

File an answer to a motion:02-10109-JJF Fansteel Inc.

40-7580

U.S. Bankruptcy Court

District of Delaware

Notice of Electronic Filing

The following transaction was received from Weaver, John R. entered on 9/15/2003 at 10:10 AM EDT and filed on 9/15/2003

Case Name: Fansteel Inc.
 Case Number: 02-10109-JJF
 Document Number: 1331

Docket Text:

Limited Objection to *Debtors? Motion for Approval of the Sale of Debtors? Assets and Assumption and Assignment of Executory Contracts and Unexpired Leases* (related document(s)[1111]) Filed by Citicorp Vendor Finance, Inc., CitiCapital Commerical Corporation (Attachments: # (1) Exhibit "A" # (2) Certificate of Service # (3) Service List) (Weaver, John)

The following document(s) are associated with this transaction:

Document description: Main Document

Original filename: C:\My Documents\Clients\Associates\Fansteel Inc\Objection to Sale

Electronic document Stamp:

[STAMP bkecfStamp_ID=983460418 [Date=9/15/2003] [FileNumber=1901268-0]
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Document description: Exhibit "A"

Original filename: C:\My Documents\Clients\Associates\Fansteel Inc\1-7-03 Order.pdf

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Document description: Certificate of Service

Original filename: C:\My Documents\Clients\Associates\Fansteel Inc\Certification of Service.pdf

Electronic document Stamp:

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Document description: Service List

Original filename: C:\My Documents\Clients\Associates\Fansteel Inc\Service List.pdf

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BKRPD1

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

In Re:

FANSTEEL, INC., et al.

Debtors

CHAPTER 11

Case No. 02-10109 (JJF)

Jointly Administered

Hearing Date: 10/7/03 @ 2:00 p.m.

Objection Deadline: 9/30/03 @ 5:00 p.m.

**LIMITED OBJECTION BY CITICAPITAL COMMERCIAL CORPORATION AND
CITICORP VENDOR FINANCE, INC. TO DEBTORS' MOTION FOR APPROVAL
OF THE SALE OF DEBTOR'S ASSETS AND ASSUMPTION AND ASSIGNMENT OF
EXECUTORY CONTRACTS AND UNEXPIRED LEASES [DOCKET NO. 1111]**

Creditors, CitiCapital Commercial Corporation f/k/a Associates Commercial Corporation, by and through its LCA Division ("CitiCapital") and Citicorp Vendor Finance, Inc. ("Citicorp"), hereby object to the Debtor's above-stated Motion for Approval of the Sale of Debtor's Assets and Assumption and Assignment of Executory Contracts and Unexpired Leases (the "Motion") [Docket No. 1111], as follows:

1. CitiCapital and the Debtor (Fansteel, Inc. d/b/a California Drop Forge) are parties to an equipment lease dated January 16, 1998 for the lease of the following equipment: (a) Ingersoll-Rand Air Compressor HPE400-2SOne; (b) Ingersoll-Rand Air Dryer TM1900One; (c) Ingersoll-Rand NLM Module NLM-5One; and (d) Receiver 2180 Gallon Vert 165 PSIG.

2. Citicorp and the Debtor (Washington Mfg. Co.) are parties to an equipment lease dated June 27, 2001 for the lease of one TCM Lift Truck Model FCB15A w/ attachments and accessories #A74R00722.
3. On January 7, 2003, the Court entered a Stipulation and Agreed Order resolving CitiCapital and Citicorp's Motion for Relief from Stay. A copy of the Order is attached hereto as Exhibit "A".
4. The Order, *inter alia*, provides that (a) the leases are not "true leases" but rather financing devices (for which both CitiCapital and Citicorp have perfected their security interests); and (b) CitiCapital and Citicorp are entitled to adequate protection payments of \$2,423.42 and 326.00 per month respectively plus applicable tax commencing with the September 2002 payments.
5. Debtor has been, for the most part, making periodic monthly payment on the accounts and the remaining balance due as of the date of this opposition is \$23,990.06 on the CitiCapital account and \$18,958.76 on the Citicorp account.
6. By its Motion, Debtor's seek authority to sell its assets, however it is unclear whether CitiCapital and Citicorp's assets are to be included in the sale.
7. In addition, in the event that Debtor plans on including the assets in the sale, it is unclear how much of the sale price is to be attributed to the CitiCapital and Citicorp accounts.
8. CitiCapital and Citicorp request confirmation from Debtor that, in the event of a sale of the secured assets, CitiCapital and Citicorp shall receive the total amount of \$42,948.82 out of the sale proceeds.

WHEREFORE, CitiCapital and Citicorp respectfully request that the Court not approve the Debtor's sale as presented.

Dated: Wilmington, DE
September 15, 2003

FARR, BURKE, GAMBACORTA & WRIGHT
A Professional Corporation

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Attorneys for CitiCapital Commercial Corporation
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through its LCA Division and Citicorp Vendor
Finance, Inc.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)
) Case No. 02-10109(JJF)
)
FANSTEEL INC., *et al.*,¹)
) Chapter 11
) (Jointly Administered)
)
Debtors.)

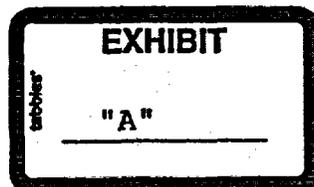
STIPULATION AND AGREED ORDER
[RE: DOCKET NO. 495]

WHEREAS, Citicapital Commercial Corporation *f/k/a* Associates Commercial Corporation, by and through its LCA Division and Citicorp Vendor Finance (collectively "Citicapital"), moved ("Motion") [Docket No. 495] this Court for relief for automatic stay or, in the alternative, for adequate protection payments.

WHEREAS, the Motion concerns two agreements ("Agreements"). The first Agreement is No. 531-6949, dated January 16, 1998, between Citicapital and Fansteel Inc. *d/b/a* California Drop Forge (the CalDrop Agreement"). The CalDrop Agreement concerns, among other things, an Ingersoll Rand Air Compressor (the "CalDrop Equipment"). The second Agreement is No. 20039766, dated June 27, 2001, between Citicapital and Washington Mfg. Co. ("Washington Mfg. Agreement"),

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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concerns equipment including, among other things, a TCM lift truck (the "Washington Mfg. Equipment). Both Agreements are described in the Motion as "Equipment Leases".

WHEREAS, Debtors dispute the characterization of the Agreements as "true leases", because both Agreements have nominal purchase options for their respective Equipment. Debtors assert that under the applicable state Uniform Commercial Codes of (California and New Jersey), as the case may be, the Agreements are not "true leases", but are financing devices.

WHEREAS, the parties have reached a voluntary resolution on the Motion, as follows:

- (1) The Agreements are not "true leases", but are financing devices.
- (2) Citicapital is entitled to adequate protection payments on its collateral securing performance of the Agreements.
- (3) At the inception of the CalDrop Agreement, the value of the CalDrop Equipment thereunder was \$145,405.00, as noted on the face of the Agreement. The parties have agreed that the useful life of the CalDrop Equipment is five years, the term of the Agreement. After depreciation, the value of the collateral on the Petition Date, January 15, 2002, was \$35,000.00. In order to protect Citicapital against the depreciation of its collateral during the pendency of these chapter 11 bankruptcies, Fansteel will make adequate protection payments of \$2,423.42 per month. Such

payments will be made monthly and applied against any secured claim that Citicapital may have pursuant to the CalDrop Agreement. Fansteel will continue to pay Citicapital California sales tax, as has been the practice in the past; and Citicapital will continue to remit such sales tax to the appropriate taxing entity. California sales tax charged in the past has been approximately 7.25% of monthly payments to Citicapital.

(4) At the inception of the Washington Mfg. Agreement, June 27, 2001, the value of the Washington Mfg Equipment was \$19,576.00. After depreciation, the value of the Washington Mfg. Equipment on the Petition Date, January 15, 2002, was \$17,408.54. The parties agree that the useful life of the Washington Mfg. Equipment is five years, the term of the Agreement. In order to protect Citicapital against the depreciation of its collateral, Fansteel will pay Citicapital \$326.00 per month. Such payments will be made monthly and applied against any secured claim that Citicapital may have pursuant to the Washington Mfg. Agreement. Fansteel will continue to pay to Citicapital North Carolina sales tax, as has been the practice in the past, and Citicapital will remit such sales tax to the appropriate taxing authority. The North Carolina sales tax paid to Citicapital in the past has been 6%.

(5) Such payments will commence five business days after the order approving this stipulation is entered. After the first payments (to include payments for September, October and November), payments will be made on the first of each month. There will be a fifteen-day grace period. Payments will be made to:

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Citicapital
250 E. Carpenter Freeway
Irving, TX 75062
Attn: Linda Osinski, Bankruptcy Specialist

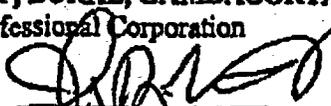
(6) Payments will include a payment for September, October, and November.

(7) Such payments will continue until the earlier of: (a) confirmation of a plan, (b) dismissal of these cases or their conversion to Chapter 7, (c) the Equipment is returned to Citicapital, (4) or any secured claims arising out of the Agreement are otherwise discharged or extinguished. It is understood between the

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parties that any secured claim of Citicapital under the Agreements may be paid prior to the termination of these bankruptcies by application of the adequate protection payments.

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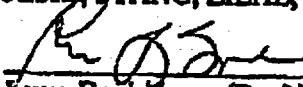
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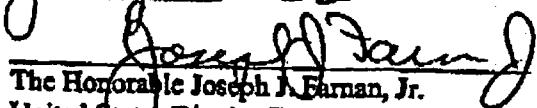


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Attorneys for Debtor, Fansteel Inc.

SO ORDERED this 7 day of

January, ~~2002~~ 2003



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