

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

February 3, 2011

No. 10-10400

Lyle W. Cayce
Clerk

In the Matter of: MCCOMMAS LFG PROCESSING PARTNERS, L.P.,
Debtor

EFO ENERGY, INC.; ES ENERGY SOLUTIONS, L.P.; EFO HOLDINGS,
L.P.; EFO GENPAR, INC.; MCCOMMAS LFG PROCESSING
MANAGEMENT, L.L.C.; MCCOMMAS LANDFILL MANAGEMENT, L.L.C.,
Appellants

v.

DAN LAIN, Liquidating Trustee; BLUFF POWER PARTNERS, L.P.,
Appellees

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:09-CV-667

Before KING, DeMOSS and PRADO, Circuit Judges.

PER CURIAM:*

The bankruptcy court did not err in granting the Motion for Order Regarding the Liquidating Trustee's Assignment of Litigation Claims to Bluff Power Partners and ES Energy Solutions L.P. filed by Dan Lain, Liquidating

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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Trustee (the “Liquidating Trustee”), or in denying the related motion to reconsider, nor did the district court err in affirming the bankruptcy court’s rulings. The Liquidating Trustee’s assignment of the litigation claims at issue is expressly permitted in the Trust Agreement (the “Trust Agreement”) created under the Plan of Liquidation confirmed by the bankruptcy court, in such plan, and in the related confirmation order. The role of the Liquidating Trustee is defined by the Trust Agreement and governed by state law, and the actions he took that are at issue here are assessed under the business judgment rule, which he comfortably satisfies.

The bankruptcy court’s orders of August 18, 2008 and September 24, 2008 are AFFIRMED, as is the district court’s judgment affirming such orders.

AFFIRMED. Costs shall be borne by appellants. The mandate shall issue forthwith.