

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

M. NORMAN DONNENFELD, on behalf of  
himself and all others similarly situated,

Plaintiff,

v.

PETRO, INC., d/b/a PETRO HOME  
SERVICES,

Defendant.

No. 2:17-cv-02310-SIL

**DECLARATION OF JENNIFER M.  
KEOUGH REGARDING NOTICE  
ADMINISTRATION**

I, JENNIFER M. KEOUGH, declare as follows:

1. I am Chief Executive Officer of JND Legal Administration (“JND”). JND is a legal administration services provider with its headquarters in Seattle, Washington. JND has extensive experience with all aspects of legal administration and has administered settlements in hundreds of class action cases.

2. JND is serving as the Settlement Administrator<sup>1</sup> in the above-captioned litigation (“Action”), as ordered by the Court in its Order Granting Preliminary Approval of Class Action Settlement, Class Certification for Settlement Purposes Only, and Approval of Notice to Class and Related Matters (“Order”) dated December 5, 2019. This Declaration is based on my personal knowledge and information provided to me by experienced JND employees and, if called on to do so, I could and would testify competently thereto.

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<sup>1</sup> Capitalized terms used and otherwise not defined in this Declaration shall have the meanings given such terms in the Settlement Agreement (the "Agreement") (Dkt No. 63-3).

**DATA TRANSFER**

3. On May 7, 2019, Petro provided JND with an electronic file containing the names, last known email address (where available), postal address, Petro Account number, and service address where available (if different from last known postal address) for 92,546 individuals identified as potential Class Members.

4. On December 5, 2019, Petro provided JND with an electronic file containing the Cash Benefit for each Class Member. JND promptly updated the Class Member information to include the verified Cash Benefit.

5. Prior to mailing notices, JND performed research on the Class Member data and identified 96 duplicate records based upon name, postal address, and Petro Account number. These records were removed accordingly. JND also updated the Class Member contact information using data from the National Change of Address (“NCOA”) database<sup>2</sup>. The Class Member data was promptly loaded into a database established for this Action.

**EMAIL NOTICE**

6. Pursuant to Section 6.4 of the Agreement, on January 3, 2020, JND sent the customized, Court-approved Personal Notice (“E-mail Notice”) to 69,117 Class Member e-mail addresses (representing 68,095 unique Class Members). The E-mail Notice informed Class Members of their rights in the Settlement and the deadlines for filing a claim, objecting to, and excluding themselves from the Settlement. A representative copy of the E-mail Notice is attached hereto as **Exhibit A**.

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<sup>2</sup> The NCOA database is the official United States Postal Service (“USPS”) technology product which makes change of address information available to mailers to help reduce undeliverable mail pieces before mail enters the mail stream. This product is an effective tool to update address changes when a person has completed a change of address form with the USPS. The address information is maintained on the database for 48 months.

7. Of the Class Member records with verified e-mail addresses, E-mail Notices to 2,410 unique Class Members were undeliverable (as the e-mail addresses were unverified or the E-mail Notice “bounced” back).

### **NOTICE MAILING**

8. Pursuant to Sections 6.4 and 6.5 of the Agreement, on January 3, 2020, JND sent the Court-approved Personal Notice via first-class regular U.S. mail to the 24,355 unique Class Members that did not have a verified e-mail address. The Notice informed Class Members of their rights in the Settlement and the deadlines for filing a claim, objecting to, and excluding themselves from the Settlement. A representative sample of the Notice is attached hereto as **Exhibit B**.

9. As of the date of this Declaration, JND has tracked 1,093 notices that were returned as undeliverable without a forwarding address (representing 942 unique Class Members). JND conducted advanced address research, and updated address information was received for 2,709 Class Members (including the 2,410 Class Members for whom an E-mail Notice bounced back). JND re-mailed the Notice to the 2,709 Class Members for which an updated address was received, and to the mailing addresses on file for Class Members’ whose E-mail Notices bounced, two of which were returned undeliverable with forwarding address information and were promptly re-mailed.

### **SUPPLEMENTAL NOTICE MAILING**

10. As stated in the Court’s Order Regarding Notice to Class and Related Matters dated February 6, 2020, the Personal Notices inadvertently omitted the Class Member Identifiers and JND took certain steps to remedy the omission. On January 14, 2020, JND posted Banners<sup>3</sup> on the

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<sup>3</sup> Term used as defined in Dkt. No. 77 Order Regarding Notice to Class and Related Matters, filed February 6, 2020.

Settlement Website homepage and claim form informing Class Members to contact the Settlement Administrator if they had lost or did not have their unique Class Member Identifier.

11. On January 16, 2020, JND additionally sent the Follow-Up Postcards<sup>4</sup> via first-class regular U.S. mail to the 23,617 Class Members who received the Original Postcard<sup>5</sup> informing them of their unique Class Member Identifier.

12. As of the date of this Declaration, 91,807 Class Members were either e-mailed a Personal Notice or mailed a Personal Notice which was not returned as undeliverable, representing 99.3% of total Class Members from the Settlement. The other 0.7% of Class Members did not have a viable e-mail address, mailing address, forwarding address or updated address in order to receive a Personal Notice.

#### **SETTLEMENT WEBSITE**

13. On January 3, 2020, JND established a Settlement Website ([www.PricingPlanSettlement.com](http://www.PricingPlanSettlement.com)), which hosts copies of important case documents, including the Long Form Notice, Class Action Settlement Agreement, and certain selected pleadings and Court orders from this Action; answers to frequently asked questions; and Settlement Administrator contact information for telephone, mail, or e-mail contact for inquiries and Claim Form requests. The website also allows Class Members to submit a Claim Form electronically. On February 13, 2020, JND posted to the Settlement Website Plaintiff's February 11, 2020 Motion for Attorney Fees and Expenses and Class Representative Service Award and accompanying documents.

14. As of the date of this Declaration, the Settlement Website tracked 12,306 unique users who registered 45,210 page views.

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<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

15. JND will continue to update and maintain the Settlement Website for the duration of the administration process.

**TOLL-FREE INFORMATION LINE AND E-MAIL ADDRESS**

16. On January 3, 2020, JND established a case-specific toll-free number, 1-833-222-1169, for Class Members to call to obtain information regarding the Settlement and communicate with live agents.

17. As of the date of this Declaration, the toll-free number has received 3,528 calls. JND will continue to maintain the toll-free number throughout the Settlement administration process.

18. On January 3, 2020, JND established a settlement e-mail address (info@PricingPlanSettlement.com) for Class Members to contact to obtain information regarding the Settlement and communicate with agents.

19. As of the date of this Declaration, the e-mail address has received 1,225 messages. JND will continue to maintain the e-mail address throughout the Settlement administration process.

**CLAIMS RECEIVED**

20. The Personal Notices informed Class Members that Class Members who wanted to receive a Settlement Payment must complete, sign, and return a Claim Form to JND, postmarked or submitted online by April 2, 2020.

21. As of the date of this Declaration, JND has received a total of 8,074 Claim Forms submitted by Class Members, of which 6,949 were submitted electronically and 1,125 were submitted by mail, representing a current claims rate of 8.6%. While we continue to receive and validate claims, JND estimates the total value of claims to date is approximately \$304,000.00.

**REQUESTS FOR EXCLUSION**

22. The Personal Notices informed Class Members that any Class Member who wanted to Opt-Out and exclude themselves from the Settlement must give written notice stating that they desire to Opt-Out of the Settlement or otherwise not participate in the Settlement, postmarked on or before March 3, 2020.

23. As of the date of this Declaration, JND has received four (4) Opt-Out requests. The list of Class Members who submitted Opt-Out requests is attached hereto as **Exhibit C**.

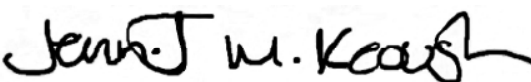
**OBJECTIONS**

24. The Personal Notices informed Class Members that any Class Member who wished to object to approval of the Settlement could do so by submitting a written statement to the Court (with copies to Petro's Counsel, Class Counsel, and the Settlement Administrator) postmarked on or before March 3, 2020.

25. As of the date of this Declaration, JND has not received any objections to the proposed Settlement.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 5, 2020, at Seattle, Washington.

By:   
\_\_\_\_\_  
Jennifer M. Keough

# **EXHIBIT A**

From: info@pricingplansettlement.com

Subject: Class Member Identifier: 1A2B3C4D5E - Notice of Proposed Class Action Settlement

## Notice of Proposed Class Action Settlement

*Donnenfeld v. Petro, Inc.*, (Case Number 2:17-cv-2310-SIL)

CLASS MEMBER IDENTIFIER: 1A2B3C4D5E

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Dear [Class Member],

A proposed settlement has been reached in a lawsuit concerning Petro, Inc.'s ("Petro") Ceiling Price Agreements\*. Petro has agreed to the settlement but is not admitting any liability or breach of contract with regard to Plaintiff or Class Members.

### Who is Included?

All persons in the United States who, between August 1, 2013 and September 30, 2016 (the "Class Period"), had a Ceiling Price Agreement with Petro.

### What are the Benefits?

If you timely submit a Claim Form, you might receive a Cash Benefit, the amount of which will depend on the difference between what you paid pursuant to your Ceiling Price Agreement during the Claim Period versus what you would have paid had you been charged the posted Variable Price during the same period, if that rate was lower. Depending on how many claims are filed your Cash Benefit may be reduced. For more details on the calculation used to determine the Cash Benefit, please see the Settlement Website, [www.pricingplansettlement.com](http://www.pricingplansettlement.com), for details.

### How can I get a Benefit?

Use the Class Member Identifier at the top of this e-mail to complete and submit a Claim Form either online at [www.pricingplansettlement.com](http://www.pricingplansettlement.com), or by mail to Pricing Plan Settlement, c/o JND Legal Administration, PO Box 91135, Seattle, WA 98111. Claim Forms are available at the Settlement Website, by calling (833) 222-1169, or by writing to the Settlement Administrator.

**Your Claim Form must be submitted online or postmarked by April 2, 2020 to make a claim under the proposed settlement.**

### What are my other options?

You will be bound by the terms of the settlement and unable to sue on your own unless you opt out, in writing by **March 3, 2020**. If you want to stay in the settlement, you may object by **March 3, 2020**. The Court will hold a hearing on **March 26, 2020** to consider whether to approve the settlement and whether to award Attorneys' Fees and Costs and/or the Named Plaintiff Service Award for the Class Representative. You may attend this hearing, but you do not have to. Complete information is available in the full notice on the Settlement Website at [www.pricingplansettlement.com](http://www.pricingplansettlement.com).

### Who represents me?

The Court appointed Class Counsel who you do not have to pay. If you want your own lawyer, you may hire one at your expense. Class Counsel will file an application seeking up to \$975,000 as Attorneys' Fees and Costs.

\*All defined terms have the meaning ascribed thereto in the May 3, 2019 Class Action Settlement Agreement.

If you have questions, please visit the Settlement Website at [www.pricingplansettlement.com](http://www.pricingplansettlement.com), or e-mail the Settlement Administrator at [info@pricingplansettlement.com](mailto:info@pricingplansettlement.com).



# **EXHIBIT B**



**CLASS ACTION SETTLEMENT**

*THE COURT AUTHORIZED THIS NOTICE.  
THIS IS NOT A SOLICITATION FROM A LAWYER.*

***The Deadline to Submit a  
Claim Form is April 2, 2020.***

***(833) 222-1169***

***www.pricingplansettlement.com***

**PRICING PLAN SETTLEMENT**

c/o JND Legal Administration  
PO BOX 91135  
Seattle, WA 98111

**CLASS MEMBER IDENTIFIER**

[1A2B3C4D5E]

[FullName] [FullName2]

[Address1]

[Address2]

[City], [State] [PostalCode]

[MailingBarcode]

reached in a lawsuit concerning Petro, Inc.'s ("Petro") Ceiling Price Agreements". Petro has agreed to the settlement but is not admitting any liability or breach of contract with regard to Plaintiff or Class Members.

**Who's Included?** All persons in the United States who, between August 1, 2013 and September 30, 2016 (the "Class Period"), had a Ceiling Price Agreement with Petro.

**What are the Benefits?** If you timely submit a Claim Form, you might receive a Cash Benefit, the amount of which will depend on the difference between what you paid pursuant to your Ceiling Price Agreement during the Claim Period versus what you would have paid had you been charged the posted Variable Price during the same period, if that rate was lower. Depending on how many claims are filed your Cash Benefit may be reduced. For more details on the calculation used to determine the Cash Benefit, please see the Settlement Website, [www.pricingplansettlement.com](http://www.pricingplansettlement.com), for details.

**How can I get a Benefit?** Use the Class Member Identifier on the front of this postcard to complete and submit a Claim Form either online or by mail to PRICING PLAN SETTLEMENT, c/o JND Legal Administration, PO Box 91135, Seattle, WA 98111. Claim Forms are available at

**Claims Deadline:** Claim Forms must be submitted by **April 2, 2020**.

**Your other options.** You will be bound by the terms of the settlement and unable to sue on your own unless you opt out, in writing by **March 3, 2020**. If you want to stay in the settlement, you may object by **March 3, 2020**. The Court will hold a hearing on **March 26, 2020** to consider whether to approve the settlement and whether to award Attorneys' Fees and Costs and/or the Named Plaintiff Service Award for the Class Representative. You may attend this hearing, but you do not have to. Complete information is available in the full notice on the Settlement Website.

**Who Represents Me?** The Court appointed Class Counsel who you do not have to pay. If you want your own lawyer, you may hire one at your expense. Class Counsel will file an application seeking up to \$975,000 as Attorneys' Fees and Costs.

\* All defined terms have the meaning ascribed thereto in the May 3, 2019 Class Action Settlement Agreement.

# **EXHIBIT C**

Exclusion	First Name	Last Name
1	Anthony	Boland
2	Donna	Colak
3	Jeanne	Townsend
4	James	Weidner