IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	§	Case No. 13-37200
	§	
GOLDKING HOLDINGS, LLC, *et al.*,[1]	§	
	§	Chapter 11
Debtors.	§	(Jointly Administered)
	§	
	§	

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	§	
GOLDKING ONSHORE OPERATING, LLC AND GOLDKING HOLDINGS, LLC,	§	
	§	
Plaintiffs,	§	
	§	
v.	§	Adv. Proc. No. _____
	§	(Removed from the 61st Judicial
LEONARD C. TALLERINE, JR., GOLDKING ENERGY CORPORATION, GOLDKING ENERGY PARTNERS I, LP, GOLDKING ENERGY PARTNERS, II, LLC, GOLDKING CAPITAL MANAGEMENT, LLC, RETA WELLWOOD D/B/A VERMILLION CONTRACTING CO., DENNA RAMSEY AND PAUL CULOTTA	§	District Court, Harris County, Texas)
	§	
Defendants.	§	
	§	

NOTICE OF REMOVAL

PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. § 1452(a), plaintiffs and counterclaim defendants Goldking Onshore Operating, LLC and Goldking Holdings, LLC (the "Debtor Plaintiffs"), in their capacity as debtors and debtors in possession, hereby remove the

[1] The Debtors, together with the last four digits of each Debtor's federal tax identification number, are: Goldking Holdings, LLC (2614); Goldking Onshore Operating, LLC (2653); and Goldking Resources, LLC (2682). The mailing address for the Debtors is 777 Walker Street, Suite 2500, Houston, TX 77002.

above-captioned action (the "Action") from the 61st Judicial District Court, Harris County, Texas to the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the "Court"). This action is removable under 28 U.S.C. § 1452(a) because the United States District Court for the Southern District of Texas (the "District Court") has original jurisdiction over this Action pursuant to 28 U.S.C. § 1334(b). As grounds for removal, the Debtor Plaintiffs state as follows:

1. The District Court has original jurisdiction over this Action pursuant to 28 U.S.C. § 1334(b) because this Action is "related to" a pending title 11 bankruptcy proceeding. This Court is presiding over the above-captioned, jointly administered chapter 11 bankruptcy cases of the Debtors pursuant to the general reference with respect to title 11 cases in the Southern District of Texas and 28 U.S.C. § 157.[2] The Action is therefore removable to this Court pursuant to 28 U.S.C. § 1452(a), 28 U.S.C. § 157 and General Order 2012-6 of the United States District Court for the Southern District of Texas.

Procedural History

The Action

2. On February 13, 2013, Goldking Holdings, LLC ("Holdings") and Goldking Onshore Operating, LLC ("GOO") filed their original petition (the "Original Petition") in the Action in the 61st Judicial District Court, Harris County Texas, captioned *Goldking Onshore Operating, LLC and Goldking Holdings, LLC* v. *Leonard C. Tallerine, Jr., Goldking Energy Corporation, Goldking Energy Partners I, LP, Goldking Energy Partners II, LLC, Goldking Capital Management, LLC, Reta Wellwood d/b/a Vermillion Contracting Co., Denna Ramsey and Paul Culotta*, Cause No. 2013-08724 (Harris Cnty., 61st Jud. Dist. filed Feb. 13, 2013).

[2] Pursuant to General Order 2012-6, entered by the United States District Court for the Southern District of Texas on May 24, 2012, "Bankruptcy cases and proceedings arising under Title 11 or arising in or related to a case under Title 11 of the United States Code are automatically referred to the bankruptcy judges of this district…."

3. In the Original Petition, Holdings and GOO assert causes of action against various combinations of Leonard C. Tallerine, Jr., Goldking Energy Corporation, Goldking Energy Partners I, LP, Goldking Energy Partners II, LLC, Goldking Capital Management, LLC, Reta Wellwood d/b/a Vermillion Contracting Co., Denna Ramsey and Paul Culotta (the "Original Defendants") for: conversion, violations of the Texas Theft Liability Act, fraud, unjust enrichment, business disparagement, breach of contract, breach of the duty of good faith and fair dealing, aiding and abetting breach of fiduciary duty and fraud, and conspiracy. As described in the Original Petition, Holdings and GOO are primary and direct victims of the various wrongdoings committed by the Original Defendants. Original Pet., ¶¶ 2-4.

4. Subsequently, on March 26, 2013, Leonard C. Tallerine, Jr., Goldking Energy Corporation, Goldking Energy Partners II, LLC, Goldking Capital Management, LLC, Reta Wellwood d/b/a Vermillion Contracting Co., Paul Culotta, and Goldking LT Capital Corporation (the "Counterclaim Plaintiffs") filed an Original Answer and Counterclaim (the "Original Counterclaim") in the Action, complaining of wrongful conduct by Holdings, GOO, Wayzata Opportunities Fund II, LP and Wayzata Investment Partners, LLC ("Wayzata"), certain individual partners of Wayzata, and Edward Hebert, the current Chief Executive Officer of the Debtors (the "Counterclaim Defendants"). The Original Counterclaim asserted nineteen (19) claims against various combinations of the Counterclaim Defendants, including, among others: (i) derivative claims against Wayzata for breach of fiduciary duty, shareholder oppression, breach of the duty of good faith and fair dealing, and other claims on fraud, tortious interference with contract, failure to pay consulting fee, and theft of plane services; (ii) claims against Holdings and GOO for breach of contract, indemnification and advancement of expenses, and failure to pay plane expenses; (iii) derivative claims against all Counterclaim Defendants for

aiding and abetting breach of fiduciary duty, civil conspiracy, trespass to real property, invasion of property, and conversion of personal property; and (iv) derivative claims (on behalf of Holdings) for breach of fiduciary duty, waste, breach of the duty of good faith and fair dealing, and civil conspiracy. The derivative claims comprise property of the Debtors' bankruptcy estates.

5. On September 26, 2013, the Counterclaim Plaintiffs and Louis Belanger, Jr. (the "Amended Counterclaim Plaintiffs") filed their First Amended Answer and Counterclaim (the "First Amended Counterclaim") in the Action, in which claims referred by Court order to arbitration were dropped. In the First Amended Counterclaim, various combinations of the Amended Counterclaim Plaintiffs assert claims against: (i) GOO and Holdings for indemnification, advancement of expenses, breach of contract, and failure to pay plane expenses; (ii) GOO, Holdings and Wayzata under the Texas Theft Liability Act for failure to pay plane expenses; (iii) Wayzata for breach of contract, quantum meruit, fraud and violation of the Texas Theft Liability Act for failure to pay a consulting fee; and (iv) all Counterclaim Defendants for conversion, invasion of privacy, and trespass to real property. The Action is currently in the discovery phase.

The Bankruptcy Case

6. On September 30, 2013, Goldking Holdings, Goldking Onshore Operating, LLC and Goldking Resources, LLC (collectively, the "Debtors") each filed voluntary petitions for relief under Chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") before the United States Bankruptcy Court for the District of Delaware (the "Delaware Bankruptcy Court"). On November 20, 2013, the Delaware Bankruptcy Court entered an order transferring venue of the Debtors' chapter 11 bankruptcy cases to the United States Bankruptcy Court for the Southern

District of Texas, Houston Division (the "Bankruptcy Court") (Bk. Doc. No. 88). The Debtors' chapter 11 bankruptcy cases are being jointly administered by the Court and are captioned *In re Goldking Holdings, LLC*, Case No. 13-37200.

7. The following proofs of claim (the "Proofs of Claim"), among others, were filed in the Debtors' chapter 11 bankruptcy cases:

- On February 26, 2014, Leonard C. Tallerine, Jr. filed proof of claim no. 131 in the amount of $560,336.72 against Holdings for indemnification of prepetition attorneys' fees and costs and reimbursement of expenses incurred on behalf of Holdings. Tallerine reserved his right to amend to assert other claims. Tallerine's proof of claim includes claims that are pending in the state court suit.
- On February 26, 2014, Goldking Energy Corporation filed proof of claim no. 24 in the amount of $57,728.33 against GOO for airplane costs. Goldking Energy Corporation's proof of claim consists of a claim that is pending in the state court suit.
- On February 25, 2014, Paul V. Culotta filed proof of claim no. 19 in the amount of $16,726.10 against GOO for breach of separation agreement. Culotta's proof of claim consists of a claim that is pending in the state court suit.
- On November 23, 2013, Whitney Louis Belanger, Jr. filed proof of claim no. 1 in the amount of $270,210.57 against GOO for a severance payment. He does so despite holding property of the estate and refusing to provide it.

Belanger's proof of claim subsumes a claim that is pending in the state court suit.

8. The bankruptcy cases have not been terminated, and proceedings relating to the bankruptcy cases remain pending before this Court. A plan of reorganization will be filed before the current deadline.

9. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 9027-1, attached hereto are (1) the docket sheet, a list of pleadings[3] and copies of pleadings which set forth the current claims in the Action, including the Original Petition and the First Amended Answer and Counterclaim; and (2) a list of all parties and all counsel of record, including addresses and telephone numbers, as well as a designation of all parties upon whom service of process has been accomplished. This Notice of Removal complies with Local Rule 9027.

10. Removal is timely under 28 U.S.C. § 1446(b) and Rule 9027(a)(3) of the Federal Rules of Bankruptcy Procedure, as extended by that *Order Extending the Time Within Which Debtors May File Notices of Removal Pursuant to 28 U.S.C. § 1452 and Fed. R. Bankr. P. 9027* (Bk. Doc. No. 291).

Basis for Removal

11. The Action may be removed under 28 U.S.C. § 1452(a) because it is a civil proceeding "related to" a case under the Bankruptcy Code, and the District Court therefore has original jurisdiction over the Action under 28 U.S.C. § 1334(b). Section 1334(b) provides, in relevant part, that the "district courts shall have original but not exclusive jurisdiction of all civil proceeding arising under title 11, or arising in or related to cases under title 11." *Id.* This Court may hear the Action as a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(B) because, among

[3] Because the trial record is voluminous, we attach a list of all of the pleadings on file.

other reasons, the disposition of the Action is inextricably linked with the resolution of the Proofs of Claim filed by certain of the Original Defendants, which proofs of claim constitute substantive rights that owe their existence entirely to the Bankruptcy Code. *See generally In re Wood*, 825 F.2d 90, 97 (5th Cir. 1987) (defining a core proceeding as one that "invokes a substantive right provided by title 11 or…that, by its nature, could arise only in the context of a bankruptcy case.") Alternatively, the Court may hear the Action pursuant to 28 U.S.C. § 157(c).

12. It is well-established that "related to" bankruptcy proceedings include causes of action owned by the debtor which become property of the estate pursuant to 11 U.S.C. § 541. *See Arnold v. Garlock, Inc.*, 278 F.3d 426, 434 (5th Cir. 2001) (citing *Celotex Corp. v. Edwards*, 514 U.S. 300, 308, n.5 (1995)). As the Fifth Circuit Court of Appeals has explained:

> Section 1334's reference to cases related to bankruptcy cases is primarily intended to encompass tort, contract, and other legal claims by and against the debtor, claims that, were it not for bankruptcy, would be ordinary stand-alone lawsuits between the debtor and others but that section 1334(b) allows to be forced into bankruptcy court so that all claims by and against the debtor can be determined in the same forum.

In re Zale Corp., 62 F.3d 746, 752 (5th Cir. 1995) (citing *Zerand-Bernal Group, Inc. v. Cox*, 23 F.3d 159, 161-162 (7th Cir. 1994)).

13. Consistent with the guidance offered by the Fifth Circuit above in *Arnold* and *Zale*, this Court clearly has "related to" jurisdiction pursuant to Section 1334 over the Action because the Action involves several claims asserted by GOO and Holdings against the Original Defendants, and against GOO and Holdings by the Counterclaim Plaintiffs. Many of the claims also comprise property of the estate.

14. Furthermore, the Action is related to the Debtors' chapter 11 bankruptcy cases because GOO and Holdings may owe indemnity obligations, as defined and set forth further in the governing corporate documents for GOO and Holdings. An indemnity obligation that affects

the property of a debtor gives rise to "related to" jurisdiction under 28 U.S.C. § 1334(b). *See Lone Star Fund V (U.S.), L.P. v. Barclays Bank PLC*, 594 F.3d 383, 386-87 (5th Cir. 2010) (claims for indemnification against a debtor create "related to" bankruptcy jurisdiction); *In re Stonebridge Techs., Inc.*, 430 F.3d 260, 266-67 (5th Cir. 2005) (holding that a debtor's letter of credit obligation triggered "related to" jurisdiction in a dispute between two nondebtor third parties); *In re El Paso Refinery, LP*, 302 F.3d 343, 349 (5th Cir. 2002) (litigation against former owner of the debtor that would set off a "chain of indemnification provisions . . . leading directly to the [d]ebtor" fell within bankruptcy jurisdiction); *see also In re Brook Mays Music Co.*, 363 B.R. 801, 814 (Bankr. N.D. Tex. 2007) ("[related to] subject matter jurisdiction exists because of the indemnification claims").

Other Procedural Requirements

15. Promptly upon filing of this Notice of Removal, a true copy of this Notice of Removal will be provided to all adverse parties pursuant to 28 U.S.C. § 1446(d) and Notice also filed in the state court. Pursuant to Rule 5(d) of the Federal Rules of Civil Procedure, the Debtor Plaintiffs will file with this Court a Certificate of Service of Notice to Adverse Parties of Removal to Federal Court.

16. Concurrently with the filing of this Notice of Removal, the Debtor Plaintiffs are filing a Notification of Filing of Notice of Removal with the clerk of the 61st Judicial District Court, Harris County, Texas in accordance with 28 U.S.C. § 1446(d) and Rule 9027(c) of the Federal Rules of Bankruptcy Procedure.

17. As required under Rule 9027(a)(1) of the Federal Rules of Bankruptcy Procedure, the Debtor Plaintiffs state that the claims asserted by and against them are in substantial part core, within the meaning of pursuant to 28 U.S.C. § 157(b)(2)(B).

18. As required under Local Rule 9027-2, the Debtor Plaintiffs consent to entry of final orders or judgment by this Court if it is determined that consent is necessary.

Conclusion

19. WHEREFORE, Debtor Plaintiffs remove this Action from the 61st Judicial District Court, Harris County, Texas.

Dated: April 28, 2014

Respectfully submitted,

HAYNES AND BOONE, LLP

/s/ Patrick L. Hughes

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SPECIAL LITIGATION COUNSEL FOR DEBTOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this foregoing instrument was served in compliance with the Texas Rules of Civil Procedure on the 28th day of April, 2014, as set forth below:

Via Email & Facsimile Eric Fryar Fryar Law Firm, P.C. 912 Prairie, Suite 100 Houston, Texas 77002-3145 Tel: (281) 715-6396 Fax: (281) 715-6397 **Attorney representing Defendants Leonard C. Tallerine, Jr., Goldking Energy Corporation, Goldking Energy Partners II, LLC, Goldking Capital Management, LLC, Reta Wellwood DBA Vermillion Contracting Co., and Paul Culotta**	***Via Email & Facsimile*** Craig Ribbeck The Ribbeck Law Firm 6363 Woodway, Suite 565 Houston, Texas 77057 Tel: (713) 621-5220 Fax: (713) 572-1507 **Attorney representing Defendant Denna Ramsey**
Via Email & Facsimile James C. Scott Gardere Wynne Sewell LLP 3000 Thanksgiving Tower 1601 Elm Street Dallas, Texas 75201 Tel: (214) 999-3000 Fax: (214) 999-4667 **Attorney representing Defendant Goldking Energy Partners I, LP**	***Via Email & Facsimile*** Adam Schiffer Schiffer Odom Hicks & Johnson, PLLC 700 Louisiana, Suite 1200 Houston, Texas 77002 Fax: (713) 357-5160 **Attorney representing Counter- and Third-Party Defendants Wayzata Opportunities Fund II, LP, Wayzata Investment Partners, LLC, Pat Halloran, Mary Burns, Blake Carlson, Michael Strain, and Raphael Wallander**
Via Email & Facsimile Shawn Raymond Susman Godfrey LLP 1000 Louisiana, Suite 5100 Houston, Texas 77002-5096 Tel: (713) 651-9366 Fax: (713) 654-6666 **Attorney representing Third-Party Defendant Edward Hebert**	***Via Email & Facsimile*** David L. Sheller 810 Waugh Drive, 2nd Floor Houston, Texas 77019 Tel: (713) 961-0291 Fax: (713) 961-5112 **Attorney representing Counterclaim Plaintiff Louis Belanger**

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/s/ Patrick L. Hughes
Patrick L. Hughes

EXHIBIT 1

Harris County Docket Sheet

2013-08724

COURT: 061st
FILED DATE: 2/13/2013
CASE TYPE: OTHER CIVIL

GOLDKING ONSHORE OPERATING LLC

Attorney: REASONER, BARRETT H.

VS.

TALLERINE, LEONARD C JR

Attorney: FRYAR, F. ERIC

Trial Settings	
Date	**Comment**
2/3/2014	Docket Set For: Trial Setting

Docket Sheet Entries	
Date	**Comment**
5/13/2013	ARBIX - ORDER GRANTING ARBITRATION SIGNED
5/13/2013	STPRZ - MOTION TO STAY GRANTED IN PART
5/14/2013	DCORX - DOCKET CONTROL/PRETRIAL ORDER SIGNED
5/31/2013	STPRX - ORDER SIGNED STAYING PROCEEDINGS
7/12/2013	CIPRO - PROTECTIVE ORDER (CIVIL) ORD SGND
8/2/2013	STPRZ - MOTION TO STAY GRANTED IN PART
9/27/2013	STPLX - ORDER SIGNED STRIKING PLEADING

EXHIBIT 2

GOLDKING ONSHORE OPERATING LLC, et al. vs. TALLERINE, LEONARD C. JR., et al.
Cause: 2013-08724 Court: 061
Harris County District Court, State of Texas

No.	Clerk's Image Number	Document	Date
1	54720034	Plaintiffs' Original Petition	02/13/2013
2	-> 54720035	Civil Case Information Sheet	02/13/2013
3	-> 54720036	Civil Process Request	02/13/2013
4	54740708	Civil Bureau Process Pick-Up Form	02/14/2013
5	55277270	Affidavit of Lost Return	03/08/2013
6	55277271	Affidavit of Service	03/08/2013
7	55079525; -> 55079526; -> 55079527; -> 55079528; -> 55079529; -> 55079531; -> 55079530	Plaintiffs' Motion for Substitute Service Upon Denna Ramsey; Notice of Hearing; and Proposed Order	03/21/2013
8	55127272	Defendants' Special Exceptions to Plaintiffs' Original Petition	03/26/2013
9	55127580; -> 55127581; -> 55127582; -> 55127584; -> 55127585; -> 55127586	Original Answer and Counterclaim; and Exhibits A - E	03/26/2013
10	55157254	Plaintiffs' Motion to Quash the Deposition of Edward Hebert	03/28/2013
11	55367477	Civil Bureau Process Pick-Up Form	04/01/2013
12	55377926; -> 55377927; -> 55377928	Plaintiffs' Notice of Subpoena of Third-Party Documents to Regions Bank and Deposition on Written Questions; and Exhibits A - B	04/18/2013
13	55446058; -> 55446059; 55446060	Plaintiffs' Notice of Subpoena of Third-Party Documents to Patrick McGarey; Exhibit A; and Subpoena for Production of Documents Pursuant to Texas Rules of Civil Procedure 176 and 205	04/25/2013
14	55446427; -> 55446428; -> 55446430; -> 55446431; -> 55446432; -> 55446433; -> 55446434; -> 55446435	Motion for Partial Summary Judgment on Right to Advancement; Exhibits A - E; Notice of Hearing; and Proposed Order	04/25/2013
15	55502472	Answer to Third-Party Plaintiffs' Petition and Request for Disclosure	04/30/2013
16	55502491; -> 55502493; -> 55502494; -> 55502496; -> 55502497; -> 55502500; -> 55502502; -> 55502504; -> 55502505; -> 55502506; -> 55502492; -> 55502507	Joint Motion to Compel Arbitration and for Stay of Counterclaim Causes of Action Nos 1-10; Exhibits 1 - 2; Notice of Oral Hearing; and Proposed Order	04/30/2013
17	55511027	Hebert's Answer to Counterclaim Plaintiffs' Petition	05/01/2013
18	55597863; -> 55597865	Defendant Deena Ramsey's Original Answer; and Filing Letter	05/06/2013

No.	Clerk's Image Number	Document	Date
19	55632812; ·> 55632813; ·> 55632814; ·> 55632815; ·> 55632816; ·> 55632818; ·> 55632822; ·> 55632825; ·> 55632828; ·> 55632831; ·> 55632832; ·> 55632833; ·> 55632834; ·> 55632835; ·> 55632838; ·> 55632840; 55669553; 55669657	Response to Motion to Compel Arbitration; Affidavit of Leonard C Tallerine Jr.; Exhibits A - N; Proposed Order; and FREEfax Cover Sheet	05/09/2013
20	55689674	Order Signed Granting Arbitration and Motion to Stay Granted in Part	05/13/2013
21	55729439	Docket Control/Pretrial Order Signed	05/14/2013
22	55706751; ·> 55706754; ·> 55706756	Plaintiffs' Notice of Subpoena of Third Party Documents to Texas Community Bank and Deposition on Written Questions; and Exhibits A - B	05/15/2013
23	55706791; ·> 55706793; ·> 55706794	Plaintiffs' Notice of Subpoena of Third Party Documents to Mutual of Omaha Bank and Deposition on Written Questions; and Exhibits A - B	05/15/2013
24	55707361; ·> 55707362; ·> 55707363	Plaintiffs' Notice of Subpoena of Third Party Documents to Bank of River Oaks and Deposition on Written Questions; and Exhibits A - B	05/15/2013
25	55707901; ·> 55707903; ·> 55707904	Plaintiffs' Notice of Subpoena of Third Party Documents to Comercia Bank and Deposition on Written Questions; and Exhibits A - B	05/15/2013
26	55742946	Defendants' Original Answer	05/17/2013
27	55835433; ·> 55835434; 55892214	Plaintiffs' Goldking Onshore Operating LLC and Goldking Holdings LLC's Motion to Stay Advancement Claim Pending Appeal; Notice of Hearing; and Proposed Order	05/24/2013
28	55836509; ·> 55836510; ·> 55836511; ·> 55836514; ·> 55836518; ·> 55836522; ·> 55836531; ·> 55836532; ·> 55836534; ·> 55836535; ·> 55836536; 55892170	Goldking Holdings LLC and Goldking Onshore Operating LLC's Response in Opposition to Motion for Partial Summary Judgment on Right to Advancement and Alternative Verified Motion for Continuance; Exhibits 1 - 10; and Proposed Order	05/24/2013
29	55873778; ·> 55873783; ·> 55873780	Culotta's Special Exceptions; Notice of Hearing; and Proposed Order	05/28/2013
30	55873784	Request for Findings of Fact and Conclusions of Law	05/28/2013
31	55904346	Goldking Onshore Operating LLC and Goldking Holdings LLC's Notice of Accelerated Appeal	05/30/2013
32	55918073; ·> 55918075	Plaintiffs' Response to Defendant Paul Culottas Special Exceptions; and Proposed Order	05/30/2013
33	55967677	Notice of Status Conference	05/31/2013
34	56110318	Order Signed Staying Proceedings	05/31/2013

No.	Clerk's Image Number	Document	Date
35	56127044	Goldking Onshore Operating LLC and Goldking Holdings LLC's Request for Preparation of Clerks Record and Designation of Items to be Included Therein	06/03/2013
36	56323025	Fourteenth court of appeals (correspondence to Court Reporter regarding record)	06/04/2013
37	56296040	Fourteenth court of appeals (correspondence to Court Reporter regarding record) [duplicate of above]	06/05/2013
38	56248968; 56252559	Defendants/Counter-Plaintiffs' Cross-Notice of Accelerated Appeal; and FREEfax Cover Sheet	06/07/2013
39	56330484; ·> 56346734; ·> 56346735; ·> 56346736; ·> 56346737; ·> 56346738; ·> 56346739; ·> 56346740; ·> 56346741; ·> 56346742; 56328585	Defendant Tallerine's Motion for Protective Order; Exhibits A - B; and Notice of Oral Hearing	06/14/2013
40	56575573; ·> 56575575; ·> 56575576; ·> 56575579; ·> 56575580; ·> 56575581; ·> 56575582; ·> 56575583; ·> 56575584; ·> 56575585; ·> 56575587; ·> 56575588; ·> 56575589; ·> 56575590	Plaintiffs' and Third Party Defendants' Response to Tallerine's Motion for Protective Order; Exhibits 1 - 12; and Proposed Order	07/10/2013
41	56588722	Proposed Agreed Protective Order	07/11/2013
42	56604411	Agreed Protective Order (Civil) Signed	07/12/2013
43	56639445	Rule 11 Agreement	07/16/2013
44	56726152	Rule 203 Certification [Texas Community Bank]	07/24/2013
45	56766669; ·> 56766674; ·> 56766673	Plaintiffs' Motion to Extend Stay of Advancement Claim Pending Appeal; Notice of Hearing; and Proposed Order	07/29/2013
46	56791585	Rule 203 Certification [Bank of River Oaks]	07/31/2013
47	56812435; ·> 56812436; 56812553	Defendants' Response to Motion to Extend Stay; Proposed Order; and FREEfax Cover Sheet	08/01/2013
48	56820761	Notice of Status Conference	08/02/2013
49	56828113	Signed Order Granting in Part Plaintiffs' Motion to Extend Stay of Advancement Claim Pending Appeal	08/02/2013
50	56933794	Court Notice of Status Conference	08/02/2013
51	57064377	Rule 11 Agreement (two signatures)	08/26/2013
52	57101648	Rule 11 Agreement (duplicate of above with three signatures)	08/28/2013
53	57212928; ·> 57212932; ·> 57212934	Plaintiffs' Original Petition in Intervention on Sworn Account and Requests for Disclosure; and Exhibits 1 - 2	09/09/2013
54	57457499	Court Notice of Status Conference	09/20/2013
55	57400281; ·> 57400284; 57399491; ·> 57400285	Plaintiffs' Motion to Strike Louis Belanger's Plea in Intervention; Exhibit A; Notice of Hearing; and Proposed Order	09/23/2013

No.	Clerk's Image Number	Document	Date
56	57412865	Amended Notice of Hearing	09/24/2013
57	57466335; 57469139	Intervenor Louis Belanger Jrs.' Response to Plaintiff Goldking Onshore Operating LLC's Motion to Strike the Intervention; and FREEfax Cover Sheet	09/26/2013
58	57469239	Defendants' First Amended Answer and Counterclaim	09/26/2013
59	57543751	Order Signed Striking Plea in Intervention	09/27/2013
60	57638371	Rule 203 Certification [Texas Community Bank]	10/04/2013
61	57638372	Rule 203 Certification [Dune Energy]	10/04/2013
62	57966890; ·> 57966894; ·> 57966892	Plaintiffs' Motion to Strike Defendants Amended Pleading and in the Alternative Plaintiffs' Motion to Sever Belangers Claim; Notice of Hearing; and Proposed Order	10/24/2013
63	58064263	Court Notice of Reset of Oral Docket	10/25/2013
64	58105127; ·> 58105134	Suggestion of Plaintiffs' Bankruptcy Petition and Motion to Stay Prosecution of Plaintiffs' Claims; and Exhibit A	10/31/2013
65	·> 58090469	Plaintiffs' Suggestion of Bankruptcy	10/31/2013
66	58291040; 58291339	Notice of Intention to Take Deposition by Written Questions to Keith Tunnell; and FREEfax Cover Sheet	11/14/2013
67	58385288	Rule 203 Certification [Comerica Bank]	11/21/2013
68	58385289	Rule 203 Certification [Whitney Bank]	11/21/2013
69	59169120	Court Notice of Status Conference	12/31/2013
70	59226069	Court Notice of Status Conference	01/10/2014

EXHIBIT 3

2013-08724 / Court: 061

NO. _____

GOLDKING ONSHORE OPERATING, LLC and GOLDKING HOLDINGS, LLC	§	IN THE DISTRICT COURT
Plaintiffs	§	
vs.	§	HARRIS COUNTY, TEXAS
LEONARD C. TALLERINE, JR., GOLDKING ENERGY CORPORATION, GOLDKING ENERGY PARTNERS I, LP, GOLDKING ENERGY PARTNERS II, LLC, GOLDKING CAPITAL MANAGEMENT, LLC, RETA WELLWOOD DBA VERMILLION CONTRACTING CO., DENNA RAMSEY and PAUL CULOTTA	§	____ JUDICIAL DISTRICT
Defendants	§	**JURY DEMANDED**

PLAINTIFFS' ORIGINAL PETITION

Goldking Onshore Operating, LLC and Goldking Holdings, LLC (collectively "Plaintiffs") file this Original Petition against Leonard C. Tallerine, Jr., Goldking Energy Corporation, Goldking Energy Partners I, LP, Goldking Energy Partners II, LLC, Goldking Capital Management, LLC, Reta Wellwood dba Vermillion Contracting Co., Denna Ramsey, and Paul Culotta (collectively the "Defendants"), and in support thereof would show the Court the following:

I. NATURE OF THE ACTION

1. Leonard C. Tallerine, Jr. ("Tallerine") served as the President and CEO of Plaintiffs Goldking Onshore Operating, LLC ("GOO") and Goldking Holdings, LLC ("GKH") beginning in September of 2010. In blatant disregard of his fiduciary duties and any notion of business ethics, Tallerine—with the help of his trusted subordinates and fellow, hand-picked employees, Denna Ramsey and Paul Culotta—engaged in a calculated, pervasive, and deceptive scheme to embezzle hundreds of thousands of dollars from GOO's operating accounts for his and

his cohorts' personal financial gain and use. Starting with the very first days of his employment, Tallerine and the other Defendants employed a wide range of deceptive and elaborate acts to drain GOO's cash for Tallerine's personal benefit, including: (i) wiring GOO funds directly to Tallerine's personal bank account or the accounts of entities owned by Tallerine; (ii) directing GOO to pay Tallerine's personal expenses that were unrelated to GOO business; (iii) requesting significant cash advances for business travel without providing a subsequent true-up of actual expenses incurred; (iv) submitting fabricated invoices from fake vendors and doctored invoices from real vendors to GOO for payment to Tallerine and his affiliates; (v) invoicing GOO for employees' work already paid for and performed for another entity Tallerine controlled, which funds Tallerine and his affiliates kept for themselves; (vi) stealing checks payable to GOO and depositing them in accounts of entities owned by Tallerine; (vii) stealing GOO checks made out to GOO vendors and depositing them in accounts of entities owned by Tallerine; and (viii) using GOO employees and assets for other personal business ventures.

2. Tallerine never revealed this conduct to his fellow members of GKH's Board of Managers or to anyone at Wayzata Opportunities Fund II, LP ("Wayzata"), the majority interest owner of GKH, of which GOO is a wholly-owned subsidiary. In fact, Tallerine, Culotta and Ramsey endeavored to keep these acts hidden from Wayzata. These were not isolated events that amounted to simple "mistakes," as Tallerine has suggested. In reality, Tallerine treated GOO as his personal piggy bank, looting GOO at will to support his personal investments and lavish lifestyle, and to pay people who performed personal work or services for him. By the time he was caught by GOO accounting staff, Tallerine had stolen or diverted several hundred thousand dollars from GOO's operating account, only a portion of which he acknowledged and paid back (without revealing either the repayment or the initial transfers to other members of the

Board of Managers or Wayzata). The only reason Tallerine paid any of these proceeds back was that accounting staff at GOO confronted Tallerine and insisted upon it.

3. In the fall of 2012, at a time when GOO was in default on its line of credit with Bank of America, Tallerine once again used GOO funds for a clearly improper purpose: the funding of a deposit for Tallerine's acquisition of a restaurant in New Orleans. Around this time, Wayzata received an anonymous call from a member of the GOO accounting staff suggesting that Wayzata investigate Goldking. Wayzata ultimately retained professionals to investigate the matter and uncovered multiple instances of misconduct by Defendants.

4. Plaintiffs bring this action against Tallerine and the other Defendants for conversion, violation of the Theft Liability Act, breach of fiduciary duty, fraud, unjust enrichment, business disparagement, aiding and abetting fraud and breach of fiduciary duty, conspiracy, breach of contract, and breach of the covenant of good faith and fair dealing. Plaintiffs seek recovery of actual and exemplary damages and their attorneys' fees.

II. DISCOVERY CONTROL PLAN

5. Plaintiffs intend to conduct discovery in this case under level 3 as specified in Rule 190.4 of the Texas Rules of Civil Procedure.

III. PARTIES

6. Plaintiff Goldking Onshore Operating, LLC is a Delaware Limited Liability Company with its principal place of business at Two Shell Plaza, 777 Walker Street, Suite 2500, Houston, Texas 77002.

7. Plaintiff Goldking Holdings, LLC is a Delaware Limited Liability Company with its principal place of business at Two Shell Plaza, 777 Walker Street, Suite 2500, Houston, Texas 77002.

8. Defendant Leonard C. Tallerine, Jr. is an individual residing in Houston, Texas. Tallerine is the former President and CEO of Plaintiffs Goldking Onshore Operating, LLC and Goldking Holdings, LLC and was a manager of Goldking Holdings, LLC. Mr. Tallerine may be served at 3620 Inverness, Houston, Texas 77019.

9. Defendant Goldking Energy Corporation is a Texas corporation with its principal place of business in Houston, Texas. Goldking Energy Corporation may be served by serving process on its registered agent and President, Leonard C. Tallerine, Jr. at 3620 Inverness, Houston, Texas 77019.

10. Defendant Goldking Energy Partners I, LP is a Texas limited partnership with its principal place of business in Dallas, Texas. Goldking Energy Partners I, LP may be served by serving process on its registered agent, Benny D. Duncan at 6116 N. Central Expressway, Suite 1400, Dallas Texas 75206.

11. Defendant Goldking Energy Partners II, LLC is a Texas Limited Liability Company with its principal place of business in Houston, Texas. Goldking Energy Partners II, LLC may be served by serving process on its registered agent, President and CEO, Leonard C. Tallerine, Jr. at 3620 Inverness, Houston, Texas 77019.

12. Defendant Goldking Capital Management, LLC is a Texas limited liability company with its principal place of business in Houston, Texas. Goldking Capital Management, LLC may be served by serving process on its registered agent, President and CEO, Leonard C. Tallerine, Jr. at 3620 Inverness, Houston, Texas 77019.

13. Defendant Reta Wellwood dba Vermillion Contracting Co. is an entity doing business in Texas. Reta Wellwood dba Vermillion Contracting Co. may be served at 803 South Jefferson St., Abbeville, LA 70510.

14. Defendant Denna Ramsey is an individual residing in Houston, Texas. Ms. Ramsey is the former Assistant Vice President and Assistant Treasurer of Plaintiff Goldking Onshore Operating, LLC. Ms. Ramsey can be served at 6743 Cindy Lane, Houston, Texas 77008.

15. Defendant Paul Culotta is an individual residing in Houston, Texas. Mr. Culotta is the former Senior Vice President Corporate Planning, Budget and Analysis of Plaintiff Goldking Onshore Operating, LLC. Mr. Culotta can be served at 15203 Rose Cottage Drive, Houston, Texas 77069.

IV. JURISDICTION & VENUE

16. This Court has subject matter jurisdiction over this lawsuit because the amount in controversy exceeds this Court's minimum jurisdictional requirements.

17. Defendants are subject to personal jurisdiction in this Court because they are either residents of Texas and/or have engaged in systematic and continuous contacts with the state of Texas and because this Court's exercise of personal jurisdiction over Defendants is consistent with due process under the United States Constitution. Defendants have purposefully availed themselves of the benefits and protections of Texas's laws by establishing such contacts in this state. Defendants are subject to general and specific jurisdiction because they are Texas residents, regularly conduct business in Texas and/or because Plaintiffs' claims arise from and are directly related to Defendants' contacts with Texas.

18. Venue is proper in this Court because Harris County is the county "in which all or a substantial part of the events . . . giving rise to [this] claim occurred." TEX. CIV. PRAC. & REM. CODE ANN. § 15.002(a)(1).

V. FACTUAL ALLEGATIONS

19. Plaintiff Goldking Onshore Operating, LLC ("GOO") is an oil and gas exploration company headquartered in Houston, Texas. GOO's primary focus is oil and gas properties located in Louisiana and Texas, including state waters. GOO is a wholly owned subsidiary of Plaintiff Goldking Holdings, LLC ("GKH").

20. Wayzata is the majority member of GKH and holds approximately a 93.75% ownership interest. The minority member is Goldking LT Capital Corp., an entity owned by Defendant Leonard C. Tallerine, Jr. ("Tallerine"), which holds approximately a 6.25% ownership interest.[1] In addition to his membership interest in GKH, Tallerine individually served on the Board of Managers of GKH.

21. Both GKH and GOO were formed in 2010. Tallerine served as President and CEO of both entities from their inception until he was removed in mid-December 2012 after Wayzata confirmed his misconduct. As explained in detail below, at every turn, Tallerine treated GOO as his personal slush fund, stealing and diverting at least $700,000 of GOO's cash for his own personal use through a legion of deceptive means. Tallerine expended GOO's cash and working capital by directing or authorizing its use for non-GOO expenditures, including payments that benefitted himself, his family members, his co-conspirators, and entities that he owns. Tallerine embezzled GOO funds directly into his own accounts or accounts for other businesses he owns, directed GOO to pay invoices that related to his personal expenses, as opposed to corporate expenses, and created bogus contractors and submitted fraudulent invoices in an attempt to "cover up" GOO's payment of his personal expenses. Tallerine accomplished this systematic misappropriation of corporate assets with the help of his longtime personal

[1] Goldking LT Capital Corp. has failed and refused to make its most recent capital call, and thus its ownership percentage may change.

assistant, former GOO Vice President and Assistant Treasurer Denna Ramsey ("Ramsey"), and his colleague, former GOO Senior Vice President Corporate Planning, Budget and Analysis Paul Culotta ("Culotta").[2]

22. Tallerine's widespread looting of GOO funds directly harmed GOO's financial condition by causing shortfalls in GOO's operating cash and negative cash balances in its operating bank account. Plus, Defendants have failed to pay back GOO for some of the money that they wrongfully took. Despite the damage being done to the company, Tallerine's actions were not disclosed to GKH's Board or Wayzata, GKH's majority member. Indeed, based on GOO's internal records, Tallerine, Ramsey and Culotta attempted to disguise the breadth and amount of GOO's cash that they had diverted. When Wayzata discovered and confirmed Tallerine and the other Defendants' illegal conduct in December 2012, GOO and GKH terminated the employment of Defendants Tallerine and Ramsey. Culotta had been terminated from his position as Senior VP Corporate Planning, Budget and Analysis in December 2011 for other reasons, well before his role in Tallerine's scheme was uncovered. Even after his termination, Culotta continued to assist Tallerine in continuing to cover up his wrongful scheme from Wayzata and the other members of the Board of Managers by making certain that the 2011 audit did not reveal any of these transactions to Wayzata or other members of the Board of Managers.

23. Plaintiffs' initial investigation has revealed this was not Tallerine's first foray into corporate embezzlement and that he used some of the same deceptive tactics with entities that he had been previously trusted to oversee.

[2] GOO and Culotta entered into a Separation Agreement, which included mutual general releases, dated December 31, 2011. Plaintiffs' claims against Culotta in this action relate only to actions taken after the date of the release.

24. Because of the nature and scale of Tallerine's scheme to defraud GKH and GOO, Plaintiffs' investigation into Defendants' wrongdoing is still ongoing. Indeed, Plaintiffs anticipate that the true scope of Defendants' schemes will be larger, and include other bogus vendors and improper transfers to third parties. Plaintiffs will amend as additional wrongful conduct is discovered.

A. Tallerine's Diversion of GOO's Cash to Pay Personal Expenses or Support Personal Investments

25. Tallerine, with the assistance of Ramsey, diverted GOO's cash into his personal accounts and directed that GOO's cash be used to pay his personal expenses or support his personal investments. For example:

(a) On June 17, 2011, Tallerine and/or Ramsey caused $43,000 to be wired from GOO's bank account to Tallerine's personal bank account, with no explanation or documentation supporting such a transfer of funds;

(b) On April 14, 2011, Tallerine and/or Ramsey caused $100,000 to be wired from GOO's operating account to the account of Defendant Goldking Energy Corporation, an entity owned by Tallerine, again with no explanation or documentation supporting such a transfer of funds;

(c) In June 2011, Tallerine and/or Ramsey caused $101,000 of GOO's cash to be used to pay two vendors for the construction and design of a blow-dry bar owned by Tallerine's daughter, with indisputable knowledge aforethought that such expenses had nothing to do with GOO's business;

(d) In April 2011, Tallerine and/or Ramsey directed $8,065 to be paid out of GOO's operating account for the demolition of a house in the Heights in Houston that, upon information and belief, is (or was at the time) owned by Tallerine or one of his affiliates;

(e) In October 2011, Tallerine and/or Ramsey directed a $3,000 payment be made by GOO for the repair of a boat ramp on a residential house in Jamaica Beach, Galveston. Upon information and belief, the house is titled in Ramsey's name;

(f) In the fall of 2012, well after Tallerine attempted to explain away to GOO accounting staff that all of his misconduct was simply accounting "mistakes," Tallerine directed that a $32,000 wire be made from GOO's operating account to a law firm in Louisiana, which later was discovered to have been for the purpose

of funding an escrow account for Tallerine's personal acquisition of a restaurant in New Orleans; and

(g) Tallerine and/or Ramsey ordered a $24,967.90 wire from GOO's operating account to Gulfstream Aerospace on June 16, 2011. Upon information and belief, this payment relates to an aircraft owned by Tallerine through his entity Defendant Goldking Energy Corporation.

B. Tallerine's Intentional Misrepresentations and Falsifying of Invoices to Obtain Wrongful Reimbursement from GOO.

26. From his very first days working for GOO and GKH, Tallerine also submitted false requests for reimbursement of "transition costs" to GOO on behalf of Defendant Goldking Energy Corporation for alleged services that were not actually provided to GOO. For example, in late 2010/early 2011, Tallerine requested reimbursement on behalf of Goldking Energy Corporation for an invoice from Cawley Gillespie, a reservoir engineering company that he represented had performed GOO-related work, which he claimed that he had paid from his personal funds at Goldking Energy Corporation. Based on these representations, GOO reimbursed Goldking Energy Corporation for the $18,092 allegedly paid to Cawley Gillespie. This invoice, as it turns out, was doctored and had nothing to do with GOO. Defrauding GOO once was not good enough. After being paid once on this fraudulent invoice, Tallerine once again sought payment of this fraudulent invoice. In September of 2011, Tallerine, with Ramsey's assistance, requested reimbursement and caused GOO to pay Cawley Gillespie $18,092—the exact same amount Tallerine had represented he and/or Goldking Energy Corporation had already paid to the vendor. GOO's investigation of the invoice uncovered that not only had Tallerine not paid Cawley Gillespie as he originally reported, he had also submitted a fake Cawley Gillespie invoice to support his initial reimbursement. Indeed, Tallerine and/or someone acting at his direction had altered the original Cawley Gillespie invoice to hide that it was for work related to Tallerine's personal investments, not GOO's business. In short,

Tallerine caused GOO to pay a fraudulent invoice (that had nothing to do with GOO business) two times: once for his own personal benefit and once to the vendor.

27. Equally as deceptive, shortly after GOO had formed but before its payroll procedures were put in place, Tallerine submitted reimbursement requests—again, on behalf of his entity Goldking Energy Corporation—to GOO for alleged payroll costs of its employees for work allegedly performed on GOO-related business (specifically, the acquisition of a set of oil and gas properties known as the "White Oak Acquisition"). In reality, much of the employees' time was spent working for Walker Street Consulting, another of Tallerine's personal ventures, which managed assets sold by East Cameron Partners ("ECP") to EC Offshore Properties, Inc. But Walker Street Consulting had already paid those employees for their work via its receipt of $127,500 per month from ECP. GOO paid approximately $200,000 in false salary/wage claims, which were not passed on to the employees, but instead were deposited in Tallerine's Goldking Energy Corporation business accounts for his personal use.

28. In addition, Tallerine and Ramsey created a bogus vendor, Defendant Vermillion Contracting, and authorized GOO to pay over $24,000 in false invoices to Vermillion Contracting, whose accounts Tallerine and Ramsey controlled. Vermillion Contracting is the assumed "doing business as" name of Reta Wellwood, one of Tallerine's ex-wives. But Reta Wellwood was the "owner" of Vermillion Contracting in name only; the entity is operated entirely by Tallerine and Ramsey. Tallerine and Ramsey submitted false invoices from Vermillion Contracting to GOO for alleged work that was not performed at various oil fields and wells, and when the veracity of Vermillion Contracting' "work" was questioned, Tallerine intimidated a GOO employee into "authorizing" the expenses so that Tallerine could get paid.

Tallerine deliberately concealed, and has never disclosed, his relationship and involvement with Vermillion Contracting to GOO, GKH, GKH's Board or Wayzata.

C. Tallerine Steals Checks Payable to GOO and Deposits Them Into His Personal Accounts

29. Tallerine, with Ramsey's assistance, stole checks payable to GOO and intentionally deposited them into accounts owned by Tallerine's personal, non-GOO related entities. For example:

(a) A $35,593.51 check payable to GOO from Pioneer Drilling Services for an overpayment on a turnkey drilling project was deposited into a non-GOO account belonging to Goldking Energy Partners II, LLC, one of the entities owned and controlled by Tallerine; and

(b) A $38,124.90 check payable to GOO from Russo Exploration for its share of a cash call on a GOO-operated property was deposited into Defendant Goldking Energy Corporation's (an entity solely owned by Tallerine) bank account.

D. Tallerine Deposited GOO Checks Made Payable to Vendors In His Personal Accounts

30. Tallerine, with Ramsey's assistance, also took GOO checks made payable to GOO vendors, and intentionally deposited them into accounts owned by Tallerine's personal, non-GOO related entities.

31. Specifically, in late May-early June 2011, GOO prepared three checks totaling $234,767, two of which were payable to Phoenix Exploration and one of which was payable to Pioneer Drilling Services, two of GOO's actual vendors. At that time, Tallerine approved all GOO disbursement checks prior to mailing, and he had possession of them in his GOO office. Tallerine brought the three checks back to GOO's accounting staff, and informed them that they were not to be paid and that the checks were to be voided. Shortly thereafter, when GOO's operating account was overdrawn, GOO employees discovered that the three "voided" vendor checks had cleared GOO's account and had been deposited into the account of Defendant

Goldking Energy Partners I, LP, an entity owned and controlled by Tallerine. Tallerine and Ramsey had diverted these funds into Goldking Energy Partners' account by using a check scanning device that allowed them to deposit the funds into the incorrect account without interference by GOO's bank.

32. In the same timeframe, a $15,811.50 GOO check payable to its vendor Charter Capital was held by Tallerine and then deposited into the account of Defendant Goldking Capital Management, LLC (another entity owned and controlled by Tallerine). As a result of this misappropriation, GOO had to submit a replacement check to Charter Capital.

E. Tallerine's Post-Termination Wrongful Conduct and Bad Faith

33. As stated above, Tallerine's unlawful scheme was discovered by GOO, GKH, GKH's Board and Wayzata in December 2012. On December 17, Tallerine was terminated as CEO and President of GOO and GKH. Ramsey's employment was terminated two days later. Since his removal, Tallerine has continued his pattern of destructive behavior toward the companies. Specifically, upon information and belief, Tallerine and/or his representatives have contacted GOO's vendors and falsely represented that GOO and GKH are in a dire financial situation and on the verge of declaring bankruptcy. Tallerine made these statements knowing that they were false and with the intent to directly harm GKH and GOO's reputation and relationship with vendors, who are a vital part of the companies' success.

34. Since being terminated as CEO, Tallerine has also used his position as a member of the Board and GKH to harass GOO employees and fellow Board members with numerous requests for information and access to employees far in excess of what is reasonable for a Board or GKH member. Although Tallerine and his affiliates have removed scores of boxes of records, documents, computers and other affects from GOO premises since his termination, Tallerine

continues to issue improper requests and constantly badgers other Board members (and Wayzata) in an attempt to fabricate a record of being "oppressed" as the minority member of GKH. In short, the scheme continues.

35. Tallerine's post termination conduct and his use of his status as a member of the GKH Board and a minority member of GKH are just the latest installment in a long story of Tallerine's bad faith.

F. Ramsey and Culotta's Participation in Tallerine's Scheme to Defraud

36. Ramsey, who was GOO's Vice President and Assistant Treasurer, actively participated in Tallerine's scheme to embezzle from and defraud GOO and GKH. Ramsey, among other things, (i) diverted GOO funds to Tallerine's personal bank account and accounts of entities owned by Tallerine; (ii) directed GOO to pay personal expenses on behalf of herself and Tallerine; (iii) falsified vendor invoices submitted to GOO for payment; (iv) submitted invoices to GOO for payment to bogus vendors for services not rendered; (v) deposited checks payable to GOO in accounts of entities owned by Tallerine; and (vi) deposited GOO checks made payable to GOO vendors in accounts of entities owned by Tallerine. Ramsey also participated in the attempt to "cover up" Tallerine's fleecing of the company by doctoring invoices and altering the company's books and records.

37. Culotta was GOO's and GKH's Senior Vice President Corporate Planning, Budget and Analysis during the events described herein. Because the embezzlement scheme was pervasive and material amounts of cash were routinely stolen from GOO, Culotta either knew, or at the very least should have known, of Tallerine and Ramsey's illegal conduct. Culotta did nothing to stop their wrongdoing or disclose its existence to GOO, GKH or GKH's Board. Moreover, once Culotta became aware of Tallerine and Ramsey's gross misappropriation of

GOO's money, he did not disclose that information to GOO, GKH or GKH's Board. Culotta continued to be involved in this scheme after his termination, when he worked actively to conceal the pattern of fraud and stolen funds in GOO's 2011 audit so Wayzata and GKH's Board of Managers did not learn of the wrongdoing.

VI. CAUSES OF ACTION

Count I: Conversion Against Tallerine, Goldking Energy Corporation, Goldking Energy Partners I, LP, Goldking Energy Partners II, LLC, Goldking Capital Management, LLC, Reta Wellwood and Ramsey

38. All prior allegations are incorporated herein by reference.

39. GOO owned, possessed, or had the right to immediate possession of funds contained in its bank accounts, and of incoming checks or other instruments made payable to GOO that were received by GOO representatives.

40. The funds contained in GOO's bank accounts, and checks or other instruments made payable to GOO, were personal property, identifiable as separate chattels, intended to be kept segregated, constituted an intact fund, and were not subject to a title claim by Defendants.

41. Defendants wrongfully diverted or withdrew funds from GOO's bank accounts, and wrongfully diverted checks or other instruments made payable to GOO, for Defendants' benefit without GOO's knowledge or consent. Defendants exercised dominion and control over the wrongfully diverted or withdrawn funds and the wrongfully diverted instruments in a manner inconsistent with GOO's rights.

42. Defendants also used GOO assets and personnel for business and personal activities not related to GOO business activities.

43. Defendants either participated directly in converting GOO's account funds and incoming payments, or received GOO's account funds and incoming payments with the knowledge that the funds had been wrongfully acquired by another.

44. Defendants' conduct was willful, constituted bad faith, and was not in the best interests of GOO or GKH.

45. Defendants' conversion has caused GOO substantial injury.

46. Defendants acted with malice. GOO is therefore entitled to recover exemplary damages.

Count 2: Violations of the Texas Theft Liability Act (Texas Civil Practice & Remedies Code Chapter 134) Against Tallerine, Goldking Energy Corporation, Goldking Energy Partners I, LP, Goldking Energy Partners II, LLC, Goldking Capital Management, LLC, Reta Wellwood and Ramsey

47. All prior allegations are incorporated herein by reference.

48. GOO had a possessory right to the funds contained in its bank accounts, and of incoming checks or other instruments made payable to GOO that were received by GOO representatives.

49. Defendants unlawfully appropriated GOO's bank-account funds and incoming payments by diverting or withdrawing these funds and instruments without GOO's effective consent, in violation of Texas Penal Code § 31.03.

50. Defendants appropriated GOO's property with the intent to deprive GOO of the property.

51. Defendants' conduct was willful, constituted bad faith, and was not in the best interests of GOO or GKH.

52. GOO has sustained injury as a result of Defendants' theft.

53. Defendants acted with malice. GOO is therefore entitled to recovery exemplary damages.

54. GOO is entitled to recover its court costs and reasonable and necessary attorneys' fees pursuant to Texas Civil Practice & Remedies Code § 134.005(b).

Count 3: Common Law Fraud Against Tallerine and Ramsey

55. All prior allegations are incorporated herein by reference.

56. As explained above, Tallerine and Ramsey made a series of representations to GOO that were material and false, including representations that expenses and invoices submitted to GOO for payment were for expenses incurred in connection with GOO's business.

57. When Tallerine and Ramsey made these misrepresentations, they knew they were false and/or made the representations recklessly, as positive assertions, and without knowledge of their truth.

58. Tallerine and Ramsey made these misrepresentations with the intent that GOO would rely and act on them, which it did, to its detriment.

59. Tallerine and Ramsey's conduct was willful, constituted bad faith, and was not in the best interests of GOO or GKH.

60. Tallerine and Ramsey's fraudulent conduct caused injury to GOO.

61. Tallerine and Ramsey committed fraud with malice; therefore GOO is entitled to recover exemplary damages.

Count 4: Breach of Fiduciary Duty against Tallerine and Ramsey

62. All prior allegations are incorporated herein by reference.

63. As the President and CEO of GKH and GOO, as well as a member and manager of GKH, Tallerine owed GKH and GOO a fiduciary duty of loyalty, care, good faith and fair

dealing, and candor. Ramsey owed GOO a fiduciary duty of loyalty, care, good faith and fair dealing and candor because she was the Vice President and Assistant Treasurer of GOO.

64. Tallerine and Ramsey breached their fiduciary duties to GKH and GOO in numerous respects, by, among other things, (i) embezzling corporate funds for their own benefit; (ii) diverting corporate funds into Tallerine's personal bank account or accounts of entities owned by Tallerine; (iii) causing GOO to pay Tallerine and Ramsey's personal expenses; (iv) fabricating vendors and invoices and submitting them to GOO for payment; (v) causing GOO to pay false and improper expenses; (vi) stealing checks payable to GOO and depositing them in accounts of entities owned by Tallerine; (vii) stealing GOO checks payable to GOO vendors and depositing them in bank accounts of entities owned by Tallerine; (viii) entering into self dealing transactions with GOO without disclosure or approval; (ix) altering invoices and corporate books and records to disguise their illegal conduct; (x) using GOO assets and personnel for business not related to GOO and for the personal benefit of Tallerine and his affiliated entities; and (xi) failing to disclose their knowledge of wrongful and illegal conduct to GOO, GKH or GKH's Board.

65. Tallerine and Ramsey's conduct was willful, constituted bad faith, and was not in the best interests of GOO or GKH.

66. Tallerine and Ramsey's breaches of fiduciary duty have caused injury to Plaintiffs.

67. Tallerine and Ramsey's breaches of fiduciary duty were intentional; therefore Plaintiffs are entitled to exemplary damages.

Count 5: Unjust Enrichment Against Tallerine, Goldking Energy Corporation, Goldking Energy Partners I, LP, Goldking Energy Partners II, LLC, Goldking Capital Management, LLC, Reta Wellwood and Ramsey

68. All prior allegations are incorporated herein by reference.

69. Defendants have been unjustly enriched by retaining funds that were illegally and wrongfully taken from GOO by Defendants. It is unjust for Defendants to retain these funds for which they have no claim or right.

70. Defendants' unjust enrichment has caused injury to Plaintiffs.

Count 6: Business Disparagement Against Tallerine

71. All prior allegations are incorporated herein by reference.

72. Tallerine made disparaging comments to Plaintiffs' vendors about Plaintiffs' economic interests, including comments that Plaintiffs are on the verge of filing for bankruptcy.

73. When Tallerine made these comments to third parties they were false, and Tallerine knew they were false or made them recklessly without regard for their truth.

74. Tallerine made these comments with malice and without privilege.

75. Tallerine's conduct was willful, constituted bad faith, and was not in the best interests of GOO or GKH.

76. Tallerine's actions have caused special damages to Plaintiffs.

Count 7: Breach of Contract Against Tallerine

77. All prior allegations are incorporated herein by reference.

78. On or about October 16, 2010, Tallerine entered into an employment agreement with GOO and the parties entered into an addendum on or about April 5, 2011 (the agreement and addendum collectively the "Tallerine Employment Agreement"). The Tallerine Employment Agreement required Tallerine to "devote substantially all of [his] business time, attention and best efforts to the affairs of Goldking." The Tallerine Employment Agreement also specifically listed the limited expense items for which Tallerine would be entitled to reimbursement from GOO.

79. Tallerine breached the Tallerine Employment Agreement by, among other things, not devoting substantially all of his time, attention and best efforts to GOO and GKH business and approving and accepting reimbursement for unauthorized expenses.

80. GOO fulfilled all of its duties and obligations under the Tallerine Employment Agreement.

81. Tallerine's conduct was willful, constituted bad faith, and was not in the best interests of GOO or GKH.

82. Tallerine's breaches of the Tallerine Employment Agreement have caused substantial damage to GOO.

Count 8: Breach of Contract Against Ramsey

83. All prior allegations are incorporated herein by reference.

84. On or about October 16, 2010, Ramsey entered into an employment agreement with GOO (the "Ramsey Employment Agreement"). The Ramsey Employment Agreement required Ramsey to "devote substantially all of [her] business time, attention and best efforts to the affairs of Goldking." The Ramsey Employment Agreement also stated that she would be reimbursed for "ordinary and necessary business expenses related to directly to [her] employment."

85. Ramsey breached the Ramsey Employment Agreement by, among other things, not devoting substantially all of her time, attention and best efforts to GOO and GKH business and approving and accepting reimbursement for unauthorized expenses.

86. GOO fulfilled all of its duties and obligations under the Ramsey Employment Agreement.

87. Ramsey's conduct was willful, constituted bad faith, and was not in the best interests of GOO or GKH.

88. Ramsey's breaches of the Ramsey Employment Agreement have caused substantial damage to GOO.

Count 9: Breach of the Duty of Good Faith and Fair Dealing Against Tallerine

89. All prior allegations and incorporated herein by reference.

90. Tallerine, as a Manager who signed the GKH Limited Liability Agreement, owed GKH a duty of good faith and fair dealing.

91. Tallerine breached his duty of good faith and fair dealing to GKH in numerous respects, by, among other things, (i) embezzling corporate funds for their own benefit; (ii) diverting corporate funds into Tallerine's personal bank account or accounts of entities owned by Tallerine: (iii) causing GOO to pay Tallerine and Ramsey's personal expenses; (iv) fabricating vendors and invoices and submitting them to GOO for payment; (v) causing GOO to pay false and improper expenses; (vi) stealing checks payable to GOO and depositing them in accounts of entities owned by Tallerine; (vii) stealing GOO checks payable to GOO vendors and depositing them in bank accounts of entities owned by Tallerine; (viii) entering into self dealing transactions with GOO without disclosure or approval; (ix) altering invoices and corporate books and records to disguise their illegal conduct; (x) using GOO assets and personnel for business not related to GOO and for the personal benefit of Tallerine and his affiliated entities; and (xi) failing to disclose their knowledge of wrongful and illegal conduct to GOO, GKH or GKH's Board.

92. Tallerine's conduct was willful, constituted bad faith, and was not in the best interests of GKH.

93. Tallerine's breaches of the duty of good faith and fair dealing have caused injury to GKH.

Count 10: Aiding and Abetting Breach of Fiduciary Duty and Fraud Against Ramsey and Culotta

94. All prior allegations are incorporated herein by reference.

95. Ramsey and Culotta aided and abetted Tallerine's breaches of fiduciary duty and fraud.

96. As set forth above, Tallerine breached his fiduciary duties to Plaintiffs and committed fraud against Plaintiffs. Ramsey and Culotta had knowledge that Tallerine's conduct was tortious. Ramsey and Culotta had the intent to assist Tallerine in his tortious conduct. Ramsey and Culotta gave Tallerine assistance or encouragement in his tortious conduct, and their conduct was a substantial factor in causing Tallerine's breaches of fiduciary duty and fraud.

97. In addition, Ramsey and Culotta provided substantial assistance to Tallerine in accomplishing his breaches of fiduciary duty and fraud against Plaintiffs. Ramsey and Culotta's own conduct was a breach of a duty they owed to Plaintiffs, and their participation as a substantial factor in causing Tallerine's breaches of fiduciary duty and fraud.

98. Ramsey and Culotta's conduct was willful, constituted bad faith, and was not in the best interests of GOO or GKH.

99. Ramsey and Culotta's actions in aiding and abetting Tallerine's tortious conduct have caused Plaintiffs substantial injury.

Count 11: Conspiracy Against All Defendants

100. All prior allegations are incorporated herein by reference.

101. Defendants engaged in a civil conspiracy to convert substantial amounts of money from GOO and to otherwise defraud Plaintiffs.

102. Each of the Defendants had knowledge of, agreed to, had a meeting of the minds, and intended to convert GOO's funds and to defraud Plaintiffs.

103. As set forth above, Defendants committed unlawful, overt acts to further their course of action.

104. Defendants' conduct was willful, constituted bad faith, and was not in the best interests of GOO or GKH.

105. The civil conspiracy among Defendants has caused Plaintiffs substantial injury.

106. The conspiracy was the result of malice. Plaintiffs are therefore entitled to recover exemplary damages.

Count 12: Attorneys' Fees

107. All prior allegations are incorporated herein by reference.

108. Plaintiffs are entitled to recover costs and reasonable and necessary attorneys' fees from Tallerine and Ramsey pursuant to Section 38.001(8) of the Texas Civil Practice & Remedies Code.

109. In addition, as a consequence of Defendants' theft, Plaintiffs have found it necessary to employ the undersigned attorneys to pursue this lawsuit. Accordingly, pursuant to Texas Civil Practices & Remedies Code § 134.005(b), Plaintiffs are entitled to recover from Defendants their court costs and reasonable and necessary attorneys' fees incurred in pursuing this matter.

VII. CONDITIONS PRECEDENT

110. All conditions precedent to Plaintiffs' causes of action have been performed or have occurred.

VIII. JURY DEMAND

111. Plaintiffs hereby demand a jury trial.

IX. REQUEST FOR DISCLOSURE

112. Pursuant to Texas Rule of Civil Procedure 194, all Defendants are requested to disclose, within 50 days of service of this request, the information or material described in Rule 194.2.

X. PRAYER

113. Wherefore, Plaintiffs respectfully request that Defendants be served with process to appear and answer herein, and upon trial or other final hearing of this matter, that the Court award Plaintiffs the following relief:

(a) recovery of Plaintiffs' actual damages;

(b) disgorgement of any benefits or funds improperly received by Defendants;

(c) recovery of exemplary and punitive damages;

(d) recovery of Plaintiffs' reasonable and necessary attorneys' fees;

(e) recovery of Plaintiffs' costs of court;

(f) recovery of prejudgment and post-judgment interest; and

(g) any further relief to which Plaintiffs show themselves justly entitled.

Respectfully submitted,

GIBBS & BRUNS, LLP

By *__/s/ Barrett H. Reasoner__*

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ATTORNEYS FOR PLAINTIFFS

EXHIBIT 4

Filed 13 September 26 P4:49
Chris Daniel - District Clerk
Harris County
ED101J017738426
By: Charleta Johnson

No. 2013-08724

GOLDKING ONSHORE OPERATING, LLC and GOLDKING HOLDINGS, LLC, PLAINTIFFS,	§	IN THE DISTRICT COURT
v.	§	OF HARRIS COUNTY, TEXAS
LEONARD C. TALLERINE, JR.; GOLDKING ENERGY CORPORATION; GOLDING ENERGY PARTNERS I, LP; GOLDKING ENERGY PARTNERS II, LLC; GOLDKING CAPITAL MANAGEMENT, LLC; RETA WELLWOOD DBA VERMILLION CONTRACTING CO.; DENNA RAMSEY, and PAUL CULOTTA, DEFENDANTS,	§	61st JUDICIAL DISTRICT
LEONARD C. TALLERINE, JR.; GOLDKING ENERGY CORPORATION; GOLDKING ENERGY PARTNERS II, LLC; GOLDKING CAPITAL MANAGEMENT, LLC; RETA WELLWOOD DBA VERMILLION CONTRACTING CO.; PAUL CULOTTA; GOLDKING LT CAPITAL CORP.; and LOUIS BELANGER, JR., COUNTERCLAIM PLAINTIFFS,	§	
v.	§	
GOLDKING HOLDINGS, LLC; GOLDKING ONSHORE OPERATING, LLC; WAYZATA OPPORTUNITIES FUND II, LP; WAYZATA INVESTMENT PARTNERS, LLC; PAT HALLORAN; MARY BURNS; BLAKE CARLSON; MICHAEL STRAIN; RAFAEL WALLANDER; and EDWARD HEBERT, COUNTERCLAIM DEFENDANTS.	§	

FIRST AMENDED ANSWER AND COUNTERCLAIM

TO THE HONORABLE 61st DISTRICT COURT:

LEONARD C. TALLERINE, JR.; GOLDKING ENERGY CORPORATION; GOLDKING ENERGY PARTNERS II, LLC; GOLDKING CAPITAL MANAGEMENT, LLC; RETA WELLWOOD DBA VERMILLION CONTRACTING CO.; and PAUL CULOTTA ("Defendants") file this First Amended Answer and LEONARD C. TALLERINE, JR.;

GOLDKING ENERGY CORPORATION; GOLDKING ENERGY PARTNERS II, LLC; GOLDKING CAPITAL MANAGEMENT, LLC; RETA WELLWOOD DBA VERMILLION CONTRACTING CO.; PAUL CULOTTA; GOLDKING LT CAPITAL CORP.; and LOUIS BELANGER, JR. ("Counterclaim Plaintiffs") file this Counterclaim (joining additional parties and claims pursuant to Texas Rules of Civil Procedure 38, 40, 51 and 97), complaining of the wrongful conduct of GOLDKING HOLDINGS, LLC; GOLDKING ONSHORE OPERATING, LLC; WAYZATA OPPORTUNITIES FUND II, LP; WAYZATA INVESTMENT PARTNERS, LLC; PAT HALLORAN; MARY BURNS; BLAKE CARLSON; MICHAEL STRAIN; RAFAEL WALLANDER; and EDWARD HEBERT ("Counterclaim Defendants"), and would show this Court as follows:

I. GENERAL DENIAL

1. Defendants generally deny all allegations and claims stated by Plaintiffs in their Original Petition as provided in Texas Rule of Civil Procedure 92.

II. AFFIRMATIVE DEFENSES AND COUNTERCLAIM

A. GENERAL ALLEGATIONS

1. DISCOVERY LEVEL

2. Counterclaim Plaintiffs intend to conduct discovery in this case under level 3 as specified in Rule 190.4 of the Texas Rules of Civil Procedure.

2. PARTIES

3. LEONARD C. TALLERINE, JR.; GOLDKING ENERGY CORPORATION; GOLDKING ENERGY PARTNERS II, LLC; GOLDKING CAPITAL MANAGEMENT, LLC; RETA WELLWOOD DBA VERMILLION CONTRACTING CO., and PAUL CULOTTA are properly named in the Original Petition and are parties to this action.

4. Counterclaim Plaintiff GOLDKING LT CAPITAL CORP. is a Delaware Corporation with its principal place of business in Houston, Texas.

5. Counterclaim Plaintiff LOUIS BELANGER, JR. is natural person and resident of the State of Louisiana. BELANGER intervened as of right in this proceeding and was joined as a party on September 6, 2013, and now joins in this pleading as a Counterclaim Plaintiff because his claims arise out of the same transactions and occurrences as the counterclaims asserted by the other Counterclaim Plaintiffs.

6. GOLDKING HOLDINGS, LLC ("GKH") and GOLDKING ONSHORE OPERATING, LLC ("GOO") (collectively the "Company") are properly named in the Original Petition and are parties to this action.

7. WAYZATA INVESTMENT PARTNERS, LLC ("Wayzata Investment Partners") is a Delaware limited liability company with its principal place of business in Wayzata Investment Partners, Minnesota. Wayzata Investment Partners is registered to do business in Texas and may be served through its registered agent: CT Corporation System, 350 North St. Paul Street, Ste. 2900, Dallas, Texas 75201-4234.

8. WAYZATA OPPORTUNITIES FUND II, LP ("Wayzata II") is a Delaware limited partnership with its principal place of business in Wayzata, Minnesota. Wayzata II does business in Texas through its control of the Company and by committing torts in Texas as alleged herein, but does not maintain a registered agent for service of process. Wayzata II may be served through service on the Secretary of State, with notice forwarded to its home office at 701 East Lake Street, Suite 300, Wayzata, Minnesota 55391.

9. PAT HALLORAN is an individual resident of Minnesota. Halloran is a partner in Wayzata Investment Partners and does business in Texas through his control of the Company

and by committing torts in Texas as alleged herein. Halloran may be served through service on the Secretary of State, with notice forwarded to his home at 1595 Bohns Point Rd, Wayzata, MN 55391-9309.

10. MARY BURNS is an individual resident of Minnesota. Burns is a partner in Wayzata Investment Partners and does business in Texas through her control of the Company and by committing torts in Texas as alleged herein. Burns may be served through service on the Secretary of State, with notice forwarded to her home at 5355 Elmridge Cir, Excelsior, MN 55331-8355.

11. BLAKE CARLSON is an individual resident of Minnesota. Carlson is a partner in Wayzata Investment Partners and a manager/director of the Company and does business in Texas through his control of the Company and by committing torts in Texas as alleged herein. Carlson may be served through service on the Secretary of State, with notice forwarded to his home at 1460 Westwood Dr., Mound, MN 55364-8944.

12. MICHAEL STRAIN is an individual resident of Harris County, Texas. Strain is an officer of Wayzata Investment Partners, a manager/director of the Company and the Chief Executive Officer of the Company. Strain may be served at his place of employment: 777 Walker Street, Suite 2500, Houston, Texas 77002.

13. RAFAEL ("Ray") WALLANDER is an individual resident of Minnesota. Wallander is an officer of Wayzata Investment Partners and an officer of the Company and does business in Texas through his control of the Company and by committing torts in Texas as alleged herein. Wallander may be served through service on the Secretary of State, with notice forwarded to his home at 1030 Willow View Dr., Long Lake, MN 55356-4304.

14. Wayzata Investment Partners, Wayzata II, Halloran, Burns, Carlson, Strain, and Wallander are referred to collectively as "Wayzata."

15. EDWARD ("Eddie") HEBERT is an individual resident of Harris County, Texas. Hebert is the Chief Financial Officer of the Company. Hebert may be served at his place of employment: 777 Walker Street, Suite 2500, Houston, Texas 77002.

3. JURISDICTION, VENUE AND OTHER MATTERS

16. The counterclaim seeks damages within the jurisdictional limits of the court. Pursuant to Texas Rule of Civil Procedure 47(c), the counterclaim seeks monetary relief over $1,000,000.00.

17. Pursuant to Texas Civil Practice and Remedies Code § 15.062, venue is proper.

18. Pursuant to Texas Rule of Civil Procedure 54, all conditions precedent have been performed or have occurred.

C. COMMON FACTUAL ALLEGATIONS

1. FORMATION OF THE COMPANY

19. Wayzata Investment Partners is a private equity investment firm that specializes in investing in "distressed assets, undervalued assets, and special situations"—in other words, a company that finds businesses in financial trouble or emerging from bankruptcy and exploits their vulnerabilities, provides them with desperately-needed funding, but exacts exorbitant interest rates and terms, and frequently squeezes out the original owners. Wayzata Investment Partners is controlled by its majority partner, Pat Halloran. Other partners include Blake Carlson and Mary Burns. Ray Wallander and Michael Strain are officers of Wayzata Investment Partners. Wayzata operates through investment funds, which it controls, including Wayzata II.

20. Leonard C. Tallerine, Jr. is a successful oil and gas businessman, with more than thirty years' experience in the Gulf Coast region, during which time Tallerine amassed

considerable knowledge, experience, and industry contacts in Texas and Louisiana. Tallerine owns the "Goldking" name, and Tallerine does and has done business using the "Goldking" name for decades through more than a dozen different entities.

21. In May 2007, Tallerine sold his company, Goldking Energy Corporation, to Dune Energy, Inc. Goldking Energy (a private company) merged into Dune Energy (a public company), with Dune Energy being the surviving company. Tallerine retained the Goldking name and changed the name of one of his other companies to "Goldking Energy Corporation." Tallerine, and the new Goldking Energy and its other affiliates then pursued a number of ventures—one of which was the restructuring of East Cameron Partners, a bankrupt oil and gas company, through Goldking Capital Management, which was appointed Chief Restructuring Officer by the United States Bankruptcy Court.

22. In early 2009, Wayzata began acquiring bonds (10.5% Senior Secured Notes) issued by Dune Energy. During the course of these acquisitions, which ultimately reached a total of approximately $90 million, Wayzata partners and executives spent a considerable amount of time in Houston secretly meeting with and collecting information from Dune's management. During this process, Wayzata also sought meetings with Tallerine because of his knowledge of Dune's assets as the CEO immediately prior to the Goldking/Dune merger. Wayzata had little expertise in oil and gas exploration and production and particularly no expertise or knowledge of the Gulf Coast. However, Wayzata knew that Tallerine had extensive knowledge of the regions and prospective areas in which Dune operated. During numerous meetings over several months, Wayzata came to value Tallerine's knowledge and experience in the Gulf Coast oil and gas industry and with the Dune assets.

23. Wayzata also interacted with Tallerine and had the opportunity to see his operating results during 2009 and 2010 because Wayzata had invested in a number of companies being administered in the same bankruptcy court that administered Tallerine's restructuring and operation of East Cameron Partners. During the latter part of 2009, Tallerine made a presentation to Wayzata about the East Cameron Partners' properties so that Wayzata could evaluate bidding for those properties in a Bankruptcy Court auction.

24. In late 2009 or early 2010, Wayzata approached Tallerine with its interest in forming a new oil and gas venture with Tallerine in Houston, Texas, to take advantage of Tallerine's extensive knowledge and experience, his business reputation and standing in the industry, and the team of professionals with whom he was affiliated. Tallerine knew Wayzata's reputation for taking advantage of businesses in which it invested, but Pat Halloran, Blake Carlson, and Mike Strain assured him that this was a different situation, that Wayzata was transitioning its business out of distressed debt due to the recovery of the economy, and that Wayzata's new investment focus would be on building real value in real companies. Wayzata represented that it intended to invest in an oil and gas company for the long haul, and that Tallerine would be given true operational control. Halloran, Carlson, and Strain repeatedly assured Tallerine that Wayzata's intent was to build value and that their investment would be "a marathon, not a sprint."

25. Based on the extensive discussions over many months between the parties prior to forming the Company, both Tallerine and Wayzata understood and expected that Tallerine would be employed by and would manage the new venture, which would operate under his "Goldking" name, thus benefitting from the decades of goodwill that built up by Tallerine. Initially, Wayzata insisted that Tallerine would not be compensated for running the new company, but would

depend solely on his equity interest for a return on his investment. Tallerine absolutely refused. As a condition of the investment, the parties eventually agreed that Tallerine would receive monetary compensation of $350,000.00 salary and a minimum $50,000.00 bonus each year in addition to equity. The parties agreed and understood that Tallerine's salary and bonus were important components of the return on his investment and were central to his decision to invest. Tallerine also informed Wayzata that he intended to invest several million dollars of his own money into the new venture, but that his ability to continue infusing capital would be limited. Wayzata assured Tallerine that, when he reached his limit, Wayzata would continue to fund without diminishing Tallerine's equity interest.

26. Goldking Holdings, LLC ("GKH") and Goldking Onshore Operating, LLC ("GOO") (collectively the "Company") were formed by the filing of Certificates of Formation with the Delaware Secretary of State on March 3, 2010, pursuant to the Delaware Limited Liability Company Act (the "Act"). GOO would be the operating entity with GKH as its sole member. The Company's governance was set forth in an initial Limited Liability Company Agreement of Goldking Holdings, LLC, entered into effective July 13, 2010, by its members, Tallerine, Jr. and Wayzata II, and by its initial manager, Wayzata Investment Partners. The original LLC Agreement set Tallerine's ownership interest at 10% and his initial capital contribution at $190,000. Section 5.5 of this agreement eliminated fiduciary duties among the members.

27. Effective August 31, 2010, the parties entered into the Amended and Restated Limited Liability Company Agreement of Goldking Holdings, LLC (the "Amended Agreement"),[1] which made several important changes. Tallerine's equity interest would be held

[1] Exhibit B. All Lettered Exhibits referred to herein are the same documents attached to the Original Answer and Counterclaim. All exhibits are incorporated by reference as if fully set forth and attached to this pleading.

by and through his wholly-owned corporation, Goldking LT Capital Corp. ("Goldking LT"), and was reduced to 6.25%; however, this 6.25% contained a promoted interest component whereby Tallerine would ultimately be responsible for 5% of the capital investment, and additional provisions would increase that interest up to 15% as the Company reached certain milestones in distributions to its owners. Wayzata's interest would be held by Wayzata II. The Amended Agreement refers to Goldking LT as the "Minority Investor" and to Wayzata II as the "Wayzata Investor." The governance of the Company was changed to a corporate model utilizing a three-person board of manager/directors with one manager/director selected by Goldking LT and the other two selected by Wayzata II. The initial managers were designated as Carlson and Strain, representing Wayzata II, and Tallerine, representing Goldking LT.

28. The Amended Agreement removed the provision eliminating fiduciary duties and replaced it with narrower limitations. The Amended Agreement also set Goldking LT's maximum capital commitment at $2,044,041. The Amended Agreement did not provide for dilution of Tallerine's 6.25% interest, but there was the possibility of proportionate reductions in the future increases to the 15% interest if Tallerine's level of capital contributions fell below 5% of the total. Ultimately, Tallerine contributed almost $4 million in capital contributions, almost twice his required maximum. Throughout this dispute and in the Petition, Wayzata and Plaintiffs claim that Tallerine is required to invest additional capital and that he has violated his obligations under the agreements of the parties. These claims are false and in violation of the Amended Agreement—and are clearly made in bad faith as they fail to disclose to the Court that even today Tallerine's total capital investment remains in excess of the 5% contemplated by the parties.

2. Tallerine Advances Transaction Costs and the Transition Costs

29. Beginning in late 2009, Tallerine and his staff began to identify properties that the Company would acquire and on which the business would be founded. Tallerine and his staff ultimately located a package of properties with promising opportunities (known as the "White Oak" properties) and conducted extensive due diligence. During this process, Tallerine received no compensation or assistance from Wayzata and paid all of the start up costs, all of the staff salaries and benefits, all of the vendors and consultants, all of the overhead, and all of the various costs and expenses of the due diligence (the "Transaction Costs").

30. The work on the acquisition was performed by Tallerine, by employees on the payroll of Goldking Energy Corporation, and by employees on the payroll of Walker Street Consulting, LLC ("Walker Street"), a company owned by Paul Culotta. Walker Street was formed by Paul Culotta, its sole member, on April 17, 2010, primarily for the purpose of entering into a contract with EC Offshores Properties, Inc. ("ECOP"), the company that had bought certain assets of East Cameron Partners out of bankruptcy. Walker Street became the manager of those properties for which it was paid a flat monthly fee. Tallerine and Culotta had negotiated the contract, and Tallerine provided management services for the properties through agreements between several of his companies and Walker Street. At the time of the formation of the Company, the existence and business of Walker Street Consulting was fully disclosed to Wayzata, as well as the intent of Culotta and Tallerine to continue working on the ECOP contract until it was terminated or until the properties were sold. However, very little management or accounting time was required on that project, and essentially all of work time of Culotta and the other Walker Street employees was spent on the White Oak acquisition. Effective October 16, 2010, the beginning of the Company's first payroll period, Tallerine,

Culotta, and the various Goldking Energy and Walker Street employees all became employees of the Company.

31. The fact that both Goldking Energy employees and Walker Street employees worked on the White Oak acquisition for the benefit of the Company was fully disclosed to Wayzata. Tallerine submitted payroll logs and health insurance documents to the Company that showed Paul Culotta, Denna Ramsey, and Rodney Holloway were Walker Street employees.[2] Wayzata's employees and representatives on the Company's board of manager/directors worked closely with all three of the Walker Street employees, reviewed and utilized their work product, and interacted with them throughout the due diligence and start up process. Wayzata knew that these employees were working full time for the benefit of the Company.

32. Tallerine paid all the costs to set up operations for the new company and all overhead and operating costs for the first six weeks (the "Transition Costs"). Additionally, Tallerine permitted the new company to use the "Goldking" name and the www.goldkingenergy.com domain. Subsequently, a website was created in which the Company appropriated Tallerine's by holding itself out as a continuation of the Goldking companies that have been in business in Texas since 1968. Tallerine permitted the Company to use his personal furniture, artwork, and equipment, with the understanding that all of these items would remain Tallerine's property and that he would utilize the furniture in his own office for personal as well as Company business. At the Company's first board meeting on September 7, 2010, Tallerine presented the board an inventory of personal property that he was allowing the Company to use.

33. Through October of 2010, Tallerine paid all of the Transaction Costs and all of the Transition Costs. In total, Tallerine advanced funds for the Company's benefit totaling

[2] Additionally, Steve Venturatos was an independent contractor, who was consulting for Walker Street. His consulting agreement was provided to Wayzata and to Plaintiffs.

$760,962.05. Tallerine was not fully reimbursed by the Company until after February 2011. Tallerine was paid no interest on these amounts by the Company or by Wayzata. He also received no compensation for the use of the Company's name or website or for the use of his furniture, artwork, and equipment.

34. When Tallerine invoiced the Company for reimbursement of funds he had advanced on the Company's behalf, he submitted a notebook containing a detailed accounting of all of the Transaction Costs and another notebook containing a detailed accounting of all of the Transition Costs. Strain scrutinized these records thoroughly, questioned numerous charges, rejected or adjusted many of them, and ultimately approved each and every charge that was paid—including the roughly $200,000 in salary and wage claims that the Company now claims are false. (Exhibit C).


GOLDKING

GOLDKING ENERGY CORPORATION
One Shell Plaza
910 Louisiana Street, Suite 5030
Houston, Texas 77002

INVOICE

Personnel payroll costs (see detail attached) | $ 190,155.00

Exhibit C

3. VERMILLION CONTRACTING PAYMENTS

35. Vermillion Contracting Co. is a sole proprietorship business owned by Reta Wellwood. Almost fifteen years ago, Ms. Wellwood had been married to Mr. Tallerine. They remained friends after their divorce.[3] In 2006, Wellwood relocated to southern Louisiana to be near family and proposed to Tallerine that he hire her to perform non-skilled yard work and

[3] There is nothing inherently illegal or unethical about hiring persons known to a company's management or even connected to them by friendship or family ties. In 2011, at Michael Strain's insistence, the Company hired his sister and paid her a salary specified by Mr. Strain.

clean-up on some of his companies' well sites near her new residence. Tallerine agreed. Wellwood purchased a truck, a trailer, lawn mowers, shovels, rakes, and other equipment with her own funds. She registered the business name of Vermillion Contracting and set up a bank account for Vermillion Contracting on which she is the only signatory. Periodically, as routine unskilled work was necessary for well sites owned by Tallerine's companies, Vermillion would hire crews of day laborers to perform the work. Wellwood provided the equipment and transportation for the crew and personally supervised their work. She prepared detailed invoices stating the work that was done. Tallerine utilized the services of Vermillion Contracting as a vendor for his several of his companies from 2006 until 2010–2011, when he hired Vermillion Contracting as a vendor to provide the same type of services to the Company. Wellwood proved herself to be a diligent, trustworthy, and reliable vendor. She was known to several of the Company's employees as a regular vendor. Wellwood performed the work and was paid a fair price for her services by the Company. The Company's claim that Vermillion is an entity owned by Tallerine that submitted bogus invoices is absolutely baseless.

4. TALLERINE'S OUTSIDE WORK

36. At the time the Company was established and throughout Tallerine's tenure as president and CEO, he maintained several other "Goldking" entities and had other investments and business ventures. At the time the Company was formed, and on several subsequent occasions, Tallerine proposed to Wayzata that he contribute as capital all of his separate oil and gas interests, which included mineral, royalty, or working interests in 21 states and six offshore blocks, and an extensive 3-D seismic shoot with oil and gas leases and drilling opportunities. Tallerine suggested that this consolidation would avoid any possible future concerns over conflicts of interest. Tallerine prepared a detailed binder disclosing every investment, every well,

every company, and every project that might be of interest to the Company. Each time, Wayzata declined to consider Tallerine's proposal. Wayzata agreed that Tallerine would be permitted to continue his existing businesses in addition to management of the Company.

37. In the Amended Agreement, Section 6.09 waives all conflict of interest obligations of Wayzata and its affiliates and permits Wayzata to invest in other businesses that directly compete with the Company. Section 6.10 of the Amended Agreement restricted Tallerine's ability to pursue other ventures in the oil and gas industry (although not in other industries) but specifically permitted all of the businesses and ventures in which Tallerine and his companies were engaged at the time that the Amended Agreement was executed. The binder listing all of his then-existing companies, investments, ventures and projects was incorporated into the Amended Agreement by reference in Exhibit 6.10 of the Amended Agreement. Tallerine's other business ventures and his hiring of certain Goldking employees to handle after-hour tasks was fully disclosed to Wayzata, which agreed to Tallerine's pursuit of these ventures and his use of his Company email and mailing address and the small portion of his own time and that of his assistant for the purpose of managing these other ventures.

38. One of these other ventures was the ownership and operation of a private plane through Goldking Energy Corp. Wayzata partners and employees personally benefitted from travel on that airplane. The Company entered into a written contract with Tallerine providing the terms for reimbursement of the use of that plane for Company business by Tallerine and other Company employees. Tallerine also offered Carlson, Halloran, and Strain several opportunities to participate as joint purchasers of pools of mineral interests, royalties, and overriding royalty interests. Carlson and Halloran accepted Tallerine's offer and bought in as participants in a royalty pool through one of Tallerine's outside ventures.

39. Tallerine's management of the Company, including his use of resources on Company property to manage his other ventures, was done openly and transparently. Strain, Carlson, and other Wayzata partners and employees visited and worked in the Company offices frequently and regularly. In fact, Tallerine had discussions with Strain and Carlson about his intention to create completely separate work areas for his other ventures, and three offices within the Company's office suite were placed under a separate lease to Goldking Energy expressly for the purpose of separating work and storage space for Tallerine's other ventures.

40. In addition to other property that Tallerine permitted the Company to use, he provided a server previously used by his company. Subsequently, it was determined that this server was not adequate for the Company's needs, and the Company purchased two new servers. Tallerine's server was connected to the Company's network to allow Tallerine and his assistant to access it and maintain the electronic files relating to Tallerine's personal business and his non-Company business ventures.[4] Paper records for these other ventures were initially kept in the Company's offices. Eventually, Tallerine moved most of these records across the hall to Suite 2500A, a separate office also leased by Goldking Energy. The nameplate on this office clearly stated "Goldking Energy Partners/Leonard C. Tallerine, Jr." The Wayzata partners and employees would have seen that sign every time they made their way to the men's room. Tallerine originally paid all rent on Suite 2500A, but later the Company began to cover the cost of the rent on Suite 2500A because Tallerine agreed to utilize the space for the benefit of the Company in a number of ways, including providing workspace for consultants performing services for the Company.

[4] Extensive electronic records were maintained on this server relating to the ownership, the management, and administration of the royalty pools for the benefit of the participating owners—including Halloran and Carlson.

41. Throughout his tenure as president and CEO of the Company, Tallerine devoted substantially all of his regular business time to the Company's affairs. Tallerine actively managed the Company and devoted the time and attention that would ordinarily be expected of a senior executive in the oil business. His other ventures took little of his time and attention overall, were attended to largely outside of normal business hours, and did not interfere with his management of the Company in the slightest. Instead, many of these ventures benefited the Company, such as Goldking Energy, which provided a plane for the Company's use, and office space and resources for the Company's benefit. Tallerine hired several Company employees to perform minor services for his other ventures—these services were accomplished outside of normal working hours, did not interfere with their work for the Company, and were paid for separately by Tallerine or his other companies.

5. MISTAKES IN HANDLING COMPANY FUNDS

42. In late June 2011, the accounting department alerted their CFO, Defendant Culotta, that the Company had mistakenly paid certain non-Company invoices and had mistakenly deposited some Company funds into non-Company accounts. The invoices and accounts belonged to other Tallerine entities. The mistakes were the result of confusion caused by the fact that all of these entities as well as the Company used the "Goldking" name and had the same address, by the fact that many companies incorrectly continued to address invoices and checks simply to "Goldking" without noting which "Goldking," and sometimes mistakenly to "Goldking Energy," and by the fact that the clerks who made the deposits or wrote the checks were not as careful as they should have been. Neither Tallerine nor Culotta nor any of Tallerine's companies were responsible for any of these transactions and were not even aware that these mistakes had been made at the time. The Company policy at the time was that GOO checks

payable to vendors did not come back to Tallerine for signature, and Tallerine did not personally perform any wire transfers. Therefore, he reviewed none of these erroneous transactions.

43. Moreover, virtually all of these transaction errors occurred during a period of less than thirty days between May 19 and June 17, 2011, and during some of this period Tallerine was not even in the country. These transactions included the following:

- During the last week of May and the first week of June 2011, four checks that GOO had issued to vendors were mistakenly deposited into the account of Goldking Energy Partners I: two May 19 checks for $59,805.74 and $57,921.69 to Phoenix Exploration, a June 1 check for $15,811.50 to Charter Capital[5], and a June 1 check for $117,039.86 to Pioneer Drilling Services. The accounting department had issued these checks in response to invoices from vendors, but Tallerine disputed the Company's responsibility to pay these invoices and instructed that these checks be voided. A Comerica bank check scanner had recently been installed in the area where mail was opened, and the administrative assistant who handled these voided checks was not completely familiar with the use of that equipment. She believed that it was necessary to scan the checks in order to redeposit the money back in GOO's account at Comerica Bank. This understanding was incorrect, but it was a good faith mistake. The checks were accidentally deposited into Goldking Energy Partners I's account at the same bank. It is not known why Comerica Bank credited those deposits on its end, but apparently the bank made a mistake as well.

- On May 26, a $3,000.00 GOO check[6] was issued to pay for work that had been done on a Galveston residence owned by Tallerine's family. The invoice was made out to Goldking Energy, and Tallerine had written a note to his assistant on the invoice to issue a check for payment. Tallerine intended that a Goldking Energy check be issued, but the wrong company's check was issued.

- On June 6, a $28,225.11 GOO check was issued to Jackson & Ryan Architects for work done on a business owned by Tallerine's daughter. Jackson & Ryan is a Company vendor that did substantial work for the Company. Three other checks were issued by the Company to that vendor at about the same time. This invoice was paid under the mistaken belief that it was for Company work. The same thing happened the following week on June 13, when GOO made a $73,228.32 wire transfer to Tejas Interiors for work done for Tallerine's daughter. Again, Tejas Interiors is a Company vendor that did extensive work on the Company offices. Tallerine subsequently hired them to do construction work on his daughter's new business. Tejas sent the invoice

[5] Plaintiffs incorrectly claim that Charter Capital is a GOO vendor. Charter Capital is a factoring company for Alpha Mud Logging Services, LLC, which is a GOO vendor, and the check was in payment of services rendered by Alpha Mud Logging Services, not Charter Capital.
[6] Plaintiffs incorrectly state at ¶25(e) of the Petition that this transaction happened in October 2011.

to Tallerine at his office, and the Company paid it under the mistaken belief that it was intended for the Company.

- On June 13, GOO made a $24,967.90 wire transfer to Gulfstream Aerospace for charges related to a plane owned by Goldking Energy. On June 14, a $38,124.90 Russo Exploration check made out only to "Goldking" was deposited into Goldking Energy account. In both of these instances, someone at the Company simply mixed up Goldking Energy for Goldking Onshore Operating.

- On June 17, a $43,000.00 wire transfer from GOO's account went to one of Tallerine's personal accounts. At this time, Tallerine was overseas and had requested his assistant transfer money from one of his accounts to his personal account. Unfortunately, she transferred the money from the incorrect account.

44. On or about June 15, 2011, Tallerine and his wife had left for an extended vacation in Europe. The Company's accounting department realized there was a problem within a few weeks after the erroneous transfers began and alerted Culotta, who immediately called Tallerine in Italy. Tallerine, while he was still on vacation in Italy, immediately began transferring funds from his personal and business accounts to the Company in order to rectify the error and put back the Company's money that had unintentionally been transferred. Between June 22 and June 28, Tallerine transferred $450,000.00 to the Company to correct the erroneous transactions. Tallerine instructed Culotta to conduct a thorough audit of the Company's books to make sure that all the money had been accounted for and repaid and to determine if any further erroneous transactions had occurred.

45. As a result of this review, Culotta and the accounting department discovered only three other mistaken transactions: (1) a December 13, 2010 check for $12,755.10 from Hines that had been incorrectly made payable to "Goldking Energy" was deposited into Goldking Energy's account, and (2) a February 28, 2011 check for $35,593.51 from Pioneer Drilling Services that had also been mistakenly deposited into the wrong Goldking's account. An April 28, 2011 payment for $8,064.63 to Ponce Services, Inc. for work done on a property owned by Tallerine

had mistakenly paid by the Company because the vendor addressed the invoice only to "Goldking."

46. One transaction that Culotta questioned, but which turned out not to be erroneous, was a $100,000.00 wire transfer from GOO to Goldking Energy on April 14, 2011. At the time, Strain, Carlson, and Halloran had agreed to purchase jointly with Tallerine certain royalty interests owned by Hemus, Inc. as a personal investment.[7] Because this would be an investment by the principals, and not the company, it was agreed that the offer would be made through Goldking Energy Corp as the agent for negotiating the transaction. In order to initiate the purchase offer process, Hemus, Inc. required receipt of a check in the amount of $100,000.00 as a deposit on the transaction. Strain, Carlson, and Halloran insisted that Tallerine have the Company fund the deposit, which would be returned to the Company if the purchase were consummated. Therefore, Tallerine had $100,000.00 transferred to Goldking Energy to cover the deposit. Goldking Energy issued the deposit check and submitted an offer to acquire the royalties. Hemus then provided Tallerine with more detailed technical data regarding the royalty interests. Ultimately, Tallerine recommended against the purchase, and Strain, Carlson, Halloran, and Tallerine withdrew the purchase offer, whereupon Hemus returned the check to Goldking Energy, and Goldking Energy returned the money to the Company. All of this was done with the knowledge and agreement of all managers of the Company and representatives of both members of the Company.

47. Under Tallerine's management, the Company had a policy to make reasonable expense advances when extensive travel was to be required for an employee or major expenditures by an employee for the Company's benefit were anticipated. Tallerine received

[7] This would have been a similar investment to the one made by Carlson, Halloran, and Tallerine in royalties through Goldking Energy Partners III in 2012.

such advances from time to time. This policy and these advances are normal procedures for most companies and were well within Tallerine's authority and business judgment. All of the advances were for the purpose of benefitting the Company and were fair to the Company. All of the advances were properly recorded on the Company's books. All of the advances were properly reconciled to properly documented expense reports.

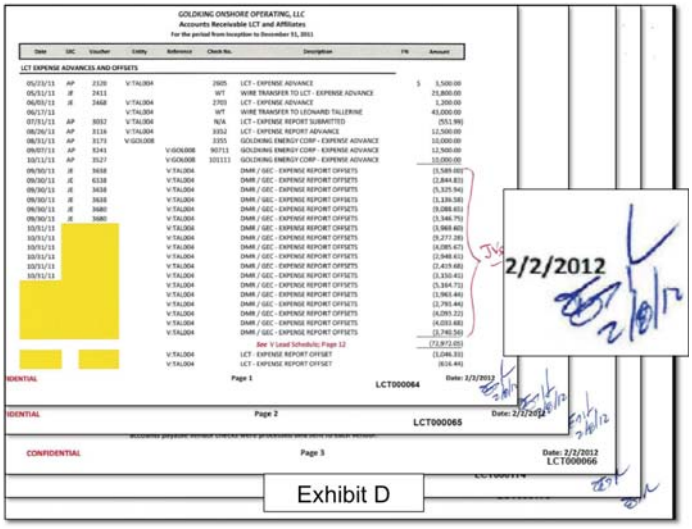
48. In its financial records, the Company maintains accounts to book related party transactions, including a specific account to book transactions involving Tallerine or his other companies (the "Tallerine Account"). The Company's accounting department posted all intercompany transactions involving Tallerine and his affiliates to this account, which could have a credit, debit, or zero balance at any time. This account was a line item in the Company's financial statements, and the details of all transactions in that account were always available to all board members. When each of the erroneous transfers were discovered, the Company's accounting department booked the transaction to the Tallerine Account per normal Company procedure.

49. In the summer of 2011, and with Tallerine's knowledge and support, Culotta immediately undertook to make a detailed review of all the Company's transactions to verify that all payments to and from Tallerine and his companies were properly booked in the Company's financial records. Donna McCulloch and Ken Cleveland, two members of the Company's accounting department, as well as Culotta, undertook this review. Each and every intercompany transaction was either verified as properly booked in the accounting records or immediately recorded on the Company's financial records in the Tallerine Account. Culotta also prepared a detailed report identifying and accounting for every such transaction and all expense advances

and reimbursements to Tallerine. Culotta completed a preliminary report on September 14, 2011 and went over it with Tallerine.

50. In September 2011, Wayzata informed Tallerine that it wanted its own man in control of the Company's finances, and Wayzata directed Tallerine to replace Culotta as CFO with Counterclaim Defendant Hebert. Hebert had previously been the CFO of a bankrupt public company called Saratoga Resources, Inc. in which Wayzata was the largest creditor in the course of the bankruptcy. As a result of dealing with Hebert in the Saratoga bankruptcy, Wayzata either came to believe that Hebert was a reliable agent or perhaps believed that it owed Hebert for favors he had done for them during the bankruptcy. In any event, Hebert was Wayzata's choice for CFO. Unlike Culotta, Hebert would attend all board meetings, would report frequently and directly to Strain and Carlson, and would work regularly with Eitan Bernstein, a Wayzata attorney and financial expert. Bernstein and Hebert worked together frequently both at Bernstein's Houston office and at the Company's offices.

51. Hebert began with the Company in October 2011, and as part of Hebert's transition to CFO, Culotta presented Hebert with a notebook containing the preliminary report and back-up documents. Culotta continued on as a Company employee through the end of the year and, under Hebert's supervision, continued to work on the report, which was updated through year-end to reflect new information, the refund of the Hemus deposit, and Tallerine's completion of documentation



and submission of his expense reports. Hebert scrutinized every page and every transaction in the report and initialed or signed every page to record his approval of every entry. In the end, not only had Tallerine repaid every dime that the Company had mistakenly transferred, but the Company actually owed Tallerine $16,314.78. Hebert approved that balance and initialed the schedule showing that all the transfers, repayments, and the amount owed to Tallerine. (Exhibit D). Every identifiable transaction about which Plaintiffs complain in the Original Petition is stated explicitly described in Culotta's report. Even the language used in the Original Petition complaining about the transactions largely comes from Culotta's report.

52. After the mistaken handling of funds was detected and corrected, Tallerine and Culotta also put into effect new procedures and controls to make sure that the same errors would not be repeated. Those new procedures required that Tallerine and the Controller jointly and independently verify that every check was to and from the correct Goldking entity. The new procedures were extremely effective, because over the next 18 months, only three other mistakes occurred: On August 21, 2011, the Company incorrectly paid an invoice for $533.00 from SMBology, Inc., a vendor that did work both for the Company and for Tallerine. That error was quickly identified and repaid. On September 22, 2011, the Company incorrectly paid an $18,092.48 Cawley Gillespie & Associates, Inc. invoice for engineering services to Goldking Energy.[8] That mistake was caught on September 27 and was repaid. Then, about a year later, on September 5, 2012, the Company transferred $32,200.00 to an account at Comerica Bank maintained by the law firm of Lugenbuhl, Wheaton, Peck, Rankin & Hubbard on behalf of

[8] The Plaintiffs' contention that it paid this invoice twice is also wrong. Plaintiffs apparently base this contention on a February 18, 2011, invoice from Goldking Energy for various transition expenses incurred in the set up of the Company, which included a line item in the amount of $18,002.92 for consulting fees and services, which the Company alleges is "the exact same amount Tallerine had represented he and/or Goldking Energy Corporation had already paid to the vendor." (Pls.' Org. Pet. ¶ 26). The Goldking Energy invoice was for a number of consulting fee expenses, not for a Cawley Gillespie invoice, and the $18,002.92 Goldking invoice is "exactly the same amount" as the $18,092.48 Cawley Gillespie invoice only to the slightly dyslexic.

Goldking Capital Management.[9] The Lugenbuhl firm represented the Company on several matters, but also represented other Tallerine interests. The accounting department mistakenly assumed that the $32,200.00 was a request for payment for Company work. When the mistake was discovered, Tallerine was told that Hebert was the person who made or approved the mistaken payment. The money was repaid in full on November 20, 2012.

53. Hebert made a similar mistake a few weeks later, after Tallerine had been fired and locked out of the Company. Hebert and FTI Consulting had been opening, examining, and holding all mail that was delivered to the Company for Tallerine personally or for one of his companies. On December 24, 2012, Hebert and Innes allowed Tallerine's assistant to pick up a box of mail belonging to Tallerine that they had been accumulating since December 17, 2012. In the box was a check to the Company in the amount of $184,180.67. It seems the height of bad faith to sue Tallerine because some employees working under him sometimes mixed up companies with similar names, when Wayzata's handpicked CFO (who was **not** let go when Tallerine and all of his alleged "co-conspirators" were fired) and the Company's forensic accountants (who were brought in to investigate Tallerine's "theft of funds") made exactly the same mistake.

6. CONSULTATION ON DUNE ENERGY

54. Throughout 2009–2012, Wayzata continued to request Tallerine's advice on its $90 million investment in Dune Energy bonds. In early 2010, Tallerine told Strain, Carlson, and Halloran that he would be happy to continue to consult with Wayzata on other matters, such as Dune Energy, but that he expected to be compensated for his services. Strain and Carlson offered

[9] The Petition incorrectly states that this money was for the purpose of funding an escrow account for Tallerine's personal acquisition of a restaurant in New Orleans. (¶25(f)) Actually, the funds were for a draw on a DIP loan to a bankrupt corporation that owned a restaurant in New Orleans, and a company in which Tallerine is a part owner did purchase that restaurant several months later.

to pay a consulting fee to Tallerine out of whatever profits Wayzata realized on its Dune Energy investments equal to the same percentage of Tallerine's interest in the Company. Tallerine agreed and continued to provide consulting services to Wayzata as requested. Later, Pat Halloran confirmed the arrangement to Tallerine.

55. Based in part on Tallerine's advice, Wayzata II entered into a new and highly lucrative credit facility agreement with Dune Energy in December 2010, in which Wayzata acquired Dune's $40 million bank debt, received 15% interest on debt, and obtained a first lien on Dune's assets. As a result of this transaction, Dune Energy was able to go forward with major drilling projects, and the market price of Dune Energy's bond soared. The major new project initiated by Dune Energy was the drilling of a well in Garden Island Bay, Plaquemines Parish, Louisiana, and an area with which Tallerine is very familiar. In early 2011, Tallerine advised Wayzata that the new well was extremely risky and that Wayzata should sell out its investment in Dune Energy bonds while the market price was still high. Based on Tallerine's advice, Wayzata began to liquidate its investment. Wayzata had Tallerine contact and negotiate with potential purchasers. As a result, Wayzata was able to liquidate its investment and net a profit of approximately $40 million.

56. In July 2011, Dune Energy announced that the Garden Island Bay well was a dry hole, and the market value of the Dune Energy bonds plummeted. As a result, Dune Energy was forced to undertake a financial restructuring in December 2011 in which the bonds were converted into common stock, but in which the Dune Energy debt held by Wayzata II was completely paid off.

57. During 2012, Wayzata acknowledged several times that it owed a consulting fee to Tallerine, but put him off regarding the timing of the payment. In November 2012, Tallerine,

at Wayzata's invitation, went on a hunting trip in South Dakota with Carlson, Strain, Halloran and Wayzata executives. The event was completely cordial. At one point, the discussion turned to the capital needs of the Company. In October, the board had voted a capital call, and Wayzata insisted that Tallerine provide additional capital. Up to this point, Tallerine had already funded almost $4 million in capital contributions, which was well in excess of what Goldking LT was contractually obligated to contribute. However, Wayzata insisted that Tallerine was obligated to contribute additional funds. In response, Tallerine demanded that Wayzata pay him the consulting fees due for his work on the Dune Energy investment so that he could use that money to provide additional capital. Thereafter, Wayzata's attitude toward Tallerine changed completely, and in less than a month Wayzata had initiated a scheme to squeeze him out of the Company.

7. WAYZATA'S DECISION TO DESTROY THE COMPANY AS AN OPERATING OIL AND GAS VENTURE

58. Under Tallerine's leadership, the Company began with the White Oak acquisition, which included ten properties that had established oil and gas production and the potential for significant new drilling. The agreed business plan was to develop these properties and to continue to acquire properties with additional production and drilling potential, so as to build the size and value of the Company. However, the oil and gas business is risky and unpredictable. Wayzata repeatedly assured Tallerine that they understood that success in the oil and gas business required a high tolerance for risk and the willingness to continue in the face of a certain degree of inevitable disappointments.

59. While the Company had production from day one, early efforts to boost production through drilling wells in the West Buna Field were not as successful as was hoped. Two initial wells, although completed, produced at a lower initial flow rate than expected. One

exploratory well in which the Company had taken an operated interest was disappointing. Hurricanes in 2011 periodically shut down production and resulted in increased costs. Worst of all, natural gas prices fell by more than 50%, resulting in reductions in the Company's cash flow and reserve valuation. As it turned out, Wayzata did not have the stomach or risk tolerance for the oil and gas business. Beginning in the summer of 2012, Wayzata began to apply the brakes to new acquisition efforts and increasingly began to voice pessimism about the Company and the oil and gas industry in general.

60. Sometime in the fall of 2012, Wayzata apparently decided to change their "risk profile" with respect to their investment in the Company. On information and belief, Wayzata determined that they could make a decent return on their investment if they changed the nature of the Company's business into something with which they were more familiar and comfortable—distressed debt. In other words, Wayzata would have to cease acquisitions, exploration, and new drilling, eliminate all the cost and overhead of an operating oil and gas company, and then simply collect revenues from existing production until those wells ran dry. In industry terms, Wayzata intended to abandon the operational business and simply "blow down the assets." Their problem was that they had a minority partner who had the reasonable expectations of owning an interest in a real, operating oil and gas company, of managing that company, and of being employed by that company. Wayzata no longer needed Tallerine—and, in fact, needed to get rid of him at the lowest possible cost.

8. THE SQUEEZE OUT

61. Wayzata secretly hired lawyers and forensic accountants, FTI Consulting, Inc., to fabricate a case to justify the squeeze-out of Tallerine. After months of surreptitious preparation, Wayzata called a board meeting in Minnesota. On December 17, 2012, Tallerine flew Company and Wayzata employees on his private plane to that meeting, where the two Wayzata board

members informed Tallerine that he was fired and that he was barred from Company property and from access to his personal records and property. Tallerine requested a reason, but the Wayzata board members refused to give one; however, Wayzata did bring in their forensic accountants, Philip Innes and FTI Consulting, Inc., to describe their "discovery" of the mishandling of Company funds that had been recorded on the Company's books more than 18 months before. Innes referred to a preliminary report that had been prepared for the Company that documented his conclusions. Tallerine asked for a copy of the report, but Strain and Carlson refused. Innes admitted that the Company had suffered no actual financial loss because all the funds had either been repaid or set off against expense statements. Innes criticized Tallerine's expense statements as being "late," but did not contest the accuracy or validity of the expenses. Wayzata gave Tallerine no notice and no severance.

62. Although the board terminated Tallerine as an officer and employee, Tallerine remained a member/owner and a manager/director. Wayzata also prepared a termination letter but did not present it directly to Tallerine. Rather, Strain slipped the letter into Tallerine's board meeting notebook, where it was discovered late the next day. Among other things, the letter demanded Tallerine's immediate return of all documents relating to the business of the Company, including documents that Tallerine was clearly entitled to have as a member and a manager.

63. While Tallerine was still in Minnesota, Wayzata employees descended on the Company's Houston offices with armed, uniformed police officers to seize Tallerine's personal property and take over control. Three employees, Denna Ramsey, Tracy Santoro, and Rosa Tallerine, whom Wayzata thought to be loyal to Tallerine were barred from the Company premises and put on "Administrative Leave." They were subsequently fired without notice or

severance. These employees' personal computers, pictures, purses and wallets, bills, and credit cards that happened to be at their desks were seized and detained. All of Tallerine's personal property and records were similarly seized. Counterclaim Defendant Burns, a Wayzata partner but not an officer or employee of the Company, personally seized Suite 2500A and had the locks changed, after falsely representing to the building that the Company was the tenant on that space. She personally denied to Culotta access to his office in Suite 2500A. Tallerine was permanently barred from entering the Company offices.

64. All of this was nothing more than an effort to gain leverage over Tallerine in order to squeeze him out of the Company. Wayzata denied Tallerine employment and income, conducted the termination and lock-out so as to cause Tallerine the maximum amount of humiliation and stress, and leveled false and baseless claims against him. At the board meeting on December 17, Carlson had been given authority to negotiate a resolution with Tallerine. Carlson made it clear to Tallerine at the meeting that Wayzata intended to buy out Tallerine's interest. Tallerine had stated that, since the assets of the Company were working interests that were easily divisible, the parties should simply split up the assets and liabilities and let Tallerine take his 6.25%. Carlson indicated that Wayzata had no interest in allowing Tallerine to take his fair share of the Company. Carlson made this even clearer a few weeks later in an email to Tallerine in which he invited Tallerine to make a settlement offer, but cautioned: "we view this investment as impaired so I am assuming you will keep that in mind as you make a proposal."

8. TRESPASS, THEFT AND DESTRUCTION OF TALLERINE'S PROPERTY

65. On December 17, Wayzata, through its agents and employees and through Company employees and Innes and FTI who were acting at Wayzata's direction, seized all of Tallerine's personal property in the office. Wayzata opened Tallerine's mail, and reviewed and

copied all of Tallerine's personal records, including personal financial and medical records, and confidential records relating to Tallerine's other businesses. Wayzata boxed up the obviously personal property, including pictures of Tallerine's grandchildren and other clearly personal items, but neither returned those items nor tendered them. All documents relating to the Company in Tallerine's office were seized and removed, including Tallerine's personal copies of Company organizational documents, board minutes, and other documents that he maintained as a member and manager. Wayzata seized and accessed the data stored on the server that belonged to Tallerine personally, and that contained his personal financial records in QuickBooks and confidential information relating to other businesses. Wayzata and the Company later falsely claimed ownership of the server and refused to return it, but eventually admitted that it belonged to Tallerine and returned it some weeks later—after copying all the data.

66. On December 18, 2012, counsel for Tallerine contacted Counterclaim Defendant Wallander and demanded the immediate release and return of Tallerine's personal property and of the leasehold at Suite 2500A. This demand was refused. Initially, Wallander falsely claimed that the Company was the tenant and falsely claimed to have records proving ownership of the leasehold. Tallerine's counsel demanded to see those records and provided Wallander with a copy of the lease, which clearly showed Goldking Energy as the tenant. Wayzata broke into locked filing cabinets, damaged property, and used up all the toner in the Tallerine's copy machine copying Tallerine's own records. Wayzata stalled until all the documents in Suite 2500A were copied, and then after additional demands and negotiation, Wayzata and the Company agreed to turn over possession of Suite 2500A late in the day on December 19 and to return personal property at some indeterminate date in the future after Tallerine's assistant had compiled a list of items in dispute. Wayzata rifled through and copied highly private and

personal papers belonging to Tallerine, including tax returns, personal financial information, health insurance information, medical records, personal correspondence, and confidential records relating to Tallerine's other businesses.

67. On December 20, Denna Ramsey was given access to her property and noticed that much of Tallerine's obviously personal property was boxed up in his office. Ramsey requested permission to take these items to Tallerine, but was refused. Later that day, Tallerine's attorney demanded that the clearly personal items that were already boxed up be returned, that Tallerine's personal copies of board meetings and organizational documents (that he maintained as an owner and manager and that were needed by his counsel) be returned, and that Tallerine be permitted to retrieve the contents of his personal safe that was bolted inside the credenza in his office (also his personal property). The safe contains documents of a highly personal and private nature, including divorce records and wills and estate planning records, and in which Tallerine has a reasonable expectation of privacy. Wayzata refused to return or acknowledge Tallerine's right to possess his personal copy of board minutes and other documents relating to the Company. Wayzata falsely claimed that the Company had installed the safe (which Tallerine had owned since the late 1990s) and refused to allow the return of the safe until they had reviewed each item in the safe.

68. Wayzata refused to return any of Tallerine's furniture, equipment or artwork until his assistant created a list of items that belonged to Tallerine. Wayzata refused to permit any attorneys to be present or to assist. Wayzata otherwise stalled and stonewalled the process in an effort to increase the cost and inconvenience to Tallerine, so that Tallerine did not get back his personal property until February 22, 2013. All of the computer equipment that was eventually

returned had its data copied, and much of the equipment had sustained damage. Wayzata refused to return the credenza and safe and continues to hold those items.

69. Three of the offices within the Company's suite were under a separate lease to Goldking Energy. The intent was eventually to have those offices staffed by separate employees of Tallerine's other businesses and to carry on the business of those companies in that space. Until that could happen, the Company was using the space for storage and was paying the rent. After December 17, the Company refused to continue paying rent and claimed no longer to be using the space. However, the Company also refused to grant Tallerine access to his own leased offices. Ultimately, Tallerine had to pay the landlord $4600.00 to terminate the lease on that space.

9. THEFT AND DESTRUCTION OF CULOTTA'S PROPERTY

70. Culotta had ceased to be the Company's CFO in early October 2011, but continued to be an employee of the Company until the end of the year, reporting to Tallerine and Hebert. Tallerine agreed to provide office space to Culotta in Suite 2500A. Culotta executed a Separation Agreement and a Confidential General Mutual Release with the Company on October 12, 2011. Under the terms of these agreements, Culotta was to continue to receive his parking privileges on the same terms as during his employment through December 31, 2012, and the Company gave Culotta a full and complete release of all claims, known or unknown, and covenanted never to sue on any of the released claims. Tallerine agreed to provide Culotta with workspace in Suite 2500A for the period following his termination of employment. Culotta provided consulting services to the Company as an independent contractor, and he also provided service to other clients. He maintained personal and business records in locked file cabinets in Suite 2500A.

71. On December 17, 2011, when Culotta was barred from entering his office, he personally informed Burns and Strain that Suite 2500A did not belong to the Company and contained Culotta's personal property and records that were in locked filing cabinets. Wayzata cut off the locks, broke into the filing cabinets, and then reviewed and perhaps copied all of Culotta's documents in Suite 2500A, including his personal financial and tax records, Walker Street's personnel and financial records, and documents relating to his work for other clients—including privileged documents relating to work as a consulting expert on several litigation matters. Wayzata also stole Culotta's work product relating to consulting work he had done for the Company during 2012. This was work he had done as an independent contractor with no agreement that his work product belonged to the Company.

72. Beginning on or about December 17, 2011, the Company also breached Culotta's contract by terminating his parking privileges and allowing Strain to park in Culotta's reserved parking space.

10. COMPLETION OF SQUEEZE OUT

73. The Company had a line of credit with Bank of America that had a balance of $10.5 million. During most of the Company's history, the Company was not able to comply fully with all of the non-monetary covenants in the loan agreements; however, the Company was never in monetary default and routinely obtained waivers and forbearance on these technical defaults. The allegation in the Petition that the defaults were somehow related to the mishandling of Company funds in the summer of 2011 is absolutely false. In the fall of 2012, either at the instigation of Wayzata or through utter dereliction of duty, Hebert submitted a written request for a $1 million draw on the line of credit and falsely represented that the Company was in compliance on all its covenants. Hebert knew the representation was false, and Bank of America knew the representation was false, and the submission of the false written representation coupled

with a substantial draw request created a crisis in the Company's relationship with the bank. Strain and Carlson insisted on having Wallander handle all negotiations with the bank, claiming that Wayzata had an excellent relationship with Bank of America.

74. Wallander did not obtain waivers for the technical defaults as the Company had been granted in the past. Bank of America offered to dispense with the nonmonetary covenants if Wayzata would guaranty the loan, but Wayzata refused. Wayzata did not obtain alternative credit for the Company from another commercial lender. Rather, Wayzata negotiated with the bank to purchase the debt and jacked up the interest rate that the Company was paying to 15%. This was an insider transaction in which Wayzata profited at the Company's expense. A 15% interest rate on a commercial loan might represent what Wayzata is permitted to extort in a third-party transaction, but here Wayzata is an insider that owes fiduciary duties to the Company. The interest rate charged greatly exceeds the level of risk that Wayzata is actually taking in a company that it controls—particularly now that Wayzata has changed the "risk profile" of the company and will simply collect the revenues of existing production. The transaction was not entirely fair to the Company and was done in bad faith as part of the squeeze-out scheme, because it would allow Wayzata to siphon off the Company's net production revenue without having to make distributions that might benefit Tallerine.

75. Wayzata also decimated the Company's ability to operate by drastically cutting staff and overhead. Wayzata fired most of the technical staff, including the senior experienced engineer. As a result, the Company fouled the completion of the Blue Bar well in February 2013—a well already scheduled for drilling at the time of the ouster of Tallerine. The loss of the Blue Bar well did significant harm to the Company. Also, either through gross negligence or disregard of the Company's best interests, Wayzata failed to have the Company make the State

of Louisiana lease rental payment on Main Pass 84, resulting in the loss of that lease and the loss of over $16 million in booked reserves. Wayzata has also caused the Company to fail to drill the Zulu well on time, which will result in significant loss to the Company and a breach of its agreement with a third party working interest owner.

76. With respect to Tallerine, Wayzata continued to apply squeeze-out pressure. Although still a manager and an owner, Wayzata caused the Company to exclude him from all meaningful access to information and participation. On January 9, 2013, Tallerine made a formal, written demand for information and access to Company records. The Company responded by asserting that it had the authority to determine what information one of its managers was entitled to receive and refusing to comply with the request, with the exception of providing two minor daily reports of limited utility.

77. Wayzata continued to apply financial pressure by making demands that Tallerine pay additional money pursuant to a capital call. On February 1, 2013, Tallerine's counsel wrote to counsel for Wayzata and the Company and pointed out that Tallerine was not obligated by the Amended Agreement make additional contributions, absent the written agreement of Goldking LT. Notwithstanding this notice, Wayzata continued to violate the Amended Agreement by claiming that Tallerine was obligated to make additional capital contributions, including the completely false statement in the Petition that Goldking LT's failure to comply with the capital call would reduce its ownership percentage. To add insult to injury, the Company has failed and refused to pay Goldking Energy invoices, totaling $52,728.33, for the Company's use of the plane, including the flight on December 17 transporting Tallerine, Hebert and Strain to the board meeting in Minnesota, where the squeeze-out was launched.

78. On January 24, 2013, Tallerine requested a board meeting. On January 29 and 30, Wallander sent emails to Tallerine attempting to get his agreement, without a meeting or any real information, to execute board resolutions to have the Company enter into certain hedging transactions and to have Wayzata purchase the Company's bank debt and charge the Company 15%. Tallerine's counsel responded on February 1 that Tallerine could not agree to execute resolutions without a meeting and without access to any Company information and that Wayzata's proposed debt acquisition was a self-dealing transaction that seemed grossly unfair to the Company.

79. Wayzata's counsel also represented to Tallerine's counsel that Strain and Carlson would schedule a board meeting for the second week of February. They did not. Rather, on February 13, Carlson emailed Tallerine that Wayzata was removing him from the board for cause pursuant to §6.03 of the Amended Agreement. This bad faith act violated the Amended Agreement, first because Wayzata knew that good cause did not exist, second because the basis claimed for Tallerine's removal had nothing to do with any of his conduct as a manager, and third because the duties claimed to have been violated were waived as to managers in §6.8 of the Amended Agreement. Tallerine responded on behalf of Goldking LT by exercising its "sole and exclusive right to designate a replacement" for a manager who is removed and placed himself back on the board. Carlson responded by refusing to recognize Tallerine as a replacement, again in violation of the Amended Agreement. Wayzata's counsel confirmed this refusal in a letter sent on February 26, 2013.

11. BASELESS AND BAD FAITH CLAIMS

80. Section 12.7 of the Amended and Restated Limited Liability Company Agreement of Goldking Holdings, LLC contains a dispute resolution mechanism that provides for confidential negotiation and arbitration of disputes between the members. In the spirit of that

agreement, Tallerine and Goldking LT Capital Corp. submitted a statement of their dispute on December 27, 2012, stating all the claims stated herein, including the claims for shareholder oppression, and responding to the claims relating to the mishandling of funds. Wayzata II responded on January 11, 2013, stating that "we disagree that the oppressive acts Wayzata is alleged to have performed, listed on page 7 of the Statement are all arbitrable under Section 12.7(b)" and "reserve[ing] all of its rights to contest the applicability of Section 12.7(b) to all the claims and allegations in the Statement." Thereafter, Wayzata refused to engage in good faith negotiations, to meet, or even to respond to offers made by Tallerine during the 60-day period after the statement, as required by Section 12.7. The parties did not commence arbitration on February 25, 2013 as was required by Section 12.7. Rather, Wayzata II caused the Plaintiffs to file this action on February 13, 2013.

81. Wayzata's refusal to submit to the dispute resolution mechanism and to cause this Petition to be filed in court was just another effort to publicly embarrass Tallerine and bring additional squeeze-out pressure on him. In addition to the numerous false statements and claims in the Petition, the bad faith nature of the Petition is demonstrated by the filing of claims against Culotta. Every single act alleged in the Petition to have been committed by Culotta occurred prior to the Release. The only thing Culotta is alleged to have done after the Release is to "continue to be involved in this scheme"—notwithstanding the fact that he was merely a consultant, did not work in the Company's offices, did not have access to the Company's books and financial records, and had no duty whatsoever to the Company or to Wayzata. Culotta is alleged to have somehow deceived the auditors, when he was the individual that oversaw the recording of every challenged transaction in the Company's books that were the subject of the audit. The Petition alleges that Tallerine paid back the funds only because he was forced to do so

by the accounting department, yet Wayzata caused the Company to sue Culotta, who headed the accounting department, and who was the individual who called Tallerine and notified him of the need to make the transfers that rectified the errors, and who prepared the report of all the transactions that are the basis of the allegations in the Petition, and who personally provided that report to Hebert, Wayzata's hand-picked CFO.

82. On February 26, 2013, Wayzata II asserted and threatened further claims against Goldking LT and the Defendants in a written statement of dispute purporting to be issued pursuant to Section 12.7 of the Amended Agreement.[10] The statement makes almost exactly the same allegations and claims as had been stated in the Petition in this action. The statement also charged that Tallerine defrauded Wayzata into investing in the Company because his true intent was to create a fund from which he could loot and steal—notwithstanding the fact that Wayzata and its attorneys knew that Tallerine had spent over $700,000 to carry the Company through its first seven months of existence for which he was paid no interest or other compensation and was not repaid for about ten months, that the mishandling of funds in any significant amount did not occur until Tallerine had been running the Company for more than a year, and that the mistaken transactions were discovered almost immediately, booked on the Company's financial records, and fully repaid within about a month. Furthermore, Wayzata has charged that it was defrauded by relying on statements reflecting Tallerine's future objectives in a highly risky and uncertain business and that it refrained from doing its own investigation in reliance on statements made by

[10] Notwithstanding Wayzata II's apparent invocation of Section 12.7, it stated that the submission of the statement of dispute "shall not serve as an admission that any of the claims asserted herein are subject to arbitration." The dispute resolution mechanism in Section 12.7 is limited to issues of formation, interpretation, performance or breach of the LLC Agreement, is permissive, rather than mandatory, and may be invoked only by the party asserting the dispute: "In the event of a dispute . . . any Member . . . **may** submit its basis for such dispute or disagreement in writing to the other Member . . . ." (emphasis added) To the extent that Tallerine and Goldking LT Capital Corp. have invoked the dispute resolution mechanism, they hereby withdraw and waive all right to arbitrate their claims pursuant to Section 12.7 of the Agreement. Wayzata Opportunities Fund II LP has also waived its rights to rely on the dispute resolution mechanism by its material breach of its terms and by causing the institution of this litigation.

Tallerine—all in direct contradiction of Wayzata's representations and warranties in the Amended Agreement.

12. BAD FAITH TERMINATION OF BELANGER

83. As part of this same squeeze-out and take over, Wayzata continued to cause the Company to shed employees who had been hired by Tallerine and who were no longer necessary as a result of changing the business model of the Company. On or about May 15, 2013, the Company terminated Louis Belanger, Jr., a petroleum engineer who had been hired by Tallerine. The termination was without cause or justification.

84. Belanger was originally a consultant to the Company. When Tallerine approached Belanger regarding full-time employment, Belanger was reluctant to give up the security and income from having several clients. He therefore conditioned his acceptance of full-time employment upon a one-year severance agreement. Belanger's employment agreement was extensively negotiated, and Tallerine sought and obtained Strain's approval to the severance agreement. The agreement was made orally between Belanger, who was in Lousiana, and Tallerine, as president of the Company. Tallerine prepared a letter documenting the agreement for one-year's salary as severance in the event that Belanger was terminated without cause or as a result of a change of control, and that Tallerine directed another employee to place the document in Belanger's personnel file.

85. After Wayzata's ouster of Tallerine and seizure of the records, the Company has claimed not to be able to find the letter documenting the severance agreement and has refused to honor its agreement with Belanger. The Company apparently has lost or destroyed the letter as a result of the December 17, 2012 ouster of Tallerine and seizure of documents.

D. AFFIRMATIVE DEFENSES

86. Defendants aver that their conduct with respect to Plaintiffs was done in good faith and in a manner they reasonably believed to be in or not opposed to the best interests of the Plaintiffs.

87. Defendants aver that the transactions alleged in the Petition were entirely fair to the Plaintiffs.

88. Defendants plead payment as described herein and as further detailed in Exhibit D.

89. Defendants aver that Plaintiffs' claims are barred by Section 6.8 of the LLC Agreement, which eliminates duties that managers may have to the company, the members, and the other managers for actions taken on behalf of the member that designated them.

90. Defendants aver that Plaintiffs' claims are barred by Section 6.10 of the LLC Agreement, which expressly permits Tallerine to pursue the outside business ventures made the subject of the claims.

91. Defendants plead that Plaintiffs' claims are barred by the doctrines of waiver, estoppel, and ratification.

92. Defendants plead accord and satisfaction.

93. Defendants plead offset.

94. Defendants plead good faith reliance upon the records of the limited liability company and upon information, opinions, reports or statements presented by another manager, member, officer or employee of the limited liability company, pursuant to §18-406 of the Delaware Limited Liability Company Act.

95. Defendants plead the business judgment rule.

96. Defendants plead accident or mistake.

97. Defendants plead material breach and unclean hands.

98. Defendant Culotta pleads compromise, settlement and release.

E. CAUSES OF ACTION

1. INDEMNIFICATION AND ADVANCEMENT OF EXPENSES

99. Goldking LT, Tallerine, and Culotta assert claims for indemnification and advancement of expenses against the Company.

100. Goldking LT as a member of the Company and Tallerine and Culotta as former officers of the Company are "Covered Persons" within the meaning of Section 8.1 and Section 8.11 of the Amended Agreement. Pursuant to Section 8.1, Goldking LT, Tallerine, and Culotta are entitled to be indemnified and held harmless against all expenses (including attorney's fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him or it in connection with any threatened, pending or completed claim, demand, action, suite or proceeding other than an action by or in the right of the Company. Section 8.2 provides the same indemnification in actions, suits or proceedings by or in the right of the Company.

101. This action is a claim for which Goldking LT, Tallerine, and Culotta are entitled to indemnification pursuant to Section 8.2. Wayzata II has threatened and asserted claims against Goldking LT, Tallerine and Culotta for which they are entitled to indemnification under Section 8.1. These claims have been threatened or asserted against Goldking LT, Tallerine, and Culotta by reason of the fact that each of them is or was a Covered Person. With respect to all alleged acts and omissions made the basis of such claims, Goldking LT, Tallerine, and Culotta each acted in good faith and in a manner that he or it reasonably believed to be in or not opposed to the Company's best interests.

102. Furthermore, pursuant to Section 8.7, all expenses incurred by Goldking LT, Tallerine, and Culotta in defending or investigating these claims is required to be paid by the Company in advance of the final disposition of any threatened or pending action upon receipt of an undertaking by or on behalf of such Covered person to repay such amount if it shall ultimately be determined that he or it is not entitled to be indemnified by the Company.

103. As a result of the suit filed by the Company and the claims threatened and asserted by Wayzata II, Goldking LT, Tallerine, and Culotta have been forced to retain counsel to investigate and defend such claims, and Goldking LT and Tallerine have further been forced to undertake the defense of its affiliates against whom claims for conspiracy and aiding and abetting have been alleged and who have common law rights of indemnification. The Company has received an undertaking by Goldking LT on behalf of itself, Tallerine, and Culotta and an undertaking by Culotta to repay such amount if it shall ultimately be determined that he or it is not entitled to be indemnified by the Company. Therefore, Goldking LT, Tallerine, and Culotta are entitled to immediate payment of all expenses and attorneys fees incurred currently and hereafter.

104. Pursuant to Section 12.7(a), Goldking LT, Tallerine and Culotta are entitled to an order specifically enforcing the mandatory advancement of expenses provision. Goldking LT, Tallerine and Culotta are further entitled to recover all reasonable and necessary attorneys' fee incurred in the enforcement of Section 8.7, pursuant to Texas Civil Practice Remedies Code §38.001.

2. FAILURE TO PAY PLANE EXPENSES

105. Goldking Energy and Tallerine assert claims of breach of contract against the Company for failure to pay reimbursement of plane expenses.

106. A valid and enforceable written agreement between Tallerine and the Company required the Company to pay or reimburse Goldking Energy and Tallerine for the use of a 1980 British Hawker airplane owned by Goldking Energy. In return for use of the airplane, the contract obligates the Company to pay invoices for said use at an industry standard charge. Goldking Energy and Tallerine fully performed and issued invoices in conformity with the contract. The Company has failed to pay a number of these valid invoices.

107. Goldking Energy kept a systematic record of the amounts charged to the Company's account and such amounts are stated in the invoices attached hereto as Exhibit E. This statement of account is just and true, is due, and all just and lawful offsets, payments, and credits have been allowed. The total amount due and payable is $52,728.33.

108. Goldking Energy and Tallerine are entitled to an award of liquidated damages in the amount of $52,728.33, as well as costs and reasonable and necessary attorney's fees pursuant to Texas Civil Practices and Remedies Code § 38.001(1). Presentment has been made.

3. THEFT OF SERVICES—PLANE

109. Goldking Energy and Tallerine assert claims under the Texas Theft Liability Act for theft of services against the Company and Wayzata.

110. Pursuant to the Texas Theft Liability Act, a person who commits theft is liable for the damages resulting from the theft. Theft is defined as "unlawfully appropriating property or unlawfully obtaining services as described by §§ 31.03–31.07, or 31.11–31.14 of the Texas Penal Code.[11] In pertinent part, Texas Penal Code § 31.04(a)(4) provides that a person commits theft of service if, with the intent to avoid payment for service that the actor knows is provided only for compensation, the actor intentionally or knowingly secures the performance of the service by

[11] Tex. Civ. Prac. & Rem. Code §134.002(2)

agreeing to provide compensation and, after the service is rendered, fails to make full payment after receiving notice demanding payment.[12]

111. As alleged herein, the Company committed theft of the airplane services. Pursuant to CPRC §134.005, Tallerine and Goldking Energy are entitled to recover their actual damages in the amount of $52,728.33, and in addition to that sum, additional damages in a sum not to exceed $1,000.00, as well as court costs and reasonable and necessary attorney's fees.

4. FAILURE TO PAY CONSULTING FEE

112. Tallerine asserts claims for breach of contract or in the alternative quantum meruit against Wayzata Investment Partners and Wayzata II.

113. A valid, enforceable oral agreement between Tallerine, on the one hand, and Wayzata Investment Partners and Wayzata II, on the other, existed for Tallerine to provide consulting services to Wayzata Investment Partners and Wayzata II with regard to investments in and dealings with Dune Energy. Wayzata Investment Partners and Wayzata II, through its officers Halloran, Strain and Carlson, agreed to pay Tallerine a consulting fee equal to 6.25% of whatever profits Wayzata II realized on its Dune Energy investments. Tallerine performed the consulting services, and Wayzata II realized a profit of $40 million on its Dune Energy investments. Wayzata Investment Partners and Wayzata II owe Tallerine a consulting fee in the amount of $2.5 million. Tallerine has been damaged by the breach, and is entitled to actual damages in the amount of $2.5 million, as well as costs and reasonable and necessary attorneys' fees pursuant to Texas Civil Practice and Remedies Code § 38.001.

114. In the alternative, Tallerine provided valuable consulting services to Wayzata Investment Partners and Wayzata II with regard to their investments in and dealings with Dune Energy. These consulting services were provided for Wayzata Investment Partners and Wayzata II.

[12] Tex. Pen. Code Ann. § 31.04 (Vernon).

Wayzata Investment Partners and Wayzata II accepted these services and acted in accordance with the advice given. Furthermore, Tallerine expressly stated to Wayzata Investment Partners and Wayzata II that he expected compensation for his services. Wayzata Investment Partners and Wayzata II, through its officers Halloran, Strain, and Carlson, recognized Tallerine's expectation of payment, and agreed to pay. Tallerine is entitled to receive the reasonable and customary value of his services. Tallerine is entitled to actual damages in the approximate amount of $2,500,000.00, as well as costs and reasonable and necessary attorney's fees pursuant to Texas Civil Practices and Remedies Code § 38.001.

5. THEFT OF SERVICES—CONSULTING

115. Tallerine asserts claims under the Texas Theft Liability Act for theft of services against Wayzata Investment Partners and Wayzata II.

116. Wayzata Investment Partners and Wayzata II committed theft of Tallerine's consulting services because they knew, and were expressly told by Tallerine that these services would be provided only for compensation. Wayzata Investment Partners and Wayzata II recognized this fact by offering to pay a consulting fee. After notice, Wayzata Investment Partners and Wayzata II failed and refused to make any payment whatsoever for the consulting services.

117. Pursuant to Texas Civil Practice and Remedies Code § 134.005, Tallerine is entitled to recover his actual damages in the amount of $2,500,000.00, and in addition to that sum, additional damages in a sum not to exceed $1,000.00, as well as court costs and reasonable and necessary attorney's fees.

6. FRAUD

118. Tallerine asserts claims for common law fraud against Wayzata Investment Partners and Wayzata II.

119. Wayzata Investment Partners and Wayzata II made false promises to Tallerine to pay him a consulting fee out of whatever profits Wayzata realized on its Dune Energy investments the same percentage Tallerine owned in the Company. Wayzata Investment Partners and Wayzata II made this promise with no intention to perform. This representation was material, and Tallerine relied on the representation in deciding to offer the consulting services. Wayzata Investment Partners and Wayzata II made the representation with the intention that Tallerine would rely upon it. Wayzata Investment Partners and Wayzata II made the representation with knowledge of its falsity.

120. As a result of the above fraud by Wayzata Investment Partners and Wayzata II, Tallerine has suffered actual damages in the approximate amount of $2,500,000.00. Moreover, Wayzata Investment Partners and Wayzata II has committed fraud willfully, wantonly, intentionally, maliciously, and with gross disregard of the rights of others. Tallerine is therefore entitled to exemplary damages.

7. CONVERSION

121. Tallerine and Culotta assert claims for conversion against all Counterclaim Defendants.

122. Tallerine and Culotta owned, possessed, and had the immediate possessory rights over personal property in both the Company offices, as well as in Goldking Energy's leased Suite 2500A in the same building. Such property in the Company offices included furniture, artwork, and equipment, personal copies of the corporate records of the Company, personal pictures, and a safe in which Tallerine's personal records are kept. Property in Suite 2500A included desks, computers, files, and printers. This property was the personal property of Tallerine. Culotta also had locked filing cabinets with personal files inside, including personal tax returns, Walker Street Consulting invoices and business records, confidential documents,

personal copies of other papers, and computer and office equipment in 2500A. Counterclaim Defendants wrongfully exercised dominion and control over the various items of personal property of Tallerine and Culotta on December 17, 2012, by seizing 2500A, and locking Tallerine and Culotta out of 2500A and the Company offices. Counterclaim Defendants sawed off the locks to Culotta's filing cabinet and rummaged through, and kept various work paper records of Culotta's work product done as an independent contractor. Defendants refused to return or release the property after demand.

123. Counterclaim Defendants released 2500A on December 19, 2012, however Counterclaim Defendants remain in possession of Culotta's personal property work papers, and Tallerine's credenza and safe, including its highly personal and private contents. Counterclaim Defendants gradually returned most of Tallerine's personal property, but retained possession of the artwork and furniture for over a month, and never returned Tallerine's personal copy of corporate records. Additionally, computer equipment belonging to Tallerine was damaged by the Counterclaim Defendants.

124. Culotta and Tallerine are entitled to either the damages for the lost value of the property or loss of use damages on the items returned to them. For the items, which have yet to be returned, Tallerine and Culotta are entitled to the full value of the converted property or injunctive relief, specifically, for return of the personal items still within Counterclaim Defendants' wrongful possession, including the safe and credenza. Tallerine seeks return of the safe without being opened by Counterclaim Defendants. Furthermore, Counterclaim Defendants committed conversion willfully, wantonly, intentionally, maliciously, and with gross disregard of the rights of others. Tallerine is therefore entitled to exemplary damages.

8. INVASION OF PRIVACY

125. Tallerine and Culotta assert claims for invasion of privacy against all Counterclaim Defendants.

126. By seizing the personal property of Tallerine and Culotta within the Company offices and within Suite 2500A, and subsequently cutting the locks off of Culotta's file cabinet in which highly sensitive medical, financial, and personal information was stored, Counterclaim Defendants made an actual physical intrusion on the privacy of Culotta. Entering a private office without permission has been found to be an actionable intrusion in Texas. Culotta had a reasonable expectation of privacy with regard to his locked file cabinets and information regarding his personal private matters inside, especially in light of the fact that Culotta's file cabinet was within Suite 2500A, which was leased by Tallerine, and not within any property owned or leased by Counterclaim Defendants. An ordinary person would feel severely offended, humiliated, and outraged by such an intrusion into their locked-up personal medical files and financial documents as Culotta has suffered.

127. Tallerine had his personal financial information, insurance, medical documents and confidential information relating to his other companies within Suite 2500A. Upon seizure of the office by Counterclaim Defendants, these sensitive private documents were reviewed and, on information and belief, copied. Furthermore, in the safe that Counterclaim Defendants have been commandeered, Tallerine keeps extremely personal information such as divorce papers, estate planning documents, and medical records. The safe is within Tallerine's office located inside the Company's offices. Counterclaim Defendants have seized the safe, continue to maintain wrongful possession of it, and refuse to release the safe to Tallerine, after demand, until they crack it open and review the contents. An ordinary person would feel severely offended, humiliated, and outraged by such an intrusion into the lease space, a review of numerous

confidential and personal documents, and the holding hostage of a safe within which a person's most sentimental and important documents are held.

128. Culotta and Tallerine were injured by Counterclaim Defendants' intrusion, and are entitled to mental anguish damages, including anger, humiliation, and distress, and costs of court. Furthermore, Counterclaim Defendants committed invasion of privacy willfully, wantonly, intentionally, maliciously, and with gross disregard of the rights of others. Tallerine is therefore entitled to exemplary damages. Furthermore, given the despicable conduct of Counterclaim Defendants, Culotta and Tallerine are entitled to equitable attorney's fees.

9. TRESPASS TO REAL PROPERTY

129. Goldking Energy asserts claims for trespass to real property against all Counterclaim Defendants.

130. Goldking Energy is the lessee of Suite 2500A, and as such owns the exclusive lawful right to occupy and possess such premises. Counterclaim Defendants made an intentional, voluntary and physical invasion into 2500A, and seized control thereof, changed the locks, damaged property, and excluded Tallerine and Goldking Energy personnel. Counterclaim Defendants not only locked out the rightful lessee, but also invaded the office and inspected all of the contents. Counterclaim Defendants' trespass caused injury to Goldking Energy's right of possession to the lease space. The Company also seized possession of the three offices within its Suite that are leased by Goldking Energy, refused to pay rent on that space, but barred Tallerine and Goldking Energy from access and possession. Goldking Energy is entitled to recover its actual damages, including loss of use. Because Counterclaim Defendants acted with malice, Goldking Energy is entitled to exemplary damages, and due to the outrageous behavior of Counterclaim Defendants, Goldking Energy is entitled to equitable attorney's fees. Goldking Energy is also entitled to costs.

10. BREACH OF CONTRACT—SEPARATION AGREEMENT AND CONFIDENTIAL GENERAL MUTUAL RELEASE

131. Culotta asserts claims for breach of contract against the Company.

132. By the acts alleged herein, the Company breached its Separation Agreement and Confidential General Mutual Release with Culotta. Therefore, Culotta is entitled to his actual damages proximately caused by this breach of contract, together with reasonable and necessary attorneys' fees pursuant to Texas Civil Practice and Remedies Code §38.001.

11. BREACH OF CONTRACT/SUIT ON SWORN ACCOUNT—SEVERANCE AGREEMENT

133. The Company has breached its severance agreement with Belanger. Pursuant to the terms of the severance agreement, Belanger is entitled to recover $247,500.00 in actual damages. This amount is just and true and due and owing. The Company has failed and refused and continues to fail and refuse to pay the amount due per the written agreement. This account is sworn to by the affidavits of Belanger and Tallerine. (Those affidavits are attached as exhibits to Belanger's Plea in Intervention and are incorporated herein by reference as if fully set forth and attached.)

134. Belanger has had to hire an attorney who made written demand for the funds owed under the written and oral agreement. It has been for than 30 days, and Belanger is entitled to his reasonable attorneys' fees pursuant to Article 38.001 of the Texas Civil Practice and Remedies Code.

135. Presentment has been made, and all conditions precedent have occurred or been satisfied.

III. CONCLUSION AND PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendants and Counterclaim Plaintiffs LEONARD C. TALLERINE, JR.; GOLDKING ENERGY CORPORATION; GOLDKING

ENERGY PARTNERS II, LLC; GOLDKING CAPITAL MANAGEMENT, LLC; RETA WELLWOOD DBA VERMILLION CONTRACTING CO.; PAUL CULOTTA; GOLDKING LT CAPITAL CORP. and LOUIS BELANGER, JR. respectfully request that the Plaintiffs take nothing by their claims, and further request that upon trial on the merits, judgment be entered against all Counterclaim Defendants awarding the following relief to Counterclaim Plaintiffs:

a. Actual Damages;

b. Equitable Relief, including forced buy-out, disgorgement, rescission, partition, mandamus, or otherwise;

c. Exemplary Damages, and additional damages and penalties as provided by statute;

d. Prejudgment Interest;

e. Postjudgment Interest;

f. Reasonable and Necessary Attorneys Fees and Expenses;

g. Costs of Court;

h. And such other and further relief to which Counterclaim Plaintiffs may be justly entitled.

Respectfully Submitted,

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__/s/David L. Sheller by permission____

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Attorney in Charge for Counterclaim Plaintiff LOUIS BELANGER, JR.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing instrument was served on September 24, 2013, on all parties and counsel of record pursuant to the Texas Rules of Civil Procedure via eservice and/or FCM-CMRRR:

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/s/ Eric Fryar
Eric Fryar

EXHIBIT 5

EXHIBIT TO NOTICE OF REMOVAL

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