

CAUSE NO. 017 246411 10

LOWELL D. BAXTER and wife, RONDA W. §  
BAXTER, ROBERT J. BECK and wife, REVA §  
JEAN BECK, RICHARD B. BENDER II and §  
wife, NORA N. BENDER, DANNY JOE §  
BOWERS, SR and wife, VIRGINIA ANN §  
BOWERS, SARA JEAN STURGES BRIAN and §  
CLAY CARBALLO and wife, STEPHANIE §  
DAWSON CARBALLO, §  
Plaintiffs, §

v. §

VANTAGE ENERGY, LLC, QUANTUM §  
ENERGY PARTNERS, RIVERSTONE §  
HOLDINGS, LLC Individually and/or d/b/a §  
CARLYLE/RIVERSTONE, THE CARLYLE §  
GROUP, LP, Individually and/or d/b/a §  
CARLYLE/RIVERSTONE, LIME ROCK §  
PARTNERS and, THE CAFFEY GROUP, LLC §  
Defendants. §

IN THE DISTRICT COURT OF

TARRANT COUNTY, TEXAS

FILED  
TARRANT COUNTY  
2010 JUN 29 PM 4:02  
THOMAS A. WILDE  
DISTRICT CLERK

\_\_\_\_ th JUDICIAL DISTRICT

**PLAINTIFFS' ORIGINAL PETITION**

NOW COMES Lowell D. Baxter and wife, Ronda W. Baxter, Robert J. Beck and wife, Reva Jean Beck, Richard B. Bender II and wife, Nora N. Bender, Danny Joe Bowers, Sr. and wife, Virginia Ann Bowers, Sara Jean Sturges Brian and Clay Carballo and wife, Stephanie Dawson Carballo, Plaintiffs herein, complaining of VANTAGE ENERGY, LLC, QUANTUM ENERGY PARTNERS, THE CARLYLE GROUP, individually and/or d/b/a CARLYLE/RIVERSTONE, RIVERSTONE HOLDINGS, LLC, individually and/or d/b/a CARLYLE/RIVERSTONE, LIME ROCK PARTNERS and, THE CAFFEY GROUP, LLC and for cause of action would show this Honorable Court as follows:

**1.0 Discovery Level**

1.01 Plaintiffs intend to conduct discovery in this case as a Level 3 case pursuant to Rule 190.3 of the Texas Rules of Civil Procedure.

**2.0 Jurisdiction and Venue**

2.01 Jurisdiction is proper in this Court as the amount in controversy is within the jurisdictional limits of this Court.

2.02 Venue is proper in this County pursuant to Section 15.001 *et seq.* of the Texas Civil Practice and Remedies Code as one or more of the Defendants is a resident of this County.

**3.0 Parties**

3.01 Plaintiffs Lowell D. Baxter and wife, Ronda W. Baxter, are individual residents of Tarrant County, Texas. The last three digits of Lowell D. Baxter's social security number are [REDACTED] and the last three digits of his driver's license number are [REDACTED]. The last three digits of Ronda W. Baxter's social security number are [REDACTED] and the last three digits of her driver's license number are [REDACTED].

3.02 Plaintiffs Robert J. Beck and wife, Reva Jean Beck, are individual residents of Tarrant County, Texas. The last three digits of Robert J. Beck's social security number are [REDACTED] and the last three digits of his driver's license number are [REDACTED]. The last three digits of Reva Jean Beck's social security number are [REDACTED] and the last three digits of her driver's license number are [REDACTED].

3.03 Plaintiffs Richard B. Bender II and wife, Nora N. Bender, are individual residents of Tarrant County, Texas. The last three digits of Richard B. Bender's social security number are [REDACTED] and the last three digits of his driver's license number are [REDACTED]. The last

three digits of Nora N. Bender's social security number are [REDACTED] and the last three digits of her driver's license number are [REDACTED].

3.04 Plaintiffs Danny Joe Bowers, Sr. and wife, Virginia Ann Bowers are individual residents of Tarrant County, Texas. The last three digits of Danny Joe Bowers, Sr.'s social security number are [REDACTED], and the last three digits of his driver's license number are [REDACTED]. The last three digits of Virginia Ann Bowers' social security number are [REDACTED] and the last three digits of her driver's license number are [REDACTED].

3.05 Plaintiff Sara Jean Sturges Brian is an individual resident of Tarrant County, Texas. The last three digits of Sara Jean Sturges Brian's social security number are [REDACTED] and the last three digits of her driver's license number are [REDACTED].

3.06 Plaintiffs Clay Carballo and wife, Stephanie Dawson Carballo, and are individual residents of Tarrant County, Texas. The last three digits of Clay Carballo's social security number are [REDACTED] and the last three digits of his driver's license number are [REDACTED]. The last three digits of Stephanie Dawson Carballo's social security number are [REDACTED] and the last three digits of her driver's license number are [REDACTED].

3.07 Defendant Vantage Energy, LLC ("Vantage") is a Delaware limited liability company that is registered to do business in the State of Texas but which does not maintain a registered agent for service of process in the State of Texas. Accordingly, it has deemed to have designated the Texas Secretary of State as its agent for service of process. Vantage can be served with process through their agent, the Texas Secretary of State, which can then forward the citation and copy of the Plaintiff's Original Petition together with all other documents, 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.

- 3.08 Defendant Quantum Energy Partners, LP (“Quantum”) is a foreign limited partnership which is registered to do business in the State of Texas and can be served through its registered agent for service of process, James V. Baird, 1401 McKinney Street, Suite 2700777, Houston, Texas 75010-4034.
- 3.09 Defendant The Carlyle Group, LP (“Carlyle”), individually and/or d/b/a Carlyle/Riverstone, is a foreign limited partnership which is apparently not licensed and/or registered to do business in the State of Texas, and is therefore deemed to have appointed the Texas Secretary of State as its agent for service of process. Carlyle can be served with process through its agent for service of process, the Texas Secretary of State which can then forward citation, together with all pleadings and discovery filed therewith, by certified mail, return receipt requested, to Carlyle’s principal place of business at 1001 Pennsylvania Ave. NW, Washington, DC, 20004.
- 3.10 Defendant Riverstone Holdings, LLC (“Riverstone”), individually and/or d/b/a Carlyle/Riverstone, is a Delaware Limited Liability Company which is apparently not licensed and/or registered to do business in the State of Texas, and is therefore deemed to have appointed the Texas Secretary of State as its agent for service of process. Riverstone can be served with process through its agent for service of process, the Texas Secretary of State which can then forward citation, together with all pleadings and discovery filed therewith, by certified mail, return receipt requested, to Riverstone’s principal place of business at 712 Fifth Avenue, 51st Floor, New York, New York 10019.

3.11 Defendant Lime Rock Partners (“Lime Rock”) appears to be a foreign entity which is not registered to do business in the State of Texas but which maintains an office in Houston, Texas. Accordingly, Lime Rock is deemed to have appointed the Texas Secretary of State as its agent for service of process. Lime Rock can be served with process through its agent for service of process, the Texas Secretary of State which can then forward citation, together with all pleadings and discovery filed therewith, by certified mail, return receipt requested, to Lime Rock’s offices at Heritage Plaza, Suite 4600, 1111 Bagby Street Houston, Texas 77002.

3.12 Defendant The Caffey Group, LLC (“Caffey”) is a foreign limited liability corporation, which is licensed to do business in the State of Texas, and can be served through their registered agent for service of process, Mark Caffey, 309 West 7th Street, Suite 400, Fort Worth, Texas 76102.

#### **4.0 Factual Background**

4.01 Plaintiffs Lowell D. Baxter and wife, Ronda W. Baxter, are the owners of the mineral estate in the real property known as [REDACTED] [REDACTED] which is part of the South Hills Addition (“the Baxter Property”).

4.02 Plaintiffs Robert J. Beck and wife, Reva Jean Beck, are the owners of the mineral estate in the real property known as [REDACTED] which is part of the South Hills Addition (“the Beck Property”).

4.03 Plaintiffs Richard B. Bender and wife, Nora N. Bender, are the owners of the mineral estate in the real property known as [REDACTED] which is part of the Wedgwood Addition (the “Bender Property”).

- 4.04 Plaintiffs Danny Joe Bowers, Sr. and wife, Virginia Ann Bowers, are the owners of the mineral estate in the real property known as [REDACTED] [REDACTED] which is part of the Wedgwood Addition ("the Bowers Property").
- 4.05 Plaintiff Sara Jean Sturges Brian is the owner of the mineral estate in the real property known as [REDACTED], which is part of the Wedgwood Addition ("the Brian Property").
- 4.06 Plaintiffs Clay Carballo and wife, Stephanie Dawson Carballo, are the owners of the mineral estate in the real property known as [REDACTED] [REDACTED], which is part of the Wedgwood Addition ("the Carballo Property").
- 4.07 This lawsuit arises as a result of Defendants Vantage and Caffey's deceptive and unconscionable acts and Vantage/Caffey's breach of a contractual agreement between the Plaintiff and Caffey due to Vantage/Caffey's failure and refusal to pay the agree upon bonus to Plaintiff.
- 4.08 The Baxter, Beck, Bender, Bowers, Brian and Carballo Properties (collectively referred to herein as "the Property") overlay the geographic strata known as the Newark East Field, commonly referred to as the Barnett Shale, a known and recognized formation which is characterized by prolific natural gas production.
- 4.09 Beginning in or about early 2007, Plaintiffs began receiving unsolicited offers to lease the Property for the production of oil, gas and other minerals from several different persons and entities purporting to represent various gas companies.
- 4.10 The Property also lies within the boundaries of the homeowners' coalition known as the Southwest Fort Worth Alliance ("SFWA"). SFWA is a coalition of homeowners, homeowners' associations and/or neighborhoods, including the Plaintiffs and other

homeowners, which are located in reasonable geographic proximity to each other and which agreed to cooperate with each other and to undertake negotiations with various oil and gas entities on behalf of the homeowners, whose lands are contained within its geographical boundaries for the leasing of such lands (including the Property), on the most economically favorable terms that SFWA could negotiate.

- 4.11 SFWA, on behalf of the Plaintiffs and others similarly situated, undertook negotiations with Chesapeake, XTO, Vantage, and others to acquire the most knowledgeable, skilled and experienced entity to maximize the recovery of Plaintiffs' minerals from the Property. Defendants represented that Vantage/Caffey was the most knowledgeable, skilled and experienced entity, and that it had the necessary financial means to maximize Plaintiffs' recovery of their mineral interests. Plaintiffs, by and through SFWA, sought to purchase or acquire such knowledge, skill and experience in order to maximize the recovery of their mineral estates, in exchange for a lease covering the Plaintiffs' Property. On or about August 31, 2008, SFWA and Vantage/Caffey agreed to the terms and conditions of a lease covering all lands within the SFWA geographical boundaries, including the Property.
- 4.12 Plaintiffs were notified of the agreement with SFWA and Vantage/Caffey, have accepted the terms that were offered, and have complied with every term of the contract. They have done everything Vantage/Caffey has asked of them.
- 4.13 Vantage/Caffey provided numerous goods and/or services that are customarily provided as part of such agreements including but not limited to, title work, arranging for lease signings, direct communications with homeowners, and paying the agreed bonus. Each of the Plaintiffs sought to acquire some or all of the services that Vantage/Caffey were to

provide. Each of the Plaintiffs sought to avail themselves of the services that Vantage/Caffey promised would be provided, and to determine when they would attend a signing event covering their property, and all were delayed by Vantage/Caffey.

- 4.14 The Defendants, each of them, acted in concert to authorize Vantage/Caffey to make representations to the SFWA alliance leadership and members, which were intended to be and were justifiably relied upon by the alliance leadership and members, in entering into the agreement with Vantage/Caffey. The acts and conduct of Vantage employees constitute the acts and conduct of Defendants Riverstone, Quantum, Carlyle and Lime Rock and such Defendants are liable for Vantages acts as if such Defendants had committed the acts or said those words. These concerted acts by the Defendants directly and proximately caused indivisible harm and injury to the Plaintiffs herein, and each of the Defendants is jointly and severally liable for the harm and injury caused.
- 4.15 Plaintiffs followed all instructions provided as requested by the Defendants, in good faith based upon the representations made by Vantage, Vantage's members, managers, officers and directors, by officers, directors and employees of Caffey, in their capacity as Vantage's agents, that Vantage/Caffey would lease their mineral interests and that they would receive the agreed upon bonuses. Plaintiffs reasonably relied upon such representations and did not accept other offers from other companies to lease the Property in reliance upon the Defendants' representations that Defendants had agreed to lease the Property. Plaintiffs have now lost the opportunity to lease to such other companies because the market has changed dramatically due, at least in part, to Defendants' conduct which Plaintiffs believe is in furtherance of a collusive agreement between each of the Defendants herein and others within the industry to drive down bonus payments.

**5.00 First Cause of Action - Breach of Contract and Specific Performance**

- 5.01 Plaintiffs incorporate Paragraphs 4.01 through 4.15 as if set forth herein again verbatim.
- 5.02 Plaintiffs have entered into a contractual agreement for the development of oil, gas and other minerals with Defendants Vantage/Caffey. The Plaintiffs accepted Vantage/Caffey's offer, creating a contractual agreement with Vantage/Caffey, and Plaintiffs are entitled to specific performance of the terms and conditions of the contract including leasing their mineral interests to Vantage/Caffey upon the agreed upon terms, memorialized, agreed to in writing and signed by Defendants, including a bonus payment to each of the Plaintiffs in the full amount owed of Twenty Seven Thousand Five Hundred and no/100 Dollars (\$27,500.00) per net mineral acre. Plaintiffs have fully performed all obligations under the terms and conditions of the contract. Vantage/Caffey has breached the terms and conditions of the contract. Plaintiffs here and now sue for specific performance of all terms and conditions of the contract.

**6.0 Second Cause of Action – Fraud**

- 6.01 Plaintiffs incorporate Paragraphs 4.01 through 5.02 as if set forth herein again verbatim.
- 6.02 Pleading in the alternative, Plaintiffs would show that the Defendants' actions constitute fraud for which the Plaintiffs are entitled to recover damages. These Defendants made representations to the Plaintiffs which they knew were false at the time they were made or which in the exercise of ordinary care such Defendants should have known were false. Such representations include, but are not limited to, representations that Vantage/Caffey would lease Plaintiffs' mineral interests, that Defendants would offer the SFWA lease to "everyone" in SFWA, that the money necessary to sign all mineral interest owners within SFWA was already in the bank, that Vantage/Caffey had sufficient economic and

financial wherewithal to lease all mineral interest owners within the SFWA boundaries and to develop the gas and minerals under such lands, that Vantage/Caffey had sufficient knowledge, training, experience, skill and expertise to maximize the recovery of Plaintiffs' minerals from the Property, and that Plaintiffs would receive bonus checks in the agreed amounts. These representations were made with the intention of inducing Plaintiffs to lease the Property to Vantage/Caffey and with the intention of preventing Plaintiffs from leasing the Property to anyone other than Vantage/Caffey and their agents and with the intention that such representations would be relied upon by the Plaintiffs. Plaintiffs justifiably relied upon such representations to their harm, detriment and economic injury.

6.03 Plaintiffs here and now sue for recovery of all actual, consequential, exemplary and other damages permitted for fraud pursuant to the laws of the State of Texas.

**7.0 Third Cause of Action - Negligent Misrepresentation**

7.01 Plaintiffs incorporate Paragraphs 4.01 through 6.03 as if set forth herein again verbatim.

7.02 Pleading in the alternative, Plaintiffs would show that the Defendants actions constitute negligent misrepresentations for which the Plaintiffs are entitled to recover damages. Defendants made representations to the Plaintiffs which they knew were false at the time they were made or which were made with reckless disregard for whether they were true or not. Such representations include, but are not limited to, representations that Vantage/Caffey would lease Plaintiffs' mineral interests, that Defendants would offer the SFWA lease to "everyone" in SFWA, that the money necessary to sign all mineral interest owners within SFWA was already in the bank, that Vantage/Caffey had sufficient economic and financial wherewithal to lease all mineral interest owners within the SFWA

boundaries and to develop the gas and minerals under such lands, that Vantage/Caffey had sufficient knowledge, training, experience, skill and expertise to maximize the recovery of Plaintiffs' minerals from the Property, and that Plaintiffs would receive bonus checks in the agreed amounts. These representations were made with the intention of inducing Plaintiffs to lease the Property to Vantage/Caffey and with the intention of preventing Plaintiffs from leasing the Property to anyone other than Vantage/Caffey and their agents and with the intention that such representations would be relied upon by the Plaintiffs. Plaintiffs justifiably relied upon such representations to their harm, detriment and economic injury.

7.03 Plaintiffs here and now sue for recovery of all actual, consequential, exemplary and other damages permitted for negligent misrepresentations pursuant to the laws of the State of Texas.

**8.0 Fourth Cause of Action - Fraud in Connection with the Sale of Real Estate**

8.01 Plaintiffs incorporate Paragraphs 4.01 through 7.03 as if set forth herein again verbatim.

8.02 Pleading in the alternative, Plaintiffs would show that the Defendants actions constitute fraud in connection with the sale of real estate as Texas law holds that the execution of an oil and gas lease effectuates a sale of the minerals with a potential right of reverter. Defendants sought to, and did, induce Plaintiffs not to sell their minerals to anyone other than Vantage/Caffey by their representations which included, but are not limited to representations that Vantage/Caffey would lease Plaintiffs' mineral interests, that Defendants would offer the SFWA lease to "everyone" in SFWA, that the money necessary to sign all mineral interest owners within SFWA was already in the bank, that Vantage/Caffey had sufficient economic and financial wherewithal to lease all mineral

interest owners within the SFWA boundaries and to develop the gas and minerals under such lands, that Vantage/Caffey had sufficient knowledge, training, experience, skill and expertise to maximize the recovery of Plaintiffs' minerals from the Property, and that Plaintiffs would receive bonus checks in the agreed amounts. Plaintiffs have not received the promised bonuses, and accordingly, have been damaged in the amount of the bonuses owed.

8.03 Plaintiffs here and now sue for recovery of all actual, consequential, exemplary and other damages permitted for fraud in connection with the sale of real estate pursuant to the laws of the State of Texas including but not limited to Section 27.01, *et seq.* of the Texas Business and Commerce Code.

**9.0 Fifth Cause of Action – Breach of the Texas Deceptive Trade Practices Act.**

9.01 Plaintiffs incorporate Paragraphs 4.01 through 8.03 as if set forth herein again verbatim.

9.02 Pleading in the alternative, Plaintiffs would show that Defendants Vantage/Caffey agreed to provide various goods and services including, but not limited to, those set forth in Paragraph 4 above. Additionally, Defendants Vantage and Caffey represented that Defendant Caffey was an "urban leasing specialist" who had sufficient knowledge, training, experience, skill and expertise together with the economic and financial ability to maximize the recovery of Plaintiffs' minerals from the Property. These various goods and services were bargained for and agreed to in exchange for using Defendants Vantage/Caffey land/gas-production services over other potential gas development and land service companies. These goods and services form the basis of Plaintiffs' Fifth Cause of Action.

- 9.03 Vantage/Caffey represented that the agreement Vantage/Caffey reached with the Plaintiffs had certain qualities, characteristics, benefits, uses and/or quantities when in fact it knew, or in the exercise of reasonable care, should have known the agreement did not have such qualities, characteristics, benefits, uses and/or quantities. Vantage/Caffey specifically represented that the agreement Vantage negotiated with SFWA leadership would result in Vantage offering the Vantage mineral lease to all homeowners in SFWA, including but not limited to the Plaintiffs herein.
- 9.04 Plaintiffs each sought to acquire the goods and/or services provided by Vantage/Caffey in connection with the agreement between Vantage/Caffey and the Plaintiffs. Plaintiffs are consumers of the goods and services which Vantage/Caffey represented Vantage/Caffey would and/or did provide in order to effectively develop Plaintiffs' mineral estate.
- 9.05 Such representations, acts and/or omissions by Defendants constitute violations of the Texas Deceptive Trade Practices Act in particular, as follows:
- A. Section 17.46(b)(5) representing that goods or services have sponsorship, characteristics, uses, benefits, or quantities which they do not have;
  - B. Section 17.46(b)(7) representing that goods or services are of a particular standard, quality or grade, or that goods are of a particular style or model, if they are of another;
  - C. Section 17.46(b)(11) making false or misleading statements of fact concerning the reasons for, existence of, or amount of price reductions;
  - D. Section 17.46(b)(12) representing that an agreement confers or involves rights, remedies, or obligations for which it does not have or does not involve, or which are prohibited by law;
  - E. Section 17.46(b)(24) failing to disclose information concerning goods or services which was known at the time of the transaction if such failure to disclose such information was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed.

Furthermore, such actions and/or omissions constitute unconscionable actions under Sections 17.50(a)(2)-(3).

9.06 Vantage/Caffey sought to, and did, induce Plaintiffs not to lease their minerals to anyone other than Vantage/Caffey by and through the representations, acts and/or omissions set forth above. Plaintiffs would have entered into a lease of their minerals with other gas companies but for the representations by Vantage/Caffey. Plaintiffs have not received the goods and/or services promised, and accordingly, have sustained damages in an amount at least equal to, if not greater than, the bonuses owed.

9.07 Plaintiffs would show that the representations and acts and/or omissions set forth above were made knowingly and/or intentionally by Defendants Vantage and/or Caffey and accordingly Plaintiffs are entitled to double or treble damages as provided by the Texas Deceptive Trade Practices Act.

9.08 Plaintiffs here and now sue for recovery of all actual, consequential, exemplary and other damages permitted for violations of the Texas Deceptive Trade Practices Act.

9.09 Plaintiffs have complied with all conditions precedent to the filing of a claim under the Texas Deceptive Trade Practices Act, including furnishing notice to Vantage and Caffey.

**10.0 Sixth Cause of Action Manager/Member Liability – Piercing the Corporate Veil**

10.01 Plaintiffs incorporate Paragraphs 4.01 through 9.09 as if set forth herein again verbatim.

10.02 Pleading in the alternative, Plaintiffs would show that Defendants Quantum, Carlyle, Riverstone and Lime Rock each have a position as a member and/or manager of Vantage. Moreover, each has contributed significant capital to Vantage to permit it to acquire leases in known productive oil and gas plays in various locations in the United States, including the Barnett Shale in North Texas. Defendants have sufficient voting power as

manager/members to control the activities of Vantage. Plaintiffs would show that each of such Defendants exercises an equal amount of control through its manager/member status such that Vantage is effectively either a joint enterprise among such Defendants or is a joint enterprise with Vantage as a member of such joint enterprise, the practical effect of such an enterprise among these Defendants is to cause Vantage to be nothing more than their alter ego. Whether Vantage is a joint enterprise between these Defendants, a joint enterprise between the Defendants and Vantage, or the alter ego of these Defendants, Texas, Colorado and Delaware law permit Plaintiff to pierce the corporate veil and to hold each such Defendant liable for the fraudulent acts and omissions of Vantage and these Defendants whether committed individually, jointly or in some combination between the Defendants and to impose joint and several liability against all such Defendants.

- 10.03 As manager/members of Vantage each of the Defendants are charged with specific duties and obligations including, but not limited to, to refrain from the use of the corporate entity to defeat public convenience, to justify or protect wrong, fraud, or crime, and to conduct business in an honest manner without the intent to deceive.
- 10.04 Plaintiffs would show that Defendants Quantum, Carlyle, Riverstone, and Lime Rock were each aware of the contractual agreement between the Plaintiffs and Vantage/Caffey and the duties and financial obligations associated with such agreement as well as the impact this agreement would have on Vantage/Caffey's financial status and the attendant effect upon the capital investments made by each such Defendant in Vantage. Defendants Quantum, Carlyle, Riverstone and Lime Rock likewise knew the attendant effect on the homeowners who relied upon Vantage/Caffey's false promises and misrepresentations

and who entered into a binding contractual agreement with Vantage/Caffey, but nevertheless caused Vantage/Caffey to commit actual fraud by misrepresentation, dishonest purpose and/or an intent to deceive resulting in a breach of agreements with such homeowners without justification or legal excuse.

- 10.05 Plaintiffs would further show, that despite knowledge of the duties and obligations of Vantage pursuant to its contractual agreement with Plaintiffs, Defendants Quantum, Carlyle, Riverstone, and Lime Rock, as manager/members of Vantage exercised control and/or direction of Vantage causing it to breach its duties and obligations under the contractual agreement with Plaintiffs, in order to directly benefit the Defendant businesses.
- 10.06 In causing Vantage to breach its contractual agreement with Plaintiffs, Defendants Quantum, Carlyle, Riverstone and Lime Rock preferred their own financial interests over those of the Plaintiffs, used their position of control as manager/members of Vantage to justify and protect a wrong committed against the Plaintiffs, committed a fraud against the Plaintiffs are now attempting to shield themselves from liability for the direct harm and damage to the Plaintiffs that their exercise of control caused.
- 10.07 Defendants attempt to use Vantage as a shield to protect themselves from the wrongs and fraud which they perpetrated against the Plaintiffs and others similarly situated, should not be tolerated or permitted. Neither Texas, Colorado, nor Delaware law intended a limited liability corporation to provide a safe harbor for members and/or managers of a limited liability corporation to perpetrate fraud, misrepresentation, and deceit upon citizens of the State of Texas.

- 10.08 Plaintiffs are entitled to pierce the corporate veil of Vantage and to hold the Defendants Quantum, Carlyle, Riverstone, and Lime Rock individually liable for their acts and omissions, and those of Vantage, through their control of Vantage.
- 10.09 As a direct and proximate result of the acts and/or omissions of the Defendants Quantum, Carlyle, Riverstone, and Lime Rock, Plaintiffs have suffered harm and damage as set forth hereinabove. This harm and damages was incurred as a result of the conduct of these Defendants and not merely as a result of these Defendants owning and controlling Vantage.
- 10.10 Plaintiffs would show that the acts and/or omissions of the Defendants Quantum, Carlyle, Riverstone and Lime Rock were undertaken knowingly and with conscious disregard for the rights, safety and welfare of the Plaintiffs and others similarly situated. Accordingly, such acts and/or omissions constitute malice as defined by Texas law and merit the imposition of exemplary damages against each such Defendant.
- 10.11 Plaintiffs here and now sue for recovery of all actual, consequential, exemplary and other damages permitted pursuant to Texas, Colorado, and/or Delaware law.
- 11.0 Attorneys' Fees**
- 11.01 Plaintiffs are entitled to recovery of attorneys' fees under the common law as well as pursuant to Section 38.001 *et seq.* of the Texas Civil Practice and Remedies Code, Section 17.01 *et seq.* and Section 27.01 *et seq.* of the Texas Business and Commerce Code.
- 11.02 Plaintiffs have agreed to pay the undersigned counsel a fair and reasonable fee for the services rendered in connection with the preparation, prosecution, and, if necessary, the

appeal of this case. Plaintiffs seek recovery of attorneys' fees in addition to the damages set forth herein.

**12.0 Requests for Jury Trial**

12.01 Plaintiffs here and now request a jury trial and tender the required jury fee.

**13.0 Requests for Disclosure**

13.01 Plaintiffs request that the Defendants provide all information responsive to Texas Rules of Civil Procedure Rule 194.2 (a) through (l) in accordance with such rules.

**14.0 PRAYER**

14.01 WHEREFORE, PREMISES CONSIDERED, the Plaintiffs pray:

14.01.1 That Defendant Vantage/Caffey be ordered to specifically perform in accordance with the contract terms and issue bonus checks to the Plaintiffs in the full amount owed for the bonus payments of Twenty Seven Thousand Five Hundred and no/100 Dollars (\$27,500.00) per net mineral acre.

14.01.2 That Plaintiffs' contractual agreement with Defendant Vantage/Caffey be specifically enforced.

14.01.3 That the Court enter Judgment declaring that Vantage is a joint enterprise between Defendants Quantum, Carlyle, Riverstone, and Lime Rock; that Vantage is a joint enterprise between Defendants Quantum, Carlyle, Riverstone, Lime Rock, and Vantage; and/or that Vantage is the alter ego of Defendants Quantum, Carlyle, Riverstone, and Lime Rock; that the corporate entity Vantage has been used by Defendants Quantum, Carlyle, Riverstone, and Lime Rock to perpetuate a harm, actual fraud, misrepresentation and/or injury against the Plaintiffs; that the Vantage corporate veil should be pierced, and

that each of the Defendants should be held individually, jointly and severally liable for the acts and/or omissions of the others and Vantage.

- 14.01.4 That the Defendants be found to have engaged in concerted action that caused indivisible injuries, thereby making each of them jointly and severally liable for the acts and omissions of each other.
- 14.01.5 That Plaintiffs be awarded attorneys' fees in accordance with Section 17.01 *et seq.* and/or Section 27.01 *et seq.* of the Texas Business and Commerce Code and/or Section 38.001 *et seq.* of the Texas Civil Practice and Remedies Code and/or the common law.
- 14.01.6 That the Court enter a finding that Defendants Vantage and Caffey acted knowingly, and/or intentionally and that Plaintiffs' damages be doubled or trebled in accordance with the applicable provisions of the Texas Deceptive Trade Practices Act.
- 14.01.7 That the Court award punitive/exemplary damages to the Plaintiffs in an amount to be determined by the jury.
- 14.01.8 That Plaintiffs recover costs of court, interest on all damages as permitted by law and for such other and further relief, both general and special, at law or in equity to which Plaintiffs may show themselves to be entitled.

Respectfully submitted,

**PETROFF & ASSOCIATES**

Kip Petroff  
State Bar No. 15851800  
Carlos A. Fernandez  
State Bar No. 24036555

3838 Oak Lawn Avenue  
Suite 1124  
Dallas, Texas 75219  
Telephone: 214.526.5300

Facsimile: 214.526.5354

**RIDDLE & WILLIAMS, P.C.**

By: 

Dean A. Riddle  
State Bar No. 16888960  
Christopher A. Payne  
State Bar No. 15651500  
Caroline A. McClimon  
State Bar No. 24067752

3710 Rawlins Street  
Suite 1400 - Regency Plaza  
Dallas, Texas 75219  
Telephone: 214.760.6766  
Facsimile: 214.760.6765

**MATHIS & DONHEISER, P.C.**

Randal Mathis  
State Bar No. 13194300  
Mark Donheiser  
State Bar No. 05974800

2575 Trammell Crow Center  
2001 Ross Avenue  
Dallas, Texas 75201  
Telephone: 214.303.1919  
Facsimile: 214.303.0399