

POSEIDON CONCEPTS CORP. SECURITIES LITIGATION**NOTICE OF PROPOSED SETTLEMENT****WITH CERTAIN OF THE DEFENDANTS IN POSEIDON CLASS ACTIONS****READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS**

THIS NOTICE IS TO all persons and entities who purchased or otherwise acquired securities of Poseidon Concepts Corp. on or before February 14, 2013, excluding the Excluded Persons (“Class”).¹

TAKE NOTICE that a settlement has been reached between the class action plaintiffs and Poseidon Concepts Corp. (“**Poseidon**”), certain of Poseidon’s directors and officers (“**D&Os**”) and certain of Poseidon’s related entities in relation to the proposed class actions commenced and pending against these defendants in the Courts of Alberta, Ontario, Québec and the United States (“**Settlement Agreement**”).

The Settlement Agreement has been reached within Poseidon’s insolvency proceedings. Subject to Court approval, it resolves the claims brought against the D&Os and certain of Poseidon’s related entities. The class action claims brought against Poseidon itself, Poseidon’s auditor KPMG LLP and Poseidon’s underwriters are not released by the settlement, and will continue to be litigated.

The purpose of this Notice is to advise you of the Settlement Agreement and its terms. If you have any questions after having reviewed this Notice, please contact Class Counsel using the information provided below. If you have no concerns regarding the Settlement Agreement and its terms, you are not required to do anything at this time. However, if you wish to object to the Settlement Agreement, you must raise your objection with the Court of Queen’s Bench of Alberta (“**Alberta Court**”) by completing and submitting the Objection Form attached hereto **by no later than Friday, January 26, 2018.**

¹ The following persons and entities are excluded from the class action because they are defendants in the Poseidon-related class actions or are related to the defendants in those actions: Poseidon and its past and present subsidiaries, affiliates, officers, directors, senior employees, partners, legal representatives, heirs, predecessors, successors and assigns; New Open Range and its past and present subsidiaries, affiliates, officers, directors, senior employees, partners, legal representatives, heirs, predecessors, successors and assigns; any individual who is an immediate member of the family of a past or present director or officer of Poseidon Concepts or New Open Range; National Bank of Canada, National Bank Financial Inc, BMO Nesbitt Burns Inc, CIBC World Markets Inc, Haywood Securities Inc, Peters & Co Limited, Canaccord Genuity Corp, Cormark Securities Inc, Dundee Securities Ltd and FirstEnergy Capital Corp (collectively, the “Financial Institutions”), and each Financial Institution’s past and present subsidiaries, affiliates, officers, directors, senior employees, partners, legal representatives, heirs, predecessors, successors and assigns; KPMG LLP and its past and present subsidiaries, affiliates, officers, directors, senior employees, partners, legal representatives, heirs, predecessors, successors and assigns; and Peyto Exploration & Development Corp and its past and present subsidiaries, affiliates, officers, directors, senior employees, partners, legal representatives, heirs, predecessors, successors and assigns.

The Settlement Agreement is being presented for approval to the Alberta Court, and a hearing will be held on February 12 and 13, 2018 at Calgary Courts Centre, 601 - 5 Street SW, Calgary, AB T2P 5P7.

Class Counsel are of the view that the Settlement Agreement is fair and reasonable in the circumstances, and will recommend its approval to the Courts.

BACKGROUND OF POSEIDON

Poseidon was a public company based in Calgary, Alberta, that carried on business as a provider of energy services solutions. Poseidon was created in November 2011 as a result of a spin-off transaction whereby Open Range Energy Corp. split its business and assets into two separate public companies, one being Poseidon and the other being a new Open Range Energy Corp. ("**New Open Range**"). Poseidon's common shares traded on the Toronto Stock Exchange under ticker symbol "**PSN**" and in the United States on over-the-counter Pink Sheets under ticker "**POOSF**."

Poseidon manufactured and rented out above-ground fluid handling tanks to oil and gas producing companies in Canada and the United States. In a series of disclosures made between November 2012 and February 2013, Poseidon disclosed that it had improperly recorded significant revenues and accounts receivable, and that it had to restate its financial statements. Upon these revelations, Canadian securities regulators issued orders prohibiting trading in Poseidon's securities, and Poseidon's common shares were delisted from the Toronto Stock Exchange. Soon after, Poseidon commenced insolvency proceedings in the Alberta Court and the United States Bankruptcy Court for the District of Colorado. Within the context of those proceedings, Poseidon ceased operating and substantially all of its assets were sold.

POSEIDON-RELATED CLASS ACTIONS

In late-2012 and early-2013, proposed class actions were commenced on behalf of the Class in Alberta, Ontario, Québec and the United States against Poseidon and D&Os ("**Poseidon Class Actions**"). The Poseidon Class Actions allege that the defendants violated their disclosure obligations under Canadian and United States securities laws, and materially misrepresented Poseidon's business and financial results to Poseidon's investors.

Contemporaneously, several other proposed class actions were commenced against several entities that were involved with Poseidon's business and/or its financial reporting:

- KPMG LLP ("**KPMG Class Actions**"): Proposed class actions have been commenced on behalf of the Class and are pending in Alberta, Ontario and Québec against Poseidon's auditor, KPMG LLP ("**KPMG**"), alleging that it failed to comply with its duties as Poseidon's auditor.
- Underwriters ("**Underwriters Class Action**"): A proposed class action has been commenced and is pending in Ontario on behalf of the investors who acquired

Poseidon's common shares in a public offering by way of a prospectus dated January 26, 2012. The Underwriters Class Action alleges that the financial entities that acted as the underwriters in connection with the public offering of Poseidon's common shares ("**Underwriters**") failed to comply with their duties.

- Peyto Exploration & Development Corp ("**Peyto**") in its capacity as the successor by merger to New Open Range ("**New Open Range Class Action**"): Proposed class actions have been commenced on behalf of the Class and are pending in the courts of Alberta and Ontario against Peyto Exploration & Development Corp in its capacity as the legal successor to New Open Range, alleging that New Open Range improperly influenced the release of certain of Poseidon's disclosure documents that allegedly contained misrepresentations. Of note, at the relevant time, New Open Range directors and officers were substantially the same as Poseidon's D&Os. The claims asserted in the New Open Range Class Action arise from substantially the same conduct, and engage substantially the same individual directors and officers as Poseidon's D&Os.

POSEIDON'S INSOLVENCY PROCEEDINGS

In April 2013, Poseidon obtained protection from its creditors from the Alberta Court under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 ("**Insolvency Proceedings**").²

The Alberta Court appointed PricewaterhouseCoopers Inc as the court-appointed monitor of Poseidon's affairs within the Insolvency Proceedings ("**Monitor**"). The Monitor has brought a legal claim on behalf of the estate of Poseidon against, among others, the D&Os alleging that they failed to fulfill their obligations as Poseidon's directors and officers, as well as against KPMG LLP, seeking to recover damages to Poseidon resulting from KPMG's alleged failure to comply with its duties in carrying out its professional engagement as Poseidon's auditor ("**Monitor KPMG Claim**").

Within the Insolvency Proceedings, the Alberta Court issued an order staying all actions brought against or affecting Poseidon, its business and assets and its current and former directors and officers ("**Stay**"). As a result of the Stay, the various class proceedings and other lawsuits and claims brought against Poseidon, the D&Os and other entities have been stayed or delayed.

Within the Insolvency Proceedings, the Alberta Court appointed the Canadian class action plaintiffs as representatives for the Class for all the purposes of the Insolvency Proceedings including, without limitation, for the purpose of proving, settling or compromising claims by Poseidon's investors ("**Class Representatives**"). The Alberta Court also appointed the law firms of Jensen Shawa Solomon Duguid Hawkes LLP and Siskinds LLP as counsel for the Class for any issues affecting them within the Insolvency Proceedings ("**Class Counsel**").

² In conjunction with Poseidon's insolvency proceedings in Canada, a parallel insolvency proceeding was commenced in the United States Bankruptcy Court District of Colorado under Chapter 15 of the United States Bankruptcy Code.

In April 2014, pursuant to an order of the Alberta Court, Poseidon's stakeholders were ordered to participate in a mediation to resolve all or part of the claims involving Poseidon ("**Mediation**"). The Mediation was unsuccessful. Subsequent to the Mediation, the Monitor, the Class Representatives, a syndicate of Canadian banks that are secured lenders to Poseidon ("**Secured Creditors**")³, and Poseidon, the D&Os and Peyto continued the negotiations. These negotiations resulted in the Settlement Agreement.

THE SETTLEMENT AGREEMENT

The Settlement Agreement is the result of lengthy and complex negotiations amongst the Monitor, the Class Representatives, the Secured Creditors, Poseidon, the D&Os and Peyto. The Settlement Agreement represents a compromise of disputed claims and is not an admission of liability, wrongdoing or fault on the part of any of the defendants in the Poseidon Class Actions, which have disputed, and continue to dispute, the allegations advanced against them.

The Settlement Agreement is part of a Plan of Compromise and Arrangement ("**Plan**") pursuant to the *Companies' Creditors Arrangement Act*. Both the Settlement Agreement and the Plan remain subject to Court approval, and each is contingent on the other being approved by the relevant Courts.

The Settlement Agreement, the Plan and other relevant documents and information are available on Class Counsel's website at <http://www.siskinds.com/poseidon-concepts-corp/> and <http://www.jsbarristers.ca/pages/class-actions/class-actions.cfm#poseidon>. We encourage you to consult these documents for further details.

Subject to their being approved by the Court, the Settlement Agreement and the Plan will achieve the following objectives:

- 1) The Settlement Agreement and the Plan will result in a significant monetary contribution to the estate of Poseidon and the Class.

Pursuant to the Settlement Agreement, Poseidon's D&Os' insurers ("**Insurers**") will contribute an amount up to \$36.5 million to the settlement ("**Settlement Contribution**"). The Settlement Contribution will be paid in two instalments, as follows:

- a. The initial instalment: Upon the final approval of the Settlement Agreement and the implementation of the Plan, a total of \$29.5 million will be paid in Settlement Contribution. Of this amount, \$7,632,800 will be paid in respect of the Class's claims and \$21,367,200 will be paid in respect of the claims of the estate of Poseidon; and
- b. The final instalment: The final instalment will be in an amount of up to \$7.5 million. Certain of Poseidon's former directors, officers or senior employees are

³ The Secured Creditors of Poseidon are The Toronto-Dominion Bank, National Bank of Canada, The Bank of Nova Scotia and HSBC Bank of Canada.

or may become the subject of regulatory and/or criminal proceedings due to the circumstances of Poseidon. As such, this fund will be held by the Insurers to pay for the defence costs of the criminal or regulatory proceedings that are actually commenced against one or more of those individuals on or before April 10, 2019. There is a \$2.5 million limit per individual, except for one individual whose entitlement is limited to USD\$2.0 million. These limits constitute caps on, and not a guarantee of the availability of, funds. The balance of this fund will be paid in respect of the claims of the Class and those of the estate of Poseidon by the later of:

- i. In the event that, on or prior to April 10, 2019, a criminal and/or regulatory proceeding is brought against one or more of the individual directors, officers or employees of Poseidon named in the Plan, when the last of such proceedings is concluded; and
- ii. April 10, 2019.

The monetary contributions to be made to the Class pursuant to the initial and final instalments will be paid into a “**Litigation Trust**,” which is to be established by way of the Plan, for the benefit of the Class.

It is possible that the Litigation Trust to be created by the Plan may have tax implications for individual members of the Class. Class members are encouraged to consult their tax advisors regarding the tax impact, if any, that this transaction and the litigation trust may have on their tax position.

- 2) The Settlement Agreement and the Plan will resolve all the outstanding claims brought by and against the D&Os.

Various Poseidon stakeholders, including the Monitor, the Secured Creditors and the Class Representatives, have brought claims against the D&Os. The D&Os, in turn, have denied liability, and have brought their own claims against KPMG. Furthermore, the claims asserted in the New Open Range Class Action arise from substantially the same conduct of the substantially the same individual D&Os. The situation has resulted in the assertion of many counter, third-party and cross-claims involving the D&Os as well as Peyto (in its capacity as the successor to New Open Range), compounding the litigation and effectively impeding its efficient resolution.

As part of the Settlement Agreement and the Plan, the Court will be asked to release, dismiss or otherwise resolve the various claims brought by and against the D&Os and Peyto, who dispute the claims asserted against them.

- 3) The Settlement Agreement and the Plan will streamline the remaining actions, and create a workable go-forward plan for the effective litigation of the KPMG Class Actions, the Monitor KPMG Claim and the Underwriters Class Action.

The Class's and the Monitor's claims against KPMG and the Underwriters are not released by the Settlement Agreement and the Plan, and they will continue to be litigated.

As part of the Settlement Agreement, the Monitor KPMG Claim together with the KPMG Class Actions and the Underwriters Class Action will be transferred into the Litigation Trust to be litigated by the Class Representatives and Class Counsel. Any proceeds that may be received from these actions as a result of a judgment or a settlement will be apportioned generally between the Class (95.75%) and the estate of Poseidon (4.25%), subject to certain limits.

As part of the Plan, any future recovery against KPMG and the Underwriters will be capped at, respectively, \$250,000,000 and \$16,000,000, plus costs and pre-filing and post-filing interest. The Settlement Agreement provides that the D&Os will assist the Class Representatives in the litigation of the claims against KPMG and the Underwriters by providing documentary and oral evidence.

As part of the Settlement Agreement and the Plan, the Secured Creditors will discontinue their claims against KPMG, which adds value to a number of stakeholders and further helps streamline the litigation going forward.

- 4) The Plan creates a framework for the participation of KPMG and the Underwriters in the settlement.

The Plan provides that KPMG and the Underwriters may participate in the settlement, if so they choose, by making certain payments as outlined in the Plan.

AN APPROVAL APPLICATION WILL BE HELD IN THE ALBERTA COURT

Before the Settlement Agreement can be completed, it and the Plan must be approved by the Alberta Court in a "**Sanction Hearing**," to be held in Calgary, Alberta. The Sanction Hearing will take place on February 12 and 13, 2018 at Calgary Courts Centre, 601 - 5 Street SW, Calgary, AB T2P 5P7.

Subject to the Alberta Court's approval of the Settlement Agreement and the Plan, recognition orders will be sought from the United States Bankruptcy Court for the District of Colorado, as well as the class action courts in Ontario, Québec and the United States.

Members of the Class may, but are not required to, attend at the Sanction Hearing. If the Settlement Agreement and the Plan are approved, all members of the Class will be bound by it. If you do not agree with the Plan or the Settlement Agreement, your only opportunity to object to the Settlement Agreement is at the Sanction Hearing.

The proposed definition for the settlement class is as follows:

All persons and entities, wherever they may reside or be domiciled, who purchased or otherwise acquired Poseidon's Securities on or before February 14, 2013, other than the Excluded Persons.

For the purposes of the foregoing:

“Poseidon” means Poseidon Concepts Corp.

“Securities” means Poseidon’s common shares, notes or other securities defined in the Securities Act, R.S.O. 1990, c. S.5, as amended.

“Excluded Persons” means Poseidon and its past and present subsidiaries, affiliates, officers, directors, senior employees, partners, legal representatives, heirs, predecessors, successors and assigns; New Open Range and its past and present subsidiaries, affiliates, officers, directors, senior employees, partners, legal representatives, heirs, predecessors, successors and assigns; any individual who is an immediate member of the family of a past or present director or officer of Poseidon Concepts or New Open Range; National Bank of Canada, National Bank Financial Inc, BMO Nesbitt Burns Inc, CIBC World Markets Inc, Haywood Securities Inc, Peters & Co Limited, Canaccord Genuity Corp, Cormark Securities Inc, Dundee Securities Ltd and FirstEnergy Capital Corp (collectively, the “Financial Institutions”), and each Financial Institution’s past and present subsidiaries, affiliates, officers, directors, senior employees, partners, legal representatives, heirs, predecessors, successors and assigns; KPMG LLP and its past and present subsidiaries, affiliates, officers, directors, senior employees, partners, legal representatives, heirs, predecessors, successors and assigns; and Peyto Exploration & Development Corp and its past and present subsidiaries, affiliates, officers, directors, senior employees, partners, legal representatives, heirs, predecessors, successors and assigns.

If the Settlement Agreement is approved by the Alberta Court, and it is recognized the other courts whose recognition is required, all Class Members will be bound by the terms of the Settlement Agreement. This means that they will not be able to bring or maintain any other claim or legal proceeding against any person released by the Settlement Agreement in relation to the claims advanced in the Actions.

If the Settlement Agreement is approved, another notice to the Class will be published which will provide instructions on how to make a claim to receive compensation from the settlement.

A copy of the Plan and Settlement Agreement may be found at <http://www.siskinds.com/poseidon-concepts-corp/> and on <http://www.jsbarristers.ca/pages/class-actions/class-actions.cfm#poseidon>.

CLASS MEMBERS MAY OBJECT TO THE SETTLEMENT

You may object to the Settlement Agreement if in your view the Alberta Court should not approve it.

If you do not wish to object to the Settlement Agreement, you are not required to do anything at this time.

If you wish to object to the Settlement Agreement, you must complete and submit the Objection Form to Class Counsel by no later than Friday, January 26, 2018. Class Counsel will forward all complete Objection Forms to the Court. You may, but are not required to, attend the Sanction Hearing, whether or not you deliver an Objection Form.

INTERPRETATION

If there is a conflict between the provisions of this notice and the Plan and Settlement Agreement, the terms of the Plan and the Settlement Agreement will prevail.

QUESTIONS ABOUT THE PROPOSED SETTLEMENT SHOULD BE DIRECTED TO CLASS COUNSEL

Daniel Bach / Sajjad Nematollahi

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Date: December 21, 2017

POSEIDON CONCEPTS CORP. SECURITIES LITIGATION

**OBJECTION FORM
REGARDING PROPOSED SETTLEMENT WITH
CERTAIN OF THE DEFENDANTS IN POSIEOND CLASS ACTIONS**

Complete and return this Objection Form by no later than Friday, January 26, 2018, **ONLY IF YOU WISH TO OBJECT TO THE SETTLEMENT AGREEMENT.**

Name:	
Organization and title (if applicable):	
Phone number:	
Fax number:	
Email:	
Address:	
Number of Poseidon common shares purchased or acquired on or before February 14, 2013:	

I, _____, **OBJECT** to the Settlement Agreement with certain of defendants in the Poseidon Class Actions, as described in this Notice, for the following reason(s):

Please check the appropriate box:

I will attend the Sanction Hearing to be held before the Court of Queen’s Bench of Alberta on February 12 and 13, 2018 at Calgary Courts Centre, 601 - 5 Street SW, Calgary, AB T2P 5P7. Yes No

My counsel will attend on my behalf the Sanction Hearing to be held before the Court of Queen’s Bench of Alberta on February 12 and 13, 2018 at Calgary Courts Centre, 601 - 5 Street SW, Calgary, AB T2P 5P7. Yes * No

* If your counsel will attend the Sanction Hearing, please provide your counsel’s contact information: _____

_____.

I, _____, certify that the information provided herein is complete and true.

Date

Signature

Please return this Objection Form via fax or email by no later than Friday, January 26, 2018, to:

**Attn: Sajjad Nematollahi
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Toronto, Ontario
Canada M5C 1M3
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Fax: 416-594-4391**