

POSEIDON CONCEPTS CORP. SECURITIES LITIGATION
IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C.
1985, C. C-36, AS AMENDED
AND IN THE MATTER OF
POSEIDON CONCEPTS CORP., POSEIDON CONCEPTS LTD.,
POSEIDON CONCEPTS LIMITED PARTNERSHIP
AND POSEIDON CONCEPTS INC.

**NOTICE OF THE PROPOSED
GLOBAL SETTLEMENT**

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 proposed global settlement agreement (“**Global Settlement**”) has been reached between the Court-appointed representatives of the Class in the proposed securities class actions arising from the circumstances of Poseidon Concepts Corp. (“**Poseidon**”).

¹ In accordance with Order of the Alberta Court dated May 30, 2013, made in Poseidon’s insolvency proceeding, Action No. 1301-04363, the following persons and entities are excluded from the proposed 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 Global Settlement has been reached within Poseidon's insolvency proceedings. It is currently subject to the approval of the Court of Queen's Bench of the Province of Alberta ("**Alberta Court**") and recognition by Ontario, Québec and United States Courts, which will be asked to dismiss the proposed class action claims.

The Global Settlement supersedes the partial settlement with Poseidon's directors and officers and certain of its related entities, which was previously announced on December 21, 2017.

Subject to Court approval and certain other preconditions, the Global Settlement compromises and finally releases all of the claims asserted by and against Poseidon, its directors and officers and certain of its employees, Poseidon's former auditor, Poseidon's underwriters and Peyto Exploration & Development Corp. The Global Settlement does not constitute an admission of liability on the part of the defendants, who dispute the claims.

As consideration for the Global Settlement, the defendants will pay at least \$34,632,800 and up to \$36,606,200 for the benefit of a class of Poseidon shareholders.

The purpose of this Notice is to advise you of the Global Settlement and its terms. If you have any questions after having reviewed this Notice, please contact Class Counsel using the information provided below.

The Global Settlement is being presented for approval to the Alberta Court, and a sanction hearing will be held on May 4, 2018 at Calgary Courts Centre, 601 - 5 Street SW, Calgary, AB T2P 5P7.

If you have no concerns regarding the Global Settlement, you are not required to do anything at this time. However, if you wish to object to the Global Settlement your only opportunity to object is at the sanction hearing. If you want to object, you must complete and submit to Class Counsel the Objection Form attached hereto **by no later than Thursday, May 3, 2018 at 12:00 p.m. MST**. Class Counsel will forward all complete Objection Forms to the Alberta Court's attention.

If the Alberta Court approves the Global Settlement, recognition orders will be sought from Ontario, Québec and United States Courts and these Courts will be asked to dismiss the proposed class action claims. If the Global Settlement is approved by the Alberta Court and recognized by Ontario, Québec and United States Courts, all members of the Class will be bound by it.

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

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 directors and officers (“**D&Os**”). These 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**”): Proposed class actions were commenced on behalf of the Class in Alberta, Ontario and Québec against Poseidon’s auditor, KPMG, alleging that it failed to comply with its duties as Poseidon’s auditor.
- 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 First Energy Capital Corp (“**Underwriters**”): A proposed class action was commenced 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. This action alleges that the underwriters failed to comply with their duties.
- Peyto Exploration & Development Corp (“**Peyto**”) in its capacity as the successor by merger to New Open Range: Proposed class actions were commenced on behalf of the Class in the courts of Alberta and Ontario against Peyto 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.

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 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.

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, Siskinds LLP, Paliare Roland Rosenberg Rothstein LLP and Siskinds Desmeules, Avocats as counsel for the Class for any issues affecting the Class within the Insolvency Proceedings ("**Class Counsel**").

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.

As previously announced on December 21, 2017, these negotiations resulted in a partial settlement between the Class Representatives and Poseidon's D&Os, certain of its employees and Peyto ("**Partial Settlement**"). Further details regarding the Partial Settlement were previously provided in a notice available [here](#) (English) and [here](#) (French).

The Partial Settlement was reached and presented to the Alberta Court for approval as part of a plan of compromise and arrangement filed within Poseidon's Insolvency Proceedings. A hearing was scheduled for February 12 and 13, 2018, during which the Court was to consider whether the Partial Settlement and the associated plan of compromise and arrangement should be approved. Shortly before the commencement of the hearing on February 12, the Class

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.

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.

Representatives and the other stakeholders of Poseidon reached the Global Settlement, which supersedes the Partial Settlement. As a result, the hearing was adjourned.

THE GLOBAL SETTLEMENT

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

The Global Settlement is part of a Plan of Compromise and Arrangement (“**Plan**”) pursuant to the *Companies’ Creditors Arrangement Act*. Both the Global Settlement and the Plan remain subject to the approval of the Alberta Court and recognition by Ontario, Québec and United States Courts. Each of the Global Settlement and the Plan is contingent on the other being approved or recognized by the relevant Courts.

The Global Settlement, 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.jssbarristers.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 Alberta Court and recognized by Ontario, Québec and United States Courts, the Global Settlement and the Plan will achieve the following objectives:

A) Monetary Payments.

Pursuant to the Global Settlement, the Class will recover at least \$34,632,800 and up to \$36,606,200, which is comprised of the following payments:

- 1) The Initial Instalment: Upon Court approval and implementation of the Global Settlement and the Plan, the Class will receive a payment in the aggregate sum of \$11,632,800. This payment will be made by Poseidon’s D&Os’ liability insurers;
- 2) Additional Proceeds: Upon Court approval and implementation of the Global Settlement and the Plan, the Class will receive a further payment in the aggregate sum of \$23,000,000. This payment will be made by KPMG, the Underwriters and Peyto in amounts agreed upon separately and confidentially as between them; and
- 3) The Final Instalment: In addition to the two payments noted above, the Class will be entitled to a further payment in the aggregate sum of up to \$1,973,400. The Final Instalment is part of a fund in the aggregate sum of \$6,500,000, which is currently held back by Poseidon’s D&Os’ liability insurers to be spent on the costs of current or potential regulatory and criminal proceedings against Poseidon’s D&Os and certain of its employees. Subject to limitations and restrictions provided in the Global Settlement and

the Plan, the remaining balance of these funds will be released by Poseidon's D&Os' liability insurers on the later date of (i) the date on which any such regulatory or criminal proceedings are concluded; and (ii) April 10, 2019, which will be apportioned between the Class and the estate of Poseidon in accordance with the terms of the Global Settlement and the Plan.

As provided in the Partial Settlement, the estate of Poseidon will continue to receive a payment from Poseidon's D&Os' liability insurers.

B) Release of Proposed Class Action and Other Claims

Pursuant to the Global Settlement, the proposed class action and other claims asserted against and/or by the defendants will be compromised and finally released.

Accordingly, subject to Court approval and implementation of the Global Settlement and the Plan, the following class proceedings brought on behalf of the Class will be dismissed:

James v Poseidon et al, Ontario Superior Court of Justice File No. CV-12-468736-00CP

James v KPMG LLP, Ontario Superior Court of Justice File No. CV-14-507785-00CP

Kuefler v Underwriters, Ontario Superior Court of Justice File No. CV-13-474553-00CP

James et al v Peyto, Ontario Superior Court of Justice File No. CV-14-512823-00CP

Auer et al v Poseidon et al, Alberta Court of Queen's Bench File No. 1301-00935

Ramzy v KPMG LLP, Alberta Court of Queen's Bench File No. 1401-07353

Auer et al v Peyto, Alberta Court of Queen's Bench File No. 1301-11455

Lewis v Poseidon et al, Québec Superior Court File No. 500-06-000633-129

Lewis v KPMG LLP, Québec Superior Court File No. 500-06-000699-146

Miller v Poseidon et al, United States District Court for the Southern District of New York Action No. 1:13-cv-01213-DLC

Trunkel v Poseidon et al, United States District Court for the Southern District of New York Action No. 1:13-cv-01412-DLC

Additionally, pursuant to the Global Settlement, several other claims brought by other Poseidon stakeholders, including the Monitor and the Secured Creditors, will be compromised and finally released. No further claim may be brought against the defendants and released parties relating to Poseidon's circumstances.

DISTRIBUTION OF SETTLEMENT PROCEEDS

Subject to Court approval and implementation of the Global Settlement and the Plan, the net proceeds of the Global Settlement (after deduction of Class Counsel fees and expenses, administration and other fees and expenses, to be approved by the Court) will be distributed to the Class.

The amount of recovery per share or shareholder is unknown at this time. Subject to Court approval and implementation of the Global Settlement and the Plan, the Court will be asked to approve a Distribution Protocol or similar document which will determine the manner of distribution of the settlement proceeds.

A further notice will be disseminated when the settlement proceeds are available for distribution pursuant to a further Court order to be sought in the future.

Unless you are of the view that the Global Settlement and the Plan should not be approved by the Court, you are not required to do anything at this time.

AN APPROVAL APPLICATION WILL BE HELD IN THE ALBERTA COURT

Before the Global Settlement 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 May 4, 2018 at Calgary Courts Centre, 601 - 5 Street SW, Calgary, AB T2P 5P7.

Subject to the Alberta Court’s approval of the Global Settlement and the Plan, recognition orders will be sought from Ontario, Québec and United States Courts. Only if the recognition orders are obtained from Ontario, Québec and United States Courts will the Global Settlement be effective.

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

If the Global Settlement is approved by the Alberta Court and recognized by Ontario, Québec and United States Courts, 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 Global Settlement and the Plan in relation to the claims advanced in the actions.

If the Global Settlement and the Plan are approved and implemented, another notice to the Class will be published in the future which will provide instructions on how to make a claim to receive compensation from the settlement.

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

CLASS MEMBERS MAY OBJECT TO THE SETTLEMENT

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

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

If you wish to object to the Global Settlement, you must complete and submit the Objection Form to Class Counsel by no later than **Thursday, May 3, 2018 at 12:00 p.m. MST**. Class Counsel will forward all complete Objection Forms to the Alberta 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 or the Global Settlement, the terms of the Plan and the Global Settlement will prevail.

QUESTIONS ABOUT THE PROPOSED GLOBAL SETTLEMENT MAY BE DIRECTED TO CLASS COUNSEL

Daniel Bach / Sajjad Nematollahi

Siskinds LLP
100 Lombard Street, Suite 302
Toronto, Ontario M5C 1M3

Telephone: 416.362.8334
Facsimile: 416.362.2610
Email: daniel.bach@siskinds.com
sajjad.nematollahi@siskinds.com

Robert Hawkes, Q.C. / Gavin Price

Jensen Shawa Solomon Duguid Hawkes LLP

Lancaster Building

800, 304 - 8 Avenue SW

Calgary, AB T2P 1C2

Telephone: 403.571.1520

Facsimile: 403.571.1528

Email: hawkesr@jssbarristers.ca

priceg@jssbarristers.ca

Date: April 23, 2018

POSEIDON CONCEPTS CORP. SECURITIES LITIGATION

**OBJECTION FORM
REGARDING THE PROPOSED
GLOBAL SETTLEMENT**

Complete and return this Objection Form by no later than Thursday, May 3, 2018 at 12:00 p.m. MST, ONLY IF YOU WISH TO OBJECT TO THE SETTLEMENT.

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 Global Settlement, 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 May 4, 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 May 4, 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 Thursday, May 3, 2018 at 12:00 p.m. MST, to:

**Attn: Sajjad Nematollahi
Siskinds LLP
100 Lombard St Suite 302,
Toronto, Ontario
Canada M5C 1M3
Email: sajjad.nematollahi@siskinds.com
Fax: 416-594-4391**