

NO. C-1-PB-14-001245

In Re: § **In the Probate Court No. 1**
§
§ **of**
§
TEL Offshore Trust § **Travis County, Texas**

Attorney Ad Litem's Motion to Sever

Glenn M. Karisch ("Ad Litem"), attorney ad litem for the unit holders of TEL Offshore Trust (the "Trust") who were served by publication and did not answer or appear in this proceeding, files this motion to sever this case into separate proceedings.

Introduction

1. The Trust has approximately 6,500 beneficiaries (called "unit holders"). It owns 99.99% of a partnership which owns overriding royalty interests in properties off the Louisiana coast. The Bank of New York Mellon Trust Company, N. A. (the "Corporate Trustee"), as corporate trustee, and Gary C. Evans, Jeffrey S. Swanson, and Thomas H. Owen, Jr., as individual trustees (collectively referred to as the "Trustees") are the trustees of the Trust. The Court appointed Ad Litem to represent unit holders who were served by publication and did not answer or appear in this proceeding.
2. The Trustees filed their Original Petition for Modification and Termination of Trust (the "Petition"), seeking to modify and terminate the Trust. In the Petition, the Trustees state that, due to the damage to the Trust's property from Hurricane Ike and increased costs associated with federal securities, financial audits, and tax filings, the purposes of the Trust have become impossible to fulfill. They state that the circumstances caused by the hurricane damage have negatively impacted the Trust to such an extent that the best way

to achieve the Trust's purpose of paying liabilities and distributing remaining funds to the beneficiaries of the Trust is to require the sale of royalty interests, distribute the next proceeds to the beneficiaries, and thereafter terminate the Trust.

3. Ad Litem has investigated the circumstances surrounding the Trust and agrees that the royalty interests should be sold as soon as possible to obtain the best price and to eliminate the need for continued expenses. However, Ad Litem wants the Trustees to account for the general and administrative expenses incurred by the Trustees since Hurricane Ike. This accounting may lead to additional issues to address before the Trust can be terminated. Therefore, Ad Litem filed his First Amended Answer and Counterclaim for Order to Sell Royalty Interests and for Accounting (the "Counterclaim").
4. Both the Trustees in the Petition and Ad Litem in the Counterclaim seek relief under Section 112.054 of the Texas Trust Code to require the sale of the royalty interests. It is undisputed that selling the royalty interests as soon as possible is in the best interests of the Trust.
5. The Trustees wish to use Section 112.054 not only to order the sale of the royalty interests but also to modify and terminate the Trust. Ad Litem wishes for the Court to order the sale of the royalty interests but to hold the proceeds of the sale pending further Court order.
6. The Court set this matter for trial on January 15, 2016. It may not be possible to resolve all issues related to the Trust by that date, but it should be possible on that date to prove and obtain an order or judgment of this Court that the royalty interests should be sold.

Severance

7. Therefore, Ad Litem asks the Court to sever some or all of the relief sought under Section 112.054 of the Texas Trust Code from the rest of this proceeding.
8. A court may sever part of a case before the case is submitted to the trier of fact. Tex. R. Civ. P. 41. This case has not been submitted to the trier of fact.
9. A lawsuit may be severed into two suits (a) if it involves more than one distinct and separate cause of action, (b) the severed cause could have been independently asserted in a separate lawsuit, and (3) the severed cause is not so interwoven with the remaining action that they involve the same facts and issues. When considering whether a cause of action should be severed, the Court's discretion is guided by the following controlling reasons: to do justice, avoid prejudice, and further the convenience of the parties and the Court.
10. This case involves distinct and separate causes of action. It can be severed because the cause of action to be severed is not so interwoven with the remaining action that they involve the same facts and issues. The Court should grant a severance in this case because the severance would work to do justice and further the convenience of the parties and the Court.

Prayer

For these reasons, Ad Litem asks the Court to sever some or all of the relief sought under Section 112.054 of the Texas Trust Code from the rest of this proceeding and asks the Court to grant such other and further relief to which Ad Litem may be entitled.

Respectfully submitted,

THE KARISCH LAW FIRM, PLLC

By: /s/ Glenn M. Karisch

Glenn M. Karisch
State Bar No. 11098950
301 Congress Avenue, Suite 1910
Austin, TX 78701
(512) 328-6346 (telephone)
(512) 597-4062 (fax)
karisch@texasprobate.com

Attorney Ad Litem

Notice of Hearing

A hearing on the foregoing Attorney Ad Litem's Motion to Sever is set for 10 a.m. Friday, January 15, 2016, in Travis County Probate Court No. 1.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served upon counsel of record pursuant to the Texas Rules of Civil Procedure on this the 16th day of November 2015.

The following were served by efile:

Party	Name	Attorney
Other	Dunn, M. Kaylan	
Defendant	Foran, Joseph William	James Truss
Defendant	Foran, Nancy	James Truss
Petitioner	Lucier, Georgia	
Defendant	Lutz, Matt	Sara Clark
Defendant	O'Neil, Nancy - Trustee	Pro Se
Defendant	Piazza, Pascal	Pascal Piazza
Defendant	Robertson, Benjamin	Nancy Foran
Other	Sifuentes, Jessica	

The following were served by U.S. Mail:

Larry A. Aber 1929 168th Ave SE Bellevue, WA 98008	Elizabeth Martin Anderson 4260 Red Fox Trail Oakwood, GA 30566-2147	James A. Angell 461 S Main St., Suite 100 Willits, CA 95490
Robert B. Barger 23442 Myrtle Point Rd. California, MD 20619	eter J. and Kristyn L. Bawol 1726 Mansfield Rd. Birmingham, MI 48009-7272	Fay Marie Benners 1965 Brenda Drive Austell, GA 30168
Donald Williams & Joyce Umali Tan c/o Donald E. Bird 4807 Spicewood Springs Rd. Bldg. 2, Suite 117 Austin, TX 78759-8444	Ralph and Ida DiSimone c/o Donald E. Bird 4807 Spicewood Springs Rd. Bldg. 2, Suite 117 Austin, TX 78759	Mark L. Blumenfeld 461 South Main St., Suite 200 Willits, CA 95490
Aaron Boteler 4605 E Joppa Road Perry Hall, MD 21128-9306	Mary Ellen Bowden 1015 Brook Arbor Drive Mansfield, TX 76063-5445	Barry B. Bridges 2117 Commonwealth Ave St. Paul, MN 55108
John Campbell 288 River Drive Tequesta, FL 33469	William B. Campbell 175 Big Hat Road Basalt, CO 81621-9778	Larry J. Canuti 12560 Eleventh Avenue Victorville, CA 92395

Raymond and Elida Canziani 18 Clorinda Avenue San Rafael, CA 94901	Carolyn and Enrique Chavez 15785 Westcott Dr. Southgate, MI 48195-3020	Viola M. Chesebrough P. O. Box 1695 Deming, NM 88031-1695
Justyna B. Clipper P. O. Box 3138 Sarasota, FL 34230	Dan Corley 7422 Bull Creek Rd. Houston, TX 77095-3310	Luke M. Cornelius 302 4th Street Atlantic Beach, FL 32233-5344
Luke M. Cornelius 320 4th Street Atlantic Beach, FL 32233-5344	Tommy R. Coy 12731 W. Paintbrush Drive Sun City West, AZ 85375	Benjamin Flint III c/o Douglass S. Davert Davert & Loe, Lawyers 110 Pine Avenue, Suite 600 Long Beach, CA 90802
Benjamin DeScala 606 E. Jacksonville Ave. Villas, NJ 08251-2919	Anton Dimitrov 15542 Walkwood Drive Houston, TX 77079	Mechele Kay Dorsey 8022 Doe Meadow Drive Austin, Texas 78749
Emil C. Dragan 2302 Nautilus CV Fort Wayne, IN 46814-8940	Dennis H. Edwards P. O. Box 1476 Simpsonville, SC 29681	Jeanette Eid 12908 Viking Drive Burnsville, MN 55337
Shirley A. Engelbart 3493 Prarie Bend Circle Marion, IA 52302	Val and Lou Episcopo 4500 East Palm Valley Blvd. Suite 108-59 Round Rock, Texas 78665-2663	Louis H. Gall c/o Paul J. Ferr 5232 W. Oklahoma Ave., Ste 100 Milwaukee, Wisconsin 53219
George Flora 7309 W. 112th Street Bloomington, MN 55438	Michele Foran 510 Grove Street Oconomowoc, WI 53066-2863	Brian D. Foster 4 Hill Road Duncannon, PA 17020
Chris Francisco 13 Nantucket Avenue Barnegat, NJ 08005	Anthony L. Fratta 8 Young St. Cortlandt Manor, NY 10567-1008	SF Investors LP c/o Stuart Friedman 8 S Acres Rd. Plattsburgh, NY 12901-3719
William B. and Ruth Frye 4659 Ipswich Street Boulder, CO 80301-4218	Sharon Gale 9838 E. Diamond Drive Chandler, AZ 85248	Janet Gargano 975 Chadwick Shores Drive Sneads Ferry, NC 28460-9213
William D. Garrett 1315 Calle Ramon Santa Fe, NM 87501	Nicholas Gatto 374 East Decker Drive Seven Hills, OH 44131	Irwin and Alois Gendzier 11501 Old St. Augustine Rd. Apt. #78 Jacksonville, FL 32258

<p>Malay and Sudakshina Ghosh 4221 Kirkland Court Ft. Worth, Texas 76109</p>	<p>Jerry Gibson 7601 Cantrell Drive Crestwood, KY 40014</p>	<p>Anne E. Gibson 127 Niles Rd. New Hartford, CT 06057-4226</p>
<p>Bonita R. Gilbert 23 Mervin Ct. Pagosa Springs, CO 81147</p>	<p>Ralph E. Gratz 1090 Island Estates Ct. Oshkosh, WI 54901</p>	<p>Judy A. Hackney 1107 South Henderson Street Stuttgart, AR 72160</p>
<p>Colleen B. Halloran 1230 Luneta Drive Del Mar, California 92014</p>	<p>Alfred S. and Adele N. Harris 3355 Bay Front Drive Baldwin, NY 11510</p>	<p>Laurence and Joyce F. Harter 106 Sakonnet Trail Pinehurst, NC 28374</p>
<p>Noel A. Hatch 19144 Superior Drive Twain Harte, CA 95383-9683</p>	<p>Roberta J. Hauck 107 Lea Wood Ct. Madison, AL 35758</p>	<p>Shirley A. Hajar 5015 Newton Street Denver, Colorado 80221-1041</p>
<p>David Ho 4406 Sweet Stone Pl Las Vegas, NV 89147</p>	<p>John Hodge 302 Willowbrook Dr. N Brunswick, NJ 08902-1259</p>	<p>Acilla Holstrom 12121 E. Clinton Scottsdale, AZ 85259</p>
<p>Herbert and Jacqueline E. Hymel 119 New Orleans Avenue Lake Arthur, LA 70549-4629</p>	<p>The Estate of William H. James Virginia James 373 Reeds Gap Rd. Northford, CT 06472</p>	<p>The Estate of William H. James c/o William S. Colwell Parrett, Porto, Parese & Colwell 2319 Whitney Ave., Suite 1D Hamden, CT 06518</p>
<p>Ronald W. Jarvi 449 East Oakridge St. Ferndale, MI 48220</p>	<p>John Jordan 2061 Russet Woods Trail Hoover, Alabama 35244</p>	<p>Wayne A. Kesler 3748 Equinox Way Dumfries, VA 22025</p>
<p>Alfred Klein 144-29 75 Ave Flushing, NY 11367</p>	<p>Richard A. Kline 8810 Leader Houston, TX 77036</p>	<p>Vernon A. Klipping 6310 Wicklow Circle East Colorado Springs, CO 80918</p>
<p>Jackie M. Knoell Scottrade Inc. Cust. FBO 1249 Cobb Pl Willits, CA 95490</p>	<p>Brian L. and Stacy H. Krahn 10770 Roosevelt Rd. Mishawaka, IN 46544-9162</p>	<p>Robert Kramer 7310 Hazelwood Avenue Indianapolis, IN 46260</p>

<p>John R. Kuhlman 554 Mason Rd. Taylor Mill, KY 41015</p>	<p>John David and Clara Lai Lam 1060 Alderbrook Ln. San Jose, CA 95129</p>	<p>Jason Lambert 4810 Fox Creek E, Apt. 182 Clarkston, MI 48346-4939</p>
<p>Herman Lambert 10565 Cedar Valley Dr Davisburg, MI 48350-1106</p>	<p>Lois Liggett 15 North Park Drive Montpelier, Vermont 05602</p>	<p>Randall and Carol Johnson Loemker 2190 Wolverton Trail Prescott, AZ 86303</p>
<p>Theodore and Dena Loukata 12619 Wildwood Drive Sun City West, AZ 85375</p>	<p>Ronald and Kathleen Lowers 709 Franklin Rd. Slippery Rock, PA 16057</p>	<p>Mary A. and Michael D. Lucks 9 Colonial Way Malvern, PA 19355-3512</p>
<p>William Luedke 1010 Moonbeam Rd. Hudson, WI 54016</p>	<p>TD Ameritrade Clearing Custodian c/o Dale Marino P. O. Box 66512 Portland, OR 97290-6512</p>	<p>Joan P. Masucci 8115 Buena Vista Dr. N Ellenton, FL 34222-4478</p>
<p>Vincent Matulaitis, Jr. 70 Moore Avenue Worcester, MA 01602-1820</p>	<p>Lewis and Nancy May 269 W. Wistaria Avenue Arcadia, CA 91107</p>	<p>James Robert McMullen 845 Barton Avenue Terre Haute, IN 47803</p>
<p>Stanley J. and Barbara L. Metro 320 Longacre Rd. Elysburg, PA 17824-7040</p>	<p>Billy R. Miles Raymond James & Assoc. Inc. 50687 Cobus Ridge Ln Granger, IN 46530-5105</p>	<p>Neil Mitchell 17 Chapel Drive Savannah, GA 31406</p>
<p>Charles Schwab & Co Inc. Cust. c/o Marcia Lynne Montag 2787 Windmill View Rd. El Cajon, CA 92020</p>	<p>Edna Long Morgan 18 Beechnut Lane Gordonsville, VA 22942</p>	<p>Richard E. Moyer 30915 NE Bell Road Sherwood, OR 97140</p>
<p>Franklin and Margaret Myers 1601 County Road 28 Crossville, AL 35962</p>	<p>Harold L. Newsom 2601 Old Union Rd. Lufkin, TX 75904</p>	<p>Edward M. and Sarah E. O'Reilly 11310 Lakeshore S Auburn, CA 95602-8024</p>
<p>Frances H. and Annie L.H. Pang 3158 Harding Ave. Honolulu, HI 96816-5840</p>	<p>Elmer D. Paul 75 Pageotte St. Acushnet, MA 02743-2344</p>	<p>Jean Peterson 12905 S.W. 108 Ct. Miami, FL 33176</p>

<p>Wiley R. Pinson, Jr. P. O. Box 85 Eddyville, KY 42038</p>	<p>Henry Pozdol 819 South Rd. Lisle, IL 60532</p>	<p>Robert Reed 865 Pleasant Avenue Malvern, Ohio 44644-9412</p>
<p>Sandra Samkavitz c/o Robert J. Reilley, Jr. Pizonka Reilley Bello & McGrory 144 East DeKalb Pike, Suite 300 King of Prussia, PA 19406</p>	<p>Dianne M. Ricks 8530 Oak Point Way Fairfax Station, VA 22039</p>	<p>George E. Ronnquist 2150 S State College Blvd. Apt. 2065 Anaheim, CA 92806</p>
<p>Charles Rose 260 Locust Grove Rd. Warfordsburg, PA 17267</p>	<p>Robert B. Rusin 354 Scott Avenue Glen Ellyn, IL 60137</p>	<p>Joan E. and Sedg J. Scammon 5857 Candover Rd. Loves Park, IL 61111</p>
<p>LaVerne Schmedeke 11 Oakridge West St. Peters, MO 63376</p>	<p>Norma J. Simpson 3830 So Willow Way Denver, CO 80237</p>	<p>Glenn R. Snow 9170 E. Walnut Grove Ch Rd South Fulton, TN 38257</p>
<p>Edy E. Soffer, MD 850 North Croft, Unit 306 Los Angeles, CA 90069</p>	<p>Calvin and Patricia Sonner 607 Bowman Mill Road Strasburg, VA 22657</p>	<p>Thomas P. Sullivan 8073 S. Vermejo Peak Littleton, CO 80127</p>
<p>Lillie Swearingen 722 CR 2775 Colmesneil, TX 75938</p>	<p>Gary D. Swenson 60 Cherry Creek Drive Libby, MT 59923</p>	<p>Elaine Thander 4417 Upton Ave. South Minneapolis, MN 55410</p>
<p>John Throckmorton 2432 Chimney Springs Dr. Marietta, GA 30062</p>	<p>Thomas Tranfaglia 760 Hobart Street Menlo Park, CA</p>	<p>Edward Trickett 91 Michael Rd. Fairmont, WV 26554</p>
<p>Lloyd and Jennie Underwood 105 N. 68th Ave West Richland, WA 99353</p>	<p>Paul Ames Waterman P. O. Box 18301 Minneapolis, MN 55418-0301</p>	<p>Whitney Watts 725 Wallingford Rd. Cheshire, CT 06410-2914</p>
<p>Cheryln J. Wedemeyer 824 Hemlock Drive Oxford, MI 48370-2717</p>	<p>Gaynell R. White 137 Oakbend Drive Lafayette, LA 70506</p>	<p>Joyce F. Witt 4015 Beech Cove Lane Vinton, VA 24179</p>

Laura Youngberg Southwest Securities, Inc. 1866 Stone Brook Ln Clovis, CA 93611	Phyllis F. Zorn 4015 Beech Cove Lane Vinton, VA 24179	Amador, Albert 7 Old Ox Road Nyack, NY 10960-2709
Ray and Arlene Winkelmann c/o Brent Devere 1411 West Ave., Suite 200 Austin, TX 78701	JC Wendeborn c/o Colton Johnson PO Box 2169 Albany, TX 76430	

The following were served by email:

Allen, Mark S.	mark@4allen.org
Andres, Timothy K.	tkandres@yahoo.com
Appleman, Michael G.	mappleman@canteyhanger.com
Bansal Usha K.	Bans030@yahoo.com
Bansal, Amit	Aba030@yahoo.com
Bennett, James F.	jbfl@aol.com
Bird, Donald E.	donaldebird@gmail.com
Chan, Jones & Kathleen	Kathleen9109@att.net
Chen, Jeannie & Alex	Alex.jassco@gmail.com
Christopher, Martin P.	Martin.christopher@navy.mil
Clark, Sara	sclark@scottdoug.com
Dennis, Herman	herman.dennis@att.net
Devere, Brent	Bdevere@1411west.com
Dick, John H.	jhdick@live.com
Eisermann, Karin U.	karineiser@aol.com
Eytcheson, Dave & Joan	dfeytc@sbcglobal.net
Fowler, Kim	kim.fowler@stephens.com
Hagan, Robert	rghagan1@gmail.com
Holland, Charles W. & Rita W.	wcholland@cox.net
Horton, Sarah H. – for Catherine J. & Don W. Hollowell	thelawllp@sbcglobal.net
Johnson, Colton	copojo@bitstreet.com

Johnson, Luke D.	sccheezhead@yahoo.com
Katzenberg, Steven N. & Barbara S.	skatzenberg@barrynealcarpets.com
Kerr, Johnnie B.	johnbkerr50@gmail.com
Kincade, Lillian Gale	beftrust@yahoo.com
Landreneau, Joseph Ray	J.Landreneau79@yahoo.com
Lipman, Michael	michael.lipman57@gmail.com
Lippert, Jerome & Pamela	j4@fuse.net
Lugibihl, Donna Jean & Lee	ldlt-mail@comcast.net
Malone, Jack Howard	captjack01@msn.com
Mathis, Philip & Francis	pjmathis@comcast.net
Milmoe, James O & Marilyn M.	marilyn@milmoe.com
Marcia Montag – Charles Schwab Customers	mmontag@cox.net
Mundt, Randolph P. & Nancy L.	rpmundt@hotmail.com
Neubauer, Arthur S.	neubaueras@aol.com
Nishimura, Akihiro	aki2@earthlink.net
O'Donnell, Matthew	mcodonnell@gmail.com
Peck, Michael D.	mdpeck@mdpecklaw.com
Peters, Leonard E.	leonard@peters-law.com
Peyton, William B. & Karen A.	sccheezhead@yahoo.com
Polivka, James J.	James.polivka@insightbb.com
Poslosky, Charles & Ann	annposlosky@yahoo.com
Rapaport, Irma	lr.rapaport@gmail.com
Schillermann, Donald R & Gloria M.	don3018@sbcglobal.net
Shelton, Ken	ken@pccllc.com
Shelton, Sherry	sherry@pccllc.com
Sinkin, Steven A.	ssinkin@sinkinlaw.com
Stephens, Inc. – Kim Fowler	kim.fowler@stephens.com
Strock, Louis & Christine	crstrock@msn.com
Trenary, James O.	jtrenary@crosstel.net
Tuss, James M. – for Joseph W. Foran & Nancy Foran	jmtruss@coxsmith.com
Wayne, Chad & Pamela	peowayne@comcast.net

Wilkerson, John A.	jackmaile@hawaii.rr.com
Wittkopp, Rudolf B.	rudiwittkopp@rogers.com
Yablon, Gilbert	gilbert@lumeni.com

/s/Glenn M. Karisch

Glenn M. Karisch