

**CAUSE NO. C-1-PB-14-001245**

**IN RE:** § **IN THE PROBATE COURT NO. 1**  
§  
**TEL OFFSHORE TRUST** § **OF**  
§  
§ **TRAVIS COUNTY, TEXAS**

**ALBERT SPEISMAN AND JOYCE E. SPEISMAN'S  
MOTION FOR LEAVE TO FILE THEIR EXPERT DISCLOSURES**

Albert Speisman and Joyce E. Speisman (“Speismans”) request leave to file their Expert Disclosures, and respectfully show the Court the following:

On December 16, 2017, the Speismans filed their First Amended Original Petition as Realigned Plaintiffs. The Scheduling Order in the case set January 31, 2017 as the deadline to disclose experts in support of claims for affirmative relief. On that date, the Attorney ad Litem made disclosures and filed reports of R. Bruce Wallace and Michael L. Wiggins. On March 13, 2017, the Corporate Trustee filed its responsive amended answer and Counterclaim.

The Speismans seek leave of Court to late-file expert designations. The filing, if permitted, will adopt the expert reports of the ad Litem and designate the undersigned to testify as to attorney’s fees. There is good cause to permit the designation and no unfair surprise or prejudice to any other party to permit the late filed designation.

A true and correct copy of the proposed designation is attached hereto as Exhibit “A”.

WHEREFORE, PREMISES CONSIDERED, the Speismans pray that the Court grant leave to file their expert designations.

Respectfully submitted,

/s/ D. Douglas Brothers

D. Douglas Brothers  
State Bar No. 03084500  
R. James George, Jr.  
State Bar No. 07810000  
GEORGE BROTHERS KINCAID & HORTON LLP  
114 West 7th Street, Suite 1100  
Austin, Texas 78701  
(512) 495-1400  
(512) 499-0094 *facsimile*  
[dbrothers@gbkh.com](mailto:dbrothers@gbkh.com)  
[rjgeorge@gbkh.com](mailto:rjgeorge@gbkh.com)

ATTORNEYS FOR ALBERT SPEISMAN  
AND JOYCE E. SPEISMAN

#### **CERTIFICATE OF CONFERENCE**

I hereby certify that on March 27, 2017, I have conferred with all attorneys of record regarding filing of this motion and none of the parties oppose the filing of this motion.

/s/ D. Douglas Brothers

D. Douglas Brothers

#### **CERTIFICATE OF SERVICE**

I hereby certify that, on March 28, 2017, a true and correct copy of the foregoing has been served or will be served in accordance with the Court's orders regarding service dated September 28, 2015 and January 21, 2016.

/s/ D. Douglas Brothers

D. Douglas Brothers

CAUSE NO. C-1-PB-14-001245

IN RE: § IN THE PROBATE COURT NO. 1  
§  
TEL OFFSHORE TRUST § OF  
§  
§ TRAVIS COUNTY, TEXAS

**PLAINTIFFS ALBERT SPEISMAN AND JOYCE E. SPEISMAN'S  
SUPPLEMENTAL RESPONSE TO THE CORPORATE TRUSTEE'S  
REQUEST FOR DISCLOSURE**

TO: The Bank of New York Mellon Trust Company, N.A., as Corporate Trustee of the TEL Offshore Trust, by and through its attorneys, Craig A. Haynes and Rachelle H. Glazer, Thompson & Knight LLP, One Arts Plaza, 1722 Routh Street, Suite 1500, Dallas, Texas 75201, and James E. Cousar, Thompson & Knight LLP, 98 San Jacinto Blvd., Suite 1900, Austin, Texas 78701.

Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Plaintiffs Albert Speisman and Joyce E. Speisman ("Speismans") submit this Supplemental Response to The Corporate Trustee's Requests for Disclosure.

Respectfully submitted,

/s/ D. Douglas Brothers

D. Douglas Brothers  
State Bar No. 03084500  
R. James George, Jr.  
State Bar No. 07810000  
GEORGE BROTHERS KINCAID & HORTON LLP  
114 West 7th Street, Suite 1100  
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[rjgeorge@gbkh.com](mailto:rjgeorge@gbkh.com)

ATTORNEYS FOR ALBERT SPEISMAN  
AND JOYCE E. SPEISMAN

EXHIBIT A

**CERTIFICATE OF SERVICE**

I hereby certify that on March \_\_\_\_, 2017, that a true and correct copy of the foregoing has been served or will be served in accordance with the Court's orders regarding service dated September 28, 2015 and January 21, 2016.

*/s/ D. Douglas Brothers* \_\_\_\_\_

D. Douglas Brothers

## **SUPPLEMENTAL RESPONSE TO REQUESTS FOR DISCLOSURE**

### **REQUEST FOR DISCLOSURE (a): The correct names of the parties to the lawsuit.**

**RESPONSE:** The Speismans believe the parties that have made an appearance have been named correctly. The Speismans are parties to the lawsuit. The Speismans do not have personal knowledge of the correct names of all the unit holders of TEL Offshore Trust.

### **REQUEST FOR DISCLOSURE (b): The name, address, and telephone number of any potential parties.**

**RESPONSE:** The Speismans are unaware of the identity of any other potential parties at this time.

### **REQUEST FOR DISCLOSURE (c): The legal theories and, in general, the factual bases of the responding party's claims or defenses.**

**RESPONSE:** The Speismans believe the Trustees of the TEL Offshore Trust have failed in their obligations to the Speismans as follows:

1. The TEL Offshore Trustees intentionally, in bad faith, with gross negligence, fraud or with reckless indifference to the interests of the beneficiaries failed to disclose that the Trust had terminated by its own provisions no later than May, 2009;
2. The Trustees of the TEL Offshore Trust intentionally, in bad faith, with gross negligence, fraud or with reckless indifference to the interests of the beneficiaries failed to act in accordance with the express provisions of the Trust Agreement to take steps to terminate the Trust in or shortly after May, 2009;
3. Despite the acknowledged limited ability of the Trust to generate future revenues sufficient to provide for distributions to unit holders, subsequent to May, 2009, the Trustees of the TEL Offshore Trust intentionally, in bad faith, with gross negligence, fraud or with reckless indifference to the interests of the beneficiaries took no steps to terminate the Trust;
4. The Trustees of the TEL Offshore Trust intentionally, in bad faith, with gross negligence, fraud or with reckless indifference to the interests of the beneficiaries continued to incur trustees' fees and administrative expenses and other costs well beyond such time as it was apparent that the Trust would not be able to make any distributions to unit holders and prudent for the Trust to continue to exist.

The Speismans incorporate the factual bases for their claims as set forth in Ad Litem's First Amended Original Petition as Realigned Plaintiff and Second Amended Counterclaim and the Speismans' First Amended Original Petition as Realigned Plaintiff and Counterclaim.

Discovery in this matter is ongoing and the Speismans reserve the right to amend or otherwise supplement these responses as discovery proceeds and in accordance with the Scheduling Order that it anticipates will be entered in this matter.

**REQUEST FOR DISCLOSURE d): The amount and any method of calculating economic damages.**

**RESPONSE:** The Speismans are entitled to their proportionate share of the proceeds from the sale of the net profits interest attributable to the Trust that would have been realized had the Trustees not intentionally postponed acting in accordance with the provisions of the TEL Offshore Trust Agreement, plus interest. In addition, the Speismans are entitled to their proportionate share of the fees incurred by the Trustees and other administrative expenses, including Directors and Officers insurance, plus interest, that would have been unnecessary had the Trustees of the TEL Offshore Trust acted in a timely manner in accordance with the Trust Agreement. The Speismans are also entitled to their proportionate share of the Reserve for Future Trust Expense established by the Trustees that would have otherwise been in place had the Trustees acted timely in terminating the Trust, plus interest. The Speismans are also entitled to their proportionate share of the management fee that was charged by Chevron to the Trust that would have terminated had the Trust been terminated in a timely manner, plus interest and such other relief as the Speismans may show their selves to be entitled. *See*, also expert reports of Mr. Wiggins and Mr. Wallace.

The Speismans are also entitled to their pro-rata share of damages due to the individual trustees' and corporate trustees' breach of fiduciary duty.

The economic damages are the loss or depreciation in value of the trust estate as a result of the Trustees' breaches of trust. Some of this loss or depreciation in value was due to the breaches of trust represented by the Trustees' delay in the sale of the Trust's net profits interests beginning in 2009 and continuing until the Trustees filed the termination and modification proceeding in 2014. In addition to these damages, the Speismans are entitled to their pro-rata share of the return of the compensation and profits the Trustees received during this time as a result of breaches of trust. Compensation is approximately \$1.2 million, which does not include insurance premiums on trustee liability insurance. In addition, the Speismans seeks to recover their attorney's fees and costs and to require that the Trustees bear their own attorneys' fees and costs, not the Trust.

**REQUEST FOR DISCLOSURE e):** The name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case.

**RESPONSE:**

1. Roy T. Rimmer, Jr., President  
Paul Willingham  
Custodian of Records, Employees and/or Representatives of RNR Production  
Land and Cattle  
c/o Shannon H. Ratliff  
Ratliff Law Firm, PLLC  
600 Congress Avenue, Suite 3100  
Austin, Texas 78701  
512-493-9601

RNR Production Land and Cattle Company, Inc. is a unit holder of the TEL Offshore Trust.

2. Michael Ulrich  
Sarah Newell  
James Favola  
Mary Jo Davis  
Derek Kettel  
Custodian of Records, Employees and/or Representatives of The Bank of New York Mellon, Trust Company N.A., Corporate Trustee of the TEL Offshore Trust  
c/o Craig Haynes  
Thompson & Knight LLP  
One Arts Plaza  
1722 Routh Street, Suite 1500  
Dallas, Texas 75201  
214-969-1239

The Speismans believe these individuals have knowledge of facts and activities surrounding the operation of the TEL Offshore Trust including the bank's role as corporate trustee, the manner in which it calculated its fees to the Trust for serving as a corporate trustee and the actions and inactions of the bank, as corporate trustee, and the other trustees in administering the TEL Offshore Trust.

3. Gary C. Evans  
Individual Trustee of the TEL Offshore Trust  
c/o Paul Trahan  
Peter Stokes  
Norton Rose Fulbright US, LLP  
98 San Jacinto Boulevard, Suite 1100  
Austin, Texas 78701-4255  
512- 474-5201

The Speismans believe Mr. Evans has knowledge of facts and activities surrounding the operation of the TEL Offshore Trust including the actions and inactions of the trustees in administering the TEL Offshore Trust.

4. Jeffrey S. Swanson  
Individual Trustee of the TEL Offshore Trust  
c/o Paul Trahan  
Peter Stokes  
Norton Rose Fulbright US, LLP  
98 San Jacinto Boulevard, Suite 1100  
Austin, Texas 78701-4255  
512- 474-5201

The Speismans believe Mr. Swanson has knowledge of facts and activities surrounding the operation of the TEL Offshore Trust including the actions and inactions of the trustees in administering the TEL Offshore Trust.

5. Thomas H. Owen, Jr.  
Individual Trustee of the TEL Offshore Trust  
c/o Paul Trahan  
Peter Stokes  
Norton Rose Fulbright US, LLP  
98 San Jacinto Boulevard, Suite 1100  
Austin, Texas 78701-4255  
512- 474-5201

The Speismans believe Mr. Swanson has knowledge of facts and activities surrounding the operation of the TEL Offshore Trust including the actions and inactions of the trustees in administering the TEL Offshore Trust

6. Daniel O. Conwill, IV  
Individual Trustee of the TEL Offshore Trust  
c/o Paul Trahan  
Peter Stokes  
Norton Rose Fulbright US, LLP  
98 San Jacinto Boulevard, Suite 1100  
Austin, Texas 78701-4255  
512- 474-5201

The Speismans believe Mr. Swanson has knowledge of facts and activities surrounding the operation of the TEL Offshore Trust including the actions and inactions of the trustees in administering the TEL Offshore Trust



7. Lance Schuler  
Jesse Myers  
David Buck  
Craig Stahl  
Philip Haines  
Bill McDonald  
Custodian of Records, Employees and/or Representatives of Andrews Kurth LLP  
600 Travis, Suite 4200  
Houston, Texas 77002  
(713) 220-4200

The Speismans believe Mr. Schuler and potentially others with the Andrews Kurth firm have knowledge regarding the facts and activities surrounding the operation of the TEL Offshore Trust including the actions and inactions of the trustees in administering the TEL Offshore Trust. Additionally, Mr. Schuler may have information relating to the discussions and activities at the quarterly meetings of the Trustees of the TEL Offshore Trust.

8. Wyn Smith  
Dustin Oslund  
Tatsiana B. Bender  
Brandy Smith  
Walter Powell  
Justin R. Smith  
Custodian of Records, Employees and/or Representatives of Deloitte Touche  
333 Clay Street, Suite 2300  
Houston, Texas 7002-4196

The Speismans believe Mr. Smith, Mr. Oslund and potentially others with Deloitte Touche may have knowledge regarding the facts and activities surrounding the operation of the TEL Offshore Trust including the actions and inactions of the trustees in administering the TEL Offshore Trust.

9. Marilou Tojino  
Dian Miller  
Yesenia Cruz-Partido  
Robert Poindexter  
Pravin Dayaldasani  
Michael Lemen  
Alex Kuiper  
Linda Ratto

Custodian of Records, Employees and/or Representatives of Chevron U.S.A., Inc.  
Joint Interest Audits and Analysis  
Accounting  
Finance Share Services  
2003 Diamond Blvd., Room 32255  
Concord, CA 94520-5738

The Speismans believe the individuals from Chevron may have knowledge regarding the information provided or otherwise available to the trustees of the TEL Offshore Trust including information relating to the operations of the interests held by the Trust as well as information provided to DeGolyer and MacNaughton in conjunction with their assessments of the Trust properties. Additionally, Ms. Cruz-Partido may have information relating to the discussions and activities at the quarterly meetings of the Trustees of the TEL Offshore Trust.

10. Paul J. Szatkowski  
George Wilson  
Custodian of Records, Employees and/or Representatives of DeGolyer and MacNaughton  
5001 Spring Valley Road, Suite 800 East  
Dallas, Texas 75244

The Speismans believe that DeGolyer and MacNaughton and Mr. Szatkowski may have knowledge regarding the analysis performed by DeGolyer and MacNaughton regarding their assessment of the Trust properties. Additionally, Mr. Szatkowski may have knowledge of discussions and information between DeGolyer and MacNaughton, representatives of Chevron and one or more Trustees or representatives of Trustees of the TEL Offshore Trust.

11. Todd J. Attalla  
Roger Gann  
Pat Martindale  
Debra Fuentes  
Martindale Consultants, Inc.  
4242 N. Meridian Avenue  
Oklahoma City, OK 73112

Martindale Consultants performed audits for the TEL Offshore Trust and its properties.

12. Bob Rudolph  
(704) 996-7005

Mr. Rudolph is a unit holder of the TEL Offshore Trust.

13. Albert Speisman

Mr. Speisman is a Plaintiff and unit holder of the TEL Offshore Trust.

14. Joyce E. Speisman

Mrs. Speisman is a Plaintiff and unit holder of the TEL Offshore Trust.

The Speismans reserve the right to supplement this list as discovery continues and designate any other witnesses with knowledge listed by any other party to this litigation and not objected to by the Speismans.

**REQUEST FOR DISCLOSURE (f): For any testifying expert:**

- (1) the expert's name, address and telephone number;
- (2) the subject matter on which the expert will testify;
- (3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;
- (4) if the expert is retained by, employed by, or otherwise subject to the control of the responding party:
  - (A) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and,
  - (B) the expert's current resume and bibliography.

**RESPONSE:**

D. Douglas Brothers  
George Brothers Kincaid & Horton LLP  
114 W. 7<sup>th</sup> Street, Suite 1100  
Austin, Texas 78701  
(512) 495-1400 Tel

Mr. Brothers may express mental impressions and opinions regarding the attorneys' fees reasonably and necessarily incurred by the Plaintiffs and by Defendants in connection with this litigation, and respond to the Defendants' proof on that topic.

Mr. Brothers may opine that the reasonable and necessary attorneys' fees for the prosecution and defense of this action are reflected in the redacted billing statements that

will be furnished by them. Mr. Brothers will review updated billing statements and opine upon the reasonableness of fees set forth therein, prior to final hearing.

The foregoing opinions are based, among other things, on the terms of the engagement, and the State Bar Rule 1.04(b) factors.

In the event of an appeal, Mr. Brothers may opine as to reasonable and necessary attorneys' fees for an appeal or motion to confirm/vacate throughout the appellate process.

Mr. Brothers' resume and biographical information is attached hereto as Exhibit A.

Michael L. Wiggins, Ph.D., P.E.  
Senior Vice President  
William M. Cobb & Associates, Inc.  
12770 Coit Road, Suite 907  
Dallas, Texas 75251  
(972) 385-0354 Tel

The subject matter and general substance of Mr. Wiggins' mental impressions and opinions and the basis for them are set forth in his Assessment of TEL Offshore Trust, dated January 31, 2017 ("Wiggins Report"), attached to the Attorney Ad Litem's disclosures. The Wiggins Report identifies the documents and other materials provided to or reviewed by Mr. Wiggins. *See also*, Mr. Wiggins' deposition when taken.

R. Bruce Wallace, Jr.  
Eggleston & Briscoe, LLP  
4800 Three Allen Center  
333 Clay Street  
Houston, Texas 77002  
(713) 659-5100 Tel

The subject matter and general substance of Mr. Wallace's mental impressions and opinions and the basis for them are set forth in his Letter to Dan Bitting, dated January 31, 2017 ("Wallace Report"), attached to the Attorney Ad Litem's disclosures. The Wallace Report identified the documents and materials provided to or reviewed by Mr. Wallace. *See also*, Mr. Wallace's deposition.

**REQUEST FOR DISCLOSURE (g): Any indemnity and insuring agreements described in Rule 192.3(f);**

**RESPONSE:** None.

**REQUEST FOR DISCLOSURE (h): Any settlement agreements described in Rule 192.3(g);**

**RESPONSE:** Settlement Agreement between RNR, Speismans, Gary Evans, Jeffrey S. Swanson, Thomas H. Owen, Jr. and Daniel Conwill IV dated January 17, 2017.

**REQUEST FOR DISCLOSURE (i): Any witness statements described in Rule 192.3(h);**

**RESPONSE:** Depositions taken in this matter.

**REQUEST FOR DISCLOSURE (l): The name, address, and telephone number of any person who may be designated as a responsible third party.**

**RESPONSE:** None at this time.

The Speismans' investigation and discovery in this matter are ongoing. They reserve the right to amend or supplement this disclosure as may be necessary.

March 28, 2017

***VIA EFILE***

Probate Clerk  
Travis County Court House  
100 Guadalupe, Room 217  
Austin, Texas 78701

Re: In Re: TEL Offshore Trust, Cause No. C-1-PB-14-001245, In the Probate Court  
No. 1 of Travis County, Texas

Dear Clerk:

Attached for e-filing with the Court please find a Proposed Order Granting Albert Speisman and Joyce E. Speisman's Motion for Leave to File Their Expert Disclosures. I have conferred with all counsel of record and they do not oppose the motion.

Thank you.

Yours sincerely,

GEORGE BROTHERS KINCAID & HORTON, L.L.P.

By           /s/ D. Douglas Brothers            
D. Douglas Brothers

DDB:sn

Enclosure

**CAUSE NO. C-1-PB-14-001245**

**In Re:** § **IN THE PROBATE COURT NO. 1**  
§  
**TEL Offshore Trust** § **OF**  
§  
§ **TRAVIS COUNTY, TEXAS**  
§

**ORDER GRANTING ALBERT SPEISMAN AND JOYCE E. SPEISMAN'S  
MOTION FOR LEAVE TO FILE THEIR EXPERT DISCLOSURES**

On this day came to be heard Albert Speisman and Joyce E. Speisman's Motion for Leave to file their Expert Disclosures.

The Court, having considered the Motion and any objections filed by opposing parties, finds that the Motion should be GRANTED.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Albert Speisman and Joyce E. Speisman's Motion for Leave to file their Expert Disclosures is granted in its entirety.

SIGNED this \_\_\_\_\_ day of March, 2017.

\_\_\_\_\_  
Judge Presiding