

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**The Honourable** )  
 )  
**Mr. Justice Perell** ) **Wednesday, this 17<sup>th</sup> day**  
 ) **of June, 2015**

BETWEEN:

E. EDDY BAYENS, JOHN SINCLAIR, LUC FORTIN, PIERRE RACICOT and  
STANLEY SHORTT, in their capacity as TRUSTEES OF THE MUSICIANS'  
PENSION FUND OF CANADA

Plaintiffs

-and-

KINROSS GOLD CORPORATION, TYE W. BURT, PAUL H. BARRY,  
GLEN J. MASTERMAN and KENNETH G. THOMAS

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**SETTLEMENT APPROVAL ORDER**

**THIS MOTION** made by the Plaintiffs for an Order certifying the Action as a class proceeding for settlement purposes only and approving the settlement agreement entered into with the Defendants was heard this day at Osgoode Hall, 130 Queen Street West, Toronto, Ontario.

**ON READING** the materials filed, including the settlement agreement attached as **Schedule "A"** to this Order (the "Agreement"), and on hearing the submissions of counsel for the Plaintiffs and counsel for the Defendants:

1. **THIS COURT ORDERS** that the Agreement, including the schedules thereto, is incorporated by reference into and forms part of this Order. Capitalized terms in this Order shall have the same meaning as set forth in the Agreement.

**CERTIFICATION FOR SETTLEMENT PURPOSES**

2. **THIS COURT ORDERS** that this action is certified as a class proceeding for settlement purposes only.
3. **THIS COURT ORDERS** that, subject to section 8.3 of the Agreement and paragraph 4 of this Order, the Class is defined for the purposes of this Settlement as all persons, other than Excluded Persons and Opt-Out Parties, who purchased or otherwise acquired Kinross shares during the period from November 1, 2010 through and including January 16, 2012 (a) on the Toronto Stock Exchange or other secondary market in Canada; or (b) who are resident of Canada or were resident of Canada at the time of acquisition; and who held some or all of those shares on January 16, 2012.
4. **THIS COURT ORDERS** that upon the occurrence of the Effective Date in the U.S. Proceeding, the Class in this Action shall be amended to exclude the claims of all persons who are members of the "Class" within the meaning of the Stipulation of Settlement in the U.S. Proceeding (unless such persons validly opt-out of the Stipulation of Settlement), but only to the extent that those claims are Foreign Settlement Claims.
5. **THIS COURT ORDERS** that the Plaintiffs are appointed as representative plaintiffs for the Class.

6. **THIS COURT ORDERS** that the common issue certified for the purposes of this Settlement is:

Did Kinross, or any Defendant, make any misrepresentation or fail to disclose a material change or material fact during the Class Period concerning Kinross, its operations, financial statements or financial results, including in connection with or relating to the Tasiast and/or Chirano mines?

### **SETTLEMENT APPROVAL**

7. **THIS COURT ORDERS AND DECLARES** that the Settlement set forth in the Agreement is fair, reasonable and in the best interests of the Plaintiffs and the Class Members.
8. **THIS COURT ORDERS AND DECLARES** that the Agreement is approved pursuant to section 29 of the *Class Proceedings Act, 1992* and shall be implemented in accordance with its terms.
9. **THIS COURT ORDERS** that the Agreement is binding upon each Plaintiff, Class Member and each of the Releasers, including those persons who are minors or mentally incapable, and that the requirements of Rules 7.04(1) and 7.08(4) of the *Rules of Civil Procedure* are dispensed with in respect of this Action.

### **NOTICE OF CERTIFICATION AND SETTLEMENT APPROVAL**

10. **THIS COURT ORDERS** that Class Counsel shall cause the Second Notice to be published and disseminated substantially in the long form attached as **Schedule "B"** to this Order as follows:
- (a) Koskie Minsky LLP shall provide or cause to be provided a copy of the Notice either electronically or by mail, to all individuals or entities who have contacted Koskie Minsky LLP regarding this action, and to any person or entity who

requests a copy of the Notice, provided that such person or entity has furnished his, her, or its contact information to Koskie Minsky LLP;

- (b) Koskie Minsky LLP shall cause the Notice to be issued as a national press release in both English and French; and
  - (c) Koskie Minsky LLP shall post copies of the Notice on its website in both English and French;
11. **THIS COURT ORDERS** that Koskie Minsky LLP shall cause the short form notice substantially in the form attached as **Schedule “C”** to be published in an advertisement in each of the National Post and La Presse.
12. **THIS COURT ORDERS** that the notice described in paragraphs 10 and 11 of this Order satisfies the requirements of the *Class Proceedings Act, 1992* and shall constitute good and sufficient service upon Class Members of notice of this order and approval of the Agreement.

#### **RIGHT TO OPT OUT**

13. **THIS COURT ORDERS** that any Class Member may opt out of the class proceeding by submitting a valid Opt-Out Form to the Administrator by the Opt-Out Deadline in accordance with the terms of the Agreement.
14. **THIS COURT ORDERS** that any Class Member who has validly opted out of the Action is not bound by the Agreement and shall no longer participate or have the opportunity in the future to participate in this Action or the Settlement.

#### **RELEASE AND DISMISSAL**

15. **THIS COURT ORDERS** that “Released Claims” means any and all manner of claims, demands, actions, suits, proceedings, causes of action, whether class, individual, derivative or otherwise in nature, whether personal or subrogated, damages whenever

incurred, and liabilities of any nature whatsoever, including interest, costs, expenses, Administration Expenses, penalties, and Class Counsel Fees and lawyers' fees, known or unknown, suspected or unsuspected, actual or contingent, liquidated or unliquidated, whether pleaded in the Action or not, in law, under statute or in equity, in any jurisdiction, that the Releasors, or any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have as against the Releasees or any one or more of them relating in any way to or arising out of the Action or to any allegations made or which could have been made in the Action, including but not limited to, representations made by the Releasees during the Class Period to anyone and/or based on or in any way related to the purchase of Shares during the Class Period.

16. **THIS COURT ORDERS AND DECLARES** that, upon the Effective Date:

- (a) each of the Releasors has and shall be deemed to have fully, finally and forever absolutely released and discharged the Releasees in respect of all Released Claims released in the Agreement on the terms set out therein;
- (b) each Releasor shall not now or hereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other Person, any action, suit, cause of action, claim or demand against any Releasee or any other Person who may claim contribution or indemnity, or other claims over relief, from any Releasee in respect of any Released Claim or any matter related thereto;

- (c) any Class Member who has commenced any proceeding relating in any way to the Released Claims shall and is hereby deemed to irrevocably consent to the dismissal of such proceeding without costs and with prejudice;
- (d) any proceeding relating in any way to the Released Claims commenced by any Class Member shall be and is hereby dismissed against any of the Releasees without costs and with prejudice; and
- (e) the Action shall be and is hereby dismissed without costs and with prejudice.

17. **THIS COURT ORDERS AND DECLARES** that the payment of the Settlement Amount is in full satisfaction and release of any and all Claims that were or could have been brought by any Class Member against any of the Releasees, howsoever arising.
18. **THIS COURT ORDERS AND DECLARES** that the Releasors and the Class Members shall be and are bound by the terms of the Settlement regardless of whether they submit a completed Claim Form or receive payment from the Settlement Amount.
19. **THIS COURT ORDERS AND DECLARES** that the enforcement of the Agreement shall be the sole and exclusive remedy for any and all claims of the Class Members.
20. **THIS COURT DECLARES** that this Order and the Agreement are not based on any admission or finding of liability or wrongdoing by any of the Defendants or other Releasees, that such liability or wrongdoing is expressly denied, and there has been no such admission or finding.

**ADMINISTRATION**

21. **THIS COURT ORDERS** that Marsh Risk Consulting is hereby appointed as Claims Administrator to administer the settlement in accordance with the Plan of Allocation and the provisions of the Agreement.
  
22. **THIS COURT ORDERS** that neither the Defendants nor any other Releasees shall have any responsibility or any liability whatsoever with respect to the administration or implementation of the Agreement and Plan of Allocation, including, without limitation, the processing and payment of claims by the Administrator and the Administrator shall indemnify the Defendants and the other Releasees against any liability, costs or expenses resulting from the Administrator's reckless or intentional misconduct.

**CLASS COUNSEL FEES AND THIRD PARTY FUNDING**

23. **THIS COURT ORDERS** that, in accordance with section 32 of the *Class Proceedings Act, 1992*, Class Counsel Fees are approved at \$4,492,529.85, inclusive of a fee of \$3,437,500, HST of \$446,875, and disbursements incurred by Class Counsel of \$544,760.46, and taxes and charges of \$63,394.39.
  
24. **THIS COURT ORDERS** that the levy payable to Harbour Fund II, L.P. is approved at 7.5% of the net proceeds, as defined in the Funding Agreement approved by this court on July 22, 2013, inclusive of all applicable charges and taxes.
  
25. **THIS COURT ORDERS** that, upon the Effective Date, the payment of security for costs by Harbour Fund II, L.P. in the amount of \$300,000 into account number 527769 of the Accountant of the Ontario Superior Court shall be repaid to Harbour Fund II, L.P. (Address: Uglan House, PO Box 309, George Town, Grand Cayman, Cayman Islands).

**COURT'S JURISDICTION**

26. **THIS COURT ORDERS** that, without affecting the finality of this Order, this Court will maintain continuing and exclusive jurisdiction over the Parties and the Class Members to administer, supervise, construe and enforce the Agreement and this Order in accordance with their respective terms.
27. **THIS COURT ORDERS** that, in the event that the Effective Date does not occur, then this Order shall be rendered null and void and shall be vacated and, in such event, the Settlement shall be terminated in accordance with its terms.

Paul T.