

The Noble Pursuit

An Investigation into the Noble Spinoff of Paragon Offshore

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Foreword

The Prescient Legal Analyst, Richard Goldman

Debtwire legal analyst Richard Goldman, covering the proposed Paragon Offshore restructuring in February 2016, stated the following:

“What happens if the TL lenders are successful in challenging reinstatement or plan feasibility? In either event, Paragon will have to revisit its valuation drawing board and rejigger plan recoveries. When that occurs, noteholders may not receive as lucrative a recovery as currently contemplated. In that event, unsecured creditors may then seek to challenge the Noble settlement to leverage an additional recovery for unsecureds. In that event, the UCC’s would be significantly enhanced.” [1]

Topics of Focus

- Why did Noble spin off assets to Paragon Offshore on August 4, 2014?
- Why did Noble spin off so many Petrobras floaters to Paragon Offshore?
- Why did Noble rush the Paragon Offshore spinoff, leaving \$395M tax free cash on the table?
- Why did PwC do an impairment charge of \$929M for Sept 30, 2014 accounting?
- Did Noble overvalue assets transferred to Paragon by \$1.1 Billion?
- Did Noble commit constructive fraudulent transfer?
- Is Noble getting off too lightly with the current Noble Settlement?

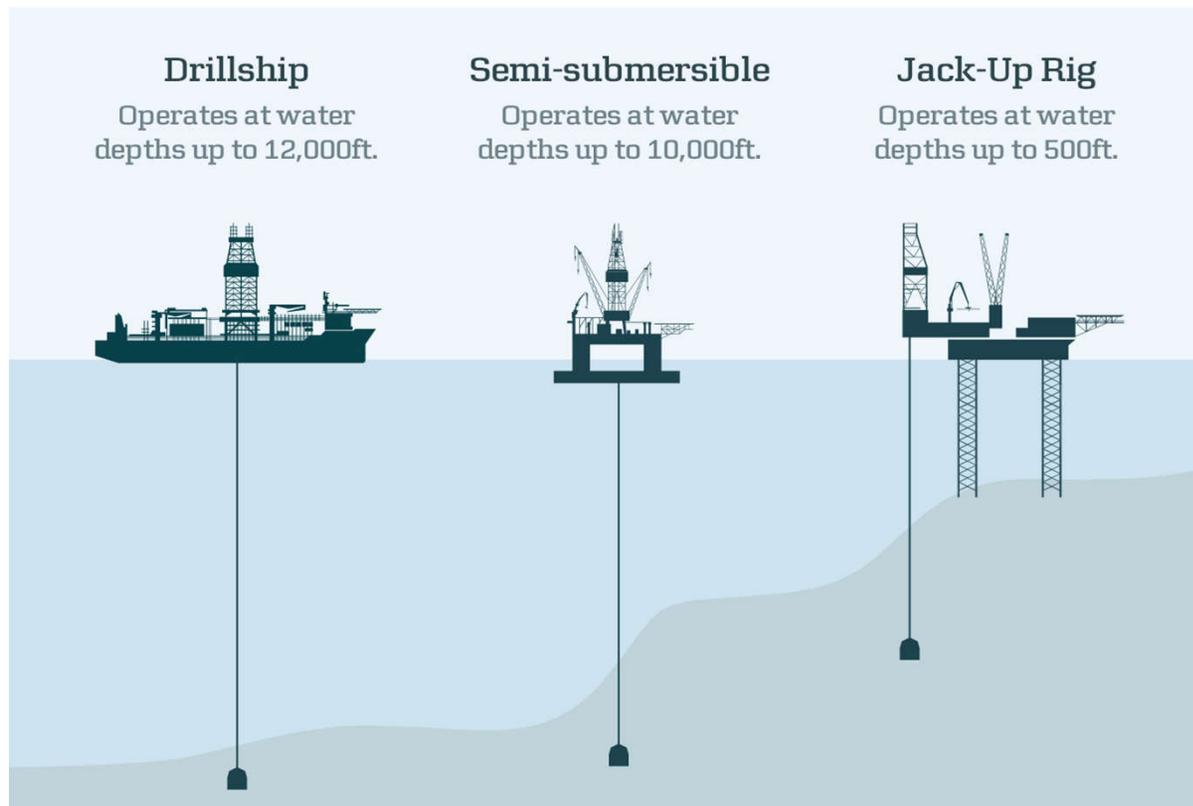
Timeline of Key Events

Date	Event
2011 / 2012	Noble fails in attempt to sell lower spec rigs to a prospective buyer. [1]
Oct 18, 2012	Noble CEO states to analysts that Brazil is becoming a “horrible place to work.” [2]
Nov 2012	Transocean sells 38 standard spec jackups, associated contracts and 3,500 employees for \$1.05B.
2013	Noble is quieter on analyst calls regarding Brazil’s problems, as the spinoff is being contemplated.
Sep 24, 2013	Noble announces intention to spin off standard spec jackups and Brazil floaters through an IPO. [3]
Mar/Apr 2014	Operation Lava Jato is announced, Brazil Federal Police searches through Petrobras HQ.
Apr 30, 2014	Noble abandons IPO, leaving \$395M tax free cash on the table to accelerate the spinoff.
Aug 4, 2014	Noble completes spinoff of rigs to Paragon Offshore.
Feb 14, 2016	Paragon Offshore files for Chapter 11, seventeen months after the spinoff.

What Rigs did Noble spin off to Paragon?

- 34 standard specification Jackups.
- 5 second and third generation drillships.
- 3 second generation semi-submersibles.
- 1 FPSO vessel.
- Average age of rigs was 35 years old.
- Spinoff to Paragon was completed on August 4, 2014.

Industry Overview: Offshore Rig Types



- Drillships and Semisubmersibles are called “Floaters”
- Floaters operate in deep water and requires significant subsea expertise.
- Floaters are classified by:
 - Dynamically Positioned or Anchored
 - Generation / age
- Jackups are floated out to the drilling location, have retractable legs that are lowered to the seafloor.

Image courtesy of Maersk

Industry Overview: Floaters

Floaters are classified by their Generation, which represents age and capability:

Generation	Drillship Year Built	Semi-submersible Year Built
1st	1961 to 1970	1961 to 1972
2nd	1971 to 1979	1973 to 1979
3rd	1980 to 1985	1980 to 1985
4th	1986 to 1997	1986 to 1997
5th	1998 to 2005	1998 to 2004
6th	2006 onwards	2005 onwards
7th	2010 onwards	2015 onwards

Industry Overview: Jackups

Jackup Type	Description
Standard Specification	<ul style="list-style-type: none">● Typically mechanically operated drilling equipment with little automation.● Operate at water depths up to 400 feet.● Can do almost the same job as high-spec rigs at a much lower rate.
High Specification	<ul style="list-style-type: none">● Have modern automation systems.● Typically drill at water depths of 350 to 400 feet.
Harsh Environment	<ul style="list-style-type: none">● Mainly used in the North Sea.● Can withstand harsh weather conditions.

Noble spins off Five Drillships to Paragon

Noble Name	Paragon Name	Year Built / Upgraded	Generation	Spec (K Ft) Water / Drill Depth	Location	Day Rate (K\$)	Contract End Date
Noble Duchess	MDS1	1975	2nd	0.1 / 25	India	151	05/2015
Noble Leo Segerius	DPDS2	1981 / 2002 / 2011	3rd	5.6 / 25	Brazil / Petrobras	300	02/2017
Noble Muravlenko	DPDS4 [1]	1982 / 1997	3rd	4.9 / 20	X	X	Cold Stacked since Q4 2012
Noble Phoenix	DPDS1	1979 / 2009	2nd	5 / 20	Brazil / Petrobras	290	05/2015
Noble Roger Eason	DPDS3	1977 / 2005 / 2013	2nd	7.2 / 25.8	Brazil / Petrobras	347	08/2017

Noble spins off One FPSO to Paragon

Noble Name	Paragon Name	Year Built / Upgraded	Spec (K Ft) Water Depth	Location	Day Rate (K\$)	Contract End Date
Noble Seillean	FSPO1	1989 / 2008	6.5	X	X	Cold Stacked since 2011

- FPSO stands for “Floating Production, Storage and Offloading” Vessel.
- Production capacity of 24,000 barrels per day and storage of 300,000 barrels.
- Last contract was in 2010! [1]
- Cold stacked since 2011, then spun off to Paragon Offshore in Aug 2014.
- Scrapped by Paragon Offshore in Feb 2015. [2]

Noble spins off Three Semisubmersibles

Noble Name	Paragon Name	Year Built / Upgraded	Generation	Spec (K Ft) Water / Drill Depth	Location	Day Rate (K\$)	Contract End Date
Noble Lorris Bouzigard	MSS3 [1]	1975 / 2003	2nd	4 / 25	GOM	-	Cold Stacked since 2012
Noble Therald Martin	MSS2	1977 / 2004	2nd	4 / 25	Brazil / Petrobras	270	10/2015
Noble Ton Van Langeveld	MSS1	1979 / 2000	2nd	1.5 / 25	North Sea	278	06/2015

Each of these semi-submersibles were moored/anchored.

Noble spins off 34 Jackup Rigs

- The transferred jackup rigs were standard specification.
- Average age of transferred jackups is around 35 years.
- Jackups tend to have a longer lifespan than floaters.
- Geographic locations were Mexico, Arabian Gulf, North Sea, Africa, India.
- Noble transfers all 10 Pemex standard spec jackups to Paragon.
- *These jackups have received low impairment charges compared to the floaters from the Brazil/Petrobras region.*

Yet Noble keeps 4 Standard Spec Jackups...

Noble Name	Year Built / Upgraded	Spec (K Ft) Water / Drill Depth	Location	Day Rate (K\$)	Contract End Date
Alan Hay	1980/2005	300/25	Arabian Gulf (UAE)	97	12/2015
David Tinsley	1981/2004/2010	300/25	Arabian Gulf (UAE)	97	12/2015
Gene House	1981/1998	300/25	Arabian Gulf (Aramco)	81	11/2015
Joe Beall	1981/2004	300/25	Arabian Gulf (Aramco)	81	11/2015

- Spinning off the Aramco jackup rigs would have given Paragon access to Saudi Aramco, a valuable customer.
- Noble blocks Paragon Offshore from access to Saudi Aramco by retaining these standard spec jackups.
- Oddly, Noble also retains the UAE jackups, in direct competition to Paragon...

Comparison to the Transocean Sale

Transocean Sale - November 2012	Noble Spinoff - August 2014
<ul style="list-style-type: none"> ● Industry leader Transocean sells 38 standard specification jackups, associated contracts, and 3,500 employees to Shelf Drilling for \$1.05B [1]. ● The average jackup age is 35 years, and many jackups were upgraded. ● Transocean's strategy was "to improve long-term competitiveness by effectively repositioning the company as a more focused operator of high-specification drilling equipment." ● Transocean divests of all standard spec jackups in its fleet to avoid conflicts of interest / becoming a competitor to Shelf Drilling. ● Shelf Drilling does not need any significant deep water subsea expertise to operate its fleet. 	<ul style="list-style-type: none"> ● Noble cannot sell the assets in 2011/2012 [2]. ● In 2013/2014, Noble borrows the Transocean sales pitch and calls the spinoff "standard spec", however Noble also slips in deep water floaters mostly related to Petrobras contracts, requiring the spinoff to retain deep water subsea expertise. The industry term "standard spec" applies to jackup rigs, not floaters which are defined by the generation and positioning (dynamic or anchored). [3] ● Noble actually retains some comparable standard spec and deep water equipment, and therefore remains a competitor to the spinoff. ● Noble places a Noble executive, Julie J. Robertson, on the spinoff's board of directors, even though the spinoff is technically still a competitor due to retention of similar equipment. Julie J. Robertson resigns from the Paragon board with immediate effect a week after Paragon hires restructuring advisers.

Historical Impairment Charges for Spinoff

Total asset value at the time of spinoff: \$2,962M

	2014 Charges	2015 Charges	Total	Percentage of Total Asset Value:
Floaters	1,059M	781.2M	1,840.7M	62.1%
Jackups		289.3M	289.3M	9.8%

- **Most of the floater impairment charges were from Petrobras drillships in Brazil.**
- Jackups had much less impairment, and no spinoff Jackups were from the Brazil region.
- From the impairment charges, floaters comprised most of the asset value at spinoff.
- **In terms of asset value, Paragon was a deepwater floater company.**
- **For investors and creditors, asset value defines the company.**

Why the Petrobras floaters in the Spinoff?

- Brazil was becoming a “horrible place to work” per the Noble CEO.
- Backlog was declining each year in Brazil from 2009 to 2013.
- Brazil’s high operating costs were rising every year, affecting profitability. [1]
- Petrobras was replacing contracted drillships with their own drillships.
- The Brazil drillships were 2nd and 3rd gen which had a global oversupply.
- Petrobras was Noble’s worst customer and Noble wanted out of Brazil.
- The spinoff allowed Noble to create a Transfer Sharing Agreement to migrate all Petrobras business to Paragon and completely get out of Brazil [2].
- Noble complained freely to analysts about Brazil’s problems in 2012, but was quiet later in 2013 after contemplating spinning off the Brazil floaters...

Brazil is becoming “a Horrible Place to Work”

Noble Q3 2012 Earnings Conference Call

David Wilson - Howard Weil Incorporated, Research Division: You guys have a fairly large presence in Brazil and recently it seems, not only for you guys but the industry altogether, is having a more difficult time doing business down there. It seemed like a couple of years ago, everybody was touting their Brazil exposure, but now, it seems to move the other way, kind of further down in the preferences. With your new subsea facility and tracking system, have you noticed a higher number of down days in Brazil due to subsea equipment? Or is it just a matter of all the other bureaucratic and contracting terms making it seem more costly and difficult to do business down there?

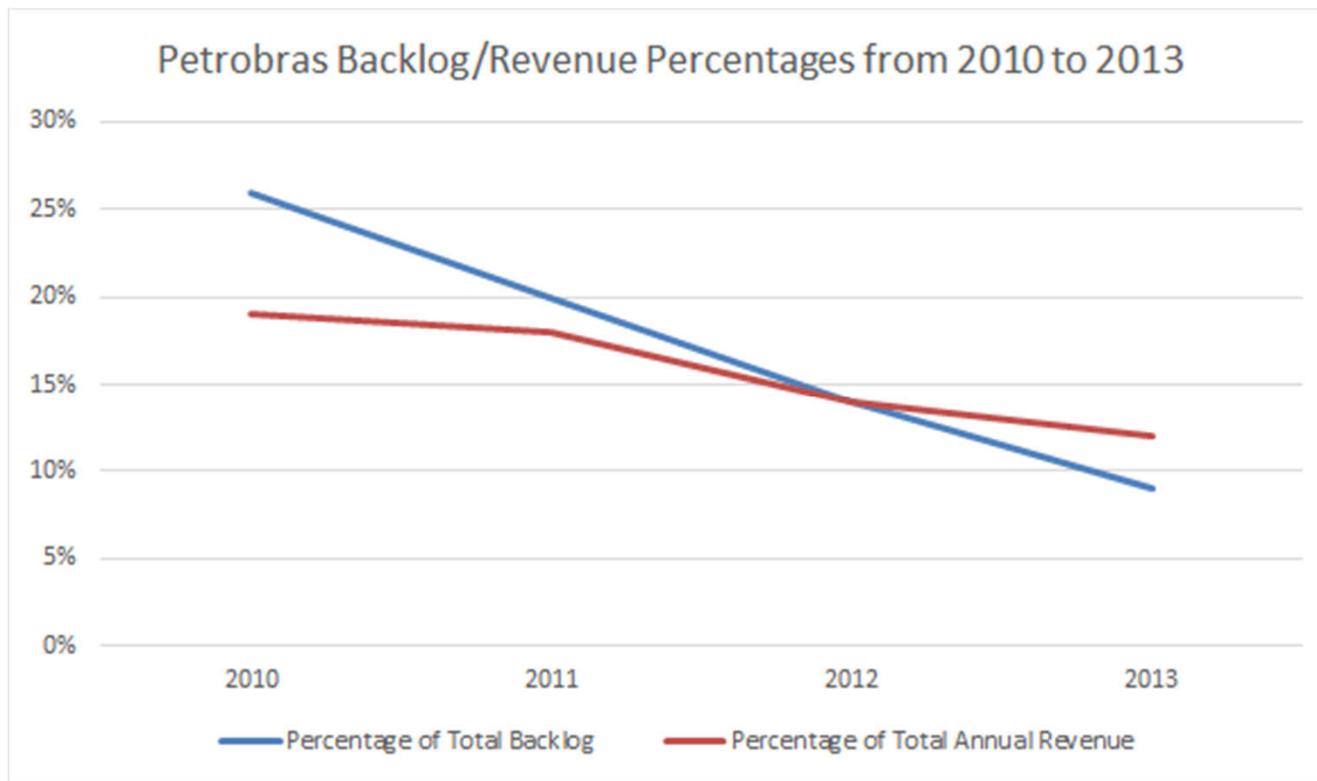
David W. Williams (Noble CEO): Dave, **Brazil has been a huge source of frustration for us** over the last year or so, but more so in the third quarter. We had 3 rigs in shipyards trying to get ready to go back to work. We had 2 shipyard strikes. We've had customs on strike at different times. I think they're still on strike Mondays and Fridays. And that strike is spreading to other ports. We've had ANP on strike, the regulatory body that approves rigs moving back and forth within regimes. So that when I talked about the rigs that finished shipyard jobs and couldn't go back to work, the Segerius was finished, tested, road-tested, accepted by the customer and we could not get regulatory approval to move the rig back out the shipyard and go back to work. With what's going on down there, with the -- with what's happened with Chevron and Transocean, it looks like that has been at least remediated in the short term, but I think you're right. **Brazil is becoming a very complex and a very difficult place to work. I think it's going to continue to be there and I think -- I mean, it's going to continue to be difficult. Happily, we're down to 1 rig and a shipyard.** Right now, we've got the Roger Eason in there and then we'll be -- hopefully be out of the shipyard business for a while. We do have projects coming up as we have to maintain the rigs there, but our major projects will be behind us. **So Brazil is becoming a horrible place to work.** It's -- we don't see more subsea downtime or downtime issues in Brazil than any other places. We see more rapid cost inflation and we see a lot of regulatory and labor issues.

Petrobras aims to replace Contracted Drillships

Noble Q4 2011 Report

“As a result of exploration discoveries offshore Brazil, Petroleo Brasileiro S.A. (“Petrobras”), the Brazilian national oil company, announced a plan to construct up to 28 deepwater rigs in Brazil and accepted bids in 2010 to construct these units from a number of shipyards and drilling contractors. A deepwater drilling rig construction industry possessing the scope and experience to efficiently address this volume of work does not currently exist in Brazil and Noble did not participate in these bids primarily because we viewed the capital risk associated with constructing a unit in Brazil as inappropriate. Petrobras awarded the first tranche of seven drillships to a Brazilian shipyard for delivery beginning in 2015. In March 2011, Petrobras cancelled the bids for the remaining 21 newbuild units. In June 2011, Petrobras issued a new tender to build 21 ultra deepwater rigs in Brazil to operate with Petrobras under 10 to 15 year contracts with drilling operations commencing within 48 months after the contract is awarded. Petrobras opened the tenders late October 2011, receiving offers for the 21 rigs from local Brazilian and Norwegian based drillers, which Petrobras is currently reviewing. Petrobras is also reviewing offers received for existing deepwater drilling units. The potential increase in supply from the Petrobras newbuilds could also adversely impact overall industry dayrates and economics.” [1]

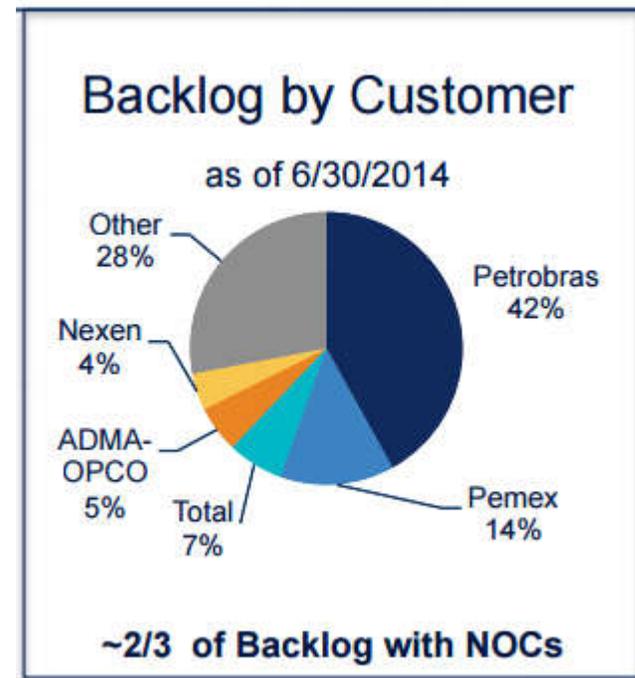
Noble's Declining Backlog & Revenue with Petrobras



Declining Petrobras backlog spun off to Paragon Offshore

Noble unloaded the declining Petrobras backlog to Paragon Offshore.

Petrobras was the largest customer for Paragon Offshore at the time of spinoff, accounting for 42% of backlog for Paragon Offshore. [1]



2nd/3rd Gen Floaters were in Global Oversupply

Noble CEO David Williams at Analysts dinner on Sept 10, 2013:

“As you look at standard specification floaters, there's a huge, huge pile of second and third generation floaters around the world that are 25, 30, 40, although some approach at 40 years in service and they're in various stages of repair.” [1]

Discounted Cash Flow (DCF) Valuation

- Houlihan Lokey was Noble's financial advisor at the time of spinoff. [1]
- DCF valuation on rigs was likely used to create the enterprise value.
- DCF is not suitable when the future cash flows are unpredictable.
- Given the context of Brazil, where the majority of asset value was located, and the rig age, and that drilling capacity was being replaced by Petrobras, the future cash flows of the Brazil rigs was unpredictable.
- Due to a global oversupply of 2nd/3rd generation floaters, the transferred floaters likely would have difficulty finding work after their contracts expired.
- Noble likely did not provide the context of Brazil or the floater global oversupply to Houlihan, Barclays or Lazard when they did their DCF analysis.
- The DCF analysis performed at spinoff needs to be revisited.

Was the spinoff asset valuation fair?

Given the large percentage of asset value from the worst region with dim future prospects, was the asset valuation fair?

There are at least 4 indicators that indicate Noble overvalued the spinoff assets.

Four Indicators of Spinoff Overvaluation by Noble

Indicator	Description
IPO Failure	Noble gets an IRS approval for a tax-free IPO of 19.7% of shares, valued at \$395M in tax-free cash for Noble, then abandons the IPO plans on April 30, 2014, perhaps due to the lack of institutional IPO subscribers who may not have believed in Paragon's valuation.
Market Valuation	At spinoff, the market values equity at \$542M less than Noble's valuation, a 46% difference.
Asset Depreciation	Assets were only depreciated 45%, for equipment averaging 35 years old.
PwC Valuation	One month after spinoff, for Sept 30 accounting PwC values 4 drillships at \$929M less than Noble's valuation.

IPO Failure of Spinoff

Key Date	IPO-Related Event Details
September 24, 2013	Noble announces intention to spin off “standard spec” business through IPO, and fund such payments to Noble with proceeds from borrowings and proceeds with the IPO of Newco shares. [1]
December 30, 2013	Noble obtains IRS approval to generate \$395M in tax free cash for Noble by selling 19.7% of PGN shares via IPO. [2]
Feb 11, 2014	Noble board of directors has granted approval to proceed with the IPO, registration statement (S-1) filed, spinoff CEO hired (Randall Stilley). [3]
March 24, 2014	IPO is expected the summer of 2014. [4]
April 30, 2014	Noble abandons IPO, leaves \$395M tax-free cash on the table to accelerate spinoff via a 100% share distribution. Noble CEO says: <i>“In light of financial market conditions, both generally and with respect to the equity markets for offshore drilling companies, we decided to eliminate the initial public offering and accelerate the completion of the separation transaction.”</i> Potentially, there was a lack of institutional IPO subscribers to the spinoff IPO, who may not have believed in Paragon’s valuation. [5]

Market Equity Valuation at the Time of Spinoff

PGNPQ US Equity		95 Compare	96 Actions	97 Edit
07/21/2014		08/04/2014	Last Price	USD
1D	3D	1M	6M	YTD
1Y	5Y	Max	Daily	Chart
PGNPQ US Equity				
Date	Open	High	Low	Close
Mo 08/04/2014	10.9156	11.4707	10.5359	10.7111
Fr 08/01/2014	11.2467	11.6849	10.9643	11.4707
Th 07/31/2014	11.013	12.1523	10.9546	11.1006
We 07/30/2014	11.0033	11.3441	10.8864	10.974
Tu 07/29/2014	11.3928	11.5193	11.0714	11.1201
Mo 07/28/2014	11.3635	11.6459	11.0519	11.3928
Fr 07/25/2014	11.3538	11.5096	11.0033	11.2954
Th 07/24/2014	11.6849	11.6849	11.198	11.5388
We 07/23/2014	12.1717	12.1717	11.6362	11.6849
Tu 07/22/2014	12.3178	12.5126	11.7433	12.162
Mo 07/21/2014	17.0404	17.0404	11.5875	12.1717

- Noble valued equity at \$2 Billion on pre-spinoff Balance Sheet. [1]
- With 85M shares outstanding, Noble valued share price at \$23.66 [2]
- On July 21, 2014, PGN shares started trading at \$17.04 cents per share and quickly fell to \$12.17.
- When spinoff was completed on Aug 4, 2014, shares traded at \$10.71. **The market valued total equity at \$907.8M at spinoff [3]**
- **At spinoff, the market valued Paragon's equity at \$1.1 Billion less than Noble's claimed equity value, a 75% difference. [4]**

Questionable Asset Depreciation Schedule

Noble Pro Forma Balance Sheet as of December 31, 2013

	Noble Historical	Paragon Offshore	Noble Pro Forma
Property and equipment, at cost	19,198,767	(5,383,130)	13,815,637
Accumulated depreciation	(4,640,677)	2,421,305	(2,219,372)
Property and equipment, net:	14,558,090	(2,961,825)	11,596,265

- Paragon assets had an average age of 35 years, however:
- **Paragon assets were only depreciated by 45%! [1]**
- The lack of asset depreciation helped to inflate Paragon Offshore's asset value.
- PwC was justified to perform \$929M impairment charges for Sept 30 accounting against asset value.

PwC Valuation of 4 Drillships - Sept 30 Accounting

- PwC gave a \$929M impairment charge for Paragon's three drillships in Brazil and its cold-stacked FPSO in the U.S. Gulf of Mexico [1].
- The FPSO did not have a contract since 2010!
- The three Brazil drillships were 35, 33 and 37 years old in 2014.
- The impairment charges were for Sept 30 accounting, one month after spinoff.

Randall D. Stilley, CEO: "We concluded that the current values of our drillships in Brazil and our FPSO are higher than the current market values for similar units."

Market Conditions around PwC's Devaluation

The Q3 (Sept 30) press release for the \$929M impairment charge on 4 drillships was on November 10, 2014 when the oil market decline was not anticipated to be severe:

- Brent crude was around \$80/barrel. [1]
- Barclays forecasted \$93/barrel oil for 2015.
- Goldman Sachs forecasted \$85/barrel oil for 2015.
- All 3 Brazil drillships were still under contracts.

Equity Value Destruction at Spinoff

- Noble advertised balance sheet equity as worth \$2 Billion on the Amended S/1 filed March 7, 2014. [1]
- Paragon Offshore shares started trading on the NYSE on July 21, 2014.
- Noble completed the spinoff of Paragon Offshore on August 4, 2014.
- Paragon equity investors in August used the Amended S/1 balance sheet for valuation information, attracting value investors.
- The Paragon Q2 2014 report was filed later on August 29, 2014, showing balance sheet equity reduced to \$1.23B. [2]
- For the September 30, 2014 accounting, for the month after spinoff, the \$929M impairment charge by PwC helped drop balance sheet equity value down to \$475M [3].

Did Noble overvalue Paragon assets at spinoff?

- Yes, by at least \$1.1B per the market equity valuation at spinoff.
- In the public SpinCo context, the strongest endorsement for the market price approach to valuation is the Third Circuit's decision in *In re VFB v. Campbell Soup*. The court noted that “absent some reason to distrust it, the market price is ‘a more reliable measure of the stock’s value than the subjective estimates of one or two expert witnesses’ “. [1]
- \$1.1B should be considered the minimum overvaluation due to:
 - The undisclosed magnitude of \$266M Mexico tax liabilities.
 - The truth bias of investors from the purported asset and enterprise value.
 - The enterprise value may have been constructed using DCF without considering the uncertainty of future cash flows from Brazil.
 - The magnitude of problems in Brazil was not well known to many investors, or adequately disclosed by Noble as part of the spinoff.

The Ignoble Conundrum

- How can you sell assets via a spinoff IPO that could not be previously sold on the open market, and get close to your desired sale price? [1]
- If the spinoff repayment is funded mostly by unsecured debt, how can you convince the unsecured creditors to invest in the spinoff?
- Answer: you have to overvalue your assets.

Debt Structure at Spinoff

Debt Instrument	Amount
2022 Unsecured Notes 6.75%	\$500M
2024 Unsecured Notes 7.25%	\$580M
Senior Term Loan	\$650M
Total:	\$1.73B

Noble was later paid for the spinoff by a \$1.73B intercompany note, which was funded by the above debt issuances by the Spinco.

Why Overvalue Assets in a Spinoff?

- The spinoff debt was mostly unsecured notes totaling \$1.08B.
- A equity cushion has to exist before unsecured creditors will invest.
- Overvaluing assets creates a greater apparent equity cushion.
- Therefore, to spin off assets that could not be previously sold on the open market, if a parent company is to be paid by spinoff debt issuances, the parent company has to overvalue assets in the spinoff to be able to get a payment close to their deemed market value for the unsaleable assets. [1]
- Overvaluing assets allows the transfer of more debt from the parent to the spinoff.

Relatively High Amount of Debt Transfer

Noble Pro Forma Balance Sheet as of December 31, 2013

	Noble Historical	Paragon Offshore	Noble Pro Forma	Percentage Transfer
Property and equipment, net:	14,558,090	(2,961,825)	11,596,265	20%
Long-term debt:	5,556,251	(1,561,141)	3,995,110	28%

- Noble transferred 20% of asset value to Paragon.
- However, Noble transferred 28% of long term debt to Paragon.
- Considering the asset overvaluation:
 - The true asset percentage transfer is even lower.
 - The debt transfer relative to asset value is even higher.

Who designed the Spinoff?

- Noble's Chief Financial Officer (CFO), James MacLennan, appears to be the architect of the spinoff.
- James MacLennan was the initial board member and Principle Executive Officer of Paragon Offshore and involved in the Paragon S/1 filing. [1]
- James MacLennan was the signer of the Term Loan agreement. [2]
- The CFO of a parent company (Noble) would have incentive to load up the spinoff company (Paragon Offshore) with as much debt as possible to improve the financial health of the parent company. [3]
- **Between December 31, 2012 and December 31, 2013, spinoff company debt climbed from \$340M to \$1.56B, and then climbed to \$2.27B by June 30, 2014. [4]**

Did Noble commit Constructive Fraudulent Transfer?

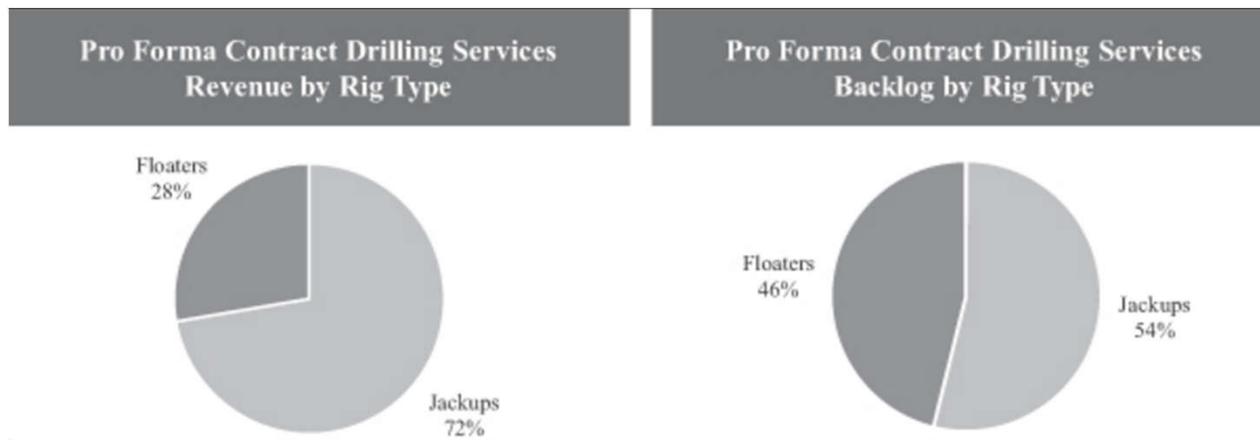
- Constructive Fraudulent Transfer can be challenged under Section 548 of the Bankruptcy Code if it occurred within 2 years of SpinCo's bankruptcy filing. [1]
- Paragon's Chapter 11 filing occurred 17 months after spinoff from Noble.
- For a spin-off to be adjudicated a constructive fraudulent transfer, the debtor in possession or trustee must prove by a preponderance of the evidence that:
 - SpinCo (Paragon) did not receive "reasonably equivalent value" in exchange for the consideration paid to Parent (Noble)
 - SpinCo was insolvent on the date of the transfer (August 2014)
- Section 101(32)(A) of the Bankruptcy Code defines "insolvent" for entities such as corporations and individuals as the "financial condition such that the sum of such entity's debts is greater than all of such entity's property, at fair valuation." [2]
- The "fair value" of a debtor's assets is the fair market price that could be obtained if the assets were sold in a prudent manner in a reasonable period of time [3].
- The IRS definition of "fair market value" is the price that property would sell for on the open market. It is the price that would be agreed on between a willing buyer and a willing seller, with neither being required to act, and both having reasonable knowledge of the relevant facts. [4]

Fair Market Value of Transferred Assets

- Paragon paid \$1.73B via debt for 34 standard spec jackups and 9 floaters, 2,500 employees, associated contracts plus the previous tax liabilities.
- The transferred Mexico tax liabilities alone were \$266M for years 2005 to 2010. [1]
- The consideration Paragon paid to Noble was therefore $\$1.73\text{B} + \$266\text{M} = \$1,996\text{M}$.
- For the fair market value comparison, in 2012 Transocean sold 38 standard spec jackup rigs on the open market with average age of 35 years, 3,500 employees and associated contracts for \$1.05B. The estimated comparable market value for each jackup is therefore \$27.63M ($\$1.05\text{B} / 38$).
- The 34 transferred jackups should have a fair market value of \$939M ($\$27.63\text{M} \times 34$).
- **Constructive Fraudulent Transfer can be answered by one of these questions:**
 - Could Paragon have sold the transferred rigs for \$1,996M on the open market immediately after spinoff?
 - Did Paragon receive \$1,057M in value ($\$1,996\text{M} - \939M) for the 9 floaters?
 - **More simply, were the 34 jackups worth more than the 9 floaters, where one-third of the floaters were cold-stacked for years and unemployable?**

Were the 34 Jackups worth more than the 9 Floaters?

When considering Revenue and Backlog before spinoff, the jackups were worth more than the floaters: [1]



Therefore, there may be constructive fraudulent transfer when considering comparable market sales:

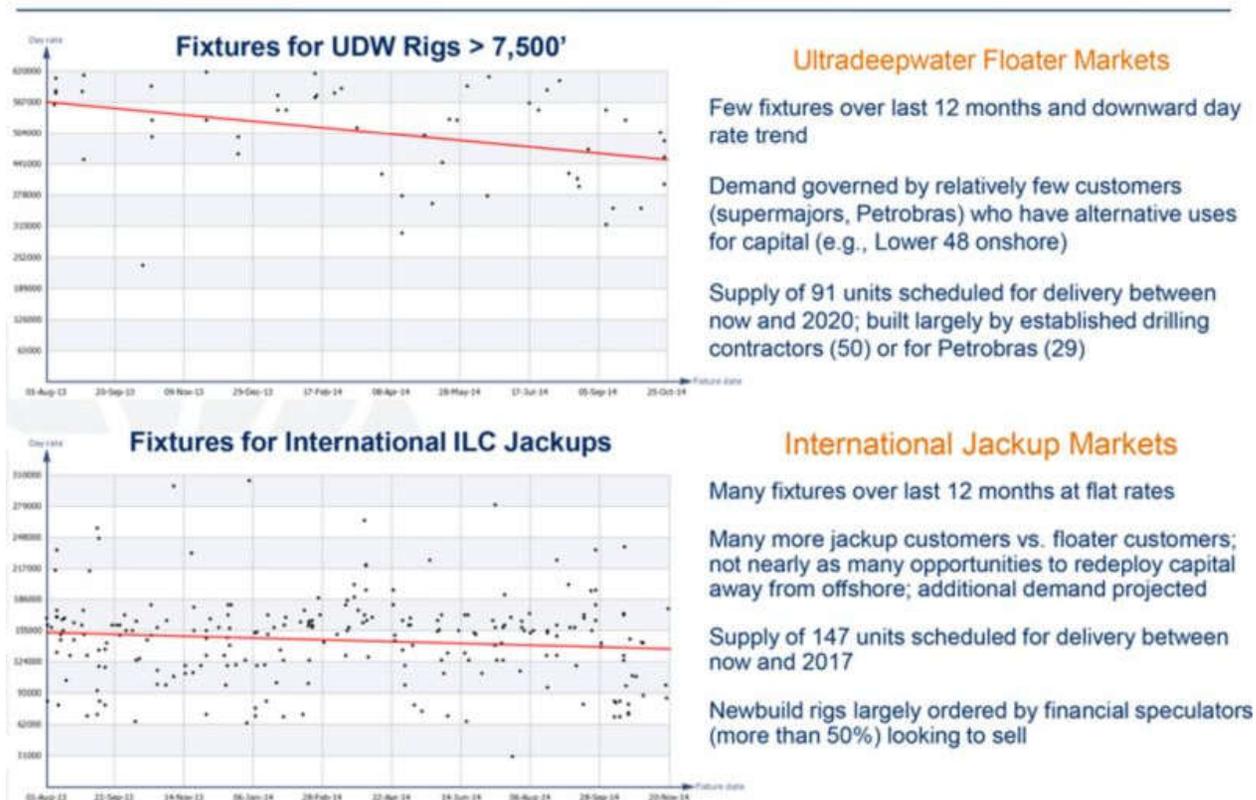
- Jackup value of \$939M + floater market value of less than \$939M = less than \$1,878M for market value of transferred assets.
- The consideration Paragon paid to Noble was \$1,996M.
- \$1,878M is less than \$1,996M, which indicates constructive fraudulent transfer.

Evidence the 34 Jackups were worth more than the 9 Floaters

- One third of the transferred floaters were cold-stacked for years and unemployable:
 - *The FPSO last worked in 2010 and was cold stacked since 2011.*
 - *The DPDS4 drillship and MSS3 semisub were cold stacked since 2012.*
- The DPDS1/2/3 drillships and MSS2 semisub were working in the declining Brazil region with high operating costs, affecting drilling profitability.
- The MDS1 drillship was low spec and had low dayrates in India.
- The MSS1 semisub was in the decent North Sea location.
- Gen 2 and Gen 3 floaters were in global oversupply, with a good chance of not finding contract work after the current contract was finished.
- Transocean was unable to spin off 8 older floaters in 2014. [1]
- Most of today's asset value is in the jackup rigs, and very little value is in the older floaters.

Paragon admits future was brighter for Jackups than Floaters

Differences Between Floater and Jackup Markets



Another Potential Comparable Market Sale

- Paragon testified that Noble tried to sell some spinoff assets in 2011/2012. [1]
- If the sales price was agreed upon with the prospective buyer, but the transaction failed due to other reasons, this transaction information could:
 - **Establish what Noble really thought the rigs were worth.**
 - Help compare the agreed-upon sales price of these rigs to the rig values that Noble and Houlihan Lokey assigned and presented to the Paragon creditors.
 - Help establish what rigs were actually saleable.

Severity of Constructive Fraudulent Transfer

- Committing constructive fraudulent transfer typically incurs severe damage awards.
- All creditors are usually entitled to full recovery.
- Treble damages may be awarded.
- Damage awards are payable by Noble to Paragon Offshore and its creditors.

Other Fraudulent Transfer Considerations

Constructive fraudulent transfer cases can result in valuation fights.

Therefore the following needs to be considered:

- The transferred tax liabilities from other regions, including Brazil.
- Other liabilities from previous Noble actions, including penalties for bribery.
- Petrobras is now well known to have been a pay-to-play organization.
- The penalties for Petrobras bribery are severe, including contract cancellations and heavy government fines.
- Noble transferred all liabilities related to previous Brazil activities for the many Petrobras floaters that were transferred to Paragon. [1]

The suspicious timing of the Spinoff Acceleration

The spinoff was accelerated soon after Operation Lava Jato / Car Wash was announced in Brazil.

Date	Event
Feb 11, 2014	Noble CEO presents the “Paragon Offshore Spinoff Update” at Credit Suisse Energy Summit: Spinoff remains on track to complete by end of 2014 . [1]
March 17, 2014	Lava Jato / Operation Car Wash goes public in Brazil. [2]
March 24, 2014	Spinoff update at Weil Conference, IPO should be ready in the summer. [3]
April 11, 2014	Brazil’s Federal Police (PF) launches second phase of Lava Jato, makes searches at Petrobras headquarters for corruption intel and they do not need warrants to search. [4]
April 30, 2014	Noble abandons spinoff IPO, leaves \$395M tax-free cash on the table to accelerate the spinoff via a 100% share distribution. [5]

Why accelerate the spinoff if there was Petrobras bribery?

- Most of the spinoff asset value was tied to Petrobras drillships. [1]
- Noble's contracts with Petrobras could be canceled in cases of bribery. [2]
- Petrobras contract cancellations would destroy the spinoff value.
- Petrobras has also canceled contracts due to how favorable the contract was to the contractor [3].
- The DPDS2 and DPDS3 Petrobras contracts were unusual in that Noble was paid \$90K per day while the drillships were in the shipyard getting upgrades. [4]

Where could have Petrobras bribery occurred?

- The DPDS2 and DPDS3 drillships were upgraded in the Keppel BrasFELS shipyard. [1]
- The drillships might only get future Petrobras work if they were upgraded.
- The upgrade contracts were signed around 2009.
- Zwi Skornicki was the Brazil commercial agent for Keppel since the 1990s.
- Zwi Skornicki supplied \$40M to Petrobras directors between 2003 and 2013. [2]
- Whether Noble committed fraud with a commercial agent is still TBD.

US FCPA versus UK Bribery Act

US Foreign Corrupt Practice Act (FCPA) of 1977	UK Bribery Act of 2010
<ul style="list-style-type: none">● Applies to bribing foreign officials.● Applies only to persons giving or offering a bribe and not to those accepting one.● Most commercial agents related to Petrobras were not foreign officials, and commercial agents are the receivers of bribes.	<ul style="list-style-type: none">● Applies to bribes offered or given to <u>any person</u>.● An offence to request, to agree to receive, or to accept a bribe.● Noble Corporation Plc is a UK company.● Foreign subsidiaries of UK companies are also subject to the UK Bribery Act [1].● Rolls Royce, a UK company, recently had to pay \$809M in fines related to Petrobras bribery [2].

Keeping Secrets Secret

Waiver of Jury Trial Agreement in the Existing Noble Settlement

Section 9.7. WAIVER OF JURY TRIAL. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT.

Keeping Secrets Secret, Continued

James MacLennan (Noble CFO & Spinoff Architect) mentions in Paragon's Amended S/1:

“Certain provisions in our articles of association are intended to have the effect of delaying or preventing a change in control of us or changes in our management. For example, we expect that our articles of association will include provisions that establish an advance notice procedure for shareholder approvals to be brought before an annual meeting of our shareholders, including proposed nominations of persons for election to our board of directors; and provide that vacancies on our board of directors may be filled only by the approval of a majority of directors then in office. **These provisions, alone or together, could delay or prevent hostile takeovers and changes in control or changes in our management, even if these events would be beneficial for our shareholders.**”

James MacLennan's Abrupt Departure

James MacLennan was the Noble CFO and the initial board member for Paragon Offshore, long before the other Paragon board members joined. He is likely the main architect of the Paragon Offshore spinoff. As the Noble CFO, he likely designed the Paragon spinoff for the maximum financial benefit of Noble.

Feb 14, 2016	Paragon Offshore files for Chapter 11, seventeen months after the spinoff. [1]
Feb 29, 2016	Noble CFO James MacLennan resigns abruptly. [2] Noble CEO David W. Williams states: "James has helped Noble position itself so that it can navigate the challenges facing the industry, and we wish him the best of luck in his future endeavors." [3]

Badges of Fraud

The following badges of fraud were also considered in the Tronox case: [1]

- The debtor retained possession or control of the property transferred after the transfer. [2]
- The transfer or obligation was disclosed or concealed. [3]
- The transfer was of substantially all the debtor's assets.
- The value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred. [4]
- The debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred.
- The transfer occurred shortly before or shortly after a substantial debt was incurred.

The Existing Noble Settlement

- Helps with bonding for Mexico tax issues. [1]
- Assumes certain tax obligations with Mexican taxes.
- Releases Noble from Fraudulent Transfer claims.
- Indemnifies both Noble and Paragon Directors. [2]
- May be worthless to Paragon now due to:
 - Mexico not being a focus region anymore per POR3.
 - Recent plans to scrap the associated Pemex drilling rigs.
 - Potential restructuring away of Mexico-related corporate entities.

Richard Goldman, Legal Analyst, continued:

“Back in October 2015, Debtwire’s legal analyst team examined Paragon’s August 2014 USD 1.7bn spinoff from Noble Corp. As part of its analysis, the legal team reviewed the fraudco elements under Bankruptcy Code section 548 and compared Noble’s spinoff of Paragon to Anadarko’s 2006 spinoff of Tronox. Opposite of Paragon, Tronox actually challenged its spinoff after filing for bankruptcy in 2009, which resulted in Judge Gropper of the SDNY issuing a damages award ranging from USD 5.15bn to USD 14.46bn.

Although Paragon or any other party in interest could attempt to argue that the Noble spinoff set Paragon to fail, crippling it with unserviceable debt and subpar assets for the sole benefit of Noble in an effort to evade its creditors, Paragon appears to be taking the path of least resistance and settling. **My problem with the settlement is the consideration.** Given the spinoff saddled Paragon with almost USD 2bn in debt, the contingent tax liability assumption, which at worst would only accrue to, I’m sure Paragon will be prepared to argue that fraudco spinoff litigation is timely, intensive, costly, unpredictable and disttens of millions of dollars, coupled with Noble receiving a comprehensive buffet of releases, **just seems light.**”

“But that is where a creditors’ committee typically comes into play - to provide a balance that checks against Paragon’s possibly hasty settlement with Noble.”

Even Noble agrees...

Noble 2016 Annual Report:

On January 18, 2017, Paragon Offshore announced that it had reached an agreement in principle with an ad hoc committee of secured debt holders on a term sheet to support a new bankruptcy plan. The term sheet contemplates that the existing settlement agreement between Noble and Paragon Offshore will be adopted under the new bankruptcy plan. Paragon Offshore also stated that it will seek to obtain court approval of the new bankruptcy plan as soon as possible in the first half of 2017. **Paragon Offshore's unsecured creditors are not parties to the agreement in principle, and have formed an ad hoc committee which we expect to oppose Paragon's new bankruptcy plan, including our settlement agreement.** There can be no assurance that the bankruptcy court will ultimately approve our settlement agreement with Paragon Offshore or Paragon Offshore's bankruptcy plan or that our settlement agreement will continue to be a part of their bankruptcy plan. If for any reason the agreement is not approved by the bankruptcy court or included in their plan or Paragon Offshore fails to exit bankruptcy, **Paragon Offshore or its creditors could become adverse to us in any potential litigation relating to the Spin-off, including any alleged fraudulent conveyance claim in connection with the creation of Paragon Offshore as a stand-alone entity.**

Conclusion

Both shareholders and creditors were defrauded by Noble due to at least a \$1.1 Billion overvaluation of Paragon Offshore equity, and by Noble not disclosing the magnitude of the Spinoff's Mexico tax liabilities of \$266M or the magnitude of Brazil's problems.

Constructive fraudulent transfer may have occurred, entitling creditors to a full recovery.

Equity and creditors need to work together to pursue a better Noble Settlement.

Now is the time for a Noble pursuit.