



# PETROTEQ

## ENERGY INC.

August 2, 2021

*Via Electronic Mailing & U.S. Certified Mail*

TO THE FOLLOWING NAMED LAW FIRMS:

Bronstein, Gewirtz & Grossman, LC 60 East 42nd Street, Suite 4600 New York, New York 10165 Attention: Peretz Bronstein, Esq. Email: <a href="mailto:info@bgandg.com">info@bgandg.com</a>	Pomerantz LLP 600 3rd Avenue New York, New York 10016 Attention: Robert S. Willoughby Email: <a href="mailto:newaction@pomlaw.com">newaction@pomlaw.com</a>
The Rosen Firm 275 Madison Avenue, 34th Floor New York, New York 10016 Attention: Phillip Kim, Esq. Email: <a href="mailto:pkim@rosenlegal.com">pkim@rosenlegal.com</a>	The Schall Law Firm 2049 Century Park East, Suite 2460 Los Angeles, California 90067 Attention: Brian Schall, Esq. Email: <a href="mailto:brian@schallfirm.com">brian@schallfirm.com</a>

Re: Lawyer Advertising and Client Solicitations  
Concerning Petroteq Energy Inc. and its Shareholders

Ladies/Gentlemen:

It has come to our attention at Petroteq Energy Inc. (“Petroteq” or “Company”) that each of you (the terms “you” and “your firm” in this letter refer to each of the law firms or lawyers listed above) has recently published or posted - in or through public internet media - some form of lawyer advertising (each an “Advertising Notice”) that targets past and present shareholders of the Company (“Shareholders”) in an effort to recruit new clients for the purpose of asserting claims against the Company.

Each of the Advertising Notices was issued following the Company’s press release on July 15, 2021, entitled “Petroteq Announces Expected Late Filing of Financial Statements and Application for Management Cease Trade Order; Cautions Against Reliance on Certain Previously-Issued Financial Statements” (the “July 16 Press Release”). The July 16 Press Release disclosed, among other things, that certain previously-issued financial statements for periods from 2018 through 2021 should no longer be relied upon; that the Company intends to file restatements for the periods at issue; and that “[t]he Company will be unable to file its quarterly report on Form 10-Q (and related certifications) for the period ended May 31, 2021 . . . until it has completed the planned restatements . . . , which is anticipated to take several weeks - well beyond the extended filing deadline of July 20, 2021.”

None of your Advertising Notices is limited to members of the public (or our Shareholders) that reside or are located in states in the U.S. in which you (or lawyers in your firm) are licensed to practice law; instead, each Advertising Notice - by using public internet media - appears to target or solicit Shareholders located anywhere in the U.S. (and in foreign countries). Like many of the notices sent out on a routine

basis these days by so-called class action firms in the U.S., each of your Advertising Notices invites Shareholders (including Shareholders in states or countries where lawyers in your firm are not licensed to practice law) to contact a designated lawyer in your firm, either by telephone, email or via your firm's website. Some of your Advertising Notices even invite Shareholders to "join the class action" or "participate in the action" before you have completed your so-called "investigation" and before you have sufficient information to determine whether valid claims exist against the Company or that Shareholders have been harmed.

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As you know, lawyers and law firms in the U.S. are generally permitted to "advertise" their services to the public using the internet and public media as long as their advertising materials (a) are not false, deceptive or misleading, and (b) comply with the legal and ethical requirements contained in the state laws and ethics codes that apply to them.

In this instance, it appears that each of you is located or maintains your offices in New York or California (or has lawyers or offices in both states) and it is likely that many of the Shareholders targeted by your Advertising Notices are residents of California or New York (as well as in other states and countries outside the U.S.). For that reason - and because each of you has engaged in interstate communications to recruit Shareholders in multiple jurisdictions, your conduct in posting the Advertising Notices via the internet may be subject to the rules governing lawyer advertising and solicitation in every state in the U.S.

The application of different state laws and lawyer ethics requirements to interstate advertising and client solicitations by lawyers has been recognized by the California Bar Association as presenting special problems and risks to lawyers and law firms that use the internet without proper or adequate warnings, restrictions and disclaimers. In Ethics Opinion 2001-155, the California Bar addressed the potential ethical violations that may occur when California lawyers engage in internet-based advertising and communications to potential clients located outside California. Referring to California's Code of Responsibility, the California Bar provided the following advice:

"Rule 1-100(D)(1) addresses the implications of Attorney A communicating outside of California. It states: "These rules shall govern the activities of members in and outside this state, except as members lawfully practicing outside this state may be specifically required by a jurisdiction in which they are practicing to follow rule of professional conduct different from these rules". Rule 1-300(b) states: "A member shall not practice law in a jurisdiction where to do so would be in violation of regulations of the profession in that jurisdiction.

"In order to avoid violating these rules, Attorney A must be aware of the conflicts among the rules of different jurisdictions, and she must comply with the rules of each jurisdiction that apply to her and impose additional or stricter requirements than those found in California. She must recognize the possibility that the advertising rules in other jurisdictions may apply to her Internet web site even if she is licensed only by California and intends to practice only in California.

"This leaves two options for California attorneys who maintain Internet web sites for their law practices. They can choose to use their web site to advertise in multiple jurisdictions. This is not necessarily inappropriate, but it requires that they assure themselves that they are complying with any applicable rules of the different jurisdictions involved, including rules governing the unauthorized practice of law (assuming that there is no inconsistency

in the applicable rules that would make this impossible) (footnote omitted). Alternatively, they can take steps to make clear that they are not advertising in other jurisdictions.”

(Cal. Bar Ethics Opinion 2001-155).

Because the Advertising Notices utilize the public internet media for the apparent purpose of targeting Shareholders in every state (and country) without any attempt to “take steps to make clear that [you] are not advertising in other jurisdictions”, each of your Advertising Notices is likely subject to the laws and ethics codes in each state of the U.S. whichever is stricter. Since a number of our Shareholders are located in California and New York, we believe that, at the very least, your Advertising Notices must comply with the laws and ethics codes governing lawyer advertising and client solicitation in both of these states. Other states could potentially apply stricter rules if the predominant effect of your advertising/solicitation is in another state or jurisdiction.<sup>1</sup>

PLEASED BY ADVISED THAT, in our view, substantial questions exist as to whether your Advertising Notices violate the laws and ethics codes governing lawyer advertising and solicitations in New York and California.

1. *Prohibition on False, Deceptive or Misleading Advertising.*

In California, under Section 6157.1 of the Business and Professions Code and under Rule 7.1(a) of the California Rules of Professional Conduct (“California Rules”), lawyer advertising and client solicitations must not be false or misleading. In addition, under Rule 7.1 of the New York Rules of Professional Conduct (“New York Rules”), a lawyer or law firm may not engage in advertising that contains statements or claims that are false, deceptive or misleading or that violates any rule in the New York Rules.

In our view, each of our Advertising Notices could be determined by the courts and/or by state bar associations to be deceptive and misleading for the following reasons:

- None of the Advertising Notices clearly denotes, in clear and conspicuous terms, that it is a lawyer “Advertisement”, both at the beginning and end of your Notices, as required by Section 7.3(c) of the California Rules. In addition, although Rule 7.1 of the New York Rules also requires that certain computer accessed advertising and client solicitations contain a reference to “Attorney Advertising” - and three of the four Advertising Notices do have a reference to “Attorney Advertising” at the end of the Notices, the language chosen is not clear and conspicuous and may be not readily observed by the public. In our view, each of your Advertising Notices should, consistent with the California Rules, clearly state that it is an “Advertising Notice” both at the beginning and the end of each Notice and that the Notice is being published or released prior to your completion of any investigation in an effort to recruit new clients primarily for your own pecuniary gain.

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<sup>1</sup> Under Rule 8.5 of the ABA Model Rules of Professional Conduct, adopted by most states, each state has disciplinary authority over lawyers licensed in that state and over out-of-state lawyers that provide or offer legal services in the state. Choice of law provisions in most state ethics codes, in deciding which state’s ethics rules apply to non-litigation conduct, focus on where the lawyer’s conduct occurred in the jurisdiction in which it had a “predominant effect”.

- The Advertising Notices were released either immediately or within a few days after the July 16 Press Release without your conducting any investigation (other than reading the July 16 Press Release). By prematurely issuing the Advertising Notices (and with one or two of you having published follow-up “Reminders” in a deceptive attempt to convey urgency), it appears that your real objective is to quickly “sign up” as many new clients as possible in an effort to compete with the handful of other firms in this country that deploy similar advertising and solicitation tactics. As we understand it, this tactic is deployed by firms like yours because having a larger number of clients signed up will improve your chances of obtaining a larger fee in the event of litigation that results in a money judgment or settlement. If this is true, this creates a potential conflict of interest for each of you since your pecuniary motives in attempting quickly to sign up many potential claimants as possible may interfere with your duties to individual clients. Your failure in the Advertising Notices to disclose this “game of competition” with other firms that deploy similar advertising tactics and to disclose that your Advertising Notices are being distributed primarily, if not solely, for your own pecuniary gain potentially makes the Advertising Notices deceptive and misleading.
- In the Advertising Notices, each of you failed to disclose whether, at the time you released your Notice, you (or any lawyer in your firm) had actually been retained by any former or current Shareholder. We believe that it is important for the public (and our Shareholders) to know whether, when each of you released your Advertising Notices, you actually represented any Shareholders at all or whether you are simply engaging in a “trolling” or “fishing” tactic to solicit new clients when you currently have none.
- Your Advertising Notices - by inviting Shareholders residing in different states in the U.S. to contact you for a “consultation” or to “answer questions” etc. - appears to be getting very close to engaging in the unauthorized practice of law if none of your lawyers are licensed in the states where you solicit, recruit or give advice to potential clients. Failure of the Advertising Notices to include a “warning” or “disclaimer” stating that your communications (and your invitation for Shareholders to contact you) is or must be limited or restricted to Shareholders residing or located in specified states in which your lawyers are licensed to practice law may render your Advertising Notices deceptive and misleading.

## 2. Prohibition on Improper Client Solicitation.

Under the New York Rules, lawyer “advertising” that constitutes a “solicitation” must comply with specific rules governing both advertising and solicitations. Generally, the California Rules have similar rules but there are differences.

As noted in Comments accompanying Rule 7.3 of the New York Rules:

“[A]n advertisement in public media such as newspapers, television, billboards, web sites or the like is a solicitation if it makes reference to a specific person or group of people whose legal needs arise out of a specific incident to which the advertisement explicitly refers.”

(Emphasis added).

Under Rule 7.3(a) of the New York Rules, a lawyer may not engage in a “solicitation” (a) by in-person, telephone or real-time or interactive computer-accessed communication unless the recipient is a

close friend, relative, former client or existing client . . .” or (b) by any form of communication that is false, deceptive or misleading in violation of Rule 7.1(a). Under Rule 7.3(b), the term “solicitation” is defined as follows:

“For purposes of this Rule, “solicitation” means any advertisement initiated by or on behalf of a lawyer or law firm that is directed to, or targeted at, a specific recipient or group of recipients, or their family members or legal representatives, the primary purpose of which is the retention of the lawyer or law firm, and a significant motive for which is pecuniary gain. It does not include a proposal or request or other writing prepared and delivered in response to a specific request.”

In addition, each “solicitation” is subject to specific reporting requirements in Rule 7.3(c) of the New York Rules that, among other things, requires that:

“A copy of the solicitation shall at the time of its dissemination be filed with the attorney disciplinary committee of the judicial district or judicial department wherein the lawyer or law firm maintains its principal office. Where no such office is maintained, the filing shall be made in the judicial department where the solicitation is targeted.”

Finally, Rule 7.3 states that “[t]he provisions of this Rule shall apply to a lawyer or members of a law firm not admitted to practice in this State who shall solicit retention by residents of this State”.

In our view, each of your Advertising Letters is an “advertisement” and a “solicitation” that is subject to Rule 7.3 of the New York Rules. By initiating contact with and targeting Shareholders (which is apparent from the nature and content of the Notices) and inviting them to contact your firm - in each case by calling a telephone number to speak with a named lawyer - this appears to be the type of “solicitation” that is prohibited by Rule 7.3(a). We would also inquire whether each of you complied with the pre-approval, reporting and filing requirements for “solicitations” as set forth in Rule 7.3(c) of the New York Rules.

When you publish “advertisements” or “solicitations” targeting our Shareholders, it is important that our Shareholders know whether you have complied with the lawyer “advertising” and “solicitation” rules in both the California Rules and the New York Rules (and other states where applicable). We would therefore invite you, in any advertising and solicitations targeting our Shareholders, to disclose, in clear and conspicuous terms, whether (a) your Advertising Notice is an “advertisement” and a “solicitation” and complies with Section 7.3(a) of the New York Rules, and (2) you have filed the reports and made the filings with the appropriate attorney disciplinary committee as required by Rule 7.3(c) of the New York Rules.

### 3. *Conflicts of Interest; Failure to Disclose.*

Under Rule 1.7(a) of the New York Rules, a lawyer may not represent a client if a reasonable lawyer would conclude that (a) the lawyer will be representing “differing interests”, or (b) there is a significant risk that the lawyer’s professional judgment will be adversely affected by his/her own financial (or other) interests. If the Advertising Notices are found to be deceptive and misleading, the potential harm to existing Shareholders may create an irreparable conflict of interest between your firm and the interests of existing Shareholders. This conflict will become even more pronounced if the interests of existing and former Shareholders are determined to be “materially adverse”, creating an additional conflict and a risk of harm to existing Shareholders.

The failure of your Advertising Notices to disclose, in clear and conspicuous terms, the potential conflicts of interest you may have, either presently or in the future, with former or existing Shareholders is concerning and, in our view, makes the Advertising Notices potentially deceptive or misleading.

4. Protections for Prospective Clients.

Under Rule 1.18(b) of the New York Rules, a lawyer that receives information from a prospective client may not use or reveal that information except as the rules would permit for a former client. Under Rule 1.18(c), you may not represent a client having interests that are “materially adverse” to those of a prospective client in the “same or a substantially related matter” if you receive information from the prospective client that could be “significantly harmful” to him/her in the matter.

The Advertising Notices should have disclosed these potential conflicts to Shareholders and should have instructed existing Shareholders not to provide any information to your firm, or to sign any form of retainer agreement with you, until they (a) have consulted with their own (or independent) counsel, and (b) have been fully advised as to the nature, implications and possible adverse consequences that could occur from participating in a class with former Shareholders. We believe that your failure to make these disclosures or to provide these instructions creates a risk of confusion and potential harm to existing Shareholders, rendering the Advertising Notices potentially deceptive and misleading.

5. Advertising Notices May Be Subject to Rule 10b(5) under the U.S. Securities Laws

We assume that you are aware that, using the interstate client recruitment tactics deployed in or with your Advertising Notices, you are injecting potentially material information into the marketplace and that the market is likely to trade on that information. Where Advertising Notices such as yours are designed to target shareholders of publicly traded companies for litigation purposes, such Notices may influence market behavior in a way that could harm the company and its shareholders. Your Advertising Letters - like other nationwide lawyer advertising soliciting clients for litigation purposes - have the potential to harm investors if the Notices do not comply with applicable law or contain false, deceptive or misleading information. For that reason, your Advertising Letters could be viewed as having been made “in connection with the sale or offer of securities” under circumstances that have the potential to harm markets and investors.

You presumably are aware that Rule 10b-5, promulgated by the Securities and Exchange Commission (“SEC”) under Section 10(b) of the Securities Exchange Act of 1934, 15 U.S.C. §78j(b). Under Rule 10b-5, it is unlawful, in connection with the purchase or sale of securities, for:

“[A]ny person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails or of any facility of any national securities exchange, . . . [t]o make any untrue statement of material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading . . .”

*Janus Capital Group, Inc. v. First Derivative Traders*, 113 S. Ct. 2296 (2011), quoting Rule 10b-5 (codified at 17 CFR §249.10b-5 (2010)).

It is unclear whether the courts or the SEC would view your Advertising Notices as having been made “in connection with the purchase and sale of securities” and therefore hold you accountable if it is later determined that your Advertising Notices, due to a violation of state law or ethics code or because of

any deceptive or misleading statement, harmed the Company or its Shareholders. This is an important issue to all publicly traded U.S. companies that we plan to investigate further in the context of your Advertising Notices.

On the basis of the foregoing, unless you can publicly certify that you have complied with all laws and ethics codes governing your Advertising Notices, we would suggest that you withdraw the Advertising Notices and discontinue any further advertising solicitations that target our Shareholders.

Sincerely,

A handwritten signature in black ink, appearing to be 'J. M. ...', written over a horizontal line.

Executive Chairman