

TIBURON LAND AND CATTLE, LP, ET AL.,

Plaintiffs,

v.

KERWIN STEPHENS, ET AL.,

Defendants.

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IN THE DISTRICT COURT OF

FISHER COUNTY, TEXAS

32ND JUDICIAL DISTRICT COURT

CHARGE OF THE COURT

MEMBERS OF THE JURY:

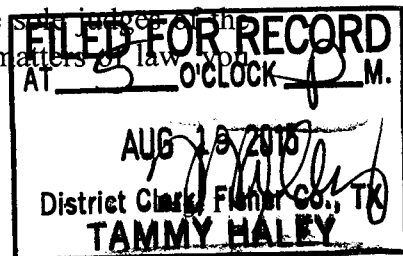
After the closing arguments, you will go to the jury room to decide this case, answer the questions in this charge, and reach a verdict. You may discuss the case with other jurors only when you are all together in the jury room. Remember my previous instructions: Do not discuss the case with anyone else, either in person or by any other means. Do not do any independent investigation about the case or conduct any research. Do not look up any words in dictionaries or on the Internet. Do not post information about the case on the Internet. Do not share any special knowledge or experiences with the other jurors. Do not use your cell phone or any other electronic device during your deliberations for any reason.

Any notes you have taken are for your own personal use. You may take your notes back into the jury room and consult them during deliberations, but do not show or read your notes to your fellow jurors during your deliberations. Your notes are not evidence. Each of you should rely on your independent recollection of the evidence and not be influenced by the fact that another juror has or has not taken notes.

You must leave your notes with the bailiff when you are not deliberating. The bailiff will give your notes to me promptly after collecting them from you. I will make sure your notes are kept in a safe, secure location and not disclosed to anyone. After you complete your deliberations, the bailiff will collect your notes. When you are released from jury duty, the bailiff will promptly destroy your notes so that nobody can read what you wrote.

Here are the instructions for answering the questions:

1. Do not let bias, prejudice, or sympathy play any part in your decision.
2. Base your answers only on what was presented in court and on the law that is in these instructions and questions. Do not consider or discuss any evidence that was not presented in the courtroom.
3. You are to make up your own minds about the facts. You are the sole judges of the credibility of the witnesses and the weight to give their testimony. But on matters of law, you must follow all of my instructions.



4. If my instructions use a word in a way that is different from its ordinary meaning, use the meaning I give you, which will be a proper legal definition.

5. All the questions and answers are important. No one should say that any question or answer is not important.

6. Answer "yes" or "no" to all questions unless you are told otherwise. A "yes" answer must be based on a preponderance of the evidence unless you are told otherwise. Whenever a question requires an answer other than "yes" or "no," your answer must be based on a preponderance of the evidence unless you are told otherwise.

The term "preponderance of the evidence" means the greater weight of credible evidence presented in this case. If you do not find that a preponderance of the evidence supports a "yes" answer, then answer "no." A preponderance of the evidence is not measured by the number of witnesses or by the number of documents admitted in evidence. For a fact to be proved by a preponderance of the evidence, you must find that the fact is more likely true than not true.

A fact may be established by direct evidence or by circumstantial evidence or both. A fact is established by direct evidence when proved by documentary evidence or by witnesses who saw the act done or heard the words spoken. A fact is established by circumstantial evidence when it may be fairly and reasonably inferred from other facts proved.

7. Do not decide who you think should win before you answer the questions and then just answer the questions to match your decision. Answer each question carefully without considering who will win. Do not discuss or consider the effect your answers will have.

8. Do not answer questions by drawing straws or by any method of chance.

9. Some questions might ask you for a dollar amount. Do not agree in advance to decide on a dollar amount by adding up each juror's amount and then figuring the average.

10. Do not trade your answers. For example, do not say, "I will answer this question your way if you answer another question my way."

11. Unless you are otherwise instructed, the answers to the questions must be based on the decision of at least 10 of the 12 jurors. The same 10 or more jurors must agree on every answer. Do not agree to be bound by a vote of anything less than 10 jurors, even if it would be a majority.

As I have said before, if you do not follow these instructions, you will be guilty of juror misconduct, and I might have to order a new trial and start this process over again. This would waste your time and the parties' money, and would require the taxpayers of this county to pay for another trial. If a juror breaks any of these rules, tell that person to stop and report it to me immediately.

Definitions

“Trek” means Trek Resources, Inc., a plaintiff in this matter.

“Tiburon” means Tiburon Land & Cattle, L.P., a plaintiff in this matter.

The “Three Finger Black Shale Group” means the enterprise established through the Participation Agreement.

“Plaintiffs” means Trek, Tiburon, and Three Finger Black Shale.

“Carroll” means Chester Carroll, doing business as Alpine Petroleum.

“L.W. Hunt Resources” means L.W. Hunt Resources, LLC.

“Raughton” means Richard Raughton.

“Stephens & Myers” means Stephens & Myers, LLP.

“Paradigm” means Paradigm Petroleum Corporation.

“Lazy T” means Lazy T Royalty Management, LP.

“Taylor” means Tommy Taylor.

“Thunderbird Oil” means Thunderbird Oil & Gas, L.L.C., a defendant in this matter.

“Thunderbird Land” means Thunderbird Land Services, L.L.C., a defendant in this matter.

“Thunderbird Resources” means Thunderbird Resources, L.L.C., a defendant in this matter.

The “Alpine Group” means the group consisting of Thunderbird Oil, Chester Carroll, Arapaho Energy, L.L.C., and L.W. Hunt Resources, L.L.C.

The “Participation Agreement” means the agreement by that name, originally entered into on or about October 18, 2011, between Paradigm, Trek, Tiburon, and others, and subsequently amended through a First Addendum on or about December 27, 2011, and then again on or about March 16, 2012, through amended versions of the Participation Agreement and First Addendum.

The “Initial 30,000 Acres” refers to the first 30,000 acres of leases in Fisher County which were sold by Paradigm to Devon in 2012.

The “Additional Acreage” refers to the leases in Fisher County which were sold by Paradigm in 2012, but which were not part of the Initial 30,000 Acres.

“Proximate cause” means a cause that was a substantial factor in bringing about a party’s damages, and without which cause such damages would not have occurred. In order to be a proximate cause, the act or omission complained of must be such that a person using the degree of care required of him would have foreseen that the party’s damages, or some similar damages,

might reasonably result therefrom. There may be more than one proximate cause of a party's damages.

"Clear and convincing evidence" means the measure or degree of proof that produces a firm belief or conviction of the truth of the allegations sought to be established.

"Fraud" occurs when—

1. a party makes a material misrepresentation, and
2. the misrepresentation is made with knowledge of its falsity and made recklessly without any knowledge of the truth and as a positive assertion, and
3. the misrepresentation is made with the intention that it should be acted on by the other party, and
4. the other party relies on the misrepresentation and thereby suffers injury or harm.

Fraud also occurs when—

1. a party fails to disclose a material fact within the knowledge of the party, and
2. the party knows that the other party is ignorant of the fact and does not have an equal opportunity to discover the truth, and
3. the party intends to induce the other party to take some action by failing to disclose the fact, and
4. the other party suffers injury as a result of acting without knowledge of the undisclosed fact.

"Misrepresentation" means—

- a) A false statement of fact,
- b) A promise of future performance made with an intent, at the time the promise was made, not to perform as promised,
- c) A statement of opinion that the maker knows to be false, or
- d) An expression of opinion that is false, made by one who has, or purports to have, special knowledge of the subject matter of the opinion.

"Special knowledge" means knowledge or information superior to that possessed by the other party and to which the other party did not have equal access.

"Malice" means a specific intent to cause substantial injury or harm.

A corporation, including a limited liability corporation ("LLC"), is a separate legal entity and has a separate identity from its shareholders, members, officers and directors.

QUESTION NO. 1: Was the Three Finger Black Shale Group a partnership?

An association of two or more persons to carry on a business for profit as owners creates a partnership, regardless of whether:

- (1) the persons intend to create a partnership; or
- (2) the association is called a "partnership," "joint venture," or other name.

Factors indicating that parties have created a partnership include the parties':

- (1) receipt or right to receive a share of profits of the business;
- (2) expression of an intent to be partners in the business;
- (3) participation or right to participate in control of the business;
- (4) agreement to share or sharing:
 - (A) losses of the business; or
 - (B) liability for claims by third parties against the business; and
- (5) agreement to contribute or contributing money or property to the business.

Evidence of all of these factors is not required to show the existence of a partnership. Whether a partnership exists depends on the totality of the circumstances. You are instructed that a representation or other conduct indicating that a person is a partner with another person, if that is not the case, does not of itself create a partnership.

Persons who intend to do the things that constitute a partnership are partners whether their expressed purpose was to create or avoid a partnership.

With regard to the second factor, you should consider the parties' speech, writings, and conduct for expressions of an intent to be partners.

With regard to the third factor, a right to participate in the control of an enterprise means that the parties have some voice and a right to be heard in the control and management of the enterprise, even though the day-to-day authority may be delegated to a managing partner or managing agent.

The existence of the *right* to control does not depend on whether the parties have actually exercised control. For example, partners may delegate actual control to a managing partner or managing agent.

Agents are subject to their principals' right to control.

With regard to the fourth factor, an agreement by the owners of a business to share losses is not necessary to create a partnership.

Answer "Yes" or "No":

Yes

QUESTION NO. 2: Was Paradigm an agent for the Plaintiffs under the Participation Agreement?

An agent is one who consents to act on behalf of, and subject to, the control of the principal, who has manifested consent that the agent shall so act.

Answer "Yes" or "No":

Yes

QUESTION NO. 3: Was Thunderbird Land an agent of Paradigm in connection with the Alpine Letter Agreement?

An agent is one who consents to act on behalf of, and subject to, the control of the principal, who has manifested consent that the agent shall so act.

Answer "Yes" or "No":

yes

QUESTION NO. 4: Did Carroll sign the Participation Agreement?

Parties have an obligation to protect themselves by reading what they sign. Those who sign a contract are held to know what words were used in the contract, to know their meaning, and to understand their legal effect. Unless there is some basis for finding fraud, parties may not excuse themselves from the consequences of failing to meet that obligation. Where the execution of a contract is procured by fraud, misrepresentation, or concealment, such that there is no real assent to the agreement, assent may be negated and the binding nature of the contract avoided.

Answer "Yes" or "No":

yes

QUESTION NO. 5A: Was the Alpine Group a partnership?

An association of two or more persons to carry on a business for profit as owners creates a partnership, regardless of whether:

- (1) the persons intend to create a partnership; or
- (2) the association is called a "partnership," "joint venture," or other name.

Factors indicating that parties have created a partnership include the parties':

- (1) receipt or right to receive a share of profits of the business;
- (2) expression of an intent to be partners in the business;
- (3) participation or right to participate in control of the business;
- (4) agreement to share or sharing:
 - (A) losses of the business; or
 - (B) liability for claims by third parties against the business; and
- (5) agreement to contribute or contributing money or property to the business.

Evidence of all of these factors is not required to show the existence of a partnership. Whether a partnership exists depends on the totality of the circumstances. You are instructed that a representation or other conduct indicating that a person is a partner with another person, if that is not the case, does not of itself create a partnership.

Persons who intend to do the things that constitute a partnership are partners whether their expressed purpose was to create or avoid a partnership.

With regard to the second factor, you should consider the parties' speech, writings, and conduct for expressions of an intent to be partners.

With regard to the third factor, a right to participate in the control of an enterprise means that the parties have some voice and a right to be heard in the control and management of the enterprise, even though the day-to-day authority may be delegated to a managing partner or managing agent.

The existence of the *right* to control does not depend on whether the parties have actually exercised control. For example, partners may delegate actual control to a managing partner or managing agent.

Agents are subject to their principals' right to control.

With regard to the fourth factor, an agreement by the owners of a business to share losses is not necessary to create a partnership.

Answer "Yes" or "No":

yes

If you answered "Yes" to Question Nos. 4 and 5A, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 5B: Does it appear that Carroll's signing of the Participation Agreement was for carrying on, in the ordinary course, business of the kind carried on by the Alpine Group?

Answer "Yes" or "No":

 yes

QUESTION NO. 6: Did any of the following members of the Alpine Group ratify the Alpine Group's entry into the Participation Agreement?

Ratification may be express or implied.

Implied ratification occurs if a party, though he may have been unaware of unauthorized conduct taken on his behalf at the time it occurred, retains the benefits of the transaction involving the unauthorized conduct after he acquired full knowledge of the unauthorized conduct. Implied ratification results in the ratification of the entire transaction.

Answer "Yes" or "No" for each party:

Carroll:

yes

Thunderbird Oil:

yes

If you answered "Yes" to Question No. 1, then answer Question No. 7 for "Lazy T." Otherwise do not answer Question No. 7 for "Lazy T."

If you answered "Yes" to Question No. 2, then answer Question No. 7 for "Paradigm." Otherwise do not answer Question No. 7 for "Paradigm."

QUESTION NO. 7: Did the following parties comply with their fiduciary duties in the calculation and distribution of the proceeds from the sale to Devon of the Initial 30,000 Acres?

Partners and agents owe fiduciary duties of care and loyalty.

To prove that Lazy T complied with its duties as "partner," it must be shown that:

- a. Lazy T accounted to and held for the partnership all property, profit, or benefit derived by Lazy T from its use of partnership property;
- b. Lazy T refrained from dealing with the partnership in a manner adverse to the partnership; and,
- c. Lazy T discharged its duties to the partnership and the other partners (1) in good faith, and (2) in a manner Lazy T reasonably believed to be in the best interest of the partnership.

To prove that Paradigm complied with its duties as "agent," it must be shown that:

- a. the transactions in question were fair and equitable to Tiburon, Trek, and the Three Finger Black Shale Group;
- b. Paradigm made reasonable use of the confidence that Tiburon, Trek, and the Three Finger Black Shale Group placed in it;
- c. Paradigm acted in the utmost good faith and exercised the most scrupulous honesty toward Tiburon, Trek, and the Three Finger Black Shale Group;
- d. Paradigm placed the interests of Tiburon, Trek, and the Three Finger Black Shale Group before its own, did not use the advantage of its position to gain any benefit for itself at the expense of Tiburon, Trek, and the Three Finger Black Shale Group, and did not place itself in any position where its self-interest might conflict with its obligations to Tiburon, Trek, and the Three Finger Black Shale Group; and,
- e. Paradigm fully and fairly disclosed all important information to Tiburon, Trek, and the Three Finger Black Shale Group.

A response of "No" means that the party **did not comply** with its fiduciary duties.

Answer "Yes" or "No" for each of the following:

Lazy T:

NO

Paradigm:

NO

If you answered Question No. 3 "Yes," then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 8: Did Thunderbird Land comply with its fiduciary duties in determining and charging expenses to the Project for the Initial 30,000 Acres?

To prove that it complied with its duties, Thunderbird Land must show:

- a. the transactions in question were fair and equitable to Tiburon, Trek, and the Three Finger Black Shale Group;
- b. Thunderbird Land made reasonable use of the confidence that Tiburon, Trek, and the Three Finger Black Shale Group placed in it;
- c. Thunderbird Land acted in the utmost good faith and exercised the most scrupulous honesty toward Tiburon, Trek, and the Three Finger Black Shale Group;
- d. Thunderbird Land placed the interests of Tiburon, Trek, and the Three Finger Black Shale Group before its own, did not use the advantage of its position to gain any benefit for itself at the expense of Tiburon, Trek, and the Three Finger Black Shale Group, and did not place itself in any position where its self-interest might conflict with its obligations to Tiburon, Trek, and the Three Finger Black Shale Group; and,
- e. Thunderbird Land fully and fairly disclosed all important information to Tiburon, Trek, and the Three Finger Black Shale Group.


A response of "No" means that the Thunderbird Land **did not comply** with its fiduciary duties.

Answer "Yes" or "No": No

If you answered "No" to any part of Question Nos. 7 or 8, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 9: With respect to each breach of fiduciary duty you found in response to Question Nos. 7 and 8, did the following parties knowingly participate in the breach?

Answer "Yes" or "No" for each party, with respect to the breaches you found in response to Question Nos. 7 and/or 8:

| | <i>Breaches found in response to Question No. 7</i> | <i>Breaches found in response to Question No. 8</i> |
|------------------------|---|---|
| Stephens: | <u>yes</u> | <u>yes</u> |
| Thunderbird Oil: | <u>yes</u> | <u>yes</u> |
| Thunderbird Land: | <u>yes</u> |  |
| Thunderbird Resources: | <u>yes</u> | <u>yes</u> |
| Carroll: | <u>No</u> | |

If you answered "No" to any part of Question Nos. 7 or 8, then answer the following question. Otherwise, do not answer the following question.

If you answered "No" to any part of Question No. 7, then answer Part A of the following question.

Regardless of your answer to Question No. 7, if you answered "No" to any part of Question No. 8, then answer Part B of the following question.

QUESTION NO. 10: What sum of money, if paid now in cash, would fairly and reasonably compensate the Plaintiffs for the damages, if any, proximately caused by the breaches of fiduciary duties you found in response to Question Nos. 7 and 8?

Consider the following elements of damages, if any, and none other:

- A. *(regarding distributions, Question No. 7)* the difference between the cash distributions that the Plaintiffs actually received from the sale of the Initial 30,000 Acres and the cash distributions that they would have received if the distributions had been based on Lazy T's actual contributions; and,
- B. *(regarding expenses, Question No. 8)* the difference, if any, between the cash distributions that the Plaintiffs actually received from the sale of the Initial 30,000 Acres and the cash distributions that they would have received if Thunderbird Land had only included proper amounts in its charges with respect to the acquisition of leases in Fisher County.

Do not reduce your answer for the Three Finger Black Shale Group because of any amounts included in your answers for Trek and/or Tiburon. Do not increase or reduce the amount in one answer because of your answer to any other question about damages. Do not speculate about what any party's ultimate recovery may or may not be. Any recovery will be determined by the court when it applies the law to your answers at the time of judgment.

Do not add any amount for interest on damages, if any.

Answer in dollars and cents:

| | Part (A) regarding <u>distributions</u> | Part (B) regarding <u>expenses</u> |
|--|--|---|
| The Three Finger Black Shale Group, including Trek and Tiburon: | <u>16,359,000</u> | <u>246,000</u> |
| Trek: | <u>444,875</u> | <u>30,750</u> |
| Tiburon: | <u>444,875</u> | <u>30,750</u> |

If you answered "No" to any part of Question Nos. 7 or 8, then answer the following question. Otherwise, do not answer the following question.

Answer the following question for any party for whom you answered "No" in Question Nos. 7 or 8 or "Yes" in Question No. 9.

Assign percentages of responsibility only to those you found caused or contributed to cause the damages that you found in response to Question No. 10. For each damage, the percentages you find must total 100 percent. The percentages must be expressed in whole numbers. The percentage of responsibility attributable to any one is not necessarily measured by the number of acts or omissions found. The percentage attributable to any one need not be the same percentage attributed to that one in answering another question.

QUESTION NO. 11: For each party you found caused or contributed to cause the damages you found in response to Question No. 10 (parts A and B), find the percentage of responsibility attributable to each:

| | <u>Part (A)</u> | <u>Part (B)</u> |
|------------------------|-----------------------------|-----------------------------|
| Lazy T: | <u>100 %</u> | <u> </u> |
| Paradigm: | <u> </u> | <u> </u> |
| Stephens: | <u> </u> | <u>60 %</u> |
| Thunderbird Oil: | <u> </u> | <u> </u> |
| Thunderbird Land: | <u> </u> | <u>40 %</u> |
| Thunderbird Resources: | <u> </u> | <u> </u> |
| Carroll: | <u> </u> | <u> </u> |
| TOTAL: | 100% | 100% |

If you answered "No" to any part of Question Nos. 7 or 8, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 12: Were any of the following parties part of a conspiracy that resulted in the damages that you found in response to Question No. 10 (parts A and B)?

To be part of a conspiracy, two or more persons must have had knowledge of, agreed to, and intended a common objective or course of action that resulted in the damages to the Plaintiffs. One or more persons involved in the conspiracy must have performed some act or acts to further the conspiracy.

Answer "Yes" or "No" for each party:

| | <u>Part (A)</u> | <u>Part (B)</u> |
|------------------------|-----------------|-----------------|
| Stephens: | <u>yes</u> | <u>yes</u> |
| Thunderbird Oil: | <u>yes No</u> | <u>No</u> |
| Thunderbird Land: | <u>yes</u> | <u>yes</u> |
| Thunderbird Resources: | <u>No</u> | <u>No</u> |
| Carroll: | <u>No</u> | <u>No</u> |

If you answered "No" to any part of Question Nos. 7 or 8, then answer the following question. Otherwise, do not answer the following question.

To answer "Yes" to the following question, your answer must be unanimous. You may answer "No" to the following question only upon a vote of ten or more jurors.

QUESTION NO. 13: Do you find by clear and convincing evidence that the damages you found in response to Question No. 10 (parts A and B) resulted from (1) fraud or (2) malice on the part of one or more of the following parties?

Answer "Yes" or "No" for each party:

| | <u>Part (A)</u> | <u>Part (B)</u> |
|------------------------|-----------------|-----------------|
| Stephens: | <u>yes</u> | <u>yes</u> |
| Thunderbird Oil: | <u>no</u> | <u>no</u> |
| Thunderbird Land: | <u>yes</u> | <u>yes</u> |
| Thunderbird Resources: | <u>no</u> | <u>no</u> |
| Carroll: | <u>no</u> | <u>no</u> |

Answer the following question regarding a party only if you unanimously answered "Yes" to Question No. 13 for that party. If there are no such parties, then do not answer the following question.

You must unanimously agree on the amount of any award of exemplary damages.

QUESTION NO. 13.1: What sum of money, if paid now in cash, should be assessed against the parties listed below and awarded to Plaintiffs as exemplary damages, if any, for the conduct found in response to Question No. 13?

"Exemplary damages" means any damages awarded in your discretion as a penalty or by way of punishment. Exemplary damages include punitive damages.

In determining the amount of exemplary damages, you shall consider evidence, if any, relating to:

- a) the nature of the wrong;
- b) the character of the conduct involved.
- c) the degree of culpability of the wrongdoer.
- d) the situation and sensibilities of the parties concerned.
- e) the extent to which such conduct offends a public sense of justice and propriety; and,
- f) the party's net worth.

Answer in dollars and cents, if any, for the following parties:

| | |
|------------------------|--------------------|
| Stephens: | <u>2.5 million</u> |
| Thunderbird Oil: | <u>0</u> |
| Thunderbird Land: | <u>1.5 million</u> |
| Thunderbird Resources: | <u>0</u> |
| Carroll: | <u>0</u> |

Answer the following question regarding a party only if you unanimously answered "Yes" to Question No. 13 for that party. If there are no such parties, then do not answer the following question.

To answer "Yes" to the following question, your answer must be unanimous. You may answer "No" to the following question only upon a vote of ten or more jurors.

QUESTION NO. 13.2:

With respect to the actionable conduct that you found in response to Question Nos. 7, 8, 9, and/or 12,

- a) did the following parties misapply fiduciary property and was the value of the misapplied property \$1,500 or greater?**

A person misapplies fiduciary property by intentionally, knowingly, or recklessly misapplying property held as a fiduciary in a manner that involves substantial risk of loss to the owner of the property or to a person for whose benefit the property is held.

"Misapply" means to deal with property contrary to:

(A) an agreement under which the fiduciary holds the property; or

(B) a law prescribing the custody or disposition of the property.

- b) did the following parties commit theft from Plaintiffs and was the value of the stolen property \$20,000 or greater?**

"Theft" means that a person unlawfully appropriates property with the intent to deprive the owner of property. Appropriating property is unlawful if it is without the owner's effective consent.

A person acts with intent with respect to the nature of his conduct or to a result of his conduct when it is the conscious objective or desire to engage in the conduct or cause the result.

"Deprive" means to withhold property from the owner permanently or for so extended a period of time that a major portion of the value or enjoyment of the property is lost to the owner.

"Owner" means a person who has title to the property, possession of the property, whether lawful or not, or a greater right to possession of the property than the parties.

"Property" means: (a) real property; (b) tangible or intangible personal property, including anything severed from land; or (c) a document, including money, that represents or embodies anything of value.

Answer "Yes" or "No" for each party and for each part of this Question:

| | <u>Part (A)</u> <u>regarding</u> <u>distributions</u> | <u>Part (B)</u> <u>regarding</u> <u>expenses</u> |
|------------------------|---|--|
| Stephens: | <u>yes</u> | <u>yes</u> |
| Thunderbird Oil: | <u>no</u> | <u>no</u> |
| Thunderbird Land: | <u>yes</u> | <u>yes</u> |
| Thunderbird Resources: | <u>no</u> | <u>no</u> |
| Carroll: | <u>no</u> | <u>no</u> |

If you answered Question No. 2 "Yes," then answer the following question for "Paradigm." Otherwise, do not answer the following question as to "Paradigm."

If you answered Question No. 3 "Yes," then answer the following question for "Thunderbird Land." Otherwise, do not answer the following question as to "Thunderbird Land."

If you answered Question No. 1 "Yes," then answer the following question for "Lazy T." Otherwise, do not answer the following question as to "Lazy T."

If you answered Question No. 1 "Yes" and if you answered either Question No. 5B or Question No. 6 "Yes" for Thunderbird Oil, then answer the following question for "Thunderbird Oil." Otherwise, do not answer the following question as to "Thunderbird Oil."

If you answered Question No. 1 "Yes" and if you answered either Question No. 4 or Question No. 6 "Yes" for Carroll, then answer the following question for Carroll. Otherwise, do not answer the following question as to Carroll.

QUESTION NO. 14: Did the following parties comply with their fiduciary duties with respect to the acquisition and sale of the Additional Acreage?

Partners and agents owe fiduciary duties of care and loyalty.

To prove that it complied with its duties, an agent must show:

- a. the transactions in question were fair and equitable to Tiburon, Trek, and the Three Finger Black Shale Group;
- b. the agent made reasonable use of the confidence that Tiburon, Trek, and the Three Finger Black Shale Group placed in it;
- c. the agent acted in the utmost good faith and exercised the most scrupulous honesty toward Tiburon, Trek, and the Three Finger Black Shale Group;
- d. the agent placed the interests of Tiburon, Trek, and the Three Finger Black Shale Group before its own, did not use the advantage of its position to gain any benefit for itself at the expense of Tiburon, Trek, and the Three Finger Black Shale Group, and did not place itself in any position where its self-interest might conflict with its obligations to Tiburon, Trek, and the Three Finger Black Shale Group; and,
- e. the agent fully and fairly disclosed all important information to Tiburon, Trek, and the Three Finger Black Shale Group.

To prove that he or it complied with its duties, a partner must show:

- a. that the partner has accounted to and held for the partnership all property, profit, or benefit derived by the partner from use by the partner of partnership property;
- b. that the partner refrained from dealing with the partnership in a manner adverse to the partnership; and,
- c. that the partner discharged its duties to the partnership and the other partners (1) in good faith, and (2) in a manner the partner reasonably believes to be in the best interest of the partnership.

A response of "No" means that the party did not comply with its fiduciary duties.

Answer "Yes" or "No" for each party:

| | |
|-------------------|-----------|
| Paradigm: | <u>NO</u> |
| Lazy T: | <u>NO</u> |
| Thunderbird Oil: | <u>NO</u> |
| Thunderbird Land: | <u>NO</u> |
| Carroll: | <u>NO</u> |

QUESTION NO. 15: Did the following parties intentionally interfere with the Plaintiffs' rights under the Participation Agreement?

Interference is intentional if committed with the desire to interfere with the contract or with the belief that interference is substantially certain to result.

Answer "Yes" or "No" for each party:

| | |
|------------------------|------------|
| Stephens: | <u>yes</u> |
| Thunderbird Oil: | <u>yes</u> |
| Thunderbird Land: | <u>yes</u> |
| Thunderbird Resources: | <u>no</u> |
| Carroll: | <u>yes</u> |

If you answered "Yes" to Question 15 as to any party, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 16: Did any of the following parties have a good faith belief that all participants under the Participation Agreement had terminated their rights thereunder?

Answer "Yes" or "No" for each party:

| | |
|------------------------|------------|
| Stephens: | <u>yes</u> |
| Thunderbird Oil: | <u>yes</u> |
| Thunderbird Land: | <u>yes</u> |
| Thunderbird Resources: | <u>yes</u> |
| Carroll: | <u>yes</u> |

If you answered "No" to any part of Question No. 14 or "Yes" to any part of Question 15, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 17: What sum of money, if paid now in cash, would fairly and reasonably compensate the Plaintiffs for their damages, if any, proximately caused by not receiving proceeds from the sale of the Additional Acreage?

Consider the following element of damages and none other – the profits that the Plaintiffs would have received if they had been properly paid from the sale of the Additional Acreage.

Do not reduce your answer for the Three Finger Black Shale Group because of any amounts included in your answers for Trek and/or Tiburon. Do not increase or reduce the amount in one answer because of your answer to any other question about damages. Do not speculate about what any party's ultimate recovery may or may not be. Any recovery will be determined by the court when it applies the law to your answers at the time of judgment.

Do not add any amount for interest on damages, if any.

Answer separately for each Plaintiff in dollars and cents:

The Three Finger Black Shale Group,
including Trek and Tiburon:

1,509,440

Trek:

806,900

Tiburon:

886,900

If you answered "No" to any part of Question No. 14 or "Yes" to any part of Question No. 15, then answer the following question. Otherwise, do not answer the following question.

Answer the following question for any party for whom you answered "No" in Question No. 14 or "Yes" to any part of Question No. 15.

Assign percentages of responsibility only to those you found caused or contributed to cause the damages that you found in response to Question No. 17. The percentages you find must total 100 percent. The percentages must be expressed in whole numbers. The percentage of responsibility attributable to any one is not necessarily measured by the number of acts or omissions found. The percentage attributable to any one need not be the same percentage attributed to that one in answering another question.

QUESTION NO. 18: For each party you found caused or contributed to cause the damages you found in response to Question No. 17, find the percentage of responsibility attributable to each:

| | |
|------------------------|-----------------------------|
| Lazy T: | <u>33%</u> |
| Paradigm: | <u> </u> |
| Stephens: | <u>17%</u> |
| Thunderbird Oil: | <u> </u> |
| Thunderbird Land: | <u>17%</u> |
| Thunderbird Resources: | <u> </u> |
| Carroll: | <u>33%</u> |
| TOTAL: | 100% |

If you answered "No" to any part of Question No. 14 or "Yes" to any part of Question No. 15, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 19: Were any of the following parties part of a conspiracy that resulted in the damages that you found in response to Question No. 17?

To be part of a conspiracy, two or more persons must have had knowledge of, agreed to, and intended a common objective or course of action that resulted in the damages to the Plaintiffs. One or more persons involved in the conspiracy must have performed some act or acts to further the conspiracy.

Answer "Yes" or "No" for each party:

Stephens:

yes

Thunderbird Oil:

No

Thunderbird Land:

yes

Thunderbird Resources:

No

Carroll:

yes

QUESTION NO. 20: Did any of the following parties act through "concerted action" to exclude the Plaintiffs from the Additional Acreage?

"Concerted action liability" arises when the actionable conduct (i) was undertaken with specific intent to cause harm to others, (ii) in concert with one or more other persons, and (iii) constitutes either (a) the misapplication by a fiduciary of its beneficiary's property, or (b) theft.

Answer "Yes" or "No" for each party:

| | |
|------------------------|------------|
| Stephens: | <u>yes</u> |
| Thunderbird Oil: | <u>No</u> |
| Thunderbird Land: | <u>yes</u> |
| Thunderbird Resources: | <u>No</u> |
| Carroll: | <u>yes</u> |

QUESTION NO. 21: Do the following parties hold money from the sale of the Additional Acreage which in equity and good conscience belongs to the Plaintiffs?

Answer "Yes" or "No" for each party:

| | |
|-----------|------------|
| Stephens: | <u>yes</u> |
| Carroll: | <u>yes</u> |

QUESTION NO. 22: What amount of profits, if any, did the following parties receive as a result of the sale of the Additional Acreage?

Answer separately for each party in dollars and cents:

| | |
|-----------|------------------|
| Stephens: | <u>2,503,147</u> |
| Carroll: | <u>2,503,147</u> |

Answer the following question only for those parties for whom you either unanimously answered "No" to Question No. 14 or unanimously answered "Yes" to Question Nos. 15 or 19.

To answer "Yes" to the following question, your answer must be unanimous. You may answer "No" to the following question only upon a vote of ten or more jurors.

QUESTION NO. 23: Do you find by clear and convincing evidence that the damages you found in response to Question No. 17 or the profits you found in response to Question No. 22 resulted from (1) fraud or (2) malice on the part of one or more of the following parties?

Answer "Yes" or "No" for each party:

Stephens:

yes

Thunderbird Oil:

NO

Thunderbird Land:

yes

Thunderbird Resources:

NO

Carroll:

yes

Answer the following question regarding a party only if you unanimously answered "Yes" to Question No. 23 for that party. If there are no such parties, then do not answer the following question.

You must unanimously agree on the amount of any award of exemplary damages.

QUESTION NO. 23.1: What sum of money, if paid now in cash, should be assessed against the parties listed below and awarded to the Plaintiffs as exemplary damages, if any, for the conduct found in response to Question No. 23?

"Exemplary damages" means any damages awarded in your discretion as a penalty or by way of punishment. Exemplary damages include punitive damages.

In determining the amount of exemplary damages, you shall consider evidence, if any, relating to:

- a) the nature of the wrong;
- b) the character of the conduct involved.
- c) the degree of culpability of the wrongdoer.
- d) the situation and sensibilities of the parties concerned.
- e) the extent to which such conduct offends a public sense of justice and propriety; and,
- f) the party's net worth.

Answer in dollars and cents, if any, for the following:

| | |
|------------------------|------------------|
| Stephens: | <u>5,000,000</u> |
| Thunderbird Oil: | <u>0</u> |
| Thunderbird Land: | <u>5,000,000</u> |
| Thunderbird Resources: | <u>0</u> |
| Carroll: | <u>5,000,000</u> |

Answer the following question regarding a party only if you unanimously answered "Yes" to Question No. 23 for that party. If there are no such parties, then do not answer the following question.

To answer "Yes" to the following question, your answer must be unanimous. You may answer "No" to the following question only upon a vote of ten or more jurors.

QUESTION NO. 23.2: With respect to the actionable conduct that you found in response to Question Nos. 14, 15, and/or 19,

(a) did the following parties misapply fiduciary property and was the value of the misapplied property \$1,500 or greater?

A person misapplies fiduciary property by intentionally, knowingly, or recklessly misapplying property held as a fiduciary in a manner that involves substantial risk of loss to the owner of the property or to a person for whose benefit the property is held.

"Misapply" means to deal with property contrary to:

- (A) an agreement under which the fiduciary holds the property; or
- (B) a law prescribing the custody or disposition of the property.

(b) did the following parties commit theft from Plaintiffs and was the value of the stolen property \$20,000 or greater?

"Theft" means that a person unlawfully appropriates property with the intent to deprive the owner of property. Appropriating property is unlawful if it is without the owner's effective consent.

A person acts with intent with respect to the nature of his conduct or to a result of his conduct when it is the conscious objective or desire to engage in the conduct or cause the result.

"Owner" means a person who has title to the property, possession of the property, whether lawful or not, or a greater right to possession of the property than the party.

"Property" means: (a) real property; (b) tangible or intangible personal property, including anything severed from land; or (c) a document, including money, that represents or embodies anything of value.

Answer "Yes" or "No" for each party and for each part of this Question:

| | (a) | (b) |
|------------------------|------------|------------|
| Stephens: | <u>yes</u> | <u>yes</u> |
| Thunderbird Oil: | <u>no</u> | <u>no</u> |
| Thunderbird Land: | <u>yes</u> | <u>yes</u> |
| Thunderbird Resources: | <u>no</u> | <u>no</u> |
| Carroll: | <u>yes</u> | <u>yes</u> |

Answer Question No. 24 for the following parties:

- for "Carroll," if you answered Question No. 4 "Yes" or if you answered Question No. 6 "Yes" for Carroll; and,
- for "Thunderbird Oil," if you answered Question No. 5B "Yes" or if you answered Question No. 6 "Yes" for Thunderbird Oil.

QUESTION NO. 24: Did the following parties fail to comply with the "Area of Mutual Interest" obligations imposed by Paragraph 2 of the Participation Agreement?

Answer "Yes" or "No" for each party:

Thunderbird Oil:

yes

Carroll:

yes

If you answered "Yes" to Question No. 24 as to any party, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 25: What sum of money, if paid now in cash, would fairly and reasonably compensate the parties for the damages, if any, that resulted from such failure to comply?

Consider the following element of damages and none other – The additional cash distributions that the parties would have received if the "AMI provision" within the Participation Agreement had been followed.

Do not add any amount for interest on damages, if any.

Do not reduce your answer for the Three Finger Black Shale Group because of any amounts you included in your answer for Trek and/or Tiburon. Do not increase or reduce the amount in one answer because of your answer to any other question about damages. Do not speculate about what any party's ultimate recovery may or may not be. Any recovery will be determined by the court when it applies the law to your answers at the time of judgment.

Answer in dollars and cents:

| | |
|--|------------------|
| The Three Finger Black Shale Group, including Trek and Tiburon: | <u>7,509,440</u> |
| Trek: | <u>769,717</u> |
| Tiburon: | <u>769,717</u> |
| L.W. Hunt Resources | <u>1,200,083</u> |

QUESTION NO. 26: Was Thunderbird Land's \$1.6 million payment to Stephens & Myers on December 28, 2012, a fraudulent transfer?

A party fraudulently transfers assets to another person when the party transfers the assets

- a. with actual intent to hinder, delay, or defraud any creditor of the party, or
- b. without receiving a reasonably equivalent value in exchange.

In determining whether a person acted with "actual intent" under part (a), consideration may be given, among other factors, to whether:

- (1) the transfer or obligation was to an insider;
- (2) the debtor retained possession or control of the property transferred after the transfer;
- (3) the transfer or obligation was concealed;
- (4) before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit;
- (5) the transfer was of substantially all the debtor's assets; and,
- (6) the value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred.

"Creditor" means a person who has a claim, whether the creditor's claim arose before or within a reasonable time after the transfer was made or the obligation was incurred.

A "claim" is defined as a right to payment or property, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.

"Reasonably equivalent value" includes without limitation, a transfer or obligation that is within the range of values for which the transferor would have sold the assets in an arm's length transaction.

Answer "Yes" or "No":

No

QUESTION NO. 27: Did the parties listed below fail to comply with the Alpine Letter Agreement?

A failure to comply must be material. The circumstances to consider in determining whether a failure to comply is material include:

- (a) the extent to which the injured party will be deprived of the benefit which he reasonably expected;
- (b) the extent to which the injured party can be adequately compensated for the part of that benefit of which he will be deprived;
- (c) the extent to which the party failing to perform or to offer to perform will suffer forfeiture;
- (d) the likelihood that the party failing to perform or to offer to perform will cure his failure, taking into account the circumstances including any reasonable assurances;
- (e) the extent to which the behavior of the party failing to perform or to offer to perform comports with standards of good faith and fair dealing.

Answer "Yes" or "No" for each party.

Thunderbird Oil:

Yes

Carroll:

Yes

If you answered "Yes" to one or both of the parties in Question No. 27, then answer Question No. 28. Otherwise do not answer Question No. 28.

QUESTION 28: Was the failure to comply with the Alpine Letter Agreement of any of the parties you answered "Yes" to in Question 27 excused?

You are instructed that the failure to comply is not excused if the excuse is the result of fraud and/or duress. Duress is the mental, physical, or economic coercion of another, causing that party to act contrary to his free will and interest.

Otherwise, you are instructed as follows:

You are instructed that the failure to comply with the Alpine Letter Agreement is excused if a different performance was accepted as full satisfaction of performance of the original obligation of the agreement, or upon a new contract, express or implied, in which the parties agree to the discharge of an existing obligation in a manner otherwise than originally agreed; or

You are instructed the failure to comply with the Alpine Letter Agreement is excused if the complaining party ratifies the conduct of the non-complying party. Ratification may be express or implied. Implied ratification occurs if a party, though he may have been unaware of the unauthorized conduct taken on his behalf at the time it occurred, retains the benefits of the transaction involving the unauthorized conduct after he acquired full knowledge of the unauthorized conduct. Implied ratification results in ratification of the entire transaction; or

You are instructed the failure to comply is also excused if compliance is waived. Waiver is an intentional surrender of a known right or intentional conduct inconsistent with claiming the right; or

You are instructed that a valid release is a complete bar to any action based on matters covered by the release. To establish the affirmative defense of release, a party must prove the elements of a valid contract. The elements of a valid contract are (1) an offer, (2) an acceptance, (3) a meeting of the minds, (4) an expression of the terms with sufficient certainty so that there is no doubt regarding the parties' intentions, and (5) consideration.

Answer "Yes" or "No" for each of the parties you answered "yes" to in Question No. 27.

| | |
|-----------------|-----------|
| Carroll | <u>NO</u> |
| Thunderbird Oil | <u>NO</u> |

If you answered "Yes" to any part of Question No. 27 and "No" to Question No. 28, then answer the following question. Otherwise, do not answer the following question and go directly to Question No. 31.

QUESTION NO. 29: What sum of money, if any, if paid now in cash, would fairly and reasonably compensate L.W. Hunt Resources for its damages, if any, that resulted from such failure to comply with the Alpine Letter Agreement?

In answering questions about damages, answer each question separately. Do not increase or reduce the amount in one answer because of your answer to any other question about damages. Do not speculate about what any party's ultimate recovery may or may not be. Any recovery will be determined by the court when it applies the law to your answers at the time of judgment.

Do not add any amount for interest on damages, if any.

Consider the following elements of damages, if any, and none other.

The additional amount that would have been paid, if any, to L.W. Hunt Resources that was not paid as a result of the Party's failure to comply with the Alpine Letter Agreement found in Question No. 27:

Answer in dollars and cents:

Answer: 4,200,083

If you answered "Yes" to any part of Question No. 27 and "No" to Question No. 28, then answer the following question. Otherwise, do not answer the following question and go directly to Question No. 31.

QUESTION 30: What is a reasonable fee for the necessary services of L.W. Hunt Resources' attorneys, stated in dollars and cents, for its contract claims?

Answer with an amount for each of the following:

1. For representation through trial and the completion of proceedings in the trial court.

Answer: 859,275

2. For representation through appeal to the court of appeals.

Answer: 125,000

3. For representation at the petition for review stage in the Supreme Court of Texas.

Answer: 50,000

4. For representation at the merits briefing stage in the Supreme Court of Texas.

Answer: 50,000

5. For representation through oral argument and the completion of proceedings in the Supreme Court of Texas.

Answer: 25,000

QUESTION 31 has been intentionally omitted.

QUESTION NO. 32: Were either of the following a client of Stephens or Stephens & Myers with respect to the matter in dispute?

An attorney-client relationship exists only if the attorney has agreed, expressly or impliedly to render legal services of a specified or general nature to the person claiming such relationship.

Answer "Yes" or "No" for each of the following:

| | Stephens | Stephens & Myers |
|----------------------|----------|------------------|
| L.W. Hunt Resources: | yes | yes |
| Raughton: | yes | yes |

If you answered "Yes" to any part of Question No. 32, then answer the following question only as to that party. Otherwise, do not answer the following question.

QUESTION NO. 33: Did Stephens or Stephens & Myers comply with their fiduciary duties to their client?

As attorneys, Stephens and Stephens & Myers owed fiduciary duties to their client. To prove they complied with their duties, Stephens and Stephens & Myers must show—

1. the transactions in question were fair and equitable to their client; and
2. Stephens and Stephens & Myers made reasonable use of the confidence that their client placed in them; and
3. Stephens and Stephens & Myers acted in the utmost good faith and exercised the most scrupulous honesty toward their client; and
4. Stephens and Stephens & Myers placed the interests of their client before their own and did not use the advantage of their position to gain any benefit for themselves at the expense of their client; and
5. Stephens and Stephens & Myers fully and fairly disclosed all important information to their client concerning the transactions.

A response of "No" means that the party **did not comply** with its fiduciary duties.

Answer "Yes" or "No" for each of the following:

| | L.W. Hunt Resources | Raughton |
|------------------|---------------------|----------|
| Stephens | no | no |
| Stephens & Myers | no | no |

If you answered "No" to any part of Question No. 33, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 34: What sum of money, if any, if paid now in cash, would fairly and reasonably compensate L.W. Hunt Resources and/or Raughton for their damages, if any, that were proximately caused by such conduct?

Consider the following elements of damages, if any, and none other.

Do not add any amount for interest on damages, if any.

Answer separately in dollars and cents for damages, if any.

In answering questions about damages, answer each question separately. Do not increase or reduce the amount in one answer because of your answer to any other question about damages. Do not speculate about what any party's ultimate recovery may or may not be. Any recovery will be determined by the court when it applies the law to your answers at the time of judgment. Do not add any amount for interest on damages, if any.

The additional amounts that would have been paid to L.W. Hunt Resources and/or Raughton that were not paid as a result of the breach of fiduciary duty found in Question No. 33 for each of the following:

L.W. Hunt Resources: 1,200,083

Raughton: 1,089,636

If you answered "No" to any part of Question No. 33, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 35: What was the amount of Defendants' profit in the transactions that resulted from the breach of fiduciary duty in Question No. 33?

Answer in dollars and cents, if any, for each of the following. Answer only as to Defendants for which you answered "No" in response to Question No. 33.

Stephens: 1,764,938

Stephens & Myers: 1,600,000

If you answered "Yes" to Question No. 5A, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 36: Did Thunderbird Oil or Carroll comply with their fiduciary duties to L.W. Hunt Resources?

As partners, Thunderbird Oil and Carroll owed L.W. Hunt Resources fiduciary duties. To prove they complied with their duties, Thunderbird Oil and Carroll must show—

1. the transactions in question were fair and equitable to L.W. Hunt Resources; and
2. Thunderbird Oil or Carroll made reasonable use of the confidence L.W. Hunt Resources placed in them; and
3. Thunderbird Oil or Carroll acted in the utmost good faith and exercised the most scrupulous honesty toward L.W. Hunt Resources; and
4. Thunderbird Oil or Carroll placed the interests of L.W. Hunt Resources before their own and did not use the advantage of their position to gain any benefit for themselves at the expense of L.W. Hunt Resources; and
5. Thunderbird Oil or Carroll fully and fairly disclosed all important information to L.W. Hunt Resources concerning the transactions.

A response of "No" means that the party **did not comply** with its fiduciary duties.

Answer "Yes" or "No" for each of the following:

Thunderbird Oil: No

Carroll: No

QUESTION NO. 37: Was Paradigm an agent for L.W. Hunt Resources under the Alpine Letter Agreement and/or the Participation Agreement?

An agent is one who consents to act on behalf of, and subject to, the control of the principal, who has manifested consent that the agent shall so act.

Answer "Yes" or "No":

 No

*If you answered "Yes" to Question No.37, then answer the following question.
Otherwise, do not answer the following question.*

QUESTION NO. 38: Did Paradigm comply with its fiduciary duties to L.W. Hunt Resources?

Agents owe fiduciary duties of care and loyalty.

To prove that Paradigm complied with its duties as "agent," it must be shown that:

- a. the transactions in question were fair and equitable to L.W. Hunt Resources;
- b. Paradigm made reasonable use of the confidence that L.W. Hunt Resources placed in it;
- c. Paradigm acted in the utmost good faith and exercised the most scrupulous honesty toward L.W. Hunt Resources;
- d. Paradigm placed the interests of L.W. Hunt Resources before its own, did not use the advantage of its position to gain any benefit for itself at the expense of L.W. Hunt Resources, and did not place itself in any position where its self-interest might conflict with its obligations to L.W. Hunt Resources; and,
- e. Paradigm fully and fairly disclosed all important information to L.W. Hunt Resources.

A response of "No" means that the party **did not comply** with its fiduciary duties.

Answer "Yes" or "No" for each of the following:

Paradigm:

yes

If you answered "No" to any part of Question No. 36 or 38, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 39: What sum of money, if any, if paid now in cash, would fairly and reasonably compensate L.W. Hunt Resources for its damages, if any, that were proximately caused by the breach of fiduciary duty found in Question No. 36 or 38?

Do not add any amount for interest on damages, if any.

Answer separately in dollars and cents for damages, if any.

In answering questions about damages, answer each question separately. Do not increase or reduce the amount in one answer because of your answer to any other question about damages. Do not speculate about what any party's ultimate recovery may or may not be. Any recovery will be determined by the court when it applies the law to your answers at the time of judgment. Do not add any amount for interest on damages, if any.

Answer in dollars and cents for each party. Answer only as to parties for which you answered "No" in response to Question No. 36 or 38.

Consider the following elements of damages, if any, and none other.

The additional amounts that would have been paid to L.W. Hunt Resources that were not paid as a result of the breach of fiduciary duty found in Question No. 36 or 38 for each of the following:

Thunderbird Oil: 1,200,083

Carroll: 1,200,083

QUESTION NO. 40: For each person you found caused or contributed to cause the damages you found in response to Question No. 34 of No. 39, find the percentage of responsibility attributable to each:

Paradigm: _____

Thunderbird Oil: _____

Stephens: 50 %

Stephens & Myers: _____

Carroll: 50 %

TOTAL: 100%

If you answered "No" to any part of Question No. 36, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 41: What was the amount of Defendants' profit in the transactions that resulted from the breach of fiduciary duty in Question No. 36?

Answer in dollars and cents for each party. Answer only as to parties for which you answered "no" in response to Question No. 36.

Thunderbird Oil & Gas: 3,364,938

Carroll: 3,364,938

QUESTION NO. 42: Did any of the parties listed below commit fraud against L.W. Hunt Resources or Raughton?

Answer "Yes" or "No" for each of the following:

Carroll: yes

Thunderbird Oil & Gas: yes

Stephens: yes

Stephens & Myers: yes

Paradigm: NO

Taylor: NO

Lazy T: NO

Thunderbird Resources: yes

Thunderbird Land: yes

If you answered "Yes" to any part of Question No. 42, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 43: What sum of money, if any, if paid now in cash, would fairly and reasonably compensate L.W. Hunt Resources and/or Raughton for their damages, if any, that resulted from such fraud?

Consider the following elements of damages, if any, and none other.

Do not add any amount for interest on damages, if any.

Answer separately in dollars and cents for damages, if any.

In answering questions about damages, answer each question separately. Do not increase or reduce the amount in one answer because of your answer to any other question about damages. Do not speculate about what any party's ultimate recovery may or may not be. Any recovery will be determined by the court when it applies the law to your answers at the time of judgment. Do not add any amount for interest on damages, if any.

The additional amounts that would have been paid to L.W. Hunt Resources or Raughton that were not paid as a result of the fraud found in Question No. 42:

Answer in dollars and cents for each Party. Answer only as to Parties for which you answered "yes" in response to Question No. 42.

L.W. Hunt Resources:

300,000

Raughton:

272,000

QUESTION NO. 44: For each person you found caused or contributed to cause the damages you found in response to Question No. 43, find the percentage of responsibility attributable to each:

| | |
|------------------------|-------------|
| Paradigm: | <u>0</u> |
| Taylor: | <u>0</u> |
| Lazy T: | <u>0</u> |
| Thunderbird Land: | <u>20 %</u> |
| Thunderbird Resources: | <u>10 %</u> |
| Thunderbird Oil: | <u>10 %</u> |
| Carroll: | <u>20 %</u> |
| Stephens: | <u>30 %</u> |
| Stephens & Myers: | <u>10 %</u> |
| TOTAL: | 100% |

If you answered "No" to Question Nos. 33 or 36 or "Yes" to Question No. 42, then answer the following question. If you answered "Yes" to Question Nos. 33 and 36 and "No" to Question No. 42, do not answer the following question.

QUESTION NO. 45: Were the Defendants part of a conspiracy that damaged L.W. Hunt Resources and/or Raughton?

To be part of a conspiracy, a party and another person or persons must have had knowledge of, agreed to, and intended a common objective or course of action that resulted in the damages to L.W. Hunt Resources and/or Raughton. One or more persons involved in the conspiracy must have performed some act or acts to further the conspiracy.

Answer Yes or No for each Party and cause of action separately:

| Defendant | Breach of Fiduciary Duty (Question No. 33) | Breach of Fiduciary Duty (Question No. 36) | Fraud (Question No. 42) |
|-----------------------|--|--|-------------------------|
| Carroll | yes | yes | yes |
| Thunderbird Oil & Gas | yes | yes | yes |
| Thunderbird Land | yes | yes | yes |
| Thunderbird Resources | yes | yes | yes |
| Stephens | yes | yes | yes |
| Paradigm | yes | yes | yes |

If you unanimously answered "No" to any part of Question Nos. 33 or 36 or "Yes" to any part of Question No. 42, then answer the following question as to only the defendants for which you unanimously answered Question Nos. 33 or 36 or "Yes" to any part of Question No. 42. If not, do not answer the following question as to that defendant.

To answer "Yes" to any part of the following question, your answer must be unanimous. You may answer "No" to any part of the following question only upon a vote of ten or more jurors. Otherwise, you must not answer that part of the following question and go to the next part.

QUESTION 46: Do you find by clear and convincing evidence that the harm to L.W. Hunt Resources and/or Raughton resulted from malice or fraud?

Answer "Yes" or "No" for each of the following Defendants for L.W. Hunt Resources and Raughton, but only as to those Parties as you answered:

| Defendant | As to L.W. Hunt Resources | As to Raughton |
|-----------------------|---------------------------|----------------|
| Carroll | yes | yes |
| Thunderbird Oil & Gas | yes | yes |
| Thunderbird Land | yes | yes |
| Thunderbird Resources | yes | yes |
| Stephens | yes | yes |
| Stephens & Myers | yes | yes |

If you unanimously answered "Yes" to any part of Question No. 46, then answer the following question as to only the defendants for which you unanimously answered "Yes" to any part of Question No. 46. Otherwise, do not answer the following question.

To answer "Yes" to any part of the following question, your answer must be unanimous. You may answer "No" to any part of the following question only upon a vote of ten or more jurors. Otherwise, you must not answer that part of the following question and go to the next part.

QUESTION NO. 47: What sum of money, if any, if paid now in cash, should be assessed against each Defendant and awarded to L.W. Hunt Resources or Raughton as exemplary damages, if any, for the conduct found in response to Question 46?

"Exemplary damages" means an amount that you may in your discretion award as a penalty or by way of punishment.

Factors to consider in awarding exemplary damages, if any, are—

1. The nature of the wrong.
2. The character of the conduct involved.
3. The degree of culpability of the Defendant.
4. The situation and sensibilities of the parties concerned.
5. The extent to which such conduct offends a public sense of justice and propriety.
6. The net worth of the Defendant.

Answer in dollars and cents, if any, for each Defendant. Answer only for the Defendants for which your answer to Question No. 46 was unanimously "Yes." For all other Defendants, do not answer.

| Defendant | As to L.W. Hunt Resources | As to Raughton |
|-----------------------|---------------------------|----------------|
| Carroll | 2,000,000 | 1,000,000 |
| Thunderbird Oil & Gas | 2,000,000 | 1,000,000 |
| Thunderbird Land | 2,000,000 | 1,000,000 |
| Thunderbird Resources | 2,000,000 | 1,000,000 |
| Stephens | 2,000,000 | 1,000,000 |
| Stephens & Myers | 2,000,000 | 1,000,000 |

If you unanimously answered "Yes" to any part of Question No. 46, then answer the following question as to only the defendants for which you unanimously answered "Yes" to any part of Question No. 46. Otherwise, do not answer the following question.

To answer "Yes" to any part of the following question, your answer must be unanimous. You may answer "No" to any part of the following question only upon a vote of ten or more jurors. Otherwise, you must not answer that part of the following question and go to the next part.

QUESTION NO. 48: Did Carroll, Thunderbird Oil & Gas, Thunderbird Land, Thunderbird Resources, Stephens, and/or Stephens & Myers secure the execution of a document by deception.

"Securing the execution of a document by deception" occurs when a person causes another person to sign any document affecting property, and does so by deception, with the intent to defraud or harm any person.

A person acts with intent with respect to the nature of his conduct or to a result of his conduct when it is the conscious objective or desire to engage in the conduct or cause the result.

"Deception" means creating or confirming by words or conduct a false impression of law or fact that is likely to affect the judgment of another in the transaction, and that the actor does not believe to be true.

"Property" means: (a) real property; (b) tangible or intangible personal property, including anything severed from land; or (c) a document, including money, that represents or embodies anything of value.

Answer "Yes" or "No" for each of the following Defendants:

Carroll: yes

Thunderbird Oil & Gas: yes

Thunderbird Land: yes

Thunderbird Resources: yes

Stephens: yes

Stephens & Myers: yes

If you unanimously answered "Yes" to any part of Question No. 46, then answer the following question as to only the defendants for which you unanimously answered "Yes" to any part of Question No. 46. Otherwise, do not answer the following question.

To answer "Yes" to any part of the following question, your answer must be unanimous. You may answer "No" to any part of the following question only upon a vote of ten or more jurors. Otherwise, you must not answer that part of the following question and go to the next part.

QUESTION NO. 49: Did Carroll, Thunderbird Oil & Gas, Thunderbird Land, Thunderbird Resources, Stephens, and/or Stephens & Myers destroy, remove, conceal, or otherwise impair the availability of a writing with intent to defraud or harm another?

A person acts with intent with respect to the nature of his conduct or to a result of his conduct when it is the conscious objective or desire to engage in the conduct or cause the result.

Answer "Yes" or "No" for each of the following parties:

Carroll: yes

Thunderbird Oil: yes

Thunderbird Land: yes

Thunderbird Resources: yes

Stephens: yes

Stephens & Myers: yes

QUESTION NO. 50: Did L.W. Hunt Resources fail to comply with the Alpine Letter Agreement?

A failure to comply must be material. The circumstances to consider in determining whether a failure to comply is material include:

- (f) the extent to which the injured party will be deprived of the benefit which he reasonably expected;
- (g) the extent to which the injured party can be adequately compensated for the part of that benefit of which he will be deprived;
- (h) the extent to which the party failing to perform or to offer to perform will suffer forfeiture;
- (i) the likelihood that the party failing to perform or to offer to perform will cure his failure, taking into account the circumstances including any reasonable assurances;
- (j) the extent to which the behavior of the party failing to perform or to offer to perform comports with standards of good faith and fair dealing.

Answer "YES" or "NO."

ANSWER: No

If you answered "Yes" to any part of Question No. 50, then answer the following question. Otherwise, do not answer the following question.

QUESTION 51: Was LW Hunt Resources' failure to comply excused?

Failure to comply by L.W. Hunt Resources is excused by the prior failure to comply with a material obligation of the same agreement by Stephens, Thunderbird Oil, Thunderbird Land, Thunderbird Resources, Stephens & Myers, and/or Carroll.

Failure to comply by L.W. Hunt Resources is excused if the agreement was made under duress caused by Stephens, Thunderbird Oil, Thunderbird Land, Thunderbird Resources, Stephens & Myers, or Carroll.

Failure to comply by L.W. Hunt Resources is excused if compliance is waived by Stephens, Thunderbird Oil, Thunderbird Land, Thunderbird Resources, Stephens & Myers, or Carroll. Waiver is an intentional surrender of a known right or intentional conduct inconsistent with claiming that right.

Failure to comply by L.W. Hunt Resources is excused if the following circumstances occurred:

1. Stephens, Thunderbird Oil, Thunderbird Land, Thunderbird Resources, Stephens & Myers, and/or Carroll
 - a) by words or conduct made a false representation or concealed material facts, and
 - b) with knowledge of the facts or with knowledge or information that would lead a reasonable person to discover the facts, and
 - c) with the intention that LW Hunt Resources would rely on the false representation or concealment in acting or deciding not to act; and
2. L.W. Hunt Resources:
 - a) did not know and had no means of knowing the real facts and
 - b) relied to *his* detriment on the false representation or concealment of material facts.

Failure to comply with an agreement is excused if a different performance was accepted as full satisfaction of performance of the original obligations of the agreement.

Failure to comply with an agreement is excused if L.W. Hunt Resources was injured by the unlawful or inequitable conduct of Stephens, Thunderbird Oil, Thunderbird Land,

Thunderbird Resources, Stephens & Myers, and/or Carroll. Unlawful or inequitable conduct includes fraud.

Failure to comply with an agreement is excused if Stephens, Thunderbird Oil, Thunderbird Land, Thunderbird Resources, Stephens & Myers, and/or Carroll did not provide any new benefit to L.W. Hunt Resources in the Reduction Agreement, which L.W. Hunt Resources did not already have in the Alpine Letter Agreement.

Failure to comply by L.W. Hunt Resources is excused by the prior failure to comply with a material obligation of the same agreement by Stephens, Thunderbird Oil, Thunderbird Land, Thunderbird Resources, Stephens & Myers, and/or Carroll.

Failure to comply by L.W. Hunt Resources is excused if the agreement was made under duress caused by Stephens, Thunderbird Oil, Thunderbird Land, Thunderbird Resources, Stephens & Myers, or Carroll. Duress is the mental, physical, or economic coercion of another, causing that party to act contrary to his free will and interest.

Answer "Yes" or "No."

Answer:

NA

If you answered "Yes" to Question No. 50 and "No" to Question No. 51, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 52: What sum of money, if any, if paid now in cash, would fairly and reasonably compensate Thunderbird Oil and Carroll for their damages, if any, that resulted from such failure to comply by L.W. Hunt Resources?

Consider the following elements of damages, if any, and none other.

The difference, if any, between (a) the value of L.W. Hunt Resources's expected performance under the Alpine Letter Agreement as agreed to by the parties and (b) the value of the actual performance by L.W. Hunt Resources. The difference in value, if any, shall be determined at the time and place the Alpine Letter Agreement was performed.

Do not add any amount for interest on damages, if any.

Answer separately in dollars and cents for damages, if any.

For Thunderbird Oil:

ANSWER: NA

For Chester Carroll:

ANSWER: NA

If you answered "Yes" to Question No. 50 and "No" to Question No. 51, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 53: What is a reasonable fee for the necessary services of Thunderbird Oil's attorneys in this case, stated in dollars and cents?

Answer with an amount for each of the following:

1. For representation through trial and the completion of proceedings in the trial court.

Answer: NA

2. For representation through appeal to the court of appeals.

Answer: NA

3. For representation at the petition for review stage in the Supreme Court of Texas.

Answer: NA

4. For representation at the merits briefing stage in the Supreme Court of Texas.

Answer: NA

5. For representation through oral argument and the completion of proceedings in the Supreme Court of Texas.

Answer: NA

If you answered "Yes" to Question No. 50 and "No" to Question No. 51, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 54: What is a reasonable fee for the necessary services of Carroll's attorneys in this case, stated in dollars and cents?

Answer with an amount for each of the following:

1. For representation through trial and the completion of proceedings in the trial court.

Answer: N/A

2. For representation through appeal to the court of appeals.

Answer: N/A

3. For representation at the petition for review stage in the Supreme Court of Texas.

Answer: N/A

4. For representation at the merits briefing stage in the Supreme Court of Texas.

Answer: N/A

5. For representation through oral argument and the completion of proceedings in the Supreme Court of Texas.

Answer: N/A

Instructions Regarding the Presiding Juror:

1. When you go into the jury room to answer the questions, the first thing you will need to do is choose a presiding juror.

2. The presiding juror has these duties:

- a. Have this complete charge read aloud if it will be helpful to your deliberations.
- b. Preside over your deliberations. This means the presiding juror will manage the discussions, and see that you follow these instructions.
- c. Give written questions or comments to the bailiff who will give them to the judge.
- d. Write down the answers you agree on.
- e. Sign or get the signatures for the verdict certificate.
- f. Notify the bailiff that you have reached a verdict.

Do you understand the duties of the presiding juror? If you do not, please tell me now.

Instructions for Signing the Verdict Certificate:

1. You may answer the questions on a vote of 10 or more jurors. The same 10 or more jurors must agree on every answer in the charge. This means you may not have one group of 10 or more jurors agree on one answer and a different group of 10 or more jurors agree on another answer.

2. If 10 or 11 jurors agree on every answer, those 10 or 11 jurors sign the verdict. If all 12 of you agree on every answer, you are unanimous and only the presiding juror signs the verdict.

3. All jurors should deliberate on every question. You may end up with all 12 of you agreeing on some answers, while only 10 or 11 of you agree on other answers. But when you sign the verdict, only those 10 or 11 who agree on every answer will sign the verdict.

Do you understand these instructions? If you do not, please tell me now.



JUDGE PRESIDING

If you have answered Question Nos. 13.1, 23.1, or 47, then you must sign this certificate also.

ADDITIONAL CERTIFICATE

I certify that the jury was unanimous in answering the questions checked below. Place a check next to each answer that was unanimous. Do not check answers that were not unanimous. The presiding juror has signed this certificate for all 12 of us.

Question No. 8

Question No. 9

No. 7 Breach

Stephens
 Thunderbird Oil
 Thunderbird Land
 Thunderbird Resources
 Carroll

No. 8 Breach

Stephens
 Thunderbird Oil
 Thunderbird Resources

Question No. 12

Stephens
 Thunderbird Oil
 Thunderbird Land
 Thunderbird Resources
 Carroll

Question No. 13

Part A

Stephens
 Thunderbird Oil
 Thunderbird Land
 Thunderbird Resources
 Carroll

Part B

Stephens
 Thunderbird Oil
 Thunderbird Land
 Thunderbird Resources
 Carroll

Question No. 13.1

Stephens
 Thunderbird Oil
 Thunderbird Land
 Thunderbird Resources
 Carroll

Question No. 13.2

Part A

- Stephens
- Thunderbird Oil
- Thunderbird Land
- Thunderbird Resources
- Carroll

Part B

- Stephens
- Thunderbird Oil
- Thunderbird Land
- Thunderbird Resources
- Carroll

Question No. 14

- Thunderbird Oil
- Thunderbird Land
- Carroll

- Paradigm
- Lazy T

Question No. 15

- Stephens
- Thunderbird Oil
- Thunderbird Land
- Thunderbird Resources
- Carroll

Question No. 19

- Stephens
- Thunderbird Oil
- Thunderbird Land
- Thunderbird Resources
- Carroll

Question No. 23

- Stephens
- Thunderbird Oil
- Thunderbird Land
- Thunderbird Resources
- Carroll

Question No. 23.1

- Stephens
- Thunderbird Oil
- Thunderbird Land
- Thunderbird Resources
- Carroll

Question No. 23.2

Part A

- Stephens
- Thunderbird Oil
- Thunderbird Land
- Thunderbird Resources
- Carroll

Part B

- Stephens
- Thunderbird Oil
- Thunderbird Land
- Thunderbird Resources
- Carroll

Question No. 33:

| | L. W. Hunt Resources | Raughton |
|------------------|----------------------|----------|
| Stephens | ✓ | ✓ |
| Stephens & Myers | ✓ | ✓ |

Question No. 36

- Thunderbird Oil
- Carroll

Question No. 42

- | | |
|---|--|
| <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Carroll <input checked="" type="checkbox"/> Thunderbird Oil <input checked="" type="checkbox"/> Stephens <input checked="" type="checkbox"/> Stephens & Myers <input checked="" type="checkbox"/> Thunderbird Resources <input checked="" type="checkbox"/> Thunderbird Land | <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Paradigm <input checked="" type="checkbox"/> Lazy T <input checked="" type="checkbox"/> Taylor |
|---|--|

Question No. 45

| Defendant | Breach of Fiduciary Duty (Question No. 33) | Breach of Fiduciary Duty (Question No. 36) | Fraud (Question No. 42) |
|-----------------------|--|--|-------------------------|
| Carroll | ✓ | ✓ | ✓ |
| Thunderbird Oil | ✓ | ✓ | ✓ |
| Thunderbird Land | ✓ | ✓ | ✓ |
| Thunderbird Resources | ✓ | ✓ | ✓ |
| Stephens | ✓ | ✓ | ✓ |
| Paradigm | ✓ | ✓ | ✓ |

Question 46

| Defendant | As to L.W. Hunt Resources | As to Raughton |
|-----------------------|---------------------------|----------------|
| Carroll | ✓ | ✓ |
| Thunderbird Oil | ✓ | ✓ |
| Thunderbird Land | ✓ | ✓ |
| Thunderbird Resources | ✓ | ✓ |
| Stephens | ✓ | ✓ |
| Stephens & Myers | ✓ | ✓ |

Question No. 47:

| Defendant | As to L.W. Hunt Resources | As to Raughton |
|-----------------------|---------------------------|----------------|
| Carroll | ✓ | ✓ |
| Thunderbird Oil & Gas | ✓ | ✓ |
| Thunderbird Land | ✓ | ✓ |
| Thunderbird Resources | ✓ | ✓ |
| Stephens | ✓ | ✓ |
| Stephens & Myers | ✓ | ✓ |

Question No. 48

- ✓ Carroll
- ✓ Thunderbird Oil
- ✓ Stephens
- ✓ Stephens & Myers
- ✓ Thunderbird Resources
- ✓ Thunderbird Land

Question No. 49

- ✓ Carroll
- ✓ Thunderbird Oil
- ✓ Stephens
- ✓ Stephens & Myers
- ✓ Thunderbird Resources
- ✓ Thunderbird Land



 PRESIDING JUROR