

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re: : Chapter 11
: :
: Case No. 09-11214 (KG)
AVENTINE RENEWABLE ENERGY :
HOLDINGS, INC. et al., : (Jointly Administered)
: :
Debtors.¹ :
: Docket Ref. No. 14 & 37

**FINAL ORDER ESTABLISHING PROCEDURES
AND APPROVING RESTRICTIONS ON
CERTAIN TRANSFERS OF INTERESTS IN THE
DEBTORS' ESTATES**

Upon the motion dated April 8, 2009 (the "**Motion**")² of Aventine Renewable Energy Holdings, Inc., and those of its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the "**Debtors**"), for an order (the "**Interim Trading Order**") establishing procedures and approving restrictions on certain transfers of interests in the Debtors' estates, as more fully described in the Motion; and upon consideration of the Declarations of William J. Brennan, Chief Accounting and Compliance Officer of the Debtors, in Support of Chapter 11 Petitions and First Day Motions and in Support of the Motion, both dated April 7, 2009; and the Court having subject matter jurisdiction to consider the Motion and the relief requested therein

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor's federal tax identification number, are: Aventine Renewable Energy Holdings, Inc. (9368), Aventine Renewable Energy, LLC (0195), Aventine Renewable Energy, Inc. (8352), Aventine Renewable Energy – Aurora West, LLC (9285), Aventine Renewable Energy – Mt Vernon, LLC (8144), Aventine Power, LLC (9343), and Nebraska Energy, L.L.C. (1872). The address for the Debtors is 120 North Parkway Drive, Pekin, Illinois 61555-1800.

² Unless otherwise defined herein, each capitalized term shall have the meaning ascribed to it in the Motion.

pursuant to 28 U.S.C. § 1334; and consideration of the Motion and the requested relief being a core proceeding the Bankruptcy Court can determine pursuant to 28 U.S.C. § 157(b)(2); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion and the Interim Trading Order having been provided to (a) the Office of the United States Trustee, (b) the United States Securities and Exchange Commission, (c) the Office of the United States Attorney General for the District of Delaware, (d) the Internal Revenue Service, (e) the Debtors' thirty (30) largest unsecured creditors on a consolidated basis, (f) counsel to the administrative agent for the Debtors' prepetition secured lenders, (g) counsel to the administrative agent for the Debtors' postpetition secured lenders, (h) the indenture trustee for the Debtors' prepetition notes, and (i) any identified Substantial Equityholders; and it appearing that no other or further notice need be provided; and the relief requested in the Motion being in the best interest of the Debtors and their estates and creditors; and the Court having reviewed the Motion and having held a hearing with appearances of parties in interest noted in the transcript thereof (the "**Hearing**"); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the final relief granted herein; and the Court having entered the Interim Trading Order on April 9, 2009; and no objections having been received by the Court; and upon all the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor, it is

FOUND that the Debtors' net unrealized built-in loss in their assets ("**NUBIL**") and net operating loss ("**NOL**") carryforwards, if any, are property of the Debtors' estates

and are protected by the automatic stay prescribed in section 362 of the Bankruptcy Code; and it is further

FOUND that unrestricted trading in equity interests in the Debtors before the Debtors' emergence from chapter 11 could severely limit the Debtors' ability, in connection with their eventual emergence from bankruptcy, to take future deductions and losses attributable to their NUBIL and to utilize their other tax assets for U.S. federal income tax purposes, pursuant to the rules under section 382 of the Internal Revenue Code; and it is further

FOUND that the trading procedures and restrictions set forth herein are necessary and proper in order to preserve such ability to take future deductions and losses attributable to their NUBIL and to utilize their other tax assets, and are therefore in the best interests of the Debtors, their estates, and their creditors; and it is further

FOUND that the relief requested in the Motion is authorized under sections 105(a), 362 and 541 of the Bankruptcy Code.

THEREFORE, IT IS:

ORDERED that the Motion is granted *nunc pro tunc* to the Petition Date; and it is further

ORDERED that the following procedures and restrictions are imposed and approved:

1. Notice of Substantial Equityholder Status. This order does not extend the time for serving on the Debtors and their counsel a Notice of Substantial Beneficial Ownership of Stock as required by the Interim Trading Order. Any person or entity who is a Tax Owner (as defined below) of at least 2.04 million shares, which represent approximately 4.75% of the issued and outstanding Stock as of the Petition Date (a “**Substantial Equityholder**”), should have already served such a notice on the Debtors and their attorneys. Attached hereto as Exhibit B-1 is a form for filing a Substantial Equityholder Notice. No entity may become a Substantial equityholder without following the procedures set forth in Section 2 of this Order.

2. Restrictions and Procedures for Trading in Stock. Any Entity that, after the Effective Time,

- (i) is not a Substantial Equityholder and wishes to purchase or otherwise acquire Tax Ownership of an amount of Stock that would cause the Entity to become a Substantial Equityholder;
- (ii) is a Substantial Equityholder and wishes to purchase or otherwise acquire Tax Ownership of any additional Stock; or
- (iii) is a Substantial Equityholder and wishes to sell or otherwise dispose of Tax Ownership of any Stock,

must, prior to the consummation of any such transaction, file with the Court (at the Entity’s election, in a redacted form that does not include such Entity’s taxpayer identification number and the aggregate principal amount of Stock that such Entity beneficially owns), and serve on the Debtors, their counsel and counsel for the Creditors’ Committee, an unredacted notice in the form attached hereto as Exhibit B-2, in the case of a proposed acquisition of Stock, or Exhibit B-3, in the case of a proposed disposition

of Stock (either such notice, a “**Proposed Stock Transaction Notice**”). The Debtors shall consult with counsel for the Creditors’ Committee prior to responding to any Proposed Stock Transaction Notice. If written approval of the proposed transaction is filed with the Court by the Debtors within fifteen (15) calendar days following the receipt of a Proposed Stock Transaction Notice, then the transaction may proceed. If written approval of the proposed transaction is not filed by the Debtors with the Court within such period, then the transaction may not be consummated unless approved by a final and nonappealable order of the Court. Further transactions within the scope of this Section 2 must be the subject of additional notices as set forth herein with additional waiting periods.

3. Confidentiality.

The Debtors, their counsel and counsel for the Creditors’ Committee shall keep all information provided in Notices delivered pursuant to this Order strictly confidential and shall not disclose the contents thereof to any person (including any member of any Creditors’ Committee), except (i) to the extent necessary to respond to a petition or objection filed with the Court, (ii) to the extent otherwise required by law, or (iii) to the extent that the information contained therein is already public; *provided, however*, that the Debtors may disclose the contents thereof to their professional financial advisers, who shall keep all such notices strictly confidential and shall not disclose the contents thereof to any other person, subject to further Court order. To the extent confidential information is necessary to respond to a petition or objection filed with the Court, such confidential information shall be filed under seal or in redacted form.

4. Sanctions for Noncompliance. Acquisitions and dispositions of Tax Ownership of Stock in violation of the restrictions and procedures set forth in Section 2 shall be void *ab initio*, and the sanction for violating Section 2 shall be reversal of the noncompliant transaction or such other (or additional) measures as the Court may consider appropriate.

5. Discretionary Waiver by Debtors. The Debtors, with the consent of the Creditors' Committee or pursuant to an order of the Court, may waive any sanctions, remedies or notification procedures imposed by this Order, *provided, however*, that any such waiver shall be filed with the Court.

6. Notice of this Order. Within five (5) business days of the entry of this Order, the Debtors shall (i) submit a notice of the entry of this Order (substantially in the form attached hereto as Exhibit C) for publication on the Bloomberg newswire service and the Depository Trust Company Legal Notice System (also known as LENS); (ii) post such notice together with a copy of this Order on the website maintained by the Debtors' noticing and claims agent; (iii) serve a notice of the entry of this Order on (a) the Office of the United States Trustee, (b) the United States Securities and Exchange Commission, (c) the Office of the United States Attorney General for the District of Delaware, (d) the Internal Revenue Service, (e) the Debtors' thirty (30) largest unsecured creditors on a consolidated basis, (f) counsel to the administrative agent for the Debtors' prepetition secured lenders, (g) counsel to the administrative agent for the Debtors' postpetition secured lenders, (h) the indenture trustee for the Debtors' prepetition notes, and (i) any identified Substantial Equityholders. Upon receipt of such notice, counsel for the Creditors' Committee (when appointed) shall send such notice to their respective

committee members, and, if requested by the Debtors, any indenture trustees shall send such notice to all holders of more than 1.2 million shares of Stock registered with such indenture trustee or transfer agent. Any registered holder shall, in turn, provide the notice to any holder for whose account the registered holder holds more than 1.2 million shares of Stock. Any such holder shall, in turn, provide the notice to any person or entity for who the holder holds more than 1.2 million shares of Stock. Any person or entity, or broker or agent acting on such person's or entity's behalf, that sells an aggregate amount of at least 1.2 million shares of Stock (or an option with respect thereto) to another person or entity (other than pursuant to a transaction consummated on the NYSE) shall provide the notice to such purchaser or to any broker or agent acting on such purchaser's behalf.

7. Continued Compliance with Other Applicable Laws and Rules. The requirements set forth in this Order are in addition to the requirements of Bankruptcy Rule 3001(e) and applicable securities, corporate, and other laws, and do not excuse compliance therewith.

8. Special Rules. An Entity acquiring or disposing of Tax Ownership of Stock in the capacity of Agent of another Entity shall not be treated as a Substantial Equityholder solely to the extent acting in the capacity of Agent, and shall not have an affirmative duty to inquire whether the account, customer, investment fund, principal, trust, or beneficiary is subject to any restrictions or requirements under this Order; *provided, however,* that the account, customer, fund, principal, trust, or beneficiary shall not be excluded from this Order by reason of this subparagraph.

9. Definitions. For purposes of this Order, the following definitions shall apply:

“Agent” means a broker, account manager, agent, custodian, nominee, prime broker, clearinghouse, or trustee (including an Indenture Trustee but not including a trustee qualified under section 401(a) of the Internal Revenue Code).

“Bankruptcy Code” means title 11 of the United States Code.

“Creditors’ Committee” means the official committee of unsecured creditors typically appointed in these cases.

“Debtors” has the meaning given in the first paragraph hereof.

“Disclosure Statement” means a disclosure statement filed with the Court relating to a proposed plan of reorganization for the Debtors under chapter 11.

“Effective Time” means the time of effectiveness of the Interim Trading Order.

“Entity” means a person or entity for purposes of the rules under section 382 of the Internal Revenue Code.

“Hearing” has the meaning given in the first paragraph hereof.

“Internal Revenue Code” means the Internal Revenue Code of 1986, as amended.

“Motion” has the meaning given in the first paragraph hereof.

“NOL” has the meaning given in the findings hereof.

“Notice of Presentment” has the meaning given in the first paragraph hereof.

“NUBIL” has the meaning given in the findings hereof.

“Petition Date” means April 7, 2009.

“Proposed Stock Transaction Notice” has the meaning given in Section 2.

“Stock” means the common stock of Aventine Renewable Energy Holdings, Inc.

“Substantial Equityholder” means an Entity that has Tax Ownership of at least 2.04 million shares of Stock.

“Substantial Equityholder Notice” has the meaning given in Section 1.

“Tax Ownership” means beneficial ownership of Stock as determined in accordance with applicable rules under section 382 and, to the extent provided in those rules shall include, but not be limited to, direct and indirect ownership (*e.g.*, a holding company would be considered to have Tax Ownership of all shares owned or acquired by its 100% owned subsidiaries), ownership by members of a person’s family and persons acting in concert and, in certain cases, the creation or issuance of an option (in any form). Any variation of the term Tax Ownership shall have the same meaning and an “option” to acquire stock shall include any contingent purchase, warrant, convertible debt, put, stock subject to risk of forfeiture, contract to acquire stock or similar interest, regardless of whether it is contingent or otherwise not currently exercisable.

ORDERED that, the relief provided in this Order is in addition to, and not in lieu of, any and all other rights and remedies available to the Debtors.

Dated: Wilmington, Delaware
May 1, 2009



KEVIN GROSS
UNITED STATES BANKRUPTCY JUDGE

Exhibit B-1

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re: : **Chapter 11**
: :
: **Case No. 09-11214 (KG)**
AVENTINE RENEWABLE ENERGY :
HOLDINGS, INC. et al., : **(Jointly Administered)**
: :
Debtors.¹ :

SUBSTANTIAL EQUITYHOLDER NOTICE

PLEASE TAKE NOTICE that, as of _____, 200[],
[Name] has Tax Ownership² of _____ shares of the common stock of
Aventine Renewable Energy Holdings, Inc. (the "Stock").

PLEASE TAKE FURTHER NOTICE that pursuant to the Order
Establishing Notification Procedures and Approving Restrictions on Certain Transfers of
Interests in the Debtors' Estates, this Notice is being served upon (i) Aventine Renewable
Energy Holdings, Inc., (ii) Young Conaway Stargatt & Taylor, LLP, The Brandywine
Building, 1000 West Street, 17th Floor, Wilmington, Delaware 19801, Attn: James L.
Patton Jr. and Joel A. Waite, and (iii) Davis Polk & Wardwell, 450 Lexington Avenue,
New York, New York 10017, Attn: Attn: Michael J. Cames, Karen E. Wagner and Brian
M. Resnick.

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor's federal tax identification number, are: Aventine Renewable Energy Holdings, Inc. (9368), Aventine Renewable Energy, LLC (0195), Aventine Renewable Energy, Inc. (8352), Aventine Renewable Energy - Aurora West, LLC (9285), Aventine Renewable Energy - Mt Vernon, LLC (8144), Aventine Power, LLC (9343), and Nebraska Energy, L.L.C. (1872). The address for the Debtors is 120 North Parkway, Pekin, Illinois 61555-1800.

² Unless otherwise defined herein, each capitalized term shall have the meaning ascribed to it in the Order Establishing Notification Procedures and Approving Restrictions on Certain Transfers of Interests in the Debtors' Estates dated May __, 2009.

This notice is given in addition to, and not as a substitute for, any requisite notice under Rule 3001(e) of the Federal Rules of Bankruptcy Procedure.

Respectfully submitted,

[Name]

[Address]
[Telephone]
[Facsimile]

Dated: [city, state]
_____, 200[]

Exhibit B-2

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: : Chapter 11
: :
: Case No. 09-11214 (KG)
AVENTINE RENEWABLE ENERGY :
HOLDINGS, INC. et al., : (Jointly Administered)
: :
Debtors.¹ :
: :

**NOTICE OF INTENT TO PURCHASE, ACQUIRE OR OTHERWISE
OBTAIN TAX OWNERSHIP OF STOCK**

PLEASE TAKE NOTICE that [Name] intends to purchase, acquire or otherwise obtain Tax Ownership² of _____ shares of the common stock of Aventine Renewable Energy Holdings, Inc. (the “Proposed Transaction” and the “Stock”, respectively).

PLEASE TAKE FURTHER NOTICE that, prior to giving effect to the Proposed Transaction, [Name] has Tax Ownership of _____ shares of the Stock.

PLEASE TAKE FURTHER NOTICE that, after giving effect to the Proposed Transaction, [Name] would have Tax Ownership of _____ shares of the Stock.

PLEASE TAKE FURTHER NOTICE that this Notice is being served upon (i) Aventine Renewable Energy Holdings, Inc., (ii) Young Conaway Stargatt & Taylor, LLP, The Brandywine Building, 1000 West Street, 17th Floor, Wilmington, Delaware 19801, Attn: James L. Patton Jr. and Joel A. Waite, and (iii) Davis Polk &

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² Unless otherwise defined herein, each capitalized term shall have the meaning ascribed to it in the Order Establishing Notification Procedures and Approving Restrictions on Certain Transfers of Interests in the Debtors’ Estates dated May __, 2009.

Wardwell, 450 Lexington Avenue, New York, New York 10017, Attn: Attn: Michael J. Crames, Karen E. Wagner and Brian M. Resnick.

[Name] further acknowledges and agrees that (i) if the Debtors do not provide written approval of the Proposed Transaction within fifteen (15) calendar days of the date of this notice, the Proposed Transaction may not be consummated unless approved by a final and nonappealable order of the Court (ii) any transaction purportedly consummated in violation of the Order will be void *ab initio* and will result in the imposition of sanctions as provided in the Order, and (iii) any further transactions contemplated by [Name] that may result in [Name] purchasing, acquiring or otherwise obtaining Tax Ownership of additional Stock will each require an additional notice be filed with the Bankruptcy Court and served in the same manner as this Notice.

This notice is given in addition to, and not as a substitute for, any requisite notice under Rule 3001(e) of the Federal Rules of Bankruptcy Procedure.

Respectfully submitted,

[Name]

[Address]
[Telephone]
[Facsimile]

Dated: [city, state]
_____, 200[]

Exhibit B-3

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re: : Chapter 11
: :
: Case No. 09-11214 (KG)
AVENTINE RENEWABLE ENERGY :
HOLDINGS, INC. et al., : (Jointly Administered)
: :
Debtors.¹ :

**NOTICE OF INTENT TO SELL, EXCHANGE OR OTHERWISE
DISPOSE OF TAX OWNERSHIP OF STOCK**

PLEASE TAKE NOTICE that [Name] intends to sell, exchange or otherwise dispose of Tax Ownership² of _____ shares of the common stock of Aventine Renewable Energy Holdings, Inc. (the “Proposed Transaction” and the “Stock,” respectively).

PLEASE TAKE FURTHER NOTICE that, before giving effect to the Proposed Transaction, [Name] has Tax Ownership of _____ shares of the Stock.

PLEASE TAKE FURTHER NOTICE that, after giving effect to the Proposed Transaction, [Name] would have Tax Ownership of _____ shares of the Stock.

PLEASE TAKE FURTHER NOTICE that this Notice is being served upon (i) Aventine Renewable Energy Holdings, Inc., (ii) Young Conaway Stargatt &

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² Unless otherwise defined herein, each capitalized term shall have the meaning ascribed to it in the Order Establishing Notification Procedures and Approving Restrictions on Certain Transfers of Interests in the Debtors’ Estates dated May __, 2009.

Taylor, LLP, The Brandywine Building, 1000 West Street, 17th Floor, Wilmington, Delaware 19801, Attn: James L. Patton Jr. and Joel A. Waite, and (iii) Davis Polk & Wardwell, 450 Lexington Avenue, New York, New York 10017, Attn: Attn: Michael J. Cramers, Karen E. Wagner and Brian M. Resnick.

[Name] further acknowledges and agrees that (i) if the Debtors do not provide written approval of the Proposed Transaction within fifteen (15) calendar days of the date of this notice, the Proposed Transaction may not be consummated unless approved by a final and nonappealable order of the Court (ii) any transaction purportedly consummated in violation of the Order will be void *ab initio* and will result in the imposition of sanctions as provided in the Order, and (iii) any further transactions contemplated by [Name] that may result in [Name] selling, exchanging or otherwise disposing of Tax Ownership of additional Stock will each require an additional notice be filed with the Court to be served in the same manner as this notice.

This notice is given in addition to, and not as a substitute for, any requisite notice under Rule 3001(e) of the Federal Rules of Bankruptcy Procedure.

Respectfully submitted,

[Name]

[Address]
[Telephone]
[Facsimile]

Dated: [city, state]
_____, 200[]

Exhibit C

PUBLICATION NOTICE

Court Enters Order Restricting Trading in Equity of Aventine Renewable Energy Holdings, Inc. and affiliates.

The United States Bankruptcy Court for the District of Delaware has entered an order that imposes substantial restrictions on trading in equity interests in Aventine Renewable Energy Holdings, Inc. and affiliates. A copy of the order may be found at the following internet address: <http://www.aventineinfo.com>; questions regarding the order may be directed to representatives of the debtors at the following telephone number: Davis Polk & Wardwell (Attn: Michael J. Cramos or Michael Mollerus), (212) 450-4000. The case number for the bankruptcy action is 09-11214 (KG)