

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
)

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

“Hidden Customers Restored”

Now comes William H. Maloof, by and through counsel undersigned, and for his Sixth Supplemental Submission in Support of his Renewed and Restated Motion to Reopen Examiner’s Investigation and for Substitute Examiner states as follows:

1.) The Examiner was appointed and issued his Request for Production on April 21, 2003. As set out in Suzanne Arena’s Statement of July 30, 2006, the customer database was disabled that very day, so that customer accounts pre-dating April, 2002, were rendered inaccessible and hidden. Coincidentally, the Examiner was appointed with the arrival of warm weather, when calls for propane almost altogether fell off. These customer accounts pre-dating April, 2002 remained hidden throughout the time of the Examiner’s investigation of May, 2003 and remained hidden even after Eaglerock Propane purchased the assets of Level in July, 2003.

2.) Somehow, the customers that had been hidden on April 21, 2002, had to be taken out of hiding, since each of them had a leased customer tank associated with the

account, and each account itself had value arising from the fact that only the owner of a tank is permitted by federal statute to fill it. (The scale of this project cannot be underestimated: because Level as the owner of each customer had the exclusive right to fill each such customer tank, each account was worth conservatively \$2,000. Because 35,000 customers were hidden when the database was disabled, at least \$70MM is involved.)

3.) To simply restore the functionality would raise questions for which there was no ready answer. Instead, these hidden customers were taken out of hiding under the cover of a marketing campaign to win back old customers, see Exhibit "A," Suzanne Arena's Statement of August 1, 2006. In Ms. Arena's statement, she describes the formation of a Tank Recovery Committee by Andrew Green, see paragraph 1 and 2 of Exhibit "A." Among its members were Suzanne Arena and Natasha Brandt.

4.) This Committee was given the task of contacting the customer accounts predating April, 2002 and inviting them to return as Level customers. She stated that the customers who would be contacted would respond to the invitation to return to Level by stating that "they still had our tanks in their yards and were still customers," see paragraph 4 of Exhibit A. When she reported this to Mr. Green, he insisted that the project continue. Because she was unable to participate in such a sham, she asked that another person be put in charge of the project.

5.) This statement describes the events that close the story which began in January, 2003, when the customer account reconciliation library was removed from the building and continued with the disabling of the customer database to exclude accounts pre-dating April, 2002, on April 21, 2003, the date the Examiner was appointed, and

continued as account information was furtively retrieved, see Suzanne Arena's Statement of July 30, 2006, to avoid the restoration of the these hidden customers and leased tanks to the database. All these facts taken together exclude unfortunate coincidence and demand investigation.

Wherefore, having further supported his Renewed and Restated Motion to Reopen 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 4th day of August, 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”

STATEMENT MADE UNDER PENALTY OF PERJURY

Now comes Suzanne Arena, being of legal age, signing below, and voluntarily makes the following statement under penalty of perjury:

1. That she was assigned by Andrew Green to head a committee titled, Tank Recovery Committee, to win back customers who already had Level tanks;
2. That the committee formed was chosen by Andrew Green and consisted of Suzanne Arena, Taina Fuller, Cindy Shadler, Natasha Brandt, Laura Hardin, and Pam Agacki ;
3. That the committee met several times between mid- July, 2003 to early- September, 2003;
4. That when I, Suzanne Arena reported back to Andrew Green that the committee had come to a stand still and could not continue, due mainly to the fact that the people that would be contacted *already believed they were still customers because they still had our tanks in their yards and were still customers;*
5. That after reporting the above information Andrew Green insisted that the project must continue, "*there's got to be a way,*" I, Suzanne Arena suggested to Andrew Green to have another individual take over the project.



Suzanne Arena

8-01-2004

Date