

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO**

In re:)	Chapter 11
)	
LEVEL PROPANE GASES, INC., <i>et al.</i>)	Case No. 02-16172
)	Jointly Administered
Debtors.)	
)	Randolph Baxter
)	
)	Adversary Proceeding No. 09-01118
)	
MAXUS CAPITAL GROUP, LLC,)	
)	
Plaintiff,)	
)	
v.)	
)	
MARK UHRICH, PLAN ADMINSTRATOR,)	
)	
Defendant.)	
)	

**DEFENDANT’S MOTION TO DISMISS COMPLAINT
OF PLAINTIFF MAXUS CAPITAL GROUP, LLC**

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, made applicable to this adversary proceeding by Federal Rule of Bankruptcy Procedure 7012, defendant Mark Uhrich, the Plan Administrator for the Consolidated Estate of Level Propane Gases, Inc., and its affiliated debtors and former debtors in possession in the above-captioned chapter 11 cases, through his undersigned counsel, hereby respectfully moves this Court for entry of an order dismissing the Complaint of plaintiff Maxus Capital Group, LLC (the “Complaint”). As set forth in greater detail in the memorandum in support, filed in conjunction herewith and incorporated herein by reference, the Complaint should be dismissed for failure to state a claim upon which relief may be granted.

Dated: May 4, 2009

Respectfully submitted,

/s/ Mark A. Phillips

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of the Consolidated Liquidating Estate of
Level Propane Gases, Inc. et al.

CERTIFICATE OF SERVICE

I hereby certify that on May 4, 2009, a copy of the foregoing Defendant's Motion to Dismiss Complaint of Plaintiff Maxus Capital Group, LLC with Memorandum In Support was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's system.

/s/ Mark A. Phillips _____
One of the Attorneys for Mark Uhrich, Plan
Administrator of the Consolidated Liquidating
Estate of Level Propane Gases, Inc., et al.