IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re: **TRIDIMENSION ENERGY, L.P., *et al.*** **Debtors** **TRIDIMENSION ENERGY, L.P.,** **Plaintiff** **v.** **VADA GROUP, L.P. AND LIBERTY RESOURCES, INC.** **Defendants**	**Case No. 10-33565-SGJ** **Chapter 11** **Jointly Administered** **Adv. Proc. No.** 10-_____

TRIDIMENSION ENERGY, L.P.'S COMPLAINT

Debtor TriDimension Energy, L.P. files this Complaint and respectfully shows as follows:

I. PARTIES

1. Plaintiff is Debtor TriDimension Energy, L.P. ("TriDimension" or "Plaintiff"), a Delaware limited partnership headquartered in Dallas, Texas.

2. Defendant Vada Group, L.P. ("Vada") is a Delaware limited partnership and may be served with process pursuant to Fed. R. Bankr. P. 7004(b) by mailing a copy of this Complaint and the Court's duly-issued Summons via U.S. first class mail, postage prepaid, to CT Corporation System, its registered agent for service, at 5615 Corporate Blvd., Suite 400B, Baton Rouge, Louisiana 70808.

3. Defendant Liberty Resources, Inc. ("Liberty") is a Louisiana corporation and may be served with process pursuant to Fed. R. Bankr. P. 7004(b) by mailing a copy of this Complaint and the Court's duly-issued Summons via U.S. first class mail, postage prepaid, to James L. Moore, its registered agent for service, at 1090 Cinclare Drive, Port Allen, Louisiana 70767.

II. JURISDICTION AND VENUE

4. On May 21, 2010, Plaintiff and seven of its affiliated entities (collectively, the "Debtors")[1] filed voluntary petitions for relief under chapter 11 of the United States Bankruptcy Code, 11 U.S.C. § 101, *et seq.* (the "Bankruptcy Code"), thereby initiating the above-captioned bankruptcy cases with this Court (collectively, the "Bankruptcy Cases"). Pursuant to sections 1107 and 1108 of the Bankruptcy Code, the Debtors are operating and managing their businesses and assets as debtors in possession.

5. This Court has subject matter jurisdiction over the Bankruptcy Cases and this adversary proceeding pursuant to 28 U.S.C. §§ 157 and 1334. The Court has jurisdiction to enter a declaratory judgment pursuant to 28 U.S.C. § 2201(a).

6. This adversary proceeding is initiated under Rule 7001(1), (7), and (9) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and the relief requested herein may be ordered pursuant to, *inter alia,* Bankruptcy Rule 7065 and 11 U.S.C. §§ 105(a), 362, 502, 542, 544, 547, 548, 549, and 550.

7. This adversary proceeding constitutes a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Should the Court determine that any aspect of the adversary proceeding is non-core

[1] Debtors include TriDimension, TDE Property Holdings, LP, Axis E&P, LP, Axis Onshore, LP, Axis Marketing, LP, Ram Drilling, LP, TDE Subsidiary GP LLC, and TDE Operating GP, LLC.

in nature, then pursuant to 28 U.S.C. § 157(c)(2), TriDimension hereby consents to the Court's hearing and determination of such non-core matters and to the entry of final judgment thereon.

8. Venue is proper in this Court under 28 U.S.C. § 1409(a).

III. FACTUAL BACKGROUND

9. TriDimension is an oil and gas company that redevelops oil and gas fields through restoring inactive wells, re-entering plugged and abandoned wells, and drilling new wells. It is a full-service company with operations in Texas, Louisiana, and Mississippi.

10. On or about September 5, 2007, TriDimension, then known as Ram Oil & Gas, LLC, entered into a Purchase and Participation Agreement (the "Participation Agreement") with Vada. *See* Ex. A, attached hereto without exhibits. The Participation Agreement covers listed oil and gas leases, assets, and prospects in Louisiana and provides for, among other things, the joint development of prospects in certain designated areas. Through the Participation Agreement, Vada transferred partial ownership in certain leases, easements, and wells in the Livonia Field in Pointe Coupee Parish to TriDimension. *See Id.* at 1 – 2. Vada also agreed to offer TriDimension the right to participate in the exploration and development of designated prospects described in the Participation Agreement. *See Id.* at 2.

11. In exchange and subject to the 20 well requirement described below, TriDimension agreed to pay Vada $6,000,000 (the "Purchase Price"), of which TriDimension delivered $750,000 upon execution of the Participation Agreement. *See Id.* at 4. Because of other payments for drilling that TriDimension made before the execution of the Participation Agreement, TriDimension and Vada agreed that as of the Participation Agreement's execution date, and after giving effect to the $750,000 payment, the remaining Purchase Price was only $3,961,427.69 (the "Balance"). *See Id.* at 5.

12. So long as TriDimension timely and properly satisfied its obligations under the contract (which it did), the Participation Agreement provided specified, limited methods in Section I.B.1. for payment of the Balance. The primary method for reducing the Balance involved TriDimension paying a disproportionate share of Drilling Costs and Completion Costs[2] for wells within two groups of prospects – one defined and labeled as the "Identified Prospects," and the other to be identified within a designated area originated by Vada and called the "Vada Option Prospects." *See Id.* at 4 – 6 (I.D.1.) and (I.B.1.).

13. More specifically, the Participation Agreement provided that TriDimension's share of agreed upon original Authorization for Expenditure ("AFE") Drilling Costs and Completion Costs for wells in which it opted to participate in these two groups of prospects (its "Allocable Share") would be calculated by multiplying TriDimension's working interest percentage in each proposed well or prospect by 1 and 1/3. *See Id.* at 2, 4 (I.B.1.), and 17 (II. I.). The portion of the Allocable Share that exceeded TriDimension's working interest percentage (the "Participation Premium") would then be applied toward the Balance until the Balance was paid in full. *See Id.* at 4 (I.B.1.).

14. To be entitled to payment of the Balance in full, however, Vada had to offer to TriDimension participations in twenty (20) qualifying wells and commence the drilling or reentry of such wells by March 1, 2010 (the "20 Well Requirement"). *See Id.* at 5 and 8 (I.C.) and (I.D.2). Although TriDimension had no obligation to participate in these wells, Vada had to

[2] Drilling Costs are defined in the Participation Agreement as "the direct and reasonable costs, charges, expenses and liabilities incurred or accrued with respect to the drilling or reentering to casing point of any given well, and all operations on such well of any nature from staking the location and preparing the same, through its drilling, reentry, testing and evaluation, down to the actual commencement of running a string of production casing or the conduct of operations to abandon the well as a dry hole." Ex. A at 3.

Completion Costs are defined as "the direct and reasonable costs, charges, expenses and liabilities incurred or accrued with respect to the operation or attempt to complete, run production casing, equip, connect (to the tanks and/or delivery point(s)) and commence the production of a given well." *Id.* at 2 - 3.

timely offer participations in the 20 qualifying wells to TriDimension and commence the drilling or reentry of such wells by March 1, 2010 or the unpaid Balance would be excused and forgiven. *See Id.* at 8 (I.D.2).

15. TriDimension and Vada, through the explicit terms of the Participation Agreement, expressly addressed the consequences should Vada fail to offer and commence drilling or reentry of 20 qualifying wells within the designated timeframe. The Participation Agreement reads, "if, by March 1, 2010, Vada has not made available to [TriDimension] participations under the provisions of this Agreement in a total of twenty (20) wells (other than the wells which comprise the Group One Assets and are not the subject of an Identified Prospect) the drilling or reentry of which are commenced in good faith as a part of and within the Identified Prospects and/or Vada Option Prospects, without regard for the actual number of wells in which [TriDimension] has actually participated, then [TriDimension] shall be excused from any further payment of the Balance, except for the payment of its Allocable Shares of Drilling Costs and Completion Costs actually incurred prior to the indicated date with respect to prospects in which it has participated." *Id.*

16. The full Balance never became due and owing because Vada failed to satisfy the 20 Well Requirement. Because of Vada's failure to make available 20 qualifying wells by the stated date, the payment of the Balance was expressly excused. *See Id.* As for its Allocable Share of Drilling Costs and Completion costs for those wells already drilled, TriDimension has paid these costs in full.

17. While no Balance is due or owing, even if it were, Vada could not withhold production revenues from TriDimension to offset the Balance. Nevertheless, Vada, through and

in conspiracy with its affiliate Liberty,[3] have ignored the express terms of the Participation Agreement and unlawfully misappropriated production revenues from wells jointly owned by TriDimension and Vada and operated by Liberty, wrongfully applying such amounts against the Balance. TriDimension has learned that starting as early as March 2009, Liberty, as contract operator for these wells, and Vada, as a partial owner of the wells, began diverting revenues from TriDimension's share of production to Vada. Neither Vada nor Liberty has any right to hold TriDimension's share of production or offset the revenues from such production against amounts allegedly owed by TriDimension to Vada. As discussed above, with minor exceptions not relevant here, the Participation Agreement expressly provides that Vada's **only** means for collecting the Balance from TriDimension is through crediting to the Balance the Participation Premiums for the wells in which TriDimension participated. Vada could only resort to other remedies if (1) TriDimension breached the Participation Agreement, (2) Vada provided written notice of such alleged breach to TriDimension, and (3) TriDimension failed to cure the breach within 30 days.[4] *See Id.* at 5 – 6 and 32 (I.D.1.) and (V.F.). Vada has never provided written notice to TriDimension of any alleged breaches.

18. Therefore, at no time has Liberty or Vada possessed the right to appropriate for themselves any portion of the production revenues earned by TriDimension. Their seizure of these revenues violates both the express terms of the Participation Agreement, and the terms of the Joint Operating Agreements (collectively, the "JOAs") that govern development in the Identified Prospects and Vada Option Prospects. *See* Exs. B and C, attached hereto. These JOAs,

[3] Although Vada is not a party to the Participation Agreement, the Participation Agreement describes Liberty as "an affiliate of Vada." Ex. A at 13 (II.D.).

[4] These remedies, available in only limited situations to Vada that are not present here, are never available to Liberty.

referred to as the "Livonia JOA" and the "Master JOA," respectively, and to which Liberty as operator is subject, provide that TriDimension and Vada are entitled to only that portion of the oil and gas produced that corresponds to their proportionate working interest ownership. *See* Ex. B at 3 (III.B.) and Ex. C at 3 (III.B.). By willfully distributing TriDimension's production revenues to its affiliate Vada, with whom, on information and belief, it shares a common pecuniary interest, Liberty has violated its obligations under the Livonia JOA and the Master JOA, just as Vada has done under the Participation Agreement.

19. As of April 2010, the last time period for which Liberty provided TriDimension with an accounting, Liberty and Vada had unlawfully seized at least $888,511.04 of TriDimension's revenues. By depriving TriDimension of this income, Defendants interfered with, hindered, and prevented TriDimension's efforts to meet payroll, pay vendors, remain solvent, maintain a viable business and/or complete an orderly sale of its assets without resorting to bankruptcy.

20. One of the primary factors necessitating Debtors' bankruptcy was insufficient cash on hand. Defendants' purposeful and unlawful misappropriation of TriDimension's income compounded Debtors' liquidity challenges, of which Vada and Liberty were aware, directly and substantially contributing to the failure of TriDimension's business and the need for TriDimension and its affiliated entities to enter bankruptcy, and saddling these Debtors with the panoply of associated costs and expenses that have resulted and will result from bankruptcy.

21. TriDimension has twice sent letters to Vada, and once to Liberty, demanding that Defendants cease their unlawful activity. *See* Exs. D and E, attached hereto. Vada and Liberty have ignored these letters, and to date, Defendants continue to misdirect and seize for their own profit the revenues rightfully and lawfully belonging to TriDimension.

22. To manage its operations during the bankruptcy process, TriDimension entered into a DIP facility loan agreement (the "DIP Agreement") with its existing lenders. The DIP Agreement provides for a maximum facility of $6,750,000. The more income TriDimension receives from its production revenues, the less it needs to borrow under this facility, thus reducing the amount of interest which must be paid. Moreover, should TriDimension reach its borrowing cap and be unable to maintain operations because a key revenue source has been misappropriated by Vada and Liberty, TriDimension's restructuring and reorganization efforts could be harmed.

23. In sum, Vada and Liberty, acting in concert and for their own unlawful enrichment, have breached their duties to TriDimension, causing severe monetary injuries to TriDimension and irreparably harming the Debtors and their restructuring and reorganization efforts.

IV. COUNT I – VADA'S BREACH OF THE PARTICIPATION AGREEMENT

24. TriDimension incorporates the preceding paragraphs as if fully set forth herein.

25. Section I.D.1. of the Participation Agreement states that where, as here, Vada has provided no written notice of any alleged contract violations by TriDimension, "Vada's only means of recovering the Balance due as of any point in time prior to the Accrual Date shall be the application and crediting of those amounts referred to in subsection B.1." Ex. A at 5 – 6 (I.D.1.). Subsection B.1., in pertinent part, provides that TriDimension will pay the Balance through Participation Premiums for those wells in the Identified Prospects and Vada Option Prospects in which it opts to participate. In other words, Vada cannot reduce the Balance by appropriating TriDimension's production revenues.

26. Additionally, Section I.D.2. of the Participation Agreement provides that "if, by March 1, 2010, Vada has not made available to [TriDimension] participations under the

provisions of this Agreement in a total of twenty (20) wells (other than the wells which comprise the Group One Assets and are not the subject of an Identified Prospect) the drilling or reentry of which are commenced in good faith as part of and within the Identified Prospects and/or Vada Option Prospects, without regard for the actual number of wells in which [TriDimension] has actually participated, then [TriDimension] shall be excused from any further payment of the Balance, except for the payment of its Allocable Shares of Drilling Costs and Completion Costs actually incurred prior to the indicated date with respect to prospects in which it has participated." Ex. A at 8. Stated simpler, if Vada failed to drill and offer to TriDimension 20 qualifying wells by March 1, 2010, the payment of the Balance would be excused, and TriDimension would only be responsible for its Allocable Share, if any, of Drilling Costs and Completion Costs for the wells in which TriDimension had participated.

27. Vada failed to satisfy the 20 Well Requirement set forth in Section I.D.2., excusing any further obligation by TriDimension to pay the Balance. And because TriDimension paid in full its Allocable Share of the Drilling Costs and Completion Costs for the wells in which it participated, Vada has no right to further payments from TriDimension.

28. Nevertheless, in clear contravention of Sections I.D.2. and I.D.1., Vada, with the agreement and assistance of its affiliate Liberty, began siphoning TriDimension's production revenues to itself starting in March 2009. Despite the Participation Agreement's unmistakable proscription of such behavior, Vada continues to unlawfully insist that TriDimension owes a Balance and that Vada and Liberty are entitled to convert TriDimension's production revenues as satisfaction for that Balance.

29. Vada's ongoing, unlawful actions are directly contrary to the express terms of the Participation Agreement. Pre-petition, these wrongful actions deprived TriDimension of crucial

cash flow needed to pay its debts as they became due, contributed to the failure of TriDimension's business, and prevented TriDimension from arranging a structured sale of its assets without resorting to entry of bankruptcy protection. Vada's purposeful contractual breaches contributed to the need for bankruptcy, thus causing TriDimension to incur the expenses, costs, and impositions of the bankruptcy process, including, but not limited to, the need to enter the DIP Agreement, borrow money under the DIP facility, and pay the interest associated with that borrowing.

30. Additionally, Vada's unlawful misappropriations continue to cause TriDimension's damages, including threatening the entirety of TriDimension's restructuring and reorganization efforts.

31. Therefore, TriDimension seeks an order requiring Vada to cease its detrimental activity and all damages caused by, and to which TriDimension is entitled as a result of, Vada's contractual breaches. TriDimension also seeks all other actual damages, attorneys' fees, interest, costs, and any other relief to which it is entitled.

V. COUNT II – LIBERTY'S BREACH OF THE LIVONIA AND MASTER JOAS

32. TriDimension incorporates the preceding paragraphs as if fully set forth herein.

33. Attached as Exhibits F and H to the Participation Agreement are the Livonia JOA and the Master JOA, respectively. The Participation Agreement provides that these JOAs will govern any well drilled within the Identified Prospects or Vada Option Prospects.

34. The Livonia JOA and Master JOA prescribe specific rights and responsibilities for TriDimension and Vada, as well as for Liberty, the contract operator. TriDimension has faithfully fulfilled its obligations under the JOAs. Liberty, however, has not. Article III.B. of the Livonia JOA and Master JOA provides that TriDimension and Vada are each entitled to their own oil and gas production in proportion to their respective ownership interests. Moreover,

Article VI.C., entitled "Purchase/Sale of Production," authorizes Liberty, as contract operator, to market and sell in good faith the oil and gas produced from the wells covered by the JOAs. It specifically disallows Liberty to "derive any benefit from such sale of product . . . which is not shared pro rata with the Non-Operators," which includes TriDimension. Ex. B at 11 and Ex. C at 11.

35. Yet, despite contractual obligations to disperse revenues to TriDimension and Vada in strict accordance with their ownership percentages, Liberty, in a concerted and coordinated scheme with its affiliate Vada, has since March 2009 willfully and intentionally diverted all revenues, including TriDimension's, to Vada. These unlawful actions have benefitted Liberty and Vada at the expense of TriDimension. As stated above, by depriving TriDimension of crucial income to which it was entitled, Liberty, along with Vada, facilitated TriDimension's liquidity troubles and contributed to the failure of TriDimension's business, compelling the need for bankruptcy with its related costs, expenses, and burdens, and threatening the viability of the restructuring and reorganization process.

36. As a result, TriDimension seeks its actual damages, including payment in full of all improperly diverted production revenues. TriDimension further seeks all other damages, expenses, and costs incurred as a result of the bankruptcy process made necessary by Defendants' unlawful and bad faith actions. Because Liberty's actions were and remain in clear contravention of its contractual duties, TriDimension seeks injunctive relief, attorneys' fees, interest, costs, and any other relief to which it is entitled.

VI. COUNT III – CONVERSION OF PRODUCTION REVENUES BY VADA AND LIBERTY

37. TriDimension incorporates the preceding paragraphs as if fully set forth herein.

38. Under the Participation Agreement and the Livonia JOA and Master JOA, TriDimension has the ownership right to its working interest share of the oil and gas produced from the lands it jointly develops with Vada, along with the revenues generated by the sale of these resources. By the terms of the Livonia JOA and Master JOA, Liberty is obligated to direct the proceeds from the sale of TriDimension's produced mineral resources to TriDimension.

39. Instead, without seeking or obtaining TriDimension's consent or approval, Liberty, in conjunction with its affiliate Vada, willfully misappropriated TriDimension's proportionate share of the proceeds generated from the sale of the oil and gas reserves jointly developed by TriDimension and Vada.

40. This theft has injured TriDimension, depriving it of a key income source and forcing it to operate its other oil and gas ventures without sufficient cash and liquidity, contributing to TriDimension's filing for bankruptcy.

41. As a result, TriDimension seeks its actual damages, exemplary damages, interest, costs, and any other relief to which it is entitled.

VII. COUNT IV (IN THE ALTERNATIVE ONLY) - VADA'S UNJUST ENRICHMENT

42. TriDimension incorporates the preceding paragraphs as if fully set forth herein.

43. TriDimension is the proper and lawful owner of its working interest percentage of the oil and gas produced from the wells in which it participated. The revenues generated from the sale of TriDimension's oil and gas belong in equity and good conscience to TriDimension under the Livonia JOA and Master JOA and the Participation Agreement. Vada, however, possesses and is being unjustly enriched by these revenues, to the impoverishment of TriDimension, the rightful owner. There is no justification in law or equity for Vada's enrichment or TriDimension's impoverishment.

44. Therefore, in the alternative only, TriDimension, having no other remedy available at law, seeks actual damages, or in the alternative, disgorgement, plus interest and costs. TriDimension further seeks exemplary damages and any other relief, in equity or at law, to which it is entitled.

VIII. COUNT V – LIBERTY'S BREACH OF FIDUCIARY DUTIES TO TRIDIMENSION

45. TriDimension incorporates the preceding paragraphs as if fully set forth herein.

46. Liberty, as the operator, mandatary, and agent to TriDimension under the Livonia JOA, Master JOA, and Louisiana law for purposes of selling TriDimension's oil and gas productions and paying TriDimension the revenues from those sales, owes fiduciary duties to TriDimension. These include duties of loyalty, of utmost good faith, and of refraining from self-dealing, among others.

47. Liberty breached and violated its fiduciary duties to TriDimension by, among other things, misappropriating TriDimension's production revenues and diverting those revenues to Liberty's affiliate Vada. These acts, which inured to the benefit of Liberty and Vada, injured TriDimension by, among other things, depriving it of critical income needed to maintain its oil and gas operations and avoid bankruptcy.

48. As a result, TriDimension seeks its actual damages, or in the alternative, disgorgement, plus an accounting, interest, and costs. TriDimension further seeks exemplary damages and all other relief, in equity or at law, to which it is entitled.

IX. COUNT VI – CONSPIRACY TO BREACH FIDUCIARY DUTIES AND CONVERT PRODUCTION BY VADA AND LIBERTY

49. TriDimension incorporates the preceding paragraphs as if fully set forth herein.

50. Defendants Vada and Liberty intentionally and willfully combined together to unlawfully breach fiduciary duties to TriDimension and convert TriDimension's oil and gas production revenues.

51. Vada and Liberty agreed on the object and purpose of the conspiracy, entering into the conspiracy with the intent to, among other things, deprive TriDimension of its personal property for their own benefit. In furtherance of the conspiracy, Liberty, acting in concert with Vada, breached its fiduciary duties to TriDimension by, among other things, unlawfully diverting TriDimension's production revenues, and both Liberty and Vada unlawfully converted the production revenues belonging to TriDimension for their own benefit. These actions proximately caused TriDimension's loss of revenues, which were needed to pay its debts and maintain its oil and gas operations without resorting to bankruptcy.

52. For their unlawful actions, Vada and Liberty are jointly and severally liable to TriDimension for its actual damages, interest, and costs. TriDimension further seeks exemplary damages and any other relief, in equity or at law, to which it is entitled.

X. COUNT VII – IMPOSITION OF CONSTRUCTIVE TRUST AGAINST VADA

53. TriDimension incorporates the preceding paragraphs as if fully set forth herein.

54. Liberty, as the operator, mandatary, and agent to TriDimension under the Livonia JOA, Master JOA, and Louisiana law for purposes of selling TriDimension's oil and gas productions and paying TriDimension the revenues from those sales, owes fiduciary duties to TriDimension. These include duties of loyalty, of utmost good faith, and of refraining from self-dealing, among others.

55. Liberty intentionally violated its fiduciary duties to TriDimension by, among other things, misappropriating TriDimension's production revenues and diverting those revenues to Liberty's affiliate Vada. Liberty diverted TriDimension's production revenues with actual

intent to hinder, delay, or defraud TriDimension. Vada wrongfully took assignment of TriDimension's production revenues to TriDimension's detriment.

56. Vada has been unjustly enriched by its receipt of TriDimension's production revenues. As a result, TriDimension requests that this Court immediately impose a constructive trust for the benefit of TriDimension on all of TriDimension's production revenues previously transferred by Liberty to Vada.

XI. COUNT VIII – VIOLATION OF THE AUTOMATIC STAY

57. TriDimension incorporates the preceding paragraphs as if fully set forth herein.

58. Liberty and/or Vada are in possession of proceeds of oil and gas production in the amount of at least $888,511.04 to which TriDimension is entitled pursuant to the terms of the Livonia JOA and Master JOA (collectively, the "Production Proceeds"). In addition, Liberty and Vada continue to divert and withhold from TriDimension its Production Proceeds.

59. The Production Proceeds are property of TriDimension's estate. *See, e.g.,* Ex. B at 3 (III.B) and Ex. C at 3 (III.B) (stating that the parties shall "own all production of oil and gas from the Contract Area" in the proportions set forth in the JOA) (emphasis added). Nevertheless, despite numerous requests, Liberty and Vada have refused to turn over the Production Proceeds to TriDimension in violation of both the Participation Agreement and the JOAs and, upon information and belief, will continue to wrongly withhold further Production Proceeds.

60. Liberty's and Vada's unlawful acts constitute willful and bad faith violations of the automatic stay as they are, among other things, actions to "obtain possession of property of the estate," "exercise control over property of the estate," and/or "collect, assess or recover a claim against the debtor that arose before the commencement of the case" pursuant to Bankruptcy Code § 362(a).

61. As a result, TriDimension seeks actual and punitive damages, attorneys' fees, interest, costs, and sanctions against Vada and Liberty as a result of their willful violations of the automatic stay.

XII. COUNT IX – TURNOVER OF PROPERTY OF THE ESTATE PURSUANT TO BANKRUPTCY CODE § 542

62. TriDimension incorporates the preceding paragraphs as if fully set forth herein.

63. Liberty and/or Vada are in possession of Production Proceeds in the amount of at least $888,511.04 to which TriDimension is entitled pursuant to the terms of the Livonia JOA and Master JOA.

64. The Production Proceeds are property of TriDimension's estate. *See, e.g.,* Ex. B at 3 (III.B) and Ex. C at 3 (III.B) (stating that the parties shall "own all production of oil and gas from the Contract Area" in the proportions set forth in the JOA) (emphasis added).

65. Accordingly, TriDimension is entitled to entry of an order requiring Vada and Liberty to turn over the Production Proceeds to TriDimension's estate.

XIII. COUNT X – AVOIDANCE OF FRAUDULENT TRANSFERS PURSUANT TO BANKRUPTCY CODE § 548

66. TriDimension incorporates the preceding paragraphs as if fully set forth herein.

67. On or within two (2) years before the Petition Date, Liberty transferred a portion or portions of TriDimension's share of Production Proceeds under the Livonia JOA and Master JOA to Vada and, upon information and belief, Vada applied and/or set off such amounts against the Balance allegedly owed by TriDimension (collectively, the "Fraudulent Transfers").

68. The Fraudulent Transfers were transfers of interests in property of TriDimension and were made to or for the benefit of Vada. Vada was not entitled to apply or set off the Production Proceeds against the Balance.

69. TriDimension received less than reasonably equivalent value in exchange for the Fraudulent Transfers. TriDimension was insolvent on the date that such Fraudulent Transfers were made or became insolvent as a result of such Fraudulent Transfers.

70. As a result, TriDimension is entitled pursuant to Bankruptcy Code § 548 to an order avoiding the Fraudulent Transfers and to all other related relief that is necessary and proper.

XIV. COUNT XI – AVOIDANCE OF FRAUDULENT TRANSFERS PURSUANT TO BANKRUPTCY CODE § 544 AND LOUISIANA LAW

71. TriDimension incorporates the preceding paragraphs as if fully set forth herein.

72. On or within three (3) years before the Petition Date, Liberty and Vada made the Fraudulent Transfers and Vada received or was the beneficiary of those Fraudulent Transfers.

73. The Fraudulent Transfers were transfers of interests in property of TriDimension.

74. At all relevant times, there were and are one or more creditors who held or hold a claim or claims against TriDimension. Each of those creditors hold unsecured claims against TriDimension that are allowable under Bankruptcy Code § 502, or are not so allowable only on account of Bankruptcy Code § 502(e).

75. The Fraudulent Transfers caused or increased TriDimension's insolvency.

76. As a result, TriDimension is entitled pursuant to Bankruptcy Code § 544 and La. Civ. Code Ann. Art. 2036 to an order avoiding the Fraudulent Transfers and to all other related relief that is necessary and proper.

XV. COUNT XII – AVOIDANCE OF PREFERENTIAL TRANSFERS PURSUANT TO BANKRUPTCY CODE § 547 (IN THE ALTERNATIVE ONLY)

77. TriDimension incorporates the preceding paragraphs as if fully set forth herein.

78. On or within 90 days before the Petition Date, Liberty transferred a portion or portions of TriDimension's share of Production Proceeds under the Livonia JOA and Master

JOA to Vada and, upon information and belief, Vada set off and/or applied such amounts against the Balance allegedly owed by TriDimension (collectively, the "Preferential Transfers").

79. The Preferential Transfers were transfers of interests in property of TriDimension and were made to or for the benefit of Vada. The Preferential Transfers were made for or on account of an alleged antecedent debt (which is disputed by TriDimension) allegedly owed by TriDimension before the Preferential Transfers were made.

80. The Preferential Transfers enabled Vada to receive more than it would receive if (i) the Bankruptcy Case was a case under chapter 7 of the United States Bankruptcy Code; (ii) the Preferential Transfers had not been made; and (iii) Vada received payment of such alleged debt to the extent provided by the provisions of the Bankruptcy Code.

81. As a result, TriDimension is entitled pursuant to Bankruptcy Code § 547 to an order avoiding the Preferential Transfers and to all other related relief that is necessary and proper.

XVI. COUNT XIII – AVOIDANCE OF POST-PETITION TRANSFERS PURSUANT TO BANKRUPTCY CODE § 549(a)

82. TriDimension incorporates the preceding paragraphs as if fully set forth herein.

83. Upon information and belief, since the Petition Date, Liberty has transferred a portion or portions of TriDimension's share of Production Proceeds under the Livonia JOA and Master JOA to Vada (collectively, the "Post-Petition Transfers").

84. The Post-Petition Transfers involved property of TriDimension's estate. *See, e.g.*, Ex. B at 3 (III.B) and Ex. C at 3 (III.B) (stating that the parties shall "own all production of oil and gas from the Contract Area" in the proportions set forth in the JOA) (emphasis added).

85. The Post-Petition Transfers occurred after the commencement of the Bankruptcy Cases and were not authorized by the Bankruptcy Code or this Court.

86. As a result, TriDimension is entitled pursuant to Bankruptcy Code § 549(a) to an order avoiding the Post-Petition Transfers and to all other related relief that is necessary and proper.

XVII. COUNT XIV – RECOVERY OF POST-PETITION TRANSFERS FROM VADA PURSUANT TO BANKRUPTCY CODE § 550(a)

87. TriDimension incorporates the preceding paragraphs as if fully set forth herein.

88. As set forth above, the Preferential Transfers, Fraudulent Transfers, and Post-Petition Transfers are avoidable pursuant to Bankruptcy Code §§ 547, 548, and 549(a), respectively. The Preferential Transfers, Fraudulent Transfers, and Post-Petition Transfers were unlawfully made to Vada for Vada's benefit.

89. TriDimension is entitled to recover from Vada the Production Proceeds (or the value thereof) transferred pursuant to the Preferential Transfers, Fraudulent Transfers, and Post-Petition Transfers, which will benefit TriDimension's estate.

90. Therefore, TriDimension seeks an order and judgment against Vada for recovery of the Production Proceeds (or the value of the Production Proceeds) transferred to Vada pursuant to the Preferential Transfers, Fraudulent Transfers, and Post-Petition Transfers, the costs of this Adversary Proceeding, and all other related relief that is necessary and proper.

XVIII. COUNT XV – AVOIDANCE OF FRAUDULENT TRANSFERS PURSUANT TO BANKRUPTCY CODE § 548 (PREFERENTIAL RIGHT TO PURCHASE)

91. TriDimension incorporates the preceding paragraphs as if fully set forth herein.

92. Each of the JOAs contain a provision providing Vada and/or Liberty with a preferential right to purchase TriDimension's interests under the JOAs and rights and interests in the Contract Area (as defined in the JOAs) in the event TriDimension proposes to sell such interests to a third party (collectively, the "Purchase Rights"). *See* Ex. B at 20 (VIII.F.) and Ex. C at 20 (VIII.F.).

93. Declarations of Joint Operating Agreements with respect to each of the JOAs were not recorded in the mortgage records for the Parish of Point Coupe, Louisiana until May 12, 2010, which is within two (2) years before the Petition Date. As a result, the Purchase Rights were not effective as to third parties, if at all, until May 12, 2010 at the earliest.

94. The Purchase Rights were transfers of interests in property of TriDimension.

95. TriDimension received less than reasonably equivalent value in exchange for the Purchase Rights. TriDimension was insolvent on the date that the Declarations of Joint Operating Agreements were recorded in the mortgage records for the Parish of Point Coupe, Louisiana.

96. As a result, TriDimension is entitled pursuant to Bankruptcy Code § 548 to an order avoiding the Purchase Rights and to all other related relief that is necessary and proper.

XIX. COUNT XVI – AVOIDANCE OF PREFERENTIAL TRANSFERS PURSUANT TO BANKRUPTCY CODE § 547 (PREFERENTIAL RIGHT TO PURCHASE) (IN THE ALTERNATIVE ONLY)

97. TriDimension incorporates the preceding paragraphs as if fully set forth herein.

98. Within 90 days before the Petition Date, Declarations of Joint Operating Agreements with respect to each of the JOAs were recorded in the mortgage records for the Parish of Point Coupe, Louisiana. As a result, the Purchase Rights were not effective as to third parties, if at all, until within 90 days before the Petition Date.

99. The Purchase Rights were transfers of interests in property of TriDimension. The transfers of the Purchase Rights were made for or on account of an alleged antecedent debt allegedly owed by TriDimension before such transfers were made.

100. The transfers of the Purchase Rights enabled Vada to receive more than it would receive if (i) the Bankruptcy Case was a case under chapter 7 of the United States Bankruptcy Code; (ii) the transfers had not been made; and (iii) Vada received payment of such alleged antecedent debt to the extent provided by the provisions of the Bankruptcy Code.

101. As a result, TriDimension is entitled pursuant to Bankruptcy Code § 547 to an order avoiding the Purchase Rights and to all other related relief that is necessary and proper.

XX. COUNT XVII – DISALLOWANCE OF CLAIMS ASSERTED BY VADA PURSUANT TO BANKRUPTCY CODE § 502(d)

102. TriDimension incorporates the preceding paragraphs as if fully set forth herein.

103. The Preferential Transfers, Fraudulent Transfers, and Post-Petition Transfers are avoidable pursuant to Bankruptcy Code §§ 547, 548, and 549(a), respectively.

104. The Preferential Transfers, Fraudulent Transfers, and Post-Petition Transfers were unlawfully made to Vada for Vada's benefit. As a result, TriDimension is entitled pursuant to Bankruptcy Code §550(a) to recover from Vada the Production Proceeds (or the value of the Production Proceeds) transferred to Vada pursuant to the Preferential Transfers, Fraudulent Transfers, and Post-Petition Transfers.

105. Accordingly, TriDimension is entitled to an order disallowing any claim of Vada pursuant to Bankruptcy Code § 502(d), unless Vada pays the amounts recoverable pursuant to Bankruptcy Code §550(a).

XXI. COUNT XVIII – AUDIT OF LIBERTY'S ACCOUNTS AND RECORDS

106. TriDimension incorporates the preceding paragraphs as if fully set forth herein.

107. Section 5 of Exhibit C to the Livonia and Master JOAs provides that TriDimension, as a non-operator, has the "right to audit Operator's accounts and records relating to the Joint Account for any calendar year within the twenty-four (24) month period following the end of such calendar year." Ex. B – Ex. C at 2 and Ex. C – Ex. C at 2.

108. TriDimension requested an audit in its July 1, 2010 letter to Liberty and Vada, but Defendants have not agreed to one. Liberty has not permitted TriDimension an audit in at least

the last twelve months, entitling TriDimension to one under the express terms of the Livonia JOA and Master JOA.

XXII. COUNT XIX – REQUEST FOR DECLARATORY JUDGMENT

109. TriDimension incorporates the preceding paragraphs as if fully set forth herein.

110. While the evidence clearly establishes otherwise, Defendants assert that a substantial dispute and controversy exists between TriDimension and Defendants as to whether a Balance is still due and owing under the Participation Agreement and whether Vada and Liberty are entitled, under the Participation Agreement, Livonia JOA, and Master JOA, to appropriate for their own benefit TriDimension's revenues from its producing oil and gas wells in the Identified Prospects and Vada Option Prospects. Controversies also exist between the parties as to whether the automatic stay in 11 U.S.C. § 362 prevents Defendants from seizing, for their own benefit, the production and corresponding revenues belonging to Debtor TriDimension and whether Vada has valid setoff or recoupment rights. *See* Vada's Motion for Leave to Recoup (Docket No. 198).

111. As a result of these controversies, and in order that the parties may know and act upon their rights, TriDimension seeks the following declarations from the Court:

a. Vada failed to satisfy the 20 Well Requirement by March 1, 2010, as set forth in Section I.D.2. of the Participation Agreement;

b. Because Vada failed to satisfy the 20 Well Requirement, payment of the Balance is excused under Section I.D.2. as of March 1, 2010;

c. At no time, including the present time, has Vada or Liberty had the right under either the Participation Agreement or the Livonia JOA or Master JOA to divert or appropriate from TriDimension TriDimension's proportionate share of the production revenues from the subject wells;

d. TriDimension has paid in full its Allocable Share of the Drilling Costs and Completion Costs for the wells in the Identified Prospects and Vada Option Prospects in which it participated;

e. Vada's and Liberty's appropriation of production revenues belonging to Debtor TriDimension violates the automatic stay provision of 11 U.S.C. § 362;

f. Vada and Liberty are not entitled to set off or recoup any amounts allegedly owed by TriDimension to Vada pursuant to the Participation Agreement against amounts owed by Liberty to TriDimension pursuant to the Livonia JOA and Master JOA; and

g. Section 5 of Exhibit C to the Livonia JOA and Master JOA entitles TriDimension to audit Liberty's accounts and records relating to Liberty's operation of the wells and properties governed by these JOAs for the 2008, 2009, and 2010 calendar years.

112. These declarations will define and clarify the legal rights and relations of the parties, substantially informing and affecting their future actions.

113. TriDimension also seeks its attorneys' fees and costs related to the pursuit of this declaratory judgment, as well as all other relief, in equity or at law, to which it is entitled.

XXIII. COUNT XX – REQUEST FOR PRELIMINARY INJUNCTION

114. TriDimension incorporates the preceding paragraphs as if fully set forth herein.

115. Pursuant to Bankruptcy Rule 7065 and 11 U.S.C. § 105, TriDimension seeks an injunction restraining Defendants, along with their officers, agents, servants, employees, attorneys, and persons who are in active concert with them, from withholding from TriDimension its production revenues for the wells operated by Liberty.

116. For the reasons stated above, TriDimension is substantially likely to prevail on the merits of its claims. Vada and Liberty should, therefore, be enjoined from wrongly withholding this Debtor's Production Proceeds, which clearly constitute property of the estate. Defendants'

wrongful actions are harming TriDimension. Failure to grant immediate injunctive relief may likely result in immediate and irreparable harm by depriving TriDimension and the bankruptcy estate of critical cash flow and causing TriDimension to have to borrow additional funds under the DIP Agreement. Should TriDimension's restructuring and reorganization process be unnecessarily disrupted, damages could not redress the debilitating effect such disruption might cause to Debtors' ability to continue operating and reorganize. The balance of harms analysis favors granting injunctive relief because the harm to Debtors far outweighs any potential harm to Defendants, who, to the extent they allege they are owed money, can, as creditors, seek relief through the normal bankruptcy process. Finally, granting injunctive relief furthers the public interest by permitting TriDimension's other creditors to assess the effects of Defendants' actions on their positions vis-à-vis the Debtors and determine whether to intervene in opposition to the Defendants' ongoing efforts to deprive lead Debtor TriDimension of income that could be used to pay off senior creditors of TriDimension and its affiliated Debtors.

XXIV. RESERVATION OF RIGHTS

117. TriDimension reserves the right to amend, modify, or supplement this complaint at any time including, without limitation, by adding additional claims, causes of action, or similar matters. In addition, TriDimension reserves the right to object to any proof of claim filed by Vada or Liberty in the Bankruptcy Cases.

XXV. CONCLUSION

TriDimension respectfully asks that the Court enjoin Defendants Vada and Liberty, along with their officers, agents, servants, employees, attorneys, and persons who are in active concert with them, from withholding from TriDimension its production revenues for the wells operated by Liberty.

TriDimension also requests that Liberty be ordered to immediately permit an audit, as provided for by Section 5 of Exhibit C to the Livonia JOA and Master JOA.

TriDimension further seeks a judgment declaring that (1) Vada failed to satisfy the 20 Well Requirement by March 1, 2010; (2) as a result, the payment of the Balance is excused under Section I.D.2. of the Participation Agreement; (3) at no time has the Participation Agreement or the Livonia JOA or Master JOA permitted Liberty or Vada to divert TriDimension's production revenues to themselves; (4) TriDimension has paid in full its Allocable Share of the Drilling Costs and Completion Costs for the wells in the Identified Prospects and Vada Option Prospects in which it participated; (5) Vada's and Liberty's appropriation of TriDimension's production revenues violates the automatic stay of 11 U.S.C. § 362; (6) Vada and Liberty are not entitled to set off or recoup any amounts allegedly owed to Vada by TriDimension pursuant to the Participation Agreement against amounts owed by Liberty to TriDimension pursuant to the Livonia JOA and Master JOA; and (7) Section 5 of Exhibit C to the Livonia JOA and Master JOA entitles TriDimension to audit Liberty's records and accounts.

Finally, TriDimension seeks entry of final judgment (1) against Vada for breach of the Participation Agreement; (2) against Liberty for breach of the Livonia JOA and Master JOA; (3) against Vada and Liberty for conversion of production revenues, or in the alternative only, against Vada for unjust enrichment; (4) against Liberty for breach of its fiduciary duties to TriDimension; (5) against Vada and Liberty for conspiring to breach fiduciary duties owed to TriDimension and to convert TriDimension's production revenues; (6) against Vada imposing a constructive trust; (7) against Vada and Liberty for violation of the automatic stay; (8) against Vada and Liberty ordering turnover of property of the estate; (9) against Vada and Liberty

avoiding the Fraudulent Transfers, Preferential Transfers, Post-Petition Transfers, and Purchase Rights; (10) against Vada for recovery of the Production Proceeds (or the value thereof) derived from the Fraudulent Transfers, Preferential Transfers, and Post-Petition Transfers; and (11) against Vada disallowing any claim of Vada pursuant to Bankruptcy Code § 502(d). For its injuries, TriDimension seeks actual damages (including, but not limited to, the value of its improperly withheld production revenues, all bankruptcy costs and expenses, and interest paid as part of the DIP facility), attorneys' fees, punitive damages, interest, costs, and any other relief, in equity or at law, to which it is entitled.

Respectfully submitted,

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CERTIFICATE OF SERVICE

TriDimension certifies that a copy of this Complaint is being served simultaneous with its filing by first class mail on the registered agents for Defendants Vada and Liberty.

/s/ John L. Hill
John L. Hill