

CAUSE NO. 153 250882 11

SOUTHWEST FORT WORTH  
ALLIANCE,

Plaintiff,

vs.

VANTAGE ENERGY, LLC,

Defendant.

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IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

\_\_\_\_ JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES the Southwest Fort Worth Alliance, Plaintiff herein, complaining of and about VANTAGE ENERGY, LLC, Defendant, and for cause of action would show unto the Court the following:

**I.**  
**DISCOVERY CONTROL PLAN**

1. Plaintiff intends that discovery be conducted under Discovery Level 3.

**II.**  
**PARTIES AND SERVICE**

2. Plaintiff is an unincorporated business association in Tarrant County, Texas.
3. Defendant Vantage Energy, LLC is a Delaware limited liability company that is not registered with the Texas Secretary of State but conducts business in Texas. Therefore, under the Texas Long-Arm Statute, this nonresident Defendant may be served by and through the Texas Secretary of State which may then forward the citation and copy of the Plaintiff's Original Petition and Request for Disclosure by certified mail, return receipt requested, to Vantage's principal place of business, c/o Roger J. Biemans, CEO, 116 Inverness Drive East, Suite 107, Englewood, Colorado 80112-5125

FILED  
TARRANT COUNTY  
2011 FEB -7 PM 4:03  
THOMAS A. WILDE  
DISTRICT CLERK

**III.**  
**JURISDICTION AND VENUE**

4. Pursuant to § 15.002 *et seq.* of the Texas Civil Practice and Remedies Code, venue is proper in Tarrant County, Texas, because the cause of action accrued in Tarrant County, Texas. Jurisdiction is proper in this Court as the damages sought are within the jurisdictional limits.

**IV.**  
**FACTS**

5. The Southwest Fort Worth Alliance (hereinafter “SFWA”) is a Texas unincorporated business association that was founded in 2008 for the purpose of negotiating the very best gas lease possible for its member mineral owners. At the time of its founding, it included mineral owners in thirteen neighborhood associations, homeowners associations, and organized groups of mineral owners in Fort Worth, Texas. Recognizing that there was “strength in numbers,” they formed for the common purpose of leveling the playing field between the individual mineral owners and the billion-dollar gas companies. The member neighborhood groups elected or appointed chairpersons to act on their behalf with the SFWA. These chairpersons elected spokespersons to speak on behalf of the SFWA, and the SFWA appointed lease and negotiations committees. At the time of its formation, its member mineral owners, as a group, were poised to offer thousands of acres of potential leases and drill sites to the gas companies. Over the course of 2008, as mineral owners in additional neighborhoods were granted permission to join SFWA, it grew to include twenty-eight neighborhoods comprised of thousands of mineral owners who owned between seven and eight thousand acres of property in Fort Worth, Texas.

6. By June of 2008, SFWA was ready to begin negotiations. It contacted three natural gas development companies that were actively seeking gas leases in the Barnett Shale, and in the following month, SFWA sent each of these companies a gas lease that SFWA had drafted for its

member mineral owners. This triggered a number of meetings between the SFWA negotiations committee and the gas companies.

7. As these meetings progressed and the negotiations matured, a new gas company, Vantage Energy, LLC (hereinafter "Vantage"), entered the picture. On August 1, 2008, a representative of Vantage contacted SFWA and advised that Vantage was interested in meeting with SFWA.

8. On August 2, 2008, John Werhle, VP of Vantage, emailed SFWA and advised that he and Roger Biemans, the CEO of Vantage, wanted to meet with SFWA representatives to discuss how Vantage could possibly provide a "valuable alternative to [SFWA's] existing options." Given that Vantage was a relative newcomer to the Barnett Shale frenzy and that SFWA had been in negotiations with the other gas companies for months, Vantage knew that it had to "move quickly" if it wanted to have the opportunity to make a play in the Barnett Shale as big as what SFWA had to offer. In an effort to demonstrate that it had the financial capacity to compete with the other gas companies, Vantage provided SFWA a press release wherein it advertised that it had received \$470 million in equity funding from investors who were worth billions.

9. The following week, representatives from SFWA met with John Wehrle and Roger Beimans who flew in from Denver, Colorado to begin courting SFWA. Discussions over a proposed gas lease began, and those discussions progressed to negotiations. At the heart of the negotiations was a proposed gas lease (hereinafter "the SFWA Gas Lease") which would be offered by Vantage to SFWA mineral owners and endorsed by SFWA if Vantage and SFWA could come to terms on the agreement.

10. By mid-August of 2008, Vantage had not yet made an offer to SFWA, and it was becoming apparent that if an offer was not made, then SFWA was going to have no choice but to move forward with the other gas companies who were offering leases to SFWA. On August 12,

2008, John Wehrle emailed SFWA stating that SFWA should begin “counting down the hours” as Vantage was presenting a proposed offer to its board of directors and requesting permission to make the proposed offer to SFWA. The following day, on August 13, 2008, Vantage made its offer to SFWA which included, among other things, a bonus of \$27,500 per net mineral acre, a 23% royalty with no fees deducted, and \$1,000,000 to be paid to the neighborhoods whose members comprised the SFWA.

11. During the evening of August 13, 2008, SFWA representatives met to discuss the offers that had been received from Vantage and the other oil and gas companies. After considerable debate, SFWA representatives elected to continue negotiations in an effort to finalize an offer from Vantage.

12. On August 14, 2008, SFWA spoke with Roger Biemans to advise him of the decision made by SFWA to move forward with Vantage and not another oil and gas company. During that conversation, Roger Biemans mentioned that there were areas within SFWA that were less appealing to Vantage than other areas within SFWA. It was determined that Vantage and SFWA would review maps and discuss how to move forward with those areas, if at all.

13. For the next two weeks, SFWA and Vantage representatives and attorneys spent countless hours negotiating various aspects of a proposed agreement. On August 18, 2008, John Wehrle of Vantage sent an email to SFWA which contained, among other documents, a Memorandum of Understanding as well as the current version of the SFWA Gas Lease that was being negotiated between the parties. Per the express terms of the Memorandum of Understanding which was signed by Roger Biemans, Vantage was offering to “donate up to a total of ONE MILLION DOLLARS (\$1,000,000) to the neighborhoods that form the SWFWA (sic) for the purpose of improving the neighborhood.”

14. As negotiations between SFWA and Vantage continued, Vantage identified seven neighborhoods within SFWA which were unappealing to Vantage, and it stated that it would not be willing to offer the SFWA Gas Lease to mineral owners within those neighborhoods. SFWA representatives quickly recognized that this could become a deal-breaker, because it would drive a wedge between the SFWA members. On August 21, 2008, a conference was held between John Wehrle and SFWA to discuss this very important issue, and different possibilities were considered. Later that day, a second conference was held between John Wehrle and SFWA wherein a tentative agreement was reached to allow Vantage to offer the SFWA Gas Lease to all neighborhoods within SFWA. Per the terms of the tentative agreement, Vantage would offer the SFWA Gas Lease to all neighborhoods within SFWA in exchange for being relieved of \$850,000 of the \$1,000,000 to be paid to the neighborhoods as reflected in the Memorandum of Understanding.

15. On August 22, 2008, another conference was held between SFWA and John Wehrle of Vantage. During this call, Vantage announced that it would agree to offer the SFWA Gas Lease to all neighborhoods within SFWA, and Vantage agreed to donate \$500,000 (as opposed to the \$1,000,000 reflected in the original Memorandum of Understanding) to the neighborhoods within SFWA. This announcement was forwarded in written form by John Wehrle to SFWA later that morning by email. The revised Memorandum of Understanding stated that Vantage would donate “up to a total of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) to the neighborhoods that form the SWFWA (sic) for the purpose of reimbursing the SWFWA (sic) expenses and improving the neighborhood.” Vantage’s concession to offer the SFWA Gas Lease to all the neighborhoods within SFWA formed the core of the economic aspects of the agreement with SFWA.

16. On August 22, 2008 at 11:25 AM CST, SFWA emailed John Wehrle and requested permission to announce that SFWA had accepted the Vantage offer. Specifically, the email requested Vantage's permission to issue an announcement to its neighborhoods that stated as follows: "The Southwest Fort Worth Alliance is pleased to announce that is (sic) has received a superior offer and lease from Vantage Energy, LLC." The email also requested Vantage's permission for SFWA to announce that the offer had been accepted.

17. On August 22, 2008 at 11:29 AM CST, John Wehrle responded by email on behalf of Vantage stating "the statement is acceptable to announcing that the offer has been accepted. Congratulations – we are very excited to work with everyone." By separate email, John Wehrle advised that Vantage believed a newspaper release stating that SFWA had accepted Vantage's offer would be worthwhile for SFWA's mineral owners.

18. Although the economic terms of the agreement between SFWA and Vantage had been reached, negotiations continued between Vantage and SFWA over the specific details of the SFWA Gas Lease. While these negotiations continued, SFWA representatives began working with the Caffey Group (hereinafter "Caffey"), a company selected by Vantage to assist in obtaining mineral owners' signatures on the SFWA Gas Lease. Caffey began distributing flyers throughout SFWA in order to advise the terms of the SFWA Gas Lease. At the same time, Vantage began prioritizing the various neighborhoods within SFWA that it wanted to begin leasing. On August 28, 2008, Lucas Knickerbocker, Caffey's senior project manager e-mailed, SFWA a copy of a spreadsheet created by Vantage's CEO, Roger Biemans, sometime before August 20, 2008. This spreadsheet set forth Vantage's assessment of each of the SFWA neighborhoods' leasing desirability and a corresponding leasing priority. SFWA and Caffey also began arranging signing meetings which would be held to facilitate mass signings of the SFWA

Gas Lease. SFWA representatives, as a result of discussions with Vantage and Caffey, also worked diligently to encourage its residents to refrain from signing leases with any gas company until the final SFWA Gas Lease was complete.

19. By August 28, 2008, Vantage and SFWA began discussions about whether unleased mineral interest owners in two additional neighborhoods, Overton Woods and Tanglewood Park Homes, would also receive the opportunity to accept or reject an offer to lease from Vantage. Within a day after such discussions, Vantage e-mailed SFWA stating that it had agreed to make the opportunity to lease available to all neighborhoods including Overton Woods and Tanglewood Park Homes.

20. Discussions between Vantage and SFWA continued, and by September 7, 2008, Vantage and SFWA agreed that another two neighborhoods, Overton Parks and Tanglewood, would receive the opportunity to accept or reject the same offer from Vantage to lease their unleased mineral estate interests.

21. By September 8, 2008, Vantage and SFWA had arrived at a point in their negotiations where a proposed news release was e-mailed from SFWA to Vantage. This proposed news release stated, in part:

**THE SOUTHWEST FORT WORTH ALLIANCE & VANTAGE ENERGY**

The Southwest Fort Worth Alliance (SFWA), Vantage Energy, and Caffey Group are pleased to announce The Southwest Fort Worth Alliance's acceptance of Vantage Energy's proposed and accepted offer and lease and that Vantage Energy is the Alliance's preferred and endorsed Natural Gas Developer.

Vantage Energy has won the bid for endorsement of The Southwest Fort Worth Alliance's twenty-five member neighborhoods, with an initial three-year term bonus offer of \$27,500.00 and an optional two year term for a matching \$27,500 per acre.

The Southwest Fort Worth Alliance's experience, negotiations, and discussions with Vantage Energy were based upon considerable mutual respect, surprisingly open and honest discussions, and were gracious and pleasant at every interval.

Vantage Energy's willingness to work with community leaders, to truly address concerns for the safety and preservation of our neighborhoods and environment was exactly what The Southwest Fort Worth Alliance was seeking in a natural gas development partner.

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Among the other above and beyond concessions, the agreed 23% true no cost royalty interest and revenue to mineral owners, will be free of any and all typically deducted, constantly rising costs including third party transportation or market enhancement costs, and will only be deducted proportionate, applicable taxes as governed and mandated by law.

The following neighborhoods are CONGRATULATED in receiving Vantage Energy's/Caffey Group's Superior Offer:

Signing Events Begin This Week and residents will be contacted with their scheduled date.

Candleridge West	Foster Park	Hallmark Camelot
Meadow Creek	Meadow Creek South	MeadowCreek Southgate
Meadows of Candleridge	Overton Park	Overton South
Overton West	Overton Woods	Ridgeview Estates
South Hills Gas Group	Summer Creek Meadows	Summer Creek Ranch
Tanglewood Park	Trail Lake Estates	Villages of Sunset Pointe
Wedgwood	Wedgwood Central	Wedgwood East
Wedgwood Middle	Wedgwood West	Wedgwood Square N.E.Z.
Westcliff	Westcliff West	

Shortly thereafter Vantage e-mailed SFWA finalizing the announcement language.

22. On September 9, 2008, Vantage e-mailed SFWA confirming that agreement had been reached on the finalized terms of the lease form to be offered to each unleased mineral estate interest owner in SFWA and enclosed a copy of the finalized lease form.

23. On September 15, 2008, Vantage e-mailed SFWA advising that Vantage was "making the offer to all of the Alliance neighborhoods."

24. Vantage confirmed the existence of its agreement with SFWA in an e-mail dated September 17, 2008 from Wehrle to Dennis Moser, wherein he attached a map he called the “Southwest Fort Worth Alliance neighborhood map” and told Mr. Moser “Dennis-you may have heard that we were (finally) endorsed as the preferred lessee in this alliance of 15 neighborhoods...Thanks in advance-I’ve attached a Google map so you know where we are leasing.”

25. Over the course of the next several weeks, a number of gas lease signing events occurred, and as it agreed to do, Vantage offered the SFWA Gas Lease to the unleased mineral estate owners in SFWA. However, given the sheer number of unleased mineral estate owners within SFWA, it was taking time to coordinate signings to allow all mineral owners to sign the SFWA Gas Lease.

26. SFWA continued to work diligently and kept its end of the bargain with Vantage by coordinating signings and promoting Vantage. However, unbeknownst to SFWA, Vantage had no intent of honoring its agreement with SFWA. On October 14, 2008, Vantage called an emergency meeting with SFWA. During that meeting, Vantage advised SFWA that it was immediately suspending all signings that were scheduled, and it was not going to honor its commitment to offer the SFWA Gas Lease to all mineral owners within SFWA. In fact, other than honoring the SFWA Gas Leases that had already been signed, Vantage stated that it was not going to honor any of the terms of its agreement with SFWA.

27. On October 14, 2008, Vantage issued an “Open Letter” to the mineral owners of SFWA. In that letter, Vantage confirmed that it was “no longer possible for Vantage to lease acreage on a broad scale in the SFWA area at the current terms being offered.” It further confirmed that it

was “canceling all scheduled lease signings after October 14, 2008 . . . .” Of significance, it also noted that SFWA was “not responsible in any way for the outcome . . . .”

28. To date, Vantage continues to refuse to honor its agreement with SFWA.

**V.**  
**CAUSE OF ACTION**

29. Plaintiff hereby re-alleges and incorporates by reference the preceding paragraphs.

30. The Plaintiff entered into a contract with Defendant as described herein. Each of the necessary elements existed to create a contract. There was an offer by Vantage. The offer was accepted by SFWA. There was a meeting of the minds as to the terms of the contract and a legal purpose/objective to the contract, and consideration was given by both the Plaintiff and the Defendant. The Plaintiff performed under the contract and met all obligations under the contract. However, the Defendant breached the contract and refused to perform. This constituted a breach of contract for which the Plaintiff now sues.

31. Each of the aforementioned actions and inactions, singularly or in combination with others, constituted a breach of contract and was a proximate cause of the Plaintiff’s damages for which it now sues.

**VI.**  
**DAMAGES**

32. As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff sustained damages. These damages are as follows:

- a. Actual damages;
- b. Attorney’s fees and costs.

33. In addition to the aforementioned, the Plaintiff sues for specific performance. The Plaintiff requests that the Defendant be ordered to comply with the terms of the agreement it

negotiated including making the SFWA Gas Lease available to all mineral owners within the SFWA region as it agreed to do.

**VII.**  
**REQUEST FOR DISCLOSURE**

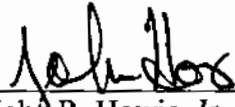
34. Pursuant to Tex. R. Civ. P. 194, Defendant is requested to disclose to Plaintiff, no later than fifty (50) days of service of this request, the information or material described in Rule 194.2(a) through (k) to be produced at the offices of John R. Howie, Jr., Howie Law, PC, 4040 N. Central Expwy, Suite 850, Dallas, Texas 75204.

**VIII.**  
**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully requests that Defendant be cited to appear and answer herein and, upon final hearing hereof, Plaintiff have:

- a. Judgment against Defendant for the actual and special damages suffered by Plaintiff as a result of the Defendant's breach of contract in an amount in excess of the minimum jurisdictional limits of the Court;
- b. Attorney's fees and costs of suit;
- c. Prejudgment and post judgment interest as provided by law; and
- d. Such other and further relief to which Plaintiff may be justly entitled.

Respectfully submitted,



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John R. Howie, Jr.  
State Bar No. 24027239  
HOWIE LAW, P.C.  
4040 N. Central Expressway, Suite 850  
Dallas, Texas 75204  
214/622-6340; 214/622-6341 Fax

Attorney for Plaintiff



John R. Howie, Jr.  
Attorney at Law

February 7, 2011

153 250882 11

Thomas Wilder  
Tarrant County District Clerk  
Tim Curry Justice Center  
3rd Floor  
401 W. Belknap  
Fort Worth, TX 76196

Re: *Southwest Fort Worth Alliance v. Vantage Energy, LLC*

Dear Mr. Wilder:

Enclosed for filing is Plaintiff's Original Petition and Request for Disclosure in the above-referenced matter. Please file-mark a copy and return to our courier.

Please issue one citation for Defendant Vantage Energy, LLC and return to our office in the enclosed self-addressed, stamped envelope.

Enclosed is our check in the amount of \$257.00 to cover your fees.

Sincerely,

Debbie Lupu  
Legal Assistant

Enclosure

FILED  
TARRANT COUNTY  
2011 FEB -7 PM 4:03  
THOMAS A. WILDER  
DISTRICT CLERK

02/07/11 (Date)  
sent a copy of letter  
To Doc prod RL (initials).