

**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

**ORDER AUTHORIZING THE EMPLOYMENT AND RETENTION OF
DAVIS POLK & WARDWELL LLP AS ATTORNEYS FOR THE DEBTORS
NUNC PRO TUNC TO THE PETITION DATE**

Upon the application (the “**Application**”)² of Patriot Coal Corporation and its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the “**Debtors**”), pursuant to section 327(a) of the Bankruptcy Code and Bankruptcy Rule 2014(a), for authorization to employ and retain Davis Polk & Wardwell LLP (“**Davis Polk**”) as attorneys for the Debtors, pursuant to the terms set forth in the Application; and upon the Declaration of Marshall S. Huebner, a partner of Davis Polk, filed in support of the Application, annexed to the Application as Exhibit B (the “**Huebner Declaration**”); and the Court being satisfied, based on the representations made in the Application and the Huebner Declaration, that Davis Polk and its professionals are “disinterested” as such term is defined in section 101(14) of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy Code, and, as required by section 327(a) and referenced by section 328(c) of the Bankruptcy Code, neither hold nor represent any interest adverse to

¹ The Debtors are the entities listed on Schedule 1 attached to the Application. 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 Application.

the Debtors and their estates; and upon consideration of the Declaration of Mark N. Schroeder, Patriot Coal Corporation's Senior Vice President and Chief Financial Officer, filed in support of the Debtors' first-day pleadings on July 9, 2012, [ECF No.4]; and the Court having jurisdiction to consider the Application and the relief requested therein pursuant to 28 U.S.C. § 1334 and the 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 Application and the requested relief being a core proceeding that the Bankruptcy Court can determine pursuant to 28 U.S.C. § 157(b); and due and proper notice of the Application having been provided in accordance with the Order Establishing Certain Notice, Case Management and Administrative Procedures entered by the Court on July 16, 2012 [ECF No. 84] and it appearing that no other or further notice need be provided; and the relief requested in the Application being in the best interests of the Debtors and their estates and creditors; and the Court having reviewed the Application and having held a hearing with appearances of parties in interest noted in the transcript thereof (the "**Hearing**"); and the Court having determined that the legal and factual bases set forth in the Application and at the Hearing establish just cause for the 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 the Application is approved, to the extent provided herein, *nunc pro tunc* to the Petition Date; and it is further

ORDERED that the Debtors are hereby authorized to employ and retain Davis Polk as their attorneys in the Debtors' chapter 11 cases, all as contemplated by the

Application and on the terms provided in the Application and the Huebner Declaration;
and it is further

ORDERED that Davis Polk is authorized to render the following professional
services:

- a. Prepare and file on behalf of the Debtors, as debtors in possession, all necessary or appropriate motions, applications, answers, orders, reports and other papers in connection with the administration of the Debtors' estates;
- b. Counsel the Debtors with regard to their rights and obligations as debtors in possession, and their powers and duties in the continued management and operations of their businesses and properties;
- c. Provide advice, representation and preparation of necessary documentation and pleadings and take all necessary or appropriate actions in connection with debt restructuring, statutory bankruptcy issues, postpetition financing, securities laws, real estate, employee benefits, environmental, business and commercial litigation, corporate and tax matters and, as applicable, asset dispositions;
- d. Take all necessary or appropriate actions to protect and preserve the Debtors' estates, including the prosecution of actions on the Debtors' behalf, the defense of any actions commenced against the Debtors, the negotiation of disputes in which the Debtors are involved, and the preparation of objections to claims filed against the Debtors' estates;
- e. Take all necessary or appropriate actions in connection with any chapter 11 plan, all related disclosure statements and all related documents, and such further actions as may be required in connection with the administration of the Debtors' estates; and
- f. Act as general bankruptcy counsel for the Debtors and perform all other necessary or appropriate legal services in connection with these chapter 11 cases;

and it is further

ORDERED that Davis Polk shall be compensated for its services and reimbursed for any reasonable and necessary expenses and disbursements in accordance with the rates (as adjusted from time to time) and disbursement policies as set forth in the Application, the Huebner Declaration and in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules, the Standing Order Establishing Procedures For Monthly Compensation and Reimbursement of Expenses of Professionals [M-412] (Dec. 21, 2010), the Amended Guidelines for Fees and Disbursements for Professionals in Southern District of New York Bankruptcy Cases [M-389] (Nov. 25, 2009), any order entered in these chapter 11 cases establishing procedures for interim monthly compensation and reimbursement of expenses of professionals, and the United States Trustee Guidelines (collectively, the “**Fee Guidelines**”) and any other applicable orders of this Court; and it is further

ORDERED that Davis Polk shall apply any amounts of its prepetition retainer remaining, after applying such retainer to any remaining, unpaid prepetition amounts, as a credit toward postpetition fees and expenses, after such postpetition fees and expenses are approved pursuant to the first order of the Court awarding fees and expenses to Davis Polk; and it is further

ORDERED that Davis Polk shall file fee applications for interim and final allowance of compensation and reimbursement of expenses pursuant to the Fee Guidelines; and it is further

ORDERED that ten business days' notice must be provided by Davis Polk to the Debtors, the United States Trustee and any official committee prior to any increases in the hourly rates set forth in the Huebner Declaration, and such notice must be filed with the Court; and it is further

ORDERED that Davis Polk shall use its best efforts to avoid any inappropriate duplication of services provided by any of the Debtors' other retained professionals in these chapter 11 cases; and it is further

ORDERED that the relief granted herein shall be binding upon any chapter 11 trustee appointed in any of these chapter 11 cases, or upon any chapter 7 trustee appointed in the event of a subsequent conversion of any of these chapter 11 cases to cases under chapter 7; and it is further

ORDERED that Davis Polk shall not withdraw as the Debtors' counsel prior to the effective date of any chapter 11 plan confirmed in these chapter 11 cases without prior approval of this Court in accordance with Local Bankruptcy Rule 2090-1(e); and it is further

ORDERED that to the extent that there may be any inconsistency between the terms of the Application or the Huebner Declaration and this Order, the terms of this Order shall govern; and it is further

ORDERED that the Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Order; and it is further

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

ORDERED that this Order shall be immediately effective and enforceable upon its entry; and it is further

ORDERED that this Court retains jurisdiction to hear and determine all matters arising from or related to the implementation and/or interpretation of this Order.

Dated: August 2, 2012
New York, New York

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