

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

In Re:)
Level Propane, Gases, Inc., et. al.) Case No. 02-16172
)
) Ch. 11
)
) Hon. Randolph Baxter
)

**FIFTH SUPPLEMENTAL SUBMISSION IN SUPPORT OF THE RENEWED
AND RESTATED MOTION OF WILLIAM H. MALOOF TO REOPEN
EXAMINER'S INVESTIGATION AND FOR
SUBSTITUTE EXAMINER**

“A Passion for Control and the Court’s Customer List”

1.) It is August 18, 2003, and the United States Trustee has asked that the customer list under Court seal be destroyed (see Exhibit “A.”) After months of unceasing labor in butchering what had been Level Propane, the Eaglerock managers have succeeded in all but destroyed it as a going concern. There are *now fewer customers of record than there are leased customer tanks on the ground*, behind customer houses. Tens of thousands of customer tanks bearing the Level logo were scattered throughout its territory, but no one – not Level management, not the Equipment Lessors, nor indeed this Court – have any idea where any of these tens of thousands of tanks are. No one knew because the record of the tanks’ location has been systematically destroyed. The account reconciliation library has been cut to bits for Natasha Brandt’s church fund-raiser since

January, 2003; the database functionality that made it possible to access customer accounts has been stripped from the system since April, 2003; and thousands more customer accounts have been hand-purged continuously since the MODI functionality was disabled, when the system held the last remaining record of the location and serial number of customer tanks.

2.) Now in August, 2003, the United States Trustee has asked that the customer list under Court seal, what might well be a last intact list of customers in existence, be destroyed. Since the list is under seal, so your Movant cannot speak to what it contained. But there is no doubt that this list was a last chance for an intact count of customers and was itself a last chance for any identification of customer tank locations.¹ No customer list was disclosed to the Examiner.¹ The participants in these episode have yet to absorb the consequences of their conduct having been dragged out to the light. If the United States Trustee was unaware of destruction of customer records, the shame belongs solely to the Bank Group and their operatives, but if the United States Trustee was aware of the ongoing destruction³, the scandal belongs to the United States and United States monies would doubtless fund any resulting investigation.

Wherefore, having further supported his Renewed and Restated Motion to Reopen

¹ Mark Williams (Mwmillmed@aol.com) was copied on this exchange, the very man who directed Mr. Verbos' decimation of the customer database in April, 2003.

² Recall that Mr. Maloof's Motion to Compel Production of the Tapes was filed July 29, 2003 and its publication was suppressed until September 5, 2003, conduct that this Court made no effort to disguise (Docket 1907, Docket 1908.)

³ The awareness of the United States Trustee might well be the unfortunate case. Recall the mutual caress of victory shared by Andy Vera of the United States Trustee's Office and Glenn Pollack of Candlewood Partners, who brought Eaglerock to the bankruptcy, in your Courtroom upon the approval of Eaglerock Propane as Manager of Level Propane, Debtor, (see Exhibit "B".)

Examiner's Investigation and for Substitute Examiner, the Movant prays that it be granted.

Respectfully Submitted,

/s/ David C. Eisler
David C. Eisler, Counsel for William H. Maloof
Ohio Reg. No. 0020362
P.O. B. 1721
Medina, OH 44258
(216) 513-6369
inqs@AOL.com

SERVICE

Service was made by ordinary mail on those listed on the attached form this 26th day of July, 2006.

/s/ David C. Eisler
David C. Eisler

SERVICE LIST

Office of the United States Trustee
Ann: Andrew R. Vara
201 Superior Avenue, Suite 441
Cleveland, OH 44114

Jenner & Block
Attn: Jeff Marwil
One IBM Plaza
Chicago, IL 60611-7603

Hahn, Loesser & Parks, LLP
Attn: Lee D. Power
200 Public Square, 3300 BP Building
Cleveland, Ohio 44114-2301

Michael D. Zaveron
Benesch, Friedlander, Coplan & Aronoff, LLP
2300 BP Tower, 200 Public Square
Cleveland, OH 44114-2378

EXHIBIT “A”

Unknown

From: Sgs615@aol.com Sent: Tuesday, August 12, 2003 2:25 PM To: PCaliesen@bakerlaw.com; Mwmillmed@aol.com; rangart@ameritech.net; Natasha Brandt Cc: WGibson@bakerlaw.com Subject: Re: Records

Phil:

I don't believe the Debtor would have filed anything we didn't have a copy of, so I don't think you should have a problem with destruction. But to be safe, Natasha probably knows best what has been filed. I would confirm with her.

Steve

In a message dated 8/12/03 2:10:46 PM Eastern Daylight Time, PCaliesen@bakerlaw.com writes:

Subj: Records Date: 8/12/03 2:10:46 PM Eastern Daylight Time From: PCaliesen@bakerlaw.com To: Mwmillmed@aol.com, rangart@ameritech.net, Sgs615@aol.com CC: WGibson@bakerlaw.com Sent from the Internet

The US Trustee wants to have the documents filed under seal with the Court to be destroyed rather than turned over to Horizon. Do we care? Might there be anything filed that we don't have copies of? Any thoughts would be appreciated.

Phil

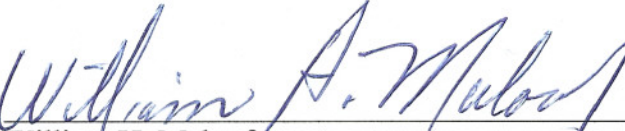
EXHIBIT “B”

STATEMENT MADE UNDER PENALTY OF PERJURY

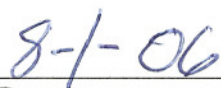
Now comes William H. Maloof, being of legal age, signing below, and

voluntarily makes the following statement under penalty of perjury:

- 1.) That he was at all times relevant the shareholder of the Debtors in Case No. 02-16172, United States Bankruptcy Court, Northern District of Ohio;
- 2.) That as shareholder he attended the Hearing on the Debtor's Motion the for entry of an Order Authorizing the Debtors to enter into and perform under a management agreement with Eaglerock Propane LTD (Docket No. 618) on October 15, 2002;
- 3.) That the Motion aforesaid was granted by the Bankruptcy Court from the bench;
- 4) That immediately after the conclusion of the abovesaid hearing, he personally observed in the Courtroom Andy Vara of the United States Trustee's Office and Glenn Pollack of Candlewood Partners embracing in celebration in plain view of scores of people who were present in the Courtroom, of the outcome of the hearing, to wit: that the Debtor's Motion to engage Eaglerock Propane LLC in a management agreement was granted.



William H. Maloof



Date