

United States Courts
Southern District of Texas
FILED

OCT - 7 2003

KM

Michael N. Milby, Clerk

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN Re: ENRON CORPORATION)	
SECURITIES, DERIVATIVE &)	MDL 1446
ERISA LITIGATION)	
)	
_____)	
MARK NEWBY, et al.,)	
)	
Plaintiffs,)	CIVIL ACTION NO. H-01-3624
)	AND CONSOLIDATED CASES
vs.)	
)	
ENRON CORPORATION, et al.,)	
)	
Defendants.)	
_____)	
DAVID A. HUETTNER, et al.,)	
)	
Plaintiffs,)	CIVIL ACTION NO. H-02-2984
)	
-vs-)	
)	
EOTT ENERGY PARTNERS, L.P., et al.,)	
)	
Defendants.)	

PLAINTIFFS' MOTION FOR VOLUNTARY DISMISSAL

Now come Plaintiffs, by and through counsel, pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure, and move the Court for an Order marking the within case settled and dismissed as to all Defendants, EOTT Energy Partners, L.P., EOTT Energy Corp., Kenneth L.

1730

Lay, Dana R. Gibbs, Stanley C. Horton, Mary Ellen Coombe, David R. Hultsman, Lori L. Maddox, Peggy B. Menchaca, Molly M. Sample, Susan C. Ralph, and Daniel P. Whitty, with prejudice, costs to be borne by each party respectively, in accordance with the attached Order of the United States Bankruptcy Court for the Southern District of Texas at Corpus Christi, whose terms are expressly incorporated herein by reference.

Respectfully submitted,

A handwritten signature in black ink, reading "John A. Huettner". The signature is written in a cursive style with a large initial "J" and "H".

JOHN A. HUETTNER (0039479)
630 Leader Building
526 Superior Avenue, N.E.
Cleveland, Ohio 44114
(216) 771-1330

Attorney for Plaintiffs

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing Motion has been served by ordinary mail this 2nd day of October, 2002, upon the following:

Walter J. Cicack
1221 McKinney Street
Suite 400
Houston, Texas 77010
*Attorney for Defendant EOTT Energy
Partners, L.P.*

Paul D. Clote
5300 Memorial Dr., Suite 800
Houston, Texas 77007
*Attorney for Defendants Gibbs, Coombe,
Hultsman, Maddox, Menchaca, Sample,
Ralph and Whitty*

Ashley N. Hudson
David, Polk & Wardwell
450 Lexington Avenue
New York, New York 10017
Attorneys for Arthur Andersen, LLP

Daniel R. Warren
Baker & Hostetler, LLP
1900 East 9th St.
Suite 3200
Cleveland, Ohio 44114
Attorneys for Defendant Kenneth L. Lay

James J. Bartolozzi
Kahn, Kleinman, Yanowitz & Arnson Co.
2600 Tower at Erieview
1301 East Ninth Street
Cleveland, Ohio 44114
*Attorneys for Defendant Arthur Andersen,
LLP*

Paul D. Flack
Nickens, Lawless & Flack, L.L.P.
600 Travis, Suite 7500
Houston, Texas 77002
Attorneys for Defendant Stanley Horton



JOHN A. HUETTNER

1576

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

In re:	§	Chapter 11
	§	
EOTT ENERGY PARTNERS, L.P.	§	CASE NO. 02-21730
	§	
EOTT ENERGY FINANCE CORP.	§	CASE NO. 02-21731
	§	
EOTT ENERGY GENERAL PARTNER, L.L.C.	§	CASE NO. 02-21732
	§	
EOTT ENERGY OPERATING LIMITED PARTNERSHIP	§	CASE NO. 02-21733
	§	
EOTT ENERGY CANADA LIMITED PARTNERSHIP	§	CASE NO. 02-21734
	§	
EOTT ENERGY PIPELINE LIMITED PARTNERSHIP	§	CASE NO. 02-21735
	§	
EOTT ENERGY LIQUIDS, L.P.	§	CASE NO. 02-21736
	§	
EOTT ENERGY CORP.	§	CASE NO. 02-21788
	§	
Debtors.	§	(Jointly Administered Under Case Number 02-21730)
	§	

**ORDER GRANTING
MOTION PURSUANT TO FED. R. BANKR. P. 9019 TO COMPROMISE
CONTROVERSY BETWEEN THE DEBTORS AND DAVID A. HUETTNER, SUE
B. HUETTNER, AND DONALD E. HUETTNER**

Came on for consideration the Motion Pursuant to Fed. R. Bankr. P. 9019 to Compromise Controversy Between the Debtors and David A. Huettner (individually and as custodian of the David A. Huettner Individual Retirement Account), Sue B. Huettner (individually and as custodian of the Sue Huettner Individual Retirement Account), and Donald E. Huettner (Individually and as custodian of the Donald E. Huettner Individual Retirement Account) (the "Motion") filed by EOTT Energy Partners, L.P.; EOTT Energy Finance Corp.; EOTT Energy General Partner, L.L.C.; EOTT Energy Operating Limited

Partnership; EOTT Energy Canada Limited Partnership; EOTT Energy Pipeline Limited Partnership; EOTT Energy Liquids, L.P.; and EOTT Energy Corp., Debtors in the above-captioned cases (collectively, "EOTT" or the "Debtors"). No objections were filed to the Motion. After reviewing the pleadings on file, it appears to the Court that the Motion should be granted, and therefore the Court finds as follows:

1. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Federal Rule of Bankruptcy Procedure 7052, as made applicable to these proceedings pursuant to Federal Rule of Bankruptcy Procedure 9014. To the extent that any finding of fact shall later be determined to be a conclusion of law, it shall be so deemed and vice versa.

2. This Court has jurisdiction over the subject matter of the Motion as a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The Court finds that the settlement regarding this Motion, as memorialized in this Order, best represents the interests of the parties and the Debtors' estates.

Accordingly, it is hereby:

ORDERED that the Motion is granted, in full and in all respects; and it is further

ORDERED that the Settlement (as defined in the Motion) is approved and that the Debtors are authorized to enter into the Settlement; and it is further

ORDERED that the Proofs of Claim (Numbers 8676-78), shall be allowed in that the David A. Huettner Individual Retirement Account Number 10334060 (Social Security Number 268-38-6908) shall have a general unsecured claim in the amount of

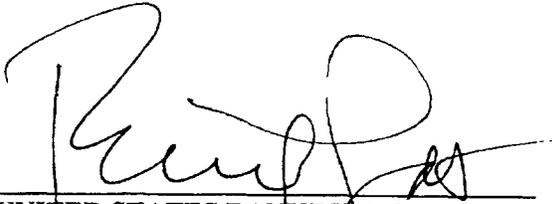
\$462,550.00, the Donald E. Huettner Individual Retirement Account (Social Security Number 293-32-7678) shall have a general unsecured claim in the amount of \$72,050.00, and Sue Huettner Individual Retirement Account Number 11503207 (Social Security Number 394-46-6795) shall have a general unsecured claim in the amount of \$15,400.00. Each such claim shall be treated pursuant to Article 4.10 of the Confirmed Plan, and distributions pursuant to the Confirmed Plan shall be made according to the instructions attached hereto as *Exhibit A*, which is incorporated herein by reference, all other amounts sought in the Proofs of Claim will be disallowed; and it is further

ORDERED that within ten days of entry of this Order, the Huettners shall file a motion to dismiss the Complaint, with prejudice, in the District Court Litigation against the Debtors and all individually named defendants being Dana R. Gibbs, Molly M. Sample, Lori L. Maddox, Mary Ellen Coombe, Susan C. Ralph, David R. Hultsman, Kenneth L. Lay, Stanley C. Horton, Daniel P. Whitty, and Peggy B. Menchaca; and it is further

ORDERED that this Settlement settles and resolves all claims and disputes between the Huettners, the Debtors, and the individually named defendants, and the Huettners shall be forever barred from asserting any further claims against the Debtors, their bankruptcy estates, or the individually named defendants involving any of the allegations brought in the District Court Litigation; and it is further

ORDERED that the Debtors are empowered to execute any and all documents necessary and appropriate to effectuate the terms of the Settlement.

SIGNED THIS _____ DAY OF SEP 22 2003 2003.


UNITED STATES BANKRUPTCY JUDGE

After entry, please return to:

Robert D. Albergotti
Trey A. Monsour
Meredyth A. Purdy
Haynes and Boone, LLP
901 Main Street, Suite 3100
Dallas, Texas 75202