

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:) Chapter 11
)
FANSTEEL INC., et al.,¹) Case No. 02-10109 (JJF)
) (Jointly Administered)
Debtors.)
Objection Deadline: March 31, 2003 at 4:00 P.M. Eastern
Hearing Date: TBD (Only if objections are timely filed)

**NOTICE OF DEBTORS' MOTION FOR AN ORDER FURTHER EXTENDING
THE TIME FOR THE DEBTORS TO ASSUME OR REJECT UNEXPIRED LEASES
OF NONRESIDENTIAL REAL PROPERTY PURSUANT TO
SECTION 365(d)(4) OF THE BANKRUPTCY CODE**

TO: ALL PARTIES REQUIRED TO RECEIVE NOTICE PURSUANT TO DEL. BANKR.
L.R. 2002-1(b)

On March 12, 2003, the above-captioned debtors and debtors-in-possession (the "Debtors") filed with United States Bankruptcy Court for the District of Delaware, 824 Market Street, Wilmington, Delaware 19801 (the "Bankruptcy Court") the *Debtors' Motion For An Order Further Extending The Time For The Debtors To Assume Or Reject Unexpired Leases Of Nonresidential Real Property Pursuant To Section 365(d)(4) Of The Bankruptcy Code* (the "Motion").

ALL RESPONSES OR OBJECTIONS, IF ANY, TO THE RELIEF REQUESTED IN THE MOTION MUST BE IN WRITING, FILED WITH THE BANKRUPTCY COURT, AND SERVED UPON BOTH OF THE UNDERSIGNED COUNSEL FOR THE DEBTORS SO AS TO BE RECEIVED BY 4:00 P.M., PREVAILING EASTERN TIME, ON MARCH 31, 2003.

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.

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IF ANY OBJECTIONS ARE TIMELY FILED AND SERVED, A HEARING ON THE MOTION MAY BE HELD AT A TIME TO BE DETERMINED, BEFORE THE HONORABLE JOSEPH J. FARNAN, JR., OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE. THE HEARING, IF NECESSARY, SHALL BE HELD IN COURTROOM 4B, J. CALEB BOGGS FEDERAL BUILDING, 844 N. KING STREET, WILMINGTON, DELAWARE 19801. ONLY TIMELY FILED AND RECEIVED WRITTEN OBJECTIONS WILL BE CONSIDERED BY THE COURT AT THE HEARING.

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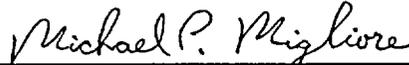
IF NO OBJECTIONS ARE TIMELY FILED AND SERVED IN
ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF
REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: March 12, 2003

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Debtors-in-Possession

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

In re:) Chapter 11
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FANSTEEL INC., et al.,¹) Case No. 02-10109 (JJF)
) (Jointly Administered)
Debtors.)
Objection Deadline: March 31, 2003 at 4:00 p.m. Eastern
Hearing Date: TBD (Only if objections are timely filed)

**DEBTORS' MOTION FOR AN ORDER FURTHER EXTENDING THE TIME FOR
THE DEBTORS TO ASSUME OR REJECT UNEXPIRED LEASES OF
NONRESIDENTIAL REAL PROPERTY PURSUANT TO
SECTION 365(d)(4) OF THE BANKRUPTCY CODE**

The debtors and debtors-in-possession in the above-captioned cases (collectively, the "Debtors") hereby move (the "Motion") this Court, pursuant to section 365(d)(4) of title 11 of the United States Code (the "Bankruptcy Code"), to enter an order granting a further extension of time of 120 days for the Debtors to assume or reject any leases, subleases or other agreements (the "Real Property Leases") to which any of the Debtors are a party that may be considered an "unexpired nonresidential real property lease," through and including the date of Thursday, July 10, 2003. In support of this Motion, the Debtors respectfully represent as follows:

Status of the Case and Jurisdiction

1. On January 15, 2002 (the "Petition Date"), the Debtors commenced these cases by each filing a voluntary petition for relief under chapter 11 of title 11 of the Bankruptcy

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., and American Sintered Technologies, Inc.

Code. On the Petition Date, the Debtors also jointly filed motions or applications seeking certain “first day” orders, including an order to have these cases jointly administered.

2. The Debtors have continued in possession of their properties and have continued to operate and manage their businesses as debtors-in-possession since the Petition Date pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code.

3. On January 28, 2002, the United States Trustee for the District of Delaware appointed the Official Committee of Unsecured Creditors in these chapter 11 cases.

4. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The statutory predicates for the relief requested herein are § 365(a) of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 6006.

Background of the Debtors

5. The facts and circumstances of these cases are set forth in the *Affidavit of Gary L. Tessitore, Chairman of the Board, President and Chief Executive Officer of Fansteel Inc. in Support of First Day Motions* [Docket No. 3].

6. On May 16, 2002, the Court entered the *Order Granting Extension of Time to Assume or Reject Unexpired Leases of Nonresidential Real Property* [Docket No. 199]. The first extension was through and including July 14, 2002.

7. On August 22, 2002, the Court entered the *Order Granting Second Extension of Time to Assume or Reject Unexpired Leases of Nonresidential Real Property* [Docket No. 432]. The second extension was through and including November 12, 2002.

8. The current extension of time, as authorized pursuant to the *Order Granting Third Extension Of Time To Assume Or Reject Unexpired Leases Of Nonresidential Real Property* [Docket No. 758], runs through and including March 12, 2003.

**Request for an Extension of the Debtors' Deadline
to Assume or Reject Their Real Property Leases**

9. By this Motion, the Debtors request entry of an order, pursuant to section 365(d)(4) of the Bankruptcy Code, granting a further extension, for 120 days, of the sixty-day period to assume or reject non-residential real property leases ("Sixty-Day Period"), which would otherwise expire on March 12, 2003, through and including Thursday, July 10, 2003. Such an extension would be subject to and without prejudice to the rights of the Debtors to request a further extension of time to assume or reject the Real Property Leases.

Basis For Relief Requested

10. This Motion is filed pursuant to section 365(d)(4)² of the Bankruptcy Code which permits courts to grant, for cause, extensions of the Sixty-Day Period. See In re Channel Home Centers, Inc., 989 F.2d 682 (3d Cir. 1993), cert. denied, 114 S. Ct. 184 (1993).

² Section 365(d)(4) provides:

Notwithstanding paragraphs (1) and (2), in a case under any chapter of this title, if the trustee does not assume or reject an unexpired lease of nonresidential real property under which the debtor is the lessee within 60 days after the date of the order for relief, or within such additional time as the court, for cause, within such 60-day period, fixes, then such lease is deemed rejected and the trustee shall immediately surrender such nonresidential real property to the lessor.

11 U.S.C. § 365(d)(4) (emphasis added).

The primary purpose of section 365(d)(4) is “to protect lessors... from delay and uncertainty by forcing a trustee or a debtor in possession to decide quickly whether to assume unexpired leases.” In re American Healthcare Mgmt., Inc., 900 F.2d 827, 830 (5th Cir. 1990). In enacting section 365(d)(4) of the Bankruptcy Code, Congress recognized, “that in some cases sixty days will not be enough time for bankrupt lessees to decide whether to assume or reject leases. In those circumstances, upon adequate demonstration of cause, bankruptcy courts may grant lessees extensions of time in which to assume or reject.” Id.

11. It is well-established that the factors in support of an extension of time under section 365(d)(4) of the Bankruptcy Code include, among others, “whether the debtor has had sufficient time to formulate a plan of reorganization,” In re Burger Boys, Inc., 94 F.3d 755, 761 (2d. Cir. 1996), and “whether the case is exceptionally complex and involves a large number of leases.”³ In re Victoria Station, Inc., 88 B.R. 231, 236 n.7 (9th Cir. B.A.P. 1988). Indeed, the Third Circuit Court of Appeals recognized that “nothing prevents a bankruptcy court from granting an extension because a particular debtor needs additional time to determine whether the assumption or rejection of particular leases is called for by the plan of reorganization that it is attempting to develop.” Channel Home Centers, 989 F.2d at 689.

12. Numerous courts have granted debtors an extension, under section 365(d)(4) of the Bankruptcy Code, for long periods of time in order to allow the debtor more time to analyze its leases in light of the reorganization plan. See, e.g., In re New York Deli, Ltd.,

³ The legislative history of section 364(d)(4) indicates that the Sixty Day Period “could be extended by the court for cause, such as in exceptional cases involving large numbers of leases.” In re Channel Home Centers, Inc., 989 F.2d at 685 n.2 (citing 130 Cong. Rec. S8894-95, reprinted at 1984 U.S. Code Cong. & Admin. News 576, 598-601 (remarks of Sen. Hatch concerning the bill)).

41 B.R. 198 (Bankr. D. Del. 1984) (granting a nine month extension of time to assume or reject leases); Victoria Station, 88 B.R. at 236-37 (granting multiple extensions of time to assume or reject leases). Indeed, this District has uniformly granted such extensions in chapter 11 cases.⁴

13. Since the Petition Date, the Debtors' management and professionals have concentrated their time on, among other things, obtaining DIP financing, working on a decommissioning plan for the Muskogee facility, marketing assets, resolving issues related to retention of professionals, maintaining and improving operations, and have been heavily engaged in litigation. In addition, the Debtors currently are formulating a Plan of Reorganization, with the aim of having such a Plan of Reorganization consensually adopted by the Official Committee of Unsecured Creditors and the Nuclear Regulatory Commission. Until such a Plan of Reorganization has been formulated, it is premature for the Debtors to decide whether or not to assume and assign or reject its Real Property Leases. If the Debtors are forced to assume and assign too early, the Debtors may be forced to eventually bear unnecessary administrative costs; conversely, if the Debtors are forced to reject leases too early, the Debtors may lose property that is important to its estates and its creditors.

14. Further, since the Petition Date, the Debtors have allowed certain real property leases to expire by their own terms, have rejected others, and have consensually terminated others. One such lease was assigned as part of the sale of stock of a subsidiary. The remaining Real Property Leases include leases for warehouses and offices. For the remaining

⁴ See, e.g., In re Webvan Group, Inc., No. 01-2404 (MFW) (Bankr. D. Del. July 13, 2001); In re Pathmark Stores, Inc., 00-2963 (PJW) (Bankr. D. Del. July 12, 2000); In re Pillowtex, Inc., No. 00-4211 (SLR) (Bankr. D. Del. Jan. 16, 2001); In re The Imperial Home Décor Group, Inc., No. 00-19 (MFW) (Bankr. D. Del. Mar. 15, 2000); In re Purina Mills, Inc., No. 99-3938 (SLR) (Bankr. D. Del. Aug. 31, 1999); In re Montgomery Ward Holding Corp., No. 97-1409 (PJW) (Bankr. D. Del. Aug. 28, 1998).

Real Property Leases, the Debtors require additional time to determine whether or not it is in the best interests of the estates to assume or reject the leases.

15. Pending the Debtors' election to assume or reject the Real Property Leases, the Debtors will continue to perform all of their obligations under the Real Property Leases, as required by section 365(d)(3) of the Bankruptcy Code. Consequently, there will be little or no prejudice to the Lessors as a result of the requested extension.

16. For the reasons set forth herein, and given the importance of the Real Property Leases to the Debtors' ongoing operations, the Debtors propose that the deadline for making these decisions be extended through and including Thursday, July 10, 2003. The Debtors respectfully submit that the time period extended should be granted subject to and without prejudice to the rights of the Debtors to request a further extension of time to assume or reject the Real Property Leases.

Notice

17. Notice of this Motion has been provided to all those persons required to receive notice pursuant to the United States Bankruptcy Court for the District of Delaware Local Rule of Bankruptcy Practice and Procedure 2002-1(b).

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WHEREFORE, the Debtors respectfully request that the Court enter an order:

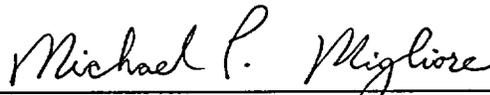
- (i) granting the Debtors an extension of time, pursuant to 365(d)(4) of the Bankruptcy Code, to assume or reject all Real Property Leases through and including Thursday, July 10, 2003, subject to and without prejudice to the rights of the Debtors to seek a further extension of time, and
- (ii) granting such other and further relief as this Court deems necessary and proper.

Dated: March 12, 2003

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FANSTEEL INC., *et al.*,¹) Case No. 02-10109 (JJF)
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Debtors.)

**ORDER GRANTING EXTENSION OF TIME FOR DEBTORS TO ASSUME OR
REJECT UNEXPIRED LEASES OF NONRESIDENTIAL REAL PROPERTY**

Upon the motion (the "Motion") of the debtors and debtors-in-possession in the above-captioned cases (the "Debtors") for entry of an order pursuant to section 365(d)(4) of the Bankruptcy Code,² extending the time to assume or reject unexpired nonresidential real property leases; and it appearing that this 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 pursuant to 28 U.S.C. § 157(b)(2); and it appearing that 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 the Debtors, their estates and creditors; and after due deliberation and sufficient cause appearing therefor, it is hereby:

ORDERED that the Motion is granted; and it is further

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² Capitalized terms not defined herein shall have the same meanings as ascribed to them in the Motion.

ORDERED that the Debtors' time to elect to assume or reject the Real Property Leases is extended, pursuant to section 365(d)(4) of the Bankruptcy Code, through and including Thursday, July 10, 2003; and it is further

ORDERED that entry of this Order shall be subject to and without prejudice to the rights of the Debtors to request a further extension of time to assume or reject the Real Property Leases.

Dated: _____, 2003

The Honorable Joseph J. Farnan, Jr.
United States District Court Judge