REDACTED

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re **PATRIOT COAL CORPORATION, *et al.*,** **Debtors.**	**Chapter 11** **Case No. 12-51502-659** **(Jointly Administered)** **Hearing Date:** **April 29, 2013 at 10:00 a.m.** **(prevailing Central Time)** **Hearing Location:** **Courtroom 7 North** **Re: ECF Nos. 3214, 3326, 3585, 3586, 3605, 3606, 3608, 3609, 3610, 3616, 3617, 3618, 3623, 3624**

REPLY DECLARATION OF PAUL P. HUFFARD IN FURTHER SUPPORT OF THE DEBTORS' MOTION TO REJECT COLLECTIVE BARGAINING AGREEMENTS AND TO MODIFY RETIREE BENEFITS PURSUANT TO 11 U.S.C. §§ 1113, 1114

Paul P. Huffard declares pursuant to 28 U.S.C. § 1746:

1. I am a Senior Managing Director in the Restructuring & Reorganization Group of Blackstone Advisory Services L.P. ("**Blackstone**"), a financial advisory services firm retained as investment banker by Patriot Coal Corporation and those of its subsidiaries that are debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, "**Patriot**," the "**Company**" or the "**Debtors**").

2. I incorporate by reference my prior declaration, dated March 14, 2013 [ECF No. 3224], in support of the motion of Patriot pursuant to 11 U.S.C. § 1113 and 11 U.S.C. § 1114 (the "**Motion**") for an order: (1) authorizing those Debtors (the "**Obligor Companies**")

that are signatories to collective bargaining agreements with the United Mine Workers of America (the "**UMWA**") to reject such collective bargaining agreements; (2) implementing the terms of the Debtors' section 1113 proposal (the "**1113 Proposal**"); (3) authorizing the Debtors to terminate retiree benefits for certain of their current retirees; and (4) implementing the terms of the Debtors' section 1114 proposal (the "**1114 Proposal**" and, together with the 1113 Proposal, the "**Proposals**").

3. Except as otherwise indicated, all facts set forth in this declaration are based upon my personal knowledge, experience, public information and review of relevant business records and information provided to me by the Debtors, their professionals and Blackstone employees working under my supervision. I am authorized to submit this declaration on behalf of Blackstone, and if called upon to testify, I would testify competently to the facts set forth in this declaration.

4. In its objection, as well as in the Declaration of Perry Mandarino of PricewaterhouseCoopers LLP ("**PwC**"), the UMWA's financial advisor, the UMWA and PwC put forth as "fact" several erroneous arguments, including:

(a) the Company's liquidity crisis is only temporary;

(b) the current liquidity crisis is a result of the Company's debtor-in-possession financing ("**DIP Facility**") covenants and is, therefore, a "self-imposed" crisis;

(c) the coal pricing forecasts in the Company's current five-year business plan that was developed in October 2012 (the "**Five-Year Business Plan**") are overly pessimistic;

(d) the savings the Company is seeking come disproportionately from union active labor and union retirees;

(e) there are additional, material cost savings that the Company has not contemplated;

(f) the quantification of the Company's proposals to fund the VEBA should not include any value for an unsecured claim because its exact value is uncertain today;

(g) the UMWA's Third Counterproposal's VEBA structure and funding are feasible; and

(h) the Company has not provided a "dynamic" business model to the UMWA or its advisors.

5. Several parties have objected to the Motion on grounds that the relief requested requires the Court to rule on the substantive consolidation or non-consolidation of the Debtors' estates.[1] These parties' argument rests on the assumption that the Debtors are effectively requesting or relying upon a Plan of Reorganization that substantively consolidates the legal entities of Patriot. That assumption is incorrect. Nothing in Patriot's Proposals assumes either substantive consolidation or non-consolidation. As discussed further below, Patriot has proposed an equity ownership stake that Patriot and its advisors believe is fair and balanced to all parties.

6. Section I of this declaration describes why the UMWA's various objections to the content of the Proposals have no merit. Section II explains why the Trustee and Noteholders are misguided in their various objections related to substantive consolidation. Section III briefly summarizes my conclusions regarding the various objections to the Motion.

[1] The parties who have objected, at least in part, on the basis of substantive consolidation or non-consolidation include U.S Bank National Association [ECF No. 3605]; Wilmington Trust Company [ECF No. 3606]; Argonaut Insurance Company, Indemnity National Insurance Company, US Specialty Insurance, Westchester Fire Insurance Company, and Travelers Casualty and Surety Company of America [ECF No. 3616]; and Aurelius Capital Management, LP and Knighthead Capital Management, LLC [ECF No. 3608] (together, the "**Trustees and Noteholders**").

I. <u>The UMWA Objection</u>

7. The UMWA and its advisors have advanced several misleading arguments to dispute the fact that the Company requires approximately $150 million per year in savings from its active union labor and retiree health care obligations.

The Company's Liquidity Crisis Is Not Temporary

8. The UMWA and its advisors argue that Patriot's liquidity crisis is temporary because the Company generates increased levels of EBITDA in later years. This analysis is flawed because it focuses on EBITDA and not cash flow, which is the more critical factor in determining the Company's ability to survive as a going concern.

9. The UMWA and PwC state that Patriot is seeking a profit "windfall" as measured by EBITDA[2] but fail to recognize that the Company is projected to produce little cash flow. Specifically, EBITDA excludes many cash costs, including, but not limited to: (i) capital expenditures; (ii) asset retirement and selenium obligations; (iii) interest expense; and (iv) income taxes. To illustrate this point, the Company's Five-Year Business Plan, assuming the implementation of 1113/1114 proposed savings, forecasts of cumulative EBITDA from 2013 through 2016 but only of cumulative free cash flow[3] for the same period. Moreover, the Five-Year Business Plan does not assume any cash requirements to (i) amortize or otherwise pay down exit financing debt; (ii) provide additional cash collateral to issuers of letters of credit; (iii) return cash to investors in the form of dividends; (iv) make payments to the 1974 Pension Plan; or (v) pay profit sharing and royalty payments pursuant to

[2] The UMWA and Mr. Mandarino refer to profit; what they really mean is EBITDA, as set forth in footnote 2 of the Mandarino declaration. EBITDA stands for earnings before interest, taxes, depreciation, and amortization.

[3] Free cash flow is the cash generated from the Company's operations less the cash cost of investing in its asset base to produce cash in future periods.

the 1114 Proposal. Thus, notwithstanding earning in EBITDA, Patriot does not generate large amounts of cash flow for its lenders and investors.

10. Additionally, over of the total in cumulative EBITDA and over of the cumulative free cash flow projected in 2013-2016 is generated in 2016 alone, which is three years after emergence. Cash flow projections further in the future are increasingly uncertain and will be discounted more heavily by prospective investors (whether debt or equity).

11. The UMWA and PwC distort the facts by referring to Patriot's limited cash flow as a "windfall." They characterize "required" savings as only the savings which are necessary to achieve (i) breakeven cash flow to meet the Company's obligations and (ii) maintain the Company's $100 million liquidity covenant.[4] They describe anything more than that amount as

[4] *See* Mandarino Decl. ¶¶ 12-13.

a "windfall." PwC disregards several other factors that are essential to determining whether Patriot will generate an adequate amount of cash to reorganize successfully, including:

(a) financial performance protection relative to the minimum requirements set forth in Patriot's financial covenants in the event that the coal pricing forecasts in the Five-Year Business Plan prove to be optimistic, which may be the case given the unpredictability of the coal markets, the risk of another downturn in the coal markets in the near-term, and the recent decline in coal prices;

(b) the ability to generate cash flow to repay exit financing obligations;

(c) whether the Company will produce sufficient returns for investors who could fund the Company's exit from bankruptcy (including monetization of the VEBA's equity ownership); and

(d) the ability to demonstrate the long-term viability and stability necessary to enter into coal supply agreements with third parties.

12. For these reasons, it is essential that the business not just break even but produce meaningful free cash flow throughout the forecast periods and beyond to ensure the long-term viability of the Company. Additionally, I believe it is necessary to have certainty in the Company's cost structure by extending the proposed collective bargaining agreements through 2018 (five years post-emergence) to convince investors of the business's stability and to secure exit debt and equity financing with a standard investment horizon.

The Prospective Defaults of the DIP Facility Covenants Are Not of the Company's Own Design

13. As the UMWA and its advisors have noted, without achieving the savings requested in the Proposals,

The UMWA and its advisors argue, however, that because the Company agreed to the DIP covenants, this is a crisis of the Company's own making.

14. This stance grossly mischaracterizes the evolution of the Company's DIP Facility negotiations. Furthermore, the DIP financing did not cause Patriot's liquidity crisis; to the contrary, it was a lifeline that allowed Patriot the time to begin restructuring its liabilities, which were unsustainable both before and after the DIP financing. Indeed, without the DIP Facility, Patriot would not have been able to finance its chapter 11 process and would have likely liquidated last year.

15. As an initial matter, EBITDA and liquidity covenants are common in DIP financings in my experience. These covenants are typically more restrictive when lenders require more protection, as was the case in the Patriot financing.

16. Patriot explored potential DIP financing and received term sheets reflecting a variety of structures from numerous parties, despite operating under an accelerated timetable due to the Company's liquidity crisis in the summer of 2012.

17. Furthermore, the specific provisions of the DIP Facility covenants were heavily negotiated.

18. Given the difficulties that the Company experienced in raising the DIP Facility, the downturn in the coal markets since the Company filed for bankruptcy, and the uncertainty caused by the 1113/1114 litigation, I believe it is highly unlikely that Patriot would be able to replace its DIP Facility.

19.

Coal Pricing Forecast Is Not Overly Pessimistic

20. The coal pricing forecasts in the Five-Year Business Plan are based on the best information available to the Company and reflect the specific end user markets and chemical qualities of the Company's coal. These are the same forecasts that the Company has shared with other parties, including its existing DIP Facility lenders and potential investors, and reflect management's best judgment of future prices at the time.

21.

Moreover, Mr. Mandarino assumes that since ICAP's pricing is lower than Energy Ventures Analysis's ("**EVA**") pricing, ICAP's estimates are therefore "conservative." This is a mistake. In fact, EVA has subsequently revised its projections downward. Its current Q1 2013 pricing forecast actually implies a decrease of $110 million in revenue relative to the current Five-Year Business Plan forecast.[8] Thus, there is no basis to argue that the ICAP estimates are conservative.

The Majority of Total Savings Is Not from Union Active Employees and Retirees

22. The UMWA and PwC claim that the Company's cost savings come disproportionately from the union active labor and union retirees, stating specifically that section 1113 and 1114 concessions "represent approximately of the annual savings."[9]

23. According to his deposition, Mr. Mandarino's calculation utilizes operating expense savings from the Five-Year Business Plan presented to the UMWA and PwC by the Company.

24. However, PwC's analysis (i) inexplicably ignores certain savings initiatives the Company has undertaken post-petition; (ii) incorrectly focuses on EBITDA savings rather than cash savings; and (iii) ignores savings in 2013 altogether.

25. The source for Mr. Mandarino's bankruptcy savings is the "Ch. 11 Operating EBITDA Impact" adjustment in Patriot's Five-Year Business Plan, which includes savings the Company expected to result from the bankruptcy process (other than expected 1113/1114 savings), but which had not yet been approved by the Court. In other words, Mr. Mandarino ignores post-petition savings that, at the time the Five-Year Business Plan was created, had already been secured and were incorporated elsewhere in the Five-Year Business Plan. He also

[8] Sources: EVA, Quarterly U.S. Coal Report (Q1 2013); Patriot internal analysis.

[9] Mandarino Decl. ¶ 20.

focused on GAAP expenses, rather than cash savings. Therefore, the UMWA and PwC analysis does not incorporate most of the Company's post-petition savings initiatives, which include:

(a) elimination of unsecured debt payments (including principal and interest);

(b) reductions to capital expenditures;

(c) modifications to non-union compensation and benefits; and

(d) executory and non-executory contract, agreement and lease rejections.

26. Additionally, savings over the entire forecasted period of the Five-Year Business Plan should be taken into account as the Company has actively sought to preserve cash flow during all periods. As such, the proportion of savings should be calculated on a cumulative basis from 2013 through 2016.[10]

27. When including (i) all post-petition savings initiatives; (ii) looking at savings on a cash basis; and (iii) incorporating savings from 2013 through 2016, the proportion of savings from the Company's Proposals as a percent of total savings is not as the UMWA and PwC claim. A comparison of Blackstone's analysis to PwC's is shown below in Graph 2.

[10] We exclude 2012 for simplicity, but the Company achieved meaningful cost savings both pre-petition and post-petition in 2012.

There Are No Additional Material Non-Union Cost Savings

28. In his declaration, Mr. Mandarino claims there are approximately of additional cost savings from 2013 to 2016 not contemplated in the Company's Five-Year Business Plan and that the implementation of these cost savings would therefore allow Patriot to reduce the scope of its ask under its Proposals. These alleged savings consist of:

(a) from the elimination of all management incentive pay;

(b) from improvements in staffing ratios by eliminating certain non-union supervisory positions;

(c) from deferring and/or reducing capital expenditures; and

(d) from eliminating "cushion" in Patriot's Five-Year Business Plan.

PwC's incremental savings are summarized in Table 2 below.

29. The of management incentive pay that the UMWA proposes to eliminate consists of (i) of non-cash stock option expense; (ii) of incentive and retention payments currently under the Court's consideration as part of the Company's 2013 annual incentive plan and critical employee retention plan;[11] and (iii) of future annual incentive payments. For the avoidance of doubt, the stock option expense and the of future incentive payments are amounts that management believes it needs to budget for today. However, no decision on the amount and payout mechanics has been made. This decision will likely be made by the future owners and Board of Directors of Patriot post-emergence. Table 3 summarizes the incentive pay contained in the Five-Year Business Plan.

30. Mr. Mandarino's first mistake is to claim that cutting stock option expenses will save the Company cash. Stock option expense is a non-cash GAAP expense that does not reduce the Company's cash flow. As such, eliminating corporate stock options does not materially

[11] In 2013, the $7 million incentive and retention plan under consideration by the Court is less than the expense forecasted in the Five-Year Business Plan.

impact the Company's cash flow and will therefore not impact the amount of cash savings required per the Proposals.[12]

31. Mr. Mandarino's second mistake is to assume the elimination of the Company's annual incentive program is actually prudent and of sound business judgment. While never paying out incentive payments would improve the Company's cash flows in a vacuum, this action would, in my opinion, hurt the Company's future financial performance and prospects. Annual incentive payments will be an important component of Patriot's post-emergence compensation structure. Eliminating incentive payments would have unintended consequences, including: (i) harming the Company's ability to retain key management and increasing attrition; (ii) damaging the Company's ability to properly incentivize its employees and potentially impairing productivity; and (iii) being unable to provide market-based compensation to attract new employees, all of which could negatively impact the Company's long term competitiveness.

32. It is management's judgment that further reducing costs associated with incentive compensation for corporate and mine-level employees would be counterproductive to the goal of preserving the Company's liquidity. The Company has already reduced costs related to these employees by:

(a) reducing salaries across the board by 2.5%;

(b) reducing benefits (including hourly wages, holiday and vacation time, pension and defined contribution retirement plan payments);

(c) eliminating employees' rights to 2012 annual incentive payments that were earned;

(d) increasing employee healthcare contributions;

[12] To the extent the Company becomes a taxpayer, stock options may become tax-deductible and could actually increase the Company's liquidity.

(e) eliminating substantially all non-union retiree healthcare benefits;

(f) stripping non-union employees of some deferred compensation that has been earned but not yet paid; and

(g) eliminating corporate headcount by 34 employees (16%).[13]

33. Mr. Mandarino admits in his testimony that incentive plans are common practice for companies exiting Chapter 11.[14] However, despite his own experiences, he unjustifiably maintains the position that in the case of Patriot all current and future incentive compensation should be eliminated.

34. Mr. Mandarino also cites $53 million of savings that, he claims, could be achieved by eliminating "supervisors" at Patriot's non-union mines. These savings are illusory. As explained in detail in the Reply Declaration of Dale Lucha, Mr. Mandarino's logic rests on faulty assumptions and a flawed analysis of Patriot's supervisor to hourly employee ratio at its union and non-union mines.[15]

35. Mr. Mandarino also believes that the Company can eliminate "approximately of yearly discretionary capital expenditure costs."[16] However, the UMWA has not provided any explanation as to what capital expenditures it proposes to eliminate. Mr. Mandarino indicated in his deposition that this analysis is still being finalized by PwC but gave no indication as to when it will be complete.[17] With no justification or detail, PwC's figures appear to be arbitrary reductions in Patriot's total capital expenditure budget.

[13] Represents decrease in corporate headcount from 12/31/11 through 4/19/13.

[14] Mandarino Dep. Tr. p. 254.

[15] Lucha Reply Decl. ¶¶ 19-25.

[16] Mandarino Decl. ¶ 31.

[17] Mandarino Dep. Tr. pp. 231-33.

36. Mr. Mandarino does not acknowledge that the Company has reduced capital expenditures by since the chapter 11 filing, and that there is little in capital expenditures that remains available to be cut while still allowing the Company to achieve its Five-Year Business Plan. Patriot's forecasted capital expenditures can generally be broken down into four categories: (i) government-required; (ii) necessary replacements; (iii) capital projects; and (iv) other (which includes safety, training and corporate-related spending). Of these, none are purely "discretionary." Even capital projects are relied upon to continue to open new operations as existing reserves are depleted and to maintain the Company's forecasted EBITDA. Any reduction in capital projects would reduce or delay EBITDA performance, diminish future cash flow generation and thereby potentially impact the Company's ability to obtain debt or equity financing. The UMWA's proposed elimination of of the Company's "project" expenditures from 2013 through 2016 is irresponsible and would be poor management of the Company's assets.

37. Mr. Mandarino also claims that a cumulative of "cushion" in the Five-Year Business Plan can be eliminated, though he makes no proposal about how to eliminate

it.[18] It is my understanding that the "cushion" that Mr. Mandarino refers to includes (i) of total "Labor" savings; (ii) of total savings from "Outside Services"; and (iii) of total "Contract Services" savings.[19] The amounts are summarized in Table 5 below.

38. PwC's "Labor" savings appear to consist primarily of additional workers' compensation expenses Patriot has incurred as a result of its bankruptcy and its inability to self-insure. The UMWA has not provided the Company with any detail as to why it believes Patriot will not continue to be burdened by these additional costs when its workers' compensation policy renews, other than to state its numbers are based on a June 30, 2013 emergence date.

39. PwC only provided a breakdown of its annual "Outside Services" savings after the deposition of Mr. Mandarino. When Blackstone followed up with PwC via e-mail to inquire as to the rationale behind these cost savings, PwC replied that "all information and data has already been provided,"[20] suggesting that there is no additional justification for these cost savings. PwC employees then stated on a follow-up phone call with Blackstone on April 22, 2013 that these estimates were developed by combing through Patriot's selling, general and administrative ("**SG&A**") expense budget and trying to find of potential

[18] Mandarino Decl. ¶ 29.

[19] Source: PwC's "Patriot Coal Corporation Summary of Savings" dated March 2013.

[20] Source: E-mail from Adam Rosen of PwC dated April 20, 2013 (Robertson Reply Decl. Ex. 87.)

"savings." After reviewing Patriot's 2012 SG&A budget, PwC developed the following breakdown:

40. As shown in Table 6 above, of these alleged "savings" are based on no analysis or work product from PwC. For savings related to the CEO and the Board of Directors, PwC compared the Company's budgeted line items to compensation outlined in the proxy statement.[21] In both instances, PwC did not realize that the Company's budget included non-compensation related costs that the Company expects to incur, such as: (i) insurance; (ii) travel; (iii) outside services; and (iv) dues. There is no "cushion" that has been built into Patriot's cost projections and PwC's outside services savings are, unfortunately, illusory.

41. Finally, the of "Contract Savings" referenced by PwC represents incremental expenses added to the Five-Year Business Plan by management to account for likely cost increases relating to: (i) mining delays caused by difficult geology; (ii) any slowdown or idling of production caused by the deteriorating coal market; (iii) negative vendor and customer reactions to the Company's bankruptcy; and (iv) work stoppages or disruptions caused by labor due to the Company's section 1113/1114 proceedings. Through March 2013, the Company has experienced increased expenses for:

[21] Source: Patriot proxy statement dated May 30, 2012.

(a) unexpected idling of the Rocklick mining complex as a result of the weak high volatile "A" metallurgical coal market;

(b) delay in moving the longwall equipment at the Federal mining complex;

(c) reduced production at the Panther mining complex due to difficult geology;

(d) increased use of "memorial days" by the union labor force; and

(e) accelerated use of personal days by UMWA-represented employees.

42. Finally, these incremental expenses have been added to Patriot's Five-Year Business Plan only through June 2013, as the Five-Year Business Plan assumed the completion of the 1113/1114 proceedings by then. Given the current state of these proceedings, it is highly unlikely that the Company will emerge from bankruptcy before Therefore, it is likely that the entirety of these increased expenses will be incurred.

The Proposed Unsecured Claim Has Value

43. The UMWA and PwC claim that they are unable to ascertain the value of the UMWA's unsecured claim funding to the VEBA, and, as a result, ascribe zero value to it. Please see my initial declaration for a detailed description of the potential value of the unsecured claim at the time Patriot filed its Motion.

44. Furthermore, in its latest proposal, the Company offered the UMWA 35% of the equity of the reorganized Company. This value reflects the percentage of the equity of the reorganized Company the UMWA may receive in a Plan of Reorganization taking into account various potential restructuring scenarios.

45. Because the UMWA's claims are limited to the Obligor Companies, the question of substantive consolidation versus a non-consolidated plan of reorganization has a material impact on the potential value of the UMWA's claim. The Company's advisors are in the process

of surveying the business in that regard, and that work is still ongoing. In particular, with the assistance of AP Services, LLP ("**Alix**"), the Debtors and their advisors have surveyed the debtor entities to collect information that a court might deem relevant to a substantive consolidation analysis. It is my understanding that there are facts that both support and argue against substantive consolidation. Accordingly, the Debtors and their advisors believe there is at least some risk that, if this issue is fully litigated, the Court could impose substantive consolidation.

46. The Debtors and their advisors have spent a significant amount of time and effort analyzing potential plan of reorganization scenarios and such efforts are ongoing. Key inputs to these scenarios include estimates of both pre- and post-petition claims, consolidated reorganization value, reorganization value assigned to individual debtor entities, the size and validity of intercompany claims, as well as other inputs. Although the analysis is ongoing, preliminary scenarios have been generated to look at potential pre-petition creditor recoveries under a number of scenarios.

47. Giving at least some weight to the possibility of substantive consolidation, I believe 35 percent of the equity of the reorganized Debtors is an appropriate offer to the UMWA. Even under a non-consolidated plan of reorganization, the UMWA may recover 35 percent of the equity, under certain assumptions. We note that the 35 percent equity offer is not materially different from the UCC's proposed 28 percent, given the complexity and number of assumptions that need to be made in the analysis.

48. Ultimately this is an inter-creditor dispute among differently situated creditors, and the Debtors are trying to foster a reasonable compromise that is in the best interests of the estate and allows the Company to emerge from bankruptcy promptly.

49. The UMWA’s advisors have performed valuation analyses on the Company and estimated Patriot’s Total Enterprise Value to be [22] Because Total Enterprise Value can be defined differently depending on which liabilities are capitalized as part of the valuation, we have shown a range of assumptions in the table below to illustrate the potential value of the VEBA funding that would result from the UMWA’s unsecured claim given their notion of value. PwC’s enterprise value implies distributable value of , and therefore, 35% of the distributable would provide of funding to the VEBA. PwC determines distributable value by taking total enterprise value and deducting funded debt,[23] which implies that its analysis would yield VEBA funding towards the higher end of the range presented above (please refer to the “High” case in Table 7).

[22] Traynor Decl. ¶ 79.

[23] Mandarino Dep. Tr. p. 116.

50. In presentations to the Company and in filings with the Court, PwC has ascribed significant value to the Company's reorganized equity. In paragraph 44 of Mr. Mandarino's declaration, he estimates that the Company's Proposals will provide a recovery to the UMWA's claim based on initial cash funding, profit sharing and a weighted average unsecured claim recovery based on trading prices of Patriot's debt.[24] Assuming Mr. Mandarino is using the UMWA's and PwC's section 1114 claim estimate,[25] this would provide of value to the VEBA. Thus, to ascribe no value to the claim, as PwC does, is false and misleading.

UMWA's Proposed VEBA Funding Structure Is Not Feasible

51. The UMWA, in its Third Counterproposal, proposed that the Company immediately fund the VEBA with a combination of $400 million of cash from a $500 million rights offering and $400 million of preferred stock of Patriot. This structure is flawed and not feasible for numerous reasons. In my opinion, I believe an investor would demand a significant stake in reorganized Patriot, perhaps well in excess of 51% under this VEBA structure. I therefore do not believe the other creditors of Patriot would support this structure, and therefore the Company would be unable to emerge from bankruptcy. I also believe that it would be difficult to find an investor willing to backstop $500 million of equity behind $400 million of preferred stock and willing to provide the significant level of governance rights the UMWA has requested.

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[24] Mandarino Dep. Tr. p. 195.

[25] Mandarino's Decl. ¶ 46.

The Company Shared a Dynamic Model with the Union

52. Over the course of the case, the Company and its advisors have shared information for the UMWA and its advisors to evaluate the Company's Proposals. In the aggregate, the Company and its advisors responded to over 200 diligence requests providing over 4,350 MB of information and approximately 47,750 pages of documentation.[26]

53. The UMWA and PwC claim that Patriot and its advisors have not developed a "dynamic" model and that this prevents them from properly evaluating the Company's Proposals. This claim is simply false. The model presented to the UMWA and PwC (the "**Financial Model**") is a functioning and dynamic model with supporting schedules that can be used to determine the financial impact of changing any assumption that underlies the Five-Year Business Plan (except certain complex operational decisions, a limitation that also applies to Patriot and its respective financial advisors and is a function of the Company's business, not the Financial Model). Furthermore, the Company and Blackstone repeatedly offered to aid the UMWA and PwC with any analysis related to changing the assumptions that underlie the Five-Year Business Plan and its impact on the Financial Model.

54. On a call on December 12, 2012, Blackstone explained to PwC how to reflect changes in business plan assumptions in the Financial Model by either (i) changing specific model inputs; (ii) layering the incremental impact into the Financial Model by simply adding a new line item(s); or (iii) replacing a line item(s) with new figures derived from the new assumptions. Because the Financial Model is a fully functioning and dynamic model, the impact of the changed assumptions flows through the Financial Model's schedules and financial statements to reflect the new underlying assumptions.

[26] As estimated by IntraLinks, the data room provider as of 4/19/13.

55. Through the Financial Model and the diligence process, the UMWA and PwC are capable of evaluating and modifying assumptions that underlie elements of the Five-Year Business Plan including, but not limited to, the following:

(a) revenue;

(b) operating costs;

(c) interest expense;

(d) capital expenditures;

(e) capital structure;

(f) working capital;

(g) other balance sheet accounts;

(h) bankruptcy savings; and

(i) 1113/1114 savings.

56. With the Financial Model and diligence information provided, as well as the assistance offered by the Company and/or Blackstone, the UMWA and PwC have the capability to not only evaluate the Company's Proposals but evaluate any assumption that underlies the Company's Five-Year Business Plan.

II. <u>The Trustee and Noteholder Objections</u>

The Company Has Not Committed to Substantive Consolidation

57. Certain parties have argued that, by offering the VEBA a 35% equity stake in the reorganized Company, Patriot is either assuming a substantively consolidated Plan of Reorganization or that non-obligor debtors are satisfying the claims of obligor debtors. These statements are not true.

58. Patriot does not, at this time, have a final view on substantive consolidation and nothing in any of its proposals to the UMWA assumes either substantive consolidation or non-consolidation. Rather, as previously discussed in paragraph 46, the 35 percent equity stake offered is based on a number of factors.

III. Conclusion

59. The objections to the Company's Proposals are based on misunderstandings of the Proposals and/or Patriot's business and operations. The Company has sought cost savings from all other possible sources, but nonetheless requires approximately $150 million per year of annual savings from its active union labor and retiree health care costs to reorganize successfully and remain a viable entity for the benefit of all stakeholders.

I, Paul P. Huffard, declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
April 23, 2013

/s/ Paul P. Huffard
Paul P. Huffard
Senior Managing Director
Blackstone Advisory Services L.P.

REDACTED

APPENDIX A

MATERIALS CONSIDERED

I. Case Filings and Depositions

- Declaration of Paul P. Huffard, dated March 14, 2013
- Declaration of Perry M. Mandarino, dated April 3, 2013
- Declaration of Arthur Traynor, dated April 11, 2013
- Reply Declaration of Dale F. Lucha, dated April 23, 2013
- Reply Declaration of Gregory B. Robertson, dated April 23, 2013, Ex. 87
- Deposition of Perry M. Mandarino, April 17, 2013

II. Materials from Patriot

- 1113 Savings Summary and Presentation (Data Room Items 1.2.14, 1.2.16)
- Patriot Corporate Headcount Data
- Patriot Five-Year Business Plan (Data Room Items 1.2.2.1, 1.2.2.2, 1.2.2.3)
- Update Presentation for Unsecured Creditors' Committee, December 5, 2013

III. Materials from the UMWA

- Patriot Coal Corporation Summary of Savings, March 2013

IV. Other Resources

- SEC Public Filings
- Markit Bank Debt Pricing Data, April 22, 2013
- EVA, Quarterly U.S. Coal Report (Q1 2013)
- Company analysis of EVA Quarterly U.S. Coal Report (Q1 2013)