

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

**In re:**

**PATRIOT COAL CORPORATION, *et al.*,**

**Debtors.**

**Chapter 11**

**Case No. 12-12900 (SCC)**

**(Jointly Administered)**

**DECLARATION OF JACQUELYN A. JONES  
IN RESPONSE TO COURT'S REQUEST**

Jacquelyn A. Jones declares pursuant to 28 U.S.C. § 1746:

1. I am the Vice President, Associate General Counsel, and Corporate Secretary for Patriot Coal Corporation (“**Patriot**”). In that capacity, I am generally familiar with the day-to-day operations, business, and legal affairs of Patriot and those of its subsidiaries that are debtors and debtors-in-possession in these chapter 11 cases (collectively, the “**Debtors**”).

2. I submit this declaration pursuant to the Court’s request at the September 12, 2012 hearing for the Debtors to “submit an affidavit detailing the process” by which the Debtors solicited support for their opposition to the motions to transfer venue filed by the Union,<sup>1</sup> the Sureties, and the U.S. Trustee (the “**Motions**”). See Hearing Tr. Day 2 at 451:2-19.

3. The facts set forth in this declaration are based on my firsthand knowledge as the person at Patriot responsible for overseeing the process of soliciting creditor support, as well as on information provided to me by the Patriot employees who discussed the Motions with

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<sup>1</sup> Capitalized terms not defined herein have the meaning ascribed to them in the Debtors’ objection to the Motions (the “**Debtors’ Objection**”) [Dkt. No. 425] or in the Debtors’ Proposed Findings of Fact, dated October 5, 2012.

creditors. If called upon to testify, I would testify competently to the facts set forth in this affidavit.

**A. Overview of the Process**

4. Soon after the filing of the Union's motion on July 18, 2012, Patriot decided to seek support from its creditors to oppose the requested transfer so that the Debtors' cases could remain in the Southern District of New York. It was, and remains, the Debtors' strong belief that the Southern District of New York is the best and most convenient forum for the Debtors to reorganize effectively and efficiently and to maximize the value of the Debtors' estates.

5. In order to focus on those creditors with the most significant financial exposure among the Debtors' tens of thousands of creditors, Patriot personnel contacted certain creditors on the List of Creditors Holding 50 Largest Unsecured Claims (the "**Top 50 List**") [Dkt. No. 98] and creditors on the List of Creditors Holding 5 Largest Secured Claims (the "**Top 5 List**") [Dkt. No. 4, Schedule 2], as well as a small number of additional creditors.<sup>2</sup> Upon information and belief, approximately 80 creditors were contacted. Ultimately, 54 creditors or groups of creditors elected to support the Debtors.

6. In addition to me, the following individuals at Patriot were involved in the process of contacting creditors:

- Joseph W. Bean, Senior Vice President – Law & Administration, General Counsel
- C. Wayne Elkins, Vice President – Materials Management
- Marilyn S. Perry, Senior Manager – Purchasing
- B. Shawn Harvey, Manager – Purchasing
- Kirby Totten, Senior Manager – Materials Systems/Processes

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<sup>2</sup> Of those creditors on the Top 50 List and Top 5 list, approximately 10 creditors were not contacted, consisting mostly of utilities and individual creditors.

- Andrew B. McCallister, Senior Counsel
- John P. McHale, Vice President – Engineering Services
- S. Scott Schutzenhofer, Director & Assistant Treasurer
- John Eagan, Vice President – Land (Appalachia)
- Mark R. Williams, Director – Land (Midwest)
- Robert W. Bennett, Senior Vice President & Chief Marketing Officer

7. Those listed above typically contacted designated creditors with whom they had pre-existing working relationships. Communications with these creditors was mostly by e-mail, but in some instances phone calls were also made. These messages and conversations were succinct. A typical communication involved informing the creditor that the Motions had been filed, noting that the Debtors believed that the Southern District of New York was the forum in which the Debtors could reorganize most effectively, that the Debtors intended to oppose the Motions, and asking if the creditor would be willing to join the Debtors' opposition, either by submitting a formal joinder or by allowing the Debtors to represent to the Court that the creditor opposed the Motions.

8. I have conferred with each Patriot employee involved in this process. Based on those communications, I am unaware of any Patriot employee offering or agreeing to provide any consideration in exchange for creditor support, and, in fact, have been told that no such consideration was offered to any creditor.

9. In addition to the communications referenced above, Patriot personnel also reached out to those creditors they had previously contacted, and who either had expressed an interest in filing a joinder or had not yet conveyed a decision, to inform them of various scheduling changes. Those additional communications were not made to further solicit support, but were merely

phone calls and e-mails to creditors notifying them that the deadlines for filing opposition papers and joinders had changed, so that anyone wishing to file a joinder could do so at the proper time.

10. Creditors who declined to file a joinder were not asked to give a reason, nor did Patriot employees attempt to persuade them to join after they declined to do so.

### **B. The Filing Process**

11. To assist interested creditors in joining the Debtors' Objection without having to draft a joinder from scratch, the Debtors' counsel prepared a template that creditors could use. The template contained blanks that creditors could complete by inserting their own information. Patriot personnel in many cases attached this template to the initial e-mail they sent to creditors. To the extent a creditor was unwilling to file a joinder because of the costs related to such a filing, the creditor was asked if it would be willing to authorize the Debtors, in writing (by e-mail or letter), to state that the creditor supported the Debtors' position.

12. Because some parties did not wish to undertake the expense of retaining counsel (which Debtors would not, of course, reimburse) or otherwise become active in the bankruptcy cases, Debtors' counsel received permission from the Clerk of the Court for parties to send joinders to the Debtors' Objection directly to the Clerk for posting on the docket, rather than filing the joinders through ECF. To the extent parties sent joinders to the Debtors directly, the Debtors were allowed to supply those joinders to the Clerk for posting on the docket.

13. Unless creditors or their counsel contacted the Debtors with questions, the Debtors' involvement in the process ended after these communications.

### **C. Results**

14. Thirty-five timely joinders in support of the Debtors' Objection were filed. Based on my review of the joinders, it appears that 29 of them were prepared on the template drafted by Debtors' counsel and circulated by Patriot, because those joinders appear to use the same

language as the template (with the blanks filled in with individual creditor information). The remaining 6 joinders differ substantially from the Debtors' template.

15. Of the 29 joinders that appear to have been prepared on the Debtors' template, 23 were filed by a law firm representing the creditor. The 6 joinders that apparently were not prepared on the Debtors' template were filed by a law firm representing the creditor.

16. In total, of the 35 joinders timely filed with the Court, 29 were filed by law firms representing the creditor, 3 were filed by in-house counsel and 3 were filed by executives of the creditor. A listing of each creditor that submitted a joinder, whether that party used the Debtors' template, and the classification of the signatory to each joinder is included as **Exhibit A** hereto.

17. Fourteen creditors elected not to file a joinder, but instead authorized the Debtors, in writing prior to the deadline established by the Court, to state that they supported the Debtors' opposition to the Motions. A listing of those creditors that provided a written expression of support is included as **Exhibit B** hereto.

18. In all, of the approximately 80 creditors that were contacted by Debtors, 49 have stated in writing their support for the Debtors' opposition to the Motions, 35 through timely-filed joinders and 14 through timely-provided e-mails or letters of support. In addition, there were also two stand-alone objections filed with respect to the Motions, one by the Creditors' Committee and one by Citibank, N.A. as the DIP Agent for the First Out Facility.<sup>3</sup>

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<sup>3</sup> In total, there are 54 documents supporting the Debtors' opposition to the Motions. These include the 51 timely-filed joinders, objections, and e-mails or letters or support, plus two untimely filed joinders and one untimely submitted e-mail of support. The untimely joinders were filed by Conveying Solutions, LLC [Dkt. No. 518] and Carroll Engineering Co. and Delta Electric Incorporated. [Dkt. No. 532.] The untimely e-mail of support was transmitted by U.S. Bank National Association on September 10, 2012.

19. The Debtors received timely support from twenty-five of the top-fifty creditors. Twenty of these were joinders, while five were support correspondence.<sup>4</sup>

20. Of the creditors on the Top 5 List, 2 supported the Debtors' opposition to the Motions by filing joinders in support. Bank of America, N.A. was included on the Top 5 List in its capacities as swingline lender and as Agent under the Debtors' Credit Facility, which was subsequently refinanced pursuant to the DIP Facilities. Bank of America, N.A. filed a joinder in its capacity as Second Out DIP Agent.

21. Approximately 35 additional creditors were contacted. Of those, an additional 24 creditors expressed their support for the Debtors' opposition to the Motions, consisting of 15 that filed joinders and 9 that provided support correspondence.

22. In counting the number of creditors that joined or supported the Debtors' opposition to the Motions, care was taken to make sure that only unique joinders and expressions of support were counted when arriving at the totals presented above.

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<sup>4</sup> The Debtors received support from two additional top-fifty creditors after August 31, 2012, including a joinder by Delta Electric Incorporated, and an e-mail from U.S. Bank, National Association, the Indenture Trustee of Patriot's Convertible Bonds.

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

Dated: St. Louis, Missouri  
October 5, 2012

/s/ Jacquelyn A. Jones, Esq.

Name: Jacquelyn A. Jones, Esq.

**EXHIBIT A**

<b>Filed Joinders</b>			
<b>Party<sup>1</sup></b>	<b>Docket Entry</b>	<b>Prepared on Debtors' Template?</b>	<b>Signatory</b>
Ad Hoc Consortium of Senior Noteholders	480	No	Outside Counsel
American Freedom Innovations, LLC	434	Yes	Company Executive
Bank of America, N.A.	428	No	Outside Counsel
CapitalSource Bank	486	Yes	Outside Counsel
Carroll Engineering Company and Delta Electric Incorporated	532	No	Outside Counsel
Caterpillar Inc., Caterpillar Financial Services Corporation and Caterpillar Global Mining LLC	481	No	Outside Counsel
CH2M HILL Engineers, Inc.	500	Yes	In-House Counsel
Cole & Crane Real Estate Trust	483	Yes	Outside Counsel
Conveying Solutions, LLC	518	Yes	Outside Counsel
David C. Olliver	489	Yes	Outside Counsel
EDF Trading North America, LLC	495	No	Outside Counsel
Enviromine, Inc.	492	Yes	Company Executive
Flomin Coal, Inc.	496	Yes	Outside Counsel
Industrial Supply Solutions, Inc.	465	Yes	Outside Counsel
J.H. Fletcher & Co.	491	Yes	Outside Counsel

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<sup>1</sup> The joinders filed by Carroll Engineering Company and Delta Electric Incorporated [Dkt. No. 532] and Conveying Solutions, LLC [Dkt. No. 518] were filed after August 31, 2012.

<b>Filed Joinders</b>			
<b>Party<sup>1</sup></b>	<b>Docket Entry</b>	<b>Prepared on Debtors' Template?</b>	<b>Signatory</b>
JABO Supply Corporation	487	Yes	In-House Counsel
Joy Technologies Inc., d/b/a Joy Mining Machinery, P&H Mining Equipment Inc., and Continental Crushing & Conveying Inc.	494	Yes	Outside Counsel
Komatsu Financial Limited Partnership	419	Yes	Outside Counsel
Little Coal Land Company	484	Yes	Outside Counsel
Logan Corporation	488	Yes	Outside Counsel
Mine Equipment & Mill Supply Co.	504	Yes	Outside Counsel
Nelson Brothers, LLC	467	Yes	Outside Counsel
Penn Virginia Coal Company, Penn Virginia Operating Co., L.L.C., K-Rail LLC, Suncrest Resources LLC, Crimson Processing Company, and Carbon Fuel Company	437	Yes	Outside Counsel
Petroleum Products, LLC (formerly Petroleum Products, Inc.)	505	Yes	In-House Counsel
Phillips Machine Service, Inc.	179	Yes	Outside Counsel
Pocahontas Land Corporation	456	Yes	Outside Counsel
Potter Grandchildren LLC and Potter Family, LLC	199	No	Outside Counsel
Powell Construction Company, Inc. and Decanter Machine, Inc.	420	Yes	Outside Counsel
Quaker Chemical Corporation	482	Yes	Outside Counsel
Raleigh Mine & Industrial Supply, Inc.	472	Yes	Outside Counsel
RBS Asset Finance, Inc.	454	Yes	Outside Counsel

<b>Filed Joinders</b>			
<b>Party<sup>1</sup></b>	<b>Docket Entry</b>	<b>Prepared on Debtors' Template?</b>	<b>Signatory</b>
Rish Equipment Company	499	Yes	Company Executive
Shepard Boone Coal Company, LLC, WPP LLC, and ACIN LLC	460	Yes	Outside Counsel
Southern Land Company Limited Partnership, Dickinson Properties Limited Partnership, Chesapeake Mining Company, The Imperial Coal Company, Quincy Center, Quincy Coal Company, Branch Banking & Trust Company, Nelle Ratrie Chilton, and Charles C. Dickinson, III, Successor Trustees of the C. C. Dickinson Testamentary Trust, Horse Creek Land & Mining Company, and Payne-Gallatin Company	468	Yes	Outside Counsel
United Central Industrial Supply Co., LLC	485	Yes	Outside Counsel
Veyance Technologies, Inc.	431	Yes	Outside Counsel
Wilmington Trust Company	476	No	Outside Counsel

**EXHIBIT B**

<b>Correspondence Supporting the Debtors' Objection</b>	
<b>Creditor<sup>2</sup></b>	<b>Date Support Received</b>
Alley Trucking, LLC	July 23, 2012
Chisler Inc.	July 25, 2012
Longwall Associates, Inc.	July 26, 2012
B&M Repair, Inc.	August 22, 2012
Holden Machine & Fabrication	August 23, 2012
West River Conveyors & Machinery Company	August 23, 2012
CAI Industries	August 24, 2012
Gauley-Robertson	August 24, 2012
Peerless Block & Brick Company	August 24, 2012
Tyler Trucking Company, LLC	August 27, 2012
W.C. Hydraulics, LLC	August 27, 2012
Kanawha Electric & Machine Co.	August 28, 2012
Mountaineer Investigation & Security, Inc.	August 28, 2012
Jennmar of Pennsylvania, LLC, Jennmar Corporation of West Virginia, Inc., Jennmar of Kentucky, Inc., Jennmar of West Kentucky, Inc., Jennmar Corporation of Virginia, Inc., Jennmar Corporation of East Virginia, Virginia Specialty Products (division of Jennmar Corporation of Virginia, Inc.), Jennchem, LLC, JLOK Co.	August 29, 2012
U.S. Bank National Association	September 10, 2012

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<sup>2</sup> The support correspondence from U.S. Bank National Association was received after August 31, 2012.