

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

In re:

PATRIOT COAL CORPORATION, *et al.*,

Debtors.¹

Chapter 11

Case No. 12-12900 (SCC)

Jointly Administered

**FINAL ORDER AUTHORIZING (i) DEBTORS TO CONTINUE TO USE
EXISTING CASH MANAGEMENT SYSTEM AND MAINTAIN
EXISTING BANK ACCOUNTS AND
BUSINESS FORMS AND (ii) FINANCIAL INSTITUTIONS
TO HONOR AND PROCESS RELATED CHECKS AND TRANSFERS**

Upon the motion (the “**Motion**”)² of Patriot Coal Corporation and its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the “**Debtors**”), for an interim order (the “**Interim Order**”) and final order (this “**Order**”) authorizing (i) the Debtors to continue to use their existing cash management system and maintain existing bank accounts and business forms and (ii) financial institutions to honor and process related checks and transfers pursuant to sections 105(a), 345, 363(c)(1) and 364(a) of the Bankruptcy Code and Bankruptcy Rule 6003 as more fully described in the Motion; consideration of the Declaration of Mark N. Schroeder, Patriot Coal Corporation’s Senior Vice President and Chief Financial Officer, filed in support of the

¹ The Debtors are the entities listed on Schedule 1 attached to the Motion. The employer tax identification numbers and addresses for each of the Debtors are set forth in the Debtors’ chapter 11 petitions.

² Unless otherwise defined herein, each capitalized term shall have the meaning ascribed to such term in the Motion.

Debtors' first-day pleadings (the "**Declaration**"); and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and Standing Order M-61 Referring to Bankruptcy Judges for the Southern District of New York Any and All Proceedings Under Title 11, dated July 10, 1984 (Ward, Acting C.J.) as amended by Standing Order M-431, dated February 1, 2012 (Preska, C.J.); and consideration of the Motion and the requested relief being a core proceeding the Bankruptcy Court can determine pursuant to 28 U.S.C. § 157(b); and the Court having entered the Interim Order on July 10, 2012; and due and proper notice of the Motion, the Interim Order and the Final Hearing (as defined below) having been provided to (a) the Office of the United States Trustee for the Southern District of New York (the "**U.S. Trustee**"), (b) those creditors holding the five largest secured claims against the Debtors' estates on a consolidated basis, (c) those creditors holding the 50 largest unsecured claims against the Debtors' estates on a consolidated basis, (d) attorneys for the administrative agents for the Debtors' proposed postpetition lenders, (e) the Internal Revenue Service, (f) the Securities and Exchange Commission, (g) the United States Environmental Protection Agency and (h) the United States Attorney's Office for the Southern District of New York; and it appearing that no other or further notice need be provided; and the relief requested in the Motion being in the best interests of the Debtors and their estates and creditors; and the Court having reviewed the Motion and having held an interim hearing on July 10, 2012 (the "**Interim Hearing**") and a final hearing on August 2, 2012 (the "**Final Hearing**", and together with the Interim Hearing, collectively, the "**Hearings**") with appearances of parties in interest noted in the transcripts thereof; and the Court having determined that the legal and factual bases set

forth in the Motion, the Declaration and at the Hearings establish just cause for the final relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that, pursuant to sections 105(a), 345, 363(c)(1) and 364(a) of the Bankruptcy Code and Bankruptcy Rule 6003, the final relief requested in the Motion is hereby granted *nunc pro tunc* to the Petition Date as set forth herein; and it is further

ORDERED that the Debtors are authorized and empowered, pursuant to sections 105(a) and 363(c)(1) of the Bankruptcy Code, to continue to maintain, operate and make transfers under their Cash Management System as described in the Motion and consistent with the provisions of this Order; and it is further

ORDERED that, in accordance with their prepetition practices, the Debtors shall maintain records of all transfers within the Cash Management System to the same extent they were recorded by the Debtors before the commencement of these chapter 11 cases. As a part thereof, each Debtor shall record in its books and records any transfer made by such Debtor to or for the benefit of any other Debtor or wholly owned non-Debtor subsidiary that occurs on or after the Petition Date (a “**Postpetition Transfer**”); and it is further

ORDERED that the Debtors are authorized to continue to make Postpetition Transfers in accordance with their prepetition practices; *provided, however*, that each Debtor making Postpetition Transfers to non-Debtor wholly-owned subsidiaries shall have claims for contribution, indemnification, reimbursement, subrogation and/or otherwise for the fair value of the property (including cash) against such non-Debtor wholly owned subsidiary to which the Postpetition Transfers were made; and it is further

ORDERED that any Debtor that makes a Postpetition Transfer to or for the benefit of another Debtor shall be granted a superpriority administrative expense claim pursuant to Section 364(c)(1) of the Bankruptcy Code against such transferee Debtor (a) junior and subordinate only to the DIP Liens and Superpriority Claims (as such terms are defined in the interim order of the Court, inter alia, approving the Debtors' postpetition financing [ECF No. 39] and, once entered, any order of the Court granting the relief therein on a final basis (the "**Final DIP Order**")) and (b) pari passu with the Contribution Claims and Subrogation Claims (as such terms are defined in the Final DIP Order, once entered); and it is further

ORDERED that, pursuant to section 364(a) of the Bankruptcy Code, the Debtors are authorized, in connection with the ordinary course operation of their Cash Management System, to obtain unsecured credit and incur unsecured debt in the ordinary course of business without any further notice or hearing; and it is further

ORDERED that the Debtors are authorized to continue to maintain the Bank Accounts with the same account numbers following the commencement of these cases; and it is further

ORDERED that, unless otherwise ordered by the Court or agreed by the U.S. Trustee with notice to the official committee of unsecured creditors (the "**Committee**"), during these chapter 11 cases the Debtors shall not maintain a balance in any Local Account that exceeds the applicable FDIC insurance limit; and it is further

ORDERED that, unless otherwise ordered by the Court or agreed by the U.S. Trustee with notice to the Committee, during these chapter 11 cases the Debtors shall not

maintain any funds in the Debtors' overnight account with Reich & Tang/Natixis; and it is further

ORDERED that the Banks are authorized to continue to treat, service, and administer the Bank Accounts as accounts of the respective Debtor as a debtor in possession without interruption and in the usual and ordinary course and to receive, process and honor and pay any and all postpetition checks, drafts, wires, or automated clearing house transfers (“**ACH Transfers**”) drawn on the Bank Accounts by the holders or makers thereof, as the case may be to the extent the Debtors have good funds standing to their credit with such Bank; and it is further

ORDERED that, notwithstanding anything to the contrary in any other order of this Court, the Banks (a) are authorized to accept and honor all representations from the Debtors as to which checks, drafts, wires or ACH Transfers should be honored or dishonored, consistent with any order of this Court and governing law, whether such checks, drafts, wires or ACH Transfers are dated prior to, on, or subsequent to the Petition Date, and whether the Banks believe the payment is or is not authorized by an order of this Court and (b) have no duty to inquire as to whether such payments are authorized by an order of this Court; and it is further

ORDERED that the Banks shall not be liable to any party on account of (a) following the Debtors' instructions or representations as to any order of this Court, (b) the honoring of any prepetition check or item in a good faith belief that the Court has authorized such prepetition check or item to be honored or (c) an innocent mistake made despite implementation of reasonable item handling procedures, absent gross negligence or willful misconduct; and it is further

ORDERED that, in accordance with current practice and the agreement governing the Bank Accounts, the Banks are authorized to “charge back” to the Debtors’ accounts any amounts incurred by the Banks resulting from returned checks or other returned items, and the Debtors are authorized to pay any fees and expenses owed to the Banks, in each case regardless of whether such items were deposited prepetition or postpetition or relate to prepetition or postpetition items; *provided, however*, that other than the “charge backs” authorized in this paragraph, nothing in this Order shall authorize any set-off by any entity that does not comply with section 553 of the Bankruptcy Code; *provided further, however*, that the Debtors shall provide written notice to the Committee of the exercise of any right of set-off other than for “charge backs” as soon as practicable after the Debtors receive notice thereof; and it is further

ORDERED that any payment from a Bank Account at the request of the Debtors made by a Bank prior to the Petition Date (including any ACH Transfer such Bank is or becomes obligated to settle), or any instruments issued by such Bank on behalf of any Debtor pursuant to a “midnight deadline” or otherwise, shall be deemed to be paid prepetition, whether or not actually debited from the Bank Account prepetition; and it is further

ORDERED that the Debtors are authorized to implement changes to the Cash Management System in the ordinary course of business, including opening any additional bank accounts, or closing any existing Bank Account as they may deem necessary and appropriate; *provided* that the Debtors shall, as soon as practicable, provide notice to the relevant Bank and the Office of the U.S. Trustee and to counsel for the Committee of any opening or closing of any Bank Accounts or other bank accounts; and it is further

ORDERED that the Banks are authorized to honor the Debtors' requests to open or close, as the case may be, such bank accounts or additional bank accounts; *provided, however,* that, unless otherwise ordered by this Court, any new bank account shall be with (i) a bank insured by the FDIC and that is organized under the laws of the United States or any State therein, (ii) a bank designated as an Authorized Depository under the U.S. Trustee Guidelines, or (iii) any other bank, as the Debtors may determine upon consultation with the U.S. Trustee and notice to the Committee; and it is further

ORDERED that nothing contained herein shall prevent Banks from modifying or terminating any Bank Accounts or related services in accordance with the agreements governing such accounts or services; and it is further

ORDERED that the Debtors are authorized to continue to use their correspondence and business forms, including, but not limited to, purchase orders, letterhead, envelopes, promotional materials, checks and other business forms (collectively, the "**Business Forms**") substantially in the forms existing immediately before the Petition Date, without reference to their status as debtors in possession; *provided, however,* that as soon as reasonably practicable, the Debtors shall mark "Debtors in Possession" and the chapter 11 case number under which these cases are being jointly administered on any newly printed check stock; and it is further

ORDERED that the Debtors are, in the exercise of their reasonable business judgment, authorized to maintain and continue to use their Purchase Card Program consistent with its terms, including the payment of any obligations thereunder whether arising before or after the Petition Date and the posting of any collateral in connection therewith; and it is further

ORDERED that the Debtors are authorized to invest and deposit their cash and cash equivalents in accordance with the Investment Guidelines in addition to the investments permitted by section 345 of the Bankruptcy Code; *provided* that, unless otherwise ordered by the Court or agreed by the U.S. Trustee (with notice to the Committee), during these chapter 11 cases the Debtors shall continue to invest, consistent with their prepetition practices, substantially in U.S. government-backed securities or deposit accounts; and it is further

ORDERED that the Investment Guidelines may be amended by order of the Court from time to time upon motion by the Debtors or any party in interest; and it is further

ORDERED that the Debtors' compliance with the Investment Guidelines shall be deemed to constitute compliance with section 345 of the Bankruptcy Code, and the Debtors are relieved from the obligations under section 345(b) to obtain a bond from any entity with which money is deposited or invested in accordance with the Investment Guidelines; and it is further

ORDERED that to the extent that there may be any inconsistency between the terms of the interim or final order approving the debtor in possession financing, if and when entered, and this Order, the terms of the interim or final order approving the debtor in possession financing, as applicable, shall govern; and it is further

ORDERED that the notice procedures set forth in the Motion are good and sufficient notice and satisfy Bankruptcy Rule 9014 by providing parties with notice and an opportunity to object and be heard at a hearing; and it is further

ORDERED that notwithstanding the possible applicability of Bankruptcy Rules 6003 and 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

Dated: August 2, 2012
New York, New York

/s/ Shelley C. Chapman
HONORABLE SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE