

40-7580

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:) Chapter 11
FANSTEEL INC., et al.,) Case No. 02-10109 (JJP)
) (Jointly Administered)
)
)
Debtors.)

**STIPULATION AND ORDER FOR POST-PETITION LEASE
PAYMENTS AND ADEQUATE PROTECTION WITH
GENERAL ELECTRIC CAPITAL CORPORATION [RE: DOCKET NO. 294]**

Fansteel Inc., et al., ("Fansteel" or the "Debtors") and General Electric Capital Corporation ("GE Capital"), by and through their respective counsel hereby stipulate as follows:

RECITALS

A. Pre-petition, on or about April 2, 2001, Fansteel, one of the Debtors under this jointly administered case, entered into a Lease Agreement with Hyster Mid-East ("Hyster") whereby Fansteel, as lessee, agreed to lease certain forklifts from Hyster. Pursuant to the Lease Agreement, Fansteel would execute and deliver to Hyster certain lease schedules for the lease of certain forklifts.

B. Thereafter, between April 25, 2001 and December 18, 2001, in accordance with and subject to the Lease Agreement, Fansteel entered into four (4) lease schedules with Hyster whereby Fansteel agreed to lease certain forklifts (the "Forklifts"), more particularly described in the lease schedules, from Hyster. True and correct copies of the lease schedules are collectively attached as Exhibit "A" and are incorporated by reference.

C. Specifically, Fansteel executed and delivered to Hyster Schedule No. 4119168-005 whereby Fansteel agreed to lease one (1) Hyster S40XMS Forklift bearing serial

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number D010H01967Y and agreed to make sixty (60) consecutive monthly installments of \$256.05 to Hyster or its assigns.

D. Fansteel also executed and delivered to Hyster Schedule No. 4119168-003 whereby Fansteel agreed to lease one (1) Hyster N40XMR2 Forklift bearing serial number C470N01662Y and agreed to make sixty (60) consecutive monthly installments of \$411.40 to Hyster or its assigns.

E. Fansteel also executed and delivered to Hyster Schedule No. 4119168-002 whereby Fansteel agreed to lease one (1) Hyster S60XM Forklift bearing serial number D187V22417Y and agreed to make sixty (60) consecutive monthly installments of \$324.95 to Hyster or its assigns.

F. Fansteel also executed and delivered to Hyster Schedule No. 4119168-001 whereby Fansteel agreed to lease two (2) Hyster W40XT Forklifts bearing serial numbers A218H06224X and A218H06188X and agreed to make sixty (60) consecutive monthly installments of \$133.22 to Hyster or its assigns.

G. Simultaneously and contemporaneously with Fansteel's execution of the lease schedules, Hyster assigned all of its rights, title, and interests in and to the Lease Agreement, the lease schedules, and the Forklifts subject thereto to NMHG Financial Services, Inc., a wholly owned subsidiary of GE Capital.

H. On January 15, 2002 (the "Petition Date"), Fansteel and certain affiliates (collectively referred to as the "Debtors") filed Voluntary Petitions under Chapter 11 of the Bankruptcy Code and Orders for Relief were entered on that date.

I. Since the Petition Date, the Debtors have failed to make any payments to GE Capital in accordance with the Lease Agreement and the corresponding lease schedules (collectively referred to as the "Leases").

J. On or about July 2, 2002, GE Capital filed a Motion to Compel the Debtors to Assume or Reject the Leases and for Post-Petition Lease Payments (the "Motion") [Docket No. 294].

K. Whereas, the Debtors and GE Capital have carefully considered the terms of this Stipulation and Order (the "Stipulation") and after having had the opportunity to consult with their respective attorneys, are satisfied that it is fair, reasonable, and in the Estate's best interest to resolve the dispute between the parties, and should be approved by the Court.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the Debtors and GE Capital as follows:

1. Within five (5) days of the Court's entry of this Stipulation, the Debtors hereby agree to pay GE Capital \$7,459.01 representing the outstanding post-petition lease arrears, in connection with Lease Schedule Nos. 4119168-005, 4119168-003, and 4119168-002, incurred from the Petition Date through and including the August 2002 installments.

2. The Debtors also agree to continue making payments to GE Capital in the respective amounts of \$256.05, \$411.40, and \$324.95 per month, representing the regular monthly payments due under Lease Schedule Nos. 4119168-005, 4119168-003, and 4119168-002, commencing with the September 2002 installments and continuing monthly thereafter until an Order is entered by this Court authorizing the Debtors to either assume or reject said Lease schedules.

3. The Debtors and GE Capital agree that Lease Schedule No. 4119168-001 is a security agreement and that GE Capital has a properly perfected first priority lien in and to the equipment subject to this schedule. The Debtors also agree to provide GE Capital with monthly adequate protection payments in the amount of \$100.00 commencing with the July installments continuing thereafter until a Plan of Reorganization is confirmed by this Court. The July, August, and September 2002 adequate protection payments shall promptly be paid by the Debtors to GE Capital before or upon entry of this Stipulation.

4. The original terms of the Leases shall remain in full force and effect and are incorporated herein by reference, except as modified by this Stipulation.

5. All payments under the Leases shall be made payable to "General Electric Capital Corporation" and shall be mailed to: 44 Old Ridgebury Road, Danbury, CT 06810, Attention: Ms. Georgette Burns.

6. The Debtors shall maintain insurance coverage on the Forklifts, naming GE Capital as loss payee, in accordance with the terms of the Leases, and present proof of such insurance to GE Capital upon GE Capital's request.

7. In the event the Debtors fail to make any payment to GE Capital when due, GE Capital shall notify, in writing, the Debtors and Debtors' counsel of the default and give the Debtors fifteen (15) days in which to cure the default. If the payment default is not cured within the fifteen (15) day period, GE Capital may file a motion on shortened time for relief from the automatic stay.

8. GE Capital's rights to assert any administrative expense claim or unsecured claim shall be preserved and reserved, as well as the Debtors right to object to said claims.

9. This Stipulation contains the entire agreement between the parties, and may only be modified in writing, signed by the parties or their duly appointed agents.

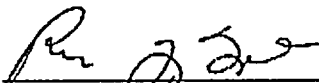
10. This Stipulation is binding upon the parties, their heirs, successors and assigns, and upon any trustee appointed in this or any converted case. In the event that this case is converted to a case under Chapter 7 of the Bankruptcy Code, and a Chapter 7 Trustee is appointed, the Stipulation shall remain in full force and effect.

11. The Court shall retain jurisdiction for purposes of resolving any issues relating to this Stipulation.

12. The Stipulation may be countersigned by facsimile, each of which shall be deemed an original, and all of which shall constitute one and the same document.


Dated: September 3, 2002

PACHULSKI, STANG, ZIEHL, YOUNG & JONES, P.C.
Attorney for the Debtors

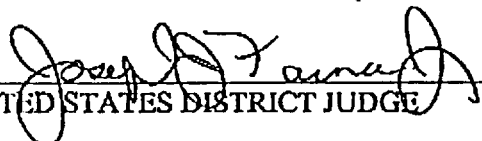
By: 
Laura Davis Jones (Bar No. 2436)
Rosalie Spelman (Bar No. 4153)
919 North Market Street, 16th Floor
P.O. Box 8705
Wilmington, DE 19899

Dated: 9/4, 2002

WALSH MONZACK AND MONACO, P.A.

By: 
Kevin J. Mangan (Bar No. 3810)
1201 Orange Street, Suite 400
Wilmington, DE 19801

So Ordered this 6 day of September, 2002


UNITED STATES DISTRICT JUDGE

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

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Dated: September 3, 2002

PACHULSKI, STANG, ZIEHL, YOUNG & JONES, P.C.
Attorney for the Debtors

By: 

Laura Davis Jones (Bar No. 2436)
Rosalie Spelman (Bar No. 4153)
919 North Market Street, 16th Floor
P.O. Box 8705
Wilmington, DE 19899


Dated: 9/4, 2002

WALSH MONZACK AND MONACO, P.A.

By: 

Kevin J. Mangan (Bar No. 3810)
1201 Orange Street, Suite 400
Wilmington, DE 19801

So Ordered this 6 day of September, 2002


UNITED STATES DISTRICT JUDGE