

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI

In re:	)	
	)	Chapter 11
	)	
PATRIOT COAL CORPORATION, <u>et al.</u> ,	)	Case No. 12-51502
	)	
Debtors.	)	No Hearing Necessary
	)	

**NOTICE OF FILING OF STIPULATION REGARDING LIMITED OBJECTION OF  
BANK OF AMERICA, N.A., AS AGENT, TO ALLOWANCE AND PAYMENT OF  
CERTAIN FEES AND EXPENSES OF PROFESSIONALS RETAINED BY THE  
OFFICIAL COMMITTEE OF UNSECURED CREDITORS**

Notice is provided of the filing of the *Stipulation Regarding Limited Objection of Bank of America, N.A., as Agent, to Allowance and Payment of Certain Fees and Expenses of Professionals Retained by The Official Committee of Unsecured Creditors*, which is attached hereto as **Exhibit A**.

No further action or hearing is necessary.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing was served via the Court's CM/ECF system on all parties receiving ECF notices in this case on the 15<sup>th</sup> day of May, 2013.

\_\_\_\_\_  
/s/Laura Toledo

# EXHIBIT A

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI**

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In re:	)	Chapter 11
	)	
PATRIOT COAL CORPORATION, <u>et al.</u> ,	)	Case No. 12-51502
	)	
Debtors.	)	Jointly Administered
	)	

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**STIPULATION REGARDING LIMITED OBJECTION OF BANK OF  
AMERICA, N.A., AS AGENT, TO ALLOWANCE AND PAYMENT OF  
CERTAIN FEES AND EXPENSES OF PROFESSIONALS RETAINED BY THE  
OFFICIAL COMMITTEE OF UNSECURED CREDITORS**

**WHEREAS:**

A. On July 9, 2012, Patriot Coal Corporation and certain of its affiliates (the “Debtors”) filed voluntary petitions for relief under chapter 11 of title 11 of the United States Bankruptcy Code (the “Bankruptcy Code”). The Debtors’ cases are being jointly administered pursuant to Rule 1005(b) of the Federal Rules of Bankruptcy Procedure. Each Debtor is continuing to operate its business and manage its properties as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

B. On July 18, 2012, the Office of the United States Trustee for the Southern District of New York appointed The Official Committee of Unsecured Creditors in these cases (the “Committee”).

C. On August 3, 2012, the Bankruptcy Court for the Southern District of New York entered the *Final Order (I) Authorizing Debtors (A) to Obtain Post-Petition Financing Pursuant to 11 U.S.C. §§ 105, 361, 362, 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1) and 364(e), and (B) to Utilize Cash Collateral Pursuant to 11 U.S.C. § 363 and (II) Granting Adequate*

*Protection to Pre-Petition Secured Lenders Pursuant to 11 U.S.C. §§ 361, 362, 363 and 364*

[Docket No. 275] (the "Final DIP Order").<sup>1</sup>

D. Paragraph 20 of the Final DIP Order provides:

*Limitation on Use of Financing Proceeds and Collateral.* Notwithstanding anything herein or in any other order by this Court to the contrary, no borrowings, letters of credit, Cash Collateral, Collateral, or the Carve Out may be used to (a) object, contest, or raise any defense to, the validity, perfection, priority, extent, or enforceability of any amount due under the DIP Documents or the Pre-Petition Financing Agreements, or the liens or claims granted under this Final Order, the DIP Documents or the Pre-Petition Financing Agreements, (b) assert any Claims and Defenses or causes of action against the DIP Agents, the DIP Lenders, the Pre-Petition Agent, the Pre-Petition Securitization Administrator, or the Pre-Petition Secured Lenders, or their respective agents, affiliates, representatives, attorneys, or advisors, (c) prevent, hinder, or otherwise delay the DIP Agents', the Pre-Petition Agent's, or the Pre-Petition Securitization Administrator's assertion, enforcement, or realization on the Cash Collateral or the Collateral in accordance with the DIP Documents, the Pre-Petition Financing Agreements, or this Final Order, (d) seek to modify any of the rights granted to the DIP Agents, the DIP Lenders, the Pre-Petition Agent, the Pre-Petition Securitization Administrator, or the Pre-Petition Secured Lenders hereunder or under the DIP Documents or the Pre-Petition Financing Agreements, in each of the foregoing cases without such applicable parties' prior written consent, or (e) pay any amount on account of any claims arising prior to the Petition Date unless such payments are (i) approved by an order of this Court and (ii) in accordance with the DIP Credit Agreements and the Budget as approved by the DIP Agents, each in its respective sole discretion. **Notwithstanding the foregoing, advisors to the Creditors' Committee may investigate and prepare (but not initiate or prosecute) any Claims and Defenses against any of the Pre-Petition Secured Parties or the Pre-Petition Joint Lead Arrangers, as applicable, in connection with matters related to the Pre-Petition Financing Agreements, the Pre-Petition Debt, the Pre-Petition Collateral or the Commitment Letter prior to the**

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<sup>1</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Final DIP Order.

**Challenge Deadline at an aggregate expense not to exceed  
\$250,000.**

Final DIP Order at ¶20 (emphasis added). The investigation and preparation of Claims and Defenses described in the last sentence of paragraph 20 of the Final DIP Order is referred to in this Stipulation as the “Committee Investigation.”

E. Pursuant to the *Order to Establish Procedures for Interim Monthly Compensation and Reimbursement of Expenses of Professionals* [Docket No. 262] (the “Interim Compensation Order”), Kramer Levin Naftalis & Frankel LLP (“Kramer Levin”), Cole, Schotz, Meisel, Forman & Leonard, P.A. (“Cole Schotz”), Mesirow Financial Consulting, LLC (“Mesirow Financial”), and Carmody MacDonald P.C. (together with Kramer Levin, Cole Schotz and Mesirow Financial, the “Committee Professionals”) have each filed with the Court: (i) monthly statements of fees and expenses incurred (collectively, “Monthly Fee Statements”); and (ii) interim applications for allowance of compensation and for reimbursement of expenses (the “Interim Fee Applications”).

F. Certain of the Monthly Fee Statements and Interim Fee Applications include charges for fees and expenses incurred in connection with the Committee Investigation (“Investigation Expenses”).

G. Bank of America, N.A., as Second Out DIP Agent and Pre-Petition Agent (the “Agent”), has asserted that the Interim Fee Applications filed to date (specifically, Docket Nos. 1586, 3644, 3646, 3647, and 3650) reflect Investigation Expenses of approximately \$538,419.25 incurred through January 31, 2013, consisting of approximately: (i) \$10,059.50 of fees charged and expenses incurred by Kramer Levin; (ii) \$519,946.75 of fees charged and expenses incurred by Cole Schotz; and (iii) \$8,413.00 of fees charged and expenses incurred by Mesirow Financial. In addition, the Agent has asserted that certain of the Monthly Fee

Statements filed for periods subsequent to January 31, 2013 include additional Investigation Expenses. The Committee Professionals have not confirmed the Agent's estimation of Investigation Expenses and reserve the right to dispute such estimate.

H. The Agent has informed the Committee Professionals that based on paragraph 20 of the Final DIP Order, the Agent opposes the allowance and payment of Investigation Expenses (whether incurred to date or incurred hereafter) to the extent the Investigation Expenses exceed \$250,000 in the aggregate (the "Objection").

I. Rather than litigate the Objection at this time, the Agent and the Committee Professionals have agreed to preserve the Objection, without prejudice to any party, subject to the terms of this Stipulation.

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among the parties hereto, that:

1. The Objection shall be preserved until the earliest of: (i) the hearing on the Committee Professionals' final fee applications (the "Final Fee Hearing"); (ii) such other date as may be agreed to hereafter by the Agent and the Committee Professionals; and (iii) such other date as may be ordered by the Court on notice to all parties to this Stipulation.

2. The Agent agrees that until the Objection is adjudicated or resolved, nothing in this Stipulation shall interfere with the Committee Professionals' right to receive interim payment of fees and expenses in accordance with the Interim Compensation Order; *provided, however*, that to the extent any Committee Professionals have received or in the future receive payments on account of Investigation Expenses that are subsequently disallowed by the Bankruptcy Court, the Committee Professionals agree that such disallowed payments will either

be refunded to the Debtors' estates or recouped from then-outstanding "holdbacks" of the Committee Professionals' asserted fees and expenses.

3. This Stipulation may be executed in one or more counterparts, by facsimile or electronic mail, all of which shall be considered one and the same agreement, and shall become effective immediately upon execution the Committee Professionals and counsel for the Agent.

5. This Stipulation may not be changed, amended, modified, or altered except by written agreement signed by each of the parties to this Stipulation.

16. The Bankruptcy Court shall retain jurisdiction to hear any matters or disputes arising from or related to this Stipulation.

[Signature page follows.]

Dated: May 14, 2013

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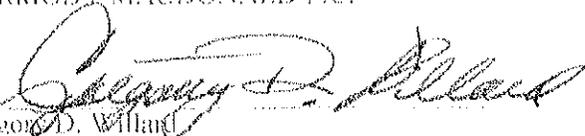
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Dated: May 14, 2013

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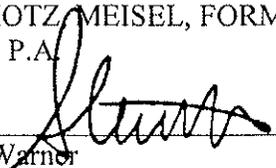
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