

March 31, 2016

An ALM Publication

TEXAS**FEDERAL****INTENTIONAL TORTS**

Malice

Oil and gas co. said defendants interfered with agreements

Amount **\$9,291,570**

CASE U.S. Enercorp, Ltd. v. SDC Montana Bakken Exploration, LLC, Val Verde Investments LLC, and Ringo Shapiro, No. 5:12-CV-1231-RCL

COURT United States District Court, Western District, San Antonio, TX

DATE 3/31/2016

JUDGE Royce C. Lamberth

PLAINTIFF ATTORNEY(S) Benjamin Robertson; Santoyo Moore Wehmeyer P.C.; San Antonio TX for U.S. Enercorp Ltd.
Corey F. Wehmeyer; Santoyo Moore Wehmeyer P.C.; San Antonio TX for U.S. Enercorp Ltd.

DEFENSE ATTORNEY(S) Olivier Taillieu; National Injury Law Firm LLP; Los Angeles, CA for Ringo Shapiro, Val Verde Investments LLC, SDC Montana Bakken Exploration LLC

Maura Gewirtz; National Injury Law Firm LLP; Los Angeles, CA for Ringo Shapiro, Val Verde Investments LLC, SDC Montana Bakken Exploration LLC

FACTS & ALLEGATIONS Starting in September 2011, a broker under contract to acquire and assign 15,000 acres of oil and gas leases to plaintiff U.S. Enercorp Ltd. assigned some of those leases to California businessman Ringo Shapiro and his companies SDC Montana Bakken Exploration LLC and Val Verde Investments LLC. The leases were in the Bakken Shale Play, an oil and gas formation in northeastern Montana. The contract between the broker and U.S. Enercorp was referred to as “the Acquisition Agreement” and had been executed in March 2011.

According to the plaintiff, on Feb. 28, 2012, U.S. Enercorp and the broker entered into another agreement, which they referred to as “the 50-50 Agreement,” under which they agreed to split evenly the proceeds from U.S. Enercorp’s acquisition and sale of another 65,000 acres of oil and gas leases in the Bakken Shale Play.

On April 13, U.S. Enercorp entered into an agreement with Shapiro and his companies, which they referred to as “the Collaboration Agreement,” under which Shapiro and his companies agreed to clear title to the leases that the broker had assigned

them. This agreement contained a paragraph reserving U.S. Enercorp's right to assert claims against Shapiro and his companies for intentional interference with the Acquisition Agreement and the 50-50 Agreement.

On May 1, U.S. Enercorp entered into an agreement with a nonparty to sell the oil and gas leases, including the ones that the broker had assigned to Shapiro and his companies.

U.S. Enercorp sued Shapiro and his companies for intentional interference with the Acquisition Agreement and the 50-50 Agreement and for breach of the Collaboration Agreement. The plaintiff also alleged malice.

According to U.S. Enercorp, Shapiro and his companies interfered with the broker's performance of the Acquisition Agreement by buying leases that the broker had contracted to assign to U.S. Enercorp. Further, when the plaintiff developed an opportunity to sell the leases, the defendants refused to clear title unless the defendants received a share of the sale proceeds as equity owners of both the original 15,000 acres and the additional 65,000 acres of leases, U.S. Enercorp claimed.

The defendants denied the existence of the 50-50 Agreement and denied interfering with it if it did exist. They also denied interfering with the Acquisition Agreement. They contended that the broker had experienced a capital shortfall and needed a loan; that the defendants provided this loan; and that the leases were assigned merely as collateral for the loan.

As to the Collaboration Agreement, the defendants denied breaching it and counterclaimed for breach by U.S. Enercorp.

INJURY For intentional interference, U.S. Enercorp sought the proceeds that it would have received under the sale agreement but for the interference. It claimed that it would have received \$2,135,812.75 but for the interference with the Acquisition Agreement and \$4,151,612 but for interference with the 50-50 Agreement.

For breach of the Collaboration Agreement, U.S. Enercorp sought \$60,000, and the defendants sought at least \$6.8 million.

RESULT The jury found that Shapiro and his companies intentionally interfered with the Acquisition Agreement; that U.S. Enercorp and the broker entered into the 50-50 Agreement; that Shapiro and his companies intentionally interfered with the 50-50 Agreement; and that the harm to U.S. Enercorp resulted from malice of Shapiro and his companies.

The jury also found that both U.S. Enercorp and Shapiro's companies materially breached the Collaboration Agreement, but that Shapiro's companies breached it first and that U.S. Enercorp's breach was excused.

The jury found that U.S. Enercorp's damages were \$9,291,570.06 and that Shapiro's companies' damages were \$2,512,500. Based on the findings that Shapiro's companies breached the Collaboration Agreement before U.S. Enercorp and that the plaintiff's breach was excused, the court disregarded the award of damages to Shapiro's companies.

EDITOR'S NOTE This report is based on information that was provided by plaintiff's counsel. Defense counsel declined to contribute.