40-7580

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

In re:	)	
	)	
FANSTEEL INC., *et al.*,[1]	)	Civil Case No. 02-44 (JJF)
	)	
Debtors.	)	
	)	
	)	
	)	

NOTICE OF ENTRY OF ORDER ON
EMERGENCY MOTION FOR WITHDRAWAL OF REFERENCE

TO: Parties required to receive notice pursuant to Del. Bankr. LR 2002-1.

On January 22, 2002, the United States District Court for the District of Delaware entered an order ("Withdrawal Order") granting the *Emergency Motion for Withdrawal of Reference* (the "Motion") filed by the above captioned debtors and debtors in possession (the "Debtors"). A true and correct copy of the Withdrawal Order is attached hereto.

Pursuant to the Withdrawal Order, Debtors' cases have been assigned to the Honorable Joseph J. Farnan, Jr., United States District Court Judge for the District of Delaware, 844 N. King Street, 6th Floor, Courtroom 6A, Wilmington, Delaware (the "District Court"); and have been assigned Civil Action Case No. 02-44 (JJF).

All pleading and motions filed in Debtors' cases should be filed with the District

[1] The Debtors are the following entities: Fansteel Inc., Fansteel Holdings, Inc., Custom Technologies Corp., Escast, Inc., Wellman Dynamics Corp., Washington Mfg. Co., Phoenix Aerospace Corp., American Sintered Technologies, Inc., and Fansteel Schulz Products, Inc.

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Court and captioned as follows:

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	
	)	
FANSTEEL INC., *et al.*,[1]	)	Civ. Case No. 02-44 (JJF)
	)	
Debtors.	)	

Dated: January 23, 2002

SHULTE ROTH & ZABEL LLP
Jeffrey S. Sabin
Mark A. Broude
919 Third Avenue
New York, NY 10022
Telephone: (212) 756-2000
Facsimile: (212) 593-5955

and

PACHULSKI, STANG, ZIEHL, YOUNG & JONES P.C.

Laura Davis Jones (Bar No. 2436)
919 North Market Street, 16th Floor
P.O. Box 8705
Wilmington, DE 19899-8705 (Courier 19801)
Telephone: (302) 652-4100
Facsimile: (302) 652-4400

[Proposed] Co-Counsel for the Debtors and
Debtors in Possession

[1] The Debtors are the following entities: Fansteel Inc., Fansteel Holdings, Inc., Custom Technologies Corp., Escast, Inc., Wellman Dynamics Corp., Washington Mfg. Co., Phoenix Aerospace Corp., American Sintered Technologies, Inc., and Fansteel Schulz Products, Inc.

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DISTRICT OF DELAWARE

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
	)	
FANSTEEL INC., et al.,[1]	)	Case No. 02-44 ( )
	)	(Jointly Administered)
Debtors.	)	
	)	
	)	

ORDER GRANTING EMERGENCY MOTION FOR WITHDRAWAL OF REFERENCE

Upon the Emergency Motion For Withdrawal Of Reference and memorandum of law in Support thereof (the "Emergency Motion"), pursuant to 28 U.S.C. § 157(d), of the debtors and debtors in possession in the above-captioned cases; and after due deliberation and sufficient cause appearing therefore; and the Court having found that due and adequate notice of the Emergency Motion has been given under the circumstances, it is hereby:

ORDERED that the Emergency Motion is granted; and it is further

ORDERED that withdrawal of the reference of the entirety of the Debtors' Chapter 11 cases, effective upon entry of this order, is hereby granted by the District Court pursuant to section 157(d) of title 28 of the United States Code.

Dated: January 22, 2002

Joseph J. Farnan
JUDGE

[1] The Debtors are the following entities: Fansteel Inc., Fansteel Holdings, Inc., Custom Technologies Corp., Escast, Inc., Wellman Dynamics Corp., Washington Mfg. Co., Phoenix Aerospace Corp., American Sintered Technologies, Inc., and Fansteel Schulz Products, Inc.

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

In re:	)	Civil Action No.: 02-44
	)	
FANSTEEL INC., et al.,[1]	)	(Bankruptcy #02-10109)
	)	
Debtors.	)	
	)	
	)	

ORDER AUTHORIZING THE DEBTORS TO MAKE CERTAIN PAYMENTS FOR PREPETITION OBLIGATIONS RELATING TO THE SHIPMENT OF GOODS

Upon consideration of the motion seeking entry of an order authorizing the Debtors to make certain payments for prepetition obligations relating to the shipment of goods (the "Motion") filed by the debtors and debtors in possession (the "Debtors") in the above-captioned chapter 11 cases; and it appearing that the relief requested is in the best interests of the Debtors' estates, their creditors and other parties in interest; and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that this proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (O); and due and adequate notice of the Motion[2] having been given under the circumstances; and after due deliberation and cause appearing therefore; it is hereby

ORDERED that the Motion is granted; and it is further

[1] The Debtors are the following entities: Fansteel Inc., Fansteel Holdings, Inc., Custom Technologies Corp., Escast, Inc., Wellman Dynamics Corp., Washington Mfg. Co., Phoenix Aerospace Corp., American Sintered Technologies, Inc., and Fansteel Schulz Products, Inc.

[2] Capitalized terms not defined herein shall have the same meaning ascribed to them in the Motion.

ORDERED that the Debtors are authorized, but not directed, in their sole discretion and without further application to the Court, to pay in the ordinary course of business prepetition Customs duties and fees; and it is further

ORDERED that the Debtors are authorized, but not directed, in their sole discretion, and without further application to the Court, to pay in the ordinary course of business prepetition (a) Shipping and Warehousing Charges; and (b) Customs Brokers Fees and Advances (including the Debtors' obligations for Customs Duties) as set forth in the Motion; and it is further

ORDERED that the Court shall retain jurisdiction with respect to any matters, claims, rights or disputes arising from or related to the implementation of this Order.

Dated: January 23 2002

Judge Joseph J. Farnan Jr.

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

In re:	)	Civil Action No.: 02-44
	)	
FANSTEEL INC., et al.,[1]	)	(Bankruptcy #02-10109)
Debtors.	)	
	)	
	)	

ORDER GRANTING THE DEBTORS ADDITIONAL TIME WITHIN WHICH TO FILE THEIR SCHEDULES AND STATEMENTS

Upon the motion (the "Motion")[2] of the above-captioned debtors and debtors in possession in the chapter 11 cases seeking entry of an order granting the debtors additional time within which to file schedules and statements; and it appearing that the relief requested is in the best interests of the Debtors' estates, their creditors and other parties in interest; and it appearing that this proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that venue of this proceeding and this Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; and proper notice of this Motion having been given; and after due deliberation and cause appearing therefor; it is hereby

ORDERED that the Motion is granted; and it is further

[1] The Debtors are the following entities: Fansteel Inc., Fansteel Holdings, Inc., Custom Technologies Corp., Escast, Inc., Wellman Dynamics Corp., Washington Mfg. Co., Phoenix Aerospace Corp., American Sintered Technologies, Inc., and Fansteel Schulz Products, Inc.

[2] Unless otherwise indicated herein, all capitalized terms shall have the meaning provided for in the Motion.

ORDERED that the time within which the Debtors shall file all Schedules and Statements required under section 521 of the Bankruptcy Code and Fed. R. Bankr. P. 1007(a)(3) and (b) shall be and hereby is extended pursuant to Fed. R. Bankr. P. 1007(c) and Del.Bankr.LR 1007-1(c) for fifteen additional days (for a total of forty-five days) from the Petition Date, and it is further

ORDERED that such extension is without prejudice to the Debtors' right to file a motion seeking further extension; and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation of this Order; and it is further

ORDERED that notwithstanding the possible applicability of Fed. R. Bankr. P. 6004(g), 7062, 9014, or otherwise, the terms and conditions of this order shall be immediately effective and enforceable upon its entry.

Dated: January 22, 2002

Judge Joseph J. Farnan, Jr.

FILED
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DISTRICT OF DELAWARE
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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

In re:	)	Civil Action No.: 02-44
	)	
FANSTEEL INC., et al.,[4]	)	(Bankruptcy #02-10109)
	)	
Debtors.	)	
	)	
	)	

ORDER AUTHORIZING DEBTORS TO PAY PREPETITION SALES AND USE TAXES AND RELATED GOVERNMENT CHARGES IN THE ORDINARY COURSE OF BUSINESS

Upon the Motion[5] of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for entry of an order authorizing the payment of prepetition amounts owing in respect of prepetition sales and use taxes and fees, charges or similar assessments by Taxing Authorities; and it appearing that the Court has jurisdiction over this matter and the relief requested in the Motion pursuant to 28 U.S.C. §§ 157, 1334; and it appearing that this is a core proceeding pursuant to 28 U.S.C. § 157(b); and due and sufficient notice of the Motion having been given under the circumstances; and the Court having determined that the relief sought in the Motion is in the best interests of Debtors, their estates, and all parties in interest; therefore, upon the Motion and all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefore; and any objections to the relief sought herein having been withdrawn or overruled, it is hereby

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[4] The Debtors are the following entities: Fansteel Inc., Fansteel Holdings, Inc., Custom Technologies Corp., Escast, Inc., Wellman Dynamics Corp., Washington Mfg. Co., Phoenix Aerospace Corp., American Sintered Technologies, Inc., and Fansteel Schulz Products, Inc.

5 All capitalized terms used in this Order have the meaning given to them in the Motion unless otherwise provided in this Order.

ORDERED that the Debtors' Motion is granted, and that Debtors are authorized and empowered to pay all prepetition sales and use tax obligations and fees, charges or similar assessments due to the Taxing Authorities, by whatever means Debtors may deem appropriate, including, without limitation, the issuance of post-petition checks; and it is further

ORDERED that, all applicable banks and any financial institutions authorized to honor and pay, prior to or after the commencement of these chapter 11 cases, all checks issued, and fund transfer requests made, by Debtors to the Taxing Authorities in respect of any prepetition sales and use tax obligations and fees, charges or similar assessments by such Taxing Authorities; and it is further

ORDERED that nothing in this Order or the Motion shall be construed as prejudicing Debtors' rights to contest the amount or basis of any sales and use taxes and fees allegedly due the Taxing Authorities; and it is further

ORDERED that this Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: January 22, 2002

Judge Joseph J. Farnan Jr.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

In re:	)	
	)	
FANSTEEL INC., *et al.*,[1]	)	Civil Case No. 02-44 (JJF)
	)	
Debtors.	)	**Objection Deadline: February 11, 2002 at 4:00 p.m.**
	)	**Hearing Date: February 14, 2002 at 12:30 p.m.**

NOTICE OF MOTION OF DEBTORS FOR AN ORDER, UNDER 11 U.S.C. §§ 105(A), 503(B), AND 546(C), (A) ESTABLISHING PROCEDURE FOR TREATMENT OF VALID RECLAMATION CLAIMS AND (B) PROHIBITING THIRD PARTIES FROM INTERFERING WITH DELIVERY OF DEBTORS' GOODS

TO: Parties required to receive notice pursuant to Del. Bankr. LR 2002-1.

On January 15, 2002, the above-captioned debtors and debtors in possession (collectively, the "Debtors") filed the *Motion of Debtors for an Order, Under 11 U.S.C. §§ 105(a), 503(b), and 546(c, (A) Establishing Procedure for Treatment of Valid Reclamation Claims and (b) Prohibiting Third Parties From Interfering with Delivery of Debtors' Good* (the "Motion") with the United States Bankruptcy Court for the District of Delaware, 824 Market Street, Wilmington, Delaware 19801, seeking an order establishing procedures for the treatment of valid reclamation claims and prohibiting third parties from interfering with the delivery of goods to Debtors. A true and correct copy of the Motion is attached hereto.

[1] The Debtors are the following entities: Fansteel Inc., Fansteel Holdings, Inc., Custom Technologies Corp., Escast, Inc., Wellman Dynamics Corp., Washington Mfg. Co., Phoenix Aerospace Corp., American Sintered Technologies, Inc., and Fansteel Schulz Products, Inc.

Objections and other responses to the Motion, if any, must be in writing and be filed with the United States District Court for the District of Delaware at 844 N. King Street, 6th Floor, Wilmington, Delaware, and served on (i) counsel for the Debtors: Jeffrey S. Sabin, Esquire, Schulte, Roth & Zabel LLP, 919 Third Avenue, New York, New York, 10022; and Laura Davis Jones, Esquire, Pachulski, Stang, Ziehl, Young & Jones P.C., 919 North Market Street, Suite 1600, P.O. Box 8705, Wilmington, Delaware 19899-8705; (ii) the Office of the United States Trustee, David Buckbinder, Esquire, J. Caleb Boggs Federal Building, 844 King Street, Suite 2313, Lock Box 35, Wilmington, Delaware 19801; (iii) counsel to the Official Committee of Unsecured Creditors (if any); and (iv) counsel for the postpetition lenders: Jeffrey N. Rich, Esquire, Kirkpatrick & Lockhart LLP, 1251 Avenue of the Americas, New York, New York 10022, on or before February 11, 2002 at 4:00 p.m. prevailing eastern time.

IF NO OBJECTIONS ARE TIMELY FILED AND SERVED IN ACCORDANCE WITH THIS NOTICE, THE DISTRICT COURT MAY GRANT THE RELIEF DEMANDED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

IN THE EVENT THAT ANY OBJECTION OR RESPONSE IS FILED AND SERVED IN ACCORDANCE WITH THIS NOTICE, A HEARING ON THE MOTION WILL BE HELD ON FEBRUARY 14, 2002 AT 12:30 P.M. EASTERN TIME BEFORE THE HONORABLE JOSEPH J. FARNAN, JR., UNITED STATES DISTRICT COURT JUDGE FOR THE DISTRICT OF DELAWARE, 844 N. KING STREET, 6TH FLOOR, COURTROOM 6A, WILMINGTON, DELAWARE.

Dated: January 23, 2002

SHULTE ROTH & ZABEL LLP
Jeffrey S. Sabin
Mark A. Broude
919 Third Avenue
New York, NY 10022
Telephone: (212) 756-2000
Facsimile: (212) 593-5955

and

PACHULSKI, STANG, ZIEHL, YOUNG & JONES P.C.

Laura Davis Jones (Bar No. 2436)
Hamid Rafatjoo (CA Bar No. 181564)
Rosalie L. Spelman (Bar No. 4153)
919 North Market Street, 16th Floor
P.O. Box 8705
Wilmington, DE 19899-8705 (Courier 19801)
Telephone: (302) 652-4100
Facsimile: (302) 652-4400

[Proposed] Co-Counsel for the Debtors and
Debtors in Possession

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
	)	
FANSTEEL INC., et al.,[1]	)	Case No. 02-_____ ( )
	)	(Jointly Administered)
Debtors.	)	
	)	
	)	

MOTION OF DEBTORS FOR AN ORDER, UNDER 11 U.S.C. §§ 105(a), 503(b) AND 546(c), (A) ESTABLISHING PROCEDURE FOR TREATMENT OF VALID RECLAMATION CLAIMS AND (B) PROHIBITING THIRD PARTIES FROM INTERFERING WITH DELIVERY OF DEBTORS' GOODS

The above-captioned debtors and debtors in possession (collectively, the "Debtors") hereby move the Court (the "Motion") for entry of an order (A) establishing procedures for treatment of valid reclamation claims and (B) prohibiting third parties from interfering with delivery of Debtors' goods. In support of this Motion, Debtors respectfully state as follows:[2]

Jurisdiction

1. This Court has jurisdiction over this Motion under 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue of this proceeding and this Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

[1] The Debtors are the following entities: Fansteel Inc., Fansteel Holdings, Inc., Custom Technologies Corp., Escast, Inc., Wellman Dynamics Corp., Washington Mfg. Co., Phoenix Aerospace Corp., American Sintered Technologies, Inc., and Fansteel Schulz Products, Inc.

[2] The facts and circumstances supporting this Motion are set forth in the Affidavit of Gary L. Tessitore, President and Chief Executive Officer of Fansteel Inc., in Support of First Day Motions, filed contemporaneously herewith.

2. The statutory bases for the relief requested herein are 11 U.S.C. §§ 105(a), 503(b) and 546(c).

3. As there are no novel issues of law presented herein, Debtors waive their right to file a brief in support of the Motion pursuant to D.Del.L.R. 7.1.2(a), incorporated by reference into the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware by Del.Bankr.L.R. 1001-1(b). Because of the nature of the relief requested in this Motion, Debtors believe that no briefing is required.

Background

4. Fansteel and the other eight Debtors (each a direct or indirect wholly-owned subsidiary of Fansteel) have been engaged for over 70 years in the business of manufacturing and marketing specialty metal products with today's operations being conducted at ten manufacturing facilities (five of which are owned by Fansteel) in nine states. Collectively, Debtors have approximately 1,250 employees, substantially all on a full time basis, including approximately 365 employees that are working under collective bargaining agreements with four different unions. Each Debtor is operated separately, with separate employees, separate operations and separately maintained books and records.

A. Pre-Petition Unsecured Lenders

5. Prior to the Petition Date, The Northern Trust Company ("NTC"), as agent for itself and M&I Bank ("M&I"), had extended to Fansteel a $30 million unsecured revolving facility (the "Pre-Petition Credit Facility"), which provided for up to $20 million in revolving

advances for working capital and up to $10 million in letters of credit. Fansteel is the only borrower under the Pre-Petition Credit Facility and none of the other Debtors has any obligations thereunder; however, under the Pre-Petition Credit Facility, Fansteel agreed not to permit any of its direct or indirect subsidiaries (including all of the other Debtors) to incur indebtedness or to pledge any of their assets, subject to certain exceptions. As of the Petition Date, there was approximately $8.5 million outstanding under the Pre-Petition Credit Facility in addition to $6.5 million in outstanding letters of credit, which includes a $3.7 million letter of credit in favor of the NRC.[3]

B. Causes Leading to the Bankruptcy Filings

6. The operations of Debtors' respective businesses have involved compliance with state and federal environmental laws, including the Atomic Energy Act. The Debtors' bankruptcy cases are an outgrowth of the discontinuation of one of Fansteel's operations that was conducted from the 1950s through 1989 at a site owned and operated by Fansteel in Muskogee, Oklahoma (the "Muskogee Site"). At the Muskogee Site, Fansteel, in accordance with a license obtained from the U.S. Nuclear Regulatory Commission (the "NRC") in 1967, processed tantalum ore for further processing at Fansteel's plant in North Chicago. Tantalum naturally occurs with other metals, including uranium and thorium, each of which is radioactive, and the processing of tantalum results in, among other things, radioactive residues

[3] There is a second letter of credit in favor of the NRC in the amount of approximately $750,000, which is not issued pursuant to the Pre-Petition Credit Facility.

and soils. Fansteel, in accordance with applicable regulations promulgated by the NRC, is required, upon discontinuance of its business to remediate these residues and soils.

7. In 1989, Fansteel discontinued its operations at the Muskogee Site. Notwithstanding such discontinuation, Fansteel has remained at all times in compliance with its NRC license, and has maintained the Muskogee Site in a manner that protects the health and safety of its employees and the public. Following its discontinuation of operations at the Muskogee Site, Fansteel developed a method to reprocess the residues at the Muskogee Site and to remediate the contaminated soils, and obtained the approval of the NRC for various aspects of such reprocessing and remediation. Unfortunately, due to operational problems in the plant and the significant decline in the price of tantalum during the second and third quarters of 2001, operation of the reprocessing facility was determined to be uneconomic, requiring Fansteel, as a matter of generally accepted accounting principals, in its financial statements for the quarter ended September 30, 2001, to write off the costs that Fansteel had expended in designing and building the reprocessing plant (approximately $32 million), and to take an immediate reserve for the reasonably anticipated costs of remediating the radioactive residues and soils that remain on the Muskogee Site without regard to any reprocessing (an approximately $57 million reserve).

8. Fansteel's plight was further aggravated by the actions of NTC and M&I. In mid October 2001, Fansteel promptly informed NTC of the prospective write-off and reserve required with respect to the Muskogee Site, and requested waivers of any events of default arising under the Pre-Petition Credit Facility as a result thereof, as well as an amendment of the

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ing the Pre-Petition Credit Facility in order either to allow Fansteel ailability under the Pre-Petition Credit Facility or to allow Fansteel's unds on a secured basis which, in either case, would have provided the liquidity to avoid a bankruptcy filing. However, NTC refused these ıber 19, 2001, accelerated the Pre-Petition Credit Facility, froze all of the vere maintained at NTC and M&I and set-off amounts owed under the lity against those accounts. As a result of the freeze and such set-off, the ccess to the funds necessary to operate their respective businesses and a e inevitable.

Relief Requested

ction 546(c)(1) of the Bankruptcy Code authorizes vendors who have the ordinary course of business to reclaim such goods (subject to certain btor was insolvent when the goods were delivered; (b) the seller writing; (c) such demand was made within 10 days after the debtor e goods (or within 20 days if the 10 day period would expire after the petition); and (d) the seller is otherwise entitled to reclamation under order for a seller to reclaim goods, the debtor must have had actual t the time the debtor received the written reclamation demand. See

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v would generally preclude reclamation if a third party held a perfected security tory or if the goods had already been purchased in good faith by a third party. See Corp. (In re Paolella), 161 B.R. 107, 122 (E.D. Pa. 1993), aff'd without op. 37 F.3d rally U.C.C. § 2-702(2).

and soils. Fansteel, in accordance with applicable regulations promulgated by the NRC, is required, upon discontinuance of its business to remediate these residues and soils.

7. In 1989, Fansteel discontinued its operations at the Muskogee Site. Notwithstanding such discontinuation, Fansteel has remained at all times in compliance with its NRC license, and has maintained the Muskogee Site in a manner that protects the health and safety of its employees and the public. Following its discontinuation of operations at the Muskogee Site, Fansteel developed a method to reprocess the residues at the Muskogee Site and to remediate the contaminated soils, and obtained the approval of the NRC for various aspects of such reprocessing and remediation. Unfortunately, due to operational problems in the plant and the significant decline in the price of tantalum during the second and third quarters of 2001, operation of the reprocessing facility was determined to be uneconomic, requiring Fansteel, as a matter of generally accepted accounting principals, in its financial statements for the quarter ended September 30, 2001, to write off the costs that Fansteel had expended in designing and building the reprocessing plant (approximately $32 million), and to take an immediate reserve for the reasonably anticipated costs of remediating the radioactive residues and soils that remain on the Muskogee Site without regard to any reprocessing (an approximately $57 million reserve).

8. Fansteel's plight was further aggravated by the actions of NTC and M&I. In mid October 2001, Fansteel promptly informed NTC of the prospective write-off and reserve required with respect to the Muskogee Site, and requested waivers of any events of default arising under the Pre-Petition Credit Facility as a result thereof, as well as an amendment of the

loan documents governing the Pre-Petition Credit Facility in order either to allow Fansteel sufficient additional availability under the Pre-Petition Credit Facility or to allow Fansteel's subsidiaries to borrow funds on a secured basis which, in either case, would have provided the Debtors with sufficient liquidity to avoid a bankruptcy filing. However, NTC refused these requests and, on November 19, 2001, accelerated the Pre-Petition Credit Facility, froze all of the Debtors' accounts that were maintained at NTC and M&I and set-off amounts owed under the Pre-Petition Credit Facility against those accounts. As a result of the freeze and such set-off, the Debtors no longer had access to the funds necessary to operate their respective businesses and a bankruptcy filing became inevitable.

Relief Requested

9. Section 546(c)(1) of the Bankruptcy Code authorizes vendors who have sold goods to a debtor in the ordinary course of business to reclaim such goods (subject to certain limitations) if: (a) the debtor was insolvent when the goods were delivered; (b) the seller demanded reclamation in writing; (c) such demand was made within 10 days after the debtor received possession of the goods (or within 20 days if the 10 day period would expire after the filing date of a chapter 11 petition); and (d) the seller is otherwise entitled to reclamation under applicable state law.[4] In order for a seller to reclaim goods, the debtor must have had actual possession of the goods at the time the debtor received the written reclamation demand. See

[4] For example, state law would generally preclude reclamation if a third party held a perfected security interest in after-acquired inventory or if the goods had already been purchased in good faith by a third party. See Waslow v. MNC Commercial Corp. (In re Paolella), 161 B.R. 107, 122 (E.D. Pa. 1993), aff'd without op. 37 F.3d 1487 (3d Cir. 1994). See generally U.C.C. § 2-702(2).

Flav-O-Rich, Inc. v. Rawson Food Serv. Inc. (In re Rawson Food Serv., Inc.), 846 F.2d 1343 (11th Cir. 1988).

10. Given the volume of inventory received by Debtors, Debtors anticipate that a number of vendors may assert reclamation claims against Debtors and otherwise interfere with the delivery of goods to Debtors after receiving notice of the commencement of the chapter 11 cases. These goods are essential to Debtors, and Debtors' business operations will be severely disrupted if vendors are allowed to exercise their right to reclaim goods without a uniform procedure that is fair to all parties.

11. Moreover, the size of Debtors' businesses generally and, in particular, the volume of inventory receipts and sales, make it infeasible for Debtors to return inventory shipments to vendors in response to reclamation notices. If vendors were allowed to seek to exercise their right to reclaim goods without a uniform procedure that is fair to all parties, management's attention would be distracted from operating the Debtors' business.

12. Debtors propose the following procedures for processing and treatment of reclamation claims:

a. any vendor asserting a claim for reclamation must satisfy all requirements entitling it to a right of reclamation under applicable state law and section 546(c)(1) of the Bankruptcy Code, as described more fully above. See Mayer Pollock Steel Corp. v. London Salvage & Trading Co. (In re Mayer Pollock Steel Corp.), 157 B.R. 952, 959-60 (Bankr. E.D. Pa. 1993).

b. Debtors will file a motion, on notice to parties in interest, listing those reclamation claims, if any, which they deem to be valid pursuant to the Order requested herein.

c. absent further order of the Court, such motion shall be brought by Debtors within 90 days of the Court's entry of an order approving this Motion.

d. if Debtors fail to bring such a motion within the required period of time, any holder of a reclamation claim may bring such a motion on its own behalf, but may not bring such a motion earlier than 90 days after the Court's entry of an order approving this Motion.

e. all parties in interest shall have the right and opportunity to object to the inclusion or omission of any asserted reclamation claim in connection with such motion; and

f. all reclamation claims allowed by the Court pursuant to the above described motion will be treated in accordance with the terms of the order allowing such claims.

13. Debtors are seeking to engage in the process described above because it will streamline resolution of the putative reclamation claims that are likely to be asserted against the estates. Debtors believe it is in the best interests of the estates, to the extent permissible, to either return the goods or give an administrative claim to claimants that hold reclamation claims that satisfy every element of Section 546(c) of the Bankruptcy Code in accordance with the terms of this Motion. Nothing in this Motion should be deemed or interpreted as an admission of any kind relating to Debtors' insolvency at any time.

14. Moreover, Debtors' request that the Court authorize Debtors, in their sole and absolute discretion, to make goods available for pick-up by any reclaiming seller (a) who timely demands in writing reclamation of goods pursuant to Section 546(c) of the Bankruptcy Code and section 2-702 of the UCC, (b) whose goods Debtors have accepted for delivery, and (c) who properly identifies the goods to be reclaimed. Additionally, Debtors request that the

Court prohibit the reclamation claimants and others from seeking to reclaim or interfere with the delivery of goods to or by Debtors. Such relief will facilitate uninterrupted operations of Debtors' worldwide business.

15. The relief requested herein will ensure the maintenance of a supply of goods that will be vital to maintaining Debtors' current operations and integral to maximizing the value of these estates. See In re Continental Airlines Inc., 125 B.R. 415, 417-18 (Bankr. D. Del. 1991) (denying reclamation of equipment and granting administrative expense claim to creditor where equipment was necessary to the debtors' reorganization). Relief similar to that sought herein has been granted in other recent, large chapter 11 cases in this District. In re W.R. Grace & Co., Case No. 01-1139 (JJF) (Bankr. D. Del. May 3, 2001) (same); In re U.S. Office Prods. Co., Case No. 01-0646 (Bankr. D. Del. March 28, 2001) (same); In re Trans World Airlines, Inc., Case No. 01-0056 (PJW) (Bankr. D. Del. January 10, 2001).

16. In light of the foregoing, Debtors believe that the relief requested in this Motion is appropriate and is in the best interests of Debtors, their estates and their creditors.

Notice

17. Notice of this Motion has been given to (i) the United States Trustee; and (ii) counsel to Debtors' proposed postpetition lenders. In light of the nature of the relief requested, the Debtors submit that no further notice is required.

WHEREFORE, Debtors respectfully request that the Court enter an Order, substantially in the form attached hereto, (A) establishing a procedure for treatment of valid reclamation claims and prohibiting third parties from interfering with delivery of goods to or by Debtors and (B) granting such other and further relief as the Court deems appropriate.

Dated: January 14, 2002

SCHULTE, ROTH & ZABEL LLP
Jeffrey S. Sabin (JSS 7600)
Mark A. Broude (MAB 1902)
919 Third Avenue
New York, New York 10022
Telephone: (212) 756-2000
Facsimile: (212) 593-5955

and

PACHULSKI, STANG, ZIEHL, YOUNG & JONES P.C.

Laura Davis Jones (Bar No. 2436)
Hamid R. Rafatjoo (CA Bar No. 181564)
Rosalie L. Spelman (Bar No. 4153)
919 North Market Street, 16th Floor
P.O. Box 8705
Wilmington, Delaware 19899-8705 (Courier 19801)
Telephone: (302) 652-4100
Facsimile: (302) 652-4400

[Proposed] Counsel for Fansteel Inc., et al.
Debtors and Debtors In Possession

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
	)	
FANSTEEL INC., et al.,[1]	)	Case No. 02-_____( )
	)	(Jointly Administered)
Debtors.	)	
	)	
	)	

ORDER, UNDER 11 U.S.C. §§ 105(a), 503(b) AND 546(c), (A) ESTABLISHING PROCEDURE FOR TREATMENT OF VALID RECLAMATION CLAIMS AND (B) PROHIBITING THIRD PARTIES FROM INTERFERING WITH DELIVERY OF DEBTORS' GOODS

Upon the motion (the "Motion")[2] of the above-captioned debtors and debtors in possession in the chapter 11 cases seeking entry of an order (A) establishing procedure for treatment of valid reclamation claims and (B) prohibiting third parties from interfering with delivery of Debtors' goods; and it appearing that the Court has jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and it appearing that this matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2); and it appearing that venue of this proceeding and this Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been given; and it appearing that the relief requested in the Motion is in the best interests of Debtors and their estates and creditors; and after due deliberation and sufficient cause appearing therefor, it is hereby

[1] The Debtors are the following entities: Fansteel Inc., Fansteel Holdings, Inc., Custom Technologies Corp., Escast, Inc., Wellman Dynamics Corp., Washington Mfg. Co., Phoenix Aerospace Corp., American Sintered Technologies, Inc., and Fansteel Schulz Products, Inc.

[2] Unless otherwise indicated herein, all capitalized terms shall have the meaning provided for in the Motion.

ORDERED that the Motion is granted; and it is further

ORDERED that the procedures outlined in the Motion for the treatment and processing of reclamation claims, including the following procedures, are hereby approved as follows:

a. any vendor asserting a claim for reclamation must satisfy all requirements entitling it to a right of reclamation under applicable state law and section 546(c)(1) of the Bankruptcy Code.

b. Debtors will file a motion, on notice to parties in interest, listing those reclamation claims, if any, which they deem to be valid pursuant to the Order requested herein.

c. absent further order of the Court, such motion shall be brought by Debtors within 90 days of the Court's entry of an order approving this Motion.

d. if Debtors fail to bring such a motion within the required period of time, any holder of a reclamation claim may bring such a motion on its own behalf, but may not bring such a motion earlier than 90 days after the Court's entry of an order approving this Motion.

e. all parties in interest shall have the right and opportunity to object to the inclusion or omission of any asserted reclamation claim in connection with such motion; and

ORDERED that except to the extent Debtors determine otherwise, Debtors are hereby authorized, but not directed, to refuse all demands for actual reclamation and return of goods; and it is further

ORDERED that any right of reclamation for all such claims is hereby denied under the terms set forth in the Motion, effective as of the Petition Date; and it is further

ORDERED that Debtors, in their sole and absolute discretion, may make goods available for pick-up by any reclaiming seller (a) who timely demands in writing reclamation of goods pursuant to section 546(c) of the Bankruptcy Code and section 2-702 of the UCC, (b)

whose goods Debtors have accepted for delivery, and (c) who properly identifies the goods to be reclaimed; and it is further

ORDERED that reclamation claimants and others are enjoined from seeking to reclaim or interfering with the delivery of goods to or by Debtors; and it is further

ORDERED that in accordance with section 362 of the Bankruptcy Code, vendors and all other third parties are not permitted to, and are hereby prohibited from, interfering in any way with the postpetition shipment or delivery of goods to or by Debtors; and it is further

ORDERED that nothing contained herein or in the Motion shall limit Debtors' ability to make payments to creditors in accordance with any other orders of this Court; and it is further

ORDERED that nothing contained herein or in the Motion shall constitute a finding, or be deemed or interpreted as an admission of any kind, that Debtors have been, or are currently, insolvent; and it is further

ORDERED, that this Court shall retain jurisdiction to hear and determine all matters arising from or relating to the implementation of this Order; and it is further

ORDERED, that notwithstanding the possible applicability of Fed. R. Bankr. P. 6004(g), 7062, 9014, or otherwise, the terms and conditions of this order shall be immediately effective and enforceable upon its entry.

Dated: _____, 2002

_____
Judge