

# SUPERIOR COURT

(Class Action Division)

CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

No. 500-06-000699-146

DATE: JUNE 29, 2016

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IN THE PRESENCE OF: THE HONOURABLE STEPHEN W. HAMILTON, J.C.S.

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MARIAN LEWIS

Petitioner

v.

KPMG LLP

Defendant

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## JUDGMENT (ON THE APPLICATION FOR A STAY PROCEEDINGS)

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- [1] **CONSIDERING** that, on or about July 7, 2014, Petitioner Marian Lewis instituted proceedings before this Court against Defendant KPMG LLP seeking the authorization to plead a cause of action pursuant to the Québec *Securities Act* and to bring a class action (the putative “**Quebec Class Action**”) on behalf of the following members:

All persons and entities who purchased or otherwise acquired PSN's Securities on or before February 14, 2013, and who are resident or domiciled in the Province of Québec or were resident or domiciled in the Province of Quebec at the time they purchased or otherwise acquired such Securities, and who are not precluded from participating in a class action by virtue of Article 999 of the Québec Code of Civil Procedure, CQLR, c C-25, except for the Excluded Persons (the “**Quebec Class Members**”).

[2] **CONSIDERING** that the Quebec Class Action is one of thirteen putative class actions that were filed in three jurisdictions (Alberta, Ontario and Quebec) after the collapse of Open Range Energy Corp. and of Poseidon Concepts Corp. and its affiliates and subsidiaries (collectively hereinafter "**Poseidon**"), including the following proceedings instituted against KPMG:

- a. A statement of claim filed on or about July 3, 2014 by Plaintiff Mohammed Ramzy before the Court of Queen's Bench of Alberta against KPMG seeking the certification of a class action (the putative "**Alberta Class Action**") on behalf of the following members:

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

- b. A statement of claim filed on or about July 4, 2014, Plaintiff Joanna Goldsmith instituted proceeding before the Ontario Superior Court of Justice against KPMG seeking the certification of a class action (the putative "**Ontario Class Action**") on behalf of the following members:

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

[3] **CONSIDERING** that, on or about April 9, 2013, Poseidon applied for and received an order for protection under the *Companies' Creditors Arrangement Act* ("**CCAA**"), R.S.C.1985, c.C-36 from the Alberta Court, which includes, among other things, a stay of proceedings against Poseidon and its directors and officers;

[4] **CONSIDERING** the present application filed by KPMG for a temporary stay of the Quebec Class Action pending the resolution of the CCAA Proceedings, meaning until a plan of compromise and arrangement is approved by the creditors of Poseidon and by the Alberta Court in the CCAA Proceedings or if no plan is approved, until such other proceedings, directions or orders of the Alberta Court that effectively result in the termination of the CCAA Proceedings;

[5] **CONSIDERING** that Lewis consents to the temporary stay sought by KPMG;

[6] **CONSIDERING** that it is in the best interests of the Quebec Class Members that the Quebec Class Action be stayed pending the resolution of the CCAA Proceedings;

[7] **CONSIDERING** that the rights of the Quebec Class Members are adequately protected in the CCAA Proceedings as well as in the Alberta Class Action and the Ontario Class Action;

- [8] **CONSIDERING** that only one of the Quebec Class Members indicated his opposition to the stay by email, without however attending the hearing on KPMG's application;
- [9] **CONSIDERING** that the parties agree on the content of the notice to the Quebec Class Members to be published on (i) the central register of class actions of the Superior Court of Quebec, (ii) the class action database of the Canadian Bar Association, and (iii) the website of the firm Siskinds LLP, and to be emailed to all Quebec Class Members who have contacted the firm Siskinds LLP;

**FOR THESE REASONS, THE COURT:**

- [10] **GRANTS**, the present application for a stay of proceedings;
- [11] **ORDERS** the stay of the present case until the resolution of the CCAA Proceedings, meaning until either:
- a. The issuance of an order of the Alberta Court presiding over the CCAA Proceedings sanctioning a plan of compromise; or,
  - b. Absent such an order sanctioning a plan of compromise, such other proceedings, directions or orders of the Alberta Court that effectively result in the termination of the CCAA Proceedings;
- [12] **ORDER** that the following bilingual notice be published on (i) the central register of class actions of the Superior Court of Quebec, (ii) the class action database of the Canadian Bar Association, and (iii) the website of the firm Siskinds LLP, and be emailed to all Quebec Class Members who have contacted the firm Siskinds LLP:

**AVIS AUX MEMBRES POTENTIELS**  
**DE LA SUSPENSION DE L'ACTION COLLECTIVE INTENTÉE À**  
**L'ENCONTRE DE KPMG LLP EN LIEN AVEC L'AFFAIRE POSEIDON**  
**CONCEPTS CORP.**

Veuillez noter que le 29 juin 2016, l'action collective contre KPMG LLP a été suspendue. Une copie du jugement rendu par l'honorable juge Stephen W. Hamilton, j.c.s., autorisant la suspension, est disponible en cliquant sur le lien Internet suivant:

**[insérer le lien vers le jugement]**

Essentiellement, la Cour a accepté de suspendre l'action collective en attente de la résolution de l'instance portant sur la protection accordée à Poseidon

Concepts Corp. en vertu de la *Loi sur les arrangements avec les créanciers des compagnies* («LACC»).

Il est important de noter que les effets de l'article 2908 du *Code civil du Québec* vont continuer et le délai de prescription va demeurer suspendu.

Le présent avis ne constitue pas une opinion juridique et vous pourriez vouloir consulter votre propre avocat.

**NOTICE TO POTENTIAL MEMBERS**  
**OF THE STAY OF THE CLASS ACTION**  
**COMMENCED AGAINST KPMG LLP IN RELATION TO THE POSEIDON**  
**CONCEPTS CORP. MATTER**

Take notice that, on June 29, 2016, the class action against KPMG LLP was stayed. A copy of the judgment rendered by the Honourable Stephen W. Hamilton, J.S.C., authorizing the stay, is available on the present website as follows:

**[insert a link to the judgment]**

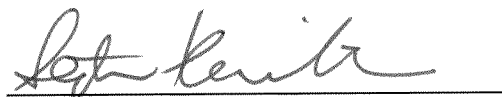
In essence, the Court granted the stay until the resolution of the process by which Poseidon Concepts Corp. has been granted protection under the *Companies' Creditors Arrangement Act* ("CCAA").

It is important to note that the operation of Article 2908 of the *Civil Code of Québec* will continue and prescription will remain suspended.

Nothing in this notice is intended to be legal advice and you may wish to consult your own attorney.

[13] **RESERVE** the right of KPMG LLP to present an additional application to obtain the authorisation to stay the present case until a final resolution of the class action instituted in the Court of Queen's Bench of Alberta in the matter of Ramzy v. KPMG LLP, Court file 1401-07353;

[14] **WITHOUT COSTS.**



STEPHEN W. HAMILTON, J.S.C.

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**SISKINDS, DESMEULES LLP**  
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**Attorneys for KPMG LLP**

Date of hearing: June 28, 2016