

DEC 15 2022

CAUSE NO. 2018-18465

Time: 10:08 am
Harris County, Texas

By [Signature]
Clerk

**RIFT ENERGY CORP and
RIFT ENERGY USA, INC.,
Plaintiffs**

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IN THE DISTRICT COURT OF

p-9

VS.

HARRIS COUNTY, TEXAS

**FRED ZAZISKI,
Defendants**

190TH JUDICIAL DISTRICT

**DEFENDANT'S MOTION TO DISMISS
AND TRIAL BRIEF**

TO THE HONORABLE JUDGE OF SAID COURT.

Fred Zaziski, the defendant, files this Motion to Dismiss, and Trial Brief on the basis that neither Rift Energy Corp. nor Rift Energy USA, Inc. has the legal capacity to maintain a legal action against him in Texas and respectfully shows the Court as follows:

1. Zaziski's filed his Second Amended Answer in this case on May 4, 2021, in which he affirmatively plead that Rift Energy Corp. and Rift Energy USA, Inc. have not the legal capacity to sue him. The plea is verified as required by TRCP 93.

2. Plaintiff, Rift Energy Corp., is a Canadian corporation that filed an application with the Texas Secretary of State on September 13, 2018 to register to do business in Texas. In 2019 Rift Energy Corp.'s corporate privileges were forfeited by the Texas Comptroller of Public accounts, and not revived. As a result, the Texas Secretary of State forfeited Rift Energy Corp.'s charter, certificate or registration to do business in Texas on February 28, 2020. See attached Exhibit "A". Rift Energy Corp.'s charter, certificate or registration has not been reinstated buy

the Texas Secretary of State.

3. Plaintiff, Rift Energy USA Inc., is a Delaware corporation that filed an application with the Texas Secretary of State on November 15, 2011 to register to do business in Texas. On March 1, 2018, the Secretary of State of Delaware certified that Rift Energy USA, Inc. was no longer in existence and good standing under the laws of the State of Delaware. See attached **Exhibit “B”**. In 2019 Rift Energy USA Inc.’s corporate privileges were forfeited by the Texas Comptroller of Public Accounts, and not revived. As a result, the Texas Secretary of State forfeited Rift Energy USA Inc.’s charter, certificate or registration to do business in Texas on February 28, 2020. **Exhibit “C”**

4. Because both plaintiffs’ corporate privileges, charters or registrations have been forfeited, they cannot sue in a court in Texas. The authority that prevents the plaintiffs from suing in a court in Texas is as follows:

Texas Tax Code § 171.252 provides in pertinent part,

“If the corporate privileges of a corporation are forfeited under this subchapter:

(1) the corporation shall be denied the right to sue or defend in a court of this state; and ...”

Texas Tax Code §171.301 explains that

“It is a ground for the forfeiture of a corporation’s charter or certificate of authority if:

(1) the corporate privileges of the corporation are forfeited under this chapter and the corporation does not pay, within 120 days after the date the corporate privileges are forfeited, the amount necessary for the corporation to revive under this chapter its corporate privileges; or”

5. Corporations whose charters have been forfeited and not reinstated can neither sue nor defend themselves in Texas courts. *Transamerica Corp. v. Braes Woods Condo Association, Inc.* 580 S.W.3d 733, 736 (Tex.App.- Houston [14th Dist.] 2019, no pet.)

6. Likewise, Texas Business Organizations Code § 9.051(b) provides, in pertinent part, that:

“A foreign filing entity or the entity’s legal representative may not maintain an action, suit, or proceeding in a court of this state, brought either directly by the entity or in the form of a derivative action in the entity’s name, on a cause of action that arises out of the transaction of business in this state unless the foreign filing entity is registered in accordance with this chapter...”

Wherefore, premises considered, defendant, Fred Zaziski, request that plaintiffs’ claims and causes of action be dismissed with prejudice, and for such other and further relief that the court deems just.

Respectfully submitted,

/Fred Zaziski
Fred Zaziski
15 Lochbury Ct.
Spring, TX 77379
(713) 294-7084
fred@zaziski.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing instrument was hand delivered to R. Scott Wolfrom, plaintiffs’ counsel of record on this 15th day of December, 2022.

/s/ Fred Zaziski
Fred Zaziski



**Forfeiture pursuant to Section 171.309 of the Texas Tax Code
of
Rift Energy Corp.**

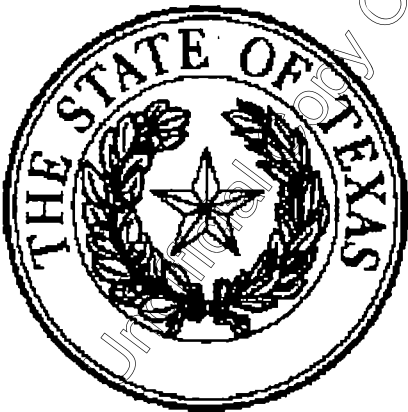
File Number : 803116963

Certificate / Charter forfeited: February 28, 2020

The Secretary of State finds that:

1. The Secretary has received certification from the Comptroller of Public Accounts under Section 171.302 of the Texas Tax Code indicating that there are grounds for the forfeiture of the taxable entity's charter, certificate or registration, and
2. The Comptroller of Public Accounts has determined that the taxable entity has not revived its forfeited privileges within 120 days after the date that the privileges were forfeited.

Therefore, pursuant to Section 171.309 of the Texas Tax Code, the Secretary of State hereby forfeits the charter, certificate or registration of the taxable entity as of the date noted above and records this notice of forfeiture in the permanent files and records of the entity.



A handwritten signature in black ink, appearing to read "R. Hughs", written over a grid of small dots.

Ruth R. Hughs
Secretary of State



Office of the Secretary of State

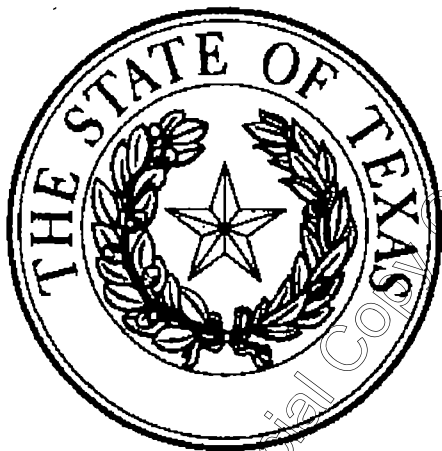
The undersigned, as Secretary of State of Texas, does hereby certify that the attached is a true and correct copy of each document on file in this office as described below:

Rift Energy Corp.
Filing Number: 803116963

Tax Forfeiture

February 28, 2020

In testimony whereof, I have hereunto signed my name officially and caused to be impressed hereon the Seal of State at my office in Austin, Texas on December 16, 2020.



A handwritten signature in black ink, appearing to read "Ruth R. Hughs".

Ruth R. Hughs
Secretary of State



**Forfeiture pursuant to Section 171.309 of the Texas Tax Code
of
Rift Energy USA Inc**

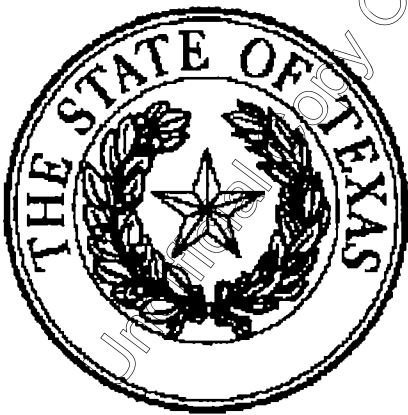
File Number : 801507134

Certificate / Charter forfeited : February 28, 2020

The Secretary of State finds that:

1. The Secretary has received certification from the Comptroller of Public Accounts under Section 171.302 of the Texas Tax Code indicating that there are grounds for the forfeiture of the taxable entity's charter, certificate or registration; and
2. The Comptroller of Public Accounts has determined that the taxable entity has not revived its forfeited privileges within 120 days after the date that the privileges were forfeited.

Therefore, pursuant to Section 171.309 of the Texas Tax Code, the Secretary of State hereby forfeits the charter, certificate or registration of the taxable entity as of the date noted above and records this notice of forfeiture in the permanent files and records of the entity.



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Ruth R. Hughs
Secretary of State



Office of the Secretary of State

The undersigned, as Secretary of State of Texas, does hereby certify that the attached is a true and correct copy of each document on file in this office as described below:

Rift Energy USA Inc
Filing Number: 801507134

Tax Forfeiture

February 28, 2020

In testimony whereof, I have hereunto signed my name officially and caused to be impressed hereon the Seal of State at my office in Austin, Texas on December 16, 2020.



A handwritten signature in black ink, appearing to read "Ruth R. Hughes".

Ruth R. Hughes
Secretary of State

Logout

Department of State: Division of Corporations

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Entity Details	
<u>File Number:</u>	5034089
<u>Incorporation Date / Formation Date:</u>	9/6/2011 (mm/dd/yy)
<u>Entity Name:</u>	RIFT ENERGY USA INC.
<u>Entity Kind:</u>	Corporation <u>Entity Type:</u> General
<u>Residency:</u>	Domestic <u>State:</u> State:
<u>Status:</u>	Void, AR's or Tax Delinquent <u>Status Date:</u> 3/1/2018

REGISTERED AGENT INFORMATION

<u>Name:</u>	COGENCY GLOBAL INC.	
<u>Address:</u>	850 NEW BURTON ROAD SUITE 201	
<u>City:</u>	DOVER	<u>County:</u> Kent
<u>State:</u>	DE	<u>Postal Code:</u> 19904
<u>Phone:</u>	800-483-1140	

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State Of Delaware

Entity Details

2/5/2020 10:33:20AM

File Number: 5034089

Incorporation Date / Formation Date: 9/6/2011

Entity Name: RIFT ENERGY USA INC.

Entity Kind: Corporation

Entity Type: General

Residency: Domestic

State: DELAWARE

Status: Void, AR's or Tax Delinquent

Status Date: 3/1/2018

Registered Agent Information

Name: COGENCY GLOBAL INC.

Address: 850 NEW BURTON ROAD SUITE 201

City: DOVER

Country:

State: DE

Postal Code: 19904

Phone: 800-483-1140

Unofficial Copy Office of Marilyn Burgess District Clerk