

# *In re Cobalt International Energy, Inc. Securities Litigation*

**COURT:** United States District Court for the Southern District of Texas  
**CASE NUMBER:** 14-cv-3428  
**CLASS PERIOD:** 3/1/2011 - 11/3/2014 (inclusive)  
**CASE LEADERS:** Gerald H. Silk, Avi Josefson, Jonathan D. Uslaner

Class action against Cobalt International Energy, Inc. (“Cobalt” or the “Company”) for violations of the federal securities laws.

The action is brought on behalf of purchasers of Cobalt common stock, Cobalt 2.625% Convertible Senior Notes due 2019, and/or Cobalt 3.125% Convertible Senior Notes due 2024 (collectively, “Cobalt Securities”) from March 1, 2011 through November 3, 2014, inclusive (the “Class Period”), including: persons who purchased or otherwise acquired: (i) Cobalt Securities on the open market; (ii) Cobalt’s common stock pursuant and/or traceable to registered public offerings conducted on or about February 23, 2012, January 16, 2013 and May 8, 2013; and/or (iii) Cobalt’s 2.65% Convertible Senior Notes due 2019, pursuant and/or traceable to the registered public offering conducted on or about December 12, 2012, and/or Cobalt Convertible Senior Notes due 2024, pursuant and/or traceable to the registered public offering conducted on or about May 8, 2014 (collectively, the “Offerings”).

## **Plaintiffs Have Settled the Action**

The Plaintiffs in the Action have reached three settlements that resolve all claims in the Action against the Settling Defendants, including:

- (A) The private equity sponsors who invested in Cobalt prior to its initial public offering and sold certain Cobalt Securities during the Class Period, certain individuals designated to the Cobalt board of directors by the Sponsor Defendants, and a sponsor-affiliated underwriter of certain Cobalt Securities offerings during the class period for \$146,850,000 in cash (the “Sponsor/GS&Co. Settlement”);
- (B) The other underwriters of Cobalt securities offerings during the class period for \$22,750,000 in cash (the “Underwriter Settlement”); and
- (C) Cobalt and certain of its former officers and directors for \$220,000,000, that is payable exclusively from the proceeds of litigation to recover on liability insurance policies preserved through Cobalt’s plan in bankruptcy Plan (the “Cobalt Settlement”). The projected recovery in the Cobalt Settlement is between \$4,200,000 and \$165,700,000.

The recoveries from the Sponsor/GS&Co., Underwriter and Cobalt Settlements (the “Settlements”) total at least \$173,800,000 and up to \$335,300,000 (the “Settlement Fund”), depending on the outcome of litigation with the Cobalt Defendants’ insurance carriers.

On February 13, 2019, after a hearing, the Court entered Judgments approving all three of the Settlements and orders approving the proposed Plan of Allocation for the proceeds of the Settlement and Lead Counsel’s motion for attorneys’ fees and expenses.

The Settlement Class consists of:

all persons and entities who purchased or otherwise acquired Cobalt Securities between March 1, 2011 and November 3, 2014, inclusive, and were damaged thereby. Included within the Settlement Class are all persons and entities who purchased or otherwise acquired shares of Cobalt common stock on the open market and/or pursuant or traceable to the registered public offerings on or about: (i) February 23, 2012; (ii) January 16, 2013; and (iii) May 8, 2013. Also included within the Settlement Class are all persons and entities who purchased or otherwise acquired Cobalt convertible senior notes on the open market and/or pursuant or traceable to registered public offerings on or about: (i) December 12, 2012; and (ii) May 8, 2014.

Please read the [Notice](#) to fully understand your rights and options. A copy of the [Notice](#) can be found on the **Case Documents** page. You may also visit the Settlement website, [www.CobaltSecuritiesLitigation.com](http://www.CobaltSecuritiesLitigation.com), for more information about the Settlement.

### **Case Background**

Cobalt is an oil exploration and production company headquartered in Houston, Texas with operations in the Gulf of Mexico and offshore West Africa. The Complaint alleges that during the Class Period, Cobalt and certain of its senior executives violated provisions of the Exchange Act by issuing materially false and misleading press releases, filings with the Securities and Exchange Commission ("SEC"), and statements during investor conference calls. The Complaint also alleges that in connection with the Offerings, the Company issued securities pursuant to materially misstated filings with the SEC.

As alleged in the Complaint, Cobalt has portrayed itself as a company with "world class," "large" and "oil-focused" wells in the Republic of Angola and claimed that the Company gained access to those wells in compliance with the U.S. law outlawing the bribery of foreign officials (the Foreign Corrupt Practices Act or "FCPA"). In truth, Cobalt obtained access to its Angolan wells from the Republic of Angola by partnering with shell companies in Angola that were partially owned by high-level Angolan officials, putting the Company at serious risk of enforcement action by the SEC and U.S. Department of Justice ("DOJ") for violations of the FCPA and the federal securities laws. In addition, Cobalt misrepresented the value of its wells in Angola after the Company learned that they contained very little or no oil.

As a result of the Company's statements to investors, the prices of Cobalt's stock and bonds were artificially inflated during the Class Period. Investors first began to learn the truth when: (i) on December 1, 2013, the Company revealed negative results from its Lontra well; (ii) on August 5, 2014, it was revealed that Cobalt had paid the Angolan government for a research center that did not exist, and that the SEC had escalated its then-ongoing investigation of the Company for possible violations of the federal securities laws by issuing Cobalt a Wells Notice; and (iii) on November 4, 2014, Cobalt disclosed negative results regarding its Loengo well. In response to these disclosures, the prices of Cobalt securities fell sharply and investors incurred significant losses as a result.

### **Procedural History**

On November 30, 2014, BLB&G filed a securities class action on behalf of St. Lucie County Fire District Firefighters' Pension Trust Fund and Fire and Police Retiree Health Care Fund, San Antonio against Cobalt, certain of its senior executives and directors, the underwriters of its securities offerings and certain investment firms that controlled the Company (collectively "Defendants").

On March 3, 2015, the Court appointed GAMCO Gold, Natural Resources & Income Trust, and GAMCO Natural Resources, Gold & Income Trust, as Lead Plaintiffs. On May 1, 2015, Lead Plaintiffs filed an amended consolidated

class action complaint asserting claims under Sections 11, 12(a), and 15 of the Securities Act of 1933, and Sections 10(b) and 20(a) of the Securities Exchange Act of 1934, on behalf of investors in Cobalt securities during the period of March 1, 2011 to November 3, 2014, inclusive (the “Class Period”). A copy of the Amended Complaint is available [here](#). On June 30, 2015, Defendants moved to dismiss the Amended Complaint. Plaintiffs filed briefs in opposition to each of Defendants’ motions to dismiss, and on January 19, 2016, the Court denied in part Defendants’ motions. Plaintiffs filed their motion for class certification on November 2, 2016. On March 15, 2017, Plaintiffs filed a second amended complaint to add a claim under Section 20A of the Securities Exchange Act of 1934. A copy of the Second Amended Complaint (“Complaint”) is available [here](#).

On April 14, 2017, the Sponsor Defendants moved to dismiss the newly added 20A claim. Plaintiffs filed a brief in opposition and on June 15, 2017, the Court issued an order largely denying Defendants’ motion. That same day, the Court issued a second order certifying the action to proceed as a class action, appointing GAMCO Global Gold, Natural Resources & Income Trust; GAMCO Natural Resources, Gold & Income Trust; St. Lucie County Fire District Firefighters’ Pension Trust Fund; Fire and Police Retiree Health Care Fund, San Antonio; Sjunde AP-Fonden; and Universal Investment Gesellschaft m.b.H. as Class Representatives, and appointing BLB&G and Entwistle & Cappucci as Class Counsel.

On June 29, 2017, Defendants filed a petition in the United States Court of Appeals for the Fifth Circuit (the “Court of Appeals”) pursuant to Federal Rule of Civil Procedure 23(f), seeking permission to take an interlocutory appeal of the Court’s Class Certification Order. On August 4, 2017, the Court of Appeals granted Defendants’ petition. On October 10, 2017, Defendants filed their opening briefs on the appeal; on November 22, 2017, Plaintiffs filed their answering briefs on appeal; and on December 1, 2017, Defendants filed their reply briefs.

On December 14, 2017, Cobalt and certain of its affiliated entities (the “Debtors”) filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101–1532, in the United States Bankruptcy Court for the Southern District of Texas (the “Bankruptcy Court”). On January 4, 2018, Plaintiffs and Defendants agreed to stay all proceedings in the Action until April 21, 2018 in light of Cobalt’s bankruptcy, and an order to that effect was entered in the Bankruptcy Court on that date.

On May 22, 2018, after the expiration of the bankruptcy stay, the Court entered a revised Docket Control Order, establishing forthcoming deadlines in the case.

On August 16, 2018, the Court of Appeals issued a notice stating that oral argument on the appeal had been scheduled for October 1, 2018. On September 13, 2018, Plaintiffs filed a motion seeking a stay of the appeal due to the progress of settlement negotiations with the Sponsor Defendants, Sponsor Designee Defendants, GS&Co., Cobalt, and the Cobalt Individual Defendants. On September 18, 2018, the Court of Appeals granted that motion in part, staying the appeal as to all Defendants except the Underwriter Settling Defendants. Oral argument as to the Underwriter Settling Defendants’ appeal proceeded as scheduled on October 1, 2018. Subsequently, the Court of Appeals granted a motion to stay the Underwriter Settling Defendants’ appeal as well, pending the February 13, 2019 Settlement Hearing.

On October 9, 2018, Plaintiffs, the Sponsor Defendants, Sponsor Designee Defendants and GS&Co. executed a stipulation setting forth the terms of a settlement of all Plaintiffs’ claims against those Defendants (the “Sponsor/GS&Co. Settlement”). On October 11, 2018, Plaintiffs, Cobalt, the Cobalt Individual Defendants, and the Plan Administrator for Cobalt and the other Debtors executed a stipulation setting forth the terms of a settlement

of all Plaintiffs' claims against those Defendants (the "Cobalt Settlement"). The Sponsor/GS&Co. Stipulation and Cobalt Stipulation can be viewed on the Case Documents page

On October 12, 2018, Plaintiffs filed motions for preliminary approval of the Sponsor/GS&Co. Settlement and Cobalt Settlement. On November 2, 2018, following submissions and a hearing, the Court granted Plaintiffs' motion for preliminary approval of the Sponsor/GS&Co. and Cobalt Settlements, authorized notice to be disseminated to potential Settlement Class Members, and scheduled a Settlement Hearing for February 13, 2019 at 10:00 a.m. to consider whether to grant final approval to those Settlements.

On November 28, 2018, Plaintiffs and the Underwriter Settling Defendants entered into the Underwriter Stipulation, which sets forth the terms and conditions of the Underwriter Settlement. The Underwriter Stipulation can be viewed at the Case Documents page. On November 29, 2018, the Court granted Plaintiffs' motion for preliminary approval of the Underwriter Settlement, authorized this Notice, and added the Underwriter Settlement to the matters to be considered at the February 13, 2019 Settlement Hearing.

On February 13, 2019, after the hearing, the Court approved the Settlements and the Plan of Allocation and approved Lead Counsel's motion for attorneys' fees and expenses.

If you wish to discuss this action or have any questions concerning your rights or interests, please contact Avi Josefson (212-554-1493); [avi@blbglaw.com](mailto:avi@blbglaw.com).

The claims administration was completed in November 2020. On November 16, 2020, the Motion for Approval of Distribution Plan was filed. On November 17, 2020, the Court entered the Order Approving the Distribution Plan. The first distribution of the net settlement fund occurred in April 2021. Subsequent distributions will occur on a rolling basis, provided that net settlement funds are available.

## Case Documents

- Notice
- November 17, 2020 - Order Approving Distribution Plan
- November 16, 2020 - Lead Plaintiffs' Notice of Motion for Approval of Distribution Plan and Proposed Order
- November 16, 2020 - Memorandum of Law in Support of Lead Plaintiffs' Motion for Approval of Distribution Plan
- November 16, 2020 - Declaration of Alexander Villanova in Support of Lead Plaintiffs' Motion for Approval of Distribution Plan
- November 16, 2020 - Defective Letter Exhibit A
- November 16, 2020 - Status Email Exhibit B
- November 16, 2020 - Transaction Report Exhibit C
- November 16, 2020 - Disputed Claims Exhibit D
- November 16, 2020 - Timely Eligible Claims Exhibit E
- November 16, 2020 - Late but Otherwise Eligible Claims Exhibit F

- November 16, 2020 - Rejected Claims Exhibit G
- November 16, 2020 - Invoice Exhibit H
- February 13, 2019 – Judgment Approving Class Action Settlement with the Sponsor Defendants, the Sponsor Designee Defendants and Goldman Sachs & Co. LLC
- February 13, 2019 – Judgment Approving Class Action Settlement Among the Plaintiffs, Cobalt Individual Defendants, and Nadier Tavakoli, Solely Acting as Plan Administrator on Behalf of the Cobalt Defendants
- February 13, 2019 – Judgment Approving Class Action Settlement Between Plaintiffs and Underwriter Defendants Other Than Goldman Sachs & Co. LLC
- February 13, 2019 – Order Approving Plan of Allocation of Net Settlement Fund
- February 13, 2019 – Order Awarding Attorneys’ Fees and Reimbursement of Litigation Expenses
- February 6, 2019 – Declaration of Andrew J. Entwistle in Further Support of (I) Lead Plaintiffs’ Motion for Final Approval of Class Action Settlements and Plan of Allocation and (II) Lead Counsel’s Motion for Award of Attorneys’ Fees and Reimbursement of Litigation Expenses
- February 6, 2019 – Reply Memorandum of Law in Further Support of (I) Lead Plaintiffs’ Motion for Final Approval of Class Action Settlements and Plan of Allocation and (II) Lead Counsel’s Motion for Award of Attorneys’ Fees and Reimbursement of Litigation Expenses
- January 9, 2019 – Notice of Lead Plaintiffs’ Motion for Final Approval of Class Action Settlements and Plan of Allocation
- January 9, 2019 – Memorandum of Law in Support of Lead Plaintiffs’ Motion for Final Approval of Class Action Settlements and Plan of Allocation
- January 9, 2019 – Notice Of Lead Counsel’s Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses
- January 9, 2019 – Memorandum of Law in Support of Lead Counsel’s Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses
- January 9, 2019 – Joint Declaration of Andrew J. Entwistle and David R. Stickney in Support of (I) Lead Plaintiffs’ Motion for Final Approval of Class Action Settlements and Plan of Allocation and (II) Lead Counsel’s Motion for Award of Attorneys’ Fees and Reimbursement of Litigation Expenses
- November 29, 2018 – Order Preliminarily Approving Settlement Between Plaintiffs and Underwriter Defendants Other Than Goldman Sachs & Co. LLC and Providing for Notice
- November 28, 2018 -- Stipulation and Agreement of Settlement Between Plaintiffs and Underwriter Defendants Other Than Goldman Sachs & Co. LLC
- November 2, 2018 – Order Preliminarily Approving Settlement with the Plaintiffs, Cobalt Individual Defendants, and Nader Tavakoli, Solely Acting as Plan Administrator on Behalf of the Cobalt Debtors and Providing for Notice

- November 2, 2018 – Order Preliminarily Approving Settlement with the Sponsor Defendants, the Sponsor Designee Defendants and Goldman Sachs & Co. LLC and Providing for Notice
- October 11, 2018 – Stipulation and Agreement of Settlement Among the Plaintiffs, Cobalt Individual Defendants, and Nader Tavakoli, Solely Acting as Plan Administrator on Behalf of the Cobalt Debtors
- October 9, 2018 – Stipulation and Agreement of Settlement with the Sponsor Defendants, the Sponsor Designee Defendants and Goldman Sachs & Co. LLC
- June 15, 2017 – Memorandum and Order Certifying Class
- March 15, 2017 - Second Consolidated Amended Class Action Complaint for Violations of the Federal Securities Laws
- May 1, 2015 - Consolidated Amended Class Action Complaint
- November 30, 2014 - Class Action Complaint