources Inc. ("Cliffs") and CLF PinnOak LLC ("CLF"), for their Third Amended Complaint against Defendants Seneca Coal Resources, LLC ("Seneca"), Thomas M. Clarke, Ana M. Clarke, Kenneth R. McCoy, Jason R. McCoy (collectively, the "Individual Defendants"), Lara Natural Resources, LLC ("Lara Natural Resources") and Iron Management II, LLC ("Iron Management" and along with Seneca, the Individual Defendants, and Lara Natural Resources, the "Defendants") specifically state and aver the following:

INTRODUCTION

1. This lawsuit arises from a breach by Seneca of its contract with Cliffs and CLF regarding the sale of certain mining assets and its obligations thereunder. Instead of complying with its post-closing requirements and paying monies due to Cliffs and CLF, Seneca has failed and/or refused to do so, causing damages to Cliffs.

2. In addition, Seneca and the Individual Defendants have conspired to and have fraudulently transferred certain of Seneca's assets to Lara Natural Resources, Iron Management, and other affiliates of Seneca rather than paying money due and owing to Cliffs and CLF on or around the time of the transfers. Lara Natural Resources, Iron Management, and the affiliates are not legitimate creditors of Seneca and those conveyances were not for value, but rather made with the intent to hinder, delay, or defraud Cliffs. In addition, Seneca claims that it is financially

incapable of rendering payment to Cliffs, and as a result, upon information and belief, Seneca's transfers have left it insolvent and/or incapable of payment to its creditors. Furthermore, Seneca sold coal to its affiliates (or companies owned or managed by Defendants) at a price substantially below market rates and not for reasonably equivalent value with the intent to hinder, delay, or defraud Cliffs.

THE PARTIES, JURISDICTION, AND VENUE

3. Cliffs is an Ohio corporation and, for 170 years, Cliffs has had, and continues to have, its principal place of business in Cleveland, Ohio. Cliffs is a leading mining and natural resources company and is a major supplier of iron ore pellets to the North American steel industry from its mines and pellet plants located in Michigan and Minnesota. Cliffs also operates an iron ore mining complex in Western Australia.

4. CLF is a Delaware corporation with its principal place of business in Cleveland, Ohio. Cliffs is the ultimate parent of CLF.

5. On information and belief, Seneca is a Delaware limited liability company with its principal place of business in Virginia, whose majority ownership is divided among Iron Management and Lara Natural Resources. Upon information and belief, its controlling members are Kenneth R. McCoy, Jason R. McCoy, and Thomas M. Clarke – all citizens of Virginia and/or North Carolina, and none of its members are citizens of Ohio or Delaware.

6. On information and belief, Thomas M. Clarke is a citizen of Virginia.

7. On information and belief, Ana M. Clarke is a citizen of Virginia.

8. On information and belief, Kenneth R. McCoy is a citizen of North Carolina.

9. On information and belief, Jason R. McCoy is a citizen of North Carolina.

10. On information and belief, Lara Natural Resources is a Virginia limited liability company with its principal place of business in Virginia. Upon information and belief, its sole

members are Thomas M. Clarke and Ana M. Clarke, citizens of Virginia, and none of its members are citizens of Ohio or Delaware.

11. On information and belief, Iron Management is a North Carolina limited liability company with its principal place of business in North Carolina. Upon information and belief, its majority members are Kenneth R. McCoy and Jason R. McCoy; both are citizens of North Carolina, and none of its members are citizens of Ohio or Delaware.

12. Seneca, Lara Natural Resources, and Iron Management are all part of a connected web of entities over which the Individual Defendants are owners. Seneca is one of many companies affiliated with ERP Compliant Fuels, LLC and its sister entities, all of whom are affiliated with or owned by Thomas Clarke and/or at least one of the Individual Defendants.

13. According to a publicly available organizational chart, ERP Compliant Fuels, LLC is affiliated with Virginia Conservation Legacy Fund, Inc., Seneca, ERP Environmental Fund, Inc., ERP Federal Mining Complex, LLC, Seminole Coal Resources, LLC, and ERP Compliant Coke, LLC, among others (the "Affiliate Companies"). A list of affiliates and organizational chart can be found here:

http://www.thecoalinstitute.org/ckfinder/userfiles/files/ERPCompliantKen%20McCoy.pdf.

Contrary to the forgoing, however, ERP Compliant Coke, LLC also holds itself out to be a subsidiary of ERP Compliant Fuels, LLC. *See* http://www.erpcoke.com/.

14. Cliffs initially filed this matter in the Northern District of Ohio, Case No. 1:16CV3034. On March 30, 2017, Seneca filed a motion to transfer venue under 28 U.S.C. § 1404(a), seeking to transfer venue to the District of Delaware pursuant to the forum selection clause contained in the Unit Purchase Agreement executed by and among Cliffs and Seneca, among others. [D.I. 42.]

15. On May 12, 2017, the Northern District of Ohio granted Seneca's motion to transfer venue, thereby transferring this matter to the United States District Court for the District of Delaware for further adjudication. [D.I. 59.]

16. Pursuant to the Northern District of Ohio's ruling, and pursuant to 28 U.S.C. § 1332, this Court has subject matter jurisdiction over this matter because the amount in controversy exceeds $75,000 and, upon information and belief, complete diversity exists among the parties.

17. Pursuant to the Northern District of Ohio's ruling, Defendants' consent, and pursuant to the Unit Purchase Agreement, this Court has personal jurisdiction over all parties to this matter, and venue is proper in this forum.

FACTUAL ALLEGATIONS

The Unit Purchase Agreement

18. On December 22, 2015, Cliffs, CLF, and Seneca entered into a Unit Purchase Agreement (the "UPA"), whereby Cliffs, through CLF, agreed to sell the outstanding equity interests of Cliffs North American Coal LLC ("CNAC") to Seneca. The value of the transaction at closing was $268 million, based on Seneca assuming all liabilities of CNAC and its subsidiaries. The UPA is attached as Exhibit A hereto.

19. Also on December 22, 2015, and contemporaneous with the execution of the UPA, Seneca, Cliffs, and CLF executed an Override Right Agreement (the "Override Agreement"), which obligated Seneca to make quarterly payments to an Escrow Account, for the benefit of Cliffs and CLF, up to a certain maximum amount. Each quarter, Seneca is obligated to calculate the average quarterly per ton price of coal sales pursuant to a specific formula. If the average quarterly per ton price is above a certain threshold, then Seneca must pay to the Escrow Account a certain percentage of the amount that is above that threshold price multiplied by the

tons sold in such quarter (the "Tonnage Payments"). The Override Agreement is not attached hereto as it is confidential and Seneca has a copy in its possession.

20. Among the liabilities that were assumed by Seneca under the UPA as of December 22, 2015, were all workers' compensation obligations in respect of CNAC's and its subsidiaries' current and former employees and workers.

21. In addition to Seneca's assumption of liability, as of December 22, 2015, Seneca promised to perform certain post-closing requirements, including replacing certain bonds and guarantees in an amount of $16.7 million, replacing Cliffs' letters of credit regarding workers' compensation in an amount of $13.5 million, as well as reimbursing Cliffs for certain expenses made prior to and after entering into the UPA in an amount of excess of $2 million. With respect to replacing the nearly $16.7 million of bonds, Seneca promised to file replacement surety bonds and cause the release of Cliffs' bonds no later than February 5, 2016, *i.e*. within 45 days of the Closing Date (December 22, 2015). As a result of assuming all workers' compensation liabilities, Seneca was obligated to release the Cliffs' letters of credit in excess of $13.5 million.

22. The parties also agreed to a broad indemnification provision, whereby Seneca agreed to indemnify and hold harmless Cliffs from any and all Losses arising out of or resulting from the breach of any agreement of Seneca in the UPA, the Bonds and Guarantees (as defined in the UPA), and certain legal matters that were disclosed in the UPA, including attorneys' fees.

23. In addition to its obligations under the UPA, pursuant to the Override Agreement, Seneca had an obligation to make Tonnage Payments into an Escrow Account, for the benefit of Cliffs and/or CLF. With respect to these Tonnage Payments, Seneca expressly agreed that it would act in good faith and not take any actions that would be unfairly prejudicial or discriminatory to the interests of Cliffs and/or CLF in receiving Tonnage Payments. Seneca has failed to make any payments into the Escrow Account to date. Furthermore, Seneca has failed to

make a representative available to Cliffs to discuss this information and has failed to provide Cliffs reasonable access to all relevant work papers, schedules, memoranda or other documents supporting its failure to make payments into the Escrow Account as required by the Override Right Agreement.

Seneca's Failure to Perform its Duties Under the UPA

24. Despite Seneca's clear responsibility from December 22, 2015 to reimburse Cliffs at least $2 million, replace nearly $16.7 million of bonds within 45 days, and promptly replace the $13.5 million of letters of credit, Seneca failed to do so. Instead, it made millions of dollars of cash transfers to Lara Natural Resources and Iron Management in late December and early January, during the period in which Seneca was obligated to replace the bonds, letters of credit, and took on debt to Cliffs. These failures forced Cliffs to incur millions of dollars of out-of-pocket costs. Seneca has failed to reimburse Cliffs for those costs.

25. Despite its clear and acknowledged responsibility to reimburse Cliffs for certain expenses, such as lease repayments, workers' compensation costs, medical out-of-pocket costs, bond premiums, payroll funding and services, and certain legal costs, Seneca has failed and/or refused to reimburse Cliffs for those expenses.

26. Despite Seneca's acknowledgment of the need for Seneca to obtain workers' compensation insurance for existing claims and replace $13.5 million letters of credit, Seneca has failed to do so. Seneca has also failed to assume the administration and funding of ongoing workers' compensation matters, as required by the UPA and acknowledged by Seneca.

27. Cliffs has sent monthly invoices to Seneca and has had frequent communications with Seneca regarding its duties under the UPA. Cliffs also had multiple conversations and meetings with Seneca where it acknowledged its obligations. However, Seneca has continued to breach the UPA.

The BB&T Litigation and Settlement Agreement

28. In March 2016, BB&T Equipment Finance Corporation filed a lawsuit in the Northern District of Ohio against Seneca's company, Oak Grove Resources, and Cliffs (as guarantor) for Seneca's failure to make timely lease payments (the "BB&T Litigation"), including a lease payment of approximately $437,000 that was due on February 6, 2016.

29. On March 23, 2016, Cliffs notified Seneca that Cliffs had been named a party to the BB&T Litigation. Cliffs requested indemnification from Seneca regarding the BB&T Litigation, and Seneca agreed to indemnify Cliffs for all expenses incurred as a result of the BB&T Litigation.

30. Effective July 14, 2016, the parties agreed to a settlement agreement to resolve the BB&T Litigation (the "Settlement Agreement"). As part of that Settlement Agreement, Cliffs specifically reserved all rights against Seneca, including any and all defaults under the UPA, and Cliffs' right to seek indemnification from Seneca for Cliffs' losses in the BB&T Litigation, including attorneys' fees. Seneca also reserved all rights against Cliffs in the Settlement Agreement.

31. As part of the Settlement Agreement, the parties agreed that "Judge Polster and the Federal District Court for the Northern District of Ohio, Eastern Division shall retain jurisdiction to enforce the terms of this Agreement or otherwise."

32. On July 14, 2016, this Court dismissed the BB&T Litigation with prejudice, specifically retaining jurisdiction under the Settlement Agreement.

33. Although Seneca agreed to indemnify Cliffs for all expenses incurred in the BB&T Litigation, Seneca has failed and/or refused to reimburse Cliffs for those expenses, including attorneys' fees and interest incurred in the BB&T Litigation. Instead, it has and

continues to make transfers to Lara Natural Resources and Iron Management rather than paying its legitimate creditor, Cliffs.

Seneca's Failure to Perform its Duties Under the Override Agreement

34. Pursuant to the Override Agreement, Seneca had an obligation to provide Cliffs and CLF with quarterly statements that set forth the quantity of coal sold per quarter, along with the average sales price per ton for such coal. In the event the average weighted quarterly sales price for such coal exceeded an agreed-upon per ton price, Seneca had an obligation to make the Tonnage Payments into an Escrow Account, which would subsequently be paid to Cliffs and/or CLF.

35. Thus, if the quarterly average weighted price of coal per ton exceeded the agreed upon price, Cliffs and CLF would benefit. In addition, the higher the amount of tons sold per quarter, the more money Seneca must pay in the Tonnage Payments.

36. As part of its obligations, Seneca agreed to act in good faith and take no actions that would be unfairly prejudicial or discriminatory to the interests of Cliffs and CLF.

37. Seneca also has a duty under the Override Agreement to make a representative available to Cliffs to discuss the information set forth in the Override Reports and provide Cliffs reasonable access to all relevant work papers, schedules, memoranda and other documents prepared by Seneca or its representatives in connection with the preparation of the quarterly calcultions.

38. On or about April 4, 2017, Cliffs and CLF received a 4th Quarter 2016 Override Royalty Calculation (the "2016 Override Report") from Seneca, which contains the quantity of coal sold (*i.e.* tons sold), the party to whom Seneca sold the coal, along with the average weighted price per ton, as required by the Override Agreement.

39. On or about June 29, 2017, Cliffs and CLF received a 1st Quarter 2017 Override Royalty Calculation (the "2017 Override Report") from Seneca, which contains the quantity of coal sold (*i.e.* tons sold), the party to whom Seneca sold the coal, along with the average weighted price per ton, as required by the Override Agreement.

40. The 2016 and 2017 Override Reports, as well as other data, demonstrate that Seneca sold coal to its affiliate ERP Compliant Coke, LLC on nearly 50 occasions at a price substantially below market rates. For example, Seneca sold coal to [redacted] at an average price of [redacted] per ton in Q3 of 2016 and [redacted] in Q4 of 2016, while its price for the rest of its customers equaled [redacted] and [redacted] per ton, respectively. These prices are significantly below the market price for metallurgical coal. Seneca's actions, while benefitting its affiliate, was in direct breach of its obligations to act in good faith and not take any actions that would be unfairly prejudicial or discriminatory to Cliffs and CLF.

41. In addition, the 2016 and 2017 Override Reports, as well as other data, demonstrate that Seneca has sold coal substantially below market price to customers and has taken actions that have resulted in substantially lower coal production per quarter than normal. These acts breach its obligations to act in good faith and not take any actions that would be unfairly prejudicial or discriminatory to Cliffs and CLF.

42. Although Seneca has a clear duty to provide these reports on a quarterly basis, it has failed to provide the report to Cliffs for the Second Quarter of 2017. Seneca is thus currently in breach of the Override Right Agreement.

43. Furthermore, Seneca has refused to make a representative available to Cliffs to discuss the information set forth in the Override Reports and refused to provide Cliffs reasonable access to all relevant work papers, schedules, memoranda and other documents prepared by

Seneca or its representatives in connection with the preparation of the Override Reports, in direct breach of the Override Agreement.

44. The 2016 and 2017 Override Reports, as well as other data, demonstrate that Seneca has breached its contractual duties to act in good faith and not take actions that would be unfairly prejudicial or discriminatory to the interests of Cliffs and CLF in receiving the Tonnage Payments.

45. Through Seneca's breach of the Override Agreement, Cliffs and CLF have been damaged in an amount of at least $28 million through the First Quarter of 2017. If such breaches continue, Cliffs and CLF's damages will continue to escalate up to that certain contractual maximum amount with each quarterly Override Royalty Report received.

Defendants' Conspiracy and Fraudulent Transfers

46. In December 2015 or earlier, before the execution of the UPA, Thomas Clarke, Jason McCoy and Kenneth McCoy entered into a conspiracy to defraud Cliffs and Seneca's other creditors. Their plan and agreement was to use Seneca as an ATM to fund their personal interests and their affiliate companies rather than paying Cliffs and Seneca's other creditors. In furtherance of this conspiracy, on December 18, 2015, Thomas Clarke sent an email to Jason and Kenneth McCoy confirming their plan and agreement. The email attached Seneca's cash projections as of January 31, 2016, which included a [redacted] bridge loan to Seneca from an entity named [redacted]. Referring to the attachment, Mr. Clarke exclaimed that "this is an amazing 'BLESSING'!" The amazing "Blessing" was that his projections for the month of January indicated cash of [redacted] for Seneca. Mr. Clarke stated that in the calculation he "included the [redacted] ["bridge loan" to Seneca], ***so we can all pay down our debt***. . . . ***both corporately and personally***." A copy of Clarke's December 18, 2015 email confirming the purpose of the conspiracy and the agreement between the Defendants is attached

hereto as Exhibit B. Thus, this first overt act of the conspiracy was initiated only 4 days before Seneca signed the UPA with Cliffs and CLF. The conspiracy to use Seneca funds and assets to fund personal and corporate interests of the Individual Defendants rather than paying Cliffs and other creditors was launched.

47. As of December 22, 2015, pursuant to the UPA, Seneca was immediately liable to Cliffs for reimbursement of current workers' compensation claims, and replacement of the $13.5 million of Cliffs' letters of credit. Pursuant to the UPA, the liability of pending and future workers' compensation costs and claims was assumed by Seneca. The ongoing workers' compensation claims were disclosed to Seneca during the due diligence prior to the execution of the UPA, and therefore Seneca was aware that its obligations to Cliffs began immediately upon the execution of the UPA.

48. Likewise, as of December 22, 2015, Seneca was immediately liable to Cliffs for the replacement of nearly $16.7 million of bonds. Seneca likewise knew of this financial obligation to Cliffs.

49. Further, as of December 22, 2015, Seneca was liable to Cliffs for more than $2 million in payroll expenses and other reimbursements. This obligation continues to this day, and Seneca ultimately defaulted on its repayment obligations.

50. Although Seneca had immediate outstanding financial obligations to Cliffs, the Defendants caused the first withdrawals from the Seneca ATM within days of the December 22, 2015 execution of the UPA.

51. Rather than pay Cliffs, Defendants caused the transfer of [redacted], out of the [redacted] bridge loan that Seneca received from [redacted], to the Individual Defendants and their companies. In furtherance of the conspiracy, on December 24, 2015, Seneca transferred $50,000 to Lara Natural Resources. [*See* Declaration of Thomas Clarke and

Ana Clarke (the "Clarke Declaration"), ¶1, D.I. 8-2; Declaration of Kenneth and Jason McCoy (the "McCoy Declaration"), ¶1, D.I. 8-3.]

52. On December 30, 2015, despite owing millions of dollars of liabilities to Cliffs, and in furtherance of the conspiracy to use Seneca assets to benefit the Individual Defendants both "corporately and personally," Defendants caused Seneca to transfer [redacted] to [redacted], an affiliate owned by Thomas Clark.

53. On January 5, 2016, in furtherance of the conspiracy, Thomas Clarke, as a representative for Lara Natural Resources, and Jason McCoy, as representative for Iron Management, agreed in a phone conversation to transfer equal amounts of $1 million of Seneca assets for their personal benefit. This phone conversation was memorialized in a January 5, 2016 email, a copy of which is attached hereto as Exhibit C. That same day, Seneca wired $1 million to Clarke's company Lara Natural Resources and $1,050,000 to McCoy's company Iron Management. The extra $50,000 to Iron Management was made to equalize the $50,000 transfer Defendants caused to be made to Lara Natural Resources on December 24, 2015.

54. The above transfers of $4.4 million of Seneca assets for the benefit of the Individual Defendants were made without adequate consideration or equivalent value, made to insiders such that the interest in the assets were retained by the transferor, and rendered Seneca unable to pay its debts to Cliffs as they became due.

55. Seneca's transfers of its assets for the benefit of the Individual Defendants without receiving any or adequate consideration continued on a nearly daily basis. On January 7, 2016, Seneca again made another "loan" transfer to Mr. Clarke's [redacted], this time for [redacted]. As with the prior loan of [redacted] dollars, this loan was made despite owing $2 million to Cliffs, a replacement obligation of $16.7 million for bonds, and a replacement obligation of $13.5 million of letters of credit.

56. Less than a week later, on January 12, 2016, Seneca made two more "loan" transfers— [redacted] Upon information and belief, both entities are owned in part by the Individual Defendants and/or their affiliated entities.

57. In furtherance of the conspiracy, on or around January 26, 2016, Jason McCoy contacted representatives from Thomas Clarke's [redacted] to discuss additional transfers from Seneca to both Lara Natural Resources and Iron Management under the guise of so-called "management fees." At that time, Defendants conspired and agreed to make these payments from Seneca to their respective individual companies without providing equivalent value. Seneca and the Individual Defendants set no dollar amount based on any negotiated terms, and instead simply agreed to transfer money on a monthly basis to themselves, all the while leaving Seneca without the ability to pay its creditors.

58. On January 29, 2016, the Defendants caused Seneca to transfer $70,000 to Iron Management and $116,000 to Lara Natural Resources under the guise of a "management fee," allegedly meant to compensate Lara Natural Resources and Iron Management for the use of their employees' time related Seneca matters. Upon information and belief, however, these two entities do not have any full-time employees other than the Individual Defendants who own the companies. These fees were simply distributions to insider affiliate companies and were neither for value nor for any pre-arranged debt or bargained-for services.

59. Before the deadline to release the nearly $16.7 million of bonds and guarantees on February 5, 2016, and while Seneca had a duty to replace $13.5 million of letters of credit and reimburse Cliffs at least $2 million, Defendants had already caused Seneca to transfer over $12.9 million without value for the benefit of the Individual Defendants and their affiliated companies, including another [redacted] transfer to [redacted] on February 3, 2016. The recipients

of these transfers were entities owned in part by Thomas Clarke, Ana Clarke, Kenneth McCoy, and/or Jason McCoy.

60. On February 5, 2016, Seneca failed to release the nearly $16.7 million of bonds and guarantees, which Cliffs had posted, including paying any amounts necessary to do so. Due to the foregoing millions of dollars of transfers, Seneca was insolvent or thereby rendered insolvent and unable to satisfy this obligation as it became due.

61. Furthermore, on February 6, 2016, Seneca defaulted on its $437,000 lease payment to BB&T, which was guaranteed by Cliffs. Even so, on February 9, 2016, Seneca transferred an additional $300,000 to Iron Management. [*See* D.I. 8-2, 8-3.] On February 24, 2016, after defaulting on the BB&T payment, Seneca transferred $31,923.18 to Lara Natural Resources.

62. All told, within 7 weeks of executing the UPA, Defendants caused Seneca to transfer at least $12.9 million for the benefit of the Individual Defendants and their affiliates who were not legitimate creditors of Seneca. In fact, Interrogatory No. 1 attached to the Expedited Discovery Motion, required Seneca, Thomas Clarke, Ana Clarke, Kenneth McCoy, and Jason McCoy to state what Seneca received in return for the transfers set forth in their declarations. In response to Interrogatory No. 1, the Clarke and McCoy Declarations do not identify any consideration at all.

63. During the time when Seneca and the Individual Defendants conspired to cause these transfers, Seneca was in default of its obligations to Cliffs including its failure to assume and pay the workers' compensation liabilities, replace Cliffs' bonds totaling nearly $16.7 million, failed to get a release of Cliffs' guarantee on the BB&T lease, missing the $437,000 BB&T lease payment on which Cliffs was guarantor (which resulted in BB&T suing Cliffs),

failing to pay the $2 million in payroll, and failing to release the $13.5 million letters of credit for workers' compensation.

64. Additionally, from March 11, 2016 through October 10, 2017, Cliffs issued 20 monthly invoices for the reimbursement of other expenses that Seneca was obligated to pay under the UPA. Seneca failed to pay these invoices when due, even though it has not contested that the expenses were reimbursable to Cliffs and are due and owing to Cliffs. Instead of paying the net total of $7.6 million on these invoices, releasing the $13.5 million of letters of credit and releasing the 16.7 million of bonds, Defendants caused Seneca to transfer $2.1 million in owner distributions to Lara Natural Resources and Iron Management, a net total of approximately $31,421,214.31 to the Individual Defendants' affiliates, and monthly "management fees" to Lara Natural Resources and Iron Management of between $20,000 to $30,000 per month through 2017 – all without providing equivalent value. A chart of Cliffs' invoice dates, along with corresponding transfers made by Seneca is attached hereto as Exhibit D. These transfers rendered Seneca unable to pay its obligations to Cliffs as they became due.

65. On October 12, 2016, an email confirming the continuing conspiracy of the Defendants to cause the transfer of Seneca assets, without providing equivalent value, for the benefit of the Individual Defendants and their affiliates, and to the detriment of Cliffs, was sent by Chuck Ebetino, a minority owner of Seneca. In that email, which is attached hereto as Exhibit E, he wrote to Thomas Clarke, Kenneth McCoy, and Jason McCoy and complained [redacted] Mr. Ebetino was objecting to the violation of the Defendants' agreement to share in the "amazing BLESSING!" of using the assets of Seneca to pay the personal debts of the Individual Defendants and their corporate affiliates as memorialized in Mr. Clarke's December 18, 2015 email (Exhibit B). Thus, when the transfers

from the Seneca ATM benefitted all of the owners of Seneca, there was no objection, but when funds leaving Seneca were sent to a company in which only the Clarkes and the McCoys had an interest, the Defendants' mutually beneficial agreement had been breached.

66. On November 8, 2016, despite owing Cliffs $4 million, plus its payroll obligations of $2 million, and its obligation to replace the nearly $16.7 million in bonds and $13.5 million of letters of credit, Seneca paid a $31,923.18 "management fee" to Lara Natural Resources with the understanding of the Defendants that $25,000 would be redirected to Ana Clarke, even though no value was received. Thus, Ana Clarke joined the conspiracy with the Defendants as of November 8, 2016, at latest, with $25,000 from Seneca intended to be directed, and actually directed, to Ana Clarke.

67. On December 20, 2016, Cliffs filed its initial complaint in this matter against Seneca, Thomas M. Clarke, Ana M. Clarke, Kenneth R. McCoy, and Jason R. McCoy with claims for Breach of Contract and Declaratory Judgment. [D.I. 1.]

68. The Declaratory Judgment action alleged that upon information and belief, Seneca planned "to transfer and/or divert monies and/or funds from Seneca to affiliated companies and/or owners with the actual intent to hinder, delay, or defraud Cliffs." [*Id.* at ¶45.] To that end, Cliffs sought a declaration from the Court that the defendants were not entitled to any such transfer made from Seneca to affiliated companies or owners until Cliffs right to payment from Seneca had been satisfied by Seneca.

69. In addition to Cliffs' complaint, on December 20, 2016, Cliffs also filed a Motion for Expedited Discovery (the "Expedited Discovery Motion") in which it sought, among other things, information regarding whether Seneca had made, or expected to make, any transfers to any of its owners, members, corporate parents, subsidiaries, or affiliates from January 2016 to the present. [D.I. 3.]

70. In response Cliffs' Expedited Discovery Motion, on December 27, 2016, counsel for the Individual Defendants sent to Cliffs' counsel declarations executed by the Individual Defendants, which admitted to the transfers to Lara Natural Resources and Iron Management in December 2015 and January 2016, as well as management fees. [These declarations are attached to the original defendants' Motion to Dismiss, D.I. 8-2.]

71. The declarations, which were signed by all the Individual Defendants under penalty of perjury, and promised to Cliffs and the Court that "[i]f a transfer is contemplated in the future, the undersigned agree to provide Cliffs with written notice thirty (30) days prior to the contemplated transfer." [*Id*.] Upon this statement, Seneca represented to the Court that there was no need for expedited discovery in this case and that Cliffs' request for expedited discovery should be denied. [D.I. 7.] Seneca again doubled-down on this statement in its motion to dismiss Cliffs' original complaint, stating to the Court that "Defendants also offered express assurances to Plaintiff that they would provide thirty-day's advance written notice to Plaintiff if such a future transfer was contemplated." [D.I. 8-1.] Unbeknownst to Cliffs, Defendants promptly breached these promises to Cliffs and the Court and made millions of dollars of such transfers.

72. Exhibit D shows that despite the declarations of the Individual Defendants, and their promise to both the Court and Cliffs that after January 12, 2016 Seneca "would provide Cliffs with written notice thirty (30) days prior to the contemplated transfer," Defendants have breached that promise and continued to fraudulently transfer funds away from the reach of its creditors. [*See* D.I. 8-2, 8-3.]

73. Upon information and belief, neither Lara Natural Resources nor Iron Management are legitimate creditors of Seneca.

74. Upon information and belief, neither Lara Natural Resources nor Iron Management are legitimate creditors of Seneca.

75. Upon information and belief, the "other affiliate companies owned by the members," including but not limited to ERP Compliant Fuels, LLC, Virginia Conservation Legacy Fund, Inc., ERP Environmental Fund, Inc., ERP Federal Mining Complex, LLC, Seminole Coal Resources, LLC, and ERP Compliant Coke, LLC, to whom Seneca and the Individual Defendants conspired to make "loan" transfers are not legitimate creditors of Seneca, nor were Seneca's "loan" transfers to affiliates made for adequate consideration or equivalent value.

76. Upon information and belief, after Seneca made loans to these affiliate companies, the Individual Defendants thereafter took distributions from these affiliate companies. For example, "loans" made from Seneca to affiliate companies were used to pay off individual debt, personal vacations, and clothing allowances of the Individual Defendants.

77. Upon information and belief, the assets transferred to Lara Natural Resources, Iron Management, and the "affiliates" are not for reasonably equivalent value nor in good faith.

78. Furthermore, as set forth in detail above in Exhibit D, transfers of cash and other assets continued throughout 2016, and into 2017, despite Seneca owing millions of dollars to Cliffs.

79. During 2016, Cliffs issued monthly invoices to Seneca. Despite Cliffs' attempts to obtain payment from Seneca, both Seneca and the Individual Defendants told Cliffs that Seneca did not have the funds to repay Cliffs. Despite these statements, Seneca and the Individual Defendants have continued to make transfers to insiders rather than paying its legitimate debts to Cliffs, including monthly "management fees" to Lara Natural Resources of approximately $30,000 and Iron Management of $20,000.

80. Defendants have also stated that Seneca is in dire financial condition, was insolvent or near insolvency, and was struggling to meet its December 2016 payroll. On December 31, 2016 Seneca defaulted on an admitted obligation to reimburse Cliffs $2 million for payroll expenses that was incurred on December 22, 2015, bringing the unpaid invoices to a total of over $7.6 million, plus a duty to obtain new financial assurances sufficient to release Cliffs' letters of credit around $13.5 million for workers' compensation insurance.

81. Throughout 2016, the amount of outstanding debt owed from Seneca to Cliffs continued to grow, and such debts will continue to accrue until Seneca completes the assumption of responsibility for all liabilities for which it is responsible under the UPA, including the nearly $13.5 million for workers' compensation matters. Seneca has repeatedly stated that it did not have the funds to pay its debts to Cliffs. And yet, while these outstanding debts were continuing to increase, Seneca and the Individual Defendants conspired to and fraudulently transferred Seneca's assets to insider affiliates rather than pay the debts to Cliffs—thereby retaining possession of the property, but simply moving it away from the hands of Seneca's creditors.

82. Furthermore, pursuant to the Override Agreement, Cliffs and CLF were and continue to be entitled to Tonnage Payments for any coal sold by Seneca whose average weighted price per ton was over an agreed-upon price. As a result, Cliffs and CLF are legitimate creditor of Seneca.

83. Instead of fulfilling its obligations to Cliffs and CLF under the Override Agreement, Seneca sold coal to its affiliate, ERP Compliant Coke, LLC, at a price substantially below market rates and not for reasonably equivalent value, in turn keeping possession of the property at a reduced price.

84. Upon information and belief, these coal sales were made with the intent to hinder, delay or defraud Cliffs and CLF.

85. These actions were not disclosed to Cliffs and CLF at the time of the sales. Instead, Cliffs and CLF only became aware after the fact via the Override Reports.

CLAIMS FOR RELIEF

COUNT I
(Breach of Contract – The UPA)

86. Cliffs and CLF reaffirm and reallege the allegations contained in paragraphs 1 through 85 of this Third Amended Complaint as if rewritten fully herein.

87. The UPA is a valid and enforceable contract.

88. Cliffs has performed its obligations under the UPA in good faith.

89. Seneca has failed or refused to reimburse Cliffs for expenses incurred, as promised in the UPA.

90. Seneca has failed or refused to indemnify Cliffs for expenses incurred in the BB&T Litigation.

91. Seneca failed or refused to replace certain bonds and guarantees, forcing Cliffs to incur additional expenses that Seneca failed or refused to pay.

92. Seneca has failed or refused to obtain workers' compensation insurance for existing claims, obtain new financial assurance sufficient to release Cliffs' letters of credit around $13.5 million, and take over the administration and funding of workers' compensation matters as required under the UPA and as acknowledged by Seneca.

93. As a direct and proximate result of Seneca's breach of contract, Cliffs has suffered compensatory damages in an amount to be determined at trial, but in excess of $7.6 million, and been damaged by the on-going costs of supplying letters of credit in an amount of around $13.5 million.

94. As a direct and proximate result of Seneca's breach of contract, Cliffs is entitled to a mandatory and permanent injunction, requiring Seneca to post collateral sufficient to replace the collateral that Cliffs has had to post for the letters of credit.

95. In addition, Cliffs is entitled to its attorneys' fees in this action under the parties' indemnification provision in the UPA.

COUNT II
(Breach of Contract – The Override Agreement)

96. Cliffs and CLF reaffirm and reallege the allegations contained in paragraphs 1 through 95 of this Third Amended Complaint as if rewritten fully herein.

97. The Override Agreement is a valid and enforceable contract.

98. Cliffs and CLF have performed its obligations under the Override Agreement.

99. Seneca has breached its obligations under the Override Agreement by, among other things, selling coal to its affiliates at rates substantially below market price. This action has denied Cliffs and CLF the Tonnage Payments to the Escrow Account it would otherwise be entitled.

100. Seneca has also breached its contractual duties to produce and sell coal in good faith and not take actions that would be unfairly prejudicial or discriminatory to the interests of Cliffs and CLF in receiving the Tonnage Payments.

101. As a direct and proximate result of Seneca's breach of the Override Agreement, Cliffs and CLF have suffered compensatory damages in an amount of at least $28 million through the First Quarter 2017. Upon information and belief, Seneca's breaches are continuing and Cliffs and CLF's damages will continue to escalate with each quarterly Override Royalty Report received which amount will be determined at trial.

COUNT III
(Fraudulent Conveyance)

102. Cliffs and CLF reaffirm and reallege the allegations contained in paragraphs 1 through 101 of this Third Amended Complaint as if rewritten fully herein.

103. Based upon the UPA, Defendant Seneca has an outstanding debt to Cliffs for reimbursement and indemnification. This debt started from December 22, 2015, with $2 million in payroll obligation, over $13.5 million dollars in workers' compensation obligations, the obligation to replace nearly $16.7 million in bonds, other reimbursement obligations (including amounts owed pursuant to the Override Agreement), and continues to increase and is due and owing to Cliffs despite repeated attempts by Cliffs to obtain payment from Seneca in satisfaction of the debt.

104. Seneca does not dispute that this debt is legitimate and is due and owing to Cliffs. As such, Cliffs is a creditor of Seneca.

105. Instead of using Seneca's funds, including the $5 million bridge loan for company expenses, for payment to Cliffs in satisfaction of the debt, Seneca transferred or diverted monies and/or funds to Lara Natural Resources, Iron Management, and "other affiliate companies owned by the members," including but not limited to ERP Compliant Fuels, LLC, Virginia Conservation Legacy Fund, Inc., ERP Environmental Fund, Inc., ERP Federal Mining Complex, LLC, Seminole Coal Resources, LLC, and ERP Compliant Coke, LLC—all of which are owned in part by at least one of the Individual Defendants, with the actual intent to delay, hinder or defraud Cliffs.

106. Lara Natural Resources, Iron Management, and the "affiliates" with common ownership are insiders of Seneca with knowledge of the debt owed to Cliffs. Therefore, any transfer from Seneca to these entities served the purpose of retaining possession of Seneca's

assets or an interest in those assets. None of the insiders took or received transfers from Seneca in good faith.

107. The transfers made to Lara Natural Resources, Iron Management, and the "affiliates" commenced shortly after Seneca incurred the $268 million debt as a result of the UPA and after immediately incurring debt to Cliffs in the form of $2 million in payroll obligation, nearly $13.5 million dollars in workers' compensation obligation, and the obligation to replace nearly $16.7 million in bonds.

108. The transfer of $50,000 and $1,000,000 to Lara Natural Resources on December 24, 2015 and January 5, 2016, and $1,050,000 to Iron Management on January 5, 2016, occurred shortly after the parties executed the UPA, after Seneca had incurred at least $2 million of debt to Cliffs, further debt associated with workers' compensation claims for which it had a contractual obligation to reimburse Cliffs, $13.5 million of letter of credit to replace, and an immediate obligation to replace nearly $16.7 million in bonds.

109. The transfer to Iron Management of $300,000 and $30,000 to Lara Natural Resources occurred shortly after Seneca failed to make the $437,000 lease payment on the BB&T lease and failed to replace Cliffs' bonds in the amount of $16.7 million as required under the UPA. These failures are events upon which Seneca could have reasonably anticipated litigation.

110. Indeed, transfers for these management fees to Lara Natural Resources and Iron Management have continued on a monthly basis in an amount of approximately $30,000 and $20,000 respectively, even as Cliffs issues its monthly invoices and Seneca has refused to pay those invoices.

111. Seneca's loan transfers to affiliate companies, which have a net total of over $30 million dollars, have occurred consistently since Seneca executed the UPA and have occurred

after Cliffs issued its invoices to Seneca. They started after Seneca incurred significant debt to Cliffs, and continued even as Seneca missed its deadline to replace the bonds and guarantees, failed to make the BB&T payment, failed to make other capital lease payments, failed to replace the $13.5 million of letters of credit, and failed to reimburse the $7.6 million owed Cliffs.

112. Upon information and belief, the Individual Defendants received distributions from these affiliate entities, the purpose of which was to conceal the distributions under the guise of "loans" to affiliate companies.

113. These transfers from Seneca to affiliate companies, along with transfers to Lara Natural Resources and Iron Management, which ultimately resulted in distributions to the Individual Defendants, should be collapsed and deemed as a single transfer from Seneca to the Individual Defendants.

114. Upon information and belief, Seneca received inadequate consideration or no equivalent value in exchange for the transfer of funds to Lara Natural Resources, Iron Management, or the "affiliates." Despite being required in Interrogatory No. 1 to identify any consideration or value exchanged for the transfers by Seneca, the Individual Defendants have identified none in the Clarke and McCoy Declarations.

115. According to Seneca, it is unable to pay Cliffs for the outstanding invoices because of financial difficulties. Therefore, the transfers made by Seneca have rendered Seneca insolvent or unable to make payment to its creditors, including Cliffs.

116. Seneca, Lara Natural Resources, Iron Management, and the "affiliates" concealed these transfers from its creditor, Cliffs, until Cliffs filed its Expedited Discovery Motion which required Defendants to disclose information regarding transfers. Thereafter, Defendants concealed the subsequent transfers even after promising to Cliffs and the Court that they would provide prior notice before making any transfers.

117. Furthermore, emails between Jason McCoy, Tom Clarke, Ken McCoy, and other employees of Seneca and the affiliated companies confirm that the Individual Defendants all directed, participated in, and/or ratified the transfers and the concealment of the transfers from Cliffs. (*See* Exhibits B, C, and E.)

118. Jason McCoy, Kenneth McCoy, and Thomas Clarke's control over Seneca is so complete that Seneca has no separate mind, will, or existence of its own.

119. Jason McCoy and Kenneth McCoy's control over Iron Management is so complete that Iron Management has no separate mind, will, or existence of its own.

120. Tom Clarke and Ana Clarke's control over Lara Natural Resources is so complete that Lara Natural Resources has no separate mind, will, or existence of its own.

121. Individual Defendants' control over Seneca, Iron Management, and Lara Natural Resources, respectively, was exercised in such a manner as to commit fraud against Cliffs.

122. Cliffs suffered injury or unjust loss as a result of Individual Defendants' control and wrongdoing.

123. Furthermore, based on Seneca's obligations to Cliffs and CLF under the UPA and Override Agreement, Seneca has an outstanding debt to Cliffs and CLF. As a result, Cliffs and CLF are legitimate creditors of Seneca.

124. Instead of fulfilling its obligations to Cliffs and CLF under the UPA and Override Agreement, including the $2 million Seneca incurred as of December 22, 2015, $16.7 million of bonds, $13.5 million of letters of credit, and the millions of dollars owed to Cliffs throughout 2016, Seneca sold coal to insider and/or affiliate ERP Compliant Coke, LLC at a price substantially below market rate with the actual intent to hinder, delay and defraud Cliffs and CLF.

125. ERP Compliant Coke, LLC shares common ownership with Seneca by way of the Individual Defendants and had knowledge of Seneca's obligations under the UPA, Override Agreement, and debts owed to Cliffs and CLF. ERP Complaint Coke, LLC failed to take or receive the sale of coal in good faith.

126. Seneca did not receive adequate consideration or reasonably equivalent value in terms of payment received from ERP Compliant Coke, LLC; instead it received a substantially reduced price from the going market rates.

127. Because Seneca sold its coal to insiders and/or affiliates, Seneca and its owners kept possession of the property at a reduced price.

128. These actions were not disclosed to Cliffs and CLF at the time of sale. Instead, Cliffs and CLF only became aware after the fact via the Override Reports.

129. These events continued to occur in the first quarter of 2017, while this litigation had already commenced and Seneca was threatened with substantial liability to Cliffs. Even though Individual Defendants told the Court that it would give thirty days' notice of any transfers by Seneca, Defendants failed to do so even as they transferred millions of dollars to insiders.

130. As a result of the foregoing, Cliffs and CLF have suffered damages in an amount to be proven at trial, and is entitled to the avoidance and return of any funds transferred to Lara Natural Resources, Iron Management, and the "affiliates," return of any profit lost as a result of fraudulent sales of coal to affiliates, along with a judgment against all Defendants, jointly and severally for the value of the transfers.

131. In addition, Cliffs and CLF are entitled to an injunction prohibiting Seneca, Lara Natural Resources, and/or Iron Management from transferring money or assets from Seneca, Lara Natural Resources, and/or Iron Management to anyone until Cliffs' rights to payment from

Seneca (including the replacement of the collateral for the workers' compensation policies) have been satisfied by Seneca.

132. In addition, the acts were committed with actual malice, including that all Defendants knew of and consciously disregarded Cliffs and CLF's rights and knew that the fraudulent transfers would cause substantial harm to Cliffs and CLF. Thus, Cliffs and CLF are entitled to an award of punitive damages and attorneys' fees against all Defendants, jointly and severally.

133. Further, Cliffs is entitled to sanctions and attorneys' fees against Defendants.

COUNT IV
(Conspiracy to Commit Fraudulent Transfer)

134. Cliffs and CLF reaffirm and reallege the allegations contained in paragraphs 1 through 133 of this Third Amended Complaint as if rewritten fully herein.

135. The Individual Defendants in this matter are members of the fraudulent transferor, Seneca, and the transferees, Lara Natural Resources, and/or Iron Management, who received at least $2.4 million in assets from Seneca plus hundreds of thousands in "management fees." In addition, Defendant Thomas M. Clarke and the other Individual Defendants are the owner/managing members of the multitude of insiders and/or affiliates who received transfers from Seneca and coal at below market value from Seneca.

136. Thomas M. Clarke and Ana M. Clarke are the sole members of Lara Natural Resources; Kenneth R. McCoy and Jason R. McCoy are majority members of Iron Management; and Kenneth R. McCoy, Jason R. McCoy, and Thomas M. Clarke are majority members of Seneca.

137. As a result of their respective ownership interests in Seneca, Lara Natural Resources, and/or Iron Management, the Individual Defendants had a personal financial interest

in ensuring that Seneca's funds would not be used to repay its debts to Cliffs, but rather to divert such funds away to themselves "corporately and personally" vis their interest in Lara Natural Resources, Iron Management, and other owned "affiliates" of Seneca, and to sell coal to affiliates of Seneca owned by Thomas M. Clarke at below market prices.

138. To that end, on or before December 18, 2015, Thomas Clarke, Jason McCoy and Kenneth McCoy entered into a conspiracy the purpose of was to use the assets of Seneca to fund their personal and corporate objectives to the detriment of Cliffs and other creditors. Indeed, the Defendants commenced the conspiracy by using the proceeds of a [redacted] bridge loan to Seneca to immediately "pay down [their] debt . . . both corporately and personally." (*See* Ex. B.)

139. Furthermore, or about January 5, 2015, Thomas Clarke spoke with Jason McCoy regarding self-payment in the amount of $1 million dollars each to Lara Natural Resources and Iron Management. This agreement, which was mutually beneficial to both parties involved, manifested itself in a transfer of $1 million to Lara Natural Resources and $1,050,000 to Iron Management on the very same day of the conversation. The total amount of payments to Lara Natural Resources and Iron Management in late December and early January are exactly the same: $1,050,000 each.

140. Likewise, on or about January 29, 2016, Jason McCoy communicated with representatives of ERP Compliant Fuels, Inc. regarding engaging in siphoning money away from Seneca through a "management fee." Jason McCoy, Kenneth McCoy, and Tom Clarke thereafter repeatedly engaged in email communication regarding fraudulently transferring funds via this management fee. This agreement manifested itself in a monthly transfer away from Seneca to Lara Natural Resources and Iron Management in lieu of payment to Seneca's creditor, Cliffs.

141. Furthermore, the Defendants conspired to transfer funds away from Seneca to affiliate companies owned by the Individual Defendants via "loans" in order to either fund these companies or make distributions to the Individual Defendants. This agreement among the Defendants ensured that while Seneca would be unable to pay Cliffs and its other creditors, the money would still remain in the control of the Individual Defendants.

142. On November 8, 2016, at latest, Ana Clarke joined the conspiracy by receiving $25,000 intended to be disguised as a "management fee" from Seneca.

143. Prior to, during, and after the transfers of tens of millions of dollars from Seneca, Seneca owed, and continues to owe, millions of dollars to Cliffs.

144. The Defendants maliciously collaborated and contrived to deprive Cliffs of the funds that were rightly owed to Cliffs and CLF as legitimate creditors of Seneca. This collaborative effort to transfer funds and sell coal at below market prices to the detriment of Cliffs and CLF was purposeful to injure Cliffs and CLF without reasonable or lawful excuse.

145. None of the Individual Defendants were acting within the scope of their corporate role, but rather pursuant to their personal interests to "pay down [their] debt."

146. Each of the Defendants participated in, authorized, ratified and/or adopted the fraudulent transfers for their benefit. Each of the Defendants knew that Cliffs and CLF were legitimate creditors and Lara Natural Resources, Iron Management, and the "affiliates" were not legitimate creditors of Seneca.

147. As a result of the malicious effort of the multiple Defendants, the independent unlawful tortious act of actual and constructive fraudulent transfer occurred wherein Seneca fraudulently transferred funds to Lara Natural Resources, Iron Management, and "affiliates" at the expense of its legitimate creditors, Cliffs and CLF, and sold coal at below market prices to ERP Compliant Coke, LLC with the intent to defraud Cliffs and CLF.

148. As a result of malicious effort of the multiple Defendants, Cliffs and CLF have been injured in the amount of the fraudulent transfers, in no event less than $35 million, but which will be determined at trial.

149. In addition, the acts were committed with actual malice, including that all Defendants knew of and consciously disregarded Cliffs and CLF's rights and knew that the fraudulent transfers would cause substantial harm to Cliffs and CLF. Thus, Cliffs and CLF are entitled to an award of punitive damages and attorneys' fees against all Defendants, jointly and severally.

DEMAND FOR JUDGMENT

WHEREFORE, Plaintiffs Cliffs Natural Resources Inc. and CLF PinnOak LLC respectfully requests that the Court enter judgment in its favor as follows:

A. Compensatory damages against Seneca in an amount to be determined at trial, but no less than $7,688,421.90, plus interest and increasing monthly until trial;

B. An injunction requiring Seneca to replace the letters of credit in an amount now of around $10 million, or post collateral sufficient to replace the collateral that Cliffs has had to post for the letters of credit;

C. A finding that transfers from Seneca to Lara Natural Resources, Iron Management, and/or any affiliate company be collapsed into a single transaction in which it be deemed that Seneca transferred funds to the Individual Defendants directly.

D. Costs, interest and attorneys' fees against Seneca under the parties' indemnification provision in the UPA

E. Costs, interest and attorneys' fees against Defendants for fraudulent transfer;

F. Compensatory damages against Seneca for its breach of the Override Agreement, in an amount not less than $28 million through the First Quarter 2017 and continuing with each Quarterly Statement until trial.

G. An injunction ordering Seneca to provide Cliffs with access to the books and records regarding the Override Reports;

H. An injunction prohibiting Seneca, Lara Natural Resources, and/or Iron Management from transferring money or assets from Seneca to anyone until Cliffs' rights to payment from Seneca (including the replacement of the collateral for the workers' compensation policies) have been satisfied by Seneca;

I. Compensatory damages against all Defendants, jointly and severally, for the value of any transfers made by Seneca to the other Defendants in an amount not less than $35 million.

J. Compensatory damages against all Defendants, jointly and severally, for the value of the coal sold below market value to Seneca's affiliates or insiders, in an amount to be determined at trial.

K. An award of punitive damages and attorneys' fees against all Defendants, jointly and severally; and

L. Any other relief this Court may deem just an appropriate under the circumstances.

Respectfully submitted,

/s/ *Pilar G. Kraman*

John T. Dorsey (No. 2988)
Pilar G. Kraman (No. 5199)
YOUNG CONAWAY STARGATT & TAYLOR, LLP
Rodney Square
1000 North King Street
Wilmington, Delaware 19801
Phone: 302-571-6712
Facsimile: 302-576-3401
Email: jdorsey@ycst.com
Email: pkraman@ycst.com

and

Robert J. Fogarty (Ohio 0006818)
(*pro hac vice*)
E. Sean Medina (Ohio 0082558)
(*pro hac vice*)
HAHN LOESER & PARKS LLP
200 Public Square, Suite 2800
Cleveland, OH 44114
Phone: 216-621-0150

Facsimile: 216-241-2824
Email: rjfogarty@hahnlaw.com
smedina@hahnlaw.com

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I, Pilar G. Kraman, hereby certify that on November 3, 2017, I caused to be electronically filed a true and correct copy of the foregoing sealed document with the Clerk of the Court using CM/ECF, which will send notification of such filing to registered participants.

I further certify that on November 3, 2017**,** I caused the foregoing sealed document to be served by e-mail on the following counsel of record:

Christopher Viceconte
Gibbons P.C.
300 Delaware Avenue, Suite 1015
Wilmington, DE 19801
cviceconte@gibbonslaw.com

Camille V. Otero
William S. Hatfield
Kevin W. Weber
Caroline E. Oks
Gibbons P.C.
One Gateway Center
Newark, NJ 07102
cotero@gibbonslaw.com
whatfield@gibbonslaw.com
kweber@gibbonslaw.com
coks@gibbonslaw.com

Attorneys for Defendant Seneca Coal Resources, LLC

Donna L. Culver
Derek C. Abbott
Morris, Nichols, Arsht & Tunnell LLP
1201 North Market Street
Wilmington, DE 19899-1347
dculver@mnat.com
dabbott@mnat.com

Attorneys for Kenneth R. McCoy, Jason R. McCoy, and Iron Management II, LLC

Samuel T. Hirzel, II
Jamie L. Brown
Heyman Enerio Gattuso & Hirzel LLP
300 Delaware Avenue, Suite 200
Wilmington, DE 19801
shirzel@hegh.law
jbrown@hegh.law

Attorneys for Lara Natural Resources, LLC, Thomas M. Clarke, and Ana M. Clarke

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Pilar G. Kraman

John Dorsey (No. 2988)
Pilar G. Kraman (No. 5199)
Rodney Square
1000 North King Street
Wilmington, Delaware 19801
(302) 571-6600
jdorsey@ycst.com
pkraman@ycst.com

Attorneys for Plaintiffs Cleveland-Cliffs Inc. and CLF PinnOak LLC

Dated: November 3, 2017