

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA**

TERRA ENERGY ADVISORS, LLC,  
KAREN MARSHALL, WOODY  
WELSCH, TERRY PEPPER, and  
ROSE PEPPER,

Plaintiffs,

v.

JOSEPH E. MORASCYZK,  
JACOB S. POLOCHAK, and  
MORASCYZK & POLOCHAK,  
ATTORNEYS AT LAW,

Defendants.

CIVIL DIVISION

Case No. GD - 12 - 013009

**COMPLAINT IN CIVIL ACTION**

Filed on behalf of Plaintiffs:

Terra Energy Advisors, LLC,  
Karen Marshall, Rose Pepper,  
Terry Pepper, and Woody Welsch

Counsel of Record for this Party:

METZ LEWIS BRODMAN MUST  
O'KEEFE LLC

Brian T. Must, Esquire  
Pa. I.D. No. 49657  
Joshua D. Baker, Esquire  
Pa. I.D. No. 308243

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**JURY TRIAL DEMANDED**

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	)	
Plaintiffs,	)	
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v.	)	
	)	
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JACOB S. POLOCHAK, and	)	
MORASCYZK & POLOCHAK,	)	
ATTORNEYS AT LAW,	)	
	)	
Defendants.	)	

**NOTICE**

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claims in the complaint or for any other claim or relief request by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

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Allegheny County Bar Association  
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436 Seventh Avenue  
Pittsburgh, PA 15219  
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JACOB S. POLOCHAK, and	)	
MORASCYZK & POLOCHAK,	)	
ATTORNEYS AT LAW,	)	
	)	
Defendants.	)	

**COMPLAINT IN CIVIL ACTION**

Plaintiffs, Terra Energy Advisors, LLC, Karen Marshall, Woody Welsch, Terry Pepper, and Rose Pepper, by and through their attorneys, Metz Lewis Brodman Must O'Keefe LLC, files the following Complaint in Civil Action against Defendants, Joseph E. Morascyzk, Jacob S. Polochak, and Morascyzk & Polochak, Attorneys at Law:

**PARTIES**

1. Terra Energy Advisors, LLC ("Terra") is a Pennsylvania limited liability company with a registered office at 820 East Beau Street, Washington, Pennsylvania 15301.
2. Karen Marshall ("Marshall") is an adult individual who resides at 100 Bayberry Court, McMurray, Pennsylvania 15317.
3. Woody Welsch ("Welsch") is an adult individual who resides at 122 Cedar Lane, McMurray, Pennsylvania 15317.
4. Terry Pepper ("Mr. Pepper") is an adult individual who resides at 820 E. Beau Street, Condo 2J, Washington, Pennsylvania 15301.

5. Rose Pepper ("Mrs. Pepper") is an adult individual who resides at 820 E. Beau Street, Condo 2J, Washington, Pennsylvania 15301.

6. Marshall, Welsch, Mr. Pepper, and Mrs. Pepper are all members and managers of Terra. They are collectively referred to as "Plaintiff-Members" in this Complaint.

7. Joseph E. Morascyzk ("Morascyzk") is an attorney licensed to practice law in the Commonwealth of Pennsylvania since October 1, 2004 and has a principal office address at 1373 Washington Pike, Suite 200, Bridgeville, Allegheny County, Pennsylvania.

8. Jacob S. Polochak ("Polochak") is an attorney licensed to practice law in the Commonwealth of Pennsylvania since November 12, 2003 and has a principal office address at 1373 Washington Pike, Suite 200, Bridgeville, Allegheny County, Pennsylvania.

9. Morascyzk & Polochak, Attorneys at Law ("M&P Law") is a Pennsylvania law firm with a principal office address at 1373 Washington Pike, Suite 200, Bridgeville, Allegheny County, Pennsylvania.

10. Morascyzk and Polochak are both members and managers of Terra. M&P Law is not a member or manager of Terra. Morascyzk, Polochak, and M&P Law are sometimes collectively referred to as "Defendants" in this Complaint.

11. By majority vote, Plaintiff-Members elected to file this Complaint against Defendants after making an unsuccessful written demand upon Defendants to amicably resolve this dispute. A true and correct copy of the April 27, 2012 demand letter, with supporting exhibits, is attached hereto as **Exhibit "1."**

#### **JURISDICTION AND VENUE**

12. This Court has jurisdiction over this matter and the parties pursuant to 42 Pa. C.S.A. § 931 and 42 Pa. C.S.A. § 5322.

13. Venue is proper in this Court pursuant to Rule 1006 and Rule 2179 of the Pennsylvania Rules of Civil Procedure.

### **FACTS**

#### **A. The Formation of Terra.**

14. Plaintiff-Members are a group real estate agents, professionals, and property developers.

15. Prior to their affiliation with Morascyzk and Polochak, Plaintiff-Members conceived the idea of forming Terra as a means to enter the Marcellus shale and gas leasing industry by assisting landowners that were interested in leasing the gas rights to their land.

16. The name Terra was recorded with Pennsylvania Department of State on June 17, 2010.

17. After forming Terra, Plaintiff-Members determined that they needed to affiliate with a law firm in order for Terra to provide a full complement of consulting services to landowners, including legal advice when necessary.

18. Plaintiff-Members interviewed several different law firms before electing to partner with Morascyzk and Polochak, who also interviewed with Plaintiff-Members.

19. Rather than enter into a typical attorney-client arrangement, Morascyzk and Polochak suggested that they become members and managers of Terra. Plaintiff-Members, Morascyzk, and Polochak each own equal, one-sixth (1/6) interests in Terra.

20. From the time that Morascyzk and Polochak became members and managers of Terra on or about June 23, 2010, Morascyzk and Polochak assumed and conducted all of the legal affairs for Terra and represented Terra as their client.

21. As members and managers of Terra, Morascyzk and Polochak also placed themselves in a fiduciary relationship with Terra and Plaintiff-Members that required them to act for the benefit of Terra.

22. Neither Morascyzk nor Polochak, as licensed attorneys within the Commonwealth, ever made the mandatory disclosures to Plaintiff-Members required under the Pennsylvania Rules of Professional Conduct at any point in time.

23. Defendants also never stated that they were not acting as legal counsel for Terra or otherwise dispelled the reasonable belief of Plaintiff-Members that Defendants were serving as legal counsel on behalf of Terra.

**B. Terra's Operating Agreement.**

24. On or about July 3, 2010, Defendants drafted the Operating Agreement for Terra.

25. The Operating Agreement states that Terra is "organized to consult, negotiate, or otherwise assist in the leasing, transfer and investment of mineral rights and real estate, and to engage in all other lawful activities incidental or related thereto." A copy of the Operating Agreement is attached to the demand letter hereto at **Exhibit "1."**

26. Prior to drafting the Operating Agreement, a discussion was held between Plaintiff-Members and Morascyzk and Polochak that Defendants could exclude from Terra its one landowner group which consisted of less than 5,000 acres which it had developed prior to the creation of Terra.

27. It was represented to Plaintiff-Members that that one landowner group was on the brink of closing and wrapping up.

28. In a July 3, 2010 e-mail to Plaintiff-Members, Polochak provided the proposed Operating Agreement and briefly mentioned the key provisions to Plaintiff-Members. Despite

entering into a business relationship with Plaintiff-Members, Morascyzk and Polochak never told Plaintiff-Members that they had the right to have the Operating Agreement reviewed by independent counsel.

29. Instead, and in that same e-mail, Polochak advised Plaintiff-Members that the terms and conditions of the Operating Agreement contained “nothing exotic.” *Id.*

30. Quite the contrary, the Operating Agreement contained a provision that purportedly permitted each member of Terra to engage in and possess interests in other business ventures, including ones that compete without restriction against Terra itself.

31. Instead of carving out a limited exception for the one landowner group, Defendants have interpreted their drafted provision as permitting them to compete without restriction “of any and every type and description” against Terra.

32. At that time, Morascyzk and Polochak had entered into a business relationship with Plaintiff-Members and had both fiduciary obligations and duties of undivided loyalty to serve Terra in good faith as members and managers of Terra.

33. Morascyzk and Polochak, as licensed attorneys within the Commonwealth, also owed certain duties and obligations to Terra as their client, which demanded undivided loyalty to Terra and prohibited Morascyzk and Polochak from engaging in competing and conflicting interests against Terra without first making the proper disclosures required under the Pennsylvania Rules of Professional Conduct.

34. The Operating Agreement provided that all members and managers of Terra “shall have the authority and responsibility of directors and officers under Subchapter B of Chapter 17 of the [Pennsylvania Business Corporation Law].” *Id.*

35. The Operating Agreement also expressly prohibited any member or manager of Terra from engaging in self-dealing. *Id.*

36. In addition to drafting the Operating Agreement, Defendants performed all legal work on behalf of Terra and represented themselves to the general public as the “legal arm” of Terra.

**C. Advertising and Marketing Efforts of Terra.**

37. Shortly after the Operating Agreement was signed, Plaintiff-Members began joint marketing efforts with Defendants to tout the benefits of Terra.

38. Throughout late June and July 2010, Plaintiff-Members, Morascyzk, and Polochak conducted seminars to train non-member real estate agents and others who would solicit acreage for the benefit of Terra.

39. Terra also sent mass mailing letters to contacts that were developed exclusively by Marshall before Terra was formed. In those letters, Terra proclaimed to prospective landowners interested in leasing their gas rights that Terra provided “one stop shopping,” which included legal services that would be performed by Defendants. *Id.*

40. Similar letters were also generated and sent on a mass mailing basis using contact databases that were developed solely by Plaintiff-Members.

41. Polochak also provided M&P Law’s “Gas 101” powerpoint to Plaintiff-Members, which would be used as a presentation tool during seminars to recruit landowners to hire Terra as their gas leasing consultant. Polochak stated that the “Gas 101” powerpoint could be used during these seminars after references to Morascyzk and Polochak were replaced with the name of Terra.



42. Advertisements were published in several newspapers and multiple seminars were conducted throughout Western Pennsylvania in which landowners were told about the expertise and benefits of Terra. Both Morascyzk and Polochak spoke at these seminars on behalf of Terra. True and correct copies of the newspaper advertisements and seminar brochures are attached to the demand letter hereto at **Exhibit "1."**

43. All of the joint marketing efforts were conducted solely for the benefit of Terra to recruit landowners to lease their gas rights through Terra.

44. Furthermore, and by way of example only, Terra attempted to be retained by Peters Township as a consultant in order to secure a gas lease for properties owned by Peters Township. Polochak drafted, and Morascyzk revised, the written proposal on behalf of Terra that was submitted to Peters Township for consideration.

45. The proposal, submitted to Peters Township on or around July 27, 2010, describes Terra as "a group comprised of the area's premier real estate professionals and attorneys that have been on the front line of deep horizontal gas leasing and the developing area of the law in that area." *Id.* The proposal further stated:

While the law firm of [M&P Law] would not be representing the Township directly on this project, Mr. Morascyzk and Mr. Polochak, as Members of Terra Energy Advisors, LLC, confidently possess a detailed knowledge of the potential legal issues relevant to the industry such that they will be able to confidently and thoroughly offer technical guidance to the township solicitor in matters of potential liability and unintended legal contingencies.

*Id.*

46. From June 2010 through September 2011, Terra directed its advertising and marketing efforts towards thousands of landowners throughout Western Pennsylvania, including individual landowners, school districts, townships, and other city-owned properties.

47. During this time, Plaintiff-Members believed that Morascyzk and Polochak were as committed to Terra as Plaintiff-Members were.

48. The actions of Morascyzk and Polochak, both spoken and written, did nothing more than reinforce Plaintiff-Members' beliefs. In a July 8, 2010 e-mail, Polochak wrote to Plaintiff-Members that:

It is clear to me Terra's strengths will be the agents on the ground. ... An open invitation from Terra will be easily confused as just another land leasing operation by an agent of the gas company. We will need to stress that Terra IS trusted real estate pros who work exclusively for landowners. The Karen Marshall and [P]epper name should be all over it, trust me, the public knows and lives you; with speakers (and free legal advice from) from M&P [Law]..."

*Id.*

49. In a July 25, 2010 e-mail to Plaintiff-Members, Polochak even suggested signing landowners up to less than acceptable leases to allow Terra to trumpet the fact that it had successfully negotiated leases on behalf of Terra's clients. *Id.*

50. Terra's own internet website also directed potential landowners to M&P Law's address for more information and Terra's phone number and mailing address was that of M&P Law.

51. At all times material herein, Morascyzk and Polochak were an integral part of Terra; however, only Defendants benefited from the efforts of Terra to the exclusion of Plaintiff-Members.

**D. Business/Corporate Opportunity with Co-Exprise.**

52. While marketing efforts to the greater public continued in earnest, Welsch reached out to a contact with Co-Exprise to explore the possibility of forming a business relationship between Terra and Co-Exprise in early July, 2010.

53. At that time, Defendants had never been introduced to Co-Exprise.

54. Co-Exprise is in the business of organizing groups of landowners and bidding out their gas rights to oil and gas companies for leasing.

55. Welsch and Marshall initially met with Co-Exprise in person to discuss Terra forming a relationship with Co-Exprise. Neither Morascyzk nor Polochak attended that meeting, but were informed by Plaintiff-Members of the opportunity Terra had to work with Co-Exprise.

56. By email on July 14, 2010, Polochak advised the Plaintiff-Members that “[Morascyzk] spoke with the guys from [Co-Exprise] today. This could be huge if we play our cards right.” *Id.*

57. On July 21, 2010, a second meeting took place with Co-Exprise in which Welsch and Mr. Pepper attended in person. Morascyzk attended the meeting by telephone.

58. The meeting was productive and it was agreed by all involved that Defendants would create an agreement to memorialize the business relationship to be formed between Terra and Co-Exprise.

59. On or around September 24, 2010, Polochak advised Plaintiff-Members of a proposed consulting agreement between Terra and Co-Exprise.

60. Terra and its Plaintiff-Members reasonably believed that Terra would be engaging in a long-term, productive business relationship with Co-Exprise.

61. However, unbeknownst to Plaintiff-Members, Defendants were secretly forming a relationship with Co-Exprise to the exclusion of Plaintiff-Members.

**E. Defendants steal and usurp opportunities that belonged solely to Terra.**

62. On or around September 24, 2010, Polochak provided Plaintiff-Members with a proposed consulting agreement between Terra and Co-Exprise.

63. The consulting agreement was entitled "Channel Partner Agreement" and, among other things, addressed the division of fees and nature of the joint venture between Co-Exprise and Terra. A copy of the Channel Partner Agreement is attached to the demand letter hereto at **Exhibit "1."**

64. Plaintiff-Members reasonably believed that Terra was going into business with Co-Exprise.

65. On April 20, 2011, Terra invited prospective landowners to attend a free seminar on oil and gas leasing. The seminar was held "in conjunction with Co-Exprise." *Id.*

66. On June 29, 2011, Terra held another free seminar on oil and gas leasing that was presented "in conjunction with Co-Exprise." *Id.*

67. However, on or about September, 2011, Plaintiff-Members began to notice a marked decline in Morascyzk and Polochak's efforts to work for Terra.

68. Morascyzk and Polochak stopped returning phone calls and e-mails from Plaintiff-Members. They also stated that they never had time to meet and were too busy with outside interests, not those of Terra.

69. Morascyzk and Polochak also affirmatively directed Plaintiff-Members not to advance Terra's marketing efforts in certain areas claiming that those areas were "dead" and a waste of Terra's time and effort.

70. Plaintiff-Members subsequently learned that Defendants had entered into a separate agreement with Co-Exprise that totally excluded Terra and Plaintiff-Members.

71. Plaintiff-Members also learned that Defendants were actively conducting leasing in the very same areas which Defendants previously proclaimed were "dead" or not active.

72. Despite their obligations and duties as both members and managers of Terra, along with their attorney-client relationship with Terra, Defendants had formed a significant business relationship with Co-Exprise and were working jointly to lease properties all throughout Pennsylvania and Ohio.

73. Upon information and belief, Defendants have leased thousands of acres working jointly with Co-Exprise. Terra and Plaintiff-Members were deprived of this opportunity and the resulting profits.

74. Upon information and belief, Defendants also leased the oil and gas rights to properties that were brought solely to Defendants based upon the advertising and marketing efforts of Terra. Terra and Plaintiff-Members were deprived of this opportunity and the resulting profits.

75. Upon information and belief, Defendants continue to lease properties working jointly with Co-Exprise. Defendants also continue to lease properties that were brought solely to Defendants based upon the advertising and marketing efforts of Terra.

76. Despite owing duties and obligations as both members and managers of Terra, and as legal counsel on behalf of Terra, Defendants engaged in serious self-dealing and usurped opportunities that belonged solely to Terra. Defendants alone have reaped all of the benefits that were brought to them by Terra.

**COUNT I – BREACH OF CONTRACT**  
***(Terra and Plaintiff-Members vs. Morascyzk and Polochak)***

77. Plaintiffs incorporate by reference the allegations of Paragraphs 1 through 76 of this Complaint in Civil Action as if set forth in their entirety.

78. Morascyzk and Polochak are both members and managers of Terra pursuant to the Operating Agreement.

79. The Operating Agreement precludes Morascyzk and Polochak from engaging in self-dealing against the interests of Terra and Plaintiff-Members.

80. The Operating Agreement also mandates that Morascyzk and Polochak have the responsibility of directors and officers under Subchapter B of Chapter 17 of the Pennsylvania Business Corporation Law ("BCL").

81. Pursuant to the Operating Agreement and the BCL, Morascyzk and Polochak owed, among other things, a fiduciary duty and duty of care to Terra to perform their duties in good faith and in a manner that serves the best interests of Terra.

82. Morascyzk and Polochak materially breached their duties owed to Terra by stealing and profiting from business opportunities that belonged solely to Terra.

83. Morascyzk and Polochak materially breached the Operating Agreement by failing to perform their duties in accordance with the Operating Agreement and the BCL.

84. Terra and Plaintiff-Members have suffered damages from Morascyzk and Polochak's breach of the Operating Agreement in the form of lost profits, interest, attorney's fees and costs.

WHEREFORE, Plaintiffs, Terra Energy Advisors, LLC, Karen Marshall, Woody Welsch, Terry Pepper, and Rose Pepper, respectfully request this Honorable Court enter judgment in their favor and against Defendants, Joseph E. Morascyzk and Jacob S. Polochak, for an amount in excess of the arbitration limit of Allegheny County and further award Plaintiffs interest, attorney's fees, costs of prosecuting this action, and such further relief the Court deems just and proper.

**COUNT II – BREACH OF FIDUCIARY DUTY**  
***(Terra and Plaintiff-Members vs. Morascyzk and Polochak)***

85. Plaintiffs incorporate by reference the allegations of Paragraphs 1 through 84 of this Complaint in Civil Action as if set forth in their entirety.

86. Morascyzk and Polochak owed a fiduciary duty to Terra and Plaintiff-Members as members and managers of Terra.

87. Morascyzk and Polochak further owed a fiduciary duty to Terra and Plaintiff-Members pursuant to the Operating Agreement.

88. Morascyzk and Polochak breached their fiduciary duty owed to Terra and Plaintiff-Members by failing to act for the benefit of Terra and Plaintiff-Members.

89. In contravention of the fiduciary duty owed to Terra and Plaintiff-Members, Morascyzk and Polochak stole and profited from business opportunities that belonged solely to Terra.

90. Morascyzk and Polochak further breached their fiduciary duty to Terra and Plaintiff-Members by engaging in self-dealing and promoting their own individual interests to the detriment of Terra and Plaintiff-Members.

91. Morascyzk and Polochak also breached their fiduciary duty to Terra and Plaintiff-Members by competing against Terra and engaging in conflicts of interest to the detriment of Terra and Plaintiff-Members.

92. Morascyzk and Polochak also utilized their positions as members and managers of Terra to obtain personal profit.

93. Terra and Plaintiff-Members have suffered damages from Morascyzk and Polochak's breach of their fiduciary duty in the form of lost profits, interest, attorney's fees and costs.

94. Based on these facts, Terra and Plaintiff-Members are entitled to disgorgement of all funds obtained by Morascyzk and Polochak and further entitled to an accounting of all funds that Morascyzk and Polochak diverted from Terra and illegally pocketed to the detriment of Terra and Plaintiff-Members.

WHEREFORE, Plaintiffs, Terra Energy Advisors, LLC, Karen Marshall, Woody Welsch, Terry Pepper, and Rose Pepper, respectfully request this Honorable Court enter judgment in their favor and against Defendants, Joseph E. Morascyzk and Jacob S. Polochak, for an amount in excess of the arbitration limit of Allegheny County and further award Plaintiffs interest, attorney's fees, costs of prosecuting this action, an accounting of all funds that Morascyzk and Polochak received to the detriment of Terra, and such further relief the Court deems just and proper.

**COUNT III – BREACH OF DUTY OF LOYALTY**  
***(Terra and Plaintiff-Members vs. Morascyzk and Polochak)***

95. Plaintiffs incorporate by reference the allegations of Paragraphs 1 through 94 of this Complaint in Civil Action as if set forth in their entirety.

96. In their capacity as members and managers of Terra and pursuant to the Operating Agreement, Morascyzk and Polochak owed a duty of loyalty to Terra.

97. As set forth in detail throughout this Complaint, Morascyzk and Polochak breached their duty of loyalty owed to Terra and Plaintiff-Members by usurping corporate opportunities that belonged solely to Terra.

98. Morascyzk and Polochak were presented with a business opportunity to work with Co-Exprise to assist landowners in leasing the gas rights to their properties. This business opportunity with Co-Exprise was within the scope of Terra's own activities.



99. In fact, Terra and Plaintiff-Members reasonably believed that they were going into business with Co-Exprise based on prior representations of Morascyzk and Polochak. Terra even presented seminars to prospective landowners "in conjunction with Co-Exprise."

100. Rather than present this opportunity to Terra, Morascyzk and Polochak usurped this opportunity for themselves to the detriment of Terra.

101. Terra had the present and potential ability to avail itself of the opportunity to work with Co-Exprise but for Morascyzk and Polochak's usurpation of that opportunity.

102. Morascyzk and Polochak seized for their own personal gain the business opportunity to work with Co-Exprise, which opportunity was clearly within the scope of Terra's own activities.

103. At no time did Morascyzk or Polochak disclose to Terra and Plaintiff-Members the opportunity to work with Co-Exprise.

104. Quite the contrary, Morascyzk and Polochak conspired and secretly usurped the opportunity and began to work exclusively with Co-Exprise without ever informing Terra and Plaintiff-Members.

105. Upon information and belief, Morascyzk and Polochak have leased thousands of acres of property working jointly with Co-Exprise. Terra and Plaintiff-Members were deprived of this opportunity and the resulting profits.

106. Upon information and belief, Morascyzk and Polochak have also usurped other opportunities that were made available to them based solely upon the advertising and marketing efforts of Terra.

107. Upon information and belief, Morascyzk and Polochak have leased property brought to them solely based upon Terra's advertising and marketing. Terra and Plaintiff-Members were deprived of this opportunity and the resulting profits.

108. Morascyzk and Polochak's breach of the duty of loyalty and usurpation of corporate opportunities that belonged solely to Terra entitles Terra and Plaintiff-Members to all profits that Terra has lost as a result of said breaches and usurpations of corporate opportunities.

109. Based on these facts, Terra and Plaintiff-Members are entitled to disgorgement of all funds obtained by Morascyzk and Polochak and further entitled to an accounting of all funds that Morascyzk and Polochak usurped from Terra and illegally pocketed to the detriment of Terra and Plaintiff-Members.

WHEREFORE, Plaintiffs, Terra Energy Advisors, LLC, Karen Marshall, Woody Welsch, Terry Pepper, and Rose Pepper, respectfully request this Honorable Court enter judgment in their favor and against Defendants, Joseph E. Morascyzk and Jacob S. Polochak, for an amount in excess of the arbitration limit of Allegheny County and further award Plaintiffs interest, attorney's fees, costs of prosecuting this action, an accounting of all funds that Morascyzk and Polochak received to the detriment of Terra, and such further relief the Court deems just and proper.

**COUNT IV – INTENTIONAL AND/OR FRAUDULENT NONDISCLOSURE**  
***(Terra and Plaintiff-Members vs. Defendants)***

110. Plaintiffs incorporate by reference the allegations of Paragraphs 1 through 109 of this Complaint in Civil Action as if set forth in their entirety.

111. As set forth in detail above, Defendants intentionally and/or fraudulently concealed that they had entered into a business relationship with Co-Exprise.

112. As both members and managers of Terra, and as legal counsel representing Terra, Defendants had an affirmative duty to disclose to Terra and Plaintiff-Members that they had an opportunity to work and were in fact working with Co-Exprise to the exclusion of Terra and Plaintiff-Members.

113. Defendants' intentional and/or fraudulent concealment that they were working with Co-Exprise was material.

114. Had Defendants disclosed that they were working jointly with Co-Exprise, the transaction with Co-Exprise would not have been consummated.

115. Defendants falsely and intentionally concealed to Terra and Plaintiff-Members that they were working with Co-Exprise themselves to the detriment of Terra and Plaintiff-Members.

116. Defendants intentionally and/or fraudulently concealed this information from Terra and Plaintiff-Members with the intent of misleading Terra and Plaintiff-Members to rely upon it.

117. Terra and Plaintiff-Members justifiably relied on Defendants' intentional and/or fraudulent failure to disclose their working relationship with Co-Exprise.

118. Terra and Plaintiff-Members have been damaged by Defendants' intentional and/or fraudulent nondisclosure and such injury was caused by their reliance upon the intentional and/or fraudulent concealment of Defendants.

119. Terra and Plaintiff-Members have suffered damages from Defendants' intentional and/or fraudulent concealment of their relationship with Co-Exprise in the form of lost profits, interest, attorney's fees and costs.

WHEREFORE, Plaintiffs, Terra Energy Advisors, LLC, Karen Marshall, Woody Welsch, Terry Pepper, and Rose Pepper, respectfully request this Honorable Court enter judgment in their favor and against Defendants for an amount in excess of the arbitration limit of Allegheny County and further award Plaintiffs interest, attorney's fees, costs of prosecuting this action, an accounting of all funds that Defendants received to the detriment of Terra, and such further relief the Court deems just and proper.

**COUNT V – LEGAL MALPRACTICE**  
***(Terra and Plaintiff-Members vs. Defendants)***

120. Plaintiffs incorporate by reference the allegations of Paragraph 1 through 119 of this Complaint in Civil Action as if the set forth in their entirety.

121. In addition to being members and managers of Terra, Morascyzk and Polochak were also the attorneys for Terra.

122. Defendants represented themselves to the general public as the “legal arm” of Terra.

123. As detailed above, Defendants drafted the Operating Agreement for Terra and also performed other activities that qualify as legal representation of Terra, including but limited to, negotiating contracts on behalf of Terra, drafting contracts on behalf of Terra, and representing themselves to the public as the attorneys for Terra.

124. As the attorneys for Terra, Defendants owed a fiduciary duty to Terra and Plaintiff-Members.

125. As the attorneys for Terra, Defendants also owed duties of undivided loyalty to Terra and were prohibited from engaging in conflicts and competing interests that were detrimental to Terra and Plaintiff-Members.

126. As the attorneys for Terra, Defendants also had duties to adhere to the Pennsylvania Rules of Professional Conduct.

127. Defendants abdicated their duties to Terra by failing to enter into an express contract with Terra as their lawyers.

128. However, at all times relevant herein, Plaintiff-Members sought advice and assistance from Defendants as the lawyers for Terra.

129. The advice and assistance sought by Plaintiff-Members was within the professional competence of Defendants.

130. Defendants expressly agreed to render such assistance through their words and conduct, including but not limited to, drafting the Operating Agreement, negotiating contracts on behalf of Terra, drafting contracts on behalf of Terra, and representing themselves to the public as the attorneys for Terra.

131. In the alternative, Defendants impliedly agreed to render such assistance to Terra and Plaintiff-Members through their spoken word and conduct.

132. Defendants also never stated that they were not acting as legal counsel for Terra or otherwise dispelled the reasonable belief of Plaintiff-Members that Defendants were serving as legal counsel on behalf of Terra and representing Terra.

133. Defendants breached their fiduciary duty owed to Terra and Plaintiff-Members by:

- a. Entering into a business transaction with Terra and Plaintiff-Members without making the required disclosures under the Pennsylvania Rules of Professional Conduct;
- b. Failing to advise Plaintiff-Members that they had the opportunity to have the Operating Agreement reviewed by independent counsel;
- c. Failing to abide by the Pennsylvania Rules of Professional Conduct;

- d. Competing against Terra and Plaintiff-Members;
- e. Engaging in conflicts of interest that were detrimental to Terra and Plaintiff-Members; and
- f. Usurping opportunities that belonged solely to Terra and Plaintiff-Members.

134. As a result of Defendants' breach of fiduciary duty owed to Terra and Plaintiff-Members, Terra and Plaintiff-Members have suffered damages in the form of lost profits, interest, attorney's fees and costs.

135. The actions of Defendants, as described in detail above, deviated from the applicable standard of care and Terra and Plaintiff-Members are entitled to all damages resulting from this deviation.

WHEREFORE, Plaintiffs, Terra Energy Advisors, LLC, Karen Marshall, Woody Welsch, Terry Pepper, and Rose Pepper, respectfully request this Honorable Court enter judgment in their favor and against Defendants for an amount in excess of the arbitration limit of Allegheny County and further award Plaintiffs interest, attorney's fees, costs of prosecuting this action, an accounting of all funds that Defendants received to the detriment of Terra, and such further relief the Court deems just and proper.

**COUNT VI – CIVIL CONSPIRACY**  
***(Terra and Plaintiff-Members v. Defendants)***

136. Plaintiffs incorporate by reference the allegations of Paragraph 1 through 135 of this Complaint in Civil Action as if the set forth in their entirety.

137. Morascyzk, Polochak, and M&P Law (collectively, "Defendants") acted with a common purpose to deprive Terra and Plaintiff-Members of the opportunity to work with Co-Exprise.

138. Defendants also acted with a common purpose in stealing profits that were brought to them exclusively by the efforts of Terra, including all profits Defendants collected from working with Co-Exprise.

139. Such actions of Defendants were unlawful and in breach of Terra's Operating Agreement. Such actions of Defendants were also unlawful in that they also constituted breaches of fiduciary duty, breaches of the duty of loyalty, self-dealing, usurpation of corporate opportunities, intentional and/or fraudulent nondisclosure.

140. Defendants took overt acts in furtherance of their common purpose to deprive and usurp profits that were brought to Defendants solely by the efforts of Terra.

141. Defendants acted in concert to prevent Terra and Plaintiff-Members from realizing profits that were brought to Defendants solely by the efforts of Terra.

142. Terra and Plaintiff-Members have suffered damages as a result of Defendants' actions in the form of lost profits, interest, attorney's fees and costs.

143. Defendants' actions in this regards were, and are, intentional, reckless, outrageous, and malicious.

144. Upon information and belief, Defendants have leased thousands of acres of property working jointly with Co-Exprise. Defendants conspired to deprive Terra and Plaintiff-Members of this opportunity and the resulting profits.

145. Upon information and belief, Defendants also leased the oil and gas rights to properties that were brought solely to Defendants based upon the advertising and marketing efforts of Terra. Defendants conspired to deprive Terra and Plaintiff-Members of this opportunity and the resulting profits.

146. Terra and Plaintiff-Members believe and therefore aver that Defendants continue to lease properties working jointly with Co-Exprise. Defendants also continue to lease properties that were brought solely to Defendants based upon the advertising and marketing efforts of Terra.

147. Based on these facts, Terra and Plaintiff-Members are entitled to disgorgement of all funds obtained by Defendants and further entitled to an accounting of all funds that Defendants usurped from Terra and illegally pocketed to the detriment of Terra and Plaintiff-Members.

WHEREFORE, Plaintiffs, Terra Energy Advisors, LLC, Karen Marshall, Woody Welsch, Terry Pepper, and Rose Pepper, respectfully request this Honorable Court enter judgment in their favor and against Defendants for an amount in excess of the arbitration limit of Allegheny County and further award Plaintiffs interest, attorney's fees, costs of prosecuting this action, an accounting of all funds that Defendants received to the detriment of Terra, and such further relief the Court deems just and proper.

**COUNT VII – UNJUST ENRICHMENT**  
***(Terra and Plaintiff-Members v. Defendants)***

148. Plaintiffs incorporate by reference the allegations of Paragraph 1 through 147 of this Complaint in Civil Action as if the set forth in their entirety.

149. As detailed throughout this Complaint, a benefit was conferred upon Defendants by the sole efforts of Terra and Plaintiff-Members.

150. Defendants appreciated the benefit conferred upon them by the sole efforts of Terra and Plaintiff-Members.

151. Defendants have accepted this benefit under circumstances that would make it unfair for Defendants to retain the benefit without the payment of value.



WHEREFORE, Plaintiffs, Terra Energy Advisors, LLC, Karen Marshall, Woody Welsch, Terry Pepper, and Rose Pepper, respectfully request this Honorable Court enter judgment in their favor and against Defendants for an amount in excess of the arbitration limit of Allegheny County and further award Plaintiffs interest, attorney's fees, costs of prosecuting this action, an accounting of all funds that Defendants received to the detriment of Terra, and such further relief the Court deems just and proper.

**COUNT VIII – INTERFERENCE WITH  
PROSPECTIVE CONTRACTUAL RELATIONSHIP**  
*(Terra and Plaintiff-Members v. Defendants)*

152. Plaintiffs incorporate by reference the allegations of Paragraph 1 through 151 of this Complaint in Civil Action as if the set forth in their entirety.

153. Terra had a prospective contractual relationship with Co-Exprise to work jointly in assisting and leasing the gas rights of landowners.

154. Morascyzk and Polochak themselves were aware of this prospective contractual relationship as they themselves negotiated, consulted, and reviewed the proposed contract between Terra and Co-Exprise.

155. Defendants intentionally harmed Terra and Plaintiff-Members by preventing the relationship between Terra and Co-Exprise from occurring.

156. Defendants' actions were not privileged or justified.

157. As a result of Defendants' intentional interference with Terra's prospective contract with Co-Exprise, Terra and Plaintiff-Members have suffered damages in the form of lost profits, interest, attorney's fees and costs.

WHEREFORE, Plaintiffs, Terra Energy Advisors, LLC, Karen Marshall, Woody Welsch, Terry Pepper, and Rose Pepper, respectfully request this Honorable Court enter

judgment in their favor and against Defendants for an amount in excess of the arbitration limit of Allegheny County and further award Plaintiffs interest, attorney's fees, costs of prosecuting this action, an accounting of all funds that Defendants received to the detriment of Terra, and such further relief the Court deems just and proper.

**COUNT IX – ACCOUNTING**  
***(Terra and Plaintiff-Members v. Defendants)***

158. Plaintiffs incorporate by reference the allegations of Paragraph 1 through 157 of this Complaint in Civil Action as if the set forth in their entirety.

159. The facts as alleged herein place Defendants in a fiduciary relationship with Terra and Plaintiff-Members.

160. The facts as alleged herein demonstrate that Defendants usurped opportunities and profited from stealing opportunities that were brought to them solely by the efforts of Terra and Plaintiff-Members.

161. Defendants have a duty to account accurately to Terra and Plaintiff-Members for the financial activity of Defendants and Defendants' true net worth.

162. Defendants have engaged in numerous acts of self-dealing and usurpations of corporate opportunities that belong to Terra and Plaintiff-Members, all of which affect the value of Terra.

163. Defendants are in the exclusive control of the financial documents and records that would accurately reflect the amount of profits that Defendants have usurped from Terra and Plaintiff-Members.

164. Despite demand, Defendants have refused to provide Terra and Plaintiff-Members with full access to the financial records of Defendants so as to determine the full extent of

Defendants' self-dealing and usurpation of corporate opportunities that belong to Terra and were stolen by Defendants.

165. The actions of Defendants stated herein and throughout this Complaint have adversely affected the value of Terra and Plaintiff-Members' interests in Terra and the amount of profits to which they are entitled on account of their ownership interest in Terra.

WHEREFORE, Plaintiffs, Terra Energy Advisors, LLC, Karen Marshall, Woody Welsch, Terry Pepper, and Rose Pepper, respectfully request this Honorable Court enter judgment in their favor and against Defendants, Joseph E. Morascyzk Jacob S. Polochak, and Morascyzk & Polochak, Attorneys at Law, for an amount in excess of the arbitration limit of Allegheny County and further award Plaintiffs lost profits, interest, attorney's fees, costs of prosecuting this action, and for the following relief:

- a) Imposition of a constructive trust as to all funds collected, held, and properly owing to Terra and Plaintiff-Members and ordering Defendants to provide a complete accounting of such funds;
- b) An Order of Court that Defendants disgorge to Terra all funds and property that are properly assets of Terra; and
- c) Granting such other relief as this Court deems just and proper.

Dated: July 27, 2012

Respectfully submitted,

METZ LEWIS BRODMAN MUST O'KEEFE LLC

By: 

Brian T. Must, Esquire

Pa. I.D. No. 49657

Joshua D. Baker, Esquire

Pa. I.D. No. 308243

11 Stanwix Street, 18<sup>th</sup> Floor

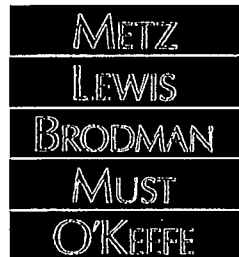
Pittsburgh, PA 15222

(412) 918-1100

Attorneys for Plaintiffs

**METZ LEWIS BRODMAN MUST O'KEEFE LLC**

11 Stanwix Street 18th Floor Pittsburgh, Pennsylvania 15222  
T: 412.918.1100 F: 412.918.1199 www.metzlewis.com



ATTORNEYS AT LAW

BRIAN T. MUST

April 27, 2012

**PERSONAL and CONFIDENTIAL**

Joseph Morascyzk, Esquire  
Jacob Polochak, Esquire  
Morascyzk & Polochak, Attorneys at Law  
382 West Chestnut Street, Suite 107  
Washington, PA 15301

Morascyzk & Polochak, Attorneys at Law  
382 West Chestnut Street, Suite 107  
Washington, PA 15301

**Re: Terra Energy Advisors, LLC**

Dear Messrs. Morascyzk and Polochak:

This firm represents Karen Marshall, Rose Pepper, Terry Pepper and Woody Welsch (collectively "Members") and Terra Energy Advisors, LLC ("Terra") by vote of the majority Members/Managers. This letter is to place you on notice of a claim against you and the law firm of Morascyzk & Polochak ("Firm") related to breaches of fiduciary duties, usurpation of corporate opportunities and legal malpractice related to your involvement with Terra. The purpose of this letter is to notify you of these claims and allow you the opportunity to notify your insurance carrier. We also would like to provide a forum for resolution of this matter without the necessity of filing suit. The essence of this claim is outlined below.

**Creation of Terra.**

As you know, the Members are a group of real estate professionals and developers who conceived the idea of forming Terra as a vehicle to enter the gas leasing industry. The unique concept behind Terra was to elicit the services of real estate professionals on a sub-contract basis who have or had contacts with landowners who were interested in leasing the gas rights to their land. The name Terra was recorded with the Pennsylvania Department of State on June 17, 2010, prior to your affiliation with Terra. See Exhibit "A".

Direct Dial: 412.918.1124



Cellular: 412.638.4178

The Members realized the need to affiliate with a law firm as a prerequisite to engaging successfully in gas leasing and interviewed several firms, including yours, as possible candidates. On June 23, 2010, the Members met with you and subsequently decided to use your Firm as the legal arm of Terra. Rather than you and your Firm engaging in the typical attorney-client relationship, however, each of you also become members of Terra. From that point forward, you assumed and conducted all of the legal affairs for Terra. For example, following your initial meeting, Terry Pepper provided you with a number of draft contracts and a copy of Terra's marketing brochure. *See Exhibit "B"*. On June 24, 2010, you revised the Listing Agreement "from a legal perspective". *See Exhibit "C"*. You also conducted the legal work of drafting the Operating Agreement for all members of Terra.

#### **The Operating Agreement.**

Your email dated July 3, 2010, which accompanied the Operating Agreement to the Members, reviewed the key provisions of the Operating Agreement and stated that it contained "nothing exotic". *See Exhibit "D"*. The Operating Agreement was executed by all parties, and as of July 5, 2010, you were engaged in a business relationship with the Members, acting as both counsel and fellow members yet failing to make the requisite disclosures required under the Pennsylvania Rules of Professional Conduct for such situations. In essence, you placed yourself in a position of trust and confidence with non-lawyers without assuring that they were adequately represented.

The Operating Agreement has both the Members and you listed as members. Each contributed \$1,000 in capital and a checking account was established. The Agreement provides that each original member is a Manager and the Managers "shall have the authority and responsibility of directors and officers under Subchapter B of Chapter 17 of the PABCL." *See Exhibit "E"* at ¶ 501(b). Chapter 17 of the BCL imposes the following duties on directors of the corporation:

A director of a business corporation shall stand in a fiduciary relationship to the corporation and shall perform his duties as a director, including his duties as a member of any committee on the board upon which he may serve, in good faith, in a manner he reasonably believes to be in the best interests of the corporation and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances.

Positioning yourselves as members of Terra does not relieve you of the applicable fiduciary duties and rules of professional conduct that apply when attorneys enter into business transactions with their clients. *See e.g., DiLuglio v. Providence Auto Body, Inc.*, 755 A.2d 757 (R.I. 2000). Similarly, it is clear that your involvement with Terra extended well beyond being a mere investor and resulted in the creation of the attorney-client relationship. *Cf. Atkinson v. Haug*, 622 A.2d 983 (Pa. Super. 1993).

It is well-settled under Pennsylvania law that a director owes a fiduciary obligation to the corporation. *See* 15 Pa. C.S.A. § 1712; *CST, Inc. v. Mark*, 520 A.2d 469 (Pa. Super. 1987). Inherent in the fiduciary obligation owed by a director to the corporation are the duties of undivided loyalty, of good faith, and to avoid self-dealing. *Reis v. Barley, Snyder, Senft & Cohen LLC*, 667 F.Supp.2d 471 (E.D. Pa. 2009).

Likewise, it is well-established that a director violates his duty of undivided loyalty to the corporation when the director usurps a corporate opportunity for himself. *See, e.g., Seaboard Industries, Inc. v. Monaco*, 276 A.2d 305 (Pa. 1971); *S.N.T. Industries, Inc. v. Geanopulos*, 525 A.2d 736 (Pa. Super. 1987); *CST, Inc. v. Mark*, 520 A.2d 469 (Pa. Super. 1987). You, in your capacity as members of Terra, were prohibited from seizing opportunities that were within the scope of Terra's own activities.

In addition to the fiduciary obligations imposed upon you as members of Terra, you also had heightened duties to Terra as a result of the attorney-client relationship that was formed. *See Maritrans GP Inc. v. Pepper, Hamilton & Scheetz*, 602 A.2d 1277 (Pa. 1992). The fiduciary duty owed to Terra, as your client, also demanded undivided loyalty and strictly prohibited you from engaging in conflicts of interest.

We are well aware of Paragraph 5.07 in the Operating Agreement and its attempt to permit competition by the Members/Managers with Terra. However, 5.07 does not, in our view, justify the actions complained of herein. Paragraph 5.07 states:

**Conflict of Interest. Subject to other express provisions of this Agreement,** each Manager and Member of the Company at any time and from time to time may engage in and possess interests in other business ventures of any and every type and description, independently or with others, including ones in competition with the Company, with no obligation to offer to the Company or any other Member, Manager the right to participate, therein. The Company may transact business with any Manager, Member or affiliate thereof, provided the terms of

those transactions are no less favorable than those the Company could obtain from, unrelated third parties. (Emphasis added).

Paragraph 5.07 was intended to address a limited situation involving pre-Terra formation activities conducted by you and the Members. At the time of engaging in the business relationship of Terra, there was a verbal discussion wherein you advised the Members that you had already formed a landowner group in Mt. Jackson, Lawrence County, Pennsylvania that you were in the process of wrapping up and that you wanted to exclude from Terra that group, which consisted of less than 5,000. Terry and Rose also had under 200 acres in Washington County individually prior to your affiliation with Terra that would be kept separate from Terra. Paragraph 5.07 was addressed in that context, not with the idea that all fiduciary and other duties were absolved through it.

This interpretation is further supported by Paragraph 6.04, which directly addresses and prohibits any manager from engaging in self-dealing. *See* Exhibit "E" at ¶ 6.04(ii). Thus, taking corporate opportunities as your own does not constitute a legitimate conflict of interest per Paragraph 5.07 of the Operating Agreement.

Nonetheless and regardless of the interpretation of Paragraph 5.07, Pennsylvania has never adopted a rule that permits a director to contract away its fiduciary duties owed to the corporation. In those states which do permit members to compete against the business, the operating agreement must explicitly state that the traditional fiduciary duties are being restricted or eliminated. *See Kelly v. Blum*, 2010 WL 629850 (Del. Ch. 2010). In this case, the provision was not explicitly stated and is further compounded by the fact that you advised the Members, despite serving as their counsel, that the Operating Agreement contained "nothing exotic".

#### **Joint Marketing.**

Shortly after the Operating Agreement was signed, joint marketing efforts commenced in earnest. By July 11, 2010, the six of you were comparing schedules to train the other non-member real estate agents and others who would solicit acreage for the benefit of Terra. *See* Exhibit "F". Letters were generated and sent on a mass mailing basis using contact databases prepared by the Members. For example, a generic mass mailing went to all of Karen Marshall's contacts. *See* Exhibit "G". These became known as "John Doe letters" and sought to introduce prospective lessors to Terra. By June 29, 2010, you forwarded your Gas 101 powerpoint to the Members and referenced the change from Morascyzk and Polochak to Terra. *See* Exhibit "H". Newspaper ads were purchased touting the seminars and workshops of Terra and its expertise. *See* Exhibit "I". Numerous workshops were conducted through CCAC, as well as seminars in

Chartiers Township, North Strabane Township, Lone Pine Township, Portersville, Keller Williams Office, and Rolling Hills Country Club to promote Terra, its reputation and expertise. Without question, you were an integral part of Terra.

While all of the efforts referenced above were conducted for the benefit of Terra for which you, and only you, received the benefits, possibly none is as troublesome as the relationship that developed between you and Co-Exprise.

#### **Co-Exprise.**

Woody Welsch had the contact with Co-Exprise, Bill Smith. In early July, 2010, Mr. Welsch and Ms. Marshall met with Mr. Smith to discuss Terra forming a relationship with Co-Exprise. Mr. Welsch forwarded Mr. Smith's contact information to you and commenced the process of setting up a meeting with Co-Exprise, you, and the Members. By email dated July 14, 2010, Woody sent an email advising that he left a message with his contact, Bill Smith, regarding a meeting with Co-Exprise and Terra for July 22, 2010. *See Exhibit "J"*. Mr. Polochak emailed the group on the same date advising that this should be a "high priority". Mr. Polochak also referenced that "Joe spoke with the guys from Ex-prize today. This could be huge if we play our cards right." *Id.*

On July 15, 2010, Mr. Smith of Co-Exprise responded to Mr. Welsch to schedule the meeting and to inquire into "the name of your partner(s) who are the attorneys and who will be attending". *See Exhibit "K"*. The meeting took place on July 21, 2010, and included Terry, Woody, Bill Smith and Nick Seitanakis, corporate counsel for Co-Exprise and others. Mr. Morascyzk participated by phone due to scheduling conflicts. The meeting was extremely positive and the Members believed that Terra would be engaging in a long term, productive business relationship with Co-Exprise. It was also agreed that you would create an agreement with Co-Exprise to move forward. By September 24, 2010, Mr. Polochak was advising the Members of a proposed consulting agreement, called a "Channel Partner Agreement" between Terra and Co-Exprise. *See Exhibit "L"*. Yet, unbeknownst to the Members, you were separately forming a relationship with Co-Exprise for your Mt. Jackson group and others. We now believe that a significant amount of land has been or will be leased by you and Co-Exprise working together.

#### **Other Joint Marketing.**

In addition to Co-Exprise, the Members and you conducted many seminars, training sessions and distributed literature proclaiming the benefits of Terra. Those marketing efforts



continued throughout most of 2011 with the Members believing that you were as committed to the Terra venture as they were. One particular proposal was for Peters Township. In an email dated July 27, 2010, Jake Polochak advised the Members that he spent "all night" drafting the proposal for Peters Township. *See* Exhibit "M". That proposal identifies Terra as a group comprised of the area's premier real estate professionals and attorneys and identifies each of you and the Members as the members of Terra. The proposal states:

In early 2010, it became apparent however that a law firm alone was not best suited to develop, administer, and consult for large landowner groups, which gave rise to the creation of a more full service consulting firm -- Terra Energy Advisors, LLC.

*See* Exhibit "N". The proposal further states:

While the law firm of Morascyzk & Polochak would not be representing the Township directly on this project, Mr. Morascyzk and Mr. Polochak, as Members of Terra Energy Advisors, LLC, confidently possess a detailed knowledge of the potential legal issues relevant to the industry such that they will be able to confidently and thoroughly offer technical guidance to the township solicitor in matters of potential liability and unintended legal contingencies.

In the early months of Terra, real estate agents were solicited to procure acreage for Terra. *See* Exhibit "O". In an email from Jake Polochak dated July 8, 2010, Mr. Polochak stated:

It is clear to me Terra's strengths will be the agents on the ground. . . . We need go-getters with just enough info to wing it. The agents don't need to have the answers, they just need to convince them that hiring Terra will increase their chances of getting a good lease. Seminars, especially around here, will be burdened with the stigma of a sales pitch. An open invitation from Terra will be easily confused as just another land leasing operation by an agent of the gas company. We will need to stress that Terra IS trusted real estate pros who work exclusively for landowners. The Karen Marshall and [P]epper name should be all over it, trust me, the public knows and lives you; with speakers (and free legal advice from) from M&P, Steve and Keith.

In fact, by late July, Jake Polochak even suggested signing landowners up to less than acceptable leases to allow Terra to trumpet the fact that it had successfully signed leases. In his email dated July 25, 2010, Mr. Polochak states:

Is there any interest in simply presenting to this first bunch of clients the standing \$3,500 and 18% for 5 yr non surface lease with good, not great, addendum extras that we have been able to lock in with Dale. We would then be able to honestly boast about 'joining the already satisfied customers', keep these first clients from getting anxious, and put a few shekels in the Terra account.

See Exhibit "P".

Terra's marketing efforts front loaded the lawyers' role and involvement. Mass mailings were sent to prospective lessors, flyers were distributed and marketing material sent to hundreds of landowners in Western Pennsylvania. See Exhibit "Q". School districts, townships and city properties were also solicited. Indeed, many of the joint marketing efforts referenced Terra working in conjunction with Co-Exprise. See Exhibit "R". To this day, Terra's own website still directs potential lessors to your Firm's address for information.

By September, 2011, the Members noticed a marked decline in your efforts and enthusiasm towards Terra. The pattern commenced of not responding to emails, never having time to meet and always being too busy with outside interests, not those of Terra. The Members subsequently learned that you had a significant relationship with Co-Exprise, working jointly to lease properties all throughout Pennsylvania and Ohio. These opportunities are opportunities which should have been brought to Terra from the outset.

In our view, you clearly abused the trust and confidence of your position of attorneys for Terra and members for Terra for your own personal gain and benefit. In order to resolve this matter without resorting to protracted litigation, we are hereby demanding the following:

1. The preservation by you of all documents, electronic or otherwise, which relate directly or indirectly to the matters addressed in this letter or your gas leasing practice.
2. An accounting of the names of all individuals for which you have secured oil and gas leases from July 5, 2010 to the present and the financial terms of those leases.

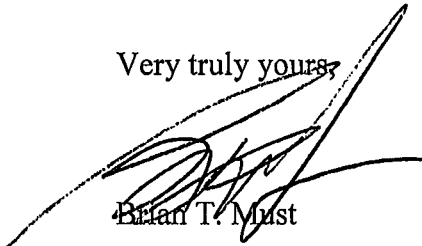
Joseph Morascyzk, Esquire  
Jacob Polochak, Esquire  
Morascyzk & Polochak, Attorneys at Law  
April 27, 2012  
Page 8

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3. An opportunity to discuss this matter with you, your counsel and your insurance carrier prior to the initiation of a suit.

Please have your counsel contact me upon receipt and review of this letter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Brian T. Must", is written over the typed name. The signature is stylized with a large, sweeping initial "B" and a long horizontal stroke extending to the right.

Brian T. Must

BTM:glb

PENNSYLVANIA DEPARTMENT OF STATE  
CORPORATION BUREAU

Certificate of Organization  
Domestic Limited Liability Company  
(15 Pa.C.S. § 8913)

Name	Karen Sena		
Address	PO Box 13092		
City	State	Zip Code	
Tucson, AZ		85732	

Document will be returned to the  
name and address you enter to  
the left.



Commonwealth of Pennsylvania  
CERTIFICATE OF ORGANIZATION 3 Page(s)



T1016847099

Fee: \$125

In compliance with the requirements of 15 Pa.C.S. § 8913 (relating to certificate of organization), the undersigned desiring to organize a limited liability company, hereby certifies that:

1. The name of the limited liability company (*designator is required, i.e., "company", "limited" or "limited liability company" or abbreviation*): Terra-Energy Advisors, LLC

2. The (a) address of the limited liability company's initial registered office in this Commonwealth or (b) name of its commercial registered office provider and the county of venue is:

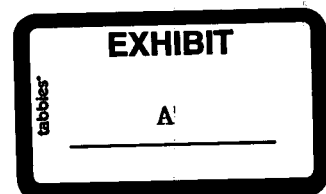
(a) Number and Street	City	State	Zip	County
820 E. Beau Street, Unit 2J	Washington	PA	15301	Washington
(b) Name of Commercial Registered Office Provider				County
c/o:				

3. The name and address, including street and number, if any, of each organizer is (*all organizers must sign on page 2*):

Name	Address			
Karen Sena	3938 E. Grant Rd. #453	Tucson	AZ	85712

2010 JUN 17 PM 2: 07

PA. DEPT. OF STATE



4. *Strike out if inapplicable term*

A member's interest in the company is to be evidenced by a certificate of membership interest.

5. *Strike out if inapplicable:*

~~Management of the company is vested in a manager or managers.~~

6. The specified effective date, if any is: \_\_\_\_\_  
month date . year hour, if any

7. *Strike out if inapplicable:* ~~The company is a restricted professional company organized to render the following restricted professional service(s):~~

8. For additional provisions of the certificate, if any, attach an 8½ x 11 sheet.

IN TESTIMONY WHEREOF, the organizer(s) has (have)  
signed this Certificate of Organization this

16th day of June, 2010

*Karen Sena*

Signature

Signature

Signature

---

**From:** Jake Polochak <jakepolochak@gmail.com>  
**Sent:** Wednesday, June 23, 2010 2:12 PM  
**To:** Terry Pepper  
**Subject:** Re: Terra Energy Advisors

I am in receipt of the documents and will put a draft Referral/Sub Agent Agreement together asap.

On Wed, Jun 23, 2010 at 12:37 PM, Terry Pepper <tlpepper@gmail.com> wrote:

Jacob,

It was great meeting with you and Joe this morning. With your legal knowledge and our real estate and financial ability, I'm sure that we will work well together.

Attached are: 1. Gas-Mineral Broker Agreement for your review. 2. Sub agent agreements from Cabot gas and Keller Williams that need to be melded together into 1 short document. We are only agreeing to pay 50% of our upfront lease amount and not the royalties. We also need to have a non-compete clause. 3. Copy of brochure for your review and input.

We applied for our state approval of Terra Energy Advisors, LLC on 6/16/2010 through an online service called smallbiz.com. If you need to go onto the website, just ask for the username and password.

When preparing the operating agreement, the names are Terry L. Pepper, Rose M. Pepper, Karen A. Marshall, Woodrow Welsch, and of course you and Joe, each with 1/6 ownership.

Call me at 724-263-5273 if you need anything else, including clarification.

Terry

--

Jake Polochak, Esq.  
382 W. Chestnut St.  
Suite 107  
Washington, PA 15301  
724-225-1110  
Fax 724-884-0356

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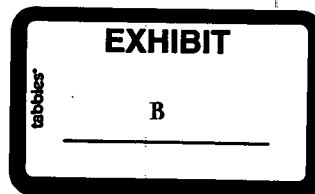
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Version: 2012.0.1913 / Virus Database: 2114/4844 - Release Date: 03/01/12



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**From:** Jake Polochak <jakepolochak@gmail.com>  
**Sent:** Thursday, June 24, 2010 9:11 AM  
**To:** Terry Pepper  
**Cc:** Jacob Polochak; Joe Morascyzk; Rose Pepper; Woody Welsch; Karen Marshall  
**Subject:** Re: Terra Energy Advisors  
**Attachments:** Gas-Mineral\_Broker\_Agreement[1].doc

Attached is a draft Listing Agreement. I made a few revisions to the draft you sent over. My revisions are from a legal perspective, but there may be magic language you want in or want to avoid from a broker perspective. Please review and provide any proposed revision.

--

Jake Polochak, Esq.  
382 W. Chestnut St.  
Suite 107  
Washington, PA 15301  
724-225-1110  
Fax 724-884-0356

No virus found in this incoming message.

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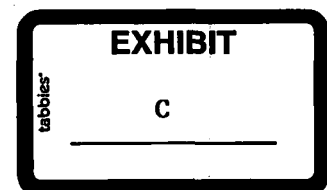
Version: 9.0.830 / Virus Database: 271.1.1/2962 - Release Date: 06/25/10 02:35:00

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No virus found in this message.

Checked by AVG - [www.avg.com](http://www.avg.com)

Version: 2012.0.1913 / Virus Database: 2114/4844 - Release Date: 03/01/12



**Terry**

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**From:** Jake Polochak [jakepolochak@gmail.com]  
**Sent:** Saturday, July 03, 2010 9:45 PM  
**To:** Karen Marshall; Rose Pepper; Terry Pepper; Woody Welsch; Joseph Edward Morascyzk  
**Subject:** Operating Agreement  
**Attachments:** OPERATING AGREEMENT.docx

Attached is a draft Operating Agreement for Terra. It, like most corporate documents, takes 15 pages to set forth the basics. All 6 original members are "Managers" and any significant resolution or act will require a majority, including distributions of profits. Like most LLC or Partnership agreements, the agreement calls for an automatic distribution at the end of the tax year equal to the amount of pass through tax liability recognized by each member. Transfer of membership interests is restricted in that the other members have the first option to purchase. The document is formal, as if the LLC were to accommodate additional members some day, which is generally the most prudent way to set it up from the get go. Nothing exotic though. We can discuss it Monday. Have a great 4th of July everyone.

Jake Polochak, Esq.  
382 W. Chestnut St.  
Suite 107  
Washington, PA 15301  
724-225-1110  
Fax 724-884-0356

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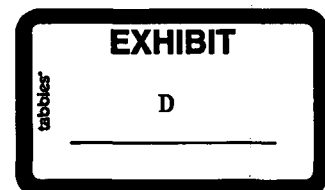
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**OPERATING AGREEMENT**  
**OF**  
**TERRA ENERGY ADVISORS, LLC**  
**A Pennsylvania Limited Liability Company**

**Dated as of July 5<sup>th</sup>, 2010**



### SECURITIES NOTICE

THE MEMBERSHIP INTERESTS REPRESENTED BY THIS OPERATING AGREEMENT HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER THE PENNSYLVANIA SECURITIES ACT OF 1972, AS AMENDED, OR SIMILAR LAWS OR ACTS OF OTHER STATES IN RELIANCE UPON EXEMPTIONS UNDER THOSE ACTS. THE SALE OR OTHER DISPOSITION OF THE MEMBERSHIP INTERESTS IS RESTRICTED AS STATED IN THIS OPERATING AGREEMENT, AND IN ALL EVENTS IS PROHIBITED UNLESS THE COMPANY RECEIVES AN OPINION OF COUNSEL SATISFACTORY TO IT AND ITS COUNSEL THAT SUCH SALE OR OTHER DISPOSITION CAN BE MADE WITHOUT REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND ANY APPLICABLE STATE SECURITIES ACTS AND LAWS. BY THE EXECUTION OF THIS AGREEMENT AND THE ACQUISITION OF THE MEMBERSHIP INTEREST REPRESENTED HEREBY, THE MEMBER REPRESENTS, INTER ALIA, THAT IT IS ACQUIRING ITS MEMBERSHIP FOR INVESTMENT AND WITHOUT A VIEW TO DISTRIBUTION AND THAT IT WILL NOT SELL OR OTHERWISE DISPOSE OF ITS MEMBERSHIP INTERESTS WITHOUT REGISTRATION OR OTHER COMPLIANCE WITH THE AFORESAID ACTS AND THE RULES AND REGULATIONS ISSUED THEREUNDER.

**OPERATING AGREEMENT**  
**OF**  
**Terra Energy Advisors, LLC**

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**OPERATING AGREEMENT**  
**OF**  
**Terra Energy Advisors, LLC**

A Pennsylvania Limited Liability Company

This OPERATING AGREEMENT of Terra Energy Advisors, LLC (this "Agreement"), dated as of July \_\_, 2010, is adopted by the Manager(s) (as defined below) and executed and agreed to, for good and valuable consideration, by the Members (as defined below).

**ARTICLE I**  
**DEFINITIONS**

**1.01 Definitions.** The following terms shall have the following meanings:

"Act" means the Pennsylvania Limited Liability Company Law of 1994, 15 Pa.C.S. §§8901 *et. seq.*, and any successor statute, as amended from time to time.

"Capital Contribution" means any contribution by a Member to the capital of the Company.

"Code" means the Internal Revenue Code of 1986 and any successor statute, as amended from time to time.

"Company" means Terra Energy Advisors, LLC, a Pennsylvania limited liability company.

"Membership Interest" or "Interest" means the interest of a Member in the Company, including, without limitation, rights to distributions (liquidating or otherwise), allocations, information, and to consent or approve.

"PaBCL" means the Pennsylvania Business Corporation Law of 1988, 15 Pa.C.S. §§1101 *et. seq.*, and any successor statute, as amended from time to time.

Other terms defined herein have the meanings so given them.

**1.02 Construction.** Whenever the context requires, the gender of all words used in this Agreement includes the masculine, feminine, and neuter. All references to Articles and Sections refer to articles and sections of this Agreement, and all references to Exhibits are to Exhibits attached hereto, each of which is made a part hereof for all purposes.

## ARTICLE II ORGANIZATION

**2.01 Formation.** The Company has been organized as a Pennsylvania limited liability company by the filing of a Certificate of Organization (the "Certificate") with the Department of State of the Commonwealth of Pennsylvania under and pursuant to the Act.

**2.02 Name.** The name of the Company is "Terra Energy Advisors, LLC" and all Company business must be conducted in that name or such other names that comply with applicable law as the Managers may select from time to time.

**2.03 Registered Office; Principal Office; Other Offices.** The registered office of the Company required by the Act to be maintained in the Commonwealth of Pennsylvania shall be 382 W. Chestnut St., Suite 107B, Washington, Washington County, Pennsylvania, 15301 or such other office as the Managers may designate from time to time in the manner provided by law.

**2.04 Purpose.** The Company is organized to consult, negotiate, and otherwise assist in the leasing, transfer and investment of mineral rights and real estate, and to engage in all other lawful activities incidental or related thereto.

**2.05 Term.** The Company commenced on the date the Certificate was filed with the Department of State of the Commonwealth of Pennsylvania pursuant to Section 8314 of the Act and shall continue in existence indefinitely or until such time as the members may agree upon the termination of the Company.

**2.06 No State-Law Partnership.** The Member intends that the Company be considered a partnership for Federal tax purposes and for Pennsylvania state tax purposes, to the extent so recognized, and this Agreement shall not be construed to produce a contrary result.

## ARTICLE III MEMBERSHIP AND CAPITAL CONTRIBUTION

**3.01 Initial Members.** The initial members of the Company are the persons executing this Agreement as of the date hereof as members, whom are admitted to the Company as a member effective contemporaneously with the execution by such person of this Agreement.

**3.02 Capital Contributions.** Contemporaneously with the execution by such Members of this Agreement, or upon the organization of the Company, the Members shall make the Capital Contribution, in cash, property, and services, described for that Member in Exhibit A. The Members shall not be entitled to receive any interest on any Capital Contribution. The Members shall not be obligated to make an additional Capital Contributions to the Company; provided, however, that Schedule A to this Agreement shall be amended from time to time to reflect any additional Capital Contributions made by the Members to the Company.

**3.03 Return of Contributions.** A member is not entitled to the return of any part of the Member's Capital Contribution, or to be paid interest respect thereto. An unpaid Capital Contribution is not a liability of the Company or the Members.

**3.04 Capital Accounts.** At all times while there is more than one Member, a Capital Account shall be established and maintained for each Member, which shall be adjusted as permitted by the applicable Treasury Regulations.

## **ARTICLE IV ALLOCATIONS OF PROFITS AND LOSSES AND CASH DISTRIBUTIONS**

**4.01 Profits and Losses.** All income, expense, deductions, profits and losses of the Company for both book and tax purposes shall be allocated to the Members in proportion to his or her ownership percentage.

**4.02 Cash Distributions.** Distributable Cash shall be distributed to the Members annually, based upon actual amounts available at the discretion of the Managers, unless waived by the Members in whole or in part.

**4.03 Minimum Distribution.** With respect to any taxable year of the Company in which Members are allocated taxable income for federal income tax purposes, the Company shall distribute to the Members, within 90 days after the close of that taxable year, no less than the amount determined by multiplying the Company's taxable income by the highest composite federal, state, and local income tax rate applicable to any Member, based upon actual amounts available at the discretion of the Managers, unless waived by the Members in whole or in part.

## **ARTICLE V MANAGERS**

### **5.01 Management by Manager(s).**

(a) Except for those matters in which the approval of the Members is required by this Agreement or by nonwaivable provisions of applicable law, (i) the powers of the Company shall be exercised by or under the authority of, and the business and affairs of the Company shall be managed under the direction of, the Manager(s); and (ii) the Manager(s) may make all decisions and take all actions for the Company not otherwise provided for in this Agreement, including, without limitation, the following:

(i) entering into, making, and performing contracts, agreements, and other undertakings binding the Company that may be necessary, appropriate, or advisable in furtherance of the purposes of the Company and making all decisions and waivers thereunder;

(ii) opening and maintaining bank and investment accounts and arrangements, drawing Checks and other orders for the payment of money, and designating individuals with authority to sign or give instructions with respect to those accounts and arrangements;

(iii) maintaining the assets of the Company in good order;

(iv) collecting sums due the Company;

(v) to the extent that funds of the Company are available therefore, paying debts and obligations of the Company;

(vi) acquiring, utilizing, and disposing of any asset of Company;

(vii) borrowing money or otherwise Committing the credit of the Company for Company activities and voluntary prepayments or extensions of debt;

(viii) selecting, removing, and changing the authority and responsibility of lawyers, accountants, and other advisers and consultants; and

(ix) obtaining insurance for the Company.

(b) The Executive Committee of the Company shall be comprised of all Managers. Subject to the provisions of this Agreement, the Manager(s) of the Company shall have the authority and responsibility of directors and officers under Subchapter B of Chapter 17 of the PaBCL. To the extent not inconsistent with the Act or the provisions hereof, Members of the Company shall have such rights as shareholders of a business corporation incorporated under the PaBCL would have at common law.

(c) Notwithstanding the provisions of section 5.01(a) and 5.01(b), the Manager(s) may not cause the Company to do any of the following without the consent of the Members:

(i) amend the Certificate (except for amendments described in Section 8942(c) of the Act;

(ii) amend this Agreement;

(iii) take any action described in Section 8942(b)(2) of the Act;



(iv) approve a merger or division in which the Company is a party (except a merger described in Section 8957(h) of the Act or a division described in Section 8963 of the Act.) ; or

(v) take any other action for which the consent of a Member or other vote of the Members is expressly provided by the provisions hereof.

**5.02 Number and Term of Office of Manager(s); Initial Manager(s).** The number of Manager(s) of the Company shall be determined from time to time by resolution of the Manager(s). Each Manager shall hold office until the next annual meeting of Members and until his or her successor shall have been elected and qualified, or until his or her earlier death, resignation or removal. The initial Manager of the Company who shall serve until the first annual meeting of Members and until his successor shall have been elected and qualified shall be: Karen Marshall, Rose Pepper, Terry Pepper, Woody Welsch, Joseph Morascyk, and Jacob Polochak.

**5.03 Vacancies; Removal; Resignation.** Any Manager position to be filled by reason of an increase in the number of Managers may be filled by election at an annual or special meeting of Members called for that purpose. Any vacancy occurring in the Managers other than by reason of an increase in the number of Managers may be filled (a) by election at an annual or special meeting of the Members called for that purpose or (b) by the affirmative vote of a majority of the remaining Managers though less than a quorum of the Managers.

**5.04 Meetings.**

(a) Unless otherwise required by law or provided in the Certificate or this Agreement, a majority of the total number of Managers shall constitute a quorum for the transaction of business of the Manager(s).

(b) Meetings of the Manager(s) may be held at such place or places as shall be determined from time to time by resolution of the Manager(s).

(c) Regular meetings of the Manager(s) shall be held at such times and places as shall be designated from time to time by resolution of the Manager(s).

(d) Special meetings of the Manager(s) may be called by any Manager on at least twenty-four (24) hours notice to each other Manager. .

**5.05 Approval or Ratification of Acts or Contracts by Members.** The Manager(s) in their discretion may submit any act or contract for approval or ratification at any annual meeting of the Members, or at any special meeting of the Members called for the purpose of considering any such act or contract, and any act or contract that shall be approved or be ratified by a Member shall be as valid and as binding upon the Company and upon all the Members as if it shall have been approved or ratified by every Member of the Company.

**5.06 Action by Written Consent or Telephone Conference.** Any action permitted or required by the Act, the Certificate or this Agreement to be taken at a meeting of the Manager(s) of any committee designated by the Manager(s) may be taken without a meeting if a consent in writing, setting forth the action to be taken, is signed by all the Manager(s) or members of such committee, as the case may be.

**5.07 Conflicts of Interest.** Subject to the other express provisions of this Agreement, each Manager and Member of the Company at any time and from time to time may engage in and possess interests in other business ventures of any and every type and description, independently or with others, including ones in competition with the Company, with no obligation to offer to the Company or any other Member, Manager the right to participate, therein. The Company may transact business with any Manager, Member or affiliate thereof, provided the terms of those transactions are no less favorable than those the Company could obtain from, unrelated third parties.

## **ARTICLE VI INDEMNIFICATION**

**6.01 Right to Indemnification.** Subject to the limitations and conditions as provided in this Article VI, each person who was or is made a party or is threatened to be made a party to or is involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitral or investigative (hereinafter a "Proceeding"), or any appeal in such a Proceeding or any inquiry or investigation that could lead to such a Proceeding, by reason of the fact that he or she, or a person of whom he or she is the legal representative, is or was a Manager of the Company or while a Manager of the Company is or was serving at the request of the Company as a Manager, director, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary of another foreign or domestic limited liability company, corporation, partnership, joint venture, sole proprietorship trust, employee benefit plan or other enterprise shall be indemnified by the Company to the fullest extent permitted by the Act and the PaBCL, against judgments penalties (including excise and similar taxes and punitive damages), fines, settlements and reasonable expenses (including, without limitation, attorneys, fees) actually incurred by such person in connection with such Proceeding, and indemnification under this Article VI shall continue as to a person who has ceased to serve in the capacity which initially entitled such person to indemnity hereunder.

**6.02 Advance Payment.** The right to indemnification conferred in this Article VI shall include the right to be paid or reimbursed by the Company the reasonable expenses incurred by a person of the type entitled to be indemnified under Section 6.01.

**6.03 Insurance.** The Company may purchase and maintain insurance, at its expense, to protect itself and any person who is or was serving as a Manager, employee or agent of the Company or is or was serving at the request of the Company as a Manager, director, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary of another foreign or domestic limited liability company, corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise against any expense, liability or loss, whether or not the Company would have the power to indemnify such person against such expense, liability or loss hereunder.

**6.04 Limitation on Liability.** No Manager shall be personally liable, as such, for any action taken unless (i) such manager breached or failed to perform the duties of his office; and (ii) the breach or failure to perform constituted self-dealing, willful misconduct, or recklessness. The foregoing shall not apply to any responsibility or liability under a criminal statute or liability for the payment of taxes under Federal, state, or local law.

## **ARTICLE VII MEETINGS OF MEMBERS**

### **7.01 Meetings.**

(a) A quorum shall be present at a meeting of Members if a majority of Members are represented at the meeting in person or by proxy.

(b) All meetings of the Members shall be held at the principal place of business of the Company or at such other place within or without the Commonwealth of Pennsylvania as shall be specified or fixed in the notices or waivers of notice thereof; provided that any or all Members may participate in any such meeting by means of conference telephone or similar communications equipment.

(c) An annual meeting of the Members, for the election of the Managers and for the transaction of such other business as may properly come before the meeting, shall be held at such place, within or without the Commonwealth of Pennsylvania, on such date and at such time as the Managers shall fix and set forth in the notice of the meeting, which date shall be within twelve (12) months subsequent to the date of organization of the Company or the last annual meeting of Members, whichever most recently occurred.

(d) Special meetings of the Members for any proper purpose or purposes may be called at any time by the Managers or the Member. If not otherwise stated in or fixed in accordance with the remaining provisions hereof, the record date for determining Members entitled to call a special meeting is the date any Member first signs the notice of such meeting.

(e) Written or printed notice stating the place, day and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (5) days before the date of the meeting, either personally, by mail, or by e-mail by or at the direction of the Managers or person calling the meeting, to each Member entitled to vote at such meeting.

**7.02 Proxies.** A Member may vote either in person or by proxy executed in writing by the Member. A telegram, telex, cablegram or similar transmission by the Member, or a photographic, photostatic, facsimile or similar reproduction of a writing executed by the Member shall be treated as an execution in writing for purposes of this Section. A proxy shall be revocable unless the proxy form conspicuously states that the proxy is irrevocable.

**7.03 Conduct of Meetings.** All meetings of the Members shall be presided over by the chairman of the meeting, who shall be a Manager (or representative thereof) designated by a majority of the Manager(s). The chairman of any meeting of Members shall determine the order of business and the procedure at the meeting, including such regulation of the manner of voting and the conduct of discussion as seem to him in order.

## **ARTICLE VIII TAXES**

**8.01 Tax Returns.** The Manager(s) shall cause to be prepared and filed all necessary federal and state income tax returns for the Company, including making the elections described in Section 8.02. Each Member shall furnish to the Manager(s) all pertinent information in its possession relating to Company operations that is necessary to enable the Company's income tax returns to be prepared and filed.

**8.02 Tax Elections.** To the extent permitted by applicable tax law, the Company shall make the following elections on the appropriate tax returns:

- (a) to adopt the calendar year as the Company's fiscal year;
- (b) to adopt the cash method of accounting and to keep the Company's books and records on the income-tax method;

(c) if a transfer of a Membership Interest as described in section 743 of the Code occurs, on written request of any transferee Member, or if a distribution of Company property is made on which gain described in Section 734(b)(1)(A) of the Code is recognized or there is an excess of adjusted basis as described in Section 734(b)(1)(B) of the Code, to elect, pursuant to section 754 of the Code, to adjust the basis of Company properties,

(d) to elect to amortize the organizational expenses of the Company and the start-up expenditures of the Company ratably over a period of sixty (60) months as permitted by sections 195 and 709(b) of the Code,

(e) To elect to be treated for Federal and state tax purposes as a partnership, and the Managers are directed to file any necessary paperwork to effectuate such filing; and

(f) any other election the Manager(s) may deem appropriate and in the best interests of the Members.

**8.03 Tax Matters Member.** A majority of the Manager(s) shall designate one Manager to be the "Tax Matters Partner" of the Company pursuant to section 6231(a)(7) of the Code. Any Member who is designated Tax Matters Partner shall take such action as may be necessary to cause each other Member to become a "Notice Partner" within the meaning of section 6223 of the Code. Any Member who is designated Tax Matters Partner shall inform each other Member of all significant matters that may come to its attention in its capacity as Tax Matters Partner by giving notice thereof on or before the fifth (5<sup>th</sup>) Business Day after becoming aware thereof and, within that time, shall forward to each other Member copies of all significant written communications it may receive in that capacity. Any Member who is designated Tax Matters Partner may not take any action contemplated by sections 6222 through 6232 of the Code without the consent of a majority of the Members, but this sentence does not authorize such Manager (or any other Manager) to take any action left to the determination of an individual Member under sections 6222 through 6232 of the Code.

## **ARTICLE IX**

### **BOOKS, RECORDS, REPORTS, AND BANK ACCOUNTS**

**9.01 Maintenance of Books.** The Company shall keep books and records of accounts and shall keep minutes of the proceedings of its Members and Manager(s).

**9.02 Reports.** On or before the 120<sup>th</sup> day following the end of each fiscal year during the term of the Company, the Manager(s) shall cause each Member to be furnished with a balance sheet, an income statement, and a statement of changes in Members' capital of the Company for, or as of the end of, that year.

9.03 Accounts. The Manager(s) shall establish and maintain one or more separate bank and investment accounts and arrangements for Company funds in the Company name with financial institutions and firms that the Manager(s) determine. The Manager(s) may not commingle the Company's funds with the funds of any Member; however, Company funds may be invested in a manner the same as or similar to the Managers' investment of their own funds or investments by their affiliates.

## ARTICLE X TRANSFER OF INTEREST

10.01 Transfers by the Member. Disposition of a Membership Interest or right, or any part thereof, by any person in or in respect of the Company other than in accordance with this Section 10.01 shall be, and is hereby declared, null and void *ab initio*.

(a) Except as to a Disposition to a Permitted Transferee as defined in Section 10.01 (b), any Member proposing to make a Disposition, whether during life or at death, of all or any part of its Membership Interest (the "Offered Interest") to any person (including an Involuntary Transfer as defined in Section 10.01(c)) and any recipient of an Involuntary Transfer (either hereinafter denoted the "Transferring Member"), shall:

(i) first offer such Offered Interest to the Members (the "Transferring Member's Offer") by written notice (the "First Notice") which shall contain the name and address of the prospective transferee, and if such prospective transferee is a purchaser, the terms of the proposed sale, transfer or exchange, including the consideration to be paid therefore (the "Purchase Price"), if any.

(ii) for a period of thirty (30) days following the delivery of the First Notice, each non-offering Member shall have the option to elect to purchase a pro rata allotment of the Offered Interest. The pro rata allotment shall be determined with respect to the Offered Interest proposed to be transferred by determining the sharing ratio of all non-offering Members after subtraction of the Transferring Member's sharing ratio. If any non-offering Member does not elect to purchase such pro rata allotment of the Offered Interest, the other non-offering Members may elect to purchase the remaining portion of the Offered Interest pro rata or on such other basis as they shall agree. If a non-offering Member exercises an option provided for herein, such Member shall give timely written notice (the "Notice of Exercise") of that fact to the Transferring Member and to the Company and the non-offering Member shall purchase the Offered Interest in the manner provided herein. The terms and conditions of the purchase referred to herein shall be as specified in the Notice of Exercise, and the price to be paid shall be the Option Price;

(iv) If the non-offering Members fail to exercise their respective options to purchase all of the Offered Interest, then the right of the non-offering Members to purchase any or all of the Offered Interest shall terminate and the Offered Interest may be transferred, within thirty (30) days after the expiration of the options provided for above, to the transferee named in the First Notice at a price not lower than nor on terms more favorable than the price and terms stated in the First Notice, provided that such Disposition is consented to by a Required Interest of the non-offering Members. Should such consent not be received, then such a Disposition shall not occur;

(v) The closing of any transfer under this Section 10.01 shall take place at the principal office of the Company within thirty (30) days from the date of the expiration of the options provided above;

(vi) The Option Price shall be paid by cash, cashier's check, wire transfer, or other immediately available funds at the closing unless otherwise agreed to by the transferor and transferee.

(b) A "Permitted Transferee" shall mean (i) an existing Member or to any Affiliate of an existing Member, (ii) the lineal ascendant(s) or descendant(s) of any existing Member, (iii) a trust provided that any distribution of a Membership Interest or portion thereof from such a trust to its beneficiaries would not violate the requirements of subsections (i) or (ii) immediately above, or this subsection (iii). A Disposition to a Permitted Transferee may be made by any Member without the need of offering such Member's Interest to the Company or non-offering Members, and further, without the need of the consent or approval of a Required Interest of non-offering Members. As such, the right of first refusal granted herein to the non-offering Members, and the consent requirements set forth above, shall not apply to a Disposition to a Permitted Transferee.

(c) An "Involuntary Transfer" is a Disposition (other than to a Permitted Transferee as defined in Section 10.01(b)) occurring by virtue of the bankruptcy of any Member, the divorce of any individual Member or by the death of any individual Member.

(d) The value of a Member's Interest (the "Value") for purposes of this Section shall be determined by appraisal. Such appraisal to be made as of the date of the First Notice. The appraised value shall be determined as follows:

(i) If the selling Member (or, if applicable, his executors or administrators or personal or legal representatives) (such party referred to as the "Seller") and the Company (and/or, if applicable, the purchasing Members) (such party(s) referred to as the "Purchaser") are able to reach mutual agreement as to the appraised value, then that agreed value shall be the appraised value;

(ii) If mutual agreement cannot be reached on the appraised value, then the Seller and the Purchaser shall appoint a mutually agreeable third party appraiser who shall determine such appraised value, and the value so determined by the appraiser shall be the appraised value. The cost of such appraisal shall be split equally between the Seller and the Purchaser;

(iii) If mutual agreement cannot be reached on the third party appraiser, then Seller and the Purchaser shall each promptly, but no later than thirty (30) days after the date of the event triggering the sale, appoint an independent and qualified third party appraiser. Seller and the Purchaser shall each notify the other of such party's chosen appraiser (including name, address and telephone number) within the above thirty (30) day period, then the two (2) appraisers shall jointly issue a single report of such value, and such value shall be the appraised value for purposes of this Section. However, if the two (2) appraisers do not agree on the appraised value, then they shall each render a separate written report within sixty (60) days after their respective appointments, and shall together, within thirty (30) days after the end of the aforesaid sixty (60) day period, appoint a third appraiser, who shall appraise the shares to be so purchased and shall render a written report of such appraisal. The value contained in the third appraisers report shall be the appraised value for purposes of this Section 10.01, provided, however, that if the appraised value of the third appraiser is higher than both of the first two (2) appraisals, then the higher of the first two (2) appraisals shall be the appraised value for purposes of this Section 10.01; and, likewise, if the appraised value of the third appraiser is lower than both of the first two (2) appraisals, then the lower of the first two (2) appraisals shall be the appraised value for purposes of this Section;

(g) The Member effecting a Disposition and any person admitted to the Company in connection therewith shall pay, or reimburse the Company for, all costs incurred by the Company in connection with the Disposition or admission (including, without limitation, the legal fees incurred in connection with the legal opinions referred to in Section 10.01(f)) on or before the tenth (10<sup>th</sup>) day after the receipt by that person of the Company's invoice for the amount due. If payment is not made by the date due, the person owing that amount shall pay interest on the unpaid amount from the date due until paid at a rate per annum equal to the Default Interest Rate.

**10.02 Admission of Members.** Additional Members may be admitted to the Company upon the approval of the Member. No prospective Member may be admitted to the Company until such prospective Member shall execute a joiner to this Agreement in the form and substance satisfactory to the Company, whereby the additional Member agrees to be bound by all of the terms and conditions of this Agreement then in effect. Upon the admission of each additional Member, the Interest in the Company of such additional Member shall be as specified at the time such new Member shall be admitted, the Interests in the Company of all other Members if the Company shall be proportionately reduced and Exhibit "A" hereto shall be amended to reflect the Capital Contributions and respective Interests of the Members as so changed.



## ARTICLE XI LIQUIDATION AND TERMINATION

**11.01 Termination.** The existence of the Company shall terminate upon the occurrence of any of the following: (i) the written consent of the Member to dissolve the Company and the filing of a certificate of dissolution pursuant to the Act; (ii) the sale of all or substantially all of the assets owned by the Company and the collection of all of the net proceeds therefrom; or (iii) entry of a decree of judicial dissolution pursuant to the Act.

**11.02 Liquidation and Termination.** In the event of the termination of the Company, the Member shall within a reasonable period of time prepare, or cause to be prepared, a full and accurate statement of the Company's assets and liabilities and results of operations since the last previous statement, convert the Company's assets to cash, collect all amounts due the Company, including amounts owed by the Member, discharge the debts of the Company, and then distribute all remaining funds to the Member.

## ARTICLE XII GENERAL PROVISIONS

**12.01 Notices.** Except as expressly set forth to the contrary in this Agreement, all notices, requests, or consents provided for or permitted to be given under this Agreement must be in writing. All notices, requests, and consents to be sent to a Member must be sent to or made at the addresses given for that Member on Exhibit A, or such other address as that Member may specify by notice to the other Members.

**12.02 Entire Agreement; Supersedure.** This Agreement constitutes the entire agreement of the Members and their Affiliates relating to the operation of the Company and supersedes all prior contracts or agreements with respect to the Company, whether oral or, written.

**12.03 Amendment or Modification.** This Agreement may be amended or modified from time to time only by a written instrument adopted by the Manager(s) and Members.

**12.04 Binding Act.** This Agreement is binding on and inures to the benefit of the Members and their respective heirs, legal representatives, successors, and assigns.

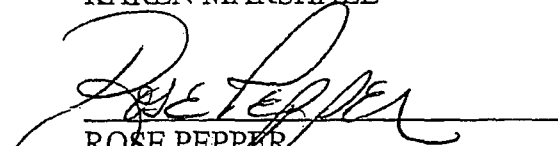
**12.05 Governing Law; Severability.** This Agreement is governed by and shall be construed in accordance with the law of the Commonwealth of Pennsylvania, excluding any conflict-of-laws rule or principle that might refer the governance or the construction of this agreement to the law of another jurisdiction. If any provision of this Agreement or the application thereof to any person or circumstance is held invalid or unenforceable to any extent, the remainder of this Agreement and the application of that provision to other persons or circumstances is not affected. thereby and that provision shall be enforced to the greatest extent permitted by law.

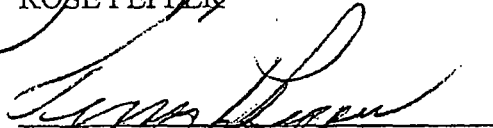
12.06 Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if all signing parties had signed the same document. All counterparts shall be construed together and constitute the same instrument.

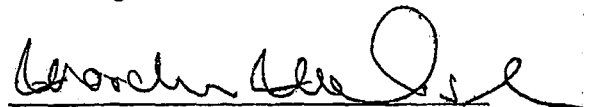
IN WITNESS WHEREOF, the initial Members of the Company have executed this, Agreement as of the date first set forth above.

MEMBERS:

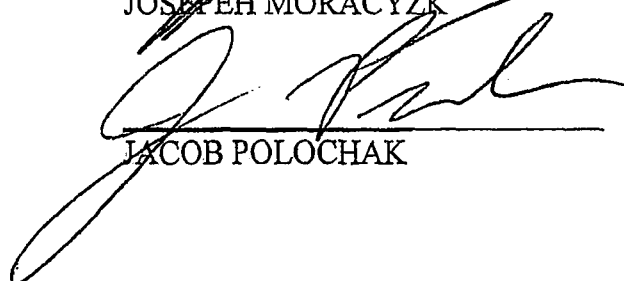
  
KAREN MARSHALL

  
ROSE PEPPER

  
TERRY PEPPER

  
WOODY WELSCH

  
JOSEPH MORACYZK

  
JACOB POLOCHAK

## EXHIBIT "A"

<u>Member Name and Address</u>	<u>Initial Capital Contribution</u>	<u>Initial Membership Interest Percentage</u>
Karen Marshall	\$ <u>1,000.00</u>	16.67%
Rose Pepper	\$ <u>1,000</u>	16.67%
Terry Pepper	\$ <u>1,000</u>	16.67%
Woody Welsch	\$ <u>1,000</u>	16.67%
Joseph Morascyzk	\$ <u>1,000</u>	16.67%
Jacob Polochak	\$ <u>1,000</u>	16.67%

## **EXHIBIT "B"**

### **REQUIRED INFORMATION**

- (1) A current and a past list, setting forth the full name and last known mailing address of each Member and Manager, set forth in alphabetical order;
- (2) A copy of the Certificate of Organization and all amendments thereto;
- (3) Copies of the Company's Federal, state and local income tax returns and financial statements for the three most recent years or, if those returns and statements were not prepared for any reason, copies of the information and statements provided to, or which should have been provided to, the Members to enable them to prepare their federal, state and local tax returns for the period; and
- (4) Copies of the effective written Operating Agreement, and all amendments thereto, and copies of any operating agreements no longer in effect.

**Terry**

---

**From:** Karen Marshall [kmarshall444@aol.com]  
**Sent:** Sunday, July 11, 2010 9:45 PM  
**To:** michellerollins@kw.com; scandolari@verizon.net; teamloutsion@comcast.net;  
jamienicholls@kw.com; jsp@washingtonpalawyer.com; wsmith@co-exprise.com;  
jakepolochak@gmail.com; info@washingtonpalawyer.com; rosepepper@kw.com;  
briwoodinc@verizon.net; bcrumrine@kw.com; tpepper@gmail.com; steveg@whmgroup.com  
**Subject:** Terra Energy Advisors

Jake & Woody:

No Monday morning meeting

Will meet after the Tuesday night session

What about a team training meeting schedule? July 21st was slated for Butler but if we want the team training after work that day please repsond asap!

We need to pick the dates for the other sessions.

Thanks

Karen

Please respond as soon as possible

Karen Marshall,  
Operating Principal for  
Pittsburgh South & Peters Township Market Centers  
Realtor, New Construction Specialist,  
Luxury Homes Consultant &  
Team Leader-"The Karen Marshall Group"  
Limited Partner  
Keller Williams Realty  
1500 Oxford Drive, Suite 300  
Bethel Park, PA 15102  
412-831-3800 or 724-969-4900 ext 126  
412-831-9964 fax  
[kmarshall444@aol.com](mailto:kmarshall444@aol.com)  
[www.thekarenmarshallgroup.com](http://www.thekarenmarshallgroup.com)

Licensed in the State of Pennsylvania  
Please view the Pennsylvania Consumer notice at the following link:  
<http://www.dos.state.pa.us/bpoa/LIB/bpoa/20/10/reconsnotice.pdf>

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Version: 9.0.830 / Virus Database: 271.1.1/3006 - Release Date: 07/14/10 22:26:00

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Version: 2012.0.1913 / Virus Database: 2114/4844 - Release Date: 03/01/12



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**From:** Jake Polochak <jakepolochak@gmail.com>  
**Sent:** Wednesday, July 14, 2010 4:43 PM  
**To:** Karen Marshall  
**Cc:** Woody Welsch; Terry Pepper; Rose Pepper; Joseph Edward Morascyzk  
**Subject:** Re: Terra Energy Training Schedule

July 21 is no good for Joe or Jake. I have an all day hearing and then we are both committed to our "northern office" that evening for consultations and client meetings. The 22nd or 23rd would work for me. I thought we decided on Friday the 23rd.

Jake

On Wed, Jul 14, 2010 at 12:57 PM, Karen Marshall <[kmmarshall444@aol.com](mailto:kmmarshall444@aol.com)> wrote:  
Sorry Team it's the 21st. Wednesday sooo sorry

Karen Marshall,  
Operating Principal for  
Pittsburgh South & Peters Township Market Centers  
Realtor, New Construction Specialist,  
Luxury Homes Consultant &  
Team Leader-"The Karen Marshall Group"  
Limited Partner  
Keller Williams Realty  
1500 Oxford Drive, Suite 300  
Bethel Park, PA 15102  
412-831-3800 or 724-969-4900 ext 126  
412-831-9964 fax  
[kmmarshall444@aol.com](mailto:kmmarshall444@aol.com)  
[www.thekarenmarshallgroup.com](http://www.thekarenmarshallgroup.com)

Licensed in the State of Pennsylvania  
Please view the Pennsylvania Consumer notice at the following link:  
<http://www.dos.state.pa.us/bpoa/LIB/bpoa/20/10/reconsnotice.pdf>

-----Original Message-----

**From:** Karen Marshall <[kmmarshall444@aol.com](mailto:kmmarshall444@aol.com)>  
**To:** michellerollins <[michellerollins@kw.com](mailto:michellerollins@kw.com)>; scandolari <[scandolari@verizon.net](mailto:scandolari@verizon.net)>; teamloutsion <[teamloutsion@comcast.net](mailto:teamloutsion@comcast.net)>; jamienicholls <[jamienicholls@kw.com](mailto:jamienicholls@kw.com)>; jsp <[jsp@washingtonpalawyer.com](mailto:jsp@washingtonpalawyer.com)>; wsmith <[wsmith@co-exprise.com](mailto:wsmith@co-exprise.com)>; jakepolochak <[jakepolochak@gmail.com](mailto:jakepolochak@gmail.com)>; info <[info@washingtonpalawyer.com](mailto:info@washingtonpalawyer.com)>; rosepepper <[rosepepper@kw.com](mailto:rosepepper@kw.com)>; briwoodinc <[briwoodinc@verizon.net](mailto:briwoodinc@verizon.net)>; bcrumrine <[bcrumrine@kw.com](mailto:bcrumrine@kw.com)>; tlpepper <[tlpepper@gmail.com](mailto:tlpepper@gmail.com)>; steveg <[steveg@whmgroup.com](mailto:steveg@whmgroup.com)>; C21brucefife <[C21brucefife@aol.com](mailto:C21brucefife@aol.com)>; jdavis <[jdavis@post-gazette.com](mailto:jdavis@post-gazette.com)>; marialane <[marialane@pittsburghmoves.com](mailto:marialane@pittsburghmoves.com)>; marlenemc <[marlenemc@earthlink.net](mailto:marlenemc@earthlink.net)>; bjb225 <[bjb225@gmail.com](mailto:bjb225@gmail.com)>; Kmarshall444 <[Kmarshall444@aol.com](mailto:Kmarshall444@aol.com)>  
**Sent:** Wed, Jul 14, 2010 12:43 pm  
**Subject:** Terra Energy Training Schedule

Team Members

Our training for our agents will be Wednesday July 23rd 6:30 p.m. at the Peters Township office at teh Radicchio's Plaza . It will be the basic overview of what you need. I strongly suggest everyone learn as much as possible prior to the overview our attorneys and members will be giving you information on. I will have another packet for basics for those referral agents

who sign on with us. Please bring anyone else you think might be a great business partner and asset to our company. Please forward the date and time to any other team member not listed above so we touch all basis.

Thanks and Let's show this industry what we can do!

Best Regards,  
Karen

Karen Marshall,  
Operating Principal for  
Pittsburgh South & Peters Township Market Centers  
Realtor, New Construction Specialist,  
Luxury Homes Consultant &  
Team Leader-"The Karen Marshall Group"  
Limited Partner  
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1500 Oxford Drive, Suite 300  
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412-831-3800 or 724-969-4900 ext 126  
412-831-9964 fax  
[kmarshall444@aol.com](mailto:kmarshall444@aol.com)  
[www.thekarenmarshallgroup.com](http://www.thekarenmarshallgroup.com)

Licensed in the State of Pennsylvania  
Please view the Pennsylvania Consumer notice at the following link:  
<http://www.dos.state.pa.us/bpoa/LIB/bpoa/20/10/reconsnotice.pdf>

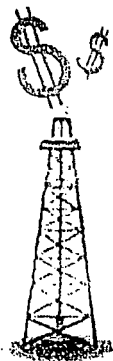
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Jake Polochak, Esq.  
382 W. Chestnut St.  
Suite 107  
Washington, PA 15301  
724-225-1110  
Fax 724-884-0356

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Version: 9.0.830 / Virus Database: 271.1.1/3006 - Release Date: 07/14/10 22:26:00

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Version: 2012.0.1913 / Virus Database: 2114/4844 - Release Date: 03/01/12



## TERRA ENERGY ADVISORS, LLC

832 West Chestnut Street, Suite 107B

Washington, PA 15301

[www.terraenergyadvisors.com](http://www.terraenergyadvisors.com)

Ph: 724-263-5273 Fax: 866-502-2936

Mr. John Doe  
123 Any Lane  
McMurray, PA 15317

### SUBJECT: MARCELLUS GAS PLAY, ADVISORY TEAM

Hello

We would like to introduce ourselves to you as a team of advisors created as a resource group for land owners with regard to the Marcellus Shale Gas Drilling and Development Plans and the current *Energy Surge* that has made Pennsylvania the "Energy Capital of the East." Knowing your rights in today's energy industry is much too important to neglect. Our Team serves as advisors, working to insure that your most valued investment and rights (property and mineral) are preserved. We will not settle for the first offer, as we will instead negotiate with multiple companies, making certain that you will receive the best upfront fee per acre as well as your deserved residual income through the royalty's that will be paid when gas extraction commences. We act proactively, to insure the standard lease may need to be altered for your benefit, providing you protection.

We have combined our extensive real estate industry knowledge, with a financial advisor, our legal arm, and environmental and water consultants to aid our clients in this next step to the future of Pennsylvania and yours, all as a resource for you. Our Team offers an expertise in all aspects of land acquisition, development, sales, purchases and negotiations, and will also serve as liaison with the regulatory and governmental agencies, thereby protecting your rights and interests, and insuring your future.

If you have not yet signed a gas lease, or if your lease is about to expire with an existing company, let us negotiate with *all* of the companies on your behalf to pursue the best transaction for you. This Team will take all of the risks and perform all of the legwork to find the best situation for you. Use our resources to protect your resources.

Best Regards,

Terra Energy Advisors, LLC

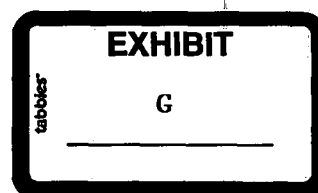
\*\* Get the most money for your gas--don't leave thousands of dollars on the table!

\*\* Protect your property from being damaged by gas drilling.

\*\* Discover the little known secrets of gas leasing.

\*\* Think like a gas driller: WE know what the gas drilling companies don't tell you.

\*\* One Stop Shopping – WE offer a total solution under one umbrella: Real Estate, Legal, Financial, and Environmental!





**Terry**

---

**From:** Jake Polochak [jakepolochak@gmail.com]  
**Sent:** Tuesday, June 29, 2010 5:30 PM  
**To:** Terry Pepper; Rose Pepper; Karen Marshall; Woody Welsch; Joseph Edward Morascyzk  
**Subject:** Fwd: O&G Materials  
**Attachments:** Gas Leasing 101.pptx; Butler Workshop Survey.doc; Butler Seminars - Gas Leasing 101.doc

Attached is our Gas 101 power point. PLEASE SAFEGUARD THIS DOCUMENT, as it is our bread and butter basic presentation. The outline and surveys for the seminars are also attached. While the seminar is free info to the public, we make it clear that we expect everyone to at least fill out the survey and share some basic info to help us better help our clients. We have tweaked the power point to suit various audiences. The question is who will be our audience on the 8th and 13th. Will this be the public at large, or will we be targeting a certain homeowners association or neighborhood. My recollection is that you had invited a select group in addition to the publication. These documents should be ready to go once reference to Morasyzk & Polochak is replaced with Terra.

I will draft an Operating Agreement for the LLC and send a copy to everyone for comment.

--

Jake Polochak, Esq.  
382 W. Chestnut St.  
Suite 107  
Washington, PA 15301  
724-225-1110  
Fax 724-884-0356

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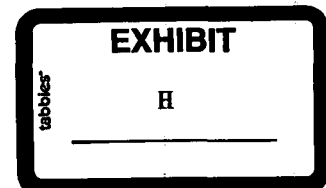
Version: 9.0.830 / Virus Database: 271.1.1/2970 - Release Date: 06/29/10 02:35:00

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Version: 2012.0.1913 / Virus Database: 2114/4844 - Release Date: 03/01/12



# DO YOU HAVE OIL AND GAS LEASE QUESTIONS?

## We have the answers!

Don't miss this **FREE** Oil and Gas Lease workshop! Use our experience helping landowners with Marcellus Gas issues, and learn how to...

- Get the most money for your gas - don't leave thousands of dollars on the table!
- Protect your property from being damaged by gas drilling.
- Discover the little known secrets of gas leasing.
- Think like a gas driller: *WE* know what the gas drilling companies don't tell you!
- Make the most of your one and only chance to get your oil and gas lease right, whether you have 1 acre or 100.

Presented by **TERRA ENERGY ADVISORS, LLC**

**724-263-5273**

[www.TerraEnergyAdvisors.com](http://www.TerraEnergyAdvisors.com)

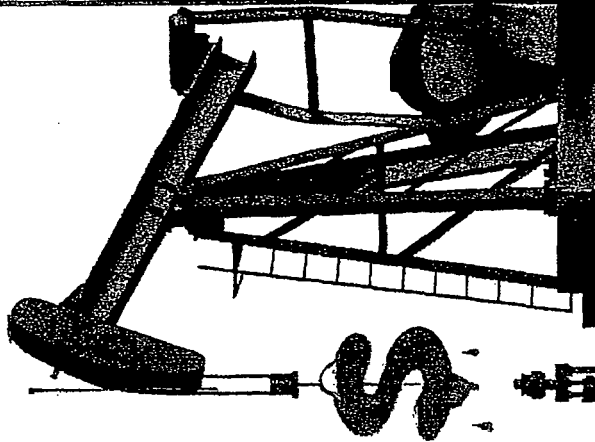
Be informed before you sign a gas lease so that you have no regrets afterward. Attend one of our **FREE** Gas Lease Workshops near you.

**July 8th - Houston Fire Hall**  
(Across from municipal building)  
Pike street

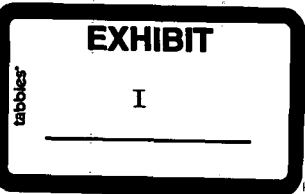
3:30-5:30 & 6:30-8:30

**July 13th - North Strabane Fire Department, meeting room**  
2550 Washington Road  
3:30-5:30 & 6:30-8:30

REFRESHMENTS WILL BE SERVED.



**Limited seating! Please call 877.502.5099 to reserve seats!**



**DO YOU HAVE OIL AND GAS LEASE QUESTIONS?**

**We have the answers!**

**Don't miss this FREE Oil and Gas Lease Workshop!**

**Presented by TERRA ENERGY ADVISORS, LLC.**

**September 9th - Browns Country Kitchen, Portersville, PA**  
**5 - 7 pm** Refreshments will be served!

**Limited seating! Please call 877.502.5099 to reserve your seat!**

**DO YOU HAVE MARCELLUS GAS LEASE QUESTIONS?  
WE HAVE ANSWERS!**

**Don't miss this FREE Gas Lease workshop.  
Use our experience representing land owners and  
learn how to:**

- **Get the most money for your gas - don't leave thousands of dollars on the table**
- **Protect your property from damage due to gas drilling**
- **Find out the little known secrets of gas leasing**
- **Learn how to think like a gas driller: we know what the gas drilling companies don't want to tell you**
- **Make the most of your one and only chance to get your Gas Lease right, whether you have 1 acre or 1,000 acres.**

*Presented by:*

**Attorney Trey Peterson and  
Attorney Joseph E. Morascyzk**

**Tuesday, September 21, 2010 at 2 PM**

**Tuesday, September 21, 2010 at 6 PM**

**At:**

**UNIVERSITY INN**

**1401 University Bldg., Steubenville, OH**

**Seating is limited so please  
RSVP to Attorney Trey Peterson  
(740) 282-1911**

**2017 Sunset Blvd., Steubenville, OH**



TERRA ENERGY ADVISORS, LLC  
www.terraenergyadvisors.com

The BEST Land Consultants!

Put our experience to work for you!

## Why Lease Your Gas Rights?

There are five main reasons why you may consider leasing your gas rights:

- Risk - Many individuals and families are finding that gas rights come with an extreme amount of financial volatility risk and benefits. Gas rights are subject to the large swings of the commodities market. Many gas rights owners would be well advised to opt for a more stable asset such as cash, mutual funds, blue chip stocks, and index funds that give you a range of liquidity, security, and stability that gas rights do not. We can assist you in obtaining the maximum benefit with the least amount of risk for these rights.
- Expertise - In today's world the gas and oil energy industry can generally be harsh, fast moving, and extremely complex. If you're not an expert in the industry, it is easy to get taken advantage of. We are able to advise you where to obtain the necessary experts so that you are able to make an informed decision while we negotiate lease agreements on your behalf.
- Income Availability - In times like these, income availability both short term and, most importantly, long term can be tight. In the short term we have the ability to negotiate a cash bonus payable within 90 days. In the long term we are able to negotiate a royalty payment that, in most cases, will be higher than averages for your area.
- Financial Planning and Real Estate Evaluation - We can assist you in determining the right course of action to take in preparing for your financial future and evaluating your real estate value before and after gas extraction.
- Heirship / Dilution Reasons - Many people worry about the hassle of leaving minerals to family members in wills or trusts. It can be a costly and complicated process, and it also decreases the value of your minerals. It is important to note that mineral interests that are continually divided into smaller and smaller pieces decrease in worth. For example, selling a 25% interest now is going to be worth much more money to you than having six relatives sell 1/6ths of a 25% interest in 15 years. This is largely because of the land work and fees that are incurred by purchasing many small interests. As minerals have been passed from generation to generation, they have become smaller and smaller. Receiving a very small mineral interest is often more trouble than it is worth.

These are only five of the many reasons you may consider leasing your gas rights. If you are still unsure or have any more questions about why you may want to lease, or not want to lease, please contact us and we will gladly give you whatever information we can.

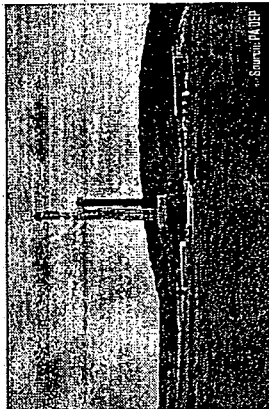
PH: 877.502.5099 FAX: 866.502.2936

EMAIL: [terraenergyadvisors@gmail.com](mailto:terraenergyadvisors@gmail.com)

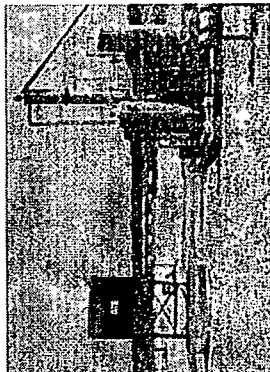
WEB: [terraenergyadvisors.com](http://terraenergyadvisors.com)

# TERRA ENERGY ADVISORS, LLC

From this:



To this:



Within a year!

We assist property owners to become educated on the process of fully developing their mineral rights and obtaining the maximum income for leasing their land.

LET OUR EXPERIENCE WORK FOR  
**YOU!**



# Getting the gas

How a horizontal well works

FEET 0

Average depth of a well is 100 feet

1 The vertical portion of the well is 100 feet deep. The horizontal portion of the well is 1,000 feet long.

1,000

2,000

Let's take a look at the horizontal portion of the well. It is 1,000 feet long and 100 feet wide.

3,000

4,000

5,000

6,000

7,000

8,000

9,000

10,000

11,000

12,000

13,000

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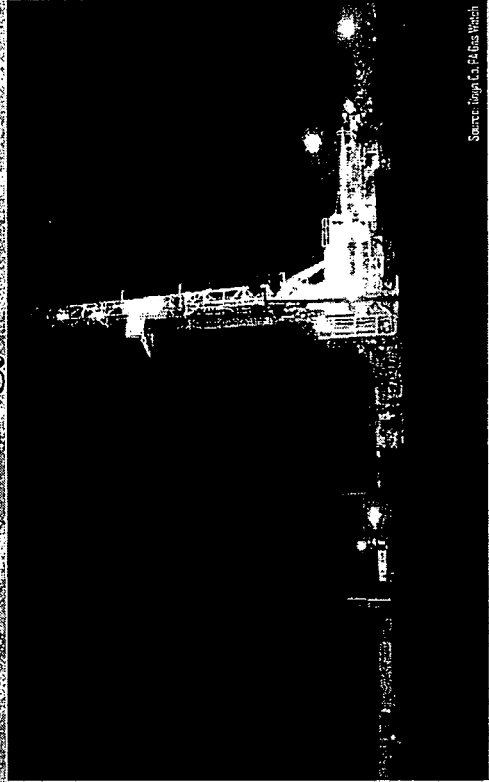
49,000

50,000

# TERRA ENERGY ADVISORS, LLC

PH : 877.502.5099 • FAX : 866.502.2936

www.terraenergyadvisors.com



Source: Energy & Environment

In obtaining these benefits, we follow the leasing process for you throughout. We negotiate with the well drillers to secure the best possible signing bonus or annual payment as well as royalty payments. Our team also provides to our clients advisors on various issues including legal, environmental, water supply and a financial consultant.

We are a company with integrity and a sense of pride in how we run our business. Our reputation and service to you are paramount, ensuring that each property owner is individually important to us.

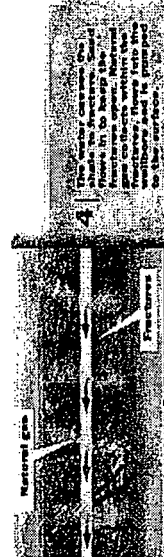
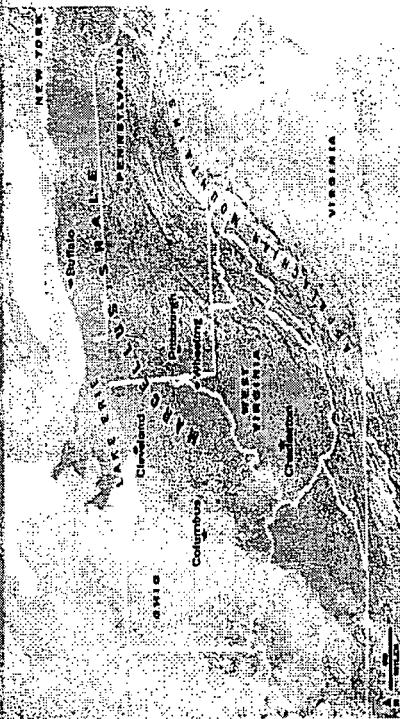
**CALL TODAY!**

**877.502.5099**

*We are not offering any Real Estate, Financial or Legal advice.*

## Untapped energy

- ▶ **What's there:** Marcellus Shale underlies much of northern Appalachia, 6,000 to 8,000 feet below the ground. Tiny pores in the shale contain large amounts of natural gas. The layer becomes thicker from west to east, beginning at about 50 feet thick in eastern Ohio to more than 100 feet in north-central Pennsylvania.
- ▶ **How much:** An estimated 50 trillion cubic feet of natural gas is trapped in the tiny pores in the shale. Not all of it is recoverable. The U.S. uses 23 billion cubic feet of natural gas each year.
- ▶ **Getting it:** Horizontal drilling could tap the natural gas in the shale. The technology takes advantage of shale's tendency to fracture easily under pressure, forming cracks that run perpendicular to horizontal wells.



3 The pressure created by the gas in the shale causes the shale to fracture, allowing the gas to flow into the well. The fractures are perpendicular to the horizontal well.

## MARCELLUS SHALE

Source: Penn State University, US Geological Survey

**From:** Briwood <briwoodinc@verizon.net>  
**Sent:** Wednesday, July 14, 2010 5:40 PM  
**To:** Karen Marshall; Jake Polochak  
**Cc:** Woody Welsch; Terry Pepper; Rose Pepper; Joseph Edward Morascyzk  
**Subject:** Re: Terra Energy Training Schedule

To all:

I left a message with my contact Bill Smith regarding meeting with the internet auction company at the end of the day on Thursday, July 22, 2010 at their Cranberry office.

If there is any problem with this please call or text me on my cell since I will be traveling from Thursday 7/15 through Tuesday 7/20.

724 255-1111.

Thanks, Woody

-----Original Message-----

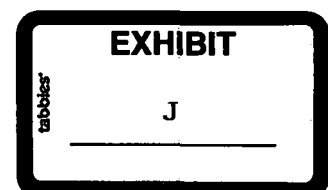
**From:** Jake Polochak  
**Date:** 07/14/10 16:43:00  
**To:** Karen Marshall  
**Cc:** Woody Welsch; Terry Pepper; Rose Pepper; Joseph Edward Morascyzk  
**Subject:** Re: Terra Energy Training Schedule

July 21 is no good for Joe or Jake. I have an all day hearing and then we are both committed to our "northern office" that evening for consultations and client meetings. The 22nd or 23rd would work for me. I thought we decided on Friday the 23rd.

Jake

On Wed, Jul 14, 2010 at 12:57 PM, Karen Marshall <[kmarshall444@aol.com](mailto:kmarshall444@aol.com)> wrote:  
Sorry Team it's the 21st. Wednesday sooo sorry

Karen Marshall,  
Operating Principal for  
Pittsburgh South & Peters Township Market Centers  
Realtor, New Construction Specialist,  
Luxury Homes Consultant &  
Team Leader-"The Karen Marshall Group"  
Limited Partner  
Keller Williams Realty  
1500 Oxford Drive, Suite 300  
Bethel Park, PA 15102  
412-831-3800 or 724-969-4900 ext 126  
412-831-9964 fax  
[kmarshall444@aol.com](mailto:kmarshall444@aol.com)  
[www.thekarenmarshallgroup.com](http://www.thekarenmarshallgroup.com)





---

**From:** Jake Polochak <jakepolochak@gmail.com>  
**Sent:** Wednesday, July 14, 2010 10:13 PM  
**To:** Karen Marshall  
**Cc:** Rose Pepper; Terry Pepper; Woody Welsch; Joseph Edward Morascyzk  
**Subject:** Re: Terra Energy Training Schedule

If Joe picked the 21st, then he should be voted off the island! How about PM only 19th, 20th and 22nd; Anytime 23, 24, 25, 26, 27, 29. Friday will work if we promise a few cocktails. I agree that this should be high priority. Our men and women on the street will be the unique asset of Terra. Also, Joe spoke with the guys from ex-prize today. This could be huge if we play our cards right.

On Wed, Jul 14, 2010 at 5:01 PM, Karen Marshall <kmarshall444@aol.com> wrote:  
I'm sorry but after you left they picked with Joe the 21st. I don't think we'll do good on a Friday do you. Give me a few alternate times so we can reschedule everyone.

Sorry

Karen Marshall,  
Operating Principal for  
Pittsburgh South & Peters Township Market Centers  
Realtor, New Construction Specialist,  
Luxury Homes Consultant &  
Team Leader-"The Karen Marshall Group"  
Limited Partner  
Keller Williams Realty  
1500 Oxford Drive, Suite 300  
Bethel Park, PA 15102  
412-831-3800 or 724-969-4900 ext 126  
412-831-9964 fax  
[kmarshall444@aol.com](mailto:kmarshall444@aol.com)  
[www.thekarenmarshallgroup.com](http://www.thekarenmarshallgroup.com)

Licensed in the State of Pennsylvania  
Please view the Pennsylvania Consumer notice at the following link:  
<http://www.dos.state.pa.us/bpoa/LIB/bpoa/20/10/reconsnotice.pdf>

-----Original Message-----

**From:** Jake Polochak <jakepolochak@gmail.com>  
**To:** Karen Marshall <kmarshall444@aol.com>  
**Cc:** Woody Welsch <briwoodinc@verizon.net>; Terry Pepper <tipepper@gmail.com>; Rose Pepper <rosepepper@kw.com>; Joseph Edward Morascyzk <info@washingtonpalawyer.com>  
**Sent:** Wed, Jul 14, 2010 4:43 pm  
**Subject:** Re: Terra Energy Training Schedule

July 21 is no good for Joe or Jake. I have an all day hearing and then we are both committed to our "northern office" that evening for consultations and client meetings. The 22nd or 23rd would work for me. I thought we decided on Friday the 23rd.

Jake

On Wed, Jul 14, 2010 at 12:57 PM, Karen Marshall <kmarshall444@aol.com> wrote:  
Sorry Team it's the 21st. Wednesday sooo sorry

**From:** Karen Marshall <kmarshall444@aol.com>  
**Sent:** Thursday, July 15, 2010 2:04 PM  
**To:** jakepolochak@gmail.com; rosepepper@kw.com; tlpepper@gmail.com  
**Subject:** Fwd: Thursday

Hope you all can make it then Jake please ask Joe?  
Karen Marshall,  
Operating Principal for  
Pittsburgh South & Peters Township Market Centers  
Realtor, New Construction Specialist,  
Luxury Homes Consultant &  
Team Leader-"The Karen Marshall Group"  
Limited Partner  
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1500 Oxford Drive, Suite 300  
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412-831-3800 or 724-969-4900 ext 126  
412-831-9964 fax  
kmarshall444@aol.com  
www.thekarenmarshallgroup.com

Licensed in the State of Pennsylvania  
Please view the Pennsylvania Consumer notice at the following link:  
<http://www.dos.state.pa.us/bpoa/LIB/bpoa/20/10/reconsnotice.pdf>

-----Original Message-----

**From:** William F. Smith <wsmith@co-exprise.com>  
**To:** briwoodinc <briwoodinc@verizon.net>; kmarshall444 <kmarshall444@aol.com>  
**Cc:** Nicholas J. Seitanakis <nseitanakis@co-exprise.com>; William R. Blair <WBlair@co-exprise.com>; Michael D. Porreca <MPorreca@co-exprise.com>; Chris Cracraft <CCracraft@co-exprise.com>  
**Sent:** Thu, Jul 15, 2010 10:29 am  
**Subject:** Thursday

Woody / Karen,

Let me know what times you have available next Thursday to have meeting # 2

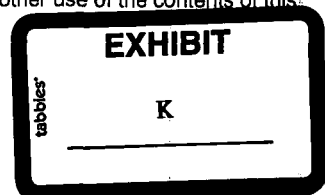
Looking at internal schedules of CX the 1-3 PM time frame is bad, maybe same time as last meeting would work, 10/10:30 AM start time?

By the way, who all from your company will be attending and what is the name of your Partner(s) who are the Attorneys and will they both be attending?  
Nick Seitanakis, CX Corporate Counsel, will be attending.

Bill  
☺

Bill Smith | Director of Sales | Co-exprise, Inc. | [wsmith@co-exprise.com](mailto:wsmith@co-exprise.com) | [www.cx-energy.com](http://www.cx-energy.com) | (Office) 724.933.1180 | (Mobile) 412-400-6211 | (Fax) 724.933-1150 | Co-exprise, Inc. | 6021 Wallace Road Extension, Suite 300 | Wexford, PA 15090

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Terry Pepper <tpepper@gmail.com>

## Fwd: Draft Channel Agreement

1 message

Jake Polochak <jakepolochak@gmail.com>

Fri, Sep 24, 2010 at 4:28 PM

To: Karen Marshall <kmarshall444@aol.com>, Terry Pepper <tpepper@gmail.com>, Rose Pepper <rosepepper@kw.com>, Woody Welsch <briwoodinc@verizon.net>, Joseph Edward Morascyzk <info@washingtonpalawyer.com>

Attached is the proposed consulting agreement from Co-Exprise. Essentially, they would want to split joint ventures 50-50 (just on bonus money not for royalties), 10% referral fee for anything we simply sent their way, and we are working out the split on a deal where we would simply bring them in at the end to do an auction (I proposed 80-20, as we had previously discussed). I have been working with the marketing guys to put together a proposal for Jim Lindhome's sale of land in McKean County. As I'm sure you saw, the Peters decision was tabled, so that's on hold for now. Other than ensuring that we would receive some compensation from royalties, if they are part of the fee, the agreement looks ok to me.

Begin forwarded message:

**From:** "Nicholas J. Seitanakis" <nseitanakis@co-exprise.com>

**Date:** September 21, 2010 9:52:19 AM EDT

**To:** 'Jake Polochak' <jakepolochak@gmail.com>, Jake Polochak <jsp@washingtonpalawyer.com>, "info@washingtonpalawyer.com" <info@washingtonpalawyer.com>

**Cc:** "William F. Smith" <wsmith@co-exprise.com>, Chris Cracraft <CCracraft@co-exprise.com>

**Subject:** Draft Channel Agreement

Good morning Jake and Joe,

Attached is a first draft of a customized version of our channel partner agreement. Please pay special attention to Schedule 1 since it has the commercial terms.

I look forward to discussing the opportunity with you in a short while.

Best Regards,

Nick

EXHIBIT

L

Nicholas J. Seitanakis | Executive Vice President, General Counsel, and Corporate Secretary | Co-eXprise, Inc. |  
nseitanakis@co-exprise.com | (Office) 724.933.1180 | (Mobile) 412.977.3699 | (Fax) 724.933-1150 | Co-exprise, Inc. |  
6021 Wallace Road Extension, Suite 300 | Wexford, PA 15090

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Jake Polochak, Esq.  
382 W. Chestnut St.  
Suite 107  
Washington, PA 15301  
724-225-1110  
Fax 724-884-0356

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 **Morascyzk & Polochak - Chan Affiliate - Mineral Rts - 09 16 2010.DOC**  
102K

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## CHANNEL PARTNER AGREEMENT

This Channel Partner Agreement ("Agreement") is entered into as of \_\_\_\_\_, 2010 (the "Effective Date"), by and between CO-EXPRISE, INC., a Delaware corporation having offices located at 6000 Brooktree Road, Suite 200, Wexford, Pennsylvania 15090 (the "Company"), and, \_\_\_\_\_ ("Affiliate") located at \_\_\_\_\_.

### WITNESSETH:

WHEREAS, the Company desires to retain Affiliate as a consultant and to provide the services set forth herein and Affiliate wishes to provide such services, all under the terms and conditions contained in this Agreement,

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained and intending to be legally bound hereby, the parties agree as follows:

1. Engagement and Term. The Company hereby engages the Affiliate, and the Affiliate hereby accepts such engagement by the Company, as a consultant, on the basis as an independent contractor, for a term commencing on the Effective Date and continuing until termination in accordance with Section 5 (the "Term").

2. Duties. Upon request by the Company from time to time during the Term the Affiliate shall provide the Company with such consulting services as are described on Schedule 1 attached hereto (collectively, the "Services"). The Services shall be performed in a professional, commercially reasonable manner.

3. Fees and Expenses.

(a) Amount. The rate for Affiliate's Services ("Rate") shall be as set forth on Schedule 1.

(b) Expenses. Affiliate shall bear all costs and expenses Affiliate incurs in providing the Services during the Term.

(c) Payment. Rate, as set forth on Schedule 1, shall be due and payable in cash equivalent. Unless otherwise specified, Rate shall be payable net 30 days and all transfer fees associated with said payment, including but not limited to wire transfer fees, shall be paid by Affiliate.

*This space is intentionally left blank.*

4. Covenants of the Affiliate. In order to induce the Company to enter into this Agreement, the Affiliate hereby agrees as follows:

(a) Definition of Confidential Information. As used in this Agreement, the term "Confidential Information" with respect to Company, or any third party, shall include, without limitation, the following: (a) financial information, such as earnings, assets, debts, prices, pricing structure, volume of sales and financial data and other business information, including without limitation, business plans and prospects; (b) supply and service information, such as databases, goods and services, supplier's names or addresses, supplier lists, supplier quotations, terms of supply or service contracts or of particular transactions, or related information about potential suppliers; (c) marketing information, such as market studies, databases, details about ongoing or proposed marketing programs or agreements by or on behalf of the Company, sales forecasts or results of marketing efforts or information about impending transactions; (d) customer information, such customer lists, databases, past, existing or prospective customers' names, addresses or backgrounds, records of purchases and prices, quotations, proposals or agreements, status of customers' accounts or credit, or related information about actual or prospective customers; (e) this Agreement and (f) intellectual property, wherein intellectual property of the Company includes, without limitation, bid engines, sourcing processes, digital rights management, viewer, converter, compression, revision control, encryption, database, web communication, and data communication technologies, patents, trademarks, trade secrets, copyrights, designs, specifications, inventions, developments, formulae, processes, technology, and computer software and programs (including, without limitation, object and source code).

(b) Duty of Confidentiality. Each party shall hold all Confidential Information of the other party in strict confidence. During the Term, Affiliate may have access to and become acquainted with Confidential Information of third parties (such as suppliers and customers of the Company), which is in Company's possession. Affiliate shall also hold such third parties' Confidential Information in strictest confidence as if it were Confidential Information of Company. During the Term and thereafter, Affiliate shall not, directly or indirectly, in any way use (other than for Company's purposes), copy, transfer or disclose any Confidential Information of Company or of any third party, except as required in the performance of Affiliate's duties for Company, or as specifically authorized by the Company in writing. The parties understand and acknowledge that, as between them, all items of Confidential Information are important, material and confidential trade secrets of Company and affect the successful conduct of the business of Company and its good will, and that any breach of this Section is a material breach of this Agreement.

(c) Non-competition. During the Term and for two (2) years thereafter, Affiliate shall not, directly or indirectly, do or attempt to do any of the following: (i) own an interest in, operate, join, control, participate in, or be retained as an officer, director, consultant, agent, independent contractor, partner, shareholder, investor, or principal of any individual, person, or entity that plans to compete or competes, directly or indirectly, with the Company or any affiliate thereof that relate to or result from the actual or then-anticipated business, research or investigation of the Company or which are suggested by or result from any task assigned to or performed by Affiliate for the benefit of the Company, including without limitation, in the markets for business systems software products or services related to (w) product life cycle management, (x) sourcing and negotiation, (y) extended enterprise collaboration or (z) digital rights management, or (ii) plan for or organize any business that would be in breach of this Section (c) or combine with any other Affiliate or representative of Company or any affiliated company of Company to organize any business that would be in breach of this Section.

(d) Non-solicitation. During the Term and for two (2) years thereafter, Affiliate shall not, directly or indirectly, do any of the following: (i) solicit, induce, recruit, encourage or influence (or attempt to induce, recruit, encourage or influence) any person who is or has been employed by Company or its affiliates, or (ii) solicit any supplier or customer of Company or its affiliates or any potential supplier or customer of Company or its affiliates to terminate or alter its relationship with the Company or

its affiliates. For purposes of the Agreement, the term "supplier" or "customer" shall include all persons or entities with whom the Company or its affiliates conducted business at any time within 18 months prior to termination of this Agreement, or within six months after termination of this Agreement. The term "potential supplier" or "potential customer" shall include all persons or entities with whom the Company or its affiliates has had contact for the purposes of soliciting or conducting business within six months prior to the termination of the Agreement.

5. Termination of Agreement. Either the Company or the Affiliate may terminate this Agreement at any time, with or without cause, upon ten (10) days prior written notice, in each party's sole and absolute discretion.

6. Entire Agreement; Amendments. This Agreement sets forth the entire agreement and understanding between the Company and Affiliate relating to the subject matter herein and merges all prior discussions between such parties and supersedes all prior negotiations, discussions, agreements and understandings regarding the subject matter hereof. No modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, will be effective unless in writing signed by the party to be charged. Any subsequent change or changes in Affiliate's duties, or compensation will not affect the validity or scope of this Agreement.

7. Independent Contractor. The Affiliate is and will remain at all times an independent contractor, and no provision of this Agreement is intended to create any relationship of employment, joint venture, partnership, or agency between the parties. The Affiliate will have no authority to bind the Company or otherwise execute any documents by or on behalf of the Company. The Affiliate shall not be eligible to participate in any benefit plans, programs or arrangements made available to employees of the Company. The Company shall not be required to withhold from payments due pursuant to this Agreement any federal, state or local withholding or other taxes.

8. Equitable Relief.

(a) Equitable Relief. Affiliate acknowledges that it would be impossible and inadequate to measure and calculate the Company's damages from any breach of the covenants set forth in Section 4 hereof. Accordingly, Affiliate agrees that if Affiliate breaches any of the covenants in Section 4 hereof, the Company will have available, in addition to any other right or remedy available, the right to obtain an injunction from a court of competent jurisdiction restraining such breach or threatened breach and to specific performance of any such provision of this Agreement. Affiliate further agrees that no bond or other security shall be required in obtaining such equitable relief and hereby consents to the issuance of such injunction and to the ordering of specific performance.

(bbe) Costs and Expenses. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and court and arbitration costs in addition to any other relief to which such party may be entitled.

(d) Customer Involvement. Except upon mutual agreement of the parties, and the consent of the Chief Executive Officer of the Company, if not a party, no party shall contact, interview or communicate with any Company customer for the purpose of soliciting or obtaining testimony in connection with the arbitration. Notwithstanding the foregoing, the arbitrator shall have the authority to permit customer testimony or contact only after the party seeking to offer the testimony has filed with the arbitrator and served on the opposing party and Company a written offer of proof and shown that the customer has evidence which is highly relevant, material and which cannot be obtained through any other means. If requested, a separate hearing on the matter shall be conducted by the neutral arbitrator before permitting any customer communications or testimony. An order permitting customer contact shall be immediately reviewable by a court of competent jurisdiction upon the filing of a petition seeking such review within ten days after issuance of the arbitrator's order. Such review proceeding shall be conducted



under seal if the Court permits. During the ten-day period, and thereafter until the petition is decided, the arbitrator's order shall be stayed. Violation of this provision shall be grounds for appropriate sanctions, including an award against the offending party.

9. Notices. All notices, requests, consents and other communications hereunder shall be in writing and shall be deemed to have been duly given (a) at the time of receipt delivered in person or by facsimile transmission (with transmission acknowledgement received), (b) within (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, or (c) three (3) days after being sent certified or registered mail, return receipt requested, in each case to the address or facsimile number (as the case may be) listed for the applicable party below, or, if any party shall have designated a different address or facsimile number by notice to the other parties in the manner provided in this Section (provided that notice of change in address and/or facsimile number shall be deemed given only when received), then to the last address or facsimile number so designated:

(i) If to the Company, to:

Co-eXprise, Inc.  
6000 Brooktree Road; Suite 200  
Wexford, PA 15090  
Attention: Nicholas J. Seitanakis, Chief Counsel

(ii) If to Affiliate, to address specified herein.

10. Governing Law; Consent to Personal Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania without giving effect to the conflict of law provisions thereof. Affiliate hereby expressly consents to the personal jurisdiction of the state and federal courts located in Allegheny County, Pennsylvania for any lawsuit arising from or relating to this Agreement.

11. Severability. If any court of competent jurisdiction holds any provision in this Agreement invalid or unenforceable, all other provisions of this Agreement shall remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable. If any covenant in Section 4 is held to be unreasonable, arbitrary, or against public policy, such covenant will be considered to be divisible with respect to scope, time and geographic area, and such lesser scope, time, or geographic area, or all of them, as a court of competent jurisdiction may determine to be reasonable, not arbitrary, and not against public policy, will be effective, binding and enforceable against Affiliate.

12. Successors and Assigns. This Agreement will be binding upon Affiliate's heirs, executors, administrators and other legal representatives and will be for the benefit of the Company, its successors, and its assigns. Without limitation of the foregoing, the Company may assign this Agreement and its rights hereunder to (a) any successor to the Company by means of merger, consolidation, purchase of the Company's stock or otherwise and/or (b) any assignee of the Company in connection with the purchase and sale of all or any portion of the Company's assets by such assignee or any affiliate thereof.

12. Survival. The provisions of this Agreement shall survive the termination of this Agreement and the assignment of this Agreement by the Company to any successor in interest or other assignee.

14. Waiver. No failure or delay by either of the parties in exercising any right, power or privilege under this Agreement will operate as a waiver thereof. The waiver by either of the parties of a

breach of any provision of this Agreement will not operate or be construed as a waiver of any other or subsequent breach.

15. Headings. Section and paragraph headings used in this Agreement have been inserted for convenience of reference only and shall not be used to construe or interpret this Agreement.

16. Miscellaneous. The captions contained in this Agreement are for convenience only, shall not be deemed to be a part of this Agreement and shall not be referred to in connection with the construction or interpretation of this Agreement. As used in this Agreement: (a) "or" is not exclusive; (b) "including" and its variants mean "including, without limitation" and its variants; (c) words defined in the singular have the parallel meaning in the plural and vice versa; (d) references to "written" or "in writing" include in visual electronic form; and (e) words of one gender shall be construed to apply to each gender; and a reference to any person includes such person's successors and permitted assigns. The Exhibits to this Agreement are incorporated herein by reference and made a part hereof for all purposes.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the  
Effective Date.

CO-EXPRIZE, INC.:

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

AFFILIATE:

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



Schedule 1  
Description of Affiliate Services and Rate

Affiliate Service and Rate

Company shall pay Affiliate a commission (the "Commission") that is equal to the applicable percentage ("Rate") multiplied by the Net Sales Price (hereafter defined) directly related to Company's Marcellus Shale mineral rights bidding product offerings ("Marcellus Shale Mineral Rights Bidding Offering") and commensurate with and in consideration for Affiliate executing the actions described below.

Company shall pay Affiliate the Commission at a Rate of ten percent (10%) multiplied by the Net Sales Price in consideration for Affiliate executing the following actions:

- Providing introductions and initial meetings with key decision makers and subordinates whose buy-in will be required; and
- following-up with customers to obtain feedback (e.g., meetings, phone calls, email, etc).

Company shall pay Affiliate the Commission at a Rate of fifty percent (50%) of Net Sales Price (in lieu of and not addition to the above Commission) in consideration for Affiliate executing the following actions:

- Perform actions listed immediately above concerning (10% of Net Sales Price) plus
- Participate with in-person follow up meetings with individuals and coordinate and participate in follow up meetings and communications with aggregation groups;
- help identify parcels that are eligible for mineral rights-related property leases, including but not limited to leases that enable a lessee to access certain natural gas deposits contained in the Marcellus Shale formation on parcels of real property (e.g., identify parcel tax numbers, parcel numbers and/or lot & block numbers);
- assist Company in using electronic records from government electronic records systems (i.e., GIS systems);
- assist Company in presenting Company value proposition and fee structure (become trained and certified in using Company's presentation tools prior to the first such presentation);
- differentiate Company from competitors, follow-up with customers to achieve buy-in and acceptance (e.g., meetings, phone calls, email, etc);
- understand customer's specific situation and assist in developing issues to consider and a bidding strategy for such customer; and
- continue customer contact, overcome objections, and encourage cooperation.

Company shall pay the Commission on all Sales (as hereafter defined) generated by the Affiliate from the Effective Date through the one year anniversary of the Effective Date ("Service Term"). The Service Term shall automatically be renewed for additional one (1) year terms unless either party provides a written notice of non-renewal to the other party at least thirty (30) days prior to the expiration of the original Service Term or any subsequent renewal term. A "Sale" is a sale of Marcellus Shale Mineral Rights Bidding Offering if the Affiliate initiates the sales opportunity with a customer's key decision-making executive and such customer has been approved by the Company prior to such contact. Within seven (7) business days of initiating the sales opportunity, Affiliate will provide to Company an updated Addendum A, which Company approves in writing, identifying the potential customer.

The Commission will be the percentage set forth in Schedule 1 of:

- Net Sales Price (as hereafter defined) received by the Company from the approved customer, wherein the Net Sales Price is received during the Service Term (or until the expiration of the contract with such customer entered into during the Service Term, if such contract extends beyond the Service Term and is binding upon the customer), or
- Net Sales Price (as hereafter defined) received by the Company from the approved customer, wherein the Net Sales Price is received after the Service Term based on a contract entered into

within two (2) months after the Service Term and until the expiration of the contract with such customer, if such contract is the direct result of the efforts of the Affiliate during the Service Term.

"Net Sales Price" is the net sales price for which the Company is actually paid by a customer, wherein the net sales price excludes (1) shipping and insurance costs, (2) all taxes, including without limitation, sales, use and excise taxes, (3) any allowances or discounts granted to the customer by the Company, (4) any tariffs, duties and import/export fees involved in international shipments or transactions, (5) travel and expenses billed to customers, (6) cost of equipment and software purchased by the Company for a specific customer and then re-sold to such customer, and (7) any and all payments that customers may pay Company based on royalties, if applicable, following the initial payment. The Company's determination of whether or not the Commission is payable, and the amount thereof, shall be final based on Company policies which may be amended from time to time. The Net Sales Price only includes the amount paid to Company that is based a percentage of an up-front bonus or initial lease payment that a customer receives from a leasing company, but explicitly excludes any ongoing payments derived from royalties, if applicable.



# Addendum A

Updated As Of \_\_\_\_ / \_\_\_\_ / \_\_\_\_

Target Customer Name	Target Customer's Address	Date Of Initial Contact	Name Of Contact Person at Target Customer	Title Of Contact Person

ACCEPTED AND AGREED BY  
COMPANY:

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

AFFILIATE:

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

---

**From:** Rose M. Pepper <rosepepper@kw.com>  
**Sent:** Tuesday, July 27, 2010 10:55 AM  
**To:** Jake Polochak  
**Cc:** Karen Marshall; Terry Pepper; Woody Welsch; Joseph Edward Morascyzk  
**Subject:** Re: Peters proposal

Congratulations !!! What a TEAM we have !!

Terry/Rose

Quoting Jake Polochak <[jakepolochak@gmail.com](mailto:jakepolochak@gmail.com)>:

> I spent all night drafting a proposal for the Peters project. Joe is  
> reviewing for technical revision and then he will send to each of you for  
> comment. Receiving the formal request for a proposal is huge, and I suspect  
> it means we have a real shot.  
>  
> --  
> Jake Polochak, Esq.  
> 382 W. Chestnut St.  
> Suite 107  
> Washington, PA 15301  
> 724-225-1110  
> Fax 724-884-0356  
>

Rose M. Pepper  
Terry L. Pepper  
Associate Brokers

Keller Williams Real Estate Professionals  
724-941-9400 x 319

724-263-5274 Rose Cell  
724-263-5273 Terry Cell  
[www.PAlistings4sale.com](http://www.PAlistings4sale.com)

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Version: 9.0.851 / Virus Database: 271.1.1/3036 - Release Date: 07/29/10 02:34:00





# TERRA ENERGY ADVISORS, LLC.

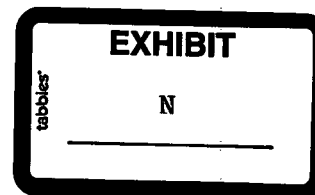
382 W. Chestnut St.  
Suite 107B  
Washington, PA 15301

## Proposal for Consulting Services For Peters Township

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This proposal has been prepared by Terra Energy Advisors, LLC, for Peters Township as an offer to provide consulting services in seeking an acceptable bid for an oil & gas lease. This document contains a summary of the consulting services offered by Terra Energy Advisors, LLC, along with background information and credentials for Terra Energy Advisors, LLC. This proposal is furnished for informational purposes only and not to be construed as a guarantee or warranty.

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### **Proposal for Oil & Gas Leasing Consulting Services**

Terra Energy Advisors, LLC, offers this proposal in support of their offer to provide consulting services to Peters Township with the goal of securing a bid that meets and exceeds the acceptable criteria for an Oil & Gas lease of approximately 625 acres of Township land holdings. It is understood that the Township has previously received a bid offering \$3,000 per acre and 18% royalties for a non-surface lease with a five (5) year term. It is further understood that the Township seeks to engage in another open bid process, designed at improving upon the best offer to date. Terra Energy Advisors, LLC, believes that there is a realistic likelihood of more favorable lease terms, proposing the following process. Terra Energy Advisors, LLC, offers the following background information, credentials, and references in support of their offer to enter into a consulting agreement with the Township.

### **Proposal for Peters Township Leasing Bid Process**

With a focus on transparency, the plan for securing an acceptable bid for the Township land holdings would place primary emphasis on a truly open bid process. While this would necessarily promote bids from the local drillers and, perhaps, some outside operators, the goal would be to attract interest from operators and investors not traditionally active in this area. Specifically, Terra Energy Advisors, LLC, would utilize a new process that has been custom tailored for use in the on-line bidding of energy commodities. Terra Energy Advisors, LLC, has entered into an exclusive arrangement for the use of cutting edge intellectual property with the technical capacity for direct live bidding for packages of oil & gas leases. This bidding process allows for complete transparency and has been used successfully by other municipalities in Pennsylvania and across the United States. This process would significantly expand the pool of potential bidders; therefore, allowing the Township to maximize monetary terms as well as provisions that will preserve the value of the land and the ability to use the surface. Unlike past practice, the bidders will bid on "seller paper", which will include lease terms drafted to meet the minimum criteria specific to the Township, with an emphasis of protection and land preservation. This creative technology is the perfect fit for the public bid process, allowing for the best possible lease while affording the transparency required by any applicable municipal regulations. Any and all costs associated with the use of this technology will be covered by Terra Energy Advisors, LLC.

Technology alone, however, is no replacement for knowledge of this developing industry and contacts sufficient to generate competitive interest. Terra Energy Advisors, LLC, has the industry contacts to ensure that there will be ample competition to drive the bidding forward, as well as the industry knowledge to recognize which minimum lease terms are paramount and which provisions might unnecessarily stifle competitive bidding. While increasing up front money and royalties is important, there are dozens of other potential lease terms to be prioritized. Protection of the land and preservation of the property value should command every bit as much consideration as monetary terms, if not more. In addition to the obvious concerns of protecting against contamination and loss of property use, ensuring that land is not unnecessarily bound by minimal production, limiting nuisance, and preventing unforeseen legal liability are issues that must be addressed on the front end with proper lease terms. Terra has the experience to assist in identifying and securing the necessary protections that should be included in an acceptable lease.

### **Terra Energy Advisors, LLC**

By way of background, Terra Energy Advisors, LLC, is a group comprised of the area's premier real estate professionals and attorneys that have been on the front line of deep horizontal gas leasing and the developing area of the law in that area. The principals of Terra Energy Advisors, LLC, are Karen Marshall, Rose Pepper, Terry Pepper, Woody Welch, Joseph Morascyzk, and Jake Polochak. Terra also has exclusive consulting arrangements with water quality experts, a Hydro-Geologist, and an Environmental Engineer, Steven Greer, with Blazosky Associates, Inc. and WHM Group. Mr. Greer is also a member of the Central Pennsylvania Marcellus Gas Task Force.

This project will be lead by Joseph Morascyzk and Jake Polochak. The attorneys of Morascyzk & Polochak have represented landowners through the leasing process and with legal issues pertinent to the deep horizontal gas drilling industry since the outset of the recent natural gas boom. Mr. Morascyzk and Mr. Polochak have represented dozens of individual landowners representing thousands of acres, as well as several larger groups. Specifically, Mr. Morascyzk has been on the front line of this developing area of the law having worked on one of Washington County's first "group lease" deals, consisting of several thousand acres and spread over several Townships. Currently they represent a group in Northern Beaver and Southern Lawrence County of nearly 5000 acres, with smaller groups in Allegheny, Butler and Washington Counties, and continue to represent individual clients spread throughout Washington, Allegheny, Greene, Beaver, Butler, Lawrence, and Somerset Counties, as well as in Ohio and West Virginia. In early 2010, it became apparent however that a law firm alone was not best suited to develop, administer, and consult for large landowner groups, which gave rise to the creation of a more full service consulting firm – Terra Energy Advisors, LLC.

Mr. Morascyzk and Mr. Polochak have extensive litigation and transactional experience with issues ancillary to oil & gas leasing, as follows: Road/Pipeline Easement issues, Water Quality/Quantity issues, Hydro-geological connectivity and subsidence issues, nuisance/trespass issues, title issues, and other general liability issues that relate to deep horizontal gas drilling. Specifically, Mr. Polochak has handled litigation involving alleged subsidence arising from the hydro-geological consequences of well drilling involving complex issues of water connectivity in the alluvial soils and bedrock aquifers, and both have handled several matters involving technical water and easement issues.

While the law firm of Morascyzk & Polochak would not be representing the Township directly on this project, Mr. Morascyzk and Mr. Polochak, as members of Terra Energy Advisors, LLC, confidently possess a detailed knowledge of the potential legal issues relevant to this industry such that they will be able to competently and thoroughly offer technical guidance to the Township Solicitor in matters involving potential liability and unintended legal contingencies. Owners of large and small parcels alike have routinely overlooked the less obvious potential concerns, which are often the most important issues to be addressed in the leasing process.

Further biographical background, credentials, and references for any principal of Terra Energy Advisors, LLC, or their consultants likely to work on this project, are available upon request.

### **Fee Structure**

The appropriate fee for this type of consulting service is the topic of evolving debate. As with any new industry where there is a surplus of pecuniary potential and a deficit of accepted ethical standards, the risk of falling victim to unscrupulous practices is real. Because Terra is comprised of local professionals who have spent careers building their reputations in the community, Terra holds itself to higher ethical and billing standards than the industry has so far required. The law firm of Morascyzk & Polochak has prided itself on working twice as hard for half the price, forgoing the trend to command large contingency fees and never requesting any royalties or other hidden compensation. All principals of Terra have a proven track record of fair and ethical billing practices, and Terra Energy Advisors, LLC, has consistently offered very competitive fee agreements to its clients, appropriately based upon the equities of each individual case.

For this project, a contingency fee based solely upon the increase in up-front signing bonus money would seem most appropriate. Terra energy Advisors, LLC, formally offers consulting services on this project for twenty (20%) percent of the difference in the accepted bid and the best previous bid of \$3,000 per acre. For example, if the accepted bid secured by Terra would be \$4,000 up-front bonus money per acre, then the fee would be \$200 per acre. In this



hypothetical, the Township would realize a net increase of nearly \$500,000, while even an increased bid of as little as \$100 per acre would allow the Township to realize a net increase of nearly \$50,000. The fee would be earned only upon acceptance of a lease and payment of the up-front bonus money to the Township. Terra would not receive any part of royalties nor would Terra receive any additional fees for increases in royalty terms or the inclusion of more favorable lease terms designed to protect the value of and ability to use the land.

Clients have favored a straight contingency fee, as this arrangement functions with no risk to the landowner. Rather, the fee, if any, is paid from the additional money generated by Terra, and no fee is earned if Terra is unable to deliver. Again, any fees incurred by Terra for outside consultants or costs associated with the bidding process would be covered entirely by Terra. There would be no additional fees to the Township.

### **Conclusion**

Understandably, the Board of Supervisors must weigh the decision of hiring the right consultant carefully. The extra scrutiny placed upon the Township requires that all aspects of the leasing process be handled in a prudent, efficient, and open manner. While hoping that every resident of the Township would approve of your final decision regarding a lease of the Township's oil & gas rights, we appreciate your obligation to protect the various and competing interests of the Township. Simply taking the highest monetary offer that has been advanced to date, however, does not maximize the potential benefit presented to the Township. Hiring the right consultant is the best way to get this right. While Terra Energy Advisors, LLC, does not have a crystal ball, and there admittedly is some risk in accepting any lease, we would propose that our experience will help the township maximize the benefits of accepting a lease and to minimize the risks that come along with it.

We look forward to discussing the possibility of working together in further detail at your convenience. We would happily present to address any questions or concerns that the board might have and genuinely hope we are granted the opportunity to assist the Township in the endeavor. Your careful consideration of this proposal is appreciated.

Sincerely,

Terra Energy Advisors, LLC

**From:** Jake Polochak <jakepolochak@gmail.com>  
**Sent:** Thursday, July 08, 2010 10:00 PM  
**To:** Rose M. Pepper  
**Cc:** Terry Pepper; Karen Marshall; Woody Welsh; jsp@washingtonpalawyer.com; info@washingtonpalawyer.com  
**Subject:** Re: Referral agreements \_ Two more

After thoughts: It is clear to me that terras strentgh will be the agents on the ground. After thinking about it, beeno is right. Let me talk briefly to his guys and give them just enough info to get out there. They can defer the tough questions to us. We need go getters with just enough info to wing it. The agents don't need to have the answers, they just need to convince them that hiring Terra will increase their chance of getting a good lease. Seminars, especially around here, will be burdened with the stigma of a sales pitch. An open invitation from Terra will be easily confused as just another land leasing operation by an agent of the gas company. We will need to stress that Terra IS trusted real estate pros who work exclusively for land owners. The Karen Marshall and pepper name should be all over it, trust me, the public knows and lives you; with speakers (and free legal advice from) from M&P, steve, and Kieth. Lastly, if registered turnout is similarly light for next Thursday, we may simply want to consolidate into a single 630 meeting for the sake of economy.

Jake Polochak

>

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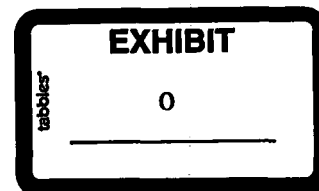
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Version: 2012.0.1913 / Virus Database: 2114/4844 - Release Date: 03/01/12







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**From:** Jake Polochak <jakepolochak@gmail.com>  
**Sent:** Sunday, July 25, 2010 5:57 PM  
**To:** Karen Marshall; Woody Welsh; tlpepper@gmail.com; Rose M. Pepper;  
info@washingtonpalawyer.com  
**Subject:** Pulling the trigger

While still getting our feet under us, Terra has already signed up a few dozen acres. Is there interest in simply presenting to this first bunch of clients the standing \$3500 and 18% for 5 yr non surface leases with good, not great, addendum extras that we have been able to lock in with Dale. We would then be able to honestly boost about "joining the already satisfied customers", keep these first clients from getting anxious, and put a few shekels in the Terra account.

My understanding is that most of the contracts to this point reflect a 10% fee, which is probably a good and competitive target for anything under 20 acres, with room to negotiate down to 5% for property between 21 and 100 acres. Over 100 acres would likely warrant going as low as 3% if need be.

If we decide it would make sense to move what we've got, we should go for it before Dale pulls out of town, if that indeed is in the cards. If Dale stays around and the market goes up, we will still be in a position to push for better terms on future deals.

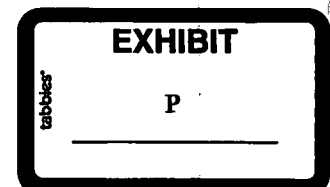
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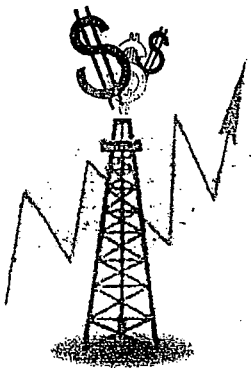
Jake Polochak, Esq.  
382 W. Chestnut St.  
Suite 107  
Washington, PA 15301  
724-225-1110  
Fax 724-884-0356

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Version: 2012.0.1913 / Virus Database: 2114/4844 - Release Date: 03/01/12





## TERRA ENERGY ADVISORS, LLC

832 West Chestnut Street, Suite 107B

Washington, PA 15301

[www.terraenergyadvisors.com](http://www.terraenergyadvisors.com)

Ph: 877.502.5099 Fax: 866.502.2936

TERRA ENERGY ADVISORS, in conjunction with Co-eXprise, formally will be offering a free seminar on Oil & Gas Leasing, specifically geared to municipal landowners.

The real estate and legal professionals of Terra Energy Advisors represent or consult on behalf of approximately 100,000 acres and hundreds of landowners in regards to a variety of Oil & Gas issues. Co-eXprise is an energy marketplace solutions firm, specializing in working with municipal clients in regards to energy contracts.

We would like to present this seminar at your facility:

North Strabane Twp meeting room

June 29, 2011 (Wednesday)

At 6:30pm

Please call Terry L. Pepper with any questions and confirmation or email [tlpepper@gmail.com](mailto:tlpepper@gmail.com).

For more information visit our websites at:

[www.terraenergyadvisors.com](http://www.terraenergyadvisors.com)

[www.cx-energy.com/marcellus](http://www.cx-energy.com/marcellus)

[www.pagasleaselawyer.com](http://www.pagasleaselawyer.com)

**coexprise**

**EXHIBIT**

Q



November 23<sup>rd</sup>, 2010

Dear Mt. Jackson Group Mineral Right Owner:

During the October 27<sup>th</sup> Mt. Jackson Group meeting, Attorneys Joe Morascyzk and Jake Polochak discussed the Co-eXprise (CX) Marketplace Process and working with CX to increase the value of your mineral rights. The CX Marketplace Process enables private land owner associations, cities, counties, states, schools, municipalities and airport authorities to competitively bid their mineral rights. The CX Marketplace is designed to maximize bonus and royalty payments and realize best available terms for leases of your subsurface mineral rights.

The purpose of this letter agreement and the attached Marketplace terms and conditions (collectively, the "MarketPlace Agreement") are to formalize our relationship and to include your parcels in the CX MarketPlace Process to attract and recruit high value bidders. The MarketPlace Agreement is entered into as of the date that you sign it and includes Exhibits A, B and C which are hereby incorporated by reference into the Agreement:

- Exhibit A: MarketPlace Terms and Conditions
- Exhibit B: Listing of Parcels included in the MarketPlace Process
- Exhibit C: Mt. Jackson Form Lease

To secure your participation in the CX MarketPlace Process for the Mt. Jackson Group, please sign and return this MarketPlace Agreement on or before December 17, 2010. Please return via email [MtJackson@co-exprise.com], fax [724-933-1150] or mail at Co-eXprise, Inc., 6021 Wallace Road Ext., Wexford, PA 15090. By signing below, you agree to receive the benefits of Co-eXprise services for the time period and fees subject to the standard terms described in Exhibit A provided to the Mt. Jackson Group. Please do not hesitate to contact Joe Morascyzk and Jake Polochak at 724-225-1110 if you have any questions regarding this matter. You can also contact Chris Cracraft or Bill Smith of Co-eXprise at 724-933-1180.

Accepted and Agreed:

William R. Blair  
CEO  
Co-eXprise, Inc.

Date: \_\_\_\_\_

Name: \_\_\_\_\_  
Mt. Jackson Group Participant  
Mineral Rights Owner

Date: \_\_\_\_\_

**EXHIBIT**

**R**

**BEST MARKET PRICE DELIVERED.**

TERRA ENERGY ADVISORS, in conjunction with Co-Exprise, formally invite you to a free seminar on Oil & Gas Leasing, specifically geared to municipal landowners.

The real estate and legal professionals of Terra Energy Advisors represent or consult on behalf of approximately 100,000 acres and hundreds of landowners in regards to a variety of Oil & Gas issues. Co-Exprise is an energy marketplace solutions firm, specializing in working with municipal clients in regards to energy contracts.

Come and learn more about this important topic and have your questions answered by experienced professionals in an informal setting over breakfast.

The Seminar is scheduled for:

April 20, 2011, at 9:00AM at Rolling Hills Country Club

Please call Karen Marshall to register \_\_\_\_\_.

For more information visit our websites at:

[www.terraenergyadvisors.com](http://www.terraenergyadvisors.com)

[www.co-exprise.com/marcellus](http://www.co-exprise.com/marcellus)

[www.pagasattorney.com](http://www.pagasattorney.com)

VERIFICATION

The undersigned deposes and says subject to the penalties of 18 Pa. Cons. Stat. Ann. §4904, relating to unsworn falsification to authorities, that the facts set forth in the foregoing Complaint in Civil Action are true and correct to best of my personal knowledge, information and belief.

Dated: 7/25/2012

By: Woody Welsch

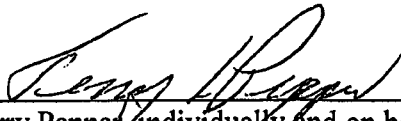
Woody Welsch, individually and on behalf  
of Terra Energy Advisors, LLC

**VERIFICATION**

The undersigned deposes and says subject to the penalties of 18 Pa. Cons. Stat. Ann. §4904, relating to unsworn falsification to authorities, that the facts set forth in the foregoing Complaint in Civil Action are true and correct to best of my personal knowledge, information and belief.

Dated: 7-25-12

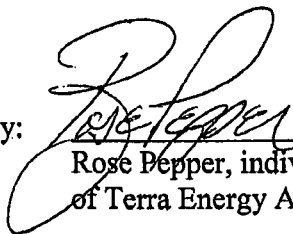
By:

  
Terry Pepper, individually and on behalf  
of Terra Energy Advisors, LLC

**VERIFICATION**

The undersigned deposes and says subject to the penalties of 18 Pa. Cons. Stat. Ann. §4904, relating to unsworn falsification to authorities, that the facts set forth in the foregoing Complaint in Civil Action are true and correct to best of my personal knowledge, information and belief.

Dated: 7-25-12

By:   
Rose Pepper, individually and on behalf  
of Terra Energy Advisors, LLC



**VERIFICATION**

The undersigned deposes and says subject to the penalties of 18 Pa. Cons. Stat. Ann. §4904, relating to unsworn falsification to authorities, that the facts set forth in the foregoing Complaint in Civil Action are true and correct to best of my personal knowledge, information and belief.

Dated: \_\_\_\_\_

07/25/12

By: \_\_\_\_\_



Karen Marshall, individually and on behalf  
of Terra Energy Advisors, LLC