

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

PATRIOT COAL CORPORATION, *et al.*,

Debtors.¹

Chapter 11

Case No. 12-12900 (SCC)

Jointly Administered

**ORDER TO ESTABLISH PROCEDURES FOR INTERIM
MONTHLY COMPENSATION AND REIMBURSEMENT
OF EXPENSES OF PROFESSIONALS**

Upon the motion (the “**Motion**”)² of Patriot Coal Corporation and its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the “**Debtors**”), pursuant to sections 105(a) and 331 of the Bankruptcy Code and Bankruptcy Rule 2016(a), for authority to establish procedures for monthly compensation and reimbursement of expenses of professionals retained by order of this Court, as more fully described in the Motion, and upon consideration of the Declaration of Mark N. Schroeder, Patriot Coal Corporation’s Senior Vice President and Chief Financial Officer, filed on July 9, 2012 [ECF No. 4] (the “**Declaration**”); and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and Standing Order M-61 Referring to Bankruptcy Judges for the Southern District of New York Any and All Proceedings Under Title 11, dated July 10, 1984 (Ward,

¹ The Debtors are the entities listed on Schedule 1 attached to the Motion. The employer tax identification numbers and addresses for each of the Debtors are set forth in the Debtors’ chapter 11 petitions.

² Unless otherwise defined herein, each capitalized term shall have the meaning ascribed to such term in the Motion.

Acting C.J.) as amended by Standing Order M-431, dated February 1, 2012 (Preska, C.J.); and consideration of the Motion and the requested relief being a core proceeding the Bankruptcy Court can determine pursuant to 28 U.S.C. § 157(b); and due and proper notice of the Motion having been provided in accordance with the Case Management Order; and it appearing that no other or further notice need be provided; and the relief requested in the Motion being in the best interests of the Debtors and their estates and creditors; and the Court having reviewed the Motion and having held a hearing with appearances of parties in interest noted in the transcript thereof (the “**Hearing**”); and the Court having determined that the legal and factual bases set forth in the Motion and the Declaration and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that the relief requested in the Motion is hereby granted as set forth herein; and it is further

ORDERED that except as may otherwise be provided in orders of the Court authorizing the retention of specific professionals, all Retained Professionals in these cases may seek monthly compensation in accordance with the following procedures:

- (a) On or before the 20th day of each month following the month for which compensation is sought, or as soon as practicable thereafter, each Retained Professional seeking compensation will file with the Court a monthly statement (the “**Monthly Statement**”) and serve it, by hand or overnight delivery, on
 - (i) Patriot Coal Corporation, 12312 Olive Boulevard, Suite 400, St. Louis, Missouri, 63141, Attn: Jacquelyn A. Jones, (ii) the Office of the United States

Trustee for the Southern District of New York (the “**U.S. Trustee**”), 33 Whitehall Street, 21st Floor, New York, New York 10004, Attn: Elisabetta G. Gasparini and Paul K. Schwartzberg, (iii) proposed counsel to the Debtors, Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, New York 10017, Attn: Marshall S. Huebner and Brian M. Resnick, (iv) attorneys for the administrative agent for Debtors’ postpetition lenders, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153, Attn: Marcia Goldstein and Joseph Smolinsky, and (b) Willkie Farr & Gallagher LLP, 787 Seventh Avenue, New York, New York 10019, Attn: Margot B. Schonholtz and Ana Alfonso and (v) proposed counsel for the official committee of unsecured creditors (the “**Committee**”), Kramer Levin Naftalis & Frankel LLP, 1177 Avenue of the Americas, New York, New York 10036, Attn: Adam C. Rogoff, Esq. and Gregory G. Plotko, Esq., (collectively, the “**Service Parties**”). A courtesy copy need not be delivered to chambers since this Order is not intended to alter the fee application requirements outlined in sections 330 and 331 of the Bankruptcy Code and since Retained Professionals are still required to serve and file interim and final applications for approval of fees and expenses in accordance with the relevant provisions of the Bankruptcy Code, the Bankruptcy Rules and the Local Bankruptcy Rules.

(b) Each Monthly Statement shall contain a list of the individuals and their respective titles (*e.g.*, attorney, accountant or paralegal) who provided services during the statement period, their respective billing rates, the aggregate hours spent by each individual and a reasonably detailed breakdown of the

disbursements incurred. No Retained Professional should seek reimbursement of an expense that would not be allowed pursuant to the Court's Administrative Orders dated June 24, 1991 and April 21, 1995 or the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330 dated January 30, 1996. Moreover, each Monthly Statement should contain contemporaneously maintained time entries for each individual in increments of tenths of an hour, except where otherwise ordered by the Court.

(c) If any Service Party has an objection to the compensation or reimbursement sought in a particular Monthly Statement, he or she shall, by no later than the 15th day following the filing of the relevant Monthly Statement (the "**Objection Deadline**"), file with the Court and serve upon the Retained Professional whose Monthly Statement is objected to, and upon the other Service Parties, a written "Notice of Objection to Fee Statement" (hereinafter referred to as an "**Objection**") setting forth the nature of the objection and the amount of fees or expenses at issue.

(d) After the expiration of the Objection Deadline, the Debtors shall promptly pay 80% of the fees and 100% of the expenses identified in each Monthly Statement to which no Objection has timely been served in accordance with paragraph (c) above.

(e) If the Debtors receive an Objection to a particular Monthly Statement, unless the Court, upon notice and a hearing, directs payment to be made, they shall withhold payment of that portion of the Monthly Statement to

which the Objection is directed and promptly pay the remainder of the fees and disbursements in the percentages set forth in paragraph (d).

(f) If the parties to an Objection are able to resolve their dispute following the timely filing of an Objection and if the party whose Monthly Statement was objected to files and serves upon the other Service Parties a statement indicating that the Objection is withdrawn and describing in detail the terms of the resolution, then the Debtors shall promptly pay, in accordance with paragraph (e), that portion of the Monthly Statement no longer subject to an Objection.

(g) All Objections not resolved by the parties or Court order shall be preserved and presented to the Court at the next interim or final fee application hearing to be heard by the Court in accordance with paragraph (k) below.

(h) The service of an Objection in accordance with paragraph (d) above shall not prejudice the objecting party's right to object to any fee application made to the Court in accordance with the Bankruptcy Code on any ground whether raised in the objection or not. Furthermore, the decision by any party not to object to a Monthly Statement shall not constitute a waiver of any kind nor prejudice that party's right to object to any fee application subsequently made by any party to the Court in accordance with the Bankruptcy Code.

(i) Approximately every 120 days (but not less frequently than every 150 days), each Retained Professional shall, in accordance with General Order M-399 (which can be found at www.nysb.uscourts.gov), (a) file with the Court, (b) serve on the Service Parties and (c) provide the U.S. Trustee with a disk

containing an electronic version of, an application for interim or final (as the case may be) Court approval and allowance, pursuant to sections 330 and 331 of the Bankruptcy Code, of the compensation and reimbursement of expenses requested.

(j) No notice of hearing should be filed by professionals in connection therewith, as the Debtors will schedule a hearing at which all fee applications will be heard. At least 30 days before the hearing, the Debtors' attorneys shall file a notice with the Court, served upon the U.S. Trustee and all Retained Professionals, that sets forth the time, date and location of the fee hearing, the date by which the fee applications must be filed, the period covered by such application and the objection deadline. Any Retained Professional unable to file its own fee application with the Court shall deliver to the Debtors' attorneys a fully executed copy with original signatures, along with service copies, three days before the filing deadline. The Debtors' attorneys shall file and serve such application.

(k) Any Retained Professional that fails timely to file an application seeking approval of compensation and expenses previously paid under this Order shall (i) be ineligible to receive further monthly payments of fees or reimbursement of expenses as provided herein until the filing of an application or further order of the Court and (ii) may be required to disgorge any fees paid since the later of such Retained Professional's retention or last fee application.

(l) The pendency of an application or the entry of a Court order that the prior payment of compensation or the reimbursement of expenses was improper as to a particular Monthly Statement shall not disqualify a Retained

Professional from the future payment of compensation or reimbursement of expenses as set forth above, unless otherwise ordered by the Court.

(m) Neither the payment of, nor the failure to pay, in whole or in part, monthly compensation and reimbursement as provided herein shall have any effect on this Court's interim or final allowance of compensation and reimbursement of expenses of any Retained Professional.

(n) The attorney for any official committee may, in accordance with the foregoing procedure for monthly compensation and reimbursement of Retained Professionals, collect and submit for payment statements of expenses, with supporting vouchers, from members of the committee he or she represents; provided, however, that these reimbursement requests must comply with this Court's Administrative Orders dated June 24, 1991 and April 21, 1995;

and it is further

ORDERED that each Retained Professional whose retention has been approved by the Court as of the Petition Date may seek, in its first Monthly Statement, compensation for work performed and reimbursement for expenses incurred during the period beginning on the Petition Date and ending on July 31, 2012. The first interim fee application for such Retained Professionals shall seek compensation and reimbursement of expenses for the period from the Petition Date through September 30, 2012. All Retained Professionals not retained as of the Petition Date shall serve their first Monthly Statement on the Service Parties for the period from the effective date of their retention through the end of the first full month following the effective date of their retention, and otherwise in accordance with the procedures set forth in the Motion; and it is further

ORDERED that Notice of the interim and final fee applications shall be served on the Service Parties. Notice given in accordance with this paragraph is deemed sufficient and adequate and in full compliance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules and the Local Rules of this Court; and it is further

ORDERED that the Debtors shall include all payments to Retained Professionals on their monthly operating reports, detailed so as to state the amount paid to each Retained Professional; and it is further

ORDERED that the amount of fees and disbursements sought by each Retained Professional shall be set forth in U.S. dollars and specify any foreign currency conversion, calculated at the time of the submission of the application; and it is further

ORDERED that any party may object to requests for payments made pursuant to this Order on the grounds that the Debtors have not timely filed monthly operating reports, have not remained current with their administrative expenses and 28 U.S.C. § 1930 fees, or a manifest exigency exists by seeking a further order of this Court, otherwise, this Order shall continue and shall remain in effect during the pendency of this case; and it is further

ORDERED that no professional may file a Monthly Statement until the Court enters an order approving the retention of such professional pursuant to section 327 or 1103 of the Bankruptcy Code; and it is further

ORDERED that all time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a); and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation and/or interpretation of this Order; and it is further

ORDERED that notice of Motion as provided therein shall be deemed good and sufficient notice of such Motion.

Dated: August 2, 2012
New York, New York

/s/ Shelley C. Chapman
HONORABLE SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE