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Roundup mine sued over debt

By DAVID CRISP



The Bull Mountain Mine near Roundup, financially troubled since its inception, has been hit with an \$18.9 million lawsuit, plus interest, for its alleged failure to pay a debt.

The suit was filed Dec. 15 in federal court in Billings. Plaintiffs are Webb Financial Group Inc., a North Carolina corporation; Franklin Asset Exchange LLC, a limited liability corporation in North Carolina; and Disciples Limited LLC, a Nevada limited liability company.

Named as defendants are Bull Mountain Coal Properties Inc. and the Airlie Opportunity Master Fund Ltd., along with four related private equity funds.

The germ of the lawsuit goes back several years, when more than 350 individual investors loaned money to the mine through Webb, Franklin and Disciples. According to the lawsuit, the investors, characterized as "middle class, hard working, unaccredited investors," were promised a return of 12 percent to 15 percent a year.

However, the mine failed to pay, and a North Carolina court awarded a \$14.7 million judgment to Webb and Franklin in 2005.

Attorneys for the plaintiffs attempted to collect on the judgment here (Outpost, Sept. 1, 2005), but Airlie acquired the mine's assets in September 2005 and negotiations resumed. A settlement agreement was reached this May, but Gregory Bartko, an Atlanta, Ga., attorney in the case, said that Airlie still refuses to pay.

"I personally believe it's a travesty," he said. He said that Airlie managers had declined to repay the loans because the price of a coal went down, a reason Mr. Bartko found unacceptable.

The defendants have "expressly taken a 'so sue me' approach," the lawsuit alleges.



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Defendants have "openly and cavalierly" asserted that it is more important to complete a rail line to the mine than to pay off the debt, the suit says.

Airlie also has paid money to other creditors instead of its secured creditors and has used its secured obligation as litigation strategy to ward off other demands for payment, the lawsuit says.

A telephone call to Airlie offices in Greenwich, Conn., was not immediately returned.

Mine officials announced with Gov. Brian Schweitzer in October plans to build a coal-to-liquids plant at the Bull Mountain mine at a cost of up to \$2 billion. Mr. Bartko said he and co-counsel Wes Covington plan to do everything possible to collect the money that is owed.

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