

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re: : Chapter 11
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PATRIOT COAL CORPORATION, *et al.*, : Case No. 12-12900 (SCC)
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Debtors. : (Jointly Administered)
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STIPULATED PROTECTIVE ORDER
UNDER 11 U.S.C. §§ 1113(d)(3) AND 1114(k)(3)

This STIPULATED PROTECTIVE ORDER (the “**Order**”) is made as of October 3, 2012 (the “**Effective Date**”) between Patriot Coal Corporation and its subsidiaries that are Debtors in Possession (referred to herein as the “**Debtors**”), and the United Mine Workers of America (“**Recipient**”). The parties acknowledge that Patriot Coal Corporation is a public company and the disclosure of non-public information could result in severe harm to Debtors’ business. In order to facilitate the disclosure of Confidential Information (as defined below) to the Recipient while protecting the Debtors from the risk of public dissemination of such information, the parties hereby agree that the disclosure of Confidential Information by the Debtors to the Recipient shall be governed by the following terms and conditions.

1. **Confidential Information.** For purposes of this Order, “Confidential Information” means all non-public information the Debtors disclose to Recipient on or after the date of this Order in accordance with the terms of this Order, whether written, oral, photographic, electronic, magnetic, or otherwise, whether in the form of slides, handouts, letters, memoranda, agreements, facsimile transmissions, meetings, conference and other telephone calls, diskettes, files, tapes, and/or any other mode, that, if disclosed, could compromise the position of the Debtors relative to their competitors in the coal industry. Confidential Information includes, without limitation, information relating to the Debtors’ financial and/or business operations, business ventures, strategic plans, pricing, marketing strategies and programs, ideas, concepts, business plans, financial condition and projections, identifying information about employees and retirees, distribution arrangements, trade secrets, and/or ideas. However, Confidential Information does not include information as identified below in Section 8 (Exclusions).

2. **Highly Confidential Information.** In addition, the Debtors may in good faith designate certain Confidential Information as “Highly Confidential” if it constitutes or contains non-public information pertaining to wages, benefits, work rules, or other compensation of employees of third parties, and if the Debtors reasonably believe that such designation is necessary to ensure compliance with restrictions on the Debtors’ use

of such information imposed by one or more third parties. Recipient agrees that it will not print, copy, or otherwise reproduce in any way information designated as Highly Confidential, and that it will otherwise treat Highly Confidential information as governed by the restrictions applicable to Confidential Information under this Order. Recipient may object to the Debtors' designation of material as "Highly Confidential" according to the procedures set forth in Section 4, which will apply to materials designated as "Highly Confidential" in the same manner as it applies to materials designated "Confidential." The parties agree to meet and confer to discuss the method and manner of use of Highly Confidential information in any court filing or proceeding.

3. **Purpose for Disclosure.** Subject to the Limitations of Use contained in Section 5, Recipient may use Confidential Information only for the purpose of conducting its necessary due diligence and analysis of proposals, preparing counterproposals, preparing for bargaining and bargaining under 11 U.S.C. §§ 1113 and 1114 and, if necessary, in preparing for and litigating a motion by the Debtors for judicial relief under 11 U.S.C. §§ 1113 and 1114 (the "**Business Purpose**"). Nothing herein shall restrict the Recipient's ability to keep union members informed of the status of the negotiations and/or any 1113 and 1114 process, provided however that such information shall not contain, disclose, refer to, or divulge Confidential Information unless (i) the Debtors consent in writing to such disclosure, or (ii) the Recipient receives an Order of the Court pursuant to the procedures provided in Section 4 herein authorizing such disclosure.

4. **Procedure.** If the Debtors believe in good faith that information to be disclosed is Confidential Information, it may so designate that material by stamping or otherwise marking that material with the legend "CONFIDENTIAL," or "HIGHLY CONFIDENTIAL" as appropriate, or by sending a letter designating the material as such. If the Recipient objects to such designation, counsel for the Debtors and the Recipient shall meet and confer. If the Recipient's objection is not resolved following the meet and confer, the Debtors shall provide a written explanation to the Recipient's counsel of the rationale supporting the designation and the Recipient may apply to the Court for an order, to be made after notice to the Debtors and a hearing, that the material sought to be protected is not entitled to such status and protection. In the event of a dispute concerning the designation of confidential material, the material designated as "Confidential" or "Highly Confidential" shall be treated as such until the Court orders to the contrary. The Recipient's acquiescence to a designation of confidentiality shall not prejudice the Recipient's right to, at a later date, object to the designation. Further, neither the Recipient's acquiescence to a designation of confidentiality nor this Order shall prejudice the Recipient's right to seek an order of this Court that would allow employees or retirees of the Debtors who are represented by the Recipient to review Confidential Information subject to the right of the Debtors to appear and object to such request.

5. **Limitations of Use.** Recipient shall use the Confidential Information only for the Business Purpose and shall use reasonable best efforts to hold and maintain the Confidential Information in strict confidence using the same degree of care that the

Recipient uses with respect to its own comparable, highly confidential, or proprietary information. Recipient hereby agrees that Recipient, its Affiliates (as defined below), its Advisors (as defined below), and any Participating Employees or Retirees (as defined below) will use the Confidential Information exclusively for the purpose of the Business Purpose and, without limiting the generality of the foregoing, neither Recipient nor its Affiliates nor its Advisors nor any Participating Employees or Retirees shall use any of the Confidential Information in furtherance of the business of any person or entity other than the Debtors, irrespective of whether such business competes with the Debtors, or for any other purpose whatsoever, other than as contemplated by the Business Purpose. Recipient hereby further agrees that it shall not disclose any Confidential Information to any person or entity and shall safeguard and keep secret the Confidential Information; *provided, however*, that Recipient shall be permitted to disclose Confidential Information to Recipient's officers, employees, subcontractors, and agents (collectively "**Affiliates**"), Recipient's accountants, attorneys, and other confidential advisors (collectively "**Advisors**"), and employees or retirees of the Debtors represented by Recipient who are actively participating in negotiations or preparation for court proceedings under 11 U.S.C. §§ 1113 or 1114 ("**Participating Employees or Retirees**"), but only to the extent that the Recipient reasonably determines that such Affiliates, Advisors, and Participating Employees or Retirees need to know such Confidential Information for the purpose of assisting Recipient in connection with the Business Purpose. For avoidance of doubt, nothing in this Order shall permit Recipient to disclose any Confidential Information to the Bituminous Coal Operators' Association, Inc. ("BCOA") or any of the BCOA's affiliates, trustees, employees, and/or members. Furthermore, to the extent that the United Mine Workers of America Health and Retirement Funds (i.e., any of the plans that provide health and pension benefits to retired coal miners and their eligible dependents, including United Mine Workers of America 1992 Benefit Plan, United Mine Workers of America 1993 Benefit Plan and Trust, United Mine Workers of America 1974 Pension Plan and Trust, and United Mine Workers of America Combined Fund) (collectively "UMWA Funds") participate in negotiations or preparation for court proceedings under 11 U.S.C. §§ 1113 or 1114, the UMWA Funds will enter into separate agreements, substantially in the form of this Order, with the Debtors prior to receiving any Confidential Information. Recipient agrees to be responsible for each reasonably foreseeable breach of this Order by its Affiliates, its Advisors, or by any Participating Employees or Retirees, and Recipient agrees that its Affiliates, its Advisors, and any Participating Employees or Retirees will be advised, prior to any disclosure, by Recipient of the confidential nature of such information. Any person receiving Confidential Information pursuant to this Order shall, prior to any disclosure, execute the statement contained in Appendix A agreeing to be bound by this Order. Except as provided in Section 10, neither the Recipient nor any person receiving Confidential Information pursuant to this Order will disclose to any person or entity the existence, terms, or conditions of the Confidential Information, or any facts to the extent that such disclosure would reveal or compromise the Confidential Information.

6. **Court Filings.** If a party wishes to file with the Court any Confidential Information or any information derived therefrom, such material or information shall be filed with the Court under seal. Upon consultation, this requirement may be waived by

the Debtors, which shall be reasonable in granting such waivers as necessary to avoid needlessly burdening the record with materials and papers filed under seal.

7. **Ownership of Information.** Recipient acknowledges and agrees that any Confidential Information of the Debtors, in whatever form, is the sole property of the Debtors. Neither Recipient nor its Affiliates nor its Advisors nor any Participating Employees or Retirees shall use any of the Confidential Information now or hereafter received or obtained from the Debtors in furtherance of the business of anyone else whether or not in competition with the Debtors, or for any other purpose whatsoever, other than as contemplated by the Business Purpose. Recipient agrees that upon the written request of, and as directed by, the Debtors it shall either return such Confidential Information to the Debtors or shall destroy such Confidential Information as so directed; *provided*, documents prepared by Recipient using Confidential Information will be destroyed and not provided to the Debtors; *provided further* however, that if Recipient has presented or provided materials derived from the Confidential Information of the Debtors to its executive board or any committee thereof, then Recipient may retain a copy of such materials for its corporate records or other legitimate internal corporate governance purposes, provided that Recipient shall continue to treat such materials as Confidential Information in accordance with the terms of this Order, notwithstanding any termination thereof.

8. **Exclusions.** Recipient shall have no obligation under this Order as to Confidential Information which: (a) is known to Recipient at the time of disclosure, without obligation of confidentiality; (b) is independently developed by Recipient without reference to or use of the Debtors' Confidential Information (or the confidential information of another party); (c) becomes known to Recipient from another source, unless the Recipient knows or reasonably believes that such other source was subject to a confidentiality restriction at the time of disclosure to Recipient; (d) is or becomes part of the public domain through no wrongful act of Recipient; (e) is disclosed in connection with collective bargaining and is not among the items of Confidential Information specifically identified by category in Section 1 above; or (f) is disclosed publicly pursuant to any judicial or governmental request or order; provided that, unless requested not to do so by the judicial or governmental entity, Recipient takes reasonable steps to give the Debtors sufficient prior written notice so that the Debtors may seek (with the reasonable cooperation of Recipient and at the Debtors' expense) a protective order to contest or limit the scope of such request or order as much as possible.

9. **Injunctive Relief.** Money damages would not be a sufficient remedy for any breach or threatened breach of this Order and the Debtors shall be entitled to specific performance and injunctive or other equitable relief for any such breach or threatened breach by appropriate action in the Bankruptcy Court.

10. **Compelled Disclosure.** If Recipient or any of its Affiliates, its Advisors, or Participating Employees or Retirees is legally compelled (whether by regulatory request, deposition, interrogatory, request for documents, subpoena, civil investigation, demand or similar process) to disclose any Confidential Information, Recipient shall

immediately notify the Debtors in writing of such requirement so that the Debtors may seek a protective order or other appropriate remedy and/or waive compliance with the provisions hereof. Recipient will use its best efforts, at the Debtors' expense, to assist the Debtors in obtaining any such protective order. Failing the entry of a protective order or the receipt of a waiver hereunder, Recipient may disclose, without liability hereunder, that portion (and only that portion) of the Confidential Information that Recipient has been advised by written opinion of counsel reasonably acceptable to the Debtors that it is legally compelled to disclose; *provided, however*, that Recipient agrees to use its best efforts to obtain assurance, at no cost to Recipient, that confidential treatment will be accorded such Confidential Information by the person or persons to whom it is disclosed.

11. **Securities Law Compliance.** Recipient acknowledges and is aware that federal and many state securities laws prohibit any person who has received from an issuer material, nonpublic information from purchasing or selling securities of such issuer or from communicating such information to any other person under circumstances in which it is reasonably foreseeable that such person is likely to purchase or sell such securities.

12. **General.** No waiver of any breach or default shall be deemed or construed to constitute a waiver of any other violation or other breach of any of the terms, provisions, and covenants contained in this Order, and forbearance to enforce one or more of the remedies provided on an event of default will not be deemed or construed to constitute a waiver of the default or of any other remedy provided for in this Order.

IN WITNESS WHEREOF, a duly authorized representative of each party hereby stipulates to entry of this Order as of the date first written above.

PATRIOT COAL CORPORATION

UNITED MINE WORKERS OF
AMERICA

By: /s/ Joseph W. Bean
Joseph W. Bean

By: /s/ Grant Crandall
Grant Crandall

Senior Vice President & General Counsel,
Patriot Coal Corporation

General Counsel,
United Mine Workers of America

IT IS SO-ORDERED:

October 9, 2012

New York, New York

/s/ Shelley C. Chapman

HONORABLE SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE

APPENDIX A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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: Chapter 11
In re: :
: Case No. 12-12900 (SCC)
PATRIOT COAL CORPORATION, *et al.*, :
: (Jointly Administered)
Debtors. :
: STIPULATED PROTECTIVE
: ORDER
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CERTIFICATION

1. My name is _____.
2. My business address is _____.
3. I am employed as (state position) _____.
4. by (state name and address of employer) _____
_____.

5. I have read the Stipulated Protective Order executed by the Debtors in the above-captioned matter and the United Mine Workers of America (the "Order"). I understand the Order and agree to be bound by its terms.

6. I further understand that federal and many state securities laws prohibit any person who has received from an issuer material, nonpublic information from purchasing or selling securities of such issuer or from communicating such information to any other person under circumstances in which it is reasonably foreseeable that such person is likely to purchase or sell such securities.

7. I declare under penalty of perjury that the foregoing is true and correct.

Executed this ____ day of _____, _____
by _____

Signed: _____