

KRAMER LEVIN NAFTALIS & FRANKEL LLP

Thomas Moers Mayer

Adam C. Rogoff

Gregory G. Plotko

1177 Avenue of the Americas

New York, New York 10036

Telephone: (212) 715-9100

Facsimile: (212) 715-8000

*Counsel for the Official*

*Committee of Unsecured Creditors*

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

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In re: : Chapter 11  
: :  
PATRIOT COAL CORPORATION, *et al.*, : Case No. 12-12900 (SCC)  
: :  
: :  
Debtors. : Jointly Administered  
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**FIRST INTERIM APPLICATION OF KRAMER LEVIN NAFTALIS & FRANKEL LLP,  
AS COUNSEL TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF  
PATRIOT COAL CORPORATION, ET AL., FOR ALLOWANCE OF COMPENSATION  
FOR PROFESSIONAL SERVICES RENDERED AND FOR REIMBURSEMENT OF  
ACTUAL AND NECESSARY EXPENSES INCURRED  
FOR THE PERIOD FROM JULY 18, 2012 THROUGH SEPTEMBER 30, 2012**

Name of Applicant:	<u>Kramer Levin Naftalis &amp; Frankel LLP (“Kramer Levin”)</u>
Authorized to Provide Professional Services to:	<u>The Official Committee of Unsecured Creditors</u>
Interim Fee Period:	<u>July 18, 2012 through September 30, 2012, inclusive</u>
Fees Requested:	\$ <u>2,364,788.00</u>
Expenses Requested:	\$ <u>75,813.93</u>
Write-offs of Fees and Expenses:	\$ <u>221,420.51</u> <sup>1</sup>
Total Amount Requested:	\$ <u>2,440,601.93</u>
Amount Paid to Date:	\$ <u>1,144,422.84</u> <sup>2</sup>
<b>Net Amount to be Requested:</b>	<b>\$ <u>1,296,179.09</u></b> <sup>3</sup>

This is an  X  Interim or \_\_\_\_\_ Final Fee Application.

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<sup>1</sup> The total write-offs of \$221,420.51 are comprised of the following: (i) voluntary fee and expense write-offs, including, but not limited to, the write-off of certain time keepers whose aggregate fees were less than \$10,000 in the applicable month billed, the write-off of all non-working travel time and the write-off of approximately \$24,000 incurred in preparation of Kramer Levin’s own retention application and (ii) the voluntary election of Kramer Levin to reduce the hourly billing rate of Thomas Moers Mayer, Esq. to \$990.

<sup>2</sup> This amount reflects eighty percent (80%) of the fees incurred by Kramer Levin and one hundred percent (100%) of expenses incurred from July 18, 2012 through August 31, 2012. Kramer Levin has not yet received compensation for the month of September. Kramer Levin, however, anticipates receiving the September payment in accordance with the interim compensation procedures established in these chapter 11 cases in advance of the hearing on this fee application.

<sup>3</sup> This amount reflects twenty percent (20%) of the fees incurred by Kramer Levin in July (\$111,166.20) and August (\$168,925.60) that were not yet paid plus one hundred percent (100%) of the fees and expenses incurred by Kramer Levin for September (\$964,329 and \$51,758.29, respectively). To the extent that Kramer Levin receives payment of eighty percent (80%) of the fees incurred by it in September (\$771,463.20) and one hundred percent (100%) of the expenses incurred by it in September (\$51,758.29) prior to the hearing on this application, Kramer Levin will accordingly decrease the net amount to be requested to \$472,957.60.

KRAMER LEVIN NAFTALIS & FRANKEL LLP

Thomas Moers Mayer  
Adam C. Rogoff  
Gregory G. Plotko  
1177 Avenue of the Americas  
New York, New York 10036  
Telephone: (212) 715-9100  
Facsimile: (212) 715-8000

*Counsel for the Official  
Committee of Unsecured Creditors*

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:	:	Chapter 11
	:	
PATRIOT COAL CORPORATION, <i>et al.</i> ,	:	Case No. 12-12900 (SCC)
	:	
	:	
Debtors.	:	Jointly Administered
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**FIRST INTERIM APPLICATION OF KRAMER LEVIN NAFTALIS & FRANKEL LLP,  
AS COUNSEL TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF  
PATRIOT COAL CORPORATION, ET AL., FOR ALLOWANCE OF COMPENSATION  
FOR PROFESSIONAL SERVICES RENDERED AND FOR REIMBURSEMENT OF  
ACTUAL AND NECESSARY EXPENSES INCURRED  
FOR THE PERIOD FROM JULY 18, 2012 THROUGH SEPTEMBER 30, 2012**

TO: THE HONORABLE SHELLEY C. CHAPMAN  
UNITED STATES BANKRUPTCY JUDGE:

In accordance with this Court’s Order to Establish Procedures for Interim Monthly Compensation and Reimbursement of Expenses of Professionals, dated August 2, 2012 [Docket No. 262] (the “**Interim Compensation Order**”), Kramer Levin Naftalis & Frankel LLP (“**Kramer Levin**”), counsel to the Official Committee of Unsecured Creditors (the “**Committee**”) of the above-captioned debtors and debtors-in-possession (collectively, the “**Debtors**”) in these chapter 11 cases (the “**Chapter 11 Cases**”), hereby submits its first interim fee application (the “**Application**”), pursuant to Sections 330(a) and 331 of title 11 of the United

States Code (the “**Bankruptcy Code**”), Rule 2016 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rule 2016-1 of the Local Bankruptcy Rules for the Southern District of New York (the “**Local Bankruptcy Rules**”), for the interim allowance of compensation for the professional services performed by Kramer Levin for and on behalf of the Committee for the period commencing July 18, 2012 through and including September 30, 2012 (the “**First Interim Fee Period**”), and for reimbursement of its actual and necessary expenses incurred during the First Interim Fee Period. In support of the Application, Kramer Levin respectfully represents as follows:

### **JURISDICTION**

1. The Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334.
2. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

### **PRELIMINARY STATEMENT**

3. These Chapter 11 Cases require consideration of very complex issues involving, among other things, labor, pension and environmental liabilities. Within the first few months of filing, these cases involved significant motion practice, specifically including a highly contested and (as of the date hereof) still pending venue transfer proceeding. Since its selection as counsel for the Committee on July 18, 2012, Kramer Levin has worked closely with the Debtors, the secured lenders, and the Debtors’ diverse creditor constituencies on several immediate goals: (i) to preserve and stabilize the Debtors’ businesses as they transitioned into chapter 11; (ii) to evaluate steps being taken to protect, and ultimately maximize, the potential benefits and recoveries for unsecured creditors; and (iii) to ensure that the Committee is exercising its statutory oversight duties. In this context, Kramer Levin has worked to navigate the multitude of

issues arising at the outset of these Chapter 11 Cases, including: (i) the Debtors' request for postpetition financing; (ii) analyzing the Debtors' current and long-term labor and pension issues; (iii) analyzing issues arising from potential environmental liabilities against various of the Debtors; and (iv) analyzing assets and potential liabilities (including intercompany claims) on a Debtor-by-Debtor basis. The diversity of issues the Committee has addressed, and, at times, the speed with which they have been required to respond during the First Interim Fee Period to both legal and operational matters, have required the advice of Kramer Levin professionals in numerous disciplines, including, bankruptcy, tax, environmental, corporate, and employee benefits.

4. During the First Interim Fee Period, services rendered by Kramer Levin, on behalf of the Committee, benefitted the Debtors' estates and general unsecured creditors. Among the many projects undertaken during the First Interim Fee Period, Kramer Levin:

- a. Reviewed and analyzed all of the "first day" pleadings and proposed orders, negotiated with the Debtors to obtain consensual modifications to such orders (including increased notice, certain limits on expenditures, and reporting of payments made) and advised the Committee as to whether and which action to take regarding the various first day pleadings;
- b. Reviewed, analyzed and negotiated a consensual resolution to the terms of the debtor-in-possession credit facility (the "**DIP Facility**");
- c. Engaged in discussions with the United States Trustee and the Committee regarding the potential appointment of an equity committee;
- d. Negotiated the Committee's bylaws and confidentiality agreements with the members of the Committee and the Debtors (the "**Confidentiality Agreements**");
- e. Attended and participated in multiple hearings, including hearings related to the DIP Facility (the "**DIP Hearing**") and the venue motions (the "**Venue Hearing**");
- f. Analyzed issues and prepared memoranda regarding potential environmental liability of certain of the Debtors, including matters relating to the motion by certain Debtors authorizing limited relief from the automatic stay for the sole purpose of allowing such Debtors to seek an extension of deadlines in the District Court for the Southern District of West Virginia related to various prepetition

environmental proceedings pertaining to such Debtors' compliance with selenium limits;

- g. Commenced analysis of potential actions against Debtors' former parent, Peabody Energy Corp. ("**Peabody**"), relating to Peabody's October 2007 spin-off (the "**Spin-Off**") of Patriot Coal Corporation ("**Patriot**");
- h. Negotiated with the Debtors on various administrative matters in these cases, including changes to Debtors' proposed Bar Date Order (the "**Bar Date Order**"); and
- i. Reviewed and commenced (ongoing) negotiations with the Debtors on proposed procedures for the resolution of claims.

5. These cases are large and complex, affecting numerous Debtors with differing operations and liabilities and requiring significant time to understand these diverse operations and the breadth of issues that the various Debtors face. Within that context, during the First Interim Fee Period, Kramer Levin has been focused on ensuring that the Committee is well-informed – receiving the necessary and appropriate advice with which to exercise and satisfy its fiduciary duties – and has worked toward building consensus and avoiding numerous contested hearings. These accomplishments by the Committee (as well as other projects that are described in more detail below) were for the benefit of unsecured creditors and required significant resources of Kramer Levin. Accordingly, Kramer Levin respectfully submits that its services during the First Interim Fee Period warrant approval of its requested fees and expenses.

**SUMMARY OF PROFESSIONAL COMPENSATION  
AND REIMBURSEMENT OF EXPENSES REQUESTED**

6. This Application has been prepared in accordance with the Amended Guidelines for Fees and Disbursements for Professionals in Southern District of New York Bankruptcy Cases adopted by the Court on November 25, 2009 (the "**Local Guidelines**"), the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330, adopted on January 30, 1996 (the "**UST Guidelines**"),

and the Interim Compensation Order (collectively with the Local Guidelines and UST Guidelines, the “**Guidelines**”). Pursuant to the Local Guidelines, a certification of Adam C. Rogoff regarding compliance with the same is attached as “**Exhibit A**” hereto.

7. Kramer Levin seeks interim allowance of fees for professional services rendered during the First Interim Fee Period in the aggregate amount of \$2,364,788 (the “**First Interim Fees**”) and reimbursement of expenses incurred in connection with rendition of those services in the aggregate amount of \$75,813.93 (the “**First Interim Expenses**”). During the First Interim Fee Period, Kramer Levin’s attorneys and paraprofessionals expended a total of approximately 3,509 hours for which compensation is requested.

8. There is no agreement or understanding between Kramer Levin and any other person, other than members of Kramer Levin, for the sharing of compensation to be received for services rendered in these Chapter 11 Cases.

9. The fees charged by Kramer Levin in these cases are billed in accordance with its existing billing rates and procedures set forth in the Application of the Official Committee of Unsecured Creditors of Patriot Coal Corporation, et al., for an Order Authorizing and Approving the Employment and Retention of Kramer Levin Naftalis & Frankel LLP as Counsel, *nunc pro tunc* to July 18, 2012 [Docket No. 364], in effect during the First Interim Fee Period.

10. During the course of these Chapter 11 Cases, Kramer Levin exercised its billing discretion and, as discussed in more detail below, voluntarily wrote-off numerous fees and expenses in connection with the Monthly Fee Statements (defined below). In addition, with respect to Kramer Levin’s billing rates for 2012, Kramer Levin elected to reduce the hourly rate of Thomas Moers Mayer, Esq. to \$990 for services rendered to the Committee. Kramer Levin’s decision to reduce Thomas Moers Mayer’s hourly rate, together with its write-offs of fees and

expenses, has resulted in material voluntary savings to the estates during this First Interim Fee Period of over \$221,420.

11. Kramer Levin's rates for the services rendered by its professionals and paraprofessionals in these Chapter 11 Cases are the same rates that Kramer Levin charges for professional and paraprofessional services rendered in comparable non-bankruptcy matters. Such fees are reasonable based on the customary compensation charged by comparably skilled practitioners in comparable non-bankruptcy cases in a competitive national legal market.

12. Pursuant to the UST Guidelines, annexed hereto as "**Exhibit B**" is a schedule setting forth all professionals and paraprofessionals employed by Kramer Levin who have performed services in these Chapter 11 Cases during the First Interim Fee Period, the capacities in which each such individual is employed by Kramer Levin, the department in which each individual practices, the year in which the individual was first licensed to practice law in the state of New York, the hourly billing rate charged by Kramer Levin for services performed by such individual, and the aggregate number of hours expended and fees billed.

13. Annexed hereto as "**Exhibit C**" is a schedule specifying the categories of expenses for which Kramer Levin is seeking reimbursement and the total amount for each such expense category.

14. Pursuant to the UST Guidelines, annexed hereto as "**Exhibit D**" is a summary of Kramer Levin's time billed during the First Interim Fee Period, broken down by project categories as hereinafter described.

15. Kramer Levin maintains computerized records of the time spent by all of Kramer Levin's attorneys and paraprofessionals in connection with the representation of the Committee. These records were used to prepare detailed time descriptions in accordance with the UST



Guidelines, organized by project codes, and summarized in Exhibit D. These detailed time records, along with the detailed listings of the expenses incurred in connection with the services rendered, were submitted to the “Notice Parties” specified in the Interim Compensation Order as part of the Monthly Fee Statements (defined below).<sup>1</sup> Copies of the final detailed time records and expenses for the First Interim Fee Period are being provided herewith to the Court and the Notice Parties. Due to the size of such records, they are not attached to this Application but are available upon request from Kramer Levin or may be found free of charge on the Committee’s information website: [www.patriotcoalcommittee.com](http://www.patriotcoalcommittee.com) at Docket Nos. 836, 1283 and 1519.

16. Since the commencement of these Chapter 11 Cases, Kramer Levin has provided the appropriate Notice Parties with a Monthly Fee Statement for each month for which compensation was sought pursuant to the Interim Compensation Order established in these Chapter 11 Cases. During the First Interim Fee Period, Kramer Levin provided the appropriate Notice Parties with the following monthly fee statements:

- a. For July 18, 2012 through July 31, 2012, fees of \$555,831.00 and expenses of \$8,104.83 (the “**July Fee Statement**”);
- b. For August 1, 2012 through August 31, 2012, fees of \$844,628.00 and expenses of \$15,950.81 (the “**August Fee Statement**”); and
- c. For September 1, 2012 through September 30, 2012, fees of \$964,329.00 and expenses of \$51,758.29 (the “**September Fee Statement**”, and together with the July Fee Statement and August Fee Statement, the “**Monthly Fee Statements**”).

17. In total, Kramer Levin has submitted Monthly Fee Statements during the First Interim Fee Period for fees of \$2,364,788 and expenses of \$75,813.93. As of the date of this Application, no Notice Party has objected to Kramer Levin’s Monthly Fee Statements for the First Interim Fee Period.

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<sup>1</sup> In addition to the notice parties, notice was also sent to Andrea B. Schwartz, Office of the United States Trustee.

18. Prior to the service of each Monthly Fee Statement, Kramer Levin conducted an internal review of fees and expenses incurred during that month. As a result of such review, Kramer Levin wrote off \$210,367.50 in fees and \$11,053.01 in expenses. The Monthly Fee Statements reflected the reduced amount after write-offs. Accordingly, Kramer Levin hereby seeks allowance of fees incurred for the First Interim Fee Period in the amount of \$2,364,788, and the reimbursement of actual and necessary expenses incurred for the First Interim Fee Period in the amount of \$75,813.93.

19. In accordance with the Interim Compensation Order, Kramer Levin sought payment for 80% of its fees and 100% of its expenses incurred, pursuant to each Monthly Fee Statement filed with the Court. To date, with respect to the July Fee Statement, Kramer Levin has received a payment of \$452,769.63, representing 80% of fees (\$444,664.80) and 100% of expenses (\$8,104.83) requested. With respect to the August Fee Statement, Kramer Levin has received a payment of \$691,653.21, representing 80% of fees (\$675,707.40) and 100% of expenses (\$15,950.81). With respect to the September Fee Statement, Kramer Levin has not yet received any payments but anticipates that it will receive payments prior to the hearing on this Application.

20. In total, therefore, pursuant to this Application, Kramer Levin respectfully requests that the Court enter an order awarding Kramer Levin, on an interim basis, fees in an aggregate amount of \$2,364,788 and the reimbursement of actual and necessary expenses in the aggregate amount of \$75,813.93 – which is 100% of the requested fees and expenses incurred by Kramer Levin during the First Interim Fee Period.

21. To the extent that time or disbursement charges for services rendered or expenses incurred relate to the First Interim Fee Period, but were not processed prior to the preparation of

this Application, Kramer Levin reserves the right to request compensation for such services and reimbursement of such expenses in a future application.

### **BACKGROUND**

22. On July 9, 2012 (the "**Petition Date**"), the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. The Debtors continue to operate their businesses and manage their properties as debtors-in-possession pursuant to Bankruptcy Code sections 1107 and 1108.

23. On July 18, 2012, the United States Trustee for the Southern District of New York, pursuant to Bankruptcy Code section 1102, appointed the Committee to represent the interests of all unsecured creditors in these Chapter 11 Cases [Docket No. 118]. The United States Trustee selected the following parties to serve as members of the Committee: (i) Wilmington Trust Company; (ii) U.S. Bank National Association; (iii) United Mine Workers of America (the "**UMWA**"); (iv) UMWA 1974 Pension Plan and Trust; (v) Gulf Coast Capital Partners, LLC; (vi) Cecil Walker Machinery; and (vii) American Electric Power.

24. At a meeting of the Committee held on July 18, 2012, the Committee voted to retain Kramer Levin as its counsel. Immediately thereafter, Kramer Levin commenced rendering legal services to the Committee, pending the approval of its retention by the Court.

25. On August 15, 2012, Kramer Levin filed its Retention Application [Docket No. 364]. By order of this Court dated September 11, 2012, (the "**Retention Order**") [Docket No. 550], Kramer Levin's retention was approved *nunc pro tunc* to July 18, 2012, pursuant to 11 U.S.C. § 1103.

**SUMMARY OF LEGAL SERVICES RENDERED**

26. Consistent with any large and complex, multi-debtor chapter 11 case, the Committee has played an active role during the First Interim Fee Period and has accomplished a considerable amount since its formation. To assist the Committee in fulfilling its fiduciary duty, Kramer Levin has provided a wide array of services, including, but not limited to: (a) reviewing and analyzing all of the “first day” pleadings and negotiating several of the proposed orders; (b) negotiating consensual modifications to the DIP Facility; (c) engaging in discussions with the United States Trustee regarding the potential appointment of an equity committee; (d) negotiating various agreements relevant to the Chapter 11 Cases with the Debtors; (e) drafting pleadings in support of, attending, and participating in the Venue Hearings; (f) analyzing issues and preparing memoranda regarding certain Debtors’ potential environmental liability; (g) commencing the analysis of potential actions against Debtors’ former parent, Peabody, relating to the Spin-Off; and (h) negotiating with the Debtors on various administrative matters, including the Bar Date Order and proposed claims procedures.

27. In connection with its efforts, Kramer Levin participated in numerous conferences with the Debtors and their professionals and attended all hearings held in these Chapter 11 Cases since the Committee’s appointment. Kramer Levin also performed the customary tasks required of Committee counsel, including, (i) conferences and correspondences with Committee members regarding the status of these Chapter 11 Cases; (ii) attention to numerous substantive, operational or procedural motions and applications; and (iii) meetings with the Debtors, other parties-in-interest and their professionals to discuss issues related to these Chapter 11 Cases and the reorganization effort.

28. Kramer Levin respectfully submits that its services throughout the First Interim Fee Period warrant this Court's approval of its requested fees and expenses, including the payment of the 20% "hold-back" of the First Interim Fees.

29. The legal services rendered by Kramer Levin are summarized below. The following summary is not a detailed description of the work performed, as the day-to-day services and the time expended in performing such services are fully set forth in the time records submitted to the Court and the Notice Parties. Rather, in compliance with the UST Guidelines, the following summary highlights certain areas in which services were rendered by Kramer Levin to and for the benefit of the Committee, and identifies some of the issues to which Kramer Levin devoted time and efforts during the First Interim Fee Period.

30. The summary is divided according to the project billing codes that Kramer Levin created to best reflect the categories of tasks that it has been required to perform in connection with these Chapter 11 Cases. Nevertheless, under the circumstances, and given the interconnectedness of all the issues in these Chapter 11 Cases, certain of these categories may overlap with each other.<sup>2</sup>

**A. Case Administration**  
**Billing Code: 00001**  
**(Fees: \$115,122.00/Hours Billed: 200.70)**

31. The exercise of the Committee's statutory duties requires significant oversight of the Chapter 11 Cases and communication amongst the Committee's professionals to ensure efficiency. In this respect, Kramer Levin devoted efforts to the administrative tasks necessary to assist the Committee in efficiently fulfilling its fiduciary duties, including, but not limited to: (a) internal organization meetings; (b) coordinating meetings and weekly conference calls with the

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<sup>2</sup> As Kramer Levin's representation of the Committee has progressed during these Chapter 11 Cases, the names of certain matter numbers have been amended to facilitate better categorization of projects and more accurately reflect the scope of entries found therein.

Committee's professionals to avoid duplication of efforts; (c) engaging in discussions with the United States Trustee regarding the appointment of an equity committee; (d) implementing internal processes by which to effectively and efficiently communicate with the Committee, its members, and its professionals; (e) maintaining a work-in-progress report detailing the status of current pending items; (f) monitoring calendars of critical dates; (g) routine communications and correspondences; (h) reviewing the case docket on a daily basis; (i) updating internal files to minimize visits to the Bankruptcy Court's website; and (j) facilitating and updating the Committee's Bankruptcy Rule 2019 statement.

32. During the First Interim Fee Period, Kramer Levin was required to undertake certain categories of tasks that will not require as much time during subsequent fee periods. For example, among other tasks, Kramer Levin spent time implementing mechanisms to ensure efficient communication with Committee members.

33. In performing the above tasks, to conserve costs, Kramer Levin utilized paraprofessionals whenever possible to perform administrative non-legal tasks. Such paraprofessional fees were incurred directly in connection with the administration of the cases and were necessary and appropriate to deal with the speed and efficient administration of these Chapter 11 Cases.

**B. Hearings**  
**Billing Code: 00002**  
**(Fees: \$107,658.00/Hours Billed: 153.50)**

34. Kramer Levin spent time preparing for and participating in the following hearings:

- a. the Omnibus hearing on August 2, 2012 (the DIP Hearing), which addressed, among other things, the final hearing for Debtors' motion authorizing it to obtain postpetition financing and other "first day" relief;
- b. the Omnibus hearing on August 15, 2012 where additional operational relief was granted;
- c. the Venue Hearings, held on September 11 and 12, 2012, which lasted, in the aggregate, approximately 15 hours;<sup>3</sup> and
- d. the pre-trial conference, held on September 25, 2012, in *Eastern Royalty LLC f/k/a Eastern Royalty Corp. v. Boone East Development Co., Performance Coal Co. and New River Energy Corp.*, adversary proceeding number 12-01786 (the "**Massey Adversary Proceeding**").<sup>4</sup>

35. Kramer Levin played an active role at or in connection with such hearings. For example, with regards to the DIP Hearing, Kramer Levin spent time attempting to resolve disputes relating to the DIP financing, to ensure that relief could be obtained for the benefit of the Debtors' creditors and estates, in a consensual and efficient manner. Kramer Levin's actions resulted in a material decrease of fees and expenses that might otherwise have been paid by the Debtors' estates under the DIP financing.

36. Kramer Levin also had an active role in opposing the motions to change venue, including filing an opposition to the transfer motions, as well as a post hearing brief. In addition, Kramer Levin attended and participated in both Venue Hearings, coordinating closely with the Debtors and other transfer opponents on the proceedings before the Court.

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<sup>3</sup> The majority of the time expended on researching venue-related issues, drafting the Committee's briefs and communicating with the Debtors' professionals on venue is located in Matter 20. The time in Matter 2 is largely limited to attendance at the hearings.

<sup>4</sup> The majority of the time expended on adversary proceedings, including the Massey Adversary Proceeding, is located in Matter 19. The time in Matter 2 is largely limited to attendance at hearings.

37. Finally, Kramer Levin devoted time to preparing for the various hearings, including the preparation of hearing binders and other documents required for each hearing conducted before the Court.

**C. DIP Financing**  
**Billing Code: 00003**  
**(Fees: \$149,201.00/Hours Billed: 199.80)**

38. During the First Interim Fee Period, Kramer Levin focused on analyzing and reviewing the proposed terms of the Debtors' motion to approve the DIP Facility (the "**DIP Motion**"), including the credit agreements and ancillary documentation. After reviewing the DIP Motion and the proposed DIP Facility, the Committee and its professionals identified a number of significant concerns that could have negatively impacted unsecured creditors. As a result, Kramer Levin negotiated with the Debtors and their secured lenders to achieve a consensual resolution of the Committee's concerns with the proposed DIP financing – such resolution including a rebate of over \$750,000 in fees, improved noticing requirements, ensuring that proceeds of any successful avoidance action against the lenders were preserved for the benefit of the estates, an increased timeline and budget for the Committee's investigation, and a reduced pricing structure. In addition, Kramer Levin communicated with the Committee regarding all issues pertaining to the DIP, including negotiations concerning a consensual resolution, and constant updates during the applicable DIP Hearing.

**D. Corporate & Securities Matters**  
**Billing Code: 00004**  
**(Fees: \$67,030.50/Hours Billed: 103.10)**

39. Kramer Levin commenced its ongoing review and analysis of Debtors' corporate structure and financials. There are numerous operating and other Debtors, which have distinct liabilities and assets. This Debtor-by-Debtor review included looking at the various Debtors'



organizational structure, non-debtor affiliates and subsidiaries, and their respective operations, assets and liabilities, as well as the various mining complexes, both before and after the Spin-Off, any subsequent mergers, and the Petition Date. This ongoing corporate review encompassed: (i) analyzing voluminous Securities and Exchange Commission (“**SEC**”) public filings, including, but not limited to, Forms 10-K, 10-Q, 8-K and Form 10; (ii) communicating and coordinating with Committee professionals in order to better understand the corporate framework of the Debtors as a whole; (iii) reviewing due diligence materials uploaded to the electronic data rooms; (iv) preparing diligence request lists; and (v) corresponding with the Debtors regarding diligence requests and document accessibility.

**E. Pension/OPEB/Labor Issues**  
**Billing Code: 00006**  
**(Fees: \$93,184.50/Hours Billed: 127.00)**

40. The labor and pension obligations are among the significant liabilities against various of the Debtors and the number of tasks performed by Kramer Levin with respect to these important issues will increase as the cases develop. During the First Interim Fee Period, Kramer Levin commenced its review and analysis of potential issues relating to legacy labor liabilities, including OPEB<sup>5</sup> and pension liability. The review involved investigating current and potential legacy labor liabilities, which required Kramer Levin to review applicable collective bargaining agreements, all multi-employer plans to which various of the Debtors are a part, and all public filings containing disclosures pertaining to legacy labor liabilities, including, but not limited to, Forms 10-K, 10-Q, 8-K and 5500.

41. Kramer Levin also researched and drafted memoranda regarding employee benefits, pension and labor issues, including obligations arising under the Employee Retirement

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<sup>5</sup> OPEB means “Other Post-Employment Benefits.”

Income Security Act. In addition, Kramer Levin participated in, organized and facilitated several conference calls with Debtors and their advisors regarding employment benefits and legacy liability issues.

**F. Environmental Issues**

**Billing Code: 00007**

**(Fees: \$221,087.50/Hours Billed: 324.10)**

42. Along with legacy pension and OPEB liabilities, various Debtors face significant potential environmental obligations which must be addressed as part of these cases. During the First Interim Fee Period, Kramer Levin commenced its analysis of potential environmental liability. To facilitate the review, Kramer Levin, among other things, analyzed applicable SEC public filings, investigated the mine ownership of various Debtors, searched state environmental data bases for applicable permits held by various Debtors, reviewed the DIP financing agreement for provisions relating to environmental liability, and reviewed prepetition litigations commenced against various Debtors by both regulatory agencies and non-governmental organizations pertaining to potential environmental liabilities. Kramer Levin also researched and drafted memoranda on, among others things, the effect of the automatic stay on environmental claims.

43. During the First Interim Fee Period, particular attention was required for the private plaintiff environmental litigations commenced prepetition in the District Court for the Southern District of West Virginia (the "**Selenium Actions**"). Kramer Levin researched and analyzed the applicable consent decrees and court orders pertaining to potential selenium liability, as well as liability under the Clean Water Act. Kramer Levin also prepared certain analysis of, among other things, the applicable consent decrees, court orders, and letters of credit. In addition, Kramer Levin researched and drafted several memoranda on a variety of issues

pertaining to consent decrees and their modification, and letters of credit and their relationship with the automatic stay. These efforts were to ensure that the Committee was well-informed of the issues in order to make an appropriate decision in the exercise of its oversight role.

44. Kramer Levin engaged in extensive discussions with Debtors' counsel regarding the Selenium Actions and the status of these actions during the Chapter 11 Cases. This included reviewing and analyzing certain Debtors' proposed motion seeking relief from the automatic stay for the limited purpose of asking the District Court in the Selenium Actions to modify deadlines within certain applicable consent orders. Kramer Levin began drafting a statement in support of such Debtors' motion and commenced several conversations with such Debtors regarding same. This statement in support was ultimately filed shortly after the conclusion of the First Interim Fee Period.

45. In addition, Kramer Levin participated in several conference calls with its professionals, the Committee and individual Committee members regarding other environmental issues.

**G. Executory Contracts/Leases**  
**Billing Code: 00008**  
**(Fees: \$12,588.50/Hours Billed: 17.70)**

46. Kramer Levin analyzed, summarized and followed the Debtors' various omnibus motions seeking to reject certain unexpired leases and executory contracts. In addition, Kramer Levin reviewed documents relating to Debtors' potential rejection of Arch Coal, Inc. contracts, including analyzing and commenting upon Debtors' proposed motion papers and engaging in several discussions with Debtors' counsel regarding the same. These discussions are ongoing.

**H. Automatic Stay/Relief**

**Billing Code: 00009**

**(Fees: \$2,780.50/Hours Billed: 4.60)**

47. Kramer Levin reviewed, analyzed, and provided recommendations to the Committee with respect to various pleadings filed by the Debtors and third parties to obtain relief from the automatic stay, including the Debtors' motion to lift the automatic stay in order to proceed against the directors' and officers' insurance policies – whereby defense costs would be paid by insurance proceeds, reducing the financial burden on the estates. Kramer Levin also communicated with the Debtors regarding certain other automatic stay motions.

**I. Asset Analysis, Sales and Recovery**

**Billing Code: 00010**

**(Fees: \$796.00/Hours Billed: 0.90)**

48. Kramer Levin spent time reviewing the objections of the State of West Virginia to the sale of de minimis assets and communicating with the Committee's professionals regarding the Committee's financial analysis of the Debtors.

**J. Tax Matters**

**Billing Code: 00011**

**(Fees: \$13,752.50/Hours Billed: 18.00)**

49. Kramer Levin began researching the Debtors' tax status, which involved a review of their tax assets and liabilities and an analysis of their publicly filed Form 10-Ks. In addition, Kramer Levin reviewed, drafted, revised and engaged in conversations, both internally and with Debtors' counsel, regarding a net operating loss trading order.

**K. Claims Administration/Reporting**

**Billing Code: 00013**

**(Fees: \$68,997.00/Hours Billed: 107.40)**

50. Kramer Levin reviewed, analyzed and commenced negotiations on the Debtors' proposed claims settlement procedures. Specifically, Kramer Levin drafted an issues list,

memoranda, and an analysis for the Committee regarding Debtors' proposed settlement procedures. Kramer Levin also commenced negotiations with Debtors' counsel, engaging in numerous conversations regarding the proposed motion and Kramer Levin's proposed comments. These negotiations remain ongoing.

51. In addition, Kramer Levin reviewed Debtors' proposed Bar Date Order and took steps necessary to protect the interest of stakeholders in obtaining access to filed claims in their entirety (as public records). Kramer Levin further commenced negotiations with Debtors' counsel regarding the proposed Bar Date Order and engaged in communications with the United States Trustee regarding the same to ensure that all proofs of claim are made publicly available on the Debtors' claim register. This issue was ultimately resolved amicably after the conclusion of the First Interim Fee Period.

**L. Confidentiality Agreements/Bylaws**  
**Billing Code: 00015**  
**(Fees: \$82,022.00/Hours Billed: 107.90)**

52. Kramer Levin drafted and negotiated the Committee's bylaws and confidentiality agreements. In order to facilitate communications and the sharing of information to and among Committee members, Kramer Levin drafted bylaws governing Committee actions and negotiated with the Debtors to establish confidentiality agreements governing the disclosure of confidential information to the Committee and its members. Many of the documents shared with the Committee have been identified by the Debtors as being confidential in nature, and the Debtors were unwilling to share such information with the Committee absent the confidentiality provisions contained in the confidentiality agreement. Accordingly, the confidentiality provisions are designed to allow the Committee to fulfill its statutory duties by ensuring the efficient flow of confidential information between the Debtors and the Committee.

53. Kramer Levin engaged in conversations with Debtors and the various Committee members and revised the confidentiality provisions to reflect comments from the Committee, its professionals, and the Debtors. In addition, Kramer Levin further attended additional meetings to negotiate the terms of the confidentiality provisions and held meetings with the Committee to discuss same. Many of these discussions continued after the end of the First Interim Fee Period.

**M. Committee Investigations/Diligence**  
**Billing Code: 00016**  
**(Fees: \$9,028.00/Hours Billed: 10.40)**

54. Pursuant to the terms of the DIP Order, the Committee may investigate, among other things, any claims and defenses against any of the pre-petition secured parties. This investigation will be performed by the Committee's conflict counsel, Cole, Schotz, Meisel, Forman & Leonard, P.A. ("**Cole Schotz**"). During the First Interim Fee Period, Kramer Levin facilitated the handover of the investigation to Cole Schotz, which involved, among other things, numerous conferences (telephonic and in-person) with Cole Schotz regarding the background of the cases and coordination of the investigation, as well as subsequent conversations regarding the status of the investigation. The investigation remains ongoing.

**N. Adversary Proceedings**  
**Billing Code: 00019**  
**(Fees: \$10,901.50/Hours Billed: 17.40)**

55. Kramer Levin reviewed all pleadings relating to various adversary proceedings, drafting summaries of same, and surveying the various dockets to keep abreast of any and all developments in such adversary proceedings. In addition, Kramer Levin (i) communicated with the Committee, keeping it advised of all adversary proceedings commenced against the Debtors and the status of each, (ii) engaged in numerous communications with Debtors regarding the

status of various adversary proceedings and (iii) reviewed and commented upon Debtors' Massey Adversary Proceeding pleading.

**O. General Motions**

**Billing Code: 00020**

**(Fees: \$666,054.00/Hours Billed: 1,010.00)**

56. One of the largest billing matters during this First Interim Fee Period relates to general motion practice. As is customary in cases of this size and complexity, the beginning of the cases see a flurry of activity, including the filing of "first" and "second" day motions, which are designed, among other things, to effectuate the Debtors' orderly transition into bankruptcy. Accordingly, Kramer Levin devoted resources researching precedent for, reviewing, commenting upon and negotiating several first and second day motions, including, but not limited to: utilities motion, tax motion, wage motion, critical vendor motion, interim compensation procedures order, case management order, derivatives motion and coal sale motion. In addition, where an interim order was entered by the Court, Kramer Levin also reviewed, analyzed and commented upon any proposed final order to ensure that the Committee's statutory oversight role was being fulfilled by way of payment caps and/or increased notice. To facilitate this process, Kramer Levin engaged in numerous communications with Debtors' counsel and the Committee. Kramer Levin also attended and, where applicable, participated in the respective hearings, in addition to attending a chambers conference regarding the coal sale motion.

57. Moreover, and as mentioned above, the first few months of these cases have been marked by contested motions seeking a change of venue, which motions remain pending as of the date hereof. Kramer Levin reviewed all pleadings relating to the UMWA's motion to transfer venue to Charleston, West Virginia, including, but not limited to, the joinder of the United States Trustee, and all pleadings filed by the Debtors and other parties. In analyzing the

pleadings, Kramer Levin conducted substantial and in-depth research into the various issues, including a review of case law on circuit differences, prepared memoranda regarding same and communicated its findings to the Committee. Kramer Levin also researched and drafted an objection to the transfer motions as well as a post-hearing brief – engaging in further communications with the Committee and Debtors and other parties regarding same. The professionals for the Committee and the Debtors also spent time preparing for the hearing on the motions.

58. In addition to the above-mentioned litigation, Kramer Levin also reviewed pleadings regarding, but not limited to, a motion requesting the formation of an equity committee and a motion to assume certain specific contracts with Peabody. With regards to both, Kramer Levin researched for applicable precedent and engaged in several communications with the Committee regarding same. As it pertains specifically to the equity committee motion, Kramer Levin drafted a response to the motion and also received and reviewed a document request relating to the equity committee formation motion.

**P. Meetings and Communications with Debtors**

**Billing Code: 00021**

**(Fees: \$80,306.00/Hours Billed: 102.10)**

59. Kramer Levin prepared for and participated in numerous meetings, and engaged in a plethora of communications with, the Debtors' management and counsel to discuss important matters and updates in these Chapter 11 Cases. Kramer Levin also engages in a weekly status call with Debtors' counsel in which they discuss pending and upcoming matters in these cases. These meetings coordinate efforts between the Committee and Debtors, where appropriate, and expedite the efficient movement of these cases through the chapter 11 process.



**Q. Committee Meetings/Communications**  
**Billing Code: 00022**  
**(Fees: \$196,143.00/Hours Billed: 287.10)**

60. In addition to conducting bi-monthly meetings with the Committee, Kramer Levin, as necessary, conducted additional meetings (with the Committee and/or its individual members) to discuss a range of issues applicable to these cases, including, but not limited to, meetings to discuss the change of venue motion and to select financial advisors. The purpose of all meetings with the Committee, generally, is to keep the Committee informed of developments and current issues in these Chapter 11 Cases, and to discuss, analyze and vote on Committee positions with respect to certain matters requiring the Committee's input. At such meetings, Kramer Levin updated the Committee members on important events in these Chapter 11 Cases, answered Committee members' questions, and discussed their concerns. The Committee meetings sometimes lasted in excess of an hour and required extensive preparation by Kramer Levin, in conjunction with other Committee professionals, including internal pre- and post-meeting conferences. Kramer Levin also facilitated, coordinated and participated in customer subcommittee calls.

61. In addition, Kramer Levin drafted agendas of the matters to be discussed, prepared materials to be reviewed in connection with each meeting, took the minutes of each meeting, which were then subsequently approved by the Committee, and, on virtually a daily basis, reviewed and summarized certain pleadings filed on the various dockets and informed the Committee of such updates.

62. Kramer Levin also engaged in several conversations with the Committee and the United States Trustee regarding the composition of the Committee and drafted a letter in response to a request to expand the size of the Committee.

**R. Creditor Communications**  
**Billing Code: 00023**  
**(Fees: \$27,416.50/Hours Billed: 35.10)**

63. During the First Interim Fee Period, Kramer Levin spent time discharging its duties under section 1102, providing general information to and answering specific questions, calls, e-mails and letters from numerous concerned general unsecured creditors on a variety of issues related to these Chapter 11 Cases.

64. In order to ease the administrative burden of communicating with the Debtors' numerous creditors, Kramer Levin facilitated the establishment of a website (the "**Committee Website**") with Epiq Bankruptcy Solutions, LLC ("**Epiq**"). Additionally, Kramer Levin has updated the Committee Website, which contains general case information, frequently asked questions and answers, an overview of the chapter 11 bankruptcy process, key dates and deadlines in these Chapter 11 Cases, and contact information for primary parties in these Chapter 11 Cases. Kramer Levin also prepared and filed a motion to establish procedures by which the Committee discharges its duties to its creditor constituencies.

**S. Retentions/Other Professional Fee Applications**  
**Billing Code: 00024**  
**(Fees: \$152,104.00/Hours Billed: 255.10)<sup>6</sup>**

65. Kramer Levin reviewed and assisted in the preparation, drafting, filing and service of the retention applications for itself, and various other Committee professionals, including: Houlihan Lokey Capital, Inc. ("**Houlihan**"), as primary advisor, Mesirow Financial Consulting, LLC ("**Mesirow**"), as a limited purpose financial advisor, Epiq, as information agent, and Cole Schotz, as conflicts counsel to the Committee. Due to the Committee's decision to engage two financial advisors to perform specific roles, Kramer Levin spent time analyzing

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<sup>6</sup> Kramer Levin voluntarily wrote-off approximately \$24,000, which represents the vast majority of the fees relating to its own retention. As such, much of the time billed to this matter concerns attention to other estate retained professionals, whether by the Debtors or the Committee.

precedent for dual services to develop a work plan on behalf of the Committee. Once developed, this work plan was reviewed extensively by the Committee to ensure that no duplication occurred and that the limited and special services rendered by Mesirow would in fact be complementary to those being provided by Houlihan. In addition, Kramer Levin negotiated the Committee's financial advisors' engagements with the Debtors and ultimately revised the applications and related documents to address the Debtors' concerns. The Committee, through Kramer Levin, also engaged in discussions with the United States Trustee on the terms of both Mesirow and Houlihan's retentions to address any concerns. The process to finalize the retention of the financial advisors has continued past the conclusion of the First Interim Fee Period.

66. Kramer Levin also reviewed and supplied comments regarding the Debtors' retention of Blackstone Advisory Partners L.P. as investment banker and engaged in numerous communications with Debtors' counsel regarding same. Kramer Levin's efforts on behalf of the Committee resulted in certain clarifications to the retention agreements which are beneficial to the estates.

67. Kramer Levin, on behalf of the Committee, exercised its fiduciary obligations and reviewed the monthly fee statements of the other professionals retained by the Debtors.

**T. KL Monthly Fee Statements**  
**Billing Code: 00025**  
**(Fees: \$24,501.00/Hours Billed: 58.70)**

68. Kramer Levin prepared, filed and served each of the Monthly Fee Statements, in accordance with the Interim Compensation Order and in compliance with United States Trustee guidelines. The amount of fees billed to this category represents approximately 1% of the total fees requested for the First Interim Fee Period.

**U. Peabody**

**Billing Code: 00028**

**(Fees: \$260,304.00/Hours Billed: 364.10)**

69. Since the filing of the Debtors' Chapter 11 Cases, the Spin-Off of Patriot by Peabody has been the subject of media coverage given the significance of the transaction and the liabilities associated therewith. During the First Interim Fee Period, Kramer Levin commenced its ongoing investigation into the Spin-Off, which included, among other things, the review of various publicly filed documents relating to the Spin-Off, including Form 8-K, drafting diligence request lists with respect to the Spin-Off, reviewing applicable dataroom documents, drafting a summary of the Spin-Off, and researching and drafting a memorandum regarding various Peabody issues. In addition, Kramer Levin engaged in several communications with the Committee regarding the status of its investigation.

**V. Business Operations**

**Billing Code: 00029**

**(Fees: \$3,810.00/Hours Billed: 4.00)<sup>7</sup>**

70. Kramer Levin reviewed and analyzed issues and documents regarding the Debtors' operations, including with respect to contract issues, manufacturing charges, coal reserves and the Debtors' organizational structure.

**STATEMENT OF KRAMER LEVIN**

71. The foregoing professional services performed by Kramer Levin were appropriate and necessary. The professional services were in the best interests of the Committee, creditors, the Debtors' estates and other parties-in-interest. Compensation for the foregoing professional services as requested is commensurate with the complexity, importance and nature of the

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<sup>7</sup> This matter was opened after the submission of the July Fee Statement to facilitate better categorization of projects. Therefore, for the First Interim Fee Period certain time associated with this project category may overlap with other matters.

problems, issues or tasks involved. The professional services were performed in an appropriately expeditious and efficient manner.

72. The professional services performed by Kramer Levin on behalf of the Committee required an aggregate expenditure of 3,508.70 recorded hours by Kramer Levin's members, counsel, associates and paraprofessionals. Of the aggregate time expended, 1,377.80 recorded hours were expended by partners and counsel of Kramer Levin, 1,883.50 recorded hours were expended by associates, and 247.40 recorded hours were expended by paraprofessionals and other timekeepers of Kramer Levin.

73. During the First Interim Fee Period, Kramer Levin's hourly billing rates for attorneys ranged from \$415 to \$990 per hour. Non-working travel time was written-off completely and is not reflected in any of the matter numbers found herein. Allowance of compensation in the amount requested would result in a blended hourly billing rate for attorneys of approximately \$701.59 per hour (based upon 3,261.30 recorded hours for attorneys at Kramer Levin's billing rates in effect at the time of the performance of professional services), and a total blended hourly billing rate for Kramer Levin's members, counsel, associates, and paraprofessionals of \$673.98. Such fees are reasonable based on the customary compensation charged by comparably skilled practitioners in comparable bankruptcy cases in a competitive national legal market. As noted, attached hereto in Exhibit B is a schedule listing each Kramer Levin professional and paraprofessional who performed services in these Chapter 11 Cases during the First Interim Fee Period, the hourly rate charged by Kramer Levin for services performed by each individual, and the aggregate number of hours and charges by each individual.

**ACTUAL AND NECESSARY EXPENSES OF KRAMER LEVIN**

74. As set forth in Exhibit C hereto, Kramer Levin has disbursed \$75,813.93 as expenses incurred in providing professional services during the First Interim Fee Period. Pursuant to Kramer Levin's policies (which we believe are comparable to those of other New York City law firms), Kramer Levin has (and will continue) to pay certain expenses of professionals who work past 8:00 p.m. and on weekends and holidays in the service of its clients. For example, Kramer Levin seeks reimbursement for up to \$20.00 in meal charges for late-working professionals in accordance with the UST Guidelines. Kramer Levin's regular practice is not to include components for those charges in overhead when establishing billing rates and to charge its clients for these and all other out-of-pocket disbursements incurred during the regular course of the rendition of services. These expenses are routinely billed to and paid by Kramer Levin's clients, who recognize the efficiency of having a few professionals working long hours, with increased disbursements, as opposed to larger and less efficient teams.

75. Kramer Levin has adopted more stringent guidelines and procedures for these Chapter 11 Cases. For example, Kramer Levin determined that its average car service expense is approximately \$50.00 per trip and determined that it will not seek reimbursement of car service charges for late-working professionals to the extent that such charges exceed the \$50.00 average – that is, where the charge is less than \$50.00, Kramer Levin seeks reimbursement of the actual charge, and where the charge exceeds \$50.00, Kramer Levin limits its request for reimbursement to \$50.00.

76. With respect to photocopying expenses, Kramer Levin charged \$0.10 per page.

77. Each of these categories of expenses does not exceed the maximum rate set by the Guidelines. These charges are intended to cover Kramer Levin's direct operating costs, which

costs are not incorporated into Kramer Levin's hourly billing rates. Only clients who actually use services of the types set forth in Exhibit C are separately charged for such services. The effect of including such expenses as part of the hourly billing rates would impose that cost upon clients who do not require extensive photocopying and other facilities and services. The amount of the standard photocopying charge is intended to allow Kramer Levin to cover the related expenses of its photocopying service. A determination of the actual expenses per page for photocopying, however, is dependent on both the volume of copies and the total expenses attributable to photocopying on an annual basis.

78. In addition, due to the locations of Committee members, long-distance telephone calls were often required. On other occasions, meetings were required. These disbursements are not included in Kramer Levin's overhead for the purpose of setting billing rates.

79. Kramer Levin has made every effort to minimize its disbursements in these cases. The actual expenses incurred in providing professional services were absolutely necessary, reasonable, and justified under the circumstances to enable Kramer Levin to serve the needs of the Committee.

**THE REQUESTED COMPENSATION SHOULD BE ALLOWED**

80. Section 331 of the Bankruptcy Code provides for interim compensation of professionals and incorporates the substantive standards of 11 U.S.C. § 330 to govern the Court's award of such compensation. See 11 U.S.C. § 331. Section 330 provides that a court may award a professional employed under 11 U.S.C § 328 "reasonable compensation for actual, necessary services rendered . . . and reimbursement for actual, necessary expenses." See 11 U.S.C. § 330(a)(1). Section 330 also sets forth the criteria for the award of such compensation and reimbursement:

In determining the amount of reasonable compensation to be awarded . . . , the court should consider the nature, the extent, and the value of such services, taking into account all relevant factors, including –

- (A) the time spent on such services;
- (B) the rates charged for such services;
- (C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;
- (D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;
- (E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and
- (F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

11 U.S.C. § 330(a)(3).

81. Here, Kramer Levin respectfully submits that the services for which it seeks compensation in this Application were, at the time rendered, believed to be necessary for, beneficial to, and in the best interests of, the Committee. During the First Interim Fee Period, Kramer Levin worked diligently to maximize value of the Debtors' estates for the benefit of all unsecured creditors. The services rendered by Kramer Levin were consistently performed in a timely manner commensurate with the complexity, importance, and nature of the issues involved.

82. Kramer Levin has a national reputation for its expertise and experience in financial and bankruptcy reorganizations and restructurings and as noted above, the compensation is reasonably based on customary compensation charged by other practitioners in non-bankruptcy cases. Based on an application of the above factors and its compliance with the



Guidelines, Kramer Levin respectfully submits that the compensation requested herein is reasonable in light of the nature, extent and value of such services to the Committee and, accordingly, that approval of the compensation sought herein is warranted.

**NOTICE**

83. Notice of this Application has been provided in accordance with the Interim Compensation Order. Because of the nature of the relief requested, the Committee submits that such notice is sufficient and that no further notice of the relief requested in the Application need be given to any party.

*(remainder of page left intentionally blank)*

**CONCLUSION**

WHEREFORE, Kramer Levin respectfully requests that the Court enter an order (i) awarding Kramer Levin the interim allowance of (a) fees for the First Interim Fee Period in the aggregate amount of \$2,364,788, and (b) the reimbursement for actual and necessary expenses Kramer Levin incurred during the First Interim Fee Period in the amount of \$75,813.93; (ii) authorizing and directing the Debtors to pay Kramer Levin \$1,296,179.09, representing all unpaid amounts for the First Interim Fee Period; and (iii) granting such other relief as is just and proper.

Dated: New York, New York  
November 16, 2012

KRAMER LEVIN NAFTALIS & FRANKEL LLP

/s/ Adam C. Rogoff  
Thomas Moers Mayer  
Adam C. Rogoff  
Gregory G. Plotko  
1177 Avenue of the Americas  
New York, New York 10036  
Telephone: (212) 715-9100  
Facsimile: (212) 715-8000

*Counsel to the Official Committee of  
Unsecured Creditors*

**EXHIBIT A**

**Certification of Adam C. Rogoff**

KRAMER LEVIN NAFTALIS & FRANKEL LLP

Thomas Moers Mayer

Adam C. Rogoff

Gregory G. Plotko

1177 Avenue of the Americas

New York, New York 10036

Telephone: (212) 715-9100

Facsimile: (212) 715-8000

*Counsel for the Official Committee  
of Unsecured Creditors*

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

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

**CERTIFICATION UNDER GUIDELINES FOR FEES AND DISBURSEMENTS  
FOR PROFESSIONALS IN RESPECT OF FIRST INTERIM APPLICATION  
OF KRAMER LEVIN NAFTALIS & FRANKEL LLP, AS COUNSEL FOR THE  
OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF PATRIOT COAL  
CORPORATION, ET AL., FOR ALLOWANCE OF COMPENSATION FOR  
PROFESSIONAL SERVICES RENDERED AND FOR REIMBURSEMENT  
OF ACTUAL AND NECESSARY EXPENSES INCURRED FOR  
THE PERIOD FROM JULY 18, 2012 THROUGH SEPTEMBER 30, 2012**

I, Adam C. Rogoff, hereby certify that:

1. I am a member of Kramer Levin Naftalis & Frankel LLP ("**Kramer Levin**") and counsel to the Official Committee of Unsecured Creditors (the "**Committee**") of the above-captioned debtors and debtors-in-possession (the "**Debtors**") in these chapter 11 cases (the "**Chapter 11 Cases**"). Kramer Levin submits this first interim application for interim compensation and reimbursement of expenses in compliance with the Amended Guidelines for Fees and Disbursements for Professionals in Southern District of New York Bankruptcy Cases adopted by the Court on November 25, 2009 (the "**Local Guidelines**"), the United States Trustee

Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330, adopted on January 30, 1996 (the “**UST Guidelines**”), and the Order to Establish Procedures for Interim Monthly Compensation and Reimbursement of Expenses of Professionals [Docket No. 262] (the “**Monthly Compensation Order**”), (collectively with the Local Guidelines and UST Guidelines, the “**Guidelines**”).

2. This certification is made in respect of Kramer Levin’s application, dated November 16, 2012 (the “**Application**”), for interim compensation and reimbursement of expenses for the period commencing July 18, 2012 through and including September 30, 2012 (the “**First Interim Fee Period**”) in accordance with the Guidelines.

3. In respect of section A.1 of the Local Guidelines, I certify that:

- a. I have read the Application;
- b. to the best of my knowledge, information, and belief formed after reasonable inquiry, the fees and disbursements sought fall within the Local Guidelines and the UST Guidelines;
- c. the fees and disbursements sought are billed at rates in accordance with the practices customarily employed by Kramer Levin and generally accepted by Kramer Levin’s clients; and
- d. in providing a reimbursable service, Kramer Levin does not make a profit on that service, whether the service is performed by Kramer Levin in-house or through a third party.

4. In respect of section A.2 of the Local Guidelines and as required by the Interim Compensation Order, I certify that Kramer Levin has complied with the provision requiring it to provide the appropriate notice parties, on a monthly basis, with a statement of Kramer Levin’s fees and disbursements accrued during the previous month.

5. In respect of section A.3 of the Local Guidelines, I certify that counsel for the Debtors and the United States Trustee for the Southern District of New York are each being provided with a copy of this Application.

Dated: New York, New York  
November 16, 2012

Adam C. Rogff  
Adam C. Rogoff

**EXHIBIT B**

**Summary of Professionals**

<u>Timekeeper</u>	<u>Title</u>	<u>Department</u>	<u>Year Admitted to Bar</u>	<u>Billed Hours</u>	<u>Rate<sup>1</sup></u>	<u>Amount</u>
Mayer, Thomas Moers	Partner	Bankruptcy	1982	225.90	990.00	\$223,641.00
Lutgens, Christine	Partner	Employee Benefits	2000	44.50	940.00	\$41,830.00
Rogoff, Adam C.	Partner	Bankruptcy	1989	326.80	940.00	\$307,192.00
Fisher, David J.	Partner	Corporate	1985	35.50	915.00	\$32,482.50
Schmidt, Robert T.	Partner	Bankruptcy	1990	24.20	865.00	\$20,933.00
Herzog, Barry	Partner	Tax	1992	8.00	865.00	\$6,920.00
Wagner, Jonathan M.	Partner	Litigation	1984	43.00	840.00	\$36,120.00
Warren, Charles S.	Partner	Environmental	1965	36.70	840.00	\$30,828.00
Caton, Amy	Partner	Bankruptcy	2000	95.90	800.00	\$76,720.00
O'Neill, P. Bradley	Partner	Bankruptcy	1991	173.80	790.00	\$137,302.00
Plotko, Gregory G.	Special Counsel	Bankruptcy	1999	272.30	755.00	\$205,586.50
Finger, Toni	Special Counsel	Environmental	2000	52.90	750.00	\$39,675.00
Kennedy, Karen S.	Special Counsel	Litigation	1991	38.30	750.00	\$28,725.00
Merl, Seth R.	Associate	Corporate	2003	18.50	745.00	\$13,782.50
Kaye, Jordan D.	Associate	Bankruptcy	2004	72.10	745.00	\$53,714.50
				81.70	720.00	\$58,824.00
Carruzzo, Fabien	Associate	Corporate	2005	1.10	720.00	\$792.00
				26.10	700.00	\$18,270.00
Blabey, David E.	Associate	Bankruptcy	2005	85.80	720.00	\$61,776.00
				35.10	700.00	\$24,570.00
Daniels, Elan	Associate	Bankruptcy	2009	59.30	685.00	\$40,620.50

<sup>1</sup> As of September 2012, the associates at the firm have been elevated to the next class year and, accordingly, their individual billing rates have increased. However, the firm's billing rates for each class year remain the same as they were as of the Petition Date. To the extent that Kramer Levin elects to increase its billing rates, Kramer Levin will disclose such changes in accordance with its Retention Order.

Vessey, Jonathan B.	Associate	Corporate	2000	9.50	685.00	\$6,507.50
				61.80	670.00	\$41,406.00
Trast, Carissa R.	Associate	Employee Benefits	2008	11.40	670.00	\$7,638.00
				6.60	635.00	\$4,191.00
Yerramalli, Anupama	Associate	Bankruptcy	2008	122.90	670.00	\$82,343.00
				183.20	635.00	\$116,332.00
Little, Joshua R.	Associate	Corporate	2008	59.30	635.00	\$37,655.50
Burton, Angela M.	Associate	Bankruptcy	2010	88.40	595.00	\$52,598.00
Wilén, Jennifer A.	Associate	Corporate	2010	34.10	545.00	\$18,584.50
Brody, Daniel J.	Associate	Corporate	2011	22.70	545.00	\$12,371.50
Wong, Anita	Associate	Bankruptcy	2011	112.30	545.00	\$61,203.50
				297.10	485.00	\$144,093.50
Wolf, Benjamin	Associate	Bankruptcy	2011	67.00	545.00	\$36,515.00
				220.30	485.00	\$106,845.50
Blank, Stephen	Associate	Bankruptcy	2008	156.70	485.00	\$75,999.50
Halverson, Darren C.	Associate	Bankruptcy	2012	36.40	485.00	\$17,654.00
				8.80	415.00	\$3,652.00
Tomitz, Jason R.	Associate	Tax	2012	5.30	415.00	\$2,199.50
Vanaria, Hunter	Paralegal	Bankruptcy	N/A	247.40	310.00	\$76,694.00
<b>Total</b>				<b>3,508.70</b>		<b>2,364,788.00</b>



**EXHIBIT C**

**Summary of Expenses/Disbursements**

<b><u>Description</u></b>	<b><u>Amount</u></b>
Photocopying	\$2,338.60
Research Services	\$5,220.14
Conference Calls	\$4,402.83
Westlaw On-Line Research	\$20,230.19
Lexis/Nexis On-Line Research	\$32,874.21
Cab Fares / Car Service	\$2,646.69
Meals/In-House	\$2,486.92
Meetings	\$1,059.25
Corp. Svc. Filing Fees	\$1,796.50
Document Retrieval Fees	\$2,584.60
Transcript Fees	\$174.00
<b><u>Total</u></b>	<b>\$75,813.93</b>

**EXHIBIT D**

**Summary of Time by Billing Category**

<b><u>Matter Number</u></b>	<b><u>Matter Name</u></b>	<b><u>Hours</u></b>	<b><u>Amount</u></b>
066250-00001	Case Administration	200.70	\$115,122.00
066250-00002	Hearings	153.50	\$107,658.00
066250-00003	DIP Financing	199.80	\$149,201.00
066250-00004	Corporate & Securities Matters	103.10	\$67,030.50
066250-00006	Pension/OPEB/Labor Issues	127.00	\$93,184.50
066250-00007	Environmental Issues	324.10	\$221,087.50
066250-00008	Executory Contracts/Leases	17.70	\$12,588.50
066250-00009	Automatic Stay/Relief	4.60	\$2,780.50
066250-00010	Asset Analysis, Sales And Recovery	0.90	\$796.00
066250-00011	Tax Matters	18.00	\$13,752.50
066250-00013	Claims Administration / Reporting	107.40	\$68,997.00
066250-00015	Confidentiality Agreements/Bylaws	107.90	\$82,022.00
066250-00016	Committee Investigations / Diligence	10.40	\$9,028.00
066250-00019	Adversary Proceedings	17.40	\$10,901.50
066250-00020	General Motions	1,010.00	\$666,054.00
066250-00021	Meetings And Communications with Debtors	102.10	\$80,306.00
066250-00022	Committee Meetings/Communications	287.10	\$196,143.00
066250-00023	Creditor Communications	35.10	\$27,416.50
066250-00024	Retentions/Other Professional Fee Applications	255.10	\$152,104.00
066250-00025	KL Monthly Fee Statements	58.70	\$24,501.00
066250-00028	Peabody	364.10	\$260,304.00
066250-00029	Business Operations	4.00	\$3,810.00
<b><u>Total</u></b>		<b>3,508.70</b>	<b>\$2,364,788.00</b>