

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

FILED IN DISTRICT COURT  
OKLAHOMA COUNTY

APR 13 2015

TIM RHODES  
COURT CLERK

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Oklahoma Department of Securities )  
ex rel. Irving L. Faught, )  
Administrator, )  
)  
Plaintiff, )  
)  
v. )  
)  
Bruce J. Scambler, )  
)  
Defendant. )

Case No. CJ-2014-1346

**PLAINTIFF'S OBJECTION TO DEFENDANT'S MOTION TO RECONSIDER**

Defendant has filed three documents in this matter containing a motion to reconsider this Court's ruling striking Defendant's first response to Plaintiff's motion for summary judgment:

- 1) Reply of Defendant to Motion for Summary Judgment and Motion of Defendant to Reconsider Previous Ruling Based on New Evidence, filed March 24, 2015;
- 2) Reply of Defendant to Plaintiff's Application for Attorney Fees and Defendant's Motion to Reconsider Previous Ruling Based on New Evidence, filed on April 2, 2015; and
- 3) Supplement to Defendant's Reply to Plaintiff's Motion for Summary Judgment, Reply to Claim for Fees, Defendant's Motion to Strike and Supplement to Defendant's Motion to Reconsider Previous Ruling Based on New Evidence, filed on April 2, 2015.

Plaintiff objects to Defendant's cumulative motion to reconsider on the grounds that modification or vacation of the ruling is unwarranted. Plaintiff asks that the Court deny Defendant's cumulative motion.

## ARGUMENT AND AUTHORITIES

Defendant's motion is in substance a meritless request for reconsideration of a non-final order filed on March 18, 2015 ("Order") that struck Defendant's first response to Plaintiff's motion for summary judgment in its entirety on the grounds that the Affidavit of Defendant that was submitted in support of his response was submitted in bad faith with fabricated exhibits. See *LCR, Inc. v. Linwood Properties*, 1996 OK 73, ¶¶ 10-11 and 13-16, 918 P.2d 1388, 1392-93. Defendant bases his motion on his purported discovery of "new evidence."

The Order is within this Court's control to modify or vacate. *Id.* at n. 4. However, modification or vacation of the Order is unwarranted because Defendant's "new evidence" is neither new nor relevant. Defendant's "new evidence" does not prove the authenticity of the Affidavit's fabricated exhibits or cure the Affidavit's other defects. Further, Defendant's "new evidence" is not newly discovered by Defendant.

### **I. The "new evidence" is not relevant because it does not prove the authenticity of the fabricated Statement of Unanimous Consent.**

The "new evidence" that Defendant relies upon in his motion for reconsideration is an email chain, dated August 19, 2010, between Kaily Ball and Trace Maurin in which Kaily Ball (a) sent the minutes for the CanTex Energy Corp. Board of Directors meeting on August 18, 2010, to Trace Maurin; (b) asked him to print, review, sign, and then return the scanned minutes with his signature to her; and (c) asked for permission to save his signature in a PDF file in order to automatically insert it into future board minutes reviewed by Trace Maurin. Def.'s Mot. Recons. at ¶ 49 and Ex. 1 (March 24, 2015) (attached hereto as "Exhibit 1").

Trace Maurin's response to Kaily Ball on August 19<sup>th</sup> was merely "Thank You." See Ex. 1.

Defendant attached this email chain to the motion for reconsideration he filed on March 24, 2015, but Defendant did not submit any evidence of the authenticity of the email chain and did not provide a copy of the August 18<sup>th</sup> minutes that were attached to the email chain. See Def.'s Mot. Recons., Ex. 1 (March 24, 2015). Regardless, Defendant seems to claim that this email chain authenticates the fabricated Statement of Unanimous Consent of Board of Directors of CanTex, dated August 12, 2010, that was an exhibit to the Affidavit Defendant submitted to the Court with his first response to Plaintiff's motion for summary judgment. See Def.'s Obj. Pl.'s Mot. Summ. J., Ex. A Ex. 4 (Jan. 20, 2015) (attached hereto as "Exhibit 2"). Defendant claims that the fabricated Statement of Unanimous Consent is the "revised minutes." Def.'s Mot. Recons. at ¶ 49 (March 24, 2015) (included in "Exhibit 1" hereto).

Defendant's "new evidence"—the August 19, 2010, email chain—simply does not authenticate the fabricated Statement of Unanimous Consent. Trace Maurin swore under penalty of perjury that he did not sign the Statement of Unanimous Consent of Board of Directors submitted by the Defendant. Pl.'s Mot. Strike, Ex. E ¶ 6 (Jan. 30, 2015) (attached hereto as "Exhibit 3"). Defendant has offered no evidence to prove that Trace Maurin's signature on the fabricated Statement of Unanimous Consent was in fact a PDF signature authorized by Trace Maurin. Further, it seems unlikely that a PDF signature would have been used on this

document given that it is dated August 12, 2010, whereas, the authorization to use a PDF signature was purportedly given on August 19, 2010. See Exs. 1-2.

Regardless of whether a PDF signature was used on any document, Trace Maurin, as a director of CanTex Energy Corp. at the relevant time, has sworn under penalty of perjury that the fabricated Statement of Unanimous Consent that Defendant claims are the “revised minutes” does not “accurately represent the unanimous consent of the Board of Directors that Bruce Scambler become the CEO of CanTex and the Chairman of its Board of Directors effective 12:00 p.m. (Central) on August 12, 2010.” See Ex. 3 at ¶ 5; see also Mot. Summ. J., Ex. B at ¶ 6 (Dec. 31, 2014) (attached hereto as “Exhibit 4”). Defendant’s “new evidence” does not authenticate the fabricated Statement of Unanimous Consent and is irrelevant.

**II. The “new evidence” does not authenticate the Affidavit’s other fabricated exhibit or cure the Affidavit’s other defects.**

In addition to the fabricated Statement of Unanimous Consent, the Affidavit contained an altered excerpt of a deposition transcript. See Pl.’s Mot. Strike at ¶¶ 7-13 (Jan. 30, 2015). Defendant’s “new evidence” does not address the authenticity of the altered deposition transcript.

Defendant’s “new evidence” also does not address the other defects in the Affidavit. Many of the exhibits to the Affidavit did not prove what Defendant claimed they proved. See Pl.’s Mot. Strike at ¶¶ 20-40 (Jan. 30, 2015). Further, the Affidavit contained inadmissible hearsay in five different paragraphs; speculation of a “conspiracy”; and denials that were unsupported by any evidence. See Pl.’s Mot. Strike at ¶¶ 41-43 (Jan. 30, 2015). The fabricated evidence and cumulative defects

show that the Defendant's Affidavit was submitted to the Court in bad faith. The "new evidence" does not justify the modification or vacation of the Order.

### **III. The "new evidence" is not new.**

Even if Defendant's "new evidence" authenticated the fabricated exhibits or cured the Affidavit's other defects, Defendant's motion should still be denied because the so-called "new evidence" is not newly discovered. When Trace Maurin responded, on August 19, 2010, to Kaily Ball's email requesting permission to use a PDF signature for him on future board minutes, Trace Maurin sent a courtesy copy of his response to Defendant at [scamblerbj@msn.com](mailto:scamblerbj@msn.com). See Ex. 1.

To the extent that Trace Maurin's response of "Thank You" should be interpreted as authorization to use his PDF signature as Defendant claims, Defendant was on notice of such authorization long before the Rule 4 deadline for him to file a brief or list of authorities in opposition to Plaintiff's motion to strike his affidavit. See Dist. Ct. R. 4. Yet, Defendant did not file any response, much less a brief or list of authorities, to Plaintiff's motion to strike and did not offer any explanation for the conflicting versions of the August 12, 2010, Statement of Unanimous Consent. The Order striking Defendant's first response to Plaintiff's motion for summary judgment should not now be modified or vacated on the basis of this so-called "new evidence."

### **CONCLUSION**

Defendant's "new evidence" does not warrant modification or vacation of the Order striking Defendant's first response to Plaintiff's motion for summary judgment because it does not authenticate the Affidavit's fabricated exhibits or cure the

Affidavit's other defects and is not new. Accordingly, Plaintiff asks that the Court deny Defendant's motion for reconsideration.

Respectfully submitted,



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Bonham & Howard  
3555 N.W. 58<sup>th</sup> St., #1000  
Oklahoma City, OK 73112  
Telephone: (405) 943-6650  
Fax: (405) 943-6655  
**Attorney for Defendant**

Bruce Scambler  
3555 N.W. 58<sup>th</sup> St., #1000 LMT West  
Oklahoma City, OK 73112  
Telephone: (405) 608-2700  
**Defendant pro se**

**CERTIFICATE OF MAILING**

The undersigned hereby certifies that on the 13<sup>th</sup> day of April, 2015, a true and correct copy of the above and foregoing response was mailed with postage prepaid thereon, addressed to:

Jeffrey D. Black  
Bonham & Howard  
3555 N.W. 58<sup>th</sup> St., #1000  
Oklahoma City, OK 73112  
**Attorney for Defendant**

Bruce Scambler  
3555 N.W. 58<sup>th</sup> St., #1000 LMT West  
Oklahoma City, OK 73112  
**Defendant pro se**

  
\_\_\_\_\_  
Terra Bonnell

summary judgment motion is dismissed so discovery can begin.

48 Its not written in stone, and a lot of this is discretionary, but Case law guidance sets out in Cantex's jurisdiction, that all evidence favorable to the defendant must be taken as true and all reasonable inferences, including any doubts, must be resolved in the non-movant's (Defendants) favor." Id. Nixon v. Mr. Property Mgmt. Consequently, all evidence supporting Defendant's defenses and response to Plaintiff's summary judgment motion must be taken as true.

49 **Motion to Reconsider**: A further issue is that the plaintiff's claimed "Facts" are not supported by any original Cantex documents. There are none in evidence. The evidence we have is that Harvey Bryant got the office staff to use "pdf signature blocks" (used with the knowledge and agreement of Mr Maurin (per Exhibit #1), but not with the agreement or knowledge of Scambler. Letters were also sent out, when Scambler was not in the office, which were not authored or agreed to by him. In this situation the court is requested to adopt the more favorable document to Defendant as the Revised minutes (Exhibit 12) at this time and reconsider its previous ruling to strike them in whole or part. The new evidence is of the electronic email as the confirmation email of notice and Mr Trace Maurin's permission in using pdf signature blocks as standard company agreed practice for him as to his affirmation.

50 For these reasons Summary judgment should **not** be granted as a matter of law. <sup>12</sup>

V. FINDINGS OF FACT APPLIED TO THE LAW IN RESPONSE TO PLAINTIFF'S FACTUAL ARGUMENTS RELATING TO TITLE 71.

51 It is material to the motion for Summary Judgment as to what such judgment has been claimed for. The Administrator appears to be acting "prior to" an administrative proceeding on these new facts, and is maintaining an action in the district court of Oklahoma County. The Administrator is now in 2015 seeking to "enjoin the act, practice, or course of business and to enforce compliance with this act or a rule adopted or order issued under this act or constituting a dishonest or unethical practice" relating to acts which occurred over five years ago. <sup>13</sup> Material to continuing this action is that the primary actor President Harvey Bryant is dead, and the previous primary actor President Mr Trace Maurin has regained Cantex and

<sup>12</sup> STATE ex rel. PRUITT v. NATIVE WHOLESALE SUPPLY

Database: Oklahoma Supreme Court Cases

Public Domain Citation: 2014 OK 49 *Lowery v. Echostar Satellite Corp.*, 2007 OK 38, ¶11, 160 P.3d 959, 963.

See also other State guidance ref *Nixon v. Mr. Property Mgmt.*, 690 S.W.2d 546, 548-49 (Tex. 1985).

<sup>13</sup> Cited 71 O.S. § 1-603 (OSCN 2015).

**BJS**

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**Subject:** FW: CanTex Energy Minutes

## Defendants Exhibit 1

**From:** Trace Maurin [mailto:tracem@mesachica.com]  
**Sent:** Thursday, August 19, 2010 12:34 PM  
**To:** 'Kaily Ball'  
**Cc:** scamblerbj@msn.com  
**Subject:** RE: CanTex Energy Minutes

Thank You

Trace Maurin  
Mesa Chica Survey  
210-632-2793

**From:** Kaily Ball [mailto:kaily.ball@gmail.com]  
**Sent:** Thursday, August 19, 2010 12:04 PM  
**To:** [tracem@mesachica.com](mailto:tracem@mesachica.com)  
**Subject:** CanTex Energy Minutes

Trace,

Attached please find CanTex Board Minutes for August 18, 2010. If i could get you to print these off, review and sign them, then scan back in with your signature and return it to me i we appreciate it!

Also, I left a voicemail for you just a few minutes ago. I was going to ask you if you would mind if i saved your signature in a PDF file in order to automatically insert it to the Moard Minutes each time. I will continue to send the Board Minutes to you for you to review and this way it will save us from having to do this every time!

If you have any questions, feel free to call me at the office.

Thank You,

*Kaily A. Ball*  
Executive Assistant  
CanTex Energy Corp.  
6301 Waterford Blvd., Suite 403  
Oklahoma City, OK 73116  
405.601.9745

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**Cantex Energy Corp**  
(a Nevada corporation)

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**STATEMENT OF UNANIMOUS CONSENT**  
**OF**  
**BOARD OF DIRECTORS**

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August 2010

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This STATEMENT OF UNANIMOUS CONSENT OF BOARD OF DIRECTORS when executed by the Directors of the Corporation will become effective as of the 12<sup>th</sup> day of August 2010; and will have the same force and effect as if such Directors were present and acting at a meeting duly noticed and held for the purpose of adopting the Resolutions and taking the Corporate action hereinafter set forth.

**APPOINTMENT OF NEW DIRECTORS**

**WHEREAS**, the Corporation has previously had in place a SOLE Director and Officer Trace Maurin.

The Corporation hereby desires to increase the appointed serving Directors and appoint new officers

Harvey Steven Bryant has agreed as of todays date and 12.00 pm Central Time to be a Director and President of the Corporation

Bruce John Scambler has agreed, subject to and upon the date of completion of the merger of Bedford Energy Inc. and Cantex, he would then become the Chairman of the combined Cantex/Bedford board, and CEO of the combined Corporation. He would act as a Cantex Director in the Interim.

**AND WHEREAS**, the Corporation desires to appoint said Directors to be officers of the company.

**RESOLVED**, that the Corporation does hereby declare by vote to appoint

Harvey Steven Bryant to be a Director and President of the Cantex Corporation, of address 1300 Bedford Drive Nichols Hills Oklahoma 73116

Bruce John Scambler to be a Director of the Cantex Corporation, of address 6420 N Hillcrest Ave Nichols Hills Oklahoma 73116

EXHIBIT 4  
PAGE      OF     

**EXHIBIT**

      
**2**

Trace Edward Maurin to remain a Director and be Chief Operating Officer of Cantex of the Corporation. 2805 Split Rock circle, Bulverde TX 78163

**FURTHER RESOLVED**, that the President and Secretary shall be and he is directed to execute, in the Corporation's name and place, such releases and termination documents evidencing and confirming the each such and the obligations, if any other documents to effectuate and carry out this action.

#### **ISSUE ADDITIONAL SHARES**

**WHEREAS**, the Corporation has agreed to issue 8,000,000 shares ("Debt conversion shares") to Stockholder T Maurin with proviso of vesting when CTXE or combined entity trades at \$0.04 or higher on offer for 30 days or more or more. . The shares held by the T Maurin would be acquired (as backed by a 12-month promissory note equal to \$335,681 at libor) cancellable in event combined entity trades at \$0.04 or higher Said shares shall have a trickle out for not more than 1,000,000 shares sold per month after restriction is lifted.

The Corporation has agreed 56,000,000 will be issued to BFDE officers with 37,320,000 to nominees of holders of reserve assets and 22,680,000 to Harvey Bryant for the option to acquire on closing their combined 68,000,000 shares in Bedford Energy.

**AND WHEREAS**, the Corporation desires to issue said shares of the company.

**RESOLVED**, that the Corporation does hereby declare by vote to issue

22,680,000 shares of Common Stock to Harvey Steven Bryant 1300 Bedford Drive Nichols Hills Oklahoma 73116

37,320,000 shares of Common Stock to nominees of holders of reserve assets (list to come from Bruce John Scambler) 6420 N Hillcrest Ave Nichols Hills Oklahoma 73116

8,000,000 shares of Common Stock to Trace Edward Maurin. 2805 Split Rock circle, Bulverde TX 78163

**FURTHER RESOLVED**, that the President and Secretary shall be and he is directed to execute, in the Corporation's name and place, such releases and termination documents evidencing and confirming the each such and the obligations, if any other documents to effectuate and carry out this action.

#### **COUNTERPARTS**



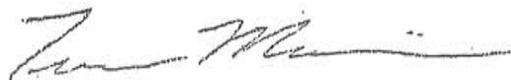
**SUPPLEMENTAL DECLARATION OF TRACE MAURIN  
PURSUANT TO 12 O.S. § 426**

I, Trace Maurin, of lawful age, hereby declare and state the following based on my personal knowledge:

1. This declaration supplements the declaration I executed on December 30, 2014.
2. Bruce Scambler became Chief Executive Officer of CanTex and Chairman of the Board of Directors of CanTex effective August 12, 2010, pursuant to a Statement of Unanimous Consent of Board of Directors.
3. A true and correct copy of that Statement of Unanimous Consent of Board of Directors of CanTex, effective as of August 12, 2010, is attached hereto as Exhibit 1.
4. I have reviewed Exhibit 4 to the affidavit executed by Bruce Scambler on January 20, 2015, in support of his Objection to Plaintiff's Motion for Summary Judgment filed in the District Court of Oklahoma County, State of Oklahoma, in case number CJ-2014-1346.
5. Exhibit 4 to the affidavit of Bruce Scambler is NOT a true and correct copy of the Statement of Unanimous Consent of Board of Directors of CanTex, effective as of August 12, 2010, and does not accurately represent the unanimous consent of the Board of Directors that Bruce Scambler become the CEO of CanTex and the Chairman of its Board of Directors effective 12:00 p.m. (Central) on August 12, 2010.
6. I did not sign the version of the Statement of Unanimous Consent of Board of Directors that appears as Exhibit 4 to the affidavit of Bruce Scambler.

I declare under penalty of perjury under the laws of the state of Oklahoma that the foregoing is true and correct.

Executed this 27 day of January, 2015, in Bulverde, Texas.



\_\_\_\_\_  
TRACE MAURIN

**EXHIBIT**

3

**PLAINTIFF'S  
EXHIBIT**

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# Cantex Energy Corp

(a Nevada corporation)

---

## STATEMENT OF UNANIMOUS CONSENT

OF

BOARD OF DIRECTORS

---

August 2010

---

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Bruce John Scambler has agreed as of todays date and 12.00 pm Central Time to be a Director and Chairman of Cantex, and CEO of the Corporation.

AND WHEREAS, the Corporation desires to appoint said Directors to be officers of the company.

RESOLVED, that the Corporation does hereby declare by vote to appoint

Harvey Steven Bryant to be a Director and President of the Corporation  
1300 Bedford Drive Nichols Hills Oklahoma 73116

Bruce John Scambler to be a Director and Chairman of Cantex, and CEO  
of the Corporation. 6420 N Hillcrest Ave Nichols Hills Oklahoma 73116

EXHIBIT

1

Trace Edward Maurin to remain a Director and be Chief Operating Officer of Cantex of the Corporation. 2805 Split Rock circle, Bulverde TX 78163

FURTHER RESOLVED, that the Chief Executive Officer shall be and he is directed to execute, in the Corporation's name and place, such releases and termination documents evidencing and confirming the each such and the obligations, if any other documents to effectuate and carry out this action.

#### ISSUE ADDITIONAL SHARES

WHEREAS, the Corporation has agreed to issue 8,000,000 shares ("Debt conversion shares") to Stockholder T Maurin with proviso of vesting when CTXE or combined entity trades at \$0.04 or higher on offer for 30 days or more or more. . The shares held by the T Maurin would be acquired (as backed by a 12-month promissory note equal to \$335,681 at libor) cancellable in event combined entity trades at \$0.04 or higher Said shares shall have a trickle out for not more than 1,000,000 shares sold per month after restriction is lifted.

The Corporation has agreed 56,000,000 will be issued to BFDE officers with 37,320,000 to Bruce Scambler and 22,680,000 to Harvey Bryant for the option to acquire on closing their combined 68,000,000 shares in Bedford Energy.

AND WHEREAS, the Corporation desires to issue said shares of the company.

RESOLVED, that the Corporation does hereby declare by vote to issue

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37,320,000 shares of Common Stock to Bruce John Scambler 6420 N Hillcrest Ave Nichols Hills Oklahoma 73116

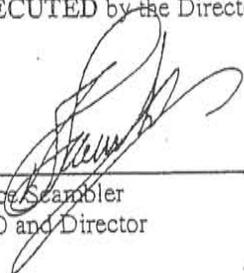
8,000,000 shares of Common Stock to Trace Edward Maurin. 2805 Split Rock circle, Bulverde TX 78163

FURTHER RESOLVED, that the Chief Executive Officer shall be and he is directed to execute, in the Corporation's name and place, such releases and termination documents evidencing and confirming the each such and the obligations, if any other documents to effectuate and carry out this action.

COUNTERPARTS

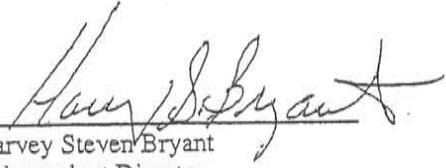
This Consent may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A facsimile signature by any party on a counterpart of this Consent shall be binding and effective for all purposes. Such party shall, however, subsequently deliver to the other party an original executed copy of this Consent.

EXECUTED by the Directors as of the date set out above.



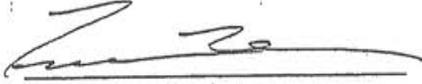
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Bruce Scambler  
CEO and Director



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Harvey Steven Bryant  
Independent Director



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Trace Edward Maurin  
Director

**DECLARATION OF TRACE MAURIN  
PURSUANT TO 12 O.S. § 426**

I, Trace Maurin, of lawful age, hereby declare and state the following based on my personal knowledge:

1. I founded CanTex Energy Corporation ("CanTex") in 2005. At that time, CanTex's headquarters were located in San Antonio, Texas.
2. CanTex was in the business of oil and gas exploration in the United States.
3. CanTex was traded on the pink sheets under the ticker symbol CTXE.
4. In 2009, I met with Bruce Scambler and Harvey Bryant to discuss raising money for CanTex. Bruce Scambler and Harvey Bryant owned and operated Bedford Energy. Bedford Energy had producing wells. Bruce Scambler and Harvey Bryant proposed merging Bedford Energy with CanTex so that CanTex would generate income.
5. Shortly after the 2009 meeting, the CanTex office was moved to Oklahoma. I remained in San Antonio, Texas.
6. Bruce Scambler became Chief Executive Officer (CEO) of CanTex and controlled all of the operations and business of CanTex. Harvey Bryant and I were members of the board of directors.
7. While he was in control of CanTex, Bruce Scambler gifted, offered and sold shares of CanTex to investors and/or CanTex employees. Bruce Scambler never advised me, a member of the Board of Directors, that he was gifting, offering and selling CanTex stock.
8. Bruce Scambler never completed the merger between CanTex and Bedford Energy. Bruce Scambler gave many excuses for failing to finalize the merger.
9. In March of 2014, CanTex shareholders removed Bruce Scambler as CEO and President and replaced him with a new CEO and President.
10. CanTex has since merged with another company and now operates under the name of Arkose Energy Corp.

I declare under penalty of perjury under the laws of the state of Oklahoma that the foregoing is true and correct.

EXHIBIT

4

EXHIBIT

B

Executed this 30<sup>th</sup> day of December, 2014, in San Antonio, Texas.

A handwritten signature in cursive script, appearing to read "Trace Maurin".

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TRACE MAURIN