Exhibit A

In the American Association of Arbitration

Linnie Carroll Young

Claimant and Counter-Respondent,

v. Case Number: 02-17-0002-2200

Phoenix Fund, Inc., Cynthia Watlington Clark, William R. Brunner, Kost Ventures I, Ltd., Addington Family Partnership, Ltd., and Coronado Resources 2013, LP

Respondents and Counter-Claimants

AWARD

I, THE UNDERSIGNED ARBITRATOR, having been designated to serve in accordance with the arbitration provision of the document dated December 9, 2010, from Linnie Carroll Young (Young) to Phoenix Fund, Inc. (Phoenix), having been duly appointed and sworn, proceeding under the Commercial Arbitration Rules (Commercial Rules) of the American Arbitration Association (AAA), and having considered the parties' claims and counterclaims, defenses, proofs, arguments, and briefs, I hereby AWARD as follows:

In this arbitration, Young is represented by Dan M. Fergus, Jr. and Joshua R. Stein of Fergus & Fergus, LLP, Douglas Clifton Kittelson, and Richard A. Nervig of Richard A. Nervig, PC.

Phoenix, Cynthia Watlington Clark, William R. Brunner, Kost Ventures I, Ltd., Addington Family Partnership, Ltd. (collectively, the "Phoenix Parties"), are represented by Corey F. Wehmeyer and Benjamin Robertson of Santoyo Moore Wehmeyer P.C.

Coronado Resources 2013, LP (Coronado), is represented by James S. Robertson, III of Glast, Phillips & Murray, P.C.

Coronado and the Phoenix Parties are sometimes collectively called the Respondents.

Scope and Choice of Law

Young, the claimant, brings a demand seeking an interpretation of the document she executed and delivered to Phoenix Fund, Inc., a respondent, on 12/ 9/ 2010. The instrument in dispute is recorded in Vol. 1037 Page 995 of the public records of Gonzales County, Texas. Through mesne conveyances, Phoenix sold its interest to Addington Family Partnership, Ltd., Cynthia Watlington Clark, William R. Brunner, and Kost Ventures I, Ltd. (Kost). Kost later sold a part of its interest to Coronado.

On October 21, 2016, Young filed a lawsuit under Cause No. 26,479 in state district court in Gonzales County, Texas in which she asserted claims against the Phoenix Parties. She added Coronado as a party defendant by an amended petition filed December 28, 2016. Young submitted her Original Demand for Arbitration on April 17, 2017. At Young's request, by an order entered by the Gonzales County court on May 5, 2017, the lawsuit was compelled to arbitration, resulting in this proceeding. The Sole Arbitrator was appointed on July 6, 2017.

Coronado is not a signatory to the original document. On February 14, 2018, Coronado filed a Rule 11 agreement in this arbitration recognizing that Coronado is bound by that arbitration provision since Coronado's interest derives from the assignment and the arbitration provision is within Coronado's chain of title. Coronado has not raised any objection to this tribunal's authority to arbitrate this matter.[1]

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[1] However, Coronado's participation in arbitration has been, and remains, without waiver of any right to appeal or otherwise contest the trial court's order compelling arbitration. See original attached as Exhibit "A".

The arbitration clause in the document provides (the numerical divisions and emphasis in italics do not appear in the original text and are supplied solely for organizational purposes.

1. In the event of any dispute(s) (as defined herein below) arising out of or relating to this contract, or the breach thereof, the parties agree to participate in at least four (4) hours of mediation in accordance with the commercial mediation rules of the American Arbitration Association before having recourse to arbitration. If the mediation procedure provided for herein does not resolve any such dispute, the parties agree that all disputes between the parties shall be resolved solely by binding arbitration administered by the American Arbitration Association in accordance with its commercial arbitration rules *pursuant to the Federal Arbitration Act, 9 U.S.C. Sections 1-14* (In the event this act shall be held to be inapplicable, then the provisions of the Texas General Arbitration Act shall apply.) Judgment upon the award rendered by the arbitrator may be entered in any Court having jurisdiction.
2. The term "dispute(s)" shall include, but is not limited to all claims, demands and causes of action of any nature, whether in contract or in tort, at law or *in equity*, or arising under or by virtue of any statute or regulation or judicial reasons, that are now recognized by law or that may be created or recognized in the future, for resulting past, present and future personal injuries, contract damages, intentional and/or malicious conduct, actual and/or constructive fraud, statutory and/or common law fraud, class action suit, misrepresentations of any kind and/or character, liable, slander, negligence, gross negligence, and/or deceptive trade practices/consumer protection act damages, *all attorney's fees, all penalties of any kind, prejudgment interest and costs of court by virtue of the matters alleged and/or matters arising between the parties*. The award of the arbitrator issued pursuant herein shall be final, binding and non-appealable. The parties hereby *waive any rights to punitive or exemplary damages,* and the *Arbitrator(s) will not have the authority to award exemplary or punitive damages to either party.*
3. Venue for any mediation or arbitration provided for by these provisions shall be Bexar County, Texas.
4. Notwithstanding anything to the contrary in the aforementioned arbitration rules, no arbitration shall exceed a total of twelve hours per dispute unless extended by mutual agreement of the parties.

All required prerequisite mediations have been held and were unsuccessful. The scope of "disputes" is broad, and this dispute arises out of the document. This arbitration has jurisdiction to decide all the alleged claims, counter-claims, and affirmative defenses. Young and all other Respondents are subject to the jurisdiction of the arbitration. The parties have agreed the arbitration may exceed a total of twelve hours. See Procedural Order One dated 8/10/2017. The venue of the arbitration is Bexar County, Texas, and Texas law and the Federal Arbitration Act, 9 U.S.C. Sections 1-14, apply.

Procedural History

Trial Pleadings:

1. Young's Statement of Claims dated 4/17/2017. (*All claims, counter-claims, and affirmative defenses are itemized in EXHIBIT B*)
2. Young's First Supplement to her Statement of Claims dated 5/15/2017. (note: *This pleading has been treated as a supplement to the Prayer in the Statement of Claims dated 4/17/2017 clarifying the relief Young seeks and does not raise new claims.*)
3. Young's Second Supplement to her Statement of Claims dated 8/31/2017.
4. Young's Third Supplement to her Statement of Claims dated 10/4/2017. (note: *The "claim" that division orders are irrelevant, as a matter of law, is treated as an evidentiary matter and is addressed in the award. The "claim" that Young is entitled to a fixed 25% royalty from the lands was previously raised in the first demand.*)
5. Phoenix Fund's First Amended Response to Young's Statement of Claims and First Amended Original Counter-Claim against Young dated 9/1/2017.
6. Phoenix Fund's Second Amended Response to Young's Second Statement of Claims and First Amended Original Counter-Claim against Young dated 9/21/2017.
7. Young's Response to Phoenix Fund's Counter-Claims dated 5/15/2017.
8. Coronado's Response and Statement of Claims dated 5/5/2017.

9. Coronado's First Amended Response to Linnie Young's Statement of Claims as Amended and Supplemented dated 9/21/2017.

Procedural Background:

1. Procedural Order One, is the scheduling order for Young v. Phoenix Fund, *et al.* and is dated 8/10/2017.
2. Procedural Order Two dated 1/5/2018 addresses discovery disputes, motions to strike pleadings, motions to compel depositions, motions to strike witnesses and a motion for equalization of assessments of costs during the pendency of the arbitration. Procedural Order Two was corrected on 1/15/2018 to correct the omission of an appearing party, Coronado, who participated in the hearing.
3. A telephonic bench conference was held on 1/26/2018 to address certain procedural questions with regards to requests for depositions and to address pending motions to strike. The parties reached an agreement and understanding on the issues presented. No formal order was filed.
4. A telephonic bench conference was held on 2/15/2018 to address further procedural questions with regards to subpoenas. The parties reached an agreement and understanding on the issues presented. No formal order was filed. Subpoenas were issued.
5. Procedural Order Three dated 3/3/2018 partially granted pending dispositive motions and these claims were dismissed as a matter of law: suit to quiet title, unjust enrichment, slander of title, constructive trust, breach of fiduciary duty, recoupment and debtor-creditor relationship.
6. Procedural Order Four dated 3/15/2018 ruled on objections to the admissibility of demonstrative evidence.
7. Prior to the evidentiary hearing, both sides submitted pre-hearing briefs and provided the Arbitrator with three volumes of exhibits, one from Young and two from Respondents.
8. The evidentiary hearing was conducted in San Antonio, Texas on March 19–22, 2018.

9. On March 26, 2018, the Arbitrator issued Procedural Order No. 5 Post Testimony Scheduling Order, granting ten days for parties to submit a request for attorneys' fees and twenty-five days from the completion of the record to submit post-hearing briefs.
10. On May 4, 2018, both sides presented post-hearing briefs and proposed reasoned awards.
11. The proceedings were closed on May 4, 2018.

Overview of The Claims and Counterclaims:

The claims remaining for final evidentiary hearing were (a) all parties' claims for declaratory judgment, (b) Young's claims for (i) trespass to try title, (ii) breach of contract, (iii) money had and received, (iv) elder financial abuse under California law, (v) estoppel/violation of Section 5.151 of the Texas Property Code, (vi) common law fraud, fraudulent inducement and fraud in a real estate transaction, and (vii) breach of express and implied warranties, and (c) Respondents' counterclaims for (i) breach of contract, (ii) breach of warranty of title, and (iii) reformation. Respondents further raised the defenses of (i) limitations and (ii) their status as a bonafide purchaser for value.

Young seeks the recovery of her reasonable attorneys' fees and costs provided under the Declaratory Judgment Act, Chapter 37 of the Texas Civil Practice and Remedies Code, and under her elder financial abuse claim, provided under the California Welfare and Institutions Code.

Respondents also requested recovery of their reasonable attorney fees and costs as damages under their counterclaims and the Declaratory Judgment Act.

Additionally, each side seeks recovery of costs and expenses of arbitration.

Discussion: Deed or Lease?

In Texas, the mineral estate is comprised of five severable rights: 1) the right to develop, 2) the right to lease, 3) the right to receive bonus payments, 4) the right to receive delay rentals, and 5) the right to receive royalty payments. *French v.*

Chevron U.S.A. Inc., 896 S.W.2d 795, 797 (Tex. 1995). Texas oil and gas practice refers to these severable rights are referred to as a "bundle of sticks."

The holder of the leasing privilege is the executive-interest holder. *KCM Fin. LLC v. Bradshaw*, 457 S.W.3d 70, 75 (Tex. 2015). The executive enjoys the exclusive right to make and amend mineral leases and, correspondingly, to negotiate for the payment of bonuses, delay rentals, and royalties, subject to a duty of utmost good faith and fair dealing to non-executive interest holders. *Id.* at 74-75 (citing Jones, 26 Tex. L. Rev. at 569, and *Plainsman Trading Co. v. Crews*, 898 S.W.2d 786, 789-90 (Tex. 1995)).

A royalty interest derives from the grantor's mineral interest and is a nonpossessory interest in minerals that may be separately alienated. *Id.* at 463. A party possessing a royalty interest that does not include the right to lease the mineral estate, receive delay rentals, or bonus payments is referred to as a non-participating royalty interest holder. *KCM Fin.*, 457 S.W.3d at 75. *Graham v. Prochaska*, 429 S.W.3d 650 (Antonio 2013). A royalty interest is defined under well-established oil and gas law as the right to receive a share of gross production of the minerals produced under a mineral lease, free of the costs of production. *Delta Drilling Co. v. Simmons*, 161 Tex. 122, 338 S.W.2d 143, 147 (Tex. 1960). The basic royalty interest, or "landowner's royalty," is the fraction of production, free of the costs of production, which a landowner-lessor is entitled to receive from the operator-lessee under the terms of his lease. *See Heritage Res.*, 939 S.W.2d at 121-22. The right to receive royalty payments, as one of the rights and attributes comprising the mineral estate, is an intangible and separately alienable property interest. *Luckel*, 819 S.W.2d at 464.

Expert Testimony

The experts testifying in this matter about conveyances are without parallel. Professors Kramer, Wetsel, and Farrar are well-respected law professors and

practitioners. George Snell is a long-term practitioner and lecturer in the Texas oil, gas and energy bar associations.

Although they disagree on the interpretation of the instrument in dispute, they all agree that an oil, gas, and mineral lease is a determinable fee simple estate in the minerals with a possibility of reverter. Likewise, a term royalty deed is a defeasible estate in the royalty as a subset of the minerals. Professor Kramer states that a purist would not call a term royalty deed determinable because royalty is a non-possessory interest. In this case, what makes the lease determinable or deed defeasible is based upon the condition that there be actual production at the end of the term to perpetuate the interest.

An oil, gas, and mineral lease is not a lease as that term is understood by the layman, but rather it is a deed. Professor Kramer stated the confusion more clearly:

> I'm going to say a popular misconception by thinking that deed and lease are separate. They're not separate; they're related, they do lots of the same things, they both convey interests in real property. But, because people are used to having deeds with their homes and whatever else, they're thinking that they're giving the fee -- I mean, there aren't too many people on the street which said, you know, have you granted away a fee simple determinable estate? The answer is no; they haven't. So, when they think of a deed, they think fee simple absolute, not in the oil and gas context. And they think of a lease, they think it's got a limited term, and it's going to come back to the landlord, okay. So, I mean, there's all sorts of similarities, and again, common versus somebody who's familiar with oil and gas.

In practice, addressing solely the "royalty stick," there is no difference between the legal effect to an oil, gas, and mineral lease leasing and letting a ¼ mineral interest for a term of three years and as long thereafter as oil and gas is produced and granting and deeding a ¼ royalty interest for a term of three years and as long thereafter as oil and gas is produced. Again, this is assuming the royalty interest is coupled with

executive rights and ignoring the different conditions and covenants found in the usual oil, gas, and mineral lease. In summary, a lease is a form of a deed.

Respondents argue that there is no Texas case authority that states an oil, gas, and mineral lease taken from an owner of a non-participating royalty-interest holder is void. Professor Kramer and the Arbitrator closely examined *Hawkins v Texas Oil* 724 S.W.2d 878 (Tex.App.-Waco 1987, writ ref'd n.r.e.), which Young cities as authority that if a non-participating royalty interest owner executes an oil, gas, and mineral lease, then that lease is void. The actual quote from the court is "a purported lease by a royalty owner is void." The quote should have qualified its dicta by saying a purported lease by a *non-participating* royalty owner is void. A careful reading of this case indicates the royalty interest was non-participating. From appellate experience, the Arbitrator has found that sometimes the law is so fundamental that no court has felt it necessary to express it. All parties to this dispute recognize a purported lease by a *non-participating* royalty owner is void, and the Arbitrator believes that *Hawkins* is a Texas case that stands for this proposition.

The unanswered but easily understood question is why such a lease would be void. Nothing is preventing an owner of a non-participating royalty interest from selling that interest for a term of years. The answer is that a non-participating royalty interest is a non-possessory right. Without executive rights attached to the non-participating royalty interest, any attempt to sell the rights to investigate, explore, prospect, drill, mine, ingress, and egress, or any appurtenant possessory rights to it would be void *ab initio*.

Additional Background

The underlying facts, in general, are uncontested. Young owned the surface and 100% of the mineral estate containing 277.1 acres of land in Gonzales County, Texas. Young testified that she lived alone and resided in California. Due to financial circumstances, she sold her family farm. On April 24, 2002, Young executed a general warranty deed and conveyed the lands to Robert L. Boothe.

The Boothe deed contained the following reservation. (*For the sake of clarity, the reservation has been divided into numbered paragraphs not found in the original text and emphasis has been added.*)

Reservations from Conveyance:

1. ANYTHING in the foregoing conveyance to the contrary notwithstanding, it is understood and agreed that there is excepted out of this conveyance and reserved unto the Granter herein *an undivided one-half (1/2) interest in and to all of the oil royalty, gas royalty and royalty in other minerals in* and under and that may be produced from the hereinabove described real estate, or any portion thereof, *for and during the terms of twenty (20) years* from and after the date of this conveyance, *and as long thereafter* as oil, gas or other mineral is produced or mined from said land in paying or commercial quantities, *said excepted and reserved interest in and to said oil, gas and other minerals to be a royalty interest*, and to be delivered to the Grantor herein, her heirs or assigns or to their respective credits, free and clear of all costs and expenses of development, production, and/or operations, but subject to their proportionate part of any taxes levied against or on such interest in said production.
2. This reservation shall be *subject to the terms of any oil, gas and minerals lease now in force* covering said above described tract of land, or any part thereof, *as well as any oil, gas and mineral lease or leases hereafter executed by the Grantee*, his heirs and assigns, as hereinafter provided for, provided, however, that said reserved and excepted interest in and to said oil, gas and other minerals shall be delivered or paid to the credit of Grantor herein out of the royalty provided for under the terms of any such lease or leases.
3. It is understood and agreed that Grantor herein d*oes not by these presents reserve any right to participate in the making and/or execution of any future oil, gas and/or mineral lease* or leases covering the tract of land above described, or any portion thereof, and Grantor hereby authorizes and empowers said Grantee, his heirs and assigns, to make and execute any such oil, gas and/or mineral lease which he may desire, in his own name, without the joinder of Grantor herein, provided that any such oil, gas and/or mineral *lease shall provide for a royalty on oil, gas and/or other mineral of not less than one-sixth thereof.*

4 . It is further understood and agreed that Grantor *does not*, by virtue of any reservation and exception, acquire or r*eserve any right to participate in any bonus* or bonuses which Grantee herein, his heirs or assigns, shall receive from any future lease or leases, *not to participate in any rental* to be paid for the privilege of deferring the commencement of any well under the terms of such lease or leases, heretofore or hereafter executed, covering said tract of land above described, or any part thereof.

5 . In the event that *Grantee*, his heirs or assigns, in the status of fee owner or owners of any part thereof, *shall develop or operate said tract of land*, or any portion thereof, in the production of oil, gas or other minerals therefrom, the said G*rantor shall own and be entitled to receive* as a free royalty, free and clear of all costs and expenses, a *royalty interest of one-twelfth* in and to the royalties from said production as hereinabove set out.

6 . It is further agreed and understood that the *Grantee*, his heirs and assigns, is expressly *authorized to execute leases authorizing the Lessee to pool* and unitize the above described land or any part thereof, with other land or lands that are adjacent to the aforesaid land, and bind the royalty herein reserved, in which event the Granter herein shall be seized and possessed of her royalty interest that may be allocated to the above-described land, or any part or parts thereof, as a result of a unit of development, and provided further that such pooling and unitization may be made either upon a pro rata acreage basis or density basis.

7 . If, at the expiration of twenty (20) years from the date of this instrument, (1) oil, gas or other minerals, or either of them, is not then being produced or mined from said tract of land above described or any portion thereof, in paying or commercial quantities, or (2) if at the expiration of twenty (20) years from the date hereof, oil, gas or other minerals or either of them is being produced or mined from said tract of land above described, or any portion thereof, in paying or commercial quantities, and such production shall thereafter cease, then, upon the occurrence of either of such events, all of the reservation and exception herein made shall terminate and be of no further force and effect, and all rights, title, and interest to said oil, gas and other minerals herein excepted and reserved unto Grantor shall pass to and vest in said Grantee herein, his heirs and assigns, forever.

8 . For purposes of determining production in paying quantities at the end of said twenty-year period, it is expressly agreed that the payment of shut-in gas well payments shall be considered as production in paying quantities.

The evidence at trial showed that the Boothe deed was drafted by Young's attorney, Roger Dreyer. Jackie Williamson assumed representation of Young when Mr. Dryer retired. However, the disputed instrument was drafted by Crandall Addington, the principal of Phoenix Fund, Inc. Everyone agrees that Young reserved a defeasible fee in a ½ non-participating royalty interest for twenty (20) years from the date of the conveyance and so long thereafter as oil, gas, or other minerals are produced.

The Disputed Instrument

After negotiations, Young executed the following document on 12/9/2010. Absent the arbitration clause previously set out and omitting the land description, the conveyance recites:

> This Agreement dated Dec. 9, 2010 between Linnie Carroll Young, whose address is 29449 Branwin Street, Murrieta, CA 92563, Individually and in all other capacities, hereinafter called the Lessor, for and in consideration of the sum of Ten and More ($10.00) Dollars and other good and valuable considerations, in hand paid by Phoenix Fund, Inc., 8626 Tesoro Drive, Suite 801, San Antonio, Texas 78217, hereinafter called the Lessee, the receipt of which is hereby acknowledged and confessed, hereby grants, leases and lets exclusively unto the said Lessee, all of Lessor's non-participating **royalty** interest in and to the **Royalty** in all of the oil, gas and other minerals produced and saved from the hereinafter described lands, including all proceeds hereof and the right to demand, collect and receive same, located in the County of Gonzales, State of Texas, to-wit:
>
> Being all that certain tract (land description omitted for clarity)
>
> This is a paid-up lease and subject to the other provisions herein contained. This lease, grant, and conveyance shall be for a term of three (3) years from the date of this document, and as long thereafter as oil, gas or minerals are produced from said lands or lands pooled therewith, and at the termination of said production and cessation of operations to restore it, this lease and all rights granted hereby shall terminate.
>
> As **royalty**, Lessor reserves an equal one-fourth (25%) part of the **Royalty** from the sale of all oil, gas, and condensate produced and saved from said land subject to the terms this agreement.

...

TO HAVE AND TO HOLD unto the said Lessee, its successors, and assigns said **royalty** interest as above set forth; and Lessor does hereby grant, lease and let said **royalty** interest under any valid oil and gas lease covering said lands and extensions thereof. (emphasis added to show the use of **capital R** and **small r** when describing the interest, the significance of which is discussed later in this Award)

ADDENDUM

Notwithstanding anything contained herein to the contrary, if, at the expiration of the primary term of three years of this lease, this lease is not being maintained in effect in any manner provided for herein, including but not limited to operations upon or production from the leased premises or on land pooled therewith, Lessee shall have the exclusive right and option to renew and extend this leases as to the lands then covered thereby or any portion chosen by Lessee for and additional two (2) year primary term, on or before the expiration of the three year primary term as stated herein, by payment or tender to Lessor on or before said date, a sum of money equal to the initial bonus paid under the terms and conditions of said lease.

The Applicable Law Regarding Deed Construction

The construction of an unambiguous deed is a question of law for the court, and the primary duty of the court in construing a deed is to ascertain the intent of the parties from all of the language in the deed within the four corners of the instrument. *Wenske v. Ealy*, 521 S.W.3d 791 (2017); *Luckel v. White*, 819 S.W.2d 459, 461 (Tex. 1991); *Centerpoint Energy Houston Elec., L.L.P. v. Old TJC Co.*, 177 S.W.3d 425, 430 (Tex.App.--Houston [1st Dist.] 2005, pet. denied). The court must strive to harmonize all the parts, construing the instrument to give effect to all of its provisions. *Luckel*, 819 S.W.2d at 462; *Centerpoint Energy*, 177 S.W.3d at 430. Extrinsic evidence of intent is admissible only when an ambiguity appears on the face of the deed, in a suit for reformation, or when a party alleges fraud, accident, or mistake. *Centerpoint Energy*, 177 S.W.3d at 430.

Whether a contract is ambiguous is likewise a question of law. *Id.* If a written contract or deed is worded in such a way that it can be given a definite or certain legal meaning, then the contract is not ambiguous. *Id.* at 430-31; *Marrs & Smith*,

2002 WL 1445334, at *5. If the deed language is susceptible to a single meaning, the court is confined to the writing. *Marrs & Smith*, 2002 WL 1445334, at *5; *Cherokee Water Co. v. Freeman*, 33 S.W.3d 349, 353 (Tex. App.--Texarkana 2000, no pet.).

The Dispute

Young states that she intended to execute an oil, gas, and mineral lease. The Respondents contend that Young knew that she was selling a royalty interest in the land. The Respondents argue that Young owned a ½ non-participating royalty interest for a twenty-year term and as long thereafter as there is continuous production and that she sold 3/4s of this interest to Respondents for a term of three years and as long thereafter as there is continuous production. It is uncontested that Young has been receiving royalty checks from the production from EOG for her 1/4 share.

It is also uncontested that after her sale of the land to Boothe, Young did not have any rights to execute an oil and gas lease. Boothe gave an oil and gas lease to EOG, and it drilled successful wells. The land in issue is included in 3 different units and has produced more than $6 million attributable to the royalty owners, Young and the Respondents.

Young argues that the language of the instrument when read from the "four corners" clearly shows that the parties intended to convey a lease. She points out the wording in the instrument: "lessor," "lessee," "hereby grants, leases, and lets," "this is a paid-up lease," "lease," "exclusive right and option to renew and extend this lease(s) (the misapplication of the plural of the lease is stated as shown in the original) for the additional two-year primary term," and "bonus" indicates that the parties intended to create an oil, gas, and mineral lease.

Phoenix argues that the language of the instrument when reading from the "four corners," clearly shows that the parties intended to deed a non-participating royalty interest for a term. Phoenix points to the following words, phrases or descriptions in the instrument: "valuable consideration," "this lease, grant, and

conveyance," the words of grant "to have and to hold," "royalty interests under a valid oil and gas lease," the absence of a caption that says "oil, gas, and mineral lease," and the phrase "grants ... said royalty interest under any valid oil and gas lease," indicate the parties intended to deed the royalty interest. Phoenix also points out that the contested instrument lacks material terms, such as a proportionate reduction clause as found in a lease.

Also, Phoenix urges that the arbitrator should give preference to the actual description of the interest owned as described in the document. Young conveys all of her interest in and to the **Royalty** (emphasis added to show the use of **capital R** and **small r** when describing the interest described in the instrument in dispute) in all of the oil, gas, and other minerals produced and saved from the hereinafter described lands, including all proceeds hereof and the right to demand, collect and receive same. Young then reserves for herself an equal one-fourth (25%) part of the **Royalty** (note the capital **R**) from the sale of all oil, gas, and condensate produced and saved from said land subject to the terms this agreement. The grant is for three years and as long thereafter as the oil, gas or minerals are produced. The instrument is a conveyance of all the lands with a reservation of an interest in production then the possibility of reverter. The Habendum clause refers to the interest as a **royalty interest** (note the small **r**) and a like interest in any oil, gas, and mineral lease. When the emphasized letters and words are construed, Phoenix argues that it is clear that the parties intended to deed the royalty "stick" of the minerals and not lease it.

Next, Respondents have offered for admission in evidence a final Award from another AAA case in which the very same correspondence, offer letter and instrument were found to be valid and effective conveyances. Ben H. Sheppard, the arbitrator in that matter, was well respected and considered the father of arbitration training in Texas. Sheppard was the former Director of the A.A. White Dispute Resolution Center at the University of Houston. The Award was received in evidence.

However, prior awards are not precedential but can be persuasive. Arbitrators' decisions carry little, if any, precedential value (see, e.g. Singer v. Flying Tiger Line Inc. (9th Cir.1981) 652 F.2d 1349, 1356); arbitration awards are private; and arbitration cannot determine rights and obligations of anyone not a party to the arbitration contract and cannot decide any questions not presented by the parties' submission *see* (Freeman v. State Farm Mut. Auto Ins. Co. (1975) 14 Cal.3d 473, 479, 121 Cal.Rptr. 477, 535 P.2d 341; Unimart v. Superior Court (1969) 1 Cal.App.3d 1039, 1045, 82 Cal.Rptr. 249; Cothron v. Interinsurance Exchange (1980) 103 Cal.App.3d 853, 860, 163 Cal.Rptr. 240). Therefore, Mr. Sheppard's award is not controlling.

Finally, Addington argues that he intended for the instrument to be a deed. The testimony of Jackie Williamson, Young's lawyer, was emphatic that she would never advise a client to sell minerals and that she thought that Young was leasing her non-participating royalty interest. Williamson did not make the distinction that an oil and gas lease is a deed. Respondents argue that Young has seller's remorse now that the production has declined. In contrast, the evidence shows that Young intended to lease her interest and was unaware that any such conveyance would be void. Regardless, we have disregarded the parol evidence of the parties and looked only at the four corners of the document.

Where the parties fail to agree is the difference between using words of art compared to words of common usage. In the Texas oil and gas lexicon, words and phrases like *lessor*, *lessee*, *lease*, *leases and lets*, *royalty*, *primary term*, *delay rentals*, *paid-up lease, executive rights,* and *bonus* are words of art and have very specific meaning and understanding. Each of these words also has common usage that may or may not mean the same thing outside the context of an oil, gas, and mineral lease. For example, *bonus* is a subset of the minerals. As used in his offers and the deed in dispute, Addington would ascribe the commonly understood meaning of a bonus as a reward or gratuity. In this dispute, the word *lease* is a deed. Addington uses the word as something less than a deed in his offer letters but as a *deed* in the instrument in dispute. It is the inconsistent use of the language as words

of art or as words of common usage in this dispute that gives rise to arguable differences.

Conclusion

Disregarding all parol evidence and looking only at the language of the document, the Arbitrator holds that the parties intended to enter into an oil, gas, and mineral lease. Giving meaning to every word, the phrase "this is a paid-up lease" cannot be ignored. When taken with the words of art, *lessor*, *lessee*, *lease*, *leases and lets*, *royalty*, *primary term*, and *bonus*, the language indicates the intention to take an oil, gas, and mineral lease. Professor Wetsel stated that in his opinion it was an oil, gas, and mineral lease but a poorly drafted one. [2] And, the instrument is void.

The Applicable Law for Misrepresentation

To establish common law fraud, Young must prove: (1) the Phoenix Parties made a material representation; (2) the representation was false; (3) when the representation was made, the speaker knew it was false or made it recklessly without any knowledge of the truth and as a positive assertion; (4) the speaker made the representation with the intent that Young should act upon it; (5) Young actually and justifiably relied on the representation; and (6) Young thereby suffered injury. *Italian Cowboy Partners, Ltd. v. Prudential Ins. Co. of Am.*, 341 S.W.3d 323, 337

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[2] **½ royalty or ½ of 1/5 lease royalty:** As an alternative argument, Young urges that the interest she reserved in the Phoenix "lease" is a full ½ Royalty as opposed to a 1/2 floating royalty in future oil and gas leases for the term of three years and as long thereafter as there is production in the Phoenix deed. Young argues therefore that she did not convey any interest under the Phoenix "deed". Young's position and interpretation is without merit. Clearly, the interest Young reserved in the Boothe deed is a ½ of any royalty provided by any oil gas and mineral lease executed by Mr. Boothe, the holder of the executive rights. Moreover, the Arbitrator has held the Phoenix "lease" void *ab intio*. Young cannot claim any interest created by a void instrument.

(Tex. 2011); *Grant Thornton LLP v. Prospect High Income Fund*, 314 S.W.3d 913, 923 (Tex. 2010).

The Applicable Law for Financial Elder Abuse

California's financial elder abuse statute is designed to protect senior citizens from fraud. It provides enhanced remedies to encourage private, civil enforcement. *Intrieri v. Superior Court* (2004) 117 Cal.App.4th 72, 82 [12 Cal.Rptr.3d 97]; *see* Cal. Welf. & Inst. Code §15610.30. The Legislature's stated intent is to subject financial agreements by elders to special scrutiny. *Bounds v. Superior Court* (2014) 229 Cal.App.4th 468, 478 [177 Cal.Rptr.3d 320].

The statute provides:

(a) "Financial abuse" of an elder or dependent adult occurs when a person or entity does any of the following:

(1) Takes, secretes, appropriates, obtains, or retains real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.

(2) Assists in taking, secreting, appropriating, obtaining, or retaining real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.

Age and residency are the only conditions precedent to maintaining a claim for financial elder abuse. Cal. Welf. & Inst. Code §15610.27 ("'Elder' means any person residing in this state, 65 years of age or older"). When Ms. Young received the Phoenix Offer Letter and signed the Phoenix Lease, she was over 65 years of age and a resident of California. These facts are undisputed.

Addington's Business Model

Crandall Addington is an experienced businessman. He testified that he had been in the oil and gas business for almost 50 years. He created the Phoenix Fund and its successor US Shale Energy specifically to buy non-participating royalty interests.

Addington then described his "business model." He stated that if he approached a farmer in Tyler, Texas who owned a non-participating royalty interest and said "sell" or "deed" the owner would never entertain his offer. Addington had a lawyer construct forms for his offer letters and deeds. Addington consciously never said "buy," "purchase," "term royalty deed" in any of his communications. When asked whether it would have been better to offer Young a term royalty deed instead of the Phoenix lease instrument, Addington stated, "No. And I've told you that these people that have had these interests for many, many, many years are afraid to sign anything that says "deed" on it because their interpretation of a deed is a permanent conveyance." Because a non-participating royalty interest does not have the right to execute an oil and gas lease or receive bonus payments, Addington said he was helping the owners to monetize their stranded assets. He testified that he had taken over 400 leases and had a 75% closure rate – making a purchase – using some form of the instrument in dispute.

The Phoenix offer communications:

In Phoenix's 10/8/2010 letter, Addington wrote:

> I have previously attempted to contact you in regards an (*sic*) interest in 277.1 acres that you retained in the Jesse McCoy and John McCoy Surveys in Gonzales County by virtue of a conveyance that you made to Probert L. Boothe.
>
> We are *leasing* in the area, and we would like *to make you an offer to lease* your retained interest in that property.
>
> If we can reach an agreement on the *terms of the lease* proposal, we will forward the *lease* along with a cashier's check in the agreed amount by FedEx for your attention.

If you are interested, please provide me with your telephone number. I have previously attempted contact you at (*number intentionally omitted*) with no response.

Thank you for your time in considering this proposal. (*emphasis does not appear in the original text*)

In his follow-up letter of 10/15/2010, Addington wrote:

Thank you for taking the time this week to visit with me about your oil and gas interest in Gonzales County Texas. As you know, you conveyed your surface interests and the *executive rights* to execute oil and gas leases to Robert L. Boothe in the 277. l acres by General Warranty Deed dated April 24, 2002.

You reserved a 1/2 interest in any royalty from the production of oil and gas on this property. As I explained to you, Mr. Boothe received 100% of the *lease bonus* when he *leased* this land as part of a larger lease on July 29, 2009, and you received no *bonus* even though you own 1/2 the *royalty* attributed to that lease. That is because the mineral law in Texas provides the *executive* with that benefit.

We can offer you an opportunity to receive a *bonus* on your 1/2 of the royalty even though you have no *executive rights*. We have a copyrighted *lease form* that provides us with the exclusive opportunity to do just that. We have many of these recorded leases throughout Texas, and they are recognized by such major companies as Devon, EOG, and Chesapeake.

The terms of our offer are as follows:

Term: 3 years with a 2-year option

Bonus: $60,000 for first 3 years plus $60,000 more if option exercised

Royalty retained by you: 25%

Payment by cashier's check

Enclosed for your review is our proposed *lease*.

Addington described in detail his experience in purchasing royalties and his knowledge of the legislative history of Tx Property Code § 5.151. It recites:

DISCLOSURE IN OFFER TO PURCHASE MINERAL INTEREST.

(a) A person who mails to the owner of a mineral or royalty interest an offer to purchase only the mineral or royalty interest, it being understood that for the purpose of this section the taking of an oil, gas, or mineral lease shall not be deemed a purchase of a mineral or royalty interest, and encloses an instrument of conveyance of only the mineral or royalty interest and a draft or other instrument, as defined in Section 3.104, Business & Commerce Code, providing for payment for that interest shall include in the offer a conspicuous statement printed in a type style that is approximately the same size as 14-point type style or larger and is in substantially the following form:

BY EXECUTING AND DELIVERING THIS INSTRUMENT YOU ARE SELLING ALL OR A PORTION OF YOUR MINERAL OR ROYALTY INTEREST IN (DESCRIPTION OF PROPERTY BEING CONVEYED).

With the increase in the value of oil and gas and horizontal drilling in the shale plays, several prospective buyers have blanketed Texas royalty owners with blind solicitation letters offering to purchase their minerals. Addington stated that Jim Davis and JD Minerals had been active in East Texas purchasing mineral interests. JD Minerals was subjected to subsequent litigation with allegations that unsuspecting mineral owners were deeding their mineral interests when they thought they were only leasing their interests for exploration rights. This activity resulted in the passage of section 5.151. Addington stated that he carefully followed the legislative process and the passage of section 5.151.

Addington said he strictly complied with section 5.151 because he used FedEx and not the U.S.P.S. mails, because he never enclosed a draft or check with any of his offers, and because he hand-delivered the payment to the owners. He did not include the section 5.151 warnings in his offer correspondence or in the instrument in which Young conveyed ¾ of her interest to Phoenix.

Defect of Title Notice to Phoenix, Not Presented to Young:

EOG, the crude oil purchaser, notified Phoenix of the following title objection made in EOG's division order title opinion:

> A. You should investigate and determine, *whether* ***the oil and gas royalty lease*** *recorded in Volume 1037, Page 995, Official Records, was intended as a term conveyance* of 75% of Linnie Carroll Young's non-participating royalty interest in Unit Tract 9 and other lands to Phoenix Fund, Inc. If *it was intended to be a* ***term royalty deed,*** you should as a precaution, obtain from Linnie Carroll Young, Cynthia Watlington Clark, William R. Brunner, the General partner of Kost Ventures I, Ltd., and the General Partner of the Addington Family Partnership, Ltd. an Agreement where they stipulate as to their relative non-participating royalty interests in unit Tract 9 and under L12. Thereafter, you should conduct a supplemental record check from the closing date of this Opinion through the filing date of the Agreement, to ensure the title of Linnie Carroll Young, Cynthia Wallington Clark, William R. Bruner, Kost Ventures I. Ltd., and Addington Family Partnership, Ltd, in Unit 9, did not change or become encumbered. (emphasis added)

William R. Brunner (Brunner), who worked with Phoenix, told EOG that Phoenix had other documents that were similar and were in pay status with other purchasers. Brunner stated that he did not specifically ask EOG to waive this title requirement. However, this title requirement was never cured as required by the division order title opinion. Phoenix was aware that their patented conveyance raised questions as to Phoenix's ownership. Phoenix never revealed their intentions to purchase the royalty to Young.

Conclusion:

Addington intended to purchase 3/4s of Young's non-participating royalty interest. He purposefully created offer letters, communications, and instrument that Young relied on, believing that she was executing an oil and gas lease. Young testified that she intended to *lease* Phoenix 3/4s of her interest for a term. From her testimony, Young did not intend to sell her interest. She was unaware that she had executed a void instrument. When the 12/9/2010 Phoenix instrument is considered with the overall background, circumstances, previous communications, both written and verbal, and using the words of art in the oil and gas trade, the Arbitrator finds

that intent of the 12/9/2010 Phoenix instrument is to lease and let an oil, gas, and mineral lease.

The Statute of Limitations

As an affirmative defense, the Respondents' argue that all of Young's claims are barred by the statute of limitations.

Respondents argue that the statute of limitations began to run when Young's claims accrued. *Seureau v. ExxonMobil Corp.*, 274 S.W.3d 206, 226 (Tex. App.—Houston [14th Dist.] 2008, no pet.) (citing *Moreno v. Sterling Drug, Inc.*, 787 S.W.2d 348, 351 (Tex. 1990)). Young filed suit against the Respondents on October 21, 2016. *See Cosgrove v. Cade*, 468 S.W.3d 32, 34 (Tex. 2015) (reasoning that because of the necessity for title stability, claims relating to conveyances of real property in unambiguous instruments, accrue immediately upon execution of a conveyance instrument). Respondents argue that applying *Cosgrove*, all Young's claims accrued on December 9, 2010, when she executed and delivered the instrument to Phoenix.

And if *Cosgrove* does not apply, Respondents urge that the legal injury rule would instead govern. Respondents argue that the absolute latest limitations period under the legal injury rule began when Young certified her ownership interest on her division orders. Young certified division orders in July, August and September 2012. Young's claims accrued, at the latest, applying the legal injury rule, in September 2012.

Because October 21, 2016, is more than four years after either December 9, 2010 (*Cosgrove*) or September 2012 (legal injury rule), Respondents assert that limitations bars all of Young's claims against the Respondents.

However, in a suit to declare ownership the statute of limitations does not run against void instruments. *Ford v. Exxon Mobil Chem. Co.*, 235 S.W.3d 615, 618 (Tex.2007) ("an equitable action to remove a cloud on title is not subject to

limitations if a deed is void"). Void instrument`s pass no title at execution. *1st Coppell Bank v. Smith*, 742 S.W.2d 454, 461 (Tex.App.— Dallas 1987, no writ).

Ms. Young's case also involves an ongoing misallocation of royalties. When a case involves fixed or periodic payments, a separate cause of action arises for each payment. *Barnes v. LPP Mortg., Ltd.*, 358 S.W.3d 301, 307 (Tex. App.-Dallas 2011, pet. denied). Courts have applied "rolling limitations" to misallocated royalty payments for more than seventy years. *See, e.g., Phillips Petroleum Co. v. Johnson*, 155 F.2d 185, 194 (5th Cir. 1946), *cert. Denied*, 329 U.S. 730, (1946).

Douglas M. LoPachin (LoPachin) testified that he had reviewed the production reports from the three producing units in which the parties' interests participated. LoPachin offered the following dollar amounts beginning with the first production in October 2012 and the first accounting month in December 2012. This evidence is undisputed.

Respondent	**Paid to Date**	**Suspended**
William Brunner	$1,795,827.83	$56,743.32
Cynthia Clark	$285,056.69	$8,959.62
Phoenix Fund, Inc.	$219.57	$0.00
Kost Ventures 1, Ltd.	$1,648,834.86	$67,824.32
Addington Family Partnership	$1,795,827.58	$56,743.32
Coronado Resources 2013, LP	$70,537.50	$34,292.76
Total	**$5,596,304.03**	**$224,563.34**

Phoenix argues that applying the legal injury rule, Young's claims accrued, at the latest, in September 2012. Young brought her suit on 10/21/2016; therefore, limitations would apply to any production four years before this date or 10/21/2012. The only evidence of damages presented began in October 2012, within the four-year statute of limitations.

Conclusion

The Arbitrator finds that Young's claims for fraud and California Elder Abuse are not barred by limitations. The Arbitrator further finds that Young's claim for declaratory judgment is not barred by limitations. Limitations do not run against a void instrument. Moreover, Young's injuries did not begin until October 2012 which is within four years of her bringing suit.

Attorney fees:

A party can recover its fees under TEX. CIV. PRAC. & REM. CODE §37.009. *U.S. Fidelity & Guar. Co. v. Coastal Refining & Mktg., Inc.*, 369 S.W.3d 559, 571-72 (Tex. App.— Houston [14th Dist.] 2012 no pet.). (In any proceeding under this chapter, the court may award either party costs and reasonable and necessary attorney's fees as are equitable and just.)

The Arbitrator has considered the holding in *MBM Fin. Corp. v Woodlands Operating Co., L.P.*, 292 S.W.3d 660 (Tex. 2009). In *MBM*, the court stated, "But the dispute in the present case is over title ... and the [*plaintiff*]'s claim for declaratory relief is merely incidental to the title issues. In such circumstances, the Act does not authorize an award of attorney fees against the [*defendant*]." The court cited *Kenedy Memorial Foundation v. Dewhurst*, 90 S.W.3d 268 (Tex., 2002), as further support for its position that attorney fees are not recoverable in a suit for declaratory relief when the relief sought is merely a title issue. Unlike *MBM Fin. Corp.*, its progeny and supporting authorities, the arbitration clause that controls this controversy expressly provides for the recovery of attorney fees. Attorney fees are part of the contract.

Young additionally seeks attorney fees and costs under the California Elder Abuse Statute. Cal. Welf. & Inst. Code §15657.5(a):

> Where it is proven by a preponderance of the evidence that a defendant is liable for financial abuse, as defined in Section 15610.30, in addition to compensatory damages and all other remedies otherwise provided by law, the court *shall award to the plaintiff reasonable attorney's fees and costs*...

Attorneys' fees are not recoverable for prosecuting a fraud or negligent-misrepresentation claim. *See Tony Gullo Motors I, L.P. v. Chapa*, 212 S.W.3d at 304 (*citing New Amsterdam Cas. Co. v. Tex. Indus.*, 414 S.W.2d 914, 915 (Tex. 1967)); see also Tex. Civ. Prac. & Rem. Code Ann. § 38.001 (West 2008) (setting forth claims for which attorneys' fees are recoverable).

Young has requested that she recover a total of $782,645 for attorney fees, $14,001.94 in total attorney expenses, $88,083 for total expert fees, and $17,366 in trial costs and expenses. Additionally, she requests fees for enforcement of this award and appeal, if any. Phoenix's attorney raises an objection to Young's fees as being unreasonable and unnecessary because Young has included pre-arbitration attorney fees and trial costs, Young has not segregated the amount of time for prosecuting the many claims on which she was not successful or for which recovery of attorney fees are not allowed, Young has not accounted for the necessity of multiple attorneys participating in this matter, and that Young has not accounted for the excessive number of expert witnesses is unreasonable. The Arbitrator agrees.

However, in its own request for attorney fees, Phoenix state that "it is necessary to segregate the time spent defending against all of Young's claims (like slander of title, fraud, breach of fiduciary duty, etc.) because they are all associated with, and part of Young's breach of contract and breach of warranty of title, and under those causes of action against Young the Phoenix Parties are entitled to recover their attorneys' fees and costs." Phoenix protests Young's failure to segregate but then argues segregation is unnecessary for its similar work.

Coronado has requested that Young pay for all attorney fees, court costs, arbitration costs and expenses Coronado incurred in defending against Ms. Young's claims. Coronado, like Phoenix, has stated that it is unnecessary to segregate the time spent on prosecuting its declaratory action and defending Young's other claims. Coronado bases its position on the premise that all of Young's claims are barred by limitations.

The Arbitrator has taken Phoenix and Coronado's objections into consideration in the Award. The time records of Young's attorneys have been reviewed. The arbitrator has made a finding of the reasonableness and necessary time and expenses expended by Young's attorneys in this arbitration.

Findings of Fact and Conclusions of Law:

No distinction is made as to whether an enumerated paragraph constitutes a finding of fact or a conclusion of law. Any non-enumerated statements concerning the facts or the law that is contained in the Award, or in any of the documents that are attached to and made a part of the Award, are in addition to the enumerated findings and conclusions set forth herein and constitute part of the reasoning behind the Award. Any finding of fact enumerated or not, that more properly should be a conclusion of law, is to be treated as such. Any conclusion of law enumerated or not that more properly should be a finding of fact, is to be treated as such.

1. From reading the four corners of the 12/9/2010 document, giving the special meaning to the words of art as used in the document and understood in the oil, and gas legal practice, it was the intention of the parties to execute an oil, gas, and mineral lease conveying 3/4s of Young's non-participating royalty interest to Phoenix.
2. An oil, gas, and mineral lease taken from a non-participating royalty owner is void *ab initio.*
3. The statute of limitations does not run when the cause of action is to clear title because of a void instrument.
4. Young is vested with a ½ non-participating royalty interest for a term of twenty years from 4/24/2002 and so long as there is the production of oil, gas, and minerals.
5. Young's non-participating royalty interest is subject to the terms of any oil, gas or mineral lease given by Boothe, his heirs or successors, to EOG or any lessee, both as to the (floating) lease royalty and pooling.

6. Crandall Addington purposefully crafted documents that would misrepresent the interest being conveyed which Young relied on to her detriment.
7. Crandall Addington adapted his behavior to avoid complying with section 5.151.
8. Phoenix Fund, Inc., William R. Brunner, Kost Ventures I, Ltd., and Addington Family Partnership, Ltd. are not *bonafide purchasers for value* and had full knowledge of Addington's representations.
9. The EOG division orders put Young on notice of the interest she was representing to own under the lands in question.
10. Exemplary damages are precluded by the arbitration clause.
11. Young's claim for declaratory judgment is not barred by the statute of limitations.
12. Young's claim for fraud and California Elder Abuse are not barred by the statute of limitations.
13. Coronado Resources 2013, LP is subject to the jurisdiction of this arbitration.
14. Coronado Resources 2013, LP and Cynthia Watlington Clark are *bonafide purchasers for value* and did not participate in any misrepresentations.
15. A *bonafide purchaser for value* cannot take title to a void instrument.
16. The following claims either are not available as a matter of law or Young has not proven the viable claims by a preponderance of the evidence: trespass to try title, breach of contract and assumpsit, monies had and received, estoppel by deed, indefiniteness, and breach of express and implied covenants.
17. The following claims of Young were dismissed as a matter of law on 3/2/2018: suit to quiet title, unjust enrichment, slander of title, constructive trust, recoupment and debtor-creditor relationship and breach of fiduciary duty.
18. Respondents have not proven their counter-claims by a preponderance of the evidence.
19. Young is entitled to recover attorney's fees on her declaratory action from Phoenix Fund, Inc., Addington Family Partnerships Ltd., William R. Brunner, and Kost Ventures I, Ltd.

20. The sum of $350,000.00 in attorneys' fees and expenses are reasonable and necessary.
21. Coronado Resources, LP is not entitled to recover attorney fees on its counter-claims because it did not receive any affirmative relief.
22. All funds held in suspense relating to the Phoenix-Boothe lease held by EOG Resources, Inc., or other purchasers, are the property of Young.

DECLARATORY RELIEF

Having determined that the Phoenix conveyance instrument is void and having rejected Respondents' arguments to the contrary, the Arbitrator makes the following declarations for the document in dispute.

1. Linnie Carroll Young owns a ½ non-participating royalty interest for a twenty-year term from April 24, 2002, and as long thereafter as there is continuous production subject to any lease executed by Boothe, the owner of the executive rights
2. Phoenix Fund, Inc., Cynthia Watlington Clark, Addington Family Partnerships Ltd., William R. Brunner, Kost Ventures I, Ltd. and Coronado Resources 2013, LP have no ownership of the Young non-participating royalty interest or in the proceeds of any oil, gas, and mineral lease.
3. EOG and any other purchaser shall release all suspended funds to Linnie Carroll Young as well as any future production under the oil, gas, and mineral lease executed by Boothe (or his successors and assigns) subject to the execution and delivery to EOG of a satisfactory division order.

DAMAGES

Based on the facts and record in this case, the Arbitrator concludes that the following sums, reasonable legal fees, and expenses incurred in connection with this arbitration are AWARDED and ORDERED to be paid to Linnie Carroll Young:

a. Linnie Carroll Young is awarded the sum of $5,596,084.46 in damages against Phoenix Fund, Inc., Addington Family Partnerships Ltd., William R. Brunner, and Kost Ventures I, Ltd.

b. Linnie Carroll Young is awarded the sum of $224,563.34 in damages against Phoenix Fund, Inc., Addington Family Partnerships Ltd., William R. Brunner, and Kost Ventures I, Ltd., as well as any additional funds currently held in suspense by EOG.
c. Coronado Resources 2013, LP and Cynthia Watlington Clark are entitled to a take nothing judgment against Linnie Carroll Young.
d. Linnie Carroll Young is awarded the sum of $89,766.00 in costs and trial expenses against Phoenix Fund, Inc., Addington Family Partnerships Ltd., William R. Brunner, and Kost Ventures I, Ltd.
e. Linnie Carroll is awarded the sum of $350,000.00 in attorneys' fees against Phoenix Fund, Inc., Addington Family Partnerships Ltd., William R. Brunner, and Kost Ventures I, Ltd.
f. Linnie Carroll Young is awarded pre-judgment interest from the date of the filing of this arbitration against Phoenix Fund, Inc., Addington Family Partnerships Ltd., William R. Brunner, and Kost Ventures I, Ltd.at the legal rate of interest on judgments in Texas.
g. Linnie Carroll Young is awarded post-judgment interest from the date of this Award until satisfied against Phoenix Fund, Inc., Addington Family Partnerships Ltd., William R. Brunner, and Kost Ventures I, Ltd.at the legal rate of interest on judgments in Texas.
h. Linnie Carroll Young shall be awarded additional attorneys' fees, and court costs provided that Linnie Carroll Young prevails, if applicable, in the following events:
    i. $5,000 for any motion to enforce this award;
    ii. $5,000 for any proof of claim for any bankruptcy;
    iii. $50,000 for an appeal to the court of appeals;

FEES AND EXPENSES

Administrative Fees and Expenses:

The administrative fees and expenses of the American Arbitration Association (the "Association") totaling $37,170.00 shall be borne (100%) by Phoenix Fund,

Inc., Addington Family Partnerships Ltd., William R. Brunner, and Kost Ventures I, Ltd.

Coronado Resources, LP has borne 1/3 of the interim cost of this arbitration. Therefore, Phoenix Fund, Inc., Addington Family Partnerships Ltd., William R. Brunner, and Kost Ventures I, Ltd. shall pay to Coronado Resources, LP the sum of $14,000.00 to reimburse Coronado Resources LP and shall pay Linnie Carroll Young the sum of $16,170.00 to reimburse Linnie Carroll Young for the administrative fees and expenses previously paid to the Association.

Arbitrators' Compensation:

The compensation and expenses of the arbitrators totaling $94,122.89 shall be borne by Phoenix Fund, Inc., Addington Family Partnerships Ltd., William R. Brunner, and Kost Ventures I, Ltd. Therefore, Phoenix Fund, Inc., Addington Family Partnerships Ltd., William R. Brunner, and Kost Ventures I, Ltd. shall pay to Coronado Resources, LP the sum of $31,374.29 to reimburse Coronado Resources, LP and shall pay to Linnie Carroll Young the sum of $31,374.29 to reimburse Linnie Carroll Young for the arbitrators compensation and expenses previously advanced to the Association.

The above fees and expenses are to be paid on or before thirty (30) days from the date of this Award.

This Award is in full settlement of all claims submitted to this Arbitration. All claims not expressly granted herein are hereby denied.

/s/ William G. Arnot, III, Arbitrator
Dated: May 31, 2018

EXHIBIT A

GLAST, PHILLIPS & MURRAY

A PROFESSIONAL CORPORATION

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February 14, 2018

Via Email: bud@arnotlawfirm.com

The Honorable William G. Arnot, III
811 Rusk Street
Houston, TX 77002

Re: AAA Case No. 02-17-0002-2200 – Arbitration
Linnie Young v. Phoenix Fund, Inc., Cynthia Watlington Clark, William R. Brunner, Kost Ventures I, Ltd., Addington Family Partnership, Ltd., and Coronado Resources 2013, LP
GPM File No. 030598.20

Dear Judge Arnot:

Per your request during our last telephone hearing, this letter serves to confirm the following:

1. It has been my understanding that while my client, Coronado Resources 2013, LP, is not a signatory to the royalty assignment from Linnie Young to Phoenix Fund, Inc. which contains the arbitration provision under which this arbitration is being conducted, Coronado is nonetheless bound by that arbitration provision since Coronado's interest derives from the assignment and the arbitration provision is within Coronado's chain of title.[1]

2. Accordingly and with the exception of the objection described in paragraph 3 below, Coronado has not raised any objection to this tribunal's authority to arbitrate this matter, to the extent of the authority granted under the arbitration provision.[2]

---

[1] Coronado is an assignee of an interest in the royalty in dispute in this case and that interest is derivative of the interest assigned by Linnie Young to Phoenix Fund. Phoenix Fund assigned part of the interest it acquired from Ms. Young to Kost Venture I, Ltd. which, in turn, assigned part of its interest to San Saba Royalty, LLC, which thereafter assigned its interest to Coronado.

[2] The arbitration provision provides for arbitration of any disputes "arising out of or relating to this contract, or the breach thereof" but expressly excludes, and the parties " ***waive any rights to punitive or exemplary damages*** and the Arbitrator(s) will not have the authority to award exemplary or punitive damages to either party." (emphasis added)

3. Coronado, and all of the other respondents, raised an objection to arbitration in the trial court based upon an argument that Ms. Young had waived any right to compel this matter to arbitration, electing instead to proceed to resolution of the dispute in court. The trial court overruled the respondents' objection and compelled this case to arbitration. Coronado's (and to my understanding all other respondents') participation in arbitration has been, and remains, without waiver of any right to appeal or otherwise contest the trial court's order compelling arbitration.

Respectfully submitted,

James S. Robertson, III,
Attorney for Coronado Resources 2013, LP

JSR/kd [6821571_1]
cc: Scott Hunter (***via Email: ScottHunter@adr.org***)
Dan M. Fergus, Jr. (***via Email: fergus2400@aol.com***)
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Benjamin Robertson (***via Email: brobertson@smwenergylaw.com***)
Client (***via Email***)

EXHIBIT B

TRIAL PLEADINGS:

1. Linnie Young's Statement of Claims dated 4/17/2017
    a. Trespass to Try Title
        i. Lease is void *ab intio* as lease taken on NPR
        ii. Young gets 25% full royalty on any lease taken from Booth
    b. Declaratory Judgement
    c. Suit to Quiet Title
    d. Slander of Title
    e. Unjust enrichment
    f. Breach of Contract and Assumpsit
    g. Constructive Trust
    h. Monies had and Received
    i. Recoupment and Debtor-creditor Relationship
    j. California Elder Financial Abuse
    k. Damages and Attorney Fees

2. Linnie Young's First Supplement to her Statement of Claims dated 5/15/2017. (This is a supplement to the Prayer in the Demand asking:)
    a. Declare lease void
    b. Requiring Respondents to re-sign all division orders
    c. Requiring Respondents to sign recordable waivers that they have no royalty rights
    d. Direct EOG to pay all suspense all funds to Young
    e. Damages equal to royalties paid to Respondents
    f. Grant punitive and/or treble damages according to California law
    g. Attorney fees
    h. AAA costs
    i. Pre-judgment interest and post
    j. Deny counterclaims
    k. All other relief

3. Linnie Young's Second Supplement to her Statement of Claims dated 8/31/2017. (this adds the following causes of action)
    a. Violation of section 5.151(a) disclosure
    b. Estoppel by deed
    c. Indefiniteness
    d. Common law fraud
    e. Breach of express and implied covenants
4. Linnie Young's Third Supplement to her Statement of Claims dated 10/4/2017.
    a. Division orders are irrelevant (this is law argument I guess in defense but doesn't belong in the claim.)
    b. Young is entitled to a fixed 25% royalty from the lands (this cause was actually in the first demand.)

5. Phoenix Fund's First Amended Response to Linnie Young's Statement of Claims and First Amended Original Counter-Claim against Linnie Young dated 9/1/2017. (note NO NOT GUILTY PLEA)
    a. Dec Judgement
    b. Breach of Contract
    c. Breach of Warranty
    d. Alternate Request for Reformation
6. Phoenix Fund's Second Amended Response to Linnie Young's Second Statement of Claims and First Amended Original Counter-Claim against Linnie Young dated 9/21/2017.
    a. General denial
    b. Pleas of Not Guilty
    c. Affirmative Defenses
        i. Statute of limitations
        ii. Barred as to BFP's who bought from Phoenix
        iii. Waiver
        iv. Ratification
        v. Conditions precedent to demand have not been met for atty fees
        vi. Comparative negligence and attributable to 3P, atty who prepped the papers
        vii. Exemplary damages are precluded by arbitration clause
        viii. Title by limitations
        ix. Specifically deny any breach
        x. Barred by economic loss rule
        xi. Deny justifiable reliance
        xii. Ambiguity
        xiii. Atty fees are unreasonable
        xiv. Grounds brought in bad faith
        xv. Young has waived her atty-cleint privilege with regard to Jackie Williamson
        xvi. spoliation
7. Linnie Young's Response to Phoenix Fund's Counter-Claims dated 5/15/2017.
    a. Respondent's use of Extrinsic Evidence is inappropriate
    b. Arbitration is not brought in bad faith
    c. Conditions precedent have been met - mediation
    d. Misconstrue the lease
    e. Misconstrue then purpose of division orders
    f. Apply inapplicable statutes of limitations
    g. Cannot claim adverse possession
    h. Cannot claim BFP
    i. Cannot recover on breach of contract theory
    j. Cannot recover on Breach of warranty theory
    k. Cannot recover on reformation theory

l. General Denial and plea of Not Guilty (they do not need a not guilty plea; there is no counterclaim for TTT)
m. AFFIRMATIVE DEFENSES
    i. Estopped
    ii. Duress
    iii. Entered into by fraud
    iv. Copyrighted lease was entered into by fraud
    v. Claims are barred by laches, S/L, and *Cosgrove v Cade* 468 SW3d 32
    vi. Claims are barred by Young's atty-client privilege
    vii. Failure to mitigate