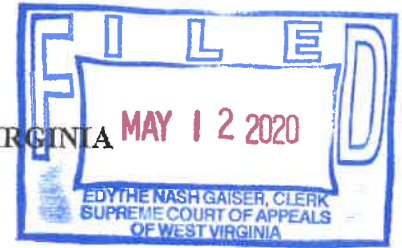


IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA



JAMES K. ABCOUWER,

Plaintiff,

v.

Cir. Ct. Kanawha Cnty.
Civil Action No. 12-C-416
Judge Charles E. King

TRANS ENERGY, INC.,¹

Defendant.

JAMES K. ABCOUWER,

Plaintiff,

v.

Cir. Ct. Kanawha Cnty.
Civil Action No. 13-C-56
Judge Carrie L. Webster

EQT CORPORATION,
WILLIAM F. WOODBURN,
and LOREN E. BAGLEY,

Defendants.

TO: CHIEF JUSTICE TIM ARMSTEAD

RENEWED MOTION TO REFER CASES TO THE BUSINESS COURT DIVISION

The parties previously moved for referral to the Business Court Division but Justice Workman denied those requests on April 13, 2018. As the case numbers would suggest, these two cases assigned to *different* Kanawha County judges involve long-running disputes, which, despite lengthy procedural histories, remain far from resolution, especially in light of the judicial

¹ Trans Energy, Inc. is a wholly owned subsidiary of EQT Corporation. EQT's acquisition of Trans Energy was consummated during the pendency of this litigation, thus positioning EQT as a party in interest.

emergency created by COVID-19. The extraordinary long delay from filing to resolution of these cases on its own justifies specialized attention and—hopefully—reconsideration.

But, more importantly, the principal claims between Trans Energy and its former President and CEO fit squarely within the parameters of “business litigation.” Although these cases remain separate proceedings, they involve the same cast of characters and arise from the same series of events. The first case arises from the supposed breach of a stock option agreement. The second case arises from a supposed agreement and subsequent refusal to sell Trans Energy to a third-party bidder. By their very nature, the cases require familiarity with corporate governance, corporate transactions, and executive compensation. And in the event liability is established, the cases will then turn on varying market valuations to determine the value of Plaintiff’s claims. Accordingly, in light of the commercial nature of this dispute and the need for specialized treatment, Defendants Trans Energy, Inc., EQT Corporation, William F. Woodburn, and Loren E. Bagley renew their request that the above-styled cases be referred to the Business Court Division.

SUMMARY OF CASES

I. *Abcouwer v. Trans Energy, Inc.* (Judge King)

Abcouwer was President and CEO of Trans Energy from January 2006 to June 2010. As consideration for his employment, Abcouwer and Trans Energy executed a stock option agreement, wherein Abcouwer was granted the right to purchase 250,000 Trans Energy shares at \$0.80 per share. However, before exercising his rights under the stock option agreement, Abcouwer resigned from Trans Energy. On November 17, 2011—nearly 17 months after his resignation—Abcouwer sought to exercise these stock options. Trans Energy denied Abcouwer’s request, as the stock option agreement terminated upon his resignation.

On March 8, 2012, Abcouwer filed his complaint in the Circuit Court of Kanawha County, alleging, among other things, breach of the stock option agreement and demanding specific performance thereof. By Order dated August 20, 2015, Judge King denied the parties' competing motions for summary judgment. The subsequent trial ended in a hung jury and mistrial. On November 7, 2017, the parties jointly moved to refer the case to the Business Court Division. By Order dated April 13, 2018, then-Chief Justice Workman denied the parties joint motion. The case is now scheduled for a second trial on August 3, 2020.

II. *Abcouwer v. EQT Corporation, Woodburn, and Bagley* (Judge Webster)

Abcouwer's second lawsuit is also pending in the Circuit Court of Kanawha County, but in front of Judge Webster. Abcouwer's second lawsuit alleges that he was induced to accept the position of President and CEO under false pretenses. In particular, Abcouwer alleges that Defendants Woodburn and Bagley, then directors on Trans Energy's board, promised that Trans Energy would be sold if it received an offer of \$5 or more per share. Abcouwer would then receive a windfall from his significant ownership stake, which he would accumulate as President and CEO of Trans Energy. Abcouwer claims that this oral agreement was breached in June 2010 when Trans Energy rejected overtures from a third-party bidder in excess of \$5 per share.

On January 14, 2013, Abcouwer filed his complaint, alleging, among other things, breach of contract and fraud. On November 7, 2017, the Defendants moved to refer the case to the Business Court Division. By Order dated April 13, 2018, then-Chief Justice Workman denied the parties joint motion. Defendants' moved for summary judgment on September 30, 2014, and renewed that motion on September 20, 2019. Judge Webster has yet to rule on Defendants'

motions.² The discovery deadline under the current scheduling order has passed, but Plaintiff has requested additional time to take two depositions. A 7-day trial is currently scheduled for October 23, 2020.

ARGUMENT

First, these cases satisfy the definition of “business litigation,” which is defined, in part, as an action in which “the principal claim or claims involve matters of significance to the transactions, operations, or governance between business entities.” W. VA. T.C.R. 29.04(a)(1). The first case, which alleges breach of contract and requests specific performance of the stock option agreement, by its very nature involves a significant commercial transaction between Trans Energy and its former President and CEO that bears directly on Trans Energy’s operations and governance. And the second case, which alleges that Trans Energy breached its agreement with Abcouwer when it refused to sell the company in June 2010, likewise presents issues arising from a commercial transaction bearing directly on Trans Energy’s operations and governance.

Second, “business litigation” is further defined as a dispute that “presents commercial and/or technology issues in which specialized treatment is likely to improve the expectation of a fair and reasonable resolution of the controversy because of the need for specialized knowledge or expertise in the subject matter or familiarity with some specific law or legal principles that may be applicable.” W. VA. T.C.R. 29.04(a)(2). Both cases readily satisfy this definition.

The first case requires a court to determine the rights and obligations under the stock option agreement. And if Trans Energy is found to be in breach, the parties will have to value those stock

² Also pending are the following motions: (1) Defendants’ Motion in Limine Re Other Lawsuits, filed October 15, 2014; (2) Defendants’ Motion in Limine Re Environmental Matters, filed October 15, 2014; (3) Defendants’ Motion in Limine Re Punitive Damages or, in the Alternative, Motion to Bifurcate, filed October 15, 2014; (4) Defendants’ Motion in Limine, filed June 22, 2016; and (5) Plaintiff’s Motion in Limine, filed September 13, 2019.

options based on varying market assumptions. A fair and reasonable resolution will require familiarity with stock option agreements, their practical effect, and the manner in which the related securities are valued.

The second case requires a court to determine the existence, validity, and practical effect of a supposed agreement obligating management to sell the company. Relevant here, is whether the supposed agreement to sell the company is consistent with director's fiduciary duties and whether such an agreement would subordinate the financial interests of the shareholders to that of Abcouwer alone. And if Trans Energy is found to be in breach of this supposed agreement, resolution will again be driven by varying market assumptions and valuations. A fair and reasonable resolution will thus require familiarity with corporate transactions, corporate governance, and methods of valuation.

Just as the rules define what is "business litigation," they also define what is not. "Employee suits"—which are commonly understood to mean claims for wrongful termination, wage payment and collection, and workplace harassment and discrimination—are excepted from the definition of "business litigation." W. VA. T.C.R. 29.04(a)(3). The second case is tangentially related to Abcouwer's employment with Trans Energy, but characterizing these cases as "employee suits" is a tortured result. In the second case, Abcouwer alleges that Trans Energy breached a supposed agreement to sell the company, which is wholly divorced from his employment agreement, which is not at issue here. That this supposed agreement was consummated contemporaneously with his employment does not alter the character of Abcouwer's lawsuit, which, based on his complaint, is a contract and fraud case. Any employment issues are merely incidental to the overarching issues of contract and corporate governance on which this

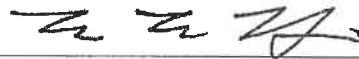
case rests. Based on the definition of “business litigation,” these cases present separate and independent bases for referral.

Third, these cases have been pending since 2012 and 2013, respectively. And despite these lengthy procedural histories, the cases remain far from resolution. While referral was previously sought and denied, Defendants believe that the circumstances of delay—and that the cases remain pending before two *different* Kanawha County trial court judges—warrant reconsideration. A single presiding judge could more easily and efficiently try these cases, which is a particularly important concern of judicial economy in light of the expected aftermath of the judicial emergency caused by COVID-19. Short of trial on the merits, a resolution judge with specialized expertise in these matters could bring the parties closer to resolving these long-running commercial disputes.

In light of the commercial nature of these disputes and the need for specialized treatment and expertise, Defendants EQT Corporation, Trans Energy, Inc., William F. Woodburn, and Loren E. Bagley renew their request that the above-styled cases be referred to the Business Court Division. Copies of the complaints, answers, and docket sheets are submitted herewith. *See Exhibit A, No. 12-C-416; Exhibit B, No. 13-C-56.*

**DEFENDANTS EQT CORPORATION,
TRANS ENERGY, INC., WILLIAM F.
WOODBURN, and LOREN E. BAGLEY**

By Counsel:



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Andrew C. Robey (WVSB # 12806)
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Civil

Case Information

Thirteenth Judicial Circuit of Kanawha County

12-C-416

Judge: CHARLES KING

JAMES K. ABCOUWER VS. TRANS ENERGY, INC.,

Plaintiff(s)

Plaintiff Attorney(s)

ABCOUWER, JAMES K.

MARVIN MASTERS

Defendant(s)

Defendant Attorney(s)

TRANS ENERGY, INC.,

SCOTT P. DRAKE/REBECCA O. POWELL/KEVIN

L. CARR/MITCHELL J. RHEIN

Date Filed: 03/06/2012

Case Type: CIVIL

Appealed: 0

Final Order Date: N/A

Statistical Close Date: N/A

Hearings:

Original Trial: 12/03/2012 - 9:30 AM

Continuance: 08/26/2013 - 9:30 AM

Continuance: 12/02/2013 - 0 PM

Continuance: 05/09/2016 - 9:30 AM

Line	Date	Action / Result
0001	03/06/2012	# ISSUED SUM & 2 CEYS; F FEE; RCPT 485803; \$155.00; CASE INFO
0002		# SHEET; COMPLAINT W/ATTACH'S
0003	03/12/2012	# LET FR SS DTD 3/8/12; SUM W/RET (3/8/12 SS) AS TO TRANS
0004		# ENERGY INC.,
0005	03/20/2012	# E-CERT FR SS AS TO TRANS ENERGY INC., DTD 3/13/12
0006	04/09/2012	# ANS OF D W/COS
0007	04/26/2012	# PET FOR LEAVE TO APPEAR PRO HAC VICE W/ATTACH & EXH'S W/COS
0008	04/26/2012	# PET FOR LEAVE TO APPEAR PRO HAC VICE W/ATTACH & EXH'S W/COS

EXHIBIT A - NO. 12-C-416 - DOCKET

EXHIBIT

tabbies

11

0009 05/01/2012 O; MAILED TO T. GILLOOLY, R. MILNE, & R. SMITH (84/27/12) NNF

0010 05/01/2012 O; MAILED TO S. DRAKE, T. GILLOOLY, & R. SMITH (84/27/12) NNF

0011 04/27/2012 * O ADMITTING SCOTT PAUL DRAKE TO APPEAR PRO HAC VICE/KING

0012 04/27/2012 * O ADMITTING REBECCA D. MILNE TO APPEAR PRO HAC VICE/KING

0013 05/18/2012 O; MAILED TO T. GILLOOLY & R. SMITH (85/17/12) NNF

0014 05/17/2012 * SO: TD 12/3/12 @ 9:30/KING

0015 06/04/2012 # COS AS TO D'S 1ST INTERROG'S TO P.

0016 06/04/2012 # COS AS TO D'S 1ST REQ FOR PROD TO P

0017 06/14/2012 # P'S MOT TO JOIN ADDTL D W/COS

0018 07/05/2012 # D'S RESP TO P'S MOT TO JOIN ADDTL D W/COS

0019 07/11/2012 # P'S MOT FOR EXT OF TIME TO RESPOND TO DISCOV W/COS; FAX COV

0020 # LET

0021 07/17/2012 # D'S FACT WIT DISCL W/COS

0022 07/17/2012 SM COS AS TO P'S DISCL OF FACT WIT'S; FAX COV LET

0023 07/23/2012 # MOT FOR PERMISSION TO W/D AS CNSL W/COS; NOT OF MOT TO W/D AS

0024 # CNSL W/COS; MOT FOR O STAYING ACTION & AMD SCHED O W/COS; FAX

0025 # COV LET

0026 07/27/2012 # D'S UNOPPOSED MOT FOR LEAVE OF COURT TO EXT DEADLINE W/COS

0027 08/07/2012 # NOT OF APPEARANCE W/COS

0028 08/08/2012 # MOT FOR PERMISSION TO W/D AS CNSL W/COS

0029 08/08/2012 # MOT FOR O STAYING ACTION & AMD SCHED O W/COS

0030 08/08/2012 # NOT OF MOT TO W/D AS CNSL W/COS

0031 08/13/2012 RJ O MAILED TO T. GILLOOLY, R. SMITH & J. ABCOUWER; ORDER

0032 DATED; 08/09/12

0033 08/09/2012 * O PERMITTING W/DRAWAL AS COUNSEL/KING

0034 08/14/2012 O; MAILED TO R. SMITH, T. GILLOOLY, & J. ABCOUWER (88/9/12) NNF

0035 08/09/2012 * O GRNTG D'S UNOPPOSED MOT TO EXTEND THE DEADLINE FOR D TO

0036 * DISCL EXPERT WITN'S/KING

0037 09/19/2012 # COS AS TO P'S ANS' TO TRANS ENERGY INC'S 1ST INTERROG'S

0038 09/19/2012 # COS AS TO P'S RESP'S TO TRANS ENERGY INC'S 1ST REQ FOR PROD

0039 09/20/2012 # P'S EXPERT WIT DISCL W/ATTACH & COS

0040 10/01/2012 # P'S NOT OF VIDEO DEPO & REQ FOR PROD W/COS

0041 11/16/2012 # NOT OF SCHED CONF W/COS (11/29/12 @ 9:00 AM)

0042 11/30/2012 O; MAILED TO M. MASTERS & R. SMITH (811/29/12) NNF

0043 11/29/2012 * SO: TD 8/26/13 @ 9:30/KING

0044 02/04/2013 # P'S FACT WIT DISCL W/COS

0045 02/04/2013 # D'S FACT WIT DISCL W/COS

0046 02/07/2013 # COS AS TO P'S 1ST SUPP RESP'S TO D'S 1ST REQ FOR PROD

0047 03/04/2013 # P'S EXPERT WIT DISCL W/COS

0048 03/28/2013 # TRANS ENERGY INC'S MOT TO CONSOLID W/EXH'S & COS

0049 04/01/2013 # COS AS TO D'S EXPERT WIT DISCL

0050 05/13/2013 # NOT OF VIDEO DEPO W/COS; NOT OF VIDEO DEPO W/COS

EXHIBIT A - NO. 12-C-416 - DOCKET

0051 05/17/2013 # D'S MOT OF W/D OF MOT TO CONSOLID W/COS

0052 06/03/2013 # NOT OF MOT; P'S MOT TO ALTER SCHED O & TD W/EXH & COS

0053 06/11/2013 SM D'S RESP TO P'S MOT TO ALTER SCHED O & TD W/COS

0054 06/12/2013 # AMD NOT OF MOT W/COS (7/16/13 @ 1:30 PM)

0055 07/30/2013 O: MAILED TO B. GLASSER, S. DRAKE, & M. MASTERS (8/29/13) NNF

0056 07/29/2013 * O: 2ND AGREED MODIFIED SO: TD: 12/2/13/KING

0057 08/22/2013 # P'S EXPERT WIT DISCL W/ATTACH & COS

0058 10/09/2013 # COS AS TO P'S NOT OF VIDEO DEPO & REQ FOR PROD

0059 10/10/2013 # NOT OF VIDEO DEPO W/COS

0060 10/11/2013 # NOT OF VIDEO DEPO W/COS;

0061 10/21/2013 # D'S SUPP EXPERT WIT DISCL W/ATTACH & COS

0062 11/20/2013 # COS AS TO NOT OF TELEPHONIC VIDEO DEPO & REQ FOR PROD

0063 11/25/2013 # COS AS TO NOT OF VIDEO DEPO

0064 11/25/2013 # COS AS TO AMD NOT OF VIDEO DEPO & REQ FOR PROD

0065 11/26/2013 # LET FR THOMAS FLAHERTY TO JUDGE KING DTD 11/25/13

0066 11/26/2013 # COS AS TO D'S OBJ'S & RESP'S TO P'S NOT OF VIDEO DEPO &

0067 # REQ FOR PROD OF DOCS

0068 06/11/2014 # NOT OF HRG ON MOT (6/23/14 @ 9:30 AM); MOT FOR SJ OF P; MEMO

0069 # OF LAW IN SUPP OF MOT W/EXH'S & COS

0070 06/13/2014 # NOT OF HRG (6/23/14 @ 10:00 AM)

0071 06/13/2014 # D'S MOT FOR SJ W/COS; MEMO BRIEF IN SUPP OF MOT W/EXH'S & COS

0072 06/18/2014 SM TRANS ENERGY INC'S OBJ'S TO & MOT TO STRIKE P'S SJ EVIDENCE

0073 SM W/COS

0074 06/18/2014 SM TRANS ENERGY INC'S RESP TO MOT FOR SJ W/EXH'S & COS

0075 06/19/2014 # P'S MEMO OF LAW IN OPPOS TO D'S MOT FOR SJ W/COS

0076 06/23/2014 SM COMPLETE SET OF EXH'S TO P'S MOT FOR SJ & MEMO OF LAW; COV LT

0077 02/23/2015 # NOT OF CHANGE OF FIRM NAME & ADDRESS W/COS

0078 08/20/2015 KL O: MLD TO S.DRAKE,R.SMITH,M.MASTERS

0079 08/20/2015 LK O: P'S AND D'S MOT FOR SJ ARE DENIED 8/20/2015/KING

0080 10/23/2015 # NOT OF SCHED CONF W/COS (10/29/15 @ 9:30 AM)

0081 10/23/2015 # MOT TO W/D & FOR SUBST OF CNSL W/ATTACH & COS

0082 11/02/2015 # LET FR KIMBERLY FARMER TO JUDGE KING DTD 10/29/15

0083 11/02/2015 KL O: MLD TO K.FARMER,R.LOREA

0084 11/02/2015 KL O: MLD TO R.SMITH,M.MASTERS,R.LOREA

0085 11/02/2015 LK O: GRT MOT TO W/D AND SUBST OF COUNSEL 8/10/2/KING

0086 11/02/2015 LK O: SCHED O (TD 5/9/16 @ 9:30 AM) 8/11/2/KING

0087 04/13/2016 # D'S MOT FOR SJ W/COS;

0088 # MEMO BRIEF IN SUPP OF MOT W/EXH'S & COS

0089 04/18/2016 # NOT OF MEDIATION W/COS (4/20/16 @ 10:30 AM)

0090 04/25/2016 # LET FR ROBERT ALLEN TO JUDGE KING DTD 4/21/16

0091 04/25/2016 # D'S WIT LIST W/COS

0092 05/05/2016 # P'S RESP IN OPPOS TO TRANS ENERGY INC'S MOT FOR SJ
 0093 # W/EXH'S & COS
 0094 05/05/2016 # P'S MOT IN LIMINE W/GOS
 0095 05/06/2016 # SUBP W/RET (4/27/16 PER) AS TO JOHN CORE
 0096 05/06/2016 # SUBP W/RET (4/27/16 PER) AS TO MARK WOODBURN
 0097 05/06/2016 # SUBP W/RET (4/27/16 PER) AS TO LISA CORBITT
 0098 05/06/2016 # SUBP W/RET (4/28/16 PER) AS TO RICHARD STARKEY
 0099 05/06/2016 # SUBP W/RET (4/28/16 PER) AS TO WILLIAM WOODBURN
 0100 05/06/2016 # SUBP W/RET (4/29/16 PER) AS TO LOREN BAGLEY
 0101 05/06/2016 # SUBP W/RET (4/27/16 PER) AS TO DANIEL SELBY
 0102 05/12/2016 # D'S MEMO OF LAW IN SUPP OF MOT FOR DIRECTED VERDICT W/COS
 0103 05/13/2016 # NOTE THAT MARILYN HIGHLAND (COURT REPORTER) COVERED FOR TWILA
 0104 # DONATHAN ON 5/13/16
 0105 05/13/2016 # EXH'S NOT MARKED OR ADMITTED INTO EVIDENCE (PUT IN RECORD PER
 0106 # JUDGE KING)
 0107 05/16/2016 LK JURY COSTS \$1,421.40
 0108 05/16/2016 # NOTES FROM JURY TO JUDGE KING DURING DELIBERATIONS
 0109 05/16/2016 # P'S EVIDENCE LOG; D'S EVIDENCE LOG
 0110 05/16/2016 # JURY SELECTION SHEET (MISTRIAL 5/16/16)
 0111 05/16/2016 # JURY SEATING CHART; WITNESS SHEET
 0112 05/19/2016 # JURY INSTRUCTIONS
 0113 06/14/2016 KL O: MLD TO M.MASTERS, E.LOREA, S.DRAKE, R.POWELL
 0114 06/14/2016 LK O: TO PAY JURY COSTS S/KING
 0115 06/29/2016 # TAXATION OF COSTS
 0116 07/01/2016 MA PAYMENT ON JURY COST: \$710.70; BY THE MASTERS LAW FIRM
 0117 07/07/2016 MA PAYMENT ON JURY COST: \$710.70; NORTON ROSE FULBRIGHT US LLP
 0118 08/28/2017 # STIP FOR SUBST OF COUNSEL W/ATTACH & COS
 0119 08/28/2017 KL O: MLD TO R.CARR, M.RHEIN, B.GLASSER, M.MASTERS
 0120 08/28/2017 LK O: GRANTING SUBST OF COUNSEL S/KING
 0121 11/15/2017 # LET FR CLK TO MARVIN MASTERS DTD 11/15/17 (3 YR RULE)
 0122 11/16/2017 # JOINT MOT TO REFER CASE TO BUSINESS COURT DIVISION W/EXH'S
 0123 11/30/2017 MA 3 YEAR RULE/COURT COST PAID THRU 2017: \$60.00
 0124 02/20/2018 # NOT OF FILING OF MOT TO REFER TO BUSINESS COURT DIVISION
 0125 04/24/2018 = SCA ORDER MLD TO M. MASTERS, K. CARR, S. DRAKE: 4/13/18; LT
 0126 04/18/2018 LK O: WVSQA MOT TO REFER TO BUS CT IS DENIED 5/4/18/WORKMAN
 0127 11/15/2018 # TRANS OF PROCEEDINGS (TRIAL TESTIMONY EXCERPTS) HELD ON
 0128 # 5/9/16 & 5/11/16 & 5/12/16 BEFORE JUDGE KING
 0129 11/20/2019 # NOT OF SCHED CONF W/COS (12/16/19 @ 9 AM)
 0130 12/17/2019 @ AMD NOT OF SCHEDULING CONF W/COS (12/19/19 @ 9AM)
 0131 12/19/2019 KL O MLD TO M.MASTERS, M.RHEIN
 0132 12/19/2019 LK O: SCHED O (TD 8/3/20 @ 9:30 AM) S/KING
 0133 01/21/2020 # P'S FACT EXH W/COS
 EXHIBIT A - NO. 12-C-416 - DOCKET

These materials have been prepared by the Office of the Clerk of the various Circuit Courts from original sources and data believed to be reliable. The information contained herein, however, has not been independently verified by the Office of the Clerk or Software Computer Group, Incorporated. The Office of the Clerk of the Circuit Courts and Software Computer Group, Inc. assume no liability for the accuracy, completeness, or timeliness of the information contained herein.

Software Computer Group | PO Box 27 | Frazlers Bottom WV 25082

FILED

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

RS copy
2012 MAR -6 PM 4:00

JAMES K ABCOUWER,

Plaintiff,

CATHY S. ... CLERK
KANAWHA COUNTY CIRCUIT COURT

v.

Civil Action No. 12-C-416

TRANS ENERGY, INC., a foreign
corporation,

Judge Charles King

Defendant.

COMPLAINT

Plaintiff, by counsel, make the following complaint against the Defendant:

1. Plaintiff James K. Abcouwer is a resident of Kanawha County.
2. Defendant Trans Energy, Inc., is a foreign corporation organized under the laws of Nevada and registered to and doing business in West Virginia.
3. Defendant is also registered in West Virginia to do business under the name "Trans Energy, Inc., of Nevada."
4. Abcouwer is the former Chairman, Chief Executive Officer, and President of Defendant Trans Energy.
5. A copy of an agreement between Abcouwer and the Defendant entitled "Extension of Employment Contract" is attached to this complaint as Exhibit A.
6. Exhibit A is an authentic copy of the original agreement.
7. On February 7, 2008, during the course of Plaintiff Abcouwer's tenure as the head of Trans Energy, he and the corporation entered into a "Stock Option Agreement" (sometimes referred to in this Complaint as "the Agreement").
8. In the Agreement Trans Energy is called the "Company," and Abcouwer is called

EXHIBIT A - NO. 12-C-416 - COMPLAINT

the "Optionee."

9. A copy of the Stock Option Agreement, consisting of three numbered pages, is attached to this Complaint as Exhibit B.

10. Exhibit B is an authentic copy of the original Agreement.

11. The Agreement implemented the Defendant's Long-Term Incentive Bonus Program (also referred to as the "LTIB").

12. Among the purposes of the LTIB were to augment salaried compensation and to foster the retention of participating employees.

13. Paragraph 2 of Abcouwer's Stock Option Agreement establishes a vesting schedule for the stock options.

14. The vesting arrangement assured that a participating employee would have to earn the right to exercise options by rendering service to the company for stated periods of time.

15. Paragraph 6 of the Agreement provides that "[t]he Option and all rights granted by this Agreement, to the extent such rights have not been exercised, will terminate and become null and void five years from the date hereof or upon ninety (90) days after the termination of the Optionee."

16. Abcouwer resigned voluntarily from his positions with Trans Energy, effective June 23, 2010.

17. A copy of Abcouwer's resignation letter is attached to this Complaint as Exhibit C.

18. Exhibit C is an authentic copy of the original resignation letter.

19. At the time of his resignation, all of Abcouwer's stock option shares had vested,

pursuant to ¶ 2 of the Agreement.

20. Defendant did not force or request Abcouwer's resignation.

21. The Defendant did not terminate Abcouwer; instead Abcouwer took the initiative to leave the company, by resignation.

22. In a letter dated November 17, 2011, Abcouwer advised Trans Energy of his election to exercise his option under the Agreement.

23. A copy of the single-page November 17, 2011, letter is attached to this Complaint as Exhibit D.

24. Exhibit D is an authentic copy of the original letter.

25. Defendant has notified Abcouwer that it will not permit him to exercise the options that are the subject of the Agreement.

26. On information and belief, Defendant maintains that ¶ 6 of the Agreement does not require it to honor Abcouwer's options.

First Claim for Relief
(Breach of Contract)

27. Plaintiff incorporates herein Paragraphs 1 through 26 of this Complaint.

28. Defendant's actions described above constitute breach of contract, by which Plaintiff Abcouwer has been damaged.

Second Claim for Relief
(Specific Performance)

29. Plaintiff incorporates herein Paragraphs 1 through 26 of this Complaint.

30. Defendant's actions described above entitle Plaintiff Abcouwer to an order requiring specific performance of the Stock Option Agreement by the Defendant.

Third Claim for Relief
(Declaratory Judgment)

31. Plaintiff incorporates herein Paragraphs 1 through 57 of this Complaint.

32. Defendant's actions described above entitle Plaintiff Abcouwer to a declaration, pursuant to the Uniform Declaratory Judgments Act, W. Va. Code §§ 55-13-1 to 55-13-16, that the Defendant has breached the Stock Option Agreement, entitling Abcouwer to an award of damages and specific performance of the Agreement by Defendant.

Fourth Claim for Relief
(Punitive Damages)

33. Plaintiff incorporates herein Paragraphs 1 through 26 of this Complaint.

34. Defendant's refusal to honor the plain terms of the Stock Option Agreement is willful, malicious, and either intentional or in reckless disregard of Plaintiff Abcouwer's rights.

35. Defendant's conduct amounts to nothing less than attempted theft of Plaintiff Abcouwer's property.

36. Such actions can only be deterred by an award of punitive damages.

WHEREFORE, Plaintiff requests the following relief:

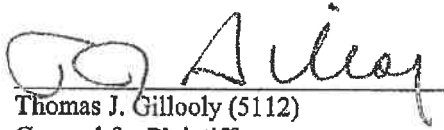
- A. An award of damages, in an amount to be proven at trial, for Plaintiff's loss of the value of the stock options that are the subject of the Agreement, together with consequential or incidental damages caused by Defendant's breach of the Agreement;
- B. A declaration that the Defendant has breached the Agreement, entitling the Plaintiff to damages as set forth above.
- C. Punitive damages in an amount sufficient to deter conduct such as that in which

Defendant has engaged; and

F. Attorney fees, costs, and any other relief to which the law and rules entitle him, or
which the Court may, in its discretion, award.

PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL ISSUES SO TRIABLE.

James K. Abcouwer
By Counsel

A handwritten signature in cursive script, appearing to read "T. Gillooly", written over a horizontal line.

Thomas J. Gillooly (5112)
Counsel for Plaintiffs
P.O. Box 3024
Charleston, WV 25331
304 546-7228
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tgillooly@gmail.com

EXHIBIT A TO COMPLAINT
Abcouwer v. Trans Energy, Inc.

Extension of Employment Contract

The Board of Directors of Trans Energy, Inc. has approved the extension of the current employment contract of CEO and President James K. Abcouwer under the terms as follows:

Extension term: Through December 31, 2010

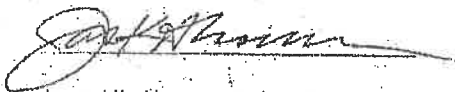
Salary: \$ 145,200 per year in 2009 with raise as later determined for 2010.

LTP Awards: 125,000 common shares and 125,000 options on common shares per year.

Bonus: At option of Board up to 50% of annual salary awarded in December or January at Board's discretion.

Change-of-control provision: Employee will be awarded the remainder of salary and bonus and LTP as described in this extension agreement through extension date, not to be less than one year's entitlement of each upon a change in the control of the company that results in the end of the employee's employment as Chairman and/or CEO and/or president. Such change in control shall be determined by a change in 50% or more of votes on the board of directors or the acquisition of more than 33% of the company's outstanding shares. Termination of employment under this provision shall include resignation by the employee if done within 6 months of the date of the change of control.

The above described employment contract terms are agreed to by the company as represented by its Board of Directors and by the employee, on this day, the 1st day of January, 2009.



James K. Abcouwer (employee)
Member and



William Woodburn (Board

Corporate Secretary)
For the Board of Directors

STOCK OPTION AGREEMENT

This Agreement, dated as of February 7, 2008 by and between Trans Energy, Inc., 210 Second Street, P.O. Box 393, St. Marys, WV. 26170 ("Company") and James K. Abcouwer, 1350 CR 2255, Colmesnell, Texas 75938 ("Optionee").

WITNESSETH:

WHEREAS, the Company considers it to be in its best interests and in the best interests of its stockholders that the Optionee be given the opportunity to acquire a proprietary interest in the Company by possessing an option to purchase certain shares of common stock, par value \$.001 per share (the "Common Stock"), of the Company in accordance with the provisions set forth below;

NOW, THEREFORE, in consideration of the premises and mutual promises contained herein, it is agreed by and between the parties as follows:

1. **Grant of Option.** The Company hereby grants to Optionee the right, privilege and option (the "Option") to purchase all or any part of 250,000 shares of Common Stock (the "Option Shares") at a purchase price of \$.80 per share in the manner and subject to the conditions provided herein.

2. **Vesting.** The Option Shares shall vest over the time period:

March 31, 2008	31,250 shares
June 30, 2008	31,250 shares
September 30, 2008	31,250 shares
December 31, 2008	31,250 shares
March 31, 2009	31,250 shares
June 30, 2009	31,250 shares
September 30, 2009	31,250 shares
December 31, 2009	31,250 shares

} 250,000

3. **Time of Exercise of Option.** The Option is exercisable in full commencing on the date hereof through December 31, 2013 subject to the terms of this Agreement.

4. **Method of Exercise.** The Option shall be exercised by written notice directed to the Company at the Company's principal place of business, accompanied by a check in payment of the option price for the number of Option Shares specified and paid for in full. The Company shall make prompt delivery of such Option Shares once payment clears, provided that if any law or regulation requires the Company to take any action with respect to the Option Shares specified in such notice before the issuance

thereof, then the date of delivery of such Option Shares shall be extended for the period necessary to take such action. If the Optionee fails to pay for any of the Option Shares specified in such notice or fails to accept delivery thereof, the Optionee's right to purchase such Option Shares may be terminated by the Company. The date specified in the Optionee's notice as the date of exercise shall be deemed the date of exercise of the Option, provided that payment in full for the Option Shares to be purchased upon such exercise shall have been received by such date. No fractional shares may be purchased hereunder.

5. **Cashless Exercise.** At any time during the term, the Optionee may, at its election and in concurrence by Company, exchange these options, in whole or in part (an "Option Exchange"), into the number of shares determined in accordance with this paragraph 4 by surrendering these Options at the principal office of the Company, accompanied by a notice stating the Optionee's intent to effect such exchange, the number of shares to be exchanged and the date on which the Optionee requests that such Option Exchange occur (the "Notice of Exchange"). The Option Exchange shall take place on the date specified in the Notice of Exchange or, if later, the date the Notice of Exchange is received by the Company (the "Exchange Date"). Certificates for the shares issuable upon such Option Exchange and, if applicable, a new Option of like tenor evidencing the balance of the shares remaining subject to this Option, shall be issued as of the Exchange Date and delivered to the Optionee within seven (7) business days following the Exchange Date. In connection with any Option Exchange, the Option shall represent the right to subscribe for and acquire the number of shares (rounded to the next highest integer) equal to (i) the number of shares specified by the Optionee in its Notice of Exchange (the "Total Number") less (ii) the number of shares equal to the quotient obtained by dividing (A) the product of the Total Number and the then existing exercise price by (B) the current market value of a share of the Company's common stock.

6. **Termination of Option.** The Option and all rights granted by this Agreement, to the extent such rights have not been exercised, will terminate and become null and void five years from the date hereof or upon ninety (90) days after the termination of the Optionee.

7. **Adjustments in Event of Change in Common Stock.** In the event of any change in the Common Stock by reason of any stock dividend, recapitalization, reorganization, merger, consolidation, split-up, combination or exchange of shares, or of any similar change affecting the Common Stock, the number and kind of Option Shares subject to Option hereunder and the purchase price per Option Share thereof shall be appropriately adjusted consistent with such change in such manner as the Committee may reasonably deem equitable.

8. **Rights Prior to Exercise of Option.** The Optionee shall have no rights as a stockholder of the Company with respect to the Option Shares until full payment of the

option price and delivery of such Option Shares as herein provided. Nothing contained herein or in the Plan shall be construed as creating or evidence of any agreement on the part of the Company to continue to employ or retain the Optionee in any capacity.

9. **Investment Representation.** The Optionee, as a condition to the Optionee's exercise of this Option, shall represent to the Company that the shares of Common Stock that the Optionee acquires hereunder are being acquired by the Optionee for investment and not with a view to distribution or resale thereof, unless counsel for the Company is then of the opinion that such a representation is not required under the Securities Act of 1933, as amended, or any other applicable law, regulation or rule of any governmental agency, except that this representation shall not apply to any transaction by Optionee pursuant to a registration statement under the Securities Act.

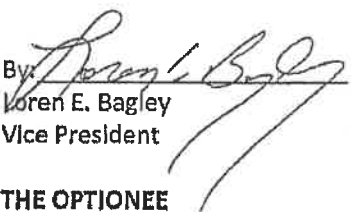
10. **Waiver: Entire Agreement.** No waiver of any breach or condition of this Agreement shall be deemed to be a waiver of any other or subsequent breach or condition, whether of like or different nature. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof.

11. **Governing Law.** The validity, construction, interpretation and effect of this Agreement shall exclusively be governed by and determined in accordance with the internal laws of the State of West Virginia, which is the sole jurisdiction in which any issues relating to this Agreement may be litigated.

12. **Binding Effect.** This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date and year first above written.

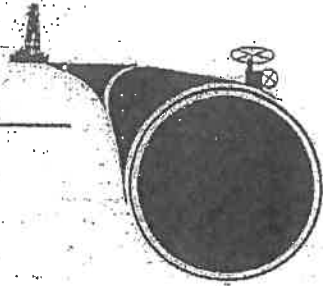
TRANS ENERGY, INC.

By: 
Loren E. Bagley
Vice President

William F. Woodburn
Vice President

THE OPTIONEE


James K. Abcouwer



TRANS ENERGY, INC.

210 2nd Street • P.O. Box 393 • St. Marys, West Virginia 26170
(304) 684-7053 • FAX (304) 684-3658

June 22, 2010


EXHIBIT C TO COMPLAINT

Abcouwer v. Trans Energy, Inc.

To: Trans Energy, Inc. Board of Directors
St Marys, West Virginia

I, James K. Abcouwer, resign my position as President and Chief Executive Officer of Trans Energy, Inc. effective JUNE 23, 2010.

I resign my role as Chairman of the Board of Directors and retain my seat as a Member of the Board of Directors effective JUNE 23, 2010.


James K. Abcouwer
Director, Trans Energy, Inc.

file copy

November 17, 2011

EXHIBIT D TO COMPLAINT
Abcouwer v. Trans Energy, Inc.

Trans Energy, Inc.
Attn: William Woodburn
210 2nd St.
St. Marys, WV 26101

Re: Notice of Exchange

Bill:

I hereby elect to exercise the Trans Energy stock options I was granted on February 7, 2008, using the "cashless exercise" provisions of paragraph 5 of that Stock Option Agreement. These 250,000 options have all vested in accordance with paragraph 2 of that agreement.

I request all 250,000 options be exchanged and that the exchange date be the date that the company receives this notice. Although the agreement calls for the company to provide the share certificates to me within 7 days of the exchange date, I will extend this period to 15 days if you indicate such extension is needed.

The purchase price of these options is \$0.80 (\$200,000 for the 250,000 options). As of this writing, TE shares have a market trading value of \$2.60 per share. In accordance with my understanding of the cashless provisions of the agreement, the number of shares I am to receive is reduced by 76,923 shares (\$200,000 divided by 2.60), and will therefore be 173,077 shares. Please contact me immediately at 304-549-5895 if I am not interpreting these provisions correctly.

Thanks.

(SIGNED)

James K. Abcouwer

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

JAMES K ABCOUWER,

Plaintiff,

v.

TRANS ENERGY, INC., a foreign
corporation,

Defendant.

Civil Action No. 12-C-416
Judge Charles King

JURY TRIAL DEMANDED

FILED
23 copy
2012 APR -9 PM 4:09
CATLY S. GATSON, CLERK
KANAWHA CO. CIRCUIT COURT

**DEFENDANT TRANS ENERGY, INC.'S ORIGINAL ANSWER
TO PLAINTIFF'S COMPLAINT**

Defendant Trans Energy, Inc. ("Defendant" or "Trans Energy") hereby files its Original Answer to Plaintiff James K. Abcouwer's ("Plaintiff" or "Abcouwer") Complaint ("Complaint") as follows:

**I.
COMPLAINT**

1. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 and therefore denies them.
2. Defendant admits the allegations in Paragraph 2.
3. Defendant admits the allegations in Paragraph 3.
4. Defendant denies the allegations in Paragraph 4 as stated. Defendant admits that Abcouwer formerly held the positions of Chairman of the Board of Directors, President and Chief Executive Officer of Trans Energy.
5. Defendant denies the allegations in Paragraph 5 as stated. Defendant admits that a copy of an agreement between Plaintiff and the Board of Directors of Trans Energy entitled "Extension of Employment Contract" is attached to Plaintiff's Complaint as Exhibit A.
6. Defendant admits the allegations in Paragraph 6.

7. Defendant denies the allegations in Paragraph 7 as stated. Defendant admits that on February 7, 2008, during the course of Abcouwer's employment with Trans Energy, Abcouwer and Trans Energy entered into a "Stock Option Agreement" (the "Agreement").

8. Defendant admits the allegations in Paragraph 8.

9. Defendant admits the allegations in Paragraph 9.

10. Defendant denies the allegations in Paragraph 10 as stated. Defendant admits that Exhibit B to the Complaint is a copy of the Agreement that is not fully executed by all parties and contains handwritten notes.

11. Defendant denies the allegations in Paragraph 11.

12. Defendant denies the allegations in Paragraph 12.

13. Defendant denies the allegations in Paragraph 13 as stated. Defendant admits that Paragraph 2 of the Agreement between Abcouwer and Trans Energy established how the option shares subject to the Agreement shall vest over the time period.

14. Defendant denies the allegations in Paragraph 14 as stated. Defendant admits that the Agreement speaks for itself.

15. Defendant admits the allegations in Paragraph 15.

16. Defendant denies the allegations in Paragraph 16 as stated. Defendant admits that Abcouwer voluntarily resigned from his positions as Chairman of the Board of Directors, President and Chief Executive Officer of Trans Energy effective June 23, 2010.

17. Defendant admits the allegations in Paragraph 17.

18. Defendant admits the allegations in Paragraph 18.

19. Defendant denies the allegations in Paragraph 19 as stated. Defendant admits that by the time of Abcouwer's resignation from his positions as Chairman of the Board of Directors,

President and Chief Executive Officer of Trans Energy, all of the options shares provided for under the Agreement had vested in accordance with Paragraph 2 of that Agreement.

20. Defendant admits the allegations in Paragraph 20.

21. Defendant denies the allegations in Paragraph 21 as stated. Defendant admits that Abcouwer terminated his employment as Chairman of the Board of Directors, President and Chief Executive Officer of Trans Energy by letter of resignation.

22. Defendant denies the allegations in Paragraph 22 as stated. Defendant admits that Abcouwer sent a letter dated November 17, 2011 to Trans Energy stating:

I hereby elect to exercise the Trans Energy stock options I was granted on February 7, 2008, using the "cashless exercise" provisions of paragraph 5 of that Stock Option Agreement.

23. Defendant admits the allegations in Paragraph 23.

24. Defendant admits the allegations in Paragraph 24.

25. Defendant denies the allegations in Paragraph 25 as stated. Defendant admits that it has notified Abcouwer that all options and rights granted by virtue of the Agreement terminated in accordance with Paragraph 6 of that Agreement prior to Abcouwer's November 17, 2011 letter.

26. Defendant denies the allegations in Paragraph 26 as stated. Defendant admits that all options and rights granted by virtue of the Agreement terminated in accordance with Paragraph 6 of that Agreement prior to Abcouwer's November 17, 2011 letter.

II. FIRST CLAIM FOR RELIEF (BREACH OF CONTRACT)

27. Defendant incorporates its responses to Paragraphs 1 through 26 above as if fully set forth herein.

28. Paragraph 28 states a legal conclusion to which no answer is required. To the extent a response is required, the allegations in Paragraph 28 are denied.

III.

SECOND CLAIM FOR RELIEF (SPECIFIC PERFORMANCE)

29. Defendant incorporates its responses to Paragraphs 1 through 28 above as if fully set forth herein.

30. Paragraph 30 states a legal conclusion to which no answer is required. To the extent a response is required, the allegations in Paragraph 30 are denied.

IV.

THIRD CLAIM FOR RELIEF (DECLARATORY JUDGMENT)

31. Defendant incorporates its responses to Paragraphs 1 through 30 above as if fully set forth herein.

32. Paragraph 32 states a legal conclusion to which no answer is required. To the extent a response is required, the allegations in Paragraph 31 are denied.

V.

FOURTH CLAIM FOR RELIEF (PUNITIVE DAMAGES)

33. Defendant incorporates its responses to Paragraphs 1 through 32 above as if fully set forth herein.

34. Paragraph 34 states a legal conclusion to which no answer is required. To the extent a response is required, the allegations in Paragraph 31 are denied.

35. Defendant denies the allegations in Paragraph 35.

36. Defendant denies the allegations in Paragraph 36.

VI.

PRAYER

37. Defendant admits that Plaintiff seeks actual, consequential and incidental damages, a declaration, punitive damages, attorneys fees, costs and other relief, but denies that

Plaintiff is entitled to judgment, damages, or compensation of any kind. Defendant denies the remaining allegations of the prayer for relief.

**VII.
JURY DEMAND**

38. It is admitted that Plaintiff has demanded a jury trial.

**VIII.
AFFIRMATIVE DEFENSES, DEFENSES, AND OTHER PLEADINGS**

39. Plaintiff's Complaint fails to state a claim against Defendant upon which relief may be granted.

40. Plaintiff's claims fail in whole or in part to the extent it failed to comply with the pleading requirements of Rules 8 and 9 of the West Virginia Rules of Civil Procedure.

41. Plaintiff's claims fail in whole or in part as Defendant acted in good faith at all times relevant to the allegations set forth in Plaintiff's Complaint.

42. Plaintiff's claims fail in whole or in part as Plaintiff has not satisfied all conditions precedent to its claims for relief.

43. Plaintiff's claims are barred in whole or in part by waiver.

44. Plaintiff's claims are barred in whole or in part by estoppel.

45. Plaintiff's claims are barred in whole or in part by the doctrine of laches.

46. Plaintiff's claims are barred in whole or in part by the doctrine of unclean hands.

47. Defendant pleads the defense of discharge.

48. Defendant pleads the defense of repudiation.

**IX.
PRAYER FOR RELIEF REGARDING PLAINTIFF'S COMPLAINT**


49. Defendant asserts that all allegations not admitted herein are denied. Defendant denies that Plaintiff is entitled to any of the relief requested in the Complaint and respectfully

pray that Plaintiff take nothing by this suit. Defendant further prays that Defendant recover its attorneys' fees and costs, pre-judgment and post-judgment interest, and such other relief, at law or in equity, to which Defendant is justly entitled.

Dated: April 9, 2012.

Respectfully submitted,

BAILEY & GLASSER, LLP


Brian A. Glasser (WVSB # 6597)
Rodney A. Smith (WVSB # 9750)
BAILEY & GLASSER, LLP
209 Capitol Street
Charleston, West Virginia 25301
Telephone: (304) 345-6555
Facsimile: (304) 342-1110

COUNSEL FOR DEFENDANT

OF COUNSEL:

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Rebecca O. Milne (seeking admission *pro hac vice*)
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Suite 2800
Dallas, Texas 75201
Telephone: (214) 855-8000
Facsimile: (214) 855-8200

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

JAMES K ABCOUWER,

Plaintiff,

v.

TRANS ENERGY, INC., a foreign
corporation,

Defendant.


Civil Action No. 12-C-416
Judge Charles King

FILED
ES copy
2012 APR -9 PM 4:09
CATHY S. GATSON, CLERK
KANAWHA CO. CIRCUIT COURT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing DEFENDANT TRANS ENERGY, INC.'S ORIGINAL ANSWER TO PLAINTIFF'S COMPLAINT was served upon the following counsel of record via United States First Class Mail, postage prepaid and properly addressed on this the 9th day of April, 2012:

Thomas J. Gillooly
P.O. Box 3024
Charleston, West Virginia 25331
Counsel for Plaintiff



Rodney A. Smith
BAILEY & GLASSER, LLP
209 Capitol Street
Charleston, West Virginia 25301
Telephone: (304) 345-6555
Facsimile: (304) 342-1110

Civil
 Case Information
 Thirteenth Judicial Circuit of Kanawha County

13-C-56
 Judge: CARRIE WEBSTER
 JAMES K. ABCOUWER VS. TRANS ENERGY, INC.,

Plaintiff(s)

Plaintiff Attorney(s)

ABCOUWER, JAMES K.

APRIL D. FERREBEE

Defendant(s)

Defendant Attorney(s)

BAGLEY, LOREN E.
 EQT PRODUCTION COMPANY
 TRANS ENERGY, INC.,
 WOODBURN, WILLIAM F.

SCOTT P. DRAKE | KEVIN L. CARR | MITCHELL
 J. RHEIN

Date Filed: 01/14/2013
 Case Type: CONTRACT
 Appealed: 0
 Final Order Date: N/A
 Statistical Close Date: N/A

Hearings:

Pre-Trial Conference: 10/14/2014 - 10:00 AM
 Original Trial: 11/17/2014 - 9:00 AM
 Continuance: 08/22/2016 - 9:00 AM
 Continuance: 03/11/2019 - 9:00 AM
 Continuance: 11/04/2019 - 9:00 AM

Line	Date	Action / Result
0001	01/14/2013	# CASE INFO SHEET; COMPLAINT; ISSUED SUM & 7 CPYS; F FEE;
0002		# RCPT 497959; \$155.00
0003	02/05/2013	# SUM W/RET (1/29/13 SS) AS TO WILLIAM WOODBURN
0004	02/05/2013	# SUM W/RET (1/29/13 SS) AS TO LOREN BAGLEY
0005	03/25/2013	# D'S ANS TO Exhibit B No 13-C-56 - Docket



0006 04/12/2013 # CASE INFO SHEET; P'S MOT TO DIS CC & P'S ANS W/COS
 0007 04/16/2013 # PET FOR LEAVE TO APPEAR PRO HAC VICE W/ATTACH; CERTIFICATION
 0008 # W/COS
 0009 04/16/2013 # PET FOR LEAVE TO APPEAR PRO HAC VICE W/ATTACH; CERTIFICATION
 0010 # W/COS
 0011 04/30/2013 # TRANS ENERGY INC'S RESP TO COUNTER-D, JAMES ABCOUWER'S MOT
 0012 # TO DIS CC W/COS
 0013 04/30/2013 MLD ORD M. MASTER, W. WOODBURN & TRANS ENERGY; 4/29/13; WA
 0014 04/29/2013 * O ADMITTING SCOTT F. DRAKE TO APPEAR PRO HAC VICE/WEBSTER
 0015 06/26/2013 # COS AS TO 1ST INTERROG'S, REQ FOR PROD & REQ FOR ADM
 0016 07/29/2013 # STIP W/COS
 0017 08/02/2013 # COS AS TO P'S OBJ'S, ANS' & RESP'S TO TRANS ENERGY INC'S
 0018 # 1ST INTERROG'S, REQ FOR PROD & REQ FOR ADM
 0019 12/13/2013 # NOT OF SCHED CONF W/COS (1/22/14 @ 9:00 AM)
 0020 01/30/2014 MLD ORD M. SATTLE & M. MASTERS; 1/22/14; WA
 0021 01/24/2014 * O: SO: TD: 11/17/14; PRETRIAL CONF 10/14/14 @ 10AM (81/22 WEB)
 0022 03/04/2014 # P'S FACT WIT DISCL W/COS;
 0023 04/01/2014 # D'S FACT WIT DISCL W/COS
 0024 04/16/2014 # P'S EXPERT WIT DISCL W/ATTACH'S & COS
 0025 05/06/2014 # STIP
 0026 05/16/2014 MLD ORD M. MASTERS & M. SATTLE; 5/14/14; WA
 0027 05/16/2014 MLD ORD M. MASTERS, B. GLASSER & R. SMITH; 5/8/14; WA
 0028 05/14/2014 * O AMENDING SCHEDULING ORDER/WEBSTER
 0029 05/15/2014 * O ORNTG EXTENSION OF EXPERT DISCLOSURE DEADLINES (85/8 WEB)
 0030 05/19/2014 # NOT OF VIDEO DEPO W/COS
 0031 05/20/2014 # STIP
 0032 05/21/2014 MLD ORD M. MASTERS & B. GLASSER; 5/19/14; WA
 0033 05/20/2014 * O: STIPULATION TO EXTEND DEADLINES FOR D'S EXPERT WITNESS
 0034 # DISCLOSURES (85/19 WEBSTER)
 0035 06/13/2014 # COS AS TO D'S EXPERT WIT DISCL
 0036 08/06/2014 # P'S DISCL OF REBUTTAL EXPERT WIT W/ATTACH & COS
 0037 08/12/2014 * O MAILED TO GLASSER, SMITH, MASTERS, FERREBEE & FARMER (88/8)
 0038 08/11/2014 *O: PROPOSED STIP O AMD SO/WEB (8/8/8)
 0039 08/19/2014 * O MAILED TO SMITH & FARMER (88/14)
 0040 08/14/2014 *O: MODIF SQ/WEB
 0041 09/10/2014 # COS AS TO TRANS ENERGY INC'S 2ND DISCOV REQ TO P
 0042 09/15/2014 # COS AS TO 3RD DISCOV REQ
 0043 09/15/2014 # NOT OF DEPO W/EXH & COS; NOT OF DEPO W/COS;
 0044 09/15/2014 # NOT OF VIDEO DEPO W/COS;
 0045 09/17/2014 # COS AS TO NOT OF DEPO & REQ FOR PROD
 0046 09/17/2014 # COS AS TO NOT OF VIDEO DEPO

0047 09/17/2014 # COS AS TO NOT OF VIDEO DEPO & REQ FOR PROD
 0048 09/18/2014 # 1ST AMD NOT OF VIDEO DEPO W/COS
 0049 09/30/2014 # D'S MOT FOR SJ W/COS
 0050 09/30/2014 # MEMO BRIEF IN SUPP OF MOT W/EXH'S & COS
 0051 10/14/2014 *COS AS TO P OBJ, ANS & RESP TO D DISC REQ
 0052 10/16/2014 ' O MAILED TO GLASSER, SMITH, MASTERS, FERREBEE & FARMER
 0053 ' (S10/10)
 0054 10/15/2014 SM D'S MOT IN LIMINE W/COS
 0055 10/15/2014 SM D'S MOT IN LIMINE W/COS
 0056 10/15/2014 SM D'S MOT IN LIMINE W/COS
 0057 10/17/2014 SM P'S MOT'S IN LIMINE W/COS
 0058 10/17/2014 SM P'S MOT FOR LEAVE TO EXCEED PAGE LIMIT; P'S MEMO IN OPPO TO
 0059 SM D'S MOT FOR SJ W/EXH'S & COS
 0060 10/14/2014 *O: PRE-TR CONF SET 11/5/14 @ 9/WEB
 0061 11/12/2014 # COS AS TO AMD NOT OF VIDEO DEPO & REQ FOR PROD
 0062 11/12/2014 # COS AS TO AMD NOT OF VIDEO DEPO * REQ FOR PROD
 0063 11/12/2014 # COS AS TO AMD NOT OF VIDEO DEPO & REQ FOR PROD
 0064 02/13/2015 # LODGED DOCUMENT
 0065 02/13/2015 # LODGED DOCUMENT
 0066 02/23/2015 # NOT OF CHANGE OF FIRM NAME & ADDRESS W/COS
 0067 03/12/2015 # COS AS TO P'S AMD NOT OF VIDEO DEPO & REQ FOR PROD
 0068 05/01/2015 # NOT OF HRG W/COS (6/18/15 @ 9 AM)
 0069 06/09/2015 # SUPPLEMENT TO P'S MEMO OF LAW IN OPPOS TO D'S MOT FOR SJ
 0070 # W/EXH'S & COS
 0071 06/09/2015 # SUPPLEMENT TO P'S MEMO OF LAW IN OPPOS TO D'S MOT FOR SJ
 0072 # W/EXH'S & COS
 0073 08/25/2015 # MOT TO W/D; CERT OF NOTIFICATION W/ATTACH & COS
 0074 09/03/2015 MLD ORD J. CORP, W. WOODBURN, L. BAGLEY, C. MORRIS & M. MASTERS;
 0075 8/28/15; WA
 0076 09/02/2015 LK O; MOT OF CHRISTOPHER S MORRIS TO W/D IS GRT 8/8/28/WEB
 0077 10/01/2015 # MOT TO W/D & FOR SUBST OF GNSL W/ATTACH PROPOSED O & W/COS
 0078 10/09/2015 MLD ORD J. CORP, M. MASTERS & C. MORRIS; 10/8/15; WA
 0079 10/09/2015 LK O: GRT RODNEY A SMITH TO W/D AS COUNSEL AND ROBERT LORENA
 0080 LK BE SUBST AS COUNSEL FOR D 8/10/8/WEB
 0081 10/22/2015 # NOT OF VIDEO DEPO W/EXH & COS
 0082 10/22/2015 # NOT OF VIDEO DEPO W/EXH & COS
 0083 11/02/2015 # NOT OF VIDEO DEPO W/COS
 0084 11/02/2015 # AMD NOT OF VIDEO DEPO W/COS
 0085 11/13/2015 # AMD NOT OF VIDEO DEPO W/COS
 0086 12/10/2015 # JOINT MOT TO CONVERT CURRENTLY SCHED PRETRIAL CONF TO STATUS
 0087 # CONF
 0088 12/15/2015 # NOT OF SCHED

0089 12/16/2015 <O MAILED; 12/14/15; R POWELL; R LOREA; M MASTERS/CLE
 0090 12/15/2015 LK O: SCHED O (TD 8/22/16 @ 9:00 AM;CONF 7/22/16) S/12/14/WEB
 0091 02/12/2016 # AMD NOT OF VIDEO DEPO; AMD NOT OF VIDEO DEPO W/COS
 0092 03/07/2016 # 2ND AMD NOT OF VIDEO DEPO W/COS
 0093 04/11/2016 # COS AS TO 5TH AMD NOT OF VIDEO DEPO
 0094 05/31/2016 # COS AS TO AMD NOT OF VIDEO DEPO
 0095 05/31/2016 # AMD NOT OF VIDEO DEPO W/COS
 0096 06/22/2016 @ D'S MOT IN LIMINE W/COS
 0097 06/23/2016 @ P'S MOTS IN LIMINE W/COS
 0098 07/05/2016 # 2ND AMD NOT OF VIDEO DEPO W/COS
 0099 07/07/2016 # P'S RESP TO D'S MOT'S IN LIMINE W/COS
 0100 07/08/2016 # D'S RESP TO P'S MOT'S IN LIMINE W/COS
 0101 07/15/2016 # P'S MOT TO RESCHED PRETRIAL CONF W/COS
 0102 07/15/2016 # D'S REPLY TO P'S RESP TO MOT'S IN LIMINE W/COS
 0103 07/15/2016 # D'S REPLY TO P'S RESP TO MOT'S IN LIMINE W/COS
 0104 07/18/2016 *D MOT FOR CONT W/COS
 0105 08/28/2017 # STIP FOR SUBST OF CNSL W/ATTACH & COS
 0106 09/11/2017 MLD ORD M. MASTERS, A. FERREBEE, B. GLASSER, R. LOREA,
 0107 M. RHEIN & K. CARR; 9/5/17; WA
 0108 09/06/2017 LK O: GRANTING SUBST OF COUNSEL S/9/5/WEB
 0109 11/20/2017 # LET FR CLK TO MARVIN MASTERS DTD 11/20/17 (3 YR RULE)
 0110 03/14/2018 # NOT OF STATUS CONF & HRG W/COS (3/22/18 @ 1:30 PM)
 0111 03/21/2018 # NOT OF SCHED CONF W/COS (3/22/18 @ 1:30 PM)
 0112 03/28/2018 MLD ORD M. MASTER, K. CARR, M. RHEIN & R. POWELL; 3/22/18;WA
 0113 03/27/2018 LK O: SCHED O (TD 3/11/19 @ 9:00 AM;CONF 2/19/19) S/3/22/WEB
 0114 04/03/2018 MLD ORD K. FARMER, R. POWELL & K. CARR; 3/28/18; WA
 0115 03/28/2018 LK O: CONTINUING TRIAL S/WEB
 0116 04/04/2018 # D'S MOT TO REFER TO BUSINESS COURT DIVISION W/EXH'S & COS
 0117 04/05/2018 # NOT OF FILING OF MOT TO REFER TO BUSINESS COURT DIVISION
 0118 04/10/2018 # LET FR SPILLMAN, THOMAS & BATTLE TO JUDGE WEBSTER DTD 3/22/18
 0119 05/02/2018 # P'S FACT WIT DISCL W/COS
 0120 05/10/2018 MLD ORD K. DOTSON, K. CARR & R. POWELL; 4/30/18; WA
 0121 05/07/2018 LK WVSQA MOT TO REFER TO BUSINESS COURT IS DENIED S/4/30/WORKMAN
 0122 05/15/2018 # P'S AMD FACT WIT DISCL W/COS
 0123 05/31/2018 # D'S FACT WIT DISCL W/COS
 0124 08/31/2018 # STIP
 0125 10/01/2018 # P'S EXPERT WIT DISCL W/ATTACH'S & COS
 0126 11/28/2018 # COS AS TO P'S 1ST DISCOV TO D'S
 0127 01/04/2019 # STIP TO EXT TIME TO RESPOND TO D'S 1ST DISCOV TO D'S W/COS
 0128 01/11/2019 # NOT OF VIDEOTAPED DEPO W/COS
 0129 01/11/2019 # NOT OF VIDEOTAPED DEPO W/COS

0130 01/16/2019 MLD ORD K. DOTSON, S. DRAKE & M. RHEIN; 1/15/19; WA
 0131 01/15/2019 # AGREED O: PERMITTING PRO HAC VICE & LOCAL COUNSEL TO ATTEND
 0132 # DEPO'S BY TELEPHONIC OR OTHER ELECTRONIC MEANS/WEB
 0133 02/14/2019 # STIP TO EXT TIME TO RESPOND TO P'S 1ST DISCOV TO D'S W/COS
 0134 02/20/2019 DD O MLD TO K.DOTSON, M.RHEIN, S.DRAKE; 02/19/19
 0135 02/19/2019 LK O: SCHED O (TD 11/4/19 @ 9:00 AM; CONF 10/15/19) S/WEB
 0136 02/25/2019 # COS AS TO D'S OBJ'S & RESP'S TO P'S 1ST DISCOV
 0137 07/23/2019 DD O MLD TO M.RHEIN, S.DRAKE, K.DOTSON; 7/23/19
 0138 07/23/2019 LK O: AGREED PROTECTIVE ORDER S/WEB
 0139 09/13/2019 # MOT TO MODIFY SCHED O W/COS
 0140 09/16/2019 # P'S MOT'S IN LIMINE W/EXH & COS
 0141 09/23/2019 # D'S RENEWED MOT FOR SJ W/COS
 0142 09/23/2019 # MEMO IN SUPP OF D'S RENEWED MOT FOR SJ W/EXH'S & COS
 0143 09/25/2019 # NOT OF VIDEO DEPO & ISSUANCE OF SUBP W/EXH & COS
 0144 09/27/2019 # NOT OF MEDIATION W/COS (10/9/19 @ 10 AM)
 0145 09/30/2019 # AND NOT OF MEDIATION W/COS (10/9/19 @ 9 AM)
 0146 09/30/2019 # D'S RESP TO P'S MOT'S IN LIMINE W/EXH'S & COS
 0147 10/08/2019 # P'S MEMO OF LAW IN OPPOS TO D'S MOT FOR SJ W/EXH'S & COS
 0148 10/15/2019 @ D'S REPLY TO P'S RESP TO D'S RENEWED MOT FOR SJ W/COS
 0149 10/16/2019 @ P'S MOT RE: SUBSTITUTION OF REAL PARTY FOR INTEREST & TO
 0150 CONFORM TO EVIDENCE W/EXH'S & COS
 0151 10/17/2019 @ COS AS TO AFD OF RET OF SERV WATTACH
 0152 10/28/2019 # MOT TO CONT TRIAL W/COS
 0153 11/08/2019 DD O MLD TO K.CARR, S.DRAKE, M.MASTERS; 11/6/19
 0154 11/07/2019 LK O: AGREED ORDER CONTINUING TRIAL S/11/6/WEB
 0155 11/21/2019 # NOT OF STATUS CONF W/COS (1/23/20 @ 10:30 AM)
 0156 12/09/2019 # NOT OF HRG (1/23/20 @ 10:30 AM) W/COS
 0157 12/09/2019 # P'S AND MOT SUBST OF REAL PARTY FOR INTEREST & TO CONFORM
 0158 TO EVIDENCE W/EXH
 0159 01/21/2020 # D'S RESP TO P'S AND MOT RE: SUBST OF PROPER PARTY FOR
 0160 INTEREST & TO CONFORM TO EVIDENCE W/COS
 0161 02/20/2020 DD O MLD TO M.RHEIN, S.DRAKE, K.DOTSON; 02/24/20
 0162 02/26/2020 LK O: AND SCHED O (TD 10/26/20 @ 9:00 AM) S/2/24/WEB
 0163 03/17/2020 DD O MLD TO S.DRAKE, K.DOTSON, M.RHEIN; 03/11/20
 0164 03/11/2020 LK O: EQT PRODUCTION COMPANY SUBST FOR D, TRANS ENERGY, INC
 0165 S/WEB
 0166 04/08/2020 # P'S MOT TO ALTER SCHED O & CONT DISCOV DEADLINE W/COS
 0167 04/08/2020 # P'S MOT TO ALTER SCHED O & CONT DISCOV DEADLINE W/COS

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IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

FILED
2013 JAN 14 PM 3:00
CLERK
CIRCUIT COURT

JAMES K. ABCOUWER,

Plaintiff,

v.

Civil Action No. 13-C-56
Webster

TRANS ENERGY, INC.,
a foreign corporation,
WILLIAM F. WOODBURN,
and LOREN E. BAGLEY,

Defendants.

COMPLAINT

Plaintiff, by counsel, for his Complaint against the Defendants, alleges and says as follows:

1. Plaintiff James K. Abcouwer is a resident of Kanawha County.
2. Defendant Trans Energy, Inc., (hereinafter "Trans Energy") is a foreign corporation organized under the laws of Nevada and registered to and doing business in West Virginia.
3. Defendant is also registered in West Virginia to do business under the name "Trans Energy, Inc., of Nevada."
4. Plaintiff is the former Chairman, Chief Executive Officer, and President of Defendant Trans Energy.

5. Prior to 2006, Plaintiff was and had been a successful executive officer of oil and natural gas companies, including Northstar Energy Corporation, C.A.R.T. Oil & Gas, LLC, Columbia Natural Resources, LLC and NiSource Inc.

6. On or about 2006, Defendants William F. Woodburn and Loren E. Bagley contacted Plaintiff and advised him that they were part owners of Trans Energy, Inc. and offered him the position of CEO, President and Chief of the Board of Defendant.

7. At said times and places, Defendants William F. Woodburn and Loren E. Bagley (hereinafter "Woodburn" and "Bagley," respectively), were acting for and on behalf of each other and on behalf of Defendant Trans Energy as its agents, officers, servants and employees, and they had the authority to negotiate with Plaintiff and offer the position to Plaintiff and to make the agreement and representations as hereinafter stated.

8. Defendant, Trans Energy, by its officers and agents, Defendants Woodburn and Bagley represented to Plaintiff that Trans Energy, Inc. was in financial difficulties, its stock was valued at only \$.40 to \$.50 per share; that it had no employees and was on the verge of bankruptcy. Consequently, Defendants offered Plaintiff the aforesaid position with the understanding that his duties would include resurrecting the company, beginning a drilling program and managing the company, to increase its value, viability, future and stability.

9. Plaintiff agreed to accept the position and undertook to perform the work as offered but only on the condition that he would receive the stock options as hereinafter described, and, further, once the goal was accomplished of optimizing the

value of the company and its stock, that the company would be sold at the enhanced value and issue the profits to its stockholders or the stockholders would profit by sale of the stock of the company.

10. In order for Plaintiff to accept the position with Defendants, Plaintiff was required to and did change his position in that he was the owner, officer and director of Northstar Energy Corporation and related entities which were in the same or similar business as Defendants. Therefore, Plaintiff had to decrease his activity in his own company and direct his time toward the agreed upon goals and tasks requested by the contractual agreement reached with Defendants.

11. Plaintiff, pursuant to the understanding and agreement reached with Defendants, accepted the agreement.

12. The agreement by Defendants to sell the company was part of the consideration for Plaintiff entering into the agreement.

13. But for the above understanding, Plaintiff would not have agreed to delay working on goals of his own company, would not have accepted a lesser sum for his salary, and would not have dedicated the time and put forth the extensive effort Plaintiff applied to Defendants' business.

14. As a sole and proximate result of Plaintiff's efforts, Plaintiff increased the value of the company to what Plaintiff knew was its reasonably optimum value by obtaining financing and undertaking production activities.

15. Defendants, on their own behalf and acting by its board of directors, in 2010, agreed that Plaintiff had accomplished the goals they had set for him to optimize

the value of the company and agreed and directed Plaintiff to then sell the company for the reasonably best price.

16. Plaintiff then further agreed to continue his efforts and the parties affirmed that Plaintiff would obtain contracts to sell the company pursuant to the aforesaid contracts and agreements.

17. Plaintiff, pursuant to the above, worked constantly for the next eight to nine months until he obtained a commitment and/or commitments from buyers who agreed to purchase the company for the reasonably optimum value of the company.

18. In further reliance upon Defendants' agreement, Plaintiff purchased thousands of shares of Defendants' stock and further invested time and money on advancing the goals of the Defendants.

19. When Plaintiff presented Defendants with the commitments by one or more buyers, Defendants negligently, carelessly and wrongfully and in violation of its contract refused to sell the company.

20. As a proximate result of Defendants' breach of the contract, the company was not sold, the stock value and value of the company substantially decreased, and Plaintiff was significantly damaged.

21. As a proximate result of Defendants' wrongful acts described above, Plaintiff resigned voluntarily from his positions with Trans Energy, Inc.

22. As a proximate result of Defendants' acts, conduct, omissions and breaches of their agreements and contracts, Plaintiff has been damaged as follows:

- (a) Plaintiff lost approximately \$30 million as a result of Defendants' failure to sell the company as described above.
- (b) Plaintiff lost opportunity and profits by foregoing dedication and projects of his own company.
- (c) Plaintiff lost interest and continues to lose interest.
- (d) Plaintiff was annoyed and inconvenienced and otherwise damaged.

COUNT I
(Breach of Contract)

For Count I of his Complaint, Plaintiff restates all allegations above and further complains and says as follows:

23. Defendants' actions described above constitute breaches of contracts, agreements and understandings.

24. As a proximate result of defendants' breaches of the contracts, agreements and understandings, Plaintiff was damaged as aforesaid.

COUNT II
(Constructive Fraud)

For Count II of his Complaint, Plaintiff restates all allegations above and further complains and says as follows:

25. Defendants' acts, omissions, statements and misrepresentations misled Plaintiff into agreeing to and performing the contract as described above.

26. Plaintiff relied upon Defendants' representations and was damaged as aforesaid.

Punitive Damages

For Counts I and II of his Complaint, Plaintiff restates all allegations above and further complains and says as follows:

27. Defendants' actions and inactions described or alluded to above are willful, wrongful, deliberate, and in conscious disregard of the rights of the Plaintiff, in contravention of substantial public policy, reckless and/or grossly negligent and are such that Plaintiff is entitled to punitive damages in that Plaintiff was misled into performing his part of the agreement which Defendants intentionally and maliciously refused to perform even though it had the power to perform.

28. Defendants' conduct entitles Plaintiff to punitive damages.

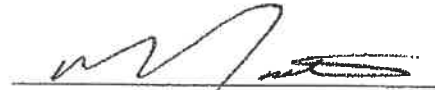
29. Such actions can only be deterred by an award of punitive damages.

WHEREFORE, the Plaintiff, James K. Abcouwer, demands compensatory damages and punitive damages of and from the defendants, both jointly and severally, in an amount to be determined by a jury, a trial by jury, together with pre-judgment and post-judgment interest, attorney fees, costs, and for such other and further relief as the Court deems just and proper.

PLAINTIFF DEMANDS A TRIAL BY JURY.

JAMES K. ABCOUWER

By Counsel



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West Virginia State Bar No. 2359
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IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

JAMES K ABCOUWER,

Plaintiff,

v.

TRANS ENERGY, INC., a foreign
corporation, WILLIAM F. WOODBURN,
and LOREN E. BAGLEY,

Defendants.

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Civil Action No. 13-C-56
Judge Carrie L. Webster

JURY TRIAL DEMANDED

**DEFENDANTS TRANS ENERGY, INC., WILLIAM F. WOODBURN AND LOREN E.
BAGLEY'S ORIGINAL ANSWER TO PLAINTIFF'S COMPLAINT,
AFFIRMATIVE DEFENSES AND COUNTERCLAIMS**

Defendants Trans Energy, Inc. ("Trans Energy"), William F. Woodburn ("Woodburn") and Loren E. Bagley ("Bagley") (each a "Defendant," and collectively "Defendants") hereby file their Original Answer to Plaintiff James K. Abcouwer's ("Plaintiff" or "Abcouwer") Complaint ("Complaint") as follows:

**I.
COMPLAINT**

1. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 and therefore deny them.
2. Defendants admit the allegations in Paragraph 2.
3. Defendants admit the allegations in Paragraph 3.
4. Defendants deny the allegations in Paragraph 4 as stated. Defendants admit that Plaintiff formerly held the positions of Chairman of the Board of Directors, President and Chief Executive Officer of Trans Energy.
5. Defendants deny the allegations in Paragraph 5 as stated. Defendants admit that, prior to 2006, Plaintiff had been employed by Northstar Energy Corporation, Columbia Natural

Resources, LLC and NiSource Inc. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 regarding Plaintiff's employment with C.A.R.T. Oil & Gas, LLC.

6. Defendants deny the allegations in Paragraph 6 as stated. Defendants admit that Woodburn and Bagley met with Plaintiff in early 2006, advised him that they were part owners of Trans Energy, and discussed Plaintiff's possible employment with Trans Energy.

7. Defendants deny the allegations in Paragraph 7 as stated. Defendants admit that Woodburn and Bagley met with Plaintiff on behalf of Trans Energy and had the authority to negotiate with Plaintiff and offer him a position with Trans Energy.

8. Defendants deny the allegations of Paragraph 8 as stated. Defendants admit that Woodburn and Bagley discussed Trans Energy's financial issues with Plaintiff. Defendants further admit that the parties discussed that Plaintiff's duties with Trans Energy would include raising money for the company.

9. Defendants deny the allegations of Paragraph 9 as stated. Defendants admit that Plaintiff accepted a position with Trans Energy. Defendants further admit that the parties agreed that a stock option agreement would be entered into between Trans Energy and Plaintiff.

10. Defendants deny the allegations of Paragraph 10 as stated. Defendants admit that, as part of the agreement to join Trans Energy, Plaintiff agreed to decrease his activity with Northstar Energy Corporation.

11. Defendants deny the allegations in Paragraph 11.

12. Defendants deny the allegations in Paragraph 12.

13. Defendants deny the allegations in Paragraph 13.

14. Defendants deny the allegations in Paragraph 14.

15. Defendants deny the allegations of Paragraph 15 as stated. Defendants admit that Plaintiff was given authority to explore the potential sale of Trans Energy.

16. Defendants deny the allegations of Paragraph 16 as stated. Defendants admit that Plaintiff was given authority to and did, in fact, solicit offers for the potential sale of Trans Energy.

17. Defendants deny the allegations in Paragraph 17.

18. Defendants deny the allegations in Paragraph 18 as stated. Defendants admit that Plaintiff purchased shares of Trans Energy's stock.

19. Defendants deny the allegations in Paragraph 19.

20. Defendants deny the allegations in Paragraph 20.

21. Defendants deny the allegations in Paragraph 21 as stated. Defendants admit that Plaintiff voluntarily terminated his employment as Chief Executive Officer, Chairman of the Board of Directors and President of Trans Energy effective June 23, 2010. Defendants further admit that Plaintiff voluntarily terminated his employment as a member of the Board of Directors of Trans Energy effective May 23, 2011.

22. Defendants deny the allegations in Paragraph 22, including all subparts.

**II.
COUNT I
(BREACH OF CONTRACT)**

Defendants incorporate their responses to Paragraphs 1 through 22 above as if fully set forth herein.

23. Paragraph 23 states a legal conclusion to which no answer is required. To the extent a response is required, the allegations in Paragraph 23 are denied.

24. Paragraph 24 states a legal conclusion to which no answer is required. To the extent a response is required, the allegations in Paragraph 24 are denied.

**III.
COUNT II
(CONSTRUCTIVE FRAUD)**

Defendants incorporate their responses to Paragraphs 1 through 24 above as if fully set forth herein.

25. Paragraph 25 states a legal conclusion to which no answer is required. To the extent a response is required, the allegations in Paragraph 25 are denied.

26. Paragraph 26 states a legal conclusion to which no answer is required. To the extent a response is required, the allegations in Paragraph 26 are denied.

**IV.
PUNITIVE DAMAGES**

Defendants incorporate their responses to Paragraphs 1 through 26 above as if fully set forth herein.

27. Paragraph 27 states a legal conclusion to which no answer is required. To the extent a response is required, the allegations in Paragraph 27 are denied.

28. Defendants deny the allegations in Paragraph 28.

29. Defendants deny the allegations in Paragraph 29.

**V.
PRAYER**

30. Defendants admit that Plaintiff seeks compensatory damages and punitive damages to and from Defendants, both jointly and severally, pre-judgment and post-judgment interest, attorney fees, costs and other relief, but deny that Plaintiff is entitled to judgment, damages, or compensation of any kind. Defendants deny the remaining allegations of the prayer for relief.

VI.
JURY DEMAND

31. Defendants admit that Plaintiff has demanded a jury trial.

VII.
AFFIRMATIVE AND ADDITIONAL DEFENSES

32. Plaintiff's Complaint fails to state a claim against Defendants upon which relief may be granted.

33. Plaintiff's claims fail in whole or in part to the extent it failed to comply with the pleading requirements of Rules 8 and 9 of the West Virginia Rules of Civil Procedure.

34. Plaintiff's claims fail in whole or in part as Defendants acted in good faith at all times relevant to the allegations set forth in Plaintiff's Complaint.

35. Plaintiff's claims fail in whole or in part as Plaintiff has not satisfied all conditions precedent to its claims for relief.

36. Plaintiff's claims are barred, in whole or in part, by the applicable statutes of limitations and/or repose.

37. Plaintiff's claims are barred by the doctrines of accord and satisfaction.

38. Plaintiff's claims are barred in whole or in part by waiver.

39. Plaintiff's claims are barred in whole or in part by estoppel.

40. Plaintiff's claims are barred in whole or in part by the doctrine of laches.

41. Plaintiff's claims are barred in whole or in part by the doctrine of unclean hands.

42. Plaintiff's claims are barred in whole or in part by his own fraud and/or breach of fiduciary duty.

43. Defendants Woodburn and Bagley were acting, at all times, within the scope of their employment as agents or employees of Trans Energy.

44. Defendants plead the defense of discharge.

45. Defendants plead the defense of repudiation.
46. Any damages Plaintiff suffered are offset by Defendants' damages relating to the same conduct.
47. Plaintiff's claims are barred, in whole or in part, by the applicable statutes of fraud.
48. Plaintiff's claims are barred, in whole or in part, by his failure to mitigate the damages claimed.
49. Plaintiff is equitably estopped from enforcing the terms of the alleged agreement(s).
50. Defendants reserve the right to assert additional defenses should discovery and investigation reveal that additional affirmative defenses apply.

VIII.
PRAYER FOR RELIEF

51. Defendants assert that all allegations not admitted herein are denied. Defendants deny that Plaintiff is entitled to any of the relief requested in the Complaint and respectfully pray that Plaintiff take nothing by this suit. Defendants further pray that Defendants recover their attorneys' fees and costs, pre-judgment and post-judgment interest, and such other relief, at law or in equity, to which Defendants are justly entitled.

**COUNTER-PLAINTIFF TRANS ENERGY, INC.'S COUNTERCLAIMS AGAINST
COUNTER-DEFENDANT JAMES K. ABCOUWER**

Trans Energy, Inc. ("Counter-Plaintiff" or "Trans Energy") contends that James K. Abcouwer's ("Counter-Defendant" or "Abcouwer") claims are wholly without merit and are unsupported by the facts and applicable West Virginia law. Specifically, Trans Energy asserts that there never was a promise or agreement, binding or otherwise, by which Trans Energy was

obligated to enter into a transaction for the sale of the company. Nevertheless, Trans Energy asserts -- in the alternative -- that if such agreement is found by this Court to have existed, that Abcouwer breached his fiduciary duties as an officer and/or director for Trans Energy, and fraudulently concealed from the company his belief that such agreement was in place and was allegedly breached.

In addition, Trans Energy also asserts that Abcouwer breached his fiduciary duties to the company by representing that he had secured an extension to the maturity date of a loan through Trans Energy's senior lender. This fraudulent representation was made with the intention of forcing the sale of Trans Energy in order to create a personal windfall of cash and stocks to Abcouwer. In support of these claims, Trans Energy would respectfully show the Court as follows:

IX. COUNTERCLAIMS

52. Counter-Plaintiff Trans Energy is a foreign corporation organized under the laws of Nevada and registered to and doing business in West Virginia.

53. Counter-Defendant Abcouwer asserts in his Complaint that he is a resident of Kanawha County.

54. Abcouwer joined Trans Energy as Chief Executive Officer, President and Chairman of the Board of Directors effective January 6, 2006.

55. While Trans Energy disputes such allegations, Abcouwer asserts in a Complaint filed on January 14, 2013 that Trans Energy and Abcouwer entered into an oral employment agreement by which the Company was obligated to enter into a sale transaction and that "[t]he agreement by [Trans Energy] to sell the company was part of the consideration for [Abcouwer] entering into the agreement." *See* Plaintiff's Complaint, para. 12.

56. On June 15, 2007, Trans Energy entered into a three-year financing agreement with CIT Capital USA Inc. ("CIT"), as administrative agent on behalf of a lending group (the "Credit Agreement"). Under the terms of the agreement, CIT would fully underwrite \$18 million in financing for Trans Energy in the form of a senior secured revolving credit facility (the "Credit Facility"), and Trans Energy would have the ability to increase the Credit Facility to \$30 million in the future with increases in reserves.

57. Abcouwer, as presiding Chief Executive Officer, Chairman of the Board of Directors and President, was responsible for the negotiation of the Credit Agreement and for maintaining the company's professional relationship with CIT. To that end, Abcouwer was charged with timely responding to requests for action or documentation from CIT.

58. From 2007 to 2010, Trans Energy exercised its right to grow the Credit Facility to \$30 million, allowing the company to -- among other things -- deploy capital, drill wells and acquire additional acreage.

59. As Trans Energy grew, the Board of Directors considered a variety of financial possibilities relating to the future of the company, including the exploration of the potential sale of Trans Energy. The sale of Trans Energy would result in a windfall of stock and cash to Abcouwer.

60. In 2010, and before the Credit Facility fully matured, Abcouwer proposed to the Board of Directors that the company seek an expansion of the Credit Facility from \$30 million to \$45 million, or an extension of the maturity date of the Credit Facility. The Board of Directors approved the idea and left Abcouwer responsible for negotiating these terms with CIT.

61. Shortly thereafter, Abcouwer represented to the Board of Directors that CIT had agreed to extend the maturity date of the Credit Facility for a period of time. Abcouwer assured the Board of Directors and Trans Energy management that the situation was under control.

62. Members of the company relied on Abcouwer's representation and, therefore, continued its day-to-day operations and made no efforts to seek additional financing to pay off the CIT Credit Facility.

63. On or around June 2010, Trans Energy received a letter from CIT indicating that, per the terms of the original Credit Agreement, the Credit Facility was fully matured and \$30 million was due and owing. Trans Energy was not in a position to pay the full \$30 million as it was operating under the assumption that the maturity date of the Credit Facility had been extended and was, therefore, threatened with the possibility of having to file a Chapter 11 bankruptcy proceeding unless they sold the company or could negotiate new terms with CIT.

64. To that end, John Corp, Mark Woodburn and Loren Bagley organized a meeting with representatives of CIT to discuss the Credit Facility, and specifically the extension of maturity of the Credit Facility negotiated by Abcouwer and CIT. Abcouwer was invited to join the meeting but declined participation.

65. During the meeting, John Corp, Mark Woodburn and Loren Bagley learned that Abcouwer had never struck an agreement with CIT for the extension of the Credit Facility. Moreover, CIT disclosed that it had almost no contact with Abcouwer in recent months, that several requests had gone unanswered and undone, and that, as a result of Abcouwer's conduct, CIT was disappointed in the working relationship it had with Trans Energy.

66. Despite this, Trans Energy successfully negotiated new terms with CIT to immediately reduce Trans Energy's debt from \$30 million to \$15 million through an asset sale, and to pay the remainder of the loan over a two-year period of time.

67. On June 23, 2010, Abcouwer resigned as Chairman of the Board of Directors, President and Chief Executive Office of Trans Energy.

68. From January 6, 2006 to June 23, 2010, Abcouwer reviewed and signed numerous company filings with the U.S. Securities and Exchange Commission ("SEC") in his capacity as an officer and director of Trans Energy. At no point during this time frame did Abcouwer ever disclose his contention that he and Trans Energy had entered into a proposed material agreement ("Proposed Material Agreement") to sell the company.

69. The agreement alleged by Abcouwer whereby the Company obligated itself to enter into a transaction for the sale of the company or the sale of company assets would be material such that disclosure to the SEC and to the Trans Energy Board of Directors and management would be required. Abcouwer, however, failed to ever disclose the existence of the Purported Material Agreement.

70. Additionally, at no point during this time frame did Abcouwer ever attempt to correct company filings that he reviewed and executed to include the existence of the Proposed Material Agreement.

71. On June 29, 2010, Trans Energy filed a Form 8-K with the SEC for the period ending June 23, 2010 ("First 8-K") indicating, among other things, that "[a]t the time of Mr. Abcouwer's resignations, there were no disagreements between him and the Company on any matter relating to the Company's operations, policies or practices."

72. Despite the fact that Abcouwer remained on the Board of Directors of Trans Energy after his resignations, Abcouwer at no point disclosed the alleged existence of the Proposed Material Agreement even after the filing of the First 8-K.

73. While Trans Energy disputes such allegations, Abcouwer asserts in his Complaint that he "presented [Trans Energy] with the commitments by one or more buyers," but Trans Energy "negligently, carelessly and wrongfully and in violation of its contract refused to sell the company." *See* Plaintiff's Complaint, para. 19. Further, though disputed by Trans Energy, Abcouwer alleges that "[a]s a proximate result of [Trans Energy's] wrongful acts described above, [Abcouwer] resigned voluntarily from his positions with Trans Energy, Inc." *Id.* at para. 21. At no point in the time between the alleged breach of the Proposed Material Agreement and Abcouwer's resignation did Abcouwer ever disclose the alleged existence of the Proposed Material Agreement or alleged breach thereof.

74. Just days after his resignation from the Board of Directors on May 23, 2011, Trans Energy filed a second Form 8-K for the period ending May 23, 2011 ("Second 8-K") indicating, among other things, that "[a]t the time of his resignation, there were no disagreements between Mr. Abcouwer and the company on any matter relating to the company's operations, policies or practices."

75. Despite the filing of this Second 8-K and its requirement to disclose material definite agreements, Abcouwer at no point disclosed the alleged existence or breach of the Proposed Material Agreement until the September 17, 2012 filing of an expert report in connection with a related lawsuit between the parties. This disclosure of the Proposed Material Agreement comes over six years after it was allegedly entered into and long after his resignation

from the Board of Directors of Trans Energy and as Chief Executive Officer, President and Chairman of the Board of Trans Energy.

76. Upon information and belief, prior to the filing of the expert report, Abcouwer failed to disclose the existence of the Proposed Material Agreement, despite the fact that the company filed countless documents with the SEC requiring such material information that were reviewed and/or executed by Abcouwer, and despite the fact that the company filed two Form 8-K documents specifically asserting the non-existence of any disagreements between Trans Energy and Abcouwer.

77. After all this time, Abcouwer now alleges a breach of the Proposed Material Agreement by Trans Energy resulting in damages to the tune of "\$30 million as a result of [Trans Energy's] failure to sell the company" See Plaintiff's Complaint, para. 22(a).

78. Abcouwer now makes these significant allegations, claiming tens of millions of dollars of damages, but failed for several years to disclose the facts forming the basis of his claims – despite a duty to make such disclosures. Had Abcouwer made such disclosures at the required time, the company could have evaluated his claims and used such information, if it were actually true, to make decisions with a complete picture of the facts and circumstances (at least as alleged by Abcouwer). His failure to disclose such (alleged) facts has potentially exposed the company to significant economic damages, which Abcouwer claims are in excess of \$30 million.

79. On or about April 26, 2012, Trans Energy fully paid off its loan with CIT. In doing so, Trans Energy was penalized with approximately \$1 million in overrides and \$2.5 million in fees over the course of the two-year extended period of time Trans Energy negotiated to pay off its loan.

80. Once the CIT loan was fully paid off, Trans Energy discovered the full extent by which the company was damaged from Abcouwer's actions. Abcouwer put his personal interests above the company's interests when he made misrepresentations to the Board of Directors about the alleged agreement with CIT to extend the maturity date of the loan. Abcouwer knew Trans Energy would have enormous pressure to complete a sale of the company to pay off its debt, resulting in a windfall of cash and stock to Abcouwer.

81. Abcouwer's actions damaged Trans Energy by not only jeopardizing its professional relationship with CIT, but also through the approximately \$3.5 million in penalties paid to CIT.

**X.
FIRST CLAIM FOR RELIEF
(BREACH OF FIDUCIARY DUTY)**

82. Trans Energy incorporates Paragraphs 52 to 81 of the Counterclaims as if fully set forth herein.

83. As an officer and/or director, Abcouwer owed a fiduciary duty to Trans Energy.

84. Abcouwer breached his fiduciary duty by failing to disclose the alleged existence and breach of the Proposed Material Agreement.

85. Abcouwer's breach proximately caused Trans Energy to be damaged.

**XI.
SECOND CLAIM FOR RELIEF
(FRAUD BY OMISSION)**

86. Trans Energy incorporates Paragraphs 52 to 85 of the Counterclaims as if fully set forth herein.

87. As an officer and/or director, Abcouwer owed a duty to Trans Energy to disclosure material information.

88. Trans Energy relied on Abcouwer acts and omissions, including in the form of regulatory filings with the SEC.

89. Abcouwer committed fraud by failing to disclose the alleged existence and breach of the Proposed Material Agreement throughout his tenure as an officer and director of Trans Energy.

90. Trans Energy has suffered damages as a result of the fraud.

**XII.
THIRD CLAIM FOR RELIEF
(BREACH OF FIDUCIARY DUTY)**

91. Trans Energy incorporates Paragraphs 52 to 90 of the Counterclaims as if fully set forth herein.

92. As an officer and/or director, Abcouwer owed a fiduciary duty to Trans Energy.

93. Abcouwer breached his fiduciary duty by making misrepresentations to the Board of Directors about the agreement with CIT to extend the maturity of the Credit Facility in favor of self-serving interests.

94. Abcouwer's breach proximately caused Trans Energy to be damaged.

**XIII.
FOURTH CLAIM FOR RELIEF
(FRAUD)**

95. Trans Energy incorporates Paragraphs 52 to 94 of the Counterclaims as if fully set forth herein.

96. Abcouwer represented to Trans Energy that he had successfully negotiated new terms with CIT for the extension of the maturity date of the Credit Facility.

97. This representation was false and misleading.

98. Abcouwer knew this representation was false and misleading and knew that members of Trans Energy would rely on such statement.

99. Trans Energy did, in fact, rely on the statement and continued its day-to-day operations without seeking additional financing to pay off the CIT loan.

100. Trans Energy was damaged by Abcouwer's false and misleading representation.

**XIV.
PRAYER FOR RELIEF**

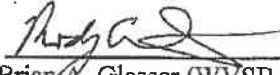
101. WHEREFORE, Counter-Plaintiff prays that judgment be entered in its favor and against Counter-Defendant as follows:

- a. That Trans Energy be awarded actual, consequential, incidental, special and exemplary damages in excess of the minimum jurisdictional limits of this Court;
- b. That Trans Energy be awarded attorneys' fees and costs, pre-judgment and post-judgment interests;
- c. That Trans Energy be awarded any such other and further relief, in law or in equity, to which it is justly entitled.

Dated: March 25, 2012

Respectfully submitted,

BAILEY & GLASSER L.L.P.


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IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

JAMES K. ABCOUWER,

Plaintiff,

v.

Civil Action No. 13-C-56

Judge Carrie L. Webster

JURY TRIAL DEMANDED

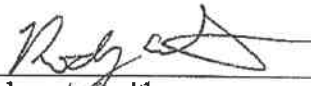
TRANS ENERGY, INC., a foreign
corporation, WILLIAM F. WOODBURN,
and LOREN E. BAGLEY,

Defendants.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that DEFENDANTS TRANS ENERGY, INC., WILLIAM F. WOODBURN AND LOREN E. BAGLEY'S ORIGINAL ANSWER TO PLAINTIFF'S COMPLAINT, AFFIRMATIVE DEFENSES AND COUNTERCLAIMS was served upon the following counsel of record via United States First Class Mail, postage prepaid and properly addressed on this the 25th day of March, 2013:

Marvin W. Masters
THE MASTERS LAW FIRM, LC
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Charleston, West Virginia 25301
Counsel for Plaintiff


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CERTIFICATE OF SERVICE

I hereby certify that a true copies of the foregoing *Renewed Motion to Refer Cases to the Business Court Division* were served via U.S. mail on May 8, 2020 to the following individuals and counsel of record:

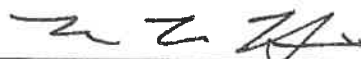
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Michael B. Hissam (WVSB # 11526)