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of Unsecured Creditors of Patriot Coal Corporation, et al.

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

In re: Chapter 11

PATRIOT COAL CORPORATION, et al., Case No. 12-12900 (SCC)

Debtors. (Jointly Administered)

NOTICE OF STIPULATION BETWEEN THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS AND THE PRE-PETITION SECURITIZATION ADMINISTRATOR REGARDING 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

PLEASE TAKE NOTICE OF THE FOLLOWING:

- 1. On August 3, 2012, the Court 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").
- 2. As set forth in paragraph 19 of the Final DIP Order, the "Challenge Deadline" was fixed as the date that was ninety days from the entry of the Final DIP Order, or November 1, 2012.
- 3. On October 18 2012, the Official Committee of Unsecured Creditors (the "Committee") of the above-captioned debtors and debtors-in-possession in these Chapter 11

¹ Capitalized terms not otherwise defined herein shall be given the meanings ascribed to them in the Final DIP Order.

cases and Fifth Third Bank as Administrator and LC Bank (in such capacities the "Pre-Petition Securitization Administrator") entered into that certain Stipulation Between the Official Committee of Unsecured Creditors and the Pre-Petition Securitization Administrator Extending the Challenge Period (the "First Extension Stipulation"), which First Extension Stipulation was filed on October 18, 2012 [Docket No. 1392]. Subject to and qualified by the terms of the First Extension Stipulation, the Pre-Petition Securitization Administrator agreed to an extension of the Challenge Deadline for the Committee only, to and through December 3, 2012.

- 4. On November 26, 2012, the Committee and the Pre-Petition Securitization Administrator entered into that certain *Second Stipulation Between the Official Committee of Unsecured Creditors and the Pre-Petition Securitization Administrator Extending the Challenge Period* (the "Second Extension Stipulation"), which Second Extension Stipulation was filed on November 26, 2012 [Docket No. 1625]. Subject to and qualified by the terms of the Second Extension Stipulation, the Pre-Petition Securitization Administrator agreed to an extension of the Challenge Deadline for the Committee only, to and through December 14, 2012.
- 5. On December 14, 2012, the Committee and the Pre-Petition Securitization Administrator entered into that certain *Stipulation Between The Official Committee of Unsecured Creditors and the Pre-Petition Securitization Administrator Regarding 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 (the "Third Extension Stipulation"), a copy of which is attached hereto as Exhibit "A".*
- 6. Subject to and qualified by the terms of the Third Extension Stipulation, the Pre-Petition Securitization Administrator has agreed to an extension of the Challenge Deadline for the Committee only, solely with respect to the Remaining Issues (as defined in the Third Extension Stipulation), to and through January 31, 2013.

Dated: December 14, 2012 New York, New York

COLE, SCHOTZ, MEISEL, FORMAN & LEONARD, P.A., Conflicts Counsel to the Official Committee of Unsecured Creditors of Patriot Coal Corporation, et al.

/s/Stuart Komrower

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mwarner@coleschotz.com
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EXHIBIT A

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

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

STIPULATION BETWEEN THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS AND THE PRE-PETITION SECURITIZATION ADMINISTRATOR REGARDING 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

WHEREAS:

- A. On July 9, 2012, (the "Petition Date"), 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 (the "Bankruptcy Rules"). 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 August 3, 2012, this Court 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] (as modified by that

certain (i) Stipulation Between the Official Committee of Unsecured Creditors and the Pre-Petition Securitization Administrator Extending the Challenge Period, dated October 18, 2012 [Docket No. 1392], and (ii) Second Stipulation Between The Official Committee of Unsecured Creditors and the Pre-Petition Securitization Administrator Extending the Challenge Period, dated November 26, 2012 [Docket No. 1625], the "Final DIP Order"). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Final DIP Order.

- C. Pursuant to the Final DIP Order, the stipulations and admissions contained in the Final DIP Order, including, without limitation, Paragraph 4 of the Final DIP Order, became binding on (i) the Debtors and any successor thereto as of the date of entry of the Final DIP Order, and (ii) all parties in interest (other than the Committee (as defined below)), under all circumstances and for all purposes as of November 1, 2012.
- D. Pursuant to Paragraph 19 of the Final DIP Order, the Official Committee of Unsecured Creditors (the "Committee") has the right to properly commence an adversary proceeding or contested matter by no later than December 14, 2012 (x) challenging the validity, enforceability, priority, or extent of the Pre-Petition Debt or the Pre-Petition Securitization Administrator's or the Pre-Petition Securitization Lenders' liens on the Pre-Petition Collateral or (y) otherwise asserting or prosecuting any action for preferences, fraudulent conveyances, other avoidance power claims, or any other claims, counterclaims or causes of action, objections, contests, or defenses against the Pre-Petition Securitization Administrator, any of the Pre-Petition Securitization Lenders, or their affiliates, representatives, attorneys or advisors on behalf of the Debtors' estates.

E. The Committee has requested and the Pre-Petition Securitization Administrator has agreed to an extension of the Challenge Deadline through January 31, 2012 solely with respect to the specific matters enumerated in Paragraph 1 below (collectively, the "Remaining Issues"). The Committee has agreed that except with respect to the Remaining Issues, it will not (x) challenge the validity, enforceability, priority, or extent of the Pre-Petition Debt or the Pre-Petition Securitization Administrator's or the Pre-Petition Securitization Lenders' liens on the Pre-Petition Collateral or (y) otherwise assert or prosecute any action for preferences, fraudulent conveyances, other avoidance power claims, or any other claims, counterclaims or causes of action, objections, contests, or defenses against the Pre-Petition Securitization Administrator, any of the Pre-Petition Securitization Lenders, or their affiliates, representatives, attorneys or advisors on behalf of the Debtors' estates.

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

- 1. The Challenge Deadline is hereby extended to January 31, 2013 solely with respect to the Committee's time to properly file an adversary proceeding or contested matter seeking a determination of the following Remaining Issues as to each of which all of the Committee's rights are fully preserved through and including the January 31, 2013 Challenge Deadline:
 - (a) whether the Pre-Petition Securitization Administrator's or the Pre-Petition Securitization Lenders' security interests are properly perfected and not subject to avoidance solely with respect to accounts receivable and related rights and security which are the result of, or arise from, directly or indirectly, the sale to third parties of coal and derived

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from the specific real property and related interests owned or leased by the Debtors as of the Petition Date which issues are identified on Exhibit A to this Stipulation;

- (b) the amount of the Pre-Petition Obligations and the Pre-Petition Debt, each arising under the Pre-Petition Securitization Facility, in excess of the amount of the aggregate principal amount of approximately \$51,804,289 in respect of outstanding letters of credit (*i.e.*, the Securitization Letters of Credit).
- 2. Subject only to the full preservation of the Committee's rights set forth in Paragraph 1 above which may arise from the lack of proper perfection and/or avoidability with respect to the Remaining Issues, effective immediately upon execution of this Stipulation by counsel to the Committee and counsel to the Pre-Petition Securitization Administrator: (i) the stipulations and admissions contained in the Final DIP Order, including, without limitation, in Paragraph 4 of the Final DIP Order, are binding upon the Committee, any successor thereto and any other person or entity acting on behalf of, by or through the Committee, for all purposes including, without limitation, any chapter 7 or 11 trustee appointed or elected for any of the Debtors; (ii) the Pre-Petition Securitization Administrator's and Pre-Petition Securitization Lenders' liens on the Pre-Petition Collateral shall be deemed to have been, as of the Petition Date, legal, valid, binding and perfected, not subject to counterclaim, setoff, subordination, recharacterization, defenses, or avoidance; (iii) the Pre-Petition Obligations arising under the Pre-Petition Securitization Facility, the Pre-Petition Securitization Administrator's and the Pre-Petition Securitization Lenders' liens on the Pre-Petition Collateral and the Pre-Petition Securitization Administrator and the Pre-Petition Securitization Lenders shall not be subject to

any other or further challenge by the Committee, any successor thereto and any other person or entity acting on behalf of, by or through the Committee, including, without limitation, any chapter 7 or 11 trustee appointed or elected for any of the Debtors; and (iv) the refinancing of the Pre-Petition Debt arising under the Pre-Petition Securitization Facility (including collateralizing the Securitization Letters of Credit by issuing standby letters of credit under the Revolving Credit Loan or otherwise providing for such Securitization Letters of Credit in a manner satisfactory to the applicable issuing bank) shall be irrevocable and shall not be subject to restitution, disgorgement, or any other challenge under any circumstances, including, without limitation, pursuant to any Claims and Defenses.

- 3. The terms of the Final DIP Order shall remain in full force and effect, subject only to the preservation of the Committee's rights as set forth herein. Solely with respect to the Remaining Issues, this Stipulation shall be without prejudice to any and all remedies available as a result of a timely successful challenge pursuant to, and in accordance with, the terms of the Final DIP Order.
- 4. Notwithstanding anything to the contrary herein, this Stipulation shall be without prejudice to the rights of setoff, if any, held by the Pre-Petition Securitization Administrator or the Pre-Petition Securitization Lenders.
- 5. The agreement with respect to the Remaining Issues set forth in this Stipulation shall not be deemed an admission or concession by the Pre-Petition Securitization Administrator or any Pre-Petition Securitization Lender.
- 6. 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 by counsel for the Committee and counsel for the Pre-Petition Securitization Administrator.

- 7. This Stipulation may not be changed, amended, modified, or altered except by written agreement signed by each of the parties to this Stipulation.
- 8. This Court shall retain jurisdiction to hear any matters or disputes arising from or related to this Stipulation and Order.

[Signature page follows.]

Dated: December/1/2, 2012 Chicago, filmois

MAYER BROWN LLP

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Chicago, IL 60606

Telephone: (312) 782-0600 Facsimile: (312) 701-7711

Counsel to Fifth Third Bank, as Pre-Petition

Securitization Administrator

Dated: December [2], 2012 New York, NY

COLE, SCHOTZ, MEISEL, FORMAN &

LEONARD, P.A.

Michael D. Warner Stuart Komrower

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Conflicts Counsel to the Official Committee of Unsecured Creditors

1. Apogee Coal Company, LLC

Type of Property	Property Description/Lease Number
Surface/Coal Leases	2341-000001-00

2. <u>Black Stallion Coal Company, LLC</u>

Type of Property	Property Description/Lease Number
Owned Surface	Pond Fork Property, Boone County, West Virginia
Surface/Coal Leases	0794-000001-00
	0794-000002-00
	0794-00004-00

3. <u>Black Walnut Coal Company</u>

Type of Property	Property Description/Lease Number
Owned Surface	Spruce Laurel Property, Boone County, West Virginia
Surface/Coal Leases	0884-000004-00

4. <u>Catenary Coal Company, LLC</u>

Type of Property	Property Description/Lease Number
Owned Surface	Kayford Property, Kanawha County, West Virginia

5. <u>Colony Bay Coal Company</u>

Type of Property	Property Description/Lease Number
Surface/Coal Leases	0630-000002-00
	0630-000004-00
	0630-000005-00

6. <u>Coyote Coal Company, LLC</u>

Type of Property	Property Description/Lease Number
Surface/Coal Leases	2370-001 [Lease Out Internal]
	2370-002 [Lease Out Internal]
	2370-003 [Lease Out Internal]
	2370-004 [Lease Out Internal]
	2370-005 [Lease Out Internal]
	2370-006 [Lease Out Internal]
	2370-007 [Lease Out Internal]
	2370-008 [Lease Out Internal]
	2370-009 [Lease Out Internal]
	2370-010 [Lease Out Internal]
	2370-011 [Lease Out Internal]
	2370-012 [Lease Out Internal]
	2370-014 [Lease Out Internal]

7. <u>Dodge Hill Mining Company, LLC</u>

Type of Property	Property Description/Lease Number
Owned Surface	Airshaft Property, Union County, Kentucky
	Portal & Refuse Area Property, Union County, Kentucky
Owned Coal Reserves	Reserve 1136 Sturgis U.G. – Union County Property, Union County, Kentucky
	Reserve 2741 Dodge Hill Mine #1 Property, Union County, Kentucky
Surface/Coal Leases	2741-000005-02
	2741-000008-00
	2741-000022-00
	2741-000023-00
	2741-000024-00
	2741-000025-00
	2741-000026-00
	2741-000027-00
	2741-000028-00
	2741-000029-00
	2741-000030-00
	2741-000031-00
	2741-000031-01

8. <u>Eastern Associated Coal, LLC</u>

Type of Property	Property Description/Lease Number
Owned Surface	Central Midland Property, Gilmer County, West Virginia
	Colver Property, Cambria County, Pennsylvania
	Delmont Property, Westmoreland County, Pennsylvania
	Federal 1 Property, Marion County, West Virginia
	Federal 2 Property, Monongalia County, West Virginia
	JoAnne Property, Marion County, West Virginia
	Kopperston Property, Boone, Logan & Wyoming Counties, West Virginia
	Odd Property, Raleigh County, West Virginia
	Wharton Property, Boone County, West Virginia
Owned Coal Reserves	Reserve #2597, Workmans Branch 2Gas Property, Boone County, West Virginia
	Reserve #755, Federal No. 2 Monongalia Property, Monongalia & Greene Counties, West
	Virginia
	Reserve #794, Black Stallion Mine Property, Boone County, West Virginia
	Reserve #874, Central Midland Reserve Area, Braxton, Clay, Doddridge, Gilmer,
	Harrison, Kanawha, Lewis & Randolph Counties, West Virginia
	Reserve #875, Guffy Reserve Area, Barbour, Marion, Taylor & Tucker Counties, West
	Virginia
Surface/Coal Leases	NCC 104
	NCC 105
	NCC 108
	NCC 112
	NCC 176
	0865-000002-02
	0865-000003-00
	0865-000004-00 (Southern Land Company – contracting party)
	0865-000005-01
	0865-000007-00
	0865-000019-00
	0866-000003-01

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0878-000141-00
ADD008

9. <u>Grand Eagle Mining, LLC</u>

Type of Property	Property Description/Lease Number
Owned Surface	Spottsville & Surface Office Property, Henderson County, Kentucky

10. <u>Highland Mining Company, LLC</u>

Type of Property	Property Description/Lease Number
Owned Surface	Portal Property, Union County, Kentucky
Owned Coal Reserves	Reserve 2079, Camp Ug #11 Property (0148 Camp UG #11), Union County, Kentucky
	Reserve 2079, Henderson County (1137 Henderson Area), Henderson County, Kentucky
	Reserve 2079, Highland Mine Property, Henderson & Union Counties, Kentucky
Surface/Coal Leases	2079-000002-00
	2079-000003-00
	2079-000008-00
	2079-000009-00
	2079-000010-00
	2079-000012-00
	2079-000012-01
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2079-0019YY-13
2079-0019YY-14

11. <u>Hobet Mining, LLC</u>

Type of Property	Property Description/Lease Number
Owned Surface	Mullins Branch Property, Lincoln County, West Virginia

12. <u>Jupiter Holdings LLC</u>

Type of Property	Property Description/Lease Number
Owned Surface	Jupiter Property, Boone County West Virginia
Surface/Coal Leases	2325-000004-00

13. <u>Kanawha Eagle Coal, LLC</u>

Type of Property	Property Description/Lease Number
Owned Surface	Slaughters Creek (Kanawha Eagle Land Area), Kanawha County, West Virginia
Owned Coal Reserves	Reserve 2360, Wildcat Property, Boone & Kanawha Counties, West Virginia
	Reserve 2951, Eagle Joint Properties, Boone & Kanawha Counties, West Virginia
Surface/Coal Leases	2951-000003-00
	2951-000004-00
	2951-000005-00
	2951-000009-00

14. Ohio County Coal Company, LLC

Type of Property	Property Description/Lease Number
Owned Surface	Airshaft Property (Freedom Ug. land area), Henderson County, Kentucky

15. <u>Panther LLC</u>

Type of Property	Property Description/Lease Number
Owned Surface	Panther Property, Kanawha County, West Virginia
Owned Coal Reserves	Reserve 2210-Speed Mine Property, Boone and Kanawha Counties, West Virginia
Surface/Coal Leases	2365-000010-00
	2951-000007-07

16. Pine Ridge Coal Company, LLC

Type of Property	Property Description/Lease Number
Surface/Coal Leases	0860-000003-00
	0862-000001-0C
	0862-000008-00
	0862-000011-00
	0862-000012-01
	0862-000013-00
	0862-000014-00
	0862-000016-00

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	0862-000019-00

17. Rivers Edge Mining, Inc.

Type of Property	Property Description/Lease Number
Owned Surface	Pond Fork Property, Boone County, West Virginia
Surface/Coal Leases	0793-000001-00
	0793-000002-00
	0793-000003-00
	0793-000006-00
	0793-000010-00
	0793-000011-00